

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	August 14, 2018
Time of Incident:	10:47 a.m.
Location of Incident:	██████████
Date of COPA Notification:	August 14, 2018
Time of COPA Notification:	11:36 a.m.

On August 14, 2018 at approximately 10:47am, Officer ██████ responded to a call of an animal bite at ██████. Upon arriving, Officer ██████ learned that the bite victim had been taken to the hospital. The dog was on the front porch of the residence and the front door was wide open. The bite victim’s mother (now known to be Ms. ██████) was standing just inside the door of ██████, which is in the same building, adjacent to ██████.

After a few moments, the dog went inside ██████, and the door remained open. Officer ██████ opened the gate, entered the front yard, and approached the porch to close the open door. As he reached the steps to the porch, the dog emerged from the doorway and barked. Officer ██████ took a few steps back and shot one time in the direction of the dog. The bullet missed the dog and became lodged in the doorframe.

II. INVOLVED PARTIES

Involved Officer #1:	██████████, Star # ██████, Employee # ██████, Date of Appointment: ██████/2000, Unit of Assignment: ██████, DOB: ██████1969, Gender: Male, Race: Black
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III. ALLEGATIONS

Officer	Allegation	Finding / Recommendation
Officer ██████	It is alleged that on or about 14 August 2018, at approximately 10:47am, at or near ██████, Officer ██████:	

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

	<ol style="list-style-type: none"> 1. Failed to notify the City of Chicago Commission on Animal Care and Control, in violation of S04-12; 2. Discharged his weapon at or in the direction of a dog without justification in violation of Rule 38; 3. Was inattentive to duty in that he discharged his firearm at or in the direction of a dog without taking reasonable precautions to ensure that people would not be struck in violation of Rule 10. 	<p>Sustained/3 Days</p> <p>Sustained/5 Days</p> <p>Sustained/5 Days</p>
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IV. APPLICABLE RULES AND LAWS

Rules

Rule 6 – Prohibits disobedience of an order or directive, whether written or oral.

Rule 10 – Prohibits inattention to duty.

Rule 38 – Prohibits unlawful or unnecessary use or display of a weapon.

General Orders

General Order G03-02 – Use of Force

General Order G03-02-03 – Firearms Discharge Incidents Involving Sworn Members

Special Orders

Special Order S04-12 – Incidents Involving Animals

V. INVESTIGATION²

a. Interviews

COPA conducted an audio recorded **interview of witness Sergeant [REDACTED]**, [REDACTED]³ on September 20, 2019. During the interview, Sergeant [REDACTED] stated on August 14, 2018 he was working as a field duty sergeant in the fifth district. Around 10:47am Sergeant [REDACTED] responded to [REDACTED] for a supervisor request for a weapons discharge incident. Upon arriving at the scene, Officer [REDACTED] informed Sergeant [REDACTED] that a citizen had been bitten by a dog. The dog and gone back into the house, but the door was open. Officer [REDACTED] went to try and close the door so the dog could not get back out. The dog charged at him, so Officer [REDACTED] retreated. The dog kept charging, so Officer [REDACTED] fired one round at the dog.

When asked if CACC had been contacted prior to the shooting, Sergeant [REDACTED] stated that the regular procedure is to respond to the scene, render aid, secure the scene so nobody else would be bitten, generate a report and obtain the bite number and then notify CACC.⁴ Since Officer [REDACTED] had not yet secured the scene or done any paperwork, Sergeant [REDACTED] doubted that Officer [REDACTED] had notified CACC. When asked what it meant to “secure a scene”, Sergeant [REDACTED] stated, “Secure it as best he can so that nobody else could be injured from whatever happened. If it was a shooting, we try to get everybody at a safe distance. But since this was a dog bite, if you could secure the animal itself, however you could gain control of it without injuring yourself, we would try and do that. At minimal if it was inside of a gate or something, we’d try to lock the gate.”⁵

Sergeant [REDACTED] stated that best practice with a civilian standing in the adjacent doorway, would be to tell that person he’s speaking to stay inside, lock the door, not come back out at all until an officer knocks on the door and tells them it’s safe to do so. However, the officer would only be required to make the scene safe.

