



COUNTY OF LOS ANGELES
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MARY C. WICKHAM
County Counsel

December 23, 2015

TO: PATRICK OGAWA
Acting Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: JENNIFER A.D. LEHMAN *JADL*
Assistant County Counsel
Law Enforcement Services Division

RE: **Justin Smith v. County of Los Angeles, et al.**
Los Angeles Superior Court Case No. TC 027644

Attached is the Agenda entry for the Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation in the above-referenced matter. Also attached are the Case Summary and the Summary Corrective Action Plan for the case.

It is requested that this recommendation, the Case Summary, and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda of January 5, 2016.

JADL

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matter entitled Justin Smith v. County of Los Angeles, et al., Los Angeles Superior Court Case No. TC 027644 in the amount of \$499,999, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department Contract Cities Trust Fund's budget.

This lawsuit concerns allegations of assault and battery, and false arrest by Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Justin Smith v. County of Los Angeles, et al.
CASE NUMBER	TC 027644
COURT	Los Angeles Superior Court
DATE FILED	October 2, 2013
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 499,999
ATTORNEY FOR PLAINTIFF	Carl E. Douglas, Esq. The Douglas Firm
COUNTY COUNSEL ATTORNEY	Joseph A. Langton Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$499,999, the lawsuit filed by Plaintiff Justin Smith alleging battery and State-law civil rights violations by Sheriff's Department Deputies.</p> <p>The Deputies contend that the force used was reasonable and in response to Mr. Smith's actions.</p> <p>Due to the risks and uncertainties of litigation, a reasonable settlement at this time will avoid further litigation costs. Therefore, a full and final settlement of the case in the amount of \$499,999 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 21,493
PAID COSTS, TO DATE	\$ 11,836



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	Monday, September 24, 2012, approximately 2:30 p.m.
Briefly provide a description of the incident/event:	<p style="text-align: center;"><u>Justin Smith, et al. v. County of Los Angeles, et al.</u> Summary Corrective Action Plan No. 2015-027</p> <p>On Monday, September 24, 2012, at approximately 2:30 p.m., two uniformed Los Angeles County deputy sheriffs, assigned to the Los Angeles County Sheriff's Department Carson Station, observed a blue vehicle parked on a public roadway occupied by the plaintiff and a young girl. The plaintiff appeared to be much older than the girl, who was wearing a "Carson High School" shirt. The plaintiff and the girl appeared to be involved in an argument, and the girl appeared to be in distress. The deputy sheriffs contacted the plaintiff and the girl to ensure the girl's welfare and conduct a sexual assault investigation.</p> <p>The deputy sheriffs asked the plaintiff to step out of his vehicle and sit in the back seat of their patrol vehicle. Once in the back seat, the plaintiff refused to place his left leg inside the vehicle so the door could be closed. While still in the threshold of the door, the plaintiff suddenly lunged at one of the deputy sheriffs, pushing him backwards, and simultaneously ripped the microphone of the deputy sheriff's handheld radio from his chest.¹</p> <p>During the violent struggle that ensued, the second deputy sheriff intervened and attempted to control the plaintiff, but the plaintiff ripped the deputy sheriff's radio microphone from its holster and threw it to the ground. As the plaintiff fought with the two deputy sheriffs, the first deputy sheriff was able to request assistance from his partner's handheld radio.</p> <p>After a third deputy sheriff arrived, they were able to successfully overcome the resistance of the plaintiff, control him, and ultimately place him in handcuffs (<i>Exhibit A - Los Angeles County Sheriff's Department Manual of Policy and Procedures section 3-10/010.00, Use of Force Defined</i>).</p> <p>The plaintiff was transported to Harbor-UCLA Medical Center where he was treated for a bruise to his right eye and a swollen upper lip.</p>

¹ Violently removing the microphone and/or otherwise disabling a peace officer's handheld radio is a common tactic used by suspects to prevent law enforcement officers from requesting assistance during a fight.

1. Briefly describe the **root cause(s)** of the claim/lawsuit:

The **primary** root cause in this incident is the plaintiff's failure to adhere to the instructions of a deputy sheriff and committing a violent battery against a peace officer. As a result, two deputy sheriffs used force to defend themselves, overcome the plaintiff's resistance, and effect an arrest.

A **secondary** root cause in this incident is the radio traffic. During the fight, the plaintiff ripped the handheld radio microphone from the first deputy sheriff's chest, and removed the radio from the second deputy sheriff's holster and threw it to the ground. As a result, the first deputy sheriff's radio was rendered unusable and the second deputy sheriff's radio was temporary disabled, causing a delay in their ability to request assistance.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The Los Angeles County Sheriff's Department had relevant policies and procedures/protocols in effect at the time of the incident.

The Los Angeles County Sheriff's Department training curriculum addresses the force circumstances which occurred in the incident.

This incident was investigated by representatives from the Los Angeles County Sheriff's Department's Carson Station. Their investigation concluded that the force used in this incident was objectively reasonable, consistent with Department policy and training, and was properly reported to the handling supervisor. As a result, no personnel-related administrative action was taken, and no other corrective action measures are recommended or anticipated.

A thorough de-briefing with the personnel involved in this incident was held. The topics included training issues, tactical strategies, and force options.

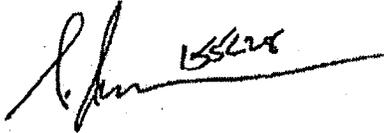
3. Are the corrective actions addressing department-wide system issues?
- Yes – The corrective actions address department-wide system issues.
- No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Scott E. Johnson, Captain
Risk Management Bureau

Signature:



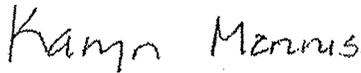
Date:

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Name: (Department Head)

Karyn Mannis, Chief
Professional Standards Division

Signature:



Date:

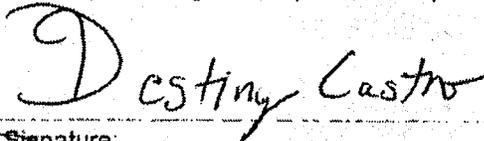
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Chief Executive Office Risk Management Inspector General USE ONLY

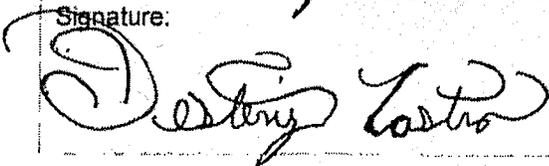
Are the corrective actions applicable to other departments within the County?

- Yes, the corrective actions potentially have County-wide applicability.
 No, the corrective actions are applicable only to this department.

Name: (Risk Management Inspector General)



Signature:



Date:

10/9/2015

EXHIBITS

EXHIBIT A

3-10/010.00 USE OF FORCE DEFINED

Force is defined as any physical effort used to control or restrain another, or to overcome the resistance of another.

3-10/020.00 AUTHORIZED USE OF FORCE

Department members are authorized to use only that amount of force that is objectively reasonable to perform their duties. "Objectively reasonable" means that Department members shall evaluate each situation requiring the use of force in light of the known circumstances, including, but not limited to, the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the member or others, and whether the suspect is actively resisting, in determining the necessity for force and the appropriate level of force. Department members maintain the right to self-defense and have a duty to protect the lives of others.