

ANNUAL REPORT

FY 2015-2016

CITY ATTORNEY'S OFFICE



Riverside City Attorney's Office
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YEAR IN REVIEW

PURPOSE AND MISSION

The City Attorney's Office plays an integral and often behind-the-scene role in City government by drafting legislation and laws, and providing top-notch legal advice and counsel to the Mayor, City Council, City Manager and City departments, boards and commissions in their official capacities. The Office drafts, reviews and negotiates agreements and legislation and helps to shape Riverside's policies. The Office also aggressively defends Riverside interests and resources in court and initiates legal action to protect the rights and enhance the quality of life of all Riversiders.

The City Attorney is publishing an Annual Report to enhance transparency by highlighting for residents, businesses and taxpayers the services we provide on their behalf.

The Annual Report for FY 2015-2016 details financial results, litigation trends, advisory work and special initiatives that the office undertook during the fiscal year beginning on July 1, 2015 and ending on June 30, 2016.

TOP PRIORITIES

- Meeting laws, public records, elections, conflicts of interest and constitutional guarantees.
- Advocate for equal opportunity, diversity, justice and a level playing field.
- Continue to explore and identify ways to provide expert, professional legal services in the most efficient and cost-effective manner possible.
- Restore and maintain a staff of highly-qualified and dedicated attorneys, paralegals and continue to provide the highest quality of legal services to City officials, departments, boards and commissions by negotiating, drafting and reviewing agreements, legislation, regulations, policies and procedures and helping to shape viable, legally sound policies, programs and services for the City.
- Aggressively defend Riverside's interests and resources in court and in administrative proceedings and initiate legal action and other initiatives to protect the rights and interests and enhance the quality of life of our community.
- Continue shifting the use of outside counsel in favor of in-house expertise.
- Promote open and honest transparent government by making sure that everyone knows and plays by the same rules and that the public has access to and knows what the government is doing through our public legal opinions and advice on legal matters including the City Charter, open meeting laws, public records, elections, conflicts of interest and constitutional guarantees.

YEAR IN REVIEW

FINANCIAL HIGHLIGHTS

The 2015-16 budget for staff and operating costs was \$4.24 million, an increase from the previous year due to salary and benefit increases.

The cost of outside counsel in FY 2015-16 was \$1.32 million less than the previous five year average, a decrease of 38%. The total cost of outside counsel was \$2.16 million compared to a five year average of \$3.48 million per year.

The amount the City pays to resolve claims and lawsuits, including settlements and judgments, varies from year to year depending on the types of cases filed against the City. In FY 2015-16, the City paid \$2,904,502 to claimants and plaintiffs.

LITIGATION HIGHLIGHTS

Four hundred forty five (445) claims were filed against the City in FY 2015-16. This is below the previous four year average of Five hundred four (504). In FY 2015-16, 44 lawsuits were filed against the City compared to 35 in the previous year.

The City of Riverside utilizes a third-party administrator (Carl Warren) to manage the claims filed against the City. On occasion, the City Attorney's Office is called upon to resolve cases at the claims stage.

The City Attorney's Office prosecutes misdemeanor violations of the Municipal Code in furtherance of the City's neighborhood livability goals. Furthermore, the office works to quickly close illegal marijuana dispensaries.

MUNICIPAL SERVICE DIVISION HIGHLIGHTS

In addition to providing the necessary and critical day-to-day legal advice to the City Council, City officials, departments, boards and commissions, the City Attorney's Office assisted with the goals and objectives of the Riverside Strategic Plan 2.0, the Streamline Riverside ordinance, cyber security protection and various defense of land use and CEQA lawsuits.

The City Attorney's Office also worked closely with City Management to meet the legal requirements of Measure Z.

FINANCIAL SUMMARY

The budget for the City Attorney's Office pays for staff, operations and maintenance expenses. For the Fiscal Year 2015-16, the Office's operational budget was \$4.24 million, just slightly higher than prior years due to increased salary and benefit costs.

The City paid \$2.904 million to resolve claims, settle lawsuits and satisfy judgments. The City Council authorizes settlements of all claims and lawsuits that exceed \$25,000.

REVENUE RECOVERED

The Riverside City Attorney's Office seeks to recover the highest possible amount of revenues to fund City services. Our Office recovered revenues, including attorney's fees and costs, civil penalties, payments for damages, and other payments made to the City.

