

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

**NON-TACTICAL UNINTENTIONAL DISCHARGE – 043-24**

**Division**                      **Date**                      **Duty-On (X) Off ( )**   **Uniform-Yes (X) No ( )**

Topanga                      8/1/24

**Officer(s) Involved in Use of Force**                      **Length of Service**

Officer A                      4 years, 6 months

**Reason for Police Contact**

On August 1, 2024, Officer A was at his/her residence, preparing to clean Witness A's pistol. Officer A stated he/she removed the magazine and pointed the firearm at a wall away from Witness A. Officer A stated that part of the cleaning process required him/her to squeeze the trigger, which the weapon required in order to remove the slide. Officer A stated he/she did not realize that there was a round in chamber, resulting in a non-tactical unintentional discharge (NTUD).

**Subject(s)**                      **Deceased ( )**                      **Wounded ( )**                      **Non-Hit ( )**

N/A

**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 subject criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board 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 July 15, 2025.

## **Incident Summary**

On Thursday, August 1, 2024, Officer A was off-duty at his/her residence. Officer A resides with Witness A, who was present at the time of the incident.

According to Officer A, he/she had gone to dinner with Witness A and returned home shortly before 1700 hours and decided to clean Witness A's pistol. Officer A removed the pistol from the locked safe located in the closet. Officer A sat on the bed and prepared to clean the pistol with his/her back to Witness A, who was lying on the north side of the bed. The pistol was registered to Witness A.

During Officer A's interview with FID, he/she stated that he/she removed the magazine, pointed the weapon away from Witness A, and squeezed the trigger, resulting in the weapon discharging. Officer A stated that in order to remove the slide, the trigger must be pulled, and he/she did not realize that there was a round in the chamber.

According to Officer A, he/she was in shock and both he/she and Witness A were initially dazed by the loud noise caused by the gunshot. Officer A immediately thought of rendering the pistol safe and confirmed the slide was locked to the rear, the magazine was on the bed, and the pistol was empty. Officer A searched for the expended casing and observed it on his/her nightstand. Officer A recovered the casing and placed it on the living room table. Officer A then placed the pistol and magazine in the safe. Officer A observed an impact caused by the gunshot on the south wall of the apartment. Officer A then inspected the impact to determine if the bullet penetrated the wall.

The wall was a common wall shared with another apartment. Due to concerns for the safety of their neighbors, Officer A and Witness A proceeded next door to the adjacent apartment. Officer A knocked on the door and met with Witness B. According to Officer A, he/she was unable to effectively communicate with Witness B because Witness B only spoke Spanish. Officer A utilized a translation application on his/her cellular phone to translate from English to Spanish. Officer A was able to confirm that Witness B spoke Spanish and asked if there were other occupants in the apartment. Officer A further inquired if anyone was injured and explained that he/she was cleaning his/her pistol and accidentally fired a round. Witness B confirmed he was home alone and unharmed. Witness B went back inside his apartment to check for any damages and closed the door.

According to Officer A, who was standing outside the apartment with Witness A, Witness B returned approximately 10 minutes later. Witness B was on speaker phone with a woman who was later determined to be his wife, Witness C. Witness B allowed Officer A and Witness A into his apartment and directed them to the area near his bed, which was situated against the north wall of the apartment. The wall was determined to be the common wall shared with Officer A's apartment. Officer A inspected the headboard and determined the expended bullet had penetrated the wall and struck the headboard.

Officer A stated that Witness B took him/her to his bedroom and pointed to the wall, which was the wall located on the opposite side of Officer A's apartment wall. Officer A noted a hole that penetrated the wall and that the headboard was cracked. Officer A stated that he/she wanted to make sure that the bullet did not travel further, so he/she reached behind the headboard when he/she felt the round and pulled it out to preserve the evidence. Officer A and Witness A returned to their apartment and Officer A placed the expended bullet on the table next to the casing.

Officer A stated he/she lost track of time trying to deal with the language barrier affecting his/her communication with Witness B and trying to keep Witness A calm. While awaiting Witness C's arrival so they could speak with her, Officer A estimated he/she walked over to Witness B's apartment one or two more times to check on Witness C's status. With the extended delay in Witness C's arrival, Officer A realized that a substantial amount of time had passed and called his/her Watch Commander to notify them of the NTUD.

At 1840 hours, Officer A called Topanga Patrol Division Watch Commander, Sergeant A, and notified him/her of the NTUD. Sergeant A obtained a synopsis of the incident and called Topanga Patrol Division Night Watch Detective A and advised him/her to respond to the scene.

