

SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM  
2.1  
(ID # 9335)

MEETING DATE:

Tuesday, March 19, 2019

FROM : AUDITOR CONTROLLER:

SUBJECT: AUDITOR-CONTROLLER: Legal Settlement Cost Report 2013-2017, District: All.  
[\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Legal Settlement Cost Report 2013-2017

ACTION: Consent


  
Paul A. Angulo, County Auditor-Controller 3/7/2019

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MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Spiegel, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the Executive Office will report back with more detail May 2019.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: March 19, 2019  
xc: Auditor, E.O.

Kecia Harper  
Clerk of the Board  
By:   
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0.0	\$ 0.0	\$ 0.0	\$ 0.0
<b>NET COUNTY COST</b>	\$ 0.0	\$ 0.0	\$ 0.0	\$ 0.0
<b>SOURCE OF FUNDS: N/A</b>			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	N/A

**C.E.O. RECOMMENDATION:** See Executive Office's response on Attachment B

**BACKGROUND:**

**Summary**

The Riverside County Auditor-Controller's Office initiated a legal settlement cost review with the objective of providing the Board of Supervisors (the Board) the total cost information associated with settlements paid. This provides the Board and other decision makers transparency and an opportunity to make well-informed decisions related to these costs. It also provides the Board information on how the Riverside County Liability Fund's performance stands comparative to other large California counties. It is our goal to provide the Board with substantive, relevant, actionable information.

The attached report presents cost information collected from the six largest counties (Los Angeles County, San Diego County, Orange County, Riverside County, San Bernardino County, and Santa Clara County) in California by population size for the period January 1, 2013, through December 31, 2017.

**Impact on Residents and Businesses**

Provide information on significant transactions and trends occurring in county government.

**ATTACHMENT A.** Legal Settlement Cost Report 2013-2017

**ATTACHMENT B.** Executive Office Response

  
 Stephanie P. P., Principal Management Analyst      3/13/2019



**AC** | AUDITOR  
CONTROLLER  
COUNTY OF RIVERSIDE

Paul Angulo, CPA, M.A.  
Auditor-Controller

*"Creating Value and Making a Difference"*

**LEGAL SETTLEMENT  
COST REPORT**

**Comparative Report of Riverside County with  
Other California Counties**

January 1, 2013, through December 31, 2017

## EXECUTIVE SUMMARY

The Riverside County Auditor-Controller's Office initiated a legal settlement cost review with the objective of providing the Board of Supervisors (the Board) the total cost information associated with settlements paid. This provides the Board and other decision makers transparency and an opportunity to make well-informed decisions related to these costs. It also provides the Board information on how the Riverside County Liability Fund's performance stands comparative to other large California counties. It is our goal to provide the Board with substantive, relevant, actionable information. That is, information that matters.

Legal settlement cost information was collected from the six largest counties (Los Angeles County, San Diego County, Orange County, Riverside County, San Bernardino County, and Santa Clara County) in California by population size for the period January 1, 2013, through December 31, 2017. Riverside County had the highest overall cost per capita<sup>1</sup>, which is 78% higher than the next county, Los Angeles, and 237% higher than next similar sized county, San Bernardino. The total dollar payout for Riverside County during the 5-year period under analysis was \$136.6 million. By comparison the four other similar-sized counties had a grand total of \$121.9 million. The question we ask: Why is Riverside County's Liability Fund settlements so far removed from the other counties? Riverside County accounts for 10% of the population for the top six counties (including Los Angeles) yet it is responsible for 23.5% of total legal settlements for the same counties combined.

Based on the data, which is far removed from statistical norms, the Board of Supervisors should therefore empanel a thorough investigation of the legal settlements and associated risks of the Liability Fund. The investigation should also include an analysis of all related parties and associations. The processes in which decisions to settle or proceed to trial should be evaluated to determine the propriety of these processes and if the individuals making the settlement decisions are appropriately qualified. The County Auditor-Controller urges the Board to take decisive action to defend the taxpayer's best interests.

## INTRODUCTION

Annually, local governments spend millions of taxpayer dollars fighting and settling litigations for a range of legal challenges. The cost for lawsuits may vary significantly for counties. Heavily populated counties and types of public services provided will influence costs as the legal challenges vary from county to county. State laws also have an impact on how much can be awarded by placing maximums per type of claim. This may also drive the cost up or down depending on the legislation in place.

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<sup>1</sup> Population is based on Census Bureau Statistics as of July 1, 2017

## SCOPE

The scope included the request of information for calendar year legal settlements in six counties from the period of January 1, 2013, through December 31, 2017. Information on settlements were collected from the following counties:

- Los Angeles County
- San Diego County
- Orange County
- Riverside County
- San Bernardino County
- Santa Clara County

We categorized the data sent from all the counties, except San Bernardino County. For San Bernardino County, we could only utilize the aggregate amounts as details were not provided. Based on the departments for each county, we categorized the data collected according to the portfolios Riverside County utilizes. The tables and charts presented in this report are by category and demonstrates how our county compares to the other large counties in each of the categories.

