



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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MARY C. WICKHAM
County Counsel

October 17, 2019

TO: CELIA ZAVALA
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ELIZABETH D. MILLER *EDM*
Assistant County Counsel
Sheriff's Services Division

RE: **AMENDED**
Item for the Board of Supervisors' Agenda
County Contract Cities Liability Trust Fund
Claims Board Recommendation
Patricia Minero v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 630745

Attached is the Agenda entry for the Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation in the above-referenced matter. Also attached is the Case Summary and the Summary Corrective Action Plan for the case.

It is requested that this recommendation, the Case Summary, and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

EDM:js

Attachments

AMENDED

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Settlement for Matter Entitled Patrica Minero v. County of Los Angeles, et al.

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matters entitled Patricia Minero v. County of Los Angeles, et al., Los Angeles Superior Court Case No. BC 630745 in the amount of **\$1,916,968.30** and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department Contract Cities Trust Fund's budget.

This lawsuit concerns allegations of injuries received in an automobile accident involving a Sheriff's Deputy.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Patricia Minero v. County; Dr. Michael Fong v. County
CASE NUMBER	BC630745
COURT	Los Angeles Superior Court
DATE FILED	August 19, 2016
COUNTY DEPARTMENT	Sheriff's Department Contract Cities Trust Fund - West Hollywood
PROPOSED SETTLEMENT AMOUNT	\$ 46,215,000
ATTORNEY FOR PLAINTIFF	Paul Keisel for Plaintiff Minero Garo Mardarrosian for Plaintiff Fong
COUNTY COUNSEL ATTORNEY	Michael J. Gordon, County Counsel Thomas Hurrell, Hurrell Cantrall, LLP
NATURE OF CASE	On October 15, 2015, a Deputy Sheriff was responding with lights and siren to an emergent call on Santa Monica Boulevard near its intersection with San Vicente in the City of West Hollywood when his vehicle clipped co-defendant, Viridiana Perez's vehicle, which had failed to yield the right-of-way as required. The Deputy Sheriff lost control of his vehicle as a result and spun off of the roadway eventually colliding with Plaintiff Dr. Michael Fong and Plaintiff Patricia Minero's decedent, Jonathan Pena, who were walking on the sidewalk at the time of the incident. Dr. Fong sustained serious injuries as a result of the incident and Jonathan Pena died as a result of injuries he sustained in the incident.
PAID ATTORNEY FEES, TO DATE	\$ 635,408.04
PAID COSTS, TO DATE	\$ 447,623.66



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:	October 15, 2015, at approximately 11:05 p.m.
Briefly provide a description of the incident/event:	<p style="text-align: center;"><u>Patricia Minero v. County of Los Angeles et al.</u> Summary Corrective Action Plan 2019-016</p> <p>On October 15, 2015, at approximately 11:05 p.m., two Los Angeles County Sheriff's Department deputy sheriffs¹ working at West Hollywood Station were in a marked black and white patrol vehicle², when they responded "Code 3" (with emergency lights and siren) to an emergent spousal assault in progress call. The deputy sheriffs were travelling eastbound on Santa Monica Boulevard just east of San Vicente Boulevard in the number one lane, travelling approximately 45-60 miles per hour.</p> <p>A secondary vehicle, occupied by a female driver and male passenger, was travelling eastbound in front of the responding deputy sheriffs, on Santa Monica Boulevard in the number one lane, at approximately 30 miles per hour. A man and the decedent³ were pedestrians walking eastbound on the south sidewalk of Santa Monica Boulevard. The deputy sheriffs' patrol vehicle approached the secondary vehicle from behind, as it was in the number one lane.</p> <p>The secondary vehicle's female driver said she looked back and observed the emergency patrol vehicle approaching with its emergency lights activated and heard the siren. She triggered her right turn signal and moved about one foot into the number two lane. As she began to enter the number two lane, she looked back again and noticed the patrol vehicle was also moving into the number two lane. The female driver quickly turned back into the number one lane and came to a stop.</p> <p>The first deputy sheriff (driver) said that as he approached behind the secondary vehicle in the number one lane, he moved to the number two lane to drive past it on the right. When he saw the secondary vehicle signal and begin to move into the number two lane, he moved back to the number one lane to pass her on her left. When the secondary vehicle quickly turned back into the number one lane and abruptly stopped, the first deputy sheriff made a quick evasive right turning maneuver in an attempt to avoid colliding with the secondary vehicle.</p> <p>The rear driver's side of the patrol vehicle side swiped the rear passenger's side of the secondary vehicle. The collision, coupled with the patrol vehicle's speed, and the evasive turning movements, caused the patrol vehicle to skid and lose control.</p>

¹ The driver deputy sheriff was assigned to West Hollywood Station. The passenger deputy sheriff was a ride-along assigned to Twin Towers Correctional Facility - Los Angeles County Medical Center.

² A Ford, Crown Victoria sedan.

³ The decedent's mother is the plaintiff in this case.

