

Officer Involved Shooting of Seyed Hashemi

Los Angeles Police Department

Officer Robert Del Papa, #31233

California Highway Patrol

Officer Justin Rosete, #18780

Federal Bureau of Investigation

Special Agent Tyler Call, #23300

J.S.I.D. File #14-0498



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District Attorney

Justice System Integrity Division

June 1, 2016

MEMORANDUM

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

SUBJECT: Officer Involved Shooting of Seyed Hashemi
 J.S.I.D. File #14-0498
 C.H.P File #C14-501-002
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The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the July 30, 2014, non-fatal shooting of Seyed Hashemi involving Los Angeles Police Department (LAPD) Officer Robert Del Papa, California Highway Patrol (CHP) Officer Justin Rosete, and Federal Bureau of Investigation (FBI) Special Agent Tyler Call. It is the conclusion of this office that Officers Del Papa and Rosete and Special Agent Call acted in lawful self-defense and defense of others while capturing a dangerous, fleeing felon involved in a kidnapping and attempted murder of a law enforcement officer.

The following analysis is based on police reports, witness interviews, radio transmissions, news media videotape, dash-cam videotape, and still photographs submitted to this office by Detectives Jack Forsman, Thomas Townsend, and Robert Arteaga of the Los Angeles Police Department. The voluntary statements of Special Agent Call and Officer Rosete were considered in this analysis. The compelled statement of Officer Del Papa was not considered.

FACTUAL ANALYSIS

The Kidnapping

On July 30, 2014, Mahsan Samandari drove to a health club in her BMW automobile. Her ex-husband, Seyed Hashemi, met her there, confronted her, and said, "I have a gun. Just get in the car." Samandari tried to run but Hashemi grabbed her by the hair. Samandari yelled, "Help me! Help me!" Hashemi forced Samandari into the driver's seat of her car.

The FBI Shooting

Tyler Call, an off-duty FBI special agent, heard Samandari's cry for help and confronted Hashemi, who pointed a gun at Call. Call retreated and retrieved his service weapon from his car while Hashemi forced Samandari into the driver's seat of her BMW. As Samandari tried to escape from the car, Call approached, displayed his badge, pointed his service weapon at Hashemi, and yelled at him repeatedly, "Police! Drop the weapon!" Hashemi did not comply and pointed a gun at Call. Call ducked for cover and, fearing for his life and Samandari's life, emerged from cover moments later and fired his service weapon at Hashemi, striking him in the face and chest. A later examination of Hashemi's handgun showed that one of Call's rounds struck Hashemi's loaded handgun, disabling it.

Hashemi forced Samandari to drive out of the parking lot while pointing a gun at her. Call and bystanders called 9-1-1. Call reported to the 9-1-1 operator, "The man was abducting a female into a black BMW. They headed westbound from LA Fitness on Desoto. He has a gun. He's hit. He's bleeding. I fired at him. He pointed his weapon at me and I fired at him."

Samandari drove away and stopped at a nearby stoplight where she was able to escape from the car. She ran and flagged down a passing police officer and yelled, "Help me! Help me!" Hashemi drove away in the BMW. The officers who assisted Samandari radioed to other officers the suspect and vehicle description and last known direction of travel. An airship was dispatched to assist.

The CHP Shooting

Approximately five minutes later, officers in an LAPD airship reported they saw Hashemi in the BMW driving toward the Ventura Freeway. CHP Officer Justin Rosete monitored the radio calls and searched for Hashemi and the black BMW. When Rosete turned a corner, he saw the BMW driving toward him with the driver's side window down.¹ Rosete exited his patrol vehicle, drew his service weapon, and pointed it at Hashemi. When Hashemi drove toward Rosete and was approximately 10 to 20 feet away, Hashemi pointed a gun at Rosete. In fear for his life, Rosete fired eight rounds at Hashemi. Hashemi continued to drive and entered the Ventura Freeway. He drove past LAPD Officer Richard Nagatoshi who unholstered his service weapon and pointed it at Hashemi as he drove past and onto the freeway. Nagatoshi did not fire his weapon. Nagatoshi activated his lights and siren and pursued Hashemi. Rosete entered his patrol vehicle and also pursued Hashemi.

¹ CHP dash-camera videotape captures the incident beginning at this point.

