



County of Los Angeles CHIEF EXECUTIVE OFFICE

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 713, Los Angeles, California 90012
(213) 974-1101
<http://ceo.lacounty.gov>

SACHI A. HAMAI
Chief Executive Officer

January 5, 2016

To: Supervisor Hilda L. Solis, Chair
Supervisor Mark Ridley-Thomas
Supervisor Sheila Kuehl
Supervisor Don Knabe
Supervisors Michael D. Antonovich

From: Sachi A. Hamai
Chief Executive Officer

Mary C. Wickham
County Counsel

Board of Supervisors
HILDA L. SOLIS
First District

MARK RIDLEY-THOMAS
Second District

SHEILA KUEHL
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

JOINT REPORT OF THE CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER AND COUNTY COUNSEL LITIGATION COST MANAGER REGARDING ACCOMPLISHMENTS OF FISCAL YEAR 2014-15 AND GOALS FOR FISCAL YEAR 2015-16

Pursuant to an October 16, 2007 motion by Supervisor Molina, the Board instructed the Chief Executive Officer (CEO) County Risk Manager and County Counsel Litigation Cost Manager to prepare a joint report identifying specific accomplishments during Fiscal Year (FY) 2007-08 that supported the efforts of risk management and reduction of the County of Los Angeles (County) exposure to litigation. Pursuant to the motion, the report is also to identify joint goals and objectives for subsequent fiscal years.

In addition, on November 5, 2008, on a motion by Supervisor Molina and as amended by Supervisor Antonovich, the Board directed the CEO, County Counsel, County Risk Manager, and other Department Heads, as appropriate, to: create a Legal Exposure Reduction Committee (LERC) that shall meet quarterly; establish an annual Countywide and departmental legal exposure reduction goal; create proactive County Counsel procedures to advise departments on various methods to reduce legal costs; create procedures to discuss areas of potential exposure; develop and implement specific strategies calculated to prevent future claims and lawsuits; provide updated training on new changes in laws and policies for each appropriate department to implement; assess the efficacy of corrective action plans; review management training and implementation of County policies; review lessons learned; discuss areas of potential exposure; and report annually on their progress and efforts.

"To Enrich Lives Through Effective And Caring Service"

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The attached Joint Report responds to both of these directives as the LERC's activities represent one of the joint efforts between the CEO and County Counsel. Identified in the report are joint accomplishments for FY 2014-15, LERC's activities for FY 2014-15, and goals for FY 2015-16 demonstrating the continued, collaborative efforts of the CEO and County Counsel to manage the County's risks and to reduce its litigation exposure.

If you have any questions or need additional information, your staff may contact Steven T. Robles, County Risk Manager, at (213) 351-5346, or Steven H. Estabrook, Litigation Cost Manager, at (213) 974-1762.

SAH:MCW:JJ
STR:SHE:sg

Attachment

c: All Department Heads

**JOINT REPORT
ACCOMPLISHMENTS OF FISCAL YEAR 2014-15 AND GOALS FOR FISCAL YEAR 2015-16
FROM CHIEF EXECUTIVE OFFICE COUNTY RISK MANAGER
AND COUNTY COUNSEL LITIGATION COST MANAGER**

I. ACCOMPLISHMENTS OF FISCAL YEAR 2014-15

Computer Dashboard

Previously, Chief Executive Office (CEO) Risk Management, along with the Internal Services Department, developed an award-winning computer dashboard. The dashboard launch was successful due to several collaborative efforts, including advice and support from County Counsel. The following updates, which further enhanced its functionality, were added in FY 2014-15:

- Incorporated Corrective Action Plan (CAP) and Summary Corrective Action Plan (SCAP) tracking, thereby enabling users to have access to the number and types of CAPs and SCAPs by department and by indemnity cost.
- Developed the capability to track departments' settled cases, including due dates and number of CAPs and SCAPs completed by their deadlines.
- Added a Workers' Compensation Claim Detail Report which lists all departmental workers' compensation claims for a date range selected by the user; also has advanced sorting functions.

Roundtables

The CEO, collaborating with County Counsel and the Litigation Cost Manager, participates in hundreds of roundtables each year, covering workers' compensation, disability management, and litigation matters filed on behalf of and against the County of Los Angeles (County).

