



# LOS ANGELES POLICE DEPARTMENT

## USE OF FORCE

### DIRECTIVE

UOF Directive No. 3

September 2023

#### 40mm LESS-LETHAL LAUNCHER

##### PURPOSE

The purpose of this Directive is to familiarize officers with the use, nomenclature, and operational procedures of the 40mm Less-Lethal Launcher (40mm LLL). The **40mm LLL** is a tactical single-shot launcher configured with a green stock, pistol grip, a rifled barrel, picatinny rail mounting system, and Department-approved optics. The color green is used to signify that the 40mm LLL is to be used only with Department-specified less-lethal munitions. The only current Department-approved munition is the 40mm eXact iMPact round.



##### PROTOCOL

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 and cover, communication, and available resources in an effort to de-escalate the situation whenever it is safe, feasible, and reasonable to do so. When warranted, Department personnel may use objectively reasonable force to carry out their duties. 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.

Use of an intermediate force option, including the 40mm LLL, is an appropriate force option when an officer reasonably believes either of the following:

- There is an immediate threat to the safety of the officers or others; or,
- If the threat is not immediately addressed, there is an articulable risk the incident could escalate to the use of deadly force.

Intermediate force options should not be used on a suspect or subject who is believed to be unarmed, and, is passively resisting or merely failing to comply with commands. Verbal threats of violence alone do not justify the use of an intermediate force option.

The Department uses the objectively reasonable standard and the totality of the circumstances when evaluating the reasonableness of the force used, which includes the number of times a particular force option was utilized. If the force option being utilized appears to be ineffective, Department personnel should consider transitioning to another, potentially more effective force option or tactic.

Officers who encounter an armed self-mutilating or suicidal individual shall not use a 40mm LLL against that person, unless the officer reasonably believes either there is an immediate threat to the safety of the officers or others; or, if the threat is not immediately addressed, there is an articulable risk the incident could escalate to the use of deadly force. If officers choose to use a 40mm in these situations, they should utilize distance and cover, when feasible, to avoid placing themselves in a vulnerable position. Officers are reminded that it is not a criminal act to express suicidal ideations or commit/attempt to commit suicide or self-mutilation in the State of California.

The 40mm LLL shall not be used to target the head (e.g., face/eyes), neck, groin, spine, or kidneys unless lethal force is authorized. The 40mm LLL may be used in crowd control situations against a single suspect or subject as a target-specific intermediate force option.

Prior to deployment, officers shall inspect the ammunition and the holder to ensure only 40mm eXact iMPact ammunition is utilized. The **40mm eXact iMPact round** is a point-of-aim, point-of-impact, direct fire round consisting of a plastic body and a sponge nose that is spin stabilized via the incorporated rifling collar and the 40mm launcher's rifled barrel. It can be identified by its silver metal case and blue sponge nose. These rounds are designed to be non-penetrating, and upon striking a target, distribute energy over a broad surface area. The sponge round utilizes smokeless powder as the propellant and has velocities that are extremely consistent.



## PROCEDURES

The approved deployment range for the 40mm LLL is five (5) to 75 feet. Officers should always consider weapon retention principles when deploying the 40mm LLL to prevent a suspect or subject from gaining control of the launcher. When officers identify the need for a 40mm LLL, they should broadcast, "Code Sam-40." **Code Sam-40** is the radio code used to broadcast a request for a 40mm LLL.

If tactically and environmentally feasible, the designated 40mm LLL officer should deploy the launcher from a position of cover with a designated cover officer. The 40mm LLL officer alerts other officers when the designated officer is ready to fire by shouting or broadcasting, "40, 40!" This alerts the officers at the scene that the firing of the 40mm LLL is about to occur.

When firing the 40mm LLL, officers should assess the effectiveness of each round fired. The effectiveness of the 40mm eXact iMPact round is based on the energy at impact. Therefore, the round may have little or no effect on a suspect or subject who:

- Has a large body mass;
- Is wearing heavy clothing/body armor;
- Is under the influence of drugs; or,
- Is in an altered state and cannot feel the impact of the sponge round.

If shots to the navel area or beltline do not appear to be effective, then a leg, arm, or hand may be a viable alternative target. The primary **target area** is the navel area or beltline, but officers may target the suspect's arms, hands, or legs when practicable. If the hand is the selected target, consider its location and what it is holding. Officers shall not target the head, neck, spine, groin, or kidneys – unless lethal force is authorized.

