



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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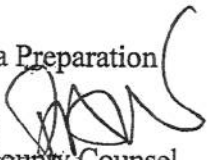
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JOHN F. KRATTLI
Acting County Counsel

May 14, 2012

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: PATRICK A. WU 
Senior Assistant County Counsel

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
Alyssia Frenzel, et al. v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 432 895

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.

PAW:rfm

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Alyssia Frenzel v. County of Los Angeles, et al., Los Angeles Superior Court Case No. BC 432 895, in the amount of \$161,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Probation Department's budget.

This lawsuit concerns allegations of State and federal civil rights violations, negligence, and failure to furnish medical care to a minor under the supervision of the Probation Department.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>Alyssia Frenzel v. County of Los Angeles, et. al.</u>
CASE NUMBER	BC 432895
COURT	Los Angeles Superior Court
DATE FILED	March 3, 2010
COUNTY DEPARTMENT	Probation Department
PROPOSED SETTLEMENT AMOUNT	\$ 161,000
ATTORNEY FOR PLAINTIFF	Daniel G. Sheldon, Esq.
COUNTY COUNSEL ATTORNEY	Millicent L. Rolon
NATURE OF CASE	<p>Plaintiff, Alyssia Frenzel alleges that her federal civil rights were violated when she was seriously injured while in custody at Probation's Central Juvenile Hall due to improper supervision by Probation staff.</p> <p>Due to the risks and uncertainties of litigation, a full and final settlement of the case in the amount of \$161,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 32,737
PAID COSTS, TO DATE	\$ 2,541

Case Name: FRENZEL V. COLA



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:	May 23, 2008 at approximately 4:30pm
Briefly provide a description of the incident/event:	Plaintiff was a 17 year old White Female that was approximately 5'3" 192 lbs., when she was detained at Central Juvenile Hall (CJH) on March 10, 2008 related to an Assault with a Deadly Weapon offense. The plaintiff continuously experienced hallucinations while being detained at CJH. Department of Mental Health (DMH) staff noted the plaintiff's behavior concern as self-injury and recommended an intervention plan that included keeping the plaintiffs hands/wrists/arms in sight, and actively intervene before the situation escalates if minor engages in any self harming activities. As a result, the plaintiff was placed on Level 3 and Level 4 Supervision Status throughout the timeframe she was housed at CJH, which generally requires a designated staff remain in close proximity. On May 23, 2008 at approximately 4:30p.m., the plaintiff was in the Coed Gymnasium when she ran out of the door for a ball. Staff pursued the plaintiff. However, she ran across a grass field and went up the Unit C/D steps and jumped from the 2 nd level. The plaintiff sustained injuries to both arms, her left elbow and she burst the orbital capillaries in both eyes. In March 2010, plaintiff filed a lawsuit alleging a violation of constitutional rights, negligent hiring, failure to train and supervise and general negligence.

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

Root Cause Analysis:

The initial incident stems from plaintiff's departure from the recreational activity area while on Level 3 Enhanced Supervision. A root cause factor analysis was conducted including, but not limited to:

- Exposure area relates to minor not following direct orders given by staff to stop.
- Compounding factors include:

- Enhanced Supervision Policy vague as to what is considered close proximity.
- Staff was not in close enough proximity to intervene and/or prevent the jump incident.
- Staff lack of attentiveness to the minor during all aspects of the recreational activity.
- Staff limited experience supervising minors during daytime activities as a DSO.
 - Staff was a Group Supervisor Nights (nighttime sleeping hour supervision) prior to the incident.
- Administrative investigation findings.
- The substance of witness recollection.

