



MEMORANDUM

Date: July 5, 2018

To: The Honorable Sharon Bronson, Member
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

A handwritten signature in black ink, appearing to read "CH Huckelberry", is written over the printed name of the County Administrator.

Re: **Your July 2, 2018 Memorandum Regarding Service of Orders of Protection**

Upon receiving a copy of your July 2, 2018 memorandum, I asked Assistant County Administrator John Voorhees to review the matter, prepare an appropriate report and recommend certain actions as warranted. Mr. Voorhees oversees the Constables operations for County Administration.

Mr. Voorhees' July 3, 2018 report is attached for your information and review. He explains the difference between Injunctions Against Harassment (IAH) and Orders of Protection. Fees are charged for Injunctions Against Harassment pursuant to Arizona Revised Statute. Fees are not charged for Orders of Protection. I also have received copies of responses from the Superior Court as well as the County Attorney and Presiding Constable in this matter.

In this particular case, involving five different plaintiffs, only one paid the fee. The Presiding Constable directed the appropriate Constable to serve all of the other four IAH to the same defendant.

I will direct appropriate modification be made to any fee schedules regarding the processing of these documents to exclude mileage costs. This exclusion is for two purposes, 1) the County operates a Consolidated Justice Court; hence, the Constables are located in the same building in downtown Tucson and charging mileage for serving Injunctions Against Harassment in remote/rural creates an undue financial burden on rural residents of the County; 2) the County provides and pays for the vehicles' maintenance and fuel used by Constables. For these reasons, I believe it is appropriate to waive vehicle mileage charges associated with serving IAH. If necessary, I will place the proposed fee schedule modifications before the Board of Supervisors for approval.

The Honorable Sharon Bronson, Member Pima County Board of Supervisors
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Another matter of concern is the apparent length of time these actions have been ongoing. I have asked the Sheriff to review this specific case and make recommendations regarding further actions that can be taken to eliminate what appears to be an ongoing issue associated with harassment.

CHH/anc

Attachment

- c: The Honorable Chairman and Members, Pima County Board of Supervisors
- The Honorable Kyle Bryson, Presiding Judge, Pima County Superior Court
- The Honorable Adam Watters, Presiding Justice of the Peace, Pima County Consolidated Justice Court
- The Honorable Michael Stevenson, Presiding Constable
- The Honorable Barbara LaWall, Pima County Attorney
- The Honorable Mark Napier, Pima County Sheriff
- John Voorhees, Assistant County Administrator



MEMORANDUM

Date: July 2, 2018

To: The Honorable Judge Kyle Bryson
The Honorable Judge Adam Watters
Presiding Constable Michael Stevenson
Pima County Attorney Barbara LaWall
Pima County Sheriff Mark Napier

From: Sharon Bronson, District 3 Supervisor
Pima County Board of Supervisors

Re: Service of Orders of Protection

Recently five District 3 constituents requested and were granted Orders of Protection against the same individual. It is my understanding that one order was granted by the Consolidated Justice Court in Tucson and the other four by the Green Valley Justice Court. All five women were informed both by the Constable and the Green Valley Justice of the Peace that the cost to serve these Orders was \$100 per Order even though the Orders were to be served to the same individual. They were made aware that a waiver might be granted in circumstances where the victim was unable to afford the cost. However, they were also led to believe that the Green Valley Justice of the Peace viewed such waivers unfavorably.

These women all feel that they are being stalked by this individual and have been harassed by him for several years. My question is simple. Why are the courts imposing fees on victims who are just trying to protect their basic rights? What policy allows Constables to impose said fees? Constables are salaried public employees with assigned County vehicles for work related use. Why is there any charge at all for this service? The fees collected are deposited into what Pima County account? How are these monies budgeted and dispursed? Am I correct in assuming that anyone is able to serve papers, including Sheriff Deputies and other sworn officers?

Another concern I have relates to how our Criminal Justice System protects victims against stalkers. There are five recognized types of stalker. Some are much more dangerous than others. Defenses that work against one type may not work against another. Stalking is more common than most people realize. All-too-often there is a progression from minor creepiness to harassment to stalking to rape and murder. How are front-line personnel at the Pima County Sheriff's Office (PCSO), the Pima County Attorney's Office (PCAO) and the Courts made aware of the most basic facts about stalking and stalkers?

