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Settling the Riders Lawsuits Was Right for Oakland

The Riders civil lawsuits and criminal trials are a bleak chapter in Oakland's history. Now that a second jury in the criminal case has deadlocked, a small, discredited and self-interested group of police union leaders will try to mislead you about the true meaning of the Riders cases, arguing that all four of the Riders were found innocent of all charges. They will accuse the City Council and the City Attorney's office of having needlessly, expensively and too quickly settled the accompanying civil rights suits. Don't believe their lies. Instead, review the circumstances under which the City of Oakland resolved the 119 civil rights lawsuits; when you do, the professionalism and integrity of Oakland's police force will absolutely be reaffirmed. And you will agree that settling the Riders cases made good sense for Oakland, its taxpayers and its police department.

The History

In July 2000, when rookie police officers reported the misconduct of four Oakland Police officers ("the Riders"), the City immediately launched an extensive investigation, which suggested that the officers had committed serious policy violations, including false arrest, planting evidence, excessive use of force, falsification of police reports and assault and battery. The ringleader for the Riders, Officer Frank Vasquez, fled the country and remains a fugitive. The other three officers refused to cooperate with the mandatory investigation. For this refusal, they were fired.

The District Attorney's office brought felony charges against the officers. After two criminal trials, over three years, both juries deadlocked on the majority of the charges. One officer was found not guilty, but the juries' inability to find consensus is absolutely not a finding of innocence for the other three Riders officers.

The Burden of Proof

The Riders prosecution had to convince the jurors *beyond a reasonable doubt* of the officers' guilt. Most legal theorists set this standard at "90 percent sure" before voting to convict. For a guilty verdict, the prosecutor needed a unanimous decision – exceptionally difficult when prosecution witnesses were predominantly young African American men who had prior criminal records, and jurors, like all of us, want to believe in the honesty of the police. The Riders defense attorneys, on the other hand, only needed to cast sufficient doubt on the witnesses' claims; they did not have to prove the officers' innocence.

To illustrate the burden of proof issue, consider the O.J. Simpson double murder criminal trial, and the actions by the late defense attorney, Johnnie Cochran. His now

famous quote --“if the glove doesn’t fit, you must acquit”-- brilliantly summarized how easily a defense attorney can create enough doubt in the juror’s minds to prevent the required unanimous guilty verdict.

In comparison, the jurors in the civil Simpson trial needed only a *preponderance of evidence* to decide that Simpson committed the murders. Preponderance of evidence is usually described by legal theorists as being 50 percent sure or “more likely than not.” In that trial, the prosecution was easily able to convince at least eight of the twelve jurors that O.J. “more likely than not” committed the crime, thereby winning damages for the families of the victims.

“Reasonable doubt” is a profoundly more difficult hurdle to clear in criminal cases than showing a “preponderance of evidence” in civil rights cases.

A Final Accounting

The City of Oakland faced a similar dilemma in the Riders lawsuits. With substantial evidence of the officers’ misconduct by both Oakland Police Department’s Internal Affairs and the Alameda County District Attorney’s investigations, three of the accused officers uncooperative and their leader a fugitive, the City needed to reach a global settlement in the civil rights lawsuits or suffer a potentially devastating financial impact from the cost of the litigation alone.

With 119 civil rights lawsuits, the City Council was wise to settle for only \$2.2 million, with Oakland’s insurance companies paying the balance of the total \$10.9 million. A simple accounting of the facts demonstrates how the Council ultimately saved the taxpayers millions of dollars by *not* going to trial:

- Superior Court Judge Henderson stated he would try the 119 cases –five at a time—in 24 trials. The estimated cost just to defend the City was \$6.6 million to \$13 million.
- Had just one or two of the 119 plaintiffs been awarded damages, the City would have been obligated to pay the plaintiffs’ attorney’s fees in all 119 lawsuits at an estimated cost of \$3.5 million.
- Potential damages in the Riders cases were estimated from \$40 million to an excess of \$100 million.
- Finally, the settlement included court approved reforms to improve OPD’s management practices, ultimately preventing future lawsuits and a proposed federal takeover by the Justice Department—a very expensive proposition.

Oakland taxpayers could have spent \$6 million to \$13 million in hopes of winning all 119 cases or pay \$2.2 million and eliminate all risk. Settling was obviously the most prudent course. The City Council chose wisely; I would recommend settlement again today without hesitation.