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How Governments Pay: Lawsuits, Budgets, and Police Reform

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ABSTRACT

For decades, scholars have debated the extent to which financial sanctions cause government officials to improve their conduct. Yet little attention has been paid to a foundational empirical question underlying these debates: When a plaintiff recovers in a damages action against the government, who foots the bill? In prior work, I found that individual police officers virtually never pay anything toward settlements and judgments entered against them. But this finding prompts another question: Where does the money come from, if not from individual officers? The dominant view among those who have considered this question is that settlements and judgments are usually paid from jurisdictions' general funds with no financial impact on the involved law enforcement agencies, and some have suggested that agencies would have stronger incentives to improve behavior were they required to pay settlements and judgments from their budgets. But, beyond anecdotal information about the practices in a few large agencies, there has been no empirical inquiry into the source of funds used by governments to satisfy suits involving the police.

In this Article, I report the results of the first nationwide study to examine how cities, counties, and states budget for and pay settlements and judgments in cases against law enforcement. Through public records requests, interviews, and other sources, I have collected information about litigation budgeting practices in one hundred jurisdictions across the country. Based on the practices in these one hundred jurisdictions, I make two key findings. First, settlements and judgments are not always—or even usually—paid from jurisdictions' general funds; instead, cities, counties, and states use a wide range of budgetary arrangements to satisfy their legal liabilities. All told, half of the law enforcement agencies in my study financially contribute in some manner to the satisfaction of lawsuits brought against them.

Second, having a department pay money out of its budget toward settlements and judgments is neither necessary nor sufficient to impose a financial burden on that department. Some law enforcement agencies pay millions from their budgets each year toward settlements and judgments, but the particularities of their jurisdictions' budgeting arrangements lessen or eliminate altogether the financial impact of these payments on these agencies. On the other hand, smaller agencies that pay nothing from their budgets toward lawsuits may nevertheless have their very existence threatened if liability insurers raise premiums or terminate coverage in response to large payouts.

These findings should expand courts' and scholars' understandings of the impact of lawsuits on police reform efforts, inspire experimentation with budgeting arrangements that encourage more caretaking and accountability by law enforcement, and draw attention to the positive role government insurers can and do play in efforts to promote risk management and accountability in policing.

AUTHOR

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INTRODUCTION

For decades, scholars have debated the extent to which financial sanctions cause government actors to improve their conduct.¹ Yet, until recently, little attention has been paid to a foundational empirical question underlying these debates: When a plaintiff recovers damages against the government, who foots the bill? In prior research, I found that police officers in eighty-one law enforcement agencies across the country are virtually always indemnified.² Officers personally satisfied just 0.02 percent of the more than \$735 million awarded to plaintiffs over a six-year period in suits alleging constitutional violations and corresponding state tort claims, including assault, battery, false imprisonment, and intentional infliction of emotional distress.³ Officers were even more likely to be indemnified in cases involving auto accidents, property damage, and employment-related disputes.⁴ Accordingly, when a plaintiff sues a police officer, any amount she recovers is almost certain not to come from the pocket of that officer. In this Article, I examine how cities, counties, and states satisfy settlements and judgments in cases against law enforcement and whether and to what extent law enforcement agencies have a financial stake in the resolution of cases brought against them and their officers.

The dominant view—among the relatively few who have considered the question—is that settlements and judgments in suits involving law enforcement are usually paid not from law enforcement agencies’ budgets but from governments’ general funds.⁵ Commentators have pointed to this budgetary arrangement as one reason that law enforcement agencies do not have strong incentives to reduce the frequency of misconduct or the costs of litigation.⁶ And, relying on this assumption, some commentators have suggested that settlements and judgments should be paid out of law enforcement agencies’ budgets as a way of pressuring agencies to reform.⁷ But, beyond anecdotal information about the practices in a few large jurisdictions, there has been no empirical inquiry into

1. For a discussion of these debates, see generally *infra* notes 19–27 and accompanying text.

2. See generally Joanna C. Schwartz, *Police Indemnification*, 89 N.Y.U. L. REV. 885 (2014).

3. See *id.* at 912–13.

4. See *id.* at 914.

5. See *infra* note 29 and accompanying text.

6. See *infra* note 34 and accompanying text.

7. See *infra* note 37 and accompanying text.

the source of funds used by governments to satisfy suits brought against law enforcement.⁸

This Article reports the results of the first nationwide study to examine how cities, counties, and states budget for and pay settlements and judgments in cases against law enforcement. I sent public records requests to jurisdictions with the seventy largest law enforcement agencies across the country, as well as jurisdictions with seventy small and midsized agencies, seeking information about the ways in which they satisfy settlements and judgments in cases against their law enforcement agencies and officers.⁹ I supplemented these public records requests with telephone interviews and email exchanges with dozens of budget personnel, risk managers, insurers, government attorneys, and law enforcement officials in the responding jurisdictions. I was able to gather information about budgetary practices in sixty-two of the seventy largest jurisdictions and thirty-eight of the smaller jurisdictions I queried. The one hundred law enforcement agencies in these jurisdictions include fourteen of the fifteen largest agencies nationwide and employ over 26 percent of the country's approximately 765,000 law enforcement officers.¹⁰ Based on the practices in these one hundred jurisdictions, I make two novel findings regarding the financial effects of lawsuits on law enforcement.

First, settlements and judgments in suits against law enforcement agencies and officers are not always—or even usually—paid from jurisdictions' general funds.¹¹ Among the jurisdictions with the sixty-two largest agencies, twenty-six pay settlements and judgments from central government funds with no contribution by their law enforcement agencies. The remaining thirty-six, however, require their law enforcement agencies to contribute to the satisfaction of settlements and judgments in some manner. Among the thirty-eight smaller jurisdictions in my study, twenty-four pay judgments and settlements or liability insurance premiums out of central government funds with no contribution by their law enforcement agencies. The other fourteen require their law enforcement agencies to contribute either to the payment of settlements and judgments or to the payment of liability insurance premiums. All told, half of the law enforcement agencies in my study financially contribute in some manner to the satisfaction of lawsuits brought against them.

8. See *infra* note 33 and accompanying text.

9. These are the same jurisdictions I queried in my *Police Indemnification* study, *supra* note 2; see *infra* Part II for further discussion of my methodology.

10. See *infra* note 52 and accompanying text.

11. For data supporting these findings, see generally Part IV and Appendix A.

My second finding is that requiring a law enforcement agency to pay money out of its budget toward settlements and judgments is neither sufficient nor necessary to impose a financial burden on that agency.¹² Several agencies that pay settlements and judgments from their budgets do not appear to suffer any economic consequences of these payouts: They receive an allocation of funds for litigation costs during the budgeting process with the city, county, or state; they cannot use those funds for other purposes if they pay less than anticipated on litigation; and when they spend more than anticipated on litigation, the excess money is paid from the jurisdiction's general fund. These overages may have political ramifications, but they do not affect the agencies' budgets. As a result, many agencies feel less financial pressure associated with lawsuit payouts than their formal budgetary arrangements suggest.

On the other hand, smaller jurisdictions that rely primarily on outside insurance report that a spike in suits may cause an insurer to demand changes in law enforcement personnel and policies as a condition of continued coverage; agencies that do not comply have lost their insurance coverage and ceased to exist.¹³ Regardless of whether these smaller law enforcement agencies financially contribute to their jurisdictions' liability insurance premiums, high litigation costs can nevertheless affect their operations and threaten their very existence. The vast majority of cities and counties across the country are small and rely on liability insurance.¹⁴ Accordingly, pressures and obligations imposed by outside insurers are an important and underappreciated consequence of liability for smaller law enforcement agencies.

The final step in the inferential chain is the most difficult to test—whether law enforcement agencies improve their behavior when they have financial incentives to do so. Other scholars have struggled to assess the deterrent effects of litigation costs in other contexts and similar difficulties apply here.¹⁵ Further study

12. For data supporting these findings, see generally Part V and Appendices C, D, and E.

13. For data supporting these findings, see generally Parts V.D and VII.B.

14. See *infra* notes 47–49 and accompanying text.

15. For efforts to measure the deterrent effects of legal liabilities in other contexts, see Gary T. Schwartz, *Reality in the Economic Analysis of Tort Law: Does Tort Law Really Deter?*, 42 UCLA L. REV. 377 (1994) (compiling qualitative evidence of lawsuits' deterrent effects in a variety of settings); see also Don Dewees & Michael J. Trebilcock, *The Efficacy of the Tort System and Its Alternatives: A Review of Empirical Evidence*, 30 OSGOODE HALL L.J. 57 (1992) (surveying empirical studies about the deterrent effects of tort law); Michelle M. Mello & Troyen A. Brennan, *Deterrence of Medical Errors: Theory and Evidence for Malpractice Reform*, 80 TEX. L. REV. 1595, 1603–06 (2002) (surveying available evidence of lawsuits' deterrent effects). For more recent efforts to test the deterrent effects of civil liability, see W. Jonathan Cardi et al., *Does Tort Law Deter Individuals? A Behavioral Science Study*, 9 J. EMPIRICAL LEGAL STUD. 567 (2012); Theodore

is necessary to better understand whether and to what extent budgeting arrangements that carry financial ramifications for law enforcement agencies inspire investments in risk management and encourage efforts to improve.¹⁶ The sparse evidence currently available suggests that at least some law enforcement officials in such agencies are motivated by liability costs to reduce risk; others have reported that they would take steps to reduce risk regardless of whether they had financial incentives to do so. In jurisdictions reliant on outside insurance, insurers' demands that agencies implement changes as a condition of continued coverage appear to create even stronger incentives to improve.

These findings should enrich courts' and scholars' understandings of the effect of lawsuits on police reform efforts, inspire experimentation with budgeting arrangements that may encourage more caretaking and accountability by law enforcement, and draw attention to the positive role that local government insurers can and do play in efforts to promote risk management and accountability in policing.

The remainder of this Article proceeds as follows. Part I describes assumptions about the deterrent effects of suing government and the critically important but unexplored question of which entities bear the financial costs of settlements and judgments in suits against law enforcement. Part II explains my methodology and the representativeness of the one hundred jurisdictions in my study. I offer an overview of local government budgeting practices in Part III that helps contextualize my findings. Part IV sets out my first major finding: Jurisdictions use a wide range of budgetary arrangements to satisfy their legal liabilities. Part V sets out my second major finding: Paying money from a law enforcement agency's budget does not necessarily impose financial burdens on that department. I examine available evidence regarding the effect of financial pressures—when they exist—on law enforcement officials' decisionmaking in Part VI. Finally, in Part VII, I consider the implications of these findings for theories of deterrence and the role of insurance in risk management, and recommend several approaches to strengthen the connection between lawsuits' costs and police behavior.

Eisenberg & Christoph Engel, *Assuring Civil Damages Adequately Deter: A Public Good Experiment*, 11 J. EMPIRICAL LEGAL STUD. 301 (2014); Joanna M. Shepherd, *Tort Reforms' Winners and Losers: The Competing Effects of Care and Activity Levels*, 55 UCLA L. REV. 905 (2008).

16. For further discussion of available evidence of the effect of financial pressures on law enforcement agencies, see generally Part VI.

I. ASSUMPTIONS ABOUT THE DETERRENT EFFECTS OF SUING GOVERNMENT

For decades, commentators have debated whether and to what extent lawsuits seeking damages deter government actors. Commentators generally seem to agree that lawsuits can create nonfinancial pressures by generating publicity about allegations of misconduct and by revealing previously unknown information about the details of that misconduct.¹⁷ Commentators have also observed that high litigation costs can create political pressures for law enforcement to improve.¹⁸ But commentators disagree about the extent to which the money spent on lawsuits creates financial pressures and the manner in which those financial pressures—when they exist—influence government behavior.

Some believe that the financial threat associated with being sued—and the financial repercussions of a suit when it is successful—will cause governments to make adjustments that can help them avoid future suits and payouts.¹⁹ As Richard Fallon and Daniel Meltzer explain:

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17. See, e.g., Myriam E. Gilles, *In Defense of Making Government Pay: The Deterrent Effect of Constitutional Tort Remedies*, 35 GA. L. REV. 845, 858–67 (2001) (describing the “informational” and “fault-fixing” functions of constitutional damages actions); Margo Schlanger, *Inmate Litigation*, 116 HARV. L. REV. 1555, 1681 (2003) (describing how negative publicity regarding lawsuits “can trigger embarrassing political inquiry and even firings, resignations, or election losses”); Joanna C. Schwartz, *What Police Learn From Lawsuits*, 33 CARDOZO L. REV. 841 (2012) (describing the ways in which lawsuits can reveal information previously unknown to law enforcement agencies).
 18. See, e.g., *infra* note 99 (describing the political consequences of large payouts); Schwartz, *supra* note 17, at 849 n.37 (describing a blue ribbon commission appointed to investigate the Los Angeles Sheriff’s Department following several years of large settlements and judgments paid in claims against the Department).
 19. See, e.g., John C. Jeffries, Jr., *The Liability Rule for Constitutional Torts*, 99 VA. L. REV. 207, 240 (2013) (arguing that making it easier for plaintiffs to recover in civil rights damages actions through a strict liability rule “would make damages for constitutional violations routine and would thereby heighten the disincentives for governments to engage in conduct that might result in constitutional violations”); Richard H. Fallon, Jr., *Asking the Right Questions About Officer Immunity*, 80 FORDHAM L. REV. 479, 496 (2011) (“If government entities routinely indemnify their officials, they would certainly have an incentive to provide those officials with training regarding applicable law”); Catherine Fisk & Erwin Chemerinsky, *Civil Rights Without Remedies: Vicarious Liability Under Title VII, Section 1983, and Title IX*, 7 WM. & MARY BILL RTS. J. 755, 796 (1999) (arguing that vicarious liability “gives municipalities a greater incentive to monitor, supervise, and control the acts of their employees,” and that “[l]ocal governments, with inherently scarce resources, obviously want to minimize the amount of their budget that is lost to paying damages”). This is also a view repeatedly endorsed by the U.S. Supreme Court. See, e.g., *City of Riverside v. Rivera*, 477 U.S. 561, 575 (1986) (“[T]he damages a plaintiff recovers contributes significantly to the deterrence of civil rights violations in the future.”); *Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299, 307 (1986) (“Deterrence . . . operates through the mechanism of damages that are *compensatory* . . .”).

Imagine a city police force that conducts racially discriminatory searches, employs excessive force against suspects, or engages in other forms of unconstitutional conduct. Though a damages award does not require discontinuation of such practices, it exerts significant pressure on government and its officials to respect constitutional bounds.²⁰

Scholars holding this view recognize that litigation's deterrent signal does not necessarily reflect the magnitude or scope of government misbehavior: Many people who have been harmed never sue and, in the constitutional arena, legal doctrines including qualified immunity make it difficult for plaintiffs to prevail even when their rights have been violated.²¹ Moreover, boundedly rational government officials will not weigh the costs and benefits of different courses of action in the stylized manner predicted by deterrence theories.²² And, even if they did, those government officials will not always be able to influence the conduct of low-level government actors that interact with the public and are most likely to be named as defendants.²³ Despite these qualifications, many appear to accept the notion that government actors, required to internalize litigation costs, will take steps to reduce the likelihood of future claims.²⁴

Others believe that government actors respond less predictably to the financial costs of liability, arguing that officials weigh these financial costs against political, administrative, and bureaucratic interests when deciding which course of action to take. As Peter Schuck explains:

[E]ven when they face governmental liability for damages, administrators feel countervailing pressures to tolerate low-level misconduct. The political environment may countenance or even reward

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20. Richard H. Fallon, Jr. & Daniel J. Meltzer, *New Law, Non-Retroactivity, and Constitutional Remedies*, 104 HARV. L. REV. 1731, 1788 (1991).
 21. For descriptions of these critiques of the deterrent power of civil rights damages actions, see Karen M. Blum, *Section 1983 Litigation: The Maze, the Mud, and the Madness*, 23 WM. & MARY BILL RTS. J. 913 (2015); Pamela S. Karlan, *The Paradoxical Structure of Constitutional Litigation*, 75 FORDHAM L. REV. 1913, 1915–27 (2007); Joanna C. Schwartz, *Myths and Mechanics of Deterrence: The Role of Lawsuits in Law Enforcement Decisionmaking*, 57 UCLA L. REV. 1023, 1032 (2010).
 22. Schwartz, *supra* note 21, at 1070.
 23. See PETER H. SCHUCK, *SUING GOVERNMENT: CITIZEN REMEDIES FOR OFFICIAL WRONGS* 126 (1983) (“[W]hen an administrator orders street-level officials to change the way in which they go about their work, the instruction must be viewed as little more than a commencement of hostilities (or at least negotiations), an opening gambit in a protracted and problematic struggle over policy implementation.”).
 24. See generally, e.g., *supra* notes 19–20; see also Jeffries, *supra* note 19, at 240 n.120 (“My own view is that the deterrent effect of money damages plus attorney’s fees is sufficiently plausible to warrant reliance on such analysis until disproved.”).

lawbreaking that appears to advance important programmatic or ideological goals Bureaucratic needs—for example, to preserve employee morale or maintain order within a custodial institution—may induce agencies to wink at illegal behavior. . . . These organizational incentives may on balance outweigh the fiscal ones that governmental liability creates.²⁵

Some believe that governments' responsiveness to political incentives can lead to results "as likely to be perverse as beneficial."²⁶ Others are more optimistic about the deterrent effect of damages actions, even when those effects are measured in political terms. In Myriam Gilles's view, "constitutional damages remedies, although denominated in dollars, clearly translate into the political currency that moves political actors," including negative publicity, the revelation of harmful information, and the public fixing of fault on government officials.²⁷

This debate about the nature and extent of lawsuits' deterrent effect on government actors has persisted for decades in the absence of evidence about which government actors or agencies bear the financial burdens of liability. I recently found that—in the law enforcement context—individual officers virtually never pay anything from their pockets toward settlements and judgments in cases brought against them.²⁸ But this finding prompts another question: Where does the money come from, if not from individual officers?

Commentators engaged in discussion about lawsuits' deterrent effects have relied on different assumptions about how governments pay settlements and judgments in cases against law enforcement. The dominant view appears to be that settlements and judgments in cases involving the police are usually paid from governments' general funds, not law enforcement agencies' budgets.²⁹

25. SCHUCK, *supra* note 23, at 125; *see also* Daryl J. Levinson, *Making Government Pay: Markets, Politics, and the Allocation of Constitutional Costs*, 67 U. CHI. L. REV. 345, 345 (2000) (contending that "government actors respond to *political* incentives, not *financial* ones—to votes, not dollars").

26. Levinson, *supra* note 25, at 415.

27. Gilles, *supra* note 17, at 861.

28. *See generally* Schwartz, *supra* note 2.

29. *See, e.g.*, NAT'L RESEARCH COUNCIL, FAIRNESS AND EFFECTIVENESS IN POLICING: THE EVIDENCE 279 (Wesley Skogan & Kathleen Frydl eds., 2004) (explaining that civil liability does not influence police department practices because "damages in these suits are not significant in relation to total police budgets and, more importantly, are not even paid out from the police budget but out of general city funds"); SCHUCK, *supra* note 23, at 107 ("[T]he litigation, liability, and settlement costs resulting from misconduct by agency employees are in practice borne by the Treasury, not by the agency's own budget."); SAMUEL WALKER, THE NEW WORLD OF POLICE ACCOUNTABILITY 33 (2005) (explaining that, in most governments, "one agency of government (the police) perpetrates the harm, another agency defends it in court (the law department), and a third agency writes the check (the treasurer)."); Michael T. Morley, *Public Law at the Cathedral*:

Others believe that law enforcement agencies pay settlements and judgments from their own budgets.³⁰ Some suggest that variation might exist in jurisdictions' budgeting practices.³¹ And some others debate lawsuits' deterrent effects without expressly addressing which government entities bear the costs of liability.³²

Despite the importance of government budgeting practices to understandings of lawsuits' deterrent effects, and despite the wide-ranging assumptions about the ways in which governments satisfy settlements and judgments, there is very limited available evidence regarding this issue. An almost twenty-year-old study by Amnesty International of fourteen large law enforcement agencies found that "in most cities . . . civil settlements paid by the city on behalf of an officer usually are not taken from the police budget but are paid from general city funds."³³ Beyond evidence about the practices in a few large law enforcement

Enjoining the Government, 35 CARDOZO L. REV. 2453, 2468 (2014) ("[M]any agencies are not required to pay large damage awards out of their own budgets; rather, such judgments typically are paid from the general fund of the municipality, state, or federal government."); *see also infra* note 37 (citing commentators who argue that settlements and judgments should be, but are not, paid from law enforcement agencies' budgets).

30. *See, e.g.*, Barbara E. Armacost, *Organizational Culture and Police Misconduct*, 72 GEO. WASH. L. REV. 453, 475 (2004) (writing that police departments' cost-benefit calculations are "not surprising when one recognizes that even large damages awards amount to only a small part of the budget of a large metropolitan police department"); Schlanger, *supra* note 17, at 1676 ("[I]n nearly all inmate litigation, it is the correctional agency that pays both litigation costs and any judgments or settlements . . .").
31. *See, e.g.*, Richard Frankel, *Regulating Privatized Government Through § 1983*, 76 U. CHI. L. REV. 1449, 1486–87 (2009) ("For *some* governmental entities, litigation payments do not come from the budget of the offending employee's agency but from a general litigation or judgment fund.") (emphasis added); Marc L. Miller & Ronald F. Wright, *Secret Police and the Mysterious Case of the Missing Tort Claims*, 52 BUFF. L. REV. 757, 781–82 (2004) ("[T]he monetary cost of judgments against police are not *always* fully or directly borne by police departments or by individual officers. Civil judgments come out of city or county funds, or perhaps from insurance policies that the local government purchases—i.e., from taxpayers.") (emphasis added).
32. *See, e.g.*, Fallon & Meltzer, *supra* note 20, at 1788 (describing the pressure of a damages award "on government and its officials" without specifying which entities or individuals feel those effects). Commentators and courts cited *supra* note 19 also assume that damages awards will pressure government entities and individuals to reform without specifying who bears the costs of these awards.
33. HUMAN RIGHTS WATCH, *SHIELDED FROM JUSTICE: POLICE BRUTALITY AND ACCOUNTABILITY IN THE UNITED STATES* 80 (1998); *see also* Schwartz, *supra* note 21, at 1047–48 (describing New York City's practice of satisfying settlements and judgments out of the city's general budget). For a similar study of corrections agencies, see Joshua J. Fougere, *Paying for Prisoner Suits: How the Source of Damages Impacts State Correctional Agencies' Behavior*, 43 COLUM. J.L. & SOC. PROBS. 283, 302–03 (2010) (examining fifteen state corrections agencies and finding that five states required their agencies to pay settlements and judgments in civil rights cases from

agencies, there has been no systematic inquiry into the source of funds used by governments to satisfy these suits.

Whether and to what extent law enforcement agencies bear the financial costs of liability should shape understandings about lawsuits' deterrent effects regardless of whether one believes that government actors respond to financial incentives, political incentives, or a combination of the two. To the extent that law enforcement officials respond to financial incentives, paying settlements and judgments from general funds will presumably dampen the agency's financial incentives to reduce the costs of litigation.³⁴ To the extent that law enforcement officials respond to political incentives, paying settlements and judgments from general funds will mean that there are no countervailing financial costs against which those political interests are weighed.³⁵ As Marc Miller and Richard Wright explain, the deterrent effect of lawsuits would be lessened if money is paid from governments' general funds rather than police department budgets "whether departments respond to monetary incentives, political incentives, or both—for tort judgments to shape institutional and individual behavior the defendants must bear the cost of the misbehavior."³⁶

their budgets, four states paid from a statewide fund, and six required their agencies to pay into a central, statewide fund).

34. See, e.g.; Rachel Harmon, *Limited Leverage: Federal Remedies and Policing Reform*, 32 ST. LOUIS U. PUB. L. REV. 33, 46–47 (2012) ("Because police departments and their leaders are not easily forced to internalize the costs borne by the government, it is not surprising that many departments fail to adopt institutional reforms even after successful civil judgments impose significant costs for misconduct."); see SCHUCK, *supra* note 23, at 107 (observing that, because litigation costs are paid from the general budget, "agencies do not bear the full cost of their wrongdoing but enjoy whatever benefits flow from it"); Morley, *supra* note 29, at 2468 (writing that the practice of satisfying settlements and judgments from general funds "further reduces the deterrent effect of such awards on government agencies").
35. See, e.g., Armacost, *supra* note 30, at 475 (proposing that, "[t]o the extent that chiefs of police view a little bit of brutality as an effective law enforcement tool, they will balance the costs of liability against the perceived gains of aggressive policing"); Levinson, *supra* note 25, at 371 (imagining that a police official will allow his officers to use unconstitutional chokeholds until "the costs of permitting chokeholds, quantified in constitutional tort damages paid to people severely injured or killed by the police, would exceed the crime-reduction benefits").
36. Miller & Wright, *supra* note 31, at 781; see also Fallon, *supra* note 19, at 497 n.99 (2011) (describing the ongoing debate about whether government actors respond to political or financial incentives, and noting that "[i]t also might matter whether indemnifying institutions rely on insurance or self-insurance to pay judgments against their officials and, if the latter, to what extent the consequences of an adverse judgment against a police officer, for example, would be felt distinctively within the police department that had failed to deter the officer's wrongdoing, rather than being spread across the entirety of a municipal budget"); Levinson, *supra* note 25, at 381–82 (imagining different responses to payouts depending on whether money is taken from an agency's budget).

Evidence about budgetary arrangements should also shape recommendations about how best to use lawsuits to encourage reform. Several commentators—relying on the assumptions that settlements and judgments are paid from jurisdictions’ general funds and that this arrangement reduces lawsuits’ deterrent effects—have suggested that settlements and judgments should be paid out of law enforcement agencies’ budgets as a way of encouraging agencies to reform themselves.³⁷ Yet this recommendation—along with commentators’ theories about what incentives drive government actors—has been made in the absence of much data about how governments pay settlements and judgments in lawsuits brought against them.

II. METHODOLOGY

In order to understand how governments satisfy settlements and judgments in lawsuits involving law enforcement, I sought information from jurisdictions with the seventy largest law enforcement agencies across the county and a sample of jurisdictions with seventy small and midsize agencies. This is the same group of 140 agencies I queried for my *Police Indemnification* study.³⁸ I corresponded directly with contacts from that project when possible. When I was unable to correspond directly with my agency contacts, I submitted new public records

37. See, e.g., Rachel M. Cohen, *City Coffers, Not Police Budgets, Hit Hard by the High Cost of Brutality*, AMERICAN PROSPECT (Sept. 26, 2014), <http://prospect.org/article/city-coffers-not-police-budgets-hit-hard-high-cost-brutality> [<http://perma.cc/4F56-796J>] (“If settlements for police misconduct on citizens came out of the funding for police, incidents of abuse would be reduced, experts say.”); Frankel, *supra* note 31, at 1487 (“Only if the government connects the budgetary cost of litigation to the agency employing the responsible party could there be any effect, but it is far from clear how strong that connection is.”); Jon O. Newman, *Suing the Lawbreakers: Proposals to Strengthen the Section 1983 Damage Remedy for Law Enforcers’ Misconduct*, 87 YALE L.J. 447, 457 (1978) (“Placing the burden of damage awards for constitutional wrongs directly upon [police agencies] would afford a useful incentive to monitor the performance of their employees, to insist on observance of constitutional standards, and to exercise appropriate internal discipline when misconduct occurs.”); SCHUCK, *supra* note 23, at 108 (suggesting that the “[U.S.] Congress, for example, could require that whatever liability costs are imposed upon the United States under the [Federal Tort Claims Act (FTCA)] must be charged to the budgets of the agencies whose employees’ conduct occasioned them and that those agencies transmit the costs downward to the budgets of the smallest subunits capable of deterring the conduct in question”). I have also previously made this recommendation regarding New York City. See Joanna C. Schwartz, *Watching the Detectives*, N.Y. TIMES: THE OPINION PAGES (June 15, 2011), http://www.nytimes.com/2011/06/16/opinion/16schwartz.html?_r=0 [<https://perma.cc/86BH-S69P?type=source>]. Others, however, foresee possible negative effects of financial liability for governments. See *infra* notes 178–179 and accompanying text.

38. See Schwartz, *supra* note 2, at 902–12 (describing the methodology of that study).

requests to the jurisdictions' departments of budget or finance, city clerks, or attorneys. In each instance I asked two basic questions: (1) By what means does the jurisdiction satisfy settlements and judgments in lawsuits³⁹ brought against the law enforcement agency and its officers—are the payments made from the agency's budget, the jurisdiction's budget, an outside insurer, or another entity? And: (2) Does the law enforcement agency financially contribute in any manner to those payments?⁴⁰ As with my *Police Indemnification* study, these initial requests were often the first in a long series of letters, emails, and telephone calls.⁴¹

After almost two years of correspondence, a total of one hundred jurisdictions—sixty-two of the seventy largest law enforcement agencies across the country and thirty-eight of the seventy midsize and small jurisdictions I queried—responded to my questions. I supplemented these responses with telephone interviews and email exchanges with finance officers, insurance personnel, risk managers, city and county attorneys, and law enforcement officials to better understand how these budgeting arrangements affect agencies' budgets and decisionmaking.

I then followed up with a second round of public records requests that sought information about total lawsuit payouts, law enforcement agency contributions to central risk funds and insurance premiums, law enforcement agency budgets, and jurisdiction budgets for fiscal years 2012, 2013, and 2014.⁴² It was

39. Although I focused only on police misconduct suits in my *Police Indemnification* study, *supra* note 2, here I sought information about budgeting practices for all types of lawsuits filed against law enforcement agencies and officers. I did limit my requests, however, to lawsuits, so my data do not include workers' compensation claims or other claims for money that did not result in litigation.

40. Although many states' Freedom of Information Act (FOIA) laws require requests for records, the information I sought was not always (or even usually) captured in jurisdictions' "records." Some rejected my requests on this ground. Some officials responded to my requests for information even though the requests did not comply with their open records laws. And others had me restate my requests—sometimes repeatedly—until they identified responsive records that could be provided.

41. Officials were generally more cooperative in this study than they were in the *Police Indemnification* study, which is evidenced by the fact that eighty-one jurisdictions responded to my requests in that study and one hundred jurisdictions responded to my requests in this study. I already had contacts in those eighty-one jurisdictions and many were willing to provide me with the additional information I sought. I do not know why jurisdictions were more responsive in this study, but one notable distinction is that I usually corresponded with budget and finance personnel in this study, and in the prior study corresponded primarily with police personnel and city and county attorneys.

42. My requests were tailored to the different budgetary arrangements in the responsive jurisdictions. For those jurisdictions that pay settlements and judgments in law enforcement cases out of their general funds, I requested records reflecting the total amount paid in law enforcement cases and

more difficult to get this litigation and financial data than it was to obtain information about how budgetary practices work in general. Seventy-two of the one hundred jurisdictions responded to these requests; some that did referred me to publicly available budget documents for responsive information.⁴³

For those jurisdictions that did respond, I cannot be sure that their responses are complete or accurate, or that they provided information in a manner consistent with other jurisdictions.⁴⁴ I know of some inconsistencies. For example, some jurisdictions did not provide information about settlements and judgments in all types of law enforcement cases; some jurisdictions provided me with information about the amount paid to claimants before any lawsuits were filed and others did not; and some smaller jurisdictions' insurance payments include the cost of representation while the cost of representation is separate in larger jurisdictions. Moreover, inaccuracies in local government budgeting practices are well known and could mean that some reported budget numbers are smaller or larger than they should be.⁴⁵ I have noted these issues when possible in Appendix G. Regardless, these variations do not disturb my key findings regarding budgeting arrangements and the frequency with which law enforcement agencies' budgets are impacted by lawsuit payouts.

records reflecting the total budget for the jurisdiction in fiscal years 2012, 2013, and 2014. For those jurisdictions that require law enforcement agencies to contribute to a central risk management fund, I requested records for fiscal years 2012, 2013, and 2014 that reflected: (1) the total amount contributed by the law enforcement agencies to the central risk management or self-insurance fund; (2) the total amount paid from that central risk management or self-insurance fund to satisfy settlements and judgments in cases involving the police; (3) the total budget for the law enforcement agency; and (4) the total budget for the jurisdiction. For those jurisdictions that require their law enforcement agencies to pay settlements and judgments out of their own budgets, I requested records for fiscal years 2012, 2013, and 2014 that reflected: (1) the total amount paid from the law enforcement agencies' budgets to satisfy settlements and judgments; (2) the total amount paid from any source to satisfy settlements and judgments; (3) the total budget for the law enforcement agency; and (4) the total budget for the jurisdiction. For jurisdictions that rely primarily on outside insurance, I requested records for fiscal years 2012, 2013, and 2014 that reflected: (1) the total amount paid in insurance premiums (from the law enforcement agency's or jurisdiction's budget); (2) any additional amounts paid (in deductibles or amounts above coverage limits) by the jurisdiction or law enforcement agency; (3) the total budget for the law enforcement agency; and (4) the total budget for the jurisdiction.

43. See Appendix B and Appendix E for responsive information from these seventy-two jurisdictions.

44. I describe this same problem in more detail in the *Police Indemnification* study. See Schwartz, *supra* note 2, at 910–11.

45. See generally THE VOLCKER ALLIANCE, TRUTH AND INTEGRITY IN STATE BUDGETING: INITIAL REPORT OF THE TRUTH AND INTEGRITY IN GOVERNMENT FINANCE PROJECT (2015).

The one hundred jurisdictions that provided me with information about their budgeting arrangements are widely representative in several respects. The jurisdictions are located in thirty-four states and Washington D.C., in every region of the country, and include both large cities and remote rural areas. Included are state agencies, county agencies, combined city-county agencies, and city law enforcement agencies. These agencies vary significantly in size, ranging from the largest law enforcement agency in the country—the New York City Police Department, with over 36,000 employees—to a department with just one sworn officer.⁴⁶

The one hundred jurisdictions do not, however, reflect the distribution by size of the nation's approximately 18,000 law enforcement agencies.⁴⁷ Although the vast majority of law enforcement agencies across the country are quite small, my study is skewed toward large agencies.⁴⁸ And although the vast majority of small law enforcement agencies across the country appear to rely on some manner of liability insurance, the majority of jurisdictions in my study are self-insured.⁴⁹ I have addressed this limitation in part by interviewing officials at three statewide public entity risk pools and the executive director of a nationwide association of public entity risk pools; the three statewide risk pools together insure more than one thousand small and mid-sized local governments, and the nationwide association works with risk pools that serve 75,000 of the 93,000 local governments in the United States.⁵⁰ I have also collected information about

46. See Appendix A (setting out the number of officers in each jurisdiction in my study).

47. See BRIAN A. REAVES, U.S. DEPT OF JUSTICE, CENSUS OF STATE AND LOCAL LAW ENFORCEMENT AGENCIES, 2008 (2011), <http://www.bjs.gov/content/pub/pdf/cslla08.pdf> (reporting 17,985 state and local law enforcement agencies employing "at least one full-time officer or the equivalent in part-time officers"); Bureau of Justice Statistics, *Census of State and Local Law Enforcement Agencies (CSLLEA)*, NAT'L ARCHIVE CRIMINAL JUSTICE DATA (2008), <http://www.icpsr.umich.edu/icpsrweb/NACJD/studies/27681> [<http://perma.cc/2XJZ-M92U>] [hereinafter BJS LAW ENFORCEMENT CENSUS DATA] (listing the number of officers in each of the 17,985 agencies).

48. Of the 17,985 law enforcement agencies nationwide as of 2008, 86 percent employed fewer than fifty sworn officers, 93 percent employed fewer than one hundred officers, 98 percent employed fewer than 250 officers, and 2 percent employed more than 250 officers. See Reaves, *supra* note 47, at 2. In contrast, 9 percent of the agencies in my study employ fifty or fewer sworn officers; 14 percent employ one hundred or fewer sworn officers; 24 percent employ 250 or fewer officers; and 76 percent employ more than 250 sworn officers. See Appendix A.

49. Compare *infra* notes 66–67 (describing available information about the prevalence of liability insurance in smaller jurisdictions), with Appendix A (reflecting that twenty-one of the one hundred agencies in my study rely primarily on liability insurance).

50. See Telephone Interview with Mike Forster, Risk Manager, Mich. Mun. League (Oct. 7, 2014) (explaining that the Michigan Municipal League provides liability insurance to 416 cities, villages, and townships in the state of Michigan); Telephone Interview with Ann Gerger, Exec. Dir., Ass'n

small jurisdictions' practices from publicly available sources.⁵¹ Nevertheless, although my study presents a robust picture of budgeting practices in the largest law enforcement agencies across the country, it offers a less comprehensive view of practices in the nation's smaller law enforcement agencies.

The overrepresentation of large jurisdictions does, though, mean that my findings reflect budgetary practices in jurisdictions that employ a disproportionately large share of the nation's officers and are likely responsible for a disproportionately large number of claims. The one hundred jurisdictions in my study are just one-half of one percent of the nation's law enforcement agencies but employ over 26 percent of the country's law enforcement officers.⁵² The departments are also likely responsible for a disproportionately large proportion of liability claims and costs nationwide. A study of government liability costs in New York State found that its fifteen largest counties are responsible for 98 percent of statewide liability costs and New York City alone is responsible for two-thirds of the lawsuit and liability costs incurred by the entire state.⁵³ The study's authors considered the concentration of suits against government in highly populous areas unsurprising, given their "population, density, and service and employee levels."⁵⁴ Accordingly, my study, which includes sixty-two of the seventy largest law enforcement agencies nationwide, presumably captures critical information about the budgetary practices relevant to the lion's share of police-related litigation across the country.

of Governmental Risk Pools (AGRiP) (June 16, 2015) (explaining that the 220 local government risk pools that are members of her organization provide one or more services to 75,000 of the 93,000 local governments in the country); Telephone Interview with Jerry Mason, Counsel for the Idaho Cts. Risk Mgmt. Program (ICRMP) (Nov. 5, 2013) (explaining that ICRMP insures forty-three out of forty-four counties in Idaho, and about 170 out of 200 cities in the state); Telephone Interview with Peter Tritz, Adm'r, League of Minn. Cities Ins. Tr. (LMCIT) (June 5, 2015) (explaining that LMCIT insures about 800 of the 840 cities in Minnesota, about 330 of which have police departments and employ a total of 4450 officers statewide).

51. See *infra* notes 72–74, 165–175, and accompanying text.

52. See BJS LAW ENFORCEMENT CENSUS DATA, *supra* note 47 (providing the number of sworn law enforcement personnel nationwide and by agency); *infra* Appendix A (listing responsive jurisdictions).

53. See SYDNEY CRESSWELL & MICHAEL LANDON-MURRAY, TAKING MUNICIPALITIES TO COURT: AN EXAMINATION OF LIABILITY AND LAWSUITS IN NEW YORK STATE LOCAL GOVERNMENTS 5, 20 (2013) [hereinafter TAKING MUNICIPALITIES TO COURT].

54. *Id.* at 12.

III. AN OVERVIEW OF LOCAL GOVERNMENT BUDGETING

Before describing the ways in which local governments budget for and pay settlements and judgments in lawsuits against law enforcement, it is worth describing in at least a cursory fashion the landscape of local government revenues, expenses, and budgeting.

Cities, counties, and states have complex funding arrangements and diverse expenditures. Unlike a private firm, which will presumably get most of its resources from the products or services that it sells, local governments' funding comes from multiple sources, including property taxes; sales taxes; income tax; utilities; charges for parking, parks, and other services; fines; interest; and federal and state grants.⁵⁵ Each year, governments allocate these revenues to various expenditures, including public utilities, infrastructure, pensions, workers' compensation, and various government agencies (including law enforcement).⁵⁶ Different jurisdictions rely on available income-generating mechanisms to varying degrees, and spend different proportions of their income on government agencies, projects, and services.

Lawsuits are one of local governments' many expenses. Many types of suits can be brought against local government—the most common include claims of property damage and personal injury, contract disputes, and employment disputes.⁵⁷ Suits against law enforcement agencies and officers generally make up a significant portion of governments' liability costs.⁵⁸ These suits generally fall into

55. For a list of government revenues organized by level of government and by state, see generally U.S. CENSUS BUREAU, 2012 CENSUS OF GOVERNMENTS, http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=COG_2012_LGF001&prodType=table [<http://perma.cc/QZB9-QJRE>].

56. *See id.*

57. *See, e.g.*, JOHN C. LIU, CITY OF N.Y. OFFICE OF THE COMPTROLLER, CLAIMS REPORT: FISCAL YEARS 2012, at 18, http://comptroller.nyc.gov/wp-content/uploads/documents/2013_Claims-Report.pdf [<http://perma.cc/V4P4-4KAU>] (describing the volume and various types of tort claims brought against the city); *id.* at 60 (describing the volume and various types of contract claims brought against the city, including by city employees).

58. *See* SYDNEY CRESSWELL & MICHAEL LONDON-MURRAY, ASSESSING THE FISCAL IMPACT OF LAWSUITS ON NEW YORK STATE MUNICIPALITIES 4 (2011) (reporting that an official in New York's municipal risk pool commented that "while automobile and slip-and-fall cases are the most frequently lodged cases against municipalities in New York State, the most expensive lawsuits that confront municipal insurers stem from law enforcement activity"); TAKING MUNICIPALITIES TO COURT, *supra* note 53, at 30 (reporting that in New York State, "the often overlapping and related liability issues stemming from police action, correctional facilities, and civil and constitutional rights rank among the most frequent types of liability issues dealt with by municipal governments"); Telephone Interview with Ann Gergen, Exec. Dir., AGRiP (June 16, 2015) (reporting that law enforcement and public safety more generally are top liability risk areas).

one of three categories: injuries resulting from automobile accidents; claims of assault, battery, unlawful detention, and other types of what would generally be considered police misconduct; and employment-related litigation (which could be claims of discrimination, unlawful termination, or violation of an employment agreement).⁵⁹ Jurisdictions vary in the relative amount spent on these different types of law enforcement-related litigation and in the total dollars spent.⁶⁰

Governments appear to take one of three approaches to the satisfaction of settlements and judgments: They self-insure; purchase private insurance; or participate in public entity risk pools with other municipalities in the state.⁶¹ It appears that, before the mid-1980s, governments relied on the first two of these options—they were either self-insured or purchased private insurance.⁶² In the

59. See generally, e.g., Mark Iris, *Your Tax Dollars at Work! Chicago Police Lawsuit Payments: How Much, and for What?*, 2 VA. J. CRIM. L. 25 (2014) (describing the types of cases brought against the Chicago Police Department); Email from Mike Dundas, Deputy City Attorney, City of L.A., to author (July 17, 2015, 9:03 PST) (attaching a spreadsheet of lawsuit settlements and judgments paid from 2012 through 2015, reflecting these three categories of claims); Email from Charles Freiman, Police Paralegal, Police Attorney's Office, Charlotte-Mecklenburg Police Dep't, to author (Feb. 25, 2013, 7:48 PST) (attaching a spreadsheet of lawsuits against the Department between 2006–2011, reflecting cases in each of these three categories).

60. In my *Police Indemnification* study, I found a wide range in the amounts spent by jurisdictions on different types of police-related claims. Among the nineteen large jurisdictions that provided me with detailed payout information in that study, a median of 76.3 percent of settlement and judgments dollars were spent on civil rights claims. The Texas Department of Public Safety spent the least (8.5 percent) on civil rights claims; the Tampa Police Department spent the most (99.3 percent). See Schwartz, *supra* note 2, at 967–68. There is also a wide range in the amount jurisdictions pay per officer: In this study, I found that the City of Albuquerque paid \$11,456 in settlements and judgments per year for each of its officers; the Tucson Police Department, with twelve more officers, paid \$379 per year, per officer. See Appendix B.

61. Some self-insured jurisdictions also have excess insurance to cover high-value claims. For the purposes of this discussion, I have categorized jurisdictions as self-insured if they must pay \$250,000 or more per claim before insurance coverage is available. See Email from Mike Forster, Risk Manager, Mich. Mun. League, to author (Jun 1, 2015, 9:01 PST) (explaining that “[a]n entity is ‘individually self-insured’ if it has substantial (or total) control over claims handling, assignment of defense counsel and settlement decisions. Communities that are typically large enough to do that will usually have a self-insured retention of, say, \$250,000 or higher, but that number isn’t necessarily the determining factor”). Note, though, that some would not view jurisdictions holding insurance with a \$250,000 deductible as self-insured. See Telephone Interview with Ann Gergen, Exec. Dir., AGRiP (June 16, 2015) (explaining that she would not consider entities self-insured unless they have insurance with deductibles above \$1.5 million). The jurisdictions that have excess insurance with deductibles of \$250,000 or higher are noted with an asterisk (*) in Appendix A, and the details of these arrangements are described in Appendix G. Note also that I have included the Texas Department of Public Safety in this category, even though its “excess insurance” is actually coverage by the State’s general fund if the Department of Public Safety must pay more than \$250,000 on a claim.

62. See CHARLES R. EPP, MAKING RIGHTS REAL: ACTIVISTS, BUREAUCRATS, AND THE CREATION OF THE LEGALISTIC STATE 95 (2009); KAREN NIXON, PUBLIC ENTITY

1970s and 1980s, the private market for government liability insurance largely evaporated, and jurisdictions began experimenting with public entity risk pools.⁶³ Public entity risk pools are similar to private insurers in that members pay premiums into a central fund used to satisfy settlements and judgments.⁶⁴ Unlike private insurance, however, public entity risk pools are not profit-making enterprises and will return dividends to their members if they spend less than expected on lawsuits.⁶⁵

Although there is no comprehensive data available about the number of jurisdictions nationwide that fall in each of these categories, experts I interviewed offered some rules of thumb. One expert estimated that jurisdictions with more than 100,000 residents are more likely to be self-insured; jurisdictions with fewer than 100,000 residents generally participate in public entity risk pools or purchase private insurance.⁶⁶ Another expert estimated that most law enforcement agencies with fewer than fifty sworn employees purchase some form of insurance (whether through risk pools or the private market).⁶⁷ For jurisdictions that do not self-insure, the availability of private insurance varies from state to state. In some states, like Michigan, public entity risk pools compete with

POOLING-BUILT TO LAST 1 (2011), <http://www.cajpa.org/documents/Public-Entity-Pooling-Built-to-Last.pdf> [<http://perma.cc/Y3S9-FJKZ>]; Email from Don LeMond, Dir. of Risk Mgmt., Dep't. of the Treasury, Commonwealth of Va., to author (Oct. 8, 2014, 5:45 PST) (on file with author) (describing this history in Virginia).

