

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

**LAW ENFORCEMENT-RELATED INJURY– 045-20**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Time</u></b>	<b><u>Duty-On (X) Off ( )</u></b>	<b><u>Uniform-Yes (X) No ( )</u></b>
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Central	10/12/20	12:30 a.m.		
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<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
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Officer C	9 years, 1 month
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**Reason for Police Contact**

On Monday, October 12, 2020, at 0030 hours, uniformed police officers deployed in the Downtown Los Angeles area for crowd control. As the officers exited their vehicles, they were confronted by rioters who threw projectiles at them. In response to those actions, the officers formed a skirmish line and fired beanbag shotguns, 40-millimeter (40mm) and 37-millimeter (37mm) less-lethal launchers.

Two individuals reported they were struck and injured by less-lethal munitions. Subject 1 sustained bruising and a laceration to the left side of his neck. He was later treated and released from a nearby hospital. Subject 2 sustained broken teeth and a ruptured lower lip. Subject 2 was admitted to a nearby hospital.

<b><u>Subject</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded (X)</u></b>	<b><u>Non-Hit ( )</u></b>
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Subject 1: Male, 25 years of age.

Subject 2: Male, 26 years of age.

**Board of Police Commissioners' Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations, including any Minority Opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on August 24, 2021.

### **Incident Summary**

On Sunday, October 11, 2020, Captain A was the designated Incident Commander (IC) for the potential Lakers celebration in the event they won game six of the NBA finals. According to Captain A, as the evening progressed, there were multiple intersections where individuals illegally blocked traffic and street racers endangered the lives of others. Additionally, there were significant amounts of professional-grade fireworks being randomly launched at citizens and officers. Other criminal activity occurring included lasers being shined in the eyes of officers, moving vehicles being attacked, city buses being destroyed, stores and gas stations being looted, and rocks and bottles being thrown at officers. At 2010 hours, Captain A declared a City-Wide Tactical Alert due to the celebration devolving into riotous activity.

After hearing the City-Wide Tactical Alert broadcast, Sergeant B contacted the Department Operation Center (DOC) to get an assessment of the number of people who had gathered in downtown Los Angeles. Sergeant B was advised the crowd was approximately 3,000 people. After hearing this information, Sergeant B briefed a team of officers that they would likely soon be deployed to the incident.

Captain A approved the use of less-lethal munitions (37mm), and at 2047 hours, directed that a dispersal order be given in the area of the Staples Center. At 2049 hours, Sergeant A utilized the public address system of a black and white police vehicle and issued a dispersal order in English and Spanish.

At 2100 hours, Sergeant B and his/her team of officers responded to the Command Post located near the Los Angeles Convention Center. Upon their arrival, they were deployed to various problem locations throughout the night. The following uniformed officers were assigned with Sergeant B: Police Officer A, equipped with a 40mm, Officer B, equipped with a beanbag shotgun, Officer C, equipped with a beanbag shotgun, Officers D and E, equipped with a 40mm, Officers F and G, equipped with a 37mm, and Officers H, I and J. In addition to those personnel, uniformed Police Officer K, equipped with a 40mm, and Police Officer L, were also assigned with Sergeant B. Officer E was not equipped with a TASER or OC spray. Officer E indicated there was not room on his/her equipment belt for those items.

On October 12, 2020, at approximately 0007 hours, a YouTube channel livestreamed from the area. This video depicted Subject 2 dressed in a red hoodie, red shorts, white shoes with red laces, carrying a black backpack and wearing a camera around his neck.

At 0026 hours, Air Support Division (ASD), requested a strike team respond to an intersection due to a large number of people in the street. The Incident Recall indicated that at 0027 hours, there was a major group of more than two hundred people in the street.

Security footage was obtained from a camera attached to the building near the intersection. The camera was pointed west in the direction of the intersection. At 0029:06 hours, the video captured a crowd setting off fireworks, entering and exiting a looted business and gathering in the intersection. Security footage was also obtained from a camera attached to another building. The camera was pointed north along the west sidewalk. At 0029:57 hours, Subject 1 was recorded carrying a bottle in his left hand as he walked north on the west sidewalk in front of the building.

Sergeant B stated that he/she deployed to the area in response to ASD's broadcast that there were 500 people taking over an intersection and setting off fireworks. At 0030:34 hours, Sergeant B, who was in the lead vehicle, stopped in front the location, facing east. All the officers exited their vehicles and formed into a column of twos at Sergeant B's direction.

Seconds later, multiple individuals in the crowd east of their location began throwing glass bottles and metal projectiles at the officers. At 0030:52 hours, Officer L's Body Worn Video (BWV) captured a projectile in the air as it passed by his/her right side and landed on the ground. At 0030:53 hours, Officer K's BWV captured another projectile in the air, which Officer K stated either hit his/her helmet or nearly missed his/her head. Officer K stated it sounded like dozens of bottles just crashing everywhere.

At Sergeant B's direction, the officers formed a skirmish line across the intersection and began walking east. At 0031:09 hours, Officer L, who was on the south sidewalk, motioned with his/her hand to the east and stated to pedestrians on the sidewalk, "Hey that way. You're going that way." As the skirmish line moved east, individuals on the southeast and southwest corners of the intersection continued to throw projectiles at the officers.

As observed on Sergeant B's BWV, he/she took a position in the eastbound number three lane behind the skirmish line. At 0031:13 hours, Sergeant B's BWV captured a suspect on the southwest corner of an intersection facing west in the direction of the officers. The suspect can be seen moving forward with his right arm extended behind and above his head in an overhand throwing motion. A second person, wearing what appeared to be shorts and an unknown-colored shirt, was observed standing near the subject. Based on a review of BWV, it was determined the suspect threw what appeared to be a metallic cylindrical object (similar in size to an expended 37mm canister) in the direction of the skirmish line.

At 0031:13 hours, Sergeant B can be seen on BWV pointing toward the southwest corner of the intersection while announcing, "37s up, move that crowd!" According to Sergeant B, as his/her officers established the skirmish line, they started taking rocks and bottles straight away. In an effort to allow his/her officers to protect themselves, Sergeant B authorized the use of 37mm projectiles, which he/she indicated had already been approved by the IC.

The following description of events involved the simultaneous deployment of less-lethal munitions from multiple officers. To the extent possible, the chronology of events has been detailed below. Unless otherwise attributed, the actions of the officers were derived from BWV and the distances referenced were determined by Department mapping software after an analysis of the available BWV, Google satellite imagery, and statements of the involved officers. The investigation determined the officers on the skirmish line fired three volleys during this incident. Below is a description of what occurred during the first volley of less-lethal munitions. The positions of the officers were derived from their BWV.

Officer F was equipped with a 37mm less-lethal munition. At 0031:09 hours, Officer pointed east and told pedestrians on the south sidewalk, "Hey, go back." Officer F stated that as the skirmish line started moving east, the crowd at the southeast corner of the intersection was "very hostile and violent" and threw glass bottles at the officers. Officer F heard the command from Sergeant B for the 37mms to move up and indicated he/she fired five to ten feet in front of the crowd, from a distance of approximately 60 feet. Based on Officer F's description of where the crowd was located, the investigation determined that he/she fired from an approximate distance of 168 feet.

According to Officer K, it appeared there were hundreds of people in the intersection. Officer K believed the only thing that stopped the crowd from closing in on them was the use of the 37mm, which started creating a "reverse bubble," pushing the crowd back.

