



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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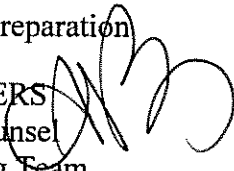
MARY C. WICKHAM
County Counsel

May 2, 2019

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TO: CELIA ZAVALA
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

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

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
V. W. v. County of Los Angeles, et al.
United States District Court Case No. 2:18-CV-03684

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 V. W. v. County of Los Angeles, et al., United States District Court Case No. 2:18-CV-03684 in the amount of \$3,750,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This wrongful death lawsuit against the Sheriff's Department involves allegations of excessive force when Plaintiff was shot while he fled from Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	W., V. v. County of Los Angeles, et al.
CASE NUMBER	2:18-CV-03684
COURT	United States District Court
DATE FILED	May 3, 2018
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 3,750,000
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 \$3,750,000, inclusive of attorneys' fees and costs, a federal civil rights and wrongful death lawsuit filed by the minor child and parents of Anthony Weber alleging that Sheriff's Deputies used excessive force against Mr. Weber and caused his death.</p> <p>The Deputies deny the allegations and contend their actions were reasonable.</p> <p>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 \$3,750,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 54,489
PAID COSTS, TO DATE	\$ 7,205



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.

<p>Date of incident/event:</p>	
<p>Briefly provide a description of the incident/event:</p>	<p style="text-align: center;"><u>V.W., et al. v. County of Los Angeles, et al.</u> Summary Corrective Action Plan 2018-038</p> <p>On February 4, 2018, at approximately 7:40 p.m., South Los Angeles Station received a call from an anonymous informant who advised that while he was driving, a man walked into the middle of the street and pointed a gun at him. The caller advised the man with a gun was a Black male, 19 years old, wearing a black shirt and blue jeans, and was seen near an apartment building at Budlong Avenue and 107th Street. Two uniformed deputy sheriffs on patrol in a marked patrol vehicle were assigned the call and arrived about 34 minutes later.</p> <p>The deputy sheriffs checked the area for an armed man described in the call and focused their attention to the indicated apartment complex at the location. Both deputy sheriffs had prior knowledge, reinforced with several contacts, that numerous gang members lived and frequented the apartments at the location.</p> <p>Both deputy sheriffs exited their patrol vehicle and walked down a driveway at the location. A wooden fence parallels the driveway on one side which separates the apartments from the next property. The fence had several missing boards creating openings along the fence line. Near the end of the driveway, the first deputy sheriff looked through a large opening in the fence and saw the decedent and a female talking to each other.</p> <p>Both deputy sheriffs saw the decedent wearing similar clothing to the reported gunman in the call and could clearly see the decedent had a handgun in his waistband.</p> <p>Note: Although both deputy sheriffs saw the gun in the decedent's waistband, the first deputy sheriff's description of the weapon was more detailed. The first deputy sheriff described the gun as a Smith & Wesson M&P, semi-automatic pistol with black Talon grips and a red dot sight.</p> <p>Both deputy sheriffs immediately drew their duty weapons, pointed at the decedent, and the first deputy sheriff yelled, "Let me see your hands!" Both the decedent and the female complied by raising their hands above their heads. The first deputy sheriff then advised the decedent something to the effect of "If you move, I'll shoot you!" When the first deputy sheriff began to move through the opening in the fence to approach the decedent, the decedent turned and ran east down a short hallway of the apartment building. Both deputies quickly moved through the fence and ran after the decedent.</p>