63. See sources cited *supra* note 62. For a comprehensive discussion of this shift from private insurance to public entity risk pools and the differences between the two, see John Rappaport, *How Private Insurance Regulates Public Police*, 130 HARV. L. REV. (forthcoming 2017).
64. For the history and structure of one of the earliest self-insurance pools, see *LMCIT History & Overview*, LEAGUE OF MINN. CITIES, <http://www.lmc.org/page/1/lmcit-history-and-overview.jsp> [<https://perma.cc/M3UA-J2GN>] (last visited Mar. 26, 2016).
65. *Id.*
66. Telephone Interview with Ann Gergen, Exec. Dir., AGRiP (June 16, 2015) (explaining that their rule of thumb is that jurisdictions of 100,000 or 125,000 will at least consider self-insurance, but that some much smaller jurisdictions do as well). Note that, among the jurisdictions in my study, four jurisdictions with fewer than 100,000 citizens opt to self-insure (New Bedford, Massachusetts, with a population of 95,078; Quincy, Massachusetts, with a population of 93,494; Hemet, California, with a population of 81,750; and Avondale, Arizona, with a population of 78,882). Population numbers are taken from *Quick Facts*, U.S. CENSUS BUREAU, <http://www.census.gov/quickfacts/table/PST045214/00> [<https://perma.cc/R2RH-QU6N>] (last visited Mar. 26, 2016); see also Rappaport, *supra* note 63 (describing experts' views that small municipalities under 100,000 people are most likely to join pools, medium sized entities rely on both pools and commercial carriers, and municipalities with more than 500,000 or 750,000 residents self-insure).
67. See Email from Dan Merkle, Chairman and CEO, Lexipol LLC, to author (July 27, 2011, 13:52 PST) (on file with author). This is true for the jurisdictions in my study, although jurisdictions that employ several hundred law enforcement officers also rely primarily on insurance. See Appendix A.

private insurers.⁶⁸ In other states, there is limited or no private insurance market for public entities.⁶⁹ One report estimates that 85 percent of all public entities are members of a risk pool to protect against some manner of liability.⁷⁰

Regardless of what approach is used to pay liability costs, available evidence indicates that those costs are a very small part of most local government budgets. Newspaper stories and some reports by advocacy groups contend that lawsuits have significant and detrimental effects on local governments, preventing them from building playgrounds, hiring teachers, and repairing roads.⁷¹ Consistent with that view, there are stories of small jurisdictions—unable or unwilling to purchase liability insurance—that have been financially compromised by large payouts.⁷² Yet liability costs appear to be relatively modest for most local governments. One study found that total government liability costs—involving all government activities, not just law enforcement—amount to about one percent of annual expenditures for counties, cities, villages, and towns in New York State.⁷³ The executive director of a national association of over 200 risk pools

68. See Telephone Interview with Mike Forster, Mich. Mun. League (Oct. 7, 2014) (reporting that the Michigan Municipal League, a self-insurance risk pool, competes with at least two or three commercial carriers).

69. *Id.*

70. See NIXON, *supra* note 62, at 3.

71. See, e.g., CAL. CITIZENS AGAINST LAWSUIT ABUSE, MORE LAWYERS, LESS PUBLIC SERVICES: THE COST OF LITIGATION TO CALIFORNIA'S CITIES AND COUNTIES 3 (“In Oakland, the more than \$7.7 million spent [on lawsuits] in 2008–2009 was greater than the city’s museum budget. . . . In San Diego, the more than \$11.1 million spent [on lawsuits] in 2010–2011 was greater than the cost of all the citywide park maintenance and citywide dance and after school youth programs in the Park and Recreation budget. . . . In San Jose, the \$2.7 million spent in 2010–2011 on litigation was greater than the budgets of the Bascom Branch and Educational Park Branch of the San Jose City Library System.”); LA. LAWSUIT ABUSE WATCH, DRINKING FROM THE TAXPAYER TROUGH: THE COST OF LAWSUITS AGAINST LOUISIANA MUNICIPALITIES 9 (2011) (reporting that, “In Baton Rouge, the \$10.2 million spent on litigation from 2006–2009 could have been used to hire roughly 80 new police officers over the same four year period. . . . In New Orleans, the \$14.1 million [spent in litigation] could have paid the salaries of 72 more teachers. . . . In Lafayette, the \$6.7 million [spent in litigation] could have been used to pay salary and benefits for 30 additional firefighters”); Mark Puente, *Undue Force*, BALTIMORE SUN (Sept. 28, 2014), <http://data.baltimoresun.com/news/police-settlements> [<https://perma.cc/MN49-9U9G>] (reporting that the over \$5.7 million spent in settlements and judgments in cases alleging police misconduct could have been used to renovate forty-three playgrounds, resurface seventy-two basketball courts, or hire 124 new police officers).

72. See *infra* note 96 and accompanying text (describing a police settlement in Inkster, Michigan that caused the city to raise property taxes).

73. TAKING MUNICIPALITIES TO COURT, *supra* note 53, at vii. Note also that there was some limited variation across types of jurisdictions: Litigation amounted to .87 percent of counties’ expenditures on average, but 1.1 percent of cities’ expenditures, 1 percent of towns’ expenditures,

made a similar estimation.⁷⁴ Furthermore, in the jurisdictions in my study, law enforcement liability accounts for significantly less than one percent of most jurisdictions' expenditures.⁷⁵ The focus of this study concerns the extent to which local governments pass along these relatively modest liability costs to their law enforcement agencies.

IV. VARIATION IN LAW ENFORCEMENT LITIGATION BUDGETING

Although commentators often assume that settlements and judgments are paid from jurisdictions' general funds, the one hundred jurisdictions in my study use a variety of budgeting arrangements to satisfy settlements and judgments in lawsuits involving law enforcement. Overall, half of the one hundred jurisdictions in my study require their law enforcement agencies to contribute in some manner toward the satisfaction of lawsuits against them and their officers.

A. The Largest Jurisdictions

Jurisdictions with sixty-two of the seventy largest law enforcement agencies in the country provided me with information about the ways in which they budget for and pay settlements and judgments in cases involving those agencies.⁷⁶ The law enforcement agencies in these jurisdictions employ from 980 officers

and 1.2 percent of villages' expenditures. *See id.* at 8. Liability costs for New York City also hovered around 1 percent of total expenditures. *See id.* at 9.

74. *See* Email from Ann Gergen, Exec. Dir., AGRIP, to author (June 23, 2015, 6:15 PST) (on file with author) (explaining that "[c]ontributions to risk pools (or premium payments to insurers) are minimal in a local government's overall budget. We're talking just a percent or two of a city's budget going toward contributions—if that."). Note also that premium costs generally cover multiple costs beyond liability, including workers' compensation, disability insurance, and administrative overhead for the risk pool. *See id.*
75. *See* Appendix B. Because law enforcement liability, on which I am focused, likely accounts for a significant portion—but not all—of government liabilities, *see* sources cited *supra* note 58, total liabilities for the jurisdictions in my study will be closer to 1 percent of expenditures (although still, often, less than 1 percent). Note also that the few jurisdictions in my study that rely on outside insurance pay significantly more than self-insured jurisdictions but still generally pay less than 1 percent of their total budget toward law enforcement litigation.
76. The eight large agencies that declined to provide me with responsive information include: the Nassau County Police Department; the Suffolk County Police Department; the Baltimore County Police Department; the Fairfax County Police Department; the St. Louis Police Department; the New York State Police; the New Jersey State Police; and the Miami Police Department.

(Tampa) to over 36,000 officers (New York City).⁷⁷ All of these sixty-two jurisdictions are self-insured.⁷⁸

Twenty-six of these sixty-two jurisdictions satisfy settlements and judgments exclusively out of jurisdiction-wide litigation funds with no financial contribution by the involved law enforcement agencies.⁷⁹ Twelve require their law enforcement agencies to pay settlements and judgments directly from their budgets. Seventeen require their law enforcement agencies to contribute to jurisdiction-wide risk management funds from which settlements and judgments are paid. And the remaining seven employ hybrid approaches that draw on two of these three budgeting arrangements.⁸⁰

Among these sixty-two jurisdictions, the most common practice is to satisfy settlements and judgments from central funds without contribution by the law enforcement agency. The very largest of these large agencies are especially likely to budget for and pay settlements and judgments in this manner.⁸¹ Yet when broken down by the most salient characteristic for the purposes of this study—whether any money is taken from the law enforcement agency’s budget (whether by direct payment of settlements and judgments or payment to a central fund)—a

77. See Appendix A.

78. A number of these jurisdictions have excess insurance for large claims; for the purpose of this discussion, I have designated jurisdictions as self-insured if they are responsible for at least the first \$250,000 of any claim. See *supra* note 61.

79. Although these departments may pay employees’ claims for back pay or overtime out of their budgets, those I spoke with considered these types of damages to fall in a separate category because they are, in essence, payments for employees’ time. See, e.g., Email from Thomas J. Kaiser, Chief Trial Counsel, Dep’t of Law, City of Cleveland, to author (Oct. 7, 2013, 12:58 PST) (on file with author) (reporting that excessive force settlements and judgments are taken from the general fund and “do not get charged to the police department” but that “[b]ack pay awards, such as when an arbitrator orders re-instatement of a police officer who has been disciplined, are paid out of the police department budget”); see also Appendix G (describing similar arrangements in Nashville, Newark, and Springfield).

80. Most settlements and judgments involving the Metropolitan Police Department (Washington, D.C.’s police force) are paid from the city’s general funds, but the Department is responsible for paying settlements of less than \$10,000 in cases that have been pending for less than two years. Four state law enforcement agencies—California Highway Patrol, Michigan State Police, North Carolina Highway Patrol, and Ohio Highway Patrol—contribute to a central risk fund that is used to satisfy auto claims but satisfy other types of settlements and judgments from their budgets. The Louisville Police Department pays a premium to a self-insurance trust for auto liability claims, but other types of claims are paid from the jurisdiction’s general fund with no impact on the Department’s budget. And the Pennsylvania State Police contributes to a fund that pays the first \$250,000 of any claim, and pays any amounts over \$250,000 from its budget. See Appendix G.

81. See Table 1 (reflecting that twenty-six of the sixty-two large jurisdictions in my study pay nothing toward settlements and judgments; they represent 41.9 percent of the large jurisdictions in my study but employ 51.4 percent of the officers in these jurisdictions).

different pattern emerges. Although paying from central funds is the most common budgetary arrangement among these agencies, 58 percent of these largest agencies—a clear majority—are required to contribute to the satisfaction of settlements and judgments in some manner.

TABLE 1: BUDGETARY ARRANGEMENTS IN SIXTY-TWO LARGEST AGENCIES

	Payments Without Agency Contribution	Agency Pays From Its Own Budget	Agency Contributes to Central Fund	Hybrid	Total
Agencies	26 (41.9%)	12 (19.3%)	17 (27.4%)	7 (11.3%)	62 (100%)
Officers	100,370 (51.4%)	43,659 (22.4%)	29,444 (15.1%)	21,718 (11.1%)	195,191 (100%)

TABLE 2: FREQUENCY WITH WHICH MONEY IS TAKEN FROM BUDGETS OF SIXTY-TWO LARGEST AGENCIES

	No Money From Agency Budget	Money From Agency Budget	Total
Agencies	26 (41.9%)	36 (58.1%)	62 (100%)
Officers	100,370 (51.4%)	94,821 (48.6%)	195,191 (100%)

Among these large jurisdictions, different types of governments—cities,⁸² counties,⁸³ combined city-county jurisdictions,⁸⁴ and states⁸⁵—rely primarily on different budgetary arrangements. Cities and combined city-county jurisdictions are most likely to pay settlements and judgments from central funds without contribution by the involved law enforcement agencies. Counties are most likely to require their law enforcement agencies to contribute to a jurisdiction-wide risk management fund. And states most often use a hybrid approach in which their agencies contribute to a central fund for auto claims and pay other claims from their budgets.

Large cities, counties, combined city-county jurisdictions, and states also vary in the frequency with which they require their law enforcement agencies to contribute to the satisfaction of settlements and judgments. Almost 60 percent of large city law enforcement agencies in my study pay nothing toward settlements and judgments in cases brought against them, as compared with 44 percent of combined city-county agencies, 27 percent of county agencies, and less than 10 percent of state agencies.

82. The thirty-one large city agencies in my study are in: New York City; Chicago; Los Angeles; Philadelphia; Houston; Washington, DC; Dallas; Phoenix; Baltimore; Detroit; Boston; San Antonio; Milwaukee; San Diego; Columbus; Atlanta; Cleveland; Memphis; Austin; Fort Worth; New Orleans; Kansas City; San Jose; Newark; Seattle; El Paso; Cincinnati; Oklahoma City; Tucson; Albuquerque; and Tampa. *See* Appendix G.

83. The eleven large county agencies in my study are in: Los Angeles County, CA; Cook County, IL; Miami-Dade County, FL; Harris County, TX; Riverside County, CA; San Bernardino County, CA; Orange County, CA; Broward County, FL; Prince George's County, MD; Montgomery County, MD; and DeKalb County, GA. *See* Appendix G.

84. By "city-county jurisdictions," I refer to those law enforcement agencies that operate in consolidated city and county jurisdictions, including the Las Vegas Metro Police Department, the Honolulu Police Department, the San Francisco Police Department, the Charlotte-Mecklenburg Police Department, the Jacksonville Sheriff's Office, the Denver Police Department, the Indianapolis Metropolitan Police Department, the Louisville Metropolitan Police Department, and the Nashville-Davidson County Police Department. *See* Appendix G.

85. The eleven state agencies in my study are: California Highway Patrol; Pennsylvania State Police; Texas Department of Public Safety; Massachusetts State Police; Illinois State Police; Virginia State Police; North Carolina State Highway Patrol; Michigan State Police; Port Authority of New York and New Jersey; Florida Highway Patrol; and Ohio State Highway Patrol. *See* Appendix G.

TABLE 3: BUDGETARY ARRANGEMENTS IN SIXTY-TWO LARGEST AGENCIES, BY TYPE OF AGENCY

	Payments Without Agency Contribution	Agency Pays From Its Own Budget	Agency Contributes to Central Fund	Hybrid	Total
State Agencies	1 (9.1%)	3 (27.3%)	2 (18.2%)	5 (45.5%)	11 (100%)
City Agencies	18 (58.1%)	5 (16.1%)	7 (22.6%)	1 (3.2%)	31 (100%)
County Agencies	3 (27%)	2 (18%)	6 (55%)	0 (0%)	11 (100%)
Combined City-County Agencies	4 (44%)	2 (22%)	2 (22%)	1 (11%)	9 (100%)
All Agencies	26 (41.9%)	12 (19.3%)	17 (27.4%)	7 (11.3%)	62 (100%)

TABLE 4: FREQUENCY WITH WHICH MONEY IS TAKEN FROM BUDGETS OF SIXTY-TWO LARGEST AGENCIES, BY TYPE OF AGENCY

	No Money From Agency Budget	Money From Agency Budget	Total
State Agencies	1 (9.1%)	10 (90.9%)	11 (100%)
City Agencies	18 (58.1%)	13 (41.9%)	31 (100%)
County Agencies	3 (27%)	8 (73%)	11 (100%)
Combined City-County Agencies	4 (44%)	5 (56%)	9 (100%)
All Agencies	26 (41.9%)	36 (58.1%)	62 (100%)

B. The Smaller Jurisdictions

There are thirty-eight small and midsize jurisdictions in my study, and the law enforcement agencies in these jurisdictions employ from one officer (Waterloo) to 702 officers (Raleigh).⁸⁶ Seventeen of these jurisdictions are self-insured and use the same three arrangements relied on by the larger jurisdictions to satisfy payouts in lawsuits against their law enforcement agencies. Of these seventeen self-insured jurisdictions, eleven pay settlements and judgments out of a jurisdiction-wide litigation fund with no financial contribution from the involved law enforcement agencies, one requires its law enforcement agency to satisfy settlements and judgments directly from its budget, and five require their law enforcement agencies to contribute to central, jurisdiction-wide risk management funds.

The remaining twenty-one small and midsize jurisdictions rely on public entity risk pools or private insurance for some or all of their legal liabilities. Because the vast majority of small law enforcement agencies rely on some form of insurance—and my study is skewed toward large agencies—insured agencies are significantly underrepresented.⁸⁷ Yet, despite this limited sample size, there is variation in budgetary arrangements among these jurisdictions. Three have hybrid arrangements; they satisfy some types of legal claims through insurance and others from jurisdiction-wide litigation funds.⁸⁸ The remaining eighteen jurisdictions rely on public entity risk pools or private insurance for their legal liabilities. Twelve do not require their law enforcement agencies to contribute to insurance premiums; the other six do.

C. Budgetary Distinctions Between Large and Smaller Jurisdictions

Although I do not know to what extent the budgetary practices in these thirty-eight smaller law enforcement agencies are consistent with those in the many thousands of cities, counties, towns, and states nationwide with small and midsize agencies, there are some notable distinctions between budgetary

86. See Appendix A.

87. For the underrepresentation of small law enforcement agencies in my study, see *supra* notes 47–51 and accompanying text. For the prevalence of insurance among smaller law enforcement agencies, see *supra* notes 66–67 and accompanying text.

88. Two of those jurisdictions—Manatee County and New Bedford—do not require their law enforcement agency to contribute to the central fund. One jurisdiction—Waco—does require its agency to contribute to the fund. See Appendix A.

practices in the smaller and larger jurisdictions in my study. The jurisdictions with the largest law enforcement agencies are the most likely to pay settlements and judgments from central funds with no money taken from the budgets of the law enforcement agencies; this same arrangement is also the most common for all agencies with two hundred or more officers. Agencies in my study with fewer than two hundred officers are most likely to rely primarily on public entity risk pools or private insurance, with premiums paid from central funds.

TABLE 5: BUDGETARY ARRANGEMENTS IN ALL ONE HUNDRED AGENCIES

	Payments Without Agency Contribution	Agency Pays From Its Own Budget	Agency Contributes to Central Fund	Insurance (Agency Does Not Contribute to Premium)	Insurance (Agency Contributes to Premium)	Hybrid	Total
Agencies With >2000 Officers	10 (43.5%)	6 (26.1%)	4 (17.4%)	0 (0%)	0 (0%)	3 (13%)	23 (100%)
Agencies With 1000–1999 Officers	16 (42.1%)	6 (15.8%)	12 (31.6%)	0 (0%)	0 (0%)	4 (10.5%)	38 (100%)
Agencies With 200–999 Officers	8 (44.4%)	1 (5.6%)	4 (22.2%)	2 (11.1%)	0 (0%)	3 (16.7%)	18 (100%)
Agencies With <200 Officers	3 (14.3%)	0 (0%)	2 (9.5%)	10 (47.6%)	6 (28.6%)	0 (0%)	21 (100%)

Another significant distinction between the largest and smaller jurisdictions becomes apparent when one examines whether any money is taken from the law enforcement agencies' budgets. The largest agencies (with more than one

thousand officers) are almost two times more likely than the smaller agencies in my study to financially contribute in some manner to the satisfaction of settlements and judgments.⁸⁹

TABLE 6: FREQUENCY WITH WHICH MONEY IS TAKEN FROM BUDGETS OF ALL ONE HUNDRED AGENCIES, BY SIZE OF AGENCY

	No Money From Agency Budget	Money From Agency Budget	Total
Agencies With >2000 Officers	10 (43.5%)	13 (56.5%)	23
Agencies With 1000–1999 Officers	16 (42.1%)	22 (57.9%)	38
Agencies With 200–999 Officers	10 (55.5%)	8 (44.4%)	18
Agencies With <200 Officers	13 (61.9%)	8 (38.1%)	21

D. Conclusion

Commentators who have considered the question have often assumed that settlements and judgments in lawsuits against law enforcement agencies and officers are usually paid from city, county, and state budgets with no financial contributions from the agencies. My study shows that this is not the case. Jurisdictions have a number of different budgeting arrangements by which they satisfy their legal liabilities. Some larger jurisdictions pay suits from central funds with no money taken from their law enforcement agencies' budgets, but others require their law enforcement agencies to pay settlements and judgments from their budgets or contribute to a central fund. Smaller jurisdictions more often rely on public entity risk pools and private insurance, sometimes passing along premium costs to their law enforcement agencies and sometimes paying those premiums from central funds. Although half of the law

89. For agencies with more than one thousand officers, the ratio of agencies that pay and do not pay money from their budgets is $35/26 = 1.35:1$ odds. For agencies with fewer than one thousand officers, the ratio of agencies that pay and do not pay money from their budgets is $16/23=0.69:1$ odds. The ratio of the two odds is 1.9, meaning that a large agency is 1.9 times more likely to pay judgments from its budget. Many thanks to Joe Doherty for assisting with this analysis.

enforcement agencies in my study pay nothing from their budgets toward settlements and judgments in lawsuits brought against them, the other half do require police departments to contribute in some manner. Large agencies are more likely than small agencies and state agencies are more likely than city agencies to be required to bear this financial responsibility, but one can find examples of all types of law enforcement agencies, large and small, that financially contribute in some manner to the satisfaction of suits brought against them.

V. THE FINANCIAL IMPACT OF BUDGETARY ARRANGEMENTS

Commentators have assumed not only that law enforcement agencies do not satisfy settlements and judgments from their budgets but also that, if they did, agencies would feel financial pressures to reduce the costs of litigation.⁹⁰ The logic of this argument goes something like this: If a law enforcement agency pays lawsuit settlements and judgments from its budget, an increase in payouts will mean that the agency has less money for new hires, equipment, and overtime. A decrease in payouts will mean that the agency has more money to spend on these other needs. Officials want to maximize the amount of money they have available to achieve their agency's objectives.⁹¹ Accordingly, requiring an agency to pay settlements and judgments out of its budget should cause it to take steps to reduce liability costs.⁹²

My study has revealed that money to satisfy settlements and judgments is, in fact, regularly taken from law enforcement agencies' budgets. Yet, as I show in this Part, the notion that law enforcement agencies will have financial incentives to reduce claim costs if and only if lawsuits are paid from their budgets is incorrect. Even when law enforcement agencies are required to contribute in some manner to settlements and judgments, the particularities of

90. For examples of this argument, see *supra* note 37 and accompanying text.

91. For a model of the "benevolent-but-resource-constrained bureaucrat," who seeks ways to increase his budget to achieve his agency's goals, see Michael D. Frakes & Melissa F. Wasserman, *Does Agency Funding Affect Decisionmaking? An Empirical Assessment of the PTO's Granting Patterns*, 66 VAND. L. REV. 67, 83–85 (2013). Bureaucrats might also seek to maximize their budgets for selfish reasons—a larger salary or more power. For this view, see generally WILLIAM A. NISKANEN, JR., BUREAUCRACY AND REPRESENTATIVE GOVERNMENT 38–42 (1971); THE BUDGET-MAXIMIZING BUREAUCRAT: APPRAISAL AND EVIDENCE (André Blais & Stéphane Dion eds., 1991).

92. Some commentators believe that officials, faced with these financial pressures, will take steps to reduce liability risk and associated misconduct; others believe that officials will take less desirable steps to address budget outflows, like reducing trainings or patrols or engaging in less cognizable harms. These possibilities are discussed below. See *infra* notes 177–179 and accompanying text.

budgetary arrangements in many jurisdictions diminish the payments' financial effects on the law enforcement agencies' budgets. Conversely, some law enforcement agencies that do not formally satisfy settlements and judgments from their budgets may, nevertheless, experience tangible and direct financial consequences of costly settlements and judgments. As with so much in government administration, and in bureaucratic administration more generally, the devil is in the details.

A. When Settlements and Judgments Are Paid From the Jurisdiction's Funds

Thirty-seven of the one hundred jurisdictions in my study (twenty-six large and eleven smaller) are self-insured and pay settlements and judgments from central funds with no impact on the law enforcement agencies' budgets. A Deputy Attorney for Yellowstone County reports that the county places no requirements on the Sheriff's Office as a condition of funding settlements or judgments and that these payments have no impact on the Sheriff's Office budget: "[T]here is no taking funds away, no shifting or reallocation of Sheriff Office funding [as] the result of adverse verdicts or settlements."⁹³ I received similar reports from representatives of jurisdictions of all sizes with this budgetary arrangement.⁹⁴

Of course settlements and judgments decrease the jurisdiction's budget as a whole, and the money to satisfy those increased costs must be taken from somewhere.⁹⁵ Smaller jurisdictions will presumably feel the financial effects of lawsuits more acutely. Inkster, Michigan, a town of 25,000, recently increased property taxes by an average of \$178 per household to satisfy a \$1.37 million settlement

93. See Email from Kevin Gillen, Deputy Attorney, Cty. of Yellowstone, to author (Nov. 14, 2013, 13:15 PST) (on file with author).

94. See, e.g., Telephone Interview with Ralph Blount, Assistant City Attorney, Boise City Attorney's Office (Oct. 9, 2013) (reporting that the police department's budget is not reduced by the amount of any settlements or judgments); Email from Susan Jacobucci, Fin. Dir., City of Newark, to author (Oct. 10, 2013, 7:12 PST) (on file with author) (explaining that, "overall, no the police department budget does not feel an impact" of lawsuit payouts); Email from Jason A. Reuter, Associate Staff Attorney, Polk Cty. Sheriff's Off., to author (June 23, 2015, 6:26 PST) (on file with author) (explaining that settlements are paid from the county's general fund and that payments affect the sheriff's budget only to the extent that "[m]ore claims and lawsuits may result in less available in the general fund to be used for other expenditures, including that of the Sheriff's office"); Email from Patricia Via, Chief, Div. of Litig., Montgomery Cty. Attorney's Office, to author (Oct. 7, 2013) (on file with author) (reporting "no impact on the police department's budget" when claims are paid from the county's self-insurance fund).

95. See, e.g., Telephone Interview with Joe Bouchard, N.H. Budget Office (Sept. 16, 2014) (explaining that settlement and judgment funds can only be taken from unappropriated funds but that litigation costs can affect the budget more generally).

involving an officer.⁹⁶ Yet none of the law enforcement agencies in my study—even in smaller cities and towns—reported experiencing financial consequences of lawsuits if the money to pay those settlements and judgments came from the jurisdiction’s general fund.

To be sure, large litigation payouts may well have political consequences for law enforcement agencies. Local newspapers may publicize settlements in police misconduct cases and describe their budgetary impact.⁹⁷ Current and former government officials in jurisdictions that pay settlements and judgments out of general funds have reported that city and county councils sometimes question and criticize law enforcement officials and government attorneys when asked to approve settlements.⁹⁸ Legislators and other government officials may also question law enforcement practices in response to large aggregate expenditures on litigation.⁹⁹ Because many of these conversations happen

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96. Abby Phillip, *Why the Poor Often Pay for Police Misconduct With Their Pocketbook*, WASH. POST (June 3, 2015), <http://www.washingtonpost.com/news/post-nation/wp/2015/06/03/why-the-poor-and-disadvantaged-often-pay-for-police-misconduct-with-their-pocketbooks> [<http://perma.cc/9G84-PKS2>]; The Detroit Free Press Editorial Board, *Inkster Beating Shows Cost of Police Brutality*, DETROIT FREE PRESS (June 3, 2015), <http://www.freep.com/story/opinion/editorials/2015/06/02/police-inkster-beating/28357021> [<https://perma.cc/S5EU-ANGV>]. Inkster is self-insured, with excess insurance only for claims above \$2 million. See *Inkster Property Owners on Hook for \$1.4 Million Police Beating Settlement*, MACOMB DAILY NEWS (June 2, 2015), <http://www.macombdaily.com/general-news/20150602/inkster-property-owners-on-hook-for-14-million-police-beating-settlement> [<https://perma.cc/LG9D-56T3>]. This may be because Inkster’s claims history has made it cost-prohibitive to obtain insurance. The city’s 2015–2016 budget indicates fourteen active lawsuits against the City, and a goal for fiscal year 2016 of “continu[ing] to improve Inkster’s claim history to allow the City to obtain adequate insurance coverage for a municipality with 30,000 residents.” CITY OF INKSTER, MI., CITY MANAGER’S ADOPTED BUDGET 2015–2016 15 (2015).
 97. See, e.g., Puente, *supra* note 71.
 98. See, e.g., Interview with Arif Alikhan, Special Assistant for Constitutional Policing and Acting Risk Manager, L.A. Police Dep’t (Oct. 6, 2014) (describing meetings with city council about the reasons for cases and settlements); Telephone Interview with Laura Gordon, Deputy City Attorney, City of El Paso (Oct. 22, 2014) (explaining that El Paso City Council approves settlements and will, during the City Attorney’s presentation to the Council, ask questions about the department’s response to the incident—whether the employee was disciplined, whether the policy was changed, and the like).
 99. See, e.g., Lawrence Rosenthal, Panelist on *Municipal Law Symposium: Panel IV: Viewing Litigation Through Different Lenses: Gaining a Better Understanding of Municipal Liability and Immunities*, CHAP. U. SCH. L. (Feb. 27, 2015), <http://ibc.chapman.edu/Mediasite/Play/96133e00335946708b3c6f053402f8a81d> [<https://perma.cc/39KJ-FVA7>] (commenting that governments are not indifferent to damages liability; if they were, why, when he was Deputy Corporation Counsel at the City of Chicago Department of Law, was “Mayor Daley always yelling at me about the size of tort judgments?”); Email from Rita Elsner, Assistant Vill. Attorney, Schaumburg, Ill., to author (Sept. 8, 2014, 15:06 PST) (on file with author) (observing, in response to a question about whether there are any “financial effects of suits on the police department,” that “[t]he impact on the police is that

behind closed doors, it is difficult to measure their tenor and impact; both likely vary depending on the jurisdiction. Regardless, these conversations and criticisms appear not to translate into financial sanctions for these departments.

B. When the Agency Pays Settlements and Judgments From Its Budget

Nineteen law enforcement agencies in my study (eighteen large and one smaller) pay some or all settlements and judgments from their budgets.¹⁰⁰ I interviewed or corresponded with officials in seventeen of these nineteen jurisdictions to better understand the impact of these payouts on the law enforcement agencies' budgets.¹⁰¹

In seven of these seventeen jurisdictions, details of the budgetary arrangements between the jurisdiction and the law enforcement agency appear to lessen or eliminate altogether the financial impact of the payments. These seven law enforcement agencies receive money in their budgets that is reserved for litigation costs and is isolated from other aspects of their budgets.¹⁰² When these agencies do not spend as much as they have budgeted for litigation, the departments may not be able to use those funds for other purposes; the funds are sometimes kept in litigation budgets to cover future costs and are sometimes returned to

our Village Board monitors all the litigation and if they see a spike they can question the department causing the spike").

100. Thirteen agencies pay all settlements and judgments from their budgets; another six have hybrid arrangements and pay some settlements and judgments from their budgets.

101. I was unable to get details about the effect of this budgetary arrangement on the Port Authority of New York/New Jersey or the Pennsylvania State Police.

102. *See, e.g.*, Telephone Interview with Charlotte Bible, Gen. Counsel, Las Vegas Metro. Police Dep't (Sept. 22, 2014) (explaining that there is a line item in the Las Vegas Metropolitan Police Department budget for settlements and judgments and the costs of defense attorneys, based on an actuarial analysis); Email from Michelle Allersma, Controller's Office Budget and Analysis Director, City of San Francisco, to author (Sept. 5, 2014, 18:12 PST) (on file with author) ("Each year, the Police Department's General Fund operating budget includes an amount to pay for claims."); Email from Paul Rakosky, City of Columbus, to author (Sept. 8, 2014, 6:33 PST) (on file with author) ("Each large city department has a budget to pay claims. We will generally use these monies first."); Email from Carl Gutierrez, FOIA Officer, City of Chi. Office of Budget & Management, to author (June 2, 2015, 12:45 PST) (on file with author) (explaining that money to pay settlements and judgments is placed in the Chicago Police Department budget through a specific allocation for settlements and judgments); *see also* Appendix G (describing similar budgeting allocations for the Broward Sheriff's Office, Memphis Police Department, and Boston Police Department).

the jurisdictions' general funds.¹⁰³ Moreover, agencies that pay settlements and judgments from their budgets do not necessarily suffer a financial penalty when they spend more than is allocated. Instead, when these departments go over their budgeted litigation costs, they can (and do) get additional funds from the government to satisfy those claims.¹⁰⁴

Some agencies, like the Broward Sheriff's Office, are regularly given sufficient funds to cover lawsuits in their budget but are confident that, if they did go over budget, they could "go to the county and ask for more!"¹⁰⁵ Other departments are regularly given insufficient funds to pay for lawsuits yet do not experience financial consequences when they go over budget. The Columbus Police Department received \$225,000 each year of my study to satisfy police claims, yet

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103. See, e.g., Telephone Interview with Charlotte Bible, Gen. Counsel, Las Vegas Metro. Police Dep't (Sept. 22, 2014) (explaining that if litigation costs are under budget for the Las Vegas Metropolitan Police Department, the money stays in the department's litigation fund for the next year and she does not think it can be used for other purposes); Email from John Greene, Claims Manager, Risk Mgmt. Div., Broward Sheriff's Office, to author (Oct. 8, 2013, 6:51 PST) ("[I]t is my understanding [that] if ... we go under [budget,] it goes either to the general budget or back to the county."); Email from Melissa L. Meyer, Budget Mgmt. Specialist, Dep't of Fin. & Mgmt., City of Columbus, to author (Sept. 30, 2014, 4:06 PST) (on file with author) (explaining that "[t]ypically any balances [in the police claims budget] would be returned to the general fund"); Email from Carl Gutierrez, FOIA Officer, City of Chi. Office of Budget & Mgmt., to author (June 2, 2015, 12:45 PST) (on file with author) (explaining that if less than the allocated amount is spent on lawsuits the police department cannot use those funds for other purposes).
104. See Telephone Interview with Lynda Fraley, Risk Mgmt., Office of Budget Mgmt., City of Bos. (Sept. 24, 2014) (explaining that when a department goes above the budgeted amount for litigation costs, the remainder is paid from general funds); Email from Paul Rakosky, City of Columbus, to author (Sept. 8, 2014, 6:33 PST) (on file with author) ("Each large city department has a budget to pay claims. We will generally use these monies first. If these funds were to be exhausted, we reserve an amount in a citywide account held in the Finance and Management Department to pay claims."); Email from Richard B. Campbell, Budget Manager, City of Memphis, to author (Oct. 21, 2014, 8:26 PST) (on file with author) ("Police has a 'claims and lawsuits' budget for the payment of settlements. If the budget is insufficient the Division will return to Council to request additional funds which will come from reserves or from other Divisions' [sic] whose claims or other expenditures are tracking to be below budget."); Telephone Interview with Michelle Allersma, Controller's Off. Budget and Analysis Director, City of San Francisco (Sept. 15, 2014) (explaining that San Francisco repeatedly gives the police department less than it needs to satisfy claims, but that when its board of supervisors authorizes settlements above the police department's litigation budget it also authorizes the use of additional funds to satisfy those claims); Email from Carl Gutierrez, FOIA Off., City of Chi. Office of Budget & Mgmt., to author (June 2, 2015, 12:45 PST) (on file with author) (explaining that if more than the allocated amount is spent on lawsuits the additional money is taken from city funds); cf. Telephone Interview with Charlotte Bible, Gen. Counsel, Las Vegas Metro. Police Dep't (Sept. 22, 2014) (reporting that she does not believe the litigation costs have ever gone above the amount set aside in the litigation fund for the Department).
105. Email from John Greene, Claims Manager, Risk Mgmt. Div., Broward Sheriff's Office, to author (Oct. 8, 2013, 6:51 PST) (on file with author).

it paid, on average, over \$475,000 each year on police-related claims. The Police Department covered the overage when it had a surplus in another area of its budget, but otherwise city officials “would transfer money from the City-wide account into Police to cover the claim(s).”¹⁰⁶ Money would not be taken from the Columbus Police Department’s budget if doing so meant compromising a need within the budget for personnel, supplies, services, or the like.¹⁰⁷ The Boston Police Department is given an annual allocation for litigation payouts—an average of about \$1.3 million per year—but during the three years of my study, lawsuits involving the Department cost, on average, three times that amount and the city, not the Department, paid the remainder.¹⁰⁸ From 2012–2014, the Chicago Police Department was allocated, on average, about \$16.5 million per year for lawsuit payouts. During these three years, an annual average of over \$52 million was paid in lawsuits involving the Chicago Police Department with the excess paid from city funds.¹⁰⁹

Law enforcement agencies that pay settlements and judgments from their budgets but pass along excess litigation costs appear to be as insulated from the financial impact of lawsuits as those law enforcement agencies that pay no litigation costs at all. When faced with large police payouts, these jurisdictions have been known to compromise other aspects of city or county services while preserving their law enforcement agency’s budget. As one former attorney for the City of Chicago reflected:

[W]hen you had to budget more for [police] tort liability you had less to do lead poisoning screening for the poor children of Chicago. We had a terrible lead poisoning problem and there was a direct relationship between the two. Those kids were paying those tort judgments, not the police officers.¹¹⁰

Chicago’s lawsuit payouts required the city to sell \$1 billion in bonds in 2011 and to issue \$100 million in bonds in 2014.¹¹¹ Yet the spokesman for the Chicago

106. Email from Melissa L. Meyer, Budget Mgmt. Specialist, Dep’t of Fin. & Mgmt., City of Columbus, to author (June 10, 2015, 11:32 PST) (on file with author).

107. See Email from Melissa L. Meyer, Budget Management Specialist, Dep’t of Fin. & Mgmt., City of Columbus, to author (June 11, 2015, 5:30 PST) (on file with author).

108. See Appendix G.

109. See Appendix G.

110. See Rosenthal, *supra* note 99.

111. See Jason Grotto, Hal Dardick & Heather Gillers, *Mayor Seeks to Borrow Up to \$900 Million More*, CHI. TRIB. (Feb. 3, 2014), http://articles.chicagotribune.com/2014-02-03/news/ct-met-bonds-new-chicago-borrowing-20140204_1_tax-increases-city-leaders-finance-committee [<http://perma.cc/3EJ3-QY8H>] (reporting that \$100 million of the \$900 sought would go to “pay

Police Department made clear to me that “the police department isn’t forced to cut back on things like OT [overtime] or equipment purchases due to litigation costs.”¹¹²

Although these departments do not experience financial consequences of litigation payments, there may be some nonfinancial effects of this budgetary arrangement that promote caretaking. Paying settlements and judgments from law enforcement budgets can serve as a form of information regulation.¹¹³ By requiring a law enforcement agency to pay claims from its budget, a jurisdiction may draw governmental attention and agency attention to the amount spent on suits. This is the precise reasoning some financial personnel used when explaining to me why lawsuit costs are paid from their agencies’ budgets—even when excess litigation costs are paid from general funds.¹¹⁴ As the Budget Director for the City of Memphis explained, lawsuits are paid from the budget of the involved city division “because it [gives] the Divisions more perspective of what they [are] costing and perhaps heighten[s] their efforts for prevention or changes if in order.”¹¹⁵

In addition, this budgetary arrangement creates opportunities for governance conversations related to litigation costs. Most law enforcement agencies that pay settlements and judgments from their budgets still need approval from the city or county council, mayor, or legislature before settling a case.¹¹⁶

off commercial paper loans used to cover legal judgments”); Brendan A. McGrail & Matt Robinson, *Chicago Selling \$1 Billion in Bonds Amid Lawsuit: Muni Credit*, BLOOMBERG BUS. (Jan. 19, 2011), <http://www.bloomberg.com/news/articles/2011-01-20/chicago-selling-1-billion-in-bonds-amid-lawsuit-muni-credit> [<http://perma.cc/6HR2-8U37>].

112. See Email from Roderick Drew, Freedom of Info. Officer, City of Chi. Law Dep’t, to author (Oct. 9, 2013, 14:11 PST) (on file with author).

113. For discussions of informational regulation and its effects on bureaucratic behavior, see generally Louis Lowenstein, *Financial Transparency and Corporate Governance: You Manage What You Measure*, 96 COLUM. L. REV. 1335 (1996); Cass R. Sunstein, *Informational Regulation and Informational Standing: Akins and Beyond*, 147 U. PA. L. REV. 613 (1999). For a discussion of the effects of information disclosure on law enforcement, see Schwartz, *supra* note 21, at 1067–76.

114. See, e.g., Telephone Interview with Lynda Fraley, Risk Fin. Manager, City of Bos. (Sept. 24, 2014) (explaining that she put litigation costs in the budget of every department, including the police, so that they can be aware of the impact of their claims on the budget); Telephone Interview with Katie Zamesnik, Bus. Process Consultant, Fin. Servs. Office, City of Austin (Oct. 22, 2014) (explaining that, before fiscal year 2015, expenses were budgeted at the fund level and that, as of fiscal year 2015, these costs were moved to the department level so that the government can see what it has given to the police department to contribute to the city’s liability fund).

115. Email from Richard B. Campbell, Budget Manager, City of Memphis, to author (Oct. 21, 2014, 8:26 PST) (on file with author).

116. See, e.g., Telephone Interview with Michelle Allersma, Controller’s Office Budget & Analysis Dir., City of S.F. (Sept. 15, 2014) (reporting that settlement agreements have to be approved by the

Additional pressure may be applied when a law enforcement agency seeks additional appropriations to cover litigation costs that go beyond their budget. But this appears to be a political pressure, not a financial one; after what might be uncomfortable conversations about the need for increased funding, a jurisdiction will give the agency the money it needs to satisfy its legal liabilities. As an official from San Francisco explained, the police department knows that the government has budgeted centrally for any overruns and that the city has no choice but to pay the claims. Although a city council can threaten that it will hold the police department accountable for its budget, the city will ultimately pay the settlements and judgments on the department's behalf.¹¹⁷

Among the nineteen law enforcement agencies in my study that satisfy some or all settlements and judgments from their budgets, ten reported experiencing tangible financial effects of increases and decreases in litigation costs.¹¹⁸ Eight of the ten receive a budget for all expenditures, including litigation.¹¹⁹

board of supervisors in San Francisco); Telephone Interview with Glen Dragovich, Assistant Div. Dir., L.A. County Sheriff's Dep't (Sept. 19, 2014) (explaining that the county board of supervisors must approve any settlement over \$100,000); *cf.* Email from Virginia S. Murray, Gen. Counsel, Kansas City, Mo. Police Dep't, to author (Sept. 8, 2014, 18:30 PST) (on file with author) (explaining that the Department, not the City, determines "whether, or in what amounts, settlements and judgments are paid").

117. See Telephone Interview with Michelle Allersma, Controller's Office Budget & Analysis Dir., City of S.F. (Sept. 15, 2014).

118. These ten agencies include the Los Angeles Sheriff's Department, the Metropolitan Police Department, the Kansas City Police Department, the Michigan State Police, the Minnesota State Patrol, the Illinois State Police, the North Carolina Highway Patrol, the Ohio State Highway Patrol, the Texas Department of Public Safety, and the California Highway Patrol. Notably, seven of the ten are state law enforcement agencies.

119. See Telephone Interview with Bill Bowerman, Associate Dir. of the Senate Fiscal Agency Gen. Gov't Unit, Senate Fiscal Agency, State of Mich. (June 18, 2015) (reporting that liability costs come from state agencies' budgets and that there is usually not a specific amount budgeted for claims); Email from Melissa D. Baldwin, Pub. Records Adm'r, Ohio State Highway Patrol, to author (June 11, 2015, 10:29 PST) (on file with author) (explaining that the Ohio State Highway Patrol gets a lump sum that it must allocate to different needs, including litigation); Email from Joseph P. Dugale, Deputy Gen. Counsel for Law Enf't, N.C. Dep't of Pub. Safety, to author (May 18, 2015, 10:45 PST) (on file with author) (explaining that the Department is not allocated money to satisfy settlements and judgments and must, instead, take that money from other items in the budget); Telephone Interview with Lieutenant Steve Lyddon, FOIA Officer, Ill. State Police (Sept. 11, 2014) (explaining that the Illinois State Police is given a budget and the Department breaks it down into sub-budgets, including one for litigation costs); Email from Virginia S. Murray, Gen. Counsel, Kansas City, Mo. Police Dep't, to author (May 17, 2015, 10:50 PST) (on file with author) (reporting that the Kansas City Police Department receives its budget from the City, distributes some of those funds into a risk management account, which it controls, and pays settlements and judgments from those funds); Email from James G. Nolan, Assoc. Deputy Gen. Counsel, Open Records Section, Tex. Dep't of Pub. Safety, to author (June 2, 2015, 15:05 PST) (on file with author) ("State agencies do not have any specific line item in their budget for

These departments may earmark money for certain purposes, including litigation, but they can move funds as needed. As a result, lawsuit payouts necessarily take money away from other needs.¹²⁰ As Deputy General Counsel for the North Carolina Department of Public Safety explained, when the North Carolina State Highway Patrol has to satisfy a settlement or judgment, that money “must be taken from another line item . . . it is money the agency does not get to use for other purposes.”¹²¹ The Minnesota State Patrol reported that, in recent years, the costs of settlements and judgments have required it to put equipment purchases and hiring for vacant positions “on hold.”¹²² Were no settlements or judgments entered against the North Carolina State Highway Patrol or Minnesota State Patrol, the agencies would not have to direct any of their budget toward litigation.

Two of the ten agencies that report tangible financial consequences of litigation payments—the Los Angeles Sheriff’s Department and the Illinois State Police—receive a budget for litigation costs but must take money from other parts of their budget to make up any shortfalls.¹²³ Both departments regularly

settlements and judgments, however [state law] . . . allows State agencies . . . to expend funds appropriated elsewhere . . . for the purposes of paying settlements and judgments.”); Telephone Interview with Teresa Quon, FOIA Officer, Metro. Police Dep’t., D.C. (May 19, 2015) (explaining that the Metropolitan Police Department is required to pay settlements below \$10,000 from its budget in cases that have been pending less than two years and that money is not set aside in the budgeting process; instead, the funds are taken from the Department’s operating budget); Telephone Interview with Nancy Silkey, Major, Headquarters, Minn. State Patrol (Sept. 10, 2014) (reporting that the Minnesota Highway Patrol has a fixed budget from which it must satisfy settlements and judgments and must cut back in other areas, including hiring, when faced with high litigation costs.); Email from Matt Sokol, Major, Minn. State Patrol, to author (May 18, 2015, 8:18 PST) (on file with author) (explaining that the money used to satisfy settlements and judgments is not allocated during the budgeting process with the state but instead, “taken from within our budget”).

120. See, e.g., Telephone Interview with Bill Bowerman, Associate Director of the Senate Fiscal Agency Gen. Gov’t Unit, Senate Fiscal Agency, State of Mich. (June 18, 2015) (explaining that litigation payments require the State Police to take money from other parts of its budget, although Mr. Bowerman did not know specific choices the Police had made).
121. Email from Joseph P. Dugdale, Deputy Gen. Counsel for Law Enf’t, N.C. Dep’t of Pub. Safety, to author (May 18, 2015, 10:45 PST) (on file with author). Note, however, that Mr. Dugdale did not have any examples of equipment, personnel, or other expenditures the agency had to go without as a result of litigation costs. *Id.* He explained that “it really doesn’t work that way, we are constantly making adjustments based on budget cuts, fluctuations in the cost of gas, etc.” See Email from Joseph P. Dugdale, Deputy Gen. Counsel for Law Enf’t, N.C. Dep’t of Pub. Safety, to author (May 18, 2015, 11:22 PST) (on file with author).
122. Email from Matt Sokol, Minn. State Patrol, to author (May 18, 2015, 8:33 PST) (on file with author).
123. See Email from Steve Lyddon, Lieutenant, FOIA Officer, Ill. State Police, to author (Oct. 10, 2014, 13:40 PST) (on file with author) (explaining that, during the budgeting process, the Illinois

get less in their litigation budgets than they spend on lawsuits. During the study period, the Los Angeles Sheriff's Department received a budget allocation of, on average, almost \$3.5 million less than it spent each year on lawsuits and the Department had to use funds from other parts of its budget to pay the excess litigation costs.¹²⁴ In fiscal years 2012 and 2013, the Illinois State Police received \$50,000 for settlements and judgments but paid, on average, \$3 million each year in cases involving their officers.¹²⁵ The Illinois State Police reports having used money earmarked for updating cars, computers, and computer systems to cover the difference between the amount allocated in its budget and the amount spent on lawsuits.¹²⁶

These departments can, in theory, request additional funds from the government, yet only one of the ten—the Illinois State Police—has done so recently.¹²⁷ The Illinois State Police recently approached the state assembly's

State Police receives \$50,000 each year for settlements and judgments but that in fiscal years 2012 and 2013, the agency paid almost \$2.5 million and \$3.5 million, respectively, in cases involving their officers); Email from Glen Dragovich, Ass't Div. Dir., L.A. Cty. Sheriff, to author (Sept. 29, 2014, 11:27 PST) (on file with author) (attaching a report of budget and actual costs for judgments and damages in cases involving the Los Angeles Sheriff's Department for fiscal years 2012, 2013, and 2014, reflecting that the actual budget for judgments and damages went above the budget allocation by \$755,359 in fiscal year 2012, \$6,213,014 in fiscal year 2013, and \$3,521,865 in fiscal year 2014—an average of \$3,496,746 per year); Telephone Interview with Glen Dragovich, Ass't Div. Dir., L.A. Cty. Sheriff (Sept. 19, 2014) (reporting that additional money was taken from other parts of the sheriff's department's budget).

