

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

NON-TACTICAL UNINTENTIONAL DISCHARGE – 065-17

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

Rampart 9/9/17

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

Officer A 7 years, 1 month

Reason for Police Contact

Officer A was at the trunk of his patrol vehicle, preparing his patrol rifle for service, when he experienced a Non-Tactical Unintentional Discharge of his firearm.

Subject 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; the report and recommendations of the Chief 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.

Because the Department is currently legally prohibited from divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

The following incident was adjudicated by the BOPC on July 24, 2018.

Incident Summary

Partner Police Officers A and B were preparing to start their shift. They were assigned a patrol vehicle that had a two-gun rack mounting system installed for a shotgun and beanbag shotgun.

According to Officer A, he performed a function test on his patrol rifle while he was standing behind the trunk of this assigned vehicle. During this function check, everything functioned correctly. Officer A forgot that the Crown Victoria did not have a rifle rack and he placed a magazine into the magazine well of his patrol rifle. He then placed the loaded rifle inside the gun case located in the trunk of the vehicle. Officer A then noticed there was a black and white vehicle parked nearby that did not appear to be in use. Officer A stated he preferred the other patrol vehicle because it had the three-gun rack mounting system, the third mount position being for a patrol rifle. Officer A then walked to the vehicle to determine if it was available for deployment. The vehicle was not available.

Officer A returned to the rear of the vehicle and could not remember if he had completed the prior function test, so he performed another function test. Officer A angled his body so that his rifle was pointed in a safe direction towards the wall of the parking structure, away from people. Officer A failed to remove the loaded magazine from the rifle. With the loaded magazine in place, Officer A performed the function test and inadvertently loaded a round into the chamber of the rifle when he retracted and released the charging handle. Officer A did not conduct a chamber check prior to pressing the trigger with the safety switch in the ON position. Officer A did not perform a chamber check prior to pressing the trigger with the safety switched to the OFF position. It was at this point that Officer A unintentionally discharged a round from the weapon.

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 non-tactical unintentional discharge 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. 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

- 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.
- During review of this incident, the following Debriefing Point was noted:
 1. Firearms Manipulations – Four Basic Firearms Safety Rules.

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

B. Unintentional Discharge

- **Officer A** – (rifle, one round)

According to Officer A, while conducting a function test of his police rifle, he pressed the trigger with the safety disengaged and a round discharged from his police rifle.

Upon reviewing the evidence, the BOPC determined that the UD was the result of operator error after Officer A pressed the trigger of his loaded patrol rifle while conducting a function test. Officer A's action violated the Department's Basic

Firearm Safety Rules, and therefore, requires a finding of Administrative Disapproval (AD), Negligent Discharge.