While Pima County offers a number of resources to help victims deal with stalkers, what steps does each of these Offices take to insure the victim's safety? Often times merely incarcerating the stalker is not sufficient and sometimes is not the best outcome for the victims or anybody else. For almost 30 years, the LAPD has had a Threat Management Unit (TMU) that specializes in dealing with stalkers.

Perhaps PCSO in collaboration with PCAO and the Courts might consider developing a similar TMU. But it is no less important that all front-line personnel are made aware of the resources that are available. They themselves don't each need to be experts, but they should refer victims to those experts. I would appreciate your sharing with me your perspectives on the issues I've raised in this memorandum.

C: County Administrator Chuck Huckelberry
Assistant County Administrator Wendy Petersen
Chief Karl Woolridge



MEMORANDUM

Date: July 3, 2018

To: C.H. Huckelberry
County Administrator

From: John Voorhees
Assistant County Administrator

Re: Constables' actions in serving Injunctions Against Harassment

On July 2, 2018 Supervisor Bronson drafted a memo regarding a recent case involving Injunctions Against Harassment (IAH). Supervisor Bronson expressed concern that the Constables' Office was charging a fee to the plaintiffs of a case seeking personal protection under the law. She wanted to know why the Constables charged a fee, why the Constables charge the same fee for each case even though the defendant in each case is the same, and where those fees reside once collected. Finally the Supervisor addressed concerns she had with the communication of stalking and predatory information amongst the Pima County justice system stakeholders. This memo will address the Supervisor's questions and provide a backdrop for the discussion of fees in the Constables' Office.

Judge Lee, in his response dated July 2, 2018 (See Attachment 1), correctly assumed that the case in point was an IAH and not an Order of Protection as stated in Supervisor Bronson's memo. As he stated, A.R.S. 11-445 permits the Constable (and the Sheriff) to charge a fee to serve an IAH, as long as the injunction does not arise from a dating relationship.

"A. The sheriff shall receive the following fees in civil action:

1. For serving each true copy of the original summons in a civil suit, sixteen dollars, except that the sheriff shall not charge a fee for service of any document pursuant to section 13-3602 or any injunction against harassment pursuant to section 12-1809 if the court indicates the injunction arises out of a dating relationship."

The statute further enumerates allowances for mileage that are extended to the Sheriff and the Constables' Office. This differs from the emailed response from the County Attorney's Office. In her response, the County Attorney had referenced A.R.S. guidance that was not applicable to this specific case (See Attachment 2). An Order of Protection (which requires no fee) is served when there is a relationship (essentially by birth or marriage) between the plaintiff and defendant. It is my understanding of the case that there is no such relationship and thus an IAH was the appropriate document.

Supervisor Bronson was concerned that the Constables had charged each of the plaintiffs separately, even though their cases were related to the same defendant. Although the same defendant was named by 5 different plaintiffs, each case must be handled individually, as they are received by the Constables' Office. Keeping the cases separate is also the fairest model of engagement for the justice system. In this specific case only 1 of the plaintiffs has paid the fee for service. Presiding Constable Stevenson directed the tasked Constable to serve the other 4 injunctions even though the fees had not yet been collected because it was in the interest of the plaintiffs' safety.

As fees are collected and the cases are administered by the Constables Office, the appropriate funds are transferred to the County Treasury. There are occasions when fees are overcharged or need to be refunded to the plaintiff. In this case once the determination is made that a refund is appropriate, the funds are remitted to the plaintiff. The figure below explains this process:

