

SUMMARY REPORT OF INVESTIGATION¹

I. EXECUTIVE SUMMARY

Date of Incident:	April 7, 2016
Time of Incident:	7:30 p.m.
Location of Incident:	██████████
Date of COPA Notification:	April 8, 2016
Time of COPA Notification:	11:12 a.m.

On April 7, 2016, several Chicago police officers executed a search warrant on a residential building located in the 6200 block of South Laflin Street. Officer Durand Lee was one of the officers participating in the execution of the search warrant. Officer Lee was the first officer to enter the dwelling and he encountered a dog that ran toward him as he entered. In response, Officer Lee discharged his firearm twice, but did not strike the dog. Officer Lee fired his gun into a residence when multiple civilians present. COPA’s investigation determined that based on the totality of the circumstances, Officer Lee’s actions were unjustified and in violation of Department rules.

II. INVOLVED PARTIES

Involved Officer #1:	Police Officer Durand Lee, Star #18858, Employee #██████, Appointment Date November 29, 2004, Unit 376, Male, Black, Birth Date ██████, 1979
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III. ALLEGATIONS

Officer	Allegation	Finding/Recommendations
Officer Durand Lee	1. On April 7, 2016, at approximately 7:30 p.m., at ██████████ the accused discharged his weapon into the porch without justification, in violation of Rule 38.	Sustained
	2. On April 7, 2016, at approximately 7:30 p.m., at ██████████ the	Sustained

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.

	accused discharged his weapon at a dog without justification, in violation of Rule 38.	
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IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 38: Unlawful or unnecessary use or display of a weapon.

General Orders

1. General Order 03-02-03, Section III, B

V. INVESTIGATION²

a. Interviews

In a **statement to IPRA** on April 9, 2016, **Reporting Party** ██████████³ stated that he and his friend, ██████████ were sitting on the porch when several police officers, who were executing a search warrant, grabbed him [Mr. ██████████ and Mr. ██████████ searched them, and told them to leave the residence. Mr. ██████████ stated that a black male officer, approximately 5'9", with a medium build, and a thin beard "ran up"⁴ on the porch and discharged his firearm once into the porch. Mr. ██████████ described the officer's firearm as a semi-automatic pistol. Mr. ██████████ further related that when the officers entered the house, he heard the dog barking and then two more gunshots, but he did not know why the police officers were shooting.

In a **statement to IPRA** on April 9, 2016, ██████████⁵ stated that she and her boyfriend, ██████████ her two children, one-year old ██████████ twelve year old ██████████ neighbor, ██████████ niece, ██████████, and Ghost, the one-year old Pit Bull dog were in the front living room when the police forcefully ran up the stairs and made their way inside the residence. Ms. ██████████ stated that her one-year old son, ██████████ was crawling on the living room floor when the police entered and fired into the residence.

Ms. ██████████ grabbed her son and was in the process of trying to grab the dog when the officer fired his weapon. Ms. ██████████ stated the dog was running towards the door but not in an aggressive manner. Ms. ██████████ told the officers that the dog was not dangerous and to stop

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 Att. 24

⁴ Att. 24-25

⁵ Att. 30

shooting. Ms. [REDACTED] stated [REDACTED] also told the officers to stop shooting so he could grab the dog. Ms. [REDACTED] said that the officer informed them that he fired his weapon because the dog was coming towards him. Ms. [REDACTED] stated that the dog was not injured. Ms. [REDACTED] stated that it's common for the dog to run to the door when someone enters the residence.

Ms. [REDACTED] stated that the officers informed her that they had a search warrant for the residence and they were looking for "[REDACTED]"⁶ Ms. [REDACTED] stated that the officers did announce their office but began shooting as soon as they entered the residence. Ms. [REDACTED] stated that the officers pushed the door open because it was not locked. Ms. [REDACTED] stated she saw approximately ten officers wearing black pants and ski masks with CPD on their jackets. Ms. [REDACTED] stated that the officers were in the residence for approximately 3 ½ hours.

Ms. [REDACTED] stated that one bullet was found on the floor by the front door and one bullet hole was in the porch. Ms. [REDACTED] stated the police said that they found something but did not tell her what was found. Ms. [REDACTED] stated the officers never came to the residence before and she has no idea who "[REDACTED]" is.

