

JEFFERSON CIRCUIT COURT  
DIVISION ELEVEN  
STATE OF KENTUCKY

HELEN N. HINES,  
Plaintiff,  
  
v.  
  
CITY OF LOUISVILLE, KENTUCKY,  
ET AL,  
Defendants.

: Written First Report  
: of  
: Defense Expert Witness  
:  
:  
:  
: No. 03-CI-02830  
:  
: Judge Judith McDonald-Burkman  
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I, Wendell Michael Nope, have been retained as an expert witness for the Defendants in this action. After having reviewed certain materials, I submit this **Written Report of Defense Expert Witness**, it being patterned after and in the form of Rule 26(A)(2) of the Federal Rules of Civil Procedures, in connection with my involvement in the above-entitled civil matter.

According to the instructions for expert witness testimony outlined in Rule 26(A)(2) of the Federal Rules of Civil Procedures, information is submitted in this order:

1. Statement of all opinions to be expressed and the basis and reasons therefor;
2. Data or other information considered in forming opinions;
3. Exhibits to be used as a summary of or support for opinions;
4. Qualifications, including a list of all publications authored within the ten preceding years;

1           5. Compensation to be paid for study and testimony;

2           6. List of cases testified at trial or deposition within the  
3 four preceding years.

4   **STATEMENT OF OPINIONS**

5           I have developed certain opinions after reviewing documents  
6 presented to me in this case. These opinions are categorized and  
7 listed below.

8   **Louisville Metropolitan Police Department**

9           1. The Louisville Metropolitan Police Department (LMPD)  
10 maintains a K-9 Unit which trains and deploys Police Service Dogs  
11 utilizing nationally-accepted and internationally-accepted  
12 standards. Further, comprehensive written guidelines and constraints  
13 have been established via an official Policy and Procedures Manual  
14 [K-9 specific issues located at 2:VIII:4:B., 2:IX:3:A.,  
15 3:III:87:B.3.j.1), 3:III:87:B.11.2) (4), and 3:V:3:], which governs  
16 the use of departmental K-9's. These facts are clear evidence that  
17 the Department administrators have the intent to employ an  
18 efficient, humane, and state-of-the-art K-9 Unit.

19           2. The Policy and Procedure contains reasonable guidelines  
20 and constraints for the application of Police Service Dogs in a wide  
21 variety of applications.

22           3. The K-9 training and deployment protocol employed by the  
23 LMPD is known by the acronym "PSP" (PolizeiSpuerhundpruefung or  
24 Police Patrol Dog Certification) and is recognized by many K-9  
25 professionals as having the strictest philosophies, most efficient

1 techniques, and most up-to-date training technology of any of the  
2 existing training and deployment philosophies utilized in America at  
3 this time. More Police Service Dogs are trained and certified  
4 worldwide according to the PSP standards than any other standard.

5 **Louisville Metropolitan Police Department K-9 Unit**

6 4. The K-9 Unit strives for a high level of professionalism,  
7 including training and certification by well-defined agency  
8 standards and also the PSP certification standards which are  
9 recognized nationwide and also worldwide.

10 5. The K-9 Unit has a designated trainer to conduct entry-  
11 level and also in-service training. This indicates an intent to  
12 have well-trained Handlers and Canines by appointing an officer with  
13 this specific function.

14 6. The K-9 Unit utilizes a comprehensive training manual to  
15 assist in the education of its Handlers and Canines.

16 7. The K-9 Unit is guided and constrained by an official  
17 Policy and Procedures Manual [specifically sections 2:VIII:4:B.,  
18 2:IX:3:A., 3:III:87:B.3.j.1), 3:III:87:B.11.2)(4), and 3:V:3:] which  
19 is comprehensive and meets or exceeds the industry-standard for this  
20 type document. These facts suggest that the K-9 Unit has the intent  
21 to train and deploy in an efficient, state-of-the-art, and humane  
22 manner.

23 **Officer Wayne Kaufman**

24 8. Officer Wayne Kaufman was certified by the Louisville  
25 Metropolitan Police Department to function as a Patrol Dog Handler

1 at the time of the incident in question. A review of the K-9 Unit  
2 Training Manual academic and skill requirements suggest that an  
3 officer who certifies under this regimen is a well-trained K-9  
4 Handler.

5 4. Officer Kaufman's training equals or exceeds that of the  
6 typical Patrol Dog Handler across the United States of America.

7 **Officer Wayne Kaufman Encounter with Terry Hines**

8 5. Officer Kaufman was sufficiently trained to deploy K-9  
9 Rookie at the incident involving Mr. Hines which is in question in  
10 this matter.

11 6. Officer Kaufman complied with a directive from his chain  
12 of command when he joined a group of officers involved in a plan to  
13 take Mr. Hines into custody without having to resort to deadly  
14 force.

15 7. Officer Kaufman assumed a position with a group of SWAT  
16 officers and the patio door of Mr. Hines domicile, under the  
17 direction of a superior officer at the scene. His action at this  
18 moment showed an intent to be compliant to the Department Policy and  
19 Procedure.

