STATEMENT OF PROCEEDINGS

FOR THE REGULAR MEETING OF THE LOS ANGELES COUNTY CLAIMS BOARD

HELD IN ROOM 648 OF THE KENNETH HAHN HALL OF ADMINISTRATION,

500 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

ON MONDAY, DECEMBER 3, 2018, AT 9:30 A.M.

Present: Chair Steve Robles, Arlene Barrera, and Steven Estabrook.

1. **Call to Order.**

2. **Opportunity for members of the public to address the Claims Board on items of interest within the subject matter jurisdiction of the Claims Board.**

   No members of the public addressed the Claims Board.

3. **Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Government Code section 54956.9).**

   a. **Angel Gonzalez v. County of Los Angeles, et al.**
   Los Angeles Superior Court Case No. BC 612 479

   This lawsuit arises from alleged injuries sustained in a vehicle accident involving an on-duty employee from the Sheriff's Department.

   Action Taken:

   The Claims Board approved the settlement of this matter in the amount of $26,500.

   Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

   See Supporting Document

   b. **Dawn Soares v. County of Los Angeles, et al.**
   United States District Court Case No. 2:17-CV-00924

   This wrongful death lawsuit concerns allegations of excessive force by Sheriff's Deputies during an attempted apprehension.

   Action Taken:

   The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of $1,250,000.

   Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

   See Supporting Documents

c. **Claim of Kissia Agurto**

This claim concerns allegations of sexual assault by a Sheriff's Deputy.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of $950,000.

Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

See Supporting Document

d. **Janet Moyer, et al. v. County of Los Angeles, et al.**
United States District Court Case No. 16-CV-09420

This lawsuit alleges federal civil rights violations, wrongful death, and negligence arising out of the death of a mentally ill inmate while in the custody of the Sheriff's Department.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of $485,000.

Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

See Supporting Document

e. **Jeremiah James Macion v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 661 059;
California Court of Appeal Case No. B291032

This is a class action lawsuit alleging that the County failed to pay minimum wage to on-call and stand-by workers.

Action Taken:

The Claims Board approved the settlement of this matter in the amount of $25,000.

Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

f. **Desiree Prescod v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 635 958

This lawsuit concerns allegations that an employee from the Department of Public and Social Services was subjected to harassment based on national origin and disability.

Action Taken:

The Claims Board approved the settlement of this matter in the amount of $80,000.

Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

4. **Report of actions taken in Closed Session.**

The Claims Board reconvened in open session and reported the actions taken in Closed Session as indicated under Agenda Item No. 3 above.

5. **Approval of the minutes of the November 19, 2018, regular meeting of the Claims Board.**

Action Taken:

The Claims Board approved the minutes.

Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

See Supporting Document

6. **Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.**

No such matters were discussed.

7. **Adjournment.**

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		Angel Gonzalez v. County of Los Angeles, et al.
CASE NUMBER		BC 612479
COURT		Los Angeles Superior Court
DATE FILED		March 2, 2016
COUNTY DEPARTMENT		Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	$	26,500
ATTORNEY FOR PLAINTIFF		Jonathan Yagoubzadeh, Esq.
COUNTY COUNSEL ATTORNEY		Kevin J. Engelien Deputy County Counsel
NATURE OF CASE		This lawsuit arises from a vehicle versus vehicle collision that occurred on May 2, 2015, when a Deputy of the Los Angeles County Sheriff's Deparment traveled through the intersection of Carmenita Road and Florence Avenue against a red light in the City of Los Angeles at a speed of approximately 40 to 45 miles-per-hour. Due to the risks and uncertainties of litigation, a full and final settlement of the case is warranted.
PAID ATTORNEY FEES, TO DATE	$	53,676
PAID COSTS, TO DATE	$	21,038

