

# HELP

## TRAINING & SUPERVISION OF A NEW K9

By Jerry Bradshaw  
Tarheel Canine Training, Inc.



In this article we will discuss some key issues to consider in ensuring the success of your K9 unit. For the purposes of this article we will assume the K9 has been trained in patrol, tracking and detection functions. The success of this new K9 unit will depend on a multitude of factors. Many of these factors are under the direct control of the administration of the department.

It is important to remember that a police dog's primary function is that of a locating tool. Its secondary function is that of a use of force. The police dog has a decided advantage in its olfactory senses in locating contraband (explosives or narcotics), hidden suspects on tracks or in buildings or on area searches. When the suspect is located the suspect largely determines the decision of use of force. The handler will deploy the dog as a use of force based on the suspect's behavior, and whether he complies with the officer when found or does not. The K9 officer will use the fourth amendment's objective and reasonable test for excessive force. The use of force decision will

be based on an evaluation of totality of circumstances and information available at the time of the use of force decision. The officer will consider the severity of the crime at issue, whether the suspect poses an immediate threat, and whether the suspect is actively resisting. These three guidelines are outlined in the Supreme Court decision *Graham v. Connor*. This evaluation must guide the officer's decision to use the dog as a mechanism to gain compliance and/or prevent flight through the dog's apprehension capabilities.

It is important to remember that *Graham v. Connor* is the guide to K9 use of force decisions in general. A K9 is not considered deadly force by case law and so the employment of a K9 as long as the use of force is not excessive, is a proper employment of the K9.

## RECORD KEEPING

In K9 School the K9 team will be taught the importance of record keeping. The importance of training records for court cannot be overstated. Case law makes it clear that training records are an important part of the documentation of whether the canine is "properly trained and certified." Annual certification is not enough for court. A recent Supreme Court ruling (*Florida v. Harris* 2013) restated the key importance of training records to indicate the training success and accuracy of the dog, along with certification.

In patrol work, documenting the targeting of the dog during patrol work is going to become a key future issue. If the dog in training is allowed to bite the training decoy in vital areas such as the groin, high chest area and high back area near the neck, the team will lose the presumption that the dog is being taught to control the suspect through apprehension of non-vital areas. This can become a negligence issue. Very few K9 units are aware how important it is to document that the dogs are only being allowed, through proper targeting training, to apprehend in the arm, bicep, triceps, back of the legs and below the shins in the front. Trainers in charge of K9 units must learn how to train proper targeting and not allow the dog to "bite anywhere." Training records must include these targeting issues as part of the narrative in apprehension work.

In detection work, record keeping is a key factor in determining the accuracy of the dog for court testimony. In detection cases the dog is basically an expert witness on the location of the contraband. On deployments a dog may hit on a car with no contraband inside because of a lingering odor after the contraband has been removed. This makes using deployment records in determining accuracy biased unfairly against the dog. The dogs are trained to find the odor of narcotics, not narcotics themselves. Only in training scenarios is it set up so that we know where the contraband is hidden and where the areas run are blank. From this we can get a proper calculation of the dog's accuracy. The more data we have (read the more good training done) the better the dog's performance will be and the better the accuracy of the dog.

Training records must be diligently kept. Be careful to include narratives along with the check boxes





that come in most record keeping programs. These narratives are concise statements that explain the dog's performance, how it took place in training, and whether the goals of the training were achieved. The narrative also explains the observed behavior changes in the dog. These documented behavior changes are a linchpin for explaining the dog's behavior on a deployment for court purposes. A K9 alert provides probable cause for entering a vehicle under the vehicle exception to the search warrant requirement of the fourth amendment. While the dog doesn't have to go to the final response to give probable cause (there can be mitigating circumstances that prevent the dog from going to a final response e.g. hot pavement or a tight space preventing the "sit" final response), these narratives will provide the basis of the training history of the dog's changes in breathing, body posture, and final response behavior in a variety of circumstances similar to any deployment.

Be sure to back up these programs routinely as well, because a computer hard drive crash can wipe out a canine's documented history in the blink of an eye. Many handlers prefer to keep a written record of their training records for this very reason.

## **SUPERVISION**

The K9 unit must have a supervisor. One of the most important jobs of this supervisor is to schedule the appropriate training and review of the training records. A supervisor doesn't need to be a former handler, but they should go through some kind of supervisor's course to understand what their K9s are supposed to be doing. The K9 unit supervisor should have a basic understanding of applicable case law. Supervisors should attend regular K9 legal update training with their K9 handlers.

