

# Officer’s Report: Woman ‘Placed’ on Ground

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insurance company, for \$125,000, during mediation in October 2016.

The second was a claim filed by Virginia Valdez, 51, of Alcalde. Her claim was settled for \$65,000, including attorney’s fees, after she was slammed to the ground, by Esparza, June 3, 2016. The city paid its deductible of \$15,881, according to insurance documentation.

How much is lawyers’ fees and how much is the actual settlement, is not delineated in the insurance documentation.

The city has not received a copy of the settlement agreement in that case.

Carr wrote in an email to Baxter that, after reviewing a video of the incident, Traveler’s Insurance lawyers determined that Esparza used excessive force.

The third claim was filed by Juan Marquez for an incident on June 12, 2016. Marquez claimed Esparza shot him with a stun gun, twice, after he was nearly run over.

The fourth and final claim was made by Anthony Ortiz, who claimed he was roughed up and arrested on a quashed warrant by Esparza, Armijo and Sgt. Daniel Espinoza, on June 22, 2016.

Gallegos said he commissioned the investigation because of a number of complaints lodged against Esparza.

“Sometimes when it comes to that level, on one officer, (you’ve) got to look at it closely,” Gallegos said.

Although Smith cleared Esparza of any wrongdoing, he wrote that there is a pattern of a use of force.

“There also appears to be a trend of escalation from a minor incident to disorderly conduct by the suspects as Officer Esparza verbally interacts with them,” Smith wrote. “These incidents may be just multiple, unfortunate incidents where one officer is required to legitimately use force.”

## Arm-bar take down

Esparza, as seen on Armijo’s lapel camera, took Valdez to the ground, June 3, 2016, while she was yelling at Armijo that her knee was bad, meaning she could not get on the ground, as he demanded.

Armijo pulled her over on the suspicion that she was driving a stolen car, following an alleged shoplifting incident at Wal-Mart, supposedly involving her car.

“We have reviewed the video of Officer Esparza’s self-described spinning arm-bar take-down and believe that it demonstrates excessive force,” Carr wrote to Baxter in a Sept. 16 email.

The case started as a shoplifting from Wal-Mart. Valdez got into her van and drove away from the store, and Armijo began to pursue her, until she pulled into Clayton Homes. Two other individuals were suspected as having shoplifted from Wal-Mart.



(SUNfoto by Wheeler Cowperthwaite)

**Officer Greg Esparza** tells the owner of a compound of tiny houses on North Railroad Avenue, to get back behind police cars Monday morning, following a fire. One minute later, firefighters called the elderly man back to the houses. A private internal affairs investigation cleared Esparza of wrongdoing in four excessive force cases.

On Armijo’s lapel camera, he begins by telling dispatchers that a woman is driving the car, while it had originally been reported as a male driver in the shoplifting incident.

“Unknown if she tried to steal the vehicle or not,” Armijo tells dispatchers. “Stand by.”

He then tells dispatchers that he will be making a felony traffic stop, based on the idea that the van might be stolen.

Valdez was the owner and driver of the van.

Armijo tells dispatchers, as Valdez puts on her turn signal and begins to turn off on Clayton Homes, that she is not stopping.

He then gets out of his police unit, with his gun drawn, and tells Valdez to turn off the van and step out of it, which she does.

According to the Department’s own policies, Armijo needed probable cause to believe that a crime had been committed, in order to conduct a felony stop, not just a suspicion that it could be.

Probable cause means a “reasonable basis for believing that a crime may have been committed,” according to the Legal Information Institutes’s website, a part of the Cornell University Law School.

“Turn away from me and put your hands above your head and walk back, walk back,” Armijo says, pointing his gun at Valdez. “Stop right there.”

Valdez stops and then Armijo

tells her to get on her knees and she tells him she can’t.

“I’m telling you to, right now,” Armijo says.

Valdez replies that her knee is bad and she can’t.

“I don’t give a (expletive),” Armijo yells at Valdez. “Get on your knees.”

Valdez then screams at Armijo, that she can’t.

Less than two seconds after Valdez screams that she can’t get on her knees, Esparza enters the frame holding handcuffs, grabs her left arm, handcuffs her left hand and throws her onto the ground, spinning her.

While being thrown to the ground, she screams about her knee, saying it’s dislocated, then tells Esparza not to hurt her leg.

“What the (expletive) did I do?” Valdez asks Esparza.

In his report, Armijo wrote that Valdez wouldn’t comply with his orders, but didn’t state that she told him that she physically couldn’t.

