



Contra
Costa
County

To: Board of Supervisors
From: Monica Nino, County Administrator
Date: October 18, 2022

Subject: General Liability Cost Allocation and Expenses Associated With Provision of Police Services to Cities

RECOMMENDATION(S):

1. ACCEPT report on general liability cost allocation for County departments and associated with contracts between the County and certain cities for the provision of city police services by the Office of the Sheriff;
2. CONSIDER providing direction to staff regarding recovery of general liability expenses for contract cities.

FISCAL IMPACT:

Acceptance of the report has no fiscal impact.

BACKGROUND:

At the June 21, 2022 meeting of the Board of Supervisors, staff reported on the liability expenses incurred by the County associated with contracts between the County and certain cities for the provision of city police services by the Office of the Sheriff. For follow-up

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY
ADMINISTRATOR

☐ RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **10/18/2022** ☒ APPROVED AS RECOMMENDED ☒ OTHER

Clerks Notes: See Addendum

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II
Supervisor
Diane Burgis, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: October 18, 2022

Monica Nino, County Administrator and Clerk of the Board
of Supervisors

Contact: Adam Nguyen, County
Finance Director (925) 655-2048

By: June McHuen, Deputy

cc:

from the discussion, the Board requested additional information on the County's broader general liability insurance program, including more detail on the cost recovery of insurance and litigation expenses for police services contracts. This report summarizes the major findings from the June 21 discussion and provides the requested overview of the general liability program, including the methodology for cost allocation and estimated FY23-24 impact on cities contracting for police services.

The Office of the Sheriff currently contracts with the Town of Danville, the Cities of Lafayette and Orinda, and other entities to provide police services. Last fiscal year, the County settled two lawsuits concerning the shooting deaths of Laudemer Arboleda and Tyrell Wilson by Officer Hall, a Contra Costa Sheriff's Deputy working as an officer with the Danville Police Department pursuant to a police services contract. The lawsuit concerning Laudemer Arboleda settled for \$4.9 million in November 2021, and the lawsuit regarding Tyrell Wilson settled for \$4.5 million in March 2022. For each case, the County was reimbursed by its excess insurer, Public Risk Innovation, Solutions, and Management ("PRISM"), for all expenses exceeding the County's \$1 million self-insured retention (SIR), similar to an insurance deductible.

BACKGROUND: (CONT'D)

General Liability Self-Insurance Program Cost Allocation

Contra Costa County uses a combination of self-insurance, pooled coverage, and purchased insurance for protection against adverse losses. The County procures excess coverage for the self-insured general liability program through Public Risk Innovation Solutions and Management (PRISM), a California Joint Powers Authority (JPA).

The funding of the County's self-insured General Liability cost requires actuarial analysis of claims and loss history to predict likely liabilities, expenditures, and required reserves each year for disclosure in the County's audited financial statements. Since claims incurred in one fiscal year are typically paid over several succeeding fiscal years, funds must be set aside in the current year to pay expenses in future fiscal years. The State Controller requires that self-insured insurance programs hold assets in a trust fund or internal service fund to cover the cost of these future payments. The latest actuarially-determined, expected value reserve requirement cited in a March 8, 2022 report for the County is \$11.7M, and is currently met within the County's Public Liability Trust Fund as of October 2022.

The State Controller provides further guidance on internal cost allocation methodologies for general liability expenses in its "Handbook of Cost Plans for California Counties." Following the State Controller's guidelines and industry best practices, Contra Costa County weights exposure to claims by 20% for exposure to potential losses and actual loss experience by 80%. Exposure to potential losses is complex; the County follows the common industry practice of using total payroll to determine risk exposure. The general logic is that larger organizations with more employees typically carry more risk. For loss experience, the County previously based cost recovery on a rolling average of five years of actual paid losses, but moving forward will calculate rates based on ten years of total incurred losses, in line with the State's recommended practice of using longer periods of loss data when it is available.

Historically, County departments were informed of their annual General Liability cost allocation through a memo from the Risk Management Department. General Fund supported departments, however, weren't actually charged; instead, those budgeted costs were allocated and charged to the County General Fund account. Self-supporting, "Revenue Departments"—including Child Support Services, Conservation and Development, Employment and Human Services, Fire Districts, First 5, Health Services, Library, and Public Works – were allocated costs and billed. Moving forward, Risk Management will meet with all County departments annually to review their budgeted risk management charges for general liability and other insurance coverage, and discuss potential risk management mitigation strategies. Combined with the 10-year loss history weighting, this cost allocation methodology should better smooth insurance charges to departments and align incentives to mitigate risks and implement safety and loss prevention programs, reducing overall long-term costs to the County.

