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# **TESTIMONY ON CONSTABLE REFORM**

## **HOUSE JUDICIARY COMMITTEE**

Harrisburg, Pennsylvania

Presented By  
Larry Maggi  
Washington County Commissioner  
Chair, CCAP Courts and Corrections Committee

February 18, 2009

Good morning, Chairman Caltagirone, Chairman Marsico, and members and staff of the House Judiciary Committee. My name is Larry Maggi, and I am a Washington County Commissioner. I am here today speaking on behalf of the association as a member of the Board of Directors, and as the Chair of CCAP's Courts and Corrections Committee.

As you know, CCAP is a non-profit, non-partisan association providing legislative, training, insurance, technology, research, and similar services for all of the Commonwealth's 67 counties.

Thank you for the opportunity to offer our perspectives on the issue of constable reform.

There are a number of areas where the CCAP Platform, which includes all of our member's policy positions, contains a plank supporting a change in statute to allow the option for county governments to abolish the office of constable. The following policy was adopted into our PA Counties Platform:

*"The Association supports legislation authorizing the county governing body to abolish the office of constable." (Added 1993; amended 2002)*

In the absence of legislation as mentioned above, CCAP members have adopted additional positions with regard to constables, including creation of an oversight structure to assure accountability to some entity with authority. While several of those commenting today are likely to mention this issue, I want to convey that CCAP members share that view, although we do not believe that county commissioners should be the entity to provide oversight. An entity with which constables have a close working relationship may be the most viable, and we urge the committee to develop legislation to establish a supervisory structure.

Another concern relates to the need for refinement to the recent fee increase legislation. In 2006, Act 59 made significant changes to the constable fee structure in nearly every area, including mileage, allowances for constables to operate in pairs for certain operations, and other matters. One particular change now permits a constable to collect fees on the basis of docket numbers served as opposed to a per warrant charge. This change has been very disturbing to counties, and has led to costly situations where a constable makes one single trip to a single location to serve a warrant with numerous docket numbers included. The constable can now bill a separate fee for every docket number included in that warrant at a rate of \$25.00 per docket, while making only one trip to one location. CCAP supports a change in the fee structure to once again allow only one charge per warrant, regardless of the number of dockets listed on the warrant.

While it is true that constable fees are to be borne by the defendant, the reality is that defendants are frequently unable to pay the whole array of fines, costs and fees. The process of constable payment requires that counties pay the constable based upon his or her submitted claim within 30 days of it being submitted. The county must then collect reimbursement of those fees from the responsible party, which in many cases is impossible. If a defendant is found innocent, is determined by a judge to be indigent, or is unable to pay fees, costs and other charges, the counties have no way to recover the fees already paid to the constable. If a defendant makes a partial payment of fees and costs, the established prioritization of how the payments are disbursed sets constable fees near to the last priority, and counties would only receive payment after the other priorities are met, if ever.

In the six months following the passage of Act 59, counties across the commonwealth realized increases of more than 50 percent to their constable billings and their constable fee budgets. For

example, in Armstrong County the constable fee budget was \$82,200 in 2006 and \$124,000 in 2007; an increase of 51 percent. In Berks County, the constable fee budget increased \$600,000 from \$2,050,000 to \$2,650,000.

The third plank in our platform related to constables supports the elimination of the requirement that they be present at polling places on Election Day. The Association believes that constables should no longer be required to be present at each polling place in every election district, and the decision to eliminate or maintain their presence should be at the option of the local election board. This provision requires counties to pay wage costs to fund this position which is unnecessary, given that there is rarely a task to be performed. By allowing county option to determine whether to employ constables at the polls, commissioners can take into account local circumstances and make decisions that are best for their communities.

For 2009, CCAP members developed a list of mandates that create costs for counties which we support modifying or eliminating. We have published a Mandate Relief List, seeking legislative change in a number of areas that, given the economic climate, would help counties control costs and produce savings for taxpayers. The list includes two of the provisions discussed above, including revision to Act 59 of 2006 on constable fees, as well as the provisions relating to county determinations on constables at polling places.

In closing, CCAP urges the committee to study ways to create a system of oversight for the office of constable. CCAP also urges the committee to support the legislation that would lessen the burden of mandates on county governments in this trying budgetary time. Changing the language in the constable fee structure from docket number to warrant served and eliminating the requirement for constables at polling places would do just that.

We look forward to working with the Committee in the development of legislation to revise and reform the operations of constables in the Commonwealth.

Once again, I offer thanks to the committee, and will be happy to take your questions.