

# **A State of Inequity in Ohio:**

## **Funding and Service Disparities between Municipalities and Townships in Montgomery County, Ohio**



***December 2011***

***An analysis prepared by the University of Toledo Urban Affairs Center for the  
Greater Dayton Mayors & Managers Association***

# A State of Inequity in Ohio:

## Funding and Service Disparities between Municipalities and Townships in Montgomery County, Ohio



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*“Serving the City and villages in the Miami Valley”*



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## Foreword

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The sign along State Route 48 in Washington Township just outside of Centerville advertising new upscale apartments uses precious space to inform prospective purchasers “No City Tax.” A classified advertisement in the Dayton Daily News marketing professional office suites located in Harrison township, just outside of Dayton, declares “No City Income Tax!” in bold font.

***How is it that Montgomery County townships are able to provide services without taxing the incomes of their residents?***

On a snowy night in February snowplows pull out of the County garage located in Dayton to spend a busy night plowing and salting the roads in Montgomery County’s unincorporated areas. They will leave the roads in Montgomery County’s 16 cities and 3 villages untouched. Though the residents of the incorporated areas pay the same taxes to the County as the residents of the unincorporated areas, they also pay their city or village income tax to hire crews to handle their plowing and salting needs.

This summer, crews from the Ohio Department of Transportation District 7 garage will perform road maintenance along the State Routes in Montgomery County. The State will halt its maintenance work whenever they reach the border of a city or village. The cities and villages must use their own resources to maintain those State Routes within their own borders.

At the municipal courts in Dayton, Kettering, Miamisburg and Vandalia, costs of operation and maintenance are borne by the residents of the host cities. The State requires that these courts serve townships in their districts, while the residents of these townships do not pay for this service. Is there any justification for requiring that those City taxpayers fund their own court, but not requiring the same of township residents?

While 80% of Montgomery County residents live in cities or villages, they are excluded from many services provided by the State or the County. Is it fair for them to have to pay full State and County taxes only to be forced to tax themselves to receive services that the State and County provide at no cost to Montgomery County township residents?

Most townships in Montgomery County are no longer exclusively agricultural or rural. They now compete with cities for residential, commercial, and industrial development. In their marketing efforts, townships frequently point to the absence of income taxes as an advantage to choosing their township as a location for residents and businesses. Are such low taxes made possible because their services are subsidized to a significant extent by the State, County and municipal neighbors?

Questions such as these prompted the Greater Dayton Area Mayors and Managers Association to ask the University of Toledo Urban Affairs Center to examine the issue of service and tax equity in Montgomery County.

## **Executive Summary**

- Located in Southwest Ohio, Montgomery County's residents primarily live in urban and suburban communities. The County had a 2010 population of 535,153.
- 80% of Montgomery County's residents live in the County's 16 cities or 3 villages<sup>1</sup>. 20% live in the unincorporated portion of the County's 9 townships.
- Dayton is the largest City in Montgomery County, with a population of 141,527. 53% of all County residents, 313,000, live in suburban municipalities.
- Montgomery County, like all Ohio counties, receives the majority of its General Fund revenue from sales and property taxes levied at uniform rates across the entire County. Additionally, Ohio counties provide funding for township road and bridge engineering, construction, and maintenance from the county's portion of the license and gasoline taxes.

This study examines disparities in funding and service delivery between municipalities and townships in Montgomery County, Ohio. It considers a number of questions:

1) Are the County's incorporated areas (cities and villages) paying for the costs of County services delivered to the unincorporated areas (townships) and then paying again for the same services for their own residents? 2) Are current policies and practices, as historically developed, serving as a vehicle for the reallocation of public resources, economic opportunity, wealth, and population from cities to unincorporated areas? 3) Are there hidden subsidies for people and businesses locating in unincorporated areas? 4) Is there a financial penalty for living in a City or Village?

## **Major Findings**

1. A number of key services provided by Montgomery County and the State of Ohio, although funded by all County residents, are provided only or primarily to township residents. The total cost of these services provided to townships results in an annual subsidy of over \$14 million to township residents. This multimillion dollar subsidy provided to townships and their residents can be found in the following areas:

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<sup>1</sup> The municipality of Germantown grew to a population over 5,000 as of the 2010 Census, and as such has changed from village to City status.

- a. Through their State and County taxes, all Montgomery County taxpayers help pay the costs of the engineering, planning, criminal justice, and legal services delivered to the unincorporated township areas. Because the County does not provide the same level of services to incorporated areas, city and village residents also must pay income or property taxes to receive those services from their municipality. This subsidy is mitigated somewhat by the recent changes in Ohio law, which shifts a portion of the burden of major bridge construction and repair in municipalities to the County Engineer.
  - b. The State of Ohio provides a significant subsidy to unincorporated township areas through the Ohio Department of Transportation road maintenance program. The State does not provide such services to municipalities, which must use their own resources for those same services. According to a March 2011 Ohio Department of Transportation (ODOT) study, the State currently spends \$2.1 million annually maintaining roads within Montgomery County townships. If the State were to deliver the same services to Montgomery County's municipalities, it would have to spend an additional \$17.3 million to maintain state and federal highway routes within the municipalities.
  - c. A further subsidy is found in those situations where a municipality is located entirely within a township, whose municipal residents pay a property tax to the township for services they do not receive, and who then again pay income taxes for the very same services delivered by their municipality.
2. Montgomery County townships receive millions of dollars in annual subsidies. Many of these subsidies result from State policy, law and practices. However, in recent years, Montgomery County has changed local practices to address many subsidies within local control. Additionally, Montgomery County provides no subsidy in certain areas where there are multimillion dollar subsidies in other Ohio counties. This is primarily in the area of pretrial and post-conviction misdemeanor incarceration, where Montgomery County takes responsibility for all costs across the County. In some counties, municipalities take responsibility for their own prisoners while the County takes responsibility for township prisoners.
3. Montgomery County's population has declined by almost 70,000 residents since 1970. During that time the number of miles of paved roads, water lines, and sewer mains has continued to increase. This results in an increased cost of infrastructure maintenance that is now being borne by fewer taxpayers, which increases the per capita tax burden for all Montgomery County residents. Even with a stable population there would be a significant increased cost and tax burden to support the new infrastructure.

The annual subsidy provided by Montgomery County and the State of Ohio to the unincorporated areas is over \$14 million.

**Table 1: State and county Subsidies to townships in Montgomery County**

<b>Subsidy Type</b>	<b>Approximate Cost</b>
County Road Construction, Maintenance, and Engineering	\$10,376,000
State Road Construction, Maintenance, and Engineering	\$2,100,000
Criminal Justice, Policing, and Legal Services	\$1,450,000
Municipalities within township Tax Charges	\$780,000
Planning Services	\$160,000
<b>Total</b>	<b>\$14,866,000</b>

While some of the practices contributing to these subsidies are mandated by Ohio law, others have evolved through the discretionary and incremental decisions of State, county, township, and municipal officials over time. The township subsidies are embedded in State and local budgets as on-going and historically tolerated practices. Such discretionary decisions include State and County decisions to maintain roads in townships but rarely in municipalities and County decisions to provide police services to townships through the County sheriff, subsidized by the County General Fund.<sup>2</sup>

### **Policy Implications**

1. **Equity or Basic Fairness:** Fair and just taxation is a core American value. The residents of incorporated areas should not be required to subsidize population and development shifts to unincorporated areas.
2. **True Cost of Services:** When services are provided by contract, the true and total costs of those services should be reflected and reimbursed by the receiving party. The most significant example in this category would be when the sheriff provides policing services to certain townships. A true accounting of the cost would benefit all jurisdictions in the region and would provide for enhanced transparency.
3. **Politics of Annexation:** In Ohio, property owners adjacent to incorporated areas have limited ability to annex unincorporated areas. Historically, cities attracted potential annexees with urban amenities and services. The subsidization of unincorporated areas, as examined in this report, removes some of the incentives for landowners to annex and directs more growth to unincorporated areas.

<sup>2</sup> Although the County Engineer and ODOT do undertake some joint projects with municipalities, which arguably mitigates some of the subsidy to townships, the municipal projects are determined under a competitive process based on demonstrated need, whereas townships are “entitled” to the services under law and longstanding practice.



4. **Efficient Use of Public Resources:** The movement of population into outlying greenfield areas requires costly investment in redundant new infrastructure. Such a shift of population without real population growth is inefficient because it requires increased infrastructure without a corresponding increase in population/tax base to support the infrastructure. This results in underutilization, poor maintenance, and/or premature abandonment of infrastructure (including schools, parks, highways, sewer and water lines, fire stations, etc.) before the end of its useful life in incorporated areas.<sup>3</sup>
5. **Inefficient Growth and Loss of Productive Agricultural Lands:** The subsidies and practices described in this study have discouraged development and growth within cities and villages. While 80% of Montgomery County residents live in incorporated areas, there is a trend toward population shifts to the unincorporated areas. This leads to a decline in the tax base of incorporated areas and leaves decision-makers with the option of either raising taxes, which would create additional pressure for relocation, or reducing services and capital investment, which would result in further deterioration of existing quality of life. Both options constitute an incentive or “push” factor for residents and businesses to relocate to unincorporated areas. This population shift often results in the loss of productive agricultural land. If this population shift continues, the burden on the incorporated taxpayers of Montgomery County will continue to grow and may ultimately result in the inability of the County and State to provide services due to loss of tax revenue.
6. **Implications for other Ohio Counties:** This study examines Montgomery County, Ohio; however, the impacts described herein may also have implications for other Ohio counties. For example, an equitable resolution of the road and highway subsidy could be achieved by requiring townships to provide the same road and highway services that the cities provide or requiring the State to provide the same road and highway services to cities that it provides to the townships.

## **Conclusion and Recommendations**

While the exact size of the subsidy depends upon one's interpretation of the data, it is indisputable that the 20% of Montgomery County's population who live in townships receive an annual subsidy from the State, County and incorporated areas of many millions of dollars per year.

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<sup>3</sup> Haughwout, Andrew F (Summer 2000) The Paradox of Infrastructure Investment-Can a Productive Good Reduce Productivity? The Brookings Review, The Brookings Institution, Vol.18 No. 3 Pages 38-41. Also see the following websites: <http://www.farmland.org/pnw/cocs.htm>  
[http://www.farmland.org/news\\_2001/091901\\_mi.htm](http://www.farmland.org/news_2001/091901_mi.htm)

This subsidy results primarily from the simple fact that under current Ohio law municipalities must take full responsibility for specific basic local services while townships do not have the same level of accountability. Such a system then leaves the State or County to step in to provide or subsidize services where the township refuses to act. Montgomery County municipalities get no such subsidy.

As noted in the study, these subsidies fall in the areas of services provided by: the Ohio Department of Transportation to townships but not provided to municipalities; the County Engineer through work provided to townships; the County Prosecutor through legal services provided to townships; the County for planning services in townships; and through the requirement that certain municipalities take responsibility for local court services.

This results in fragmented and inconsistent service delivery and tax rates that can provide an unfair competitive advantage to some communities at the expense of others.

It may be admirable for a community to seek to keep tax rates and expenses low. It is however, unjustifiable to maintain those lower tax rates only because their services are subsidized by taxpayers in neighboring communities.

Such subsidies and the resulting sense of injustice are exacerbated by marketing materials such as those presented on the cover and Foreword of this document. Gone are the days when all townships were sleepy rural areas. They are now frequently among the most populous communities in Ohio, with residents and businesses who expect the same services that their municipal neighbors receive. They now compete with cities for residential, commercial, and industrial development. They are competing with an unfair advantage because they are subsidized by the residents of the very cities with whom they are competing. The subsidies identified in this study compound the challenges for municipalities being squeezed by changes in the economy and decisions by the State to end or reduce local government funding.

Our research has uncovered no justification for continuing a system wherein municipal taxpayers are required to take responsibility for local services while their neighboring townships are not required to do so. This dual system is particularly hard to justify after examination of the relative wealth and demographics of some of Ohio's urban or suburban townships. In exploring changes to Ohio law to end the current system of subsidies, policy makers should consider the real differences between sparsely populated rural townships and the more populous urban and suburban townships.

