

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

**K-9 CONTACT REQUIRING HOSPITALIZATION – 049-09**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On(X) Off()</u></b>	<b><u>Uniform-Yes(X) No()</u></b>
Southeast	07/28/09		

<b><u>Officers(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer C	20 years, 3 months

**Reason for Police Contact**

Officer was summoned to a location to conduct a K-9 search for a murder subject.

<b><u>Subject(s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded ( X )</u></b>	<b><u>Non-Hit ( )</u></b>
Subject: Male, 25 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.

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The following incident was adjudicated by the BOPC on July 13, 2010.

**Incident Summary**

Police Officer A and B were working a foot beat in a local park when they observed an individual who they knew to be a subject in a murder investigation. Upon observing the officers, the individual ran out of the park. Officer A broadcast to Communications Division (CD) that the officers were engaged in a foot pursuit and provided his location.

As the officers pursued the subject, Officer A again contacted CD to request that a perimeter be established and provided a description of the subject. CD subsequently requested that an air unit respond to the scene, but the officers lost sight of subject.

Various units responded to the location and a perimeter was established. A K-9 unit was also requested to respond to the scene. K-9 Officers C and D, along with K-9 Sergeant B, arrived at the CP were briefed. A plan was formulated to assemble two K-9 teams to search for subject in the area. The first team was comprised of Officers A, C, and D, along with a K-9. Officer C was designated as the K-9 handler and was responsible for directing the K-9, while Officer D was designated as the forward guarding officer, and Officer A as the rear guarding officer. Prior to initiating the search, the air unit used its Public Address (PA) system to broadcast the K-9 search announcement.

The air unit used its Forward Looking Infra Red (FLIR) system, and scanned the front yard of a residence in the perimeter area and detected a heat source by a trash can on the west side of the yard. After visually clearing the front yard, Officer C and his team unholstered their service pistols and entered. The K-9 then conducted an off-leash search of the area near the trash can, with negative results. According to Officer C, the source of the heat was determined to be decaying yard clippings in the trash can.

The search team then encountered a closed metal gate on the west side of the residence, which separated the front yard from the back yard. Officer C opened the gate and directed his K-9 toward the rear yard. According to Officer C, he had his K-9 clear the west side of the yard. The K-9 was then directed eastward along the north exterior wall of the residence. Officer C then recalled the K-9 when it moved beyond his line of sight. The search team then moved along the north exterior wall of the residence in the direction of the K-9, at which point the K-9 disappeared into an alcove area that led to a garage. Officer C next entered the garage, and observed a portion of the K-9's tail from behind a refrigerator. Officer C moved further into the garage and observed the Subject seated behind the refrigerator with his arms in the air. Officer C holstered his weapon, leashed the K-9 and removed him from the garage.

According to Officer C, the individual located by the K-9, was not the subject who had initially fled from the police. Officer A then directed the subject to stand and walk backwards toward him at which point Officer A handcuffed the subject. As the subject moved toward Officer A, he observed that subject's right arm was injured. Officer C further indicated that when he recalled the K-9, he observed a small amount of bleeding coming from the subject's right forearm. Officer C surmised that a K-9 contact had occurred.

The subject subsequently advised officers that he ran and hid from the police because he had a couple of misdemeanor warrants and he didn't want to go to jail. A check of the Subject's warrant status revealed that the Subject had an outstanding misdemeanor warrant.

The subject reported that while in the garage, he did not hear anybody telling him to come, and indicated the K-9 initially came toward him in a friendly manner. The K-9 licked his face and he then pushed the K-9. The K-9 then became aggressive and bit him.

The subject was transported to the CP, where he was treated by Los Angeles Fire Department personnel for a bite wound to his right forearm and an abrasion under his right eye. The subject was then transported to a hospital where he was later admitted for further treatment. While at the hospital, the subject was interviewed by Lieutenant B, who subsequently departed the hospital believing that the subject would be treated and released to police custody. The K-9 contact was not considered a Categorical Use of Force (CUOF) at that time and none of the involved officers were separated or monitored.