A review of BWV depicted Officer F positioned on the skirmish line in the right-hand turn lane. At 0031:17 hours, Officer F fired one 37mm projectile toward the southeast corner of the intersection.

Officer F did not believe it was feasible to give a less-lethal warning, because bottles were already being thrown at them. Officer F also explained that it was a chaotic environment that was noisy with the sounds of vehicular traffic, an Air Unit overhead, and glass bottles breaking around them. According to Officer F, there was no conceivable way the crowd would have heard a warning. Officer F was shown a BWV screen photograph of Subjects 1 and 2 and did not recall observing either of those individuals prior to them receiving medical treatment later in the morning.

Officer A was equipped with a 40mm less-lethal launcher. According to Officer A, as he/she moved east, he/she observed a glass bottle in the air that landed "just shy" of where he/she was standing. Officer A tracked the bottle's trajectory and believed it had been thrown by a male wearing a dark gray shirt, who was standing on the southwest corner of the intersection. Officer A indicated the Subject was holding a bottle in his right hand and was in a "mid-throwing" motion. To prevent this Subject from throwing the bottle, Officer A utilized the holographic sight on his/her 40mm less-lethal launcher and fired at his belt line area from a distance of approximately 80 to 90 feet. Officer A believed he/she missed, because when he/she stopped looking through his/her sights, he/she observed the Subject running south.

Based on a review of BWV, Officer A was positioned on the skirmish line in the number four lane. At 0031:13 hours, Officer A fired one 40mm round in a southeasterly direction. The investigation determined that at the time Officer A fired, he/she was approximately 95 feet from the Subject. Officer A activated his/her BWV camera after he/she discharged his/her 40mm round; therefore, that portion of his/her BWV was recorded without sound.

Officer A indicated it was not feasible to give a less-lethal warning due to the noise level around him/her. Officer A stated there were multiple projectiles and glass hitting the ground. In addition, there was continuous vehicle traffic coming southbound, with cars honking their horns and playing loud music. Officer A was shown a BWV screen photograph of Subjects 1 and 2 and did not recall observing either of the Subjects.

Officer K was equipped with a 40mm less-lethal launcher. According to Officer K, he/she observed a heavy-set male run west toward him/her from the southeast corner of the intersection with a bottle in his hand. Officer K believed this Subject was going to throw a bottle at them. In an effort to prevent that from occurring, Officer K targeted the Subject's left hip area and fired one 40mm round from a distance of approximately 75-80 feet. Based on the location where Officer K indicated this Subject was located at the time Officer K fired, the investigation determined the distance between them to be approximately 174 feet.

Officer K believed he/she potentially struck the Subject "mid-throw" because the bottle he was holding fell a short distance from him/her. The Subject then fled toward the southeast corner.

A review of BWV indicated that Officer K was positioned on the skirmish line in the number four lane. At 0031:14 hours, Officer K fired one 40mm round in an easterly direction.

Officer K explained that because the Subject was already in the act of throwing a bottle, he/she believed there was an exigency to deploy his/her 40mm without giving a warning. Officer K also added that due to the distance between him/her and the Subject, and the noise level around him/her from people yelling, cars doing "burnouts," and loud music being played, a verbal warning would not have been effective. Officer K was shown a BWV screen photograph of Subject 1. Officer K did not recall observing Subject 1 prior to seeing him receiving medical treatment later that morning.

Officer B was equipped with a beanbag shotgun. Officer B indicated that immediately upon exiting his/her vehicle, he/she heard glass breaking around him/her and saw other objects being thrown in their direction. Officer B stated that as the skirmish line moved east, he/she observed a male Subject on the south sidewalk, making an overhand throwing motion toward them. Due to the lighting conditions, Officer B was not able to see what the Subject had in his hand, but he/she believed the Subject was throwing a projectile at them. Based on the Subject's actions, Officer B said he/she targeted the Subject's navel area and fired one beanbag round at him from a distance of

approximately 40 to 50 feet. Officer B did not know if his/her round struck the Subject and stated he/she last saw him walking east out of his/her view. The investigation determined that Officer B was approximately 94 feet from this Subject at the time he/she fired.

Based on a review of BWV, Officer B was positioned on the skirmish line in the number three lane. At 0031:16 hours, Officer B fired one beanbag round in a southeasterly direction. Approximately one second prior to Officer B firing this round, an individual can be seen near the southwest corner of the intersection making what appeared to be a throwing motion.

Officer B stated, "there was no time for the verbal warning." Officer B also indicated that giving a warning was not feasible due to the noise in the area and the distance between him/herself and the Subject. Officer B was shown the BWV screen photographs of Subjects 1 and 2 but did not recall observing either of the Subjects at the intersection.

Officer E was equipped with a 40mm less-lethal launcher. Officer E said that as the officers were moving forward in the street, glass bottles and hollow canisters from previously discharged 40mm projectiles were being thrown in their direction. As they progressed toward an intersection, Officer E observed a male wearing a light-colored shirt with white and blue writing, in the middle of the intersection. According to Officer E, this Subject threw a glass bottle in their direction, which shattered on the ground in front of them. In further describing this Subject's actions, Officer E indicated the Subject used a right-handed overhand motion, similar to the way one would throw a baseball.

Officer E said the Subject then appeared to grab another item and was in the process of making a similar overhand throwing motion, when he/she discharged one 40mm round at the Subject's navel, from approximately 100 feet. Based on a review of Officer E's BWV, it was determined that the hammer on his/her 40mm launcher was in the cocked position as he/she was exiting his/her police vehicle. When questioned about this issue, Officer E stated that it was not intentional and believed it may have inadvertently occurred from getting caught on his/her gear. Officer E realized after firing his/her 40mm launcher that the hammer must not have been in its "normal trigger position" because he/she noticed that the trigger pull was shorter than normal. Based on where Officer E indicated this Subject was positioned, the investigation determined that Officer E fired from an approximate distance of 155 feet.

Officer E stated that he/she fired at the Subject because he/she believed the Subject "posed an imminent threat of immediate violence" to him/her and the officers on the skirmish line. Officer E indicated that after firing, he/she conducted an assessment and no longer observed the Subject. Officer E added that he/she was not sure if his/her round struck the Subject. Based on a review of BWV, Officer E was positioned on the skirmish line on the dividing line separating the number three and four lanes. At 0031:18 hours, he/she fired one 40mm round in an easterly direction.

Officer E stated it was not practicable for him/her to have given a verbal warning prior to firing his/her round, due to the distance between him/her and the Subject, combined with the loud noise from sirens, fireworks, glass breaking, and his/her voice being muffled by his/her face shield. Officer E was shown the BWV screen photographs of Subjects 1 and 2. Officer E only recalled seeing Subject 2 after the Rescue Ambulance (RA) was at scene. Officer E did not recall seeing Subject 1 at any time.

Officer G was equipped with a 37mm less-lethal munition. Officer G stated that as soon as he/she exited his/her vehicle, glass bottles were being thrown in his/her direction. Officer G was aware an unlawful assembly had previously been declared, a dispersal order had been announced, and heard Sergeant B authorize the use of the 37mm. As the skirmish line moved east, Officer G observed a group of three male Subjects standing on the southwest corner of the intersection, approximately 40 feet away. Officer G indicated one of Subjects was wearing red shorts and used his right hand in an overhand motion to throw a bottle in their direction. Officer G observed another male in the group also had a bottle in his hand. Officer G chose to deploy the 37mm at that point and fired one round. Based on the location where Officer G indicated this group was positioned at the time he/she fired, the investigation determined the distance between them was approximately 96 feet.

