

**THE BILL BLACKWOOD
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The Justification For Guidelines When
Implementing A Canine Program

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ABSTRACT

Today's law enforcement agencies are held more accountable for their actions and undergo more scrutiny than ever before. An agency's canine department is certainly no exception to the public's scrutinizing of police dogs. Several Supreme Court rulings have required canine officers to follow certain guidelines to insure the public that canines are receiving proper training and that the training is on a training log.

The purpose of this research paper is to share knowledge and to assist smaller agencies in determining the need for a canine division within their department. This research paper will expose certain issues that are vital to know, prior to starting a canine program. The more research that an agency conducts about canines, the better prepared and more successful that agency's canine program will be. The information and charts included in this research paper are designed to acclimate the novice police officers who are wanting to gain information concerning the implementation of a canine program. It is through this disclosure of information that helps prevent us from making the same mistakes that other agencies have already made when starting a new canine program.

To conduct this research paper I have included twenty- two different sources, seven of which are personal interviews with law enforcement officers from across the State of Texas who currently have canine programs in operation.

In conclusion, I would like to recommend that any law enforcement agency considering a new canine program, read and research the information in this research paper as well as the references that are listed in the bibliography. This will assist the agency with the awareness of liabilities and responsibilities that are associated with canine programs.

Introduction

The purpose of this research paper is to assist and aid smaller police agencies in determining the need for a canine division in their departments. When considering the use of a canine, a department needs to be aware of the responsibilities, liabilities and cost involved with implementing a K-9 program. This research paper will help point out several issues that must be considered to have a successful canine program. After reading this paper, I am optimistic that the novice canine officer will have a better understanding of what it takes to generate and maintain an effective canine program. Some of the initial problems facing police agencies when trying to start a canine program is the selection of a canine, handler/officer, training, and the initial cost. "Many departments put their dog teams on the bottom of the priority list for funding, yet use their teams 24 hours a day" (Eden pg. 79). It is very difficult to have an effective canine program with such budget constraints. Proper training is another important issue that cannot be emphasize enough. The canine and handler should attend a minimum of twelve to sixteen weeks in a state certified training program before being assigned to the street (Eden 80). Even after this training period and acclimation between the canine and handler, it will realistically be approximately two years before the canine and handler reach the point where they know and rely on each other. Finding the right handler for a canine can be a very difficult task. The canine and handler must have similar characteristics to be compatible and bond with each other or else maximum results will not be achieved (Eden 81). Some of the major costs to consider are; canine, patrol car (which must be designed for the canine), kennel, veterinarian check ups, food, collars, agitation suits, bite sleeves, and training (Harlow 88-89). We will discuss in detail, more about cost and constraints later in this research paper.

This paper is intended and written for any law enforcement agency considering to start a canine program. In some cases the chief of police researches and makes the decisions on whether or not to implement a canine program. In other cases, the chief or an administrator will delegate this research task to someone with experience in selecting canines and canine equipment. In any event, if you are considering a canine program, you will find this topic very helpful and maybe it will point out some issues that had not been considered.

The sources of information utilized to create this research paper consisted of books, canine legal update issues, Law & order publications, magazines and personal interviews with several different law enforcement agencies in Texas

The intended outcome of this project is to provide information to officers which will help to alleviate common errors frequently made when starting a new canine program. I will do this by exposing the reader to issues that need to be addressed when looking at the purchase of a canine, selecting a handler, training, and the initial start up cost.

Historical, Legal or Theoretical Context

Historically people have been using canines to assist man kind for centuries. Canines such as the Ibizan Hound can be traced back as far as 3400 B.C. "The Ibizan Hound was favored and used for hunting by the pharaohs of Egypt" (Prisco & Johnson 460). The earliest known account of a dog serving as a detective dates from the reign of Pyrrhus, from 300-272 B.C. (Chapman 9). Dogs were first used in a law enforcement role to protect citizens in Saint Malo, France in the early 1300's. In 1700 the program was banned after one of the dogs killed a young naval officer who was on the street after curfew (Chapman 10). This was perhaps the beginning of problems and legalities for canine units. In 1899, Ghent was the first city to establish a school which was designed to train dogs

specifically for police canine use (Chapman 10). Typically these dogs were used to assist officers while they walked foot patrol through the streets of the town. The canine quickly gained the respect from the citizens on the street and sent a message that crime would not be tolerated. In the field of law enforcement, "from 1930 through 1940 Bloodhounds brought almost as many convictions for the police as detectives did " (Owen 8). This is attributed to the canine keen scenting and tracking abilities. Below is a list of the canine programs that have been started and ended by various agencies in the United States. I am making this list as an example of the wide range of problems that other agencies have experienced, causing some of the programs to cease (Chapman 41). This chart reflects the canine programs which have started and ended from 1907 through 1979.

