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PRESS RELEASE

My office is in receipt of the full report of an internal investigation conducted by the Augusta County Sheriff's Office (ACSO) into the shooting of a German shepherd by an ACSO investigator. As Augusta County's Commonwealth's Attorney, it is my responsibility to determine whether any of the actions taken that day violated any criminal laws of the Commonwealth. In order to make this determination, I have conducted a thorough review of the case file, including multiple recorded statements from eyewitnesses, some of whom are law enforcement officers and some of whom are civilians.

1. Factual Findings

Most of the facts involved in this incident are not in dispute. I will briefly summarize the facts upon which everyone who was present agrees. Deputies were lawfully on scene at a residential address in Augusta County. They were there to make contact with Ms. Tina Ray, because they had a warrant for her arrest, as well as an emergency protective order to serve on her. Once deputies made contact with Ms. Ray and others on scene, they observed indicia of drug use. They then contacted a narcotics investigator, who responded to the scene. Once the investigator arrived, he parked in a grassy area near the house. When he got out of his vehicle, a German shepherd ran toward him in an aggressive manner. The dog was on an overhead "lead." He backpedaled, but the dog closed the distance. He pulled out his weapon, firing one shot. The shot killed the approaching dog. The deceased dog was owned by Ms. Ray and her estranged husband. The entire incident unfolded in a matter of a few seconds.

Following the incident, the investigator involved spoke to both of the dog's owners to offer his apology. As he spoke to Mr. Mark Ray, he indicated, among other things, that this was the first time in his nineteen years as a law enforcement officer that he has discharged his weapon in the line of duty. He indicated that he was running backwards, and as the dog approached him, he was "scared to death." He explained that everything happened "in a split second." The investigator repeatedly expressed that he was sorry for killing the man's dog. In response to his apology, Mr. Ray stated, "I understand. I mean I woulda did the same thing. I mean I don't like other people's big dogs. And if one was coming at me like that, I understand."

I'm not gonna get bit up by no big dog. And I'm sorry you had to go through that." The investigator responded, "I feel terrible for you. I feel terrible for [Ms. Ray]. It's a terrible situation that I wish never woulda happened. But it happened. And I – and I'm here coming to you man to man, and I am sorry." At the end of the conversation, Mr. Ray stated to the investigator, "I'm sitting here telling you I woulda most likely did the same thing. I know I would've. I know I would've. You know? Because he...was a big dog." Mr. Ray also expressed disappointment that the incident occurred, and indicated he wished it hadn't happened.

The investigator also spoke to Ms. Ray. As with her estranged husband, he repeatedly offered his apology for shooting her dog. He said to her, "I'm so sorry, the last thing I wanted was to shoot a dog today." He again told her he was sorry, to which she responded, "I know." She was contacted later by the sheriff of Augusta County who also offered his apology for the loss of her dog. During that conversation, Ms. Ray expressed frustration that the investigator parked on the grass instead of the driveway, and indicated she did not see much of the incident and did not realize the investigator had gotten out of his truck when her dog was charging him. She expressed anger at the party who sought the warrants for her arrest, though with regard to some of the drug activity she stated, "... yes, I do like to smoke weed." She indicated to the sheriff that she knew the investigator felt bad for what happened, that he told her that he was sorry, and that she had "seen (sic) [the sorrow] in his eyes." In addition, she indicated she was irritated that the investigator shot the dog when he did because, in her view, she stated, "I think you should have to wait until they...draw blood." Regarding the strength of her dog, who she estimated weighed "165, 170 pounds," Ms. Ray told the sheriff, "I think he could snap that lead and actually get off it if he wants off of it at any time." She also stated that he was a "very protective dog." In the same interview, she told the sheriff, it was a "spontaneous action on my dog's part and on [the investigator's]." Finally, she stated, the "officers did not come down here to kill my dog. No they did not, you know?"

