



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

MARY C. WICKHAM
County Counsel

January 18, 2018

TELEPHONE
(213) 974-1609
FACSIMILE
(213) 626-2105
TDD
(213) 633-0901
E-MAIL
rgranbo@counsel.lacounty.gov

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
A.E.R., a minor, by Stephanie Yanez, et al. v. County of
Los Angeles, et al.
United States District Court Case No. CV 16-04895

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:scr

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled A.E.R., a minor, by Stephanie Yanez, et al. v. County of Los Angeles, et al., United States District Court Case No. CV 16-04895 in the amount of \$1,000,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This lawsuit seeks compensation for the minor child and parents for their decedent's alleged wrongful death and federal civil rights violations caused by Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	A.E.R. by Stephanie Yanez, et al. v. County of Los Angeles, et al.
CASE NUMBER	CV 16-04895
COURT	United States District Court
DATE FILED	July 5, 2016
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 1,000,000
ATTORNEY FOR PLAINTIFF	Jorge Gonzalez, Esq.
COUNTY COUNSEL ATTORNEY	Millicent L. Rolon Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$1,000,000, inclusive of attorneys' fees and costs, a lawsuit filed by decedent Eduardo Rodriguez's minor child, A.E.R., by and through his Guardian ad Litem, Stephanie Yanez, and his parents, Abel and Estela Rodriguez, against the County, the Sheriff's Department, and Deputies Andrew Alatorre and Sandy Galdamez alleging federal civil rights violations and State-law claims of battery, negligence, and wrongful death from an incident resulting in the fatal shooting of Eduardo Rodriguez.</p> <p>Given 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 \$1,000,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 83,271
PAID COSTS, TO DATE	\$ 7,122



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:	February 14, 2016
Briefly provide a description of the incident/event:	<p style="text-align: center;"><u>A.E.R. by Stephanie Yanez v. County of Los Angeles</u> Summary Corrective Action Plan 2017-038</p> <p>On February 14, 2016, at approximately 3:50 a.m., a marked patrol unit with two deputy sheriffs were on routine patrol near Whittier Boulevard and Ferris Avenue. The location and surrounding area is a well-known area where vehicles are frequently stolen and burglarized. The area is also known for where stolen vehicles are stripped, dismantled, and/or abandoned.</p> <p>The deputy sheriffs received a Lo-Jack signal notification regarding a stolen vehicle in close proximity. The deputy sheriffs followed the signal, which led them to a shopping center parking lot near Ferris Avenue and Fetterly Avenue. The deputy sheriffs found an abandoned Acura vehicle in the parking lot near the "Top Value Market" (4831 Whittier Boulevard) that was missing a front fender, had wires sticking out, was on four spare tires, had no license plates, and appeared to have been recently dismantled in the parking lot. In close proximity to the Acura, the deputy sheriffs observed a blue minivan parked with only a female in the driver seat. The deputy sheriffs continued to check the parking lot for suspicious persons or activity.</p> <p>When the deputy sheriffs exited the parking lot, they saw the same blue minivan driving on the street with two additional occupants inside. The deputy sheriffs suspected the minivan's occupants could be involved in criminal activity. In the deputy sheriff's experience, auto burglars commonly use lookout drivers while dismantling and stripping vehicles. The deputy sheriffs found that the minivan had a malfunctioning license plate light (a violation of section 24601 of the California Vehicle Code). The deputy sheriffs performed a traffic stop on the minivan for the traffic violation and to further investigate any possible criminal activity.</p> <p>The minivan pulled over on Ferris Avenue, south of Whittier Boulevard. Due to the vehicle containing multiple occupants, the first (driver) and second (passenger) deputy sheriffs called for backup via their portable radios. Several additional patrol units and a field sergeant arrived within seconds.</p> <p>Several on-scene deputy sheriffs were on each side of the minivan when the first and second deputy sheriffs made contact with the minivan's occupants. The first deputy sheriff made contact with the female driver. The female driver exited the vehicle and was detained without incident. The first deputy sheriff returned to the driver side front area of the minivan.</p>

