

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

K-9 CONTACT REQUIRING HOSPITALIZATION – 069-17

Division	Date	Duty-On (X) Off ()	Uniform-Yes (X) No ()
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Hollenbeck 10/18/17

Officer(s) Involved in Use of Force	Length of Service
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Officer C	17 years, 6 months
Officer D	5 years, 5 months

Reason for Police Contact

At the termination of a vehicle pursuit, the Subject fled on foot, hid in a backyard, and a K-9 search was conducted. When the Subject was located by a police dog during the search, the Subject attempted to flee. As a result, a K-9 contact occurred and the Subject was subsequently admitted to the hospital for his injuries.

Subject(s)	Deceased ()	Wounded (X)	Non-Hit ()
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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.

The following incident was adjudicated by the BOPC on September 18, 2018.

Incident Summary

Officers A and B were conducting patrol when they observed a white vehicle driving down the street. Officer A read the license plate number aloud to Officer B who conducted a computer inquiry via their Mobile Digital Computer (MDC). The inquiry revealed the vehicle was stolen. Officer A began to follow the vehicle, while Officer B informed Communications Division (CD) they were following a stolen vehicle, and requested a back-up unit, supervisor, and Air Unit (police helicopter).

The Subject, who was the driver of the white vehicle, accelerated and gained distance between his vehicle and Officers A and B. As the Subject approached a posted stop sign, he failed to stop at the limit line, in violation of California Vehicle Code (CVC) 22450. Officer A activated his overhead emergency lights and siren to stop the vehicle. The Subject failed to stop, at which time a 5.2-mile vehicle pursuit ensued through residential neighborhoods.

The Air Unit arrived over the pursuit and took over broadcasting the Subject's direction of travel. A second police helicopter relieved the first, and remained over the pursuit until the conclusion of the incident.

During the pursuit, Sergeant A responded and broadcast that he was monitoring the pursuit, subsequently declaring himself as the Incident Commander (I/C). Additionally, numerous units responded to assist in the pursuit, including Officers C and D.

At the conclusion of the pursuit, the Subject exited the vehicle and ran into the rear yard of a residence. The first officer to arrive at the scene stopped his vehicle behind the Subject's vehicle, exited, and chased the Subject. Officers C and D arrived just behind the first officer and observed him running into the yard. Officer D immediately exited his police vehicle and followed to assist him.

The officers could not locate the Subject and believed he had jumped over a chain link fence onto the property. The officers exited the yard, returned to their vehicles, and established containment of the surrounding area, which was being coordinated by the Air Unit.

Sergeant A then arrived and established a Command Post (CP) nearby. The Air Unit continued coordinating containment as additional units arrived and a one-block perimeter was established. During the course of establishing containment, Sergeant A requested that K-9 assets respond for a K-9 search.

K-9 Officers E and F were monitoring the frequency and heard the pursuit and perimeter being coordinated. Officers E and F advised CD they were responding to the scene.

As the Air Unit orbited above, the Tactical Flight Observer (TFO) utilized a ForwardLooking Infrared (FLIR) camera to assist him in locating the Subject. The TFO

located a “hot spot” under a canopy in the yard and alerted units on the perimeter. The units on the perimeter held their positions and awaited the arrival of the K-9 assets.

As this was occurring, homicide investigators advised the officers at the scene that the stolen vehicle was similar to one used in a homicide they were investigating. The investigators responded to the CP to provide additional information and to look at the Subject’s vehicle.

Officers E and F arrived at the scene. Officer E met with Sergeant A and verified the circumstances of the crime and containment. Officer E obtained information that the Subject was wanted for Grand Theft Auto (GTA) and was a possible suspect in a homicide where a handgun was used as the weapon. He was also told they believed the Subject was contained within a one-block perimeter, and that the Air Unit had an unidentified heat source under a blue tarp within the perimeter.

Officer E advised Sergeant A that the circumstances met the criteria for a K-9 search and received authorization from Sergeant A to move forward with a K-9 search in an attempt to locate the Subject. Officers E and F formulated a tactical search plan which consisted of two search teams on two different blocks. Officer E directed the CP to conduct a K-9 announcement and this was done using the Public Address (PA) system on the Air Unit.

Officer E advised Officers C and D they would be on his search team. Officer E formulated a plan to conduct a K-9 search with Officers C and D and discussed tactics related to the K-9 search. Officers C and D were the designated arresting officers. Officer E began the K-9 search.

