



# LORAIN POLICE DEPARTMENT

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# Press Conference

Thursday, September 7, 2023

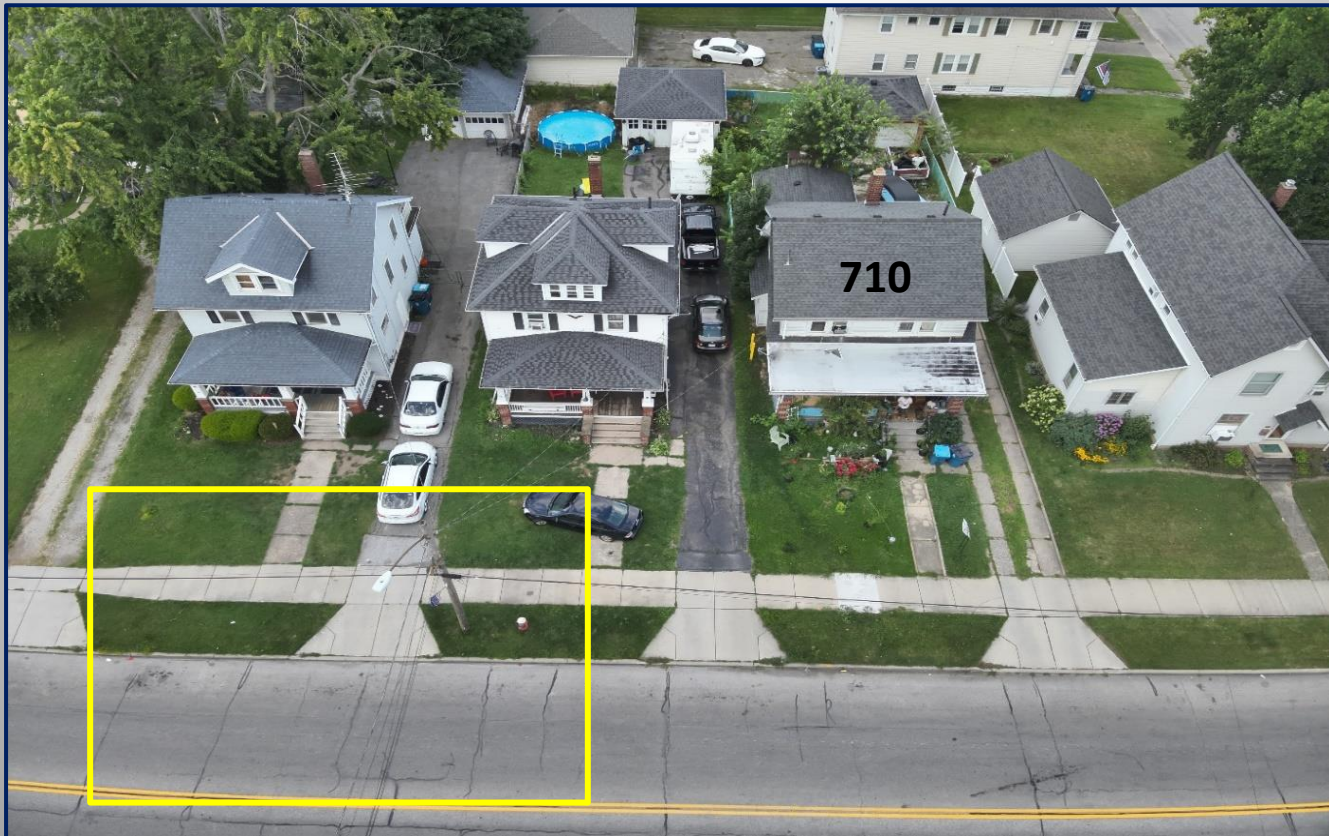


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## Animal Shooting – 700 Block Oberlin Ave





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## Definitions

- BWC - Body Worn Camera
- OPS - Office of Professional Standards
- ERB – Employee Review Board (Made up of three Captains)
- NHTSA – National Highway Traffic Safety Administration



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## National Dog Bite Statistics<sup>1</sup>

- In the United States, approximately 800,000 people receive medical attention for dog bites each year.
- Pit Bulls have the greatest frequency of bites (25.07%), followed by Labrador Retrievers (13.72%)
- Dog bite injuries make up more than 80% of total animal bites in the United States

1. Gilchrist J., Sacks J.J., White D, Kresnow M.J. (2008) Dog bites: Still a problem? *Injury Prevention*. Oct. 14(5). 296-301. Retrieved from: [doi: 10.1136/ip.2007.016220](https://doi.org/10.1136/ip.2007.016220). PMID: 18836045.