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		Dawn Soares, et al. v. County of Los Angeles, et al.
CASE NUMBER		CV 17-00924
COURT		United States District Court
DATE FILED		April 27, 2017
COUNTY DEPARTMENT		Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	$	1,250,000
ATTORNEY FOR PLAINTIFF		Tristan PelayeS Wagner & Pelayes, LLP
COUNTY COUNSEL ATTORNEY		Millicent L. Rolon Principal Deputy County Counsel
NATURE OF CASE		This is a recommendation to settle for $1,250,000 a wrongful death and federal civil rights lawsuit filed by Dawn Soares, et al., alleging that Sheriff's Deputies improperly deployed tear gas into the home of Leroy Varnedoe and caused his death. The Deputies deny the allegations and contend their actions were reasonable. Given the high 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 $1,250,000 is recommended.
PAID ATTORNEY FEES, TO DATE	$	47,337
PAID COSTS, TO DATE	$	4,900

Case Name: Dawn Soares, et al. v. County of Los Angeles, et al.

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:	February 5, 20115
Briefly provide a description of the incident/event:	**Dawn Soares, et al. v. County of Los Angeles, et al.** Summary Corrective Action Plan 2018-019 On February 2, 2015, an Operation Safe Streets (OSS) gang investigator had obtained information about a "Watergate Crip" gang member nicknamed "Kaos" (later referred to as the decedent) who had absconded from court and was staying at the location, in the city of Lancaster. **Note:** At the time, the decedent had an active felony no-bail warrant for his arrest. The decedent was known to be actively selling narcotics and was armed with a pump action shotgun, a black revolver, and a black semi-auto handgun. In addition, the decedent was allegedly in possession of a stolen black Toyota Camry at the location. The investigator obtained the decedent's active cell phone number. On February 4, 2015, the same OSS investigator was contacted by a bail agent who stated the decedent had threatened to assault any police or bail agents that attempt to arrest him for his warrant. The OSS investigator obtained additional information that the decedent had obtained a new "big gun." The decedent had told his associates that if anyone tried to stop or capture him, "it was on." Additionally, the decedent was known to be actively smoking methamphetamine, "like a chain smoker smokes cigarettes." On February 5, 2015, a Palmdale deputy sheriff contacted the OSS investigator and stated he had obtained information that the decedent was in possession of weapons and drugs. After consultation with the OSS Sergeant and the Special Enforcement Bureau (SEB), a plan was established to use available OSS and Lancaster Station personnel to conduct a "surround and call-out" operation. If during the operation the decedent barricaded himself, SEB would respond. On February 5, 2015, at approximately 4:00 p.m., a team of OSS investigators performed surveillance on the decedent's known location. At 4:30 p.m., a judge from the Michael Antonovich - Antelope Valley Courthouse signed a search warrant for the location. At approximately 4:45 p.m., a male and female were observed leaving the location in a gray Scion vehicle. A traffic stop was conducted on the

	vehicle and the decedent was not in the car. The male and female were later arrested for unrelated narcotics offenses. At 5:45 p.m., A team of OSS detectives, the LANCAP (Lancaster Community Appreciation Project) team, and Aero Bureau contained the location and initiated a "surround and call-out" operation at the location. Callout announcements were conducted via the public address (PA) systems in the sheriff radio cars. Three women and an infant came out after the first several announcements. The women all confirmed the decedent was inside the residence. One of the women confirmed the suspect had a shotgun in his bedroom, which was located in the southwest corner of the location. After multiple "call-outs" via several PA systems and multiple non-answered phone calls to the decedent's cell phone, it was determined that the decedent was refusing to peacefully surrender. SEB was requested to respond to the location for a barricaded suspect. While awaiting the arrival of SEB, they continued PA announcements, advising the decedent of the Sheriff's Department's presence and to exit the location and surrender. The decedent refused to surrender. The OSS team sergeant directed his team to use the stun bag shotguns to break the bedroom windows of the location, to ensure the announcements were not muffled by the windows and to improve the possibility of establishing contact with the decedent. For the nearby residents' safety, OSS and LANCAP personnel evacuated the adjacent homes on the north, south, east and west sides of the suspect's location. At 7:48 p.m., SEB arrived at the location and began relieving OSS and LANCAP team members from their containment positions. At 8:30 p.m., OSS detectives obtained an arrest warrant for the decedent for a felon in possession of a firearm (a violation of 29800 PC). At 8:54 p.m., Los Angeles County Fire Department and AMR Ambulance services were requested to stage near the location, pending the need for emergency medical personnel. At one point, a light and sound diversionary device (flash bang) was deployed near the exterior of the residence to further inform the decedent of the presence of law enforcement. There was still no response from inside the location. A SEB robot was sent into the residence and evidence was seen that heightened the danger to the tactical team and the surrounding community. The robot relayed video evidence that the access panel to the attic was removed and fiberglass insulation was found on the ground below the attic door. If the decedent had accessed the location's attic space, it would give him a tactical advantage by having high ground and considerable cover and concealment to both persons inside and outside the location.

