

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

**K-9 CONTACT REQUIRING HOSPITALIZATION – 032-22**

**Division**                      **Date**                                      **Duty-On (X) Off ( ) Uniform-Yes (X) No ( )**

Rampart                      6/5/22

**Officer(s) Involved in Use of Force**                                      **Length of Service**

Officer M    26 years, 7 months

**Reason for Police Contact**

On Tuesday, July 5, 2022, at approximately 2225 hours, officers were conducting a foot beat when they observed a person (the Subject) wanted for multiple felony warrants. The Subject fled from the officers, resulting in a foot pursuit and the establishment of a perimeter. Metropolitan Division canine (K-9) officers responded and conducted a K-9 search. During the search, a K-9 found the Subject hiding in dense vegetation, and a K-9 contact (bite) occurred. The Subject was transported to the hospital and ultimately admitted for treatment of injuries sustained from the contact.

**Subject(s)**                                      **Deceased ( )**                                      **Wounded (X)**                                      **Non-Hit ( )**

Subject: Male, 27 years of age.

**Los Angeles Board of Police Commissioners (BOPC) Review**

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the 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; 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 June 13, 2023.

## **Synopsis**

On Tuesday, July 5, 2022, at approximately 2225 hours, officers were conducting a foot beat when they observed a person (the Subject) who was wanted for multiple felony warrants. The Subject fled from the officers, resulting in a foot pursuit and the establishment of a perimeter. Metropolitan Division K-9 officers responded and conducted a K-9 search. During the search, a K-9 found the Subject hiding in dense vegetation, and a K-9 contact occurred. The Subject was transported to the hospital and ultimately admitted for treatment of injuries sustained from the contact.

The following personnel were involved in this incident: Officers A, B, C, D, E, F, G, H, I, J, K, L, and Sergeant A. With the exception of the officers assigned to Air Support Division, the above-mentioned personnel were in full police uniform and operating from marked police vehicles equipped with digital in-car video (DICV) cameras. Each officer was equipped with a body-worn video (BWV) camera.

## **Investigative Summary**

On July 5, 2022, Officers A and B conducted a foot beat. According to Officer B, he/she had been approached by residents who complained of criminal activity in an alley -- including narcotics use, vehicle theft, vandalism, and gang activity. Officers A and B planned to conduct a foot beat in the alley to address these complaints.

In addition to investigating the above violations, the officers intended to gather intelligence by studying recent graffiti to glean information regarding potential rivalries between different gangs. They further planned to check for holes cut into the chain-link fence near the alley. According to Officer B, he/she has experienced suspects fleeing from the west end of the alley through pre-cut holes, when he/she has approached the alley from the east.

According to Officers A and B, they met with Officers C and D and requested their assistance in conducting the foot beat. In an effort to prevent potential suspects from fleeing, the officers formulated a plan for Officers A and B to approach on foot from the north and stage at the west end of the alley. They would then contact Officers C and D via radio and direct them to drive into the alley from a different area.

At approximately 2222 hours, Officer B parked their police vehicle, while Officers A and D each advised Communications Division (CD) that their respective units were Code Six (had arrived on scene). Officers A and B then walked south through a pedestrian tunnel underneath the 101 Freeway that connected the areas of concern. Upon exiting the tunnel, the officers walked west along a dirt path before they turned south and approached the west end of the alley, when Officer B broadcast that they were in place. Officers C and D then drove their police vehicle west from the east end of the same alley.

As Officers C and D drove into the alley, they observed several people standing at the opposite end of the alley near two parked vehicles. According to Officer D, as they approached, he/she heard Officer C say that he/she observed the Subject. Simultaneously, Officer D observed the Subject look in their direction and make a throwing motion as if he were discarding something into one of the parked vehicles. Officer D then observed the Subject turn west and run.

According to Officer B, as he/she and Officer A approached the west end of the alley, they observed a male run west toward the park. Officer B illuminated the male with his/her flashlight and immediately recognized him as the Subject. According to Officers A and B, they were aware that the Subject had outstanding felony warrants and could recognize him due to previous encounters. In response, Officers A and B pursued the Subject on foot. Officer A used his/her police radio to broadcast that they were in foot pursuit of the Subject, provided his direction of travel and clothing description, and requested additional resources. Officers initially pursued the Subject in apprehension mode, as they did not observe a weapon or any other indication that the Subject was armed. Officers C and D exited their vehicle, ran west through the alley, and joined the foot pursuit.

