

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

**OFFICER-INVOLVED SHOOTING – NEGLIGENT DISCHARGE 109-05**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off( )</b>	<b>Uniform-Yes(X) No( )</b>
Foothill	12/13/05		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	10 years, 2 months

**Reason for Police Contact**  
Officer was on duty and responded to a prowler radio call with his partner.

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded ( )</b>	<b>Non-Hit ( )</b>
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 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, 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 3, 2006.

**Incident Summary**

Officers A and B responded to a radio call involving a prowler. Officers A and B arrived at the call location, parked their police vehicle two houses down from the residence, and approached the residence on foot. The officers proceeded to search the front lawn of the residence and then moved to the back of the residence.

As the officers approached the rear of the house, they observed the rear yard had a chain link fence and the pedestrian gate was ajar. Officers A and B unholstered their

service pistols, proceeded through the gate, and began a search of the dimly lit rear yard area. Officer B was completing his search of the rear wall of the yard, when Officer A, believing the search was completed, holstered his service pistol. Officer A did not feel the pistol was seated correctly in his holster so he withdrew the pistol and attempted to reseat the pistol in the holster. During this effort, Officer A's service pistol discharged, and the round struck him in the right thigh area. The round entered Officer A's upper right thigh and exited above the knee. Officer A dropped his pistol to the ground and clutched his leg. Officer B, who was standing approximately 29 feet away, turned to see Officer A holding his right thigh. Officer A then stated that he had shot himself. Officer B holstered his pistol and radioed for a Rescue Ambulance (RA) and supervisor. Officer B then found a chair in the yard and assisted Officer Fisher to the chair while awaiting the RA and supervisor.

Officer A was not clear if the pistol discharged as he was pulling it from the holster or attempting to reseat it in the holster. Officer A did not know why the pistol had discharged or if he had his finger on the pistol trigger. Officer A was transported to the hospital where he was treated and released.

### **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 the officers' tactics were appropriate, warranting no action.

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

The BOPC determined that Officers A and B's drawing of their service pistols was in policy, warranting no action.

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

The BOPC found that Officer A's use of force was negligent, requiring Administrative Disapproval.

## **Basis for Findings**

### **A. Tactics**

- The BOPC noted that Officers A and B properly communicated their Code 6 status to Communications Division (CD) upon their arrival at the assigned radio call and, once at the location, conducted a systematic search of the area surrounding the residence. The BOPC further noted that as Officers A and B began their search, they observed an open gate leading to the dimly lit rear yard of the residence, and, thereafter, properly communicated with each other and conducted a systematic search of the dimly lit backyard. The BOPC considered that the officers had sufficient information to employ these tactics and their actions were appropriate for the situation.

Accordingly, the BOPC determined the officers' tactics were appropriate, warranting no action.

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

- The BOPC noted that Officers A and B observed the open gate that lead to the dimly lit backyard, the officers had a reasonable belief that a suspect may still be in the area. The BOPC considered that the officers believed that the situation might escalate to the use of deadly force and drew their service pistols. The BOPC determined that the officers had sufficient information to reasonably believe there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Thus, the BOPC determined that Officers A and B's drawing of their service pistols was in policy, warranting no action.

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

- The BOPC noted that after concluding the search of the area for possible suspects, Officer A attempted to holster his service pistol with his right hand. The BOPC further noted that Officer A felt his service pistol was not seated properly and attempted to reseat the pistol in the holster by pulling it out a few inches and pushing it back into the holster. The BOPC considered that as Officer A attempted to reseat the pistol, a negligent discharge occurred. The BOPC noted that the round fired from Officer A's pistol penetrated Officer A's upper right thigh about eight (8) inches below his waist and exited the right leg approximately five inches above his right knee. The BOPC was critical of Officer A due to his failure to adhere to the basic firearm safety rules while handling his service pistol. The BOPC noted that a negligent discharge is a serious incident that cannot be mitigated. The BOPC found that Officer A's use of force was negligent, requiring administrative disapproval.