

POLICE DEPARTMENT

☐ Commendation ☐ Documented Counseling ☒ Written Reprimand ☐ Training ☐ Other _____

Original to: ☒ OPF/EPF ☒ Division File ☐ Training File

DIVISION ACTION FORM

Date: September 4, 2019
To: Officer JC Rodriguez
From: Sergeant K. Welch
Subject: Notice of Disciplinary Action - Written Reprimand

This memo shall serve as a written reprimand, and a copy will be placed in your personnel file.

This action is based on violations of the following rules and policies:

City Personnel Rules and Regulations, Rule XII – Disciplinary Action, Section 1, Cause for Disciplinary Action:
- Policy Manual Section 300.3: Use of Reasonable Force
- Policy Manual Section 318.2: Guidelines for the Use of K9s

The above grounds are based on the following acts or omissions.

On August 8, 2019, at 2026 hours, you responded to a call for service of a residential burglary at 4366 Hope Street. When you arrived with your K9, Rover, you spoke with Officer Hain who was already on scene and had interviewed the victim. He relayed to you the resident at 4366 Hope Street arrived at her home and discovered a broken window and realized her house had been burglarized. The house had not been searched for suspect(s), and no one had permission to be inside.

At that point, you retrieved Rover and began preparing for a search of the residence. As you, Rover and Officer Hain approached the victim's residence, you made contact with the owner of the front house on the property. He explained to you that while he was inside his house, he could hear a female voice inside of the victim's home. After receiving this information, you, Rover and Officer Hain approached the side gate that accessed the victim's rear residence. From the gate, you made three K9 search announcements and then sent Rover to search inside. From your vantage point at the gate, you could not clearly see inside of the house, and you lost sight of Rover while he searched.

After Rover conducted an initial search inside, he came back outside through the door. You moved forward, closer to the front door and gave Rover the command to continue his search. He went back inside and jumped up on a bed located a few feet inside of the front door. From Officer Hain's and your Body Worn Video footage, the suspect is clearly seen laying on the bed, motionless. Rover moved towards the suspect, who remained still, and without command, bit her on the face.

As Rover initially bit the suspect in the face, you changed your position as Rover moved from the suspect's face onto her arm, and when you saw Rover apprehending her by her arm, you gave Rover the command to continue. The suspect was never combative with Rover, nor did she threaten to harm Rover or the officers.

Rover remained on the bite for approximately 1 minute and 53 seconds. During that time, he pulled the suspect by her arm off of the bed and away from the front door. The suspect remained non-combative the entire time. Ultimately, you and Officer Hain made entry to the house, approached the suspect and Rover, and you physically removed Rover from the suspect.

During this call for service and K9 deployment, you lacked control of Rover. You are responsible for how the K9 is deployed and for coordinating the necessary resources to ensure you can maintain control of the K9 and safely use Rover. Instead of calling for additional officers to provide cover and provide safety for you and Officer Hain, you decided to approach the house with only one officer to assist you. You made announcements from the side gate, instead of from the front door as is taught in training. Because of your distance from the front door, you lost sight of Rover during the search which exacerbated the loss of control and led to him biting the suspect on the face while she lay motionless on the bed. At that point, she did not meet the criteria for a K9 apprehension, which is a violation of Policy Manual Section 318.2, Guidelines for the Use of Canines, and you did not have a clear view of what was occurring.

Because of the lack of resources and additional officers needed to search effectively, you were unable to quickly move into the house safely and remove Rover from the bite. Rover remained on the bite for approximately 1 minute and 53 seconds even though the suspect's actions never justified the use of a K9 for apprehension. The lack of the needed criteria for a K9 apprehension constituted an out of policy K9 deployment and the extended amount of time Rover remained on the bite without proper commands, control or being taken off the bite was unreasonable which is a violation of Policy Manual Section 300.3, Use of Reasonable Force.

When I talked with you about this incident, you explained you initially were readying Rover for a search after being briefed by Officer Hain on the circumstances of the burglary. As you prepped Rover, additional information was received that voices were heard inside of the victim's house, indicating that the likely suspect(s) was still inside. At that point, you and Officer Hain deployed immediately. You did not feel safe moving past the gate up to the front door of the victim's house, but from your location, you admitted you did not have a good vantage point into the residence. You did lose sight of Rover, and you only had a view of the foot end of the bed. When you realized Rover had jumped onto the bed, you thought that he was likely chewing on pillows because he has done that in the past. So you gave him the command to stop, not realizing he was on the bite.

At this point, you said you still did not see the suspect laying on the bed, but when you heard Officer Hain say, "Show me your hands," you realized he had seen a person. You also saw the suspect's leg move and heard her scream. So you gave the command for Rover to apprehend. You saw Rover was on the suspect's arm, and you gave him the command to lay down on the bed. Your goal was to have him remain on the bite but lay down. He did not respond, but instead pulled the suspect off of the bed onto the floor and away from the front door. You coordinated with Officer Hain at this point to make the entry, but since there were just two of you, this made the entry difficult and presented safety issues for you and Officer Hain thus slowing your response down. You also said you recalled hearing Officer Hain put out information about the suspect on the radio, and you did not remember giving any additional commands to Rover in an attempt to control him.

When asked about the length of time Rover was on the bite, you said it was unsafe for officers to move into the house because of the many potential officer safety issues that existed. You also said that had more officers been called for and used for the search, it could have allowed for a safe, quicker entry into the house to remove Rover from the apprehension.

When questioned regarding the Electronic Collar (E-collar) Rover has been issued to increase control over him while he is on an apprehension, you said he was wearing it, but in your haste to deploy to the residence, you left the control for it in your car. The E-collar could have allowed Rover to be more quickly removed from the bite.

In this situation, you should have slowed down your approach, contained the residence, and called for additional officers to assist. This would have made it safe for you to move to the proper vantage point at or near the front door to make your K9 announcements and determine if the use of Rover was appropriate. It also would have allowed you to maintain better control of Rover to insure the deployment criteria was met and move more quickly into the residence to remove Rover from the apprehension to prevent the unreasonable force.

Further actions of this nature will result in more severe discipline, up to and including termination.

If you do not agree with my findings and decision, you have a right to an administrative appeal through the formal grievance process by submitting a written request for disciplinary review to Commander David Dickey, within seven (7) calendar days after receipt of this Written Reprimand. The procedures for review of this action are in the Memorandum of Understanding between the City of San Buenaventura and the Ventura Police Officers' Association, Article 21 – GRIEVANCE PROCEDURE. A copy is attached as Attachment 1.

Per the Public Safety Officers' Procedural Bill of Rights, California Government Code Section §3306, you will have 30 days from the date of this memo to file a written response, which will be attached to this memo when placed in your personnel file.

Attachments:

Article 21 of the MOU between the City and the VPOA
City Personnel Rules and Regulations, Rule XII – Disciplinary Action
Section 3306 of the Public Safety Officers Procedural Bill of Rights (POBOR)
VPD Manual Section 300.3 - Use of Reasonable Force
VPD Manual Section 318.2 - Guidelines for the Use of K9's

	9-18-19
EMPLOYEE'S SIGNATURE	DATE
	9/18/19
SUPERVISOR'S SIGNATURE	DATE

This document will be retained and may be used for evaluation purposes.

COPY: To Employee

