

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

**CANINE (K-9) CONTACT REQUIRING HOSPITALIZATION NO. 001-06**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
Hollenbeck	01/03/06		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	24 years, 4 months
Officer B	22 years, 11 months
Officer C	16 years, 11 months

**Reason for Police Contact**

Officers responded to a radio call of a shooting with a victim down in the roadway. When the officers and LAFD arrived at the location of the shooting, they found the victim of the shooting was deceased. A description of the subject responsible for the shooting was obtained from witnesses and a perimeter established. The subject was subsequently located and taken into custody with the assistance of a K-9 unit. The subject was bit while being taken into custody and his injuries required hospitalization.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Injured ( X )</b>	<b>Non-Hit ( )</b>
Subject 1: Male, 23 years.				

**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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

Because state law prohibits divulging the identity of police officers in public reports and for ease of reference, masculine pronouns (he, his, and him) are used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on December 5, 2006.

## **Incident Summary**

On January 3, 2006, 17 year-old Victim A was standing at a bus stop, when he was confronted by two unidentified males (one of them was later identified as 23 year-old Subject A, a known and admitted gang member).

Subject A, and the unidentified male challenged Victim A regarding his gang affiliation. Apparently not satisfied with Victim A's response to the inquiry, Subject A produced a pistol, prompting Victim A to run into the intersection away from both subjects. Subject A began firing the pistol as he and the unidentified male chased Victim A. Victim A, struck by the gunfire, collapsed in the roadway. Subject A continued firing at Victim A as he laid on the ground.

After firing at Victim A, Subject A and the unidentified male both fled the location southbound.

Communications Division (CD) received multiple 911 calls regarding the incident and advised Hollenbeck units of an "ambulance shooting" with a victim down. The responding units located Victim A, who remained in the roadway, and established a crime scene perimeter. The officers also obtained a physical and clothing description of both subjects and their last known direction of travel.

According to citizen witnesses, one of the males (Subject A) was seen jumping over a fence at the rear of a vacant building.

Los Angeles City Fire Department (LAFD) paramedics arrived on-scene and pronounced Victim A dead at the location where he collapsed in the roadway.

An unidentified California Highway Patrol (CHP) officer driving nearby on a freeway transition road observed a male, wearing white clothing, running across the transition lanes in a westerly direction. The CHP officer, seeing the orbiting helicopter and police activity on the street next to the freeway, opined the male might be related to the activity and forwarded this information to officers in the area.

Air Support Division (ASD) personnel responded to the earlier shooting call and assisted ground units by providing a perimeter containment of the area.

Based on the information provided by the civilian witnesses, the CHP officer, and the observations of the topography by ASD personnel in the helicopter, a request was made for canine (K-9) assistance in the search of the subject(s).

A Command Post (CP) related to the homicide investigation was established and the tactical operation CP (related to the search for subjects) was established. Sergeant A and Police Officers A, E, B, C, and D assembled at the tactical operation CP where they were briefed by Sergeant B.

A search team consisting of Officers A, E, B, C, and A's service dog, K-9 A, was established. Based on the information known, it was determined that the search team would deploy and conduct their search in the area of a sloped embankment beneath an elevated transition road. At the request of the search team, the CHP closed the off-ramp.

Because the subject was presumed to be armed, the search team made the decision not to issue a search announcement in order to maintain tactical advantage. The decision was made with the approval of Sergeant A.

The search team began searching in a northerly direction on a pathway under the freeway underpass. As the team moved approximately 15 to 20 feet on the pathway, K-9 A alerted by barking that K-9 A had located something of interest. Officer A opined that K-9 A might have alerted on an encampment occupied by transients and issued a recall command.

As K-9 A returned to Officer A, Officer A observed a male (Subject A) wearing all white clothing, who matched the physical and clothing description of the subject being sought, rise up from the top of a concrete structure form. Subject A raised his hands as if he were surrendering, jumped down off the concrete structure form and onto the pathway. Officer E directed Subject A to remain still and to keep his hands up. Officer A was also yelling commands at Subject A but he refused to comply, turned, and then ran in an attempt to escape.

Officer A immediately voiced a command resulting in K-9 A chasing Subject A, jumping on his back, and effecting a bite/hold on his clothing. The momentum from K-9 A caused Subject A to fall to the ground. In an attempt to free himself from the bite/hold, Subject A began wrestling with K-9 A. Subject A struggled with K-9 A for approximately two-four seconds at which time Officer A voiced a recall command which resulted in K-9 A letting go of Subject A and returning to Officer A who placed K-9 A on a leash. Subject A remained on the ground and complied with commands to remain still.

