

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

**TACTICAL UNINTENTIONAL DISCHARGE – 033-15**

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

Hollywood                      4/30/15

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

Officer A    15 years, 6 months

**Reason for Police Contact**

Officer A was searching a business during the service of a search warrant when he had a Tactical Unintentional Discharge (TUD).

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

Subject: Male, 49 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.

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 April 5, 2016.

## **Incident Summary**

Officer A was assisting several other officers and detectives in the service of a search warrant. The warrant was issued in furtherance of a kidnapping and drug trafficking investigation.

In addition to Officer A, the search warrant tactical operation involved the use of officers and detectives from several Areas and specialized units, including Lieutenant A, Detectives A and B, and Officer B.

Lieutenant A assumed the role of the Incident Commander for the service of the search warrant. Another Lieutenant provided incident oversight and remained present throughout the warrant service operation. Both lieutenants were in full police uniform. Detective B notified his chain of command of the search warrant service.

Prior to the service of the warrant, Detective A conducted a pre-brief. The purpose of the pre-brief was to ensure all personnel understood their role and the primary purpose for the search warrant. Detective A also conducted a tactical brief in a nearby parking lot. All personnel assigned to the search warrant service attended the brief. The brief covered personnel assignments, tactics, subject information, equipment to be utilized, and radio frequency designations, etc.

Prior to the initiation of the warrant, two search warrant personnel would tactically deploy to the interior of the building.

As the search warrant service progressed, Detective B provided supervisory oversight of the personnel on the first floor.

Officer A, armed with a semiautomatic 12-gauge shotgun, was the point officer and the first search team member to enter the building after the entry team.

After the initial entry into the building, a detective knocked on the first door and announced, "Search warrant." There was no response, so Detective B directed the detective to force entry into the room. Officer A entered the room, encountered three male individuals, and ordered them to get on the floor in a prone position.

According to Officer A, he elevated his shotgun in the direction of the three individuals, illuminated them with the attached tactical light and disengaged the safety. Officer A articulated that he perceived the three individuals to be a threat and he could not see exactly where their hands were. After he disengaged the safety, Officer A again asked them to go down to the floor, and when they observed the shotgun or the tactical light on the shotgun illuminating them, they complied with his commands.

Officer A stated he placed the shotgun in a low-ready position, but forgot to re-engage the safety and continued with the search of the first floor. According to Officer A, they

proceeded to clear at least four to five more businesses with him holding his shotgun at the low-ready position with his finger on the safety.

Officer A then entered a room described as a small, dimly-lit room, followed by two other officers. Officer A held his shotgun at the low-ready position with his finger on the safety. Officer A believed the safety was engaged.

Detective B and Officer B positioned themselves in the hallway, just outside the door. Officer A identified a second door that led to an adjoining room used for storage. Officer A described the room as cramped and small, with drapes or clothes hanging in the doorway. Officer A then decided to transition to his service pistol due to the tight quarters and limited visibility.

Officer A allowed his shotgun to hang in front of him, pointing in a downward direction by utilizing his three-point sling. Officer A transitioned to his service pistol and utilized a two-handed grip, activated the attached light on the pistol, and entered the storage room to continue the search.

Officer A stepped to his left and bumped into some articles of clothing. He felt the items fall to his left, bounce off his leg, and heard a loud pop. Officer A thought he may have stepped on a halogen light bulb, took a step back, and observed a hole in his left shoe. Officer A realized he had a TUD and re-engaged the safety on the shotgun.

Detective B heard what he described as a "blast." He then entered the room adjacent to the storage room and inquired about what occurred and whether anyone sustained injuries. Officer A and another officer continued to clear the storage room and holstered his pistol before he exited. The other officer indicated that he met with Detective B in the adjacent room, and Detective B advised him that a TUD occurred.

Detective B remained outside the storage room and, when Officer A exited the storage room, Detective B obtained a Public Safety Statement (PSS).

Detective B directed Officer A to give the shotgun to Officer B. According to Detective B, he wanted to keep the shotgun on point because it was a superior weapon, and officers train to make entries with the shotgun. Officer B obtained possession of the shotgun and verified that the safety was engaged. Officer B proceeded as the point officer with the shotgun throughout the remainder of the search.

