

# ANIMAL CONTROL CHIEF FIRED



HENRY A. BARRIOS / CALIFORNIAN FILE

Kim Mullins, Kern County animal control manager, was fired Friday after raising concerns about the illegal euthanization of animals.

## The Bakersfield Californian

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Californian exclusive

### Head of county agency raised concerns of illegal kills by city

BY JAMES BURGER  
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**K**ern County's animal control manager was fired Friday after repeatedly raising concerns that the city of Bakersfield was unlawfully killing animals — something it strongly denies.

The news surprised many and left a leadership gap at the top of a high-profile agency that has burned through three bosses in fewer than four years.

Kim Mullins was fired by Public Health Director Matt Constantine on the last day of her six-month new employee probation period. She said she was let go because she aggressively pursued a concern that city of Bakersfield Animal Control — which contracts with the county to shelter animals it collects from city streets and homes — was euthanizing animals in violation of its contract with the county and state laws that prevent potentially adoptable animals from being put down.

"I was asked, when I was hired, to ask some really hard questions and

hold people accountable," Mullins said. "I did my job. And I loved it."

On Thursday, before the firing, Constantine told *The Californian* Mullins was "doing well." The newspaper was pursuing a story about Mullins' concerns.

"Her enthusiasm and energy level is terrific," he said. "She brings a lot of potential for changes. Those are qualities that are very difficult to train for. You can only hire for them."

On Friday, Constantine said he could not comment on the details of

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### Family awarded \$2.1 million in park death case

BY GRETCHEN WENNER AND STEVEN MAYER  
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**A** Kern County jury awarded \$2.1 million Friday to the mother and two daughters of a man who was killed in 2008 when a city parks worker drove over him as he rested on the grass at Jefferson Park.

The verdict followed more than two full days of deliberation and several days of sometimes emotional testimony from family members of Armando Morataya, who was 54 at the time of his death.

The two daughters — Erika Morataya, 32, and Cindy Morataya, 24, both of Houston — and Mr. Morataya's mother, Maria Ramirez, 74, of Bakersfield, were plaintiffs in the case.

"Prayer works," Erika said after the verdict. "I just want to give all the glory to God."

"We're just happy this is over with," she said. "My dad can now rest in peace."

Both daughters said they have forgiven Timothy Ornelas, the park employee who on July 10, 2008, was

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### Netanyahu rebukes Obama's idea on Israel's 1967 borders

BY BEN FELLER  
AP White House Correspondent

WASHINGTON

**I**n a blunt display of differences, Israeli Prime Minister Benjamin Netanyahu rejected the idea of using his country's 1967 boundaries as the basis for a neighboring Palestinian state on Friday, declaring his objections face-to-face with President Barack Obama, who had raised the idea just 24 hours earlier in an effort to revive stalled Mideast peace talks.

Though the two leaders, meeting in the Oval Office, found cordial and predictable agreement on the other central element that Obama outlined in his Mideast address Thursday — iron-

clad Israeli security alongside a Palestinian nation — progress on the bedrock issue of borders seemed as elusive as ever.

In his speech, Obama gave unprecedented prominence to a long-held U.S. stand that Israel opposes: A Palestinian state should be shaped around the border lines that existed before the 1967 war in which Israel took control of the West Bank, Gaza and East Jerusalem. An essential part of what Obama proposed was that Israelis and Palestinians would also have to agree to swaps of land to account for Israeli settlements and other current conditions, a point Netanyahu failed to mention.

"While Israel is prepared to make generous compromises for peace, it cannot go back to the 1967 lines," Netanyahu declared. "These lines are indefensible."

As they sat together for public comments after their private meeting, Obama sought to put the disagreement in the best light, and in the context of a relationship of two allies — one, however, showing strains of impatience.

"Obviously there are some differences between us in the precise formulations and language," Obama said. "That's going to happen between

Please see **MIDEAST / A3**



CONTRIBUTED

Attorney Brian Panish with the three plaintiffs after Friday's verdict. Daughter Erika Morataya, mother of the deceased Maria Ramirez and daughter Cindy Morataya were awarded \$2.1 million.



Randy Savage, former wrestler known as 'Macho Man,' killed in a Florida car crash

Obituary, Page A9



Prediction of Rapture leaves atheists, others outraged — and a bit amused, too

Faith, Page A11



Owners should know the reasons why their dogs can get frustrated from being fenced in

Eye Street, Page D1

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## MULLINS: Volunteers mourn her loss

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her exit. "She, as of today, is no longer employed by the department," he said. "Anything further is a confidential employee matter that I am unable to discuss."

