

INTERNAL AFFAIRS INVESTIGATIVE REPORT

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File Class: IA INVESTIGATION**Date Occurred:** 05/09/2014 **Date Reported:** 05/13/2014**Comp Type:** INTERNAL**IA#:**14068**Location:** 3500 NE 15TH ST
GAINESVILLE FL**Date IA/PSD:** 05/14/2014 **Date to Chain:****Date to Chief:****Date Expired:** 11/10/2014**Status:** Reop**Status Date:** 07/23/2014 **Assnd To:** WEILAND, J. M.ASSOCIATED NAMESSO KERKAU, JEFFREY D
DEMONSTATION PARAMETERS

Sex:M Race:W Action:POLICY REVIEW OF CANINE PUBLIC

ALLEGED RULE OF CONDUCT VIOLATED-----CLOSURE

Safety Rule Violation

Unfounded

CO LITCHFIELD, BRADFORD L

Sex:M Race:W Action:NONE

SUMMARY/NOTES

On May 15th, 2014, the Internal Affairs Division received an Administrative Investigation Referral Form from Sergeant Brad Litchfield related to an incident that occurred during a public canine demonstration at Rawlings Elementary School during a school carnival. According to the complaint form, a child attending the event was unintentionally bitten by K-9 "Roo" while the child was watching the demonstration. At the time of the occurrence Canine Officer Jeff Kerkau was completing the demonstration with his canine partner "Roo" and Officer Ryan McCazzio was assisting. The administrative investigation was assigned to Sergeant Weiland. The scope of this investigation was to determine if there were any policy and/or procedure violations related to the incident on the part of any members of the Gainesville Police Department.

The incident was documented under Gainesville Police Department case number 02-14-09005. There were several witnesses identified and interviewed as a part of the original investigation. Photographs were also taken which included the site location where the incident took place as well as the injuries to child. All documentation and photos of this incident were reviewed as a part of this investigation.

During the Internal Affairs investigation, attempts were made to contact all of the individuals identified in the original report. Attempts were made to all identified witnesses but some were not contact information not being up to date. Several witnesses, however, were still contacted and interviewed as a part of this investigation to include both adults and juveniles who were attending the event. Several members of the Gainesville Police Department were also interviewed to include Officer Ryan McCazzio, Officer Charles Owens (K-9 Unit trainer), Sergeant Bradley Litchfield (K-9 Unit supervisor), and Officer Jeff Kerkau.

Based upon the investigation and subsequent interviews, below is synopsis of what occurred: A request was made for a canine demonstration at Rawlings Elementary School, 3500 NE 15th Street, as a part of a school festival. The festival was to take place on May 9th, 2014. Although the festival took place after regular school hours it was a school sponsored event. Canine demonstrations are completed for various groups and civic organizations to display the

role of the canine unit and are utilized to educate the public as to the responsibilities of the canine teams. Canine demonstrations have been conducted since the inception of the GPD Canine Unit and were established as a community outreach program for the Gainesville Police Department. Officer Kerkau was assigned to conduct the canine demonstration with his K-9 partner "Roo". Officer McCazzio was attending the event as he is a Community Resource Officer and assisted Officer Kerkau with the canine demonstration. Officer McCazzio is a former GPD canine handler so he was familiar with canine demonstration procedures.

There was a significant crowd at the event well in excess of 200 people, a majority being elementary school aged children. Some school staff and other adult family members were also in attendance. Due to the large crowd, the decision was made by Officer Kerkau to conduct the canine demonstration in a fenced playground on the west side of the school property. The playground is surrounded by a five foot chain link fence and was determined to create a safe barrier to the crowd. Prior to the demonstration music was being played over loudspeakers but that was turned off once the canine demonstration began. Officer Kerkau parked his patrol vehicle on the south side of the fenced playground and brought K-9 "Roo" into the fenced area to conduct the demonstration.

Officer Kerkau with Officer McCazzio assisting conducted the canine demonstration. Officer Kerkau demonstrated an obedience session with K-9 "Roo" showing both on and off leash exercises. Next he demonstrated an article search. Officer McCazzio hid a set of keys and the dog located them to demonstrate the dog's detection abilities. Next a criminal apprehension was demonstrated. Officer McCazzio was wearing a protective sleeve and simulated a scenario as if a suspect was trying to flee from an officer. K-9 "Roo" performed the tasks efficiently according to Officer Kerkau. This was confirmed in all of the witness interviews as well. All indicated that from their point of view, K-9 "Roo" did a fine job and exhibited no aggressive or non-compliant behavior. This was even with the large number of onlookers, several of whom were school children, who were being loud and boisterous during the event.