**If control is not achieved and/or it appears that the 40mm eXact iMPact round is not effective, even after changing target areas, the officers must assess the viability of an alternate force option.** Additionally, officers should continue to assess the suspect's actions and the effectiveness of each force option used.

Generally, officers should not deploy the 40mm LLL at a fleeing suspect. Officers should pursue and attempt to contain the suspect, while continually assessing the situation and considering the most appropriate tactical plan. Additionally, officers should avoid deploying the 40mm LLL on individuals who:

- Are on an elevated or unstable surface which could cause a fall that could result in a significant impact injury;
- Are operating or riding any mode of transportation where the risk of injury would be substantially increased by use of the 40mm; or,
- Are known to be pregnant, under 12 years of age, elderly, or visibly frail.

The 40mm LLL is not a substitute for deadly force. When conducting a building search for a suspect who may be armed, standard firearms must be deployed. Having a 40mm LLL along with other force options during the search will provide officers with different options should the situation change.

#### Tactical Considerations

- Size of suspect versus size of officer
- Clothing
- Altered mental state (may not be effective)
- Any known history of mental illness
- Age and/or physical condition of the suspect
- Suspect's access to weapons
- Suspect's ability to retreat or escape
- Bystander involvement
- Availability of back-up officers (Can suspect be distracted until other units arrive?)
- Background/Foreground (What is behind/in front of the suspect?)
- Officers should maintain distance from the suspect

## **Face Shield Considerations**

It is recommended that operators are aware of their stock position prior to any deployment or crowd control operation and familiarize themselves with operating the launcher system while using a face shield. The face shield should not be in the down position when the launcher stock is in the completely collapsed or mid-length position. The shield in the down position could affect proper manipulation or sight alignment and cause the system to move off target and ultimately compromise the operator's accuracy.

## **Use of Force Warning**

An officer shall, when feasible, give a verbal warning prior to using the 40mm LLL to control an individual. A warning is not required when an officer is attacked and must respond to the suspect's actions. Additionally, if a tactical plan requires the element of surprise to stabilize the situation, a warning is not required. An example would be a hostage situation. However, officers are reminded that the surprise/tactical element must still be necessary at the actual time the 40mm LLL is fired.

The verbal warning should include a command and a warning of the potential consequences of the use of force. The command should be similar to "drop the weapon" or "stop what you are doing" followed by a warning similar to "or we may use the 40mm, and that may cause you injury."

The use or non-use of the warning shall be documented. The Non-Categorical Use of Force Report, Form 01.67.05, Use of Force Summary heading shall include:

- The name of the officer giving the warning; and,
- An explanation and appropriate justification for not using the warning.

Statements that the "element of surprise was needed" or "for officer safety reasons" will not justify non-use of the warning. The explanation for non-use must:

- Clearly articulate why the element of surprise was needed;
- Explain in detail any officer safety considerations; and,
- List all pertinent reasons that justify why the warning was not provided.

The use of the warning, or the reasons for non-use, will be factors considered in the determination whether the use of force was objectively reasonable.

## **Tactical Discharges**

A tactical discharge is defined as any projectile from a less-lethal control device launched with the intent to gain a tactical advantage by creating a distraction, removing obstacles, or altering the environment, and not directed at an individual (e.g., use of a baton or beanbag shotgun to break a window, or deployment of a chemical agent during a barricaded suspect incident).

Tactical discharges are allowed, but are not recommended, as they may cause secondary, unintended impacts. Before a tactical discharge is used to break a window, officers should consider that another officer or individual may be behind the window and subject to impact by the 40mm round. In the event the 40mm LLL is used for a tactical discharge, it should be communicated to all officers at scene prior to its use, for their situational awareness.

Tactical discharges **may** be an effective option in **limited** circumstances. Officers must assess the situation after each tactical discharge, and if the launcher is not producing the desired effect, discontinue its use. Officers must be prepared to give the rationale behind their decision to fire the 40mm LLL as a tactical discharge. Tactical discharges shall be reported on an Employee's Report, Form 15.07.00, and submitted to the employee's commanding officer for review and appropriate action.