124. See Email from Glen Dragovich, Ass't Div. Dir., L.A. Cty. Sheriff, to author (Sept. 29, 2014, 17:16 PST) (on file with author) (attaching a report reflecting the amount budgeted for lawsuits by the Los Angeles Sheriff's Department and the amount paid during the same years).

125. See Telephone Interview with Lieutenant Steve Lyddon, FOIA Officer, Ill. State Police (Oct. 10, 2014).

126. See *id.*

127. See Telephone Interview with Glen Dragovich, Asst. Div. Dir., L.A. Cty. Sheriff (Sept. 19, 2014) (reporting that the Sheriff's Department has not sought additional money from the Board of Supervisors); Telephone Interview with Bob Hovorka, Budget Supervisor, Fiscal Mgmt. Section, Cal. Highway Patrol (May 19, 2015) (reporting that the California Highway Patrol has not sought additional money from the state for lawsuits); Email from Suzanne Moser, Attorney, Cal. Highway Patrol, to author (May 19, 2015, 14:17 PST) (on file with author) (reporting that "extraordinarily large pay-outs (e.g., a single settlement or judgment in excess of \$10 million) would be submitted to the Legislature via the Department of Finance. Those pay-outs would be funded directly from the Motor Vehicle Account, rather than from CHP's budget"); Email from Virginia H. Murray, Gen. Counsel, Kansas City, Mo. Police Dep't, to author (May 17, 2015, 10:50 PST) (on file with author) (reporting that the Kansas City Police Department has, to her knowledge, never returned to the City for additional funding related to lawsuits); Email from Matt Sokol, Major, Minn. State Patrol, to author (May 18, 2015, 8:18 PST) (on file with author) (reporting that the State Patrol has not ever, or at least not in recent memory, gone back to the State for additional funds if it spent more than expected on lawsuits). Note that the Kansas City Police Department does receive up to \$1 million in reimbursements per year from the state for lawsuits,

appropriations committee for additional funds to satisfy a \$40 million settlement in a wrongful conviction case.¹²⁸ As part of this process, the Department was required to explain why the settlement was appropriate and how the agency had changed such that a similar event would not recur.¹²⁹ Each of these ten agencies, even the Illinois State Police, appear to view such requests for additional appropriations as a last-ditch alternative to be avoided if at all possible.¹³⁰ In fact, the budgeting arrangement in Washington, D.C.—which requires all city agencies to pay settlements and judgments of less than \$10,000 from their budgets—was specifically constructed to prevent agencies from seeking additional funds from the central government. As the law’s fiscal impact statement describes:

The current practice of paying all settlements and judgements [sic] out of a central fund provides little if any incentive for agencies to engage in risk management. This amendment does not increase the number of settlements and judgements [sic], but will encourage agencies to improve risk management. To increase agency budgets to pay this cost would be to remove any incentive on the agency to attempt to control cost.¹³¹

Although similarly clear statements of government purpose are not available from other jurisdictions, similar goals are presumably shared by jurisdictions that require law enforcement agencies to pay settlements and judgments from their budgets without paying overages from general funds.

Although nineteen departments in my study pay settlements and judgments from their budgets, these payments do not appear to have any financial impact on at least seven of these departments.¹³² But—as is evidenced by the practices in

but must pay any costs above \$1 million each year from its own budget. *See* Email from Virginia H. Murray, Gen. Counsel Kansas City, Mo. Police Dep’t, to author (Sept. 13, 2014, 13:09 PST); *see also* Telephone Interview with Bill Bowerman, Associate Dir. of the Senate Fiscal Agency Gen. Gov’t Unit, Senate Fiscal Agency, State of Mich. (June 18, 2015) (reporting that the Michigan State Police has sought additional appropriations, but Mr. Bowerman did not remember when or the underlying circumstances).

128. Telephone Interview with Lieutenant Steve Lyddon FOIA Officer, Ill. State Police (Sept. 11, 2014) (describing the request for additional appropriations for a \$40 million settlement in a wrongful conviction case and a second time in recent memory that the department has had to seek additional appropriations after a fatal car accident).

129. *See id.*

130. *See supra* notes 127–128 and accompanying text.

131. *See* Fiscal Year 2001 Budget Support Act of 2000, D.C. Law 13–172, § 4303, 47 D.C. Reg. 6308, 6393 (2000).

132. Peter Schuck recognized this possibility when he contemplated requiring agencies to absorb liability costs. As he wrote: “A decision to charge a public program’s budget with the costs of

Los Angeles County, Washington, D.C., Kansas City, and the state patrols in California, Illinois, Michigan, Minnesota, North Carolina, Ohio, and Texas—lawsuits can have tangible financial consequences for law enforcement agencies that pay settlements and judgments from their budgets, do not receive additional money from the government when they go over budget, and can use litigation savings for other department needs.

C. When the Agency Contributes to a Central Fund

Twenty-nine agencies in my study (twenty-three large and six smaller) are required to contribute each year to a central fund maintained by the jurisdiction to pay at least some types of settlements and judgments.¹³³ As with the other self-insured agencies in my study, nonfinancial pressures may be imposed on these agencies by local government officials at several moments, including during the budgeting process and when government officials must approve settlements. But any financial incentive to improve performance inspired by this budgetary arrangement presumably lies in departments' interests in reducing the amount that they must pay into the central risk fund each year. For a few agencies, contributions to the central risk management fund are calculated in part based on their number of employees—a metric that has little to do with the agencies' performance.¹³⁴ But most agencies' contributions to central risk management funds

defending claims and satisfying adverse judgments arising out of employees' misconduct is probably easier to evade and more difficult to enforce. Unless the liability-related charge were large enough to be budgetarily visible and politically salient, influential legislators or administrators sympathetic to the program's mission or to the plight of its needy and innocent beneficiaries might well restore that amount to its budget without calling public attention to the sanction-blunting effect of the restoration." SCHUCK, *supra* note 23, at 107.

133. Twenty-three agencies are in jurisdictions that use this arrangement for all types of cases. Another six—the California Highway Patrol, Pennsylvania State Police, North Carolina State Highway Patrol, Michigan State Police, Ohio State Highway Patrol, and Louisville Metropolitan Police Department—use this arrangement for some types of cases.

134. See, e.g., Email from Jennifer Richie, City Attorney, City of Waco (Sept. 8, 2014, 6:08 PST) (on file with author) (reporting that each department contributes to the city's internal service fund for risk "based upon their head count of employees in the department"); Telephone Interview with Bryan Berea, Manager, Admin. & Fin. Mgmt., CEO/Off. of Risk Mgmt., Cty. of Orange (May 18, 2015) (explaining that the annual premium paid by county departments is determined by their ten-year loss history (70 percent) and the number of employees in their department as compared to the rest of the county (30 percent)); Telephone Interview with Gwendolyn Brown-Patterson, Interim Chief Fin. Officer, DeKalb Cty. (Oct. 13, 2014) (explaining that DeKalb County is self-insured, has a risk management fund that is used to pay for settlements, and each department contributes to that fund based on the number of employees in the department—or the number of vehicles for auto claims—and can be raised based on claims history).

are calculated based on their past claims exposure such that lower litigation costs will translate into lower premiums in subsequent years, and higher litigation costs will lead to higher premiums.¹³⁵

Of the twenty-nine jurisdictions that require their law enforcement agencies to contribute to jurisdiction-wide risk management funds, officials in fifteen jurisdictions were willing to comment about the impact of these payments on law enforcement agency budgets. In five of those fifteen jurisdictions, the financial costs and benefits of shifting premiums are not passed along to the law enforcement agency responsible for paying the premium. In Raleigh, North Carolina, each agency is required to have a flat budget, but during the budgeting process the police department is given what it needs to pay, “dollar for dollar,” to satisfy the actuarial-based charges for the risk management fund.¹³⁶ In Tucson, no city department funded through the general fund, including the police department, has had to pay more to the central risk management fund because of increases in liability payments: “During the budget process . . . any increase in premium is accommodated by an increase in the budget for that department.”¹³⁷ There is a similar practice in Austin; as a senior budget analyst explained, “[t]he departments are not tasked with finding the funding for what we consider ‘corporate’ or

135. See, e.g., Email from Alexandra Bresani, Office of Pub. Info., Howard Cty. Gov't, to author (Oct. 10, 2013, 9:45 PST) (on file with author) (“In determining the amount an agency will contribute, the County takes into account losses that have been paid on claims or suits that arise from that agency’s functions.”); Email from Joyce Garland, CPA, Office of Budget & Internal Audit, Program Dir., City of Tucson, to author (Sept. 22, 2014, 13:38 PST) (on file with author) (explaining that “[t]he Tucson Police Department does contribute to a central [sic] fund (Risk Management Internal Service Fund) that pays settlements and judgement [sic]” and that the charges to each department “are dependent on the department claim costs and the expenses . . . [a]n actuary is used to set rates charged to departments”); Email from Meghan Riley, Div. Chief, Litig., City of Austin Law Dep’t, to author (Oct. 9, 2013, 12:08 PST) (on file with author) (reporting that settlements and judgments in police cases are “paid out of a liability reserve fund that is part of the City’s annually approved budget” established through individual department contributions, and that future contributions may be determined based on the department’s prior litigation costs); Email from Laurie Shade, Office of the Orange Cty. Counsel, to author (Oct. 7, 2013, 12:57 PST) (reporting that, in Orange County, all the departments pay into a litigation fund and “a premium is charged based upon the history and volume of cases that arise from that department”); see also Appendix G (describing similar calculations for the police departments in Albuquerque, Indianapolis, Louisville, Naperville, Phoenix, Tampa, Tucson, and for the Florida Highway Patrol and San Bernardino Sheriff’s Department).

136. See Email from Dennis Paren, Risk Manager, City of Raleigh, to author (Oct. 21, 2014, 12:03 PST) (on file with author).

137. Email from Joyce Garland, Off. of Budget and Internal Audit, Program Dir., City of Tucson, to author (May 18, 2015, 9:37 PST) (on file with author).

Citywide allocations.”¹³⁸ In Seattle, “any increase in premiums is accommodated [by] an increased budget for the department.”¹³⁹ The same is true with regard to the Florida Highway Patrol.¹⁴⁰ In these jurisdictions, one hand (the city or county) essentially passes the necessary dollars to another hand (the law enforcement agency), which then passes it off to the third hand (the central fund).

Interviewees from four jurisdictions reported that they did not have formal policies to offset increases in premiums like those in Raleigh and Tucson but observed that every effort is taken in the budgeting process so that increases in premiums do not impact core law enforcement budgeting needs. In San Bernardino, increased premiums might reduce the amount that the Sheriff’s Department can spend on clerical and other support services, but other money would be found to pay for deputies.¹⁴¹ When faced with increases in litigation costs against the County of Orange Sheriff’s Department, the county board of commissioners is “sensitive” to public protection and so will try to find additional funding to cover necessary costs.¹⁴² In the City of Fort Wayne, “the [police] department tries to find offsets for any increases, if possible . . . with safety of all being a consideration.”¹⁴³ And when the Indianapolis Metropolitan Police Department pays out more than it contributed to the Legal Settlement Fund, the Department works with the Controller to “identify surplus funds at the end of the year to cover the overage of settlements”; when the Department has no

138. Email from Jamie Atkinson, Senior Budget Analyst, City of Austin, Tex., to author (June 8, 2015, 14:28 PST) (on file with author); *see also id.* (reporting that the amount charged to the Austin Police Department for the Liability Reserve Fund “is added to their budget during the annual budget development process”); Telephone Interview with Katie Zamesnik, Fin. Servs. Office, Bus. Process Consultant, City of Austin, Tex. (Oct. 22, 2014) (explaining that if the Austin Police Department contributes \$1 million to the fund and there are \$1.3 million in payouts involving the police department, the remaining \$300,000 will come from general funds, not police department funds).

139. *See, e.g.*, Email from Susan Williams, Paralegal, Seattle City Attorney’s Office, to author (May 26, 2015, 14:15 PST) (on file with author).

140. *See* Telephone Interview with Shannon Segers, Bureau Chief of Risk Financing and Loss Prevention, Fla. Dep’t of Fin. Servs., Div. of Risk Mgmt. (May 26, 2015) (reporting that, if the Florida Highway Patrol had an increase in premiums, the legislature would increase the allocation to the Florida Highway Patrol to cover the premium).

141. *See* Telephone Interview with Eric Broome, Supervising Liability Claim Representative, Cty. of San Bernardino Risk Mgmt. Office (Sept. 19, 2014).

142. Telephone Interview with Bryan Berea, Manager, Admin. & Fin. Mgmt., CEO/Off. of Risk Mgmt., Cty. of Orange, Cal. (May 18, 2015).

143. *See, e.g.*, Email from Valerie Ahr, Civil City Accountant, City of Fort Wayne, to author (May 17, 2015, 8:19 PST) (on file with author).

available funds “due to other budget issues” the money appears to be paid from non-Department funds.¹⁴⁴

Representatives from six of the jurisdictions reported that increased premiums do have financial consequences for their law enforcement agencies. Three of them—California Highway Patrol, North Carolina Highway Patrol, and Ohio State Highway Patrol—have hybrid arrangements; they pay into a central risk management fund for auto claims, but pay settlements and judgments in other suits from their budgets. These three are among the ten agencies required to pay settlements and judgments from their budgets that report tangible financial impacts on the agencies’ budgets.¹⁴⁵ In addition, a risk management official in Albuquerque (which, during the study period, had a significant number of high-profile and expensive lawsuits concerning officer-involved shootings) reported that a request for additional funding to pay a higher premium to the jurisdiction-wide risk management fund based solely on an increase of claims is more likely to be denied; the department will be asked to cut back in other places during the annual budgeting process.¹⁴⁶ For the Virginia State Police, the amount paid in premiums “[o]bviously . . . competes with other budget items. What the state police pays risk management for its insurance comes to risk management, it does not go into the [department’s] general fund.”¹⁴⁷ And increases in premiums paid by the Howard County Police Department “could require the department to cut back on other costs—hiring, equipment, overtime, if it impacts the bottom line.”¹⁴⁸ Because law enforcement agencies generally receive the money they contribute to their jurisdiction’s risk management fund at the same time that they receive the rest of their budget, it is impossible to measure the extent to which risk fund premium increases actually reduce allocations for other law enforcement agency needs.

144. See Email from Jason Dudich, City-County controller, City and Cty. of Indianapolis, to author (Oct. 23, 2014, 12:05 PST).

145. See *supra* notes 118–127 and accompanying text.

146. Telephone Interview with Peter Annen, Albuquerque Risk Mgmt. (Oct. 10, 2014).

147. Email from Don LeMond, Dir. of Risk Mgmt., Dep’t of the Treasury, Commonwealth of Va., to author (May 18, 2015, 6:56 PST) (on file with author).

148. Email from Alexandra Bresani, Office of Pub. Info., Howard Cty. Gov’t, to author (July 2, 2015, 10:16 PST) (on file with author).

D. When Jurisdictions Rely on Public Entity Risk Pools or Outside Insurance

Twenty-one jurisdictions in my study rely on public entity risk pools or outside insurance to satisfy at least some types of settlements and judgments. The premiums paid by jurisdictions to risk pools or outside insurers are usually—although not always—experience rated, such that reducing the costs of litigation will also reduce the costs of those premiums. At least some risk pools also offer dividends to jurisdictions when claims are lower than expected and reduced premiums if they are members of Lexipol (a risk management provider) or the Commission on Accreditation for Law Enforcement Agencies (a voluntary accreditation organization).¹⁴⁹

The financial carrots and sticks built into public entity risk pools and private insurance premiums are not always passed along to jurisdictions' law enforcement agencies. Fourteen of the twenty-one insured jurisdictions in my study pay insurance premiums from their general funds such that the premiums have no financial impact on the law enforcement agencies' budgets. Seven of the twenty-one agencies are required to pay part or all of liability insurance premiums from their budgets, but the financial impact of these payments appears to vary from jurisdiction to jurisdiction. The Comptroller for the Manatee County Sheriff's Department reports that the amount it must pay is determined in part by its claims history, is paid out of their operating budget, and absolutely impacts the Department's other budgetary needs.¹⁵⁰ The Lincolnton Police Department, in contrast, is not experience-rated; instead, it is assessed a contribution to the insurance premium based on the size of its budget.¹⁵¹ Lincolnton's Chief of Police was unaware of this budgeting arrangement, suggesting that it has minimal impact on other aspects of the Department's budget.¹⁵²

149. See Email from Brandy McKelvey, Paralegal, Office of the Cty. Attorney, St. Mary's, Md., to author (Sept. 26, 2014, 13:02 PST) (on file with author) (attaching documents reflecting insurance premium credit for membership in the Commission on Accreditation for Law Enforcement Agencies (CALEA)); Telephone Interview with Jerry Mason, Counsel for Idaho Cts. Risk Mgmt. Program (Nov. 5, 2013) (reporting that it will pay half of the costs of joining Lexipol for its member law enforcement agencies).

150. See Telephone Interview with Tom Salisbury, Comptroller, Manatee Cty. Sheriff's Dep't. (May 22, 2015).

151. See Email from Steven Zickefoose, Fin. Dir. City of Lincolnton, to author (Sept. 22, 2014, 7:55 PST) (on file with author) (reporting that the insurance premium "is paid on a prorated basis from each department according to the size of their budget").

152. See Email from Chief Rodney Jordan, Lincolnton Police Dep't, to author (Sept. 20, 2014, 12:14 PST) (on file with author) (reporting that the question whether lawsuits impact the police department's budget "is something I have never had to deal with . . .").

Regardless of whether an insured law enforcement agency is required to contribute to insurance premiums, the insurance relationship can impose significant pressures on agencies to improve. Public entity risk pools engage in multiple risk management efforts to reduce their members' liability.¹⁵³ For example, the Michigan Municipal League (MML) has a loss control department that identifies trends in claims and notifies its members of those trends.¹⁵⁴ MML also convenes a group of twelve to fifteen police chiefs from around the state who work with a law enforcement specialist and defense attorney to develop model policies for its members.¹⁵⁵ Similarly, the League of Minnesota Cities Insurance Trust has semiannual trainings on law enforcement issues and voluntary online trainings used by about half of its insured departments.¹⁵⁶

Although members of the risk pools are reportedly eager, on the whole, to comply with these voluntary risk management efforts, risk pools do, on occasion, threaten to limit coverage or increase deductibles unless their law enforcement agencies make personnel or policy changes that reduce liability risk. The MML, which insures smaller government entities in Michigan, looks for trends in claims against insured jurisdictions and may threaten to raise deductibles or limit coverage accordingly.¹⁵⁷ The Idaho Counties Risk Management Program (ICRMP), which insures almost all government entities in the state of Idaho, including two jurisdictions in my study, recently required that each of the jail facilities it insures comply with eight requirements, including a policy regarding strip searches and a policy never to have fewer than two officers on duty at one time.¹⁵⁸ Jurisdictions

153. For a detailed and illuminating discussion of these loss-prevention techniques, see Rappaport, *supra* note 63; see also EPP, *supra* note 62, at 241 ("Insurance companies are known to press their organizational clients to adopt policies aimed at reducing their exposure to legal liability."). The representatives of public entity risk pools with whom I spoke agreed that they used a variety of techniques to reduce their members' liability. See Telephone Interview with Ann Gergen, Exec. Dir., AGRiP (June 16, 2015); see also *infra* notes 154–163. But see Email from Kevin Gillen, Yellowstone City Attorney's Office, to author (Nov. 14, 2013, 13:15 PST) (on file with author) (explaining that their excess insurer does "not really" place "any requirement on the Sheriff[s] Office as a condition of funding settlements and judgments").

154. Telephone Interview with Mike Forster, Dir., Risk Mgmt. Serv., Mich. Mun. League (MML) (Oct. 7, 2014).

155. See *id.*

156. See Telephone Interview with Peter Tritz, Adm'r, League of Minn. Cities (June 5, 2015).

157. Telephone Interview with Mike Forster, Dir., Risk Mgmt. Servs., MML (Oct. 7, 2014) (explaining that, for example, if a town has a history of First Amendment claims, MML may require it to pay a \$50,000 deductible the next time a journalist is prevented from coming to a city council meeting; MML may require a town with several officer-involved shootings to pay a \$100,000 deductible the next time it is sued for an officer-involved shooting).

158. See Telephone Interview with Jerry Mason, Counsel for the Idaho Risk Mgmt. Program (ICRMP) (Nov. 5, 2013).

were informed that failure to comply would cause the insurer to reduce coverage from \$3 million to \$1 million as a means of limiting liability exposure to other jurisdictions in the insurance pool.¹⁵⁹

Available anecdotal evidence suggests that law enforcement agencies at least sometimes respond to this type of pressure by making the personnel and policy changes demanded by their insurers. Cities have changed police policies and fired problem officers and chiefs in response to insurers' demands.¹⁶⁰ And all but eight of the forty-four counties in Idaho that contract with ICRMP made the policy changes to their jails required by their insurer.¹⁶¹ Those eight counties that did not make the required changes did not ignore the insurers' demands. It appears, instead, that they were unable to comply because they were "[g]enerally the smallest and most remote,"¹⁶² and "seemed caught by antiquated buildings or short staffing at certain times."¹⁶³

When a small department has been sued numerous times and does not take steps to reduce future liabilities, a risk pool or private insurer may raise premiums so precipitously—or withdraw coverage altogether—such that the jurisdiction has to find alternative liability insurance or close down the department. Managers of risk pools report that they only take these steps rarely.¹⁶⁴ Nevertheless, I found several reports of police department closings caused by insurers' premium increases or decisions to end coverage. In 2013, the Point Marion Police Department lost its insurance after settling two lawsuits brought against its two officers, and the Department closed as a result.¹⁶⁵ The five-officer Sorrento

159. See Email from Jerry Mason, Counsel for ICRMP, to author (Dec. 17, 2015, 21:42 PST).

160. See Radley Balko, *How the Insurance Industry Could Reform American Policing*, WASH. POST (Mar. 1, 2016), <https://www.washingtonpost.com/news/the-watch/wp/2016/03/01/how-the-insurance-industry-could-reform-american-policing> [https://perma.cc/Q8LZ-DFAU] (describing several examples of policy changes demanded by insurers including "changes to policing regarding the use of SWAT teams" in several jurisdictions and a series of reforms in the city of Irwindale, California enacted in response to insurers' demands); John Rappaport, *An Insurance-Based Typology of Police Misconduct*, 2016 U. CHI. LEGAL F. (forthcoming 2016) (on file with author) (collecting press reports of several instances in which police officers and chiefs were fired at the insurers' insistence).

161. See Email from Jerry Mason, Counsel for ICRMP, to author (Dec. 17, 2015, 9:42 PST); Email from Jerry Mason, Counsel for ICRMP, to author (Dec. 18, 2015, 8:51 PST).

162. Email from Jerry Mason, Counsel for ICRMP, to author (Dec. 18, 2015, 8:51 PST).

163. Email from Jerry Mason, Counsel for ICRMP, to author (Dec. 17, 2015, 9:42 PST).

164. See Telephone Interview with Peter Tritz, Adm'r, League of Minn. Cities (June 5, 2015) (noting also that private insurers may do so more often).

165. See Marcie Cipriani, *Police Department Shuts Down After Settling Lawsuits Against 2 Officers*, PITTSBURGH ACTION NEWS 4 (Nov. 20, 2013, 7:43 PM EST), <http://www.wtae.com/news/local/washington/police-department-shuts-down-after-settling-lawsuits-against-2-officers/23074066> [http://perma.cc/KJY4-UUX9].

Police Department, in Louisiana, also lost its liability insurance in 2013; the insurer declined to continue providing insurance because of “an excessive number of claims.”¹⁶⁶ After a year of police firings and disputes between the remaining chief and town council, voters voted overwhelmingly to disband the Department.¹⁶⁷

Slightly larger police departments have also been disbanded after losing their insurance. The village council in Lincoln Heights, Ohio voted to disband its sixteen-member police department after its insurance company raised its premium to over 10 percent of the Department’s \$800,000 budget and required the village to create a \$100,000 retention fund per incident for future lawsuits.¹⁶⁸ The insurance company’s decision was based on a series of lawsuits filed against the Department “stemming from wage disputes, employment harassment, wrongful terminations, allegations of wrongful arrest and violations of civil rights within the [D]epartment[.]”¹⁶⁹ The sixty-member Maywood Police Department lost its insurance and was disbanded in 2010.¹⁷⁰ The insurer concluded that the Department “posed too high a risk”: “An excessive number of claims filed against the Police Department, and the city’s failure to hire a permanent city manager, were among the highest risk factors.”¹⁷¹ As these examples show, even law enforcement agencies that do not pay insurance premiums from their budgets may feel significant pressures to improve and may be dissolved altogether if their liability exposure climbs too high.

Even when a risk pool decides it cannot continue providing insurance and the city or town decides to disband its police department, it is generally not left

166. Kate Stevens, *Official Action Ends Lengthy Saga in Sorrento*, ADVOCATE, (May 19, 2015, 7:56 PST), <http://theadvocate.com/news/12407481-123/its-official-sorrento-town-council> [<http://perma.cc/HA3X-X3R2>]. For the size of the Sorrento Police Department, see BJS LAW ENFORCEMENT CENSUS DATA, *supra* note 47.

167. See Cameron McWhirter, *Louisiana Town Votes to Close Troubled Police Department*, WALL STREET J.: WASH. WIRE (Nov. 5, 2014, 12:49 PST), <http://blogs.wsj.com/washwire/2014/11/05/louisiana-town-votes-to-close-troubled-police-department> [<http://perma.cc/Z8K4-5ESP>].

168. Cliff Radcliff, *Lincoln Heights Disbands Police Department*, CINCINNATI ENQUIRER (Oct. 17, 2014, 5:05 PST), <http://www.cincinnati.com/story/news/politics/2014/10/17/lincoln-heights-disbands-police-department/17450723> [<http://perma.cc/6AFV-TY7P>].

169. Matt Agorist, *Ohio Police Department Has Become So Corrupt They Were Forced to Shut Down*, FREE THOUGHT PROJECT (Oct. 4, 2014), <http://thefreethoughtproject.com/ohio-police-department-corrupt-forced-shut> [<http://perma.cc/93NV-Y6GW>].

170. See Ruben Vives, *Maywood to Disband Police Department*, L.A. TIMES (June 17, 2010), <http://articles.latimes.com/2010/jun/17/local/la-me-maywood-pd-20100617> [<http://perma.cc/944Z-3MFH>].

171. *Id.*

without law enforcement protection; instead, the city or town contracts with a neighboring department, regional department, or county sheriff to fill the void. After dissolving its police force, Point Marion contracted with the Southwest Regional Police, a department that provides services to several communities in nine counties.¹⁷² The town of Sorrento now relies on the parish sheriff's office.¹⁷³ The village of Lincoln Heights contracted with the county sheriff's department for services after it disbanded its police department.¹⁷⁴ And the Los Angeles Sheriff's Department now patrols the city of Maywood.¹⁷⁵ It may be more difficult for jurisdictions in remote locations to find alternative law enforcement services, and there may be some jurisdictions that lose insurance, disband their law enforcement agency, and are unable to find an affordable or suitable replacement. More study would be necessary to explore this possibility. I have not, however, seen such reports.

E. Conclusion

Some commentators have assumed that law enforcement agencies will have financial incentives to reduce lawsuits and associated misconduct if money to pay settlements and judgments is taken from the agencies' budgets. My study reveals, however, that having agencies pay money out of their budgets toward settlements and judgments does not necessarily impose a financial burden on those agencies. Some law enforcement agencies pay millions of dollars from their budgets for settlements and judgments yet feel no financial consequences of these payments because they receive money during the budgeting process for litigation payouts, overages are paid from central funds, and litigation savings are not enjoyed by the agencies.

As a result, self-insured jurisdictions are even less likely to feel financial pressures associated with lawsuit payouts than their formal budgetary arrangements suggest. Almost 42 percent of the jurisdictions with the largest

172. See Chris Buckley, *Bentleyville OKs Police Force*, TRIBLIVE (May 24, 2014), <http://triblive.com/neighborhoods/yourmonvalley/yourmonvalleymore/6167892-74/bentleyville-police-regional#axzz3gpmD5qni> [<http://perma.cc/667Y-LLNA>].

173. See McWhirter, *supra* note 167.

174. See Radel, *supra* note 168.

175. Ruben Vives, *Maywood to Lay Off All City Employees, Dismantle Police Department*, L.A. TIMES: L.A. NOW (June 22, 2010, 10:13 AM), <http://latimesblogs.latimes.com/lanow/2010/06/sheriffs-dept-to-patrol-maywood-while-city-employees-now-face-lay-offs.html> [<http://perma.cc/UL7E-7AQY>].

law enforcement agencies do not require those agencies to contribute financially to settlements and judgments against them; the realities of budgeting practices mean that at least 60 percent of the largest law enforcement agencies experience no financial consequences of lawsuit payouts. Fifty-eight percent of cities with the largest law enforcement agencies do not require those agencies to contribute to settlements and judgments, but cities' budgeting practices insulate at least 80 percent of city law enforcement agencies from any financial effects of payouts. Forty-four percent of the largest combined city-county agencies pay nothing from their budgets towards settlements and judgments, but at least two-thirds of city-county agencies feel no financial impact of lawsuit payouts.¹⁷⁶ Moreover, the largest of the large jurisdictions appear the least likely to impose financial pressures on their law enforcement agencies: At least 60 percent of the largest law enforcement agencies feel no financial pressures associated with payouts, but these agencies employ over two-thirds of the officers in the largest jurisdictions in my study.

176. I have included Indianapolis Metropolitan Police Department in the "unknown" category, given its answer to my question about the budgetary impact of settlements and judgments on their budgets, described *supra* note 144 and accompanying text. I have also put the San Bernardino County Sheriff's Department and the Orange County Sheriff's Department in the "unknown" category in Figure 2, *infra*, given their answers about the budgetary impact of settlements and judgments on their budgets, described *supra* notes 141–142 and accompanying text.

FIGURE 1: FREQUENCY WITH WHICH MONEY IS TAKEN FROM BUDGETS OF SIXTY-TWO LARGEST AGENCIES

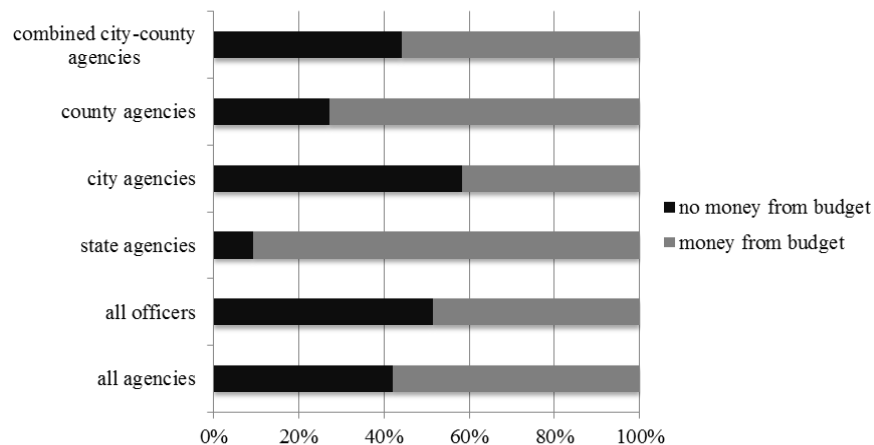
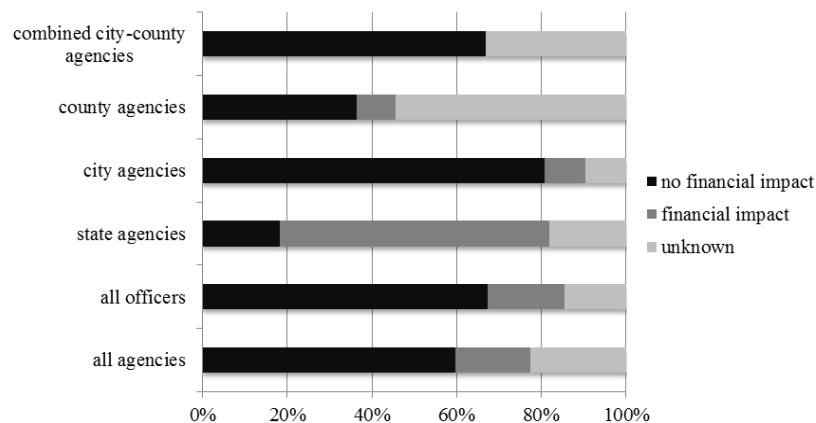


FIGURE 2: FINANCIAL EFFECT OF LAWSUIT PAYOUTS ON LARGEST SIXTY-TWO AGENCIES



The particularities of budgeting arrangements can also insulate smaller law enforcement agencies from the financial impact of suits. Of the seventeen smaller agencies in self-insured jurisdictions, at least thirteen (76.5 percent) feel no financial pressures associated with lawsuit payouts. Yet in smaller jurisdictions that rely primarily on outside insurance, insured law enforcement agencies that do not pay anything toward premiums may nevertheless experience

significant pressures—and may indeed have their very existence threatened—by outside insurers when lawsuit costs climb too high.

VI. THE EFFECT OF FINANCIAL PRESSURES ON LAW ENFORCEMENT BEHAVIOR

I have thus far shown that liability costs in cases against law enforcement are not exclusively taken from governments' general funds—instead there is a wide range of budgetary arrangements in jurisdictions across the country, some of which require law enforcement agencies to contribute financially to the satisfaction of settlements and judgments. I have also shown that these budgetary arrangements are not determinative: Some law enforcement agencies that pay settlements and judgments from their budgets feel no financial effects of these payments, and the viability of smaller insured agencies that pay nothing towards insurance premiums can nevertheless be threatened by a spike in claims. Further, I have shown that a subset of the law enforcement agencies in my study do appear to be financially impacted by lawsuit payouts in several different ways—by having to pay settlements and judgments from their budgets, by having to contribute to a central fund that pays settlements and judgments, by having to contribute to insurance premiums, and by having an insurer raise premiums or decline coverage as a result of costly claims.

Commentators have a range of views about what effect financial pressures might have on law enforcement agencies' practices. The most optimistic view is that litigation costs would prompt law enforcement agencies to gather and analyze information about these suits, determine areas of risk and liability, and take steps through improved hiring, training, and supervision to reduce the risk of future claims against line officers and leadership.¹⁷⁷ Police officials faced with increased litigation costs might alternatively save money by reducing the number of trainings—even though trainings might prevent future suits. Police officials might respond to increased litigation costs by reducing services for those with less political power, just as the City of Chicago apparently reduced lead paint screening to pay settlements and judgments in cases against the police.¹⁷⁸ Or police officials might direct their officers to engage in different

177. See *supra* note 37 and accompanying text.

178. For a description of this possibility, see Daryl J. Levinson, *Empire-Building Government in Constitutional Law*, 118 HARV. L. REV. 915, 967–68 (2005).

types of behaviors that do not result in legally cognizable harms.¹⁷⁹ In this Part, I consider the limited evidence I have been able to gather responsive to this critical question—whether and how financial pressures, when they exist, influence law enforcement agencies' behavior.

Available evidence suggests that at least some small cities and towns comply with specific personnel and policy changes demanded by their insurers.¹⁸⁰ In these jurisdictions, insurers' pressures have led to tangible, measurable results. It is more difficult to measure the effect of financial pressures on law enforcement officials' decisionmaking in self-insured jurisdictions, and in insured jurisdictions where the insurer has not demanded specific personnel and policy changes. Measuring the effects of financial pressures on law enforcement agencies in these types of jurisdictions is the focus of the remainder of this discussion.

In an ideal world, one trying to measure the effect of financial liability on law enforcement officials' decisionmaking would compare the practices in jurisdictions that have adopted each of the budgetary arrangements I have found. Fewer civilian complaints, uses of force, and lawsuits in jurisdictions that place liability-based financial pressures on law enforcement agencies would suggest at least a correlation between those financial pressures and improved police practices. Evidence of higher crime rates or fewer law enforcement services in jurisdictions that place liability-based financial pressures on law enforcement agencies would be consistent with theories that agencies respond to litigation costs in less constructive ways.

Unfortunately, such measurements would be exceedingly challenging to undertake for at least four reasons. First, it would be difficult to find law enforcement agencies comparable in all respects except for the extent of their financial responsibility for lawsuit payments. Differences in each jurisdiction's law enforcement responsibilities, population, demographics, crime rate, amount spent per officer on salary and training, and other factors would make it difficult to isolate the effects of budgetary arrangements on agency behavior. Second, even if researchers could identify comparable agencies, they may not have data to compare. Limited data are collected by law enforcement agencies; for decades, commentators have noted with concern the lack of data collected about officer uses of force, civilian complaints, and other evidence of

179. For a discussion of this possibility, see Margo Schlanger, *Second Best Damage Action Deterrence*, 55 DEPAUL L. REV. 517 (2006).

180. See *supra* notes 160–163 and accompanying text.

misconduct.¹⁸¹ Without such data, it is impossible to compare the practices of different jurisdictions. Third, even when such data exist, the type of data collected and manner of collection may differ across jurisdictions. A law enforcement agency might have comparatively more civilian complaints filed against it not because its officers engage in more misconduct, but because the agency makes it easier for civilians to file complaints. A law enforcement agency's officers might file comparatively more use of force reports not because its officers engage in more force, but because it has a broader definition of reportable force and its officers are more meticulous about filling out such reports.

Finally, it is difficult to measure and compare how much financial pressure lawsuit payments impose on different departments. The California Highway Patrol spends, on average, 0.09 percent of its annual budget on lawsuit payouts; The Minnesota State Patrol spends, on average, 0.61 percent of its annual budget on lawsuit payouts; the Los Angeles County Sheriff's Department spends, on average, 1.44 percent of its annual budget on lawsuit payouts; and the Albuquerque Police Department pays, on average, 6.66 percent of its annual budget to the central risk fund. Based solely on these numbers, one would conclude that lawsuits exert the greatest financial pressure on the Albuquerque Police Department and the least on the California Highway Patrol. Yet the actual financial impact of these payments likely depends on the generosity of other aspects of the law enforcement agencies' budgets. Well-funded departments that receive generous budgetary allotments will presumably feel less financial pressure to reduce liability than poorly-funded departments. Both types of agencies must pay settlements and judgments from funds otherwise earmarked for staffing, equipment, and training, but the well-funded department will feel less of a sting associated with that diversion of resources.¹⁸²

Another way to assess the effects of financial pressures on agency decisionmaking would be to examine the same data in one jurisdiction before and after its law enforcement agency became financially responsible for litigation costs. Such an analysis would be challenging for some of the same reasons that it would be difficult to compare departments with different budgetary arrangements. A department that has recently begun paying settlements and judgments from its

181. See Rachel A. Harmon, *Promoting Civil Rights Through Proactive Policing Reform*, 62 STAN. L. REV. 1, 28–32 (2009) (describing the lack of standardized data collected about police behavior).

182. See EPP, *supra* note 62, at 242 (observing that “the more adequate the department’s budget to its needs, the more likely it will be capable of adopting costly policies with minimal disruption; well-funded departments are likely to feel less threatened by intrusive policies than departments that are constantly trying to stretch their resources”).

budget might not collect relevant data or may have changed the types of data it collects in recent years, making it difficult to identify whether and how budgeting changes have influenced department practices. Moreover, most departments in this study that bear some financial responsibility for lawsuits have done so for decades, making it difficult to capture information about practices before and after the budgetary shift.¹⁸³ One exception is Washington, D.C., which began requiring the Metropolitan Police Department to pay small settlements from its budget in 2000. It would be difficult to isolate the effects of this budgetary arrangement, however, because the Department was under investigation by the Department of Justice at the same time and entered into a consent decree one year later.¹⁸⁴

To add a final layer of complication, jurisdictions that require law enforcement agencies to contribute financially to settlements and judgments may oversee those agencies through multiple mechanisms, making it difficult to pinpoint the precise effects of financial pressures. The Los Angeles County Sheriff's Department, for example, pays settlements and judgments from its budget and regularly must take money from other parts of its budget to satisfy these claims. Yet the Department must additionally get approval from the county board of supervisors before settling claims above \$100,000,¹⁸⁵ closed-door discussions regarding these settlements can be contentious.¹⁸⁶ The Department must also submit a Corrective Action Plan for any settlement over \$20,000 in which it details the policy and personnel lessons learned from the incident and efforts taken to prevent future similar events.¹⁸⁷ Finally, independent government agencies—including Special Counsel to the County Board of Commissioners, the Office of Independent

183. Memphis and Boston have recently changed their practices so that settlements and judgments come from the police department's budgets and so would be worth studying more closely. Yet each of these departments report getting additional funds when liability costs go over budget; analysis of these departments would, therefore, illustrate the effect of this budgeting arrangement when it carries no actual financial consequences. See Appendix G for details of budgeting arrangements in these jurisdictions.

184. See POLICE EXEC. RESEARCH FORUM, CIVIL RIGHTS INVESTIGATIONS OF LOCAL POLICE: LESSONS LEARNED 2 (2013), http://www.policeforum.org/assets/docs/Critical_Issues_Series/civil%20rights%20investigations%20of%20local%20police%20-%20lessons%20learned%202013.pdf [<http://perma.cc/5DDG-WCUG>].

185. *Claims Board*, CTY. L.A., <http://www.lacounty.gov/government/public-information-records/claimsboard> [<https://perma.cc/7347-Y24A>] (last visited Mar. 26, 2016).

186. See Telephone Interview with Glen Dragovich, Assistant Div. Dir., L.A. Cty. Sheriff's Dep't (Sept. 19, 2014).

187. *Minneapolis Police Must Answer for Costly Settlements*, STAR TRIBUNE (June 7, 2013, 7:09 PST), <http://www.startribune.com/minneapolis-police-must-answer-for-costly-settlements/210490371> [<http://perma.cc/9FLP-XE6B>] (describing Los Angeles County's Corrective Action Plans).

Review and, more recently, the Office of Inspector General—have reviewed and reported on deficiencies in the Sheriff's Department for decades.¹⁸⁸ With all of these different pressures on the Los Angeles County Sheriff's Department, it would be difficult to measure how financial responsibility for suits influences its behavior.

Given the difficulties of measuring the behavior of law enforcement agencies required to bear financial responsibility for legal liabilities, a more promising approach may be to consider how law enforcement officials view the effects of these budgeting arrangements on their behavior. This approach has its own limitations: Officials' descriptions are obviously subjective and therefore not necessarily reliable; officials willing to comment about the effect of budgeting practices might present their agency's practices in the best possible light; and the perspectives of officials in many departments, unwilling to comment on the record, are unavailable. Despite the challenges of getting this information, and its potential inaccuracies, it is comparatively easier to collect. Indeed, it is all I have thus far been able to gather regarding the impact of financial pressures on agency behavior.

I spoke with officials from six of the thirteen self-insured jurisdictions in my study that report that lawsuit payouts have a financial impact on their law enforcement agencies' budgets, and asked them whether and how those financial pressures influence agency practices. Five of these officials are in jurisdictions that require law enforcement agencies to pay settlements and judgments from their budgets. Two of the five report that this budgetary arrangement causes them to take steps to reduce future liabilities. As one official from the Los Angeles Sheriff's Department explained, this budgetary arrangement does not influence line officers' decisionmaking but does encourage management not to "mess up."¹⁸⁹ The Budget Supervisor for California Highway Patrol's (CHP) Fiscal Management Section observed that CHP's financial responsibility for lawsuits inspires it to learn from its actions: the CHP has a risk management office; its training academy continually reviews the relevance of its trainings;

188. See L.A. CTY., REPORT OF THE CITIZENS' COMMISSION ON JAIL VIOLENCE 14–16 (2012) (describing the decades-long oversight by the Special Counsel and the Office of Independent Review); L.A. CTY., OFFICE OF INSPECTOR GENERAL'S FIRST STATUS REPORT: THE LOS ANGELES SHERIFF'S DEPARTMENT IMPLEMENTATION OF THE CITIZENS' COMMISSION ON JAIL VIOLENCE RECOMMENDATIONS AND MONITORING PLAN 2 (2014) (describing the creation of the Office of Inspector General in 2014 and the plan for the agency to oversee the Los Angeles County Sheriff's Department).

189. See, e.g., Telephone Interview with Glen Dragovich, Assistant Div. Dir., L.A. Cty. Sheriff's Dep't (Sept. 19, 2014).

and legal affairs reviews legal claims for lessons. As he said: “We are always getting feedback on what happens on the street and we know that we are going to feel it in our budget if we don’t.”¹⁹⁰

Three other officials with whom I communicated on this topic report that paying settlements and judgments from their agencies’ budgets does not influence their risk management efforts because they are already highly motivated to train and supervise their officers and reduce risk whenever possible. An official at the Minnesota State Patrol explained that paying settlements and judgments from the Patrol’s budget does not affect its practices both because its officers are rarely sued and because it would want to train and supervise its officers well regardless of whether it bore financial responsibility for liabilities.¹⁹¹ The Chief of Staff for the Illinois State Police holds a similar view. The Illinois State Police, he writes, “does attempt to manage risk as much as possible through the agency” and impresses on its officers that their split-second decisions may “be judged by the public and the courts for years to come.”¹⁹² Yet, he writes, he does not “believe that the fact that we do pay some settlements ou[t] of our own budget (rather than having to get a supplementary/special appropriation) directly impacts our patrol or policing strategies.”¹⁹³ And the public affairs commander for the Ohio State Highway Patrol reported that “[o]ur efforts in risk management, supervision, training, disciplinary policies and decisions are more about the service we provide to the public and the professional image of our department” and that “any budgetary gains as a result of these efforts is an added bonus.”¹⁹⁴

I also spoke with the risk manager in Albuquerque—a self-insured jurisdiction that requires its law enforcement agency to contribute to a central risk fund and is reluctant to increase budgetary allocations to the police department when they are necessitated by increased risk fund premiums. In his view, requiring the police department to contribute to a central risk management fund is valuable because it informs the department of its liability costs and creates political pressures to reduce losses.¹⁹⁵ He noted, though, that other mechanisms could achieve this same goal.¹⁹⁶

190. Telephone Interview with Bob Hovorka, Budget Supervisor, Fiscal Mgmt. Section, Cal. Highway Patrol (May 19, 2015).

191. See Telephone Interview with Major Matt Sokol, Minn. State Police (Nov. 30, 2015).

192. See Email from Steve Lyddon, Chief of Staff, Ill. State Police, to author (Dec. 2, 2015, 8:46 PST).

193. See *id.*

194. Email from Lieutenant Craig S. Cvetan, Ohio State Highway Patrol Pub. Affairs Commander, to author (Dec. 7, 2015, 7:41 PST).

195. See Telephone Interview with Peter Annen, Risk Manager, City of Albuquerque (Oct. 10, 2014).

196. See *id.*

Although some commentators fear that imposing financial pressures on law enforcement agencies will impair the agencies' work, none of the six officials with whom I communicated on this topic expressed this concern. It is no surprise that officials denied responding to the costs of lawsuits by reducing services to the politically powerless or encouraging their officers to engage in less cognizable harms.¹⁹⁷ Officials would be unlikely to admit making such callous decisions. It is noteworthy, however, that none of the six officials with whom I spoke characterized paying settlements and judgments from their budgets as harmful to their agencies; instead, they characterized this arrangement as having positive or neutral effects on their risk reduction efforts.

Although I found no evidence to support the direst predictions of the impact of financial responsibility for lawsuits on law enforcement agencies, I also found no evidence to support the most optimistic views on this point. Requiring law enforcement agencies to bear financial responsibility for settlements and judgments is clearly not the silver bullet some hope it will be.¹⁹⁸ Several of the law enforcement agencies whose budgets are directly impacted by lawsuit payouts have been subjects of high-profile misconduct allegations in recent years.¹⁹⁹ Some have been investigated by the Department of Justice for systemic misconduct.²⁰⁰ Requiring law enforcement agencies to bear the costs of lawsuits does

197. See *supra* notes 178–179 and accompanying text (describing these possible responses to liability costs).

198. See *supra* note 37 (citing scholars' recommendations that money be paid out of law enforcement agencies' budgets as a means of improving police behavior).

