



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

October 29, 2020

TELEPHONE
(213) 974-1885
FACSIMILE
(213) 626-2105
TDD
(213) 633-0901
E-MAIL
abyers@counsel.lacounty.gov

TO: CELIA ZAVALA
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ADRIENNE M. BYERS
Litigation Cost Manager
Executive Office

A handwritten signature in blue ink, appearing to read "AMB", is written over the name "ADRIENNE M. BYERS" and extends slightly to the right.

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
Andrew Wilson v. City of Los Angeles, et al.
United States District Court Case No. 2:18-CV-05775 KS

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 the 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.

AMB:vc

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Andrew Wilson v. City of Los Angeles, et al., United States District Court Case No. 2:18-CV-05775 KS in the amount of \$1,500,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the District Attorney's office's budget.

This lawsuit against the District Attorney's office alleges that Plaintiff was wrongfully convicted which resulted in his imprisonment for 32 years.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Andrew Wilson v. City of Los Angeles, et al.
CASE NUMBER	2:18-CV-05775 KS
COURT	United States District Court
DATE FILED	July 1, 2018
COUNTY DEPARTMENT	District Attorney
PROPOSED SETTLEMENT AMOUNT	\$ 1,500,000
ATTORNEY FOR PLAINTIFF	Barrett S. Litt Kaye, McLane, Bednarski & Litt, LLP
COUNTY COUNSEL ATTORNEY	Richard K. Kudo Principal Deputy County Counsel
NATURE OF CASE	On November 10, 1986, plaintiff Andrew Wilson was convicted of robbing and murdering Christopher Hanson while Mr. Hanson slept in the front seat of his car with his girlfriend. Two men, one positioned on each side of the car at the front doors, attacked them. Mr. Hanson was stabbed to death from the driver's side. The office of the District Attorney ("DA") successfully prosecuted the case and obtained the conviction. In February 1987, plaintiff was sentenced to life in prison without the possibility of parole, plus one year. The accomplice was never identified or found. Plaintiff contended then, as he does now, that he was and is innocent of the charges brought against him and for which he was convicted. In 2016, on behalf of plaintiff, the Loyola Law School Project for the Innocent filed a petition for a writ of habeas corpus that the DA did not oppose. On March 16, 2017, after plaintiff's petition was granted and his conviction vacated, plaintiff was released from prison. In this lawsuit, plaintiff alleges he was deprived of his constitutional right to a fair trial because, among other things, the DA failed to adequately train and supervise its deputies to produce exculpatory evidence to the defense in accordance with Brady v. Maryland, 373 U.S. 83 (1963) ("Brady"). Alternatively, plaintiff alleges that the DA had the habit, custom, pattern, and practice of failing to produce exculpatory

evidence to the defense as Brady requires. Plaintiff further alleges that had the exculpatory evidence been disclosed to the defense, he would not have been convicted. We dispute the allegations. Plaintiff claims to have suffered damages because of the wrongful conviction. Due to the risks and uncertainties of litigation, a full and final settlement of the case is warranted.

PAID ATTORNEY FEES, TO DATE	\$ 187,575
PAID COSTS, TO DATE	\$ 1,978



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:	Mr. Wilson, now a 65 year old man, brought this federal civil rights lawsuit against the County for a wrongful conviction that resulted in his imprisonment of 32 years. This case against the County settled inclusive of all attorney's fees and costs.
Briefly provide a description of the incident/event:	On November 10, 1986, Mr. Wilson was convicted of robbing and murdering Christopher Hanson ("Mr. Hanson") while he slept in the front seat of his car with his girlfriend, Saladena Bishop ("Ms. Bishop"). Mr. Hanson and Ms. Bishop were attacked by two men, one positioned on each side of the car at the front doors. Mr. Wilson stabbed Mr. Hanson from the driver's side, and his accomplice was at the passenger side where Ms. Bishop sat. The attack occurred in the evening of October 23, 1984, on the 2200 block of Hobart Avenue in the City of Los Angeles (the "City"). Mr. Hanson died as a result of multiple stab wounds. The stab wounds were particularly lethal to him because he was afflicted with von Willebrand's disease, which prevented his blood from clotting. On February 6, 1987, Mr. Wilson was sentenced to life in prison without the possibility of parole, plus one year. The accomplice was never identified or found. Mr. Wilson contended then, as he does now, that he was and is innocent of the charges brought against him and for which he was convicted. Deputy District Attorney Laura Aalto ("DDA Aalto") prosecuted the case against Mr. Wilson. Los Angeles Police Department ("LAPD") detective Richard Marks ("Detective Marks") was the lead investigator who investigated Mr. Hanson's death. The prosecution's case was based on eye-witness testimony because no physical evidence tied Mr. Wilson to the crime. Ms. Bishop, then 17 years old, was the key prosecution witness in the case against Mr. Wilson and identified him from photographs shown to her by Detective Marks. In this lawsuit, Mr. Wilson claims that Detective Marks unduly influenced Ms.

Bishop's identification of him because after she was unable to identify the perpetrator from an array of 16 photographs, Detective Marks directed her attention to Mr. Wilson's photograph and asked, "What about him?"

Over the years following his conviction, Mr. Wilson filed five unsuccessful petitions for writs of habeas corpus. On August 1, 2016, the Loyola Law School Project for the Innocent ("Loyola") filed a sixth petition for writ of habeas corpus on behalf of Mr. Wilson that the DA did not oppose. The DA's office informed the Superior Court that the DA "concedes that cumulative errors during pre-trial and trial proceedings deprived [Plaintiff/Mr. Wilson] of his constitutional right to a fundamentally fair trial." The DA conceded that the petition for the writ should be granted and stated that Mr. Wilson would not be retried once the conviction was vacated. By then, Mr. Wilson already had spent 32 years in prison. Mr. Wilson was released from prison on March 16, 2017, following the grant of his petition for habeas corpus. When released, Mr. Wilson was 62 years old.

