

1 UNITED STATES DISTRICT COURT  
2 MIDDLE DISTRICT OF LOUISIANA

3 UNITED STATES OF AMERICA : First Report of  
4 Plaintiff, : Plaintiff's Expert Witness  
5 v. :  
6 :  
7 HUGO GOMEZ, : Case No. 19-38-BAJ-EWD  
8 Defendant. : Judge  
9 :

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10 I, Wendell Michael Nope, have been retained as an expert  
11 witness for the Plaintiff in this action. After having reviewed  
12 certain materials, I submit this **First Report of Plaintiff's Expert**  
13 **Witness**, in connection with my involvement in the above-entitled  
14 matter.

15 I submit this report in the following order:

- 16 1. Statement of all opinions to be expressed and the basis  
17 and reasons therefor;  
18 2. Data or other information considered in forming opinions;  
19 3. Exhibits to be used as a summary of or support for  
20 opinions;  
21 4. Qualifications, including a list of all publications  
22 authored within the ten preceding years;  
23 5. Compensation to be paid for study and testimony; and  
24 6. List of cases testified at trial or deposition within the  
25 four preceding years.

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## Synopsis

1. On February 6, 2019, Deputy Tyson Mire of the Iberville Parish Sheriff's Office was conducting a traffic stop on a vehicle identified as a Grey Kia bearing Texas license plate LBJ3563. At a certain point while the vehicle was still parked on the roadside, Deputy Mire initiated a K-9 Sniff Test on the vehicle with his Narcotics Detector Dog named "Exon" (hereafter K-9 Exon). Deputy Mire declared that he observed K-9 Exon exhibit an "Positive Alert" on the driver and passenger side rear door area. The police vehicle car-cam captured the K-9 Sniff Test from start to finish, although portions of it are not clearly visible due to persons standing between the camera and the vehicle. [IPSO Arrest Report, Video].

e circumstances of the K-9 Sniff Test identified in  
all within the range of realistic successful  
s for a well-trained and reliable Narcotics Detector

Case No. 19-38-BAJ-EWD, Plaintiff's Expert Witness First Report

1 reveals the conditions to be dark yet clear, with a slight breeze  
2 from left to right, and the temperature that night to be  
3 approximately 70 Fahrenheit. [Video, Exhibit H].

4           2. The physical environment observed on the video  
5 reveals the Kia is parked on the side of the roadway, approximately  
6 20 feet away from the interstate traffic approaching from behind at  
7 seemingly typical highway speeds. The proximity of the highway-  
8 speed traffic does not appear to affect K-9 Exon and he does not  
9 appear to be fearful nor distracted by the multiple vehicles  
10 passing within approximately 20 feet of him as he sniffs. [Video,  
11 Exhibit F].

12           3. A well-trained and reliable Narcotics Detector Dog  
13 is capable of detecting the presence of drug odors. A truly  
14 accurate measure of the sensitivity or acuity of a well-trained  
15 detector dog has never been established, partly due to the fact  
16 that the sensitivity level differs between various chemicals and  
17 substances. For example, a study conducted by Auburn University  
18 determined that the canine sensitivity to nitroglycerin was  
19 approximately ten parts per billion (10/1,000,000,000). The same  
20 study determined that canine sensitivity to a chemical named  
21 Dimethyl Dinotrobutane (a.k.a. DMNB) is 500 parts per trillion  
22 (500/1,000,000,000,000) or 5 parts per 10 billion. Both figures  
23 are so incredibly high that the human intellect is challenged to  
24 conceive the numbers in a reasonable manner. These scientific  
25 issues have already been addressed in Federal Court within the

1 Fifth Circuit. [Exhibit G].

2 3. The fact that an absolute threshold has not been  
3 accurately determined for drug odors does not suggest that a well-  
4 trained Narcotics Detector Dog cannot be successful in this  
5 incident.

6 **Iberville Parish Sheriff's Office**

7 4. The Iberville Parish Sheriff's Office maintains a K-9  
8 Unit in order to enhance the law enforcement capabilities of the  
9 agency. A document entitled "Procedural Order" provides reasonable  
10 policy, guidelines, and constraints regarding the training and  
11 deployment of K-9's. This document is sufficiently comprehensive  
12 to provide reasonable performance directives for members of the K-9  
13 Unit. [IPSO K9 Policy].

14 **Deputy Tyson Mire**

15 5. Deputy Mire has extensive experience as a K-9 Handler.  
16 He was initially certified as a Narcotics Detector Dog Handler in  
17 2006, again in 2007, again in 2009, again in 2018, and again in  
18 2019. The fact that he has successfully been evaluated repeatedly  
19 over this period of time is evidence of a well-trained and reliable  
20 K-9 Handler. [Certifications, Exhibit B].

21 **K-9 Exon**

22 6. K-9 Exon has extensive experience as a Narcotics Detector  
23 Dog. He was initially certified as a Narcotics Detector Dog in  
24 2014, again in 2015, again in 2016, again in 2018, and again in  
25 2019. The fact that he has successfully been evaluated repeatedly

1 over this period of time is evidence of a well-trained and reliable  
2 K-9. [Certifications, Exhibit B].

3 7. An evaluation of the 81 training sessions with K-9 Exon  
4 represented on the training documents revealed a sufficient amount  
5 of training to produce reliable Narcotics Detector Dog performance,  
6 via exposure to varying:

7 1. sites and locations, to provide K-9 Exon with  
8 experience to prepare for actual deployments;

9 2. amounts of drug odors, to provide K-9 Exon with  
10 experience at detecting different quantities of odors; and

11 3. distracting odors, to provide K-9 Exon with  
12 experience at isolating target odors from other distracting odors  
13 that might also be present during a deployment. [Training Records,  
14 Exhibit C].

15 8. K-9 Exon is a well-trained and reliable Narcotics  
16 Detector Dog, having demonstrated a 98% accuracy factor while  
17 handled by Deputy Mire and a 100% accuracy factor while being  
18 handled by Deputy Zane Hebert. [Training Records, Exhibit C].

19 **Deputy Tyson Mire Performance During the K-9 Sniff Test**

20 9. During the course of the K-9 Sniff Test on the Grey Kia,  
21 Deputy Mire performed according to his Department's K-9 Unit Policy  
22 and also established professional standards. [Video, K-9 Policy,  
23 Professional experience of Wendell Nope].

24 **K-9 Exon Performance During the K-9 Sniff Tests**

25 10. The actions of K-9 Exon in the K-9 Sniff Test comports

1 with established professional standards for a Narcotics Detector  
2 Dog. The "Pre-Alert" and "Alert" behaviors exhibited by K-9 Exon  
3 were sufficiently reliable to establish Probable Cause to believe a  
4 target odor was present in the Gray Kia. [K-9 Exon Certifications,  
5 K-9 Exon Training Records, Professional experience of Wendell  
6 Nope].

#### 7 **K-9 Exon "Alert" Behavior**

8 11. By definition, K-9 Exon's "Alert" behavior is a trained  
9 behavior which is often referred to as the "trained final  
10 response." K-9 Exon exhibits a "sit" behavior when "Alerting" the  
11 presence of target odors. [K-9 Exon Training Records, K-9 Exon  
12 Certifications, Video].

13 12. The sit posture is a trained behavior, however, there is  
14 also another behavior which precedes the "Alert." This "Pre-Alert"  
15 behavior is a natural behavior exhibited when a trained Narcotics  
16 Detector Dog initially detects a target odor. Of particular  
17 importance is that the behavior exhibited when K-9 Exon first  
18 detects a target odor cannot be trained into a dog. Therefore,  
19 when K-9 Exon "Alerts," it is preceded by the "Pre-Alert." Because  
20 of the extensive experience Deputy Mire has with K-9 Exon, Deputy  
21 Mire is able to recognize both the "Pre-Alert" and the "Alert"  
22 behaviors. Deputy Mire is clearly observed watching K-9 Exon's  
23 body language as the dog performed the K-9 Sniff Test in order to  
24 be able to first perceive the Pre-Alert, which indicates the  
25 detection of the target odor. Further, Deputy Mire is clearly

1 observed watching K-9 Exon's behavior after the Pre-Alert in  
2 anticipation of K-9 Exon exhibiting the trained behavior, the  
3 Alert. It is critical to understand that although a dog can be  
4 trained to exhibit "Alert" behavior, it is not possible to train a  
5 dog to exhibit "Pre-Alert" behavior, as it is a natural response to  
6 the detection of a target odor. There are specific behavioral  
7 elements associated with the "Pre-Alert." K-9 Exon's behavior  
8 during the K-9 Sniff Test is used below as examples of these  
9 elements.

10           1. Change of Behavior - K-9 Exon changed from a general  
11 sweeping or scanning behavior to an increased or more intense  
12 interest in a specific area.

13           2. Focus Narrows - K-9 Exon attempted to isolate the  
14 exact location of an odor emanating from a source.

15           3. Intensity Increases - K-9 Exon began to exert more  
16 energy and physical effort in the sniffing task.

17           4. Pinpointing - K-9 Exon exhibited distinct intensely  
18 attentive behavior as he narrowed down the proximity of the odor.

19           13. K-9 Exon did not exhibit "Pre-Alert" nor "Alert" behavior  
20 at any other location on the vehicle, but rather, only at the areas  
21 of the rear doors. If K-9 Exon were not well-trained, it is  
22 expected that frequent unfocused or obedience-oriented "sits" would  
23 have occurred, which would have been recognizable to even an  
24 untrained person. [Video, Professional experience of Wendell  
25 Nope].

1           14. The behavior K-9 Exon exhibited in the K-9 Sniff Test is  
2 consistent with his training and, therefore, is reliable evidence  
3 that K-9 Exon did not falsely "Pre-Alert" nor falsely "Alert" nor  
4 was he cued into a sit. It is critical to know that a Handler  
5 could cue or command a K-9 into a sit position, but a Handler  
6 cannot cue or prompt a K-9 to exhibit the odor recognition behavior  
7 identified as the "Pre-Alert." [Video, Exhibits C/D/E/G,  
8 Professional experience of Wendell Nope].

9           **Pertinent Narcotics Detector Dog Issues in K-9 Sniff Tests**

10           15. K-9 Exon has a "False Negative" (a.k.a. "False Alert")  
11 statistic of 1.2% as it pertains to "False Negatives" (a.k.a.  
12 "False Alert"). Conversely, this translates to an "Alert"  
13 reliability statistic of 98.8%. This adds weight to the opinion  
14 that he correctly exhibited a "Pre-Alert" and "Alert" trained final  
15 response at the rear door areas of the vehicle. [IPSO Arrest  
16 Report, Training Records, Exhibit C].

17           **National Narcotics Detector Dog Association**

18           16. The National Narcotic Detector Dog Association (hereafter  
19 "NNDDA") is a bona fide, professional organization dedicated to the  
20 utilization and proficiency of scent detector dogs for the benefit  
21 of law enforcement agencies. The purpose of the NNDDA is to  
22 provide training pertaining to the laws of search and seizure,  
23 utilizing scent detector dogs and a method of certification for  
24 court purposes. The NNDDA is open to local, state, and federal law  
25 enforcement personnel who are involved in scent detection. The



1 NNDDA started in 1978 and has now grown to represent more than  
2 1,800 members and 28) states throughout the United States, also  
3 Canada and Mexico. Training and certifications are conducted at  
4 different locations and dates throughout the year. Certification  
5 is for a given K-9 and handler as a team, and is good for one (1)  
6 year. [NNDDA website <https://nndda.org/Home/About> last visited  
7 October 6, 2019].

