

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

TACTICAL UNINTENTIONAL DISCHARGE – 081-09

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes(x) No()</u>
West Valley	12/01/2009		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	2 years, 3 months

Reason for Police Contact

During a search of a residential backyard, Officer A unintentionally discharged his shotgun.

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

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 July 6, 2010.

Incident Summary

Officers B and C responded to a neighbor dispute. Upon arrival, the officers spoke to Witness A, who advised that her neighbor, the Subject, had been screaming profanities in his yard, damaged the fence between their respective residences and threatened her daughter. The officers went to the Subject's residence and knocked on his door, but initially got no response. As the officers were leaving, they heard the Subject yelling from his rooftop. The Subject screamed at the officers, "What do you want?" The officers requested that he come down from the roof to talk with them. The Subject ignored the officers' request and walked out of their view screaming, "Dead man walking."

Officer B returned to Witness A's residence while Officer C stood behind a tree where he could watch the Subject's residence. According to Officer C, the Subject returned to view on his roof holding a machete. Officer C advised Officer B of what he had observed.

The officers requested a supervisor and Sergeant A responded. Based upon a briefing given by Officers B and C, Sergeant A believed the Subject posed a danger to himself or others and Sergeant A decided to take the Subject into custody. Sergeant A formulated a tactical plan to gain access to the Subject's residence and requested additional units, an airship, and a Fire Department rescue ambulance (RA).

Several officers responded including Officer A. Sergeant A assigned officers to tactical positions around The Subject's residence and created an entry team. The Subject was assigned to the entry team and he was armed with his shotgun.

After giving a "knock and notice", Officer B utilized a battering ram to force open The Subject's front door. The officers cleared the house without locating the Subject. The officers backed out of the residence and entered the rear yard where a search for Subject met with negative results. Officer observed an opening in Witness A's rear fence to a neighboring back yard. The Officers, and Officer A entered the neighbor's yard to continue the search for the Subject.

While preparing to search an aluminum storage shed, Officer A was startled by a loud noise and unintentionally discharged one round from his shotgun. Officer A's shotgun was pointed in a downward direction and as such, the round struck the concrete patio in which he was standing.

The Subject was subsequently located hiding in the yard and was taken into custody without further 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 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 Sergeant A and Officer 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 warrant administrative disapproval.

Basis for Findings

A. Tactics

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

The BOPC noted that in this instance, Sergeant A and the responding officers were confronted with an armed subject who was in a position of advantage and refused to submit to custody. Sergeant A requested additional resources and formulated a tactical plan. These factors met the criteria for a barricaded subject. As such, it would have been appropriate for Sergeant A to contact Metropolitan Division for advice prior to entering the residence.

In conclusion, Sergeant A's actions did not substantially deviate from Department policy and procedure.

B. Drawing and Exhibiting

The BOPC noted that in this instance, Officer A responded to an additional unit request and exhibited his Department issued shotgun as part of a search team in an attempt to take an armed subject into custody. Armed subjects inherently represent a serious threat to both officers and the community.

The BOPC found Officer A's drawing to be in policy.

C. Unintentional Discharge

The BOPC noted that in this instance, as Officer A held his shotgun in a downward position he was startled by a noise and discharged one shotgun round.

Officer A failed to adhere to the basic firearm safety rules and Department training by disengaging the safety and placing his finger on the trigger resulting in an unintentional discharge.

The BOPC found Officer A's unintentional discharge to warrant administrative disapproval.