

**Non-Fatal Officer Involved Shooting of Harut Torosyan
Los Angeles Police Department**

Officer Joseph Marx, #37650

J.S.I.D. File #18-0487



JACKIE LACEY

District Attorney

Justice System Integrity Division

September 3, 2020

MEMORANDUM

TO: COMMANDER TIMOTHY NORDQUIST
Los Angeles Police Department
Force Investigation Division
100 W. 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 Harut Torosyan
J.S.I.D. File #18-0487
L.A.P.D. File #F064-18

DATE: September 3, 2020

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the November 18, 2018, non-fatal shooting of Harut Torosyan by Los Angeles Police Department (LAPD) Officer Joseph Marx. It is our conclusion that the officer acted in lawful self-defense.

The District Attorney's Command Center was notified of the shooting on November 18, 2018, at 4:27 p.m. The District Attorney Response Team responded and was given a briefing and conducted a walk-through of the scene.

The following analysis is based on police reports, witness interviews, body worn video, digital in-car video, dispatch recordings, crime scene photographs, firearm analysis and medical records submitted to this office by the LAPD Force Investigation Division. Officer Marx provided a compelled statement which was considered as part of this analysis.

FACTUAL ANALYSIS

On November 18, 2018, at approximately 3:40 p.m., uniformed LAPD Officers Joseph Marx and Michael Dingillo were on patrol in a marked black and white vehicle, southbound on Western Avenue in the City of Los Angeles. Marx and Dingillo were equipped with body worn video (BWV) and their patrol unit was equipped with a digital in-car video system (DICVS).

Marx observed an older model Land Rover Range Rover ("Land Rover") with no license plates waiting to make a right turn onto southbound Western Avenue from a parking lot.¹ The Land Rover had two occupants, later identified as Harut Torosyan, the driver, and Fredrick O., the

¹ Failure to display license plates on a motor vehicle is a violation of California Vehicle Code section 5200(a).

front seat passenger. Marx stopped the patrol vehicle in the center median and waited for the Land Rover to exit the parking lot to investigate the vehicle code violation. Torosyan changed directions and made a left turn onto northbound Western Avenue, in the opposite direction from the marked police unit.

Marx made a U-turn and followed the Land Rover. Torosyan repeatedly changed lanes to maneuver around slower traffic as Marx closed the distance. Marx activated the patrol unit's overhead lights to initiate a traffic stop. Torosyan struck the rear end of a minivan as traffic came to a stop. Marx and Dingillo exited and stood behind their opened doors. Torosyan repeatedly looked back at Marx through the driver's side view mirror while ignoring multiple orders to show his hands and turn off the engine.

Marx could not see below Torosyan's shoulders through the rear window due to the large number of duffel bags and boxes in the passenger compartment. Marx observed Torosyan moving around in the driver's seat and at one point he appeared to lean down toward his knees. Dingillo saw Torosyan through the passenger's side view mirror and observed him reach both hands into the glove compartment.² Based on Torosyan's behavior, Marx and Dingillo drew their service weapons believing that he may be attempting to arm himself with a weapon.

Marx continued to order Torosyan to turn off the vehicle and show his hands. Instead, Torosyan fled north on Western Avenue at a high rate of speed. Marx and Dingillo holstered their weapons and entered their vehicle. Marx activated the police unit's siren and pursued the Land Rover. Dingillo broadcast over the radio that they were involved in a vehicle pursuit and requested assistance from additional units.

Torosyan turned right onto Santa Monica Boulevard then entered the southbound 101 freeway. Torosyan drove on the right shoulder to pass the bumper-to-bumper traffic. Torosyan veered back into the lanes when the shoulder ended at the Melrose Avenue exit. Marx drew his service weapon and tried to maintain some distance behind the Land Rover to avoid becoming a "sitting duck" if Torosyan pulled a gun.³

Torosyan forced his way through the heavy traffic and came to a stop with his driver's side tires on the line separating the number one and two lanes. Fredrick O. immediately put his hands out the front passenger window. Marx navigated around the stopped traffic and pulled in behind the Land Rover. By this time, Torosyan had opened the driver's door and exited. Marx observed a large, black semiautomatic handgun in Torosyan's right hand. Marx was alarmed that Torosyan decided to arm himself rather than leave the weapon in the vehicle. Torosyan appeared to manipulate the weapon with his hands. Marx believed the firearm had an extended magazine, or that Torosyan was inserting the magazine. During this time, Marx exited the driver's door and stood in the opened door jamb with his weapon pointed toward Torosyan.

² The DICVS captured Dingillo yelling, "Stop reaching for that! Let me see your hands!" then advising Marx, "Hey, he's reaching in the glove compartment." Marx mistakenly believed Dingillo was referring to Fredrick O.

