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Audit Report

**COUNTY CONSTABLE
AUDIT**

January 1, 2015 – December 31,
2016

**Office of the Controller
County of Northampton
Pennsylvania**



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Members of the Northampton County Council
Lamont McClure, County Executive
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We have completed an audit of the County Constables for the period of January 1, 2015 through December 31, 2016

The Executive Summary on page one summarizes the audit results, while the Audit Results section provides a detailed explanation.

We acknowledge the cooperation and assistance we received from Court Administration and Domestic Relations. Their help was essential to the performance of this audit.

Management's response is included in the Audit Results section of the report.

Very truly yours,

Stephen J. Barron, Jr., CFE
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EXECUTIVE SUMMARY

Our Constable audit of Domestic Relations revealed that internal controls over the Constable process are functioning as intended. We did recommend adding additional verbiage to the next Constable Contract in 2020.

In addition, we found opportunities for improvement in the Magisterial District Court (MDC) 1099 MISC reporting process, mileage reimbursement for Landlord/Tenant and Civil complaints and filing of Constable Financial Interest Statements. These areas are explained in more detail in the body of this report.

INTRODUCTION

Constables are elected officials, certified by the State, who work as independent contractors/vendors. Currently there are approximately 40 Constables who serve 14 MDCs in the County of Northampton. Constables are responsible for serving warrants and other legal documentation on behalf of the courts, involving Landlord/Tenant, Civil and Criminal cases. They transport defendants and/or criminals to and from court, prison and other case-related locations. They also act as collection agents, collecting fines and fees for the MDC.

When performing work for the MDC, the fees charged by Constables are set by statute. The current fee schedule is documented in the Judicial Code (42 PA.C.S.) – Constable Fees, Act of June 29, 2006 P.L. 277 No. 59. This act was the result of Senate Bill 303 and became effective August 29, 2006.

Constables receive payment for services rendered from two sources. When fines and server fees are paid-in-full by the defendant within 15 days of the violation, the MDC pays the constable for services rendered. However, when the defendant is found to be not guilty, or is sentenced to prison, or cannot pay the fine and fees and is allowed to make payments according to a court-approved payment schedule, the County of Northampton pays the Constable. The County is reimbursed by the MDC and by the Criminal Division if and when constable fees are collected on payment plans.

Domestic Relations is responsible for the establishment of Support Orders on behalf of children and spouses, establishment of paternity, location of absent obligors, and the enforcement of monetary Orders for Support and medical support. Domestic Relations also establishes and enforces Orders for Alimony Pendente Lite and enforces alimony Orders. Constables working for Domestic Relations are required to submit an application, go through an interview process, background check and are required to sign a contract. Currently there are ten Constables that perform work for Domestic Relations as well as the MDC. The County reimburses the Constables for their Domestic Relations services.

On October 18, 2016, the Northampton County Court of Common Pleas formally created the Constable Review Board. The board was created to resolve any disputes relating to a constable's performance of judicial duties.

Our review covered the period of January 1, 2015 through December 31, 2016. Total Constable Fees in 2015 and 2016 were approximately \$1,025,800. This amount represents a combination of payments by the County and the MDCs. Domestic Relations payments are included in the County portion of this amount.

PURPOSE AND SCOPE

The purpose of the audit was to:

- Ensure Constables are in compliance with laws and regulations.
 - Review the Domestic Relations Constable process to ensure internal controls are in place.
 - Review year-end compilation of constable fees and ensure it is properly reported on the 1099 MISC for non-employee compensation.
 - Perform trend analysis to determine if there are any abnormalities relating to constable fees.
-

METHODOLOGY

Our methodology included:

- Interviewing the Deputy Court Administrator and the Director of Domestic Relations.
- Identifying applicable policies, procedures and laws and regulations.
- Identifying and assessing internal controls for the constable fees for Domestic Relations.
- Interviewing auditors from other counties and reviewing procedures used by other counties.

