



COUNTY OF LOS ANGELES
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June 22, 2017

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TO: LORI GLASGOW
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ROGER H. GRANBO *246*
Senior Assistant County Counsel
Executive Office

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
N.L.A., et al. v. County of Los Angeles, et al.
United States District Court Case No. CV 15-02431

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and Summary Corrective Action Plan to be made available to the public.

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

RHG:vc

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled N.L.A., et al. v. County of Los Angeles, et al., United States District Court Case No. CV 15-02431 in the amount of \$2,970,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This wrongful death lawsuit concerns allegations of federal civil rights violations and excessive force when Plaintiff was shot while he fought and fled from Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	N.L.A., et al. v. County of Los Angeles, et al.
CASE NUMBER	CV 15-02431
COURT	United States District Court
DATE FILED	April 2, 2015
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 2,970,000
ATTORNEY FOR PLAINTIFF	John Burton, Esq. Law Offices of John Burton Humberto Guizar, Esq. Guizar, Henderson & Carrazco, LLP
COUNTY COUNSEL ATTORNEY	Jonathan McCaverty Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$2,970,000, inclusive of attorneys' fees and costs, a federal civil rights and State-law wrongful death lawsuit filed by Elvia Aguilar, the mother of decedent Noel Aguilar, and Mr. Aguilar's minor children, N.L.A. and C.M.G.</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 \$2,970,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 224,612
PAID COSTS, TO DATE	\$ 31,228

Case Name: N.L.A. v. County of Los Angeles, et al.



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:	May 26, 2014
Briefly provide a description of the Incident/event:	<p><u>N.L.A. v. County of Los Angeles</u> Summary Corrective Action Plan 2017-003</p> <p>On May 26, 2014, at approximately 9:45 a.m., two uniformed Los Angeles County deputy sheriffs assigned to Compton Station were on patrol in an unincorporated area of Compton. The deputies observed a bicyclist (later identified as decedent) riding his bicycle on the sidewalk and wearing earphones.</p> <p>When the decedent saw the deputies' patrol vehicle, he started peddling faster eastbound onto East 69th Way from northbound Long Beach Boulevard and the deputies followed.</p> <p>After travelling a short distance, the decedent jumped off his bicycle and ran northbound in an alleyway between apartment buildings. The passenger deputy chased after the decedent. The driver advised the passenger deputy that the decedent may be armed because he was holding his waist area with one hand as he ran.</p> <p>The driver deputy exited the patrol vehicle and ran northbound in a parallel alley, just east of where the decedent and passenger deputy were running. As he ran northbound in the adjacent alleyway, the driver deputy observed the decedent using both his hands to push open an iron gate separating the two alleyways. The driver deputy drew his duty weapon and commanded the decedent to stop. Rather than complying, the decedent held his waist area with his hands and continued running northbound. At that point, the driver deputy tripped and fell over uneven ground. The decedent continued to run and the passenger deputy continued to follow him. The driver deputy re-holstered his weapon and followed the pair.</p> <p>The decedent suddenly stopped adjacent to another iron gate and the passenger deputy caught, tackled, and forced the decedent to the ground.</p> <p>The driver deputy arrived seconds later and realized the decedent was violently struggling with the passenger deputy. The driver deputy used his left arm to hold down the decedent's right shoulder and used his left knee to hold the decedent's right arm.</p> <p>The passenger deputy observed the decedent's hands were underneath his body. Fearing the decedent was attempting to retrieve a weapon, and in an attempt to control the decedent, the passenger deputy struck the decedent on his right elbow four times with the handle portion of his expendable baton.</p>

While struggling to control the decedent's hands, the passenger deputy discovered the decedent's right hand was on a pistol that was concealed under his clothes in his waistband. The passenger deputy advised his partner that the decedent had a gun. The passenger deputy reached into the decedent's waistband, recovered a pistol¹, and then placed it into his own front waistband.

Note: The passenger deputy sheriff did not advise the driver deputy sheriff that he had recovered the decedent's firearm.

Because the decedent continued to struggle with both deputy sheriffs and he continued to move his hands into his waist area, the driver deputy feared the decedent may still be armed and was attempting to retrieve a weapon. The driver deputy drew his duty weapon and pointed it at the decedent's head while ordering the decedent to not move.

The passenger deputy handcuffed the decedent's left wrist but could not maintain control of his arm. Seconds later, the decedent violently increased his resistance and used both of his hands to push himself up then again reached for his waistband. At that point, the driver deputy believed the decedent was reaching for a gun and was about to shoot. The driver deputy aimed his duty weapon at the decedent's abdomen and fired. The driver deputy shot one round and attempted to fire two additional rounds, but his duty weapon jammed and would not continue to fire.

