

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

TACTICAL UNINTENTIONAL DISCHARGE – 015-20

Division Date Duty-On (X) Off () Uniform-Yes (X) No ()

Hollenbeck 4/27/2020

Officer(s) Involved in Use of Force Length of Service

Officer A 10 years, 8 months

Reason for Police Contact

While searching for a possible burglary subject in a department store, officers came across a closed door. As one officer entered the threshold of the doorway, a tactical unintentional discharge (TUD) occurred.

Subject(s) Deceased () Wounded () Non-Hit ()

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 Office 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 March 9, 2021.

Incident Summary

A Security Services Operator contacted Communications Division (CD) to report an audible alarm activation at a department store. The operator informed CD that a key holder, Witness A, was en route to the location.

The department store consisted of two floors that included areas designated for sales, warehouse storage, and office space. The business was closed at the time of this incident.

Communications Division (CD) broadcast the call, and two Hollenbeck Division officers responded to the location; however, these officers left the location prior to completing the call in order to respond to a back-up request for a unit following armed robbery suspects in Hollenbeck Division.

Witness A arrived at the store and called 911 to advise CD that he observed an individual (the Subject) inside the store. Witness A observed the activity through the store window and described the Subject. The CD operator directed Witness A to stay inside his vehicle and advised him not to confront the Subject.

CD generated a new radio call for a "burglary suspect there now" based on the updated information provided by Witness A. According to the comments of the call, this incident was not broadcast at that time, due to a vehicle pursuit in Hollenbeck Division. Approximately 48 minutes later, CD broadcast the call on the police radio.

Central Division Officers B and C acknowledged the call and responded to the location as a priority call (Code Two). They arrived at scene and requested additional units for a building search. The store manager, Witness A, unlocked the front doors for the officers.

Additional uniformed personnel responded to the additional unit request, including Officers A, D, E, F, G, H, and Sergeant A.

Officers A and D arrived at scene, and Officer D retrieved the shotgun.

The officers formed an entry/search team consisting of eight officers (Officers A, B, C, D, E, F, G, and H). Officer D was the point officer (shotgun) and Officer H brought a Beanbag Shotgun, which he/she slung over his/her shoulder. As they approached the storefront, all of the officers, with the exception of Officer D, unholstered their pistols. According to Officer A, he/she unholstered his/her pistol due to the fact that burglary suspects are known to carry weapons, and to prevent this risk of serious bodily injury or death during the search.

Prior to entering the business, Officer D announced the officers' presence, verbally identifying themselves as police officers. He/she ordered anyone inside the premises to

come out with their hands up. After receiving no response, the officers entered the store and began a slow, methodical search of the location.

Sergeant A arrived at scene and joined the search team near the lobby area of the store. After clearing the first floor, the officers made their way to the second floor of the building.

While searching the women's department, Officer A came across a closed door on the south side of the building. The signage on the door indicated that the room was an electrical closet. The door opened inward and had a metal handle affixed to the left side of the door. Officer A verbally advised the search team of his/her observation. Officer D and Sergeant A heard the announcement and responded to Officer A's location.

As captured by BWV, Officer A held his/her pistol in his/her right hand, with the muzzle pointed toward the ground and positioned him/herself on the north side of the door. Officer D held the shotgun in a low-ready position and positioned him/herself on the south side of the door, while Sergeant A remained in the store aisle, north of Officer A.

Using his/her left hand, Officer A turned the door handle and pushed the unlocked door open. Once the door was open, it obscured the south/southwest corner of the room. As captured on BWV, the lighting within the room was rather dim; however, there was artificial lighting emitting from a hallway that was located in the northwest corner of the room.

Officer D entered the room first and positioned him/herself near the opening of the hallway. Officer A was concerned that the area behind the door had not been searched and directed Officer D to clear it. Officer D advised Officer A that there was a hallway within the room.

According to Officer A, he/she was cognizant that Officer D was armed with a long gun (shotgun) and quickly realized it was not feasible for him/her to search the area behind the door, due to the limited space. Therefore, he/she decided to search that area him/herself and directed Officer D to stand by. Officer D maintained his/her position at the hallway and held the shotgun in a low-ready position, with the muzzle pointed in an easterly direction.

