



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

MARY C. WICKHAM
County Counsel

March 12, 2020

TELEPHONE
(213) 974-1885
FACSIMILE
(213) 626-2105
TDD
(213) 633-0901
E-MAIL
abyers@counsel.lacounty.gov

TO: CELIA ZAVALA
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ADRIENNE M. BYERS
Assistant County Counsel
Litigation Monitoring Team

A handwritten signature in blue ink, appearing to read "AMB", next to the name Adrienne M. Byers.

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
K.L., a minor by McGhee, Nijae, et al. v. County of
Los Angeles, et al.
United States District Court Case No. 2:18-CV-4910

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.

AMB:vc

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled K.L., a minor by McGhee, Nijae, et al. v. County of Los Angeles, et al., United States District Court Case No. 2:18-CV-4910 in the amount of \$1,025,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This wrongful death and federal civil rights lawsuit arises out of the fatal shooting of Plaintiffs' son by a Sheriff Deputy.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	K.L., a minor by McGhee, Nijae, et al. v. County of Los Angeles, et al.
CASE NUMBER	2:18-CV-4910
COURT	United States District Court
DATE FILED	June 12, 2018
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 1,025,000
ATTORNEY FOR PLAINTIFF	Dale K. Galipo, Esq.
COUNTY COUNSEL ATTORNEY	Millicent L. Rolon, Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$1,025,000, inclusive of attorneys' fees and costs, a wrongful death and federal civil rights lawsuit filed by decedent Kenneth Lewis Jr.'s minor child K.L., by and through his Guardian at Litem, and his parents Belinda Miller and Kenneth Lewis, Sr. after the fatal shooting of Kenneth Lewis Jr. by a Sheriff's Deputy.</p> <p>The Deputies deny the allegations and contend their actions were reasonable.</p> <p>Given the risks and uncertainties of litigation, a reasonable settlement at this time will avoid further litigation costs. The full and final settlement of the case in the amount of \$1,025,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 43,295
PAID COSTS, TO DATE	\$ 14,351



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 16, 2017, at approximately 7:17 p.m.
Briefly provide a description of the incident/event:	<p style="text-align: center;"><u>Nijae McGhee, et al. v. County of Los Angeles, et al.</u> Summary Corrective Action Plan 2019-30</p> <p>On August 16, 2017, at approximately 7:17 p.m., two uniformed deputy sheriffs assigned to Century Station's Summer Violent Crime Enforcement Team were driving a marked black and white Ford patrol vehicle in the area of Slater Street and Imperial Highway, in the unincorporated area of Los Angeles, when they observed a Chrysler PT Cruiser vehicle parked on Slater Street south of Imperial Highway. The vehicle was stopped facing the wrong direction (south) on a public street. A male adult (the decedent) was standing near the vehicle's driver's side door.</p> <p>The deputies drove south onto Slater Street and positioned their patrol vehicle behind the vehicle in order to conduct a traffic violation investigation. Upon seeing the deputy sheriff's vehicle approach, the decedent ran from the location. The deputy sheriffs exited their vehicle and yelled for the decedent to stop and show his hands. The decedent refused the orders and continued to run eastbound behind a small shopping center. The second deputy sheriff remained at the vehicle stop with an adult male that was sitting in the driver's seat of the PT Cruiser¹.</p> <p>The first deputy sheriff moved parallel to the decedent along the front of the business, as the decedent ran behind the businesses.</p> <p style="padding-left: 40px;">Note: Two civilian witnesses and the first deputy sheriff described the decedent as clutching onto the front of his sweat pants, as he ran. They also noted they saw a large bulge in the decedent's front waistband as he clutched his sweatpants.</p> <p>The decedent emerged out from the back of the businesses and ran northbound across Imperial Highway, where he was almost struck by two vehicles travelling on the roadway. The first deputy sheriff followed as the decedent continued to run north through a pedestrian gate onto the Nickerson Gardens apartment housing complex.</p> <p>After running into the complex, the decedent lost his balance and fell to the ground but he quickly recovered from the fall and continued to run north/east. When the decedent fell, the first deputy sheriff gained ground on the decedent.</p> <p>As the decedent continued to run, he turned to round a corner of an apartment building when he fell to the ground again. The first deputy</p>

¹ The occupant of the vehicle was later found to be the registered owner of the vehicle.

