

ALEGATIONS:

On 09 April 2014, at 2134 hours, the complainant, Subject 1, contacted the Independent Police Review Authority and registered a complaint with Intake Aide A. It is reported that on 03 April 2014, at approximately 1745 hours, at XXXX West Jackson Blvd: **Officer A, #XXXXXX:**

1. Shot a dog without justification.

SUMMARY OF INCIDENT

This investigation shows that on the above date and time, Officer A was pursuing a suspect though the yard of XXXX West Jackson Blvd when a dog belonging to Subject 1's family moved towards him in a manner perceived as being aggressive. Having no other options available, Officer A fired his weapon at the dog, striking and injuring the animal. The sole witness to the event, Civilian 1, would later allege that Officer A had no cause to fire at the family dog, as the dog was not moving towards Officer A. This investigation has revealed without any independent evidence or additional information to corroborate the allegation, there is insufficient evidence to prove or disprove that Officer A shot the dog without justification; therefore this allegation will be Not Sustained.

INVESTIGATION:

In a statement to IPRA on 10 April 2014, **Subject 1** stated the allegations as indicated in the Allegations section of this report. Subject 1 reported that she was inside her home when she heard her daughter, Civilian 1, yell words to the effect of, "Don't shoot my dog, motherfucker don't shoot my dog!" followed by the sound of two gunshots. Subject 1 stated that the yelling came from the area of the gangway next to her home.

Subject 1 looked outside and observed a police officer walking away from the rear yard of her home. Civilian 1 ran into the home and announced that a police officer had shot the dog. Civilian 1 told Subject 1 that she had been looking from "the balcony," when she observed a police officer exit his car at the front of the home, and begin to run into the gangway. Civilian 1 told Subject 1 that she did not see the suspect that the officer was chasing.

Subject 1 did not see the incident occur and was only able to report what she had heard and what she had been told by Civilian 1. (Atts. #4, 8, 12)

In a statement to IPRA on 23 April 2014, **Subject 1** stated that she was inside her house, in her front room, when she looked outside of her window and saw a police car stopping in front of her house. Civilian 1 saw Officer A exit the vehicle and begin

running towards the gangway next to her house.¹ Civilian 1 observed Officer A jump over the gate into her backyard. Civilian 1 stated she went onto her front balcony and began to yell, "Don't shoot my dog." Civilian 1 related that Officer A did not appear to acknowledge her. Civilian 1 saw Officer A pull his firearm from his holster, she then began to yell, "Stupid bitch don't shoot my motherfucking dog!"

Civilian 1 stated that she, at that time, saw that the offender was at the other side of the alley. Civilian 1 stated that she could not see the dog, leading her to believe that that dog was in the grassy area of the backyard, behind the building. Civilian 1 stated that as she was at the front of the building, on the balcony, she could not see where the dog was. Civilian 1 stated that Officer A was in the gangway. Civilian 1 stated that she did not see the dog near Officer A.

Civilian 1 stated that Officer A fired at the dog twice, at which time she began to "curse" at the officer, again stating words to the effect of, "Stupid bitch I told you not to shoot my motherfucking dog!"

Civilian 1 stated that at no time did the dog bark, lunge, or go anywhere near Officer A before he shot her. Civilian 1 stated that her step-father, Civilian 2, and a neighbor known only to her as, "Civilian 3," may have witnessed the incident. (Atts. #11, 17)

Attempts to Contact Civilian 2 and Civilian 4² were made at their respective residences; the attempts met with negative results. Attempts to locate and/or identify "Civilian 3," were also met with negative results. The R/ I spoke with Civilian 5, who lives at XXXX West Jackson, who stated he would call the R/I once he spoke with his daughter. To this date the R/I has not received contact from any of the aforementioned potential witnesses. (Att. #26)

A **Canvass** was conducted and produced no additional witnesses (Att. #26)

The **Tactical Response Report** and **Officer's Battery Report** submitted by **Officer A** stated that Officer A discharged his firearm when he was confronted with an aggressive dog while chasing an offender. Officer A was on duty, in citizen's dress, with one partner, on a buy/bust mission. Officer A's weapon was a semi-automatic pistol, Glock Model 21, .45 Caliber. (Atts. #13, 14)

The **Chicago Police Event Query** and **Event History Table** indicated that Civilian 4 called 911 to ask for a sergeant to come to XXXX West Jackson Blvd because an officer "just shot a dog, who was inside their own yard, for no reason." (Atts. #15, 16)

¹ Civilian1 later learned that Officer A was pursuing a suspect, though she did not see the suspect at first.

