

Incident Summary

Detective A and Police Officer A arrived at a single family residence, a listed foreclosure, to determine if it was vacant or occupied by squatters. Officer A broadcast their location to Communications Division. The officers had planned to enforce trespassing laws to minimize burglary incidents that squatters may have been responsible for in the area. The officers were familiar with the location for juvenile delinquency issues. Specifically, the officers had identified several foreclosed residences near the local high school that were used by juveniles who squatted, consumed alcoholic beverages, used drugs, or engaged in underage sexual activities inside these properties.

The residence appeared to be abandoned based on its exterior appearance of disrepair. As Officer A walked onto the front porch of the residence, he observed that the front door jamb was damaged and its door was partially open.

Due to his observations, Officer A formed the opinion that the residence was occupied by squatters. Officer A and Detective A formed a tactical plan to enter the residence. Detective A was positioned to the right of the front door, taking cover behind a wall. Officer A positioned himself in front and several feet away from the front door.

Officer A loudly identified himself as a Los Angeles police officer. As Detective A stood near the partially opened front door, he detected a strong odor of marijuana emitting from inside the residence. Detective A believed that squatters may have been engaging in illegal narcotics activity; therefore, Detective A pushed the front door open. Officer A slowly approached the front doorway to visually clear the living room.

As Officer A approached, he smelled an odor of marijuana. Suddenly, a large Pit Bull dog appeared from an interior doorway. The dog ran quickly toward the front door barking and growling in a ferocious manner. Officer A yelled out the presence of a dog, as Detective A redeployed off the front porch to a position approximately 3 feet south of the front porch steps.

Fearing that the dog would cause great bodily injury to Detective A or himself, Officer A unholstered his service pistol. Detective A also unholstered his pistol. Officer A discharged one round from his service pistol at the dog.

The dog immediately stopped its approach, turned around, and retreated through the rear interior doorway and disappeared. Officer A redeployed, took cover behind a tree located in the front yard, and again identified himself as a police officer. Officer A then directed any occupants inside the residence to exit. Shortly thereafter, two males exited the residence. Officer A holstered his pistol and handcuffed Subject 1. Afterwards, Detective A holstered his pistol. Subject 2 was not handcuffed due to his large size and his dependence on a walker. Officer A broadcast a request for a supervisor, adding that shots had been fired at the location, and that the subjects were in custody.

Sergeant A responded to the scene, separated the officers and obtained public safety statements from Detective A and Officer A.

Witness Statements

Subject 1 stated that he had returned from a shop and closed, but did not lock, the front door to his residence. Subject 1 went into Subject 2's bedroom and listened to an audiobook on his cellphone, as Subject 2 and their dog were lying on a bed.

Approximately ten minutes later, Subject 1 heard his dog barking and observed the dog run out of the bedroom. He then heard a loud bang, as if someone had kicked in the front door. After the loud bang, Subjects 1 and 2 called for the dog, and it returned to the bedroom. Shortly thereafter, Subject 1 heard indiscernible yelling from the front door. Subjects 1 and 2 then exited the residence through the front door and were detained by Detective A and Officer A. Subject 1 had known the dog for five years and stated the dog barks at anyone approaching the front door. However, the dog had never bitten anyone. Subject 1 was unaware of any injury to the dog prior to the shooting.

During Subject 2's interview, he stated he was renting the house and was aware that the home was in foreclosure. Subject 2 was in his bedroom, along with Subject 1, who was sleeping on the floor, and the dog. Subject 2 heard light tapping and someone saying, "police officer" at the front door, causing the dog to bark and run toward it. As Subject 2 called for the dog to return, he heard a single gunshot coming from the front door area then heard someone repeat "police officer." Almost simultaneously, the dog returned to the hallway leading to the bedroom. Subject 2 did not hear any noise from the dog. Subjects 1 and 2 were directed out of the residence and they complied after securing the dog in the bedroom.

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 made the following findings.

A. Tactics

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

B. Drawing/Exhibiting

The BOPC found Officer A and Detective A's drawing and exhibition of a firearm to be in policy.

C. Lethal Use of Force

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

Basis for Findings

A. Tactics

- In their evaluation of this incident, the BOPC identified the following tactical issues:
- Tactical Communications/Tactical Planning

In this instance, Detective A's response to detecting the odor of marijuana emanating from inside the residence was to push the front door open. There is no indication that Detective A communicated to Officer A his observations of smelling the presence of marijuana and the potential that persons may be inside.

Officers are trained to function as a team and communication between them is paramount to ensure the highest level of officer safety. It would have been prudent for Detective A to advise Officer A of his observations so they could further develop their plan, which may have included requesting additional personnel to assist, based on the increased likelihood of encountering narcotics subjects within the residence.