	<p>The patrol vehicle rotated in a clockwise spinning motion as it travelled in a southeasterly direction striking and going over the concrete curb. The patrol vehicle continued onto the sidewalk, and struck and took down a light pole. The patrol vehicle's driver's side doors collided with the man and the decedent as they were walking on the sidewalk. The patrol vehicle continued to move in the same direction until it collided with a tree located on the sidewalk, which completely stopped the vehicle.</p> <p>The man and decedent sustained significant life-threatening injuries and were transported to Cedar-Sinai Medical Center for medical treatment. The decedent succumbed to his injuries at the hospital. The man was treated for significant injuries and trauma.</p> <p>Both deputy sheriffs sustained serious injuries. The first deputy sheriff had to be extricated from the patrol vehicle by emergency personnel. Both deputy sheriffs were transported to Ronald Reagan University California Los Angeles Medical Center for their injuries.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

A **Department** root cause of this incident is the first deputy sheriff was determined to have failed to operate the patrol vehicle with due regard for the safety of all persons using the roadway. The first deputy sheriff drove at a speed that was not reasonable or prudent for the conditions (a violation of 22350 of the California Vehicle Code). The speed coupled with the unsafe turning movement resulted in a collision with the secondary vehicle and the loss of control of the patrol vehicle.

Another **Department** root cause in this incident was the first deputy sheriff passed on the right side of the secondary vehicle. The California Vehicle Code mandates that drivers yield to emergency vehicles by immediately driving to the right hand curblin until the emergency vehicle passes. The Department trains employees driving "Code 3" not to pass on the right so other drivers can move to the right and follow the law.

A **non-Department** root cause in this incident was the driver in the secondary vehicle did not initially yield to the deputy sheriff's emergency vehicle and made conflicting indications, abrupt movements, and a sudden stop while in the path of the responding emergency vehicle.

2. Briefly describe recommended corrective actions:

(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

Traffic/Criminal Investigation

This incident was thoroughly investigated by representatives from the California Highway Patrol (CHP) West Los Angeles Area office and the CHP Southern Division Multidisciplinary Accident Investigation Team (MAIT) to determine if any criminal misconduct occurred.

The collision investigation concluded that the first deputy sheriff caused the collision as he was operating his patrol vehicle at a speed that was unreasonable or prudent, violation of California Vehicle Code 22350.

The results of their investigation were presented to representatives from the Los Angeles County District Attorney's Office to determine if there was any criminal misconduct.

On October 14, 2016, the Los Angeles County District Attorney's Office concluded that the first deputy sheriff's actions did not constitute criminal misconduct.

Administrative Investigation – Not Completed

The California Peace Officer Bill of Rights (POBOR) requires that administrative investigations are to be completed within 365 days from Departmental knowledge of the incident. In criminal cases, the administrative time requirements toll as the criminal investigation is conducted and restart once the prosecutors complete the criminal side of the case.

In this incident, the District Attorney's Office made a determination not to proceed with criminal charges on October 14, 2016. At that point, the one-year administrative investigation statute time requirements began. The Sheriff's Department was not notified of the criminal determination.

On October 20, 2017, (371 days after the District Attorney's Office's determination) the Sheriff's Department was conducting research into civil lawsuit issues and discovered it had not been notified of the District Attorney's Office's determination.

Due to a failure in communication between the CHP, the District Attorney's Office, and the Sheriff's Department, the 365 day administrative timeline had expired. As a result, no administrative investigation could administer discipline for any administrative misconduct occurred before, during, or after the incident.

To ensure this type of failure in notification does not happen again, the Sheriff's Department's Risk Management Bureau and its Traffic Services Detail created a Unit Order to address the issue. Unit Order #2 - Criminal Monitors for Traffic Collision Investigations (**Exhibit C**) addresses the criminal monitoring process for traffic collisions. Having the involved unit request an Internal Affairs Bureau criminal monitor for any pending traffic collision investigation and/or criminal filing(s) will ensure administrative investigation timelines can be followed.

Administrative Action – Traffic Review

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

Pursuant to the Los Angeles County Sheriff's Department Manual of Policy and Procedures 3-09/070.45, Corrective Action, appropriate administrative action was taken.

Station Traffic Audit

As a result of this collision, an assessment of employee involved traffic collisions was conducted from January 1, 2016, to December 31, 2018, at West Hollywood Station.

The audit revealed the following:

<u>Calendar Year</u>	<u>Preventable Collisions</u>	<u>Non-Preventable Collisions</u>
2016	15	10
2017	23	15
2018	21	13

59 preventable collisions occurred during the past three years.

86% of preventable collisions involved stationary objects or parked vehicles during low speeds.

However, in an attempt to improve employee safety and reduce the Department's liability exposure, West Hollywood Station continually schedules personnel to attend the Department's Sheriff Traffic Accident Reduction (S.T.A.R.) driving program and the EVOC driving simulator. The S.T.A.R. program focuses on low-speed parking and starting maneuvers. The EVOC traffic simulator replicates driving Code 3 through crowded city conditions and reacting to various introduced hazards.

