

NAMPA POLICE DEPARTMENT OFFICE OF PROFESSIONAL STANDARDS

INTERNAL INVESTIGATION

Investigation: 14-08

Date of Investigation: February 13, 2014

Date of Report: February 26, 2014

CR#: 1400015 (Filer Police)

Investigator: Sgt. Tim Randall

Subject(s) of Investigation: Officer Tarek Hassani

Complaint Documentation: Formal Informal Inquiry Explained

Summary of Incident: On February 8, 2014 Officer Tarek Hassani (Filer Police Department) responded to a dog at large call. Officer Hassani met with the reporting party who advised him that a neighbor's dogs had been in her front yard. The reporting party told Hassani the dogs are always out and in her yard. She told Hassani the dogs are unfriendly and have acted aggressively towards her and her children.

Officer Hassani responded to the dogs owner's home and as he pulled up in front of the house the two dogs met him at his car. As Hassani exited his car the dogs began barking, snarling, and acting aggressively toward him. Hassani states in his report he had to kick the dog to get it away from him. Officer Hassani states in his report, "I finally felt a fear of being bit by the black dog so for safety I shot the black dog."

The City of Filer and ICRMP requested our agency to do an independent internal investigation of the situation.

Summary of Investigation:

Review of Officer Hassani's in-car video:

Officer Hassani parks in front of the house and two dogs approach from the front porch. One appears to be a Black Labrador and the other a Golden Retriever. As Hassani is getting out of his car I can see both dogs in front of his car. The dogs then walk in the direction of the driver's door. I hear Hassani say, "Get". I can hear the dogs barking, growling and snarling. As Hassani walks in front of his car, in view of the camera, he has his handgun in his hands and is pointing it at the dogs. The dogs then back up to the sidewalk and are still barking. As Hassani approached the sidewalk the black dog lunges at him. Hassani kicks at the dog and the dog backs up onto the front lawn. Hassani then

walks on the sidewalk to the driveway to approach the house. Both dogs are still facing and barking at Hassani. Hassani is facing the dogs and still has his gun pointed at them. As Hassani gets to the driveway the black dog lunges at him again and the dog's mouth is approximately 2 feet from Hassani's out stretched hand. The tan dog is just slightly behind the black dog. Hassani takes two steps to his left and the dog moves with him maintaining the same distance of about 3 to 4 feet. The black dog is still barking and snarling at the officer. The officer fires a single shot striking the dog. At the time the shot is fired the black dog appears to be within three to four feet of Hassani. The tan dog is just slightly behind the black dog. The wounded dog flails on the ground and then limps out of view. The tan dog runs into the street and circles around behind the officer then runs out of view of the camera.

Officer Hassani gets on his radio and tells dispatch the he has just shot a dog and to notify 1600. Hassani walked to the front door, out of view of the camera. Officer Hassani knocks on the front door and makes contact with Richard Clubb, the resident and owner of the dogs. Hassani asked Clubb who the owner of the dogs is and Clubb yells, "me, you don't have to yell at me". Hassani replied, "I just shot your dog because he tried to bite me." "I came here for a fucking call and it tried to bite me." While this conversation is occurring I can see on the camera a small brown dog running around in the front yard. While Hassani and Clubb are arguing I hear Hassani say, "Put your hand in my face again and I will take to jail." Hassani asked for Clubb's identification and Clubb refused. Hassani told him to give him some identification or he would take him to jail for obstruct and delay.

Officer Hassani told Clubb that he was sorry he had to shoot his dog. He told Clubb that his dog would not let him walk up to the front door. He told Clubb that he had on his audio the dog being aggressive and growling at him. Hassani told Clubb that the last time he got bit by a dog he ended up in the emergency room and had received sutures in his hand. Hassani tells Clubb that he does not know his dog and said it might be the friendliest dog in the world but might also be the dog that rips the bottom of his leg off and ends up in the emergency room. He told Clubb he is not his neighbor and does not know his dogs. Hassani tells Clubb that the dog was aggressive, barking, snarling, and showing his teeth. Hassani tells him that he had to kick at the dog to keep him back. Hassani told Clubb the dog kept charging at him so he shot it. Hassani explained to Clubb there is a city ordinance and his dogs must be on a leash when they are out of the house.