## CONCLUSIONS AND RECOMMENDATIONS

Riverside County's per capita legal settlements are far outside the average range from the other counties reviewed. Further investigation is required to determine the cause of the large payouts and ways to mitigate future risks. Riverside County must implement measures to help mitigate the exposure of lawsuits to the various organizations managed under its responsibility. Such measures can include the following:

- Have a robust process to determine true litigation risks and potential losses
- Use prior settlements and litigation claims to develop new policies and procedures
- High emphasis and continuous messaging from executive management to core values like integrity, transparency, accountability, and rigorous adherence to confidentiality and information security policies
- Dissuade the use of shortcuts in the name of "process efficiencies," specifically when the designed processes are establish to have redundancies and reduce errors
- Develop training needs based on trends from historical claims
- Acute investment in building expertise in challenging sectors to help with prevention of careless errors and accidents
- Candid and constant re-evaluation of needs and resources to implement as risks changes
- Transparent communication with all levels of the organization to reduce misunderstandings by county employees and the public
- Advocacy to create state legislation limiting the settlement and lawsuit payouts for types of claims not currently in place

- Secure the assistance of legal counsel, qualified to negotiate aggressively and a history of winning outcomes for legal claims facing local governments
- Be less risk averse since quickly settling legal claims sets a precedence and builds a reputation of an organization eager to settle
- Communicate with and involve the alleged offending department
- Human Resources/Risk Management should write policies they can support and defend and not abandon at the first sight of controversy
- Proposed settlements should be reviewed and approved by a panel of qualified attorneys before being presented to the Board of Supervisors for final decision.

**Table 1** demonstrates the total legal settlement cost by county. It is presented by portfolio category as categorized by Riverside County to benchmark each county by portfolio.

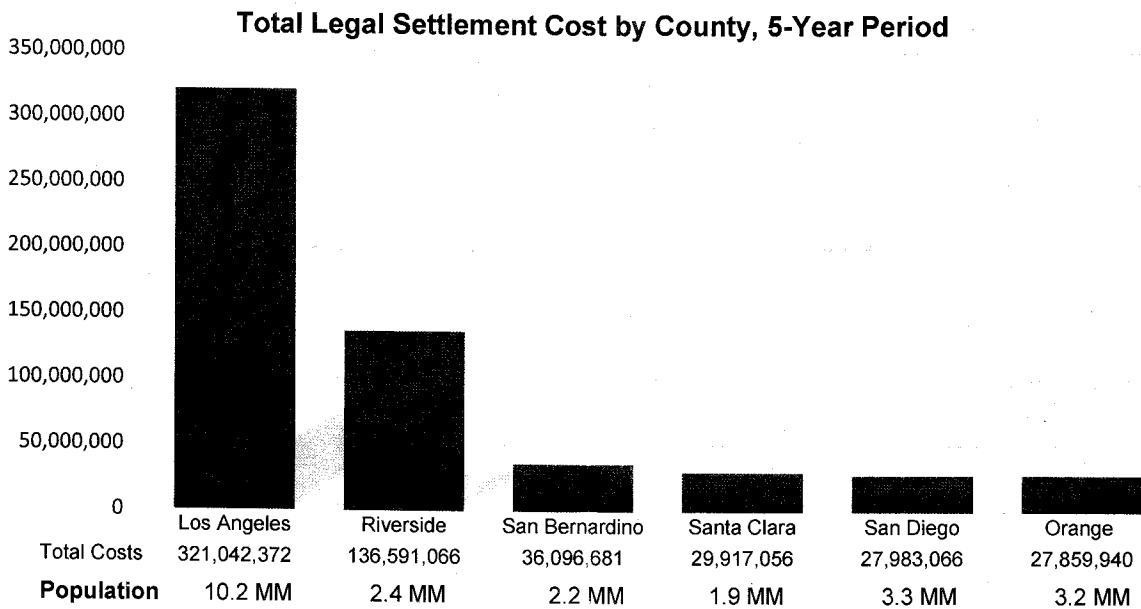
**Table 1: Total Settlement Cost by County , 5-Year Period**

Portfolio Categories	Riverside	Los Angeles	San Bernardino	Santa Clara	San Diego	Orange	Grand Total
Public Safety	84,785,524	184,049,843		15,526,761	12,839,334	16,482,654	313,684,116
Public Works, Land Use & Environment	29,031,971	372,270		3,072,441	2,918,234	3,572,025	38,966,941
Human Services	10,858,790	19,175,965		1,756,175	41,722	1,396,375	33,229,026
Economy & Community Development	4,129,038	30,631,260		600,431	9,902,300	3,721,430	48,984,460
Health & Hospital Services	3,818,489	66,672,260		7,878,532	791,179	586,531	79,746,992
Human Resources	2,913,357	117,908		212,918	1,189	182,692	3,428,063
Finance & General Government Services	571,428	15,046,081		684,822	923,394	885,240	18,110,965
Internal Services	136,140	1,879,942		16,357	25,922	138,945	2,197,306
Other	18,757	3,096,842		168,618	539,792	894,049	4,718,058
County Wide	327,570		36,096,681				36,424,251
Grand Total	\$136,591,066	\$321,042,372	\$36,096,681	\$29,917,056	\$27,983,066	\$27,859,940	\$579,490,179