During the interview, Sergeant [REDACTED] was shown Officer [REDACTED] body-worn camera footage capturing the firearm discharge. Afterwards, Sergeant [REDACTED] was asked if he thought the description provided in the police report was consistent with what was depicted on the video. Sergeant [REDACTED] responded, “For the most part, yeah. The rapid pace, maybe. I can’t really tell because of the shade, but I could see the dog coming at him. I don’t know. I can’t really tell how fast the dog is coming because of the shade. I just see the dog’s head emerging coming onto the porch. I can’t tell how fast he was coming from inside the door. That would be the only thing I can say. I’m not sure about the pace, but everything else I’d say yeah.”⁶

² COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered and relied upon in our analysis.

³ Atts. 20, 27.

⁴ Att. 27 at p.13.

⁵ *Id.*

⁶ *Id.* at p.39.

COPA conducted an audio recorded **interview of witness Sergeant [REDACTED]**.⁷ on September 26, 2019. During the interview, Sergeant [REDACTED] stated that on August 14, 2018 he responded to [REDACTED] to assist with a call of an animal bite that resulted in an officer discharging his weapon. Sergeant [REDACTED] did not recall speaking with Officer [REDACTED] once he arrived on scene, as he was not Officer [REDACTED] direct supervisor on that date.

During the interview, Sergeant [REDACTED] was asked about the statement heard on the body-worn footage where he instructed officers not go to back inside the gate to try and close the door to the home, commenting, “Why would we risk going in on a dog that already bit”.⁸ Sergeant [REDACTED] responded that he did not want his officers going in after a dog “that’s been previously menacing”.⁹ Sergeant [REDACTED] was then asked what the difference in reasoning would have been between the point when Officer [REDACTED] approached the dog to close the door and when Sergeant [REDACTED] instructed his offers not go reenter the yard to attempt to close the door. Sergeant [REDACTED] responded, “I can’t say what might have led him to go in.”¹⁰

COPA conducted an audio recorded **interview of accused Officer [REDACTED]**.¹¹ on October 4, 2019. During the interview, Officer [REDACTED] stated that on August 14, 2018 he was working alone on patrol. At approximately 10:47am, Officer [REDACTED] responded to a call of a dog bite at [REDACTED]. When he arrived, there was a dog on the porch in front of [REDACTED]. Officer [REDACTED] explained that [REDACTED] and [REDACTED] are in the same building with two separate addresses. The two residences shared a yard and wrought-iron front entry gate. The two front doors were situated next to each other. While standing on the sidewalk outside the front gate, Officer [REDACTED] spoke with Ms. [REDACTED] who was in one of the windows of [REDACTED].¹² Ms. [REDACTED] indicated that her daughter had been bitten by the dog in the buttocks and she had been taken to the hospital.

Officer [REDACTED] yelled out to get the attention of the dog owner, as the front door was wide open. When nobody responded, Officer [REDACTED] determined there might not be anybody inside the home. Eventually, the dog went into the residence. At that point, Officer [REDACTED] “decided to try to be brave and try to close the door of the house.”¹³ Officer [REDACTED] did not believe the dog was an imminent threat at this moment, but he decided to close the door because the dog had already bitten a person, and although he did not believe the dog was a danger to himself at the time, “it could have bitten someone else.”¹⁴ Officer [REDACTED] was concerned the dog might be able to escape from the yard onto the sidewalk because the wrought iron gate was not latched and if the dog had “put

⁷ Atts. 26, 28.

⁸ Att. 34 at 34:10.

⁹ Att. 28 at p.22.

¹⁰ *Id.*

¹¹ Atts. 29, 33.

¹² The BWC shows that Ms. [REDACTED] was in fact standing behind the front glass door.

¹³ Att. 33 at p.12.

¹⁴ *Id.* at p.31.

any type of pressure on the gate, it would have opened up,”¹⁵ since the door opened outward toward the sidewalk.¹⁶

Officer ██████ could see Ms. ██████ standing behind her clear front door, but he did not give her any instructions to move. As Officer ██████ approached the stairs leading up to the entrance, the dog became an imminent threat when it came out of the door growling. Officer ██████ took out his gun and fired one round at the dog. Officer ██████ was approximately six to seven feet away from the dog when he fired; he was standing at the bottom of the stairs to the right (the direction of ██████). After the shot was fired, the dog retreated into the residence.

