

# MEMORANDUM

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WORK PRODUCT PRIVILEGES

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: RICHARD HSUEH  
Senior Deputy County Counsel  
Justice and Safety Division

JILL WILLIAMS, ESQ.  
Carpenter, Rothans & Dumont, LLP

RE: Niani Shabazz, et al., v. County of Los Angeles, et al.  
United States District Court Case No. 2:21-CV-06111

DATE OF INCIDENT: October 15, 2020

AUTHORITY REQUESTED: \$275,000

(Includes Settlement of Workers' Compensation Case(s):  YES  NO  N/A)

COUNTY DEPARTMENT: Sheriff's Department

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## CLAIMS BOARD ACTION:

Approve       Disapprove       Recommend to Board of Supervisors for Approval

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\_\_\_\_\_, Chief Deputy Auditor-Controller  
**OSCAR VALDEZ**

\_\_\_\_\_, Chief Executive Office  
**STEVE ROBLES**

\_\_\_\_\_, County Counsel  
**ADRIENNE M. BYERS**

on \_\_\_\_\_, 2023

## SUMMARY

This is a recommendation to settle for \$275,000, inclusive of attorneys' fees and costs, a federal civil rights lawsuit filed by Niani Shabazz and Tajanique Williams, on behalf of themselves individually and as successors-in-interest to the Estate of Dana Mitchell Young (collectively "Plaintiffs") in connection with the fatal shooting of Mr. Young in October 2020.

## LEGAL PRINCIPLES

A public entity is responsible for the intentional and negligent acts of its employees when the acts are committed in the course and scope of the employees' employment. (Gov. Code § 815.2.).

Peace officers are entitled to use the amount of force that is reasonable and necessary to make an arrest, prevent escape, or overcome resistance. Peace officers violate a person's civil rights when the officers subject that person to unreasonable force. (Penal Code section 835a(b); *Graham v. Connor* (1989) 490 U.S. 386, 396-397.).

A prevailing plaintiff in a civil rights lawsuit is entitled to an award of attorneys' fees. (42 U.S.C. § 1988.).

## SUMMARY OF FACTS

On October 15, 2020, at approximately 3:30 a.m., a woman named Cheyenne (a sex worker) was walking on Figueroa Street in South Los Angeles. Mr. Young approached her and put a revolver against her waist. Mr. Young demanded Cheyenne give him all her money. He then grabbed her arm and forced her to walk down the street to his silver Volkswagen SUV. Mr. Young pistol-whipped Cheyenne in the back of the head and forced her into his SUV. Mr. Young told Cheyenne, "If you try to run, I'll kill you."

Two of Cheyenne's friends saw what was happening. One friend, Mia, called 9-1-1, which was routed to the Los Angeles Police Department ("LAPD") because the abduction occurred in the City of Los Angeles. The other friend, Jennifer, flagged down a vehicle driving by and asked for help. The driver allowed Jennifer to get in and followed Mr. Young's SUV.

LAPD officers responded to the area and spoke with Mia. She told them what happened and showed the officers her cellphone, which had an app called Life 360 which uses a global positioning system ("GPS") signal to track Cheyenne. LAPD officers radioed Cheyenne's location and direction of travel to other LAPD officers, who attempted to locate her.

Meanwhile, another vehicle joined the vehicle Jennifer was in and started following Mr. Young's SUV. When Mr. Young saw the two vehicles following him, he told Cheyenne, "I don't know who they are, but I'm going to kill them too." Mr. Young stopped the SUV, exited, and fired two shots at the

vehicles following him.<sup>1</sup> Mr. Young got back inside his SUV, with Cheyenne still captive, and drove away. After Mr. Young shot at them, the driver of the vehicle Jennifer was in called 9-1-1. This call was routed to the Sheriff's Department because of the location where the shots were fired. After receiving the 9-1-1 call, numerous Sheriff's deputies responded and met Jennifer and the driver who called 9-1-1.<sup>2</sup>

Meanwhile, Mr. Young drove into a Park & Ride near the 105 Freeway and forced Cheyenne into the backseat. Mr. Young threatened Cheyenne had to have sex with him if she wanted to live. Before Mr. Young was able to penetrate her, however, an LAPD unit searching for Cheyenne drove into the parking lot. When Mr. Young saw LAPD officers shining lights inside the parked vehicles, he shoved Cheyenne to the floorboard and threatened her, "Stay the f\*\*k down, or I'm going to kill you." Unfortunately, the LAPD officers didn't notice Mr. Young's SUV and left the parking lot. Rattled by the police search, Mr. Young got back into the front seat.

