

County of Berks

23rd Judicial District



Constable Procedure And Cost Manual

ACKNOWLEDGMENTS

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IN RE: CONSTABLE PROCEDURE
AND COST MANUAL
THE COURT OF COMMON
PLEAS OF BERKS COUNTY,
PENNSYLVANIA
(23RD JUDICIAL DISTRICT)

: IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA
:
: No. 1-AD-2006
: Clerk of Courts
:
: No. 06-671
: Prothonotary
:
: GRIM, PRESIDENT JUDGE

ADMINISTRATIVE ORDER

AND NOW, October 23, 2006, pursuant to all applicable rules of court and statutes granting to President Judges powers, duties and responsibilities with respect to constables and magisterial district judges, including but not limited to Rule 17 of the Pennsylvania Rules Governing Standards of Conduct of Magisterial District Judges, it is hereby Ordered that the policy set forth in the Constable Procedure and Cost Manual pertains to all magisterial district judges and their staff, constables, court administration personnel, and County Controller and staff, and shall be the exclusive policy for any rules and procedures set forth in the manual.

BY THE COURT:

ARTHUR E. GRIM,
PRESIDENT JUDGE

IN RE: APPOINTMENT OF
CONSTABLES AND
DEPUTY CONSTABLES
THE COURT OF COMMON
PLEAS OF BERKS COUNTY,
PENNSYLVANIA
(23rd JUDICIAL DISTRICT)

: IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA
:
: No. 1-AD-2006
: Clerk of Courts
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ADMINISTRATIVE ORDER

AND NOW, October 23, 2006, pursuant to all applicable rules of Court and statutes granting to President Judges powers, duties and responsibilities with respect to constables and magisterial district judges, including but not limited to Rule 17 of the Pennsylvania Rules Governing Standards of Conduct of Magisterial District Judges it is ordered as follows:

1. That all constables and deputy constables serving process and/or executing warrants, transporting prisoners or otherwise carrying out constable business for the Courts of the 23rd Judicial District must meet and adhere to the following minimum standards:
 - a. Obtain certification under 42 Pa.C.S.2941 et seq.
 - b. Display an approved badge when performing official duties and wear an approved constable uniform or attire when performing official duties such as courtroom security, day or night court, transporting defendant for hearing, unless the wearing of an approved constable uniform or attire would substantially hinder or affect the constable's ability to perform official duties in a particular case or circumstance.
 - c. Undergo a criminal history record check (Act 34) and child abuse record check (Act 33) and submit both record checks at the time the application for appointment is made to the Court or file the same of record with the Clerk of Courts of Berks County before performing any constable functions or duties in the 23rd Judicial District.
 - d. Obtain Act 33 and Act 34 clearances and approvals and update the same annually and file the same with the Clerk of Courts of Berks County.
 - e. At all times present a professional manner and attitude.

COUNTY OF BERKS
CONSTABLE PROCEDURE AND COST MANUAL

- f. Transport prisoners in accordance with generally accepted police and sheriff's procedures. When transporting a defendant from BCP to night court or a magisterial district judge court for the purpose of bail release or cash collateral only one constable shall transport the defendant.
- g. Comply at all times with all qualifications and other requirements imposed by statute or rule.
- h. Comply at all times with all rules and regulations governing constables adopted by the 23rd Judicial District and the Berks County Commissioners.
- i. Maintain at all times a pager, a telephone, and a cell phone with voice mail capability.
- j. Submit all bills or claims for charges and fees as set forth in the Constable Procedure and Cost Manual.
- k. Maintain at all times the insurance required by statute (42 Pa.C.S. 2942) naming Berks County as a named insured and file with the Clerk of Courts.
- l. Maintain at all times a bond in the amount of \$1,000.
- m. Shall not engage in partisan political activity, make or solicit political contributions (including purchasing tickets for political party functions) while performing official business. While a candidate for the office of constable a constable shall not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office nor misrepresent his/her identity, qualifications, present position or other fact. This subparagraph (m) shall only apply to constables and deputy constables elected or appointed to serve a municipality or political subdivision within Berks County.
- n. Must have a valid and current Pennsylvania operator's license and supply a photocopy on a yearly basis to the Clerk of Courts. If a constable's license is suspended, the Clerk of Courts shall immediately notify the President Judge and the magisterial district judge who has jurisdiction over the constable.
- o. Must disclose to any magisterial district judge who employs the constable's service any civil judgments that have been entered against the constable.

- p. Shall, upon resignation, completion of term of office, or withdrawal from approved status, the constable shall return to the PCCD the constable's approved photo ID badge and the approved photo ID badges of any deputy constables serving under the constable as directed by the PCCD.
- q. Shall participate in establishing, maintaining and enforcing, and shall himself/herself observe, high standards of conduct so that the integrity and independence of the judicial system shall be preserved.
- r. Shall respect and comply with the law and shall conduct himself/herself at all times in a manner that promotes public confidence in the constable's impartiality and integrity.
- s. Shall not allow any family, social or other relationship to influence the constable's conduct and shall not lend the prestige of the constable's office to advance the private interest of others nor convey or permit others to convey the impression that they are in a special position to influence the constable.
- t. Shall devote the time necessary for the prompt and proper disposition of the business and duties of a constable.
- u. Shall at all times maintain all required and ongoing certifications.
- v. Shall diligently discharge administrative responsibilities, maintain competence in administrative matters concerning the duties of constables and facilitate the administrative responsibilities of the constable staff and other members of the judicial system.
- w. Shall be discreet respecting the privacy of persons with whom the constable comes into contact in the course of the constable's official duties and shall abstain from public comment concerning matters in which the constable is officially involved. This rule shall not prohibit constables from making public statements in the course of their official duties or from explaining for public information the duties and procedures of constables.
- x. Information acquired by a constable in the constable's official capacity shall not be used or disclosed by the constable in financial dealings or for any other purpose not related to the constable's official duties.

- y. Constables shall not use the constable's office or the prestige of the constable's office for the purpose of soliciting funds nor employ or permit anyone on behalf of the constable to solicit funds for any educational, religious, charitable, fraternal or civic organization. This shall not prohibit the constable from performing these functions in the constable's individual capacity but solely limits the constable's ability to perform these functions in an official capacity.
 - z. Shall not accept gifts from any party whose interests are affected or are likely to be affected by the performance of the constable's official duties.
 - aa. Shall not engage directly or indirectly in any activity or act incompatible with the expeditious, proper and impartial exercise of the constable's duties and shall not exploit the constable's official position for financial gain or for any business or professional advantage.
 - bb. Shall not be under the influence of alcoholic beverages, intoxicating liquors, beer or wine nor any illegal or controlled drugs while performing official business. A constable shall not perform official business until at least eight hours has passed from the time the constable last consumed alcoholic beverages, intoxicating liquors, beer or wine.
 - cc. On election day, constables shall be available in accordance with the law.
2. The Court may suspend or terminate from service any constable or deputy constable who is the subject of any pending criminal prosecution, convicted of a criminal offense, or has otherwise violated any statute, rule or minimum standards set forth above.
 3. The Court may from time to time require proof of compliance with minimum standards in a manner and form as the Court may so designate.
 4. All petitions to appoint a constable or deputy shall be presented to the President Judge of Berks County.
 5. All petitions to appoint a constable or deputy constable shall be in the form substantially similar to Exhibits 1 and 2 attached hereto.