FY23-24 Anticipated General Liability charges

In recent fiscal years, the premiums for the County's total general liability insurance have been steadily increasing. They increased 26% for FY 20-21, 21% for FY 21-22, and 26% for FY 22-23. Similar or higher insurance premium rate increases are likely to occur in future years. Past premium increases reflected market conditions in the general liability insurance industry for public entities statewide and nationally, rather than only the County's individual loss history. The insurance market, particularly for police services, is currently characterized as being a very "hard market," driven by a significant increase in the frequency and severity of losses; simply put, there are more lawsuits and bigger payouts than ever.

Table 1: Total General Liability Insurance Program Premium by Fiscal Year

<u>Fiscal Year</u>	<u>Premium Amount</u>	<u>Percentage Change</u>
2019-2020	\$6,563,791	29%
2020-2021	\$8,291,263	26%
2021-2022	\$10,093,308	22%
2022-2023	\$12,689,147	26%

Table 2: General Liability Insurance Cost Allocations for Self-Supporting Departments, by Fiscal Year

<u>Department</u>	<u>Estimated FY23-24 GL Charge</u>	<u>FY22-23 GL Charge</u>	<u>Amount Change</u>	<u>Percentage Change</u>
Child Support Services	\$64,932	\$55,374	\$9,558	17%
Conservation & Development	\$167,062	\$125,847	\$41,215	33%
Employment & Human Services	\$971,536	\$552,436	\$419,100	76%
Fire Districts	\$560,088	\$355,671	\$204,418	57%
First 5	\$16,617	\$14,280	\$2,337	16%
Health Services	\$2,279,324	\$3,167,797	(\$888,473)	-28%
Library	\$76,735	\$60,100	\$16,635	28%
Public Works	\$6,697,013	\$6,956,530	(\$259,517)	-4%
Sheriff Non-Detention	\$6,200,161	\$4,472,573	\$1,727,588	39%
Sheriff Detention	\$1,929,482	\$1,863,254	\$66,228	4%

Contract cities contribute towards the cost of general liability coverage. In the past, Risk Management would order an annual analysis specifically for liability expenses related to police services for contract cities, and use the report findings to inform the calculation of insurance charges per sworn officer for the fiscal year. The last analysis was completed in May 2021, and the cities currently make monthly general liability coverage payments of \$215.83 per full-time equivalent (FTE) sworn officer. The current annual contracted

Sheriff’s FTE cost in FY 2022-23 is approximately \$2,580. Those charges are deposited into the Risk Management Liability Trust Fund.

For FY23-24 and moving forward, the general liability rates for entities that contract with the County for police services charges will continue to be based on a charge per full-time equivalent (FTE) sworn officer. As with the rest of the county, the rate from the Office of the Sheriff will be proportionally based on loss history (80%) and exposure (20%). To more accurately determine a per Sheriff’s employee rate, the insurance cost for the Sheriff’s department will be further stratified between Detention and non-Detention. The calculated insurance cost per non-Detention FTE will be applied to each contracted Sheriff’s FTE. For FY23-24, the initial estimated annual contracted Sheriff’s FTE cost will be approximately \$9,118, an increase of 253% over the prior year’s rate, reflecting the large loss experience in recent years.

Table 3: FY2023-24 Estimated General Liability Cost Allocation for Contracted Police Services

Sheriff FTE (non-detention)	680
FY23-24 Annual Charge per FTE - Estimate	\$9,118
FY22-23 Annual Charge per FTE	\$2,580 <i>(based on \$215 monthly)</i>

Agency	Assigned FTE	FY23-24 Charge (est.)	FY22-23 Charge
Town of Danville	30	\$273,537	\$77,400
Lafayette Police Department	18	\$164,122	\$46,440
Orinda Police Department	14	\$127,650	\$36,120
AC Transit	11	\$100,297	\$28,380
Crockett Community Services District	1	\$9,118	\$2,580
Diablo Community Services District	1	\$9,118	\$2,580
Crockett Cogen	1	\$9,118	\$2,580
P-2 Zone A Blackhawk	4	\$36,472	\$10,320
P-5 Round Hill	2	\$18,236	\$5,160
P-2 Zone B Alamo	1	\$9,118	\$2,580
	83	\$756,784	\$214,140

CONSEQUENCE OF NEGATIVE ACTION:
Staff would not receive direction on how to proceed.

CLERK'S ADDENDUM

ACCEPTED the report and recommendations; with the two exceptions of combining the Sheriff's Department as one pool (detention and nondetention) and smoothing out the rate increase to the contract cities over three years.

ATTACHMENTS

Presentation - General Liability Cost Allocation