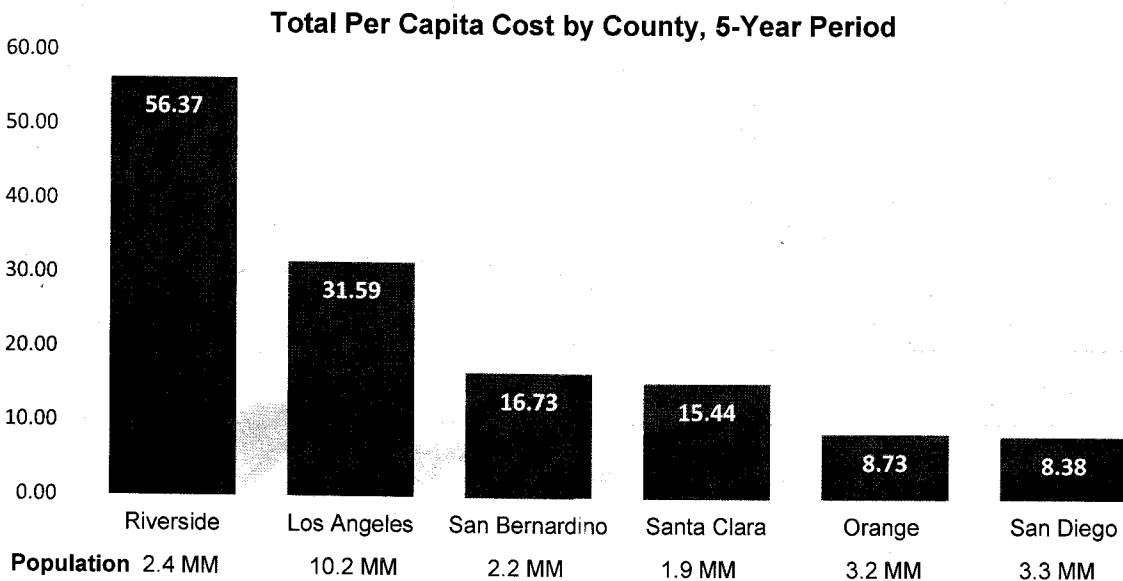
For the 5-Year period reviewed, Public Safety settlement cost totaled over \$313.7M for all counties. In terms of cost of other portfolio categories, it ranks the highest.

The charts through the report, provide a visual of how each county benchmarks in comparison to other counties for each portfolio category. Portfolio categories were arranged in the manner consistent with Riverside County's department portfolios.