8 17. The NNDDA is well-established as a bona fide and reliable  
9 organization to train and certify Narcotics Detector Dogs and  
10 Handlers. NNDDA certified Narcotics Detector Dogs and Handlers  
11 have been accepted as well-trained and reliable in all levels of  
12 courts.

13 18. The certification standards utilized by the NNDDA are  
14 designed for and are capable of producing well-trained and reliable  
15 Narcotics Detector Dogs and Handlers. [Exhibit A, Professional  
16 experience of Wendell Nope].

17 **Subsequent Opinions**

18 I may develop more opinions as I review more documents or my  
19 opinions may change as I continue to review the documents I have  
20 received or as I receive more documents related to this case.

21 **DATA OR INFORMATION CONSIDERED**

22 As of this date, I have reviewed certain materials in the  
23 process of developing the above-listed opinions. The data and  
24 information items are listed below.

25 1. DEA Report of Investigation (ROI).

1           2.   Iberville Parish Sheriff's Office (IPSO) Arrest Report.  
2           3.   Photo of Drugs.  
3           4.   Photos of 2018 K9 Certification.  
4           5.   Exon's Certifications with Previous Handler.  
5           6.   Handler's Certification with Previous K9s.  
6           7.   IPSO K9 Policy.  
7           8.   Tyson Mire (Handler) and Exon Training Records.  
8           9.   Drug Lab Report.  
9           10.  NNDDA Detector Dog Certification.  
10          11.  Kyle Heyen CV.  
11          12.  Defense Attorney Summary of Heyen Testimony.  
12          13.  MEMORANDUM IN SUPPORT OF MOTION TO SUPPRESS EVIDENCE  
13 OBTAINED THROUGH ILLEGAL STOP AND SEARCH.  
14          14.  UNITED STATES' RESPONSE TO DEFENDANT'S MOTION TO  
15 SUPPRESS.  
16          16.  MOTION TO SUPPRESS EVIDENCE OBTAINED FROM UNLAWFUL SEARCH  
17 AND SEIZURE.  
18          17.  UNITED STATES' RESPONSE TO DEFENDANT'S SECOND MOTION TO  
19 SUPPRESS.  
20          18.  Video of Traffic Stop 6 February 2019.  
21          20.  National Narcotics Detector Dog Association certification  
22 standards for Narcotics Detector Dogs located at the web site  
23 listed as <https://nndda.org/Home/Standards/> .  
24          21.  Weather conditions internet website identified as  
25 <https://www.timeanddate.com/weather/usa/baton-rouge/historic?month=>

1 2&year=2019 .

2 22. United States Department of Transportation Federal  
3 Highway Design website identified as  
4 <https://www.fhwa.dot.gov/programadmin/interstate.cfm> . [Last  
5 visited October 6, 2019].

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**EXHIBIT A**

**National Narcotics Detector Dog Certification Standards**



**Narcotic Detection Standard**

To be eligible to certify a K-9 in narcotic detection you must fall under one of the following:

- 1) Full time law enforcement or corrections, active military, DOJ, HLS officers with duties as a canine handler.
- 2) Commissioned part time or reserve officers with duties as a canine handler. These officers shall upon request for membership provide a written letter of endorsement, on department letterhead, signed by the department head. This letter will outline the canine duties and responsibilities of the officer. The letter must be submitted each year to the official when the handler certifies. The membership is not valid unless the letter is current and on file with the NNDDA.
- 3) Non law enforcement person/s employed by a private security company or a school police department. The company must have appropriate state, DEA licenses as applicable. Private security personnel must provide the required documentation/background checks to the certifying official at each certification. Background checks must come from their state police agency.

This test will determine the proficiency and reliability of a canine team in the detection of narcotics. No canine team will be dual certified in Narcotics and Explosives by the NNDDA

**TYPE OF NARCOTICS TO BE USED FOR CERTIFICATION**

All K-9's must find at least two different narcotics to certify. Other narcotics can be hidden but they are optional. There will be two (2) stashes of each narcotic in each given area.

**QUANTITIES OF NARCOTIC TO BE USED FOR CERTIFICATION**

Cocaine Minimum amount to be used ten (10) grams per stash

Maximum amount to be used twenty-eight (28) grams per stash

Marijuana Minimum amount to be used one fourth (1/4) ounce per stash

Maximum amount to be used two (2) ounces per stash

Other narcotics may be, but not limited to Heroin, Methamphetamine, or Opium. For these other narcotics the quantities will stay within the limits for Cocaine.

EXAMPLE: A certifying official may hide one (1) stash with ten (10) grams and the second stash must weigh a minimum of (10) grams and up to a maximum of twenty-eight (28) grams. It is the official's decision on how much each of the stashes will contain, as long as he or she remains within the minimum and maximum amounts set out in the certification standards.

**EXHIBIT A, continued**

**ALERTS**

Each handler is responsible for notifying the judges of the type of alert (aggressive or passive), the judges can expect.

There will be only one (1) negative response allowed. The handler will be notified of positive or negative response.

**TIME**

There will be three (3) minutes for each drug search area, once the three minutes is called the search of that area is over.

**SEARCH AREA**

The area shall be of indoor nature (building), this area shall be no larger than one thousand (1000) square feet. Inside this area there shall be a section for each narcotic.

EXAMPLE: If a K-9 team is going to certify on four (4) narcotics, there will be four (4) sections, each one containing the respective narcotic.

**REWARDS**

There will be no narcotic contaminated rewards during certification. EXAMPLE: A K-9 team is in the certification area, the K-9 gives a positive alert, the handler rewards the K-9 with only a non-narcotic contaminated reward. A contaminated reward might be a ball or towel scented with marijuana, cocaine, heroin or any other narcotic.

**CERTIFICATION**

Certification is valid for one calendar year. There will be thirty day waiting period to attempt to certify again if you fail certification.

**RULING OF CERTIFYING OFFICIALS**

All rulings by the certifying officials are final.

**CERTIFYING OFFICIALS**

Either a NNDDA Judge, Board of Director, Regional Certifying Official or Regional Representative may certify a K-9 team. There may be more than one (1) of these officials at any certification but only one (1) is required for certification.

**FEES FOR CERTIFICATION**

The fee for certification is twenty-five (25) dollars for each team attempting to certify.

**CANINE PROGRAM VALIDATION/CERTIFICATION**

NNDDA will certify canine teams to a federal, state, or department standard. The team must submit a copy of the standard to the certifying official who must approve the standard prior to certifying the team. The standard must meet or exceed NNDDA Standards. The certifying official will attach a copy of the standard to the yellow certification sheet and retain it for future courtroom testimony. The certification will assist in validating other agencies' standards.



**EXHIBIT A, continued**

**TO BECOME A CERTIFYING OFFICIAL IN NARCOTICS**

To be eligible to be a certifying official, one MUST be a full-time paid law enforcement officer, or corrections officer either local, state, federal. An applicant cannot be in the business of selling police dogs. These two requirements will not be waived. A certifying official retains their certifying official status when they retire from law enforcement.

If you meet the above requirements there are several ways to be considered for an interview. An applicant must be a current member in good standing with NNDDA for the last three (3) years. Proof of certifications and/or expertise must add up to three years of experience in the selected field.

An applicant should show a need for a certifying official in this area, have written endorsement from a senior (4 year) narcotic dog certification official with the NNDDA. An Applicant may produce written proof of three years of expertise with written endorsement from senior (4 year) narcotic dog certification officials of the NNDDA, or NNDDA Board Member.

Applicant must produce written support from his or her agency.

Applicant will request a certifying official packet from the Secretary of the NNDDA.

Applicant will complete the packet and return it to the Secretary of the NNDDA.

All information submitted will be validated by the NNDDA Board of Directors.

The Board will notify the applicant of the results.

Applicant must pass a formal interview with the NNDDA Board.

The Board will determine which seminar/certification the applicant must attend to work with a senior certifying official(s). That certifying official(s) will make a written recommendation to complete the process.

Certifying Officials must have access to equipment and training aids to conduct this certification.

Each certifying official must ensure that they possess a current copy of NNDDA Certification Standards and certify to that standard.

**A CERTIFYING OFFICIAL MAY NOT CERTIFY A DOG HE/SHE HAS TRAINED THE FIRST TIME THE DOG TEAMS CERTIFY**

A Certifying Official may be removed from certifying official status by a majority vote by the Board of Directors.

**EXHIBIT B**

**Certifications for Deputy Tyson Mire and K-9 Exon**

NNDDA = National Narcotics Detector Dog Association

LETS - Law Enforcement Training Specialists, International

USK9 = United States K9 Unlimited

Name	Date	Certification	Organization
TMire(Demon)	1/3/2006	Narcotics Cert	NNDDA
TMire (Demon)	4/7/2006	Narcotics Trng	NNDDA
TMire (Demon)	2/13/2007	Narcotics Cert	NNDDA
TMire (Smokey)	7/1/2009	Narcotics Cert	NNDDA
TMire (Smokey)	10/30/2009	Narcotics Cert	LETS
Exon (Zherbert)	5/8/2014	Narcotics Cert	USK9
Exon (ZHerbert)	4/3/2015	Narcotics Cert	NNDDA
Exon (Zherbert)	4/22/2015	Narcotics Cert	USK9
Exon (ZHerbert)	4/15/2016	Narcotics Cert	USK9
TMire/Exon	9/28/2019	Narcotics Cert	NNDDA

**EXHIBIT C**

**Establishing Reliability of a Narcotics Detector Dog**

Reliability may be established by evaluating the number of times the dog is correct versus the number of times a dog is incorrect. Every K-9 Sniff Test has four possible results.

1. True Positive - an alert with drug scent is present.
2. True Negative - no alert when no drug scent is present.
3. False Positive - an alert when no drug scent is present.
4. False Negative - no alert when no drug scent is present.

**Training Record of Deputy Tyson Mire and K-9 Exon**

The statistics below reveal that during the period of time that Deputy Mire and K-9 Exon have worked together, K-9 Exon has performed in controlled training environments to a reliability factor of 98%.

Sessions	True Pos	False Pos	True Neg	False Neg
61	61	0	0	1

**Training Record of Deputy Zane Hebert and K-9 Exon**

The statistics below reveal that during the period of time that Deputy Hebert and K-9 Exon worked together, K-9 Exon performed in controlled training environments to a reliability factor of 100%.

Sessions	True Pos	False Pos	True Neg	False Neg
20	20	0	26	0



**EXHIBIT D**

**Video of the K-9 Sniff Test**

Multiple pertinent facts and issues may be observed during the K-9 Sniff Test.

1. The K-9 Sniff Test appears to begin at 30:37 and end at 32:38.

2. From 30:37 to 30:40, K-9 Exon appears to be dragging Deputy Mire up to the rear passenger corner of the vehicle, seeming to show a desire to deploy.

