

Incident Summary

Uniformed Police Officers A, B, and C, were in a marked black and white hybrid vehicle, equipped with Digital In-Car Video System (DICVS) and ballistic door panels. The officers were conducting crime suppression in the area, when they observed a vehicle by driven by the Subject. The officers observed that the vehicle did not display any plates, in violation of 5200(a) Vehicle Code (VC), and had tinted windows, in violation of 26708 (A) (1) VC.

Officer A activated his forward facing red light and conducted a vehicle stop. The officers opened their doors and exited their vehicle. Officer A instructed the driver to lower all the windows, due to the limited visibility from the tinted windows. As the windows were beginning to lower, the vehicle suddenly sped away at a high rate of speed. The officers entered their vehicle and followed.

The officers had a brief discussion and, based on their observations, determined there was a likelihood the vehicle was stolen. They premised their belief on the fact that the vehicle was a high-end vehicle, possessed paper plates, and the driver engaged in an overt action to flee. Officer C broadcast that they were in pursuit of a possible stolen vehicle and requested a backup unit and a police helicopter to respond. The pursuit culminated when the Subject was involved in a traffic collision and fled on foot. The officers were advised by residents, who had exited their homes, that the Subject had fled in between the residential homes.

A check of the Subject's vehicle determined that there were no other occupants inside. Meanwhile, Officer A provided an updated radio broadcast and began to establish a perimeter. Air Support Division (ASD) and several additional officers assisted. Witnesses identified a possible backyard where the Subject was hiding. Meanwhile, Officer A conducted an article search of the Subject's vehicle and located a loaded .45 caliber semiautomatic pistol on the driver's side floorboard. Officer A broadcast this information. Sergeant A arrived and assumed the role of Incident Commander (IC). Sergeant B set up the command post (CP). Sergeant A was briefed by the primary officers and believed the Subject was contained in the perimeter.

ASD communicated to the CP that the Metropolitan Division K-9 Unit had been notified and that they were responding. Uniformed Metropolitan Division K-9 Sergeant C responded to the incident, in addition to Metropolitan Division Police K-9 Officer D.

Sergeant C and Officer D were briefed by Sergeant A and the primary officers of the pursuit. Officer D was briefed that the primary officers attempted a vehicle stop, which resulted in a vehicle pursuit of a possible stolen vehicle. The Subject's vehicle collided, and the driver fled into the residential neighborhood. A firearm was discovered on the driver's side floorboard of the Subject's vehicle. The description of the Subject was provided. Officer D was additionally advised of two prowler complaint radio calls at residential homes and of a heat source located by the police helicopter at one of these locations.

Sergeant C determined that an outstanding felony suspect was possibly contained inside the perimeter and authorized the use of a K-9 dog to search. Officer D developed a systematic search plan of the perimeter. Sergeants A and C were advised of and approved the K-9 search plan. K-9 personnel conducted the mandated K-9 announcements and obtained confirmation that they were heard on various points of the perimeter.

Officers A, B, and E, were assigned to join K-9 Officer D's search team, along with K-9 Officer F. Officer D deployed his service dog to search for the Subject. Officer F provided Officers A, B, and E with a tactical briefing and advised them of their roles and responsibilities. Officer F would be the point officer, while Officers A, B, and E would be rear guards, and they would be responsible for issuing commands and handcuffing the Subject. Officers A, B, D, and E unholstered their service pistols, while Officer F deployed his Police Rifle. Officers A, B, and E donned their ballistic helmets.

Officer D can be heard on Officer G's Body Worn Video (BWV), advising of his intent to commence the search. Officer D facilitated initiating the search at the locations he was advised the Subject was potentially hidden. ASD directed Officer D to the location of a heat source. Officer D's team moved to search the property, which consisted of a single-family residence with a detached garage. The driveway ran along one side of the residence, from the street to the garage. There was a cemented area between the house and garage that connected an access way from the driveway to the rear yard, referred to as the middle yard.

Officer D's search team entered the property, and the K-9 dog cleared the driveway without any alerts. The search team moved forward and stopped at the middle yard. Officer D stated he directed his K-9 dog to the rear yard. Officer F remained as the point officer, while Officers A, B, and E remained in modified flanking positions behind him. According to Officer D, he observed his K-9 dog walk from the middle yard into the rear yard, in between the house and detached garage. The dog continued and then turned along the rear of the yard.

As the K-9 dog reached the bushes near the corner of the rear yard, Officer D advised he observed the Subject bolting out of the brush and falling onto the open grass. Officer D heard the Subject scream and observed his K-9 dog had a bite hold on him. Officer D advised that the rear yard was dark, and the lights along the side of the house, which illuminated toward Officer D's direction, made it difficult to properly view the contact the dog had with the Subject. The Subject had dark colored clothes that made it difficult to identify him in the dark. Officer D advised the search team to move forward and take cover.

According to Officer D, his K-9 dog did not bark or show any indication of locating the Subject. Officer D opined that the Subject was attempting to escape as he ran out of the bushes, causing his K-9 dog to go into apprehension mode.

Officer A's BWV established that the team moved forward together into the middle yard area. Officer F moved forward and took a position of cover at the corner of the detached garage. As the team moved, Officers B and E took positions to the right and behind of Officer F, while Officer A took a position to the left of Officer F in preparation to give the Subject commands.

Officer A's BWV depicted the Subject on his back, moving side to side, struggling with the K-9 dog, who had a bite hold on his left arm.

Due to Officer A, B, and E's positions, their BWV cameras did not depict the initial K-9 contact between the K-9 dog and the Subject.

