

CRIME NOVEMBER 22, 2016 3:14 PM

Fresno settles police shooting lawsuit for \$2.2 million



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Jaime Reyes

BY PABLO LOPEZ
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The city of Fresno has agreed to pay \$2.2 million to settle a federal civil rights lawsuit filed by the parents of a Fresno man who was fatally shot by police four years ago.

With the settlement comes major changes for the Fresno Police Department, said Oakland attorneys Michael Haddad and Julia Sherwin, who represented the parents of Jaime Reyes Jr., 28, who was shot while climbing a fence at Aynesworth Elementary School in southeast Fresno in the afternoon of June 6, 2012.

Haddad said Tuesday that if the lawsuit had gone to trial, the evidence would have shown that Officer Juan Avila shot Reyes near the top of the fence. Once Reyes toppled to the ground, Avila shot him three more times in the back as he lay wounded, face down on the ground, Haddad said.

In the settlement, the city does not admit to any wrongdoing by its officers. The suit was filed seeking unspecified damages.

City spokesman Mark Standriff said officials would have no comment. "Our policy is to not discuss pending settlements until all parties have signed off. Until then, it would be premature to comment," he said in an email.

Fresno police Chief Jerry Dyer acknowledged that the city has agreed to review policies and recommend any appropriate minor changes. The city, Dyer said, “has always felt that this tragic shooting was legally justified and settlement should not be viewed as an indication that this view has changed.”

According to Dyer, Reyes was a gang member under the influence of methamphetamine who fled from officers while carrying a stolen handgun into a schoolyard occupied by children. “However, circumstances unrelated to the actual incident have dictated that it would be economically sound for the city to settle this matter before incurring the costs of trial,” he said.

Documents provided by the Fresno Police Department say the fatal shooting of Reyes was justified. Avila no longer works as a Fresno police officer.

Haddad disagreed with Dyer’s assessment of facts. He said Reyes never pointed a gun at the officers nor threatened them. After he was fatally shot, officers found a gun in Reyes’ shorts pocket, but the firearm was unloaded and wrapped in a plastic bag.

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WE’RE HOPEFUL THAT THESE POLICY CHANGES COULD PREVENT SOME FUTURE SHOOTINGS BY POLICE.

Oakland attorney Michael Haddad

City officials agreed to the settlement on Nov. 18 in U.S. District Court in Fresno. As part of the settlement, Haddad said the Fresno Police Department has agreed to change its use-of-force policy. Before, officers could shoot a suspect if he posed an imminent threat. “Fresno police have a unique interpretation of what ‘imminent threat’ means,” Haddad said. To police, it means a pending threat or a threat in the near future, Haddad said.

The settlement mandates that Fresno police are only allowed to shoot a suspect if the suspect poses an “immediate threat,” or a threat at this very moment, Haddad said.

Sergeants and patrol officers also will be trained to “assess every shot,” Haddad said. This way, an officer doesn’t fire extra bullets when the situation doesn’t warrant it, Haddad said, noting that Reyes was incapacitated with the first shot, therefore he didn’t need to be shot three more times in the back.

In addition, the settlement requires additional training for homicide detectives and the police Internal Affairs officers. The training will require them to consider statements by witnesses that contradict statements by officers at the scene. In the Reyes shooting, a female witness said she “saw an execution,” Haddad said. But homicide detectives and Internal Affairs officers disregarded her statement, Haddad said.

“We’re hopeful that these policy changes could prevent some future shootings by police,” he said.

THE SETTLEMENT MANDATES THAT FRESNO POLICE ARE ONLY ALLOWED TO SHOOT A SUSPECT IF THE SUSPECT POSES AN “IMMEDIATE THREAT,” THE LAWYER SAYS.

In an interview in July 2015, Dyer said police had grounds to arrest Reyes because he had a prison record and was a felon in possession of a firearm. Because an after-school program was in session, Dyer said Reyes “posed a risk not only to officers but also to students.” He also said he planned to defend Avila and the

officers with him.

According to Dyer, Reyes’ family had told police that they had seen him with a handgun earlier that day.

Around 3:30 p.m., Avila and another officer spotted Reyes, who lived a few blocks from the Aynsworth campus, walking along Church Avenue. Dyer said the officers ordered Reyes to stop, but instead he reached toward the waistband of his pants. When officers ordered Reyes to show his hands, he ran toward the campus.

Avila shot Reyes four times when the suspect refused to stop, Dyer said.

The federal lawsuit filed against Fresno police by Reyes' parents tells a different account.

The lawsuit accused Avila of failing to give Reyes any warning before shooting. Avila also fired two separate sets of shots. The first bullet wounded Reyes. Avila then fired from the other side of the fence, hitting Reyes as he lay motionless and posed no threat to police, the lawsuit says.

The lawsuit also says Avila and his partner denied first aid to Reyes. Instead, the officers frisked him for weapons and handcuffed him. About 20 minutes passed before paramedics arrived to take Reyes to a hospital. He died during surgery.

The city decided to settle, Haddad said, after a police officer said in a deposition that there was a pause between Avila's first shot and his next three. If the city hadn't settled, Haddad said he would have been able to show the jury evidence of other police shootings that he contended were unlawful.

Reyes had a criminal record but no record of violence, the lawyer said. The most serious charge, Haddad said, was for being a felon in possession of ammunition. He pleaded guilty to a felony charge in July 2010 and was sentenced to two years in prison, court records show.