Montgomery County townships receive millions of dollars in annual subsidies. Many of these subsidies result from State policy, law and practices. However, in recent years Montgomery County has changed local practices to reduce many of the subsidies within local control. Additionally, Montgomery County provides no subsidy

in certain areas where there are multimillion dollar subsidies in other Ohio counties<sup>4</sup>. This is primarily in the area of pretrial and post-conviction misdemeanor incarceration, where Montgomery County takes responsibility for almost all costs across the County, while in some Counties municipalities take responsibility for their own prisoners while the County takes responsibility for township prisoners.

A further mitigating factor could be found through recognition that some township residents pay income taxes to cities where they work. It could be argued that this would offset the amount of subsidy. However, it must be noted that these residents who live in townships and work in cities do receive services during the time they spend in the city each day. They make use of roads or public transit, and they are protected by police and fire services. Additionally, this factor is counterbalanced by municipal residents who own township property and pay township property taxes. Such nonresident township taxpayers do receive some benefits from the townships in the same manner that nonresident city taxpayers receive benefits from the city as noted above.

It is worth noting that Ohio's statutory structure for townships is rare compared to other states in the U.S. While many states use the term "township" to describe certain local government subdivisions, in most states, townships either operate similar to municipalities with specific responsibilities and duties, or as a subdivision of the county in which they are located. Ohio townships do not have such obligations and rarely have a specific duty to provide service.

## **Recommendations**

The policies and practices leading to the subsidization of unincorporated areas can be redressed through statutory, organizational, and/or administrative changes at both the County and State level. If the first recommendation requiring townships to take full responsibility for their own services is achieved, subsequent recommendations may not be necessary. Those recommendations are to:

1. Require Ohio townships to take responsibility for their own services in the same manner that Ohio municipalities do now. This would require action by the Ohio Legislature. This step alone would eliminate most of the subsidies identified in this report.
2. Require the Ohio Department of Transportation to provide the same level of services in townships and municipalities. This would require action by the Ohio Legislature.
3. Eliminate the system that requires some municipalities to fund local courts. This would require action by the Ohio Legislature.

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<sup>4</sup> See 2002 Lucas County study, <http://uac.utoledo.edu/Publications/public-service-delivery-fiscal-impact.pdf>.

4. Change the taxing and funding obligation when municipalities are located within townships. Municipal taxpayers should no longer pay property taxes to townships for general government services that they do not receive.
5. Should there be no legislative action to require townships to take responsibility for their own services or changes in practices by the Ohio Department of Transportation, there are detailed recommendations at the conclusion of the road finance section, on page 30. These include changes in the labeling of roads as township or County, changes to the formulation and distribution of vehicle license fees, and changes to the allocation of Local Transportation Improvement Program (LTIP) funds.
6. When contracts are created between the County and unincorporated areas for service delivery, as with the County Sheriff and certain townships for policing services, a mechanism for independent review and public examination must ensure that there is not a hidden subsidy provided through such contracts.

Ohio's municipalities are constantly being challenged to identify ways to lower costs, consolidate or share services, and improve efficiency. As long as Ohio maintains a dual system where townships do not have responsibility for costs of local services, it will continue to be an obstacle to the sort of change and consolidation that Ohio needs.

## **Introduction**

Montgomery County, located in southeast Ohio, has a population of 535,153 according to the 2010 Census. There are 16 cities<sup>5</sup> in Montgomery County ranging in population from more than 141,000 (Dayton) to just over 5,000 (Germantown), which is the minimum number of residents in order to be classified as a “City”. There are 3 villages<sup>6</sup> in Montgomery County. Under Ohio law, villages are municipal corporations with essentially all of the powers of cities, but contain a population under 5,000. Finally, there are 9 townships<sup>7</sup> in Montgomery County. Townships in Ohio have no maximum population ceiling and several Montgomery County townships have populations far exceeding some of Montgomery County’s cities and villages.

Because Ohio law permits an overlapping of municipal and township government, it is necessary to consider the number of residents living in the incorporated versus the unincorporated areas of Montgomery County. In Montgomery County, approximately 80,000, or 20%, of the residents live in unincorporated townships with the vast majority of County residents (80%) residing in one of the County’s 19 cities or villages. Indeed, over half (54%) of township residents reside in an incorporated area. As will be seen, that results in those residents paying real estate taxes for township services for which they receive no benefit.

Geographically, Montgomery County contains 464 square miles, with the incorporated jurisdictions covering approximately 239 square miles, or 51.5% of the total area. Thus, approximately 454,480 people live in the 239 square miles of incorporated municipal territory, a density of 1,901.6 people per square mile, and 80,673 residing in the 225 square miles of unincorporated township territory, a density of 385 people per square mile.

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<sup>5</sup> The cities in Montgomery County are: Brookville (Pop. 5,884; 3.4 sq.mi.), Centerville (23,999; 10.2 sq. mi.), Clayton (13,209; 18.4 sq. mi.), Dayton (141,547; 56.8 sq. mi.), Englewood (13,465; 6.6 sq. mi.), Germantown (5,547; 3.6 sq. mi.), Huber Heights (38,101; 21.1 sq. mi.), Kettering (56,163; 18.7 sq. mi.), Miamisburg (20,181; 11.4 sq. mi.), Moraine (6,307; 9.3 sq. mi.), Oakwood (9,202; 2.97 sq. mi.), Riverside (25,201; 7.9 sq. mi.), Trotwood (27,431; 30.5 sq. mi.), Union (6,419; 4.3 sq. mi.), Vandalia (15,246; 11.9 sq. mi.) and West Carrollton (13,143; 6.5 sq. mi.). (2010 Census). The cities of Carlisle and Springboro are partially located in Montgomery County, but most of their area and population are located in Warren County, and thus they are not included in this study.

<sup>6</sup> The villages in Montgomery County are: Farmersville (1,009; 0.7 sq. mi.), New Lebanon (3,995; 2.0 sq. mi.), and Phillipsburg (557; 0.3 sq. mi.) (2010 Census)

<sup>7</sup> The townships in Montgomery County are: Butler (8,382; 8,367 in unincorporated area; 17.15 sq. mi), Clay (8,566; 3,790 in unincorporated area; 34.43 sq. mi), German (7,830; 2,946 in unincorporated area; 33.67 sq. mi), Harrison (24,303; 9.09 sq. mi), Jackson (6,420; 2,610 in unincorporated area; 34.99 sq. mi), Jefferson (6,787; 25.41 sq. mi), Miami (45,593; 25,706 in unincorporated area; 20.80 sq. mi), Perry (6,184; 3,587 in unincorporated area; 34.88 sq. mi), and Washington (52,991; 29,967 in unincorporated area; 20.84 sq. mi) (2010 Census)

This study examines the financial impact of the current method of funding and delivering services in Montgomery County, Ohio. It considers a number of questions:

- A) Are the County's incorporated areas (cities and villages) paying for the costs of County services delivered to the unincorporated areas (townships) and then paying again for the same services for their own residents?
- B) Are current policies and practices, as historically developed, serving as a vehicle for the reallocation of public resources, economic opportunity, wealth, and population from cities to unincorporated areas?
- C) Are there hidden subsidies for people and businesses locating in unincorporated areas?
- D) Is there a fiscal penalty for living in a city or village?

The answers to these questions are important for the following reasons:

1. **Equity and Basic Fairness:** Fair and just taxation is a core American value. The residents of incorporated areas should not be required to subsidize population and development shifts to unincorporated areas.
2. **True Cost of Services:** When services are provided by contract, an independent analysis should be conducted to ascertain the actual cost of those services. The most significant example in this category would be when the sheriff provides policing services to certain townships. A true accounting of the cost would benefit all jurisdictions in the region and would provide for enhanced transparency.
3. **Politics of Annexation:** In Ohio, property owners adjacent to incorporated areas have limited ability to annex into incorporated areas. Historically, cities attracted potential annexees with urban amenities and services. The subsidization of unincorporated areas, as examined in this report, removes some of the incentives for landowners to annex and directs more growth to unincorporated areas.
4. **Efficient Use of Public Resources:** Movement of population into outlying greenfields requires costly investment in redundant new infrastructure. Such a shift of population without real population growth is inefficient because it requires increased infrastructure without a corresponding increase in population/tax base to support the infrastructure. This results in underutilization, poor maintenance, and/or premature abandonment of infrastructure (including schools, parks, highways, sewer and water lines, fire stations, etc.) before the end of its useful life in incorporated areas.<sup>8</sup>

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<sup>8</sup> Haughwout, Andrew F (Summer 2000) The Paradox of Infrastructure Investment-Can a Productive Good Reduce Productivity? The Brookings Review, The Brookings Institution, Vol.18 No. 3 Pages 38-

5. **Inefficient Growth and Loss of Productive Agricultural Lands:** The subsidies and practices described in this study have discouraged development and growth within cities and villages. While currently about 80% of Montgomery County residents live in incorporated areas, there is a trend toward population shifts to the unincorporated areas. This leads to a decline in the tax base of incorporated areas and leaves decision-makers with either the option of raising taxes, which would create additional pressure for relocation, or reducing services and capital investment, which would result in further deterioration of existing quality of life. Both options constitute an incentive or “push” factor for residents and businesses to relocate to unincorporated areas. This population shift often results in the loss of productive agricultural land. If this population shift continues, the burden on the incorporated taxpayers of Montgomery County will continue to grow and may ultimately result in the inability of the County and State to provide services due to loss of tax revenue.
6. **Implications for other Ohio Counties:** This study examines Montgomery County, Ohio, but some of the impacts described may also have implications for other counties in Ohio. For example, an equitable resolution of the road and highway subsidy could be achieved by requiring townships to provide the same road and highway services that the cities provide or requiring the State to provide the same road and highway services to cities that it provides to the townships.

Some services, those which are available to all eligible County residents with no difference based on where they live, will not be considered in this study because all County residents have equal access to such services. Also excluded will be services fully financed by some type of user fee, such as building inspections. These services are self-financed and do not draw on the General Fund. Montgomery County does not deliver any significant services to its cities that are not also delivered to the townships. This study will focus on services provided either without cost or at a subsidized rate to some or all townships but not to municipalities.

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41. Also see the following websites: <http://www.farmland.org/pnw/cocs.htm>  
[http://www.farmland.org/news\\_2001/091901\\_mi.htm](http://www.farmland.org/news_2001/091901_mi.htm)

## **The Research Questions**

In examining each of the service areas, these are the questions we sought to answer:

1. Does State law mandate the County services, or are they discretionary? If discretionary, can the cost of services be negotiated between the County and local jurisdictions?
2. Do incorporated jurisdictions pay more than the unincorporated areas for the same County-provided public services?
3. Are incorporated areas required to provide the same services that the County provides the townships?
4. If so, does Montgomery County offset a prorated portion of the costs of these services to the incorporated areas in recognition of their contribution to the County's revenue stream?
5. Do the above policies impact development patterns within Montgomery County?



## **Methodology**

The information used for this study was collected in 2010 and 2011. In compiling the data used in this report, the authors consulted population and demographic information from the U.S. Census Bureau, the budgets, financial reports, and other financial documents of Montgomery County and the cities, villages and townships within the County. The researchers sought information through questionnaires, and conducted phone and personal interviews with County, local government officials, and other relevant informants to gain additional information. Websites of the Ohio Department of Transportation, the Ohio Township Association, the Ohio Public Works Commission, the Ohio Department of Taxation, and the Ohio Municipal League were all consulted.

Among the challenges faced in gathering the data for this study is the fact that local practices are currently in the process of change, reducing or eliminating substantial historical subsidies in the area of policing and dispatch services. Our conclusions and recommendations are based on the current budget data and contracts provided by Montgomery County.

# **The Legal Framework**

It is important to begin with a summary of the status of counties, townships, and municipal corporations under Ohio law. This includes a review of the services that each political subdivision is legally required to provide, as well as those services they are not required to provide but perhaps do so as a matter of practice. In particular, the study explores which services Montgomery County is required to deliver and which are discretionary.

## **1. Counties**

Boards of County commissioners, as well as all other County officers,<sup>9</sup> have been created pursuant to laws passed by the State Legislature. Therefore, counties and their officials are often referred to as “creatures of statute.” See generally, State ex rel. Shriver v. Bd. of Comm'rs, 148 Ohio St. 2778 (1947) (syllabus: “[a] board of County commissioners is a creature of statute alone. . . . Such board possesses only such power and jurisdiction as are conferred expressly by statutory enactment”). Chapter 307 of the Ohio Revised Code defines the powers and responsibilities of County commissioners. Other chapters of the Ohio Revised Code establish similar powers and responsibilities for other County officials (e.g., Sheriff, Chapter 311; Engineer, Chapter 315).