3. From 30:40 to 31:08, Deputy Mire appears to be interacting with K-9 Exon, who can be seen wagging his tail almost the entire time.

4. From 31:08 to 31:13, Deputy Mire appears to have initiated the K-9 Sniff Test on the exterior of the vehicle in a counter-clockwise direction. The leash is loose the entire time.

5. At 31:13, K-9 Exon self-initiates a reversal of direction and appears to begin focusing on the rear passenger door area. The leash is loose the entire time.

6. From 31:13 to 31:14, K-9 Exon appears to focus on the rear passenger door area. The leash is loose the entire time.

7. From 31:14 to 31:15, it appears that Deputy Mire tightened the leash and K-9 Exon then moves to the front passenger corner area.

8. From 31:15 to 31:19, Deputy Mire reverses directions and moves in a clockwise direction down the passenger side of the

**EXHIBIT D, continued**

vehicle. The leash is loose the entire time.

9. From 31:19 to 31:30, K-9 Exon appears to sniff the rear passenger door area with greater intensity, then ceases to move forward, and looks at Deputy Mire. This appears to be "Pre-Alert" behavior, due to the increased sniffing + ceasing movement + looking at Deputy Mire. The leash is loose the entire time. Deputy Mire appears to be very cautious not to induce K-9 Exon into exhibiting an "Alert" which is his trained final response for locating drug odor. K-9 Exon looking back at Deputy Mire is a behavior common among "Secondary Reward" Narcotics Detector Dogs. "Secondary Reward" is a procedure in which the Handler gives a reward to a dog - from his/her pocket - such that the dog knows the reward for finding a target odor is coming from the Handler. Accordingly, many "Secondary Reward" dogs upon finding a target odor will look at the Handler during the "Alert" or the "Pre-Alert" as if to say "I found the odor, are you going to pay me?"

10. From 31:30 to 31:42, Deputy Mire continues to move in a counter-clockwise direction around the vehicle. This choice is standard among Handlers who are being careful not to induce an Alert with their dogs.

11. From 31:42 to 31:50, Deputy Mire continues to deploy K-9 Exon as the dog continues to show what appears to be "Pre-Alert" behavior. K-9 Exon seems to be highly focused at this area of the vehicle + has ceased movement + looks at Deputy Mire multiple

**EXHIBIT D, continued**

times.

12. From 31:50 to 32:00, Deputy Mire continues to deploy K-9 Exon in a clockwise direction.

13. From 32:00 to 32:09 K-9 Exon, on his own initiative, ceases forward movement at the driver side rear door area. Deputy Mire moves forward to the driver side front corner of the vehicle but K-9 Exon resists moving forward.

14. From 32:09 to 32:27, Deputy Mire reverses direction and moves counter-clockwise back around the vehicle until arriving at the rear passenger door area once again.

15. From 32:27 to 32:35, K-9 Exon shows more intensity than at anytime previously. He again shows increased focus + ceases movement + looking back at Deputy Mire. K-9 Exon does exhibit an "Alert" and Deputy Mire seems to double-check the "Alert" by attempting to coax K-9 Exon to keep sniffing. It appears that Deputy Mire has seen enough at this point and rewards K-9 Exon with an object, suggesting that Deputy Mire has concluded K-9 Exon to have "Alerted."

16. At 32:35, Deputy Mire tosses a reward object from his pocket, which K-9 Exon grasps in his mouth.

17. At 32:38, Deputy Mire and K-9 Exon exit the video.

1 EXHIBIT E

2 **"Prompt" or "Cue" Behavior in Canines**

3 A commonly-used defense against a Narcotics Detector Dog "Alert," a  
4 subsequent seizure of illegal drugs, and a prosecution is an  
5 allegation that the dog received a "Cue" from the Handler to  
6 exhibit the "Alert" behavior. This defense may be applied in the  
7 case in question. [Defense Attorney Summary of Heyen Testimony].

8 A well-trained and reliable Narcotics Detector Dog performing a K-9  
9 Sniff Test does not exhibit an "Alert" behavior prompted by a  
10 "Cue." To understand this issue more clearly, a history of this  
11 phenomenon is helpful.

12 **Cuing or Prompting - The Clever Hans Effect**

13 The "Clever Hans Phenomenon" revisited

14 Laasya Samhita<sup>1</sup> and Hans J. Gross<sup>2</sup>

15 Abstract

16 ...

17 In the first decade of the 20th century, a horse named Hans  
18 [a.k.a. "Clever Hans"] drew worldwide attention in Berlin as the  
19 first and most famous "speaking" and thinking animal. Hans solved  
20 calculations by tapping numbers or letters with his hoof in order  
21 to answer questions. Later on, it turned out that the horse was  
22 able to give the correct answer by reading the microscopic signals  
23 in the face of the questioning person. This observation caused a  
24 revolution and as a consequence, experimenters avoided strictly any  
25 face-to-face contact in studies about cognitive abilities of

Exhibit E, continued

animals – a fundamental lesson that is still not applied rigorously.

...

The take-home lesson of the "Clever Hans Phenomenon" is still valid but is unfortunately not respected by all members of the ethological community: During all studies of animal behavior, any face-to-face contact between the examiner and the experimental animal should be strictly avoided.

...

Interestingly, professional poker players know about the importance of unwitting cues and present a "poker-face," even going so far as to wear dark sunglasses.

...

Acknowledgments

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...

Previously published online:

[www.landesbioscience.com/journals/cib/article/27122](http://www.landesbioscience.com/journals/cib/article/27122)

**The Video does not Support an Allegation of Cue-ing**

Numerous research projects and numerous scholarly articles have been published regarding the "Clever Hans" phenomenon. One need only enter "Clever Hans" in any internet search program to discover

**Exhibit E, continued**

in-depth information on the topic. As mentioned in the above scholarly article, Clever Hans was able to discern a desired outcome AFTER looking at the face of the questioning person. In the video of the incident in question, K-9 Exon exhibits "Pre-Alert" and "Alert" behavior BEFORE looking at Deputy Mire. This is the obvious means of determining whether the dog is exhibiting "Clever Hans" behavior or acting in a Secondary-Reward manner as if to say "I found the target odor ... are you going to pay me?" To an untrained person, the two behaviors may seem indistinguishable. Yet, even an untrained person is able to observe the difference once s/he has been educated to watch for exactly when the dog looks at the Handler. If the dog looks at the Handler BEFORE exhibiting a "Pre-Alert" or "Alert," then the viewer might suspect "Clever Hans" behavior. If the dog looks at the Handler AFTER exhibiting a "Pre-Alert" or "Alert" behavior, then the viewer should perceive it to be "Secondary Reward" behavior.

**"Pre-Alert" Behavior is Natural and CANNOT be Trained**

Of significant importance in the overall evaluation of K-9 Exon's behavior in this incident is the fact that "Pre-Alert" behavior CANNOT be trained into a dog. It is behavior exhibited naturally by a dog and is unique to each individual. In the video of this incident, K-9 Exon self-initiates "Pre-Alert" behavior multiple times, and it is observed clearly on the passenger side rear door area, which also seems to be the downwind side of the vehicle. The

Exhibit E, continued

wind current appears to be flowing from the driver side to the passenger side of the vehicle. This seems to be most clearly observed at position 31:20 to 31:28. This is also the point in the video at which k-9 Exon exhibiting "Pre-Alert" behavior. K-9 Exon's "Pre-Alert" behavior appears to be a combination of the following.

1. Self-initiating a pause or hesitation at a point where he wants to sniff more intensely for the target odor.

2. Self-initiating a change of directions if he discovers he has moved past the "Scent Cone" of the source of a target odor.

3. Focusing more intently as he sniffs a particular spot where the odor source may be emanating from.

4. Looking back at Deputy Mire AFTER exhibiting behaviors one through three.

The opinion that K-9 Exon is exhibiting "Pre-Alert" behavior at this stage of the K-9 Sniff Test is validated by watching the video carefully at 31:23 to 31:25 wherein Deputy Mire attempts to coerce K-9 Exon to continue sniffing and the dog seems to express "I smell it right here."

EXHIBIT F

**Vehicles Driving Past the K-9 Sniff Test**

During the 2:01 (mins:secs) that the K-9 Sniff Test is in progress, a total of six passenger vehicles and eight commercial long-haul vehicles (a.k.a. Tractor-Trailer Rigs) drive past the location. The sound, movement, and concussion-wave of air that are experienced when the vehicles drive past, are all distractions to a Narcotics Detector Dog, unless it is well-trained and reliable. The closer the passing vehicles are to the dog, the greater the distraction may be. At no point during the K-9 Sniff Test is there any indication that K-9 Exon is distracted from the task of sniffing for target odors.



EXHIBIT G

**Excerpts from a Federal Court Case within the Fifth Circuit  
Relating to "Canine Odor Sensitivity" and "Canine Alerts"**

[Page numbers of the original Ruling are inserted in Brackets]

U.S. v. HOWARD

No. 1:06-cr-05.

448 F.Supp.2d 889 (2006)

UNITED STATES of America v. Willard Wayne HOWARD.

United States District Court, E.D. Tennessee, at Chattanooga.

September 11, 2006.

. . .

[448 F.Supp.2d 891]

MEMORANDUM

COLLIER, Chief Judge.

. . .

Because the Court has a great number of criminal cases that are initiated by or involve drug detection dog alerts and a general request such as that made here could be made in almost every such case, the Court will examine the request at some length.

. . .

[448 F.Supp.2d 894]

IV. ANALYSIS

From Defendant's arguments the Court must consider five issues: (1) if the NNDDA utilizes acceptable methods in its certification process; (2) the meaning of the dog's performance and training

EXHIBIT G, continued

records; (3) the capabilities of drug detection dogs; (4) the training of drug detection dogs, and (5) the type of skill which drug detection dogs must acquire in order to render reliable "alerts" on contraband.

. . .

[448 F.Supp.2d 896]

B. Capability of Drug Detection Dogs – Scientific Basis  
for Credibility of Dog Alerts

. . .

It is common knowledge dogs have an ability much greater than humans to detect scents. This heightened ability allows

[448 F.Supp.2d 897]

dogs to detect scents that are not detectable by humans. This ability also allows dogs to detect scents that were once detectable by humans but are no longer detectable. It is also common knowledge dogs can detect the scent of things hours and even days after the thing has passed by or been removed. There is little doubt dogs possess olfactory capabilities far superior to humans and are uniquely equipped for the task of detecting and distinguishing between minute levels of a given scent. Robert C. Bird, *An Examination of the Training and Reliability of the Narcotics Detection Dog*, 85 KY. L.J. 405, 408 (1997). Scent recognition is achieved through contact between a scent particle in the air and an olfactory receptor cell. A dog's snout contains a

EXHIBIT G, continued

complex system of scroll-like passageways called turbinate bones which maximize the area available for receptor cells' exposure to air. Andrew E. Taslitz, *Does the Cold Nose Know? The Unscientific Myth of the Dog Scent Lineup*, 42 HASTINGS L.J. 17, 43 (1990). As a result of the turbinate bone structure, the total surface area of receptor cells inside a dog's snout is roughly equivalent to the surface area of the dog's entire body, whereas the comparable area in a human nose is the size of a postage stamp. *Id.* A typical German Shepherd has 220 million olfactory receptor cells versus 5 million in an average human. *Id.* The process of interpreting the responses of this enormous quantity of receptor cells to scent particles in the air consumes approximately one-eighth of a dog's entire brain, far exceeding the percentage of the human brain dedicated to olfaction. *Id.*

The effect of this vast number of olfactory receptor cells is unclear. Bird, *supra* at 409. Some scientists believe the result is a dog's enhanced ability to detect minute levels of scent particles. *Id.* See also Richard E. Myers II, *In the Wake of Caballes, Should We Let Sniffing Dog's Lie?*, 20 CRIM. JUST. 4, 7 (2006) (discussing study at Auburn University finding dogs could detect odors in the air at a concentration of 500 parts per trillion). Others claim the increased number of cells allow a dog to more effectively differentiate between odors. Bird, *supra* at 409. The truth is likely somewhere between the two extremes.

