

In the  
**Supreme Court of Ohio**

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STATE OF OHIO,  
Plaintiff-Appellee,

v.

DANIELLE BARTON,  
Defendant-Appellant.

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On Appeal from the Hamilton County Court of Appeals,  
First Appellate District Case No. C-2400427

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**BRIEF OF *AMICI CURIAE***  
**AMERICAN CIVIL LIBERTIES UNION FOUNDATION AND**  
**AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF OHIO**  
**IN SUPPORT OF DEFENDANT-APPELLANT DANIELLE BARTON**

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## **INTEREST OF THE AMICI CURIAE**

The ACLU is a nationwide, nonprofit, nonpartisan organization with nearly two million members and supporters dedicated to the principles of liberty and equality embodied in our nation's Constitution and civil rights laws. The ACLU's Criminal Law Reform Project advocates for the constitutional and civil rights of those impacted by criminal legal systems. In furtherance of its mission, the ACLU has participated as a party or amicus in numerous cases raising Fourth Amendment issues, including *Illinois v. Caballes*, 543 U.S. 405 (2005) (canine sniff outside of a vehicle at a lawful traffic stop is not a search subject to the Fourth Amendment).

The ACLU of Ohio ("ACLU-OH") is an affiliate of the national ACLU and is supported by nearly forty thousand members and supporters across all of Ohio's eighty-eight counties. The mission of the ACLU-OH is to champion and expand constitutional and other fundamental rights and to pursue racial, economic, gender, and social equity for all Ohioans using all the tools of integrated advocacy without political partisanship; to fight in both principle and practice for the best ideals of fairness, freedom, and justice; and to advance our mission through an anti-racist, intersectional lens with determination, agility, practicality, and hope.

## **SUMMARY OF ARGUMENT**

This case presents the question of whether a police canine's intrusion into a vehicle during the course of a vehicle sniff renders the sniff a search subject to the proscriptions of the Fourth Amendment. The First Appellate District ("First District") relied on flawed reasoning when it held that a canine's "instinctive" intrusion into a vehicle does not render the sniff a Fourth Amendment search. This holding should be reversed for at least the following two reasons.

*First*, canines are instrumentalities of law enforcement officers; therefore, a canine's actions are properly attributable to its handling officer. Just as an officer is constitutionally

prohibited from entering a vehicle without a warrant and probable cause, *see California v. Carney*, 471 U.S. 386, 392 (1985), so too is the canine in his charge.

*Second*, whether a canine’s intrusion into a vehicle is “instinctive” is irrelevant because “[s]ubjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis.” *Whren v. United States*, 517 U.S. 806, 813 (1996). If subjective intent is “irrelevant in determining whether [an] officer’s actions violate the Fourth Amendment,” *Bond v. United States*, 529 U.S. 334, 338, fn. 2 (2000), then “it is not clear why a canine’s indiscernible motives would define the contours of an individual’s right to be free from Government intrusion.” *United States v. Buescher*, 691 F. Supp. 3d 924, 935 (N.D. Iowa 2023) (reasoning a canine sniff becomes an unconstitutional Fourth Amendment search when it involves a physical intrusion into the interior of a vehicle).

As such, the First District’s holding is plainly inconsistent with this Court’s precedent that establishes that a Fourth Amendment search occurs when there is a “physical intrusion of a constitutionally protected area in order to obtain information.” *State v. Jackson*, 2022-Ohio-4365, ¶ 15 (quoting *United States v. Jones*, 565 U.S. 400, 407 (2012)); *Florida v. Jardines*, 569 U.S. 1, 5 (2013) (holding that a Fourth Amendment search has occurred when the Government physically intrudes on a “constitutionally protected area”(internal citation omitted)). Under the First District’s “instinctive” intrusion exception, an entire category of intrusive canine sniffs will be immune from constitutional scrutiny, thereby infringing on the rights of people in vehicles while eroding the constitutional protections against unreasonable searches.

Indeed, under the First District’s rule, the Fourth Amendment imposes *no constraint whatsoever* on clear government physical intrusions into private vehicles. This result cannot be squared with Fourth Amendment jurisprudence, which is designed to regulate all government

intrusions on persons, property, and privacy, irrespective of the government actor involved and the magnitude of the intrusion.

Moreover, physical intrusions into private vehicles by narcotic-detection canines during the course of canine sniffs are especially problematic when, as here, the sniff is conducted after the conclusion of the mission of the traffic stop and without the requisite cause. *See Rodriguez v. United States*, 575 U.S. 348, 355 (2015). “A seizure for a traffic violation justifies a police investigation of that violation”; however, “the tolerable duration of police inquiries in the traffic stop context is determined by the seizure’s ‘mission’ to address the traffic violation that warranted the stop[.]” *Id. at 354*. In this case, once the mission of the stop concluded, there was no cause for an ordinary canine sniff, let alone one inside the passenger compartment.

For these reasons, *Amici* urge the Court to reverse the First District’s decision and to hold that a canine’s intrusion into a vehicle during the course of a canine sniff constitutes a Fourth Amendment search that requires probable cause—irrespective of whether the behavior is “instinctual.” Doing so would comport with fundamental principles of Fourth Amendment jurisprudence, promote officers’ adherence to the strictures of the Fourth Amendment and its state analog, and protect Ohioans from unreasonable government interference.

### **STATEMENT OF FACTS**

On the evening of April 16, 2023, at 11:15 pm, Deputy Staggs of the Hamilton County Sheriff’s Office initiated a traffic stop of Danielle Barton (“Barton”) and her passenger, Larry Riley (“Riley”), for the alleged improper display of her temporary license plate, *see* Motion to Dismiss, App. T.d. 12, p. 2,<sup>1</sup> a non-arrestable minor misdemeanor. R.C. 4503.21. Deputy Staggs then asked

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<sup>1</sup> All timestamps refer to the actual time stamp of the body worn camera video of the incident, as provided in Appellant’s Motion to Suppress. App. T.d. 12. The timestamps provide the time in a

Barton to step out of her vehicle with her license so he could show her the violation and write her a warning. Deputy Staggs then returned to his cruiser to verify Barton's driver's license and to run a search of Riley's name in his mobile data terminal. *Id.* (“23:21-23:24”). Deputy Staggs discovered that Riley had an outstanding warrant from Clermont County. *Id.* (“23:24”). As Deputy Staggs was running these searches, Deputy Friedhoff and his canine-detection canine, Falco, arrived on the scene as backup. *Id.* (“23:23”). The record does not indicate whether Deputy Staggs requested backup from Deputy Friedhoff. Deputy Staggs took Riley into custody, and placed him in the back of his cruiser. *Id.* (“23:26”). Deputy Staggs then asked Barton if he could search her vehicle—she did not consent. *Id.* Deputy Staggs then informed Barton that he would have Deputy Friedhoff's canine sniff the outside of her vehicle. Deputy Staggs told Barton to stand on a concrete ledge beside the sidewalk, and stated that if the canine alerted, they would have probable cause to search the vehicle. *Id.* (“23:28”).

Before getting the canine out of his vehicle, Deputy Friedhoff took a leash and yellow ball out of the passenger side door and affixed the ball to his chest. *Id.* (“23:28”). He then retrieved the canine from his cruiser, told the canine to “sitz” (German for “sit”), and attached the leash to the canine. *Id.* The canine was then walked past Barton to the rear of Barton's vehicle, where Deputy Friedhoff again commanded the canine to sit. *Id.* at 3 (“23:29”). On the passenger side of the vehicle, Deputy Freidhoff commanded “sitz” (German for “sit”) and then “bleib” (German for “stay”). *Id.* (“23:29”). He then walked the canine to the passenger side of the vehicle, guiding the canine back and forth with an open hand, palm upward. *Id.* Deputy Friedhoff stopped the canine at the front of the vehicle and used a closed fist to non-verbally communicate with the canine and

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24-hour format. Each of the facts contained in the Motion to Suppress were stipulated to by the parties.

then says “such” (German for “find”). *Id.* He then walked the canine to the driver side of the vehicle. *Id.* The canine then walked past the driver side door to the rear driver-side tire, doubled back toward the driver side door, and jumped up on the open driver's window, placing its entire head inside the vehicle for about three seconds. *Id.* After this, the canine sat down, presumably to alert Deputy Friedhoff. *Id.* Deputy Friedhoff then rewarded the canine with a yellow ball, telling him “good boy” and returning him to the cruiser. *Id.*

Deputy Friedhoff and Deputy Staggs then began to search Barton’s vehicle. *Id.* (“23:31”). They entered the vehicle and opened every bag and compartment in the vehicle. *Id.* While searching through Barton and Riley's belongings, the deputies found one pair of hypodermic needles in a gold handbag in the front of the vehicle and another pair of needles in a pack in the back seat. *Id.* (“23:32” and “23:39”). Soon after, while searching the area Barton had been standing, Deputy Staggs discovered a small plastic bag containing pills. *Id.* (“23:49”). Deputy Staggs charged Barton with possession of a drug abuse instrument, *Id.*, a second degree misdemeanor. R.C. 2925.12.

## **ARGUMENT**

### **I. A Canine’s Intrusion into a Vehicle is a Search Protected by the U.S. and Ohio Constitutions, Irrespective of Whether the Intrusion is “Instinctive”**

There are two discrete inquiries that, when examined, elucidate how the First District erred in holding that the canine’s “instinctive” intrusion into Barton’s vehicle was not a Fourth Amendment search: (1) whether a canine remains an instrumentality of its police handler when it acts “instinctively” during the course of a canine sniff, and (2) whether the canine’s actions during the course of a sniff are analytically different from similar actions performed by a police officer

under the Fourth Amendment or Article 1, Section 14 of the Ohio Constitution.<sup>2</sup> With respect to the first inquiry, the answer is unequivocally yes. And as an instrumentality of law enforcement, a canine's on-duty actions are viewed by the law to be no different than the actions of its handling officer.

*A. A Narcotic-Detection Canine is an Instrumentality or Agent of Law Enforcement, and its Actions Are Therefore Attributable to Law Enforcement for Purposes of the Fourth Amendment.*

When canines are deployed for law enforcement purposes during the course of duty, they are instrumentalities of law enforcement. *See* R.C. 955.012 (“‘Law enforcement canine’ means a dog regularly utilized by a law enforcement agency for general law enforcement purposes, tracking, or detecting the presence of a controlled substance or explosive.”) (emphasis added); Ex. A, Policy 308, Hamilton County Sheriff’s Office Policy Manual, at 1 (“Canine - A dog that has been trained and may be used to assist one or more law enforcement officers in the performance of their official duties.”) (emphasis added). Therefore, a canine’s actions are properly attributed to their handler. *See Skinner v. Ry. Labor Execs.’ Assn.*, 489 U.S. 602, 614 (1989)) (“A drug dog is an instrumentality of the police, and the actions of ‘an instrument or agent’ of the government normally are governed by the Fourth Amendment”); *Coolidge v. New Hampshire*, 403 U.S. 443, 487 (1971) (concluding that instruments and agents of the State are State actors for Fourth Amendment purposes).

This Court has endorsed, in related contexts, the general principle that a handling officer may be held responsible for the actions of the canine in his charge. *Harris v. Hilderbrand*, 2023-

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<sup>2</sup> Like Appellant Barton did in her motion to suppress, *Amici Curiae* make arguments under both the Fourth Amendment of the U.S. Constitution and Article 1, Section 14 of the Ohio Constitution because while this Court has found that it “should harmonize [its] interpretation” of the two, *State v. Robinette*, 80 Ohio St. 3d 234, 239 (1997), it also has “left open the possibility that, depending on the circumstances, this court may decide to give independent effect to Section 14, Article I in the appropriate case.” *State v. Murrell*, 94 Ohio St.3d 489, 494 (2002).