Although a “creature of statute” with specified powers, the State Legislature has seen fit to grant Boards of County Commissioners wide latitude to establish contractual relationships with municipalities, townships, other counties and political subdivisions to deliver services. Such contracts permit counties to act as agents in performing functions that the contracting entities are authorized to perform. A county is not obligated to but may charge fees for these services (see Ohio Attorney General Opinion No. 95-004). The Ohio Constitution also provides, in Article X Section 1, that, “[m]unicipalities and townships shall have authority, with the consent of the County, to transfer to the County any of their powers or to revoke the transfer of any such power....” Similarly, Ohio Revised Code Section 311.29 permits County Sheriffs to enter into contractual relations with townships and municipal corporations (and other units of government) to provide “any police function,” and such contracts “shall provide for the reimbursement of the County for the costs incurred by the sheriff for such policing....” This reference implies that the sheriff’s obligations to local jurisdictions are relatively equal and that townships are not necessarily intended to enjoy a special relationship with the sheriff.

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<sup>9</sup> This report does not address so-called “home rule” counties because Montgomery County operates as a traditional, statutory County.

## 2. Municipalities

The Ohio Constitution and the Ohio Revised Code provide greater autonomy to incorporated areas, i.e., municipalities (divided into cities and villages on the basis of population) than to unincorporated areas. However, the law also imposes greater service obligations on municipalities, especially cities, than are imposed on unincorporated townships. These requirements include such services as public safety and public health. Municipalities are further permitted but not obligated to provide certain other specified services to their residents.

Article XVIII, Section 3 of the Ohio Constitution outlines the powers of municipal corporations as follows<sup>10</sup>:

*Municipalities shall have authority to exercise all powers of local self-government and to adopt and enforce within their limits such local police, sanitary and other similar regulations, as are not in conflict with general laws.*

Similarly, the Ohio Revised Code provides discretionary powers to municipal corporations, particularly in Chapter 715. However, unlike townships, the Code also imposes certain service requirements on municipal corporations.

## 3. Townships

Under Ohio law, the governmental functions of townships are largely discretionary. Townships may, but are not required to, provide services to their residents. The law frequently uses phrases such as “have the authority to” or “may” when addressing township services, and not such terms as “must” and “required to do so.” Townships are required to maintain township roads, but they are not required to *have* township roads. Similarly, townships must maintain township cemeteries, but they are not required to *have* township cemeteries. Townships may provide police and fire protection, either through their own employees and volunteers, or by contracting with other jurisdictions. But again, townships are not required to render these services. Similar conditions apply to other functions such as parks, zoning, animal control, etc.

Ohio Revised Code 503.01 summarizes the powers and status of townships:

*Each civil township is a body politic and corporate, for the purpose of enjoying and exercising the rights and privileges conferred upon it by law. It may sue and be sued, plead and be impleaded, and receive and hold real estate by devise or deed, or receive and hold personal property for the benefit of the township for any useful purpose.*

Although courts have referred to townships as municipal corporations, they are not

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<sup>10</sup> Article XVIII, Section 4 also grants Municipalities the right to own, operate, and regulate public utilities.

corporations in the same sense as cities and villages, and townships are not granted the general powers of municipal corporations. Several court decisions have made it clear that townships have no inherent or constitutionally granted police powers. Townships, like counties, are “creatures of statute” (see Ohio Attorney General Opinion No. 98-014).

Consequently, townships have minimal service obligations to their citizens. The Ohio Constitution and Ohio Revised Code are less clear in defining the relationship between municipalities and counties. As noted, although counties *may* charge municipalities for services they provide, it is also clear that they may choose to not charge (Ohio Attorney General Opinion 95-004). Similarly, counties may charge townships for these same services. In any event, it is clear that the law does not require the County to be the default service provider for townships or that counties are required to provide these services, although such is often a common misperception, even among local government officials.

It is worth noting that Ohio’s statutory structure for townships is relatively rare. While many states use the term “township” to describe one of their local government subdivisions, in most states townships operate more like municipalities with specific responsibilities and duties, or as a subdivision of the County. Ohio townships do not have such obligations and rarely have a specific duty to provide service.

# **Financing Montgomery County Government**

County governments have a wide variety of revenue sources, not all of which are taxes. Some are intergovernmental transfers from the State and National government to finance specific services. Others are grants whose usage is restricted by law and by grant conditions. Because this study focuses on those services paid for by all residents but which benefit only selected residents, we examine those services paid for by the following means:

1. County-wide property and sales taxes.
2. State allocations of local taxes (e.g., gas taxes) paid by all residents.
3. Grants and other intergovernmental transfers received by the County but used only in unincorporated areas.
4. Services funded by fees paid by some, but not all, jurisdictions.

Montgomery County collects most of its general fund revenue from its share of the sales tax. City residents and township residents pay the same sales tax percentage on their purchases and there is no allocation of those taxes based upon population<sup>11</sup>. Similarly, the gas tax, which is a major source of revenue for streets and roads for all jurisdictions, is also collected from all County residents.

**Table 2: Montgomery County General Fund Revenue 2010**

<b>Revenue Source</b>	<b>Amount</b>	<b>Percent of Total</b>
Property Taxes	\$14,557,989	10.84%
Sales Tax	\$60,821,919	45.29%
Other Taxes	\$2,139,472	1.59%
Licenses and Permits	\$28,192	0.02%
Fees and Charges for Services	\$23,313,444	17.36%
Fines and Forfeitures	\$1,165,944	0.87%
Intergovernmental	\$21,902,661	16.31%
Investment Earnings	\$8,843,866	6.59%
Miscellaneous	\$1,512,550	1.13%
<i>Total Revenues</i>	<i>\$134,286,037</i>	<i>100%</i>

Source: Montgomery County 2010 Comprehensive Annual Financial Report

<sup>11</sup> By comparison, New York State mandates a partial redistribution of sales tax revenues from the County to incorporated municipalities based on their population, % of sales tax generated within that jurisdiction, and net property values. Buffalo News 6/23/02:A1, A8.

Because there is no precise information available identifying who pays what proportion of local sales and gasoline taxes, this study will utilize population as an approximate measure of the share of taxes paid. We believe that is a fair depiction of the tax landscape and the most accurate measure available.

Townships collect most of their revenue from property taxes. Although property owners are not necessarily township residents, by owning property one has some obligation to support township services.

Montgomery County municipalities depend primarily on local income taxes for their General Fund revenue. The income tax is collected from City residents and non-residents who work in the cities. The non-resident City taxpayers use City roads and benefit from City police and fire protection as well.

# **Roads and Bridges, Funding Sources, ODOT, and the Role of the County Engineer**

## **Overview**

The following lists the classification of all roads in Montgomery County, according to the Ohio Department of Transportation:

- National Highway System – 118 miles<sup>12</sup>
- Interstate Highways – 55 miles
- U.S. Routes – 41 miles
- State Routes – 121 miles
- County Roads – 318 miles
- Township Roads – 529 miles
- Municipal Roads – 1894 miles

Under Ohio law, there is a basic inequity built into road, highway, and engineering service delivery. The inequity stems from provisions of Ohio law that require municipalities to maintain and primarily fund road construction within their boundaries, while townships may avoid much of this burden. The inequity exists in two categories. The first is the result of the fact that the Ohio Department of Transportation (ODOT) maintains all State Routes within unincorporated areas while not providing that service within the boundaries of municipalities. Confirming this fact is a 2011 ODOT study, which analyzed and quantified the inequity in the services the State does not provide to municipalities. That study quantified the costs associated with remedying this inequity. It concluded that ODOT couldn't possibly afford to provide the same services to municipalities that it provide to townships.

The second inequity exists at the local level, where the County engineer maintains County roads that exist almost exclusively in unincorporated areas while municipalities are responsible for constructing and maintaining their own roads.<sup>13</sup> The County engineer has no current funding mechanism that would allow the County to maintain roads in municipalities in the same manner as in townships.

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<sup>12</sup> These numbers represent linear miles, and, accordingly, the data does not match exactly with the 2011 ODOT study which presents information in terms of lane miles. Nevertheless, the data is an accurate depiction of the extent of the roadway system in Montgomery County and the jurisdictions responsible for maintenance of that system.

<sup>13</sup> Although the County engineer and ODOT partner with municipalities on some major road projects, which arguably mitigates the subsidy to townships, the municipal projects are determined under a competitive process based on demonstrated need, whereas townships are "entitled" to the services under law and longstanding practice. In addition, ODOT recently assumed responsibility for "non-routine" bridge maintenance on all state and U.S. routes.

## **Role of the County Engineer**

The Montgomery County Engineer has statutory responsibility to perform for the County “all duties authorized or declared by law to be done by a registered professional engineer or registered surveyor” (R.C. 315.08). These duties include the “maintenance, and repair of all bridges, culverts, roads, drains, ditches, roads on County fairgrounds, and other public improvements.” The County commissioners have the authority to designate County roads, without restrictions to their location, and such roads may be either in unincorporated or incorporated areas. In Montgomery County, commissioners have chosen to designate 318 miles as County roads. According to the current practice, although not required by law, all County roads are in unincorporated areas of the County. If a City or Village annexes an area of a township containing a County road, the road loses this designation, and maintenance and engineering responsibilities are ceded to the annexing municipality.

## **Municipalities**

Since the County Commission does not, as a matter of policy and practice, designate roads within the boundaries of the municipalities as County roads, the County Engineer has only limited responsibilities to municipalities. Municipalities have responsibility for all streets and thoroughfares within their boundaries, excluding Interstate Highways. Municipalities must maintain U.S. Routes and State Routes within their boundaries, whereas townships do not. Cooperation between municipalities and the County is permissible under the law, and the County “may construct a proposed road improvement into, within, or through a municipal corporation,” with the consent of the “legislative authority.” The municipality “may assume and pay such proportion of the cost of that part of the proposed improvement within the municipal corporation as agreed upon” (R.C. 5557.01-02). Just as the County is not legally required to limit its road system to areas outside municipalities, it is not legally required to obtain reimbursement for work conducted within municipal limits.

The only clear legal obligation of the County Engineer toward municipalities is to “construct and keep in repair all necessary bridges in municipal corporations on all State and County roads and improved roads which are of general and public utility, running into or through the municipal corporations” (R.C. 5591.02). In Montgomery County, of the 504 bridges maintained by the County Engineer, 189 are located within municipalities. The remaining 315 bridges are located on County and township roads outside of municipalities. When the County performs maintenance on the bridges within municipalities, the municipalities are required to reimburse the County.

## **Townships**

Townships have no statutory responsibility to have roads, but if they do, they are required to maintain them. In Montgomery County, the majority of township roads are non-commercial. Township roads, created under township authority, are for access to



residential areas and include “all public highways other than State or County roads” (R.C. 5535.01). Although townships are responsible for the repair and maintenance of township roads, the Code expressly provides that “the Board of County Commissioners may assist the Board of Township Trustees in maintaining all such roads” (R.C. 5535.01(C), 5571.02, 5535.08). As in municipalities, the State maintains the Interstate Highway System.

Townships have a closer relationship to the County and, thus to the County Engineer, than do municipalities for three reasons.

1. The County road system lies entirely within townships and includes some of the County’s major thoroughfares. The County maintains this road system, including snow removal in the winter.
2. Township Trustees have input on the designation of County roads and may petition to have township roads designated as County roads (R.C.5541.01-03). No similar provision exists for municipalities. In Montgomery County, when municipalities annex township land, the County Commission re-designates County roads as city or village roads, and the cities or villages assume responsibility for those roads.
3. The County Engineer provides engineering services to the townships by supervising the “reconstruction, resurfacing, and improvement of public roads by Boards of Township Trustees” (R.C. 5543.09), and may “contribute to the repair and maintenance of the roads under the control” of the trustees (R.C. 5535.08). Townships are not required to reimburse the County for such expenses. Chart 1 below summarizes the most important services that the County Engineer provides to townships but not to municipalities.