The Pursuit

LAPD Officers Brandon Kiefer and Robert Del Papa were also monitoring the radio calls and heard the airship report that an officer needed help and shots were fired. They saw Hashemi enter the freeway. Kiefer and Del Papa activated their lights and siren and pursued Hashemi. Hashemi continued to drive at over 100 mph, changing lanes and cutting in front of other vehicles. Rosete drove behind Kiefer and Del Papa, also with his lights and siren activated. Nagatoshi activated his lights and siren and drove behind Rosete. The airship monitored the pursuit from overhead. Hashemi drove approximately seven miles, weaving in-and-out of traffic, and exited the freeway, driving toward the City of Malibu.² Hashemi drove approximately 12 miles on Malibu Canyon Road, a winding, two lane canyon road. Hashemi drove into oncoming traffic lanes and over construction cones at a high rate of speed. Kiefer and Del Papa continued to pursue Hashemi with lights and siren activated. Hashemi drove to the end of Malibu Canyon Road where it terminates in a park. Hashemi stopped his vehicle and exited with a gun in his hand.

The LAPD Shooting

As Hashemi's vehicle rolled to a stop against a curb, Kiefer and Del Papa pulled up behind him. As Kiefer was stopping his patrol vehicle, Hashemi exited the BMW and turned toward Kiefer and Del Papa while holding a gun in his left hand.³ Del Papa exited the patrol vehicle and fired a single gunshot at Hashemi. The gunshot did not strike Hashemi. Hashemi turned away from Del Papa and Kiefer and ran through the park and down a bluff toward the ocean. He threw the gun into a bush and laid down on a hillside.⁴ LAPD Special Weapons and Tactics personnel took Hashemi into custody a short time later.

CHP Officer Justin Rosete's Statement

Rosete responded to a call from an LAPD airship requesting CHP assistance in patrolling the Ventura Freeway to look for a black BMW involved in an officer-involved shooting. Rosete was driving near the freeway when he received a radio update that Hashemi's BMW was seen nearby. Rosete turned onto a surface street and saw Hashemi's vehicle driving toward him. Knowing Hashemi was armed and previously involved in an officer-involved shooting, Rosete exited his vehicle, drew his service weapon, and took cover behind the door of his vehicle. Hashemi accelerated in Rosete's direction. As Hashemi was abreast of Rosete and approximately 10 to 20 feet away, Hashemi pointed a gun at Rosete through the open driver's side window of the BMW. Fearing for his life, Rosete fired eight rounds at Hashemi. Hashemi fled and Rosete followed him onto the Ventura Freeway and assumed the secondary position in the pursuit behind Kiefer and Del Papa's vehicle. After approximately 10 miles, Rosete terminated his pursuit due to a flat tire.

² The pursuit was videotaped beginning at this point by news helicopters.

³ Videotape footage from a media helicopter shows Hashemi exiting the BMW and turning toward the officers with a gun in his left hand.

⁴ A .40 caliber Glock semiautomatic firearm was located in a bush. It had five live rounds in the magazine, an expended cartridge casing lodged in the firing chamber, and a bullet lodged between the barrel and slide.

LAPD Officer Richard Nagatoshi's Statement

Nagatoshi provided a compelled statement to investigators.

Nagatoshi heard a radio call of an officer-involved shooting and kidnapping involving a black BMW. He looked for the vehicle near the Ventura Freeway. Nagatoshi saw Rosete in his CHP vehicle on a surface street. He saw the BMW driving initially at a slow-rate of speed toward Rosete. Nagatoshi saw an object protrude from Hashemi's driver's window as the BMW accelerated in Rosete's direction. Rosete fired at the vehicle. Nagatoshi unholstered his weapon and aimed it at Hashemi's vehicle, which was angling toward the freeway onramp. When Hashemi passed Nagatoshi, Hashemi also pointed a gun at Nagatoshi. Nagatoshi did not fire. Hashemi entered the freeway and Nagatoshi activated his lights and siren and pursued him.

LAPD Officer Brandon Keifer's Statement

Keifer provided a compelled statement to investigators.

Keifer was on patrol with Del Papa when they received a radio call regarding an officer-involved shooting. Keifer and Del Papa saw Hashemi enter the freeway. They activated their lights and siren and pursued Hashemi, who was driving at a high rate of speed. Hashemi exited the freeway at Malibu Canyon Road while Kiefer and Del Papa continued to pursue him. When Hashemi came to a stop at Malibu Bluffs Park, Keifer was positioning his vehicle behind Hashemi as Hashemi exited his vehicle with a gun in his hand. Hashemi turned toward Kiefer and Del Papa. Keifer heard Del Papa fire a single shot and saw Hashemi run toward the ocean, still carrying the gun.

LAPD Officer Tom Cardona's Statement

Cardona provided a compelled statement to investigators.

Cardona and LAPD Officer Melvin Peraza responded to a radio call of a kidnapping. They joined the pursuit of Hashemi and became the secondary police vehicle behind Kiefer and Del Papa. When the pursuit terminated at Malibu Bluffs Park, Cardona saw Hashemi exit the vehicle and turn in Kiefer and Del Papa's direction, holding a firearm in his left hand and a duffle bag in his right. Cardona saw Hashemi point the gun in the direction of his vehicle and Kiefer and Del Papa's vehicle and he heard a single gunshot.