199. See, e.g., Rachel Aviv, *Your Son Is Deceased*, NEW YORKER (Feb. 2, 2015), <http://www.newyorker.com/magazine/2015/02/02/son-deceased> [<http://perma.cc/N3LM-PAQ5>] (describing abuses by the Albuquerque Police Department); Joel Rubin, *Jail Abuse Trial of L.A. County Sheriff's Deputies Opens With Contrasting Stories*, L.A. TIMES (June 16, 2015, 22:16 PST), <http://www.latimes.com/local/lanow/la-me-ln-jail-abuse-trial—20150616-story.html> [<http://perma.cc/E83P-4UXJ>] (describing the criminal prosecution of Los Angeles Sheriff's deputies for abuses in the Los Angeles County Jail); *After California Highway Patrol Beating, Community Wants Answers*, CBS NEWS (July 5, 2014, 11:32 PST), <http://www.cbsnews.com/news/after-california-highway-patrol-beating-community-wants-answers> [<http://perma.cc/43LV-AMFR>] (describing a videotaped beating of a woman by a CHP officer).

200. See, e.g., Letter from Jocelyn Samuels, Acting Assistant Att'y Gen., Civ. Rts. Div., to the Hon. Richard J. Berry, Mayor, City of Albuquerque (Apr. 10, 2014), http://www.justice.gov/crt/about/spl/documents/apd_findings_4-10-14.pdf [<http://perma.cc/V9C7-4LTD>] (outlining the Department of Justice's investigation of the Albuquerque Police Department (APD) and the bases for its finding that "APD engages in a pattern or practice of use of excessive force, including deadly force, in violation of the Fourth Amendment and Section 14141"); Letter from Thomas E. Perez, Assistant Attorney Gen., Civ. Rights Div., to Leroy D. Baca, Sheriff, L.A. Cty. Sheriff's Dep't (June 28, 2013), http://www.justice.gov/crt/about/spl/documents/antelope_findings_6-28-13.pdf [perma.cc/7R6M-8QMG] (investigating the Sheriff's Department's Antelope Valley stations and finding that they have "engaged in a pattern or practice of discriminatory and otherwise unlawful

not eliminate misconduct by those agencies. At best, this budgetary arrangement serves as additional encouragement to law enforcement policymakers and supervisory personnel to understand and address their liability risks.

My sample size is far too small to reach any definitive conclusions about the impact of financial liability on law enforcement decisionmaking. I cannot prove that law enforcement agencies change their behavior when they become financially responsible for settlements and judgments entered against them, nor can I predict with any certainty the ways in which their behavior is likely to change. Closer study would be necessary to make any claims on this point; prime subjects of such study would be law enforcement agencies as they become financially responsible for liability costs. Given the challenges I have faced when trying to gather information from law enforcement officials about their practices, this will be no easy task.²⁰¹ But given reports by some law enforcement officials that bearing the costs of liability motivates them to improve—and no evidence to suggest these arrangements have had the dire consequences imagined by some commentators—it is at least worth investing in efforts to better understand whether and how these budgeting arrangements might inspire investments in risk management and encourage reform.

VII. IMPLICATIONS

Thus far, I have described the budgetary arrangements in one hundred law enforcement agencies across the county, the extent to which these budgetary arrangements impact the agencies' budgets, and some reasons to believe that requiring agencies to assume financial responsibility for settlements and judgments may encourage risk management and caretaking. I now consider the implications of these findings for current understandings of lawsuits' deterrent effects on law enforcement and current understandings of the role of insurance in performance improvement efforts. I also offer some suggestions about how

searches and seizures, including the use of unreasonable force, in violation of the Fourth Amendment, the Fourteenth Amendment, and Title VI"); *see also* Cindy Chang & Joel Rubin, *After Years of Scandal, L.A. Jails Get Federal Oversight, Sweeping Reforms*, L.A. TIMES (Aug. 5, 2015, 19:10 PST.) <http://www.latimes.com/local/lanow/la-me-ln-federal-jail-oversight-20150804-story.html> [<https://perma.cc/7KGF-MNXC>] (describing years of investigation and oversight by the Department of Justice, and the most recent settlement agreement between the Los Angeles Sheriff's Department and the Department of Justice to end the abuse of inmates and improve care of mentally ill inmates at the Los Angeles County Jail).

201. *See supra* notes 41–44 and accompanying text; *see also* Schwartz, *supra* note 2, at 903–04.

government officials and others interested in police reform might use these findings moving forward.

A. Refining Understandings of Lawsuits' Deterrent Effects

My findings help to refine current understandings of the ways in which lawsuits influence law enforcement decisionmaking. Commentators have long debated the effects of lawsuit payouts on government actors. Some believe that lawsuits create financial pressures for governments to improve, and others believe that governments respond to payouts only to the extent that those payouts have political repercussions.²⁰² This Article asks an empirical question critical to informed participation in this debate: whether involved law enforcement agencies are financially responsible for settlements and judgments entered against them and their officers. The answer appears to depend on the size of the jurisdiction, the role of insurance, and the particularities of the jurisdiction's budgetary arrangement with its agencies.

For the majority of law enforcement agencies in self-insured jurisdictions, the costs of lawsuits appear to have no financial consequences. Settlements and judgments in cases brought against twenty-six of the sixty-two largest agencies in my study are paid from general government funds with no impact on the law enforcement agencies' budgets. Law enforcement agencies in the remaining thirty-six large jurisdictions contribute in some manner to the payment of settlements and judgments—by either paying those settlements and judgments from their budgets or contributing to jurisdiction-wide risk management funds. Yet the particularities of budgeting arrangements in at least eleven of these jurisdictions insulate the agencies from feeling any financial impact of payouts. There is a similar pattern among the smaller self-insured jurisdictions in my study: Seventeen of these smaller jurisdictions are self-insured, and law enforcement agencies in at least thirteen of the seventeen jurisdictions experience no financial consequences of lawsuits.

In total, at least 60 percent of the sixty-two largest self-insured law enforcement agencies in my study and over 75 percent of the seventeen smaller self-insured law enforcement agencies in my study feel no financial consequences of lawsuits. Although large judgments may have political ramifications for officials in these agencies, these agencies suffer no financial consequences when suits cost

202. See *supra* notes 19–27 and accompanying text.

more than expected and enjoy no financial benefits when they reduce litigation costs.

Thirteen self-insured jurisdictions in my study report that their law enforcement agencies feel financial effects of settlements and judgments entered against them. I have no way to assess the precise ways in which these thirteen agencies weigh the costs of litigation against other political, bureaucratic, and administrative interests. Some officials in these jurisdictions report that financial pressures encourage risk reduction; others report that they would be engaged in risk reduction efforts even if these financial pressures did not exist. Ideally, one would be able to test these assertions against objective data about law enforcement agencies' practices. Such data is not currently available.

Law enforcement agencies reliant on outside liability insurance appear to have a different set of calculations vis-à-vis lawsuit payouts. Some of these agencies are required to shoulder the costs of higher insurance premiums when lawsuit payouts increase and these increases can have tangible financial effects on agencies' budgets in some instances. Regardless of whether a law enforcement agency is required to contribute to its jurisdiction's liability insurance premiums, the agency may feel pressure to improve if such improvements are required by the insurer as a condition of continued coverage. Indeed, anecdotal evidence supports the view that jurisdictions make personnel and policy changes demanded by their insurers when possible. Representatives from public entity risk pools report that they make such demands rarely, and that law enforcement officials in insured jurisdictions are generally eager to adopt the insurers' risk management suggestions. But the possibility—however remote—of restricted or discontinued insurance coverage likely imposes an additional pressure on insured agencies to comply with insurers' recommendations.

B. The Role of Insurance in Law Enforcement Reform

Scholars have traditionally assumed that self-insurance will strengthen the deterrent effects of lawsuits and that insurance dampens that deterrent effect.²⁰³

203. See PAUL C. WEILER ET AL., A MEASURE OF MALPRACTICE: MEDICAL INJURY, MALPRACTICE LITIGATION, AND PATIENT COMPENSATION 114 (1993) (arguing that medical malpractice liability insurance dampens the deterrent effect of malpractice suits); Omri Ben-Shahar & Kyle D. Logue, *Outsourcing Regulation: How Insurance Reduces Moral Hazard*, 111 MICH. L. REV. 197, 199 (2012) ("[O]ne of the cornerstones of the economics of information, regarded by many as axiomatic, is the moral hazard problem—the idea that a party who is insured against risk has a suboptimal incentive to reduce it. Rivers of ink have been spilled discussing the

Yet many commentators have found that this is not necessarily true—outside insurers can engage in risk management efforts that help reduce the likelihood of future harms and, in fact, may have more data and a broader perspective from which to understand harmful activities.²⁰⁴ My study shows that public entity risk pools engage in the types of risk management efforts that have been observed in other contexts: Risk pools price insurance to reflect prior claims history and current exposure, use insurance limits and deductibles to limit moral hazard, offer loss prevention services, and engage in research and education to help their insureds improve practices and reduce liability risk.²⁰⁵

Contrary to the assumption that insurance creates moral hazard, public entity risk pools may take greater efforts than self-insured jurisdictions to reduce liability risk. Although this study does not attempt to measure the risk-reducing efforts taken by risk pools and self-insured governments in this study, available evidence indicates that few law enforcement agencies engage in the type of data analysis and risk management efforts reported by risk pools.²⁰⁶ It may be that public entity risk pools are better situated than self-insured jurisdictions to engage in risk management efforts.²⁰⁷ Risk pools can gather and analyze data from scores

moral hazard problem of insurance and ways to mitigate it.”); Cardi et al., *supra* note 15, at 570 (“The intervention of liability insurance likely buffers the incentive effects of tort liability.”).

204. See, e.g., Tom Baker & Rick Swedloff, *Regulation by Liability Insurance: From Auto to Lawyers Professional Liability*, 60 UCLA L. REV. 1412 (2013) (describing the role of insurers in multiple settings); Samuel Barrows, *Racing to the Top . . . at Last: The Regulation of Safety in Shipping*, in THE POLITICS OF GLOBAL REGULATION 189, 202–06 (Walter Mattli & Ngaire Woods eds., 2009) (describing insurers’ regulatory pressures in shipping); Ben-Shahar & Logue, *supra* note 203, at 217–28 (describing the regulating efforts of products liability insurers, homeowners’ insurers, workers’ compensation insurers, auto insurers, tax liability insurers, and environmental insurers); Michael P. Vandenbergh, *The Private Life of Public Law*, 105 COLUM. L. REV. 2029, 2063 (2005) (describing environmental insurance agreements that vary premium rates based on compliance with environmental regulations and insurers that “create private obligations to comply with public regulatory standards or set more stringent standards”).
205. Commentators have observed that insurers in other settings use these strategies to reduce moral hazard. See, e.g., Baker & Swedloff, *supra* note 204, at 1419–23; Ben-Shahar & Logue, *supra* note 203, at 205–16. For examples of government risk pools using these strategies, see *supra* notes 153–156 and accompanying text. These findings are consistent with other examinations of government liability insurance. See Candace McCoy, *How Civil Rights Lawsuits Improve American Policing*, in HOLDING POLICE ACCOUNTABLE (Candace McCoy ed., 2010); Rappaport, *supra* note 63. But see EPP, *supra* note 62, at 24–25, 134 (finding, in his survey of 838 police departments, support for “common claims . . . that liability insurance blunts the impact of liability pressure”).
206. For a discussion of risk management efforts undertaken by government risk pools, see *supra* notes 153–156 and accompanying text. For a description of law enforcement risk management efforts undertaken in self-insured jurisdictions, see Joanna C. Schwartz, *Introspection Through Litigation*, 90 NOTRE DAME L. REV. 1055, 1096–97 (2015).
207. For the related observation that private insurance can sometimes outperform government regulation, see Ben-Shahar and Logue, *supra* note 203, at 201–02.

or hundreds of jurisdictions in their pools to assess areas of exposure, whereas self-insured jurisdictions can look only at claims arising from their jurisdiction. The largest self-insured jurisdictions, like New York City, Chicago, and Los Angeles, have hundreds or thousands of claims to analyze each year—more than may accrue in all of the pooled insured jurisdictions in a small state.²⁰⁸ But smaller self-insured jurisdictions, like Oklahoma City and Tampa, may have only a handful of cases to analyze each year, and so may have less claims information than a risk pool from which to assess possible liability risks.²⁰⁹

Moreover, public entity risk pools can place financial pressures on law enforcement agencies that self-insured governments may be unwilling or unable to replicate. Although insurance companies reportedly condition low deductibles and continued coverage on personnel and policy changes, self-insured jurisdictions may consider similar limitations impossible to make for at least two reasons. First, in many jurisdictions it would be politically unpalatable for a mayor or city or county council to threaten a law enforcement agency's budget in this manner.²¹⁰ Insurance companies, in contrast, are not elected officials and can make purely economic decisions about the sensibility of continued coverage. Second, in many large jurisdictions, such a threat would be empty. When a small agency loses insurance coverage it can be replaced by a neighboring department or county sheriff's office.²¹¹ Large agencies cannot so easily be replaced. New York City could not disband its police department in favor of being patrolled by the New York State Police. Large police departments like the New York City Police Department are essentially too big to fail.²¹²

Although a relatively small percentage of jurisdictions in my study rely primarily on outside insurance, a much higher proportion of the nation's law

208. For the number of settlements and judgments in New York City, Chicago, and Los Angeles, see Schwartz, *supra* note 2, at Appendix A, Appendix B, and Appendix G.

209. For the number of settlements and judgments in Oklahoma City and Tampa, see *id.* at Appendix A.

210. Some interviewees anticipated that union leaders would contend that requiring a police department to pay settlements and judgments from their budget would force the department to cut back on necessities and jeopardize public safety. Given these concerns, it is especially challenging for a self-insured city or county to threaten to disband a law enforcement agency. For one city that did so successfully, see *infra* note 212.

211. See *supra* notes 172–175 and accompanying text.

212. How big is “too big to fail”? That is an open question. The Camden Police Department, which had 397 sworn officers, was disbanded—as the result of a labor dispute, not lawsuit payouts—and the county department that replaced it has been recognized nationally as markedly improving law enforcement in the city. See Kate Zernike, *Camden Turns Around With New Police Force*, N.Y. TIMES (Aug. 31, 2014), http://www.nytimes.com/2014/09/01/nyregion/camden-turns-around-with-new-police-force.html?_r=0 [http://perma.cc/AUX2-TV6A].

enforcement agencies do so. And some larger jurisdictions categorized here as self-insured have excess insurance to cover large claims.²¹³ Further research should explore the ways in which these insurers function and the pressures they impose on law enforcement.²¹⁴ Available evidence indicates, however, that outside insurers have a uniquely powerful position from which they can demand improvements in policing.

C. Suggestions

My findings prompt five recommendations. First, I recommend that jurisdictions that impose no litigation-related financial pressures on their law enforcement agencies consider adopting some of the budgetary arrangements described in this Article to create stronger ties between law enforcement agencies and the costs of the lawsuits brought against them. A jurisdiction could follow the examples of Los Angeles County and Kansas City and have its law enforcement agency pay settlements and judgments from its budget, face budgetary restraints when litigation is costly, and enjoy extra funds when it decreases litigation costs. In the alternative, a jurisdiction might consider paying settlements and judgments from central funds but promise its law enforcement agency additional money if it is able to reduce litigation costs below a certain amount.²¹⁵

Jurisdictions that do not want to impose such direct financial pressures on their law enforcement agencies could experiment with some of the less impactful budgetary arrangements used by departments in my study. A jurisdiction could follow the example of San Francisco, Boston, or Chicago and require its law enforcement agency to pay settlements and judgments from its budget—even if overages are taken from the jurisdiction's general funds—so that the agency can better understand the amount that police-related lawsuits are costing their city, county, or state and suffer the political repercussions of returning to government officials to ask for more money. A jurisdiction could follow the example of Phoenix, Riverside, or Austin and require its law enforcement agency to pay an experience-rated premium to a central risk fund, even if the premium does not

213. See *supra* note 61 (describing my criteria for categorization of self-insured jurisdictions).

214. For excellent work in this vein, see generally Rappaport, *supra* note 63.

215. Such an arrangement would avoid the possibility that law enforcement officials would pass litigation costs along to politically powerless constituents while rewarding officials able to reduce their liabilities. See *supra* notes 178–179 and accompanying text (describing this possibility).

affect other aspects of the department's budget, such that underlying causes for increased premiums can be discussed during the annual budgeting process. And if a law enforcement agency can reduce litigation costs, the jurisdiction should consider paying the agency a dividend, just as public entity risk pools do with their insureds.

I do not propose a best practice regarding budgeting; we still know too little about the effects of these budgeting arrangements on agencies' behavior. Moreover, the most effective approach will likely depend on the jurisdiction. Instead, I propose experimenting with these budgeting arrangements and then assessing their effects on law enforcement agencies' conduct. Despite the very little that we know, and the vast amounts we need to learn, something (in the way of litigation-related pressures) seems better than nothing.

At least 60 percent of the largest jurisdictions in my study impose no financial consequences on their law enforcement agencies related to payouts, and almost 42 percent of the largest jurisdictions in my study simply pay settlements and judgments from central funds. These jurisdictions have some of the largest law enforcement agencies in the country. Many of these law enforcement agencies have been the subject of Department of Justice investigations for systemic misconduct, including departments in Cleveland, Detroit, Los Angeles, New Orleans, and Newark.²¹⁶ Officers in several of these departments—including the New York City Police Department, the Baltimore Police Department, and the Cleveland Police Department—have engaged in recent misconduct that has drawn national and international press coverage and protest. I do not claim that creating financial incentives to reduce lawsuits and associated misconduct—or other nonfinancial pressures tied to those payouts—will, on their own, reform policing in these jurisdictions. But they are additional tools in the arsenal that local governments should consider. If more jurisdictions impose financial and non-financial pressures on their law enforcement agencies to reduce litigation costs, we could better assess the effect of these tools on law enforcement behavior.

Second, my findings about local government budgeting practices lead me to affirm a recommendation I have made previously—that governments more regularly impose financial sanctions on individual officers who have been sued for

216. See *Special Litigation Section Cases and Matters: Law Enforcement Agencies*, U.S. DEPT OF JUST., <http://www.justice.gov/crt/about/spl/findsettle.php#police> [<https://perma.cc/P46H-DZW6>] (last updated Mar. 18, 2016).

wrongdoing and are found to have violated department policies or the law.²¹⁷ My prior research showed that individual law enforcement officers virtually never contribute to settlements and judgments in cases brought against them.²¹⁸ This arrangement might make sense if indemnification reliably created financial incentives for law enforcement agencies to identify claims trends and better train, supervise, and discipline their officers.²¹⁹ Yet this study shows that at least 60 percent of the largest law enforcement agencies across the country—and at least 80 percent of large city police departments—are as insulated from the financial consequences of liability as the officers they employ. Even in jurisdictions that do impose liability-based financial pressures on their law enforcement agencies, available evidence indicates that these financial pressures will not singlehandedly improve police behavior. Additional pressures are needed, and one of those pressures—seldom used but presumably powerful—is to financially sanction individual officers who have violated department policies or the law.

As jurisdictions experiment with budgetary arrangements that create financial pressures for law enforcement agencies to reform, they should also consider financially sanctioning officers who violate law or policy. A few jurisdictions, including New York City and Cleveland, require officers occasionally to contribute to settlements.²²⁰ Police accountability groups in Minneapolis are trying to amend the city charter to require each law enforcement officer to have personal liability insurance. The city could purchase the insurance for each officer, but officers would be responsible for increased premiums necessitated by lawsuits or other risky behavior.²²¹ Officers who are repeatedly sued or engage in other misconduct could be denied continued coverage.²²² These approaches have promise and should be explored. Yet, despite my recommendation that jurisdictions more regularly impose financial sanctions on individual officers, I

217. See Schwartz, *supra* note 2, at 952–54.

218. See generally *id.*

219. See *id.* at 954–55 (describing this possibility).

220. See *id.* at 954 (describing practices in New York City and Cleveland).

221. For details of this proposal, see *Join the Campaign for Police Accountability and a Safer Minneapolis*, COMMITTEE FOR PROF. POLICING, <http://www.insurethepolice.org> (last visited Mar. 26, 2016). The groups failed to get enough signatures to place the initiative on the 2014 ballot, but are working to gather signatures for the 2016 election. See *City of Minneapolis Police Brutality Personal Insurance Charter Amendment (2016)*, BALLOTPEDIA, [https://ballotpedia.org/City_of_Minneapolis_Police_Brutality_Personal_Insurance_Charter_Amendment_\(2016\)](https://ballotpedia.org/City_of_Minneapolis_Police_Brutality_Personal_Insurance_Charter_Amendment_(2016)) [<https://perma.cc/6EQQ-M6MU>] (last visited Mar. 26, 2016).

222. See Jay Symopoulos, *Here's How to Force Police Accountability in Your City*, FREE THOUGHT PROJECT (Sept. 18, 2014), <http://thefreethoughtproject.com/force-police-accountability-city> [<https://perma.cc/N32G-KPZY>].

continue to believe that it makes most sense for governments, not officers, to bear most of the costs of liability. Having governments primarily responsible for paying settlements and judgments on behalf of their officers ensures that wronged plaintiffs are compensated for their injuries, protects officers from over-deterrence, and spreads risk.²²³

My third and fourth recommendations concern public entity risk pools and private insurers. This Article's initial look at these insurers suggests that they are a promising source of risk management pressure: They have access to claims information that can help identify areas of risk; they are unencumbered by political pressures not to criticize or compromise law enforcement; and they are able to impose significant financial burdens on law enforcement agencies. Yet this risk management pressure is not distributed to all law enforcement agencies. Indeed, the largest jurisdictions—which have the most liability exposure—rely the least on liability insurance.

I therefore recommend that larger jurisdictions explore using risk pools and private insurers to insure more of their liabilities. Larger jurisdictions could rely more heavily on excess insurance, or could purchase individual liability insurance for their officers (as citizen groups in Minneapolis have recommended). In addition, I recommend that those with thoughts about how to reduce the costs and frequency of police misconduct direct their advocacy efforts to private insurers and public entity risk pools. If advocates can convince public entity risk pools and private insurers that certain trainings, policies, supervision, or management techniques can decrease liability costs, those risk pools and insurers can demand that insured jurisdictions adopt those reforms.

Finally, I recommend more transparency about the costs of law enforcement liability and the manner in which jurisdictions across the country budget for and pay those liabilities. There is surprisingly little publicly available information about the costs of law enforcement liability, the manner in which governments budget for and pay lawsuits involving law enforcement, and the financial impact of these arrangements on law enforcement agency budgets. This Article reports on budgeting practices in one hundred law enforcement agencies across the country—information about over 99 percent of law enforcement agencies across the county has yet to be unearthed. Greater transparency about government budgeting practices is a key step toward increasing public understanding about law enforcement practices and encouraging public dialogue about the choices

223. See Schwartz, *supra* note 2, at 952–54.

governments make when budgeting for and spending taxpayer dollars on legal liabilities.

None of these recommendations will eliminate misconduct by law enforcement. Far more than financial incentives is necessary to transform policing in the United States. Yet requiring agencies to bear financial responsibility for settlements and judgments—and enjoy increased resources when lawsuit costs decrease—is a promising approach consistent with other ongoing efforts to reduce misconduct and improve accountability in policing.

CONCLUSION

Commentators have debated the deterrent effects of damages actions on law enforcement officials for decades. Yet absent from this debate has been any effort to understand a foundational empirical question: *who pays*. My research has revealed that individual officers and enforcement agencies are often insulated from the financial consequences of liability. Yet my research additionally reveals that a relatively small number of law enforcement agencies do bear the costs of payouts and at least some officials report that these arrangements encourage caretaking. Insured agencies may feel pressures associated with payouts even more acutely, regardless of whether they directly contribute to insurance premiums. Local governments around the country are straining under the burdens of increased financial obligations, decreased resources, and deep distrust of law enforcement. Now is an opportune time for local government officials to experiment with budgeting arrangements that might encourage law enforcement agencies to reduce litigation exposure and risk.

APPENDIX A: HOW GOVERNMENTS PAY SETTLEMENTS AND JUDGMENTS

Following is a list of the one hundred law enforcement agencies in my study, noting the manner in which the jurisdictions satisfy settlements and judgments in suits against law enforcement. The agencies are organized from largest to smallest as measured by full-time sworn personnel, according to Bureau of Justice Statistics (BJS) Law Enforcement Census Data, *supra* note 47. Note that some jurisdictions in the study are largely self-insured but have some form of excess insurance for especially large claims. These jurisdictions are noted with an asterisk (*); the specifics of their arrangements are detailed in Appendix G. Other jurisdictions rely on two or more of the budgetary arrangements I have observed. These hybrid jurisdictions are noted with a diamond (◊); the specifics of their arrangements are also detailed in Appendix G.

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
New York City Police Dep't (NY)	36,023	✓				
Chicago Police Dep't (IL)	13,354		✓			
Los Angeles Police Dep't (CA)	9727	✓				
Los Angeles Cty. Sheriff's Dep't (CA)	9461		✓			

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
California Hwy. Patrol (CA)∅	7202		✓	✓		
Philadelphia Police Dep't (PA)	6624	✓				
Cook Cty. Sheriff's Office (IL)	5655	✓				
Houston Police Dep't (TX)	5053	✓				
Pennsylvania State Police Dep't (PA)∅	4458		✓	✓		
Metro. Police Dep't (DC)∅	3742	✓	✓			
Texas Dep't Public Safety (TX)*	3529		✓			
Dallas Police Dep't (TX)	3389	✓				
Phoenix Police Dep't (AZ)*	3388			✓		
Miami-Dade Cty. Police Dep't (FL)	3093			✓		

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
Baltimore Police Dep't (MD)	2990	✓				
Las Vegas Metro. Police Dep't (NV)*	2942		✓			
Harris Cty. Sheriff's Office (TX)	2558	✓				
Massachusetts State Police (MA)	2310	✓				
Detroit Police Dep't (MI)	2250	✓				
Boston Police Dep't (MA)	2181		✓			
Riverside Cty. Sheriff's Dep't (CA)*	2147			✓		
Illinois State Police (IL)	2105		✓			
San Antonio Police Dep't (TX)	2020			✓		
Milwaukee Police Dep't (WI)	1987	✓				

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
San Diego Police Dep't (CA)*	1951	✓				
San Francisco Police Dep't (CA)	1940		✓			
Honolulu Police Dep't (HI)*	1934	✓				
Columbus Police Dep't (OH)	1886		✓			
Virginia State Police (VA)	1873			✓		
North Carolina State Hwy. Patrol (NC)◇	1827		✓	✓		
San Bernardino Cty. Sheriff's Dep't (CA)*	1797			✓		
Orange Cty. Sheriff's Dep't (CA)*	1794			✓		
Michigan State Police (MI)◇	1732		✓	✓		

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
Atlanta Police Dep't (GA)	1719	✓				
Charlotte-Mecklenburg Police Dep't (NC)	1672	✓				
Port Authority (NY/NJ)*	1667		✓			
Jacksonville Sheriff's Office (FL)*	1662			✓		
Broward Cty. Sheriff's Office (FL)	1624		✓			
Cleveland Police Dep't (OH)	1616	✓				
Florida Hwy. Patrol (FL)	1606			✓		
Indianapolis Metro. Police Dep't (IN)*	1582			✓		
Prince George's Cty. Police Dep't (MD)	1578			✓		
Ohio Hwy. Patrol (OH)◇	1560		✓	✓		

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
Memphis Police Dep't (TN)	1549		✓			
Denver Police Dep't (CO)	1525	✓				
Austin Police Dep't (TX)	1515			✓		
Fort Worth Police Dep't (TX)	1489	✓				
New Orleans Police Dep't (LA)	1425	✓				
Kansas City Police Dep't (MO)	1421		✓			
San Jose Police Dep't (CA)	1382	✓				
Nashville-Davidson Cty. Police Dep't (TN)	1315	✓				
Newark Police Dep't (NJ)	1310	✓				
Seattle Police Dep't (WA)	1283			✓		

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
Montgomery Cty. Police Dep't (MD)	1206	✓				
Louisville Metro. Police Dep't (KY)♦*	1197	✓		✓		
El Paso Police Dep't (TX)	1132	✓				
Cincinnati Police Dep't (OH)	1082	✓				
DeKalb Cty. Police Dep't (GA)	1074			✓		
Oklahoma City Police Dep't (OK)	1046	✓				
Tucson Police Dep't (AZ)	1032			✓		
Albuquerque Police Dep't (NM)	1020			✓		
Tampa Police Dep't (FL)*	980			✓		
Raleigh Police Dep't (NC)	702			✓		

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
Contra Costa Cty. Sheriff's Office (CA)*	679	✓				
Polk Cty. Sheriff's Office (FL)	600	✓				
Cobb Cty. Police Dep't (GA)	590	✓				
Minnesota State Patrol (MN)	530		✓			
Manatee Cty. Sheriff's Office (FL)◇	476	✓				✓
Fort Wayne Police Dep't (IN)	447			✓		
Howard Cty. Police Dep't (MD)*	424			✓		
Summit Cty. Sheriff's Office (OH)	393				✓	
New Hampshire State Police (NH)	350	✓				

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
Boise Police Dep't (ID)*	306	✓				
New Bedford Police Dep't (MA)◇*	288	✓			✓	
Springfield Police Dep't (IL)	273	✓				
Overland Park Police Dep't (KS)*	258				✓	
Waco Police Dep't (TX)◇*	246			✓	✓	
Tulsa Cty. Sheriff's Office (OK)	237	✓				
Quincy Police Dep't (MA)	205	✓				
Naperville Police Dep't (IL)	184			✓		
Concord Police Dep't (CA)*	161	✓				
Pueblo Cty. Sheriff's Office (CO)	155				✓	

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
Decatur Police Dep't (AL)	133				✓	
Schaumburg Police Dep't (IL)*	130				✓	
St. Mary's Cty. Sheriff's Office (MD)	120					✓
Avondale Police Dep't (AZ)	101			✓		
Pocatello Police Dep't (ID)	82					✓
Hemet Police Dep't (CA)*	82	✓				
Concord Police Dep't (NH)	77					✓
Eden Prairie Police Dep't (MN)	65				✓	
Yellowstone Cty. Sheriff's Office (MT)*	55	✓				

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
Town and Country Police Dep't (MO)	34				✓	
Lincolnton Police Dep't (NC)	31					✓
Phelps Cty. Sheriff's Office (MO)	29				✓	
Oldham Cty. Sheriff's Office (KY)	15				✓	
Edgewood Police Dep't (FL)	10				✓	
Evansville Police Dep't (WI)	9					✓
Fruitland Police Dep't (ID)	8					✓
Jackson Township Police Dep't (OH)	5				✓	

Law Enforcement Agency	Number of Sworn Officers	Self Insured: Settlements and Judgments Paid by Jurisdiction Without Contribution by PD	Self Insured: Department Pays Settlements and Judgments From Its Budget	Self Insured: Department Contributes to a Fund That Pays Settlements and Judgments	Outside Insurer: Premiums Paid From Jurisdiction's General Budget Without Contribution by PD	Outside Insurer: Premiums Paid From Department's Budget
Waterloo Police Dep't (NE)	1				✓	
Totals	203,688	41 (4 hybrid)	19 (6 hybrid)	29 (7 hybrid)	14 (2 hybrid)	7 (1 hybrid)

APPENDIX B: COSTS OF LAW ENFORCEMENT SETTLEMENTS AND JUDGMENTS

This Appendix shows the amount spent by sixty-five of the seventy-nine self-insured jurisdictions in my study on settlements and judgments in lawsuits related to their law enforcement officers. I have received information from these jurisdictions about their annual budgets and annual payments in lawsuits involving their law enforcement agencies for fiscal years 2012, 2013, and 2014, and have averaged these amounts. The law enforcement agencies are organized from largest to smallest as measured by full-time sworn personnel, according to BJS Law Enforcement Census Data, *supra* note 47.

Law Enforcement Agency	Number of Sworn Officers	Average Annual Budget for Jurisdiction	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Annual Budget Spent on Police Settlements and Judgments	Average Paid in Settlements and Judgments Per Officer, Per Year
New York City Police Dep't (NY)	36,023	\$71,200,000,000	\$169,100,000	.24%	\$4694
Chicago Police Dep't (IL)	13,354	\$8,310,066,667	\$52,857,575	.64%	\$3958
Los Angeles Police Dep't (CA)	9727	\$7,267,728,810	\$29,804,106	.41%	\$3064
Los Angeles Cty. Sheriff's Dep't (CA)	9461	\$26,099,000,000	\$39,372,846	.15%	\$4162
California Hwy. Patrol (CA)	7202	\$139,066,000,000	\$1,817,551	.001%	\$252
Philadelphia Police Dep't (PA)	6642	\$3,576,449,165	\$14,895,736	.42%	\$2242
Houston Police Dep't (TX)	5053	\$3,367,333,333	\$1,892,347	.06%	\$374

Law Enforcement Agency	Number of Sworn Officers	Average Annual Budget for Jurisdiction	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Annual Budget Spent on Police Settlements and Judgments	Average Paid in Settlements and Judgments Per Officer, Per Year
Pennsylvania State Police Dep't (PA)	4458	\$64,533,333,333	\$792,924	.001%	\$178
Metro Police Dep't (DC)	3742	\$11,706,524,667	\$1,313,867	.01%	\$351
Texas Dep't Public Safety (TX)	3529	\$95,850,000,000	\$912,314	.001%	\$259
Dallas Police Dep't (TX)	3389	\$2,612,782,303	\$2,746,977	.11%	\$811
Phoenix Police Dep't (AZ)	3388	\$564,376,333	\$3,306,192	.59%	\$976
Miami-Dade Cty. Police Dep't (FL)	3093	\$535,452,667	\$914,429	.17%	\$296
Baltimore Police Dep't (MD)	2990	\$3,116,421,949	\$2,100,000	.07%	\$702
Las Vegas Metro. Police Dep't (NV)	2942	\$4,314,935,423	\$2,296,197	.05%	\$780
Detroit Police Dep't (MI)	2250	\$2,759,241,600	\$3,463,961	.13%	\$1540
Boston Police Dep't (MA)	2181	\$2,454,000,000	\$4,087,716	.17%	\$1874
Riverside Cty. Sheriff's Dep't (CA)	2147	\$4,819,133,333	\$4,311,595	.09%	\$2008
Illinois State Police (IL)	2105	\$68,400,000,000	\$15,296,553	.02%	\$7267

Law Enforcement Agency	Number of Sworn Officers	Average Annual Budget for Jurisdiction	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Annual Budget Spent on Police Settlements and Judgments	Average Paid in Settlements and Judgments Per Officer, Per Year
San Antonio Police Dep't (TX)	2020	\$2,270,446,074	\$1,535,107	.07%	\$760
Milwaukee Police Dep't (WI)	1987	\$1,457,452,457	\$929,167	.06%	\$468
San Diego Police Dep't (CA)	1951	\$2,757,861,637	\$4,351,646	.16%	\$2230
San Francisco Police Dep't (CA)	1940	\$7,365,626,613	\$1,554,559	.02%	\$801
Honolulu Police Dep't (HI)	1934	\$2,016,752,326	\$1,226,214	.06%	\$634
Columbus Police Dep't (OH)	1886	\$1,534,928,716	\$475,087	.03%	\$252
Virginia State Police (VA)	1873	\$41,704,762,294	\$416,667	.001%	\$222
North Carolina State Hwy. Patrol (NC)	1827	\$49,590,935,190	\$75,990	.0001%	\$42
Orange Cty. Sheriff's Dep't (CA)	1794	\$5,532,169,682	\$6,166,666	.11%	\$3437
Michigan State Police (MI)	1732	\$49,312,822,142	\$398,445	.008%	\$230
Atlanta Police Dep't (GA)	1719	\$1,843,568,011	\$1,913,714	.10%	\$1113
Charlotte-Mecklenburg Police Dep't (NC)	1672	\$548,500,000	\$597,640	.11%	\$357

Law Enforcement Agency	Number of Sworn Officers	Average Annual Budget for Jurisdiction	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Annual Budget Spent on Police Settlements and Judgments	Average Paid in Settlements and Judgments Per Officer, Per Year
Jacksonville Sheriff's Office (FL)	1662	\$1,943,017,623	\$3,562,312	.18%	\$2143
Broward Cty. Sheriff's Office (FL)	1624	\$2,437,020,245	\$3,850,790	.16%	\$2371
Cleveland Police Dep't (OH)	1616	\$1,176,674,154	\$2,695,712	.23%	\$1668
Florida Hwy. Patrol (FL)	1606	\$71,000,000,000	\$5,658,004	.08%	\$3523
Indianapolis Metro. Police Dep't (IN)	1616	\$1,024,003,298	\$2,377,774	.23%	\$1503
Prince George's Cty. Police Dep't (MD)	1578	\$3,205,198,489	\$3,820,999	.12%	\$2421
Ohio Hwy. Patrol (OH)	1560	\$61,028,369,070	\$155,643	.0003%	\$100
Denver Police Dep't (CO)	1525	\$2,178,592,667	\$319,211	.01%	\$209
Austin Police Dep't (TX)	1515	\$3,069,863,000	\$1,123,820	.04%	\$742
Fort Worth Police Dep't (TX)	1489	\$1,244,632,380	\$922,240	.07%	\$619
Kansas City Police Dep't (MO)	1421	\$1,349,856,952	\$2,622,753	.19%	\$1846
San Jose Police Dep't (CA)	1382	\$2,844,472,447	\$3,218,243	.11%	\$2329

Law Enforcement Agency	Number of Sworn Officers	Average Annual Budget for Jurisdiction	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Annual Budget Spent on Police Settlements and Judgments	Average Paid in Settlements and Judgments Per Officer, Per Year
Nashville-Davidson Cty. Police Dep't (TN)	1315	\$1,702,567,767	\$520,289	0.03%	\$396
Seattle Police Dep't (WA)	1283	\$4,121,656,667	\$3,402,128	.08%	\$2652
Montgomery Cty. Police Dep't (MD)	1206	\$4,607,833,333	\$242,003	.005%	\$201
Louisville Metro. Police Dep't (KY)	1197	\$675,825,400	\$4,432,236	.66%	\$3703
El Paso Police Dep't (TX)	1132	\$757,686,770	\$508,472	.07%	\$449
Cincinnati Police Dep't (OH)	1082	\$955,475,793	\$241,918	.03%	\$224
Oklahoma City Police Dep't (OK)	1046	\$913,295,230	\$202,579	.02%	\$194
Tucson Police Dep't (AZ)	1032	\$1,308,300,000	\$390,876	.03%	\$379
Albuquerque Police Dep't (NM)	1020	\$877,359,333	\$11,685,226	1.33%	\$11,456
Raleigh Police Dep't (NC)	702	\$681,054,073	\$101,772	.01%	\$145
Contra Costa Cty. Sheriff's Office (CA)	679	\$1,204,333,333	\$200,916	.02%	\$296
Polk Cty. Sheriff's Office (CA)	600	\$1,300,181,322	\$200,188	.02%	\$334

Law Enforcement Agency	Number of Sworn Officers	Average Annual Budget for Jurisdiction	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Annual Budget Spent on Police Settlements and Judgments	Average Paid in Settlements and Judgments Per Officer, Per Year
Minnesota State Patrol (MN)	530	\$36,776,378,667	\$599,463	.002%	\$1131
Summit Cty. Sheriff's Office (OH)	393	\$483,665,424	\$183,333	.04%	\$467
New Hampshire State Police (NH)	350	\$5,177,101,243	\$47,000	.001%	\$134
Springfield Police Dep't (IL)	273	\$211,116,955	\$17,772	.008%	\$65
Waco Police Dep't (TX)	246	\$202,639,604	\$209,299	.1%	\$851
Quincy Police Dep't (MA)	205	\$247,877,300	\$0	0%	\$0
Concord Police Dep't (CA)	161	\$153,882,103	\$707,334	.46%	\$4393
Hemet Police Dep't (CA)	82	\$66,671,474	\$251,085	.38%	\$3062
Concord Police Dep't (NH)	77	\$87,009,840	\$100,311	.12%	\$1303
Yellowstone Cty. Sheriff's Office (MT)	55	\$92,398,926	\$134,744	.14%	\$2450

**APPENDIX C: AMOUNT PAID BY DEPARTMENTS THAT PAY COSTS FROM
THEIR BUDGETS**

This Appendix shows the amount paid in litigation costs by thirteen of the nineteen law enforcement agencies in my study that pay some or all litigation costs out of their budgets. I have received information from these agencies about their annual budgets and annual payments in lawsuits involving their law enforcement agencies for fiscal years 2012, 2013, and 2014 and have averaged these amounts. I have also noted, when appropriate, the amount of additional money paid by the jurisdiction to satisfy suits involving the law enforcement agency. The law enforcement agencies are organized from largest to smallest as measured by full-time sworn personnel, according to BJS Law Enforcement Census Data, *supra* note 47.

Law Enforcement Agency	Agency's Average Total Budget	Average Annual Litigation Payments by Agency	Percentage of Agency's Total Budget Spent on Litigation Payments	Average Additional Amount Paid Annually by Jurisdiction for Law Enforcement Litigation
Chicago Police Dep't (IL)	\$1,346,854,532	\$16,511,017	1.22%	\$36,346,558
Los Angeles Cty. Sheriff's Dep't (CA)	\$2,739,641,644	\$39,372,846	1.44%	\$0
California Hwy. Patrol (CA)	\$1,950,244,667	\$1,817,551	.09%	\$0
Metro. Police Dep't (DC)	\$495,493,000	\$285,100	.06%	\$1,028,287
Texas Dep't Pub. Safety (TX)	\$1,417,783,296	\$912,314	.06%	\$0
Las Vegas Metro. Police Dep't (NV)	\$498,029,091	\$2,296,190	.46%	\$0

Law Enforcement Agency	Agency's Average Total Budget	Average Annual Litigation Payments by Agency	Percentage of Agency's Total Budget Spent on Litigation Payments	Average Additional Amount Paid Annually by Jurisdiction for Law Enforcement Litigation
Boston Police Dep't (MA)	\$291,461,466	\$1,326,397	.46%	\$2,761,319
Illinois State Police (IL)	\$411,333,333	\$1,963,220	.38%	\$13,333,333
San Francisco Police Dep't (CA)	\$492,896,755	\$1,510,234	.31%	\$44,326
Columbus Police Dep't (OH)	\$289,105,299	\$225,000	.08%	\$225,087
Broward Cty. Sheriff's Office (FL)	\$677,935,057	\$3,850,790	.57%	\$0
Kansas City Police Dep't (MO)	\$219,310,762	\$2,622,753	1.2%	\$1,000,000
Minnesota State Patrol (MN)	\$97,591,123	\$599,463	.61%	\$0

**APPENDIX D: AMOUNT OF CONTRIBUTIONS BY DEPARTMENTS TO
CENTRAL FUNDS IN SELF-INSURED JURISDICTIONS**

This Appendix shows the amount paid by eighteen of the twenty-two law enforcement agencies that contribute to a central risk management fund. I have received information from these agencies about their annual budgets and annual payments to the central risk management fund for fiscal years 2012, 2013, and 2014, and have averaged these amounts. Note that these contributions generally cover all claims involving the police—not just claims of property damage, automobile accidents, civil rights claims, and internal employment disputes, but also workers' compensation claims which are not otherwise included in my study. Note also that these contributions may cover administrative costs for the funds. The law enforcement agencies are organized from largest to smallest as measured by full-time sworn personnel, according to BJS Law Enforcement Census Data, *supra* note 47.

Law Enforcement Agency	Agency's Average Total Budget	Average Annual Risk Fund Contributions	Percentage of Police Budget Spent on Contributions
Phoenix Police Dep't (AZ)	\$564,376,333	\$5,458,218	.97%
Miami-Dade Cty. Police Dep't (FL)	\$535,452,667	\$3,113,615	.58%
Riverside Cty. Sheriff's Dep't (CA)	\$552,000,000	\$31,333,333	5.68%
San Antonio Police Dep't (TX)	\$361,514,224	\$4,127,476	1.14%
Virginia State Police (VA)	\$294,375,652	\$679,698	.23%
Orange Cty. Sheriff's Dep't (CA)	\$509,866,667	\$7,600,000	1.49%
Jacksonville Sheriff's Office (FL)	\$367,299,190	\$11,733,579	3.19%
Florida Hwy. Patrol (FL)	\$241,878,972	\$6,638,216	2.74%

Law Enforcement Agency	Agency's Average Total Budget	Average Annual Risk Fund Contributions	Percentage of Police Budget Spent on Contributions
Indianapolis Metro. Police Dep't (IN)	\$198,305,300	\$1,608,333	.81%
Prince George's Cty. Police Dep't (MD)	\$262,985,533	\$10,550,143	4.01%
Seattle Police Dep't (WA)	\$267,990,254	\$2,404,527	.9%
DeKalb Cty. Police Dep't (GA)	\$113,019,119	\$1,909,956	1.69%
Tucson Police Dep't (AZ)	\$155,861,090	\$5,042,694	3.24%
Albuquerque Police Dep't (NM)	\$154,070,000	\$10,267,359	6.66%
Tampa Police Dep't (FL)	\$151,067,298	\$1,512,478	1.00%
Raleigh Police Dep't (NC)	\$88,190,602	\$2,050,678	2.33%
Fort Wayne Police Dep't (IN)	\$53,786,546	\$1,211,502	2.25%
Howard Cty. Police Dep't (MD)	\$94,258,214	\$1,675,860	1.78%

**APPENDIX E: AMOUNT OF PAYMENTS BY LAW ENFORCEMENT AGENCIES
TO INSURANCE PREMIUMS**

This Appendix shows the amount paid by the seven law enforcement agencies that pay liability premiums from their budgets. I have received information from these agencies about their annual budgets and annual liability insurance premiums paid for fiscal years 2012, 2013, and 2014, and have averaged these amounts.

Law Enforcement Agency	Agency's Average Total Budget	Average Premium Payment	Percentage of Total Budget Spent on Premium Payment
Manatee Cty. Sheriff's Office (FL)	\$103,517,000	\$638,000	.62%
St. Mary's Cty. Sheriff's Office (MD)	\$31,949,193	\$65,699	0.21%
Pocatello Police Dep't (ID)	\$12,417,107	\$150,729	1.21%
Concord Police Dep't (NH)	\$12,023,821	\$100,311	0.83%
Lincolnton Police Dep't (NC)	\$2,868,362	\$35,175	1.23%
Jackson Township Police Dep't (OH)	\$8,252,736	\$199,916	2.42%
Evansville Police Dep't (WI)	\$949,854	\$38,550	4.06%

APPENDIX F: POTENTIAL FINANCIAL IMPACT OF PAYOUTS ON LAW ENFORCEMENT AGENCY BUDGETS

This Appendix shows what the impact of lawsuit payouts would be on self-insured law enforcement agency budgets were they required to absorb the costs of these payouts. The twenty-seven jurisdictions included in this Appendix currently pay settlements and judgments from general funds with no contribution by the law enforcement agency. (A total of thirty-seven agencies in my study have this budgetary arrangement; ten did not provide me with payout information.) Note that—were law enforcement agencies required to pay settlements and judgments from their budgets—their budgets would presumably increase to accommodate this additional budgetary responsibility. Agencies are organized from largest to smallest as measured by full-time sworn personnel, according to BJS Law Enforcement Census Data, *supra* note 47.