As Officer A entered the threshold of the room, he/she transitioned his/her pistol from his/her right hand into his/her left hand. As captured by Sergeant A's BWV, Officer A grabbed the door handle with his/her right hand, looked behind the door, while simultaneously pointing his/her pistol in a southerly direction, behind the door.

According to Officer A, the area behind the door was dark; therefore, he/she decided to use the flashlight affixed to his/her pistol to illuminate the area. Using his/her left index finger, he/she attempted to activate the flashlight engagement switch and heard a gunshot. At that time, Officer A realized he/she had a tactical unintentional discharge (TUD).

Officer D heard the gunshot; however, Officer D did not witness the TUD occur. Officers A, D, and Sergeant A checked on one another and verified that no one was injured. Sergeant A directed the officers to stop the search momentarily. Officer A transitioned his/her pistol back into his/her right hand and holstered his/her pistol.

According to Sergeant A, he/she initially believed the incident would be handled as a Non-Categorical Use of Force (NCUOF). Therefore, he/she did not immediately separate Officer A from the other officers.

Sergeant A deactivated his/her BWV and telephonically notified the Central Patrol Division Watch Commander, Sergeant B, of the TUD. Sergeant A requested an additional supervisor respond to his/her location. Sergeant B directed Central Patrol Division, Sergeant C to respond to the location.

After completing the telephonic notification, Sergeant A reactivated his/her BWV and directed the remaining officers to continue with the building search. The search team completed their search; however, they were unable to locate the Subject.

Sergeant C arrived at the TUD scene. Sergeant A briefed him/her on the incident and directed him/her to the location of the TUD.

Initially, Sergeants A and C were unaware that the incident was a Categorical Use of Force (CUOF). Therefore, Sergeant C began investigating the incident as a Non-Categorical Use of Force (NCUOF). Sergeant C took photographs of the scene and associated evidence.

As captured on BWV, Officer C observed a bullet fragment lying on the carpet west of the electrical room door. Officer C directed Officer A to the bullet fragment. Officer A bent over and used his/her flashlight to move the bullet fragment about an inch in an easterly direction.

According to Sergeant C, nearly an hour after he/she arrived at scene, he/she received a phone call from Sergeant B. Sergeant B advised him/her that the incident was a CUOF and directed him/her to obtain a Public Safety Statement (PSS) from Officer A. Sergeant C separated the officers and obtained a PSS from Officer A.

No officers or civilians were injured during the incident.

Force Investigation Division (FID) Detectives responded to the scene to conduct the investigation.

BWV and DICVS Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION
Sergeant A	Yes	Yes	Yes	N/A

Officer A	Yes	Yes	Yes	N/A
Officer E	Yes	No	Yes	N/A
Officer D	Yes	Yes	Yes	N/A

Los Angeles Board of Police Commissioners’ Findings

A. Tactics

The BOPC found Officer A’s tactics to warrant Administrative Disapproval, and Officer D’s and Sergeant A’s tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

The BOPC found Officers A and D’s, and Sergeant A’s drawing and exhibiting of a firearm to be In Policy.

C. Unintentional Discharge

The BOPC found Officer A’s tactical unintentional discharge to be negligent, warranting a finding of Administrative Disapproval.

Basis for Findings

In making its decision in this matter, the Commission is mindful that every “use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. It is also recognized that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public. The Department’s guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life.

Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers” (Special Order No. 4, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

Use of De-Escalation Techniques. It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a Subject and enable an officer to have additional options to mitigate the need to use a higher level of force while maintaining control of the situation.

Use of Force – Non-Deadly. It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

Use of Force – Deadly. It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, a peace officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible.

Note: Because the application of deadly force is limited to the above scenarios, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

The Department's Evaluation of Deadly Force. The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor* (Special Order No. 4, 2020, Policy on the Use of Force - Revised.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified (Los Angeles Police Department Manual.)

A. Tactics

- Tactical De-Escalation Techniques
 - *Planning*
 - *Assessment*
 - *Time*
 - *Redeployment and/or Containment*
 - *Other Resources*
 - *Lines of Communication*
(*Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques*)

Tactical de-escalation does not require that an officer compromise his/her/hers or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – Officers B and C arrived at scene and requested additional units for a building search. Additional Central Patrol Division officers responded to the request for additional units for a building search. Upon arrival, the officers met with each other and formed an entry/search team consisting of Officers A, B, C, D, E, F, G, and H. Officer D was designated as the point officer armed with a shotgun and Officer H carried a beanbag shotgun, which he/she slung over his/her shoulder.

