

# **County of Santa Cruz**

0021

Assistants

Harry A. Oberhelman III Julia Hill

Kim Baskett

Shannon Sullivan

Dwight L. Herr

Sharon Carey-Stronck

## OFFICE OF THE COUNTY COUNSEL

**Deborah Steen** 

Marie Costa

Jane M. Scott

Tarnyra Rice Pamela Fyfe

701 OCEAN STREET, SUITE 606, SANTA CRUZ. CA 960604068 (831) 464-2040 FAX: (831) 464-2111

SAMUEL TORRES, JR., COUNTY COUNSEL

CHIEF ASSISTANTS RAHN GARCIA DANA MCRAE

# **GOVERNMENT TORT CLAIM**

**RECOMMENDED ACTION** 

Agenda October 2,2001

To: Board of Supervisors

Re: Claim of Agustin De Mello, No. 102-024

Original document and associated materials are on file at the Clerk to the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

<u>_x</u> 1.	Reject the claim of <u>Agustin</u> De Mello, No. 102-024 Counsel.	and refer to County
2.	Deny the application to file a late claim on behalf of	
	and refer to County Counsel.	
3.	Grant the application to file a late claim on behalf of	
	and refer to County Counsel.	
4.	Approve the claim of	in the amount of
	and reject the balance, if any, and refer to County C	Counsel.
5.	Reject the claim of	as insufficiently filed
	and refer to County Counsel.	

cc: Mark Tracy, Sheriff-Coroner

# **RISK MANAGEMENT**

lanager Janet McKinlev. ARM

SAMUEL TORRES, JR., COUNTY COUNSEL

By im Elizabeth Baskett, Assistant County Counsel

CLAIM AGAINST THE COUNTY OF SANTA CRUZ (Parsuant to Section 210 ctSq., Gov. Code) TO: BOARD OF SUPERVISOR ATTN: Clerk of the Board Governantal Center 701 Ocean Street, Santa Cruz, CA 95060 1. Claimant's Name: <u>Agustin De Mello</u> Address: <u>HI2 West Clift Drive</u> <u>Sorta Cruz</u> , CA 95060 Phone No: <u>408-236-2145</u> P.O. Box to which notices are to be sent: <u>P.O. Box 461 Moss Landing CA</u> 0 Occurrence: <u>Break-in and assault by Santa Cruz</u> <u>CA</u> pote: <u>Mart 15 2061</u> Place: <u>412 W.Clift Dr. Santa Cruz</u> <u>PO</u> Date: <u>Mart 15 2061</u> Place: <u>412 W.Clift Dr. Santa Cruz</u> <u>PO</u> Date: <u>Mort 15 2061</u> Place: <u>412 W.Clift Dr. Santa Cruz</u> <u>PO</u> ite: <u>Mort 15 2061</u> Place: <u>412 W.Clift Dr. Santa Cruz</u> <u>PO</u> Date: <u>Mort 15 2061</u> Place: <u>412 W.Clift Dr. Santa Cruz</u> <u>PO</u> Circumstances of occurrence or transaction giving rise to claim: <u>Santa Cruz</u> <u>PO</u> Date: <u>Mort 15 2061</u> Place: <u>412 W.Clift Dr. Santa Cruz</u> <u>PO</u> Sorte <u>into my resid cnce (Stating Hat there</u> <u>were host ager being held by me - proved to be</u> <u>a false accustation</u> <u>them I was serious (y injured by</u> 3. General description of indebredness, obligation, injury, damage or loss incurred sfor as is now known: <u>Santa (rest police Seriburly injured my head</u> <u>hore term glasses and derived and domaged</u> <u>mm performal property and portions of hom</u> 4. Name(s) of public employee(s) causing injury, damage or loss, if known: <u>S222,930</u> . Estimated amount claimed is over \$10,000, indicate the court of jurisdiction: <u>Municipal Court</u> <u>Claim must be presented to Clerk, Beard of Supervisors, within six (6) months after the act which occasioned to injury.</u>	G 20'(	)1(MON) 12:56	CLERK OF THE BOARD	TEL:831 454 1	2327 MELIO P. 00
701 Ocean Street, Santa Cruz, CA 95060         1. Claimant's Name:       Agustin De Mello         Address:       412 West Cliff Drive         Santa Cruz, CA 95060         Phone No:       408-236-2145         P.O. Box to which notices are to be sent:       P.O. Box 461 Moss Landing (AG)         Occurrence:       Break-in and assault by Santa Cruz, Page         Date:       Mar. 15 2001         Place: 412       West Cliff Dr. Santa Cruz, Page         Circumstances of occurrence or transaction giving rise to claim:       Bayta Cruz, Page         Circumstances of occurrence or transaction giving rise to claim:       Bayta Cruz, Page         Circumstances of occurrence or transaction giving rise to claim:       Bayta Cruz, Page         Circumstances of occurrence or transaction giving rise to claim:       Bayta Cruz, Page         Circumstances of occurrence or transaction giving rise to claim:       Bayta Cruz, Page         Circumstances of occurrence or transaction giving rise to claim:       Bayta Cruz, Page         Santa Cruz, Page       Circumstances of occurrence or transaction giving rise to claim:         Santa Cruz, Page       Santa Cruz, Page         Santa Cruz, Page       Santa Cruz, Page         Santa Cruz, Page       Santa Cruz, Page         Santa Cruz, Page       Santa Cruz, Pagee         Santa Cruz, Page			CLAIM AGAINST THE COU (Pursuant to Section 910 c	NTY OF SANTA CR tSeq., Govt. Code)	0293031
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# BUREAU OF INSPECTORS INVESTIGATION REPORT CONTINUED

