



# COUNTY OF LOS ANGELES

## CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

### MEMBERS OF THE BOARD

October 6, 2003

Maria M. Oms  
Auditor-Controller  
Lloyd W. Pellman  
Office of the County Counsel  
Rocky Armfield  
Chief Administrative Office

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

Re: **Luis Cuateco, et al. v. County of Los Angeles**  
**United States District Court Case No. CV 02-4449 FMC**

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$200,000.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Sheriff's Department.

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

Also enclosed, for your information, is the Corrective Action Report submitted by the Sheriff's Department.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Maria M. Oms, Chairperson  
Los Angeles County Claims Board

MMO/fsl

Enclosures

# MEMORANDUM

September 29, 2003

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: L. TREVOR GRIMM, ESQ.  
Manning & Marder, Kass, Ellrod, Ramirez LLP

ROGER GRANBO, ESQ.  
Principal Deputy County Counsel  
General Litigation Division

RE: Luis Cuateco, et. al. v. County of Los Angeles  
United States District Court Case No. CV-02-4449 FMC

DATE OF  
INCIDENT: January 10, 2002

AUTHORITY  
REQUESTED: \$200,000

COUNTY  
DEPARTMENT: Sheriff's Department

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## CLAIMS BOARD ACTION:

Approve

Disapprove

Recommend to Board of  
Supervisors for Approval

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**ROCKY A. ARMFIELD** Chief Administrative Office

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**LLOYD W. PELLMAN** County Counsel

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**MARIA M. OMS** Auditor-Controller

on \_\_\_\_\_, 2003

## SUMMARY

This is a recommendation to settle for \$200,000, a Federal Civil Rights lawsuit brought by Luis Cuateco, his wife Juana Cuateco, their sons Andres Cuateco and Cecilio Cuateco, their daughters Gabriela Huerta and Nancy Cuateco, Gabriela Huerta's husband Alvaro Huerta, and Cecilio Cuateco's wife Alicia Cuateco, and their three children Beatrice Cuateco, Erica Cuateco, and Michelle Cuateco, for injuries they suffered when they were detained by Sheriff's Deputies during the execution of a search warrant.

## LEGAL PRINCIPLES

It is a violation of a person's federal civil rights to search the person's home without consent or a valid search warrant.

A plaintiff who prevails in a federal civil rights lawsuit is entitled to an award of reasonable attorney's fees.

## SUMMARY OF FACTS

In January 2002, during a homicide investigation, Sheriff's Deputies developed information that one of several murder suspects was living at an address in Glendale. Sheriff's Deputies sought, and obtained a search warrant for that address and two other locations.

On January 10, 2002, at 5:40 a.m., Sheriff's Deputies with the Department's Gang Enforcement Team (GET), and Operation Safe Streets Bureau (OSS) executed the warrant on the wrong location, which was the residence of the Cuateco family. The warrant was for Apartment "C" at the back of the location, and the Cuateco family lived in the house in the front of the location.

Prior to the search, Sheriff's Deputies knocked on the front door and gave verbal notice that they were there to search the house. However, the Cuateco family does not speak English and thought that someone was trying to break into their home, so they tried to barricade the door. The Sheriff's Deputies gained entry by using a battering ram. Luis Cuateco (age 51), his wife Juana Cuateco (48), their sons Andres Cuateco (23) and Cecilio Cuateco (28), their daughters Gabriela Huerta (25) and Nancy Cuateco (17), Gabriela Huerta's husband Alvaro Huerta (25), and Cecilio Cuateco's wife Alicia Cuateco (27), and their three children Beatrice Cuateco (12), Erica Cuateco (9), and Michelle

their three children Beatrice Cuateco (12), Erica Cuateco (9), and Michelle Cuateco (5), were all home at the time the search warrant was executed.

Once they entered the Cuateco's home, the Sheriff's Deputies ordered all eleven members of the family into the living room at gunpoint. The four male members of the family were handcuffed and were initially forced to kneel on the ground. The seven female members of the family were not handcuffed, and were allowed to sit in the living room during the search.

Shortly after the search, the Sheriff's Deputies realized that they had searched the wrong location. They explained their mistake to the Cuateco family and interviewed the family members to determine if any of them had been injured. The actual suspect was apprehended at another location in Glendale.

### DAMAGES

Each of the family members is claiming emotional distress for having their home forcibly entered, and for being detained at gunpoint. Should this matter proceed to trial we estimate the potential damages could be as follows:

|                                       |                  |
|---------------------------------------|------------------|
| Luis Cuateco's emotional distress     | \$ 25,000        |
| Juana Cuateco's emotional distress    | \$ 25,000        |
| Cecilio Cuateco's emotional distress  | \$ 25,000        |
| Gabriela Huerta's emotional distress  | \$ 25,000        |
| Andres Cuateco's emotional distress   | \$ 25,000        |
| Nancy Cuateco's emotional distress    | \$ 25,000        |
| Alvaro Huerta's emotional distress    | \$ 25,000        |
| Alicia Cuateco's emotional distress   | \$ 25,000        |
| Beatrice Cuateco's emotional distress | \$ 25,000        |
| Erica Cuateco's emotional distress    | \$ 25,000        |
| Michelle Cuateco's emotional distress | \$ 25,000        |
| Civil Rights attorney's fees          | <u>\$125,000</u> |
| Total                                 | <u>\$400,000</u> |

The settlement calls for the County to pay \$200,000, to the Cuateco family for all claims for damages, costs, and attorney's fees.

