

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

UNINTENTIONAL DISCHARGE 013-08

<u>Division</u>	<u>Date</u>	<u>Duty-On() Off(x)</u>	<u>Uniform-Yes() No(x)</u>
Outside City	02/15/2008		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	7 months

Reason for Police Contact

Off-duty Officer unintentionally discharged a handgun in a restaurant.

<u>Subject(s)</u>	<u>Deceased (x)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
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 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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

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 January 13, 2009.

Incident Summary

Officer A was off-duty and having dinner by himself at a restaurant. Officer A was seated at the bar counter inside the restaurant.

Officer A feared his personal off duty pistol might be stolen from his vehicle so he decided to bring the pistol with him, into the restaurant. Officer A placed the unholstered pistol inside the right front pocket of his jacket and fastened the single snap on the jacket pocket. Officer A subsequently observed that the right front pocket of his jacket was unsnapped so he reached into his pocket to check if his pistol was still there. As he checked the weapon it discharged unintentionally. The discharged round struck the wood and metal bar in front of where Officer A was seated.

Witness A , who was an off-duty officer was working as a security guard at the restaurant and was standing by the north entrance doors when he heard a loud noise coming from the restaurant. Witness A walked into the bar area and observed several customers crouched down on the ground so he believed that the noise he had heard was a gunshot. Witness A observed Officer A still seated at the counter of the bar and smelled the scent of gunpowder in the vicinity of Officer A. Witness A contacted Officer A and asked him what happened. Officer A identified himself as an off-duty officer and advised Witness A that he had accidentally discharged his pistol. Witness A asked Officer A for his pistol, and Officer A gave it to him. Witness A then unloaded the pistol. Witness A called the local police agency and notified them of the unintentional discharge. Officer A contacted Sergeant A and notified him of the unintentional discharge.

Officers from the local police agency responded to the location and took possession of Officer A's pistol.

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 to warrant a Tactical Debrief.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Unintentional Discharge

The BOPC found Officer A's Unintentional Discharge to be Negligent, requiring Administrative Disapproval.

Basis for Findings

A. Tactics

In analysis of this incident, the BOPC identified the following tactical considerations:

1. Officer A did not utilize a holster to secure his service pistol.

Although it may have been safer for Officer A to have his weapon secured in a holster, Department policy permits a weapon to be carried in a pocket as long as no other items are carried in the same pocket.

2. Officer A surrendered his pistol to the security guard who then unloaded the pistol.

The BOPC noted that, although in this case the security guard was an off-duty officer, Officer A should have maintained control of the pistol and surrendered it to the first responding police officer or Department supervisor in an unaltered condition.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Use of Force

Department approved training relative to basic firearm safety rules are as follows:

- All guns are always loaded.
- Never allow the muzzle to cover anything you are not willing to shoot.
- Keep your finger off the trigger until your sights are aligned on the target and you intend to shoot.
- Be sure of your target.

The BOPC determined that Officer A failed to adhere to the basic firearm safety rules while handling his service pistol. Therefore, the BOPC found Officer A's Unintentional Discharge to be Negligent, requiring Administrative Disapproval.