



COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

September 16, 2002

Jacqueline White
Chief Administrative Office
Lloyd W. Pellman
Office of the County Counsel
Maria M. Oms
Auditor-Controller

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Tracey Rosenberg v. County of Los Angeles**
United States District Court Case No. CV 01-4914 AHM (CTx)

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of \$150,000.00.
2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Sheriff's Department.

Enclosed is the settlement request and a summary of the facts of the case.

Also enclosed, for your information, is the Corrective Action Report submitted by the Sheriff's Department.

Return the executed, adopted copy to Frances Lunetta, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-1754.

Very truly yours,

Jacqueline White, Chairperson
Los Angeles County Claims Board

JW/fsl

Enclosures

MEMORANDUM

September 5, 2002

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: JIN S. CHOI, Esq.
Franscell, Strickland, Roberts & Lawrence, LLP

JOHANNA M. FONTENOT
Principal Deputy County Counsel
General Litigation Division

RE: Tracey Rosenberg v. County of Los Angeles
U. S. District Court Case No. CV 01-4914 AHM (CTx)

DATE OF INCIDENT: August 16, 2000 - August 18, 2000

AUTHORITY REQUESTED: \$150,000

COUNTY DEPARTMENT: SHERIFF'S DEPARTMENT

CLAIMS BOARD ACTION:

Approve

Disapprove

Recommend to Board of Supervisors for Approval

JACQUELINE WHITE Chief Administrative Officer

LLOYD W. PELLMAN County Counsel

MARIA M. OMS Auditor-Controller

on _____, 2002

SUMMARY

This is a recommendation to settle for \$150,000, a lawsuit filed by Tracey Rosenberg alleging violation of her federal civil rights. The lawsuit arises from the alleged unlawful strip searches of Tracey Rosenberg after her arrest on August 16, 2000.

LEGAL PRINCIPLES

A public entity can be held liable for the wrongful and negligent acts of its employees when they are committed in the course and scope of their duties. A public entity and its employees may also be held liable when a person arrested for a misdemeanor offense, that does not involve weapons, drugs, or firearms, is subjected to a strip search prior to arraignment, without reasonable suspicion that the person is in possession of drugs or a weapon.

SUMMARY OF FACTS

In August 2000, Tracey Rosenberg, a resident of San Francisco, traveled to Los Angeles to participate in the protest-related activities at the Democratic National Convention (DNC).

On August 16, 2000, Tracey Rosenberg went to the Los Angeles Police Department's (LAPD) Rampart Station, with many other protestors, to protest the alleged police abuse arising from the Rampart scandal. During the protest, Tracey Rosenberg was arrested by the LAPD for interfering with the business of a public entity, and she was transported to the Los Angeles County Sheriff's Department Inmate Reception Center for booking.

After the booking process, at approximately 5:00 p.m., on August 16, 2000, Tracey Rosenberg was transferred to Twin Towers Correctional Facility (TTCF) where she was to be housed in a module designated for DNC arrestees. At this time, Tracey Rosenberg alleges that she was subjected to a visual body cavity search (strip search) in a long hallway located around the corner from the shower area.

On August 17, 2000, Tracey Rosenberg was transported to court where she was ordered released. Upon her return to TTCF Tracey Rosenberg claims that she was subjected to a second visual body cavity search.

Tracey Rosenberg was released from custody on August 18, 2000, at approximately 9:10 a.m.

DAMAGES

Tracey Rosenberg claims that she suffered severe emotional distress and humiliation by being subjected to two unlawful strip searches. She also claims that the second unlawful search caused her even more distress because she had already been ordered released when the strip search occurred. In addition, Tracey Rosenberg claims that she went to psycho-therapy to deal with her anger and depression after the incident.

The potential damages should this matter proceed to trial could be as follows:

Emotional Distress	\$100,000
Civil rights Attorneys' Fees	<u>\$150,000</u>
Total	\$250,000

STATUS OF CASE

This case is set for trial on December 31, 2002, but the trial date will be stayed pending consideration of this settlement recommendation.

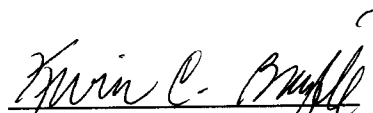
Expenses incurred by the County in defense of this matter to date are attorney's fees of \$15,571 and costs of \$897.52.

