



**DALLAS COUNTY**  
**COUNTY AUDITOR**

**TO:** Commissioners Court  
Honorable Dallas County Constables

**FROM:** Virginia Porter  
County Auditor *Virginia Porter*

**SUBJECT:** Constable Paper Service Review

**DATE:** Issued: May 20, 2011  
Released: September 1, 2011

**SCOPE**

As part of ongoing review of financial activity and in response to a special request, we reviewed Constable paper service associated with eviction cases where JPAS dockets or case jackets included alternate service under Rule 742A during October 2010 with expanded precinct 1 activity including other months and types of paper service.

**BACKGROUND**

Forcible Entry & Detainer cases (evictions) are addressed in the Texas Rules of Civil Procedure, Special Proceedings Section 3. Key excerpts include:

**Rule 739:** After an eviction case is filed in a justice court, court staff issue a citation directing the defendant(s) to appear before the judge at the specified time and place, such time being not more than ten days nor less than six days from the date of service of the citation.

**Rule 742:** An officer (deputy Constable) must serve/execute the citation by delivering a copy to the defendant or by leaving a copy with person over 16 years of age. Service must be at least six days before the citation return date and on or before the trial date.

**Rule 742A:** An officer who is unsuccessful in serving the citation, shall no later than five days after receiving the citation, execute a sworn statement that the officer has made diligent efforts on at least two occasions at all the defendant's addresses in the county where the premises are located as may be shown on the sworn complaint stating the times and places of attempted service. Such sworn statement shall be filed by the officer with the justice who shall promptly consider the sworn statement of the officer. The justice may then authorize service according to the following:

- **Rule 742A (a)** The officer shall place the citation place inside the premises by placing it through a door mail chute or by slipping it under the front door; and if neither method is possible or practical, the officer shall securely affix the citation to the front door or main entry to the premises.
- **Rule 742A (b)** The officer shall that same day or the next day deposit in the mail a true copy of such citation with a copy of the sworn complaint attached thereto, addressed to defendant at the premises in question and sent by first class mail;

- **Rule 742A (c)** The officer shall note on the return of such citation the date of delivery under (a) above and the date of mailing under (b) above.
- **Rule 742A (d)** Such delivery and mailing to the premises shall occur at least six days before the return day of the citation.

## PROCEDURES

Standard review procedures were applied to 100% of the 742A's for October 2010 limited only by GPS data. Review procedures for the period under review included:

- Obtained an extract of JPAS case docket postings showing 742A approved service
- Tested case extract by examining 100 consecutive eviction case postings
- Obtained an extract of the Constable Civil System 'List of Disposed Papers' report
- Reviewed Daily Activity Log provided by two Constable precincts
- Reviewed copies of eviction citations and sworn affidavits for alternative service under Rule 742A from the justice court case jackets
- Obtained listing of vehicles assigned to Constable deputies and storage location from each Constable precinct for period under review
- Downloaded GPS data of vehicle location and time for each Constable precinct
- Compared the service attempts noted on citation and sworn statement to available GPS data for the vehicle assigned to the deputy
- Reviewed related Google Map data for service address, distance, and drive time (walk time as applicable when the vehicle was parked for long periods of time) including Google street level view of buildings/surroundings

## FINDINGS

1. Comparison of service attempts noted on the citation and sworn statement to available GPS data revealed:

- Total service attempts reviewed **4,905** (does not include attempts for vehicles not listed on the GPS tracker website).
- Count of service attempts without exception **3,537**: where vehicle was at location noted or at approximate service address location perhaps with minimal time variances.
- Count of service attempts where GPS data was incomplete, but vehicle was within approximate location **144**.
- Count of service attempts where GPS data was incomplete and we were unable to validate the possibility of service **167**.
- Count of service attempts with large time variances **137**: where GPS listed location/approximate location but noted time posted on the 742A and/or citation was more than 30 minutes. There is a possibility that the GPS location/time ping was for another apartment unit or address rather than the unit or address on the citation reviewed, but not considered an exception. Some large time variances were an hour off and appeared to be a documentation error by the deputy.
- Count of service attempts with possible exceptions **96**: where vehicle was not at the service address per GPS location/time pings. While in the general service address area, it did not appear there was sufficient time to reach the address, make an attempt, and then proceed to next GPS location/time.