6. That when a petition to appoint a constable or deputy constable is presented to the Court the petition will be denied without a hearing unless it contains a recital of the circumstances warranting the need for the appointment.
7. Except for the reappointment of existing deputies the Court may hold a public hearing with notice in a manner approved by the Court on all such petitions for the appointment of a constable or deputy constable in order to review the residence of the proposed appointee, the justification or need for the appointment, and a determination that the persons proposed as a constable or deputy constable shall comply with all the requirements pertaining to constable conduct and certification provided for in Act 44 and all of the terms and conditions of this order.
8. The term of office of a deputy constable shall expire when the term of the constable for whom the deputy is serving as deputy expires. As each constable begins a new term that constable must petition for the reappointment of existing deputies.
9. The Court Administrator of Berks County shall annually review the status of all constables and deputy constables in the 23rd Judicial District to assure that their election and appointments are valid and in compliance with all statutory, rule and local court requirements. All petitions for constable shall be served on the magisterial district judge having jurisdiction of the district in which the constable wishes to run.

BY THE COURT:

ARTHUR E. GRIM,
PRESIDENT JUDGE

OFFICE OF CONSTABLE

Provisions regarding the election, qualification and appointment of constables, the appointment and qualifications of deputy constables, the removal of constables, duties and liabilities, compensation and fees, as well as actions against constable, are set forth in various statutes. 13 P.S. §1 to 15, 21 to 23, 31, 41 to 46, 64, 67, 72 to 75, 82, 87 and 88.

A constable is a public officer, *Clemens v. Northampton County*, 26 North.109, 8 Som. 377, 51 York 134 (1938). Constables are peace officers and they shall perform all duties imposed or authorized by law (16 P.S. 1216). A constable is not a county nor borough officer, *Carney v. Luzerne County*, 18 Pa. D & C 624 (1932), *Bovee v. Willis*, 31 Pa. D & C 119 (1937).

A constable is a peace officer, charged with keeping the peace and having the power to arrest those who violated. *Swinehart v. McAndrews*, 221 F.Supp. 2d 552 (E.D. Pa. 2002), affirmed 2003 U.S. app. LEXIS 11349 (3d Cir.Pa.2003).

For the courts, constables can work as process servers. They are independent contractors, not employees of the Commonwealth, the judiciary, the township, or the county where they work.

Constables cannot hold themselves out as agents, employees or representatives of any court, judge or magisterial district judge. (42 Pa.C.S.A.2942(f)).

ELECTION/APPOINTMENT

Constables are elected in the townships, boroughs or wards where they reside. (13 P.S. 1,2). They will serve for six-year terms. (13 P.S. 14).

Whenever a vacancy occurs in the office of constable for any cause, the Court of Common Pleas has the duty to appoint a suitable person to serve as constable for the unexpired term so vacant. The appointee must be qualified as required by law. The Court of Common Pleas is accessed by a petition of at least ten qualified electors residing in such municipality. (13 P.S. 11, 12).

A constable has the sole power to appoint a deputy constable. It is necessary for the constable, who is appointing a deputy constable, to file a petition with the Court of Common Pleas setting forth the reason or necessity for the appointment. *Preno Petition*, 77 Pa. D & C 193 (1951). Usually the only valid reason to appoint a deputy is because of the volume of business. *Id.* There may be other reasons. In the case of *In re: Appointment of Hunter*, 782 A.2d 610 (Pa. Cmwlth.2001) a constable failed to show a

need for a deputy where his alleged work overload and stress resulted from an outside job and not from his position as a constable.

The deputy constable serves so long as the constable is serving. *National Cash Register Co. v. Berg*, 99 Pa.Super 34 (1930).

COMPENSATION

The compensation and fees allowed constables for services performed by them are specifically enumerated by statute. (42 Pa.C.S.2950).

QUALIFICATIONS

Before entering upon the duties of his or her office, a constable must:

- (1) take and subscribe the official oath or affirmation as provided for in the Constitution (Pa. Const. Art. 6, § 3);
- (2) give a bond in an amount of not less than \$500 nor more than \$3,000 as the Court of Common Pleas may direct (13 P.S. §9¹);
- (3) file with the Clerk of Courts proof that he or she has, currently in force, a policy of professional liability insurance covering each individual in the performance of his or her duties with a minimum coverage of \$250,000 per incident and a minimum aggregate of \$500,000 per year (42 Pa.C.S. 2942(b));
- (4) satisfy mandatory education and training (42 Pa.C.S. 2946); and
- (5) be certified or qualified to use or carry firearms in the performance of duties (42 Pa.C.S. 2948). If a constable is not certified or qualified, a constable is not permitted to carry or use a firearm in the performance of any duties.

AUTHORITY/RESPONSIBILITY OF PRESIDENT JUDGES WITH RESPECT TO CONSTABLES IS AS FOLLOWS:

- (1) President judges review petitions for the appointment of constables to fill a vacancy and petitions to approve a constable's selection of a deputy constable.
- (2) A constable may be removed or disciplined for intemperance, neglect of duty, malfeasance or misfeasance provided that a surety, the district attorney or an individual citizen has filed a petition for removal or discipline.

The removal, by the court, of a constable can happen two different ways. The first is provided for in 13 P.S.31 where a surety may file a petition with the Court of Common Pleas to inquire into the official conduct of the constable. Where the court is satisfied that "from habits of intemperance or neglect of duty" a constable

¹ The bond must contain a condition providing for the just and faithful discharge by the constable of the duties of the constable's office, or the equivalent thereto. (13 P.S. §9).

is unfit or incompetent to discharge the constable's official duties, the court can enter a decree for the removal of the constable. The court may require a constable to give additional surety and, failing that, the constable may be removed.

In addition, 13 P.S. 31 also provides that on petition of a citizen the court may also inquire into the official conduct of a constable where the petition charges that the constable exhibits habits of intemperance or neglect of duty as well as where the constable engages in any acts of malfeasance or misfeasance. The latter may include any act of oppression of a suitor or witness. If the constable is unfit or incompetent to properly discharge the constable's duties the court may decree the removal of a constable.

Malfeasance of a constable consists of breach of a positive statutory duty or of performing a discretionary act with an improper or corrupt motive. If the court finds malfeasance then the court must go further to find that the constable is unfit or incompetent to discharge his or her official duties. In re: *Petition to Remove Lafferty*, 11 D&C 4th 157 (1991).

In cases where petitions are filed by a surety or a citizen the court issues a rule upon the constable to show cause why the constable should not be removed.

That initiates the proceedings to remove one from office. (13 P.S. 31, *Commonwealth ex rel. Woodward v. Alberts*, 107 P.L.J. 291 (1959)). The only penalty that the court can impose is removal from office. The court is not permitted to fine or sentence a constable in these types of proceedings.

The Confidence in Law Enforcement Act (53 P.S. 752.1 et seq., 752.3) specifically provides for mandatory immediate termination of an employee who is a law enforcement officer if the law enforcement officer becomes ineligible as a law enforcement officer pursuant to any statute.

- (3) The third and final way that a president judge has authority or responsibility over constables is over those who work in a particular judicial district. Since the president judge has administrative authority over magisterial district judges, the president judge may establish rules governing the conduct of constables while working in a particular district. *Swinehart v. McAndrews*, supra.

I. Scope and Purpose

A. Scope

These procedures shall govern the submission and payment of Constable costs for authorized judicial functions in criminal and summary cases in Berks County. These procedures shall also outline established standards set forth by the Magisterial District Judge.

B. Purpose

It is the purpose of these procedures and standards to ensure uniformity in the submission, review, approval and payment of Constable costs for authorized judicial functions in criminal and summary cases in Berks County.

II. Standards and Qualifications

A. Standards

These are minimum standards. Constables that are non-compliant shall have their usage reviewed by the President Judge and Magisterial District Judge(s) in determining any future work assignments.

1. Service of Criminal or Summary Process

- a. **Service:** Constables shall promptly make service on all Criminal or Summary Process in a professional and timely manner as required.
- b. **Return of Service:** Returns of service shall be filed with the issuing Court.