Officer Hassani returns to his car, called someone on the phone and asked for the city code for dog at large. Hassani told the person on the phone that as he got out of his car the dog was growling at him and every time he tried to walk the dog would get behind him. Hassani told the person on the phone that he did not want to get bit. Officer Hassani returned to the house and issued Clubb a summons for dog at large.

Officer Hassani left the area then met with another officer around the corner (the vehicle appears to be a county unit). Hassani tells the officer that he talked with the reporting party then went to talk with the owner of the dogs. He said two dogs came around him growling and snarling. He said he kicked the dog, it came back again and he kicked it again. Hassani told the officer that the dog lunged one more time then he said, "Fuck you, so I just shot it."

February 16, 2014, I met with Allie Freeborn. She said the Clubb family moved in down the street about a year ago and they started having problems with their dogs immediately. Freeborn said the Clubb's would walk their dogs past their house and allow them to go to the bathroom on the lawn. Freeborn said her husband confronted them about their dogs and they refused to clean up the mess. Freeborn stated there have been numerous times when the dogs have been out. Freeborn said they talked with Rick Clubb, about his dogs, several times. She said she has called the police three times. Freeborn said the dogs have been aggressive to her family on several occasions and she will not let her children play outside for fear of attack by the dogs. Freeborn said the first two times she called police Chief Reeves showed up and this time Officer Hassani showed up. Freeborn said the first two times Chief Reeves talked with the Clubb's and warned them about their dogs being at large. She said after Chief Reeves left Rick Clubb went to a neighbor across the street and bragged that the police would not do anything.

Freeborn stated that on February 8, 2014 there was a Black Labrador and a Golden Retriever in her yard that belonged to Rick Clubb. She said she called police and Officer Hassani responded to the call. Freeborn said she did not see the shooting of the dog. Freeborn said that 45 minutes after the shooting of the dog the Golden Retriever was in her back yard trying to fight with her dog.

February 16, 2014 I met with Rick Clubb the owner of the dog. Clubb stated he moved to Filer about a year ago from Riverside California. He said when he first moved in he did not have his back yard fenced and it was hard to keep his dogs at the house. He said he had several complaints from the neighbor behind him. Clubb stated most of the people on the street don't like him and when his dogs get out they call the police. Clubb stated that police have only been to his house on one previous occasion. He said Chief Reeves came to his house and warned him about his dogs being out. He said Chief Reeves told him if the dogs got out again he would give him a citation.

Rick Clubb stated that on the day his dog was shot they were having a birthday party at their house for his 8 year old son. He said as kids were coming in the house the dogs got outside. He said he knew the dogs had gone outside. Clubb said he is not sure if he heard the shot but thinks he heard it and did not recognize it as a gunshot. He said Officer Hassani then came to the door and said, "I just shot your fucking dog." Clubb said they got in a heated argument and Hassani told him to give him some identification. Clubb stated he refused. Clubb stated Hassani then threatened to take him to jail for obstruction. He said he pointed his finger at Hassani but does not remember if he actually touched him. Clubb stated when he answered the door his dog was lying on the lawn and was already dead.

Clubb stated that his Black Lab was his service dog. He said he was not certified but the dog could get his phone for him and bark for help if he fell. He said he has taken his dog to Wal-Mart and the park and has never been aggressive. He questioned why Hassani got out of the car with his gun and did not try some other option. Clubb felt that he could have used his siren to scare the dogs off or could have had dispatch call him and he could have come out and got the dogs.

Clubb said he was also concerned that Hassani chose a firearm for the situation considering they were in a neighborhood. He said he had several people, including children, at his house and a bullet could have ricochet and hit someone.

On February 16, 2014 I met with Filer Police Chief Tim Reeves. Reeves stated that Officer Tarek Hassani has been with the Filer Police Department for 10 years and was a reserve officer for two years. Reeves stated Hassani has also worked with Twin Falls, Gooding and Lincoln County.

