

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

NON-TACTICAL UNINTENTIONAL DISCHARGE – 079-16

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

Central 11/29/16

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

Officer A 7 years, 9 months

Reason for Police Contact

After completing an undercover vice operation, the officer was walking down a stairwell when he adjusted his firearm, which was holstered in his belt. The weapon discharged a single time. The bullet did not strike anyone and no one was injured.

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.

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 October 10, 2017.

Incident Summary

A specialized unit was monitoring prostitution activity on an online website. Officers responded to an ad, and an arrangement was made to meet with the Subject at a local hotel. Prior to responding to the hotel, the officers in the unit met and briefed on the planned operation.

During the briefing, it was determined that Officer A would operate as the undercover officer and attempt to meet with the Subject inside her hotel room to further the prostitution investigation. Officer B was designated as Officer A's close cover officer while Officers C and D were assigned as the arrest team. Sergeants A and B would be positioned close by to monitor the investigation and offer any assistance as needed. Each officer, excluding Officer A, carried with them a spare magazine, handcuffs and a Los Angeles Police Department (LAPD) raid jacket and tactical vest concealed within a back pack.

The officers in the unit arrived at the hotel and advised Communications Division (CD) of their status and location (Code Six).

Prior to initiating any investigation at the hotel, the officers met with the hotel Security Officer. He was briefed on their plan to conduct a prostitution investigation in the hotel and asked him to accompany the unit to the fourth floor.

Officer A approached the door to the Subject's room with his cover officer, arrest team, and two supervisors close by. He knocked on the door and contacted the Subject. She invited him inside the room and closed the door. The cover officer, arrest team and supervisors, wearing their raid jackets, moved into position nearby. From the hallway, they could listen to the conversation inside the room and heard a predetermined "word of violation." The arrest team knocked on the door, and Officer A opened the door, allowing the arrest team to enter and arrested the Subject without incident.

Sergeant B walked Officer A out of the room and into the stairwell to escort him downstairs. He led the way down the stairs with Officer A several steps behind. According to Officer A, his pistol and holster did not feel secure in his rear waistband. With his right hand, he reached into his right rear waistband to adjust his holster. In doing so, Officer A discovered the belt-clip of the holster was not secured to his waistband and/or belt.

Officer A reached further into his waistband to grasp the combination of the pistol and holster in his right hand by securing them between his thumb and fingers. According to Officer A, he did not grab the pistol in a traditional manner to unholster it, but grabbed the pistol and holster together with the intent to reposition them in his rear waistband, which he demonstrated to investigators. As he attempted to pull them up and out of his waistband, the pistol discharged one round.

Officer A removed his pistol and holster from his rear waistband and observed that his pistol was not fully seated in the holster. He saw that the ejection port, which is normally covered by the holster, was visible. Officer A also observed that the fired cartridge case had not ejected out of the pistol and was trapped in the ejection port.

Sergeant B turned to Officer A. He observed him standing with his pistol in his hand and visibly shaken. He requested that Officer A render the weapon safe and verified that Officer A was not injured. Sergeant B called out to Officer C, who was in the hallway, and requested that he have Sergeant A respond to the stairwell.

Officer A removed the pistol from the holster, then removed the magazine from the pistol and held it in his left hand. He then brought the slide back to allow the fired cartridge case to fall to the ground. According to Officer A, the chamber was clear as a live round had not cycled into the chamber during this incident.

Sergeant A arrived as Officer A rendered his pistol safe and secured it in the holster. Sergeant A observed the magazine and the fired casing on the stairs as Officer A told him he had an "AD." Sergeant A noted Officer A was visibly shaken and took possession of the holstered pistol. Officer A reached down, picked up the magazine and the fired cartridge case, and handed them to Sergeant A.

Sergeant A separated Officer A and Sergeant B by having Officer A move to the hallway while Sergeant B remained in the stairwell. Sergeant A obtained a Public Safety Statement (PSS) from Officer A followed by Sergeant B.

Sergeant A notified the Area Watch Commander of the Non-Tactical Unintentional Discharge, and requested additional supervisors to respond for monitoring purposes. Sergeant A also made notification to Real-Time Analysis and Critical Response Division (RACR).

The scene was secured until Force Investigation Division (FID) Investigators arrived. FID reviewed all documents and circumstances surrounding the separation, monitoring, and the admonition not to discuss the incident to officers prior to being interviewed by investigators. All protocols were followed and appropriately documented.

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 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.

The officer was attempting to adjust his concealed service pistol in his waistband when a non-tactical unintentional discharge occurred. As such, tactical de-escalation was not a factor in this incident.

- 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.

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 point was noted:
 - Firearms Manipulations – Four Basic Firearms Safety Rules.

Tactical Debrief

- The BOPC directed Officer A to attend a Tactical Debrief that shall include discussions pertaining to the above Debriefing Point along with the following mandatory topics:
 - Use of Force Policy;
 - Equipment Required/Maintained;
 - Tactical De-escalation;
 - Radio and Tactical Communication (including Code-Six);
 - Tactical Planning;
 - Command and Control; and,
 - Lethal Force.

Unintentional Discharge

- **Officer A** – (pistol, one round)

According to Officer A, he felt his service pistol moving around like it was not secure in his waistband. He reached around and noticed that the hook of the holster was not attached to his belt. In an effort to re-adjust his holster and service pistol, he used his right hand to adjust the holster, while his left hand stabilized the pistol as well as the holster. As he did so, his gun discharged one round into a concrete stair.

Upon reviewing the evidence, the BOPC determined that the UD was the result of operator error after Officer A unintentionally pressed the trigger of his service pistol while attempting to adjust his concealed service pistol in his waistband. Officer A's action violated the Department's Basic Firearm Safety Rules, and therefore requires a finding of Administrative Disapproval (AD), Negligent Discharge. The BOPC directed that this be a topic of discussion during the Tactical Debrief.