In a **statement to IPRA**, on April 9, 2016, **Witness [REDACTED]**⁷ stated that he was with his girlfriend, [REDACTED] at her home with their children, [REDACTED] and [REDACTED] was in the process of walking out of the residence when Ms. [REDACTED] stated the police were coming inside the residence. Mr. [REDACTED] then heard a gunshot, and someone said, "grab the dog."⁸ Mr. [REDACTED] stated they were in the living room cleaning the house and their son was on the floor when the police officer fired his weapon. Mr. [REDACTED] heard three shots. Mr. [REDACTED] further stated that the officer told him to grab the dog and take him somewhere. Mr. [REDACTED] took the dog to the basement but was asked to take the dog somewhere else, so he put the dog in his car. Mr. [REDACTED] stated the dog is still a puppy and weighs approximately 60 pounds. Mr. [REDACTED] was placed in handcuffs and taken back inside the house.

Mr. [REDACTED] stated the police were wearing plain clothes, blue police jackets, and had on black ski masks. Mr. [REDACTED] stated that he heard one gunshot before the police entered the house and then the other shot after the officer told them to grab the dog. Mr. [REDACTED] stated the dog was in the living room, approximately three to four feet away from the door when the officer fired his weapon. The dog was not hit and one bullet went into the porch and the other bullet was located in the floor of the foyer. Mr. [REDACTED] stated all the officers had their guns drawn.

In a **statement to COPA**, on March 21, 2018, **Witness Sergeant Brian Schnier**⁹ stated he was the sergeant in charge of squad C166236 on the date of incident. Sgt. Schnier stated they were at the residence to execute a narcotics search warrant. Sgt. Schnier stated they approached the residence, knocked, announced their office, and waited. The team was forced to make entry in order to gain access to the residence. Sgt. Schnier stated that he could not remember everyone that was present but did remember that Officer Lee and Officer Wherfel were present.

⁶ The name of the person who was listed on the search warrant.

⁷ Att. 35

⁸ Att. 35

⁹ Att. 41

Sgt. Schnier stated that Officer Lee was working the large metal cylinder, also known as the “ram,”¹⁰ to “bash”¹¹ open the door. When no one answered the door, Officer Lee rammed the door open. Sgt. Schnier stated that he did not recall anyone on the porch but did confirm that the Narcotic Supplementary Report stated that they encountered two black men on the porch.

Sgt. Schnier stated that he was standing on the front steps of the residence, with the team behind him, when Officer Lee approached the front door. Sgt. Schnier stated that as soon as Officer Lee breached the front door, he encountered a large dog. Sgt. Schnier stated Officer Lee was holding the ram in his left hand and drew his firearm with his right hand and fired his weapon at the dog. Sgt. Schnier stated that everything happened in less than two seconds. Sgt. Schnier further stated that once Officer Lee discharged his weapon the dynamic of the situation changed, and the focus was now on the shooting.

Sgt. Schnier stated that he did not see the dog. He related that the team was stacked one behind another and Officer Lee was the first in line. Sgt. Schnier stated that Officer Lee fired his weapon approximately two times. Sgt. Schnier stated that they secured the residence and he ultimately stepped outside to make notification of forced entry and a weapon discharge.

In a **statement to COPA**, on May 8, 2018, **Witness Officer Patrick Wherfel**¹² stated that on the date and time of the incident, he was on duty and assigned to Beat 6236. Officer Wherfel related that he and his team were assigned to execute a search warrant at [REDACTED] Officer Wherfel stated that upon arrival, he and his team exited their vehicles, approached the front door, and knocked. Officer Wherfel said they waited for a few seconds and got no response. Officer Lee then performed a forced entry. Officer Wherfel could not recall what tool Officer Lee used to enter the residence.

Officer Wherfel stated that he was on the porch when Officer Lee fired his weapon but did not recall how many times he fired. Officer Wherfel stated that he did not see a dog during this incident. Officer Wherfel stated after the shooting the team executed the search warrant but did not find the target of the warrant.

In a **statement to COPA** on April 20, 2018, **Accused Officer Durand Lee**¹³ stated he was the breaching officer during the execution of a search warrant at [REDACTED] when the incident occurred. Officer Lee stated his team formulated an execution plan at the 007th District Station before driving to the address of [REDACTED] Officer Lee stated upon arrival at the target address, he exited his vehicle and proceeded towards the residence. Officer Lee stated he observed several people on the porch of the residence but walked past them and allowed uniform officers to detained them. Officer Lee knocked on the door and announced his office. After waiting a reasonable amount of time, they proceeded to breach the door and make a forced entry into the residence. Officer Lee stated that he and his team members were in a stacked fatal funnel position

¹⁰ The word used by Sgt. Schnier to describe a tool that is used to gain forced entry into a residence.

