



COUNTY OF LOS ANGELES
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MARY C. WICKHAM
County Counsel


May 17, 2018

TO: CELIA ZAVALA
Acting Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ELIZABETH D. MILLER
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
Louise Olin, et al. v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 551857



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

Settlement for Matter Entitled Louise Olin, et al. v. County of Los Angeles, et al.

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matters entitled Louise Olin, et al. v. County of Los Angeles, et al., Los Angeles Superior Court Case No. BC 551857 in the amount of \$11,750,000 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 injuries received in an automobile accident involving a Sheriff's Deputy.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

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| CASE NAME | Louise Olin, et al. v. County of Los Angeles, et al. |
| CASE NUMBER | BC551857 |
| COURT | Los Angeles Superior Court |
| DATE FILED | July 16, 2014 |
| COUNTY DEPARTMENT | Sheriff's Department |
| PROPOSED SETTLEMENT AMOUNT | \$ 11,750,000 |
| ATTORNEY FOR PLAINTIFF | Bruce Broillet Greene Broillet & Wheeler, LLP |
| COUNTY COUNSEL ATTORNEY | Richard K. Kudo Principal Deputy County Counsel |
| NATURE OF CASE | This lawsuit arises out of a December 8, 2013, collision between a Sheriff's Department radio car driven by a Deputy Sheriff and a bicycle ridden by Milton Olin, Jr., on Mulholland Highway just east of Daguerre Avenue, in the City of Calabasas. Mr. Olin died at the accident scene. Plaintiffs, Mr. Olin's surviving spouse, his two adult children, and his estate claim wrongful death damages. Due to the risks and uncertainties of litigation, a full and final settlement of the case is warranted. |
| PAID ATTORNEY FEES, TO DATE | \$ \$449,091 |
| PAID COSTS, TO DATE | \$ \$125,289 |



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.

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| Date of incident/event: | December 8, 2013 |
| Briefly provide a description of the incident/event: | <p><u>Louise Olin, et al. v. County of Los Angeles, et al.</u> Summary Corrective Action Plan 2017-043</p> <p>On December 8, 2013, at about 1:05 p.m., a Los Angeles County deputy sheriff drove his patrol vehicle eastbound on Mulholland Highway after resolving a "smoke investigation"¹ call for service at Calabasas High School. Simultaneously, the decedent was exercising by riding his bicycle eastbound on Mulholland Highway, in the designated bicycle lane.</p> <p>While driving, the deputy sheriff diverted his attention to an administrative message one of his co-workers sent him on his patrol unit's Mobile Digital Computer (MDC). The message asked the deputy sheriff if he was "Code-4"² at the smoke investigation call. The deputy sheriff was in the middle of typing a response to his co-worker as the road curved slightly to the left and his patrol vehicle continued straight. The patrol vehicle crossed over a solid white line on the right side of the road, into the bicycle lane, and struck the decedent from behind.</p> <p>The deputy sheriff's vehicle was going about 45 MPH at the time of the collision. The collision caused the decedent to be ejected from his bicycle, thrown into the windshield and front roof line of the patrol vehicle, and then fall to the roadway. After striking the decedent, the deputy sheriff quickly stopped his patrol vehicle.</p> <p>An off-duty EMT was driving behind the deputy sheriff and witnessed the collision. The EMT immediately attempted to provide emergency medical aid to the decedent, who was lying on the street. The decedent had significant trauma to his body and head. It was quickly determined that the decedent had no signs of life. The decedent was pronounced dead at the scene by responding paramedics.</p> <p>The deputy sheriff stated he did not see the decedent before the collision. The deputy sheriff's MDC was found to have a partially written message stating, "Yes I," immediately followed by what appears to be unintelligible; "[\nokko."</p> <p>Note: The MDC was directly in line with the caved-in windshield. It was determined the decedent's body came partially through the windshield and impacted the MDC during the collision. The partial message of, "Yes I" was determined to be written</p> |

¹ The smoke investigation call for service was later found to have been a small brush fire on the Calabasas High School baseball field. It was extinguished by the Los Angeles County Fire Department.
² Code-4 is radio code that is commonly used to advise if any further assistance is needed or is someone is OK.

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| | immediately before the impact of the collision. The "j\nokko" was determined to have occurred during and/or immediately after the impact of the collision. The message did not appear finished and was never sent. |
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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 making an unsafe turning movement on the roadway (a violation of section 22107 of the California Vehicle Code)

Another **Department** root cause in this incident was the deputy sheriff was driving while distracted and typing on his MDC.

2. Briefly describe recommended corrective actions:

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

Criminal Investigation

This incident was thoroughly investigated by representatives from the Los Angeles County Sheriff's Department's, Traffic Services Detail.

The results of the traffic investigation were presented to representatives from the Los Angeles County District Attorney's Office to determine if the deputy sheriff's actions constituted criminal misconduct.