2. Criminal Warrants

- a. Constables shall be paid for time spent waiting for questioning or processing (fingerprinting) to be complete and shall be paid the current fee per hour beyond the first ½ hour.
- b. Un-served Criminal Warrants shall be returned to the issuing authority after 60 days of issuance and a **Due Diligence** shall be completed so the defendant can be declared a fugitive.

3. Summary Warrants

- a. The assigned Constable shall promptly serve summary warrants and shall follow Pennsylvania Rules of Criminal Procedure.
- b. Un-served Summary Warrants will be returned to the issuing authority after 60 days of issuance and a **Due Diligence** shall be completed so the defendant can be declared a fugitive. However, the Magisterial District Courts may reissue them to the same Constable or to another Constable for an additional 60-day period.
- c. If it becomes necessary for a defendant(s) to be transported, nothing shall prohibit two Constables from charging for custody, conveyance, etc.
- d. Two male Constables serving multiple warrants on a defendant (s) of the same or opposite gender shall each be paid. The same holds true for two female Constables, as well as a male and female Constable, with multiple warrants on a defendant of the same or opposite gender. With the **exception** of when a defendant (s) is brought into court (day or night court) by any law enforcement officer and released to an on duty Constable (s), or defendants walk in on their own and taken into custody by a Constable (s), all warrants shall be split after the first warrant when the defendant is released from the court and not being committed and transported to Berks County Prison by the Constable. **However, in both cases, both Constables shall each be paid for all court related services, with the exception of mileage.** Also, when a defendant is conveyed to court (day or night court) by the Constable (s), or is brought into court (day or night court) by any law enforcement officer and released to an on duty Constable (s), the **court** in both cases, shall run the defendant through the **CODY system** and/or **J-Net System** to obtain all open warrants. All additional open warrants shall be paid to each Constable, with the **exception** of when a defendant (s) is brought into court (day or night court) by any law enforcement officer and released to an on duty Constable (s), all warrants shall be split after the first warrant when the defendant is released from the court and not being committed and transported to Berks County Prison by the Constable (s). **However, in both cases, both Constables shall each be paid for all court related services, with the exception of mileage.**

NOTE: When a Constable(s) transports a defendant on a release from BCP (i.e. a sentencing hearing), the court shall **NOT** run the defendant on the **Cody System** and/ or the **J-Net System**.

- e. Both Constables shall actively serve the warrant. Constables who do not actively participate in the service of the warrant by **“piggybacking”** or sitting in their secured vehicles shall not be eligible for payments. Submitting cost sheets for improper or non-service of warrants may cause a suspension from usage, and may result in criminal charges at the discretion of the Magisterial District Judge and District Attorney’s Office.
- f. Constables shall return the warrant and any pleas, fines, costs and/or restitution collected to the Issuing Court immediately upon completion of service or within the next 24 hours. When a Constable collects the money late on a Friday, he/she shall return the money to the issuing court of authority as early as possible the Monday following the weekend.
- g. Constables shall not attempt to serve the warrant unless in possession of a valid warrant.

4. Bench Warrants

- a. The same fees shall be paid for executing a bench warrant.

B. Qualifications of Constable

1. **Certification Training:** Constables shall obtain and maintain proper certifications required under Act 44 (42 Ps.C.S.2941 et seq.)
2. **Registration and Authorization:** Constables desiring to be paid by the County of Berks shall register with the Clerk of Courts:
 - a. Bond Information
 - b. Certificate of Liability Insurance showing Effective and Expiration Dates
 - c. Act 44 Certification Numbers and Expiration dates as provided by the PA Commission on Crime and Delinquency (PCCD)
 - d. Election certificate and/or Appointment Order

C. Minimum Standards

1. Night Court

A Constable:

- a. Shall be in uniform
- b. Shall be firearms certified and shall have firearm displayed (Constable shall provide proof of firearm certification to the Magisterial District

Judge) When working as a team, a minimum of one Constable shall be firearm certified and display the firearm, while the second Constable shall be at a minimum, taser certified and shall display the taser. (Constable shall provide proof of taser certification to the Magisterial District Judge)

- c. Shall display patch & badge
- d. Transports
 - i. No prisoners shall be transported in front seat of Constable's secured vehicle
 - ii. Prisoners shall not be transported without seatbelts
 - iii. Shackles/belts shall be utilized for each prisoner
 - iv. Extra plastic restraints when needed

2. Courtroom Security at the Magisterial District Court

A Constable:

- a. Shall be in uniform
- b. Shall be firearm certified and shall have firearm displayed (Constable shall provide proof of firearm certification to the Magisterial District Judge)
- c. Shall display patch & badge

3. Uniforms

- a. Discretionary on the type of service being performed
- b. Security/Courtroom – shall be in uniform
- c. Transporting/Hearing – shall be in uniform
- d. Warrant/Service – shall be in uniform, but Constable discretion on type of service
- e. Minimum uniform is pants, shirt with badge & patch
- f. Can also be police officer type uniform

4. Vehicle Standard

All vehicles:

- a. Constable (s) shall provide annually a copy of his/her Business Insurance on his/her vehicle used for Constable work to his/her Magisterial District Judge and the Office of the Controller.
- b. Shall have a full cage behind the driver
- c. Shall have some type of two-way communications
 - i. Mobile or
 - ii. Hand-held or
 - iii. Cellular
- d. Shall have safety locks or dismantled locks

- e. Shall have seatbelts provided for all prisoners

5. Transports

Note: Constable (s) shall provide annually a copy of his/her valid PA Driver's License to his/her Magisterial District Judge and the office of the Controller when he/she will be driving his/her vehicle for Constable work. This shall not prevent a Constable from receiving work from his/her Magisterial District Judge when he/she will not be driving his/her vehicle for Constable Work.

Note: All arrested persons present a potential risk to the safety of the arresting/transporting Constable, whether or not they are known by the Constable and whether or not they seem to present an obvious or little immediate threat to the Constable. Therefore, it is the policy of the County of Berks that **EVERY** prisoner who is transported in a Constable vehicle shall be handcuffed and searched by the transporting Constable prior to being transported. It is preferable, when reasonably possible, for a Constable of the same gender as the prisoner to conduct the search. When this is not possible, the Constable should have a witness present during the search.

- a. No prisoners shall be transported in front seat of Constable's secured vehicle
- b. Seat belts shall be provided for all prisoners
- c. All prisoners shall be secured as described in Section (1. d) above
- d. High profile cases shall have two Constables as determined by the Magisterial District Judge(s)
- e. Opposite gender transports shall have two Constables (for transports regarding Bail Release or Cash Collateral, refer to Section (5 i.), page 15).
- f. Out of county transports shall have two Constables
- g. Magisterial District Judge and Constable(s) shall make reasonable efforts to ensure male and female defendants are physically separated during transports, and they shall not be shackled together
- h. Adults and juveniles shall not be transported together
- i. **Ratio – Constable to Prisoner** – standard shall include, one Constable for one prisoner at a time. If a high profile case, two Constables for one prisoner. Two Constables working together as partners shall only be permitted to transport more than 3 prisoners if they are shackled and chained together, and no more than 6 prisoners. **This standard is strongly recommended to ensure Constable safety and prisoner security.**

- ii. For both Constables to be paid for all prisoners, all shall be in one secured vehicle (both Constables with the prisoners).
- i. When transporting a defendant from BCP to Reading Central Court or a Magisterial District Court for the purpose of a **Bail Release or Cash Collateral**, only one Constable shall transport the defendant, in order for the second Constable to remain in the court room to provide court room security for the Magisterial District Judge and their staff, with the **exception** of an opposite gender defendant, the Constable, at his/her discretion may use a second Constable to transport the defendant.

D. Out-of-County Transports

THERE SHALL NOT BE ANY COMBINED OUT-OF-COUNTY WITH IN-COUNTY PRISONER TRANSPORTS OF ANY KIND. THIS SHALL NOT BE ALLOWED DUE TO THE POTENTIAL LIABILITY RISK TO THE COUNTY OF BERKS.

