

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



**ITEM  
3.18  
(ID # 9903)**

**MEETING DATE:**

Tuesday, May 21, 2019

**FROM :** HUMAN RESOURCES AND EXECUTIVE OFFICE :

**SUBJECT:** HUMAN RESOURCES AND EXECUTIVE OFFICE: Recommended Changes on how General Liability, Auto Liability, and Medical Malpractice Liability Settlements and Judgments are Processed and Funded. All Districts. [\$0].

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the recommendation to implement the new process to fund settlements and judgments brought against the County of Riverside that promotes mitigation activities by departments to prevent or reduce future claims.

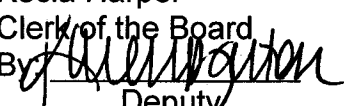
**ACTION:**Policy

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Jeffries, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

**Ayes:** Jeffries, Spiegel, Washington, Perez and Hewitt  
**Nays:** None  
**Absent:** None  
**Date:** May 21, 2019  
**xc:** H.R..

Kecia Harper  
Clerk of the Board  
By   
Deputy

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<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
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: n/a</b>		<b>Budget Adjustment: No</b>		
		<b>For Fiscal Year: 18-19 &amp; thereafter</b>		

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On Tuesday, February 26, 2019, Item 3.41 was approved by the Board of Supervisors directing the Executive Office to study the feasibility of a policy change associated with departments' financial responsibility for future litigation and claims against the County of Riverside. The Board specifically requested that the Executive Office study the following:

1. On those occasions when the Board of Supervisors agrees to settle or otherwise is required to pay compensation, awards or damages as a result of litigation and/or claims against the County, the funding source for such compensation shall initially be appropriated from the current adopted budget of the department responsible for the direct oversight, management, or supervision of the program and/or involved employee(s) related to the underlying cause of litigation or claim(s).
2. Provide for circumstances whereby the Executive Office or the Board of Supervisors may determine that the settlement funding need not be appropriated from the related department as the actions or inactions of the county were within the normal routine course of duty or services, and not a result of faulty policies, training, neglect, or management.
3. A department may further seek to have the diverted settlement or judgment funds restored to their budget by submitting a request and justification to the Board of Supervisors to be discussed at a regular Board Meeting or in the regular course of quarterly budget adjustments.

**Recommended Policy Changes to Fund Lawsuits**

To help reduce future liability exposure, increase accountability, improve transparency and to respond to the Board of Supervisors' direction, the Executive Office is recommending a policy change to fund future settlements and judgments associated with lawsuits brought against the County of Riverside. The policy change shall promote mitigation activities by departments to prevent or reduce future lawsuits. Current process, all settlement and judgment costs are automatically paid directly out of the appropriate insurance fund with no stipulations.

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In May of 2018, the Executive Office established a Risk Management Steering Committee (RMSC) to assist departments in managing risk exposures associated with their operations. The RMSC is composed of the Executive Office, County Counsel, and Human Resources. In the proposed new process, the RMSC shall evaluate all lawsuits associated with general liability, auto liability, and medical malpractice that have been valued (reserved) at \$50,000 or more. The RMSC will determine the primary cause of the lawsuit and decide if mitigation and/or corrective action is required within 180 days, or sooner if possible, of the County receiving the lawsuit. If determined by the RMSC that no mitigating action is required, all costs associated with managing the lawsuit shall be paid directly from the appropriate insurance fund that is consistent with past practice.

If the RMSC determines that mitigation and/or corrective action is required, loss prevention staff will be deployed to the department to conduct a root cause analysis of the circumstances that initiated the lawsuit. Upon completing the root cause analysis, the results will be shared with the RMSC and the involved department with recommended corrective actions to mitigate and/or prevent future like lawsuits. Loss prevention staff shall provide assistance and guidance to the department with the implementation of the corrective action, as needed. Corrective and/or mitigating actions can include, but are not limited to, training, creation or updating departmental policies, purchase or repair of equipment, or any other activities deemed appropriate upon approval of the RMSC. Once proof of corrective action has been submitted, evaluated, and approved by the RMSC, all costs associated with the claim shall be paid directly from the appropriate insurance fund that is consistent with past practice.

