

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

TACTICAL NEGLIGENT DISCHARGE 108-06

| <u>Division</u> | <u>Date</u> | <u>Duty-On(x) Off()</u> | <u>Uniform-Yes(x) No()</u> |
|------------------------|--------------------|---------------------------------|------------------------------------|
| Southwest | 11/30/2006 | | |

| <u>Involved Officer(s)</u> | <u>Length of Service</u> |
|-----------------------------------|---------------------------------|
| Detective A | 12 years, 1 month |

Reason for Police Contact

On duty Detective was conducting a search when a negligent discharge occurred.

| <u>Subject(s)</u> | <u>Deceased ()</u> | <u>Wounded ()</u> | <u>Non-Hit ()</u> |
|--------------------------|----------------------------|---------------------------|---------------------------|
| 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.

Because state law prohibits divulging the identity of police officers in public reports, 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 30, 2007.

Incident Summary

Officers prepared to serve a warrant to search for evidence of an illegal firearms sale at a residence. Officer A conducted a briefing to discuss the tactical plan and assignments of personnel. Lieutenant A was the officer-in-charge of the warrant service. Detectives A, B, C, and Officers B and C were assigned as the entry team. Detectives D and E, and Officer D were assigned as trailers for the entry team and also as the arrest team. Detectives F, G, and H, and Officer E were assigned perimeter positions.

Lieutenant A contacted the Watch Commander at Southwest Patrol Division and requested a patrol unit for uniformed presence at the search warrant location. Officers F and G were assigned to respond and meet the other officers at the warrant location. The officers exited their vehicles, met on the sidewalk and walked toward the front yard of the residence. While the officers approached the driveway to the apartment building, Detective C recognized the Subject standing in his front yard behind a fence talking to a neighbor. Detective C identified himself as a police officer, explained that he had a search warrant, and asked the Subject to come out. The Subject indicated his fence was locked and the key was upstairs. The Subject also indicated his two children were still upstairs and provided the officers with a telephone number to contact them. Detective C directed Officer A to call the telephone number. Officer A explained the circumstances to Witness A, the Subject's daughter. After few minutes, Witness A came downstairs and opened the locked driveway fence. Witness A also called her brother, Witness B to come downstairs, to which he responded. They indicated there was no one else inside, and Officer A escorted them across the street. The entry team proceeded upstairs and no additional subjects were located. The Subject informed Officer A that he owned residence and that they were in the process of painting and renovating the unit for new tenants. The Subject indicated there was no one inside that unit. Officer A obtained verbal consent for the entry team to conduct a search of the residence. According to Officer A, the Subject gave the consent and informed him that the keys to the other residence were on the kitchen counter.

Detective C directed Detective B to retrieve the keys from the kitchen counter and instructed the entry team to proceed to the unit next door to clear it for additional subjects. The rooms were systematically cleared and no additional subjects were found. Detective C assembled the entry team in the kitchen area to debrief on tactics.

As members of the entry team were assembling into the kitchen area, Detective A noticed large cabinets and a tall slim door with a missing handle. Detective A believed the cabinets were large enough to conceal a person. Detective A approached the cabinet door and allowed his shotgun to hang in front of him in a three-point sling position as he removed his handgun from his holster with his right hand. Detective A cleared the first two cabinets without any incident and then approached the tall slim door with the missing handle. Although there was no verbal communication between the detectives, they understood from having worked together that Detective A intended to clear the tall slim door. Detectives C and Officer C positioned themselves as cover officers and unholstered their pistols. Detective A attempted to open the cabinet door with his left hand but was unable to do so. As a result, Detective A transitioned his pistol from his right hand to his left hand and removed a folding knife from his right front pants pockets.

Detective A pried the cabinet door open using the knife. Detective B assisted in opening the door by grabbing the top of the door and pulling it to reveal an ironing board. Seeing that there was no threat, the officers began to move away from the cabinet.

