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OFFICE OF
THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO

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January 5, 2021

Acting Chief of Police Ray Sweeney
Acting Chief of Police Matt Nicholass
La Mesa Police Department
8085 University Avenue
La Mesa, CA 91942

Re: Use of force upon Leslie Furcron by La Mesa Police Department Detective Eric Knudson on May 30, 2020; LMPD Case No. 20015724; DA Special Operations Case No. 20-102UF; Deputy District Attorney assigned: John B. Dunlap.

Dear Acting Chief Sweeney and Acting Chief Nicholass,

We have reviewed the reports and other materials compiled by the La Mesa Police Department concerning the use of force upon Leslie Furcron. This case was submitted to the District Attorney's Office for review on August 5, 2020. Additional materials were provided through September 22, 2020.

Summary

During the last week of May, 2020, protests occurred across the United States in response to the death of George Floyd while in the custody of Minneapolis Police Department officers. The majority of protests were peaceful. On May 27, 2020, two days after Mr. Floyd's death, there was an incident at the Grossmont Trolley Station involving a La Mesa Police Department officer and a citizen. The officer involved in that incident has been terminated from the La Mesa Police Department. In response to these events, it appeared that a protest which had been planned for San Diego was moved to the La Mesa Police Department.

At approximately 2:00pm, a large group began a peaceful protest at the front plaza of the La Mesa Police Department. After approximately 30 minutes, the protesters left the police station and marched to Interstate 8 before returning to the La Mesa police station. At approximately 4:30pm, some protesters threw water bottles, glass bottles and rocks towards officers and the police station. The United States flag in front of the police station was pulled down and lit on fire. The exterior of the police station was vandalized with graffiti. Protesters collected rocks, which were size of softballs and baseballs, from landscaping near the entrance of the police station east parking lot.

After dispersal warnings were given and chemical agents were deployed, protesters continued to throw rocks and other objects towards officers and the police station. Civilian employees inside the police station were threatened as exterior windows were shattered. Civilian dispatchers requested assistance. Officers, including Detective Knudson, responded to the patio outside the dispatch center. Officers fired less lethal beanbag rounds and pepper balls in order to keep protesters who were throwing rocks from injuring officers, deputies, civilian employees within the police station, and protesters.

Knudson observed Leslie Furcron throw an object towards a line of San Diego County Sheriff's deputies in the parking lot. Knudson believed Furcron threw a rock. Knudson was incorrect. A Facebook Live video recorded by Furcron confirmed that Furcron threw a can towards deputies. The can landed approximately a third of the way between Furcron and the deputies.

The beanbag round struck Furcron in the forehead where she was seriously injured and transported to the hospital by civilians at the scene.

Persons Involved

Leslie Furcron is 59-year-old resident of San Diego. Eric Knudson has been employed by the La Mesa Police Department for 12 years.

Law Enforcement Witness 1 (LE1)

At approximately 12:30pm, LE1 responded to the La Mesa Police Department to assist in a protest scheduled in front of the La Mesa police station. LE1 attended a briefing in preparation for the protest. The directives given to officers were to allow for a peaceful protest while keeping officers and the public safe. The second objective was to protect the police station, the civilian staff inside the police station and other sworn officers from anyone attempting to destroy property or enter the building illegally.

At approximately 2:00 pm, a large crowd formed outside the front doors of the La Mesa Police station. The crowd eventually left and made its way to Interstate 8 where protesters walked onto the interstate blocking traffic. LE1 heard via police radio that a California Highway Patrol officer was assaulted and requested assistance. The crowd exited different interstate off-ramps and made their way back to the La Mesa police station.

LE1 was inside the police station with approximately 12 to 15 San Diego County Sheriff's deputies and seven La Mesa police officers. LE1 was notified that protestors had taken down the United States flag from the police station flagpole and lit it on fire. LE1 joined La Mesa police officers and Sheriff's deputies in deploying to the front patio of the police station. Officers and deputies formed two lines and stood shoulder to shoulder in front of the police station.

While LE1 was standing on the line of officers, water bottles were thrown in the officers' direction. LE1 said that the water bottles were full and some were frozen. An unlawful assembly was declared and the crowd was told multiple times to disperse via bull horn. The crowd did not disperse and appeared to grow in size.

Officers and deputies were directed to put on gas masks. Shortly after, chemical agents, flash bangs and CS gas canisters were deployed by San Diego County Sheriff's deputies. The crowd dispersed from the front plaza area of the police station to the east and south side parking lots. After chemical agents were deployed, large rocks and water bottles were thrown towards officers standing on the police station front plaza. Rocks struck the police station causing portions of stucco to come off the building. LE1 feared for his safety and the safety of the other law enforcement officers that were

present. LE1 recalled hearing via radio that a deputy had been struck by a rock and was removed to be treated. LE1 was struck in the shoulder with a water bottle.

LE1 heard a La Mesa police dispatcher advise over the radio that rocks were being thrown into the windows of the dispatch center located inside the police station. Some of the windows were smashed. LE1 ran to the dispatch center and made his way onto the patio outside of dispatch where he met other officers.

Protestors continued throwing rocks in the officers' direction. Some of the protestors spray painted graffiti on side of the police station "ACAB," "Fuck Pigs" and "Fuck 12." ("ACAB" is an acronym for All Cops Are Bastards.)

LE1 and other officers on the patio were directed by sergeants, LE4 and LE5, to use less lethal weapons, pepper ball and bean bag rounds, at protestors who were throwing rocks and bottles. The purpose of deploying the less lethal force was to stop subjects from throwing rocks to prevent injury to law enforcement, protestors and civilian staff inside the police station. LE1 served as a spotter, calling out protestors who were throwing objects.

When chemical agents were deployed by Sheriff's deputies, protestors retreated until the gas receded, but would return and resume throwing rocks, glass bottles and water bottles in the officers' direction. Protestors also attempted to pick up the CS gas canisters and throw them back at officers and deputies. LE1 heard multiple warnings and civil unrest announcements made by San Diego County Sheriff's deputies over a loudspeaker for the crowd to disperse. LE1 saw smoke coming from City Hall and heard via radio that a fire department vehicle was fully engulfed in flames.

LE1 relieved another officer of a less lethal beanbag shotgun. LE1 discharged two rounds from the beanbag shotgun at a person he saw throwing rocks. Neither of the beanbag rounds struck the person throwing rocks or any other protestor. LE1 discharged another beanbag round at a person throwing an object towards officers on the patio. This round did not hit the subject or any protestor. LE1 discharged three beanbag rounds at a person who threw a glass bottle onto the patio. None of the rounds hit the person who threw the bottle or any protesters.