20 8. Officer Kaufman was attentive to the strategic capture  
21 plan, as he understood it, observed it begin to initiate, and  
22 perceived that the actions taking place were not according to his  
23 understanding.

24 9. Officer Kaufman directed K-9 Rookie's attention to Mr.  
25 Hines, an action which is authorized by Department Policy for the

1 capture of a felon.

2 10. Officer Kaufman either received a direct verbal order or  
3 perceived a direct verbal order to deploy K-9 Rookie to engage Mr.  
4 Hines.

5 11. Officer Kaufman believed, at the moment of receiving or  
6 perceiving the verbal order, that the strategic plan as he  
7 understood it was not going according to his understanding. This  
8 was a reasonable and appropriate perception.

9 12. Officer Kaufman believed that, even though the plan had  
10 deviated from his understanding, it was crucial to deploy K-9  
11 Rookie. This was a reasonable and appropriate perception.

12 13. Officer Kaufman believed, as he deployed K-9 Rookie, that  
13 K-9 Rookie's involvement in the capture sequence unfolding before  
14 him was so critical that success in the mission might be hinged upon  
15 K-9 Rookie engaging Mr. Hines at that exact moment. This was a  
16 reasonable and appropriate perception.

17 14. Officer Kaufman believed that deploying K-9 Rookie to  
18 engage Mr. Hines, even though he was still armed, may prevent  
19 another officer from being either injured or killed. This was a  
20 reasonable and appropriate perception.

21 15. Officer Kaufman believed that deploying K-9 Rookie to  
22 engage a suspect armed with a deadly weapon was not a normal  
23 practice, but rather, was now an exigent circumstance in which he  
24 felt compelled to do so anyway. This was a reasonable and  
25 appropriate perception.

1           16. Officer Kaufman believed that K-9 Rookie would indeed  
2 engage Mr. Hines, in spite of the fact that Mr. Hines was armed with  
3 a deadly weapon at the moment of contact. This was a reasonable and  
4 appropriate perception.

5           17. Officer Kaufman believed that K-9 Rookie's attempt to  
6 distract Mr. Hines was critical to the success of the strategic  
7 capture plan, even though he believed K-9 Rookie might get injured  
8 in the process. This was a reasonable and appropriate perception.

9           18. Officer Kaufman believed that the risk of injury to K-9  
10 Rookie did not supercede the risk to himself or other officers who  
11 might be following immediately behind K-9 Rookie in an effort to  
12 subdue Mr. Hines. This was a reasonable and appropriate perception.

13           19. Officer Kaufman entered the patio door subsequent to K-9  
14 Rookie being deployed, believing that the Cover Team and Arrest Team  
15 were also going to enter. This was a reasonable and appropriate  
16 perception.

17           20. Officer Kaufman believed that the other elements of the  
18 strategic capture plan were being activated, even though he did not  
19 know if they would be coming from behind him or through the front  
20 door, and that the sound of shotguns being fired validated his  
21 perception. This was a reasonable and appropriate perception.

22           21. Officer Kaufman believed that Mr. Hines was being  
23 distracted by K-9 Rookie as Officer Kaufman began to make an  
24 approach. This was a reasonable and appropriate perception.

25           22. Officer Kaufman approached the position where K-9 Rookie

1 had made physical contact with Mr. Hines, believing that the Cover  
2 Team was also deploying to protect him. This was a reasonable and  
3 appropriate perception.

4 23. Officer Kaufman, at a certain moment in the encounter,  
5 perceived that Mr. Hines was no longer exhibiting deadly force  
6 towards K-9 Rookie, but instead toward himself. This was a  
7 reasonable and appropriate perception.

8 24. Officer Kaufman believed himself to be at imminent risk of  
9 death or serious bodily injury at the moment he perceived Mr. Hines  
10 to change his focus from K-9 Rookie to himself. This was a  
11 reasonable and appropriate perception.

12 25. Officer Kaufman believed that he must abandoned his  
13 position close to K-9 Rookie at the moment he perceived himself to  
14 be in imminent danger, in order to avoid being stabbed by Mr. Hines.  
15 This was a reasonable and appropriate perception.

16 26. Officer Kaufman believed that the best course of action at  
17 this exact moment was to retreat backwards in an attempt to avoid  
18 being stabbed by Mr. Hines. This was a reasonable and appropriate  
19 perception.

20 27. Officer Kaufman acted in a reasonable and appropriate  
21 manner by choosing to retreat rather than choosing to draw his  
22 handgun and shoot Mr. Hines.

23 28. Officer Kaufman was forced to abandon his role in the  
24 strategic capture plan at the moment he was compelled to avoid being  
25 stabbed by Mr. Hines.

1           29. Officer Kaufman, up to this point, had acted in a  
2 professional manner, with intent to fulfill his role as one element  
3 of several elements of a strategic plan to take Mr. Hines into  
4 custody with the least amount of force possible.

5           30. Officer Kaufman displayed an obvious intent throughout his  
6 involvement in the strategic capture plan, that Mr. Hines be taken  
7 into custody without having to resort to deadly force to do so.

