

**Non-Fatal Officer Involved Shooting of Mayra Haro
Los Angeles County Sheriff's Department**

Deputy Alexander Altamirano Gutierrez, #612176

J.S.I.D. File #21-0276



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

January 10, 2022

MEMORANDUM

TO: CAPTAIN JOE MENDOZA
Los Angeles County Sheriff's Department
Homicide Bureau
One Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Non-Fatal Officer Involved Shooting of Mayra Haro
J.S.I.D. File #21-0276
L.A.S.D. File #020-08379-0378-486

DATE: January 10, 2022

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 2, 2020, non-fatal shooting of Deputy Mayra Haro by Los Angeles County Sheriff's Department (LASD) Deputy Alexander Altamirano Gutierrez. It is our conclusion that the shooting of Haro was accidental and that there is no criminal liability in this matter.

The District Attorney's Command Center was not notified of the shooting at the time that it occurred. The investigating officer, LASD Sergeant Christopher Maurizi, explained that the Department inadvertently overlooked calling the Command Center at the time because of the unusual and apparently accidental nature of the incident. Because the shooting occurred in the secured, back parking lot of an LASD station at approximately 5:10 a.m., no civilian witnesses were in the vicinity, and none were interviewed. Investigative materials were later turned over to the District Attorney's Office.

The following analysis is based on reports submitted to this office by Sergeant Maurizi and Detective A. Mark Perez, LASD, Homicide Bureau. Altamirano Gutierrez provided a voluntary statement, which was considered as part of this analysis.

FACTUAL ANALYSIS

On October 2, 2020, at approximately 5:00 a.m., LASD Deputies Alexander Altamirano Gutierrez and Mayra Haro were preparing to begin their shift at the South L.A. Sheriff's Station located at 1310 West Imperial Highway, Los Angeles. The station consists of a large, single story building with multiple auxiliary buildings and parking areas, including a secured parking lot used to house both employees' vehicles and LASD patrol units.

Within the secured lot, there is an area, commonly referred to as "the line," that is used by LASD deputies for loading and unloading patrol equipment and preparing for shifts. "The line" consists

of 24 parking stalls, all facing north and south, located on the northernmost portion of the employee parking lot.

On October 2, Haro and Altamirano Gutierrez were partners assigned to patrol. At the start of shift, Haro selected a 2016 Ford Explorer patrol car that was backed into the third parking stall from the east, facing south. Haro was seated in the car's driver's seat with the door open when she heard a male voice say something she could not make out. A moment later, she heard a loud gunshot and immediately felt pain to her left leg. After a few seconds, she spotted her partner, Altamirano Gutierrez, yelling and heard him shout, "No, I didn't. No, I didn't."

At the time of the incident, numerous other deputies were also participating in a shift change and located nearby in the parking lot or in an adjacent building. Several described hearing a gunshot close by and then rushing to Haro's aid.¹ Deputies Tony Lomedico and Ilzzett Camargo were partners that day and each was standing by their patrol vehicle, which was parked immediately to the west of Haro's. Each described hearing a loud gunshot coming from nearby, followed immediately by a woman screaming. Neither Lomedico nor Camargo was facing Haro's car at the time of the incident and neither saw what had occurred. Both rushed to assist Haro, who told them that she had been shot in the leg.

Deputy Alex Partida was standing approximately 50 feet away from Haro's patrol vehicle when he heard a single gunshot from the area of the parking lot. He immediately ran toward the sound of Haro screaming in pain. When he arrived, he saw Haro sitting in the driver's seat of her patrol vehicle and being assisted by multiple deputies, including Altamirano Gutierrez. Partida then drove Haro, along with Altamirano Gutierrez, to the hospital. Partida stated that Altamirano Gutierrez was visibly upset during the drive.

Deputy Rene Diaz, who was seated in a patrol vehicle directly east of, and adjacent to, Haro's vehicle, was preparing for his shift when the incident occurred. He was interviewed and reported seeing a bright flash of light, which illuminated the inside of Haro's vehicle. Diaz described the light as resembling the kind emitted from a flashlight. According to Diaz, the light was immediately followed by a single gunshot and a scream. As Diaz got out of his car, he saw Altamirano Gutierrez standing just outside the open driver's door of Haro's patrol vehicle. Diaz then heard Altamirano Gutierrez say he was sorry, and heard Haro say she had been shot.

