# The Bill Blackwood
# Law Enforcement Management Institute of Texas

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## Canine Encounters

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# ABSTRACT

It is estimated that approximately 10,000 dogs are killed by law enforcement officer in the United States each year (Ozias, 2015). One study indicated that a majority of these killings resulted from unprepared officers encountering canines in the performance of their typical duties (Texas Municipal Courts Education Center, n.d.). It is likely based on the number of dogs with registered owners in the United States that law enforcement officers will encounter dogs in one out of every three houses they visit. This means that dogs should be a serious concern for all law enforcement officers as well as their respective departments. Law enforcement officers should receive training in canine behavior to be better equipped in handling their encounter resulting in fewer officers and members of the public injured by or as a result of an encounter with a dog, to lessen department liability and provide a better reputation for the department within the community they serve.

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# INTRODUCTION

As described by Morales (2003), officers in Cookeville, Tennessee, receive a report that a possible armed robbery has just occurred at a local gas station. Officers are able to locate the suspect vehicle traveling down the highway and get it stopped. The officers on scene proceed to conduct a felony traffic stop, removing all occupants from the vehicle and having them get onto their knees on the side of the road. The Smoak family is in shock, unsure of what is happening, but they comply with the all the officer's commands. Several times members of this family plead with officers to close the doors to their vehicle because their family pet, a one and half year old pit bull named Patton, was inside the vehicle and they did not want him getting out. Officers ignored their requests and as expected, Patton jumped from the vehicle. As Patton ran towards his family, one of the officers shot him once in the head with a shotgun at close range. The Smoak family was subsequently released after it was discovered that no robbery had occurred, and Mr. Smoak had simply left his wallet on top of his vehicle, causing money to fly off as they drove away. The officers released the Smoak family and left them mourning over the loss of their four-legged family member on the side of the road (Morales, 2003).

The US Department of Justice reports that 10,000 pet dogs are killed by law enforcement officers in the United States each year (Ozias, 2015). This number is staggering when one considers that less than four hundred justifiable homicides occur each year according to data accumulated by the FBI's uniform crime reporting system (FBI Uniform Crime Report, 2010-2014). That is one person for every 25 dogs killed. Make no mistake, it is a good thing that there are not as many human deaths at the

hands of law enforcement, but one must wonder why there are so many dogs being killed by law enforcement.

Law enforcement officers are likely to encounter dogs in one out of every three houses they visit (Texas Municipal Courts Education Center, n.d.). This means that dogs should be a serious concern for all law enforcement officers as well as their respective departments. Obviously, the most obvious harm that can occur in an officer's encounter with a canine is injury from a bite, but other harms are possible if the officer attempts to shoot the dog, resulting in the injury of a third party and subsequent department liability. Additionally, public backlash which could slander the reputation of the department is a very real concern. All law enforcement officers should receive training in canine behavior to be better equipped in handling canine encounter, which would result in fewer officers and members of the public being injured by or as a result of an encounter with a dog, lessened department liability, and a better reputation for the department within the community they serve.

## POSITION

Dogs are a popular pet. The Humane Society of the United States and the American Pet Products Association estimate that there are 77.8 million canines in the United States, and 54.4 million households that own at least one canine (Humane, 2016). It stands to reason that officers who are called to residences for any number of law enforcement related reasons may routinely encounter dogs as a part of their occupation. All dogs have the potential to bite, especially when one takes canine behavior to mind regarding the types of things that may cause aggression in dogs. The primary cause of aggression in dogs is called territorial aggression. This type of

aggression is common because the dog is not comfortable with anything entering into his territory, whether that be a yard, a house, or even a vehicle. Officers who do not respect the warning signs given by the dog could put themselves at risk of an attack. According to the National Institute of Mental Health (2005), approximately 8.7% of the U.S. population suffer from a specific phobia, with fear of dogs being one of the most prevalent. This means that there is a possibility that there are law enforcement officers working the streets that are terrified of dogs. This officer would view a dog running at or even standing next to him or her as a threat. The majority of the population would view this as an irrational fear, but for that officer, the threat is real and imminent. These officers may act unreasonably out of fear resulting in the unwarranted death of a family pet. Additionally, officers who are not familiar with canines or their behaviors may not be equipped to readily identify what emotion the dog is trying to portray. The dog may be scared, injured, or stressed, and while not a threat, the officer may view its body posturing or facial expressions as an indication that the dog may attack. Inadequately trained officers can cause a dog to attack, with the possible result of an unwarranted shooting.

