



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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County Counsel

September 29, 2010

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: JOHN F. KRATTLI 
Senior Assistant County Counsel

RE: **Claim of Alexis R.**

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 Supervisor's agenda.

JFK:rfm

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Claim of Alexis R., in the amount of \$199,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Probation Department's budget.

This claim concerns allegations of sexual assault by an employee of the Probation Department.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Alexis R. v. County of Los Angeles, et.al.
CASE NUMBER	N/A
COURT	N/A
DATE FILED	Claim filed February 2, 2010.
COUNTY DEPARTMENT	Probation Department
PROPOSED SETTLEMENT AMOUNT	\$ 199,000
ATTORNEY FOR PLAINTIFF	Matthew McNicholas and Judy Perez
COUNTY COUNSEL ATTORNEY	Millicent L. Rolon
NATURE OF CASE	<p>Plaintiff alleges that he was sexually assaulted by a Probation Department employee.</p> <p>Due to the risks and uncertainties of litigation, and in light of the fact that a prevailing plaintiff in a federal civil rights lawsuit is entitled to an award of reasonable attorneys' fees, a full and final settlement of the case in the amount of \$199,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 6,636.81
PAID COSTS, TO DATE	\$ 2,827.50

Case Name:



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:	August 2009
Briefly provide a description of the incident/event:	Plaintiff was a 17 year old Hispanic Male that was approximately 5'11" 160 lbs., when he was detained in June 2009 on an outstanding bench warrant related to him being Absent Without Leave (AWOL) from a court ordered placement. In June 2009, the court issued an order that the plaintiff be placed in a 3 month camp community placement program and he was placed at Camp Judith Resnik. The plaintiff failed to follow Camp Resnik rules and he was eventually suspended from school. In July 2009, the plaintiff was transferred to Camp Karl Holton. Plaintiff alleges that he was sexually abused at Camp Holton beginning on August 9, 2009 at approximately 6:00p.m., by an African-American Female Probation Officer that allegedly made him touch her while in an office. Plaintiff further alleges that the acts continued for a couple of days and also included him going to the Probation Officers room. On August 13, 2009, the plaintiff's mother phoned the facility and advised staff of the alleged abuse, which led to the submission of a Suspected Child Abuse Report (SCAR) and an investigation. In February 2010, plaintiff filed a Government Tort Claim alleging negligence.

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

Root Cause Analysis:

The initial incident stems from plaintiff's camp placement at a facility wherein staff allegedly violated Department policies. A root cause factor analysis was conducted including, but not limited to:

- Exposure area relates to plaintiff being sexually assaulted.
- Compounding factors include:
 - Several employee witnesses reference seeing problematic situations that were not adequately addressed prior to the incident.
 - Staff delays in communicating information to higher level managers.
 - Staff limited compliance with mandated reporter obligations.
 - Staff substandard completion of the preliminary incident report.
 - The background investigation file for the subject of the investigation (SOI) did

not consist of a direct response from a previous employer wherein the SOI was terminated in connection with behavior exhibited in the workplace.

Based upon the outcome of the above-referenced root cause analysis the Department has determined root cause factors include:

- A Female Probation Officers' violation of Employee Conduct Policy as well as other policies.
- Facility Staff limited application of duties related to:
 - Maintaining group and individual behavior standards associated with their knowledge of minors missing from their living unit as they were with the subject of the investigation (SOI) behind closed doors.
 - Managing the group living process associated with proper supervision of minors that were with the SOI.
 - Contacting the appropriate staff to address problematic situations associated with suspicious incidents involving minors being with the SOI.
 - Mandated reporter obligations.
 - Observance of Work Hours and Authorization for Deviation from the established work schedule.
- Facility Staff delay in completing the Preliminary Incident Report and providing notice to the Bureau Chief.
- Minimal application of Background Investigation Process associated with Peace Officer Positions.

This matter is being settled to mitigate associated legal costs and to avoid a potentially adverse verdict associated with the root cause factors.

