

**ABRIDGED SUMMARY OF A NON-TACTICAL UNINTENTIONAL DISCHARGE OF A
FIREARM AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE
COMMISSIONERS**

NON-TACTICAL UNINTENTIONAL DISCHARGE – 076-08

<u>Division</u>	<u>Date</u>	<u>Duty-On()</u>	<u>Off(X)</u>	<u>Uniform-Yes()</u>	<u>No(X)</u>
Outside City	08/24/08				

<u>Officer(s) Involved in Use of Force</u>	<u>Length of Service</u>
Officer A	5 years, 7 months

Reason for Police Contact

Officers A, B and C were off-duty and inside a hotel room. Officer A believed he had emptied the live rounds from his off-duty revolver, but one live round was left in the revolver's cylinder. Officer A pulled the trigger on the pistol and discharged a round that struck Officer B.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate the 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 and addenda items); the 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 and for ease of reference, masculine pronouns (he, his, and him) are used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on July 7, 2009.

Incident Summary

Officers A, B and C were off-duty and at a restaurant outside of the city. Officers A, B and C each consumed a combination of food and alcoholic beverages over a ninety minute period of time. Officer A had his off-duty pistol in a holster inside his right-side lower cargo pocket. After finishing their meals and drinks, Officers A, B and C walked to a bar at a nearby hotel. The officers consumed more alcoholic beverages for a period of time between thirty and sixty minutes. After that, Officers A, B and C walked to another hotel and rented a room. Officers A, B and C went inside the rented hotel room to change their clothing because they were going to go out for dinner.

Officer B retrieved the ironing board from the closet and began to iron his clothes. Officer C moved back and forth between the closet area and the bathroom as he changed his clothes. Officer A stood on the south side of the bed next to the counter with the sink, facing in a southeast direction.

Officer A decided not to take his revolver with him to dinner, so he opened the cylinder of his revolver and positioned the pistol upward to allow the rounds to fall out into his left hand. Officer A believed he had removed all five rounds from the weapon, placed them inside his right pocket and closed the cylinder. Officer A believed the weapon was empty and pulled the trigger. One round unexpectedly discharged and Officer A observed Officer B fall to the floor. Officer A placed the revolver on the counter and immediately moved toward Officer B.

Officer B reported that he was starting to iron his clothes when he heard one gunshot, smelled gunpowder and felt pain in his abdomen. Officer B grabbed his abdomen, stumbled backward and fell to the floor. Officer B sustained a gunshot wound to his abdomen, approximately one inch above his navel.

Officer C reported that he heard a gunshot, turned around, and observed Officer B falling backward.

Officers A and C quickly approached Officer B to render aid and Officer C stated that he was going to call 911. Officer C dialed 911 on his cell phone and went downstairs to the lobby to have the front desk call 911 as well.

Officer C exited the elevator while talking on his cell phone and directed Witness A, who was working at the front desk, to call 911. Witness A told Officer C that the 911 operator wanted to speak with him. Officer C spoke with the 911 operator and requested an ambulance for a gunshot wound victim. Officer C provided the address and stated that he would be standing by the lobby to direct the paramedics to the room. However, Officer C returned to the hotel room. When he entered, he observed that Officer A had dressed Officer B's wound with a hand towel and had applied pressure to it. Officer A advised Officer C that Officer B's vitals were good.

Meanwhile, the 911 call resulted in a broadcast regarding an assault with a deadly weapon and six officers from the outside agency (OA) responded to the call. Fire department personnel also responded to the call and arrived first, but they waited for the police to arrive to secure the scene.

When officers from the OA arrived at the hotel, the elevator doors to the lobby opened up and Officer C exited. Officer C advised the OA officers that he was the person reporting and that he would lead them to the room. At that time, Officer C told the OA officers that he was an off-duty Los Angeles Police Department (LAPD) officer. Officer C led the OA officers to the hotel room. As they entered the room, they observed Officer B at the northeast corner of the room lying on his back with his knees up, holding a towel over his stomach area. They also observed Officer A standing between the counter and the bed. An OA officer observed that Officer A placed his hands up and stated that he was an off-duty LAPD officer. The OA officers observed a gun lying on top of the counter and no signs in the room that a struggle might have taken place.

Shortly thereafter, fire department personnel arrived and provided medical treatment to Officer B. Officer B was subsequently transported to a local hospital, where he received treatment for a gunshot wound.

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 while 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 C's tactics to warrant a finding of Administrative Disapproval.

B. Drawing/Exhibiting/Holstering

Does not apply.

C. Unintentional Discharge

The BOPC found Officer A's unintentional discharge to be negligent.

Basis for Findings

Tactics

In this instance, Officer C was aware that a fellow officer had been shot and required emergency aid. Officer C went to the hotel lobby and called 911 from his cellular telephone. While the involved officers were not on-duty at the time of this incident, Officer C's 911 call was akin to an "Officer Needs Help" call. Based on his experience as a police officer, Officer C should have known the type of information that would be required by the local law enforcement and fire dispatchers and been prepared to immediately provide all pertinent information. However, a review of the 911 calls pertaining to this incident revealed that not only did Officer C fail to provide critical information to the dispatchers in a timely manner; he appeared to have been evasive when the dispatchers asked him questions about the incident. In addition, because the dispatchers did not know that there was not an outstanding shooting suspect, fire department personnel staged until the police could secure the scene rather than immediately responding to the hotel room to render medical aid to Officer B. This resulted in a delay in Officer B receiving critical medical treatment.

In this instance, Officer C's failure to provide timely information directly contributed to a situation which could have had tragic consequences. Officer C's actions unjustifiably and substantially deviated from approved Department tactical training, and warrant administrative disapproval.

Drawing/Exhibiting/Holstering

The BOPC found that Drawing/Exhibiting/Holstering does not apply.

Unintentional Discharge

In this instance, Officer A failed to adhere to the basic firearm safety rules when he did not verify the pistol was empty, pointed the pistol in an unsafe direction and placed his finger on the trigger of his pistol causing his pistol to discharge. Officer A's round struck Officer B in the abdomen and placed other potential bystanders at a significant, unnecessary risk of being struck by his gunfire.

The BOPC found that Officer A failed to adhere to the basic firearm safety rules while handling his service pistol. The BOPC found Officer A's Unintentional Discharge to be negligent.