



COUNTY OF LOS ANGELES  
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TO: CELIA ZAVALA  
Executive Officer  
Board of Supervisors

Attention: Agenda Preparation

FROM: ADRIENNE M. BYERS   
Litigation Cost Manager  
Executive Office

RE: **Item for the Board of Supervisors' Agenda**  
**County Claims Board Recommendation**  
**Barry John Montgomery v. County of Los Angeles, et al.**  
**Los Angeles County Superior Court Case No. BC692204**

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 be placed on the Board of Supervisors' agenda.

AMB:jkb

Attachments

## Board Agenda

### MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Barry John Montgomery v. County of Los Angeles, et al., Los Angeles Superior Court Case No. BC692204, in the amount of \$2,750,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This lawsuit alleges assault, battery, and civil rights violations against Sheriff's Department deputies.

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Barry John Montgomery v. County of Los Angeles, et al.
CASE NUMBER	BC692204
COURT	Los Angeles County Superior Court
DATE FILED	February 2, 2018
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 2,750,000
ATTORNEY FOR PLAINTIFF	Law Office of Ian Wallach and Law Office of J. Blacknell & Associates
COUNTY COUNSEL ATTORNEY	Minas Samuelian, Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$2,750,000 inclusive of attorneys' fees and costs, a lawsuit filed against the County and Los Angeles Sheriff's Department Deputies by Barry John Montgomery ("Plaintiff") alleging assault, battery, intentional infliction of emotional distress, and State-law civil rights violations.</p> <p>Given the high 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 \$2,750,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 87,972
PAID COSTS, TO DATE	\$ 97,251

Case Name: Barry Montgomery v. County of Los Angeles et al.



## 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:	July 14, 2014
Briefly provide a description of the incident/event:	<p><b><u>Barry Montgomery v. County of Los Angeles et al.</u></b> Summary Corrective Action Plan 2021-25</p> <p>On July 14, 2014, at approximately 9:15 p.m., two on-duty Los Angeles County deputy sheriffs from Compton Station, assigned to the Summer Enforcement Team (SET), were driving a marked black and white patrol vehicle while patrolling the south-side parking lot of Enterprise Park (13055 Clovis Avenue, Los Angeles, Ca. 90059).</p> <p><b>Note:</b> The Summer Enforcement Team (SET) is a program that was created to suppress gang violence, property crimes, and narcotic activities.</p> <p>As deputies one and two were patrolling the parking lot, they smelled burnt marijuana and observed the plaintiff standing underneath a covered patio. Deputies one and two exited their vehicle (approximately 20-25 feet away), and they observed the plaintiff holding what appeared to be a marijuana cigarette. Deputy one asked the plaintiff if he was smoking marijuana, and the plaintiff replied, "Yes, I am smoking marijuana, Westside Piru, fuck you!"</p> <p><b>Note:</b> Enterprise Park is well known location where the "Westside Piru" gang members frequently hang-out. "Westside Piru" is a well-known Compton based street gang.</p> <p>Deputy one asked the plaintiff for his identification, but the plaintiff did not have it in his possession. However, the plaintiff provided the deputies his information for a records check. Deputy one stood near the plaintiff, while deputy two utilized the patrol vehicle's Mobile Digital Computer (MDC) to conduct a records check of the plaintiff. The MDC return did not indicate the plaintiff had any wants or warrants. After the records check, deputy one asked the plaintiff if he had any other illegal items on his person, but the plaintiff did not respond. Deputy one attempted to detain the plaintiff pending narcotics investigation by asking the plaintiff to turn around and place his hands behind his back. The plaintiff did not comply and lunged towards deputy one and yelled, "I'm going to kill both of you with my deuce-deuce (a street term used to describe a .22 caliber for a firearm)!"</p> <p>Suddenly without cause, the plaintiff threw a punch at deputy one, which connected with deputy one's shoulder as he moved to duck the punch. Deputy one grabbed and tackled the plaintiff. After the take down, the plaintiff landed on the ground (face up) and deputy one landed (face down) on top of the plaintiff. While on the ground, the plaintiff continued throwing punches at deputy one.</p>

Deputy one responded by striking the plaintiff in his face 2-3 times with his elbow. The strikes did not stop the plaintiff, but it enabled deputy one enough control to turn the plaintiff over onto his stomach.