Nature of Force	Number of Places	Ended	Still Operating	Total Programs
City Forces	597	278	346	624
County Forces	119	30	94	124
State Forces	15	5	12	17
Other Agencies	<u>21</u>	<u>7</u>	<u>14</u>	<u>21</u>
Total	752	320	466	786

The comparison chart above is listed to give an illustration of the canine programs that have started and failed for one reason or another (Chapman 41). This illustration places an even greater emphasis on the importance of research prior to implementmg a K -9 program. Now that we have had the opportunity to review the beginning of K-9 programs, we can move onto other issues with a better understanding of the legal constraints that are about to be discussed.

There is currently an abundance of legal constraints and guidelines by which canine officers must abide. The fourth Amendment dictates to what extent canine can be used. There have been several U.S. Supreme Court rulings which give canine officers guidelines to adhere by. Some of these court rulings are United States V. Place, United States V. Race and United States V. Lovell, just to mention a few (FBI Law Enforcement Bulletin 4). Canines and their handlers have to be certified by a state certifying official for the canine to even be used in law enforcement. This certification that the canine and handler undergo, along with the U.S. Supreme Court rulings listed, are to protect the constitutional rights of citizens. These court rulings are not to be taken lightly because any violation involving a canine is the result of a civil rights violation which is a Federal offense. Listed in the "Canine Legal Update and Opinions For Supervisors and Administrators" is a list of eight serious violations that must be avoid by police departments and their canine handlers.

1. Vicarious Liability:

"The imposition of liability on one person for the actionable conduct of another, based solely on a relationship between the two persons. Indirect or imputed legal responsibility for acts of another, for example the liability of an employer for the acts of an employee."

2. Negligent Appointment:

Handler; Pre-entry test determining the mental and physically stability and a background check.

Training which must be documented and testing or certification to standards.

Canine; Pre-entry test to determine the canine's mental and physically stability and a back ground check. Training which is consistent with the industry (P.O.S.T.), documentation, which applies to both the vendor and in-house training. Testing and certification of the canine to standards.

3. Negligent Retention: Review of all use of force incidents. Review of physical and mental stability.

4. Negligent Entrustment:

Canine to a handler, entrustment of a dog (a potential use of force) to an officer who is not physically or mentally fit.

5. Negligent Training:

Written agency standards which must parallel and meet P.O.S.T or if no P.O.S.T agency standards must meet industry standards, i.e. U.S.P.C.A, etc.

Training; training to standards. Documentation applies to both vendor and in-house training.

Testing; Test must be to standards, non-interested evaluator, trained evaluator, documented, and done biannual or annual.

Evaluators; Must meet state standards. Written agency standards must parallel and meet state standards. Must do training to standards. Weekly or biweekly training. Problem areas must be documented. Deployment of canine must include a use of force review and compare bite ratio to number of times the canine is deployed. Certification / evaluator must evaluate to standards either biannual or annual and must be a non-interested evaluator (not the vendor).

6. Negligent Supervision:

Supervisor is responsible for and must make certain that training is done to standards, appointment of both handler and canine, retention of both handler and canine, entrustment of a dog to a handler, maintenance training, deployment review, re-certification or evaluations and documentation of all these areas.

7. Negligent Assignment:

Exceeding the dog's capability. Turning a S.W.A.T. call into a canine call. Using a narcotic detector dog for police service dog person/evidence searches.

8. Failure to Direct:

On-scene supervision or knowledge of canine deployment. Written standards or policy.

As you can see, there are a lot of responsibilities that are involved and should be taken into consideration before implementing a canine unit (Fleck 50-58).

Theoretically, most people believe that all there is to starting a canine program is to get a dog, a patrol car, and you are on your way. As we can see, there is much more to it than that. The unrecognized part of having a canine is the hours of training that an officer conducts on their own time and the grooming, bathing and general care taking of the dog.