Our review included an assessment of internal controls in the audited areas. Any significant findings related to internal controls are included in the Audit Results section of the report.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

AUDIT RESULTS

Section A – Internal Controls

1. Server 1099, MDJ 1529 Report from AOPC System

OBSERVATION

In our audit, we performed a review of the Constable 1099 MISC year-end compilation for 2015 and 2016. Constables are paid by the MDCs and the County. At the end of the year, each MDC reports to Court Administration the constable fees paid out by their office. Court Administration reports these amounts to Fiscal and they combine these amounts with what the County pays the Constables to obtain the 1099 MISC total.

Based on amounts from the Server 1099 MDJ 1529 report from the AOPC system, there were discrepancies on what the MDCs reported to Court Administration. There were several reasons for these discrepancies:

- When the MDCs generated the 1099 report, most of the courts were not selecting “ALL” for the constable criteria and used the individual constable names that they knew worked for their MDC. If they omitted a constable that performed work for their MDC, their earnings were omitted and were not reported to Court Administration resulting in an incorrect amount on the 1099 MISC. This resulted in \$6,817 of under-reported income, with amounts ranging from \$4 to \$2,619.
- When the year-end manual calculations were performed by Court Administration there were two mistakes which resulted in \$9,179 of over-reported income for two Constables.
- The Server 1099 MDJ 1529 report from the AOPC did not contain Constable Payments from MDC 03-2-07. This MDC closed June 30, 2015. The correct income amount was reported to Court Administration and was correct on the Constable’s 1099 MISC. We reported this discrepancy to the AOPC on December 5, 2017.

RECOMMENDATIONS

- Court Administration should be running the MDJ 1529 report to ensure accurate and complete information is compiled instead of requesting the information from the MDCs.
- Court Administration should have a second person verify the final calculations for the 1099s.

- Court Administration should provide Fiscal with a summary of the under-reported and over-reported amounts so they can determine which 1099 MISC forms need to be reissued.
- Court Administration should notify the Constables that will be receiving a revised 1099 form.

MANAGEMENT RESPONSE

For the year of 2017, Fiscal was given the MDJ 1529 Report. This generation of this report will eliminate clerical errors and the need for second person verification. These issues now become moot. Court Administration believes it would be better for the Controller to advise Fiscal of the new amounts so new individual 1099 forms may be given to the appropriate constables. The Controller's office discovered the errors and is in a position to readily notify Fiscal of the new amounts after consulting work papers. Court Administration will notify constables who should receive revised 1099 forms when advised of which constables are affected.

AUDITOR'S COMMENTS

Although the Controller's office discovered this error in our audit, it is Court Administration's responsibility to take corrective action and provide Fiscal with corrected 1099 figures. The Controller's office did offer to provide Fiscal with the corrected 1099 figures based on our work papers but the Accounting Manager stated in her email of November 29, 2017 that the corrected amounts should come from the Deputy Court Administrator with an explanation for the discrepancies.

2. Constable Mileage Reimbursement

OBSERVATION

During 2015-2016 MDCs paid the Constables approximately \$158K in mileage reimbursement. This amount does not include mileage paid by the County to the Constables. During our trend analysis we determined that Constables were receiving consistent mileage reimbursement in 10, 20, 25 and 40 mile increments for Landlord/Tenant and Civil complaints. These complaints must be prepaid by the plaintiff, however, the Constable is only entitled by law to actual mileage at the IRS rate. Based on the "Judicial Code (42 PA.C.S.) – Constables' Fees Act of Jun. 29, 2006, P.L. 277, No. 59 Session of 2006 No. 2006-59 SB 303 (a) Travel or mileage.--Actual mileage for travel by motor vehicle shall be reimbursed at a rate equal to the highest rate allowed by the Internal Revenue Service."

We determined that each MDC is using a different amounts for mileage estimates. Amounts ranged from 10 to 40 miles. Constables are being reimbursed for the mileage increments set by the MDCs. Some MDCs are reimbursing the Constable for mileage increment and also for actual mileage after service is rendered.

