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County Auditor

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# Maricopa County Constables

February 2017

*Internal Audit Report Authorized by the  
Maricopa County Board of Supervisors*

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## Report Highlights

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Constables will improve compliance with statutory requirements related to the submission, timeliness, and completeness of logs.

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Constables will work to ensure they meet training requirements.

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Constables will establish cash handling procedures.

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Constables will attend County vehicle safety training, as required.

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**Background** Constables serve documents issued through the Justice Courts, such as: Orders of Protection, Summonses, and Subpoenas and Writs (such as evictions and property seizures). Constable responsibilities, and requirements for reporting and training, are set in state statutes. The County currently has 26 elected constables. Seven non-elected deputy constables, and other support staff, assist the constables.

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**Objectives** To determine that Constables:

- Maintain required documentation, and serve documents within required timeframes.
- Comply with all training requirements.
- Have effective controls over fees collected, monies received, and revenues allocated.
- Comply with vehicle use permit requirements.

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**Scope** This audit focused on compliance with state statutes and County policies. Our scope included constable service logs, training, and vehicle use permit requirements. Our work spanned calendar years (CY) 2014 through 2016. We interviewed constables, deputy constables, and staff. We reviewed policies, procedures, state statutes, process service logs, training documents, court documents, and vehicle permits.

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**Standards** This audit was approved by the Board of Supervisors and was conducted in conformance with International Standards for the Professional Practice of Internal Auditing. The specific areas reviewed were selected through a formal risk-assessment process.

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**Auditors** Stella Fusaro, Audit Manager, CIA, CGAP, CRMA, CFE  
Christina Black, Audit Supervisor, CIA, CGAP, CRMA  
Megan McPherson, Senior Auditor, MEd

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This report is intended primarily for the information and use of the County Board of Supervisors, County leadership, and other County stakeholders. However, this report is a public record and its distribution is not limited. We have reviewed this information with Constables management. The Action Plan was approved by Kevin Jones, Chief Presiding Constable, on February 1, 2017. If you have any questions about this report, please contact Stella Fusaro, Audit Manager, at 602-506-1777.

## **Audit Results**

### **Issue #1: Compliance with Log and Service Requirements**

**Observation:** We reviewed a random sample of monthly work logs for each constable and deputy constable from fiscal years (FYs) 2015 and 2016. Our objective was to verify that logs were submitted on time, and that logs included all statutorily-required information. Of the 28 constables and deputy constables selected, we found that 11 (39%) did not submit 1 or more logs, and 17 (61%) submitted the logs late. In addition, for 24 (86%) of the 28 constables and deputy constables, logs did not contain all information required by state statute. Most logs were missing daily mileage, the number of attempts, and defendant addresses (which indicate where the papers were served). We also noted that three of six (50%) deputy constables complete and submit their own individual logs. The other deputy constables' work was listed on a constable's log.

We reviewed a random sample of constable-assigned Writs from FYs 2015 and 2016 to verify who served the documents, and determine the timeliness of the service. We found that 99 of 130 (76%) documents reviewed were served by the elected constable of that jurisdiction. The average time between the issue date and the service date was three days. Thirty-eight (38) of 130 (29%) were served more than 3 days after issuance. We found that 34 of 130 (26%) documents reviewed were not listed on a log, as required.

We also selected a random sample of constable-assigned Orders of Protection and performed the same procedures. We found that 51 of 67 (76%) Orders tested were served by the elected constable of that jurisdiction. The average number of days between the issue date and the service date was five days. Four (4) Orders were served more than 20 days after issue, and 1 was served more than 30 days after issue. Orders of Protection take priority over other types of service and must be served within one year. While reviewing documents in the case system, we observed two injunctions had been served by private process servers while the constables had the injunctions.

When work logs are submitted late, or without all required information, it is difficult to determine a constable's workload and miles driven. It is also difficult to track who served the documents. These control weaknesses create a lack of accountability and transparency.

<b>Conclusion #1A:</b> Constable and deputy constable logs were not always submitted on time and did not always include all statutorily-required information.	
<b>Recommendations</b>	<b>Constables Action Plan</b>
<b>1A-1</b> Develop written procedures to track and verify timely and accurate submission of logs to the Clerk of the Board, as required.	Concur – in progress Standardized log has been developed and approved by the Arizona Constables Ethics, Standards and training Board.

	Tracking system will be developed to monitor and review submitted logs. Target Date: 04/01/17
<b>1A-2</b> Establish log procedures that clarify who (constable or deputy) served, or attempted to serve, court documents.	Concur – in progress Tracking system will be developed and implemented. Target Date: 04/01/17
<b>Conclusion #1B:</b> Orders of Protection were served within the required timeframes.	
<b>Recommendation</b>	<b>Constables Action Plan</b>
None	N/A

## Issue #2: Constable Training

**Observation:** Constables and deputy constables must complete 16 hours of statutorily-required training annually. We reviewed CYs 2015 and 2016 training documents for 26 constables and 7 deputy constables, and CY 2014 training documents for 22 constables and 4 deputy constables for compliance. We found that 26 (100%) constables completed the required 2016 training, 24 of 26 (92%) constables completed the required 2015 training, and 15 of 22 (68%) constables completed required 2014 training. All (100%) deputy constables completed the required training from CY 2014 through 2016.

