



County of Allegheny

Office of the Controller

Allegheny County
Report on Analysis of Constable Payments
for the Period
January 1, 2012 through June 30, 2013
(Non-Audit Service)

March 17, 2014

Chelsa Wagner
Controller

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March 17, 2014

Ms. Claire Capristo
Court Administrator
Fifth Judicial District of Pennsylvania, County of Allegheny
300 Frick Building
437 Grant Street
Pittsburgh, PA 15219

Allegheny County
Report on Analysis of Constable Payments
for the Period January 1, 2012 through June 30, 2013

Dear Ms. Capristo:

The Allegheny County Controller's Office performed procedures to determine if constables are being paid for the same services multiple times, as well as to determine if the Controller's Office is paying for constable services that have also been paid for by the Fifth Judicial District of Pennsylvania (the Allegheny County "Court System"). Our procedures covered the period from January 1, 2012 to June 30, 2013. Our engagement was performed as a non-audit service. Therefore, our engagement was not performed in accordance with *Government Auditing Standards*.

The procedures we performed resulted in the identification of 33 duplicate constable payments totaling \$1,618.02. Our recommendation focuses on collaboration between the Court System and the Controller's Office to prevent duplicate constable payments for the same services. The results of our procedures are included in the attached report.

Ms. Claire Capristo
March 17, 2014

We would like to thank the management and staff of the Court System for their courtesy and cooperation during our engagement.

Kind regards,



Chelsa Wagner
Controller



Lori A. Churilla
Assistant Deputy Controller, Auditing

cc: Honorable John DeFazio, President, County Council
Honorable Nicholas Futules, Vice-President, County Council
Honorable Rich Fitzgerald, Allegheny County Executive
Mr. William McKain, County Manager, Allegheny County
Ms. Jennifer Liptak, Chief of Staff, County Executive
Mr. Warren Finkel, Budget Director, Allegheny County
Mr. Joseph Catanese, Director of Constituent Services, County Council
Mr. Walter Szymanski, Budget Director, County Council

Executive Summary

Background

Constables provide a wide variety of services to the Court System. Some of these services include providing courtroom security, executing warrants, serving subpoenas, conveying defendants to and from court, and conveying defendants to prison. Constables are to complete *Constable Payment Forms*, which are used to itemize the specific services provided to a court, and submit them to the applicable court for payment.

When the courts have not collected the server fees from the responsible parties, the courts refer the constables to the Allegheny County Controller's Office for payment. The Controller's Office should only be paying constables for services when the courts have not collected the funds to pay and have not paid the constables for the services provided.

Results in Brief

The following is a listing of our findings and recommendations that resulted from the performance of our procedures:

Finding #1: Constables Billed the County and the Courts for the Same Services Totaling \$1,618

On a limited basis, we compared constable payments issued by the Controller's Office to constable payments issued by the courts during the period to which we applied our procedures. We determined that 33 (14%) of the 240 payments issued by the Controller's Office included in our samples were in fact duplicate payments. The 33 duplicate payments totaled \$1,618.02. In addition, we noted that only 12 of the 33 constable payment forms related to these payments (36%) had been properly signed by the District Judge. The other 21 constable payment forms (64%) did not contain the signature of the District Judge. The 33 duplicate payments are detailed in Schedule II.

Overall, our testing revealed 97 instances out of 240 (40%) where the District Judge did not sign the constable payment form that had been submitted by the constables for payment. We were advised by a Deputy Court Administrator of the Fifth Judicial District that during this time there was some uncertainty among Magisterial District Judges regarding the necessity and purpose of their signatures, particularly as the Judges are unable to verify some of the line items such as mileage and travel. The constable payment form was redesigned, and the matter now appears to be resolved.

During our examination, it was determined that functionality exists within the MDJS System to generate a Server Fee Notice for constable payments to be submitted to the County for payment. This functionality has not been fully integrated into the constable payment process.

The effect of this condition is that the County has paid more for constable services than the amount due, and could potentially continue to pay more for services than the amount due unless the Court System and the Controller's Office work together to help prevent such overpayments.

Executive Summary

Recommendations: The Controller's Office will take the steps necessary to ensure that the County is reimbursed for the overpayments issued to the constables. We recommend that the Court System:

- Require the clerical staff at each District Court to print a Server Fee Notice form from the MDJS System for constable payments to be submitted to the County for payment. In turn, constables would submit the Server Fee Notice as part of their payment packet to the County. The County should reject any constable payment request that does not contain a Server Fee Notice.
- Assist the Controller's Office in working with the Administrative Office of Pennsylvania Courts so that the Controller's Office can receive, quarterly, an updated version of the GRO619 Report used in this audit. This report would be used by the Controller's Office to check for duplicate payments.

