

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

**LAW ENFORCEMENT RELATED INJURY – 061-15**

<b>Division</b>	<b>Date</b>	<b>Duty-On (X) Off ( )</b>	<b>Uniform-Yes (X) No ( )</b>
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Southeast	7/19/15		
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<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
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Officer A	19 years, 10 months
Officer B	16 years, 1 month

**Reason for Police Contact**

Officers A and B were investigating an “Assault with a Deadly Weapon” report at a motel and made contact with Subject 2, who was being uncooperative. Officers attempted to remove Subject 2 from the motel room by using firm grips, however she resisted by moving side to side and pulling away, resulting in a Law Enforcement Related Injury (LERI).

<b>Subject(s)</b>	<b>Deceased ( )</b>	<b>Wounded (X)</b>	<b>Non-Hit ( )</b>
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Subject 1: Female, 50 years of age. (no injury)			
Subject 2: Female, 25 years of age. (arm injury)			

**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 state law prohibits 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 12, 2016.

### **Incident Summary**

On the date of this incident, Witnesses A and B were walking on the sidewalk and as Witness A walked past a motel, she felt something strike her on the left side of her head above her ear. Witness A immediately turned to her left and observed a male juvenile, approximately ten years old, looking in her direction from a window located on the first floor of the motel. The male juvenile was pointing at Witness A with what she recognized as a fake gun with an orange-tipped barrel through a hole in the window screen. Witness A heard the sound of the pistol as the male juvenile fired a second time and she ducked to prevent the pellet from striking her.

Witnesses A and B walked to the room where they believed the shot had come from, with the intention of speaking with an adult about what had happened. Witness A knocked on the door and called out to the occupants inside. According to Witness A, they heard noises inside the location, but there was no response at the door. She attempted to notify the motel manager to report the incident, but there was no response from the manager. Based upon the lack of response at the door, and the possibility that the activity would continue, Witness A telephoned police.

**Note:** According to Witness A, an unknown woman who was standing on the sidewalk told her that she had also been struck by a pellet; however, she was unable to call the police because she did not have a cell phone.<sup>1</sup>

Communications Division (CD) broadcast an emergency (Code Three) radio call of an Assault with Deadly Weapon (ADW) Subject “there now” at the motel. Uniformed Police Officers A and B were available and requested that CD send them the radio call, and they responded Code Three, with emergency lights and siren, to the location, activating their vehicle Digital In-Car Video System (DICVS).

Prior to this incident, Officers A and B had worked together approximately three times including the two previous shifts. At the beginning of their shift, the officers determined that Officer A would be the primary contact officer. However, if they encountered a Spanish speaker, Officer B would initiate and assume the contact officer role, and Officer A would assume the cover officer role.

When Officers A and B arrived at the scene, they placed themselves at the location (Code Six) via the police radio, and parked their police vehicle north of the motel. They exited the vehicle and met with Witnesses A and B on the sidewalk. Witness A gave her account of the incident and advised the officers that the shooters were children who had already apologized to her through the window. Witness A was concerned that the children’s actions would continue and requested that the officers speak with an adult at

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<sup>1</sup> According to Witness A, the female refused to wait for the police and left the scene. Force Investigation Division (FID) was not able to identify this individual.

the location about what occurred. Although he did not observe any visible injury, Officer A asked Witness A if she needed an ambulance, which she declined.

The officers approached the front of the motel room, Officer A knocked on the door three times, and identified himself. Although the officers heard noises inside the room, there was no response. As Officer A knocked on the door, Officer B observed from the west facing windows, that the lights, which he initially observed being on, were turned off inside the location. In an effort to gain entry to the room, Officer A advised his partner that he was going to contact the manager and attempt to get a key to the room. As Officer A walked north across the parking lot toward the manager's office, Officer B continued to knock and advised the occupants that they were police officers and ordered them to open the door. Officer A received no response from the manager and returned back to the alcove as Officer B advised him that the door was opening.

A female, later identified as Subject 1, opened the door. Officer B greeted her in Spanish and advised Subject 1 that the officers were there for an investigation of someone shooting a BB or pellet gun out of the rear window of the room. He asked Subject 1 if there were children inside and if they had a toy gun. Subject 1 responded that they were going to go to bed, and did not answer Officer B's questions. From his position in the doorway, Officer B looked through the open door and observed the small room to be extremely cluttered with clothing, a mattress and assorted furniture.