³ The BWV captured Marx advise Dingillo, "This guy's gonna pull a gun, dude," after drawing his weapon.

The DICVS captured Torosyan exiting the Land Rover, however his back was toward the camera and his hands were out of view. The officers' BWVs did not capture Torosyan exiting the vehicle.



Torosyan exiting the Land Rover. (DICVS)

Torosyan ran toward the center median and used his left hand to brace himself on the concrete divider as he hopped over to the northbound side of the freeway. The gun was still in his right hand with his elbow bent and the weapon close to his body. As he began to run, Torosyan turned his head back toward Marx.⁴ Marx feared that Torosyan was attempting to acquire him as a target in order to shoot him. Marx fired three to four consecutive rounds at Torosyan to stop him from raising the gun and shooting him. Marx believed he fired all four rounds while Torosyan was looking back at him. Marx stopped firing as Torosyan continued to run across the freeway

⁴ Marx stated that he could see the left side of Torosyan's face when he turned his head and noticed that he had a beard.

and no longer appeared to be a threat.⁵ Torosyan ran down the Normandie Avenue onramp and disappeared from view. Dingillo's BWV did not capture the officer involved shooting.

Marx' BWV captures Torosyan jumping the center median. It shows Marx pointing his weapon and firing two rounds then firing two additional rounds after a slight pause. All four shots were fired within three seconds. The patrol vehicle's door frame blocked Torosyan from view during the first two rounds. It is unclear from the BWV where Torosyan was when the third round is fired. The BWV captures Torosyan running away from Marx across the northbound lanes when the fourth round is fired. The DICVS did not capture Torosyan after he exited the Land Rover and ran toward the center divider.



Torosyan leaping over the center divider. (Marx' BWV)

⁵ Marx said that the northbound traffic had stopped when he fired his weapon and his backdrop during the shooting was the freeway sound wall.



Torosyan is blocked by the door frame during the first two rounds. (Marx' BWV)



Position of Torosyan when the fourth round is fired. (Marx' BWV)

Dingillo drew his service weapon and exited the patrol vehicle when the Land Rover came to a stop on the freeway. Dingillo was focused on Frederick O., however he saw that Torosyan had

exited the Land Rover and hopped the center divider in his peripheral vision. Dingillo could not see Torosyan's hands. Dingillo returned his attention to Freddrick O. then heard Marx fire two rounds.⁶ Dingillo observed Torosyan running toward the Normandie Avenue onramp and disappearing from view.

Dingillo ordered Freddrick O. from the Land Rover at gunpoint. Freddrick O. complied and went to the ground as ordered. Responding units arrived to the scene and assisted taking him into custody.

Statement of Bianca V.

Bianca V. was driving on the southbound 101 freeway in the number one lane when the Land Rover stopped in front of her. A police vehicle with its lights and siren activated maneuvered through traffic and stopped to her right. Torosyan jumped from the Land Rover with a black handgun in his left hand, pointed to the ground. Marx leaped from the patrol vehicle with his gun pointed at Torosyan and ordered him to stop. Torosyan looked back toward Marx as he hopped over the center divider. Marx fired four rounds at Torosyan. Torosyan ran across the northbound lanes of traffic once he heard the gunfire. Torosyan ran down the onramp, jumped over a guardrail and disappeared from view with the gun still in his hand.

Arrest of Torosyan

A perimeter was set up in the area Torosyan was last seen with the assistance of an LAPD air unit. Multiple citizens directed officers to an apartment complex on Normandie Avenue. A search team located Torosyan hiding at the top of a stairwell landing. Torosyan was arrested without incident. Marx positively identified Torosyan as the Land Rover's driver.

Injuries

Torosyan was transported to Los Angeles County University Southern California Medical Center and treated for two grazing gunshot wounds to the top of his head and right flank.

Firearm Evidence

Chelsea M. lives in an apartment building adjacent to the Normandie Avenue onramp. After hearing gunshots, she observed Torosyan running down the onramp with a charcoal gray object in his right hand. He moved the object to his left hand and threw it between the guardrail and the fence line to the rear of her apartment complex. The object hit a palm tree then fell onto the dirt embankment adjacent to the onramp. Chelsea M. believed the object was metal based on the sound it made when it struck the tree.

A loaded 9mm Luger caliber KAHR semiautomatic firearm, Model C9, was located on the dirt embankment area described by Chelsea M.

⁶ An examination of Marx' service weapon determined that he fired four rounds.



Torosyan's firearm on the dirt embankment.