If the department fails to provide an acceptable preventative and/or mitigation action plan, all legal costs shall be paid out of the department's current operating budget. The department will be required to allocate funds from their operating budget to finance all legal costs, settlement or judgment costs, and any other expenses associated with managing the lawsuit. A confidential case analysis will be promptly presented by the County Counsel to the Board. Any necessary budget adjustments associated with the lawsuit will be presented to the Board in the next Quarterly Budget Report. A process flow of the recommended policy changes to fund lawsuits can be found in **Attachment A**.

**Increased Transparency**

To increase transparency of general liability and medical malpractice liability costs associated with each department, the Executive Office has directed Risk Management to create a County of Riverside - 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, and annually thereafter. This summary will provide data that identifies the total financial cost the County has paid in settlements, judgments, legal fees, and general fees associated with general liability and medical malpractice liability claims.

To reduce the notification time of a significant event of potential liability, a Critical Incident Notification (CIN) process has been established on the County's intranet site. Additionally,

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there is work being done to enhance the critical incident "in-take" process through technology. The enhance "in-take process" will allow staff to use cell phones and/or tablets in the field to upload photos, videos, audio files, and pin locations to a map in real time. This allows County leadership to respond and react to critical events quickly.

**Current Claims Environment**

Government entities in California have experienced a rise in their general liability cost in recent years, partially caused by a significant increase in judgments at trial. Data provided by the County of Riverside's excess insurance carrier indicates the increased cost of general liability claims associated with their members since 2013:

***CSAC-Excess Insurance Authority- General Liability Increases***

Year	Settlement/Judgement	Legal Expense	Total	Increase from Prior Year
2013	\$61,302,921	\$20,418,648	\$81,721,569	
2014	\$122,922,758	\$39,723,559	\$162,646,317	\$80,924,748
2015	\$185,155,120	\$36,872,315	\$222,027,436	\$59,381,118
2016	\$170,944,306	\$37,369,412	\$208,313,718	(\$13,713,717)
2017	\$135,178,192	\$25,961,920	\$161,140,112	(\$47,173,606)
<b>Total</b>	<b>\$675,503,298</b>	<b>\$160,345,856</b>	<b>\$835,849,154</b>	

The County of Riverside receives an average of 1,100 new claims annually, 85 percent of which are resolved with no monetary payout. In the past five years, the County prevailed in seventeen lawsuit dismissals, in which no taxpayer dollars were paid out, saving millions of dollars while also prevailing on 48 motions for summary judgment.

In the past 14 months, the county has taken seven cases to trial and has prevailed in six of those cases. One trial that was not found in our favor resulted in a judgment of \$2 million, which is now in the appeal process.

The County of Riverside settled thirty lawsuits during the 2018 calendar year totaling \$28,271,166. The following chart identifies the 2018 settlement amounts by department:

Department	Settled Amounts
DPSS	\$12,417,499
Sheriff	\$9,767,667
RUHS	\$3,148,500
Animal Services	\$1,302,500
Transportation	\$765,000
Behavioral Health	\$620,000
Fire	\$150,000
Public Health	\$100,000
<b>Grand Total</b>	<b>\$28,271,166</b>

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**Attachment B** provides costs associated with the County of Riverside's general liability, auto liability, and medical malpractice liability for the fiscal years 2013/2014 through 2017/2018.

**Attachment C** provides a five-year claims comparison between the County of Riverside and the County of Los Angeles. In an effort to respond to the Tuesday, March 19, 2019 Form 11 from the County Auditor-Controller, this attachment has been developed to provide a more accurate comparison between the two counties.

