

Incident Summary

According to Officer A, he/she received a shotgun from the kitroom officer and observed the shotgun magazine tube was empty. Officer A assumed the chamber was empty. Officer A inspected the safety as he/she walked toward the garage. Officer A closed the action, disengaged the safety, pressed the trigger, and a Non-Tactical Unintentional Discharge (NTUD) occurred.

Sergeant A heard a loud noise in the parking lot and observed Officer A holding a shotgun with the barrel pointed up. Officer A opened the action, and a spent shell ejected from the shotgun. Sergeant A obtained the shotgun from Officer A, verified the chamber was empty, the action was open, and the safety was disengaged. Sergeant A preserved the condition of the shotgun. Sergeant A did not observe the NTUD.

Meanwhile, Officer B had activated his/her Body Worn Video (BWV) as he/she conducted a vehicle inspection in the parking lot. The BWV captured a loud noise and captured Officer A holding a shotgun with a spent shotgun shell on the ground. Officer B did not observe the NTUD, and his/her BWV did not capture it. Officer B was the only officer whose BWV was activated during the NTUD.

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 Officers 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

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 subject 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

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

- During its review of the incident, the BOPC considered the following:

1. Downloading Shotgun

The investigation revealed that the shotgun in question was previously issued to Officer C, and he/she had not properly downloaded it prior to returning it to the kitroom at the end of watch. This matter has been addressed with Officer C.

The evaluation of tactics requires that consideration be given to the fact that officers are forced to make split-second decisions under very stressful and dynamic circumstances. Tactics are conceptual and intended to be flexible and incident-specific, which requires that each incident be looked at objectively and the tactics be evaluated based on the totality of the circumstances.

Each tactical incident also merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made. A Tactical Debrief is the appropriate forum for the involved personnel to discuss individual actions that took place during this incident.

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

B. Drawing and Exhibiting

Does not apply.

C. Unintentional Discharge

- **Officer A** – (shotgun, one round)

According to Officer A, he/she did not conduct a full inspection of the shotgun because he/she assumed that the shotgun was unloaded. As Officer A walked to his/her vehicle, he/she closed the action and checked the condition of the shotgun's trigger with the safety on. Officer A then took the safety off and squeezed the trigger, which resulted in a round being fired from the shotgun.

Upon reviewing the evidence, the BOPC determined that the negligent discharge was the result of operator error and a violation of Firearms Safety Rule Number 1: "All guns are always loaded."

All officers are taught in the academy and at every shotgun qualification that they are required to ensure the shotgun's action is open and the safety is on. Officers are then required to visually and physically check the magazine well, loading area, and chamber of the shotgun prior to completing a Six-Point Safety Check, which includes a visual and physical inspection of the shotgun's barrel, ejector, extractor, firing pin, safety, and shell carrier. Prior to testing the shotgun's safety, officers are required to close the action and then conduct a chamber check before taking the safety off and pressing the trigger. In this case, Officer A failed to properly check the shotgun's chamber to verify its condition in at least two instances that required it. Officer A's actions violated the Department's Basic Firearm Safety Rules, and therefore require a finding of Administrative Disapproval (AD), Negligent Discharge.

The BOPC found Officer A's non-tactical unintentional discharge to be Negligent.