

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

OFFICER-INVOLVED ANIMAL SHOOTING – 021-18

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

Hollywood 3/24/18

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

Officer A 9 years, 1 month

Reason for Police Contact

Officers were called to a shooting incident. On arrival they identified the victims of the shooting and received information that lead them to believe that a suspect or possible further victim was present in an apartment. During the search of the apartment a Pit Bull dog charged at an officer, resulting in an officer-involved animal shooting (OIAS).

Animal(s) Deceased () Wounded (X) Non-Hit ()

Pit Bull dog.

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 subject 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 Chief of Police; and the report and recommendations of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

Because at the time this report was prepared, the Department was legally prohibited from 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 January 29, 2019.

Incident Summary

Police Officers A and B received a radio call of shots fired at a residential location. The officers responded with lights and sirens. While on the way to the location, there were additional broadcasts updating the call to an ambulance shooting. Upon arrival at the location, Officer A broadcast their status and location (Code-6). An unknown man directed Officer A to the rear alley behind an apartment building.

Officers A and B drove their police vehicle into the alley and found Victim A lying on the ground, bleeding from multiple gunshot wounds.

Additional officers arrived at scene and assisted with the preliminary investigation. Officers C and D found Victim B lying in a carport nearby also suffering from gunshot wounds.

Sergeants A and B also arrived at the scene independently of one another and assisted with managing the incident. Information was received that either a suspect or potential additional victim had entered an apartment after the shooting. Sergeant A was briefed and directed officers to form a team to make entry into the apartment to check for additional victims and or suspects.

Officer B organized the entry team, Officer A was assigned on point with a rifle; Officer B, second in line, was going to be the scout; Officer C would be the team leader; Officer D would be ready with a less lethal option (Beanbag shotgun); Officers E and F were assigned as the arrest team. All officers donned their tactical gear including ballistic helmets. Sergeant A was the Incident Commander.

While officers were preparing to make entry, the front door of the location opened and Witnesses A and B exited. Officers called to the other occupants of the apartment directing them to exit. Witnesses C and D complied with the officers' directions and exited the apartment. They advised the officers there were two children in the apartment sleeping and a Pit Bull. Witness C told officers the dog was more of a barker than anything.

Officers covered the front of the apartment until the entry team was ready to make their approach. On the way to the apartment Sergeant A stopped behind to speak with a colleague and was not present at the door as the team entered the apartment.

Sergeant B, already present at the door of the apartment with Detective A, looked in and observed a large white dog standing in the doorway of the bedroom. Sergeant B told Officer C about the location of the dog. Sergeant B advised Officer C to bring a fire extinguisher or Beanbag shotgun. Officer D advised Sergeant B he had a Beanbag shotgun.

The entry team officers walked in the front door of the apartment and into the main front room area. Officers A and D covered the bathroom, hallway, and north bedroom, while Officers B and C entered and searched the south bedroom for possible suspects. Nobody was in the room.

Officer A heard the dog barking when the search team entered the apartment. Officer A looked through the doorway into the north bedroom and observed a large Pit Bull laying on a bed. Officer A informed officers that there was a dog in the room. The dog stood up and started growling and barking more aggressively. The dog started charging at Officer A. He was afraid the dog was going to bite him. Officer A moved back to give the dog some space but it kept moving towards Officer A. Officer A, believing he was going to be bitten, fired one round in a downward direction, striking the Pit Bull in the face. The dog ran back into the bathroom.

Officer A identified the fact that he had fired his weapon. After the officer-involved shooting (OIS), Sergeant A came into the apartment and instructed an officer to close the bathroom door. Officer B closed the door. Officers E and F took the children out of the apartment and united them with their parents.

The rest of the apartment was searched. No one was found. The Pit Bull dog was taken to hospital where it survived its injuries.

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 of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

The BOPC found Officers A's tactics to warrant a Tactical Debrief and Sergeant A and B's tactics to warrant Administrative Disapproval.