According to Officer B, he noticed three closed doors on the east side of the room, and one of the doors appeared to be in the same area that would be consistent with where Witness A saw the male juvenile with the gun.

**Note:** The investigation determined that this room was used for storage and had a window that faced out toward the sidewalk.

Officer B continued to explain to Subject 1 that they were responding to a radio call of a person who was struck by a pellet from a pellet gun, and that they needed to investigate the incident.

As the officers stepped into the room, a younger female, later identified as Subject 1's adult daughter, (Subject 2), immediately walked up to Officer B and yelled in Spanish, "Hey, you can't come in here. You don't have any right, you know, to be here. You need a warrant." Subject 2 had an angry expression on her face, and continued to yell despite numerous attempts by Officer B to explain to Subjects 1 and 2 that they needed to know who was inside the room. Subject 2 yelled at Subject 1 to record them on her phone.

**Note:** Officer B and Subjects 1 and 2 spoke both Spanish and English. Officer A was able to understand Subject 2 as she frequently addressed him in English. Officer A advised Subject 2 they were conducting a felony investigation and that they needed to speak to the children.

Subject 2 stated she believed the officers needed a warrant to enter the room because they had no proof of a crime. In reviewing the audio of the officers' DICVS, the officers are heard repeatedly stating in a neutral tone to Subjects 1 and 2 that they were there to investigate the children playing with toy guns. Officer B repeatedly told Subject 2 to calm down and to listen to what he was saying.

During the verbal altercation, Officer B stated that one of the doors opened and a male juvenile, later identified as Subject 1's son, (Subject 3) age 10, stepped out into the room. Officer B attempted to speak to him several times, asking him if there was a pellet gun inside the room. Officer B observed that Subject 3 looked visibly afraid and upset as Subject 2 shouted at him to record the officers.

Subject 2 walked closer toward Officer B and raised her hand toward him, stopping within arms distance. Subject 2 made a jabbing motion with her right index finger at Officer B, stopping a few inches from making contact with his chest. Officer B told Subject 2 several times in Spanish not to touch him. Subject 2 ignored Officer B's commands, and continued to thrust her finger toward him as she continued to shout.

**Note:** Subject 2 told FID investigators that only the officers were shouting. On the DICVS, Subject 2 can be heard repeatedly yelling, "You are violating my rights as a US citizen," and "You need a warrant."

Officer A perceived Subject 2's behavior as being confrontational and aggressive and in order to gain control of the situation, Officer A stepped forward to Officer B's right side, used his right hand to place a firm grip on Subject 2's left arm, and put his left hand over her left wrist. Officer B used his left hand to place a firm grip on Subject 2's right arm, and put his right hand over her right wrist. The officers believed that once Subject 2 was handcuffed and moved out of the entry area, their investigation could continue with Subject 1, who had been cooperative and responsive to them. Due to the confined space of the motel room, they attempted to move Subject 2 out toward the doorway to the alcove in order to handcuff her.

Subject 1, who had been standing to Officer B's left side, yelled and used both of her hands to shove him on the left side of his chest, causing Officer B to lose his balance and fall backwards into a chair. As he fell, Officer B lost his grasp on Subject 2's right arm. Subject 2 placed her right hand and foot against the door jam in an effort to prevent the officers from moving her further.

**Note:** Subject 2 denied ever pushing or touching either officer. Subject 1's refusal to provide a statement to investigators was captured on tape.

Officer B stood up, re-acquired Subject 2's right arm in a firm grip and extended her arm to a locked position. The officers moved Subject 2 through the doorway and outside into the alcove using physical force to lift and move her. Once outside, the officers forced her body against a wall to the right of the door jam in the alcove. Officer B

passed off Subject 2's left wrist to Officer A, and used his right hand to retrieve his handcuffs. Officer A then placed both of Subject 2's hands behind her back. Officer B had his handcuffs in his right hand and reached over in order to handcuff Subject 2's left wrist. As Officer B handcuffed Subject 2's left wrist, she began violently twisting her body from side to side and up and down in sudden jerking movements. Subject 2 suddenly bent forward at her waist, and simultaneously attempted to pull her body away by dropping toward the ground. As she dropped, Officer A heard a popping sound and Subject 2 yelled, "My arm is broke."

