Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

November 10, 2026

Christopher D. Hemphill, Esq.
Attorney, Noxubee County Board of Supervisors
Post Office Drawer 1426
Columbus, Mississippi 39703

Re: Payment of Constable Fees for Service of Warrants and Notices

Dear Mr. Hemphill:

The Office of the Attorney General has received your request for an official opinion.

OFFICIAL OPINION

Background

According to your request, Noxubee County has difficulty collecting fines and assessments imposed in justice court. Some defendants are convicted in their absence, while others fail to comply with payment plans or return to court following conviction.

The constables and justice court judges have requested that the Board of Supervisors authorize payment to constables for serving warrants and notices in these cases, regardless of whether the defendant pays. It is our understanding that you are also asking whether the annual "state fail" fee covers fees that remain uncollected following conviction.

Questions Presented

1. May Noxubee County pay a constable in advance, or after service, for serving a warrant, following conviction, even if the defendant never pays the outstanding fines and assessments?

2. May Noxubee County pay a constable for personally serving a notice on a defendant who has defaulted on a payment plan, even if the service fee is never collected?

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Brief Response

1. No. We find no statutory authority for the County to pay a constable for serving the warrant described in your request, either before or after service, when no proceeds have been received by the court in connection with the case.

2. No. Please see response to question one.

Applicable Law and Discussion

We understand your question to concern warrants and notices issued in criminal cases following conviction in justice court. Because both questions concern county payment of uncollected constable fees, we address them together.

Mississippi Code Annotated Section 25-7-27(1)(a)(i) establishes a $55 fee for each service of process, summons, warrant, writ, or other notice in civil and criminal cases. Section 25-7-27(2) requires uncollected constable fees to be paid in full from the first proceeds received by the court from the guilty party or another source of payment in connection with the case. This establishes priority for payment but does not authorize the County to advance or guarantee the fees when no proceeds are received. *See* MS AG Op., *West* at *1 (Apr. 11, 1996) ("[W]e are sympathetic with the position constables are placed in, however, it is the opinion of this office that the county has no authority to pay a constable a fee when a criminal defendant is found guilty but fails to pay his fine and court costs.").

OFFICIAL OPINION

We have previously explained that criminal fees are not prepaid and that criminal costs are collected from the defendant upon conviction. MS AG Op., *Fortier* at *1 (Oct. 9, 1998). While Section 19-3-41(3) allows boards to contract with constables to collect delinquent fines, compensation must be contingent upon successful collection:

> [T]he board of supervisors of any county, in its discretion, may contract with one or more of the constables of the county to collect delinquent criminal fines imposed in the justice court of the county. Any such contract shall provide for payment contingent upon successful collection efforts, and the amount paid to a constable may not exceed twenty-five percent (25%) of the amount which the constable collects.

As shown, Section 19-3-41(3) does not authorize guaranteed compensation when nothing is collected.

Lastly, although Section 25-7-27(1)(c) expressly provides for county payment of transportation mileage when a convicted person cannot pay costs, that language concerns transportation to jail specifically and does not extend to warrant or notice service fees. In summary, we find no statutory authority for the County to pay a constable for the individual service fees described when no

proceeds have been received by the court in connection with the underlying criminal case.[1] Any proceeds subsequently received are subject to the payment priority established by Section 25-7-27(2).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Regan McKnight*

Regan McKnight
Special Assistant Attorney General

OFFICIAL OPINION

[1] We note that your request states that it is your understanding that Section 25-7-27(1)(f)'s annual "state fail" payment of $4,500 covers all constable fees that are uncollected, whether due to prosecution failure, case dismissal, or a defendant's inability to pay. However, this provision solely references prosecution failure and thus does not apply to uncollected fees following criminal conviction as addressed in this opinion.