In addition to the statutory requirements, County policy requires that constables and deputy constables who carry firearms receive eight hours of proficiency training every three years. They must also requalify annually. Fourteen constables and seven deputy constables carried firearms in CY 2016. We tested compliance with County policy and found that 8 of 14 (57%) constables and 7 of 7 (100%) deputy constables complied with the firearms training and requalification requirements.

Thirteen constables and four deputy constables carried Tasers in 2016. We noted that Constable Training Policy does not address Tasers. We reviewed Taser training records and found 9 of 13 (69%) constables and 2 of 4 (50%) deputy constables completed initial Taser certification training. Certification is good for one year. None of the constables and deputy constables had completed recertification training.

We noted that training documentation was submitted to the Constable Ethics, Standards and Training Board, as required. However, no annual training reports and documentation were submitted to the Clerk of the Board, as required by County policy.

<b>Conclusion #2A:</b> The constables did not fully comply with statutes and policies for on-going skills and weapons training, and did not file training records with the Clerk of the Board, as required.	
<b>Recommendation</b>	<b>Constables Action Plan</b>
<b>2A-1</b> Complete all required training. Document and file training records to comply with: statutory requirements; Constables Ethics, Standards and Training Board rules; and County policies.	Concur – Annual training has been completed. Developing procedure for the monitoring of training reported to Constables Ethics, Standards and Training Board. Target Date: 06/01/17
<b>Conclusion #2B:</b> Constables training policy does not address Tasers.	
<b>Recommendation</b>	<b>Constables Action Plan</b>
<b>2B-1</b> Establish policies and procedures for carrying a Taser.	Concur – in progress Update Constables Safety Training Policy Target Date: 03/06/17
<b>Conclusion #2C:</b> Training documentation was submitted to the Constable Ethics, Standards and Training Board, as required.	
<b>Recommendation</b>	<b>Constables Action Plan</b>
None	N/A

**Issue #3: Constable Fee Revenues**

**Observation:** To determine why constable fee revenues decreased, we reviewed all constable-related fees collected in FY 2015 and FY 2016. We compared fee payment amounts to the statutorily-required minimum per case type. We found 37,296 of 37,386 cases (99.8%) had the appropriate fees collected. In 90 cases (mostly evictions), fees collected were less than the minimum required fee. This resulted in missed revenue of \$3,016. We also reviewed a random sample of 48 FY 2015 and FY 2016 constable-assigned case document fees selected from 16 of 26 justice courts. We noted that charges for additional mileage, although not significant, were not consistently calculated.

We found that the number of documents served by constables decreased by a net of 667 cases between FY 2015 and FY 2016. Writs of Restitution (evictions) accounted for most of the decrease in documents served, and for the corresponding decline in revenues.

Through interviews we determined that in rare instances some constables collect monies for plaintiffs while in the field. However, Constables do not have a cash handling policy or procedures, and funds are handled inconsistently.

<b>Conclusion #3A:</b> Constable-related fees collected were appropriate.	
<b>Recommendation</b>	<b>Constables Action Plan</b>
None	N/A
<b>Conclusion #3B:</b> Constables do not have cash handling policies and procedures.	
<b>Recommendation</b>	<b>Constables Action Plan</b>
<b>3B-1</b> Establish written Constable cash handling policies and procedures.	Concur – in progress Work with Justice Court to mirror their process for cash handling. Target Date: 07/01/17

#### Issue #4: Vehicle Use Permit Compliance

**Observation:** We determined that 10 of 36 (28%) constable, deputy constables, and support staff did not have a current County Vehicle Use Permit. County policy requires that anyone driving on County business obtain a Vehicle Use Permit. Drivers must attend safety training to obtain the Permit. This may reduce the County’s legal liability.

For FY 2014 through FY 2016, we noted no issues with constables’ driving records. However, we identified five speeding tickets issued in FY 2015 and FY 2016 to four constables that were driving County vehicles. County policy requires that drivers follow traffic laws while conducting County business. No tickets were issued to constables or staff in FY 2014.

<b>Conclusion #4A:</b> Some Constable personnel did not comply with County Vehicle Use Permit policies.	
<b>Recommendations</b>	<b>Constables Action Plan</b>
<b>4A-1</b> Implement procedures to ensure that constables and staff have current Vehicle Use Permits.	Concur – completed 12/12/16 All constables and staff have current Vehicle Use Permits.

Recommendations	Constables Action Plan
<p><b>4A-2</b> Constables and staff that do not have a Vehicle Use Permit should discontinue driving on County business until they obtain one.</p>	<p>Concur – completed 12/12/16 All constables and staff have current Vehicle Use Permits.</p>