

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

K-9 CONTACT REQUIRING HOSPITALIZATION – 040-15

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
Foothill	5/8/15		

Officer(s) Involved in Use of Force	Length of Service
Officer E	23 years, 6 months

Reason for Police Contact

Officers were conducting a search, using a K-9 dog, to locate a wanted suspect who ran from them. The K-9 dog located the Subject, who resisted, and a K-9 contact requiring hospitalization occurred.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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Subject: Male, 44 years of age.

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 state law prohibits 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 April 26, 2016.

Incident Summary

On the date of this incident, Officers A and B were driving in a marked police vehicle and were conducting crime suppression activities. The officers were assigned to the Parolee Compliance Unit (PCU). Officer B was the driver of the police vehicle.

The officers observed a white vehicle in the driveway of a residence known to be a narcotics location. Officer A saw two individuals inside the white vehicle; a male driver, and a second male, wearing a blue shirt, who had exited the vehicle from the passenger side and was walking toward the front gate of the same residence. Officer A conducted a vehicle query on the white vehicle via his Mobile Digital Computer (MDC). The officers observed the vehicle back out of the driveway and then proceed north. As the police vehicle, in the southbound lane, and the vehicle, in the northbound lane, drove alongside of each other, Officer B stated the driver of the vehicle stopped his vehicle and asked him how he was doing. Officer B stated their vehicles were approximately ten feet apart from each other. According to Officer B, "I conducted a consensual encounter with the driver of that vehicle, and began talking to him...if he lived in the area so on and so forth."

The return information on the vehicle query of the vehicle did not reveal any wants or warrants, but did return with the name of the registered buyer, identified as the Subject. Upon seeing the Subject's name, Officer A immediately recognized the male with the blue shirt to be on active Post Release Community Supervision (PRCS) and who had an outstanding probation warrant for his arrest. The Subject had been on Officer A's caseload for the past few years. Officer A additionally recalled that the white vehicle was used by the Subject during a prior incident which occurred a few weeks prior to this incident. That incident involved a Foothill Patrol unit and the Subject as a barricaded felony Subject who escaped and evaded arrest.

After Officer A recognized the Subject, he advised Officer B to detain the lone driver of the white vehicle, later identified as Witness A. Both officers exited their vehicle, and Officer A advised Communications Division (CD) of their location (provided a "Code Six" broadcast). Officer A came around the front of the police vehicle to assist with detaining Witness A. Officer B ordered Witness A out of the vehicle and positioned him facing the left rear panel of the white vehicle. Witness A was compliant as he was handcuffed and searched. Once Officer B placed Witness A in the back seat of the police vehicle, Officer A focused on the movements of the Subject. The police vehicle and the white vehicle remained in the street.

According to Officer A, Witness A was detained for associating with the Subject, a known wanted felon and drug trafficker, as well as for driving the Subject's vehicle out of the driveway of a known narcotics location.

Meanwhile, the Subject had looked in the direction of the officers as he walked to the south side of the house. Officer A took a position so that he could observe the south

side of the residence. Officer A observed the Subject running through the walkway of the property and out of Officer A's sight.

Officer A contacted CD and requested additional units for a wanted felony subject, possibly inside the residence. Officer B took a position to be able to observe the north side of the residence. The officers remained in close proximity to render aid to each other, if needed, and to be able to monitor Witness A, who was still in the back seat of the police vehicle. The officers were able to contain all sides of the residence except the east side.

Officer A broadcast a request to have the first available unit take a position one block east of the residence. The officers remained in containment mode until additional units responded.

Police Officers C and D responded to the additional unit request and staged their black and white police vehicle at the corner of the street where the Subject was last seen running.

Officer C made contact with a male, who was standing in front of his residence. He advised Officer C that he had observed "a male, bald head, on the west side of the street, running southbound. Officer C broadcast the updated information provided by this witness.

Foothill Area Division Sergeant A responded to the perimeter and met with Officers A and B. Officer A advised him that the Subject was last seen running through the property. Sergeant A heard a broadcast over the police radio that a citizen had last seen the Subject running south one street east of their location. Sergeant A drove to that area and then requested an available unit to take his position on the perimeter.

Other Foothill Patrol Division officers responded to maintain the perimeter of the search area and an Air Unit also responded to provide aerial support and assist in setting up and maintaining the perimeter.

Foothill Patrol Division Sergeant B arrived and was briefed by Sergeant A. Sergeant B assumed the role as Incident Commander (IC) and set up a Command Post (CP). Sergeant B believed the Subject was contained in the perimeter and requested the Air Unit to contact the Metropolitan Division K-9 Unit. Sergeant A and Officers A and B also met at the CP.

Metropolitan Division K-9 Units responded to the CP. Sergeant A returned to Foothill Station to obtain a PCU package on the Subject, which consisted of the Subject's arrest record, Los Angeles County Consolidated Criminal History System (CHRRS), and probation status. The Subject's CHRRS report included his photo, which was displayed at the CP.

A second Air Unit continued to provide aerial assistance to the officers on scene and on the perimeter.