<sup>•</sup> Page 2 of 18

# SUBJECT: De Mello, Agustin Eastwood DATE: 03/15/2001

**CASE:** 01-0153-PF

# **LOCATION OF SHOOTING:**

412 W. Cliff Drive, Santa Cruz, California (Residence of Agustin De Mello)

# SANTA CRUZ POLICE OFFICERS PRESENT AT SHOOTING:

- SAPONE, Patricia; Lieutenant Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Interviewed by Inspector Fitzgerald)
- SWANNACK, Erik; Sergeant Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Victim / Interviewed by Inspector Krauel)
- ESSEGIAN, Edward; Officer Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Interviewed by Inspector Krauel)
- BAUER, Lance; Officer
   Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850
   (Witness / Interviewed by Inspector Ray Flores)
- RICHARD, Larry; Officer Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (83 1) 420-5850 (Witness / Interviewed by Inspector Ray Flores)
- VASQUEZ, Arnold; Officer Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831)420-5850 (Witness / Interviewed by Inspector Steve Fitzgerald)
- RICHARDS, Nick; Officer Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Interviewed by Inspector Ray Flores)
- 8. **BUSH**, Jonathan; Officer

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Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Interviewed by Inspector Ray Flores)

# BUREAU OF INSPECTORS INVESTIGATION REPORT CONTINUED

• Page 3 of 18

### SUBJECT: De Mello, Agustin Eastwood DATE: 03/15/2001 CASE: 01-0153-PF

#### SANTA CRUZ COUNTY DISTRICT ATTORNEY INSPECTORS INVOLVED:

- FLORES, Harvey; Chief of Inspectors 701 Ocean Street, Room 200, Santa Cmz, California 95060 (831) 454-2121 (Directed Assignments)
- FLORES, Ray; Inspector II 701 Ocean Street, Room 200, Santa Cruz, California 95060 (831) 454-2121 (Interviewed Involved Officers Bauer; Richard; Richards; Bush)
- GRAY, James; Inspector 11 701 Ocean Street, Room 200, Santa Cruz, California 95060 (831) 454-2121 (Interviewed Agustin De Mello)
- FITZGERALD, Stephen; Inspector 11
   701 Ocean Street, Room 200, Santa Cruz, California 95060 (831) 454-2121
   (Interviewed Involved OfficersLt, Sapone, Officer Vasquez, and Suspects son Adragon De Mello)
- KRAUEL, Martin; Inspector 11
   701 Ocean Street, Room 200, Santa Cruz, California 95060 (831) 454-2121 (Interviewed Involved Officers Sgt. Swannack, and Officer Essegian)
- 6. ESPINOSA, Frank; Inspector II
   701 Ocean Street, Room 200, Santa Cmz, California 95060 (831) 454-2121 (Interviewed Darrell Darling, neighbor of Agustin De Mello)

#### SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT CRIME SCENE PERSONNEL:

- LITTLE, Craig; Sergeant
   701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / Conducted Crime Scene Investigation)
- STRIMATIS, John; Deputy Sheriff
   701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3024 (Witness / Conducted Crime Scene Investigation)
- GIDDING, Robert; Deputy Sheriff
   701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3024 (Witness / Conducted Crime.Scene Investigation)

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### BUREAU OF INSPECTORS INVESTIGATION REPORT CONTINUED Page 4 of 18

SUBJECT: De Mello, Agustin Eastwood DATE: 03/15/2001 CASE: 01-0153-PF

# SANTA CRUZ POLICE OFFICERS ASSISTING IN INVESTIGATION:

- VOGEL, Kevin; Detective Sergeant Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Assisted In Interview of Sgt. Swannack)
- CAMPBELL, Scott; Detective Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Present During Interview of Officers Bauer, Bush and Richards)
- ESCALANTE, Rudy; Patrol Sergeant Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Took Custody Of Sgt. Swannack's Gun)
- LEMOSS, Christian; Detective Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831)420-5850 (Witness/Wrote Search Warrant For De Mello Residence)
- TRIPP, Aron; Detective Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness /Assisted In Interview of Officer Essegian./ Took Possession Of Essegian's Rifle),
- TEAFORD, Alex; Officer Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / With De Mello In Ambulance to Dominican Hospital)
- GUNTER, David; Officer
   Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Transported De Mello From Hospital to SCPD)
- VLASSIS, Tom; Lieutenant Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Collected Blood And Urine Sample From Sgt. Swannack)

# 9. DEEG, Ken; Detective

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Santa **Cruz** Police Department, **155** Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Maintained Time Log / Assisted SCSO CSI at De Mello Residence)

# BUREAU OF INSPECTORS INVESTIGATION REPORT CONTINUED

'Page **5** of 18

# SUBJECT: De Mello, Agustin Eastwood DATE: 03/15/2001 CASE: 01-0153-PF

### SANTA CRUZ POLICE OFFICERS ASSISTING IN INVESTIGATION (Continued):

- BYNES, Wendy; Detective Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Assisted In Interview of Lt. Sapone, Officer Vasquez, and Adragon De Mello)
- SHOCKEY, Cindy; Community Services Officer
   Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850 (Witness / Assisted SCSO CSI at De Mello Residence)

# SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT SWAT TEAM MEMBERS:

- 1. WEAVER, Charles; Chief Deputy; Santa Cruz County Sheriffs Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Commander)
- SKILLICORN, Jim; Sergeant; Santa Cruz County Sheriffs Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Leader)
- 3. PURSLEY, Bob; Sergeant; Santa Cruz County Sheriffs Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Leader)
- 4. THURBER, Jim; Deputy; Santa Cruz County Sheriffs Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Medic)
- GOMBOS, Frank; Deputy; Santa Cruz County Sheriffs Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Member)
- 6. VERINSKY, Jeremy; Deputy; Santa Cruz County Sheriffs Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (83 1) 454-3023 (Witness / S.W.A.T. Team Member)

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# BUREAU OF INSPECTORS INVESTIGATION REPORT CONTINUED

• Page 6 of 18

SUBJECT: De Mello, Agustin Eastwood DATE: 03/15/2001

CASE: 01-0153-PF

# <u>SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT SWAT TEAM MEMBERS</u> [Continued):

- CARNEY, Steve; Deputy; 'Santa Cruz County Sheriffs Department
   701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Member)
- HERNANDEZ, Ray; Deputy; Santa Cruz County Sheriff'sDepartment 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Member)
- 9. McCONNELL, *Gary*; Deputy; Santa **Cruz** County Sheriff's Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Member)
- LANSDOWNE, Greg; Deputy; Santa Cruz County Sheriff's Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (83 1) 454-3023 (Witness / S.W.A.T. Team Member)