LE1 did not see the person who had thrown an object prior to Knudson discharging the bean bag round. LE1 immediately heard people yelling that someone had been shot in the head. LE4 and LE5 were immediately notified of the incident. Knudson handed LE1 the less lethal shotgun and LE1 discharged two beanbag rounds at a subject who was throwing rocks towards the patio outside the dispatch center. Neither of the rounds struck the person throwing rocks or any other protester.

LE1 said that he later saw the Chase Bank and Union Bank on Spring Street near the police station engulfed in flames. LE1 heard over the police radio that looting had started at a La Mesa Vons and Sally's Beauty Supply. LE1 observed several people vandalize the VFW across the street from the police station with spray paint and attempt to light the VFW on fire with an aerosol spray can. LE1 ended his shift at approximately 7:00 am the next morning,

Law Enforcement Witness 2 (LE2)

At approximately 12:30 pm, LE2 arrived at the La Mesa Police Department and attended a briefing on a planned protest. During the briefing, law enforcement personnel were informed the main objective was to allow for a peaceful protest. A secondary objective was to protect the La Mesa police station. The concern for the police station was due to the burning of a police station in Minneapolis, Minnesota days earlier.

LE2 was assigned to assist La Mesa police officers in a mobile field force capacity. LE2 was wearing a blue La Mesa police uniform with protective riot gear including a helmet, gas mask, as well as chest, shin, and arm pads. LE2 was equipped with a straight stick that was slung on his belt. LE2 was also equipped with a pepper ball launcher.

At approximately 2:00 pm, a group of protesters arrived at the front of the La Mesa police station. After a short while, the group left the police department and traveled to Interstate 8. LE2 heard via radio that the California Highway Patrol responded to attempt to control the crowd. The protestors made their way off the interstate and towards the La Mesa police station.

At approximately 4:00 pm, protesters returned to the front of the La Mesa police station. LE2 was initially deployed to the front of the police station due to the building having been vandalized with spray paint. The United States flag on the police station flagpole was set on fire. Sheriff's deputies assisted La Mesa police officers. LE2 was positioned behind a skirmish line that officers and deputies had formed. The crowd complied with police commands to stay back and back up until objects were thrown from the crowd.

The crowd became increasingly agitated as water bottles and rocks were thrown at officers. A bullhorn on the balcony of the police station was used to announce an unlawful assembly. The bullhorn was brought to the front of the police station and several more announcements were made declaring the gathering an unlawful assembly.

Officers and deputies were ordered to put their gas masks on in preparation for chemical agent deployment. Chemical agents were deployed to disperse the crowd. Rocks and water bottles continued to be thrown by protestors from the police station parking lot.

LE2 heard over radio that La Mesa police dispatch was requesting assistance because windows were being broken in the dispatch center. LE2 believed that due to the increasingly aggressive nature of some protestors, employees inside the dispatch center could be in imminent danger. Officers, including LE2, responded to the patio directly outside of the dispatch center.

The landscaping next to the parking lot was filled with rocks. The protestors repeatedly grabbed rocks from the landscaping and threw the rocks towards the police station and officers. The rocks ranged from the size of golf balls to softballs. LE2 believed that if any of these rocks struck an officer they were likely to cause serious injury.

LE2 requested the assistance of nearby officers to call out protestors who were throwing rocks. LE2 used a pepper ball launcher to deploy pepper balls at subjects he saw throwing rocks and subjects who were grabbing or attempting to grab deployed gas canisters. Many of the protestors were grabbing the canisters and throwing them back towards police.

Chemical agents were intermittently deployed into the parking lot dispersing the crowd, but the crowd reassembled and rock throwing would resume. LE2 heard repeated announcements made from law enforcement helicopters declaring the gathering an unlawful assembly.

LE2 requested Knudson relieve LE2 with the pepper ball launcher. LE2 continued to deploy pepper ball rounds and estimated he hit approximately 20 to 30 individuals with pepper ball rounds. The individuals appeared to be hit in the torso, arms, and legs.

LE2 observed multiple flash bangs and gas canisters deployed into the crowd of protestors. Multiple Sheriff vehicles drove into the parking lot with lights and sirens activated in an attempt to disperse the crowd. Rocks were still being thrown sporadically from the edges of the parking lot.

LE2 heard Knudson to his left call out a protestor possibly throwing rocks. LE2 moved to his left in an attempt to see the subject and assist in deploying pepper ball ammunition if needed.

LE2 observed what he thought to be a light skinned Black or Hispanic male walking in the parking lot near the landscaping. The person appeared to be wearing a white t-shirt and blue jean shorts. LE2 observed Knudson point a less lethal beanbag shotgun in the direction of that person. LE2 heard Knudson fire one round from the less lethal beanbag shotgun. LE2 immediately saw the person fall to the ground. It appeared to LE2 that the subject fell face first. LE2 heard Knudson say, "That guy, that's the guy who's throwing things."

LE2 immediately notified LE5 of the less lethal deployment and that there was a person down near the La Mesa sign. LE2 saw a large crowd gather around the person and also heard loud screams. LE2 saw the crowd disperse after a few minutes and the person who was struck was no longer on the ground.

Law Enforcement Witness 3 (LE3)

At approximately 2:45 pm, LE3 was on duty at the La Mesa Police Department when a large crowd gathered at the La Mesa police station. LE3 was equipped with mobile field force gear, which consisted of chest/back padding, forearm padding, helmet with a face shield, shin guards, and a wooden straight stick. LE3 observed a white male spray painting the wall on the east driveway entrance of the La Mesa police station.

LE3 was deployed at the front of the La Mesa station plaza along with other La Mesa officers and Sheriff's deputies. Multiple water bottles and rocks were thrown in their direction. LE3 heard amplified dispersal and unlawful assembly orders.

Despite the announcements, bottles and rocks were still thrown at officers. After the initial dispersal orders, LE3 was informed that San Diego Sheriff's deputies were going to deploy gas. LE3 retreated to

the lobby of the La Mesa police station and put on his gas mask. Once equipped, LE3 exited the lobby and provided security at the front doors of the police station. Rocks, plastic water bottles and a glass bottle continued to be thrown at officers and deputies.

Deputies deployed gas canisters in the front plaza of the La Mesa police station to disperse the crowd. LE3 was struck with what he believed to be a rock. La Mesa police dispatch advised via radio they needed assistance as windows were being broken. LE3, along with multiple officers, responded to the patio outside of the dispatch center.

A sergeant requested LE3 locate a ballistic shield. LE3 contacted a Sheriff's deputy in the police station garage. LE3 obtained a ballistic shield from the deputy. The ballistic shield also had a less lethal shotgun attached. LE3 returned to the patio outside of the dispatch center and unloaded the Sheriff's Department less lethal bean bag shotgun. LE3 gave four "Super Sock" rounds from inside that bean bag shotgun to Knudson.