Corrective Action Plans and Summary Corrective Action Plans

The CEO Risk Management Inspector General collaborated with the Board of Supervisors (Board), County Counsel, Health Services, and Sheriff to improve the timeliness of CAPs and SCAPs by creating an entirely new CAP and SCAP process. The new standards have reduced lag time in the claim settlement process and accelerated the time in which settlement payments are tendered.

Claims Closure Project

The CEO, collaborating with County Counsel, initiated several accelerated claims closure projects that have eliminated \$1.3 million in long-term liabilities, and closed \$1.2 million in open legacy claims.

Bi-Monthly Meetings

The County Risk Manager and a Senior Assistant County Counsel have a standing, bi-monthly meeting to discuss risk management initiatives and collaborative efforts regarding claims, lawsuits, and corrective actions.

The County Risk Manager and County Litigation Cost Manager also have a standing, bi-monthly meeting to discuss cost control measures and opportunities available for loss prevention efforts.

Training of Americans with Disabilities Act and Fair Employment and Housing Act (ADA/FEHA)

Collaboratively, CEO and County Counsel offer expertise in the ADA/FEHA field by way of the "Return-to-Work 101" training course held several times per year for departmental Return-to-Work Coordinators. Specifically, seminars held by CEO that include workers' compensation and disability management have regular participation from County Counsel who serve as subject matter experts.

Medi-Cal Lien Reduction

When the County negotiates a settlement of an action, the assumption of all or part of a Medi-Cal lien may be part and parcel of the final settlement. Notable sections of the California Welfare and Institutions Code, along with a United States Supreme Court case and its progeny, serve as a basis to reduce the lien by an amount that represents: 1) the reasonable attorneys' fees paid by the injured party, and 2) the proportion that the settlement has to the full value of the injured party's overall damages. The County Risk Manager, Litigation Cost Manager, and County Counsel have been working alongside third-party administrators to negotiate lien reductions in accordance with recent applicable law.

II. LEGAL EXPOSURE REDUCTION COMMITTEE

The County Risk Manager and Litigation Cost Manager, along with other County Counsel leaders, participate in the Legal Exposure Reduction Committee (LERC). LERC provides a forum for strategic risk advancements in a coordinated effort from CEO, County Counsel, and departments. CEO Risk Management and County Counsel view LERC as the single most important collaborative effort between the two offices. Therefore, the accomplishments, activities, and goals are all reflected in this report.

Beyond the coordinated effort between the County Risk Manager and Litigation Cost Manager, CEO Risk Management leads LERC with the participation of several departments and attorneys from County Counsel. Without the support and participation of these individuals, the County would be less effective at detecting, assessing, understanding, anticipating, and preventing risk. LERC met quarterly during FY 2014-15, with the most active participants that include:

- | | |
|------------------------------|-----------------------------|
| Assessor | Human Resources |
| Auditor-Controller | Internal Services |
| Beaches and Harbors | Mental Health |
| Board of Supervisors | Probation |
| Chief Executive Office | Public Health |
| Chief Information Office | Public Social Services |
| Children and Family Services | Public Works |
| Consumer Affairs | Sheriff |
| County Counsel | Treasurer and Tax Collector |
| Fire | |

LERC Best Practices Sub-Committee

The Best Practices Sub-Committee is responsible for providing recommendations on best practices for leading trends in losses. Participants of this Sub-Committee include:

Animal Care and Control	Internal Services
Chief Executive Office	Public Social Services
County Counsel	Public Works
Fire	Sheriff
Human Resources	

Sub-Committee Projects:

Risk Management Training – Departments have a wide variety of Risk Management expertise. A base needs to be established to strategically position the County to perform risk analysis, risk assessment, program implementation, and review of loss strategies to lower the overall cost of risk. This project has established a base program and has been beta tested by several departments. Over the next year, the Sub-Committee will continue to roll out the program to all departments.

Ergonomics Self-Assessment Software – Repetitive motion injuries associated with computers are a leading frequency and severity driver for most County departments. This project will design ergonomic self-assessment software that will identify at-risk employees so early intervention, training, workstation adjustments, and accommodations can be made, lowering the frequency and severity of claims.

