

# POLICE CIVILIAN REVIEW BOARD

## Investigation Report

Internal Affairs Case Number C 2020-0124

Complainant: (Race/Gender)	C- Jeffrey Ryans (B/M)
Alleged Policy Violation:	Excessive Force: Use of K9
Subject Officer: (Race/Gender)	Nickolas Pearce (W/M)
Subject Officer's Years of Service:	14 years
Date of Alleged Incident:	4/24/20
Date Investigation Requested:	8/11/20
Date Filed with Internal Affairs	8/11/20
Date Investigation Completed:	9/7/20
Panel Members:	Teresa Garrett Sandy Walsh Amber Liechty Kevin Parke Catalina Pilar
Date of Panel Meeting:	9/9/20
Interviews Conducted:	3

**It should be noted that the narratives contained in this report are summaries that have been paraphrased from interviews. They should not be interpreted as verbatim transcripts. The narrative is intended to accurately communicate the substance of the major points in each interview.**

### **Synopsis:**

In the early morning hours on the day in question, a juvenile child called 911 and described an escalating domestic disturbance involving the mother and father of the family. Mr. Ryans, the father of the family had an existing protective order in place which prevented him from going to the home. However, it appears that Mr. Ryans erroneously believed that order had been lifted. It further appears that he was invited to the home by his estranged wife.

As a result of the 911 call, officers were dispatched to the home including Det. Pearce and two other officers. Det. Pearce stated he is a recognized K9 handler who has taught others about the use of police dogs. He made contact with Mr. Ryans in the backyard of the home in question and believed Mr. Ryans was trying to flee and had likely jumped from the upstairs window of the home based upon his observation of the open window.

Many commands went unheeded by Mr. Ryans but at the time the K9 bit him, based upon commands given by Det. Pearce, it appears that Mr. Ryans was complying with officer commands and was kneeling on a single knee with both of his hands in the air. Det. Pearce commanded his dog to “hit”, the command to bite, four times based upon his belief that Mr. Ryans was rising from the ground. Mr. Ryans suffered serious injuries to his left leg.

This incident took place on 4/24/20 yet did not come to the attention of senior police officials until August when a civil lawsuit was filed by Mr. Ryans. The first level supervisor, a Sergeant, reported that he both reviewed the police report and body camera footage of Off. Pearce. After this review, it reported the incident to his Lieutenant, as per policy. The Lieutenant failed to notify any of his superiors or make a referral to Internal Affairs, as is mandated by policy. The Lieutenant has retired, unrelated to this matter, and therefore cannot be disciplined for his *Failure to Supervise*.

**Jeffrey Ryans is the Complainant in this matter and stated:**

Contact was made with Mr. Ryans’ attorney both telephonically and via text message requesting an interview with his client. The attorney advised he would set it up but at this point, no such interview has occurred.

**Det. Nickolas Pearce; is the subject of this matter and provided the following:**

Det. Pearce stated that he was the back-up officer on a call assigned to Off. Jewkes, involving an ongoing domestic disturbance call. The caller told dispatch that her father was “abusing” family members. Dispatch reported hearing loud screaming in the background, told the officers that there were three children in the home and further informed the officers of an existing Protective Order involving Mr. Ryans. Dispatch further stated, according to Det. Pearce, that Mr. Ryans was told to leave by his wife.

Det. Pearce was the first officer to arrive, around 2:15 am, and could hear yelling coming from inside of the house. He noted that in a window above the garage the curtains were moving, and Det. Pearce assumed someone was trapped within that room.

The other two officers arrived, and Det. Pearce suggested that they go to the rear of the home to prevent escape as he was on the corner of the home with the front door in view. Instead, the officers went to the front door and made contact with the wife. Det. Pearce’s position was on the side of the house, in front of a six-foot-tall cyclone fence that portioned the backyard from the front yard. To the rear of the backyard was a tall cinder block fence.

From his position, he saw an unknown Black Male near the cinder block wall with an unknown object in his hand. Det. Pearce ordered the male to “get on the ground”, which did not occur. At some point, Det. Pearce saw an opened window with the curtains flowing outside of the home which he assumed was how Mr. Ryans exited the home. He said the window was roughly six feet above the ground. Based on his observations, Det. Pearce believed the unknown B/M was preparing to hop the fence and flee.

