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March 29, 2024

TO: JEFF LEVINSON
Interim Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: ELIZABETH D. MILLER
Assistant County Counsel
Justice and Safety Division

RE: **Item for the Board of Supervisors' Agenda**
County Contract Cities Liability Trust Fund
Claims Board Recommendation
Isaias Cervantes, et al. v. County of Los Angeles, et al.
Los Angeles County Superior Court Case No. 21STCV29317

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

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Settlement for Matter Entitled Isaias Cervantes, et al. v. County of Los Angeles, et al. Los Angeles County Superior Court Case No. 21STCV29317.

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matter entitled **Isaias Cervantes, et al. v. County of Los Angeles, et al. Los Angeles Superior Court Case No. 21STCV29317** in the amount of $25,000,000.00 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 civil rights violations, excessive force, and wrongful death shooting by Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		Isaias Cervantes, et al. v. County of Los Angeles, et al.
CASE NUMBER		21STCV29137
COURT		Los Angeles Superior Court
DATE FILED		September 3, 2021
COUNTY DEPARTMENT		Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	$	25,000,000
ATTORNEY FOR PLAINTIFF		Law Offices of Austin Dove
COUNTY COUNSEL ATTORNEY		Richard Hsueh Senior Deputy County Counsel
NATURE OF CASE		This is a recommendation to settle the civil rights lawsuit filed by Isaias Cervantes, Rosa Padilla, and Yajaira Cervantes (collectively "Plaintiffs") against the County of Los Angeles and two Los Angeles County Sheriff's Department ("LASD") deputies arising from the non-fatal deputy involved shooting of Isaias at Plaintiffs' residence for $25,000,000.00, inclusive of attorneys' fees and costs. Due to 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 $25,000,000 is recommended.
PAID ATTORNEY FEES, TO DATE	$	400,420
PAID COSTS, TO DATE	$	211,536

Case Name: Isaias Cervantes 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:	
Briefly provide a description of the incident/event:	Summary Corrective Action Plan 2023-100 Details in this document summarize the incident. The information provided is a culmination of various sources to provide an abstract of the incident. On March 31, 2021, at approximately 8:59 p.m., two on-duty Los Angeles County Sheriff's Department deputy sheriffs assigned to East Los Angeles Station, responded to a residence regarding a family disturbance. The call for service indicated the disturbing party was a male, Hispanic, 25-years old who was diagnosed with mental health issues. Once Deputies One and Two arrived at the location, they met with both the Plaintiff's sister and the Plaintiff's crisis counselor from the program Intervention Project. The Plaintiff's sister and counselor were at the location for one hour prior to Sheriff's deputies arriving. Upon Deputy One's arrival, he contacted East Los Angeles Station's Dispatch and requested to have the informant make themselves known. The call indicated the informant (the individual who called) would make themselves known, but they were not flagged down. Deputies One and Two contacted the informant (the Plaintiff's sister). Deputy One stated, the Plaintiff's mother indicated the Plaintiff [became upset] because their mother did not purchase the item he wanted. The Plaintiff's mother additionally stated, he pushed her in her upper chest area. Deputy One asked the Plaintiff's mother if the Plaintiff suffered from a mental illness? She replied, "Yes." The following statement is a summary of Homicide Bureau's Interview with the Deputy One: Deputies One and Two approached the residence. Upon reaching the front door (without making entry into the residence), Deputy One contacted the Plaintiff who was sitting on the couch inside of the living room next to a woman (possibly the Plaintiff mother's friend). Deputies One and Two stood outside of the front door, while Deputy One asked the Plaintiff to come outside. The Plaintiff responded to Deputy One, "He wasn't gonna come out and then [he] made a hand gesture, asking us to step in."

