

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

TACTICAL UNINTENTIONAL DISCHARGE – 053-20

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

Foothill 11/17/20

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

Officer C 6 years 6 months

Reason for Police Contact

Officers responded to a domestic violence radio call. Prior to contact with the PR, the officers were advised that the Subject had fled on foot in the area. A records check revealed that the Subject had an outstanding felony arrest warrant.

During a search in the area for the Subject, Officer C attempted to climb over a brick wall while holding his/her duty weapon in his/her right hand. At that time, a tactical unintentional discharge (TUD) occurred. No one was injured and the Subject was not located.

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

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 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 October 19, 2021.

Incident Summary

On Wednesday, November 17, 2020, at 1856 hours, officers were assigned a Domestic Violence radio call. Officer A was the first to arrive on scene.

According to Officer A, he/she broadcast that he/she would be staging to wait for the primary unit's arrival. As Officer A approached the scene, he/she observed a male matching the description of the suspect from the radio call running from the location. Officer A broadcast his/her observations and the direction of travel for the suspect; Officer A opted not to initiate a foot pursuit of the suspect.

Officers B and C responded to the area to assist with the Domestic Violence investigation. Officer C placed their unit at the scene.

Officer C stated that as he/she arrived, other officers had obtained the suspect's information and had conducted a check for wants and warrants. The inquiry returned with a felony warrant for the suspect.

According to Officer C, the plan was to canvass the area to see if they could locate the suspect since he had an outstanding felony arrest warrant and was potentially armed and dangerous.

As Officers B and C searched the area in their vehicle, Officer C observed a Subject matching the suspect description, standing by the side gate of an apartment complex.

Officer B conducted a U-Turn and stopped. According to Officer C, he/she was advised by an unidentified citizen that the Subject ran to the rear of the apartment complex. Officer C advised that he/she activated his/her Body Worn Video (BWV) and walked into the apartment complex.

According to Officer C, he/she walked through the south side gate. Officer C said that he/she unholstered his/her duty weapon because he/she thought the Subject could possibly be armed.

As Officers B and C approached the rear courtyard of the building, Officer C said that he/she observed that there was a brick wall directly in front of them, which could potentially be hiding the Subject behind it.

According to Officer B's BWV, Officer C walked toward the rear wall. Officer C held his/her handheld flashlight in his/her left hand and his/her pistol in his/her right hand.

Officer C placed his/her left foot on the step located near the lower portion of the wall, which is approximately 2 feet and 6 inches above ground level. Simultaneously, he/she placed his/her left hand on top of the wall, which is approximately 5 feet and 7 inches above ground level. Officer C reached up to the top of the wall with his/her right hand,

still holding his/her pistol. He/she then stepped up with his/her right foot onto the step near the lower portion of the wall.

As Officer C held his/her pistol over the top of the wall, the Tactical Unintentional Discharge (TUD) occurred. Officer C said that once the officers deemed that it was clear and that the Subject was no longer in the immediate area, he/she holstered and stood by for a supervisor.

According to Officer B, he/she made the decision to cancel the search for the outstanding suspect and set up containment around the area where the TUD occurred. He/she requested a supervisor to respond with emergency lights and siren (Code Three) and notified the Watch Commander of the incident.

Sergeant A responded to the scene and met with Officers B and C. According to Sergeant A, he/she separated Officers B and C and obtained a Public Safety Statement from Officer C. He/she verified that the location of the TUD was contained, ensured that a crime scene log was being completed, and received a phone call from Sergeant B. Sergeant A advised Sergeant B of the incident and verified that he/she was responding to the location of the TUD. Sergeant A monitored Officer C until he/she was relieved by Sergeant C, and was released to FID investigators for his/her interview. Officers A and B were monitored by Sergeant D until they were released for their FID interview.

According to the Department Operations Center (DOC) Incident Notification Log, Sergeant B notified CD of the incident at 1935 hours. At 1945 hours, the incident was confirmed with Force Investigation Division (FID).

The investigation established that Officer C fired a single round in a downward direction behind the rear wall. There were no impacts located on the ground or on the side of the building located just east of where Officer C was positioned. One discharged cartridge casing was located on the east side of the rear wall. There were no injuries as a result of the TUD.

FID transported Officer C's pistol to the Firearms Analysis Unit. The pistol was tested, it was fully functional, and the trigger pull was within Department specifications.

BWV and DICVS Policy Compliance

NAME	TIMELY BWV ACTIVATION	FULL 2-MINUTE BUFFER	BWV RECORDING OF ENTIRE INCIDENT	TIMELY DICVS ACTIVATION	DICVS RECORDING OF ENTIRE INCIDENT
Officer B	Yes	Yes	Yes	N/A	N/A
Officer C	Yes	Yes	Yes	N/A	N/A

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 Officers B's tactics to warrant a Tactical Debrief. The BOPC found Officer C's tactics to warrant a finding of Administrative Disapproval.

