

# Regional Organization and the Creation of Inter-Local Agreements: Exploring the Dynamics of Inter-Municipal Cooperation Between Separated Cities and Counties

**Abstract:** Linking urban and rural areas is one of the great challenges of municipal governance. The two areas have traditionally been seen as distinct. This complex relationship presents a challenge to policy makers. More recent structural responses to this divide have tended to view a city and its rural periphery as part of a common political unit, if not a sociological or economic one. The more traditional solution to this urban-rural divide – and the one that has been dominant throughout most of our municipal history – was to politically separate urban and rural areas. In Ontario, 18 cities and towns are currently separated from their counties. Unlike regional governments, these areas exist without any type of institutional linkages and must rely on inter-local agreements to ensure service continuity. In this paper, I examine the use of inter-local agreements between Ontario's 18 separated cities and towns and their corresponding counties. 275 individual inter-local agreements were collected and analyzed. Additionally, 68 primary interviews were conducted in three counties with separated cities to examine the process of agreement formation and the use of informal agreements: London and Middlesex County, Guelph and Wellington County and Orillia, Barrie and Simcoe County. Overall, the results find that the use of voluntary agreements is very low within these areas, which can be attributed largely to the institutional design of city-county separation. This paper explores the factors that both hinder and help the formation of inter-local agreements and the continued use of city-county separation as an institutional practice.

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## Introduction

Linking urban and rural areas is one of the great challenges of municipal governance. Traditionally, the two areas have been seen as distinct with different sets of values, economies, labour trends and ways of life (Sweet 1999; Clarke 1955). In Ontario, structural responses to this divide have tended to view a city and its rural periphery as part of a common political unit, if not a sociological or economic one (Fyfe 1975; Jacek 1985). To grow, and extend the economic benefits of urban life to rural areas, some organizational thinking suggests that cities require an institutional linkage to the rural communities that lie on and just beyond their borders. This mode of institutional thinking is relatively new when considering hundreds of years of municipal evolution. The more traditional solution to this urban-rural divide – and the one that has been dominant throughout most of our municipal history – has been to politically separate urban and rural areas (Bain 1967).

This practice has its roots in the early English municipal system (Pinchbeck 1940; Archer 2000). Cities were thought to be so unique that they required a complete separation from their rural peripheries. While the country was rooted in agrarian and subsistence living, cities began to take on increased importance with the advent of new technology (Wilson and Game 1988). Urban areas grew at a rapid pace and took on new significance as centres of industry, commerce and innovation. As cities became the economic drivers of nations, the creation of local government capable of managing and promoting this growth became paramount (Merewether and Stephens 1972). It became clear that the demands inherently connected with increased density—poverty, housing, and the creation of advanced infrastructure—required a government with a broader

functional scope. In theory, a separate urban government could address distinct urban opportunities and problems (Magnusson 1983). Consequently, the separation of urban and rural municipalities was seen as mutually beneficial.

Early Ontario policy-makers were influenced by the concept of rural and urban distinctiveness and eventually adopted this institutional practice when founding our provincial municipal system. Under the stipulations contained in the 1849 Baldwin Act, urban areas in Ontario were politically separated from their surrounding counties as soon as they became incorporated as cities. This system lasted for more than a century, until provincial officials began an institutional shift towards regional government in the 1950s. Rapid urbanization changed how the province viewed urban and rural areas. During this period, urban growth spilled over into areas once thought to be “rural”. This growth created shifts in labour and settlement patterns. Increased suburbanization caused provincial policy makers to see urban and rural areas as connected, therefore requiring greater policy coordination. The introduction of regional government was the inevitable result of this shift.

Despite this evolution in Ontario’s municipal system towards regional government, numerous cities remained separate from their counties.<sup>1</sup> Today, eighteen cities and towns in Ontario remain separated: Barrie, Windsor, Guelph, London, Kingston, Peterborough, Orillia, Pembroke, Brockville, Prescott, Gananoque, Cornwall, Smiths Falls, St. Thomas, Belleville, Quinte West, Stratford and St. Mary’s.<sup>2</sup> Within the thirteen counties with a separated municipality, there are 136 governing units.

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<sup>1</sup> Counties are not utilized in northern Ontario.

<sup>2</sup> Pelee Township is also a separated municipality. Created as separate from Essex County in 1869, Pelee Township is a small island community located midway in Lake Erie and approximately 16.5 miles from the

Despite the province's long history with city-county separation, we know very little about the relationship between both areas. Very few studies have examined this antiquated method of municipal organization. In this paper, I examine the use and structure of inter-local agreements between these two institutionally distinct areas. Are inter-local agreements able to fill the institutional gap that exists between separated cities and their adjoining counties? As noted above, the province has largely moved past city-county separation as an institutional structure. In comparison with regional government, city-county separation may seem like an anachronism. These areas exist without institutional linkages. Without any formal institutional ties, it is believed that separated cities and counties must rely on alternative methods to ensure service and policy continuity for their residents.

Inter-local agreements are the chief method municipalities without any clear institutional linkages utilize to achieve these ends. This paper explores this proposition by conducting a province-wide review of cooperative agreements and examining the process used to establish inter-local agreements in Guelph-Wellington, London-Middlesex and Barrie-Orillia-Simcoe.<sup>3</sup>

London is much larger than Middlesex County, encompassing not only the majority of the land but also the population within the county's borders. Interaction between stronger and weaker actors may create different relationships. As such, this case

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Town of Leamington. Access to the island is by a 1.5-hour ferry trip or by air. There are less than 100 permanent households on the island, which is primarily a seasonal destination in the summer months. While still within the geographic territory of Essex County, Pelee Township has no relation to other municipalities within the county or little reason to cooperate with mainland jurisdictions. As such, it was not included in this study, as it did not have the standard relationships typical of other separated municipalities.

<sup>3</sup> 68 Interviews with officials within these communities was conducted. As per the research ethics approval for this project, the names of those interviews are not listed, but their positions are noted in the appendix.

study will allow for the analysis of power differentials that exist between separated cities and counties. The second case study in Simcoe County includes two separated cities, Barrie and Orillia, both of which have been affected in differing ways by the rapid growth in southern Ontario. Consequently, studying this region can help elucidate the dynamics of having multiple separated cities within one county. Finally, Guelph and Wellington County provide a much more balanced case study both in terms of population and size. Additionally, since several regional governments also border Wellington County and the area is much closer in proximity to the Greater Toronto Area, this case provides valuable insight into the influence of much larger, populated urban centers on separated cities and counties.

I gathered agreements from every county in Ontario with a separated city, for a total of 275 agreements. For the purpose of this project, I included only agreements initiated between 1995 and 2011. Although I chose this time frame for a number of reasons, chief among them is that it is long enough to account for major provincial initiatives, such as amalgamation and various rounds of service downloading, but recent enough that many of these agreements are still relevant and active. Additionally, municipalities may have difficulty securing these documents dated past 1995. These methods provide the necessary breadth and depth that a study of this nature requires.