	During the entire incident, the decedent never answered his cell phone and he did not make any movement indicative of someone intending to surrender. In an attempt to have the decedent exit the location and surrender, the decision was made to introduce chemical agents into the residence. One of the chemical dispersal devices utilized hot gas. The chemical dispersal device releases the chemical agent for approximately 15 seconds. To reduce the risk of the chemical dispersal device from damaging or burning any nearby objects, it was placed inside a separate metal container called a "burn safe." The burn safe was attached to a retrieval tether cord made of nylon. The tether cord enabled the device to be removed when the chemical agent had finished dispersing. The intended effect of introducing chemical agents into the location was to make the environment irritating and uncomfortable to the point it would encourage the decedent to peacefully exit the residence. Within seconds of the burn safe device being deployed into the location, a fire was seen burning inside the residence and the flames spread rapidly. An attempt to retrieve the burn safe device failed, as the flames had weakened the nylon cord and caused it to sever from the device. Recognizing the need to control the fire and evacuate the decedent from the structure, SEB deputy sheriffs made entry and simultaneously attempted to suppress the active fire while attempting to locate the decedent. The deputy sheriffs were unable to locate the decedent prior to having to evacuate themselves from the residence due to the intense fire, heat, and smoke. The nearby staged Los Angeles County Fire Department personnel responded and performed an aggressive attack on the fire. After the fire was contained, the decedent was found deceased on the floor of the kitchen. The decedent's body was covered in fiberglass insulation. Directly above his body, the celling had a large hole with drywall pieces hanging down. It appeared that during the fire, the decedent had fallen through the celling from the attic and landed on the floor of the kitchen. **Note**: In the post incident investigation, a pistol gripped, pump-action shotgun was located in a bedroom of the location.

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

A **Department** root cause in this incident was after a chemical dispersal device was deployed into the location a structure fire quickly erupted in the front room of the residence.

Another **Department** root cause in this incident was the failure of the nylon tether for the "burn safe" chemical dispersal device. The tether failure eliminated the ability to quickly retrieve the device as it was igniting a fire inside the location.

A **non-Department** root cause of this incident was the decedent's refusal to follow the lawful orders of the on-scene deputy sheriffs and peacefully surrender and exit the location.

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

Criminal Investigation
The Los Angeles County Sheriff's Department Arson and Explosives Detail responded to the location. Investigators determined the fire originated in the entry hallway by the front door.

On February 7, 2015, Arson and Explosives Detail utilized an accelerant detection canine for ignitable liquids, but the canine did not alert to the presence of any ignitable liquids inside the residence. The criminal investigation was subsequently handed over to Homicide Bureau.

The incident was investigated by the Sheriff's Department's Homicide Bureau to determine if any criminal misconduct occurred. Their investigation was presented to the Los Angeles County District Attorney's Office for filing consideration.

On January 1, 2016, the Los Angeles County District Attorney's Office concluded there was no criminal liability by any Department member in this incident. The fire was ruled as accidental as a result of the responsible use of hot gas.

Administrative Review
The details of this incident were evaluated by the SEB operations and executive personnel. Upon careful review, the involved deputy sheriffs were found to have used proper tactics and their actions were within policy.

