

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

NON-TACTICAL UNINTENTIONAL DISCHARGE - 025-22

| <u>Division</u> | <u>Date</u> | <u>Duty-On () Off (X)</u> | <u>Uniform-Yes () No (X)</u> |
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|-------------|---------|--|--|
| West Valley | 6/13/22 | | |
|-------------|---------|--|--|

| <u>Officer(s) Involved in Use of Force</u> | <u>Length of Service</u> |
|---|---------------------------------|
|---|---------------------------------|

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|-----------|----------|
| Officer A | 7 months |
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Reason for Police Contact

Officer A was at home in his/her bedroom familiarizing himself/herself with his/her new pistol and intending to clean it when a Non-Tactical Unintentional Discharge (NTUD) occurred.

| <u>Subject</u> | <u>Deceased ()</u> | <u>Wounded ()</u> | <u>Non-Hit ()</u> |
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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 (CUOF) 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 (FID) investigation (including all of the transcribed statements of witnesses, pertinent subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board (UOFRB) recommendations, including any Minority opinions; the report and recommendations of the Chief of Police; and the report and recommendations of the Office of the Inspector General. The Department Command staff presented the matter to the BOPC and made itself available for any inquiries by the BOPC.

The following incident was adjudicated by the BOPC on March 14, 2023.

Incident Summary

On Monday, June 13, 2022, at approximately 1200 hours, Police Officer A took possession of a newly-purchased 9mm semiautomatic pistol. Officer A went home and entered his/her bedroom, closed the door, and manipulated the pistol for ten minutes, practicing holstering and un-holstering it from his/her duty holster. Officer A further practiced dry-pressing the trigger, loading and unloading the magazine

from the pistol. According to Officer A, "I was just practicing my reload, practicing going out of holder 'cause it fits in it, and just doing my best to get familiarized with the weapon system before I go qualify." Officer A indicated that he/she purchased the pistol to use as his/her primary duty weapon.

After practicing manipulations, Officer A loaded the pistol with a magazine containing 17 live rounds. Officer A stated, "I live in a dangerous neighborhood that's known for gang violence and other things around there, and I keep a gun usually around me to protect my family." Officer A indicated that he/she secured the loaded pistol in a metal lock box, locked in his/her bedroom door, and he/she left the apartment with his/her sister.

According to Officer A, he/she returned to the apartment at approximately 1700 hours. Officer A indicated that he/she recalled the pistol had excessive oil on the barrel and wanted to clean it. Officer A indicated that, at approximately 2315 hours, he/she was in his/her bedroom with the door closed and removed the loaded pistol from the metal lock box. Officer A stated, "I went to my bed where I usually -- I lay everything out to clean. And at that moment, that's when I started the downloading process." Officer A indicated that he/she was standing in the center of his/her bedroom, facing east toward his/her bedroom window, when he/she went into "an administrative downloading position."

According to Officer A, he/she positioned the pistol closer to his/her body with the muzzle of the gun pointed in an upward direction toward a wall. Officer A indicated that on the other side of the wall there was "some fencing, some bush and another household."

Officer A stated, "I went to go to the magazine release and my finger went on the trigger and discharged the weapon." The bullet traveled east in an upward trajectory through the curtain and curtain rod, and it impacted the window trim and continued out the stucco wall.

Officer A indicated that he/she removed the magazine out of the pistol and placed it on the bed to call his/her watch commander.

According to Officer A, he/she walked out of his/her bedroom and communicated to his/her sisters and father, "Just stay here. I'm going to call my watch commander."

Officer A telephoned Sergeant A and informed him/her that he/she had a unintentional discharge with his/her pistol.

According to Sergeant A's Watch Commander's Log, he/she was notified of the Non-Tactical Unintentional Discharge of a Firearm (NTUD) by Officer A at 2320 hours. At 2325 hours, Sergeant A contacted and directed Sergeant B to respond to Officer A's residence.

At 2330:11 hours, Sergeant B broadcast, that he was enroute to Officer A's residence.

At 2342:01 hours, Sergeant B informed Communication Division (CD) that he/she was at scene. According to Sergeant B, "I saw Officer A standing at the end of his/her driveway with a very panicked face." Sergeant B indicated that he/she met with Officer A and verified that he/she was the person involved. Officer A confirmed that he/she was involved and directed Sergeant B to the apartment. Sergeant B entered the apartment and observed a female and a male. Sergeant B indicated, "I asked who they were. He/she said that they were his/her sister and stepfather. I asked them to kind of stay in one location and not walk around the house while I made a quick assessment on the inside of the apartment building."

