



COUNTY OF LOS ANGELES
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July 1, 2022

TO: CELIA ZAVALA
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
McCleary, Flenoid, et al. v. County of Los Angeles, et al.
United States District Court Case No. 2:20-CV-02745

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 McCleary, Flenoid, et al. v. County of Los Angeles
United States District Court Case No. 2:20-CV-02745.**

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matter entitled **McCleary, Flenoid, et al. v. County of Los Angeles, et al. United States District Court Case No. 2:20-CV-02745** in the amount of \$150,000.00 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, false arrest, and malicious prosecution by Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Flenoid Lamar McCleary v. County Of Los Angeles, et al.
CASE NUMBER	2:20-CV-02745
COURT	United States District Court
DATE FILED	November 20, 2019
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 150,000
ATTORNEY FOR PLAINTIFF	Richard A. Jorgensen, Esq.
COUNTY COUNSEL ATTORNEY	Minas Samuelian Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$150,000 inclusive of attorneys' fees and costs, a federal civil rights lawsuit filed by Flenoid Lamar McCleary and Eric Wilson ("Plaintiffs"), against the County alleging unlawful arrest and detention.</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 \$150,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 84,746
PAID COSTS, TO DATE	\$ 13,942



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:	September 29, 2018, at approximately 1:35 p.m.
Briefly provide a description of the incident/event:	<p><u>Flenoid McCleary, et al. v. County of Los Angeles, et al.</u> Summary Corrective Action Plan 2022-01</p> <p>On September 29, 2018, at approximately 1:35 p.m., Compton Station received a 9-1-1 from an armored security guard. The security guard stated an unknown male black was following their armored truck and brandished a firearm from his vehicle. The dispatcher generated a priority call for service. The Los Angeles County Sheriff's Department deputy sheriffs assigned to Compton Station and along with aero (helicopter) responded to Rosecrans Boulevard and Paulsen Avenue in the city of Compton.</p> <p>The first deputy sheriff (one-man unit) near the location arrived first on the scene. He made contact with both, the first security guard (the driver) and the second security guard (the passenger) of the armored vehicle. At the time of the incident, the first and second security guard were employed by "Sectran Security."</p> <p>Note: Sectran Security is a contracted armed security company. The security company will pick up/drop off large quantities of United States currency for local businesses.</p> <p>The first security guard stated a male black (the plaintiff), driving a black Chevrolet Tahoe, pulled next to the armored vehicle near the intersection of Rosecrans Avenue and Central Avenue. The plaintiff yelled profanities and said, "I'll be back for you!" then drove away.</p> <p>The first security guard stated he continued their route to the next pick up. After leaving the pickup location, he drove northbound on Wilmington Avenue, eastbound on Cherry Street, then southbound on Paulsen Avenue to avoid making a U-turn. While driving southbound on Paulsen Avenue, approaching Rosecrans Avenue, the plaintiff in the black Tahoe returned and stopped next to the armored truck on the driver's side. At which time both security guards saw the plaintiff point a black handgun at them with his left hand.</p> <p>Fearing for their safety, and the contents (United States currency) of from the armored truck, the first security guard fired one round from his duty weapon (9mm Sig Sauer) through the designated port hole inside the armored truck (driver's side door panel). The plaintiff then drove southbound on Paulsen Avenue, to westbound on Spruce Street and out of view. The first security guard stated he then called 9-1-1 to report the incident.</p>