**Chart 1: Services Montgomery County Engineer Provides to Townships but not to Municipalities**

- |   |
|---|
| <ol style="list-style-type: none"><li>1. Advise and provide engineering/surveying services to the nine (9) townships in regard to maintenance, construction and repair of township highway system.</li><li>2. Inspection, repair, reconstruction and replacement of bridges on the County and township roadway systems.*</li><li>3. Maintain and repair ditches and retention areas petitioned by affected property owners.</li></ol> |
|---|

\* Recent changes in Ohio law require the County to engage in bridge engineering in municipalities. The Montgomery County Engineer spent approximately \$4 million in municipalities in 2010.

## **Infrastructure Finance Overview**

Building and maintaining the nation's roads, highways, bridges, and the associated traffic control devices and other improvements requires significant financial resources. In the United States, federal, state and local funds are used to pay for these ongoing transportation infrastructure costs depending upon the type of roadway at issue, and the historic practices in the area of intergovernmental cooperation in maintaining roadways.

States were the first to adopt a gas tax, beginning in the early 20<sup>th</sup> century and today all states impose such a tax. Ohio was a relative latecomer to the gas tax and first imposed a tax of 2 cents per gallon in 1925.<sup>14</sup> Today, Ohio's gas tax stands at 28 cents per gallon, unchanged since 2005.<sup>15</sup> The federal gas tax was first imposed in 1956 when the Congress established the Highway Trust Fund ("HTF"). Today, the federal tax is 18.4 cents per gallon on gasoline and 24.4 cents per gallon of diesel fuels. In addition, both the State and local communities (counties, townships and municipalities) are able to impose a license fee on motor vehicles and these funds provide a major source of roadway funding. Finally, local communities can devote property taxes or, in the case of municipalities, revenue from income taxes, to the community's roadway budget.

### **Financing the Montgomery County Engineer**

While the Montgomery County Engineer predominantly serves the unincorporated areas, residents of the entire County finance the office either directly through taxes or indirectly through other revenues available to the County, such as grants or interest income. The County is required to pay administrative expenses for the County Engineer from the County General Fund (R.C. 315.11). There are three major revenue sources for the Engineer's operations: (1) the County's vehicle registration fees; (2) the motor vehicle fuel tax (the gas tax); and (3) grants from the Ohio Public Works Commission. Other revenue sources are from investments, fines, and miscellaneous. The actual revenue received for 2009 and 2010 are presented in Table 3 below.

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<sup>14</sup> "Slanted Pavement: How Ohio's Highway Spending Shortchanges cities and Suburbs", Discussion Paper Prepared for The Brookings Institution Center on Urban and Metropolitan Policy, March 2003, p. 5.

<sup>15</sup> The gas tax is actually an excise tax imposed on the first entity to sell the product in the state; however, the net impact is on the consumer and therefore this report will not further address the process of imposing the tax. Rather, the complex and inequitable formula for distributing the proceeds of the state gas tax is addressed at some length.

**Table 3: Revenue Sources – Montgomery County Engineer\***

<b>Source</b>	<b>2009 (actual)</b>	<b>2010 (actual)</b>
<b>Shared Revenues</b>		
Motor Vehicle License Tax	\$7,198,788	\$7,274,766
Motor Vehicle Tax--Permissive	\$6,439,814	\$6,418,987
Fuel Tax	\$2,331,703	\$2,366,745
<b>Reimbursements</b>		
State grants	\$660,037	\$1,954,932
Refunds & Project Reimbursements	\$1,994,827	\$2,776,984
<b>Federal Stimulus Funds</b>	\$0	\$3,484,966
<b>Miscellaneous</b>		
Investments	\$731,215	\$525,424
Fines	\$356,317	\$317,428
Others	\$172,194	\$1,050,767
<b>Total</b>	<b>\$19,884,895</b>	<b>\$26,170,999</b>

Source: Montgomery County Office of Management and Budget

\*For the purposes of calculating the subsidy, only motor vehicle and fuel taxes revenue were used.

## **Federal Gas Tax**

Federal gas tax funds are allocated for Highways and Transits. The highway federal gas tax funds are allocated to the Ohio Department of Transportation (ODOT). The funding is not allocated to municipalities or townships directly, but ODOT does use its federal funds to participate on projects in these areas. Generally, ODOT uses federal funds to cover 80% of a local project cost and local jurisdictions cover the remaining 20%. Of the 18.4 cent federal gas tax, 15.44 cents (84%) is allocated to highways. The other 2.86 cents is allocated to transit projects. Of the 24.4 cent federal diesel fuel tax, 21.44 cents (88%) is allocated to highways, and the remaining 2.86 cents is allocated to transit projects.

## State Gas Tax

Ohio's gas tax is actually made up of 5 different tax levies, which total 28 cents per gallon. After making certain allocations to a variety of special State funds (e.g., the Waterway Safety Fund), according to the Ohio Department of Taxation, the ultimate disposition of the 28 cent gas tax results in the following allocations:

- 70.2 percent to the State,
- 12.7 percent to municipal corporations,
- 11.1 percent to counties, and
- 6 percent to townships.<sup>16</sup>

Under Ohio law, each County receives an equal gas tax distribution. In contrast, distributions to townships vary because each township's distribution is based on the larger amount produced by two alternative formulas. Municipal distributions vary because they are based on each municipality's proportionate share of motor vehicle registrations and are calculated after the townships' distributions.

As applied to Montgomery County, the formula for distributing the gas tax has resulted in an allocation to municipalities over the period 2008 – 2010 of approximately 80%, a distribution that reflects the distribution of the population in Montgomery County and thus results in an equitable distribution.

**Table 4: Allocation of State Fuel Tax in Montgomery County 2008-2010**

	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>County</b>	\$2,415,819	\$2,331,703	\$2,366,745
<b>Municipalities</b>	\$14,387,148	\$13,832,648	\$14,058,832
<b>Townships</b>	\$1,224,342	\$1,172,027	\$1,167,455

Source: Ohio Department of Taxation

<sup>16</sup> This 2009 data from the Ohio Department of Taxation indicates that, at the time, the allocation to townships was 6%. However, we accept the more current and presumably more accurate data provided by the Ohio Township Association which puts the allocation to Ohio's townships at 6.8%.

**Table 5: Allocation of State Fuel Tax to  
Montgomery County Municipalities 2008-2010**

<b>Municipality</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Brookville</b>	\$214,074	\$205,065	\$210,812
<b>Centerville</b>	\$882,605	\$847,298	\$858,435
<b>Clayton</b>	\$493,684	\$483,256	\$503,669
<b>Dayton</b>	\$4,358,166	\$4,150,339	\$4,161,557
<b>Englewood</b>	\$478,229	\$458,551	\$468,770
<b>Germantown</b>	\$208,693	\$197,249	\$199,639
<b>Huber Heights</b>	\$1,325,725	\$1,280,541	\$1,322,512
<b>Kettering</b>	\$1,935,859	\$1,880,133	\$1,903,141
<b>Miamisburg</b>	\$727,866	\$705,125	\$712,715
<b>Moraine</b>	\$334,530	\$314,099	\$315,393
<b>Oakwood</b>	\$293,929	\$282,760	\$286,375
<b>Riverside</b>	\$784,533	\$764,846	\$796,912
<b>Trotwood</b>	\$804,967	\$774,241	\$788,319
<b>Union</b>	\$228,679	\$232,027	\$235,868
<b>Vandalia</b>	\$650,054	\$615,860	\$641,339
<b>West Carrollton</b>	\$467,659	\$449,260	\$455,083
<b>Village of Farmersville</b>	\$37,701	\$36,496	\$36,974
<b>Village of New Lebanon</b>	\$137,630	\$133,328	\$136,604
<b>Village of Phillipsburg</b>	\$22,566	\$22,176	\$24,713

Source: Ohio Department of Taxation

**Table 6: Allocation of State Fuel Tax to Montgomery County Townships 2008-2010**

<b>Township</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
<b>Butler</b>	\$114,176	\$108,537	\$109,494
<b>Clay</b>	\$89,722	\$86,632	\$87,889
<b>German</b>	\$89,722	\$86,631	\$87,889
<b>Harrison</b>	\$184,947	\$174,142	\$172,221
<b>Jackson</b>	\$89,722	\$86,632	\$87,889
<b>Jefferson</b>	\$97,552	\$92,496	\$93,338
<b>Miami</b>	\$200,645	\$193,524	\$193,357
<b>Perry</b>	\$89,722	\$86,632	\$87,889
<b>Washington</b>	\$268,136	\$256,800	\$247,488

Source: Ohio Department of Taxation

It should be noted in 2007, the State Legislature amended Section 5501.49 of the Ohio Revised Code to require ODOT to assume responsibility for major maintenance and repair of all bridges located on the State highway system within municipalities. Accordingly, major responsibility for 2,102 bridges in the State with a total deck area of approximately 20.8 Million square feet (an increase of 18%) was transferred to ODOT.<sup>17</sup> The cities still play a significant partnership role and pay a portion of the funding on a case by case basis.

## **Vehicle Registration Fees**

Vehicle registration fees in Ohio are governed by Ohio Revised Code Chapters 4501, 4503, and 4504. Currently, license fees are comprised of an \$11 fee to the Department of Public Safety State Highway Patrol, and a \$20 License Tax (there is also a \$3.50 service fee that is kept by the Ohio Bureau of Motor Vehicles). In addition to the \$31 mandated by the State, counties, municipalities and townships are permitted to enact additional local permissive fees, with a total combined maximum of \$20.

### **The Vehicle Registration Fee—Annual Basic License Fee**

The annual basic license fee is \$20 for passenger cars and varying amounts for other vehicles based on use, weight, etc. The first claimant on this fee is the State for its highway improvement bond retirement fund and the highway obligation bond retirement funds. The remainder, less administrative costs and other expenses, are to be divided among local governments, according to the following formula:

1. 34% “for the use of the municipality or County which constitutes the district of registration.” For the year 2010, 80% of this 34% went to municipalities in Montgomery County and 20% to the County, since this represents the municipality/township share of vehicle registrations. According to the County Engineer’s Association of Ohio, in the entire State this share is approximately 70% to municipalities and 30% to counties.
2. 47% is distributed to counties based on total motor vehicle registrations in each County.
3. 9% percent is divided among all 88 counties. The distribution is based on a ratio of miles of County roads in each County to the total mileage of all County roads in the State.

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<sup>17</sup> This study does not attempt to calculate the benefit of ODOT’s assumption of that responsibility because the legislation simply places municipalities and townships on an even financial playing field when it comes to major maintenance of bridges on U.S. and State routes.

4. 5% is shared equally among all 88 counties.
5. 5% is distributed to the townships in the County. The distribution is based on a ratio of miles of township roads in each township to the total mileage of all township roads in the State.

The approximate breakdown comparing the receipts for each vehicle registered in a municipality or a township (assuming all of the \$20 is returned to the local jurisdiction by the State) is shown in Table 8. These are approximate only because some of these shares are based on statewide ratios.

**Table 7: Receipts for Vehicles Registered in Montgomery County**

JURISDICTION	AMOUNT RECEIVED IF REGISTERED IN MUNICIPAL CORPORATION	AMOUNT RECEIVED IF REGISTERED IN TOWNSHIP
<b>Montgomery County</b>	61% (47%+0+9%+5%) or \$12.20	95% (47%+34%+9%+5%) or \$19.00
<b>Municipality</b>	34% or \$6.80	0
<b>Township</b>	0	5% or \$1.00

Source: Calculated from ODOT website

Note: Total for vehicles registered in municipal corporations does not total 100% because it does not include the 5% reserved for townships.

The approximate proportion for Montgomery County resulting from this formula is as follows:

**Montgomery County:**  $47\% + (20\% \text{ of } 34\%) = 6.8\% + 9\% + 5\% = 67.8\%$

**Montgomery County Municipalities:**  $(80\% \text{ of } 34\%) = 27.2\%$

**Montgomery County townships:**  $5\% = 5\%$

These calculations illustrate the proportion of the \$20 returned by the State to the local jurisdictions (excluding the State's share) and assumes that in Montgomery County the ratio of County and township roads to the total road mileage in the County is the same as the State average. Therefore, these calculations must be viewed only as approximations.

The share for incorporated areas is limited to a maximum of 27.2% of the fee paid by vehicles registered in their jurisdictions. However, 80% of the vehicles registered in Montgomery County are registered in incorporated areas and only 20% were registered in townships. Incorporated areas also have 3.5 times more road miles to

maintain than townships. In 2009, Montgomery County received \$7,188,077 from the state-wide license plate fee. The approximate total received by all other jurisdictions in Montgomery County was \$3,430,167, with municipalities receiving \$3,238,115 and townships \$192,052. Thus, the total received by all jurisdictions was \$10,618,244, with the municipalities receiving only 32% of these funds, despite having the overwhelming share of population, vehicles and roads in Montgomery County.

