



COUNTY OF LOS ANGELES
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MARY C. WICKHAM
County Counsel

March 1, 2018

TO: CELIA ZAVALA
Acting Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ELIZABETH D. MILLER *EDM*
Principal Deputy County Counsel
Sheriff's Services Team

RE: **Item for the Board of Supervisors' Agenda**
County Contract Cities Liability Trust Fund
Claims Board Recommendation
Miguel Hernandez, et al. v. County of Los Angeles, et al.
United States District Court Case No. CV 16-09412

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 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.

EDM:lal

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matters entitled Miguel Hernandez, et al. v. County of Los Angeles, et al., United States District Court Case No. CV 16-09412 in the amount of \$2,700,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department Contract Cities Trust Fund's budget.

This lawsuit concerns allegations of wrongful death and federal civil rights violations by a Sheriff's Deputy.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Miguel Hernandez, et al. v. County of Los Angeles, et al.
CASE NUMBER	2:16-CV-09412
COURT	United States District Court
DATE FILED	December 20, 2016
COUNTY DEPARTMENT	Sheriff's Department Contract Cities Trust Fund - Santa Clarita
PROPOSED SETTLEMENT AMOUNT	\$ 2,700,000
ATTORNEY FOR PLAINTIFF	John Burton, Esq.
COUNTY COUNSEL ATTORNEY	Millicent L. Rolon Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$2,700,000, inclusive of attorneys' fees and costs, a wrongful death and federal civil rights lawsuit filed by decedent Miguel A. Hernandez's parents and three minor children, by and through their guardians ad litem, alleging federal civil rights violations and wrongful death after the fatal shooting death of Mr. Hernandez.</p> <p>The Deputy claims his actions were reasonable under the circumstances.</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 \$2,700,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 35,185
PAID COSTS, TO DATE	\$ 788



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:

Briefly provide a description of the incident/event:

Miguel Hernandez, et al. v. County of Los Angeles
Summary Corrective Action Plan 2017-048

On January 14, 2016, a deputy sheriff attended his shift briefing and learned about an incident that occurred the prior day where a driver of a white and grey two-tone Lexus with halogen headlights was involved in a road rage incident that ended with the driver firing a handgun at the victim.

At approximately 7:45 p.m., the deputy sheriff was on routine patrol in a one-man marked patrol vehicle when he observed a Lexus vehicle that matched the description of the road rage suspect's vehicle. The Lexus had dark tint on the front and rear passenger windows that obstructed the view of the vehicle's occupants.

The deputy sheriff followed the Lexus a short distance then he attempted to initiate a traffic stop. The Lexus' driver deceptively used his turn signal several times indicating he was going to turn left onto two different short cul-de-sac roads, but then changed his direction and failed to pull over.

On the third street, the Lexus' driver made a left turn and finally pulled over to the right curb. The deputy sheriff immediately exited his patrol vehicle and pointed his duty weapon towards the driver. The deputy sheriff ordered the driver to turn off his engine. As the deputy sheriff advanced toward the Lexus, he stopped at the front bumper of his patrol vehicle.

Without being instructed, the decedent (and only known occupant of the vehicle) suddenly exited the driver's door and used vulgar language to express his agitation for being stopped. The decedent bladed his body and kept his right hand out of view of the deputy sheriff, near the right side of his body.

The attempt to keep his right hand out of view caused the deputy sheriff to fear the decedent could be in possession of a firearm or other deadly weapon, and he was concealing it in order to gain an advantage during a possible pending attack. The deputy sheriff remained at the front bumper of his patrol vehicle and ordered the decedent to show his hands several times. Several attempts to have the decedent show his hands were unsuccessful and the decedent remained verbally and physically uncooperative.

Moments later, the decedent quickly twisted his body toward the deputy sheriff and made a sudden "jerking motion" with his right hand from a concealed position behind his body. Believing the decedent was drawing a gun and about to fire upon him, the deputy sheriff fired one round from

	<p>his service weapon, striking the decedent in the left shoulder¹. The decedent fell to the ground with his hands concealed underneath his torso.</p> <p>The deputy sheriff approached the decedent as he was lying near the open driver's door of the Lexus. The deputy sheriff held the decedent down with one knee and utilized his portable radio to broadcast he was involved in a shooting and requested emergency medical services for the decedent.</p> <p>When the second deputy sheriff arrived, both deputy sheriffs rolled the decedent over to search, handcuff, and provide medical aid. Upon rolling the decedent, the deputy sheriffs discovered a folding knife, with a three-inch blade locked in an open position, underneath the decedent's legs.</p> <p>The Lexus had dark tinted windows that made it difficult to see if there were any other occupants inside. Before providing medical aid to the decedent, the second deputy sheriff checked the interior of the Lexus and discovered there was another occupant in the backseat. The deputy sheriffs then divided their attention to control the second occupant while attempting to provide aid to the decedent. Paramedics arrived on scene a few seconds later and once the second occupant was detained, they began providing medical aid to the decedent.</p> <p>Although the decedent was transported via ambulance to a local hospital and life-saving efforts were performed, he succumbed to his injuries and was pronounced dead a short time later.</p> <p>The second occupant was arrested as he was found to be a parolee-at-large and in possession of illicit narcotics.</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 deputy sheriff failed to conduct any pre-stop coordination or request any additional units prior to making a traffic stop on a vehicle matching the description of a vehicle used in a recent assault with a deadly weapon-firearm incident.

Another **Department** root cause in this incident was the deputy sheriff failed to obtain a position of advantage or obtain back-up prior to approaching the vehicle or after contacting the decedent.

Another **Department** root cause in this incident was the deputy put himself in danger when he approached the vehicle and remained with the decedent, without first clearing the vehicle and/or obtaining back-up.

A **non-Department** root cause in this incident was the failure of the decedent to comply with the lawful orders of the Los Angeles County deputy sheriff.

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.

¹ The bullet entered the decedent's left shoulder and traveled laterally into his upper torso, striking vital internal organs.

On January 30, 2017, the Justice System Integrity Division of the Los Angeles County District Attorney's Office issued an officer involved shooting determination letter, concluding the involved deputy acted lawfully in self-defense during the January 14, 2016 incident and indicating the District Attorney's Office will not be taking any further action relating to this incident.

This incident was investigated by representatives of the Los Angeles County Sheriff's 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.

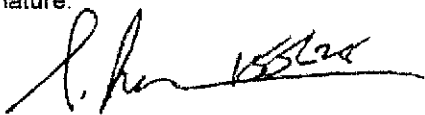
On September 21, 2017, the Executive Force Review Committee determined the use of force was within Department policy, however, the tactics were out of policy. Appropriate administrative action was taken.

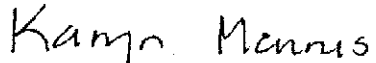
County of Los Angeles
Summary Corrective Action Plan

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

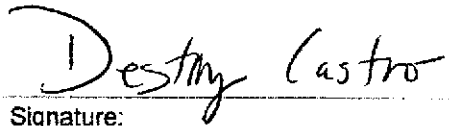

- Yes – The corrective actions address Department-wide system issues.
 No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator) Scott E. Johnson, Captain Risk Management Bureau	
Signature: 	Date: 1-2-18

Name: (Department Head) Karyn Mannis, Chief Professional Standards and Training Division	
Signature: 	Date: 01-02-18

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 type="checkbox"/> No, the corrective actions are applicable only to this Department.

Name: (Risk Management Inspector General) 	
Signature: 	Date: 1/9/2018