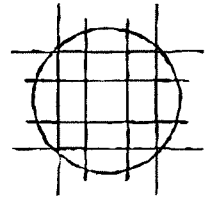


Training and Consulting Team, LLC

Law Enforcement Training and Consulting • Expert Witness Services



April 2, 2021

Vacaville Police Department
660 Merchant Street
Vacaville, California

Attention: City Attorney Melinda Stewart
Captain Chris Polen
Lieutenant David Kellis

RE: Vacaville PD K9 Unit Evaluation

Thank you for the opportunity to conduct an evaluation of the Vacaville Police Department K9 Unit. I appreciate your confidence in my experience and ability to conduct a thorough, comprehensive, and fair evaluation.

The reason an agency normally conducts an independent evaluation is to address civil liability, reduce the risks associated with operations, and ensure their K9 teams and program are operating within current standards. This evaluation will address these aspects and will provide observations, comments, and recommendations aimed at improving or maintaining service levels related to your K9 operations.

The process for this evaluation involved personal conversations, telephone calls, email correspondence, interviews, online research, and a review that included reports, training summaries, deployment summaries, videos, photos, and policies related to the K9 Unit.

The on-site interviews and physical inspection of records and documents were conducted at the Vacaville Police Department station on March 8, 9 and 10, 2021. Interviews of various lengths were conducted with Sergeant Frank Piro, Lieutenant David Ellis, Assistant Attorney Andria Borba, and Lieutenant Scott Whitehouse.

The inspection included a review of Policy 300 (Use of Force), Policy 303 (Response to Resistance Review Team), Policy 319 (Canines), and the Police K-9 FTO Manual, along with other related policies. Several follow up questions were answered or clarified at the time and/or via documents forwarded by email or provided within the "Box" application upon request after those dates.

On March 9, I interviewed the three K9 handlers – Officers Chris Hill, Cole Spencer, and Nick Crigger. I also attended one 4-hour training session held in the evening hours that same date to evaluate the control, obedience, and performance of the K9 teams and their search abilities as well as observe training oversight related to performance and subsequent documentation.

This evaluation is delivered via two documents – a form titled “K9 Unit Evaluation” (Evaluation Form) and this “evaluation letter” (Evaluation Letter). The evaluation letter contains observations, comments, and recommendations pertaining to issues and concerns in more detail beyond those listed within the evaluation form, however, some cross referencing did occur.

Comments and recommendations provided within this evaluation are based on my experience, interaction with and information gained through others actively involved in the law enforcement K9 community, and generally accepted industry standards.

Before addressing comments and observations, I would like to first provide an overall assessment of your K9 program because the number of comments can initially appear to be overwhelming critical, but they are not - and they only serve as a means to address perceived deficiencies and offer recommendations for improvement. It is my opinion the policies, practices, and training of the K9 program meets standards. You have a good K9 unit – but the ability to prove it beyond verbal recognition needs assistance and it could be better in terms of documentation, training standards, and performance reviews.

Observation #1 – The Vacaville Police Department does not maintain an inclusive training file for each K9 handler as a single source that is comprehensive and easily accessible for a spontaneous or planned review.

Comments: When typically examining a handler’s file, I find all training documentation is contained within a single source that is readily and easily accessible for a review. The file is usually a binder containing paper documents (“hard copies”) but could also be accessible by computer. Although it may be deserving of the term “old school” to assemble such documentation, it is a much easier process for a supervisor, trainer, evaluator, or expert witness to review.

It does not appear to me a comprehensive file is being maintained for each handler as a single file source in a computer or a hard copy. I understand the reasons an agency uses a computerized system to initially record activity and training and retain that information. However, I also understand the ease and simplicity to routinely access and review a handler’s work product and training hands-on with all information accessible at once, rather than searching and accessing numerous computer screens and systems.

The policy (319.11.2) requires “All canine training records shall be maintained in PackTrack and the canine’s certifications in the canine’s personnel file.” PackTrack is the agency’s K9-related training records software program. I am not certain where these software files are maintained or the type of backup system(s) implemented, but should a system failure occur, the potential for these files to be deleted and unrecoverable may exist. It is often recommended to have “hard copy” files as backup files to files maintained within a computerized system or “the cloud” as a safeguard in the event of a system malfunction or malware attack.

It is not recommended in California to have a personnel or training file for a police dog. (See #40 in Evaluation Form.)

I learned that most of the training documentation and records that should be maintained in a handler's file within the PackTrack system, to include statistical data, must be individually accessed to enable a review of a handler or all K9 teams, or to periodically check a handler's productivity and training. Summaries of training and deployment activity can be printed and accessed but the descriptions are not all easily interpreted without the ability to ask a person or locate written definitions (that may not exist). I also learned that a supervisor review of the training documentation is not conducted routinely.

