

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BLACK LIVES MATTER SEATTLE-KING  
COUNTY, ABIE EKENEZAR, SHARON  
SAKAMOTO, MURACO KYASHNA-  
TOCHA, ALEXANDER WOLDEAB,  
NATHALIE GRAHAM, and ALEXANDRA  
CHEN,

Plaintiffs,

v.

CITY OF SEATTLE,

Defendant.

NO. 2:20-cv-00887

DECLARATION OF ERIK EASTGARD

I, ERIK EASTGARD, hereby declare as follows:

1. I am over the age of 18 years old and am a citizen of the United States. I have personal knowledge of the facts set forth herein and am competent to testify to them at trial.
2. I am a patrol officer with the Seattle Police Department (SPD).
3. On September 23, 2020, I was working as a SPD uniformed mountain bicycle patrol officer, starting at approximately 1000 hours. I stopped working at sometime early in the morning

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1 of September 24, 2020. I was part of the 2-Mary-90s, and we were assigned to a large demonstration  
2 taking place in the Capitol Hill area. During that demonstration, I deployed three blast balls.

3 4. On September 23, 2020, I attended roll call at the West Precinct, which started at  
4 approximately 1700 hours. I understood that the Commander intended that, as SPD officers, we  
5 would facilitate free speech and assembly whenever possible, while also preserving order and  
6 protecting persons and property. I had also been advised that this Court had issued orders related to  
7 SPD officers' use of crowd control weapons during the course of demonstration activity, and I  
8 understood the terms of the orders and that I was to abide by those terms.

9 5. A true and correct copy of my Blue Team draft report related to my use of blast balls  
10 on September 23, 2020 is attached hereto as **Exhibit A**. I understand this Exhibit was also previously  
11 filed with the Court at Dkt. 157-1, Exhibit D(4), pp. 20 – 28. At this time, my September 23 Blue  
12 Team draft report accurately reflects a summary of my memory of the September 23, 2020  
13 demonstration.

14 6. The Computer Aided Dispatch (CAD) Log that was created during the September 23,  
15 2020 demonstration shows that the first dispersal order was given at approximately 2046 hours.  
16 Both before and after the first dispersal order was given, members of the crowd threw various  
17 projectiles at police. My draft report identifies some of the projectiles I personally observed. Due  
18 to the volume of the projectiles thrown at police, I did not include all of them in my draft report.

19 7. The purpose of the following paragraphs is to provide this Court with information  
20 pertinent to my deployment of the second blast ball I deployed on September 23, 2020.

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1           8.       Starting at approximately 2344 hours on 12th Avenue and East Pine Street, we began  
2 to engage with members of the group who were throwing rocks, glass bottles, and other objects at  
3 officers. Some protesters had bright lights and green lasers they used to try and blind the officers.  
4 Some members of the group threw improvised explosives and fireworks at officers. Members of the  
5 crowd also used umbrellas and shields, which prevented officers from seeing what was happening  
6 in the crowd. The events leading up to this engagement are documented in my draft report, attached  
7 as Exhibit A.

8           9.       We continued westbound on East Pine Street, yelling at protesters to “move back”  
9 and leave the area. At approximately 2346 hours at 10th Avenue, several more objects were thrown  
10 at officers. About this time, I retrieved a blast ball and held it in my hand. Having the blast ball out  
11 and in hand allows for a more immediate, targeted deployment if deployment is necessary and  
12 reasonable under the circumstances. This was a tense and dynamic situation, and it was reasonable  
13 to anticipate that a blast ball deployment would be necessary. I did not have to deploy or detonate a  
14 blast ball just because I held it.

15          10.      I personally observed a large, heavy traffic cone thrown from an individual toward  
16 the police, striking at least one officer. In response to that assault, I removed the pin from the blast  
17 ball in my hand and threw it overhand toward the individual who threw the cone. This blast ball  
18 deployment is captured at 49:25-50:15 on the September 23 Demonstration video compilation filed  
19 with the Court as Dkt. #145, Exhibit C. The traffic cone thrown at an officer is visible at 49:55 of  
20 this video. The following is a screenshot of that traffic cone, captured at 49:56 in the video.  
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One can see that, at 50:00, I put down my bike and grabbed the blast ball, pulling out the pin at 50:01. At about 50:02, I can be seen throwing the blast ball toward the area from which the cone had been thrown, and the blast ball can be heard detonating at 50:05. If one continues listening to the audio that follows, it is apparent that this was the last blast ball deployed during this confrontation with the crowd at this time.

11. I documented and provided an explanation for this second blast ball deployment in my Blue Team draft report, attached as **Exhibit A**, on page eight and highlighted in yellow.

12. Since drafting my Blue Team draft report, attached as Exhibit A, and in conjunction with the preparation of this declaration, I reviewed additional video footage. At 1:20:20 on the September 23 Demonstration video compilation filed with the Court as Dkt. #145, Exhibit C, Officer Hay's body-worn video shows him positioned behind the officer who was struck by the cone that precipitated my deployment of this blast ball. One can see the cone forcefully strike the officer in the head at 1:20:32. One can also hear the blast ball and see the plume of smoke that came from it

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approximately ten seconds later near the same location from which the cone was thrown. Attached hereto as **Exhibit B** is a portion of Officer Baldwin's body-worn video from September 23, 2020. At 0:02, one can see the cone thrown from the crowd, followed by me (on the left wearing an orange bandana around my neck) deploying a blast ball toward the individual who threw the cone and then retrieving my bike from Officer Drummond. One can also see that I kept looking backwards towards the area of the deployment until I reached my bike. Because my own body-worn video camera was located on my chest (and not my head), the turn of my head was not captured on the footage from it, so it was not apparent that I had looked back towards the area of deployment. Attached hereto as **Exhibit C** is a portion of Officer Harris' body-worn video from September 23, 2020. At 0:03, one can see the cone thrown from the crowd. A screen capture taken from that point in the video shows that traffic cone just to the left of the telephone pole:



One can then see the blast ball detonate approximately 10 seconds later in what appears to be an empty space near the location from where the cone was thrown. No one appears to be impacted by the blast ball detonation.