In FY 2015-16, the City Attorney's Office recovered **\$399,376** in revenue for the City. The City collected most of that amount (**\$254,075**) in attorney fees from receiverships and medical marijuana dispensary actions.

OFFICE PROFILE

The City Attorney's Office has three major functional teams:
Municipal Services Division, the Litigation Division and Executive Team.

MUNICIPAL SERVICES DIVISION

The Municipal Services Division provides legal services to the City and its departments on a wide range of municipal issues. These include drafting resolutions, ordinances and contracts; providing advice on land use and planning, development projects, real estate transactions, finance issues, elections, ethics and conflicts of interest; defending the City in land use and CEQA lawsuits; and providing advice on public utility issues. The Municipal Services Division also provides advice to and staffs various boards and commissions such as Planning Commission, Board of Public Utilities, Cultural Heritage Board and Human Resources Board.

The municipal division is constantly looking for ways to improve customer service to its client departments by introducing efficiencies. One such effort this year has been the implementation of electronic signatures to agreements, which not only allows the City and its counterparties to execute agreements electronically, but allows internal approvals to be processed electronically. The initial implementation has resulted in time savings for the processing of agreements and is environmentally friendly.

LITIGATION DIVISION

The Litigation Division advocates for the City's interests in claims and lawsuits filed against or on behalf of the City, its officers, employees and agencies. Lawsuits are litigated in the state and federal trial and appellate courts. Examples include high value personal injury cases, complex civil rights actions, personnel disputes, eminent domain actions, breach of contract, challenges to constitutionality of Riverside's laws, policies and procedures and inverse condemnation cases. Litigators take an aggressive and strategic approach to manage liability and limit the City's financial exposure. At the same time, when liability is clear, as public servants, we advocate for a fair and just resolution.

This division also advises and works with the Human Resources Department on a variety of employee issues. It advises the Ethics Board, Police and Fire Departments.

Additionally, neighborhood livability is a critical issue in the City of Riverside. Litigation lawyers and staff file public nuisance actions, prosecute violations of the Riverside Municipal Code and move distressed properties into receivership to improve the quality of life.

EXECUTIVE TEAM

The Executive Team includes the City Attorney, the Chief Assistant City Attorney (Operations), Assistant City Attorney (Municipal Services), Assistant City Attorney (Litigation), and the Legal Services Manager.

OUTSIDE COUNSEL

PROTOCOL

Riverside hires outside counsel to handle legal work (1) when outside expertise is needed, (2) when the City, a City board or commission, an employee, the City Attorney or other City official has a conflict of interest, or (3) when the office lacks in-house capacity to handle the volume of legal work.

In FY 2015-16, the City Attorney, for the first time, established new outside counsel retention policies that included (1) formalizing the outside counsel panel of firms, (2) placing all outside firms under active contracts, (3) standardizing billable hour criteria, (4) quarterly reporting to City Council of spending for all open matters, and, (5) implementing a “lowest billable rate” for Riverside cases to ensure the City is billed at the lowest rate of any of the other clients of that law firm.

The main purposes of these new policies is to save taxpayer dollars by encouraging competition, increasing transparency and constant review.

COST ANALYSIS

In FY 2015-16, the cost of outside counsel was **\$2.16 million**, down **38%** from the average of the previous five years.

In June, 2015, the City of Riverside Internal Audit Division issued a Performance Audit of the procurement of outside legal services & legal counsel. The total cost of legal services for the prior five years was \$17.4 million (not including workers comp legal fees). The average of this number is \$3.48 million per year.

In order to reduce the amount spent for outside legal services, vacant attorney positions were filled with experienced litigators. Additionally, less-experienced litigation lawyers currently employed by the City Attorney’s office were paired with experienced trial lawyers in an effort to “mentor” and groom trial skills. This change of philosophy not only reduces dependency on outside counsel, but ultimately reduces settlement amounts.

The need for outside counsel varies from year to year, sometimes dramatically, depending upon the number of in-house staff in the City Attorney’s Office and the volume, complexity and types of legal issues the City is addressing.