Following the conclusion of this incident, Force Investigation Division (FID) obtained security video from a location that showed the Subject running west through the alley and passing through a hole in the chain-link fence. After running several feet, the Subject jumped down from a retaining wall and ran south through the east side of a park. The Subject continued running south until he reached a pedestrian gate near the southeast portion of the park. Once there, the Subject exited the park and ran south across a street.

Officers G and H were in the area when they heard Officer A's foot pursuit broadcast. Officers G and H responded to assist, and as they drove east, they observed the Subject run south across the street and into a driveway. Officers G and H exited their patrol vehicle and foot-pursued him.

Once the Subject crossed the street, he ran through the driveway to the rear parking lot of a location and then turned west and jumped over a brick wall onto another property. Officers G and H lost sight of the Subject at that point and transitioned to containment mode. The total distance of the foot pursuit was approximately 405 feet. Officer B then coordinated a one-block perimeter around the location.

In response to Officer A's broadcast, Sergeant A arrived on scene, declared himself/herself incident commander (IC), and established a command post (CP). Meanwhile, an Air Unit responded to the call. Once overhead, Tactical Flight Officer L verified that there was an identified felony Subject contained within a perimeter and requested the response of Metropolitan Division K-9 personnel.

Responding to the search request were Metropolitan Division K-9 Officers M, N, O, P, Q, R, and Sergeant B. Each officer wore a Department-approved utility uniform and

was equipped with a tactical vest, ballistic helmet, pistol, Taser, oleoresin capsicum spray, handcuffs, hobble restraint device, and BWV camera.

Upon their arrival, Officer M and Sergeant B met with Sergeant A. Additionally, Officer M was briefed by Officers A and B and told that the Subject was wanted for a felony warrant and last seen running up the driveway of a residence. Officer M verified that the criteria for a K-9 search had been met and developed a search plan to locate the Subject. The plan was for Officer M, with his/her K-9 and a search team comprised of Officers N, O, and Q, to follow the Subject's last know path of travel. Officer R and his/her K-9, along with a team of patrol officers, would set up on the south end of the perimeter to assist with containment.

Officer M briefed Sergeants A and B and they approved the search plan. Additionally, Officer M communicated the search plan to the Air Unit and requested that they broadcast a K-9 announcement. Sergeant B and Officer M then directed officers on the perimeter to broadcast K-9 announcements via their public address (PA) systems in both English and Spanish. Announcements were audible on the BWVs of multiple officers who were deployed around the perimeter. Additionally, the investigation determined that the announcements were heard by multiple civilians who lived nearby.

After multiple K-9 announcements were made without a response from the Subject, Officers M, N, O, P, and Q began the search at the driveway where the Subject was last seen. After clearing the driveway and rear lot, the search team entered the patio of another location.

Officer M's K-9 immediately turned west and showed interest in a covered patio and area to the west of the officers' position. A fence separated the covered patio from an adjacent yard containing a shed and dense vegetation. According to Officer M, this led him/her to believe that the Subject had jumped the fence in this area. Officer M then directed his/her K-9 into this dense vegetation, losing sight of the K-9 for approximately 45 seconds.

According to Officer M, while his/her K-9 was out of his/her sight, he/she heard movement within the vegetation but was uncertain if it was due to the K-9, Subject, or both. Officer M then heard the Subject yell something to the effect of, "Okay, get your dog, I give up." Officer M then directed his/her team to positions of cover adjacent to the shed. Then Officer M ordered the Subject not to move and recalled his/her K-9 using both verbal commands and the E-Collar (electronic control device). The K-9 responded immediately to the command and returned to Officer M's side.

Officer P issued commands to the Subject and ordered him to crawl out with his hands visible. The Subject can be heard on Officer O's BWV stating that he could not move and wanted officers to come get him.