	<p>During the preliminary crime scene investigation the first deputy sheriff saw one 9mm expended casing on the dashboard of the armored truck. The first deputy attempted to recover the casing, however, the casing fell into the dash board.</p> <p>A short time later, medical personnel from Gardena Memorial Hospital (1145 West Redondo Beach Boulevard, Gardena) notified Compton Station regarding a male black (the plaintiff) gunshot victim. The medical personnel reported the plaintiff had sustained a gunshot wound to his right arm. They stated the incident occurred on Rosecrans Avenue and Paulsen Avenue, in the city of Compton.</p> <p>Assisting deputy personnel responded to the hospital to conduct further investigation regarding the shooting incident. The second and third deputy sheriffs contacted the plaintiff inside the Emergency Room. A 2000, Chevrolet, Tahoe, black in color was identified in the parking lot of Gardena Memorial Hospital as belonging to the plaintiff. The plaintiff's vehicle passenger side rear window was shattered.</p> <p>The plaintiff voluntarily advised the second and third deputy sheriffs, he was driving eastbound on Rosecrans Avenue approaching Paulsen Avenue, when an unknown vehicle drove alongside the passenger side of his vehicle and fired one gunshot, striking him in his right elbow. The plaintiff added, he left the area and drove to Gardena Memorial Hospital.</p> <p>Based on an active shooting investigation, the second and third deputy sheriffs detained the plaintiff and the plaintiff's vehicle pending further investigation.</p> <p>During the investigation, a male (the second plaintiff) arrived at Gardena Memorial Hospital in an attempt to see the plaintiff. The second plaintiff told the second and third deputy sheriffs he was there to visit his cousin (the plaintiff). Unaware if there were more than one person(s) were involved in the shooting incident, the third deputy sheriff detained the second plaintiff to determine his involvement in the shooting incident.</p> <p>The second plaintiff was allegedly placed in the back seat of a patrol vehicle for three hours, until it was determined he was not involved and was free to leave.</p> <p>The assisting unit (fourth and fifth deputy sheriffs) transported the first and second security guards to Gardena Memorial Hospital. The fourth deputy sheriff read the Field Identification of Suspect Admonishment to the first and second security guards. The security guards understood and consented to identify the vehicle. The security guards positively identified the vehicle as the plaintiff vehicle who was involved in the incident earlier that day.</p> <p>The second and third deputy sheriffs obtained a signed Consent to Search Wavier to search the plaintiff's vehicle. A search of the plaintiff's vehicle was conducted, however, no evidence was located or recovered.</p> <p>Note: The plaintiff's vehicle was impounded and held for evidence.</p>
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	<p>The fourth and fifth deputy sheriffs transported the security guards to Compton Station, where they met with the lead detective in the shooting investigation.</p> <p>The detective and sergeant created a six-pack photo lineup containing a picture of the plaintiff. The detective and sergeant separated the first and second security guards. A Photographic Array (six-pack, lineup) Admonition was presented and read by the detective. Both security guards advised the detective they understood and signed the admonition. The security guards were shown the six-pack photo lineup and both identified the plaintiff as the person involved in the incident.</p> <p>The sixth deputy sheriff authored a search warrant of the plaintiff's residence. The plaintiff's girlfriend was served and the detective, sergeant, and assisting deputy sheriffs searched the plaintiff's residence for evidence pertaining to the incident. The plaintiff's girlfriend and daughter, who were present during the search stated the plaintiff did not own a weapon. However, an empty Smith and Wesson firearm box was located inside the plaintiff's living room. No firearm(s) were located. The missing firearm associated with the box had no record on file. The firearm box was booked into evidence at Compton Station.</p> <p>Note: The plaintiff was arrested for being in possession of a firearm, by Los Angeles Police Department six months prior to this incident on March 6, 2018.</p> <p>The first deputy sheriff reported the elements of the offense to the on-duty watch commander. Based on the crime elements of an Assault with a Deadly Weapon being present and the positive identification of the plaintiff by the security guards as the person who pointed a handgun at them, the watch commander approved the Probable Cause Declaration (PCD) for the plaintiff's arrest.</p> <p>While at Gardena Memorial Hospital, the third deputy sheriff placed the plaintiff under arrest for Assault with a Deadly Weapon, 245 (a)(2) Penal Code. The second and third deputy sheriffs obtained a gunshot residue kit and tested the plaintiff's hands for evidence. The plaintiff was transported to LAC+USC jail ward for additional medical treatment via ambulance.</p> <p>The detective conducted a follow-up investigation for video surveillance regarding the shooting incident. The video system attached to the armored vehicle hard drive malfunctioned and did not record. There was no other video surveillance located within the area where the incident occurred.</p> <p>Timeline:</p> <p>On September 29, 2018, the plaintiff was arrested for Assault with a Deadly Weapon with a Firearm, 245(A)(2)PC.</p> <p>On October 2, 2018, the Los Angeles Superior Compton Court, District Attorney filed charges against the plaintiff:</p> <ul style="list-style-type: none">• Felony - Possession of a Firearm by a Felon, 29800(a)(1)PC;• Misdemeanor - Exhibiting a Concealed Firearm in Public, 417(a)(2)(A)PC; and• Assault with a Deadly Weapon with a Firearm, 245 (A)(2)PC.
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	<p>On October 4, 2018, the plaintiff bonded out of Los Angeles County Sheriff's Department Correctional Facility.</p> <p>On April 24, 2019, the preliminary hearing occurred, and the plaintiff was held to answer on all three charges.</p> <p>On November 7, 2019, the District Attorney dismissed all charges due to the following:</p> <ul style="list-style-type: none">• The DNA testing of the S&W box from the plaintiff's residence was unproductive;• The GSR testing of the plaintiff's hands was inconclusive;• Failure of Sectran Security to produce the armored truck's video and;• It was believed, according to the Trial Counsel Report the statements from both security guards were inconsistent.
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

This case was settled due to prudent business decision. Therefore, this is an economic settlement.

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

Allegation of False Arrest

The plaintiff alleged he was involved in an "innocuous verbal misunderstanding with the two Hispanic security guards. The security guards made false statements to the first deputy sheriff. The first deputy sheriff and the assisting Los Angeles County Sheriff's Department personnel ignored evidence, tampered with evidence and should have known the claims by the security guards were false but arrested the plaintiff without probable cause.

Compton Station's Response

Based on the information provided at the scene of the incident probable cause to arrest existed where the facts and circumstances within knowledge and of which the deputy sheriffs had reasonably trustworthy information. The first deputy sheriff should be immune from the false arrest claim as the prosecutor exercised his independent judgment and initiated criminal charges.

Allegation of Detention/Arrest of Second Plaintiff

It was alleged the second plaintiff was detained/arrested in handcuffs at Gardena Memorial Hospital for three hours without reasonable suspicion or probable cause.

Compton Station's Response

At this time there is no evidence the second plaintiff was detained longer than necessary to conduct a reasonable investigation based on the officer's reasonable suspicion for initiating the detention.

Allegation of Gang Activity

It is alleged the first deputy sheriff actions were due to the plaintiff's being black and were furtherance of the first deputy sheriff's desire to get into the "Executioners" and the County has a policy of turning a blind eye to deputy gangs.

Compton Station's Response

To date, there is no evidence linking this case with any gang/cliqye activity.

County of Los Angeles
Summary Corrective Action Plan

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

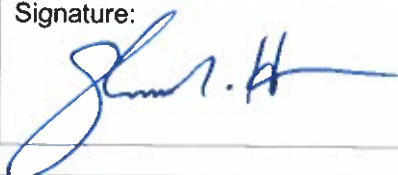
- ☐ Yes – The corrective actions address Department-wide system issues.
☒ No – The corrective actions are only applicable to the affected parties.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Shawnee N. Hinchman (Valdivia), A/Captain
Risk Management Bureau

Signature:



Date:

3/22/22

Name: (Department Head)

~~WILLIAM E. JAEGER A/Captain~~
Kelly M. Porowski, Chief
Professional Standards Division

Signature:



Date:

3/30/22

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:

03/31/2022