

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

NON-TACTICAL UNINTENTIONAL DISCHARGE – 047-21

Division	Date	Duty-On () Off (X)	Uniform-Yes () No(X)
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Mission	8/15/21		
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Officer(s) Involved in Use of Force	Length of Service
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Officer A	14 years, 8 months
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Reason for Police Contact

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

Suspect(s)	Deceased ()	Wounded ()	Non-Hit ()
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Does not apply.

Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force (CUOF) 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 (UOFRB) 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 July 26, 2022.

Incident Summary

On Sunday, August 15, 2021, Mission Patrol Division Officer A was off-duty at his/her residence. According to Officer A, he/she was hosting a barbeque for Witnesses A and B's birthdays in his/her backyard.

Officer A stated that he/she was having a discussion with his/her family and friends regarding firearms. Officer A went to the garage by him/herself where he/she keeps

his/her rifles in a locked gun safe and retrieved his/her spouse's Bushmaster 5.56 caliber semi-automatic rifle to show his/her friends. According to Officer A, the rifle had a magazine inserted in the weapon when he/she removed it from the safe. Officer A stated he/she was going to unload the rifle and show it to his/her friends in the garage one by one, away from everyone else.

According to Officer A, he/she typically stores his/her rifles in his/her heavy-duty gun safe with an empty magazine in the magazine well. He/she further explained that it had been months since he/she last handled the rifle when he/she cleaned it.

At approximately 2000 hours, according to Officer A, "Um, I was having dinner and I was with family and friends in our backyard. And at that point we were having a discussion about certain firearms. I then, um, went to my garage by myself which was completely closed, both doors -- both doors to the house and back yard were closed and all three garage doors were closed. I alone was in there. I went into my locked gun safe, retrieved a rifle [...]. It's a Bushmaster 5.56 semi-automatic rifle. I then retrieved it and went to unload the rifle. I conducted a chamber check of the rifle. I did not see any round in the chamber. At which time I returned the bolt to its forward position, meaning that it was capable of manipulating the trigger. I then took off the safety. I pointed it at my garage door, believing that the weapon was empty and safe. I then pressed the trigger and a round was fired unintentionally through my garage door, impacting the house across the street which was unoccupied which we -- which I verified due to the fact that they are family friends."

Officer A discharged one round from the rifle in a southwesterly direction. The round travelled through a glass garage door window pane, breaking the glass, which fell to the ground in the driveway. The bullet struck the stucco wall near the garage of a neighboring residence across the street. The bullet did not penetrate the stucco wall into the residence.

Officer A was asked if he/she was intoxicated or drinking alcohol before he/she went to retrieve the rifle. Officer A stated that he/she had consumed one alcoholic beverage with his/her dinner and described it as 1 to 1½ shots of whiskey over ice between 1730 and 1830 hours. According to Officer A, "*Yeah. No, it was -- it was finished for a while prior to me going to the weapon but by no means I feel inebriated.*" Officer A further explained that he/she would not have handled any weapons if he/she had felt drunk and did not believe his/her one drink was the cause of his/her error.

According to Officer A, "Yeah. Due to the fact that I have several young kids, there was a loud bang which caused everyone to -- well, I -- what I believed everyone possibly heard that loud bang. Um, I knew that kids were going to start coming out. So I cleaned up the glass prior to anything else. That was my -- that was -- well, I think I verified where the -- where the impact was and I began to clean up the glass so my kids and my brother's kids would not cut their feet on that glass."

According to Officer A, after opening his/her garage door to verify that no one had been injured and the impact of the discharged bullet, he/she saw a neighbor, Witness C.

Officer A stated, "Yeah. So I opened the garage to go check on that residence where I believed that the round impacted. I saw [Witness C] down the street and he immediately asked me what that was, what that sound was. And I told him. I said, "Yeah, it was -- it was a shot. I'm just making sure that nobody was hurt. It was an accidental discharge." And he said, "Are you okay?"

