

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

UNINTENTIONAL DISCHARGE – 097-08

<u>Division</u>	<u>Date</u>	<u>Duty-On()</u>	<u>Off(X)</u>	<u>Uniform-Yes()</u>	<u>No(X)</u>
Outside City	11/08/08				

<u>Involved Officer(s)</u>	<u>Length of Service</u>
Recruit Officer A	3 months

Reason for Police Contact

Not applicable.

<u>Subject(s)</u>	<u>Deceased ()</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 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 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 August 25, 2009.

Incident Summary

Recruit Officer A, off-duty and attired in plainclothes, drove to the residence of an acquaintance. Recruit Officer A brought along his Department-issued equipment bag, which contained his equipment belt and service pistol that was holstered and attached to the equipment belt, as he claimed never left his pistol at his apartment due to concerns that the apartment might be burglarized.

Later that evening, Recruit Officer A was with an acquaintance, Witness 1, watching television in the living room. Recruit Officer A said his class was going to have a combat test in a few days, and he needed to practice his “dry presses.”¹ Recruit Officer A retrieved his equipment belt, returned to the sofa in the living room and placed his equipment belt to his right on the sofa seat.

From a seated position, Recruit Officer A removed his pistol from its holster with his right hand and then positioned it between his legs with the muzzle facing downward, toward his left leg.

Recruit Officer A believed his pistol did not have any ammunition in it, given that at the end of a shooting exercise at the range, recruit officers are always directed to clear and holster an empty weapon. Additionally, there was no magazine in the pistol.

According to Recruit Officer A, “I had my right hand on it like the actual grip. And my support hand was going to go onto the slide. I remember pulling it back, the slide, and going to press the trigger. At this point the muzzle was kind of canted to the side, pointed to my leg.” Recruit Officer A pulled the trigger and the pistol discharged one round that, unbeknownst to him, had been in the chamber. The discharged projectile struck Recruit Officer A’s left knee, resulting in a through-and-through gunshot wound. Recruit Officer A then dropped his pistol to the floor.

Witness 1 was looking at the television when he heard one gunshot. Witness 1 turned toward Recruit Officer A and heard him say, “Oh my gosh, I’ve just shot myself,” and observed him leaning forward. Witness 1 observed the pistol on the floor with the muzzle pointing in his direction. Fearful of the pistol, Witness 1 pushed the pistol approximately one foot east until it was just under the front edge of the sofa. Witness 1 then telephoned 9-1-1.

Within minutes, Los Angeles County Sheriff’s Department (LASD) Deputies A and B arrived at the residence and observed Recruit Officer A on the sofa with a towel on his left leg and Witness 2 applying pressure. Deputy A observed a pistol on the floor by Recruit Officer A’s foot and picked it up using a blue paper towel. Deputy A also observed that the pistol did not have a magazine in it. Deputy A then secured the pistol in the trunk of his police vehicle.

Los Angeles County Fire Department (LACFD) personnel then arrived at the scene, assessed Recruit Officer A’s injury and provided medical treatment for a through-and-through gunshot wound to his left knee. A rescue ambulance (RA) arrived and transported Recruit Officer A to a local hospital.

¹ Dry pressing is the practice of pulling the trigger of a pistol and allowing the hammer to drop on an empty chamber.

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. Use of Force

The BOPC found Recruit Officer A's unintentional discharge to be negligent, warranting administrative disapproval.

Basis for Findings

A. Use of Force

The BOPC noted that the unintentional discharge was due to operator error. Department approved training relative to basic firearm safety rules directs that firearms should always be handled as if the firearm is loaded, and that the operator's finger should be off the trigger unless the operator has sights aligned, and intends to shoot.

The BOPC found that Recruit Officer A failed to adhere to the basic firearm safety rules while handling his service pistol. Accordingly, the BOPC found Recruit Officer A's unintentional discharge to be negligent, requiring administrative disapproval.