Chief Reeves stated they do not have animal control officers so police officers have to handle animal calls. He said if they take a dog into custody they transport the dog, in their patrol car, to a local veterinarian. He said if the dog is not claimed in three days it is released to the vet for adoption or destruction. Reeves stated his officers have never received any formal animal control training. Any training an officer receives is on the job training. Reeves said that each patrol car has a catch pole in the trunk. Chief Reeves stated that their officers can go weeks without a dog call and then at times can get four to five dogs calls in a day. Reeves said he has four officers employed and has one officer on at all times.

Chief Reeves said Officer Hassani had a previous incident where he shot a dog. He said Hassani was bit by the dog and received sutures in his hand. Reeves said he did not believe that played a roll in this case. He said Hassani has handled numerous dog calls after the bite occurrence without incident. Reeves said given the amount of dog calls that Hassani handles without incident he feels he does a good job.

In Officer Hassani's report it shows he was dispatched to an animal at large call. In his report he states he made contact with the reporting party who told him there had been a Black and Yellow lab in her yard and they appeared to be unfriendly. The reporting party asked Officer Hassani if he would talk with the owners of the dog.

Officer Hassani states in his report that as he arrived at the dog owner's home he saw a brown lab in the middle of the road and he used his air horn to get the dog out of the road. He said he was met at his vehicle by a Black Lab that was barking and growling at him. Officer Hassani said he finally got out of his car and tried to make it to the front door of the residence. He wrote in his report he had to kick at the dog to keep it away because it was growling aggressively. He said he pulled out his gun and yelled at the dog to get it away from him. Officer Hassani stated the dog was growling, showing his teeth and trying to bite him. Officer Hassani stated he was only able to make it from his patrol car to the sidewalk before he did not feel safe from the dog. He wrote in his report that the last time the dog growled and showed his teeth he finally felt a fear of being bit by the black dog. He states that for his safety he shot the black dog.

February 20, 2014 I met with Officer Tarek Hassani. Also present during the interview was Hassani's attorney Steve Muhonen. Officer Hassani was advised of his Garrity Rights and informed that he has to cooperate with the investigation and answer all of my questions to the best of his knowledge. Hassani stated he moved to Idaho from Southern California in 1997. He said he worked as a reserve officer for Filer Police Department while he was attending the College of Southern Idaho's law enforcement program. Hassani stated he then worked as a reserve officer for the Twin Falls County Sheriff's

office for 6 months. He said he was hired by Gooding Police Department and worked for them for approximately 1 ½ years. Hassani said he then quit Gooding and moved back to California for 6 months. He then returned back to Idaho and worked for Lincoln County Sheriff's Office as a reserve officer. He said he started as a volunteer and then became a paid reserve officer. He stated in approximately 2003 he was hired by Filer Police Department and has worked for them since that time. He stated he still worked part time for Lincoln County but stopped working for them about 2 to 3 years ago.

I told Hassani that I heard that he had been fired by the Twin Falls County Sheriff's Office. Hassani told me that was his brother Kelly Hassani and he did not know the details of the termination. I told Hassani that I heard that Twin Falls county sheriff's office was first asked to do the investigation but then stated they had a conflict. Hassani said he believes the conflict was partially due to his brother and because he has a business selling uniforms and police equipment and Twin Falls is a customer of his.

Officer Hassani stated Filer Police Department consists of 5 people, the Chief of Police, a sergeant, a corporal, and two officers. Hassani stated he was just recently promoted to corporal. He said they also have numerous reserve officers that work for them.

Officer Hassani stated on the day in question he checked into service and was told by his chief that there was a dog call he needed to handle. The chief told him he had been out there a couple of times before and could not locate the dogs. Hassani said he met with the reporting party and was told the dogs in question were always out and that the black dog was a little aggressive or unfriendly. Hassani said he advised the reporting party the steps she needed to take to document the violations to present to the prosecutor.

Officer Hassani stated he knew the reporting party because her husband is a reserve officer with the Filer Police Department. He said he does not remember being on any calls involving these dogs.

Officer Hassani said as he responded to the dog owner's residence he saw one of the dogs in the street. He said he activated his air horn in an attempt to scare the dog out of the road and make him go home. He said when he activated his air horn the dog looked and continued walking. He said it did not appear to have any effect on the dog.