According to Officer A, the officers formulated a plan to make entry into the building. The team of officers designated an arrest team, less-lethal force options, and contact and cover roles that could change based on the situation and layout of the property.

Sergeant A arrived at scene and joined the search team near the lobby area of the store. According to Sergeant A, the officers formulated a search plan and he/she believed the roles, jobs designated, and number of officers conducting the search was sufficient to safely clear the building. All the jobs were interchangeable depending on the size of the facility. Sergeant A stated that the watch had conducted roll call training in building searches on the prior day to this incident.

Assessment – Prior to searching the building, the officers assessed the building and considered the size of the building and designated roles of each officer. An assessment was made on the involved personnel and a less-lethal force option, in the form a beanbag shotgun, was added to the search team. According to Officer A, the officers formulated a plan to make entry into the building. During the search of the building, the officers continually assessed their surroundings and utilized appropriate tactics to clear the location of potential suspects.

Time – Officers B and C utilized their available time and met with the store manager, and then requested additional units for a building search. Additional Central Patrol Division officers responded to the request for additional units for a building search. Upon arrival, the officers took time to plan with each other and formed an entry/search team. Prior to searching the building, the officers utilized their available time to assess the size of the building and designated roles of each officer. The investigation revealed the store manager unlocked the door for the officers. The officers conducted a slow and methodical search of a large, multi-level department store. The officers were searching the second floor when the TUD occurred.

The BOPC noted that the search of the large department store was slow and methodical. The officers involved in the building search did not rush, utilizing their available time, while conducting such a large-scale search. The BOPC also noted that the officers had been searching the building for approximately one hour before the TUD occurred, and then continued the search after the involved officer was identified.

Redeployment and/or Containment – The investigation revealed that there were eight officers and one sergeant involved in the building search. Two additional officers remained outside of the building for containment. During the building search, Officer A came across a closed door in the women's department on the south side of the building. Officer A verbally advised the search team of his/her observation. Officers D and Sergeant A heard the announcement and responded to Officer A's location. Officer D entered the room first and positioned him/herself near the opening of the hallway. Officer A was concerned that the area behind the door had not been searched and directed Officer D to clear it. Officer D advised Officer A that there was a hallway within the room.

According to Officer A, he/she was cognizant that Officer D was armed with a shotgun and quickly realized that due to the limited space, it was not feasible for him/her to search the area behind the door; therefore, Officer A decided to redeploy

and search that area him/herself and directed Officer D to stand by. Sergeant A became involved in the search as a third person prior to Officer A entering through the closed door.

The BOPC noted that the officers had containment of the building during the search and had an adequate number of personnel involved in the search. The BOPC would have preferred that Sergeant A not involve him/herself as part of the search team and instead continue to provide oversight and active leadership with regards to command and control, as there was sufficient time to acquire additional personnel to redeploy and assist with clearing the room.

Other Resources – Officer D was designated as the point officer armed with a shotgun and Officer H carried a beanbag shotgun as a less-lethal force option, which he/she slung over his/her shoulder.

Lines of Communication – Officers attempted to communicate with any possible persons inside of the building prior to making entry. Officer D announced the presence of the officers, verbally identifying them as police officers. He/she ordered anyone inside of the building to exit with their hands up in the air. After receiving no response to Officer D's orders, the officers entered into the location to clear the location.

According to Officer A, the team of officers continuously spoke about the tactical plan to clear the department store. During the building search in the women's department, Officer A came across a closed door on the south side of the building. Officer A verbally advised the search team of his/her observation. Officers D and Sergeant A heard the announcement and responded to Officer A's location. The signage on the door indicated that the room was an electrical closet. Officer D entered the room first and positioned him/herself near the opening of the hallway. Officer A was concerned that the area behind the door had not been searched and communicated with Officer D to clear it. Officer D communicated with Officer A that there was a hallway within the room. Officers A and D continued to communicate with each other to search the location. Officer A communicated with Officer D to standby by while Officer A cleared the location behind the door.