At that point Officer ██████ went over the radio, stating that he had fired a round at a dog and requesting a supervisor. Once a sergeant responded to the scene, he instructed Officer ██████ to call CACC in order to assess if the dog had been struck by the bullet, and because he did not want to send in another officer.¹⁷

After CACC responded to the scene, they located the dog and determined the dog had not been shot. Officer ██████ learned that the bullet had become lodged in the doorframe at ██████.

During the interview, Officer ██████ was shown his body-worn camera footage capturing the firearm discharge. Afterwards, Officer ██████ stated he thought the description provided in the police report¹⁸ was consistent with what was depicted in the video.

b. Digital Evidence

OEMC Radio Transmissions¹⁹ were reviewed for the relevant time period. At minute 12:01, Officer ██████ is assigned to respond to a dog bite at ██████. At 30:44, Officer ██████ comes over the air and states he “had to fire a round at a dog”. At 44:20, beat 510²⁰ requests CACC respond to the scene.

Evidence Technician photographs²¹ show the building and yard of ██████, as well as the lodged bullet in the doorframe of ██████.

¹⁵ *Id.* at p.32.

¹⁶ The BWC shows that the gate in fact opened inwards into the yard, so it would have been very unlikely the dog could have opened it and exited to the sidewalk.

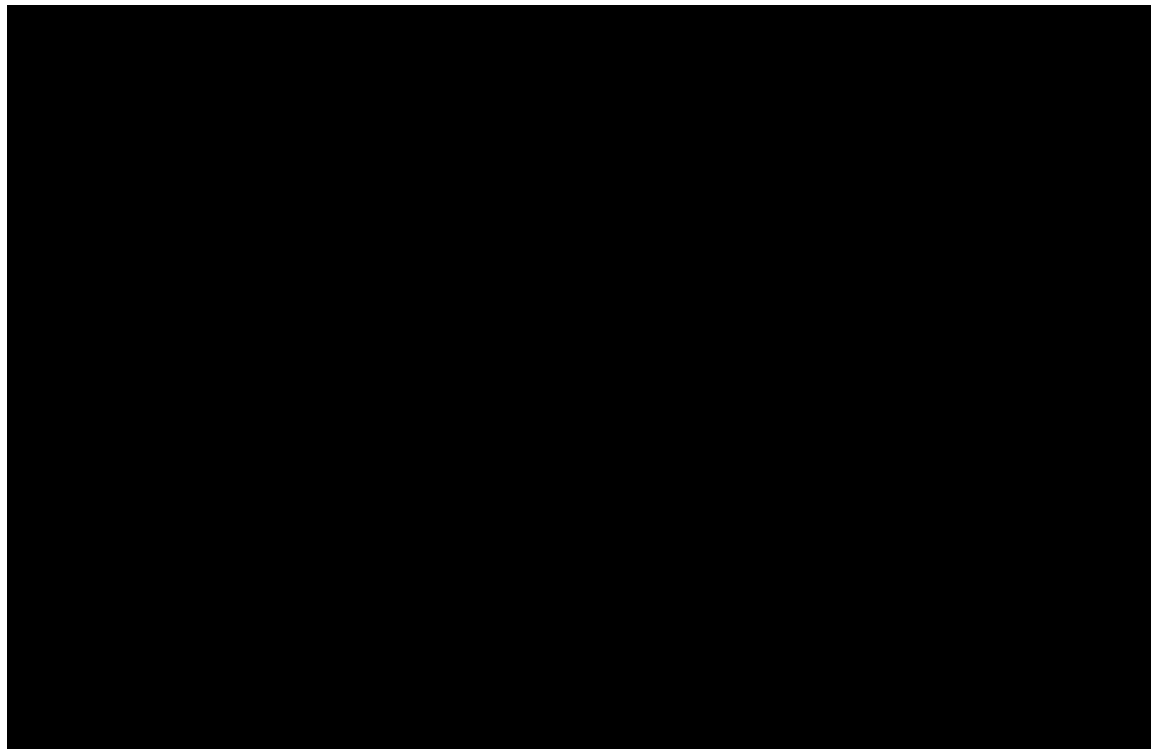
¹⁷ Officer ██████ did not recall which sergeant this was.

¹⁸ The police report was completed by Officer ██████. Officer ██████ stated he provided a narrative of what had transpired to Officer ██████ so that Officer ██████ could complete the report.

¹⁹ Att. 17.

²⁰ Sergeant ██████ was assigned to 510 on this date and time.

²¹ Att. 24.