Officer Kerkau made the decision to conduct an area search with K-9 "Roo", because the other exercises had went well and he wanted to show how the dog searched for suspects. He felt it was safe to do so because the demonstrations was in a fenced off area. The exercise simulated a situation where a suspect was hiding in a secure area, such as a fenced compound with the goal of the search being to locate and either apprehend or to identify the suspects location by barking at them. Officer Kerkau described what was going to take place to the audience and then demonstrated the search. He sent K-9 "Roo" to search for Officer McCazzio. Officer McCazzio hid behind a large slide out of the view of the police dog. He was wearing the protective bite sleeve. K-9 "Roo" began the search looking for Officer McCazzio.

As K-9 "Roo" was traveling along the fence, Officer Kerkau noticed that a juvenile male, later identified as [REDACTED], began shaking the fence and yelling at K-9 "Roo". Initially it did not appear that "Roo" was aware of [REDACTED] actions as he stayed focused on the search. Officer Kerkau testified that he yelled towards [REDACTED] to stop shaking the fence but he was unsure if [REDACTED] had heard him. It was at this point that K-9 "Roo" lifted his head and looked towards [REDACTED]. K-9 "Roo" was directly beside the gate. Simultaneously the gate which [REDACTED] was shaking began to come open. [REDACTED] turned around and started to run. K-9 "Roo" reacted and then ran through the partially open gate and after [REDACTED]. At this point it was obviously a very chaotic scene with people running around and screaming. Officer Kerkau observed what happened and tried to recall "Roo" but was unable to get a response, likely due to the noise from the crowd. K-9 "Roo" then caught [REDACTED] on his thigh causing him to fall to the ground. Officer Kerkau ran over as quickly as he could and thrust his hand into "Roo's" mouth trying to limit the pressure of his bite. He then ordered "Roo" to release his hold. The bite occurred approximately three to four feet away from the open

gate.

██████████ was taken to the office. ACFR responded to the school and transported the child to Shands Hospital to be treated for his injuries. ██████████ received a bite on the right thigh and as a result received punctures on his thigh area. Officer Kerkau followed Canine procedure policy for when a person is bitten by a police dog by notifying his canine chain-of-command. On-duty Operations personnel also responded to the location and completed an incident report as well to take photographs of the scene and the injuries to ██████████.

The obvious question to be answered is what caused the gate to become open, which in turn resulted in ██████████ becoming accessible to the police dog. First the fence and gate itself must be discussed. The opening to enter the playground is large enough for a vehicle to pass through. The opening has two swing gates, both of which are equal in length. Centered between the two swing gates is a post which is anchored into the ground. One swing gate is affixed to the post and can only be opened by lifting the center post out of its anchor in the ground. The other gate swings freely and the latch prevents it from opening. At the very top of the post is a latch, which keeps the free swinging gate from opening.

No one interviewed during this investigation could concretely indicate how the swing gate became open. However, all witnesses interviewed indicated that many children, including ██████████, were shaking the fence and gate. No one observed anyone actually lift the latch, only that it just swung open. Juan Ibanez testified that he noticed the children shaking the gate and actually picked up his child because he felt that it could potentially open. Seconds later it did partially open, and K-9 "Roo" was able to push through the opening. Other witnesses to include, Emanuel Shuman, Emreail Shuman, Brillion Walker and Bridgette Walker confirmed that some of the children had climbed onto the fence to include ██████████. All stated ██████████ was shaking the gate prior to it becoming opening. No one believed ██████████ intended for the gate to open, only that it did become ajar at some point, and that it was likely a result of being shaken. No one testified that the police dog somehow opened the gate, only that he was in close proximity to it when the gate opened. This was consistent with Officer Kerkau's testimony, that the gate opened as a result of the child and not K-9 "Roo".