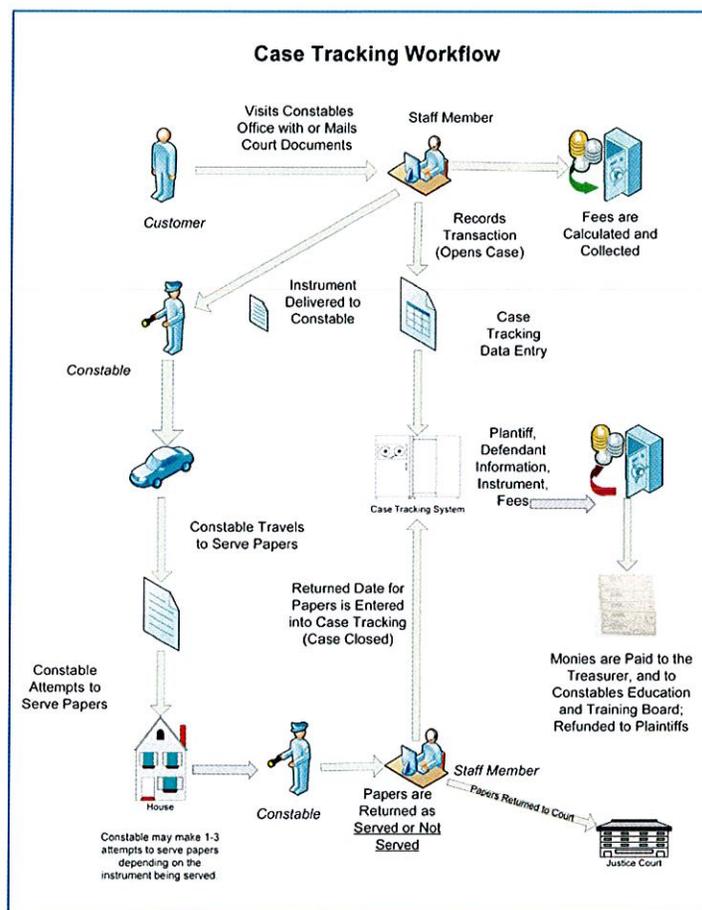


Figure 1: Case Workflow

The collection of these fees offsets the Constables' General Fund budget obligation. The overall County General Fund expense allocation to the Constables' Office is \$1,599,352. By collecting fees and associated mileage costs the Constables reduce the impact to the General Fund by \$343,424. These numbers represent all court fee revenue in the Constables' Office, not just those involving IAH cases. Court fees associated with IAH yielded only \$6,899.20 in revenue during calendar year 2017. Regarding this specific case, the charge for serving the IAH was \$100. This included a \$16 flat fee and \$84 for mileage.

Paying \$100 to have an injunction served can be cost prohibitive to many plaintiffs. It is the issuing judge's decision whether to waive the fees involved in serving the injunction-the Constables do not determine whether a fee will be applied. According to the Presiding Constable, the majority of injunction fees are waived. In 2017, the Constables received 263 cases for injunction. Of them 132 cases had the fees waived. But, it is the plaintiff's responsibility to petition for this waiver. This may deter some potential victims of harassment. In order to eliminate the

C.H. Huckelberry, County Administrator

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financial concern for persons seeking protection under the law, the County could pursue two actions that would mitigate or eliminate these personal, out-of-pocket costs. First, the County could pursue a blanket waiver to all IAH fees. This action runs contrary to the current guidance from the Arizona Revised Statutes, thus a legal review would be required. Second, since the majority of individual costs appeared to originate with mileage fees and since the Constables and Sheriff's Deputies operate County vehicles; this fee could be waived. Either or both of these measures would significantly lower cost to the plaintiff. It would be reasonable to have the Finance Department review the budget implications of such a policy change.

Though beyond the Constables' purview, Supervisor Bronson concludes with questions about the steps taken to ensure a victim's safety against stalkers. In this case, the alleged harassment of the plaintiffs has continued for several years. All too often tragedy strikes when the criminal justice system does not act in a timely and proactive manner. This raises the questions; who knows about these cases, what has been done thus far to protect the plaintiffs, how does this information get shared in the criminal justice system of Pima County (or Arizona), and who makes the decision to elevate engagement with the defendant and under what circumstances? Without knowing the information flow for the criminal justice system it would be appropriate to ask the key stakeholders of the County criminal justice system to explain how the process of information sharing works to prevent a situation like this from developing into a tragedy.

C: Presiding Constable Michael Stevenson

C.H. Huckelberry, County Administrator

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ATTACHMENT 1

Superior Court
Pima County
110 West Congress Street
Tucson, Arizona 85701

KENNETH LEE
JUDGE
DIVISION 3

TELEPHONE (520) 740-8531
FAX (520) 740-3254
E-MAIL klee@sc.pima.gov

July 2, 2018

To: Sharon Bronson, District 3 Supervisor, Pima County Board of Supervisors
From: Hon. Kenneth Lee, Associate Presiding Judge, Pima County Superior Court 

Re: Service of Orders of Protection

Judge Bryson asked me to respond to your July 2, 2018 Memorandum. He is away from the Court for the next week but wanted to make sure you received a timely response to your inquiry. This memorandum will address only the issues that pertain to the Court processes that were raised in your July 2, 2018 Memo. I have conferred with Presiding Judge Bryson regarding this memo.