COPA reviewed Officer ██████ body-worn camera²² footage of the incident. At the beginning of the video, Officer ██████ is heard saying, “I’m not going in there!”²³ to himself as he approaches the closed wrought iron gate. Ms. ██████ opens the door to ██████ and informs Officer ██████ that her daughter has been taken to the hospital. Ms. ██████ proceeds to ask Officer ██████ what the procedure is in these situations. Officer ██████ responds, “Really, just do an Animal Bite Card. That’s it.”²⁴ Moments later, Officer ██████ tells Ms. ██████, “If the dog comes after me, I’m going to shoot it.”²⁵ Ms. ██████ inquires if Officer ██████ is going to call CACC. Officer ██████ responds that he would call CACC for a stray animal. Ms. ██████ informs Officer ██████ that the dog does not live there, and the owner is not present.

Officer ██████ opens the gate, enters the yard, and approaches the stairs to the porch. He bangs the metal stair railing numerous times with his asp and yells into ██████. After a moment, Officer ██████ states, “I don’t think anybody is there.”²⁶ Officer ██████ appears to climb a couple steps towards ██████. Seconds later, Officer ██████ takes a couple steps backwards. Officer ██████ then raises his right arm, points a gun toward the doorway of ██████. The dog exits the residence, barking and Officer ██████ discharges his weapon in the direction of the dog. At the moment of discharge, the dog is on the porch near the steps. Officer ██████ appears to be standing in the yard at the bottom of the steps to ██████. After the shot is fired, the dog immediately retreats into the residence at ██████.

²² Att. 34.

²³ *Id.* at 00:40.

²⁴ *Id.* at 01:49.

²⁵ *Id.* at 02:19.

²⁶ *Id.* at 06:39.

A few seconds later, Officer ██████ goes over the radio and requests a sergeant. Lieutenant ██████²⁷ arrives a few minutes later. Officer ██████ briefs Lieutenant ██████ on what had transpired, explaining that he had tried to get the attention of the residents because the door was wide open; he also tried to lure the dog out of the residence, to see if it was safe for him to approach; when that didn't work, he attempted to close the front door; upon doing so, the dog came running out and growling. When asked if the dog had gotten close, Officer ██████ responded, "Well, I was right at the edge of the stairs. I was backing up actually. And then he came running out of the house. And I shot at him. He ran back in."²⁸

A few minutes later, Sergeant ██████ appears on scene and inquires whether CACC had been called. When Officer ██████ says no, Sergeant ██████ states they need to be contacted. Sergeant ██████ then arrives on scene. Sergeant ██████ states, "I'm just worried about securing this door so he can't get back out."²⁹ All the sergeants then agree that they should not attempt to close the door themselves. Rather, CACC should be contacted to come out.

Eventually Officer ██████ arrives on scene. While talking to Officer ██████, Officer ██████ states that he is going to enter the yard and close the door. At this point, Sergeant ██████ can be heard responding, "No you're not! For what? ██████, for what? To get a IOD? I already made that to ██████. I already told him no, we aren't going to do that. We don't need to close that door; that's animal control. They can do that! Sergeant ██████ just said that!... Why would we risk going in on a dog that already bit?... The gate is shut!"³⁰

c. Documentary Evidence

An **Original Case Incident Report**³¹ states that on August 14, 2018 Officer ██████ responded to a call of a dog bite at a residence. Officer ██████ learned that the victim had been bitten in the buttocks by a black dog and had gone to the hospital for treatment. The dog retreated into the residence, but the front door remained wide open. Officer ██████ attempted to mitigate the number of persons bitten and make the area safe for the public on the public way by securing the front door. At this time, the dog appeared from a secreted position and lunged towards the officer. Officer ██████ fired one round in the direction of the animal. The animal was not hit, but it did retreat into the residence.

A **Tactical Response Report**³² indicates that Officer ██████ used tactical positioning and fired a semi-auto pistol one time in self-defense. The narrative states that Officer ██████ responded to an animal bite call and while talking to Ms. ██████ the dog began to attack him. Officer ██████ fired one round at the dog while retreating. The round did not strike the dog but was lodged in the doorframe of the residence.

VI. LEGAL STANDARD

²⁷ Lieutenant ██████ was a Sergeant at the time of this incident.

²⁸ Att. 34 at 18:04.

²⁹ *Id.* at 21:44.

³⁰ *Id.* at 34:25.

³¹ Att. 4.

