

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

**OFFICER-INVOLVED SHOOTING – 008- 05**

<b>Division</b>	<b>Date</b>	<b>Duty-On (x) Off ( )</b>	<b>Uniform-Yes (x) No ( )</b>
Southeast	1/28/05		

<b>Officer(s) Involved in Use of Force</b>	<b>Length of Service</b>
Officer A	7 years, 7 months
Officer B	7 years, 7 months
Sergeant C	32 years, 5 months

**Reason for Police Contact**

Officers initiated contact with occupants of a suspected auto theft and dismantling operation (commonly referred to as a “chop shop”). The officers observed that a person near the front of a garage ran away when their patrol car turned into the alley. Upon further investigation of the location, there was evidence common to a chop shop. The officers initiated contact with the occupants of the garage which, in turn, led to the officer involved shooting.

**Subject**

Subject 1: Male 39 years of age.  
Subject 2: Male, 42 years of age.  
Subject 3: Female, age unknown.

**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 suspect 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 Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on January 17, 2006.

**Incident Summary**

In the early evening hours of January 27, 2005, Sergeant C, driving in the area of McKinley Avenue and Century Boulevard, located a vehicle parked on the street with parts missing. A check confirmed that the vehicle had been stolen. However, before

the Sergeant recovered the car, he was called to the police station to handle a citizen complaint. Later, Sergeant C returned to where the stolen car had been located and discovered it was gone. Sergeant C obtained information that the car had been recovered at another location by another law enforcement agency. Subsequently, Sergeant C met with Officers A and B to discuss that there had been several vehicles reported stolen in the area of McKinley Avenue and Century Boulevard and that an auto theft ring might be operating in the area. Sergeant C directed Officers A and B to patrol the area for any suspicious activity related to stolen vehicles.

Officers A and B began patrolling the general area around McKinley Avenue and Century Boulevard when they turned into an alley behind East Century Boulevard and spotted an individual standing in the alley. As the officers entered the alley, the individual turned and ran between the buildings and out of sight of the officers. The officers considered this conduct suspicious, so they proceeded up the alley and stopped at the location in the alley where the individual was last seen. During efforts to locate the individual, Officer A looked through an opening on the side of a closed garage door and observed a light on inside the garage. Additionally, Officer A heard voices inside the garage along with sounds of someone working on an automobile. Officer A believed the people in the garage might be auto theft suspects, so the officers investigated further by checking alongside the garage. There, they found a steel drum containing miscellaneous burnt car parts. Also, the ground in front of the garage appeared saturated with oil, and additional car parts were lying on the ground around the garage. Based upon these observations, Officers A and B believed that the garage was the possible location of a chop shop.

Officer A moved to one side of the garage and Officer B to the other. Officer B contacted Sergeant C by radio and advised him of their location and that they may have located auto theft suspects there. Sergeant C indicated he would drive to the location. Officer B also requested an additional unit to respond. Sergeant C parked his police unit at the entrance of the alley and walked down the alley toward Officers A and B.

In the interim, Officer A observed the "silhouette" of a person approach the inside of the garage door and peer through the opening at the edge of the door. Officer A stated that he identified himself as a police officer and ordered the suspect to open the door. Officer A noted that someone in the garage replied, but he could not understand what that person said. Officer B stated that an individual inside the garage replied to Officer A, "Who are you? What do you want?" One of the individuals inside the garage told investigators that he heard someone outside the garage repeatedly asked for "Jose," or words to the effect of "Is Jose there?" and/or "Jose, open the door."

Officer A then heard two gunshots from inside the garage. Believing someone was shooting at him from inside the garage, Officer A raised his pistol and fired one round at the "silhouette" he had seen inside the garage and at the edge of the closed garage door. Officer A then retreated to cover. The round fired by Officer A struck the exterior of the closed garage door.