8           31. Officer Kaufman's inability to fulfill his role in the  
9 strategic capture plan is not due to any deficiency in training or  
10 skill on his part, but rather, it is due to the actions taken by Mr.  
11 Hines when the capture plan was initiated.

12   **K-9 "Rookie"**

13           32. K-9 Rookie is a well-trained Patrol Dog. The training  
14 protocol outlined in the Department K-9 Training Manual is  
15 considered one of the most stringent of all Police Service Dog  
16 performance standards in the United States of America.

17           33. Only a dog with a high level of trainability, stable  
18 nerves, and a high resilience to pain is capable of being  
19 successfully trained in this protocol.

20           34. K-9 Rookie's certification as a Patrol Dog is considered  
21 much more difficult and technical than the typical Patrol Dog in the  
22 USA, in that there are multiple training elements which better  
23 prepare a dog for its first few deployments.

24           35. K-9 Rookie was sufficiently trained for deployment in this  
25 incident.



## **K-9 Rookie Encounter with Terry Hines**

1  
2           36. K-9 Rookie acted in a manner consistent with its training  
3 when it accompanied Officer Kaufman to the patio door and remained  
4 focused on Mr. Hines, in spite of a distraction device going off,  
5 sock-rounds being discharged from a shotgun, and movements from  
6 officers present.

7           37. K-9 Rookie acted in a manner consistent with its training  
8 when it physically engaged Mr. Hines.

9           38. K-9 Rookie perceived that Mr. Hines was exhibiting furtive  
10 behavior, similar to that experienced during its initial K-9  
11 training course.

12           39. The fact that K-9 Rookie had not previously experienced a  
13 real-life encounter with a suspect is not a meaningful issue.

14           40. K-9 Rookie performed as trained and as expected when it  
15 responded to a command to engage Mr. Hines.

16           41. K-9 Rookie acted in a manner consistent with its training  
17 when it held onto Mr. Hines prior to being stabbed by a large  
18 butcher knife. A properly-trained Patrol Dog is trained to hold  
19 onto its original grip, if possible, in order to diminish the degree  
20 of injury to a suspect. When the dog is able to maintain its  
21 original hold on a subject, the typical amount of injury is  
22 punctures and peripheral bruising, which is typically treated as a  
23 "clean & dress" injury by medical personnel.

24           42. K-9 Rookie acted in a reasonable manner when it released  
25 its grip on Mr. Hines forearm, subsequent to being stabbed by a

1 large butcher knife. There is no reasonable expectation for a  
2 properly trained Patrol Dog to maintain a grip on a suspect when it  
3 is being stabbed in such a manner.

4 43. K-9 performed in an efficient and reliable manner  
5 throughout the encounter.

6 44. K-9 Rookie's actions, subsequent to being stabbed,  
7 diminished the opportunity for Mr. Hines being able to stab Officer  
8 Kaufman.

9 45. K-9 Rookie was compliant to Officer Kaufman throughout the  
10 entire encounter with Mr. Hines.

11 46. Examples of non-compliance in deployments like this might  
12 include:

- 13 1. snapping at the Handler in an excited/unruly manner;
- 14 2. attempting to get free of the Handler's control by  
15 twisting or wriggling out of the dog collar;
- 16 3. snapping at Mr. Hines after returning to officer  
17 Kaufman; or
- 18 4. snapping at the backup officers during the incident.

19 K-9 Rookie did none of these, rather, it complied readily to its  
20 Handler's commands and control..

#### 21 **Police Service Dogs as a Use of Force**

22 47. Police Service Dogs have been utilized in America to  
23 enhance law enforcement capabilities for many decades. This  
24 utilization has been overwhelmingly favorable and, in some case, the  
25 sole reason that certain cases have been solved.

1           48. Patrol Dogs have been credited with saving the lives of  
2 police officers and also criminal suspects. Acceptable training and  
3 deployment practices for these animals has evolved to its present  
4 state by a process of feasibility studies, professional evaluations,  
5 and criminal/civil litigation rulings.

6           49. When evaluating a Police Service Dog's actions in a  
7 particular incident, the following issues are beneficial elements:

8                   1. Law enforcement agencies across America almost  
9 universally maintain the professional practice of a Police Service  
10 Dog to "bite and hold" a suspect;

11                   2. A Police Service Dog that is trained to bite and hold  
12 inflicts the least amount of injury to a suspect it has physically  
13 engaged in an attempt to subdue;

14                   3. The typical injury received by a suspect being  
15 apprehended by a bite and hold trained Police Service Dog is minor  
16 punctures and peripheral bruising;

17                   4. A properly trained and properly deployed Police  
18 Service Dog has been ruled by multiple federal court rulings as not  
19 being an application of deadly force. [*Robinette v. Barnes*, 854 F.  
20 2d 909 (Sixth Cir 1988) (Court of Appeals noted "In assessing the  
21 reasonableness of the use of police dogs in light of the possibility  
22 that the use of the dogs constitutes deadly force, we are mindful  
23 that in *Garner* the Court noted that it would be hesitant "to declare  
24 a police practice of long standing 'unreasonable' if doing so would  
25 severely hamper effective law enforcement." *Garner*, 471 U.S. at 19.

