

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

LAW ENFORCEMENT RELATED INJURY AND K-9 CONTACT REQUIRING HOSPITALIZATION – 035-13

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Northeast	4/13/13		
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Officer(s) Involved in Use of Force	Length of Service
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Sergeant A	24 years, 7 months
Officer I	23 years, 10 months
Officer J	8 years, 5 months

Reason for Police Contact

Officers responded to a radio call of a grand theft auto subject in the area.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 34 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 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.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following incident was adjudicated by the BOPC on March 11, 2014.

Incident Summary

Uniformed Sergeant A heard a radio call of a possible grand theft auto subject located at a neighborhood, and responded to the location in his black and white police vehicle. An LAPD air unit also responded. Upon arriving at the location, Sergeant A observed the Subject get out and run from the stolen vehicle. Sergeant A drew his pistol and ordered the Subject to stop. Sergeant A followed behind the Subject to monitor him, while broadcasting that he was in foot pursuit.

The air unit was overhead and immediately took over the broadcast. The Subject ultimately ran into and through the brush covered hillsides and yards. After running approximately 50 yards, Sergeant A holstered his pistol and returned to his vehicle to assist with the perimeter.

Note: This area of the city is made up of hilly, brush covered terrain. The streets traverse in multiple directions over their course.

The air unit requested additional units for a perimeter. The air unit lost sight of the Subject in the brush surrounding a residence and broadcast that the Subject may have entered the residence. Several uniformed officers responded to the initial foot pursuit and the subsequent requests for units to assist with the perimeter. Uniformed Officers A and B also responded to the perimeter. Officer A contacted two witnesses who had been working inside a residence. The witnesses advised Officer A that they were working inside the location when the Subject ran up the driveway while taking his shirt off. The Subject repeatedly told them to give him their clothes. The witnesses refused and fled down the driveway. The Subject was last seen by the witnesses entering the front door of the residence. The witnesses advised Officer A that the residence was vacant and no one else was inside the location. Officer A and the other officers at the scene did not immediately go into the residence to search for the Subject because the witnesses advised that there were tools inside that could be used as weapons.

The K-9 Unit was requested to respond after a perimeter had been established. After the arrival of K-9 personnel, a search plan was developed and approved.

When the Subject failed to respond to the K-9 announcements, Officer C started his search. After searching and clearing the surrounding area, Officer C voiced another K-9 announcement before entering the residence. Officer C and his team searched the interior of the residence, but did not locate the Subject or his clothing.

When Officer D arrived on scene, he was briefed by Officer A and Sergeant B. Officer D formed a second search team comprised of K-9 Officer A, Officers E, F, G, and H. Prior to starting their search, Officer D briefed the officers on their areas of responsibility.

Officer D and his search team focused on the area north of Officer C's location. A large brush filled hillside separated the two streets.

Officer I arrived at the Command Post (CP) and was briefed by Sergeant B. Officer I formed an additional search team comprised of K-9 Officer B and Officers A and J.

Officer I was aware that Officers C and D were already searching in the perimeter with their respective K-9 teams and coordinated his search efforts with them. Officer I searched the yards of residences in a southwest direction toward Officer D's team. Officer D's team searched in a northeasterly direction.

Officer I and his team searched the backyard of a residence. They travelled east along the north side of the residence and searched underneath an elevated wood patio that extended from the rear of the residence to the east. Suddenly, the Subject appeared and ran from underneath the patio down a steep dirt embankment away from the officers. Officer J ordered the Subject to stop and show his hands. The Subject ignored the order and ran to the edge of the property line, scaled a chain link fence and continued north. Officer I broadcast the Subject's flight and direction of travel and observed that the Subject was not wearing any clothing.

Officer C observed the Subject approximately 50 yards away and ordered him to stop. The Subject looked in the direction of Officer C and his K-9 and continued running away from Officer C, up the hill.

The air unit directed Officer I and his team to move in an attempt to intercept the Subject as he ran out of the greenbelt. Uniformed Officers K and L observed the Subject and ordered him to stop. Officers K and L briefly ran after the Subject until he entered a backyard of another residence. Upon entering the backyard, the Subject fell into an empty in-ground swimming pool. The Subject climbed out of the pool and continued running while the air unit tracked him. The Subject then ran to the backyard of a residence, where the air unit lost sight of him under a large tree.

