

**Officer Involved Shooting of Joseph Hatami  
Los Angeles Police Department**

**Officer Enrique Meraz, #41215**

**J.S.I.D. File #16-0395**



**JACKIE LACEY**

**District Attorney**

**Justice System Integrity Division**

**March 20, 2018**

**MEMORANDUM**

TO:               COMMANDER ROBERT A. LOPEZ  
                      Los Angeles Police Department  
                      Force Investigation Division  
                      100 West First Street, Suite 431  
                      Los Angeles, California 90012

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

SUBJECT:        Officer Involved Shooting of Joseph Hatami  
                      J.S.I.D. File #16-0395  
                      F.I.D. File #F052-16

DATE:            March 20, 2018

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the August 9, 2016, non-fatal shooting of Joseph Hatami by Los Angeles Police Department (LAPD) Officer Enrique Meraz. We find that Officer Meraz acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on August 9, 2016, at 4:10 a.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Lieutenant Damien Gutierrez.

The following analysis is based on reports prepared by the Los Angeles Police Department (LAPD) Force Investigation Division submitted to this office by Detectives Jose Alvarez and James Goosen. The reports include photographs, audio-recorded interviews of witnesses, and radio transmissions.

The compelled statement of Officer Meraz was also considered.<sup>1</sup>

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<sup>1</sup> Unlike private citizens, public sector employees can be forced to submit to questioning regarding the performance of their official duties and, so long as they are not required to waive their privilege against self-incrimination, their refusal to submit to such questioning can result in administrative discipline including termination from public service. *Gardner v. Broderick* (1968) 392 U.S. 273, 278; *Uniformed Sanitation v. City of New York* (1968) 392 U.S. 280, 284-285. Officer Meraz was interviewed and ordered to submit to questioning concerning the performance of his official duties. Like any other individual, Meraz possesses a right under the Fifth Amendment of the United States Constitution to be free from being compelled to give testimony against himself. *Uniformed Sanitation v. City of New York, supra*, at 284-285. Because the LAPD ordered Meraz to answer questions which might expose him to criminal liability, the LAPD compelled Meraz to participate in an interview. The effect of this legal compulsion is that Meraz's statement cannot be used against him in a criminal proceeding, nor can any material derived from the compelled interview be used against him. *Garrity v. New Jersey* (1967) 385 U.S. 493, 496-497; *Spielbauer v. County of Santa Clara* (2009) 45 Cal.4<sup>th</sup> 704, 715. Further, because this compelled statement is part of Meraz's police personnel file, his statement is confidential and may not be disclosed absent an evidentiary showing and court order. *Penal Code* section 832.7.

## FACTUAL ANALYSIS

### Introduction

On August 9, 2016, at approximately 2:10 a.m., uniformed LAPD Officers Kevin Austin and Enrique Meraz were on patrol and driving in a marked police vehicle. They conducted a traffic stop on a vehicle and contacted the driver, Joseph Hatami, and the passenger Michelle B.

As Meraz was arresting Michelle B. for an outstanding arrest warrant, Hatami suddenly emerged from the driver's seat and moved toward Austin, while holding a .45 caliber semiautomatic pistol.

Meraz yelled, "Gun! Partner! Watch out!" and fired two rounds from his service weapon at Hatami. Hatami was wounded, dropped the gun, and was taken into custody. Hatami was eventually charged with being a felon in possession of a firearm in case number BA449141 and he pled no contest to that charge on November 18, 2016.

A photograph of the scene is shown below:



*Figure 1- Photograph of the shooting scene with Hatami's gun and magazine circled in red. His black Honda and the officers' patrol vehicle are shown in their respective positions at the time of the shooting.*

A photograph of Hatami's gun, as it was recovered on the ground behind his vehicle, with the safety in the "off" position, is shown below:



A photograph of the loaded magazine, as it was recovered on the ground next to Hatami's vehicle, is shown below:



### **Statement of Officer Kevin Austin**

Austin and Meraz were on patrol in a marked black and white patrol vehicle. They saw a vehicle driving without its headlights illuminated. The driver, later identified as Joseph Hatami, turned on the headlights as he reached the end of a driveway. Hatami began to turn right but then paused and turned left without signaling, and then immediately parked and turned off the headlights. Based on the headlight violation, the odd driving, and Hatami's failure to use his turn signals, Meraz and Austin conducted a traffic stop on the vehicle.

