

CERTIFICATIONS AND THE USE OF FORCE CONTINUUM

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YES, you need a USPCA certification! That is nothing new, you need a court recognized and accepted standard. Why would anyone want something less? The USPCA wants you, you are important to us, and more precisely, to other officers, trainers and administrators of canine programs.

Please make no mistake about it, the certification is demanding. It is not easy, nor is it a “give me” certificate. It takes training and work to obtain a rating of PDI, Detector Dog or Tracking Dog Certification, but so does the job you do. The USPCA has been committed since 1970 to maintaining the highest standard and the most qualified evaluators to support not the word certification, but the performance it is based upon.

The USPCA certification test is not conducted behind closed walls. It is conducted by leading enforcement professionals that also gather and trade ideas, learn from each other and share experiences, problems, and anxieties that only other canine professionals can understand. Certification is not the only thing a handler takes with him/her with a USPCA certification. They also have workshops, special training sessions and networking events. It is hard work to participate in our certification but you will get as much as you give - in perspectives, insights and opinions of your performance and new training techniques and trends that effect police service dog programs world wide.

But with so many canine organizations certifying dogs, how can a department, the citizens and the courts have confidence in the awarded certification?

In the national office I continually get inquiries about the USPCA and the difference between it and other canine associations. The USPCA is the oldest and largest organization to certify and set standards for service dogs in the world. In 1970 it was the only organization just for law enforcement canine professionals. The United States Police Canine Association, Inc. is often imitated, but never duplicated. The USPCA has maintained the highest level of certification and has witnessed spin off organizations that developed because of these demanding requirements. The USPCA continues to be on the cutting edge of training and will ever strive to maintain the highest level of performance-based certifications.

The USPCA believes in the highest standard; anything less is unacceptable.

Unacceptable because we believe citizens and officers need to be assured that the tools law enforcement officers use are safe and that they have attained an impartial open certification, verifiable from credible police service dog judges.

Today we see a cascade of misinformation on why litigation has increased recently in the use of police service dogs.

The primary reason is ineffective performance. It can be traced to ineffective certification standards. The philosophy of how a police service dog is trained on apprehension has been unfairly made to bear the blunt of blame by some well meaning, but grossly mistaken individuals. The terminology of *Bark & Guard vs. Find & Bite* has made a well sounding, politically correct solution for all excessive use of force involving dogs. What these mistaken experts fail to understand is that almost half of the cases litigated were Bark & Guard dogs that became Find & Bite dogs when the suspect moved or failed to respond. There are several reasons civil cases involving police service dogs have increased and none of them have ever been from the proper training of either method. The cases litigated also show a lack of any national standard of recognized performance. The hallmark case is *Robinette v. Barnes 854 F2d 909 (6th Cir. 1988)*. It supports the proper training of police dogs and the standards of the USPCA. The USPCA standards have been court tested. They are an industry standard of recognized performance.

*see foot note

Where did all the others come from?

Today we see many organizations conduct certifications in protected settings that are not open to the public. A single individual conducts them. This contrasts with the belief that we do not work in a vacuum and certification tests are public and should be open to citizens. The certification of a service dog team is different than any other certification in law enforcement. It is the only certification that involves the officer (handler) and his partner, a canine. Unlike other certifications that depend solely on the officer's ability, the canine certification entails a multitude of exercises that require the canine to perform as commanded by the handler. To fairly test and evaluate a team requires more than one evaluator to fairly evaluate that performance. One person cannot physically observe and record the performance of a task that involves two, handler and dog, on the same task in different areas. Does the evaluator watch the dog or the handler? With multiple evaluators you get a consensus on the performance and not one limited observation.

When evaluating testing, and certification is a test, the test has to be valid as to content. Does it test job requirements? Does the test evaluate control under simulated job requirements? If the test is truly content valid it will see a percentage that may fail on a particular phase in certification. Is that to say we only have perfect dogs? No, but we acknowledge it. No, there are no perfect dogs, just as there are no perfect handlers.

Yes, it is work to obtain a USPCA certification. There are easier ones to obtain and many use one evaluator. The handler can shop for the easy one. Some permit a telephone call to visit an evaluator for a one on one certification. But is this what you really want? Is that a professional way to obtain a certification? I believe in truth in law enforcement, the performance certification of a police service dog team should not be picking your evaluator in a test behind closed doors.

What are the requirements?