¹¹ The word used by Sgt. Schnier to describe how they gained access into the residence.

¹² Att. 46

¹³ Att. 42

on the stairs.¹⁴ Officer Lee stated that Sgt. Schnier was to the right of him when he breached the door.

Officer Lee stated as he breached the door, he yelled “Chicago Police.”¹⁵ Once the door was breached, he observed an aggressive vicious dog charging at him. Officer Lee described the dog as showing his teeth and posturing as he was coming towards him. Officer Lee stated he put down the ram and fired his weapon in the direction of the dog in order to deter the vicious animal from biting him and/or fellow officers. Officer Lee stated he fired two rounds and the dog retreated into the residence. Officer Lee stated that he announced shots fired and notified his supervisors, one of whom was Sgt. Schnier, who was on scene. Officer Lee stated that after he fired his weapon, he covered down with his gun.¹⁶ Officer Lee stated the officers then entered the residence and notified the residents that they were executing a search warrant.

Officer Lee stated that the dog did not bark and at the time he breached the door he did not know a dog was in the residence. Officer Lee stated he could not remember whether there was light on the porch but stated as he attempted to enter the foyer area he saw the dog. Officer Lee described the dog as a medium sized Pit Bull dog weighing approximately 60 pounds.

Officer Lee stated he did not see anyone other than the dog therefore he did not know if anyone was inside the residence. Officer Lee stated he cannot recall what if anything the residents said to him once he and his team entered the residence. Officer Lee stated that the owner was asked to restrain the dog because the dog continued to run around in a vicious manner in an attempt to attack them. The dog was eventually secured, and a search of the residence was conducted. Officer Lee denied the allegations against him.

b. Digital Evidence

The **Evidence Technician Photographs**¹⁷ depict multiple photos from inside and outside of the residence, as well as the bullet holes made from Officer Lee’s weapon.

c. Documentary Evidence

The **Original Case Incident Report**¹⁸ and **Property Inventory Sheets**¹⁹ documented that 87 grams of crack cocaine, digital scale, and narcotic packaging were recovered from [REDACTED] and inventoried under # [REDACTED] and [REDACTED].

The **Tactical Response Report**²⁰ submitted by Officer Durand Lee reflects that while executing a search warrant at [REDACTED] Officer Lee was confronted by an aggressive Pit Bull. In fear for his safety and the safety of his team members Officer Lee discharged two

¹⁴ Officer Lee explained that a fatal funnel position involves the officers stacking one behind another.

¹⁵ Att. 42

¹⁶ Holding your firearm in a low ready position while assessing the situation to ensure there is no other threat and/or danger.

¹⁷ Att. 15

¹⁸ Att. 5

¹⁹ Att. 7

²⁰ Att. 6

rounds from his firearm. The dog was not hit and fled immediately. The two rounds were accounted for. One round was recovered under the exterior porch of the residence and the second round was located within the wood floor immediately inside the exterior door. The round was not recovered from the floor. No persons were injured. The damage to the property was minimal.

The **Office of Emergency Management and Communications Event Query Report**²¹ and The **Chicago Police Department Event Query**²² document that on April 7, 2016 at 7:30 p.m. a search warrant was executed at [REDACTED] Officer Lee #18858 working Beat 6236H fired a shot at a dog and the dog was not hit.

The **Crime Processing Report**²³ documents that Evidence Technicians Theodore Delis #17875, Paul Carriere #12472, and Daniel Sammon #6787 photographed the residence located at [REDACTED] and recovered multiple pieces of evidence.

The **Narcotic Section Supplementary Report**²⁴ and **Search Warrant #** [REDACTED]²⁵ document that the offender, "[REDACTED]"²⁶ named in the search warrant for [REDACTED] was not in custody. The object of the warrant was crack cocaine. It further documents that they encountered two (2) black males on the porch of the residence and detained them as they made entry into the residence. The officers knocked on the front door while simultaneously announcing their office. After breaching the front door, the officers were confronted by an aggressive pit bull. It also listed Officer Durand Lee as the breach officer. The search warrant was approved by ASA K. Alexopoulos at 4:35 p.m. on April 7, 2016 and Honorable Judge P. Coughlin #2125 at 12:51 p.m. on April 7, 2016, Raid # [REDACTED], RD # [REDACTED], Incident # [REDACTED], and Event # [REDACTED].

VI. ANALYSIS

On the date of the incident, the Chicago Police Department did not have a directive expressly outlining when officers could discharge their firearms at animals.²⁷ However, Rule 38 prohibited the unlawful or unnecessary use or display of a weapon. In the instant case, Officer Lee's decision to discharge his firearm was objectively unreasonable and put human lives at risk in violation of Rule 38.

