Patrol Canines
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The IACP Law Enforcement Policy Center creates four types of documents: Model Policies, Considerations Documents, Concepts & Issues Papers, and Need to Know one-page summaries. Typically, for each topic, either a Model Policy or a Considerations Document is created, supplemented with a Concepts & Issues Paper. This file contains the following documents:

- **Model Policy:** Provides police agencies with concrete guidance and directives by describing in sequential format the manner in which actions, tasks, and operations are to be performed.

- **Concepts & Issues Paper:** Designed to provide context and background information to support a Model Policy or Considerations Document for a deeper understanding of the topic.
Patrol Canines

I. Purpose

The purpose of this policy is to provide guidelines for the management and tactical deployment of patrol canines.

II. Policy

It is the policy of this department to utilize patrol canines as a valuable supplement to police resources, due to their superior senses of smell and hearing and their physical capabilities. However, utilization of canines requires adherence to procedures that properly control their use-of-force potential and channel their specialized capabilities into legally acceptable crime prevention and control activities.

III. Definitions

- **Canine Team:** An officer/handler and his or her assigned police canine.
- **Canine Apprehension:** Gaining control and custody of a suspect that is the direct result or clearly due to the deployment of a canine.
- **Canine Deployment:** Use of a canine for purposes of finding, apprehending, containing, or controlling a suspect or for other purposes as authorized for canine use by this department. Mere presence of a canine at a crime or incident scene does not constitute a deployment.
- **Contact:** In the context of this policy, the location of a suspect by a canine, biting or barking at a suspect for purposes of apprehension, or the presence of a canine in close proximity to a suspect sufficient to effect compliance.

IV. Procedures

A. Selection of Handlers

1. The agency’s chief executive or his or her designee is responsible for selection of canine handlers in accordance with established departmental procedures.
2. Applicants for police canine teams must have
   a. sufficient patrol experience with satisfactory work performance;
   b. a willingness to remain with the unit for an extended period of time as prescribed by this agency;
c. a willingness and ability, together with other family members, to house the canine at the officer’s residence in a safe and secure manner and with adequate provisions and facilities to properly care for the health and well-being of the canine in accordance with departmental requirements; and

d. the ability to perform essential job-related functions related to fitness and agility.

3. New canine handlers must complete the prescribed canine training course and successfully meet all course requirements.

B. Team Qualifications and Training

1. Canine handlers are required to demonstrate certain specified skills and abilities to the canine supervisor on a periodic basis as prescribed in departmental regulations.

2. Failure to participate in or qualify under established training standards will result in de-certification of the team. The team may not be deployed unless re-certified.

3. It is the duty of the canine supervisor to ensure that basic and in-service training and certification is conducted on a regular basis.

4. The supervisor of the canine unit is responsible for the selection, screening, and acquisition of canines for police service in accordance with criteria established by the department.

5. All departmental canines must meet established department certification requirements. Untrained canines may not be used for canine duty.

6. The canine team supervisor shall maintain records that document the use and the proficiency of individual canines in drug and explosives detection. This documentation shall be readily available to canine officers and others who may need it when seeking warrants.

7. Each canine team shall maintain a current “handler’s log” that contains information on training, certification, awards, bite memos, recall memos, veterinary records, and other information designated by the canine supervisor.

C. Canine Care

1. Police canines shall not be used for breeding, participation in shows, field trials, exhibitions, or other demonstrations or on-or-off-duty employment unless authorized by the agency’s chief executive or designee.

2. Officers shall maintain their canines both on and off duty in a safe and controlled manner. Police canines shall never be allowed off leash unless engaged in agency-authorized work, training or exercise in a controlled environment.

3. When an officer is not able to provide housing for his or her canine at home, suitable kennel housing will be provided subject to periodic inspections.

4. Canine handlers are personally responsible for the daily care and overall welfare of their animal to include
   a. maintenance and cleaning of the kennel and yard area where the canine is housed;
   b. provision of food, water, and general diet maintenance as prescribed by the department’s authorized veterinarian;
   c. grooming on a daily basis or more often as required by weather, working conditions, or other factors;
   d. daily exercise; and
   e. general medical attention and maintenance of health care records.
5. Canine handlers shall immediately notify the canine supervisor of any changes that would affect the care and housing conditions of their dogs. Where the handler is unable to perform these and related duties due to illness, injury, or leave, another canine handler may be assigned to temporarily care for the canine.

6. Teasing, agitating, or roughhousing with a police canine is strictly prohibited unless performed as part of a training exercise.

7. Handlers shall not permit anyone to pet or hug the canine without the handler’s prior permission and supervision.

8. A canine handler may apply to take possession of the dog where:
   a. the dog is retired from duty or relieved due to injury; or
   b. the handler is transferred or promoted or retires and a decision is made not to retrain the dog for another handler.

D. Canine Team Utilization

1. Canine teams should make all reasonable attempts to remain available to respond to requests for assistance.

2. Canine teams should not be dispatched to routine calls for service unless other officers are unavailable to respond.

3. Canine teams should not be dispatched or self-dispatch to traffic accidents unless injuries or traffic conditions require immediate attention. Units should return to service once sufficient patrol resources are at the scene.

4. Canine teams may not be used for secondary employment assignments. Exceptions may be made for events sanctioned by the department or its governing jurisdiction that are considered extra-duty assignments.

E. Requesting a Canine Team

1. Canine team assistance may be requested by any police officer. Telecommunicators shall forward requisite information concerning the incident without delay to the canine unit supervisor, an available canine handler, or both.

2. Canine teams may be available on a 24-hour, on-call basis. Their use includes but may not be limited to
   a. conducting building searches for alleged armed or otherwise dangerous suspects in hiding;
   b. assisting in the arrest or preventing the escape of dangerous offenders;
   c. protecting officers or others from death or serious injury; and
   d. engaging in assignments not listed here with the approval of the canine team supervisor.

3. Where a canine deployment is justified and authorized, the tactical measures used shall be at the discretion of the canine handler. The canine handler shall also have authority to direct on-scene personnel to assist or to take other measures that will facilitate the canine’s efficiency and effectiveness.

4. Decisions to deploy a canine shall be based primarily upon the following factors:
   a. the severity of the crime;
   b. whether the suspect poses an immediate threat to the safety of the officers or others; and
   c. whether the suspect is actively resisting arrest or attempting to evade arrest at the time.

5. The deployment of a police canine for apprehension of a suspect is a use of force that must be consistent with this agency’s use of force policy.
6. Police canines should not normally be handled or given commands by anyone other than the assigned handler. Only under emergency conditions should another handler command the canine.

F. Building Searches for Suspects

A primary use of departmental canines is for locating suspects in buildings or related structures. These searches should be governed by the following.

1. The building perimeter shall be secured by police personnel.
2. Whenever reasonably possible, the building’s owner should be contacted to determine whether there may be tenants or others in the building and to ascertain the building’s layout.
3. When a canine building search is anticipated, a preliminary search by officers should not be conducted as this will interfere with the canine’s ability to differentiate between scents.
4. The on-scene supervisor shall take the following steps in preparation for the canine search.
   a. Evacuate all tenants, workers, or others from the facility.
   b. Request that all air conditioning, heating, or other ventilation systems be shut off so as not to interfere with the canine’s ability to detect scent.
5. The handler shall determine the availability of a back-up officer for assistance. The back-up officer must be familiar with or must be briefed on his or her responsibilities, to include in particular
   a. positioning with the team;
   b. coverage responsibilities;
   c. conducting the arrest, to include searching and handcuffing the suspect; and
   d. maintaining communications with perimeter personnel and EOC.
6. Upon entering the building, all exits should be secured and communications limited to that of a tactical nature.
7. The canine may be unleashed during a building search unless this would create an unreasonable risk of injury to innocent persons within the facility.
8. The canine should not be used to search areas that contain substances potentially harmful to the animal unless overriding risk to human life is present.
9. Before releasing the canine, the handler or other appropriate personnel shall make a loud announcement and repeat the announcement. The announcement shall include the identification of a police canine presence, specific commands to the suspect and the results of non-compliance. “Police Canine! Respond now and show yourself or I will release the dog!” A reasonable amount of time shall be allowed for the suspect to respond. This warning shall be repeated on each level of all multilevel structures or when there are barriers present that may inhibit sound.
10. The canine shall be commanded to disengage when reasonable and practical based on the circumstances. Arrestees shall not be transported in the same vehicle with a police canine unless alternative transportation is not available and immediate transport is essential for safety or security reasons.

