

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

TACTICAL UNINTENTIONAL DISCHARGE 052-10

<u>Division</u>	<u>Date</u>	<u>Duty-On(x) Off()</u>	<u>Uniform-Yes() No(x)</u>
Rampart	06/24/10		

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Officer A	13 years, 4 months

Reason for Police Contact

Officers responded to a radio call involving an assault with a deadly weapon, which resulted in an unintentional discharge.

<u>Subject(s)</u>	<u>Deceased (x)</u>	<u>Wounded ()</u>	<u>Non-Hit ()</u>
None			

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.

In accordance with state law divulging the identity of police officers in public reports is prohibited, so 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 May 23, 2011.

Incident Summary

Communications Division (CD) broadcast an "Assault with a Deadly Weapon, shots fired," radio call at a medical dispensary. Responding units discovered a shooting victim at the location, and received information about a potential secondary location where an identified subject was likely to be located. Units established a perimeter around that secondary location, while K-9 units responded and thereafter requested additional units to assist with the search for the subject.

Officers A and B heard the broadcast requesting additional units and responded to the Command Post (CP) established for the incident. Sergeant A also responded to the CP. Officer A indicated that he and Officer B, along with four other officers, were requested to assist the K-9 search. Officers A and B deployed their weapons and responded to the second floor of the apartment building at the secondary location.

Officers A and B were advised by the K-9 unit that they should hold a stairwell on the southwest corner of the second floor, just opposite from the location identified as the possible apartment where the subject may have been located. According to Officer A, the K-9 unit “possibly had an interest in [one apartment’s] door. According to Officer B, Officer C advised that he and Officer A should “watch the stairwell to make sure that nobody was either coming down or coming up the stairwell or attempting to flee that location[.]”

According to Officer A, he and his partner discussed how they would make entry into the stairwell and open the door.

According to Officer B, he and Officer A looked at each other, he asked Officer A if he was ready, Officer A nodded yes, and then Officer B “swung the door open. The door was open about halfway and [... Officer B] heard one round [...] fired.” Officer A indicated that Officer B “gave [him] the signal that he was going to open [the door]. As [Officer B] opened it, [Officer A] accidentally discharged a round.” Officer A indicated that the door swung away from the officers when the discharge occurred. According to Officer A, he was standing in a static position, and the rifle was positioned on his shoulder at the time of the discharge.

Officer A indicated that at the time of the discharge, he was “under the impression that the safety was on. According to Officer A, when the discharge occurred, he was adjusting the weapon which was “kind of slippery. When [he] readjusted is when [he] pulled back, and [he] accidentally got the trigger.” Also according to Officer A, he did not intend to pull the trigger and “[i]t just happened” when he “tried to regrip the [...] weapon.”

According to Officer B, at the time of the discharge, he and Officer A were approximately five to seven feet apart. Other officers on the second floor at the time of the discharge heard the sound of a gunshot.

According to Officer D, he heard a gunshot when a group of officers was “getting ready to make entry into an apartment. And then when [they] heard the gunshot, [they] stopped what [they] were doing, and [he] heard someone make a statement [...] that it was an accidental.”

According to Officer A, he and Officer B let everyone on the floor know that he was the one who discharged the round. Neither Officer A nor Officer B contacted CD to relay this information.

Officer D broadcast, "Code 4, Code 4, just a Code 4, everybody's okay." According to Sergeant A, he heard someone on the Metropolitan radio frequency stating, "'We have a Code 4. We have a Code 4. Everything's okay,' in [a] somewhat [...] excited voice."

Officer B indicated that he told Officer A to stay "focused because there is a [subject] still outstanding[.]" According to Officer B, he and Officer A agreed to "clear" the stairwell area, given that they were "responsible for posting" in that location and given their belief that the K-9 units were still attempting to search the apartment where they believed the suspect to be located.

According to Officer A, CD advised that Officers E and F would assume his and Officer B's positions and that the involved officers should head back to the CP. At the time of the discharge, Officers E and F had been on the second floor assisting the K-9 officers.

According to Officer A, he and Officer B were met outside the apartment complex by Sergeant A, who took Officer A's Public Safety Statement (PSS). According to Sergeant A, Officer A stated that his weapon "discharged in a downward angle going through a metal door penetrating the door and striking into the cement[,] landing in the stairwell." According to Sergeant A, he took physical control of Officer A's weapon by placing it in the trunk of his vehicle. He "didn't unload it, chamber check it or anything. It was placed in the trunk as it was when it was removed from the possession of Officer A." According to Officer B, when Sergeant A subsequently took his PSS, he relayed that Officer A had fired one round in a downward direction that struck the stairwell door. Sergeant A separated the officers and advised them not to talk about the incident.

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

The BOPC found Officer A's drawing and exhibition of a firearm to be in policy.

C. Unintentional Discharge (UD)

The BOPC found Officer A's UD to be negligent, warranting Administrative Disapproval.

Basis for Findings

A. Tactics

In this instance, there were no tactical considerations identified that *"unjustifiably and substantially deviated from approved Department tactical training."* However, a collective review of the incident would be appropriate.

In conclusion, a Tactical Debrief is the appropriate mechanism to evaluate the events and actions that took place during this incident to enhance future performance.

Although Officer B does not warrant a formal finding, he could benefit from attending the Tactical Debrief.

The BOPC concluded that Officers A and B's tactics warranted a Tactical Debrief.

Additionally, the BOPC directed that rifle manipulations be addressed during the Tactical Debrief.

B. Drawing/Exhibiting/Holstering

In this instance, Officers A and B responded to a request to assist K-9 officers with a search for a murder subject who was possibly armed with a handgun. In preparation for the search, Officer A donned his tactical vest, ballistic helmet and deployed his Heckler and Koch Model 416D, semi-automatic patrol rifle.

Officer A was directed to assist with a search of a possibly armed murder subject. An officer with similar training and experience would reasonably believe that there was *"a substantial risk that the situation may escalate to the point where lethal force may be justified."*

In conclusion, the BOPC found Officer A's exhibiting of his police rifle to be In Policy.

In addition to the above listed employees, there were additional personnel, including Officer C, who responded and drew/exhibited their firearms during the incident. Although formal findings are not warranted, the BOPC determined that their Drawing/Exhibiting was appropriate and requires no further action.

C. Unintentional Discharge

In this instance, Officer A did not realize that the safety toggle switch on his rifle had been moved from the safety "on" position to the "semi-automatic" firing position.

Officer B manipulated the hallway door handle and forced it inward. As the door started to swing open Officer A discharged a round into the hallway door.

Officer A immediately notified his partner that he discharged a round. He also yelled out to other officers in the area that he had discharged a round and Officer D, K-9 Platoon, broadcast, *"Code 4, Code 4, just a Code 4, everybody's okay"* over the assigned frequency. After Officer A discharged his rifle, he and Officer B communicated with each other and verified that neither officer was injured. Officers A and B refocused and breached the hallway door. They did not make contact with the suspect and held their position in the stairwell. Within approximately five minutes they were relieved from their position and met Sergeant A, in front of the apartment complex.

In conclusion, a finding of Administrative Disapproval – Negligent Discharge is appropriate.