

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

OFFICER-INVOLVED ANIMAL SHOOTING – 064-12

Division	Date	Duty-On () Off (X)	Uniform-Yes () No (X)
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Northeast	09/28/12		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	5 years, 3 months
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Reason for Police Contact

Officer A, while off duty, was walking his dog when two dogs approached him and attempted to bite him and his dog, and an officer-involved animal shooting occurred.

Animal(s)	Deceased (X) Wounded () Non-Hit ()
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Black Labrador dog.	
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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 Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

In accordance with state law, divulging the identity of police officers in public reports is prohibited, so the masculine pronouns (he, his, and him) will be used in this report in situations where the referent could in actuality be either male or female.

The following the incident was adjudicated by the BOPC on July 30, 2013.

Incident Summary

Just after midnight, Officer A, while off duty, took his Pit Bull dog for a walk around his neighborhood. As he walked down the street, he observed two loose dogs running toward him and his dog.

The two dogs approached, barked and snapped at him and his dog. Officer A pulled his dog's leash back with his left hand. Officer A attempted to kick away both dogs with his right foot while still maintaining control of his dog with his left hand. The dogs attempted to bite Officer A's right foot as he attempted to kick both dogs away. Officer A continued to kick the dogs several times to get away. Officer A believed he could not escape the dogs who continued snapping at him.

Fearing that the dogs would cause serious bodily injury, Officer A reached into his right front pants pocket and removed his padded holster and unholstered his firearm.

Note: As Officer A was off duty at the time, he was armed with his personally owned .38 caliber revolver. The revolver had a five-round capacity.

Officer A, from a standing position, aimed his firearm at the black dog's center mass. Officer A fired one round in a downward direction from a distance of approximately two feet, striking the black dog on the back. Officer A was unsure if the one shot struck the black dog. The black dog uttered a whimper and ran west while the brown dog ran west then north.

Officer A attempted to notify his supervisor of the shooting. Fearing that the dogs would return, he ran east and then south while he contacted the watch commander in his division of assignment.

The owner of the dog, Witness A, stated that on the night of the incident, he left his residence to walk his two dogs as he routinely does every night. Witness A described the black dog as a large black Labrador with a loud bark.

While walking back home, Witness A observed a male, later identified as Officer A, walking east with a dog on a leash. Officer A then crossed the street. At this time, Witness A's dogs ran toward Officer A's location where he lost sight of them. He then heard two or three barks and a gunshot. After the gunshot, his dogs ran back to him and the black Labrador appeared a little dazed, but after he physically checked him, he did not notice any blood or wounds on him. Approximately 30-40 seconds later, Witness A continued south.

Witness A then observed Officer A standing across the street. Officer A was holding a cell phone in his right hand and appeared to be texting while holding his dog's leash in his left hand. At this time, Officer A pointed at the black Labrador and stated, "That's a bad dog." Witness A asked, "Whose dog, my dog?" Officer A responded, "That dog."

Witness A pointed at the black dog and asked, "My dog?" Officer A then pointed at his own dog and stated, "Oh no, my dog is a bad dog." Officer A then walked east and then he started running south. Witness A took his dogs home and placed them in the yard area located east of the residence and went about the rest of his evening.

The next morning, September 28, 2012, at approximately 10:00 a.m., Witness A walked outside to his backyard and observed the black dog lying against a wooden fence located near the back door, deceased. At the time, he did not notice a gunshot wound, but did notice that there was some blood on his spine, near the ridge of his back and some blood against the wooden fence. He also noticed some blood in the dog's eyes. Witness A called the Sanitation Department and when they failed to show-up to pick up the dog, he transported him to the animal shelter. At the shelter, Witness A met with Animal Control Officer A, who helped him conduct an examination of the dog. At that time, he turned the dog over and found a "bullet hole" with some blood on his back. Witness A advised that although it was after business hours, the Animal Shelter accepted the dog.