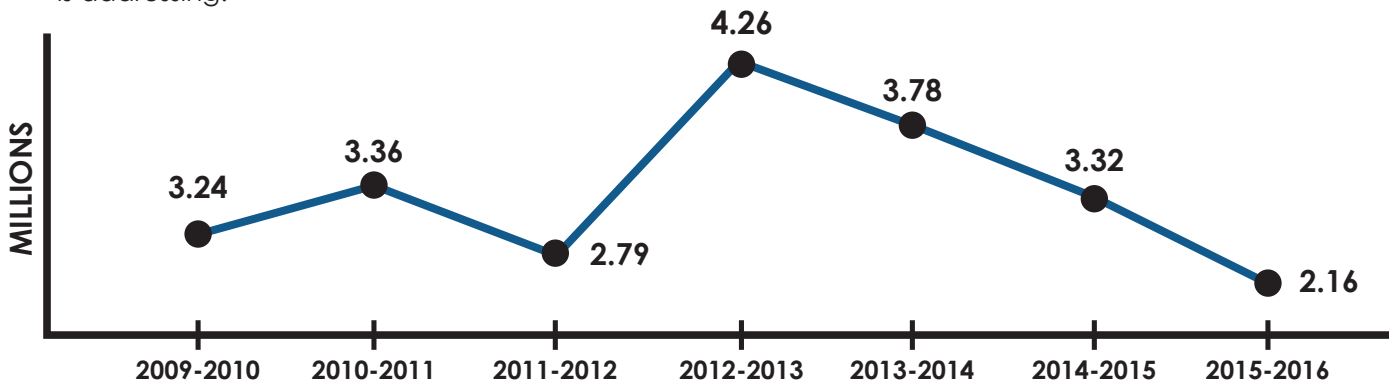


FIGURE 1: OUTSIDE COUNSEL TIMELINE

There is no question that handling matters in-house rather than sending to outside counsel is not only less expensive but developing expertise in-house creates a valuable institutional knowledge. In-house attorneys must spend valuable time educating, assisting and supervising outside attorneys, taking time from other work.

As stated earlier, some major cases that require specialized expertise or resources like City of Riverside v. Jurupa/Rubidoux CSD and SCE v. Mitsubishi, will require assistance of outside counsel. But as the chart above illustrates, long range reduction of outside counsel costs are achievable.

FINANCIAL SUMMARY

The Litigation Division advocates for the City's interests in claims and lawsuits filed against or on behalf of the City, its officers, employees and agencies. Lawsuits are litigated in state and federal court systems. Examples include high value personal injury cases, complex civil rights actions, personnel disputes, public nuisance actions, eminent domain actions and inverse condemnation cases. Litigators take an aggressive and strategic approach to limit the City's financial exposure.

For a list of litigation highlights and major cases, please see Attachment A.

CLAIMS FILED AND RESOLVED

Claims are handled, for the most part, by a third party administrator, Carl Warren. Since claims, many times, lead to lawsuits, numbers have been compiled and are reported here.

The number of claims fell from 487 to 445 this year.

Since FY 2012-13, when the City received 547 claims, the number of claims filed against the City has dropped steadily every year.

TABLE 1: TYPES OF CLAIMS RECEIVED

Fiscal Year	Traffic Collision	Police Liability	Infrastructure	Employment	Other	Total
2011/12	44	49	255	1	119	468
2012/13	71	45	266	6	159	547
2013/14	74	40	272	4	127	517
2014/15	78	28	268	2	111	487
2015/16	49	36	238	7	115	445

CLAIMS SETTLEMENTS

TABLE 2: CLAIMS RESOLVED OVER 5 YEARS (IN DOLLARS)

Fiscal Year	Traffic Collision	Police Liability	Tree	Infrastructure (Non-tree)	Employment	Other	Total
2011/12	114,807	9,819	984,702	227,551	0	405,580	\$1,742,459
2012/13	80,167	32,810	380,993	59,871	0	68,789	\$622,630
2013/14	104,646	8,697	600,186	159,395	0	46,549	\$919,473
2014/15	83,468	6,724	445,165	8,675	0	101,149	\$645,181
2015/16	46,361	3,905	525,196	74,381	0	133,469	\$783,312

LAWSUITS FILED

Lawsuits primarily arise in the following categories: traffic collision, police/civil liability, municipal infrastructure, employment/labor and a catch-all, "other."