Officer F utilized his police vehicle’s PA system to broadcast a pre-recorded K-9 announcement in Spanish, followed by one in English. Officer E unleashed the police dog to conduct a search in the rear yard where the Air Unit had reported a “hot spot.” According to Officer E, the dog went back toward some parked cars near the blue tarp. The behavior of the dog changed and looked like he was trying to pinpoint the location of a possible suspect. Officer E informed Officer C he was waiting for the dog to pull a tarp (car cover) off a vehicle parked under the carport. Officer E then recalled the dog. Although Officer E never saw the Subject, he directed Officer C to make an additional announcement in the event the Subject was hiding in the area under the carport.

The Subject ignored the commands to come out and remained concealed. Officer E then released the dog to continue the search. The K-9 maneuvered around the vehicle parked in the carport and remained out of the officers’ view. The K-9 was approximately 22 feet away from the search team when, according to Officer E, he believed the K-9 followed a scent and had become interested in the corner of the carport. The K-9 did not pinpoint or alert him of the Subject’s location. Suddenly, the Subject began to scream and yell in pain. Officer E immediately recalled the dog, at which time the K-9 returned to him.

Officer E, using his right hand, controlled the K-9 by his collar while he and Officer C made simultaneous commands for the Subject to put his hands up. Officer E raised his pistol and pointed it in the direction where he believed the Subject was hiding.

Although it had not been confirmed that a contact occurred, Officer E believed the dog had bit the Subject because he screamed. Officers C and E stated their view of the K-9 was obstructed by a vehicle that was parked under the carport. Officers C and E continued to give the Subject commands to show his hands. The Subject raised his right hand in the air, but refused to comply with commands to show both of his hands. Officers C and E continued to give the Subject commands, and he stated he was not armed. According to Officers C, D, and E, they believed the Subject rolled under the tarp wall in an attempt to flee from them.

K-9 Officer G, who was assisting the other officers, moved to one end of the carport get a better view of the Subject. Officer G utilized a flashlight mounted on his pistol to illuminate the area. Officer G observed the Subject hiding behind a tall plant located along the corner of the adjacent property, near the side of the carport wall, between the carport and a chain link fence. Officer G alerted the arrest team of the Subject's location, and began to give the Subject commands to come out with his hands up.

The Subject began to walk out from behind the cactus plant holding an object in his right hand. Officer G believed the object was a cellular telephone, and he gave the Subject multiple commands to drop the cellular telephone, which he refused to do. Officers C, D, and E met with Officer G. Officer E holstered his pistol and held his dog by the collar with two hands. Officers C and D maintained their pistols with two hands and pointed them at the Subject.

Officer G continued to give the Subject commands to walk in the officers' direction and lay on the ground. The Subject complied by walking out of the foliage, and laying down in a prone position.

Officers C and D holstered their pistols and approached the Subject to handcuff him. After handcuffing him, Officers C and D gave the Subject commands to stand up. The Subject was uncooperative and refused to sit or stand up on his own and walk to the street. According to Officer C, the Subject was "playing dead" when they gave him commands to stand up.

According to Officer D, he told Officer C to place his right hand underneath the Subject's left arm and place it on the seam of his back then lift with body weight to avoid any injury. Officer D grabbed the Subject's right arm as Officer C held onto his left arm. Together, they lifted the Subject to his feet and escorted him to a police vehicle for medical treatment.

According to Officers C and D, they used the aforementioned lift and escort technique they were taught while working in the jail to persuade inmates to walk on their own when they attempted to drop their bodies to the ground. The

technique prevented inmates from dragging their feet or bodies on the ground while being escorted.

Officer E broadcast that the Subject was in custody and advised the CP to request a Rescue Ambulance (RA). While the Subject was being searched, Officer G repeatedly asked him if the Subject had been bit. The Subject refused to answer and only stated he wanted his attorney. Officer C lifted the Subject's left sleeve and discovered puncture wounds on the Subject's left forearm and notified Officer E. Fire Department personnel arrived and, after assessing his injuries, transported the Subject to the hospital for treatment, where he was subsequently admitted.

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 this incident, there were no findings with respect to Drawing and Exhibiting of a firearm. In every case of a K-9 contact requiring hospitalization, the BOPC makes specific findings in three areas: K-9 Deployment; K-9 Contact; and Post K9 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 C and D's tactics to warrant a finding of Tactical Debrief.

B. Non-Lethal Use of Force

The BOPC found Officers C and D's non-lethal use of force to be out of policy.

C. K-9 Deployment

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

D. K-9 Contact

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

E. Post K-9 Contact Procedures

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

Basis for Findings

Detention

- While on patrol, the officers observed a vehicle, conducted a license plate inquiry, and discovered the vehicle was stolen. When the officers attempted to conduct a traffic stop on the vehicle, the driver failed to stop, resulting in the initiation of a vehicle pursuit. The officers' actions were appropriate and within Department policies and procedures.

