

Review of Officer Involved Shooting of Dog at 110 Dallas St.



Chief Fredrick W. Stevens

August 25th, 2017

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Agencies Involved

- Tiffin Police Department
- Seneca County Sheriff's Office
- Seneca County Dog Warden

Time Line of Events for 71 & 110 Dallas St.

Time	Comments
13:56	911 call of Physical Domestic 71 Dallas St.
13:57	Units 57 & 64 Dispatched
14:00	Units 57 & 64 Arrived
14:05	Unit 58 arrives on scene as backup to assist
14:11	Shot fired
14:12	Chief called
14:12	Seneca County Sheriff's Office responding
14:16	Dog is hit / Dog Warden called
14:18	Squad disregarding
14:18	Male detained at this time
14:19	Chief responding
14:22	Detective Lieutenant contacted and will contact on-call detective
14:27	Unit 58 is at 110 Dallas St.
14:31	Victims Advocate contacted for Domestic Victim
14:33	Enroute to Jail with Male
14:41	Seneca County Dog Warden on Scene
14:43	On-Call Detective on Scene
15:24	Chief Finished at Scene
15:38	Officers Clear of Scene

Review of Events

- The first police units arrived within three minutes to the 911 call at 71 Dallas St. for the report of a physical domestic
- Officers arrived at 71 Dallas St. and began investigating the physical domestic
- A third officer arrived at the scene to assist with witness statements
- The third officer was sent down to 110 Dallas St. (the location of the 911 call that contacted TPD about the physical domestic happening at 71 Dallas St.) to speak with juvenile that had called 911
- 71 Dallas St. is on the North side of Dallas St.
- The third officer walked approximately 5-6 houses down the sidewalk along the North side of Dallas St. and got to the end of the block and crossed the street at an angle to approach 110 Dallas St.
- The officer stepped up on the curb in front of 104 Dallas St. and was crossing the sidewalk as he approached 110 Dallas St.
- The officer observed two adults and two children on the porch area of 110 Dallas St. and a dog in front of the porch rails laying down on the front sidewalk next to the porch area and the people on the porch
- As the officer was walking towards them he was still on the sidewalk area and had just stepped into the grassy area at the corner of the driveway at 110 Dallas St. and the front grass area of 104 Dallas St. just in front of some utility items sticking out of the front yard
- The dog raised its head as the officer approached and got up from laying down
- The officer stopped in his tracks and did not continue to approach the house or the dog and was approximately 30 feet away
- The dog started running at the officer
- The owners attempted several times to yell the dog's name and shouted for it to "STOP" and the dog continued running at the officer and did not comply with their shouted verbal commands
- The officer attempted to put distance between himself and the dog by rapidly backing up but not turning his back on the dog
- The dog did not stop or comply with the verbal shouted commands and continued to run at the officer at full speed rapidly closing the short distance within a matter of a couple of seconds leaving its property

- The officer had backed all the way up to the curb area and his heels struck the curb area while the dog was less than 3 feet away and still charging with open mouth
- The officer pulled his duty weapon and fired one 9mm round one handed at a downwards angle at the dog
- The officer fell backwards as his heels hit the curb tumbling him onto the street where he landed with a thud on his back and left elbow onto the pavement
- The dog was struck by either the 9mm round or a fragment from the 9mm round and turned and ran back across the sidewalk and into the neighbor's yard at 104 Dallas St. and then onto the property of 110 Dallas St.
- The two officers down the street at 110 Dallas St. heard the gunshot and looked quickly Eastward towards the other officers location. They observed him on his back in the middle of the street with his gun out and thought that the officer was injured or possibly shot
- One officer secured the domestic suspect while the other officer made his way down the street to cover the downed officer
- Once the officers reached the downed officer he had holstered his weapon and stood up and told them that he had discharged a round at a dog that had been charging him
- Officers observed blood on the left elbow area of the officer that fell backward and that his uniform shirt also showed white stone dust and other road debris on the back of his shirt (pictures attached in this report)
- The Officer in Charge advised Dispatch to contact the Chief
- The Chief was contacted and called the Detective Lieutenant in charge of the Criminal Division who then assigned the on-call detective to head to the scene
- The officer that was prime on the Domestic Violence call went back down and continued to work that scene and the other officer began taking pictures of the scene of the dog shooting area
- Two Seneca County Deputies arrived due to the nature of the two calls to provide any assistance that may be needed
- The Chief arrived and spoke with the officers and owners who advised him of the events and how they unfolded from each of their perspectives
- The on-call detective arrived and began his investigation into the dog shooting

Narrative of Events

On Sunday August 20th, 2017 a 911 call came into dispatch advising of a physical domestic at 71 Dallas St. and two officers were dispatched to that call. They arrived and began investigating the incident and a third officer arrived to provide assistance. That third officer was sent to speak to the juvenile that had ran from 71 Dallas St. down to 110 Dallas St. to call 911.

That officer walked Eastward along the North side of Dallas St. down about 5-6 houses and crossed the street as 110 Dallas St. was on the Southern side of Dallas St. As the officer stepped up onto the curb and grass street lawn area of 104 Dallas St. and was approaching the sidewalk area he observed the 4 subjects on the front porch area of 110 Dallas St. This porch area is level with the ground and does not have a front gate. The officer was walking across the sidewalk area in front of 104 Dallas St. when he also observed a dog laying directly in front of the porch area and front door area on the sidewalk leading into the porch area.