EXHIBIT G, continued

Taslitz, *supra* at 44. Regardless of the exact method of recognition, it is clear dogs have a natural ability to detect and recognize the smallest traces of odors. Bird, *supra* at 409. Scientifically, it is without questions dogs have the capability to detect scent particles left from objects. It is also clear that those scent particles may remain in the air or on other objects after the object giving off the odors has been removed. These scent particles may remain behind for hours or days. If the scent particles are there in sufficient quantity to be detected by the dog, then the dog will smell the scent and, if properly trained, will alert.

. . .

Based on this scientific background, the primary issue in determining the credibility of a dog's alert is not the capability or [448 F.Supp.2d 898] ability of a dog to accurately identify particular scents, but is instead the communication between the handler and the dog based on that indisputable ability.

D. Training of Drug-Detection Dogs and Handler's Role and Credibility

1. *Communication between drug-detection dog and handler*

The key component of drug-dog detection is the communication by the

EXHIBIT G, continued

dog that it has recognized the target scent. There are two components of this communication, communication by the dog and recognition by the handler that the dog has detected the target scent. This is what is referred to as the dog's "alert." Dogs alert in many different manners. One dog may alert in one manner while another dog may alert in another manner. While the handler will recognize the dog's action as an alert, someone not familiar with the dog may not. Training plays the essential role in the communication of the alert between the dog and the handler.

*2. Training drug-detection dog to "alert"*

Regardless of natural ability, a dog without proper training cannot function as a drug-detection dog. See *United States v. Outlaw*, 134 F.Supp.2d 807, 813-44 (W.D.Tex.2001) ("[I]t stretches the bounds of jurisprudential imagination to believe that a positive alert by an untrained dog . . . could be relied upon to establish probable cause."). A typical training procedure is summarized as follows:

Training a dog is a relatively simple task. Trainers play with the dog using a towel, which the dog associates as its toy. Trainers then wrap a narcotic in the same towel and play fetch. As the dog repeatedly retrieves its toy, it associates the towel with the drug scent. Trainers then hide the drug without the toy. The dog searches for the drug, thinking it will find its plaything. When the dog finds the drug, the trainer

EXHIBIT G, continued

gives the dog the toy, further associating the toy with the scent. After one drug is learned, trainers repeat the steps with other narcotics, and reinforce identification of drugs already mastered. By the end of the course, dogs learn how to detect most common illegal narcotics.

Bird, *supra* at 411-12 (citations omitted). While training the dog is relatively simple, training a handler to correctly recognize how a dog responds to targeted narcotics typically requires more time and effort. *Id.* at 412. Handlers and dogs are paired at the beginning of a training program and continue to work together throughout the dog's years of service. *Id.* Because a dog's ability can change over a short period of time, a dog typically must pass periodic recertification exercises. *Id.* The United States Customs Service, an organization known for stringent certification standards, discards its dogs' performance records every 30 to 60 days, believing old records to be less probative of current skill. *Id.* at 415.

*3. Variables involved in communication*

Every dog sniff has four possible results: true positive, true negative, false positive, or false negative. *Id.* at 427. An alert with drug scent particles present is a true positive, whereas an alert with no drug scent particles present is a false positive. *Id.* Failure to alert when no drug scent particles are present is a

EXHIBIT G, continued

true negative, and failure to alert when drug scent particles are present is a false negative. *Id.* Statistical analysis of reliability must take into account the type of alert category being measured and each category's unique potential for error. In controlled training environments where the location of drug scents is known in advance by [448 F.Supp.2d 899] trainers, negative alerts are easily categorized as true or false. In the field, however, they are often impossible to quantify because, in the absence of other factors establishing probable cause, a negative alert does not lead to a search and the presence or absence of drugs remains undetermined. Moreover, a positive alert where no drugs are found does not mean the dog did not detect drug scent particles. Drugs may well have been present but removed by the time the dog alerted leaving the scent particles behind. Overlaying all of this is the issue of communication on the part of the handler. The handler must interpret the dog's action correctly. For example, if the dog in fact detects drug scent particles and alerts, and the handler fails to interpret the action as an alert, then this would erroneously be categorized as a false negative.

. . .

4. *Difficulty in accurately measuring reliability*

As a result of the impossibility of truly determining accuracy in

EXHIBIT G, continued

the field, measures of reliability in the field are typically based only on positive alerts. *Id.* at 426 (citation omitted) ("One common expression of canine skill involves counting the number of successes in alerting to narcotics."); see also *United States v. Navarro-Camacho*, 186 F.3d 701, 704 (6th Cir.1999) ("[A]lthough Dingo occasionally alerted falsely, his rate of reliability was between 90 and 97 percent."). Since olfaction is based on contact between receptor cells and scent particles, a positive alert only represents a dog's detection of particles released from narcotics, not the narcotics themselves. *Bird, supra* at 409. Therefore, drugs may have at one time been present in the location of a positive alert, but a dog's alert is interpreted as a false positive because no actual drugs or residue were found. *Id.* at 409. Additionally, some studies posit 80% of all currency contains trace amounts of drug residue, indicating some true positives may not actually represent a finding of contraband. *Illinois v. Caballes*, 543 U.S. 405, 412, 125 S.Ct. 834, 160 L.Ed.2d 842 (2005) (Souter, J., dissenting) (citing *United States v. \$242,484.00*, 351 F.3d 499, 511 (11th Cir. 2003), *vacated on other grounds by rehearing en banc*, 357 F.3d 1225 (11th Cir. 2004)). As a result, every statistical measurement of a dog's error rate likely contains unavoidable errors in the categorization of the alerts in question. As Defendant correctly asserts in his supporting memorandum, a dog alert is based on a very subjective interaction between a dog and



EXHIBIT G, continued

its handler (Court File No. 92) (citing Jeffrey S. Weiner & Kimberly Homan, *Those Doggone Sniffs Are Often Wrong: The Fourth Amendment Has Gone to the Dogs!*, THE CHAMPION, April, 2006, at 12, 13). For an alert to register, a dog must recognize a scent and physically indicate recognition, at which point the handler must interpret the dog's behavior as an alert. *Id.* That interaction is very individualized and is based on the sum of the handler and dog's relationship, experience, and training. The article cited by Defendant and filed as an addendum to the motion for reconsideration states, "[s]ome courts have expressed an appreciation of the role which handler interpretation plays in the process, although, with rare exception, that appreciation has not led to any less deference to the handler's testimony that the dog alerted." *Id.* The vital role the handler's interpretation plays is precisely why it is necessary to determine the reliability of a handler's testimony. The fundamental determination in evaluating the training and reliability of a drug-detection dog is the credibility of the [448 F.Supp.2d 900] handler's testimony. Because the handler is the only witness who can speak to the subjective interaction during a particular dog alert, it is necessary to defer to his testimony if it is found to be credible. Because of the subjective nature of dog alerts, some commentators,

EXHIBIT G, continued

like the authors of the aforementioned article, have sharply criticized the trust placed by most courts in drug dog alerts. *Id.* Justice Souter's dissent in *Illinois v. Caballes*, a case in which the Supreme Court placed great trust in dog alerts, criticized what he called "the infallible dog" as "a creature of legal fiction ... belied by judicial opinions describing well-trained animals sniffing and alerting with less than perfect accuracy, whether owing to errors by their handlers, the limitations of the dogs themselves, or even the pervasive contamination of currency by cocaine." *Caballes*, 543 U.S. at 411-12, 125 S.Ct. 834 (citations omitted). As Justice Souter recognized, however, the standard for probable cause is not infallibility. *Id.* at 413, 122 S.Ct. 2179. Instead, probable cause has been defined as "reasonable grounds for belief, supported by less than prima facie proof but more than mere suspicion, and is said to exist when there is a fair probability, given the totality of the circumstances, that contraband or evidence of a crime will be found in a particular place." *United States v. Lattner*, 385 F.3d 947, 951 (6th Cir.2004) (internal quotation marks omitted) (citations omitted); see also *Illinois v. Gates*, 462 U.S. 213, 238, 103 S.Ct. 2317, 76 L.Ed.2d 527 (1983) (reaffirming the fair probability based on the totality of the circumstances standard for probable cause). Even an alert by a dog with proven and obvious fallibility could reasonably meet the "fair probability" threshold when alerting to the presence of drugs,

EXHIBIT G, continued

especially where the law enforcement officer suspects illegal activity before conducting the sniff.

. . .