G. Tracking

Where appropriately trained police canines are available, they may be used with supervisory approval to track missing and endangered persons or criminal suspects or to locate evidence.

1. When officers are pursuing a suspect and contact with the suspect is lost, the officer, prior to summoning a canine team, shall:
   a. pinpoint the location where the suspect was last seen;
b. shut off engines of vehicles in the area, if possible; and
   c. avoid vehicle or foot movements in the area where the suspect was last seen.

2. Canines used for tracking lost, missing, or endangered persons should remain on a leash of sufficient length to provide a reasonable measure of safety to the subject of the search without compromising the canine’s tracking abilities.

3. On-scene personnel shall
   a. secure the perimeter of the area to be searched;
   b. ensure the integrity of the area to be searched by keeping all personnel out of the area; and
   c. protect all items of clothing that will be used for scent from being handled.

H. Crowd Control

Canine teams may respond as backup when appropriate but shall not be deployed for crowd control (i.e., containment or dispersal). Canines shall remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the view of the crowd.¹

I. Canine Bites and Injuries

In this as in other cases, officers may only use that degree of force that is objectively reasonable to apprehend or secure a suspect as governed by the standards in *Graham v. Connor*. Whenever a canine has bitten or scratched an individual, or is alleged to have done so, whether or not in the line of duty, the handler shall notify a supervisor and perform the following.

1. If no arrest is made, the individual will be offered medical care and treatment by a qualified medical professional.
2. If an arrest is made, the individual will be provided with medical attention in accordance with agency policy on transporting and booking prisoners.
3. Regardless of arrest, the officer shall take color photographs of the affected area in compliance with use-of-force reporting requirements.

J. Documentation

1. Canine handlers shall notify their shift supervisor or canine supervisor as soon as reasonably possible of any canine deployment, suspect injury, or complaint of injury resulting from canine contact.
2. An on-duty canine supervisor shall respond to the scene of any canine apprehension, and review and evaluate the handler’s use-of-force report. That report shall include the following information.
   a. Date, time and location of the deployment
   b. What led the officer to believe the suspect was dangerous (e.g., the crime involved, outstanding warrants, whether the suspect was armed)
   c. What factors established probable cause
   d. Tactics that were employed
   e. Names of all involved officers, supervisors, and witnesses
   f. Whether the deployment was approved by a supervisor
   g. Whether a search or deployment announcement was given and the language used
   h. The number of announcements given prior to deployment

¹ See the IACP Model Policy on Crowd Management and Control.
i. Time elapsed between the announcement and deployment
j. Time elapsed between deployment and suspect contact
k. Distance of the dog from the handler when contact was made
l. Duration of contact
m. Any commands given to the canine
n. Elapsed time between canine contact and officer’s arrival at the scene
o. Actions taken by the officer upon arrival at the scene of contact
p. Any statements made by the suspect
q. Manner in which the canine held the suspect, so that any prior injuries are not attributed to the encounter
r. Copies of any witness statements
s. Any photographs taken of injuries, aid rendered in response to injuries, where treatment was received and by whom
t. Any other relevant information

3. The canine supervisor shall review all documentation and gather any additional information necessary to determine whether the deployment and subsequent actions were within department policy.

4. At least annually, the canine supervisor shall compile statistical summaries and analyses of canine deployments and uses sufficient to evaluate canine and handler performance and to identify incidents or trends that suggest the need for modification or additions to policy, procedures, or training.
Every effort has been made by the IACP Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives, and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes. Law enforcement administrators should be cautioned that each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions, and collective bargaining agreements that must be considered and should therefore consult their legal advisor before implementing any policy.

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Patrol Canines

I. INTRODUCTION

A. Purpose of the Document

This paper is designed to accompany the Model Policy on Patrol Canines published by the IACP Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the Model Policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

Most law enforcement historians agree that the first official use of canines for police service took place in Ghent, Belgium, in the 1890s. In the United States, the New York Police Department began an experimental police canine program in 1907, with dogs imported from Belgium. Used primarily in affluent neighborhoods, the dogs were very effective in reducing burglaries and related crimes. However, as one might expect, the experimental program employed some rather unusual training methods and techniques compared to modern day police canine use and training. One observer noted for example that during the first few weeks of training, the dogs were taught that any person in uniform was friendly and all others were potential enemies. More interestingly, the dogs were taught to wrap their legs around one of the suspect’s legs and to hold tightly in order to throw the person to the ground. Thereupon, the dog was instructed to pounce on the suspect and bark until police officers arrived.¹

Since that time, the training of police canines has changed dramatically, and the role of these animals has also expanded to include their use in searching for and apprehending suspects, providing support for patrol officers, and detecting drugs and explosives. Law enforcement canines are trained to assist in arson investigation by detecting trace elements of accelerants, as well as to recover human bodies—a unique specialty that is very useful in the aftermath of natural or manmade disasters and in homicide investigations. The success of cadaver dogs has been widely documented in situations involving deceased victims in the wilderness, earthquake victims, and even drowning victims who are still submerged under water.

II. POLICY RECOMMENDATIONS

A. Canine Handler Selection

Selecting a qualified handler is vitally important in developing an effective and reliable canine team. A qualified handler must be able to work with a canine partner in a positive, uninhibited, and constructive manner.

The prospective canine handler’s work record is an important indicator of performance and should be examined closely. Performance evaluations, awards and citations, and any additional achievements of the officer should be taken into consideration. Likewise, consideration of disciplinary history and the frequency and nature of citizen complaints is critical in selecting an appropriate candidate. To get a more complete picture of the prospective handler’s suitability, agencies may wish to consider interviews of the officer’s most recent supervisors. Agencies may wish to use an oral board interview comprising the canine unit commander and a supervisor and at least one experienced canine handler. In selecting a handler, the board should evaluate the candidate in the following areas, at a minimum:

- **Attitude.** The officer should enjoy being around dogs and have no intrinsic fear of them. The officer’s attitude is important since the dog can sense a handler’s emotions and react accordingly.

- **Patience.** Canine training requires a great deal of repetition and reinforcement. If the prospective handler is impatient and prone to lose his or her temper, the officer will be ineffectual in canine training. The dog works to please the handler and the handler’s praise is an essential part of its reward.

- **Physical Condition.** Canine officers are frequently required to exert substantial physical effort in training and working their canines in the field. Prospective canine handlers should be in good health and physical condition.

- **Dependability.** The handler is responsible for the overall welfare of his or her dog to include daily grooming, regular feeding, and health care and providing a secure home environment that will support these responsibilities.

The prospective handler must be willing to devote significant time and effort to these and related tasks. A potential canine handler must also be willing to commit to at least three years in an assignment as a canine officer. The time and expense involved in training a handler makes such a commitment necessary. Many law enforcement agencies require a longer commitment and some professionals make a case for assignment of an officer to the canine unit for the working life of the dog. If the dog does not retrain well with a new handler, the time and money devoted to training the dog is lost. Also, the longer an officer spends in the assignment, the more proficient the officer and canine become in working as a team.

Prospective canine handlers should have sufficient experience as patrol officers, as deemed appropriate by the canine supervisor. This will provide the officer with a good working knowledge of the law, as well as police procedure and tactics.

The prospective handler must also occupy a dwelling that will accommodate the dog, to include a fenced yard or contained area that meets security requirements and a kennel with a run adequate to house the dog. Some law enforcement agencies, because of liability concerns, choose to house their canines in kennels operated by the department or an approved facility. Liability can be a legitimate concern, for example, where a canine bites or attacks a family member or guest in the handler’s home.

Such cases, are infrequent and most often due to careless handling by the officer or other family members, or failure to secure the dog properly. Most professionals in the field agree that housing a police canine away from its handler is an undesirable practice, as it does not foster the type of handler-canine bonding that is so important for the establishment and maintenance of a good canine team.

If the officer candidate has a family or is living with other individuals, these other persons must not be averse to the officer’s assignment or to the presence of the canine in the house. Agencies may want to take into consideration whether there are children in the home who are of insufficient maturity to understand the potential danger associated with a police canine. Canine handlers must understand the importance of instructing members of the household and frequent visitors about proper interaction with the dog. Non-handlers must know never to approach the animal when the handler is not present and how to approach the dog in the handler’s presence without giving the dog any cues that
would inadvertently initiate aggressive action. Consideration may also be given to the presence of other animals in a home and whether the handler will take adequate measures to ensure there will not be conflict.

