

Incident Summary

Sergeant A was off-duty and working security for a television show with Witness A. Sergeant A was notified by a member of the public that the Subject was intimidating audience members who were waiting in line.

According to Sergeant A, he observed the Subject walking along the sidewalk with a bucket in his right hand, holding a Pit Bull dog under his left arm like a football. The Subject then thrust the dog toward an audience member who was waiting in line outside the theatre. The audience member stepped back, raised his hands in the air, appeared to be afraid, and put something in the bucket.

Sergeant A approached the Subject and asked him to move on, because he did not want any problems. The Subject refused to leave and stated that he could do what he wanted to do. The Subject then walked away into a crowded ice cream store.

A security guard employed by the store, Witness B, approached the Subject and asked him to leave. The Subject did not comply with Witness B's request to leave. Sergeant A observed that the Subject was sweating profusely and appeared to be under the influence of drugs. Witness B attempted to guide the Subject out through the side entrance of the store. The Subject refused to cooperate with Witness B and other security personnel. Sergeant A requested that someone call 911.

Sergeant A utilized his hand-held radio and requested that Witness A respond to the store and assist him with the Subject. According to Sergeant A, the Subject was walking around the store, screaming and at one point walked toward a table of people and took two bottles of water from them.

Sergeant A advised the Subject to leave the location because he did not want to call the police unless it was necessary. When Witness A arrived, Sergeant A identified himself as a police officer and showed the Subject his police badge. The Subject picked up the Pit Bull and then attempted to walk away.

According to Sergeant A, he wanted to take the Subject to the ground in order to get him under control. As the Subject turned away from him, holding the dog in front of him, with the dog's back against his chest, Sergeant A placed his hand on the Subject's right shoulder and pushed him down to the ground. The Subject spun around to face Sergeant A as he began to fall. The movement caused the Subject's shirt to come off and his pants to fall. The Subject and the dog fell to the ground. The Subject lay face down on the ground, with the dog underneath him, with his arm around the torso of the dog.

Sergeant A grabbed the Subject's left arm and Witness A grabbed his right arm, and placed his arms behind his back as they gave him commands to calm down. Witness A handcuffed the Subject.

As the Subject and the Pit Bull fell to the ground the Pit Bull escaped from beneath the Subject's grip and bit Witness B's right thigh and forearm.

The Subject began to struggle as Sergeant A and Witness A used their body weight to hold him down. The Subject refused to calm down as Sergeant A yelled for the employees of the store to call 911.

According to Sergeant A, while restraining the Subject, the Pit Bull charged directly toward him. Sergeant A observed the dog bare his teeth. Sergeant A stated he stood up and backed away from the dog.

The Pit Bull dog continued to charge toward him and quickly closed the distance. The Pit Bull bit Sergeant A's right shin, causing a bite wound. As Sergeant A stepped back, the dog lost its grip on his shin, at which time Sergeant A noticed his right pant leg was ripped.

According to Sergeant A, the Pit Bull charged toward him a second time. Fearing the dog was going to cause him great bodily injury, Sergeant A unholstered his pistol and fired one round at the Pit Bull from approximately two feet.

Sergeant A then made the necessary notifications to the Department, and the Subject was taken into custody. The dog died from 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 Sergeant A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

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

C. Non-Lethal Use of Force

The BOPC found Sergeant A's non-lethal use of force to be in policy.

D. Lethal Use of Force

The BOPC found Sergeant 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. Off-Duty Tactics

The decision to take enforcement action in the capacity of an off-duty officer requires that consideration be given to the fact officers are forced to make split-second decisions under very stressful and dynamic circumstances. Each incident must be looked at objectively and areas of concern must be evaluated based on the totality of the circumstances.

Off-duty officers enhance their efforts in helping the public by contacting on-duty law enforcement personnel and acting as good witnesses. Situational

awareness of off-duty officers improves overall officer safety by each officer remaining cognizant of their surroundings, remaining at the scene, and providing pertinent information to the uniformed officers.

Based on the totality of the circumstances, the BOPC found that Sergeant A's actions were not a substantial deviation from approved Department tactical training.

Therefore, the BOPC found Sergeant A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- According to Sergeant A, the dog immediately charged at him. Believing that the dog was going to bite him again and cause serious injury, he drew his service pistol.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A, while faced with a similar set of 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's drawing and exhibiting of a firearm to be in policy.

C. Non-Lethal Use of Force

- **Sergeant A** – (Firm grip, takedown and bodyweight)

According to Sergeant A, he reached out and put his hand on the Subject's right shoulder. As the Subject spun around, he and Witness A grabbed onto the Subject and took him to the ground. Sergeant A was on the Subject's left side, controlling his legs, while Witness A was on his right side, controlling his shoulder area. The Subject continued to kick and twist from side to side.

Sergeant A then switched positions with Witness A and placed his knees on the Subject's back, between his shoulder blades, while Witness A controlled his legs. They continued to use their bodyweight to hold the Subject down. He and Witness A then utilized firm grips on the Subject's arms to bring them behind his back and handcuff him. After the OIS, the Subject was still fighting with Witness A, struggling and kicking his feet, so he went back and used his bodyweight to help Witness A keep the Subject down on the floor until uniformed officers arrived.

Based on the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Sergeant A, while faced with similar circumstances, would believe the same application of non-lethal force would be reasonable to overcome the Subject's resistance.

Therefore, the BOPC found Sergeant A's non-lethal use of force to be objectively reasonable and in policy.

D. Lethal Use of Force

- **Sergeant A** – (pistol, one round)

According to Sergeant A, the dog charged in his direction and bit him on his right shin. Sergeant A was able to move his leg back, which caused the dog to lose his grip. The dog immediately charged at him again. Believing the dog was going to bite him again and cause serious injury, Sergeant A fired one round from his service pistol at the dog to stop the dog's attack.

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

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