

# 2009 Non-Mandated Expenditures

## Department Response

**Department: Hamilton County Clerk of Courts**

**Elected Official: Gregory P. Hartmann**

**OCA Title: 460234 and 460329 Criminal 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 criminal 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 criminal 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. Area Courts
    - i. Cheviot
    - ii. Sharonville
    - iii. Room B of the Hamilton County Justice Center
  - C. Attorneys
  - D. Law Enforcement Agencies
  - 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.

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Criminal bailiffs generate revenue for the County through payouts. These payouts are the result of fines and costs being paid or bonds being posted at the time of arrests or citations being issued.

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, there is potential for increased expenditures by the Hamilton County Sheriff. Currently, the criminal bailiffs serve warrants that the Sheriff's office would otherwise have to serve.

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.

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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 criminal 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 criminal bailiffs would result in the following:

- A. Providing security for the Area Courts would not be possible unless the bailiffs are allowed to use their own personal vehicles to get there. Gas and mileage would need to be reimbursed. Moving the Area Courts to the Justice Center would be a better resolution to this issue.
- B. Transportation of prisoners from other agencies would not be possible. The other agencies would need to bring the prisoners to intake. The result would be fewer police in those jurisdictions. Those police departments would have fewer officers patrolling the streets or responding to 911 calls.
- C. Serving capiases, subpoenas, and warrants would not be possible. Transportation is required to perform these functions. Court dockets would grow. The public's safety would be at far greater risk. Criminals would benefit. 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.

If the Clerk were to implement the 20% workforce reduction proposed by the Board of County Commissioners, the performance impact would be negative and very noticeable. Criminal Bailiffs provide courtroom security for Municipal Court and the two Area Courts, transport prisoners, and serve capiases, subpoenas, and warrants. Fewer bailiffs would result in the following:

- A. Security for all courtrooms would not be possible. Judges, court personnel, attorneys, and the public would then be in harms way. 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. Response times to trouble in the courtrooms would be increased substantially. Judges, court personnel, attorneys, and the public would then be in harms way.
- C. Transportation of prisoners would not always be done in a timely manner resulting in delayed court proceedings. These delays would affect judges' dockets, and cause attorneys and the public to experience substantial waits.
- D. Transportation of prisoners from other agencies would not be possible. The other agencies would need to bring the prisoners to intake. The result would be fewer

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police in those jurisdictions. Those police departments would have fewer officers patrolling the streets or responding to 911 calls.

- E. Processing paperwork would be severely delayed resulting in significant delays in the service of capiases, subpoenas, and warrants. The public would be at risk and otherwise uninformed about judicial proceedings. 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.
- F. Requests from judges to perform drug testing in the Justice Center or process sexual offender registrations could not be fulfilled and would be denied.
- G. Defendants who appear in court while having outstanding warrants could not be processed due to the shortage of criminal bailiffs. The public's safety would be at risk. 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?

Moving the area courts in Cheviot and Sharonville to Room B in the Hamilton County Justice Center would eliminate the need to use vehicles on those nights. Minimal savings from gas and the use of the buildings would be realized.

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?

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 criminal bailiff division of the Clerk of Courts is working with the same level of personnel that it had 10 years ago with substantially higher volumes of work.

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