Due to safety concerns of being unable to see the Subject through the dense vegetation, Officer P continued ordering the Subject to come out and told him that they

would send the dog again if he did not comply. After approximately 80 seconds, the Subject stepped out of the vegetation, at which point Officer Q ordered him to turn away from officers, put his hands behind his back, and stop moving. Officers N and Q then approached the Subject and handcuffed him without further incident.

Immediately after he was taken into custody, Officer M requested a rescue ambulance (RA). Officers A and B responded to the Subject’s location and identified him as the Subject who fled from them. Upon observing the Subject bleeding from his right arm, Officer A donned gloves and walked him out to the street to wait for the RA.

At approximately 2320 hours, the Los Angeles Fire Department (LAFD) RA arrived and treated the Subject for a laceration to his right arm and puncture wounds to his lower back, before transporting him to the hospital for further treatment.

During a subsequent retracing of the Subject’s path of travel, Officers E and F located a loaded .380 semiautomatic pistol in a residential yard, approximately 50 feet north of where the Subject was taken into custody. Deoxyribonucleic Acid (DNA) testing later confirmed that the Subject’s DNA was present on the pistol.

At approximately 0330 hours, FID was notified by the Department Operations Center (DOC) that the Subject may be admitted to the hospital due to injuries sustained during this incident. FID detectives responded to the hospital to conduct an assessment. At approximately 0615 hours, Doctor A advised FID detectives that the Subject would be admitted due to injuries sustained from the K-9 contact.

**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 M	No <sup>1</sup>	Yes	No	N/A	N/A

**Los Angeles Board of Police Commissioners (BOPC) Findings**

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements and all other pertinent material relating to the particular incident. In every case 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.

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<sup>1</sup> Officer M activated his/her BWV after the K-9 contact, shortly following the K-9’s return to his/her side. Officer M believed that he/she activated his/her BWV prior to starting the search, as the K-9 announcements were being made. Officer M recalled tapping his/her BWV camera twice in an attempt to activate it, but he/she believed that the sling attachment on his/her tactical vest may have gotten in the way. An audit of Officer M’s BWV indicated that at 2244 hours (approximately 25 minutes prior to the contact), the “programmable” button, (not the required “event” button) was pressed twice.

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 the BOPC. Based on the BOPC's review of the instant case, the BOPC found the following:

#### **A. Tactics**

Although it was determined that Officers A M, O, and Sergeant B would not receive formal Tactics findings, the BOPC noted the Chief's determination that they would benefit from attending a Tactical Debrief where the identified topics would be covered.

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

The BOPC found the K-9 deployment to be consistent with established criteria.

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

The BOPC found the K-9 contact to be consistent with established criteria.

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

The BOPC found the post K-9 contact procedures to be 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.

**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*.

**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.

**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.

**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.



## A. 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 M developed a search plan to locate the Subject. The plan was for Officer M, his/her K-9, and the search team to follow the Subject's last known path of travel. Officer R, his/her K-9, and a separate team of officers would set up on the south end of the perimeter to assist with containment. Officer M briefed Sergeants A and B who approved the search plan.

**Assessment** – Officer M was briefed by Officers A and B during which he/she was told that the Subject was wanted for a felony warrant. Due to this, Officer M confirmed that the situation met the criteria for a K-9 deployment.

During the K-9 search, Officer M heard the Subject yelling and assessed that his/her K-9 may have contacted him. Officer M did not hear his/her K-9 bark before the Subject yelled, so Officer M speculated that the Subject may have moved in a way that prompted the K-9 contact. According to Officer M, based on the Subject's criminal history, which includes a weapons violation and the possibility of him being armed, he/she waited for his/her partners to seek cover before recalling his/her K-9.

**Time, Redeployment/Containment, and Other Resources** – When the Subject fled on foot, officers contained him inside a one-block perimeter and waited for K-9 personnel to arrive. Before initiating the search, officers used a PA system to broadcast a K-9 search announcement. As officers initiated the search, the Air Unit was broadcasting a second announcement. During the search, officers used PA systems to broadcast additional announcements throughout the perimeter. Using Officer M's K-9, officers located the Subject hiding inside dense vegetation. When the Subject was located, Officer M took cover and directed his/her team to do the same. Officer M then recalled (redeployed) his/her K-9.