In response to the Subject's flight, the air unit expanded the perimeter. Due to the distance and terrain involved, Officer I drove his vehicle to the location, while Officers D and J followed in a separate vehicle.

Officers E and F, who had been monitoring the frequency from their perimeter positions, drove together to the location. Officers E and F covered the front of the location from the street. Due to the Subject's propensity for running, the air unit ensured that rear containment existed prior to the officers searching to the rear of the residence.

Officers D, I and J arrived and formed a search team with Officers E and F. Officer D's K-9 was used for the search, while Officer I's K-9 remained in his vehicle. Officers E and F were briefed by Officer D as to their responsibilities and he assigned them as the rear guard and arrest team. Officer D advised them that the team had less-lethal weapons with them.

Note: According to Officer D, after the briefing, he handed his TASER to Officer J, and Officer I retrieved a beanbag shotgun.

Note: The residents of the house recalled hearing the air unit advising people to remain inside their residence.

The search team entered the property and travelled north along the driveway on the east side of the property. Officer J drew his duty pistol. As the officers travelled from the driveway and into the backyard, Officer J observed two open doors at the rear of the residence. Officer J directed Officers E and F to provide cover on the doors.

Officers E and F unholstered their pistols and directed their attention on the doors. Officers D, I and J continued further north into the backyard. Officer J remained in the lead as Officer I maintained a beanbag shotgun and was positioned approximately two to three feet to the left of Officer J. Officer D's K-9 worked toward a truck that was parked on the west side of the backyard. Officers D, I and J moved toward the truck with the K-9 in the lead. The K-9 moved around the truck and out of the officers' view.

Officer D heard the K-9 bark, along with a significant amount of activity. The officers heard the Subject screaming that the K-9 was biting him. The Subject had secreted himself out of view on the other side of the truck, under a portable stairway in an approximate four foot depression adjacent to a large tree. Officers D, I and J moved around the truck and observed the Subject fighting with the K-9. The K-9 had a hold of the Subject's right thigh while the Subject had his right hand around the K-9's muzzle and was punching the K-9 on the side of his body with his left fist. The K-9 broke free and bit and held the Subject's right arm as the Subject continued punching the K-9's nose and eye area with his left fist.

The Subject was lying on his back with the K-9 around his upper torso area. Officer I repeatedly ordered the Subject to lay still and to stop hitting the K-9 and the K-9 would be called back. Officer I additionally ordered the Subject to stop fighting or he would use the beanbag shotgun. The Subject ignored the orders and continued hitting the K-9. Officer I fired one supersock round at the Subject's right ribcage area, anticipating that hitting the Subject in the ribcage, along with his verbalization, would cause the Subject to stop fighting with the K-9. The first round had no effect and the Subject continued punching the K-9. Officer I fired two additional supersock rounds at the same area with no effect on the Subject as he continued punching the K-9.

Officer I loaded two more supersock rounds into the magazine tube of the beanbag shotgun and continued to give the Subject commands to stop hitting the K-9. The Subject placed the fingers of his left hand in the K-9's mouth in an apparent attempt to pry the K-9 off of his right arm. Officer I again told the Subject to "just stop fighting with the dog and we can get the dog back. Just lay still." The Subject ignored Officer I's commands, reached down and pulled on the K-9's collar. The Subject began to punch the K-9 again. Officer I fired three additional supersock rounds at the Subject's right rib cage area. Officer I fired all six supersock rounds from an approximate distance of eight to ten feet. The supersock rounds had no effect. The Subject rolled the K-9 over, got on his haunches and appeared to try and stand.

Officer I slung the beanbag shotgun over his shoulder and deployed his TASER. Officer I fired his TASER at the Subject from a distance of approximately six feet and administered an initial five-second burst. The TASER prongs struck the Subject in the upper right quadrant of his back. As he was firing his TASER, Officer I heard a second TASER discharge simultaneously from the other side of Officer D. Officer I noticed there were four darts in the Subject's back as the Subject fell to the ground. The Subject continued punching and struggling with the K-9 as Officer I administered a second, five-second burst. Officer I continued giving the Subject commands to lay still and to stop hitting the dog.

As that was occurring, Officer J ordered the Subject to show him his hands. The Subject ignored the order and repeatedly kicked in the officers' direction, making it unsafe for them to approach. Officer J noted the supersock rounds that struck the Subject were ineffective as the Subject continued to fight the K-9 and refused to comply with their commands. The Subject punched the K-9 with a closed fist and kicked at the underbelly of the K-9 with both legs. The Subject then grabbed the K-9 and held him in what Officer J described as a bear hug.