In any test not only the questions should be clear and the requirements written, but the faults and the less than passing faults specified. Some organizations will have a pass / fail evaluation and have no objective standard of performance on what is failure. Sure we all know what a pass is, but how many faults are failure? One certification test reported the recall would be done when the evaluator touches the shoulder of the handler with no requirement on distance covered, commands used or actions of the decoy. With only one evaluator it now becomes a Bob's rule, Jim's rule or Bill's, whoever the evaluator is and not a mandated requirement. Pass / Fail is an easy way to obtain a certification and tells one nothing of the proficiency or how well the task was done.

Many who support the pass/ fail certification will be the first to select new dogs on the scores obtained in sports work as an indication of their ability. But when it comes to evaluation after training they are reluctant to be measured. As an administrator I had a professor who taught, "That which gets measured, gets done", and that is a powerful truism. It does affect performance - just ask the first four-minute mile runner who strived not for passing but to be the best. Does it really matter if a dog sits straight, does not respond to a command or cannot be controlled off lead or without an electric collar? Who cares if my dog chews on the bite and inflicts multiple bites and major medical injury? If the performance is not evaluated (scored) who does care? If performance doesn't count for anything but "Passing" who does care about the borderline or negligent responses and performance? **No one does.** The USPCA is still the only association that believes in a measured evaluation. The certification is a certificate but the foundation is the evaluation. The performance is measured on written published performance requirements. Sure, they are artificially simulated tests but they have withstood the test of time and the test of the courts, have any others?

I am trying to recall just one area that is a pass/fail in today's world. Everything I can think of is measured. From your first driver's license test to your hiring and promotion, it is measured. Would you be an officer today if all applicants were rated the same? Why do we have pass/fail in canine evaluations? What motivation is there for officers to do better? What self-satisfaction can be found in meeting the bottom rung of the performance ladder?

Motivation

Principles of supervision and the study of what motivates people to do work also reinforce the need for recognition of employees for a job well done. Does money, pay, motivate employees or does something else? What is it that drives one department to out produce another? What makes one supervisor or style of supervision more effective than another? What makes one officer an asset and another just an employee?

Now let us look at the Pass/Fail evaluation and just how it affects motivation.

If performance did not count would employees strive to perform, to be the best? I can hear someone saying that the reward is on the street in the cases and arrests made, but how arrests are made, is that important? The arrests will come from proper training and supervision but the number of arrests can also be produced with ineffective supervision and negligent training. Does it motivate the just passed to do better or does it stifle the extra effort of a good producer? No self-esteem here but who needs it? **Or do we?**

View from the Top

I have been involved in the law enforcement field for 33 years; 15 years as a canine handler and trainer and 18 years as an administrator, including Police Chief. Having been on both ends of the spectrum, I do understand why administrators would not necessarily know why the USPCA certification should be a requirement, especially when the majority of states have not mandated a training performance or a minimum standard for service dogs. The states that have addressed this area still are at a liability, and for the most part, the standards are not even a minimum or a creditable objective standard. Administrators need to know that state standards are a liability alone. State standards are also the very minimum, the recruit level, and not a good test of the team's ability. Currently many state standards also permit manipulation to obtain compliance of the dog in an unacceptable use of equipment. In Ohio the state evaluates explosive detector dogs on odor identification and does not evaluate the team to see if it is done in a safe manner! Administrators could well have a state certified bomb dog that is not safely able to do the job. **Now, is that what you want in your community?** Police Service Dogs should be required to safely demonstrate their ability. The USPCA does not permit electric collars or pinch collars for certifications. Many states and other organizations will certify dogs wearing electric collars.

I don't care where my dog bites! Or do I?

I was in a meeting with several police chiefs and the vice president of another large canine association. I was surprised to hear "I don't care where my dog bites". The discussion was that of why today has the focus been on bite training (Find & Bite vs. Bark & Hold)? For years it was not a concern. Today it is the focus of the IACP and the Department of Justice, why now? Does your current association requirements for certification evaluate the bite? Do you care where your dog bites?

My response to the IACP and the DOJ was the increased litigation today is more complex than the Guard & Bark vs. Find & Bite issue. The IACP and the DOJ did not do a correct problem analysis and relied on faulty or incomplete information. The increased litigation in part is due to multiple organizations, producing multiple certifications that are weak or not obtaining the desired, trained response. The lowering of a standard or ineffectively administered is the primary cause of the litigation today. Several reasons all added together produce uncontrollable and dangerous animals.

The other officer disagreed as a representative from his association and said he did not care where his dog bit. He said their association would certify using full bite suits and he could care less if the dog bit in the groin, kidney, stomach, leg or arm. The IACP and DOJ response was that everyone should care where their dog bites because bite location produces very different degrees of injury. Those injuries produced much of the litigation we see today. To not care is to say anything goes in canine biting. As a professional law enforcement organization can we really not care what medical trauma occurs? How can training that produces a dog that can only be taken with a full bite suit be reasonable force training even if the dog sits and barks without movement?