## Agreement Typologies

Municipalities sign a variety of contractual arrangements to achieve local cooperation, including service agreements, mutual aid, joint planning and memoranda of understanding. Historically, most academic research into the nature of inter-municipal

agreements has focused on general agreement typologies (Atkins 1997; Nunn and Rosentraub 1997). Prior research in this area has mostly tended to group agreements into two broad categories: adaptive and restrictive. Adaptive agreements provide broad discretion and flexibility for future circumstances, while restrictive agreements provide procedural characteristics, authority and outcome requirements that clearly state in advance each party's responsibility to fulfill the terms of their contracts (Andrew 2008).

Adaptive and restrictive agreements create very different policy outcomes and provide clues as to the nature of the relationship between the two—or more—signatories prior to the signing of the agreement. An agreement is referred to as “restrictive” if it is based upon and closely adheres to a specified set of rules, generally rooted in provincial and state law and local ordinances (Andrew 2008). These types of agreements provide very little room for interpretation. Additionally, restrictive agreements are challenging to alter because they tend to have fixed expiration dates and very clear procedures for termination. While lacking flexibility, restrictive agreements do provide stability over the life of the agreement, as both sides know what is expected of them financially and administratively, along with full knowledge of the penalties involved in breaking or deviating from the terms of the agreement. Some examples of restrictive agreements include contracts—such as service agreements—or lease agreements.

Adaptive agreements, on the other hand, are more open than restrictive ones and are used to provide more generalized guidelines for locally coordinated efforts. Simon Andrew (2008) argues that adaptive agreements are, “purposely designed to complement pre-existing policies as opposed to a neatly crafted joint vision to improve the overall welfare of the participating local governments' constituents” (10). What adaptive

agreements lack in stability, they make up in flexibility. These types of agreements usually do not include strict financial or administrative outlines and are more easily altered if both partners deem it necessary. They also tend to lack some of the safeguards traditionally found in restrictive agreements, such as termination clauses and expiration dates. Some examples of adaptive agreements include mutual aid agreements, memoranda of understanding or agreement, letters of agreement, or informal agreements.

Restrictive agreements are usually utilized for policy areas that have large budgets or are not already provided by a municipality (Post 2004; Stein 1990). One such example is the delivery of social services. Such agreements carry a high financial cost and require certain standards. Having a more flexible agreement in place could result in one partner not fulfilling their financial or administrative responsibility, thereby creating service gaps for residents. Some further examples include water or sewer servicing or the construction of new capital projects, such as a recreation centres or long-term care facilities.

Adaptive agreements are generally used to complement existing services, such as mutual aid agreements for fire where two communities sign an agreement to ensure full servicing throughout their communities, or where service gaps do not create a financial hardship, such as road maintenance or snow removal. In both cases, each municipality has the administrative infrastructure necessary to provide the service independently, but uses an adaptive service agreement to provide an additional layer of security or allow the jurisdiction to cut costs (Lynn 2005). Some additional examples of adaptive agreement policy areas may include staff training, library services, or cultural services.

Adaptive agreements, however, also come with a degree of risk; namely, these agreements carry a high level of behavioural uncertainty, which occurs when a supplier

municipality is tempted to capture a larger share of aggregate gains (Shrestha 2010).

While this risk is largely absent with restrictive agreements, adaptive agreements—which have more flexible terms and conditions—are nearly always at risk of being re-negotiated or reneged upon. That is not, however, to say that restrictive agreements are without risk since general environmental uncertainties, such as the unexpected breakdown of technology or sudden occurrences of natural incidents affecting supply, are possibilities for all types of agreements (Shrestha 2010).

Municipalities tend to adopt strategies that mitigate the inherent risk of entering into contractual agreements with other jurisdictions. Recent literature on the formation of inter-local agreements identifies two main strategies: interdependent risk spreading and independent risk spreading (Andrew 2010). Interdependent risk spreading involves sharing services with a contractual partner municipality as opposed to merely purchasing them, which gives municipalities more leverage and more justification to maintain the terms of the original agreement through reciprocity (Andrew 2010, 95). Each municipality then has more justification to uphold the previously agreed-upon terms. A second strategy involves independent risk spreading, whereby municipalities seek to maintain a limited number of contractual ties, generally with only a few trusted partners (Andrew 2010, 97). Under this strategy, municipalities have few contractual linkages.

A third, also widely discussed, strategy involves only purchasing services or entering into agreements with “popular” municipalities. A supplier is deemed “popular” if a number of municipalities also purchase services or engage in cooperative contracting with them (Shrestha 2010, 123). Since “popular” municipalities rely on the strength of



their reputation to establish new contractual agreements, scholars argue that “popular” municipalities have more of an incentive to maintain the terms of its agreements.

While this typology building has been useful in the study of inter-local agreements and cooperation, another group of scholars has moved beyond adaptive or restrictive categorization to test the “intensity” of agreements and the subsequent effect this has on creating new cooperative relationships.<sup>4</sup> Cooperative intensity is a measure of the strength of the commitment of the parties included a partnership (Nelles and Alcantara 2011, 323). Simply put, intensity is a function of the degree of authority and resources sacrificed by each party in the interest of integration (Nelles 2009; Perkmann 2003). Cooperative intensity also measures the degree of autonomy that cooperative action achieves from the partners themselves. This suggests that cooperative initiatives resulting in the creation of independent authorities will be seen as more intense than agreements established simply to facilitate additional lines of communication (Nelles and Alcantara 2011, 323).

The study of cooperative intensity focuses much of its attention on measuring institutional integration, broadly defined as the degree of control sacrificed by each party over the outcome of the partnership and the degree by which each party is bound to a certain course of action (Nelles and Alcantara 2011, 324). This area of study is interested in the extent by which cooperative agreements themselves create binding rules or sets of institutions that, in turn, establish the tone for cooperation. In these terms, measuring the

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<sup>4</sup> Much of this work has focused on horizontal relationships, which is applicable in studying the relationship between separated cities and counties. Some of the more recent research into cooperative intensity utilizes cross-border metropolitan areas (Sohn, Reitel and Walther 2009) and First Nation communities (Nelles and Alcantara 2011) as case studies.

intensity of agreements moves away from characterizing agreements as either adaptive or restrictive and attempts, instead, to place the relationship along a spectrum.

Several factors are examined in order to study the intensity of the agreements. The first is timing, which measures the duration of the partnership. Agreements with limited time frames tend to carry lower levels of intensity than those that resulting in associations or joint management boards—institutions that would generally have an open-ended duration. Essentially, imposing a limit on any partnership establishes an “escape route” for either partner, which may indicate a weaker commitment to cooperation (Nelles and Alcantara 2011, 324). For the purposes of this study, the presence of an expiration clause indicates a lower level of intensity than an open-ended agreement.

A second factor is the degree to which the established partnerships are binding. This variable takes into account the binary nature of the adaptive and restrictive typologies, in that legally binding agreements are more intense than those that are non-binding. As such, restrictive agreements are more intense than adaptive agreements. This is not, however, to suggest that all non-binding agreements have low levels of intensity. Certain factors, such as mechanisms to facilitate dispute resolutions, can increase the perceived level of commitment from the signatories. Nevertheless, the nature of the agreements themselves—as being binding or non-binding—does allow researchers to generally comprehend the level of risk involved in the agreements.