- During its review of this incident, the BOPC noted the following tactical considerations:

1. Body Armor / Ballistic Vest

Officer A was not wearing his/her ballistic vest during portions of his/her patrol shift as well as during the tactical incident, which culminated in a tactical unintentional discharge. Officer A stated that prior to the building search, he/she had removed his/her ballistic vest during his/her patrol shift due to a rash. However, Officer A did not advise a supervisor of his/her medical issue or his/her decision to remove his/her ballistic vest.

The BOPC considered that Officer A was not equipped with a ballistic vest as required during field operations. The BOPC noted Officer's A's failure to wear his/her ballistic vest was a significant concern for concern and placed him/her at a tactical disadvantage.

Based on the totality of the circumstances, the BOPC determined that Officer A's failure to wear a ballistic vest was a substantial deviation, without justification, from Department policy and approved Department tactical training.

2. Building Searches

Sergeant A, Officer A, and Officer D responded to a burglary radio call and joined the additional officers already on scene to form a search team and conduct a building search. During the subsequent investigation by FID personnel after the TUD occurred, the Subject was located inside of the building.

The UOFRB noted that the search team members communicated with each other and proceeded to conduct a systematic and thorough search of the location. The UOFRB considered that the location was a department store which was very large, consisted of two floors, and consisted of various tactical obstacles including numerous clothing racks and displays. The UOFRB considered that the officers effectively adapted their search tactics to the difficulties presented by the location. The UOFRB noted that Officer A clearly identified the closed electrical closet door to the search team, waited for his/her partner, and made entry into the room once Officer D and Sergeant A were in a position to clear the room.

The UOFRB noted that the investigation revealed that hours after the TUD had already occurred and as FID personnel were still conducting their investigation at scene, the Subject was located inside of a makeshift room within the department store. The Subject was taken into custody without incident. The UOFRB considered that the investigation determined that the makeshift room was not accessible without exiting out of a boarded-up wall of the location which led to a vacant area where the makeshift room was located. The UOFRB noted that the search team officers conducted a search of the area where the Subject was believed to have exited the building and it appeared to have been boarded up. The tactics utilized to search the department store appeared to be consistent with Department tactics and that the later location and arrest of the Subject by FID personnel did not appear to be related to any deficiencies of the search tactics.

Based on the totality of the circumstances, the UOFRB determined, and the BOPC concurred, that Sergeant A's, Officers A and D's actions were not a deviation from approved Department tactical training.

- The BOPC also considered the following:

- **Supervisor Responsibilities** – The investigation revealed that Sergeant A, while overseeing the search of the second floor of the building, repositioned him/herself to Officer A’s location when Officer A announced he/she had a closed door that needed to be searched. Sergeant A assumed the role of the third person in the search, as there were no other officers in the immediate vicinity to assist with the search of the room once Officers A and D gained entry and entered the room. Supervisors are reminded to, when feasible, prioritize and maintain command and control over becoming engaged in a tactical role.
- **Preservation of Evidence** – The investigation revealed that following the TUD, and after the remaining officers completed the building search, Officer A was directed to a bullet fragment located on the carpet west of the electrical room door. Officer A utilized his/her flashlight to move the bullet fragment approximately one inch in an easterly direction. Officer A was reminded that evidence should be left in place until the arrival of FID investigators. If evidence must be moved, officers should don appropriate personal protective equipment to minimize altering or contaminating the evidence.

Command and Control

- The investigation revealed that Sergeant A was the first supervisor to arrive at the scene. Sergeant A joined the search team, which had assembled near the lobby of the store. Sergeant A coordinated and provided oversight throughout the building search. As the search team cleared the second floor of the store, Sergeant A responded to Officer A’s declaration that he/she had a closed door that needed to be cleared and oversaw the entry into the room where the TUD occurred. Sergeant A momentarily stopped the search and determined that there were no injuries. Sergeant A directed an additional member of the search team to assume Officer D’s position and removed Officers A and D from the search. Sergeant A directed the remaining uninvolved members of the search team to continue and complete the search of the store.

According to FID investigators, a review of Officer A’s BWV depicted Sergeant A make a phone call and inform the Central Patrol Division Watch Commander, Sergeant B, that he/she was conducting a building search where an officer had an “accidental discharge.”