FOR EXAMPLE, DO NOT FIRST TRAVEL TO BCP TO PICK UP AN IN-COUNTY PRISONER AND TRANSPORT THAT PRISONER TO AN OUT-OF-COUNTY PRISON TO PICK UP AN OUT-OF-COUNTY PRISONER FOR A COURT APPEARANCE IN A BERKS COUNTY MAGISTERIAL DISTRICT COURT, AND ULTIMATELY TRANSPORT THE IN-COUNTY PRISONER BACK TO BCP HAVING THE OUT-OF-COUNTY PRISONER DRIVE ALONG TO BCP BEFORE

TRANSPORTING THE OUT-OF-COUNTY PRISONER BACK TO THE OUT-OF-COUNTY PRISON.

ALSO- NO OTHER WORK OF ANY KIND SHALL BE ALLOWED WHEN PERFORMING OUT-OF-COUNTY PRISONER TRANSPORTS FOR COURT PROCEEDINGS IN A BERKS COUNTY MAGISTERIAL DISTRICT COURT.

FOR EXAMPLE, WHEN A CONSTABLE(S) HAS CUSTODY OF AN OUT-OF-COUNTY PRISONER FOR COURT PROCEEDINGS IN A BERKS COUNTY MAGISTERIAL DISTRICT COURT, HE/SHE SHALL NOT PERFORM ANY OTHER DUTIES RELATED TO AN IN-COUNTY PRISONER/DEFENDANT WHILE THE OUT-OF-COUNTY PRISONER/DEFENDANT IS IN THE CUSTODY OF THAT CONSTABLE(S). NO OTHER WORK OF ANY KIND SHALL BE PERFORMED UNTIL THE CONSTABLE(S) HAS RETURNED THE

OUT-OF-COUNTY PRISONER/DEFENDANT TO THE OUT-OF-COUNTY PRISON OR BCP.

III. Standard Cost Sheet and Server Fee Notice

A. Server Fee Notices

All cost sheets shall be submitted with Server Fee Notices. Any cost sheets submitted without Server Fee Notices shall be returned to the court. All Magisterial District Courts as well as Reading Central Court shall provide a separate Server Fee Notice for each warrant served.

All Magisterial District Courts as well as Reading Central Court are to print the Constable's name and address on the server fee regardless if the Constable or his/her Deputy performed the service.

Upon completion of service, Constables shall complete a cost sheet (guidelines provided below) and turn it into the Magisterial District Judge for approval and signature. Once the cost sheet has been approved it shall be forwarded to the Office of the Controller for review and audit and where applicable, suggested adjustments or corrections.

Note that each cost sheet contains a space for additional explanations to further clarify and support any **unusual** circumstances/situations that may arise. Please do not hesitate to utilize this tool to communicate "out of the ordinary circumstances" to the Office of the Controller.

When a defendant is overcharged for Constable services, the Office of the Controller shall return copies of the adjusted cost sheet(s) to the Constable (s) and corresponding Magisterial District Court, Reading Central Court and/or District Attorney's office in order for their staff to correct the assessed fines and costs on the docket and/or to issue a refund to the defendant.

B. Standard Form Established

There is established a standard form designated as "Constable Cost Sheet – Criminal/Summary." Any Constable wishing to be paid for performing judicial functions in a criminal or summary case shall submit his or her allowable costs on the standard form. The submitted form shall be an original, issued by the County, with a unique control number.

C. Line-by-Line Instructions to Complete a Constable Cost Sheet

All cost sheets shall be legible and complete. Failure to submit cost sheets with the designated information in complete and legible format shall result in the cost sheets being returned to the Constable for proper preparation.

When a Constable requests a Magisterial District Court to prepare a release paper for a defendant(s) in BCP to be brought down to court and it turns out to be the wrong defendant(s), NO costs shall be reimbursed to the Constable, nor shall the wrong defendant be assessed any costs as a result of the error.

When a Magisterial District Court prepares a release paper for a defendant(s) in BCP to be brought down to court and requests a Constable to convey the defendant, and it turns out to be the wrong defendant, the Constable **SHALL be paid as it is not a result of his/her error. The wrong defendant shall not be assessed any costs as a result of the error.**

Apportionment: If more than one defendant is transported simultaneously, reimbursements for mileage and holding time shall be divided between or among the defendants. Constable cost sheets not apportioned correctly shall be returned to the Constable (s) for correction.

The Following are Line-by-Line Instructions to Complete the Constable Cost Sheet – Criminal/Summary. The instructions are supplemented by specially marked information to answer commonly asked questions.

1. Constable Information – self-explanatory. List last name first, then first name and middle initial. A PCCD Certification number is required. Include the complete Constable address.

2. Second Constable Information – Section 2950(C) of the Judicial code states that “[a] Constable or Deputy Constable when he is transporting a prisoner, serving a felony or misdemeanor warrant other than for a summary offense or serving a warrant on a juvenile or a defendant of the opposite sex may, at his discretion, be accompanied by a second Constable or Deputy Constable who is certified under section 2947 (relating to automatic certification) to perform judicial duties. In such cases, each officer shall receive the fee set out in this section. In all other civil, landlord-tenant and criminal cases, the issuing authority may authorize payment to a second officer.” **Regarding transports for a Bail Release or Cash Collateral refer to Section (5 i.), page 6.**

When a second Constable is used, the second Constable’s name and PCCD certification number, and the reason for using the second Constable shall

be entered on the cost sheet. THE SECOND CONSTABLE'S ALLOWABLE COSTS SHALL BE SUBMITTED ON A SEPARATE COST SHEET. Cross-reference the "CONTROL #" in the EXPLANATIONS section of each cost sheet.

- The practice known as "**caravanning**"-charging fees for the defendants riding in the secured vehicle in front of and/or behind the Constable is NOT permissible under any condition. Constables may only bill the County for the services (release, custody, conveyance, attend hearing, commitment, etc.) actually provided by the Constable(s) for the defendants physically present in the secured vehicle in which the Constable is riding.

In addition, when transporting a defendant (s) to or from BCP, in order for both Constables to charge and be eligible for payment for transporting the defendant(s), both shall sign the log/body receipt at the Berks County Prison.

Note: The Warden of BCP, George Wagner, has advised staff to allow both Constables to sign the log/body receipt.

3. Defendant Name, Alias and Address – Record as follows:

- If the issuing authority is a Magisterial District Judge or a Magisterial District Court, record the defendant's name, alias, and address.
- If the issuing authority is the District Attorney and service is a Commonwealth subpoena, record the defendant's name and attach the copy of the subpoena.
- If the issuing authority is the District Attorney and the service is transporting a defendant under the influence (DUI), record the destination, name and address. (This may or may not be the defendant's home address.)

4. Date of Service, Time of Service & Location of Service – Is the exact date, time (must include AM and/or PM**), & exact location of when & where process is served. (i.e., Constable leaves warrant card at defendant's home residence, the location of service is the defendant's home address, not the Magisterial District Court.)**

5. Issuing Authority & Court Number – List the name of the Magisterial District Judge and the court number for which the service was performed. If a defendant is arrested on warrants from more than one Magisterial District

Court complete a separate cost sheet for each Magisterial District Court. However, list all cases relating to the same defendant and arising out of the same Magisterial District Court on one cost sheet.