LE5 asked if there were additional bean bag rounds in the armory. LE3 told LE5 he had checked and did not find any. LE5 asked if there were "training rounds" in the armory to which LE3 replied there were. LE5 told LE3 to utilize the training rounds. LE3 retrieved the box of less lethal training beanbag rounds and returned to the patio outside the dispatch center.

LE3 continued to observe multiple individuals grabbing and throwing rocks. Multiple gas cannisters continued to be deployed. LE3 heard subjects in the parking lot screaming that a female was shot. LE3 broadcasted over police radio that a female was reportedly down from a beanbag deployment. LE3 heard via radio that a vehicle had pulled up on University Avenue and removed the female from the parking lot.

Law Enforcement Witness 4 (LE 4)

LE4 is a sergeant with the La Mesa Police Department and was assigned to supervise a mobile field force team of officers during a planned protest. The team was briefed on the objectives for the protest. The directive was to allow for peaceful assembly and to keep the public, property and law enforcement safe. The team was also directed to protect the La Mesa police station and those inside the station from anyone attempting to destroy or gain access into the building.

At approximately 2:00 pm, a large crowd formed outside the main lobby to the La Mesa police station. LE4 and his team were instructed to move to a staging area inside the police station. At approximately 4:00 pm protesters returned to the front plaza of the La Mesa police station after crossing Interstate 8. LE4 was informed protesters had taken the United States flag off the flagpole and were setting the flag on fire. La Mesa police officers, including LE4, and Sheriff deputies deployed outside the police station and formed two lines.

Once outside, LE4 noticed several water bottles and large rocks were tossed at officers. LE4 heard via radio that protesters were breaking windows to the "Bearcat" armed response vehicle. The "Bearcat" was utilized to make announcements. Multiple rocks and water bottles continued to be thrown at officers. Some of the water bottles thrown appeared to be frozen.

LE4 heard over the radio that there was a plan to deploy tear gas in order to push the large crowd back from the police station. LE4 and his team were instructed to put on their gas masks due to the protest now being declared an unlawful assembly. Sheriff deputies deployed tear gas and once deployed, officers moved forward as the crowd pulled back.

LE4 heard via radio that protesters were breaking a window leading to the police dispatch center. LE4 and his team rushed to the dispatch center. Officers took a position on the patio outside the dispatch center. The patio overlooked the east parking lot. LE4 requested that an officer with a pepper ball launcher move to the patio wall. An officer also responded to the patio with a less lethal beanbag shotgun. As multiple rocks were thrown in their direction, officers deployed multiple rounds of pepper ball into the crowd.

While continuing to hold their positions on the patio, Knudson took possession of the beanbag shotgun. The protesters continuously threw large rocks at the police station and the officers. Some of the rocks landed on the patio where officers were located. LE4 walked to assess the crowd at the far side of the patio when a loud chemical agent deployment occurred. LE4 then heard a female screaming in the parking lot. LE4 walked back over to where other officers were positioned with the pepper ball and less lethal shotguns. LE4 was informed by LE5 that a beanbag round had hit someone in the parking lot. LE4 heard LE2 say that someone had been hit and was down. LE4 radioed that a protester was down, possibly from a beanbag round, in the area by the sign near the east parking lot entrance. LE4 looked out into the crowd multiple times but never saw the person who was shot.

Officers held their position on the patio until Sheriff's deputies formed a line further into the parking lot. Once the area was controlled by deputies, LE4 ordered officers to move into the parking lot and get in line with the deputies. LE4 stayed in that position for the remainder of the protest.

Law Enforcement Witness 5 (LE5)

LE5 is a sergeant with the La Mesa Police Department and was assigned to supervise a mobile field force team of officers during a planned protest. The team was briefed and officers were instructed to stay inside the police station and allow a peaceful protest. Officers were instructed that if protesters became unruly and there was a possibility of danger to protesters, the public or property, officers would respond to the front plaza of the police station. A secondary objective was to protect the La Mesa police station from protesters illegally attempting to gain entry to the building. This concern was due to protesters in Minneapolis earlier in the week who burned a police precinct headquarters.

At approximately 2:00 pm, a peaceful crowd formed outside the station's front doors. The crowd left the police station and marched onto the interstate before making their way back to the station. LE5 was inside the station in full mobile field force uniform with approximately 15 Sheriff's deputies and seven La Mesa police officers. The deputies and officers were advised via radio that some protesters on the front plaza of the police station had taken down the United States flag and lit the flag on fire. The La Mesa police mobile field force team and Sheriff's deputies deployed to the front of the station. The officers and deputies formed a skirmish line on the front plaza. LE5 noticed that the crowd had grown much larger.

Items began to be thrown from behind the first line of protesters. The protest was deemed an unlawful assembly and unlawful assembly notices were broadcast. Officers were told CS gas would be deployed to disperse the crowd. LE5 and other officers went into the police station and put on gas masks. Officers returned to the front plaza and formed a secondary skirmish line behind deputies. The crowd appeared increasingly aggressive, throwing more objects and refusing to disperse despite the unlawful assembly announcements. Sheriff deputies deployed chemical agents, including flashbangs and CS gas canisters, in order to disperse the crowd. Protesters dispersed from the front plaza into the parking lot.

Rocks and water bottles continued to be thrown at officers. LE5 was hit in the left knee with a full water bottle thrown from somewhere in the east parking lot. Two deputies were also hit in the head with water bottles.

Officers were advised that dispatchers reported a rock had been thrown through a window in the dispatch center and there was a fear subjects would gain entry through the patio outside the dispatch center. As LE5 and fellow officers responded to the dispatch center, LE5 ran past a volunteer employee, who was visibly shaken as she told officers to go to the dispatch patio. Once on the patio, LE5 saw protesters in the east parking lot throwing rocks towards the officers' location. The rocks thrown were the size of baseballs or softballs. LE5 and officers dodged objects thrown in order to avoid being hit.

LE5 told officers to deploy less lethal weapons, pepper ball and beanbag rounds, at protesters who were throwing objects at officers. The purpose of deploying those less lethal force options was to stop the subjects from throwing rocks and prevent injury to law enforcement or protesters.

LE5 acted as a spotter calling out subjects who were throwing objects. The Sheriff's helicopter (ASTREA) was providing unlawful assembly notices via their PA system ordering the crowd to disperse. LE5 asked LE3 if there were "training rounds" available in the armory he should get them. The training rounds are similar to the Super Sock rounds, which the La Mesa Police Department uses in the field.

Officers were advised via radio that protesters had set La Mesa City Hall on fire. LE5 saw smoke coming from City Hall. The Heartland Fire & Rescue chief, who responded to the fire at the City Hall, reported that his vehicle had been looted and set on fire.

La Mesa police officers and Sheriff's deputies deployed flash bangs and CS gas canisters into the crowd to disperse the crowd. Sheriff's vehicles entered the parking lot with lights and sirens activated. The parking lot was cleared but people started to walk back into the parking lot yelling obscenities and "burn it down." The Sheriff's deputies exited their vehicles and formed a skirmish line in the parking lot.