Ohio-3005, ¶ 30–34 (discussing whether, for purposes of a negligence claim, an off-duty sheriff's deputy was entitled to immunity for municipal employees when his canine partner bit his houseguest). Indeed, several courts in Ohio have recognized that attacks by police canines that occur during the course of duty can constitute an excessive use of force *against the officer*. For example, in *White v. Harmon*, the Sixth Circuit denied summary judgment on qualified immunity grounds where an officer brought an inadequately trained dog, who had previously bitten someone, to the arrest scene and allowed the dog to bite the handcuffed plaintiff. No. 94–1456, 1995 WL 518865, at \*3 (6th Cir. Aug. 31, 1995) (unpublished table decision) (finding canine handler could be held liable for excessive force). In *Rainey v. Patton*, the Sixth Circuit concluded that it was unlawful for an officer to employ a police canine against an unarmed suspect who had been stopped due to a traffic offense. 534 F. App'x 391, 397 (6th Cir. 2013). Even though the plaintiff had not yet been handcuffed, she was on the ground and not attempting to flee when the canine was released. *Id.* Similarly, in *Campbell v. City of Springboro* the Sixth Circuit also found that a plaintiff made a colorable argument for excessive force. 700 F.3d 779, 787 (6th Cir. 2012). Before the canine apprehended the plaintiff, police officers had already found the plaintiff face down on the ground with his arms at his side against an outbuilding. *Id.*; *see also Pigott v. Hornback*, No. 1:14-CV-1148, 2015 WL 9590798, at \*9 (N.D. Ohio Dec. 1, 2015), report and recommendation adopted, No. 1:14-CV-1148, 2015 WL 9491224 (N.D. Ohio Dec. 30, 2015).

The narcotic-detection canine in this case, like all such canines, intruded into the vehicle to search for drugs as a direct and foreseeable result of its training and its handler's actions. As the handler's law enforcement tool, the canine must be viewed by the law as an extension of the officer, and therefore, the canine's actions are properly attributed to him. *See State v. Randall*, 169 Idaho 358, 369 (2021) (“[L]aw enforcement is wholly responsible for the training and deployment of

drug dogs; it is likewise wholly responsible when, as a result of their training and deployment, dogs enter vehicles during exterior sniffs.”). Had Deputy Friedhoff stuck his own head inside Appellant’s vehicle and sniffed the interior cabin, there is no question that his action would constitute a Fourth Amendment search. Because the actions of the Deputy Friedhoff’s canine are attributable to him, a search likewise occurs when the canine in his charge physically crosses into the interior cabin of a vehicle.

*B. As Action Properly Attributed to the Handling Officer, a Canine’s Intrusion into a Vehicle During the Course of a Canine sniff Constitutes a Fourth Amendment Search—Irrrespective of Whether the Canine Acted “Instinctively.”*

As explained above, because a narcotic-detection canine’s actions are properly deemed by the law to be the actions of its handler, a canine’s actions during a canine sniff must be consistent with the limitations of the Fourth Amendment, even when its actions are “instinctive.” *See Randall*, 169 Idaho at 369 (“[W]e will not regard drug dogs as highly trained tools of law enforcement when their behavior is consistent with the limitations of the Fourth Amendment, and then regard them as mere dogs when their behavior runs afoul of it.”); *State v. Organ*, 2025 WL 3029069, at \*12 (Tex. Crim. App. Oct. 30, 2025) (“[T]he dog was acting as a tool of law enforcement, and we decline to carve out some of the dog’s behavior as instinctive while it is being used to obtain information.”).

In concluding otherwise, the First District implicitly reasoned that instinctive canine behavior is not state action and thus falls outside the scope of the Fourth Amendment. As a threshold matter, whether a canine acts “instinctively” during the course of its duty is of no legal significance. Indeed, “[s]ubjective intentions play no role in ordinary, probable-cause Fourth Amendment analysis.” *Whren*, 517 U.S. at 813; *see Bond*, 529 U.S. at 338 fn. 2 (“the subjective intent of the law enforcement officer is irrelevant in determining whether that officer’s actions violate the Fourth Amendment”); *State v. Jones*, 2009-Ohio-316, ¶ 36 (same);

*State v. Trembly*, 2000 WL 875948, \*3 (4th Dist. June 30, 2000) (same). The U.S. Supreme Court has made clear that with two “limited exception[s]” for special-needs and administrative searches, the subjective intent of police officers is almost always irrelevant to whether an action violates the Fourth Amendment. *Ashcroft v. al-Kidd*, 563 U.S. 731, 736–37 (2011). Because a canine sniff does not fall within either exception, the intent of a canine, or lack thereof, has no constitutional import. And rightfully so. The First District’s decision to retreat from objectivity invites further erosion of Ohioans’ protections from unreasonable government intrusions. If a detection canine’s physical intrusion into a private vehicle does not implicate the Fourth Amendment, then what other instrumentalities of law enforcement may an “instinctual” exception allow? Agentic AI policing tools? The First District’s decision presents complicated questions without clear answers, creating uncertainty that will undoubtedly permeate law enforcement practices and necessitate complex, often divergent, judicial interpretations.

Moreover, the term “instinctive” is a misnomer in this context. *See Randall*, 169 Idaho at 368 (“[W]e note that . . . description of the dog’s behavior as ‘instinctive’ is inapt because there is nothing innate about a dog seeking out narcotics.”). Contrary to the First District’s reasoning, canines do not instinctively search for drugs on their own; law enforcement officers train them to use their strong olfactory abilities to perform this specific task. Indeed, detection canine teams must successfully pass narcotics detection tests before they are certified and authorized to work in the field. *See Ex. A* at 10–11; Adm. Code 109:2-7-03.

Handlers train canines by rewarding them for discovering narcotics. In turn, this conditioning motivates the canines to search for and discover narcotics (i.e., participate in good behavior), as they recognize that they will be rewarded. *See Adriana Pliego, Detection Canines: An Insight into Investigative Working Dogs*, THEMIS: RESEARCH JOURNAL OF JUSTICE STUDIES AND

FORENSIC SCIENCE, May 18, 2025, at 14, <https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1148&context=themis> (accessed November 23, 2025) [<https://perma.cc/T7WE-28CU>].

Whether or not the handler is actively prompting the canine to enter a vehicle, the canine is pursuing an odor that, if discovered, will yield a reward. Here, that reward was a yellow training ball.

So although a trained canine may be said to act “instinctively” *while* sniffing for narcotics, as the parties stipulated to here, that instinctual act must be understood to occur within the broader context of the incident at issue. The U.S. Supreme Court has recognized this principle on numerous occasions when it has counseled that *all* Fourth Amendment search and seizure cases involve a “totality-of-the-circumstances” inquiry. *See, e.g., Barnes v. Felix*, 605 U.S. 73, 79 (2025) (holding courts may not assess excessive force claims using the moment-of-threat rule because it constricts the proper inquiry into the “totality of the circumstances”); *Florida v. Harris*, 568 U.S. 237, 247–48 (2013) (rejecting a bright-line test in favor of a “totality-of-the-circumstances” approach for assessing probable cause).

As such, courts should assess the constitutionality of a canine’s intrusion in the context of the totality of the circumstances, just as they do for any other Fourth Amendment analysis.<sup>3</sup> While, ostensibly, one could argue that the totality of the circumstances is not considered in this context because the canine’s momentary “instinctual” intrusion is not a Fourth Amendment search, *contra*

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<sup>3</sup> Some courts that have found a canine’s “instinctive” intrusion into a vehicle during a sniff not to be a Fourth Amendment search do not attribute the canine’s intrusion to its handler, *see, e.g., United States v. Sharp*, 689 F.3d 616, 620 (6th Cir. 2012) (“a trained canine’s sniff inside of a car after instinctively jumping into the car is not a search that violates the Fourth Amendment as long as the police did not encourage or facilitate the dog’s jump”), and construe the operative act narrowly. *Id.* In taking this narrow view, these courts implicitly reason the canine’s “instinctive” action is limited to the moment the intrusion itself occurs and not attributable to the handler. As explained, this approach is inconsistent with the U.S. Supreme Court’s Fourth Amendment jurisprudence.

*Randall*, 169 Idaho at 369, or that the canine’s intrusion was outside the control of the officer, *but cf. United States v. Karo*, 468 U.S. 705, 714–15 (1984) (declining to create a Fourth Amendment exception based on lack of control of an instrument), or the canine’s intrusion was not for information gathering purposes, *but cf. Jones*, 565 U.S. at 404–05 (holding the government’s physical intrusion of private property “for the purpose of obtaining information” is a “search” within the meaning of the Fourth Amendment”), those arguments are unpersuasive and this Court should not adopt their reasoning.

When a canine’s “instinctive” intrusion is understood to be but one moment in a series of investigative actions attributable to the handling officer, the conceptual flaws of the “instinctual” intrusion exception become clear. Consider the actions of Deputy Friedhoff, the canine’s handling officer, leading up to and surrounding the canine’s “instinctive” intrusion into Barton’s vehicle.

Deputy Friedhoff:

- Decided to conduct a criminal investigation, Jointly Submitted Exhibit of Body Worn Camera Footage of the Traffic Stop, App. T.ex. 1, 23:27.
- Retrieved the canine’s leash and reward ball from the front passenger seat of his squad car;



*Id.* at 23:28.

- Removed the canine from rear passenger-side seat of his squad car and leashed it;



*Id.* at 23:29.

- Walked the canine past Barton to the passenger side of the vehicle, guiding it back and forth with an open hand;



*Id.*

- Walked the canine around the front of the car to the driver side, firmly grasping the leash to control the canine;



*Id.*

- Walked the canine to the driver side door, again, holding the leash taut, restricting the movement of the canine;



*Id.*

- Stood by the driver side door, loosely holding the leash while the canine recoiled and hopped before leaping up to the window;



*Id.*

- Remained at the driver side door, loosely holding the canine's leash, giving enough slack to allow the canine to lunge into Barton's window;

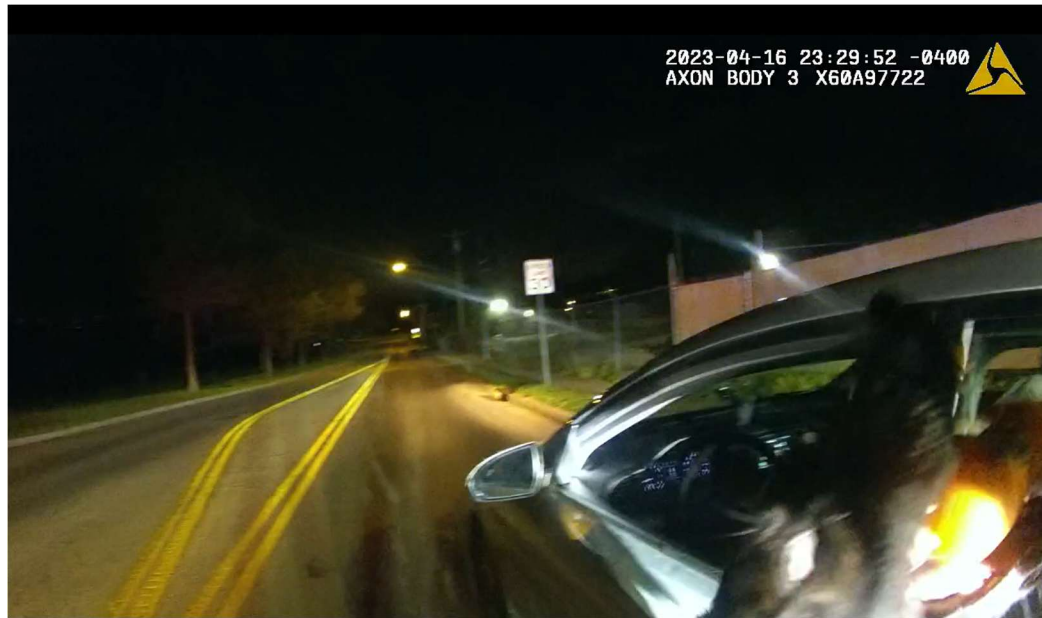


*Id.*



*Id.*

- Rewarded the canine with its reward ball and verbal positive reinforcement after the canine intruded into Barton's vehicle and alerted.