Det. Pearce ordered Mr. Ryans, still unknown to the officer, to come to him and at one point warned him that his non-compliance would result in him getting “bit” by his K9 (Tuco). He said something like “get on the ground or you’re going to get bit”. However, Det. Pearce had not made the decision to utilize his K9 at this point and this order was more of a threat than a formulated plan of action.

Det. Pearce and the other two officers entered the backyard and confronted Mr. Ryans, giving him repeated commands to get on the ground. Mr. Ryans did not comply with the commands and based on the information he had received from Dispatch along with his own observations, Det. Pearce applied a single “boot strike” to the side of Mr. Ryans’ leg, resulting in him taking a knee. Det. Pearce recalled that Mr. Ryans raised a single hand and believes his second hand was grasping a fence to prop himself up, perhaps to aid in him regaining his feet. Det. Pearce’s belief that Mr. Ryans was attempting to stand up and interpreted those actions as being a prelude to fighting the officers.

Based upon his knowledge from Dispatch and his own observations, along with his 10 years of experience as a K9 officer, Det. Pearce felt that Mr. Ryans was rising from the ground to fight and opted to use his K9 to stop these actions. Although Det. Pearce gave the command to “hit” a total of four times, the K9 was only involved in a single bite, which Tuco held onto until commanded to let go via the command “oust”. As Det. Pearce explained, the multiple commands were used in a single “bite” episode, not four separate “bites”. The single bite site was on Mr. Ryans lower, left leg. Tuco struck on a single time and held on, as Det. Pearce recalled. The dog was withdrawn once the arresting officer, Off. Jewkes, confirmed he was “good”, indicating that the subject was in handcuffs.

Once Tuco was removed by a single verbal command, Det. Pearce said, “good boy”. As he explained, K9s respond to positive reinforcement as they do not naturally want to bite humans. So, after every employment of a K9, the handler will give verbal reinforcement to the dog that what it had just done was correct. The comment was not complimentary of the wound inflicted by Tuco but to reassure Tuco that he had done as instructed.

Det. Pearce believes his actions were in compliance with SLCPD policies.

**Off. Kevin Jewkes, is a police officer and a witness and stated:**

Off. Jewkes was fully interviewed, which was recorded both visually and audibly, and these interviews have been retained if needed in any future review of this matter. His statement is not germane to this review due to the existence of the body camera footage and the statement of Pearce as it relates to his decision to use force in this situation.

**Off. Cody Orgill, is a police officer and a witness and stated:**

Off. Orgill was fully interviewed, which was recorded both visually and audibly, and these interviews have been retained if needed in any future review of this matter. His statement is not germane to this review due to the existence of the body camera footage and the statement of Pearce as it relates to his decision to use force in this situation.

## Evidence:

E: Pearce's body camera showed the following:

Pearce arrived at the location and is seen walking towards the home in question. He approaches the front door, then moves to the overgrown right (as defined as looking straight toward the front of the home) side of the home and takes up a position wherein he can see the front of the home and the right side of the house. Off's Jewkes and Orgill are seen to approach the front door via the steps and eventually making contact with the occupants. Pearce then repositioned himself to the left side of the home that has a waist high picket fence along with a 6-foot-tall cyclone style chain link fence. From this position, Pearce can see into the backyard and observes a male in the backyard. Pearce calls the male, later identified as Ryans, to come towards him and to get on the ground. Pearce, who is still on the opposite side of Ryans tells him to "...get on the ground or you're going to get bit." Pearce and his K9 partner, Tuco, remain separated from Ryans by the cyclone fence at this point. Ryans identifies himself to Pearce by name and a brief conversation occurs wherein the male is positively identified by Pearce. Pearce then makes a radio call that Ryans is attempting to "jump" the fence and moves to the right side of the house where a backyard gate is present. *(Note: the call related to Ryans attempting to jump the fence is not viewable on the video and when Pearce makes it into the back yard and confronts Ryans, Ryans is still standing next to the cyclone fence where he was during their brief interaction less than a minute prior.)*

Ryans, when confronted by Pearce and Tuco, raises both hands to roughly shoulder high, height. Off. Jewkes then joins Pearce, while Off. Orgill remains at the cyclone fence. The knee strike described by Pearce is not captured on his video, but it is on Off. Orgill's video. Multiple commands are given to Ryans to get on the ground along with the threat that if he doesn't do so, he will get "bit". Ryans kneels on a single knee, with his hands still raised at the same height, with his right hand grasping the cyclone fence. *(Note: Pearce noted Ryans' hand being on the fence and perceived that he used it to attempt to stand up. Although it is possible that due to the lighting conditions that body cameras do not capture all actions, a repeated viewing of Pearce's footage along with those of Off. Jewkes & Orgill do not capture any such attempted standing up. Pearce admitted to delivering a single knee strike to Ryans prior to releasing Tuco, and although not discernible on Pearce's video, it is easily seen on Off. Orgill's.)*