² ID as the 911 caller on the Chicago Police Event Query.

Evidence Technician Photographs taken of XXXX West Jackson Blvd depict the front of the residence, the gangway, a “beware of dog” sign on the front and rear gate, the fenced yard, the garage, and the rear gate. (Att. #27)

In a statement to IPRA, **Witness Sergeant A** stated that he was the supervisor for the narcotics team on the evening this incident occurred. Sergeant A stated that his team had established a plan to make a controlled narcotics purchase in the area. Surveillance was established and a “buy” was made. Once the transaction was concluded, Sergeant A sent his enforcement personnel in to place the offender into custody. The offender ran and was chased by enforcement officers. Sergeant A stated that he heard Officer A call over the radio that he had shot an animal. Sergeant A stated that he went to the location and began the necessary preliminary investigation. Sergeant A stated that he spoke with the owner of the dog and made all of the required notifications via police radio.

Sergeant A did not remember the dog owner’s name, but did recall that he spoke to a black male. Sergeant A gave the dog owner his name, phone number, and star number. Sergeant A stated that the dog owner wanted a report number; Sergeant A provided the individual with the RD number recording this event. Sergeant A stated that at no time did the dog owner indicate that he wanted to register a complaint against Officer A. Sergeant A stated that the dog owner only asked for the report number, which he provided.

Sergeant A stated that at no time did he ask if the dog had her rabies shot or papers. Sergeant A further stated that someone else may have had that conversation with the owner, but it was not him. Sergeant A explained that it is not common practice to ask the owner if the dog has his or her shots after they have been shot. (Atts. 19, 20)

In a statement to IPRA, **Accused Officer A** provided his account of this event. Officer A stated that he was chasing a narcotics suspect on foot, yelling for him to stop, when he chased him into a backyard. Officer A jumped over the gate, into the rear of XXXX West Jackson Blvd, when he observed a dog moving towards him quickly. Officer A stated that the dog was moving at an angle consistent with “tracking” his movement as he ran forward. Officer A stated that the dog “hunched her back” and “lunged towards” him, at which point he drew his weapon and fired two shots. Officer A explained that when he first became aware of the dog moving towards him, the dog was approximately five to six feet away. Officer A stated that at the time he fired his weapon, the dog was approximately two feet away from him.

Officer A was unsure if the rounds he fired struck the dog. The dog retreated and Officer A redirected his attention to the subject who was fleeing from him. The subject jumped over the rear fence and ran through the alley, traveling northbound. Officer A speculated that the suspect must have already alerted the dog as he ran through the backyard, ahead of Officer A, as the dog came charging towards him as soon as he jumped over the fence into the yard.

Officer A exited the yard, reported via police radio that there had been shots fired by the police, and gave his beat and location. Officer A explained that he exited the rear yard as quickly as possible, so as to not be forced to fire upon the dog again, nor to force the dog to, “defend its territory anymore.” Officer A stated that he did not have a conversation with Civilian 1 regarding the dog before he shot at the dog. Officer A stated that this event unfolded so quickly, that he at no time could have engaged in a verbal exchange with Civilian 1 prior to firing at the dog. Officer A said he did not see anyone else in the backyard, but did hear someone say, “you shot my dog”³ after he had fired his weapon.

