

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

TACTICAL UNINTENTIONAL DISCHARGE – 029-10

<u>Division</u>	<u>Date</u>	<u>Duty-On(X) Off()</u>	<u>Uniform-Yes(X) No()</u>
Southwest	3/31/10		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Police Officer A	9 months

Reason for Police Contact

Officers responded to a call of a possible trespass subjects. Once at scene, the officers conducted a building search and one officer had a tactical unintentional discharge with his weapon.

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

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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 and addenda items); the Training Evaluation and Management System materials of the involved officer; 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. 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 and for ease of reference, masculine pronouns (he, his, and him) are used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on November 9, 2010.

Incident Summary

Uniformed Officers A and B responded to a radio call regarding possible trespass subjects. Upon arriving, the officers advised Communications Division (CD) of their Code-6 status and met with Witness A. The location was a vacant two-story building. Witness A advised that the building had been breached the day before and that one entrance was unlocked, but covered with a wooden table to conceal it.

When Witness A returned to secure the building in the morning, he saw that the wooden table had been moved, the door had been locked from the inside and he heard someone “scrambling” inside the building. Witness A called the police.

Officer B broadcast a request for an additional unit for a building search. Officers C, D, E, and F arrived and were briefed by Officer B. Officers A, B, C, D, E, and F all drew their pistols, entered the building, systematically cleared both floors and found no one inside. After the building was cleared, the officers holstered their pistols and exited the building. Officer B released Officers C, D, E, and F to resume patrol duties

Officers A and B advised Witness A that there was no one inside the building. Witness A indicated that he believed the intruders may have entered the building through the roof hatch in the mechanical room, which he had forgotten to lock the day before. Witness A requested Officers A and B to accompany him while he secured it.

Witness A and Officers A and B re-entered the building and went upstairs to the mechanical room. Officers A and B drew their pistols, entered the room and cleared it without incident. As Witness A made his way down the hallway, he advised Officers A and B that the bathroom door was unlocked yesterday but it was now locked, which led him to believe someone may be inside. Witness A told the officers he wanted them to kick the door open.

Officer B drew his pistol and directed Officer A to kick the door down. Officer A remained holstered and positioned himself in front of the bathroom door. Officer B stood to Officer A’s side. Officer A utilized his right leg to kick the door three times. On Officer A’s third attempt, the bathroom door swung open and Officer A landed off-balance with his legs outstretched. Officer A’s right foot was on the bathroom floor while his left foot remained in the hallway. At the same time, Officer A looked inside the bathroom and observed another entrance that led further into the bathroom. Based on the information that Witness A had provided, Officer A believed that if someone had locked themselves in the bathroom, they would have already been alerted to his presence by the noises he made as he kicked the door.

Officer A saw the interior entrance as a potential threat and believed he was in a vulnerable position. From his unbalanced stance, Officer A unholstered his pistol. As Officer A initially grabbed his pistol, he did not get a good grasp. Officer A repositioned his hand to get a solid grip on his pistol and as he did so unintentionally discharged one round downward, toward the bathroom floor.

Officer B observed Officer A kick the bathroom door two or three times. When the door opened, Officer B looked into the bathroom and saw no one inside. Officers B observed Officer A unholster his pistol. Officer B heard one gunshot, and observed an impact from Officer A’s round on the bathroom floor. Officer B entered the bathroom, quickly cleared it and found no one inside. Officer B ensured that neither Officer A nor Witness A was injured.

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 and B's tactics to warrant a tactical debrief.

B. Drawing/Exhibiting

The BOPC found Officer A and B's drawing and exhibiting of a firearm to be in policy.

C. Use of Force

The BOPC found Officer A's unintentional discharge to be negligent, warranting administrative disapproval.

Basis for Findings

A. Tactics

In its analysis of this incident, the BOPC noted that the tactics utilized by Officers A and B were appropriate and did not unjustifiably and substantially deviate from approved Department tactical training.

In conclusion, the BOPC found that a Tactical Debrief is the appropriate mechanism for Officers A and B to evaluate the events and actions that took place during this incident with the objective of developing peak individual and organizational performance.

B. Drawing/Exhibiting

Department policy relative to drawing and exhibiting a firearm instructs that an officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief there is a substantial risk that the situation may escalate to the point where deadly force may be justified.

Further, California POST instructs that building searches are a high-risk situation in which officers will normally have their firearm drawn from their holsters due to the fact that a search for the suspect has the possibilities of escalating into a use of deadly force.

In this instance, Officers A and B drew their service pistols prior to searching a building for possible trespass/burglary suspect(s) and appropriately holstered their service pistols upon completion of the search. Officers A and B then received additional information which resulted in further searches, and the officers again drew their service pistols during the subsequent searches.

Officer A kicked open a door leading into a bathroom and noticed there was a portion of the bathroom where someone could hide. Officer A believed there could be a suspect inside the room, and he drew his pistol to cover himself and Officer B. The BOPC determined that an officer with similar training and experience would reasonably believe that the tactical situation could have escalated to the point where lethal force may become necessary.

Therefore, the BOPC found Officers A and B's drawing to be in policy.

C. Use of Force

Department approved training relative to basic firearm safety instructs that a person handling a gun must always treat the weapon as loaded, and should never allow the muzzle to cover anything the operator is not willing to shoot. Further, the operator must keep the index finger off the trigger until sights are aligned on the target, and the operator intends to shoot.

In this instance, Officer A kicked the bathroom door until it swung open, resulting in Officer A losing his balance. Simultaneously, Officer A observed an area inside the bathroom that he believed posed a potential threat, realized he was in a vulnerable position and drew his service pistol as he attempted to brace himself. Officer A stated that during his first acquisition of his service pistol, he did not have a proper grip and attempted to acquire a better grip; however, his index finger was positioned on the trigger resulting in an unintentional discharge.

The BOPC found that the unintentional discharge of the firearm resulted from operator error. Officer A failed to adhere to the basic firearm safety rules while handling his service pistol. Accordingly, the BOPC found Officer A's unintentional discharge to be negligent, requiring administrative disapproval.