**Note:** According to Witness A, she and Witness B were standing in the parking lot approximately six to seven feet away from the alcove. She observed Subject 2 brace her arms forward as the officers attempted to place them behind her back. She heard one of the officers state, "Put your hands behind your back. Put your hands behind your back".

FID asked Witness A if it appeared to her that Subject 2 was resisting, to which she stated, "Yeah. Completely. From the beginning to the end. She was really fighting them."

Subject 2 stopped resisting, and the officers guided her to a seated position on the ground. Officer A let go of her right wrist but continued to hold her upper right arm and told Officer B that he thought her arm was broken. Officer A continued to hold her right arm in place against her side to prevent her from falling back. Officer B, still holding Subject 2's handcuffed left arm, kept Subject 2's left arm in a locked out position away from her body as he kept his left arm up to prevent the family from approaching the doorway.

Southeast Patrol Division uniformed Sergeant A also heard the radio call and when he arrived on scene, was directed toward the alcove area by Witnesses A and B.

**Note:** Sergeant A heard the original radio call and decided to respond on his own initiative; he did not respond Code 3.

Sergeant A immediately observed Subject 1 and the other children crowding the doorway, crying and screaming at Officers A and B, who had Subject 2 seated on the floor facing the wall. Officer A advised Sergeant A that Subject 2's arm was possibly broken. Sergeant A approached the doorway, used his left arm as a brace against the doorjamb, and stepped forward, forcing Subject 1 and her children back into the room. Sergeant A then requested additional units and a Rescue Ambulance (RA).

**Note:** Sergeant A initially ordered Subject 1 and the children to step back into the room and calm down in order to gain control of the situation prior to requesting the additional units and RA request. CD was not able to understand the broadcast due to the background noise from inside the room, and he repeated his broadcast.

In order to make space in the narrow alcove for arriving personnel, Sergeant A directed Subject 1 to stay in place on the north side of the room with the children directly in front of him and monitored them as Officers A and B moved Subject 2 a few feet away to a seated position at the step of the alcove next to the parking lot.

Other responding officers arrived at the scene and were directed by Sergeant A to detain the family outside, clear the room of additional people and look for a possible firearm. Uniformed Sergeant B also arrived, and while speaking with the children, they admitted that the pellet gun was in a cardboard box inside the storage room. Officer A remained with Subject 2 until the RA arrived, and then recovered the airsoft pistol as Officer B recovered pellets from the sidewalk. Officer A completed an Investigative Report for Assault with a Deadly Weapon.

Los Angeles City Fire Department (LAFD) personnel responded, and evaluated Subject 2. Subject 2 was determined to have sustained an injury to her right arm and was subsequently transported to a local hospital, where she was admitted for a bone fracture and related surgery.

This incident was initially handled by Sergeant A as a Non-Categorical Use of Force (NCUOF), pending the final medical evaluation of Subject 2. Once it was determined that Subject 2 would be admitted, the investigation was re-classified as a Categorical Use of Force (CUOF). Officers A and B were in the report writing room at Southeast Station working on the crime and arrest reports, and were notified by Sergeant A that this was a CUOF and they were ordered not to discuss this incident until interviewed by FID personnel.

### **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). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers' benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC, made the following findings:

#### **A. Tactics**

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

#### **B. Non-Lethal Use of Force**

The BOPC found Officers A and B's non-lethal use of force to be in policy.

## **Basis for Findings**

### **A. Tactics**

- In its analysis of this incident, the BOPC identified the following tactical considerations:

#### 1. Updating Status

Officers A and B did not update their status and location (Code Six) when they proceeded to conduct a follow-up investigation at the specific room number of the motel.

The purpose of going Code Six and updating their location is to advise CD and officers in the area of their location and the nature of the field investigation, should the incident escalate and necessitate the response of additional personnel. Officer safety is of paramount concern and officers should always strive to maintain the tactical advantage during field duties.

In this case, the officers responded to the location of the initial radio call and then received information from the victim, who told them that the Subject was in a specific room of the motel. Upon receiving the information, the officers proceeded to the motel room to continue their investigation, but did not advise CD of their updated status.

Officers A and B are reminded of the Department's requirement to update their status whenever tactically feasible when conducting a field investigation.

