

LAW ENFORCEMENT MANAGEMENT INSTITUTE

A K-9 UNIT: LIABILITY FACTOR AND COST CONSIDERATIONS

A LEARNING CONTRACT  
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## A K-9 UNIT: LIABILITY FACTOR AND COST CONSIDERATIONS

The duty of an officer to make an arrest necessarily carries with it the right to employ such a reasonable degree of force as may be necessary in order to take the offender into custody. The courts have held, when reasonable necessity exists, that it is permissible for a peace officer to use a baton, mace, or similar weapons in resistance to arrest. In today's law enforcement, there are more and more agencies turning to the use of police dogs in tracking down and apprehending felons, burglars, murderers, and law violators. In order to further understand the liability issues, functions and advantages of a K-9 Unit, it is necessary to examine past cases involving these police dogs.

In April, 1982, the City of Tuscaloosa was summonsed to district court. The plaintiff, Willie Caffee Brown, claimed that the defendant, Officer Ted Sexton of the Tuscaloosa Police Department, had violated his rights. On November 30, 1980, at approximately six o'clock in the evening, a small grocery store was robbed by two young black males. Each of the men was reported to be wearing a jacket and blue jeans.

The robbery was carried out by means of a sawed-off shotgun short gun. Officer Sexton, who was on duty with his police dog, was alerted to go to the scene where the robbery had taken place. When officer Sexton arrived in the general area where the crime had occurred, he noticed two young black males that fit the radio description. When he attempted to approach the men, they fled in opposite directions. Officer Sexton identified himself and ordered the suspects to stop. The suspect continued to run. Officer Sexton pursued one of the suspects, and commanded his canine to pursue the second suspect, Mr. Brown. When he failed to stop, the dog attacked and bit Brown on the right forearm. Brown was arrested and taken to the hospital. Later the store owner indicated the Mr. Brown and associate were not ones involved in the robbery. The court later ruled that Officer Sexton had probable cause to arrest the two suspects, and that use of the police dog was reasonable force under the circumstances. The courts ruled that the police dog had undergone training over a period of years, which included additional weekly training while in service. The court also ruled that the officer and police dog acted under the city policy.<sup>1</sup>

On July 10, 1984, shortly after midnight, Officer Barnes and his canine, Casey, were summoned to a building in downtown Nashville where a burglar alarm had gone off.

Officers on the scene had located the point of entry--a broken glass door--and observed a suspect inside the building. Officer Barnes went to the point of entry and shouted a warning that he was accompanied by a canine. After the second warning, Officer Barnes entered the building and unleashed his canine. Upon hearing the order to "find him," the canine proceeded to search. The canine entered a bay area of the building. Lagging behind after checking some closed doors, Officer Barnes entered the bay area. Upon entering, he discovered that the canine had attacked and severely wounded the suspect, Daniel Briggs, on the back of the neck. Officer Barnes called the canine off and summoned an emergency ambulance. The suspect was dead on arrival. This case went into the United States District Court in Nashville, Tennessee. Dorothy Robinette, the administratrix of the estate of Daniel Briggs, filed suit against Officer Ronnie Barnes, saying that the use of the canine constituted deadly force. Ms. Robinette also claimed that the canine was not properly trained. The court ruled in favor of Officer Barnes and his canine by presenting proof of proper training. Every three weeks the officer was reevaluated and the dog tested for obedience. The court also ruled that the use of a canine was deadly force.<sup>2</sup>

After reviewing these two case studies, it is clear that an agency must have a policy covering the entire canine

unit. The policy needs to be specific in the functions of the canine. The policy should cover the training and in-service training of both the handler and the canine, all of which should be evaluated on a regular basis, which also should be documented and kept up to date. The unit should be evaluated on a regular basis, which also should be documented. The courts are ruling in favor of the K-9 Unit with the stipulation that both the handler and the canine be well trained and work under written policy. The police dogs are a legitimate, non-lethal police tool which may be employed when force must be used in making apprehensions of resisting suspects.

In order to meet the department stipulation, an agency must take into consideration the breed of dog needed to fulfill the requirements. Law enforcement agencies across the country have used German Shepherds, Dobermans, Rottweilers, and other new breeds for patrol dogs.<sup>3</sup> When selecting a patrol dog, an agency must look for certain qualities. The dog needs to exhibit strength and courage. It must be aggressive and trained to meet the needs of each individual agency. Most agencies have chosen the German Shepherd. The German Shepherd is aggressive but not as hard to handle as other breeds.<sup>4</sup> The Rottweiler, for example, requires a well experienced handler, because of its aggressiveness.<sup>5</sup> Both the German Shepherd and the Rottweiler

have been used in police field and been successful in performing their duties. Captain Joe Sarata, a trainer for thirty years, recommended the German Shepherd, especially for an agency that has never used a patrol dog. Captain Sarata suggests the German Shepherd, because of its "strength, courage, aggressiveness, and ability to perform all of the appropriate functions of a police canine."<sup>6</sup> He further suggests that a new handler avoid the Rottweiler, because of its aggressiveness.

In selecting a canine, the majority of agencies require the dog to be no younger than one year nor older than three years of age. The dog should stand a minimum of twenty-four inches high at the shoulder and weigh at least sixty pounds.<sup>7</sup>

Selecting just the right dog for the police program is important. There is a specific minimum acceptable standard of performance for these police canines. The standard includes the following:

1. The dog must obediently respond to commands.
2. The canine must be able to search buildings and large areas to indicate the presence of unauthorized persons.
3. The police dog must be able to track a fleeing criminal or follow the trail of lost children.
4. The canine must be able to search designated areas for lost or discarded evidence.
5. On command, the dog must be able to apprehend the fleeing felon while protecting its handler from physical attack.<sup>8</sup>

An agency can purchase police canines that have been

trained to meet acceptable standards. After the agency has purchased the canine, the trainer will continue to work the canine to meet the needs of a specific agency.

