

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

**TACTICAL UNINTENTIONAL DISCHARGE – 001-15**

**Division                      Date                      Duty-On (X) Off ( ) Uniform-Yes (X) No ( )**

Rampart                      01/04/15

**Officer(s) Involved in Use of Force                      Length of Service**

Officer E                      3 years, 1 month

**Reason for Police Contact**

While covering the perimeter of a scene, Officer E tripped while holding his shotgun resulting in a Tactical Unintentional Discharge.

**Subject                      Deceased ( ) Wounded ( ) Non-Hit (X)**

Subject, Male, 22 years of age.

**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 incident was adjudicated by the BOPC on December 8, 2015.

## **Incident Summary**

Communications Division (CD) received a 911 call from an anonymous male caller who said three males armed with guns were attacking another male at the location. The caller described the three suspects as being bald and wearing black pants and loose white shirts. The caller further advised the 911 operator that he was scared and was leaving the location.

CD broadcast, "Any Rampart unit, possible ADW suspect there now, suspects are three males, bald, wearing white T-shirts and black pants and armed with handguns. Suspects are attacking a male, 25 years of age, wearing a white shirt and grey pants and bleeding, Code Three."

Officers A and B advised CD that they would handle the call. Officers C and D advised CD that they were backing the primary unit.

An Air Unit heard the radio call broadcast and responded to the location.

Officers A, B, C, and D arrived at the location and advised CD. The officers observed a male, the Subject, wearing a black hoodie running east from the location and into a nearby market.

The Air Unit arrived over the location and assisted the units with establishing a perimeter. The Air Unit advised the police units that the rear door of the market was open.

Officers E and F arrived on scene in a marked black and white police vehicle.

As Officers E and F arrived, the Air Unit advised them to position themselves on the north side of the market to cover the open door to the rear. Officers E and F drove their vehicle north and stopped at the property to the rear of and north of the market.

Based on the comments of the call, indicating that the suspects were possibly armed, Officer E decided to deploy the shotgun and Officer F deployed his patrol rifle. They both retrieved their weapons from their respective racks located on the front seat of their police vehicle. As Officer E exited the vehicle, he pointed the shotgun into the air and chambered a round into the chamber. He then conducted a chamber check and verified that the round was in the chamber. Officer F exited the vehicle and chambered a round in his rifle. Officer F carried the rifle in a sling at low-ready position across his body.

The officers proceeded to the front of their location. As Officer E approached the front gate, he retrieved a round from the butt-cuff of the shotgun and loaded it into the shotgun. Officer E took the safety off the shotgun and placed his finger along the frame. Officer E carried the shotgun pointed downward at a low-ready position.

**Note:** Officer E believed that with the safety off, he could react faster if the suspect exited the rear door and fired at them.

Officer E was asked how he was trained to utilize the safety on the shotgun. He replied, "Finger, safety on. Keep your finger on the safety, and then if you have to go to shoot, then you disengage the safety and finger on the trigger." He was then asked why he chose to do it differently. He replied, "Just based on the tactical situation; a suspect with a gun, the back door being open. I thought, maybe it's, that it was possible that he may be coming out shooting because they said that he was possibly armed with a gun. I felt that it would be quicker, finger along the frame, kind of like a handgun, you keep your finger along the frame. And then it would just be quicker to fire and return fire if we were being fired upon."

Officer E proceeded through the gate and up the stairs behind Officer F. They cleared the front yard and walked along the walkway to the south side of the property. Officer E looked over a fence and observed the open rear door of the market. Officer F positioned himself on an elevated landing which afforded him high ground to cover the open door with his rifle. Officer E positioned himself adjacent to Officer F in the dirt path area of the side yard and held his position.

Shortly thereafter, a second Air Unit arrived at the scene to relieve the first one. Sergeants A and B also arrived on scene and advised CD.

The officers secured the location and utilized a police vehicle's public address (PA) system to call out the occupants of the market. An employee of the market exited the market and advised that the Subject was inside the walk-in refrigerator. The officers briefed Sergeant B of the Subject's location, at which time Sergeant B formulated a plan to make entry into the market.

Meanwhile, as Officer E stood in the dirt path area, he decided to re-deploy himself to Officer F's position on the elevated landing. As Officer E stepped back with his left foot, he tripped on the walkway step and started to fall backwards.

Simultaneously, the shotgun muzzle started to fall forward toward the ground. As Officer E was trying to regain his balance, he moved his finger from the frame and pulled the trigger. A round discharged in a downward and southeasterly direction into the ground. Officer E immediately verified that Officer F was okay.

