

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

NON-TACTICAL UNINTENTIONAL DISCHARGE – 031-21

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

Outside City 6/16/21

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

Officer A 23 years, 9 months

Reason for Police Contact

Officer A was cleaning his/her weapon when a Non-Tactical Unintentional Discharge (NTUD) occurred.

Subject(s) **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 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 May 3, 2022.

Incident Summary

On Wednesday, June 16, 2021, at approximately 0700 hours, Officer A, attended firearms training at the Elysian Park Police Academy. He/she was in the midst of completing a two-week re-integration course and had two days left of training. Officer A had been off work for over 11 months due to injuries, necessitating the re-integration course.

According to Officer A, the only weapon he/she fired during the aforementioned training was his/her primary duty weapon, a semiautomatic pistol. Officer A estimated that over six hours of training was spent on the outdoor shooting range on the day of the incident. According to Officer A, it was a warm day and he/she was exhausted after being out in the sun all day and waking up early that morning.

When the training concluded, Officer A purchased gun cleaning supplies from the Academy store and drove to his/her residence. Once at home, Officer A sat alone at his/her kitchen table and proceeded to clean his/her pistol. Upon completion, Officer A decided to clean his/her off-duty firearm as well, another semiautomatic pistol.

In preparation for the cleaning, Officer A retrieved his/her off-duty pistol and brought it to the kitchen table. According to Officer A, the pistol was loaded to capacity with one round in the chamber. Officer A ejected the magazine and removed all rounds from the magazine. He/she then placed the ammunition and magazine on the kitchen table and prepared to dismantle the pistol.

According to Officer A, he/she forgot to conduct a chamber check; therefore, one round remained in the chamber.

On the day of this incident, there was a paved driveway located on the west side of Officer A's property, adjacent to the living room/kitchen area. Just west of the driveway there was a white vinyl fence that ran north/south.

The property west of Officer A's residence had a cinder block wall located on the east side of their property, that also ran north/south. The vinyl fence and cinder block ran parallel to one another and were approximately two to three inches apart.

According to Officer A, he/she witnessed his/her neighbor's cinder block wall being constructed and was cognizant that it was reinforced with rebar and filled with concrete. Officer A opined that the safest direction to point his/her muzzle while dismantling his/her pistol was in a westerly direction, toward the cinder block wall.

Officer A held his/her pistol in his/her right hand, in a low-ready position, with the muzzle pointed in a westerly direction. In order to disengage the slide of his/her pistol, Officer A pulled the trigger with his/her right index finger, resulting in a NTUD.

When Officer A was asked about any other factors that may have contributed to the unintentional discharge he/she replied, "Distraction and exhaustion." He/she added that he/she was trying to be "quick and efficient" because his/her spouse was about to serve dinner.

Following the NTUD, Officer A noted that his/her pistol was in a slide-lock position. Officer A verified that the pistol was empty and placed it on the kitchen table. Officer A located and recovered his/her cartridge case from the kitchen floor and placed it on the kitchen table.

According to Officer A, after recovering the cartridge case, he/she remembered that the area surrounding the NTUD was a potential crime scene. Therefore, he/she did not move or touch any additional items at the scene.

At approximately 1848 hours, following the NTUD, Officer A called the Watch Commander's office and spoke with Sergeant A. Officer A notified Sergeant A of the NTUD. Sergeant A informed Officer A that he/she would respond to his/her location and directed Officer A to make contact with his/her neighbors and verify that no one was injured.

According to Officer A, he/she exited his/her residence and visually inspected the cinder block wall and exterior of his/her neighbor's residence for impacts. Officer A determined that the projectile did not go through the cinder block wall and there were no impacts to the neighbor's residence.

Officer A contacted his/her neighbor and verified that no one was injured inside of his/her residence. According to Officer A, his/her neighbor informed him/her that he heard a slapping sound and attributed it to construction noise.

No officers or civilians were injured during the incident.

BWV and DICVS Policy Compliance

Does not apply.

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.

Basis for Findings

A. Tactics

In this case, Officer A was off-duty, in his/her home, cleaning his/her pistol, and was not engaged in tactical operations. Therefore, Officer A was not evaluated for tactical de-escalation.

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

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

Firearm Manipulations – To dismantle the pistol, Officer A knew he/she had to press the trigger. While Officer A had removed the magazine, he/she forgot to ensure the firing chamber did not contain a round before pressing the trigger. This was the most significant contributing factor to the NTUD.