Depending on department size and policy, a prospective handler must also understand that, as part of a specialized unit, he or she may be subject to callout duty and overtime. In most cases, the officer will be required to devote time to daily exercise and care of the dog, which is generally compensable as regular duty time or overtime. The demands on both time and effort required to properly train and care for a canine must be understood and accepted by a candidate for this position. Potential handlers should be carefully screened with an eye toward screening out candidates who may be motivated primarily by increased pay.

B. Canine Selection and Training

Selecting suitable canines for law enforcement work is an essential element of a successful canine program. Law enforcement canines can be obtained through various means, including donations and purchase from breeders. While some agencies utilize donated dogs, police departments should research this issue thoroughly before adopting this procedure, and any potential donated canine should undergo thorough screening. Serious consideration should be given to a policy that accepts only canines that have been specifically bred for or recognized as acceptable for police use. Agencies should use great care if considering canines of unknown history or breed. Canines that do not have any medical or related history records can present liability concerns and may prove unsuited for police work.

A standard approach is to acquire a canine from a professional breeder who has trained and/or bred the dog specifically for law enforcement work. This approach is a convenient and quick means of obtaining a suitable police canine, often with a guarantee from the breeder. This method reduces the possibility that an undesirable dog will be obtained, as most reputable breeders and trainers understand the individual characteristics of particular dogs and the traits that a police canine should possess in order to function effectively. Most also have knowledge of a dog’s lineage that allows insight into its potential temperament, performance, and overall health. Unfortunately, the cost of a well-trained law enforcement canine can be prohibitive for many agencies. Agencies must also consider that most professional trainers have their own personal training philosophies and techniques that may not be compatible with the operating policies of a particular police agency.

Whatever the procurement method, the prospective law enforcement canine must be carefully evaluated for any disqualifying characteristics, which should include but not be limited to sensitivity to loud noise and gunfire, shyness, and hyper-aggressiveness. A potential canine’s age and sex should be taken into account during selection, and, accordingly, a dog should not be too young or too old, and unspayed females should not be used. Prior to being accepted for training, all dogs should be thoroughly examined by a veterinarian for any potentially disqualifying medical conditions such as hip dysplasia or vision defects.

Once the canine has been selected, the handler and canine must attend a formal training program. Most large law enforcement agencies with canines will assist in providing the training. Agencies may also wish to contact the United States Police Canine Association (USPCA) and the North American Police Work Dog Association (NAPWDA), or other accredited agencies or individuals for training opportunities. If professional training is desired, the agency should carefully check the trainer’s references and qualifications. When a dog is purchased pre-trained from a professional trainer, a handler familiarization course is normally included. This is typically an abbreviated training course and should not be considered a complete training regimen for handlers. A formal training course that conforms to the needs and established policies of the department must be completed before the team is ready for duty. The USPCA and the NAPWDA have recommended standards for training that departments may refer to for development or evaluation of their training program.

The Model Policy states that it is the duty of the canine supervisor to ensure that both basic and in-service training and certification are conducted on a regular basis. Departmental canine units should be cognizant of and conform to accepted professional standards for canine training in the law enforcement community and keep abreast of any changes in the law or best practices. While there is no single source for such standards, there are a variety of reputable training resources and agencies available to assist in training, such as the USPCA and NAPWDA mentioned
previously. Canine handlers must demonstrate required abilities to the canine supervisor on a periodic basis as prescribed by the agency. Failure to participate in or qualify under established training standards shall result in decertification of the team, and the team may not be deployed until re-certified.

The importance of training for canine teams cannot be overstated. Proper training and accurate recordkeeping regarding training are essential in defending officers and agencies against claims of negligence related to improper training, failure to train, and excessive force. An example of the importance of training is found in Robinette v. Barnes,² wherein the Sixth Circuit Court of Appeals reviewed a civil rights lawsuit brought by the estate of a burglary suspect killed by a police canine.

In this case, Officer Barnes and his canine, Casey, responded to a closed automobile dealership where a suspect was hiding after breaking into the building. Barnes and Casey entered the building and Barnes shouted a warning that anyone inside the building should come out or he would release the canine. Thirty seconds later, Barnes repeated the warning, and, after another 30 seconds elapsed, he released the dog. Casey proceeded to search for the suspect while Barnes checked doors that the dog had bypassed. Eventually Barnes followed Casey into a darkened area of the dealership where his flashlight revealed the dog holding the suspect by the neck. Half the suspect’s body was under a car and he was lying motionless, face down in a pool of blood. Casey was ordered off the suspect and leashed and an ambulance was summoned to the scene. The suspect was pronounced dead on arrival.

The importance of competent training was a focus in the court’s analysis of whether or not the use of a police dog to apprehend a suspect constituted the use of deadly force. The court stated, “when a properly trained dog is used in an appropriate manner to apprehend a felony suspect, the use of the dog does not constitute deadly force. While the officer’s intent in using a police dog, or the use of an improperly trained dog, could transform the use of the dog into deadly force, we find no such intent or improper training present in this case.”³

The record in the Robinette case established that all members of that department’s canine team had been trained according to guidelines established by the USPCA and that building searches were among the tasks that the canine teams were trained to perform. In addition to completing the initial training, all teams had participated in retraining every three weeks to reevaluate their skills.

C. Canine Care and Safety

As stated previously, the handler is responsible for the care, health, and safe housing of his or her canine. The kennel, exercise area, and any other places used to contain or transport the canine should be regularly cleaned to provide a healthy environment. The canine supervisor should conduct periodic checks to ensure that the kennel environment is properly maintained.

The canine supervisor should ensure that handlers adhere to a regular schedule for watering, feeding, and grooming. Agencies should specify the type of food used and may wish to consult a veterinarian about appropriate foods and other materials used on and around department canines. Daily grooming is an important task, as it fosters the bond between the handler and his or her canine and gives the officer a good opportunity to examine the dog for possible illness or injury. Such examination should include the eyes, which should be clear and bright, and the surrounding tissue. There should be no swelling, discoloration, or discharge.

Agencies should provide training to handlers and supervisors on the characteristics of a healthy canine and indicators of health problems. Supervisors shall ensure that handlers are trained to recognize health concerns and provide proper veterinary care when necessary or appropriate. The handler is responsible for taking his or her canine to the veterinarian for treatment and periodic examinations. All handlers should be familiar with procedures that should be followed for emergency treatment of canine injuries or accidents. The canine supervisor shall ensure that each handler maintains a log to record any health and medical information. The handler’s log is an important repository that should also include training records and certification and re-certification data, bite memos and recall

² Robinette v. Barnes, 854 F.2d 909 (6th Cir. 1988).
³ Campbell v. City of Springboro, 700 F.3d 779 (6th Cir. 2012) is another informative case concerning claims of excessive force, failure to train and failure to supervise.
memos, medical records, awards and certificates, and other information as designated by the canine supervisor. When a handler is not available to care for his or her canine, another handler may be designated or the dog may be housed in a department-approved kennel.

Handlers should report any time periods when they will be away from home for longer than 24 hours to the canine supervisor to ensure that a proper kenneling situation has been arranged. In any event, law enforcement canines should never be housed in civilian kennels without the express approval of the canine supervisor.

Teasing or agitating a police canine is strictly prohibited unless it is done as part of a supervised training exercise. Neither civilians nor other police officers should be permitted to pet or to come into direct contact with a police canine unless it is done under the direct supervision of the canine’s handler and then only after the individual has been advised how to approach and touch the dog. The handler should decide whether to permit such contact based on his or her knowledge of the dog’s disposition and history.

When a canine is retired from duty, the handler should be allowed to apply to adopt the dog for a nominal fee. Anyone who is allowed to adopt a retired or out of service police canine should be required to sign a liability waiver and agreement that the canine will not be used in any manner as a police canine.

D. Legal Issues in Canine Deployment

The use of a police canine is a significant use of force requiring proper legal justification. In general, officers may use only that degree of force that is objectively reasonable to apprehend or secure a suspect as governed by the standards in *Graham v. Connor*. In *Graham v. Connor*, the Court established that a use of force by a police officer should be judged under a single standard requiring the fact finder to determine whether the officer acted in an objectively reasonable manner given all the facts and circumstances confronting the officer at the time. This objective standard is not concerned with the underlying motivation or intent of the officer(s) involved. Since the deployment of a police canine is a use of force, *Graham* is the applicable standard to determine if the deployment was reasonable or excessive.

It follows that if an officer would not be permitted to employ force under *Graham*, the deployment of the officer’s canine in the same situation would also be impermissible. The Ninth Federal Circuit Court of Appeals embraced this notion in post-*Graham* canine/excessive force cases. For example, in *Mendoza v. Block*, the court stated, “This [objectively reasonable] analysis applies to any arrest situation where force is used, whether it involves physical restraint, use of a baton, use of a gun, or *use of a dog*” (emphasis added).