Officer G stated that he/she did not fire at an individual Subject and that his/her point of aim was the ground, approximately seven feet in front of this group. Officer G did not know if any of the Subjects were struck by his/her round and observed them move south "behind the corner" out of his/her view.

Based on a review of BWV, Officer G was positioned on the skirmish line in the number one lane. At 0031:17 hours, Officer G fired one 37mm round toward the southwest corner of the intersection. At 0031:23 hours, Officer G could be heard narrating his/her actions on BWV and announcing the following, "One round, multiple subjects throwing bottles refusing to leave." The investigation determined that approximately four seconds prior to Officer G firing this round, an individual near the southwest corner of the intersection threw what appeared to be a metallic cylindrical object (similar in size to an expended 37mm canister) in the direction of the skirmish line.

Officer G stated he/she did not give a verbal warning prior to firing the 37mm. Officer G believed the Subject throwing a glass bottle posed an imminent threat and there was insufficient time to provide a warning.

As the skirmish line approached the intersection, Officer K noticed the crowd that had been on the southeast corner, moved to the southwest corner. Officer K believed the crowd was using the building on the southwest corner as cover and was attempting to "flank" the skirmish line. Officer K observed bottles being thrown from this crowd and warned the officers on the skirmish line.

A review of Officer K's BWV established that beginning at 0031:28 hours, he/she pointed to the southwest corner of the intersection and announced, "Right side! Watch your right! Watch your right! Bottles on the right! Bottles on the right!" Officer K then

pointed again to the southwest corner of the intersection while walking behind Officer B, and stated, "Hey your bottles are coming, they are coming from right there. Watch out. Look at that guy right there! Hit that guy! Hit that guy!"

According to Officer K, he/she observed a Subject wearing red shorts and a black shirt who quickly peeked out from behind a vehicle that was parked on the west curb. Officer K then observed the Subject armed with a bottle in his right-hand sprinting toward them while making a "skipping throwing motion." Officer K then notified the officers on the skirmish line of the Subject's actions.

After analyzing the available video evidence, the actions of the Subject, or what he may have been holding, could not be determined. At the time Subject 1 was struck, a third individual, identified as Subject 2, was determined to have been standing a few feet west of Subject 1. Subject 2 was a friend of Subject 1's and declined to be interviewed for this investigation. An unidentified fourth individual can be seen on BWV moments after Subject 1 fell to the ground.

Officer K was shown the BWV photograph of Subject 2. Officer K could not positively identify him as the Subject who threw the bottle but stated, "The clothing, [in the BWV photograph] it appears a little -- these shorts appeared a little more red now. And I -- I don't know if that's based off of lighting or not. His stature, his build, and his clothing is consistent with the individual I identified as about to throw the bottle at us that was right behind the vehicle."

The following is a description of the second volley of less-lethal munitions from Officers B, C, and G. The investigation determined that Subject 1 was struck during this volley. The positions of the officers were derived from their BWV.

As Officer B approached the intersection, his/her BWV indicated he/she was positioned on the dividing line separating the number two and three lanes. Officer B stated that he/she heard multiple bottles breaking and an officer behind him/her yell that there was a person wearing a black shirt and red shorts on the southwest corner. Using Officer K's BWV, investigators determined that Officer K warned officers that bottles were coming from the "right" but did not give a suspect description.

Officer B advised that he/she looked to his/her right and saw a male Subject with a black shirt on the sidewalk of the southwest corner of the intersection. Officer B observed this individual with his arm raised behind his shoulder in what he/she believed was an overhand throwing motion. Officer B indicated that he/she fired two beanbag shotgun rounds at the Subject's navel area from a distance of approximately 40 to 50 feet. Based on Officer B's description of where the Subject was standing, the investigation determined Officer B fired from an approximate distance of 89 feet.

Officer B was not able to describe which hand the Subject used to make the throwing motion or the object he may have been preparing to throw. Officer B added that the Subject was not stationary at the time he/she fired and believed the Subject was in the



process of turning his body when he/she fired his/her second round. Officer B did not know if his/she rounds struck the Subject and last observed him move south, out of view.

Upon review of Officer B's BWV, it was determined that he/she fired his/her first round of this volley at 0031:47 hours. Officer B's second round was fired at 0031:49 hours. Both rounds appeared to have been fired toward the sidewalk area of the southwest corner of the intersection.

Officer B indicated that at the time he/she observed the Subject, he was making a throwing motion and Officer B did not feel he/she had time to give a verbal warning. Additionally, due to the noise in the area from cars, bottles breaking, and the Air Unit overhead, he/she did not believe the warning would have been heard.

According to Officer C, as he/she approached the intersection, he/she observed a male Subject, who was approximately 25 years of age and wearing dark clothing, appear from behind bushes along the west side of the street. Officer C indicated this was the same individual he/she observed throw a glass bottle in his/her direction as the skirmish line was established. Officer C said he/she chose not to fire at this Subject at that point, because he/she was too far away.

Upon observing this Subject now for the second time, Officer C said the Subject moved to the left and right and then into a crouched position. The Subject then stood up with a bottle in his right hand and appeared as if he were about to throw it in their direction. In further describing the Subject's actions, Officer C said the Subject raised his right arm behind his head as if he were about to throw a hand grenade. To prevent the Subject from throwing the bottle at them, Officer C said he/she targeted the Subject's navel and fired five beanbag rounds from a distance of approximately 30 feet. The investigation determined the Subject Officer C targeted was approximately 92 feet away.

Officer C said the Subject was in the middle of the "throwing motion" when he/she fired his/her rounds. Officer C believed the Subject was able to throw the bottle; however, he/she did not see where it went. Officer C also did not know if any of his/her rounds struck the Subject and indicated that after firing his/her last beanbag round, the Subject was no longer in sight. Immediately after firing his/her last round, Officer C noticed a person (Subject 1) on the sidewalk, approximately five feet to the right (west) of the Subject he/she fired at, fall to the ground, but he/she did not know why. The investigation determined it was likely Officer C's fourth or fifth beanbag round that struck Subject 1 on the left side of his neck. Officer C was shown the BWV screen photographs of Subjects 1 and 2. Officer C did not recall observing either of the Subjects at the intersection, nor did he/she believe his/her rounds struck anyone in the face or neck.

Officer C said he/she did not have time to give a verbal warning prior to firing because he/she observed the Subject in the act of throwing the bottle, which he/she believed could have caused them injury or death.

Based on a review of BWV, Officer C was positioned on the skirmish line in the number two lane. It was determined Officer C fired five beanbag rounds in rapid succession, beginning at 0031:47 hours and ending at 0031:50 hours. Officer C's initial beanbag round was fired while standing in the center of the number two lane. After firing this round, Officer C continued to fire while moving two to three steps south and stopped next to Officer B's left shoulder. The Subject referred to by Officer C was standing in the roadway, several feet south of the curb line. The Subject appeared to be partially concealed at times behind a hedge that was approximately two and a half feet high.