After Detective B obtained the PSS, he advised Officer A not to discuss the incident and directed him to assist the other personnel with the detainees.

Once outside, Officer A was with Detective B and a lieutenant.

The investigation indicated that Officer A did not have a supervisor consistently monitor him while he remained outside the search warrant location. Physical evidence revealed

that Officer A engaged in conversations with various personnel while a monitoring detective was not in close proximity to him.

### **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 and Exhibiting 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 Lieutenant A, Detectives A and B, and Officer A's tactics to warrant Administrative Disapproval.

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

The BOPC found Detective B, and Officers A and B's drawing and exhibiting of a firearm to be in policy.

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

The BOPC found Officer A's Unintentional Discharge to be negligent.

### **Basis for Findings**

#### **A. Tactics**

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

##### **1. Tactical Planning**

Officers must approach every contact with officer safety in mind. Complacency, overconfidence, poor planning, or inappropriate positioning can leave officers vulnerable to attack.

Detective A authored an incomplete Tactical Plan for the service of a search warrant.

In this circumstance, Detective A deviated from several Department approved tactical options.

The BOPC determined that in this circumstance Detective A's Tactical Planning was a substantial deviation, without justification, from approved Department tactical training.

## 2. Code Six

Detective A did not advise CD of the officers' location (Code Six) upon their arrival at the location for the service of the search warrant.

In this case, Detective A, who was in charge of the search warrant service, was responsible for broadcasting a Code Six notification. By not going Code Six or directing another officer to do so, he failed to ensure additional resources were aware of the police activity in the area and unnecessarily placed the officers in a distinct tactical disadvantage.

The BOPC determined that Detective A's failure to go Code Six was a substantial deviation, without justification, from approved Department tactical training.

## 3. Shotgun Manipulations

Officer A intentionally disengaged the safety on his Department shotgun while he was conducting a search of a location during the service of a search warrant.

The BOPC determined that Officer A's actions of operating the shotgun during a tactical incident with the safety disengaged represented a substantial deviation without justification from approved Department tactical training.

## 4. Body Armor

Detective A transitioned from an undercover position to a member of the search team assigned to the second floor without donning his Department approved body armor.

In this case, Detective A took an unnecessary risk by failing to don his body armor when he transitioned from an undercover officer to a supervisor on the search team, thus placing himself in a distinct tactical disadvantage.

The BOPC determined that Detective A's decision not to don his body armor was a substantial deviation, without justification from approved Department tactical training.

- The BOPC additionally considered the following:

### 1. Downloading Weapons after a Categorical Use of Force

The FID investigation revealed that Officer B downloaded the shotgun after the search was concluded

### 2. Monitoring

The FID investigation revealed that Officer A was not monitored outside of the building after the Unintentional Discharge occurred and appeared to be discussing the TUD with various personnel.

### 3. Securing Suspects

The FID investigation revealed that the subjects were placed in a kneeling position and remained there for an extended period of time.

- 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.

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and 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.

In conclusion, the BOPC found Lieutenant A, along with Detectives A and B, and Officer A's tactics to warrant a finding of Administrative Disapproval. The BOPC found Officer B's tactics to warrant a Tactical Debrief.

## **B. Drawing/Exhibiting**

- Detective B and Officers A and B were assigned to an entry team responsible for the service of a search warrant at a marijuana dispensary and drew their service pistols.

The BOPC determined that an officer with similar training and experience as Detective B, along with Officers A and B, 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 that Officer A's exhibiting of his Department approved shotgun, as well as Detective B and Officers A and B's actions of drawing their service pistols, to be in policy.

### **C. Unintentional Discharge**

- Officer A – One round in a downward direction.

Officer A, armed with a shotgun slung over his right shoulder, was the first to make entry as part of a search warrant team. He disengaged the safety during the search and neglected to re-engage the safety as the search continued.

The BOPC determined that the TUD was the result of operator error after Officer A slung the shotgun with the safety disengaged, resulting in an unintentional discharge of a shotgun round in a downward direction toward the floor.

The BOPC found Officer A's Unintentional Discharge to be negligent.