In light of the foregoing information, the Model Policy provides a number of recommendations designed to give some specific operational guidance to officers in making decisions on the appropriate deployment of canines. Force used by police officers should not exceed what is objectively reasonable to bring a situation under control, whether that is the use of pepper spray, electronic control weapon, baton, canine, firearm, or other device or means. Officers need not exhaust every lesser force alternative before employing a higher level of force, nor should they continue to employ that higher level of force if a lesser force option becomes a reasonable alternative. Deployment of a police canine should be regarded as any other tool in the police officer’s use-of-force arsenal.

According to *Graham*, the following factors should be used to determine the reasonableness of using force:

- the severity of the crime;
- whether the suspect poses an immediate threat to the safety of the officers or others; and
- whether the suspect is actively resisting arrest or attempting to evade arrest at the time.

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Ibid.

*Mendoza v. Block*, 27 F.3d 1357, 1358 (9th Cir. 1994).

See also, *Johnson v. Scott*, 576 F.3d 658 (7th Cir. 2009).
Deployment of a police canine constitutes the use of a high level of force that should be reserved for situations that justify this response alternative. The bite of a police canine will normally cause harm to the suspect and can cause significant injury. Therefore, deployment of canines should not be performed on a routine or casual manner without objectively reasonable grounds. In assessing the reasonableness of a use of force involving a canine, courts also consider whether warnings and an opportunity to surrender were provided, as well as whether the bite was of a reasonable duration and severity.

The Graham test has had a significant impact on decisions made in other federal and state courts. For example, in the California case Chew v. Gates, the plaintiff was stopped for a traffic violation but fled on foot into a large junkyard where he hid for over two hours. While looking for the suspect, police discovered that he had three outstanding felony warrants. Several police canines were called in to search for the suspect, who was found hiding in a crouched position between two large trash bins. In the process of seizing the suspect, a police canine inflicted serious injuries to the suspect’s arm and side. The suspect sued under 42 U.S.C. § 1983 of the Civil Rights Act, contending that the seizure and injuries received constituted an excessive use of force.

In deciding this case, the court applied the three-pronged Graham test to the circumstances of the arrest and found that the decision to use dogs to locate and apprehend the suspect was justified. First, the crime that prompted the plaintiff’s arrest was serious. Although police initially stopped the suspect for a traffic violation, his three outstanding felony warrants constituted a serious offense. Second, the suspect posed an immediate threat to the officers’ safety as he had not been searched for weapons, could have been armed, and was hiding in a large area. Third, the suspect’s flight from police after the initial stop and his history of evasion—as evidenced by the outstanding felony warrants—demonstrated that the suspect was actively resisting arrest.

Upon application of the factors enunciated in Graham, it was clear to the court that the circumstances of the suspect’s arrest exposed the police officers to a high degree of risk that justified a greater use of force. Therefore, the manner in which the police dog was used to arrest the plaintiff did not, under the circumstances, infringe upon the plaintiff’s constitutional rights.

Department policies and the training of handlers should be based on the three-pronged Graham test to determine whether they are justified in exposing a suspect to injury by the pursuing dog. Adoption of this policy and systematic training of officers in its application will help to demonstrate that a department is not “deliberately indifferent” to exposing suspects to such injury.

Justifiable deployments include but are not limited to the following:

- conducting building searches for what are believed to be armed or otherwise dangerous suspects in hiding;
- assisting in the arrest or preventing the escape of dangerous offenders; and
- protecting officers or others from death or serious injury.

Situations that may justify the deployment of a canine are those involving violent suspects or offenders and situations in which an officer’s safety or that of other persons may be at risk. However, this does not preclude a canine team from responding to other calls for service where these risk factors are not evident. This is frequently necessary in situations where patrol personnel are limited in number and/or when there is an unusually high volume of calls for service. Most agencies do not have the luxury of dedicating canine teams for use only in dangerous criminal situations and incidents. Often, law enforcement agencies must call upon canine teams to respond to calls for service and misdemeanor incidents when manpower is lacking. However, canine teams should not be dispatched to routine calls for service unless other officers are unavailable to respond.

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8Szabla v. City of Brooklyn Park, 429 F.3d 1168 (8th Cir. 2005).
9Edwards v. Shanley, 666 F.3d 128 (11th Cir. 2012).
10Chew v. Gates, 27 F.3d 1432 (9th Cir. 1994).
A question that has been the subject of much litigation and discussion is whether the deployment of a police canine constitutes a use of deadly force. Essential to any analysis of whether use of a canine can be a use of deadly force is the definition a court uses to define “deadly force.” Many courts continue to treat this as an open question based on the reasonableness of the force and the specific facts of the incident. Those courts tend to use the definition of “deadly force” as “force that creates substantial risk of causing death or serious bodily injury.” This standard was adopted in *Smith v. City of Hemet*.[11] The *Smith* case overturned a 1998 decision from the Ninth Federal Circuit Court of Appeals in the case of *Vera Cruz v. City of Escondido*,[12] which had not included consideration of force that might cause “serious bodily harm,” but rather only that force creating substantial risk of death.

In applying either definition of deadly force, the practical outcome remains true that generally the use of a properly trained canine in a reasonable manner is not a use of deadly force, as supported by the previously mentioned *Robinette* case. In those courts that consider risk of serious bodily harm, a factual determination about whether force was generally reasonable, whether the canine was used improperly or was not properly trained, and the severity of the injuries is necessary to reach any decision about whether the deployment constituted a use of deadly force.

While the Model Policy makes no recommendation of the following, it is worth mentioning that when officers are aware that an individual is affected by mental illness, is under the severe influence of drugs or alcohol, or has a developmental disorder such as autism spectrum disorder, some additional caution in canine deployment should be considered, where reasonably possible. These individuals may not have the ability to comprehend the threat associated with the deployment of a law enforcement canine against them, may fail to comply with orders or not fully understand orders of the canine handler, or may act in an inappropriate or bizarre manner that serves as a signal to the canine to take or continue aggressive action beyond that which would be typically necessary. Officers may not be aware of the mental state or condition of an individual, but, even when this information is available, it may be necessary to deploy a canine when the severity of the crime warrants this action and alternative measures are either not available or inadequate to gain control of the individual.

Finally, with regard to deployment, canine handlers should secure their canines as soon as possible once a suspect has been located and taken into custody in order to guard against unnecessary injury or charges of excessive force.

### E. Canine Team Utilization

Ideally, canine teams should be available 24 hours a day so all shifts can benefit from those specialized capabilities. Agencies without an adequate complement of canine teams must decide how best to deploy limited canine resources. Agencies may recruit canine officers with the understanding that they will be required to be available for callout. Handlers can be provided with a patrol or other vehicle equipped for canine transportation to facilitate callout situations, regardless of whether the agency has a take-home car policy for all patrol personnel.

For callout or overtime situations, agencies must make certain that any time worked in a duty capacity complies with the Fair Labor Standards Act (FLSA). The act requires overtime pay for overtime work, and officers may not waive their right to compensation or “volunteer” to work. Therefore, agencies that use their canine teams on a callout basis must be prepared to compensate officers for any overtime that they perform. In addition, whenever canine teams or other tactical officers are assigned on a callout basis, certain limitations on their use must be implemented to ensure that the officers and canines receive an adequate rest period to perform their duties effectively. Agencies should also consult with legal counsel about required compensation for the time spent caring for and training a canine, as this is likely compensable time under the FLSA.

Agencies may choose instead to limit the availability of canine teams to specific shifts based on an assessment of the volume and nature of calls for service in which canine units might be utilized. Shift assignments should also be made based on a recognition that the sensory abilities of police canines are best used to advantage at night.

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12. *Vera Cruz v. City of Escondido* 139 F.3d, 659, 663 (9th Cir. 1998).
It is important for all personnel to recognize that a canine team is a specialized unit that should not be used for routine and minor calls, unless necessary. A canine team that is tied up in an incident where they are not necessary renders them unavailable for other officers who have legitimate need.

