

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

**K-9 CONTACT REQUIRING HOSPITALIZATION – 009-23**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Northeast	2/19/23		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer S	26 years, 7 months
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**Reason for Police Contact**

Officers initiated a vehicle pursuit of a Burglary from Motor Vehicle (BFMV) suspect (the Subject). The pursuit terminated when the Subject drove into a ravine and fled on foot. An airship (helicopter) observed the Subject running in the ravine and entering the rear yard of a residence. Containment was established around the residence, and K-9 officers from Metropolitan Division responded to search for the Subject. During the search, the K-9 bit the Subject, which caused him injuries requiring hospitalization.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject: Male, 27 years of age.

**Board of Police Commissioners' Review**

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

The following incident was adjudicated by the BOPC on February 13, 2024.

## **Investigative Summary**

On Sunday morning, February 19, 2023, at approximately 0002 hours, a Communications Division (CD) Emergency Board Operator (EBO) received a 911 call from Witness A, reporting that a male suspect (the Subject) was attempting to enter a locked vehicle parked on the street in front of his residence. Witness A described the Subject as wearing a white sweater with a "Raiders" logo.

At approximately 0005 hours, CD broadcast to units the call and provided all relevant information. At approximately 0008 hours, CD again broadcast the call, assigning 11X62, Officers A (driver) and B (passenger), who acknowledged the radio broadcast and began to respond to the radio call location.

In addition, Officers C (driver) and D (passenger) also began to respond to the radio call location. Officers C and D had been assigned as partners for approximately one year and six months. According to the officers, they have had prior tactics discussions regarding stolen vehicles, contact/cover responsibilities, and communications.

At approximately 0010 hours, body-worn video (BWV) depicted Officers C and D arriving in the vicinity. According to Officer D, they searched the area for the Subject and the victim's vehicle. The officers did not locate the Subject and returned to Witness A's residence.

At 0012:05 hours, Officer D broadcast that CD could cancel the call assignment to Officers A and B, as they (Officers C and D) were Code Six (i.e., had arrived on scene to investigate the call). Officers C and D exited their police vehicle to conduct a BFMV investigation. At 0012:19 hours, Officer D activated his/her BWV camera.

Officer D's BWV captured him/her asking Witness A what he had observed. Witness A stated that he was on his balcony when he heard a door and hood of a vehicle open from the street. Witness A exited his residence and watched the Subject open the hood of his neighbor's vehicle. As Officer D spoke with Witness A, Officer C was captured on BWV examining the vehicle, parked along the east curb, facing north. According to Officer C, the vehicle appeared to have been ransacked. Officer C's BWV depicted the passenger glove compartment open with miscellaneous papers scattered throughout the vehicle.

At 0013:32 hours, Officer C activated his/her BWV camera. At approximately 0013 hours, Officer C's BWV depicted uniformed Sergeant A arriving at the scene. Witness A described the Subject, providing a physical and clothing description. According to Witness A, he observed a grey/black truck pass by the area at a slow rate of speed but was unaware if it was connected to the Subject. The time of 0015:45 hours was gleaned from Officer C's BWV.

At 0016:08 hours, Officer C terminated his/her BWV recording. At 0016:09 hours, Officer D terminated his/her BWV recording. According to the officers, they ended their

BWV recordings because an additional unit was responding to assume the investigative responsibilities. Additionally, Officer D indicated that he/she deactivated his/her BWV because he/she was going to brief the incident with Sergeant A. A review of the radio frequency revealed that Officers E and F, broadcast that they would take over investigative responsibility of the incident. Officers E and F did not witness the K-9 contact and were not part of the K-9 search team. Therefore, they were not interviewed by FID investigators.

At 0016:24 hours, while Officer C met with Officer D, he/she observed the Subject from his/her peripheral vision, appear from an intersection. Officer C described that the Subject was walking, faced toward them, and then quickly retreated east. Believing that the Subject resembled the person described by Witness A, Officer C informed Officer D of his/her observations and told him/her to reactivate his/her BWV camera.

At 0016:29 hours, Officer C reactivated his/her BWV camera, followed by Officer D. Officer D advised Sergeant A of the possible BFMV Subject, at which time Officers C and D entered their police vehicle to locate the Subject. The officers' BWV captured Officer C directing Officer D to broadcast that they were Code-Six on a BFMV Subject if they again observed the Subject.

Officer C drove north and made an eastbound turn. As they turned, Officer C's BWV captured him/her saying something to the effect of, "That's the truck Witness A said the Subject was in." The digital in-car video (DICV) from Officers C and D's police vehicle, captured the description and license plate of the vehicle, in reverse, traveling east, with its headlights off.

