



TRAGEDY

## County Pays \$2.6 Million to Survivors of Man Killed by SWAT Team



In early 2011, Rogelio Serrato's brother Jorge looked through the family's burned-out Greenfield home.

Sara Rubin | Posted 3 weeks ago

Two-and-a-half years after a SWAT team raid gone awry left a 31-year-old Greenfield man dead and his home a charred wreck, the county has agreed to pay \$2.6 million to the survivors of Rogelio Serrato.

The settlement comes after a lengthy investigation of what happened on Jan. 5, 2011, the day sheriff's deputies camped out in front of Serrato's home aiming to question him about a [New Year's Eve shooting at the Mucky Duck](#) in Monterey the week prior, though [he was never actually a suspect in that case](#).

Serrato died of smoke inhalation after his home went up in flames, the result of a flash-bang device lobbed through a living room window that rapidly set fire to a couch. The flash-bang device—used to distract suspects with loud popping sounds and bright flashing

light—was deployed with disregard for safety and protocol, according to a brief filed by Oakland-based attorney Michael Haddad, who represented Serrato's two young sons in the case.

The brief lays out a chronology of what went wrong that day, portraying armed deputies as prepared for confrontation with a man who was likely scared and confused, and potentially suicidal.

SWAT team members first diverged from protocol when they resorted to a flash-bang device after just an hour or so of waiting. "There was no sense of urgency," the assistant team leader told attorneys in a deposition.

Deputies broke a window and lobbed the flash-bang through it, into a living room with L-shaped couches and a Christmas tree—and no fire extinguishers on hand and no verbal warning to Serrato, according to court papers.

The device began smoking immediately after rolling under a couch, and the SWAT team prepared to fight the fire with a garden hose and fire extinguishers retrieved from their cars, when Serrato appeared and said, "Hey."

"Consistent with basic law enforcement training, [SWAT team members] should have issued clear, loud verbal commands directing Serrato to show his hands and exit through the front door of the house," according to the trial brief.

Instead, deputies shouted "Suspect!" and retreated behind their armored truck, then pointed guns at Serrato until firefighters arrived.

By then, the home was engulfed in flames, and Serrato's safe escape route through the front door was gone.

After Serrato died, his four children, mother and three sisters sued the county in federal court. The county's deductible is \$1.5 million; the remainder of the settlement sum will be paid for by insurance.

"It should send a message that SWAT teams need to be more careful of life and property when they're executing a high-risk warrant," Haddad says.

The case highlights several areas that diverged from flash-bang protocol: The living room was full of fire hazards, and deputies issued no verbal warning to Serrato.

In addition, the typical protocol for deploying such a device is that it's a distraction to help protect SWAT team members upon entering a residence, not to draw out a suspect while they continue to wait outside, according to court papers.

"One thing striking in this case is there were many people up the chain of command who could've intervened and stopped this highly dangerous tactic," Haddad says of the top officials back at the sheriff's office who signed off on the plan. "Nobody stepped up and said, 'Wait a minute, this is too dangerous and it doesn't make sense.' The result is, they burned a house down and killed a man."

County Counsel Charles McKee says deputies didn't realize Serrato, or anyone, was in the house at the time they deployed the flash bang. "They even put their own lives at risk in trying to make sure the premises were secure," he says.

The settlement doesn't impose any changes on the sheriff's department, but Haddad thinks it will force them to. "Any time a county has to pay \$2.6 million, people in charge listen," he says.

But McKee thinks Serrato's actions played a role in what happened: "It's a tragic event that probably could have been avoided if people had heeded the orders of the sheriff's deputies to leave the premises."

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