F. Requesting and Utilizing a Canine Team

Agencies may consider vetting requests for canine assistance through a supervisor, especially if it involves callout of an off-duty unit. Once a canine team has been dispatched, the handler should be provided with as much information about the incident as available. The unit requesting assistance should brief the canine officer upon arrival. According to the Model Policy, “Where a canine deployment is justified and authorized, the tactical measures used shall be at the discretion of the canine handler. The canine handler shall also have authority to direct on-scene personnel to assist or to take other measures that will facilitate the canine’s efficiency and effectiveness.” The decision to deploy a canine is rarely a subject of debate between trained and experienced canine handlers and other officers. Assuming that the issue of whether to deploy is not in question, the canine handler is the best-qualified individual to decide how to deploy and manage the canine. On this matter the canine handler should have full control as long as the decisions made are objectively reasonable. In spite of training, nearly all canines have strengths and weaknesses that only their handler and unit supervisor can fully appreciate. Police canines should not normally be handled or given commands by anyone other than the assigned handler. Only under emergency conditions shall another handler command the canine. In the event the handler decides that the canine should not be deployed, this decision should be explained to the on-scene officer. If agreement cannot be reached concerning the canine’s use, the canine supervisor should be summoned. Supervisory officers should strongly consider deferring to the canine officer’s judgment, unless they possess sufficient knowledge about the canine’s abilities.

Agencies should provide familiarization training to all patrol personnel about the capabilities and limitations of canine units. Law enforcement personnel who are unfamiliar with the appropriate use of canine teams may not avail themselves of this valuable resource, may make inappropriate requests, or have unrealistic expectations about canine team utility. Additionally, officers who are unfamiliar with the practices, abilities, and techniques of canine teams are not adequately prepared to work with such teams in backup or support capacities when necessary. Such officers may also unwittingly contaminate valuable scent material at crime scenes and thereby hamper a canine’s efforts to track a suspect or perform other functions.

Officer introductions to basic canine operations should be made at the career entry level. However, greater insight into the operation, skill, and capabilities of these teams can be gained through in-service training by canine personnel.

G. Methods of Apprehension

There are two schools of thought regarding the training and deployment of police canines. These are generally referred to as the “find-and-bark” and “find-and-hold” methods. The find-and-bark method refers to training a police canine to bark in order to alert the handler to an individual’s presence, but not to bite the person unless he or she moves or provides some form of physical resistance. The find-and-hold training directs the canine to find and hold (that is, bite) the suspect until commanded to release by the handler, whether or not the subject is actively resisting.

The find-and-bark method has some distinct advantages, to include reduction in liability to police agencies for canine-inflicted injuries that result in large financial judgments against agencies and their jurisdictions. This approach is consistent with the principles of escalation and de-escalation of force. It can also provide handlers with more flexibility by allowing the canine to work off-leash in certain circumstances, with the reduced possibility that a suspect or bystander will be bitten. It could be considered as a means to reduce bite ratios that are often used in litigation to ascertain the relative aggressiveness of a particular canine.

On the other hand, advocates of the find-and-hold approach contend that, among other advantages, this method is safer for the officer and the canine and is a surer means of bringing a suspect under control than the find-and-bark approach. Incidents have occurred in which find-and-bark canines and handlers have been killed by a suspect who was not quickly subdued. Advocates of find-and-hold also note that there are few individuals who, when confronted
with a police canine barking in an aggressive manner, will stay perfectly still. Even a minor movement by a suspect may trigger the find-and-bark canine to bite the suspect. As such, the decision about whether or not to bite a suspect is often made by the dog, not the handler in a find-and-bark trained canine.

Many major metropolitan and other police agencies in the United States have successfully transitioned to the find-and-bark method of canine training and usage without negative repercussions. However, a large majority of departments remain committed to and successfully employ the find-and-hold method of canine deployment. It is apparent that in both methods, the key to successful deployment is rooted in clear canine use policy and procedures, ongoing training of canine teams, continuous evaluation of proficiency, strict reporting and documentation requirements, and proper supervision.

It should also be noted that a significant issue leading to litigation over canine bites generally stems from inappropriate deployment and/or lack of control of canines by their handlers, irrespective of which method is used. Police canines, like other tools in a police officer’s arsenal of force options, can be used inappropriately or even illegally. The decision to deploy a canine must be based on the three prongs of the *Graham* test previously noted: (1) the severity of the crime, (2) whether the suspect poses an immediate threat to the safety of the officers or others, and (3) whether the suspect is *actively* resisting arrest or attempting to evade arrest at the time. Problems ensue when agencies permit officers to deploy police canines in situations that fall short of the above situations, as for example when permitting canines to bite passively hiding suspects. The term “passively hiding” refers here to individuals who generally have no known history or suspicion of being violent or who have no known serious criminal histories, where there is no reasonable suspicion that the person is armed and/or violent (for instance, hands are visible and there is no suggestion of a hidden weapon or intent to fight) but who, for a variety of possible reasons (intoxication, drug impairment, mental illness, and so on) are not compliant.

Consider the consequences of using a level of force similar to that of a canine, such as an electronic control weapon or nightstick, to gain compliance of a passively hiding suspect as previously defined. Such an act would normally be regarded as an excessive use of force, unless the situation was altered by other factors. Yet the deployment of a canine under the same circumstances is regarded by some agencies as a practical and reasonable means of finding and extracting such non-compliant individuals, even though such deployment will likely result in some injury to the suspect. Agencies should ensure that their use-of-force policies involving canine use conform to the *Graham* standards.

**H. Canine Bites and Canine-Inflicted Injuries**

As in many other areas of police operations, the use of law enforcement canines presents liability concerns for officers, supervisors, administrators, and their governing jurisdictions. Many of these concerns are ameliorated by ensuring the integrity of the screening and selection process for canine teams, providing handlers and their canines with the best possible training and supervision, monitoring the performance of the canine in tactical situations, and paying attention to accuracy and detail when writing bite reports.

A case that illustrates the importance of a strict performance monitoring system of canine teams is *Kerr v. City of West Palm Beach*. In this case, three plaintiffs brought suit against an agency, its chief, and two canine handlers. The plaintiffs alleged that they had suffered serious injuries as a result of excessive force used in their apprehension. Among other problems relating to inadequate training and unclear policy on the use of canines, the court found that a strict performance monitoring system is necessary to ensure that misbehaving dogs receive prompt corrective training. The court stressed that the department had no specialized internal procedures for monitoring the performance of the canine unit. Rather, the department relied on a general system of “force reports” prepared by the shift commander upon being notified that an officer had used force to make an apprehension. These reports were not compiled to keep track of the performance of individual dogs and were usually discarded within 30 days. The court felt that these reports were insufficient to ensure that misbehaving dogs would be withdrawn from use or receive corrective training.

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13 *Kerr v. City of Palm Beach*, 875 F.2d 1546 (11th Cir. 1989).
This case also illustrates the need of agencies to establish clear and complete policies and procedures on the use of canines, and ensure that all instances in which canines are deployed are accurately and completely documented and evaluated. Complete and accurate records in all these areas are vital. Handlers testifying in court should be prepared to produce accurate records of the incident in question, as well as records that reflect their team and individual training, performance history of the dog, and any additional documentation, such as certifications and awards.

No matter what the results of a canine deployment, a written report must be prepared to adequately document the incident. Only through continuous monitoring of the canine’s use in this manner can the canine and his handler be evaluated. In this regard, much has been written about the use and value of “bite ratios.” Such ratios—based on the number of bites in relationship to the number of contacts or apprehensions—are believed by some to be a good barometer for canine units to identify overly aggressive or otherwise unmanageable dogs. Use of a bite-to-contact ratio is preferred over a bite-to-deployment ratio because it includes only those deployments in which the canine made an encounter with a suspect and was thus in a position to bite. However, it is good to maintain both bites-to-contacts and bites-to-deployments statistics as it gives a more complete picture of canine utilization.

There is an unquestionable need for departments to monitor dog bites and dog-produced injuries in an effort to identify problem areas on the part of canines and handlers alike. However, reliance on formulas or ratios alone can often inappropriately and unfairly simplify an otherwise complex problem. In reality, each canine bite or canine-produced injury should be individually evaluated to determine whether it was justified in the total context of the situation and the manner in which the canine was handled. Problems should be documented and prompt corrective action taken where necessary.

In each instance of a canine bite or canine-produced injury, whether or not it occurred in the line of duty, department procedures must be followed. A supervisor, preferably the canine supervisor, should be summoned immediately to the scene. Whether or not an arrest occurs, medical care and treatment by a qualified medical professional should be provided. If the person refuses treatment or will not allow the officer to see the injury, this refusal should be witnessed by another officer, if possible, and included in the incident or use-of-force report. Seeking medical attention for the person, even if the bite does not appear serious, is very important to protect the officer and the agency from liability. If an arrest is made, the individual will be provided with medical attention in accordance with agency policy on transporting and booking prisoners.