Mullins said Constantine told her she had accomplished nothing during her tenure and that he had known from the beginning it wasn't going to work.

Constantine said Mullins' willingness to speak about her dismissal did not relieve him of his responsibility to maintain confidentiality.

### LETHAL INJECTION

Mullins, a former California Highway Patrol officer and Kern County Fire Department public information officer, was a staffer for Supervisor Jon McQuiston prior to taking the Animal Control job. She replaced retiring Director Guy Shaw, but had less authority than Shaw since supervisors downgraded both the job and Animal Control to division status and placed it under Public Health and Constantine's direction.

Ten days after she started the job, Mullins said, the Kern County Auditor-Controller's office launched a routine audit of Animal Control.

That forced her to begin reviewing the databases used to track the intake, care and ultimate fate of the more than 30,000 animals that enter the county shelter each year.

She noticed that many animals brought in by the city had already been euthanized in the field, but there was no documentation of why they had been put down or photos of the animal.

Mullins started looking into the situation and her level of concern increased.

State law prohibits anyone from putting down a potentially adoptable animal and Kern County is under a court order that severely hampers its discretion to euthanize animals early — an injunction put in place after the county was sued for killing animals early in violation of state law.

Mullins said she learned the city was driving into the county shelter parking lot, killing the animals on their truck and then handing the dead bodies over to county workers for disposal.

She acknowledges that — as the city does — county animal control officers use their legal right to euthanize animals that are seriously injured and suffering out in the field.

"It's a necessary evil," Mullins said.

But she questioned why, if the animals were so severely injured that killing them was the only humane act, city officers delayed the pain by driving the animals to the county shelter before killing them. She also believed that, once on shelter property, the city had an obligation to turn the animals over to county veterinary staff who could make a call about the animals' condition.

"You can't euthanize an animal until I've had a chance to assess them," she said.

The fact city officers weren't entering information about the animals' injuries, or photos of the animals, into the county database also troubled her.

"I should be able to tell an (animal) owner why it was eutha-

nized," Mullins said.

In early March, Mullins drafted a letter to Bakersfield City Attorney Ginny Gennaro requesting the city immediately rectify the situation. Constantine said he signed off on the letter.

Emails obtained by *The Californian* show Mullins' pursuit of the issue caused the relationship between city and county animal control to fracture and tension control to fracture and tension control to fracture and tension control to fracture and tension control to intensify.

### RESPONSE

On Thursday, both Constantine and Bakersfield police Capt. Joe Bianco, who oversees city Animal Control, said Mullins was right to look into the situation and that her action produced positive results.

"I would expect, when she steps into a position, that she make sure everything is proper," Bianco said.

City animal control officers no longer euthanize independently on county property and both Constantine and Bianco said they are working toward having the county veterinarian offer care to moderately injured animals the city brings into the shelter and save the city some money. Previously, Bianco said, the city took those animals to a private veterinarian.

Bianco said city animal control officers continue to exercise their discretion under state Food and Agricultural laws to field-euthanize animals they believe are too severely injured to take to a vet. When the animal is impounded in a visible spot, they will move the animal to a more secluded location to avoid disturbing the public — the same reason city workers used to euthanize at the county shelter.

Mullins said Friday that she hopes the city is abiding by the law, rather than using lethal injection as a way to save on medical costs for stray animals as she fears they were.

In the emails obtained by *The Californian*, Davis reminded her officers to be aware of the cost of sending an animal to the vet when they make a decision about in-the-field euthanasia.

"Taking every animal to the vet would be a huge cost and over half the animals we do take to the vet and leave at the shelter are subsequently euthanized, so it's basically like throwing money away," Davis wrote to BPD Lt. Mitch Willoughby in February.

Bianco said that while he knows how the emails make the situation look, Davis cares about the animals just as much as Mullins and "we do not euthanize dogs to stay within budget."

He acknowledged that there were frustrations and hurt feelings during the discussion with the county. But he said city staffers have "pushed through" that.

Constantine said he feels the situation with the city has been resolved.

"We have no information that the animals aren't being handled as required by law," Constantine said.

In an email to her boss, Willoughby, in late March, Davis acknowledged Constantine's support.

"At the beginning of our conversation he offered an apology for

the recent issues brought upon our department by Kim," Davis wrote. "He said he has been dealing as best he can with the 'different personalities.'"

### FENCE MENDING

Mullins said Friday morning that she has no hard feelings about her exit from county service and she understands Constantine's decision.

"Matt has a larger piece of the pie to worry about and he did what was best for the totality of the working relationship for the city and the county," she said.

She did admit feeling some frustration at how everything worked out.