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## General Information

- Officer Palmer has been with the Lorain Police Department since 2021 (Approx. 2.5 years).
- Officer Palmer has a Bachelor's Degree in Russian Translation w/Minor in Pre-Legal Studies.
- In General, officers may not be looking where the BWC is pointing.
- Police Officers are NOT animal Behavioral EXPERTS, and they never will be.



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## Incident Details

- Date: Sunday, July 2<sup>nd</sup>, 2023
- Time: 12:58 PM
- Location: 700 Block Oberlin Ave.
- Nature: Several lab-mixed breed dogs running at large



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## Incident Synopsis

- Officer Palmer was in a marked Lorain Police cruiser and observed several large mixed-breed dogs running at large.
- Several people were observed attempting to gain control of the dogs.
- Officer Palmer stopped his cruiser with the intent to assist the residents.
- He was immediately approached by a large light colored dog (**Dog 1**). After the dog 1 trotted off, a 2<sup>nd</sup> tan dog (**Dog 2**) broke free from a female who was attempting to control it and it ran directly at Officer Palmer in what appeared to be a menacing fashion.
- None of the dogs were wearing collars.



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## Incident Synopsis

- Once Officer Palmer observed dog 2 running directly at him in a menacing fashion, he backed up putting distance and a utility pole between himself and the dog. The dog continued to run directly at Officer Palmer and he discharged his duty weapon several times, striking and killing the dog.
- There were allegations on social media that Officer Palmer called the dog(s) to him. There is no evidence to support this allegation.





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## Still Frame of Dog 1





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## Video: Dog 1





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## Investigative Process

- Any use of force involving the discharge of an officer's duty weapon is investigated.
- Officer Palmer was initially placed on modified duty and then on administrative leave due to receiving death threats.
- Several outside experts were consulted during the investigative process.
- Attempts to interview members of the Kerns family were made, but they failed to respond or participate in the investigation.





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## When is An Officers Use of Force Reasonable?

- For any officer to use force, it must be “objectively reasonable”.
- The US Supreme Court set the standard in 1989 with *Graham v Conner* that determines the meaning of the term “objectively reasonable”.
- *Graham v. Conner* defines the reasonableness of an officer’s actions and must be considered from the perspective of a reasonable officer in that same position who knows only the information available to the original officer at the time the decision was made.
- 20/20 Hindsight or Monday Morning Quarterbacking CANNOT be used when determining what was “OBJECTIVELY REASONABLE”.



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## Ohio Revised Code 955.28

- Section 955.28 of the Ohio Revised Code outlines legal situations in which deadly force against dogs may be used.
- Subsection “A” states (in part): “a dog that is chasing or approaching in a menacing fashion or apparent attitude of attack... can be killed at the time of that chasing, threatening, harassment, approaching...”





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## Incident Analysis

- Multiple Investigators studied the BWC footage to determine whether Dog 2 ran at Officer Palmer in a menacing fashion and if Officer Palmer could have reasonably believed the dog intended to harm him.
- Prior to breaking away from the owner, Dog 2 can be seen staring intently or “locking on” Officer Palmer, never losing eye contact.
- When Dog 2 broke away and ran toward Officer Palmer, Officer Palmer attempted to create distance and placed a utility pole between himself and the dog.
- The dog aggressively changed direction and continued to charge Officer Palmer.