LAPD Officer Melvin Peraza's Statement

Peraza provided a compelled statement to investigators.

Peraza and Cardona responded to the kidnapping radio call and they joined the pursuit of Hashemi on the Ventura Freeway. When the pursuit terminated at Malibu Bluffs Park, Peraza exited his vehicle as Del Papa also exited his vehicle. Peraza saw Hashemi exit the BMW in the direction of the police vehicles. Hashemi had a semiautomatic handgun in his left hand. Peraza saw Hashemi point the gun at him and the other officers. Peraza heard a single gunshot. He deduced that an officer had fired because he did not see a muzzle flash from Hashemi's gun.

When Hashemi began to run toward the cliff he was still armed with the handgun. Peraza and the other officers chased Hashemi on foot.

LAPD Officer John Izzo's Statement

Izzo provided a compelled statement to investigators.

Izzo was piloting an LAPD airship and responded to a radio call regarding an officer-involved shooting. Izzo saw Hashemi's black BMW near the Ventura Freeway. From overhead, he saw Rosete's CHP vehicle turn and stop and face the BMW. He saw the BMW accelerate toward Rosete and Rosete fired. Izzo followed the pursuit and saw Hashemi exit his vehicle and flee on foot. Hashemi was holding a firearm as he fell down the bluff. He saw Hashemi discard the gun.

LAPD Officer Daniel Putnam's Statement

Putnam provided a compelled statement to investigators.

Putnam was with Izzo in the airship. He alerted CHP officers to "be on the lookout" for Hashemi's black BMW and advised that Hashemi was armed with a handgun. Putnam and Izzo located the BMW near the Ventura Freeway. Putnam saw Hashemi park under a large tree. He radioed CHP Hashemi's location and saw Rosete approach the area. He saw Hashemi drive at a high-rate of speed in Rosete's direction and saw Rosete fire at the oncoming vehicle. Putnam followed the pursuit and saw Hashemi drive at over 100 mph on the freeway, weaving in-and-out of traffic. When the pursuit terminated, he saw Hashemi exit the BMW with a gun in his hand and face the pursuing officers. Hashemi ran through the park.

FBI Agent Tyler Call's Statement

Call was off-duty and parked his car in a fitness center parking lot. He locked his service weapon in his vehicle. He heard Hashemi and Samandari arguing near a BMW. Call approached the vehicle and saw Hashemi forcing Samandari into the driver's seat. When he asked what was going on, Hashemi drew a semiautomatic handgun from his pocket and pointed it at him. Call retreated to his car as he watched Hashemi point a gun at Samandari's head and force her into the vehicle.

After retrieving his service weapon and FBI badge from his car, Call returned to the BMW and stood in front of the vehicle, facing the passenger side where Hashemi was seated. Call, holding his weapon in his right hand and his badge in his left, yelled repeatedly at Hashemi, "Police! Drop the weapon!" When Hashemi failed to comply and instead pointed his weapon at Call, Call ducked for cover fearing Hashemi was about to fire at him. Determining that Hashemi was an immediate threat to both himself and Samandari, Call emerged from cover and fired nine rounds at Hashemi, emptying the magazine of his service weapon. Call saw that Hashemi was struck in the face but Hashemi was still alert and giving orders to Samandari. The BMW drove out of the parking lot and Call followed the vehicle and alerted bystanders that he was a law enforcement officer and to call 9-1-1. Call followed the BMW until he could no longer keep up with the car. He called 9-1-1 and waited for LAPD to arrive.

Statement of Gregory Parker

Parker said he saw Hashemi physically assault Samandari in the fitness center parking lot. Hashemi held her in a chokehold before forcing her into the driver's seat of her BMW. He saw Hashemi threaten Samandari with a firearm. Parker saw Call approach the car, indicating he was a law enforcement officer, and told Hashemi, "Get down! Put the gun down!" He saw Call fire into the passenger side window of the car before chasing after the car as it exited the parking lot.

Statement of Howard Schneider

Schneider saw Hashemi run after Samandari, catching her before she could reach the fitness center. He saw Hashemi pull her by her ponytail across the lot to a BMW, carrying a large firearm in his left hand. Schneider saw Call retrieve his badge and weapon from his vehicle before confronting Hashemi. Call showed Hashemi his badge and told him to drop his weapon. He heard Call fire at Hashemi and saw that Hashemi had been hit in the face before fleeing the scene.

Mahsan Samandari's Statement

Samandari told the police that she arrived for her weekly yoga class when her ex-husband, Hashemi, confronted her. She said Hashemi told her he was armed with a gun and then physically forced her into the driver's seat of her BMW. Samandari screamed for help. She saw Call approach her vehicle and display a badge. Call instructed Hashemi to leave her alone. Hashemi brandished his firearm at Call. She ducked when shots were fired. Hashemi, then in the passenger seat of the car and bleeding, held her at gunpoint and instructed her to drive out of the parking lot. Hashemi struck her twice in the back of the head with his weapon. When Samandari reached an intersection, she stopped and ran from the vehicle.