I supported the USPCA's position on the *Robinette v. Barnes 854 F2d 909 (6th Cir. 1988)*. Administrators and trainers need to review the transcript and the testimony of Lt. Spain from the Metro Canine unit on testifying that the dogs were taught to be "arm sure" but if unavailable would bite in other places. This is also a case that stated the dog, Casey, was a properly trained police service dog and the training was to USPCA standards.

Do you care if your certification documents an arm sure dog? You'd better, it is just good risk management and correct training. Bite suits have their place, sure, but how can testimony occur to proper reasonable force training without requiring a dog to take the arm if available? How can a department justify major medical costs that result from improper certification standards? Departments that use impact weapons (ASP, Batons, etc.) instruct and certify the officers to target major muscle groups to avoid major medical trauma. Why would anyone just teach a dog full body bites and not to target for less medical damage? **Do I care where my dog bites? I do.**

The Police Service Dog is a Locating Tool - Use of Force Continuum

Historically, law enforcement has classified a police service canine strictly as a "tool" for the simple reason that their unique olfactory sense is best utilized in the "search and locate" capacity. Canines are usually employed to do search and rescue missions, evidence recovery, narcotics detection, explosive detection, accelerant detection and searches to locate fleeing or hiding suspects. Upon locating the suspect, a use of force may, or may not be necessary by either

the canine or handler. For this reason, it is doubtful whether the canines ever did belong in a Use of Force Continuum.

The properly trained police service dog is not a tool of force. The correctly trained police service dog maintains a holding bite (arm sure) and not a medical critical or multiple bites unless justified by the suspects' behavior. **The police service dog does not belong in the use of force continuum.** The use of force continuum is old news.

Federal court rulings state that the test is reasonableness based on the totality of the circumstances. The K9 officer need not choose the least force, but operate under the objective reasonableness test regulated by the seriousness of crime, risk to officers and the flight of the suspect.

The International Association of Chiefs of Police (IACP) has both a "Model Policy" and a "Concepts and Issues Paper" on use of force. Their policy breaks down use of force under two definitions: "Deadly Force" and "Non-deadly Force." Police Service Dogs are not addressed under deadly force or under non-deadly force. There is no Use of Force Continuum in the IACP policy.

Departments should assess these areas and provide canine units with a written policy on canine usage. This written canine policy should be separate from the departments Use of Force Policy. When the canine, a locating tool, is utilized as a use of force, then and only then, does the canine fall into the Use of Force Policy. The department's Use of Force Policy should contain an investigation into that use of force, to insure the constitutionality of that use of force. The investigation determines that the certification standard maintained by the unit and documents accepted controlled apprehension performance.

Standards and Certification

Let's look at what Samuel G. Chapman, author of "Police Dogs in North America" Charles C. Thomas, Publisher 7-3-90, says about Mandated State Standards and Certification (p. 148).

"With well over 30 years of experience in using handler-dog teams to enhance public safety, it is time that every state pass minimum mandated performance standards legislation. If standards are not mandated, handlers and dogs may perform dismally and dangerously, putting citizens at unwarranted injury."

"Handlers who cannot control their dogs constitute a grave danger to the public and the concept of using dogs. The absence of standards, certification, and annual recertification is a disservice to the police."

"What is a standard? A standard is something established by authority, custom, or general consent as a model or example. It is intended to serve as a measure of quality. Certification is the confirmation that one has met a standard."

Professor Chapman addresses the issue well and he is a recognized authority in the field of police canine programs. Many do not comply with his recommendation of "Handlers who cannot control their dogs constitute a grave danger to the public and the concept of using dogs. The absence of standards, certification, and annual recertification is a disservice to the police."

Don Slavik (St. Paul MN K-9 Trainer Ret.) addresses the issue, "Sometimes you can look at these things as you can pay them now or you can pay them later." I cannot agree with that statement more, in fact it is shown that the pay them later (civil) it will be about 10,000 times plus the pay than the pay me now costs. What does this insurance cost? The cost of a USPCA membership, entry fee and two-day expenses of room and board to certify yearly, that is pretty cheap insurance to assure your teams are proficient.

What is a PDI Certification?

The USPCA PDI certification is for a complete police service dog. The certification is a test of all the abilities a properly trained service dog should perform. For the safety of the officers and the public the certification tests multiple areas that all patrol dogs should be proficient in. Investigate some of the other organization requirements for certification. If they permit only part or specific areas of patrol work, they are not certifying a police service dog. Patrol work requires a multitude of tasks both from the officer and also their canine. Just as officer safety demands a fully trained officer it also demands a completely trained police service dog. Just as no right thinking administrator would send out a half trained officer the USPCA will not certify only part of a patrol dog as being serviceable.