LE5 stood behind LE2 and Knudson pointing out people who were throwing objects at deputies as the Sheriff's deputies moved northbound in the parking lot. LE5 heard Knudson, who was to the left of LE5, deploy a beanbag round. LE5 looked left and saw an unknown person in a white shirt fall backward. The person appeared approximately 60 feet from the officers' location near the sign in the

parking lot. Protesters began to yell at officers that they had shot the person in the head. Knudson told LE5 he had fired the beanbag at the person who fell. Knudson told LE5 he did not aim for the subject's face, but aimed for the abdomen, and he saw the subject throwing objects towards the deputies in the parking lot.

As LE5 was talking to LE4 about the beanbag, LE5 observed protestors attempting to light the VFW Post on fire. LE5 and fellow officers moved from the patio outside the dispatch center to the parking lot perimeter near the police station sally port entrance.

While on the skirmish line near the sally port entrance, LE5 heard a female yell to the officers that they had shot a female in the face. Once the lot was cleared out of protestors, LE5 and LE4 walked near the area where the subject went down and saw blood on the ground. The officers did not find any debris from the beanbag round.

Eric Knudson's Statement

At approximately 12:30 pm, Knudson attended a briefing with other law enforcement officers on a protest scheduled to occur at the La Mesa Police Department. The directive from the briefing was to allow for peaceful assembly and to keep the public and officers safe. The secondary objective was to protect the La Mesa police station and keep those inside the station safe from anyone attempting to destroy property or illegally gain access. The directive was the result of recent protests in Minneapolis that had led to the burning of a police precinct.

At approximately 2:00 pm, protestors started forming outside the La Mesa police station. The crowd left the station and made its way to the Interstate 8 eastbound on-ramp. Protestors walked onto the interstate causing traffic to stop. The California Highway Patrol responded to the crowd on the interstate and it was reported an officer was assaulted. Knudson heard via radio the crowd had broken the line of officers the California Highway Patrol had attempted to form. The crowd exited the interstate and made their way back to the La Mesa police station.

Knudson was staged inside the La Mesa police station with approximately 15 Sheriff deputies and seven La Mesa police officers. Knudson was dressed in full mobile field force protective riot gear including a helmet with a face shield, gas mask, as well as chest, shin, knee and arm pads. A straight stick was attached to Knudson's belt. Knudson was informed there were protestors outside the front lobby who had taken down the United States flag from the station flagpole and lit the flag on fire. It was at this time Knudson activated his body worn camera. La Mesa police officers, including Knudson, and deputies were given an order to deploy to the front of the police station.

Knudson and officers walked outside and formed two lines in front of the police station. While standing in the line of officers, water bottles were thrown at the police station and officers. A civil unrest advisement was given to the crowd multiple times via bullhorn and an unlawful assembly was declared. Instead of dispersing the crowd continued to throw water bottles towards officers. Officers and deputies were directed to put on their gas masks and Sheriff's deputies deployed chemical agents, including flash bangs and CS gas canisters. The crowd began to disperse from the front plaza

area of the police station to the east and south parking lots. After gas was deployed, rocks, water bottles and other objects were thrown towards officers and deputies.

Knudson was hit with a water bottle which broke when it hit his left knee. A deputy was also hit with an object. Officers and deputies deployed beanbag and pepper balls at people throwing objects. Knudson heard glass breaking from nearby windows. A dispatcher reported rocks had been thrown through windows of the dispatch center and officers needed to respond to dispatch immediately. The dispatcher's voice sounded distressed over the radio. Knudson feared someone may try to gain access to the police station through the dispatch window.

Officers, including Knudson, responded to the dispatch center and took a position outside on the dispatch center patio. Knudson saw what appeared to be hundreds of protesters in the east parking lot. Protesters were throwing large rocks towards officers. The rocks were the size of baseballs and softballs. Officers on the patio dodged rocks thrown in their direction. Some of the rocks broke into multiple pieces as they hit police station walls or trees. Every time a gas canister was deployed, the crowd would move back, but then move forward again towards the police station. Multiple warnings and civil unrest announcements were made over a loudspeaker telling the crowd to disperse or be arrested.

Officers were given direction from LE5 to fire less lethal weapons, pepper ball and beanbag rounds, at protesters throwing objects. The purpose of deploying the less lethal force options was to stop subjects from throwing rocks preventing injury to police and protesters. Knudson initially served as a spotter calling out people who were throwing objects.

Knudson took over LE2's pepper ball gun. Knudson observed a male wearing a shirt with a yellow Nike emblem on his sleeve holding rocks in his hands that were the size of baseballs. Knudson yelled for the subject to drop the rocks, but the person refused. Knudson fired approximately four rounds of pepper ball at the man to stop him from throwing rocks. None of the pepper balls hit the male. Knudson returned the pepper ball gun to LE2 when LE2 returned to the patio.

A short time later Knudson was handed a bean bag shotgun a Sheriff's deputy provided LE3. The shotgun had already been loaded. Knudson kept the beanbag shotgun at a low ready position with the barrel pointed down as Knudson stood along the patio wall.

Knudson heard a La Mesa police sergeant advise via radio that rocks the size of golf balls were being thrown at officers on the second floor of the police station. Knudson saw smoke coming from City Hall. Officers were advised over the radio that City Hall was on fire.

Sheriff's deputies deployed additional CS gas canisters to disperse the crowd and Knudson observed a person whom he believed to be a white male trying to grab one of the cannisters off the ground. Knudson fired a beanbag towards the male to keep him from throwing the cannisters back at deputies. The beanbag did not hit the man.

La Mesa police officers and Sheriff's deputies deployed multiple flash bangs and CS gas canisters into the crowd in order to allow the fire department to enter the area to put out any fires.

Sheriff's vehicles drove into the parking lot with lights and sirens activated. Most of the crowd left the parking lot. The deputies exited their vehicles and formed a line in the parking lot. Some in the crowd started to walk back into the parking lot. Knudson put six additional beanbag rounds on the outside holder of the stock of the beanbag shotgun.

Sheriff's deputies moved in a line northbound in the parking lot. Knudson observed what appeared to him to be a white male adult male with short hair wearing a white t-shirt throw the object in the direction of deputies. Knudson described the person as being "light skinned" male in his "Use of Force Report. [The person described by Knudson was in reality, Ms. Furcron, an African American female.]

Knudson said that in order to stop the immediate threat and to protect the deputies from injury, he aimed for center mass on the protester and deployed one beanbag round at the person. Knudson saw the person immediately fall backwards but did not see where the beanbag round hit. Knudson advised LE2 that he hit the person throwing rocks with a beanbag.