After conducting an analysis of BWV, investigators determined that Subject 1 walked into the foreground as the officers targeted the Subject who was standing behind him and to the east. Subject 1 was approximately 75 feet from Officer C.

According to Sergeant B, he/she spoke to Officer C at the scene about the beanbag rounds he/she discharged and told him/her that he/she (Sergeant B) believed the distance he/she fired from was not effective. Upon review of Sergeant B's BWV, it was determined that he/she walked over to Officer C immediately after the second volley of fire and stated, "Dress the line. That's not going to do anything that far away."

According to Officer G, as he/she approached the intersection, glass bottles and other projectiles continued to be thrown in their direction. Officer G then heard Officer K announce that there was a Subject wearing red shorts on the southwest corner throwing bottles at them. When Officer G looked to his/her right, he/she observed a male wearing red shorts, with a glass bottle in his right hand, holding it above his head, as if he was about to throw it in their direction. Officer G indicated this Subject was standing with a group of other individuals on the southwest corner sidewalk and believed they were the same group he/she observed throw bottles at officers when they first arrived at scene. Based on that assessment, Officer G fired one 37mm round toward the ground, seven to ten feet in front of the group. Officer G estimated the distance he/she fired from to be approximately 40 feet. Officer G stated that he/she fired after the Subject released the bottle and did not see where it landed. Officer G did not believe this round struck the Subject wearing red shorts or anyone else in the group.

The distance between Officer G and the individuals seen on BWV near the southwest corner, was determined to be approximately 99 feet. When questioned regarding the total number of persons in the "group" he/she described, Officer G indicated that he/she wasn't sure because of the lighting, but he/she characterized it as "multiple." Officer G believed the Subject wearing red shorts was the same person he/she fired at during the first volley. Officer G formed this belief based on the similar coloring of the Subject's red shorts, not his physical descriptors.

Officer G explained that because the Subject was already in the process of throwing the bottle when he/she observed him, there was not enough time to give a verbal warning without possibly being struck by the bottle. Officer G stated that there was constant horns and other sounds that would have made issuing a prior warning ineffective.

Based on a review of BWV, Officer G was positioned on the skirmish line in the number one lane. It was determined that Officer G fired one 37mm round toward the southwest corner of the intersection at 0031:49 hours. At 0032:00 hours, Officer G can be heard narrating his/her actions on BWV stating, "Multiple subjects still throwing rocks and bottles." Officer G was shown the BWV screen photographs of Subjects 1 and 2. Although Officer G advised the red shorts worn by Subject 2 looked familiar, he/she could not positively identify Subject 2 as the individual who threw the bottle. Officer G did not recognize Subject 1.

At 0031:41 hours, a support squad from led by Sergeant C arrived and formed into a column of twos behind the skirmish line.

At approximately 0032:18 hours, Officers E and J can be heard on BWV directing individuals who had congregated to, "Leave the area." Shortly thereafter, two glass bottles were thrown near the northeast corner of the intersection. The bottles fell short of the skirmish line and shattered in the street.

At approximately 0034 hours, Sergeant B became aware that Subject 1 was injured when an unidentified female approached the skirmish line and yelled that someone had been shot in the mouth. Sergeant B determined Subject 1 was lying on the west sidewalk, south of the intersection and asked Sergeant C to move his/her squad in that direction and render aid to Subject 1. At 0034:35 hours, Sergeant B initiated a broadcast to Communications Division (CD) and requested an RA on Subject 1's behalf. Sergeant C informed the Newton Area GED officers they were to form a rescue circle and provide aid to a "man down" (Subject 1) on the southwest corner. At approximately 0035 hours, Sergeant C's squad formed a rescue circle around Subject 1, who was lying on the sidewalk on his back, with his head facing south. Subject 1 indicated to Sergeant C that he/she sustained an injury to the left side of his neck. At 0036:26 hours, Sergeant C reiterated the request for an RA and advised CD that Subject 1 had sustained a laceration to his neck.

Upon further questioning by Sergeant C, Subject 1 stated that one of the officers on the skirmish line fired a projectile at him, striking him in the neck. Sergeant C then directed the officers to provide medical aid, while they waited for the RA to arrive.

At 0037 hours, Subject 2 was observed on security video exiting the driveway of a business. Subject 2 stopped, placed his backpack on the sidewalk, and bent forward while taking off his shirt. Subject 2 then walked north out of view.

At 0037:26 hours, Subject 2 was captured on BWV as he approached the officers who were assisting Subject 1. Subject 2 was shirtless and was wearing red shorts, red shoes, and was carrying a backpack over his shoulders. Subject 2 was holding a dark blue shirt to his mouth and was carrying a red sweatshirt and a bottle in his left hand.

At 0038 hours, a 911 caller called on behalf of Subject 2 to report that Subject 2 was shot by an LAPD rubber bullet, at the intersection. At 0039:16 hours, CD broadcast to

Central Units an Ambulance shooting, provided the location, and stated the victim was male, 22 years, and said he was shot by a rubber bullet.

As the officers were rendering aid to Subject 1, a crowd had formed nearby. An individual from that group threw a glass projectile at the skirmish line. That action prompted a third volley of less-lethal munitions from Officers F and G; however, they mistakenly believed the projectile was thrown by an individual wearing a light-colored Lakers jersey in the roadway.

According to Officer G, at some point after firing his/her second 37mm round, he/she was alerted by another officer that there were multiple Subjects throwing bottles in their direction from the north. As Officer G turned to his/her left and looked north, he/she observed two male Subjects wearing Lakers jerseys, run west from the east curb, toward the middle of the roadway. Both individuals were holding a bottle in their hands. At 0039:35 hours, Officer J can be seen on BWV pointing north and announcing, "Hey watch out, bottle left! Bottle left, right there!"

Officer G then observed one of the Subjects throw a glass bottle in his/her direction using a right-handed overhead throwing motion. Officer G estimated the bottle landed approximately ten feet in front of the skirmish line. In response to that action, Officer G fired a 37mm round toward the ground, seven to ten feet in front of the two men. Officer G estimated the Subjects were approximately 50 feet away from him/her at the time he/she fired. Officer G stated he/she did not give a verbal warning, because he/she did not believe he/she had the time to safely do so. The investigation determined the distance between Officer G and this individual was approximately 86 feet.

After Officer G discharged his/her round, he/she stated the Subjects ran back toward the east sidewalk. Officer G did not know if his/her round struck either of the two Subjects, but he/she believed firing the 37mm launcher caused the other Subject not to throw a bottle.

A review of BWV determined Officer G was positioned on the skirmish line in the number one lane. At 0039:38 hours, Officer G discharged a 37mm round in a northeasterly direction. The investigation determined that a male wearing a white or light-colored Lakers jersey with the numbers "24" on the front, walked in a northeasterly direction across the street, at the time Officer G discharged his/her round. No other persons were seen near this person in the street. Moments earlier, this individual was standing near the northwest corner of the intersection, with a group of six or more individuals. Based on a review of BWV, it was determined this individual did not throw an object. However, a separate male from within the above-described group, can be seen throwing what appeared to be a glass projectile in the direction of the skirmish line at 0039:35 hours. The object landed a few feet in front of Officer C.

Immediately after firing the 37mm round, Officer G can be heard on his/her BWV narrating what just occurred by stating, "Still taking rocks and bottles. Multiple subjects."

