



## **Incident Summary**

Officers observed a vehicle being driven by a known Subject. As officers followed the vehicle, they observed an object thrown from the passenger window. The officers conducted a traffic stop and requested additional units to assist with the detention of the subjects and the search for the object thrown from the vehicle.

Officers A and B responded to the additional unit request as did Sergeant A.

During the search for the object, officers recovered a 9mm blank-firing pistol that had been converted to fire live rounds, ammunition, and a loaded magazine.

Officer A donned gloves and held the firearm in his/her right hand, pointing it in a downward direction. Officer A pulled the slide back to the rear of the firearm with his/her left hand and did not observe anything in the chamber.

However, according to Officer A, after he/she canted the firearm to the left and pulled the slide back once again, he/she observed a round in the chamber. Officer A then canted the firearm to the right and shook it, to try and dislodge the round. Officer A was unsuccessful. Officer A then held the firearm toward the ground and eased the slide forward with his/her left hand to close the slide. As the slide went forward, the firearm discharged. According to Officer A, his/her finger was not on the trigger when the discharge occurred.

Sergeant A witnessed the discharge. According to Sergeant A, Officer A had the firearm pointed in a safe direction while he/she tried to render it safe. While manipulating the firearm, Officer A advised Sergeant A that a round was still in the pistol. Sergeant A suggested that Officer A let the slide recycle through, to allow the extractor to regrip the round. Sergeant A stated it sounded like Officer A released the slide and then a round discharged towards the street.

Immediately after the discharge, Sergeant A used his/her handheld radio and requested an additional supervisor via Communications Division. Sergeant A recovered the firearm from Officer A and collected the body-worn video cameras from Officers A and B.

Several minutes later, Sergeant B responded to the scene. Sergeant B took separate public safety statements from Officers A and B and Sergeant 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 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 unintentional discharge to be Accidental.

**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. It is also recognized 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 value 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 and reasonable to do so. When warranted, Department personnel may objectively use reasonable force to carry out their duties. Officers who use unreasonable force degrade the confidence of the community we serve, expose the Department and fellow officers to legal and physical hazards, and violate the rights of individuals upon whom unreasonable force is used. Conversely, officers who fail to use force when warranted may endanger themselves, the community and fellow officers." (Use of Force Policy, Los Angeles Police Department Manual.)

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), 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:

Law enforcement officers are authorized to use deadly force to:

- Protect themselves or others from what is reasonably believed to be an imminent threat of death or serious bodily injury; or
- Prevent a crime where the subject's actions place person(s) in imminent jeopardy of death or serious bodily injury; or
- Prevent the escape of a violent fleeing felon when there is probable cause to believe the escape will pose a significant threat of death or serious bodily injury to the officer or others if apprehension is delayed. In this circumstance, officers shall to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

The reasonableness of an Officer's use of deadly force includes consideration of the officer's tactical conduct and decisions leading up to the use of deadly force. (Use of Force Policy, Los Angeles Police Department Manual.)

An officer's decision to draw or exhibit a firearm should be based on the tactical situation and the officer's reasonable belief that there is a substantial risk that the situation may escalate to the point where deadly force may be justified. (Los Angeles Police Department Manual.)

Tactical de-escalation involves the use of techniques to reduce the intensity of an encounter with a suspect and enable an officer to have additional options to gain voluntary compliance or mitigate the need to use a higher level of force while maintaining control of the situation. 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. (Tactical De-Escalation Techniques, October 2016.)

## **A. Tactics**

- During a review of this incident, the following Debriefing Point was noted:

**Clearing Weapons** – The investigation revealed that Officer A attempted to clear the firearm with a round stuck in the chamber. Officer A was reminded to contact the Firearms Analysis Unit in cases where there is a jammed or inoperative weapon, including situations where there is either a round in the chamber that cannot be extracted or where the condition of the weapon cannot be verified.

## **B. Drawing and Exhibiting**

- Does Not Apply

## **C. Unintentional Discharge**

- **Officer A** – (pistol, one round)

According to Officer A, he/she picked up the firearm with his/her right hand, placed his/her right finger alongside the frame and pulled the slide back with his/her left hand. At that time, Officer A could not see anything inside the chamber of the firearm, so he/she let the slide go forward. Officer A then canted the firearm towards his/her left side, pulled the slide back one more time and observed a round inside the chamber. Believing that the round was stuck inside the chamber, Officer A canted the firearm to his/her right side, pointed it in a downward direction and shook the firearm in an attempt to dislodge the round. When the round did not come out, Officer A started to guide the slide forward again. As Officer A moved the slide forward, the firearm discharged, and he/she observed a round hit the pavement in front of him/her.

After reviewing the evidence, the BOPC determined that it was reasonable to believe that the Unintentional Discharge was a result of a weapon malfunction, not operator error. Officer A was acting within the scope of his/her duties and did not violate any firearms safety rules. Officer A's finger was not on the trigger and the firearm was pointed in a safe direction.

The examination conducted by a Firearm Analysis Unit Criminalist determined that the firearm was originally designed to fire blank ammunition but had been modified to fire live projectile ammunition and could be discharged without pressing the trigger.

The BOPC found Officer A's Unintentional Discharge of the pistol to be Accidental.