Defensive Driver Training – Driving a vehicle has its inherent risks; therefore, employees who drive for County business should be required to attend/complete defensive driver training and education courses on a regular basis. An effective defensive driver training program teaches students how to overcome mistakes in driving techniques, improve their driving skills, make informed decisions, and anticipate situations while driving. This project will develop an on-line defensive driver training course consisting of slides, video, narration, and a mandatory assessment at the end of the course.

Fair Labor Standards Act (FLSA) [Overtime] Training/Retraining – In the recent years, several claims have been filed against the County that involve unpaid overtime. Although measures were taken to ensure affected employees received mandatory training on the expectations of reporting overtime worked, it is necessary to ensure that all existing employees, all new employees, and new supervisors receive this training on a regularly-scheduled basis. This project will develop training expectations for County personnel, which will include a course curriculum and a schedule of retraining to minimize potential claims and claim severity.

Vehicle Telemetry – Use of vehicle telemetry can reduce losses caused by human error, increase employee safety, and provide for other efficiencies including fuel savings, operational efficiency through improved maintenance schedules and recognition of both safe and risky drivers. This endeavor will establish a pilot project whereby a selected group of County-owned vehicles will be equipped with telemetric equipment that will be monitored for an established duration of time. Results from the project will be analyzed to determine feasibility of the project for possible implementation in other vehicles in the County fleet.

LERC Disability Management Sub-Committee

The Workers' Compensation and Return-To-Work Sub-Committee was renamed "Disability Management Sub-Committee," and is responsible for providing recommendations and best practices for all aspects of leave management and the return of employees to work, including, but not limited to: Workers' Compensation, Return-to-Work, and Long-Term Disability.

Participants of this Sub-Committee include:

Alternate Public Defender	Medical Examiner – Coroner
Auditor-Controller	Mental Health
Beaches and Harbors	Parks and Recreation
Child Support Services	Probation
Children and Family Services	Public Defender
County Counsel	Public Health
District Attorney	Public Library
Fire	Public Social Services
Health Services	Public Works
Human Resources	Regional Planning
Internal Services	Sheriff

Sub-Committee Projects:

Disability Management System – An effective case management system will improve the County departments' management of employees off work by promoting consistency, streamlining workflows, facilitating Federal and State law compliance, reducing risks associated with employment lawsuits, and the expenses related to loss-time disability events. As part of the comprehensive claims management system, a Request for Proposals will be solicited, with the consultant being tasked with designing and revamping the ongoing access to disability management data contained in multiple County systems.

Outreach/Survey of Employees on Long-Term Leave – The purpose of this project is to gather information from employees on long-term leave in order to develop methodologies to return them to work. Information gathered will also be used to develop strategies to assist employees and departments with managing leaves.

Separation Management – The County's Disability Management Program has various policies and procedures in place to separate employees from employment when the disability is such that further employment is not possible. The complexity of the laws that govern this process exposes the County to significant employment liability. This project will enhance current training, policies, and procedures in collaboration with departments and various subject matter experts to foster a fair, consistent, and lower exposure separation procedure.

LERC Claims and Litigation Management Sub-Committee

This Sub-Committee is responsible for providing recommendations and best practices for departmental actions, training, and procedures related to all aspects of cost containment. The members work with the CEO, County Counsel, and consultants to formulate consistent oversight from a departmental perspective of the claims and litigation process.

Participants of this Sub-Committee include:

- Chief Executive Office
- County Counsel
- Beaches and Harbors
- Fire
- Health Services
- Mental Health
- Public Works
- Treasurer and Tax Collector

Sub-Committee Projects:

Claims and Litigation Management Training – Not all County departments have the necessary level of skill and experience to expeditiously and effectively manage claims and litigation. This project will develop claims and litigation management training analogous to the CEO's Return-to-Work training.

Standardized Investigation Information – Not all County departments provide the same information to the County's Third-Party Administrators and County Counsel when submitting investigative information on claims and litigation. This project will develop standardized online forms/templates for information gathering and submission.

Access to Non-Privileged Departmental Claims/Litigation Data – Part of the comprehensive claims management system will be the design of and ongoing access to non-privileged claims/litigation data maintained in existing automated systems to ensure efficient analysis, monitoring, and reporting of the data, with an eye towards risk management efforts.