If the license fee were distributed based on the location of vehicle registrations, the amount allocated for the benefit of townships would be only \$2,123,648 instead of the \$7,380,129 that was allocated to Montgomery County and its townships. Therefore, this represents a subsidy to the townships of \$5,256,481.

### **The Vehicle Registration Fee—Permissive License Plate Fees**

The second part of revenue from the vehicle registration fee is the permissive license plate fees. Local jurisdictions may assess motor vehicle license taxes in \$5 increments. Counties may collect three, municipalities four, and townships one, so long as the total fee for all local jurisdictions does not exceed \$20. Montgomery County has enacted three of the three allowable five dollar per vehicle fees. This fee generated approximately \$6.4 million in 2009 and 2010 for the County Engineer's office. As with the license plate fee, 80% of the vehicles upon which this fee is levied are registered in incorporated areas. Since these revenues, however, are utilized by the County Engineer in townships, not municipalities, the fee represents an approximate shift of \$5,120,000 from incorporated areas to unincorporated townships.

It is clear that the current method of financing the County Engineer favors unincorporated areas at the expense of the municipalities. Residents of the municipalities pay the greatest share of the taxes that finance the County Engineer's office; however, the office provides services primarily to townships. Thus, urbanized areas in effect pay for the infrastructure improvements that facilitate the movement of people and jobs into unincorporated areas. They effectively help subsidize their own economic decline. There is an extent to which the subsidy is mitigated by changes in Ohio practice that provide for the County Engineer to play a greater role in major bridge repair and maintenance whether those bridges are in townships or municipalities.<sup>18</sup>

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<sup>18</sup> As we have acknowledged, the impact of these funding formulas are mitigated to some extent by the discretionary projects the County Engineer undertakes in some of the municipalities, however, the municipal projects are determined under a competitive process based on demonstrated need, whereas townships are "entitled" to the services under law and longstanding practice.



## **ODOT Subsidy to Townships**

The State of Ohio Department of Transportation (ODOT) provides a substantial financial subsidy to Ohio's townships, including those within Montgomery County. ODOT maintains the 33,000 lane miles of U.S. and State routes within townships in Ohio while providing only partial and conditional financial assistance to Ohio's municipalities to maintain the 9,343 lane miles of U.S. and State routes within their borders (approximately 6,000 lane miles in cities and 3,343 in villages). According to ODOT's March 2011 study, if ODOT were to treat municipalities equal to the way they treat townships, ODOT would have to spend an additional \$422 million annually. That amounts to an annual per mile maintenance cost of \$45,167. Thus, ODOT would have to spend \$17.3 million to maintain the 384.40 lane miles of U.S. and State routes within the borders of the municipalities in Montgomery County. The ODOT report acknowledges a subsidy of at least \$2.1 million annually to maintain the 142.65 lane miles of U.S. and State routes in the unincorporated townships in Montgomery County.<sup>19</sup>

## ***Policy Implications and Recommendations***

There are several policy-based actions that could help remedy these conditions. They include the following:

1. Changing State law, particularly in setting the formula for the distribution of vehicle license fees, which is inherently the most inequitable to municipalities.
2. The County or the local District Public Works Integrating Committee has the discretion of shifting to townships the responsibility to bear more of the burden of maintaining roads that are more vital to them than to incorporated areas. This type of shift would allow the County Engineer to provide more assistance to revitalizing decaying urban infrastructure. Existing legislation does not require that the location of County roads be limited to townships, and does not prevent the County Commission from designating roads in incorporated areas as "County roads." Particularly obvious opportunities for initial conversion would include those major arteries connecting townships with cities.<sup>20</sup>
3. The County can reduce the number of miles of roads in townships that are designated as County roads. Once done, the maintenance of roads that primarily serve township residents shifts to those townships and the County

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<sup>19</sup> See, ODOT Report, March 11, 2011, "Financial and Policy Implications on Assuming Primary Responsibility for All State Routes Throughout Ohio Regardless of Local Government Jurisdiction."

<sup>20</sup> Designating roads within a municipality as County roads would also increase net state revenue pay-out to engineering and maintenance for the County Engineer, since 9% of the vehicle registration fee "is divided among all 88 counties based on a ratio of miles of County roads in each County to the total mileage of all County roads in the state." Increasing the mileage of County roads would likely provide at least a marginal increase of County revenues.

can designate as County roads, those located within incorporated areas that serve both townships and cities.

4. Another administrative measure would be to allow villages and cities to better compete with townships for regular LTIP funding, but also have access to Small Governments Capital Improvements Program, which is not available to cities. The grants received under this latter program, combined with County expenditures exclusively in unincorporated areas, give townships the benefits of more than half the funding paid for primarily by urban residents. Consequently, incorporated areas rely heavily on loans from the STIP program that (unlike LTIP grants) must be repaid. Such an operating rule is possible since five of the nine members of the District Public Works Integrating Committee are representatives of Montgomery County and incorporated areas.

# **Criminal Justice, Policing, and Legal Services**

## **Local Court Services**

Subsidies in the criminal justice and legal services areas again stem from statutory obligations placed upon municipalities that are not placed on townships. The Ohio Revised Code assigns every municipality and township in Montgomery County to one of seven municipal or County courts. In no case does a township contribute toward the cost of operating such a court, while in municipalities such as Kettering, the City spends an amount approaching \$1 million per year in excess of revenue received from the court.

Municipalities and townships are assigned to court districts by the Ohio Legislature. Local municipal courts may carry the name of a Montgomery County municipality, but are not under the control or authority of that municipality. The local courts and jurisdictions are created by the Ohio Legislature. Cities that host such municipal courts end up with budget or funding responsibilities and risks without actual control of the entities. Much of Montgomery County is assigned to local court districts funded by the County itself (See Table 8). With these courts, Montgomery County provides services equally to both municipalities and townships within the districts. The remaining jurisdictions are assigned to one of the three municipal court districts in the County. Municipalities bear the financial risk of operating municipal courts while townships bear no such risk.

**Table 8: Montgomery County Court Assignments**

<b>Jurisdiction</b>	<b>Court Assignment</b>
Dayton	--
<b>SUBURBAN CITIES</b>	
Brookville	Montgomery Co Western Court
Centerville	Kettering
Clayton	Vandalia
Englewood	Vandalia
Germantown	Miamisburg
Huber Heights	Montgomery Co Eastern Court
Kettering	Kettering
Miamisburg	Miamisburg
Moraine	Kettering
Oakwood	Oakwood
Riverside	Montgomery Eastern Court
Trotwood	Montgomery Western Court
Union	Vandalia
Vandalia	Vandalia
West Carrollton	Miamisburg
<b>VILLAGES</b>	
Farmersville	Miamisburg
New Lebanon	Montgomery Western Court
Phillipsburg	Montgomery Western Court
<b>TOWNSHIPS</b>	
Butler	Vandalia
Clay	Montgomery Western Court
German	Miamisburg
Harrison	Vandalia
Jackson	Montgomery Western Court
Jefferson	Montgomery Western Court
Miami	Miamisburg
Perry	Montgomery Western Court
Washington	Kettering

## The County Sheriff, Policing and Dispatch Services

Many counties in Ohio provide sheriff patrol services to townships for little or no cost. Six of the nine townships in Montgomery County have their own police departments and provide their own policing services to their residents, in the same manner that all municipalities in Montgomery County provide. Currently, the County Sheriff provides services by contract to three townships: Harrison, Jefferson, and Washington. Historically, Montgomery County has recovered funds from the contracting townships at a rate that was insufficient to cover the actual costs of the services provided. The contracts did not adequately cover the costs of administration, training, or other indirect costs.

In recent years, the Montgomery County Commissioners and Sheriff have made an effort to recoup the full cost of these services by including all costs in the township service contracts with the County Sheriff. By 2014, the Sheriff's township contracts will phase in administrative and overhead charges associated with the contracts. This study concludes that there is currently a \$450,000 subsidy for administrative costs for 2011. This subsidy is scheduled to be gradually stepped down until fully eliminated in 2014 in two of the three township service contracts. This issue will be looked at for the third township, Jefferson, when that contract is up for renewal.

An examination of the contracts and the funds recovered does leave questions as to whether the County will recover the true cost of policing services even in 2014. It is essential that the County develop a mechanism for independent annual review and public examination that can ensure that there is not a hidden subsidy provided.

**Table 9: Township Charges for Sheriff Services**

<b>Township</b>	<b>2011 Contract Amount</b>	<b>Per Capita Cost</b>	<b>Per Sq. Mile Cost</b>
<b>Harrison</b>	\$4,666,174	\$208	\$513,330
<b>Jefferson</b>	\$620,797	\$89	\$24,431
<b>Washington</b>	\$3,859,528	\$118	\$185,198

\*\*\*The remaining townships, Butler, Clay, German, Jackson, Miami, and Perry, provide for their own police services.

The contracts on their face appear to document that the full costs of policing services are to be recovered by the County, ending the historical subsidy. The contracts with all three townships now include charges for salaries, overtime pay, uniforms, benefits and insurance. The townships are also required to provide their own police vehicles and pay for fuel and maintenance. A full list of budget items can be found in Table 10.

It is still reasonable to question the adequacy of the payments made by the townships for policing services. In our recommendations at the end of this document we call for a transparent process of annual review of the service and funding

provided by the Sheriff's department to ensure that all the costs are appropriately recovered.

Montgomery County also charges municipalities and townships for dispatch calls. In the past, select townships and villages were charged a lesser amount per dispatch call, resulting in a disproportionate burden on Montgomery County cities. By 2010, most were paying the same rate per call, with Dayton paying more and Washington Township paying less. This reduced rate for Washington Township resulted in a \$67,127 subsidy to the township in 2010. Going forward, however, the rates proposed by the County for 2011 and beyond require all jurisdictions to pay the same rate per call, thereby eliminating the subsidy. In addition, those townships contracting with the Sheriff for service are charged for dispatch in their contracts.

**Table 10: Township Contracts with Sheriff—Line Item Charges**

<b><i>Line Item</i></b>	<b><i>Harrison</i></b>	<b><i>Jefferson</i></b>	<b><i>Washington</i></b>
Salaries	X	X	X
Holiday Pay	X	X	X
Overtime	X	X	X
Shift Differential			
Longevity	X	X	X
Poole Fringe Benefits			
Worker's Compensation	X	X	X
Life Insurance	X	X	X
Retirement—Sheriff's PERS	X	X	X
FICA—Medicare	X	X	X
Health Insurance Administrative Fee	X	X	X
Health Insurance Medical Costs	X	X	X
Employee Assistance Program	X	X	X
Employee Clothing Allowance	X	X	X
Employee Uniforms	X	X	X
Fuel, Oil, and Lubricants			
Other Operating Services	X	X	X
Sheriff Dispatching Services	X	X	X
AFIS and Crime Lab	X	X	X
County Communications	X	X	X
Cellular Phone Charges	X	X	X
800 MHz Radio	X	X	X
Internet Access Charges	X	X	X
Property and Casualty Insurance	X	X	X
Administrative Services	X		X
Service Depot		X	

## **County Legal Services**

The study has identified an additional subsidy in the area of legal services provided to townships by the County Prosecutor. Under Ohio law the County Prosecutor serves as legal counsel to townships when the townships choose to use such service, while the Prosecutor does not provide similar services to municipalities. While townships frequently retain their own legal counsel, review of the County Prosecutor's budget reveals that the equivalent of one full time employee provides these legal services to townships. The cost of providing one full time attorney per year amounts to \$120,000.

## **Taxes Paid to Townships by Municipal Residents**

In some cases in Montgomery County, the boundaries of municipalities and townships overlap, resulting in some residents residing within both a City or Village and a township. This can result in municipal residents, who already pay taxes to their municipality, also paying taxes to the township. However, because the township does not perform work within municipal boundaries, the municipal residents do not see a benefit for the taxes paid to the township. Indeed, Washington Township, with a 2010 population of 56,609 (including the City of Centerville), touts the fact that even though it has adopted “home rule” powers, it “can continue to benefit from services – such as County road maintenance, State highway maintenance and County building inspection – and also enjoy the greater independence and self-determination that prior to 1991 was granted only to cities.” The 23,991 residents of the City of Centerville, located within Washington Township, however, do not benefit from those County-provided services. Moreover, the Centerville residents pay the Washington Township 0.70 mill general real estate tax levy but do not benefit from service from that levy.

