

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

K-9 CONTACT REQUIRING HOSPITALIZATION – 073-08

<u>Division</u>	<u>Date</u>	<u>Duty-On (X) Off ()</u>	<u>Uniform-Yes (X) No ()</u>
Metropolitan	08/19/2008		

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
K-9 Officer A	19 years, 4 months

Reason for Police Contact

A shooting suspect was believed to be concealed inside a trailer in the backyard of a residence. Officers verbally ordered the suspect to exit the container. When the officers did not receive a response, a K-9 was sent inside the trailer and found the suspect which resulted in the K-9 biting the suspect.

<u>Subject</u>	<u>Deceased ()</u>	<u>Wounded (X)</u>	<u>Non-Hit ()</u>
Subject 1: Male, 20 years old.			

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 and addenda items); the 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.

The following incident was adjudicated by the BOPC on July 7, 2009.

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.

Incident Summary

On August 19, 2008, an unidentified female called 911 to report a drive-by shooting that had just occurred. The caller described the suspects as two male Hispanics driving a black GMC Suburban. The caller said the suspect who committed the shooting was the

passenger and that he was wearing a long sleeve black shirt. Communications Division (CD) broadcast the crime, location, and suspect information to area units.

Officers observed a black Suburban parked in front of a residence occupied by Subject 1 and Subject 2. As the officers drove past the Suburban, it began to travel west on the roadway. The officers made a u-turn and followed the Suburban; however, they lost sight of the Suburban momentarily. When the officers observed it again, it had collided with a parked vehicle.

The officers observed Subject 1 running westbound on the sidewalk and Subject 2 running southbound toward a parking lot. The officers followed Subject 1 in their vehicle; however, the officers lost sight of him as he ran northbound into an alley. The officers broadcast their location and activity and requested additional officers to establish a perimeter.

As the responding units were establishing a perimeter, officers located Subject 2. He was taken into custody without incident.

Meanwhile, as an officer was interviewing the owner of the vehicle that was struck by the Suburban, he was approached by Victim 1 who said he was a victim of the shooting. Victim 1 identified the Suburban as the suspects' vehicle and said there were two suspects inside the Suburban and that one of them was wearing a black shirt.

Witness 1 called 911 from inside his residence and said an individual wearing black pants and a black shirt entered a truck trailer in his backyard.

Police officers responded to Witness 1's residence and verbally ordered, in English and Spanish, for Subject 1 to exit the trailer but received no response. The officers maintained their perimeter positions and a K-9 was requested.

K-9 Officer A arrived at the location. K-9 Sergeant A, who was en route to the scene, was contacted telephonically by Sergeant B from the scene and determined that the incident met the requirements for a K-9 search and approved the deployment of the K-9.

K-9 Officer A formed a search team which consisted of Officers B, C, and D. Prior to the start of the search, a tactical flight officer broadcast a K-9 announcement from the helicopter's public address system.

Note: According to Subject 1, he did hear an announcement from a helicopter speaker that said something in reference to a dog; however, he did not think the announcement was directed at him.

K-9 Officer A proceeded to search the backyard area with his K-9 and search team. After a search of the backyard area was completed, K-9 Officer A directed his K-9 to search the outside perimeter of the trailer which Subject 1 had been seen to enter by Witness 1. The K-9 did not give any indication of a scent on the outside of the trailer.

Prior to sending the K-9 into the trailer to search, K-9 Officer A gave two verbal K-9 announcements in English; however, there was no response.

Note: K-9 Officer A was asked if the K-9 announcement was given in Spanish. According to K-9 Officer A, prior to conducting the search he received information from an unidentified officer who had recognized Subject 1 from an unrelated incident that occurred approximately six months ago. The unidentified officer said that Subject 1 spoke English, and K-9 Officer A decided that a Spanish K-9 announcement was not necessary.

According to Subject 1, he did not hear any announcement just prior to the K-9 entering the trailer.

K-9 Officer A released his K-9 into the container to search, and within a few moments, he heard someone screaming and the sounds of a scuffle from inside the trailer.