B. Drawing and Exhibiting

The BOPC found Officers B and C's drawing and exhibiting of a firearm to be In Policy.

C. Unintentional Discharge

The BOPC found Officer C's Unintentional Discharge to be Negligent.

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 suspect 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 suspect;
- Whether the suspect 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 suspect to escape;
- The conduct of the suspect 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 suspect;
- Officer versus suspect 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 scenarios, 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, subjects, 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 suspect.

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 suspect 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.

A. Tactics

Tactical De-Escalation Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*

- **Lines of Communication**
(Use of Force - Tactics Directive No. 16, October 2016, Tactical De-Escalation Techniques)

Tactical de-escalation does not require that an officer compromise his or her safety or increase the risk of physical harm to the public. De-escalation techniques should only be used when it is safe and prudent to do so.

Planning – After learning that the Subject had recently been released from custody, was wanted for a parole violation, and had a prior arrest for a weapon related charge, Officers B and C formulated a plan to canvass the immediate area for the Subject.

Assessment – After overhearing that the Subject had recently been released from custody, Officers B and C determined there was a need to determine why he had been incarcerated. Learning that a male had run to the rear of the apartment complex, Officers B and C determined that the male could pose a threat to people gathering outside in the immediate area. Based on the potential threat, Officers B and C determined there was an urgent need to clear the rear of the apartment complex.

Time – Learning that a male had run to the rear of the complex, Officers B and C followed his path. While Officers B and C felt there was an urgency to clear the apartment complex, and Officer A was present, the BOPC would have preferred that Officers B and C had waited for additional resources, such as an Air Unit, prior to searching the courtyard and clearing behind the wall.

Redeployment and/or Containment – Following the TUD, Officer B discontinued searching for the male and contained the TUD scene. While the officers felt a sense of urgency to clear the complex, the BOPC would have preferred that prior to the TUD, Officers B and C had contained the area pending the arrival of additional resources.

Other Resources – Prior to entering the apartment complex, Officer B requested an Air Unit. During the search, Officer B confirmed an Air Unit was responding. As Officers B and C began to search for the male, Officer A arrived at the front of the apartment complex. While Officer A was present, and an Air Unit was responding, the BOPC would have preferred that Officers B and C had waited for additional resources, such as the Air Unit, prior to searching the complex and clearing behind the wall.

Lines of Communication – Arriving at scene, Officer A advised CD of his/her location and intention to stage, pending the arrival of additional units. After observing a male matching the Subject's description, run from the original location of the call, Officer A advised CD of his/her observations and the male's direction. After overhearing that the Subject had been recently released from custody, Officer D

conducted a computer inquiry which revealed that the Subject was a wanted for a parole violation and had previously been arrested for a weapon related charge; Officer D communicated this information to Officer B. After seeing a male matching the Subject's description, Officers B and C stopped to investigate. Speaking with an unidentified citizen, Officers B and C learned that the male had run to the rear of an apartment complex. In response, Officer B advised CD of his/her observations and location and requested Air Support. Officer B also kept an open line of communication with other officers via radio. Following the TUD, Officer B asked Officer C if his/her service pistol had discharged, and Officer C replied, "Yeah, that was me." In response, Officer B requested a supervisor and notified his/her Watch Commander of the discharge.

Here, the BOPC would have preferred that Officer C had communicated his/her intention to clear behind the wall to Officer B. The BOPC opined that by communicating his/her intent, Officer C could have formulated a plan with Officers A and B to clear behind the wall with his/her service pistol holstered and his/her partners providing cover.

- During its review of the incident, the BOPC noted the following tactical considerations:

- 1. Basic Firearm Safety Rules** (Substantial Deviation, Without Justification – Officer C

According to Officer C, as he/she and Officer B cleared the courtyard, he/she (Officer C) observed a brick wall. To ensure the Subject was not hiding behind the wall, Officer C used the step and rail to look over the brick wall as he/she held his/her service pistol in his/her right hand with his/her right index finger alongside the frame. As Officer C attempted to look over the wall, he/she lost his/her footing. Feeling like he/she was going to fall backwards, Officer C attempted to grab the top of the wall but "hit the trigger" of his/her service pistol instead, discharging one round in a downward easterly direction (TUD).

The BOPC noted that Officer C chose to climb the wall, while holding his/her service pistol in one hand and his/her flashlight in the other. The BOPC felt that in the alternative, Officer C could have asked his/her partner to provide lethal cover. This would have allowed Officer C to climb the wall with his/her service pistol holstered. The BOPC felt another option was to wait for the Air Unit to arrive. Either option may have prevented Officer C from violating the basic firearm safety rule of keeping one's finger off the trigger until one's sights are aligned on the target and there is an intent to shoot.

Based on the totality of the circumstances, the BOPC determined that Officer C's actions were a substantial deviation, without justification, from approved Department training.