The officers positioned around the location heard the gunshot and broadcast to CD of a possible shot fired from inside the location.

Officer E immediately broadcast that he had experienced an unintentional discharge and requested a supervisor. Officer E further advised that he was in the adjacent property, north of the market.

Sergeant B heard Officer E's request and responded. However, before he responded to Officer E's location, he advised the tactical team of officers to cover the front of the market but not to make entry into the market until he returned.

Sergeant B met with Officer E, at which time Officer E advised Sergeant B that he had fired one round into the ground. Sergeant B notified the units at scene over the radio that an unintentional discharge had occurred.

Sergeant B advised Officer E to place the safety on the shotgun. They then walked over to Officer E's vehicle and placed the shotgun inside the trunk area of the vehicle. Officer F stayed at his position and continued to cover the rear of the target location.

Within a few minutes, Sergeant A responded to the officers' location and met with Officer E and Sergeant B and was briefed. Sergeant A then took over monitoring responsibilities of Officer E, and Sergeant B returned to the front of the market to direct the ongoing tactical situation.

Officer E advised Sergeant A that he had an unintentional discharge with the shotgun. Officer E took Sergeant A to the location of the discharge, at which time Sergeant A took a Public Safety Statement (PSS) from Officer E. Officer E advised Sergeant A that he fired one round in a downward direction toward the ground. Officer E was unaware of any witnesses, except for Officer F who stood adjacent to him at the time of the discharge. Sergeant A and Officer E then walked to Officer E's vehicle.

Officer F did not visually witness the discharge. He stated, "And then from there, while I was holding the door I heard a large, I guess a big, like a gunshot. And then from there I looked to my right to my partner. I said, 'What was that?' And then I do believe he said something to the effect of, 'Oh, that was my shotgun.'"

Sergeant A retrieved the shotgun from the vehicle and observed that there was an expended shotshell in the chamber. Sergeant A then placed the shotgun in the trunk of his vehicle.

**Note:** Sergeant A believed that the safety on the shotgun was off at the time he retrieved it from Officer E's vehicle.

Meanwhile, Sergeant B entered the market with his tactical team and located the Subject inside the refrigerator of the location, where he was taken into custody without incident. The Subject was then transported to the local police station.

There were no injuries related to this incident.

### **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 most cases, 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). In this incident, there was no Drawing/Exhibiting of a firearm, and no Use of Force by the officer involved. 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 will 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 E's actions to warrant a Tactical Debrief.

#### **B. Drawing/Exhibiting**

The BOPC found Officer E's drawing and exhibiting of a firearm to be in policy.

#### **C. Unintentional Discharge**

The BOPC found Officer E's tactical unintentional discharge to be negligent, warranting a finding of Administrative Disapproval.

### **Basis for Findings**

#### **A. Tactics**

- 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 that the tactics be evaluated based on the totality of the circumstances.

The BOPC found Officer E's tactics to warrant a finding of Tactical Debrief.

#### **B. Drawing/Exhibiting**

- The BOPC determined that an officer with similar training and experience as Officer E, while faced with similar circumstances would reasonably believe 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 E's drawing and exhibiting of a firearm to be in policy.

### C. Unintentional Discharge

- **Officer E** – (shotgun, one round)

Officer E decided to move up and join Officer F on the elevated landing. As Officer E stepped rearward with his left foot, he tripped on the walkway step and began to fall backwards. As Officer E tried to regain his balance and maintain control of his shotgun, Officer E unintentionally pressed the trigger, discharging a round in a downward direction toward the ground.

Officer E recalled, “I was to the side of him [Officer F] in that dirt looking straight down by the door just to clear and make sure the guy wasn’t hiding up against...the wall...I decided to stand next to him [Officer F]..., so I was backpedaling with the shotgun in a low-ready position pointed at the ground. As I was backpedaling there was, I think, about a foot drop between the dirt and concrete. As I stepped back lifting up my left foot, I didn’t step up high enough and I subsequently started to fall back, and the shotgun started to fall forward towards the ground...as I’m falling back trying to catch my balance...I tried...to grab it [the shotgun] so it wouldn’t fall down. At which point...my finger I guess caught the trigger...and a round was discharged straight into the ground.”

The BOPC determined that the UD was the result of operator error when Officer E unintentionally pressed the trigger of his shotgun after losing his balance and discharged a round in a downward direction toward the ground. Officer E’s action violated the Department’s Basic Firearm Safety Rules, and therefore requires a finding of Administrative Disapproval (AD), Negligent Discharge.