According to Witness C, he was walking his dog with Witness D at approximately 18:50 hours. He saw Officer A exit his/her garage and walk rapidly across the street. Witness C spoke to Officer A, who advised him that he/she had an accidental discharge with his/her weapon. Witness C joined Officer A as they searched for the bullet impact on the neighboring residence. After locating the impact, Officer A returned to his/her residence and Witness C continued on his walk.

According to Officer A, he/she notified Lieutenant A of the NTUD at approximately 2020 hours. According to the Watch Commander Log, at 2035 hours, Officer A notified Lieutenant A of the NTUD.

Lieutenant A directed Sergeant A to respond to Officer A's residence for an unintentional discharge investigation.

Lieutenant A notified Ventura County Sheriff's Department Watch Commander Captain A of the NTUD at Officer A's residence. At 2131:48 hours, Ventura County Sheriff's Department Communications Division received a phone call from Captain A regarding the NTUD. At 2134:19 hours, Ventura County Sheriff's Department dispatched Ventura County Sheriff's Department Patrol Sergeant A and Deputy A to respond to Officer A's home for a Mutual Aid call for service.

At approximately 2143 hours, Ventura County Sheriff's Department Patrol Sergeant A and Deputy A arrived at scene where they contacted Officer A at his/her residence and verified nobody was injured as a result of the NTUD. The decision was made that the Ventura County Sheriff's Department would allow the Los Angeles Police Department to handle the investigation.

Ventura County Sheriff's Department Patrol Sergeant A and Deputy A walked across the street to the residence that had been impacted by the bullet and contacted Witness E, who was housesitting for the homeowner, Witness F. According to Witness E, she left work at approximately 1900 hours and stopped to pick up food before driving over to Witness F's residence. Witness E estimated that she arrived at the residence around 2000 hours, where she remained inside until Ventura County Sheriff's Department contacted her.

Sergeant A responded to Officer A's residence. Sergeant A arrived at Officer A's residence at approximately 2143 hours.

Officer A opened his/her garage door and met Sergeant A in the driveway. According to Sergeant A's BWV, Officer A advised him/her that he/she had a "ND" (Negligent Discharge) with a rifle when he/she was unloading it. Sergeant A advised Officer A that

he/she was going to turn his/her BWV off and take a Public Safety Statement (PSS) from him/her.

Sergeant A monitored Officer A until FID investigators arrived and assumed investigative responsibilities.

Witness Statements

Witness C along with his wife, Witness D, and child were walking their dog in the vicinity of the NTUD at approximately 1850 hours when he heard a loud “*bang*” and believed it was an illegal firework. According to Witness C, he instructed his wife and daughter to stay at the corner as he began walking south in an attempt to locate where the sound had come from. As Witness C walked south, he observed Officer A exit his/her garage and walk rapidly across the street. According to Witness C, he asked Officer A what had happened, and Officer A told him he/she had an “AD,” (Accidental Discharge). Witness C stated that Officer A appeared to be very concerned and was checking a residence for impacts. Witness C stated that he and Officer A observed minor damage on the stucco wall near the garage door, which was likely due to a round impacting the wall. According to Witness C, Officer A told him that he/she was going to report the incident to his/her agency as well as the Ventura County Sheriff’s Department. Witness C stated that Officer A told him that he/she was in the process of placing his/her rifle into the safe when it went off.

On November 16, 2021, Force Investigation Division (FID) investigators re-interviewed Officer A regarding the time the NTUD occurred. Officer A recalled that during the first interview with FID, he/she stated the NTUD occurred at approximately 2000 hours.

According to Officer A, the NTUD occurred after the sun had already set and he/she considered it to be twilight. Officer A again described that after the NTUD took place, he/she swept up the broken glass and then notified the Mission Division Watch Commander.

While making the telephonic notification, the Watch Commander asked Officer A what time the NTUD took place. That was when Officer A first became aware of the time.

According to Officer A, he/she looked at this cellular telephone and provided his/her best estimation that he/she believed the NTUD occurred. Officer A stood by his/her previous estimation and believed the NTUD occurred at approximately 2000 hours.

According to Witness G, she heard the “*bang*” around 1945 hours as it was beginning to get dark outside.

