

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

NON-TACTICAL UNINTENTIONAL DISCHARGE – 094-15

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

Pacific 12/9/15

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

Officer C 7 years

Reason for Police Contact

During a training class break, Officer C unholstered his pistol, incorrectly believing it was an inert training firearm. Officer C fired the weapon toward another officer, resulting in a Non-Tactical Unintentional Discharge (NTUD).

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

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 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, 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 October 4, 2016.

Incident Summary

The LAPD's Training Division was conducting an in-service training at a Department facility. Sergeant A was the supervisor in charge and had 10 police officers assigned to his unit, including Police Officers A, B and C. On the day of this incident, personnel from various geographic divisions were assigned as adjunct instructors, including Sergeants B, C and D.

Note: Sergeant A, and Officers B and C advised investigators that they were unaware of any Department Manuals providing instruction and/or any written policy addressing safety concerns related to officers simultaneously possessing live weapons and inert weapons.

The training, a Use of Force Review and Update Expanded Course, consisted of 61 students (sworn personnel) from various divisions and assignments. According to Sergeant A, there were 18 instructors present for this course. The first part of the training consisted of a thorough briefing and class discussion, where the in-service officers were advised that their pistols, live ammunition, TASERS, and OC Spray were not permitted at the training site. The officers were instructed to secure such items in their vehicles.

According to Sergeant A, after the lunch break, the class was divided into two large groups; one group remained in the classroom, while the other group began practical applications/scenarios. The group assigned to the scenarios was divided into smaller groups of four or five, and rotated through six scenarios where instructors would role play with the officers, therefore, creating various tactical situations.

Note: During the Use of Force Review and Update Expanded Course, the assigned Safety/Security Roving Officer had additional responsibilities. In addition to providing security for the unarmed officers, he was also in charge of communications. The Safety Officer would generally use a radio to communicate with personnel at the various stations/scenarios, and obtain status updates. The Safety Officer monitors the training site on foot, and does not participate in the scenarios. He is also responsible for transporting and/or replacing any equipment needed at the various stations. The extra training equipment is maintained in a storage room.

Officer C was the designated Safety/Security Roving officer, and was carrying his Department-approved pistol, holstered, attached to his equipment belt. This was his first time assigned to this position. In order to be more efficient and responsive to the needs of the scenarios, Officer C elected to carry two extra infrared pistols (irPistols) on his person, loaded with SmartMags, in anticipation of faulty equipment and/or empty CO2 cartridges. This would allow a faster response time for Officer C, and keep the scenarios moving in a timely manner. Officer C secured the irPistols in zippered pockets, located on the front of his jacket. One was in the left pocket and one in the right pocket.

Officers A and B were assigned as role players for station number four, the robbery in progress scenario. Officer B was playing the role of the suspect in the scenario and was wearing an irVest and StressX belt.

Station number four was located on the ground level, at the west side entrance of the building, near the two double doors that lead to the stairwell (north doors). A second set of double doors was located just south, and provided access to the main hallway. A solid wall divided the two entrances.

Officer C was inside the facility, checking on the various scenarios, and walked west toward station four. Officer C walked past the stairwell, toward the north double doors. The door to the north was propped open, allowing him to see outside. Officer C observed Officers A and B standing outside, talking to one another, with no in-service officers/trainees in the area. They were standing by a round table that was located just outside of the double doors. The attire worn by Officer B caused Officer C to believe that his role was the suspect in the scenario. Officer C also noted that Officer B was wearing an irVest and StressXbelt. Based on these observations, Officer C determined that the scenario was not in progress, and it was safe for him to exit the facility.

Note: Officers B and C did not know each other prior to their assignment at Training Division. In the weeks that they had known one another, Officers B and C developed a friendship.

Officer C exited through the north doorway as Officer B simultaneously entered. As they passed, Officers B and C verbally joked with one another, and Officer B pretended that he was going to strike Officer C in the abdomen area.

