COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

Maria M. Oms
Auditor-Controller
John F. Krattli
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

December 5, 2005

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Kianna M. v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 310 639

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of $300,000, plus assumption of a Medi-Cal Lien of $21,520.25.

2. The Auditor-Controller be directed to draw warrants to implement this settlement from the Probation Department.

Enclosed is the settlement request and a summary of the facts of the case.

The Corrective Action Report by the Probation Department is being transmitted to you under separate cover.

Return the executed, adopted copy to Georgene Salisbury, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-9910.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO:gs

Enclosure

MEMORANDUM

November 2, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: MARK WEINSTEIN
Veatch Huang

ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Division

RE: **Kianna M. v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 310 639

DATE OF INCIDENT: July 17, 2002

AUTHORITY REQUESTED: $300,000 plus assumption of a Medi-Cal lien of $21, 520.25

COUNTY DEPARTMENT: Probation Department

CLAIMS BOARD ACTION:

☐ Approve ☐ Disapprove ☐ Recommend to Board of Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on _____, 2005

HOA.329970.1

SUMMARY

This is a recommendation to settle for $300,000, a lawsuit filed by Kianna M., who alleges that her federal civil rights were violated when she was sexually assaulted by an employee of the Probation Department. In addition, the County will assume a Medi-Cal lien of $21,520.25.

LEGAL PRINCIPLES

A sexual assault by a government employee constitutes a federal civil rights violation, as it is an unlawful seizure prohibited by the Fourth Amendment.

A prevailing plaintiff in a federal civil rights lawsuit is entitled to an award of reasonable attorneys' fees.

SUMMARY OF FACTS

Kianna M., now 20 years old, alleges that on or about July 17, 2002, she was sexually assaulted by a Probation Department Detention Services Officer ("DSO") at Central Juvenile Hall ("CJH").

On the day of the incident, Kianna M. contends that she did not go to either the morning or afternoon session of school because she was ill. When everyone returned from the afternoon session of school, they were taken swimming for recreation. She alleges she did not want to go swimming, instead remaining in the unit alone with the DSO, who then sexually assaulted her. She did not report the assault to anyone at CJH.

On August 6, 2002, three weeks later, after she had been transferred to another facility, she told a nurse that something had happened to her at CJH. She refused to talk about it further, but told the nurse that she had discussed the incident with another minor. The nurse interviewed the other minor, who informed her that Kianna M. said she had been assaulted by the DSO at CJH.

Once the allegation was made, a Suspected Child Abuse Report and a Preliminary Incident Report were completed, and an internal investigation was initiated. A sexual abuse exam was conducted at LAC+USC Medical Center and the Los Angeles Police Department ("LAPD") was notified.

LAPD conducted an investigation, and the assigned detective found that there was insufficient evidence to show that any assault took place. The detective found that Kianna M. was not credible, due to her numerous inconsistent statements about the incident. The District Attorney also reviewed the case and found that there was insufficient evidence to file charges against the DSO.

The Probation Department's internal investigation resulted in a finding that the allegations against the DSO were unfounded.

DAMAGES

Should this matter proceed to trial, the potential damages could be as follows:

Emotional Distress	$ 500,000
Medical and counseling expenses	$ 21,500
Future counseling	$ 500,000
Attorneys' Fees	$ 400,000
Total	$ 1,421,500

The proposed settlement calls for the County to pay Kianna M. $300,000 for all of her claims for damages, costs and attorneys' fees. In addition, the settlement calls for the County to assume a Medi-Cal lien in the amount of $21,520.25.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement. This case was aggressively pursued by Kianna M.'s two attorneys, who conducted extensive discovery, and took numerous depositions. In addition, the case had to be fully prepared for trial, as the settlement demand was $1.7 million. Further, because of a conflict of interest, we replaced our original attorney during discovery in this matter. Our attorneys retained four experts who were prepared for and deposed prior to trial. Kianna M. also had four experts whom our attorneys had to depose.

This proposed settlement was finally reached on the first day of trial after a settlement conference with the trial judge. The jury panel already had been called to the courtroom. Expenses incurred by the County in defense of this action are attorneys' fees of $269,836 and $97,321 in costs.

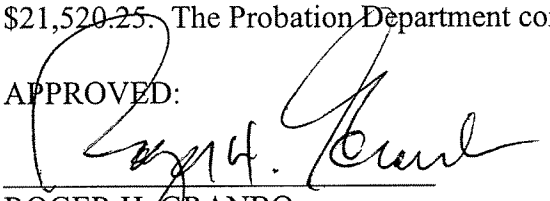
EVALUATION

This is a case of contested liability. The DSO adamantly denies that he assaulted Kianna M. and claims that he was never left alone with her. Further, the LAPD and the District Attorney concluded that there was insufficient evidence to establish that an assault had occurred. However, the nurse at LAC-USC who conducted the initial sexual abuse exam found an injury that was consistent with sexual abuse. Although our medical expert testified at deposition that the injury was also consistent with other conditions unrelated to sexual abuse, a jury may sympathize with Kianna M. and return a verdict in her favor.

A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could well exceed the proposed settlement. In addition, if Kianna M. were to prevail at trial, she would also be entitled to an award of reasonable attorneys' fees, which we estimate would be in the range of $400,000.

We join with our private counsel, Veatch Huang, and our third party administrator, Carl Warren and Company, in recommending a settlement of this matter in the amount of $300,000, and the assumption of a Medi-Cal lien of $21,520.25. The Probation Department concurs in the recommendation.

APPROVED:



ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RHG:scr