

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

TACTICAL UNINTENTIONAL DISCHARGE - 071-09

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

Mission 10/16/2009

Involved Officer(s) **Length of Service**

Officer A 2 years, 4 months

Reason for Police Contact

While clearing a residence for a subject, an unintentional discharge occurred.

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

Does not apply.

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 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 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, 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 September 28, 2010.

Incident Summary

Officers were monitoring a robbery suspect's vehicle when they observed that the vehicle was moving. The Subject attempted to flee from the officers in his vehicle. After a brief pursuit the vehicle collided with a parked vehicle. Responding officers immediately established a perimeter at the crash scene and Police Officers B and C observed the Subject climb over a wall into the rear yard of a residence.

The Subject ran through the yard and attempted to climb over a wall on the side of the property. The Subject was unable to climb the wall and was then observed by the air unit to enter the residence.

Meanwhile, Police Officers A and D, who had also responded to the scene, entered the yard and joined a group of officers who were positioned near the rear residence. Prior to joining the group, Officer A deployed his shotgun. Officer A chambered a round and ensured that the shotgun's safety was engaged when he deployed the shotgun from his vehicle. Officer A assumed the point position in the group and then covered the front door, disengaged the shotgun's safety and placed his trigger finger alongside the frame of the weapon.

Several announcements were made for the Subject to exit the residence and a female, subsequently identified as Witness A, exited the residence. Witness A advised the officers that she had been asleep in her living room and had been in every room except the bedroom, without observing anyone. However, Witness A indicated that she had observed mud on the floor that not had been there before, and that her dogs had been acting strangely. Furthermore, upon exiting the house she noticed that the front door was locked, although she never locked the door while in the house.

Officer C then used a bullhorn to call the Subject out of the residence. The Subject exited the residence, and was taken into custody without incident. Another announcement was then made for anyone else in the house to exit. The announcement met with negative results and Sergeant A, who had previously arrived at the scene, organized an entry team to check the house for any further suspects or victims.

The entry team consisted of Sergeant A and Officers A, B, C, D and E, who had previously arrived at the scene. Sergeant A assigned Officer A, who was still armed with his shotgun, to the lead position in the entry team. All remaining officers drew their pistols, with the exception of Officer D. The officers entered and searched the residence without finding anyone.

Once the officers finished searching, Sergeant A noted that there was a bed in the living room that had a pullout bed underneath it that had not been cleared. Sergeant A then instructed Officer A to grab somebody and to clear the area.

As Officers A and E prepared to search the bed area, Officer E holstered his pistol and Officer A slung the shotgun over his shoulder with the muzzle pointed downward.

Officer C continued to deploy his weapon to provide cover when Officer A slung his shotgun. Officer A could not recall if he put the shotgun's safety on prior to slinging the shotgun over his shoulder, but that his normal protocol was to make sure the safety was on at that point.

Officers A and E lifted the mattress and found nothing. Officer A then noted that there were two drawers under the bed that could conceal a suspect, so he bent down to pull the drawer out. As Officer A bent down, his shotgun discharged. The pellets fired from the shotgun struck a tile on the floor, and flying debris from the broken tile struck and injured Officer A's knee, wrist, forearm, biceps and leg.

Immediately after the discharge, Sergeant A asked Officer A if he was okay, and then instructed an officer to take the shotgun from Officer A and to render it safe. Officer B told Officer A to ensure that the shotgun's safety was engaged and Officer D helped Officer A remove the shotgun from his shoulder. Officer D grabbed the shotgun from him to secure it, and helped Officer A walk outside to the curb and call for a Rescue Ambulance (R.A.).

Sergeant A broadcast a request for an R.A., and responding Firefighter/Paramedics treated Officer A's injuries. Officer A was then transported to a medical center for further treatment.

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. Tactics

The BOPC found Officer A's tactics to warrant administrative disapproval, and Sergeant A's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting/Holstering

The BOPC found Officer A's drawing and exhibition 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 Adjudicating this incident, the BOPC considered the following:

1. In this instance, in order to assist with containing the rear of a residence that the subject was last seen entering, Officer A deployed his Department authorized shotgun, chambered a round, assumed the role of point officer, disengaged the safety of the shotgun, covered the front door of the rear residence and later searched the interior of the residence. When asked the condition of the shotgun's safety from the time he covered the front door until the time of the Unintentional Discharge, Officer A recalled that the safety was disengaged. Current Department standards state that when covering a suspect or searching with a shotgun, the shotgun shall be in the high ready or low ready position. There should be a round in the chamber, safety on and the trigger finger placed on top of the safety. There is no exemption which would allow an officer to disengage the safety mechanism other than when an officer determines the shotgun should be fired. Officer A's act of covering the front door and continuing on to search the interior of the rear residence with the safety mechanism disengaged, unjustifiably and substantially deviated from approved Department tactical training.
2. In this instance, the entry team conducted a systematic search of the interior of the residence with the exception of the living room area where a daybed was located. Sergeant A observed the daybed, and instructed Officer A to grab somebody to clear that area. Rather than providing cover for other officers to search the daybed area, Officer A opted to sling his shotgun over his shoulder and assist with the search. Based on current Department training guidelines, the tactic of slinging a shotgun in order to assist with searching under a daybed when there are sufficient personnel on scene (without a shotgun to sling) to conduct the search and when assigned as the cover officer, unjustifiably and substantially deviated from approved Department tactical training. Officer A is reminded that the role of a cover officer is to provide protection for contact officers and he should not engage in any type of physical searches when acting in the capacity of a cover officer.
3. In this instance, Officer A was armed with a shotgun and acted as the cover officer during the search of the residence. With the daybed area remaining to be cleared, Sergeant A instructed Officer A to grab somebody and to clear the area. Officer A slung his shotgun over his shoulder and proceeded to search the area which resulted in an unintentional discharge. Although the BOPC noted that Sergeant A could have intervened when Officer A began to search the daybed with the slung shotgun, the BOPC found that Sergeant A provided an appropriate level of command and control during the incident. The unintentional discharge can be solely attributed to Officer A's

manipulation of the shotgun and Sergeant A's supervision did not contribute to its discharge

The BOPC found that the tactics utilized by Officer A required a finding of Administrative Disapproval and that those of Sergeant A required a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

In this instance, Officer A responded to the termination of a pursuit where armed robbery suspects fled from their vehicle. Officer A exhibited his Department authorized shotgun while surrounding a residence in which an armed suspect was believed to be. In conclusion, the BOPC determined that an officer with similar training and experience would reasonably believe that the tactical situation had escalated to the point where lethal force may become necessary. The BOPC found Officer A's exhibition of the shotgun to be in policy.

C. Unintentional Discharge

A finding of Administrative Disapproval – Negligent Discharge, is a finding where it was determined that the unintentional discharge of a firearm resulted from operator error, such as the violation of a department standard, which occurred in this incident when Officer A searched for a suspect with the safety disengaged on his shotgun. Although the actual cause of the discharge is unknown, the shotgun was found to be in good working order which supports that the discharge was not the result of a malfunction. Had the safety been engaged, the shotgun would not have discharged. The BOPC found Officer A's unintentional discharge to be negligent.