In other counties that we surveyed, Constable are paid for the actual mileage travelled and the plaintiff is reimbursed or charged for any difference with the prepaid amount.

RECOMMENDATIONS

All MDCs should be using the same method of determining the mileage for Landlord/Tenant and Civil complaints. Constables should only be reimbursed for actual mileages travelled. If the plaintiff is overcharged for mileage, they should be reimbursed for the difference. If the plaintiff is undercharged, they should be charged for any additional mileage.

MANAGEMENT RESPONSE

The Constable Fee Bill allows for actual mileage traveled to be given to each constable. Court Administration has provided a copy of the Fee Bill to the MDJs numerous times. Court Administration agrees that actual mileage traveled should be reimbursed to the Constables. Court Administration will once again inform the MDJs of this information, as the MDJs approve all payments to the Constables. Court Administration believes this audit issue is best addressed in the individual county audits of the District Courts. This way, the MDJs who are not paying actual mileage traveled will be notified of it and can provide a response to the finding. Court Administration does not see or approve Constable payment requests and does not know which MDJs are not paying actual mileage.

AUDITOR'S COMMENTS

The Controller's Office will send a copy of this report to all the Magisterial District Judges so they are aware of the issue.

3. Domestic Relations' Constable Contract

OBSERVATION

During our review of the Domestic Relations' Constable process we reviewed their Constable contract. Constables are required by the State to sign a contract in order to perform work for Domestic Relations. Contracts are renewed every five years and must be reviewed and approved by the State.

Domestic Relations may want to consider adding verbiage when they do their next contract review to ensure compliance assurance in the following areas:

- The Pennsylvania Rule of Judicial Administration No. 1907.2 has established Constable Policies, Procedures and Standards of Conduct. The Northampton County Constable Review Board was created to resolve any disputes related to a constable's performance of judicial duties.
- Constables are required to complete an annual Pennsylvania Financial Interest Statement and it should be completed by May 1st each year.

RECOMMENDATION

Domestic Relations may want to consider adding additional verbiage mentioned above in 2020 when the next contract is reviewed.

MANAGEMENT RESPONSE

Domestic Relations concurs with the recommendations made. The verbiage mentioned above will be included when the next contract is reviewed in 2020 and submitted to the State for approval.

Section B – Compliance

1. Annual Financial Interest Statements

OBSERVATION

All elected and most appointed public officials, including Constables and Deputy Constables are required to file an annual Financial Interest Statement by May 1st of each year. Based on our testing:

- 13% of the Constables did not file a Financial Interest Statement for 2015 & 2016.
- 31% of the Constables were late filing their Financial Interest Statement in 2015.
- 24% of the Constables were late filing their Financial Interest Statement in 2016.

RECOMMENDATION

Consider sending a reminder to all Constables that they must file an annual Financial Interest Statement by May 1st.

A Northampton County Constable handbook may be beneficial in clarifying gray areas, ensure consistency and provide a clear understanding of the County's expectations of our vendors. Adams, Berks, Chester and Allegheny Counties all have Constable Handbooks that outlines duties, compensation, and instructions on completing Constable Cost Sheets, code of conduct, warrant procedures, and instructions when a Constable leaves office. An additional section can be included for Domestic Relations' expectations and requirements.

MANAGEMENT RESPONSE

Constables are independent elected officials (who are not supervised by Court Administration) and as such, are responsible for filing their own annual Financial Interest Statements. Court Administration is not responsible for their Financial Interest Statement in any way.

In May 2013, the AOPC published a booklet entitled Constable Policies, Procedures and Standards of Conduct. This information was sent to all MDJs. As needed, the President Judge issues Administrative Orders relative to MDJs and Constable practices.

Fiscal designed the Northampton County Constable Cost Sheet and any instructions regarding completing it should come from Fiscal. Fiscal is responsible for processing Constable Cost Sheets and should make any recommendations regarding such.