"I was given direction from my boss. I consulted with county counsel. I did as I was directed. And then I was apologized for," Mullins said.

Kern County shelter volunteers like Liz Keogh and supporters, like Judi Daunell, president of Friends of the Kern County Animal Shelters' Foundation, mourned Mullins' termination.

Daunell said Mullins was an aggressive leader who accomplished a long list of improvements — from pursuing grants to building relationships with animal rescuers — in her short time at Animal Control.

She said Mullins' outsider status gave her the ability to think differently about how everything was handled.

"If you always do what you've always done, you always get what you always got," Daunell said. "This is a giant step back."

Keogh said Mullins was fighting the good fight.

"No good deed goes unpunished. You do a good job and you get fired," Keogh said. "(Mullins) pissed a lot of people off, but show me your enemies and I know who you are."

She said Mullins shook up the status quo and animals are worse off without her.

"The fine irony in all of this is that Matt Constantine, who had a less than stellar record running Animal Control, is the one that fired her," Keogh said.

Keogh noted that when Constantine served as Animal Control director in the mid-2000s, he directed staff to knowingly euthanize animals early in violation of state law — arguing that crowding too many animals into a single cage or kennel was inhumane.

The county was sued over the practice and lost in court, a decision that resulted in the injunction that Mullins worried city euthanization practices violated.

Constantine said Kern County Animal Control has made great progress since then and he is committed to making sure it continues to move forward.

"It's my job to create the most efficient and effective working environment at Animal Control and find the best and most qualified public servants," he said.

On Friday, Mullins called Animal Control workers "the hardest working, most under-appreciated people I've ever had the pleasure of working with," and said she doesn't regret her six months at the agency.

"I would go back and do it all again and not change a thing," she said.

## VERDICT: Kern known for smaller awards

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driving a Ford F-150 over a small rise when he struck Morataya, crushing his chest. Morataya died at Kern Medical Center eight days later with his daughters and mother at his side.

The city agreed before the trial that it was liable, and that the negligence of Ornelas, then 45, caused the death. Ornelas was also named as a defendant in the suit.

The jury awarded the daughters \$400,000 each. Ramirez was awarded about \$1.3 million.

The plaintiffs cried frequently during the trial while listening to testimony, looking at photos shown to the jury or hearing the victim's old letters and poems read aloud.

More tears were shed following the complex verdict, which awarded the plaintiffs in several categories.

The case against the city was led by Los Angeles attorney Brian Panish of Panish Shea & Boyle LLP. The former Fresno State football player is known for getting juries to award big verdicts in personal injury cases.

Bakersfield attorney David Cohn of Chain Cohn Stiles also represented the family, as did Deborah Chang, a lawyer with Panish's firm.

Attorney Michael O'Dell of Bakersfield firm Clifford & Brown represented the defendants. He left the courthouse immediately after the verdict.

Because the city admitted liability and agreed Morataya had "no fault" in the incident, the only focus of the case was to determine damages.

But how does one place a value on human life, asked juror Louis Wildman, a Cal State Bakersfield professor of educational administration.

"It's a very difficult thing to do," Wildman said. "We did the best we could."

Wildman questioned the city's strategy of not settling, an approach Panish called "rolling the dice."

"I believe this should have been mediated," Wildman added. "The city should have seen to it that this case was settled. Now here we are nearly three years later."

Outside the courtroom following the verdict, Cohn said the jury sent a message to the city that a human life cannot be discounted.

"It could have been a much higher verdict," he allowed. But in the end, "justice was done in this case."

Wildman noted that during deliberations, the jury started out at \$1 million for each daughter, but some pushed to lower the figure significantly.

Panish said Kern County jurors are known to be conservative with civil awards, but he complimented the jury for appearing to take its duty seriously.

Bakersfield attorney Thomas Brill in 2004 won a \$7.2 million jury verdict in a personal injury case against the city — a figure he believes may be the largest of its type here.

Brill, who was not involved with

the Morataya case, said there's some truth to the common belief Bakersfield juries will not return big verdicts.

"I think the jurors here can be reasonable if you have the right case," Brill said. "Folks here can be very caring."

Brill was among a half-dozen or so local personal injury lawyers who stopped by the courtroom Wednesday to watch closing arguments in the Morataya case. They came to see Panish, a prestigious figure in the industry.

"He did a great job, I thought," said Brill, who also praised the defense team's work.

"Mike (O'Dell) had his hands full," he said. "He was dealing with a tough case and handled it as well as could be expected."

As for verdict predictions, Brill on Thursday called it somewhere in between Panish's request for \$9 million and O'Dell's for \$350,000-\$450,000.