After multiple commands to get on the ground, none of which were complied with, Pearce can be heard to command Tuco to "hit" multiple times. It appears that Tuco does strike Ryans' leg and maintains "the bite" for a considerable time. Pearce is heard giving additional "hit" commands as if to instruct Tuco to maintain his biting grip on Ryans' leg. In other words, there are no visual clues that Tuco repeatedly bit Ryans, instead it appears as if it was a single, long duration bite that last until Ryans was placed into handcuffs by Off. Jewkes.

During and after the deployment of the K9 Tuco, Pearce can be heard saying repeatedly "good boy". Pearce asks Off. Jewkes "are you good" and eventually is told something like I am good. This indicates that Off. Jewkes has secured Ryans in handcuffs. Once Off. Jewkes indicates that he is good, Pearce gives the command "oust" which is the command to Tuco to release the bite. Tuco responded immediately to the command and did not reengage Ryans. Pearce is heard calling for medical to treat the dog bite.

Officer Jewkes camera recorded the incident from his point of view and did not reveal any additional important information other than from his angle, which was behind Pearce's position

and further away from Ryans, that Ryans was grasping the cyclone fence with his right hand but no obvious attempt to stand-up from his single knee, kneeling position, was noted.

Off. Orgill's body camera captured the incident from a 180-degree different angle as he remained in the front yard, on the opposite side of the cyclone fence. Pearce and Off. Jewkes were seen arresting Ryans. On his video, the single knee strike delivered by Pearce is apparent. It did not seem to affect Ryans or cause him to go face-down on the ground. Pearce's commands to "hit" are heard but the bite itself is difficult to see due to darkness and obstructions. Off. Orgill interacts with a woman who approaches him, and he instructs her to go back inside. Nothing else new was noted.

E1: Photographs were made of Ryans' injuries, on his left leg, at the mid-point between his ankle and calf muscle. The dog bite injuries were severe with deep wounds being evident on both the front of his lower leg and nearly as severe on the back of his leg. The injuries are consistent with a dog bite and are on the front and back of the leg at almost the same distance from his ankle. There is no indication that a second or third bite occurred.

**Allegations:**

It is alleged that Pearce used Excessive Force by commanding his K9 partner to bite Ryans during his arrest.

**Definitions**

Unfounded: The reported incident did not occur.

Exonerated: The employee's actions were reasonable under the circumstances.

No determination is possible: There is insufficient evidence to support a conclusion as to whether or not the employee violated policy.

Sustained: The employee's action(s) are in violation of the policy or procedure of the Police department.

**Analysis and Recommendation:**

The failure of the Lieutenant to report this incident up the chain is disturbing and unacceptable. Watch Commanders are the eyes and ears for senior Department leadership and without them reporting such incidents, there is no way for the Department to act quickly, or even at all. It appears that the Sergeant did his reporting appropriately and he would not have any reason to follow up on this matter as he reported it to the Lt. after reviewing the paperwork and body camera footage.

**RECOMMENDATION:** A better reporting system must be instituted to prevent the failure to report such as occurred in this matter. CRB recommends in such use of force matters that Watch Commanders be mandated to make a "Blue Team" entry and send an email to a Deputy Chief prior to completing their shift. This directive must be associated with serious consequences or knowledge of such serious incidents may not ever come to light.

Use of Force matters all boil down to if the officer's actions were both reasonable and necessary. In this case, a call from a traumatized child was received by Dispatch. The information learned was passed along to the three responding officers along with the fact that Mr. Ryans was prohibited from being in the home due to an active Protective Order. Officers rightfully treat such calls of alleged Domestic Violence/Disputes seriously, even more so when there is a Protective Order in place. Obviously, the knowledge that children were inside the home only heightens responding officers' concerns. However, the nature of any call is not carte blanche approval for any specific action by an officer, but the nature of the call certainly will cause officers to be more on guard and arguably quicker to respond. So, the fact that this call was heart wrenching and was seeking immediate help, that alone does not allow an officer to use force. It is the actions of the subject at the time they encounter officers that determines the approach.