Officer Hassani stated as he pulled up in front of the dog owner's house the dogs were walking in the street and on the front yard. He said the dogs approached his car and he had to "shoo" the dogs away to be able to get out of his car. He said he yelled "get back" at the dogs. Hassani said he had to use the car door to physically push the dogs back so he could get out of his car. He said the dogs were close to him during the entire incident. He said the dogs would back up a little but would move right back in close to him. He estimates the dogs were within 2 to 3 feet of him at all times.

Officer Hassani stated as he walked up to the house the dogs were barking, snarling and snapping at him. He said the black dog was raising its upper lip and showing his teeth. He said he yelled at them, kicked at them, and the dogs were not backing up. At this time he said he was in fear of being bit by the dogs and he was concerned not knowing if the dogs had rabies. He said the last time he was bitten by a dog he almost passed out and ended up in the hospital.

Officer Hassani said he had his gun out prior to making it to the front of his car. He said he drew his weapon shortly after stepping out of the car. He said he remembers kicking at the dog 2 to 3 times. He said each time he kicked at them they would back up and inch then come right back at him growling and aggressing him. Hassani stated because he was alone and there were two dogs he was concerned he might be seriously injured. He said he used force because he felt he needed to do something before the dog did something. Hassani felt he could not turn his back to the dogs to return to his car and he could not proceed to the front door because the dogs were blocking his path and no one was coming out to control the dogs. Hassani stated there was a lot of snow on the ground and every time he kicked at the dog he would lose his footing. He said he was in fear of falling to the ground and being attacked by the dogs.

Officer Hassani then drew me a diagram of the scene and indicated where everything happened. (See exhibit A & B)

Officer Hassani stated that after shooting the dog he made contact with the owner of the dogs at the front door. He said he was very upset and told the owner, "I just shot your "F" ing dog." He said he explained to the owner the city ordinances on dogs being at large. Hassani said the dog owner told him he knew the dogs were out and said they had got out of the house a short time prior to his arrival. Hassani said he was concerned because during the entire incident no one came out of the house to see what was going on. He felt that with all of the noise and the gun shot that someone should have heard this. Hassani said he issued the owner a citation for dog at large. He said the owner was upset so he left so not to escalate the situation further.

Officer Hassani stated that after he fired the shot he notified his dispatch in case they received any calls of shots fired. He also had dispatch notify the Chief of Police. He said no supervisor responded to the scene but he did talk with the chief by phone. Hassani said he did not retrieve the shell casing and did not offer any assistance to help the dog. Hassani said he did not check the dog but presumed that it was dead.

Officer Hassani said as he was leaving the area he was met by Twin Falls County Deputy, Jay Wiggins. He said he did not request assistance and assumes that Wiggins heard the call and responded. He said he told Wiggins that the dog continued to aggress him and, "I shot the fucking thing."

I asked Officer Hassani about his statement in his report where he said the dogs continued to circle him. Hassani stated they did not circle him as completely around him but that they were moving from left to right in front of him. He said he had to watch them continually so they did not get out of his sight.

I asked Officer Hassani if once he arrived and saw the dogs were outside his door acting aggressively whether he considered staying in his car. He said he handles millions of dog calls and most of the time you yell at the dog and it will retreat. He said in this case they did not. He said he got out of his car because he had to do something because it is his job.

I asked Hassani if he ever considered getting back into his car. He said by the time he used the force he was halfway between his car and the front door. I asked him about the first time the dog snapped at him, while he was still next to his car, did he consider

getting back into his car. Hassani said he never considered that because he felt he had a responsibility to protect the public. I asked Hassani if he considered any other options on how to handle the situation. Hassani said he did not. He said there was a complaint and he needed to make contact with the owner at the front door. I asked Hassani if he ever considered calling the owner of the dog and requesting he come out and take control of his dogs. Officer Hassani stated, "No."

I asked Officer Hassani what training he had received on how to handle an animal control call. He stated, "None that I can recall." He said they do receive some training at their monthly department meeting. He said he believes the training is recorded because he usually signs a POST roster. Hassani stated his initial field training consisted of riding around with the Chief of Police (at that time was Chief Johnson) and learning the city. He said it was a very short and limited field training.