**How General Liability and Medical Malpractice Claims are Funded**

County of Riverside funds its general liability, which includes auto liability, through an insurance fund held internally within the county and overseen by the Human Resources Department. Dollars are allocated to the general liability insurance fund each year through a rate charged to departments' budgets. The amount of funding required by each department is associated with the department's historical claims experience and their risk exposures.

Departments' claims experience is determined by evaluating the liability costs that are incurred for the prior seven years. The departments risk exposures are comprised of the number of full-time employees that are employed by the department, the number of miles driven annually by employees, and the number of square footage that the department occupies. Department's claim experience is weighted 80%, while their exposures are weighted 20%. The combination of these two criteria determines each department's general liability insurance fund allocation as calculated by an actuary.

The general liability insurance fund is used to finance the legal expenses associated with general liability claims and auto liability claims that are brought against the County. These expenses include, but are not limited to, legal fees, settlements, judgements, and other costs associated with managing the county's general liability and auto liability claims.

The county also has a medical malpractice insurance fund that is used to finance claim expenses associated with patient care. This insurance fund is financed similarly as the general liability fund. County departments that contribute to the medical malpractice insurance fund are the Riverside University Health System, Emergency Management Department and Human Resources.

The general liability fund and the medical malpractice fund are also used to pay for the premium costs for excess insurance coverage through CSAC-Excess Insurance Authority. CSAC-Excess Insurance Authority is a Joint Powers Authority that provides insurance coverage for California public entities. The county has purchased excess insurance coverage through CSAC-Excess Insurance Authority for general liability since 1991 and medical malpractice insurance since 1988.

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The county is self-insured for the first \$5M with an associated \$2M aggregate corridor for all general liability and auto liability claims. Therefore, initial cost of a claim is paid through the county's internal general liability insurance fund. Any claim that exceeds the county's self-insured limit will be referred to the county's excess insurance carrier. Attachment D: How General Liability / Auto Liability Claims are paid.

Funding for medical mal-practice claims are handled in the manner as general liability claims. The county is self-insured for the first \$1.1M for all medical malpractice claims. Any claim that exceeds the self-insured limit will be referred to the county's excess insurance carrier.

**Current Claims Process**

All claims brought against the County of Riverside are processed through the Clerk of the Board. Upon receiving the tort claim, the RMSC determines how the claim will be managed and appropriate counsel is assigned to represent the county's interests.

Once the case is fully assessed by legal counsel, the RMSC and our excess insurance carrier, if required, decide on a formal recommendation to settle the case, or, take the case to trial. The lawsuit is then presented to the Board of Supervisors who analyzes the formal recommendation presented to them and makes the final determination to settle, or, proceed to trial. All expenses associated with the management of claims in the current process are automatically paid by either the general liability insurance fund or the medical malpractice insurance fund.

**Impact on Residents and Businesses**

Further enhancements of the existing administrative protocol and a collaborative, proactive approach between the Executive Office, Human Resources Department, County Counsel, and the involved county department may reduce future liabilities and expenditures and increase accountability. Such reductions in claim costs will increase the availability of county funds for the general benefit of county residents and increase transparency of county government through regular reporting to the Board of Supervisors of significant resolved risk management litigation as well as the litigation handled by the County Counsel's Office as part of the annual budget presentation.

**ATTACHMENTS:**

**Attachment A:** Process Flow of The Recommended Policy Changes to Fund Lawsuits

**Attachment B:** County of Riverside's General Liability, Auto Liability, and Medical Malpractice Liability for FY13/14 through FY17/18