Just as there are specific requirements for the canine, there are also some basic requirements that must be met by an officer desiring assignment in the K-9 Unit. These are the following:

1. The officer must have completed at least one full year of patrol duty.
2. The officer must own a home with sufficient yard space.
3. The officer must be in good physical condition with weight proportional to height.

If the officer meets the basic requirements, then he will go before an oral interview board to be evaluated. The officer's family would also be interviewed to determine whether having the canine in the home would cause conflict. Before the officer accepts the assignment, he should read standard operating procedures and decide if he would have any problems meeting the requirements.

The duties of a police canine unit are the same as that of the police department--the prevention of crime, protection of life and property, and apprehension of criminals. It should serve as a support unit to patrol and to perform other line elements of the department by assisting officers in the following:

1. Building searches



2. Field searches
3. Tracking
4. Special purpose searches (narcotics, guns, and articles)
5. Crowd control (in emergency situations)
6. Apprehension of fleeing suspects
7. Beat area control in assigned divisions
8. Protection of the handler from physical attack.

It goes without saying that the acquisition of a K-9 Unit will cost something. However, the cost of implementing a canine program is a fraction of what it takes to select, train, equip, and pay one officer during his initial year. The savings are magnified when one realizes that one canine team (handler and dog) can be worth four officers and sometimes more. In the first year, the cost of maintaining an experienced team is far less than the maintenance of an officer. In subsequent years, the unit's expense remains fixed. This is not true for the officer's salary and benefits.<sup>11</sup>

Utilization of a canine team results in cost savings due to the shortened search time involved and leaves regular officers available to answer other calls for service. An illustration of this point would be the burglary of a business. Officers respond to an alarm and discover forced entry. Without a canine, it would normally require two officers to maintain an exterior perimeter to prevent a suspect from leaving the building. Then two more officers would be needed to search the building effectively. In a large building a search like this could take at least an

hour. Thus, four officers are involved for an hour, resulting in a minimum of four man-hours expended. Two officers would still be needed for the perimeter when a canine team is utilized. However, the K-9 Unit performs the search. Not only is the search done much more safely, but more quickly and effectively. It would take the canine team less than half an hour to search the same building. In this case three officers would be involved for half an hour resulting in an expenditure of one and one-half man-hours. In comparing the two situations, the use of the canine team results in a savings of two and one-half man-hours. It also releases two officers to answer other calls for service. This time savings will hold true for all manner of patrol searches, with the amount varying from incident to incident, depending on conditions.<sup>12</sup> The minimal expense of adding a canine team would be recovered through a savings of man-hours expended, decreased officer injuries, maximized suspect apprehensions, and the recovery of property.

There are several expenditures that must be taken into consideration when installing a K-9 Unit. The price of the canine will range from \$5,500.00 to \$6,900.00 depending on the training and cross training required by the individual agency.<sup>13</sup> The canine can be trained for police patrol alone, or police patrol and narcotic detection. Included in the cost of the canine is the cost of handler training.

Before acceptance of the canine, the agency should have it examined by a veterinarian to ensure physical fitness. This will cost approximately \$86.00.<sup>14</sup> The handler must provide a pen in which to house the animal. The pen must be constructed of tall, covered fencing, and have a concrete floor, the combined cost of which is approximately \$380.00.<sup>15</sup> Several miscellaneous items (i.e. collars, leashes, bowls, food, and brushes) can be purchased from most retail stores for less than \$125.00.<sup>16</sup> One other very important item for purchase is a bite sleeve which will cost from \$85.00 to \$125.00. Thus, the total original cost to the city will be anywhere from \$6,216.00 to \$7,616.00, again depending on the training required.

I recommend that the City of Marshall consider the purchase of a police canine. The canine would add to officer protection in building searches, crowd control, and suspect apprehension. The reduction in man-hours would be noticed in trackings, field searches, evidence recoveries, and building searches. Besides saving man-hours, the canine is an effective law enforcement tool. I further recommend that the City of Marshall purchase a German Shepherd of German import. They are known for their characteristic traits and reliability in police work. After the purchase of the canine, and the subsequent selection of a handler, the team must receive the best possible training. The City

of Marshall Police Department must then establish a department policy before releasing the unit to the streets.

ENDNOTES

- <sup>1</sup> Brown v. Sexton, CV-81-M-0873-W. (D. Alabama 1982).
- <sup>2</sup> Robinette v. Barnes, (3-85-03631) CA-6. (Tennessee 3d Cir. 1988).
- <sup>3</sup> Robert Hopper, interview by author, Austin, Texas,  
20 February 1990
- <sup>4</sup> Joe Sarata, interview by author, Texarkana, Texas  
12 February 1990
- <sup>5</sup> Ibid.
- <sup>6</sup> Ibid
- <sup>7</sup> Ed Nicks, interview by author, Midland, Texas  
30 January 1990
- <sup>8</sup> Oscar Hall, interview by author, Tulsa, Oklahoma,  
20 February 1990
- <sup>9</sup> Ed Colver, interview by author, Houston, Texas,  
13 February 1990
- <sup>10</sup> Ibid.
- <sup>11</sup> Nicks, Op. Cit.
- <sup>12</sup> Ibid.
- <sup>13</sup> Nancy Bidwell, interview by author,  
12 February 1990
- <sup>14</sup> Paul Anderson, interview by author,  
26 February 1990
- <sup>15</sup> Gary Beavers and Charles Blalock, interview by author,  
26 February 1990
- <sup>16</sup> Hall, Op. Cit.

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