The officer advised it was a white and brown colored dog, that appeared to him to be a pit bull, as it raised its head and according to the officer let out a low growl. The officer stopped in his tracks which was approximately at the southern edge of the sidewalk in front of 110 Dallas St. just at the corner where the properties of 110 Dallas St. and 104 Dallas St. come together at the driveway of 110 Dallas St. and the front lawn area of 104 Dallas St. This can be seen in the photos just in front of where some short utility boxes are sticking out of the ground.

The officer stated he never made it to their driveway or onto the property of 110 Dallas St. because as soon as he observed the dog on the sidewalk and due to it raising its head and growling he wanted to remain a distance away. At this point the officer was approximately 30 feet away when he states the dog then stood up and started running/charging on a direct line toward him displaying an aggressive behavior as it rapidly closed the distance between them. The officer stated he believed he was going to be attacked and seriously injured as the dog appeared to be angry at his presence.

The officer also stated that he immediately began giving ground and was back peddling to gain distance between himself and the charging dog. The officer stated he heard the people on the front porch yelling for the dog and ordering it to “stop” and to “come back” but the dog failed to comply and continued to close the gap rapidly.

This back peddling took the officer across the sidewalk in front of 104 Dallas St. and into the grass street lawn boulevard area between the sidewalk and the curb. The officer stated that the dog had crossed the driveway of 110 Dallas St. and into the corner lawn area of 104 Dallas St. and was on the sidewalk in front of 110 Dallas St. and still running at him full speed and was approximately 3 feet from him as his back heels of his duty boots struck the curb behind him. The officer stated he felt that he was going to fall and be exposed to the dog so he drew his duty service weapon and fired one 9mm round downwards at the approaching dog.

Immediately after firing the one round, or during, he fell backwards and landed into the street on his back and left elbow sustaining an abrasion and cut on his left elbow and soreness to his back and shoulder area. He observed that the dog turned and ran back across the front lawn area of 104 Dallas St. and around the houses and eventually found its way back to the front lawn/front porch area of 110 Dallas St. He could then see that it had been hit in the front paw/leg area and was injured.

The officer advised that he holstered his weapon and stood up when the other two officers came running up. He told them what had occurred and one officer went back to his patrol cruiser to grab a camera to start taking pictures and the other officer went back to handling the original domestic violence call.

The officer then stated that the female subject on the front porch later identified as the owner, Karrey A. Nominee, yelled to him across the lawn and said she understood and apologized. A male subject from the porch then approached the officer and was identified as Adam L. Nominee and during the course of their conversation Adam told the officer that their dog always chases after people like the way it did to the officer. Adam stated that the dog was not mean but he understood, given the dogs behavior, why the officer did what he did. Adam stated that the dog was a pit bull.

Adam also asked the officer why he didn't just use a taser and the officer responded that he barely had enough time to react and do what he did before the dog was 3 feet from him.

The Chief arrived and spoke with the officers and both owners. Both owners also stated to the Chief that they understood why the officer did what he did and that their dog had ran towards him but denied that it was in an aggressive manner. The Chief had had the Seneca County Dog Warden contacted to come take the wounded dog to the vet to receive care. The owner did not want that to happen and advised that they would take their dog themselves to the vet.

The on-call detective arrived along with the Seneca County Dog Warden and both began their investigations into the events that had just taken place. The on-call detective talked with both Karrey Nominee and Adam Nominee and audio taped their statements.

The on-call detective advised that Mrs. Nominee advised that the juvenile from 71 Dallas St. ran down to their house yelling to call the police as his dad had just hit his mother. Mrs. Nominee advised that they called the police and told them about the domestic at 71 Dallas St. and that the juvenile was at their location. Mrs. Nominee advised that the police told them to keep the juvenile at their location and they would have officer's enroute to their location.

According to Mrs. Nominee the only people present on her porch was her estranged husband, Adam Nominee, her son, the juvenile from 71 Dallas St. and her dog Rebel. She stated that she saw the officer walking down from 71 Dallas St. towards their residence and stated that their dog must have seen the officer approaching as well and started running at the officer. She further explained that she stood up and instantly yelled "she won't hurt you" but that is when she heard the shot.

Mrs. Nominee stated that Rebel was just running at the officer and wasn't barking or growling. She further explained to the detective that is what he does, he just runs out at people.

Mrs. Nominee was asked where the shooting took place and originally stated to the detective that it was when the officer crossed the street into their driveway but then later explained it was in the general vicinity of their driveway in the outer grass area. Mrs. Nominee advised that she didn't remember if the officer was saying anything or not as she just remembered the shot and making sure that everyone on the porch was ok as it was in their general direction.

Mrs. Nominee explained to the detective that after Rebel was shot he ran around the houses and then came back onto the porch and that her husband Adam got upset and began yelling at the officer for shooting the dog and she stopped him and said "no, no, and that she gets it". The detective asked her to explain what she meant by "gets it" and she said she understands that when a big dog comes running out he got shot and he wasn't acting aggressive but he was running towards him and she gets it.

Mrs. Nominee advised what scared her the most was they were all close by when the officer shot and it was unacceptable in her opinion. In talking further with Mrs. Nominee she stated that if she was in the officer's place and saw a big dog running at her like that she wouldn't pull out a gun but she would be instantly fearful and that she understands and gets it. This concluded Mrs. Nominee's statement and conversation with the on-call detective. (FOR MORE DETAILED INFORMATION SEE AUDIO TAPED STATEMENT).

