



County of Santa Cruz

OFFICE OF THE COUNTY COUNSEL

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SAMUEL TORRES, JR., COUNTY COUNSEL

CHIEF ASSISTANTS
RAHN GARCIA
DANA McRAE

| | |
|-------------------------|----------------------|
| Assistants | |
| Deborah Steen | Kim Baskett |
| Harry A. Oberhelman III | Julia Hill |
| Marie Costa | Shannon Sullivan |
| Jane M. Scott | Sharon Carey-Stronck |
| Taryn Rice | Dwight L. Herr |
| Pamela Fyfe | |

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:

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

cc: Mark Tracy, Sheriff-Coroner

RISK MANAGEMENT

By Janet McKinley
Janet McKinley, A R M , Risk Manager

SAMUEL TORRES, JR., COUNTY COUNSEL

By Kim Elizabeth Baskett
Kim Elizabeth Baskett, Assistant County Counsel

MELLO P.001
0102-024

CLAIM AGAINST THE COUNTY OF SANTA CRUZ
(Pursuant to Section 910 of Seq., Govt. Code)

TO: BOARD OF SUPERVISORS
COUNTY OF SANTA CRUZ
ATTN: Clerk of the Board
Governmental Center
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 CA 95031

2. Occurrence: Break-in and assault by Santa Cruz Police
Date: Mar. 15 2001 Place: 412 W. Cliff Dr. Santa Cruz CA 95060

Circumstances of occurrence or transaction giving rise to claim: Santa Cruz police broke into my residence (stating that there were hostages being held by me - proved to be a false accusation) - then I was seriously injured by police

3. General description of indebtedness, obligation, injury, damage or loss incurred so far as is now known: Santa Cruz police seriously injured my head, broke my glasses and destroyed and damaged my personal property and portions of home.

4. Name(s) of public employee(s) causing injury, damage or loss, if known: SWAT officers and other officers - see attached list #1

5. Amount claimed now \$ 222,930.00

Estimated amount of future loss, if known \$ _____

TOTAL \$ 222,930.00

6. Basis for above computations: See attached list #2

7. If the amount claimed is over \$10,000, indicate the court of jurisdiction:
_____ Municipal Court _____ Superior Court

CLAIMANT'S SIGNATURE: Agustin De Mello

Note: Claim must be presented to Clerk, Board of Supervisors, within six (6) months after the act which occasioned the injury.

Americans with Disabilities Act questions or requests for accommodations may be directed to the ADA Coordinator at 454-2962 (TDD454-2123). PER5003

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2/8-27-01

**BUREAU OF INSPECTORS
INVESTIGATION REPORT CONTINUED**

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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:

1. **SAPONE**, Patricia; Lieutenant
Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850
(Witness / Interviewed by Inspector Fitzgerald)
2. **SWANNACK, Erik**; Sergeant
Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850
(Victim / Interviewed by Inspector Krauel)
3. **ESSEGAN**, Edward; Officer
Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850
(Witness / Interviewed by Inspector Krauel)
4. **BAUER**, Lance; Officer
Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850
(Witness / Interviewed by Inspector Ray Flores)
5. **RICHARD**, Larry; Officer
Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850
(Witness / Interviewed by Inspector Ray Flores)
6. **VASQUEZ**, Arnold; Officer
Santa Cruz Police Department, 155 Center St., Santa Cruz, California 95060 (831) 420-5850
(Witness / Interviewed by Inspector Steve Fitzgerald)
7. **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
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**

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

SANTA CRUZ COUNTY DISTRICT ATTORNEY INSPECTORS INVOLVED:

1. **FLORES** ,Harvey; Chief of Inspectors
701 Ocean Street, Room 200, Santa Cmz, California 95060 (83 1) 454-2121
(Directed Assignments)
2. **FLORES** ,Ray; Inspector II
701 Ocean Street, Room 200, Santa Cruz, California 95060 (831) 454-2121
(Interviewed Involved Officers Bauer; Richard; Richards; Bush)
3. **GRAY**, James; Inspector II
701 Ocean Street, Room 200, Santa Cruz, California 95060 (83 1) 454-2121
(Interviewed Agustin De Mello)
4. **FITZGERALD**, Stephen; Inspector II
701 Ocean Street, Room 200, Santa Cruz, California 95060 (831) 454-2121
(Interviewed Involved Officers Lt. Sapone, Officer Vasquez, and Suspects son Adragon De Mello)
5. **KRAUEL**, Martin; Inspector II
701 Ocean Street, Room 200, Santa Cruz, California 95060 (83 1) 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:

1. **LITTLE**, Craig; Sergeant
701 Ocean Street, Third Floor, Santa Cruz, California 95060 (83 1) 454-3023
(Witness / Conducted Crime Scene Investigation)
2. **STRIMATIS**, John; Deputy Sheriff
701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3024
(Witness / Conducted Crime Scene Investigation)
3. **GIDDING**, Robert; Deputy Sheriff
701 Ocean Street, Third Floor, Santa Cruz, California 95060 (831) 454-3024
(Witness / Conducted Crime Scene Investigation)

**BUREAU OF INSPECTORS
INVESTIGATION REPORT CONTINUED**

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

SANTA CRUZ POLICE OFFICERS ASSISTING IN INVESTIGATION:

1. 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)
2. 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)
3. 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)
4. 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)
5. 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)
6. 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)
7. 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)
8. 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
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**

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

SANTA CRUZ POLICE OFFICERS ASSISTING IN INVESTIGATION (Continued):

10. 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)
11. 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)
2. **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)
5. **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 (831) 454-3023
(Witness / S.W.A.T. Team Member)

**BUREAU OF INSPECTORS
INVESTIGATION REPORT CONTINUED**

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

SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT SWAT TEAM MEMBERS
[Continued]:

- 7. **CARNEY, Steve**; 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)
- 8. **HERNANDEZ, Ray**; 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)
- 9. **McCONNELL, Gary**; 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)
- 10. **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)
- 11. **GILBERTSON, Tom**; 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)
- 12. **DIMICK, Pat**; 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)
- 13. **CLARK, Joe**; 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)
- 14. **UEBLACKER, Jerry**; 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)
- 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**

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

**SANTA CRUZ COUNTY SHERIFF'S DEPARTMENT SWAT TEAM MEMBERS
(Continued):**

16. 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:

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

AMBULANCE PERSONNEL:

1. CONTOS, Nathan
American Medical Response 116 Hubbard, Santa Cruz, California 95060 (831) 426-5454
(Witness / Paramedic - In Ambulance with De Mello)
2. 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:

1. 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)
2. 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)
3. 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)

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 |
| Robe destroyed: | 40 |
| Electronic monitor: | 1320 |
| TOTAL: | \$1600 |
| Damage to home: | \$4250 |
| TOTAL OF ALL DAMAGES: | \$222,930 |

List of damages to 412 West Cliff Drive, Santa Cruz, California 95060 :

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

| ITEM | cost |
|--|---------------|
| Front door and frame broken (door taken) | \$1450 |
| External wall damaged by bullets | 475 |
| Interior wall & tile damaged by bullets | 800 |
| Windows broken by bullets & grenade | 550 |
| Curtains burned by grenade | 250 |
| Bathroom floor burned by grenade | 300 |
| Bathroom wall tile burned | 250 |
| Bedroom floor (blood requires sanding floor) | 175 |
| | |
| Total Cost of Damages | \$4250 |