

Opinion

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MY WORD

'Riders' settlement was right thing to do

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Russo**

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, we can review the circumstances under which Oakland resolved the 119 civil rights lawsuits against the city.

In July 2000, when rookie police officers reported the misconduct of four Oakland police officers known as the Riders, the city immediately launched an extensive investigation. Officers were accused of committing serious violations. The alleged 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, 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 two officers.

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. 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 this point, consider the O.J. Simpson double-murder criminal trial and the work of 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 jurors' minds to prevent the required unanimous guilty verdict. Simpson was acquitted.

In comparison, jurors in the Simpson civil trial needed only a preponderance of evidence to

decide he 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 12 jurors that Simpson "more likely than not" committed the crime.

The city of Oakland faced a similar dilemma in the Riders civil rights 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 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. At the time, Superior Court Judge Thelton Henderson had stated he would try the 119 cases. 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.

Settling was obviously the most prudent course. The City Council chose wisely: I would recommend settlement again today without hesitation.

John Russo is city attorney of Oakland.