



# Accidental vs. Negligent Discharge of a Firearm

By Brian S. Williams – Founder / Director of Training Services at

Grey Wolf Consulting, LLC

[www.greywolfconsulting.us](http://www.greywolfconsulting.us)

## Introduction

Anytime a firearm discharges without the intention of the individual handling it is a serious event and should be treated as such. Unfortunately however the terms “Accidental Discharge” and “Negligent Discharge” are frequently used interchangeably, although they relate to two very different circumstances. Generally the distinction will center on the ultimate cause of the discharge to distinguish which type of discharge truly occurred.

## The Accidental Discharge

An accidental discharge is typically defined as *“The unintended firing which occurs without negligence on the part of the individual handling the firearm and will therefore be related to mechanical failure.”*

Causes can include defective or broken internal components which lead to an unexpected mechanical failure, or other abnormal condition which causes the firearm to discharge without the operator intentionally pulling the trigger.

## What Is a Negligent Discharge?

A negligent discharge is typically defined as the unintentional firing of a firearm caused by or at minimum contributed too by the handler failing to exercise reasonable and proper care or consideration of established firearm safety rules and handling procedures.

Some examples can include:

- ~ The Handling a firearm without adequately determining its status as loaded or unloaded.
- ~ Poor trigger or finger discipline which allows the trigger to be activated without intent.
- ~ General mishandling of the firearm while distracted or engaging in improper behaviors.
- ~ Failing to follow applicable safety rules and procedures.

In the end, the underlying principle will likely be foreseeable, if a reasonable person exercising appropriate care could have recognized and avoided the risk, the incident would likely be characterized as a negligent rather than accidental discharge.

## **Responsibility Equals Difference**

Perhaps the simplest way to understand the distinction between these two different circumstances is to ask:

*Was the discharge caused by something the firearm handler reasonably could and should have prevented?*

If no, and an unforeseeable mechanical failure causes the firearm to discharge despite appropriate handling the event may properly be characterized as an accident.

If the answer is yes—because the person's actions or failure to act created the conditions that resulted in the discharge—the event will likely be considered a negligent discharge.

## **The Legal Reasons The Distinction Matters**

The difference and ultimate cause of the discharge can lead to significant legal consequences. Within certain jurisdictions, the circumstances surrounding an unintended discharge of a firearm can result in criminal charges, civil liability or disciplinary action. Additionally, there exists no single nationwide rule or law governing these specific types of firearm discharges and State statutes can differ significantly.

Within some jurisdictions, laws will specifically address negligent or reckless discharges without consideration for where the discharge took place, while others will criminalize the discharge of the firearm differently based upon the location of the event and certain Courts have also recognized that the absence of an intent to fire does not necessarily resolve whether a particular discharge violates a firearm statute.

Another consideration related to the unintentional discharge of the firearm is the Civil liability which can potentially occur, even in the absence of any criminal charges or liability.

## **Negligence Does Not Require Intent**

Another very common misunderstandings is the assumption that an absence of intent on the part of the handler will automatically lead to an absence of fault. This could not be further from the truth, since an individual can have no intention to discharge the firearm, yet because of actions taken on their part, the firearm discharges and this will therefore be considered an act of negligence, because negligence generally concerns conduct and risk rather than a person's subjective desire to cause perform a specific action.

The determination of negligence can be answered by answering the following questions:

1. Was it the intention of the individual to discharge the firearm?
2. Was the individual acting within a manner that was careless or reckless?
3. Was the discharge caused by a mechanical failure or improper handling?

## A Practical Comparison

| Factor                                          | Accidental Discharge                | Negligent Discharge                                 |
|-------------------------------------------------|-------------------------------------|-----------------------------------------------------|
| Intent to fire                                  | No                                  | No                                                  |
| Typical cause                                   | Mechanical or unforeseeable failure | Human error or failure to exercise reasonable care  |
| Operator's conduct                              | Appropriate under the circumstances | Careless, improper, or contrary to safety practices |
| Could reasonable precautions have prevented it? | Generally no                        | Generally yes                                       |
| Potential liability                             | Depends on circumstances            | Potentially significant                             |
| Investigation                                   | May focus on mechanical failure     | May focus on handling and safety practices          |

## Terminology Matters

The words *accidental* and *negligent* carry different definitions and therefore implications. Calling an incident an “accident” may suggest that nobody was at fault, whereas describing it as “negligent” implies that someone's conduct fell below an appropriate standard of care.