Knudson heard loud screams and someone yell that a person was hit in the face. Knudson saw a large crowd rush over to where the person was located. The crowd picked the person up and carried the person away from the area. Knudson advised LE5 he hit someone with the beanbag round and people in the crowd were saying the person was hit in the face. Knudson explained to LE5 he did not aim for the person's face and he saw the person throwing objects towards deputies.

Knudson handed the beanbag shotgun to LE1 and began to spot for anyone throwing objects. Knudson and other officers moved from the dispatch patio to the perimeter of the parking lot near the parking lot entrance. While standing in the parking lot, an unknown female yelled to the officers a female was shot in the face. It was not until then Knudson heard the person struck with a beanbag round was a woman.

The next day, at approximately 5:00pm, Knudson arrived at the police station to assist with patrol. During a briefing at the police station, another officer showed Knudson a social media post regarding a female hit with a beanbag. The photo was of a woman on the ground with an object embedded into her forehead. There was blood around the woman. Based on the photo, Knudson believed it was the same person he may have hit with a beanbag round.

Civilian Witness 1 (CW1)

CW1 was present during the La Mesa protest. CW1 was initially standing in the front row of protestors near officers who were behind a wall. CW1 said there were "idiots" behind CW1 throwing rocks. Soon after the first tear gas canisters went off, CW1 and other protestors dispersed back. It was then CW1 noticed Leslie Furcron. CW1 stood next to Furcron for approximately 10 minutes. CW1 described Furcron as being peaceful and appeared to be filming from her cell phone. CW1 did not know Furcron.

During the protest, CW1 was hit by four small unknown objects on her upper breast. CW1 saw Furcron get hit by something. CW1 saw Furcron fall straight back to the ground without breaking her

fall. Once Furcron fell to the ground, CW1 saw that Furcron had a tan object larger than a wine cork lodged in her head. The object was possibly wrapped in linen. CW1 yelled for help and people immediately responded.

CW1 said she realized she never wants to go to anything like this event again. CW1 stated that she is for peaceful protests but the destruction she witnessed during this particular protest made her feel "filthy." CW1 returned to the La Mesa police station the next day to help clean up.

Civilian Witness 2 (CW2)

CW2 is a Heartland Fire & Rescue chief. CW2 learned the La Mesa City Hall was on fire. At approximately 8:00 pm, CW2 drove to the La Mesa City Hall to survey the area and damage that was occurring. CW2 saw smoke coming from City Hall.

CW2 parked his fire truck directly in front of City Hall. CW2 exited his truck and met a few peaceful protestors at the front entrance of City Hall. Multiple rocks were thrown at CW2 and his fire truck. Peaceful protestors led CW2 into City Hall and directed him to active fires in the city clerk's area, the finance area and in a break room in the building.

One of the protestors used a fire extinguisher to extinguish the small fires while walking the building with CW2. While in City Hall, other protesters broke into CW2's fire truck, took control of the handheld radio in the truck and began cursing over the radio. Fire dispatch called CW2 on his cell phone to verify if CW2 was okay. CW2's fire gear, including a helmet, were stolen. The truck was set on fire.

CW2 was in City Hall for approximately four minutes before Sheriff's deputies entered the building through a back door. After approximately 10 minutes, CW2 exited City Hall and walked through the police skirmish line to check on a report of protestors on top of Fire Station 11. Rocks were thrown towards police as CW2 walked through the skirmish line.

CW2 entered the fire station and ensured there were no protestors vandalizing the building. Seeing no protestors in the fire station, CW2 returned to the La Mesa police station. CW2 remained at the police station for approximately an hour before CW2 was escorted out of the area by a police unit. CW2 returned to a fire command post which had been established by Heartland Fire & Rescue in El Cajon.

Additional fires were set in La Mesa. CW2 was unable to safely send fire teams to put out reported fires until approximately 3:00am.

Leslie Furcron's Statement

The District Attorney's Office requested a statement from Leslie Furcron regarding events in order to consider all evidence from her vantage point. This request was made to Ms. Furcron's attorney, Dante Pride, via letter and a phone conversation between Deputy District Attorney John Dunlap, assigned to the District Attorney's Special Operations Division, and Mr. Pride. On October 19, 2020, Mr. Pride informed Mr. Dunlap that Ms. Furcron was declining to provide a statement to the District Attorney's

Office. We understand and respect Mr. Pride was fulfilling his duty as an attorney to his client, Ms. Furcron, and was making the best decisions in her interest.

On December 28, 2020, the Pride Law Firm provided the District Attorney's Office with medical records in its possession related to injuries Lelslie Furcron sustained. The records confirmed media reports that Ms. Furcron sustained head trauma with facial fractures. The records also show the embedded beanbag round had to be surgically removed from Ms. Furcron's forehead. Mr. Pride informed Mr. Dunlap that Ms. Furcron lost vision as the result of her injury. The medical records confirm that Ms. Furcron suffered vision damage as a result of her injuries.

On December 28, 2020, Mr. Dunlap and a District Attorney Investigator were permitted to inspect the beanbag round at the Pride Law Firm. The beanbag round, which was sealed in a clear plastic bag, was partially obscured by medical gauze. The beanbag round was covered in what appeared to be dried blood. The beanbag round appeared to be an intact beanbag training round.

The District Attorney's Office also offered potential victim witness assistance and services to Ms. Furcron. With Mr. Pride's permission, a District Attorney's Office victim witness advocate has been in contact with Ms. Furcron regarding potential victim witness services.

Video and Radio Evidence

LE1, LE2, LE3 and Knudson were equipped with a body worn camera (BWC) and the officers activated their respective BWCs prior to entering the front plaza of the La Mesa police station. The digital clock in the upper right corner of the Axon player is displayed in GMT (Greenwich Mean Time). A conversion table was used to convert to Pacific Standard Time which is minus seven hours from GMT time.

At 4:51 pm, BWC footage showed multiple officers entering the front plaza of the La Mesa Police station along with Sheriff's deputies where a large group of protestors were located. The protestors were chanting and peaceful. Officers can be heard telling protestors to "get off PD property." The protestors remained on the plaza and were peaceful.

At 5:22 pm, BWC footage captured the first water bottles thrown towards officers and deputies standing on the plaza. A protester can be heard yelling into the crowd, "stop throwing shit." Other protestors join in telling people to stop throwing objects. Approximately 13 water bottles and rocks are seen thrown towards officers and deputies within a minute of the first water bottle being thrown. BWC footage captures a water bottle narrowly missing a female protester's head and striking the protester on the left side of the body.

At 5:27 pm, an unlawful assembly order is given by bullhorn. Protestors are ordered to disperse. The advisement was given continuously for approximately eight minutes. The protestors do not comply with the order and remain near the front plaza of the police station.