Metropolitan Division K-9 uniformed Sergeant C responded to the incident, as did Metropolitan K-9 Police Officers E and F. Sergeant B briefed Sergeant C. Additional Metropolitan K-9 officers responded to assist the officers. Officer E understood that the Foothill PCU unit observed a known Subject identified as the Subject, who was wanted for a felony probation violation. The Subject was described as a male, bald, six feet two inches, 220 pounds, and wearing a blue shirt.

Because they had a confirmed outstanding felony warrant for the Subject, and because he was possibly contained inside the perimeter, Sergeant C authorized and approved the use of the K-9 Unit to search for the outstanding Subject.

Officer E developed a detailed and systematic search plan of the perimeter by deploying four K-9 search teams. Sergeants B and C were advised of and approved the K-9 search plan.

Prior to the deployment of K-9 dogs, officers broadcast several pre-programmed K-9 search announcements in English and Spanish. They made these broadcasts utilizing the speakers from several black and white police vehicles. A K-9 announcement in English was also broadcast by the flight crew of the Air Unit, utilizing the Public Address (PA) system.

Numerous officers and residents confirmed that they had heard the announcements throughout the perimeter.

Officers C and D were assigned to join K-9 Officer E's search team, along with K-9 Officer F. Officers C, D, E, and F were armed with their pistols. Additionally, Officers E and B were equipped with X-26 TASERs. No Police Rifles were deployed.

Officer E deployed his service dog to search for the Subject. Prior to initiating the K-9 search, Officer E provided Officers C, D, and F with a tactical briefing and advised them of their roles and responsibilities. Officer F would be the point officer, while Officers C and D would be rear guards, and they would be giving commands and handcuffing the Subject. Officer E advised that a K-9 search was a fluid event, in which responsibilities and roles could change.

Officer E initiated the search in the area where the Subject was last seen. The officers unholstered their firearms prior to conducting the search for the felony Subject. The property consisted of a single-family residence with an attached garage, a front yard, and a driveway along the north side of the lot, which ran from the street to the backyard. There was a cement patio along the north side of the house, as well as a cement walkway along the south side of the house, which connected the front and back yards. Officer E opened the wrought iron front gate and deployed the K-9 into the front yard.

The officers cleared the front yard, and Officer E opened the gate that led from the front yard to the middle yard. The officers proceeded to the middle yard along the north side of the property. The K-9 cleared this area. Officers E and F noticed an unlocked side door that led into the attached garage. Officer E requested that Officer C post and cover the side door to the garage until the rear yard was cleared. Officer C moved west with the search team until he was on the west side of the garage's side door, where he posted and covered the door.

Once the front and middle yards had been searched, Officer E sent the K-9 into the rear yard area. Officer F remained as the point officer, with Officers D and E trailing just behind him in flanking positions as they moved toward the rear yard. The K-9 walked along the north property line, into the rear yard. As the K-9 reached the south end of the yard, he proceeded toward one corner of the rear yard, which was a small blind spot for the K-9 search team, due to the corner of the house blocking that section of the rear yard. According to Officer E, sending a service dog to clear a blind corner affords officers the ability of not needing to peek around corners and expose them to danger.

As soon as Officer E lost sight of the K-9 dog, he immediately heard unintelligible screams coming from an unknown male. Officer E advised the search team to move forward, believing the K-9 dog had located the Subject. The officers advanced to a position where they could observe the portion of the rear yard. Officer E observed that the K-9 dog had a bite hold on the Subject's right forearm. The Subject was rolling around in the dirt, lying face down, while simultaneously punching the K-9 about the head area with his free left hand.

The Subject's lower body was partially covered under a black plastic tarp. His upper body was on the cement portion and his lower body was on the grass portion of the rear yard. The Subject's head was oriented eastbound and his feet were westbound. Officer E commanded the K-9 to come back to him, with negative results. According to Officer E, the K-9 did not come to him because the Subject was repeatedly striking the K-9 in the head, causing him to be in defense mode.

Officer E ordered the Subject to stop hitting the dog, while at the same time continuing to order the K-9 to respond back to him. Officer F holstered his sidearm and obtained Officer E's TASER. Officer F told the Subject to stop hitting the dog or he was going to tase him. During this time, the K-9 dog responded to one of Officer E's commands and released his bite. Officer E immediately recalled the K-9 dog to his side, holstered his firearm, leashed the K-9, and backed out of the area. The Air Unit was overhead, but was not able to observe the K-9 contact due to a tree blocking its view.

Officer F secured the TASER in his trouser pocket and again unholstered his firearm to cover the Subject. Officer F stated he observed the Subject place his right hand under his chest area. Officer F ordered the Subject to put his hands out from under his body, and the Subject complied. Officer F requested Officers C and D to respond, put gloves on, and to handcuff the Subject. Officers C and D holstered their firearms, put on gloves, and Officer D grabbed the Subject's left hand, placing the manacle of one pair of

handcuff on the Subject's left wrist. Officer C grabbed the Subject's right hand and placed the manacle of another pair of handcuffs on the Subject's right wrist. The officers placed the Subject's hands behind his back, hooked the two open manacles together, and double-cuffed the Subject. Officer C conducted a search of the Subject, with negative results. The Subject was placed in a sitting position. According to Officers C and D, they each recognized the Subject to be the identified wanted felon.