I believe PackTrack is a good system to record training. I did not evaluate your system firsthand nor compare it with other systems. The system has been previously demonstrated to me a few times at training conferences but not recently. I relied on paperwork requested to verify information provided from the system. PackTrack claims to "eliminate paperwork by bringing all of your K9 training and deployment records together into one secure online system." However, putting information into the system appears to be easier in some cases than retrieving and deciphering the information later.

I was not able to find or review any K9 training summaries with SWAT in PackTrack or able to view the SWAT training file to verify the type of training being conducted, applicable dates, times, and assessment of performance.

Policy 319.4(e) requires the canine coordinator [identified in-house as the canine supervisor] will maintain accurate records to document canine activities. There was not a (check)list of the required documentation ("accurate records") provided to me that should be maintained to track and review a handler's work product and training to assess performance or activity regularly or periodically. Without such a list, it may prove difficult for a supervisor to determine if required documentation is being properly submitted and is being subsequently reviewed.

The ability to review, evaluate, and supervise the performance and training of K9 teams is essential and often the ability to easily access the necessary information to do so encourages, promotes, and enhances comprehensive supervision.

Recommendation/s:

- 1) Establish a single source (computerized and/or hard copy) training file for each handler for ease of review and accountability.
- 2) Establish a list of required documentation ("accurate records") that will be included in a manual (or similar) to assist the canine supervisor and handlers in ensuring all records are complete, accurate and present in the handler's file.
- 3) Establish a procedure for submitting training documentation within a designated time and a requirement to review and confirm review of the required documentation.
- 4) Revise 319 by changing "canine coordinator" to "canine supervisor."
- 5) Revise 319.11.3 to require all training records be maintained in the canine handler's training file even if designated within the PackTrack system.
- 6) Review all training records related to SWAT and K9 to ensure related training is being conducted and properly documented within both programs.

7) Determine how the PackTrack system retains your agency records and if an appropriate and reliable backup system exists in-house or via PackTrack to prepare for a potential system failure, malfunction, or malware attack. If necessary, establish an appropriate backup system for retention of all records.

Observation #2 – The Vacaville Police Department’s training documentation, training standards, and core competencies for K9 should be reviewed, revised, and standardized. (See also #25 in Evaluation Form.)

Comments: When I am hired to defend a handler (and his/her agency) as an expert witness, after primarily reading the handler’s report and agency policies pertaining to K9 and Use of Force, I begin my preparation by researching the handler’s training file. If there are allegations made that a handler was not able to control the police dog, for example, I will search the training documentation to determine what training, if any, has been conducted to address control issues, like obedience, call offs and verbal outs, and the results of that training. If the proper documentation is not being kept, or results and outcomes are not properly recorded or explained, or it is difficult to interpret, or I am unable to locate, it is not a good situation to assist in preparing for a proper defense - nor adequate to assist with supervisory oversight.

Training documentation should be an organized collection of records that describe the purpose or goal of a training session or exercise, determine proficiency levels, assist training maintenance efforts, and prove procedures and existing guidelines follow agency expectations. If testing is being conducted, other than the annual POST certification, the results with respect to “pass” or “fail” or other method of grading results should be recorded. Overall, the training documentation needs revision and specificity with respect to standards, testing, and competencies, and the current documentation did not greatly assist my efforts in reviewing the overall performance of each K9 team according to policy requirements and training vendor contract.

Policy 319.11.1(a) provides K9 teams should receive training as defined in current contract with training vendor [provider] and one contract for providing maintenance training reads “Each week the Vendor will train the City’s canine unit for a minimum of four hours each week, meeting or exceeding P.O.S.T. standards.” There is no evidence of any documentation or performance evaluations to verify if maintenance training is meeting or exceeding POST standards through the PackTrack system or any other means of documentation provided by the agency or the trainer.

I did not see any training documentation that identified training for handlers to prepare them for decisions to be made during real-world scenarios prior to a deployment, during a deployment, and after a deployment with respect to policies, case law, and protocols. I did not view any documentation of training with respect to testing a handler’s decision making during a scenario exercise.

It appears detection training via PackTrack has similar issues as patrol as input and “exercise titles” appear to be inconsistent and blind exercises not always clarified.

Some handlers are more familiar with the PackTrack system than the K9 supervisor and that is primarily based on weekly usage and input. One handler mentioned that PackTrack provides articles how to use its system more efficiently.

It appears handlers are responsible for documenting their own training and providing performance related comments through the PackTrack system. The documenting of comments and details of similar performance is not consistent. I did not see a requirement for the timely submission of that information nor any description or directions for reporting that information or identifying the person responsible for the input. I did not see any indications the trainer or supervisor provided comments on any documented training performance.