Since this incident, 15 station employees have successfully completed the S.T.A.R. driving program and 10 employees have completed the EVOC driving simulator training.

Are the corrective actions addressing Department-wide system issues?

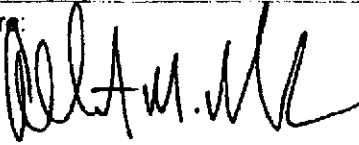
- Yes – The corrective actions address Department-wide system issues.
- No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Albert M. Maldonado, Captain
Risk Management Bureau

Signature:



Date:

7/23/19

Name: (Department Head)

Matthew J. Burson, Chief
Professional Standards Division

Signature:



Date:

07/24/19

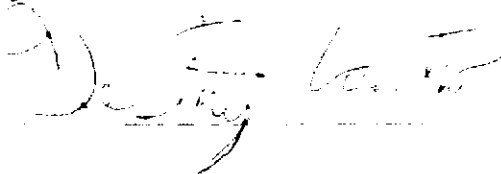
Chief Executive Office Risk Management Inspector General USE ONLY

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.

Name: (Risk Management Inspector General)

Signature:



Date:

7/25/2019



Summary Corrective Action Plan

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Date of incident/event:	October 15, 2015, at approximately 11:05 p.m.
Briefly provide a description of the incident/event:	<p style="text-align: center;"><u>Michael Fong v. County of Los Angeles et al.</u> Summary Corrective Action Plan 2019-018</p> <p>On October 15, 2015, at approximately 11:05 p.m., two Los Angeles County Sheriff's Department deputy sheriffs¹ working at West Hollywood Station were in a marked black and white patrol vehicle², when they responded "Code 3" (with emergency lights and siren) to an emergent spousal assault in progress call. The deputy sheriffs were travelling eastbound on Santa Monica Boulevard just east of San Vicente Boulevard in the number one lane, travelling approximately 45-60 miles per hour.</p> <p>A secondary vehicle, occupied by a female driver and male passenger, was travelling eastbound in front of the responding deputy sheriffs, on Santa Monica Boulevard in the number one lane, at approximately 30 miles per hour. The plaintiff and a man were pedestrians walking eastbound on the south sidewalk of Santa Monica Boulevard. The deputy sheriffs' patrol vehicle approached the secondary vehicle from behind, as it was in the number one lane.</p> <p>The secondary vehicle's female driver said she looked back and observed the emergency patrol vehicle approaching with its emergency lights activated and heard the siren. She triggered her right turn signal and moved about one foot into the number two lane. As she began to enter the number two lane, she looked back again and noticed the patrol vehicle was also moving into the number two lane. The female driver quickly turned back into the number one lane and came to a stop.</p> <p>The first deputy sheriff (driver) said that as he approached behind the secondary vehicle in the number one lane, he moved to the number two lane to drive past it on the right. When he saw the secondary vehicle signal and begin to move into the number two lane, he moved back to the number one lane to pass her on her left. When the secondary vehicle quickly turned back into the number one lane and abruptly stopped, the first deputy sheriff made a quick evasive right turning maneuver in an attempt to avoid colliding with the secondary vehicle.</p> <p>The rear driver's side of the patrol vehicle side swiped the rear passenger's side of the secondary vehicle. The collision, coupled with the patrol vehicle's speed, and the evasive turning movements, caused the patrol vehicle to skid and lose control.</p>

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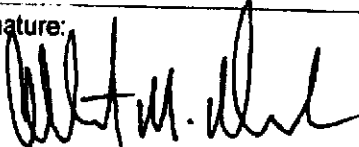
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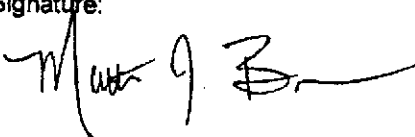
County of Los Angeles
Summary Corrective Action Plan

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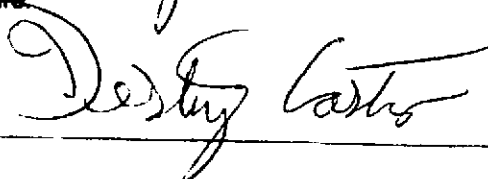
- Yes – The corrective actions address Department-wide system issues.
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Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator) Albert M. Maldonado, Captain Risk Management Bureau	
Signature: 	Date: 7/23/19

Name: (Department Head) Matthew J. Burson, Chief Professional Standards Division	
Signature: 	Date: 07/24/19

Chief Executive Office Risk Management Inspector General USE ONLY	
Are the corrective actions applicable to other departments within the County?	
<input checked="" type="checkbox"/> Yes, the corrective actions potentially have County-wide applicability.	
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Name: (Risk Management Inspector General) Destiny Castro	
Signature: 	Date: 7/25/2019