Meanwhile, as Officer F stood near the center of the intersection, he/she heard a glass bottle break, which he/she estimated landed approximately 10 to 15 feet from him/her.

As Officer F turned to see where the bottle had come from, he/she observed a male wearing a light-colored jersey in the number two northbound lane fleeing north. Officer F also observed a crowd of people lingering around a white van parked north of his/her location against the east curb. Officer F believed the Subject wearing the light-colored jersey had thrown the bottle, because when he/she turned in a northeasterly direction, Officer F saw this person moving across the street toward the group, which he/she estimated was approximately ten feet from the Subject. Upon further reflection, Officer F believed he/she may have even seen the Subject throw the bottle as he/she (Officer F) was turning around. Regarding his/her observations, Officer F stated, "The glass bottle had shattered nearby and as I turned, he was fleeing. I recall seeing him throw it as well." As previously mentioned, the investigation determined that the Subject who threw the glass object did so from the west sidewalk of the street just north of the intersection. Additionally, at the time the bottle was thrown, Officer F appeared to be facing south.

According to Officer F, he/she fired a 37mm round to disperse the crowd. Officer F indicated his/her point of aim was the ground, approximately five to ten feet in front of the Subject and the crowd, which he/she estimated was 50 to 60 feet away. Officer F indicated he/she fired after the Subject had thrown the bottle "to get him to leave, as well as any other people lingering in that area that were potentially throwing other bottles." The investigation determined that at the time Officer F fired, the distance between him/her and the individual in the street wearing the Lakers jersey was approximately 107 feet.

The investigation determined that Officer F fired at 0039:39 hours in a northeasterly direction. The individual wearing the light-colored Lakers jersey can be seen in the background walking across the street from the west sidewalk toward the front of a white van parked at the east curb. Approximately three seconds after Officer F discharged his/her round, an unidentified person on the east sidewalk threw a glass bottle, which impacted a few feet in front of the skirmish line. This person was standing north of the white van and was in close proximity to a group of approximately four or more individuals. The distance between Officer F and this group was determined to be approximately 218 feet. Based on BWV, Officer F misidentified the person wearing the light-colored Lakers jersey as the individual who threw the first bottle at the skirmish line. Based on Officer F's statement, it also appeared he/she was unaware a second bottle was thrown seconds later from someone in the group across the street near the white van.

At 0041 hours, Officer M began rendering first aid to Subject 1 by applying a gauze type bandage around his neck, while waiting for the RA to arrive.

Moments later, Los Angeles Fire Department (LAFD) Paramedics arrived at scene and assumed care of Subject 1, who was subsequently transported to a nearby hospital.

The LAFD pre-hospital Care Report Summary indicated Subject 1 was hit in the neck by a “rubber bullet.”

At 0043 hours, Sergeant C notified LAFD personnel at scene that Subject 2 (who was standing nearby) was also in need of medical attention. Los Angeles Fire Department personnel began tending to Subject 2, while waiting for a second RA to arrive.

At 0051 hours, LAFD, Emergency Medical Technicians arrived at scene. Shortly thereafter, they transported Subject 2 to a nearby hospital. According to the LAFD Prehospital Care Report Summary, Subject 2 stated he was shot in the mouth and tongue with a rubber bullet, while he tried to take a picture at the Lakers celebration in downtown Los Angeles. At approximately 0600 hours, Subject 2 was transferred a second hospital.

On October 12, 2020, Force Investigation Division (FID) investigators attempted to interview Subject 2 at the hospital, however, he was sedated and unable to be interviewed or sign a medical records release. On October 15, 2020, FID investigators attempted to speak with Subject 2 at his residence; however, he declined to be interviewed regarding the matter. As previously mentioned, Subject 2 was wearing a red sweatshirt and shorts on the night of this incident. Although several images of a person wearing red clothing at the southwest corner of the intersection were referenced in this report during volleys one and two, it could not be determined if Subject 2 was that individual. The investigation was also unable to definitively determine how Subject 2 sustained his injury.

On October 12, 2020, FID investigators interviewed Subject 1 at the hospital. Subject 1 stated he was walking north on the west sidewalk with his friend, Subject 2, when he observed a line of police officers across the intersection. Subject 1 observed numerous people run south away from the officers, who were shooting “pellet guns.” As Subject 1 continued north toward the southwest corner, he observed approximately ten officers on the skirmish line. Subject 1 indicated the area of the sidewalk between him and the officers was empty, because the crowd had already moved south of his position. Subject 1 told Subject 2 he believed they could continue walking north, because they did not have anything in their hands. Approximately one minute earlier, Subject 1 was depicted on security video from a business with a bottle in his left hand as he walked north toward the intersection. Despite this observation by investigators, there was no evidence found during this investigation indicating Subject 1 threw a bottle at any point during this incident.

Subject 1 indicated the officers started shooting without warning. Subject 1 was struck on the left side of his neck by what he believed was a rubber bullet fired by a male police officer. Subject 1 said after he was shot, he felt dazed, fell backwards, and hit his head on the sidewalk. Subject 1 believed he was the only person who was struck at that time.

According to Sergeant B, at the time of the incident, he/she was unsure how Subjects 1 and 2 sustained their injuries. After clearing from the intersection, Sergeant B directed his/her officers to review their BWV for anything they might not have seen or remembered. Upon doing so, Officer C informed Sergeant B that his/her BWV captured Subject 1 falling to the sidewalk. Sergeant B was aware Subjects 1 and Subject 2 had been transported to nearby hospitals and coordinated with Sergeant C to check on the status of both individuals. Sergeant C conducted a follow-up to the first hospital and was initially told by medical staff that Subject 1 would be admitted due to the injury he sustained to his neck. After further observation by medical staff, it was determined Subject 1's injury did not require admission and he was treated and released that same morning.

Sergeant B then went to the second hospital and was advised by medical staff that Subject 2 sustained an injury to his face that would require him to be transferred to a different hospital, where he would then be admitted. Based on that information, Sergeant B notified the Department Operations Center (DOC) and FID that a potential Law Enforcement Related Injury (LERI) had occurred. Force Investigation Division detectives responded to both medical facilities later that morning to conduct an assessment and confirmed Subject 2 had been admitted due to the injuries he sustained. Given the nature of Subject 2's injury, his claim that officers shot him in the mouth, and the fact that multiple less-lethal projectiles were deployed near where Subject 2 was seen that evening, the determination was made to investigate this incident as a Categorical Use of Force.

**BWV and DICVS Policy Compliance**

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Sergeant B	Yes	Yes	Yes	N/A	N/A
Officer A	No	Yes	No	N/A	N/A
Officer B	Yes	Yes	Yes	N/A	N/A
Officer C	Yes	Yes	Yes	N/A	N/A
Officer E	Yes	Yes	Yes	N/A	N/A
Officer F	Yes	Yes	Yes	N/A	N/A
Officer G	Yes	Yes	Yes	N/A	N/A
Officer K	Yes	Yes	Yes	N/A	N/A

**Los Angeles Board of Police Commissioners' Findings**

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

## **A. Tactics**

The BOPC found Sergeant B, along with Officers A, F, and G's, tactics to warrant a finding of Tactical Debrief. The BOPC found Officers B, C, E, and K's tactics to warrant a finding of Administrative Disapproval.