Sayed Hashemi's Statement

Hashemi was taken into custody, given his Miranda rights, and provided a statement to investigators. He said he arrived at the fitness center knowing that his ex-wife, Samandari, took yoga classes there. He said he waited in the parking lot for her because he wanted to talk to her. Hashemi said the situation escalated because Samandari began to loudly tell him to get away. When Call first responded to Samandari's yelling, Hashemi said he could not concentrate on what Call was saying. Hashemi watched Call return to Samandari's car with a gun and some type of identification but he could not hear Call identify himself as a law enforcement officer. Hashemi said Call began to fire at the car, striking him in the face and abdomen. Samandari drove out of the parking lot to take him to the hospital and she abandoned the car because it was too much for her to deal with. Hashemi denied having a gun or threatening Samandari.⁵ After Samandari abandoned the car, Hashemi said he began driving to Malibu to jump off a cliff. He said he was about to get onto the Ventura Freeway when a CHP officer tried to stop him. The CHP officer shot at his car as he drove by. He led the pursuing officers to Malibu Bluffs Park and exited the BMW and ran toward the bluff. When he fell down the cliff, he decided to wait for the officers to come and get him.

⁵ Videotape evidence shows Hashemi pointing the gun at news helicopters and eventually discarding the gun in a bush.

Hashemi's Injuries

Hashemi had two bullet graze wounds to his chin and a through-and-through gunshot wound to his right chest.

Bullet Impacts

There were six bullet impacts to the windshield of the BMW. Five of those impacts were from the exterior and are consistent with the shots fired by Agent Call. The sixth impact was from the interior of the vehicle and into the windshield and is consistent with a shot being fired by Hashemi from inside the vehicle.

There were three bullet impacts to the exterior of the driver's side of the vehicle. Those impacts are consistent with the shots fired by Rosete.

No impact was located from the round fired by Del Papa.

LEGAL ANALYSIS

In California, the evaluation of the reasonableness of a police officer's use of deadly force employs a reasonable person acting as a police officer standard, which enables the jury to evaluate the conduct of a reasonable person functioning as a police officer in a stressful situation. *People v. Mehserle* (2012) 206 Cal. App. 4th 1125.

A peace officer is also entitled to use deadly force to capture a dangerous person who has committed a felony. A dangerous person is defined as one who (a) poses a significant threat of death or serious bodily injury to the person attempting the apprehension or others, or (b) has committed a forcible and atrocious felony. *People v. Ceballos* (1974) 12 Cal.3d 470. A forcible and atrocious felony is one that by its nature and manner of its commission reasonably creates a fear of death or great bodily injury. *CALCRIM No. 505*. "Police may use reasonable force to make an arrest, prevent escape or overcome resistance, and need not desist in the face of resistance... [and] in virtue of a police officer's duty to act affirmatively to protect the public, a police officer is "entitled to the even greater use of force than might be, in the same circumstance, required for self-defense." *Brown v. Ransweiler* (2009) 171 Cal. App. 4th 516.

The evidence examined in this investigation, including dash camera videotape from Rosete's CHP vehicle and video footage from media helicopters, support the witnesses and officers' accounts that Hashemi was armed with a firearm and posed an immediate and lethal threat to Samandari, numerous innocent bystanders, and law enforcement officers.

Hashemi armed himself with a loaded, semiautomatic handgun and kidnapped Samandari at gunpoint. When Agent Call confronted Hashemi and ordered him to drop the gun, Hashemi pointed the gun at Call. In fear for his life and Samandari's life, Call fired at Hashemi, striking him in the face and chest. There was also a bullet fired from inside the BMW and in the

direction of where Call was standing at the time of the shooting, indicating the possibility that Hashemi fired at Agent Call.⁶

While fleeing, Hashemi pointed the gun at Rosete. Fearing for his life, Rosete also fired at Hashemi. After leading officers on a high speed pursuit, Hashemi stopped his vehicle and pointed the gun in the direction of the pursuing officers, including Officer Del Papa who fired a single round at Hashemi in order to protect his life, the lives of the other officers, and innocent bystanders in the park.

CONCLUSION

It is the conclusion of this office that Officers Del Papa and Rosete and Special Agent Call acted in lawful self-defense and defense of others while attempting to apprehend a dangerous, fleeing felon. We are closing our file and will take no further action in this matter.

⁶ One of Agent Call's bullets lodged in the muzzle of Hashemi's firearm between the barrel and the slide, disabling it. That information was not known to Rosete, Del Papa, or any of the other pursuing officers.