**Attachment C:** Five-Year Comparison between the County of Riverside and the County of Los Angeles

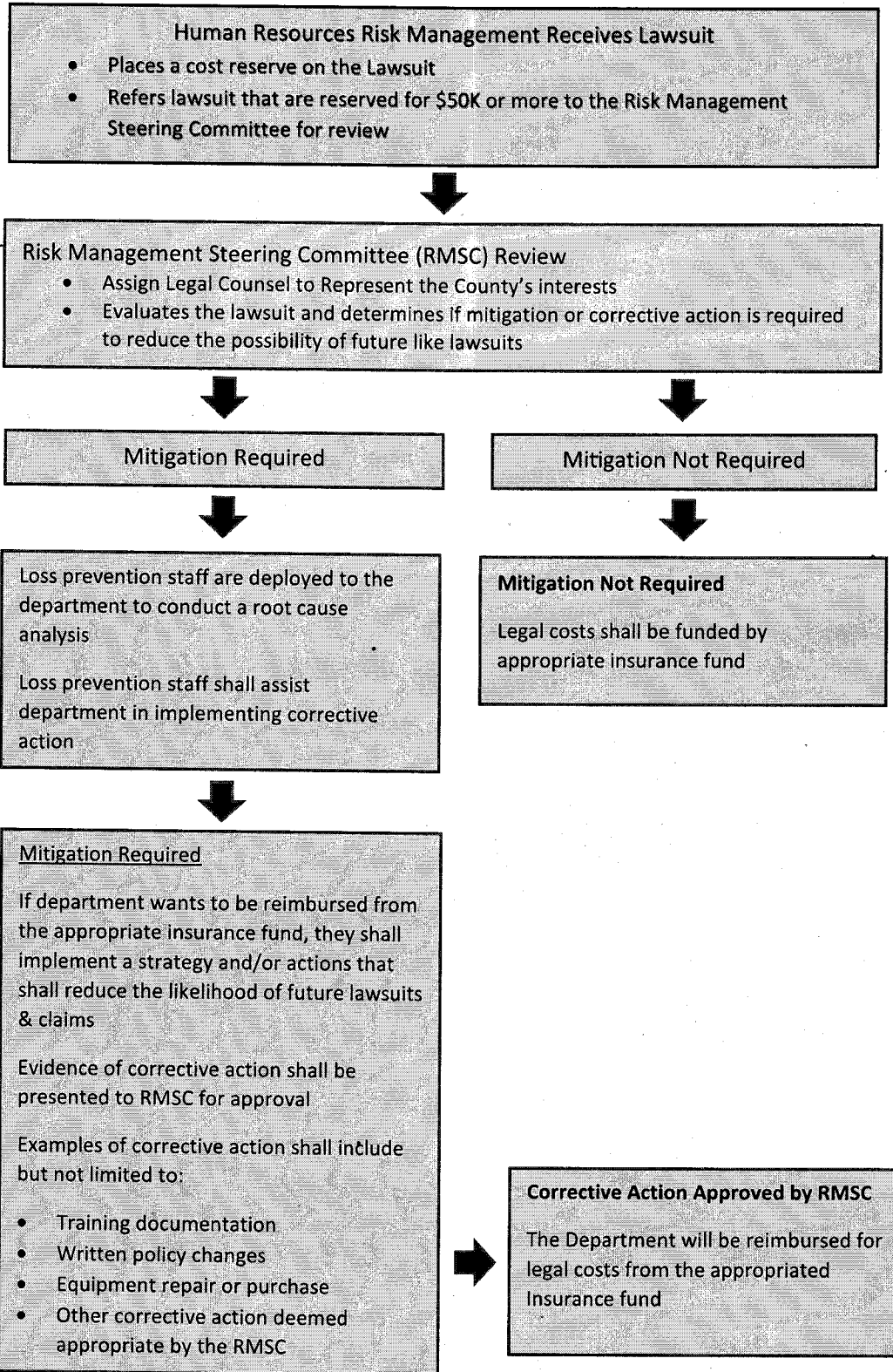
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**Attachment D:** Process Flow of How General Liability / Auto Liability Claims are Paid

  
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Gregory V. Priaplos, Director County Counsel      5/14/2019

Attachment A: Process Flow of The Recommended Policy Changes to Fund Lawsuits

**Recommended Policy Changes to Fund Lawsuits**





**Attachment B: County of Riverside's General Liability, Auto Liability, and Medical Malpractice Liability for FY13/14 through FY17/18**