## **B. Less-Lethal Use of Force**

The BOPC found Officers C's less-lethal use of force to be In Out of Policy. (Beanbag rounds four and five).

## **Basis for Findings**

In making its decision in this matter, the Commission is mindful that every "use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department's guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

"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.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

**Use of De-Escalation Techniques:** It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a Subject and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

**Verbal Warnings:** Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

**Proportionality:** Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

**Fair and Unbiased Policing:** Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

**Use of Force – Non-Deadly:** It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

**Factors Used to Determine Objective Reasonableness:** Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;

- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the subject;
- Whether the subject was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or subjects;
- The risk or apparent attempt by the subject to escape;
- The conduct of the subject being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;
- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the subject;
- Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus subjects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

**Drawing or Exhibiting Firearms:** Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

**Use of Force – Deadly:** It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

**Note:** Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

**The Department's Evaluation of Deadly Force:** The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

**Rendering Aid:** After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, subjects, suspects, persons in custody, subjects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

**Warning Shots:** It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

**Shooting at or From Moving Vehicles:** It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

**Note:** It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

**Requirement to Report Potential Excessive Force:** An officer who is present and

observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

**Requirement to Intercede When Excessive Force is Observed:** An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

## Definitions

**Deadly Force:** Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

**Feasible:** Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**Imminent:** Pursuant to California Penal Code 835a(e)(2), “[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 a 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.”

**Necessary:** In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

**Objectively Reasonable:** The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “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. The test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

**Serious Bodily Injury:** Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;
- A wound requiring extensive suturing; and,
- Serious disfigurement.

**Totality of the Circumstances:** All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the subject leading up to the use of force.

**Vulnerable Population:** Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

**Warning Shots:** The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

## **A. Tactics**

### *Tactical De-Escalation Techniques*

- Tactical de-escalation does not require that an officer compromise his/her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.
- **Planning** – Sergeant B assigned Officers A and E on the skirmish line as linebackers and designated less-lethal officers; however, Officers B and C each deployed Beanbag shotguns and Officer K deployed a 40mm Less-Lethal Launcher (LLL). Sergeant B directed Officers F and G to deploy 37mm projectile launchers. Sergeant B did not give specific directions to his/her Mobile Field Force (MFF) officers for the applications of less-lethal force when his/her officers had multiple items thrown at them.

The BOPC would have preferred that Sergeant B had established greater control of the use of less-lethal munitions, but also recognized officers were immediately confronted with incoming projectiles from the onset of deploying from their police vehicles near the intersection.

- **Assessment** – When Sergeant B and his/her MFF arrived, they continually scanned their surroundings. The MFF observed numerous individuals in the area throwing objects towards the MFF.

Officers B, C, E, F, G, and K did not properly assess the distances at which they deployed less-lethal target specific and non-target specific weapons systems.

- **Time** – Prior to the incident, Sergeant B, who was knowledgeable of the basketball championship games, prepared for a possible deployment of officers under his/her supervision. After the Citywide Tactical Alert was established in response to civil unrest related to the victory of the basketball championship, Sergeant B requested that the team of officers return to the Police Station and utilize their time to procure additional equipment in preparation for their deployment.
- **Redeployment and/or Containment** – Due to Sergeant B's MFF being directed to clear the unlawful assembly occurring in downtown Los Angeles, specifically at the intersection, redeployment and containment were not feasible options. Sergeant B directed the utilization of 37mm projectile launchers by officers to re-locate and disperse the unruly and unlawful crowd.
- **Other Resources** – Prior to departing from the station, Sergeant B inquired if any of his/her officers were trained and certified to deploy the 37mm projectile launcher. Officers E and G both advised that they were trained and certified in the 37mm projectile launcher. Sergeant B retrieved two 37mm projectile launchers and provided them to Officers E and G.

During the incident, Sergeant B coordinated with MFF being supervised by Sergeant D to ensure that Subject 1 received medical treatment.

- **Lines of Communication** – After Sergeant B and the sergeant's team of officers arrived at the CP, Officers K and L were assigned to Sergeant B's MFF. Sergeant B took this opportunity to conduct a second briefing with his/her assigned MFF officers and reminded them of the importance of staying together and not separating.

At the conclusion of the incident, Sergeant B maintained communications with Sergeant D to ensure that Subject 1 was medically cared for.

- During its review of the incident, the BOPC considered the following tactical considerations:

1. **Code Six – Required Equipment – TASER** (Substantial Deviation, without Justification – Officer E)

According to the FID investigation, Officer E was not equipped with his/her assigned TASER on his/her person at the time of this incident. According to

Officer E, he/she did not have enough room on his/her duty belt to fit his/her TASER.

The BOPC noted that Officer E's decision not to wear his/her TASER, and his/her reason for doing so, was not justified and limited his/her available force options during field operations. The Department's expectation of all uniformed officers working a field assignment is to have their required force options available to them in the event they are needed during all field incidents.

Based on the totality of the circumstances, the BOPC determined that Officer E's decision not to equip him/herself with his/her TASER was a substantial deviation, without justification, from approved Department policy and training.

## **2. Tactical Planning/Tactical Communications**

Operational success is based on the ability of officers to effectively communicate during critical incidents.

Sergeant B directed his/her officers to equip themselves with multiple less-lethal force options, including Beanbag shotguns, 40mm LLLs, and 37mm projectile launchers prior to departing from the police station. Sergeant B articulated that the 40mm LLLs and Beanbag shotguns were able to be slung easily and the officers would be able to transition to their batons when on the skirmish line.

During his/her planning with his/her officers, Sergeant B assigned Officers A and E as linebackers as well as being designated less-lethal officers; however, Officers B and C each deployed Beanbag shotguns and Officer K deployed a 40mm LLL. Sergeant B directed Officers F and G to deploy 37mm projectile launchers. Sergeant B did not give specific directions to his/her MFF officers for the applications of less-lethal force when the MFF had multiple items thrown at them by the unruly crowd.

The BOPC noted that Sergeant B was monitoring and directing the skirmish line and directed officers to use the 37mm projectile launchers to move the crowd away. Sergeant B also advised Officer C that his/her Beanbag rounds were ineffective after the second volley due to the distance. Sergeant B assessed that Subject 1 was lying on the west sidewalk, requested Sergeant D re-deploy his/her squad in that direction to render aid to Subject 1, and requested an RA on Subject 1's behalf. In addition, Sergeant B took the initiative and directed his/her officers to review their BWV for anything they might not have seen or remembered, resulting in Officer C informing Sergeant B that his/her BWV captured Subject 1 falling to the sidewalk.

The BOPC noted the multiple tasks, along with the hostile crowd and distractions of projectiles and fireworks in the area, requiring Sergeant B to address several concerns. In addition, the BOPC considered that Sergeant B took the time to

conduct a second briefing with the officers after Officers K and L were assigned to Sergeant B's MFF. In this case, the BOPC would have preferred that during the tactical planning of this incident and assignment of roles, Sergeant B had provided additional instructions to the officers, thereby reducing the number of deployed less-lethal force options in the form of projectile launchers, which may have resulted in a more controlled manner in which less-lethal munitions were discharged at the hostile crowd.