To more fairly and accurately document the seriousness of the bite, a color photograph of the injured area shall be taken both before and immediately after treatment and attached to the report. Many canine bites appear at first to be serious. However, once the area is cleaned, the injuries are often far less serious than initially surmised. Before and after photographs of such injuries can provide valuable documentation in this regard. Taking photos both before and after medical treatment and cleaning of the wound also demonstrates the department’s proactive stance and good faith in efforts to fully and accurately document the incident.

The handler must complete a use-of-force report; some agencies may require a bite report. These reports should answer all basic questions that might be asked during an adversarial investigation of the incident. For example, the report should include the following:

- Date, time and location of the deployment
- What led the officer to believe the suspect was dangerous (e.g., the crime that was involved, outstanding warrants, whether the suspect was armed)
- What factors established probable cause
- Tactics that were employed
- Names of all involved officers, supervisors, and witnesses
- Whether the deployment was approved by a supervisor
- Whether a search or deployment announcement was given and the language used
- The number of announcements given prior to deployment
Time elapsed between the announcement and deployment
Time elapsed between deployment and suspect contact
Distance of the dog from the handler when contact was made
Duration of contact
Any commands given to the canine
Elapsed time between canine contact and officer’s arrival at the scene
Actions taken by the officer upon arrival at the scene of contact
Any statements made by the suspect
Manner in which the canine held the suspect, so that any prior injuries are not attributed to the encounter
Copies of any witness statements
Any photographs taken of injuries, aid rendered in response to injuries, where treatment was received and by whom
Any other relevant information

The officer should be precise in describing what he or she saw taking place upon arriving at the scene and what measures were taken at that time. The report should also include the circumstances surrounding the incident, the complete identity of the suspect and witnesses and any measures taken in response to the incident.

I. Uses of Canine Teams in Law Enforcement

Building Searches. Searching for a suspect hiding in a structure is one of the most useful functions of a law enforcement canine, but also one of the most dangerous. The canine’s keen hearing and sense of smell provide the dog with a distinct advantage over officers operating in the same environment and can greatly reduce the risk to patrol officers involved. There are many accounts of canines locating a suspect in hiding after officers have searched the building.

Prior to the canine unit’s arrival on scene, officers should take steps that will enhance the dog’s ability to conduct the search. The building should be completely contained, and entry should be avoided in order to reduce the possibility of contaminating a scent trail. A canine in search of a suspect is seeking the source of the freshest human scent left behind by the suspect on objects or in an area.

Initial responders should contact the building owner or manager to acquire information about the ventilation system, building layout, security system and lighting, and to obtain any necessary access. Officers should also attempt to determine if there is anyone in the building other than the suspect, and where they may be located. If possible, everyone should be evacuated while ensuring that the suspect does not escape.

The scent in the building will be affected by the building’s air conditioning, heating, and ventilation systems. If in use, the canine may be able to alert to the scent but unable to locate its source. For this reason, these systems should be shut down as soon as possible. Once the team has arrived, officers on the scene should brief the canine handler concerning the number and description of the suspects involved; their identities, if known; any weapons involved; the suspects’ proclivity to violence; the suspects’ last known location and point of entry; and any other pertinent information that may be available.

Unless there is a tactical reason to maintain silence, it is essential that a verbal warning be issued and repeated prior to releasing the canine in the building. Failure to provide a warning is objectively unreasonable and a violation of the Fourth Amendment.14 Furthermore, failure to give a warning will preclude claims of qualified immunity for the handler in litigation. A proper warning should consist of this or similar wording: “This is the_______ Police

14 Vathekan v. Prince Georges County, Maryland, 154 F.3d 173 (4th Cir. 1998).
Department Canine Unit. Speak to me now or I will release the dog.” Or, “This is the ______ Police Department. Give yourself up, or I will release the dog, who will find you and bite you.”\(^{15}\) Even when using the find-and-bark technique, there is the possibility that the suspect may be bitten. The warning should be given from behind cover and in such a manner, if possible, that will allow anyone inside to hear it. Use of a patrol vehicle public address system is an effective approach. Warnings need not and should not be given if doing so will compromise tactics necessary to locate and apprehend the suspect. In a floor-to-floor search, the warnings should be repeated on each floor and a reasonable time given for the suspect to surrender before the canine is released. What amount of time is considered reasonable will depend on the size, nature, and configuration of the particular building. Additionally, if there is reason to believe that the suspect speaks a language other than English, an officer or other individual proficient in that language should be sought out to give the warning and to remain on hand to interpret when the suspect is taken into custody. When the canine team enters, the building’s entrance and all exits should be secured and communications limited to that of a tactical nature.

The handler will determine whether to leash the canine during a building search. Under normal circumstances a canine will work better in this environment when off lead. However, if there is a risk to the dog because of the conditions within the building, or working off lead would create an unreasonable risk to innocent persons within the building, the handler may choose to work the canine on a lead. The canine should not be used to search facilities that contain substances potentially harmful to the animal unless an overriding risk to human life is present.

Just as officers should wear body armor when conducting a building search, body armor is available and advisable for use by canines. A canine should receive prior training in the use of body armor, so it is not hindered by the unexpected and unusual weight. In some cases, suspects under the influence of narcotics with less perceptible fear of canines have been known to grab and attack a police dog. Use of a collar can sometimes facilitate such an attack, as it is a convenient means to grab the dog. If a decision is made to work the canine without a collar, the looped end of the leash may be used as a field expedient collar or the collar and leash eliminated altogether.

Handlers should seek to maintain as much control of their canine as possible under the circumstances without unnecessarily jeopardizing anyone’s safety. To assist in controlling their canines, some handlers use electronic collars for training and in tactical situations. These electronic collars can be used in combination with verbal commands to help in the training process and in field deployment situations. While some handlers and canine trainers prefer not to use these devices, they are available as backup to assist verbal commands.

The canine officer will also decide whether to work with a cover officer—a practice that is highly recommended. If used, the cover officer is usually responsible for providing cover while the handler devotes his or her concentration to the activity of the canine and any signs of an alert. This is one reason why it is important that all patrol officers have a basic understanding of the working routines of canine units so they are prepared to assist as a cover officer if necessary. For example, it is entirely possible that the canine could bypass the suspect in hiding because of irregular or inadequate scent patterns or for other reasons. Under such circumstances, the handler and the canine can be placed in great danger, and it is essential that the cover officer be alert to this possibility.

If the canine alerts, the handler must be prepared to advise the cover officer using prearranged signals. Cover officers are essential if the suspect is located because the handler alone cannot safely secure both the canine and suspect or manage the canine while conducting a search of the suspect. When the canine has engaged the suspect, the handler can assume responsibility for controlling the dog while the cover officer conducts the search, arrest, and transport of the prisoner. If there is more than one suspect, the availability of a cover officer is vital, and additional backup officers are desirable. To that end, a handler should never assume that there is only one suspect present. Anyone found during a building search should be detained and identified after the building has been completely cleared.

Care should be taken not to unnecessarily injure or traumatize persons with the use of a canine. When a canine has apprehended a suspect, the canine must be commanded to disengage as soon as the suspect is subdued or readily complies with commands. Along the same lines, arrestees should never be transported in the same vehicle with a

\(^{15}\) Watkins v. City of Oakland, 145 F.3d 1087 (9th Cir. 1998).
police canine unless the canine is caged, alternative transportation is not available, and immediate transport is essential for safety and security reasons.

Canine training for building searches should include as many different situations and actual structures as possible to simulate realistic tactical encounters. If possible, agencies can approach owners of private buildings to arrange after-hours use of their structures for training. Canines should become accustomed to working on a variety of floor surfaces such as tile, carpeting, wood, and metal grating.

If the handler expects to be working with a cover officer, that aspect should be covered during simulation training. In all instances, the training should be as realistic as possible. For example, when a decoy suspect is located, the scenario should be carried to its logical conclusion to include the suspect’s arrest, search, and removal from the scene. The use of personnel who are unfamiliar to the dog and dressed in varied forms of civilian clothing will add to the realism, as will the hiding of suspects in unusual locations such as ceilings. Various exercises should include suspect searches, handler defense, re-attacks, and gunfire training, among others, so that the handler will fully understand how the dog will react under various conditions.

**Area Searches and Tracking.** Another useful function of the law enforcement canine is use in open areas to track suspects, as well as missing and endangered persons. In performing this function, the dog can also discover articles of potential evidentiary value that may have been hidden or abandoned by the suspect or person sought.