According to Detective A, he/she arrived at the scene at approximately 1906 hours and generated an Incident Number for the incident through Communications Division. Detective A assumed monitoring responsibilities and obtained a Public Safety Statement from Officer A at approximately 1930 hours. Detective A continued monitoring Officer A until he/she was released for an interview with Force Investigation Division detectives.

### **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 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**

The BOPC found Officer A's tactics to warrant a Tactical Debrief.

#### **B. Unintentional Discharge**

The BOPC found Officer A's NTUD to be negligent, warranting a finding of Administrative Disapproval.

## **Basis for Findings**

In making its decision in this matter, the Commission is mindful that every “use of force by members of law enforcement is a matter of critical concern both to the public and the law enforcement community. It is recognized that some individuals will not comply with the law or submit to control unless compelled to do so by the use of force; therefore, law enforcement officers are sometimes called upon to use force in the performance of their duties. The Los Angeles Police Department also recognizes that members of law enforcement derive their authority from the public and therefore must be ever mindful that they are not only the guardians, but also the servants of the public.

The Department’s guiding principle when using force shall be reverence for human life. Officers shall attempt to control an incident by using time, distance, communications, and available resources in an effort to de-escalate the situation, whenever it is safe, feasible, and reasonable to do so. As stated below, when warranted, Department personnel may use objectively reasonable force to carry out their duties. Officers may use deadly force only when they reasonably believe, based on the totality of circumstances, that such force is necessary in defense of human life. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to physical hazards, violate the law and rights of individuals upon whom unreasonable force or unnecessary deadly force is used, and subject the Department and themselves to potential civil and criminal liability. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers.” (Special Order No. 23, 2020, Policy on the Use of Force - Revised.)

The Commission is cognizant of the legal framework that exists in evaluating use of force cases, including the United States Supreme Court decision in *Graham v. Connor*, 490 U.S. 386 (1989), stating that:

“The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments – in circumstances that are tense, uncertain and rapidly evolving – about the amount of force that is necessary in a particular situation.”

The Commission is further mindful that it must evaluate the actions in this case in accordance with existing Department policies. Relevant to our review are Department policies that relate to the use of force:

**Use of De-Escalation Techniques:** It is the policy of this Department that, whenever practicable, officers shall use techniques and tools consistent with Department de-escalation training to reduce the intensity of any encounter with a subject and enable an officer to have additional options to mitigate the need to use a higher level of force while

maintaining control of the situation.

**Verbal Warnings:** Where feasible, a peace officer shall, prior to the use of any force, make reasonable efforts to identify themselves as a peace officer and to warn that force may be used, unless the officer has objectively reasonable grounds to believe that the person is already aware of those facts.

**Proportionality:** Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance.

**Fair and Unbiased Policing:** Officers shall carry out their duties, including use of force, in a manner that is fair and unbiased. Discriminatory conduct in the basis of race, religion, color, ethnicity, national origin, age, gender, gender identity, gender expression, sexual orientation, housing status, or disability while performing any law enforcement activity is prohibited.

**Use of Force – Non-Deadly:** It is the policy of the Department that personnel may use only that force which is “objectively reasonable” to:

- Defend themselves;
- Defend others;
- Effect an arrest or detention;
- Prevent escape; or,
- Overcome resistance.

**Factors Used to Determine Objective Reasonableness:** Pursuant to the opinion issued by the United States Supreme Court in *Graham v. Connor*, the Department examines the reasonableness of any particular force used: a) from the perspective of a reasonable Los Angeles Police Officer with similar training and experience, in the same situation; and b) based on the facts and circumstances of each particular case. Those factors may include, but are not limited to:

- The feasibility of using de-escalation tactics, crisis intervention or other alternatives to force;
- The seriousness of the crime or suspected offense;
- The level of threat or resistance presented by the subject;
- Whether the subject was posing an immediate threat to the officers or a danger to the community;
- The potential for injury to citizens, officers or suspects;
- The risk or apparent attempt by the subject to escape;
- The conduct of the subject being confronted (as reasonably perceived by the officer at the time);
- The amount of time and any changing circumstances during which the officer had to determine the type and amount of force that appeared to be reasonable;

- The availability of other resources;
- The training and experience of the officer;
- The proximity or access of weapons to the subject;
- Officer versus subject factors such as age, size, relative strength, skill level, injury/exhaustion and number of officers versus suspects;
- The environmental factors and/or other exigent circumstances; and,
- Whether a person is a member of a vulnerable population.