In FY 2015-16, 45 lawsuits were filed against the City of Riverside. All categories for lawsuits are very consistent year to year with a five year average of just over 36 lawsuits per year.

In this table, Police/Civil Liability does not include police-related vehicle accidents or personnel/labor matters.

TABLE 3: TYPES OF LAWSUITS RECEIVED

Fiscal Year	Traffic Collision	Police Liability	Municipal Infrastructure	Employment	Other	Total
2011/12	5	5	8	3	14	35
2012/13	4	6	5	3	3	21
2013/14	7	9	14	2	15	47
2014/15	7	3	13	2	8	33
2015/16	7	8	16	2	12	45

LAWSUITS RESULTS

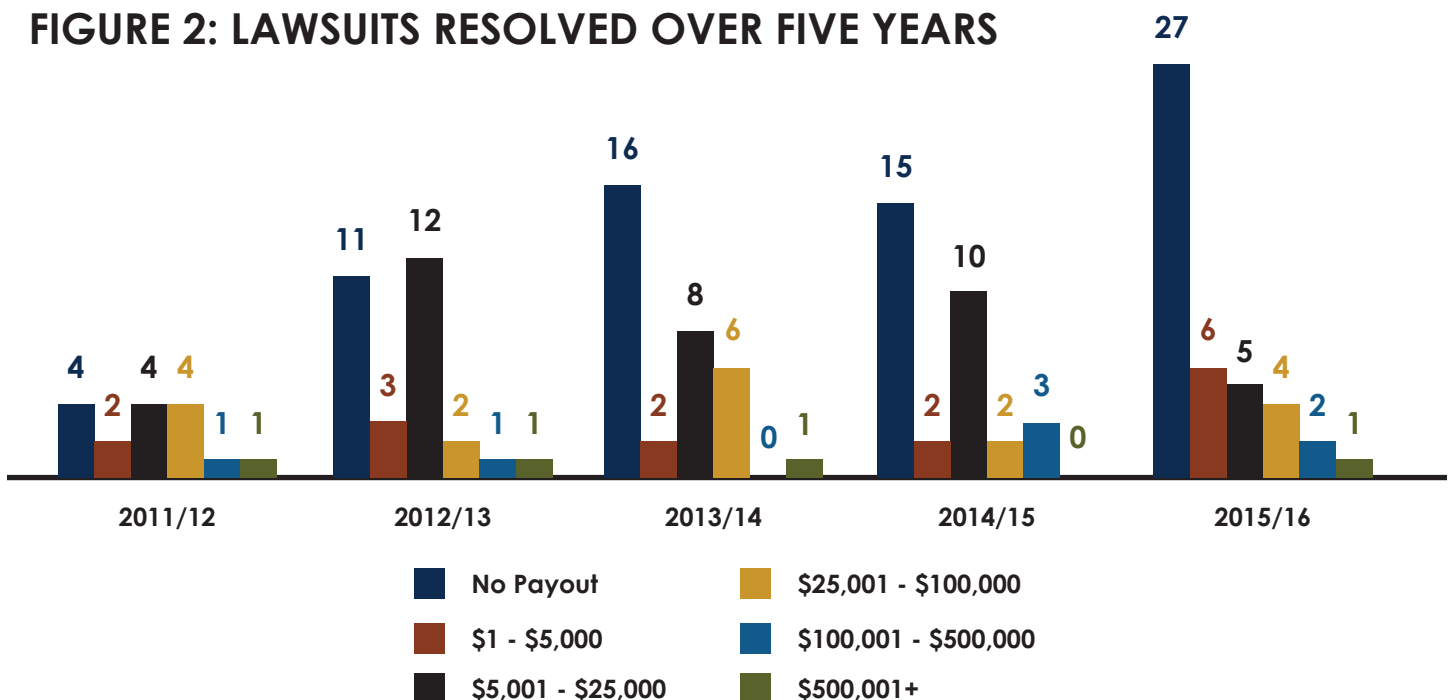
When lawsuits are filed, our litigators work aggressively and strategically to protect taxpayer resources, reduce litigation costs and limit potential exposure by filing motions to dismiss defendants and causes of action, thereby narrowing the scope of defense. When liability is clear, we seek to resolve the matter early to limit the cost to taxpayers.

In FY 2015-16, over half of the lawsuits (**55%**) were resolved for \$0. Only three matters were resolved for more than \$100,000.