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## Incident Analysis – Incident Video





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## Incident Analysis



(Dog locking its gaze on Officer Palmer)





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## Incident Analysis



(Dog breaking loose from owner and charging)



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## Incident Analysis



(Dog charging)





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## Incident Analysis





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## Pre-attack Indicators

- Tail raised
- Charging, weight forward
- Eyes staring
- Ears erected/tilted forward

(\*4 of 7 indicators present)



**AGGRESSIVE ATTACK**





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## Slow Motion w/Magnification







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## Officer Palmer's Previous Dog Bite Incident

- On April 8, 2023, less than 90 days before this incident.
- Officer Palmer was bitten by what appeared to be a non-aggressive dog while attempting to transport it to the animal clinic for pick-up by the Lorain County Dog Warden.
- Officer Palmer was initially treated and released from the emergency room.



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## Officer Palmer's Previous Dog Bite Incident

- Several days later a serious infection set in and he was hospitalized in the intensive care unit for 3 days, requiring surgery and IV antibiotics for several weeks.
- Doctors were concerned that the infection had spread to Officer Palmer's heart and he was initially told he had a 50% chance of losing his hand and being forced to medically retire.





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## Officer Palmer's Previous Dog Bite Incident





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## Officer Palmer's Previous Dog Bite Incident







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## Officer Palmer's Previous Dog Bite Incident





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## Administrative Investigation

- The Lorain Police Department's OPS conducted a thorough review of all available evidence, witness accounts, expert opinions and formal interviews to determine whether a policy violation occurred.
- Critical review points included Officer Palmer's decision to apply force, the time it took for the event to occur, and activation of the officer's BWC.





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## Were Officer Palmer's Actions "OBJECTIVELY REASONABLE"?

- The Lorain Police Department's OPS considered:
  - BWC footage
  - Available witness statements
  - Statements from Officer Palmer
  - Expert Opinion
  - Ohio Revised Code/Case Law
- Taking the TOTALITY of all information, OPS found that a reasonable officer, placed in this situation, would find Officer Palmer's decision to use deadly force to be "Objectively Reasonable" in this incident.



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## Investigative Conclusions

- Officer Palmer's decision to use deadly force was "objectively reasonable", and therefore was within the Lorain Police Department's policies and procedures.
- The level of force, as well as the number of shots fired/duration of shots fired were consistent with research findings related to officers acting under stress. Officer Palmer's actions related to these considerations are therefore reasonable and within LPD policy/procedure.
- Officer Palmer failed to activate his body-worn camera immediately upon exiting his vehicle, thereby eliminating the ability for investigators to access important audio recordings during the incident. He was found to be outside of department policy regarding the use of BWCs.



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## Scientific Considerations

- The level of force, as well as the number of shots fired/duration of shots fired were consistent with research findings related to officers acting under stress.
- The principles of human performance and response under stress says that reactions to changes in stimuli (e.g., the dog's change in direction) do not occur instantaneously! You must consider a person's reaction time.
- Mental Sequence (reaction time) + Physical Sequence (movement time) = Reaction time.



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## Some Perspective

- A typical reaction time to perceive a threat such as a deer or a child running into the road is about .75 seconds, and then you add another .75 seconds to decide to act and move your foot to the brake pedal – that's 1.5 seconds.<sup>1</sup>
- Palmer's reaction time from the point where the dog changed direction to the point in time when he stopped shooting was **1.47 seconds**. That's under the "normal" 1.5 second reaction time.
- Therefore, Officer Palmer's time to stop shooting was considered **"reasonable."**

1. nhtsa.gov. (2015). *Why your reaction time matters at speed*. National Highway Traffic Safety Administration. Retrieved 2023 from: [https://one.nhtsa.gov/nhtsa/Safety1nNum3ers/august2015/S1N\\_Aug15\\_Speeding\\_1.html](https://one.nhtsa.gov/nhtsa/Safety1nNum3ers/august2015/S1N_Aug15_Speeding_1.html)





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## Independent External Review

- Scott Hughes is the owner of SKCC Ltd., and current Chief of Police for the Hamilton Twp. Police Department. He travels the country instructing and reviewing police use of force incidents for Caliber Press, the Ohio Chiefs of Police Association, Association of Force Investigators, and International Association of Chiefs of Police.
- Scott Hughes has been qualified as an expert in Police Patrol Tactics and Responses, Use of Force, Police Procedures, and Policy Practice and Policy.
- Scott Hughes is a subject matter expert and was contracted by the Lorain Police Department to conduct an independent review of this case. He is not affiliated with the Lorain Police Department or the City of Lorain.