**Lines of Communication** – Officer M communicated the search plan to the Air Unit and requested that they broadcast a K-9 announcement. Sergeant B and Officer B then directed officers on the perimeter to broadcast K-9 announcements via their PA

systems. After the first K-9 announcement was made (without a response from the Subject), Officer M's team began their search at a residential driveway where the Subject was last seen. After clearing the driveway and rear lot, the search team entered the patio of another location. During the search, Officer M directed his/her K-9 into dense vegetation, losing sight of the K-9 for approximately 45 seconds.

After Officer M's K-9 located the Subject, Officer M directed his/her team to cover. Once officers took cover, Officer M ordered the Subject not to move and recalled his/her K-9. The K-9 responded to the commands and returned to Officer M. Then Officer M notified his/her team that he/she had control of the K-9. Officer P then began issuing commands to the Subject and ordered him to crawl out of the vegetation with his hands visible. The Subject responded that he could not move and wanted the officers to come and get him. Unable to see the Subject through the dense vegetation, Officer P continued ordering the Subject to come out. As a ruse, officers told him that they would send the K-9 again if he did not comply. After approximately 80 seconds, the Subject walked out of the vegetation. Officer Q ordered him to turn away from the officers, put his hands behind his back, and stop moving. Officers N and Q then approached the Subject and handcuffed him without further incident.

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

### **Additional Tactical Debrief Topics**

- **K-9 Announcement** – The BOPC considered that the UOFRB noted that while the K-9 deployment report indicated that Sergeant B confirmed that the announcements were audible and understandable throughout the contained search area, the report did not document when and how he/she confirmed this. Alternatively, before the search began, Sergeant B should have used his/her police radio to confirm that the announcements were audible and understandable throughout the contained search area and ensured that the time and manner were documented in the report.
- **Cover/Concealment** – When Officer M's K-9 located the Subject, Officer M moved to cover and directed his/her search team to do the same. While Officer M had initially positioned himself/herself behind a shed, he/she stepped away from cover while recalling his/her K-9. Officer O believed that he/she too was behind the shed; however, he/she was actually behind a wood bench/planter that appeared to provide limited cover/concealment. Although the yard presented limited options, when feasible, officers should exploit cover and/or concealment, especially while searching for a suspect who is believed to possess a firearm.
- **Holding a Service Pistol and Radio in One Hand** – During the foot pursuit, Officer A momentarily held his/her service pistol and police radio in his/her right hand as he/she jumped down from a wall. Alternatively, he/she should have holstered his/her service pistol before jumping down.

## **Command and Control**

- Arriving at the scene, Sergeant A declared himself/herself the incident commander (IC) and established a command post (CP). Sergeant A was aware that K-9 personnel had been requested and were responding. After arriving at the scene, Officer M and Sergeant B met with Sergeant A. Officer M also met with Officers A and B. Officer M verified that the criteria for a K-9 search had been met and developed a search plan. Officer M briefed Sergeants A and B and they both approved the K-9 search plan. Officer M communicated the search plan to the Air Unit and requested that they broadcast a K-9 announcement. Sergeant B and Officer M then directed officers on the perimeter to broadcast K-9 announcements via their PA systems.

After the Subject was located, Officer M broadcast a request for an RA. Sergeant B ensured that the request was broadcast and the Subject received medical attention. Sergeant B confirmed that the Subject had sustained injuries as a result of a K-9 contact and initiated a Non-Categorical Use of Force investigation. After learning that the Subject may be admitted to the hospital for injuries sustained during the K-9 contact, Sergeant B identified the incident as a possible Categorical Use of Force and notified the Department Operations Center.

The BOPC determined that Sergeants A and B's actions overall were consistent with Department training and the Chief's expectations of supervisors during a critical incident.

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

After meeting with Officers A, B, and Sergeant A, Officer M confirmed that the situation met the criteria for a K-9 deployment. Officer M then developed a search plan that was approved by Sergeants A and B. Officer B communicated the search plan to the Air Unit and requested that they broadcast a K-9 announcement. Sergeant B and Officer M then directed officers on the perimeter to broadcast K-9 announcements via their PA systems.

Several announcements were made in both English and Spanish throughout the perimeter. According to the FID investigation, announcements were audible on the BWV footage of multiple officers deployed throughout the perimeter. The investigation also determined that announcements were heard by multiple residents.

