

INTRODUCTION:

On May 15, 2017, at approximately 6:54 p.m., at XXXX S. Wolcott Ave, Officer A, Officer B and Lieutenant A responded to a call of a domestic disturbance involving possible shots fired. Once on the scene, Lieutenant A and Officer B knocked on the door of the rear coach house, announced their office and after no response from inside, opened the door to the residence. At this time, a medium to large sized dog “charged out” of the residence, first lunging towards Officer B then turning towards, and lunging at, Officer A in a “menacing manner.” After moving backwards down the gangway with his front facing the dog and the other officers, Officer A discharged his weapon three (3) times downwards toward the dog. After the dog was struck by gunfire and fell to the ground, the dog was able to get up and continued to pursue Officer A down the gangway until collapsing by the front gate of the residence. The dog expired on the scene and it was later discovered that Officer B and Lieutenant A sustained minor injuries from the shrapnel of the discharged weapon.

APPLICABLE DEPARTMENT ORDERS, RULES AND REGULATIONS

S04-12: Incidents Involving Animals

G03-02-06: Firearms Discharge Incidents Involving Sworn Members

INVESTIGATION:**Police Officer Interviews**

In an in-person statement with IPRA, **Sergeant A #XXXX** stated that on May 15, 2017, at approximately 6:50 p.m., she was on duty, assigned to Beat XXXX and was driving in a marked squad car while in uniform. Sergeant A stated that she did have a body camera assigned to her and it was on her person during this incident but she did not activate the body camera. Sergeant A stated that she did not activate the body camera because she was focused on the task at hand and did not think to turn it on at the time of incident. Sergeant A stated that she was responding to a call of shots fired that call came out of OEMC regarding a domestic disturbance on the XXXX block of south Walcott. She stated to OEMC that she would respond to the call and was at the scene moments later. Sergeant A recalled that when she arrived on the scene, she was coming up from the south entrance of the house and observed an individual running in an alley. Sergeant A toured around the block going southbound, but when she got to the front of the address she did not observe the individual any longer. Sergeant A stated that she then saw two squad cars coming from the street side of Wolcott. Sergeant A then went to the rear of the residence to address the call from that side.

Sergeant A recalled that when she exited her vehicle, she observed a gate accessing the alley and a gangway on the south side of the address. Sergeant A stated that she looked eastbound down the gangway and observed Lieutenant A, Officer B and Officer A approaching westbound toward Sergeant A and the rear coach house. Sergeant A recalled hearing the officers announce their office once they were near the coach house as well as watched the officers stand guard for the purpose of officer safety. Sergeant A was also standing guard by the alley fence at this time due to the nature of the call. Sergeant A recalled that during this time the officers had their weapons un-holstered. Sergeant A stated that after observing this she then observed Lieutenant A ascend

what she later discovered was a staircase; however, she could not see where he was going at the time. Sergeant A then observed Lieutenant A descend the staircase. Sergeant A recalled that the officers, with Lieutenant A and Officer B in the lead, walked towards a door that was facing south in the gangway next to the coach house. Sergeant A recalled hearing one of the officers say something to the extent of “oh” and then she observed a large dog, in which she believed to be a Pitbull, emerge from the first floor of the coach house and move aggressively towards Lieutenant A and Officer B.

Sergeant A observed Lieutenant A and Officer B move backward in the gangway towards Sergeant A and the alley. Sergeant A then observed Officer A move backwards as well, but towards the street side of the gangway. Sergeant A heard Officer A say “Oh” several times during his encounter with the dog while he was moving backwards. Sergeant A recalled observing the Pitbull lunging at Officer A’s legs and groin from its hindquarters. Sergeant A recalled that at that time Officer A had his firearm pointed down towards the dog.

According to Sergeant A, the dog was in front and almost underneath Officer A which caused Sergeant A to have a distinct concern that Officer A might shoot himself in the foot because of the way his gun was angled toward the dog. Sergeant A then recalled that Officer A discharged his gun three (3) times at the dog. Officer A continued moving backwards and eastbound towards the street all the way to the front of the dwelling until he had backed out of the gangway and behind the gate. Officer A then closed the wrought-iron behind him, leaving the dog contained within the gangway. At that time, the dog finally collapsed.

After the dog collapsed, Sergeant A recalled Officer A asking everyone if they were okay. After it was determined that the dog was not going to move, Officer A came back towards the front of the coach house. Officer B informed Sergeant A that his leg was injured, indicating to her that he had been struck by something in his leg. Officer B then sat in Sergeant As’ vehicle and lifted up his pant leg to show Sergeant A where he was injured. Sergeant A noticed a small puncture and a trickle of blood coming from the wound on Officer B’s leg.