	<p>The second deputy sheriff made contact with the decedent in the front passenger seat of the minivan. The decedent was moving his hands around and reaching into areas that the deputy sheriffs feared could have a firearm or other weapon. The second deputy sheriff repeatedly ordered for the decedent to show his hands, but the decedent refused to follow the deputy sheriff's orders. The Decedent repeatedly moved his hands to and around his waistband area.</p> <p>The second deputy sheriff opened the passenger side front door of the minivan and the decedent exited. As the decedent exited the minivan, the first deputy sheriff saw the decedent had a large gun on his person. The gun became visible as the decedent's clothing shifted while exiting the van. The first deputy sheriff yelled out several times that he could see the decedent had a gun in his waistband.</p> <p>Alarmed that the decedent possessed a weapon, the second deputy sheriff attempted to grab the decedent's arms, to restrain and prevent him from having the ability to reach for the gun. While on the sidewalk just outside the front passenger door, the decedent violently resisted the second deputy sheriff's attempts to restrain him. Two additional on-scene deputy sheriffs assisted the second deputy sheriff with attempting to control the decedent.</p> <p>The decedent continuously resisted the deputy sheriffs by violently pushing and pulling away. The decedent was able to temporarily break free from the deputy sheriffs' grasps and repeatedly reached into his waistband area as he quickly moved from the sidewalk, past the front of the minivan, and into the middle of the street. Despite numerous instructions to cooperate and to show his hands, the decedent refused to submit to the orders and repeatedly reached his hands into his waistband area.</p> <p>Two additional deputy sheriffs had their Tasers in their hands ready to deploy. Both deputy sheriffs did not deploy their Tasers as they could not get a clear shot and feared they would hit the deputy sheriffs that were violently struggling with the decedent.</p> <p>The deputy sheriffs re-engaged the decedent and attempted to restrain him and control his hands. During the struggle, the decedent used his left hand to grab the third deputy sheriff's holstered duty firearm. The third deputy sheriff could feel the decedent pulling on the firearm and feared he was attempting to arm himself. The third deputy sheriff yelled, "He's grabbing my gun!"</p> <p>Realizing they could not completely control the decedent and fearing he was either still armed with a firearm and/or attempting to get one of their firearms, the deputy sheriffs released their holds on the decedent. Instead of running away, the decedent faced the deputy sheriffs from about three feet away and appeared to be intent on directly re-engaging them. The decedent bent over and grasped for something in his waistband area, causing the deputy sheriffs to believe he was attempting to retrieve his gun.</p> <p>Fearing for their own safety, as well as the safety of their partners, the second and third deputy sheriffs fired their duty weapons¹ at the decedent.</p>
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¹ Both the second and third deputy sheriffs estimated that they each shot three to four times.

	<p>The decedent fell to the ground on his stomach, with both hands underneath his body at his waistband. The deputy sheriffs re-engaged the decedent and attempted to control and handcuff him.</p> <p>The decedent still actively resisted the deputy sheriffs and continued to move his hands around in his waistband area. The deputy sheriffs again instructed the decedent to stop moving and to show his hands, but the decedent refused. The deputy sheriffs discovered that the decedent had a black strap underneath his sweater that looked like it could be a firearm holster.</p> <p>Fearing that the decedent was continuing to reach for a gun, and he would use it against himself or his partners, the third deputy sheriff fired an additional three to four shots at the decedent. The decedent stopped moving.</p> <p>Los Angeles County Fire Department Paramedics were summoned to the scene for the decedent, but he succumbed to his injuries and was pronounced dead at the scene.</p> <p>A loaded, .22 caliber Ruger Revolver with a six-inch barrel was recovered near the passenger door of the vehicle.</p>
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1. Briefly describe the root cause(s) of the claim/lawsuit:

A Department root cause in this incident was two deputy sheriffs fired their weapons at the decedent, who was not armed at the time he was shot, but had been seen moments earlier with a pistol in his possession.

A non-Department root cause was the decedent's failure to comply with orders from the deputy sheriffs and his physical resistance to the deputy sheriffs attempting to control him.

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

This incident was investigated by the Sheriff's Department's Homicide Bureau to determine if any criminal misconduct occurred.

The investigation has been submitted to the Los Angeles County District Attorney's Office for a determination as to whether the use of deadly force was legally justified and/or if any other criminal misconduct occurred. At the time of this report, the Los Angeles County District Attorney's Office has not advised the Department of their findings.

The Sheriff's Department's Internal Affairs Bureau (IAB) will investigate this incident to determine if any administrative misconduct occurred before, during, or after this incident.

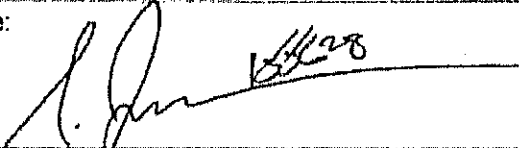
The California Government Code's Peace Officer Bill of Rights sets guidelines for administrative investigation statute dates. Once the Homicide Bureau and the Los Angeles County District Attorney's Office investigations are complete, a statute date will be set regarding the administrative investigation.

When the IAB investigator finishes the case, it will be reviewed and processed. Approximately one month after the case has been approved, the case will be presented to the Los Angeles County Sheriff's Department's Executive Force Review Committee (EFRC) for adjudication.

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

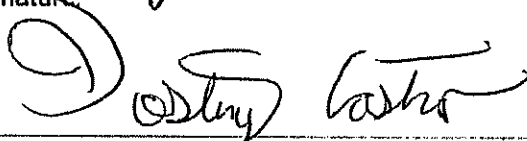
- Yes – The corrective actions address Department-wide system issues.
 No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator) Scott E. Johnson, Captain Risk Management Bureau	
Signature: 	Date: 11-14-17

Name: (Department Head) Karyn Mannis, Chief Professional Standards and Training Division	
Signature: Karyn Mannis	Date: 11-16-17

Chief Executive Office Risk Management Inspector General USE ONLY	
Are the corrective actions applicable to other departments within the County?	
<input type="checkbox"/> Yes, the corrective actions potentially have County-wide applicability.	
<input checked="" type="checkbox"/> No, the corrective actions are applicable only to this Department.	

Name: (Risk Management Inspector General) Destiny Castro	
Signature: 	Date: 11/17/2017