Shortly thereafter, Sheriff's Deputy Manuel Ibarra and his partner Deputy Luis Cano drove into the parking lot in their patrol vehicle. Mr. Young leaned down so they couldn't see him but the deputies saw Mr. Young's SUV and approached it with their guns drawn. The Sheriffs' deputies shone their flashlights into the SUV and saw the windows were fogged, which led them to believe there were people inside. Through the fogged windows, the deputies saw Cheyenne.

#### Deputies' Account

As Sheriff's Deputies Ibarra and Cano approached Mr. Young's SUV, Mr. Young suddenly sat up in his seat, started the ignition, and sped off. Trying to save her own life, Cheyenne jumped out of the moving SUV into the parking lot. As this was happening, Sheriffs' Deputies Christopher Leonardi and Kevin Walker drove into the parking lot in two separate patrol vehicles. They saw what happened, with the other two Sheriffs' deputies jumping back and away from Mr. Young's SUV as it sped off. When Cheyenne jumped out of Mr. Young's SUV, she heard a gunshot, which she believed had been fired by Mr. Young.<sup>3</sup>

Sheriffs' Deputies Walker and Leonardi also sped out of the parking lot and pursued Mr. Young, who was speeding northbound on Vermont Avenue in the southbound lanes of traffic. Mr. Young drove for approximately a mile, turned left into a cul-de-sac, and collided with a concrete and wrought iron fence at the end of the street. Mr. Young's SUV came to rest almost

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<sup>1</sup> This shooting was captured on a surveillance video. The revolver was subsequently recovered in Mr. Young's vehicle, which was loaded with one spent cartridge case and five live rounds.

<sup>2</sup> Jennifer also had the Life 360 app on her cellphone, which was also tracking Cheyenne's location. Jennifer gave the deputies her phone so they would have a real-time GPS signal of Cheyenne's whereabouts and could locate her.

<sup>3</sup> Although none of the Sheriffs' deputies heard gunshots, Deputy Leonardi (whose patrol window was rolled down) smelled gunpowder and asked Sheriff's Deputy Walker if shots had been fired. Sheriff's Deputy Walker did not smell gunpowder or hear gunshots, but based on the totality of the circumstances, he believed Mr. Young may have shot at the Sheriffs' deputies.

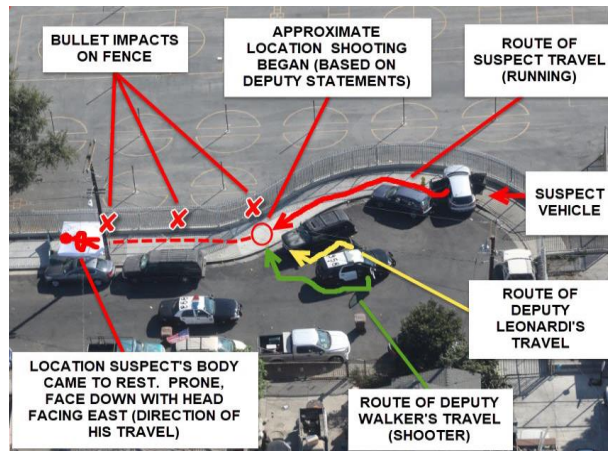
perpendicular to Sheriffs' Deputies Leonardi and Walker's patrol vehicles. When Mr. Young opened the driver's side door and ran, Deputy Walker saw a black object in Mr. Young's left hand and what appeared to be a black firearm in his raised right hand. Deputy Leonardi also observed a black object near Mr. Young's waistband, which he believed was a holster.

