



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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September 14, 2017

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TO: LORI GLASGOW
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

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

RE: **Item for the Board of Supervisors' Agenda**
County Contract Cities Liability Trust Fund
Claims Board Recommendation
Timothy Paynter, et al. v. County of Los Angeles, et al.
Lancaster Superior Court Case No. MC 024475

Silvia Morillon, et al. v. County of Los Angeles, et al.
Lancaster Superior Court Case No. MC 024976

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 is the Case Summary for the case.

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

JADL:sz

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matter entitled Timothy Paynter, et al. v. County of Los Angeles, Lancaster Superior Court Case No. MC 024475, and Silvia Morillon, et al. v. County of Los Angeles, et al., Lancaster Superior Court Case No. MC 024976 in the amount of \$4,000,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department Contract Cities Trust Fund's budget. The Contract Cities' excess insurance carrier will cover approximately \$1,000,000 of the \$4,000,000 settlement.

This lawsuit concerns allegations of wrongful death and automobile accident involving a Sheriff's Deputy.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Timothy Paynter, et al. v. County of Los Angeles, et al., and Silvia Morillon, et al. v. County of Los Angeles, et al.
CASE NUMBER	MC024475 (Paynter) and MC024976 (Morillon)
COURT	Los Angeles Superior Court (both cases)
DATE FILED	October 21, 2014 (both cases)
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 4,000,000 (\$2,000,000 to the Paynters and \$2,000,000 to Morillon)
ATTORNEY FOR PLAINTIFF	Humberto Guizar and Arnoldo Casillas (for Timothy Paynter and Yolanda Paynter) and David Rodriguez and Luis Carrillo (for Silvia Morillon and Estate of Robert Delgadillo)
COUNTY COUNSEL ATTORNEY	Richard K. Kudo Principal Deputy County Counsel
NATURE OF CASE	Plaintiffs Timothy Paynter, Yolanda Paynter, and Silvia Morillon claim wrongful death damages arising from the December 14, 2013, intersection collision between a Sheriff's Department vehicle driven by a Deputy Sheriff and a Ford Explorer sport utility vehicle driven by a third party that resulted in the fatalities of Sarah Paynter and Robert Delgadillo. The accident occurred at the intersection of East Avenue R and 17th Street East in the City of Palmdale. Plaintiffs claim that as a result of Sarah Paynter's and Robert Delgadillo's deaths, they suffered damages. Due to the risks and uncertainties of litigation, a full and final settlement of the case is warranted.
PAID ATTORNEY FEES, TO DATE	\$ 373,249
PAID COSTS, TO DATE	\$ 75,864

Case Name: Timothy Paynter, et al., v. County of Los Angeles, et al.
Sylvia Morillon, et al., 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:	December 14, 2013
Briefly provide a description of the incident/event:	<p><u>Timothy Paynter, et al. v. County of Los Angeles, et al. and Sylvia Morillon, et al., v. County of Los Angeles, et al</u> Summary Corrective Action Plan 2017-07</p> <p>On December 14, 2013, at approximately 4:25 p.m., a Los Angeles County deputy sheriff collided into another vehicle, on Avenue R and 17th Street East, Palmdale, which resulted in a double fatality.</p> <p>The deputy sheriff, the sole occupant of the vehicle, was driving a black and white patrol vehicle when he responded, without emergency lights and/or siren activated, to a Volunteer On Patrol's (VOP)¹ request for assistance² regarding a fight in progress. The request was made on Palmdale Station's "Metro"³ radio frequency.</p> <p>During the deputy sheriff's response, the Palmdale Station dispatcher clarified on "Metro" that the VOP was not involved and only a witness to the fight in progress. The dispatcher then advised on "Metro," that the request was non-emergent, backup⁴ only.</p> <p>As the deputy sheriff was eastbound Avenue R, a Ford Explorer proceeded northbound on 17th Street East across Avenue R, in front of the patrol car.</p> <p>Although the deputy sheriff applied emergency braking and swerved toward westbound lanes, he was unable to avoid colliding with the Ford Explorer. The front passenger side of the patrol vehicle, collided with the Ford Explorer's driver side front fender and wheel.</p> <p>The collision caused the Ford Explorer to spin around. At the time of the collision, the two decedents were rear passengers⁵ in the Ford Explorer. The decedents were not wearing their seatbelts and were ejected through the rear hatch of the Ford Explorer as it spun around. The decedents were pronounced dead at the scene. The driver and front passenger of the Ford Explorer were wearing their seatbelts and only suffered minor injuries. The deputy sheriff was also wearing his seatbelt and only had minor injuries.</p>

¹ A VOP is a civilian volunteer on the Sheriff's Department, who assists the station with non-emergency related duties.