In their interviews, Juan Ibanez, Bridgette Walker and Tonia Josey, all adults who were attending the event with their children, described some of the children watching the demonstration as acting unruly. They all were consistent in their interviews stating that some children were yelling, shaking the fence, and climbing on the fence as well. They observed that some of this behavior by the children was being disruptive to the demonstration. They were also surprised by the lack of supervision at the event. They stated there many adults at the event, both parents and school staff, but none appeared to be directly dealing the children during the canine demonstration. Ms. Josey stated she had become so frustrated with the behavior that she ended up walking away in the middle of the canine demonstration because she could not hear what Officer Kerkau was saying. Ms. Walker also testified to being surprised by the lack of supervision. In watching the demonstration, all stated that they observed nothing that would indicate that the police dog was not compliant to his handler during the prior exercises. They were all consistent in their testimony that ██████████, was shaking the gate and yelling in the direction of the police dog. No one interviewed could say what exactly ██████████ was saying, just that he was yelling in the direction of the dog. Although none one felt that it was his intent to have the police dog focus on him, they did feel that ██████████ behavior contributed to the situation. All described the situation as an unfortunate accident that should not have taken place.

Contact was made with ██████████ ██████████, ██████████, by telephone in the attempt to complete an interview of his son, ██████████. When contacted ██████████ ██████████ requested I contact Mr.

Robert Rush, who was identified as the attorney representing his family. Contact was made with Mr. Rush and after consulting his client an interview was declined. The decision was based upon [REDACTED] young age of seven and the potential trauma it may cause to him to discuss the situation again.

Officer Kerkau was interviewed on August 12th, 2014, and provided sworn testimony associated with the investigation. Officer Kerkau's testimony was consistent with other witnesses. Officer Kerkau was questioned about the behavior of the children. He described the children as being loud but felt they were more excited about seeing the demonstration. Due to the sheer number attending and him being focused on his canine partner he did not notice anything that was excessively disruptive. Officer Kerkau stated that after each exercise there would be loud applause and some yelling, he felt there was nothing disruptive to the point of discontinuing the demonstration.

In describing the events leading up to [REDACTED] being bit Officer Kerkau provided the following testimony. Officer Kerkau stated he performed the other exercises to demonstrate police dogs abilities and to simulate realistic tasks that they perform on a regular basis. Officer Kerkau testified that K-9 "Roo" did exceptional during the exercises so he decided to demonstrate an area search. He felt that it could be accomplished safely since there was a five foot fence separating the onlookers from the demonstration. Officer Kerkau described what was going to take place to the crowd and then demonstrated the search. He sent K-9 "Roo" to search for Officer McCazzio who was wearing a protective bite sleeve. Everything seemed to be fine and K-9 "Roo" was beginning to follow Officer McCazzio's scent trail. As K-9 "Roo" was paralleling the fence Officer Kerkau noticed a child ([REDACTED] [REDACTED]) shaking and yelling in K-9 "Roo"'s direction. This caused K-9 "Roo" to shift his focus on [REDACTED]. As Officer Kerkau recognized what was taking place and before he had an opportunity to react, the gate which [REDACTED] was shaking began to open. [REDACTED] turned around and started to run. K-9 "Roo" responded by running through the partially opened gate and caught and bit [REDACTED]. He ran over to [REDACTED] and placed his hand into "Roo's" mouth to relieve some of the pressure and then had "Roo" release his hold. Officer Kerkau stated because it happened so quickly he did not have sufficient time to stop it from taking place.

Officer Kerkau stated this was the last thing he ever wanted to occur during a canine demonstration. He stated he was shocked by what took place as he has performed multiple public demonstrations during his tenure on the K-9 Unit and in similar situations with similarly aged children and nothing like this had ever happened. Officer Kerkau stated he has run the incident in his mind constantly since it took place and felt that there was nothing that he could have done to prevent it from happening beyond just not doing the area search demonstration all together. He felt at the time that the five foot fence created a safe barrier during the previous exercises and there was nothing foreseen that would have given an indication that it would not continue to do so. That being said Officer Kerkau stated that he was completely remorseful to what had happened to [REDACTED].