It is important for the handlers, trainer, and supervisors to understand the difference between “training” and “testing” for the purposes of documentation and training time allocation. Failures or significant problems do not need to be recorded for training sessions. Failures and problems will occur during training and they are to be expected because it is training - but failures should not be expected during testing or performance evaluations. And, if a failure or a significant problem does occur during testing or evaluation, remedial training should then be conducted at the time or scheduled later to correct the deficiency or problem along with supporting documentation.

A competency like verbal outs can be trained during the start of a maintenance training session. A dog may fail several times and require several different training methods to correct the negative performance before it successfully outs. These failures should not be recorded on a training log – it is only necessary to record that verbal out training occurred. Later, a scenario-based exercise can be conducted with the dog biting a decoy and a verbal out required as part of the exercise. If the dog fails to verbally out that failure should be recorded within the comments because it is not training, it is a performance standard being tested to determine if the training was successful. The exercise should be repeated entirely or only the verbal out re-tested (with remediation if necessary) as teams should strive to be successful upon conclusion of any testing process and pass the test.

Regarding the PackTrack system for reporting patrol training as reviewed;

- Does not adequately explain the type of training taking place or optional objective(s) of a training exercise. Similar exercises are often identified with various titles and sometimes it is a result of different handlers inputting the information to be reported. Different names for describing the same types of exercises or scenarios can prove to be difficult when attempting to retrieve information for comparison or review.
- Does not specifically identify or address the contractual requirement that training exercises or scenarios have met or exceeded POST standards.
- Does not identify the person who prepares the training document nor who provides any comments or results that evaluate or describe a specific exercise or scenario.
- Does not identify if an exercise is “training only.”
- Does not identify if an exercise is “testing” for a field or scenario-based exercise, the result of that exercise in terms of “pass” or “fail” or other grade, and name of the evaluator/monitor recording the outcome.

- Does not appear to require all sections within "Training Outcome" on the Training Report be completed as some reports contained blank information.
- Does not identify if a supervisor has reviewed a training summary or report.
- Does not appear to provide a "time of day" for the exercises.

Regarding the PackTrack system for reporting detection training as reviewed;

- The system's method of inputting appears to meet the need of the agency but retrieving and organizing the information for the purposes of review is difficult due to inconsistencies of titles and terms during input.
- Reporting "blind exercises" might be a default system for input if not recorded as inconsistencies appear to be occurring based on summaries.
- Does not identify the person placing the training aids or length of time an aid was placed before search if deemed appropriate.
- Does not define the term "controlled negative."
- Does not clarify if "Exercise Performed" means the exercise was passed or merely performed without specificity of result outcome.

Recommendation/s:

- 1) The agency should adopt a training program that is consistent with and parallels the POST (or other entity) certification standards and identify the competencies recommended with a benchmark of acceptable standard performance requiring ongoing or periodic evaluations.
- 2) The agency should adopt a training program that provides training to its handlers to prepare them for decisions to be made during real-world scenarios prior to a deployment, during a deployment, and after a deployment with respect to policies, case law, and protocols. (See #26, #27, #32 and #33 on the Evaluation Form.)
- 3) The PackTrack format for patrol and narcotics training documentation should be reviewed, revised, and standardized to reflect the recommended training program and consistently document the type of training, exercises, conditions, locations, and results more accurately. Identified competencies and terms should be incorporated into the system for easy retrieval and verification.
- 4) The PackTrack training summary and reports for patrol-related training documentation should include references to the accepted standards or competencies if they are created or adopted to reflect the standards as one method to evaluate performance.
- 5) The training report should reflect if an exercise is "training only" or if a scenario-based exercise is being tested for evaluation purposes and its outcome.
- 6) The "patrol exercise types" should be consistent with the training standards or competencies if they are established.
- 7) A description of each "patrol exercise type" should be included in a manual (or similar) and the description should be consistent with the accepted competencies outlined within the POST guidelines.
- 8) The training report should reflect in some manner if a field exercise or scenario-based exercise is being tested and should then include the results or evaluation of that performance.
- 9) The agency should explain in a manual (or similar) the difference between training and testing for the purposes of its documentation as well as specify the type of activity taking place during a training session that may include

both training and testing because “testing” may occur on a “maintenance training day.”

- 10) A timeline for submission of training documentation should be established.
- 11) A supervisor review of training documentation should be established.
- 12) Handlers should not be recording comments or assessments regarding their own performance for performance-related testing or obedience-type exercises such as critical skills, call offs and verbal outs.
- 13) Consider a procedure for K9 that is similar to “SWAT is required to do an annual training needs assessment” per Policy 408.4.
- 14) The K9 supervisor and handlers should work together as a team along with the trainer to learn, review and make any recommendations for possible changes to the current system and applicable documentation to address these training-related recommendations.

