

CITY/COUNTY MSTU DIVISION OF COST AND RECOVERY TASK FORCE

Name of Task Force

City/County MSTU (Municipal Services Taxing Unit) Division of Cost and Recovery Task Force

Issue Statement

Perform a base line analysis of the Municipal Services Taxing Unit including a history of how and why allocations have been done a particular way between unincorporated residents and Countywide residents. Apply a “reasonableness” standard to these allocation methodologies. Although legal factors have merit, the primary goal is the ultimate achievement of reasonableness and equity.

Task Force Objectives

1. Review perceived inequities in the assignment of taxes and fees across Pinellas County jurisdictions.
2. Review equity in the distribution of revenues and services across all jurisdictions.
3. Review perceived belief that services in the unincorporated areas are being subsidized by Countywide taxes.
4. Review perceived belief that unincorporated areas and non-residents may benefit from City services without having to pay for those services.

Task Force Members

Chairman Dick Holmes
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Maureen Freaney (City Representative)
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Findings and Facts

The issue surrounding the Municipal Services Taxing Unit (MSTU) in Pinellas County has been on going since the mid-1970's. The legal basis for the debate between cities and counties throughout the state had its origin in the 1968 revision to the Florida Constitution that created the "dual taxation" issue. During the Pinellas Assembly process in May 2002 this was again at the forefront of key issues between cities and the County.

The MSTU is a financial tool to capture public expenditures that exclusively benefit the unincorporated area (that portion of the County not located within a City). These expenditures are then converted to taxes (i.e. property taxes) and fees that are imposed within the unincorporated area at a level necessary to support the expenditures. Property taxes, which constitute 58% of the MSTU's revenues, are the most important and are generally looked upon as the key comparative measure. For this reason, the MSTU Task Force focused on services supported by property taxes and did not review those supported by earmarked revenues like the Gas Tax and Penny for Pinellas. The total Pinellas County population is approximately 921,000. The MSTU or unincorporated area encompasses 34.3% of the total County population, 40.2% of the total land mass and about 28% of the total taxable value. Although spread throughout the County, this makes the MSTU area the largest municipal service area in the County. The balance of population, land mass and taxable value is within the 24 Pinellas County cities.

In September 1975, the Pinellas County Board of County Commissioners addressed the issue of "dual taxation" by voting to establish an MSTU to fund municipal services rendered exclusively within the unincorporated area. The MSTU Property Tax rate (millage) referenced earlier is essentially equivalent of a city millage. The creation of the MSTU was challenged, but upheld by the Circuit Court in December 1975 and upon appeal to the Florida Supreme Court in 1978. Having severed the "Gordian knot of prolific legalese" as characterized by the Circuit Court's Final Judgment, issues remain even today in the identification and allocation of costs. Unlike a city, which focuses solely on municipal services, the County operates at two levels. First, it delivers a wide array of Countywide services that meet a public need regardless of political jurisdiction. These services are funded in large part through a Countywide property tax imposed throughout all of Pinellas County. Second, it is the provider of municipal services in the unincorporated area (MSTU) which are funded primarily by a property tax imposed only in the unincorporated area. In many cases, these services are separate. For example, activities including Animal Services, Mosquito Control, 911 Emergency Communications, Courts, Jail and Human Services are delivered Countywide and have no MSTU nor municipal counterpart. Sometimes, however, the same personnel, equipment and other resources that are used for Countywide services are also used to deliver MSTU services. The mowing of Rights-of-Way and the maintenance of drainage facilities (ditches) associated with roads are good examples of this. The same crew that is attending to an arterial road (a County-wide responsibility) may later in the day clear a blockage in a ditch on a local street (an MSTU responsibility). Allocating these costs can be difficult and subject to some discretion

and a variety of assumptions, but this is the nature of cost allocation. Additionally, as a result of economies of scale, the County may be able to deliver some services at lower unit costs than cities. The degree of legitimate economies of scale versus true cost of services is clearly at the heart of the debate on whether the County is subsidizing the delivery of services within the unincorporated area (MSTU), and thereby keeping its property tax rate artificially low by either improperly allocating County-wide revenues to the MSTU or allocating a disproportionate share of MSTU costs to the County-wide taxpayer. The goal of the Task Force was to review the facts surrounding the MSTU and to test the “reasonableness” of the MSTU cost allocation methodologies utilized by the County. Sound fiscal management and public policy further supported this goal.

