

1 motion to amend is granted in part and denied in part, as
2 follows:

3 (1) Plaintiffs may proceed on the FAC's claims that
4 (a) Defendants Nolte, Ramirez, and Herron used excessive
5 force under the Fourth Amendment by shooting at
6 Plaintiffs and (b) an officer (Defendant Callian) used
7 excessive force under the Fourth Amendment against
8 Plaintiff Harris by kicking him in the face. Plaintiffs
9 may file an amended complaint alleging those claims as
10 well as that Defendants Friedrich and Herron failed to
11 intervene to prevent Nolte and Ramirez from continuing to
12 shoot at Plaintiffs.¹

13 (2) Dismissal of Plaintiffs' claims based on
14 municipal liability and the City Council's
15 indemnification policy is with leave to amend.

16 (3) The remainder of Plaintiffs' claims against
17 City Defendants are dismissed with prejudice.

18 (4) Defendants Benjamin, De La Cova, Conrado,
19 Kraus, Ulley, Lomax, Izzo, Donald Walthers, Larry
20 Chamberlain, Steve Cooley, John K. Spillane, Curtis
21 Hazell, and Richard Doyle are dismissed from this action
22 because Plaintiffs have voluntarily dismissed all claims
23 against them.

24 (5) After notice to Plaintiffs, Defendants William
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26 ¹Plaintiffs may not file an amended complaint, however,
27 until the other four pending motions to dismiss, one each filed
28 by Defendant Alexander Yim, a group of County Defendants,
Defendants George Lavey and Tiffany Allen, and Defendant William
Gilbert, have been adjudicated.

1 J. Bratton, Adam Bircovici, and Larry A. Waldie are
2 dismissed under Federal Rule of Civil Procedure 4(m)
3 because Plaintiffs have failed to effect service on them
4 in the more than two and a half years since the FAC was
5 ordered served.

6 IT IS SO ORDERED.



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9 DATED: November 13, 2014

10 PHILIP S. GUTIERREZ
11 U.S. DISTRICT JUDGE
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