*Id.*

These frames demonstrate that when the intrusion is not viewed in isolation and instead, is viewed in light of the totality of the circumstances, it is clear the intrusion constitutes a Fourth Amendment search. Each of Deputy Friedhoff's actions was part of his investigation of unfounded suspicions of criminal activity and there is no break in the causal chain. In conducting his investigation, Deputy Friedhoff remained in control of the canine—his instrumentality—which he deployed for the sole purpose of detecting narcotics. To be sure, but for Deputy Friedhoff's actions, his canine would not have been in a position to intrude into Barton's vehicle, irrespective of whether the intrusion was "instinctive."

As an extension of its handling officer, all actions of the canine during the course of a sniff—i.e., the canine's sole law enforcement function at the traffic stop—must be held to the same constitutional proscriptions as those that apply to the canine's handling officer. Accordingly, the First District's holding cannot stand.

## **II. Absent Independent Reasonable Suspicion of Criminal Activity, A Canine Sniff of a Vehicle Conducted After a Traffic Stop’s Mission is Complete, Violates the U.S. and Ohio Constitutions’ Proscription Against Unreasonable Seizures**

Although the U.S. Supreme Court has held on more than one occasion that a canine sniff investigation, in certain circumstances, does not constitute a Fourth Amendment search, *see United States v. Place*, 462 U.S. 696, 707 (1983) (holding a canine sniff of the *exterior* of luggage at an airport does not constitute a Fourth Amendment search), *Illinois v. Caballes*, 543 U.S. 405, 409 (2005) (holding that a canine sniff of the *exterior* of a vehicle during a lawful traffic stop is not a Fourth Amendment search), it has never held a canine sniff of the *interior* of a vehicle is not search subject to the proscriptions of the Fourth Amendment. This Court must not either.

There are two U.S. Supreme Court cases that cabin police officers’ authority to conduct a canine sniff of the exterior of a vehicle during and after a lawful traffic stop. First, in *Illinois v. Caballes*, the Court held that police do not violate the Fourth Amendment merely by conducting a canine sniff of a vehicle’s exterior during a lawful traffic stop. *Caballes* at 409. The *Caballes* Court also noted that the overall duration of a traffic stop may be “justified by the traffic offense and the ordinary inquiries incident to such a stop.” *Id.* at 408; *see also Florida v. Royer*, 460 U.S. 491, 500 (1983) (“an investigative detention must be temporary and last no longer than is necessary to effectuate the purpose of the stop.”).

Next, in *Rodriguez v. United States*, the Court examined “whether the Fourth Amendment tolerates a dog sniff conducted *after* completion of a traffic stop.” *Rodriguez*, 575 U.S. at 350 (emphasis added). Initially, the Court discussed *Caballes*, explaining that the “ordinary inquiries” of a traffic stop include “checking the driver’s license, determining whether there are outstanding warrants against the driver, and inspecting the automobile’s registration and proof of insurance.” *Id.* at 355. These “negligibly burdensome precautions” are permissible because they “serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated

safely and responsibly.” *Id.* at 355–356. In contrast, the Court reasoned a canine sniff lacks “the same close connection to roadway safety.” *Id.* at 356. For that reason, a canine sniff is “not fairly characterized as part of the officer’s traffic mission,” and constitutes an “[o]n-scene investigation into other crimes” that “detours from that mission.” *Id.* Therefore, the canine sniff must not prolong a traffic stop beyond the time needed to complete its original mission. *Id.* at 356–357.

*A. Deputies Prolonged Barton’s Traffic Stop After the Mission of the Stop was Complete in Violation of Rodriguez and its Progeny*

Where, as here, a traffic stop “exceed[s] the time needed to handle the matter for which the stop was made” the stop “violates the Constitution’s shield against unreasonable seizures.” *Id.* at 350; *see State v. Green*, 2016-Ohio-4810, ¶ 2 (7th Dist.) (holding that when officers extend a traffic stop “past the time needed to complete the mission of the stop without reasonable suspicion to do so” the stop becomes an unconstitutional seizure). In this case, Deputy Staggs stopped Barton on the basis of improper placement of a license plate and intended to issue her a warning ticket for the violation—i.e., the mission of the traffic stop. *See State’s Brief in Opposition to Defendant’s Motion to Suppress*, App. T.d. 13, p. 2. However, the canine sniff of the exterior *and* interior of Barton’s vehicle was conducted after the time reasonably required to complete the stop’s mission and there was no independent reasonable suspicion of criminal activity to justify it.<sup>4</sup>

The record shows that the traffic stop’s “mission” should have taken no more than a few minutes. Upon stopping Barton at 11:15pm, Deputy Staggs immediately ran two queries on Barton’s license plate number: a “Be On the Lookout” or “BOLO” search, and a “Regional Computer Information Center” or “RCIC” vehicle search. *See Ex. B, “Call Record Report”* at 2. Combined, these searches should have yielded information about Barton’s vehicle, such as its

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<sup>4</sup> The parties did not stipulate to there being no “improper delay” caused by the canine sniff, as counsel for the State suggested in the hearing on the motion to dismiss. T.r. 56.

ownership and registration and status, as well as about Barton, including her criminal history and whether she has a suspended license, or outstanding warrants. *See United States v. Pate*, 2009 WL 3418664, at \*1, n. 3 (S.D.Ohio Oct. 19, 2009) (“Officers use their [Mobile Data Computers] MDCs to obtain information about persons and vehicles from the Regional Crime Information Center (“RCIC”). RCIC maintains a police information system within Hamilton County. . . If an officer enters a license plate number into the MDC, the officer receives information about the registered owner of the car.”). “This process usually takes less than 15 seconds but can take several minutes.” *Id.* (summarizing the testimony of an information technologist and records custodian for RCIC about how the RCIC system works).

Having already run queries on the license plate of Barton’s vehicle when he approached Barton’s vehicle at 11:16pm, *see* Ex. B, at 2, Deputy Staggs should have had nearly all the information he needed to confirm the vehicle was being operated lawfully. That leaves only three remaining tasks related to the mission of the traffic stop: 1) ascertaining the identity of the driver, 2) verifying the driver was operating the vehicle with a valid license; and 3) writing a warning for the alleged traffic violation. Barton produced her license immediately upon being asked, confirming she was the lawful owner of the vehicle. *see* Motion to Dismiss, App. T.d. 12, p. 2. It was at this point, at approximately 11:19pm, *id.*, Deputy Staggs reasonably could have issued the written warning he intended to, thereby completing the mission of the stop. *State v. Chatton*, 11 Ohio St.3d 59, 60–61 (1984) (holding that once the officer saw a temporary tag, the entire mission of the traffic stop—confirming that the car was registered—was completed).

However, instead, Deputy Staggs then approached the passenger side of the vehicle and asked Mr. Riley for his social security number and name. *See* Motion to Dismiss, App. T.d. 12, p. 2. It was only after receiving Mr. Riley’s name at 11:20pm, did Deputy Staggs return to his cruiser

and run Barton’s license and the name of her passenger. *Id.* At 11:23pm, Deputy Friedhoff and his narcotic-detection canine arrived as back up on the scene, while Deputy Staggs continued running the searches. *Id.* The searches took three minutes, lasting from 11:21–11:24pm. *Id.* At 11:24pm, Deputy Staggs received information in response to his search revealing Mr. Riley had an open warrant in Clermont County. *Id.* At 11:26pm, Deputy Staggs took Mr. Riley into custody, and placed him in the back of his squad car. *Id.* It is at this point, 11:26pm, eleven minutes after the stop was initiated, that all inquiries and tasks related to the traffic stop should have been reasonably concluded and Barton should have been able to leave. But the stop did not end there.

To extend the traffic stop of Barton further—beyond the reasonable conclusion of the stop’s mission—the responding deputies needed “reasonable suspicion ordinarily demanded to justify detaining an individual.” *Rodriguez*, 575 U.S. at 355; *see also State v. Batchili*, 2007-Ohio-2204, ¶ 15 (pre-*Rodriguez* case noting the same). There is no dispute they did not have reasonable suspicion. Nevertheless, at 11:27pm, Deputy Staggs asked Barton if he could search her car. After she did not consent, Deputy Staggs informed her that Deputy Friedhoff would conduct a canine sniff on the outside of her vehicle. *Id.* At 11:29pm, fourteen minutes after the stop began, Deputy Friedhoff began the canine sniff. *Id.* The sniff ended at 11:30pm. *Id.* Thus, at most, the criminal investigation unrelated to the traffic stop prolonged the stop by eleven minutes (11:19–11:30pm); at a minimum, it extended the stop by four minutes.

The deputies did not have independent reasonable suspicion of criminal activity to justify prolonging the stop of Barton. “Reasonable suspicion exists when an officer has specific and articulable facts that provide an objective basis for suspecting legal wrongdoing.” *United States v. Jordan*, 100 F.4th 714, 718 (6th Cir. 2024) (cleaned up). When determining whether reasonable suspicion exists, courts apply a totality-of-the-circumstances inquiry. *See United States v. Stepp*,

680 F.3d 651, 664 (6th Cir. 2012) (“In deciding whether an officer conducting a traffic stop has developed a reasonable suspicion of criminal activity, we consider the totality of the circumstances.”) (internal citation omitted).

Likewise, this Court has identified four general categories of “certain specific and articulable facts” that would give rise to reasonable suspicion: “(1) location; (2) the officer’s experience, training or knowledge; (3) the suspect’s conduct or appearance; and (4) the surrounding circumstances.” *State v. Brown*, 2010-Ohio-1110, ¶ 30 (5th Dist.) (citing *State v. Bobo*, 37 Ohio St.3d 177, 178–79 (1988)). Location relates to whether the stop occurred in a “high crime” area, an area of known drug activity, or an area under police surveillance, those facts may give rise to reasonable suspicion. *Id.* at ¶ 31 (collecting cases). The “suspect’s conduct or appearance includes suspicious, inexplicable, or furtive movements, such as watching-out, ducking, hiding, fleeing, or discarding an object.” *Id.* at ¶ 33 (collecting cases). By itself, nervousness “is a weak basis for suspicion.” *Jordan*, 100 F.4th at 721. This is especially true for drivers, who “don’t enjoy being pulled over,” considering the prospects of a ticket, increased insurance, or a suspended license. *Id.* The surrounding circumstances factor relates to the time of day or night and the officers’ safety if they are “out of a vehicle, away from protection, or without backup.” *Brown* at ¶ 35 (collecting cases).