Observation #3 – The Vacaville Police Department does not have a policy or procedure to evaluate and record the performance of its K9 teams on a periodic or regularly-scheduled basis to ensure handlers are performing to acceptable standards throughout the year. A review of the training documentation is not being conducted nor evaluated to determine levels of performance or verify consistency of information being reported.

Comments: Each K9 commander and supervisor must be able to confidently answer this question and be able to provide documented evidence in support of the response; *How do you know each K9 team is performing to the acceptable standards your agency requires throughout the year?*

When I first asked how the agency evaluated the ongoing performance of its K9 teams, I was told the annual “POST certification” is the method used to document the performance. POST certifications are not conducted by department personnel nor is their attendance required to observe the certifications. POST certifications primarily evaluate the performance of a police dog.

As previously mentioned, I did not see any training documentation that identified training for handlers to prepare them for decisions to be made during real-world scenarios prior to a deployment, during a deployment, and after a deployment with respect to policies, case law, and protocols, nor documentation to show testing or reviews occurred. I did not see any tests or evaluations of a handler’s decision-making abilities or same with respect to knowledge of policies and case law.

It is essential to have a system or procedure to monitor and evaluate performance periodically throughout the year that can be verified through documentation other than the annual POST certification. The POST certification is basic and designed primarily to test the canine’s performance. The certification does acknowledge a few proficiencies on behalf of the handler, like recognizing an alert, giving commands to the dog with the expectation of compliance, and demonstrating reasonable control over the dog. The certification does not evaluate nor test the handler’s decision-making abilities or knowledge of applicable policies and procedures.

I did not review evaluations of the handlers that I understand are completed by a patrol supervisor and was therefore not able to assess any K9-related performance related to field operations or training if contained within those evaluations.

I did not see a system in place or designation on a training report that ensures maintenance training will include exercises in the areas specifically listed in the POST Law Enforcement K-9 Guidelines (2014) under the section titled "Training Guidelines" if that training is contractually intended to meet or exceed the POST standards. The same POST training guidelines provide minimal performance standards as part of the designated exercises that could be used for evaluation purposes.

During the maintenance training on March 9, I did not observe anyone with a clipboard or notebook appearing to take notes or recording the exercise results after each exercise. I do not know when the physical reporting occurred.

I was able to access copies of the training reports from the March 9 training session. It appeared the comments were recorded by the handlers for their respective performance but not verified. For the most part, the comments of the various exercises were consistent with what I observed. The overall control, verbal outs, obedience, and searching abilities were good and could be described as meeting the basic POST standards absent specific documentation to verify. Unfortunately, with an acknowledgement this training session being observed was only one of a potential 52, the exercises being performed were considerably basic and did not appear to challenge the physical abilities of the police dogs nor the decision-making processes of the two handlers.

I did notice inconsistencies with the "training outcomes" versus my observations for two exercises on March 9 identified as "suspect pat down, no bite" and "call off" in the training reports;

1. For the "suspect pat down, no bite" exercise, the exercise was not performed by one team as described within the goal, but the training report indicated the exercise was performed. The police dog on the other team bit the decoy while passing by and the bite was reported as "engaged the hip" which technically resulted in a failure of the exercise, but no remediation or second attempt to complete the exercise successfully was conducted afterward.
2. For the "call off" exercise, the first team attempted the exercise twice as the dog failed to call off the first time reported as "engaged [bit] the witness" and was successful the second time. The second team failed initially, and the handler was unable to get the dog to attempt the exercise again after many attempts that was subsequently reported as "unable to complete this exercise due to the fact that [the dog] was anticipating the call off in a training scenario." However, the training outcome reported the exercise was performed and the "Recall/Call Off" recorded "Yes" as its outcome contrary to the actual result.

If someone were reviewing this training documentation for these two exercises just described not having observed them firsthand, they may not have the ability to sufficiently evaluate the performance of each K9 team and not able to make any necessary recommendations for (remedial) training to specifically address any

deficiencies in the obedience (control) and call offs. The K9 supervisor and trainer were both present during these exercises. If neither of them reviews the training reports afterward, I am concerned they cannot confirm the training is being reported accurately, rate results of the performance, or suggest further training to improve performance.

I do not believe there is a process or requirement for the K9 supervisor to review the results of the training being documented on the training summaries or reports so he would be unable to verify that each K9 team participated in each field exercise or scenario being conducted and individually evaluate the performance.