### STATUS OF CASE

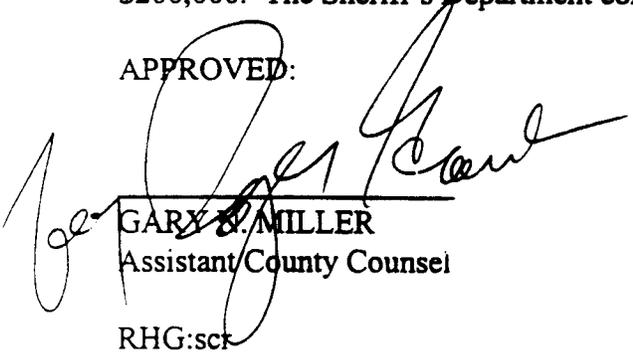
The trial court proceedings have been suspended pending consideration of the proposed settlement. Expenses incurred by the County in defense of this action are attorney's fees of \$16,380 and \$1,633 in costs.

## EVALUATION

The Sheriff's Department acknowledges that its Sheriff's Deputies executed the search warrant at a location not listed on the warrant. Further, the members of the Cuateco family were not subjects of the homicide investigation, or connected to the suspect in any way. A reasonable settlement at this time will avoid further litigation costs and a jury verdict that could exceed the proposed settlement.

We join with our private counsel, Manning & Marder, Kass, Ellrod, Ramirez, in recommending a settlement of this matter in the amount of \$200,000. The Sheriff's Department concurs in the recommendation.

APPROVED:



GARY S. MILLER  
Assistant County Counsel

RHG:scf

**Los Angeles County Sheriff's Department**

**CORRECTIVE ACTION REPORT**

**LAWSUIT OF: Luis Cuateco et. al., v. County of Los Angeles**

**INCIDENT DATE: January 10, 2002 @ 0540hrs**

**LOCATION: 435 W. Windsor Road, Glendale CA.**

*W. Windsor  
R. Douglas*

**RISK ISSUES:** It is a violation of a person's Fourth Amendment Federal Civil Rights to search the person's home without consent or a valid search warrant. Additionally, a plaintiff who prevails in a Federal Civil Rights lawsuit brought pursuant to 42 U.S.C. Section 1983, is entitled to an award of reasonable attorney's fees. In this incident, the Sheriff's Department acknowledges that its Deputies executed a search warrant at a location not listed on the warrant.

**INVESTIGATIVE REVIEW:** In January 2002, during a homicide investigation, Sheriff's Deputies developed information that one of several murder suspects was living at an address in Glendale. Sheriff's Deputies sought and obtained a search warrant for that address and two other locations.

On January 10, 2002, at 5:40 a.m., Sheriff's Deputies with the Department's gang enforcement team (GET) and operation safe streets bureau (OSS) executed the warrant on the wrong location, which was the residence of the Cuateco family. The warrant was for Apartment "C" at the back of the location, and the Cuateco family lived in the house in the front of the location.

Prior to the search, Sheriff's Deputies knocked on the front door and gave verbal notice that they were there to search the house. When nobody answered, the Sheriff's Deputies gained entry by using a battering ram. Once inside the Cuateco home, the Sheriff's Deputies ordered all eleven members of the family into the living room at gunpoint. The four male members of the family were handcuffed and initially forced to kneel on the ground. The seven female members of the family were not handcuffed and were allowed to sit in the living room during the search.

Shortly after beginning the search, the Sheriff's Deputies realized they were searching the wrong location. They explained their mistake to the Cuateco family and interviewed the family members to determine if any of them had been injured. The actual suspect was apprehended at one of the other locations in Glendale.

**LIABILITY:** Each of the Cuateco family members are claiming emotional distress for having their home forcibly entered and for being held at gunpoint. If this matter were tried, defense counsel has estimated each of the plaintiff's could potentially receive up to \$25,000.00. Reasonable attorney fee's could then be added and bring the total to \$400,000.00 or more. In this case, the Sheriff's Department acknowledges it's Deputies executed the search warrant at a location not listed on the warrant. Furthermore, no one from the Cuateco family were subjects of the homicide investigation. A reasonable settlement at this time will limit further litigation costs and avoid a jury verdict that could exceed the proposed judgement.

**POLICY ISSUES:** At the time of this incident, the Sheriff's Department had well-established policies concerning the service and execution of high risk search warrants as well as tactical considerations which detail the guidelines for their use. A training evaluation and analysis of the incident indicated that the Department's current training policy sufficiently addresses the circumstances that occurred in this incident.

**CORRECTIVE ACTION:** The Sheriff's Department reviewed this incident and concluded there were sufficient policies and procedures in place to prevent it. The incident likely occurred because supervisors from multiple department units failed to thoroughly review the search warrant and operations plan before its execution. The Department also concluded that had its members followed the established policies and training they received in the academy, patrol school and recurring unit briefings governing the execution of search warrants, this incident likely would not have occurred.

An administrative investigation was initiated and completed as a result of this incident. Additionally, in order to better address these failures, a series of formal training sessions were conducted for all OSS and GET personnel. These sessions focused on relevant case law and statutes governing the execution of search warrants. These sessions also covered search and seizure laws related to residences and the criteria constituting the need for a high or moderate risk entry.