**Figure 1: Total Legal Settlement Cost by County, 5-Year Period**

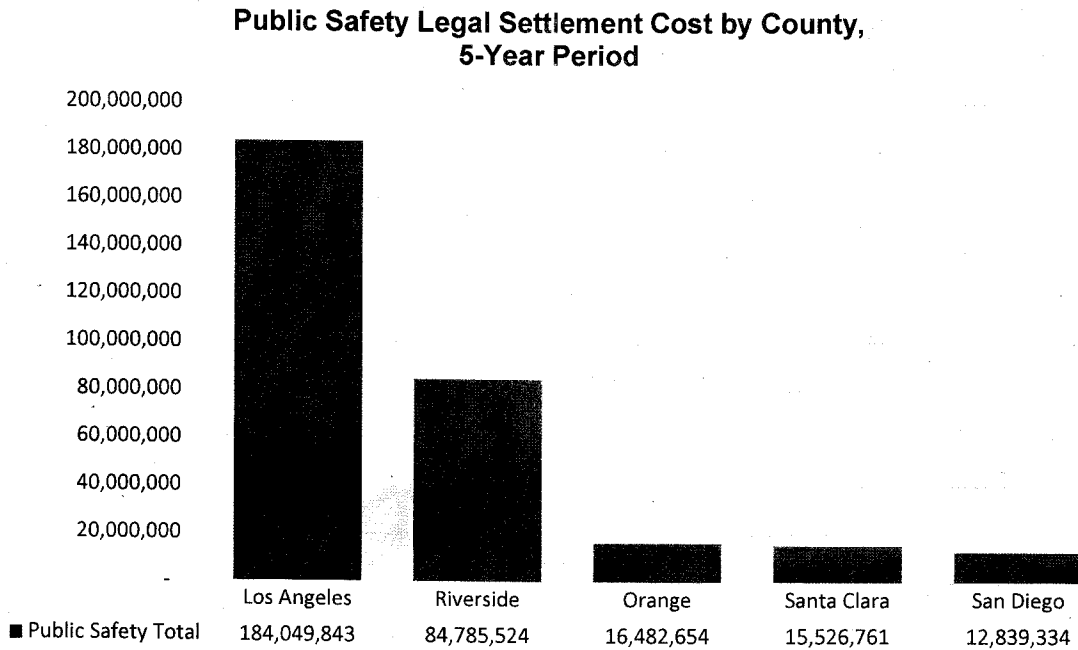


**Figure 2: Total Per Capita Legal Settlement Cost by County, 5-Year Period**

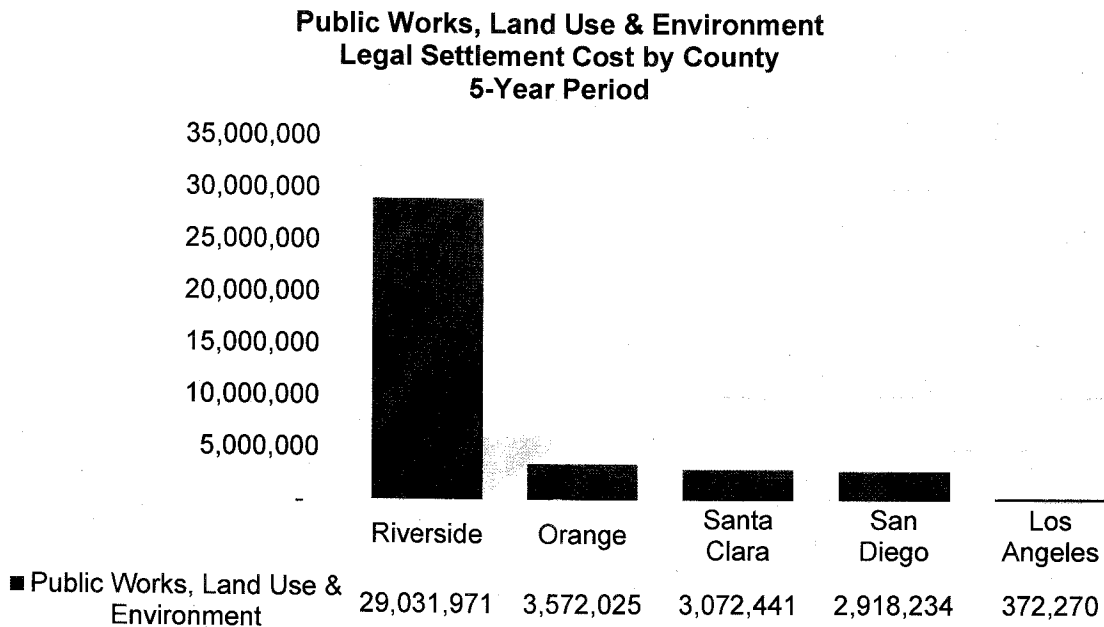




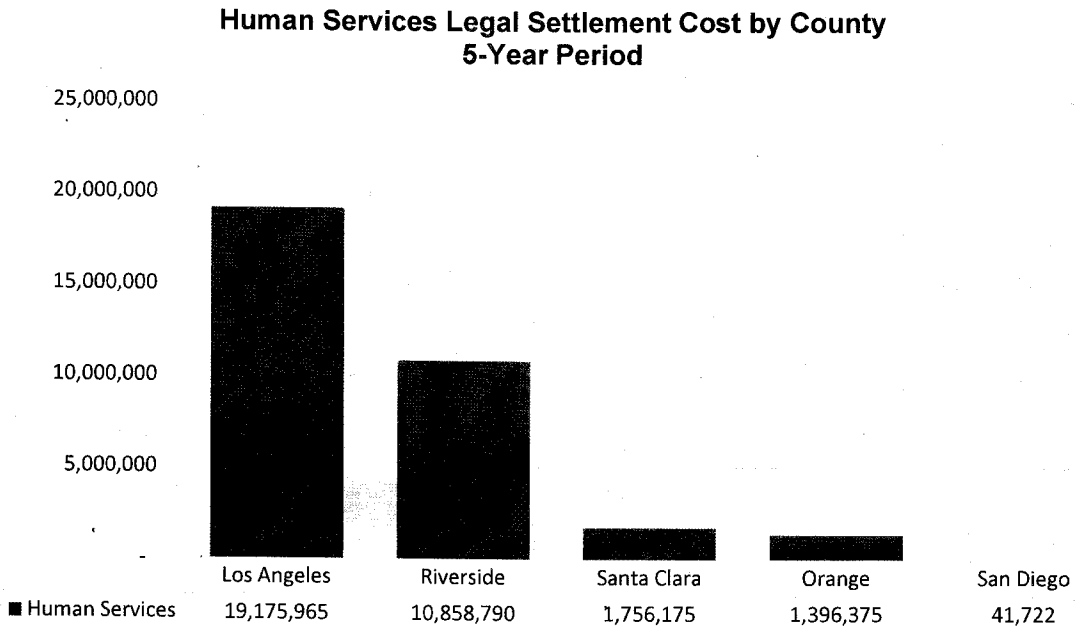
**Figure 3: Public Safety Portfolio Legal Settlement Cost by County, 5-Year Period**



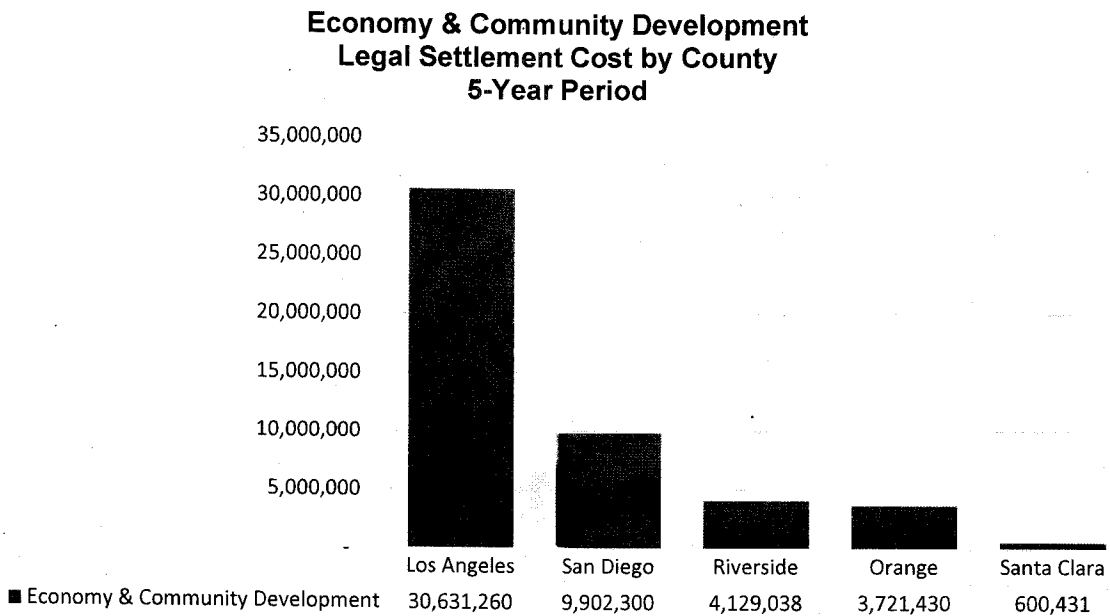
**Figure 4: Public Works, Land Use & Environment Portfolio Legal Settlement Cost by County, 5-Year Period**