Finally, institutional integration is another factor that determines the intensity of the agreement. The term institutional integration itself refers to the distance that participating actors have from the decision-making of the partnership (Nunn and Rosentraub 1997). The creation of new boards or institutions increases the intensity of the

agreement precisely because it distances the original actors from the cooperative act. This can be measured through the creation of groups external to the agreements itself, such as joint boards of management.

The study of cooperative intensity and agreement typologies allows researchers to begin uncovering the nature of cooperation between municipalities. Utilizing factors in both paradigms may explore some of the factors affecting cooperation between Ontario’s separated cities and counties. While agreement typologies build binary databases—such as labeling agreements as being either adaptive or restrictive—cooperative intensity builds upon their work by creating spectrums describing the relative strength of the relationship. While neither approach, thus far, has been utilized in studying the relationship between separated cities and counties, the variables they describe will allow this study to dive deeper into the assembled agreements and produce some insights into the relationship between separated cities and counties in Ontario.

## Survey of Inter-Local Agreements

In total, Ontario’s separated cities and counties signed 275 agreements between 1995 and 2011. Table 1, below, reviews these agreements by region:

<b>Table 1: Summary of Agreements By Region</b>	
<b>Region</b>	<b>Agreements</b>
Simcoe-Barrie-Orillia	33
Essex-Windsor	9
Wellington-Guelph	11
Middlesex-London	22
Frontenac-Kingston	14
Peterborough-Peterborough	30
Renfrew-Pembroke	13
Leeds and Grenville-Prescott-Brockville-Gananoque	16
Stormont, Dundas and Glengarry-Cornwall	31

Lanark-Smith’s Falls	20
Elgin-St. Thomas	10
Hastings-Belleville	19
Perth-Stratford-St. Mary’s	47
Total	275

As the table demonstrates, there is a tremendous amount of variation in each region.

Some areas have close to 50 agreements, while others have less than 10. Some factors increase the number of agreements per region, with the most obvious being the presence of more than one separated city. Consequently, Simcoe County, Barrie and Orillia, along with Perth County, Stratford and St. Mary’s—which have two relatively populous separated cities within the county—have the most agreements. The other county with multiple separated cities, Leeds and Grenville, only has 16 agreements, which is likely because its separated cities are of a comparably smaller size. Exploring the types of agreements that these regions sign, however, may better explain this regional variation.

Not all of the agreements within each region are signed solely between the county and their corresponding separated cities. In some cases, agreements include lower-tier municipalities within the county, are signed solely between a separated city and a lower-tier municipality from the county or include third party groups. Below, Table 2 offers a summary of the agreement partners for each separated city<sup>5</sup>:

<b>Table 2: Total Agreements By City</b>				
<b>City</b>	<b>Agreements Including</b>	<b>Agreements Including</b>	<b>Agreements Including</b>	<b>Agreements Including</b>

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<sup>5</sup> It is important to note that each category is not mutually exclusive, in that an agreement can be included within two categories. For example, an agreement including Barrie and the town of Innisfil and Simcoe County would be included in both the county category and the lower-tier category. I provide this table primarily so that the reader has a simple overview describing which municipalities Ontario’s separated cities are choosing to partner with.

	<b>County</b>	<b>County Lower-Tiers</b>	<b>Jurisdictions Outside County</b>	<b>Third-Party Groups<sup>6</sup></b>
Barrie	12	14	0	1
Orillia	5	5	0	5
Windsor	5	9	0	2
Guelph	4	7	0	0
Kingston	3	4	7	0
Peterborough	29	8	0	5
Pembroke	5	8	0	5
Brockville	11	1	1	4
Gananoque	6	4	0	0
Prescott	11	0	1	4
Cornwall	26	1	3	10
Smith's Falls	20	8	0	1
St. Thomas	6	6	0	1
Belleville	11	7	1	2
Quinte West	6	4	1	0
Stratford	22	17	1	8
St. Mary's	11	6	1	5

As expected, the majority of the agreements include the county, although regional variation persists. This perhaps occurs because some cities have more agreements with county lower-tiers than the county itself. Barrie, Windsor and Guelph have made more agreements with county lower-tiers than the county while the remaining cities have generally opted to deal mainly with their counties.

While this result was expected, of interest to this study are the number of agreements signed with jurisdictions outside of the county and with third-parties. Some separated cities, such as Kingston, have a number of agreements with areas outside of their counties geographic boundaries, perhaps because Kingston's own borders reach

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<sup>6</sup> Third party groups include non-governmental organizations, such as the Heart and Stroke Foundation, and private organizations, such as development corporations. It also includes special purpose bodies as well as First Nations groups. Agreements are only counted in this category if the agreements specifically included a municipal partner. For example, an agreement would qualify if it was signed between a city, county and a third party, but not if it was directly signed with a third party group.

both sides of the borders of the very linear Frontenac County. Conversely, many of the other separated cities are immediately surrounded by their counties, limiting their need to sign agreements with outside jurisdictions.

Some cities have also signed agreements with a number of third-party groups. Some of these cities, such as Barrie and Orillia, have largely signed these agreements with First Nations groups, while others, such as Cornwall, have sought out agreements with social service groups. Accordingly, the agreements surveyed for this study include a variety of third party groups. Nevertheless, who municipalities choose to partner with offers only one perspective; thus, it remains important to understand what types of agreements are being signed in addition to the content of those agreements.

In total, the number of actors involved in each agreement remains relatively small. The average number of participants for each agreement is 3.23, meaning that most municipalities prefer to form agreements with fewer, rather than more, actors. This is unsurprising and consistent with previous research, which suggests that smaller groups are easier to monitor and distribute relative losses or gains, thereby reducing transaction costs. Simply put, smaller groups are easier to manage than large ones, which is why many separated cities opt to keep their policy networks small.

Although the vast majority of the agreements that municipalities use are contracts, there is variation in the types of agreements available to them (Miller 1981; Atkins 1997; Nunn and Rosentraub 1997). They range on a scale from flexible, such as informal agreements and memoranda of understanding, to inflexible, which includes contractual service agreements. Informal agreements and memoranda of understanding greatly reduce the transaction costs involved in writing and implementing an agreement,

particularly when compared to inter-municipal service agreements which are relatively easy to modify should unforeseen circumstances arise—although they do, albeit, create less security in municipalities’ adjudication rights by opening up financial terms for possible interpretation (Andrew 2008). Mutual aid agreements are only operative when certain conditions are met, generally emergencies or inclement weather, providing some financial flexibility but remain generally restrictive with respect to length and termination (Andrew 2008). More inflexible agreements provide more security for participating municipalities, but are challenging to revise since dispute often lead to costly legal challenges.

Below, in Table 3, lists the types of agreements signed between 1995 and 2011 in each county in Ontario with a separated city:

<b>Region</b>	<b>Contract</b>	<b>MOU</b>	<b>Mutual Aid</b>
Simcoe-Barrie-Orillia	14	17	2
Essex-Windsor	8	0	1
Wellington-Guelph	10	0	0
Middlesex-London	15	2	5
Frontenac-Kingston	15	0	0
Peterborough-Peterborough	22	7	1
Renfrew-Pembroke	9	4	1
Leeds and Grenville-Brockville-Gananoque-Prescott	10	6	0
Stormont, Dundas and Glengarry-Cornwall	28	3	0
Lanark-Smith’s Falls	16	0	4
Elgin-St. Thomas	9	0	1
Hastings-Belleville	16	2	0
Perth-Stratford-St. Mary’s	34	11	2

Total	206	52	17
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As the preceding table demonstrates, of all the agreements in place in Ontario's separated cities, more than 75 percent are contracts. Although this indicates that the majority of the agreements in Ontario's separated cities are restrictive, it does explain *why* so many municipalities utilize restrictive agreements.

