

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

NON-TACTICAL UNINTENTIONAL DISCHARGE – 044-19

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

West LA 9/15/2019

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

Officer A 11 months

Reason for Police Contact

At the end of his/her shift, Officer A was removing a weapon from the police vehicle's weapon rack system, resulting in a non-tactical unintentional discharge (NTUD).

Suspect Deceased () Wounded () Non-Hit ()

Not Applicable.

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 (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 recommendations; the report and recommendations of the BOPC of Police; and the report and recommendations 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 21, 2020.

Incident Summary

Officers A and B were assigned as partners, with Officer B serving as Officer A's training officer. At the time of this incident, the two had worked approximately seven shifts together. According to Officer B, he/she instructed Officer A how to load, unload, and secure the patrol rifle in the rack of the black and white police vehicle on the first day they worked together. In addition, Officer B stated that he/she also taught Officer A how to remove the patrol rifle from the vehicle's rifle rack. This was a standard practice Officer B employed with all his/her probationary officers. Officer B explained that he/she did so to prepare his/her less tenured partners in case they became involved in an incident that required them to arm themselves with the rifle. According to Officer B, an example of such an incident might include, but was not limited to, a response to an active shooter in which he/she was struck by gunfire and unable to address the suspect. Although Officer A had not attended the Los Angeles Police Department (LAPD) Rifle School, it was Officer B's belief that his/her partner should have a basic understanding of how to manipulate the rifle and engage a suspect if that became necessary.

According to Officer B, at the start of their watch, he/she did not specifically instruct Officer A to retrieve the rifle from the kit room and secure it in the vehicle's rifle rack. Officer A took the initiative of doing so on his/her own. He/she also took it upon himself/herself to return the rifle to the kit room at the end of watch without being told to do so.

In reference to this incident, Officer B believed that he/she removed the rifle from the police vehicle at the end of the previous shift, verified the firing chamber was empty, and placed it into the rifle bag with the magazine inserted in the magazine well. Officer B then believed he/she turned the bagged rifle into the kit room.

According to Officer A, he/she believed it was he/she who removed the rifle from the police vehicle and secured it in the kit room at the end of the officers' previous shift.

At the beginning of the shift in question, Officer A checked out a .40MM Less-Lethal Launcher, a Remington 870 shotgun, and his/her partner's patrol rifle from the kit room. After carrying the equipment to his/her assigned police vehicle, he/she began securing the items in the vehicle. According to Officer A, he/she first removed the rifle, with the rifle magazine already inserted into the magazine well, from the rifle bag. Prior to placing the rifle into the vehicle's rifle rack, he/she conducted a chamber check and verified that the firing chamber was empty. Officer A then placed the rifle into the rifle rack situated between the front seats of the police vehicle and activated the locking mechanism, thereby securing the rifle in the rifle rack.

According to Officer B, he/she was conducting administrative duties in the report writing room and was not present when Officer A loaded the equipment into the police vehicle. Upon his/her (Officer B's) arrival at their police vehicle, Officer B saw that all three weapon systems were secured in their respective racks in the driver's compartment.

According to Officer B, he/she did not verify the rifle's condition, and it was not deployed by him/her or his/her partner during their watch.

At the end of their shift, Officer A was in the driver's seat of his/her police vehicle that was backed into a parking stall just outside the rear door of the police station. Officer A logged off the Mobile Data Computer (MDC), then turned toward the rifle secured in the rifle rack. Officer A disengaged the locking mechanism on the rifle rack and with his/her left hand grabbed the handguard near the base of the barrel. Officer A pulled the rifle toward him/her, and a round was discharged from the rifle while it was still seated in the rifle rack. The rifle was pointed upward, resulting in the fired projectile exiting through the roof and going through the emergency light bar of the police vehicle.

Neither the fired projectile nor any of its fragments were located.

Officer B, along with three other non-involved officers, were captured on the station surveillance video exiting the station's rear door after hearing the single gunshot. Another uninvolved officer was in the main parking lot when he/she heard the single shot.

Lieutenant A, serving as the Watch Commander, was inside the Watch Commander's office when he/she heard a loud noise. Shortly afterward, Officer B walked into the Watch Commander's office and notified Lieutenant A of the Non-Tactical Unintentional Discharge (NTUD). Lieutenant A exited the rear door and checked on the officers to make sure they were uninjured. According to Lieutenant A, Officer A did not complain of any injuries. Lieutenant A looked inside the vehicle and observed the damage to the roof. He/she then gathered the necessary information from Officer A to make the required notifications. According to Lieutenant A, he/she did not give Officer B any direction regarding holding the crime scene for a Categorical Use of Force (CUOF) investigation.

Officer B was captured on surveillance video approaching the open driver's door of the police vehicle. According to Officer B, when he/she looked inside he/she observed the rifle in the rack with the locking mechanism open. Officer B assumed the rifle was loaded with a live round in the chamber and did not feel safe leaving the weapon in that condition. After seeing the safety in the "Off" position, Officer B engaged the safety on the rifle and removed it from the rifle rack. He/she then removed the magazine from the magazine well and cleared the live round from the chamber. During this time, Officer B also located and collected the Discharged Cartridge Casing (DCC) from inside the police vehicle.

