

**Non-Fatal Officer Involved Shooting of Michelle Lariccia
Los Angeles Police Department**

**Officer James Mathews, #38458
Officer Benjamin Lopez, #42272**

J.S.I.D. File #21-0135



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

February 17, 2023

MEMORANDUM

TO: CAPTAIN RICH GABALDON
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: Non-Fatal Officer Involved Shooting of Michelle Lariccia
J.S.I.D. File #21-0135
F.I.D. File #F020-21

DATE: February 17, 2023

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the April 2, 2021, non-fatal shooting of Michelle Lariccia, also known as Michelle Bulejan, by Los Angeles Police Department (LAPD) Officer James Mathews and Officer Benjamin Lopez. We have determined that Officer Mathews and Officer Lopez acted in lawful self-defense and the defense of others when they used deadly force against Lariccia.

The District Attorney's Command Center was notified of this shooting on April 2, 2021, at approximately 5:00 p.m. The District Attorney Response Team responded to the scene and was given a briefing and walk-through by Lieutenant David Smith.

The following analysis is based on reports and other materials, including body-worn video (BWV), video posted on social media, photographs, and interviews of witnesses submitted by the LAPD Force Investigation Division. The compelled statements of Officer Mathews and Officer Lopez were not considered in this analysis.

FACTUAL ANALYSIS

On April 2, 2021, at approximately 3:00 p.m., a man observed Lariccia firing a handgun "randomly" and at "the birds" in MacArthur Park, located in Los Angeles. The man called 9-1-1, reported the incident, and gave a description of Lariccia. Officers received police radio communications broadcasting a "shooting in progress" along with a description of Lariccia. Shortly thereafter, uniformed officers arrived and heard gunfire coming from within the park. Officers located Lariccia and monitored her movements in and around the park with the assistance of a police helicopter. When the police helicopter arrived, Lariccia pointed her handgun at the police helicopter, occupied by two police officers. The helicopter pilot took evasive action to limit their exposure to gunfire and Lariccia's actions were broadcast to officers on the ground. Lariccia did not fire any rounds from her handgun at the helicopter.

Simultaneously, a group of officers, including Mathews and Lopez, tracked Lariccia within the park. The officers took cover behind a large tree and gave Lariccia several loud commands to “drop the gun.” She removed her handgun from her waistband area and briefly pointed it with one hand at the group of officers at a distance of approximately 65 feet before pointing it upward. A moment later, Lariccia pointed her handgun at the group of officers again. Lariccia held the handgun with both hands at about her shoulder level. Lopez fired three rounds from his service handgun. Immediately thereafter, Mathews fired two rounds from his service rifle.¹ Lariccia did not fire any rounds at the officers.



A video posted on social media captured Lariccia holding the handgun (circled) while officers (left) were giving her commands.

¹ From the video evidence, it appeared that Mathews’ rounds did not strike Lariccia.



The video captured Lariccia pointing her handgun in the officers' direction immediately before Lopez and Mathews fired their service weapons.

Lariccia was struck by gunfire and fell to the ground. She dropped her handgun – a 10mm semiautomatic pistol loaded with a total of seven rounds of ammunition, including one in the chamber.² Five additional rounds of 10mm ammunition were retrieved by investigators near the handgun on the floating dock near the lake.

After Lariccia fell to the ground, she stood up and walked away from the officers and the handgun, ignoring further commands to surrender. She entered the lake, swam to an island within the lake, and remained inside the lake for approximately two hours and 35 minutes. Lariccia was eventually arrested and transported to the hospital where she was treated for non-life-threatening injuries.

² Earlier in the day, at approximately noon, Lariccia forced entry into her mother's house without permission and took property, including the loaded semiautomatic handgun. Before Lariccia left, her mother arrived, and a verbal argument ensued. A passerby, an unrelated woman, heard Lariccia's mother screaming for help and stood nearby – whereupon Lariccia lifted her shirt and displayed a portion of a handgun in her waistband to the passerby. Lariccia's mother and the unrelated woman called 9-1-1 and reported the incident. Lariccia had left the area when the police arrived.



Lariccia’s loaded handgun was photographed at the scene.

On April 5, 2021, investigators interviewed Lariccia – she stated that she was shooting at the birds in MacArthur park and she pointed the handgun at the police helicopter. She gave conflicting statements as to whether she pointed her handgun at the officers. She stated that her “gun was on the ground” when the police shot her, but also that “the only reason why I – that I – I aimed at them, because they were aiming at me.” She also stated that she complied and “dropped the gun” in response to police commands and she had no intention of shooting any officers. She was charged in case number BA494583 with several felony counts – in April 2022, criminal proceedings were suspended, and mental health diversion was granted pursuant to Penal Code section 1001.36(b) for a period of two years.

LEGAL ANALYSIS

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. A peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or to another person. A peace officer who attempts to make an arrest need not retreat or desist from their efforts by reason of the resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right of self-defense by the use of objectively reasonable force. Cal. Penal Code § 835a(b), (c)(1)(A), and (d).

A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future

harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed. Cal. Penal Code § 835a(e)(2).

“Totality of circumstances” means all facts known to or perceived by the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force. The peace officer’s decision to use force is not evaluated with the benefit of hindsight and shall account for occasions when officers may be forced to make quick judgments about using force. Cal. Penal Code § 835a(a)(4) and (e)(3).

Here, Lariccia fired several rounds of ammunition from a semiautomatic handgun inside MacArthur Park, a highly populated public park. When the police arrived, they identified her as the shooter described in their radio communications. Lariccia pointed her handgun at the police helicopter overhead and officers on the ground were informed of the same via radio communications. Lariccia, still armed with the handgun, refused to comply with simple and loud commands to drop the handgun. Video evidence confirmed Lariccia pointed the handgun in the direction of officers on the ground as well.

Lopez and Mathews were part of a team of officers contacting Lariccia in the park. The available evidence, including relayed radio communication and BWV, indicate that Lopez and Mathews were personally aware that Lariccia was armed and dangerous. Despite officers’ clear and loud verbal commands to drop her handgun, Lariccia twice pointed the handgun at the officers. The second time, as captured by the video evidence, Lariccia held the handgun with two hands in a manner consistent with taking aim in the officers’ direction. In response, Lopez and Mathews fired several rounds at Lariccia. This evidence supports a reasonable belief that the use of deadly force was necessary.

CONCLUSION

We conclude that Officer Mathews’ and Officer Lopez’s use of deadly force was reasonable and necessary, and legally justified in self-defense and the defense of others.