1 Because the evidence establishes that there is not a substantial  
2 risk that the use of a police dog to apprehend a criminal suspect  
3 could result in the suspect's death, we too are hesitant to label  
4 "unreasonable" a police practice which has proven useful in a  
5 variety of law enforcement situations."); *Kuha v. Minnetonka*, 328 F.  
6 3d 427 (Eighth Cir. 2003) (Court of Appeals noted "Before reviewing  
7 *Kuha's* specific claims, we briefly address, and reject, *Kuha's*  
8 contention that a police dog constitutes deadly force. No federal  
9 appeals court has held that a properly trained police dog is an  
10 instrument of deadly force, and several have expressly concluded  
11 otherwise."); *Vera Cruz v. Escondido*, 139 F. 3d 659 (Ninth Cir.  
12 1998) (Court of Appeals noted "Vera Cruz presented no evidence that  
13 properly trained police dogs are reasonably capable of causing death  
14 ... In fact, Vera Cruz presented no evidence at trial that police  
15 dogs can kill under any circumstances.")].

16           5. A suspect who resists a police use of force may  
17 increase the amount of injury received beyond the level of force  
18 intended by the officer exhibiting the use of force.

19           6. A suspect being engaged by a Police Service Dog may  
20 incur injuries more critical than minor punctures and bruising if  
21 that suspect resists the dog's application.

22           7. A suspect who willfully resists a police use of force  
23 is accountable for any injuries above those typically experienced by  
24 non-resisting suspects.

25

#### **Subsequent Opinions**

1 I may develop more opinions as I review more documents or my  
2 opinions may change as I continue to review the documents I have  
3 received or as I receive more documents related to this case.

4 **DATA OR INFORMATION CONSIDERED**

5 As of this date, I have reviewed certain data and information  
6 in the process of developing the above-listed opinions. The item(s)  
7 are listed below:

- 8 1. Relevant Statutes;
- 9 2. Original Complaint;
- 10 3. Plaintiff's Response to Requests for Admissions;
- 11 4. Plaintiff's Supplemental Responses to Requests for  
12 Admissions;
- 13 5. Amended Complaint;
- 14 6. Answer;
- 15 7. Plaintiff's Answers to Discovery Requests;
- 16 8. Defendant Metro's Answers to Plaintiff's Discovery  
17 Requests;
- 18 9. Plaintiff's Supplemental Answers to Discovery Requests by  
19 Metro;
- 20 10. Plaintiff's Expert Witness Disclosures - Melvin Tucker;
- 21 11. Metro Louisville's Expert Witness Disclosures - Samuel  
22 Faulkner;
- 23 12. Policies and Procedures of Louisville Metro Police  
24 Department;
- 25 13. Letter from Commonwealth Attorney's Office of 8/12/2002

1 Stating No Probable Cause for Criminal Offenses;

2 14. Chief Robert White's 1/23/2003 Memorandum Closing  
3 Investigation and Determining Use of Force was Appropriate;

4 15. Summary Report of Office of Professional Standards  
5 Investigation dated 1/13/2003 by Lt. David Toebbe;

6 16a. Major Michael Dossett Report letter to Lt. Col. Ed  
7 Blaser;

8 16b. Major Michael Dossett Statement to Office of Professional  
9 Standards;

10 17a. SWAT Commander Donald Burbrink Deposition;

11 17b. SWAT Commander Donald Burbrink Statement to Office of  
12 Professional Standards;

13 17c. SWAT Commander Donald Burbrink Homicide Interview;

14 17d. SWAT Commander Donald Burbrink Report Letter to Lt. Col.  
15 Ed Blaser;

16 18a. Officer Wayne Kaufman Statement to Homicide Interview;

17 18b. Officer Wayne Kaufman Statement to Office of Professional  
18 Standards;

19 18c. Officer Wayne Kaufman deposition dated 10/3/2005;

20 19a. Hostage Negotiating Team (HNT) Commander Lt. Jon Mills'  
21 Deposition;

22 19b. Copies of chronological log of HNT;

23 19c. HNT Incident Report;

24 20a. Lt. Jay Pierce Deposition;

25 20b. Lt. Jay Pierce Statement to Professional Standards;