Research in American metropolitan regions suggests that municipalities use a mix of adaptive and restrictive agreements depending on their policy needs (Andrew 2010). Consequently, this implies that a high level of restrictive agreements may indicate that a region has a low level of trust in its partners. Simply put, if cooperation is necessary but the two partners have developed an adequate level of trust, it is a better strategy to employ restrictive agreements that protect against any undue risk associated with the termination or alteration of the agreement. Some research theorizes that a high level of restrictive agreements also indicates that that a small network structure may be in place (Andrew 2010, 98). For the purposes of this study, that could mean a smaller county system that has a separated city.

Ultimately, neither explanation is entirely convincing since both small and large networks primarily use restrictive agreements. Thus, a better explanation may be that the type of restrictions and degree of provincial oversight prompts Ontario municipalities to use more restrictive agreements. Furthermore, restrictive agreements are primarily used for contractual relationships involving large financial costs, which certainly would include social services funding and infrastructure development. Since many Ontario municipalities engage in these types of policy relationships, there is obviously some use



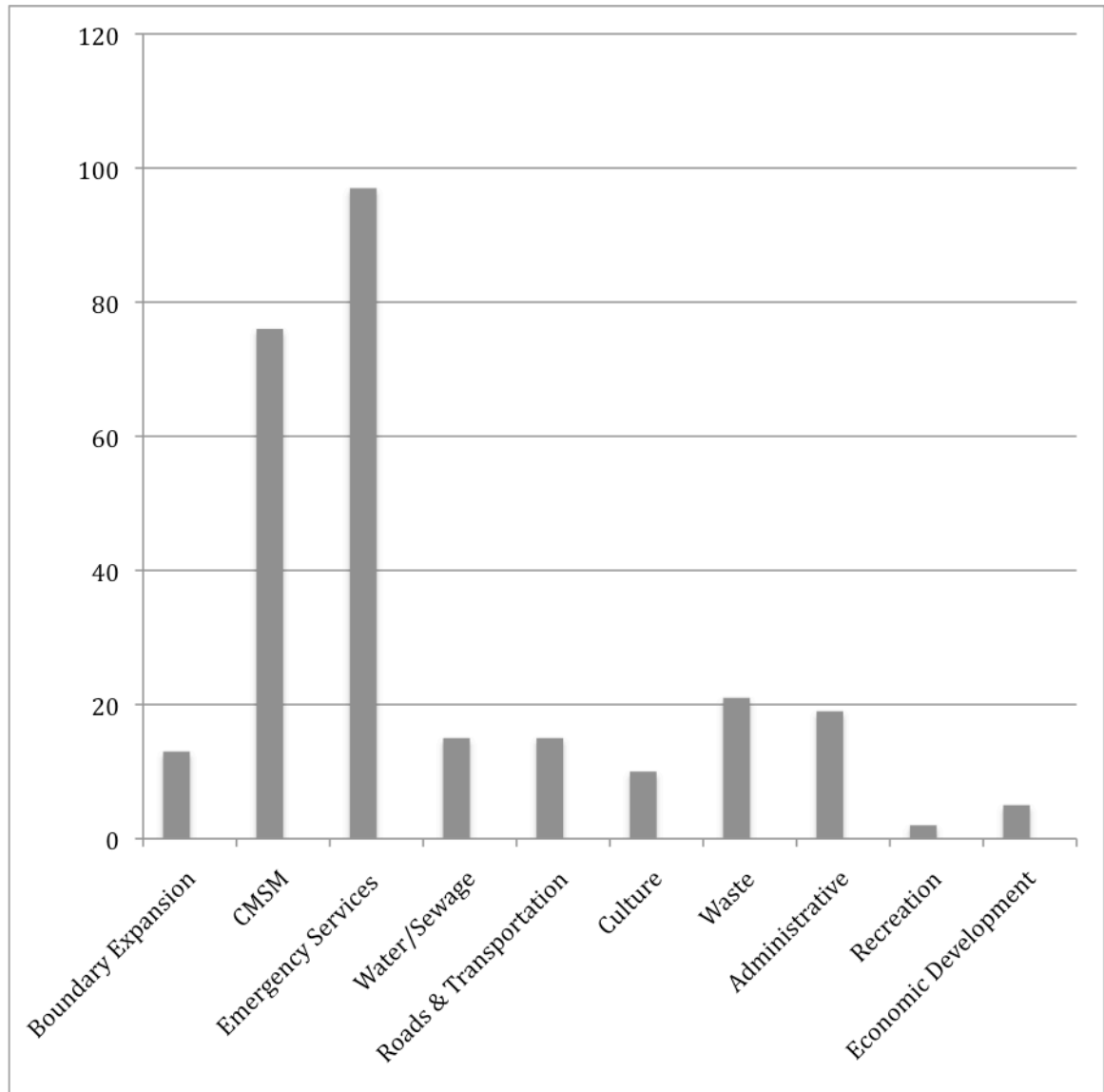
in restrictive agreements. To fully examine this trend, this paper will further explore these agreements' characteristics.

Below, in Chart 1, is a list of the policy areas included in the agreements between Ontario's separated cities and counties.

### **Chart 1: Agreements By Policy Area<sup>7</sup>**

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<sup>7</sup> Most of the categories included in the list are self-explanatory, although some may require elaboration: "Emergency Services" encompasses all areas of emergency planning or delivery, such as fire protection, dispatch or reporting; "Roads and Transportation" includes road construction, maintenance, snow removal and the provision of public transportation services; "Culture" encompasses all museum or archival services; "Waste" includes all landfill services, collection, and maintenance or recycling programming; and, finally, "Administrative" includes all items relating to staffing or other uncategorized maintenance, such as information technology maintenance and sharing.



This table demonstrates that the majority of agreements concern emergency services, which is consistent with American literature on inter-local cooperation (Andrew 2008). Emergency services are one policy area where geographical coverage is vital in maintaining public safety, which is why some municipalities feel the need to enter into agreements with neighbouring jurisdictions to ensure service continuity and protection.

The majority of the emergency services agreements included in this study involve fire protection, mostly in the form of mutual aid or fee for service agreements. Generally,

separated cities contract fire services to smaller jurisdictions near their borders. Consequently, these agreements tend to involve emergency dispatch or reporting, in which county officials negotiate an agreement on behalf of their lower tiers counterparts. This is unsurprising, considering that municipalities in Ontario are mandated under the *Fire Protection and Prevention Act* (Ontario 1997) to maintain fire protection and education services throughout their territory.