A dog is capable of distinguishing among many distinct odors, even where a human may not detect any scent at all. This ability allows canines to detect a single scent and to pursue that scent to its source. A dog can follow either airborne or ground scents. Human scent is made up of various bodily secretions such as dead skin cells and sweat that are unique to each individual. The scent trail of a human also includes the scent of crushed vegetation and disturbances on the ground over which the individual has passed.

Tracking is a complex ability that can be perfected only through constant training and practice. Scent reacts in various ways depending upon weather conditions, the nature of the ground or surface on which the subject is walking, and other factors. It is interesting to note that there are recorded incidents in which canines have successfully followed scent trails that were up to two weeks old. As in the case of building searches, there are actions that initial responding officers should and should not take in order to make tracking easier for a canine unit. For example, officers should remember where the suspect was last seen and the direction that he was thought to be traveling and provide the canine handler with as complete a description of the suspect as possible. Officers at the scene should shut off the engines of their patrol vehicles and any other vehicles as soon as possible, as the carbon monoxide emissions from the exhaust will contaminate scent trails. They should also avoid vehicle and foot movements in the area where the suspect or subject was last seen.

Officers should not enter a suspect’s vehicle, as it may be used as a source of the suspect’s scent. Similarly, officers should not handle or allow others to handle any items that were touched by the suspect. Also, officers should not enter the immediate area where the subject was last seen for fear of contaminating any existing scent material. And, most importantly, officers should make every effort to contain the suspect within a given area, as this will make the use of the dog much more effective.

When tracking a suspect, the handler should normally use a tracking harness and a lead of suitable length taking into account the terrain and the canine’s personality. The harness, as opposed to a collar, will not restrict the canine’s breathing and, subsequently, the dog’s ability to track the suspect successfully. If the canine must track for an extended period of time, the handler should check the dog’s nose periodically for signs of dehydration. In order to be prepared for this eventuality, the handler should carry readily available water for the dog.

When law enforcement canines are used for tracking suspects, there is no guarantee that the suspect will not be bitten when located, particularly if the suspect is in hiding, attempts to escape from the canine, or becomes aggressive. Because of the potential for bites, caution must be taken when using law enforcement canines to track missing or endangered individuals. Canines used in this manner should be taught to track prior to any apprehension training. In this manner they can be taught that the successful conclusion of a track does not automatically call for a bite or other physical contact.
If local search and rescue teams are not available, an agency can request assistance through the Air Force Rescue Coordination Center (AFRCC) currently operated out of Tyndall Air Force Base in Florida (Official use telephone 1-800-851-3051). The AFRCC serves as the coordination center for inland search and rescue for the contiguous 48 states and Mexico and Canada. The emergency management compacts that have been enacted with each state govern the extent of services that they may provide. Police agencies should contact their state emergency management agency in advance of any need to determine what services are available and how requests for those services must be made.

**Crowd Control.** The use of canines for crowd control is a delicate subject among law enforcement canine trainers and handlers, principally because of the stereotypes created by the inappropriate use of canines to suppress civil rights demonstrations during the 1960s. These incidents created a great deal of adverse publicity and negative public opinion, much of which lingers to this day.

Canine teams may respond as backup when appropriate but shall not be deployed for crowd control (i.e., containment or dispersal). Canines shall remain in patrol vehicles or other secure locations and, whenever reasonably possible, out of the view of the crowd.¹⁶

**Canine Drug Detection.** Drug enforcement agents and other law enforcement personnel commonly use drug sniffing canines at airports and train stations, during motor vehicle stops, and in other situations to detect illegal contraband. Many courts, including the U.S. Supreme Court have addressed the Fourth Amendment implications of canine “sniffs” in varying contexts. The use of canines for drug detection is a continuously evolving area of the law and one in which canine handlers and supervisors must remain current, particularly with respect to case law that is controlling precedent in their respective jurisdictions. It is worth noting that some state constitutional protections may vary and may be more prohibitive than federal law. Agencies should consult with their legal advisor before using canines for drug detection.

**Luggage and Similar Items.** The lawfulness of using canines to sniff, nip, or bite at a suspect’s personal belongings, such as luggage at an airport, has been clearly established by the United States Supreme Court. In *United States v. Place*,¹⁷ Place’s behavior aroused the suspicion of law enforcement officers as he waited to purchase a ticket from Miami to New York. The Miami officers alerted DEA agents in New York to their suspicions and upon Place’s arrival in New York’s LaGuardia Airport, he was detained. Place refused to consent to a search of his luggage at which point the agents took the luggage to Kennedy airport where it was subjected to a “sniff test” by a trained narcotics detection dog. The entire detention of the property lasted about 90 minutes. Place pleaded guilty to possession of cocaine, but appealed the denial of his motion to suppress based on an unlawful search. The Second Circuit Court reversed the decision, holding that the prolonged seizure of the luggage exceeded the limits of the investigative stop permitted by *Terry v. Ohio*¹⁸ and amounted to a seizure without probable cause in violation of the Fourth Amendment. The U.S. Supreme Court affirmed the reversal. Both the appellate court and the Supreme Court found that the seizure was impermissible because of the lack of probable cause, but the sniff itself was not a search that would have required probable cause.

Specifically, the Court held that the act of subjecting luggage to a “sniff test” by a well-trained narcotics detection dog does not constitute a “search” within the meaning of the Fourth Amendment. The Court based this holding on the fact that such sniffs do not require opening the luggage and thus are much less intrusive than a typical search. Moreover, the information gained by the sniff is limited and thus the owner is not subjected to the embarrassment and inconvenience of more intrusive investigative methods. However, the prolonged detention of a person’s luggage may convert the detention into a seizure requiring probable cause under the Fourth Amendment.

The issue of whether police dogs can be used to sniff luggage not within the possession of a traveler (i.e., after it has been checked or before it has been claimed) has been addressed by several district courts. In *United States v. Bronstein*, a police canine’s sniffing of luggage lined up on a conveyer belt following a flight was held not to be a

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¹⁶ IACP Model Policy on Crowd Management and Control.


¹⁸ *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868.
search under the Fourth Amendment.\textsuperscript{19} In *United States v. Fulero*, a police canine sniff of air around a bus terminal locker was determined not to violate the Fourth Amendment.\textsuperscript{20} Similarly, in a non-airport context, the First Circuit Court of Appeals, relying on *Place*, held that a canine could lawfully sniff a car that had been impounded by police because the “olfactory genius of a drug detection dog does not infringe upon the vehicle owner’s Fourth Amendment rights.”\textsuperscript{21}

As a general rule therefore, it may be said that police canines may be used to sniff luggage or other personal effects of an individual on either a random or selective basis if the items are not in the possession of the owner (for example, on conveyor belts, in the possession of baggage handlers). Conversely, police canines may not be used to sniff luggage or related personal items in the physical possession of (i.e., control of or close proximity to) an individual in a public facility or place unless (1), there is reasonable suspicion that the personal possession contains illegal drugs or evidence of a crime, and (2), the time required to conduct the sniff is limited in duration.

Whenever possible, exploratory sniffing in public facilities should be conducted with the advance knowledge of the facility manager. It should be conducted without interference or annoyance to the public or interruption of facility operations.

*Schools and Students.* Court decisions have varied somewhat in determining the legality of searches conducted on school property. But, over the years, a general consensus has developed that canine sniffs of inanimate objects are not considered searches under the Fourth Amendment. Officers do not need reasonable suspicion to walk a canine through a school for the purpose of sniffing but, as a practical matter, should be requested by or have the authorization of the school administrator before conducting such an operation. Also, to establish further justification for such actions at a school, law enforcement or school administrators should document or establish a reasonable basis to believe that drugs are being possessed, used, or sold on school grounds. Most canine searches are limited to lockers, automobiles on school grounds, and inanimate objects in public spaces and not carried by a person.

The courts have generally found sniffs of students or others to be offensive and excessively intrusive, as some case summaries that follow will attest. However, a canine alert provides officers with probable cause to obtain a search warrant. The Seventh Circuit was the first to address the issue in *Doe v. Renfrow*.\textsuperscript{22} In this case, school officials, city police officers, and their canines subjected the plaintiff and her classmates to a surprise inspection in the classroom. The canines were described as being “led up and down each aisle of the classroom. Each student was probed, sniffed, and inspected by at least one of the 14 German Shepherds brought to the school. When the canine sniffed the plaintiff, it repeatedly pushed its nose and muzzle into her legs.” She was immediately ordered to empty her pockets and was subsequently subjected to a strip search in the school nurse’s office. No illegal substance was found.