For that reason, investigators, courts, military organizations, law-enforcement agencies, and firearms professionals may use somewhat different terminology. Some organizations even use *negligent discharge* broadly for unintended firearm discharges caused by operator error, while reserving *accidental discharge* for mechanical or other circumstances outside the operator's reasonable control.

## In Conclusion

Ultimately, the difference between an accidental and negligent discharge is not simply whether the shooter intended to fire. Both can be unintended.

A clearer distinction is found in why the firearm discharged and whether the individual handling it could reasonably have prevented the event. A genuine mechanical failure occurring despite proper handling would very likely constitute an accidental discharge, while a discharge resulting from careless or reckless handling, inadequate precautions, or failure to follow established safety rules and practices would very likely constitute a negligent discharge.

## *Continue Your Training Journey with Grey Wolf Consulting, LLC*

We encourage you to continue exploring the Grey Wolf Consulting, LLC training resources and educational articles to help you build a stronger foundation of knowledge and skill.

At Grey Wolf Consulting, LLC ([www.greywolfconsulting.us](http://www.greywolfconsulting.us)) our slogan reads Knowledge – Integrity – Discretion – Honor, It is these principles in addition to our belief and philosophy that the selection of proper equipment is only one part of developing a responsible and capable mindset. While tools are extremely important, they are only truly most effective when combined with proper knowledge, skill and attitude coupled with sound judgment, and quality training.

Our training philosophy is built around developing well-rounded individuals who understand that personal safety and professional performance require more than simply equipment alone. Awareness, critical thinking, communication, and disciplined decision making skills remain the foundation of effective preparation.

Through continued education with Grey Wolf Consulting, LLC, students can further develop their understanding of:

- ˘ The role equipment plays within a broader preparedness plan
- ˘ How stress impacts critical decision-making and performance
- ˘ The high value of consistent professional training and continued education
- ˘ How the correct mindset will impact informed decisions within high stress environments

Whether you are beginning your training journey, expanding your knowledge, or seeking to refine your existing skill set, Grey Wolf Consulting, LLC ([www.greywolfconsulting.us](http://www.greywolfconsulting.us)) is committed to providing high quality professional firearms and tactics education focused on professionalism, responsibility, and continuous improvement.

### ***About the Author***

Brian S. Williams is a professional firearms instructor, tactical trainer, and executive security consultant with greater than 35 years of experience in firearms instruction, use-of-force training, and protective operations. As the founder of several firearms training and security organizations, he has developed and delivered firearms, tactical, and instructor certification programs for civilians, law enforcement officers, military personnel, and licensed security professionals throughout the United States.

Over the course of his career, Mr. Williams has trained and certified more than 10,500 Connecticut pistol permit applicants, instructed more than 2,000 civilians and hundreds of law enforcement and security professionals in advanced firearms and tactical applications, and provided remedial firearms training to military and correctional personnel. He served as a Marine Police Officer and Watch Commander with the Connecticut Department of Environmental Protection and was appointed to the Connecticut State Police Firearms Advisory Council, where he contributed to firearms training and policy discussions.

Mr. Williams holds numerous professional certifications, including NRA Training Counselor, NRA Law Enforcement Firearms Instructor, General Dynamics Simunitions FX™ Instructor, The Heckler & Koch International Training Division and Sig Sauer Academy Instructor certifications, and USCCA Concealed Carry and Home Defense Instructor. He is the author of *Welcome to the Real World: A Dangerous Place to Be Caught Unprepared* and has been recognized as an expert in firearms by the Connecticut Superior Courts. His work continues to emphasize responsible firearms ownership, sound judgment, lawful use of force, and practical, reality-based training.