Officer D made repeated commands to recall his K-9. Officer D believed the dog did not initially respond because his K-9 was engaged with the Subject and could not hear over the ambient noise caused by the Air Unit. Officer D believed he re-enforced his verbal commands with the use of the shock collar. Officer A's BWV captured the Subject yelling, "I'm Down!" The K-9 dog released his bite hold and returned to Officer D. Officer D holstered his firearm, leashed his K-9, and backed out of the immediate area.

Officer F confirmed that Officer D controlled his K-9 dog prior to instructing Officer A to begin issuing commands to the Subject. Officer A, at the direction of Officer F, ordered the Subject to roll onto his stomach, place his arms out to his sides, and to face away from the officers' direction. Officer F instructed the arrest team, consisting of Officers A and B, to move forward toward the Subject. Officer F instructed the Subject not to move. Officer B holstered his firearm and handcuffed the Subject. Officer B conducted a search of the Subject with negative results. According to Officers A and B, they each recognized the Subject to be the driver of the vehicle involved in the pursuit.

Officer D broadcast a request for the response of a Rescue Ambulance (RA) to treat the injury sustained by the Subject. The RA arrived and provided medical attention. The Subject was subsequently transported to a nearby hospital, treated in the emergency room for a K-9 contact bite to his left forearm, and then admitted to the hospital.

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 of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC 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 K-9 contact 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 making its decision in this matter, the Commission is mindful that every “use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department's guiding value when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Use of Force Policy, Los Angeles Police Department Manual.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in Graham v. Connor, 490 U.S. 386 (1989), that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. 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. (Tactical De-Escalation Techniques, October 2016.)

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

1. Tactical Communication

The investigation revealed that some miscommunication occurred between officers on the perimeter, ASD, and the CP regarding the exact location a citizen observed the Subject in the backyard. This miscommunication resulted in Officer D not being aware that the location of the undetermined heat source was the same location in which the citizen had observed the Subject. It is preferred that all pertinent information be relayed during an ongoing tactical situation to effectively plan and approach each incident in a safe manner. Furthermore, effective communication will allow a sound tactical plan to be implemented, which will minimize exposure to the officers and therefore enhance officer safety.

2. Utilization of K-9 electronic collar

The investigation revealed that Officer D believed he may have activated the K-9's electronic collar during the process of recalling his K-9 from contact with the Subject. The investigation was unable to determine if the electronic collar was activated. It is preferred that officers ensure consistent and appropriate utilization of the electronic collar.

The above issues were to be discussed during the Tactical Debrief.

- The BOPC also considered the following:

Ballistic Helmet – The investigation revealed that Officer D and F did not don their ballistic helmets during the K-9 search. Officers are reminded of the importance of donning their ballistic helmets while involved in a tactical situation involving a possibly armed Subject. This was brought to the attention of Captain A, who addressed the issue with divisional training.

Body Worn Video (BWV) Activation – The investigation revealed that Officers B, C, and E did not activate their BWV until the Subject was located. Captain B was notified and addressed the issue with divisional training. Captain B advised that he would ensure audits would be completed on the involved officers for a 60-day period to ensure the officers' BWV's were being properly activated.

A. Deployment of K-9

- The Subject was believed to have been driving a stolen vehicle and had fled from officers, resulting in a vehicle pursuit. At the termination of the vehicle pursuit, the Subject fled on foot and was believed to be contained inside the perimeter boundaries. A loaded handgun was then located inside of the Subject's vehicle. Due to the Subject being wanted for a felony crime, Officer D met with Sergeants A and C and confirmed that the situation met the criteria for K-9 deployment. Sergeant A authorized the K-9 search to assist in locating and apprehending the Subject.

Officer D formulated a search plan that was reviewed and approved by Sergeants A and C. The search plan consisted of two K-9 search teams working in coordination with each other. Officer D was designated to lead one search team with his K-9 dog. Prior to initiating the K-9 search, a pre-recorded K-9 search announcement was played in both English and Spanish via the PA system of a police vehicle from multiple locations.

Additionally, an Air Unit utilized its PA system to broadcast the K-9 announcement in English over the search location. Confirmation of the announcement was obtained from officers on the perimeter that they heard the K-9 announcements. The Subject failed to respond to the K-9 search announcements and remained hidden, refusing to surrender to officers.

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

B. Contact of K-9

- Multiple K-9 announcements were made via the PA systems; however, the Subject failed to respond to the K-9 announcements. The Subject remained hidden from sight and continued to evade detection and apprehension by officers.

According to Officer D, his K-9 dog proceeded to the wall of the property and then west toward the bushes where the Air Unit had an unknown heat signature. As the K-9 dog entered the brush, Officer D observed what he believed to be a person bolting out of the brush. Officer D heard a scream and advised the search team that he believed the Subject had been located.

According to Officer D, he directed the search team to move forward and take cover. Officer D illuminated the backyard with his flashlight and observed the Subject fall into the open yard with his K-9 dog engaged in a bite hold on the Subject's left arm. After Officer D ensured that the officers on the search team had cover and observed that Subject's hands were free of any weapons, he recalled his K-9 dog.

According to Officer D, he gave several commands for his K-9 to release, and believed he activated the K-9 dog's shock collar to reinforce his commands. The K-9 dog released his hold and returned to Officer D, where he was placed on a leash.

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

C. Post K-9 Contact Procedures

- After the Subject was taken into custody, Officer D broadcast, without delay, for an RA to respond to treat the Subject for the dog bite. LAFD personnel responded and transported Subject to a nearby hospital, where he was treated for a dog bite wound to his left forearm. The Subject was then admitted into the hospital for his injuries.

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