

Incident Summary

On Wednesday, September 23, 2020, Devonshire Patrol Division Police Officers A and B attended day watch roll call. Both officers met in the Kit Room line and retrieved their equipment for the day and the keys to their police vehicle. Their police vehicle was a black and white Ford Explorer Sport Utility Vehicle (SUV) which was parked in the rear parking lot of Devonshire Station.

Officer A was the driver officer and drove him/herself and Officer B to the Southeast corner of the parking lot north of the car wash where he/she stores his/her duty bag. Once Officer A obtained his/her duty bag, he/she drove around the car wash to the far southeast corner of the parking lot south of the car wash and parked his/her police vehicle facing east next to his/her personal vehicle to retrieve his/her Patrol Rifle. Officer A stated that a radio call was broadcast regarding a male with mental illness that other units were responding to. It was Officer A's intention to gather all his/her gear and respond to that call.

According to Officer A, he/she removed his/her Patrol Rifle Bag from his/her personal vehicle and placed it in the trunk of his/her police vehicle. Officer A removed the rifle from the bag and seated a magazine into the rifle because it was his/her intention to place his/her rifle in the carrier located in the front of the police vehicle. Officer A stated that something distracted him/her and caught his/her attention, but he/she could not recall what that was. Officer A advised that when he/she turned his/her attention back to his/her rifle, he/she remembered that this was his/her first day working after being off for a few days and that he/she always performs a function check with his/her rifle after he/she has been on days off. According to Officer A, a function check is designed to check the firing pin to make sure the weapon is operable.

Officer A began his/her function check by placing the safety on and pressing the trigger. The safety performed properly. Officer A charged the weapon and placed the rifle on fire mode, forgetting that the magazine was seated in the weapon. Charging the weapon means that Officer A loaded a round into the chamber of the rifle.

Officer A pressed the trigger with the rifle pointed at a 45-degree angle, aimed toward the rear open trunk area of the police vehicle. When Officer A pressed the trigger, he/she knew that he/she fired a round into the rear of the police vehicle and realized that he/she just experienced a negligent discharge. Officer A stated that he/she initially was in shock because of what happened, he/she unseated the magazine from the rifle, and placed it in the trunk of the police vehicle. Officer A ejected a live round, which fell on the pavement.

Officer B stated that he/she was standing near the front passenger door or leaning in the front passenger seat of the police vehicle when he/she heard a gunshot. Officer B immediately walked toward Officer A and believed that he/she observed Officer A throw the live round on the pavement. Officer B stated that he/she did not think that Officer A was holding his/her rifle at that time.

Officer A explained that he/she ejected the live round on to the ground to make the weapon safe as fast as he/she could. Officer A stated that he/she got out of his/her routine because he/she was rushing to respond to the male with mental illness radio call.

Officer A placed the rifle in the rear of the police vehicle and asked his/her partner, who was standing on the passenger's side of the police vehicle, if he/she was injured. Officer B advised Officer A that he/she was not injured.

According to Communications Division, Devonshire Base Frequency, at 06:24:46 hours, Officer A requested a supervisor to respond to the parking lot at Devonshire Station near the gas pumps.

Devonshire Patrol Division Sergeant A responded from inside the station to the gas pumps. Sergeant A stated that he/she did not immediately locate Officer A at the gas pumps, so he/she walked around the gas pumps to the car wash area and met with Officer A. Officer A advised Sergeant A that he/she experienced a negligent discharge with his/her rifle.

According to Sergeant A, he/she asked Officer A questions related to public safety but did not read directly from the Public Safety Statement card because he/she knew that Officer A was not involved in an officer-involved shooting.

Sergeant A notified the Watch Commander of the NTUD and separated Officers A and B. Sergeant A directed Officer B to sit in with the Watch Commander, Devonshire Patrol Division Sergeant B, for monitoring while he/she monitored Officer A. Sergeant A stated that he/she notified Force Investigation Division (FID) Detective A of the incident via telephone.

According to Sergeant A's Sergeant's Daily Report, Devonshire Complaint Unit Sergeant C took over monitoring duties of Officer A at 0815 hours. According to Sergeant's C's Sergeants Daily Report, he/she began monitoring Officer A at 0805 hours.

FID detectives responded to the scene, identified, and interviewed two sworn heard-only witnesses. Devonshire Patrol Division Police Officers C and D were both located on the north side of the car, which was facing south, gathering their equipment for the day. Officer C stated that he/she was standing outside of his/her vehicle when he/she heard a loud bang which he/she possibly attributed to the next parking lot to the east where there are large equipment vehicles that may have dropped something. Officer C explained that he/she did not witness the NTUD but did walk over to Officer A, who seemed to be upset with him/herself. Officer A stated that he/she experienced an NTUD to Officer C but did not provide details. Officer C asked if Officers A and B were injured and was told that they were not hurt.

According to Officer D, he/she was in the driver's seat of his/her police vehicle, facing south on the north side of the car wash when he/she heard a noise that sounded like a tire had popped.

The investigation established that Officer A fired a single round, which traveled in a downward trajectory into the open trunk area of his/her black and white SUV. There were no injuries as a result of the NTUD.

Force Investigation Division Detective B assisted with the post-firearm discharge examination, took possession of the rifle, and transported it to the Firearms Analysis Unit, where the rifle was tested. The rifle 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 A	N/A	N/A	N/A	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

Officer A's tactics were not a factor in this incident; therefore, they were not reviewed or evaluated. However, Department guidelines require personnel who are substantially involved in a Categorical Use of Force Incident to attend a Tactical Debrief. Accordingly, consistent with Department policy, the BOPC made a finding of Tactical Debrief for Officer A's tactics.