The truck momentarily stopped, made a northbound turn, and turned on its headlights. As soon as Officer C made the northbound turn, he/she activated the vehicle's emergency lightbar system and momentarily activated the wail function of the siren, while Officer D turned on the passenger-side spotlight.

Officers C and D conducted a vehicle inspection of their police vehicle at the beginning of their watch. During the examination, they verified that the vehicle's emergency lightbar system and siren were functioning.

The Subject accelerated and failed to stop for a posted stop sign, at which time Officer C activated the siren.

At 0017:15 hours, Officer D broadcast that they were in vehicle pursuit of a BFMV Subject, provided his/her location; and he/she requested a back-up, air unit, and supervisor. CD repeated the information to all units on all frequencies.

Officers C and D initiated the pursuit, believing the Subject was the BFMV suspect from the incident they were investigating. A 2-minute and 23-second vehicle pursuit ensued through the area that covered approximately 1.2 miles. The DICV captured the Subject committing numerous traffic violations.

At approximately 0018 hours, Air Support Division (ASD) Officers G, the Pilot, and H, the Tactical Flight Officer (TFO), assigned to Air-3, advised CD they had an approximate two-minute estimated time of arrival.

The following uniformed personnel responded to the vehicle pursuit: Sergeant A, Officers, I, J, K, L, M, and N.

As the Subject drove west, he collided with the driver-side rear bumper of a vehicle that was parked in a driveway. The Subject continued west, struck a planter, and then drove off the embankment and into a ravine. Officer D broadcast that he/she was at a dead end and provided his/her location, stating that the Subject was involved in a traffic collision and went down a ravine.

Officers C and D exited their police vehicle, unholstered their pistols, and held them in a low-ready position with their index fingers along the frame. Officer C explained that he/she unholstered because they were conducting a BFMV investigation and BFMV Subjects are known to carry weapons. Officer C stated that he/she unholstered because the Subject was attempting to evade capture and the situation may have escalated to the point where deadly force may be necessary. Officer D stated that he/she unholstered because he/she felt that they had to clear the vehicle if the Subject started running. As Officer D approached the edge, he/she realized that the vehicle was too far down the ravine to even approach it safely and that is when he/she holstered his/her pistol.

At 0020:43 hours, Officer D stated that the Subject was running southbound from their location, down the ravine. Officer D provided a physical and clothing description of the Subject.

Approximately one minute later, Air-3 arrived over the ravine and directed responding police vehicles to the scene. At 0022:41 hours, TFO H broadcast that he/she had the Subject traversing down the ravine right under his/her light. TFO H stated that the Subject was still in the ravine and used his/her spotlight to illuminate the Subject as he traversed down the ravine. The investigation determined that the Subject traversed approximately 185 yards down the ravine and into a rear yard.

At 0023:20 hours, TFO H broadcast that he/she observed the Subject running into the rear yard of a residence. TFO H directed responding police units to the residence and stated that the Subject was struggling to get up the side of the ravine over the fence and into the yard. TFO H later FID investigators that he/she could not tell how steep it was, but he/she estimated 40 to 50 feet off the side and stated that that the Subject was clawing his way up to get into the yard of the house.

FID, Video Technology Unit obtained surveillance video footage depicting the Subject entering the rear yard of a residence from the ravine and entering the lower-level opening of an L-shaped crawl space.

Guided by TFO H, uniformed Officers O and P were the first unit to arrive at the residence. Once additional units arrived, Officer O assembled a search team. Officer O designated himself/herself as the team leader and gave specific roles to the team. Officer K was designated as the point officer and was equipped with his/her Department-issued rifle. Officer Q was assigned as the less-lethal force officer, equipped with a 40-millimeter (mm) less-lethal launcher (LLL). Officer R, along with Officers M and N, were designated as the handcuffing/arresting officers. Officers Q and R did not witness the K-9 contact and were not part of the K-9 search team. Therefore, they were not interviewed by FID investigators. Officers on the search team unholstered their pistol during the search and held them in a low-ready position with their fingers along the frames of their pistols.

At 0025:24 hours, Sergeant A arrived in the area and asked the air unit if a perimeter could be established. Due to the terrain, TFO H broadcast and informed Sergeant A that a perimeter could not be established; however, containment around the residence was established. According to TFO H, because of the ravine, it was almost impossible to set up a traditional containment. TFO H wanted the officers to position their vehicles and officers to be able to look in different parts of the ravine in the event the Subject was to go back down so they could observe him.

At 0026:51 hours, as Sergeant A approached the residence, he/she broadcast that he/she was the Incident Commander (IC). When Sergeant A arrived at the location, he/she met with Officer O and ensured that there was containment set around the residence. Officer O confirmed that containment was set, and Sergeant A decided to deploy the search team. At the same time, TFO H broadcast that he/she could assist in getting K-9 units to respond to the scene; however, the decision was up to the IC. Before having K-9 units respond, Sergeant A broadcast that a cursory search of the residence would be completed. The search team completed a search of the yard but did not locate the Subject.