At approximately 3:50 a.m., the next morning Sergeant B and Officer C returned to the hospital and learned that the subject would be admitted for further treatment. Therefore, Sergeant B determined that the K-9 contact would be considered a CUOF and took steps to separate and monitor all the involved officers.

### **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/Holstering of a revolver by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to 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 unanimously made the following findings.

- A. Deployment of K-9** – Consistent with established criteria
- B. Contact of K-9** – Consistent with established criteria
- C. Post K-9 Contact Procedures** – Consistent with established criteria

### **Basis for Findings**

#### **A. Deployment of K-9**

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

#### **Debriefing Point No. 1: K-9 Search Announcement**

At the start of a K-9 search, the K-9 officer directing the search shall announce, or cause to be announced, a warning that a search dog will be deployed. The announcement is intended to notify persons within the search area of the intent to use a search dog and to afford the subject an opportunity to surrender. In this instance, the broadcast was only made in English. Although the subject was believed to speak English, the announcement is intended to warn members of the community not to exit their homes or expose themselves to potential danger during the search.

In conclusion, it is a best practice to ensure the safety of the community by alerting community members of the impending K-9 search. Additionally, the BOPC was made aware that a Spanish Search Announcement had been developed and was in the process of being reviewed by the City Attorney's office pending implementation.

Moreover, the BOPC noted that the criteria for a K-9 search is as follows:

- A K-9 team will assist officers in searches for felony subjects
- A K-9 search team will assist officers in searches for misdemeanor subjects known to be armed with a gun(s)
- At the request of the Metropolitan Division, Special Weapons and Tactics (SWAT) OIC in conjunction with a pre-planned or spontaneous SWAT related incident
- Lost or missing persons
- Evidence related to an on-going criminal investigation

In this instance, Sergeant B responded to the scene and upon being advised that there was a murder subject concealing himself in the area, determined that the K-9 search criteria were met. Prior to initiating the K-9 search, a plan was developed and the police helicopter's PA system was used to make the required K-9 search announcement. Therefore, the BOPC determined that the deployment of the K-9 was consistent with established criteria.

## **B. Contact of K-9**

In this instance, the subject observed the officers in the area and believed they were searching for him. As a result, the subject ran away from the responding officers and hid inside the garage. A K-9 searched the property and located the subject inside the garage. The K-9 approached the subject and licked his face at which point the subject pushed the K-9. It was further noted that the K-9, after biting the subject, immediately return to Officer C when summoned.

While it is impossible to determine the exact sequence of events that caused the K-9 to bite the subject, the evidence suggests that the K-9 acted in accordance with its training and responded appropriately to the subject having pushed. Moreover that it immediately responded to the commands of Officer C when summoned.

Therefore, the BOPC determined that the K-9 Contact was consistent with established criteria.

### **C. Post Contact Procedures**

When a K-9 contact or claims of a K-9 contact occurs, regardless of the circumstances, a K-9 supervisor or a Metropolitan Division supervisor trained in K-9 policies and procedures shall be notified. A Los Angeles Fire Department Rescue Ambulance (RA) shall also be requested to the scene to provide initial medical treatment. Furthermore, a K-9 supervisor shall respond to the location, conduct an investigation of the incident and complete a K-9 Contact Report.

A K-9 supervisor shall also respond to the hospital and document all K-9 related injuries. The responding supervisor shall contact the K-9 Platoon Officer in Charge with a situation estimate. In the event the injuries culminate into the individual being hospitalized, the next level of command, the Department's Command Post and Force Investigation Division shall be contacted without delay

In this instance, upon determining that the subject had sustained injuries as a result of being bitten by the K-9, an RA was requested. Upon their arrival, LAFD personnel evaluated the subject and transported him to a hospital for treatment. Upon becoming aware that the subject would be admitted to the hospital, Sergeant B advised Officer C that the incident was now a Categorical Use of Force (CUOF) incident and admonished him, as well as Officer D not to discuss the incident. Sergeant B also requested that Sergeant A admonish Officer A, who had finished his assigned shift, to not discuss the incident.

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