Instead of writing that Esparza threw Valdez to the ground, Armijo wrote that Esparza “placed” her onto the ground using a “handcuff technique.”

Esparza wrote in his own supplemental report, that he used the “spinning arm-bar take down” and that while doing this, he supported her body. In the video, he does not support her body.

Armijo does not mention ever having dispatchers look up the license plate, which would have

identified Valdez as the vehicle’s owner.

While talking to Valdez, Armijo distanced himself from Esparza’s behavior, as heard on his lapel camera.

“I’m a human being and I have mental and physical problems,” Valdez said. “What if he would have snapped my spinal cord? He didn’t give a (expletive) because he threw me down like a piece of (expletive). No, I don’t stand for that, and your chief of police is going to hear it, too. I was doing what you were telling me.”

Gallegos said he has seen the video, but he was going to watch it again.

“(Deputy Chief Matthew Vigil) might have (more) on that one,” Gallegos said. “He’s the one who pretty much dealt with that whole case.”

The contention, that Valdez was doing as she was told, is backed up by Armijo’s lapel camera.

Armijo and Esparza charged Valdez with obstructing an officer.

“I followed all your orders, you should have been the one (to say), ‘Hey dude, back off, I got this,’” Valdez said to Armijo. “He just runs in all gung ho and (expletive) thinks he’s (expletive) King Kong? I felt like he was King Kong and I was a piece of (expletive), let me tell you.”

Armijo told Valdez that she was going to jail on the obstructing charge because she did not get on her knees, despite her protestations that she was physically incapable of doing so.

## Hot car

Juan Marquez filed his tort claim on Sept. 12, 2016, through his lawyer Yvonne Quintana.

In his claim, Marquez alleged that he was almost hit by a truck at the car wash on Riverside Drive, where he works. When he went to Esparza for assistance, but he was instead put into the back of Esparza’s hot car.

According to Sgt. Daniel Espinoza’s interview with Smith, Esparza also stunned Marquez twice, after he refused to stop yelling at the people who tried to hit him.

“Eventually, Officer Esparza decided he needed to arrest Mr. Marquez because of his disorderly conduct,” Smith wrote. “Mr. Marquez refused to comply with commands and Officer Esparza attempted to handcuff

him.”

Marquez allegedly pulled away from Esparza, so he pulled his stun gun and warned Marquez before shocking him twice. He then put him in the back of the police car.

“The officer continued cleaning his vehicle, leaving Mr. Marquez in the back of his unit with the windows closed for some time,” Quintana wrote in the tort claim. “Mr. Marquez felt ill not only due to being hit by the truck, but also from the heat and lack of air in the back of the police vehicle.”

Quintana does not mention the stun gun use in her tort claim.

That case has not been settled yet.

## Warrant arrest

On June 22, 2016, Ortiz was sitting in his car, outside the Police Department, when officers went outside for a break during training.

Armijo asked E911 Dispatch Center personnel to run Ortiz’s name and see if there were any warrants for him.

Dispatchers initially thought Ortiz had a warrant and Esparza, Espinoza and Armijo arrested him. At the Española Detention Center, guards realized that Ortiz had already been served on the warrant and let him go, according to Smith’s report and his complaint.

Esparza escorted Ortiz in a “wrist hold” to the Detention Center, a few feet away from the arrest.

No settlement has been reached in that case.

## Broken hand

Although Smith cleared Esparza from using excessive force when he arrested Vigil, OneBeacon Insurance lawyers, the city’s insurance provider at the time of the Oct. 23, 2013 arrest, settled with Vigil for \$125,000 in an October 2016 mediation hearing.

Vigil filed a lawsuit against the city, which resulted in the settlement.

Vigil alleged Esparza broke his fingers as punishment for challenging him, while Esparza maintained in reports, that Vigil was holding a knife and he had to disarm him.

# Father Strangled Son after Abuse Reported

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“The day after the teenager reported Viarrial’s abusive behavior, Viarrial assaulted him by strangling him,” Martinez wrote. “Several witnesses witnessed the assault during which Viarrial told the teenager, ‘if you ever tell the police what I do, I will kill you.’”

Prosecutor Kyle Nayback wrote in a sentencing memorandum that Viarrial manipulated his family by telling them that it would be their fault if he killed himself.

Viarrial took the stand during the trial, in his own defense, and denied the accusations against him.

“(At trial, Viarrial) blamed his intimate partner and his children for his criminal legal problems,” Nayback wrote. “He also stated that the guns located in his own home, were not his but his intimate partner’s guns.”

In addition, he told one of his sons that if he ever went to jail, he would come back and kill his whole family.

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