6. Lead Docket Number & Other Docket Numbers (multiple warrants on the same defendant), OTN(s) & Warrant Control Number(s) – List all cases relating to the same defendant and arising out of the same Magisterial District Court on one cost sheet. Choose one docket number as the “Lead Docket Number” (Lead #) and list all other docket numbers as “Other Docket Numbers” (Other 1, Other 2, etc.). Most criminal fees under the Constable Fee Bill are to be charged only once for a combined transaction (“per defendant”). “Per defendant” charges, such as custody, conveyance, attendance at hearing, discharge, release, and commitment are to be charged to the Lead Docket Number only. However, warrant fees and court returns may be charged on each docket number. If all docket numbers do not fit on one cost sheet, use a second

sheet and cross-reference the “CONTROL #” in the EXPLANATIONS section of each cost sheet. There can be only one Lead Docket Number per combined transaction (per defendant). For criminal cases, list the corresponding OTN (Offense Tracking Number) beside the docket number. For warrant service, list the Warrant Control Number from each warrant (found in the upper right corner of the warrant) beside the docket number and/or OTN. **THE WARRANT CONTROL NUMBER SHALL BE LISTED FOR EACH WARRANT.**

- The warrant control number is a unique number on every warrant. A different warrant control number shall be listed on the cost sheet for each warrant served.
- Up to eight warrants can be listed on a cost sheet (the “lead” docket number and up to seven “other” docket numbers). If all docket numbers do not fit on one cost sheet, use a second sheet and cross-reference the “CONTROL #” in the EXPLANATIONS section of each cost sheet.
- When completing the cost sheet, identify the warrant control number by using only the seven digit Warrant ID number (assigned by MDJ’S). Include any and all zeros.

An example of a new warrant is:
23-0-00-AW-0012345-2006

In this example, on your cost sheet, you would write W0012345.

7. Method of Warrant Service or Effectuating Payment of Fines & Costs – Check all that apply. If payment of fines and costs is effectuated solely by mailing a warrant card or by telephoning the defendant, no mileage shall be charged.

- This section makes clear that a Constable may effectuate payment of fines and costs in a variety of ways. It is anticipated that when payment is effectuated solely by mailing a warrant notice or calling the defendant on the telephone, the constable is not entitled to mileage.
- A Constable is NOT entitled to reimbursement of postage or telephone costs for effectuating payment of fines and costs.
- If a defendant pays fines and costs at the Magisterial District Court in response to a warrant notice sent or left by a Constable, and the Magisterial District Court collects the Constable costs, the Constable SHALL submit a cost sheet to the Magisterial District Court before the Constable can be paid. A cost sheet SHALL be submitted in EVERY case for which the Constable seeks payment.

8. Charges for Lead Docket Number – Most criminal fees under the Constable Fee Bill are to be charged only once for a combined transaction (“per defendant”). “Per defendant” charges, such as custody, conveyance, attendance at hearing, discharge, release, and commitment are to be charged to the Lead Docket Number only.

Note the following Special Instructions:

Warrant – The Constable may charge for each warrant executed. Charge the first warrant fee to the Lead Docket Number and list all others in the Charges for Other Docket Numbers section below.

- No warrant fee(s) is allowable when the defendant is deceased. (Court return(s) and appropriate mileage costs may be billed.)
- Actual miles applies to warrant service.

- Payment for cost sheets submitted for warrants outstanding for more than six months from the issue date and returned to the court as “not found” **shall be denied.**

Custody – Charge to Lead Docket Number only.

- Charged when the defendant is physically in the custody of the Constable (s), with the **exception** of transporting an Incarcerated prisoner. When a Constable (s) collects fines and costs at the defendant’s home, the Constable(s) shall **not** include custody or discharge fees.

Conveyance to Court – Charge to Lead Docket Number only.

- Conveyance charges are paid for conveying a defendant to court while in a secured vehicle with a Constable(s), with the **exception** of transporting an Incarcerated prisoner.
- Do not charge a conveyance fee for walking a defendant from a holding cell to court. (i.e. walking a defendant from the Sheriff’s holding cell to Reading Central Court)

Attend Arraignment or Hearing – Charge to Lead Docket Number only.

- Although a defendant may be arraigned on multiple cases or have hearings on multiple cases, this cost is to be charged only once, “per defendant”.

Note: If a Constable (s) takes a defendant before a Magisterial District Judge in one Magisterial District Court and the defendant is arraigned on charges that relate to cases in multiple Magisterial District Courts, the Constable (s) is entitled to receive payment only for the multiple warrants. All other charges such as custody, conveyance, discharge, release and arraignment are allowable per defendant not per docket. The Magisterial District Judge who authorized the service and performed the arraignments shall sign the Constable Cost sheets.

Note: Arraignment fees shall not be billed when transporting an Incarcerated prisoner.

Discharge – Charge to Lead Docket Number only.

- A discharge cost is appropriate only when the court discharges a defendant from court custody, such as when a defendant is discharged on bail/collateral, found not guilty, has his or her case dismissed, etc.
- If a defendant is taken into custody by the Constable, brought to the Magisterial District Court and pays fines, costs, bail or collateral so as to be discharged from custody of the court, the Constable may charge a discharge fee.
 - i. It is possible for a defendant to be discharged, but re-committed to jail on other charges. **In this case, the Constable shall furnish written proof from BCP or the Magisterial District Judge confirming the recommitment on the prior or pending charge, in order to charge a commit fee. For example, from the Magisterial District Judge, a copy of a recommit on prior or pending charges, unrelated to the case at hand. This applies to both in and out-of-county transports.**

Conveyance to Jail – Charge to Lead Docket Number only.

- A conveyance to jail cost is appropriate when the court commits the defendant to jail on the case before the Magisterial District Judge, as a result of the Constable (s) transporting a Nonincarcerated defendant to jail.

Transport Nonincarcerated Defendant to Jail – Charge to Lead Docket Number only.

- This charge is appropriate any time a Constable (s) transports a Nonincarcerated defendant to jail (i.e. BCP) for the purpose of a commitment.
- This fee shall **not** be billed when a Constable (s) transports a Nonincarcerated defendant to court for the purpose of a **bail release** and/or **cash collateral**.

Transport Incarcerated Prisoner – Charge to Lead Docket Number only.

- This charge is appropriate when a Constable transports an Incarcerated prisoner to court for a

hearing, as a Commonwealth witness, or for fingerprinting.

Commitment – Charge to Lead Docket Number only.

- Commitment charge is appropriate any time the court commits or re-commits the defendant to jail on the case before the Magisterial District Judge.
- When a defendant(s) is transported from the Berks County Prison (BCP) to a Magisterial District Court the following rules apply:
 - i. If a defendant(s) is **committed** after his/her hearing, a Constable shall not bill a discharge fee – he/she is to bill a commitment fee and conveyance to jail fee (because the defendant(s) is not being discharged).
 - ii. If a defendant(s) is **discharged** after his/her hearing, a Constable shall bill a discharge fee and a conveyance back to jail for his/her release. He/she may only bill a commitment fee, for the same defendant(s) for whom a discharge fee is being sought, if the defendant(s) is recommitted on a prior or pending charge. **In this case, the Constable shall furnish written proof from BCP or the Magisterial District Judge confirming the re-commitment on the prior or pending charge. For example, from the Magisterial District Judge, a copy of a re-commit on prior or pending charges, unrelated to the case at hand.**

Release - Charge to Lead Docket Number only. The defendant must be in the custody of another authority (such as a jail) for this to be charged.

- A release cost is appropriate any time a defendant is in the custody of another agency, such as a jail or prison, and the court orders the defendant to be released for any reason, such as to attend a hearing, to post bail, to be fingerprinted, etc.
- A release cost is appropriate from a Magisterial District Court or Reading Central Court when a

Constable arrests a defendant and conveys him/her to court for an arraignment, and the court discharges the defendant.

Conveyance - Other - Charge to Lead Docket Number only. This charge must be specifically ordered by the court or BCP to be allowable. For example, in a medical emergency, the court or BCP may order that a defendant be transported to a hospital. The specific circumstances must be explained on the cost sheet.

- A Constable must be able to document that the court ordered the defendant be conveyed somewhere other than to court or to jail.