Detective A was still in front of the cabinet when he felt his pistol begin to slip from his left hand causing him to tighten his grip in a clenching motion. Upon doing this, Detective A's pistol discharged one round. The discharged round traveled through the west wall in a downward position and then traveled through an empty storage room in a southwesterly direction, impacting the south wall of the storage room.

Detective A looked down and noticed smoke coming from his handgun. He immediately looked to his left and right to ensure no one was injured. Detective A lowered his weapon and secured his knife. At that point, Detective C directed Detective A to place his pistol on the kitchen counter. Detective C communicated to the other officers via Astro radio that there was a Code 4, accidental only, and requested Lieutenant A and Detective H to respond to the location. Detective C then located the expended cartridge casing and ordered the officers to stay away from it. There were no injuries associated with the accidental discharge.

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 determined that Detectives B and C's tactics were appropriate and did not require any findings with respect to this incident.

The BOPC determined that Detective A would benefit from additional tactical divisional training.

B. Drawing/Exhibiting/Holstering

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

C. Use of Force

The BOPC finds Detective A's use of force to be negligent, requiring administrative disapproval.

Basis for Findings

A. Tactics

The BOPC noted that after Detective A systematically searched all the cabinets in the kitchen, he noted a cabinet door that could potentially house a person. Unable to open the door with his hand, Detective A transitioned his service pistol from his primary hand to his left hand and removed a folding knife from his right front pants pocket. Detectives B and C entered the kitchen, observed Detective A attempting to gain entry into the cabinet door and positioned themselves to the left and right of Detective A, respectively. Detective C, who was on the right of Detective A, drew his service pistol and assumed the role of a cover officer. Once Detective A succeeded in prying the door ajar, the detectives utilized nonverbal cues to communicate that they were ready for Detective B, positioned to the left of Detective A, to open the door. The investigation into this incident suggests that Detective A initially conducted a clearing search of the kitchen for subjects without the benefit of a covering officer. The BOPC would have preferred that Detective A had utilized proper room clearing tactics by ensuring that at least two officers entered the kitchen to clear it for subjects.

The BOPC did not identify any concerns with Detectives B and C's tactics as they communicated well and worked as a team. The BOPC determined that Detectives B and C's tactics were appropriate and did not require any findings with respect to this incident.

The BOPC determined that Detective A would benefit from additional tactical divisional training.

B. Drawing/Exhibiting/Holstering

The BOPC noted that personnel from GOSD were searching the residence to locate evidence of illegal weapon sales.

Upon entering the kitchen, Detective A noted there were numerous cabinets that could potentially conceal a person. Detective A allowed his Department shotgun to hang from a front three-point sling position and drew his service pistol. The BOPC determined that Detective A had sufficient information to believe the situation may escalate to the point where deadly force may become necessary.

As a member of the warrant service team, Detective C along with numerous other officers drew and/or displayed firearms. The BOPC determined that a finding for drawing, exhibiting or holstering is not warranted for any other Department personnel that were present during this incident. The BOPC found Detective A's drawing to be in policy.

C. Use of Force

The BOPC noted that Detective A, unable to open the cabinet door with his hand, transitioned his service pistol from his primary hand to his left hand and removed a folding knife from his right front pants pocket. Detective A simultaneously held his service pistol in a left-hand close contact position pointed at the door, while utilizing the knife to pry the cabinet door open.

As Detective B pulled the cabinet door open, Detective A lost his grip on his service pistol and in an attempt to reacquire his grip, he unintentionally pressed the trigger, discharging one round. The round traveled in a southwesterly direction through the wall and impacted into the south wall of an adjacent storage room. Detective C immediately directed Detective A to place his service pistol on the kitchen counter. The BOPC would have preferred that Detective A had holstered his pistol while manipulating the knife. Detectives B and C were in a position to provide cover to him and this would have prevented Detective A from having to alternate his service pistol between his primary and support hands.

The BOPC was critical that Detective A failed to adhere to the basic firearm safety rules while handling his service pistol. A negligent discharge is a serious incident that cannot be mitigated. The BOPC found Detective A's use of force negligent and recommended administrative disapproval.