Officer Hassani stated he does carry a catch pole in his patrol vehicle. He said he did not consider using it because on most dog calls he only gets it out if he has to impound a dog. Hassani said he also carries a taser and an asp. He said he has not carried pepper spray for several years. He said he was trained and certified on pepper spray while attending CSI. He said he was not sure if Filer issued pepper spray.

Officer Hassani said he is somewhat familiar with the Filer Police Department policy. He said in regards to the use of force in this situation presence is first, command is second, and hands-on is third. He said you can use deadly force when there is a fear of bodily harm to other people, serious injury to yourself or to protect yourself.

Officer Hassani felt this was a deadly force situation because of how the dogs were growling and aggressing him. He said he took the steps to get the dogs to back up and go away. He said with two dogs trying to bite him he was concerned that the dogs might take him to the ground and take his gun away from him.

I asked Officer Hassani if he felt his actions were reasonable at that time and he said, "Yes." I asked Officer Hassani if he felt his action were within policy and he said, "Yes".

I asked Officer Hassani about the immediacy and severity of the situation and why he responded the way he did. Hassani stated he was in fear of being bit and injured and he needed to stop the threat before it got to him.

I asked Hassani why he did not get back into his car and consider another option or call for back-up. Hassani stated he did not consider that. He said he had an obligation to handle the call like every other call. He said he did not see anyone else in the neighborhood that the dogs could have posed a threat to.

I asked Officer Hassani that looking back on the situation could he see anything he could have done differently or better. Hassani said he thought he did what was reasonable and did not disagree with his decision. He felt he needed to stop the threat before he got hurt.

Officer Hassani stated he could armchair quarterback the situation for hours and come up with 5000 solutions. When asked about those solutions he said he could have continued to force his way to the front door and possibly get bit or mauled. I asked Hassani if he

ever considered using his taser. He said they are taught not to use a taser on a dog because they are a small target and hard to hit.

I asked Officer Hassani about Filer's policy on destruction of animals and the instruction on the need to explore alternative methods in resolving the situation. I asked him if he had alternatives to the use of lethal force. He stated, "I don't know." I asked him why he chose not to carry pepper spray. He said, "I don't know." Officer Hassani said he never considered any contingency plans because most dog calls he goes on are handled without incident. He stated there was one other incident where he had to shoot a dog. I asked if he considered using his air horn again to scare the dogs away from his car and he stated, "No." I asked him if he considered calling for help and he said that it was during shift change and he would have been sitting there for 10 minutes waiting for help.

I asked Officer Hassani if he remembers the conversation he had with the county deputy that arrived on scene. Hassani stated he said something like the dog was being aggressive, trying to bite him and, "I shot the fucking thing." I asked Hassani about this comment and his thought process at the time of the shooting. Hassani stated the last thing he wanted to do was to shoot someone or something. He said he did not go on this call with the intent to shoot the dog.

I asked Officer Hassani why he did not articulate his fear and justification for deadly force in his report. He said he just wrote a basic report and did not think he needed to do that. He said he has never done it before and that it might have been poor judgment on his part. He said he gave the report to his chief and he did not say he needed anything else in his report.

Officer Hassani stated in 2008 he was bit by a dog. He stated he and a reserve officer had a dog on a catch pole. He said the reserve officer handed the dog to him and the dog was able to bite him so he shot it. Hassani said the dog was still on the catch pole and was overpowering him so he shot it. He said he was holding the pole with two hands then held the pole with one hand and shot the dog with the other hand. I asked Hassani why the reserve officer was not helping control the dog. Hassani said he does not remember what the reserve officer was doing. Hassani said he does not remember if he wrote a report of the incident. Hassani stated he has been bit by dogs two times and that affected his thought process because he did not want to get bit again.

Conclusion: This investigation will analyze a number of factors in an attempt to answer pertinent questions related to this case. This investigation will focus on Officer Hassani's actions and were they reasonable given the facts and circumstances perceived or known by the officer at that time. This investigation will examine Officer Hassani's experience, training and history. Also Filer Police Department's policy will be reviewed to determine if Officer Hassani's actions were within policy.