Social service agreements also account for a great deal of agreements. In 1997, the province undertook a program of policy and service downloading. One component of this downloading was the creation of the Consolidation of Municipal Services Management (CMSM) program, which mandated that municipalities across Ontario would assume increased responsibility for Ontario Works, child care, social housing, land ambulance and public health (Ontario 1998). To ensure that these services were delivered effectively and equitably, the province established consolidated municipal service managers and districts. In total, the province created 37 consolidated municipal service managers and 10 northern district social services administrative boards, each of which roughly aligned with previously existing jurisdictions.

For many communities across the province—such as municipalities with regional or single-tier governments—it was clear from the onset who the CMSM would be: areas with an upper-tier or single tier government that would automatically assume responsibility for the services covered under the CMSM. However, for counties with a separated city, it was much less clear. Unlike other municipalities in the province, the government did not provide extensive guidelines for how separated cities and counties would divide related costs and responsibilities. Instead, separated cities and counties were

left to figure out their own funding and service formulas. This ambiguity led to difficult negotiations within each area, as municipalities struggled to find the financial resources to deliver CMSM services. In certain cases, separated cities and counties ended up in arbitration.

Although each jurisdiction typically has only one or two active CMSM agreements, some jurisdictions elect to have one agreement for core social services, such as Ontario Works or social housing, and another for land ambulance. In these cases, each jurisdiction may have multiple CMSM agreements to cover the full range of policy responsibility under the *Local Services Realignment Act*.

Emergency services and CMSM agreements represent the two largest areas of cooperation between separated cities and counties. In total, CMSM and emergency services account for 173 of the 275 agreements that exist between Ontario's separated cities and counties. However, are these really cooperative agreements? Since the *Local Services Realignment* mandated municipalities to deliver social services, this forced municipalities to work together and reach an agreement over how to deliver these services. Municipalities faced a similar position with respect to fire services, in that they are provincially mandated to provide coverage across their jurisdiction. Quite often this responsibility requires the establishment of mutual aid agreements with adjoining municipalities if the territory is large enough to warrant it.

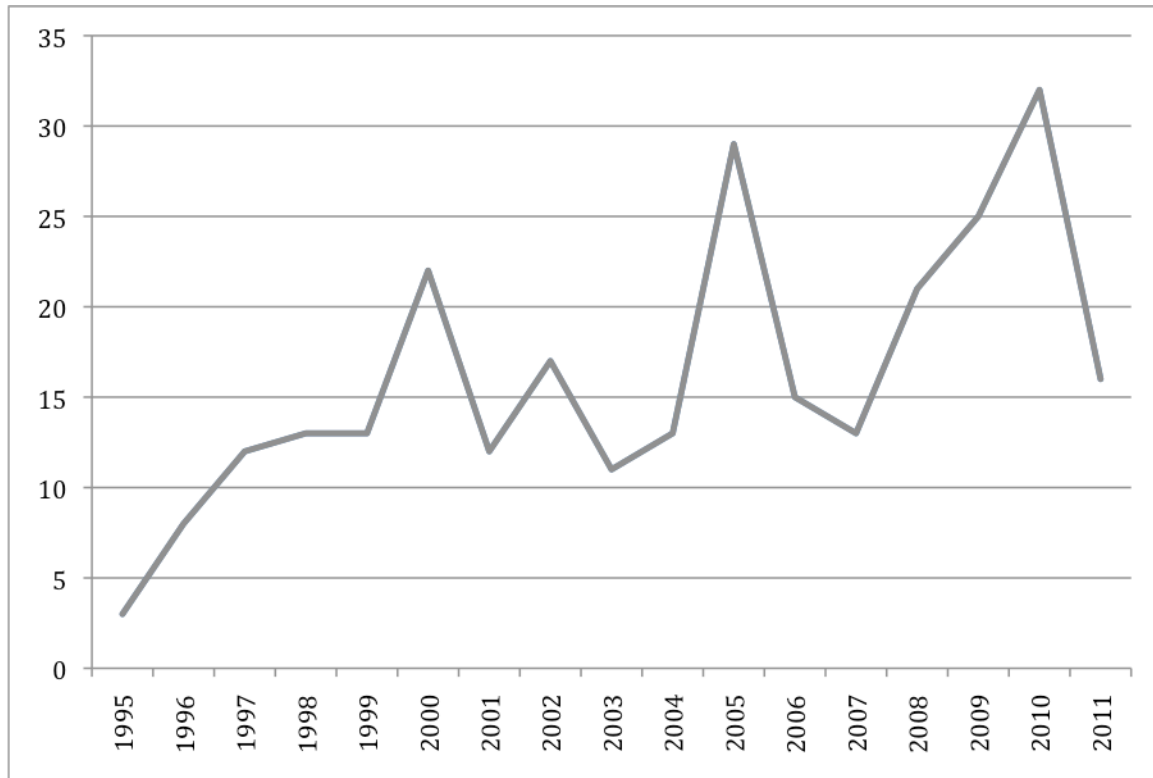
When the CMSM and emergency services agreements are removed, few truly cooperative agreements exist between Ontario's separated cities and counties. Although American studies would suggest that Ontario's separated cities and counties would be forced to rely heavily on inter-municipal agreements for service continuity and policy

creation, in fact, this does not seem to be the case. American studies typically uncover hundreds, if not thousands, of agreements within metropolitan areas. For example, in a study of inter-local fiscal cooperation, Shrestha (2005) found 6,080 agreements in 38 large American cities. Additionally, Wood's study of the Kansas City metropolitan area found 1,638 different agreements (2005). Thurmaier similarly located nearly 12,000 agreements between 1965 and 2004 in Iowa (2005). Meanwhile, LeRoux and Carr (2007) discovered 445 agreements in Michigan for roads alone, while Andrew Simon (2008) found 390 agreements just for public safety in the state of Florida.

In relation to their American counterparts, Ontario's separated cities and counties have signed, by comparison, a minimal amount of agreements with very little consistency across policy areas. After removing the CMSM and emergency services agreements, the next highest totals of agreements concern waste, water and sewage and administrative functions. This difference in the number of agreements between American metropolitan areas and Ontario's separated cities and counties can largely be explained by the vastly different nature of the relationships between the two. In Ontario, the primary relationship is between urban and rural areas, while American metropolitan areas have urban-suburban relationships. Urban and suburban areas have many more common servicing areas than urban and rural areas and, as a result, more areas for potential cooperation.

The timing of when these agreements are signed also reveals some interesting trends. Chart 2, below, illustrates the number of agreements struck, by year:

### **Chart 2: Agreements By Year**



As the chart indicates, very few agreements were signed in the mid-1990s. However, the number of signed agreements increases significantly in the late 1990s following the introduction of the CMSM regulations. The number spikes again in 2005 and 2010. This coincides with the expiry of the CMSM agreements, which were negotiated in the late 1990s and early 2000s as five-year terms and re-negotiated in the mid-2000s for another five-year term.

In total, the trend line increases from the 1995 start date of this study until 2011, indicating that the amount of agreements signed within these communities has been constantly increasing, albeit sporadically. Possibly, the CMSM—which mandated cooperation between these jurisdiction—may have led to more cooperative interaction, in that one major cooperative agreement led to the creation of further cooperative arrangements. Another potential explanation is that the need for cooperation is somehow

increasing, perhaps due to budget constraints or other fiscal restrictions. A potential decrease in revenue would encourage two jurisdictions to more seriously consider how to pool costs in order to provide public services, inevitably necessitating more cooperation between the two regions.