Review of Literature or Practice

Independent research studies have shown that a canine's sense of smell is immensely profound compared to a human's ability to smell. As in humans, the canine's nose is made up of several olfactory cells (also known as receptor cells) and sustentacular cells which are main cells that allow a canine to smell and recognize odors. To give an idea of just how intense a canine's smelling ability is compared to a human's, a human has 5 million olfactory cells and a canine has 200 million (Taylor 29). This is why the canine is so valuable as a tracker and contributes so much to assisting law enforcement with locate suspects and missing people. When two escapes from a Georgia jail escaped, a canine (Bloodhound) was quickly called on to assist in locating the suspects. "The Bloodhound picks up the scent from the long abandon passenger's seat and begins tracking the escapee. In less than a minute, the convict is found. He had been hiding under one end of a bridge, directly below 20 or so policemen (Walker 31). Research has indicated that the "theory of scent is broadly divided into three basic categories: 1. tunnel or wind borne scent 2. ground scent 3. contact scent (Advisory Staff 6-7).

"Tunnel scent is the scent which is left airborne from an individual as he walks through a particular area." "Ground scent is that which is left by the slightest movement or disturbance." "Contact scent utilizes the theory transfer much the same way fingerprints are left on glass" (Advisory Staff 6-7). Now that we have examined the basic scent theory of a canine and the three main different types of scents, we can move on and have a greater understanding of the dog's tracking abilities. It is no wonder that our trustworthy canine companions excel so well when tracking a suspect who has just fled from a stolen car in the early morning hours and runs across a field to elude police officers. The next issue that needs to be addressed is the deployment of the dogs during tracking versus the dogs bite ratio. It is very important for the department to establish policies and procedures to regulate when a K-9 unit should be deployed. If the canine actually bites the suspect, then the department should handle the incident as a use of force and investigate the situation to make certain that all procedures were followed. It is a common fact that when a canine bites a suspect, a civil rights violation is filed against the department. In the districts courts of Tennessee v Garner and Kerr v City of West Palm Beach, "the common element in both issues was failure to train" (Fleck 32-33). "At the district court trial there were two areas introduced to the jury in regards to these two issues, bite ratio. One indication of a misbehaving dog is a high ratio of bites to apprehensions. "Less than 30% of apprehensions, on an average, should result in a bite." Any department with a bite ratio exceeding 20% should be reviewed. "The West Palm Beach Police Department had a bite ratio of 50%"which indicated a possible problem with their canine department's bite ratio (Fleck 34). Departments should also have policies and procedures to regulate when the canine will be deployed. In some cases departments will only advocate the deployment of a canine involving felony cases. Other departments leave the decision up to the discretion of the handler with only minimal guidelines to adhere by.

"Deployment of canines against felony versus misdemeanor suspects is addressed differently in each circuit court." "Under the Supreme Court case *Graham v Connor*, one element of reasonableness of the force used is the severity of the crime at issue. Other issues discussed was whether or not to have canine demonstrations at schools, city council meetings, etc. as a public relations tool.

I interviewed several police officers from different agencies concerning three areas in which they use their K-9; Canine deployment, demonstrations and if each agency certifies their dogs through a canine association. The chart indicates that all the agencies surveyed believe in following the expectations of the circuit courts by having their canines certified with an association. Each agency believes that their community responds to the canine demonstrations, resulting as a positive public relations tool for each agency.

Agency	K-9 Deployment		Demonstrations	Certification Association
	Felony	Misdemeanor		
Brazoria County	X	X	X	X
Calhoun County			X	X
Farmers Branch P.D.	X	X	X	X
League City P .D.	X		X	X
Pflugerville P.D.	X	X	X	
Sherman P.D.	X		X	X
Tyler P.D.	X		X	X
Vernon P.D.			X	X

Discussion of Relevant Issues

To summarize and address the key issues of this research paper, I will reiterate on the major topics. At the beginning of this paper we address the difficulties with locating a quality K-9 and matching the K-9 with the appropriate handler. The research then led us to examine the funding of a K-9 unit and the length of time it takes to implement the canine and handler to the street. Remembering that canines have been used since 3400 B.C. and started in law enforcement in the early 1300's in France, it is no wonder that the canine has excelled and been perfected in the use of law enforcement today. We then looked into the areas that have caused several K-9 units to dissipate over the years due to lack of research and knowledge prior to starting the new programs. The canine's olfactory system was addressed so that the reader would have a better understanding of the dogs sensitive nose and tracking abilities. There are three main types of scent theories that are listed in this paper, tunnel or wind borne, ground and contact scent. Canine officers have also undergone excruciating scrutiny as a result of improper or no training. Several court rulings have been documented in this research paper as a direct result of the improper training and civil rights violations. The most serious of those violations were vicarious liability, negligent appointment, negligent retention, negligent entrustment, negligent training, negligent supervision, negligent assignment and failure to direct. I then conducted personal interviews with several police officers from different agencies to reflect on their individual policies and procedures. Most of these agencies that were surveyed were all duplicative in the areas of using their canines as a public relations tool and had received very positive feedback from their citizens. However the agencies differentiated in the areas of canine deployment. Some of the agencies restricted the deployment of their canines to felony cases/incidents only. While other agencies gave more handler discretion with misdemeanor offenses.