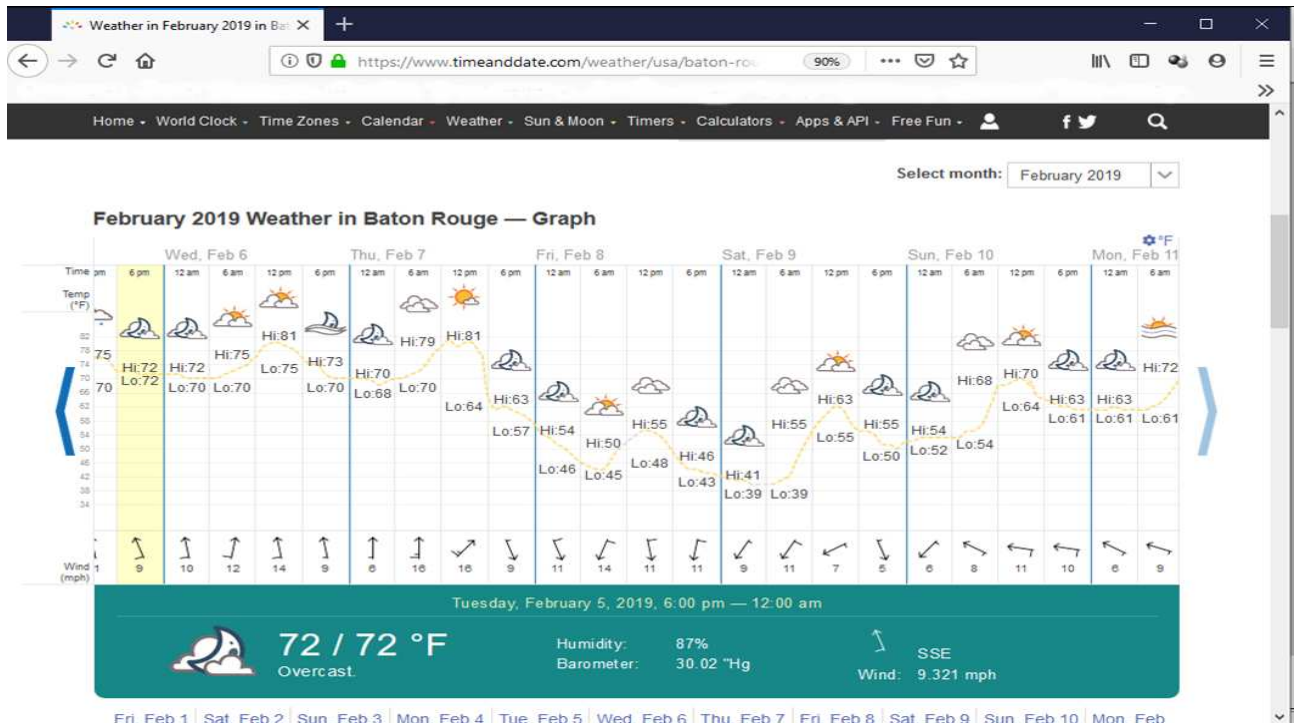
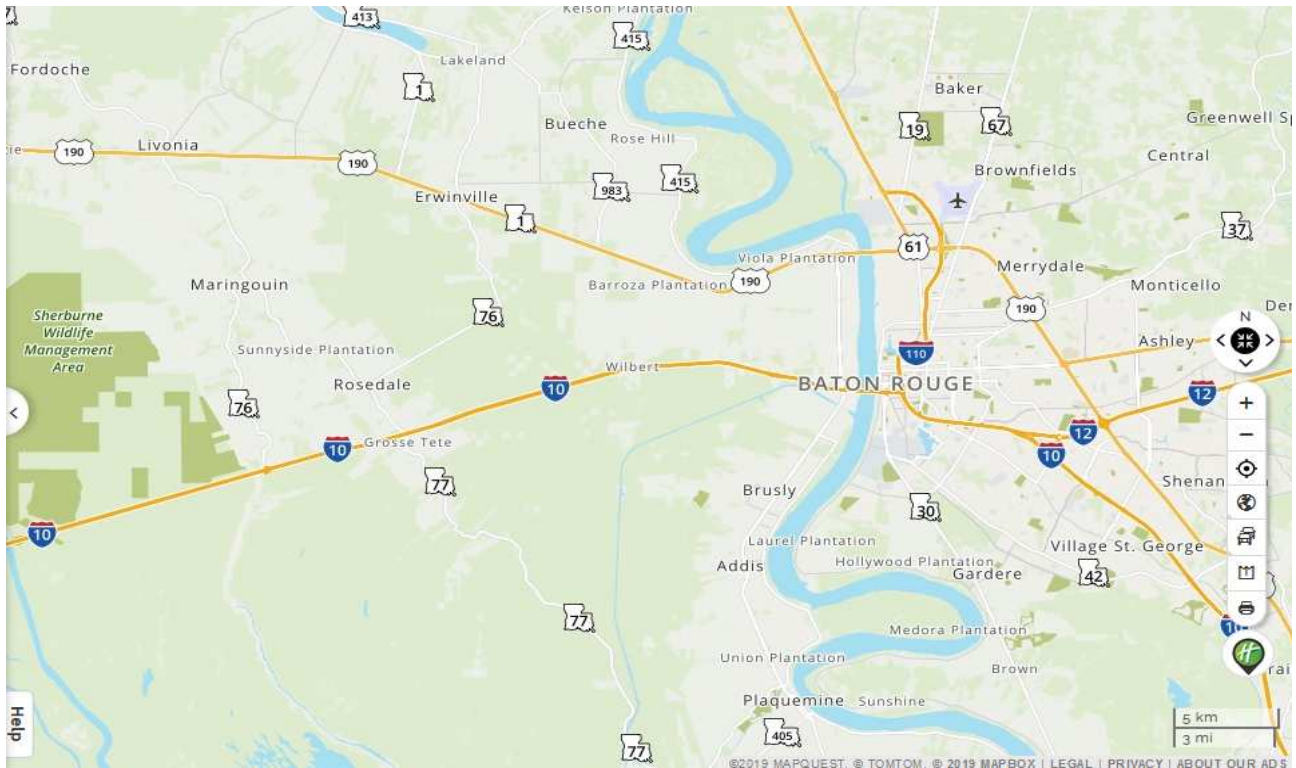
[448 F.Supp.2d 901]

FootNotes

1. The NNDDA is an organization comprised of approximately 2500-3000 dog handler members. The board of directors sets the requirements each handler must meet for certification. Certification must be completed annually. The requirements for certification, a detailed description of the certification process and policies regarding canine certification can be found at National Narcotic Detector Dog Association Home Page, *http://www.nndda.org* (last visited Aug. 24, 2006).

**EXHIBIT H**

**Weather Conditions Grosse Tete February 6, 2019**



1 QUALIFICATIONS

2 I have qualifications specific to the issues of this matter.  
3 These qualifications are listed below.

4 1. Employment Experience

5 1. December 1989 - Present, as a member of the Peace  
6 Officer Standards and Training Division (POST) of the Utah  
7 Department of Public Safety, Utah, (a.k.a. Utah Police Academy) my  
8 duties are as K-9 Training Supervisor over training, evaluating,  
9 and certifying Service Dogs and Personnel on an international  
10 scale, to date 3,000+ officers and dogs have attended this facility  
11 in 4-8 week courses.

12 2. April 1998 - Present, as a member of the Board of  
13 Directors of the national Police Service Dog organization DOGS  
14 AGAINST DRUGS / DOGS AGAINST CRIME (DAD/DAC), Anderson, Indiana, my  
15 duties are as coordinator of education and curriculum development  
16 for 1300+ police officers.

17 3. November 1984 - January 1990, as a member of the  
18 Security Department of the Church of Jesus Christ of Latter-day  
19 Saints, Salt Lake City, Utah, my duties were as Supervisor of the  
20 Explosive Detector Dog Unit functioning on an international scale.

21 4. April 1984 - December 1986, as a member of the Lamar  
22 County Sheriff Department, Vernon, Alabama, my duties were as K-9  
23 Handler/Judge and Undercover Investigator (Leave of Absence from  
24 November 1984 - December 1986).

25 5. January 1983 - November 1984, as Co-Director of PSP

America, Inc., Tuscaloosa, Alabama, my duties were training K-9's and Personnel on a national scale.

6. July 1980 - January 1983, as a member of the Calcasieu Parish Sheriff Department, Lake Charles, Louisiana, my duties were as Supervisor of the K-9 Unit and Narcotics/Vice Investigator.

7. August 1976 - July 1980, as a member of the Lake Charles Police Department, Lake Charles, Louisiana, my duties were Uniform Patrol and K-9 Patrol.

2. Certificates Held, listed by date.

1. CERTIFICATE OF APPRECIATION, awarded by the Dubai Police Department in December 2017 for valuable contribution in conducting an on-site Explosive Detector Dog re-certification training course for the Dubai Police Department K-9 Handlers and Instructors.

2. CERTIFICATE OF ACHIEVEMENT, awarded by the New Mexico Tech in March 2017 for Awareness, Recognition, and Response training regarding Home Made Explosives.

3. CERTIFICATE OF APPRECIATION, awarded by the Dubai Police Department in December 2016 for valuable contribution in conducting an on-site Explosive Detector Dog re-certification training course for the Dubai Police Department K-9 Handlers and Instructors.

4. CERTIFIED ASSAULT RIFLE MARKSMAN awarded by the Utah Department of Public Safety in 2016 (re-certification).

1           5. CERTIFICATE OF APPRECIATION, awarded by the Dubai  
2 Police Department in May 2015 for valuable contribution in  
3 conducting an on-site Explosive Detector Dog training course for  
4 the Dubai Police Department K-9 Handlers, Instructors, and  
5 Lieutenants.

6           6. CERTIFICATE OF APPRECIATION, awarded by the Dubai  
7 Police Department in April 2014 for valuable contribution in  
8 conducting an on-site certification course in March-April for the  
9 Dubai Police Department K-9 Unit Instructors and K-9 Unit  
10 Lieutenants.

11           7. CERTIFICATE OF APPRECIATION, awarded by the Dubai  
12 Police Department in January 2014 for valuable contribution in  
13 conducting an on-site training course for the Dubai Police  
14 Department Explosive Detector Dog Handlers.

15           8. CERTIFICATE OF APPRECIATION, awarded by the United  
16 States Ambassador to Iraq in 2012 for valuable contribution in  
17 conducting a customized training class in Utah for the Iraqi Police  
18 Services, Head Provincial K-9 Trainers and the Head Federal K-9  
19 Trainer.

20           9. CERTIFICATE OF APPRECIATION, awarded by the Dubai  
21 Police Department in 2012 for valuable contribution in conducting  
22 an Advanced Explosive Detector Dog Training Course with Dubai  
23 Police Department K-9 Unit.

24           10. CERTIFICATE OF APPRECIATION, awarded by the Dubai  
25 Police Department in 2012 for valuable contribution in conducting

1 an Explosive Detector Dog Training Course with Dubai Police  
2 Department K-9 Unit.

3 11. CERTIFICATE OF APPRECIATION, awarded by the General  
4 Department of Forensic Sciences & Criminology, Dubai Police  
5 Department in 2010 for valuable contribution in conducting an  
6 Advanced Explosive Training Course with Dubai Police K-9  
7 Department.

8 12. CERTIFICATE OF APPRECIATION, awarded by the General  
9 Department of Forensic Sciences & Criminology, Dubai Police  
10 Department in 2009 for valuable contribution in conducting an  
11 Advanced Explosive Training Course with Dubai Police K-9  
12 Department.

13 13. CERTIFICATE OF COURSE COMPLETION, DPS LEADERSHIP  
14 ACADEMY, awarded by the Utah Department of Public Safety in 2007  
15 for leadership training.

16 14. PUBLIC SAFETY MEDAL OF EXCELLENCE, awarded by the  
17 Utah Department of Public Safety in 2006 for outstanding law  
18 enforcement service rendered to the citizens of the State of Utah.

19 15. DEPARTMENT OF PUBLIC SAFETY UNIT CITATION, awarded  
20 by the Utah Department of Public Safety in 2006 for meritorious  
21 canine-related service rendered to the citizens of the State of  
22 Utah.

23 16. CERTIFIED ASSAULT RIFLE MARKSMAN, awarded by the  
24 Utah Department of Public Safety in 2005 (re-certification).

25 17. CERTIFICATE OF APPRECIATION, awarded by the United



1 States Secret Service in 2004 for service rendered to the K-9  
2 Program in Washington, DC.

3 18. CERTIFICATE OF APPRECIATION awarded by the United  
4 States Secret Service in 2003 for service rendered to the K-9  
5 Program in Washington, DC.

6 19. INSTRUCTOR DEVELOPMENT CERTIFICATE awarded by the  
7 Federal Bureau of Investigation in 2000.

8 20. CERTIFIED ASSAULT RIFLE MARKSMAN awarded by the Utah  
9 Department of Public Safety in 2002 (re-certification).

10 21. CERTIFICATE OF EXCELLENCE awarded by the Utah  
11 Department of Public Safety (UDPS) in 1998 for outstanding service  
12 rendered to the Utah Highway Patrol.