Furthermore, nearly twice as many cases were resolved for zero dollars in FY 2015-16 than in the prior five years

Furthermore, in the last five years, only four cases have been resolved for more than \$500,000.

FIGURE 2: LAWSUITS RESOLVED OVER FIVE YEARS

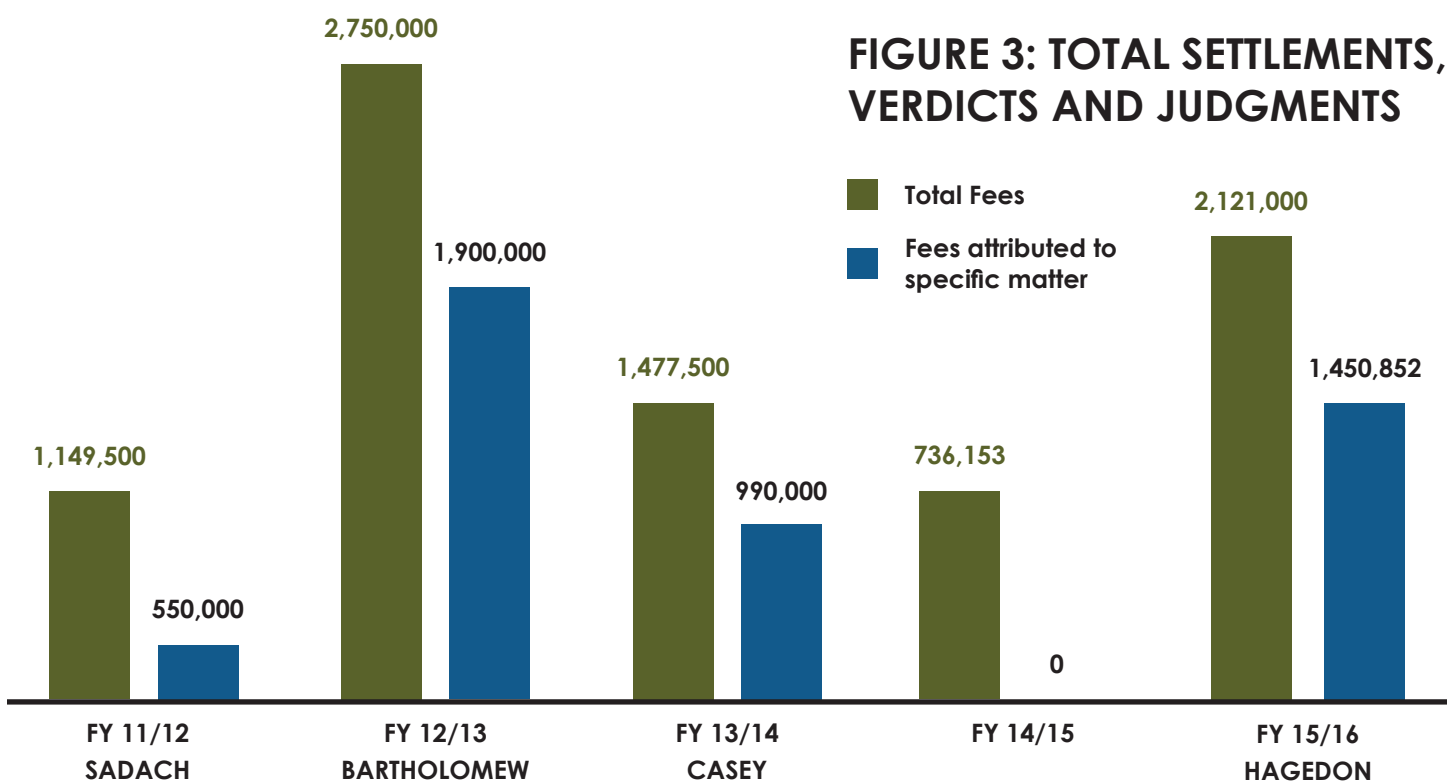


PAYOUTS

The City Attorney's Office works aggressively to limit financial exposure. When liability is clear, the City seeks to protect taxpayer resources by settling for the lowest possible amount, thereby avoiding the risk of an adverse jury verdict that would cost taxpayers much more. The City Council approves all settlements in excess of \$25,000.