In this matter, there does not seem to be an attempt by Off. Pearce to deescalate the matter. In almost his first words he makes the command for Mr. Ryans to come to him and if he does not, the threat of him getting "bit" is issued. This situation does call for more direct commands, it was 2 am, very dark, and the presence of an unknown male in the backyard were the circumstances Off. Pearce first encountered. He soundly was cautious as there were more unknowns than there were known facts, but he did not do much to figure out what was occurring. In his statement, Off. Pearce stated and radioed that he felt Mr. Ryans was attempting to scale a fence, implying an attempted escape. This review does not doubt his observation and associated radio call, but when the videos are reviewed, it appears as if Mr. Ryans does not move from where he was, on the opposite side of the cyclone fence, to where Off. Pearce re-encounters him after entering the backyard and moving to him. It seems unlikely that Mr. Ryans attempted to scale a fence and had he done so, Off. Pearce was in transit and would not have observed that as he moved around the home and entered the backyard. It is possible this attempted wall scaling occurred earlier upon initial contact but was not relayed until later in the encounter.

Off. Pearce correctly stated that Mr. Ryans had his hand on the cyclone fence while he was on one knee with his hands raised. Off. Pearce believed that Mr. Ryans was going to use the hand on the fence in his attempt to regain his feet, from the kneeling position. In reviewing the videos, there is no discernible attempt to stand up by Mr. Ryans. Due to the lighting conditions, it is possible that Off. Pearce observed/sensed something that was not captured on the videotapes, but the recordings are not supportive of that observation. Based upon his perception that Mr. Ryans was attempting to stand up, Off. Pearce deployed his K9. If in fact Mr. Ryans was attempting to stand, he would be facing both Off. Pearce, Tuco the K9 and Off. Jewkes with Off. Orgill at his six o'clock but on the other side of the cyclone fence. Again, accepting for the moment that Mr. Ryans was attempting to stand, it seems that many lesser use of force options were available to the two officers, and although a *Terry Search* had not been conducted yet, there was no indication that he was armed. The 911 call did not indicate the presence of a weapon and nothing Mr. Ryans did, other than not being immediately compliant, indicated he was resisting or armed, requiring the use of the K9.

K9s are a valuable tool that can prevent the use of a Deadly Force option and prevent exposing responding officers to a violent physical fight. But the subject must exhibit some type of behavior or action that would necessitate the use of the K9, something beyond "contempt of cop" or disregard of commands. Other than the reported attempted scaling of a fence, to escape it is assumed, or the reported attempt to stand up, Mr. Ryans did not display any action that posed a threat to the officers.

The K9 appeared to strike Mr. Ryans a single time, for an extended amount of time, and caused a terrible set of wounds on the front and back of his lower left leg. Off. Pearce can be heard giving

multiple commands to Tuco to “keep him on the bite”, which is SOP once a K9 has been employed. It has been reported that the repeated “hit” calls indicated multiple strikes and that is not the case in this matter. The K9 is commanded to release a single time and did so immediately without physical intervention by the handler, which also occasionally happens. In other words, the K9 did as instructed in a timely manner both in striking and releasing Mr. Ryans. Off. Pearce recalled his dog after getting confirmation that Off. Jewkes was “good” indicating that Mr. Ryans was in handcuffs. The multiple commands of “good boy” are not calls to celebrate the biting of Tuco but instead are part of the handler’s duty to reassure his dog that his actions are correct. As Off. Pearce rightfully pointed out, his dog is not by nature prone to bite humans and only acquires this ability after extensive training. Positive commands and the playing with toys by the handler are the way the K9 knows he did his job correctly. Those actions and words are not intended to gloat or make the bitten subject feel demeaned; they are training tools intended only for the K9 to understand.

Nothing in this investigation indicates that the unrecorded actions presented by Off. Pearce in his interview did not occur, instead they are simply not seen. The critical element, the attempted standing up that lead to the deployment of the K9, was simply not apparent on the two cameras that captured this portion of the events. As noted above, even if Mr. Ryans was attempting to regain his feet from his single knee, hands raised, kneeling position, the issue is: was this sufficient cause to use the K9? The central issue in this case is very simple: based upon what occurred, was the decision to use the K9 both reasonable and necessary?

**Panel Findings:**

As to the allegation that S used Excessive Force, the Panel makes a finding of “Sustained”

The Panel makes a finding that this matter is in the public eye and therefore recommends that this report be made public.

---

Panel Chair  
Kevin Parke  
By Richard Rasmussen

---

9/9/20