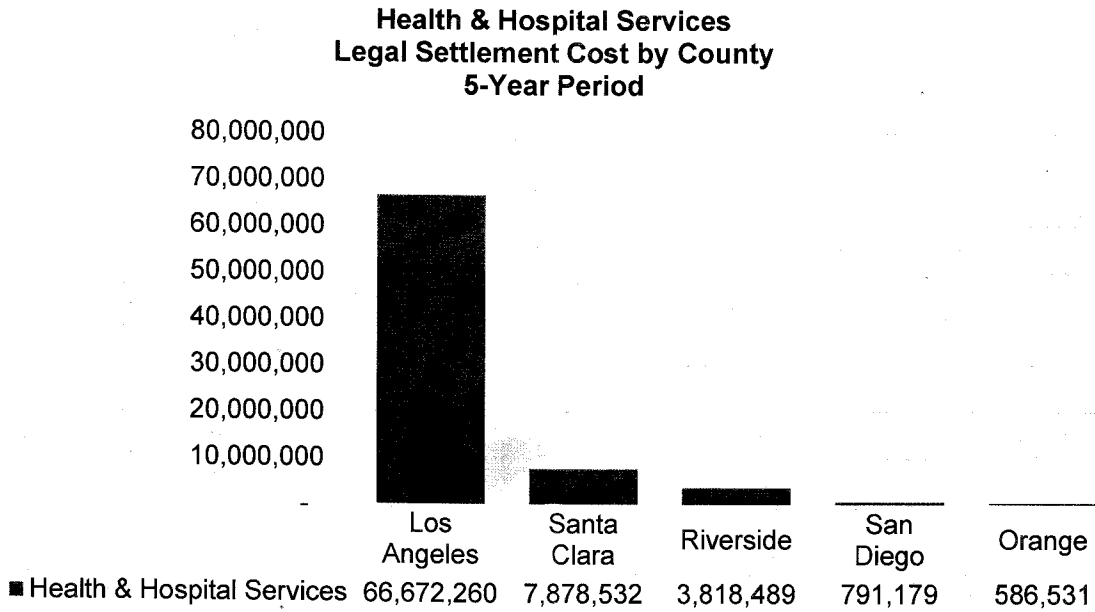
**Figure 5: Human Services Portfolio Legal Settlement Cost by County, 5-Year Period**



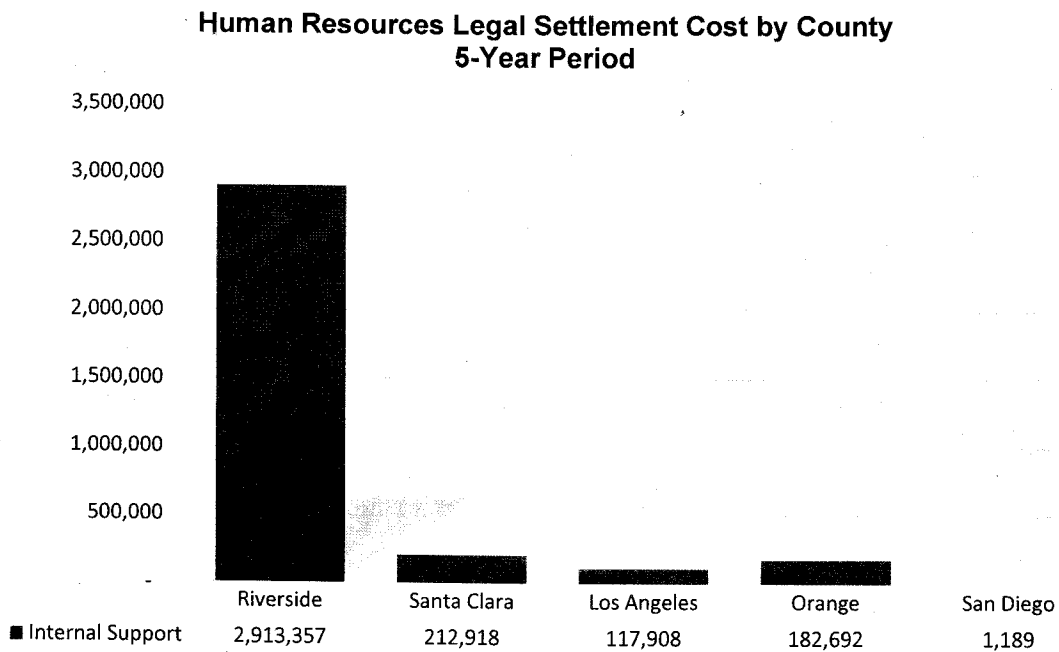
**Figure 6: Economy & Community Development Portfolio Legal Settlement Cost by County, 5-Year Period**



