

2009 Non-Mandated Expenditures

Department Response

Department: Hamilton County Clerk of Courts
Elected Official: Gregory P. Hartmann
OCA Title: 460311 Civil Bailiffs

1. Are there elements of the BSI non-mandated services that you believe are mandated? If so, provide the specific Ohio Revised Code (ORC) citation, Code of Federal Regulation (CFR) and/or relevant case law information. Please be especially diligent if there is a specific service or staffing level prescribed by law.

County Administration's own analysis clearly shows that civil bailiffs are mandated by Ohio Revised Code Section 1901.32, specifically subsection (A)(3). There is however no specific authority that states what level of personnel is needed to provide the minimum mandated services for their functions. The authority to decide on what level of personnel and the pay for those personnel is granted to the Clerk of Courts, not the Board of County Commissioners, by that same code section.

The Ohio Revised Code does not mandate that civil bailiffs have vehicles to use. However, the Ohio General Assembly clearly recognized that vehicles may very well be needed to carry out the duties and functions assigned to bailiffs. The General Assembly codified that acknowledgement in Ohio Revised Code Section 1901.32(A)(4). Under that code section, the authority to determine if vehicles are needed is granted to the court. The Board of County Commissioners is authorized to pay for the purchase, all expenses, maintenance, and upkeep related to the vehicles.

2. Who are the recipients of the service or activity for the non-mandated service? How many recipients? Please note any internal customers, other county departments, jurisdictions, businesses, etc. If the service is geographic specific (i.e., a satellite probation office), please identify the neighborhood, township or municipality.

Recipients of these services are:

- A. Hamilton County Municipal Court
 - B. Attorneys
 - C. Creditors
 - D. Land owners
 - E. Citizens
3. Are there county revenues associated with the non-mandated services? If so, please provide the methodology for any lost revenues. Please consider state or federal reimbursements, grants, fees, etc. Please note if the service or activity is included in the county's indirect cost plan.

Civil bailiffs perform services that businesses, landlords, and creditors depend on to operate. These customers pay fees to have the services performed. If those services are not performed, those fees will not be generated. Furthermore, the customers may choose to find alternative means of getting the same service or the same result by other means if

2009 Non-Mandated Expenditures Department Response

a reduction in workforce causes the quality and speed of the service now provided to substantially decline and slow.

4. If the county did not provide the non-mandated service, is there the potential for increased expenditures in another jurisdiction within Hamilton County? If so, please list the specific municipality and/or township.

Yes, crime may increase do to a rise in the number of landlord and tenant disputes that are likely to become increasingly hostile, and repossessions may become far more aggressive and higher risk situations. Court proceedings will be delayed because of a lack of good service on subpoenas causing courts to reschedule and the dockets to backlog.

5. Does the non-mandated service include Board of County Commissioner policy via resolution or motion?

No.

6. Are there contracts or agreements that preclude the elimination of a non-mandated service? If so, please provide the specific language as to termination and/or amendment terms.

No.

7. What are the equipment/non-personnel expenditure considerations with discontinuing a non-mandated service? (i.e., surplus equipment).

The vehicle fleet will fall apart and do so at an increasingly rapid rate if maintenance is eliminated.

8. Do any of the non-mandated services include employees represented by a bargaining unit? If so, please note the union and provide information as to reduction-in-force and job abolishment considerations.

No.

9. For positions within non-mandated services, are there are special circumstances that preclude a traditional job abolishment process? Separation costs will be addressed centrally including leave balance payouts, unemployment compensation and severance (based on current Commission policy).

No.

2009 Non-Mandated Expenditures Department Response

10. In addition to positions associated with non-mandated services, the Budget Office included a review of management layers, support staff, and currently vacant positions. Please comment on the impact of eliminating these positions.

The Clerk of Courts is opposed to reducing the number of civil bailiffs.

11. What is the performance impact of not providing the non-mandated service? For example, wait times, waiting lists, case loads, operating hours and other consequences of not providing the service.

Again, bailiffs are a mandated service. While vehicles for bailiffs are not mandatory, it is clear that they are needed to provide the mandated service bailiffs provide. Eliminating vehicles for civil bailiffs would result in the following:

- A. Service would take much longer and may not be possible. Lawyers, landlords, companies, and citizens all pay a fee for the service of the summons. The long delays would be very annoying to them. An inability to provide service would be unacceptable. The Clerk would most certainly be sued for failure to perform his duties, and would most likely lose. The result would be the County paying substantial sums of money in settlements or judgments.
 - B. Physical evictions would only be done in close proximity to the Courthouse. Lawyers, landlords, companies, and citizens all pay a fee for the service of the summons. The long delays would be very annoying to them. An inability to provide service would be unacceptable. Massive amounts of rent would be lost. Properties would be further degraded. The Clerk would most certainly be sued for failure to perform his duties, and would most likely lose. The result would be the County paying substantial sums of money in settlements or judgments.
 - C. Repossessions would only be done in close proximity to the Courthouse. Companies would find the long delays very annoying. An inability to provide service would be unacceptable. The Clerk would most certainly be sued for failure to perform his duties, and would most likely lose. The result would be the County paying substantial sums of money in settlements or judgments.
 - D. Live executions would only be done in close proximity to the Courthouse. The citizens waiting to receive items to settle their money judgments would find the long delays very annoying. An inability to provide service would be unacceptable. The Clerk would most certainly be sued for failure to perform his duties, and would most likely lose. The result would be the County paying substantial sums of money in settlements or judgments.
12. Are there any alternatives that result in savings to the general fund?
- No.
13. Are there more efficient ways to deliver a mandated service that may allow for the savings to offset the cost of a non-mandated service?

2009 Non-Mandated Expenditures Department Response

The Clerk of Courts routinely seeks out ways to provide mandated and non-mandated services in ways that create savings or avoid costs.

14. Is there an opportunity to transfer any non-mandated expenditures to another funding source (i.e., restricted fund or grant)?

No.

15. Does your department have any fees that could be raised to offset the cost of a mandated service?

No.

Other Considerations and Comments:

The civil bailiffs currently help support the municipal civil and municipal criminal & traffic divisions with their scanning.

Attached is a spreadsheet with a summary of the work volumes performed by the civil bailiff division.