Deputy two observed the struggle between deputy one and the plaintiff. Deputy two broadcast emergent traffic via his handheld radio that a deputy was involved in a fight. When deputy two went over to assist deputy one, he observed the plaintiff was face down with his hands underneath his body (near his waist band) and deputy one on top of him. Deputy two feared that the plaintiff was reaching for a weapon, so he grabbed the plaintiff's left arm, but he tensed up resisted deputy two's effort. In an effort to overcome the plaintiff's resistance, deputy two punched the plaintiff 2-3 times on his left side (rib cage) which allowed him to gain control of the plaintiff's left wrist.

Deputy three was on a call for service near deputies one and two's location when he heard the emergent radio traffic. When deputy three arrived onto the scene, he was advised that the plaintiff mentioned he had a firearm and was instructed to grab the plaintiff's right arm. Deputy three attempted to gain control of the plaintiff's right arm by giving him verbal commands, "Give me your hand," but the plaintiff did not comply and resisted by drawing his arm further underneath his body.

In fear that the plaintiff was attempting to retrieve his firearm, Deputy three punched the plaintiff two times on the right side of his face. Although the punches dazed the plaintiff, he still refused to release his arm. Deputy three then elbowed the plaintiff in his face. The elbow strike was effective and deputy three was able to handcuff the plaintiff.

After the incident the deputies sat the plaintiff near the park benches and requested paramedics to their location. The deputies searched the plaintiff and retrieved less than an ounce of marijuana from the plaintiff's person. No weapons were found.

**Note:** The plaintiff's mother arrived at the scene and was interviewed. She informed deputies that the plaintiff was diagnosed with Schizophrenia and Tourette's Syndrome at the age of fourteen.

The plaintiff was transported to Harbor General Hospital (1000 W. Carson St., Torrance) and treated for his injuries. The plaintiff sustained a broken left orbital, broken nose, and rib fractures on his right side. He also sustained some additional injuries from the altercation: lacerations, swelling to his face, and abrasions to the upper portion of his back (**Exhibit A**).

On July 15, 2014, at 4:00 a.m., the plaintiff was interviewed at the hospital by Compton Station's Watch Commander. During the supervisory interview the plaintiff admitted he went to the park to smoke marijuana as he was afraid of getting caught by his parents. He additionally admitted, he told deputies one and two he had a "deuce-deuce" and he was from "Westside Piru" gang.

The plaintiff advised he made the statements about being affiliated with a gang and having a gun to prevent the deputies from touching him. However, when both deputies contacted him, the plaintiff had a quick reaction and threw a punch at deputy one.