Both Lieutenant A and Sergeant A informed OEMC of what was transpiring at the scene. Shortly thereafter, an ambulance arrived and transported Officer B to the hospital. Sergeant A recalled speaking to fire department personnel on scene to inform them that Lieutenant A was also injured and required medical attention. Lieutenant A was taken to a hospital in an ambulance.

Sergeant A stated that she did not recall specifically how the dog was able to exit the house, as she did not see any department members open the door. After the dog was shot and had collapsed, Sergeant A recalled that she went inside the home to inquire about the domestic dispute at which time she discovered that there was no one in the home.

Sergeant A stated that she assumed Officer A fired his weapon due to the menacing manner of the dog; Sergeant A assumed that Officer A did not want to be bit by the dog. (Att. 37)

In an in-person statement with IPRA, **Officer B #XXXXXX** stated that at the date and time of the incident he was on-duty and in uniform, driving a marked police vehicle. Officer B stated that on this day he was working with Officer A. Officer B stated that during the incident he did have a body camera assigned to him and it was on during the entirety of the incident. Officer B

stated that he responded to a call over the radio regarding a domestic incident and/or a possible shooting inside a coach house in the back of a residence. Shortly thereafter, Officer B and A arrived on the scene where Lieutenant A was already present. Officer B recalled seeing neighbors across the street from the residence who indicated they may have heard a gunshot; these neighbors were pointing in the direction of the coach house of the address in question. Officer B recalled that Lieutenant A was already in the gangway at the time of their arrival. Officer B and A then followed Lieutenant A into the gangway to the coach house. As they entered the gangway Officer B recalled that both he and Officer A un-holstered their weapons.

Officer B explained that, upon entering the rear of the residence, he observed a stairwell attached to a coach house that Lieutenant A had ascended. Lieutenant A knocked on the door at the top of the stairwell while Officer B and Officer A remained at the bottom of the stairs. A female opened the door that Lieutenant A knocked on and said something to the effect of, “no, it’s downstairs, we heard a gunshot.” Officer B lead the way to the downstairs entrance with Lieutenant A behind him and Officer A following. Upon approaching the door, Officer B knocked while announcing his office. Officer B stated that there was no answer, therefore, one of the other officers suggested to check and see if the door was locked. Officer B explained that at that time, that there was a fear that someone was shot in the house and may be in need of medical attention.

Officer B stated that he did not recall if he pushed the door open or if he turned the knob. However, when the door opened, a large dog came charging out of the door. He described the size of the dog as “having a head the size of a microwave.” At no time prior to his opening the front door did Officer B recall hearing a dog bark. Upon Officer B seeing the dog, he verbally responded by saying words to the effect of, “hey, oh boy” or “oh shit.” Officer B moved slightly left of the doorway and further west into the gangway. Officer B explained that the dog appeared to pay no attention to him or to Lieutenant A, and instead charged directly towards Officer A. Officer B explained that the dog was growling as it lunged at Officer A, coming within one foot of the officer.

Officer B stated that he was staring at the dog when he heard shots fired. He observed smoke and “sparks” though he did not observe Officer A fire his weapon. Suddenly, Officer B felt an unknown object strike his left leg and felt a slight burning sensation at which time he turned away, facing west down the gangway. Simultaneously, Lieutenant A stated words to the effect of “oh fuck” and “something hit my foot” and appeared to be in visible pain. At that time Officer B looked back towards Officer A at which time he observed the dog, approximately thirty (30) feet east down the gangway collapsing as Officer A was behind the gate at the east entrance of the gangway. Officer B continued to the west gate entrance of the gangway and encountered Sergeant A who entered into the gangway to check if everyone was okay. While at the west end of the gangway, Officer B looked down at his leg and noticed a hole in his pants and dark spots. He lifted his pants leg and saw blood coming from between his shin and calf in the inner part of his left leg.

Officer B stated that shortly after the shots were fired, he and Lieutenant A¹ cleared the house as there was still a concern of someone being hurt inside. They discovered that no one was inside the home. After the house was cleared, Lieutenant A called for an ambulance.

¹ A review of Body Worn Cameras depict that Officer A was also present in clearing the home.

Lieutenant A sustained bruising and a minor fracture to his foot. Officer B stated that he sustained his injury caused by the object that hit him. Officer B was unsure if he was struck by a bullet, a bullet fragment, or by debris displaced by the fired bullet and/or fragment. Officer B was taken to Northwestern Hospital where he was treated for his injuries and eventually went back to the XXth district where he was interviewed by detectives.