The on-call detective then spoke with Adam Nominee and Mr. Nominee also confirmed that the only persons outside on the porch were his wife, his son, and the juvenile from where the domestic situation occurred down the street. Mr. Nominee advised that he knew the police were coming as they had called them for the domestic situation and normally when they are outside with the dog the dog is on a leash and not out running around. He explained that when the officer came walking down the street and the dog saw the officer he took off towards the officer.

Mr. Nominee stated that the officer's point of view was different from theirs and the officer was protecting himself but they knew the dog was only going out to greet the officer but the officer didn't know that but that is how the dog is.

Mr. Nominee further explained that the dog usually runs up to a person and stops and then sniffs the person. He advised that the dog has never bit anyone and that he was the best dog ever but the officer didn't know that. He explained he knew where the officer was coming from though and understands but you can ask anyone about their dog and it's not an aggressive dog. Mr. Nominee did add that it may be different if someone walks into the house uninvited because he didn't think the dog would like that.

Mr. Nominee then described where the officer and dog were when the shooting took place. Mr. Nominee stated that the officer came across the street and stepped up onto the curb area and he pointed out the location and direction which the detective observed to be consistent with the marks that were on the sidewalk. Mr. Nominee stated he saw the officer back pedal away from the dog but that he didn't see the officer fall. Mr. Nominee stated I know the officer is saying he fell and has marks on him but he didn't see him fall and maybe it was due to the fact that he was more concerned about the dog and the gun shot.

Mr. Nominee stated that in his opinion th officer saw the dog going at him and saw that they were yelling at the dog so why didn't the officer decide to do something different other than his gun as the shot could have ricocheted and hit one of the kids and that is the hardest part for him to swallow. Mr. Nominee stated when the dog took off running they immediately started yelling "REBEL! REBEL!" but the dog kept going towards the officer. He stated the officer kept backing up and scrapping his feet along the sidewalk and he pointed out the scrape marks on the sidewalk (see pictures attached later in this report) that were evident and indicated that those were the scrape marks by the officer.

Mr. Nominee again showed him where the officer was by the curb and the dog was at the sidewalk area when the officer shot and it appeared to be approximately 5 feet away from each other. The detective stated that this appears to be consistent with the location of the scuff marks and the cement chip mark and where Mr. Nominee stated the dog was at. Mr. Nominee advised that the dog was stopped when the officer drew his gun but then changed it to the dog slowed down when he saw the gun out because the dog doesn't jump on people and always stops. (FOR DETAILED INFORMATION SEE AUDIO TAPED STATEMENT).

The detective then reviewed the photographs of the entire scene that had been taken before his arrival. The photos covered the entire scene, the areas in the front yard, the scuff marks, mark/chip in the sidewalk, and location of the spent 9mm round and found them all to be consistent to what he had observed upon his arrival. The detective then collected the spent 9mm round in the grass area between the sidewalk and curb area in front of 104 Dallas St.

As the officers and detective were preparing to leave Mr. Nominee called the detective back up to the porch and explained that his wife would like to speak with the officer involved if she could. The officer agreed and the detective and officer approached the porch area. Mrs. Nominee then apologized to the officer for her dog putting him into the situation that it did that she gets it on why it happened. She told him that she heard that the dog was going to make it but may lose his leg and the officer replied that he was glad the dog was going to make it.

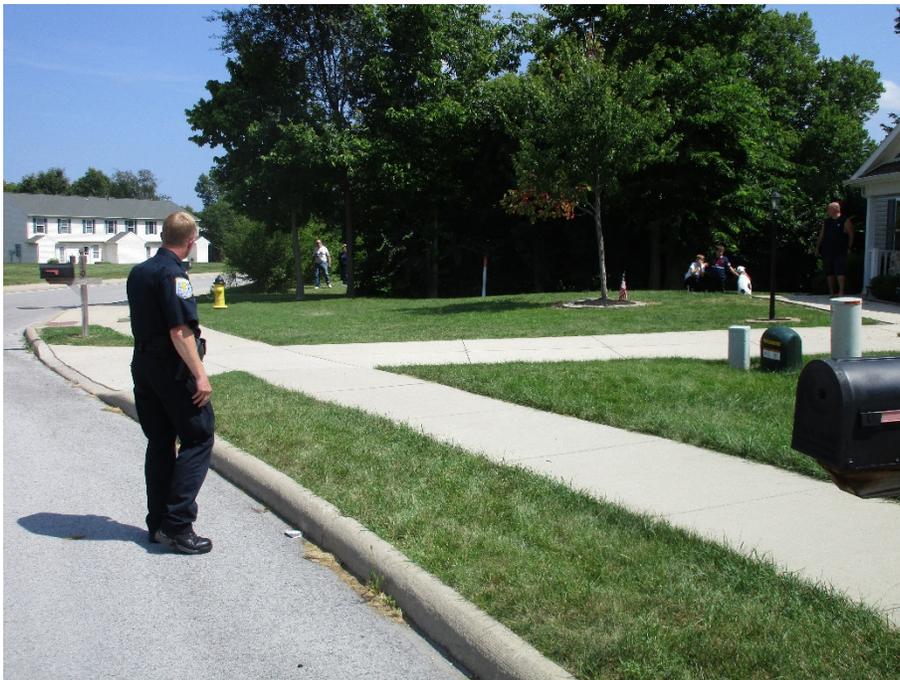
After Mrs. Nominee walked away, Mr. Nominee approached them and he too shook the officer's hand and apologized for what had happened with the dog.