	<p>The decedent ran with his hands over his head as he exited the hallway and turned into the apartment complex courtyard. The first deputy sheriff momentarily lost sight of the decedent around the turn; however, when he exited the hallway, he saw the decedent running away and he continued to chase him. The first deputy sheriff was approximately five to ten feet behind the decedent when the decedent turned his body toward the first deputy sheriff and looked directly at him "as if he was acquiring a target." The decedent then reached toward his front right waistband, where the first deputy sheriff had seen the gun. Fearing for his life, the first deputy sheriff fired at the decedent thirteen times. The decedent was hit several times and he fell to the ground.</p> <p>The second deputy involved in the foot pursuit was approximately 12 to 18 feet behind the first deputy sheriff when he heard approximately eight gunshots. The second deputy did not discharge his firearm.</p> <p>Immediately after the shooting, the deputy sheriffs heard a number of people yelling and screaming. Multiple people exited their apartments in the complex and came toward the deputy sheriffs and the injured decedent. The deputy sheriffs heard the people yelling, "fuck the police!" The deputy sheriffs feared the crowd was hostile and were going to attack them. The first deputy sheriff ordered the crowd to stay away from them.</p> <p>The deputy sheriffs' attention were drawn to the hostile crowd. They were unable to secure the crime scene for approximately 30 minutes, until sufficient responding units arrived.</p> <p>Paramedics were summoned to the scene. Although lifesaving efforts were conducted, the decedent succumbed to his injuries and he was pronounced dead at the scene.</p> <p>When the crime scene was established and secured, detectives were unable to locate the described firearm at the scene. Due to the deputy sheriffs' inability to secure the scene as a result of the post-shooting apartment melee, it is believed that an unknown person tampered with the decedent and/or the crime scene and stole the decedent's gun.</p> <p><u>SUBSEQUENT INVESTIGATION</u></p> <p>The initial anonymous 911 caller was identified and interviewed. The caller positively identified the decedent as the person who pointed a gun at him.</p> <p>A Gunshot Residue (GSR) test was conducted on the decedent's hands and waistband which revealed "many characteristic particles of gunshot residue."</p> <p>Social media video depicted a known associated gang member pointing a Smith & Wesson M&P pistol with a silver threaded barrel and a holographic red dot sight at the camera. The recording took place two days prior to the shooting in an apartment at 1212 West 107th Street, where numerous gang members and the decedent were present.</p> <p>The investigation lead to several search warrants served at different gang members' residences on West 107th Street. At one of the searched residences, several firearms were recovered. One of the firearms</p>
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	<p>recovered was a Smith & Wesson pistol with a silver threaded barrel and a red dot holographic sight. This firearm was similar to the one depicted on the social media site on February 2, 2018, and the one seen with the decedent on February 4, 2018 as described by the first deputy sheriff.</p> <p>Witnesses at the location identified the aforementioned firearm as belonging to the decedent.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

<p>A Department root cause in this incident was the use of deadly force against the decedent and no gun was found in his possession or at the crime scene.</p> <p>Another Department root cause in this incident was the deputy sheriffs' decision to engage in a foot pursuit of an armed suspect.</p> <p>A non-Department root cause in this incident was the decedent's failure to follow the lawful commands of the deputy sheriff.</p> <p>Another non-Department root cause in this incident was the gathering of a hostile crowd. These actions diverted the deputy sheriffs' attention away from the decedent, which may have allowed the crowd to tamper with the crime scene and evidence.</p>

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

<p>This incident has been investigated by the Sheriff's Department Homicide Bureau to determine if any criminal misconduct occurred.</p> <p>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.</p> <p>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 this incident.</p> <p>The California Government Code's Peace Officer Bill of Rights sets guidelines for administrative investigation statute dates. Once the Homicide Bureau and the Los Angeles County District Attorney's Office investigations are complete, a statute date will be set regarding the administrative investigation.</p> <p>When the IAB investigator finishes 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.</p>
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3. Are the corrective actions addressing Department-wide system issues?

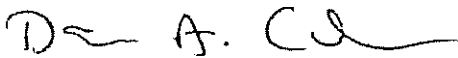
- Yes – The corrective actions address Department-wide system issues.
- No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Dana A. Chernitzer, A/Captain
Risk Management Bureau

Signature:



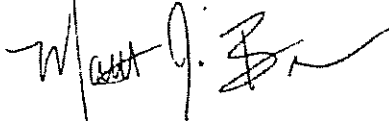
Date:

1-29-19

Name: (Department Head)

Matthew J. Burson, Chief
Professional Standards and Training Division

Signature:



Date:

02/05/19

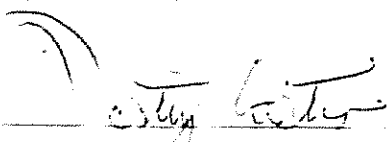
Chief Executive Office Risk Management Inspector General USE ONLY

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:

2/7/2019