

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

OFFICER-INVOLVED ANIMAL SHOOTING – 026-18

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

West LA 4/20/18

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

Officer A 2 years, 3 month

Reason for Police Contact

A dog escaped its owner’s grasp and attacked Officer A, resulting in an officer-involved animal shooting (OIAS).

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

Great Dane/Mastiff/Central Asian Shepherd mix

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 February 26, 2019.

Incident Summary

Officers A and B were driving a marked black and white police Sport Utility Vehicle (SUV). Officers A and B were equipped with Body Worn Video (BWV) cameras and their police vehicle was equipped with a Digital In-Car Video System (DICVS).

The officers received a non-coded radio call from Communications Division (CD) that several transients were camped out behind a business. Officer A broadcast that the officers had arrived at the location (Code-Six) via their Mobile Digital Computer (MDC). Officer B parked their police vehicle adjacent to an alley.

Officers were met by the Person Reporting (PR), who advised them that she called the police because she has on-going problems with several transients who were sleeping behind her business, causing problems for nearby residents and her employees. The PR directed the officers to the rear of the business, where some of the transients were sleeping and asked officers to provide extra patrol in the evening. As Officer A was speaking to the PR, a female (later identified as Witness B) was walking her poodle through the alley.

As Officer A continued to speak with the PR, another female (later identified as Witness A) screamed from across the street. As Officers A and B turned their attention toward Witness A, they observed Witness A on the ground, lying on her right side, in the area where the parkway and sidewalk converge. According to Officer A, Witness A was attempting to hold a large black dog (later identified as a black Great Dane/Mastiff/Central Asian Shepherd mix, approximately 130 pounds), as the dog barked and attempted to get away from her. Witness B and her poodle, quickly moved back to avoid any possible contact with Witness A's dog.

According to Officer A, he approached Witness A to help her get back onto her feet, since she was on the ground yelling. He further stated that he wanted to get the Great Dane's attention so that the dog wouldn't focus on the other woman (Witness B) or her poodle because it appeared to him that the Great Dane was trying to attack the poodle. As Officer A walked across the street, he used his hand to direct Witness B away from Witness A's dog and to the opposite side of the street. As Officer A approached closer to Witness A, he observed her dog with saliva coming out of its mouth and attempted to draw the dog's attention to himself by stating, "hey puppy," to calm Witness A's dog and so that Witness A's dog would not attack Witness B's dog.

Meanwhile, Officer B positioned himself to the left of Officer A and slightly behind him. At this point, Witness A's dog directed his attention to Officers A and B as it continued to aggressively bark and growl at the officers. According to Officer A, when Witness A's dog turned his attention toward them, he believed that Witness A was going to lose

control and he began to walk on the street, away from Witness A's dog. As Officer A moved and Officer B remained on the street to Officer A's left, Witness A's dog moved in the officer's direction, dragging Witness A while she held his leash. While on the ground, Witness A yelled at her dog to stop as she continued to struggle to maintain control of her dog.

Witness A's dog continued to bark at the officers and lunged in the direction of Officer B, once again pulling Witness A approximately one to two feet, while she laid on her right side and struggled to maintain control of the leash. According to Officer A, he began to think of the tools available to him and placed his left hand on his holstered TASER. Officer A stopped approximately 10 to 20 feet away from Witness A and her dog. According to Officer A, Witness A's dog became more aggressive, and he believed that Witness A was about to lose control of him. According to Officer A, he wanted to create distance from Witness A's dog in case he broke free from her.

As Witness A laid on the ground, her dog lunged a third time, causing her to lose control of the leash. Witness A's dog broke free and ran in the direction of Officer A, who was approximately 25 feet away. Officer B also moved, approximately 15 feet away, but remained south of Officer A. Witness A's dog immediately ran in Officer A's direction causing him to walk backwards, to create distance. As Officer A redeployed, he unholstered his pistol, believing that he was going to have to shoot the dog to prevent an attack and avoid being bitten and getting seriously injured.

As Witness A's dog came within approximately 2-feet of Officer A, he pointed his pistol downward at the dog and, utilizing a two-handed, modified stance, discharged two rounds while moving rearward away from the dog's attack. The rounds had an effect and caused the dog to squeal and flee, out of Officer A's view. The dog was later located. He was injured but survived.

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.

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

During its review of this incident, the BOPC noted 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.

B. Drawing/Exhibiting

- According to Officer A, when he was approximately 10 to 20 feet away, the Great Dane got away from Witness A and immediately went after him. Believing the Great Dane was going to attack him, Officer A drew his service pistol.

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 – (pistol, 2 rounds)**

According to Officer A, when the Great Dane was approximately one or two feet away from him, Officer A, in fear for his and his partner's safety, fired two rounds from his service pistol at the Great Dane 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.