The 0.70 mill Washington Township levy is estimated to generate \$1,260,524 in 2011. The total assessed value of property in the Township is \$1.7 billion, split between the 38% incorporated portion of the township (Centerville) and the 62% unincorporated portion (Washington Township). A fair assumption should therefore be that residents of Centerville paid approximately 38% of the funds generated by the 0.70 mill levy, or \$480,000. In recognition of Centerville residents’ contributions, Washington Township made partial restitution in the amount of \$150,000, or 31.25% of their estimated obligation, to the City of Centerville in 2011. There is no obligation on the part of Washington Township requiring that they make this restitution.

Similarly, Miami Township imposes a 0.18 mill levy for general operating purposes, which is estimated to generate \$191,142 in 2011. All Township residents, including the 20,000 residents of the City of Miamisburg, pay this levy. The total Township valuation is \$1.078 billion with \$645 million in unincorporated areas and the balance of \$433 million in the incorporated areas. Based on this ratio, a fair assumption is that City residents and property owners paid 40% of the \$191,142, or \$76,000. Miami Township makes no restitution, partial or full, to the City of Miamisburg.

In total, 167,056 people reside in townships within Montgomery County, but only 76,973, or 46%, live in the unincorporated areas. Therefore, over half of all township residents live in incorporated areas but are paying for township services that benefit only their neighbors in the unincorporated areas. While the millage for general township operations may be small, the overall estimated subsidy that municipal residents provide to townships through their real property taxes at \$780,000.<sup>21</sup>

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<sup>21</sup> We estimate the general operating tax revenue for townships that include incorporated jurisdictions at \$1,452,930 for 2010 and assume that 54% of the revenue was paid by residents of the incorporated areas of those townships.



## **Planning Services**

In the planning area, an inequity results because Montgomery County municipalities pay for all of their planning services from the general fund and from fees from their residents. While townships also may have planning departments, they additionally benefit from the County Planning Commission, whose prime responsibility is the preparation and maintenance of a Comprehensive County Plan to provide guidance of future physical development within the unincorporated area of the County. The funding for the County Planning Commission comes from taxes paid by all County residents.

According to the Montgomery County 2010 Adopted Budget, the amount allocated for the Planning Commission was \$162,723. Because a primary responsibility of the Planning Commission is to plan for development in the unincorporated areas of the County, the majority of this allocation results in a subsidy to the townships.

All residents and businesses, regardless of jurisdiction, do pay fees for permitting.

## **Conclusion and Recommendations**

While the exact size of the subsidy depends upon one's interpretation of the data, it is indisputable that the 20% of Montgomery County's population who live in townships receive an annual subsidy from the State, County and incorporated areas of many millions of dollars per year.

This subsidy results primarily from the simple fact that under current Ohio law municipalities must take full responsibility for specific basic local services while townships do not have the same level of accountability. Such a system then leaves the State or County to step in to provide or subsidize services where the township refuses to act. Montgomery County municipalities get no such subsidy.

As noted in the study, these subsidies fall in the areas of services provided by: the Ohio Department of Transportation to townships but not provided to municipalities; the County Engineer through work provided to townships; the County Prosecutor through legal services provided to townships; the County for planning services in townships; and through the requirement that certain municipalities take responsibility for local court services.

This results in fragmented and inconsistent service delivery and tax rates that can provide an unfair competitive advantage to some communities at the expense of others.

It may be admirable for a community to seek to keep tax rates and expenses low. It is however, unjustifiable to maintain those lower tax rates only because their services are subsidized by taxpayers in neighboring communities.

Such subsidies and the resulting sense of injustice are exacerbated by marketing materials such as those presented on the cover and second page of this document. Gone are the days when all townships were sleepy rural areas. They are now frequently among the most populous communities in Ohio, with residents and businesses who expect the same services that their municipal neighbors receive. They now compete with cities for residential, commercial, and industrial development. They are competing with an unfair advantage because they are subsidized by the residents of the very cities with whom they are competing. The subsidies identified in this study compound the challenges for municipalities being squeezed by changes in the economy and decisions by the State to end or reduce local government funding.

Our research has uncovered no justification for continuing a system wherein municipal taxpayers are required to take responsibility for local services while their neighboring townships are not required to do so. This dual system is particularly hard to justify after examination of the relative wealth and demographics of some of Ohio's urban or suburban townships. In exploring changes to Ohio law to end the current system of subsidies, policy makers should consider the real differences between

sparsely populated rural townships and the more populous urban and suburban townships.

Montgomery County townships receive millions of dollars in annual subsidies. Many of these subsidies result from State policy, law and practices. However, in recent years Montgomery County has changed local practices to reduce many of the subsidies within local control. Additionally, Montgomery County provides no subsidy in certain areas where there are multimillion dollar subsidies in other Ohio counties<sup>22</sup>. This is primarily in the area of pretrial and post-conviction misdemeanor incarceration, where Montgomery County takes responsibility for almost all costs across the County, while in some Counties municipalities take responsibility for their own prisoners while the County takes responsibility for township prisoners.

A further mitigating factor could be found through recognition that some township residents pay income taxes to cities where they work. It could be argued that this would offset the amount of subsidy. However, it must be noted that these residents who live in townships and work in cities do receive services during the time they spend in the city each day. They make use of roads or public transit, and they are protected by police and fire services. Additionally, this factor is counterbalanced by municipal residents who own township property and pay township property taxes. Such nonresident township taxpayers do receive some benefits from the townships in the same manner that nonresident city taxpayers receive benefits from the city as noted above.

It is worth noting that Ohio's statutory structure for townships is rare compared to other states in the U.S. While many states use the term "township" to describe certain local government subdivisions, in most states, townships either operate similar to municipalities with specific responsibilities and duties, or as a subdivision of the county in which they are located. Ohio townships do not have such obligations and rarely have a specific duty to provide service.

## **Recommendations**

The policies and practices leading to the subsidization of unincorporated areas can be redressed through statutory, organizational, and/or administrative changes at both the County and State level. If the first recommendation requiring townships to take full responsibility for their own services is achieved, subsequent recommendations may not be necessary. Those recommendations are to:

1. Require Ohio townships to take responsibility for their own services in the same manner that Ohio municipalities do now. This would require action by the Ohio Legislature. This step alone would eliminate most of the subsidies identified in this report.

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<sup>22</sup> See 2002 Lucas County study, <http://uac.utoledo.edu/Publications/public-service-delivery-fiscal-impact.pdf>.

2. Require the Ohio Department of Transportation to provide the same level of services in townships and municipalities. This would require action by the Ohio Legislature.
3. Eliminate the system that requires some municipalities to fund local courts. This would require action by the Ohio Legislature.
4. Change the taxing and funding obligation when municipalities are located within townships. Municipal taxpayers should no longer pay property taxes to townships for general government services that they do not receive.
5. Should there be no legislative action to require townships to take responsibility for their own services or changes in practices by the Ohio Department of Transportation, there are detailed recommendations at the conclusion of the road finance section, on page 30. These include changes in the labeling of roads as township or County, changes to the formulation and distribution of vehicle license fees, and changes to the allocation of LTIP funds.
6. When contracts are created between the County and unincorporated areas for service delivery, as with the County Sheriff and certain townships for policing services, a mechanism for independent review and public examination must ensure that there is not a hidden subsidy provided through such contracts.

Ohio's municipalities are constantly being challenged to identify ways to lower costs, consolidate or share services, and improve efficiency. As long as Ohio maintains a dual system where townships do not have responsibility for costs of local services, it will continue to be an obstacle to the sort of change and consolidation that Ohio needs.

## **Appendix: County Sheriff Contracts with Townships**

(Source: Montgomery County Sheriff)

### **Harrison Township Cost Allocation Charge Breakdown 37.5 Employees**

Division	Charge	Description
Administration	\$105,670	Accreditation Personnel / Payroll Finance Executive Staff Training Center Personnel
Support Services	\$155,022	IT Services Records Property Room Executive Staff Vehicle Maintenance / Fuel for Forensics, Evidence, CANINE, Organized Crime, Special Investigations & Task Force Training Operations
Operations	\$135,453	Forensic Services Evidence Technicians CANINE Unit Organized Crime Special Investigations Task Force Executive Staff
	\$396,145	Total Charges
	-\$96,560	Minus Detective Given by Harrison Township
	\$299,585	Net Administrative Fee for Harrison Township

**Washington Township Cost Allocation Charge Breakdown  
37.5 Employees**

Division	Charge	Description
Administration	\$107,746	Accreditation Personnel / Payroll Finance Executive Staff Training Center Personnel
Support Services	\$147,615	IT Services Records Property Room Executive Staff Vehicle Maintenance / Fuel for Forensics, Evidence, CANINE, Organized Crime, Special Investigations & Task Force Training Operations
Operations	\$141,201	Forensic Services Evidence Technicians CANINE Unit Organized Crime Special Investigations Task Force Executive Staff
	\$396,562	Total Charges
	<b>-\$96,560</b>	<b>Minus Evidence Technician Given by Washington Township</b>
	\$300,002	Net Administrative Fee for Washington Township

## AGREEMENT

This is an Agreement entered into this 31<sup>st</sup> day of DECEMBER, 2009 by and between Phil Plummer, Sheriff Montgomery County, Ohio, hereinafter referred to as "Sheriff", and the Board of Trustees of Jefferson Twp, Ohio, hereinafter referred to as "Township".

WHEREAS, the Township is desirous of acquiring adequate police protection for the property and residents of the unincorporated area of Jefferson Township, Montgomery County, Ohio: and,

WHEREAS, the Sheriff has the authority pursuant to R.C. § 311.29 to enter into a contract with the Township to provide police protection in the unincorporated area to Jefferson Township; and,

WHEREAS, the Township has the authority pursuant to R.C. § 505.43 to enter into a contract with the Sheriff of Montgomery County, Ohio to obtain police protection for the unincorporated area of Jefferson Township; and,

WHEREAS, the Sheriff is willing to provide to the Township police protection, 24 hours a day, 7 days a week, during the terms of this Agreement; and,

WHEREAS, the Sheriff has sufficient manpower and resources to provide the required police protection within the unincorporated area of Jefferson Township;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. The Sheriff shall fill the positions identified in Addendum A with personnel who shall work exclusively in the unincorporated area of Jefferson Township. During the term of this Agreement, the Sheriff and the Township will meet annually to discuss the assignment of key personnel responsible for the implementation of this contract including, but not limited to, the Director, Investigator, Community Policing Officer, Resource Officer and Traffic Officer. The Sheriff retains the right to promote, discipline, dismiss or assign employees, as he deems appropriate.
2. In addition to providing the personnel whose positions are identified in Addendum A, the Sheriff shall make available for use in the unincorporated area of Jefferson Township, at no additional costs to the Township, all special equipment, facilities, and such additional personnel as may be required from time to time to provide police protection in the unincorporated area of the Township.
3. All personnel whose policies are identified in Addendum A shall meet or exceed the standards for employment required by the Sheriff for all other members of the Montgomery County Sheriff's Office employed in similar positions and shall be

required to undergo the same training as all other members of the Montgomery County Sheriff's Office which training shall be provided to said personnel at no additional cost to the Township.