According to Lieutenant A, when he/she stepped out to inspect the scene and speak to the officers, he/she could not recall if the rifle was in the police vehicle or if it had already been rendered safe and secured in the kit room.

Having been directed to do so by Officer B, Officer A removed the remainder of the equipment (shotgun, .40MM, and equipment bags) from their vehicle, and closed the driver's side door and back hatch before entering the station with the equipment.

Officer B walked into the station with the rifle in hand and secured it in the kit room.

Lieutenant A monitored both officers in the Watch Commander's office until he/she assigned Sergeant A to monitor Officer A.

Force Investigation Division (FID) Detectives responded and conducted a magazine count at the police station. The magazine and subsequent investigation determined that one round had been fired from the rifle.

Following this incident, investigators assigned to FID and an instructor from the Police Rifle Tactical and Shotgun Unit, as closely as possible, recreated the circumstances surrounding the NTUD. The reenactment confirmed that removing a rifle from the Department approved rifle rack with the safety off could result in the trigger being depressed if it encountered the extended trigger post adapter.

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. Drawing and Exhibiting

Does Not Apply.

C. Unintentional Discharge

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

Basis for Findings

A. Tactics

Tactical De-Escalation

- Does not apply.

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. Therefore, the BOPC determined that it would be appropriate to recommend a Tactics finding of Tactical Debrief.

During its review of this incident, the BOPC noted the following:

- **Firearms Manipulations** – Basic Firearms Safety Rules/Weapon Inspections. Officer A handled, manipulated, secured, unsecured, and prepared Officer B's Patrol Rifle to a "patrol ready" condition as he/she loaded their police vehicle. Officer B stated it was common practice to familiarize all his/her probationary officers with the functions of his/her Patrol Rifle by allowing them to manipulate it. Officer A was not Department trained or certified to manipulate or deploy the Patrol Rifle. Officer A was reminded that the handling and manipulation of a weapon system by Department personnel who are not trained or certified in its use, poses a risk to others as the weapon system should only be manipulated by Department personnel who are certified.
- **Department-Wide Loading Standards** – Officer A unknowingly and improperly loaded the Patrol Rifle as a result of his/her lack of knowledge of the weapon system. The Department has established loading standards to ensure officer safety and patrol readiness at all times. Officer A was reminded that the loading of a Patrol Rifle is critical and that Department personnel, who are not trained or certified in its use, pose a risk to others as the weapon system should only be manipulated by Department personnel who are certified.

These topics were to be discussed at the Tactical Debrief.

- Each tactical incident also 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.

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

B. Drawing and Exhibiting

- Does Not Apply

C. Unintentional Discharge

- **Officer A** – (rifle, one round)

According to Officer A, he/she was in the driver's seat of his/her police vehicle that was parked in the parking lot of the police station. Officer A logged off the MDC, turned toward the Patrol Rifle secured in the rifle rack, and disengaged the locking mechanism with his/her left hand. Officer A grabbed the handguard near the base of the barrel and pulled the Patrol Rifle toward him/her in order to remove it from the rifle rack. Officer A's attempted removal resulted in one round being discharged from the rifle while it was seated in the rifle rack as it was pointed upward. This fired projectile exited through the roof of the police vehicle and emergency light bar on the top of the police vehicle.

The BOPC conducted a thorough review in evaluating the circumstances and evidence related to the NTUD. The BOPC determined that the NTUD was the result of operator error. Officer A inadvertently loaded the Patrol Rifle and then placed the loaded Patrol Rifle into the vehicle's rifle rack with the Patrol Rifle's safety disengaged.

Based on the totality of the circumstances, the BOPC determined that the NTUD was the result of operator error and the manipulation of a weapon system that Officer A was not authorized to use. Additionally, Officer A failed to adhere to the Department's Basic Firearm Safety Rules. Therefore, the BOPC found that Officer A's NTUD requires a finding of Administrative Disapproval (AD), Negligent Discharge.

Command and Control

- Lieutenant A responded to the police department parking lot and met with Officers A and B. Lieutenant A did not provide Officer B with any direction regarding holding the scene for a CUOF investigation. Lieutenant A did not immediately separate Officers A and B, nor did he/she obtain a PSS from Officer A. Lieutenant A returned to the Watch Commander's office and left Officers A and B unmonitored.

Officers A and B met with Lieutenant A in the Watch Commander's office after the officers had removed all of their equipment and secured it inside the kit room. Lieutenant A monitored both officers in the Watch Commander's office until he/she assigned Sergeant A to assume monitoring responsibilities of Officer A. Sergeant A obtained a Public Safety Statement (PSS) from Officer A and monitored Officer A until relieved by FID Investigators.

Overall, the actions of Lieutenant A were not consistent with Department supervisory training of an Incident Commander during a critical incident and did not meet the BOPC's expectations.

The actions of Sergeant A were consistent with Department supervisory training and met the BOPC's expectations of field a supervisor during a critical incident.