During his statement with IPRA, the Investigator attempted to clarify what led to Officer B's injury and he would answer, "I don't know." (Att. 39)

In an in-person statement with IPRA, **witness Lieutenant A #XXX** stated that on the date and time of the incident he was on-duty on 3rd watch, in uniform and driving a marked squad car. Lieutenant A recalled that he responded to a call for radio assignment at XXXX South Wolcott, to the rear coach house, where a gunshot was heard from inside the house. Lieutenant A announced over the radio that he would be responding to the call. Shortly thereafter, Lieutenant A arrived to the front of the house, as the first car on scene.

Once Officer A and Officer B arrived, Lieutenant A instructed them to remain at the bottom of a stairwell that was alongside of the coach house and to 'cover him' while Lieutenant A ascended the flight of stairs to the second level. Once at the top of the stairs, he knocked on the door and spoke with an unknown female who pointed downstairs and said something to the effect of, "the shot was from downstairs."

Lieutenant A proceeded down to the first floor where he, along with Officer B and Officer A, approached the door in question which was on the north side of the gangway. Officer B was in the lead and Officer A behind Lieutenant A. Upon arriving at the door, they announced their office and Officer B knocked, though they received no answer. Lieutenant A stated that Officer B twisted the knob on the door and pushed it slightly open.

Lieutenant A stated that at that time, a large dog exited from the house, running into the gangway and towards Lieutenant A. Lieutenant A stepped backwards as the dog ran past him and towards Officer A who was behind, and to the east of Lieutenant A. Lieutenant A stated that he still maintained his focus towards the house, due to the initial call of shots fired. Lieutenant A heard approximately two or three gunshots. Although Lieutenant A did not observe Officer A discharge his weapon, he assumed that the shots were fired by Officer A due to the sound of the shots coming from behind Lieutenant A and where Officer A had been standing. At the time the shots were fired, Lieutenant A felt a sharp pain in his foot.

Lieutenant A stated that in the moments that followed, he realized that Officer A shot at the dog and that shrapnel from the bullet struck Lieutenant A in his foot and struck Officer B in his calf. After the shots were fired, Lieutenant A remained in the gangway to observe his injuries and that of Officer B and subsequently called for an ambulance. Lieutenant A stated that he Officer B cleared the house to make sure there was no one inside. (Att. 41)

In an in-person statement with IPRA, **Officer A #XXXXXX** stated that at the date and time of this incident he was on-duty, in uniform and driving in a marked police vehicle with his partner, Officer B. Officer A stated that he did have a body camera assigned to him and it was activated

during this incident. Officer A heard a call over the radio regarding a domestic that included the report of shots being fired.

The officers responded to the scene and Lieutenant A arrived at approximately the same time. The officers approached the residence and walked to the coach house at the rear of the property. Lieutenant A ascended the stairs to the second floor of the coach house and spoke to an unknown female. As Lieutenant A ascended the stairs, Lieutenant A asked Officer A and Officer B to “cover” him. Officer A stood along the rear wall of the front residence and Officer B was positioned in front of the coach house, on the south side of the gangway. During this time, Officer A, Officer B, and Lieutenant A all had their weapons drawn.

When Lieutenant A descended the stairs, he relayed to Officer A and Officer B that the female upstairs had heard arguing on the first floor of the coach house and believed she heard a single gunshot. The officers approached the side door to the first-floor coach house with Officer B in the lead, Lieutenant A following, and Officer A bringing up the rear. Officer A recalled that either Officer B or Lieutenant A knocked on the door, announced their office, and received no response. Officer B attempted to then open the door at which time a large dog exited the doorway as it growled and lunged toward Officer B and Lieutenant A.

Officer A explained that the dog, while barking and growling, turned towards Officer A and began running in his direction in a “menacing manner.” Officer A moved backwards several feet as the dog was “gaining ground” on him, at which time Officer A pointed his weapon downwards towards the dog and fired three (3) times. At the time the dog was approaching him, Officer A was in the gangway confined between the gate and the coach house and did not have an opportunity to escape the dog. Officer A further stated that it was not until he fired the third round that the dog had collapsed to the ground, slightly in front of the coach house. At the time the dog fell to the ground, Officer A stated that he had retreated an additional fifteen to twenty feet.

Officer A stated that at the time the dog had collapsed, it initially appeared to be incapacitated. However, the dog got up on its front legs, continued barking and growling at Officer A and attempted to chase him down the gangway. Officer A ran east toward the front fence of the gangway and closed the front gate behind him. The dog followed the same path as Officer A before the dog fell and expired. Once Officer A was on the other side of the gate, he inquired if Lieutenant A and Officer B were okay.