LERC Medical Malpractice Sub-Committee

This Sub-Committee is responsible for identifying loss trends in the delivery of healthcare and recommending changes to policy and training in an effort to lower frequency and severity related to medical malpractice.

Participants of this Sub-Committee include:

- Chief Executive Office
- Fire
- Health Services
- Mental Health
- Public Health
- Sheriff

LERC Medical Malpractice Sub-Committee (Continued)

Sub-Committee Projects:

Patient Safety Network – The Sub-Committee successfully implemented the Patient Safety Network for all medical providers within the County of Los Angeles, including Health Services, Fire, Mental Health, Public Health, Probation, and Sheriff. This is a web-based, early reporting system that will increase patient safety and accountability for performance, and reduce costs for patient-related untoward events.

Risk Assessment and "Just Culture" – This project will create a humane and fair evaluation and correction process for human errors in the medical workplace. "Just Culture" has zero tolerance for reckless behavior, while recognizing that competent professionals make mistakes and can even develop unhealthy norms (shortcuts, "routine rule violations") that need correcting. The Sub-Committee, working closely with industry experts and Health Services and Fire leadership, and under guidance of County Counsel, will educate, disseminate, and monitor the effectiveness of the "Just Culture" approach to medical error management. Based upon the results of the aforementioned efforts, the Sub-Committee will offer the program to other medical service departments, labor representatives, and other stakeholders.

Adverse Event Mitigation and Early Settlement Authority – "Apologize and learn when we're wrong, explain and vigorously defend when we're right, and view court as a last resort." This is the summary of the University of Michigan approach to medical risk management. This project will create a less adversarial and more humane system for managing medical errors and possibly related litigation now and in the future. The Sub-Committee will help lead the educational and interpersonal effort to create the trust, comfort, and policies and procedures for a similar approach to risk management. In collaboration with Health Services, this program will be initiated with the following goals:

- Curtail the number of claims and lawsuits;
- Minimize legal costs;
- Reduce severity of claims;
- Shorten opening-to-closing time; and
- Stem potential insurance costs or premiums.

III. GOALS FOR FISCAL YEAR 2015-16

In Fiscal Year 2015-16, CEO Risk Management and County Counsel will continue to focus on developing projects through LERC as described above, ad hoc needs, and the following projects:

Workers' Compensation Strategic Initiative – As indicated in the *Risk Management Annual Report, Fiscal Year 2014-15*, the County has approximately \$2.1 billion of long-term workers' compensation liabilities. A coordinated effort among CEO, County Counsel, departments, and Third-Party Administrators will continue the efforts started in FY 2014-15. There are three main components to the initiative:

1. **Comprehensive Claims Management System** – The County uses several claim management and paper systems to file, store, and report on claims and lawsuits in the County. This project will unify most of the systems and provide stakeholders with a singular system that is configurable to individual user needs and employ advanced analytics to reduce fraud, waste, and abuse. The Request for Proposals will be released, and we anticipate the building of the advanced system within the next few years.
2. **Claim Closure Project** – The claim closure project is analyzing claims opened in the most recent 20 years to look for opportunities to sever the long-term liability of the County with settlement opportunities. We will continue to build on the first year success by closing more claims with the help and support of the Third-Party Administrators and County Counsel.
3. **Risk Financing Project** – The County currently funds its liabilities on a 'cash pay' basis. The first step of capping catastrophic losses has been completed. The second step is the transferring of part of the loss portfolio and alleviating the liability from the County. This project will move forward this fiscal year with the analysis of the current model and provide recommendations to deploy this alternative strategy over several years.

Settlement Authority – The last delegated authority for liability settlements was instituted in 1982 -- 30 years before the creation of the CEO Risk Management Branch. The County Risk Manager and Litigation Cost Manager will work to create greater flexibility in acquiring settlement authority for various cases. The first step in this process, which may take several fiscal years to come to fruition, was changing the CAP/SCAP process in 2015. The second step in this onerous process will be to analyze and to provide recommendations on improving settlement outcomes and, in addition, correlating the quantity, quality, and scope of corrective actions.