I. Introduction

Constables provide services to the courts in order to assist with law enforcement. Constables that serve the Fifth Judicial District of Pennsylvania (the Allegheny County “Court System”) are elected for a six-year term. Constables must be certified by the Constables’ Education and Training Board (CETB), and may appoint deputy constables who are also required to obtain the same certification. CETB training includes basic and firearms education and continuing yearly education is required to maintain certification. Firearms certification is also mandatory for constables who carry firearms in the performance of their duties. Many constables have joined Constable Associations, such as the Allegheny County Constables Association and the Pennsylvania State Constables Association, although this is not required.

Constables provide a wide variety of services to the Court System. Some of these services include providing courtroom security, executing warrants, serving subpoenas, conveying defendants to and from court, and conveying defendants to prison. Constables are to complete *Constable Payment Forms*, which are used to itemize the specific services provided to a court, and submit them to the applicable court for payment. Courts are to issue payments to constables for the services rendered when the fees for the services have been paid to the court by the responsible parties. When the courts have not collected the fees, the constables are referred to the Allegheny County Controller’s Office Accounting Division for payment. When this occurs, constables submit their Constable Payment Forms to the Accounting Division so that their payments can be processed.

For the period from January 1, 2012 through June 30, 2013, a GR0619 Report received from the Administrative Office of Pennsylvania Courts (AOPC) was utilized to determine the payments made by the Court System to the constables for the engagement period. Based on an analysis of these records, there were 322 constables paid by the Court System during this eighteen month period in an amount of \$2,942,257.92.

For the same period, the Controller’s Office paid 218 constables a total of \$4,730,951.11. The aggregate constable payments issued by the Court System and the Accounting Division (including the Sheriff’s Office) for the period were \$7,673,209.03. Payments were issued to approximately 350 individual constables during the period. See Schedule I on page 10 for the top 25 highest paid constables during the period.

In July 2013, a constable serving the Court System was charged with one count each of theft by unlawful taking, theft by deception and unsworn falsification to authorities. The affidavit of probable cause filed with the charges indicated that the constable sought payment for the service of 150 warrants from Allegheny County, but only 3 of the warrants appeared to be valid. The constable received payments totaling \$4,072, but only \$1,309 was legally due to the constable per the affidavit.

The aforementioned matter has raised concerns about the County’s susceptibility to the risk of fraud in the constable payment process. In response to these concerns, we have applied limited procedures using information readily available to us to determine whether constables submitted duplicate payment forms for the same services to the Controller’s Office as well as the courts during the period from January 1, 2012 through June 30, 2013.

II. Scope and Methodology

We performed procedures to determine if constables are being paid for the same services multiple times, as well as to determine if the Controller's Office is paying for constable services that have also been paid for by the Fifth Judicial District of Pennsylvania (the Allegheny County "Court System"). The period of our engagement was from January 1, 2012 through June 30, 2013. Specifically, we performed the following procedures:

- Met with a representative of the Court System regarding the constable payment procedures utilized by the courts.
- Obtained a detail report from the Administrative Office of Pennsylvania Reports (AOPC) of all constable payments that had been issued by the Court System during the period to which we applied our procedures.
- Examined on a test basis payment forms submitted by constables for supporting documentation, required signatures, and completeness.
- Reviewed constable payments issued by the Controller's Office during the period to determine whether the constables had been paid more than once for the same services provided (test basis).
- Compared constable payments issued by the Controller's Office during the period to constable payments issued by the Court System during the period to determine whether the Controller's Office had paid the constables for services that had also been paid for by the courts (test basis).

We performed these procedures from August through November 2013. We provided a draft copy of this report to the Court Administrator. The Court's response begins on page 12.

III. Findings and Recommendations

Finding #1
**Constables Billed the County and the Courts
for the Same Services Totaling \$1,618**

Constables that serve Allegheny County Courts are to submit their constable payment forms to the courts to which they have provided their services. When the courts have not collected the server fees from the responsible parties, the courts refer the constables to the Allegheny County Controller's Office Accounting Division ("Accounting Division") for payment. The Controller's Office should only be paying constables for services when the courts have not collected the funds to pay and have not paid the constables for the services provided.

We compared constable payments issued by the Controller's Office to constable payments issued by the courts during the period to which we applied our procedures. We selected the top 25 constables paid by the Courts and the County (Schedule I). These constables comprised 40% of all payments during the period. We then selected payments related to the top 20 defendants served by each constable for testing purposes (500 total defendants). Seven constables identified with potential duplicate billing issues were tested further as payments for an additional 20 defendants were selected and tested (another 140 total defendants).