Officer A proceeded to clear the coach house with Lieutenant A and Officer B. Sergeant A was also present while the house was being cleared.

Officer A later learned that as a result of the shots he fired, shrapnel struck Lieutenant A and Officer B, and that they both sustained injuries. Lieutenant A sustained a bruise to his left foot and Officer B sustained an injury to his calf. Officer A stated that he did not know how the shrapnel struck the officers, though he assumed that the bullets may have ricocheted off the pavement. (Atts.42, 43)

The **Body Worn Camera video** from Officer A² depicts he and Officer B responding to the location of incident and meeting with Lieutenant A. The audio of the video does not begin until approximately 30 seconds into the video³. The video depicts Officer B proceeding further into the gangway, followed by Lieutenant A and Officer A, to approach the side door of the first-floor coach house. Sergeant A is observed standing in the distance at the mouth of the gangway along the alley.

The video depicts Officer B knocking on the 1st floor door of the coach with no response. Officer B is observed making a motion towards the door. Suddenly, a large dog exits from the residence while barking and growling in their direction. The video captures the dog moving past Officer B and Lieutenant A and turning in direction of where Officer A was standing as it continued to bark and growl. At approximately 1 minute and 25 seconds into the video, Officer A retreats while discharging his firearm downwards, towards the dog, approximately three (3) times. The remainder of the video depicts Officer A exiting the gangway as the dog appeared to continue to follow the officer, after shots were fired, prior to the dog collapsing in the gangway. Officer A, Officer B, Lieutenant A and Sergeant A proceed to clear the residence prior to additional units respond. (Att. 24)

The **Body Worn Camera video** from Officer B⁴ depicts essentially the same footage as Officer A's body-worn camera. In addition, Officer B is heard speaking of his injury with Sergeant A where he announces that he was struck. Officer B states to Officer A words to the effect of "it was definitely a ricochet, you didn't hit me ..." (Att. 25)

The **Body Worn Camera video** from Sergeant A⁵ does not capture the incident, but rather the aftermath in which Sergeant A, along with an unknown white male officer in plainclothes, encountered Civilian 1 in the alley behind the location of incident. Civilian 1 identified himself as the resident of the first-floor coach house and owner of the dog. The verbal exchange is relative to contacting Civilian 1's cousin, "Civilian 2" who was said to also reside at the location of incident. Civilian 1 accused the officers of killing his dog. (Atts. 26, 27)

The **Body Worn Camera videos** retrieved from Officer C #XXXXX, Officer D #XXXXX, Officer E #XXXXX and Officer F #XXXXX do not depict the incident. (Atts. 28, 29, 30, 31, 32, 33, 34, 35)

DEPARTMENT REPORTS

According to the **Initiation Report** from Sergeant A # XXXX, on the date and time of incident, Officer A #XXXXX responded to a call of shots fired and a domestic disturbance at XXXX S. Wolcott in the rear coach house. According to the report, "a large male pit bull exited the apartment and lunged at Officer B, then turning and lunging in a menacing manner [toward]

² Axon Body 2 Video, Serial #X81057887

³ When a BWC video begins to record an event, it is in buffering mode for the first 30 seconds without audio.

⁴ Axon Body 2 Video, Serial #X81047909

⁵ Axon Body 2 Video, Serial #X81050203

Officer A. Officer A attempted to create distance from the animal, but it continued to charge at him at which time Officer A discharged his semi-automatic handgun three (3) times downward into the animal.” It was further reported that the dog continued to charge at Officer A who was able to contain the animal after closing the gate behind him at the end of the gangway (on the streetside). It was later learned that Officer B and Lieutenant A sustained minor injuries from shrapnel (Att. 6)

General Offense Case Report, RD #JAXXXXXX, documents that officers responded to a call of shots fired at XXXX S Wolcott Ave on May 15th, 2017. According to the narrative, Officer A⁶ stated that upon their arrival to the residence, they spoke with 911 caller, Civilian 3. Civilian 3 stated that she heard a domestic dispute and what she believed to be a gunshot in the downstairs apartment. The officers approached the downstairs apartment, announced their office and “made entry to ensure the well-being of any possible occupants who may have been the recipient of an aggravated battery.” Upon entry, a dog, described as a “male Pitbull” exited the property and lunged at Officer B. The dog then turned and lunged at Officer A in a “menacing manner.” Officer A attempted to retreat within the tight space of the gangway. The dog continued to growl, bark and lunge at Officer A at which time he aimed [his firearm] downward, directly at the dog, and fired three rounds, striking the dog. The dog continued to “aggress” Officer A until it collapsed near the front gate. “Three (3) casings and bullet fragments were accounted for.” It was reported that fragments from the rounds ricocheted and struck Lieutenant A on the right ankle and Officer B in his left calf. It was further reported that the owner of the dog, identified as Civilian 1, is a renter/occupant of XXXX S. Wolcott, 1R and arrived to the scene. (Att. 7)