Policy Review and Evaluation
Operations staff at SEB conducted a review of the following Los Angeles County Sheriff's Department Manual of Policy and Procedures:

- 5-06/040.45 – Use of Chemical Agents
- 5-06/040.50 – Authorization For Use of CS Chemical Agents
- 3-10/150.00 – Tactical Incidents
- 5-06/110.05 – Barricaded Suspect
- 5-06/110.65 – Special Weapons Team

After reviewing the related policies, SEB determined that the existing policies were relevant, applicable, and did not need revision.

Burn Safe Testing
After this incident, the Department had two experts in fire dynamics and fire investigations conduct tests in an attempt to understand how the chemical dispersal device would react with common household materials. Using the same burn safe and hot gas deployed in this incident, the tests showed the surface temperatures and time of the hot gas flow were lower than published hot surface ignition temperatures for synthetic and natural materials common to residential furnishings.

The first fuel in this incident is not known with certainty but the experts opined that the rapid fire growth during the incident was not consistent with expected hot surface ignition behaviors of typical synthetic or natural fibers or fabrics commonly found in residential settings.

Although there was no evidence of an accelerant found at the location, the unknown first fuel and rapid fire growth behavior are not consistent with any prior deployments of this chemical dispersal device. This specific fire safe used in this incident had been used several times in the same manor without resulting in any structure fires.

Based on a review of this incident, Department executives at Special Operations Division formed the opinion that the chemical dispersal device apparently landed on an accelerant which ignited the structure fire in the front room of the residence.

Chemical Dispersal Device Evaluation and Replacement

After this incident, SEB conducted a review of the chemical agents and devices used to carry/deliver the chemical agents.

For barricaded suspect situations, cold dispersal chemical agents have proven to be a less effective chemical dispersal method to hot gas methods. Cold gas has lower level of chemical agent concentration and is far less effective for location penetration. In contrast, hot dispersal gas creates a smoke that has a higher chemical agent concentration, has better area penetration, and has proven to be more effective in terms of causing subjects to voluntarily surrender. As a result, hot gas is still an industry standard for use in barricade suspect situations.

In this incident, some issues were identified in the hot gas dispersal method. To reduce future potential issues, the following changes were made:

- The burn safe chemical dispersal device used during this incident was removed from service and a new burn safe is now in use.
- The chemical agents used during this incident were removed from service and a new chemical agent is now in use.
- The nylon tether used for the burn safe retrieval was replaced with a plastic-encased, metal cable.

The new burn safes utilized by the Department have gone through rigorous testing and have been proven to maintain surface temperatures insufficient to cause ignition of common synthetic and organic materials that might be found in a residence. During testing, the only time a fire occurred was when the burn safe was applied to an area doused with liquid accelerant.

Although all hot gas chemical agent dispersal devices pose a risk of fire when they are used, the new chemical agent and a new chemical dispersal device afford a greater margin of safety.

Training of New Equipment

On June 18, 2018, SEB conducted recurrent training and a re-brief on chemical agent and gas deployment procedures.

All members of Special Enforcement Bureau were present for the training course, which included the use of the new chemical agent and new burn safe chemical dispersal device.

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 Count Sheriff's De artment

Name: (Risk Management Coordinator)

Scott E. Johnson, Captain
Risk Management Bureau

Signature: Date: 10.2

Name. (Department Head)

Alicia E. Aut, Chief
Professional Standards and Training Division

Signature Date

10/30/14

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.

me (Risk Management Inspector General)

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		Claim of Kissia Agurto
CASE NUMBER		N/A
COURT		N/A
DATE FILED		N/A
COUNTY DEPARTMENT		Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	$	950,000
ATTORNEY FOR PLAINTIFF		Brian T. Dunn, Esq. Jennifer A. Bandlow, Esq. The Cochran Firm
COUNTY COUNSEL ATTORNEY		Millicent Rolon Principal Deputy County Counsel
NATURE OF CASE		This is a recommendation to settle for $950,000, inclusive of attorneys' fees and costs, a claim filed by Kissia Agurto, alleging that she was sexually assaulted by a Sheriff's Deputy while she was incarcerated at the Century Regional Detention Facility. Given the risks and uncertainties of litigation, a reasonable settlement at this time will avoid further litigation costs.
PAID ATTORNEY FEES, TO DATE	$	13,726
PAID COSTS, TO DATE	$	4,196