1           20c. Lt. Jay Pierce Statement to Homicide Interview  
2           21a. Sgt. Fritz Graas Statement to Homicide Interview;  
3           21b. Sgt. Fritz Graas Statement to Professional Standards;  
4           22a. Officer Michael Perry Deposition;  
5           22b. Officer Michael Perry Statement to Professional  
6 Standards;  
7           22c. Officer Michael Perry Statement to Homicide Interview  
8           23a. Sgt. Michael Jacobs Deposition;  
9           23b. Sgt. Michael Jacobs Statement to Professional Standards;  
10          23c. Sgt. Michael Jacobs Statement to Homicide Interview;  
11          24a. Officer Todd Hale Deposition;  
12          24b. Officer Todd Hale Statement to Professional Standards;  
13          24c. Officer Todd Hale Statement to Homicide Interview;  
14          25a. Officer Kevin Wood Deposition;  
15          25b. Officer Kevin Wood Statement to Professional Standards;  
16          26. Officer Todd Kessinger Statement to Professional  
17 Standards;  
18          27. Officer Sean Pate Statement to Professional Standards;  
19          28. Officer Mike Halbleib Statement to Professional Standards;  
20          29a. Officer Kenneth Dobson Deposition;  
21          29b. Officer Kenneth Dobson Statement to Professional  
22 Standards;  
23          29c. Officer Kenneth Dobson Homicide Interview;  
24          30a. Officer Jessica Cushman Statement to Professional  
25 Standards;

1 30b. Officer Jessica Cushman Homicide Interview;  
2 30c. Officer Jessica Cushman Report to Maj. Dossett  
3 31a. Sgt. Dan Humpkey Deposition;  
4 31b. Sgt. Dan Humpkey Report Letter to Maj. Dossett;  
5 31c. Sgt. Dan Humpkey Homicide Interview;  
6 32. Det. Scott Irish Statement to Professional Standards;  
7 33. Det. Donnie Shrout Statement to Professional Standards;  
8 34a. Sgt. James Thomas Deposition;  
9 34b. Sgt. James Thomas Statement to Professional Standards;  
10 35. Det. Brent Routzahn Statement to Professional Standards;  
11 36. Officer Eddie Wescott Statement to Professional Standards;  
12 37. Investigative File - Office of Professional Standards;  
13 38. Homicide Investigative File;  
14 39. Letter from Lisa Schweikert, Assistant County Attorney;  
15 40. Metro Police Canine Unit Training Manual; and  
16 41. Letter from Captain Gene Sherrard to Maj. Michael Dossett  
17 of 1/23/2002 [2003].

#### 18 QUALIFICATIONS

19 I have qualifications specific to the issues of this matter.  
20 These qualifications are listed below.

##### 21 1. Employment Experience

22 1. April 1998 - Present, as a member of the Board of  
23 Directors of the national Police Service Dog organization DOGS  
24 AGAINST DRUGS / DOGS AGAINST CRIME (DAD/DAC), Anderson, Indiana, my  
25 duties are as coordinator of education and curriculum development



1 for 1300+ officers;

2           2. December 1989 - Present, as a member of the Peace  
3 Officer Standards and Training Division (POST) of the Utah  
4 Department of Public Safety, Utah, my duties are as Service Dog  
5 Training Supervisor over training, evaluating, and certifying  
6 Service Dogs and Personnel on an international scale, to date 1800+  
7 officers and dogs;

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

12           4. April 1984 - December 1986, as a member of the Lamar  
13 County Sheriff Department, Vernon, Alabama, my duties were as  
14 Service Dog Handler/Judge and Undercover Investigator (Leave of  
15 Absence from November 1984 - December 1986);

16           5. January 1983 - November 1984, as Co-Director of PSP  
17 America, Inc., Tuscaloosa, Alabama, my duties were training Service  
18 Dogs and Personnel on a national scale;

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

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

1           2. Certificates Held, listed by date

2           1. CERTIFIED ASSAULT RIFLE MARKSMAN, awarded by the Utah

3 Department of Public Safety in 2005 (re-certification);

4           2. CERTIFICATE OF APPRECIATION, awarded by the United

5 States Secret Service in 2004 for service rendered to the K-9

6 Program in Washington, DC;

7           3. CERTIFICATE OF APPRECIATION awarded by the United

8 States Secret Service in 2003 for service rendered to the K-9

9 Program in Washington, DC;

10          4. INSTRUCTOR DEVELOPMENT CERTIFICATE awarded by the

11 Federal Bureau of Investigation in 2000;

12          5. CERTIFIED ASSAULT RIFLE MARKSMAN awarded by the Utah

13 Department of Public Safety in 2004 (re-certification);

14          6. CERTIFICATE OF EXCELLENCE awarded by the Utah

15 Department of Public Safety (UDPS) in 1998 for outstanding service

16 rendered to the Utah Highway Patrol;

17          7. CERTIFICATE OF APPRECIATION awarded by the Utah

18 Department of Corrections (UDOC) in 1997 for Distinguished Service

19 rendered to the UDOC K-9 Unit from 1990-96;

