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Family of man shot by police gets \$1.5M

West Covina OKs payment to settle lawsuit

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West Covina – The family of a 24-year-old man shot to death by West Covina police in late 2008 has accepted a \$1.5 million settlement from the city to dismiss a lawsuit alleging excessive force and reckless intent, their attorney said Thursday.

Omar Garcia of West Covina died Nov. 27, 2008, after being shot 15 times by two police officers in the parking lot behind a Target store.

The City Council authorized a \$1.5 million settlement in the case earlier this month, city officials said. Two-thirds of the money will be paid by the city, while the remaining \$500,000 will be covered by insurance.

City Attorney Arnold Alvarez-Glasman said the settlement is not an admission of wrongdoing. He said it was offered to avoid the possibility of an even larger judgment being awarded by a jury.

Attorney Greg Owen – who represents Garcia’s mother, Irma Herrera and sisters Michelle Celeste Garcia and Jazmin Ortega – said the death stemmed from a case of mistaken identity.

Officers Stephen Delgadillo and Enrique Macias encountered Garcia in the parking lot of the Target store, 2370 S. Azusa Ave., during a manhunt for a suspect who had been involved in a shooting in the area earlier in the day, Owen said.

“When the actual facts of this incident came to light... we found out that this boy was doing nothing wrong. And, in a case of mistaken identity, was killed by officer Macias, who shot him in the back approximately 10 times,” Owen said.

Garcia told his mother he was going to the Target to apply for a job.

Owen said it appeared that Garcia was shot after being mistaken for the man involved in the earlier shooting.

“This shooting violated every procedure, all of the training that an officer in West Covina, or any other country receives, but more importantly, it violates the basic moral rule, which is, in America, we respect and cherish human life,” Owen said.

The West Covina Police Department has maintained that Garcia was shot by the officers in self-defense after Garcia picked up Delgadillo’s baton and tried to strike the officer with it during a scuffle.

Los Angeles County district attorney’s investigators have concluded the shooting was justified.

In a report on the shooting, Deputy District Attorney Christina Buckley wrote, “... Under these circumstances, we conclude the officers acted lawfully in self-defense and the defense

of others.”

Owen disputes the claim that Garcia, who weighs 150 pounds, attacked an officer with a baton, citing testimony gathered during videotaped depositions of Macias and Delgadillo.

“Officer Macias defended his action by stating... that the reason he shot Omar Garcia was because Omar Garcia picked up his partner’s baton off of the ground, raised it over his head and was about to crush that police officer’s skull,” Owen said.

“Officer Delgadillo, under oath, testified that Omar Garcia never picked up his baton, never held it over his head, and never made a motion to strike him with the baton,” Owen said.

Owen said he was especially concerned about the behavior of Macias, who already has a \$1 million judgment against him in an unrelated excessive force case.

“It’s currently being appealed,” Police Chief Frank Wills said of that litigation.

Details of the previous excessive force case were not available Thursday.

Wills said Owen’s account of events in the Garcia shooting is incorrect.

Garcia was not shot in the back 10 times, Wills said.

“The deceased did have a baton in his possession. Ballistics show both officers were on the ground at the time they were shooting,” he said. “I continue to support the action of my police officers 100 percent.”

According to the district attorney’s report, Delgadillo was trying to speak with an uncooperative Garcia and had pulled his baton in response to perceived strange behavior on Garcia’s part, including refusing to obey orders or make eye contact.

Macias then arrived on scene, according to the D.A.’s report. Seeing Delgadillo with a drawn baton, and Garcia standing in a “fighting stance,” Macias rushed to help and grabbed a hold of Garcia.

Garcia then lunged at Macias, the report states, and a fight ensued between Garcia and the two officers.

Garcia punched Delgadillo in the face several times during the struggle, Buckley wrote.

Macias told investigators that he saw Delgadillo and Garcia fighting over the baton when Delgadillo fell backward, leaving Garcia with the weapon, according to the report.

When Garcia raised the baton over his head as if to deliver a blow to Delgadillo, “Fearing for this partner’s life, Macias drew his gun

and started firing at Garcia,” the report states. Macias told officials he saw Delgadillo raise his arm in a defensive motion, as if to block an oncoming blow.

In Delgadillo’s account to investigators, according to the report, he looked up after falling backward, “He did not see anything in Garcia’s hand,” Buckley wrote. “While on the ground, he heard three gunshots.”

“(Delgadillo) then saw Garcia on the ground pushing up as he reached for and grabbed the baton which was on the ground,” the District Attorney’s report states. “He feared Garcia was going to use the baton to beat him ‘to death.’ In fear for his life, Delgadillo drew his weapon and fired at Garcia.” Macias also continued firing.

Differing stories from the officers are not unexpected in stressful situations like officer-involved shootings, officials said.

In all, investigators found Macias had fired 11 shots and Delgadillo fired four.

Macias attempted to use a Taser to control Garcia three times, but the device did not work, officials said.

A portion of the events leading up to Garcia’s shooting were captured by a nearby surveillance camera, officials said.

Police have thus far refused to release the tape, citing the pending litigation. The shooting itself is not captured on the tape, Wills said. “Not even muzzle flash,” he said.

Owen said Garcia’s mother has been devastated by the death of her son, who she lived with.

“She spent more time with him than any other human being,” Owen said.

A student at Cal State Los Angeles, “(Garcia) seemed like a very well-adjusted young man who was attending college and had a very bright future ahead of him,” Owen said.

While Garcia’s mother is satisfied with the outcome of the litigation, Owen said, “It goes without saying that \$10 million, \$100 million would not bring back her son and that part of her life.”