4. The Sheriff shall maintain adequate records concerning the performance of the personnel assigned under this Agreement and shall make said records available to the Township. Said records shall include daily activity reports, monthly reports, as well as semi-annual and annual reports regarding criminal activity within the unincorporated area of Jefferson Township, the services provided by the Sheriff under this Agreement, and such other matters as are commonly reported by law enforcement agencies.
5. The parties to this Agreement hereby acknowledge that the personnel assigned to the unincorporated area of Jefferson Township under the terms of this Agreement are and shall at all times be considered employees of Montgomery County, Ohio and shall not be considered employees or agents of Jefferson Township or employees loaned to Jefferson Township.
6. The Township agrees to provide motor vehicles for the personnel identified in Addendum A and to pay for all gasoline and maintenance required for the use of said automobiles. The Sheriff hereby agrees that said automobiles shall be used solely by personnel for providing police protection in the unincorporated area of Jefferson Township.
7. The Township shall provide and maintain adequate facilities for use by the personnel assigned to the Township by the Sheriff.
8. Thirty (30) days after the commencement of the Agreement, and every thirty (30) days thereafter, the Sheriff shall present a statement to the Township identifying the actual expenses incurred in providing the personnel identified in Addendum A. Upon receipt of said statement the Township shall, within thirty (30) days, pay said invoice by issuing a check to the Sheriff's Policing Revolving Fund. Addendum A attached to this Agreement is an estimate of yearly expenses that can be used for budgeting purposes. It is understood by both parties that the 2010, 2011 and 2012 costs are estimated and subject to review on an annual basis.
9. During the terms of this Agreement the Township will, from time to time, advise the Sheriff of its perceived needs for police protection including, but not limited to, normal police duties, service of court papers, functions associated with the Neighborhood Watch program, and duties and needs required by other Township functions. The Sheriff shall, to the best of his ability, accommodate the needs of the Township. However, the utilization and allocation of personnel shall be within the sole discretion of the Sheriff.
10. This agreement shall commence on the date last signed by both parties and shall terminate on the 31st day of December, 2012. However, said Agreement may be terminated by either party, upon giving ninety (90) days advance written notice.



IN WITNESS WHEREOF, the parties have hereunto set their hands this 31<sup>st</sup> day of December, 2009.

Executed in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Phil Plummer, Sheriff  
Montgomery County, Ohio

By:   
Trustee

\_\_\_\_\_  
Witness

By:   
Trustee

  
Witness

By:   
Trustee

\_\_\_\_\_  
Witness

APPROVED AS TO FORM ONLY:  
MATHIAS H. HECK, JR., Prosecutor  
Montgomery County, Ohio

By:   
Assistant Prosecuting Attorney

<p><i>Years 2010, 2011 &amp; 2012</i>  <b>AGENCY</b>  <b>Jefferson Township</b>  <i>Estimated Budget</i></p>			
Based On Contract Beginning January 1, 2010 5 Full-Time Deputies	2010 Estimated Cost	2011 Estimated Cost	2012 Estimated Cost
5102 Salaries - Regular Salaried	\$ 304,408.00	\$ 313,540.24	\$ 322,946.45
5110 Holiday Pay	\$ 12,878.80	\$ 13,265.16	\$ 13,663.12
5120 Overtime	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00
5125 Shift Differential	\$ -	\$ -	\$ -
5130 Longevity	\$ 3,805.10	\$ 3,919.25	\$ 4,036.83
5500 Poole Fringe Benefits	\$ -	\$ -	\$ -
5505 Worker's Compensation	\$ 8,527.30	\$ 8,768.12	\$ 9,016.16
5515 Life Insurance	\$ 449.80	\$ 463.29	\$ 477.19
5525 Retirement - Sheriff's PERS	\$ 60,953.12	\$ 62,674.50	\$ 64,447.51
5545 FICA - Medicare	\$ 4,945.83	\$ 5,085.51	\$ 5,229.37
5600 Health Insurance Administration Fee	\$ 377.00	\$ 388.31	\$ 399.96
5605/5610 Health Insurance Medical Costs	\$ 50,000.00	\$ 55,000.00	\$ 60,000.00
5635 Employee Assistance Program	\$ 122.20	\$ 125.67	\$ 129.64
5830 Employee Uniforms	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
6155 Fuel, Oil & Lubricants	\$ 30,000.00	\$ 30,000.00	\$ 30,000.00
6205 Other Operating Supplies	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
7145 Sheriff Dispatching Services	\$ 56,000.00	\$ 56,000.00	\$ 56,000.00
7195 Other Services - AFIS & Crime Lab	\$ 28,220.00	\$ 29,066.60	\$ 29,938.60
7415 Vehicle Maintenance & Repair	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
7420 Service Depot	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00
7500 County Communications	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00
7505 Pager Charges	\$ -	\$ -	\$ -
7506 Cellular Phone Charges	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00
7510 800 MHz Radio Charges	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
7525 Telephone Charges	\$ -	\$ -	\$ -
7680 Property & Casualty Insurance	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00
9100 Office Furniture	\$ -	\$ -	\$ -
9105 Data Processing Equipment	\$ -	\$ -	\$ -
9120 Vehicles	\$ -	\$ -	\$ -
9135 Other Operating Equipment	\$ -	\$ -	\$ -
<b>GRAND TOTAL</b>	<b>\$ 603,187.15</b>	<b>\$ 620,796.85</b>	<b>\$ 638,784.83</b>

## AGREEMENT

**THIS AGREEMENT** this 1st day of January 2010, between the **SHERIFF OF MONTGOMERY COUNTY, OHIO**, hereinafter referred to as **SHERIFF** and the **BOARD OF TOWNSHIP TRUSTEES OF HARRISON TOWNSHIP** hereinafter referred to as **TOWNSHIP**.

### WITNESSETH

**WHEREAS, TOWNSHIP** is desirous of acquiring adequate police protection for the property and residents of **HARRISON TOWNSHIP**, Montgomery County, Ohio: and;

**WHEREAS, SHERIFF** has the authority to enter into contracts with **TOWNSHIPS** pursuant to Section 311.29 ORC and;

**WHEREAS, SHERIFF** agrees to provide twenty four (24) hour a day police protection to **TOWNSHIP** by assigning exclusively to **TOWNSHIP**, the resources list in Addendum "A" of this AGREEMENT, to keep the peace, protect the property, and perform other necessary police function in said **TOWNSHIP**. **THE SHERIFF** further agrees to make available to the aforesaid; Deputy Sheriffs, all training programs, special equipment and other facilities of the Sheriff's Office.

The **SHERIFF** further assumes full responsibility for the hiring, training, assignment, discipline and dismissal of all assigned personnel

The **SHERIFF** agrees where possible to maintain records concerning the performance of services supplied by the Sheriff and to make records available to the **TOWNSHIP** such as; daily activity reports, monthly reports, semiannual reports, and annual reports which will aid the **TOWNSHIP** in their assessment of services provided by the **SHERIFF**.

The **SHERIFF** agrees to defend and hold harmless the Township Trustees, Officers, employees and agents, free and harmless from and against any and all losses, penalties, damages, settlements, costs or liabilities of every kind and character arising out of or in connection with any acts or omissions of the Montgomery County Sheriff's Office, negligent or otherwise, and its employees, officers or agents. The **SHERIFF** agrees to have the **TOWNSHIP** elected officials and fundamental personnel as a named insured on any county liability insurance policy.

During the term of this agreement the **SHERIFF** and **TOWNSHIP** will annually agree on the assignment of key personnel responsible for the implementation of the contract; including, but not limited to the Director, Investigators, Community Education Officer and Traffic Officer. This agreement in no way limits the ability of the Sheriff to promote, discipline or assign employees as he deems appropriate.

The **SHERIFF** agrees to use on a rotating basis those towing companies who have been approved by the township for involuntary tows in the township.

In consideration of the foregoing services to be provided by **SHERIFF** to **TOWNSHIP**, **TOWNSHIP** agrees:

To pay the **SHERIFF** the sum found in Addendum "A" of this AGREEMENT for the appropriate contract calendar year payable in monthly installments, as billed by the Sheriff's Office, to the Sheriff's Policing Revolving Fund. Monthly payments are due within thirty (30) days of receipt of bill. The month of January in each year of this Agreement shall be the settlement month in which the total additional operating costs for the prior year are finally determined. The total operating costs shall be adjusted upward or downward to reflect each party's costs incurred for the prior year. **TOWNSHIP** shall pay any additional amount owed to **SHERIFF** or shall receive a rebate from the **SHERIFF**, as the case may be, by January 31st of each year.

The **TOWNSHIP** agrees to provide and maintain adequate facilities for use by Deputy Sheriff's assigned to the **TOWNSHIP**.

The **TOWNSHIP** agrees to provide all necessary gasoline, maintenance and repairs for vehicles belonging to the township.

It is further mutually agreed between the parties hereto that the duties of the aforesaid Deputy Sheriff's will be determined from time to time by the best judgment of the **TOWNSHIP** and the **SHERIFF**, including but not limited to normal police duties, services of court papers, functions associated with the Neighborhood Watch Program, and duties in cooperation with other township functions.

This contract shall terminate on the 31<sup>st</sup> day of December 2014, or may be terminated by either party after a ninety (90) day advance written notice. It is understood by both parties that 2011, 2012, 2013 and 2014 costs are estimates and subject to review on an annual basis

**IN WITNESS WHEREOF**, the parties have hereunto set their hands this 1st day of January, 2011.

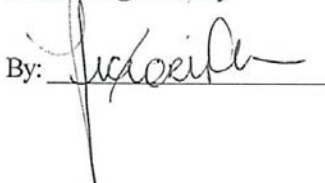
Executed in the presence of:

  
Witness


  
**PHIL PLUMMER, SHERIFF**  
MONTGOMERY COUNTY, OHIO

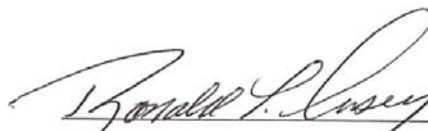
Approved as to form:

Mathias Heck, Jr.  
Prosecuting Attorney

By: 

**BOARD OF TRUSTEES OF**  
**HARRISON TOWNSHIP,**  
MONTGOMERY COUNTY, OHIO

  
**DAVID A. WOODS**

  
**RONALD CASEY**

  
**DARRELL R. LAIRSON**

Years 2011, 2012, 2013, 2014 & 2015

AGENCY

**Harrison Township - 37.5 Employees**

*Estimated Costs*

Based On Contract Beginning January 1, 2011 31 FT Deputies, 5.5 FT Sergeants & 1 FT Capt	2011 Estimated Budget	2012 Estimated Budget	2013 Estimated Budget	2014 Estimated Budget	2015 Estimated Budget
5102 Salaries - Regular Salaried	\$ 2,369,151	\$ 2,416,534	\$ 2,464,865	\$ 2,514,162	\$ 2,564,445
5110 Holiday Pay	\$ 87,588	\$ 89,339	\$ 91,126	\$ 92,949	\$ 94,808
5120 Overtime	\$ 197,436	\$ 197,436	\$ 197,436	\$ 197,436	\$ 197,436
5125 Shift Differential	\$ -	\$ -	\$ -	\$ -	\$ -
5130 Longevity	\$ 35,537	\$ 36,248	\$ 36,973	\$ 37,712	\$ 38,467
5500 Poole Fringe Benefits	\$ -	\$ -	\$ -	\$ -	\$ -
5505 Worker's Compensation	\$ 61,863	\$ 63,010	\$ 64,179	\$ 65,372	\$ 66,589
5515 Life Insurance	\$ 3,374	\$ 3,374	\$ 3,374	\$ 3,374	\$ 3,374
5525 Retirement - Sheriff's PERS	\$ 486,838	\$ 495,860	\$ 505,062	\$ 514,449	\$ 524,023
5545 FICA - Medicare	\$ 39,001	\$ 39,724	\$ 40,461	\$ 41,213	\$ 41,980
5600 Health Insurance Administration Fee	\$ 2,865	\$ 2,865	\$ 2,865	\$ 2,865	\$ 2,865
5607 Health Insurance Medical Costs	\$ 722,426	\$ 890,511	\$ 1,098,497	\$ 1,355,995	\$ 1,674,952
5635 Employee Assistance Program	\$ 936	\$ 936	\$ 936	\$ 936	\$ 936
5820 Employee Clothing Allowance	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500	\$ 1,500
5830 Employee Uniforms	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000	\$ 12,000
6155 Fuel, Oil & Lubricants	\$ -	\$ -	\$ -	\$ -	\$ -
6205 Other Operating Supplies	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000
7145 Sheriff Dispatching Services	\$ 352,135	\$ 379,596	\$ 398,979	\$ 416,747	\$ 429,670
7195 Other Services - AFIS & Crime Lab	\$ 63,063	\$ 64,955	\$ 66,904	\$ 68,911	\$ 70,978
7500 County Communications	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000
7506 Cellular Phone Charges	\$ 6,500	\$ 6,825	\$ 7,166	\$ 7,525	\$ 7,901
7510 800 MHz Radio Charges	\$ 7,860	\$ 8,096	\$ 8,339	\$ 8,589	\$ 8,847
7530 Internet Access Charges	\$ 1,100	\$ 1,133	\$ 1,167	\$ 1,202	\$ 1,238
7680 Property & Casualty Insurance	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
8245 Administrative Services	\$ 75,000	\$ 150,000	\$ 225,000	\$ 300,000	\$ 300,000
9105 Data Processing Equipment	\$ -	\$ -	\$ -	\$ -	\$ -
9120 Vehicles	\$ -	\$ -	\$ -	\$ -	\$ -
9135 Other Operating Equipment	\$ -	\$ -	\$ -	\$ -	\$ -
<b>GRAND TOTAL</b>	<b>\$ 4,666,174</b>	<b>\$ 4,999,941</b>	<b>\$ 5,366,829</b>	<b>\$ 5,782,937</b>	<b>\$ 6,182,007</b>

## **AGREEMENT**

This is an Agreement entered into this 28th day of December, 2010, by and between Phil Plummer, Sheriff of Montgomery County, Ohio, hereinafter referred to as "Sheriff", and the Board of Trustees of Washington Township, Montgomery County, Ohio, hereinafter referred to as "Township".