The Seneca County Dog Warden did issue two citations to Mrs. Nominee for Unlicensed Dog and Dog at Large and served her with the citations.

Scene Photos



(110 Dallas St. and at the Angle the Officer Approached)



(Front street lawn area of 104 Dallas St. where officer stepped up onto curb)

Scene Photos



(Property Line for 110 Dallas St.)



(Property Line for 110 Dallas St.)

Scene Photos



(Angle of Officer's Approach)



(Dog was just on sidewalk area in front of porch opening)

Scene Photos



(Officers scrape marks made by boots as he was backing up rapidly)



(Close up of scrape marks and the chip/impact area of round)

Scene Photos



(Grass area that officer backed into and curb can still see scrapes)



(Paper is covering the spent 9mm round)

Scene Photos



(Abrasion and cut to left elbow of officer from falling into street)



(Scuff marks on back of officers patrol shirt after landing on back in street)

Scene Photos

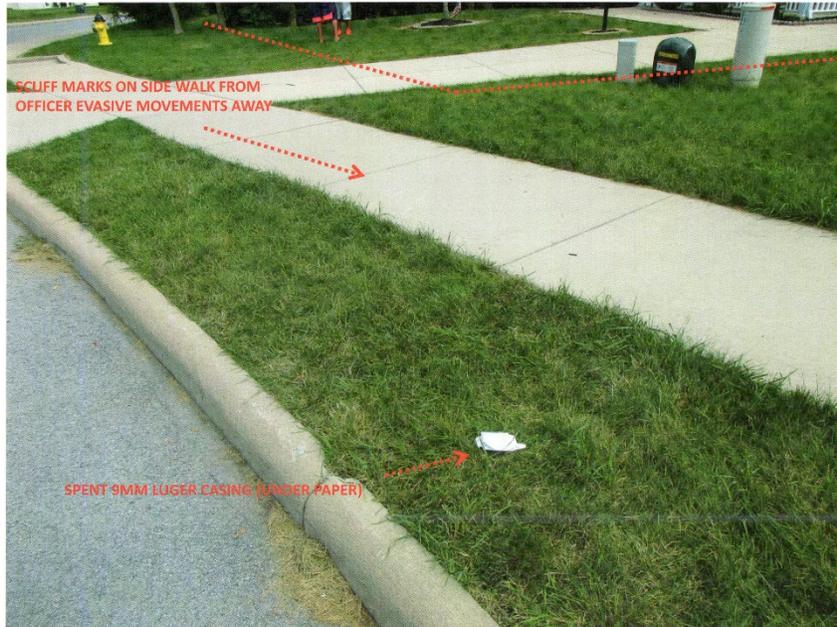


(Property line in red for 110 Dallas St.)



(Property line shown along with scuff marks from officer's boots)

Scene Photos



(Property line shown, scuff marks shown, 9mm spent casing shown)



(Scuff marks shown along with mark 9mm round made on sidewalk)

Scene Photos



(Scuff marks on sidewalk and 9mm round impact mark)



(Close up of the 9mm round and impact mark)

Scene Photos



(Spent 9mm round just next to curb and street area)



(Close up of spent 9mm round in grass)

Use of Deadly Force / Review of Policy

TPD utilized deadly force on August 20th, 2017 in a shooting incident involving an on duty officer, a department handgun and a dog at 110 Dallas St. The chief was contacted and initiated an immediate investigation of the incident per our Response to Aggression policy. This section of the review will lay out the policy sections that are relevant and need to be looked at for the use of deadly force in the shooting of the dog.

Two main concerns about the use of force in this incident are looked at:

- (1) The intentional firing of a departmental handgun
- (2) The training and decision making process of the officer involved

Looking at these concerns will answer several questions as to the appropriate use of deadly force, whether policies and training are enforced, and whether revisions need to be made to existing policies, training and practices.

TPD's current policies and procedures on the firing of a departmental handgun and the use of deadly force is covered in our General Order 50.1 Response to Aggression policy. It takes into account the Ohio Revised Code definitions of risk, substantial risk and reasonable belief and are listed in the policy and defined below:

RISK: A significant possibility, as contrasted with a remote possibility that a certain result may occur or that certain circumstances may exist. [O.R.C. 2901.01(A)(7)]

SUBSTANTIAL RISK: A very strong possibility, as contrasted with a remote possibility or significant possibility that a certain result may occur or that certain circumstances may exist. [O.R.C. 2901.01(A)(8)]

REASONABLE BELIEF: Similar to probable cause in that it is dependent on the specific facts and circumstances within the knowledge of the individual officer. Facts and circumstances which would warrant a reasonable person to exercise the same or similar action.

50.1.2 Deadly Force Response

(A). AUTHORIZED USE OF DEADLY FORCE RESPONSE

Officers are authorized to use deadly force only under the following circumstances:

- (1). To defend themselves from what is reasonably believed to be an imminent threat of serious physical harm or death to the officer(s).
- (2). To defend another person from what is reasonably believed to be an imminent threat of serious physical harm or death.
- (3). A law enforcement officer engaged in suppressing riot or in protecting persons or property during a riot is justified in using deadly force when and to the extent that the officer has probable cause to believe such force is necessary to disperse or apprehend rioters whose conduct is creating a substantial risk of serious physical harm or death to persons. [O.R.C. 2917.05(B)]

(C). DEADLY FORCE RESPONSE PROHIBITED

Deadly force and / or use of firearms shall not be used by officers in any of the following situations, or incidents, or for any of the following purposes, whether on or off duty:

- (1). Misdemeanors, non-violent felonies, or civil infractions.
- (2). Shots shall not be fired from a moving vehicle, or at a moving vehicle unless the provisions of Sec. 50.1.2 (A) or (B) of this policy exist.
- (3). Shots shall not be fired toward, into, or at a crowd or gathering unless the provisions of Sec. 50.1.2 (A) or (B) of this policy exist.
- (4). Deadly force shall not be used for any purpose or in any manner otherwise prohibited in this order, by statute, or legal duty.