According to Sergeant B, "Both myself and Officer A walked into his/her room, and I immediately started giving him/her the Public Safety Statement. I advised him/her of the admonishment of the PPS and proceeded to ask him/her the questions."

After obtaining the Public Safety Statement, Sergeant B and Officer A walked out of the bedroom and met with Sergeant C. Sergeants B and C, accompanied by Officer A, searched the exterior area of the apartment building.

According to Sergeant B, "Both of us walked out to ensure the safety of the public, and we could not discover any -- anybody being down, any victims down or anything, so we totally canvassed the complete area also checking the neighbor's house for any possible bullet holes. We did find what looked to be a fired -- fired round bullet hole through the curtain, which entered the wall, the exterior wall. We also -- upon walking on the outside of the building where the window was located, we could see where the bullet exited. We were unable to find a round on the ground or anywhere else."

Sergeant B indicated that he/she returned to Officer A's bedroom and observed two spent casings. According to Sergeant B, "One was silver, which he/she explained -- Officer A explained to me that was the one that he/she had fired, and the other one was on the left side on the floor by the closet, and he/she explained he/she uses that to practice manipulations."

Sergeant B monitored Officer A until Force Investigation Division (FID) investigators arrived and assumed investigative responsibilities.

During the interview with FID investigators, Officer A was asked to describe the download process of the pistol. Officer A stated, "Okay. So the downloading process -- first, you take the finger off the trigger -- well, you're in an administrative mode, so your finger is going to be off the trigger. You bring it into your workspace. My workspace is pointed up, kind of canted in an upwards direction. And then you chamber check. After the first chamber check, remove the mag. Put the mag in your support side pocket. Go to over -- overhand grip on the weapon with the slide lock -- push up on the slide lock, then go back on the barrel -- the slide. The bullet should fall into your support -- support hand. Bring it up. Put the bullet in your support side pocket. One last chamber check, and then close the slide. Holster up."

Officer A was asked if he/she followed the steps? To which he/she responded, "I just forgot to do the first initial chamber check, and I went to -- immediately went to download the handgun."

Officer A was further asked if had consumed any alcohol. Officer A responded, "No." FID investigators detected no odor of an alcoholic beverage. Officer A did not display any symptoms of having consumed an alcoholic beverage.

There were no injuries as a result of the NTUD.

Body-Worn Video and Digital In-Car Video Compliance

Not applicable.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force (CUOF) 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 of a firearm by any involved officer(s); and the Use of Force by any involved officer(s). Based on the BOPC's review of the instant case, the BOPC made the following findings:

A. Tactics

BOPC found Officer A's actions to warrant a finding of Tactical Debrief.

B. Unintentional Discharge

The BOPC found Officer A's NTUD to warrant a finding of Administrative Disapproval, Negligent Discharge.

Basis for Findings

A. Tactics

Tactical De-Escalation

During the review of this incident, no Debriefing Points were noted.

Tactical Debrief

Each tactical incident merits a comprehensive debriefing. In this case, there were identified areas where improvements could be made. A Tactical Debrief is the appropriate forum for involved personnel to discuss individual actions that took place during this incident. Therefore, Officer A was directed to attend a Tactical Debrief.

B. Unintentional Discharge

Officer A – 9mm semiautomatic pistol, one round in an easterly direction.

While attempting to unload his/her pistol, Officer A inadvertently pressed the trigger while attempting to press the magazine release, resulting in the NTUD.

The BOPC noted that the Chair of the Use of Force Review Board (UOFRB) evaluated the circumstances and evidence related to the NTUD. The Chair noted that according to Officer A, while unloading his/her pistol, he/she unintentionally pressed the trigger of his/her pistol, discharging a round. The Chair also noted that nothing indicated that the NTUD was a result of a mechanical malfunction of the firearm. As such, the Chair opined that the NTUD was a result of operator error and that Officer A's actions violated the Department's Basic Firearm Safety Rules.

During his/her review of this investigation, the Chair noted that one of the manipulations Officer A performed earlier in the day was a "dry" practice. The Chair also noted that instead of using a live round for manipulations, Officer A used an expended cartridge case, which could be mistaken for a live round. Based on his/her review, the Chair opined that it would be prudent to cover "dry" practice during the tactical debrief.

Based on the totality of the circumstances, the BOPC determined that the NTUD was the result of operator error and that Officer A's actions violated the Department's Basic Firearm Safety Rules. The BOPC found Officer A's Unintentional Discharge to be Negligent.