Sergeant A then established a Command Post (CP) and notified the Watch Commander, Sergeant B. Sergeants A and B agreed to contact Metropolitan Division and have K-9 units respond.

At approximately 0100 hours, Sergeant A contacted the Metropolitan Division desk and advised of the incident. Metropolitan Division K-9 Sergeant C was notified. While Sergeant A waited for a call back from Metropolitan Division, Officers C, D, O, and P walked down the ravine and cleared the vehicle that the Subject had crashed.

Sergeant C contacted Sergeant A and advised him/her that K-9 units would be responding to the scene. Sergeant C notified Metropolitan Division K-9 Officer S, assigned K-9 A, of the incident and told him/her to respond to the scene. In the interim, Metropolitan Division uniformed K-9 Officer T was monitoring the radio frequency and heard a request for a K-9 unit. Officer T responded and, at approximately 0135 hours, was the first K-9 unit to arrive at the scene. Officer T met

with Sergeant A and confirmed that the incident met the K-9 search criteria by verifying that the Subject was wanted for a crime. According to Officer T, he/she advised that Sergeant A told him/her that the Subject had committed a BFMV and would be arrested for that crime.

Officer S arrived at the scene, met with Sergeant A, and confirmed that the incident met the K-9 search criteria. According to Officer S, he/she then contacted Sergeant C and advised him/her that the incident met the K-9 search criteria.

Sergeant C stated that he/she provided Officer S with instructions to evaluate the situation and call him/her back. Sergeant C stated that when he/she spoke with Officer S, he/she was informed that everything was in order and the IC was willing to arrest the Subject for Grand Theft Auto (GTA), which meets the K-9 criteria. Sergeant C told Officer S to move forward with the search if he/she desired, set up his/her team, and make the K-9 announcements. Sergeant C advised Officer S to have Sergeant A write down the announcement and that he/she would respond to the scene. According to Sergeant C, Sergeant A approved of the tactical plan for the K-9 search.

Before establishing a K-9 search team, Officer S coordinated the K-9 announcements with Sergeant A. According to Sergeant A, he/she had multiple officers on the street because the ravine had easy access to the street they were on. Sergeant A also had officers on a different street for containment purposes.

While the K-9 announcements were being coordinated, ASD Officer U, the Pilot, and Officer V, the TFO, arrived overhead and relieved ASD Officers G and H. TFO V stated that while he/she was enroute to the scene, TFO H briefed him/her on what the incident was, what had happened, who was doing the search, where the Subject was last seen, his route of travel, and what street were on the perimeter.

According to TFO V, he/she was advised that the helicopter's Forward-Looking Infrared (FLIR) thermal camera had detected hot spots in the ravine where TFO H had observed the Subject. TFO V stated that when they arrived overhead, he/she used the helicopter's FLIR thermal camera to detect a heat source but did not come up with anything "significant". TFO V then advised the K-9 officers.

Between 0152 and 0153 hours, five K-9 search announcements were made in English and Spanish over the Police Vehicle Public Address (PA) systems from ground units around the ravine.

Sergeant A provided FID investigators a photograph of his/her notes, which indicated the times, units, locations, shop numbers, and serial numbers of the five officers who made K-9 announcements.

According to Officer S, he/she verified with Sergeant A that the K-9 search announcements were made in English and Spanish. Officer S knew that one of the announcements was made directly in front of the residence, which he/she heard. At the

direction of Officer S, TFO V also attempted the K-9 announcement; however, they had technical difficulties with the PA system in the helicopter. TFO V Officer V advised officers that their PA was not functioning.

FID investigators located four civilian witnesses who indicated that they heard the announcements, but they stated that the announcements were garbled or muffled. Immediately after the K-9 announcements, Officer S assembled a K-9 search team and designated himself/herself as the team leader, Officer T as Designated Cover Officer (DCO), Officer M as the cover/less-lethal force officer equipped with a 40mm LLL, and Officers K and L as lethal-force cover officers.

Once the K-9 search team was assembled, Officer S discussed his/her tactical plan with the search team and the IC, Sergeant A. According to Officer S, based on the terrain, he/she came up with a tactical plan to start at the heat source, which was down in the ravine. If that were a negative result, Officer S would walk back up to the residence where the Subject was last seen.

