

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

OFFICER-INVOLVED ANIMAL SHOOTING 097-07

Division	Date	Duty-On(x) Off()	Uniform-Yes(x) No()
Harbor	10/23/07		

Involved Officer(s)	Length of Service
Officer D	6 years, 3 months

Reason for Police Contact

Officer encountered a Pit Bull during a search of a residence.

Subject(s)	Deceased ()	Wounded (x)	Non-Hit ()
Pit Bull.			

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 BOPC; 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, 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 30, 2008.

Incident Summary

Detective A received information that a Subject who had recently been released from prison and was on parole, was again manufacturing methamphetamine and storing firearms at his residence. Detective A distributed this information to the officers assigned to the area.

Officers A and B were on duty in a marked police vehicle and observed a vehicle with a modified exhaust, in violation of the California Vehicle Code. The officers conducted a traffic stop on the vehicle and discovered that the driver of the vehicle was the same Subject, which Detective A had provided them information on. The officers verified the Subject's address and contacted Detective A, who authorized the officers to conduct a parole search of the Subject's residence.

Detective A, Sergeant A, and Officers A, B, C, D, and several other officers responded to assist with the search. During a search of the residence, Detective A observed that a light was on inside a basement bedroom. Detective A and Officers C and D aligned themselves outside the basement bedroom in preparation to enter and search it. Officer D drew his pistol and Officer C positioned himself as the point officer along with Officer D and Detective A. When Officer C pushed open the unlocked door to the basement bedroom, a Pit Bull exited and ran past Officer C and then toward Officer D. Officer D anticipated the Pit Bull would pass him, so he moved out of the Pit Bull's path, but the Pit Bull turned toward Officer D, growled and bit him near his groin area. The Pit Bull made contact with Officer D's pants and pinched the inside of his left leg. Officer D attempted to move away from the Pit Bull, but the Pit Bull continued its attack. In an attempt to avoid being seriously injured, Officer D fired one round from his pistol at the Pit Bull from a distance of approximately three to four feet. The Pit Bull was struck by the round and fled back into the basement bedroom. Officer C then closed the basement bedroom door, which secured the Pit Bull inside.

The Pit Bull involved in this incident was transported to a pet clinic by its owner, where it received medical treatment for a single gunshot wound to its face.

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. Tactics

The BOPC found Detective A, Sergeant A, Officer C and D's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer B's drawing and exhibiting to be in policy.

C. Use of Force

The BOPC found Officer B's use of force to be in policy.

Basis for Findings

Tactics

1. Detective A authorized a parole search based solely on the active parole status of the Subject

The United States Supreme Court ruled that the Fourth Amendment does not prohibit a police officer from conducting a suspicionless search of a parolee, in the case Sampson V. California, 2006 United States LEXIS 4885.

The Court determined that parolees have fewer expectations of privacy than do probationers because parole is closer to imprisonment than is probation. Before a prisoner enters parole status, that person is required to knowingly waive 4th Amendment rights to allow law enforcement officers to search their person, personal property, and residences "at any time." To impose a search standard would give parolees a greater opportunity to anticipate searches and to conceal criminality. Though the Court has found suspicionless searches of parolees is permissible, the Court also noted that California Penal Code Section 3067(d) prohibits law enforcement officials from conducting parole searches that are arbitrary, capricious, or harassing. Searches conducted in violation of the Penal Code section will subject officers to disciplinary and possible civil actions.

In application, officers must have personal knowledge of a person's status as an active parolee prior to conducting a suspicionless parolee search. The court decision does not apply to persons on probation status. Officers who wish to search persons on probation must still have reasonable suspicion of criminal activity in addition to knowledge of probation status and search restrictions of an individual prior to probation search. (Consent Decree Bureau Notice, June 20, 2006)

The BOPC noted that Detective A had knowledge that Subject was on active parole and had obtained information that he was involved in criminal activity. In this instance, the parole search was conducted within the parameters of the "legal" precedent established by the Court.

2. Detective A authorized a parole search of a location that he suspected was again being used to manufacture methamphetamine.

Preliminary Investigations of Illicit Laboratories - Officers conducting a preliminary

investigation of an illicit laboratory shall immediately secure the perimeter of the location, evacuate adjacent inhabited dwellings, request that a field supervisor respond to the scene, and make the following notifications: Illicit Lab Squad, Narcotics Division; Hazardous Chemical Team, SID; and, Fire Department. (Los Angeles Police Department Manual, Section 4/212.49)

Although Detective A was aware of the prior methamphetamine laboratory at residence, the information relative to the continued methamphetamine laboratory activities had not been substantiated and warranted further corroboration before specific actions and notifications were necessary.

3. A more sophisticated tactical plan should have been devised prior to conducting a parole search of the residence.

“Officers should always expect to find a suspect in every corner and behind every piece of furniture. Using this basic principal, an officer will eliminate the element of surprise when they have located a suspect. Remember, you must be prepared to deal with the suspect once they are located. Always consider secondary suspects, control the suspect’s hands, move the suspect to a location that is advantageous to the officers, consider the best location for taking the suspect into custody; if there is an area inside the location that is uncontaminated, it can be used; if you must take the suspect outside of the location for officer safety, then do so; control the suspect movements; slow their movements down by placing the suspect onto their knees; never place a suspect between officers; or pull a suspect past a covering officer; handcuff the suspect; then search thoroughly and conduct an interview; resume search; and complete the investigation. (Los Angeles Police Department, Tactics, LD23)

Officers had prior knowledge regarding the history of the residence, which involved the recovery of a narcotics lab and several weapons during a search warrant. The tactical plan should have involved containment, initial control of all occupants, a protective sweep search for additional suspects and then a search for evidence.

4. It appears that sufficient tactical measures were not taken to identify and appropriately address the presence of a vicious Pit Bull.

Department training practices include instruction on indicators of the presence of Pit Bulls at a location, which could include beware of Pit Bull signs, food or water dishes, bones, Pit Bull houses or pens, animal paths in the grass and the presence of animal waste. Additionally, officers are trained regarding Pit Bull encounters, specifically when confronted by a hostile Pit Bull. There is no single tool that is the ideal solution. Generally, the use of voice commands will calm most Pit Bulls. In addition, the use of Oleoresin Capsicum (OC) spray, baton or fire extinguisher can be effective on aggressive Pit Bulls and should be considered if tactically reasonable. In general, the TASER or beanbag shotgun commonly prove ineffective and should not be used. Nonetheless, an officer is authorized the use of lethal force when it’s reasonable to protect him/herself or other person(s) from immediate threat

of death or serious bodily injury. (Training Bulletin, Volume XXXVI, Issue 4, November 2004)

The BOPC determined that the tactical plan would have been improved had consideration been given to the potential eventuality of the presence of a vicious Pit Bull. The plan should have involved exhausting all efforts to identify the presence of a Pit Bull and ensuring various tools were deployed to resolve the situation, if necessary.

Drawing/Exhibiting/Holstering

The BOPC evaluated the circumstances relevant to Officer D's drawing and exhibiting and determined that he had sufficient information to reasonably believe that there was a substantial risk and the situation may escalate to the point where deadly force may become necessary.

The BOPC found Officer D's drawing and exhibiting to be in policy.

Use of Force

The BOPC evaluated the circumstances relevant to Officer D's lethal use of force. The BOPC determined that Officer D had sufficient reason to believe that it was necessary to protect himself from the immediate threat of death or serious bodily injury.

The BOPC found Officer D's use of force to be in policy.