In this particular case, officers equipped with a Beanbag shotgun discharged less-lethal munitions at distances far exceeding the Beanbag shotgun's capabilities and maximum recommended distance of 30 feet. Due to the distance from the crowd, the BOPC would have preferred that Sergeant B had considered reducing the total number of officers deploying less-lethal force options on the skirmish line. Although Sergeant B did advise Officer C that Officer C had fired his/her Beanbag shotgun from too great a distance to be effective after Officer C fired five rounds, the BOPC would have preferred that Sergeant B had taken more assertive control of the discharging of less-lethal munitions throughout the entire incident.

Based on the totality of the circumstances, the BOPC determined that Sergeant B's actions were not a deviation from approved Department tactical training.

**3. 37mm Projectile Launcher Deployment – (Substantial Deviation, with Justification – Officers F and G)**

Officers F and G fired their 37mm projectile launchers at distances exceeding the maximum effective range of the 37mm projectile launcher. Both officers described individuals in the process of throwing objects or utilizing an over-hand throwing motion.

Officer F fired his/her 37mm projectile launcher from an approximate distance of 168 feet (MFF Volley One) and 107 feet (MFF Volley Three).

Officer G fired his/her 37mm projectile launcher from an approximate distance of 96 feet (MFF Volley One), 99 feet (MFF Volley Two), and 86 feet (MFF Volley Three).

Subject Matter Experts (SME) from Metropolitan Division and the Tactics Unit, Training Division, advised that non-target specific less-lethal munitions deployed beyond their maximum effective range reduce the effectiveness of the munitions due to loss of energy as the 37mm projectile is skipped off of the ground; however, the 37mm projectile launcher can still be an effective force option as it still imposes a psychological effect through its loud sound and flash effect when it is discharged. Furthermore, the loss of energy past the effective range of the 37mm foam projectile also poses a reduced risk of injury.



The BOPC considered that the officers in the MFF were subjected to metallic and glass projectiles, along with commercial grade fireworks, which were launched at the officers upon exiting their police vehicles. The BOPC noted that the immediate deployment of the 37mm projectile launcher caused the crowd to re-deploy backward, disperse, or seek cover. As Officers F and G assessed its effectiveness in between volleys, the discharging of 37mm projectiles enabled the MFF to advance forward and gain control of the area. The BOPC further noted that although the 37mm projectiles were discharged beyond their effective range as a non-target specific skip-round, the device had a psychological effect on the violent individuals within the groups when discharged.

Based on the totality of the circumstances, the BOPC determined that both Officers F and G's actions were a substantial deviation, with justification, from approved Department policy and training.

**4. Debriefing Point No. 4 40mm Less-Lethal Launcher Deployment (Substantial Deviation, without Justification – Officers E and K)**

Officers E and K fired their 40mm LLLs at distances exceeding the maximum effective range of the 40mm LLL. Officers E and K described individuals in the process of throwing objects or utilizing an over-hand throwing motion.

Officer E fired his/her 40mm LLL from an approximate distance of 155 feet (MFF Volley One).

Officer K fired his/her 40mm LLL from an approximate distance of 174 feet (MFF Volley One).

Subject Matter Experts from the Tactics Unit, Training Division, advised that target-specific less-lethal munitions deployed beyond their maximum effective range causes the munition to drop, reduces the less-lethal munition's effectiveness, and may become less accurate.

The BOPC noted that the Use of Force Review Board had discussed that Officers E and K, along with the other officers, were immediately confronted by hostile individuals, who were throwing fireworks and projectiles at the officers, narrowly missing or possibly striking Officer K on the helmet. Officer K described the environment as being loud and hearing bottles shattering all around the officers and in his/her perception estimated that there were hundreds of people. The Use of Force Review Board noted that Officers E and K were responding to hostile groups in which an unlawful assembly had previously been declared and there were violent individuals within those groups, who were assaulting officers with projectiles, which could cause serious injury to the officers and were thrown in proximity to the officers.

The Use of Force Review Board majority opined that Officers E and K had no other options after being confronted with immediate violence upon deploying from their police vehicles. The officers were confronted by a violent crowd who were throwing projectiles at the officers, thereby creating a significant risk of injury to the officers. The Use of Force Review Board majority concluded that Officers E and K's decision to discharge their weapon systems beyond the maximum effective range was a substantial deviation, with justification, from approved Department policy and training.

The Use of Force Review Board minority considered the same set of facts and had a differing opinion. In this case, Officer K fired one 40mm round at a Subject that he/she perceived was "mid throw" of a glass bottle. The shot was taken from approximately 174 feet away, 64 feet past the effective range. Officer K estimated that his/her shot was taken from approximately 75-80 feet away. Officer E observed a Subject grab an item and was in the process of making an overhand throwing motion when Officer E discharged one 40mm round at the Subject's navel from approximately 155 feet, 45 feet past the effective authorized range. Officer E estimated his/her shot was taken from approximately 100 feet away.

The Use of Force Review Board minority discussed that although the officers were faced with a potential threat, the distance of engagement was well outside effective range of their less-lethal force options. Deploying 40mm less-lethal munitions past their effective range has shown the rounds to be less accurate, less effective, and can cause changes in trajectory from the intended target area. In the opinion of the Use of Force Review Board minority, when Officers E and K deployed their less-lethal munitions, they did so without due regard for the effectiveness of their rounds. Therefore, the minority opines that the tactics used by Officers E and K substantially deviated from established Department procedures and training without justification.

Based on the totality of the circumstances, the Use of Force Review Board minority determined, and the BOPC concurred, that both Officers E and K's actions were a substantial deviation, without justification, from approved Department policy and training.

**5. Debriefing Point No. 5 Beanbag Shotgun Deployment (Substantial Deviation, without Justification – Officers B and C)**

Officers B and C fired their Beanbag shotguns at distances exceeding the maximum effective range of the Beanbag shotgun. Both officers described individuals in the process of throwing objects or utilizing an over-hand throwing motion.

Officer B fired his/her Beanbag shotgun from an approximate distance of 94 feet (MFF Volley One) and 89 feet (MFF Volley Two).

Officer C fired his/her Beanbag shotgun from an approximate distance of 92 feet (MFF Volley Two).

Subject Matter Experts from the Tactics Unit, Training Division advised that target-specific less-lethal munitions deployed beyond their maximum effective range causes the munition to drop, reduces the less-lethal munition's effectiveness, and may become less accurate.

The BOPC considered that Officers B and C were placed into a tense and chaotic tactical situation in which hostile individuals were throwing fireworks and projectiles at the officers. However, the BOPC noted that the 37mm projectile launchers were simultaneously deployed and having a positive effect on dispersing the groups away from the area, which allowed the officers to gain control of the intersection. In addition, the BOPC noted that both Officers B and C discharged less-lethal munitions at distances far exceeding the Beanbag shotgun's capabilities and maximum recommended distance of 30 feet, which can lead to reduced accuracy and unintentional impacts.

Based on the totality of the circumstances, the BOPC determined that both Officers B and C's tactics were a substantial deviation, without justification, from approved Department policy and training.

### **Command and Control**

- Sergeant B was the squad leader for the MFF. During his/her planning with his/her officers, Sergeant B assigned Officers A and E as linebackers and as designated less-lethal officers. Sergeant B directed Officers F and G to deploy 37mm projectile launchers. Officers B and C each deployed Beanbag shotguns and Officer K deployed a 40mm LLL.