#### 2. Additional Unit/Back-Up Request

Officers A and B did not request an Additional Unit or a Back-Up when they encountered Subject 2, who was confrontational and uncooperative.

Although officers are given discretion regarding the appropriate time to broadcast a request for resources based on the ongoing tactical situation, it would have been tactically prudent for Officers A and B to request an Additional Unit or a Back-Up in order to ensure that the appropriate resources were responding in the event they were needed.

In this case, Officers A and B believed that they had the situation under control and would be able to calm Subject 2 down. However, once they made contact with her and she began to struggle, they did not want to release their hold on her in order to broadcast a request for additional personnel. Shortly thereafter, Sergeant A arrived and made the request for an additional unit on the officers' behalf. These topics will be discussed during the Tactical Debrief.

- The BOPC additionally considered the following:
- Command and Control – Sergeant A responded and assumed the role of the Incident Commander. Sergeant A requested additional resources and summoned an RA upon learning that Subject 2 may have a broken her arm. Upon learning that learning that Subject 2 was being admitted into the hospital for her injuries, Sergeant A initiated Categorical Use of Force protocols by ensuring that the involved officers were appropriately separated and monitored. Sergeant A’s actions were consistent with Department supervisory training and the BOPC’s expectations of a supervisor at a critical incident.
- 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 merits a comprehensive debriefing. In this case, there were identified areas where improvement could be made and a Tactical Debrief is the appropriate forum for the involved personnel to review and discuss the incident and individual actions that took place during this incident.

In conclusion, the BOPC found Officer’s A and B’s tactics to warrant a Tactical Debrief.

## **B. Non-Lethal Use of Force**

- **Officer A** – Firm Grip
- **Officer B** – Firm Grip and Physical Force

After repeated attempts to calm Subject 2 failed, the officers formed the opinion they would need to control Subject 2 in order to move forward with their investigation of the ADW. Officer A placed a firm grip on Subject 2’s left wrist as Officer B placed a firm grip on her right arm. The officers then walked Subject 2 towards the front door.

Officer B recalled that Subject 2 came towards him, stating that the officers had no right to be there and started to put her hands up towards him. Officer B told Subject 2 multiple times not to touch him and noted that she was very uncooperative. Officer B could feel Officer A moving towards Subject 2, at which point he could see him grab her left side. According to Officer B, he came to the conclusion that they needed to control Subject 2.

Officer A recalled that Subject 2 continued to yell and became very angry. Officer A reached over with his left hand and placed a firm grip on her left wrist.



According to Officer B, he felt a push to the upper left part of his body by Subject 1, which caused him to fall onto a nearby chair. After falling, he immediately stood up and reacquired his grip on Subject 2, who was now pushing her right hand and right foot against the front doorjamb to brace herself from being pulled out of the motel unit. Officer B then transitioned his grip to Subject 2's left arm, as Officer A held onto her right arm and proceeded to walk her outside of the room to an alcove located to the right of the front door. Once outside, Officer A obtained control of Subject 2's wrists and held her hands behind her back.

Officer B recalled that at this point, he grabbed the left arm in a C-grip with his right hand just above her elbow and his left hand at her wrist, locking her arm out. According to Officer A, Subject 2 continued to resist by moving from side to side and up and down, while pulling away in an attempt to break free from his grip. As Subject 2 continued to struggle, Officer A heard a popping sound. Subject 2 then immediately stopped resisting, stating her arm was broken and went down to a seated position on the ground.

Officer B recalled that Subject 2 was dropping her weight down in an attempt to break free. Officer B observed Officer A placing Subject 2's right arm behind her back and then heard her crying out that her arm was broken.

According to Officer B, as he retrieved his handcuffs and moved to handcuff Subject 2's left wrist, Subject 1 approached and attempted to grab his hand. Officer B ordered Subject 1 to get back while simultaneously pushing her away from him and back into the unit through the doorway. Officer B handcuffed Subject 2's left wrist but did not complete the handcuffing of her right wrist because of her injury.

The BOPC determined that an officer with similar training and experience as Officers A and B would reasonably believe the applications of non-lethal force to overcome Subject 1 and 2's resistance and effect an arrest were reasonable and would have acted in a similar manner.

Therefore, the BOPC found Officer A and B's non-lethal use of force to be objectively reasonable.