Command and Control – Lieutenant A was at home on vacation when he/she received the DOC notification of the NTUD; Lieutenant A lived near Officer A. Concerned that Sergeant A's response would be delayed by afternoon traffic, Lieutenant A decided to respond to Officer A's residence and check on his/her well-being. According to Lieutenant A, before meeting with Officer A, he/she spoke with Lieutenant B, ensuring it would be okay if he/she both responded to the scene and waited for an on-duty supervisor to perform the Public Safety Statement (PSS). Lieutenant A did not have the PSS questions with him/her.

At approximately 1900 hours, Lieutenant A arrived at the scene. He/she was the first Department supervisor to arrive. According to Lieutenant A, he/she was cognizant that the incident was a Categorical Use of Force. While waiting for Sergeant A to arrive, Officer A provided Lieutenant A with a brief synopsis of the NTUD and directed him/her to the bullet hole in the kitchen's west wall. Looking out

a kitchen window, Lieutenant A saw where Officer A's round had struck the vinyl fence. Noticing the adjacent home, Lieutenant A asked Officer A if he/she had checked on his/her neighbors' welfare. According to Lieutenant A, Officer A stated that his/her neighbors were not injured and that the round had not penetrated the block wall separating the properties. After gaining situational awareness, Lieutenant A advised Officer A that FID investigators would interview him/her regarding the incident. Lieutenant A asked no further questions.

When asked during his/her FID interview if he/she observed objective symptoms of intoxication or alcohol use with Officer A, Lieutenant A replied, "Absolutely not." Based on the FID investigation, there was no indication alcohol was a factor in the NTUD.

According to Officer A, Lieutenant A was within seven to eight feet of where the PSS was subsequently taken by Sergeant A. While Officer A opined that Lieutenant A heard most of the PSS, he/she added that Lieutenant A was also on his/her cell phone at the time, making notifications. According to Lieutenant A, he/she could see the conversation but was not close enough to hear the PSS.

The BOPC opined that as a Lieutenant, Lieutenant A should have taken a more active and continuous leadership role as an Incident Commander (IC) and should not wait for a sergeant to initiate the categorical protocols. Also, while he/she did not have the PSS questions with him/her, the questions could have been obtained during his/her conversation with Lieutenant B or by calling a police station.

At approximately 2010 hours, Sergeant A arrived at the scene and obtained Officer A's PSS. Following the NTUD, Officer A had notified Sergeant A of this incident; Sergeant A was sitting in as an assistant watch commander when Officer A called Central Traffic Division. Before responding to the scene, Sergeant A made several notifications. After obtaining the PSS, Sergeant A continued monitoring Officer A until relieved by FID investigators.

The overall actions of Sergeant A were consistent with Department supervisory training.

- Each tactical incident 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** – (pistol, one round)

On the day of this incident, there was a paved driveway located on the west side of Officer A's property, adjacent to the living room/kitchen area. Just west of the driveway was the vinyl fence. The vinyl fence and cinder block wall ran parallel to one another and were approximately two to three inches apart. The projectile traversed the west kitchen wall, approximately 20 inches above the floor. The projectile then struck the driveway, ricocheted, and impacted the vinyl fence. Due to the limited space between the vinyl fence and the cinder block wall, investigators were unable to examine the west side of the vinyl fence and the east side of the cinder block wall for impacts. No impacts were identified on the west side of the cinder block wall. Investigators were unable to locate or recover the projectile.

Preparing to clean his/her pistol, Officer A removed and unloaded the magazine. He/she then placed the ammunition and magazine on the kitchen table. To dismantle the pistol, Officer A knew he/she had to press the trigger. In response, Officer A held his/her pistol in a low-ready position with the muzzle pointed toward the west wall of his/her kitchen, approximately 20 inches from the floor. Because his/her neighbor to the west had recently built a block wall along the property line, next to Officer A's vinyl fence, Officer A believed this was the safest direction to point the pistol. Officer A then pressed the trigger with his/her right index finger, resulting in a NTUD. According to Officer A, before pressing the trigger, he/she had forgotten to ensure the firing chamber did not contain a round.

The BOPC evaluated the circumstances and evidence related to the NTUD. The BOPC noted that as part of their training, officers are taught to conduct a chamber check during the firearm disassembly process, before pressing the trigger. According to Officer A, he/she knew that he/she had to press the trigger to disassemble his/her pistol. While he/she removed the magazine from the pistol, Officer A failed to verify whether the firing chamber was unloaded. Officer A then pressed the trigger - while covering objects he/she did not intend to shoot - resulting in an unintentional discharge.

Based on the totality of the circumstances, the BOPC determined that the NTUD was the result of operator error. Officer A's actions violated the Department's Basic Firearm Safety Rules. The BOPC found Officer A's unintentional discharge to be negligent.