- The BOPC also considered the following:

Waiting for Additional Resources – While Officer B requested an Air Unit after learning a male had run to the rear of the apartment complex; officers searched the complex before the Air Unit arrived. Also, prior to the Air Unit's arrival, Officer C attempted to clear behind a wall, which, due to its height, he/she had to climb to see over. When Officer C climbed the wall, the male's location was unknown and there was concern he was armed.

Tactical Communication/Tactical Planning – While Officers B and C developed a plan to canvass for the Subject, they did not have a plan to address the male they were told had fled to the rear of the apartment complex. Additionally, while searching the courtyard, Officer C did not communicate to Officer B his/her intent to clear behind the wall, nor did they form a plan to clear behind the wall.

Holding Service Pistol in One Hand and Equipment in the Other – Officer C attempted to climb the wall while holding his/her service pistol in his/her right hand and his/her flashlight in the other hand. When he/she lost his/her balance, Officer C attempted to grab the top of the wall with his/her right hand.

Profanity – Following the TUD, Officers B and C utilized profanity. Based on the surrounding circumstances, these statements appear to be the product of the TUD and were not directed at a community member or suspect.

These topics were to be discussed at the Tactical Debrief.

- The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

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

In conducting an objective assessment of this case, the BOPC determined that Officer C's actions were a substantial deviation, without justification, from Department policy and training, thus requiring a finding of Administrative Disapproval. The BOPC determined that Officer B's tactics were not a substantial deviation from Department policy and training, thus warranting a finding of Tactical Debrief.

Accordingly, the BOPC found Officer B's tactics to warrant a Tactical Debrief and Officer C's tactics to warrant Administrative Disapproval.

B. Drawing and Exhibiting

- **Officer B**

According to Officer B, he/she had been advised that the Subject had been “arrested for a weapon” was a “parolee at large,” and was “running” from officers. According to Officer B, based on his/her training and experience, parolees are “known to have weapons.” Believing there was a “possibility” that an officer-involved shooting could occur if officers “encountered” the Subject and he/she was “armed,” Officer B unholstered his/her service pistol.

Here, the BOPC conducted a thorough review in evaluating the reasonableness of Officer C’s drawing and exhibiting of his/her service pistol. The BOPC noted that Officer B was searching for a domestic violence suspect with a confirmed felony warrant for a parole violation that had fled from police and was previously arrested for a weapon related charge.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer B, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer B’s drawing and exhibiting of a firearm to be In Policy.

- **Officer C**

According to Officer C, he/she unholstered his/her service pistol because the Subject had been involved in a domestic violence incident, had an outstanding felony arrest warrant, and was possibly armed.

Here, the BOPC conducted a thorough review in evaluating the reasonableness of Officer C’s drawing and exhibiting of his/her service pistol. The BOPC noted that Officer C was searching for a domestic violence suspect with a confirmed felony warrant for a parole violation that had fled from police and was previously arrested for a weapon related charge.

Based upon the totality of the circumstances, the BOPC determined that an officer with similar training and experience as Officer C, while faced with similar circumstances, would reasonably believe that there was a substantial risk that the situation may escalate to the point where deadly force may be justified.

Therefore, the BOPC found Officer C’s drawing and exhibiting of a firearm to be In Policy.

C. Unintentional Discharge

Background – According to the FID investigation, Officer C’s background was the ground and western wall of the building, located east of Officer C’s position. Force Investigation Division investigators were not able to identify any bullet impacts on the ground or on the side of the building.

- **Officer C** – (pistol, one round, in a downward easterly direction.

According to Officer C, as he/she and Officer B cleared the courtyard, he/she (Officer C) observed a brick wall. Assessing the wall, Officer C noticed there was an approximate two-foot high step with an approximate 45-degree angle. Next to the step was an approximately two-foot high metal railing. To ensure the male was not hiding behind the wall, Officer C used the step and rail to look over the brick wall as he/she held his/her service pistol in his/her right hand, with his/her right index finger alongside the frame. As Officer C attempted to look over the wall, he/she lost his/her footing. Feeling like he/she was going to fall backwards, Officer C attempted to grab the top of the wall but “hit the trigger” of his/her service pistol instead, causing an unintentional discharge.

The BOPC noted that Officer C attempted to climb the wall while holding his/her service pistol in one hand and his/her flashlight in the other. As Officer C attempted to look over the brick wall to clear it, he/she lost his/her footing, attempted to grab onto the top of the brick wall to catch his/her fall, and “hit the trigger” of his/her service pistol causing the TUD. The BOPC noted Officer C violated the basic firearm safety rule of keeping your finger off the trigger until your sights are aligned on the target and you intend to shoot. The BOPC opined that Officer C could have holstered his/her service pistol to keep his/her hands free to better grip the top of the wall and limit the possibility an unintentional discharge.

Based on the totality of the circumstances, the BOPC determined that the TUD was the result of operator error and a failure to adhere to the Department’s Basic Firearm Safety Rules, requiring a finding of Administrative Disapproval (AD), Negligent Discharge.

Thus, the BOPC found Officer C’s Tactical Unintentional Discharge to be Negligent.