In conducting this investigation, there was no evidence to suggest that there were deficiencies or aggression issues with how K-9 "Roo" reacted to this situation. Police dogs are conditioned to react in certain ways in certain situations. K-9 "Roo" reacted the way he did because of the situation that was presented to him. The goal of an area search is to seek out and locate a potentially dangerous suspect. When [REDACTED] began shaking the fence and yelling in the direction of the police dog, K-9 "Roo" believed this was part of the exercise and responded as such. The fact that [REDACTED] was a child has no bearing in the police dog's mind. When a police dog apprehends a suspect it is a conditioned response similar to teaching a domesticated dog to sit, down, shake, etc. The police dog does not feel anger, hate or bias towards that person, they are simply reacting to a situation as trained, nothing more. An example of this was shown during the demonstration that day. K-9 "Roo" apprehended Officer McCazzio during an exercise, biting him on a protective sleeve. After being bitten,

Officer McCazzio was able to pet and socialize with K-9 "Roo" without any aggression being exhibited. This demonstrated the conditioned behavior response and showed that K-9 "Roo" did not feel any ill will towards Officer McCazzio even though he had just apprehended him with a bite.

Regarding Officer Kerkau and K-9 "Roo's" past performance as a Canine Team, Officer Kerkau and K-9 "Roo" have certified annually by meeting all Florida Department of Law Enforcement requirements, since receiving their initial K-9 Team training in 2012. In May 2014, after this incident took place, the K-9 team was evaluated again and once more satisfied all requirements as required by FDLE. In addition, the entire Canine Unit, including Officer Kerkau and K-9 "Roo", were assessed by Lieutenant Frank Glover, Lee County Sheriff's Office Canine Unit Commander as well as a certified Expert Witness in the field of police dog work. Overall, he was satisfied with the training and leadership associated with GPD's Canine Unit. He wrote the following as a result of this review:

Based on the information I have reviewed as well as my personal observations, I believe the Gainesville Police Department Canine Unit has adequate supervision/training. This direction and leadership would place them in an above average category.

CONCLUSION

The scope of this investigation was to determine if there were any policy and/or procedure violations related to the incident by any members of the Gainesville Police Department, particularly on the part of Officer Kerkau and his K-9 partner "Roo". As a result of the comprehensive review, it was determined that there was no misconduct associated with the unintentional bite of [REDACTED] by K-9 "Roo", during a canine demonstration at Rawlings Elementary School on May 9th, 2014. As a result the allegation against Officer Kerkau of not following safety protocol is unfounded. This incident can only be described as a complete misfortune and accident. Clearly it was not the intent of Officer Kerkau for K-9 "Roo" to bite [REDACTED]. The fence likely opened as a result of gate being shaken. K-9 "Roo" likely reacted the way he did because of the situation that was presented to him. Because K-9 "Roo's" was in close proximity to the fence when it opened there was not adequate time to react to prevent this from taking place.

POLICY REVIEW

It is recommended that the Canine Unit supervision, trainers and GPD Chain of Command review and update the current canine policy and procedures manual with regards to police canine demonstrations. As identified by the adult witnesses, there was inadequate staffing based upon the number of children attending the event. The number of onlookers was described as somewhere between 200 to 300 people. Officer Kerkau and Officer McCazzio were the only Gainesville Police members participating in the canine demonstrations. Based upon the number of onlookers, particularly being made up of elementary aged children, more staff was required. The target group must also be considered when providing these demonstrations. It would be recommended when being scheduled, the organization requesting the demonstrations have adequate staff to monitor the group as well, taking into consideration the . Additional personnel should be assigned to future events, whether canine or other departmental members, to solely monitor the onlookers of a demonstration. They can likely catch any safety concerns quickly and negate any issues from occurring.

In addition, currently there is nothing specific in the Canine Policy addressing what specific tasks can be shown or not shown during the Canine demonstrations. There is also nothing in the policy that identifies how the teams are deployed during these exercises. It is recommended that a policy review be completed and a plan be implemented to address these concerns. This could cover the expectations of the handlers, what equipment should be utilized and how they teams are deployed during the events.

Again these recommendations are not trying to make the indication that there were deficiencies on the part of members of Canine Unit during the above incident, it is just recommendations to prevent similar occurrences taking place. Canine demonstrations are an important function and historically are one of the most requested GPD units from various public and civic organizations. Annually, the Canine Unit completes seventy-five to a hundred public demonstrations and nothing similar has taken place in previous events. The positive public image these demonstrations fulfill are far outweighed by this unfortunate event that occurred during this demonstration.

"I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes"

IA#:14068

IA Investigator:

Sgt. [Signature]

DATE:

08/20/14

IA Commander:

[Signature] #410

DATE:

8/20/14

Bureau Commander:

[Signature] 126

DATE:

8/20/14

Major:

[Signature] 251

DATE:

8-20-14

Chief of Police:

[Signature]

DATE:

8-20-14