Several deputies assisted Haro. Camargo applied a tourniquet to Haro's leg. Haro was then driven to Harbor General Hospital. At the hospital, Lomedico observed Altamirano Gutierrez talking to himself in the hallway. Lomedico perceived Altamirano Gutierrez to be very emotional and saw him shaking his head back and forth. He heard Altamirano Gutierrez say, "I just can't believe that happened."

At the hospital, Haro was assisted by medical personnel and ultimately underwent surgery for a shattered left femur and perforated artery.

¹ Deputies Alex Partida, Hodaya Doherty, Susana Jimenez, Mikah Lopez, Ilzzett Camargo, Jesse Ojeda, and Tony Lomedico each reported being near enough to the incident to hear and respond to the sound of the gunshot, but none saw the shooting or any preceding events due to either their distance from the location or the direction they were facing.

Statement of Haro

Haro was interviewed on October 12, 2020, at the Casa Colina Hospital and Centers for Healthcare. Haro stated that on October 2, 2020, she began her shift at approximately 5:00 a.m. She selected a patrol vehicle and sat in the driver's seat, with her left foot placed on the opened driver-side door to prevent it from closing. She began logging onto the car's Mobile Digital Communicator computer system, when she heard a male voice say something that she could not make out. A moment later, she heard a loud gunshot and the sound of her bone cracking. She immediately felt pain to her left leg. After the sound of the gunshot faded, she heard a male voice yelling, "No, I didn't. No, I didn't." After several seconds passed, she saw that it was her partner, Altamirano Gutierrez, who was yelling. Haro said that Altamirano Gutierrez then grabbed her and placed her in the rear seat of her patrol vehicle. During the drive to the hospital, Altamirano Gutierrez repeatedly apologized to Haro.

Prior to the incident, Haro had not spoken with Altamirano Gutierrez that morning. Haro stated that Altamirano Gutierrez had a habit of sometimes taking his duty weapon out to check that the flashlight was working. She did not recall seeing a flash of light prior to the gunshot.

Altamirano Gutierrez was the only person in her immediate vicinity at the time of the gunshot, but she did not see him shoot her. Haro believed the shooting was accidental.

Statement of Altamirano Gutierrez

Altamirano Gutierrez provided a voluntary statement on October 27, 2020. On the morning of the incident, he arrived at the station parking lot at approximately 5:05 a.m. to prepare for his shift. He was assigned to work with Haro, his usual partner. When he arrived in the lot, he found Haro sitting in the driver's seat of a patrol car. He approached Haro to greet her, standing between one and two feet away from her.

As it was dark outside, Altamirano Gutierrez decided to check the status of his flashlight, which was mounted to his Department-issued Smith and Wesson, M&P 2.0, 9mm pistol.² In order to check the flashlight, Altamirano Gutierrez drew the pistol from its holster and pointed it toward the ground. He then used the light's pressure switch to temporarily engage the light. After, he started to holster his weapon. Either at the moment of engaging the flashlight, or as he began to holster his weapon, Altamirano Gutierrez heard a loud pop as the gun discharged.³ He then heard Haro scream. As he looked down, he saw that he had already holstered his firearm. Altamirano Gutierrez had no recollection of placing his finger on the trigger.

After the discharge, Altamirano Gutierrez assisted in rendering aid to Haro and transporting her to the hospital. Altamirano Gutierrez had known Haro for years and described their relationship as friendly.

² After the shooting, the pistol was found to have 16 live, 9mm rounds inside the magazine, which had a maximum capacity of 17 rounds. A single 9mm cartridge case was located under the front passenger seat.

³ The gun was later examined and test fired and found to be functional.

Surveillance Footage

The incident was captured by one security camera mounted on the south side of the station building. The vantage point of the video offers a distanced overview of the patrol line. The video does not include sound.