Meraz contacted the passenger, Michelle B., and Austin contacted the driver, Hatami.

Michelle B. was either unconscious or pretending to be asleep. Meraz woke up Michelle B., identified her, and discovered she had an outstanding warrant. Meraz handcuffed Michelle B. near the right rear passenger side of Hatami's vehicle, while Austin continued to speak with Hatami. Meraz secured Michelle B. in the patrol vehicle, and returned to Hatami's vehicle.

Hatami was agitated, twitching, and speaking rapidly, which led Austin to believe Hatami was possibly operating a motor vehicle while under the influence of an intoxicant. Hatami's hands were shaking as he provided his identification through the crack in the window.

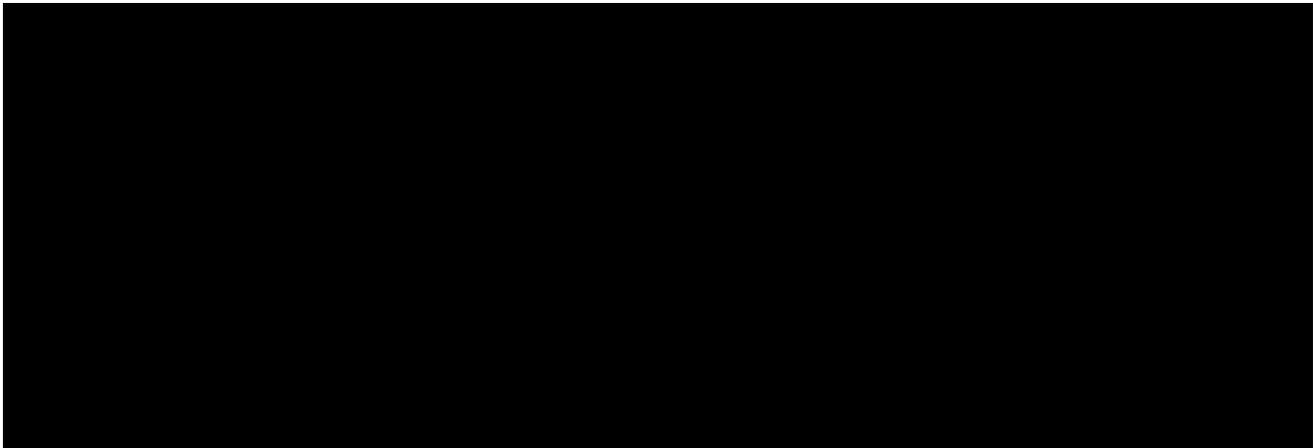
Austin asked Hatami to exit the vehicle so that the officers could pat him down and search the vehicle. Austin stepped back from the driver side to provide Hatami space to exit. Hatami opened the vehicle door and rapidly exited the vehicle, toward Austin. As Hatami left his seat, Austin stepped back and drew his service weapon. Meraz yelled, "Partner! Look out!"