Court Return - The constable may charge for each return. Charge the first return to the Lead Docket Number and list all others in the Charges for Other Docket Numbers section below.

- When a warrant is returned unserved because the defendant cannot be found, the Constable is entitled to charge a court return and mileage only. (In this case, a mileage log shall be submitted with the cost sheet for mileage cost to be paid)
- A court return fee may be charged only upon return of a warrant or subpoena to the Magisterial District Court or other authority.

9. Charges for Other Docket Numbers - In the space provided, list the number of other warrants and court returns charged.

10. Subpoena Charges - Section 2950 (h) of the Judicial Code provides “[f]or serving district court – issued subpoenas for civil, landlord-tenant or criminal matters, [current fee] for the first witness, plus [current fee] for each additional witness at the same address, [current fee] return of service for each subpoena, plus mileage. The same fee shall be payable for attempting to serve a subpoena at a wrong address supplied by the party requesting the service.” In the space provided, list the number of subpoenas served. In the space for **EXPLANATIONS**, the Constable shall list the complete name and complete address of each party served, and the date and time of service. The Constable may also charge a court return for

If a Constable must make multiple trips to an address in attempt to serve more than one party, the Constable is still entitled only to the current fee for service upon the first party at that address.

- The Constable is entitled to receive the current court return fee per subpoena (plus mileage) when an attempt to serve a subpoena at the correct address was made but was unsuccessful.
- No subpoena fee(s) is allowable when the witness is deceased. (Court return(s) and appropriate mileage costs may be billed for the attempt to serve.
- Actual miles applies to subpoena service.

11. Holding Time Charges - For each of these charges, list the beginning and ending time of the service and the total time for the service at the current fee. Do NOT charge for the first half-hour of **holding time**. Show the deduction of the first half hour of holding time on the cost sheet. If the deduction is not taken, the Office of the Controller shall deduct the first half hour and make the necessary financial adjustment.

- Holding time shall be charged for “holding one or more defendants at the office of the [Magisterial District Justice] beyond the first half hour.”
42 Pa.C.S.A. § 2950(g)(14)
- Holding time shall also be charged while the defendant is in custody of the Constable when the Constable waits at a prison (i.e. BCP) to process the defendant into jail, or waits at a hospital for a defendant’s medical clearance. (This holding time fee is not provided for in the Judicial Code. **It is, however, standard practice in Berks County and shall be approved as long as the charges are reasonable.**)

12. Courtroom Security Charges - Must be ordered by the Magisterial District Court and prorated to the nearest whole dollar and apportioned across multiple defendants. In this case, a Constable does not have

custody of a defendant(s). Notate your beginning and ending time per defendant. Do not deduct the first half hour of courtroom security time.

13. Fingerprinting Charges - For fingerprinting, the Constable(s) may charge the current per defendant conveyance fee, plus the current per hour rate beyond the first half hour. If the deduction is not taken, the

Office of the Controller shall deduct the first half hour and make the necessary financial adjustment. **Note: fingerprinting fees are per defendant and not per case or docket. However, if a defendant is conveyed to a second location for additional fingerprinting, a Constable(s) may charge an additional conveyance fee.**

14. Mileage, Travel & Other Expenses - In the space provided, fill in the applicable mileage rate. Actual mileage must be listed (see Note below). The actual cost of tolls will be reimbursed with receipts. The County per diem meal charge allowances for the Constable(s) and defendant will be reimbursed **(with itemized receipts)** for out-of-county travel to an out-of-county prison because the defendant missed a meal due to a court appearance in Berks County. (When necessary, the County per diem meal charge allowance for an in-county prisoner who misses a meal at the jail because of a court appearance will be reimbursed with an **itemized receipt**. (Only the in-county defendant's meal shall be reimbursed) List these charges in OTHER CHARGES and explain fully in the EXPLANATION section.) Maximum permitted meal charges are based on the Berks County per diem rate: \$7.00 for breakfast, \$10.00 for lunch, and \$10.00 for dinner.

Note: In order for meal receipts to be reimbursed, all meal receipts shall have the establishment name pre-printed or stamped on the receipts in order to be reimbursed, and shall be itemized.

- **Mileage fees shall be paid on actual miles.** This applies to warrant service and subpoena service. **Note: The IRS established mileage rate used is based on the Constable's date of warrant or subpoena service, not when the defendant pays fines and costs.**
- The Constable in all cases shall compute his/her mileage from the Magisterial District Judge's Office from which he/she received his/her papers, including warrants, subpoenas issued by

the Magisterial District Judge's Office and subpoenas issued by the Court of Common Pleas through the District Attorney's Office.

- **Regarding Warrant Service**, round trip mileage may be billed when a Constable transports a defendant to court from the location he/she takes custody of the defendant (i.e. BCP, police department, defendant's residence or place of employment), or collects fines and costs at the door

and brings the money to court (within 24 hours). When a Constable collects the money late on a Friday, he/she shall return the money to the issuing court of authority as early as possible the Monday following the weekend. A Constable shall **not** charge round trip mileage when leaving a warrant card at a defendant's residence. In this case, the Constable shall charge actual miles from the issuing court of authority to the defendant's residence only.

- **Regarding Subpoena Service**, a Constable shall charge actual miles from the issuing court of authority to the location where the subpoena is served. When additional witnesses located at different addresses are served in consecutive order and you're traveling from one address to the next, chart your mileage starting with the issuing court of authority to the first witness address, then from the 1st witness address to the 2nd witness address. Continue using this charting method for all witnesses served in consecutive order. When additional witnesses located at different addresses are served on different days, and not in consecutive order, chart your mileage starting with the issuing court of authority to the witness address where the subpoena is served.
- The Constable is to charge actual miles for all out-of-county travel.
- The Office of the Controller shall be verifying distance of actual miles traveled using such tools as AAA, Yahoo, etc. This tool is being used as a guideline to determine distance with a reasonable variance applied at all times.
- Every Constable should keep a daily mileage log to document all work related travels. The log may be subject to review by the County Controller.

15. Other Charges – This line item must be fully explained in the “instructions” section of the cost sheet. The OTHER CHARGES section may be used for any other allowable charges. Section 2950 (i) of the

Judicial Code provides “[f]or civil, landlord-tenant and criminal services not specifically provided for, the court shall pay the same fees as it pays for services that it determines to be similar to those performed.” This could include, for example, service of Emergency Protection From Abuse Orders, a pre-approved hourly rate for out-of-county travel, transporting DUI offenders, etc.

- A Constable may charge the current fee per hour for out-of-county travel **when TRANSPORTING a defendant to and/or from an out-of-county location. The current fee per hour shall only be paid for the time traveled from the starting location to the ending location providing the Constable(s) has successfully apprehended the defendant on a *warrant service* and he/she is in the custody of the Constable(s) and the Constable(s) transports the defendant back to the office of the Berks County Magisterial District Judge (and possibly BCP). Also, this allowance applies when a Constable(s) picks up a defendant from an out-of-county prison on a writ and transports the defendant to the office of the Berks County Magisterial District Judge (and possibly BCP). This allowance does not apply when a Constable(s) travels to an out-of-county location to leave a warrant card and/or collects fines or costs at the door. This allowance does not apply to subpoena service. Do NOT list these charges as “Holding” - they shall be listed as “OTHER CHARGES” and fully explained in the EXPLANATION section.**

The explanation shall include commute starting and ending times and the reason for transporting the defendant from the out-of-county location.

- A Constable shall charge the current fee to obtain a writ from the District Attorney’s Office for the release of a defendant from an out of county prison to attend a hearing in Berks County.
- A Constable shall charge the current fee for transporting a DUI offender to his/her home within the County of Berks and shall charge the current fee for transporting a DUI offender to

his/her home outside the county. Actual mileage shall be charged in addition to the transportation fee.