13 22. CERTIFICATE OF APPRECIATION awarded by the Utah  
14 Department of Corrections (UDOC) in 1997 for Distinguished Service  
15 rendered to the UDOC K-9 Unit from 1990-96.

16 23. DISTINGUISHED SERVICE awarded by the Utah Department  
17 of Public Safety in 1992 for outstanding service as an employee  
18 rendered from 1990-92, specifically, for being chosen to be the  
19 sole American representative on the International Congress of  
20 Police Service Dogs, an international commission of standard-  
21 setting Service Dog trainers and administrators.

22 24. CERTIFIED POLICE FIREARMS INSTRUCTOR awarded by the  
23 Utah POST in 1992 with a special emphasis in Service Dog Handler  
24 Firearms Instruction.

25 25. CERTIFIED PATROL DOG HANDLER awarded by the Utah

1 POST in 1991 (re-certification).

2 26. CERTIFIED TEACHING JUDGE OF SERVICE DOGS, HANDLERS,  
3 INSTRUCTORS, AND JUDGES awarded by the State Police School for  
4 Service Dog Handlers (Landespolizeischule fuer Diensthundfuehrer)  
5 in Stukenbrock, West Germany in 1991 (re-certification).

6 27. CERTIFIED PEACE OFFICER awarded by the Utah POST in  
7 1990.

8 28. CERTIFIED HANDLER OF EXPLOSIVE DETECTOR DOGS awarded  
9 by the Security Department of the Church of Jesus Christ of Latter-  
10 day Saints in 1989.

11 29. SUPERVISORY MANAGEMENT awarded by the Zenger-Miller  
12 Management Training Institute in 1986.

13 30. CERTIFIED TEACHING JUDGE OF SERVICE DOGS, HANDLERS,  
14 INSTRUCTORS, AND JUDGES awarded by the State Police School for  
15 Service Dog Handlers (Landespolizeischule fuer Diensthundfuehrer)  
16 in Stukenbrock, West Germany in 1986.

17 31. CERTIFIED JUDGE OF SERVICE DOGS, HANDLERS,  
18 INSTRUCTORS, AND JUDGES awarded by the State Police School for  
19 Service Dog Handlers (Landespolizeischule fuer Diensthundfuehrer)  
20 in Stukenbrock, West Germany in 1984.

21 32. CERTIFIED INSTRUCTOR OF SERVICE DOGS AND HANDLERS  
22 awarded by the State Police School for Service Dog Handlers  
23 (Landespolizeischule fuer Diensthundfuehrer) in Stukenbrock, West  
24 Germany in 1984.

25 33. CERTIFIED NARCOTICS SCREENING awarded by Becton

1 Dickinson Public Safety in 1982.

2 34. CERTIFIED UNDERCOVER NARCOTICS INVESTIGATOR awarded  
3 by the Louisiana Sheriff's Association in 1982.

4 35. CERTIFIED PATROL DOG HANDLER awarded by the State  
5 Police School for Service Dog Handlers (Landespolizeischule fuer  
6 Diensthundfuehrer) in Stukenbrock, West Germany in 1981.

7 36. CERTIFIED RIFLE/PISTOL MARKSMAN awarded by the West  
8 German Army in 1981.

9 37. CERTIFIED RIFLE/PISTOL MARKSMAN awarded by the  
10 United States Army in 1981.

11 38. CERTIFIED HANDGUN MARKSMAN awarded by the National  
12 Rifle Association in 1981.

13 39. CERTIFIED PEACE OFFICER awarded by the Louisiana  
14 Council on Peace Officer Standards and Training (POST) in 1979.

15 3. Special Qualifications

16 1. Police Dog Training and Certification Program  
17 Supervisor, Utah Peace Officer Standards and Training (a.k.a. POST  
18 or Utah Police Academy). In 2018 the Program was audited and  
19 declared:

20 1. To exceed the standards set by national police  
21 dog organizations;

22 2. To be 100% in compliance with the Scientific  
23 Working Group on Dog and Orthogonal detector Guidelines (SWGDOG)  
24 "Best Practices";

25 3. To be a bona fide training institution and

1 certifying entity;

2 4. To be a role model for other States' K-9  
3 programs;

4 5. To be well-respected and recognized as a K-9  
5 industry leader;

6 6. To set a high bar in certification procedures;  
7 and

8 7. That no other State has as comprehensive  
9 standards and certification as the Utah program.

10 2. Presenter, U.S. Detection Dog Conference 30 August  
11 2018, "Utilizing Bomb Dogs At National Events," Participants  
12 included multiple federal agency administrators and the AKC.

13 3. Presenter, International Police Dog Conference,  
14 Neuwied, Germany, "German Police Dog Technology in America," 24 May  
15 2017.

16 4. Presenter, U.S. Detection Dog Conference, "Rising  
17 Threat of Terrorism & Increasing Need for Explosive Detection  
18 Dogs," 28 February 2017.

19 5. Technical resource for the United States Military  
20 regarding training, evaluating, and certifying Army 1<sup>st</sup> Special  
21 Forces Group Multi-Purpose Dogs and Handlers.

22 6. Technical resource for the United States Border  
23 Patrol regarding Case Law and Courtroom Testimony for Narcotics  
24 Detector Dog Handlers and Instructors.

25 7. Technical resource for the Dubai Police Department

1 regarding training, evaluating, and certifying Patrol Dogs,  
2 Narcotics Detector Dogs, Explosive Detector Dogs, Narcotics  
3 Detector Dogs, Identity Detector Dogs, and Search-Rescue Dogs.

4           8. Technical resource for the Republic of Korea  
5 regarding training, evaluating, and certifying Narcotics Detector  
6 Dogs, Search-Rescue Dogs, and Tracking Dogs.

7           9. Technical resource for the Nation of Iraq December  
8 2012 regarding training, evaluating, and certifying Patrol Dogs,  
9 Narcotics Detector Dogs, Explosive Detector Dogs, Narcotics  
10 Detector Dogs, and Tracking Dogs.

11           10. Technical resource for the United States Military  
12 regarding training, evaluating, and certifying Naval Special  
13 Operations Group Dogs, Handlers, Instructors, and Judges.

14           11. Technical resource for the United States Secret  
15 Service regarding training, evaluating, and certifying Tactical  
16 Deployment Dogs, Handlers, Instructors, and Judges.

17           12. Rapid-Response Bomb Dog Handler, 2002 Olympics, Salt  
18 Lake City.

19           13. United States Representative on the International  
20 Congress of Police Service Dogs 1983-1986, 1989-1999.

21           14. First Certified Police Service Dog "Teaching Judge"  
22 in the United States.

23           15. First American police officer accepted in the State  
24 Police School for Service Dog Handlers, Federal Republic of Germany  
25 (Landespolizeischule fuer Diensthundfuehrer).

1           16. Recognized as an expert in Police Service Dog  
2 psychology.

3           17. Expert Witness: U.S. Federal Court, State Courts of  
4 California, Florida, Indiana, Iowa, Kansas, Louisiana, Nebraska,  
5 New Mexico, Utah, Washington, and Wisconsin.

6           18. Expert Witness: Patrol Dog in Homicide  
7 Investigation (Death Penalty, Louisiana), criminal court.

8           19. Expert Witness: Cadaver Detector Dog in Homicide  
9 Investigation (Felony Conviction, Wisconsin), criminal court.

10          20. Expert Witness: Patrol Dog in Burglary  
11 Investigation (Death Penalty of Perpetrator, Florida), civil court.

12          21. Litigation Consultant to: Yavapai County Public  
13 Defender's Office (AZ), Los Angeles P.D. (CA), Los Angeles  
14 S.O.(CA), Santa Monica P.D. (CA), West Palm Beach S.O. (FL),  
15 Evansville P.D. (IN), Leavenworth P.D. (KS), Grand Rapids P.D.  
16 (MI), State of Nebraska, Albuquerque P.D. (NM), Blanchester P.D.  
17 (OH), Ohio Department of Public Safety, Seattle P.D. (WA), Tacoma  
18 P.D. (WA), Layton P.D. (UT), South Salt Lake Police Department  
19 (UT), Utah Highway Patrol (UT), West Jordan P.D. (UT), Milwaukee  
20 P.D. (WI).

21          22. Editor of national Police Service Dog professional  
22 journal of 6000+ readers.

23          23. Police Service Dog Trial Judge.

24                1. 2015 Utah Peace Officer Association K-9 Trial,  
25 Vernal, Utah.

1                           2.   2011, Utah Peace Officer Association K-9 Trial,  
2 Salt Lake City, Utah.

3                           3.   2010, Regional Police Dog Championship,  
4 Princeville, Illinois.

5                           4.   2003, United States National Police Dog  
6 Championship, Atlanta, Georgia.

7                           5.   1998, Ohio Law Enforcement K-9 Games  
8 Competition, Tipp City, Ohio.

9                           6.   1996, International Law Enforcement Games K-9  
10 Competition, Salt Lake City, Utah.

11                          7.   1996, United States National Police Dog  
12 Championship, Charleston, West Virginia.

13                          8.   1996, Las Vegas Invitational Police Dog Trial,  
14 Nevada.

15                          9.   1995, Heart of America Police Dog Association,  
16 Great Bend, Kansas.

17                          10.  1995/1993, Canadian National Police Dog  
18 Championship, Vancouver/Calgary.

19                          11.  1994, United States National Police Dog  
20 Championship, Madison, Wisconsin.

21                          12.  1993, California Law Enforcement Games, Los  
22 Angeles.

23                          13.  1993/1992, U.S. Federal Agency Regional K-9  
24 Trials, Yuma, Arizona.

25                          14.  1992, Bakersfield Invitational K-9 Trials,

1 California.

2 15. 1991, International Service Dog Championship,  
3 Bayreuth, West Germany.

4 16. 1991/1989/1988, Utah Police K-9 Olympics, Salt  
5 Lake City.

6 17. 1983, International Service Dog Championship,  
7 Gutersloh, West Germany.

8 24. Police Service Dog Instructor.

9 1. 1990-2019, over 3000 Dogs/Handlers from start  
10 to finish during Utah POST 4-8 week courses.

11 2. 2018, Certification course for Narcotics  
12 Detector, Cadaver Detector, Wildlife Detector, and Police  
13 Search-Rescue Dogs, Texas Parks and Wildlife Department, at  
14 Beeville, Texas.

15 3. 2017, SWAT Dog Judge Certification Course,  
16 United States Secret Service, at Utah POST.

17 4. 2017, Special Operations Dog Judge  
18 Certification Course, U.S. Navy Special Warfare Group, at Utah  
19 POST.

20 5. 2016, SWAT Dog Handler/Instructor Course at  
21 Utah POST.

22 6. 2015, Explosive Detector Dog Training Course at  
23 Dubai Police Department, United Arab Emirates.

24 7. 2014-2015, Multi-Discipline Instructor for  
25 Republic of Korea National Police Agency, at Utah POST.



1                   8.   2014, Multi-Discipline Instructor Training  
2 Course, Dubai Police Department, at Dubai, United Arab Emirates.

3                   9.   2014, Advanced Explosive Detector Dog Course,  
4 Dubai Police Department, at Dubai, United Arab Emirates.