After the establishment of the MSTU in 1975, the County developed an administrative procedure to use annually during the budget development process to identify and allocate revenues and expenses to the MSTU. This process culminates every year in the computation of the millage rate to be imposed in the MSTU. The process originally included four “offsets” that were intended to recognize that MSTU residents were paying both a County-wide as well as an MSTU millage rate to fund certain items and as such should get a “credit” on the MSTU millage rate that they pay. For example, the statutory fees and commissions due to the Property Appraiser’s Office are not allocated to the cities and passed on to their residents through the municipal millage rate. Unincorporated residents, however, pay a portion of these costs through the various millages that are imposed upon them (i.e. MSTU, Fire, Library). The Property Appraiser “offset” had the effect of reducing the MSTU millage rate downward and increased the Countywide rate proportionally. The three other offsets were based upon a similar philosophy and had the same effect on millages.

The County employed this methodology to calculate the MSTU in a reasonably, consistent fashion over the years. Specific revenues and expenditures would be added or deleted from time to time to reflect programmatic and operational changes. Starting in FY96, however, the County began to phase-out the offsets noted above. By FY02, all four offsets had been eliminated. It was determined that these offsets could not be supported legally or with proper backup data. The removal of these “credits” increased the MSTU budget by about \$4.9 million and increased the millage rate imposed on unincorporated residents accordingly.

A review of the County’s MSTU Budget shows that about 59% is related to services provided by the Pinellas County Sheriff’s Office (PCSO). The balance is related to other property tax funded county services delivered in the unincorporated area. The Task Force’s review essentially followed this breakdown. The former, given its magnitude and the additional complexities of the 11 municipal law enforcement contracts that the PCSO provides, proved to be the most challenging and time consuming. Well in advance of the work of the Task Force, the PCSO engaged an outside consultant, Government Services Group, Inc. (GSG), to review the PCSO’s allocation of costs to the MSTU and to determine if the municipal law enforcement contracts were set at a level sufficient to recover the full cost of providing the service to the city. This engagement reflects the first comprehensive external review of the PCSO’s cost of services since the 1970’s. The last limited external review of costs occurred in 1994 as part of the Dunedin law enforcement contract. In summary, GSG found that the

PCSO's law enforcement contracts had not kept up with inflation, principally the older ones, and thus should be adjusted upward to recover the full costs of providing services. Additionally, GSG reviewed the PCSO's overall operation and recommended that a "base level of service" charge be allocated to the Countywide budget in recognition of the Sheriff's constitutional and statutory responsibilities as the Chief Law Enforcement Officer in the County. Generally, the PCSO's Deputies have the power to issue citations and make arrests throughout the County, while municipal law enforcement officers generally limited to their respective cities. This base level of service (35.7% of the total Sheriff's budget) was computed by equally weighting the MSTU's proportional share of population and geographic area. These factors were used to approximate the minimum, or base level of service, that the PCSO provides to the County. This approximation was required because specific workload measures (i.e. services delivered in the MSTU vs a city) are not always available or have not been compiled. Therefore, a minimum of 35.7% of all of the PCSO's costs of service would be assigned to the Countywide budget. A review of those benefiting from the PCSO's functions would then determine how the balance of expenses would be allocated. For example, the balance of the costs associated with the Detention, Corrections and Judicial Operations (i.e. between 35.7% and 100%) are allocated Countywide based upon the undisputed countywide benefit of a jail and court security. Conversely, the majority of the Patrol Operations function above the base level of service, after adjusting for workload, is allocated to the MSTU. Since few workload measures were available, GSG assumed a workload split of 27% in incorporated areas and 73% in unincorporated areas. This assumption was based upon their experience with other law enforcement agencies operating in similar environments. The GSG report included a model with specific inputs that can be used on an annual basis to recompute the portion of the PCSO budget that should be allocated to the MSTU. The concept of using unincorporated geographic area and population as variables to determine the "base level of service" is based on the fact that the "base level of service" would theoretically be 0% if all of the unincorporated area were annexed.

As noted, the concept of a "base level of service" is complex and controversial. It was the most contentious and highly debated issue of the MSTU Task Force. The Task Force asked GSG to appear several times to present and explain their findings. The Sheriff also appeared before the Task Force several times to offer his perspective. The City Managers Consortium established a City Technical Team comprised primarily of municipal budget and finance staff to review the GSG Report and other MSTU issues. The City Technical Team challenged the validity of any justifiable base level of service. The Task Force engaged Chiefs from the municipal Police Departments (PD) in a roundtable forum to discuss the role of the PCSO vis-à-vis their departments. Without exception, the City PDs acknowledged the role and the benefit of the PCSO and the resources that it brings to the community. Many of the smaller PD's rely upon the PCSO to handle narcotics and homicide cases. Several PD's noted that but for the "backup" that the PCSO provides to their respective departments, they might otherwise need to hire additional city personnel. The larger departments, including St. Petersburg, Clearwater and Largo, are full service in nature and rely much less upon the services of the PCSO. The Sheriff pointed out several instances over the years where the PCSO has been a key resource to these larger departments including assistance in quelling civil unrest and the provision of SWAT and Bomb Squad resources. Despite the PDs'