At approximately 5:38 pm, LE2's BWC captured multiple water bottles thrown from the crowd towards officers and deputies. At approximately 5:42 pm, LE1, LE2, LE3 and Knudson entered the La

Mesa Police Department front lobby and put on gas masks. After a few minutes the officers return to the front plaza where BWC footage continues to show water bottles thrown towards officers and deputies. A water bottle struck a female deputy in the head.

At 6:02 pm, chemical agents were released in the front plaza area. A barrage of rocks, glass bottles and water bottles were thrown towards officers and deputies. LE1 and LE2, affected by the release of gas, retreat into the police station lobby. LE2 returns to the plaza after a few minutes. Items can be heard crashing into the plaza.

At 6:03 pm, Knudson's BWC shows officers and deputies pushing outward from the plaza. Multiple items are thrown in the officers' direction. A water bottle is thrown from the right of Knudson and appears to strike Knudson on the lower portion of his body.

BWC footage captured deputies struggle on the ground with a male soon after chemical agents were released. Once the male was handcuffed, a large rock, which appeared to be the size of a softball, bounced off the ground and struck the male in the head. Officers immediately escorted the male into the police station lobby.

At approximately 6:09 pm a radio call was made from dispatch to officers where the dispatcher repeated herself when requesting aid: "Window broken to dispatch. We need units in dispatch. Units in dispatch."

Officers, including Knudson, immediately responded to the call for assistance from dispatch. Officers ran to the dispatch center and onto the patio outside dispatch. It is clear from the video there was a heightened urgency by the officers in reaction to the dispatcher's request for assistance. LE3's BWC showed an officer with a beanbag shotgun and two other officers with pepper ball guns. At 6:12 pm, a rock was thrown at the dispatch patio. Objects can also be heard hitting the police station. At 6:13 pm, LE3 yells "rock" as a large rock lands on the patio narrowly missing striking several officers. At 6:17 pm, another large rock is thrown and lands on the patio just in front of LE3.

At 6:18 pm, additional pepper ball ammunition is requested by officers on the patio. LE1 and LE3 go into the police station to retrieve additional pepper ball ammunition. At 6:22 pm, LE1 and LE3 return to the patio outside dispatch with additional pepper ball ammunition. At 6:26 pm, LE1 was handed a beanbag shotgun and took a position on the patio. Some of the officers' BWC is completely obstructed by the patio wall as officers take cover. At 6:32 pm, LE1 called out a person throwing a rock. The rock is heard hitting the police station. At 6:33 pm, LE1 called out an incoming rock and fires two rounds from the bean bag shotgun. A minute later, an officer called out a rock and the rock is heard striking the building. Approximately one minute later, another object is heard striking the building.

At 6:36 pm, LE3 left the patio outside dispatch in search of a police shield. A Sheriff's deputy provided LE3 with a shield which had a less lethal beanbag shotgun attached. At 6:43 pm, an unlawful assembly order was given by a law enforcement helicopter which can be heard overheard. At 6:43 pm, LE3 returned to the patio with the shield and bean bag shotgun. LE3 unloaded the bean bag shotgun and handed the rounds to another officer on the patio. LE5 asked LE3 if he was able to locate any more

beanbag rounds. LE3 responded he was only able to locate training rounds. LE5 instructed LE3 to bring the training rounds to the patio. LE3 returned to the patio with the training beanbag rounds. At 6:49 pm, LE3 loaded the beanbag shotgun with four of the training beanbag rounds.

At 6:53 pm, a large rock landed onto the patio outside of the dispatch center. At 7:01 pm, officers call out an incoming rock which is heard striking the police station. Approximately ten seconds later another rock is heard striking the building.

At approximately 7:03 pm, a large rock is thrown onto the patio, narrowly missing several officers. During the course of the time period officers were on the patio, multiple rocks are heard striking the patio and the police station. At 7:16 pm, the unlawful assembly order can be heard from a law enforcement helicopter overhead. A few minutes later, an object can be heard hitting the building near the patio.

At 7:46 pm, LE2 pointed out a fire to the other officers on the patio. BWC footage captures black smoke coming from an area nearby and south of the patio where officers were located. At 7:57 pm, an unlawful assembly order can be heard via a loudspeaker. Unlawful assembly orders are continuously given until gas is deployed in the parking lot. The gas is deployed at 8:00 pm. Multiple police vehicles enter the east parking lot with lights and sirens activated.

At approximately 8:14 pm, Knudson raised his beanbag shotgun and pointed it east towards the electronic sign near the north entrance of the east parking lot. Knudson can be heard firing one round from the beanbag shotgun. After firing the beanbag round, Knudson told officers, "That guy. That was the guy who's throwing things." Knudson added, "That guy who's down right now, he's the one throwing things." A few seconds later a female is heard yelling, "you just shot her in the face." LE2 immediately tells LE5 to put the information over the police radio. Knudson later said, "They say that I shot him in the face," and "the guy was throwing stuff that I saw. They are saying that I hit him in the face. That's what they are freaking out about. I know. I didn't see where I hit him." At approximately 8:16 pm, Knudson handed the beanbag shotgun to LE1.

Law enforcement helicopters ABLE and ASTREA assisted the La Mesa Police Department with surveillance during the protest. ABLE was airborne at 8:10 pm when Furcron is seen walking into the parking lot of the La Mesa Police Department. At 8:14 pm, Furcron can be seen near the rock landscaping and the sign near the entrance of the east parking lot. Furcron is seen throwing an object with her right hand towards the direction of the line of Sheriff's deputies. The object fell approximately a third of the way to the skirmish line. Within seconds, Furcron fell to the ground and the camera went out of view. The beanbag shot from Knudson is not visible on the video.

The video evidence demonstrates the threats to the safety of protestors, civilian personnel, officers and deputies which were present when Knudson fired at Furcron.

On May 30, 2020, Leslie Furcron posted a Facebook Live video. The video began with Furcron facing the camera before turning the camera forward as she drove northbound on Spring Street approaching University Avenue. Unidentified people can be heard in the vehicle with Furcron. Coughing can be

heard from inside the car and Furcron commented on "gas" that was deployed by police. Sheriff's Department vehicles and clouds from deployed chemical agents are visible in the parking lot from the car. An unidentified person in the car is heard saying, "Leslie, we have to get out of here. That stuff is burning my eyes."

While driving, Furcron can be heard saying, "They is out here rioting in La Mesa." Furcron goes on to say that it is "Real wild, they wild out here." Furcron says, "They're doing too much. They're probably trying to burn down the La Mesa police station. Burn that motherfucker down." Five minutes and twenty-two seconds into the Facebook Live video, Furcron pulled into the VFW parking lot across the street from the La Mesa police station. Furcron exited the car and walked south across University Avenue into the east parking lot of the La Mesa police station. Furcron yelled, "Tear all this shit up."

Furcron commented on the police lined up near the police station, "Look at 'em, they all lined up. Punk ass motherfuckers! They all lined up." Furcron went on to repeatedly call the police "murderers" and said, "they put their foot on your neck!"