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

Recommended Root Cause Corrective Action:

Task #1 Name: Residential Treatment Services Bureau (RTSB) Policy Reinforcement

System Issue: ☒ Process/Procedure/Personnel

Responsible Person: Alberto Ramirez

Task Description:

- a. The Department RTSB will reinforce its policy in the RTSB Manual related to, but not limited to:
 - i. Staff duties and supervision, which include but is not limited to:
 1. Being observant and alert
 2. Exercising sound judgment
 3. Maintaining constant observation of wards

4. Conducting scheduled and impromptu population counts in all locations.
 5. The Acting Director shall be notified of population count discrepancies.
- ii. Observance of Work Hours, which include but is not limited to:
1. The Camp Director sets the work schedule and may authorize deviations from the established work schedule.
 2. Employees must adhere to their assigned work schedule.
 3. Employees are expected to arrive and depart from the workplace as scheduled.

This task will be completed by the end of August 2010.

Task #2 Name: Preliminary Incident Notification Policy Reinforcement

System Issue: ☒ Process/Procedure/Personnel

Responsible Person: Alberto Ramirez

Task Description:

1. The Department RTSB will reinforce Department Policy in Directive #1027 associated with procedures for Preliminary Incident Notifications. This policy includes, but is not limited to:
 - a. Requires the SDPO/SDSO or designee report incidents to the Facility Director and the Bureau Chief, Regional Directors, Camps Consultant or Special Assistant within 4 hours of the incident.
 - b. Requires staff notify individuals/entities that include, but is not limited to the following along with listing the date and time of notification:
 - i. Facility Director
 - ii. Bureau Chief, Camps Consultant or Special Assistant
 - iii. Local Police
 - iv. Submission of a Suspected Child Abuse Report (SCAR)
 - c. Summary of the incident that includes, but is not limited to:
 1. Who, what, when, where, why, how, etc.
 - ii. Must provide details.

This task will be completed by the end of August 2010.

Task #3 Name: Suspected Child Abuse Report-Mandated Reporter Obligations Policy Enhancement & Distribution

System Issue: ☒ Process/Procedure/Personnel

Responsible Person: Alberto Ramirez

Task Description:

1. The Department RTSB will enhance its Suspected Child Abuse Report-Mandated Reporter Obligations Policy via the development and distribution of Department Policy in Directive #1187. This policy includes, but is not limited to:
 - a. Listing Reporting Requirements
 - b. Description of Reasonable Suspicion
 - c. Types of Reportable Abuse and Neglect
 - d. Mandated reporters are required to file their own SCAR.
 - e. Details that if Probation, the Department of Mental Health, Juvenile Court Health Services or the Los Angeles County Office of Education file a SCAR that they shall immediately report such to the Facility Duty Supervisor.

This task was completed by the end of February 2010.

Task #4 Name: RTSB Appropriate Non-Disciplinary and/or Disciplinary Action for Staff

System Issue: ☒ Process/Procedure/Personnel

Responsible Person: Alberto Ramirez

Task Description:

1. Appropriate Non-Disciplinary (Worker/Supervisor Conference) &/or Disciplinary Action for Staff Members.
 - a. The Department will take appropriate non-disciplinary and or disciplinary action against employees with clear documented policy violations associated with this matter. Action taken will be consistent with current Performance Management/Discipline Guidelines, which include, but is not limited to:
 1. Non-Disciplinary Action (deemed appropriate in some cases to inform the employee of a performance problem that may result in discipline if it continues)
 - a. Worker/Supervisor Conference
 - b. Instructional Memo
 2. Disciplinary Action
 - a. Letter of Warning
 - b. Reprimand
 - c. Suspension

d. Discharge

This task will be completed by the end of October 2011.

