



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

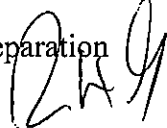
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August 25, 2017

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TO: LORI GLASGOW
Executive Officer
Board of Supervisors

Attention: Agenda Preparation 

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

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
Claim of Donnell Thompson, Sr.
Claim No. 16-2210/RMIS No. 16-1131497*001

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:ds

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Claim of Donnell Thompson, Sr., Claim No. 16-2210/RMIS No. 16-1131497*001, in the amount of \$1,490,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This wrongful death claim arises out of the fatal Deputy-involved shooting of Plaintiff's son.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Donnell Thompson, Sr. v. County of Los Angeles, et al.
CASE NUMBER	Claim No. 16-2210
COURT	N/A - Government Tort Claim
DATE FILED	August 9, 2016
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 1,490,000
ATTORNEY FOR PLAINTIFF	Brian T. Dunn, Esq. The Cochran Firm
COUNTY COUNSEL ATTORNEY	Jonathan McCaverty Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$1,490,000, inclusive of attorneys' fees and costs, a government tort claim for damages by Donnell Thompson, Sr., arising out of a July 2016 fatal deputy-involved shooting of his son, Donnell Thompson, Jr.</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 claim in the amount of \$1,490,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 1,269
PAID COSTS, TO DATE	\$ 2,195



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.

<p>Date of incident/event:</p>	
<p>Briefly provide a description of the incident/event:</p>	<p style="text-align: center;"><u>Donnell Thompson v. County of Los Angeles</u> Summary Corrective Action Plan 2017-005</p> <p><u>Compton Deputy Sheriffs' Traffic Stop and Pursuit</u></p> <p>On July 28, 2016, at approximately 2:26 a.m., while the first deputy sheriff was working Compton Station in a marked patrol vehicle, he observed a newer model Honda vehicle traveling at a high rate of speed (a violation of 22350 CVC). As the deputy sheriff attempted to catch up to the Honda, the driver made a left turn at an intersection and failed to stop for a red traffic signal (a violation of 21450 CVC).</p> <p>The first deputy sheriff followed the Honda as it turned into a cul-de-sac. The Honda stopped at the end of the cul-de-sac and the first deputy sheriff performed a traffic stop on the vehicle. The first deputy sheriff attempted to detain the vehicle's driver (and only visible occupant) at gunpoint as he performed a records check on the vehicle's license plate and radioed for additional units. The records check returned and identified the Honda as a reported stolen vehicle that was taken during an armed carjacking in LAPD's Southwest Division's jurisdiction earlier in the evening. The carjacking suspect was considered "Armed and Dangerous."¹</p> <p>When two additional deputy sheriffs arrived to assist with the traffic stop, the suspect vehicle accelerated forward and crashed through a chain link fence into Jefferson Elementary School. The deputy sheriffs initiated a pursuit of the vehicle through the school. The suspect vehicle crashed through another chain link fence, exited the school, and continued to flee on the city streets. While evading the deputy sheriffs by turning and swerving on city streets, the driver of the suspect vehicle used a firearm to shoot at the pursuing deputy sheriffs. The first deputy sheriff broadcast via his radio that the driver was shooting at them.</p> <p>After making several dangerous turns and driving maneuvers, the suspect crashed the vehicle at 2011 N. Slater Avenue (near Compton Avenue). The suspect continued to shoot at the on-scene deputy sheriffs, who in turn returned fire. During the exchange of gunfire, several deputy sheriffs moved laterally and front to back at the scene in an attempt to get into better tactical positions. A deputy sheriff advised on the radio that a male Black suspect had been seen running east from the suspect vehicle. Assisting units set up a containment east of the location, in an effort to capture the fleeing suspect.</p>

¹ During the robbery/carjacking, one armed suspect committed the carjacking and a second suspect was thought to have assisted him in a follow vehicle.

The gunfire stopped and there was no apparent movement at the suspect vehicle. Not knowing if the suspect vehicle had any occupants, a small group of on-scene deputy sheriffs used a tactical ballistic shield and approached the suspect vehicle to clear it. As the group was about ten yards away, the suspect was found to have been lying in wait in the vehicle. The suspect suddenly jumped out of the vehicle, looked at the approaching deputy sheriffs, then sprinted away northwest from the suspect vehicle and out of view. As the suspect ran, his left hand was swinging freely as his right arm was held tightly against his body with his right hand clinched at his waist.

The suspect's location and last seen direction was broadcast over the radio and another containment was set up in an attempt to capture him.

Upon searching the suspect vehicle, the deputy sheriffs discovered the front passenger seat was laid back and the passenger side door was found to be ajar. Based on this information, coupled with the indication that another suspect had been seen running from the vehicle during the gun battle, the on-scene deputy sheriffs believed that there were two suspects who had fled from the suspect vehicle.