Furcron is heard saying, "Hey bitch. I'm walking. I'm walking across. Stupid bitch. You stupid bitches!"

Six minutes and twenty-eight seconds into the video, Furcron walked south into the parking lot, then turned around and walked north towards University Avenue, but remained in the parking lot. At eight minutes and fifty-five seconds into the video, Furcron was near the north end of the east parking lot near the rock landscaping. While Furcron is in the east parking lot, chemical agents and less lethal munitions can be heard deploying. Clouds from the chemical agents in the parking lot are visible.

At ten minutes and twenty-four seconds into the video, Furcron turned the camera towards herself. Furcron was seen drinking from a can of an unknown drink and throwing the can. The can appeared to be yellowish and silver in color. Approximately five seconds later, a shot is heard and Furcron fell to the ground dropping the cellphone. Screaming is heard as people gather around Furcron. The video briefly showed Furcron flat on her back. Blood was visible. Furcron did not appear responsive.

Investigation

A review of all evidence, including reports, witness interviews and communication records, indicated that on Saturday, May 30, 2020, at approximately 2:00 pm, a large group of protesters arrived at the front plaza of the Las Mesa Police Department. The protesters were peaceful and there was no police response. After approximately 30 minutes the protesters moved on foot through La Mesa. At approximately 3:20 pm, a large group of protesters made their way onto Interstate 8. At 3:59 pm, the California Highway Patrol reported both sides of the interstate were shut down because they were blocked by protesters. California Highway Patrol officers, who attempted to stop the protesters from blocking the interstate, reported bottles were thrown in their direction.

At approximately 4:30 pm, a large number of protesters returned to the La Mesa Police Department. Some of the protesters began throwing water bottles, glass bottles and rocks towards officers and the police station. Exterior windows to the police station were shattered by thrown rocks. Protesters also

pulled down the United States flag in front of the police station and lit it on fire. Protestors used spray paint to vandalize the exterior of the station with graffiti.

At 4:48 pm, La Mesa Police Department mobile field force units deployed to the front plaza of the police station. Detective Knudson was among the officers deployed as part of the mobile field force. Protesters complied with police commands to "stay back" and "back up." San Diego County Sheriff's Department deputies were on scene assisting.

Protesters began throwing rocks located from landscaping near the north entrance of the police station's east parking lot. The rocks were approximately the size of softballs and baseballs. At 5:09 pm, police began making unlawful assembly announcements ordering the crowd to disperse. The announcements were made with a bullhorn from the front balcony of the police station. The bullhorn was moved to the front plaza to amplify the sound of the repeated announcements to the noisy crowd. At 5:38 pm, a San Diego County Sheriff's deputy was hit by a rock thrown by a protestor. Knudson was hit with a water bottle.

A "Bearcat" armored response vehicle was brought into the police station east parking lot. Officers utilized the "Bearcat" to make repeated unlawful assembly announcements. Some protesters climbed on the "Bearcat" and the vehicle was vandalized with rocks and paint. Several windows on the vehicle were damaged before the vehicle withdrew from the parking lot.

At 6:04 pm, chemical agents were deployed at the front plaza of the police department to push back protesters who did not disperse despite announcements. The majority of protesters were located on the east side of the police department. Rocks and water bottles continued to be thrown at officers from the parking lot. A pattern emerged, where chemical agents were deployed and protesters dispersed, but shortly afterward, the protestors would return and throw rocks.

At 6:11 pm, the La Mesa Police dispatch center, which is located on the first floor of the east side of the police station, reported that windows to the dispatch center were smashed. The dispatchers requested police assistance. La Mesa Police officers in the front plaza of the police station responded, making their way to the dispatch center, which was operated by civilian employees. The officers responding to the dispatch center, including Knudson, deployed to the patio outside of the dispatch center. Officers noted the distress in the voice of the dispatcher and a civilian volunteer in the police station as they made their way to the patio.

Knudson was joined by six La Mesa Police officers on the patio outside the dispatch center. Two of the officers were redeployed to the roof of the police station and other officers responded to the patio outside of the dispatch center. Ten officers at various times were deployed on the patio.

The location where officers were located is elevated approximately three and a half feet above the east parking lot. A four-foot, nine-inch concrete wall is located on the east side of the patio. The officers used the concrete wall as cover from rocks thrown towards them and the police station.

Knudson assisted other officers by pointing out protestors who were throwing rocks. At 7:23 pm, Knudson relieved an officer and was provided a pepper ball launcher. Knudson said he fired four rounds of pepper ball at a protestor who was throwing rocks. None of the pepper ball rounds struck the protestor. At 7:30 pm, Knudson handed over the pepper ball launcher to a fellow officer.

At 7:32 pm, Knudson was provided a less lethal shotgun by a fellow La Mesa Police department officer. The less lethal shotgun belonged to the San Diego County Sheriff's Department. The less lethal shotgun was loaded with training ammunition since no duty ammunition could be located.

At 7:57 pm, the La Mesa City Hall, located less than 200 feet from the police station, was set on fire. Firefighters were unable to respond because of the protest but the Heartland Fire & Rescue chief, CW2, responded and quickly extinguished fires with the help of some protesters. However, his parked vehicle was set on fire and burned while he attended to the fires. The smoke from the City Hall fire was visible to the officers on the patio outside of the dispatch center.

Photographs of damage done during the protest and riot, as well as pictures of rocks which were thrown are attached at the end of this letter in Attachment One.

At 8:00 pm, flash bangs and gas canisters were deployed by police to disperse the crowd. Protesters dispersed but returned, some continuing to throw rocks at officers and the police station. Multiple San Diego County Sheriff's vehicles drove into the east parking lot with lights and sirens activated. Knudson said he fired one beanbag round at a protestor who was attempting to throw a gas cannister back at police. Knudson said the round missed the protestor. Sheriff's deputies formed a skirmish line in the parking lot.

Facebook Live video obtained via social media showed Furcron present at that protest site. The video showed Furcron recording herself from what is likely a cellphone and then tossing a can after drinking from the can. After Furcron threw the object, Knudson immediately pointed his less lethal shotgun and fired a beanbag round at Furcron. Furcron fell to the ground and a large crowd gathered around her. Furcron, who was filming herself via Facebook Live, is seen falling to the ground and screams are heard as people in the crowd yell for help. A person in the area picked up Furcron's cellphone, which continued to record, and Furcron can be briefly seen on the ground. Furcron appears non-responsive and bloodied. A photograph of Furcron while she is on the ground shows the beanbag round lodged in her forehead.

Immediately after firing the beanbag round, Knudson is heard on BWC at the scene telling other officers, "That guy. That was the guy who's throwing things." Knudson added, "That guy who's down right now, he's the one throwing things." Knudson later said, "They say that I shot him in the face." Knudson goes on to say, "The guy was throwing stuff that I saw. They are saying that I hit him in the face. That's what they are freaking out about. I know. I didn't see where I hit him."