At 0158:31 hours, Officer S removed K-9 A from his/her police vehicle. Officer S removed the leash from the dog, at which time K-9 A began to search an empty lot south of the residence and a portion of the ravine. During Officer S's interview, he/she indicated that he/she maintained control of K-9 A via an E-collar, which is an electric stimulant on his collar. Officer S stated that the E-collar prevents a K-9 from getting too far away from the handler and is a method of calling the K-9 back. During the search of the empty lot and ravine, K-9 A did not show any interest or give any indicators to Officer S. The search team then transitioned to the northern portion of the residence. Again, K-9 A did not show any interest or give any indicators to Officer S.

At 0204:49 hours, the K-9 search team began their search of the residence where the Subject was last seen. The residence consisted of three levels. The lower level of the residence had a double door used to enter/exit the residence, a grassy area, and a crawl space area. There was an outside stairwell that connected the lower and middle levels. The middle level had a large patio area, a door to enter/exit the residence, and a crawl space area. There was no outside entrance/stairwell to the top level.

As K-9 A searched the patio deck area on the middle level of the residence, Officers S and T, along with the search team, stood nearby on the middle-level area of the home. At 0204:53 hours, Officer S's BWV captured K-9 A focusing on the middle level of the residence near a tool shed and Officer S shouting, "Pfui," to the dog. According to Officer S, "Pfui" is like saying, "No or don't do that."

Officer S explained that K-9 A was giving some indications because of some shoes he located, but he never gave Officer S a definite indication that he had located a "source of scent," but Officer S could see that K-9 A was working on something.

The search team then proceeded to the garage's perimeter, which was located north of the patio. Shortly thereafter, Officer S's BWV captured K-9 A returning to the middle level of the residence near the tool shed on the patio.

Officer T told Officer S that the patio had a possible opening. At that point, Officer T believed that the opening led to the bottom of the deck. Officer T stated that because of the layout of the house, the house was at a pretty steep incline and the deck was level. Officer T believed that there was a large space between the deck and the bottom level which opened up to the backyard.

Officers S and T approached the tool shed, while Officers K, L, and M stood nearby. At 0207:03 hours, Officer S opened the tool shed. Officer T advised Officer S that a three-foot drop was behind the tool shed, which the FID investigation confirmed.

Officer S moved to the tool shed, while K-9 A was beside him/her. K-9 A continued to focus on the area of the tool shed. Meanwhile, Officer T used his/her flashlight to illuminate the opening and held his/her pistol in a one-handed grip with his/her right hand, in a low-ready position with his/her finger along the frame. Officer T stated that he/she could see a void under the deck, and he/she was concerned that the Subject could potentially be looking toward the officers.

Officer S moved a bike rack away from the tool shed, at which time K-9 A entered the middle-level crawl space behind the tool shed. Officer T advised Officer S that K-9 A had entered the crawl space. Officer S bent down and utilized his/her flashlight to illuminate the drop for K-9 A. Officer S stated that the crawl space had a dirt path and he/she watched K-9 A and observed K-9 A reach the end of the crawl space. K-9 A turned toward the right, suddenly stopped, and slid backward a few inches. Officer S stated that he/she could not see K-9 A's head when K-9 A turned the corner.

Officer S stated that based on his/her training and experience, his/her K-9 does not slide back like that, so it almost appeared like his/her K-9 was pushed or kicked, which caused K-9 A to suddenly stop and slide backwards or get pushed back. Officer S believed that the Subject had kicked K-9 A when he turned the corner of the crawl space, causing him to take a "defensive bite" to protect himself.

At 0207:31 hours, Officer S's BWV depicted K-9 A entering the crawl space, and at 0207:42 hours, the Subject began to scream. Officer S then told the search team to get cover. The Subject was captured shouting, "Help! Stop! Stop him! Please stop him!" Immediately after that, at 0207:48 hours, Officer S shouted K-9 A's name. The Subject continued to scream that he lived at the residence.

As captured on Officer S's BWV, Officer S called K-9 A's name 9 times over 16 seconds, which ultimately guided K-9 A to him/her. According to Officer S, after he/she heard the scream, he/she could see half of K-9 A. Officer S stated that in a matter of seconds, he/she moves up a little so that he/she could communicate with other officers



to get cover and then call back his/her K-9. Officer S stated that this took only a couple seconds and K-9 A immediately released and came towards his/her direction.

When asked if K-9 A responded to the first K-9 A's name command, Officer S stated that is why you hear a good hard [K-9 A's name]. With a good hard [K-9 A's name], and in this situation, K-9 A let go without him/her having to use the E-collar.

Officer S explained that multiple "name" commands were needed to guide K-9 A back to him/her because K-9 A could not locate him/her. Officer S continued to yell [K-9 A's name] so K-9 A could follow the sound of his/her voice. However, K-9 A was unable to locate Officer S due to his/her elevated position and would walk back and forth past the middle-level opening, which was above K-9 A, toward the lower-level crawl space opening.

