

# Issue Brief

## Ominous Trend: Growth of Municipal Accident Response Fees

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### Introduction

**A**cross the country and in most Midwestern states, including, Illinois, Indiana, Iowa, Michigan, Missouri, Ohio and Wisconsin, insurance companies are facing the growing phenomenon of cash-strapped municipalities billing insurance companies for police or fire responses to auto accidents, no matter how routine or minor.

According to anecdotal information, municipalities in no less than 13 states are billing for accident responses. Municipalities typically charge \$100 to \$300 per “run,” however bills sent to insurers lack specific information. Municipal fire departments in some states have been billing insurance companies for ambulance services for several years because typical auto insurance policies cover medical expenses, including ambulance transportation, but do not cover expenses related to accident response. Therefore, auto insurers are questioning the logic of paying fees for services not covered or charged for in auto insurance policies.

Providing coverage for police or fire responses to auto accidents would most likely result in rate increases passed along to consumers. Responding to and investigating auto accidents are functions of police departments supported by local taxes. Some municipalities have argued that insurers should pay these fees because accident reports are prepared solely for the benefit of insurers, however, personal injury lawyers and hospitals also rely on these reports. Why aren’t they being charged these fees?

### NAMIC’s View

NAMIC believes such fees are a form of double taxation applied only to those responsible drivers carrying auto insurance. No municipalities have payment provisions for drivers who do not have insurance to pay for this service. Is it fair to penalize drivers who follow state law and carry insurance?

### Questionable Tactics by Third-Party Vendors

Not all the blame for this trend can be placed directly on municipalities that are struggling to balance budgets in order to continue providing vital services. Accident-response fees can appear an attractive alternative to raising taxes.

The real culprits are the third-party vendors that are duping municipalities into believing that insurers are the “cash cow” are seeking. Chief among these vendors is Cost Recovery Corporation (CRC) of Dayton, Ohio, which has also used the name Safety Services Billing. The company was founded seven years ago and has been collecting fees on behalf of fire departments in multiple states since its inception.

In 2005, CRC started soliciting municipalities for the collection of accident-response fees. According to CRC Vice President Regina Moore, insurance companies “are sitting on two trillion dollars in assets,” suggesting that only a small portion of this perceived surplus would be needed to pay response fees. CRC keeps 10 percent of what it collects on behalf of municipalities.

According to news reports and other sources, CRC employs aggressive and threatening tactics to collect accident-response fees. It also claims in marketing materials to municipalities that billing for these fees will not cause insurance rates to increase. CRC has sent letters to insurers that refuse to pay fees suggesting that failure to pay could result in safety service staff reductions, which would jeopardize the lives of accident victims.

These letters also threaten that police departments will no longer conduct accident investigations for companies that refuse to pay and that they will seek payment directly from the affected policyholder. CRC has been known to contact the policyholder directly and suggest they switch to an insurance company that “truly cares about their insured and recognizes the importance of assisting the police department in protecting you and your loved ones if involved in an accident.”

Despite or possibly because of such questionable tactics, CRC is only collecting a fraction of the amount it is billing. According to the city of Shaker Heights, Ohio, CRC has billed \$120,839 on the city’s behalf and only collected \$22,486. Shaker Heights recently announced it would continue billing insurers for these fees but would no longer utilize CRC’s services. Also, the Village of Sheffield, Ohio has given up on collecting the fees altogether because it was realizing only a fraction of what was being billed. “It’s a PR nightmare... It’s really not worth the time and trouble,” said the village mayor, Darlene Ondercin.

### **Fighting Back in Ohio**

There are at least 28 other Ohio municipalities that have passed ordinances allowing for the collection of these fees. Led by the Ohio Insurance Institute (OII), the industry is working toward a solution to stem the tide of municipalities charging these fees. To that end, the OII will launch a web site in mid-April. The purpose of the site, *www.municipalfeefacts.org*, is to answer questions about these fees and to

help consumers and public officials understand the implications of charging accident-response fees.

### **Holding the Line in Indiana**

In Indiana, The Insurance Institute of Indiana (III) reports that attempts to impose local fees on insurers began popping up at the end of 2004. On December 27, 2004, the III successfully stopped the Mount Vernon City Council from passing a proposal that would have placed a surcharge on the insurers of “at fault” drivers for accident investigations by police officers.

Institute staff testified such a city ordinance would be a violation of Indiana’s premium tax statute (IC 27-1-18-2(h): “No municipality, county or other political subdivision of this state shall impose any license fee or privilege or other tax upon any insurance company....” To provide additional legal arguments against the local surcharge, the Institute engaged the services of outside counsel that advised the user-fee proposal was:

- unconstitutional because it allowed a law enforcement officer to make an administrative adjudication, which usurps the role of the judicial process and which results in the taking of property (i.e., money), without due process of law (in Indiana constitutional terms, “due course of law”);
- void and unenforceable because passing this ordinance would constitute an unauthorized, ultra vires act of Mt. Vernon’s City Council;
- arbitrary and capricious because of a lack of a rational basis for the proposed remedy advanced by the ordinance and the fiscal problem faced by the City of Mt. Vernon; and
- contrary to public policy, because it provides for the arbitrary assessment of a fee for the services of a public servant who voluntarily undertakes an automobile accident investigation and unilaterally decides to what extent or degree the investigation is carried out.

Since that time, the Institute has fended off subsequent attempts in Huntington, Salem and Washington county, but continues to fight pending proposals in Indianapolis, Franklin and Munster. To

date, all of the Indiana proposals have emanated from the marketing attempts of CRC.

Institute President Steve Williams has forewarned community leaders that “from a business perspective, your constituents will be forced, through higher insurance premiums, to pay for a service they already cover through their taxes.” Most recently, the Institute has effectively gained the cooperation of the Indiana Association of Cities and Towns in distributing a letter to its members outlining the arguments against such surcharges.

NAMIC will continue working with our state trade partners throughout the country to stop the

proliferation of these unfair and unequal backdoor taxes. We have sent letters to all 51 insurance commissioners urging their involvement in this debate and will establish a web page dedicated to tracking accident response fees on the NAMIC web site, [www.namic.org](http://www.namic.org).

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