Law Enforcement Agency	Average Annual Budget for Jurisdiction	Average Annual Law Enforcement Budget	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Jurisdiction's Budget Spent on Law Enforcement Settlements and Judgments	Percentage of Law Enforcement Agency Budget That Would Be Spent on Settlements and Judgments
New York City Police Dep't (NY)	\$71,200,000,000	\$4,909,034,000	\$169,100,000	.24%	3.4%
Los Angeles Police Dep't (CA)	\$7,267,728,810	\$1,245,079,172	\$29,804,106	.41%	2.4%
Philadelphia Police Dep't (PA)	\$3,576,449,165	\$556,019,216	\$14,895,736	.42%	2.68%
Houston Police Dep't (TX)	\$3,367,333,333	\$674,250,706	\$1,892,347	.06%	.28%

Law Enforcement Agency	Average Annual Budget for Jurisdiction	Average Annual Law Enforcement Budget	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Jurisdiction's Budget Spent on Law Enforcement Settlements and Judgments	Percentage of Law Enforcement Agency Budget That Would Be Spent on Settlements and Judgments
Dallas Police Dep't (TX)	\$2,612,782,303	\$432,000,000	\$2,746,977	.11%	.64%
Baltimore Police Dep't (MD)	\$3,116,421,949	\$398,743,989	\$2,100,000	.07%	.53%
Detroit Police Dep't (MI)	\$2,759,241,600	\$375,688,219	\$3,463,961	.13%	.92%
Milwaukee Police Dep't (WI)	\$1,457,452,457	\$239,266,014	\$929,167	.06%	.39%
San Diego Police Dep't (CA)	\$2,757,861,637	\$407,828,506	\$4,351,646	.16%	1.07%
Honolulu Police Dep't (HI)	\$2,016,752,326	\$222,740,887	\$1,226,214	.06%	.6%
Atlanta Police Dep't (GA)	\$1,843,568,011	\$199,260,538	\$1,913,714	.10%	.96%
Charlotte-Mecklenburg Police Dep't (NC)	\$548,500,000	\$208,033,333	\$597,640	.11%	.29%
Cleveland Police Dep't (OH)	\$1,176,674,154	\$175,221,186	\$2,695,712	.23%	1.54%
Denver Police Dep't (CO)	\$2,178,592,667	\$197,785,786	\$319,211	.01%	.16%

Law Enforcement Agency	Average Annual Budget for Jurisdiction	Average Annual Law Enforcement Budget	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Jurisdiction's Budget Spent on Law Enforcement Settlements and Judgments	Percentage of Law Enforcement Agency Budget That Would Be Spent on Settlements and Judgments
Fort Worth Police Dep't (TX)	\$1,244,632,380	\$199,926,019	\$922,240	.07%	.46%
San Jose Police Dep't (CA)	\$2,844,472,447	\$299,979,046	\$3,218,243	.11%	1.07%
Nashville-Davidson Cty. Police Dep't (TN)	\$1,702,567,767	\$176,655,967	\$520,289	0.03%	.29%
Montgomery Cty. Police Dep't (MD)	\$4,607,833,333	\$249,317,254	\$242,003	.005%	.09%
El Paso Police Dep't (TX)	\$757,686,770	\$117,216,092	\$508,472	.03%	.43%
Cincinnati Police Dep't (OH)	\$955,475,793	\$133,170,153	\$241,918	.03%	.18%
Oklahoma City Police Dep't (OK)	\$913,295,230	\$177,658,793	\$202,579	.02%	.11%
Contra Costa Cty. Sheriff's Office (CA)	\$1,204,333,333	\$196,223,068	\$200,916	.02%	.1%
Polk Cty. Sheriff's Office (OK)	\$1,300,181,322	\$130,445,222	\$200,187	.02%	.15%

Law Enforcement Agency	Average Annual Budget for Jurisdiction	Average Annual Law Enforcement Budget	Average Annual Payments in Lawsuits Involving the Law Enforcement Agency	Percentage of Total Jurisdiction's Budget Spent on Law Enforcement Settlements and Judgments	Percentage of Law Enforcement Agency Budget That Would Be Spent on Settlements and Judgments
Springfield Police Dep't (IL)	\$211,116,955	\$38,002,485	\$17,772	.008%	.05%
Quincy Police Dep't (MA)	\$247,877,300	\$22,833,333	\$0	0%	0%
Concord Police Dep't (CA)	\$153,882,103	\$41,941,983	\$707,334	.46%	1.69%
Yellowstone Cty. Sheriff's Office (MT)	\$92,398,926	\$17,009,435	\$133,744	.14%	.79%

APPENDIX G: SOURCE TABLE FOR RESPONSIVE JURISDICTIONS

The following describes the data sources for information about the one hundred jurisdictions in my study that provided responsive information, organized from largest to smallest jurisdiction as measured by full-time sworn personnel, according to BJS Law Enforcement Census Data, *supra* note 47.

New York City Police Department (NY). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from FOIL Officer, to author (Dec. 19, 2014, 19:18 PST) (on file with author) (“Please be advised that settlements/judgments against the New York City Police Department are paid directly out of New York City’s General Fund specifically the Judgment & Claims Account; the City is self-insured as to its risks. Furthermore, there is no captive or independent insurer for Police claims.”). For information about the total amount paid for judgments and settlements involving the New York City Police Department in fiscal years 2013 and 2014, see Email from FOIL Appeals Officer, N.Y.C. Comptroller’s Office, to author (May 11, 2015, 8:06 PST) (on file with author) (reporting settlements and judgments totaling \$152.3 million in fiscal year 2012, \$138.1 million in fiscal year 2013, and \$216.9 million in fiscal year 2014). For information about the total budget of the New York City Police Department for fiscal years 2012, 2013, and 2014, see THE COUNCIL OF THE CITY OF N.Y., REPORT ON THE FISCAL YEAR 2015 EXECUTIVE BUDGET FOR THE POLICE DEPARTMENT (May 20, 2014), <http://council.nyc.gov/downloads/pdf/budget/2015/15/eb/police.pdf> [<http://perma.cc/XD87-U54F>] (reporting that the police department budget was \$4,867,891,000 (fiscal year 2012); \$4,892,569,000 (fiscal year 2013); and \$4,966,642,000 (fiscal year 2014 as of fiscal year 2015 Executive Budget)). For information about the total budget of the City of New York for fiscal years 2012, 2013, and 2014, see David W. Chen, *City Hall Budget Deal, for Now, Includes Few Layoffs and No Tax Increases*, N.Y. TIMES (June 25, 2012), http://www.nytimes.com/2012/06/26/nyregion/2013-nyc-budget-has-few-layoffs-and-no-tax-rise.html?_r=1 [<http://perma.cc/3U34-CYH7>] (reporting \$68.5 billion budget for fiscal year 2012); Henry Goldman, *Bloomberg Reaches Deal With NYC Council on \$70 Billion Budget*, BLOOMBERG BUS. (June 23, 2013, 20:37 EDT), <http://www.bloomberg.com/news/articles/2013-06-23/bloomberg-reaches-deal-with-nyc-council-on-70-billion-budget> [<http://perma.cc/R8NE-WATB>] (reporting \$70 billion city budget for fiscal year 2013); Kate Taylor, *New York City Leaders Reach Accord on \$75 Billion Budget*, N.Y. TIMES (June 20, 2014), <http://www.nytimes.com/2014/06/21/nyregion/de-blasio-and-city-council-reach-deal-on-75-billion-budget.html> [<http://perma.cc/MP5R-KG6A>] (reporting \$75 billion city budget for fiscal year 2014).

Chicago Police Department (IL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Carl Gutierrez, FOIA Officer, City of Chi. Office of Budget and Mgmt., to author (June 2, 2015, 12:45 PST) (on file with author) (explaining that money to pay settlements and judgments is placed in the Chicago Police Department budget through a specific allocation for settlements and judgments, that if more than the allocated amount is spent on lawsuits the additional money is taken from city funds, and that if less than the allocated amount is spent on lawsuits the Police Department cannot use those funds for other purposes). For the amount allocated in the Chicago Police Department budget for lawsuit payouts, see Email from Carl Gutierrez, FOIA Officer, City of Chi. Office of Budget and Mgmt., to author (June 2, 2015, 10:03 PST) (on file with author) (attaching document reflecting \$14,844,350 appropriated in 2012, \$14,844,350 appropriated in 2013, and \$19,844,350 appropriated in 2014). For the total payouts in lawsuits involving the Chicago Police Department, see *2012–14 Department of Law—Judgment/Verdict & Settlement Reports*, CITY OF CHI., <http://www.cityofchicago.org/city/en/depts/dol.html> (last visited Mar. 26, 2016) (reporting \$38,659,969 paid in 2012, \$68,605,579 paid in 2013, and \$51,307,177 paid in 2014). For the total budget of the City of Chicago and the police department, see CITY OF CHI., 2014 BUDGET OVERVIEW 1, 86 (2013) (reporting the 2013 city budget of \$8,173,700,000; a proposed 2014 city budget of \$8,672,100,000; a 2013 police budget of \$1,338,504,935; and a proposed 2014 police budget of \$1,371,563,213); CITY OF CHI., 2013 BUDGET OVERVIEW 1, 87 (2012) (reporting a 2012 city budget of \$8,084,400,000 and a 2012 police department budget of \$1,330,495,449).

Los Angeles Police Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Mike Dundas, Deputy City Att’y, City of L.A., to author (Sept. 4, 2014, 15:58 PST) (on file with author) (“The litigation/claims are generally paid out of the city’s general fund (the City is self-insured). In some circumstances, like with Rampart, one time use accounts are created, but those are still funded with general fund money.”). For information about the total amount paid in lawsuits involving the Los Angeles Police Department, see Email from Mike Dundas, Deputy City Att’y, City of L.A., to author (July 17, 2015, 9:03 PST) (on file with author) (attaching spreadsheet reflecting payouts totaling \$19,882,199 in 2012; \$34,329,806 in 2013; and \$35,200,313 in 2014). For information about the Los Angeles Police Department budget in fiscal years 2012, 2013, and 2014, see CITY OF L.A., BUDGET FISCAL YEAR 2011–12 R-38 (May 25, 2011) (reporting budget of \$1,167,771,840 for fiscal year 2012); CITY OF L.A., BUDGET FISCAL YEAR 2012–13 at R-22 (May 30, 2012) (reporting budget of \$1,256,645,232 for fiscal year 2013); CITY OF L.A., BUDGET FISCAL YEAR 2013–14 R-23 (May 29, 2013) (reporting budget of \$1,310,820,443 for fiscal year 2014). For information about the total budget for the City of Los Angeles, see BUDGET FISCAL YEAR 2011–12, *supra*, at 373 (reporting budget of \$6,871,560,469 for fiscal year 2012); BUDGET FISCAL

YEAR 2012–13, *supra*, at 520 (reporting budget of \$7,246,116,651 for fiscal year 2013); BUDGET FISCAL YEAR 2013–14, *supra*, at 399 (reporting budget of \$7,685,509,310 for fiscal year 2014).

Los Angeles County Sheriff's Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Jonathan McCaverty, Senior Deputy Cty. Counsel, Law Enft Serv. Div., to author (Oct. 10, 2013, 10:44 PST) (on file with author) (“Each County Department, has a budget category called Other Charges, which includes an expenditure line item for Judgment and Damages. If the settlement/judgment amount exceeds what is budgeted, the Department may either request to carryover year-end savings to address the anticipated settlement/judgment amount or request additional onetime funding from the CEO of LA County. Sometimes, departments are required to reimburse [] the County for any additional funding provided in response to litigation.”). For information about the amount set aside by the Sheriff's Department for judgments and damages in fiscal years 2012, 2013, and 2014, see Email from Glen Dragovich, Assistant Div. Dir., L.A. Cty. Sheriff, to author (Sept. 29, 2014, 11:27 PST) (on file with author) (reporting that the Sheriff's Department budgeted \$36,387,900 in 2011–12; \$35,684,450 in 2012–13; and \$35,555,950 in 2013–14 for lawsuit payouts, but the actual payouts were \$37,143,259 in 2011–12; \$41,897,464 in 2012–13; and \$39,077,815 in 2013–14). For information about the total budget of the Sheriff's Department, see BD. OF SUPERVISORS, CTY. OF L.A., 2013–14 FINAL BUDGET 63 (2014), <http://ceo.lacounty.gov/pdf/portal/2013-14%20Final%20Budget%20112713.pdf> [<http://perma.cc/WJ4P4-JL6J>] (reporting that the budget was \$2,608,950,531.23 in 2011–12, \$2,674,224,401.33 in 2012–13, and \$2,935,750,000 in 2013–14). For information about the total budget for Los Angeles County, see CTY. OF L.A., 2014–15 RECOMMENDED BUDGET (2015) (reporting a total budget of \$26,099,000,000 in fiscal year 2014).

California Highway Patrol (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Suzanne Moser, Att'y, Cal. Highway Patrol, to author (May 19, 2015, 14:17 PST) (on file with author) (reporting that the California Highway Patrol does not receive a line in its budget for lawsuits, but it does “coordinate[] with CHP's Legal Affairs Section, and tries to anticipate and project costs associated with settlements and judgments”; if litigation expenditures exceed the estimate, “CHP redirects internally to cover the increased total costs” although “extraordinarily large pay-outs (e.g., a single settlement or judgment in excess of \$10 million) would be submitted to the Legislature via the Department of Finance. Those pay-outs would be funded directly from the Motor Vehicle Account, rather than from CHP's budget.”); *see also* Telephone Interview with Bob Hovorka, Budget Supervisor, Fiscal Mgm't. Section, Cal. Highway Patrol (May 19, 2015) (on file with author) (explaining that CHP pays a portion of its budget to the California Department of General Services Office of Risk and Insurance Management, which acts as a self-insurer for auto insurance). For information about the amount paid

from the California Highway Patrol's budget to satisfy settlements and judgments involving the Patrol and/or its employees, see Email from Jonathan Rothman, Special Counsel, Office of the Comm'r, Cal. Highway Patrol, to author (Nov. 5, 2014, 16:09 PST) (on file with author) (reporting that the amount paid from the California Highway Patrol's budget for settlements and judgments was \$2,861,763 in fiscal year 2012; \$1,024,877 in fiscal year 2013; and \$1,566,013 in fiscal year 2014). For information about the California Highway Patrol's budget, see Email from Jonathan Rothman, *supra* (reporting that the total budget was \$1,918,502,000 in fiscal year 2012; \$1,902,487,000 in fiscal year 2013, and \$2,029,745,000 in fiscal year 2014). For the total budget for the state of California, see CALIFORNIA STATE BUDGET 2013–14 SUMMARY CHARTS 7 (2014) (reporting total fiscal year 2014 budget of \$145,300,000,000); CALIFORNIA STATE BUDGET—2012–13 SUMMARY CHARTS 13 (2013) (reporting total fiscal year 2013 budget of \$142,421,000,000); CALIFORNIA STATE BUDGET—2011–12 SUMMARY CHARTS 9 (2012) (reporting total fiscal year 2012 budget of \$129,477,000,000).

Philadelphia Police Department (PA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Rob Dubow, Dir. of Fin., City of Phila., to author (Oct. 10, 2014, 7:25 PST) (on file with author) (“We pay our settlements and judgments out of a central fund. They [sic] payments do not come out of departments’ budgets and we typically don’t have insurance to pay those costs.”). For the total amount paid in lawsuits involving the police in fiscal years 2012, 2013, and 2014, see Email from Donna Mouzayck, First Deputy City Solicitor, City of Phila., to author (Oct. 22, 2014, 13:12 PST) (on file with author) (attaching spreadsheet which reveals payments of \$12,249,997.51 in fiscal year 2012; \$16,034,077.04 in fiscal year 2013; and \$16,403,133.94 in fiscal year 2014). For the police department’s budget in fiscal years 2012, 2013, and 2014, see MAYOR MICHAEL A. NUTTER, CITY OF PHILA., FY 2013–FY 2017 FIVE YEAR FINANCIAL PLAN: PER COUNCIL APPROVED BUDGET 15, http://www.phila.gov/investor/pdfs/Finance%202013_2017_Five_Year_ADDENDUM_8812.pdf [<http://perma.cc/WEQ5-SCZM>] (reporting police department budget of \$550,686,244 for fiscal year 2012; \$556,818,243 for fiscal year 2013; and a projected budget of 560,553,161 for fiscal year 2014). For the City of Philadelphia’s budget in fiscal years 2012, 2013, and 2014, see *id.* at 13 (reporting budget of \$3,470,094,630 for fiscal year 2012, \$3,603,867,000 for fiscal year 2013, and a projected budget of \$3,655,386,494 for fiscal year 2014).

Cook County Sheriff's Department (IL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Paul A. Castiglione, Exec. Assistant State’s Att’y for Policy, to author (Sept. 22, 2014, 9:56 PST) (on file with author) (“[T]he County is self-insured. I recall that the County had an insurance policy that applied to judgments over a very large amount (something like above \$30 million) but I am not sure whether that is still in effect or the exact mechanics of how such

excess coverage works. It is also my understanding that: (1) settlements and judgments are paid from a fund created to satisfy the County's financial obligations from settlements and judgments and (2) such settlements and judgments are not taken from the Sheriff's budget."). Information about the amounts paid in suits involving law enforcement officers is not collected by the County. See Email from Jeff Fronczak, Assistant to Special Legal Counsel, Office of the President, Cook Cty. Bd. of Comm'rs, to author (Mar. 6, 2013, 11:16 PST) (on file with author) (reporting that their office—which is responsible for approving payouts—does not maintain records regarding the instances in which the Board has approved payments of settlements or judgments, or the amounts paid); Email from Elizabeth Scannell, Assistant Gen. Counsel, Office of the Cook Cty. Sheriff, FOIA Officer/Legal Dep't, to author (July 8, 2015, 13:52 PST) (on file with author) (reporting that "the [Cook County Sheriff's Office] does not track settlements/judgments in the manner you have requested.").

Houston Police Department (TX). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Harlan Heilman, Office of the City Att'y, City of Houst. Legal Dep't (Sept. 30, 2014) (on file with author) (reporting that money to pay claims, settlements, and judgments comes from a fund located in the Legal Department). For the amount paid in settlements and judgments involving the Houston Police Department, see Email from The City of Houst. Legal Dep't, to author (May 13, 2015, 13:30 PST) (on file with author) (reporting payments of \$695,603.11 in 2012; \$3,865,161.19 in 2013; and \$1,074,775.85 in 2014). For information about the total budget of the Houston Police Department for fiscal years 2012, 2013, and 2014, see CITY OF HOUS., TEX., FISCAL YEAR 2014 BUDGET, at III-29 (2014) (reporting that the budget was \$621,739,407 in fiscal year 2012; \$678,430,660 in fiscal year 2013, and \$722,582,051 in fiscal year 2014). For information about the total budget of the City of Houston for fiscal years 2012, 2013, and 2014, see *id.* at 17 (reporting that the budget was \$3,146,000,000 in fiscal year 2012; \$3,381,000,000 in fiscal year 2013; and \$3,575,000,000 in fiscal year 2014).

Pennsylvania State Police (PA). For information about from which budget(s) settlements and judgments involving the police are paid, see Letter from Lissa M. Ferguson, Deputy Agency Open Records Officer, Pa. State Police, to author (Dec. 1, 2014) (on file with author) (explaining that "the ELSIP (an insurance fund, to which the PSP contributes) pays the first \$250,000.00. A payment over and above that amount comes from the Pennsylvania State Police budget."); see also Email from William A. Rozier, Agency Open Records Officer, Pa. State Police, to author (Dec. 19, 2014, 8:30 PST) (on file with author) (confirming that the \$250,000 ELSIP coverage is per case); *Divisional Functions and Responsibilities*, PA. DEPT OF GEN. SERV., http://www.portal.state.pa.us/portal/server.pt/community/risk_and_insurance/1347/divisional_functions_and_responsibilities/258317 [http://perma.cc/R27Q-37KJ] (last visited Nov. 3, 2015) (explaining that ELSIP is a government-administered insurance program); Letter from Rachel Zeltman, Deputy Agency Open

Records Officer, Pa. State Police, to author (June 24, 2015) (on file with author) (explaining that “PSP does not calculate the determined amount each year. It is calculated by Department of General Services (DGS), Bureau of Risk and Insurance Management. PSP does not budget for any specific amount year to year.”). For the amounts paid from the Pennsylvania State Police budget to the insurance fund, see Email from William A. Rozier, Agency Open Records Officer, Pa. State Police, to author (Dec. 19, 2014, 8:30 PST) (on file with author) (explaining that \$1,670,042 was paid in fiscal year 2010; \$1,713,504 was paid in fiscal year 2011; \$1,679,039 was paid in fiscal year 2012; and \$1,546,804 was paid in fiscal year 2013). For the total amount paid, from any source, to satisfy settlements and judgments in suits against the Pennsylvania State Police, see Letter from Lissa M. Ferguson, *supra* (explaining that the Pennsylvania State Police paid \$1,094,300 in fiscal year 2012; \$865,272 in fiscal year 2013; and \$418,000 in fiscal year 2014 (up to October 22, 2014)). For the total budget for the Pennsylvania State Police, see STATE OF PA., 2013–14 ENACTED BUDGET LINE ITEM APPROPRIATIONS 8–9 (2013) (reporting that the Pennsylvania State Police budget was \$195,254,000 for fiscal year 2013; \$210,102,000 for fiscal year 2014 (enacted)); STATE OF PA., 2012–13 ENACTED BUDGET LINE ITEM APPROPRIATIONS 9 (2012) (reporting that the Pennsylvania State Police budget was \$186,728,000 for fiscal year 2012). For the total budget of the state of Pennsylvania, see COMMONWEALTH OF PA., 2013–2014 BUDGET IN BRIEF 4 (2013) (reporting fiscal year 2014 total operating budget of \$66.7 billion); COMMONWEALTH OF PA., 2012–2013 BUDGET IN BRIEF (reporting fiscal year 2013 total operating budget of \$63.3 billion); COMMONWEALTH OF PA., 2011–2012 Budget in Brief (reporting fiscal year 2012 total operating budget of \$63.6 billion).

Metropolitan Police Department (DC). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Lisa Archie-Mills, FOIA Specialist, Office of the Gen. Counsel, Metro. Police Dep’t, to author (Nov. 21, 2014, 6:09 PST) (on file with author) (“Settlements and judgments of cases involving the Metropolitan Police Department are generally paid out of the Settlement and Judgment Fund for the District of Columbia. However, settlements and judgments in the amount of \$10,000 or less are paid by the Department. See the Reorganization Plan No. 1 of 2003 and D.C. Official Code § 2-402.”). Note also that the Reorganization Plan specifies that the settlements and judgments paid by the Department must be in cases pending less than two years. See D.C. CODE § 2-402 (2012). For the amount paid by the Metropolitan Police Department to satisfy settlements and judgments in fiscal years 2012, 2013, and 2014, see Email from Kim Nimmo, Risk Identification, Analysis, & Control Manager, Exec. Office of the Mayor, Office of Risk Mgmt., City of D.C., to author (May 22, 2015, 13:01 PST) (on file with author) (attaching spreadsheet reflecting a total of \$855,298.84 paid by the MPD over the three year period specified). For the amount paid from the City’s Settlement and Judgment Fund to satisfy settlements and judgments involving the Police Department

in fiscal years 2012, 2013, and 2014, see Nimmo, *supra* (attaching spreadsheet reflecting a total of \$3,084,861.01 paid by the City over the three year period specified). For the total Metropolitan Police Department budget in fiscal years 2012, 2013, and 2014, see GOV'T OF D.C., 2014 PROPOSED BUDGET AND FINANCIAL PLAN G-2, http://cfo.dc.gov/sites/default/files/dc/sites/ocfo/publication/attachments/FY14_Approved_Budget.pdf [<http://perma.cc/5L7Y-38RC>] (reporting an actual budget of \$481,506,000 in fiscal year 2012, an approved budget of \$496,206,000 in fiscal year 2013, and an approved budget of \$508,767,000 in fiscal year 2014). For the total Washington, D.C. budget, see GOV'T OF D.C., *supra*, at G-6 (reporting an actual budget of \$10,365,795,000 for fiscal year 2012, an approved budget of \$11,901,764,000 for fiscal year 2013, and an approved budget of \$12,852,015,000 in fiscal year 2014).

Texas Department of Public Safety (TX). For information about from which budget(s) settlements and judgments involving the police are paid, see Letter from James G. Nolan, Assoc. Deputy Gen. Counsel, Open Records Section, to author (Sept. 9, 2014) (on file with author) (reporting that the Texas Department of Public Safety (DPS) is responsible for paying up to \$250,000 per claim; above \$250,000 the payment would come from the Settlement and Judgment line item appropriation); Email from James G. Nolan, Assoc. Deputy Gen. Counsel, Open Records Section, to author (June 2, 2015, 15:05 PST) (on file with author) ("State agencies do not have any specific line item in their budget for settlements and judgments, however, [state law] . . . allows State agencies . . . to expend funds appropriated elsewhere . . . for the purposes of paying settlements and judgments . . ."). For information about the total amount paid by the DPS in settlements and judgments in fiscal years 2012, 2013, and 2014, see Letter from James G. Nolan, Assoc. Deputy Gen. Couns., Open Records Section, to author (Nov. 7, 2014) (on file with author) (reporting that the amount paid by the DPS was \$577,937.39 in fiscal year 2012; \$1,177,768.92 in fiscal year 2013; and \$981,235.47 in fiscal year 2014; and noting that no payments have been made above \$250,000 in fiscal years 2012–14, so that all money has come from the budget of the Texas Department of Public Safety). For information about the total budget of the Texas Department of Public Safety in fiscal years 2012 and 2013, see CONF. COMM. ON H.B. NO. 1, GENERAL APPROPRIATIONS ACT FOR THE 2012–13 BIENNIUM, 82nd Leg., Reg. Sess., at V-51 (Tex. 2011), http://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2012-13.pdf [<http://perma.cc/25NX-ZFKM>] (reporting that the budget for the DPS was \$1,462,386,662 in fiscal year 2012, and \$1,390,193,848 in fiscal year 2013). For information about the total budget of the Texas Department of Public Safety in fiscal year 2014, see CONF. COMM. ON S.B. NO. 1, GENERAL APPROPRIATIONS ACT FOR THE 2014–15 BIENNIUM, 83rd Leg., Reg. Sess., at V-47 (Tex. 2013), http://www.lbb.state.tx.us/Documents/GAA/General_Appropriations_Act_2014-15.pdf [<http://perma.cc/92M2-5F4X>] (reporting that the budget for the DPS was \$1,400,769,379 in fiscal year 2014). For the total budget of the state of Texas, see *Texas State Budget and Finances*, BALLOTPEdia,

http://ballotpedia.org/Texas_state_budget_and_finances [<http://perma.cc/6ZHV-M5JN>] (last visited Mar. 27, 2016) (reporting 2013 budget of \$91.7 billion and 2014 budget of \$100 billion).

Dallas Police Department (TX). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Doris Bridges, Office of Risk Mgmt., City of Dall., to author (Sept. 11, 2014, 10:15 PST) (on file with author) (reporting that “settlements and judgments are paid out of the general fund” and that “[t]he City i[s] self-insured.”); Email from Lance T. Johnson, Open Records Coordinator, City of Dall., to author (Oct. 7, 2013, 12:30 PST) (on file with author) (reporting that settlements and judgments are paid “through the ‘General Budget’ and not the Dallas Police Department Budget.”). For the amount paid in settlements and judgments involving the Dallas Police Department and its officers, see Email from Christopher D. Bowers, First Assistant City Att’y, Dall. City Att’y’s Office, to author (May 21, 2015, 15:59 PST) (on file with author) (attaching a chart reflecting \$8,240,932 spent between October 1, 2011, and September 30, 2014). For information about the Dallas Police Department budget, see Tristan Hallman, *Dallas Police Associations: Proposed \$12 Million Budget Increase Too Low*, DALL. MORNING NEWS (Aug. 15, 2014), <http://www.dallasnews.com/news/local-news/20140815-police-associations-proposed-12m-budget-increase-too-low.ece> [<http://perma.cc/6N5A-XP9B>] (reporting that the Dallas Police Department budget for 2015 was \$438 million and \$426 million in 2014). For information about the total budget of the City of Dallas, see CITY OF DAL., ANNUAL BUDGET FOR FISCAL YEAR 2014–2015 17 (2014) (reporting \$2,829,312,657 amended budget in fiscal year 2014); CITY OF DALL., ANNUAL BUDGET FOR FISCAL YEAR 2013–2014 19 (2013) (reporting \$2,569,775,411 adopted budget for fiscal year 2013); CITY OF DALL., ANNUAL BUDGET FOR FISCAL YEAR 2012–2013 21 (2012) (reporting \$2,439,258,840 amended budget for fiscal year 2012).

Phoenix Police Department (AZ). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Dane Trainee, Risk Mgmt. Coordinator, City of Phx., Fin. Dep’t, to author (Oct. 7, 2013, 14:00 PST) (on file with author) (“The claims are paid from a general fund account. The account is funded by allocations taken from all City Departments, in the annual budgeting process.”); *see also* Email from Colleen M. Nathans, Assistant Risk Mgmt. Admin., to author (Sept. 11, 2014, 14:57 PST) (on file with author) (reporting that settlements and judgments in cases brought against the Phoenix Police Department and its officers “are paid out of the City’s Self-Insured Retention Fund, which is funded by allocations from the department by way of the General Fund Liability premium and settlement/judgment costs are allocated to departments based on claims payment history The City purchases excess liability insurance.”). For information about the amount contributed by the Phoenix Police Department to the Self-Insured Retention Fund, see Email from Daisy Francisco, Police Records Clerk, Phx. Police Dep’t, to author (June 29, 2015, 9:59 PST) (on file with author) (attaching a docu-

ment reflecting payments by the police department of \$5,465,483 in fiscal year 2012; \$5,517,744 in fiscal year 2013; and \$5,391,426 in fiscal year 2014). For information about the total amount paid out of the Self-Insured Retention Fund in cases involving the Phoenix Police Department in fiscal years 2012, 2013, and 2014, see Email from Colleen M. Nathans, Assistant Risk Mgmt. Admin., to author (Nov. 10, 2014, 15:24 PST) (on file with author) (reporting that the amount paid out was \$3,034,308 in fiscal year 2012; \$4,547,552 in fiscal year 2013; and \$2,336,716 in fiscal year 2014). For information about the total budget of the Phoenix Police Department in fiscal years 2012, 2013, and 2014, see CITY OF PHX., PHOENIX SUMMARY BUDGET 2013–14 116 (2013) (reporting that the police department budget was \$541,075,000 in fiscal year 2012; \$566,141,000 in fiscal year 2013; and \$585,913,000 in fiscal year 2014).

Miami-Dade Police Department (FL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Jorge Bello, Manager Budget & Grants, Miami-Dade Police Dep't, Fiscal Admin. Bureau, Miami-Dade Cty., to author (Nov. 4, 2014, 6:13 PST) (on file with author) ("Miami-Dade Police Department (MDPD) does contribute to a central fund that pays for settlements and judgments as part of the Budget process."). For information about the total amount contributed by the MDPD to the central fund that pays for settlements and judgments in fiscal years 2012, 2013, and 2014, see Email from Jorge Bello, Manager Budget & Grants, Miami-Dade Police Dep't, Fiscal Admin. Bureau, Miami-Dade Cty., to author (Nov. 17, 2014, 15:12 PST) (on file with author) (reporting that the amount contributed was \$3,068,300 in fiscal year 2012; \$2,106,700 in fiscal year 2013; and \$4,165,846 in fiscal year 2014). For information about the total amount paid from the central fund for settlements and judgments involving the MDPD in fiscal years 2012, 2013, and 2014, see Bello, *supra* (reporting that the amount paid was \$987,114.25 in fiscal year 2012; \$755,628.78 in fiscal year 2013; and \$1,000,544.69 in fiscal year 2014). For information about the total budget of the MDPD in fiscal years 2012, 2013, and 2014, see MIAMI-DADE POLICE DEP'T, FY 2011–12 ADOPTED BUDGET AND MULTI-YEAR CAPITAL PLAN 78 (reporting the budget as \$531,959,000 in fiscal year 2012); MIAMI-DADE POLICE DEP'T, FY 2012–13 ADOPTED BUDGET AND MULTI-YEAR CAPITAL PLAN 71 (reporting the budget as \$526,265,000 in fiscal year 2013); MIAMI-DADE POLICE DEP'T, FY 2013–14 ADOPTED BUDGET AND MULTI-YEAR CAPITAL PLAN 89 (reporting the budget as \$548,134,000 in fiscal year 2014).

Baltimore Police Department (MD). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Henry J. Raymond, Dir. of Fin., City of Balt. (Oct. 14, 2014, 9:40 PST) (on file with author) (reporting that settlements and judgments are paid out of the city's general fund with no contributions from the Baltimore Police Department budget and no outside insurance). For information about the total amount paid for judgments and settlements involving the

Baltimore Police Department in fiscal years 2012, 2013, and 2014, see Telephone Interview with Henry J. Raymond, Dir. of Fin., City of Balt. (Oct. 14, 2014, 9:40 PST) (on file with author) (reporting that the amount paid was \$2.4 million in fiscal year 2012, \$2.0 million in fiscal year 2013, and \$1.9 million in fiscal year 2014). For information about the total budget of the Baltimore Police Department in fiscal years 2012, 2013, and 2014, see CITY OF BALT., MD., FISCAL 2012 SUMMARY OF THE ADOPTED BUDGET 146 (reporting that the budget was \$356,899,005 in fiscal year 2012); CITY OF BALT., MD., FISCAL 2013 SUMMARY OF THE ADOPTED BUDGET 204 (reporting that the budget was \$410,595,488 in fiscal year 2013); CITY OF BALT., MD., FISCAL 2014 EXECUTIVE SUMMARY 169 (reporting that the budget was \$428,737,475 in fiscal year 2014). For information about the total budget of the City of Baltimore in fiscal years 2012, 2013, and 2014, see CITY OF BALT., MD., FISCAL 2012 SUMMARY OF THE ADOPTED BUDGET 47 (reporting that the budget was \$2,703,078,000 in fiscal year 2012); CITY OF BALT., MD., FISCAL 2013 SUMMARY OF THE ADOPTED BUDGET 95 (reporting that the budget was \$3,069,661,000 in fiscal year 2013); CITY OF BALT., MD., FISCAL 2014 EXECUTIVE SUMMARY 21 (reporting that the budget was \$3,576,526,848 in fiscal year 2014).

Las Vegas Metropolitan Police Department (NV). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Charlotte Bible, Gen. Counsel, Las Vegas Metro. Police Dep't (Sept. 22, 2014) (on file with author) (reporting that settlements and judgments, insurance premiums for excess coverage, and the cost of defense counsel are paid from the Department's budget, and that the department is self-insured with excess insurance coverage for claims resulting in payments above \$2 million). For information about the total amount paid from the LVMPD into the Internal Service Fund in fiscal years 2012, 2013, and 2014, see Email from Joni Prucnal, Senior Analyst-Budget, Las Vegas Metro. Police Dep't, to author (Dec. 26, 2014, 8:10 PST) (on file with author) (reporting that the LVMPD paid \$0 in fiscal year 12, \$254,712 in fiscal year 13, and \$5,954,949 in fiscal year 14); Email from Joni Prucnal, Senior Analyst-Budget, Las Vegas Metro. Police Dep't, to author (Dec. 26, 2014, 8:28 PST) (on file with author) (explaining that, "[t]ypically, the City and County's Contribution to the Liability Fund is paid through LVMPD's Operating Budget" but that they did once choose "to contribute directly to the Liability fund instead of it flowing through [LVMPD's] Operating budget, at the County's request"). For information about the amount paid from the fund in cases involving the LVMPD in fiscal years 2012, 2013, and 2014, see Letter from Martina Geinzer, Assistant Gen. Counsel, Office of Gen. Couns., Las Vegas Metro. Police Dep't (Feb. 18, 2015) (on file with author) (reporting that the amount paid from the fund was \$2,834,352.05 in fiscal year 12, \$2,348,789.89 in fiscal year 13, and \$1,705,428.93 in fiscal year 14). For information about the total budget of the LVMPD, see LVMPD, AMENDED FINAL BUDGET FY 2011–2012 16 (2011), <http://www.lvmpd.com/Portals/0/FinalBudget2011-2012.pdf> [<http://perma.cc/4CK4-B5Z7>] (reporting the budget as

\$501,307,011 in fiscal year 12); LVMPD, FINAL BUDGET FY 2012–2013 17 (2012), <http://www.lvmpd.com/Portals/0/Users/Final%20Budget%202012-2013.pdf> [<http://perma.cc/AAN4-RG7X>] (reporting the budget as \$502,873,767 in fiscal year 13); LVMPD, FINAL BUDGET FY 2013–2014 17 (2013), http://www.lvmpd.com/Portals/0/Finance/FY2013-2014_Final_Budget.pdf [<http://perma.cc/A8TM-EAD2>] (reporting the budget as \$489,906,495 in fiscal year 14). Note that the Las Vegas Metropolitan Police Department is a city-county agency. See Clark Cty., Nev., Code of Ordinances § 2.60.010 (Municode through Feb. 18, 2015 legislation), https://www.municode.com/library/nv/clark_county/codes/code_of_ordinances?nodeId=TTT2ADPE_CH2.60LAVEMEPODE_2.60.020ADOP [<https://perma.cc/YLJ6-SDHA>] (“The Clark County sheriff’s department is merged with the police department of the city of Las Vegas to create the Las Vegas [M]etropolitan [P]olice [D]epartment.”). For the Las Vegas budget, see CITY OF LAS VEGAS, FY 2014 TENTATIVE BUDGET 7 (2013), http://www.reviewjournal.com/sites/default/files/field/files/CLV_budget_2014.pdf [<http://perma.cc/95YE-T6GW>] (reporting a \$468,800,000 fiscal year 2013 budget and a \$481,800,000 fiscal year 2014 budget). For the Clark County budget, see JESSICA L. COLVIN, CLARK CTY., NEV. COMPTROLLER’S OFFICE, CLARK COUNTY, NEVADA: COMPREHENSIVE ANNUAL FINANCIAL REPORT 4 (2014), <http://www.clarkcountynv.gov/Depts/finance/comptroller/Documents/pdf/2014%20CAFR/Audited%20CAFR%20Year%20Ended%20June%2030%202014-made searchable.pdf> [<http://perma.cc/DJZ6-J8GB>] (reporting that Clark County’s total expenses were \$3,721,235,429 for fiscal year 2014); JESSICA L. COLVIN, CLARK CTY., NEV. COMPTROLLER’S OFFICE, CLARK COUNTY, NEVADA: COMPREHENSIVE ANNUAL FINANCIAL REPORT 4 (2013), <http://www.clarkcountynv.gov/Depts/finance/comptroller/Documents/pdf/2013%20CAFR/2013CAFRFinalSearchable.pdf> [<http://perma.cc/N24X-BJ7J>] (reporting that Clark County’s total expenses were \$3,958,035,416 in fiscal year 2013).

Harris County Sheriff’s Office (TX). For information about from which budget(s) settlements and judgments involving the sheriff’s office are paid, see Email from Judith Marshall, Manager, Budget Servs., Harris Cty. Budget Mgmt. Dep’t, to author (Nov. 3, 2014 11:42 PST) (on file with author) (reporting that “settlements and judgments in cases brought against the Harris County Sheriff’s Department are not paid out of their budget. Another budget has been set up to pay these types of cases for all County departments . . . an insurer doesn’t pay any of these settlements.”). Harris County did not respond to multiple requests for information about the amount spent in settlements and judgments involving the Sheriff’s Office.

Massachusetts State Police (MA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Sean W. Farrell, Deputy Chief Legal Counsel, Mass. State Police, to author (Oct. 7, 2013, 11:52 PST) (on file with author) (reporting that “any settlement in these cases is paid from the ‘Settlement and Judgment’ fund which is a general statewide fund. The settlement monies are not taken

from the Department's operations budget."). The spokesman for the Massachusetts State Police did not respond to multiple requests for information about the amount spent in settlements and judgments involving the State Police.

Detroit Police Department (MI). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from John Naglick, Fin. Dir., City of Detroit, Mich., to author (Sept. 22, 2014, 8:04 PST) (on file with author) (reporting that police suits are paid "out of our risk management fund. We are self insured for such losses."); see also Email from Richard Drumb, Gen. Manager, City of Detroit Dep't of Fin., to author (Sept. 22, 2014, 8:31 PST) (on file with author) ("The City pays all litigation costs from its Risk Management Fund (RMF). The City is self insured for claims, litigation and workers compensation costs which are paid from the RMF. The Risk Management Fund is funded by a premium from the General Fund which is based on a five-year average of historical costs paid out by the RMF. The premium is contributed from a Non-Departmental appropriation, so technically the Police Department is not directly charged for its litigation costs."). For the amount paid in settlements and judgments involving the Detroit Police Department, see Letter from Monique Smith, Senior Assistant Corp. Counsel, City of Detroit, to author (July 10, 2015) (reflecting that the total amount spent by the city for settlements and judgments in cases involving the Detroit Police Department in fiscal years 2012, 2013, and 2014 was \$10,391,882.30). For the budget of city and police department of Detroit, see CITY OF DETROIT, 2011–2012 BUDGET: APPROPRIATIONS AND REVENUES, http://www.detroitmi.gov/Portals/0/docs/budgetdept/2011-12%20RedBook/Budget%20Overview/RB_Appro&Revenues12.pdf [<http://perma.cc/WB7X-V9XE>] (reporting fiscal year 2012 city budget of \$3,108,301,412 and police department budget of \$414,826,229); CITY OF DETROIT, 2012–2013 FISCAL YEAR BUDGET-IN-BRIEF, http://www.detroitmi.gov/Portals/0/docs/budgetdept/2012-13%20Redbook/Budget-in-Brief%2012-13%20—%20BH%20changes_2_2.pdf [<http://perma.cc/6QV2-TFWH>] (reporting 2013 fiscal year city budget of \$2,604,942,607 and police department budget of \$339,593,842); CITY OF DETROIT, 2013–2014 EXECUTIVE BUDGET SUMMARY B7, http://www.detroitmi.gov/Portals/0/docs/budgetdept/2013-14_Budget/Budget%20Summary_14/EBS_Section%20B_Summary%20All%20Funds_2013_2014_stamped.pdf [<http://perma.cc/UP7Q-NFDT>] (reporting 2014 fiscal year recommended city budget of \$2,564,480,780 and recommended police budget of \$372,644,586).

Boston Police Department (MA). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Lynda Fraley, Risk Mgmt., Office of Budget Mgmt., City of Bos. (Sept. 24, 2014) (on file with author) (explaining that the money for settlements and judgments comes from the Boston Police Department budget, but the police budget is funded through the general budget, so "to say it impacts the police budget is a bit of a misunderstanding," and further explaining that money for litigation is put into each department's budget so that they are aware of the effects

of their claims on the budget, but when a department goes above the budgeted amount, the remainder is paid out of general funds.) For information about the total amount appropriate to the Boston Police Department for legal liabilities in fiscal years 2012, 2013, and 2014, see CITY OF BOS., FISCAL YEAR 2015 BUDGET, PUBLIC SAFETY CABINET 214 (2014) (reporting the amounts as \$1,508,498 in 2012, \$807,575 in 2013, and \$1,663,119 in 2014). For information about the total amount paid in settlements and judgments from any source involving the Boston Police Department, see Email from Lynda Fraley, Risk Mgmt., Office of Budget Mgmt., City of Bos., to author (July 9, 2015, 8:13 PST) (on file with author) (reporting payments of \$2,540,028 in fiscal year 2012, \$916,367 in fiscal year 2013, and \$8,806,753 in fiscal year 2014). For information about the total budget of the Boston Police Department in fiscal years 2012, 2013, and 2014, see CITY OF BOS., FISCAL YEAR 2015 BUDGET, PUBLIC SAFETY CABINET 171 (2014) (reporting the budget as \$283,038,027 in 2012, \$290,713,391 in 2013, and \$300,632,979 in 2014). For information about the budget for the city of Boston, see CITY OF BOS., FISCAL YEAR 2014 ADOPTED BUDGET, EXECUTIVE SUMMARY 1, http://www.cityofboston.gov/images_documents/01%20Executive%20Summary_final_tcm3-37452.pdf [<http://perma.cc/4WJ6-8EJY>] (reporting a fiscal year 2014 adopted budget of \$2.6 billion); CITY OF BOS., FISCAL YEAR 2013 BUDGET, EXECUTIVE SUMMARY 1, http://www.cityofboston.gov/images_documents/01%20Executive%20Summary_adopted_tcm3-31756.pdf [<http://perma.cc/W8PV-FZ26>] (reporting a fiscal year 2013 budget of \$2.467 billion); CITY OF BOS., FISCAL YEAR 2012 BUDGET, EXECUTIVE SUMMARY 1, http://www.cityofboston.gov/images_documents/01%20Executive%20Summary%20A_tcm3-24766.pdf [<http://perma.cc/282D-FTPG>] (reporting a fiscal year 2012 budget of \$2.395 billion).

Riverside County Sheriff's Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Scott Forbes, Sergeant, Prof'l Standards Bureau/Civil Bureau Desk, to author (Oct. 8, 2013, 10:20 PST) (on file with author) ("Each department within the County of Riverside pays into an Internal Service Fund. Any funds paid out due to a claim or lawsuit come from that fund (up to 1 million dollars). Funds paid in excess of 1 million dollars are paid by our insurance."); *see also* Letter from Greg Fellows, Lieutenant, Riverside Cty. Sheriff's Dep't, to author (May 26, 2015) (on file with author) ("An outside actuarial firm calculates the ISF allocations to each county department based upon exposure (20% weighting) and experience (80% weighting). The actuary looks at the last ten years of experience in making the calculations. The experience component includes fulltime equivalent staffing, mileage, and square footage occupied."). For information about the total amount paid by the Riverside County Sheriff's Department to the Internal Service Fund, see Letter from Greg Fellows, Sergeant, Riverside Cty. Sheriff's Dep't, Prof'l Standards Bureau, to author (Oct. 15, 2014) (on file with author) (reporting that the amount paid to the fund was \$32 million in fiscal year 2011/2012, \$32 million in fiscal year 2012/2013, and \$30 million in fiscal year

2013/2014). Note that the Internal Service Fund covers costs not only for litigation but also for workers' compensation, human resources and payroll services, delivery services, facilities maintenance, and information technology. *See id.* For information about the amount paid out of the Internal Service Fund in cases involving the Riverside County Sheriff's Department, see *id.* (reporting that the total amount paid out, for both property and bodily injury claims, was \$2,706,130.54 in fiscal year 2011/2012, \$4,314,102.10 in fiscal year 2012/2013, and \$5,914,551.12 in fiscal year 2013/2014). For information about the total budget of the Riverside County Sheriff's Department, see *id.* (reporting that the total budget was \$518 million for fiscal year 2011/2012, \$545 million for fiscal year 2012/2013, and \$593 million for fiscal year 2013/2014). For the total budget of the County of Riverside, see JAY E. ORR, CTY. OF RIVERSIDE, FISCAL YEAR 2013/14 ADOPTED BUDGET 39, <http://countyofriverside.us/Portals/0/Government/Budget%20Information/2013-2014%20Adopted%20Budget/BudgetBookfinal.pdf> [<http://perma.cc/3CEP-RF5R>] (reporting total appropriations of \$4,972,300,000 in fiscal year 2013 and \$4,701,200,000 adopted in fiscal year 2014); BILL LUNA, CTY. OF RIVERSIDE, FY 2011-12 ADOPTED BUDGET 29, http://countyofriverside.us/Portals/0/Government/Budget%20Information/2011%20-%202012%20Adopted%20Budget/Adopted_Budget_11-12.pdf [<http://perma.cc/M2X6-ZEAJ>] (reporting total appropriations of \$4,783,900,000 in fiscal year 2012).