The obvious harm facing an officer's encounter with a canine is an attack and bite to the officer. However, this is not the only harm an inadequately trained officer can inflict. In 2009, a south Florida police officer fired at a dog that was charging him. According to police, "the bullet ricocheted off the ground and hit [a] woman who was standing nearby" (Police: Off," 2009, para. 1). The officer did not strike the dog but did graze the woman's neck. In another incident in Tennessee, "a Memphis police officer was shot and critically injured…by a second officer who was aiming at a dog"

("Memphis officer," 2012, para. 1). The Memphis area gang unit was serving a warrant, and as police entered the residence, two dogs were inside. One of the dogs allegedly charged at officers resulting in one officer firing his weapon, a shotgun. The officer missed the dog but hit another officer in the back. In Chicago, an officer was shot in the leg as another officer fired at a dog inside a home. The officers were serving a warrant when one officer fired at a dog. The bullet struck the dog but ricocheted off one of the dog's bone striking another officer in the leg (Lutz, 2009). Finally, "A St. Louis Metropolitan police officer accidentally shot his partner while attempting to shoot a dog that was perceived as being aggressive because it showed its teeth" (Mullins, 2013, para. 1). As officers were responding to a theft call they encountered a loose dog that allegedly bared its teeth at one of the officers as he approached. The officer fired multiple shots at the dog none of which hit their intended target. One bullet ricocheted off the sidewalk and struck his partner near the elbow. Dogs are small, low, fast moving objects, making them difficult to shoot even for the best marksmen. If these officers had more training in encountering canines and more familiarity with canine behavior these shootings and subsequent accidents could have been avoided.

It is clear that untrained officers can cause harm to themselves and others when they act irrationally in dealing with their canine encounters. Physical harm is only one side of this coin. Vicarious liability is "a situation where someone is held responsible for the actions or omissions of another person. In a workplace context, an employer can be liable for the acts or omissions of its employees" (ACAS, 2012, para. 1). To hold the employer civilly liable for the employee's acts or omissions, the acts or omissions must have occurred during the course of employment. These can also have a negative effect

on the department (ACAS, 2012, para. 1). Civil lawsuits have followed most of the dog shooting cases across the United States with departments being held responsible for the actions of their officers in these cases. On November 24, 2012, officers attempted, unsuccessfully, to catch a loose dog, named Chole (Dunn, 2016). The owner of the dog was out of town. After several failed attempts, a Commerce City police officer shot Chloe five times at close range while bystanders videotaped; "the officer was charged but acquitted of criminal aggravated animal cruelty … and the Branson family filed a federal civil suit against Commerce City alleging a 42 USC § 1983 violation for unlawful deprivation of their property for Chole's death" (Dunn, 2016, para. 1). While some may say, "It was just a dog," on January 25, 2016, The Branson family reached a settlement with Commerce City who agreed to pay the family $262,500. For most departments that is a lot of money wasted on 'just a dog'. This type of payout is not an uncommon thing. In fact, in 2012, a jury in Maryland awarded $620,000 "in a case where two sheriff's deputies shot a chocolate Labrador…The jury's award was later reduced by the appellate court to just over $200,000" (Dunn, 2016). One of the highest payouts belonged to an unlikely group, the Hell's Angels. Following the shooting of three dogs during a search warrant by San Jose officers, the motorcycle gang was awarded $900,000 in damages. This department liability and significant financial loss could have been prevented and avoided if only the officers at these respective departments had undergone some sort of canine behavior training.

In addition to department liability, a department's community reputation can be considerably harmed by such shooting incidents. Texas, in 2012, was leading the nation in police shootings of dogs (Crampton, 2015). In May 2012, an officer was responding

to a call in Fort Worth, but went to the wrong address. As the officer approached the house, the owner's border collie, Lily, walked up to the officer. The officer shot Lily, killing her instantly, and "in a police report filed after the incident, the officer said he thought the dog was attacking him" (Crampton, 2015, para. 2). In 2012, there were 280 dog shootings in Texas, and "according to data from the Texas Humane Legislation Network, more than 1,000 dogs have been shot by Texas law enforcement in the past five years" (Crampton, 2015, para. 5). It is not difficult to imagine the kind of backlash a department may experience from this type of incident. These incidents have led to protests, political lobbying, and social media outcries. People feel that the police are exercising a rush to violence, abuse of power, and are acting out of fear and carelessness. These are not qualities that a department wants to be known for among the communities they are sworn to serve. This response to canines is certainly nowhere near the critical level that officer involved shootings of persons is; however, it may prove to be a "symptom of the much larger and devastating malady of wanton police violence. It is a further tear in the fragile trust between civilians and the people we count on to keep us safe" (Scott, 2016, para. 6). Law enforcement agencies are projecting the perception that they are in a constant state of war with tactical style uniforms and gear. Some people believe law enforcement policy and procedures are outdated and need to be rewritten (Scott, 2016).

It is evident that, in terms of public perception, the shooting of dogs is not that far removed from other officer involved shootings. Much in the same way as an animal cruelty investigator it is often possible to find evidence of criminal abuse against a person occurring at the hands of an animal abuse suspect, the public sees officers who

carelessly shoot dogs as more prone to shoot and kill a suspect with the same level of carelessness. This public opinion hurts the very fabric of the community policing model. An opinion that could easily be altered with more training being made available for officers and their canine encounters.