The plaintiff brought suit for compensatory and punitive damages along with injunctive and declaratory relief against school officials, the chief of police, and the trainer of the canine used in the search, claiming a violation of the Fourth, Ninth, and Fourteenth Amendments. The Seventh Circuit affirmed the constitutionality of the canine search, but found the strip search to be unconstitutional.

The plaintiff appealed to the United States Supreme Court and was denied certiorari. Nevertheless, Supreme Court Justice William Brennan wrote a lengthy dissent stating that he would have reversed the ruling. Other district courts are in accord. For example, a district court in Texas held that individualized suspicion is necessary to justify a canine sniff of students and their cars on public school premises during a regular school day.\textsuperscript{23}

Some courts have followed the *Horton v. Goose Creek Independent School District* decision. *Horton* involved a school’s use of trained Doberman pinchers and German shepherds to sniff students’ lockers and automobiles. Students were also subjected to random and unannounced sniff searches in classrooms. In its finding, the Fifth Circuit

\textsuperscript{19} *U.S. v. Bronstein*, 521 F.2d 459 (2d Cir. 1975).

\textsuperscript{20} *United States v. Fulero*, 498 F.2d 748 (D.C. Cir. 1974).


noted, “The intensive smelling of people, even if done by dogs, [is] indecent and demeaning” and held that the sniffing of students by dogs was a search under the Fourth Amendment.24

The Ninth Circuit addressed this issue in B.C. v. Plumas Unified School District.25 In that case the Ninth Circuit held that a dog-sniff of students was a Fourth Amendment search. The facts of this case are as follows: On May 21, 1996, the principal and vice principal ordered plaintiff and his classmates to exit their classroom. As they exited, the students passed a deputy sheriff and a drug-sniffing canine stationed outside the classroom door. The students were then told to wait outside the classroom while the dog sniffed backpacks, jackets, and other belongings that the students left in the room. The plaintiff brought an action pursuant to 42 U.S.C. § 1983 and alleged several deprivations of his Fourth Amendment right to be free from unreasonable searches and seizures and various state law claims.

The court began its analysis with the threshold principle that a search occurs when an expectation of privacy that society is prepared to consider reasonable is infringed. The court recognized that neither the Supreme Court nor the Ninth Circuit had yet addressed the issue of whether a dog sniff of a person is a search. The Ninth Circuit had in the past recognized, however, that the level of intrusiveness is greater when the dog is permitted to sniff a person than when a dog sniffs unattended luggage.

The court held that the “close proximity sniffing of the person is offensive whether the sniffer be canine or human” and that because the dog sniff at issue infringed the plaintiff’s reasonable expectation of privacy, it constituted a search. The court stated that to be reasonable under the Fourth Amendment a “search must ordinarily be based on individualized suspicion of wrongdoing.” The court noted, however, that a suspicionless search may be reasonable in limited circumstances where “(1) the privacy interest implicated by the search are minimal, and (2) where an important government interest furthered by the intrusion would be placed in jeopardy by a requirement of individualized suspicion.”26

On that basis, the court evaluated the students’ privacy interests. Noting that students do not “shed their constitutional rights . . . at the schoolhouse gate,”27 the court concluded that the high school students’ privacy interests were not minimal. From a government interest perspective, the court noted that there was no record of any drug problem at the school at the time of the search. In the absence of such a problem, the government’s interest in deterring student drug use would not have been placed in jeopardy by the requirement of individualized suspicion. The court therefore ruled that the random and suspicionless dog sniff search of the plaintiff was unreasonable under the circumstances.

Based on these facts, it is recommended that the use of drug detection canines in schools be limited to situations where there is reasonable suspicion to believe that illegal drugs are being sold, possessed, or consumed on the premises. Searches should receive prior approval of the principal or similar administrator so as not to unduly interfere with school operations and business. Searches should be limited to inanimate objects such as lockers, parked vehicles on school property, backpacks, book bags, purses and the like, that are not physically on the student. Sniffs of the air surrounding a student’s physical person may be conducted only on articulable reasonable suspicion.

Sniffs Outside Residences. In the U.S. Supreme Court case, Florida v. Jardines, the Court found that… “when it comes to the Fourth Amendment, the home is first among equals. At the Amendment’s ‘very core’ stands ‘the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.’” The Court continued, “this right would be of little practical value if the State’s agents could stand in a home’s porch or side garden and trawl for evidence with impunity; the right to retreat would be significantly diminished if the police could enter a man’s property to observe his repose from just outside the front window. We therefore regard the area

24 Horton v. Goose Creek Independent School District, 690 F.2d 470, 479 (5th Cir. 1982).
25 B.C. v. Plumas Unified School District, 192 F.3d 1260 (9th Cir. 1999).
26 See United States v. Beale, 736 F2d 1289, 1291-92 (9th Cir. 1984).
immediately surrounding and associated with the home—what our cases call the curtilage—as ‘part of the home itself for Fourth Amendment purposes.’”  

Based on the high court’s ruling, sniffs conducted at the front door of residences or the curtilage of a residence are searches that require a search warrant.

**Sniffs of Motor Vehicles.** The courts have upheld sniffs of motor vehicles conducted during stops on a street or highway. Such sniffs are valid if the initial stop of the vehicle is lawful and the detention period does not exceed a reasonable time. For example, in *U.S. v. Morales-Zamora*, the cars of the various defendants were stopped at a roadblock on an interstate highway in New Mexico. The avowed purpose of the roadblock was to check driver’s licenses, registrations, and proof of insurance. In each case, while one officer was checking the documents, another one walked around the vehicle with a drug-detection dog. When the dog alerted, the car was searched and marijuana was found. The court upheld these as valid stops, searches, and seizures.  

Therefore, canine drug sniffs of lawfully stopped motor vehicles may be conducted when (1) there is reasonable suspicion to believe that the operator or passengers are in possession of illegal narcotics, or (2) the canine sniff is limited to the exterior of the vehicle.

If drug-detection dogs are to be used in connection with license checkpoints, three additional steps should be taken:

- The checkpoint should be conducted in accordance with standard license check procedures.
- The sniff should be completed before the document check has been completed.
- The motorist should not be detained while the sniff is completed if the dog has not alerted prior to the completion of the document check.

The legality of using of canines during vehicle stops was reaffirmed in *Illinois v. Caballes*. The U.S. Supreme Court held that a drug sniffing canine can be used to sniff a vehicle for contraband on any traffic stop, if the vehicle is lawfully stopped, and the sniff occurs within the duration of time necessary to reasonably conduct the stop. The issue of duration of a traffic stop for canine sniffs to be conducted was reaffirmed by the U.S. Supreme Court in the case of *Rodriguez v. United States*. The Court found that canines may be used to sniff vehicles during routine traffic stops as long as the sniff does not unreasonably delay the conduct of business that formed the basis for the original stop.

Canine sniffs of vehicles can also be conducted when there is individualized suspicion that a vehicle contains illegal drugs or in suspicionless searches at checkpoints designed to intercept illegal aliens, at sobriety checkpoints aimed at removing drunk drivers from the road, or to verify drivers’ licenses and registrations conducted in the interest of highway safety.

**Canine Reliability.** The U.S. Supreme Court has always relied on the fact that canine drug sniffing dogs have a high probability of accurately detecting contraband. But, in some cases, canine officers have been required to produce records of performance in the field and all training provided the canine if challenged in court. In 2013, the Court was asked to determine whether the alert of a drug sniffing dog provides probable cause to conduct a warrantless search. In *Florida v. Harris*, the Court was asked to decide whether a drug-detection dog’s alert to the exterior of a vehicle provides an officer with probable cause to conduct a warrantless search of the interior of the vehicle. A canine had alerted to Harris’s truck and a subsequent search found ingredients for making methamphetamine. Harris’s conviction was appealed to the Florida State Supreme Court which held that in every case, the state must present an exhaustive

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29 *U.S. v. Morales-Zamora*, 914 F.2d 200 (10th Cir. 1990).
set of records, including a log of the dog’s performance in the field, to establish the dog’s reliability. Absent these field records providing documentation of the dog’s hits and misses, the basis for probable cause to search without a warrant cannot be upheld.

The high Court rejected this finding in holding that field records are unreliable because they don’t show failures to alert when drugs are present or show false alerts when drugs are not found. The Court held that the training and certification are more reliable means of determining the canine’s reliability and “rejected rigid rules, bright-line tests, and mechanistic inquiries.”

The Court unanimously held that if a bona fide organization has certified a dog after testing his reliability in a controlled setting, or if the dog has recently and successfully completed a training program that evaluated his proficiency, a court can presume (subject to any conflicting evidence offered) that the dog’s alert provides probable cause to search.

36 Ibid.