Knudson notified his closest supervisor, a sergeant, CW5, that he appeared to strike someone with a beanbag round and the use of force was broadcast via radio. Knudson was relieved of the less lethal beanbag shotgun at 8:16pm.

After approximately two minutes with Furcron on the ground, people in the crowd transported Furcron to a nearby vehicle on University Avenue at the north entrance to the east parking lot. Furcron was transported to the hospital by civilians. The La Mesa Police Department received multiple calls regarding the use of force but no one identified the person who was injured.

Knudson said that he saw a protester throw what he believed to be a rock towards deputies so he aimed center mass and fired the less lethal bean bag round at the protester. Knudson described the protester, who was identified as Furcron, as being a white male wearing a white t-shirt. Furcron is an African American female.

The La Mesa Police Department and San Diego County Sheriff's Department utilized a Remington 12-gauge shotgun for the deployment of their less-lethal beanbag rounds. Both bean bag shotguns have been visibly modified from the standard Remington shotgun. The fore-end to both bean bag shotguns is bright orange in color. Knudson used a Sheriff beanbag shotgun. The stock of the Sheriff's beanbag shotgun is also bright orange in color with the words "Less Lethal" written in black on both sides of the stock. The orange color on the beanbag shotgun is designed to differentiate between a standard shotgun and a less-lethal shotgun.

The optimal range of 15 feet to 60 feet listed by the bean bag manufacturers is the distance within which the beanbag will be most effective. Knudson fired the beanbag round approximately 37 feet beyond the optimal range. Both training rounds and duty ammunition have the same optimal range.

Legal Standards of Criminal Liability

The analysis of use of force and deadly force by peace officers in California has changed as a result of Legislative amendments to Penal Code section 835a, which became effective on January 1, 2020.

Penal Code section 835a(c) sets forth the standard to evaluate a peace officer's use of deadly force. The law provides that "a peace officer is justified in using deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary, ...

- (A) To defend against an imminent threat of death or serious bodily injury to the officer or to another person." Penal Code section 835a(c)(1)(A)."

The statute provides definitions for "deadly force," "imminent" and the "totality of circumstances" in Penal Code section 835a(e)(1) – (3).

"“Deadly force” means 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.” Penal Code section 835a(e)(1).

“A threat of death or serious bodily injury is “imminent” when based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person.” Penal Code section 835a(e)(2).

“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.” Penal Code section 835a(e)(2).

““Totality of the circumstances” means all facts known to the peace officer at the time, including the conduct of the officer and the subject leading up to the use of deadly force.” Penal Code section 835a(e)(3).

“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 to an objectively reasonable officer.” Penal Code section 835a(2).

“[T]he decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight. The totality of circumstances shall account for occasions when officers may be forced to make quick judgments about using force.” Penal Code section 835a(4).

“A peace officer who makes or attempts to make an arrest need not retreat or desist from their efforts because of resistance or threatened resistance of the person being arrested. A peace officer shall not be deemed an aggressor or lose the right of self-defense by the use of objectively reasonable force in compliance with subdivisions (b) and (c) to effect the arrest or prevent escape or overcome resistance. For purposes of this section “retreat” does not mean tactical repositioning or other de-escalation tactics.” Penal Code section 835a(d).

Conclusion

In this matter, Ms. Furcron was shot with what was most likely a training beanbag round which struck her forehead and caused her serious bodily injury. Officers are trained that using a beanbag firearm is a less-lethal alternative in the spectrum of force options available to police. The use of a less-lethal bean bag shotgun is ordinarily not considered deadly force, provided it is not used closer than the minimum range and not aimed at the head or heart. In this case there is no evidence Detective Knudson intended to aim at Ms. Furcron’s head and there is no evidence to support he was closer than 15 feet to Ms. Furcron. Detective Knudson was wearing a helmet with a face shield and a gas mask when he fired the beanbag round, requiring him to aim and fire while looking at the target through two layers of protective equipment. While Detective Knudson’s use of force may not fit within the parameters of Penal Code section 835a we decided to provide a full review of the matter as if it did. Analysis of this newly enacted law is still developing. Our analysis included a review of the La Mesa Police Department policies.

Beanbag rounds were fired by multiple officers after threats to public safety and the safety of personnel at the police department escalated. What started out as a peaceful protest evolved into a riot. Officers knew fires had been set next to the police department. Water bottles and rocks were continuously thrown at officers.

Prior to utilizing pepper ball and beanbag rounds, officers utilized legal alternatives. Protesters failed to disperse when an unlawful assembly was declared and protesters were ordered to disperse. Instead of dispersing, the rock throwing and vandalism intensified. When these announcements failed to protect persons or property, deputies used non-lethal chemical agents in an attempt to disperse the crowd. While the crowd would temporarily back away when chemical agents were deployed, protesters reassembled and continued throwing rocks and other objects. Sheriff's deputies formed a skirmish line in the east parking lot as a deterrent but members of the crowd continued to throw objects.

Not only were uniformed peace officers targeted, civilian employees inside the police station were threatened when windows were smashed by rocks. Large rocks were thrown with force. Those rocks were capable of causing serious bodily injury to anyone in their path, including other protestors, observers, civilian employees and peace officers. A dispatcher reported the attack upon their workplace. The stress in the dispatcher's voice was evident at the time. Officers immediately responded to protect the dispatchers. Those intent on destruction and endangering lives created an imminent threat of death or serious bodily injury to the assembled crowd, the employees of the police department, officers and deputies by throwing rocks in their direction. Body worn camera footage showed several rocks landing within several feet of Detective Knudson and other officers. Detective Knudson fired a beanbag round to deter further attempts to throw rocks.

Detective Knudson believed Ms. Furcron had thrown a rock. He was incorrect. Ms. Furcron threw a can, but his belief was not unreasonable given the totality of the circumstances the officers were dealing with over several hours of protest and rioting where they were subject to rocks being thrown at them continuously. There is no question Ms. Furcron threw an object based on the evidence obtained from ABLE helicopter video, BWC and the Facebook Live video posted by Ms. Furcron. Detective Knudson's actions were necessary to defend against a reasonable belief in an imminent threat of serious bodily injury to himself or others. In light of the totality of circumstances Detective Knudson bears no state criminal liability. A copy of this letter, along with the materials submitted for our review, will be retained for our files.

Sincerely,


SUMMER STEPHAN
District Attorney

Attachment One



La Mesa Police Department following May 30, 2020 vandalism



Rocks Thrown at the La Mesa Police Department Front Plaza and Dispatch Center Patio



La Mesa City Hall after May 30, 2020 vandalism



Vehicles burned outside La Mesa City Hall and fire damage in City Hall from May 30, 2020