The review of force used by Officer Tarek Hassani will be based on that force which reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control. As directed by the

U.S. Supreme Court in *Graham v. Conner*, “Reasonableness” of the force used will be judged from the perspective of a reasonable officer on the scene at the time of the incident and understanding that officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving about the amount of force necessary in a particular situation.

The findings will be based on the understanding that a use of force doctrine is employed by police forces to regulate the actions of police. The aim of such a doctrine is to balance security needs with ethical concerns for the rights and well-being of citizens.

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties. Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties. Officers must recognize and respect the value of life, property, and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

I reviewed the policies and procedures of the Filer Police Department. In Policy 820, Animal Control Procedures, states the purpose of the policy is to establish guidelines for the City of Filer Police Department personnel in dealing with animal control related calls. Under officer responsibility it states that officers may be dispatched to animal related calls and should take appropriate actions to control the situation. One example listed was when there is a threat to the public safety. Under the section of public nuisance calls it states when in the event officers cannot fulfill urgent requests for service because the animal is difficult or dangerous to handle, the officer may request assistance with the approval from the chief of police or authorized designee. If unavailable, the officer may request assistance of an animal control officer from an allied agency. In this case there was never a request for assistance from other officers or agencies.

I reviewed the Filer Police Department’s Use of Force Policy 300. The policy provides guidelines on the reasonable use of force. It states that while there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of the department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

Under section 300.3.2 Factors Used to Determine the Reasonableness of Force, it states that determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration. One factor is the immediacy and severity of the threat to officers or others. In this case there was heavy rain and there was no one out in the neighborhood for the dogs to pose an immediate threat to. The officer was in the safety of his car and there was no immediacy for him to exit his car. Officer Hassani could not articulate any need to make his way to the front door, other than he had a job to do.

The policy states when determining the reasonableness of the use of force that officer takes into consideration the availability of other option and there possible effectiveness. Officer Hassani stated in his police report that he used his air horn to scare the dog out of the road. One would ask why Officer Hassani did not try this option again when the dogs approached the car since it appears to have been effective the first time. Officer Hassani carries, in his car, a catch pole and on his person a taser. There is no mention in his report of these options and why he did not use them. Officer Hassani stated to me he did not use his taser because he was trained to not use it on dogs. Oleoresin Capsicum (Pepper Spray) has been proven to be effective in repelling dogs but Hassani was not carrying any at that time. Hassani stated he stopped carrying OC several years ago but does not know why. I believe Oleoresin Capsicum (Pepper Spray) would have been very effective in deescalating this situation. Where Filer officers are responsible for animal control calls, OC would be a valuable tool whether carried on their person or at least carried in their vehicles. As for other possible options I believe Officer Hassani could have tried to make phone contact with the owner to have him come out and control his dogs. Officer Hassani was told by the reporting party that the dogs were acting aggressive. As soon as he stepped out of his car the dogs were acting aggressive yet he still did not consider any other options other than his need to get to the front door to do his job.

The policy states that when evaluating the reasonableness of force the officers training and experience should be taken into consideration. No records were provided to evaluate the training history of this officer or the agency. Chief Tim Reeves told me that they did not do any specific training on this topic but that officers learn these skills on the job. Officer Hassani has been with the Filer Police Department for 10 years and has prior experience with the Gooding Police Department and Lincoln County Sheriff's Office. Chief Reeves stated Officer Hassani was involved in a situation in 2008 where he shot and killed a dog that had bitten him. He said Hassani received sutures in his hand as a result of the dog bite. I asked Chief Reeves for a copy of that incident report and he was unable to locate it. Officer Hassani stated he does not remember receiving any training on animal control calls. I believe that Officer Hassani's training and experience played a roll on how he handled this situation. There appears to be a lack of training and documentation of training. This becomes evident in his decision process and the lack of conformity to policy. Hassani's prior dog bite incident clearly played a roll because he references that situation when explaining to the dog owner why he shot his dog.

The policy states that when evaluating the reasonableness of force, officers are to consider the potential for injury to officers, suspects, and others. In this case there were no other people around to be injured by these dogs and Officer Hassani exposed himself to potential danger only after he stepped out of his car and continued to make his way to the front door.