Officer E noted that the Subject appeared to have significant injuries to his face as well as to his right arm. Officer E broadcast a requested a Rescue Ambulance (RA) for the Subject's injuries. According to Officer E, the Subject was not moved to the CP for medical treatment due to the severity of the Subject's injuries. The RA was directed to respond to the backyard of the location. Sergeant C responded in his vehicle to the location and met with Officer F. Officer F requested a gauze bandage for the Subject, which Sergeant C provided. They both walked to the rear yard, and Officer F passed the gauze bandage to Officer D and instructed him to place the gauze on the Subject's head to stop the bleeding.

A Los Angeles Fire Department (LAFD) RA Unit arrived and treated the Subject at scene. Officer A identified the Subject as the same person who ran away from him. The Subject was transported to the hospital where he was provided additional treatment.

Sergeant C assessed the Subject's injuries, caused by the K-9 contact, and formed the opinion that such serious injuries could lead to the incident being classified as a Categorical Use of Force (CUOF). Sergeant C contacted the on-call FID Lieutenant and advised him of incident. Sergeant C began an initial canvass for witnesses and took photos of the scene. Sergeant C was subsequently advised that the Subject would be admitted to the hospital. At this point, Sergeant C advised the FID Lieutenant that the Subject involved in the K-9 contact incident was going to be hospitalized due to his injuries. Sergeant C separated and admonished Officers E and F and began to monitor them, consistent with CUOF protocols.

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 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. Deployment of K-9

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

B. Contact of K-9

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

C. Post K-9 Contact Procedures

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

Basis for Findings

A. Deployment of K-9

- The BOPC noted that Department K-9s have proven to be invaluable in Department operations. Department K-9s may be used to assist officers in the performance of their duties when such assistance is beneficial to Department operations and to community welfare. When a police service dog is deployed, the dog handler shall have sole responsibility for the control and direction of the dog.

Department K-9s may be used in the following circumstances:

- a. In the detection, control and apprehension of a suspect when there is a reasonable suspicion of the suspect's involvement in criminal activity;
- b. In the investigation of a crime or possible crime;
- c. To defend peace officers and others from imminent danger at the hands of an assailant;
- d. To locate lost or missing persons;
- e. To locate or recover evidence; and/or
- f. In the furtherance of an investigative follow-up.

Sergeant B authorized the K-9 search to assist in locating and apprehending a felony suspect. Sergeant C, a Metropolitan Division, K-9 Platoon supervisor, responded to the scene and verified that the circumstances met the criteria for a K-9 search. Officer E, a Metropolitan Division K-9 handler, responded and was briefed by Sergeant B regarding the incident. Officer E formulated a tactical plan and initiated the K-9 search.

A K-9 search announcement was administered in both English and Spanish via the PA system from a black and white police vehicle from three different locations of the perimeter. Additionally, the Air Unit PA system was utilized to broadcast the K-9

announcement in English over the search location. Officers and residents around the perimeter heard the K-9 announcements.

In conclusion, the BOPC determined that the deployment of the K-9 resources were consistent with established Department criteria.

B. Contact of K-9

- Multiple K-9 announcements were made via the PA system; however, the Subject failed to respond to the K-9 announcements.

Officers D, E, and F entered the rear yard of the location and utilized the K-9 dog to search the area for the Subject. The K-9 dog was searching the southern portion of the rear yard out of the officer's view.

Officers heard a scream coming from the direction of where they lost sight of the K-9 dog and proceeded to that location. Officers E and F observed the K-9 with a bite hold of the Subject's right arm and the Subject punching the K-9 in the head and snout area.

Officer E attempted to recall the K-9, but the dog did not respond immediately because of the Subject's assault. Officer E also gave the Subject verbal commands to stop hitting the dog, but the Subject continued hitting the K-9.

Officer F obtained a TASER from Officer E and advised the Subject to stop hitting the dog or he would be tased. Officer E continued to give the Subject commands to stop hitting the K-9 along with recalling the K-9.

The Subject stopped his actions, and the K-9 released his bite hold. Officer E recalled the K-9 to his side and attached the leash to his collar.

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

C. Post K-9 Contact Procedures

- When a K-9 contact occurs and the subject of the contact is hospitalized (admitted) as a result of the contact, the incident is classified as a Categorical Use of Force incident and Force Investigation Division (FID) shall respond and conduct the investigation. When any supervisor investigating a K-9 contact becomes aware that the injury is likely to result in hospitalization, the K-9 supervisor shall make the appropriate notifications.

Officer E observed visible K-9 bite injuries to the Subject's right arm and facial area. Officer E requested a RA to respond to their location. The Subject received initial medical treatment from LAFD personnel at the scene and was subsequently

transported by RA to the hospital for further treatment. The Subject was later admitted as a result of his injuries he sustained from the K-9 contact.

Another officer responded to the hospital to also monitor the Subject's medical status. This officer notified Sergeant C that the Subject had been admitted into the hospital due to his injuries. Sergeant C identified the incident as a Categorical Use of Force (CUOF) and made the appropriate notifications.

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