While policy areas and the year signed differ from agreement to agreement, most agreements have common components. Issues such as termination or expiry are routine areas of discussion when negotiating agreements and can provide clues about the strength of the relationship between jurisdictions. Both cooperative intensity and typologies literature examine the common components of agreements between potential municipal partners. Table 4, below, provides a summary of many of the key components of agreements compiled for this study.

<b>Table 4: Summary of Agreement Components</b>		
	<b>Total</b>	<b>Percent</b>
Agreements With Expiry Clauses	167	60.7%
Agreements With Termination Clauses	220	80%
Agreements Leading to the Creation of Joint Committee's or Boards	62	22.5%
Agreements with Dispute Resolution Mechanisms	78	28.3%
Number of Restrictive Agreements	206	74.9%
Number of Adaptive Agreements	69	25%

The vast majority of agreements—80 percent—include termination clauses that allow at least one of the partners included in the agreement to leave the arrangement. Many such termination clauses include procedures and timelines for withdraw, such as submitting termination notices in writing within sixty days of the set withdrawal. The procedures and

timing of the termination process vary by agreement, however. Just over 60 percent of the agreements contain expiry clauses, stating that the agreement will automatically terminate after a set period of time unless the jurisdictions included in the agreement want to extend it.

While most jurisdictions prefer to strike agreements with termination and expiry clauses, very few include clauses for monitoring, such as the creation of joint boards, commissions or dispute resolution mechanisms. Only 22.5 percent of agreements involve the creation of joint boards or commissions to oversee the execution of the agreement. Many of these agreements are CMSM agreements, which do occasionally provide for the creation of joint social services committees that allow both partners to monitor the delivery of social services in their own communities. Similarly, only 28.3 percent of agreements include procedures for dispute resolution. The high rates of termination clauses indicate that many communities view their ability to terminate the agreement as a form of dispute resolution; consequently, each signatory's ability to leave the agreement at any time is, in itself, an incentive to seek an informal resolution to any impasse.

The prevalence of expiry and termination clauses also indicates that most jurisdictions prefer to establish agreements that carry a low level of risk. Although these agreements are formalized, they are for set durations and allow either partner to leave the agreement if they feel that participating is no longer in their best interest. Only a minority of agreements establishes independent authorities to monitor and execute the content of the agreement, with a similar number having built-in dispute resolution mechanisms. This indicates that Ontario's separated cities and counties are creating agreements of a low



intensity without the aim of creating long-term relationships. Instead, these agreements aim to create policy-specific and purpose driven networks of cooperation.

Since 74.9 percent of agreements—the vast majority—are restrictive in that they contain formal legal procedures that bind each participant to their actions. As previously discussed, these types of agreements aim to mitigate risk and ensure that the expectations for each partner are well known. This includes areas in which the province mandates cooperation—namely, CMSM policy areas—and the amount of agreements that include large contributions towards infrastructure, such as waste and water facilities and public transportation.

In Ontario, adaptive agreements are mainly utilized for mutual aid and protection, which is consistent with American literature on emergency response agreements (Andrew 2009; Andrew 2010). In both areas, municipalities largely use cooperative agreements to supplement existing services, which—not coincidentally—are the type of situations that call for adaptive agreements. These agreements are mainly formed to add to existing services and ensure continuity. Although two municipalities may already have a fire department, a mutual aid agreement provides additional protection to potentially underserved border regions. As such, Ontario municipalities use adaptive agreements for similar policy areas as American municipalities, although provincial regulation may be forcing them to use larger amounts of restrictive agreements than they would otherwise.

## Inter-Local Agreements and the Cooperative Process

Surveying inter-local agreements indicates that the rate by which the province's separated cities and counties create agreements is below expected levels, mainly due to the variation in servicing responsibilities between urban and rural municipalities. Without formal institutional linkages, it was believed that Ontario's separated cities and counties would need to rely heavily on formal agreements to address gaps in regional infrastructure, planning and servicing. This, however, is not the case. Exploring the process of how these agreements were formed in each of the three case studies may shine some light on why Ontario's separated cities and counties do not rely more heavily on formal inter-local agreements. There is, as previously mentioned some regional variation in the amount of agreements signed between 1995 and 2001: Guelph-Wellington has only 11 agreements, while London-Middlesex has 22 and Barrie-Orillia-Simcoe has 33.

Guelph has a troubled history with cooperation, which mainly stems from an impasse reached in renewing their CMSM agreement with Wellington County. Guelph-Wellington previously had, for many years, a cost-sharing agreement of some locally delivered social services. Consequently, when the *Local Services Realignment Act* was first introduced, reaching an initial CMSM agreement was relatively easy. The City of Guelph, however, formally advised the county in February 2008 that they intended to terminate this initial agreement (Colbourne 2010, 2).<sup>8</sup> Unable to reach a consensus, both parties entered arbitration in 2010 (Colbourne 2010, 2). Ultimately, the arbitrator

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<sup>8</sup> Despite the notice to terminate, the social services committee continued to meet. The minutes from the February meeting of the social services committee indicate that both parties continued to discuss matters relating to CMSM services. There was only one in camera session during the February meeting, but the minutes indicate that this was used to discuss a land transfer issue on the city's behalf.

assigned to the dispute, Douglas Colbourne, ruled in favour of the county, implementing a funding model that the City resented.

The arbitration process harmed the relationship between Guelph and Wellington County. No longer did the two sides see each other as cordial partners; rather, their relationship became more “business-like”, dramatically reducing communication and interaction. Consequently, Guelph and Wellington County and its constituent municipalities signed only 11 cooperative agreements between 1995 and 2011. Of these, five involve the county itself, while the remaining agreements involve lower-tiers in the county.

The CMSM related agreements were terminated at Guelph’s request after which, arbitration commenced for these policy areas. The only remaining agreement with the county concerns Provincial Offences. However, Guelph does have a number of agreements with the county’s lower-tiers, primarily addressing fire dispatch.

Unlike other separated cities and counties, no informal agreements exist between Guelph and Wellington County. Respondents report that after the CMSM arbitration, both Guelph and the county sought to ensure that all agreements were codified since the county was concerned that any ambiguity surrounding any informal agreements may lead to further arbitration and increased legal costs (Personal Interview – April 16, 2012)

The last issue to be codified that was first initiated through an informal agreement involved the Wellington Terrace long-term care facility. The Wellington Terrace is located in the county, just outside of the community of Fergus, and accepted residents from Guelph. County officials report that funding for the facility began as a “gentleman’s agreement” and was not formalized (Personal Interview – April 13, 2012). This

agreement—which, according to those involved in its creation, was sealed with only a handshake—made the county responsible for the construction of the facility while the city would contribute funding towards materials and, eventually, towards its yearly operating funding (Personal Interview – April 13, 2012). Guelph, however saw the agreement differently and refused to pay their agreed upon allotment after 2006 (Tracey 2010)

This issue was only recently resolved, in March 2012, when both sides finally reached an equitable agreement (City of Guelph 2012). In the agreement, Guelph would not be required to contribute to the facility’s capital costs, but would assume responsibility for 20 percent of Wellington Terrace’s net operating costs (City of Guelph 2012). Additionally, the city owed the county over \$4 million in maintenance obligations from 2006 to 2011 (City of Guelph 2012). Most importantly from the perspective of city officials, Guelph would be released from its obligations to Wellington Terrace if they opted to construct an alternative facility (City of Guelph 2012).<sup>9</sup>

Guelph councilors, for many years, insisted that the Elliot House, a facility within the city’s borders, was sufficient to service its population (Personal Interview – April 30, 2012). The province, however, would not give its consent to designate Elliot House as Guelph’s home for the aged, contending that the facility was not compliant with provincial standards. With the agreement for the Wellington Terrace now complete, Guelph councilors hope to bring the Elliot House up to provincial standards and leave their agreement with the county (Personal Interview – April 30, 2012).