According to Officer T, he/she could hear Officer S yelling [K-9 A's name], which is basically like come back to me. Officer T could see K-9 A kind of like in a void and he/she could only see the K-9. Officer T stated that there was no one there and K-9 A was not "on bite" or anything. Officer T stated that K-9 A was trying to figure out how to come back to Officers S and T through that void.

Officer S stated that he/she ultimately had to place his/her hand into the middle-level crawl space opening and guide K-9 A toward him/her with his/her flashlight. K-9 A looked up toward Officer S and, at 0208:06 hours, Officer S grabbed K-9 A's collar and lifted him up, and he then exited the middle-level crawl space area.

At 0208:12 hours, after Officer S moved away from the crawl space with K-9 A, Officer T approached the opening, kneeled, and pointed his/her pistol toward the middle-level crawl space opening. Officer T then told the Subject to crawl toward the sound of his/her voice. The Subject indicated that he understood but would not comply with Officer T's commands. The Subject then stated, "The dog bit me, I live here." Officer T stated that the Subject was literally talking like he was just delaying the inevitable. Officer T stated that although the Subject then advised that he was crawling out, there was no change in his voice and no change in depth of where the voice was coming from. Although the Subject stated that he was crawling out, it was obvious that he was stationary that wasn't crawling.

Officer T advised Officer S that the Subject was not complying. At 0209:22 hours, Officer T told the Subject, "If you don't come out, we are going to send him [K-9 A] in again, do you understand?" The Subject is heard saying, "Don't send him again." According to Officer T, he/she knew that the Subject had a fear of K-9 A and he/she could use K-9 A as leverage or a de-escalation technique to get him out. Officer T is aware that LAPD policy would not allow him/her to do a direct deployment as the situation did not meet the criteria. Therefore, Officer T continued to use this ruse because the Subject would respond to it, but Officer T still was not getting the full compliance that he/she wanted. The investigation determined that K-9 A was leashed and secured at the time of the ruse.

Officer S walked to the front of the residence with K-9 A and told officers to respond to the lower level of the home because he/she was unaware of the layout of the residence and did not want the Subject to flee from a different part of the crawl space. As this occurred, Officer T continued to give the Subject commands to exit the crawl space, but the Subject did not comply.

At 0210:25 hours, Officer S returned to the middle-level patio area. Officer T advised Officer S that the Subject was not complying, and that he/she could not see the Subject. Officer S used a ruse and told the Subject that he/she would again send the K-9 if he failed to exit. Officer S gave another K-9 announcement as a total ruse to entice the Subject to exit, hoping this would de-escalate the situation from any other use of force, becoming necessary, whether it be a beanbag shotgun or Taser. K-9 A started barking, but the ruse failed to work and the Subject was still not complying.

As Officer T continued negotiating with the Subject, Officer S returned to his/her police vehicle and secured K-9 A. Moments later, Metropolitan Division K-9 Officer W, arrived at the scene. Officer W responded to the middle level of the residence and met with Officer T. At the same time, Officer S walked to the lower level of the home with officers. According to Officer S, he/she went to the back side of the house and asked two officers to get a tighter containment of the residence. Once Officer S was around the back side, he/she observed that there was an opening from the lowest tier of the patio deck leading up to where the Subject was located. This was a ways down under the Subject and the officers that were trying to communicate with him. Officer S stated that this opening was just discovered now because officers had never made it back there on the initial contact and did not know it existed.

When Officer W approached Officer T, Officer T was still negotiating with the Subject while Officers K, L, and M were standing nearby. The Subject told Officer T that he was hurt and that the K-9 had bitten him on his hands. According to Officer T, he/she continued verbalizing with the Subject and trying to de-escalate and get him to comply. Officer T told the Subject that if he were in fact injured, he could just come out to the officers and they would get him medical attention. Officer T asked the Subject what his injuries were, but the Subject never responded.

Meanwhile, Officer W unholstered his/her pistol and held it in a low-ready position with his/her finger along the frame. According to Officer W, it looked like Officer T was trying to speak to the Subject and provide lethal-force cover. Officer W stated that he/she went over and assisted Officer T with that by providing lethal-force cover and letting Officer T communicate with the Subject and order him out. Officer W then kneeled adjacent to Officer T and pointed his/her pistol in a safe direction. As the Subject came out, Officer W pointed his/her pistol away from the Subject, so if there was a mechanical breakage that caused the pistol to malfunction and fire, it would not strike the Subject.

At approximately 0216 hours, Sergeant C arrived at the scene. Officer S was still at the lower-level opening of the crawl space and utilized a ruse stating the K-9 would be sent back into the crawl space if the Subject did not comply. Officers T and W continued to

give Subject commands to exit. It took the Subject approximately 9 minutes and 37 seconds to comply with the officers' commands. According to Officer T, the Subject finally crawled towards the end. Officer T did not observe any blood or injury on his hands.