A. Tactics

Tactical De-Escalation

- 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.

In this case, the Subject fled from a stolen vehicle at the termination of a vehicle pursuit. The officers established a perimeter and contained the Subject. The officers made several announcements and gave the Subject ample opportunity to surrender before finally deploying the police dog to assist with the search. As a result of the officers' efforts, they were able to maintain control of the situation without the need to use a higher level of force.

- The BOPC considered the following tactical considerations:
 1. Non-Conflicting Simultaneous Commands

The investigation revealed that Officers C and E were giving simultaneous commands to the Subject during the incident. Although the commands were non-conflicting, the officers were reminded that simultaneous commands sometimes lead to confusion and non-compliance.

These topics were to be discussed at the Tactical Debrief.

- 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 also merits a comprehensive debriefing. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

In conclusion, the BOPC found Sergeant A and Officers C and D's tactics to warrant a finding of Tactical Debrief.

B. Non-Lethal Use of Force

- **Officer C** – (Firm Grip and Physical Force)

According to Officer C, he and Officer D directed the Subject to stand up, but he would not comply. He then grabbed the Subject's right arm, while Officer D grabbed his left arm. Together, they placed their shoulders underneath the Subject's arms, lifted him up, and escorted him to the police vehicle.

- **Officer D** – (Firm Grip and Physical Force)

According to Officer D, after the Subject was handcuffed, he and Officer C tried turning the Subject around to sit him up; however, the Subject went limp, closed his eyes, and did not respond to their commands. Officer D then instructed Officer C to place his right hand underneath the Subject's left arm and on the seam of his back. He then grabbed the Subject's right arm and they managed to lift him up.

The BOPC found Officers C and D's non-lethal use of force to not be objectively reasonable and out of policy.

C. K-9 Deployment

- Officer E met with Sergeant A and confirmed that the incident met the criteria for K-9 deployment. Officer E telephoned his supervisor and briefed him on the incident. The supervisor concurred that the search met the criteria for a K-9 deployment. The K-9 officers then formulated a search plan that was reviewed and approved by Sergeant A and the supervisor.

A K-9 search announcement was played in both English and Spanish over the PA system from the police vehicles. Additionally, the Air Unit utilized its PA system to broadcast the K-9 search announcement in English over the search location. Prior to the search, Sergeant A and Officer E confirmed that the officers on the perimeter also heard the K-9 announcements. The Subject failed to respond to the K-9 search announcements.

Based on the totality of the circumstances, the BOPC determined that the deployment of the K-9 resources was consistent with established criteria.

D. K-9 Contact

- In this case, multiple K-9 announcements were made via the PA systems; however, the Subject failed to respond to the K-9 announcements.

According to Officer E, he decided to search the area where the Air Unit had located the hot spot first. The K-9 dog worked his way to the corner of the property and appeared to be working a scent along a parked car under the blue tarp. However, due to the clutter, the dog never pinpointed the Subject's location, so he recalled the K-9 to his side.

According to Officer E, he still believed the Subject was near the blue tarp. He and Officer C made additional K-9 announcements for the Subject to surrender. The Subject ignored their commands. Officer E re-deployed the K-9 into the area of the carport to see if he could pinpoint the Subject's location because he believed it was still unsafe to approach since the Subject was a possible homicide suspect and could possibly be armed.

According to Officer E, he suddenly heard the Subject scream, "I give up. I'm not armed," which led him to believe that the K-9 had made contact with the Subject. Due to his position and all the clutter and junk in the area, Officer E could not tell exactly where the Subject and the dog were located. He attempted to recall the K-9, but the dog was not responding to his commands. He then activated the remote e-collar transmitter located on his duty belt and the dog returned to his side.

According to Officer E, after the officers gave the Subject several commands to show his hands and surrender, the Subject crawled completely out from his location, proned himself out on the ground, and was handcuffed by Officers C and D.

Based on the totality of the circumstances, the BOPC determined the K-9 contact was consistent with established criteria.

E. Post K-9 Contact Procedures

- Officer E requested a Rescue Ambulance (RA) for the Subject and then notified the K-9 supervisor of the K-9 Contact. The Subject received initial medical treatment from Fire Department personnel at scene and was then transported by RA to the hospital, where he was subsequently admitted for his injuries from the K-9 bite.

The K-9 supervisor conducted a follow-up to the hospital to monitor the Subject's medical status and was advised that the Subject would possibly be admitted for treatment. Upon learning that the Subject was possibly going to be admitted into the hospital, the supervisor made the appropriate notifications.

Based on the totality of the circumstances, the BOPC determined the post K-9 contact procedures were consistent with established criteria.