A **Tactical Response Report (TRR)** for Officer A documents that he discharged his weapon only to destroy an animal. Officer A discharged his weapon three (3) times. According to the narrative, the Body Worn Cameras (BWC) of Officer A and his partner were observed prior to submission this report. It was reported that as Officer A was investigating a domestic incident with shots fired when a “vicious animal” exited the side door of the rear coach house and “charged” at Officer A in the gangway. Officer A discharged his firearm to defend himself. Subsequently, Lieutenant A and Officer B sustained minor injuries from shrapnel. This report was approved by Deputy Chief A #XX. (Att.8)

An **Injury On Duty (IOD) Report (RD #JAXXXXXX)**, claim #2017350096, documents that on the date and time of incident, Lieutenant A responded to a call of “shots fired.” At the location of incident, Lieutenant A, along with other responding officers, “encountered a male Pitbull” who charged the officers.” Shots were fired at the dog and as a result, “bullets passed through the dog, fragmented, and struck” Lieutenant A in his left ankle causing bruising and a possible fracture.

In addition, a To/From report authored by Officer B documents that Officer B was investigating a domestic disturbance with shots fired. Lieutenant A sustained an injury to his left heel that was observed by Officer B. (Att. 10)

⁶ Officer A was identified as a “victim” in the report to include the narrative.

An **Injury on Duty (IOD) Report (RD#JAXXXXXX)**, claim #2017350092, documents that on the date and time of incident, after shots were fired at a dog Officer B sustained an injury to his lower left leg from shrapnel.

In addition, a To/From report authored by Sergeant A documents that subsequent to Officer B investigating a call of shots fired and a domestic disturbance, he sustained an injury to his left shin in which Sergeant A observed a bleeding wound. (Att. 11)

Crime Scene Processing Report #336539, completed on May 16, 2017 documents the evidence identified, collected, and inventoried in connection with the Incident. According to the narrative, Field Investigators (FI's) were assigned to the scene of a destruction of a dog where two police officers sustained injuries after shots were fired by an officer who was attempting to destroy a dog. "Officer A fired three (3) gunshots at a dog which was charging at him in the rear yard at XXXX S. Wolcott." The FI's were notified by Detective A that the "metal fragments from the gunshots ricocheted off the concrete pavement and struck Lieutenant A in the left foot and Officer B in the left leg." Both officers were transported to hospitals. The FI's observed that the deceased dog sustained a wound to "his upper back near the neck." (Att. 21)

CPD's Bureau of Internal Affairs conducted an **alcohol and drug test** of involved **Officer A** on May 15, 2017 beginning at 6:50 p.m. The collective bargaining agreement and policy of CPD requires those involved in a firearm discharge to undergo testing for the presence of alcohol and drugs. The tests came back negative. (Att. 47)

Evidence Technician Photographs and Video depict the scene and the recovered evidence. (Att.20)

Major Case Specialist

Supervising Investigator

CONCLUSION:

The issue in this case is whether Officer A's discharge of his firearm and destruction of an animal violated the Department's policy on incidents involving animals and firearm discharge

incidents involving sworn members. Based on the totality of the circumstances, this investigation revealed that there were no violations of Department Rules and Regulations, General Orders, or Special Orders by Officer A.

Special Order S04-12 provides for incidents when a Department member uses a firearm to destroy a dangerous animal. Officer A was reasonable to believe that the dog in this case was dangerous. Officer B described the dog as a large dog with “a head the size of a microwave.” When the dog saw Officer A it charged and lunged towards him in a manner that any reasonable officer with similar training and experience would find to be menacing and potentially dangerous. Officer A had no other options available for retreat, or alternate reasonable means of stopping the animals’ imminent attack upon him. Given the size and breed of the dog, and the manner in which it was acting, it is objectively reasonable that Officer A responded with the use of his firearm.

The investigation further revealed that Officer A followed and complied with all directives pursuant to General Order G03-02-06 for firearms incidents involving sworn members.

Since this investigation revealed no violations of Department Rules and Regulations or the General Orders and Special Orders by any Department members, the Reporting Investigator recommends that this investigation be closed, and that no Department member address any allegations of misconduct.

Deputy Chief