No specific and articulable facts provide an objective basis for suspecting wrongdoing here. Nothing in the record indicates that the location; officers’ experience, training or knowledge; the conduct or appearance of Barton or Mr. Riley; or surrounding circumstances gave rise to reasonable suspicion. Outstanding warrants for Mr. Riley, Barton’s passenger, cannot give rise to reasonable suspicion of *current* wrongdoing. “[K]nowledge of a person’s prior criminal involvement (to say nothing of a mere arrest) is alone insufficient to give rise to the requisite

‘reasonable suspicion’ to justify a shift in investigatory intrusion from the traffic stop to a firearms or drugs investigation.” *Green*, 2016-Ohio-4810, at ¶ 22 (internal citations omitted) (rejecting argument that the officer’s recognition of the suspects from an earlier drug incident formed the requisite reasonable suspicion for extending the traffic stop). The *Brown* court similarly rejected an argument that the officer’s prior familiarity with the suspect as someone known to have a substance use disorder gave rise to reasonable suspicion. *See Brown*, 2010-Ohio at ¶ 26–27. “If the law were otherwise, any person with any sort of criminal record—or even worse, a person with arrests but no convictions—could be subjected to a *Terry*-type investigative stop by a law enforcement officer at any time without the need for any other justification at all.” *Id.* at ¶ 28 (citing *United States v. Sandoval*, 29 F.3d 537, 543 (10th Cir. 1994)).

### **CONCLUSION**

For the foregoing reasons, the canine’s sniff of the interior of Barton’s vehicle was a Fourth Amendment search that required, but was not supported by probable cause. The canine sniff was also unconstitutional because it was conducted after the time reasonably required to complete the stop’s mission and there was no independent reasonable suspicion of criminal activity to justify it. Accordingly, this Court should reverse the First District’s decision and remand with instructions to remand to the trial court to suppress the evidence recovered from Barton’s vehicle.

Dated: November 24, 2025

Respectfully submitted,

/s/ Amy Gilbert

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forthcoming

**CERTIFICATE OF SERVICE**

I hereby certify that on November 24, 2025, the foregoing was filed electronically using the Court's efilings system. I further certify that the foregoing was served by electronic mail upon the following:

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# Exhibit A

## Canines

|                                                         |            |
|---------------------------------------------------------|------------|
| <b>Effective Date:</b>                                  | 01/04/2024 |
| <b>Revised Date:</b>                                    | 02/21/2025 |
| <b>Issuing Authority:</b><br>Sheriff Charmaine McGuffey |            |

### 308.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment law enforcement services in the community including, but not limited to, locating individuals and contraband and apprehending criminal offenders.

#### 308.1.1 DEFINITIONS

Definitions related to this policy include:

**Canine** - A dog that has been trained and may be used to assist one or more law enforcement officers in the performance of their official duties. When used in this Policy Manual, "canine" refers to a police dog (ORC § 955.11; ORC § 2921.321).

### 308.2 POLICY

It is the policy of the Hamilton County Sheriff's Office that teams of handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

### 308.3 ASSIGNMENT

Canine teams should be assigned to assist and supplement the Enforcement Division to function primarily in assist or cover assignments. However, they may be assigned by the Watch Commander to other functions, such as routine calls for service, based on the current operational needs.

Canine teams should generally not be assigned to handle routine matters that will take them out of service for extended periods of time. If such assignment is necessary, it should only be made with the approval of the Watch Commander.

#### 308.3.1 LAW ENFORCEMENT CANINE REGISTRATION

All canines utilized by the Sheriff's Office shall be registered with the county auditor pursuant to the requirements of ORC § 955.012. Canine registrations must be signed by the Sheriff (ORC § 955.012).

### 308.4 CANINE UNIT PERSONNEL

The chain of command exists as it relates to the Canine Unit is as follows:

- (a) Enforcement Division Commander

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- (b) Enforcement Support Services Commander
- (c) Canine Unit Commander
- (d) Canine Unit Coordinator(s)
- (e) Canine Handler

### **308.5 CANINE UNIT COMMANDER**

The responsibilities of the Canine Unit Commander include but are not limited to:

- (a) The overall supervision and operation of the Canine Unit.
- (b) Reviews Canine Unit policy to ensure it is current.
- (c) Remains current on canine use of force issues and ensures that the Canine Unit operates within acceptable use of force parameters.
- (d) Reviews all canine use of force incidents to ensure proper deployment.
  - 1. Responds to the scene of deployments when work hours permit.
  - 2. Responds to the scene of deployments that are in question or in need of further clarification with the handler and his/her supervisor.
- (e) Routinely observes Canine teams during training exercises.
- (f) Recognizes that a successful Canine Unit is highly dependent upon updated training in many critical areas. Ensures that Canine teams are receiving the necessary training.
- (g) May conduct impromptu inspections randomly during the year at each handler's residence for security and cleanliness of the County-owned canine's habitat and document findings in the employee's monthly supervisory notes.

### **308.6 CANINE UNIT COORDINATOR**

The canine coordinator shall be appointed by and directly responsible to the Canine Unit Commander or the authorized designee and must be preeminently skilled as a handler.

The responsibilities of the coordinator include but are not limited to:

- (a) Responding to canine deployments and all canine applications when needed.
- (b) Maintaining a working knowledge of all rules and regulations governing the use of canines
- (c) Respond to, evaluate, investigate and document all incidents of canine-related injuries on the appropriate report forms.
- (d) Reviewing all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.
- (e) Maintaining a liaison with the vendor kennel.
- (f) Make recommendations to the Canine Unit Commander as to the viability of candidate dogs.
- (g) Maintaining a liaison with command staff and functional supervisors.

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1. Advise the Canine Unit Commander of any unusual events, significant performance, or noted deficiencies with any handler or canine.
- (h) Maintaining a liaison with other agency canine coordinators.
  1. Attend training seminars with outside agencies with the goal of remaining current in the field of canine training and the legal aspects of canines as a use of force.
- (i) Maintaining accurate records to document canine activities.
  1. Review the deployments and training that have been entered by each handler.
- (j) Recommending and overseeing the procurement of equipment and services for the teams of handlers and canines.
- (k) Ensuring the canine teams are scheduled for regular training to maximize their capabilities.
  1. The development, coordination, and maintenance of canine-related training within the Unit.
  2. Conduct training exercises, which will include testing of the canine teams and documentation of their performance.
  3. Conduct/direct remedial training for those canine teams experiencing deficiencies.

#### **308.7 HANDLER RESPONSIBILITIES**

The canine handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection, and living conditions.

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all Sheriff's Office equipment under his/her control in a clean and serviceable condition.
- (c) When not in service, the handler shall maintain the canine vehicle locked, away from public view.
- (d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Hamilton County Sheriff's Office facility.
- (e) Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.

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- (g) When off-duty, the canine shall be in a kennel provided by the County at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.
- (h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler. Immediate family members can provide care/exercise for the canine.
- (i) Under no circumstances will the canine be lodged at another location unless approved by the canine coordinator.
- (j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine coordinator.
- (k) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made. The canine should be housed in a department-approved kennel that is secured/sanitary, with the cost of the housing paid by the Sheriff's Office. The Canine Commander may approve other arrangements for housing the canine.
- (l) At no time shall the canine handler transport a prisoner.

[See Procedures Manual: 308.2.1 Riders in Canine Vehicle](#)

[See Procedures Manual: 308.2.2 Injury To Canine Handler](#)

#### 308.7.1 CANINE IN PUBLIC AREAS

The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

- (a) A canine shall not be left unattended in any area to which the public may have access.
- (b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the canine. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

#### 308.8 HANDLER SELECTION

The minimum qualifications for the assignment of canine handler include:

- (a) Must have three years work experience in the Division.
- (b) A deputy who is currently off probation.
- (c) Residing in a single-family residence.
- (d) Living within 30 minutes travel time from the Hamilton County limits.
- (e) Agree to be assigned to the position for a minimum of three years.

[See Procedures Manual: 308.3.1 Handler Selection Process](#)

[See Procedures Manual: 308.3.2 New Handler Training](#)

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[See Procedures Manual: 308.3.3 New Handler Probation](#)

### **308.9 HANDLER COMPENSATION**

The canine handler shall be available for call-out under conditions specified by the canine coordinator.

The canine handler shall be compensated for time spent in the care, feeding, grooming, and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement (29 USC § 207).

### **308.10 REQUESTS FOR CANINE TEAMS**

Sheriff's Office members are encouraged to request the use of a canine. Personnel may request the assistance of an on-duty canine team through an on-duty supervisor. When there are no canine teams working, the request must be approved by the on-duty Enforcement supervisor before a canine team is called out.

Requests for a canine team from Sheriff's Office units outside of the Enforcement Division shall be reviewed by the on-duty Enforcement supervisor.

[See Procedures Manual: 308.4.1 Guidelines For Departmental Personnel](#)

#### **308.10.1 OUTSIDE AGENCY REQUEST**

All requests for canine assistance from outside agencies must be approved by the on-duty Enforcement supervisor and are subject to the following:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific assignment that he/she deems unsuitable.
- (c) Calling out off-duty canine teams is discouraged.
- (d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

#### **308.10.2 PUBLIC DEMONSTRATION**

All public requests for a canine team shall be reviewed and, if appropriate, approved by the canine coordinator prior to making any resource commitment. The canine coordinator is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Canine handlers shall not demonstrate any apprehension work unless authorized to do so by the canine coordinator.

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### **308.11 APPREHENSION GUIDELINES**

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has committed, is committing, or is threatening to commit any serious offense and if any of the following conditions exist:

- (a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any deputy, or the handler.
- (b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
- (c) The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of deputies or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine.

Absent a reasonable belief that a suspect has committed, is committing, or is threatening to commit a serious offense, mere flight from a pursuing deputy, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Watch Commander. Absent a change in circumstances that presents an imminent threat to deputies, the canine, or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.

Canines shall be used to apprehend mentally disturbed persons only when they are violent or present a risk of harm to themselves or others.

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable.

If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the canine to release the suspect.

[See Procedures Manual: 308.5.1 Building Searches](#)

[See Procedures Manual: 308.5.2 Field Searches](#)

[See Procedures Manual: 308.5.3 Tracking](#)

#### **308.11.1 PREPARATION FOR DEPLOYMENT**

Prior to the use of a canine to search for or apprehend any suspect, the canine handler and/or the supervisor on-scene should carefully consider all pertinent information reasonably available at the time. The information should include but is not limited to:

- (a) The nature and seriousness of the suspected offense.

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- (b) Whether violence or weapons were used or are anticipated.
- (c) The degree of resistance or threatened resistance, if any, the suspect has shown.
- (d) The suspect's known or perceived age.
- (e) The potential for injury to deputies or the public caused by the suspect if the canine is not utilized.
- (f) Any potential danger to the public and/or other deputies at the scene if the canine is released.
- (g) The potential for the suspect to escape or flee if the canine is not utilized.

As circumstances permit, the canine handler should make every reasonable effort to communicate and coordinate with other involved members to minimize the risk of unintended injury.

It is the canine handler's responsibility to evaluate each situation and determine whether the use of a canine is appropriate and reasonable. The canine handler shall have the authority to decline the use of the canine whenever he/she deems deployment is unsuitable.

A supervisor who is sufficiently apprised of the situation may prohibit deploying the canine.

Tracking suspects is considered a pre-planned activity, and as such, all canine unit personnel will wear protective body armor while searching, in accordance with policy.

Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

[See Procedures Manual: 308.5.4 Apprehension Guidelines](#)

#### 308.11.2 WARNINGS AND ANNOUNCEMENTS

Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used if the suspect does not surrender should be made prior to releasing a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary.

If a warning is not to be given, the canine handler, when practicable, should first advise the supervisor of his/her decision before releasing the canine. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why.