	2013/2014	2014/2015	2015/2016	2016/2017	2017/2018	TOTAL
<b>Auto Liability</b>						
Judgements/Settlements	\$1,590,488.55	\$648,043.67	\$9,809,444.17	\$8,307,501.00	\$5,148,632.98	\$25,444,110.37
Legal & Expense	\$464,959.23	\$390,295.40	\$600,085.45	\$646,988.76	\$1,081,145.04	\$3,183,473.88
Insurance Reimbursements	\$0.00	\$0.00	(\$6,350,000.00)	(\$5,634,307.59)	(\$391,591.66)	(\$12,375,899.25)
<b>Auto Liability Total:</b>	<b>\$1,995,447.78</b>	<b>\$1,038,339.07</b>	<b>\$4,059,529.62</b>	<b>\$3,320,182.17</b>	<b>\$5,838,186.36</b>	<b>\$16,251,685.00</b>
<b>General Liability</b>						
Judgements/Settlements	\$16,854,183.98	\$24,568,847.45	\$27,326,137.46	\$13,911,448.87	\$19,541,456.52	\$102,182,074.28
Legal & Expense	\$4,966,200.10	\$5,081,187.43	\$5,546,565.02	\$5,631,167.00	\$6,637,172.54	\$27,862,292.09
Insurance Reimbursements	(\$8,250,767.32)	(\$12,920,475.89)	(\$20,953,501.22)	(\$535,443.62)	(\$8,096,590.19)	(\$50,756,778.24)
<b>General Liability Total:</b>	<b>\$13,549,616.76</b>	<b>\$16,729,558.99</b>	<b>\$11,919,201.26</b>	<b>\$19,007,172.25</b>	<b>\$18,082,038.87</b>	<b>\$79,287,588.13</b>
<b>Medical Malpractice</b>						
Judgements/Settlements	\$3,632,955.91	\$5,996,153.02	\$1,370.00	\$1,114,377.10	\$1,015,672.54	\$11,760,528.57
Legal & Expense	\$1,664,844.78	\$1,579,711.32	\$685,543.27	\$1,038,698.75	\$1,431,288.54	\$6,400,086.66
Insurance Reimbursements	(\$1,250,000.00)	(\$2,571,130.02)	(\$479,457.25)	\$0.00	\$0.00	(\$4,300,587.27)
<b>Medical Malpractice Total:</b>	<b>\$4,047,800.69</b>	<b>\$5,004,734.32</b>	<b>\$207,456.02</b>	<b>\$2,153,075.85</b>	<b>\$2,446,961.08</b>	<b>\$13,860,027.96</b>
Judgements/Settlements Total	\$21,997,628.44	\$31,213,044.14	\$37,136,951.63	\$23,333,326.97	\$25,705,762.04	\$139,386,713.22
Legal & Expense Total	\$7,096,004.11	\$7,051,194.15	\$6,832,193.74	\$7,316,854.51	\$9,149,606.12	\$37,445,852.63
Premium Total	\$5,494,124.00	\$6,109,492.00	\$8,185,753.00	\$12,558,032.00	\$12,553,781.00	\$44,901,182.00
Insurance Reimbursements Total	(\$9,500,767.32)	(\$15,491,605.91)	(\$27,782,958.47)	(\$6,169,751.21)	(\$8,488,181.85)	(\$67,433,264.76)
<b>GRAND TOTAL:</b>	<b>\$25,086,989.23</b>	<b>\$28,882,124.38</b>	<b>\$24,371,939.90</b>	<b>\$37,038,462.27</b>	<b>\$38,920,967.31</b>	<b>\$154,300,483.09</b>

*Please Note: Associated incurred costs may change as open cases develop & mature.*