Illinois State Police (IL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Steve Lyddon, Lieutenant, FOIA Officer, to author (Oct. 10, 2014, 13:40 PST) (on file with author) (reporting that there is \$50,000 in the Illinois State Police annual budget "earmarked for litigation costs, settlements, and judgments" for fiscal years 2012, 2013, and 2014, and that "ISP Legal must request additional funds from ISP Budget to cover any new contracts for outside law firms and any large settlements."); Telephone Interview with Steve Lyddon, Lieutenant, FOIA Officer (Oct 10, 2014) (on file with author) (clarifying that the \$50,000 budgeted for litigation each year is usually spent covering small settlements and attorney travel costs, and that ISP Legal requests money from the ISP internal budget office when additional funds are needed. Money is taken from other areas of the ISP budget, including money that was budgeted for updating cars, computers, and computer systems). For information about the total amount paid in lawsuits involving the Illinois State Police in fiscal years 2012, 2013, and 2014, see Email from Steve Lyddon, Lieutenant, FOIA Officer, to author (Oct. 10, 2014, 13:40 PST) (on file with author) (reporting that the amount paid was \$2,456,715.00 in fiscal year 2012, \$3,432,945.31 in fiscal year 2013, and \$40,000,000.00 in fiscal year 2014). Note that there was a \$40 million settlement in fiscal year 2014 involving the wrongful conviction of five men; the Illinois State Police got the money to satisfy the settlement from the Illinois General Assembly. *See* Telephone Interview with Steve Lyddon, Lieutenant, FOIA Officer (Sept. 11, 2014) (on file with author) (explaining that the Illinois State Police very rarely goes to the General Assembly to seek additional

money for settlements and judgments but did for the \$40 million settlement and had to tell the appropriations committee about the case and the reason additional money should be appropriated). For information about the total budget of the Illinois State Police in fiscal years 2012, 2013, and 2014, see Email from Steve Lyddon, Lieutenant, FOIA Officer, to author (Oct. 10, 2014, 13:40 PST) (on file with author) (reporting that the budget was \$401,200,000 in fiscal year 2012, \$383,800,000 in fiscal year 2013, and \$449,000,000 in fiscal year 2014). For the total budget of the state of Illinois, see *Illinois State Budget and Finances*, BALLOTPEDIA, http://ballotpedia.org/Illinois_state_budget_and_finances [<http://perma.cc/LNF2-6D4Z>] (last updated Feb. 2015) (reporting \$66.4 billion spent in fiscal year 2013 and \$70.4 billion spent in 2014).

San Antonio Police Department (TX). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Justina Tate, Assistant Budget Dir., City of San Antonio, to author (Dec. 10, 2014, 6:24 PST) (on file with author) (attaching responses to public records request explaining that the City of San Antonio is self-insured and that “[s]ettlements are paid from the City’s Liability Self Insurance Fund. This fund is funded from annual department assessments. The Police Department, which is in the General Fund, contributes annually to the Liability Fund through an assessment. . . . This Insurance Fund charges an assessment to the Departments based on historical experience to cover the costs for administering the program, Insurance Premiums, settlements, and associated expenses. Based on historical expenses, on average settlement costs and associated costs were approximately 38% of the assessment. Premiums and administration of the program accounted for about 62% of the total assessment.”). For the amount contributed from the San Antonio Police Department to the Liability Self Insurance Fund, see *id.* (explaining that the Police Department contributed \$3,473,653 in fiscal year 2012; \$4,454,388 in fiscal year 2013; and \$4,454,388 in fiscal year 2014). For the amount paid from the Fund in cases involving the Police Department, see *id.* (explaining that the amount paid in settlements was \$1,319,988 in fiscal year 2012; \$1,692,667 in fiscal year 2013; and \$1,692,667 in fiscal year 2014). For the total budget of the San Antonio Police Department, see *id.* (reporting that the Police Department budget was \$342,651,720 in fiscal year 2012; \$360,382,596 in fiscal year 2013; and \$381,508,357 in fiscal year 2014). For the total budget of the City of San Antonio, see CITY OF SAN ANTONIO, TEX., FY 2014 ADOPTED ANNUAL OPERATING AND CAPITAL BUDGET 35, <http://www.sanantonio.gov/Portals/0/Files/budget/FY2014/FinalBudgetWeb.pdf> [<http://perma.cc/W9GD-ULH9>] (reporting a total consolidated budget of \$2.3 billion for fiscal year 2014); CITY OF SAN ANTONIO, FISCAL YEAR 2013 ADOPTED ANNUAL OPERATING AND CAPITAL BUDGET 25, <http://www.sanantonio.gov/Portals/0/Files/budget/FY2013/FY%202013%20Adopted%20Budget%20Document.pdf> [<http://perma.cc/WQ2Y-GT3H>] (reporting a total consolidated budget of \$2.3 billion for fiscal year 2013); CITY OF SAN ANTONIO, TEX., FISCAL YEAR 2012 ADOPTED ANNUAL

OPERATING AND CAPITAL BUDGET 207, http://www.sanantonio.gov/Portals/0/Files/budget/archive2012/2012_Adopted_Document.pdf [<http://perma.cc/4238-YU2E>] (reporting a total budget of \$2,211,338,220).

Milwaukee Police Department (WI). For information about from which budget(s) settlements and judgments involving the police are paid, see Letter from Mark Nicolini, Budget and Mgmt. Dir., City of Milwaukee, to author (Sept. 8, 2014) (on file with author) (“Settlements and judgment in cases brought against the Milwaukee Police Department and its officers are paid from the city’s operating budget. The city has no insurance for these exposures, the city bears all risk.”). For the total amount paid for settlements and judgments in lawsuits involving the police department, see Email from Mark Nicolini, Budget & Mgmt. Dir., City of Milwaukee, to author (May 19, 2015, 7:39 PST) (on file with author) (reporting \$2,630,000 paid in 2012, \$98,000 paid in 2013, and \$59,500 paid in 2014). For the budget of the Milwaukee Police Department, see Email from Mark Nicolini, Budget & Mgmt. Dir., City of Milwaukee, to author (May 8, 2015, 10:31 PST) (on file with author) (reporting the police operating budget as \$236,229,306 in fiscal year 2012, \$237,538,363 in fiscal year 2013, and \$244,030,373 in fiscal year 2014). For the total City of Milwaukee budget, see *id.* (reporting the General City Budget as \$590,373,797 in fiscal year 2012, \$581,262,450 in fiscal year 2013, and \$590,701,755 in fiscal year 2014, and noting that these numbers reflect the “general city” budget as opposed to “total budget,” which would include “items such as debt service, capital, enterprise funds, etc., which are not affected by the amount budgeted for police.”). For the total City of Milwaukee budget, see CITY OF MILWAUKEE, 2014 PLAN AND BUDGET SUMMARY 13, <http://city.milwaukee.gov/ImageLibrary/User/crystali/PublicSite/2014planandbudgetsummarywebsit.pdf> [<http://perma.cc/5S4V-5PYE>] (reporting that the 2014 adopted total budget is \$1,447,560,814 and the 2013 adopted budget is \$1,501,978,320); CITY OF MILWAUKEE, 2013 PLAN AND BUDGET SUMMARY 11, <http://city.milwaukee.gov/ImageLibrary/User/crystali/2013-Budget-Requests/2013adoptedbookwebsite.pdf> [<http://perma.cc/CXG5-NN4Z>] (reporting that the 2012 adopted total budget is \$1,422,818,236).

San Diego Police Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Lea Fields-Bernard, Program Coordinator, Pub. Records Act Requests, City of San Diego, to author (June 12, 2015, 16:57 PST) (on file with author) (reporting that settlements and judgments in lawsuits against the police and its officers are paid from city funds, with excess insurance for payouts over \$3 million; that the police department does not contribute financially in any way to the payment of these suits; and that settlements and judgments have no financial impact on the police department). For the total amount spent in settlements and judgments involving the San Diego Police Department, see Email from Marta Terrell, Claims Aide, to author (July 28, 2015, 17:00 PST) (on file with author) (attaching spreadsheet reflecting payments of \$2,909,512.04 in 2012; \$2,284,581.98 in 2013; and \$7,860,843.50 in 2014).

For the total budget of the City of San Diego, see CITY OF SAN DIEGO, FISCAL YEAR 2014 ADOPTED BUDGET, EXECUTIVE SUMMARY 16, <http://www.sandiego.gov/fm/annual/pdf/fy14/vol1/v1executivesummary.pdf> [<http://perma.cc/8ULB-RAUF>] (reporting city budget of \$2,726,193,049 in fiscal year 2012 (actual); \$2,752,141,860 in fiscal year 2013 (adopted), and \$2,795,250,003 in fiscal year 2014 (adopted)). For the budget of the San Diego Police Department, see CITY OF SAN DIEGO, FISCAL YEAR 2014 ADOPTED BUDGET, FINANCIAL SUMMARY AND SCHEDULES 128, <http://www.sandiego.gov/fm/annual/pdf/fy14/vol1/v1financialsummary.pdf> [<http://perma.cc/Z8ER-SJQN>] (reporting police department expenditures of \$398,412,960 in fiscal year 2012 (actual); \$406,529,645 in fiscal year 2013 (adopted), and \$418,542,912 in fiscal year 2014 (adopted)).

San Francisco Police Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Michelle Allersma, Controller's Office Budget and Analysis Dir., S.F., to author (Sept. 5, 2014, 17:47 PST) (on file with author) ("Each year, the Police Department's General Fund operating budget includes an amount to pay for claims. Particularly large payments beyond the scope of what can be accommodated in the operating budget are paid from the litigation reserve—this is true for all departments, not just the Police Department. The City is self-insured and pays no premiums."); Telephone Interview with Michelle Allersma, Controller's Office Budget and Analysis Dir., S.F. (Sept. 15, 2014) (explaining that the Police Department gets a fixed amount for settlements and judgments each year and that when the Department goes beyond their allotment it will get additional money from the central budget). For information about the total amount paid from the SFPD general budget for settlements and judgments against SFPD and its officers in fiscal years 2012, 2013, and 2014, see Email from Risa Sandler, Citywide Budget Manager, Controller's Office, Budget and Analysis Div., City and Cty. of S.F., to author (Nov. 3, 2014, 17:15 PST) (on file with author) (reporting the amount paid as \$920,886 in FY 11/12, \$1,607,312 in FY 12/13 and \$2,002,503 in FY 13/14). For information about additional money paid from the city's general fund in claims involving the SFPD and its officers in fiscal years 2012, 2013, and 2014, see *id.* (noting that the total paid from the general fund was \$28,209 in fiscal year 2012, \$80,169 in fiscal year 2013, and \$24,600 in fiscal year 2014). For information about the total budget of the SFPD, see *id.* (reporting the budget as \$461,807,191 in fiscal year 2011/12, \$489,946,208 in fiscal year 2012/13, and \$526,936,867 in fiscal year 2013/14). For information about the total budget of the city of San Francisco, see City and Cty. of S.F., *Budget*, SFOPENBOOK, http://openbook.sfgov.org/openbooks/cgi-bin/cognosisapi.dll?b_action=cognosViewer&ui.action=run&ui.object=%2fcontent%2ffolder%5b%40name%3d%27Reports%27%5d%2freport%5b%40name%3d%27Budget%27%5d&ui.name=20Budget&run.outputFormat=&run.prompt=false [<http://perma.cc/D6ZH-98VU>] (last visited Mar. 27, 2016) (reporting net total budget of \$7,908,801,656 in fiscal year 2014; net total

budget of \$7,354,311,244 in fiscal year 2013; and net total budget of \$6,833,766,939 in fiscal year 2012).

Honolulu Police Department (HI). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Connie T. Kaneshiro, Chief Fiscal and CIP Analyst, Fiscal/CIP Admin. Div., Dep't of Budget and Fiscal Servs., City of Honolulu, to author (Sept. 11, 2014, 16:47 PST) (on file with author) ("Ordinary or general liability claims including civil rights issues are paid out of the Judgments & Losses Provisional account—[which] is also part of the City's general budget, not HPD's budget. The City's self-insurance covers losses up to \$2M per occurrence; if the claim exceeds that amount commercial excess insurance pays. All insurance premiums relevant to HPD claims are budgeted in the Risk Management Provisional Account (part of the City's general budget), except for a very small policy funded by the federal government that is handled directly by HPD. . . . Occasionally the City's Corporation Counsel has requested a financial contribution from HPD if the Risk Management and Judgments and Losses provisionals are insufficient. However, this has not happened during the past 4–5 years."). For the amount paid in settlements and judgments involving the Honolulu Police Department, see Email from Jill Yamashiro, Dep't of the Corp. Counsel, City & Cty. of Honolulu, to author (May 22, 2015 16:01 PST) (on file with author) (attaching spreadsheet reflecting \$85,433.04 paid in fiscal year 2012, \$624,503.61 paid in fiscal year 2013, and \$2,968,705.60 in fiscal year 2014). For the budget of the Honolulu Police Department, see Email from Connie T. Kaneshiro, Chief Fiscal and CIP Analyst, Fiscal/CIP Admin. Div., Dep't of Budget and Fiscal Servs., City of Honolulu, to author (May 15, 2015, 14:43 PST) (on file with author) (attaching a spreadsheet reflecting a budget of \$232,582,594 in fiscal year 2012, \$216,534,861 in fiscal year 2013, and \$219,105,207 in fiscal year 2014). For the budget of the City of Honolulu, see *id.* (reporting a city budget of \$1,924,917,724 in fiscal year 2012, \$1,964,211,347 in fiscal year 2013, and \$2,161,127,906 in fiscal year 2014).

Columbus Police Department (OH). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Paul Rakosky, Dir., Fin. and Mgmt. Dep't, City of Columbus, to author (Sept. 8, 2014, 6:33 PST) (on file with author) ("Each large city department has a budget to pay claims. We will generally use these monies first. If these funds were to be exhausted, we reserve an amount in a citywide account held in the Finance and Management Department to pay claims. The amount we hold in the Finance Department varies from year to year and is based on discussions with and recommendations from the Claims Division within the City Attorney's Office."); Email from Melissa L. Meyer, Budget Mgmt. Specialist, Dep't of Fin. & Mgmt., City of Columbus, to author (June 10, 2015, 11:32 PST) (reporting that "[w]hen claims are over the budgeted appropriation, Police would generally first attempt to cover any higher claims with projected savings in other spending areas (personnel, supplies, services, etc.) within its general fund amended budget. In situations where Police would not be able to cover the

higher claims costs within its amended budget[,] Finance would transfer money from the City-wide account into Police to cover the claim(s)” and noting that, last year, the additional money needed “was transferred from an area within Police’s budget that was projecting a surplus to cover the claims variance.”). For information about the total claims budget of the Columbus Police Department in fiscal years 2012, 2013, and 2014, see Email from Melissa L. Meyer, Budget Mgmt. Specialist, Dep’t of Fin. & Mgmt., City of Columbus, to author (Sept. 26, 2014, 5:30 PST) (on file with author) (reporting that the claims budget was \$225,000 in each year). For information about the total amount paid in claims involving the Columbus Police Department in fiscal years 2012, 2013, and 2014, see *id.* (reporting that the amount paid was \$650,010 in fiscal year 2012 and \$414,882 in fiscal year 2013); Email from Melissa L. Meyer, Budget Mgmt. Specialist, Dep’t of Fin. & Mgmt., City of Columbus, to author (May 7, 2015, 7:44 PST) (reporting that the amount paid was \$360,370 in fiscal year 2014). For information about the total budget of the Columbus Police Department in fiscal years 2012, 2013, and 2014, see Email from Melissa L. Meyer, Budget Mgmt. Specialist, Dep’t of Fin. & Mgmt., City of Columbus, to author (Sept. 26, 2014, 5:30 PST) (on file with author) (reporting that the budget was \$279,653,878 in fiscal year 2012, \$291,485,844 in fiscal year 2013, and \$296,176,176 in fiscal year 2014). For information about the total budget of the city of Columbus, see CITY OF COLUMBUS, 2015 BUDGET 27, [https://columbus.gov/uploadedFiles/Columbus/Departments/Finance_and_Management/Financial_Management_Group/Budget_Management/2015_Budget/PDFs/City %20of%20Columbus%202015%20Operating%20Budget%20Proposal.pdf](https://columbus.gov/uploadedFiles/Columbus/Departments/Finance_and_Management/Financial_Management_Group/Budget_Management/2015_Budget/PDFs/City%20of%20Columbus%202015%20Operating%20Budget%20Proposal.pdf) at 27 [<https://perma.cc/V5YW-PGGK>] (reporting 2012 total funds of \$1,493,867,175; 2013 total funds of \$1,513,227,186; and 2014 projected funds of \$1,597,691,787).

Virginia State Police (VA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Michelle Vucci, Assoc. Dir. for Admin. Servs., Va. Dep’t of Planning & Budget, to author (Oct. 1, 2014, 7:45 PST) (on file with author) (reporting that the Commonwealth of Virginia is, for the most part, self-insured, and requires each state agency, including the State Police, to pay an annual premium that is deposited into the State Insurance Reserve Trust Fund (SIRTF). Settlements and judgments are generally paid from the SIRTF, although departments may pay for certain claims, settlements or judgments from their own budget, should they have the funding available); *see also* Email from Don LeMond, Dir., Div. of Risk Mgmt., Commonwealth of Va., to author (May 18, 2015, 6:56 PST) (on file with author) (reporting that the amount paid in premiums “[o]bviously . . . competes with other budget items. What the state police pays risk management for its insurance comes to risk management, it does not go into the [department’s] general fund”). For information about the total amount paid by the Virginia State Police into the SIRTF and the total amount paid from the SIRTF in claims involving the Virginia State Police in the past three fiscal years, see Email from Don LeMond, Dir., Div. of Risk Mgmt., Commonwealth of Va., to author (Oct. 7, 2014, 11:47 PST) (on file

with author) (reporting that the Virginia State Police paid a total of \$2,039,094 into the SIRTf and that the SIRTf paid out approximately \$1,250,000 over the past three fiscal years); *see also* Email from Don LeMond, Dir., Div. of Risk Mgmt., Commonwealth of Va., to author (May 5, 2015, 6:31 PST) (on file with author) reporting that the Virginia State Police budgets do not reflect any payments from the Police budget to satisfy settlements and judgments “for the past several years”). For information about the total budget of the Virginia State Police in fiscal years 2012, 2013, and 2014, see *Final Budget for the 2010–2012 Biennium*, DPB Budget Appropriations Database, <https://solutions.virginia.gov/pbreports/rdPage.aspx?rdReport=dwBudgetWiz&rdAgReset=True&selTableName=ChapterByFnd&selFieldList=AgencyCode&selTitleList=AgencyTitle&selChapterID=41&selValueColumns=Total%20Dollars%2cTotal%20Positions&iptSubmitted=True&chkInitial=True&chkAmended=True&chkCaboose=True&iptFirstPageCall=False&iptShowInput=DontShow&iptShowToggle=Show&QLinks=Agy&rdShowModes=Show> [http://perma.cc/Z9XH-DZE2] (last visited Mar. 27, 2016) (reporting that the State Police budget was \$291,721,228 in fiscal year 2012); *Final Budget for the 2012–2014 Biennium*, DPB Budget Appropriations Database, <https://solutions.virginia.gov/pbreports/rdPage.aspx?rdReport=dwBudgetWiz&rdAgReset=True&selTableName=ChapterByFnd&selFieldList=AgencyCode&selTitleList=AgencyTitle&selChapterID=45&selValueColumns=Total%20Dollars%2cTotal%20Positions&iptSubmitted=True&chkInitial=True&chkAmended=True&chkCaboose=True&iptFirstPageCall=False&iptShowInput=DontShow&iptShowToggle=Show&QLinks=Agy&rdShowModes=Show> [http://perma.cc/ES2T-P5EN] (last visited Mar. 27, 2016) (reporting that the State Police budget was \$293,792,305 in fiscal year 2013 and \$297,613,422 in fiscal year 2014). For the total budget of the state of Virginia, see *The 2011 Executive Budget Document*, VA. DEP’T OF PLANNING & BUDGET, (Dec. 17, 2010), <http://dpb.virginia.gov/budget/buddoc11/index.cfm> [http://perma.cc/B87J-8RLT] (reporting total budget of \$39,304,929,295 in fiscal year 2012); *The 2013 Executive Budget Document*, VIRGINIA DEPARTMENT OF PLANNING & BUDGET, (Dec. 17, 2012), <http://dpb.virginia.gov/budget/buddoc13/index.cfm> [http://perma.cc/PF26-JR7Y] (reporting total budget of \$42,670,020,849 in fiscal year 2013 and \$43,139,336,738 in fiscal year 2014).

North Carolina State Highway Patrol (NC). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Joseph P. Dugdale, Deputy Gen. Counsel for Law Enf’t, N.C. Dep’t of Pub. Safety, to author (Oct. 13, 2014, 14:25 PST) (on file with author) (“Any settlement or judgment (other than vehicle collision claims) must be paid from the Highway Patrol budget but there is a statutory cap of \$1 million per claimant, per incident. The State of North Carolina has a Commercial Business Automobile policy with a cap of \$1 million per person and \$10 million per incident. Each agency contributes to the cost of the policy based on prior claims history.”); Email from Joseph P. Dugdale, Deputy Gen. Couns. for Law Enf’t, N.C. Dep’t of Pub. Safety, to author

(Oct. 13, 2014, 14:53 PST) (on file with author) (confirming that claims against individual officers under Section 1983 are also resolved with payments from the State Patrol's budget); Email from Joseph P. Dugdale, Deputy Gen. Couns. for Law Enf't, N.C. Dep't of Pub. Safety, to author (May 18, 2015, 10:45 PST) (on file with author) (explaining that money is not allocated for litigation during the budgeting process—instead, money paid in settlements and judgments is “money the agency does not get to use for other purposes”). For information about the total budget of the North Carolina State Highway Patrol in fiscal years 2012, 2013, and 2014, see Email from Joseph P. Dugdale, Deputy Gen. Counsel for Law Enf't, N.C. Dep't of Pub. Safety, to author (Oct. 23, 2014, 10:56 PST) (on file with author) (reporting that the budget for the North Carolina State Police was \$195,220,485 in fiscal year 2012, \$190,443,942 in fiscal year 2013, and \$191,466,961 in fiscal year 2014). For information about the total amount paid from the North Carolina State Highway Patrol's budget in claims against the Patrol and/or its officers for fiscal years 2012, 2013, and 2014, see *id.* (reporting that the amount paid for legal settlements and tort claims was \$1,445.15 in fiscal year 2012, \$122,786.94 in fiscal year 2013, and \$103,738.67 in fiscal year 2014).

San Bernardino Sheriff's Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Eric Broome, Supervising Liab. Claim Rep., Cty. of San Bernardino Risk Mgmt. Off. (Sept. 19, 2014) (reporting that the sheriff's department and all other county departments pay part of their budgets to fund the self-insurance program, that the amount of payment is based on loss experience, and that an outside insurer pays for claims in excess of \$3 million). For the total amount paid in settlements and judgments in cases involving the Sheriff's Department, see Email from Eric Broome, Supervising Liab. Claim Rep., Cty. of San Bernardino Risk Mgmt. Office, to author (Dec. 11, 2015, 14:17 PST) (reporting total payments of \$3,790,277 in fiscal year 2012/13; \$7,516,172 in fiscal year 2013/14; and \$8,054,076 in fiscal year 2014/2015).

Orange County Sheriff's Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Laurie Shade, Senior Deputy, Off. of the Orange Cty. Counsel, to author (Oct. 7, 2013, 12:57 PST) (“[T]he payments come from a fund that all departments pay into. Settlements and Judgments on Sheriff's cases affects [sic] her budget because a premium is charged based upon the history and volume of cases that arise from that department.”); Telephone Interview with Bryan Berea, Manager, Admin. & Fin. Mgmt., CEO/Office of Risk Mgmt., Cty. of Orange (May 18, 2015) (explaining that the amount each department pays into the internal service fund, operated by risk management, is calculated based on a ten-year loss history (70 percent) and the number of employees in the department (30 percent)); *id.* (explaining that Risk Management sets the premium for each department in December and the department builds that amount into their yearly budget as one of the line items that is approved by the

board of supervisors); *id.* (explaining that the County is self-insured for \$5 million per occurrence, and has excess insurance for claims above \$5 million). For information about the total amount paid by the Orange County Sheriff's Department to the fund in fiscal years 2012, 2013, and 2014, see Email from Bryan Berea, Manager, Admin. & Fin. Mgmt., CEO/Office of Risk Mgmt., to author (Sept. 24, 2014, 10:14 PST) (on file with author) (reporting that the amount paid by the Sheriff's Department to the fund was \$4.9 million in fiscal year 2012, \$8.3 million in fiscal year 2013, and \$9.6 million in fiscal year 2014). For information about the total amount paid from the fund towards suits involving the Orange County Sheriff's Department for fiscal years 2012, 2013, and 2014, see Email from Bryan Berea, Manager, Admin. & Fin. Mgmt., CEO/Office of Risk Mgmt., to author (May 18, 2015, 16:14 PST) (reporting \$6.2 million paid in fiscal year 2012, \$10.5 million paid in fiscal year 2013, and \$1.8 million paid in fiscal year 2014 in bodily injury and property damage cases). For information about the total budget of the Orange County Sheriff's Department in fiscal years 2012, 2013, and 2014, see Email from Bryan Berea, *supra* (Sept. 24, 2014, 10:14 PST) (on file with author) (reporting that the budget was \$485.7 million in fiscal year 2012, \$513.8 million in fiscal year 2013, and \$530.1 million in fiscal year 2014).

Michigan State Police. For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Bill Bowerman, Assoc. Dir., Senate Fiscal Agency Gen. Gov't Unit, Senate Fiscal Agency, State of Mich. (June 18, 2015) (explaining that departments pay into a statewide risk management fund that covers automotive liability up to \$1 million, and that other liability costs are paid from the departments' budgets; there is usually not a specific amount budgeted for claims (unless there is a very large anticipated payment) and so the department will use money from other parts of their budget or seek an additional appropriation for a large unanticipated cost). For the amount paid in settlements and judgments involving the Michigan State Police, see SENATE FISCAL AGENCY, FY 2013–14 STATUS OF LAWSUITS INVOLVING THE ST. OF MICH. (2015) (reporting state police payouts in non-auto liability judgments and settlements totaling \$206,952 in fiscal year 2014, \$276,900 in fiscal year 2013, and \$711,482 in fiscal year 2012). The State's litigation report does not break down auto-liability judgments and settlements by department; total auto-liability payments were \$464,963 in fiscal year 2014, \$188,624 in fiscal year 2013, and \$1,840,225 in fiscal year 2012. *Id.* Note that the figures in Appendix B do not include the cost of vehicle liability. For the budget of the state of Michigan, see DEP'T OF TECH., MGMT. & BUDGET, EXECUTIVE BUDGET FISCAL YEARS 2012 AND 2013 (2011), http://www.michigan.gov/documents/budget/1_345974_7.pdf [<http://perma.cc/NLR4-KERG>] (reporting a fiscal year 2012 recommended budget of \$46,627,231,900.00); DEP'T OF TECH., MGMT. & BUDGET, EXECUTIVE BUDGET FISCAL YEARS 2014 AND 2015 (2013), http://www.michigan.gov/documents/budget/1_410735_7.pdf (reporting a fiscal 2013 budget of \$49,172,685,900.00); DEP'T OF TECH., MGMT. & BUDGET, EXECUTIVE BUDGET FISCAL YEARS 2014 AND 2015 (2013),

http://www.michigan.gov/documents/budget/1_410735_7.pdf (reporting a fiscal year 2014 budget of \$51,356,221,300.00).

Atlanta Police Department (GA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Linda J. Guy, Bus. Manager, City of Atlanta Dep't of Fin., to author (Oct. 24, 2014, 7:23 PST) (on file with author) (reporting that settlements and judgments in cases brought against the Atlanta Police Department and its officers are paid from the city's General Fund Account and that the city is self-insured); Email from Linda J. Guy, Bus. Manager, City of Atlanta Dep't of Fin., to author (Oct. 24, 2014, 8:16 PST) (on file with author) (confirming that the police department does not contribute anything from its budget to the general fund account used to pay settlements and judgments). For the total amount spent in settlements and judgments involving the Atlanta Police Department, see Email from Kristen Denius, Sr. Assistant City Att'y, City of Atlanta, to author (July 20, 2015, 10:57 PST) (on file with author) (attaching spreadsheet reflecting litigation payments involving the police department totaling \$2,184,208.18 in 2012; \$1,740,831.77 in 2013; and \$1,816,102.07 in 2014). For the budget of the Atlanta Police Department, see CITY OF ATLANTA, FISCAL YEAR 2014 PROPOSED BUDGET 321 (2014) (reporting actual expenditures of \$194,066,028 in fiscal year 2012, an adopted budget of \$202,721,772 in fiscal year 2013, and a budget of \$200,993,815 in fiscal year 2014). For the total budget of the city of Atlanta, see *id.* at 45 (reporting total operating funds of \$1,805,883,148 in fiscal year 2012, an adopted budget of \$1,849,324,774 in fiscal year 2013, and a budget of \$1,875,496,112 in fiscal year 2014).

Charlotte-Mecklenburg Police Department (NC). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Judith Emken, Sr., Assistant City Att'y, Charlotte-Mecklenburg Police Dep't, to author (Oct. 8, 2013, 7:10 PST) (on file with author) ("Any settlement comes out of the City funds set aside through our Division of Risk Management—so no impact on the police budget."). For the total amount paid for settlements and judgments involving the police department, see Email from W.L. Bower, CMPD Police Attorney's Office, to author (May 6, 2015, 7:03 PST) (on file with author) (reporting \$1,170,823.49 paid in fiscal year 2012; \$353,477.69 paid in fiscal year 2013, and \$268,617.96 paid in fiscal year 2014, excluding workers' compensation claims). For the total Charlotte-Mecklenburg Police Department budget, see *id.* (reporting a budget of \$200,200,000 in fiscal year 2012, \$211,300,000 in fiscal year 2013, and \$212,600,000 in fiscal year 2014). For the total Charlotte-Mecklenburg budget, see *id.* (reporting a total budget of \$529,400,000 in fiscal year 2012, \$552,600,000 in fiscal year 2013, and \$563,500,000 in fiscal year 2014).

Port Authority of NY/NJ. For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Tom Belfiore, First Deputy Chief Sec. Officer, The Port Authority of N.Y. and N.J., to author (Sept. 26, 2014, 16:48 PST) (on file with author) ("Settlements and judgments for compensatory damages in cases

brought against Port Authority Police are routinely paid out of the PANYNJ Operational Budget subject to the amount of the PA's self insured retention. Settlements and judgments amounts in excess of the self insured retention are subject to payments by our excess insurers."). On Sept. 29, 2014 and May 4, 2015, I sent FOIA requests to the Port Authority of NY/NJ to learn the scope of the Port Authority's self insured retention, the amount paid in premiums to the excess insurer, and the total paid in settlements and judgments in cases involving the PANYNJ and its officers in fiscal years 2012, 2013, and 2014. To date, these requests have not been answered.

Jacksonville Sheriff's Office (FL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Paula Shoup, Legislative Assistant II, Legislative Servs. Div., Jacksonville City Council, to author (Sept. 9, 2014, 12:26 PST) (on file with author) (reporting that the Sheriff's Office pays into a fund from which settlements and judgments are paid, and also pays into the fund that pays insurance premiums for an excess insurance policy). For the total amount paid by the Jacksonville Sheriff's Office to the pooled program from which settlements and judgments are paid, see Email from Twane Duckworth, Chief of Risk Mgmt., City of Jacksonville, to author (May 8, 2015, 12:46 PST) (on file with author) (reporting \$11,190,639.05 paid in fiscal year 2012; \$10,826,131.04 paid in fiscal year 2013; and \$13,183,967.02 paid in fiscal year 2014). For the total amount paid out of the pooled program in cases involving the Jacksonville Sheriff's Office, see *id.* (reporting \$4,875,230.66 paid in fiscal year 2013, \$3,191,521.93 paid in fiscal year 2013, and \$2,620,181.94 paid in fiscal year 2014). For the total paid by the Sheriff's Office in premiums for excess insurance, see *id.* ("The City does not currently perform an allocation for the excess insurance premium."); see also Email from Twane Duckworth, Chief of Risk Mgmt., City of Jacksonville, to author (May 12, 2015, 6:25 PST) (on file with author) ("[T]he payments from the Sheriff's office is much higher than the amount paid from the pool because claims from those years haven't fully developed yet. The monies submitted for that year will eventually be used as the claim from that year develops."). For information about the total budget of Jacksonville Sheriff's Office, see Email from Paula Shoup, Legislative Assistant II, Legislative Servs. Div., Jacksonville City Council, to author (Sept. 30, 2014, 4:51 PST) (on file with author) (reporting that the budget was \$345,894,759 in fiscal year 2012, \$366,768,040 in fiscal year 2013, and \$389,234,770 in fiscal year 2014). For the city of Jacksonville budget, see JACKSONVILLE BUDGET OFFICE, CITY OF JACKSONVILLE, FLORIDA ANNUAL BUDGET FY 2013–2014, <http://www.coj.net/city-council/docs/budget/fy14-city-of-jacksonville-annual-budget.aspx> [<http://perma.cc/3GWK-RMJN>] (reporting a fiscal year 2012 budget of \$1,969,132,087.00); JACKSONVILLE BUDGET OFFICE, CITY OF JACKSONVILLE, FLORIDA ANNUAL BUDGET FY 2013–2014, available at <http://www.coj.net/city-council/docs/budget/fy14-city-of-jacksonville-annual-budget.aspx> [<http://perma.cc/3GWK-RMJN>] (reporting a fiscal year 2013 budget of \$1,872,787,893.00); JACKSONVILLE BUDGET OFFICE, CITY OF JACKSONVILLE,

FLORIDA ANNUAL BUDGET FY 2013–2014, <http://www.coj.net/city-council/docs/budget/fy14-city-of-jacksonville-annual-budget.aspx> [<http://perma.cc/3GWK-RMJN>] (reporting a fiscal year 2014 budget of \$1,987,132,888.00).

Broward County Sheriff's Office (FL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from John Greene, Claims Manager, Risk Mgmt. Div., Broward Sheriff's Office, to author (Oct. 8, 2013, 5:09 PST) (on file with author) (reporting that Broward Sheriff's Office gets "a number from the County who is our funding source" and that "this year for instance we have 4.3 million [dollars] to pay claims . . . our portion is part of our overall budget that the Sheriff asks for and the County gives us (always with a bunch of drama and fighting)"); Email from John Greene, Claims Manager, Risk Mgmt. Div., Broward Sheriff's Office, to author (Oct. 8, 2013, 6:51 PST) (on file with author) ("[I]t is my understanding [that] if we do [go over,] we can go to the county and ask for more! If we go under[,] it goes either to the general budget or back to the county."). For information about the total amount given by Broward County to the Sheriff's Office to pay liability claims in fiscal years 2012, 2013, and 2014, see Email from John Greene, Dir. of Risk Mgmt., Broward Sheriff's Office, to author (Oct. 20, 2014, 8:58 PST) (on file with author) (reporting that the County gave the Sheriff's Office \$6,847,640.00 in fiscal year 2012, \$5,370,300.00 in fiscal year 2013, and \$4,483,490.00 in fiscal year 2014 to pay for claims). For information about the total amount paid out of the Sheriff's Office budget to pay claims in fiscal years 2012, 2013, and 2014, see Email from John Greene, Dir. of Risk Mgmt., Broward Sheriff's Office, to author (Oct. 20, 2014, 8:58 PST) (on file with author) (reporting that the amount paid out for liability was \$3,485,734.00 in fiscal year 2012, \$4,867,117.86 in fiscal year 2013, and \$3,199,518.00 in fiscal year 2014). For information about the total budget of Broward Sheriff's Office, see Email from John Greene, Dir. of Risk Mgmt., Broward Sheriff's Office, to author (Oct. 28, 2014, 7:45 PST) (on file with author) (reporting that the budget was \$689,705,280 in fiscal year 2012, \$667,091,850 in fiscal year 2013, and \$677,008,040 in fiscal year 2014). For information about the Broward County budget, see BROWARD CTY., FLA. BD. OF COMM'RS, FISCAL YEAR 2012 ADOPTED OPERATING BUDGET, <http://www.broward.org/Budget/2012/Documents/Oper/EntireDoc.pdf> (reflecting a 2012 budget of \$2,343,321,600.00); BROWARD CTY., FLA. BD. OF COMM'RS, FISCAL YEAR 2014 ADOPTED OPERATING BUDGET, <http://www.broward.org/Budget/2014/Documents/Op/Summaries.pdf> (reflecting a revised 2013 budget of \$2,490,563,665.00); BROWARD CTY., FLA. BD. OF COMM'RS, FISCAL YEAR 2014 ADOPTED OPERATING BUDGET, <http://www.broward.org/Budget/2014/Documents/Op/Summaries.pdf> (reflecting a 2014 budget of \$2,477,175,470.00).

Cleveland Police Department (OH). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Thomas Kaiser, Chief Trial Counsel, Dep't of Law, City of Cleveland, to author (Oct. 7, 2013, 12:58 PST) (on

file with author) (“All excessive force settlements & judgments on Police Department cases come out of the general fund, specifically the law department’s budget. Those monies do not get charged to the police department.”). For the total amount paid in settlements and judgments involving the Cleveland Police Department, see Email from Kim L. Roberson, Pub. Records Adm’r, City of Cleveland, Dep’t of Law, to author (July 28, 2015, 14:51 PST) (on file with author) (attaching spreadsheet reflecting payments of \$1,113,829.90 in 2012; \$1,184,904.69 in 2013; and \$5,788,400 in 2014). For the total budget of the Cleveland Police Department, see CITY OF CLEVELAND, OHIO, 2014 BUDGET BOOK 361 (2014) (reflecting expenditures of \$171,975,278 in 2012; \$174,664,787 in 2013 (unaudited), and \$179,023,493 in 2014 (budgeted)). For the budget of the City of Cleveland, see CITY OF CLEVELAND, OHIO, 2014 BUDGET BOOK 48 (2014) (reporting 2014 expenditures of \$1,243,518,910); CITY OF CLEVELAND, OHIO, 2013 BUDGET BOOK 47 (2014) (reporting a 2013 operating budget of \$1,188,825,442); CITY OF CLEVELAND, OHIO, 2012 Budget Book 54 (2012) (reflecting 2012 operating budget expenditures of \$1,167,678,111).

Florida Highway Patrol (FL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Wanda E. Brazell, Admin. Assistant III, Fla. Dep’t of Fin. Servs., Div. of Risk Mgmt., Office of the Dir., to author (Oct. 8, 2013, 7:51 PST) (on file with author) (“The self-insurance program is funded by premiums assessed to the state agencies based on a retrospective rating process, and those premiums are paid from the agency’s budget, but the claims are paid from the State Risk Management Trust Fund.”); Telephone Interview with Shannon Segers, Bureau Chief of Risk Fin. & Loss Prevention, Fla. Dep’t of Fin. Servs., Div. of Risk Mgmt. (Oct. 10, 2013) (explaining that in 2010 the Department of Financial Services changed the rating model such that 80 percent of the premium is based on the past five years of payouts, and 20 percent is based on current claims as a way of rewarding departments based on their current activities); *see also* Telephone Interview with Shannon Segers, Bureau Chief of Risk Fin. & Loss Prevention, Fla. Dep’t of Fin. Servs., Div. of Risk Mgmt. (May 26, 2015) (reporting that an increase in premiums would be accompanied by an increase in appropriations from the legislature unless sufficient funds were unavailable, and noting that they have seen the number of reported claims decline slightly each year since 2011, correlating with the shift in the calculation of premiums to include current claims). For information about the total premiums paid from the Florida Highway Patrol to the State Risk Management Trust Fund, see Email from Wanda E. Brazell, Admin. Assistant III, Fla. Dep’t of Fin. Servs., Div. of Risk Mgmt., Office of the Dir., to author (Sept. 24, 2014, 12:08 PST) (on file with author) (reporting total casualty premiums of \$5,376,481.30 for fiscal year 11–12, \$6,983,455 for fiscal year 12–13, and \$7,554,713 for fiscal year 13–14). For information about the total amount paid from the Risk Management Trust Fund in cases involving the Florida Highway Patrol, see *id.* (reporting payments of \$5,386,885.18 for fiscal year 11–12, \$6,171,853.89 for fiscal year 12–13, and \$5,415,271.83 for fiscal year 13–14). For information about the Florida

Highway Patrol's budget in fiscal year 2012, see FLA. DEP'T OF HIGHWAY SAFETY & MOTOR VEHICLES, ANNUAL PERFORMANCE REPORT: FISCAL YEAR 2011–2012 8 (2012) (reporting the budget as \$239,058,275 in fiscal year 2012); FLA. DEP'T OF HIGHWAY SAFETY & MOTOR VEHICLES, ANNUAL PERFORMANCE REPORT: FISCAL YEAR 2012–2013 6 (2013) (reporting the budget as \$237,824,679 in fiscal year 2013); FLA. DEP'T OF HIGHWAY SAFETY & MOTOR VEHICLES, PROPOSED LEGISLATIVE BUDGET REQUEST FISCAL YEAR 2014–15 2 (2014), <http://www.flhsmv.gov/html/lbr.pdf.011415> (reporting the approved budget in fiscal year 2013–14 as \$248,753,963). For the budget of the state of Florida, see Bill Kaczor, *Florida Budget Has Plenty of Pain to Go Around*, ASSOCIATED PRESS (May 6, 2011), <http://news.yahoo.com/florida-budget-plenty-pain-around-205755348.html> [<http://perma.cc/2Q93-E9KQ>] (reporting a 2011–2012 budget of \$69.7 billion); Jim Turner, *House Passes \$69.2 Billion Budget for 2012–13*, SUNSHINE STATE NEWS (Feb. 8, 2012), <http://www.sunshinestatenews.com/story/house-passes-692-billion-budget-2012-13> [<http://perma.cc/F2ZS-U268>] (reporting a 2012–13 budget of \$69.2 billion); Press Release, Governor Rick Scott, *Governor Scott Signs Florida Families First Budget*, RICK SCOTT 45TH GOVERNOR OF FLA. (May 20, 2013), <http://www.flgov.com/governor-scott-signs-florida-families-first-budget> [<http://perma.cc/WY4X-9M63>] (reporting a 2013–14 budget of \$74.1 billion).

Indianapolis Metropolitan Police Department (IN). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Jason Dudich, City-Cty. Controller, City & Cty. of Indianapolis, to author (Oct. 20, 2014, 14:42 PST) (explaining that Indianapolis is self-insured, pays settlements and judgments in lawsuits from a Legal Settlement Fund, and, each year, “budget[s] in the IMPD fund a payment back to the Legal Settlement Fund based on past settlements and judgments”); Email from Jason Dudich, City-Cty. Controller, City & Cty. of Indianapolis, to author (Oct. 23, 2014, 12:05 PST) (“Each year, IMPD budgets (with help from our office) as to how much should be paid from the IMPD general fund to the Legal Settlements fund. During the year, that budget is paid to the fund regardless of the settlements made throughout the year. In the event during the year settlements are more than the amount budgeted, our office and IMPD will work to identify surplus funds at the end of the year to cover the overage of settlements. In some cases we are able to do that, in others we are not due to other budget issues. In the event the amount of settlements is less than the budgeted amount, IMPD will pay the budgeted amount, and in the next fiscal year we will adjust the budget for settlements based on the fund balance of the Legal Settlements Fund.”). For the amount paid by the police department to the Legal Settlement Fund, see Email from Samantha E. DeWester, Deputy Corp. Counsel/City Prosecutor/Pub. Access Counselor Office of Corp. Counsel, City & Cty. of Indianapolis, to author (May 6, 2015, 9:03 PST) (on file with author) (reporting payments from the Police Department to the Legal Settlement Fund of \$1,445,000 in fiscal year 2012; \$1,080,000 in fiscal year 2013; and \$2,300,000 in fiscal year 2014). For the

amount paid in settlements and judgments involving the police department from the Legal Settlement Fund, see Email from Samantha E. DeWester, Deputy Corp. Counsel/City Prosecutor/Pub. Access Counselor Office of Corp. Counsel, City & Cty. of Indianapolis, to author (Oct. 22, 2014, 8:19 PST) (on file with author) (reporting payments of \$1,848,572.43 in fiscal year 2012, and \$3,929,253.37 in fiscal year 2013); Email from Samantha E. DeWester, Deputy Corp. Counsel/City Prosecutor/Pub. Access Counselor, Office of Corp. Counsel, City & Cty. of Indianapolis, to author (May 12, 2015, 9:22 PST) (on file with author) (reporting payments of \$1,355,496 in 2014). For the budget of the Indianapolis Police Department, see INDIANAPOLIS-MARION CTY, CITY-CTY. COUNCIL, 2014 ADOPTED BUDGET FOR THE CONSOLIDATED CITY OF INDIANAPOLIS, MARION CTY. (2013), <http://www.indy.gov/eGov/City/OFM/SiteAssets/Pages/home/2014%20Adopted%20BB%20-%20FINAL.pdf> [<http://perma.cc/29S4-VR4J>] (reporting that the Police Department budget was \$192,008,827 in fiscal year 2012; \$202,543,151 (adopted) in fiscal year 2013; and \$200,363,922 (adopted) in fiscal year 2014). For the budget of the consolidated city of Indianapolis and Marion County, see *id.* (reporting 2012 budget of \$1,027,723,145; 2013 budget of \$1,045,249,522.00; and 2014 budget of \$999,037,228.00).

Prince George's County Police (MD). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Ivy L. Kline, Admin. Assistant, Office of Fin., Prince George's Cty., to author (Oct. 17, 2014, 7:25 PST) (on file with author) ("The Risk Management Fund is funded, in part, by charges made directly to County agencies. This is accomplished through a blended Fringe Benefit rate assigned to each County agency's annual appropriation. In that manner, the Police Department contributes to the Risk Management Fund, as there is an assigned Fringe Benefit cost in their annual budget."). For the total amount contributed by the Prince George's County Police into the Risk Management Fund, see Email from Ivy L. Kline, Admin. Assistant, Office of Fin., Prince George's Cty., to author (Nov. 18, 2014, 13:32 PST) (on file with author) ("The County Police Department's contribution to the Risk Management Fund for fiscal years 2012, 2013 and 2014 was \$11,111,486, \$10,185,174 and \$10,353,768 respectively . . ."). For the amount paid from the Risk Management Fund in cases involving the Prince George's County Police in fiscal years 2012, 2013, and 2014, see *id.* ("Loss amount payments made by the Risk Management Fund on behalf of the Police Department for Automobile Liability Bodily Injury and Property Damage and General Liability claims was \$5,930,178 in fiscal year 2012, \$4,246,566 in fiscal year 2013, \$1,286,254 in fiscal year 2014."). For the total Prince George's County Police Department budget in fiscal years 2012, 2013, and 2014, see *id.* ("The total budget amount of the Police Department for fiscal years 2012, 2013 and 2014 was \$257,560,200, \$258,844,600 and \$272,551,800 respectively."). For the total budget of Prince George's County, see OFFICE OF MGMT. & BUDGET, BUDGET OVERVIEW 1 (2013), http://www.princegeorgescountymd.gov/sites/OMB/Resources/Budget2014/Documents/OMB_FY14ApprovedBud

get_overview_Sept2013.pdf [<http://perma.cc/A42Y-TF4D>] (reporting county expenditures of \$3,124,774,568 in fiscal year 2012; \$3,227,906,700 in fiscal year 2013 (estimated); and \$3,262,914,200 in fiscal year 2014 (approved)).