Training hours for a K9 unit by common industry standard and case law is 16 hours a month, or 4 hours a week. This is a minimum for all disciplines of an individual K9. If you are not providing your K9 unit the opportunity to train a minimum of 16 hours a month, you are opening your agency to liability. It is established in case law that training time is essential for the responsiveness of the dog to handler commands, and if sufficient training is not allowed, the responsiveness of the dog to the handler will deteriorate, setting the team up to be less than proficient in a deployment. The agency that does not allow for this minimum standard can be held liable on the grounds of failure to train as well as failure to supervise. Liability can also be assigned for being "deliberately indifferent" to the training needs of a specialized unit (Reference Fleck, Terry. Legal Update Seminar Baltimore MD March 11, 2009).

Failure to supervise is important to understand in its own right. Training records of the K9 teams should be audited by a supervisor regularly to ensure compliance with minimum hours and proper allocation of the training time. The supervisor should be familiar with the types of training the K9 team must do in order to be proficient, and a good supervisor's course should help with this.



If handlers feel that their training time is not a priority, and that supervision is not looking at the K9 team as a priority, morale in the unit will deteriorate. Agencies that allocate more than the minimum hours per month, recognizing that a dual purpose K9 needs more than this minimum by a long shot, set a tone that their K9 unit is important. It must be made clear from supervision that their proficiency is important to the agency. This boosts morale, and keeps handlers motivated to do even more on their own, on shift, when they can, to push their dogs to be the best of the best.

Incomplete training can become a vicious circle. If not enough training time is allocated, teams become less proficient. When called out on the street the dogs underperform, which makes patrol less likely to enlist the use of the K9s, which hits the morale of the K9 officers, and reduces the importance of the unit in general. Thus many K9s languish in cars not being employed efficiently because they are not allowed to train enough to maintain a level of deployment readiness. Remember, certification is a basic proficiency. A K9 can pass certification, but not be ready to deploy effectively if he is not being trained sufficiently.

Supervisors should also be familiar with FLSA as it relates to handler compensation. Generally 30 minutes per day 7 days per week must be allowed for handlers to care for their dogs, or roughly 3.5 hours per week. If this care exceeds a normal 40 hour work week, overtime compensation must be allowed. Many agencies schedule their handlers only for 36 hours of work a week to allow the handler those 4 hours for care, avoiding the need to pay the overtime. The overtime can be paid or the agency can pay the compensable time in comp time. Agencies can also do a combination of the two methods. Agencies who do not allow for this are subject to being sued for all back compensation. Supervisors should establish how this will be handled in advance of the K9 team being trained so there are no surprises.

## CONCLUSION

Getting a new K9 on the street is just the first stop on the road in having a productive K9 unit. As of the writing of this article two of our Tarheel Canine dogs with departments in Maryland and Georgia had drug and money seizures in excess of \$750,000 just this past month alone. K9 units can be very productive specialized units, but this productivity depends on a well-trained and properly selected K9 that is properly supervised and maintained with sufficient training time. Supervisors can create an atmosphere of high achievement or thwart the motivation of K9 handlers. Motivated productive K9 units retain skilled handlers and provide patrol with an undeniably important tool which enhances the safety and efficiency of all patrol units. Proper training and supervision is a key factor in avoiding unnecessary liability exposure of the agency.

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Jerry Bradshaw is Training Director & President of Tarheel Canine Training, Inc. in Sanford, North Carolina. Jerry has been training dogs for competitive protection sports since 1991, and has competed in National Championship trials in both Schutzhund and PSA, winning the PSA National Championships in 2003 with his dog Ricardo v.d. Natuurzicht PSA 3. Jerry has trained many Belgian Malinois to the highest titles in the sports in which he competed including Arrow of Tigerpaws, SchH 3, BH; Ben von Lowenfels, SchH 2, BH; Rocky de la Maison Des Lions PSA 3; and Ricardo v.d. Natuurzicht PH 1, PSA 3.

Tarheel Canine Training Inc. is a nationally renowned training facility for police service dogs, and has placed trained police dogs at federal, state and local law enforcement agencies nationally and internationally since 1993. Jerry is often a featured speaker at national police K9 conferences, and travels extensively giving seminars to police departments, the US Military, and sport trainers across the United States. Jerry has written a book, *Controlled Aggression*, which is rapidly becoming the standard text for understanding the fundamentals of canine aggression training for police service, personal protection, and competitive dog sports. Jerry also maintains a free blog at [www.tarheelcanine.com](http://www.tarheelcanine.com).