## COUNTER POSITION

There are two primary counter positions to this argument: training availability and animal control officers already employed by departments. For several departments, cost and resources are often a difficult hurdle to overcome when it comes to training their officers. Departments will argue that there are not enough classes being offered or that they cannot afford to send their officers through the required training. There are several options that make this a moot argument.

Firstly, there are three courses available in Texas to provide the necessary canine training. The Texas Commission on Law Enforcement offers a 4-hour Canine Encounter course which can be taught by any peace officer with a basic instructor certification. This means that each departments' training staff could teach this course. If this is not a viable option due to staffing restrictions or some other reason, the Texas Municipal Police Association (TMPA) offers a free course entitle Police and Dogs: Shoot, Don't Shoot, which seeks to train officers in canine behavior to better equip them with making that lethal force decision. Finally, Canine Encounters, created by Jim Osorio, who has partnered with Combined Law Enforcement Agencies of Texas (CLEAT) is being offered at a low cost for officers in Texas and across the nation. Osorio's class teaches "officers how to recognize canine aggression and interpret body language. Officers will learn defensive tactics and how to use less-than-lethal

techniques to control dogs. Police officers have long had to deal with dogs as part of their duties" (Osorio, 2016, para. 2).

Osorio does not believe that law enforcement officers are out looking to kill dogs. He believes that law enforcement has not been properly trained nor have they had any other weapon available to them to be used when dealing with dogs. With the news posting deadly force incidents against dogs, they have a lot to do with the pressure mounting on law enforcement for a change in the way dogs are dealt with. Osorio has trained over 32,000 law enforcement officers across the country since 2005, including a train-the-trainer course, where other instructors can teach Osorio's curriculum. With the wide array of training options now available, departments cannot argue that the opportunity was not there for their officers to receive this much needed training.

Some agencies are going to argue that they have animal control officers employed by the department to handle dog calls and patrol officers are not handling these calls. The primary reason for this is that officers are not encountering dogs solely based on reports of loose dogs running through neighborhoods. More likely patrol officers are encountering canines while responding to other calls for service, warrant services, or on traffic stops. Animal control officers are not always available and certainly wouldn't be on scene for potentially dangerous police activity. Animal control officers are one of many tools that law enforcement officers have at their disposal when dealing with dogs, but that tool alone does not negate the necessity of officers to have training in handling these encounters on their own.

**RECOMMENDATION**

The points presented in this paper are definitive that law enforcement officers nationwide should be receiving training in canine behavior and equipped in how to deal with canine encounters in order to avoid unnecessary injury to themselves or the public, reduce department liability, and maintain a good community reputation. Following the shooting death of Lily, her owners began lobbying for legislation that would mandate officers to attend canine interaction training (Crampton, 2015). The Texas Humane Legislation Network spear headed the endeavor by presenting House Bill 593, and "the Legislature overwhelmingly passed the bill" (Crampton, 2015, para. 11). In Texas, and in a handful of other states, it is now mandatory for peace officers seeking a basic, intermediate, or advanced peace officer certification to attend a minimum of 4-hours of canine encounter training. Officers should eagerly search for training opportunities and departments should enthusiastically take whatever measures are necessary to ensure all of their officers receive this crucial and important training. Officers are given vehicles, weapons, and training, in order to carry out their daily functions and safely prevent and investigate crimes and make arrests of law breakers. The same attention should be given to seeing that these officers are prepared mentally and physically for other encounters that could have as devastating an outcome for the officer's safety, the safety of the community, the department's vicarious liability, and the department's reputation. Departments across Texas are even putting use of force policies into place that instruct their officers how to handle their encounters with canines. The Austin Police Department revised its rules of engagements with dogs, stating, "Before an officer takes action, there needs to be an imminent threat of bodily injury" (Krayewshi, 2012, para. 2).

Likewise, the Austin Police Department Chief of Staff, David Carter says, "Whereas in the past, it would describe that the animal was dangerous;" additionally, officers would need to "justify the position of using a firearm, versus using some other method to repel a dog" (Krayewshi, 2012, para. 2).

Other means of force have to be considered before using deadly force. Just like with humans, the officer needs to use hands, nightstick, pepper spray, taser or some sort of other force that could stop the threat. Officers need to complete reports relating to the killing of a dog. Unlike the past where officers went unchecked, supervisors are now required to investigate the shooting to make sure proper procedures were used and the shooting of the dog was justified (Krayewshi, 2012). This is a step in the right direction. Departments across the country need to be providing this type of training to their officers and considering policy changes or additions to prevent this type of needless, careless, unprofessional killing of dogs within their communities. The very first paragraph in the *Law Enforcement Code of Ethics* states, "AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder" (Texas Police Association, 2017, para. 1). Officers can better serve their community by receiving all training that will assist them in that endeavor. It has been proven that officers can safeguard lives and property by not shooting or attempting to shoot a dog that is not a threat. Canine encounter training is a win for man, man's best friend, and man's protector, law enforcement.

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