(F). APPLICABILITY OF “THE REASONABLENESS TEST”

The Supreme Court in *Graham v. Conner* (1989) ruled that a test of reasonableness must be applied to incidents in which officers use force. This decision will be applied to officers involved in use of force incidents, and is outlined below:

“Quote:

(1). Reasonableness is determined by balancing the nature and quality of the intrusion with the countervailing governmental interests.

(2) Reasonableness analysis contemplates careful consideration of the facts and circumstances of the incident, including:

(a). The severity of the crime at issue.

(b). Whether the suspect poses an immediate threat to the safety of officers and others.

(c). Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

(3). Reasonableness is judged from the prospective of a reasonable officer on the scene, rather than with the 20 / 20 vision of hindsight.

(4). The reasonableness standard must make an allowance for the fact that police officers are often forced to make:

(a). Split-second judgements.

(b). In circumstances that are

(1). Tense

(2). Uncertain, and

(3). Rapidly evolving. “

[*Graham v. Conner*, 490 U.S. 386, 104 L.Ed. 2d 443, 109 S.Ct. 1865 (1989)]

50.1.3 WARNING SHOTS POLICY

WARNING SHOTS PROHIBITED

Generally warning shots will not be fired, and in all cases warning shots may only be fired if the circumstances warrant the use of lethal force. In circumstances where warning shots are authorized and used, the discharged shots must be in the safest direction possible to avoid unintended injury or damage.

50.1.8 RESPONSE TO AGGRESSION REPORTING

(A). RESPONSE TO AGGRESSION / RESISTANCE REPORT FORM

In every incident in which officers are required to use force which exceeds verbal commands and minor physical subject control, a Response to Aggression / Resistance Form must be completed.

NOTE: Minor physical subject control is: guiding or escorting by the arm or hand, handcuffing, use of leg restraints, restraining belts, etc.

(1). The Response to Aggression / Resistance form must be attached to a completed copy of the officers' narrative report detailing the incident. These reports are to be forwarded to the officers' supervisor and through the chain of command for review.

(2). The Supervisors will review the reports, and the entire incident, and make an indication of "Force within Policy" or "Force not within Policy", as appropriate on the Response to Aggression report. If any supervisor feels the use of force was not justified, or outside policy guidelines, a narrative must be attached detailing the reasons. This entire package is forwarded through the chain of command to the Chief of Police.

(3). In the event that an officer, or officers, involved in a response to aggression incident are incapacitated and unable to complete a Response to Aggression Report Form and narrative report, the officer in charge at the time or the on-duty supervisor shall complete these reports and forward them to the Chief of Police as required above.

(B). RESPONSE TO AGGRESSION / RESISTANCE REPORTING LEVEL

Officers whose force response meets the criteria outlined below must complete a Response to Aggression / Resistance Report Form:

- Pointing a weapon (not merely unholstering it).
- Use of pain threshold techniques, with or without a baton.
- Wrestling (standing or on the ground)
- Take down maneuvers.
- Use of chemical weapons / OC Spray or Foam.
- Use of Electronic Stun Devices, or Conducted Energy Weapon.
- K-9 bite
- Strikes with hands, arms, legs, or feet.
- Use of available impact weapons.
- Use of firearms, or any deadly force.

50.1.11 REVIEW & ANALYSIS – RESPONSE TO AGGRESSION REPORTS

(A). RESPONSE TO AGGRESSION / RESISTANCE REPORTS REVIEW

All Response to Aggression Report Forms will be reviewed by the involved officers' supervisor, and forwarded through the chain of command to the Chief of Police, and will be kept on file in the office of the Chief.

(1). Response to Aggression Report Forms will also be reviewed by each supervisor in the chain of command for policy compliance and used in the annual evaluation process.

(B). ANNUAL ANALYSIS – RESPONSE TO AGGRESSION REPORTS

In addition to the immediate review of Response to Aggression reports conducted by officer's supervisors and the Chief, an annual review and analysis of all Response to Aggression reports will be conducted on all reports submitted in the prior 12 months.

(1). **REVIEW RESPONSIBILITY:** The Chief may appoint a review team/officer to conduct the annual review and analysis of all Response to Aggression Reports, or may conduct the review personally. The review team/officer will submit a written report to the Chief of their recommendations and conclusions.

(1). The annual review and analysis is designed to determine if there are any trends or patterns that would indicate a need for any additions to, or changes in the training or equipment provided to officers, or policy issues that need to be addressed in the departments policy and procedure manual.

(2). Upon the conclusion of this annual review and analysis, the Chief shall address any changes needed in training, equipment, or policy and will forward those changes to the training supervisor for inclusion into the policy manual.

50.1.12 FIREARMS REVIEW BOARD

(A). FIREARMS REVIEW BOARD

A firearms review board will review all lethal force shooting incidents.