	Deputies One and Two entered the residence and started to approach the Plaintiff. Deputy One asked, "What's going on today? Could you stand up for me real quick?" Deputy One reassured the Plaintiff he was not in trouble and he and his partner (Deputy Two) were there to assist him with getting help. The Plaintiff [at first] did not comply with the Deputies' request, but eventually he complied and stood up. As Deputy One started to handcuff the plaintiff's left wrist, the Plaintiff [aggressively] pulled his hands from the Deputies' grasp and began [wildly] swinging his arms striking Deputy Two in the face. As the Plaintiff continued to fight with the deputies, both deputies and the Plaintiff fell to the ground. While on the ground fighting with the Plaintiff, Deputy One heard Deputy Two say, "He has my gun." Deputy One confirmed with Deputy Two if in fact the Plaintiff had his gun. Although he did not hear a verbal response. Deputy One unholstered his duty weapon (firearm) and fired one round from his duty weapon striking the Plaintiff. Immediately after the deputy-involved shooting, Deputy One utilized his Department-issued hand-held radio to broadcasted emergent traffic advising of a deputy-involved shooting. Additionally, he requested both LA County Fire Department and additional units and to respond to their location. After the Plaintiff was struck by Deputy One's duty round, the Deputies were able to handcuff and place the plaintiff in the recovery position. Deputy One asked his partner (Deputy Two) if he was, okay? Deputy Two replied, "He scratched my face, he scratched my eye." Assisting patrol units arrived and cleared the residence. After the residence was "cleared," they stayed with the Plaintiff awaiting fire's arrival at which time Deputies One and Two were removed from the residence. Los Angeles Fire Department personnel responded and rendered aide. The Plaintiff was transported to the hospital for further medical treatment. The following statement is a summary of Homicide Bureau's Interview with the Deputy Two: As Deputies One and Two contacted the Plaintiff's sister. Deputy Two indicated the sister stated the Plaintiff was being aggressive with their mother. Additionally, his sister stated, the Plaintiff was inside of the residence angry, but she wanted Deputies One and Two to go inside of the residence and speak with him. Deputy Two requested the sister to have her mother step outside of the residence. The Plaintiff's mother and his therapist exited the residence and spoke with Deputy Two. The Plaintiff's mother explained, the Plaintiff became angry while they were at a store because she refused to purchase a snack he wanted but did not have enough money to purchase the item. The Plaintiff's mother indicated he suffered from mental health issues.

	Deputy Two stated, prior to approaching the residence to speak with the Plaintiff, they formulated a tactical plan. As Deputies One and Two reached the threshold of the residence, they could see the Plaintiff sitting on the couch. Deputy One, again asked the Plaintiff to step outside, but he again refused to comply with their command. Instead of the Plaintiff exiting the residence, he remained on the couch. In the Homicide Book, it indicated the Plaintiff said come in here and I'll talk to you. Once inside the residence, Deputy Two walked around (in front of) the Plaintiff and took control of the Plaintiff's right arm. Deputy Two indicated the plaintiff began to place his hands behind his back. As Deputy One started to place the handcuff on the Plaintiff's left wrist, the Plaintiff pulled his right arm away from Deputy Two and swung towards Deputy One. During the fight, the Plaintiff struck Deputy Two in his right eye, which caused him to feel dizzy and caused his vision to become blurred. With the continuation of the fight, it caused the Plaintiff and Deputies One and Two to all fall to the ground. As Deputy Two attempted to put out emergent radio traffic regarding, he and his partner (Deputy One) were involved in a fight, the plaintiff clawed at Deputy Two's face and his eye with his fingernails. As the Plaintiff clawed Deputy Two's face, Deputy Two attempted to "pull away" from the Plaintiff, as he pulled away, he felt the Plaintiff trying to remove his firearm from the holster (he could feel his firearm coming out of his holster). Deputy Two [yelled] to Deputy One, "He's going for my gun, he's got my gun!" Deputy Two began fighting with the Plaintiff to retain his firearm. Deputy Two used his right hand to press down on the Plaintiff's hand to keep his firearm in the holster. Deputy One [yelled] "Does he have your gun?" Deputy Two replied, "He's got my gun!" Deputy One removed his firearm from his holster and fired one round from his duty weapon, striking the Plaintiff. With Deputy Two's vision blurred, Deputy One utilized his Department-issued-handheld radio to request the fire department and additional patrol units to respond to their location. The Los Angeles County Fire Department responded and treated the Plaintiff. Under the direction of LACoFD Captain, the Plaintiff was transported via ambulance to the hospital for further medical treatment. The Plaintiff sustained one gunshot wound. Deputy Two was transported to the hospital for medical attention. In addition to Deputy Two's DNA being found on the Plaintiff's bloodstained fingernails on his left hand, the Plaintiff's DNA was also found on Deputy Two's firearm trigger, trigger guard, grip, frame, and holster. Upon notification, the Homicide Bureau arrived and assumed control of the investigation.