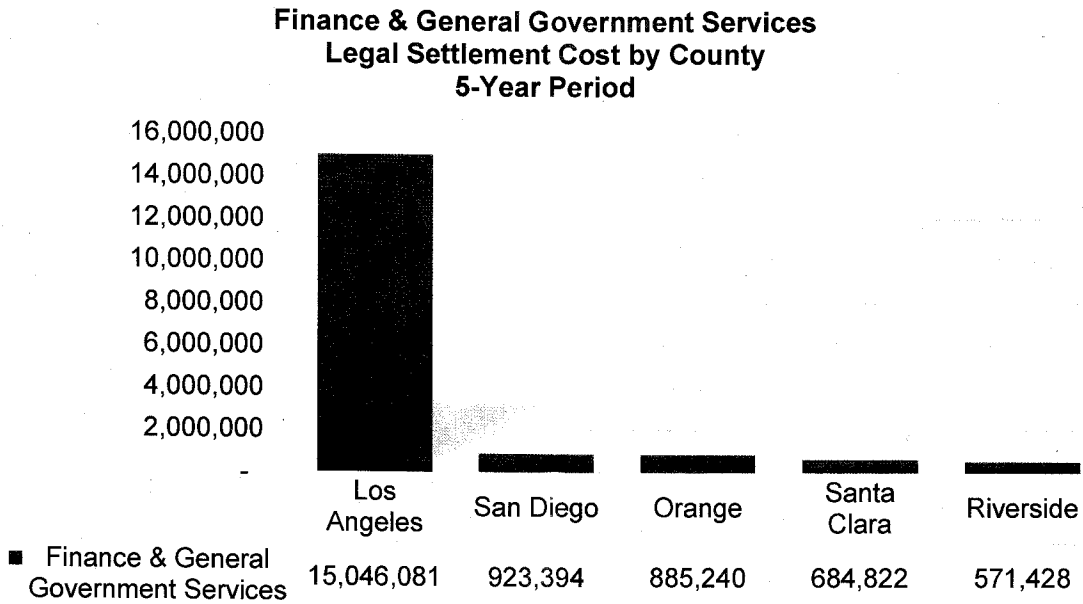
**Figure 7: Health & Hospital Services Portfolio Legal Settlement Cost by County, 5-Year Period**



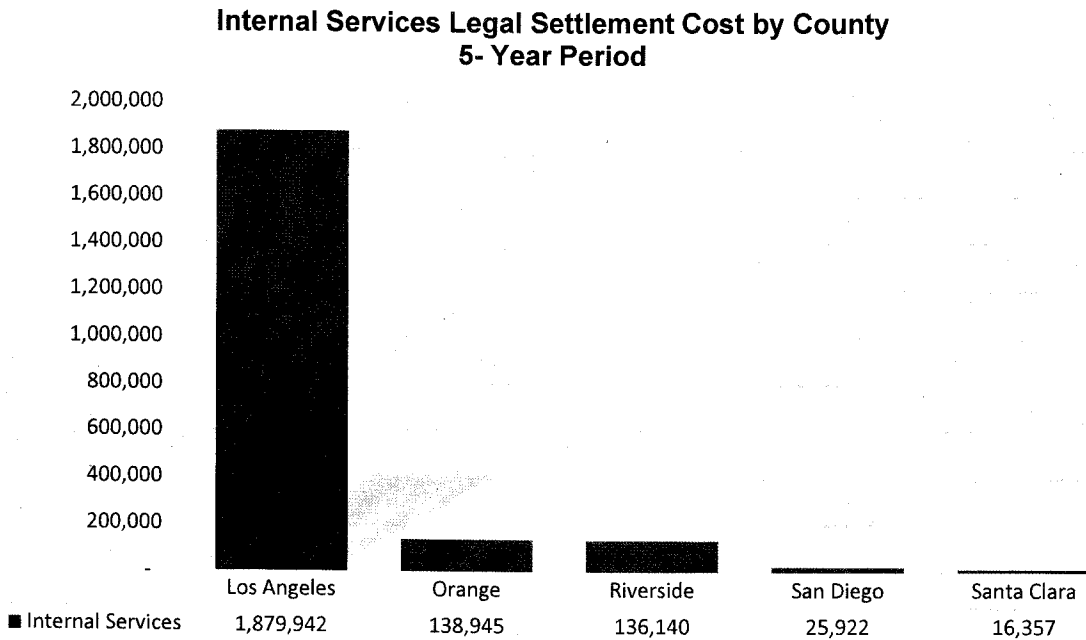
**Figure 8: Human Resources Portfolio Legal Settlement Cost by County, 5-Year Period**



**Figure 9: Finance & General Government Services Portfolio Legal Settlement Cost by County, 5-Year Period**



**Figure 10: Internal Services Portfolio Legal Settlement Cost by County, 5-Year Period**



# COUNTY OF RIVERSIDE

## EXECUTIVE OFFICE

GEORGE A. JOHNSON  
COUNTY EXECUTIVE OFFICER



LISA BRANDL  
CHIEF OPERATING OFFICER

DON KENT  
ASSISTANT COUNTY EXECUTIVE OFFICER  
COUNTY FINANCE OFFICER

In reference to the Riverside County Auditor-Controller's Office (ACO) Board report, *Legal Settlement Cost Report 2013-2017*, the Executive Office, Human Resources and County Counsel departments have prepared the following response.