The BOPC noted that the UOFRB assessed Sergeant B and Officer M's adherence to the K-9 deployment criteria. The UOFRB noted that after verifying that the Subject was a felony suspect, Officer M developed a search plan, identified search team members, implemented a strategy to locate the Subject, and obtained concurrence from both the K-9 supervisor and IC.

The UOFRB noted that before initiating the search, Sergeant B notified the IC that the announcement was about to be made. The UOFRB also noted that before the search was initiated, a K-9 announcement was made in front of the location where the Subject was last observed. The UOFRB further noted that as Officer M and his/her team began their search, the Air Unit was broadcasting the second announcement. Additional announcements were also made throughout the perimeter. According to the FID investigation, the announcements were audible on the BWV footage of officers deployed on the opposite side of the perimeter from where the first announcement was made.

The UOFRB noted that while the K-9 deployment report indicated that Sergeant B confirmed the announcements were audible and understandable throughout the contained search area, the report did not document when and how he/she confirmed this. The UOFRB would have preferred that before the search began Sergeant B had used his/her police radio to confirm that the announcements were audible and understandable and ensured the time and manner of confirmation were documented in the report. However, the UOFRB determined that this was not a substantial deviation from established criteria and would be best addressed during the tactical debrief.

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

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

While searching for the Subject, Officer M directed his/her K-9 into dense vegetation, losing sight of the K-9. According to Officer M, while his/her K-9 was out of his/her sight, he/she heard movement within the vegetation but was uncertain if it was due to the K-9, Subject, or both. Officer M then heard the Subject yelling. Based on the BWV footage, Officer M's K-9 was not heard barking upon locating the Subject.

Believing that the K-9 may have contacted the Subject, Officer M took cover and directed his/her team to do the same. Officer M then ordered the Subject not to move and recalled his/her K-9 using both verbal commands and the E-Collar. In response, the K-9 returned to Officer M. According to Officer M, based on the Subject's criminal history, which includes a weapons violation and the possibility of him being armed, he/she waited for his/her partners to seek cover before recalling the K-9.

According to Officer M, he/she did not see the contact due to the dense vegetation. The first time Officer M had any indication that contact had been made was when he/she heard the Subject yelling. Officer M indicated that while his/her K-9 is trained to find and bark, it is also trained to react by biting a Subject in response to certain movements.

The BOPC noted that the UOFRB assessed Officer M's adherence to the K-9 contact criteria. The UOFRB noted that the K-9 did not bark before contacting the Subject. The UOFRB also noted that the contact occurred in dense vegetation and neither the

Subject nor K-9 were visible. As such, investigators were unable to determine the Subject's actions before and during the contact. However, the UOFRB also noted that Officer M's K-9 was trained to react by biting in response to an aggressive, threatening, or evasive action. Based on the Subject's prior efforts to avoid apprehension, the UOFRB opined that the Subject acted in an aggressive, threatening, or evasive manner when located by the K-9, prompting the contact. Based on the dense vegetation, the UOFRB also opined that the K-9 would not have been able to see the Subject until the two were next to each other.

As it pertains to Officer M's efforts to recall his/her K-9, the UOFRB noted that before doing so, he/she directed his/her team to seek cover. According to Officer M, he/she had been advised that the Subject's criminal history includes weapons violations and there was concern that he may have been armed. Approximately 11 seconds after the first indication that contact may have occurred, Officer M recalled his/her K-9 using both verbal commands and the E-Collar. Approximately four seconds after the first command, the K-9 was back with Officer M. Based on the totality of the circumstances, the UOFRB determined that Officer M recalled his/her K-9 as soon as it was objectively reasonable, as outlined in Department policy.

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

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

The BOPC considered that the UOFRB noted that Sergeant B was notified by hospital staff that the Subject may be admitted to the hospital due to the injuries he sustained during the K-9 contact. In response, Sergeant B identified the incident as a possible Categorical Use of Force and notified the DOC, who in turn notified FID. Detectives from FID responded to the hospital and spoke with Doctor A, who advised that the Subject would be admitted due to the injuries. FID assumed investigative responsibility for this incident.

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