Ohio State Highway Patrol (OH). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Paul A. Russell, Chief Legal Counsel, Dep't of Admin. Servs., to author (Oct. 20, 2014, 14:48 PST) (on file with author) ("Vehicle related claims are paid out of a state risk fund. The Highway Patrol and other state entities pay into this fund with money out of their budgets. Non-vehicle related liabilities are paid out of the Highway Patrol/Department of Public Safety budget and if not possible out of other state funds."); see also Email from Melissa D. Baldwin, Pub. Records Adm'r, Ohio State Highway Patrol, to author (June 11, 2015, 10:29 PST) (on file with author) (explaining that the Ohio State Highway Patrol gets a lump sum in the annual budgeting process for various categories including equipment, maintenance, payroll, and legal; the agency can transfer allotments to another line if there is a surplus; the agency does not return to the state for additional funding for lawsuits; and funds will be taken from another area of the budget if necessary; "[f]or example, budgeted equipment purchases may be delayed if there is a large settlement we must pay"). For information about the total amount paid by the Ohio State Highway Patrol into the state risk fund for vehicle liability in fiscal years 2012, 2013, and 2014, see Email from Paul A. Russell, Chief Legal Counsel, Dep't of Admin. Servs., City of Columbus, to author (May 26, 2015, 14:26 PST) (on file with author) (attaching a document reflecting that the amount paid into the risk fund was \$339,521 in fiscal year 2012, \$384,820 in fiscal year 2013, and \$345,500 in fiscal year 2014). For information about the total amount paid from the fund for vehicle liability claims, see *id.* (reporting liability claim payouts of \$98,927.39 in fiscal year 2012, \$62,671.62 in fiscal year 2013, and \$114,577.05 in fiscal year 2014). For information about the total amount paid by the Highway Patrol out of its budget to satisfy non-vehicle related liabilities in fiscal years 2012, 2013, and 2014, see Email from Benjamin E. Morris, Customer Serv. Manager, Cent. Records, Ohio State Highway Patrol, to author (Nov. 4, 2014, 7:51 PST) (on file with author) (reporting that the amount paid was \$22,850.94 in fiscal year 2012, \$4,473.64 in fiscal year 2013, and \$163,429.31 in fiscal year 2014). For information about the total Highway Patrol budget in fiscal years 2012, 2013, and 2014, see *id.* (reporting that the budget was \$260,744,934 in fiscal year 2012, \$258,365,903 in fiscal year 2013, and \$268,743,502 in fiscal year 2014). For information about the budget of the State of Ohio, see TIMOTHY S. KEEN, OHIO OFFICE OF BUDGET & MGMT., THE JOBS BUDGET: TRANSFORMING OHIO FOR GROWTH (2011), http://obm.ohio.gov/Budget/operating/doc/fy-12-13/bluebook/Book3-Budget_Summary-FY2012-2013.pdf [<http://perma.cc/8R6G-M975>] (reporting a fiscal year 2012 budget of \$59,359,981,626.00); OHIO OFFICE OF BUDGET & MGMT., OHIO'S JOBS BUDGET 2.0: BUDGET HIGHLIGHTS 26 (2013), <http://obm.ohio.gov/Budget/operating/doc/fy-14->

15/bluebook/budget/Highlights_14-15.pdf [http://perma.cc/C9D4-FFSA] (reporting a fiscal year 2013 budget of \$60,024,779,508.00 and a fiscal year 2014 budget of \$63,700,346,075.00).

Memphis Police Department (TN). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Richard B. Campbell, Budget Manager, City of Memphis, to author (Oct. 21, 2014) (on file with author) (“Our City Budget plans for potential judgments and assigns an appropriate amount to the respective Divisions each year based on past experience averages, and potential known cases that may settle in the budget year Therefore Police has a ‘claims and lawsuits’ budget for the payment of settlements. If the budget is insufficient the Division will return to Council to request additional funds which will come from reserves or from other Divisions[] whose claims or other expenditures are tracking to be below budget We changed to the allocation to specific divisions because it gave the Divisions more perspective of what they were costing and perhaps heightened their efforts for prevention or changes if in order.”). For information about the total budget of the Memphis Police Department in fiscal years 2012, 2013, and 2014, see CITY OF MEMPHIS, 2013 FISCAL YEAR OPERATING BUDGET 269 (reporting that the budget was \$221,557,306 in fiscal year 2012 and \$232,609,495 in fiscal year 2013); CITY OF MEMPHIS, 2015 FISCAL YEAR OPERATING BUDGET 229 (reporting that the budget was \$234,055,868 in fiscal year 2014). Repeated requests for information about the amount spent on settlements and judgments involving the Memphis Police Department went unanswered.

Denver Police Department (CO). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Brendan J. Hanlon, Budget & Mgmt. Off., to author (Sept. 8, 2014, 14:23 PST) (on file with author) (reporting that Denver is self-insured and that “claims are paid out of the City’s General Fund budget and are not appropriated in the police department’s budget”). For information about the total amount paid for judgments and settlements involving the Denver Police Department in fiscal years 2012, 2013, and 2014, see Email from Nikki Holmlund, Dir. of Admin., City Attorney’s Off., City & Cty. of Denver, to author (May 5, 2015, 13:36 PST) (on file with author) (attaching spreadsheet reflecting payments of \$155,000 in fiscal year 2012; \$437,634.20 in fiscal year 2013; and \$365,000 in fiscal year 2014). For information about the total budget of the Denver Police Department in fiscal years 2012, 2013, and 2014, see *id.* (reporting the police department budget to be \$187,686,000 in fiscal year 2012; \$196,962,557 in fiscal year 2013; and \$208,708,800 in fiscal year 2014). For information about the total budget of the City and County of Denver in fiscal years 2012, 2013, and 2014, see *id.* (reporting the total budget for the City and County of Denver to be \$2,100,832,000 in fiscal year 2012; \$2,161,880,000 in fiscal year 2013; and \$2,273,066,000 in fiscal year 2014).

Austin Police Department (TX). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Meghan Riley, Div.

Chief, Litig., City of Austin Law Dep't (Oct. 18, 2013) (reporting that the money for law-suits is paid out of a liability reserve fund that is part of the city's budget and is funded through individual department budget contributions); Telephone Interview with Katie Zamesnik, Bus. Process Consultant, Fin. Servs. Office, City of Austin (Oct. 22, 2014) (explaining that, prior to fiscal year 2015, expenses were budgeted at the fund level and that, as of fiscal year 2015, these costs were moved to the department level so that the government can see what it has given to the police department to contribute to the city's liability fund, but that if the liabilities for the police department are more costly than the amount it contributed, the remainder will be taken from the liability reserve fund instead of the police department's operating budget); *see also* Email from Kim Euresti, Controller's Office, City of Austin, to author (June 9, 2015, 8:23 PST) (on file with author) (explaining that the required payments from each department are made "based on an estimate of anticipated costs for claims each year" which is "determined by the fund's historical costs (or the prior three-year claim expenses) . . ."); Email from Jamie Atkinson, Senior Budget Analyst, City of Austin, to author (June 8, 2015, 14:28 PST) (on file with author) ("[O]nce the fund's needs are calculated by the Controller's Office, that information is distributed to the relevant departments (including APD) and the funding is added to their budget during the annual budget development process. The departments are not tasked with finding the funding for what we consider 'corporate' or Citywide allocations."). For information about the total amount paid by the Austin Police Department to the Liability Reserve Fund, see Letter from Sandra Campbell, Admin. Specialist, Controller's Office, to author (Oct. 7, 2014) (on file with author) (explaining that the amount paid "was set at the General Fund level prior to 2015 and no amount was specifically identif[i]ed with any General Fund department including the Austin Police Department"). For information about the total amount paid out of the Liability Reserve Fund in cases involving the Austin Police Department in fiscal years 2012, 2013, and 2014, see *id.* (reporting that the amount paid out of the Fund was \$251,934.58 in fiscal year 2012, \$176,991.54 in fiscal year 2013, and \$2,942,534.74 in fiscal year 2014). For information about the total budget of the Austin Police Department in fiscal years 2012, 2013, and 2014, see *id.* (reporting that the budget was \$282,997,317 in fiscal year 2012, \$301,024,790 in fiscal year 2013, and \$308,117,602 in fiscal year 2014). For information about Austin's budget, see MARC A. OTT, CITY OF AUSTIN, 2011-12 APPROVED BUDGET 5 (2011), https://assets.austintexas.gov/budget/11-12/downloads/fy12_approved_volume1.pdf [<http://perma.cc/R68Y-JJPN>] (reporting a fiscal year 2011-2012 budget of \$2,793,639,000.00); MARC A. OTT, CITY OF AUSTIN, 2013-14 APPROVED BUDGET 4 (2013), https://assets.austintexas.gov/budget/13-14/downloads/fy14_approved_volume1.pdf [<http://perma.cc/7TM4-NNRB>] (reporting a fiscal year 2012-2013 budget of \$3,145,422,000.00, and a fiscal year 2013-2014 budget of \$3,270,528,000.00).

Fort Worth Police Department (TX). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Aaron J. Bovos, Chief

Fin. Officer, Dep't of Fin. Mgmt. Servs., to author (Sept. 18, 2014, 15:32 PST) (on file with author) (reporting that “[s]ettlements and judgments in cases brought against the City of Fort Worth’s Police Department and [its] officers are paid out of the City’s Risk Management Fund” and “[t]he City has an internal service fund where costs are apportioned to all funds and operating units based upon past activity” and noting that they have outside insurance for some types of claims, but police misconduct cases are not included); Email from Aaron J. Bovos, Chief Fin. Officer, Dep't of Fin. Mgmt. Servs., to author (Sept. 19, 2014, 14:33 PST) (on file with author) (clarifying that the amounts paid into the Risk Management Fund to cover police liability are paid from the General Fund and the Crime Control Prevention District, not the Police Department budget—“it is calculated at the fund level versus the department level”). For the amount spent in settlements and judgments involving the Fort Worth Police Department, see Email from John Butkus, Acting Assistant Dir., Treasury & Risk Mgmt., City of Fort Worth, to author (July 27, 2015, 7:23 PST) (on file with author) (attaching spreadsheet reflecting \$1,234,578 paid in fiscal year 2012; \$738,514 paid in fiscal year 2013, and \$793,627 paid in fiscal year 2014). For the total budget of the Fort Worth Police, see CITY OF FORT WORTH, TEX., FISCAL YEAR 2014 ADOPTED ANNUAL BUDGET AND PROGRAM OBJECTIVES E-48 (2013) http://fortworthtexas.gov/uploadedFiles/Budget_and_Management_Services/FY2014/FY2014_AdoptedBudget.pdf [<http://perma.cc/V3XX-6>] (reporting police department expenditures of \$195,765,003 in fiscal year 2012; \$199,787,614 in fiscal year 2013; and \$204,225,440 in fiscal year 2014). For the total budget of the City of Fort Worth, see Butkus, *supra* (reflecting total budgets of \$1,213,893,013 in fiscal year 2012, \$1,252,602,228 in fiscal year 2013, and \$1,267,401,900 in fiscal year 2014).

New Orleans Police Department (LA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Norman S. Foster, Dir. of Fin., City of New Orleans, to author (Sept. 22, 2014, 9:00 PST) (on file with author) (“The Law department has a budget for claims and judgments each year. The level of claims and judgments in any given year may exceed the budgeted amount.”). For information about the amount paid in lawsuits involving the New Orleans Police Department and its officers, see Letter from Anita B. Curran, Assistant City Att’y, City of New Orleans Law Dep’t (May 5, 2015) (on file with author) (explaining that there are “no records responsive” to my request for “records or information reflecting the amount spent by the city for settlements and judgments in cases involving the New Orleans Police Department and/or its officers for fiscal years 2012, 2013, and 2014” and that, “[i]n order for the Law Department to fulfill your request, the Department must research its files and resources to pull together the information your requested”—something not required by the Public Records Law). For information about the total budget of the New Orleans Police Department, see ANDREW D. KOPPLIN, CITY OF NEW ORLEANS, 2012 ANNUAL OPERATING BUDGET 236 (2011) (reporting that the budget was \$128,528,462 in fiscal year 2012);

ANDREW D. KOPPLIN, CITY OF NEW ORLEANS, 2013 ANNUAL OPERATING BUDGET 235 (2012) (reporting that the budget was \$133,358,687 in fiscal year 2013); ANDREW D. KOPPLIN, CITY OF NEW ORLEANS, 2014 ANNUAL OPERATING BUDGET 244 (2013) (reporting that the budget was \$135,319,253 in fiscal year 2014). For information about the total budget of the City of New Orleans, see KOPPLIN, 2012 ANNUAL OPERATING BUDGET, *supra*, at 69 (reporting that the budget was \$876,252,797 in fiscal year 2012); KOPPLIN, 2013 ANNUAL OPERATING BUDGET, *supra*, at 55 (2012) (reporting that the budget was \$835,169,987 in fiscal year 2013); KOPPLIN, 2014 ANNUAL OPERATING BUDGET, *supra*, at 88 (reporting that the budget was \$837,516,571 in fiscal year 2014).

Kansas City Police Department (MO). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Virginia H. Murray, Gen. Counsel, Off. of Gen. Counsel, Kansas City, Mo. Police Dep't, to author (May 17, 2015, 10:50 PST) (on file with author) (reporting that the Department makes a budgeting request early in the budget cycle; when it receives its budget it "line-items the money received" and, as part of that process, funds a Department risk management account dictated by the Department); *id.* (explaining that the state is additionally required to fund the Department "1 million per fiscal year to pay for judgments, settlements, and compromising of claims"); *id.* (reporting that the Department has "to [her] knowledge, never gone back to the City for additional funding to pay for a judgment or settlement"); *id.* (explaining that their funding and payment of claims "is different from every other agency in the country"); Email from Virginia H. Murray, Gen. Counsel, Office of Gen. Counsel, Kansas City, Mo. Police Dep't, to author (Sept. 8, 2014, 18:30 PST) (on file with author) (reporting that the department makes decisions about whether and when to settle and for what amount); Email from Virginia H. Murray, Gen. Couns., Off. of Gen. Couns., Kansas City, Mo. Police Dep't, to author (Sept. 13, 2014, 13:09 PST) (on file with author) ("The PD submits letters each quarter to the State requesting reimbursement from the 1 million. If the 1 million isn't spent in a given year it doesn't 'roll over' to the next year. Likewise there is no 'borrowing' against the next year's 1 million."); *see also* Email from Scott M. Huizenga, Budget Officer, Budget Div., Fin., City of Kansas City, Mo., to author (Sept. 8, 2014, 10:50 PST) (on file with author) ("[J]udgments and settlements against KCPD are paid from the KCPD budget. Occasionally, the General Fund of the City also may contribute to a judgment or settlement if the City is an additional defendant."). For information about the total amount paid from the KCPD's budget in settlements and judgments involving the KCPD and/or its officers in fiscal years 2012, 2013, and 2014, see Email from Virginia H. Murray, Gen. Counsel, Off. of Gen. Counsel, Kansas City, Mo. Police Dep't, to author (Nov. 5, 2014, 8:55 PST) (reporting that the amount paid from the KCPD's budget was \$4,269,595.12 in fiscal year 2012, \$1,316,332.44 in fiscal year 2013, and \$2,282,331.96 in fiscal year 2014). For information about the total budget of the KCPD in fiscal years 2012, 2013, and 2014, see

id. (reporting that the budget was \$220,400,836 in fiscal year 2012, \$213,840,903 in fiscal year 2013, and \$223,690,546 in fiscal year 2014).

San Jose Police Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Tamara Becker, Open Gov't Manager, City of San Jose, City Manager's Office, to author (Sept. 11, 2014, 13:05 PST) (on file with author) (reporting that San Jose is self-insured and "everything is paid out of City's General Fund"). For the total amount paid in lawsuits involving the San Jose Police Department, see Email from Tamara Becker, Open Gov't Manager, City of San Jose, to author (May 26, 2015, 12:08 PST) (on file with author) (attaching documents reflecting that in payments made between July 1, 2012–May 6, 2015, payouts in civil rights claims totaled \$8,162,005.95; payouts in vehicle operation claims totaled \$1,480,200.06; payments in property damage claims totaled \$17,459.20; and payouts in miscellaneous claims totaled \$37,570.89). For the budgets of the City of San Jose and the San Jose Police Department, see CITY OF SAN JOSE, 2013–2014 ADOPTED BUDGET IN BRIEF 3 (2013), <https://www.sanjoseca.gov/DocumentCenter/View/23407> [<http://perma.cc/BX4Y-7WBV>] (reporting a 2014 adopted city budget of \$2,912,584,930 and police department budget of \$306,848,315); CITY OF SAN JOSE, 2012–2013 ADOPTED BUDGET IN BRIEF 3 (2012) <https://www.sanjoseca.gov/DocumentCenter/View/7230> [<http://perma.cc/2G9K-MJZC>] (reporting a 2013 adopted city budget of \$2,776,921,846 and police department budget of \$294,752,941); CITY OF SAN JOSE, 2011–2012 ADOPTED BUDGET IN BRIEF 3 (2011), <https://www.sanjoseca.gov/DocumentCenter/View/2885> [<http://perma.cc/4FMA-A2V6>] (reporting a 2012 adopted city budget of \$2,843,910,564 and police department budget of \$298,335,882).

Nashville-Davidson County Police Department (TN). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Mike Safley, Deputy Dir. of Law for the Metro. Gov't of Nashville and Davidson Cty., to author (Sept. 25, 2014, 13:28 PST) (on file with author) ("Judgments and settlements against the police department are not paid out of the police department operating budget. Instead, all judgments are paid out of reserve funds which are under the control of the Department of Law The police department does not contribute to a separate fund for the payment of settlements and judgments. The money in the reserve funds dedicated for this purpose come[s] from a direct appropriation from the Metropolitan Council. . . . An insurer does not pay any part of settlements and judgments involving the police department. The Metropolitan Government is self-insured."). For information about the total amount paid from the reserve funds in cases involving the Nashville-Davidson Police Department in fiscal years 2012, 2013, and 2014, see Email from Mike Safley, Deputy Dir. of Law for the Metro. Gov't of Nashville and Davidson Cty., to author (Sept. 29, 2014, 6:35 PST) (on file with author) (reporting that the amount paid from the reserve funds for suits involving the police was \$254,087.99 in fiscal year 2012, \$1,098,240.00 in fiscal year 2013, and

\$208,539.94 in fiscal year 2014). For information about the total budget of the Nashville-Davidson Police Department, see METRO. NASHVILLE / DAVIDSON CTY., FY 2015 RECOMMENDED BUDGET E-31-1 (2014), http://www.nashville.gov/Portals/0/SiteContent/Finance/docs/OMB/FY15/31_Police_Department_At_a_glance.pdf [<http://perma.cc/L339-EXVL>] (reporting that the police department budget was \$172,789,100 for fiscal year 2012–13; \$178,889,700 for fiscal year 2013–14; and \$178,289,100 for fiscal year 2014–15). For information about the total budget of Nashville-Davidson County, see THE METRO. GOV'T OF NASHVILLE & DAVIDSON CTY., FISCAL YEAR 2012–2013 OPERATING BUDGET A-4 (2012), http://www.nashville.gov/Portals/0/SiteContent/Finance/docs/OMB/citizens_budget/budgetbook/fy13/fy13_final_budget.pdf [<http://perma.cc/2YFY-TWJ6>] (reporting that the Nashville-Davidson County budget was \$1,585,778,700 for fiscal year 2012); THE METRO. GOV'T OF NASHVILLE & DAVIDSON CTY., OPERATING BUDGET FOR FISCAL YEAR 2013–2014 A-4 (2013), <http://www.nashville.gov/Portals/0/SiteContent/Finance/docs/OMB/fy14Budget/Fiscal%20Year%202014%20Operating%20Budget.pdf> [<http://perma.cc/DG5T-TUS6>] (reporting that the Nashville-Davidson County budget was \$1,709,493,100 for fiscal year 2013 and \$1,812,431,500 for fiscal year 2014).

Newark Police Department (NJ). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Susan Jacobucci, Fin. Dir., City of Newark, to author (Oct. 10, 2013, 7:12 PST) (on file with author) (“General litigation matters that are insurable are taken from the insurance trust. Rarely, in New Jersey are settlements taken from a police budget—you can’t anticipate it as an appropriation [O]verall, no the police department budget does not feel an impact.”); Telephone Interview with Jerome Morgan, Office of Mgmt. & Budget, City of Newark (Apr. 30, 2015) (explaining that the “insurance trust” is a category of funding the city uses for its budgeting practice, and confirming that settlements come out of the police department’s funds when they are personnel matters and if they are resolved within two years of filing). My efforts to obtain records about payments in lawsuits involving the Newark Police Department have been “long and fruitless.” See Schwartz, *supra* note 2, at 1000.

Seattle Police Department (WA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Sara O’Connor-Kriss, Assistant City Att’y, Gov’t Affairs, Seattle City Attorney’s Office, to author (Oct. 14, 2013, 13:10 PST) (on file with author) (“SMC 5.24.010 established a citywide Judgment/Claims Subfund (JCF) for payment of authorized judgments, claims, advance payment claims, and litigation expenses. Cost recovery for JCF expenditures (settlements/judgments/expenses) incurred on behalf of SPD and other general fund supported departments is based on premiums charged to individual general fund departments. Premiums are calculated based on the average percentage of judgments, settlements and other eligible expenses incurred by each department over the previous five years. This calculation is done each year and each

general fund department is responsible for funding its proportionate share of the expected payments in the upcoming budgeted year. In sum, to answer your question, settlements and judgments don't come directly from SPD's operating funds, but there is a financial impact on the department as explained above."); see also Email from Susan E. Williams, Paralegal, Seattle City Attorney's Office, to author (May 26, 2015, 14:15 PST) ("[T]he money that the department must contribute to the central fund is allocated during the budget process. Also, any increase in premiums is accommodated [by] an increased budget for the department."). For the amount contributed by the Seattle Police Department into the citywide Judgment/Claims Subfund, see Email from Marcia Nelson, Dir., Torts Section, Seattle City Attorney's Office, to author (Jan. 28, 2015, 15:25 PST) (on file with author) (reporting contributions by the Police Department to the Fund amounting to \$2,518,530 in fiscal year 2012; \$2,294,273 in fiscal year 2013; and \$2,400,777 in fiscal year 2014). For the total amount paid from the Judgment Claims Fund in cases involving the Seattle Police Department, see *id.* (reporting \$2,362,715.33 in fiscal year 2012; \$5,836,842.51 in fiscal year 2013; \$2,006,827.02 in fiscal year 2014). For information about the total budget of the Seattle Police Department, see CITY OF SEATTLE, WASHINGTON 2012 ADOPTED BUDGET 381 (2012) http://www.seattle.gov/financedepartment/12adoptedbudget/documents/2012AdoptedBudget_002.pdf [<http://perma.cc/9PMN-TDZQ>] (reporting that the budget was \$252,217,249 in 2012); CITY OF SEATTLE, WASHINGTON 2014 ADOPTED BUDGET 328 (2014), <http://www.seattle.gov/financedepartment/14adoptedbudget/documents/2014AdoptedBudgetBook.pdf> [<http://perma.cc/9SGU-9B98>] (reporting that the budget was \$263,085,780 in 2013 and \$288,667,732 in 2014). For information about the Seattle city budget, see *id.* at 44 (reporting an adopted budget of \$4,410,464,000 in 2014; and \$4,066,826,000 in 2013); CITY OF SEATTLE, WASHINGTON 2012 ADOPTED BUDGET, *supra*, at 49 (reporting an adopted budget of \$3,887,680,000 in 2012).

Montgomery County Police Department (MD). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Patricia P. Via, Chief, Div. of Litig., Montgomery Cty. Attorney's Office, to author (Oct. 7, 2013, 11:29 PST) (on file with author) ("If there is a claim against any county employee, including a police officer, and we settle or there is a judgment arising out of actions within the scope of employment, the money comes from the County's self-insurance fund—not the police department's budget or the general fund. So there is no impact on the police department's budget."). For the total amount paid in lawsuits involving the Montgomery County Police Department, see Email from Patricia P. Via, Chief, Div. of Litig., Montgomery Cty. Attorney's Office, to author (May 11, 2015, 6:01 PST) (on file with author) (reporting payouts of \$109,010 in fiscal year 2012, \$30,000 in fiscal year 2013, and \$587,000 in fiscal year 2014). For the Montgomery County Police Department Budget, see OFFICE OF MGMT. & BUDGET, FY14 OPERATING BUDGET AND PUBLIC SERVICES PROGRAM, 3-169 (2014), <http://www.montgomerycountymd.gov/OMB/Resources/Files/omb/>

pdfs/fy14/ psp_pdf/pol.pdf [http://perma.cc/3AMJ-32ZX] (reporting total expenditures as \$236,757,642 in fiscal year 2012, \$250,599,471 (budgeted) in fiscal year 2013, and \$260,594,650 (approved) in fiscal year 2014). For the total Montgomery County budget, see OFFICE OF MGMT. & BUDGET, FY 2012 BUDGET 6 (2012), <http://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy12/psprec/psp-highlights.pdf> [http://perma.cc/227H-866U] (reporting \$4.4 billion total operating budget for fiscal year 2012); OFFICE OF MGMT. & BUDGET, FY 2013 BUDGET 10 (2013), http://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy13/psp_pdf/psp_highlights.pdf [http://perma.cc/WC9N-GU2J] (reporting total expenditures as \$4,612,300,000 in fiscal year 2013); OFFICE OF MGMT. & BUDGET, FY 2014 BUDGET (2014), http://www.montgomerycountymd.gov/OMB/Resources/Files/omb/pdfs/fy14/psp_pdf/psp_highlights-1.pdf [http://perma.cc/N8VA-9LWS] (reporting total expenditures as \$4,811,200,000 in fiscal year 2014).

Louisville Metro Police Department (KY). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Leslie Faust, Risk Manager, Louisville Metro Gov't, to author (Oct. 22, 2014, 14:37 PST) (on file with author) (explaining that “[c]laims, settlements and judgments are principally paid through a Risk Fund in the Office of Management and Budget,” that the Louisville Metro Police Department “contribute[s] a specified amount per unit from their budget to the Risk Fund . . . based upon actuarial recommendations,” and that “Louisville Metro Government participates in a self-insurance trust. Metro pays claims within its retained limit and the trust pays for their portion of covered claims and maintains an excess insurance policy that will respond to qualifying claims within that layer as well”); Email from Leslie Faust, Risk Manager, Louisville Metro Gov't, to author (May 6, 2015, 8:04 PST) (on file with author) (clarifying that LMPD only pays into the fund for auto liability claims, and the “[o]ther liability claims/premiums are funded principally by an allocation of Metro’s General Fund”); see also Email from Leslie Faust, Risk Manager, Louisville Metro. Gov't, to author (Nov. 7, 2014, 13:30 PST) (explaining that Louisville Metro’s retained limit is \$500,000 per occurrence). For the total paid in lawsuits involving the police, see *id.* (reporting \$1,504,101 paid in fiscal year 2012; \$9,201,958 paid in fiscal year 2013; and \$2,590,648 paid in fiscal year 2014). For the amount paid from the Police Department into the fund, see *id.* (reporting that “LMPD has paid \$2,137,256, \$2,168,483, and \$2,425,250 into the fund for auto liability for [f]iscal years 12, 13 and 14 respectively”). For the Louisville Metro Police Department Budget, see CITY OF LOUISVILLE, FISCAL YEAR 2013–2014 LOUISVILLE METRO GOVERNMENT DETAIL BUDGET 45 (2013), https://louisvilleky.gov/sites/default/files/management_budget/fy14budget/fy14-approveddetailbudget.pdf [http://perma.cc/7U45-XEBF] (reporting total expenditures in fiscal year 2012 at \$157,107,200; \$156,749,700 (approved) in fiscal year 2013; \$157,350,300 (approved) in fiscal year 2014). I spoke with someone in the government about the allocation of money in the risk fund, but s/he was

unwilling to comment on the record. For the Louisville Metro budget, see CITY OF LOUISVILLE, FY 2011–2012 METRO LOUISVILLE EXECUTIVE BUDGET 22 (2011), https://louisvilleky.gov/sites/default/files/management_budget/fy12budget/fy12_metro_louisville_executive_budget.pdf [<http://perma.cc/GN3C-YPGC>] (reporting a 2011–12 fiscal year budget of \$682,061,900); CITY OF LOUISVILLE, METRO GOVERNMENT OPERATIONS BUDGET SUMMARY 1 (2013), https://louisvilleky.gov/sites/default/files/management_budget/fy13budget/10_-_lmg_budget_summary.pdf [<http://perma.cc/GN3C-YPGC>] (reporting a 2012–13 fiscal year budget of \$678,951,100.00); CITY OF LOUISVILLE, METRO GOVERNMENT OPERATIONS BUDGET SUMMARY 1 (2014), https://louisvilleky.gov/sites/default/files/management_budget/fy14budget/18__metro_government_operations.pdf [<http://perma.cc/XXN9-CX5G>] (reporting a fiscal year 2013–14 budget of \$666,463,200).

El Paso Police Department (TX). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Laura Prendergast Gordon, Deputy City Att’y, City of El Paso (Oct. 22, 2014) (on file with author) (explaining that the City Attorney’s office pays settlements and judgments in lawsuits from its budget and receives no contribution from the police department for those settlements and judgments, and when settlements or judgments exceed the amount in its budget the city council will pull the money from another fund). For the total amount paid in settlements and judgments involving the El Paso Police Department, see Email from Laura Prendergast Gordon, Deputy City Att’y, City of El Paso, to author (July 15, 2015, 13:16 PST) (on file with author) (attaching a report reflecting payouts totaling \$961,655.15 for general liability in fiscal year 2014 and \$86,704.40 for auto damages in fiscal year 2014; \$78,803.42 for general liability in fiscal year 2013; and \$224,844.95 for general damages in fiscal year 2012). Note that auto damages payouts were unavailable for fiscal years 2012 and 2013; in calculating average annual payouts I have assumed that equal amounts were paid in auto damages each of the three years in the study. For the budget of the El Paso Police Department, see Email from Robert Cortinas, Dir. of Mgmt. and Budget, City of El Paso, to author (July 21, 2015, 11:27 PST) (on file with author) (reporting that the police department budget was \$112,478,238 in fiscal year 2012, \$116,626,014 in fiscal year 2013, and \$122,544,024 in fiscal year 2014). For the total budget of the city of El Paso, see *id.* (reporting city budget of \$714,834,193 in fiscal year 2012, \$756,804,795 in fiscal year 2013, and \$801,421,321 in fiscal year 2014).

Cincinnati Police Department (OH). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Monica Morton, Supervising Accountant, City of Cincinnati (Oct. 25, 2014, 9:57 PST) (on file with author) (“The City of Cincinnati has a nondepartmental budget that is appropriated annually for all litigations against the City, not specific to an individual department, but is used for litigations

citywide. Therefore, any litigations against the Cincinnati Police Department are not taken out of the CPD budget. The Cincinnati Police Department does not contribute to a central fund that pays settlements and judgments. There is no insurer that pays any cost as well.”). For the total amount paid in lawsuits involving the Cincinnati Police Department in fiscal years 2012, 2013, and 2014, see Email from Peter J. Stackpole, Chief Counsel, Civil Div., City of Cincinnati, to author (May 6, 2015, 13:00 PST) (on file with author) (reporting payouts of \$421,253 in fiscal year 2012, \$88,750 in fiscal year 2013, and \$127,000 in fiscal year 2014). For the budget of the Cincinnati Police Department in fiscal years 2012, 2013, and 2014, see CITY OF CINCINNATI, OHIO, FISCAL YEARS 2014–2015 ALL FUNDS BUDGET, VOLUME 1: APPROVED BIENNIAL BUDGET 311 (2014), <http://www.cincinnati-oh.gov/finance/linkservid/D596245D-C95F-181D-7680A98A139D85C9/showMeta/0> (reporting that the Police Department budget was \$135,873,350 in fiscal year 2012; \$68,827,630 in fiscal year 2013; and \$125,981,850 (approved) in fiscal year 2014). For the budget of the City of Cincinnati, see *id.* at 90 (reporting that the City budget was \$946,805,050 in fiscal year 2012; \$460,355,200 in fiscal year 2013; and \$998,911,930 (approved) in fiscal year 2014). Note that in fiscal year 2013, the city changed its budgeting calendar, such that fiscal year 2012 ran from January 1–December 31, 2012; fiscal year 2013 ran from January 1–June 30, 2013; and fiscal year 2014 ran from July 1, 2013–June 30, 2014. See CITY OF CINCINNATI, OHIO, 2013 APPROVED ALL FUNDS STUB BUDGET (2013), <http://www.cincinnati-oh.gov/finance/linkservid/BB7EA3BD-C150-0D76-90BC94FF079AEADF/showMeta/0>. As a result, in calculating total budgets and payouts I doubled all figures reported for fiscal year 2013.

DeKalb County Police Department (GA). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Gwendolyn Brown-Patterson, Interim Chief Fin. Officer, DeKalb Cty. (Oct. 13, 2014) (on file with author) (explaining that DeKalb County is self-insured, has a risk management fund that is used to pay for settlements, and each department contributes to that fund based on the number of employees in the department—or the number of vehicles for auto claims—and can be raised based on claims history). For the amount contributed by the Police Department to the risk management fund, see Email from Gwendolyn Brown-Patterson, Interim Chief Fin. Officer, DeKalb Cty., to author (Oct. 16, 2014, 13:37 PST) (on file with author) (reporting that \$1,514,616 was contributed to the fund in 2012; \$2,093,465 was contributed in 2013, and \$2,121,786 was contributed in 2014 (as of September 2014)). For the amount paid from the fund in settlements and judgments involving the Police Department, see Email from Gwendolyn Brown-Patterson, Interim Chief Fin. Officer, DeKalb Cty., to author (Oct. 16, 2014, 14:28 PST) (on file with author) (explaining that the City Attorney believes settlements fall under the attorney-client privilege and so will not disclose settlement amounts). For the total budget of the Police Department, see *id.* (reporting

that the budget was \$103,780,209 in 2012; \$115,549,570 in 2013; and \$119,727,579 in 2014).

Oklahoma City Police Department (OK). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Richard C. Smith, Litig. Div. Head, Office of Mun. Counsel, City of Okla., to author (Oct. 7, 2013, 12:29 PST) (on file with author) (explaining that the payments in police cases are not taken from the police department's budget but are, instead, "put on the ad valorem tax roll sheets at the end of the year" and noting that "[t]he budget for the [OCPD] comes from sales tax"). For the total amount paid in lawsuits involving the Oklahoma City Police Department in fiscal years 2012, 2013, and 2014, see Email from Richard C. Smith, Litig. Div. Head, Office of Mun. Counsel, City of Okla., to author (May 11, 2015, 7:11 PST) (on file with author) (reporting that payouts during that period, not including automobile accidents, total \$194,000); Email from Richard C. Smith, Litig. Div. Head, Office of Mun. Counsel, City of Okla., to author (July 13, 2015, 8:37 PST) (on file with author) (reporting payments in lawsuits and claims involving automobile accidents to total \$115,083.12 in 2012; \$87,977.54 in 2013, and \$210,676.07 in 2014). For the total Oklahoma City Police Department Budget, see THE CITY OF OKLAHOMA CITY, 2013–2014 BUDGET: FOCUSED ON PRIORITIES 329 (2013), [http://www.okc.gov/finance/FY14%20Final%20 Budget%20Book.pdf](http://www.okc.gov/finance/FY14%20Final%20Budget%20Book.pdf) [<http://perma.cc/7EGK-KL2R>] (reporting total department expenditures as \$150,032,105 in fiscal year 2012; \$185,589,375 (adopted) in fiscal year 2013; and \$197,354,900 (adopted) in fiscal year 2014). For the total Oklahoma City Budget, see *id.* at 68 (reporting budget as \$714,556,498 in fiscal year 2012; \$997,476,711 (adopted) in fiscal year 2013; and \$1,027,852,482 (adopted) in fiscal year 2014).

Tucson Police Department (AZ). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Joyce Garland, CPA, Office of Budget & Internal Audit, Program Dir., City of Tucson, to author (Sept. 22, 2014, 13:38 PST) (on file with author) (explaining that "[t]he City of Tucson is self insured for its risk management programs," that "[t]he Tucson Police Department does contribute to a cental [sic] fund (Risk Management Internal Service Fund) that pays settlements and judgment [sic]" and that the charges to each department "are dependent on the department claim costs and the expenses....[a]n actuary is used to set rates charged to departments"); Email from Joyce Garland, CPA, Office of Budget & Internal Audit, Program Dir., City of Tucson, to author (May 18, 2015, 9:37 PST) (on file with author) (explaining that "[f]or the last few fiscal years, no General Fund department [including the police department] has had to cover the increase in either the worker's compensation or public liability. During the budget process, a General Fund department's budget will increase or decrease depending on the change so essentially any increase in premium is accommodated by an increase in the budget for that department" but noting that "[o]ther departments funded with revenues outside of the General Fund . . . do have to adjust their

budgets either up or down depending on the annual rate charged for worker's compensation and public liability"). For the amount paid by the Tucson Police Department to the Risk Management Internal Service Fund, see Email from Joyce Garland, CPA, Office of Budget & Internal Audit, Program Dir., City of Tucson, to author (Sept. 25, 2014, 18:15 PST) (on file with author) (reporting workers' compensation and public liability contributions totaling \$5,709,912.55 in fiscal year 2012; \$4,745,600.18 in fiscal year 2013; and \$4,672,570.55 in fiscal year 2014). For the amount paid in settlements and judgments involving the Tucson Police Department, see Email from Allie Matthews, Risk Manager, Finance Dep't., City of Tucson, to author (July 17, 2015, 16:49 PST) (on file with author) (attaching spreadsheet reflecting that the city paid \$241,117.76 in fiscal year 2012; \$616,080.90 in fiscal year 2013, and \$315,430.00 in fiscal year 2014). For the total budget of the Tucson Police Department, see *id.* (reporting a total operating budget of \$150,038,490 in fiscal year 2012; \$155,102,080 in fiscal year 2013; and \$162,442,700 in fiscal year 2014). For the total City of Tucson budget, see CITY OF TUCSON, ARIZ., FISCAL YEAR 2014: ADOPTED BUDGET A-11 (2013), <http://mygfoa.net/budgetapp/2013/TucsonAZ.pdf> [<http://perma.cc/AR53-5J62>] (reflecting that the adopted fiscal year 2014 budget was \$1,271,800,000 and the fiscal year 2013 adopted budget was \$1,314,300,000); CITY OF TUCSON, ARIZ., FISCAL YEAR 2013: ADOPTED BUDGET A-11 (2012), <http://www.tucsonaz.gov/files/budget/13book-op.pdf> [<http://perma.cc/2Z22-G72S>] (reflecting that the adopted budget in fiscal year 2012 was \$1,338,800,000).

Albuquerque Police Department (NM). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Lou D. Hoffman, Dir., Dep't of Fin. & Admin. Servs., City of Albuquerque, to author (Sept. 23, 2014, 9:07 PST) (on file with author) ("[T]he City of Albuquerque is self-insured Settlements for claims against the Police department are paid from the Risk Management Fund, which is funded by annual assessments charged to each city department on the basis of their individual claims history. The level of overall required reserves is established by an independent actuary."). For information about the amount paid by the Albuquerque Police Department to the Risk Management Fund in fiscal years 2012, 2013, and 2014, see Email from Christine Garcia, Exec. Assistant to Lou Hoffman, to author (Oct. 9, 2014, 13:30 PST) (on file with author) (reporting that the amount paid by the police department to the Fund was \$11,015,661 in fiscal year 2012; \$11,703,968 in fiscal year 2013; and \$8,082,447.00 in fiscal year 2014). For information about the amount paid out of the Risk Management Fund in cases involving the Albuquerque Police in fiscal years 2012, 2013, and 2014, see *id.* (reporting that the amount paid out of the Fund was \$5,756,222.20 in fiscal year 2012; \$10,882,715.83 in fiscal year 2013; and \$18,416,741.23 in fiscal year 2014). For information about the total budget of the Albuquerque Police Department in fiscal years 2012, 2013, and 2014, see *id.* (reporting that the budget was \$153,899,000 in fiscal year 2012; \$155,098,000 in fiscal year 2013, and \$153,213,000 in fiscal year 2014).

For the total budget of the City of Albuquerque, see CITY OF ALBUQUERQUE, FY14 APPROVED BUDGET 24 (2013), <http://documents.cabq.gov/budget/fy-14-approved-budget.pdf> [<http://perma.cc/4NWB-DYYC>] (reporting approved budgets of \$870,614,000 in fiscal year 2014); CITY OF ALBUQUERQUE, FY 2013 APPROVED BUDGET 22 (2012), <http://documents.cabq.gov/budget/fy-13-approved-budget.pdf> [<http://perma.cc/F6N8-Z7FM>] (reporting a \$883,401,000 budget in fiscal year 2013); CITY OF ALBUQUERQUE, FY/12 APPROVED BUDGET 19 (2011), <http://documents.cabq.gov/budget/fy-12-approved-budget.pdf> [<http://perma.cc/66AG-3KJ3>] (reporting an approved budget of \$878,063,000 in fiscal year 2012).

Tampa Police Department (FL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Michael Laperche, Risk Manager, City of Tampa, Dep't of Human Res. Risk Mgmt., to author (Sept. 10, 2014, 7:07 PST) (on file with author) (describing a self-insurance fund with an insurer paying the excess, and reporting that each department is charged for self-insurance "based on a three year running average of losses and cost of excess insurance"); Email from Michael Laperche, Risk Manager, City of Tampa, Dep't of Human Res. Risk Mgmt., to author (Sept. 10, 2014, 6:55 PST) (on file with author) (explaining that the self-insurance limit is \$500,000 and that "[s]ettled general and automotive liability and workers' compensation claims have not exceeded the self-insured statutory limits in any of the past five years"). For information about the total amount paid by the Tampa Police Department into the self-insurance fund, see Email from Michael Laperche, Risk Manager, City of Tampa, Dep't of Human Res. Risk Mgmt., to author (Sept. 24, 2014, 8:33 PST) (on file with author) (reporting that the amount paid was \$1,107,620 in fiscal year 2012; \$1,898,074 in fiscal year 2013; and \$1,531,740 in fiscal year 2014 (year-to-date)). For information about the total budget of the Tampa Police Department for fiscal years 2012, 2013, and 2014, see *id.* (reporting that the budget was \$150,476,806 in fiscal year 2012; \$153,832,180 in fiscal year 2013; and \$148,892,908 in fiscal year 2014).

Raleigh Police Department (NC). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Dennis A. Paren, Risk Manager, City of Raleigh, to author (Oct. 21, 2014, 12:03 PST) (on file with author) ("Monies to pay settlements and judgments for all departments are charged to the Risk Management liability reserve accounts for the City's self-insurance program. . . . The amount charged to the Police Department, as well as to all other major departments, for expected (budgeted) general liability, auto liability and workers compensation claims, varies each year and is calculated annually by a global accounting firm through an actuarial valuation Should a department have a particularly large (out of the norm) claim settlement in the current year, that event will adversely impact the actuary's estimate of the amount that department should be charged in future years. The actuary focuses on the last six years of actual experience, so any one bad year is smoothed by taking six years and not

just one year of experience into account. . . . [In the event of] an increase in the actuaries' estimate of losses [for a department], they receive an identical dollar for dollar credit (from the General Fund) for the charge they receive from Risk Management.”). For information about the amount charged to the police department for Risk Management, see Email from Dennis A. Paren, Risk Manager, City of Raleigh, to author (May 1, 2015, 12:39 PST) (on file with author) (reporting risk management charges paid by the police department amounting to \$1,552,784 in fiscal year 2012; \$2,309,214 in fiscal year 2013; and \$2,290,037 in fiscal year 2014). For the total paid in police department claims, see *id.* (reporting general liability claims and auto liability claims totaling \$125,815 in fiscal year 2012; \$109,481 in fiscal year 2013; and \$70,567 in fiscal year 2014). For the total budget of the Raleigh Police Department, see *id.* (reporting the police department budget to be \$86,075,053 in fiscal year 2012; \$87,968,371 in fiscal year 2013; and \$90,528,382 in fiscal year 2014). For the total budget of the City of Raleigh, see CITY OF RALEIGH ADOPTED BUDGET 2013–2014 B-2 (2013), <http://www.raleighnc.gov/content/extra/Books/BudgetManagement/FY2014Budget> [<http://perma.cc/XNB9-SPEF>] (reporting adopted budgets of \$707,834,774 in fiscal year 2014; \$672,053,702 in fiscal year 2013; and \$663,273,744 in fiscal year 2012).

Contra Costa County Sheriff's Office (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Sharon Hymes-Offord, Risk Manager, Contra Costa Cty., to author (Sept. 8, 2014, 10:11 PST) (on file with author) (“The County is self-insured for up to \$1 million dollars for General Liability losses, sums beyond that are covered [by] our Reinsurer via a Joint Powers Association that we are a member of with several other Counties and public entities.”); Email from Sharon Hymes-Offord, Risk Manager, Contra Costa Cty., to author (Sept. 8, 2014, 9:54 PST) (on file with author) (“[A]ny payments for losses for the Sheriff's Department come from Contra Costa County's General Fund as the Sheriff is not a revenue generating department. The insurance premium and administrative fees are taken from the General Fund and placed into the Internal Service Fund to cover losses and insurance premiums for the Self Insured and Excess Insurance costs.”). For information about the amount spent in settlements and judgments involving the Contra Costa County Sheriff's Office, see Email from Sharon Hymes-Offord, Risk Manager, Contra Costa Cty., to author (May 6, 2015, 10:41 PST) (on file with author) (reporting a total of \$602,747.67 spent in fiscal years 2012–2014). For the budget of the Contra Costa County Sheriff's Office, see CTY. OF CONTRA COSTA, RECOMMENDED BUDGET 2013–2014 B-295 (2013), <http://www.co.contra-costa.ca.us/DocumentCenter/View/25916> [<http://perma.cc/4XFZ-BWUA>] (reflecting total expenditures of \$187,796,491 in fiscal year 2012, \$193,410,582 in fiscal year 2013, and a recommended budget of \$207,462,131 in fiscal year 2014). For the total Contra Costa County budget, see CTY. OF CONTRA COSTA, RECOMMENDED BUDGET 2015–2016 vii (2015), <http://ca-contracostacounty2.civicplus.com/DocumentCenter/View/35919> [<http://perma.cc/3NR9-BDDQ>] (reflecting expenditures of \$1,172,000,000 in

fiscal year 2012; \$1,193,000,000 in fiscal year 2013; and \$1,248,000,000 in fiscal year 2014).

Polk County Sheriff's Office (FL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Jason A. Reuter, Associate Staff Att'y, Polk Cty. Sheriff's Office, to author (June 23, 2015, 6:26 PST) (on file with author) (explaining that settlements are paid from the County's general fund and that payments impact the sheriff's budget only to the extent that "[m]ore claims and lawsuits may result in less [money] available in the general fund to be used for other expenditures, including that of the Sheriff's Office."). For information about the amount spent in settlements and judgments involving the Polk County Sheriff's Office, see Email from Jason A. Reuter, Assoc. Staff Att'y, Polk Cty. Sheriff's Office, to author (July 1, 2015, 6:12 PST) (on file with author) (reporting that \$234,938.30 was paid in fiscal year 2012; \$198,099.57 was paid in fiscal year 2013; and \$167,525.33 was paid in fiscal year 2014). For the total budget of the Sheriff's Office, *see id.* (reporting an adopted budget of \$128,489,587 in fiscal year 2012; \$129,366,159 in fiscal year 2013; and \$133,479,919 in fiscal year 2014). For the total budget of the county, *see id.* (reporting a total budget of \$1,332,812,964 in fiscal year 2013; \$1,307,285,766 in fiscal year 2014; and \$1,260,445,237 in fiscal year 2015).

Cobb County Police Department (GA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Robert Quigley, Dir. of Commc'ns, Cobb Cty. Gov't, to author (Oct. 10, 2013, 12:50 PST) (on file with author) (reporting that payment for settlements and judgments in police cases "is taken from the county's general fund and does not impact funding for police operations"). My requests for information about the amounts paid in settlements and judgments in cases involving the Police Department went unanswered.