	<p>sheriff saw the decedent fall so he stopped running, about 20 feet behind the decedent. As the decedent began to get up from the ground, he turned toward the first deputy sheriff and pointed a handgun at him. The first deputy sheriff saw the handgun pointed at him and believed the decedent was preparing to shoot. Fearing for his life, the first deputy sheriff discharged several rounds from his duty weapon at the decedent. The decedent then turned the corner of the apartment building where he took ten additional steps away from the deputy sheriff then fell to the ground, landing on his stomach. The first deputy sheriff took a position of cover behind a parked car and observed the decedent. The decedent rolled onto his left shoulder and pointed his gun at the first deputy sheriff. Fearing the decedent was about to shoot him the first deputy sheriff discharged several more rounds at the decedent, reloaded his weapon and discharged one additional round. The decedent became still and emergency medical care was requested for the decedent.</p> <p>Residents from the Nickerson Gardens apartment housing complex quickly began to form a large hostile crowd around the shooting scene. The hostile crowd delayed the safe arrival of paramedic and fire department personnel for the decedent.</p> <p>Deputy personnel formed a skirmish line (formation designed to show police presence and/or deny the crowd access to specific areas) which eventually enabled emergency medical services access to render aid to the decedent. The decedent was transported to St. Francis Medical Center. The decedent succumbed to his injuries during surgery and was pronounced dead at the hospital.</p> <p>Due to the large crowd and the fear they could tamper with the evidence at the scene, the firearm on the ground near the decedent was recovered by a third deputy sheriff, also assigned to Century Station.</p> <p>In addition to the firearm, the decedent was found to have a plastic bag containing marijuana and \$2,440.66 in the pockets of his sweatpants.</p>
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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

<p>A Department root cause in this incident was the first deputy sheriff initially conducting a one person foot pursuit after the decedent.</p> <p>Another Department root cause in this incident was a delay in radio traffic requesting additional units to obtain additional resources and/or develop a containment.</p> <p>A non-Department root cause in this incident was the decedent's failure to comply with the lawful orders of two deputy sheriffs.</p> <p>Another non-Department root cause in this incident was the suspect pointing a firearm at the first deputy sheriff two different times causing him to fear for his life, resulting in two separate deputy-involved shootings.</p> <p>Another non-Department root cause in this incident was the gathering of the hostile crowd. The formation of a hostile crowd delayed the response of emergency medical personnel attempting to render aid to the decedent.</p>

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

This incident has been investigated by the Sheriff's Homicide Bureau to determine if any criminal misconduct occurred.

The investigation has been submitted to the Los Angeles County District Attorney's Office for a determination as to whether the use of deadly force was legally justified and/or if any criminal misconduct occurred. At the time of the report, the Los Angeles County District Attorney's Office has not advised the Department of their findings.

Upon completion of the District Attorney's Office's findings the Sheriff's Department's Internal Affairs Bureau (IAB) will investigate this incident to determine if any administrative misconduct occurred before, during or after the incident.

The California Government Code's Peace Officer Bill of Rights sets guidelines for administrative investigations statues dates. Once the Homicide Bureau and the Los Angeles District Attorney's Office investigations are complete, a statue date will be set regarding the administrative investigation.

When the IAB investigator completes the case, it will be submitted for approval. Approximately one month after the case has been approved, the case will be presented to the Los Angeles County Sheriff's Department's Executive Force Review Committee (EFRC) for adjudication.

3. Are the corrective actions addressing Department-wide system issues?

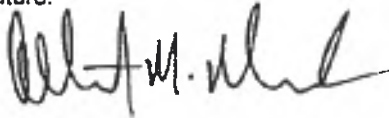
- Yes – The corrective actions address Department-wide system issues.
 No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Albert M. Maldonado, Captain
Risk Management Bureau

Signature:



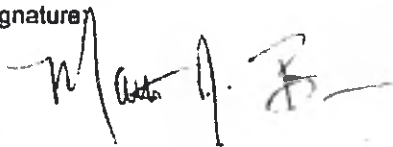
Date:

10/16/19

Name: (Department Head)

Matthew J. Burson, Chief
Professional Standards Division

Signature:



Date:

10/17/19

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:

10/16/2019