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<sup>9</sup> Ontario’s *Long Term Care Act* (Bill 140), and its predecessor the *Homes for the Aged and Rest Homes Act*, mandate all single tier or multi-tier municipalities to establish and maintain a municipal home for the aged or to enter into an agreement with another municipality to maintain a long-term care facility.

Respondents suggest that solving this dispute was beneficial in helping to mend the relationship between the city and the county. Mayor Karen Farbidge of Guelph, commenting publicly in the *Guelph Mercury*, stated that the dispute was “a source of great frustration” between the city and county, but noted that, “I hope it’s signaling a greater ability to move forward with other agreements...I think symbolically this was a big one” (Tracey 2012). Thus, while it did take over a decade to reach an agreement, some county officials argue that the city’s willingness to reach a negotiated settlement is positive and a demonstration of a potential change in attitude towards cooperation with the county (Personal Interview – April 16, 2012).

While few agreements exist between Guelph and Wellington County, even fewer exist between Guelph and its surrounding county lower-tiers. Most of these agreements are related to fire dispatch, fire protection and mutual aid. Officials from these communities insist that the fire departments themselves negotiate these types of agreements (Personal Interview – May 2, 2012). With little political involvement, the Chiefs of the individual fire departments take the initiative themselves to reach these agreements. While councils remain responsible for ratifying the agreements once they are negotiated, councils remain mostly removed from the negotiation process. When these agreements are removed from consideration, there are few agreements between Guelph and Wellington County—in fact, this jurisdiction has the fewest in the province.

While forming agreements in Guelph-Wellington has been challenging, the same process in London-Middlesex and Barrie-Orillia-Simcoe show more positive results. Officials in both areas find few barriers to agreement formation, with 22 agreements signed in London-Middlesex between 1995 and 2011 and 33 in Barrie-Orillia-Simcoe.

Although both areas have experienced tensions with their surrounding jurisdictions, they have not let it affect their ability to sign cooperative agreements.

In London-Middlesex, the majority of these agreements were signed after 2000, with only two agreements signed between 1995 and 2000. Most of the agreements came early in the decade with fifteen agreements signed between 2000 and 2005. The majority of these agreements were between the county and the city, although the municipalities surrounding London—Thames Centre and Middlesex Centre—do have a limited number of agreements with the city as well. The policy areas vary, but the majority of the agreements (6) are for policy areas covered by CMSM agreements or for emergency protection, namely fire protection and emergency communications. A number of agreements also exist for water and wastewater. Surprisingly, considering how many shared roads run from the city into the county, few agreements exist for road maintenance.

In Barrie-Orillia-Simcoe, the presence of a second separated city increases the number of inter-local agreements within the Simcoe region and both Barrie and Orillia have actively sought to codify many of their arrangements with the county and its lower-tier municipalities. Staff generally take the lead on negotiating and monitoring agreements, with little political involvement. More recently, the mayor of Barrie has actively initiated some discussions regarding cooperation on a number of service areas although historically, politicians have generally deferred to senior staff to make these decisions. Over the period of study—1995-2011—the number of agreements has been steady, indicating that Barrie, Orillia and the county have been consistent in their use of inter-local agreements for servicing and policy development.

Barrie also provides a large amount of servicing to lower-tiers within the county. Mainly, this servicing is emergency response, including hazardous material response, fire protection and fire communication. Most of the agreements that Barrie and Orillia sign directly involve lower-tier municipalities rather than the county.<sup>10</sup> The county is mainly included in agreements that involve provincially mandated policy areas, such as CMSM and public health unit funding.

Much like Guelph-Wellington, the region of Barrie-Orillia-Simcoe has few informal agreements and nearly all agreements are formally codified. Both separated cities use similar reasoning, that formal agreements provide them with legal protections that informal agreements do not. Most respondents from the Simcoe region agree that this is a long-standing institutional practice in the area. Guelph used informal agreements until the CMSM arbitration process, after which a concerted effort was made to formalize all informal agreements in order to manage expectations between both parties and provide a measure of legal protection.

London, on the other hand, has several informal agreements, with some county officials suggesting that they have upwards of 10 informal agreements with the city. County staff contend that most of these agreements have not been formalized through traditional inter-local agreements (Personal Interview - March 2, 2012). Some examples of these types of agreements include the county's utilization of the city's IT bunker, the

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<sup>10</sup> Both Barrie and Orillia also have agreements with First Nations groups within the region. Both municipalities find that their negotiations and interactions with these groups are positive. The only other municipalities in the region to have a direct agreement with a First Nations group is Ramara, which has one formal agreement with the Mnjikaning First Nation. This agreement is for fire protection, although Ramara and Mnjikaning also have an informal agreement for road maintenance. Officials from Ramara have noted that they have gotten in a dispute with Mnjikaning over the construction of a bridge between the two communities, which as strained their relationship. Due to their limited relationship with municipalities in the region, no First Nations groups were contacted to participate in this study.

creation of joint city and county library privileges, joint city and staff training and skills building exercises, and jointly hosting the Association of Municipalities of Ontario annual conference. These agreements, county officials note, reflect “more of an understanding” between both parties and result from “handshakes and head nods” (Personal Interview – March 2, 2012). When asked why these agreements are not codified, county officials respond that neither side sees a point in formalizing some of these services. Moreover, in some cases—such as the provision that county library cardholders can utilize London’s library services and vice versa—only an operations policy or regulatory amendment would be able to formally alter existing arrangements.

These informal agreements exist for two main reasons. The first is that they involve relatively minor policy areas that carry a low financial commitment. In general, the more complex the policy area, the more likely it is that it will be formalized. The second reason is that neither party has ever defaulted on an existing agreement or failed to fulfill their commitment to each other. Simply put, these informal agreements exist because trust is high and risk is low.

Respondents in London-Middlesex and Barrie-Orillia-Simcoe report that the negotiations for these agreements begin at the staff level to identify a need before proceeding to the political level for finalization (Personal Interview – February 6, 2012). Staff, they report, are generally the ones who can most easily identify service duplication or service gaps. Following the identification of these problems, staff must identify the level of government responsible for addressing the problems. At this step city officials note that politicians assume responsibility to meet and negotiate a final agreement (Personal Interview – February 6, 2012). There are no guidelines for approaching the



county or any of its lower-tiers nor does the county not have any established protocols with regard to contacting or approaching London.