The policy states that when evaluating the reasonableness of force, officers are to consider the apparent need for immediate control or prompt resolution of the situation. In his report, Officer Hassani wrote he shot the dog because it was aggressive and would not allow him to gain access to the front door. I do not believe there was the immediacy in

the need to make contact with the owner of the dogs. Also there were no other people in immediate threat of the dogs.

This investigation also looked at whether or not this was a use of deadly force. I believe that this was clearly a use of deadly force and thus falls under the Use of Force and Firearms policies of the Filer Police Department.

Under Section 300.4 Deadly Force Applications, it states that an officer may use deadly force to protect him/her or others from what he/she reasonably believes would be an imminent threat of death or serious injury. In this case there was an imminent threat from the dogs but what is not clear or articulated is whether this rises to a threat of death or serious injury.

Under Section 300.5 Reporting the Use of Force it states that any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The officer should articulate the factors perceived and why he/she believed the use of force was reasonable. Officer Hassani does indicate his fear of being bitten or injured by the dogs but does not justify the level of force he used.

Every officer at the Filer Police Department responds to and handles animal control calls. Under Section 820 of the Filer Police Department Policy Manual, Animal Control Procedures, states the purpose of this policy is to establish guidelines for the City of Filer Police Department personnel in dealing with animal control related calls for service and to set forth procedures regarding animal control services, the handling of injured animals, and the abatement of animal nuisances. Under Section 820.3 Officer Responsibility it states that officers may be dispatched to animal related calls and should take appropriate actions to control the situation. One example listed when officers may consider acting when there is a threat to the public safety. In this case there was potential for a public safety issue, but at that time there was none.

Under Section 820.3.4 Public Nuisance Calls Relating to Animals, it states that in the event officers cannot fulfill urgent requests for service because the animal is difficult or dangerous to handle, the officer may request assistance with approval from the chief of police or his authorized designee. If unavailable the officer may request the assistance of an animal control officer from an allied agency. There was no attempt by Officer Hassani to seek or request assistance for this call.

Under Section 312.6 Destruction of Animals, officers are authorized to use firearms to stop an animal in circumstances where the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective. In circumstances in which officers have sufficient and advanced notice that a potentially dangerous animal may be encountered, officer should develop a reasonable contingency plan for dealing with the animal (i.e. fire extinguisher, EMDT devise, oleoresin capsicum spray, animal control officer). Nothing in this policy shall prohibit any officer from shooting a dangerous animal if circumstances reasonably

dictate that a contingency plan has failed. Officer Hassani had sufficient advanced knowledge that the dog may be aggressive and never considered any reasonable contingency plan.

In reviewing case law, the Ninth Circuit Courts have held that the destruction of property by state officials poses as much of a threat, if not more, to the people's right to be "secure ... in their effects." The killing of a dog is destruction recognized as a seizure under the Fourth Amendment. (*Robinson v. Salano County*, 278F.3d 1007, 1013) The courts have recognized that dogs are more than just personal effects (*Miller v. Clark County*, 340 F.3d959, 968 n.13).

This investigator is somewhat troubled by Officer's Hassani's comments to the deputy as to possible insight into his intentions. Hassani told the Deputy that the dog lunged one more time then he said, "Fuck you, so I just shot it." Similarly in the previous dog shooting that Officer Hassani was involved in he stated, "The dog bit me, so I shot it."

This case was examined to determine if Officer Tarek Hassani's actions were reasonable under the circumstances (*Graham v. Connor*). I looked at the totality of the circumstances to determine whether the destruction of property was reasonably necessary to effectuate the performance of the law enforcement officer's duties. While the officer's interest of safety might provide a sound justification for the shooting of the dog, the argument is less convincing given the fact that the officer had prior information that the dogs might be aggressive and his failure to develop or consider any realistic non-lethal plan for dealing with the dogs was not reasonable. However the fact that an officer negligently gets himself into a dangerous situation will not make it unreasonable for him to use force to defend himself (*Billington v. Smith* 00-36062, 00-36075). At the time of the shooting Officer Hassani was presented with exigent circumstance that he feared for his safety providing justification for the shooting of the dog.

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