**Drawing or Exhibiting Firearms:** Unnecessarily or prematurely drawing or exhibiting a firearm limits an officer's alternatives in controlling a situation, creates unnecessary anxiety on the part of citizens, and may result in an unwarranted or accidental discharge of the firearm. Officers shall not draw or exhibit a firearm unless the circumstances surrounding the incident create a reasonable belief that it may be necessary to use the firearm. When an officer has determined that the use of deadly force is not necessary, the officer shall, as soon as practicable, secure or holster the firearm. Any drawing and exhibiting of a firearm shall conform with this policy on the use of firearms. Moreover, any intentional pointing of a firearm at a person by an officer shall be reported. Such reporting will be published in the Department's year-end use of force report.

**Use of Force – Deadly:** It is the policy of the Department that officers shall use deadly force upon another person only when the officer reasonably believes, based on the totality of circumstances, that such force is necessary for either of the following reasons:

- To defend against an imminent threat of death or serious bodily injury to the officer or another person; or,
- To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

In determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case and shall use other available resources and techniques if reasonably safe and feasible. Before discharging a firearm, officers shall consider their surroundings and potential risks to bystanders to the extent feasible under the circumstances.

**Note:** Because the application of deadly force is limited to the above scenario, an officer shall not use deadly force against a person based on the danger that person poses to themselves, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or another person.

**The Department's Evaluation of Deadly Force:** The Department will analyze an officer's use of deadly force by evaluating the totality of the circumstances of each case consistent with the California Penal Code Section 835(a), as well as the factors articulated in *Graham v. Connor*.

**Rendering Aid:** After any use of force, officers shall immediately request a rescue ambulance for any person injured. In addition, officers shall promptly provide basic and emergency medical assistance to all members of the community, including victims, witnesses, suspects, persons in custody, suspects of a use of force and fellow officers:

- To the extent of the officer's training and experience in first aid/CPR/AED; and
- To the level of equipment available to the officer at the time assistance is needed.

**Warning Shots:** It is the policy of this Department that warning shots shall only be used in exceptional circumstances where it might reasonably be expected to avoid the need to use deadly force. Generally, warning shots shall be directed in a manner that minimizes the risk of injury to innocent persons, ricochet dangers and property damage.

**Shooting at or From Moving Vehicles:** It is the policy of this Department that firearms shall not be discharged at a moving vehicle unless a person in the vehicle is immediately threatening the officer or another person with deadly force by means other than the vehicle. The moving vehicle itself shall not presumptively constitute a threat that justifies an officer's use of deadly force. An officer threatened by an oncoming vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants. Firearms shall not be discharged from a moving vehicle, except in exigent circumstances and consistent with this policy regarding the use of Deadly Force.

**Note:** It is understood that the policy regarding discharging a firearm at or from a moving vehicle may not cover every situation that may arise. In all situations, officers are expected to act with intelligence and exercise sound judgement, attending to the spirit of this policy. Any deviations from the provisions of this policy shall be examined rigorously on a case by case basis. The involved officer must be able to clearly articulate the reasons for the use of deadly force. Factors that may be considered include whether the officer's life or the lives of others were in immediate peril and there was no reasonable or apparent means of escape.

**Requirement to Report Potential Excessive Force:** An officer who is present and observes another officer using force that the present and observing officer believes to be beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances based upon the totality of information actually known to the officer, shall report such force to a superior officer.

**Requirement to Intercede When Excessive Force is Observed:** An officer shall intercede when present and observing another officer using force that is clearly beyond that which is necessary, as determined by an objectively reasonable officer under the circumstances, taking into account the possibility that other officers may have additional information regarding the threat posed by a subject.

## Definitions

**Deadly Force:** Deadly force is defined as any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to, the discharge of a firearm.

**Feasible:** Feasible means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the officer or another person.

**Imminent:** Pursuant to California Penal Code 835a(e)(2), “[A] threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”

**Necessary:** In addition to California Penal Code 835(a), the Department shall evaluate whether deadly force was necessary by looking at: a) the totality of the circumstances from the perspective of a reasonable Los Angeles Police Officer with similar training and experience; b) the factors used to evaluate whether force is objectively reasonable; c) an evaluation of whether the officer exhausted the available and feasible alternatives to deadly force; and d) whether a warning was feasible and/or given.