As the Subject continued to move toward the middle-level opening, Officer S broadcast to the air unit that the Subject was slowly crawling out and requested a Rescue Ambulance (RA) for a dog bite.

The Subject exited the crawl space and laid in a prone position on the deck with part of his legs still in the middle-level opening of the crawl space. Officer L then approached the Subject and handcuffed his arms behind his back. Officer L grasped the Subject's left arm and moved him away from the crawl space.

Nearly simultaneously, Sergeant C arrived at the patio and approached Officer S. Sergeant C stated, "Hey, I think he got bit." Sergeant C stated that he/she got his/her radio out and his/her first priority was to get an RA rolling, because if the Subject is injured and/or uncomfortable or both, he/she wanted to get an RA. Sergeant C stated that it was his/her responsibility and protocol.

Officers K and L then assisted Subject to his feet. The Subject took a couple of steps away from the crawl space and appeared to limp and wince. Officers S and W then asked the Subject where the dog bit him, and Subject replied, "my leg" and motioned to his right leg.

At 0218:38 hours, Officer W used his/her flashlight to illuminate the Subject's right leg. Simultaneously, Officer T placed his/her right foot on the Subject's right foot and lifted his pants to see his injury. Sergeant C then used his/her Department-issued cellphone to photograph the injury for his/her Non-Categorical Use of Force (NCUOF) investigation. According to Officer T, he/she did not believe the injury needed immediate attention, since he/she could not see any gushing blood or any blood around the injury. Sergeant C then asked the Subject why he would not exit the crawl space when they told him the dog would be sent in. The Subject responded, "You know how it is. I'm just trying to get away, you know."

At approximately 0222 hours, Officer D broadcast over the frequency for an RA to respond to their location.

According to Officer C, he/she and Officer D cleared from the location and responded to the CP. Officer C stated that he/she and his/her partner responded to the CP to meet with the IC, Sergeant A, and they observed that the K-9 Unit had the Subject in custody. As other officers were walking the Subject by him/her and his/her partner, Officer C stated, "That's him." Officer C immediately recognized the Subject as the same person that he/she had seen come around the corner inside the vehicle prior to going in vehicle pursuit. According to Officer C, his/her partner also identified the Subject as the same

person they saw earlier. Officers K and L walked the Subject to their police vehicle and searched him. Nothing of evidentiary value was found.

At 0315:48 hours, the Los Angeles Fire Department (LAFD) RA arrived at the hospital with the Subject. At that time, Doctor A advised Sergeant C that he believed that the Subject would be released from the hospital for booking. At approximately 0630 hours, Sergeant C received a telephone call indicating the Subject needed surgery and was admitted to the hospital.

Sergeant C contacted FID Lieutenant A, who caused an FID assessment to occur. After FID investigators were advised that the injury requiring surgery was dog-bite related and not trauma from the traffic accident, the incident was handled as a K-9 contact. At approximately 0720 hours, Lieutenant A notified the Department Operations Center (DOC) of the Categorical Use of Force (CUOF) incident.

**BWV and DICV Policy Compliance**

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICV ACTIVATION	DICV RECORDING OF ENTIRE INCIDENT
Officer S	Yes	Yes	Yes	N/A	N/A

Officer S's vehicle was not equipped with DICV.

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

The BOPC reviews each CUOF incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case of a K-9 contact requiring hospitalization, the BOPC makes specific findings regarding tactics, deployment of K-9, contact of K-9, and post K-9 contact procedures. All incidents are evaluated to identify areas where involved officers can improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC found the following:

## **A. Tactics**

The Chief determined that Officer S would receive a finding of Tactical Debrief. During the review of this incident, no Debriefing Points were noted.

## **B. K-9 Deployment**

The BOPC adopted the Chief's finding that the K-9 deployment was consistent with established criteria.

## **C. K-9 Contact**

The BOPC adopted the Chief's finding that the K-9 contact was consistent with established criteria.

## **D. Post K-9 Contact Procedures**

The BOPC adopted the Chief's finding that the post K-9 contact procedures were consistent with established criteria.

## **Basis for Findings**

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

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

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

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



## Definitions

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

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

**Imminent:** Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

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

**Objectively Reasonable:** The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

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

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

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

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

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

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

## **Tactics**

### **Tactical De-Escalation**

#### *Tactical De-Escalation Techniques*

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

**Planning** – Officer S developed a plan to utilize one K-9 search team to locate the Subject. The team would start at the heat source identified by the air unit and then proceed to search the residence. The plan was approved by Sergeant A. Officer S assembled the search team and provided assignments to each member of the team.