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

- **Probation staff member deviation from Department Policies, which included:**
 - Staff failed to keep the minor in close proximity and in direct line of sight.
 - Staff failed to maintain direct and continuous visual and audio supervision of the minor.
 - Staff failure to remain alert.
- **Enhanced Supervision Policy lack of clarity related to:**
 - Description of "close proximity to minor".
 - Description of "Experienced Staff" and its relation to staff with experience as a Group Supervisor Nights (GSN), etc.
- **Minor's lack of compliance with policy about following all rules and orders given by staff.**

This matter has been 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: Detention Services Bureau (DSB) Appropriate Disciplinary Action for Staff

System Issue: Process/Procedure/Personnel

Responsible Person: Larry Rubin

Task Description:

1. The Department will take appropriate disciplinary action against the employee 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:

- a. Disciplinary Action-Notice of Suspension

This task will be completed by the end of April 2012 and may be subject to the Civil Service Commission Appeal Process.

Task #2 Name: Enhanced Supervision Policy Modification & Reinforcement

System Issue: Process/Procedure/Personnel

Responsible Person: Larry Rubin

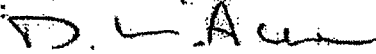
Task Description:

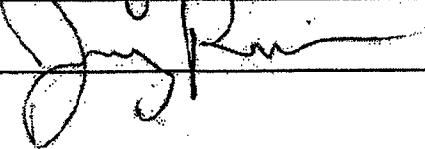
1. The Department DSB reinforced modified policy in Directive #1188 that was previously in Directive #1132 and DSB Manual Section 1400 related to Enhanced Supervision. Reinforcement was done by using at least one of the following: (1) Discussion in staff meetings, (2) Individual staff review with supervisors, (3) Posted in an area frequented by staff, or (4) Electronic distribution. The policy includes, but is not limited to the following information:
 - a. Designated staff member shall:
 - i. Remain in close proximity to the minor (approx. 8-12 feet).
 - ii. Remain directly in the line of sight.
 - iii. Staff shall ensure that no minor leaves their immediate room, dormitory, or other immediate areas of supervision for any reason, without the direct authorization of the staff supervising the minor, the Shift Leader or the Duty Supervisor.
 - iv. Provide continuous visual and audio supervision of the minor.
 - v. The assigned staff shall initiate and maintain an Enhanced Supervision Observation Form (ESO) on each eight (8) hour shift during the minor's assignment to Level 4 Supervision status.
 1. The form shall be reviewed, approved and signed by the shift leader at the facility at the conclusion of each eight (8) hour shift and retained in the minor's behavior file.
 - b. Duty Supervisor Responsibilities include, but are not limited to:
 - i. Assigning appropriate staff for supervision of minors placed on Level 2, Level 3, or Level 4 status.
 - c. Shift Leader Responsibilities include, but are not limited to:

<p>i. <u>Ensuring that staff assigned to supervise minors on Level 2, Level 3, or Level 4 Enhanced Supervision status are appropriately instructed as to their specific duties</u>, including the proper positioning and supervision responsibilities, so they can provide safe and effective supervision.</p> <p>ii. <u>Ensure that the ESO is completed by each staff member</u> responsible for supervising a minor and that the off-going staff member's form is signed by the on-coming shift staff member, <u>prior to the shift exchange being concluded.</u></p> <p>d. Supervisory staff shall only assign experienced staff to provide supervision of Level 3 Enhanced Supervision status minors (Level 4 status shall be supervised in accordance with Level 3 status).</p> <p>i. Experienced staff is defined as one that is CORE and POST qualified, and has a minimum of six (6) months experience as a peace officer in the Probation Department (includes GSN, DSO, DPO, SDSO or SDPO series staff).</p> <p>This task was completed by the end of January 2011 and is on-going based on operational needs.</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)	
DANNY ACOSTA	
Signature: 	Date: 4/16/12

Name: (Department Head)	
JERRY E. RIVERS	
Signature: 	Date: 4/16/12

County of Los Angeles
Summary Corrective Action Plan

Chief Executive Office Risk Management

Name: <i>LEO COSTANTINO</i>	
Signature: <i>[Handwritten Signature]</i>	Date: <i>3/28/2012</i>