Immediately after the gunshot, the passenger deputy screamed "I've been shot²." The driver deputy asked the passenger deputy, "Did he shoot you?" referring to the decedent.

The decedent grabbed the driver deputy's duty weapon and attempted to take it away. The driver deputy struggled with the decedent over possession of his duty weapon. The driver deputy was able to maintain primary control of his duty weapon, cleared the malfunction (by "racking a round"), and fired one round at close range striking the decedent in the leg. Although shot, the decedent continued to violently struggle with the deputies.

The passenger deputy believed that the decedent was the person responsible for shooting him, even after he had taken one gun away from him. The passenger deputy knew that the driver deputy and the decedent had been fighting over possession of the driver deputy's duty weapon. The passenger deputy feared that the decedent either had a second gun or had retained the driver deputy's duty weapon. The passenger deputy knew that he was injured from a gunshot wound and felt he may not be able to fight much longer. Based on the above, the passenger deputy feared the decedent was a deadly threat to him and his partner. To stop the decedent's deadly threat, the passenger deputy fired three rounds at point blank range into the decedent's back.

The driver deputy broadcast emergency radio traffic that a deputy involved shooting had occurred and requested paramedics. Several

¹ The pistol was a loaded "Taurus PT745 Pro Millennium", .45 caliber with six live, .45 caliber bullets. The pistol was concealed underneath the decedent's clothes and held in place by a green nylon web belt. The belt was not attached to the decedent's clothes or any other items and its only apparent function was to hold the pistol.

² It was later discovered that the driver deputy's fired round missed the decedent and struck the passenger deputy.

County of Los Angeles
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	<p>patrol deputies arrived on scene. Emergency medical personnel arrived on scene. The decedent was not transported to the hospital as he was pronounced dead at the scene. Both deputy sheriffs were transported to Saint Francis Hospital for medical treatment.</p> <p>The passenger deputy sustained a single gunshot wound to his abdomen that struck the space above his gun belt but below his body armor. The driver deputy was treated for abrasions, scrapes and bruises to his hands and arms.</p>
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1. Briefly describe the root cause(s) of the claim/lawsuit:

A **Department** root cause in this incident was the deputies' decision to engage in a foot pursuit of a suspected armed suspect (later found to be armed with a firearm) without proper planning or communication amongst themselves, which ultimately led to the deadly force situation.

Another **Department** root cause in this incident was the deputy sheriffs' decision to partner split during the foot pursuit.

Another **Department** root cause in this incident was a field training officer's failure to safely manage his actions and the actions of his trainee, resulting in the serious injury of the trainee.

A **non-Department** root cause in this incident was the decedent's failure to comply with the lawful orders of Los Angeles County deputy sheriffs. Instead of obeying orders, the decedent fled from deputies on foot. He was captured, a struggle ensued and the decedent attempted to grab a gun from one of the deputy sheriffs. The decedent's actions caused the deputies to fear for their lives, resulting in a deputy involved shooting.

2. Briefly describe recommended corrective actions:

(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The incident was investigated by the Los Angeles County Sheriff's Department Homicide Bureau to determine if any criminal misconduct occurred.

On February 23, 2015, the Justice System Integrity Division of the District Attorney's Office issued a use-of-force determination letter concluding that both deputies acted lawfully in self-defense during the May 26, 2014 incident and that the District Attorney's Office will not be taking any further action relating to this incident.

This incident was investigated by representatives of the Sheriff Department's Internal Affairs Bureau to determine if any administrative misconduct occurred before, during, or after this incident. The results of the investigation were presented to the Executive Force Review Committee (EFRC) for evaluation. Appropriate administrative action was taken.

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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:



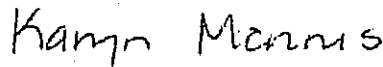
Date:

5-9-17

Name: (Department Head)

Karyn Mannis, Chief
Professional Standards and Training Division

Signature:



Date:

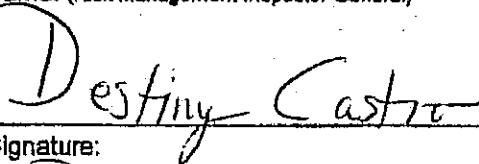
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Chief Executive Office Risk Management Inspector General USE ONLY

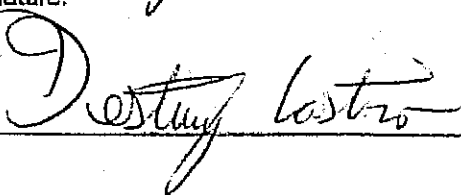
Are the corrective actions applicable to other departments within the County?

- ☐ 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:

5/15/2017