**Assessment** – Officer S was briefed by the IC and told that the Subject was wanted for a felony crime. For those reasons, Officer S assessed that the criteria for a K-9 deployment were met.

**Time, Redeployment/Containment, and Other Resources** – At the termination of the pursuit, officers contained the Subject in the rear yard of a residence and requested Metropolitan Division K-9 units to respond for a search. Before beginning their search, five K-9 search announcements were made in English and Spanish to give the Subject time to reconsider his actions and the opportunity to surrender to officers.

**Lines of Communication** – Prior to the start of the search, five K-9 announcements were made via PA systems in English and Spanish. Announcements were made in front of the location where the Subject was taken into custody, as well as to the

north, east, and south side of the location. These announcements were reported to Sergeant A. Residents and officers on the perimeter heard the announcements. After the Subject was located by K-9 A, officers spent over nine minutes communicating with and giving commands to the Subject to exit the crawl space. After K-9 A located the Subject, Officer S yelled K-9 A's name to verbally recall him. K-9 A attempted to return to Officer S; however, he was unable to locate him/her due to Officer S's elevated position. Officer S issued a total of nine "name" commands over 16 seconds that ultimately guided K-9 A back to him/her. Once Officer S gained control of K-9 A, Officer T began giving commands to the Subject.

During the review of this incident, no Debriefing Points were noted.

### **Command and Control**

At approximately 0026 hours, Sergeant A arrived on scene, declared himself/herself IC, and established a CP. Prior to his/her arrival, Air-3 advised that they observed the Subject enter the rear yard of a residence. Sergeant A ensured that containment around the residence was established and directed a search team to perform a cursory search of the yard of the residence. The search team did not locate the Subject. At 0100 hours, Sergeant A advised Metropolitan Division of the incident. Sergeant C was then notified and contacted Sergeant A to advise him/her that K-9 units would be responding.

Officers S and T arrived at scene, met with Sergeant A, verified that the incident met the criteria for a K-9 search, and notified Sergeant C. Sergeant C directed Officer S to start the K-9 search without him/her. A tactical plan was made to use one K-9 search team to locate the Subject, with approval from Sergeant A.

Multiple K-9 search announcements were made via PA systems in English & Spanish and were reported to Sergeant A. After the announcements were made, the search team began their search for the Subject. At approximately 0216 hours, Sergeant C arrived at scene. Once the Subject was located and handcuffed, Officer S notified the CP that an RA was needed for the Subject's injuries. Sergeant C then responded to the area where the Subject was taken into custody and verified that an RA was requested. After the Subject was taken to the hospital, Sergeant C was advised by Doctor A that the Subject would be released for booking. However, at 0630 hours, Sergeant C received a telephone call indicating that the Subject would be admitted for an injury sustained during the K-9 contact. Sergeant C then stopped his/her Non-Categorical Use of Force (NCUOF) investigation and notified Lieutenant A of FID, who directed FID detectives to respond to the hospital to conduct an assessment. At 0720 hours, Lieutenant A notified the DOC of the CUOF incident.

The BOPC determined that Sergeants A and C's actions were consistent with Department training.

## **Tactical Debrief**

Each tactical incident merits a comprehensive debriefing. A Tactical Debrief is the appropriate forum for involved personnel to discuss individual actions that took place during this incident. Therefore, the Chief directed Officer S to attend a Tactical Debrief and that the identified topics be discussed.

## **K-9 Deployment**

Officers S and T arrived at scene, were briefed by Sergeant A, and verified that the K-9 search criteria were met. Officer S then contacted Sergeant C and advised him/her that the incident met the K-9 search criteria due to the incident involving an outstanding felony Subject

A plan was developed by Officer S to deploy one K-9 search team, which consisted of himself/herself with K-9 A, K-9 Officer T, and Officers K, L, and M -- to search the Subject's last known location. Officer S discussed the search plan with Sergeant A and received his/her approval. Prior to the start of the search, K-9 announcements were made via PA systems in English and Spanish at several locations and were reported to Sergeant A. Officer S also requested that the air unit give a K-9 announcement via their PA system; however, the air unit's PA system experienced technical difficulties and they were unable to broadcast the announcement.

The UOFRB assessed Officer S and Sergeants A and C's adherence to the K-9 deployment criteria. The UOFRB noted that they verified that the Subject was wanted for a felony crime. The UOFRB also noted that Officer S developed a search plan, identified search team members, implemented a strategy to locate the Subject, and obtained concurrence from both a K-9 supervisor and the IC. The UOFRB noted that before initiating the search, five total K-9 search announcements were made via PA systems in English and Spanish, including directly in front of the residence as well as around the area officers had contained. These announcements were heard by officers on scene and residents who lived in the area. The UOFRB did recognize that due to the terrain, officers were unable to establish a typical perimeter; however, they were able to set up containment.