[Hamilton County Sheriff's Office Procedure Manual: 308.5.5 Warnings/Announcements](#)

#### 308.11.3 REPORTING DEPLOYMENTS, BITES, AND INJURIES

Handlers should document canine deployments in the Pack Track K9 reporting system. The on-scene supervisor will investigate the canine use of force and document the incident on a Hamilton County Sheriff's Office Canine Response to Resistance Report. Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be

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promptly notified and the injuries documented in the Canine Response to Resistance Report. The injured person shall be promptly treated by Emergency Medical Services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the canine coordinator. Unintended bites or injuries caused by a canine should be documented in an interdepartmental memorandum, not in a canine deployment report.

A supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current Sheriff's Office evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

Law enforcement canines are generally exempt from impoundment requirements. The Hamilton County Health Department must be contacted and documented in the appropriate report. If the canine begins exhibiting any abnormal behavior, the canine shall be made available, upon request, to the board of health for the district in which the bite occurred (ORC § 955.261).

[See Procedures Manual: 308.5.6 Documenting Canine Deployment](#)

[See Procedures Manual: 308.5.7 Supervisor Investigation of Canine Use of Force or Alleged Injury](#)

[See Procedures Manual: 308.5.8 Documenting An Unintentional Canine Bite or Injury](#)

### **308.12 NON-APPREHENSION GUIDELINES**

Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible for determining the canine's suitability for such assignments based on the conditions and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation, the following guidelines apply:

- (a) Absent a change in circumstances that presents an imminent threat to deputies, the canine, or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.
- (b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.
- (c) Throughout the deployment, the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.
- (d) Once the individual has been located, the handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.

Police canines will not be deployed to search for other animals.

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### **308.12.1 ARTICLE DETECTION**

A canine trained to find objects or property related to a person or crime may be used to locate or identify articles. A canine search should be conducted in a manner that minimizes the likelihood of unintended bites or injuries.

### **308.12.2 NARCOTICS DETECTION**

A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

- (a) The search of vehicles, buildings, bags, and other articles.
- (b) Assisting in the search for narcotics during a search warrant service.
- (c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

[See Procedures Manual: 308.6.1 Narcotics Canine Team Searches](#)

### **308.12.3 BOMB/EXPLOSIVE DETECTION**

Because of the high risk of danger to the public and deputies when a bomb or other explosive device is suspected, the use of a canine team trained in explosive detection may be considered. When available, an explosive-detection canine team may be used in accordance with current law and under certain circumstances, including:

- (a) Assisting in the search of a building, structure, area, vehicle, or article where an actual or suspected explosive device has been reported or located.
- (b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).
- (c) Preventive searches at special events, VIP visits, official buildings, and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

At no time will an explosive-detection trained canine be used to render a suspected device safe or clear.

[See Procedures Manual: 308.6.2 Explosive Ordinance Detection \(EOD\) Canine Team Searches](#)

### **308.13 CROWD CONTROL**

The canine can be used to disperse crowds, however canine teams will not be used for crowd control at peaceful demonstrations. Prior authorization from a supervisor must be obtained prior to using a canine for a crowd control situation.

- (a) The canine will only be used to control a crowd when necessary to prevent death or injury to persons, or to prevent assaults on police officers.

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(b) In these situations, canine teams will:

1. Be short-leashed at all times.
2. Not initiate any offensive action, unless to guard against imminent loss of life or serious bodily injury.

### **308.14 CANINE INJURY AND MEDICAL CARE**

In the event that a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the canine coordinator or Watch Commander as soon as practicable and appropriately documented. In the event that the canine sustains an injury as a result of line-of-duty work, the canine handler will determine the ability of the canine to continue with the mission.

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained by the approved designated veterinarian for the county canines.

#### **308.14.1 DISPOSITION OF SERVICE CANINE**

If a canine becomes injured in the line of duty, becomes disabled and is unfit for duty, or grows too old to be fit for duty, the deputy to whom the canine is assigned may purchase the animal (ORC § 9.62).

If the assigned handler chooses not to purchase the animal, the disposition of the canine shall be conducted pursuant to Sheriff's Office or County policy, ordinance or state law.

[See Procedures Manual: 308.7.1 Canine Retirement Procedure](#)

### **308.15 STANDARDS**

Before assignment in the field, each canine team shall be trained and certified to meet current Ohio Peace Officer Training Commission (OPOTC)-recognized standards or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified to meet OPOTC-recognized standards or other recognized and approved certification standards established for their particular skills (OAC § 109:2-7-01 et seq.).

The canine coordinator, with the assistance of the HCSO Training Section, shall be responsible for scheduling periodic training for all Sheriff's Office members in order to familiarize them with how to conduct themselves in the presence of Sheriff's Office canines. Because canines may be exposed to dangerous substances such as opioids, as resources are available, the canine coordinator should also schedule periodic training for the canine handlers about the risks of exposure and treatment for it.

All canine training shall be conducted while on-duty unless otherwise approved by the canine coordinator.

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[See Procedures Manual: 308.8.1 Canine Team Basic Standards \(Dual Purpose\)](#)

[See Procedures Manual: 308.8.2 Canine Team Basic Standards \(Single Purpose\)](#)

### 308.15.1 MAINTENANCE TRAINING

Each canine team shall thereafter be recertified to a current nationally recognized standard or other recognized and approved certification standards on an annual basis (OAC § 109:2-7-05). Additional training considerations are as follows:

- (a) Canine teams should receive training with the Hamilton County Sheriff's Office canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.
- (c) To ensure that all training is consistent, no handler, trainer, or outside vendor is authorized to train to a standard that is not reviewed and approved by the Sheriff's Office.

[See Procedures Manual: 308.8.3 Training Outlines](#)

[See Procedures Manual: 308.8.4 Maintenance Training of Certified Canine Team](#)

[See Procedures Manual: 308.8.5 Attendance At Training Sessions](#)

[See Procedures Manual: 308.8.6 Annual Canine Recertification](#)

[See Procedures Manual: 308.8.7 SWAT/SRT Certification](#)

### 308.15.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved.

[See Procedures Manual: 308.8.8 Removal of Canine Team From Service](#)

### 308.15.3 TRAINING RECORDS

All canine training records shall be maintained online in the Pack Track K9 Training platform.

[See Procedures Manual: 308.8.9 Canine Training Documentation](#)

### 308.15.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Deputies possessing, using, or transporting controlled substances or explosives for canine training purposes must comply with federal and state requirements. Alternatively, the Hamilton County Sheriff's Office may work with outside trainers with the applicable licenses or permits.

### 308.15.5 CONTROLLED SUBSTANCE TRAINING AIDS

Deputies acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws and in compliance with applicable state requirements (21 USC § 823(g); ORC § 3719.14).

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The Sheriff or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the Hamilton County Sheriff's Office to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this Sheriff's Office for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Sheriff or the authorized designee may request narcotics training aids from the Drug Enforcement Administration (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

#### 308.15.6 CONTROLLED SUBSTANCE PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of the canine's accidental ingestion of these controlled substances, the following procedures shall be strictly followed:

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (b) The weight and test results shall be recorded and maintained by this Sheriff's Office. The Canine Coordinator or authorized designee shall be responsible for maintaining the training aid narcotics inventory list with the quantity/amounts and identification numbers of the training narcotics. A documented unannounced inventory of the canine training aid narcotics can be conducted at any time as ordered by the Sheriff with at least one occurring annually.
- (c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.
- (d) A quarterly audit shall be completed by the canine coordinator or their designee for each of the training aid narcotics by weighing and inspecting the package for damage. Documentation of the audit shall be maintained within the training aid narcotics log book. This audit will cover all aids within the narcotics locker/safe and in the canine handler's patrol vehicle.
- (e) All training aid narcotics and the training aid narcotics log book shall be securely stored within Hamilton County Sheriff's Office evidence locker within the Hamilton County Sheriff's Office Property Room or the Organized Crime Section (OCS) / Regional Narcotics Unit (RENU) property room evidence safe when not in use. A specified safe or locker with a lock will be assigned for these items. The combination and/or key to the locker shall be maintained and limited to the control of the Canine Coordinator(s) or his designee and the current narcotic canine handlers. The log is not to be removed from the area except by the Canine Commander or their designee.
- (f) All controlled substance training samples, when signed out by the individual handlers, will be stored in locked, airtight, and watertight cases at all times, except during training. The locked cases shall be secured in the trunk of the canine handler's

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assigned patrol vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.

- (g) At no time should the training aids be removed from the sealed bags or other training devices that they are secured in.
- (h) The handler shall document in the training aids narcotics log, the date the training aids were used and returned and the assigned inventory of the training aids when received and returned. The removal and return will be witnessed by the Canine Coordinator or authorized designee. Any loss, damage, or discrepancies to the training aid narcotics shall be documented within the training aid narcotics log.
  - 1. An interdepartmental memorandum shall be completed by the handler documenting all relevant information pertaining to the loss, damage or discrepancies including a picture of the damaged aid. This report shall be forwarded to the Canine Commander via the handler's chain of command. A copy of the Incident Report will be placed in the training aid narcotics log.
- (i) The canine coordinator shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.
- (j) Any unusable controlled substance training samples shall be returned to the Property Unit or to the dispensing agency.
- (k) All controlled substance training samples shall be returned to the dispensing agency upon demand by the dispensing agency.

[See Procedures Manual: 308.8.10 Logging Of Controlled Substance Training Aids](#)

[See Procedures Manual: 308.8.11 Training Aids Brought Into Jail or Correctional Facility](#)

[See Procedures Manual: 308.8.12 RENU Training Aids](#)

[See Procedures Manual: 308.8.13 Seized Narcotics Training Aid Conversion](#)

#### 308.15.7 EXPLOSIVE TRAINING AIDS

Deputies may possess, transport, store, or use explosives or destructive devices in compliance with state and federal laws (18 USC § 842; 27 CFR 555.41; ORC § 2923.17).

Explosive training aids designed specifically for canine teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids by canine teams is subject to the following:

- (a) The canine handler or designee is responsible for the maintenance, transportation, and handling of training amounts of explosives.
- (b) All explosive training aids and the training aids explosives log book, when not in use, shall be properly stored within the city of Cincinnati Fire Department bunker, which is alarmed and has an A.T.F. approved storage box when not in use. The log book is not to be removed from the area except by the Canine Coordinator or authorized designee.

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- (c) A documented unannounced inventory of the Canine training aid explosive can be conducted at any time as ordered by the Sheriff with at least one occurring annually.
- (d) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored. The Canine Coordinator or authorized designee shall be responsible for maintaining the training aid explosive inventory list with the quantity/ amounts.
- (e) Training aid explosives, when signed out by individual handlers, shall be secured in a locked box/safe bolted in the trunk of the handler's assigned vehicle.
- (f) The handler shall document in the training aids explosive log book, the date the training aids were used and returned and the weight/amount of the training aids when received and returned. The removal and return will be witnessed by the Canine Coordinator or authorized designee. Any loss, damage, or discrepancies to the training aid explosive shall be documented within the training aid explosive log book.
  - 1. An interdepartmental memorandum shall be completed by the handler documenting all relevant information pertaining to the loss, damage, or discrepancies including a picture of the damaged aid. This report shall be forwarded to the Canine Commander via the handler's chain of command. A copy of the interdepartmental memorandum will be placed in the training aid explosives log.
- (g) A quarterly audit shall be completed for each of the training aid explosives by weighing and inspecting the package for damage. Documentation of the audit shall be maintained within the explosive training aid log.
- (h) Only members of the explosives canine team shall have access to the explosive training aids storage facility.
- (i) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the canine trainer will be designated as the primary custodian while the canine handler or authorized second person on-scene will be designated as the secondary custodian.
- (j) Any lost or damaged explosive training aids shall be promptly reported to the canine coordinator, who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).
  - 1. The Canine Unit Commander or Coordinator shall periodically inspect every training aid explosive for damage or tampering. Any unusable training aid explosive shall be inspected and if need be, disposed of by H.D.U. members.
- (k) A documented unannounced inventory of the canine training aid explosive can be conducted at any time as ordered by the Sheriff.