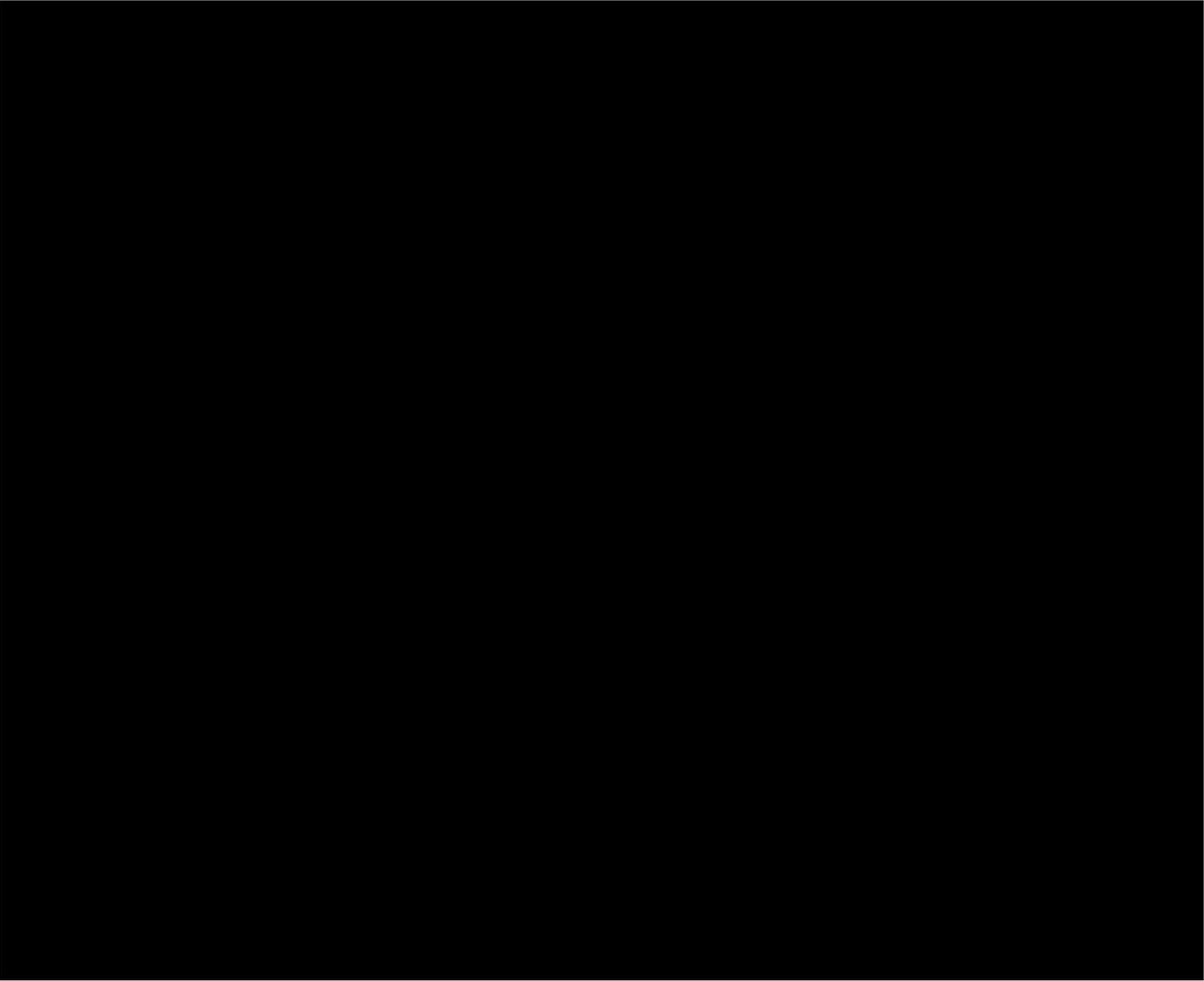
Austin heard two to three shots, but was unsure whether Hatami or Meraz was shooting. Hatami continued advancing toward Austin as Austin heard something fall to the ground. As Hatami reached Austin, Austin grabbed Hatami's shoulder and took him to the ground.

When the shooting stopped, Hatami was injured and Austin noticed a firearm on the ground near the rear bumper of Hatami's vehicle.

### **Statement of Officer Enrique Meraz**

Officer Meraz provided a compelled statement to investigators.





**Statement of Joseph Hatami**

Investigators *Mirandized* Hatami and interviewed him at the hospital.

Hatami said he was driving with his girlfriend, Michelle B., when they were stopped by the officers, who claimed that he was driving with his headlights off.

The officers had Michelle B. exit the vehicle for questioning, while he remained in the vehicle.

As the officers were detaining Michelle B., he leaned forward toward the steering wheel and reached for the gun. Later, he said that he leaned forward to get ready to exit the car, and he and Michelle B. had ditched the gun before they parked their vehicle.

Hatami said he “was not trying to shoot an officer.” He could not remember how long he held a gun in his hand during the interaction, and he was not sure if he actually managed to grab the gun.

When asked about what he was trying to do, Hatami said that he was “trying to push the gun out of the car with my foot” in order to keep Michelle B. from getting into trouble. When the gun fell out of the car and landed on the ground, the officers shot him.

### **Statement of Michelle B.**

Investigators *Mirandized* Michelle B. and interviewed her at the police station.