² "Assistance" is an emergent request for help. Designated units will respond "Code-3" with lights and sirens.

³ Unlike a dispatch frequency, "Metro" is a car-to-car frequency that is primarily used to coordinate calls.

⁴ "Backup" is a non-emergent request for routine response (responding units will not respond "Code-3")

⁵ The decedents were a female adult and a male adult. The plaintiffs in this case are the parents, heirs, and successors of the decedents, respectfully.

County of Los Angeles
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	<p>A subsequent investigation by the California Highway Patrol (CHP) revealed the primary causal factor for the collision was the deputy sheriff's speed.</p> <p>Although the deputy sheriff had the right-of-way at the intersection, the Explorer's driver should have had a reasonable expectation that he could safely clear the intersection based on the patrol car's distance.</p> <p>The California Highway Patrol (CHP) determined that if the deputy sheriff had been traveling at the posted speed limit of 50 mph when the Ford Explorer entered the roadway, the patrol vehicle would have been approximately 180 feet from the area of impact when Ford Explorer cleared the path of travel and the collision would not have occurred.</p> <p>The CHP investigators further concluded that the speed was the primary causal factor for the collision. The speed that the deputy sheriff was driving did not allow him sufficient time and distance to take appropriate evasive action to avoid a collision with the Ford Explorer.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

The **Department** root cause in this incident was the deputy sheriff violated California Vehicle Code section 22350, as he was driving at an unsafe speed.

Another **Department** root cause in this incident was a Volunteer On Patrol (VOP) used terminology on the radio that expressed the need for an emergent response, although an emergent response was not warranted.

A **non-Department** root cause in this incident was the driver of the Explorer drove in front of an approaching patrol vehicle that had the right-of-way at the intersection.

Another **non-Department** root cause in this incident was the two rear passengers (decedents) of the Explorer were ejected and killed as they were not wearing their seatbelts. The driver and front seat passenger of the same vehicle were wearing their seatbelts and survived the collision with minor injuries.

2. Briefly describe recommended corrective actions:

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

The California Highway Patrol (CHP), Lancaster, Major Accident Investigation Team (MAIT) conducted the collision investigation of this incident. The investigation concluded with the report being presented to the Los Angeles County District Attorney's (DA's) Office for filing considerations.

On November 13, 2015, the Los Angeles County District Attorney's Office declined filing criminal charges against the deputy sheriff and the criminal case was closed.

This incident was investigated by representatives of the Sheriff's Department's Internal Affairs Bureau to determine if any administrative misconduct occurred before, during, or after this incident. Results of the investigation were presented to a Department executive panel for Case Review. Appropriate administrative action has been taken.

All new VOP's must attend a 40 hour VOP academy which includes a 3-4 hour block on radio procedures, nomenclature, and radio codes. In addition, volunteers perform rides with seasoned VOP's, and perform in-service training at the monthly volunteer station meetings.

The VOP training program is currently in the process of implementing a Daily Observation Report (DOR) which will allow VOP training staff to review and evaluate VOP's performance in a process that is similar to the sworn field training program. This improved VOP training process will help identify each new VOP's issues and focus on any specific topics that may require additional training.

After this collision, a review of preventable traffic collisions was completed at Palmdale Station. Based on the results of the review, a comprehensive Traffic Collision Reduction Plan was developed and implemented at Palmdale Station in 2014.

A current review of collision data covering preventable traffic collisions from 2012-2016, revealed Palmdale Station averaged 23 on-duty preventable traffic collisions each year. The lowest number of collisions was 17 in 2016, and the highest was 30 in 2012.

Since their implementation of the Traffic Collision Reduction Plan in 2014, Palmdale Station has had a reduction of on-duty preventable traffic collisions each year.

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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:

[Signature] 155/1526

Date:

6-26-17

Name: (Department Head)

Karyn Mannis, Chief
Professional Standards and Training Division

Signature:

Karyn Mannis

Date:

06-26-17

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)

Destiny Castro

Signature:

Destiny Castro

Date:

6/27/2017