While your Memorandum indicated the five women each received an Order of Protection, often a plaintiff will actually receive an Injunction Against Harassment. These two protective orders are often confused, as they provide the same protections, but are distinguished based on the relationship between the parties. An Order of Protection requires an act of domestic violence, as that term is defined by statute, by a person who has a specific family or romantic relationship, as defined in ARS § 13-3601, with the victim. There is no fee for having an Order of Protection served under Arizona Revised Statutes § 13-3602. If what the plaintiffs received was an Injunction Against Harassment, there is a fee for service of process, although that fee may be waived or deferred under ARS § 12-1809(D). That statute also provides that the fees cannot be required to be pre-paid. Arizona Revised Statutes § 12-302 allows for a waiver or deferral of service of process fees for injunctions. There is no fee for service if the court indicates the injunction arises from a dating relationship.

As to who can serve the Injunction, ARS § 12-1809(D) provides that the constable or sheriff serves it if the order is issued by a justice court, and that the sheriff serves it if it is issued by the superior court.

Regarding the fees for service, ARS § 11-445 provides the fees that the sheriff may charge are the same fees as in a civil case. Those fees are \$16 plus \$2.40 per mile. A constable may charge the same fees, although there is a difference in how the mileage is calculated. ARS § 11-446 requires the sheriff to deposit the fees and mileage collected into the county treasury.

If you have further questions regarding the court procedure for Orders of Protection, please let us know.

Cc:

Hon. Adam Watters
Presiding Constable Michael Stevenson

Pima County Attorney Barbara LaWall
Pima County Sheriff Mark Napier
County Administrator Chuck Huckleberry
Assistant County Administrator Wendy Petersen
Chief Karl Woolridge

C.H. Huckelberry, County Administrator

Re: Constables' actions in serving Injunctions Against Harassment

July 3, 2018

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ATTACHMENT 2

From: [Chuck Huckelberry](#)
To: [John Voorhees](#)
Subject: Fwd: Service Orders of Protection Memorandum
Date: Tuesday, July 3, 2018 06:45:14

Another.

Begin forwarded message:

From: Barbara LaWall <Barbara.LaWall@pcao.pima.gov>
Date: July 2, 2018 at 3:58:15 PM MST
To: "'Bryson, Kyle'" <kbryson@sc.pima.gov>
Cc: Adam Watters <awatters@jp.pima.gov>, Michael Stevenson <Michael.Stevenson@Pima.Gov>, "Mark D. Napier" <Mark.Napier@sheriff.pima.gov>, Chuck Huckelberry <Chuck.Huckelberry@Pima.Gov>, Wendy Petersen <Wendy.Petersen@Pima.Gov>, Karl Woolridge <Karl.Woolridge@sheriff.pima.gov>, Monica Perez <Monica.Perez@Pima.Gov>, Maria Klucarova <Maria.Klucarova@Pima.Gov>, "Cabrera, Jennifer" <Jennifer.Cabrera@Pima.Gov>
Subject: **RE: Service Orders of Protection Memorandum**

This message and sender come from outside Pima County. If you did not expect this message, proceed with caution. Verify the sender's identity before performing any action, such as clicking on a link or opening an attachment.

I have requested my Chief of Detectives to start an investigation on this matter. The charging of such a fee is prohibited by statute.

13-3602. Order of protection; procedure; contents; arrest for violation; penalty; protection order from another jurisdiction

D. A fee shall not be charged for filing a petition under this section or for service of process. On request of the plaintiff, each order of protection that is issued by a municipal court shall be served by the police agency for that city if the defendant can be served within the city. If the defendant cannot be served within the city, the police agency in the city in which the defendant can be served shall serve the order. If the order cannot be served within a city, the sheriff shall serve the order. On request of the plaintiff, each order of protection that is issued by a justice of the peace shall be served by the constable or sheriff for that jurisdiction if the defendant can be served within the jurisdiction. If the defendant cannot be served within that jurisdiction, the constable or sheriff in the jurisdiction in which the defendant can be served shall serve the order. On request of the plaintiff,

each order of protection that is issued by a superior court judge or commissioner shall be served by the sheriff of the county. If the defendant cannot be served within that jurisdiction, the sheriff in the jurisdiction in which the defendant can be served shall serve the order. Each court shall provide, without charge, forms for purposes of this section for assisting parties without counsel. The court shall make reasonable efforts to provide to both parties an appropriate information sheet on emergency and counseling services that are available in the local area.