EVALUATION

If a jury concludes that Tracey Rosenberg was subjected to an unlawful strip search in violation of her civil rights, she would also be entitled to an award of attorney's fees. We believe that a jury award of damages coupled with an award for attorney's fees could well exceed the recommended settlement amount.

We join with our private counsel, Franscell, Strickland, Roberts & Lawrence in recommending settlement of this matter in the amount of \$150,000. The Sheriff's Department concurs in this recommendation.

APPROVED BY:


KEVIN C. BRAZILE
Assistant County Counsel

JMF:bh

Los Angeles County Sheriff's Department

CORRECTIVE ACTION REPORT

LAWSUIT OF : Tracy W. Rosenberg v. County of Los Angeles
Case No. CV01-04914 CBM (Ctx)

DATE OF INCIDENT : August 16-18, 2000

INCIDENT LOCATION : Twin Towers Correctional Facility
450 Bauchet Street, Los Angeles, CA. 90012

RISK ISSUES: Under California law, a person arrested solely on a misdemeanor may not be strip searched unless the arrest charge involves weapons, narcotics or violence, and if there is a reasonable suspicion based upon specific articulable facts that the person is concealing a weapon or contraband. Absent these facts, the County and individual employees may be held liable for an unlawful strip search conducted by the employee. The County can also be held liable for false imprisonment if the Sheriff's Department fails to release the arrestee within a reasonable time following the expiration of a lawful detention, or by Court order to release the individual in custody. The County and individual employees can be further held liable for damages for violating a person's federally protected civil right to be free from unreasonable searches and seizures if the individual is strip searched after the person is ordered released by a magistrate.

INVESTIGATIVE REVIEW: On August 16, 2000, at approximately 12:12 p.m., Tracy Rosenberg was arrested by the Los Angeles Police Department (LAPD) in front of the Rampart Station for protesting the alleged police abuses arising from the Rampart scandal. She, along with other protestors, had traveled to Los Angeles to participate in protests during the Democratic National Convention (DNC) which was being held in downtown Los Angeles. Ms. Rosenberg was initially booked for interfering with the business of a public entity (misdemeanor) at an LAPD field booking location, then transported by a Sheriff's Department Transportation bus to the Los Angeles County Jail and processed at the Inmate Reception Center approximately five hours later.

At approximately 8:15 p.m., Ms. Rosenberg was transferred to the Twin Towers Correctional Facility (TTCF) and assigned to a housing module specifically for female DNC arrestees. Upon her entry into TTCF, Ms. Rosenberg alleges that she was subjected to a visual body cavity strip search, along with other DNC arrestees, prior to being placed in her housing module.

On August 17, 2000, Ms. Rosenberg was arraigned in Court and ordered released. Upon returning to TTCF, she alleges that she was subjected to a second visual body cavity search. Though she had been ordered released, Ms. Rosenberg was held in custody until the following morning where she was released from custody at approximately 9:10 a.m. on August 18, 2000.

TRAINING ISSUES: The Sheriff's Department has implemented briefings and training policies regarding strip searches of pre-arraignment misdemeanor arrestees, along with court returnees ordered for release.

POLICY ISSUES: At the time of this incident, the Sheriff's Department had an established written policy which was consistent with California law regarding strip searches. Even though the Department was unable to establish that Ms. Rosenberg was subjected to a strip search, there was information that strip searches were being conducted at TTCF due to an incorrect interpretation of an exception clause of the state law regarding strip searches of inmates housed in general population housing facilities. This established a need to modify the then-existing guidelines and clarify strip search procedures involving pre-arraignment misdemeanor arrestees and released inmates.

CORRECTIVE ACTION: The Sheriff's Department has re-written its policies regarding strip searches with oversight by County defense attorneys involved with strip search lawsuits. Currently, new bookings are not being subjected to a strip search. However, procedures to identify, track and separate pre-arraignment misdemeanor arrestees from general population inmates who can be subjected to strip searches are being modified, with personnel assigned to the jails being re-briefed on search policy. Supervisors have also been required to reinforce the strip search policy through continuous oversight.

A handwritten signature in black ink, appearing to read "M. Holt", with a long horizontal line extending to the right.