Officer A and K-9 A then walked past Subject A allowing Officer E to cover the subject with the shotgun and Officers B and C to take Subject A into custody.

Officers B and C approached Subject A to take him into custody and had to force Subject A's arms behind his back to overcome what was described as a "squirming" type of resistance in order to handcuff him. A pat down search for weapons on Subject A's person was met with negative results. Officers B and C then walked Subject A to the tactical CP.

Officer E checked the area from which Subject A had emerged and located a nickel-plated 9mm pistol. Two unidentified Metropolitan Division officers not involved in the search or arrest of Subject A were assigned to guard the pistol. Officer C's dog, which replaced K-9 A, resumed the search of the outstanding subject. The second subject was not located.

Officers requested a LAFD Rescue Ambulance (RA) for a male with a dog bite.

LAFD Assessment Engine 25 arrived at the tactical CP and examined Subject A. LAFD Captain A indicated that Subject A was calm, not bleeding, did not display signs of distress or pain, but was verbally non-responsive. Captain A observed minor abrasions consistent with dog bites to Subject A's back and neck. Upon questioning Subject A regarding his injuries and condition, he remained non-responsive.

LAFD Paramedics A and B arrived on scene to provide additional medical treatment and the transportation of Subject A. Subject A appeared to Paramedics A and B to be lethargic and exhausted. Subject A remained silent when asked medical/injury-related questions. However, Subject A later asked for water. Either Paramedic A or B agreed to provide him with water once they got to the hospital if he (Subject A) provided them with his identification information.

While awaiting transportation to the hospital, a field identification of Subject A regarding his possible involvement in the homicide was conducted. Two citizen witnesses positively identified Subject A as being involved in the crime.

Based on LAFD policy regarding non-responsive patients, Subject A was transported by Paramedics A and B. Police Officer F rode in the RA with Subject A and his partner, Officer G, followed in a marked police car. Doctor A examined Subject A in the Emergency Room. Officer F who was nearby, overheard Subject A tell Doctor A that he fell on something when asked what happened.

Police Officer H was directed to respond to the hospital to obtain gunshot residue (GSR) samples from Subject A. While at the hospital, Officer G overheard Subject A tell either Officer H and/or Officer F that he had been injured when he fell.

Officers F and G were subsequently relieved at the hospital by Police Officers I and J who assumed the guard function. While standing by with Subject A, Doctor A advised Officers I and J that Subject A suffered a punctured right lung and was being admitted for further treatment. Officer I contacted Sergeant C and advised Sergeant C of Subject A's status.

Sergeant C directed Officer I to contact Subject A and ask him how he injured his chest. Subject A initially told Officer I that he did not know, but later inquired of Officer I, what would be in his best interest or what would happen if he said officers hit him or if he fell? Officer I did not respond and Subject A asked, "Well, do you think if I told you the officers hit me, that I would get some money? Officer I asked Subject A to just tell him how he was injured so he could report the information to his supervisor. Subject A responded, "Well, when I was being taken into custody, the officer, the officer punched me in the chest." Officer J, who was standing nearby, overheard the interaction between Officer I and Subject A. Officer I did not ask any further questions and advised Sergeant C of the allegations.

Sergeant D was directed by Sergeant C to respond to the hospital to investigate the allegations of misconduct. Upon arrival, Sergeant D met with Officers I and J, and then Subject A. Subject A also told Sergeant D that arresting officers punched him in the chest during his arrest. Sergeant D observed red marks on Subject A's chest but later learned from hospital staff that the marks were a result of adhesive electro-cardio-gram (EKG) patches placed on Subject A's chest during his initial medical examination.

Sergeant D used a digital camera to take photographs of the reddish marks on Subject A's chest, a pinch-like injury to his right bicep, and two abrasions on his left shoulder.

Sergeant E was advised of Subject A's allegations and responded to the hospital. Sergeant E spoke with Doctor A to determine if Subject A's hospitalization was due to an injury sustained as a result of the K-9 contact. Doctor A told Sergeant E that Subject A's injury was related to the K-9 jumping on his back, being knocked down, falling, and landing hard on his side. When asked, Doctor A told Sergeant E that Subject A did not report to him being beaten by officers. Sergeant D, who was nearby, overheard the conversation between Sergeant E and Doctor A.

Sergeant E contacted Force Investigation Division (FID) and spoke with Lieutenant A regarding the incident. Lieutenant A advised that the incident would be investigated by FID as a Law Enforcement Related Injury (LERI). Sergeant E gathered three of the four search team members and had Lieutenant B and Sergeant A monitor the officers pending the arrival of FID detectives.