(B). BOARD COMPOSITION

After collecting all pertinent information concerning the shooting incident, the Chief of Police will convene a firearms review board, which will consist of the following members:

- The Chief of Police, or the City Administrator if the Chief is the shooter.
- One Lieutenant not involved.
- One department firearms instructor.
- One civilian member of the community may be invited by the Chief of Police at his/her discretion to participate on the review board, but a civilian member is not mandatory.

(Must be an actual resident living within the corporate limits of the City.)

(C). RECOMMENDATIONS

The firearms review board is authorized to review the circumstances involved in the shooting incident. The purpose of this review is to determine any of the following recommendations:

- (1). Whether the shooting incident was within the departments' current firearms and use of deadly force policy.
- (2). Any violation(s) of any portion of the firearms or use of deadly force policy, or the rules and regulations of the department.
- (3). Any need for change(s) in procedural or legal wording of the departments firearms and use of force / deadly force policy.
- (4). Any need for change(s) in the current method of firearms training, or in equipment provided to officers.
- (5). Any need for additional firearms training for the department, or for just the involved officer.

(D). WRITTEN REPORT

The firearms review board shall make a written report of all findings and recommendations, which must be unanimous, and signed by all members of the board. A copy of this report will be sent to the involved officer(s), the City Administrator, and all members of the review board. A copy shall also be placed in the involved officers' personnel file, and attached to the use of force report form.

FIREARMS REVIEW BOARD FINDINGS

The use of deadly force on August 20th, 2017 must be looked at in the time frame of the officer involved and what transpired during that very short span of time upon coming into contact with the dog at 110 Dallas St.

The Review Boards purpose is spelled out in General Order 50.1.12 Firearms Review Board policy. Specifically that it will review all shooting incidents and lists the composition and what their duties are.

The Review Board meet on the afternoon of August 23rd, 2017 after the assigned investigative detective's report was completed the previous day. Each of the Review Board member had already read through the officer's reports of the incident on August 20th, 2017, read through the investigative report from the detective and looked through the photos taken at the scene.

The Review Board looked at the 5 areas that are spelled out in the policy section and answered each one:

(1). Whether the shooting incident was within the departments' current firearms and use of deadly force policy.

The Review Board found that the incident was within the departments' current firearms policy and further found that our policies and procedures were nationally accredited in 2003 by CALEA (The Commission on Accreditation for Law Enforcement Agencies). In 2016 TPD started the process of having their policies certified through the Ohio Collaborative Community-Police Advisory Board which is under OCJS (Office of Criminal Justice Services). Chief Stevens serves on the OACP (Ohio Association of Chiefs of Police) board which assists the Collaborative Board when policies are being rolled out as a new Ohio Standard. TPD Obtained Final Certification from the Ohio Collaborative in April of 2017 and one of the standards certified was the Use of Force policy. In addition TPD has contracted with LEXIPOL in February of 2017. LEXIPOL is an online policy manual that works hand in hand with the Ohio Collaborative and IACP (International Association of Chiefs of Police) to ensure that any new changes in Ohio law or standard changes are immediately changed in our policy manual and all officers are notified of it when they log in at the beginning of their shifts and are tested on the new changes.

TPD is listed on the Ohio Collaborative website as one of two agencies in Seneca County that are certified and the link is provided below:

<http://www.ocjs.ohio.gov/ohiocollaborative/cert-le.html>

(2). Any violation(s) of any portion of the firearms or use of deadly force policy, or the rules and regulations of the department.

The Review Board did not find any violations in the incident at 110 Dallas St.

(3). Any need for change(s) in procedural or legal wording of the departments firearms and use of force / deadly force policy.

The Review Board did find that the shooting of the dog or any animal is minimally covered in our Response to Aggression policy. Even though the policy is approved and meets the minimum standards by the Ohio Collaborative and the OACP and IACP we can always add to the policy to make it stronger. In our current policy it is generally rolled into the same wording as if it was a shooting involving a person. The Review Board determined that to make a clear distinction between the shooting of a person and the shooting of an animal a new section should be added and came up with this wording:

Discharges Involving Other Animals

(1.) Police officers shall not discharge their firearms at a dog or other animal except to protect themselves or another person from physical injury and there is no other reasonable means to eliminate the threat, or when acting consistently with existing Department guidelines authorizing the humane destruction of deer or other sick animals within the city limits.

(4). Any need for change(s) in the current method of firearms training, or in equipment provided to officers.

The Firearms Review Board looked at the bi-monthly shooting exercises or yearly qualifications and noted that TPD just completed Judgmental Shooting Training (Shoot/Don't Shoot scenarios) in December of 2016 which puts the officers into critical thinking scenarios and the use of force levels including deadly force. No issues were seen with current firearms training.

(5). Any need for additional firearms training for the department, or for just the involved officer.