## Conclusion

Analyzing the types of inter-local agreements in place across the province produces some interesting results. Key among them is the finding that most agreements that exist between the separated cities and counties in Ontario concern emergency services—primarily fire services—and CMSM policy areas. These are two policy areas in which the province mandates cooperation, although to differing degrees. As such, they are not completely voluntary. When these two policy areas are removed, there are only a little more than one hundred agreements between Ontario's thirteen counties with a separated town or city. This result was largely unexpected since one would naturally assume that areas without any institutional linkages would need to rely heavily on inter-local agreements for policy creation and service continuity.

Because formal inter-local agreements are used so infrequently, the natural assumption is that informal agreements constitute the norm in counties with a separated city. However, as the preceding case studies demonstrate the use of informal agreements varies and depends upon the region. In Barrie-Orillia-Simcoe, staff have avoided the use of informal agreements, opting instead to codify service agreements. Similarly, Guelph and Wellington County have made a concerted effort to formalize their informal agreement, largely because of the dispute stemming from their CMSM arbitration. Only London and Middlesex utilize informal agreements, although they are used sparingly and,

often only temporarily, such as their cooperation in hosting a recent Association of Municipalities of Ontario conference.

Ultimately, Ontario's separated cities and counties do not rely on formal agreements as much as predicted and their use of informal agreements is sporadic. Explaining this trend is that most of the separated cities do not need their counties for service continuity; consequently, most cities are focused on creating the necessary infrastructure to provide their own services without the help of the rural municipalities around them. While some lower-tier municipalities are interested in expanding city services, separated cities have been mostly self-sufficient, thereby eliminating the need for much policy coordination.

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## Interview Listings

<b>Region</b>	<b>Municipality</b>	<b>Position</b>	<b>Date</b>
Middlesex	London	Director, Intergovernmental and Community Liaison	Feb. 6, 2012
Middlesex	London	Ward 3 Councilor	Feb 13, 2012
Middlesex	North Middlesex / Middlesex County	Mayor / County Councilor	Feb 14, 2012
Middlesex	Middlesex Centre / Middlesex County	Mayor / County Councilor	Feb 15, 2012
Middlesex	Southwest	Administrator/ Clerk	Feb 17, 2012

	Middlesex		
Middlesex	Middlesex Centre	Ward 3 Councilor	Feb 21, 2012
Middlesex	Lucan Biddulph	CAO/Clerk	Feb 21, 2012
Middlesex	Middlesex County	CAO	Mar 2, 2012
Middlesex	Middlesex County / Thames Centre	Mayor/County Warden	Mar 2, 2012
Middlesex	London	Ward 5 Councilor	Mar 5, 2012
Middlesex	Middlesex Centre	Ward 1 Councilor	Mar 5, 2012
Middlesex	Middlesex Centre	Deputy Mayor	Mar 7, 2012
Middlesex	Adelaide Metcalfe / Middlesex County	Mayor/County Councilor	Mar 8, 2012
Middlesex	London	Former Mayor	Mar 8, 2012
Middlesex	Middlesex Centre	Ward 5 Councilor	Mar 8, 2012
Middlesex	Middlesex Centre	CAO	Mar 13, 2012
Middlesex	London	Ward 14 Councilor	Mar 13, 2012
Middlesex	London	Former CAO	Mar 15, 2012
Middlesex	Southwest Middlesex	Mayor/County Councilor	Mar 16, 2012
Middlesex	Strathroy Caradoc	CAO	Mar 21, 2012
Middlesex	Strathroy Caradoc	Mayor/ County Councilor	April 4, 2012
Wellington	Wellington North	Mayor/County Councilor	April 12, 2012
Wellington	Minto	CAO	April 13, 2012
Wellington	Puslinch	CAO/Clerk-Treasurer	April 13, 2012
Wellington	Puslinch	Mayor/County Councilor	April 16, 2012
Wellington	Centre Wellington	Mayor/Former County Warden	April 16, 2012
Wellington	Guelph/Eramosa	Mayor/County Warden	April 26, 2012
Wellington	Guelph	Ward 2 Councilor	April 30, 2012
Wellington	Guelph/Eramosa	Ward 4 Councilor	April 30, 2012
Wellington	Puslinch	Councilor	May 2, 2012
Wellington	Guelph	Ward 1 Councilor	May 2, 2012
Wellington	Guelph	Former Ward 4 Councilor	May 2, 2012

Wellington	Guelph	Ward 4 Councilor	May 2, 2012
Wellington	Erin	Former Mayor/Former County Councilor	May 10, 2012
Wellington	Guelph	Ward 5 Councilor	May 10, 2012
Wellington	Mapleton	Mayor/County Councilor	May 16, 2012
Wellington	Guelph	Ward 3 Councilor	May 17, 2012
Wellington	Wellington-Halton Hills	Member of Provincial Parliament	May 18, 2012
Wellington	Guelph	Former Ward 3 Councilor	May 25, 2012
Wellington	Guelph/Eramosa	CAO	June 4, 2012
Wellington	Erin	Mayor/County Councilor	June 4, 2012
Simcoe	Tay	CAO	May 23, 2012
Simcoe	Wasaga Beach	CAO	May 25, 2012
Simcoe	Springwater	Mayor/County Councilor	May 29, 2012
Simcoe	Collingwood	Mayor/County Councilor	May 29, 2012
Simcoe	New Tecumseth	Mayor	May 30, 2012
Simcoe	Adjala-Tosorontio	CAO	May 30, 2012
Simcoe	Orillia	Ward 3 Councilors	May 30, 2012
Simcoe	Orillia	Deputy CAO/CFO	May 30, 2012
Simcoe	Bradford West Gwillimbury	CAO	May 31, 2012
Simcoe	Penetanguishene	Mayor/ County Councilor	May 31, 2012
Simcoe	Tay	Mayor/County Councilor	May 31, 2012
Simcoe	Severn	Mayor/County Councilor	May 31, 2012
Simcoe	Brandford West Gwillimbury	Mayor/County Councilor	May 31, 2012
Simcoe	Orillia	Ward 4 Councilor	June 1, 2012
Simcoe	Barrie	Ward 2 Councilor	June 1, 2012
Simcoe	Oro-Medonte	Mayor/County Councilor	June 1, 2012
Simcoe	Oro-Medonte	Deputy Mayor/County Councilor	June 1, 2012
Simcoe	Orillia	Ward 4 Councilor	June 1, 2012
Simcoe	Simcoe North	Member of Provincial Parliament/Former County Warden/Former Mayor	June 5, 2012
Simcoe	Barrie	Ward 8 Councilor	June 5, 2012
Simcoe	Tiny	Mayor/County Councilor	June 8, 2012
Simcoe	Collingwood	Deputy Mayor/County Councilor	June 8, 2012
Simcoe	Adjala-Tosorontio	Deputy Mayor/County Councilor	June 8, 2012
Simcoe	Springwater	Former Mayor/Former County Warden	June 8, 2012

Simcoe	Barrie	Mayor	June 14, 2012
Simcoe	Midland	Mayor/County Councilor	June 14, 2012
Simcoe	York Simcoe	Member of Provincial Parliament	June 15, 2012