WHEREAS, the Township is desirous of acquiring adequate police protection for the property and residents of the unincorporated area of Washington Township, Montgomery County, Ohio; and,

WHEREAS, the Sheriff has the authority pursuant to R.C. § 311.29 to enter into a contract with the Township to provide police protection in the unincorporated area of Washington Township; and,

WHEREAS, the Township has the authority pursuant to R.C. § 505.43 to enter into a contract with the Sheriff of Montgomery County, Ohio to obtain police protection for the unincorporated area of Washington Township; and,

WHEREAS, the Sheriff is willing to provide to the Township police protection 24 hours a day, 7 days a week, during the terms of this Agreement; and,

WHEREAS, the Sheriff has sufficient manpower and resources to provide the required police protection within the unincorporated area of Washington Township; and,

WHEREAS, the Sheriff agrees to provide twenty-four (24) hour a day communication services, answering incoming telephone and E-9-1-1 calls, handle routine and emergency radio communications, provide other information services which will assist the Township in protecting persons and property, and in performing other necessary public safety functions.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. The Sheriff shall fill the positions identified in Exhibit A with personnel who shall work exclusively in the unincorporated area of Washington Township. During the term of this Agreement, the Sheriff or his designee and the Township will meet annually to discuss the assignment of key personnel responsible for the implementation of this contract including, but not limited to, the Director, Investigator, Community Policing Officer, Resource Officer and Traffic Officer. The Sheriff retains the right to promote, discipline, dismiss or assign employees as he deems appropriate;
2. In addition to providing the personnel whose positions are identified in Exhibit A, the Sheriff shall make available for use in the unincorporated area of Washington Township, at no additional cost to the Township, all special equipment, facilities

and additional personnel as may be required from time to time to provide police protection in the unincorporated area of the Township;


3. All personnel whose policies are identified in Exhibit A shall meet or exceed the standards for employment required by the Sheriff for all other members of the Montgomery County Sheriff's Office employed in similar positions and shall be required to undergo the same training as all other members of the Montgomery County Sheriff's Office;
4. The Sheriff shall maintain adequate records concerning the performance of the personnel assigned under this Agreement and shall make said records available to the Township. Said records shall include daily activity reports, monthly reports, as well as semi-annual and annual reports regarding criminal activity within the unincorporated area of Washington Township, the service provided by the Sheriff under this Agreement, and such other matters as are commonly reported by law enforcement agencies;
5. The parties to this Agreement hereby acknowledge that personnel assigned to the unincorporated area of Washington Township under the terms of this Agreement are and shall at all times be considered employees of Montgomery County, Ohio and shall not be considered employees or agents of Washington Township or employees loaned to Washington Township;
6. Washington Township, its elected officials, employees, agents and volunteers shall be designated as "additional insureds" on any insurance program maintained by Montgomery County, Ohio which provides insurance coverage to Montgomery County, Ohio and its employees including employees and agents of the Montgomery County Sheriff's Office;
7. The Township agrees to provide motor vehicles for the personnel identified in Exhibit A and to pay for all gasoline and maintenance required for the use of said automobiles. The Sheriff hereby agrees that said automobiles shall be used solely by personnel providing police protection in the unincorporated area of Washington Township;
8. The Township shall provide and maintain adequate facilities for use by the personnel assigned to the Township by the Sheriff;
9. Thirty (30) days after the commencement of this Agreement, and every thirty (30) days thereafter, the Sheriff shall present an invoice to the Township identifying the actual expenses incurred in providing the personnel identified in Exhibit A. Upon receipt of said invoice, the Township shall within thirty (30) days, pay said invoice by issuing a check to the Sheriff's Office Contract Fund. Addendum A attached to this Agreement is an estimate of the yearly expenses that can be used for budgeting purposes. It is understood by both parties that the 2011, 2012, 2013 and 2014 costs are estimates and subject to review on an annual basis;



10. The Sheriff will provide communication services to the Township through the Montgomery County, Ohio Regional Dispatch Center which services will include the answering of incoming calls for police services including 911 calls; the dispatching of police personnel and the handling of routine and emergency radio communication. For such communication services, the Township agrees to pay a per call amount equal to the lowest rate charged to any other political subdivision for comparable service from the Montgomery County, Ohio Regional Dispatch Center. The Sheriff will invoice the Township separately for the preceding month's calls for service. The Township will pay said invoice within thirty (30) days of receipt;
11. During the terms of this Agreement, the Township will from time to time advise the Sheriff or his designee of its perceived needs for police protection including, but not limited to, normal police duties, services of court papers, functions associated with the Neighborhood Watch program, and duties and needs required by other Township functions. The Sheriff shall, to the best of his ability, accommodate the needs of the Township. However, the utilization and allocation of personnel shall be within the sole discretion of the Sheriff;
12. This Agreement shall commence on the date last signed by both parties and will terminate on the 31<sup>st</sup> day of December, 2014 if not terminated earlier as provided for in this Agreement;
13. This Agreement may be terminated by either party at anytime during the term of this Agreement upon giving ninety (90) days written notice to the other party. Upon termination, the Township will have no further obligation to compensate the Sheriff for police services and the Sheriff will have no further obligation to provide police services to the unincorporated area of Washington Township other than as required by law. Further upon termination, the Sheriff will promptly return to the Township any equipment, including motor vehicles, purchased by the Township, the ownership of which may have been transferred to either the Sheriff or the Board of Commissioners of Montgomery County, Ohio for use by the Sheriff in performing the duties imposed by this Agreement. Further, all records of investigations performed or being performed by the Sheriff prior to the termination of this Agreement shall be promptly forwarded by the Sheriff to other police agencies as may be directed by the Township.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 28th day of December, 2010.

Executed in the presence of:

  
Witness

  
Phil Plummer, Sheriff  
Montgomery County, Ohio



Approved as to form:

Mathias Heck, Jr.  
Prosecuting Attorney

By: \_\_\_\_\_

BOARD OF TRUSTEES OF  
WASHINGTON TOWNSHIP,  
MONTGOMERY COUNTY, OHIO

\_\_\_\_\_  
Joyce Young

\_\_\_\_\_  
Scott Paulson

\_\_\_\_\_  
Dale Berry

### CERTIFICATE OF ENCUMBRANCE

I hereby certify that the amount required to meet the contract obligation or expenditure of the attached has been lawfully appropriated for the purpose and is in the treasury or in the process of collection to the credit of Police District Fund (Name of Fund) free from any outstanding obligation or encumbrance.

\_\_\_\_\_  
Thomas Zobrist, Fiscal Officer

## **EXHIBIT A**

The following is a list of personnel who are generally assigned to the Washington Township District of the Montgomery County Sheriff's Office.

The Sheriff reserves the right to replace personnel who are off for an extended period of time and shall be done within a four week period.

1	Captain
1	Administrative Sergeant
4.5	Sergeants
19	Deputies
1	Evidence Technician
1	School Resource Officer
1	Traffic Officer
2	Detectives
1	Community Police/Crime Prevention Officer
TOTAL	31.5

ORIGINAL

<p><i>Years 2011, 2012, 2013, 2014 &amp; 2015</i></p> <p><i>Policing Contract</i></p> <p><b>Washington Township</b></p> <p><i>Estimated Costs - For Budgeting Purposes Only</i></p>					
Based On Contract Beginning January 1, 2011 25 FT Deputies, 5.5 FT Sergeants & 1 FT Capt	2011 Estimated Budget	2012 Estimated Budget	2013 Estimated Budget	2014 Estimated Budget	2015 Estimated Budget
5102 Salaries - Regular Salaried	\$ 2,003,862	\$ 2,043,939	\$ 2,084,818	\$ 2,126,514	\$ 2,169,044
5110 Holiday Pay	\$ 79,302	\$ 80,888	\$ 82,506	\$ 84,156	\$ 85,839
5120 Overtime	\$ 114,471	\$ 114,471	\$ 114,471	\$ 114,471	\$ 114,471
5125 Shift Differential	\$ -	\$ -	\$ -	\$ -	\$ -
5130 Longevity	\$ 30,058	\$ 30,659	\$ 31,272	\$ 31,898	\$ 32,536
5500 Poole Fringe Benefits	\$ -	\$ -	\$ -	\$ -	\$ -
5505 Worker's Compensation	\$ 51,237	\$ 52,209	\$ 53,201	\$ 54,212	\$ 55,243
5515 Life Insurance	\$ 2,834	\$ 2,924	\$ 2,834	\$ 2,834	\$ 2,834
5525 Retirement - Sheriff's PERS	\$ 403,212	\$ 410,862	\$ 418,665	\$ 426,624	\$ 434,742
5545 FICA - Medicare	\$ 32,302	\$ 32,914	\$ 33,539	\$ 34,177	\$ 34,827
5600 Health Insurance Administration Fee	\$ 2,375	\$ 2,451	\$ 2,375	\$ 2,375	\$ 2,375
5607 Health Insurance Medical Costs	\$ 606,838	\$ 746,026	\$ 917,891	\$ 1,130,237	\$ 1,392,754
5635 Employee Assistance Program	\$ 786	\$ 786	\$ 786	\$ 786	\$ 786
5820 Employee Clothing Allowance	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000	\$ 1,000
5830 Employee Uniforms	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000	\$ 10,000
6155 Fuel, Oil & Lubricants	\$ -	\$ -	\$ -	\$ -	\$ -
6205 Other Operating Supplies	\$ 12,500	\$ 12,500	\$ 12,500	\$ 12,500	\$ 12,500
7145 Sheriff Dispatching Services	\$ 217,161	\$ 234,095	\$ 246,049	\$ 257,007	\$ 264,976
7195 Other Services - AFIS & Crime Lab	\$ 33,887	\$ 34,904	\$ 35,951	\$ 37,029	\$ 38,140
7500 County Communications	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000	\$ 20,000
7506 Cellular Phone Charges	\$ 4,000	\$ 4,200	\$ 4,410	\$ 4,631	\$ 4,862
7510 800 MHz Radio Charges	\$ 6,204	\$ 6,390	\$ 6,582	\$ 6,779	\$ 6,982
7530 Internet Access Charges	\$ 500	\$ 515	\$ 530	\$ 546	\$ 563
7680 Property & Casualty Insurance	\$ 152,000	\$ 152,000	\$ 152,000	\$ 152,000	\$ 152,000
8245 Administrative Services	\$ 75,000	\$ 150,000	\$ 225,000	\$ 300,000	\$ 300,000
9105 Data Processing Equipment	\$ -	\$ -	\$ -	\$ -	\$ -
9120 Vehicles	\$ -	\$ -	\$ -	\$ -	\$ -
9135 Other Operating Equipment	\$ -	\$ -	\$ -	\$ -	\$ -
<b>GRAND TOTAL</b>	<b>\$ 3,859,528</b>	<b>\$ 4,143,733</b>	<b>\$ 4,456,380</b>	<b>\$ 4,809,776</b>	<b>\$ 5,136,476</b>

**Notations:**

Due to pending contract negotiations, salaries are calculated on 2% increase.

Health Insurance Benefits are calculated with all employees having the highest level insurance plan selected. The increases are based on the insurance costs increase from 2010 to 2011.

Dispatching Services based on 2010 dispatches and the 2011-2013 call rate estimates from OMB.