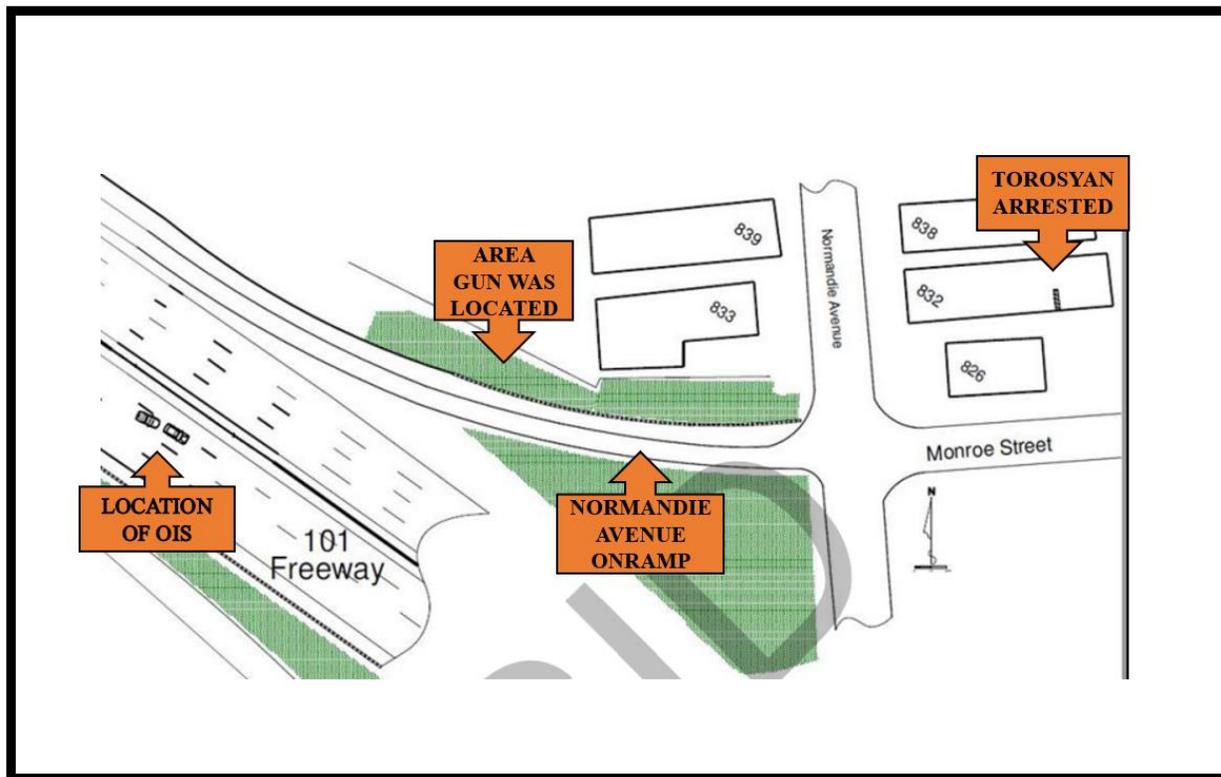


Diagram of Scene

THE LAW

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer “may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him.” *People v. Mehserle* (2012) 206 Cal.App.4th 1125, 1146.

In evaluating whether a police officer’s use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance for the fact that police officers 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.

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.4th 1077, 1102.

CONCLUSION

The evidence examined shows that Torosyan exited the Land Rover armed with a loaded firearm after repeatedly evading Marx and Dingillo's attempts to initiate a traffic stop for a vehicle code violation. He deliberately changed directions when he observed the marked patrol vehicle waiting in the center median. He maneuvered around slower traffic on Western Avenue as the patrol vehicle approached with its lights activated, striking a vehicle. Torosyan ignored multiple commands to show his hands and turn off the engine, accelerating away from the officers. Torosyan fled from the patrol vehicle on the freeway, driving along the shoulder to pass heavy traffic. He finally came to stop after forcing his way back into traffic then exited in the middle of the freeway with a gun in his hand.

By arming himself with a firearm upon exiting the Land Rover, Torosyan escalated the situation to a potentially deadly confrontation. Torosyan could have left the gun in the vehicle. Instead, he chose to take the weapon with him when he fled on foot. Torosyan's behavior showed a desperation and willingness to do anything to escape. Under the circumstances, when Torosyan looked back toward Marx, it was reasonable for Marx to believe that Torosyan intended to use the weapon against him in an effort to stop his pursuit.

Marx believed that he fired all four rounds when Torosyan was looking back at him. The BWV shows that the final round was fired when Torosyan was running from him. This fact does not change the analysis in this case. All four rounds were fired within three seconds, with a slight pause between the second and third shot. During that time, Torosyan maintained possession of the firearm and still posed an immediate deadly threat. Finally, Marx did not fire any additional rounds once he believed that Torosyan no longer posed an immediate threat to him.

We conclude that Officer Joseph Marx acted in lawful self-defense when he used deadly force against Harut Torosyan. We are therefore closing our file and will take no further action in this matter.