5                   10.  2013, Police Disaster Dog Workshop at Korea  
6 National Police Academy, Republic of Korea.

7                   11.  2013, SWAT Dog Instructor Course, Arkansas  
8 State Police Department, at Russellville, Arkansas.

9                   12.  2012, Police K-9 Operations Workshop held in  
10 Utah for the Iraqi Police Services, Head Provincial K-9 Trainers  
11 and the Head Federal K-9 Trainer.

12                  13.  2012, Advanced Explosive Detector Dog Training  
13 Course, Dubai Police Department K-9 Unit, at Dubai, United Arab  
14 Emirates.

15                  14.  2012, Explosive Detector Dog Training Course,  
16 Dubai Police Department K-9 Unit, at Dubai, United Arab Emirates.

17                  15.  2012, Special Operations Dog, Handler,  
18 Instructor, and Judge Certification Course, U.S. Navy Special  
19 Warfare Group, at Little Creek, Virginia.

20                  16.  2011, over 500 Handlers/Trainers/Administrators  
21 at national seminar in Washington, DC.

22                  17.  2010, Introductory Explosive Detector Dog  
23 Training Course, Dubai Police Department K-9 Unit, at Dubai, United  
24 Arab Emirates.

25                  18.  2009, Explosive Detector Dog Training Course,

1 Dubai Police Department K-9 Unit, at Dubai, United Arab Emirates.

2 19. 1995-2006, over 1000 Dogs/Handlers during  
3 national seminars for DOGS AGAINST DRUGS - DOGS AGAINST CRIME.

4 20. 1997, over 100 Dogs/Handlers at national  
5 seminar in Kentucky.

6 21. 1996, over 80 Dogs/Handlers at national seminar  
7 in Florida.

8 22. 1995, over 100 Dogs/Handlers at national  
9 seminar in Tennessee.

10 23. 1993, over 80 Dogs/Handlers at international  
11 seminar in Nevada.

12 24. 1983, over 100 Dogs/Handlers at national  
13 seminar in Massachusetts.

14 25. Extensive personal research concerning Police  
15 Service Dog compliance to Constitutional law.

16 26. Pioneered "Detaining," "Verbal Release," "Tactical  
17 Release," "Emergency Release," and "Disengage" concepts for Patrol  
18 Dog training and deployment.

19 27. Established placement of Patrol Dogs in "Use of  
20 Force Continuum."

21 28. Former Supervisor of Bomb Detector Squad of  
22 International Scale.

23 29. Police Academy Valedictorian, scholastics and  
24 firearms (Louisiana).

25 30. Fluent speaker of the German Language.

31. Translated numerous Service Dog training texts from German to English.

### Publications Authored

I have authored certain publications specific to the issues of this matter. These publications are listed below.

#### 1. Scholarly Articles Published.

1. *An Examination of the Scientific Principles Employed by the Utah POST K-9 Program: The Scientific Nexus to the Policies, Practices, and Techniques Utilized in the K-9 Program*; Sgt. Wendell Nope, K-9 Program Training Supervisor 13 February 2019; Submitted to the University of Utah for Professional Review 14 February 2019; Declared Factual and Accurate 19 February 2019.

#### 2. Magazine Articles.

1. *Selecting Puppies for Police Work*, Police K-9 Magazine, Jan/Feb 2014 Issue.

2. *Problem Barking During Gunfire*, Police K-9 Magazine, Sep/Oct 2013 Issue.

3. *Medical Checkups & Vendor-Supplied Dogs*, Police K-9 Magazine, Sep/Oct 2013 Issue.

4. *Food-Aggressive Dogs*, Police K-9 Magazine, Sep/Oct 2013 Issue.

5. *Patrol Dogs Ranging Out*, Police K-9 Magazine, May/Jun 2013 Issue.

6. *Relinquishing Control of a SWAT Dog*, Police K-9

1 Magazine, May/Jun 2013 Issue.

2                   7. *Motivating Tracking Dogs*, Police K-9 Magazine,  
3 May/Jun 2013 Issue.

4                   8. *Types of "Call-Offs"*, Police K-9 Magazine, Mar/Apr  
5 2013 Issue.

6                   9. *Compulsive vs. Coercive Training*, Police K-9  
7 Magazine, Mar/Apr 2013 Issue.

8                   10. *Choosing a K-9 Vehicle*, Police K-9 Magazine, Mar/Apr  
9 2013 Issue.

10                  11. *Regression During Training*, Police K-9 Magazine,  
11 Jan/Feb 2013 Issue.

12                  12. *Reasons to Train in a Muzzle*, Police K-9 Magazine,  
13 Jan/Feb 2013 Issue.

14                  13. *Deferred Final Response Method*, Police K-9 Magazine,  
15 Jan/Feb 2013 Issue.

16                  14. *You Guys Better Get Serious*, Police K-9 Magazine,  
17 Nov/Dec 2012 Issue.

18                  15. *Problem Outs on Toys*, Police K-9 Magazine, Sep/Oct  
19 2012 Issue.

20                  16. *Duration of Training Courses*, Police K-9 Magazine,  
21 Mar/Apr 2012 Issue.

22                  17. *Incorporating The Exposed Sleeve*, Police K-9  
23 Magazine, Nov/Dec 2011 Issue.

24                  18. *Apprehension in Water*, Police K-9 Magazine, Jul/Aug  
25 2011 Issue.

- 1           19. *Improving Passive Indications*, Police K-9 Magazine,  
2 Jul/Aug 2011 Issue.
- 3           20. *Organization vs. Department Certification*, Police K-9  
4 Magazine, May/Jun 2011 Issue.
- 5           21. *What Age to Start a Patrol Dog*, Police K-9 Magazine,  
6 Mar/Apr 2011 Issue.
- 7           22. *Accepting Donations*, Police K-9 Magazine, Jan/Feb 2011  
8 Issue.
- 9           23. *Transitioning a K-9 into Retirement*, Police K-9  
10 Magazine, Jan/Feb 2011 Issue.
- 11          24. *K-9 Sniff Subsequent to a Human Search*, Police K-9  
12 Magazine, Jan/Feb 2011 Issue.
- 13          25. *Mutual Aid K-9 Policies*, Police K-9 Magazine,  
14 Sep/Oct 2010 issue.
- 15          26. *Non-Stop Barking in the Kennel*, Police K-9 Magazine,  
16 Sep/Oct 2010 Issue.
- 17          27. *Donations to a K-9 Unit*, Police K-9 Magazine,  
18 Jan/Feb 2011 issue.
- 19          28. *Retiring a Police K-9*, Police K-9 Magazine, Jan/Feb  
20 2011 issue.
- 21          29. *K-9 Search after a Human Search*, Police K-9  
22 Magazine, Jan/Feb 2011 issue.
- 23          30. *The Alpha Roll*, Police K-9 Magazine, Jan/Feb 2010  
24 Issue.
- 25          31. *The Over-Ride Command*, Police K-9 Magazine, Nov/Dec

1 2009 Issue.

2 32. *Overactive Drug Dogs*, Police K-9 Magazine, Nov/Dec

3 2009 Issue.

4 33. *Coprophagic Police Dogs*, Police K-9 Magazine,

5 Jul/Aug 2009 Issue.

6 34. *Police Dogs With Inner Conflict*, Police K-9

7 Magazine, Jul/Aug 2009 Issue.

8 35. *The Stalking Patrol Dog*, Police K-9 Magazine,

9 Jul/Aug 2009 Issue.

10 36. *E-Collars in Police Dog Training/Deployment*, Police

11 K-9 Magazine, May/Jun 2009 Issue.

12 37. *Minimum Age For Patrol Dog Selection Test*, Police

13 K-9 Magazine, May/Jun 2009 issue.

14 38. *Remote-Controlled Bomb Dogs*, Police K-9 Magazine,

15 May/Jun 2009 Issue.

16 39. *Non-Stop Barking At Home*, Police K-9 Magazine,

17 Mar/Apr 2008 Issue.

18 40. *Training with Pseudo-Drugs*, Police K-9 Magazine,

19 Mar/April 2008 Issue.

20 41. *Neutering A Working Dog*, Police K-9 Magazine,

21 Mar/Apr 2008 Issue.

22 42. *Slowing Down A Bomb Dog*, Police K-9 Magazine, Winter

23 2007 Issue.

24 43. *Training Patrol Dogs Around Handgun & Rifle Fire*,

25 Police K-9 Magazine, Winter 2007 Issue.

1           44. *Maintaining The Verbal Release*, Police K-9 Magazine,  
2 Winter 2006 Issue.

3           45. *Police Dogs & Schutzhund Trials: Segment #3 Prey*  
4 *Drive vs. Fight Drive*, German Shepherd Dog Club of America Working  
5 Dog Association Magazine, May-June 2006 Issue.

6           46. *Police Dogs & Schutzhund Trials: Segment #2 Sleeve-*  
7 *Fixated vs Sleeve-Sure*, German Shepherd Dog Club of America Working  
8 Dog Association Magazine, March-April 2006 Issue.

9           47. *Reliable "Out" on Toys*, Police K-9 Magazine, Spring  
10 2006 Issue.

11           48. *Police Dogs & Schutzhund Trials: Segment #2 Sleeve-*  
12 *Fixated vs. Sleeve-Sure*, German Shepherd Dog Club of America  
13 Working Dog Association Magazine, March-April 2006 Issue.

14           49. *Bomb Dogs & Car Batteries*, Police K-9 Magazine,  
15 Spring 2006 Issue.

16           50. *Police Dogs & Schutzhund Trials: Segment #1 Where*  
17 *Are They?*, German Shepherd Dog Club of America Working Dog  
18 Association Magazine, January-February 2006 Issue.

19           51. *Maintaining the Verbal Release*, Police K-9 Magazine,  
20 Winter 2006 Issue.

21           52. *Improving Narco Dog Indications*, Police K-9  
22 Magazine, Fall 2005 Issue.

23           53. *When a Dog Won't Bark*, Police K-9 Magazine, Summer  
24 2005 Issue.

25           54. *Dogs in Tight Spaces*, Police K-9 Magazine, Summer

1 2005 Issue.

2 55. *When Drug Smugglers Cry*, DAD/DAC Magazine, official  
3 publication of Dogs Against Drugs - Dogs Against Crime, Spring 2005  
4 Issue.

5 56. *The Evolution of Police Service Dogs Part II:*  
6 *You've Come A Long Way Doggie!*, Schutzhund USA, official  
7 publication of the United Schutzhund Clubs of America, Vol. 24  
8 Issue 6 November/December 1999, approximately 3500 subscribers.

9 57. *The Evolution of Police Service Dogs Part I: The*  
10 *Beginning*, Schutzhund USA, official publication of the United  
11 Schutzhund Clubs of America, Vol. 24 Issue 5 September/October  
12 1999, approximately 3500 subscribers.

13 58. *Be Advised: K-9 En Route*, The Utah State Trooper,  
14 official publication of the Utah Highway Patrol Association, Vol. 6  
15 Issue 2 Fall 1999, approximately 3000 subscribers.

16 59. *Tactical Deployment Dogs*, Utah Peace Officers  
17 Association Journal, Vol. 73 Issue 2 Summer 1996, approximately  
18 5000 subscribers.