Upon arrival, officers were confronted by individuals within the groups throwing objects at them. During the MFF deployment with the crowd, Sergeant B did not give specific directions to his/her MFF officers for the applications of less-lethal force when his/her officers had multiple items thrown at them. Sergeant B ordered his/her MFF to form a skirmish line and move east. Sergeant B then ordered the deployment of the 37MM projectile launchers. In addition, Sergeant B addressed Officer C and advised him/her the distances Officer C had utilized the beanbag shotgun in the second volley was not within the effective range.

Sergeant B requested Sergeant D to move to the possibly injured pedestrian, Subject 1, and assess the need for medical aid. Sergeant B requested an RA for Subject 1.

Sergeant B conducted a follow-up to the hospital to ascertain if a Law Enforcement Related Injury (LERI) had occurred after being advised that a pedestrian in the

crowd fell to the ground during Officer C's firing of his/her Beanbag shotgun. Sergeant B advised Sergeant C to collect the officers' BWVs and separate, admonish, and monitor his/her MFF officers until the arrival of FID supervisors, to which Sergeant C complied.

Sergeant D was the supervisor assigned as the squad leader for another MFF. Sergeant D, at the direction of Sergeant B, directed his/her MFF to form a rescue circle around the downed pedestrian, Subject 1, and render aid to him. Sergeant D requested an RA for Subject 1.

The actions of Sergeants B, C, and D were consistent with Department supervisory training and the BOPC's expectations of field supervisors during a critical incident.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and are intended to be flexible and incident specific, which requires that each incident be looked at objectively and that the tactics be evaluated based on the totality of the circumstances.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that took place during this incident.

In conducting an objective assessment of this case, the BOPC determined that Officers B, C, E, and K's actions were a substantial deviation, without justification, from Department policy and training, thus requiring a finding of Administrative Disapproval.

The BOPC determined that Sergeant B and Officer A's actions were not a deviation from Department policy and training. In addition, the BOPC determined that Officers F and G's actions were a substantial deviation, with justification, from Department policy and training.

Thus, the BOPC found Sergeant B, along with Officers A, F, and G's tactics to warrant a finding of Tactical Debrief. The BOPC found Officers B, C, E, and K's tactics to warrant a finding of Administrative Disapproval.

## **B. Less-Lethal Use of Force**

Less-lethal rounds that were determined not to have impacted any persons during this incident did not receive less-lethal use of force findings. Per Department Manual, Volume 4, Section 245.05, the discharge of a less-lethal weapon that does not make contact with an individual or their clothing is not a reportable Use of Force.

According to the FID investigation, Subject 2 was wearing a red sweatshirt and shorts on the night of this incident. Although several images of a person wearing red

clothing at the southwest corner were referenced in this report during MFF volleys one and two, the FID investigation could not determine if Subject 2 was that individual. Additionally, the FID investigation was unable to definitively determine how Subject 2 sustained his injury.

Officers involved in the incident were shown photographs by FID investigators depicting Subjects 1 and 2. A summary of the responses of the involved officers are as follows:

- Officer A did not recall observing either Subjects 1 or 2.
- Officer B did not recall observing either Subjects 1 or 2 at the intersection.
- Officer C did not recall observing either Subjects 1 or 2 at the intersection, nor did Officer C believe his/her rounds struck anyone in the face or neck.
- Officer E only recalled seeing Subject 2 after the Rescue Ambulance (RA) was at scene. Officer E did not recall observing Subject 1 at any time.
- Officer F did not recall observing either Subjects 1 or 2 prior to them receiving medical treatment later in the morning.
- Officer G advised the red shorts worn by Subject 2 looked familiar, but he/she could not positively identify Subject 2 as the individual who threw the glass bottle. Officer G did not recognize Subject 1.
- Officer K could not positively identify Subject 2 as the Subject who threw the bottle but stated, "His stature, his build, and his clothing are consistent with the individual I identified as about to throw the bottle at us that was right behind the vehicle." Officer K did not recall observing Subject 1 prior to seeing him receiving medical treatment later that morning.

The BOPC considered BWV evidence, third party surveillance video, officer statements and a captured image of Subject 2 seated in a parking structure. The BOPC could not attribute Subject 2's injury to a specific causation or the actions of a specific officer; therefore, the BOPC determined that they could not specifically attribute any use of force to Subject 2.

- **Officer C** – (Beanbag Shotgun, Super Sock, Rounds four and five)

The FID investigation determined that during MFF volley two, Subject 1 walked into the foreground as Officer C targeted a Subject who was standing behind Subject 1 and to the east. Subject 1 was approximately 75 feet from Officer C. Officer C fired a total of five super sock rounds at the Subject. The FID investigation determined that Officer C fired all five super sock rounds within three seconds.

The FID investigation was unable to confirm if Officer C's super sock rounds one, two, and three struck any persons. The FID investigation determined that it was likely Officer C's fourth or fifth super sock round that struck Subject 1 on the left side of his neck.

- **Background** – This incident occurred at the intersection in downtown Los Angeles. The intersection was surrounded by high rise buildings consisting of commercial use at the street level and residential condominiums and apartments on the upper levels. At times during the incident, the roadway had vehicle traffic. In the area of the intersection, groups of people and individuals within those groups, who were throwing glass bottles, commercial grade fireworks, and metal projectiles, were the targets.

According to Officer C, when he/she and the MFF stopped on the street, he/she observed a male Subject in dark clothing emerge from behind a bush. Officer C articulated that this was the same individual Officer C observed throw a glass bottle in his/her direction previously as the skirmish line was established. Officer C stated that he/she chose not to fire at this Subject at that point because the Subject was too far away. The Subject appeared to be moving from left to right and pulling his arm back in a throwing motion towards the MFF officers. Officer C fired his/her Beanbag shotgun at the Subject and reassessed his/her actions as he/she realigned his/her sights on the Subject. Officer C observed the Subject continue his throwing motion from an arm cocked back to a forward extension position. Officer C continued to fire his/her Beanbag shotgun an additional four times in an attempt to stop the Subject's throwing actions. Officer C stated that he/she targeted the Subject's navel and fired five Super Sock rounds from approximately 30 feet. The Subject completed his throw and fled from Officer C's view. Officer C did not provide a verbal warning to the Subject due to the danger that Officer C perceived he/she was being subjected to by the Subject throwing a bottle and the need to stop the actions of the Subject before he/she or the other officers were injured.

The BOPC considered Officer C's discharging of five Super Sock rounds from his/her Beanbag shotgun. The rounds were discharged in rapid succession over a period of three seconds, indicating a lack of fire control. The BOPC further noted that in Officer C's assessment, he/she was not aware of Subject 1 walking into the foreground of the targeted Subject. The BOPC noted that officers need to be mindful and assess between rounds to ensure they have proper target acquisition, which includes being cognizant of changes to an officer's foreground and background. The BOPC noted that the FID investigation determined that either round four or round five struck Subject 1. Subject 1 was not the intended target and at the time he was struck, he did not pose a threat. Additionally, Officer C fired rounds four and five at a distance of 96 feet, a distance that is well beyond the effective range of 30 feet for the Beanbag shotgun.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C, when firing rounds four and five, would have exercised greater fire control and conducted a continuous assessment while discharging his/her Beanbag Shotgun to determine if his/her Super Sock rounds were effective and striking his/her intended target, rather than striking Subject 1.

Therefore, the BOPC found Officer C's less-lethal use of force (rounds four and five) to be Out of Policy.