

# Deadly Force Review Board

September 4, 2014

Department Tracking Number	14U-021
Department Incident Number:	14C21483
Incident Date and Time:	July 9, 2014 @ 1100 hrs.
Location:	819 Sherman Ave. Coeur d'Alene Id.
Involved Member:	Officer David Kelley
Board Members:	Steve Childers, Captain Bill McLeod, Lieutenant Erik Turrell, Sergeant Lee Richardson, Captain (KCSO)
Date Review Completed:	September 4 2014

## Summary:

On July 9, 2014, two Coeur d'Alene City Police Officers, Kelley and Weidebush, were dispatched to 819 Sherman Avenue for a reported suspicious vehicle related to a possible child enticing. Upon arrival, the vehicle was located at which time the officers began their approach. Officer Kelley was taken by surprise when a dog lunged through the partially open driver's door window. Officer Kelley fired one round from his duty weapon fatally wounding the dog.

## Investigation:

On July 9, 2014, at approximately 1100 hours, Coeur d'Alene City Police Officer David Kelley was dispatched to 819 Sherman Avenue for a reported suspicious vehicle related to a possible child enticing report. Upon arrival, the vehicle was located at which time Officer Kelley and Officer, Jason Weidebush, approached the vehicle. While attempting to determine if the vehicle was occupied, Officer Kelley was taken by surprise when a black colored dog lunged through the open driver's door window. Officer Kelley describes hearing a vicious bark mixed with a growl. He further describes the animal's face was within inches of his own face. Officer Kelley recalls seeing the dog's teeth and feared being bit in the face. Officer Kelley fired one round from his duty weapon striking the dog. The animal, still in the van, retreated to the rear of the vehicle where it ultimately died.

Patrol supervisor Sergeant Jeff Walther responded to the scene and began the initial investigation. On July 21, 2014, Lieutenant Rob Turner was assigned to oversee and complete the Use of Force Investigation. On August 22, 2014, I was advised the investigation was complete and supplied with four thumb drives.

Based on the circumstances of this incident, the Coeur d'Alene Police Department policy mandates the convening of a Use of Deadly Force Review Board. In addition, the policy states:

211.2.2 Responsibilities of the Board:

The Review Board is empowered to conduct an administrative review of the circumstances of the incident.

The Board shall make a finding and such finding will be limited to one of the following:

- (a) The member's actions were within policy and procedures of this department.
- (b) The member's actions were in violation of policy and procedure of this department.

Prior to the Review Board convening, all Board members were provided a "thumb drive" containing the entire case investigation as prepared by Lt. Rob Turner. On September 4, 2014, at 0900 hours the "Use of Deadly Force Review Board" convened at the Coeur d'Alene Police Department. Each member was given a copy of Coeur d'Alene Police Department Policy 211, Use of Deadly Force Review Board; 300, Use of Force and 301 Shooting Policy. I discussed with the members what our responsibilities were as a Board and upon completion of our findings, I would submit a report to the Chief of Police. Each member understood our task and further agreed they were given ample time to review the case file.

The Board concentrated our efforts on the entire case file including all incident photos, video from the incident as well as the follow-up investigation videos. Furthermore, we reviewed and discussed the Coeur d'Alene Police Department policy 300, "Use of Force". The Board concentrated more specifically on the following policy sections.

- 300.2: Policy
- 300.2.1: Use of Force (section "d")
- 300.3: Use of Deadly Force (section "d")
- 300.4: Factors Used to Determine the Reasonableness of Force (sect. g, j and k)
- 300.4.1: Warning

All Board members agree this is an unfortunate event and realize officers are forced to make split second decisions in circumstances that are tense and uncertain which could ultimately end with the use of force. In this particular incident, all Board members agree Officer Kelley feared for his safety and used deadly force to protect himself.

However, that being said, all Board members agree that factors listed in Coeur d'Alene Police Department Policy 300.4 were not necessarily considered when the officer made the decision to use deadly force. We concentrated our discussion on policy 300.4 (g, j and k).

When considering time, circumstance and other available options, the Board discussed Officer Kelley's approach to the van, his positioning, knowledge of the detail, other tactical options to gain a visual inside the vehicle and whether or not he should have made some verbal announcement to a possible individual inside the vehicle.

The Board also considered officer Kelley's training and experience. He is a seasoned officer and assigned the task of training new recruits. Officer Kelley acknowledges his training as a K-9 agitator and experience when a dog will bite. He further discusses being taught firearm placement at the academy. Officer Kelley also claims he would have risked being bitten, rather than risk endangering his recruit officer. The Board felt that although he may have training and experience, it doesn't appear there was thought or consideration given to his back-drop. He is in a parking lot full of cars and potential pedestrian traffic. Furthermore, he is firing toward an intersection as well as a neighborhood setting. The potential for injury to citizens, including a potential subject in the vehicle, does not appear to have been factored in to the decision prior to using deadly force. The Board does not dispute the dog took Officer Kelley by surprise, but does not see the potential of further threat based on the facts given. It is agreed the animal's head and neck protruded from the partially open window, however there is no evidence the animal was going to escape the confines of the vehicle. Officer Kelley had the ability to retreat a distance and re-assess how contact could be made with potential occupants of the vehicle.

### **Findings:**

The Board found unanimously that Officer David Kelley did use deadly force during this incident. After a thorough review of the investigation and the circumstances, the consensus of the Board was;

**Officer David Kelley's actions were in violation of the Department Policies reviewed.**

### **Attachment:**

1. One "thumb-drive" red and black in color with the Coeur d'Alene Police case 14C21483 printed on one side. Thumb drive contains the Coeur d'Alene Police Department Investigation of the incident.
2. Coeur d'Alene Police Department Policy 211
3. Coeur d'Alene Police Department Policy 300
4. Coeur d'Alene Police Department Policy 301

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Stephen W. Childers, Captain (Board Chair Person)  
Coeur d'Alene Police Department

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Lee Richardson, Captain  
Kootenai County Sheriff's Office

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Bill McLeod, Lieutenant  
Coeur d'Alene Police Department

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Erik Turrell, Sergeant  
Coeur d'Alene Police Department