- The Constable is entitled to receive the current fee for serving each Protection From Abuse (PFA) order plus actual mileage and the court return fee (if the court requires a return of service to the court).
- The Constable is entitled to receive an additional current fee for each PFA order requiring eviction and restoration of possession.

16. Total Claimed by Constable - Carefully calculate the total fees by adding each entry in the FEE columns.

17. Explanations - Each item above that requires an explanation should be fully explained in this space. **The Controller reserves the right to deny or reduce costs if a cost sheet is submitted with incomplete information or explanations as required.**

- **If more space is needed, attach a separate sheet (addendum) and cross reference the “CONTROL #.”**

Note: The Constable shall have the Magisterial District Judge sign the attached addendum. If the addendum is not signed by the Magisterial

District Judge, the cost sheet and addendum shall be returned to the Constable.

18. Signature of Constable or Deputy Constable - Each cost sheet shall be signed and dated by the Constable or Deputy Constable in the space provided, then submitted to the proper Magisterial District Judge (i.e., the Magisterial District Judge presiding over the case when the costs are submitted, either in the Magisterial District Court office or in Central Arraignment Court). Facsimile signatures will not be accepted.

- When a Deputy Constable serves process, all payments shall be made to the Deputy's **Constable**. Regarding the completion of a cost sheet and payment, the Constable's name, PCCD Cert. #, and Constable address is to be completed at the top of form. The Deputy Constable is to sign his/her signature at the bottom of the form swearing the service was performed and write “Deputy Constable” under the signature.

- By signing the cost sheet, the Constable or Deputy Constable:
 - certifies, under the penalties of perjury, that he or she has performed the services listed on the cost sheet;
 - certifies, under penalties of perjury, that the PCCD number shown on the form is correct;
 - certifies, under the penalties of perjury, that he or she is not subject to backup withholding;
 - certifies, under the penalties of perjury, that on the date of service he or she had proof of current liability insurance and current bonding information on file with the Clerk of Courts Office and that he or she was certified to perform judicial duties in accordance with 42 Pa.C.S.A. § 2942;
 - verifies that all statements and charges made in the cost sheet are true and correct;
 - states that he or she understands that false statements made in the cost sheet are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to Unsworn Falsification to Authorities.

19. Signature of Magisterial District Judge or Other Official - Each cost sheet shall be submitted to the proper Magisterial District Judge (i.e., the Magisterial District Judge presiding over the case when the costs are submitted, either in the Magisterial District Court office or in Central Arraignment Court) or other official who authorized the work (i.e., the District Attorney). Before payment can be made, the Magisterial District Judge or other official shall verify that the service was authorized to be performed.

- Magisterial District Judge shall review and process cost sheets within **five days** of submission by the Constable. The cost sheets shall be processed as they are submitted - the court shall NOT wait until final disposition of the case to process cost sheets.
- After verification by a Magisterial District Judge, the Magisterial District Court shall forward the

cost sheet to the County Controller (within **five days** of submission by the Constable) for payment, subject to review, audit, adjustment and final approval by the Controller.

- In the space provided (DATE FORWARDED TO CONTROLLER BY MDJ/D.A.), the Magisterial District Court or other agency submitting the cost sheet shall note the date that the cost sheet is forwarded to the Controller.

20. Distribution - As soon as possible after a cost sheet is submitted, it shall be reviewed and processed by the Magisterial District Court and the copies must be distributed as follows:

White: County Controller

Canary: Clerk of Courts (court cases only)

Pink: Magisterial District Court/D.A.

Gold: Constable

- The Magisterial District Court shall submit the cost sheet to the Controller as soon as it is reviewed and processed (**always within five days of submission by the Constable**) - the court shall NOT wait until final disposition of the case to process cost sheets. In court cases, the Magisterial District Court shall submit the Controller's copy (white) for payment immediately, but shall hold the Clerk of Courts' copy (canary) until the entire case is sent to the Clerk of Courts Office after the preliminary hearing.

IV. Scofflaw Round-Ups/Strike Force

A. Introduction

When a Magisterial District Court decides to perform a strike force for docket cases within the court's jurisdiction, the Magisterial District Court denotes on the Automated District Justice System the cases that will be included in the strike force and assigns such cases to selected Constable(s) for service. The Office of the Controller shall pay the Constable(s) for the strike force services performed by a method other than the Constable cost sheet.

B. Record Keeping

1. The County of Berks Constable cost sheet is not required for strike force cases; however, the Constable(s) is required to complete a log maintained by the Magisterial District Court which contains each participating Constable's name, date of service, hours worked (start and end times) and the mileage incurred.
2. The Magisterial District Court inputs the Constable(s) costs to the Automated Magisterial District Justice System in accordance with the Constable Fee Bill. For example, the warrant costs, court returns, mileage, etc. are added to each defendant's bill of costs at the time the defendant makes payment.
3. The Magisterial District Court collects revenues for fines and costs (including Constable costs) for purposes of the strike force for a period of 90 days from the start of the strike force and earmarks the server costs as "strike force" revenues payable to the County of Berks.
4. The County of Berks Office of the Controller pays the Constable(s) upon request and approval of the Magisterial District Judge and upon receipt of the mileage and hours log for the strike force services.
5. Of the total strike force revenues collected during the 90-day period, the Constable(s) are paid for each actual mile traveled at the current IRS mileage rate and are paid for each hour worked based on an hourly rate calculated from the remaining revenues collected (less mileage) from defendants. The hourly rate is determined by subtracting the mileage expense from the total strike force revenues (Constable Costs) and dividing the result by the total hours worked by all Constable(s) participating in the strike force.

CONSTABLES AND DEPUTY CONSTABLES

INFORMATION REGARDING THE APPOINTMENT OF CONSTABLES IN MUNICIPALITIES WHERE A VACANCY EXISTS/APPOINTMENT OF A DEPUTY CONSTABLE TO SERVE AS A DEPUTY OF AN ALREADY ELECTED OR APPOINTED CONSTABLE

There are separate laws in Pennsylvania that govern constables from other laws that deal with how constables are elected or appointed, how deputy constables are approved, the services which constables may render, qualifications to become a constable, educational requirements, requirements for bonds and insurance, etc.

NEITHER THE JUDGES NOR COURT STAFF CAN GIVE ADVICE ON THESE MATTERS. Persons interested in these matters should contact an attorney to advise them on how to proceed.

The election of constables, filling of vacancies, and appointment of deputies are generally covered by a statute found at 13 P.S. 1 et seq. The Constables' Education and Training Act which governs all constables is covered by a statute found at 42 Pa. C.S.A. 2941 et seq.

The court in Berks County adopted an administrative order on October 23, 2006 which covers two general subjects. First of all it establishes minimum standards governing constables and deputy constables who serve the courts in the 23rd Judicial District, which includes the magisterial district judges in Berks County. Constables who serve the magisterial district judges and the Common Pleas Court in Berks County must adhere to those standards. Constables who do not work for our courts need not comply with those standards.

Secondly, the administrative order sets forth the court's policy on petitions for the appointment of constables in the event of vacancies and the approval of deputy constables.

A copy of said administrative order is attached hereto for review and use by any interested person. Also attached hereto are the forms that must be used for the appointment of a constable in the event of a vacancy and for the approval of a deputy constable. Those forms are as follows:

1. Petition for the appointment of a constable which must be signed by at least ten persons.
2. Court order to be filled out by the judge at the time of the appointment of a constable.
3. Petition for the approval of a deputy constable that must be completed and signed by a constable.
4. Application for deputy constable that must be completed by a constable.

5. Court order to be filled out by a judge setting a hearing and requiring that certain notice be given of the hearing where the court is considering appointing a constable or a deputy constable.
6. Court order to be completed by a judge approving a deputy constable.

Persons having any further questions about these matters should obtain advice from an attorney or consult with the applicable statutes and rules that have been adopted in Pennsylvania and Berks County governing these matters.