Special Enforcement Bureau's Involvement

At approximately 2:26 a.m., deputy sheriffs assigned to the Special Enforcement Bureau (SEB), were alerted to and began responding to the terminus of the pursuit, in the area of 2011 N. Slater Avenue, Compton. They were requested to assist deputy sheriffs assigned to Compton Station to conduct a tactical area search for an armed suspect who had fled on foot from the vehicle that had been pursued, and who had reportedly fired shots at pursuing deputy sheriffs during and upon the pursuit ending. The deputy sheriffs had last seen the armed suspect run north from the suspect vehicle and out of sight. This information, along with a suspect description, were given to responding SEB and assisting patrol deputy sheriffs.

On-scene SEB deputy sheriffs, including those assigned to the Canine Services Detail, formulated a search plan and began their search. The area to be searched was quite large and the Compton Station deputy sheriffs were unsure of the direction the suspects may have ran after they lost sight of them. Because of this, the teams divided into two search teams to be more efficient.

At 5:02 a.m., while SEB deputy sheriffs were conducting their search, deputy sheriffs assigned to Compton Station advised the SEB deputy sheriffs (via radio) of a 911 call received by the Compton Station Desk. The caller reported that there was a male Black lying in the grass in front of his house located at 831 W. Stockwell Street. The caller also said that the male appeared to possibly be injured.

Several deputy sheriffs from Compton Station responded to the Stockwell location and found the decedent (who matched the description of the outstanding suspect) lying on the grass, non-responsive to commands, but appeared to be breathing.

At 5:11 a.m., an on-scene Compton Station deputy sheriff (second deputy sheriff) advised on the radio that he could in fact see a "man down" in the front yard of 831 W. Stockwell Street and stated, "He may have a gun next

to him, on the ground." The on-scene Compton Station deputy sheriffs contained the decedent but kept their distance, believing that he was the suspect who was being searched for and that he was armed. It was unknown why the decedent was non-responsive and lying in the grass in front of the location².

An Aero Bureau airship was overhead and verified the decedent was lying in the front yard grass area of the Stockwell Street address and that he was lying in a position where he had one of his hands tucked under his body at his waistband, and the other was by his head. They could not give any information as to his condition and could not verify whether he had been shot or injured in any other way.

Hearing that the suspect might have been located via their radios, the SEB search team assigned to search that area moved to assist the Compton Station deputy sheriffs in investigating the person who had been found. Upon arrival at 831 W. Stockwell Street, the SEB deputy sheriffs set up around the decedent, using armored vehicles for cover. They used two armored vehicles in an attempt to contain the decedent and to provide a protective barrier for the residents at the house he was laying in front of. The SEB deputy sheriffs attempted to contact the decedent and ascertain his condition.

The SEB deputy sheriffs made numerous attempts to communicate with the decedent, giving him instructions to surrender and letting him know that they would provide medical assistance if he was injured. This communication was given by unaided voice and over an amplified public address (P.A.) system. The decedent was illuminated by spotlights mounted on the armored vehicles. During this time, the decedent made no reply or attempt to communicate with any deputy sheriffs and continued to lay motionless on the ground.

With the decedent lying in a position in which it could not be determined if he was armed, and the fact that the decedent would not respond to the deputy sheriffs' presence, the SEB deputy sheriffs elected to deploy a light and sound diversionary device³ in an attempt to elicit some type of response or reaction from the decedent. This had no effect and the decedent still laid motionless on the ground.

In a further attempt to assure that the decedent was not "lying in wait" for deputy sheriffs to approach him, a deputy sheriff assigned to SEB (third deputy sheriff) utilized a 40mm rubber baton launcher to strike the decedent in the legs and buttock area, again in attempt to elicit some type of response from the decedent. The decedent was struck twice and gave no response to being hit. When the decedent was struck a third time he finally responded by sitting up.

The decedent, now sitting up and looking at the on-scene deputy sheriffs, still failed to comply or respond to orders and instructions given to him.

² The deputy sheriffs knew that the outstanding suspect had been previously "lying in wait" at the terminus of the pursuit. A person using a ruse by hiding or acting to be injured is a known technique that can put responding deputy sheriffs in a tactical disadvantage as they approach. If the suspect lays in wait, he can sometimes fire upon first responders before they have an opportunity to defend themselves.

³ Commonly referred to as a "flash bang."

The decedent also kept his left hand visible but had his right hand tucked near his waistband, still making it unclear if he was armed.

At approximately 5:28 a.m., the third deputy sheriff fired an additional 40mm round at the decedent, which struck him in the stomach area. In response to this round, the decedent abruptly jumped up to his feet and ran directly at the armored vehicle which was in place to block him from approaching the occupied residence he was laying in front of.

At this time, a SEB deputy sheriff (fourth deputy sheriff) standing in the turret of the armored vehicle, feared that the decedent was armed and attempting to attack him and/or the deputy sheriffs positioned behind the armored vehicle and could possibly continue past them into the occupied residence. The fourth deputy sheriff fired two rounds at the decedent from his Department issued rifle causing the decedent to fall at the base of the armored vehicle.

The decedent was then once again seen lying motionless on the ground and was unresponsive to commands and instructions. Because it was unknown if the rounds fired by the fourth deputy sheriff struck the decedent, the third deputy sheriff fired two more rounds with the 40mm rubber baton launcher at the decedent, to ensure that he was not feigning an injury and lying in wait to attack.