Minnesota State Patrol (MN). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Nancy Silkey, Major, Headquarters, Minn. State Patrol (Sept. 10, 2014) (reporting that settlements and judgments are paid out of the Minnesota State Patrol budget and that, when litigation costs are higher, the department will have to delay hiring or cut back in other areas). For information about the total amount paid to claimants from the Minnesota State Patrol's budget in fiscal years 2012, 2013, and 2014, *see id.* (reporting that the total amount paid was \$39,488 in fiscal year 2012; \$1,754,397 in fiscal year 2013; and \$4,505 in fiscal year 2014). Note that the Minnesota State Patrol also pays the Attorney General's costs out of its budget. *See id.* For information about the total budget of the Minnesota State Patrol in fiscal years 2012, 2013, and 2014, see Email from Nancy Silkey, Major, Headquarters, Minn. State Patrol, to author (Nov. 24, 2014, 13:33 PST) (on file with author) (reporting that the budget was \$96,813,662 in fiscal year 2012; \$98,776,573 in fiscal year 2013; and \$97,183,133 in fiscal year 2014). For information about Minnesota's budget, see Doug Grow, *Universally 'Disappointing' Deal Reached to Resolve Minnesota Government Shutdown*, MINN. POST

(July 14, 2011), <http://www.minnpost.com/politics-policy/2011/07/universally-disappointing-deal-reached-resolve-minnesota-government-shutdown> [<http://perma.cc/83PJ-83B3>] (reporting a 2011 budget of \$35.3 billion); MINN. MGMT. & BUDGET OFFICE, END OF 2013 LEGISLATIVE SESSION, GENERAL FUND-COMPARISON TO FEBRUARY FORECAST 2014-15 BIENNIUM (2013), <http://mn.gov/mmb/images/13-fin-leg%2520Balance%2520Sheets.pdf> [<http://perma.cc/4MRY-UKBH>] (reporting a fiscal year 2013 budget of \$35,441,754,000); MINN. MGMT. & BUDGET OFFICE, FY 2014-15 GENERAL FUND BUDGET FEBRUARY 2014 FORECAST (2014), <http://mn.gov/mmb/images/gen-fund-balsheets-Feb14.pdf> [<http://perma.cc/9UBJ-GK74>] (reporting a fiscal year 2014 budget of \$39,587,382,000).

Manatee County Sheriff's Office (FL). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Michelle Hall (Sept. 16, 2014) (reporting that the Manatee Sheriff is insured by the Florida sheriff's risk management fund; the Sheriff pays annual premiums to the risk management fund for representation and indemnification; the county pays the costs for workers' compensation and vehicle accidents; and the Sheriff's Office might pay small settlements—for example, for lost property in the jail—in some situations). For the amount paid to the fund and the budget of the Sheriff's Office, see Telephone Interview with Tom Salisbury, Comptroller, Manatee Cty. Sheriff's Dep't (May 22, 2015) (reporting that his liability insurance premium for 2016 is \$638,000 and the current budget is \$103,517,000 plus an additional \$6 million in federal and state grants).

Fort Wayne Police Department (IN). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Diane Brown, City of Fort Wayne Law Dep't, to author (Sept. 8, 2014, 8:05 PST) (on file with author) (explaining that the City of Fort Wayne has a Self-Insurance Fund from which settlements and judgments are paid); Email from Valerie Ahr, Deputy Comptroller, Civil City Accounting, City of Fort Wayne, to Diane Brown, City of Fort Wayne Law Dep't (Sept. 8, 2014, 12:00 PST) (on file with author) (explaining that each department contributes to that fund); Email from Valerie Ahr, Deputy Comptroller, Civil City Accounting, City of Fort Wayne, to author (May 17, 2015, 8:19 PST) (on file with author) ("The amount that is contributed for the Police is determined by an actuarial firm . . . based on claims history. The amount is included in the department's budget and with safety of all being a consideration, the department tries to find offsets for any increases, if possible."). For information about the total amount paid by the Fort Wayne Police Department to the Self-Insurance Fund in fiscal years 2012, 2013 and 2014, see CITY OF FORT WAYNE, 2014 OPERATING BUDGET 80 (2014), http://www.cityoffortwayne.org/images/stories/finance_and_administration/controllers_office/docs/2014_budget/Police.pdf [<http://perma.cc/P36E-VY4D>] (reporting that the amount paid to the Self-Insurance Fund was \$1,237,926 in 2012); THOMAS C. HENRY, CITY OF FORT WAYNE, 2015 OPERATING BUDGET 83

(2015), http://www.cityoffortwayne.org/images/stories/2015_Budget/2015_CITY_OF_FORT_WAYNE_BUDGET_BOOK_smartgov.pdf [<http://perma.cc/P36E-VY4D>] (reporting that the amount paid to the Self-Insurance Fund was \$1,344,886 in 2013 and \$1,051,695 in 2014). Officials from Fort Wayne did not respond to my requests for information about the total amount paid in settlements and judgments involving the Fort Wayne Police Department. For information about the total budget of the Fort Wayne Police Department in fiscal years 2012, 2013, and 2014, see CITY OF FORT WAYNE, 2014 OPERATING BUDGET, *supra*, at 81 (reporting the budget as \$54,831,413 in 2012); HENRY, *supra*, at 83 (reporting the budget as \$54,914,179 in 2013 and \$51,614,045 in 2014).

Howard County Police Department (MD). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Alexandra Bresani, Office of Pub. Info., Howard Cty. Gov't, to author (Oct. 10, 2013, 9:45 PST) (on file with author) (“[T]here is an indirect cost as the County’s Risk Management fund (from which all claims are paid) is funded by contributions from each covered agency’s budget. In determining the amount an agency will contribute, the County takes into account losses that have been paid on claims or suits that arise from that agency’s functions.”); *id.* (“Infrequently, there are cases where there may be some minor property damage but no evidence of negligent or wrongful conduct (the breaching of a door, for instance) that are handled as operational matters where payment may come out of the Police Department’s budget.”); Email from Alexandra Bresani, Office of Pub. Info., Howard Cty. Gov't, to author (July 2, 2015, 10:16 PST) (on file with author) (“[T]he money the Department must contribute to the central [risk] fund is allocated during the budgeting process with the county . . . [and] any increase in premium is accommodated with an increased budget for the department; however, other things may have to be cut back if this increase impacts the bottom line.”); Email from Raymond Wacks, Howard Cty. Budget Adm’r, to author (Sept. 22, 2014, 15:54 PST) (explaining that “[t]he County is a member of a governmental pool (The Local Government Insurance Trust) that serves as an excess insurer above the County’s \$1,000,000 self-insured retention” and that insurance premiums are paid from the self-insurance fund). For information about the total amount paid by the Howard County Police Department to the Self-Insurance Fund in fiscal years 2012, 2013, and 2014, see Letter from Alexandra Bresani, Office of Pub. Info., Howard Cty. Gov't, to author (Nov. 5, 2014) (on file with author) (reporting that the amount paid by the police department to the Fund for auto, general liability, and property liability was \$609,400 in fiscal year 2012; \$604,630 in fiscal year 2013; and \$514,300 in fiscal year 2014). For information about the total amount paid out of the Self-Insurance Fund in cases involving the Howard County Police in fiscal years 2012, 2013, and 2014, see Email from Alexandra Bresani, Office of Pub. Info., Howard Cty. Gov't, to author (July 2, 2015, 10:18 PST) (on file with author) (explaining that Risk Management collects information for payments made for third party claims arising from accidents or incidents occurring during the fiscal year, but does not have “[d]ata for payments

made during the year for all claims (without regard to date of accident) by department is not readily available"). For information about the total budget of the Howard County Police Department in fiscal years 2012, 2013, and 2014, see Letter from Alexandra Bresani, Office of Pub. Info., Howard Cty. Gov't, to author (Nov. 5, 2014) (on file with author) (reporting that the budget was \$90,354,239 in fiscal year 2012; \$92,532,202 in fiscal year 2013; and \$99,888,200 in fiscal year 2014).

Summit County Sheriff's Office (OH). For information about from which budget(s) settlements and judgments involving the sheriff's office are paid, see Email from Linda Murphy, Cty. of Summit Exec.'s Office, to author (Sept. 8, 2014, 11:58 PST) (on file with author) ("The County does have outside insurance, however, the County must pay the first \$75,000 for each case."); Email from Linda Murphy, Cty. of Summit Exec.'s Office, to author (Sept. 8, 2014, 6:10 PST) (on file with author) (explaining that "[i]nsurance premiums are paid out of the County's general fund" and "[t]he retention is also paid out of the County's general fund (the County must pay the first \$75,000 before the insurance will pay the remainder)"); Email from Linda Murphy, Cty. of Summit Exec.'s Office, to author (Oct. 9, 2014, 8:06 PST) (on file with author) ("The County does not budget separately for Sheriff's Office lawsuits. Instead, \$455,000 is the annual appropriation for lawsuits involving the County which includes other departments, not just the Sheriff's lawsuits."); Email from Linda Murphy, Cty. of Summit Exec.'s Office (Oct. 10, 2014, 8:32 PST) (on file with author) ("While the money is paid from the General Fund, it still has an impact on the Sheriff's Budget because there is less money to allocate to the Sheriff's Office from the General Fund. This November, there is a ballot issue to increase the County sales tax to support the County's general fund—with the majority for the Sheriff's Office."). For information about the amount spent in settlements and judgments involving the Summit County Sheriff's Office, see Email from Linda Murphy, Cty. of Summit Exec.'s Office (Oct. 9, 2014, 8:06 PST) (attaching spreadsheet and explaining that in fiscal years 2012, 2013, and 2014, \$400,000 was paid in one settlement, and \$75,000 was paid on two occasions for outside counsel costs). For information about the total budget of the Summit County Sheriff's Office, see Email from Brian Nelsen, Dir. of Fin. & Budget, Cty. of Summit, to author (Oct. 6, 2014 10:00 PST) (on file with author) (reporting that the total budget of the office was \$36,978,151 in fiscal year 2012; \$38,028,669 in fiscal year 2013; and \$38,498,569 in fiscal year 2014). For the total Summit County Budget, see COUNTY OF SUMMIT, OPERATING BUDGET 2014 51 (2013), <https://co.summitoh.net/images/stories/Finance/pdf/OperatingBudget/2014OperatingBudget.pdf> [<http://perma.cc/46ZR-QLC9>] (reporting a budget of \$478,469,500 in 2014 and \$477,529,188 in 2013 (adjusted)); COUNTY OF SUMMIT, OPERATING BUDGET 2013 53 (2012), <https://co.summitoh.net/images/stories/Finance/pdf/OperatingBudget/2013OperatingBudget.pdf> [<http://perma.cc/EVS5-2SD3>] (reporting a 2012 budget of \$494,997,585 (adjusted)).

New Hampshire State Police (NH). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Thomas F. Kehr, Adm'r, Policy & Procedures, N.H. Dep't of Admin. Servs., to author (Sept. 12, 2014, 12:16 PST) (on file with author) (referring me to the New Hampshire code, which provides that representation and settlement and judgment amounts are taken from previously unappropriated funds); Telephone Interview with Joe Bouchard, N.H. Budget Office (Sept. 16, 2014) (explaining that, for any settlements or judgments, the government draws on money not otherwise appropriated from the fund that the involved agencies rely on for their revenues. The New Hampshire State Police is funded through the highway fund as a matter of legislation so if there is a lawsuit involving the troopers, the settlement will generally be paid from the highway fund. Accordingly, these settlements and judgments do not affect the state trooper budget, but litigation costs can affect the budget more generally.). For the total amount paid in lawsuits involving the New Hampshire State Police, see Email from Karen Schlitzer, Senior Assistant Att'y Gen., N. H. Dep't of Justice, to author (May 7, 2015, 13:23 PST) (on file with author) (attaching settlements in four cases totaling \$141,000). These four cases do not include automobile-related cases; when I wrote Ms. Schlitzer asking about whether there were payments in auto cases, her response was: "That's all this office has." Email from Karen Schlitzer, Senior Assistant Att'y Gen., N.H. Dep't of Justice, to author (May 7, 2015, 14:56 PST) (on file with author). For information about New Hampshire's budget, see STATE OF N.H. DEPT OF ADMIN. SERVS., GOVERNOR'S EXECUTIVE BUDGET SUMMARY 17 (2014), http://www.gencourt.state.nh.us/LBA/Budget/Governor's_Executive_Budget_Summary_2014-15.pdf [<http://perma.cc/FK28-8JLG>] (reporting fiscal year 2012 budget of \$4,844,170,376; fiscal year 2013 budget of \$5,216,911,722; and fiscal year 2014 recommended budget of \$5,470,221,632).

Boise Police Department (ID). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Ralph Blount, Assistant City Att'y, Boise City Attorney's Office (Oct. 9, 2013) (explaining that Boise is self-insured with excess insurance for claims above \$500,000, and that the Police Department's budget is not reduced by the amount of any settlements or judgments). In response to my request for the total amount paid in lawsuits involving the Boise Police Department during the study period, Mr. Blount provided me with a list of all claims filed between January 2004 and January 2014, another document with detailed descriptions of claims during that period, and suggested that I correlate the claims numbers on both to determine the amount paid in suits involving the police. See Telephone Interview with Ralph Blount, Assistant City Att'y, Boise City Attorney's Office (May 20, 2015). Unfortunately, the claims numbers on both documents barely overlapped, and so it was impossible to determine payouts from these numbers.

New Bedford Police Department (MA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Lisa A. Presby, Compliance Officer, City of New Bedford, to author (Oct. 23, 2013, 8:33 PST) (on file with author) (“The police department does not pay for [settlements and judgments] directly out of their budget. The City has a line item in its general budget for judgments/settlements. The City also has insurance for certain types of lawsuits. If the City is covered by our insurance premium then the deductible would be paid out of the same judgment/settlement account.”); Email from Lisa A. Presby, Compliance Officer, City of New Bedford, to author (June 8, 2015, 6:43 PST) (on file with author) (explaining that the city’s law enforcement liability policy “protects the City for any alleged wrongdoing or misconduct resulting from the operation of its police department. As you can imagine, this is very broad coverage but examples of such claims that would be covered under the policy are wrongful arrests, civil rights violations as well as use of excessive force. The City currently has a \$25,000 deductible on its Law Enforcement policy. . . . The City is self-insured for all police vehicles”); Email from Lisa A. Presby, Compliance Officer, City of New Bedford, to author (June 8, 2015, 6:53 PST) (on file with author) (identifying Argonaut as the insurer). I asked for information about the amount spent in settlements and judgments involving the New Bedford Police Department and was told that the city did not collect information about payouts separated by department. See Email from Lisa A. Presby, Compliance Officer, City of New Bedford, to author (June 26, 2015, 5:23 PST) (on file with author).

Springfield Police Department (IL). For information about from which budget(s) settlements and judgments involving the police are paid, see Telephone Interview with Julie Zoldegar, Head of Budget Staff, Office of Mgmt. & Budget, City of Springfield (Oct. 20, 2014) (explaining that the police department pays an annual premium for property and casualty claims—like trip and falls on police property—but that money to pay lawsuits involving police officers’ activities comes from the general budget. There has only been one suit over a period of twenty-five years in which money was taken from the police department budget, and that was a suit for overtime pay). For information about the amount spent in settlements and judgments involving the Springfield Police Department and/or its officers in fiscal years 2012, 2013, and 2014, see Letter from Marquita L. Trotter, Assistant Corp. Counsel, City of Springfield (Oct. 23, 2014) (on file with author) (responding to public records request with attachment reflecting a total of \$53,315.32 spent in fiscal years 2012, 2013, and 2014) (exempting fees paid to defense attorneys). For information about the Springfield Police Department budget, see CITY OF SPRINGFIELD, FISCAL YEAR 2014 BUDGET 19 (2014), <http://www.springfield.il.us/OBM/documents/FY2014FullBudget.pdf> [<http://perma.cc/X896-R7EQ>] (reporting police department budgets of \$37,170,699 for fiscal year 2012; \$37,594,557 for fiscal year 2013; and \$39,242,200 for fiscal year 2014). For the total budget for the city of Springfield, see *id.* at 2 (reporting city budget of

\$184,649,184 in fiscal year 2012; \$227,516,657 for fiscal year 2013; and \$221,185,024 for fiscal year 2014).

Overland Park Police Department (KS). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from John J. Knoll, Senior Assistant City Att’y, Law Dep’t, City of Overland Park, to author (Oct. 15, 2013, 10:56 PST) (on file with author) (“The City has police liability insurance, but has a \$100,000 self-insured retention, so the money generally comes from a special liability fund established pursuant to the Kansas Tort Claims Act, K.S.A. 75-6101, et seq. That fund can receive money from any city source, but is generally funded out of a transfer from the general fund of the city. See K.S.A. 75-6110(b).”). My requests for information about the premium amounts paid and the amounts paid in settlements and judgments in cases involving the Police Department went unanswered.

Waco Police Department (TX). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Jennifer Richie, City Att’y, City of Waco, Tex., to author (Sept. 8, 2014, 6:15 PST) (on file with author) (“The City has an internal service fund for Risk . . . that pays for claims, etc. Every department contributes to this fund based upon their head count of employees in the department. Like many cities in Texas, we are part of the Intergovernmental Risk Pool. If there is a settlement or judgment, the payment for that comes from the Intergovernmental Risk Pool when covered and from the Risk Fund when not.”). For information about the amounts paid from the Waco Police Department into the Risk Fund and the total budget of the Waco Police Department, see Email from June Skerik, Budget Officer, City of Waco, to author (Sept. 24, 2014, 7:45 PST) (on file with author) (reporting that the Waco Police Department paid to the Risk Fund \$644,781 in 2012; \$668,804 in 2013; and \$748,664 in 2014, and that the Waco Police Department’s Budget was \$30,254,682 in 2012; \$31,205,738 in 2013; and \$32,781,080 in 2014). For the amount paid from the Risk Fund in cases involving the Waco Police Department, see Email from Waco City Sec’y’s Office, to author (Oct. 1, 2014, 10:29 PST) (on file with author) (reporting that the amount paid out of the Risk Fund in cases involving the Waco Police Department was \$292,617.95 in fiscal year 2012; \$263,414.78 in fiscal year 2013; and \$71,863.60 in fiscal year 2014). For information about the total City of Waco budget, see LARRY D. GROTH, WACO CITY MANAGER, 2011–12 ANNUAL OPERATING AND CAPITAL BUDGET (2011), <http://www.waco-texas.com/pdf/budget/BUDGET%20IN%20BRIEF%202011-12.pdf> [<http://perma.cc/6Z7Q-UA5J>] (reporting 2012 fiscal budget of \$205,669,723); LARRY D. GROTH, WACO CITY MANAGER, 2013–14 ANNUAL OPERATING AND CAPITAL BUDGET (2013), <http://www.waco-texas.com/pdf/budget/BUDGET%20IN%20BRIEF%202013-14.pdf> [<http://perma.cc/WM29-M2W4>] (reporting fiscal year 2013 budget of \$199,371,175); *id.* (reporting fiscal year 2014 budget of \$202,877,913).

Tulsa County Sheriff's Office (OK). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Josh Turley, Risk Mgmt., Tulsa Cty. Sheriff's Office, to author (Oct. 15, 2013, 8:06 PST) (on file with author) ("We can pay small amounts say 10,000.00 or less (depending upon the time of year, how much we have in reserve, and the projection for the future) from our general fund. We rarely do this. It creates a dent in the general payment of our officers and services. All regular payments come from the County's General Fund."). My public records request for information about the amount paid in settlements and judgments involving the Tulsa County Sheriff's Office went unanswered.

Quincy Police Department (MA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from James S. Timmins, City Solicitor, City of Quincy, to author (May 4, 2015, 13:03 PST) (on file with author) (explaining that the city is self-insured and that "[s]ettlements and judgments of Quincy Police cases (along with costs of defense) are paid through the Solicitor's Office, out of our Judgment Account and our 'Outside Counsel' Account. The money is from the city's general budget, as appropriated; money does not come from the Police Department budget, and to the best of my knowledge, any payments of this nature do not impact the Police budget whatsoever."). For the amount paid in lawsuits involving the Quincy Police Department in fiscal years 2012, 2013, and 2014, see Email from James S. Timmins, City Solicitor, City of Quincy, to author (May 7, 2015, 15:45 PST) (on file with author) ("[W]e have not paid a Police claim during the three years in question . . . a good run."). For the total budget for the City of Quincy and the Quincy Police Department, see CITY OF QUINCY, FISCAL YEAR 2014 BUDGET 4 (2013), http://www.quincyma.gov/CityOfQuincy_Content/documents/2014_Budget.pdf [<http://perma.cc/NEE5-L9ZA>] (proposing fiscal year 2014 budget of \$257,817,260 and police department budget of \$24,400,000); CITY OF QUINCY, FISCAL YEAR 2013 BUDGET 4 (2012), http://www.quincyma.gov/CityOfQuincy_Content/documents/City_of_Quincy_FY_13_Budget.pdf [<http://perma.cc/4APT-ANX9>] (proposing fiscal year 2013 budget of \$247,857,582 and police department budget of \$22,300,000); CITY OF QUINCY, FISCAL YEAR 2012 BUDGET 4 (2011), http://www.quincyma.gov/CityOfQuincy_Content/documents/2012_Budget_Book_Web_Version.pdf [<http://perma.cc/8WF6-ERCY>] (proposing fiscal year 2012 budget of \$237,957,058 and police department budget of \$21,800,000).

Naperville Police Department (IL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Jill G. Pelka-Wilger, Acting City Att'y, City of Naperville, to author (Sept. 25, 2014, 9:21 PST) (on file with author) ("The City utilizes a self-insurance fund for the payment of claims/judgments and workers' compensation settlements. As part of the annual budget process, the City determines the contributions necessary from various departments, including the Police Department, Fire Department and others, based on historical values and future estimates. The transferred

contributions are accumulated in the self insurance fund and used to pay the City's general liabilities and workers' compensation settlements. In special circumstances, additional contributions to the fund may be necessary, in these instances, an additional one-time transfer may be initiated during the year." My public records request for information about the amount contributed to the central fund by the police department and the amounts paid in settlements and judgments in cases involving the Police Department went unanswered.

Concord Police Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Mark S. Coon, City Att'y, Concord City Attorney's Office, to author (June 5, 2015, 8:48 PST) (on file with author) (explaining that "settlements or judgments in cases brought against members of the Police Department are paid out of the General Fund, as are settlements involving other City departments" and that "[a]ny settlement or judgment over [\$500,000] is paid by our Joint Powers Authority insurer"). For the total amount paid in settlements and judgments in suits involving the Concord Police Department, see Email from Mark S. Coon, City Att'y, Concord City Attorney's Office, to author (July 16, 2015, 13:17 PST) (on file with author) (explaining that in fiscal year 2012–13 "we paid \$1.25 million to settle three separate sexual harassment/retaliation lawsuits filed by Concord police officers," in fiscal year 2013–14 "we paid \$169,000 to settle two excessive force cases, and 98,002 to settle a sexual harassment suit filed by a civilian working in the Concord Police Department," and in fiscal year 2014–15 "we paid \$605,000. This amount comprised settlements in two different cases: one alleging excessive force/false arrest by an officer making an off duty arrest; and the other involving a severe dog bite inflicted by a police K-9."). For the total budget of the Concord Police Department, see CITY OF CONCORD, PERFORMANCE BASED BUDGET SUMMARY FOR COUNCIL 2013–2014 177 (2013) http://www.cityofconcord.org/pdf/dept/finance/budget/budget2013_2014/BudgetSummary.pdf [<http://perma.cc/595C-7DWT>] (reporting an actual fiscal year 2012 budget of \$41,976,490; a fiscal year 2013 budget of \$41,589,698; and a proposed fiscal year 2014 budget of \$42,529,761). For the total budget of the City of Concord, see CITY OF CONCORD, ADOPTED OPERATING BUDGET FISCAL YEAR 2013–2014 57 (2013) http://www.cityofconcord.org/pdf/dept/finance/budget/budget2013_2014/FY2013_2014.pdf [<http://perma.cc/8DCS-A3H5>] (reporting total expenditures as \$154,545,120 in fiscal year 2012; \$150,604,988 (adopted) in fiscal year 2013; and \$156,496,200 (adopted) in fiscal year 2014).

Pueblo County Sheriff's Office (CO). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Aimee Tihonovich, Controller, Pueblo Cty. Gov't, to author (Sept. 22, 2014, 8:09 PST) (on file with author) (reporting that Pueblo County is insured through "County Technical Services" and its "insurance contribution is paid out of the county general fund (not charged directly to the Sheriff) and premiums paid are for all departments and offices"). County Technical

Services is a state-wide risk pool. See *About CTSI*, CTY. TECH. SERVS. INC., <http://www.ctsi.org/about-ctsi> [<http://perma.cc/PQD7-QQ96>] (last visited Mar. 28, 2016). The City of Pueblo pays insurance premiums for the city as a whole and does not have information regarding the amount of premiums for police liability. See Email from Daryl Payne, Mun. Records Manager, City of Pueblo, to author (July 8, 2015, 10:45 PST) (on file with author). For the total paid from the insurer in police liability claims, see Email from Daryl Payne, Mun. Records Manager, City of Pueblo, to author (July 8, 2015, 12:24 PST) (on file with author) (attaching document reflecting a total of \$290,500 paid between January 1, 2012 and July 8, 2015 on police liability claims).

Decatur Police Department (AL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Wayne K. Alexander, Jr., Assistant City Att’y, City of Decatur, to author (Oct. 21, 2014, 7:29 PST) (on file with author) (“We have insurance coverage for all city employees and vehicles. We don’t have a separate policy for the Police Department. The premium and the payment come out of General Fund money and not from the Police Department budget.”). My requests for information about the premium amounts paid and the amounts paid in settlements and judgments in cases involving the Police Department went unanswered.

Schaumburg Police Department (IL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Rita Elsner, Assistant Vill. Att’y, Vill. of Schaumburg, to author (Sept. 8, 2014, 15:06 PST) (on file with author) (reporting that the town is self-insured for the first \$100,000 and has outside insurance for amounts above \$100,000; that the money for settlements and judgments comes from the legal department budget; and that insurance premiums are paid from the general budget). For the total payments in lawsuits involving the Schaumburg Police Department, see Email from Rita Elsner, Assistant Vill. Att’y, Vill. of Schaumburg, to author (May 8, 2015, 13:59 PST) (on file with author) (attaching spreadsheet reflecting a total of \$63,950.02 spent in lawsuits in fiscal year 2012, 2013, 2014, after subtracting legal fees). During the study period, the city was insured by Lloyd’s of London; the insurance company is currently suing the city to avoid coverage in lawsuits against officers also found guilty of criminal activity. See Eric Peterson, *Insurance Company Sues Schaumburg to Avoid Cost of Arrested-Cop Cases*, DAILY HERALD (Oct. 31, 2014), <http://www.dailyherald.com/article/20141031/news/141039594> [<https://perma.cc/XWR6-LWH2>]. For the budget of the Village of Schaumburg, see VILL. OF SCHAUMBURG, ANNUAL BUDGET PROPOSAL FISCAL YEAR 2015–2016 44 (2015), <http://www.ci.schaumburg.il.us/Docs/Finance/Documents/FY%202015-16%20Annual%20Budget%20Proposal%20-%20Final%2004.29.2015.pdf> [<http://perma.cc/9FCT-XY9C>] (reporting fiscal year 2014 actual budget of \$176,702,590); VILL. OF SCHAUMBURG, ANNUAL BUDGET PROPOSAL FISCAL YEAR 2013–2014 19 (2013), <http://vossire.ci.schaumburg.il.us/sirepub/cache/2/ni2wthiflnsez4qjwiqyhjnm/36900406182015063049500.pdf> [<http://perma.cc/BMP7-2WQH>] (report-

ing fiscal year 2013 amended budget of \$181,677,945); VILL. OF SCHAUMBURG, ANNUAL BUDGET PROPOSAL FISCAL YEAR 2011–2012 3 (2011), <http://vossire.ci.schaumburg.il.us/sirepub/cache/2/ni2wthiflnsez4qjwiqyhjnm/37153106182015063334382.pdf> [<http://perma.cc/ED36-6UVA>] (reporting fiscal year 2012 budget of \$177,577,069).

St. Mary's County Sheriff's Office (MD). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Michael H. Gardiner, Lieutenant, Supervisor Office of Prof'l Responsibilities, St. Mary's Cty., Md., to author (Sept. 8, 2014, 5:49 PST) (on file with author) ("[I]f there should be a judgement [sic] against the Sheriff's our insurance company will pay. The Sheriff's Office is responsible for premiums paid to the insurer."). For information about the liability insurance premiums paid from the Sheriff's Office budget for fiscal years 2012, 2013, and 2014, see Letter from George R. Sparling, Cty. Att'y, to author (Sept. 26, 2014) (on file with author) (reporting that the premium paid was \$62,205 in 2012, \$63,034 in 2013, and \$71,859 in 2014). St. Mary's pays premiums to the Local Government Insurance Trust, a state-wide self-insurance pool in Maryland. Homepage, LOCAL GOVERNMENT INSURANCE TRUST, <http://www.lgit.org> [<http://perma.cc/FTA3-BXXX>] (last visited Mar. 28, 2016). For information about payments in lawsuits in years 2012, 2013, and 2014, see Email from Michael H. Gardiner, Lieutenant, Supervisor, Office of Prof'l Responsibilities, St. Mary's Cty., Md., to author (June 18, 2015, 11:47 PST) (on file with author) (reporting no judgments or settlements against the Sheriff's Office, nor payments to any plaintiffs). For information about the total budget of the St. Mary's County Sheriff's Office for fiscal years 2012, 2013, and 2014, see Email from Michael H. Gardiner, Lieutenant, Supervisor Office of Prof'l Responsibilities, St. Mary's Cty., Md., to author (Sept. 24, 2014, 11:15 PST) (on file with author) (reporting the budget as \$30,717,566 in 2012, \$31,728,919 in 2013, and \$33,401,095 in 2014). For the total budget for St. Mary's County, see BD. OF CTY. COMM'RS FOR ST. MARY'S CTY., APPROVED BUDGET FISCAL YEAR 2014 (2013), <http://www.stmarysmd.com/docs/FY2014ApprovedBudgetBook.pdf> [<http://perma.cc/WF5E-WEM8>] (reporting total approved budget of \$360,105,421 for fiscal year 2014); BD. OF CTY. COMM'RS FOR ST. MARY'S CTY., APPROVED BUDGET FISCAL YEAR 2013 (2012), <http://www.stmarysmd.com/docs/FY2013ApprovedBudgetBook.pdf> [<http://perma.cc/43PG-NJ63>] (reporting total approved budget of \$345,698,576 for fiscal year 2013); BD. OF CTY. COMM'RS FOR ST. MARY'S CTY., APPROVED BUDGET FISCAL YEAR 2012 (2011), <http://www.stmarysmd.com/docs/FY2012ApprovedBudget.pdf> [<http://perma.cc/LT4Q-7ZTG>] (reporting total approved budget of \$329,643,362 for fiscal year 2012).

Avondale Police Department (AZ). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Sandra Tomsic, City Clerk Assistant II, City of Avondale, to author (Sept. 25, 2014, 16:10 PST) (on file with author) (attaching public records response reflecting that settlements and judgments are paid from

the city's risk management fund, that the city has a \$500,000 deductible and so pays all claims up to \$500,000 and the insurer pays the remainder, and insurance premiums are paid from the risk management budget); Email from Sandra Tomsic, City Clerk Assistant II, City of Avondale, to author (June 16, 2015, 7:15 PST) (on file with author) (confirming that the police department contributes to a central risk management fund from which settlements and judgments are paid). My public records request for information about the premium amounts paid and the amounts paid in settlements and judgments in cases involving the Police Department went unanswered.

Pocatello Police Department (ID). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Tiffany Olsen, Paralegal/Assistant to the City Att'y, City of Pocatello, to author (Oct. 22, 2014, 15:26 PST) (on file with author) (attaching spreadsheet that "itemizes what each department of the City [including the police department] contributes by interfund transfer to the liability budget (of which claims and our annual premium is paid)"). For information about the amount paid by the police department toward the liability budget, see *id.* (reflecting \$150,728.86 paid by the police department in 2010). For information about the total budget of the Pocatello Police Department in fiscal years 2012, 2013, and 2014, see POCATELLO POLICE DEPT, 2014 POLICE DEPT REPORT 4 (2014), <http://pocatello.us/ArchiveCenter/ViewFile/Item/73> [<http://perma.cc/83BF-HK2P>] (reporting that the budget was \$12,049,820 in fiscal year 2012, \$12,169,210 in fiscal year 2013, and \$13,032,290 in fiscal year 2014). Pocatello is part of the Idaho Counties Risk Management Program, a state-wide self-insurance pool. See Email from Tiffany Olsen, Paralegal/Assistant to the City Att'y, City of Pocatello, to author (Nov. 8, 2013, 8:30 PST) (on file with author) (identifying ICRMP as their liability carrier). For the budget of the city of Pocatello, see CITY OF POCATELLO, 2014 BUDGET DIGEST 11 (2013), <http://www.pocatello.us/ArchiveCenter/ViewFile/Item/48> [<http://perma.cc/YN8X-WR4R>] (reporting city budget of \$87,574,042 for fiscal year 2012, \$86,835,501 for fiscal year 2013, and \$92,512,025 for fiscal year 2014).

Hemet Police Department (CA). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Stephen A. McEwen, to author (Dec. 9, 2013, 16:06 PST) (on file with author) ("[S]ettlement funds in police misconduct cases come from the City's general liability fund. The Police Department does not pay for the settlements. The liability fund is a general account in the City budget set up to address all types of liability claims, including police cases, trip-and-fall cases and other tort matters."); see also CITY OF HEMET, CAL., ANNUAL OPERATING BUDGET: FISCAL YEAR 2013–2014, at xv (2013), <http://www.cityofhemet.org/DocumentCenter/View/2034> [<http://perma.cc/FH5U-PJQM>] ("The City is 'self-insured' for the first \$250,000 per incident. So, many of the claims paid out fall below the umbrella of coverage."). For the amount paid in excess liability insurance, see *id.* at R-12 (reporting liability insurance payments of \$893,461 in fiscal year 2012, \$828,500 in fiscal year

2013, and \$837,100 (projected in fiscal year 2014)). Note, though, that the liability insurance covers all city claims and so does not reflect the amount spent on law enforcement liability insurance. For the total spent on settlements and judgments involving the Hemet Police Department in fiscal years 2012, 2013, and 2014, see Email from Sarah McComas, City Clerk, City of Hemet, to author (July 22, 2015, 9:50 PST) (on file with author) (attaching response to public records request identifying six cases that settled during the study period with payouts of \$500,000; \$1,600,000; \$100,000; \$19,500; \$8000; and \$125,756; totaling \$2,353,256). Because the city is insured for payouts over \$250,000, in calculating the average annual payouts for Appendix B, I valued the first two cases at \$250,000 when calculating a total annual estimated liability payment for the city. Note that this total understates the total spent by the city on law enforcement liability because it does not include the costs of insurance; I could not, however, disaggregate the amount spent on law enforcement liability insurance from the total insurance premiums paid. For the total City of Hemet budget, see CITY OF HEMET, CAL., *supra*, at S-4 (reporting an actual fiscal year 2012 budget of \$62,196,952, and approved fiscal year 2013 budget of \$66,623,171, and an approved fiscal 2014 budget of \$71,194,300).

Concord Police Department (NH). For information about from which budget(s) settlements and judgments involving the police are paid, see Letter from City of Concord, N.H., to author (postmarked July 6, 2015) (on file with author) (providing, in response to my public record request and without cover page, police department budget documents reflecting that the Concord Police Department pays insurance from its budget). For the amount paid by the Concord Police Department for insurance, see *id.* (reflecting that the police department paid property and liability insurance totaling \$74,711.50 in 2012, \$94,852.34 in 2013, and \$131,367.87 in 2014). For the total budget of the Concord Police Department, see *id.* (reflecting that total expenditures for the Concord Police Department were \$11,696,898.86 in 2012, \$11,626,533.48 in 2013, and \$12,748,031.69 in 2014).

Eden Prairie Police Department (MN). For information about from which budget(s) settlements and judgments involving the police are paid, see Letter from Richard F. Rosow, Gregerson, Rosow, Johnson & Nilan, Ltd., Att'ys at Law, to author (Oct. 30, 2014) (on file with author) (explaining that the city has liability insurance and that the police department “does not pay for insurance separately from the City’s general fund”). My requests for information about the premium amounts paid and the amounts paid in settlements and judgments in cases involving the Police Department went unanswered.

Yellowstone County Sheriff's Department (MT). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Kevin Gillen, Yellowstone Cty. Attorney's Office, to author (Nov. 14, 2013, 13:15 PST) (on file with author) (explaining that payments less than \$250,000 come from county funds and payments above that amount come from an outside insurer, with the premiums for that insurance paid

from county funds); *see also id.* (responding “No, not really . . .” to the question whether the outside insurer places “any requirements on the Sheriff Office as a condition of funding settlements and judgments?”). For the amount paid in settlements and judgments involving the Yellowstone County Sheriff’s Department, see Email from Kevin Gillen, Yellowstone Cty. Attorney’s Office, to author (June 19, 2015, 7:56 PST) (on file with author) (reporting settlements and judgments totaling \$404,232.57 in 2012, 2013, and 2014). For the budget of the Yellowstone Sheriff’s Office, see Email from Kevin Gillen, Yellowstone Cty. Attorney’s Office, to author (July 23, 2015, 12:13 PST) (on file with author) (reporting a Sheriff’s budget of \$15,771,568 for fiscal year 2012; \$17,150,075 for fiscal year 2013; and \$18,106,662 for fiscal year 2014). For the budget of the County of Yellowstone, see *id.* (reporting a county budget of \$92,136,963 for fiscal year 2012; \$90,211,627 for fiscal year 2013; and \$94,848,189 for fiscal year 2014).

Town and Country Police Department (MO). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Gary Hoelzer, City Adm’r, City of Town & Country, to author (June 8, 2015, 12:49 PST) (on file with author) (reporting that settlements and judgments are paid by the jurisdiction’s insurer, St. Louis Area Insurance Trust (a self-insured pool of municipalities), the deductible is paid out of general funds, and there is “[n]o direct financial impact” on the police department); *see also* Email from Gary Hoelzer, City Adm’r, City of Town & Country, to author (June 8, 2015, 15:57 PST) (on file with author) (reporting a \$2,500 insurance deductible). My requests for information about the premium amounts paid and the amounts paid in settlements and judgments in cases involving the Police Department went unanswered.

Lincolnton Police Department (NC). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Steven Zickefoose, Fin. Dir., City of Lincolnton, to author (Sept. 22, 2014, 7:55 PST) (on file with author) (“The City maintains General Liability insurance for all city employees and departments. The premium is paid on a prorated basis from each department according to the size of their budget. Any settlements and/or judgments would be paid from [sic] by the insurance carrier.”); *see also* Email from Steven Zickefoose, Fin. Dir., City of Lincolnton, to author (June 1, 2015, 13:36 PST) (on file with author) (reporting that the city uses a private insurance company, Allied World National Assurance Company, and gets bids for insurance from different private companies every three years). For the total amount paid by the police department for insurance premiums, see Email from Steven Zickefoose, Fin. Dir., City of Lincolnton, to author (July 17, 2015, 13:10 PST) (on file with author) (reporting that the police department contributed \$35,126 in 2012; \$35,258 in 2013; and \$35,140 in 2014). For the total amount paid in settlements and judgments involving the Department, see *id.* (reporting that there were no “claims paid to plaintiffs for those years”). For the budget of the Lincolnton Police Department, see CITY OF LINCOLNTON, THE MUNICIPAL CAPITAL AND OPERATING BUDGET: FISCAL YEAR 2014–2015 50 (2014)

<http://www.ci.lincolnton.nc.us/DocumentCenter/Home/View/74> [http://perma.cc/8N9M-X9L7] (reporting that the fiscal year 2014 police budget was \$2,817,400 and the fiscal year 2015 budget is 2,919,324). For information about Lincolnton's budget, see LINCOLNTON CTY. MANAGER'S OFFICE & FIN. DEP'T, FY 2013 BUDGET AND CAPITAL IMPROVEMENTS PROGRAM (2012), <http://www.lincolncounty.org/index.aspx?nid=1380> [http://perma.cc/8N9M-X9L7] (reporting a fiscal year 2012 budget of \$91,322,410); LINCOLNTON CTY. MANAGER'S OFFICE & FIN. DEP'T, FY 2014 BUDGET AND CAPITAL IMPROVEMENTS PROGRAM (2013), <http://www.lincolncounty.org/index.aspx?NID=1800> [http://perma.cc/T3TM-BNCN] (reporting a fiscal year 2013–14 general fund budget of \$87,865,280; and a fiscal year 2014 general fund amended budget of \$88,742,991).

Phelps County Sheriff's Office (MI). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Carol Bennett, Phelps Cty. Clerk, to author (Sept. 16, 2014, 12:05 PST) (on file with author) ("The only thing paid through the county's budget would be the insurance deductible. We do not pay settlements or judgments from out [sic] budget."). The insurance referenced is the Missouri Public Entity Risk Management Fund (MOPERM). See Email from Carol Bennett, Phelps Cty. Clerk, to author (Dec. 9, 2013, 9:51 PST) (on file with author) (describing MOPERM as the county's liability insurance company). My requests for information about the premium amounts paid and the amounts paid in settlements and judgments involving the Sheriff's Office went unanswered.

Oldham County Sheriff's Office (KY). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Robert C. Noble, Chief Deputy, Oldham Cty. Sheriff's Office, to author (Sept. 10, 2014, 16:15 PST) (on file with author) ("[T]he Oldham County Sheriff's Office does not have a line item for any potential judgments or settlements that may result from a civil action against a deputy or the agency. In the event of an action and depending on the type of action, any settlement would be paid by our county liability insurer, KACO, the Kentucky Association of Counties, and the Oldham County Fiscal Court."). My requests for information about the premium amounts paid and the amounts paid in settlements and judgments involving the Sheriff's Office went unanswered.

Edgewood Police Department (FL). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Bea L. Meeks, City Clerk, City of Edgewood City Hall, to author (Sept. 9, 2014, 10:49 PST) (on file with author) (reporting that suits are paid through insurance and premiums are paid through the general fund); Email from Bea L. Meeks, City Clerk, City of Edgewood City Hall, to author (Sept. 9, 2014, 7:51 PST) (on file with author) (explaining that although insurance premiums come from the general fund, the police department's budget shows how much is being paid for coverage). The city's liability coverage is provided for the Florida League of

Cities/Florida Municipal Insurance Trust. See Email from Bea L. Meeks, City Clerk, City of Edgewood, to author (June 3, 2015, 12:30 PST) (on file with author). For information about the amount paid for liability insurance, see Email from Bea L. Meeks, City Clerk, City of Edgewood City Hall, to author (June 29, 2015, 16:20 PST) (on file with author) (“[T]he City of Edgewood paid approximately \$30,000 for general liability in the 14/15 FY. I have been with the City since 2011 and there have been no claims paid by the City.”). For the budget of the city of Edgewood, see Email from Bea L. Meeks, City Clerk, City of Edgewood, to author (Oct. 7, 2015, 7:18 PST) (on file with author) (attaching budgets reflecting total 2013 revenues of \$3,354,930 and total 2014 revenues of \$3,660,577).

Evansville Police Department (WI). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Patrick “Ian” Rigg, Evansville City Adm’r & Fin. Dir., to author (June 19, 2015, 14:57 PST) (on file with author) (explaining that settlements and legal fees are paid by the city’s insurance company, that “[a]ny additional fees such as deductibles would likely come from the department budget or some other arrangement within the City’s general fund depending on the amount and circumstances,” and that “[t]he Police Department has a budgetary share of the insurance coverage”); see also Email from Patrick “Ian” Rigg, Evansville City Adm’r & Fin. Dir., to author (June 22, 2015, 8:01 PST) (on file with author) (attaching insurance policy, which reflects the Department is insured by the Community Insurance Corporation, a Wisconsin risk pool, that the deductible is \$1,000, and the policy premium is \$38,550). For the amount paid in settlements and judgments involving the Evansville Police Department in 2012–2014, see Email from Patrick “Ian” Rigg, Evansville City Adm’r & Fin. Dir., to author (June 22, 2015, 11:19 PST) (on file with author) (reporting no lawsuits, settlements, or judgments involving the Evansville Police Department during the study period). For the Evansville Police Department budget, see CITY OF EVANSVILLE, BUDGET WORKSHEET 5 (2014), <http://www.ci.evansville.wi.gov/documentlibrary/budget/2014%20Budget.pdf> [<http://perma.cc/BS6V-PASY>] (reporting fiscal year 2013 budget of \$939,198 and fiscal year 2014 budget of \$960,510). For the total budget of the city of Evansville, see Email from Patrick “Ian” Rigg, Evansville City Adm’r & Fin. Dir., to author (July 1, 2015, 9:16 PST) (reporting an actual budget of \$13,742,405 in 2012; an actual budget of \$13,599,375 in 2013; and an actual budget of \$14,060,818 in 2014).

Fruitland Police Department (ID). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from JD Huff, Chief, Fruitland Police Dep’t, to author (Oct. 7, 2013, 9:06 PST) (on file with author) (explaining that the department is insured by the Idaho Counties Risk Management Program); Email from JD Huff, Chief, Fruitland Police Dep’t, to author (June 5, 2015, 13:38 PST) (on file with author) (explaining that there is a line item in the police department budget for the department’s portion of the insurance premium). Requests for information about

the total premiums paid by the police department and the amounts paid in settlements and judgments in cases involving the police department went unanswered.

Jackson Township Police Department (OH). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Shirley Manfull, Legal Assistant to Gregory A. Beck & J. Dean Carro, Baker, Dublikar, Beck, Wiley & Mathews, to author (Oct. 10, 2013, 5:28 PST) (on file with author) (“No payment is made by the police department. However, there is normally a small retention (deductible) that is paid for each claim from the township general fund.”); Email from Shirley Manfull, Legal Assistant to Gregory A. Beck & J. Dean Carro, Baker, Dublikar, Beck, Wiley & Mathews, to author (Oct. 15, 2013, 12:45 PST) (on file with author) (confirming that there is no contribution by the police department toward the insurance premium); *see also* Email from Michael B. Vaccaro, Law Dir., Jackson Twp. Bd. of Trs., to author (June 8, 2015, 8:28 PST) (on file with author) (attaching document identifying the Ohio Township Association Risk Management Authority as the insurer for the jurisdiction and reporting an insurance premium of \$199,916 for 2015 that covers public officer liability, law enforcement liability, automobile and property damage liability, and third-party liability, with a deductible ranging from \$0 to \$5000 depending on the claim). For information about the amount paid in settlements and judgments involving the Jackson Township Police Department, see Email from Michael B. Vaccaro, Law Dir., Jackson Twp. Bd. of Trs., to author (July 2, 2015, 13:23 PST) (on file with author) (reporting that “no settlements or judgments were paid out in the years requested”). For the Jackson Township budget, see JACKSON TOWNSHIP, BUDGET AND PLANNING DOCUMENT 2014, at 24 (2013), <http://www.jacksontownship.com/Downloads/JACKSON%20TOWNSHIP%20BUDGET%202014%20-%20website.pdf> [<http://perma.cc/3T3S-TWAN>] (reporting 2014 funds totaling \$26,753,304); JACKSON TOWNSHIP, BUDGET AND PLANNING DOCUMENT 2013, at 24 (2012), <http://www.jacksontownship.com/Downloads/2013%20Budget%20and%20Planning%20Document.pdf> [<http://perma.cc/TGS5-E6BE>] (reporting 2013 funds totaling \$23,606,410).

Waterloo Police Department (NE). For information about from which budget(s) settlements and judgments involving the police are paid, see Email from Tim Donahue, Chief of Police, Waterloo Neb., to author (Sept. 8, 2014, 16:01 PST) (on file with author) (reporting that any settlements or judgments would be paid by the insurer and that it would not come from the Department’s budget). Requests for information about the amount of the insurance premium and the amounts paid in settlements and judgments in cases involving the police department went unanswered.