From: Bryson, Kyle [<mailto:kbryson@sc.pima.gov>]
Sent: Monday, July 2, 2018 12:29 PM
To: Cabrera, Jennifer <Jennifer.Cabrera@Pima.Gov>
Cc: Adam Watters <awatters@jp.pima.gov>; Michael Stevenson <Michael.Stevenson@Pima.Gov>; Barbara LaWall <Barbara.LaWall@pcao.pima.gov>; Mark D. Napier <Mark.Napier@sheriff.pima.gov>; Chuck Huckelberry <Chuck.Huckelberry@Pima.Gov>; Wendy Petersen <Wendy.Petersen@Pima.Gov>; Karl Woolridge <Karl.Woolridge@sheriff.pima.gov>; Monica Perez <Monica.Perez@Pima.Gov>; Maria Klucarova <Maria.Klucarova@Pima.Gov>
Subject: Re: Service Orders of Protection Memorandum

Please let Supervisor Bronson I have forwarded her memo to my law clerk and have directed her to confer with acting PJ Ken Lee. We will look into this promptly.

Sent from my iPhone

On Jul 2, 2018, at 2:57 PM, Jennifer Cabrera <Jennifer.Cabrera@pima.gov> wrote:

Good Morning,

Supervisor Bronson requested the attached memo be sent to you by email as well as original copies be sent interoffice mail to each of your offices.

If you have questions or need clarification, please contact our office. Supervisor Bronson looks forward to your responses.

Thank you,

*Jenn Cabrera
Sr. Special Staff Assistant
District 3
Pima County Supervisor Sharon Bronson
724-8051*

Check out our [Facebook page](#)

<7.2.2018 SB Memo Service Orders of Protection.pdf>

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PIMA COUNTY CONSTABLES
240 N. STONE AVENUE, LOWER LEVEL
TUCSON, AZ 85701
(520) 724-5442
(520) 724-6446 FAX

MEMORANDUM

Date: July 3, 2018

To: Sharon Bronson
District 3 Supervisor
Pima County Board of Supervisors

From: Michael Stevenson
Presiding Constable JP10

Re: Service of Orders of Protection

This Memorandum will address only issues pertaining to the Constables Service Fees and other items pertaining to the Constables as asked in the memorandum, dated July 2, 2018.

The Constables that have been elected in Pima County each takes their position seriously and understand the complexity of the civil judicial system. We prioritize the service of Orders of Protection, both for Domestic Violence and Injunctions Against Harassment. The Constables do our best to serve these as efficiently and expeditiously as possible. We understand that the type of situation that involve orders of protection can be volatile and want to do everything possible within the parameters of the law to ensure the safety of the public requesting service.

The Plaintiff's, referenced in your memo each have individual civil actions (Injunction Against Harassment) and although there is the same defendant for each action, each action is handled as a separate case both with the court and for our case processing. These are not consolidated into one case. Therefore each plaintiff is asked to provide the requested fees for service. It is up to the Judge to determine if the fees will be waived.

In the response submitted by Superior Court Judge Lee, dated July 2, 2018, he states that the Constable's are authorized, and may collect fees for service of civil documents. The fee schedule is listed in ARS 11-445 and also states that the fee "shall" be received in civil actions. The statute also states that the constable "shall" receive the same fees as the sheriff for performing the same services in civil actions except the mileage is computed from a different originating point.

The fees collected by the Constables are deposited in the appropriately designated and audited bank account. Overpayment for any fees collected by our office are refunded out of this

account to the plaintiff and the remaining funds are deposited into the County treasury and are used to offset the Constables' General Fund impact.

As for the service of papers; any Certified Peace Officer in the State of Arizona (Sheriff Deputies, Police Officers), Constables, and Licensed Process Servers are allowed to serve the papers.

In the event you have additional questions for the Constables Office please don't hesitate to contact me so that we may discuss in further detail.

Cc: The Honorable Judge Kyle Bryson
The Honorable Judge Adam Watters
Pima County Attorney Barbara LaWall
Pima County Sheriff Mark Napier
Pima County Administrator Chuck Huckelberry
Deputy Chief Karl Woolridge