On August 27, 2014, the Los Angeles County District Attorney's Office declined to file criminal charges against the deputy sheriff stating, "Although the MDC inquiry and response were not of an emergent nature, the law does not limit officers from using an electronic wireless communication device in the performance of their duties to situations involving emergencies."

The District Attorney's Office wrote in their written conclusion, "We find insufficient evidence to prove the deputy committed the crime of vehicular manslaughter. As such, we decline to initiate criminal proceedings against him. We are closing our file and will take no further action in this matter."

Administrative Investigation

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. The results of the investigation were presented for Department executive adjudication.

Executive evaluation of this incident found the deputy sheriff's actions were in violation of Department policy. Appropriate administrative action has been taken.

Department executives found this incident exemplified the need for better training and policy, as it relates to vehicle operations and the use of the vehicle's MDC while driving. An ad-hoc committee was created to address the distracted driving issue.

Station Traffic Collision Assessment and Review

After this collision, a review of preventable traffic collisions was conducted at Malibu/Lost Hills Station.

A review of collision data covering preventable traffic collisions from 2012-1016 revealed Malibu/Lost Hills Station averaged 14 on-duty preventable traffic collisions each year. The lowest number of collisions was 12, from August 2016 to July 2017. The highest was 19, from August 2013 to July 2014.

Since the date of this traffic collision, on December 8, 2013, Malibu/Lost Hills Station's rate of preventable traffic collisions declined by 26.32% in 2014-15 and declined 14.29% in 2016-17. The rate of traffic collisions per 100,000 miles driven since December 8, 2013, declined by 26.77% in 2014-15 and declined 22.54% in 2015-16.

Since the traffic collision, the Lost Hills Station field sergeants have diligently briefed the station deputies regarding safe driving practices. The briefings included distracted driving, wearing seatbelts, adhering to the rules of the road under normal conditions, and abiding by Department policy in relation to safe driving during emergent situations, including Code-3 driving. The goal was to enhance public and employee safety and to reduce on-duty preventable traffic collisions.

Malibu/Lost Hills Station also has a permanent Emergency Vehicle Operations Center (EVOC) trailer assigned to the station. EVOC training is conducted for line personnel when training days can be scheduled. It has proven to be a valuable tool for the deputies assigned to Lost Hills Station.

Ad-Hoc Distracted Driving Committee and Department Training

As a direct result of this incident, on May 23, 2014, Risk Management Bureau's, Field Operations Support Services (FOSS), formed an ad-hoc committee with a panel of various units³ throughout the Department. The committee met several times with the specific purpose to address the consequences of distracted driving and Department vehicle operations.

On August 29, 2014, the committee made 34 total recommendations. They were broken down into the following categories:

- Short term (1-3 months before completion)
- Medium term (3-9 months before completion)
- Long term (9 or more months before completion)

Out of the 34 recommendations, 21 have been adopted and completed. Of the 13 remaining recommendations, five (5) are considered long-term. Each of the long-term recommendations have significant associated costs and will take a considerable amount of time for research, personnel, technology, purchasing, and implementation. The remaining recommendations continue to be evaluated and/or developed for future implementation.

Distracted Driving Risky Business Newsletter

In an attempt to reduce the risk of future collisions due to distracted driving, Risk Management Bureau created a "Distracted Driving" Risky Business Newsletter.

On August 5th, 2014, the Risky Business Newsletter was distributed via e-mail to all Sheriff's Department employees. The newsletter remains available on the Sheriff Department's intranet as a resource for Department employees.

³ The following is a list of participating units involved in the "Distracted Driving Committee"; Advanced Officer Training (AOT); Automatic License Plate Reader Supervisors (ALPR/ASAP); Civil Litigation Unit; Communication & Fleet Management Bureau (CFMB); Corrective Action Unit; Emergency Vehicle Operations Center; Master Field Training Officers; MDC Training Unit; Professional Standards Division; Sheriff Communication Center (dispatchers).

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:

12-14-17

Name: (Department Head)

Karyn Mannis, Chief
Professional Standards and Training Division

Signature:



Date:

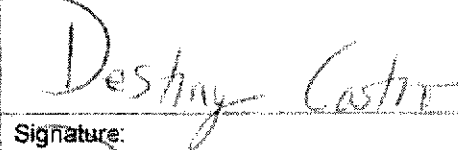
12-18-17

Chief Executive Office Risk Management Inspector General USE ONLY

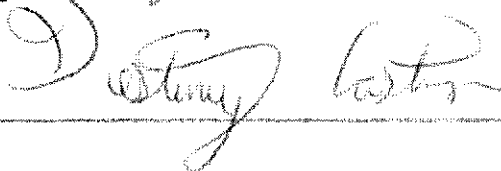
Are the corrective actions applicable to other departments within the County?

- 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:

12/19/2017