An experienced K9 supervisor or trainer should be able to observe training and a series of scenario-based exercises being performed by a K9 team routinely and determine the level of performance and competency of that K9 team based strictly on visual observations, but the ability to prove that level of performance and competency exists with written documentation is essential. Good documentation creates credibility. Good documentation is strong evidence. Good documentation is organized and specifically addresses the standards being judged.

Recommendation/s:

- 1) The agency should establish a procedure to evaluate and record the performance of each K9 teams on a periodic or regularly-scheduled basis to ensure consistent compliance of its policies throughout the year that includes training to meet or exceed the POST standards if those standards are acceptable.
- 2) The "fifth Wednesday" training days should be considered as a time to perform these periodical performance evaluations. (See #13 on Evaluation Form.)
- 3) These evaluations should be conducted by the current K9 supervisor based on the supervisor's experience.
- 4) Consider an in-house competition-based proficiency test (like a K9 trial) as both "team building" and another method of evaluating proficiency levels.
- 5) Consider a procedure for K9 that is similar to "SWAT may conduct monthly training exercises that include a review and critique of personnel and their performance in the exercise" (Policy 404.4.4).

Observation #4 - The Vacaville Police Department has contracted with a training vendor to provide maintenance training and no documentation or other means of evaluation exists to verify each K9 team meets or exceeds POST standards as specified within the contracts.

Comments: The agency contracts with Steve Brewer of Law Dogs as an independent contractor to provide maintenance training. One contract signed in 2007 reads; "The level of [maintenance] training will meet or exceed minimum P.O.S.T. standards." An undated/unsigned "Canine Training Agreement" provided for review reads "Each week the vendor [Steve Brewer] will train the City's canine unit for a minimum of four hours each week, meeting or exceeding P.O.S.T. standards." I was told that documentation to verify these contractual conditions does not exist.

After reviewing training records, contracts, and invoices, I noticed the following;

- The names of the handlers who attend maintenance training days are not listed on the invoices as one means to verify who attended and services rendered.
- There is no documentation to prove or ensure each K9 team participating in each maintenance training session is meeting or exceeding the POST standards.
- There is no documentation to show problems or deficiencies by any K9 teams during the maintenance training days and any remedial training or other actions taken or recommended if applicable to address such.
- There is no documentation of a recommended training plan (or guidance) to improve performance or address potential deficiencies of any K9 team if observed that could be addressed by a handler in the absence of the trainer.

I do not have any basis or reason to believe the hands-on services and verbal input provided by Brewer are not beneficial to the agency - however, the contractual agreement to provide services that meet or exceed POST standards should be verified through appropriate documentation or readdressed.

Recommendation/s:

- 1) The agency should review its contract with Law Dogs as a practical oversight to determine if services and contractual obligations are being met, and if not, in part or in whole, discrepancies should be immediately addressed and rectified.
- 2) Invoices submitted should include the names of handlers attending training and the respective dates.

Observation #5 – An article titled “Eyewitness News investigation finds use of police dogs causing serious injury, death even when suspects weren't combative” by Eyewitness News ABC7, dated December 24, 2020, appears to cast negativity on the use of police dogs by the Vacaville Police Department that may be attributed to misreporting and/or improper use of terms related to injury levels.

Comments: I am concerned this article may misrepresent the reporting of the injuries for the K9-related incidents and the injury levels may not have been thoroughly scrutinized in identifying the levels with respect to reporting procedures. Under the heading “Serious K-9 incidents by agency” in the article are 10 incidents attributed to Vacaville PD from 2016 to 2019. Here are the summaries of the incidents;

1. On 6/22/2016, “serious bodily injury” describes “abrasion/laceration” from K-9 contact for “passive non-compliance.”
2. On 5/20/2017, “serious injury” describes “abrasion/laceration, cut” from K-9 contact for “assaultive” resistance.
3. On 11/17/2017, “serious injury” describes “abrasion/laceration, cut” from K-9 contact for “passive non-compliance.”
4. On 1/21/2018, “serious injury” describes “bone fracture, abrasion/ laceration” from K-9 contact for “fleeing.”

5. On 4/16/2019, "serious injury" describes "abrasion/laceration" from "other control hold, other physical contact, electronic device, K-9 contact" for "assaultive" resistance.
6. On 5/5/2019, "serious injury" describes "abrasion/laceration, cut" from "electronic device, K-9 contact" for "passive non-compliance."
7. On 8/8/2019, "serious injury" describes "abrasion/laceration, cut" from "electronic device, impact projectile, K-9 contact" for "active resistance."
8. On 12/29/2019, "serious injury" describes "abrasion/laceration, cut" from "other physical contact, K-9 contact" for "active resistance."
9. On 10/28/2019, "serious injury" describes "abrasion/laceration, cut" from K-9 contact for "fleeing."
10. On 11/8/2019, "serious injury" describes "abrasion/laceration, cut" from K-9 contact for "passive non-compliance."