When evaluating Officer A and Detective A's actions, the BOPC took into consideration the totality of the circumstances and rapidly unfolding events soon after they positioned themselves near the front door. After smelling the marijuana, Detective A pushed the door open and the aggressive dog immediately advanced upon them. While Detective A may have had time to communicate his observations of the smell of marijuana to Officer A, his attention appeared to be focused on the partially open door and he proceeded to open it to clear the interior.

Although it would have been tactically prudent and the BOPC would have preferred that Detective A communicate to Officer A that he smelled marijuana, his attention appeared to have been diverted by the open door. This absence of communication deviated from approved Department tactical training; however, the BOPC has determined that the deviation was not substantial in this instance.

The BOPC determined that Officer A and Detective A would benefit from further discussions relating to the advantages provided by effective tactical communications and planning. In conclusion, the BOPC will direct that these topics be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:
 - **Wearing Body Armor** – The investigation revealed that Officer Schick was not wearing body armor; however, despite several attempts to contact Detective Toosbuy, it was unable to be determined if she was wearing her body armor. Regardless, based on the nature of their assignment on the day of this incident, it would have been prudent for Officer Schick and Detective Toosbuy to don their body armor.

The Chief has determined that Officer Schick and Detective Toosbuy would benefit from a discussion regarding the wearing of body armor and direct that this be a topic during the Tactical Debrief.

- **Probable Cause and Residence Entry** – In this case, the officers did not actually enter the residence prior to the OIS occurring, although their intent to do so was apparent. In the BOPC's assessment, Officer A and Detective A were enforcing what they believed to be valid trespassing laws based on the direction they received within their Area. Both officers reasonably believed that the house was vacant.

However, the investigation revealed that Subjects 1 and 2 rented the house prior to foreclosure and legally occupied the residence. Neither Area detectives nor Officers A or Detective A determined whether the house was legally occupied - or if the prior occupants had been legally evicted - prior to initiating enforcement.

The foreclosure trespass program is an effective crime prevention and enforcement tool; however, officers need to ensure that they follow stringent legal and Department guidelines for this process; for making entry and enforcing laws.

The Area Captain was notified. Additionally, the BOPC directed that this issue be addressed through the appropriate legal training process Department-wide, to ensure that all personnel are aware of the laws and complexities pertaining to trespass enforcement and foreclosed homes – as well as be covered during 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.

During the BOPC's review regarding the tactics utilized during this incident, the BOPC closely analyzed the following:

- Officer A and Detective A initially believed that the aggressive dog presented a threat of serious bodily injury; however, Officer A and another officer, believing that the dog may be injured, entered the residence to locate and retrieve the dog.
- There was no indication that Officer A developed a tactical plan to contain and subdue the dog upon entry into the residence, should it remain aggressive and again attack the officers, i.e. fire extinguisher or method of containment.
- It was not indicated why Officer A and Detective A did not await the arrival of Department of Animal Services personnel, who are trained and equipped to perform this duty.

After a thorough review of the incident, the BOPC determined that the identified areas for improvement neither individually nor collectively substantially deviated from approved Department tactical training.

In conclusion, the BOPC found Detective A and Officer A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

- Upon the door opening, an aggressive Pit Bull dog charged toward Officer A and Detective A. Believing they were about to be bitten and sustain serious bodily injury, Officer A and Detective A drew their service pistols.

Officer A feared the dog would reach his partner's or his location and cause great bodily injury from biting, so he removed his pistol from the holster with his right hand, and with one fluid motion took aim at the approaching dog.

Detective A recalled that a large Pit Bull dog appeared in the living room, suddenly started to growl, and then immediately charged in a full run towards Officer A. Detective A drew his weapon with his finger along the frame.

Based on the totality of the circumstances, officers with similar training and experience as Officer A and Detective A would reasonably believe that the charging dog represented an imminent threat of serious bodily injury and that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

In conclusion, the BOPC found Officer A and Detective A's drawing and exhibition of a firearm to be in policy.

C. Lethal Use of Force

- **Officer A** (pistol, 1 round)

After the door opened and while standing on the porch, an aggressive Pit Bull dog charged toward Officer A and Detective A. Fearing the dog was about to bite him or Detective A and cause serious bodily injury, Officer A fired one round at the dog to stop its attack. The dog stopped and retreated to the rear of the residence.

Based on the totality of the circumstances, an officer with similar training and experience would reasonably believe that the advancing, aggressive dog was about to attack and cause serious bodily injury. Therefore, the BOPC found that Officer A's use of lethal force was objectively reasonable and consistent with Department policy.

In conclusion, the BOPC found Officer A's use of lethal force to be in policy.