³² Att.11.

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct reviewed complied with Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proven by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the conduct complied with Department policy than that it did not, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. *See e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

VII. ANALYSIS

Allegation 1 – Officer █████ failed to notify Animal Care and Control (CACC)

Special Order S04-12 sets forth the duties an officer must undertake when responding to incidents involving animals. Section III(A) provides that an officer who is assigned to an animal bite incident must determine if the biter animal is in the care of the owner or keeper. If it is not in the care of the owner or keeper, the officer must notify CACC to remove the animal.

In this case, Ms. █████ tells Officer █████ that the dog does not live there and the owner is not there. Additionally, Officer █████ makes several attempts to gain the attention of any occupants of █████, eventually commenting, "I don't think anybody is there." Since Officer █████ was able to determine the dog was not in the care of the owner or keeper, he was required to notify CACC to remove the animal. At no point did Officer █████ contact CACC, even after discharging his weapon; Sergeant █████ called CACC after arriving on scene.

COPA understands Officer █████ priority when responding to an animal bite would be to render aid and secure the scene to prevent anybody else from being bit. However, the victim

had already been taken to the hospital and the dog was contained behind a wrought iron gate. Therefore, there was no aid to be rendered and the scene was secure enough to call CACC and wait for them to respond. Officer ██████ neglected to do so. Therefore, COPA finds this allegation to be SUSTAINED.

Allegation 2 – Officer ██████ was not justified in discharging his weapon at the dog

General Order G03-02 states, “A sworn member is justified in using deadly force to stop a dangerous animal only when the animal reasonably appears to pose an imminent threat to the safety of the sworn member, another person, or another animal and no reasonably effective alternatives appear to exist.” COPA finds there was no imminent threat at the time Officer ██████ arrived at the scene. The dog was secured behind a wrought iron gate and there was nobody in the yard or on the porch. Ms. ██████ was present, but she was aware of the dog and she was not at risk of being attacked, as she was inside her home.

COPA finds that by failing to call for back-up or contact CACC and deciding to approach the dog and close the door himself, Officer ██████ created the potential threat to himself and Ms. ██████. On the body-worn camera footage the dog does not appear to lunge toward Officer ██████ or to pursue him at a rapid pace as indicated in the police reports. COPA understands that Officer ██████ may have had a different perspective in person than was depicted in the video. Nonetheless, COPA believes that Officer ██████ had other reasonably effective alternatives available to him, such as calling for back-up or contacting CACC. This shooting never needed to occur. Therefore, this allegation is SUSTAINED.

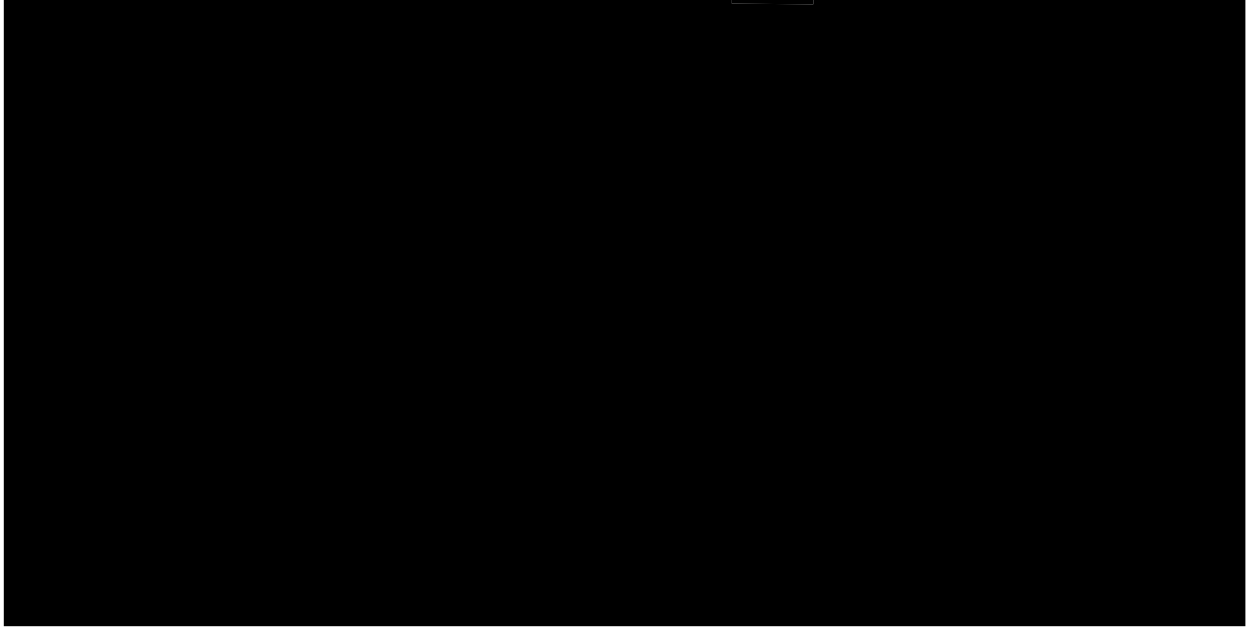
Allegation 3 – Officer ██████ failed to take reasonable precautions prior to discharging his weapon