## **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.

**Note:** For the purposes of this section, "intercede" includes, but is not limited to, physically stopping the excessive force (when safe and reasonable to do so) and recording the excessive force, if equipped with a body worn video (BWV) camera. Officers shall attempt to document on BWV the efforts to intervene, efforts to de-escalate the excessive use of force, and confronting the offending officer about the excessive force during the use of force. If the offending officer continues to use excessive force, the witnessing officer shall immediately report the excessive force to a superior officer.

## **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 immediately report such force to a superior officer.

## Medical Treatment

Any person struck with a 40mm eXact iMPact round shall be transported to a Department-approved facility for medical treatment prior to booking. The person should be carefully monitored for signs of distress. If a medical emergency situation exists, officers shall render medical aid as required and request a rescue ambulance to respond to their location.

## Reporting

All discharges of a projectile weapon (e.g., 40mm LLL), excluding tactical discharges, are reportable uses of force and shall be reported in accordance with Department policy whether or not the projectiles/munitions or device make contact with the suspect or subject, including their clothing.

### Points to Remember

- 5 feet is the minimum deployment range
- Deployment range is from 5 to 75 feet
- Assessment between rounds is critical
- **Do not target the head, neck, spine, groin, or kidneys, unless lethal force is authorized**
- Have a backup plan in the event the 40mm round is ineffective
- 40mm LLL should not be deployed unless lethal force is available for cover
- All discharges of the 40mm LLL, excluding tactical discharges, are a reportable UOF

**Important Reminder**

Deviation from these basic concepts sometimes occurs due to the fluid and rapidly evolving nature of law enforcement encounters and the environment in which they occur. Deviations may range from minor, typically procedural or technical, to substantial deviations from Department tactical training. Any deviations are to be explained by the involved officer(s), and justification for substantial deviation from Department tactical training shall be articulated and must meet the objectively reasonable standard of the Department's Use of Force Policy.

**AMENDMENTS**

This Use of Force Directive cancels and supersedes Use of Force-Tactics Directive No. 17.1, 40mm Less-Lethal Launcher, October 2021.

A handwritten signature in blue ink, appearing to read 'MICHEL R. MOORE', is positioned above the printed name.

MICHEL R. MOORE  
Chief of Police

DISTRIBUTION "A"

Attachment

## HANDLING AND STORAGE OF THE 40mm LESS-LETHAL LAUNCHER

All Department personnel are reminded of the proper care, handling, and storage of the 40mm Less-Lethal Launcher. In order to maintain the 40mm Less-Lethal Launcher's proper function and accuracy, officers shall treat the equipment with care and refrain from dropping the 40mm Less-Lethal Launcher on the ground.

### **Pre-Inspection**

As part of officers' start of watch inspection and prior to going into the field, officers shall ensure that the following 40mm Less-Lethal Launcher procedures are conducted:

- Physically inspect all components of the 40mm Less-Lethal Launcher to ensure they are in good working order;
- Ensure the sight optic is functional and secured to the launcher;
- Ensure the elevation and windage adjustments of the sight optic are aligned with the markings and have not been manipulated or moved; and,
- Ensure the sling is attached securely.

### **Securing During Transportation**

Department personnel shall secure the unloaded 40mm Less-Lethal Launcher in their vehicle's 40mm Less-Lethal Launcher mount. If the Department vehicle is not equipped with a 40mm Less-Lethal Launcher mount, Department personnel shall keep the 40mm Less-Lethal Launcher in the Department-issued case and place it in a secured position inside the trunk of the vehicle. Care should be taken to ensure the weapon system does not shift during transportation.

### **Damage**

Any movement or damage to the sight optic may cause it to no longer be zeroed. If movement or damage to the sight optic does occur or any components of the 40mm Less-Lethal Launcher malfunction, officers shall immediately return it to their Area/division kit room and notify the Area/division Training Coordinator of the damage. The damaged 40mm Less-Lethal Launcher shall be removed from the inventory immediately and deemed non-operable and non-deployable. The concerned Area/division Training Coordinator shall, without delay, notify the Department Armorer of the damage. The Area/division shall also be responsible for transporting the damaged 40mm Less-Lethal Launcher to the Department Armorer for immediate repair.

Lastly, if the 40mm Less-Lethal Launcher is **deployed and fired**, the concerned Area/division Training Coordinator shall, as soon as possible, cause it to be transported to the Department Armorer where it shall be cleaned and inspected prior to redeployment.

Should you have any questions, please contact Firearms Training Section, Training Division, at (818) 832-3740 or (323) 612-4404.