We further selected an additional 10 constables for testing. These constables comprised 7% of all payments during the period. We then selected payments associated with the top 20 defendants served by each constable for testing purposes (200 total defendants).

In total, we tested 35 constables that accounted for 47% of all payments issued by the Courts and the County during our engagement. The payments related to the 840 defendants served by these 35 constables were examined. We found 118 defendant names that had matching records between the Courts and the County with 240 associated payment transactions.

We determined that 33 of the 240 payments issued by the Controller's Office included in our samples (14%) were in fact duplicate payments. The 33 duplicate payments totaled \$1,618.02. In addition, we noted that only 12 of the 33 constable payment forms related to these payments (36%) had been properly signed by the District Judge. The other 21 constable payment forms (64%) did not contain the signature of the District Judge. The 33 duplicate payments are detailed in Schedule II, on page 10.

Overall, our testing revealed 97 (40%) instances out of 240 where the District Judge did not sign the constable payment form that had been submitted by the constables for payment. We were advised by a Deputy Court Administrator of the Fifth Judicial District that during this time there was some uncertainty among Magisterial District Judges regarding the necessity and purpose of their signatures, particularly as the Judges are unable to verify some of the line items such as mileage and travel. The constable payment form was redesigned, and the matter now appears to be resolved.

It appears that the issuance of duplicate constable payments is attributable to its lack of information regarding county and court-issued constable payments. If the Controller's Office

III. Findings and Recommendations

were able to determine whether a constable had already been paid by the applicable court, it could avoid the issuance of a duplicate payment.

Various court clerks told the audit staff about the “server fee notice” function of the new MDJS system. When courts have not collected the server fee amounts from the responsible parties, the clerks are supposed to click “server fee notice” on their screen. If they click “server fee notice”, a server fee notice page prints on their printer. It was intended that the court clerk would give the printed page to the constable to accompany the fee sheet (Constable Payment Form) that they would ultimately submit to the Controller’s Office. The printed page was intended to serve as a notice to the Accounting Division that the constable had already sought payment from the Court, and that the Court did not have the money to pay them and as a result referred them to the Accounting Division for payment. Clicking “Server Fee Notice” also results in any of those server fees subsequently collected by the Court being remitted to the Accounting Division.

The effect of this condition is that the County has paid more for constable services than the amount due, and could potentially continue to pay more for services than the amount due unless the Court System and the Controller’s Office work together to help prevent such overpayments.

During our testing it was also brought to our attention that constable payments were also being issued to legal entities established by three constables that had provided services instead of the constables themselves. We noted that of the three constables, two had set up sole proprietorships and one had set up a limited liability company (LLC). Upon further investigation we noted that 1099 forms have been issued to the two sole proprietorships. However, 1099 forms were not issued to the LLC for the 2007 through 2012 tax years. The payments issued to the LLC during that period were \$353,351 in the aggregate. We also determined that another constable recently submitted a W-9 form which has not yet been processed by the Controller’s Office. The W-9 form is for an entity that the constable indicated is an LLC. The 1099 form instructions only require the issuance of a 1099 form to LLCs in very limited circumstances. However, 1099 forms can be issued when they are not required as a measure to help prevent tax avoidance. While there appears to have been no noncompliance with the requirements for issuing 1099s with respect to the constable payments issued to LLCs, 1099 forms should be issued to report all payments issued to constables for services provided.

Recommendations

The Controller’s Office will take the steps necessary to ensure that the County is reimbursed for the overpayments issued to the constables. We recommend that the Court System:

- Require the clerical staff at each District Court to print a Server Fee Notice form from the MDJS System for constable payments to be submitted to the County for payment. In turn, constables would submit the Server Fee Notice as part of their payment packet to the County. The County should reject any constable payment request that does not contain a Server Fee Notice.

III. Findings and Recommendations

- Assist the Controller's Office in working with the Administrative Office of Pennsylvania Courts so that the Controller's Office can receive, quarterly, an updated version of the GRO619 Report used in this audit. This report would be used by the Controller's Office to check for duplicate payments.

FIFTH JUDICIAL DISTRICT OF PENNSYLVANIA
COUNTY OF ALLEGHENY



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March 17, 2014

Honorable Allegheny County Controller Chelsa Wagner
104 Allegheny County Courthouse
436 Grant Street
Pittsburgh, PA 15219

Re: Allegheny County Report on Analysis of Constable Payments for the Period January 1,
2012 through June 30, 2013

Dear Controller Wagner:

On behalf of the Fifth Judicial District of Pennsylvania, please be advised that the recommendations set forth in the above-referenced report are agreed to. Court Administration is committed to providing any assistance necessary to implement those recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Connors", written over a light blue horizontal line.

Christopher H. Connors