support for the PCSO, they emphasized that they were not able to assess the reasonableness of the costs allocated to Countywide taxpayers related to the Sheriff's services. Many actually had questions as to what their citizens actually paid for the services provided by the PCSO through Countywide taxes. Conceptually, a "base level of service" model speaks not only to the actual services that are provided on an ongoing basis, but also the potential to provide those services when and if needed. The Task Force discussed the concept in the context of the "demand model" and the frequently cited example of electricity – when you flip the wall switch, you want the light to come on.

The Task Force culminated its discussions on "base level of services" with the following listing of pros and cons, as well as alternative percentage allocation factors and their impact.

A. Base Level of Service (BLS)

<u>PRO</u>	<u>CON</u>
<ul style="list-style-type: none"> ❑ Sheriff's Constitutional Officer responsibility and accountability. ❑ PCSO historically provided for the original law enforcement of the County. Police Departments built up around it in some cases creating duplication. ❑ Service Availability (Light Switch Theory). ❑ Must be an overseer of the "Big Picture" regarding security for Pinellas County. ❑ The Sheriff's Office is available to every Pinellas resident 24 hours a day/7 days a week. ❑ If only workload figures were used and the actual workload shrunk to a minimum in incorporated areas, unincorporated residents could end up subsidizing the Sheriff's Office for Constitutional, service availability and "big picture" obligations of the Sheriff. 	<ul style="list-style-type: none"> ❑ Without a specific definition of what the BLS is, only workload should be used as base for cost allocation. ❑ Not reasonable for approximately 53% of law enforcement costs be borne by unincorporated residents when GSG Study shows 73% of direct benefits goes to unincorporated residents. ❑ Many services provided by Sheriff are provided by cities—so cities must pay twice. ❑ Per capita comparisons show a lower per capita for the MSTU and Sheriff's contracts than for Municipal Police Departments. ❑ Unless a better BLS proxy is determined, use of BLS should be discontinued. Current proxy does not provide a clear rationale. ❑ If a 73/27% workload split were used, everyone would still contribute toward the Sheriff's Statutory responsibilities.

B. BLS - Alternative Allocation Percentage Methodologies (calculated by GSG)

			<u>MSTU COST</u>
1. GSG Recommendation	37.22%	=	\$32,371,870
2. GSG Revised Populations Rec.	35.70%	=	\$33,152,570
3. Zero Base Level (Technical Team Rec.)	0.00%	=	\$51,488,732
4. Population Only	31.25%	=	\$35,438,170
5. Land Area Only	40.18%	=	\$30,851,561
6. Road Miles Only	39.44%	=	\$31,231,638
7. Assessed Property Value	29.30%	=	\$36,439,725
8. Just Property Values	28.81%	=	\$36,691,397

During the course of the Task Force deliberations a representative from the City of St. Petersburg presented a report to the Task Force that offered the use of the MSTU's proportional taxable value as a factor for the base level of service. However, the formal City Technical Team Report on the matter disagreed with the entire concept of a base level of services. The Task Force indicated that measurable, verifiable workload factors would have been a better way to determine the base level of service. They concurred with GSG that these factors are not available at this time, and support the GSG report recommendations that the PCSO start to compile this data where practicable. The Task Force supported including the data in the model developed by GSG to calculate the MSTU portion of the PCSO budget. They discussed the inherent limitation of workload measures in some instances where the cost of compiling the statistics may exceed the benefit. For example, knowing the city in which a PCSO call for service or traffic citation is made with certainty may require that all cruisers be equipped with Global Positioning Systems hardware and Geographic Information Systems software – an expensive proposition. The Task Force did indicate that where workload measurement is impractical, some sampling methodologies should be utilized.

In the end, although a majority of the Task Force was not comfortable with GSG's base level services calculation and in the absence of workload measures or a clear alternative, the Task Force did not recommend a change in the GSG methodology. Instead they determined that their work and conclusions should be forwarded to a recommended "Tax Equity Board" who would continually refine and evolve the base level amount over time and introduce workload measures where possible.