B. Drawing and Exhibiting

Does not apply.

C. Unintentional Discharge

The BOPC found Officer A's non-tactical unintentional discharge to be negligent, warranting a finding of Administrative Disapproval.

Basis for Findings

A. Tactics

- During its review of the incident, the BOPC considered the following:
- **Patrol Rifle Manipulations** – The investigation revealed that Officer A removed his/her Patrol Rifle from a rifle bag and seated a magazine into the Patrol Rifle because it was his/her intention to secure his/her Patrol Rifle in the interior rifle storage rack of his/her police vehicle. Officer A stated that something distracted him/her and caught his/her attention, but he/she could not recall what the distraction was. Officer A stated that when he/she turned his/her attention back to his/her Patrol Rifle, he/she remembered that this was his/her first day working after being off for a few days and that he/she always performed a “function check” with his/her Patrol Rifle after he/she returned to work. Officer A stated that a “function check” is designed to test the firing pin to make sure the weapon is operable. Officer A began his/her “function check” by engaging the safety on his/her rifle and pressing the trigger. According to Officer A, the safety performed properly. Officer A then “charged” his/her Patrol Rifle, chambering a round into his/her Patrol Rifle by pulling the charging handle back and then sending it forward into battery. Officer A then disengaged the safety, forgetting that a magazine was seated in the Patrol Rifle. Officer A pressed the trigger with his/her Patrol Rifle pointed downward at a 45-degree angle aimed towards the rear open cargo compartment of the police vehicle resulting in the NTUD.
- **Background** – As Officer A was verifying the condition and performing a “function check” of his/her Patrol Rifle, he/she held it with the barrel pointed downward at a 45-degree angle towards the rear cargo compartment of the parked police vehicle in the Devonshire parking lot. Officer A stood behind his/her police vehicle, which was located south of the Devonshire Division garage. Officer A disengaged the Patrol Rifle’s safety, pressed the trigger, and discharged a single round into the police vehicle in a downward direction. The incident occurred at approximately 0620 hours. The police station parking lot did not have any nearby public or residential properties and there was minimal pedestrian or vehicle traffic within the parking lot. Officer A was reminded that an officer’s background is an important consideration while handling any firearm and there is always a potential for injury to other officers and community members in the area.
- **Preservation of Evidence** – The FID investigation revealed that following the NTUD, Officer A unseated the magazine from his/her Patrol Rifle and placed the magazine in the rear cargo compartment of the police vehicle. Officer A then ejected a live round from the Patrol Rifle’s chamber, which fell to the ground. Officer A stated that he/she ejected the live round on to the ground to render the weapon safe as fast as he/she could and then placed the Patrol Rifle in the rear of the police vehicle. Officer A was reminded of the importance of maintaining the integrity of the scene for FID investigators following a Categorical Use of Force (CUOF).

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

Officer A's tactics were not a factor in this incident; therefore, they were not reviewed or evaluated. However, Department guidelines require personnel who are substantially involved in a Categorical Use of Force Incident to attend a Tactical Debrief. Accordingly, consistent with Department policy, the BOPC made a finding of Tactical Debrief for Officer A's tactics.

B. Drawing and Exhibiting

Does not apply.

C. Unintentional Discharge

- **Officer A** – (rifle, one round, fired in a downward trajectory into the rear cargo compartment of a black and white police SUV)

According to Officer A he/she removed his/her Patrol Rifle bag from his/her personal vehicle and placed it in the rear cargo compartment of his/her police vehicle. Officer A removed his/her Patrol Rifle from the bag and seated a magazine into the rifle because it was his/her intention to place his/her Patrol Rifle in the interior storage rack located in the front passenger compartment of the police vehicle. Officer A stated that something distracted him/her and caught his/her attention, but he/she could not recall what the distraction was. Officer A returned his/her attention back to his/her Patrol Rifle and recalled that it was his/her first day working after being off for a few days, and that he/she always performed a function check with his/her rifle after being on days off. Officer A began his/her function check by placing the safety on and pressing the trigger at which time the safety performed properly. Officer A charged his/her Patrol Rifle and placed the rifle in fire mode, forgetting that a magazine was seated in the weapon. Officer A pointed his/her Patrol Rifle at a 45-degree angle aimed into the rear open cargo compartment of the police vehicle and pressed the trigger. When Officer A pressed the trigger, he/she knew that he/she fired a round into the rear of the police vehicle and realized that he/she had just experienced a negligent discharge.

The BOPC conducted a thorough review in evaluating the circumstances and evidence related to the NTUD. The BOPC determined that the Unintentional

Discharge was the result of operator error and a violation of the Department's Basic Firearm Safety Rules. All Department Rifle Cadre members are taught administrative loading procedures and how to verify the condition of their Patrol Rifle. Patrol Rifle Cadre members are taught to verify the condition of a Patrol Rifle with the bolt locked to the rear, elevate the Patrol Rifle, and inspect the firing chamber, feedway (ejection port area) and magazine. Therefore, Officer A failed to properly check the Patrol Rifle's chamber to verify its condition prior to pressing the trigger.

Based on the totality of the circumstances, the BOPC determined that the NTUD was the result of operator error as Officer A's actions violated the Department's Basic Firearm Safety Rules; therefore, the BOPC reached a finding of Administrative Disapproval (AD), Negligent Discharge.