Subject A was subsequently absentee booked at the hospital for violation of Penal Code Section 187(a) (Murder).

On January 5, 2006, Homicide Detective A and Detective B conducted a tape-recorded interview with a Miranda admonishment and waiver by Subject A. When asked about his arrest, Subject A stated, "They caught me and like (inaudible) f\*\*king me up."

On January 6, 2006, FID Detective C and Detective D went to the hospital, provided a tape-recorded Miranda admonishment with wavier and interviewed Subject A regarding the LERI investigation. Subject A told Detectives C and D that after fleeing the homicide scene, he ran and hid under the freeway overpass. Subject A said he believed that he had hid for approximately 45 minutes when he observed officers with a dog coming in the direction of his hiding spot.

Subject A said at the time he was located by the dog and officers he observed Officer A pointing Officer A's pistol in his direction and that he complied with the officer's commands to get down from his hiding spot. Subject A said when he jumped down, he lay on the ground and heard someone yell, "Go." Subject A said the dog then began attacking and biting him on the left side of his back in the area of his neck/shoulder. Subject A said he began fighting with the dog and one of the male officers yelled to him, "Don't do that."

Subject A said he stopped fighting with the dog and put his hands over his face. Subject A said the dog was pulled away from him and the officers began kicking him with their boots in the back and head approximately seven or eight times saying, "Well, now you're feeling good because you smoked somebody, because you killed somebody?" Subject A said one of the officers told him to get up and he was punched very hard in the stomach making it very difficult for him to breathe.

Subject A said he was unable to identify which officer punched him because the officers' faces were covered. Subject A said afterwards, the officers began discussing what they were going to say about his (Subject A) injuries. Subject A said that the officers said they were going to say Subject A fell.

According to Subject A, he and the officers walked for approximately two or three blocks before he was handcuffed. Subject A said he was handcuffed once he got closer to a larger group of police officers.

Subject A said he spoke with an unidentified officer after he was brought to the hospital and asked him what would be in his best interest to report as it related to his excessive force allegation. Subject A admitted that he also asked him if he could receive monetary compensation for his allegation. Subject A insisted that he was just playing around with the officer when he posed the question.

Based on Subject A's allegation of unauthorized force, Detective C initiated a personnel complaint and forwarded it to Internal Affairs Group.

### **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 weapon 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**

The BOPC found the K-9 deployment consistent with the Department's established criteria.

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

The BOPC found the K-9 contact and the handlers actions consistent with Department protocol.

## **C. Post Contact Procedures**

The BOPC determined that the post contact procedures were consistent with Department K-9 protocol.

## **Basis for Findings**

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

The BOPC noted that the Incident Commander, Sergeant B, determined that Subject A and an unknown subject, armed and wanted for a homicide might be hiding within an area contained by Air Support Division and assisting ground units.

This was based on information from several citizen witnesses as well as a CHP officer. Because of the area to be searched and the need to maintain tactical advantage, approval was granted to conduct the search minus a K-9 search announcement. As such, K-9 A was deployed and a search was conducted.

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

As the search began, K-9 A alerted on an area of interest and began barking. K-9 A was recalled by Officer A, obeyed as trained and began walking towards Officer A. Simultaneously, Subject A, who was hiding, jumped down and fled. Fearing that Subject A, who might be armed and was wanted for homicide might escape, Officer A directed K-9 A to pursue Subject A. K-9 A obeyed the command, pursued Subject A and jumped on his back causing him to fall to the ground.

Subject A briefly wrestled with K-9 A and Officer A recalled the canine back to Officer A. K-9 A obeyed the command and returned as trained.

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

The BOPC noted that after contact occurred, the subject was taken into custody and medical assistance was immediately requested. Sergeant F was directed to conduct the K-9 contact investigation. LAFD arrived on-scene and treated Subject A for abrasions he received during the K-9 contact. While being treated, Subject A refused to cooperate with LAFD personnel by remaining silent when questioned regarding his injuries.

The BOPC noted that due to LAFD policy regarding non-responsive patients, Subject A was subsequently transported to the hospital and treated for a punctured lung.

Sergeant F learned that Subject A was being admitted and made the appropriate notification to FID.

The BOPC also noted that Department records indicate that Officer A and K-9 A's Department training and certification were current at the time and that both maintained a below average find rate. However, the find rate was within Department guidelines and the BOPC determined the history and training were consistent with Department K-9 protocol.