Only one incident identified "serious bodily injury" whereas other incidents resulted in "serious injury." Four of these incidents involve other uses of force in conjunction with a police dog.

The term "passive non-compliance" does not appear on the "Response to Resistance Review" blue form as "Actions of Suspect" and the search engine did not locate the term within any VPD policy.

"Resistance of target" does not describe the crimes and totality of the circumstances considered prior to each use of a police dog and/or other use of force to overcome resistance.

The incidents involving other uses of force (electronic device, impact projectile, etc.) do not articulate the involvement of the police dog nor injuries attributed to the police dog. It is unknown if an injury occurred because of the police dog or an electronic device. It is unknown if an injury occurred because of the police dog or an impact projectile.

The extent of injuries sustained and respective treatments are not described. It is unknown if injuries resulted in non-emergency care (and release), extended hospitalization, or surgeries. It is unknown if any injuries described were treated as life-threatening or non-life threatening.

Abrasions are not often considered great or serious bodily injuries. Lacerations or cuts requiring sutures or not requiring sutures – depending on the extent of the wound – are not often considered great or serious bodily injuries. Most abrasions, lacerations, and cuts can often be cleaned and covered without further care.

Penal Code 832.7 requires an incident in which the use of force by a peace officer resulting in "great bodily injury" shall be made available for public inspection. The determination as to whether an injury is "great" is largely made on a case-by-case basis. In general, though, a great bodily injury means a significant injury, or a substantial physical injury. Examples of these injuries include concussions, broken bones, nervous system injuries, and gunshot wounds. Only one injury above might qualify as great bodily injury based only on the descriptions provided.

Penal Code 243 identifies “serious bodily injury” within the section as a serious impairment of physical condition, including, but not limited to, loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring extensive suturing, and serious disfigurement.

VPD Policy 300.5.2 requires statistical data regarding all incidents involving use of force by officers resulting in “serious bodily injury” be reported to the California Department of Justice as required by Government Code § 12525.2.

Government Code § 12525.2 requires agencies to report incidents in which the use of force by a peace officer against a civilian result in a “serious bodily injury.”

I did not locate a policy or procedure (other than 300.5.2) the department uses for determining the appropriate level of injuries for each use of force incident nor the definition or standard applied to ensure consistency when making those determinations. It appears some of these K9-related incidents, based strictly on the summaries provided, may have been wrongly classified in the level of injury, and the injuries reported in the article may not have resulted in “great bodily injury” or “serious bodily injury.”

Recommendation/s:

- 1) The agency should review its evaluation process and reporting procedures to determine, among other things, how use of force incidents involving a police dog resulting in injury will be classified with respect to “great bodily injury” or “serious bodily injury” to comply with applicable laws and be consistently applied for all incidents.

Observation #6 – An internal investigation was initiated after a video-taped incident this past December was shared on local television (and social media) showing a handler striking his police dog once after performing an “alpha roll” technique during a training session when the dog became handler-aggressive. The video did not show the circumstances preceding the strike. The police dog was subsequently taken from the handler and later evaluated at VCA Sacramento Veterinary Referral Center and the Anchor Therapy Clinic.

Comments: I believe the appropriate process is occurring to investigate this incident to include the hiring of a qualified independent consultant. I have been contacted by the consultant for my input regarding the investigation. I will reserve making further comments and potential recommendations, if any or upon request, until the investigation by the consultant is completed.

Other observations, comments and recommendations;

7. Failure to successfully complete training: The title and wording for this policy (319.11.2) appears to address graduation (from a basic handler course) or obtaining certification instead of “ongoing training” which could include maintenance training. The content is confusing based on the title. It might be addressing “failure to complete basic training or certification.” Temporarily reassigning a handler because they failed to successfully complete (unidentified) training is not normal unless the training has specific requirements. I recommend you review this section and consider revision for clarity.

8. Annual statistics: The annual K9 program statistics for review only provided statistics available since the implementation of the PackTrack system. I believe this system was implemented in January 2019. Previous statistics were apparently not compiled annually, not available, and/or difficult to retrieve in the previous system (K-9 Collect) so an overall statistical evaluation and comparison was not completed. It is recommended that 5 years (or more) of annual statistics should be available.

9. Failed POST certifications: I did not observe any documentation to indicate a K9 team had ever failed any POST certification (in whole or in part) if it should exist. I recommend retaining all certifications whether failed or passed to maintain accurate records of the K9 program.