General Order G03-02 states, “The Department’s highest priority is the sanctity of human life. In all aspects of their conduct, Department members will act with the foremost regard for the preservation of human life and the safety of all persons involved.” An officer must protect those around them, and that means considering the presence of innocent bystanders when deciding to discharge a firearm.

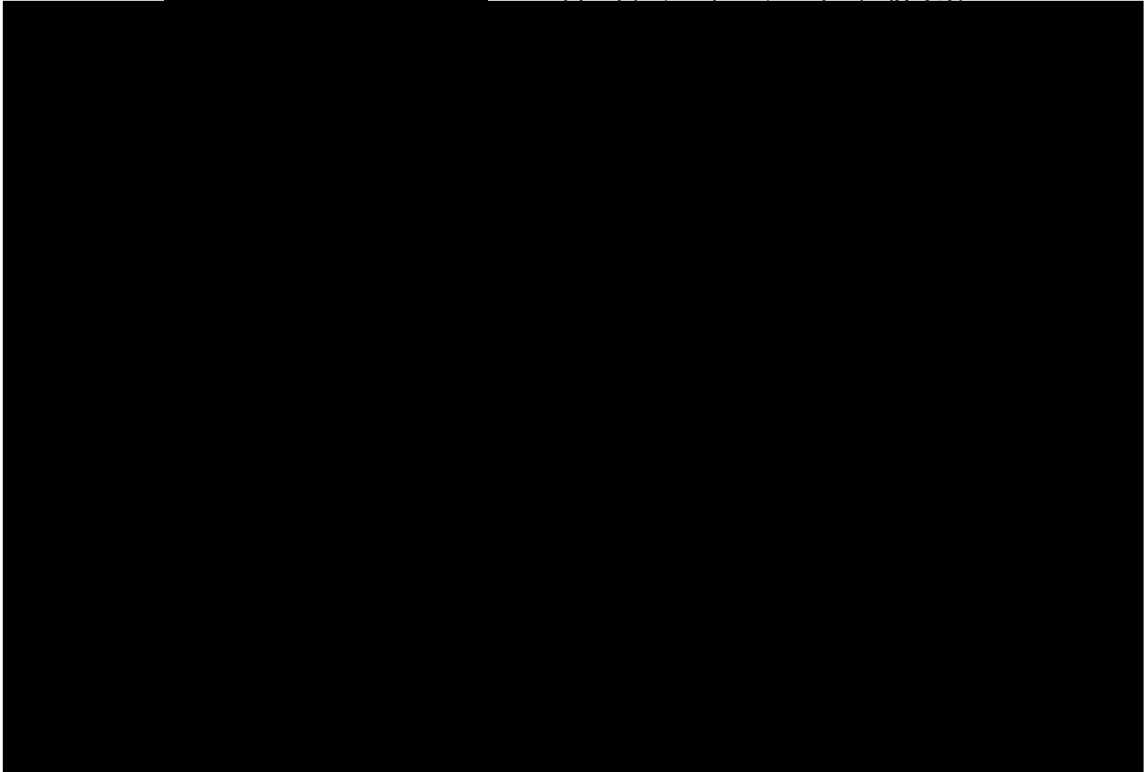
Given Ms. ██████ proximity to the dog, COPA finds that Officer ██████ had an obligation to direct Ms. ██████ to move away from the doorway prior to approaching the dog. Officer ██████ stated shortly after arriving on the scene, “If the dog comes after me, I’m going to shoot it.” Subsequently, Officer ██████ made multiple attempts to lure the dog out of the home. These facts make it clear that Officer ██████ knew there was a likelihood that he would be discharging his weapon.

