CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Salvador Montoya, et. al. v. County of Los Angeles, et al.
CASE NUMBER	SACV 05-1146 CJC (ANx)
COURT	United States District Court, Central District (Santa Ana)
DATE FILED	November 28, 2005
COUNTY DEPARTMENT	Sheriff's Department Contact Cities Fund-Compton
PROPOSED SETTLEMENT AMOUNT	$150,000
ATTORNEY FOR PLAINTIFF	Dale K. Galipo
COUNTY COUNSEL ATTORNEY	Dennis Gonzales Jennifer A.D. Lehman
NATURE OF CASE	In the early morning of September 12, 2004, a Los Angeles County Sheriff's Deputy saw Plaintiff Salvador Montoya walking in the middle of Compton Boulevard, in Compton California, posing a safety hazard. The Deputy attempted to contact Mr. Montoya to tell him to get out of the street. However, upon seeing the Deputy, Mr. Montoya immediately ran away. The Deputy ordered Mr. Montoya to stop several times, but Mr. Montoya did not comply.

The Deputy eventually confronted Mr. Montoya and attempted to conduct a pat-down search. However, Mr. Montoya, who was extremely intoxicated, grabbed the Deputy, pulled him in toward his body, and grabbed for the Deputy's gun. Believing that Mr. Montoya was about to gain control of his weapon, the Deputy yelled to another Deputy, "He's got my gun." That Deputy then fired his weapon once at Mr. Montoya striking him in the abdominal area.

Mr. Montoya, his common law wife, Xochitl Vasquez, and their son filed a lawsuit alleging various federal and State causes of action claiming that the Deputy shot Mr. Montoya for no reason. The Defendants contend that the Deputy acted reasonably under the circumstances. However, due to the risks and uncertainties of litigation, a full and final settlement of the case in the amount of $150,000 is recommended.

PAID ATTORNEY FEES, TO DATE	$148,330.09
PAID COSTS, TO DATE	$85,201.30

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:	**SALVADOR MONTOYA, ET AL. V. COUNTY OF LOS ANGELES** Sunday, September 12, 2004 (Corrective Action Plan #2007-009C)
Provide a brief description of the incident/event:	On Sunday, September 12, 2004, at approximately 3:48 a.m., a Los Angeles County deputy sheriff, driving a standard black and white patrol vehicle, saw the plaintiff walking in the middle of Compton Boulevard, Compton, posing a safety hazard. The uniformed deputy sheriff attempted to contact the plaintiff and ask him to step out of the street. Upon seeing the deputy sheriff, the plaintiff ran, disobeying instructions to stop. Within one minute, a second deputy sheriff arrived. The two deputies conducted a search for the plaintiff. During their search, the deputies approached a group of people standing on a nearby corner and asked them if they had seen the plaintiff. While speaking with the members of the group, the plaintiff suddenly appeared and began walking toward the group. The deputy sheriff who initially saw the plaintiff in the street approached him. A struggle ensued. The deputy sheriff indicated that the plaintiff was attempting to take his weapon by yelling, "He has my gun!" The second deputy sheriff, who was nearby, discharged his duty weapon at the plaintiff.

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

The plaintiff was initially uncooperative with uniformed law enforcement officers. During a subsequent physical altercation with a deputy sheriff, the plaintiff attempted to take the deputy sheriff's weapon. In defense of their lives, the second deputy sheriff discharged his duty weapon.

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

Both deputies acted reasonably in this incident. The Los Angeles County Sheriff's Department's administrative review revealed no employee misconduct on the part of Department personnel. Concern was expressed over a procedural matter. Appropriate administrative action was taken.

The recommendation to settle this case is made strictly as a business decision and is not an admission of any misconduct on the part of Department personnel.

A full and final settlement at this time will avoid further litigation costs and a potential jury verdict which may exceed the recommended settlement amount.

This corrective action plan (CAP has no countywide implications (refer to #3 below).

RECOMMENDED SETTLEMENT AMOUNT: $150,000

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 Branch for assistance)

- ☐ Potentially has County-wide implications.
- ☐ Potentially has implications 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.