The total amount of payouts relating to settlements, verdicts and judgments for FY 2015-16 was \$2.121 million, above the five year average of \$1.646 million.

It is interesting to note that 68% of FY2015-16 is comprised of one case settlement, Hagedon v City (\$1,450,852.) Indeed, over the past five years, just four cases account for 60% of the total payout figure. In the figure below, the blue bar represents the payout for each of the four cases.



In FY 2015-16, payouts related to employment matters amounted to \$1,625,852. Those cases are:

Lamping: The City paid \$175,000 to settle this case relating to Maria Lamping, an engineer in the public works department. She filed a complaint against the City, and Public Works Department employees, alleging sex and gender discrimination, race and national origin discrimination, mental disability/medical condition discrimination, refusal to accommodate mental disability/medical condition, harassment, failure to prevent discrimination and harassment, retaliation, intentional infliction of emotional discrimination, violation of whistleblower protections, and violation of Article I, section 8 of the California Constitution.

Hagedon: The City paid \$1,450,852 to settle this case relating to 10 different causes of action related to alleged sexual harassment by a male employee in the utilities department. Plaintiff's factual allegations included inappropriate physical contact, inappropriate comments, inappropriate email, and an overall hostile work environment.

FIGURE 4: PAYOUTS BY CATEGORY

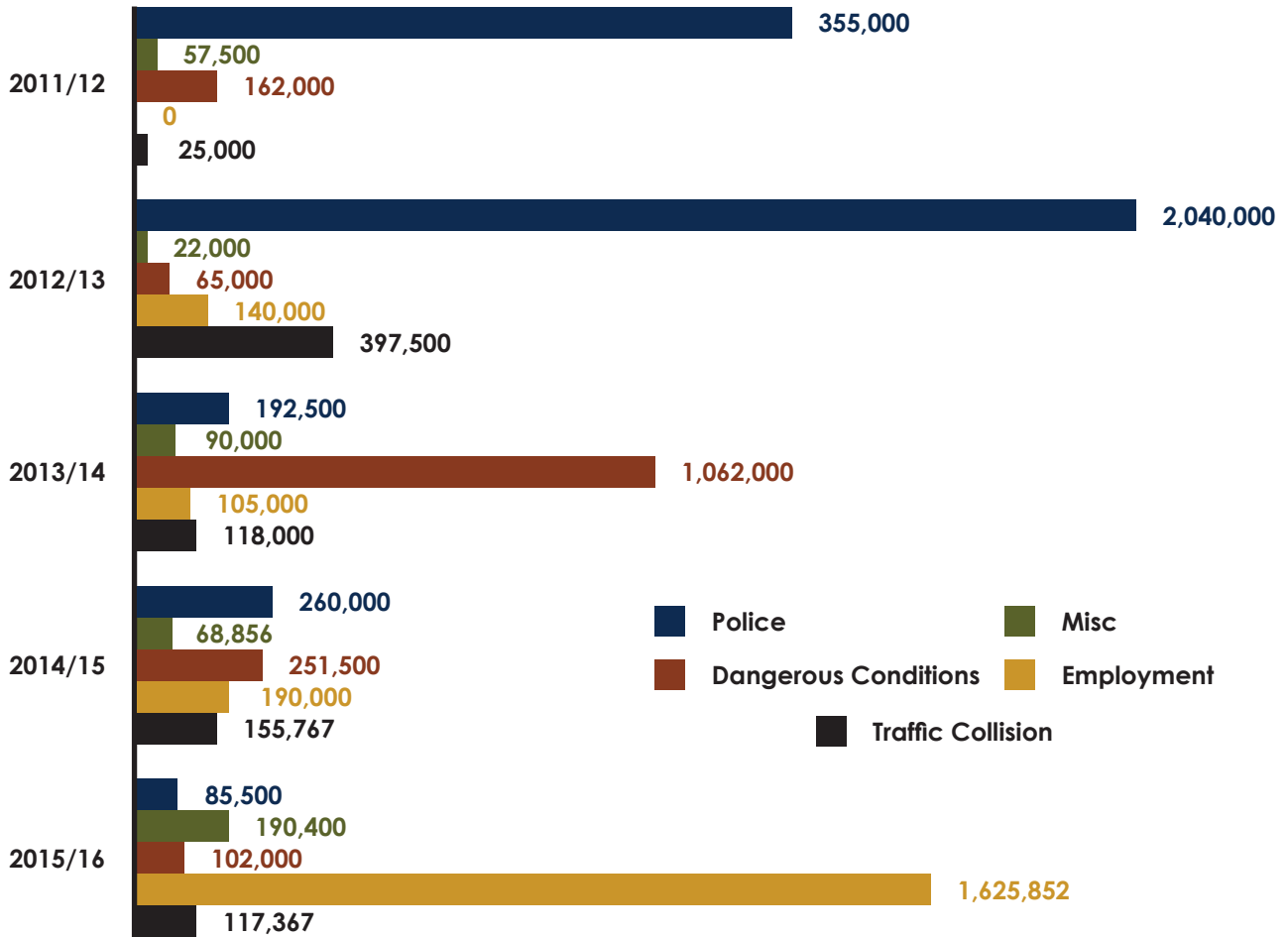


TABLE 4: PAYOUT FROM SETTLEMENTS AND JUDGMENTS OVER \$50,000

CASE	TYPE	TOTAL SETTLEMENT
Edwards, Byron	Inverse Condemnation	\$ 172,470
Lamping, Maria	Employment	\$ 175,000
Leonardo, Paul	Police	\$ 65,000
Bales, Kathy	Alleged Dangerous Condition/Roots	\$ 75,000
Hagedon, Marilyn	Employment	\$1,450,852.81
TOTAL		\$1,938,322.81

ATTACHMENT A: SIGNIFICANT MATTERS

- **Romero v City of Riverside**

Plaintiff tripped and fell on an alleged pothole in the City of Riverside. She claimed significant injuries due to the fall and demanded \$500,000 to settle the matter. The case was tried before a Riverside jury which, after deliberation, returned a verdict for the City. City Attorneys Rebecca McKee and Richard Hall were the trial attorneys.

- **City of Riverside v State Water Resources Board**