Based on the totality of the circumstances, the BOPC found that the K-9 Deployment was consistent with established criteria.

## **K-9 Contact**

After multiple K-9 search announcements were made, Officer S and K-9 A, along with the rest of the search team, were led to the northern portion of the residence, which consisted of three levels. As K-9 A searched the patio deck area on the middle level of the residence, the search team stood by on the middle-level area of the yard. At 0204 hours, K-9 A focused on the middle level of the residence near a tool shed; however, Officer S shouted "Pfui." Pfui" is like saying, "No or don't do that." Officer S thought that

K-9 A may have been distracted by some nearby animals or scent from shoes that were there. According to Officer S, K-9 A never gave him/her a definite indication that he had located a “source of scent,” but he/she could see that he was working on something. The search team then proceeded to the garage’s perimeter, which was located north of the patio. Shortly thereafter, K-9 A returned to the middle level of the residence near the tool shed on the patio. Officer T then alerted Officer S that the patio had a possible opening. At 0207:03 hours, Officer S opened the tool shed and began moving a nearby bike rack that exposed an opening to a crawl space, which K-9 A entered. Officer S illuminated the crawl space, watched K-9 A, and observed him reach the end of the crawl space. Officer S then observed K-9 A “slide backwards.” Based on the unnatural movement of K-9 A, Officer S believed that the Subject had kicked K-9 A, causing him to take a defensive bite.

At 0207:42 hours, the Subject began to scream. Officer S told the search team to get cover. Immediately after, at 0207:48 hours, Officer S shouted K-9 A’s name 9 times over 16 seconds, which guided K-9 A to him/her. According to Officer S, K-9 A responded to the first “name” command; however, additional “name” commands were needed to guide K-9 A back to him/her, because K-9 A was unable to locate him/her in his/her elevated position. At 0208:06 hours, Officer S grabbed K-9 A by the collar and lifted him out of the crawl space.

The UOFRB assessed Officer S’s adherence to the K-9-contact criteria. The UOFRB noted that K-9 A did not bark before contacting the Subject, likely because the Subject was around a corner and kicked K-9 A as he came around the corner, resulting in a defensive bite. The UOFRB noted that Officer S did not observe a K-9 contact, but he/she assessed the yelling from the Subject as a likely contact and immediately told the search team to find cover and recalled K-9 A. The UOFRB noted that Officer S began recalling K-9 A only six seconds after the Subject’s yelling started. The UOFRB opined that Officer S’s actions were reasonable, given the need to assess and communicate with the search team.

The UOFRB discussed whether a secondary announcement was necessary before Officer S directed K-9 A into the crawl space. The UOFRB noted that the K-9 manual states that a secondary announcement is only necessary when a K-9 team encounters a structure they intend to search, and the UOFRB noted that a structure is defined as any permanent or temporary structure that an officer would reasonably believe to be inhabited by a person. The UOFRB opined that it would not have been reasonable to believe that the crawl space was inhabited by a person. Additionally, the UOFRB noted that a K-9 announcement was made on a PA system directly in front of the residence and that the purpose of a secondary announcement is to ensure occupants are aware of the search being conducted. The UOFRB opined that the PA announcement made directly in front of the residence would have been heard by the Subject in his position. The UOFRB opined that a secondary announcement was not necessary in this case.

Based on the totality of the circumstances, the BOPC found that the K-9 contact was consistent with established criteria.

## **Post K-9 Contact Procedures**

The UOFRB noted that Officer S immediately leashed K-9 A when the dog exited the crawl space and maintained positive control of K-9 A after the contact. The UOFRB noted that Officer S requested an RA unit for the Subject as he approached the officers, approximately 17 seconds prior to the Subject being handcuffed. The UOFRB noted that Officer S immediately reported the contact and the Subject's injuries to Sergeant C, and Sergeant C immediately began his/her investigation of a NCUOF, as he/she assessed that the Subject's injuries would not cause the incident to be categorized as a CUOF. The UOFRB opined that the Subject's injuries appeared to be superficial, and he was talking normally and did not appear to be under any sort of medical distress. Once Sergeant C was notified that the Subject was potentially going to be admitted to the hospital, he/she immediately notified FID Lieutenant A.

Based on the totality of the circumstances, the BOPC found that the Post K-9 contact procedures were consistent with established criteria.

**Requirement to Intercede** – Based on their review of this incident, the UOFRB determined, and the Chief concurred, that the force used was not clearly beyond that which was necessary, as determined by an objectively reasonable officer under the circumstances, and that the officers did not deviate from the duty to intercede.