

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

**NON-TACTICAL UNINTENTIONAL DISCHARGE – 045-09**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On()</u></b>	<b><u>Off(X)</u></b>	<b><u>Uniform-Yes()</u></b>	<b><u>No(X)</u></b>
Outside City	07/11/09				

<b><u>Officer(s) Involved in Use of Force</u></b>	<b><u>Length of Service</u></b>
Officer A	15 years, 7 months

**Reason for Police Contact**  
Not applicable.

<b><u>Subject(s)</u></b>	<b><u>Deceased ()</u></b>	<b><u>Wounded ()</u></b>	<b><u>Non-Hit ()</u></b>
Not applicable.			

**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 (FID) investigation (including all of the transcribed statements of witnesses, pertinent suspect 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 BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission. 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 May 18, 2010

**Incident Summary**

Officer A was at home with Witness 1. Witness 1 placed a holstered .22 caliber revolver and keys on a kitchen counter.

Officer A received a text message regarding an item in his City-owned vehicle. He picked up the keys from the counter and turned to talk to Witness 1. As he did so, he inadvertently knocked the revolver off the counter. The revolver fell from the counter, separating from the holster as it did so, struck the tile floor of the kitchen and discharged. The discharged round struck Officer A in the leg.

Officer A telephoned his supervisor to report what had happened. Witness 1 subsequently transported Officer A to a local hospital to be treated for the injury he sustained.

### **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 unanimously made the following findings.

#### **A. Unintentional Discharge**

The BOPC found the unintentional discharge to be accidental.

#### **Basis for Findings**

In adjudicating this case, the BOPC considered:

#### **A. Unintentional Discharge**

The definitions for an Unintentional Discharge, both Accidental and Negligent, are as follows:

***Accidental Discharge:*** *The unintentional discharge of a firearm as a result of an accident such as a firearm malfunction or other mechanical failure, not the result of operator error.*

***Negligent Discharge:*** *Finding where it was determined that the unintentional discharge of a firearm resulted from operator error, such as the violation of firearm safety rules.*

The preponderance of the available evidence in this case indicated that the unintentional discharge resulted from Officer A turning and unintentionally striking the revolver with his arm – as the revolver was lying in its holster on the kitchen counter – and the revolver falling to the floor. The impact between the revolver and the floor caused the weapon to discharge.

The BOPC found that Officer A's action of inadvertently knocking the revolver off the counter did not constitute "operation" of the weapon. As such, this incident did not meet

the definition of a Negligent Discharge. Accordingly, the BOPC found that the incident occurred as the result of an accident, rather than operator error.