Additional Issues

- **Officer B**
- **Firearm Manipulations** – Officer A handled, manipulated, and prepared the Patrol Rifle to a patrol ready condition as he/she secured it in the officers' police vehicle. Officer B stated it was common practice to familiarize all his/her probationary officers with the functions of his/her Patrol Rifle by allowing them to manipulate the weapon system. Officer A was not Department trained or certified to manipulate or deploy a Patrol Rifle, however, Officer B allowed Officer A to manipulate the weapon system. Additionally, Officer B was not Department certified to provide instruction on the use of a Patrol Rifle.
- **Registering Private Purchase Rifle with Department Armory** – Officer B completed Rifle School several years prior to this incident and subsequently privately purchased his/her Patrol Rifle for on-duty use. At the time of the NTUD, the only rifle listed on Officer B's firearms record was a Department-issued rifle. Officer B's private purchase Patrol Rifle was never presented to the Department armory to be certified and entered into the firearms record.
- **Returning Department Issued Equipment** – After the private purchase of his/her personal Patrol Rifle, Officer B did not return the Department-issued Patrol Rifle as required, per the Department Agreement for Private Purchase of Patrol Rifle for Duty Use.
- **Preservation of Evidence** – The FID investigation revealed that following the NTUD, Officer B looked inside of the police vehicle and observed the Patrol Rifle in the rifle rack with the locking mechanism open. Officer B assumed the Patrol Rifle was loaded with a live round in the chamber and did not feel safe leaving the Patrol Rifle in that condition. Officer B observed that the safety was disengaged in the "Off" position. Officer B removed the Patrol Rifle from the rifle rack and cleared the live round from the chamber. Officer B brought the Patrol Rifle into the police station, secured it in his/her rifle bag, and returned it to the kit room. Additionally, Officer B recovered a discharged cartridge casing from the front passenger seat and removed it from the police vehicle.
- **Maintaining the Integrity of the Crime Scene** – Prior to the arrival of FID investigators, Officer B directed Officer A to remove the shotgun, 40mm LLL, and all other equipment from the police vehicle. Having been directed by Officer B, Officer

A removed the remainder of the equipment from their police vehicle and returned it to the kit room.

The above identified issues concerning Officer B were brought to the attention of the Patrol Division Commanding Officer, who directed that Officer B be removed from the Rifle Cadre, receive Divisional Training, along with the generation of a Supervisory Action Item (SAI). In addition, the Area Commanding Officer directed that Officer B be issued a Notice to Correct Deficiencies. The Commanding Officer of Operations – West Bureau (OWB) and the Director of Office of Operations (OO) concurred with these actions. As such, the BOPC deemed no further action to be necessary.

- **Lieutenant A**
- **Protocols Subsequent to CUOF** – Lieutenant A was inside the Watch Commander's office when he/she heard a loud noise, shortly afterward; he/she was notified by Officer B of the NTUD. Lieutenant A proceeded to the parking lot of the police station and met with the officers. Lieutenant A verified what had occurred and that there were no injuries. Lieutenant A did not immediately separate Officers A and B, nor did he/she obtain a PSS from Officer A. Lieutenant A did not give Officer B any direction regarding holding the scene for the CUOF investigation. Lieutenant A returned to the Watch Commander's office to make the necessary notifications, and left Officers A and B unmonitored.
- **Watch Commander's Daily Report** – Lieutenant A's Watch Commander's Daily Report for the date of the incident did not document the separation and monitoring of Officers A and B, nor did it indicate that a CUOF incident had occurred.

The above identified issues regarding Lieutenant A were brought to the attention of the Patrol Division Commanding Officer, who provided Lieutenant A with divisional training and issued an Employee Comment Sheet, along with the generation of a SAI. The Commanding Officer of OWB and the Director of OO concurred with these actions. As such, the BOPC deemed no further action to be necessary.

Audio/Video Recordings

- **Digital In-Car Video System (DICVS)/Body Worn Video (BWV)** – Officer A's NTUD occurred while he/she was on-duty, however, at the time of occurrence, Officer A was in the parking lot at police station, preparing to remove his/her equipment from the vehicle as he/she was at the end of his/her shift. Therefore, DICVS and BWV were not activated during this incident.
- **Surveillance Video** – A police station surveillance camera that was affixed to the west facing wall was located approximately five feet above the ground. The camera was pointed in a southwest direction and captured the responding personnel. The

video footage did not record any audio. The surveillance video was reviewed and was consistent with the FID investigation.

Chief's Direction

- In order to enhance the future performance of Department personnel, the Chief advised the Director, Office of Support Services, to ensure that all personnel review the Department video addressing unintentional discharges of firearms, dated January 15, 2020, along with the corresponding Chief of Police message. Additionally, the Chief directed that during all rifle school training, and recertification instruction, there be a re-iteration and strong emphasis on the prohibition of handling the Patrol Rifle by personnel who are not certified. The aforementioned unintentional discharges of firearms video from Training Division, Firearms Training Section, demonstrates the safe handling of firearms and reviews the Basic Firearm Safety Rules to prevent unintentional discharges through the emphasis of the safe handling of firearms. The BOPC concurred with this action.