Reyes was one of three children whose mother, Mirella Reyes, works two jobs and whose father, Jaime Reyes Sr., is a truck driver, Haddad said. On the day of the shooting, Reyes' mother had told police that her son was suffering from a mental disturbance because of methamphetamine use, the lawsuit says, so police should use "special police procedures and tactics" in dealing with him.

"This has been extremely devastating for them because they loved their son very much," Haddad said Tuesday.

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 Justice for Jaime Reyes Jr. Justice for Lonnie Graham. Justice for Matthew Poraz! Murdered by police.
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 **LM Torres** · Owner-operator at Self-Employed
 WTF!!!! Far too many similarities to the Dylan Noble tragedy. So, this 2.2 million dollar settlement is a pardon for these public servants to continue this fucking brutality. I am absolutely sick of this legal genocide. Please if you r Caucasian or not of color, please don't comment to my post cause i could give a fuck what u have to say! Oh i forgot that the officer involved in this tragedy is no longer a fresno policeman.....I bet this is not on his resume..
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 Fuckin A!
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 **Brian Murray**
 LM...what's the matter...can't handle opposing views...then put on a safety pin, a diaper and head for your safe zone...better yet, don't reach into your waistband and then run away from police when ordered to stop into an occupied schoolyard with a stolen handgun...just plain stupid.
 Like · Reply · Nov 24, 2016 5:17am

 **Steve Claassen** · Fresno State
 Mayor-elect Brand says he wants a local auditor instead of an out-of-town auditor and will consider restructuring the current civilian police advisory panel to give it some oversight function maybe. That's not good enough. An auditor or a civilian oversight board without subpoena power is useless. In fact the department's ability to investigate its own is a joke. FPD's internal affairs department, run by uniformed officers and answering to uniformed officers is also useless. FPD needs a civilian auditor with subpoena power, a civilian police commission or civilian oversight board with subpoena power, and a 100% civilian internal affairs department with subpoena powers and a district attorney willing to back them up. Anything less than civilian control at the choke points of FPD, backed up by full subpoena power is useless and a waste of everyone's time. And Lee Brand knows that, but don't hold your breath.
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 **Bob Smith**
 Free money grab by the famiy, getting money from the taxpayersfor thier violent criminal, gang banger spawn.
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Carlton Taylor · Clovis, California

what exactly was his violent crime while fleeing for his life from muderous thugs?

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MJ Borelli · Fresno, California

No, it's called justice...

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MJ Borelli justice for what? He didn't do anything!

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Keith Railey

We need a new direction starting with a new Police Chief. If shooting justified then why settle? How many millions need to be wasted before it becomes cost effective to make substantial changes. It must have been questionable if settlement and policy change was best option. It is becoming obvious our police departments training, internal reviews, oversight and accountability need serious attention. Subpoena power with equal representation from outside law enforcement overdue. Lets go mayor and city council.

Like · Reply · 3 · Nov 22, 2016 7:55pm



M Gloria Hernandez · Parlier High

How much more did we taxpayers pay in court and attorney fees? Fire dyer.

Like · Reply · 2 · Nov 23, 2016 1:10am



Steve Claassen · Fresno State

All these settlement costs have to come out of the police department budget. Dyer is an old dog who can't learn a new trick, but his new replacement a year from now has to be hired with the understanding that he must pay for effective recruitment and training or he can pay his own settlements. FPD gets as much as 80% of Fresno's general fund budget and settlements on top of that? The city is not getting its money's worth out of Dyer's PD. I hate to think what the payout for Dylan Noble's homicide will be.

Like · Reply · 1 · Nov 23, 2016 6:07am



Diana Diehl · No longer subject to the gag order at Retired from Hell of Records

Shooting someone in the back merely for fleeing was justifiable to Dyer. Whose staff apparently has magical powers because they could tell from a safe distance that this person had a prison record and was a felon in possession of a firearm. I guess perhaps he was the right color for that?

It's not the felon who is worth \$2.2 mil. Apparently they decided FPD's bad behavior was worth a \$2.2 mil penalty. Maybe next time they might call for an ambulance instead of waiting to get their story straight first?

I don't know if I agree with the penalty in this particular instance because I don't know enough about this case. But this is the time they got caught, and there have been plenty of times they got away with worse.

I wonder which local valley LE agency the shooter is working for these days. And I kind of miss the good old days when shooting people in the back was frowned upon.

Like · Reply · 5 · Nov 23, 2016 7:08am



L-u Galvan

Or shooting kids too.

Like · Reply · 1 · Nov 23, 2016 8:46pm



Brian Murray

Another bad decision by a felon cost him his life...and messed up a lot of others.

Like · Reply · 1 · Nov 24, 2016 5:09am



Steven Trevino · Fresno City College

Perhaps , the officer should have just let him go.

Like · Reply · 1 · Nov 24, 2016 6:34am



Steve Claassen · Fresno State

Even the most authority obsessed traffic officers have to admit that the half-century long practice of chasing bolters through city streets at 80 and 90 miles per hour was counterproductive. It's the same principle here. Unless the runners were seen committing

mass murder there's no reason not to call backup, regroup and try to catch them coming out at the other end of the alley. If it's not a life-or-death scenario there's no "immediate" danger even under the old interpretation that requires deadly force.

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