[See Procedures Manual: 308.8.14 Logging of Explosive Training Aids](#)

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### 308.1 PURPOSE AND SCOPE

This procedure establishes guidelines for the use of canines to augment law enforcement services in the community including, but not limited to, locating individuals and contraband and apprehending criminal offenders.

### 308.2 HANDLER RESPONSIBILITIES

#### 308.2.1 RIDERS IN CANINE VEHICLE

Canine vehicles will be equipped with a divider screen that allows the handler to restrict the canine to the rear portion of the vehicle. The screen will be closed any time there are non-canine unit personnel riding in the vehicle. Whether the door is open or closed at other times is at the discretion of the handler.

#### 308.2.2 INJURY TO CANINE HANDLER

Should a canine handler become injured, the following precautions shall be taken by all on-site personnel:

- (a) Personnel shall not under any circumstances, approach the canine or attempt to render immediate first aid unless fatality could result.
- (b) Medical assistance for a fallen or injured canine handler will be immediately summoned.
- (c) An attempt shall be made:
  - 1. To get the handler to control the canine.
  - 2. To get another handler to remove the canine or control its actions if at all possible.
  - 3. To contact a member of the canine handler's family to control the canine.

### 308.3 HANDLER SELECTION

#### 308.3.1 HANDLER SELECTION PROCESS

The selection process may include but is not limited to the following tests:

- (a) File review
- (b) Questionnaire
- (c) Oral interview
- (d) Home interview/inspection
- (e) Consultation with the Prosecutors Office on candidates court testimony
- (f) Evaluations, attendance, disciplinary actions, and past evaluations
- (g) Familiarization with canines

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- (h) Familiarization with Ohio ORC and Federal Law
- (i) Familiarization with department Policy and Procedures

### 308.3.2 NEW HANDLER TRAINING (GO 508)

Upon assignment to the canine unit, handlers will receive formal instruction in the following topics. New handlers must complete the prescribed training and must successfully meet all course requirements.

- (a) Canine Unit policy and procedures, along with the HCSO Canine Training Syllabus and New Handler Course.
- (b) Canine care and nutrition
- (c) Care and use of Canine equipment
- (d) Documentation of training and deployment
- (e) Legal issues
- (f) Civil liability
- (g) Decoy/agitator familiarization
- (h) Apprehension techniques
- (i) Various types of searches

### 308.3.3 NEW HANDLER PROBATION

Upon initial assignment to the Canine Unit, the candidate will begin a one (1) year probationary period as a canine handler. During this time, the candidate will be required to successfully complete a basic training program.

Canine handlers must demonstrate proficiency after a period of six months. At the discretion of the Canine Unit Coordinator, the handler may receive remedial training. In the event a handler cannot adequately perform the requirements of the position and remedial training has failed to improve performance to an acceptable level, the handler will be transferred from the Canine Unit at the discretion of the respective Division Commander.

## 308.4 REQUESTS FOR CANINE TEAMS

### 308.4.1 GUIDELINES FOR DEPARTMENTAL PERSONNEL

Deputies working with a canine team should practice the following guidelines:

- (a) Keep noise and confusion to a minimum, as such activity can excite or distract the canine.
- (b) When a resident or any other person has a pet at the scene, the deputy shall tactfully request the pet owner to remove the pet completely from the scene.
- (c) Do Not follow or get close to a canine that is working unless specifically requested by the handler.

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- (d) Personnel shall pet a police canine only in the presence of, and with the permission of its handler.
- (e) Personnel shall not hug a police canine, or lean down close to the canine's head when petting the canine.
- (f) Under no circumstances will department personnel tease or harass a police canine.
- (g) Deputies will heed the directions of the canine handler when the canine team is involved in a specific problem and it is necessary for a handler to direct officers in a tactical situation.
- (h) Except in emergency circumstances or with prior approval of an assigned canine handler, personnel other than canine handlers shall not give commands to police canines.
- (i) Officers shall use common sense when working around canines. Any injury, resulting from horseplay or failure to follow procedures, shall be the sole responsibility of the officer involved.

### **308.5 APPREHENSION GUIDELINES**

#### **308.5.1 BUILDING SEARCHES**

When an incident occurs that suggests that a canine may be used for searching a building, responding deputies must be aware of the following: Generally when a building has been closed for the night, the odors in the building tend to dissipate. When a person enters the building or opens a door or window, this allows a draft or wind to enter, disturbing the suspect odor trail and spoiling the scene. When the on-scene deputy believes an unauthorized person is in a building, his responsibility is to secure the building, permitting no one to enter, and to call a Canine Team, which will enter and search the building.

- (a) When a building break-in has been determined, the deputy at the scene will request the use of Canine Teams.
- (b) The on-scene deputy will seal off the suspected area by all means possible, and request additional units to assist. The deputies at the scene will take particular care to not enter the building and/or the area.
- (c) When the Canine Team arrives, the deputy in charge will brief the team on the situation, paying particular attention to the location of exits, concealed areas, and movement. The Canine handler will advise the scene Supervisor (if on the scene), of the best deployment of his canine. The handler will make the final decision on the deployment of his canine.
- (d) A Deputy on the scene will be utilized by the K-9 handler as a cover officer. It is at the discretion of the K-9 handler to have a cover officer although it is strongly encouraged. The K-9 handler will also have discretion as to on-lead or off-lead use of the canine. The Canine handler will use utilize on-lead techniques in residential searches unless circumstances arise making the use of on-lead impractical or for officer safety.
- (e) The officers on the outside of the building will not enter the site while the team is working unless specifically asked by the Canine handler. They will secure all possible

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avenues of escape and eliminate as much noise as possible, in order not to distract the Canine Team.

- (f) If the suspect is apprehended by the Canine Team, the handler will request assistance from other officers if needed. All apprehended suspects will be turned over to an available on-scene deputy.

#### 308.5.2 FIELD SEARCHES

When the need for a Canine Team arises, the deputy will request their assistance.

- (a) Deputies, while waiting for the Canine Team, will take all precautions necessary to protect all evidence, making sure not to handle ANY materials which may be used by the Canine Team in the accomplishment of the search. Once handled, the evidence becomes contaminated with the scent of the person handling and may confuse the canine. The canine will pick up the freshest scent available.
- (b) Once the Canine Team arrives, the procedures as outlined in BUILDING SEARCHES will be followed.
- (c) In the event of a stolen or abandoned vehicle, the deputies will pay particular attention to remaining at least ten feet from the vehicle so as not to contaminate the area.

#### 308.5.3 TRACKING

When an incident occurs which suggests a Canine Team be used for tracking a suspect, the responding deputy shall make certain that no person enters the area used by the suspect to make his escape. Since the subject's odor will be predominant, the entire scene must be free of other contamination. If material has been dropped by the fleeing subject, such material and the surrounding area must remain unmolested, for the canine may secure the suspect's odor from such material. Backup units should not respond to the scene, but should, when possible, be positioned by the communications center on an appropriately sized perimeter of the incident so that the suspect cannot depart from the area.

Generally speaking, canines are capable of picking up a scent several hours after the suspect has departed if the scene has not been contaminated by another person. The weather has a definite effect on tracking ability. Humid, early morning periods, with no wind, offer ideal tracking conditions.

Canines are capable of picking up a scent of a suspect from a personal item the suspect dropped as long as 24 hours after the incident if the dropped article has not been contaminated or picked up by another person.

Wind of twenty miles per hour or more makes tracking more difficult, as does a heavy rain. Light rainfall frequently provides ideal tracking conditions. Crime scene security is paramount, and necessary officers should not congregate where Canine Teams are to be used.

#### 308.5.4 APPREHENSION GUIDELINES

Prior to initiating the search, the search team officers shall be briefed by the handler on the general search pattern and tactical plan. The information should include the following points:

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- (a) Whether the search is on or off-leash.
- (b) The handler will watch the canine.
- (c) The officers are there for handler protection to provide a tactical advantage when locating the suspect.
- (d) The officers are to stay with the handler.
- (e) The officers must follow the directions issued by the handler.
- (f) When the suspect is located, search team officers shall maintain an advantageous position and stand by until directed to take action by the handler. This reduces the chances for injury to all involved parties. Upon suspect compliance, or the K9s physical apprehension, the handler will direct officers to control the suspect and will regain positive control of the K9. .
- (g) Once a suspect is located and/or the canine handler has positive control of the K9, it is the search team officers' responsibility to take control of the suspect.
- (h) Should the suspect attempt to escape the search team officers should not give chase. The search team officers should follow the directions of the canine handler.
- (i) When searching areas where the canine will not likely be used, the canine shall be controlled on leash prior to entering those locations to prevent the canine's reaction to search team members when confronting a suspect. This procedure is designed to protect those involved in the search.
- (j) There are additional considerations in a search plan when the suspect is known to be armed:
  - 1. If there is any indication the suspect is possibly armed and isolated, tactical options for requesting the HCPA SWAT should be considered.

Canines may be used to search for (locate) and apprehend suspects under the following conditions:

- (a) The handler will make a reasonable effort to ensure that there are no innocent third parties in the area where the canine will be applied.
- (b) The handler will ensure that the three-part test of *Graham v Connor* has been met.
  - 1. The severity of the crime at issue
  - 2. Whether the suspect poses an immediate threat to the safety of the officers or others
  - 3. Whether he is actively resisting arrest or attempting to evade arrest by flight.
- (c) Prior to the deployment of the canine, the handler must have sufficient information based on sources such as radio transmissions, statements by victims, witnesses, and/or officers to establish as conclusive as possible that the suspect was involved in the crime.
- (d) Canine handlers will make a reasonable effort to locate suspects with minimum risk to Sheriff's Department employees, citizens, and to the suspect.

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- (e) A search may be conducted for misdemeanor suspect(s); lost or missing persons; suspicious persons; or, when in the opinion of the handler, it is in the best interest of the department and/or the community.
- (f) When a search is conducted for misdemeanor suspect(s) or felony suspect(s) who do not meet the three-part test of *Graham v. Connor* the following procedures will be followed:
  - 1. The police service dog will remain on-lead.
  - 2. The police service dog will not be released on a fleeing suspect.
  - 3. Once the suspect has been located the police service dog will be kept at a safe distance to prevent the police service dog from contacting the suspect(s). Officers assisting in the search will take the suspect into custody.
  - 4. The handler will avoid taking the police service dog into areas where the opportunity for a short lead injury is likely.
  - 5. When possible, another Canine Handler will accompany the primary handler during searches for misdemeanor suspect(s), or felony suspect(s) that do not meet the three-part test of *Graham v. Connor*.
  - 6. If at any time a handler is uncertain about conducting a search under these circumstances the on-duty supervisor will be contacted to discuss the details.
- (g) If the search canine gives a positive alert identifying a suspect's location, all members of the search team are to take positions of advantage.
  - 1. The handler shall call the canine back and gain physical control of the animal, if tactically sound and can be done safely.
  - 2. The handler will consider all reasonable response options available to them at the time.
  - 3. Tactical considerations may preclude recalling of the search canine until the search team members have taken positions of cover.
  - 4. Appropriate arrest and control tactics shall then be utilized to apprehend the suspect as safely as possible.