Arthur E. Grim,
President Judge
Berks County
Date_____

IN RE: THE APPOINTMENT OF _____

As CONSTABLE for _____

BERKS COUNTY,
PENNSYLVANIA
(23RD JUDICIAL DISTRICT)

: IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA

:
: No.
: Clerk of Courts
: GRIM, PRESIDENT JUDGE

PETITION FOR THE APPOINTMENT OF A CONSTABLE

THE PETITION OF THE UNDERSIGNED PETITIONERS RESPECTFULLY REPRESENTS:

1. That the petitioners are residents of _____, Berks County, Pennsylvania.
2. That a vacancy exists in the office of constable in the _____, Berks County, Pennsylvania by reason of _____.
3. That each petitioner is a qualified elector residing in _____, Berks County, Pennsylvania.
4. That said petitioners hereby petition the Court to appoint _____ as constable to serve as constable in _____, Berks County, Pennsylvania, for the unexpired term so vacant.
5. That the proposed constable meets all of the educational requirements as provided for under Act 44 (42 Pa.C.S.A. 2941 et. seq.) and has obtained Act 33 and Act 34 clearances and approvals.
6. That the proposed constable resides at _____, which is in _____ Berks County, Pennsylvania, the district to which the constable would be appointed.
7. An application providing additional information is attached to this petition.

WHEREFORE, the petitioners pray that your Honorable Court will enter an order appointing _____ as constable for _____, Berks County, Pennsylvania.

Each petitioner hereby verifies that the statements made in this petition are true and correct and that this verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

IN RE: THE APPOINTMENT OF

As CONSTABLE for

BERKS COUNTY,
PENNSYLVANIA
(23RD JUDICIAL DISTRICT)

: IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA
:
: No.
: Clerk of Courts
: GRIM, PRESIDENT JUDGE

ORDER

AND NOW, _____, upon petition for the appointment of _____ as constable for _____, Berks County, Pennsylvania, the said _____ is hereby appointed constable for _____, Berks County, Pennsylvania. _____, upon being duly qualified as required by law shall serve as constable for the unexpired term so vacant.

Before assuming the duties of office _____ shall post a bond in the amount of \$1,000 in proper form with the Clerk of Courts and shall file proof that there is currently in force a policy of professional liability insurance with the Clerk of Courts as required in 42 Pa.C.S.A. 2942, which said insurance shall name Berks County as an additional insured. Furthermore, _____ shall comply with all other applicable laws and rules governing the performance of the duties of a constable including but not limited to administrative orders and rules in effect in the 23rd Judicial District as of this time or that may become effective into the future.

The Clerk of Courts shall deliver a true and correct copy of this order to the District Court Administrator, Voter Services, and the municipality for which the constable has been appointed.

BY THE COURT:

ARTHUR E. GRIM,
PRESIDENT JUDGE

IN RE: THE APPOINTMENT OF

As DEPUTY CONSTABLE for

BERKS COUNTY,
PENNSYLVANIA
(23RD JUDICIAL DISTRICT)

: IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA

:

: No.

: Clerk of Courts

: GRIM, PRESIDENT JUDGE

PETITION FOR THE APPOINTMENT OF A DEPUTY CONSTABLE

TO THE HONORABLE ARTHUR E. GRIM, PRESIDENT JUDGE OF BERKS COUNTY:

The undersigned petitioner respectfully represents:

1. I, _____, of _____
_____ am the duly elected/appointed constable for _____
_____, Berks County, Pennsylvania, having been elected/appointed on
_____ for a term that ends on _____.
2. I hereby file this petition to request that _____
be appointed as deputy constable to work for and with me.
3. The appointment would be for a period not to exceed my current elected/appointed term of office.
4. The proposed deputy constable meets all of the educational requirements as provided for under Act 44 (42 Pa.C.S.A.2941 et seq.) and has obtained Act 33 and Act 34 clearances and approvals.
5. The proposed deputy constable is a bona fide resident of the district to which the deputy constable would be appointed.
6. An application providing additional information is attached to this petition and made a part hereof.

WHEREFORE, the petitioner prays your Honorable Court for an order appointing _____ as deputy constable for _____, Berks County, Pennsylvania.

The petitioner hereby verifies that the statements made in this petition are true and correct and that this verification is made subject to the penalties of 18 Pa.C.S. 4904 relating to unsworn falsification to authorities.

Petitioner

APPLICATION FOR DEPUTY CONSTABLE

Name of Constable requesting deputy: _____

Elected District: _____ Expiration of Term: _____

Are here any other deputies in your district? _____

Name of proposed Deputy: _____

Address: _____

Date of Birth: _____ Social Security No.: _____

Has he/she ever been arrested or convicted of a Crime: _____ If yes, please
provide details. _____

Formal Education: _____

Dates and places of employment for the last five years:

Constable Training: Yes ____ No ____

If yes, please describe. _____

Please state reasons why a deputy is needed (be specific):

Information on my current bond and liability insurance (state company, amount of
coverage, dates coverage became effective and expires.)

I certify that all the above facts are true to the best of my knowledge and that

_____ *is a bona fide resident of my district.*

Constable

Date: _____

IN RE: THE APPOINTMENT OF _____ : IN THE COURT OF COMMON PLEAS
As CONSTABLE or DEPUTY CONSTABLE _____ : OF BERKS COUNTY, PENNSYLVANIA
_____ :
BERKS COUNTY, PENNSYLVANIA : No.
(23RD JUDICIAL DISTRICT) : Clerk of Courts
: GRIM, PRESIDENT JUDGE

ORDER

AND NOW, this _____ day of _____, 200_, upon consideration of the petition for the appointment of _____ as _____ of _____, Berks County, Pennsylvania, it is hereby ordered and decreed as follows:

1. A hearing is scheduled for the _____ day of _____, 200_ at _____ .m. in Courtroom _____ of the Berks County Courthouse for the purpose of receiving evidence and any other information relevant to said appointment.
2. The District Court Administrator shall advertise a notice of this hearing one time only in the _____ newspaper and the Berks County Law Journal, and request a proof of service be returned to the District Court Administrator to be filed of record in this matter and the cost of publication shall be assessed to the Constable and paid by the Constable within thirty (30) days after the Constable receives notice of the amount of the advertising charges.
3. The Clerk of Courts shall serve a true and correct copy of the petition and this order to the District Attorney of Berks County and to the Sheriff of Berks County to perform criminal history checks on the proposed appointee. The District Attorney of Berks County and the Sheriff of Berks County shall either appear in person at the hearing to render a report on any criminal history check or submit the same in writing at least three days prior to the hearing.

BY THE COURT:

ARTHUR E. GRIM,
PRESIDENT JUDGE

IN RE: THE APPOINTMENT OF

As DEPUTY CONSTABLE in

BERKS COUNTY,
PENNSYLVANIA
(23RD JUDICIAL DISTRICT)

: IN THE COURT OF COMMON PLEAS
: OF BERKS COUNTY, PENNSYLVANIA

:
: No.
: Clerk of Courts
: GRIM, PRESIDENT JUDGE

ORDER

AND NOW, _____, upon receipt and review of the attached petition for the appointment of a deputy constable filed by _____ duly elected constable for _____ and pursuant to 13 P.S. §22 this Court approves the appointment by _____ of _____ as deputy constable for _____.

This approval shall last so long as _____ is the duly acting constable for _____ or until said deputy constable is no longer qualified or is removed as a deputy constable.

Furthermore, said deputy constable shall comply with all laws and regulations regarding deputy constables.

The Clerk of Courts shall deliver a true and correct copy of this order to the District Court Administrator, Voter Services and the municipality for which the deputy constable has been appointed.

BY THE COURT:

ARTHUR E. GRIM,
PRESIDENT JUDGE