A separate interview of another civilian eyewitness was conducted soon after the incident. This eyewitness stated that the investigator got out of his truck and "when he did, he started backing up away from his truck, backed all the way away from the dog." He was asked if the dog was "going after" the investigator, to which he responded, "yeah, because he was actually running back. He was actually running back from the dog" and "the dog was – the dog was moving toward the officer when the officer was backpedaling back." He further expressed frustration that the dog had died, and that he wished it had not happened. Also, he indicated the dog had not attacked any of the other deputies the way he did the investigator.

As part of the investigation into this incident, the law enforcement officers who were present were also interviewed. When asked how long it took between the investigator getting out of his vehicle and firing the shot, a deputy present stated, "a couple of seconds." The same officer indicated the dog was "aggressive." Another deputy said, "I saw [the investigator] backing up. And I saw the dog was barking and growling. It was actually – it had – it showed its teeth. I mean it was kind (sic) nipping at him." One of the deputies arrived earlier on scene than the others and inquired of one of the female civilians present at the scene if the dog was friendly, to which she had responded, "well, sometimes he'll bite."

Finally, the investigator who fired the shot was interviewed. His account is taken from a written statement he made immediately following the incident, and from his interview with those investigating the incident. The material facts gleaned from his statements are as follows. For

several weeks he had been investigating the use and distribution of narcotics by some of the individuals who deputies had identified at the residence in question. He was informed over the phone by the initial responding deputies who were aware of his narcotics investigation that these subjects, to include Ms. Ray, were all present at the scene. He then responded to the scene to conduct an investigation into the distribution of illegal drugs. When he arrived at the house, he noticed three law enforcement vehicles located in the driveway and one parked in the grass near a picnic table where four people were sitting. As part of the investigation process, the investigator typically conducts recorded interviews with suspects on scene. It is the customary practice of this investigator to conduct on scene interviews in his law enforcement vehicle for safety and privacy purposes. In order to conduct interviews with each of the witnesses separately, he decided to pull around the other law enforcement vehicles that were parked in the driveway and onto the grass. As he pulled onto the grass, he observed a large German shepherd near a tree in the yard. It appeared to the investigator that the dog was attached to a lead and he thought at that time that the lead was attached to the tree.

As soon as the investigator's feet hit the ground, the dog came charging at him. The dog was right at his legs. He began to run backwards, and the dog tried to bite him. It was "showing its teeth" and "growling." He continued to scramble backwards with the dog right at his legs. "Several things were going through my mind at that very moment. First, I was scared that the dog was attacking me and trying to bite me. Second, I thought that as I was running backwards, if I fell, the dog would bite my face or neck." He also indicated, "I'm thinking I'm getting ready to fall. And if I do, he is gonna-uh, he's gonna be on my neck. He's gonna rip my throat out. He's gonna be on my face." The investigator explained that he believed in that moment that the dog must have broken free from its lead, and in fear for his life, he pulled out his service weapon and fired a single shot, which killed the dog approximately 29 feet to the rear of the law enforcement vehicle that he had exited just seconds before.

After the incident, the investigator went back over to the dog and saw that there was a lead attached to the dog and the lead appeared to be attached to a trolley system, connected by two trees. It also appeared that there was still approximately 15 feet of slack left when the investigator shot. The investigator did not see the trolley system when he pulled in and did not know that the dog's lead was attached to it.

2. Conclusion

In order to find that the investigator acted criminally, the facts would have to indicate that he shot the dog for some purpose other than to defend himself. We would have to find from the foregoing facts that the officer shot the dog out of malice or for the sake of cruelty, rather than to prevent physical harm to himself. The facts here indicate that the investigator shot this dog for one purpose – self-defense. Even from the statements of the dog's owners, who were both understandably upset over the loss of their animal, there are no facts that support a criminal charge. The investigator's belief that he was in imminent fear of bodily harm when he drew and fired his service weapon was objectively reasonable. In light of the dog owner's stated belief that her dog was large enough and strong enough to "snap" the lead he was on, the investigator's belief that the dog had broken free from his lead was also, likewise, objectively reasonable, given how quickly the entire incident unfolded. All of the evidence indicates that this dog was charging the investigator and that it had the present ability to cause him serious bodily harm – or even death. Therefore, no criminal charges will be issued as a result of this incident.