#### 308.5.5 WARNINGS/ANNOUNCEMENTS

- (a) A canine announcement shall be made before releasing a dog to search, make a physical apprehension, or while in such close proximity to a suspect that a canine use of force is likely.
- (b) Canine announcements are made to prevent innocent people from inadvertently being injured by the canine and to allow the suspect(s) additional opportunity to surrender.
- (c) A canine announcement is not necessary when the officer has specific and articulable facts that the officer can reasonably believe the suspect is armed or the announcement will present unnecessary danger to the officer or others.
  - 1. Announcements shall be made in a loud and clear manner.

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2. Officers shall wait sufficient time to ensure that anyone within the search area has ample opportunity to comply with instructions.
3. Officers should make additional canine announcements as they progress through a search, especially when entering new or separated areas where prior announcements may not have been heard.

#### 308.5.6 DOCUMENTING CANINE DEPLOYMENT

Canine handlers will document all canine deployments and will enter all canine deployments online in the Pack Track K9 Training platform.

- (a) Canine Deployment: Any time the police canine is requested or dispatched for any legitimate law enforcement purpose.
  1. Breaking the dog, participating in training, or using the dog in a demonstration would not be considered a deployment since those activities are not "enforcement" related..
- (b) All deployments should be entered into the online in the Pack Track K9 Training platform within 5 days.
  1. If a deployment is not entered within the 5-day period, the Handler will notify the Canine Coordinator.

#### 308.5.7 SUPERVISOR INVESTIGATION OF CANINE USE OF FORCE OR ALLEGED INJURY

- (a) The supervisor shall respond to the scene and conduct an interview with the injured prisoner.
- (b) The Response to Resistance Report will be attached to the canine officer's Pack Track deployment report and the packet forwarded through the chain of command.
- (c) The on-scene supervisor will make the necessary notification through the chain of command.
- (d) Supervisors will ensure that photographs are taken of all injuries sustained by the suspect. In some cases, photographs of the scene may be of benefit to help clarify the investigation along with BWC and MVR evidence. This evidence will be preserved in Axon Evidence.com and Axon Standards.

#### 308.5.8 DOCUMENTING AN UNINTENTIONAL CANINE BITE OR INJURY

- (a) The handler has responsibility for the canine and its actions. The handler will exercise control over his/her dog at all times. All accidental canine-caused injuries will be thoroughly reviewed with emphasis on preventing additional accidents.
- (b) Incidents will be reviewed by the Canine Unit Commander and the canine coordinator.
- (c) In the event of an accidental canine-inflicted injury, excluding minor training-related incidents, canine officers will complete a memorandum documenting the incident. A RMS Aided Case will also be written if the injured person is not a sworn officer.

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1. A supervisor will investigate the accidental bite. The Canine Unit Commander will be advised of the date the incident occurred.
  - (a) Medical treatment shall be provided, if necessary.
2. If the bite victim is a county employee, the on-duty supervisor will ensure that an 'injured on duty' report is completed.
- (d) In the event of an accidental canine-inflicted injury during training, an on-duty supervisor will be notified immediately.
  1. The on-duty supervisor will determine if the extent of the injury requires any further action.
  2. The Canine Unit Commander will be notified of all canine-related injuries.

### **308.6 NON-APPREHENSION GUIDELINES**

#### **308.6.1 NARCOTICS CANINE TEAM SEARCHES**

When the need for a canine team has been determined, prior approval from a supervisor need not be obtained unless extenuating circumstances exist, or the request has been made by an outside agency.

- (a) The canine team can be used to effectively search the exterior of any type of motor vehicle under the following circumstances:
  1. Search warrant
  2. Inventory searches
  3. Searches incidental to arrest
  4. Any other lawful searches including the vehicle exclusionary rule.
- (b) The canine team can be used effectively in performing searches of buildings when probable cause is established and a search warrant can be obtained, or prior consent has been legally obtained.
- (c) Under no circumstances will a canine search for drugs be performed on a person due to the Supreme Court rulings against same.
- (d) Under limited circumstances, the canine can be used to search an open area for drugs. This may present a risk to the canine, so the decision rests solely with the handler. When a canine locates drugs, they could attempt to ingest them, which could be fatal to the canine, therefore officers should assist the handler in removing any drugs that are in plain view, and visible. The officer requesting a canine to do a drug search should limit his search for any drugs to areas open to plain view.
- (e) It will be the officer's responsibility to check an area where the canine has indicated the presence of drugs.
- (f) During the search, the officer shall stay away from the canine and maintain scene security of the area.

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- (g) The handler will control the search and will direct the requesting officer to assist, if needed.
- (h) The requirements for the search must follow department policy and must comply with state and federal Law.

#### 308.6.2 EXPLOSIVE ORDINANCE DETECTION (EOD) CANINE TEAM SEARCHES

- (a) Before contacting an Explosive Ordinance Detection canine team, the supervisor should determine:
  - 1. Contact person at the scene.
  - 2. Type of possible explosive (if known)
  - 3. Time of search or threat
  - 4. Time of detonation
  - 5. Presence of possible hazards and distractions
  - 6. Contact the Hazard Device Unit Commander for evaluation.
- (b) The handler will assist the on-scene supervisor for the best tactical deployment of the Explosive Ordinance Detection team.
  - 1. The Explosive Ordinance Detection canine handler will determine the method of deployment and duration of the deployment.
  - 2. Areas should be secured and all unnecessary personnel removed until the area is searched by the canine team. Someone familiar with the area must be provided for assistance when requested and the canine handler will pick such a person. No one may touch or in any way disturb the Explosive Ordinance Detection canine team without the permission of the handler.
  - 3. The Explosive Ordinance Detection canine handler will handle all search assignments in the manner they decide upon and consistent with the current training, instruction, and previous experience. The final decision to use or how to use the Explosive Ordinance Detection canine remains with the handler.
  - 4. If an Explosive Ordinance Detection canine gives a positive indication or shows significant interest in an area, the handler will notify the on-scene supervisor and provide information as to the area of interest. Explosive Ordinance Detection canine handler may suspend a search until the area is cleared by a certified explosive technician.
  - 5. Searches for explosives should be coordinated with a certified explosive technician whenever possible. Explosive Ordinance Detection canine teams are neither equipped for nor are they as effective for searching suspicious and/or isolated items. The handler will provide as much assistance as possible, but are only one tool in these situations.
  - 6. Explosive Ordinance Detection canine team will not touch or attempt to disarm a suspected device, assist with removal or render safe any suspected devices, or provide an opinion as to the safety of an area after a search is complete since

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(a) there are ways to contain or mask odors, and (b) explosive devices can be made from non-explosive ingredients.

7. Explosive Ordinance Detection canine handler may suspend or terminate a search any time the search is unsafe or is not of any benefit.

### **308.7 CANINE INJURY AND MEDICAL CARE**

#### **308.7.1 CANINE RETIREMENT PROCEDURE**

The retirement of a canine will be based on the canine's health, his ability to perform and the canine's age. The final decision on all retirements will be made by the Sheriff or authorized designee.

Canines may be medically retired on the recommendation of the Department's contract veterinarian.

### **308.8 STANDARDS**

#### **308.8.1 CANINE TEAM BASIC STANDARDS (DUAL PURPOSE)**

In conjunction with the above-mentioned topics, new canine teams will receive daily training in obedience, building search, area search, criminal apprehension, tracking, article search, and temperament. The minimum requirement of new canine teams is to meet all of the listed standards. Once they have met the listed standards canine teams will be authorized to work the streets.

- (a) Canine teams will be tested by a State Of Ohio Certified Canine Evaluator to insure compliance in the State of Ohio Certification for Patrol-Related Canines and Special Purpose Canines. Performance of these standards will be witnessed by a member of the Canine Unit .
- (b) Canine teams must successfully pass all of the events. :
  1. Criminal Apprehension
  2. Canine Control
  3. Canine Searches
  4. Narcotics or Explosive Detection
  5. Article Searches
  6. Tracking

#### **308.8.2 CANINE TEAM BASIC STANDARDS (SINGLE PURPOSE)**

In conjunction with the above-mentioned topics, new canine teams will receive daily training in obedience, narcotics detection or explosive detection, and temperament. The minimum requirement of new canine teams is to meet all of the listed standards. Once they have met the listed standards canine teams will be authorized to work the streets.

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- (a) Canine teams will be tested by a State Of Ohio Certified Canine Evaluator to insure compliance in the State of Ohio Certification for Special Purpose Canines. Performance of these standards will be witnessed by a member of the Canine Unit.
- (b) Canine teams must successfully pass all narcotics detection or explosive detection events. :

#### 308.8.3 TRAINING OUTLINES

Training will be conducted from current training outlines approved by the Canine Commander or designee and maintained by the Canine Coordinator(s). Training outlines will be reviewed and updated by July 1 of each year by the Canine Coordinator(s).

#### 308.8.4 MAINTENANCE TRAINING OF CERTIFIED CANINE TEAM

Ongoing maintenance training is necessary to ensure that canine teams continue to meet department standards and is crucial to the effectiveness of the canine unit by ensuring the readiness of the handler and his/her dog.

- (a) All unit training will be conducted while on duty.
- (b) The standards for minimum hours of documented training are as follows:
  - 1. 12 hours a month for single purpose K9s
  - 2. 16 hours a month for dual purpose K9s.
- (c) The unit will strive to conduct training for Police Service Dogs as follows:
  - 1. Complete monthly unit training as directed by the Canine Coordinator.
  - 2. Individual daily training should consist of an average of twenty to thirty minutes per workday.
- (d) Canine teams (the Handler and Police Service Dog) will be continuously evaluated for proper performance.

At any time a canine team can be evaluated and/or removed from street duty for training at the request of the Canine Commander or designee. This may be necessary to correct deficiencies in any of the above standards.

#### 308.8.5 ATTENDANCE AT TRAINING SESSIONS

Canine handlers will attend all training sessions as directed by the canine unit coordinator(s).

- (a) Any deviation from the required training hours will require the approval of the Canine Coordinator.
- (b) It is the canine handler's responsibility to attend or obtain the number of training hours required by the Canine Commander for their assigned canine.
- (c) Handlers must obtain supervisory approval, in advance, to be excused from training.
- (d) Handlers requesting time off on a training day, must at the time of the request, advise their canine coordinator that a training session will be missed.

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- (e) Additional time will be allocated during each training session to address specific problems encountered in canine teams.

#### 308.8.6 ANNUAL CANINE RECERTIFICATION

On an annual basis, each canine team will be evaluated and certified by an OPOTC Certified Canine Evaluator.

- (a) The evaluation will be based upon OPOTC Standards for Special Purpose and Patrol Related Canine Evaluation.
- (b) New Canine teams must pass the OPOTC certification test within 30 days after completing basic canine training.
- (c) All dual-purpose canine teams will be required to pass OPOTC certification. If a canine team fails to pass the certification test on the first attempt the decision to remove the canine team from the street will be at the discretion of the Canine Unit Commander, with input from the canine coordinator.
  - 1. The area of the certification failed along with the dog's previous performance and the training records of the team will be used in making the decision.
  - 2. In all cases a remedial training program will be set up by the canine coordinator that will include a minimum of eight hours of remedial training in the failed exercise.
  - 3. After a period of not less than five days, the team will be re-tested by an OPOTC evaluator.
    - (a) Upon failing certification a second time, the team will be removed from the street.
    - (b) The team will again receive customized remedial training from the canine coordinator for not less than five days in the failed exercise prior to re-testing.
  - 4. If a team is unable to pass the certification test after the third time, the team's status will be evaluated by the Canine Unit Commander and the Enforcement Division Commander.
- (d) All single-purpose narcotic and explosive detector dogs will certify through OPOTC on an annual basis. Each team **MUST** pass certification to continue working in a detector team capacity.
  - 1. If a team fails to certify, the canine coordinator will set up remedial training for the team and address any deficiencies. The team may resume working in a detector team capacity only after passing certification through OPOTC.
- (e) Any canine team that lets their OPOTC certification expire will be removed from the street until that canine team passes certification. The canine handler will be required to submit a letter to the Canine Unit Commander explaining why the certification lapsed.