Michelle B. said she was driving with Hatami when they were stopped by officers.<sup>2</sup>

After the officer conducted a records check, she was detained based on an outstanding warrant for possession of drugs. She was placed in the back of the police vehicle while the officers interacted with Hatami.

Michelle B. heard screaming and then three to four gunshots, but she did not see the shooting.

When asked about the gun found outside of the vehicle, Michelle B. claimed it was hers. It was loaded and was located under the right front passenger seat of the vehicle at the time they were pulled over.

Michelle B. said that Hatami knew there was a gun in the car. When asked if the two had used drugs that day, she responded that they had smoked methamphetamine and marijuana the day before the incident.

Michelle B. said that after they were arrested, she and Hatami were able to communicate while they were in adjacent jail cells and Hatami told her that he was reaching for the gun in an attempt to “toss it” when he was shot.

Michelle B. was charged in case number BA449141 with being an accessory to a crime in violation of Penal Code section 32 and on November 16, 2016, she pled no contest to that charge.

### **Firearms Evidence**

Meraz was armed with a 9mm Glock Model 17 semiautomatic service weapon loaded with 17 rounds of ammunition in the magazine and one round in the chamber. After the shooting, two discharged 9mm cartridge casings were located at the scene, and Meraz’s service weapon had 15 rounds in the magazine and one in the chamber, which is consistent with Meraz firing two rounds.

Hatami was armed with a black and gray Taurus Model Millennium PT145 semiautomatic pistol. It was located on the street and the magazine was found nearby. The magazine was loaded with ten live rounds. The chamber of the gun was empty. The firearm was traced to a purchaser identified as Jim G., a gun dealer located in Phoenix, Arizona. Jim G. stated he did not recall the firearm used in this incident and that he must have sold the firearm because he would have made

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<sup>2</sup> The vehicle was registered to Michelle B.’s mother.

a police report if it was stolen or lost. Jim. G. further stated that he did not have any records of the guns he had sold.

It is unknown how, or when, the magazine and the gun became separated.

### **Gunshot Residue Analysis**

A gunshot residue analysis was conducted. Hatami had gunshot residue on his hands, which is indicative of him being in the presence of a firearm.

### **DNA Testing**

DNA testing on the gun, cartridges, and magazine was conducted. DNA was collected from the gun and analyzed but the results were inconclusive due to a complex mixture. No DNA was collected from the magazine. Insufficient DNA was collected from the cartridges to conduct an analysis.

### **Injuries**

Hatami was treated for a single gunshot wound to his right buttock.

## **LEGAL ANALYSIS**

### **The Law**

California law permits the use of deadly force in self-defense or in the defense of another if that person actually and reasonably believes that he or others are in imminent danger of great bodily injury or death. Penal Code § 197; *People v. Randle* (2005) 35 Cal.4<sup>th</sup> 987, 994 (overruled on another ground in *People v. Chun* (2009) 45 Cal.4<sup>th</sup> 1172, 1201); *People v. Humphrey* (1996) 13 Cal.4<sup>th</sup> 1073, 1082; *see also*, CALCRIM 505. The test of whether the officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others." *Munoz v. City of Union City* (2004) 120 Cal.App.4<sup>th</sup> 1077, 1102. In sum, the United States Supreme Court has long held that, "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that the police are often forced to make split-second judgments - - in circumstances that are tense, uncertain, and rapidly evolving - - about the amount of force that is necessary in a particular situation." *Graham v. Connor* (1989) 490 U.S. 386, 396-397.

### **Analysis**

The evidence examined in this investigation shows that Hatami exited the vehicle with a gun in his hand and moved toward Austin. [REDACTED]

[REDACTED] It was objectively reasonable for Meraz to believe, under rapidly unfolding circumstances, that Hatami was attempting to shoot Austin, and he was therefore justified in using deadly force.

## **CONCLUSION**

Based on a review of the totality of the evidence in this case, Officer Meraz acted reasonably in lawful self-defense and defense of others in using deadly force against Hatami when Hatami grabbed a handgun hidden underneath the seat of the vehicle and moved aggressively toward Officer Austin. Therefore, we are closing our file and will take no further action in this matter.