10. Report writing for uses of force: I reviewed 11 reports involving uses of force by police dogs (bites) from three handlers. Overall, the content of these reports and the justifications for using force (the police dog) was well articulated and consistent with industry standards and case law considerations.

11. Report writing terminology: Engagement, engaged, and contact are being used consistently in most reports in lieu of bit, bite, or bites. “Bite” is not a bad word and is recommended as the best description of the physical action or result.

12. Report writing and Axon Body Worn Camera. I read the following in bold print at the start of several handler reports as preambles to their narratives; *“The following is a summary of the events as they occurred. For actual events and statements, see Axon Body Worn Camera footage.”* I believe a report should address actual events and statements, and body worn camera footage supplements the report. Body worn camera footage only depicts one angle of what is being recorded and does not always provide accurate information of what a handler might see in his/her peripheral vision that is not being recorded. I recommend a review of this language and its necessity within a report.

13. Unintentional bites: I reviewed one incident from October 2020. I believe the incident was investigated appropriately with the proper training recommendations.

14. Handler retention: I learned one handler was removed from the K9 program in January 2019 after it was determined that he and the police dog were not meeting performance standards required to safely and effectively serve the community. I believe this assessment and practice demonstrates proper supervision.

15. Maintenance training invoices: The contracts provided to me indicate the training vendor (Law Dogs) will receive \$200 per K9 team per month for maintenance training. Recent invoices reveal that the vendor is charging and receiving \$250 per team. I was not able to locate a contract addendum or any other document authorizing this change within the documentation provided to me nor was the K9 supervisor able to locate any authorization for a change. I recommend a review to ascertain if the additional charges were authorized.

16. Maintenance training: The undated/unsigned contract provided to me indicates the training vendor (Law Dogs) will receive "\$200 per PSD [police service dog] per calendar month irregardless of the PSD/handler's presence." I do not know if this current condition exists, or if the contract provided was eventually signed. However, a review of this agreement should occur to address long-term absences or an absence at maintenance training that may occur for one month with advance notice to the training vendor in fiscal consideration of services potentially not rendered.

17. Contract for basic and maintenance training: The contract for training appears to be open-ended ("to continue indefinitely" subject to certain provisions) without a requirement to periodically review and evaluate. It is usually a recommended business or agency practice to review contracts periodically to ensure compliance with the contract and the agency's expectations of service as well as provide an opportunity to evaluate, research, and perhaps request competitive bids (RFP's) for services and fees.

18. Daily training: The policy allows for additional training to occur other than maintenance training with approval of the canine supervisor. This training is "encouraged" rather than required. There does not appear to be documentation authorizing additional training. It appears each handler is conducting some type of training daily during their workday. Problems or deficiencies noted at a weekly maintenance training will not be resolved on their own before that next training session. Therefore, if the agency determines daily training is essential to improve or maintain certain levels of proficiency, it should be addressed in the policy or a manual, for example, "Each K9 handler is responsible for conducting his/her daily training during his/her normal workday." This policy would also provide the necessary time for the training to occur during a normal workday rather than an option. Daily training can last from 20 minutes to one hour depending on the training to be conducted.

19. Narcotics: A review of the documentation required by policy to weigh, test, and periodically inspect controlled substance training aids being used by the handlers was conducted and appeared appropriate and dated accordingly. The training aids appear to be appropriately stored and secured per 319.11.6 (e).

20. Narcotics training reports: In reviewing the training reports and outcomes, it was not always clear if blind exercises were being conducted or properly recorded as the name of the handler was often not the same as the monitor, therefore, the handler should not have known the location of the training aids but reports still recorded "No" for blind testing. One handler had over 90% of exercises reported during a time as "not blind" indicating he knew the locations before searching in 90% of the exercises and that probably is not correct. I recommend reviewing the reports for clarity and consistency.

21. Evaluation period for handlers: I did not find an evaluation period for handlers upon their initial assignment. Some agencies require either a 6-month or one-year evaluation or probationary period of both the handler and police dog be completed. If not addressed, I recommend consideration of establishing an evaluation or probationary period.

22. Handler retention: I did not find a limit of how long a handler could remain in that position. It appears open-ended. I recommend five-year terms with the opportunity for a handler to re-apply for their position each time at the end of a five-year period with some exceptions to include the life and service of the police dog toward the end of a time limitation if implemented. Some agencies only allow a limited time for a handler to serve, but the amount of experience and knowledge required for this position, beyond the basic skills working with a police dog, are essential in limiting an agency's liability.

23. Retired police dog agreement: I did not find a procedure or protocol for when a police dog is no longer able to perform the function of a police dog nor an opportunity or conditions for the handler to optionally acquire the dog. These situations should be addressed within a manual and letter of agreement.