On Feb. 26, the Board of Supervisors directed the Executive Office to study financial responsibility to county departments for future litigation and risk management claims. The Executive Office began this process, along with Human Resources and County Counsel, and will report back to the Board of Supervisors within 90 days from the date of the request. However, the current report from the Auditor-Controller's Office makes it necessary to provide this initial response now. A more complete report will be brought back to the Board of Supervisors in May 2019.

The County of Riverside receives an average of 1,100 new risk management claims annually, 85 percent of which are resolved with no financial payout. In the past five years, the County prevailed in 17 lawsuit dismissals, in which no taxpayer dollars were paid out. These dismissals saved the county millions of dollars. In addition, 48 motions for summary judgment have either gone unchallenged or withstood appeal, and the county has collected more than \$2 million dollars in cost recovery.

In the past 12 months the county has taken six cases to trial and prevailed in five of those cases. The one trial that was not found in our favor resulted in a judgment of \$2 million, which is now in the appeal process. Additionally, the county also prevailed in 32 small claims court judgments this past year.

We are evaluating the data presented by the Riverside County Auditor – Controller's office and have reached out to each county for assistance.

**A challenge in comparing data that is important to note is that each county categorizes claim costs and expenses differently.**

Comparative inaccuracies associated with the ACO's data include:

- Graphs attempted to identify "Total Settlement Cost by County" represent both Riverside County settlement costs and judgments costs. This creates a distortion when comparing Riverside County to other counties, if only settlement costs are compared. Judgments from other counties must be included to provide a complete picture.
- The data included within ACO's report was sent to each of the counties to identify how the dollar amounts were determined. Specifically, each county was asked if they isolated the data by settlements, judgments, legal cost, and other costs/fees. Through this interaction with each county, it was determined that information provided to the ACO was not consistent. Therefore, the comparisons are inaccurate and distorted.
- The data presented by the ACO did not include each county's litigation-related costs such as attorneys' fees and costs to defend the cases. A full and accurate analysis of Riverside County's

general liability costs must include not only settlements and judgments, but the litigation related costs and financial cost recoveries. See the table below in which Riverside County's auto liability, general liability and medical malpractice is presented for comparison. Furthermore, not every county compared in the ACO report has a county-run medical center, therefore, the medical malpractice costs are not comparable.

**RIVCO** HR | FINANCIAL SUMMARY  
RISK

	2013	2014	2015	2016	2017	Total
<b>Auto Liability</b>						
Judgements/Settlements	\$2,358,958.99	\$1,672,418.75	\$459,284.94	\$10,513,819.02	\$8,462,667.90	\$23,467,149.60
Legal & Expense	\$296,911.12	\$472,420.80	\$468,388.99	\$642,248.20	\$885,561.46	\$2,765,530.57
Recoveries	\$1,039,621.44	\$0.00	\$0.00	\$6,634,432.59	\$5,786,307.87	\$13,460,361.90
<b>Auto Liability Total:</b>	<b>\$1,616,248.67</b>	<b>\$2,144,839.55</b>	<b>\$927,673.93</b>	<b>\$4,521,634.63</b>	<b>\$3,561,921.49</b>	<b>\$12,772,318.27</b>
<b>General Liability</b>						
Judgements/Settlements	\$17,042,521.19	\$12,591,038.02	\$29,390,884.35	\$23,885,998.57	\$17,354,694.83	\$100,265,136.96
Legal & Expense	\$4,436,072.73	\$4,996,699.15	\$5,399,221.96	\$5,600,694.57	\$5,909,840.84	\$26,342,529.25
Recoveries	\$4,246,385.08	\$9,185,118.90	\$13,553,126.11	\$15,701,612.94	\$6,493,230.71	\$49,179,473.74
<b>General Liability Total:</b>	<b>\$17,232,208.84</b>	<b>\$8,402,618.27</b>	<b>\$21,236,980.20</b>	<b>\$13,785,080.20</b>	<b>\$16,771,304.96</b>	<b>\$77,428,192.47</b>
<b>Medical Malpractice</b>						
Judgements/Settlements	\$1,689,150.91	\$7,340,544.78	\$1,889,028.24	\$603,000.00	\$1,325,378.10	\$12,847,102.03
Legal & Expense	\$1,245,425.36	\$2,001,665.70	\$840,554.93	\$829,855.87	\$1,298,119.49	\$6,215,621.35
Recoveries	\$0.00	\$3,820,588.65	\$541.37	\$479,457.25	\$729.51	\$4,301,316.78
<b>Medical Malpractice Total:</b>	<b>\$2,934,576.27</b>	<b>\$5,521,621.83</b>	<b>\$2,729,041.80</b>	<b>\$953,398.62</b>	<b>\$2,622,768.08</b>	<b>\$14,761,406.60</b>
<b>Judgements/Settlements Total</b>	<b>\$21,090,631.09</b>	<b>\$21,604,001.55</b>	<b>\$31,739,197.53</b>	<b>\$35,002,817.59</b>	<b>\$27,142,740.83</b>	<b>\$136,579,388.59</b>
<b>Legal &amp; Expense Total</b>	<b>\$5,978,409.21</b>	<b>\$7,470,785.65</b>	<b>\$6,708,165.88</b>	<b>\$7,072,798.64</b>	<b>\$8,093,521.79</b>	<b>\$35,323,681.17</b>
<b>Recoveries Total</b>	<b>\$5,286,006.52</b>	<b>\$13,005,707.55</b>	<b>\$13,553,667.48</b>	<b>\$22,815,502.78</b>	<b>\$12,280,268.09</b>	<b>\$66,941,152.42</b>
<b>GRAND TOTAL:</b>	<b>\$21,783,033.78</b>	<b>\$16,069,079.65</b>	<b>\$24,893,695.93</b>	<b>\$19,260,113.45</b>	<b>\$22,955,994.53</b>	<b>\$104,961,917.34</b>