Officer J holstered his duty pistol and obtained a TASER from Officer D. Officer J communicated that he was going to shoot the TASER and, from an approximate distance of five to six feet, fired the TASER at the back of the Subject's upper torso. Officer J stated that out of the corner of his eye, he observed that Officer I had also deployed his TASER at nearly the same time. Officer J activated the TASER a total of five times.

On the fourth activation, the Subject momentarily stopped resisting. Officer D recalled the K-9, who returned immediately. Officer D placed his K-9 on a leash.

Officer J ordered the Subject to turn over and place his hands behind his back. The Subject ignored the order and attempted to kick Officer J. Officer J activated the TASER a final time and again ordered the Subject to place his hands behind his back. The Subject then complied.

Officer I called Officers E and F from their positions to take the Subject into custody. The officers holstered their pistols and took the Subject into custody without further incident. The officers escorted the Subject to the front of the residence where they waited for a Rescue Ambulance (RA) to respond and treat the Subject.

Sergeant B responded to the scene of the K-9 Contact and attempted to speak with the Subject about the incident. According to Sergeant B, the Subject responded by indicating that the dog did not bite him. The Subject refused to respond to any additional questions and made no further statements. Sergeant A also responded to the scene and positively identified the Subject as the person he observed in the stolen vehicle and who ran from him.

The Subject was treated at the scene by the Los Angeles Fire Department (LAFD) and transported to the hospital. Officers E and F rode in the back of the RA with the

Subject. Sergeant B instructed the officers to contact him after their arrival at the hospital to update him on the Subject's condition. While in the RA, the Subject did not respond to the paramedics' questions or make any statements.

Sergeant B began his K-9 Contact and Non-Categorical Use of Force (NCUOF) investigation. Hours later, Sergeant B was notified that the Subject was going to be admitted for unknown reasons. In anticipation the hospitalization was a result of the K-9 Contact, Sergeant B telephonically notified Officers D, I and J and advised them not to discuss the incident, and to drive to Metropolitan Division. Once it was determined the incident would be handled as a Categorical Use of Force (CUOF), the officers were separated and monitored at Metropolitan Division.

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 and Exhibiting of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). In every case of a K-9 contact requiring hospitalization, the BOPC makes specific findings in three areas: 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. 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 made the following findings.

A. Tactics

The BOPC found Sergeant A and Officers I and J's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Sergeant A and Officers I and J's drawing and exhibition of a firearm to be in policy.

C. Less-Lethal Use of Force

The BOPC found Officers I and J's use of less-lethal force to be in policy.

D. Deployment of K-9

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

E. Contact of K-9

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

F. Post K-9 Contact Procedures

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

Basis for Findings

A. Tactics

- In its analysis of this incident, the BOPC identified the following tactical considerations:

1. One Officer Foot Pursuits

Sergeant A initiated a foot pursuit of a Grand Theft Auto (GTA) subject by himself.

Officers are provided discretion while pursuing subjects involved in criminal activity. The overall objective is to maintain the tactical advantage while balancing the necessity to apprehend the subject or establish containment. In this circumstance, Sergeant A was working alone and was in the vicinity of the GTA vehicle. Upon arrival, Sergeant A observed the Subject exit the stolen vehicle and flee from the scene. Subsequently, Sergeant A engaged in a foot pursuit in an effort to monitor the Subject's actions and conducted a foot pursuit broadcast. Moments later, the air unit arrived and assumed responsibility of the foot pursuit broadcast. Consequently, Sergeant A discontinued his foot pursuit and returned to his vehicle.

It is the BOPC's expectation that officers and supervisors investigate and handle these types of incidents in the safest manner possible. Although officers and supervisors are strongly discouraged from becoming involved in foot pursuits while alone, Sergeant A utilized sound tactics by discontinuing the foot pursuit and ensuring that containment had been established by the air unit.

- 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 the individual actions that took place during this incident.

In conclusion, the BOPC directed that this topic be addressed during the Tactical Debrief.

B. Drawing/Exhibiting

- Sergeant A observed the Subject exit the passenger cab of the stolen vehicle. Subsequently, the Subject fled on foot, at which time Sergeant A initiated a foot pursuit.