The Firearms Review Board did not find any additional training than what is currently given as stated above in question number #4 was needed. In looking at the specific training of the involved officer on not only firearms, but any critical thinking or critical incident training, the following was noted in his training file:

- Hired in 2000 (17 years on the department)
- SRT Basic Training in August 2001 (Special Response Team)
- Sniper/Observer Training May 2001
- Tactical Assault Rifle Training April 2002
- Firearms Requalification Certification June 2002
- Firearms Instructor Certification August 200
- Weapons Retention Shot Avoidance Training August 2002
- Colt Armorer Course October 2003
- Advanced Sniper Certification September 2006
- Tactical Submachine Gun Instructor October 2006
- Firearms Requalification Certification February 2007
- Glock Armorer Course February 2007
- Active Shooter Instructor Training April 2007
- Tactical Officer Training May 2007
- Firearms Training Simulator Certification (Shoot/Don't Shoot) October 2007
- SRT Advanced Tactical Training April 2008
- SRT Advanced Tactical Training October 2008
- Advanced Tactical Training by Ohio Tactical Association May 2009
- Scoped Rifle Operator Course June 2011
- Advanced Tactical Training by Ohio Tactical Association May 2012
- Critical Incident Training December 2012
- Combat Marksmanship Training February 2013
- First Responder to Active Shooter Training February 2013
- Law Enforcement Sniper Rifle Training May 2013
- Firearms Instructor Certification June 2013
- Precision Rifle Certification March 2014
- Active Shooter Response Instructor Course (SOAR) May 2014

- Defensive Shooting Course May 2014
- Crisis Intervention Training November 2014
- Crisis Conflict Management Training May 2015
- Elevated Platform and Move & Shoot Training June 2015
- Practical Live Fire Patrol Rifle Certification June 2015
- First Responder Firearms & Tactical Certification June 2015
- Firearms Instructor Requalification Certification March 2016
- Firearms Instructor Medical Considerations Training May 2016
- Patrol Rifle Instructor Course (which includes decision making) July 2016
- Master Pistol Instructor August 2016
- Master Rifle Instructor August 2016
- Glock Armorer's Course updated training October 2016
- Remington 870 Armorer Course Certification December 2016
- Firearms Judgmental Shooting Simulator December 2016
- Companion Animal Encounters (Mandated Ohio Training) March 2017
- Tactical Shooting Instructor Training July 2017

The Review Board noted the extensive training over the course of 17 years for the involved officer that deals with either firearms, firearms safety, firearms instructor, tactical or critical thinking/judgmental shoot/don't shoot training. Also the Review Board took note of the Ohio Mandated training by all Ohio peace officers on Companion Animal Encounters the officer just completed in March of 2017. This training is described by OPOTA (Ohio Police Officer Training Academy) which is part of the Ohio Attorney General's Office as:

“This training is required for all law enforcement officers in Ohio. There are approximately 77.8 million dogs owned in the United States and are likely to be encountered in 44% of residential locations. There is no scientific evidence indicating one breed of dog is more likely to bite or injure a human being than any other breed. This course will define what a companion animal is, the statutory elements of animal cruelty and the penalties. Officers should always look for signs a dog may be present, assess the risk based on a dog's behavior which include a relaxed dog, a defensively threatening dog and an offensively threatening dog. Officers will be presented various options available to them in handling a threat from a companion animal and how to respond to a dog related incident.”

Legal Justification of Shooting

When investigating any on duty shooting one of the areas of investigation will be to determine if the shooting was legally justified with the facts at the time of the incident. A search of both Ohio State Law and Tiffin City Ordinances bring up the below relevant laws/ordinances:

Tiffin City Ordinance

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE

(a) No person being the owner or having charge of cattle, horses, swine, sheep, geese, ducks, goats, turkeys, chickens or other fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands or upon the premises of another. (ORC 951.02)

(b) No owner, keeper or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper or harbinger at any time the dog is in heat, unless the dog is properly in leash.

(c) No owner, keeper or harbinger of any dog shall fail at any time to keep it either physically confined or restrained upon the premises of the owner, keeper or harbinger by a leash, tether, adequate fence, supervision or secure enclosure to prevent escape, or under reasonable control of some person. (ORC 955.22)

(d) The running at large of any such animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section. (ORC 951.02)

(e) Whoever violates this subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 951.99)

(f) (1) Whoever violates subsection (b) or (c) hereof is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.

(2) In addition to the penalties prescribed in subsection (f)(1) hereof, if the offender is guilty of a violation of subsection (b) or (c) hereof, the court may order the offender to personally supervise the dog that he owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both. (ORC 955.99)

Ohio Revised Code

955.28 Dogs may be killed for certain acts – owner liable for damages

(A) Subject to divisions (A)(2) and (3) of section 955.261 of the Revised Code, a dog that is chasing or approaching in a menacing fashion or apparent attitude of attack, that attempts to bite or otherwise endanger, or that kills or injures a person or a dog that chases, threatens, harasses, injures, or kills livestock, poultry, other domestic animal, or other animal, that is the property of another person, except a cat or another dog, can be killed at the time of that chasing, threatening, harassment, approaching, attempt, killing, or injury. If, in attempting to kill such a dog, a person wounds it, the person is not liable to prosecution under the penal laws that punish cruelty to animals. Nothing in this section precludes a law enforcement officer from killing a dog that attacks a police dog as defined in section 2921.321 of the Revised Code.

(B) The owner, keeper, or harbinger of a dog is liable in damages for any injury, death, or loss to person or property that is caused by the dog, unless the injury, death, or loss was caused to the person or property of an individual who, at the time, was committing or attempting to commit criminal trespass or another criminal offense other than a minor misdemeanor on the property of the owner, keeper, or harbinger, or was committing or attempting to commit a criminal offense other than a minor misdemeanor against any person, or was teasing, tormenting, or abusing the dog on the owner's, keeper's, or harbinger's property. Additionally, the owner, keeper, or harbinger of a dog is liable in damages for any injury, death, or loss to person or property that is caused by the dog if the injury, death, or loss was caused to the person or property of an individual who, at the time of the injury, death, or loss, was on the property of the owner, keeper, or harbinger solely for the purpose of engaging in door-to-door sales or other solicitations regardless of whether the individual was in compliance with any requirement to obtain a permit or license to engage in door-to-door sales or other solicitations established by the political subdivision in which the property of the owner, keeper, or harbinger is located, provided that the person was not committing a criminal offense other than a minor misdemeanor or was not teasing, tormenting, or abusing the dog.

