

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

**UNINTENTIONAL DISCHARGE – 003-08**

<b><u>Division</u></b>	<b><u>Date</u></b>	<b><u>Duty-On (X) Off ( )</u></b>	<b><u>Uniform-Yes (X) No ( )</u></b>
West Los Angeles	01/05/08		

<b><u>Involved Officer(s)</u></b>	<b><u>Length of Service</u></b>
Officer A	1 year, 2 months
Officer B	5 years, 6 months

**Reason for Police Contact**

Witness A called the Los Angeles Police Department (LAPD) Communications Division (CD) and informed the Emergency Board Operator (EBO) that she was home alone and thought she heard an intruder in the residence. Officers A and B were assigned the call and they drove to the location. Prior to arriving at the residence, Witness B, Witness A's brother, and Witness C, Witness A's boyfriend, arrived at the residence. Witness A called CD and informed them to cancel the officers' response. Officers A and B had just arrived at the residence and informed CD they would contact Witness A and check the exterior of the residence for a prowler. Prior to entering the darkened backyard of the residence, Officers A and B unholstered their pistols and flashlights. While searching the backyard, Officer A fell into the backyard swimming pool. While attempting to climb out of the pool, Officer A fired one projectile from Officer A's pistol. The projectile travelled out of the pool and lodged in the support beam of a second story exterior balcony of the residence. No one was injured as a result of Officer A's unintentional discharge.

<b><u>Subject(s)</u></b>	<b><u>Deceased ( )</u></b>	<b><u>Wounded ( )</u></b>	<b><u>Non-Hit ( )</u></b>
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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 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 October 14, 2008.

### **Incident Summary**

Witness A was alone in her parents' residence. She had heard noises in and around the residence, which she believed were being made by an intruder. Frightened by the continuing noises, Witness A called the LAPD CD and informed the EBO that she had heard an interior door slam shut.

Officers A and B were in the area when they received a radio call directing them to a "Possible 459 [Burglary], Hot Prowl" at the residence. The officers acknowledged the radio call and drove to the residence.

As recalled by Witness A, she was on the telephone with the EBO when her brother, Witness B, and her boyfriend, Witness C, arrived at the residence. Witness A informed the EBO she now felt safe with the two of them in the residence and informed the EBO she no longer needed the police.

As Officers A and B arrived at the residence they were informed by the EBO that the call for service had been cancelled. The officers decided that since they were already at the residence they would contact the Person Reporting (PR) and ensure she was in fact no longer in need of police services. The officers informed the EBO of their intentions.

As recalled by Officer B, "I pressed the button [intercom at the gated driveway]. She [Witness A] answers [ . . . ] she said, 'Oh, I already cancelled.' I tell her, 'Oh, we still would like to talk to you.' She said, 'Sure. Come on in.'"

According to Witness C, the officers told them, "'We're gonna take a look around the house [ . . . ] just to make sure and they asked if it was okay and we said of course that's okay."

When Officer A and B exited the residence, they unholstered their pistols and, utilizing their flashlights, began searching the backyard.

As the officers searched around the house, Officer A accidentally fell into the deep end of a swimming pool.

**Note:** According to Officer B, "I was keeping my eyes up the stairway from what they call the guest house when I hear this splash. I turn around and I see my partner in the water."

As recalled by Officer A, as Officer A was tactically searching the backyard, “I started making sure there was no one hiding there. At which point, I went ahead and [accidentally] slipped in[to] the pool. And I landed inside the pool in the deepest area of the pool actually.”

As Officer B walked toward Officer A, Officer B holstered Officer B’s pistol. Meanwhile, as Officer A struggled in the water, Officer A unintentionally discharged his pistol.

**Note:** According to Officer B, “I kneel down because I see that Officer A’s struggling to move to the edge or even keep Officer A’s head constantly up out of the water. And when I’m down, I hear a shot fired and I see the muzzle flash from underneath the water.”

According to Officer A, “I was trying to get [. . .] out of the pool [. . .] that’s when the round came off [....] I didn’t notice [. . .] at which point, I put [. . .] my finger on the trigger because I always had it on the frame.”

**Note:** According to Witness B, “I heard one shot [....] I wasn’t sure if it was a shot because I also heard a splash. I thought maybe the officer tripped, dropped something, but I later realized it was a shot.”

**Note:** The discharged projectile traveled upward, in a northwesterly direction, and lodged in the underside of a second-story exterior balcony located at the southeast corner of the main house.

With the assistance of Officer B, Officer A was able to climb out of the pool. Once Officer A was on the pool deck, Officer A placed Officer A’s pistol on the ground.

Officer B confirmed the occupants of the residence had not been injured by the unintentional discharge. Once Officer B had ascertained the occupants were safe, Officer B requested a supervisor.

### **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 and B's tactics to warrant a tactical debrief.

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

The BOPC found Officer A and B's drawing to be in policy.

## **C. Unintentional Discharge**

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

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that Officers A and B did not request that the exterior lights be turned on prior to initiating their search.

Officers A and B could have requested that the resident turn on the exterior lights to illuminate the premises; however, the BOPC determined that officers need to evaluate each tactical situation individually and that their decision not to ask the resident to turn on the exterior lighting was reasonable.

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

The BOPC evaluated the circumstances relevant to Officers A and B's drawing and determined the officers had sufficient information to reasonably believe there was a substantial risk the situation may escalate to the point where deadly force may become necessary.

### **C. Unintentional Discharge**

The BOPC noted that Officer A was faced with a unique situation of falling into a body of water in full uniform. Officer A's struggle to swim to the edge of the pool while wearing Officer A's duty belt in and of itself was a challenge. However, an unintentional discharge is a serious incident that cannot be mitigated. Officer A failed to adhere to the basic firearm safety rules while handling his service pistol. Accordingly, the BOPC found Officer A's unintentional discharge to be negligent, requiring administrative disapproval.