19 60. "Clarification for POST Certified Instructors", Utah  
20 POST Service Dog Program Newsletter, July 1996, approximately 4500  
21 subscribers.

22 61. "Clarification for POST Certified Judges", Utah POST  
23 Service Dog Program Newsletter, July 1996, approximately 4500  
24 subscribers.

25 62. "Patrol Dog Handler Threat Level Elements", Utah



1 POST Service Dog Program Newsletter, July 1996, approximately 4500  
2 subscribers.

3           63. "Legal Briefing: Nunley v. Los Angeles", UTAH POST  
4 Service Dog Program Newsletter, July 1996, approximately 4500  
5 subscribers.

6           64. "Legal Briefing: Balandran v. El Paso", Utah POST  
7 Service Dog Program Newsletter, January 1996, approximately 4000  
8 subscribers.

9           65. "ICPSD Condemns Abuse of PREY DRIVE Training", Utah  
10 POST Service Dog Program Newsletter, October 1995, approximately  
11 4000 subscribers.

12           66. "ICPSD Declares Acceptable DETAINING Distance", Utah  
13 POST Service Dog Program Newsletter, October 1995, approximately  
14 4000 subscribers.

15           67. "Transferring a Patrol Dog from Prey Drive to Fight  
16 Drive" aka "Preying for Fight Drive", Utah POST Service Dog Program  
17 Newsletter, October 1995, approximately 4000 subscribers.

18           68. "Legal Briefing: Chew v. Gates (It's finally  
19 over!)", Utah POST Service Dog Program Newsletter, October 1995,  
20 approximately 4000 subscribers.

21           69. "Letter To A Concerned Administrator", Utah POST  
22 Service Dog Program Newsletter, July 1995, approximately 3000  
23 subscribers.

24           70. "Baffled", Utah POST Service Dog program Newsletter,  
25 July 1995, approximately 3000 subscribers.

1           71. "Legal Briefing: Reich v. New York City Transit  
2 Authority", Utah POST Service Dog Program Newsletter, July 1995,  
3 approximately 3000 subscribers.

4           72. "Dr. Jekyll - Mr. Hyde", Utah POST Service Dog  
5 Program Newsletter, April 1995, approximately 3000 subscribers.

6           73. "Legal Briefing: Canton v. Harris", Utah POST  
7 Service Dog Program Newsletter, April 1995, approximately 3000  
8 subscribers.

9           74. "Desperately Looking For The One", Utah POST Service  
10 Dog Program Newsletter, October 1994, approximately 1300  
11 subscribers.

12           75. "He Lied To Me", Utah POST Service Dog Program  
13 Newsletter, March 1994, approximately 1200 subscribers.

14           76. "Police Service Dog Killed In The Line Of Duty",  
15 Utah POST Service Dog Program Newsletter, March 1994, approximately  
16 1200 subscribers.

17           77. "Too Close For Comfort", Utah POST Service Dog  
18 Program Newsletter, December 1993, approximately 1200 subscribers.

19           78. "Use Of Force Continuum", Utah POST Service Dog  
20 Program Newsletter, September 1993, approximately 850 subscribers.

21           2. Books

22           1. Utah POST Patrol Dog Training Manual, official  
23 publication of the Utah POST Service Dog Program.

24           2. Utah POST Narcotics Detector Dog Training Manual,  
25 official publication of the Utah POST Service Dog Program.

1           3. Utah POST Explosive Detector Dog Training Manual,  
2 official publication of the Utah POST Service Dog Program.

3           4. Utah POST Narcotics Detector Dog Training Manual,  
4 official publication of the Utah POST Service Dog Program.

5           5. Utah POST Police Search and Rescue Dog Training  
6 Manual, official publication of the Utah POST K-9 Program.

7                           **COMPENSATION**

8           I am being compensated at a rate of \$120.00 per hour to  
9 function as an Expert Witness in this case, while reviewing  
10 documents and preparing for court presentation. I am being  
11 compensated at a rate of \$1000.00 per day for case activity for  
12 which I must leave my home base.

13                           **PRIOR EXPERT WITNESS TESTIMONY**

14           I have testified at trial or by deposition or otherwise  
15 provided legal support in certain cases prior to this action.  
16 These cases are listed below in order, beginning with the most  
17 recent.

18           1. ARIZONA v. COCHRAN, Yavapai County Superior Court, Case  
19 No. V1300CR201780431, (Suppression Hearing), Expert Assessment for  
20 Defense.

21           2. WISCONSIN v. ZOCCO, Milwaukee County Circuit Court, Case  
22 No. 2017CF002151 (Homicide Trial), Court Testimony.

23           3. UTAH v. JORDAN, Third District Court, State of Utah,  
24 Summit County, Case No. 181500040 (Suppression Hearing), Court  
25 Testimony.

1           4.   UTAH v. RUIZ, Second District Court, State of Utah, Weber  
2 County, Case No 181900918 (Evidentiary Hearing), Court Testimony,  
3 Witness for Defense.

4           5.   ARIZONA v. HER, Superior Court, State of Arizona, County  
5 of Navajo, Case No. CR201700931  
6 (Suppression Hearing), Expert Assessment for Defense.

7           6.   U.S. v. ESTEBAN, United States District Court, District  
8 of Utah, Case No. 2:16-CR-00592 CW (Suppression Hearing), Court  
9 Testimony.

10          7.   MALONE v. FORT WORTH, United States District Court,  
11 Northern District of Texas, Fort Worth Division, Case No. 4:09-CV-  
12 634-Y (Complaint of Excessive Force), Deposition Testimony.

13          8.   OREM v. HENDRICK, State of Utah Fourth District Court,  
14 Utah County, Spanish Fork Department, Case No. 151300395  
15 (Suppression Hearing), Court Testimony.

16          9.   COOPER v. BROWN, United States District Court, Northern  
17 District of Mississippi, Oxford Division, Case No. 3:14-cv-091-M-A  
18 (Complaint of Excessive Force), Court Testimony.

19          10.   FELDERS v. BAIRETT, United States District Court, Central  
20 District of Utah ,Case No. 2:08-cv-993-CW (Trial), Court Testimony.

21          11.   U.S. v. SIMEON, United States District Court, Northern  
22 District of Iowa, Case No. CR 14-4081-MWB (Suppression Hearing),  
23 Court Testimony.

24          12.   U.S. v. MEDINA, United States District Court, Central  
25 District of Utah, Case No. 2:13cr140 TS (Suppression Hearing),

1 Court Testimony.

2 13. U.S. v. SANDOVAL and POOLE, United States District Court,  
3 Northern District of Iowa, Case No. CR13-3003-MWB (Suppression  
4 Hearing), Court Testimony.

5 14. U.S. v. PIERRE, United States District Court, Eastern  
6 District of Texas, Case No. 4:10crt165 (Suppression Hearing), Court  
7 Testimony.

8 15. U.S. v. BENTLEY, United States District Court, Central  
9 District of Illinois, Case No. 10-10108 (Suppression Hearing),  
10 Court Testimony.

11 16. WISCONSIN v. BURROUGHS, Wisconsin Circuit Court, Crawford  
12 County, Case No. 10-CF-39 (Suppression Hearing), Court Testimony.

13 17. U.S. v. GUTIERREZ-RUIZ, United States District Court,  
14 Central District of Utah, Case No. 2:10CR00137 DAK (Suppression  
15 Hearing), Court Testimony.

16 18. U.S. v. FRANCO, United States District Court, Central  
17 District of Utah, Case No. No. 2:07-cr-911 CW (Suppression  
18 Hearing), Court Testimony.

19 19. U.S. v. CLARKSON, United States District Court, Central  
20 District of Utah, Case No. 2:06-CR-734 DAK (Suppression Hearing),  
21 Court Testimony.

22 20. ROGERS v. KENNEWICK, United States District Court,  
23 Eastern District of Washington at Spokane, Case No. 04-2-50094  
24 (Complaint of Excessive Force), Court Testimony.

25 21. MILLER v. WEST JORDAN, United States District Court,

1 Central District of Utah, Case No. 2:02-CV-00590 (complaint of  
2 excessive force), Deposition and Trial testimony.

3 22. SCHEPEN v. JACKSONVILLE, United States District Court,  
4 Middle District of Jacksonville, Jacksonville Division, Case No.  
5 3:03-cv-943-J-16TEM (complaint of excessive force), Deposition  
6 Testimony.

7 23. BATTLE v. JACKSONVILLE, United States District Court,  
8 Middle District of Jacksonville, Jacksonville Division, Case No.  
9 3:03-cv-625-J-25TEM (complaint of excessive force), Deposition  
10 Testimony.

11 24. IOWA v. COUGHLIN, District Court for the State of Iowa,  
12 Cedar County, Case No. FECR017152 (suppression hearing), Court  
13 Testimony.

14 25. UNITED STATES v. TIMOTHY HEIR, United States District  
15 Court, Western District of Nebraska (Lincoln), Case No. 4:99CR3026  
16 (Suppression Hearing), Court Testimony.

17 26. PAUL MYERS v. OFFICER CHARLES WARE AND OFFICER WILLIAM  
18 KELLY, United States District Court, Western District of Michigan,  
19 Case No. 1:00 cv 508 (complaint of excessive force), Deposition  
20 Testimony.

21 27. HELMS v. NUSSMEIER, United States District Court,  
22 Southern District of Indiana, Case No. EV 96-23-C R/H, Claim No.  
23 328 L 87879 (complaint of excessive force), Deposition Testimony.

24 28. CORDERO v. REAVER, Superior Court of the State of  
25 California for the County of Los Angeles, Case No. BC 050793

1 (complaint of negligent training), Trial Testimony.

2 29. MALICKY v. HEYEN, District Court for the State of  
3 Nebraska, Seward County, 1993 Case No. 10039 (complaints of  
4 negligent training and loss of consortium), Deposition and Trial  
5 Testimony.

6 30. MACLEOD v. WILLE, Fifteenth Judicial Circuit Court in and  
7 for Palm Beach County, Florida, Case No. CL 91-670 AI (complaint of  
8 excessive force), Deposition Testimony.

9 31. REYES v. COUNTY OF LOS ANGELES, United States District  
10 Court, Central District of California, Case No. CV90-6341-DT  
11 (complaint of excessive force), Trial Testimony.

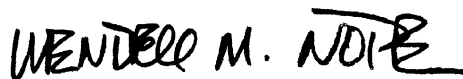
12 32. ROGERS v. CITY OF LOS ANGELES, United States District  
13 Court, Central District of California, Case No. CV 89 5799 TJH Bx  
14 (complaint of excessive force), Trial Testimony.

15 33. NUNLEY v. CITY OF LOS ANGELES, United States District  
16 Court, Central District of California, Case No. CV 89-3313 WJR Bx  
17 (complaint of excessive force), Trial Testimony.

18 **DECLARATION OF TRUTH**

19 I declare, under penalty of perjury under the laws of the  
20 State of Utah, that the foregoing is true and correct, to the best  
21 of my knowledge.

22 Executed on this 7<sup>th</sup> day of October 2019, in Salt Lake City,  
23 Utah.

24 

25 Wendell M. Nope