Task #5 Name: Background Investigation Procedure Reinforcement & Enhancement

System Issue: ☒ Process/Procedure/Personnel

Responsible Person: Charlene Durham

Task Description:

1. The Department will reinforce and enhance its background investigation procedures associated with sensitive positions deemed peace officer positions to ensure staff thoroughly make use of and apply Government Code Sections 1031 and 1031.1 as a part of the clearance process. Reinforcement and enhancement will consist of the following at a minimum:
 - a. When an applicant lists that he/she has filed an application for an examination with another law enforcement or criminal justice agency the following shall be done:
 - i. Send a written request (Letter of Inquiry Concerning Past/Current Employment) to the entity with a notarized authorization for employment information pursuant to Government Code Section 1031 and 1031.1.
 - ii. Make sure the Background Unit file consists of the outcome of the request for employment information.
 1. If a current or former employer refuses to provide employment information remind them of the **Government Code 1031.1 requirement that they disclose information.**
 - b. When an applicant lists that he/she has been discharged or asked to resign from any employment the following shall be done in addition to normal protocol:
 - i. Send a written request (Letter of Inquiry Concerning Past/Current Employment) to the entity with a notarized authorization for employment information pursuant to Government Code Section 1031 and 1031.1.
 - ii. Make sure the Background Unit file consists of the outcome of the request for employment information.
 1. If a current or former employer refuses to provide employment information remind them of the **Government Code 1031.1 requirement that they disclose information.**
 - c. **Modify our current "Letter of Inquiry Concerning**

Past/Current Employment to include the following statement in the first paragraph:

- i. Under California Law, Government Code Section 1031, Government Code Section 1031.1 and Code of Regulations Section 1002, we are required to conduct a thorough background investigation. It should be noted that Government Code Section 1031.1 further requires a past or present employer to disclose employment information relating to their current or former employees, upon request of a law enforcement agency.
- d. **Modify our current "Notarization Form" to include reference to Government Code Section 1031.1** in the first paragraph.
- e. The Department will ensure that **Background Unit existing and new hire staff completes a Background Investigation training course and that each staff member signs an acknowledgement of review and receipt of the current version of the POST Background Investigation Manual-Guidelines for the Investigator available online via the State of California Commission on Peace Officer Standards & Training website at <http://www.post.ca.gov/selection/bim/bi-manual.asp>.**

This task will be completed by the end of October 2010 and is on-going based on operations.

Task #6 Name: Child Abuse Mandated Reporter Acknowledgement Form
Modification

System Issue: ☒ Process/Procedure/Personnel

Responsible Person: Marilyn Hawkins

Task Description:

1. The Department modified its existing Child Abuse Reporting Acknowledgement Form (old version from 1997) to provide staff with a clearer understanding of the statutory requirements referenced in California Penal Code Sections 11164-11174.3. County Counsel approved the new version that is currently in use by Probation Human Resources Management Office (HRMO) Staff. The form is reviewed and signed by Department staff members during HRMO processing of new hires, transfers, etc. The modified form includes, but is not limited to the following modifications:
 - a. Explanation that "As an employee of the Los Angeles County Probation Department", YOU are a "Mandated Reporter".

County of Los Angeles
Summary Corrective Action Plan

<ul style="list-style-type: none">b. Description of when reporting abuse is required.c. Description of abuse that must be reported.<ul style="list-style-type: none">a. Physical Abuseb. Sexual Abusec. Neglectd. Willful harming or injury or the endangering of a childe. Unlawful corporal punishment or injuryd. Explanation of where to call and send the written abuse report.e. Information on immunity and confidentiality of reporter and of abuse reports.f. Penalty for failure to report abuse. <p>This task was completed by the end of July 2007 and is on-going based on operations.</p>
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3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management for assistance)

- ☒ Potentially has County-wide implications.
- ☒ Potentially has an implication to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☒ Does not appear to have County-wide or other department implications.

Name: (Risk Management Coordinator)	
Signature:	Date:

Name: (Department Head) Donald H. Blavins	
Signature: Donald H. Blavins	Date: 7/20/11

Chief Executive Office Risk Management

Name: Roberto Chavez	
Signature: Roberto Chavez	Date: 07-20-10