During the time Officer A was making contact with the individuals inside the garage, Officer B remained on the other side of the garage and had drawn his weapon. Officer B recalled hearing two gunshots from inside the garage and one round fired by Officer

A. Sergeant C was approaching the garage from the alley when he heard two gunshots followed by another single gunshot. Sergeant C thought the gunshots had come from the area where Officers A and B were, but did not see either officer fire their weapon. Sergeant C moved forward taking cover behind buildings along the alley. When the Sergeant moved closer, Officer A told him that there were two individuals in the garage who had shot at him and he had returned fire.

Both Officers A and B ordered the individuals out of the garage, but they did not comply. Subsequently, other units arrived at the location along with an air unit. A perimeter was established around the location. Metropolitan K-9 and SWAT units responded. The SWAT unit made contact with the suspects in the garage and soon thereafter they surrendered without further incident.

The individuals in the garage were later identified as Subject 1 and Subject 2. Subject 1 denied he knew police officers were outside the garage, and stated that he had test fired a shotgun inside the garage before he heard someone knocking at the garage door, but specifically denied shooting at anyone outside of the garage. Subject 2 stated that Subject 1 armed himself with a shotgun and fired at the garage door after hearing someone outside of the garage. Subject 2 stated that he thought Subject 1 feared individuals from a prior shooting incident had returned.<sup>1</sup> Subject 2 also stated that he was not aware that police officers were outside the garage door. Subject 3, the wife of Subject 1 and sister of Subject 2, stated that she heard gunshots, looked out of the rear of the garage's residence toward the garage and observed Subject 2 inside of the garage. Subject 2 then instructed her not to come outside or to enter the garage because the police were there.

### **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/Holstering of a weapon 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 done in 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 unanimously made the following findings.

#### **A. Tactics**

The BOPC found Officers A and B's tactics to be deficient requiring a finding of administrative disapproval.

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<sup>1</sup> Subject 2 noted that Subject 1 had been involved in an altercation with local gang members over the removal of graffiti in the alley. The gang members had, after the altercation, driven down the alley to the location of the garage and fired several shots.

## **B. Drawing/Exhibiting/Holstering**

The BOPC found Officers A, B, Sergeant C's drawing/exhibition/holstering of a firearm to be in policy, requiring no action.

## **C. Use of Force**

The BOPC found Officer A's use of force to be out of policy, requiring a finding of administrative disapproval.

## **Basis for Findings**

### **A. Tactics**

The BOPC noted that Officers A and B did not advise Communications Division ("CD") of their location or status and that Officers A and B did not discuss a tactical plan prior to approaching the fleeing individual in the alley, and the suspects inside the garage. Additionally, the BOPC determined that Officers A and B should have requested an additional unit when they initially observed an individual run from the area of the garage, and that prior to verbally engaging the suspects in the garage, the officers had waited for additional officers to arrive and had briefed those officers of the incident details. The BOPC also noted that Officers A and B, while waiting for responding units, were in close proximity to the garage doors and on both sides of the garage, thus creating a potential crossfire situation. As such, the BOPC determined that Officers A and B's tactics required a finding of administrative disapproval. In addition, the BOPC determined that Sergeant C and Officers A and B would benefit from additional training.

The BOPC considered that Sergeant C did not ensure that the reported stolen vehicle was recovered when it was initially observed. The BOPC was also concerned that Sergeant C should have advised another unit to respond to ensure recovery of the confirmed stolen car. The BOPC directed Sergeant C's commanding officer to discuss this issue with Sergeant C and to provide training as necessary.

### **B. Drawing/Exhibiting/Holstering**

The BOPC determined that Officers A and B believed that they had located auto theft suspects in the garage and drew their service pistols. The BOPC found Officers A and B's drawing in policy, requiring no action.

### **C. Use of Force**

The BOPC was critical of Officer A's decision to utilize lethal force under the totality of the circumstances. Officer A was unable to discern any recognizable figures inside the garage and he was only able to see a silhouette through a crack at the side of the garage door. When Officer A heard the gunfire from the garage and believed he was being shot at, he was unaware of who fired the rounds or where specifically the suspect was located within the garage, and returned fire into the garage striking the closed garage door, without firing at a specific target. The BOPC found Officer A's use of force out of policy, requiring administrative disapproval.