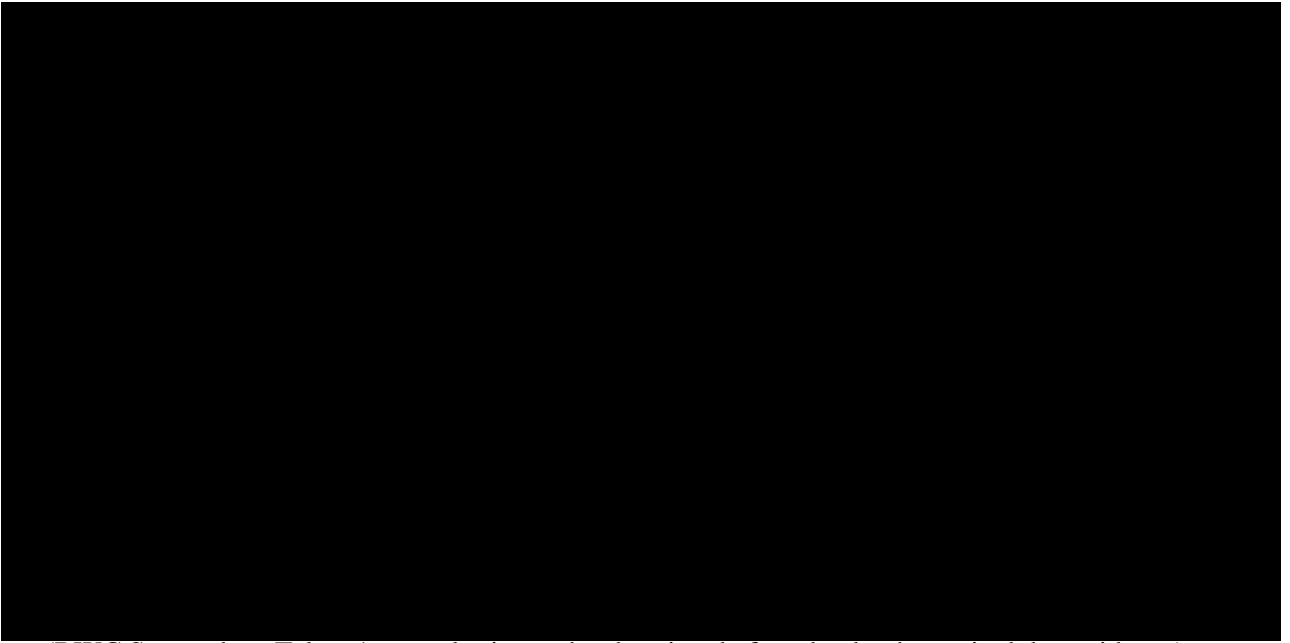
Officer ██████ knew Ms. ██████ was in the doorway of ██████ and therefore would be very close in the event Officer ██████ had to discharge his weapon towards the dog located in ██████. ET Photos and Screenshots of Officer ██████ body-worn camera show the proximity between Ms. ██████ (wearing a red shirt and seen in the doorway of ██████) and the doorway to ██████ (where the dog was located and where Officer ██████ bullet ultimately became lodged):

(BWC Screenshot showing MS. [REDACTED] behind glass door - taken 38 seconds prior to the shooting)