Additionally, the ACO report is critical of the process to settle active cases. The County thoroughly evaluates each case prior to making a recommendation to settle or to proceed to trial. These recommendations are done in conjunction with assigned legal counsel, the risk management steering committee, our excess insurance carrier and the appropriate department head. Closed sessions are held with the Board of Supervisors to present case information, staff recommendations, actions taken to avoid future liability, and determine the course for each case.

All government entities in California are experiencing a rise in their general liability cost in recent years, partially caused by a significant increase in judgments at trial. Data provided by our excess insurance carrier indicate that the cost of general liability claims associated with their members increased by 22 percent within the one year span of 2014 - 2015.

In conclusion, the Executive Office, along with County Counsel and Human Resources, realize that the County of Riverside's costs associated with general liability have increased. The Executive Office continues to direct evaluations of specific departments' operations and associated risk exposures, and directed Human Resources to create an annual risk management report for FY 18/19. This annual report will be presented to the Board of Supervisors in the first quarter of FY 19/20.

The Risk Management Steering Committee proactively works with departments to ensure that policies, procedures, practices, and training are in place to reduce future claims. At the Board's direction, the Executive Office will prepare a thorough report on recommendations regarding how to recover costs through county departments and will present this report to the Board of Supervisors in May 2019.



# Riverside County Board of Supervisors Request to Speak

Submit request to Clerk of Board (right of podium), Speakers are entitled to three (3) minutes, subject to Board Rules listed on the reverse side of this form.

SPEAKER'S NAME: Rene Cesillas

Address: 4080 Leeway St.

City: Riverside Zip: 92501

Phone #: 951-955-8140

Date: 3/19/19 Agenda # 2.1

### PLEASE STATE YOUR POSITION BELOW:

Position on "Regular" (non-appealed) Agenda Item:

Support     Oppose     Neutral

Note: If you are here for an agenda item that is filed for "Appeal", please state separately your position on the appeal below:

Support     Oppose     Neutral

I give my 3 minutes to: \_\_\_\_\_



# BOARD RULES

## **Requests to Address Board on "Agenda" Items:**

You may request to be heard on a published agenda item. Requests to be heard must be submitted to the Clerk of the Board before the scheduled meeting time.

## **Requests to Address Board on items that are "NOT" on the Agenda/Public Comment:**

Notwithstanding any other provisions of these rules, a member of the public shall have the right to address the Board during the mid-morning "Oral Communications" segment of the published agenda. Said purpose for address must pertain to issues which are under the direct jurisdiction of the Board of Supervisors. YOUR TIME WILL BE LIMITED TO THREE (3) MINUTES. Donated time is not permitted during Public Comment.

## **Power Point Presentations/Printed Material:**

Speakers who intend to conduct a formalized Power Point presentation or provide printed material must notify the Clerk of the Board's Office by 12 noon on the Monday preceding the Tuesday Board meeting, insuring that the Clerk's Office has sufficient copies of all printed materials and at least one (1) copy of the Power Point CD. Copies of printed material given to the Clerk (by Monday noon deadline) will be provided to each Supervisor. If you have the need to use the overhead "Elmo" projector at the Board meeting, please ensure your material is clear and with proper contrast, notifying the Clerk well ahead of the meeting, of your intent to use the Elmo.

## **Individual Speaker Limits:**

**Individual speakers are limited to a maximum of three (3) minutes.** Please step up to the podium when the Chairman calls your name and begin speaking immediately. Pull the microphone to your mouth so that the Board, audience, and audio recording system hear you clearly. Once you start speaking, the "green" podium light will light. The "yellow" light will come on when you have one (1) minute remaining. When you have 30 seconds remaining, the "yellow" light will begin to flash, indicating you must quickly wrap up your comments. Your time is up when the "red" light flashes. The Chairman adheres to a strict three (3) minutes per speaker. ***Note: If you intend to give your time to a "Group/Organized Presentation", please state so clearly at the very bottom of the reverse side of this form.***

## **Group/Organized Presentations:**

Group/organized presentations with more than one (1) speaker will be limited to nine (9) minutes at the Chairman's discretion. The organizer of the presentation will automatically receive the first three (3) minutes, with the remaining six (6) minutes relinquished by other speakers, as requested by them on a completed "Request to Speak" form, and clearly indicated at the bottom of the form.

## **Addressing the Board & Acknowledgement by Chairman:**

The Chairman will determine what order the speakers will address the Board, and will call on all speakers in pairs. The first speaker should immediately step to the podium and begin addressing the Board. The second speaker should take up a position in one of the chamber aisles in order to quickly step up to the podium after the preceding speaker. This is to afford an efficient and timely Board meeting, giving all attendees the opportunity to make their case. Speakers are prohibited from making personal attacks, and/or using coarse, crude, profane or vulgar language while speaking to the Board members, staff, the general public and/or meeting participants. Such behavior, at the discretion of the Board Chairman, may result in removal from the Board Chambers by Sheriff Deputies.