Sheriff's Deputy Walker feared Mr. Young was armed with a gun and was going to shoot them. Mr. Young ran alongside a vehicle parked on the side of the street, and Deputy Walker ran to the front of that vehicle to cut Mr. Young off. As Deputy Walker rounded the front of the vehicle, he came face to face with Mr. Young, and he saw Mr. Young's right arm begin to come up. Fearing Mr. Young was about to shoot him, Deputy Walker fired seven to eight shots at Mr. Young. Sheriff's Deputy Leonardi also feared Mr. Young was going to shoot and was also raising his weapon to get a sight on Mr. Young. However, Deputy Leonardi did not fire because he did not have a clear shot.

After the shooting, Sheriff's deputies did not find any gun on or near Mr. Young. A black COVID mask was near Mr. Young's right hand, and Cheyenne's cellphone was on the ground near him. Investigators later found a black revolver in Mr. Young's SUV under the driver's seat. Sheriff's deputies secured the scene and rendered emergency first aid to Mr. Young until the Los Angeles County Fire Department ("LACFD") arrived on the scene. Mr. Young, however, passed away by the time LACFD arrived on the scene. There is no body-worn camera ("BWC") footage, as neither Deputies Walker nor Leonardi were equipped with one at the time of the incident.<sup>4</sup>

The autopsy report shows Mr. Young sustained four gunshot wounds. One bullet entered the back of his head (fatal shot), one entered the left buttock, one entered the right lower abdomen, and one entered and exited the penis.

Below is a photo from the Homicide file depicting the scene and the relative positions of Mr. Young and the involved Sheriffs' deputies:



<sup>4</sup> Plaintiffs do not dispute the events that preceded the pursuit and shooting. Since there are no third-party witnesses to the shooting or videos of the shooting, Plaintiffs offer no other version of the events other than contending Mr. Young was shot while unarmed and fleeing from the Sheriffs' deputies.

On December 16, 2021, there was a Coroner's Inquest into the circumstances, cause, and manner of Mr. Young's death. The Inquest was presided over by retired California Court of Appeal Justice Candace Cooper.<sup>5</sup> On July 25, 2022, the District Attorney's Office Justice System Integrity Division ("JSID") completed its review of the shooting and concluded, "We find Sheriff's Deputy Kevin Walker acted lawfully in self-defense, in defense of others, and/or in attempt to apprehend a person he believed to be a dangerous fleeing felon when he used deadly force against Dana Mitchell Young." In May 2023, the Sheriff's Department Executive Force Review Committee ("EFRC") reviewed the incident and found the use of force by Deputy Walker to be within policy.<sup>6</sup>

## DAMAGES

Mr. Young was 47 years old at the time of his death. His extensive criminal history includes arrests for selling drugs, vehicle theft, robbery, and sex crimes in California, Utah, and Maryland. Most significant was a 1995 arrest and subsequent conviction for a violent rape and threats to kill the victim if she called police. As a result of this conviction, Mr. Young was sent to prison, where he remained until he was released on May 24, 2019, (approximately 15 months before the shooting). Mr. Young had five children from five different women. Two are named as plaintiffs in this case, and the other three are named as nominal defendants.<sup>7</sup>

Should the matter proceed to trial, we believe the potential damages could be:

Non-Economic/Pain and Suffering	\$1,000,000
Attorneys' Fees and Costs:	<u>\$ 700,000</u>
<b>TOTAL:</b>	<b>\$1,700,000</b>

The proposed settlement calls for the County to pay \$250,000 for all of Plaintiffs' claims for damages, costs, and attorneys' fees.

## STATUS OF CASE

Plaintiffs filed their lawsuit on July 30, 2021, and it was served on August 4, 2021. The federal lawsuit alleges claims for federal civil rights violations under Fourth Amendment, *Monell* claim, failure to supervise, train and

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<sup>5</sup> On January 26, 2022, Justice Cooper issued her findings and decision, which essentially mirrored the autopsy report. She determined "the medical cause of death was multiple gunshot wounds" and the "manner of death was by the hands of another person other than by accident."

<sup>6</sup> The EFRC panel found policy violations by Sheriff's Deputy Cano and Ibarra in their tactics when approaching Mr. Young's SUV in the Park & Ride parking lot.