Signature: (Risk Management Coordinator) David J. Long, Captain Risk Management Bureau	Date: 12-4-07
Signature: (Department Head) Paul K. Tanaka Assistant Sheriff	Date: 12-12-07

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
RISK MANAGEMENT BUREAU

CORRECTIVE ACTION REPORT

Corrective Action Report (CAP) Number: 2007-009C

Lawsuit:

Name:	**Salvador Montoya, et al. v. County of Los Angeles**
Case/Docket Number:	(United States District Court Case Number SACV 05-1146 CJC ANx)
Investigator:	Dennis M. Flinn, Deputy Risk Management Bureau Leadership and Training Division

Incident:

Date/Time:	Sunday, September 12, 2004; 3:48 AM
Location:	1214 Magnolia Street Compton (Contract city)
Station, Bureau, or Facility:	Compton Station Field Operations Region II)

Risk Issue(s):

A public entity is responsible for the negligent acts of its employees when the acts are committed in the course and scope of employment.

Investigative Summary:

On Sunday, September 12, 2004, at approximately 3:48 a.m., a Los Angeles County deputy sheriff, driving a standard black and white patrol vehicle, saw the plaintiff walking in the middle of Compton Boulevard, Compton, posing a safety hazard. The uniformed deputy sheriff attempted to contact the plaintiff and ask him to step out of the street. Upon seeing the deputy sheriff, the plaintiff ran, disobeying instructions to stop. As he ran away, the plaintiff made movements with his hands toward his waistband which appeared to the deputy that he may have been reaching for a weapon.

As the deputy initiated a U-turn, he lost sight of the plaintiff. The deputy requested additional deputies to help him conduct a search for the plaintiff.

Within one minute, a second deputy sheriff arrived. The two deputies conducted a search for the plaintiff. During their search, the deputies approached a group of people standing on a nearby corner and asked them if they had seen the plaintiff. While speaking with the members of the group, the plaintiff suddenly appeared and began walking toward the group.

The deputy sheriff who initially saw the plaintiff in the street approached him. A struggle ensued. The deputy sheriff indicated that the plaintiff was attempting to take his weapon by yelling, "He has my gun!" The second deputy sheriff, who was nearby, discharged his duty weapon at the plaintiff.

Damages:

The plaintiff sustained a gunshot wound to the abdomen. He was transported to a nearby hospital for treatment.

Administrative Review:

Was a Risk Management Bureau (RMB) Critical Incident Analysis (CIA) conducted?	Yes
Was a formal administrative review initiated?	Yes
If yes, was appropriate administrative action taken?	Yes[1]
Was the employee's driving history analyzed during the administrative review?	N/A

Policy Issues:

The Los Angeles County Sheriff's Department had adequate policies and procedures in effect at the time of the incident.

---

[1] This incident was investigated by representatives of the Los Angeles County Sheriff's Department. Appropriate administrative action was taken for a matter unrelated to the specific incident giving rise to this lawsuit.

Training/Curriculum Issues:

The Los Angeles County Sheriff's Department's current training curriculum sufficiently addresses the circumstances which occurred in this incident.

Corrective Action:

The Los Angeles County Sheriff's Department's administrative review revealed no employee misconduct on the part of Department personnel. Concern was expressed over a procedural matter. Appropriate administrative action was taken.

Will a formal Risk Management Bureau (RMB) audit be required?	No
If yes, what is the date the audit will be performed?	N/A
Name of unit performing audit?	N/A

Does this corrective action plan require the notification to, or assistance of, other Los Angeles County Departments or public agencies?	No
If yes, what is the name, title, and organization of the person contacted?	N/A
How was the individual contacted?	N/A

Evaluation:

This is a case of disputed liability.

The plaintiff was initially uncooperative with uniformed law enforcement officers. During a subsequent physical altercation with a deputy sheriff, the plaintiff attempted to take the deputy sheriff's weapon. In defense of their lives, the second deputy sheriff discharged his duty weapon.

Both deputies acted reasonably in this incident. The recommendation to settle this case is made strictly as a business decision and is not an admission of any misconduct on the part of Department personnel.

A full and final settlement at this time will avoid further litigation costs and a potential jury verdict which may exceed the recommended settlement amount.

Settlement Amount: **$150,000.00**

Prepared: Patrick Hunter, Lieutenant PH
Risk Management Bureau

Submitted: David J. Long, Captain
Risk Management Bureau

Reviewed: Eric B. Smith, Commander
Leadership and Training Division

Authorized: Roberta A. Abner, Chief RAA
Leadership and Training Division

Approved: Paul K. Tanaka, Assistant Sheriff
Signature: Paul K Tanaka Date: 12-12-07