

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

**NON-TACTICAL UNINTENTIONAL DISCHARGE 054-10**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off()</b>	<b>Uniform-Yes(X) No()</b>
Northeast	07/02/10		

<b>Involved Officer</b>	<b>Length of Service</b>
Officer A	2 years, 5 months

**Reason for Police Contact**

Officers responded conducted a follow-up investigation, which resulted in a non-tactical discharge.

<b>Subject</b>	<b>Deceased ()</b>	<b>Wounded ()</b>	<b>Non-Hit ()</b>
Does not apply.			

**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 10, 2011.

## **Incident Summary**

Officers A, B and C, along with several other officers and Sergeant A conducted a follow-up investigation regarding an earlier shots fired into an Inhabited dwelling/arson incident. All involved personnel were in full uniform and drove marked black and white police vehicles. Upon arrival, Officers B and C observed three males standing on the street in front of a vehicle. The officers parked behind the vehicle and approached the group on foot. As the officers approached one of the males, subsequently identified as Subject 1, looked in the direction of the officers and reached into his waistband, and then pulled an unknown item from his waistband and threw it on the ground.

Officer C heard a distinct metallic “clink” as the object hit the ground, and proceeded to look under a vehicle where he observed a handgun near where Subject 1 was standing. Subject 1 and the other two males (Subject 2 and Subject 3), were detained.

As Officer A approached, he observed a handgun under the vehicle a handgun with the hammer positioned to the rear. Officer A retrieved the handgun and intending to render it safe, and moved toward Officers B and C’s police vehicle to do so. Officer A wore gloves to pick-up the handgun. As Officer A approached the police vehicle, he observed that its trunk was open, so Officer A decided to place myself to the rear of the police vehicle and clear the weapon in the trunk as quickly and safely as possible. Officer A then proceeded to clear the weapon by removing the magazine. Officer A observed that the magazine was empty and clear, and then placed the magazine back into the gun. Officer A then racked the [gun’s slide] back and forward approximately three times, and assumed that by racking the slide, any rounds in the chamber would eject. Officer A did not observe any rounds eject, and Officer A did not actually look into the chamber to verify that there wasn’t a round in the chamber. Officer A then removed the magazine and placed it in the trunk [...] on top of the officer’s duty bag. Before placing it down, Officer A noticed that the gun had the hammer to the rear. Officer A placed his thumb on the hammer and touched it approximately three times. Officer A then proceeded to place the gun on top of the duty bag, and once Officer A let the gun go, it went off. To the best of Officer A’s knowledge, at no time did Officer A touch or manipulate the trigger.

Sergeant A heard a single gunshot and looked back and observed the trunk of the lead vehicle was up. Sergeant A quickly walked over to the vehicle and Officer A informed Sergeant A that the weapon had gone off. Sergeant A checked to see the damage and discovered that the round had pierced one of the officers’ tactical bag, but found no exit. One of the subjects was in the vehicle at the time of the discharge, so Sergeant A had the subject removed from the back seat and inspected the subject for injury, but there was none.

Sergeant B responded to the location ascertained what had occurred and contacted Sergeant C to report what had occurred.

## **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**

Does not apply

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

Does not apply.

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

Does not apply

### **D. Unintentional Discharge**

The BOPC found Officer A's Unintentional Discharge to be negligent and warranting an Administrative Disproval.

## **Basis for Findings**

### **A. Tactics**

Does not apply.

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

Does not apply.

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

Does not apply.

## **D. Unintentional Discharge**

In this instance, Officer A removed the magazine from the handgun, visually inspected the magazine, and noted that it was empty before he reinserted it back inside the magazine well of the handgun. Officer A then manipulated the slide, back and forth, three times in an attempt to extract any rounds within the chamber. Since he did not observe any rounds eject from the chamber, Officer A formed the opinion that the handgun was unloaded and safe. According to Officer A, "I assumed that by racking the slide, any round in the chamber would eject. I did not observe any rounds eject. Because of this, I did not actually look into the chamber to verify that there wasn't a round in the chamber." Officer A then again removed the magazine from the handgun and, as he began to place the handgun on top of a duty bag inside the trunk, a round was discharged. The round pierced the duty bag and was recovered from inside the bag.

The BOPC evaluated the circumstances relevant to Officer A's Unintentional Discharge and determined that his actions "*unjustifiably and substantially deviated from approved Department tactical training.*" The primary factor was that he failed to conduct a "chamber check," a visual inspection of the chamber, to determine and ensure the firearm was not loaded. Furthermore, the balance of evidence indicates that the discharge of the firearm was caused by the improper manipulation of the weapon.

In conclusion, the BOPC found that Officer A's Unintentional Discharge was Negligent and warranted a finding of Administrative Disapproval.