Officer A stated he did not shoot the dog with any malicious intent. Officer A stated that he had no other options available to him and that he was not armed with a taser on this date. Officer A explained that the dog’s mouth was open as it lunged towards him, and that he was in fear of being bitten, leading him to make a split second decision to fire his weapon in order to prevent his being attacked by the dog. (Atts. #24, 25)

CONCLUSION:

The Fourth Amendment provides in relevant part that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated...” U.S. Const. Amend. IV. Seizures of property are subject to Fourth Amendment scrutiny even though no search within the meaning of the Amendment has taken place. *Soldal v. Cook County*, 506 U.S. 56 (1992). A “seizure” of property occurs, within the meaning of the Fourth Amendment, when “there is some meaningful interference with an individual’s possessory interests in that property.” *United States v. Jacobsen*, 466 U.S. 109 (1984). The killing of a companion dog constitutes a “seizure” within the meaning of the Fourth Amendment. *See Siebert v. Severino*, 256 F.3d 648, 656 (7th Cir. 2001).

Although there are policies dictating how firearms discharge incidents involving animals are reported and investigated, there is no specific Department order or directive governing the use of force against an animal. The general orders regarding the use of force govern officers’ conduct in these incidents. More specifically, pursuant to General Order G03-02-03 [“Deadly Force”], a sworn member is justified in discharging a firearm “only when he or she reasonably believes that such force is necessary to prevent death or great bodily harm to the sworn member or to another person.” To be sure, relevant case law makes clear that the “use of deadly force against a household pet is reasonable only if the pet poses an immediate danger and the use of force is unavoidable. *Viilo v. Eyre*, 547 F.3d 707, 710 (7th Cir. 2008).

³ Statement of Officer A, Att. #25, Page 11, Line 19

Officer A, #XXXXX**Allegation #1: Not Sustained**

The Reporting Investigator recommends a finding of **Not Sustained** for **Allegation #1**, that Officer A shot Civilian 1's dog without justification because there is insufficient evidence to prove that Officer A's use of force was objectively unreasonable. More specifically, the question here is whether Officer A was reasonable in his belief that the dog presented an imminent threat of death or bodily injury to the officer or another person. Because the dog was confined within the owner's property, and there was no other person involved in the incident, the dog was only a potential threat to the officer.

Officer A stated that while he was chasing a subject into the backyard of XXXX W. Jackson Blvd. There was a "beware of dog" sign clearly placed on the entry to the yard. Officer A encountered a dog that ran towards him, and then lunged at him with an open mouth. In fear of being bit by the dog, Officer A fired his weapon twice, striking the dog once. Officer A had no taser and believed he had no other alternative method of force to prevent the dog's attack.

According to Officer A, he did not shoot the dog with any malicious intent; rather, he fired at the dog only to prevent himself from being attacked. Officer A claims that, at his first opportunity, he exited the yard so as not to further his encounter with the animal.

However, the dog's owner, Civilian 1 claims that she witnessed this incident from the second floor front balcony of her home. Civilian 1 claims that she implored Officer A not to shoot the dog, but he did so anyway. Civilian 1 believes that Officer A had ample time to allow for her to call the dog or take the dog inside; but chose to shoot the dog instead. Officer A did not recall having any verbal interaction with Civilian 1 before he fired at the dog. This statement is plausible on the facts because his attention was likely focused on the path of the suspect he was pursuing and the dog he was facing. Officer A claims that he was forced to make a "split second" decision to protect himself from the attack. Such use of force may be reasonable under the circumstances. *See e.g., Billingsley v. Hunter*, 2015 WL 4419983, at *5 (N.D. Ind. July 17, 2015)(Considering the split-second nature of the events and the safety interest to himself and the public, [the officer's] firing his weapon to protect himself and the public was a reasonable response.").

Civilian 1 has acknowledged that, from her vantage point, at the front of the home looking into the backyard, she could not see where the dog was, or what the dog was doing, at the time that Officer A fired his weapon. Nonetheless, because Civilian 1 was able to see Officer A she claims that the dog could not have been close to Officer A, as she could see the officer but could not see the dog.

Because Civilian 1 did not actually see whether or the extent to which her dog presented an imminent threat of harm to the officer, Civilian 1' assertions are insufficient

to support a finding by a preponderance of the evidence that Officer A's conduct was unreasonable. Therefore, the allegation is Not Sustained.