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1           13.     Consistent with my training, I threw the blast ball overhand because there was a line  
2 of officers and a group of protesters blocking what would have been the path for an underhand throw  
3 along the ground. The purpose of doing so was to, as closely as possible, target the deployment of  
4 the blast ball at the individual who was engaged in the assaultive behavior while minimizing the risk  
5 that an underhanded blast ball would stop short and detonate around other officers or members of  
6 the crowd. This type of targeted, overhand deployment aimed at the individual committing the  
7 crime, to the best of my understanding, is consistent with my training and this Court's Orders. This  
8 deployment should not be interpreted as evidence of an indiscriminate deployment, because it was  
9 intended to be, and in fact was, the opposite.

10           14.     While I watched the area where I had thrown the blast ball until I reached my bike, I  
11 did not watch the blast ball land on the ground or detonate. When feasible, it is typical for me to  
12 watch a blast ball I deploy detonate, but it was not reasonable for me to do so at this time. I had  
13 placed my bike on the ground to increase the accuracy of my deployment. It was important that I  
14 return to my bike quickly in order to get back into formation with my squad. Under dynamic and  
15 rapidly evolving circumstances like those I faced in this situation, even a few seconds can make a  
16 difference in our need to be in formation and ready to take immediate action. I also did not want my  
17 bike on the ground to interrupt the response of other bike officers or the police cars following us.  
18 Additionally, I did not want a member of the public to have access to my bike while it was on the  
19 ground, which had weapons stored in the bike bag attached to it. Finally, it only took a few seconds  
20 to retrieve my bike, after which time I returned to my position and observed the response to my blast  
21 ball deployment. I could see that the crowd had moved back and, at least temporarily, people from

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1 the crowd stopped throwing objects at police. This is what I meant in my Blue Team draft report,  
2 when I stated: “The blast ball thrown was effective as the individual moved backed, at least for a  
3 short time without more objects being thrown at officers.”

4 15. The fact that I did not watch this particular blast ball land and detonate is not an  
5 indication that I did not care what happened after I threw the blast ball or that my deployment was  
6 indiscriminate. I did and do care about both the appropriateness of my conduct and the way in which  
7 it may impact others. In this case, however, I would not likely have been able to see the blast ball  
8 detonate even if I had continued watching the deployment, given the location of the deployment and  
9 all the people in the way. There were also a number of officers at the front line who would have  
10 been prepared to immediately respond in the event of an injury or other emergent situation. I  
11 expected that the blast ball deployment would, at least temporarily, get the individual who threw the  
12 traffic cone to stop throwing items at police and move back.

13 16. Before I deployed this blast ball, the individual who threw the cone was too far away  
14 for me to try to communicate with him/her or issue a direct warning to him/her. However, also  
15 before I deployed this blast ball, multiple dispersal orders had been given to the crowd such that it  
16 was reasonable to assume that this particular individual knew he/she had been ordered to disperse,  
17 chose not to obey those lawful commands, and knew that, by remaining, he/she might be subject to  
18 police action, including the use of blast balls.

19 17. At the time I deployed this blast ball, I believed the deployment was consistent with  
20 the Courts’ Orders regarding use of CCWs. First, the deployment was necessary, because the  
21 individual who threw the traffic cone was engaged in a felony assault on an officer and, without an

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1 immediate response, he/she may have continued his/her assaultive behavior, posing an imminent  
2 threat to the officers and other individuals in the area. The blast ball deployment was also reasonable  
3 and proportional under the circumstances, given that this individual and the other members of the  
4 crowd who remained in this location had already received orders to disperse and warnings that, if  
5 they stayed, they may be subject to police action, including blast balls; given the severity of the  
6 assault on the officer; given the location of the individual away from the front line and the lack of  
7 an alternative use of force that would have posed a lesser risk of harm to the individual and others  
8 in the area; given the fact that officers were outnumbered and could not go into the crowd to arrest  
9 this individual without exposing themselves and those around them to additional risk of assault and  
10 injury; and given my experience that blast balls can be effective at getting people who are assaulting  
11 line officers to move away from the line and, at least temporarily, stop their assaultive behavior.  
12 Finally, this deployment was targeted. I deployed the blast ball toward the individual who was  
13 engaged in assaultive behavior in order to protect against the specific imminent threat he/she posed  
14 to officers and those around him/her. I did not use this deployment indiscriminately; I did not use  
15 this deployment to re-route the crowd or to create "separation," and it was not feasible for me to  
16 personally issue a warning to this individual, who had already engaged in assaultive behavior and  
17 who was too far away for me to issue verbal warnings. Additionally, this individual did not appear  
18 to be a journalist, legal observer, or medic.

19 18. In the second paragraph of my draft report that is attached hereto as Exhibit A, I state  
20 that, during this demonstration, I had three deployments of blast balls. Later in my draft report, I  
21 indicated that I used several blast balls in response to items being thrown at officers. I only deployed

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1 three blast balls on September 23, 2020, each of which I detailed in my draft report. I did not deploy  
2 more than three blast balls during the course of this September 23, 2020 demonstration.

3 I declare under penalty of perjury under the law of the United States that the foregoing is  
4 true and correct.

5 SIGNED in Seattle, Washington this 20 day of December, 2020.

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8 ERIK EASTGARD

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