According to Sergeant A, during his/her conversation with Sergeant B, he/she advised him/her of the TUD and the circumstances of the incident. However, Sergeant A did not recognize the TUD as a CUOF incident and explained he/she was not familiar with the TUD protocols. Sergeant A believed the incident would be investigated as a NCUOF and therefore, did not admonish, separate, or continuously monitor the involved officers.

According to FID investigators, Sergeant C responded to the scene of the TUD. Upon his/her arrival, Sergeant C was briefed by Sergeant A regarding the

circumstances surrounding the TUD incident. A review of Officer A's BWV depicted Sergeants A and C discussing the protocols subsequent to a TUD. Sergeant C explained he/she was not familiar with protocols subsequent to a TUD. Sergeant A advised Sergeant C that he/she believed the incident would be investigated similar to a NCUOF. Therefore, according to Sergeant C, he/she did not believe he/she needed to admonish, separate, or monitor the involved officers and began conducting his/her NCUOF investigation by attempting to locate evidence and obtaining photographs of the scene.

According to Sergeant C, approximately one hour after his/her arrival on scene he/she was notified by Sergeant B that the incident would be handled as CUOF. Sergeant B directed Sergeant C to administer a PSS to Officer A. Sergeant C admonished, separated, and monitored the involved personnel and administered a PSS to Officer A. Sergeant C continued to monitor Officer A and Sergeant A until he/she was relieved by FID investigators.

The UOFRB noted that Sergeant A took an active leadership role when he/she arrived as the building search was in progress and provided tactical oversight as expected throughout the remainder of the search. However, the UOFRB was critical of the actions of Sergeants A and C with regard to the protocols subsequent to a CUOF. The UOFRB noted that Sergeants A and C incorrectly identified the incident as a NCUOF and proceeded to conduct a NCUOF investigation. The UOFRB considered that TUD's are not a common occurrence; however, they opined that Sergeants A and C should have been familiar with their supervisory responsibilities following a TUD incident. The UOFRB noted that upon being notified that the incident would be handled as a CUOF, Sergeant C immediately admonished, separated, and monitored the involved personnel in addition to administering a PSS to Officer A.

The UOFRB noted they would have preferred that Sergeants A and C take a more active leadership role with regard to the urgency in identifying the incident as a CUOF, overseeing the separation and monitoring of those involved officers, and preserving the TUD scene. The actions of Sergeants A and C were not consistent with Department supervisory training and the BOPC's expectations of field supervisors during a critical incident.

Force Investigation Division noted that there were multiple errors on the Watch Commander's Daily Report. According to the Watch Commander's Daily Report, Sergeant B was notified of the TUD and directed Sergeant C to respond to the scene of the TUD. Sergeant B noted that he/she directed Sergeant C to separate the officers.

The BOPC would have preferred that Sergeant B take a more active supervisory role upon being notified of a CUOF incident and provide clear direction to field supervisors. The UOFRB determined, and the BOPC concurred, that while there were identified areas for improvement, Sergeant B's actions with regard to protocols

subsequent to a CUOF did not significantly deviate from approved Department supervisory training.

The actions of Sergeant B were consistent with Department supervisory training and the BOPC's expectations of a watch commander during a critical incident.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and are intended to be flexible and incident specific, which requires that each incident be looked at objectively and that the tactics be evaluated based on the totality of the circumstances.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved officers to discuss individual actions that took place during this incident.

In conducting an objective assessment of this case, the BOPC determined that the Officers A's actions were a substantial deviation, without justification, from Department policy and training, thus requiring a finding of Administrative Disapproval. Sergeant A's and Officer D's actions did not deviate from Department policy and training; therefore, the BOPC found their tactics to warrant a Tactical Debrief.