B. Drawing/Exhibiting

The BOPC found Officer A's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

The BOPC found Officer A's lethal use of force to be in policy.

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. It is also recognized 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 value 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 and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

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), 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:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly

force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. 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. (Tactical De-Escalation Techniques, October 2016.)

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical consideration:
 - Dog Encounters
- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.
- The BOPC also considered the following:

1. Exigent Warrantless Searches

The investigation revealed the officers and supervisors entered the apartment to search for additional victims and suspects involved in the shooting incident. Based upon the officers' and supervisors' belief that there was possibly an injured victim inside and an exigent circumstance existed, the BOPC believed the entry and search was reasonable and met the legal standard of an exception to the search warrant requirement. The BOPC noted, however, that entering the apartment and searching for a suspect, in this circumstance, would not meet the exigent circumstances standard. Additionally, the officers and supervisors

should always consider attempting to obtain valid consent to enter and search when circumstances and time permit.

2. Tactical Communication/Planning

The investigation revealed several shortcomings in the communication and planning between the personnel on the search team and the personnel monitoring the apartment. Consequently, the involved personnel acted independently and did not coordinate their respective efforts during this incident. The officers and supervisors are reminded that effective communication and coordination can afford them the opportunity to assess, request additional resources, or deploy other tactics to enhance officer safety and situational awareness, reduce the likelihood of injury to the public, and mitigate any potential ongoing threats.

3. Public Safety at a Critical Incident

The investigation revealed that three young children remained asleep inside the apartment while the search team searched the apartment. Placing a member of the public in harm's way should be avoided at every opportunity. The BOPC would have preferred that the officers and/or supervisors had removed the children from the apartment to a safe location prior to conducting their search. Officers and supervisors should always be mindful of the possibility of placing a member of the public in harm's way.

Command and Control

- It is incumbent upon supervisors at the scene of a critical incident, such as this, to demonstrate and exercise supervision that is consistent with Department supervisory and tactical training.

Sergeant A was still in the alley when the search team approached and entered the apartment. Sergeant A was not aware that Sergeant B and Detective A had responded to the apartment and were making contact with the occupants. Additionally, Sergeant A was not in close proximity to the apartment when the OIS occurred. As such, Sergeant A's actions limited his ability to effectively assess and manage the ongoing tactical situation.

Sergeant B, along with some additional officers, entered the apartment, contacted the occupants, and remained inside or in the doorway of the apartment prior to the search team entering and securing the apartment. In addition, upon arrival of the search team, Sergeant B did not ensure the removal of the young children from the apartment prior to the search team entering the apartment. As such, Sergeant B's actions placed officers and members of the public in unnecessary danger.

The BOPC was critical of Sergeants A and B's lack of command and control during this incident and concluded they did not demonstrate the level of control or supervision expected of a field supervisor.

Based upon the totality of the circumstances, the BOPC determined Sergeants A and B's actions substantially and unjustifiably deviated from approved Department supervisory training, thus warranting a finding of Administrative Disapproval.

Additionally, the BOPC found that Officer A's tactics did not substantially deviate from approved Department tactical training, thus warranting a finding of Tactical Debrief.

B. Drawing/Exhibiting

- According to Officer A, he exhibited his Patrol Rifle while assigned to the point position on the search team.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officer A's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Officer A** – (rifle, 1 round)

According to Officer A, the dog stood up and began growling and barking more aggressively. The dog then jumped off the bed and began to charge towards him. He observed that the dog looked angry, its ears were laid back, and he could see the dog's teeth. He tried to move back to give the dog some distance, but the dog did not stop. In fear that the dog was going to bite him, he fired one round from his patrol rifle at the dog to stop the threat.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer A would reasonably believe that the attacking dog represented an immediate threat of death or serious bodily injury to himself and that the lethal use of force would be justified.

In conclusion, the BOPC found Officer A's lethal use of force to be in policy.