The patrol PDI certification tests areas of:

Obedience

Agility

Suspect Search- scent discrimination

Article search

Apprehension of Call Off, Apprehension and False Start Control –Command only

Apprehension with gunfire and ability to protect the handler

Anything less is not a Police Service Dog.

Further Benefits of USPCA Certification

In evaluating canine associations, one effective guideline would be to see how they support their certifications? Does the certification provide any assistance in court litigations in expert testimony? Does the association support with financial assistance litigation of K9 use? The USPCA has a legal defense fund that supports officers and cases to maintain the effectiveness and integrity of the police service dog. A chief judge that is also a trainer from outside the geographical area that has a certification sanctions that testing (cost paid for by us). The USPCA certifications are based on a team of evaluator's objective evaluation (3 minimum) and not solely on one with a subjective opinion.

USPCA Certification Cases

Significant Cases

Kerr v. City of West Palm Beach. 875 F 2d 1546 (11th Cir. 1989).

This court stressed importance of continual training and a strict performance monitoring system. As an administrator/trainer and handler this case is important in that it stresses continual training and strict performance monitoring. Performance monitoring, could that be certification of performance standards? Continual training, could that be the training needed to pass a certification test? It is, and it is more, but the certification shows Deliberate Attention to training and monitoring performance systems. The Kerr court language of "strict performance monitoring" surely would suggest certifications be current and yearly.

Robinette v. Barnes. 854 F2d 909 (6th Cir. 1988). P 910 Before GUY and Boggs, Circuit Judges, and Suhrheinrich, District Judge (Eastern District of Michigan, sifting by designation. "Since 1972, defendant-appellee, Metropolitan Government of Nashville and Davidson County (Metro), has maintained within its police department, a "K-9" division consisting of teams of officers and police dogs. Each officer dog team is trained according to guidelines established by the United States Police Canine Association (USPCA) a national organization." The case goes on and states: "More importantly, we find that the use of a properly trained police dog to apprehend a felony suspect does not carry with it a substantial risk of causing death or serious bodily harm. "The documentation that was used, to show properly trained was certification to USPCA standards. The case does not document it in the reporting but, Casey the K-9 in this case, was certified 3 months prior as PDI USPCA. If memory serves me right, not only did Casey certify, but also he placed in the top 20 nationally. This was direct evidence in the case to refute any improperly trained or negligent supervision claims.

The premier case for training and law enforcement is *Harris v. Canton*. This case is what has become known as the "Deliberate Indifference" case. This case involved the Canton, Ohio Police Department being deliberately indifferent to the training needs, of its officers, in the duties they are entrusted to perform almost daily. The case involves Harris, who was arrested and placed in jail. The Canton officers had not received the necessary training to properly evaluate some health problems of Harris. The finding was that the City of Canton was Deliberately Indifferent to the training needs of officers. An administrator needs to understand the workings of the above cases as it can apply to needed training, documentation and certification.

Certification is Documentation and it is Pretty Cheap Insurance.

Certification under the USPCA guidelines offers a creditable test, that is not a simple pass or fail standard, but one, which actually measures the team's efficiency. As a chief of police I wanted my officers to perform above a minimum level! I wanted my officers to excel and serve the citizens in the most professional way they could. As an administrator I understood motivation, just acceptable was not my goal - just acceptable stifles motivation. The USPCA certification assured me my teams were held at a highest standard. The USPCA certification showed I cared about my department's performance and ability. It also showed I cared about the officers, their ability and safety. What else does certification do? Certification is a national level of recognized performance. It requires training, training and more training. It is my insurance as a handler that I have documentation on my abilities. I know it provides me with back up if those qualifications or my dog's qualifications are ever questioned. It is my bulletproof vest against liability and my flashlight to guide me in my profession.

Why certify annually? I believe the above caption cases address this issue fully. The need to certify yearly is a standard for most certifications of performance; firearms and related job tasks mandate annual (or more) certifications and are standard. Certification for a patrol dog that exceeds one year is against a strict monitoring of performance standard that the previous Kerr case requires. To suggest that canine teams only need evaluation every two years is recommending a serious liability.

Certification should at a minimum be yearly, but training is never ending. The certification documents the teams' performance on that given day; the training records document the training and performance that is the foundation for the certification.

In today's society there are people who are not afraid of you, your gun or your dog. In a profession that propels you from complete boredom into the jaws of grave human conflict, you have only your training and your dog's response to protect you. **They both better be right.**