Officers I and J drew their service pistols prior to conducting a systematic and detailed K-9 search for the Subject.

Based on the totality of the circumstances, the BOPC determined that officers with similar training and experience as Sergeant A along with Officers I and J, 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 Sergeant A along with Officers I and J's drawing and exhibiting of a firearm to be in policy.

C. Less-Lethal Use of Force

- **Officer I** - Six beanbag rounds. Two TASER activations.

Officer I observed the Subject actively assaulting the K-9. Officer I repeatedly ordered the Subject to stop fighting. Additionally, Officer I advised the Subject if he did not stop fighting then he would utilize the beanbag shotgun. The Subject failed to comply with Officer I's commands, at which time Officer I fired one beanbag round at the Subject's right rib cage area. The first round appeared to be ineffective. Consequently Officer I fired two additional beanbag rounds at the Subject's rib cage area.

The Subject continued to assault the K-9 and did not appear to be affected by the beanbag rounds. As a result, Officer I loaded two additional beanbag rounds into the beanbag shotgun while continuing to order the Subject to stop fighting. The Subject continued his assault on the K-9, and Officer I fired three additional beanbag rounds at the Subject in an effort to stop his actions.

Officer I observed that the beanbag rounds were ineffective. Subsequently, Officer I transitioned to his TASER and discharged it two times.

Officer J – Five TASER activations.

Officer J observed the Subject repeatedly kicking in the officers' direction. As a result, Officer J surmised that it was unsafe to approach the Subject. Additionally, Officer J observed the Subject assaulting the K-9. Officer J transitioned to a

TASER. Consequently, Officer J discharged the TASER at the Subject's back upper torso area.

Based on the totality of the circumstances, officers with similar training and experience as Officers I and J would reasonably believe that the use of less-lethal force in order overcome the Subject's resistance and take him into custody would be justified.

In conclusion, the BOPC found Officers I and J's use of less-lethal force to be in policy.

D. Deployment of K-9

- In this circumstance, Sergeant B received a request to respond to the perimeter for a GTA subject. Sergeant B spoke with Sergeant A and was advised that the Subject was wanted for a felony offense. Consequently, Sergeant B confirmed that the incident met the K-9 search criteria and notified Officers C, D, I, and J. The aforementioned officers responded to the location.

Multiple K-9 search announcements were given in both English and Spanish over the Public Address system of a police vehicle from multiple locations. Additionally a K-9 announcement was given in English by the air unit.

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

E. Contact of K-9

- The Subject failed to respond to numerous K-9 search announcements and a search team was formed. During the search, the Subject was located and fled on foot wherein the perimeter was re-established. The air unit subsequently lost sight of the Subject in the rear yard of a residence. Consequently, Officer D, I and J conducted a systematic and detailed search of the aforementioned residence. Prior to entering the location Officer D ensured that the K-9 search team was adequately equipped with less-lethal devices.

K-9 Officer A followed the Subject's scent into the rear yard and worked toward an unoccupied parked truck. Officers D, I and J followed K-9 Officer A when they lost sight of him as he moved around the truck. Moments later, Officers D, I and J heard a bark, and a K-9 contact occurred. Officers D, I and J moved into a position where they were able to see the Subject fighting with K-9 Officer A.

Officers D, I and J observed that K-9 Officer A had a bite hold on the Subject's right thigh while the Subject assaulted the dog. Officer I issued verbal commands to the Subject that he lay still and stop fighting the dog. The Subject failed to comply and continued to assault K-9 Officer A. As a result, Officer I utilized the beanbag shotgun and TASER. At the same time, Officer J observed that the beanbag

shotgun was ineffective as the Subject continued his assault on K-9 Officer A. Consequently, Officer J discharged his TASER at the Subject. Moments later, the Subject momentarily stopped resisting and K-9 Officer A was recalled to Officer D.

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

F. Post K-9 Contact Procedures

- An officer immediately requested a Rescue Ambulance. The Los Angeles Fire Department (LAFD) responded to the scene and treated the Subject for injuries. The Subject was subsequently transported to a hospital where he was treated for injuries as a result of multiple canine bite wounds to his right upper arm, right upper leg and puncture wounds to his upper back (TASER), multiple scratches, abrasions and contusions to his right upper torso. The Subject's injuries were consistent with dog bite injuries.

The BOPC found that the post contact procedures were consistent with established criteria.