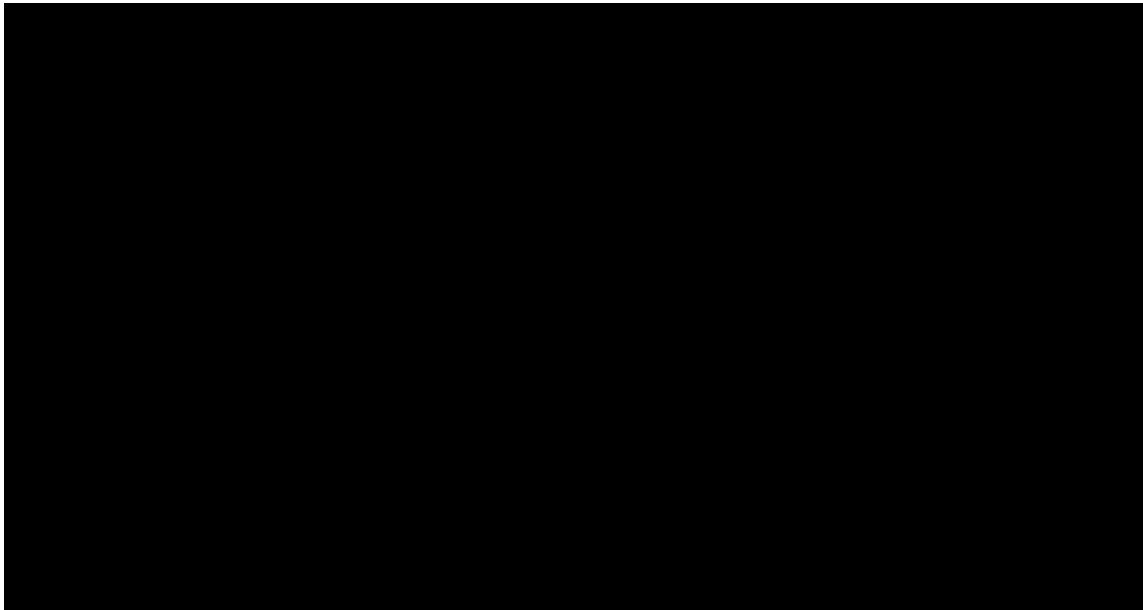


(E1 Photo depicting front of building at [REDACTED])





(BWC Screenshot- Taken 1 second prior to the shooting, before the dog has exited the residence)



(BWC Screenshot - Taken at the moment of shooting)

Because Officer ██████ took no precautions to protect Ms. ██████ during this situation when he knew he would likely have to discharge his weapon in her general direction, Officer ██████ was inattentive to duty. Therefore, COPA finds this allegation to be SUSTAINED.

VIII. RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

a. Officer ██████

i. Complimentary and Disciplinary History

Officer [REDACTED] has one prior reprimand from 2019 for misuse of equipment/supplies. Officer [REDACTED] has 30 Honorable Mentions, 2 Department Commendations, and 4 Complimentary Letters.

ii. Recommended Penalty, by Allegation

1. Allegation No.1 - Failed to notify CACC

Officer [REDACTED] could have avoided discharging his weapon and putting any member of the community and himself in danger when he engaged the animal had he contacted CACC as required by department order. Given the alternatives Officer [REDACTED] chose to ignore, his disciplinary and complimentary history, COPA recommends a suspension of 3 days.

2. Allegation No. 2 – Discharged Weapon Without Justification

Officer [REDACTED] decision to fire his weapon was objectively unreasonable. Officer [REDACTED] had reasonable alternatives available to him. The dog was secured behind a wrought iron gate and posed no threat to the general public. Officer [REDACTED] had ample time to call for back-up or contact CACC, as required by department order. Officer [REDACTED] failure to do so placed himself in what he believed was a dangerous situation; thus, causing him to fire his weapon at a dog. COPA recommends a suspension of 5 days for this allegation.

3. Allegation No. 3 – Failed to take Reasonable Precautions Prior to Discharging Weapon

Officer [REDACTED] had ample time to advise Ms. [REDACTED] to close her door or move to a safer location. He was on scene conversing with Ms. [REDACTED] through her doorway for approximately eight minutes prior to shooting. By failing to do so, Officer [REDACTED] put Ms. [REDACTED] at risk. Officer [REDACTED] lack of foresight could have caused death or great bodily harm to Ms. [REDACTED]. COPA recommends a suspension of 5 days for this allegation.

IX. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Officer	Allegation	Finding / Recommendation
Officer [REDACTED]	It is alleged that on or about 14 August 2018, at approximately 10:47am, at or near [REDACTED], Officer [REDACTED]: <ol style="list-style-type: none"> 1. Failed to notify the City of Chicago Commission on Animal Care and Control, in violation of S04-12; 2. Discharged his weapon at or in the direction of a dog without justification, in violation of Rule 38; 	Sustained/3 Days Sustained/5 Days

	3. Was inattentive to duty in that he discharged his firearm at or in the direction of a dog without taking reasonable precautions to ensure that people would not be struck.	Sustained/5 Days
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Approved:



January 31, 2020

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

Date

Appendix A

Assigned Investigative Staff

Squad#:	█
Investigator:	██████████
Supervising Investigator:	████████████████████
Deputy Chief Administrator:	Andrea Kersten