Note: According to Officer B, he tapped Officer C on the abdomen with his hand in a friendly manner.

In response to Officer B's actions, Officer C wanted to surprise Officer B by shooting him with the irPistol, causing his vest to activate. Officers B and C turned around and faced each other; Officer C facing east, and Officer B facing west. Officer C's intention was to unholster his irPistol as quickly as possible and fire at Officer B multiple times before he had time to react

Using his right hand, Officer C quickly unholstered his duty pistol, believing it was an irPistol, and brought it to a close contact position, with the muzzle pointed toward Officer B. Officer C pushed his right arm forward, while simultaneously bringing up his left hand to his pistol for support. Officer C fired one round toward Officer B in an easterly direction, resulting in an NTUD.

According to Officer B, Officer C unholstered what he (Officer B) believed to be an irPistol. Officer B, out of instinct, quickly moved toward the stairwell, to avoid being shot by the irPistol. Officer B heard one shot, which was extremely loud, and immediately

looked at Officer C's weapon. Officer B did not see any orange markings on the gun, and quickly realized that Officer C had fired his duty pistol. Officer B checked himself for injuries and verified that he was not struck by the gunfire.

According to Officer C, the gunshot was much louder than he expected, causing him to stop firing. Officer C initially thought the CO2 cartridge exploded inside of the irPistol, causing the sound to be louder than usual. Officer C recalled seeing a cartridge case eject from the gun and was aware that the irPistols do not have an ejection port. According to Officer C, he observed the bullet casing eject and realized that he had pulled out his duty weapon and not an inert gun.

Officer C holstered his pistol and immediately checked Officer B's condition, ensuring that he was not injured. Concerned that the bullet could have injured someone within the building, Officer C looked for the impact in order to track the bullet's path. Initially, Officer C was unable to locate the impact.

Sergeant B was briefing a group of four in-service officers, when he heard one gunshot. These officers were not in a position to see station number four, and therefore did not witness the incident. Sergeant B responded to the scene and was advised by Officer B that a NTUD occurred. Sergeant B checked the area for impacts and identified a perforating bullet impact on the east wall. Sergeant B identified and separated the involved officers, Officers B and C, and directed Officer A (who had remained outside of the building and did not witness the NTUD) to notify Sergeant A. Officer A was unable to make contact with Sergeant A via radio; therefore, Sergeant B directed him to go to his location and notify him in person.

Sergeant A arrived at the scene and requested additional supervisors to assist with the monitoring responsibilities. Sergeant A ultimately obtained Public Safety Statements (PSS) from Officers B and C and admonished them not to discuss the incident. Real-Time Analysis and Critical Response (RACR) Division was notified of the NTUD.

Note: As a result of this incident, the Commanding Officer of Training Division conducted an assessment of the operating procedures of the personnel assigned to the Field Operations Training Unit and established new protocols in order to prevent this type of incident from reoccurring in the future.

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 and Exhibiting 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 made the following findings:

A. Tactics

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

B. Drawing/Exhibiting

Does Not Apply.

C. Unintentional Discharge

The BOPC found Officer C's Unintentional Discharge (UD) to be negligent.

Basis for Findings

A. Tactics

- Officer C'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 to attend a Tactical Debrief. Therefore, the BOPC determined that it would be appropriate to recommend a tactics finding.

Officer C was directed to attend a Tactical Debrief that will include discussions pertaining to the following topics:

- Use of Force Policy;
- Equipment Required/Maintained;
- Radio and Tactical Communication (including Code-6);
- Tactical Planning;
- Command and Control; and,
- Lethal Force.

Firearms safety rules were also to be discussed with Officer C during the Tactical Debrief.

B. Drawing/Exhibiting

- Does Not Apply.

C. Unintentional Discharge

- Officer C drew his service pistol believing it was an inert irPistol. When Officer C pulled the trigger it was louder than he expected, and he realized that he had actually fired a round from his service pistol.

The BOPC found Officer C's discharge of his pistol to be negligent.