**Attachment C: Five-Year Claims Comparison between the County of Riverside and the County of Los Angeles**

Los Angeles County Departments	Riverside County Departments	Los Angeles County FY 2013/14 to FY 2017/18	Riverside County FY 2013/14 to FY 2017/18
Agricultural Commissioner/Weights and Measures	Agricultural Commissioner	\$409,908	\$ 7,837
Animal Care and Control	Animal Control	\$868,483	\$ 1,316,312
Assessor (\$3,758,543)	Assessor, County Clerk and Recorder	\$5,348,227	\$ 15,579
Registrar-Recorder/County Clerk (\$1,589,684)	Auditor-Controller	\$23,998,194	\$ 475,300
Auditor-Controller	No Comparison	\$4,936,285	
Beaches and Harbors	Board of Supervisors	\$5,079,272	\$ 80,290
Board of Supervisors	Executive Office	\$13,636,358	\$ 13,998
Chief Executive Office	Child Support Services	\$754,158	\$ 185,360
Child Support Services	Public Social Services	\$33,757,968	\$ 10,943,081
Children and Family Services (\$26,420,074)	No Comparison	\$5,920	
Public Social Services (\$7,337,894)	County Counsel	\$1,639,310	\$ 387,987
Consumer Affairs	District Attorney	\$8,090,004	\$ 2,248,086
County Counsel	Fire Protection	\$24,352,245	\$ 596,541
District Attorney	RUHS	\$95,697,907	\$ 20,203,398
Fire	Human Resources	\$602,326	\$ 2,881,809
Health Services	Information Technology (\$65,110)		
Human Resources (\$599,364)	Code Enforcement (\$116,481)		
Affirmative Action Compliance (\$2,962)	Economic Development Agency (\$2,042,519)		
Internal Services (\$2,521,472)	Fleet Services (\$131,519)	\$3,496,112	\$ 3,726,677
Workforce Development, Aging and Community Services (\$453,564)	Facilities Management (\$857,975)		
Public Library (\$507,344)	Office on Aging (\$495,383)		
Museum of Art (\$8,672)	Community Action Partnership (\$17,690)		
Museum of Natural History (\$5,060)	Behavioral Health	\$12,963,382	\$ 2,107,920
Mental Health	Veterans Services	\$152,709	\$ 1,612
Military and Veterans Affairs	Non-Jurisdictional	\$4,153,503	\$ 429,820
Non-Jurisdictional	No Comparison	\$394,811	
Office of Public Safety	Regional Parks District	\$15,588,108	\$ 424,929
Parks and Recreation	Probation	\$19,106,342	\$ 138,214
Probation	Public Defender	\$3,648,387	\$ 3,503,334
Public Defender (\$3,553,920)	Public Health (\$792,064)		
Alternate Public Defender (\$94,467)	Department of Health (\$6,707)	\$17,177,388	\$ 798,771
Public Health	Transportation & Land Management Agency (\$17,320,089)		
Public Works (\$44,394,411)	Environmental Health (\$27,951)	\$46,763,183	\$ 33,885,971
Regional Planning (\$2,368,772)	Waste Resources (\$15,152,322)		
Sheriff (\$302,092,833)	Flood Control (\$1,385,608)		
Medical Examiner - Coroner (\$3,371,577)	Sheriff	\$305,464,410	\$ 92,436,118
Superior Court	Superior Court	\$238	\$ 10,207
Treasurer and Tax Collector	Treasurer - Tax Collector	\$1,305,852	\$ 13,412
<b>TOTAL</b>		<b>\$649,390,987</b>	<b>\$ 176,832,566</b>

Notes:

\*Associated incurred costs for the County of Riverside may change as open cases develop & mature

\*There are two significant settlements associated with COR DPSS that are not included in the comparison since they occurred in FY18/19. The combined amount of these settlements are \$11,375,000.

\*The County of Riverside's Human Resources Department was assigned a claim associated with the Rideshare Program in the amount of \$2,605,403

Attachment D: Process Flow of How General Liability / Auto Liability Claims are Paid

How General Liability / Auto Liability Claims are Paid