B. Drawing and Exhibiting

- According to Officer D, after he/she and his/her partner arrived at the location to assist with a search for possible burglary suspects, he/she retrieved his/her Department shotgun from his/her police vehicle. Officer D deployed his/her Department shotgun based on the fact that he/she and his/her fellow officers were searching for an unknown number of burglary suspects who are known to have "weapons." Officer D assumed the role of the "point" in the building search based on his/her deployment of his/her Department shotgun, which was the most "firepower" he/she could utilize at the time.
- According to Officer A, he/she responded to a request for additional units for a search for a possible burglary suspect. Officer A and his/her partner formed a search team with additional officers who responded to the incident. Officer A drew his/her service pistol at various times throughout the search based on the "potential dangers inside of the building" as well as his/her knowledge that burglary suspects are known to "carry weapons," and his/her desire to ensure that he/she and his/her fellow officers were "safe from serious bodily injury or death." Officer A advised that when he/she drew his/her service pistol, his/her service pistol was at a low-ready position in his/her right hand. Officer A drew his/her service pistol prior to entering the closed door electrical closet due to the fact that he/she and his/her fellow officers were still "searching for a potential [burglary] suspect," whom he/she believed are

known to have weapons. Officer A in this instance, drew his/her service pistol with his/her right hand and transitioned across his/her body to his/her support hand and down into a low-ready position. Officer A stated that the angle in which the door opened obscured the southern portion of the closet.

- According to Sergeant A, he/she responded to the location of a possible burglary suspect and accompanied the team of officers as he/she oversaw the tactical strategies utilized during the search. As Sergeant A and the team were searching the second floor of the location, he/she believed the due to the large area they needed to cover, it was advantageous to join the officers as “they were going to fan out side by side to clear together moving as one.” Sergeant A drew his/her service pistol to ensure his/her safety as well as his/her other fellow officers, based on the fact that he/she was conducting a search for a burglary suspect who are “known to carry weapons” which could be “used to cause serious bodily injury or death.”

In this case, the BOPC conducted a thorough review in evaluating the reasonableness of Officers A, and D’s, and Sergeant A’s drawing and exhibiting of their service pistols and Department shotgun. The BOPC noted that Officers A and D, and Sergeant A responded to a burglary radio call at a large location. The BOPC considered that Officers A and D, and Sergeant A were cognizant that they were conducting a building search and each individual articulated in their own perspective that based on their training and experience, burglary suspects are known to utilize and be armed with various tools which could be used as weapons.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officers A and D, and Sergeant A, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officers A and D’s, and Sergeant A’s drawing and exhibiting to be In Policy.

C. Unintentional Discharge

- **Officer A** – (pistol, one round)

Background – According to the FID investigation, one bullet impact was identified on a metal ladder that was stored within the electrical room, just south of the door. The FID investigation determined the background was the enclosed southern portion of the electrical room which contained an electrical pipe and a mannequin.

According to Officer A, he/she opened the door to the electrical closet, at which time Officer D entered the closet first moving in a northwesterly direction. Officer A observed that the door to the electrical closet stopped moving and obscured the southwest area of the closet. Officer A believed that he/she needed to “clear this

door, because my [Officer A's] partner is already fully engaged in an area to where he/she has no cover." Officer A moved in a "swift" manner due to the "potential threat behind the door." Officer A transitioned his/her service pistol to his/her support hand in order to adequately cover the area behind the partially open door. Officer A, while attempting to clear the area behind the partially open closet door, attempted to engage the tactical light that was affixed to his/her service pistol with his/her support hand while pulling the door open. Officer A during his/her attempt to activate the tactical light to illuminate the dark area behind the door, felt his/her "weapon have resistance," at which time Officer A's finger entered the trigger guard of his/her service pistol and the service pistol discharged.

The BOPC noted that Officer A transitioned his/her service pistol to his/her support hand in an effort to clear behind the electrical closet door which had become caught on items located in the southern portion of the electrical closet. The BOPC considered that Officer A stated he/she was attempting to activate his/her tactical light switch in an attempt to illuminate the southern portion of the electrical closet which had poor lighting. As Officer A attempted to activate his/her light switch, his/her left index finger entered the trigger guard of his/her service pistol and his/her service pistol unintentionally discharged. The BOPC opined that Officer A's attempt to manipulate his/her tactical light switch with his/her support hand contributed to his/her unintentional discharge.

Based on the totality of the circumstances, the BOPC determined that the TUD was the result of operator error and a failure to adhere to the Department's Basic Firearm Safety Rules, thus requiring a finding of Administrative Disapproval (AD), Negligent Discharge.

Thus, the BOPC found Officer A's tactical unintentional discharge to be negligent, warranting a finding of Administrative Disapproval.