

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

**NON-TACTICAL NEGLIGENT DISCHARGE 071-06**

<b>Division</b>	<b>Date</b>	<b>Duty-On ( ) Off(X)</b>	<b>Uniform-Yes( ) No(X)</b>
Pacific	08/28/06		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	8 years

**Reason for Police Contact**

Officer was off duty at his residence and handled his revolver, which resulted in the discharge of his weapon.

<b>Subject</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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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.

The following incident was adjudicated by the BOPC on June 26, 2010.

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.

**Incident Summary**

Officer A was off duty, sleeping at his residence, and Witness A was in the living room watching television. Witness A heard a dog barking, followed by the sound of the gate to the residence's driveway being rattled. Witness A then saw through a window that a blonde-haired person was at the gate. Witness A responded, yelled, and screamed at the person and told the person to get away from the gate.

Officer A was awoken by Witness A's screams and believed that Witness A was being attacked. Officer A grabbed his revolver, and went to the living room and asked Witness A "What?" Witness A was unable to respond, and was still screaming. As Officer A entered the living room, Officer A unintentionally discharged a round from the revolver. The round traveled in a slightly upward direction, and went through the window. Nobody was struck by the round. Officer A had his finger on the trigger at the time he discharged his revolver. After the round was discharged, Witness A saw the red glow of vehicle lights near the driveway, and heard the sound of a car door open or shut. Officer A placed his revolver on a shelf, telephoned the Watch Commander, and reported the incident. Officer A did not indicate that he saw the glow of vehicle lights or heard a car door open or shut.

### **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 were appropriate.

#### **B. Drawing/Exhibiting/Holstering**

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

#### **C. Use of Force**

- The BOPC found Officer A's use force to warrant administrative disapproval.

### **Basis for Findings**

#### **Tactics**

In adjudicating this incident, the BOPC considered that:

- The BOPC noted that as Witness A was watching television in the living room, and was laying on a couch beside the west window of her living room, adjacent to the driveway. Witness A heard a neighborhood dog barking and then a noise that was described as someone attempting to open the driveway gate. Witness sat up and moved the blinds to look out the window and observed an unknown male shaking the gate to the rear yard.

**Note:** On May 14, 2005, unknown suspect(s) entered their residence and removed property while Witness A was sleeping. Subsequently, a burglary report was taken at the time that documented the incident and the property taken.

Witness A began to scream at the suspect. Officer A was asleep in the rear bedroom of his residence when he was awakened by Witness A' screams. Fearing for the safety of his family, Officer A quickly assessed the situation and took appropriate action by responding to Witness A' aid.

The BOPC determined that Officer A's tactics were appropriate and require no further action.

### **Drawing/Exhibiting/Holstering**

- The BOPC noted that Officer A was awakened to the sounds of Witness A screaming and believed an intruder was attacking Witness A. Fearing for the safety of his family, Officer A armed himself with his revolver.

The BOPC determined that Officer A had sufficient information to believe the situation may escalate to the point where deadly force may become necessary and found Officer A's drawing in policy, requiring no action.

### **Use of Force**

- The BOPC noted that Officer A was in possession of his revolver as he made his way to the living room. As Officer A entered the living room, he held the revolver in his right hand and unintentionally pressed the trigger, discharging one round. The round traveled through the north-facing living room window and into an open field. Officer A immediately placed the weapon in a safe location and notified the Watch Commander. The BOPC was critical that Officer A's failed to adhere to the basic firearm safety rules while handling his weapon. The BOPC found Officer A's use of force negligent, requiring administrative disapproval.