

**LOS ANGELES COUNTY DISTRICT ATTORNEY  
CHARGE EVALUATION WORKSHEET**

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LAST NAME: ZELAYAGRINFELD

FIRST NAME: EDDUIN

DA CASE NUMBER: 39386241

<b>X FELONY</b> <b>MISDEMEANOR</b>	AGENCY NAME LAPD - WILSHIRE		DA CASE NO. 39386241		DATE 03/13/2019		
	AGENCY FILE NO. (DIR OR URN) 19-0700566		DA OFFICE CODE CNA		VICTIM ASSISTANCE REFERRAL <input type="checkbox"/> YES - NOTIFY VWAP <input type="checkbox"/> NO		
<b>SUSP NO.</b>	<b>SUSPECT</b>				<b>CHARGES</b>		
					<b>CODE</b>	<b>SECTION</b>	<b>OFFENSE DATE</b>
<b>1</b>	NAME (LAST, FIRST MIDDLE)) ZELAYAGRINFELD, EDDUIN KHALEB				PC	245(A)(2)	
					02/14/2019	B	
	DOB	SEX (M/F)	BOOKING NO.	VIP -- Yes -- No			
	Gang Member Name of Gang				Victim Gang Member Name of Gang		
	Victim Name				Victim DOB		
<b>2</b>	NAME (LAST, FIRST MIDDLE))						
	DOB	SEX (M/F)	BOOKING NO.	VIP -- Yes -- No			
	Gang Member Name of Gang				Victim Gang Member Name of Gang		
	Victim Name				Victim DOB		
<b>3</b>	NAME (LAST, FIRST MIDDLE))						
	DOB	SEX (M/F)	BOOKING NO.	VIP -- Yes -- No			
	Gang Member Name of Gang				Victim Gang Member Name of Gang		
	Victim Name				Victim DOB		

**Comments**

Ohel Chana High School (OCHS) is an all-girls, Jewish high school associated with Etz Jacob Congregation Synagogue (Etz Jacob). OCHS and Etz Jacob share a building at 7659 Beverly Boulevard in Los Angeles. Zelaya was an armed security guard (licensed) for OCHS/Etz Jacob.

On February 14, 2019, Zhoie Perez went to OCHS/Etz Jacob. Approximately 120 OCHS students and staff members were present—school was in session. Perez was dressed in all black with a backpack secured to her body by a harness. Perez also carried a small, hand-held, camera rig. Perez loitered near OCHS/Etz Jacob filming OCHS, including windows and doors. Zelaya noticed Perez, and confronted her about what she was doing—telling her to get away. Perez gave no response and continued her activity. Zelaya radioed to ask that LAPD be summoned.

Over the next twenty minutes, Zelaya continued to follow and warn Perez. Perez continued to walk around the exterior of OCHS/Etz Jacob, filming in silence. Eventually, as Perez moved to the side of the building, Zelaya entered the school to warn staff. OCHS students and teachers were moved to a safe location and placed on lock-down. Zelaya exited the building into a courtyard/porch area secured by a rod iron fence/gate. Zelaya stood inside, and, just outside, Perez continued to film.

Zelaya again told Perez, "go away!" Zelaya warned Perez that he would shoot Perez if she tried to enter the school (Zelaya had warned Perez of the same consequence earlier). Perez made a slight movement. Zelaya un



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holstered his firearm (Glock .40 caliber), and fired a "warning shot" at the ground. The bullet ricocheted off the ground. A fragment of the bullet (or concrete) struck Perez in the middle of her right thigh.

When force is used in defense of self or others, the law requires an actual and reasonable belief that force was necessary to defend against a threat of imminent injury, and that the level of force used was reasonable. (CALCRIM 3470.) The People have the burden of proving beyond a reasonable doubt that Zelaya was not acting in self-defense, or in defense of others, when he discharged his firearm. This burden cannot be met.

On the issue of actual belief, prior to discharging his firearm, Zelaya entered OCHS to tell staff to move the students to a safe location—thereby commencing the school lockdown. This action alone would establish that Zelaya actually believed that Perez posed an immediate threat to the students—students that Zelaya was there to protect.

On the issue of the reasonableness of Zelaya's belief, in the combined wakes of mass shootings and increased anti-Semitic violence, the evidence supports the conclusion that Zelaya's perception of Perez's behavior as dangerous was reasonable. Perez went to a Jewish school, and place of worship, dressed in all black and with a backpack secured to her body by a harness. As Zelaya told detectives, Perez's backpack could have contained a bomb, and her attire could have concealed a firearm or other deadly weapon. Zelaya further reported that Perez had her left hand in the pocket of her hoodie, and appeared to be making a squeezing motion, just before Zelaya discharged his firearm. (The fact that Perez had no bomb or weapon would not defeat a self-defense/defense of others claim—actual danger need not exist. (CALCRIM 3470.)) Additionally, Perez's focus on filming certain aspects of the school could have been viewed as a search for the most vulnerable/accessible entry points. When Perez was asked to explain what she was doing by Zelaya, who expressed his concern that Perez was threatening terrorist activity, and by a passerby, who expressed his concern that Perez's activity was threatening to the school, Perez did nothing to allay those fears. On the contrary, her purposeful silence amplified those fears, and, in light of Perez's behavior, solidified Zelaya's concerns as reasonable.

On the use of force, Zelaya believed that Perez was an imminent danger to OCHS students and himself—that Zelaya may have a bomb in her backpack. Zelaya had the authority to demand that Perez leave the sidewalk adjacent to OCHS, under Penal Code section 626.8 (disrupting a school and then remaining on an adjacent sidewalk or street after being asked to leave by an authorized person is a misdemeanor). After Perez remained next to the building, and appeared to reach into her pocket, Zelaya fired at the ground—an action intended to get Perez to move away. Zelaya had requested that LAPD be summoned, and Zelaya's actions were in line with keeping Perez away from the building. Perez received a minor injury. Given the minor injury, we lack sufficient proof to demonstrate that Zelaya used an unreasonable level of force under the circumstances.

For these reasons, the case must be declined.

COMPLAINT DEPUTY (print) <b>JOHN HARLAN II</b>	COMPLAINT DEPUTY (SIGNATURE)	STATE BAR NO. <b>184867</b>	REVIEWING DEPUTY (SIGNATURE)
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I have conveyed all relevant information to the above-named Deputy District Attorney to be used in consideration of a filing decision.

FLING OFFICER (PRINT): OSVALDO DELGADILLO FLING OFFICER (SIGNATURE): \_\_\_\_\_ SERIAL # 35636

<b>DEPARTMENT OF JUSTICE REASON CODES (FORM 8719)</b>		<b>D. Victim Unavailable/Declines To Testify</b> <b>E. Witness Unavailable/Declines to Testify</b> <b>F. Combined with Other Counts/Cases</b> <b>G. Interest of Justice</b>		<b>H. Other (Indicate the reason in Comments section)</b> <b>I. Referred to Non-California Jurisdiction</b> <b>J. Deferred for Revocation of Parole</b> <b>K. Further Investigation</b>		<b>L. Prosecutor Prefiling Deferral</b> <b>DISTRICT ATTORNEY'S REASON CODES</b> <b>M. Probation Violation filed in lieu of</b> <b>N. Referred to City Attorney for Misdemeanor Consideration</b>	
<b>A. Lack of Corpus</b> <b>B. Lack of Sufficient Evidence</b> <b>C. Inadmissible Search/Seizure</b>							