First, Officer Lee had other force options available to him to protect himself and his other officers. Specifically, Officer Lee was holding a ram that he could have used to strike the dog or to shield himself and his fellow officers from the dog.²⁸

²¹ Att. 10

²² Att. 10

²³ Att. 13

²⁴ Att. 17

²⁵ Att. 8, 17

²⁶ The individual named in the search warrant.

²⁷ CPD subsequently issued a new version of General Order 03-02 which provides in relevant part, "[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." See General Order 03-02(III)(C)(6) (effective October 16, 2017).

²⁸ Officer Lee asserted that he dropped the ram as the dog charged towards him. Att. 49 at 21.

Second, Officer Lee’s decision to discharge his firearm put human lives at risk. Prior to discharging his firearm, Officer Lee knocked on the front door and announced his office and then breached the front door.²⁹ A reasonable officer would have recognized and accounted for the fact that residents may have been moving towards the door in response to Officer Lee knocking and announcing his office and the dog purportedly³⁰ charging towards the door.³¹ Officer Lee did not know if anyone was present inside the residence or where any persons who were present were located. In this case, multiple people were present in the residence at the time Officer Lee discharged his firearm, including a one-year baby crawling on the living room floor.

Third, Officer Lee discharged his firearm in an uncontrolled and ineffective manner. Although Officer Lee asserted that he used his sights, Officer Lee stated he fired to “deter”³² the dog and Officer Lee did not strike the dog with either shot, despite the dog allegedly being 0-5 feet away from Officer Lee when he discharged his first shot.³³

For these reasons, COPA recommends a finding of **SUSTAINED** for Allegations #1 and #2 against Officer Durand Lee.

VII. CONCLUSION

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

Officer	Allegation	Finding
Officer Durand Lee	1. On April 7, 2016, at approximately 7:30 p.m., at [REDACTED] the accused discharged his weapon into the porch without justification, in violation of Rule 38, and	SUSTAINED
	2. On April 7, 2016, at approximately 7:30 p.m., at [REDACTED] the accused discharged his weapon at a dog without justification, in violation of Rule 38.	SUSTAINED

²⁹ The purpose of knocking and announcing is to notify the person inside of the presence of the police and of the impending intrusion, give that person time to respond, avoid violence and protect privacy as much as possible. Officer Lee did not state how long he waited after knocking and announcing his officer before breaching the front door. See Att. 49 at 13. However, officers are only required to wait a short time period, seconds, prior to breaching.

³⁰ Officer Lee asserted that an “aggressive vicious” dog charged the door while showing his teeth and posturing. Att. 49 at 15-16. No other civilian or police witnesses observed the dog during this portion of the incident.

³¹ Ms. [REDACTED] stated that she was attempting to grab the dog when Officer Lee discharged his firearm.

³² Officer Lee did not explain what he meant by “deter.” However, the version of General Order 03-02-03 in effect at the time of the incident specifically prohibited warning shots.

³³ Att. 6; Att. 49 at 7.

VIII: RECOMMENDED DISCIPLINE FOR SUSTAINED ALLEGATIONS

Officer Durand Lee

Officer Lee has no disciplinary history with the Department. Officer Lee’s complimentary history consists of 16 Honorable Mentions and 4 Complimentary Letters.

Officer Durand Lee’s decision to fire his weapon was objectively unreasonable and put lives at risk. More specifically, by his own admission, Officer Lee had a ram in his hand when he first encountered the dog. Therefore, he could have used the ram to shield himself or strike the dog. Officer Lee stated that upon arrival he encountered several males standing in front of the residence. Officer Lee had ample opportunity to ask one of the males if they lived in the residence and were any occupants and/or animals inside the residence. Officer Lee failed to ascertain the information before breaching the front door. Officer Lee’s lack of investigation, placed himself in what he believed was a dangerous situation; thus, causing him to fire his weapon at a dog. Officer Lee’s lack of foresight could have caused death or great bodily harm to the occupants inside the residence.

COPA’s disciplinary recommendation for Allegations 1 and 2 against Officer Durand Lee is a 5 day suspension.

Approved: 

Andrea Kersten
Deputy Chief Administrator – Chief Investigator

10/25/18
Date

Appendix A

Assigned Investigative Staff

Squad:	1
Major Case Specialist:	Ramona Hendricks
Supervising Investigator:	(Acting) Chantall Morley
Deputy Chief Administrator:	Andrea Kersten