20          8. DISTINGUISHED SERVICE awarded by the Utah Department

21 of Public Safety (UDPS) in 1992 for outstanding service as an

22 employee rendered from 1990-92, specifically, for being chosen to be

23 the sole American representative on the International Congress of

24 Police Service Dogs, an international commission of standard-setting

25 Service Dog trainers and administrators;

- 1           9. CERTIFIED POLICE FIREARMS INSTRUCTOR awarded by the  
2 Utah POST in 1992 with a special emphasis in Service Dog Handler  
3 Firearms Instruction;
- 4           10. CERTIFIED PATROL DOG HANDLER awarded by the Utah POST  
5 in 1991 (recertification);
- 6           11. CERTIFIED TEACHING JUDGE OF SERVICE DOGS, HANDLERS,  
7 INSTRUCTORS, AND JUDGES awarded by the State Police School for  
8 Service Dog Handlers (Landespolizeischule fuer Diensthundfuehrer) in  
9 Stukenbrock, West Germany in 1991 (recertification);
- 10          12. CERTIFIED PEACE OFFICER awarded by the Utah POST in  
11 1990;
- 12          13. CERTIFIED HANDLER OF EXPLOSIVE DETECTOR DOGS awarded  
13 by the Security Department of the Church of Jesus Christ of Latter-  
14 day Saints in 1989;
- 15          14. SUPERVISORY MANAGEMENT awarded by the Zenger-Miller  
16 Management Training Institute in 1986;
- 17          15. CERTIFIED TEACHING JUDGE OF SERVICE DOGS, HANDLERS,  
18 INSTRUCTORS, AND JUDGES awarded by the State Police School for  
19 Service Dog Handlers (Landespolizeischule fuer Diensthundfuehrer) in  
20 Stukenbrock, West Germany in 1986;
- 21          16. CERTIFIED JUDGE OF SERVICE DOGS, HANDLERS,  
22 INSTRUCTORS, AND JUDGES awarded by the State Police School for  
23 Service Dog Handlers (Landespolizeischule fuer Diensthundfuehrer) in  
24 Stukenbrock, West Germany in 1984;
- 25          17. CERTIFIED INSTRUCTOR OF SERVICE DOGS AND HANDLERS

1 awarded by the State Police School for Service Dog Handlers  
2 (Landespolizeischule fuer Diensthundfuehrer) in Stukenbrock, West  
3 Germany in 1984;

4 18. CERTIFIED NARCOTICS SCREENING awarded by Becton  
5 Dickinson Public Safety in 1982;

6 19. CERTIFIED PATROL DOG HANDLER awarded by the State  
7 Police School for Service Dog Handlers (Landespolizeischule fuer  
8 Diensthundfuehrer) in Stukenbrock, West Germany in 1981;

9 20. CERTIFIED RIFLE/PISTOL MARKSMAN awarded by the West  
10 German Army in 1981;

11 21. CERTIFIED RIFLE/PISTOL MARKSMAN awarded by the United  
12 States Army in 1981;

13 22. CERTIFIED HANDGUN MARKSMAN awarded by the National  
14 Rifle Association in 1981;

15 23. CERTIFIED PEACE OFFICER awarded by the Louisiana  
16 Council on Peace Officer Standards and Training (POST) in 1979;

17 3. Special Qualifications

18 1. United States Representative on the International  
19 Congress of Police Service Dogs;

20 2. First Certified Police Service Dog "Teaching Judge"  
21 in the United States;

22 3. First American police officer accepted in the  
23 Landespolizeischule fuer Diensthundfuehrer;

24 4. Recognized as an expert in Police Service Dog  
25 psychology;

1           5. Expert Witness: U.S. Federal Court, State Courts of  
2 California, Florida, Indiana, Kansas, Louisiana, Nebraska, New  
3 Mexico, Utah, and Washington;

4           6. Expert Witness: Patrol Dog in Homicide Investigation  
5 (Death Penalty, Louisiana), criminal court;

6           7. Expert Witness: Patrol Dog in Burglary Investigation  
7 (Death of Perpetrator, Florida), civil court;

8           8. Litigation Consultant to: Los Angeles P.D. (CA), Los  
9 Angeles S.O. (CA), Santa Monica P.D. (CA), West Palm Beach S.O. (FL),  
10 Evansville P.D. (IN), Leavenworth P.D. (KS), Albuquerque P.D. (NM),  
11 Blanchester P.D. (OH), Seattle P.D. (WA), Tacoma P.D. (WA), Grand  
12 Rapids P.D. (MI), State of Nebraska, Layton P.D. (UT), United States  
13 Attorneys of District of Columbia, State of Iowa, and State of Ohio,  
14 West Jordan P.D. (UT);

15           9. Editor of national Police Service Dog professional  
16 journal of 6000+ readers;

17           10. Police Service Dog Trial Judge:

18                 1. 2003, United States National Police Dog  
19 Championship, Atlanta, Georgia;

20                 2. 1998, Ohio Law Enforcement K-9 Games  
21 Competition, Tipp City, Ohio;

22                 3. 1996, International Law Enforcement Games K-9  
23 Competition, Salt Lake City, Utah,

24                 4. 1996, United States National Police Dog  
25 Championship, Charleston, West Virginia,