The balance of the MSTU is comprised of non-PCSO functions. Some of these services are exclusive to the MSTU. The Building Inspection department is a good example as "but for" the MSTU, the department would not be needed. In other words, if there were no MSTU, there would be no Building Department. These functions, including Code Enforcement, because of their exclusivity to the unincorporated area are funded from the MSTU at 100%. There are some functions, however, that serve both a Countywide as well as an MSTU purpose. In these cases, workload measures are used to allocate costs to the MSTU. Costs associated with storm water facilities, as noted earlier, are allocated to the MSTU. This practice as started in FY03 reallocated about \$3.9 million to the MSTU from the Countywide budget. County staff did meet with a sub-group of city managers in 2001 to review the allocation of non-PCSO costs as well as revenues. This further assisted the County in continuing to refine the allocation of

costs to the MSTU. Additionally, workload measures have been reviewed resulting in more costs being allocated to the MSTU and indirect costs (overhead) have been allocated to the MSTU starting in FY03. The increase to the MSTU budget associated with indirect costs is about \$4.1 million. The County has also allocated costs associated with new municipal services in the unincorporated area (i.e. Recreation, Connection Centers, etc.) to the MSTU. The MSTU Task Force and the City Technical Team recognized and commended County staff for their recent efforts to ensure greater equity within the non-PCSO portion of the MSTU.

In conclusion, the allocation of costs is a difficult task. The Task Force indicated the importance for continued communication between City, County and PCSO staff as the equity of the MSTU is further refined.

Findings

1. The allocation of costs between the MSTU and the Countywide budgets is a complex process based upon various assumptions. As such, there will always be room for debate regarding the methodology used and the results. No calculation will be perfect, therefore, a general standard of “reasonableness” must be applied. The duality of service provision by County government at the regional (countywide) and municipal (MSTU) level provides some unique cost allocation challenges.
2. The PCSO’s base level of service cost is the most contentious equity issue. The majority of the Task Force was not comfortable with the 35.7% base level services calculation. They felt equally uncomfortable in proposing an alternative at this time. It was felt a reliable alternative would need to evolve from better workload tracking and the on-going oversight of a Tax Equity Board.
3. The County has continually refined the non-PCSO MSTU adding costs previously allocated to the Countywide budget. The “offsets” that were established in the late 1970’s providing a credit and thereby reducing the MSTU millage rate have been phased out. Additionally, starting in FY03, the MSTU has been charged for indirect costs (overhead) - \$4.2 million in FY04. An allocation of \$3.9 million was made to the MSTU for stormwater beginning in FY03 and \$4.1 million was allocated for recreation initiatives through a direct increase in the MSTU millage in FY03.
4. The sharing of information and communications are key components of the MSTU development process. The City Technical Team and County Staff can play an important role in maintaining this dialogue.
5. Where improved workload tracking is not practical, random sampling methodologies should be utilized.
6. Consideration should be given for oversight of periodic allocation reviews by an independent agency to eliminate any perception of impropriety.

Task Force Recommendations

1. A Tax Equity Board shall be created. It should be charged to review, on a three-year basis, the cost/benefit ratio submitted by the County Budget Department and determine a fair distribution of the tax load for the services provided. Support for the Board's efforts would come from an ad-hoc staff, evolving from the technical committee utilized by the Task Force, made up of representatives from the budgetary departments of the cities and the County Budget Director. The Board's recommendations would be forwarded to the County Commission for endorsement and adoption during the normal budget cycle each year.
2. Through cooperation of the County and the cities, staff management teams should be developed to review the following remaining equity issues and provide reports on the various areas to the County Commission and the Mayors' Council:
 - Water/Sewer Surcharge (25%) for unincorporated residents within municipal service areas.
 - Fire District revenue allocation to cities.
 - Pinellas County Library Cooperative revenue allocation to cities.
 - The one-half cent sales tax revenue allocation.
3. County staff should recommend and Board of County Commissioners should approve a more definitive Fund Balance policy for the MSTU.
4. County staff and the Pinellas County Sheriff's Office will review the MSTU allocation methodology with the city managers annually.

Attachments to Final Report:

1. Summary Minutes (In Date Order)
2. May 2003 GSG Report
3. 9/23/03 City Technical Team Report – Sheriff's MSTU Cost Allocation Study
4. 10/27/03 GSG Response to 9/23/03 City Technical Team Report
5. 9/18/03 Non-PCSO MSTU Allocation Information Prepared by County Staff Representative Mark Woodard
6. 10/27/03 City Technical Team Report – MSTU Revenue and Cost Allocations (Non-PCSO)
7. Other Miscellaneous Resource Materials in Chronological Order