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### 308.8.7 SWAT/SRT CERTIFICATION

If a canine and handler are SWAT/SRT members, a canine may be deployed with SWAT/SRT. A structured course of instruction in SWAT/CANINE deployment must be completed prior to deployment, as well as undergoing quarterly training with SWAT/SRT.

### 308.8.8 REMOVAL OF CANINE TEAM FROM SERVICE

In the event that remedial training by the canine coordinator fails to correct deficiencies rendering the canine unable to meet the Hamilton County Sheriff's Office standards or OPOTC standards, de-certification procedures will be initiated.

- (a) The Canine Coordinator should provide all training documentation, failed test documentation, and a written recommendation to the Canine Commander. Support documentation will be forwarded to the Enforcement Division Commander, who will make the final decision as to whether or not the canine should be retained in the Unit.
- (b) If the canine is to be removed from the Unit, procedures outlined in "Retirement of Police Service Dogs", will be followed or the dog may be returned to the vendor based on the workability warranty.
- (c) In the event a canine handler is experiencing performance-related problems rendering him/her unable to pass the OPOTC certification, a review of the handler's performance will be conducted by the Canine Coordinator.
  - 1. If, after a reasonable attempt to correct the performance deficiency with remedial training the handler is still unable to pass certification, the handler and/or dog will be removed from the unit.

### 308.8.9 CANINE TRAINING DOCUMENTATION

- (a) All training will be entered online in the Pack Track K9 Training platform within five days.
  - 1. If a handler is unable to enter the training within five days, they will notify the Canine Coordinator.
- (b) Daily maintenance training, depending upon the exercise, can often be conducted without the aid of another officer or a decoy. Impromptu maintenance training sessions are normally 20 to 30 minutes in duration. Any training deficiencies, corrective actions, injuries, or unusual occurrences will be noted.
  - 1. Daily maintenance training is separate from weekly training, which is a planned and structured event.
- (c) Monthly training is conducted under the direction of a Canine Coordinator, who will set the specific time requirements.
  - 1. The entire squad and or unit will attend and participate.
- (d) Monthly training is more formal than daily training in that it follows a structured scenario previously determined by the Canine Coordinator.

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1. The Canine Coordinator will document deficiencies, corrective actions, injuries or unusual occurrences. These deficiencies will be addressed with remedial daily training until the problem is corrected.

#### 308.8.10 LOGGING OF CONTROLLED SUBSTANCE TRAINING AIDS

When removing or returning training aids from a safe/property room, the following will occur:

- (a) Canine Coordinator or their designee and handler will sign the Narcotic Training Log
  1. Individual handlers will be issued no more than 5 grams of each controlled substance their canine is imprinted to detect.
  2. Canine Coordinator or their designee/Canine Handler will enter the following into the log:
    - (a) Date and time removed/returned from locker/safe.
    - (b) Weight of training aid narcotic when removed/returned.
    - (c) Canine Coordinator or their designee and Handler will inspect all aids for damage or leakage before removing/returning the aids. If there is any damage, it will be noted in the log.

#### 308.8.11 TRAINING AIDS BROUGHT INTO JAIL OR CORRECTIONAL FACILITY

- (a) Notification will be made to the Corrections/ Division Commander/designee that Narcotic Training Aids are being brought into the facility.
- (b) Handler will notify and make contact with a Corrections Supervisor.
- (c) Handler will have the Correction Supervisor verify the training aids that are brought into the facility by weight and packaging.
- (d) Handler will document in the Pack Track reporting system what type of training aid(s), date, time, amount, and signature coming into the facility.
- (e) Training Aid(s) in the facility will be the Handler's responsibility to ensure the security and safety of that Training Aid(s).
- (f) Handler will document in the Pack Track reporting system what type of training aid(s), date, time, amount and signature are exiting the facility.

#### 308.8.12 RENU TRAINING AIDS

- (a) RENU Canine Training Aids will be kept in a locked safe within the RENU office.
- (b) Training aid narcotic log
  1. The Training Aid Narcotic Log is to be kept in the secure area with the training aids. The log book is not to be removed from the area except by the Canine Coordinator or their designee.

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#### 308.8.13 SEIZED NARCOTICS TRAINING AID CONVERSION

All seized narcotics/controlled substances by the Hamilton County Sheriff's Office for criminal cases that have cleared all court proceedings may be used for canine detection training when the following occurs:

- (a) The substance has been tested by a certified lab and found to be a true known controlled substance.
- (b) Have documentation from the certified lab of the controlled substance.
- (c) Obtain a court order from the courts that released the narcotics/controlled substance for canine detection training. A copy of the Court Order will be maintained in the narcotic training aid log.
- (d) When the time comes to destroy the narcotics/controlled substance, the Court order will be returned to the issuing court along with the Inspection Team report on the substance's weight and how it was packaged. A copy of the return Court Order and documentation of the narcotics/controlled substance being destroyed will be maintained in the narcotics training log book.

#### 308.8.14 LOGGING OF EXPLOSIVE TRAINING AIDS

When removing or returning training aids from the Cincinnati Fire Department bunker:

- (a) Canine Coordinator or their designee and handler will sign the Explosive Training Log
- (b) Canine Coordinator or their designee/Canine Handler will enter the following into the log:
  - 1. Date and time removed/returned from locker/safe.
  - 2. Weight of training aid explosive when removed/returned.
  - 3. Canine Coordinator or their designee and Handler will inspect all aids for damage or leakage before removing/returning the aids. If there is any damage, it will be noted in the log, and procedure followed for damaged aids.

# Exhibit B



# Hamilton County Sheriff's Office

## CALL RECORD REPORT

### Call Detail

|                       |                 |                    |                  |
|-----------------------|-----------------|--------------------|------------------|
| Call Number           | CINC-0416231267 | Received Date/Time | 04/17/2023 02:28 |
| Call Nature           | Traffic Stop    | Incident Number    |                  |
| FI Number             |                 | IR Number          |                  |
| CR Number             |                 | Citation Number    |                  |
| Vacation Watch Number |                 |                    |                  |

### Call Location

|                        |            |                |                          |
|------------------------|------------|----------------|--------------------------|
| Organization Name      |            | Street Address | Kennedy Av / Woodford Rd |
| Apt #/Street Address 2 |            | City           | CINCINNATI               |
| State                  | OH         | Zip            | 45213                    |
| Latitude               | 39.179891  | Longitude      | -84.414569               |
| Geocode 1              | CINCINNATI | Geocode 2      | 4B No Recommend          |

### Caller/Involved Parties Information

|                  |        |                        |  |
|------------------|--------|------------------------|--|
| 1 - ,            |        |                        |  |
| Person Type      | Caller | Last Name              |  |
| First Name       |        | Middle Name            |  |
| Sex              |        | Race                   |  |
| Street Address   |        | Apt #/Street Address 2 |  |
| City             |        | State                  |  |
| Zip              |        | Phone                  |  |
| Additional Phone |        |                        |  |





# Hamilton County Sheriff's Office

## CALL RECORD REPORT

### Call Narrative

04/16/2023 23:14:286D134TT [1] ,SILV HYUN ELANTRA  
 04/16/2023 23:14:476D134TT [2] 9J32 UNREADABLE TEMP TAG  
 04/16/2023 23:15:246D134TT [3] [Query] 9J32, BOLO: Q531253,OH  
 04/16/2023 23:15:246D134TT [4] [Query] 9J32, RCIC VEHICLE: Q531253,OH,PC  
 04/16/2023 23:24:046D134TT [5] Backed up 9J32 with 9S34  
 04/16/2023 23:29:306D134TT [6] 9J32 ONE UNDER ARREST  
 04/16/2023 23:35:366D134TT [7] 9J32 REQ ADTL UNIT - NO TRBL  
 04/16/2023 23:35:416D134TT [8] Backed up 9J32 with 9F31  
 04/16/2023 23:35:496D134TT [9] 9J32 ONE ADDTL FEM DETAINED  
 04/16/2023 23:52:036D134TT [10] Backed up 9F31 with 9F32  
 04/17/2023 00:01:476D134TT [11] Secondary Location for 9F31: HCSO DISTRICT 4, 6943  
 MONTGOMERY RD,SILVERTON, OH 45236.  
 04/17/2023 00:01:476D134TT [12] 9F31 ,W/1 FEM SM 42834  
 04/17/2023 00:02:186D134TT [13] Secondary Location for 9J32: HCSO DISTRICT 4, 6943  
 MONTGOMERY RD,SILVERTON, OH 45236.  
 04/17/2023 00:02:196D134TT [14] 9J32 W/1 MALE  
 04/17/2023 00:04:316D155KM [15] [Query] 9F32, BOLO: Q5312353,OH  
 04/17/2023 00:04:316D155KM [16] [Query] 9F32, RCIC VEHICLE: Q5312353,OH,PC  
 04/17/2023 00:05:186D134TT [17] 9F31 9F31 EM 42835  
 04/17/2023 00:05:186D155KM [18] [Query] 9F32, BOLO: Q5312353,OH  
 04/17/2023 00:05:186D155KM [19] [Query] 9F32, RCIC VEHICLE: Q5312353,OH,PC  
 04/17/2023 00:06:136D155KM [20] [Query] 9F32, BOLO: Q531253,OH  
 04/17/2023 00:06:136D155KM [21] [Query] 9F32, RCIC VEHICLE: Q531253,OH,PC  
 04/17/2023 00:07:426D155KM [22] [Rotation Request Comment] PD REQ-ARREST- ALL WHEEL UP -  
 GRAYS RESPONDING FOR THE HYUNDAI  
 04/17/2023 00:28:056D134TT [23] Secondary Location for 9J31: HCSO DISTRICT 4, 6943  
 MONTGOMERY RD,SILVERTON,OH 45236  
 04/17/2023 00:28:066D134TT [24] Backed up 9F31 with 9J31  
 04/17/2023 01:31:396D134TT [25] Secondary Location for 9J32: CRIMINAL JUSTICE CENTER, 1000  
 SYCAMORE ST,CINCINNATI, OH 45202.  
 04/17/2023 01:31:396D134TT [26] 9J32 W/1  
 04/17/2023 01:31:596D134TT [27] Secondary Location for 9F31: CRIMINAL JUSTICE CENTER, 1000  
 SYCAMORE ST,CINCINNATI, OH 45202.  
 04/17/2023 01:31:596D134TT [28] 9F31 W/1 FEM SM 42835  
 04/17/2023 01:43:366D134TT [29] 9F31 9F31 EM 42845

### Call Disposition

|                     |                  |                       |                  |
|---------------------|------------------|-----------------------|------------------|
| Dispatch Date/Time  | 04/16/2023 23:14 | Arrival Date/Time     | 04/16/2023 23:14 |
| Clearance Date/Time | 04/17/2023 02:28 | Disposition Date/Time |                  |
| Call Received By    |                  | Call Status           | AV - Available   |
| Call Completed      | Yes              | Completed Date/Time   |                  |

### Officers

| S.No | Badge Number - Name     | Primary Officer |
|------|-------------------------|-----------------|
| 1    | 1489 - Staggs, Jonathan | Yes             |