The State of California instituted proposed penalties related to conservation of water to the City of Riverside if efforts to conserve failed to reach a 28% threshold. The City filed a Writ contesting the order as arbitrary and claimed the State wrongfully failed to consider adequate reserves of ground water. After the filing of the writ, the State allowed the City to "self-certify" adequate reserves. The matter was handled by Senior City Attorney Anthony Beaumon.

- **City of Riverside v Jurupa CSD**

The City of Riverside filed this breach of contract action against the City's Jurupa, Rubidoux and Edgemont for failure to compensate the City for solid waste treatment plant improvement as provided by contract. The City settled its case with the City of Jurupa for a cash payment of \$15,000,000. Riverside agreed to increase Jurupa's waste capacity in future years.

- **SCE v Mitsubishi (SONGS)**

The City of Riverside holds a 1.79% interest in the San Onofre Nuclear Generating Station (SONGS). SONGS was permanently retired in June of 2013 due to a leak in one of the units which occurred after the installation of replacement steam generators. Riverside is pursuing claims against Mitsubishi Heavy Industries, Ltd., the company that designed and supplied the replacement steam generators. Riverside participated in a six week binding arbitration, which concluded on April 29, 2016, under the auspices of the International Chamber of Commerce. Riverside, along with Southern California Edison and San Diego Gas & Electric, are seeking damages of at least \$ 4 billion. A decision is extend by year-end 2016.

- **Hopes v City of Riverside**

This 2015 lawsuit stems from an incident that occurred on June 11, 2013. A Riverside Police Department officer observed a vehicle partially on the center divider blocking lanes. When he exited his vehicle to contact the driver, he noticed a subject standing on the passenger side of the vehicle beginning to walk away towards a Chevron gas station. At this time, Riverside Police Dispatch was receiving phone calls advising that the passenger of the vehicle, later identified as Rashad Hopes, was armed with a handgun. Dispatch contacted employees at the gas station market to exit. Officers set up a team around the building. Hopes started walking around the back of the building and came out towards the front towards the officers. Commands to drop the weapon were given. Fearing for their lives and the lives of others, officers fired at Hopes. Hopes eventually collapsed in a planter area. He was pronounced dead at the scene from a fatal gunshot wound. Although the case had a potential verdict range of six to seven figures, the case was settled for \$97,500.



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