<sup>7</sup> Mr. Young had three additional children, Danica Young, Qwashawn Young, and Devante Flores, who are not plaintiffs but have been named as nominal defendants in the lawsuit. California's wrongful death statute gives all heirs the right to bring the lawsuit. While there are exceptions (e.g., unknown heir, lack of proper service on nominal defendant), once all heirs are made nominal defendants, the wrongful death lawsuit would be complete and precluded from being later asserted by any nominal defendants. All three nominal defendants have signed an affidavit under California Probate section 13100-13106 and agreed to share all settlement proceeds equally among the five children. While there is an indication of a possible sixth child, we have not found anything to indicate this child exists or is still alive.

take corrective action, and State law claims for battery, negligence, and Civil Code section 52.1 (the "Bane Act"). The trial court proceedings have been suspended pending approval of the proposed settlement.

## EVALUATION

This is a case of disputed liability. The shooting of Mr. Young appears to be reasonable based on what Sheriff's Deputy Walker was confronted with at the time. We have a strong argument under the fleeing felon rule, which allows the use of deadly force to apprehend a fleeing felon if the committed or suspected felony threatened or resulted in death or serious bodily injury, and it is necessary to prevent that person from causing further death or seriously bodily injury unless immediately apprehended.

Mr. Young was a violent, fleeing, armed suspect. Given everything Sheriff's Deputy Walker knew and observed, it was reasonable for him to believe Mr. Young was armed with a gun and would not hesitate to use it. Deputy Walker saw what he believed was a black firearm in Mr. Young's hand, and Sheriff's Deputy Leonardi observed a dark object near Mr. Young's waistband, which he believed to be a holster. Sheriff's Deputy Walker was confronted with a rapidly evolving situation that did not give him much time to decide whether less-intrusive force should be used.

However, there are some challenges to address in the defense of this lawsuit. It is undisputed Mr. Young was not armed at the time Sheriff's Deputy Walker shot him. Additionally, Deputy Walker fired seven to eight shots in rapid succession. We anticipate the Plaintiffs' expert will argue Deputy Walker did not exercise fire discipline and follow his training to shoot and re-assess per Sheriff's Policy 3-10/150.00-Tactical Incident. Based on where some of the bullets struck Mr. Young and the metal fence along the escape route, the Plaintiffs will argue Mr. Young was shot in the back as he was running away from Sheriff's Deputy Walker.<sup>8</sup>

We conducted a mock trial to assist with our case evaluation. At the end of the presentation, approximately 65 percent of the participants found Sheriff's Deputy Walker did not use excessive force, and approximately 96 percent of the participants found Mr. Young was comparatively at fault or negligent. The average percentage of fault attributed to Mr. Young was 72 percent. The primary concerns of the mock jury were the number of shots fired, the trajectory of the bullets, and the fact Sheriff's Deputy Walker did not issue any commands. Those who were in favor of the Plaintiffs awarded anywhere between \$500,000 and \$2-10 million.

While Mr. Young's egregious and violent conduct precipitated the shooting would make him less sympathetic to a jury, a skillful plaintiff's counsel

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<sup>8</sup> Bullet strikes were found along the metal fence where Mr. Young was running, with there being approximately two car lengths between where the shooting started and where the last bullet strike on the fence was found.

could redirect and persuade a jury to focus on the facts an unarmed Mr. Young was shot in the back of his head as he was running away from the deputies. The mock jury indicates this is a potential issue for the defendants, as a jury would likely question the reasonableness of Sheriff's Deputy Walkers' actions. However, if there is an adverse verdict, we believe a jury would likely take into consideration Mr. Young's conduct and not award substantial damages to Plaintiffs.

Based on the foregoing, we believe the proposed settlement is reasonable and will avoid a potential adverse verdict and further litigation costs could well exceed the settlement amount. The Sheriff's Department concurs with the recommendation.

The County is represented by attorney Jill Williams of Carpenter, Rothans & Dumont, LLP, and has incurred approximately \$60,447 in outside counsel fees, \$82,671 in costs, and \$16,280 in in-house counsel fees.

If you have questions concerning this matter, please contact Assistant County Counsel Elizabeth D. Miller at (213) 972-5742 or Senior Deputy County Counsel Richard Hsueh at (323) 972-5779.

APPROVED:



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ELIZABETH D. MILLER  
Assistant County Counsel

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