

Pursuant to Section D.1.j. of the July 2022 Operational Agreement between SCSO and IOLERO, we are providing a written response to IOLERO's preliminary audit in case no. 21-C-0019.

The incident under review was the use of a patrol canine to apprehend a concealed individual wanted for a domestic violence charge. The administrative investigation into this matter concluded the canine handler acted within policy (specifically Use of Force and Canine policies).

IOLERO's audit concluded the investigation did not clearly establish proper authority to use the canine as an apprehension tool, as it relates to the canine policy (#309). IOLERO believed having an outstanding arrest warrant for a previous "serious offense" did not rise to the level of the verbiage outlined in the canine policy permitting the use of canines to apprehend a person the handler "reasonably believes" has "committed, is committing or threatening to commit any serious offense."

IOLERO interpreted verbiage in the canine policy to mean:

*"serious offense" and "lesser criminal offense" refers to the offense for which the person is being arrested at that moment, and not for crimes for which they had previously been convicted. This is consistent with § 309.6 and § 309.6.1(a), both of which require deputies to consider the seriousness of the "suspected" offense rather than previously adjudicated convictions."*<sup>1</sup>

Policy 309 states:

*A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has either committed, is committing or threatening to commit any serious offense and if any of the following conditions exist:*

- a. There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any deputy or the handler.*
- b. The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.*
- c. The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of deputies or the public.*

*It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine.*

The Sheriff's Office contends this canine deployment met the criteria outlined in the canine policy. Additionally, we believe the Internal Affairs Investigator sufficiently investigated this matter and judiciously reached the proper conclusion.

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<sup>1</sup> IOLERO audit pg. 20

The facts of the matter reveal, Mr. Perez had four active arrest warrants for failing to appear on a felony domestic violence charge, failing to appear on a misdemeanor resisting arrest charge, failing to appear on a misdemeanor drug charge, and failing to appear on a misdemeanor evading charge.

The week prior, SCSO deputies attempted to arrest Mr. Perez on his outstanding warrants. Mr. Perez fled and eluded capture, thus adding a new (not previously adjudicated) on-view charge of resisting arrest.

Prior to attempting another arrest, the canine handler researched Mr. Perez' recent criminal history and discovered he was a [REDACTED] gang member with prior arrests for weapons possession and drug possession.

Mr. Perez concealed himself in a shed on the property in an effort to avoid being arrested. Again, demonstrating his unwillingness to comply with arrest. After several failed attempts to get him to surrender, the canine handler, having considered all the factors listed above, opined the utilization of his canine was the proper tool to locate and apprehend Mr. Perez.

Once the canine handler visually located Mr. Perez hiding in the structure, he verbally confronted him, yet Mr. Perez remained concealed and refused orders to surrender. Ultimately, the canine was effectively used to apprehend Mr. Perez.

In response to IOLERO's comments, we are not contending the arrest of an individual for an outstanding bench warrant is equivalent to apprehending someone who has just committed a crime of violence. It is understood these two scenarios could be drastically different and, in all circumstances, the use of a canine needs to be weighed against law and policy. However, in this incident, the canine handler sufficiently considered the facts and accurately applied them to the canine policy.

It is impossible to list every circumstance in which the use of a canine would be appropriate, hence the policy verbiage "*It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine.*"

Based on the totality of the circumstances, we agree with the Internal Affairs Investigator's findings that the canine deputy's actions were within policy, therefore exonerating him of any wrongdoing.

Moreover, we believe the IA investigation sufficiently documents the above listed evidences, therefore rendering the investigation complete.