

ABRIDGED SUMMARY OF K-9 CONTACT REQUIRING HOSPITALIZATION INCIDENT AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS

K-9 CONTACT – 015-09

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Newton	03/08/09		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Does not apply.	

Reason for Police Contact
Robbery in progress with shots fired radio call.

<u>Subject(s)</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 2: Male, 26 years old.			

Board of Police Commissioners' 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 Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission. Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on February 2, 2010.

Incident Summary

Subjects 1 and 2 committed an armed robbery against three victims, during which two shots were fired at the victims.

A "robbery in progress with shots fired" radio call was broadcast regarding the incident and multiple patrol units responded. Information was gathered regarding Subjects 1 and 2's possible location and a perimeter was established that encompassed the area.

Sergeant A was the first supervisor to respond to scene and assumed the role of Incident Commander and set up a command post. Sergeant A then requested that a K-9 unit respond to the location to assist with the search for the subjects.

In response to the request, K-9 Sergeant B and several K-9 officers responded to the location, including Officer A. Sergeant B, along with the other K-9 officers, met with Sergeant A and discussed information regarding the suspects' descriptions, last known direction of travel and reported use of a firearm during the robbery. Based upon the briefing, Sergeant B concluded that the criteria for a K-9 search had been met.

An Air Unit also responded to the location and used its public address (PA) system to make a K-9 search advisement in English. Furthermore, Officer A directed that the K-9 search advisement also be made in Spanish. According to Officer A, the two announcements were loud and clear.

Neither Subject 1 nor 2 responded to the search advisements. After waiting approximately five minutes, a search team, which included Officer A and his K-9, began a search of the area.

For purposes of the search, Officer A and the K-9 took the forward position. Another K-9 officer, armed with a shotgun, provided immediate cover for Officer A, while two other K-9 officers, armed with rifles, were the flanking officers. Additionally, one other K-9 officer, armed with a service pistol, provided rear cover and was assigned to be the handcuffing officer.

During the search, the canine detected a scent. According to Officer A, the K-9 worked toward the rear wheel area of a white truck, which was located in a business parking lot. As the canine approached the truck, Subject 1 removed himself from the underside of the truck, stood with his hands above his head and told the officers "Okay, okay, I give up."

Note: There was no contact between Subject 1 and the K-9.

Subject 2 remained under the rear of the truck. As Officer A approached the rear of the truck, the K-9 alerted to Subject 2's presence by barking. Subject 2 then crawled backwards from the beneath the truck and used his arms to push himself up. As Subject 2 did this, the K-9 bit him on the left forearm and pulled him to the ground, then released his bite. Subject 2 again attempted to stand, at which time the K-9 bit Subject 2's right forearm, bringing him back onto his knees, with his forearms in front of him. Officer A then recalled the K-9, who returned to Officer A's side.

Note: According to Officer A, Subject 2 crawled in an "aggressive, abrupt, quick" manner away from her K-9 prior to the first contact. Officer A further stated that while the K-9 was in contact with Subject 2, he yelled at Subject 2 to "lay on the ground, lay on the ground," but Subject 2 continued to move around. Officer A indicated that the K-9 contact lasted about four seconds

Patrol units were requested to respond to the location to take custody of Subjects 1 and 2. After the suspects had been detained and removed from the area, one of the K-9 officers, with his K-9, made a search for the firearm used in the robbery. A semi-automatic pistol was subsequently recovered nearby.

Subject 2 was treated at the scene by paramedics for lacerations to both forearms before being transported to a local hospital, where he was admitted due to the dog bite injuries he had sustained.

Los Angeles Board of Police Commissioners' 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, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to 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 unanimously made the following findings.

A. Deployment of K-9

The BOPC found that the deployment of the K-9 was consistent with established criteria.

B. Contact of K-9

The BOPC found that the contact by the K-9 was consistent with established criteria.

C. Post K-9 Contact Procedures

The BOPC found that post K-9 contact procedures were consistent with established criteria.

Basis for Findings

A. Deployment of K-9

The BOPC noted that Sergeant A responded to the scene and upon being advised that there were two outstanding subjects who had committed a felony crime where shots had been fired, determined that the K-9 search criteria was met. Prior to initiating the K-9 search, Officer A requested that an officer use the police helicopter's PA system to make the required K-9 search announcement in English. An additional K-9 search announcement was made in Spanish by another officer via his police vehicle's PA system.

Therefore, the BOPC determined that the deployment of the K-9 was consistent with established criteria.

B. Contact of K-9

The BOPC noted that Subject 1 realized the K-9 search team was nearby and came out from under a truck while simultaneously advising K-9 officers he was giving himself up. Due to Subject 1 surrendering to the officers and not attempting to flee or engage the officers, a K-9 contact did not occur with him. Meanwhile, the K-9 continued his search along the passenger side of the same truck and barked and alerted on Subject 2 who was crouched underneath the rear axle. Subject 2 crawled backward and used his arms to push himself up from the ground. The K-9 then reacted to Subject 2's actions, which were consistent with an attempt to stand in order to flee, and bit Subject 2's left arm while pulling him back to the ground. Subject 2 again raised himself to a crouching position while struggling to free himself from the K-9's hold. After a brief struggle, the K-9 released his hold on Subject 2's left arm and bit his right arm while pulling him back to the ground. Officer A continually ordered Subject 2 to lie on the ground and not to move. Once Subject 2 complied with his orders, Officer A noticed that Subject 2 did not have a weapon in his hands and ordered the K-9 to his side. The K-9 responded to the commands, immediately released his hold of Subject 2's arm and returned to Officer A's side.

Therefore, the BOPC determined that the K-9 Contact was consistent with established criteria.

C. Post K-9 Contact Procedures

The BOPC noted that after Subject 2 was admitted to the hospital, Sergeant B advised Officer A, who had also responded to the hospital, that the incident was now a Categorical Use of Force (CUOF) and admonished him not to discuss the incident. Sergeant B monitored Officer A until he was interviewed by investigators. The other involved K-9 officers were no longer on duty when it was determined the incident was a CUOF. As a result, Sergeant B telephonically contacted the officers, advised them that the incident was now a COUF and admonished them not to discuss the incident.

Therefore, the BOPC determined that the post contact procedures were consistent with established criteria.