- Count of **exceptions 687 (the majority were the second attempts)**: where the vehicle was not at the service address location at the time stated on the court papers (742a affidavit and/or citation). Review included using Google Maps and GPS locations including query by longitudes and latitudes to evaluate whether the vehicle could have been at the service location. Scenarios were also created using the known GPS coordinates and the service address to compare driving times and distances.
- Count of unknown, unclear or unable to confirm **137**: where vehicle was in service (i.e. ASC or other service center) and possibly a loaner vehicle was assigned. Also, includes attempts where Kronos showed the deputy was on vacation/sick leave and the attempt may have been performed by another officer but not reflected on citation or 742A; and where a determination could not be made as to whether the deputy could have driven the vehicle within the noted GPS downloaded locations/times.

See attached Combined Summary of Constable Paper Service Review for counts by justice court precinct.

#### GPS General

2. Excluded from count of service attempt activity for period when GPS unit was inadvertently deactivated by the Fleet Manager around mid-October.
3. Excluded from the count of service attempt activity were instances where the GPS data excluded the vehicle's location or skipped the GPS idle update and/or stop update. Possible explanations provided by the Fleet Manager included obstruction (metal object, clip board, etc.) preventing the GPS idle update and/or stop update or device tampering. Other explanations may include defective or improperly installed GPS device.
4. Excluded from the count of service attempt activity was one GPS unit that did not have locations recorded from October through February even though the vehicle was assigned to a deputy.
5. Lack of or limited management oversight by either precinct management or other county department over the GPS activity including timing delays identifying device errors.
6. Instances were noted where speeds exceeded the maximum speed limit for roadways in Dallas County.
7. Instances where vehicles were reflected as parked at the Constable precinct's office during the service attempt time noted on the citation and/or 742A form.

#### Other

8. Daily activity logs are not required to be completed by deputies in three of the five precincts.
9. Most vehicles were not turned off during attempt to serve.

10. Exceptions include instances where the comment 'vacant' was noted on some 742A affidavits and citations. In multiple instances, 'vacant' was listed in the field for the second attempt in lieu of a date and time on the 742A and a second attempt date and time was not noted on the citation. These instances were interpreted that a second attempt did not occur.
11. Instances of return to home location during workday inconsistent with noted attempts to serve and driving outside the assigned precinct during indicated lunch.
12. Limited instances of attempt times on the citation differing from the 742A affidavit with most appearing to be typographical mistakes.
13. General use by the justice courts of a facsimile stamp of the judge's signature.
14. Rule of Civil Procedure 742A requires mailing a true copy of the citation with a copy of the sworn complaint by first class mail. While not specifically reviewed, no evidence of failure to comply.

## **RECOMMENDATIONS**

1. Care should be taken in recording paper service logs and returns. Papers must accurately capture service attempts including officer, squad number, date, time and results. Daily activity log should be utilized and reflect specific officer making each individual attempt/service for all paper types.
2. Affidavits filed under Rule 742A must be accurately and properly completed. A minimum of two attempts should occur in accordance with Rule 742A with the deputy making the two attempts signing the notarized affidavit.
3. Each constable precinct should retain the officer vehicle assignments and identify when changes occur due to use of a loaner vehicle.

### GPS General

4. A management plan should be developed and implemented to periodically review random GPS tracking data to promote/improve deputy accountability: fulfillment of statutory duties, adherence to speed limits, appropriateness of lunch breaks (including distance traveled in county vehicle to take lunch at home), usage of county vehicle only for work hours/county business and appropriate disciplinary action. Start and end times, and lunch time taken should be properly reflected on the Kronos Time & Attendance system.
5. Fleet manager should ensure all county vehicles are equipped with fully functioning GPS devices. Manager should inspect vehicle GPS devices and installation when pings become irregular or return incomplete detail.
6. Constable management should follow-up on irregular/incomplete detail to isolate and resolve any controllable causes.

Other

7. Daily activity logs should be completed by each deputy assigned to civil and/or criminal paper service. Daily activity logs should include at a minimum:

- Officer name, badge number, and office number
- Officer signature
- Date
- Vehicle(s) assigned for the day
- Chronological listing of each service attempt to include, but not limited to: the office number, time frame of attempt, name of person to be served, and address of attempt location.