"I think the jury is going to come back with a verdict closer to what Mr. O'Dell asked for," he said.

It turned out he was right.

Daniel Rodriguez of Bakersfield firm Rodriguez & Associates said he believes he has earned record personal injury settlements against both the city and the county — but the numbers are confidential.

As to getting a sizeable jury verdict here?

"Yes. It's difficult, but it can be done and it has been done," Rodriguez said. "I've done it."

Milt Younger of Younger Lemucchi Law said he couldn't think of anyone who has gotten a significant sum from a jury in a personal injury case against the city.

"Do I think this is a conservative jury town? Hell, yes," Younger said. He figures similar cases are worth two to three times more, generally speaking, in Los Angeles than Bakersfield.

Younger said he knows Panish well and that "he has this capacity to get big verdicts" out of juries.

"He's got a hell of a record as a lawyer," he said.

But Panish faced an uphill battle.

"I'm surprised he took the case in Bakersfield," Younger said. "He knows how lousy verdicts are around here."

Younger himself got an \$18.6 million settlement for a city parks worker who lost his legs in 2000 when two trucks collided, but that case wasn't against the city.

Erika and Cindy Morataya said they hope to hold a small ceremony at Jefferson Park, at the site of the accident, before they go back home.

They need to return to the scene one more time before they can truly say goodbye to their father.

"Because of what we've just been through, we hope it means there's less chance that this will ever happen again to anyone else," Cindy said.

"Fortunately we're very strong in our faith," she said. "That's the only way we could ever get through this."

## MIDEAST: 'Israel's security will remain paramount,' president says

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friends."

He quickly added in a reassurance to Netanyahu: "What we are in complete accord about is that a true peace can only occur if the ultimate resolution allows Israel to defend itself against threats, and that Israel's security will remain paramount in U.S. evaluation of any prospective deal."

Obama and Netanyahu showed cordiality before the cameras. The president listened intently, his hand cupping his chin, as Netanyahu spoke passionately about his country's plight and how the path to peace should run.

"Remember that, before 1967, Israel was all of nine miles wide," Netanyahu said, emphasizing his words with his hands. "It was half the width of the Washington Beltway. And these were not the boundaries of peace; they were the boundaries of repeated wars, because the attack on Israel was so attractive."

Obama, frustrated by Mideast peace talks that have collapsed, is seeking to get both sides to contend with the issues of borders and security. Even progress on those enormous fronts would still leave unsettled the fate of Jerusalem and of Palestinian refugees. Netanyahu underscored just how

difficult that last issue is alone, declaring that Palestinians will not be allowed to settle in Israel as part of any peace plan.

"It's not going to happen. Everybody knows it's not going to happen," he said. "And I think it's time to tell the Palestinians forthrightly it's not going to happen."

Palestinian negotiator Saeb Erekat said Netanyahu's comments with Obama were tantamount to "his total rejection of the Obama vision and speech."

"Without Mr. Netanyahu committing to two states on the 1967 lines, with mutually agreed swaps, he is not a partner to the peace process," Erekat said. "I think, when President Obama gave him a choice between dictation and negotiations, he chose dictation."

Netanyahu said his nation could not negotiate with a Palestinian unity government that includes the radical Hamas movement, which refuses to recognize Israel's right to exist. He said that Palestinian President Mahmoud Abbas had to choose between continuing the deal with Hamas and making peace with Israel.

Hamas spokesman Sami Abu Zuhri said Netanyahu's rejection of a return to 1967 lines was "clear evidence that the negotiations option was a waste of time."



CHARLES DHARAPAK / AP

President Obama meets with Israeli Prime Minister Benjamin Netanyahu Friday at the White House.

The comments from Netanyahu and Obama, after a longer-than-scheduled meeting that lasted over 90 minutes, shed little light on how the peace process will advance.

Netanyahu is to address Congress on Tuesday to press Israel's position.

On Thursday, Netanyahu was informed shortly before Obama's speech of its con-

tents by Secretary of State Hillary Rodham Clinton, according to U.S. officials.

Netanyahu sought in vain to get the border language removed from the speech, the officials said. The officials spoke on condition of anonymity to discuss a sensitive diplomatic exchange.

**FOR THE RECORD:** A banquet honoring eight longtime Kern County and Porterville wrestling contributors will be held tonight at the Petroleum Club. An incorrect date was reported in Friday's Sports section.

The unveiling of the Kern Veterans Memorial Foundation Wall of Valor is May 28. An item in the volunteer opportunities list on page 10 Friday was incorrect.