- 1                   5. 1996, Las Vegas Invitational Police Dog Trial,  
2 Nevada,
- 3                   6. 1995, Heart of America Police Dog Association,  
4 Great Bend, Kansas,
- 5                   7. 1995/1993, Canadian National Police Dog  
6 Championship, Vancouver/Calgary,
- 7                   8. 1994, United States National Police Dog  
8 Championship, Madison, Wisconsin,
- 9                   9. 1993, California Law Enforcement Games, Los  
10 Angeles,
- 11                  10. 1993/1992, U.S. Federal Agency Regional K-9  
12 Trials, Yuma, Arizona,
- 13                  11. 1992, Bakersfield Invitational K-9 Trials,  
14 California,
- 15                  12. 1991, International Service Dog Championship,  
16 Bayreuth, West Germany,
- 17                  13. 1991/1989/1988, Utah Police K-9 Olympics, Salt  
18 Lake City,
- 19                  14. 1983, International Service Dog Championship,  
20 Gutersloh, West Germany,
- 21                  11. Police Service Dog Instructor
- 22                    1. 1990-2005, over 1800 Dogs/Handlers from start to  
23 finish during Utah POST 4-8 week courses,
- 24                    2. 1995-2005, over 1000 Dogs/Handlers during  
25 national seminars for DOGS AGAINST DRUGS - DOGS AGAINST CRIME,

1                   3. 1997, over 100 Dogs/Handlers at national seminar  
2 in Kentucky,  
3                   4. 1996, over 80 Dogs/Handlers at national seminar  
4 in Florida,  
5                   5. 1995, over 100 Dogs/Handlers at national seminar  
6 in Tennessee,  
7                   6. 1993, over 80 Dogs/Handlers at international  
8 seminar in Nevada,  
9                   7. 1983, over 100 Dogs/Handlers at national seminar  
10 in Massachusetts,  
11                   8. Extensive research concerning Police Service Dog  
12 compliance to Constitutional law,  
13                   9. Pioneered "Detaining," "Verbal Release,"  
14 "Tactical Release," "Emergency Release," and "Disengage" concepts  
15 for Patrol Dog training and deployment,  
16                   10. Established placement of Patrol Dogs in "Use of  
17 Force Continuum," for the Utah Police Academy,  
18                   11. Pioneered formal training and certification  
19 program for SWAT Dogs which became officially established at the  
20 Utah Police Academy,  
21                   12. Pioneered "Tactical Heeling," "Engagement  
22 Maneuvers," "Forced Capture," "Forced Extraction," and "Drag-Line"  
23 concepts for SWAT Dog training and deployment,  
24                   13. Former Supervisor of elite Bomb Detector Squad  
25 of International Scale,

1                   14. Police Academy Valedictorian, scholastics and  
2 firearms (Louisiana),

3                   15. Fluent speaker of the German Language,

4                   16. Translated numerous Service Dog training texts  
5 from German to English.

6                   **Publications Authored**

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

9           1. Magazine Articles

10                   1. *Improving Narco Dog Indications*, Police K-9 Magazine,  
11 Fall 2005 Issue;

12                   2. *When a Dog Won't Bark*, Police K-9 Magazine, Summer  
13 2005 Issue;

14                   3. *Dogs in Tight Spaces*, Police K-9 Magazine, Summer  
15 2005 Issue;

16                   4. *When Drug Smugglers Cry*, DAD/DAC Magazine, official  
17 publication of Dogs Against Drugs - Dogs Against Crime, Spring 2005  
18 Issue;

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

23                   6. *The Evolution of Police Service Dogs Part I: The*  
24 *Beginning*, Scutzhund USA, official publication of the United  
25 Schutzhund Clubs of America, Vol. 24 Issue 5 September/October 1999,



1 approximately 3500 subscribers;

2 7. *Be Advised: K-9 En Route*, The Utah State Trooper,  
3 official publication of the Utah Highway Patrol Association, Vol. 6  
4 Issue 2 Fall 1999, approximately 3000 subscribers;

5 8. *Tactical Deployment Dogs*, Utah Peace Officers  
6 Association Journal, Vol. 73 Issue 2 Summer 1996, approximately 5000  
7 subscribers;

8 9. "Clarification for POST Certified Instructors", Utah  
9 POST Service Dog Program Newsletter, July 1996; approximately 4500  
10 subscribers;

11 10. "Clarification for POST Certified Judges", Utah POST  
12 Service Dog Program Newsletter, July 1996; approximately 4500  
13 subscribers;

14 11. "Patrol Dog Handler Threat Level Elements", Utah POST  
15 Service Dog Program Newsletter, July 1996; approximately 4500  
16 subscribers;

17 12. "Legal Briefing: Nunley v. Los Angeles", UTAH POST  
18 Service Dog Program Newsletter, July 1996; approximately 4500  
19 subscribers;

20 13. "Legal Briefing: Balandran v. El Paso", Utah POST  
21 Service Dog Program Newsletter, January 1996; approximately 4000  
22 subscribers;

23 14. "ICPSD Condemns Abuse of PREY DRIVE Training", Utah  
24 POST Service Dog Program Newsletter, October 1995; approximately  
25 4000 subscribers;

1           15. "ICPSD Declares Acceptable DETAINING Distance", Utah  
2 POST Service Dog Program Newsletter, October 1995; approximately  
3 4000 subscribers;