**Objectively Reasonable:** The legal standard used to determine the lawfulness of a use of force is based on the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* states, in part, “The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain and rapidly evolving - about the amount of force that is necessary in a particular situation. The test of reasonableness is not capable of precise definition or mechanical application.”

The force must be reasonable under the circumstances known to or reasonably believed by the officer at the time the force was used. Therefore, the Department examines all uses of force from an objective standard rather than a subjective standard.

**Serious Bodily Injury:** Pursuant to California Penal Code Section 243(f)(4) Serious Bodily Injury includes but is not limited to:

- Loss of consciousness;
- Concussion;
- Bone Fracture;
- Protracted loss or impairment of function of any bodily member or organ;

- A wound requiring extensive suturing; and,
- Serious disfigurement.

**Totality of the Circumstances:** All facts known to or reasonably perceived by the officer at the time, including the conduct of the officer and the subject leading up to the use of force.

**Vulnerable Population:** Vulnerable populations include, but are not limited to, children, elderly persons, people who are pregnant, and people with physical, mental, and developmental disabilities.

**Warning Shots:** The intentional discharge of a firearm off target not intended to hit a person, to warn others that deadly force is imminent.

Based on the BOPC's review of the instant case, the BOPC made the following findings:

#### **A. Tactics**

Officer A was not engaged in a tactical operation during this incident; therefore, his/her tactics were not reviewed or evaluated. However, Department guidelines require personnel substantially involved in a Categorical Use of Force incident to attend a Tactical Debrief.

#### **B. Unintentional Discharge**

*Unintentional Discharge is defined as: The unintentional discharge of a firearm regardless of cause. Unintentional discharges are evaluated and then determined to be Tactical or Non-Tactical. During the adjudication, they are then classified as "Accidental Discharges" or "Negligent Discharges."*

*Tactical Unintentional Discharge: Any unintentional discharge of a firearm that occurs during a tactical situation (e.g., warrant service, building search).*

*Non-Tactical Unintentional Discharge: Any unintentional discharge of a firearm that does not occur during a tactical situation.*

*Accidental Discharge: The determination that the unintentional discharge of a firearm resulted from an accident such as a firearm malfunction or other mechanical failure, not the result of operator error.*

*Negligent Discharge. The determination that the unintentional discharge of a firearm resulted from operator error, or negligence, such as the violation of a firearm safety rule (Los Angeles Police Department Manual, Volume 3, Section 792.05)*

*Firearms safety is a critical component of officer safety. Officers must have the ability to safely draw, holster, manipulate and shoot their weapons at all times,*

*especially when involved in a stressful situation.*

*Firearms safety rules have been established based upon real life situations and are applicable at all times; in the field, on the range, and at home. Violations of any of the firearms safety rules can result in possible injury or death. Therefore, violations of the firearms safety rules may result in disciplinary action up to and including termination.*

#### **THE FOUR BASIC FIREARM SAFETY RULES**

1. *All guns are always loaded.*
2. *Never allow the muzzle to cover anything you are not willing to shoot.*
3. *Keep your finger off the trigger until your sights are aligned on the target and you intend to shoot.*
4. *Be sure of your target.*

*Officers are required to know and apply the Four Basic Firearm Safety Rules throughout their careers. These rules must be ingrained into an officer's natural thought process and as a conditioned response. Any violation of the Four Basic Firearm Safety Rules may result in the unintentional discharge of a round. This is a serious matter with the potential for tragic results (Los Angeles Police Department Firearms Manual, Revised March 18, 2021).*

- **Officer A** – pistol, one round.

The Department's Forensic Science Division, Firearms Analysis Unit examined Witness A's pistol. The pistol was found to be functional, and the trigger pull value was within the Department's established acceptable range for this firearm.

The investigation determined Officer A fired a single round that passed through the common wall, separating his/her apartment and the apartment of Witness B. The bullet lodged in the headboard of a bed located in Witness B's apartment. FID investigators collected one discharged cartridge casing and an expended round from a napkin on the living room table, inside Officer A's residence.

The BOPC evaluated the circumstances and evidence related to the NTUD. The BOPC noted Officer A failed to conduct a chamber check of the pistol before pressing the trigger. The discharge was not the result of a mechanical issue with the pistol. Based on the preponderance of the evidence, the BOPC opined the unintentional discharge was a result of violating the basic firearm safety rules, and therefore, negligent.

Based on the totality of the circumstances, the BOPC determined the NTUD was the result of operator error. Officer A's actions violated the Department's Basic Firearm Safety Rules, thus requiring a finding of Administrative Disapproval, Negligent Discharge.