	Deputy personnel involved in this incident were wearing and activated their Body-Worn Camera (BWC). **Body-Worn Camera Audio** BWC footage reveals someone screaming several times, "Let go!" Also, Deputy One instructing the Plaintiff's counselor several times to "get back." You can also hear Deputy One yelling, "Does he have your gun?" Deputy Two was confirming if in fact the Plaintiff had Deputy Two's gun. However, you cannot hear a verbal response from Deputy Two. After hearing the gun shot, the Plaintiff's counselor could be heard saying, "Let go of the gun." Although the Deputy-Involved Shooting was not captured on BWC, the audio was captured and sounds of struggle and movement prior to the shooting could be heard. On April 29, 2021, after 30 days in the hospital, the Plaintiff was discharged to a rehabilitation center for further rehabilitation.

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

A **Department** root cause in this incident was a deputy involved shooting.

A **Department** root cause in this incident was Deputies One and Two attempt to detain the plaintiff regarding a battery investigation.

A **Department** root cause in this incident was Deputies One and Two failed to request the Mental Evaluation Team (MET) to respond to the call for service.

A **Department** root cause in this incident was the desk personnel's failure to ask additional questions related to the Plaintiff's mental illness.

A **Department** root cause in this incident was the desk personnel's failure to request the MET.

A **Department** root cause in this incident was the desk personnel' s failure to add a field sergeant to the call for service, possibly involving a mentally ill person.

A **non-Department** root cause in this incident was the Plaintiff refused to comply with the lawful orders given by Deputies One and Two.

A **non-Department** root cause in this incident was the Plaintiff's assault on both deputies and attempt to disarm a deputy of his firearm.

A **non-Department** root cause in this incident was the Plaintiff's physical confrontation with the deputy sheriffs, which caused their body-worn cameras to become dislodged and fall to the ground.

The body-worn camera only captured audio of the shooting. Video footage of the entire sequence of events may have provided additional information to prove or disprove the plaintiff's allegations.

A **non-Department** root cause in this incident was the Plaintiff's sister neglected to inform the Deputy Sheriffs that her brother had made a declaration indicating his desire to die.

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

Criminal Investigation

The incident was investigated by the Sheriff's Department's Homicide Bureau to determine if any criminal misconduct occurred. The results of the investigation were presented to the Los Angeles County District Attorney's Office for evaluation and filing consideration.

On November 20, 2022, the District Attorney's Office completed their review of the incident and determined there was insufficient evidence to prove Deputy One did not act in lawful self-defense and the defense of his partner when he fired his duty weapon.

Administrative Investigation

This use-of-force was investigated by the Internal Affairs Bureau to determine if any Department policy violations occurred during the use or reporting of force used against the Plaintiff.

On October 26, 2023, the IAB investigation into this matter concluded. This case was subsequently reviewed by the Executive Force Review Committee (EFRC), who determined the following:

The EFRC Committee determined the force used in this incident was in policy.

Deputies involved in this incident received additional training pertaining to the circumstances surrounding this incident.

Station Debriefing (Tactical and Mental Health)

In the days following the incident, station supervisors briefed on the events known at the time and based on information provided by Homicide Bureau investigators.

East Los Angeles Station personnel were briefed on calls for service involving mentally ill persons, with a special emphasis on the responsibilities of requesting MET personnel via the Sheriff's Communication Center and/or notification to the MET Triage Desk, along with assigning or requesting a field sergeant to calls for service involving mentally ill persons.

Additional focus was placed on officer safety, tactical preparedness, and lessons learned to assist employees if they ever find themselves in a similar situation.

Briefings have continued on a quarterly basis by station field sergeants and watch commanders to reiterate the Department's expectations and policies.

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) Shawnee N. Hinchman, Captain Risk Management Bureau	
Signature:	Date: 11/27/2023

Name: (Department Head) Myron Jonson, A/ Assistant Sheriff Patrol Operations	
Signature:	Date: 11/29/23

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: Daniela Prowizor-Lacayo (Risk Management Inspector General)	
Signature: Daniela Prowizor	Date: 11/30/2023