4           16. "Transferring a Patrol Dog from Prey Drive to Fight  
5 Drive" aka "Preying for Fight Drive", Utah POST Service Dog Program  
6 Newsletter, October 1995; approximately 4000 subscribers;

7           17. "Legal Briefing: Chew v. Gates (It's finally  
8 over!)", Utah POST Service Dog Program Newsletter, October 1995;  
9 approximately 4000 subscribers;

10           18. "Letter To A Concerned Administrator", Utah POST  
11 Service Dog Program Newsletter, July 1995; approximately 3000  
12 subscribers;

13           19. "Baffled", Utah POST Service Dog program Newsletter,  
14 July 1995; approximately 3000 subscribers;

15           20. "Legal Briefing: Reich v. New York City Transit  
16 Authority", Utah POST Service Dog Program Newsletter, July 1995;  
17 approximately 3000 subscribers;

18           21. "Dr. Jekyll - Mr. Hyde", Utah POST Service Dog  
19 Program Newsletter, April 1995; approximately 3000 subscribers;

20           22. "Legal Briefing: Canton v. Harris", Utah POST  
21 Service Dog Program Newsletter, April 1995; approximately 3000  
22 subscribers;

23           23. "Desperately Looking For The One", Utah POST Service  
24 Dog Program Newsletter, October 1994; approximately 1300  
25 subscribers;

1           24. "He Lied To Me", Utah POST Service Dog Program  
2 Newsletter, March 1994; approximately 1200 subscribers;

3           25. "Police Service Dog Killed In The Line Of Duty", Utah  
4 POST Service Dog Program Newsletter, March 1994; approximately 1200  
5 subscribers;

6           26. "Too Close For Comfort", Utah POST Service Dog  
7 Program Newsletter, December 1993; approximately 1200 subscribers;

8           27. "Use Of Force Continuum", Utah POST Service Dog  
9 Program Newsletter, September 1993; approximately 850 subscribers;

10         2. Books

11           1. Utah POST Patrol Dog Training Manual, official  
12 publication of the Utah POST Service Dog Program;

13           2. Utah POST Narcotics Detector Dog Training Manual,  
14 official publication of the Utah POST Service Dog Program;

15           3. Utah POST Explosive Detector Dog Training Manual,  
16 official publication of the Utah POST Service Dog Program;

17           4. Utah POST Cadaver Detector Dog Training Manual,  
18 official publication of the Utah POST Service Dog Program.

19   COMPENSATION

20         I am being compensated at a rate of \$120.00 per hour to  
21 function as a Defense Expert Witness in this case.

22   PRIOR EXPERT WITNESS TESTIMONY

23         I have testified at trial or by deposition in certain cases  
24 prior to this action. These cases are listed below in order,  
25 beginning with the most recent.

1           1. MILLER v. WEST JORDAN, United States District Court, Utah  
2 District, Central Division, Case No. 2:02-CV-00590 (complaint of  
3 excessive force), deposition and trial testimony;

4           2. PAUL MYERS v. OFFICER CHARLES WARE AND OFFICER WILLIAM  
5 KELLY, United States District Court, Western District of Michigan,  
6 Case No. 1:00 cv 508 (complaint of excessive force), deposition  
7 testimony;

8           3. HELMS v. NUSSMEIER, United States District Court, Southern  
9 District of Indiana, Case No. EV 96-23-C R/H, Claim No. 328 L 87879  
10 (complaint of excessive force), deposition testimony;

11           4. CORDERO v. REAVER, Superior Court of the State of  
12 California for the County of Los Angeles, Case No. BC 050793  
13 (complaint of negligent training), trial testimony;

14           5. MALICKY v. HEYEN, District Court for the State of  
15 Nebraska, Seward County, 1993 Case No. 10039 (complaints of  
16 negligent training and loss of consortium), deposition and trial  
17 testimony;

18           6. MACLEOD v. WILLE, Fifteenth Judicial Circuit Court in and  
19 for Palm Beach County, Florida, Case No. CL 91-670 AI (complaint of  
20 excessive force), deposition testimony;

21           7. REYES v. COUNTY OF LOS ANGELES, United States District  
22 Court, Central District of California, Case No. CV90-6341-DT  
23 (complaint of excessive force), trial testimony;

24           8. ROGERS v. CITY OF LOS ANGELES, United States District  
25 Court, Central District of California, Case No. CV 89 5799 TJH Bx

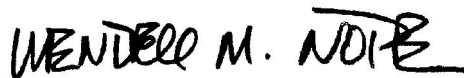
1 (complaint of excessive force), trial testimony;

2 9. NUNLEY v. CITY OF LOS ANGELES, United States District  
3 Court, Central District of California, Case No. CV 89-3313 WJR Bx  
4 (complaint of excessive force), trial testimony.

5 DECLARATION OF TRUTH

6 I declare, under penalty of perjury under the laws of the State  
7 of Florida, that the foregoing is true and correct, to the best of  
8 my knowledge.

9 Executed on this 17<sup>th</sup> day of November 2005, in Salt Lake City,  
10 Utah.

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13 Wendell M. Nope

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