	<p>The plaintiff alleged, he was tackled, punched two to three times in the face and either kicked or punched in the rib cage.</p> <p>The plaintiff was booked for 69 PC - Resisting an Executive Officer with Force, and 11357(b) HS Possession of Marijuana.</p> <p>Deputies one and two were not injured and did not complain of pain. The third deputy sustained a sprain to his right wrist. He was medically treated and released.</p> <p><b>Note:</b> Deputies one, two and three did not have any prior contact with the plaintiff and were not aware of his mental condition.</p> <p>On July 15, 2014, at 10:21 p.m., The Los Angeles County Sheriff's Department Internal Affairs Bureau (IAB) Investigators responded to Harbor-UCLA General Hospital to conduct an internal investigation regarding this incident. The investigators interviewed, observed, and photographed the plaintiff.</p> <p>Additionally, on July 15, 2014, IAB investigator obtained the incident report and supplemental reports.</p> <p>On July 18, 2014, the plaintiff's family made several allegations of misconduct by deputies. The family alleged deputies at Enterprise Park, discharged their firearms, tased the plaintiff, and dragged him into a nearby restroom to assault him.</p> <p>IAB investigators continued their active investigation regarding the force used and misconduct allegations. IAB investigators canvassed the surrounding neighborhood in order to locate witnesses. However, no witnesses were found.</p> <p>On July 21, 2014, IAB investigators contacted Los Angeles Sheriff's Department Park's Bureau regarding the possibility of existing "pole cams" in the area. However, they were advised there were no "pole cams" at Enterprise Park, which would have possibly recorded the incident.</p> <p><b>Note:</b> "Pole cams" are stationary, fixed cameras which are mounted on elevated structures for surveillance purposes.</p> <p>On July 23, 2014, IAB investigators contacted Los Angeles County Park and Recreation workers one and two. Enterprise Park worker one advised on July 14, 2014, the restrooms were locked at approximately 6:00 p.m. and during lock-up inspection he did not see any blood and the restroom was empty.</p> <p>Enterprise Park worker two reported On July 15, 2015, at approximately 5:30 a.m., the restroom was locked. Upon opening the restroom he noticed red droplets (possibly blood) underneath the left sink in the restroom.</p> <p>After a thorough use of force and misconduct investigation, IAB concluded their administrative investigation.</p> <p>The Los Angeles County District Attorney's Office filed two felony charges against the plaintiff. The preliminary hearing was held on April 21, 2015.</p>
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	<p>At the conclusion of the hearing, the court reduced the plaintiff's two felony charges to misdemeanors, 69 PC Resisting an Executive Officer and 148 (a)(1) PC Resisting Arrest.</p> <p>During the preliminary hearing testimony deputies one and two had conflicting statements as it pertains to their use of force during the incident.</p> <p>On June 16, 2015, the Los Angeles County Sheriff's Department, Executive Force Review Committee reviewed this case and determined the deputies one, two, and three actions were within Los Angeles County Sheriff's Department policy.</p> <p>In August of 2016, the plaintiff's attorney filed a motion to have the plaintiff declared mentally incompetent to stand trial and ordered out-patient treatment with the Department of Mental Health for a maximum of one year.</p> <p>In February of 2017, the court determined there was no likelihood the plaintiff would be restored to competency by expiration date of August 2017. The criminal complaint was ultimately dismissed.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

A **Department** root cause in this incident was the deputies splitting up after their initial contact with the plaintiff. Two deputies would have allowed better control during the encounter.

A **Department** root cause in this incident was the deputies' inability to review their reports and properly prepare prior to testifying in court.

A **Department** root cause in this incident was the deputies did not recognize the plaintiff displayed symptoms of mental illness.

Another **Department** root cause in this incident was the deputies did not have equipment (Body Worn Camera) to video record their contact with the plaintiff, in order to prove or disprove plaintiff's allegations.

A non-**Department** root cause in this incident was the plaintiff did not cooperate and subsequently became hostile and combative toward deputy personnel.

2. Briefly describe recommended corrective actions:

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

**Internal Affairs Bureau Investigation**

This incident was investigated by representatives of the Los Angeles County Sheriff's Department Internal Affairs Bureau.

On July 16, 2015, the Executive Force Review Committee (EFRC) reviewed the case and determined the Use of Force by all three deputies was consistent with Department Policy.

**Corrective Action:** EFRC committee recommended refresher training courses and the training courses were completed.

**Body Worn Cameras**

As of November 2020, all personnel assigned to Compton Station were issued a Body Worn Camera in an effort to ensure all public contact is transparent. The use of BWC's ensures reliable recording of

enforcement and investigative contacts with the public. The Department established policy and procedures for the purpose, use, and deployment of the Department issued BWC:

- Must be turned on during all public contacts and reviewed by the employee.
- Collect evidence for use in criminal investigation and prosecutions.
- Deter criminal activity and uncooperative behavior during law enforcement interactions with the public.
- Promote accountability.
- Assist with resolving public complaints and administrative investigation.
- Supervisors conduct random daily audits of Body Worn Cameras to ensure compliance.



County of Los Angeles  
Summary Corrective Action Plan

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

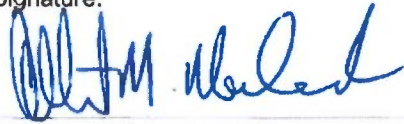
- ☐ Yes – The corrective actions address Department-wide system issues.  
☒ No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Albert M. Maldonado, Captain  
Risk Management Bureau

Signature:



Date:

9/7/21

Name: (Department Head)

Kelly M. Porowski, Chief  
Professional Standards Division

Signature:



Date:

9/21/21

**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)

Destiny Castro

Signature:



Date:

9/22/2021