Despite the concessions, the DA advised the court that while the record demonstrated that Mr. Wilson was denied a fundamentally fair trial in his criminal case, the DA did not believe Mr. Wilson was factually innocent of the crimes of which he was convicted. The DA further advised the court that should Mr. Wilson file a petition for a judicial finding of factual innocence, the DA would vigorously contest it. On March 13, 2019, Mr. Wilson filed his petition for factual innocence, and the DA opposed it. The hearing on the petition has been continued several times and, due to the COVID-19 crisis, the case is presently set in November 2020.

On June 26, 1990, almost four years after Mr. Wilson's conviction, the "Report of the 1989-90 Los Angeles County Grand Jury" (the "Grand Jury Report") was published. The report investigated the use of jail house informants by the DA and the Los Angeles County Sheriff's Department. Among its recommendations was that the DA should conduct regular training of its professional staff regarding the specific ethical responsibilities of prosecutors. The

	Grand Jury Report only concerned criminal cases that involved the use of jail house informants. Mr. Wilson filed the instant action against the County, the City, and Detective Marks. DDA Aalto is not named a defendant. As against the County, the complaint alleges that between 1984 to 2017, and particularly between 1985 and 1986 during the investigation and Mr. Wilson's trial, the DA failed to institute adequate training and supervision regarding the handling of exculpatory evidence consistent with Brady. We dispute the allegation. We have witness testimony that refutes the allegation and DA training memoranda that expressly mentions Brady. Mr. Wilson also alleges that the DA had the habit, custom, pattern and practice of failing to disclose exculpatory evidence consistent with Brady, which he claims is evidenced by the Grand Jury Report. We dispute that any such habit, custom, pattern and practice existed. The lawsuit as against the County is suspended pending approval and completion of the settlement. The lawsuit will continue to proceed against the City and Detective Marks and is set for trial on September 9, 2020.
--	--

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

The DA had an official or unofficial policy, practice, or custom of failing to comply with the prosecution's obligation to turn over exculpatory evidence to the defense in accordance with *Brady v. Maryland*, 373 U.S. 83 (1983) ("Brady") including Mr. Wilson's civil rights.

The DA lacked adequate training and supervision of its employees of the prosecution's obligation to turn over exculpatory evidence to the defense that rose to the level of deliberate indifference of Mr. Wilson's constitutional rights pursuant to *City of Canton v. Harris*, 489 U.S. 378 (1989).

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

A settlement for \$1,500,000 between the County and Mr. Wilson of his federal lawsuit.

Extensive trainings, manuals, office-wide policy Special Directives, General Office Memoranda have been and continue to be developed and disseminated throughout the Office of the District Attorney to all deputies. The trainings include **Saturday Seminars** on the topics of Eyewitness Identification (1991), Brady in 2014 (2014), Brady and Informants: Exposed (2014), and a Mandatory Participation Seminar on Policy on the Disclosure of Exculpatory and Impeachment Information (formerly known as the Brady Compliance Policy) and ORWITS and DDA Referrals of Potential Impeachment Information (2017). The Department created a Unit (The **Discovery Compliance Unit**) dedicated to discovery and Brady compliance, including training in the Branch and Area Offices, Juvenile Division, Central Operations, New Hire training, Second Year Felony Trial College, Post-Bar Law Clerk Training, Paralegals, and the Sex Crimes Unit. The **Brady Compliance Unit Operations Manual**, first published in September 2010, was updated and revised in March 2018, and July 2018 and is available on-line to all District Attorney personnel throughout the DA website. The **Legal Policies Manual** dedicates Chapter 14 to Brady Compliance (as entitled in 2005) and is entitled Disclosure of Exculpatory and Impeachment Information (current Legal Policies Manual). The Department's **Brady Policy**, disseminated through Special Directives, was first published in 2000. In 2000, 2001, 2002, 2010, 2013, 2015, 2016, 2017, 2018, 2019, office-wide aspects of the policy, protocols, and procedures have been rescinded and/or revised to reflect the most current state of the law and prosecutorial obligations. Through **Special Directives** (office-wide policy) and **General Office Memoranda** (topics of interest to be aware of) topics including the Policy on the Disclosure of Exculpatory and Impeachment Information (formerly the Brady Compliance Policy), Recent Cases of Interest (1984), Exculpatory Discovery (1987), Case Filing Manual (1989), Brady Training – Mandatory (2010), and Discovery Compliance System Manual (2020).

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

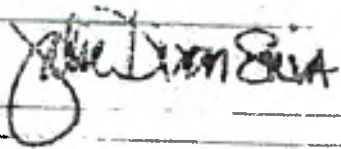
☒ Yes – The corrective actions address department-wide system issues.

☐ No – The corrective actions are only applicable to the affected parties.

Name: (Risk Management Coordinator)
Julie Dixon Silva

County of Los Angeles
Summary Corrective Action Plan

Signature:



Date:

9/10/2020

Name: (Department Head)
Joseph Esposito

Signature:



Date:

9/10/20

Chief Executive Office Risk Management Inspector General USE ONLY

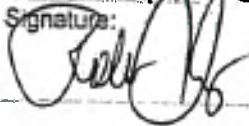
Are the corrective actions applicable to other departments within the County?

- ☐ Yes, the corrective actions potentially have County-wide applicability.
☒ No, the corrective actions are applicable only to this department.

Name: (Risk Management Inspector General)

Robert Chavez

Signature:



Date:

9/10/20