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## Hughes Report Findings

- Hughes opined that Officer Palmer had observed a crime taking place (dogs at large), and Officer Palmer would be expected to investigate.
- Hughes opined that Officer Palmer's actions were consistent with LPD's Policies, training, and accepted police procedures.
- Hughes opined that Officer Palmer acted within the parameters of Ohio Revised Code Section 955.28.
- Hughes opined that Officer Palmer's reaction time to engage what he perceived to be a threat to the time he ended engagement was within normal parameters.



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## Hughes' Conclusion

- Officer Palmer followed best practices during the encounter July 2, 2023.
- Officer Palmer was conducting a lawful investigation and had probable cause to investigate further.
- Officer Palmer had recently been attacked by a dog, hospitalized, and told he may lose his hand: this prior encounter cannot be discounted, and should have weighed heavily on his perception of this event.
- During this investigation, a dog charged him, causing Officer Palmer to fear for his safety.



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## Hughes' Conclusion

- Upon exiting his cruiser, Officer Palmer was forced to make a split-second decision, which was likely influenced by his previous dog bite injury.
- Officer Palmer's actions in this incident were consistent with what another reasonable officer would do in a similar situation.
- If Officer Palmer ignored the dogs at large, and public harm occurred due to them being loose, Officer Palmer could have faced possible dereliction of duty charges and/or administrative charges.





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## LPD's Employee Review Board (ERB)

- The ERB convened to review the complete investigation and all related documents. They concurred with the findings of OPS.
- A pre-disciplinary hearing was scheduled but waived by Officer Palmer.
- The ERB by the preponderance of the evidence found Officer Palmer in violation of LPD's Mobile Audio/Video Policy 421; Section 421.4.1(b).



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## Law Director's Review

- The Administrative Investigation and all related documents, videos and the expert report by Scott Hughes was forwarded to Lorain City Law Director, Pat Riley, for review to determine if any criminal charges would be appropriate for this incident as a whole.



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## Dogs Registered & Complaints

- The Kerns family has a history of irresponsible animal ownership.
- Wilber & Tammy Kerns each registered 4 mixed breed dogs approximately 2 weeks apart for a total of 8 dogs, in violation of Lorain City Ordinance 505.22. There is no other reason to do this except to avoid any “red” flags for having too many dogs.
- The Mayor’s Office has received several complaints concerning the poor living conditions for the animals, and neighbors who cannot open their windows due to the noxious odors and abundance of flies.
- The Kerns family was cited by the Lorain County Health District, Division of Environmental Health concerning the deplorable conditions in May of 2023.





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## Moving Forward

- Police officers are NOT animal behavioral experts nor are they expected to be. Police officers have “general” training in dealing with animals.
- All LPD Officers have undergone additional training by the Ohio Peace Officer Training Commission related to recognizing behaviors of companion animals.
- LPD has revised its policy/procedure in dealing with at-large animals. Officers will no longer attempt to capture or transport animals simply for being at-large.
- Officers will be dispatched to attempt to identify the owner of the animal, and if identified, issue a citation; however, no attempt will be made to capture the at-large animal unless there is a present danger to citizens.



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## Moving Forward

- “Bite-Resistant” Gloves and Animal Poles have been purchased and will be in every supervisor’s patrol unit to assist officers in situations that require immediate police intervention involving loose/vicious dogs when and IF the situation allows.
- I DO NOT expect, nor should the public expect OUR police officers to get bit or attacked by any animal, PERIOD.
- We all should expect domestic animal owners to have positive control of their animals at all times.
- We are working with the Mayor and City Council to bring back the Animal Control/Humane Officer.



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## Community Chatter Podcast

- The Lorain Police Department has partnered with WOBL radio, a local news source to respond to questions and to further discuss the details of this presentation tonight, from 5 p.m. to 6 p.m.
- Members of the public can call in questions from 1 p.m. to 3 p.m. today, by dialing (440) 774-1320 ext. 43.
- Lorain Mayor Jack Bradley and LPD Chief Jim McCann will be on-air, live with host Gary Tollett.
- Listeners can tune into 107.7 FM, 1320 AM, or watch live on the WOBL Facebook live stream.





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**END**