After the two rubber batons were fired and the decedent had no response, the arrest team approached to ascertain his condition.

It was discovered that the decedent was in fact struck by the fourth deputy sheriff's rifle rounds. Lifesaving efforts were immediately conducted by SEB/ESD paramedics but were unsuccessful. The decedent was pronounced dead at the scene. A search of his person and the immediate area revealed the decedent was unarmed.

During the incident with the decedent, it was believed, based on proximity and description, that he was the suspect who had led Compton deputy sheriffs in pursuit, shot at them during and after the pursuit, and who fled the terminus of the pursuit, disappearing into the adjacent neighborhood. It was also believed that due to the suspect's actions at the terminus of the pursuit, where he laid in wait to possibly ambush the on-scene deputy sheriffs, that the decedent could be attempting this tactic to launch a possible attack on the on-scene deputy sheriffs.

Note: Simultaneously to the deputy sheriff's contact with the decedent, a 911 hang up call was made inside the containment area. During the subsequent investigation into the call, another man matching the suspect's description was detained. The detained man was later positively identified as the suspect that had driven the suspect vehicle and shot at the deputy sheriffs. The decedent was also later positively identified as not being the suspect.

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

Departmental Cause: Based on information the suspect was armed and had shot at deputies, coupled with the decedent's erratic actions, the SEB deputy sheriff reasonably feared for his life, the lives of his partners, and the lives of the residents in the home they were protecting. The SEB deputy sheriff shot and killed the decedent prior to actually observing a weapon in the decedent's possession. The decedent was later found to be unarmed.

Non-Departmental Cause: It was found that the decedent's alcohol intoxication was approximately double California's legal driving limit. The decedent's marijuana toxicology was more than three times over the legal driving limit for states that have a five nanogram intoxication limit. The combined alcohol and marijuana intoxication may have been a factor in the decedent's impaired state.

Non-Departmental Cause: The decedent failed to follow the lawful orders and directions of the on-scene deputy sheriffs and SEB deputy sheriffs when he was not cooperative, refused to show his hands, and unexpectedly and aggressively charged towards the SEB deputy sheriffs and an occupied residence.

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

The incident is being investigated by the Sheriff's Department's Homicide Bureau to determine if any criminal misconduct occurred.

As of this date, the investigation is on-going. When completed the case will be submitted to the Los Angeles County District Attorney's Office for a determination as to whether the use of deadly force was legally justified.

The Sheriff's Department's Internal Affairs Bureau will investigate this incident to determine if any administrative misconduct occurred before, during, or after this incident. The California Government Code's Peace Officer Bill Of Rights sets guidelines for administrative investigation statute dates.

Once the Homicide Bureau and the Los Angeles County District Attorney Office's investigation are complete, a statute date will be set regarding the administrative investigation.

Although the second deputy sheriff from Compton Station was expressing his officer safety concerns regarding something he thought was a weapon near the decedent, his assessment of what he saw should have been expressed with more articulable content or context.

Instead of stating an assumption of what is seen, a better way to identify unknown objects is to articulate what is actually seen (example; "I see a dark colored object in the shape of a rectangle on the ground next to the suspect"). Improved articulation will assist other on-scene deputy sheriffs so that they are not predisposed with an incorrect weapon assessment.

On June 5, 2017, a Risky Business Newsletter titled "Articulation of Weapons or Unknown Objects" was distributed to all Sheriff's Department employees.

A request has been made to have a "Tip of the Week" video made to address the issue of better articulation of weapons or unknown objects. It is anticipated that the video will be produced and distributed to all Sheriff's Department personnel before December 31, 2017.

3. Are the corrective actions addressing Department-wide system issues?

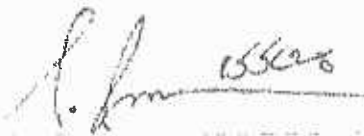
- Yes – The corrective actions address Department-wide system issues.
 No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Scott E. Johnson, Captain
Risk Management Bureau

Signature:



Date:

7-7-17

Name: (Department Head)

Karyn Mannis, Chief
Professional Standards and Training Division

Signature:



Date:

07-10-17

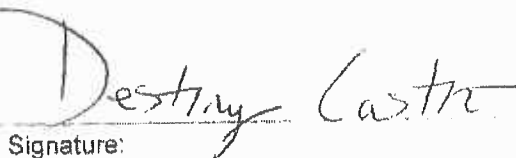
Chief Executive Office Risk Management Inspector General USE ONLY

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

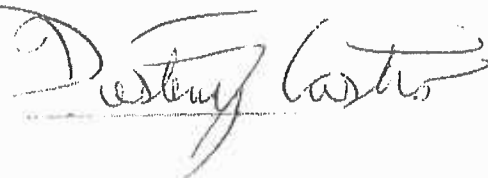
Yes, the corrective actions potentially have County-wide applicability.

No, the corrective actions are applicable only to this Department.

Name: (Risk Management Inspector General)



Signature:



Date

7/13/2017