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		Janet Moyer, et al. v. County of Los Angeles, et al.
CASE NUMBER		16-CV-09420
COURT		United States District Court
DATE FILED		December 21, 2016
COUNTY DEPARTMENT		Los Angeles Sheriff's Department Department of Health Services
PROPOSED SETTLEMENT AMOUNT	$	485,000
ATTORNEY FOR PLAINTIFF		Neil K .Gehlawat Chain, Cohen & Stiles Thomas C. Seabaugh Law Office of Thomas Seabaugh
COUNTY COUNSEL ATTORNEY		Narbeh Bagdasarian Principal Deputy County Counsel
NATURE OF CASE		On April 28, 2016, Douglas Brown-Palamara was arrested and brought under Los Angeles County Sheriff's Department's custody. On April 29, 2016, he was seen by a mental health clinician and placed in Moderate Observation Housing. On May 3, 2016, he was evaluated by another mental health clinician where he denied any suicidal thoughts. On May 8, 2016, Mr. Palamara committed suicide. Mr. Palamara's family filed a federal lawsuit against the County of Los Angeles and several County employees alleging that they failed to provide the necessary care to Mr. Brown-Palamara.
PAID ATTORNEY FEES, TO DATE	$	66,259
PAID COSTS, TO DATE	$	2,445

COUNTY OF LOS ANGELES CLAIMS BOARD

MINUTES OF REGULAR MEETING

November 19, 2018

1. Call to Order.

This meeting of the County of Los Angeles Claims Board was called to order at 9:30 a.m. The meeting was held in the Executive Conference Room, 648 Kenneth Hahn Hall of Administration, Los Angeles, California.

Claims Board Members present at the meeting were: Chair Steve Robles, Arlene Barrera, and Steven Estabrook.

Other persons in attendance at the meeting were: Office of the County Counsel: Michael Gordon and Jessica Rivas; Probation Department: Shanda Williams; Department of Public Works: William Winter; Department of Children and Family Services: Karla Hernandez.

2. Opportunity for members of the public to address the Claims Board on items of interest within the subject matter jurisdiction of the Claims Board.

No members of the public addressed the Claims Board.

3. Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Government Code section 54956.9)

At 9:33 a.m., the Chairperson adjourned the meeting into Closed Session to discuss the items listed as 4(a) through 4(c) below.

4. Report of actions taken in Closed Session.

At 10:05 a.m., the Claims Board reconvened in open session and reported the actions taken in Closed Session as follows:

a. Linda Watters, et al v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. KC 069 608

This lawsuit seeks compensation from the Department of Public Works for real and personal property damage allegedly caused from a backflow of sewage due to a sewer mainline blockage.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of $175,000.

Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

b. **Marc Hepperle, et al. v. County of Los Angeles, et al.**
Los Angeles Superior Court Case No. BC 635 004

This lawsuit arises from alleged injuries sustained in a vehicle versus motorcycle accident involving an employee from the Department of Children and Family Services.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of $250,000.

Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

c. **Ellen Danchik v. County of Los Angeles, et al.**
Los Angeles Superior Court Case No. BC 668 902

This lawsuit arises from alleged injuries sustained in a vehicle accident involving an employee from the Probation Department.

Action Taken:

The Claims Board approved the settlement of this matter in the amount of $70,000.

Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

5. **Approval of the minutes of the November 5, 2018, regular meeting of the Claims Board.**

Action Taken:

The Claims Board approved the minutes.

Vote: Ayes: 3 – Steve Robles, Arlene Barrera, and Steven Estabrook

6. **Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.**

No such matters were discussed.

7. Adjournment.

The meeting was adjourned at 10:07 a.m.

COUNTY OF LOS ANGELES CLAIMS BOARD

By _____
Sandra C. Ruiz