The video footage shows an individual, identified as Altamirano Gutierrez, walking around the front of a patrol vehicle, toward the driver's side. The driver's side door is open, and Altamirano Gutierrez can be seen standing next to a person seated in the patrol vehicle, identified as Deputy Haro. Other deputies can be seen standing nearby. At one point, deputies outside the station begin reacting to what appears to be either an off-screen event or inaudible sound. A moment later, a bright flash of light is visible from the area in front of Haro's patrol vehicle.⁴ Immediately following the burst of light, additional deputies are seen running toward Haro, including from inside the station.



Fig. 1 – Cropped surveillance still showing deputies running toward Haro.

Altamirano Gutierrez's Service Weapon

Altamirano Gutierrez was equipped with a Department-issued Smith and Wesson, M&P 2.0, 9mm pistol. He had switched from an earlier model of his firearm to the 2.0 approximately three

⁴ It is unclear whether the light seen in the video came from a flashlight, a headlight, or another source.

months prior to the incident.⁵ The pistol had a Department-issued Surefire, X300 Ultra tactical light with an optional pressure switch mounted on it.⁶

The gun did not contain an external safety that required disengagement before the weapon would fire, but only internal safeties that prevent the pistol from firing if dropped or firing unless the trigger is pulled. The gun was examined and found to have a trigger pull of between 5.25 and 5.5 pounds. According to Altamirano Gutierrez, the trigger pull for his prior service weapon had been 6.5 pounds.



Fig. 2 - Altamirano Gutierrez's service weapon.

LEGAL ANALYSIS

To be convicted of assault with a firearm, a person must act willfully. Someone commits an act willfully when he does it willingly or on purpose. *See CALCRIM No. 860*

To be convicted of shooting a firearm in a grossly negligent discharge manner in violation of Penal Code section 246.3, a person must have intentionally fired a weapon and fired in a grossly

⁵ According to a June 2015 article in the *Los Angeles Times*, accidental discharges by LASD deputies more than doubled between 2012 and 2015, as most deputies switched from carrying the Beretta 92F to the Smith and Wesson M&P. The article attributed the increase in accidental discharges to the M&P's significantly lighter trigger pull, as well as its lack of a manual safety. *See* Cindy Chang, *Rise in accidental gunshots by L.A. County deputies follows new firearm*, L.A. TIMES, June 13, 2015, available at <https://www.latimes.com/local/california/la-me-sheriff-guns-20150614-story.html>.

⁶ The switch was personally purchased by Altamirano Gutierrez.

negligent manner. A person acts with gross negligence when he acts in a reckless way that creates a high risk of great bodily injury or death and a reasonable person would have known that acting that way created such a risk. *See CALCRIM No. 970.*

A person cannot be convicted of assault with a firearm or shooting a firearm in a grossly negligent manner if he acted accidentally, without the intent required for that crime. *See CALCRIM No. 3404.*

The evidence examined shows that on October 2, 2020, Altamirano Gutierrez fired one round from his service weapon, striking Haro's left leg and shattering her femur. At the time, Haro was sitting in the driver's seat of her patrol vehicle and logging onto the car's computer system. Altamirano Gutierrez stated that the gunshot was a result of an accidental discharge of his weapon, either while he was attempting to test the flashlight attached to his firearm, or immediately afterward, as he moved to return the gun to its holster. Altamirano Gutierrez did not recall having his finger on the trigger and did not recall pulling the trigger.

Under the law, Altamirano Gutierrez bears no criminal liability if the evidence shows that the gunfire was the result of an accidental discharge of his weapon. There is no evidence that Altamirano Gutierrez intentionally or willfully fired his weapon at Haro. After he fired his weapon, Altamirano Gutierrez immediately yelled, "No, I didn't," and began immediately attempting to assist his partner. Witnesses described Altamirano Gutierrez reacting in evident distress and repeatedly apologizing to his partner. Altamirano Gutierrez described having an amicable professional and personal relationship with Haro, and Haro believed the incident to be an accident.

CONCLUSION

We conclude that Altamirano Gutierrez accidentally fired one round from his service weapon, striking Haro. Without evidence that Altamirano Gutierrez intentionally pulled the trigger, he cannot be convicted of assault with a firearm or shooting a firearm in a grossly negligent manner.