According to Witness H, he believed he arrived at the party at approximately 1630 hours. He indicated that he thought the NTUD occurred around 1730 to 1800 hours with plenty of day light left.

Witness J was not asked and did not give a time that the NTUD occurred. However, according to Witness J, the NTUD occurred approximately half an hour to an hour after he arrived. Witness J gave Officer A a bottle of whiskey as a gift, which Officer A opened and had a sip of within five minutes of Witness A arriving. Officer A stated in the interview that he/she had a shot of the whiskey at between approximately 1730 and 1830 hours.

BWV and DICVS Policy Compliance

- Not applicable

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force (CUOF) 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

Although Officer A was off-duty and not engaged in a tactical operation in this incident, the BOPC found his/her actions to warrant a finding of Tactical Debrief.

B. Drawing and Exhibiting

Does Not Apply.

C. Unintentional Discharge

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

Basis for Findings

A. Tactics

Tactical De-Escalation

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 Techniques

- *Planning*
- *Assessment*
- *Time*
- *Redeployment and/or Containment*
- *Other Resources*
- *Lines of Communication*

Tactical de-escalation does not require that an officer compromise his/her or his/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.

Officer A was not engaged in a tactical operation in this incident; therefore, his/her tactics were not reviewed or evaluated. However, as Department guidelines require personnel who are substantially involved in a Categorical Use of Force (CUOF) incident to attend a Tactical Debrief, the BOPC determined that it would be appropriate to recommend a Tactics finding of Tactical Debrief.

During the review of this incident, no Debriefing Points were noted.

Officer A was off-duty and was not engaged in a tactical operation. Therefore, Officer A was not evaluated for tactical de-escalation.

- The BOPC also considered the following:

Preservation of Evidence – After the NTUD, Officer A cleaned up the broken glass, unloaded the rifle, returned it to the safe, and recovered what he/she believed was the ejected cartridge casing from behind a toolbox. Except in an exigent circumstance, it is important that officers secure the scene to preserve the integrity of the evidence.

B. Unintentional Discharge

- **Officer A** – (rifle, one round)

Officer A went to his/her garage to retrieve his/her spouse's Bushmaster semi-automatic rifle. During the party, Officer A had a discussion with his/her family and friends regarding firearms. According to Officer A, he/she was going to show the rifle to his/her friends, one by one, in the garage, away from everyone else at the party. Per Officer A, the rifle was usually stored in the garage, in a safe, with an empty magazine inserted. Officer A retracted the bolt, checking the firing chamber. Although he/she did not see a round in the chamber, he/she did not remove the magazine. Believing the chamber was empty, he/she returned the bolt to its forward position. Officer A then pointed the rifle toward his/her garage door, disengaged the safety, and pressed the trigger, discharging one round. The round traveled through his/her center garage door windowpane, causing the glass to break and fall to

his/her driveway. The bullet then struck the front stucco wall of a home across the street, near its garage; however, it did not penetrate into the residence. According to Officer A, it had been months since he/she last handled the rifle. Officer A acknowledged his/her error in not removing the magazine, which he/she assumed was empty. Officer A did not indicate that there was a malfunction with the rifle.

The BOPC evaluated the circumstances and evidence related to the NTUD. The BOPC noted that as part of the Department's training when clearing a weapon system, officers are instructed to remove the magazine and conduct a chamber check to verify the weapon's condition. The BOPC also noted that pressing the trigger is only taught as part of the disassembly process for the Glock and FN Herstal semi-automatic pistols. Although Officer A acknowledged his/her errors, his/her failure to adhere to the Basic Firearm Safety Rules resulted in the unintentional discharge.

The BOPC noted that according to Sergeant A, Officer A did not smell of alcohol or display signs of intoxication. Per Officer A, he/she did not feel inebriated and would not have handled any weapons if he/she was intoxicated. While there was no indication, based on the FID investigation, that alcohol was a contributing factor in the NTUD, the BOPC noted that as a best practice, officers should refrain from handling a firearm after consuming alcohol.

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