24. Hold harmless agreement: Whenever private property is to be utilized for certification or training and the owner requests a signed waiver from the agency, a "Hold Harmless Understanding" letter should be obtained before any training or certification will take place.

25. Public demonstrations: Policy 319.5.2 requires that public requests for demonstrations be reviewed. I did not see a form or other method for submitting requests for review and subsequent approvals by a supervisor. Demonstrations are recorded within PackTrack and I did view one demonstration held at the Brenden Theaters titled "Meet and Greet" as a "Training Report." I was unable to ascertain if all demonstration entries have consistent titles. A form or computer-generated entry for submitting and approving requests should be considered to include a brief recap of the completed demonstration (on the form or within PackTrack) to include the type of demonstration, attendance numbers, requesting organization and/or person, and a description of attendees (Rotary Club members, station visitors, kindergarten students, etc.).

26. Safety: Scenario-based and reality-based exercises often incorporate firearms, weapons, Simunition-type weapons, and/or simulated weapons into the exercises for use by role-playing suspects, backup officers, and handlers. When doing so, a safety policy should minimally require the presence of a designated safety officer, safety briefing, and weapons inspection. Loaded firearms and

ammunition should not be allowed within a training area. A similar policy for SWAT (408.4.5) should be considered to use a safety officer whenever weapons are being used within an exercise or allowed within a training venue. I did not find requirements to be a safety officer or related training to be a safety officer.

27. Inspection and approval of equipment: The canine supervisor should periodically inspect and approve all equipment to be used by the K9 Unit as a team or individually before it is used for training or field deployment. This equipment includes leashes, muzzles, collars, electronic collars, bite suits, bite sleeves, protective equipment, and training signs. This approval should also apply to any equipment modifications. These inspections ensure equipment will be in good working order. Any damages to equipment and/or requests for repairs/replacements should be documented and forwarded to the K9 supervisor.

28. Care and maintenance of the police dog. Some agencies require some type of formal training before (and sometimes after) the “basic handler’s course” for a new handler to learn how to properly care for a police dog to include, but not limited to, basic first aid, nutritional requirements, grooming, bathing, behavior monitoring, kennel maintenance, exercising, socialization, and conducting visual and physical health inspections at home and after a work-related deployment or physical encounter with a suspect. I did not find any documentation of such training being provided. The policy (319.9) indicates the handler shall ultimately be responsible for the health and welfare of the police dog, but it does not appear the training to properly care for the police dog is being required or made available. I recommend the agency consider providing this training to new handlers or document current training if being provided.

29. Response to Attorney General Becerra’s police reform recommendations. A memorandum to Chief Carli from Lieutenant Whitehouse dated July 8, 2020, incorrectly addresses the potential dangers associated when “find and bark” or “circle and bark” techniques are used by police dogs. There is no evidence or supporting data that “find and bark” techniques place police dogs and officers in a much more dangerous situation upon the dog’s discovery of a suspect. Police dogs trained for the “find and bite” technique are also trained for the “find and bark” technique and perform this technique routinely when they locate an inaccessible suspect, thereby providing time to allow the handler to consider his/her options to safely take a suspect into custody.


The former attorney general’s recommendation is disputed by many experts and is intended to address the initial discovery of an accessible suspect where a bite may occur. Police dogs should only be deployed in situations where a bite as a use of force is both anticipated and justified, and all techniques should be considered to successfully and safely resolve these situations. The “find and bark” technique, even when properly trained, is not a guarantee that a suspect will not be bitten by the dog since real life circumstances will differ from training environments and may rapidly change.

My evaluation is based on the information shared with me and personal observations as previously indicated. If I provided comments or recommendations based on any misinformation, information not provided or accessible, or if I misrepresented or misinterpreted information, I am more than willing to address any corrections as an amendment to the evaluation. Should any questions be necessary for clarification of an issue, please feel free to forward them to me and I will attempt to respond.

Overall, I had a positive experience with members of the Vacaville Police Department. I do not believe the observations and comments that some may assess as "negative" reflect poorly on the K9 Unit, but rather provide an opportunity for improvement and consistency with current industry standards within the police K9 community. I believe personnel associated with your K9 program all have a strong desire and willingness to do their best and are capable of performing to a higher level. I also believe all recommendations provided within this evaluation are both reasonable and feasible and can limit potential liabilities, improve performance and supervisory oversight, and reduce risks for the department and the City of Vacaville should any or all be implemented.

Thank you again for the opportunity to conduct this evaluation.

Respectfully,


Bill C. Lewis II

Attachment: K9 Unit Evaluation