Canine programs are usually faced with a variety of constraints. Budget constraints definitely fits this profile due to some agencies not having enough funds to actively utilize their dogs (Eden 79). If there are not enough funds to have the adequate number of patrol officers on the street, you will have canine officers responding to calls which are non canine related. Such calls as criminal mischief and traffic accidents can detain the canine officers from performing their canine duties. These budget constraints will also effect training, or the lack of training, that a canine and handler will need to attend. Time is another constraint that canine officers are faced with. It is very time consuming to document each training session that the officer is required to undergo. The opportunities that canine programs can experience is phenomenal. Canines are a great public relations tool for police agencies and provides for positive feed back (Henry). "Demonstrations are vital to the continuing public success of a canine unit" (Whitworth 110). Canines have been responsible for seizing narcotics, large sums of money and vehicles. A canine name Breston, assigned to the Crosstimbers Narcotics task Force, is credited with an extremely large amount of seizures in a 1 ½ year period. Breston and his handler, "together they have over seven million dollars in seizures, including drug value, money, and assets" (Advisor Staff). These seizures can be very lucrative for agencies. According to one handler his dog has enabled the issuance of over 300 search warrants, resulting in the confiscation of large amounts of controlled substance (Whitworth 107). The demonstrations and seizures are a great asset to any agency, but there are other issues that make the canine even more valuable. Canines can track and locate lost children who would otherwise not be located. Canines are also valuable partners. The Pflugerville Police Department has a canine name Cobra, he received the officer of the year award in 1993 for saving his handlers life during a traffic stop, on a dark deserted road one night. Successes of this multitude cannot be measured or given a dollar value.

The cost for starting a canine program can be rather expensive. The cost for a trained canine can range somewhere between \$3,500 to \$6,100 dollars depending on what type of canine an agency decides to purchase (Duet 102). The cost a patrol car is also not cheap, approximately \$17,000. An insert cage which is installed in the rear seat area and is designed to safely contain the canine, another \$1,200 dollars. A bite/agitation sleeve, \$145.00 (Leerburg 54). Canine leather collar and training collar, \$60.00. There will of course be several smaller items which will need to be purchased, such as food and water bowls. The Brazoria County Sheriff's Office has an annual expenditure for upkeep listed in their standard operating procedures manual. The cost for each canine is listed below.

Food and upkeep at \$1.25 per day X 365 days = \$456.25

Vaccination = \$60.00

Biannual booster = \$40.00

Annual heart worm examination = \$30.00

Year supply of heart worm treatment = \$60.00

Annual dental cleaning = \$60.00

North American Police Dog Association = \$30.00

Certification = \$25.00

Law Enforcement Training Seminar = \$125.00

Handler food and lodging = \$350.00

Total for annual care \$1,291.25

(Brazoria County Sheriff's Office Standard Operating Procedure Manual 9)

Conclusion/Recommendations

The purpose of this research paper has been to enlighten any police agency that is considering the implementation of a canine division within their agency. There are several issues that have been addressed in this research paper that will help to answer questions concerning the needs and cost of a canine unit. This research paper will assist the reader in the awareness of the liabilities, and responsibilities associated with a canine unit. This will help in the decision making of whether or not to start a canine program within your agency.

This research is impeccable in relation to the application of the topic. It is directly related to real life issues that must be disclosed in order for an agency to be successful with a new canine unit. So many times an agency has good intentions that are imaginable, but without prior knowledge of implementing a canine unit the effects can be costly and even harmful to their community.

As previously discussed, some of the problems with starting a canine unit can be complications from selecting and matching a handler and dog, to realizing the liabilities and case laws associated with canine issues. Budget restraints are always a consideration before starting a canine program.

In conclusion, I would recommend that anyone that is considering to starting a canine program do as much research as possible. Carefully look at several different vendors that train and sell canines and make certain that there is a qualified officer in your department that is willing to devote the time and patience to become a canine handler. I also recommend the readings that are listed in the bibliography of this research paper to gain a more profound insight to the issues discussed.

These recommendations will assist the reader by revealing information that has been discovered by several dog trainers through years of experience and training. Take advantage of their expertise.

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