cc. Honorable Judge Martin Lowy, LADJ

COMBINED SUMMARY OF CONSTABLE PAPER SERVICE REVIEW

|   | JP 1-1 | JP 1-2 | Pct 1 Expanded | JP 2-1 | JP 2-2 | JP 3-1 | JP 3-2 | JP 3-3 | JP 4-1 | JP 4-2 | JP 5-1 | JP 5-2 | Totals |
|---|--------|--------|----------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| Sum of # of attempts reviewed                             | 598    | 304    | 334            | 288    | 291    | 561    | 789    | 216    | 603    | 556    | 129    | 226    | 4905   |
| Sum of # ok or approx location or slight time variance    | 441    | 262    | 232            | 71     | 113    | 430    | 722    | 181    | 443    | 433    | 84     | 125    | 3537   |
| Sum of GPS data is incomplete but appears approx location | 87     | 5      | 2              | 0      | 3      | 2      | 5      | 0      | 10     | 6      | 7      | 17     | 144    |
| Sum of # GPS data is incomplete & unable to validate      | 14     | 6      | 3              | 7      | 37     | 0      | 1      | 0      | 1      | 12     | 26     | 60     | 167    |
| Sum of # large time variance                              | 12     | 8      | 11             | 8      | 20     | 33     | 15     | 3      | 12     | 15     | 0      | 0      | 137    |
| Sum of # possible exception                               | 9      | 4      | 10             | 1      | 6      | 14     | 1      | 6      | 10     | 7      | 6      | 22     | 96     |
| Sum of # exception  | 24     | 15     | 71             | 171    | 112    | 63     | 38     | 24     | 93     | 68     | 6      | 2      | 887    |
| Sum of # unknown, unclear, or unable to confirm           | 11     | 4      | 5              | 30     | 0      | 19     | 17     | 2      | 34     | 15     | 0      | 0      | 137    |

Sum of # of attempts reviewed = Total number of service attempts that we attempted to review for the month of October 2010 except for the Pct 1 Expanded review which included attempts during various months from August 2010 to March 2011

Sum of # ok or approx location or slight time variance = GPS reflects the vehicle at the location or approximate location at the time or approximate time noted by the officer on the citation and/or 742a affidavit. Approximate location includes locations not listed on the GPS download, but within two GPS points listed or within a possible driving distance from a listed GPS location.

Sum of GPS data is incomplete but appears approx location = GPS location/time pings are consistently at five (5) minute intervals unless the ignition is turned off. When skips in GPS pings occurred, a determination was made based on the addresses listed prior to and after the missed GPS pings if the vehicle would have been in the approximate vicinity of the service address between the known GPS locations.

Sum of # GPS data is incomplete & unable to validate = Too much GPS location/time ping information was missing to make a reasonable determination if service attempts occurred.

Sum of # large time variance = GPS listed locations or approximate locations of the service address at a time greater than 30 minutes than noted on the citation or 742a affidavit. There is a possibility that the GPS location/time ping was for another apartment unit rather than the unit on the citation reviewed, but credit was given rather than including as an exception.

Sum of # possible exception = Vehicle was not reflected at the service address per GPS location/time pings. While in the general service address area, it did not appear the vehicle would have sufficient time to drive to the service address location, the officer make an attempt, and be at the next GPS location/time.

Sum of # exception = Per the GPS data, the vehicle was not at the service address location at the service attempt time stated and the listed GPS locations were not within an approximate vicinity (except for downtown locations which were reviewed more strictly due to traffic and red lights) of the noted attempted service location. Various scenarios using Google Maps and the GPS locations including longitudes and latitudes were used to evaluate whether the vehicle could have been at the service location.

Sum of # unknown, unclear, or unable to confirm = Includes attempts where the vehicle was noted at the ASC Main or ASC East Service Centers or other identified places of auto repair and a loaner vehicle was possibly used, but not known or noted. Also, includes attempts where the officer was out sick or on vacation and the attempt may have been performed by another officer, but that information was not listed. Also, includes attempts where a determination could not be made as to whether the vehicle could have gone to the service address within the noted GPS locations/times downloaded including those with limited GPS data missing.

Combined all precincts revised

Constable Service Attempt Review  
Summary of Exceptions

|   | Pct 1 | Pct 2 | Pct 3 | Pct 4 | Pct 5 | Totals |
|---|-------|-------|-------|-------|-------|--------|
| Sum of # exception                            | 110   | 283   | 125   | 161   | 8     | 687    |
| Total employees with GPS data reviewed        | 18    | 7     | 12    | 11    | 8     | 56     |
| Number of Employees with exceptions           | 11    | 7     | 8     | 7     | 1     | 34     |
| Number of Employees with 3 or less exceptions | 5     | 0     | 1     | 1     | 0     | 7      |