On September 30, 2012, Witness B telephoned Witness A and informed him about a Twitter message which indicated the person who had shot his dog was an off-duty police officer. That information was emailed to him. According to the message, Officer A reported that he was threatened by a vicious dog and shot at the dog, but missed. Witness A then responded to the police station to report that his dog had actually been killed.

Witness C stated that on September 28, 2012, at midnight, he was arriving home from work. As he approached an intersection, he observed two large and loose dogs, identified as Witness A's dogs, on the street. The dogs were running from one side of the street to the other side of the street. Witness C then parked on the corner. As he was about to exit his vehicle, the two dogs ran up to him. At first, Witness C believed the dogs were going to hurt him, but the dogs wagged their tails and he believed they wanted to play.

After a few seconds, the dogs left his location and he did not see where they went. He then re-entered his vehicle, backed it up a little and turned off the engine. As he opened his vehicle door again, he observed a man, identified as Officer A, walking on the north sidewalk, directly in front of him with a small brown dog on a leash. Witness A's dogs ran up to Officer A and remained about two feet away as Officer A began to talk loudly to the two dogs. Witness C understood Officer A was yelling at the two dogs and telling them to stop.

The two dogs refused to leave and after approximately 30 seconds of yelling at them, Officer A removed a small dark colored firearm from an unknown location, held it in his right hand and alternated pointing it from one dog to the other. Approximately 10 to 15 seconds later, Officer A fired one round. Witness C heard one of the dogs yelp and both ran away in a westerly direction. Officer A looked over at Witness C and began to walk approximately five yards from where he was originally standing. Witness C

believed Officer A was looking at either his firearm or his cell phone, but he did not have a clear view of him due to the parked vehicles blocking his view. At first, Witness C was unsure of what to do and remained in his vehicle, but a moment later decided to exit his vehicle.

As Witness C exited his vehicle, he observed a male, later identified as Witness A, cross the street with the two dogs. Officer A then crossed the street, to the south side, just east of where Witness C had parked his vehicle. Witness A walked closer to Officer A and asked him what had happened. Officer A did not respond.

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). 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 Officer A's tactics to warrant a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found Officer 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 considered the following:
 - Defensive Tactics Against Hostile Dogs

Officer A attempted to create distance between him and the dogs by kicking his right foot toward them. As Officer A was off-duty, and not fully equipped, his force options were limited. Additionally, Officer A's ability to deal with the threat

posed by the hostile dogs was hindered by his attempts to keep his own dog safe from attack. Nevertheless, Officer A is reminded that the use of kicking techniques against hostile dogs is not recommended, as the dog might bite and pull the officer off balance or cause the officer to fall. The BOPC will direct that this be a topic of discussion 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.

After a thorough review of the incident, the BOPC determined that the identified area for improvement did not substantially deviate from approved Department tactical training. Therefore, a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident with the objective of improving overall organizational and individual performance.

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

B. Drawing/Exhibiting

Officer A was confronted by two dogs barking and growling, while running toward him and his dog. When the dogs neared, they continued barking and "snapped" at Officer A and his dog. Officer A attempted to utilize his right foot to kick at the dogs; however, both dogs attempted to bite Officer A's foot. Believing that the situation had escalated to the point where lethal force was necessary to protect him from serious bodily injury, Officer A drew his service pistol, which was secured in a holster in his right front trousers pocket.

Based on the circumstances, Officer Graber's drawing and exhibition of a firearm was reasonable and within Department guidelines.

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

C. Lethal Use of Force

- **Officer A** (revolver, one round)

Believing that the two advancing dogs were about to bite him and cause serious bodily injury, Officer A fired one round at the back of the black dog to stop its actions. Both dogs ran away in separate directions.

An officer with similar training and experience as Officer A would reasonably believe that the attacking dogs represented an imminent threat of serious bodily injury and that the use of lethal force would be justified in order to address the threat.

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