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- 11. GILBERTSON, Tom; Deputy; Santa Cruz County Sheriffs Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (witness / S.W.A.T. Team Member)
- 12. DIMICK, Pat; Deputy; Santa Cruz County Sheriffs Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Member)
- 13. CLARK, Joe; Deputy; Santa Cruz County Sheriffs Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Member)
- 14. UEBLACKER, Jerry; Deputy; Santa Cruz County Sheriffs Department
   701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Member)
- 15. GAZZA, Bill; Deputy; Santa Cruz County Sheriffs Department
  701 Ocean Street, Third Floor, Santa Cruz, California 95060 (83 1) 454-3023 (Witness / S.W.A.T. Team Member)

# BUREAU OF INSPECTORS INVESTIGATION REPORT CONTINUED Page 7 of 18

# **SUBJECT:** De Mello, Agustin Eastwood **DATE:** 03/15/2001

CASE: 01-0153-PF

# <u>SANTA CRUZ'COUNTY SHERIFF'S DEPARTMENT SWAT TEAM MEMBERS</u> (Continued):

 ERYAVEC, Marty; Deputy; Santa Cruz County Sheriff's Department 701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3023 (Witness / S.W.A.T. Team Member)

# **DOMINICAN HOSPITAL PERSONNEL:**

- BOLIN, Allison Dominican Hospital; 1555 Soquel Drive, Santa Cruz, California 95065 (83 1) 462-7700 (Witness / Lab Technician / Drew Blood Sample From Sgt. Swannack)
- LAMBERT, Kim Dominican Hospital; 1555 Soquel Drive, Santa CNZ, California 95065 (831) 462-7700 (Witness / Lab Technician / Drew Blood Sample From Officer Essegian)

# AMBULANCE PERSONNEL:

- CONTOS, Nathan American Medical Response 116 Hubbard, Santa Cruz, California 95060 (831) 426-5454 (Witness / Paramedic - In Ambulance with De Mello)
- FRIESELL, Jon American Medical Response 116 Hubbard, Santa Cruz, California 95060 (831) 426-5454 (Witness / Driver Of Ambulance transporting De Mello)

# OTHER PERSONS CONTACTED / MENTIONED:

- De MELLO, Adragon Eastwood; WMA; DOB: 10/05/1976 821 Wake Forrest Drive, Mountain View, California 94043 (650) 965-4142 (Witness / Son of Agustin De Mello)
- WILLIAMS, Barbara; Business Representative, Operating Engineers Local Union # 3 777 North First Street, # 250, San Jose, California 95112 (408) 289-9691 (Witness / Present At Interview With Sgt. Swannack)
- KATZ, Larry Alan; Attorney from California Organization of Police and Sheriffs 941 W. Hedding Street, San Jose, California 95126 (408) 260-8718 (Witness / Present at Interview With Officer Essegian)

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# DAMAGES CAUSED BY SANTA CRUZ POLICE **ACTION – MARCH 15,2001**

Personal Injuries (head, neck, arm):	\$150,000
Incarceration (43 days – 1032 hours @ \$65/hr):	\$67,080
Personal Property Damage & Expenses: Broken glasses: \$240 <b>Robe</b> destroyed: 40 Electronic monitor: 1320 TOTAL: Damage to home:	<b>\$1600</b> \$4250
TOTAL OF ALL DAMAGES:	\$222,930

# List of damages to 412 West CliffDrive, Santa Cruz, California 95060 =

The following damages are the result of Santa Cruz Police action on March 15, 2001:

47External wall damaged by bulletsInterior wall & tile damaged by bulletsWindows broken by bullets & grenadeCurtains burned by grenadeBathroom floor burned by grenade30	ITEM	cost
Bedroom floor (blood requires sanding floor) <b>17</b>	External wall damaged by bullets Interior wall & tile damaged by bullets Windows broken by bullets & grenade Curtains burned by grenade Bathroom floor burned by grenade Bathroom wall tile burned	\$1450 475 800 550 250 300 250 175

Total Cost of Damages

\$4250

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