

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

OFFICER-INVOLVED ANIMAL SHOOTING – 022-18

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

77th Street 3/28/18

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

Officer B 15 years, 9 months

Reason for Police Contact

Patrol Division uniformed police officers responded to a radio call. As the officers were checking the area on foot, a large Pit Bull-mix dog lunged toward the officers, resulting in an officer-involved animal shooting (OIAS).

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

Pit-Bull mix 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 the Department is currently 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 February 12, 2019.

Incident Summary

On the day of this incident, an unidentified male, the Person Reporting (PR), called Communications Division (CD) to report that a man was armed with a gun and selling methamphetamine inside a tent at the nearby train tracks. In response to the PR's call, CD created a priority (Code Two) radio call for a man with a gun, creating a disturbance. The call comments indicated the Subject was inside a tent selling methamphetamine and armed with a handgun.

The call was ultimately assigned to uniformed Police Officers A and B. Both officers were equipped with Body Worn Video (BWV), and their vehicle was equipped with a Digital In-Car Video System (DICVS).

Officers A and B had been partners for approximately three years prior to this incident. During that time, they discussed a variety of tactical scenarios. With regard to this incident, the officers decided that Officer A would be the contact officer and Officer B the cover officer.

The officers arrived at the scene and notified CD. The officers made their approach and began to walk along the tracks when they observed a Pit Bull dog leashed to the fence on one side of the tracks. The dog was aggressive, barking, and pulling the leash, attempting to charge toward the officers. The officers observed a group of individuals near an encampment, close to where the dog was leashed. Officer A asked the group if the dog belonged to any of them. The group did not respond and walked away along the train tracks. According to Officers A and B, they were not positive how secure the dog leash was to the fence and did not want to agitate the dog further. In an attempt to avoid a dog attack and risk injury to themselves or the dog, the officers decided to stop and not walk past the dog.

Officers A and B decided to return to their vehicle and drive to a different location where they could continue their search for the Subject. The officers were unable to locate anyone matching the Subject's description. At that time, CD reassigned Officers A and B to an unrelated radio call. The officers drove away from the area to handle the unrelated call.

Later that evening, the unidentified male again called CD and advised that the Subject was still in the area near the train tracks. In response, created a second Code Two radio call for a man with a gun. Upon completion of the unrelated radio call, Officers A and B drove back to the area and were assisted by other officers. The officers met in a parking lot of a business to brief the previous radio call and discuss the aggressive Pit Bull dog leashed to the fence. The officers developed a tactical plan to handle the radio call.

Officers A and B drove back to the side of the train tracks in order to monitor the dog, while other officers searched for the Subject. Officer A noticed that the dog was not

present and not leashed to the fence where he saw it earlier. Officer A alerted Officer B that the dog was not present and broadcast the information to the rest of the officers.

Once they noticed the dog was not present, Officers A and B began walking towards an encampment. The officers utilized their flashlights to illuminate the area. According to Officer A, he constantly scanned back and forth searching for the dog to make sure he didn't miss it or that it wasn't leashed at a different location.

Officers A and B reached the first tent on one end of the encampment. The tent was covered with a blue tarp. Officer A contacted a male inside the tent, later identified as the owner of the dog. Officer A identified himself as the police and noted that the Subject did not match the description provided by CD.

Officer A proceeded down the tracks and continued to use his flashlight to illuminate the area. Officer A walked approximately five feet past the tent, at which point he observed the dog in front of him. The dog was not leashed or secured. The dog immediately moved in a fast-aggressive motion and lunged toward Officer A, causing him to redeploy and walk backwards in a southern direction over the train tracks. As he redeployed, Officer A unholstered his pistol because he believed he was going to have to shoot the dog to prevent an attack and avoid being bitten and getting injured.

As Officer A redeployed, the dog immediately shifted his attention to Officer B, who was near Officer A. The dog changed his direction and ran at full speed directly toward Officer B. According to Officer A, the dog barked as it aggressively jumped toward Officer B.

According to Officer B, he followed behind Officer A from approximately seven or eight feet. Officer B observed Officer A walk past the encampment and heard him say, "Oh, there [the dog] is." Officer B observed the dog lunge at Officer A and come within inches of biting his leg. Officer B knew that these dogs can cause serious bodily injury. Officer B believed that Officer A was going to be bit and thought that he might have to shoot the dog.

Officer B began to unholster his pistol, and at that moment the dog changed his direction, turned, and began lunging toward him. Officer B redeployed and began walking backwards as he unholstered his pistol with his right hand. Officer B fully extended his right arm in a downward forty-five-degree angle at the charging dog. Officer B held his flashlight in his left hand and pressed the palm of his left hand against the left side of his pistol grip.

As the charging dog came within two feet of Officer B, he fired one round, but the dog continued to charge toward him. Officer B took one or two steps back and fired a second round as the dog came within a foot from him. After the second shot, the dog squealed, turned, and ran into a nearby tent. Officer B fired both shots in a northeast, downward direction. His background was dirt and gravel. According to Officer B,

Officer A was close to the train tracks and not in his line of sight when he fired the rounds. The assisting officers were approximately 30 to 40 yards away from him.

Officer A broadcast a request for a supervisor for a dog shooting. Sergeant A was the first supervisor to arrive at the scene. Sergeant A separated Officers A and B, obtained a Public Safety Statement (PSS) from each officer individually, and admonished them not to speak about the incident. The Department Operations Center (DOC) was notified of the officer-involved animal shooting incident.

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 and B's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Lethal Use of Force

The BOPC found Officer B'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.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

Therefore, the BOPC found Officers A and B's tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer A, he was utilizing his flashlight and became startled when he observed that the dog was right in front of him. Officer A further observed that the dog was not tied up and was running freely. The dog started barking and immediately became defensive and aggressive. The dog lunged towards Officer A as he redeployed backwards over the train tracks. In fear that the dog was going to bite him, he drew his service pistol.

According to Officer B, the dog turned and started charging towards him. The dog was barking aggressively, and he could see the dog's teeth. In fear that the dog was going to bite him and cause great bodily injury, Officer B drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and B, 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.

Therefore, the BOPC found Officers A and B's drawing and exhibiting of a firearm to be in policy.

C. Lethal Use of Force

- **Officer B** – (pistol, two rounds)

According to Officer B, the dog turned and started charging towards him. The dog was barking aggressively, and he could see the dog's teeth. In fear that the dog was going to bite him and cause great bodily injury, Officer B backed up a step or two and fired two rounds from his service pistol at the dog to stop the threat.

Officers A and B were equipped with Body Worn Video (BWV) at the time of the incident, which captured the OIS. The BWV was consistent with the officers' accounts.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B 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.

Therefore, the BOPC found Officer B's lethal use of force to be in policy.