Officer C and K-9 Officer A then entered the trailer and observed Subject 1 wrestling with the K-9. He was ordered to stop fighting with the K-9. Subject 1 continued to fight with the K-9, and the K-9 continued to bite him. Officer C ordered Subject 1 to put his hands up. When Subject 1 put his hands up, K-9 Officer A recalled the K-9 and led him out of the trailer. Officer D then entered the trailer and handcuffed Subject 1 without incident. Officer D searched Subject 1 for weapons; however, none were found.

Officer B observed that Subject 1 had blood on his left arm and requested a Rescue Ambulance (RA) to respond to the scene.

Personnel from the Los Angeles Fire Department arrived at the scene and treated Subject 1 for bites to his upper right arm, right forearm, left thigh, and buttocks. Subject 1 was transported by RA to a hospital where he was admitted after a medical examination revealed that he would require surgery to repair a significant tear of soft tissue to his right arm.

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

B. Contact of K-9

The BOPC found that the contact of 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

In this instance, K-9 Sergeant A contacted Sergeant B at the command post and determined that the K-9 search criteria was met. K-9 Sergeant A was responding but had an extended estimated time of arrival to the scene and telephonically approved the initiation of the K-9 search prior to his arrival.

Therefore, although current Department policy states a K-9 supervisor shall “*if practicable, respond prior to the initiation of the search,*” due to the fact that the search was for potentially armed drive-by shooting suspects and K-9 Sergeant A had a long estimated time of arrival to the scene, to ensure the safety of the public, it was reasonable for him to authorize initiating the search prior to his arrival.

In this instance, K-9 Officer A ensured that a K-9 announcement was made in English prior to initiating his K-9 search. The announcement was made in English only due to information K-9 Officer A had received leading him to believe that Subject 1 was English speaking. Current Department policy states an announcement should be made in Spanish.

Therefore, although information was obtained that Subject 1 was English speaking, due to the fact that the perimeter was located in a predominately Hispanic neighborhood, there was a significant potential for non-English speaking residents to be in the area of the search. In order to alert these potential non-English speaking residents to the initiation of the K-9 search, K-9 Officer A is reminded that the K-9 search announcement should be made in English and Spanish.

Note: Subject 1 would later indicate that, while hiding in the trailer box, he heard the K-9 announcement from the helicopter; however, he thought it was not meant for him.

In this instance, K-9 Sergeant A was responding to the scene and confirmed the information previously relayed to him by Sergeant B, including the fact that Subject 1 was wanted for a felony crime. Prior to initiating the K-9 search, K-9 Officer A

requested that a tactical flight officer of Air Support Division use the PA system mounted on their police helicopter to make the required K-9 search announcement.

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

In this instance, the K-9 was sent into the trailer box in an attempt to locate Subject 1. The search team officers heard a struggle inside the trailer box and entered. Due to the visual adjustment needed when transitioning from daylight into darkness, the officers initially could not see the K-9. According to Officer C, *"and the next thing you know, there were things flying everywhere. The guy started fighting the dog."* Subject 1 stated, *"Yeah, I was pulling around, pulling around."* Department K-9s are trained to react to any sudden movement or attempted flight by biting and holding the suspect until commanded to release by his handler. It is apparent that Subject 1 reacted to the K-9's presence by fighting with him, and the K-9 acted as trained when he bit Subject 1.

After hearing the struggle between the K-9 and Subject 1, K-9 Officer A entered the trailer box along with other search team members. In this case, Subject 1 assaulted the K-9 and continued to do so.

During this incident, the K-9 reacted appropriately to Subject 1's actions. This was a dynamic situation, and K-9 Officer A's actions were, in fact, consistent with his training and past practice under similar incidents. The handler in this case recalled his K-9 when he believed it to be reasonable and safe under the circumstances.

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

In this instance, K-9 Sergeant A initiated a K-9 contact investigation and responded to the hospital to interview Subject 1. Upon arrival, K-9 Sergeant A was informed by a doctor that Subject 1 required surgery and that he would be admitted to the hospital. Upon receiving the above mentioned information, K-9 Sergeant A made the appropriate notifications and ensured the involved officers were advised of the hospitalization and ordered not to discuss the incident.

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

The commanding officer provided the K-9 Contact Review Board with the training history for K-9 Officer A and his K-9. Officer A and his K-9's required Department training certifications were current at the time of the incident. Therefore, the BOPC determined that the history and training of K-9 Officer A's K-9 was consistent with established criteria.