

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

**NON-TACTICAL UNINTENTIONAL DISCHARGE – 040-17**

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

Rampart                      6/5/17

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

Officer A                      19 years

**Reason for Police Contact**

After taking a person into custody, officers discovered a shotgun in the person's discarded backpack. While attempting to render the firearm safe, an unintentional discharge occurred.

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

N/A

**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 February 20, 2018.

## **Incident Summary**

Officers A and B were assigned as the primary unit and responded to a radio call of an "Assault with a Deadly Weapon Suspect Armed with a Knife." Upon arrival at the designated location, the officers became involved in a foot pursuit that terminated when the person jumped into a public lake. Additional units responded and the person was taken into custody without incident.

The investigation determined that approximately seven minutes after the person was taken into custody, Officer C observed the person's backpack in the lake. Officer C advised Officer A over the radio that he had located the backpack. Officer A then directed Officer C to retrieve the backpack and search it. Since Officer D had his baton on his person, Officer C asked him to use it to retrieve the backpack from the lake. Officer D did so and placed the backpack on the ground.

Officer C retrieved the backpack from the ground and placed it on a park bench seat adjacent to the lake. Officer C opened the front flap of the backpack and noticed a sawed-off shotgun inside. Officer C removed the shotgun from the backpack and visually inspected it. The hammer was cocked, in the firing position, and it was possibly loaded. After visually inspecting the shotgun, Officer C realized he was unable to render the shotgun safe. He placed the shotgun on the park bench and called out to Officer E for his assistance in rendering the shotgun safe. Officer E was also unfamiliar with how to render the shotgun safe. Officers C and E asked if there were any officers present who could render the shotgun safe.

Since none of the officers could render the weapon safe, Officer E decided to move the shotgun to a safe location. He picked up the shotgun from the bench, placed it approximately five feet away on a cement ledge, with the barrel pointed toward the lake.

Officer F picked up the shotgun. He noticed the hammer was cocked back and he believed it was loaded because of its weight. Officer F indicated he too did not feel comfortable trying to render the shotgun safe.

Officer A was informed that a gun was recovered from the backpack. Officer A went to the park bench area where the officers were gathered. Upon Officer A's arrival, Officer C who was standing on the side of the bench told him the recovered gun was a sawed-off shotgun.

Officer F was standing south of the bench next to the edge of the lake, holding the shotgun while Officer G was standing next to him. Officer A walked toward Officer F's location and stood by him, next to the edge of the lake. Officer A advised that since he was the primary unit at the scene and was in control of the investigation, which included the evidence, he decided to have Officer F hand him the shotgun to render it safe. As Officer F was handing Officer A the shotgun, he told him that he had never seen one like this before, the hammer was cocked back, and to be careful with it. Officer A placed his right hand around the shotgun's grip toward the forward end of the stock to

the rear of where the metal portion of the shotgun begins, as if grabbing a Department shotgun. Officer F released his hold of the shotgun.

Officer A now had sole position of the shotgun and was holding it with his right hand. The shotgun immediately went down to Officer A's right side and discharged into the lake approximately two feet from his location.

**Note:** Officer A believed the shotgun immediately discharged as he took possession of it. After hearing the shotgun discharge, Officer A observed the water from the lake splash approximately eight feet from him.

According to Officer A, he had never seen that type of shotgun before, he saw that the hammer was cocked back and a lever was to the right of the hammer. His intention was to manipulate the lever and thought it was a safety switch or a release. Officer A said his finger was along the frame when he took hold of the shotgun and was not sure if he touched the lever or put his hand over the lever when it fired. He did not believe his finger was on the trigger when it fired. After the discharge, Officer A placed the shotgun on the ground.

Upon arrival, Sergeant A determined the suspect was taken into custody without incident, there was no use of force, and he began to monitor the investigation. While the officers were in the process of conducting their field show-ups, he heard over the radio that a firearm was used during the attempt robbery and the Subject had thrown a backpack into the lake. The officers recovered the backpack from the lake and began to search it.

**Note:** The following information regarding Sergeant A was gleaned from Officer E's body worn video and Sergeant A's statement.

As Sergeant A was walking from the park area, Sergeant A heard the shotgun discharge and he observed a projectile hit the water approximately five feet from Officer A.

After the shotgun discharged, Sergeant A ensured everyone at the scene was uninjured, ordered Officers A, C, E, F, G, and H not to discuss the incident, and began organizing the separation and monitoring of the officers.

Force Investigation Division (FID) reviewed all documents and circumstances surrounding the separation, monitoring and admonishment not to discuss the incident with other officers prior to being interviewed by FID investigators. All protocols were followed and properly documented.

### **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 its review of the instant case, the BOPC made the following findings.

### **A. Tactics**

The BOPC found Officer A's actions to warrant a Tactical Debrief.

### **B. Unintentional Discharge**

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

### **Basis for Findings**

#### **A. Tactics**

##### **Tactical De-Escalation**

- 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.

In this case, the officer was attempting to render a firearm safe when a non-tactical unintentional discharge occurred. As such, tactical de-escalation was not a factor in this incident.

- Officer A's tactics were not a factor in this incident. Therefore, they were not reviewed or evaluated. However, Department guidelines require personnel who are substantially involved in a Categorical Use of Force incident attend a Tactical Debrief. Therefore, the BOPC determined that it would be appropriate to recommend a Tactics finding.
- During the BOPC's review of this incident, the following debriefing points were noted:
  1. Firearms Manipulations - Four Basic Firearms Safety Rules

## 2. Booking Firearms - Officer's Responsibility

The investigation revealed that Officer A was not familiar with the functionality of this specific shotgun. Officer A was reminded to contact the Firearms Unit, Forensic Science Division, whenever encountering an unfamiliar firearm which must be rendered safe.

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

### **B. Unintentional Discharge**

- Upon reviewing the evidence, the BOPC determined that the unintentional discharge (UD) was the result of operator error after Officer A pressed the trigger of the shotgun while attempting to render it safe. Officer A's action violated the Department's Basic Firearm Safety Rules, and therefore, requires a finding of Administrative Disapproval, Negligent Discharge.