Effective Date: 07-10-1987; 2008 HB71 09-30-2008

Conclusion of Firearms Review Report

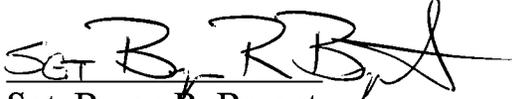
Although it is a tragic and unfortunate incident whenever an officer has to use their duty weapon in a deadly force incident it will ALWAYS be investigated to ensure that it is warranted, legal and justified. The Review Board completed a thorough review of the dog shooting incident on Wednesday August 23rd, 2017 just 3 days later, after all investigation of the incident was completed. They accomplished their review by:

- Reading the reports of the officers involved.
- Reading the report of the investigating detective,
- Listening to the audio statements made by the two adults present at the time of the incident
- Matching that with the detectives written report of their statements
- Reviewing the photos taken at the time directly after the shooting
- Reviewing current Ohio State Law & Tiffin City Ordinances
- Reviewing current TPD Policies & Procedures dealing with Use of Force
- Reviewing the involved officer's training when it comes to firearms and critical/judgmental decision making
- Reviewing the incident as a whole to see if proper procedures were followed after the shooting

It is the determination of the Review Board that the officer involved shooting of a dog at 110 Dallas St. is not only justified within the TPD Policies and Procedures, in both the response of force used and training concerns, but also justified legally under current Ohio State Law 955.28 and Tiffin City Ordinances 505.01.


Chief Fredrick W. Stevens


Lt. Jason D. Windsor


Sgt. Bryan R. Bryant

Conclusion of Review by the Chief

As the head of the Tiffin City Police Department it falls on me to make sure that officers are trained, have the equipment and are following the policies and procedures, constitutional laws and requirements, state laws and city ordinances. That is the easy part of being a Chief. The harder part is bridging the gap between the need for law enforcement actions in the community and in today's highly charged climate answering the tough questions about a particular response.

One of the areas that the police department can do better in is making sure the community is better aware of the leash laws and dog at large laws within the city limits and their penalties for non-compliance. Including education on what to do with your pets when you know that officers are coming to your residence either because you called for an officer or it is an emergency situation.

Part of that education can be dispelling myths and mistakes that owners make in believing that since their pet has never bitten or attacked anyone or shown aggression towards anyone or another animal that they won't towards an officer. Animals are excellent at picking up on the chemistry of those around them, mainly being the owners themselves. So if there is heightened tension, excitement, nervousness or emotions in the vicinity of these animals they go on alert status. Dogs especially are pack animals and protective towards their "humans" who they love unconditionally. An approaching officer can be perceived as a threat to the animal and they are only acting on genetic code when they rush forward or act aggressively which to the owner is normal behavior they have witnessed before.

With seconds to react and having no out an officer can be forced to make a split decision which includes being attacked, mauled, injured, seriously injured, to include permanent and possibly disabling injuries or death. The what ifs also apply to the law enforcement side and are born out with incidents that show when other means were attempted at fending off rushing dog it either had no immediate effect or didn't work. There are cases on both sides that say tasers or mace do work but it is not consistent. In some tasers cases there have also been studies to show that they can kill dogs especially medium to smaller size dogs due to the device being calibrated for a much larger human being size so the conducted energy kills the animal.

This incident was extremely unfortunate and one that is not common at all to the Tiffin Police Department. We certainly empathize and sympathize with the owners, their children and citizens who read about the incident and had questions about the handling of it. The officer involved is upset as well as he is a pet owner who has owned dogs in the past. The department as a whole are animal lovers and have pets of their own and this is not taken lightly or something that any of the officers are expecting to happen on any call for service they go on.

Having said that the ability to protect one's self from a perceived danger of being attacked or injured by a dog is also extended to a police officer in the course of their duties. Ohio Legislation bears that out as noted earlier in this report. It shouldn't be the norm or the go to method either and will always be investigated with the facts given for any particular case. If an officer is found to have violated any one of the respective policies and procedures or violated any law then they will be held accountable and the department would be responsible for any said damages or bills for injuries. In this case no Ohio Laws or City Ordinances were violated. No policies or procedures were violated either.

The investigation was thorough and showed the location of the shooting to be on Public Property and the dog to be running at the officer rapidly. The officer had mere seconds to react and his first reaction was to back up and give distance to the dog running at him and let the owners try to gain control of their dog with their verbally shouted commands which by their own admissions their dog ignored. The officer then had no car or item to place between himself and the charging dog and was falling backwards which would have left him in an exposed position on the ground without the ability to keep his head, throat, face or fingers away from the dog should it start biting him.

The officer took the only action that he felt was right given the mere seconds to react to the chain of events put before him. This could have all been avoided by simply making sure the dog was put inside the residence especially knowing that officers were coming to talk to them or at a minimum put it on a leash. By the owners own admissions they stated that their dog runs up to everyone to greet them. Had either of these two options been employed by the owners then this unfortunate incident would have been avoided. I am grateful to find out that the dog is only injured and not deceased from the shooting and that it just returned home. As a dog lover myself I can appreciate that but I can also see the facts as laid out in this report and understand the reasonable actions the officer took.