

Presentation of Canine Detection Evidence in Court

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Presentation of Canine Detection Evidence in Court

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Foreword

Typically, canines are utilized by local, state and federal agencies nationwide for a variety of purposes in criminal investigations, from tracking, trailing, and human scent discrimination, to substance detection. Such evidence may be admissible in court.

This technical report provides general information and guidance for handlers, experts, and/or legal community about preparing for and testifying in legal proceedings.

This technical report is not:

- a substitute for the specific rules/laws that govern the admission of opinion evidence and expert testimony in a particular jurisdiction;
- a substitute for pretrial consultations with the sponsoring attorney;
- a substitute for the obligations of the sponsoring attorney with respect to evidence presentation and pretrial disclosures to opposing counsel;
- intended to promote advocacy on the part of witnesses.

Instead this report is intended to guide non-attorney witnesses on strategies for providing accurate, clear, transparent and truthful testimony.

This technical report addresses some legal issues and minimum legal standards relating to each topic. Forensic Service Providers (FSP) have additional procedures and policies related to or that supplement the topics listed in this technical report (e.g., maintaining training logs, disclosure policies for corrective actions).

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This document was revised, prepared, and finalized as a technical report by the Dogs and Sensors Consensus Body of the AAFS Standards Board. The draft of this technical report was developed by the Dogs and Sensors Subcommittee of the Organization of Scientific Area Committees (OSAC) for Forensic Science.

Questions, comments, and suggestions for the improvement of this document can be sent to AAFS-ASB Secretariat, asb@aafs.org or 410 N 21st Street, Colorado Springs, CO 80904.

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Key Words: *Expert witness, courtroom, testimony, admissibility, reliability, evidence.*

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1 Presentation of Canine Detection Evidence in Court

2 **1 Scope**

3 This technical report provides information and guidance pertaining to presenting canine detection
4 evidence in legal proceedings. It includes an overview of issues to consider and a resource of
5 relevant case law to assist the lawyer and the expert witness (e.g., canine handler, scientist) in the
6 presentation of evidence in legal proceedings

7 **2 Normative References**

8 There are no normative reference documents, Annex B, Bibliography, contains informative
9 references.

10 **3 Terms and Definitions**

11 For purposes of this document, the following terms and definitions apply.

12 **3.1**

13 **odor**

14 Through the olfaction process, the perception of chemicals emitting/ed from a substance.

15 NOTE 1 “Odor” has traditionally referred to canine detection of a substance. “Scent” has traditionally referred
16 to canine detection of live humans (see **3.3 scent**).

17 NOTE 2 As an example, when a person encounters ethyl acetate and/or isoamyl acetate, they will perceive
18 the odor of banana.

19 **3.2**

20 **reliability**

21 The extent to which (1) a measurement is repeatable and consistent; (2) there is a low probability
22 of the canine alerting to anything other than a target odor/scent and a high probability of the
23 canine alerting to a target odor/scent.

24 NOTE consistency: measure of the conformity of a stimulus and response.

25 **3.3**

26 **scent**

27 Through the olfaction process, the perception of chemicals emitting/ed from a live human.

28 NOTE “Scent” has traditionally referred to canine detection of live humans. “Odor” has traditionally
29 referred to canine detection of a substance (see **3.1 odor**).

30 **3.4**

31 **scent discrimination**

32 Ability of the canine to use olfactory capabilities to differentiate one scent from another.

33 **3.5**

34 **substance detection**

35 Recognition and response to trained target odor.

36 3.6**37 tracking**

38 The propensity or learned ability of a canine to follow odor/scent on the ground (human/ground
39 disturbance) by working the canine close to the pathway.

40 NOTE Canines are not typically pre-scented on an object.

41 3.7**42 trailing**

43 The propensity or learned ability of a canine to follow the target scent.

44 NOTE 1 The canine may follow a scent plume which can either be airborne or settled on the
45 ground/vegetation.

46 NOTE 2 The canine will use whatever technique to get them to the target most efficiently. NOTE 3 Canines
47 are typically pre-scented on an object.

48 3.8**49 veterinary records**

50 Show a standard of care for the canine to include vaccinations, regular wellness visits, and prompt
51 veterinary attention for illness or injury.

52 NOTE Veterinary records include the demographic of the canine (e.g., age, breed, name, chip information)
53 and the veterinary provider's name, address, and dates of service or treatments.

54 4 Admissibility**55 4.1 General**

56 The decision of whether to permit opinion testimony and the scope of the opinion testimony is
57 made by the judge pursuant to the legal rules of the jurisdiction and in consideration of the facts of
58 the specific case. Once the court has ruled on admissibility the witness adheres to the court's
59 instructions, if any, on limitations or scope.

60 Discovery requirements vary across jurisdictions. Therefore, it is the responsibility of the canine
61 handler to consult the sponsoring agency/organization or attorney as to the scope and content of
62 materials released which may include the documentation in 4.2.

63 4.2 Documentation**64 4.2.1 General**

65 Complete and organized documentation provides sufficient detail to permit an independent
66 evaluation of the canine team. The following documentation, typically requested by the sponsoring
67 agency/organization or attorney, is included in the discipline specific ASB standards listed in the
68 Bibliography (Annex B):

69 a) initial training records;

70 b) maintenance records;

- 71 c) assessments records;
- 72 d) certification documentation (i.e., certificates, score sheets);
- 73 e) operational records;
- 74 f) veterinary records; and
- 75 g) relevant video (see 4.2.2) and/or audio
- 76 h) “Brady” material (see 4.2.3).

77 **4.2.2 Video**

78 **4.2.2.1 General**

79 Organization policies and procedures provide handlers with specific guidance on video.

80 **4.2.2.2 Use on deployment**

81 Handlers and their canines may be captured on video during deployment. Depending on the
82 discipline, video with or without audio recording of sniffs or searches may include body worn
83 cameras, dash cameras, or bystander recording on phones.

84 **4.2.2.3 Use in training**

85 Video can help trainers and handlers identify issues, develop solutions, and observe behaviors
86 around target scents or odor. State law may provide guidance on video retention requirements.

87 **4.2.3 The “Brady” Rule**

88 **4.2.3.1** The “Brady” rule requires the prosecutor in a criminal case to disclose certain exculpatory
89 evidence to the defendant before trial.

90 In *Brady v. Maryland*, 373 U.S. 83 (1963), the Supreme Court held that “the suppression by the
91 prosecution of evidence favorable to an accused ... violates due process where the evidence is
92 material either to guilt or to punishment, irrespective of the good faith or bad faith of the
93 prosecution.” *Id.* at 87. “Favorable” evidence includes both impeachment and affirmatively
94 exculpatory evidence. A Brady violation may lead to adverse court rulings.

95 **4.2.3.2** The decision about disclosing information and documents to the other party is a decision
96 for the attorney presenting the evidence. An informed decision, however, requires that the canine
97 handler err on the side of providing the information and documentation to the presenting attorney.

98 **4.3 Additional Policies and Procedures**

99 Each agency or organization may have applicable policies and procedures in place that each handler
100 must follow.

101 4.4 Summary

102 The canine handler, department, or organization maintains training and certification records for
103 the canine team. All requested documentation relating to the canine team's performance is
104 provided to the sponsoring attorney (i.e., the attorney presenting the witness).

105 5 Preparing for Testimony

106 5.1 The canine handler or expert witness can expect to meet with the sponsoring attorney before
107 they testify to discuss the training and experience of the canine team or expert, the circumstances
108 of the case, the team's participation in the case and the canine handler or expert's opinion. The
109 canine handler or expert can expect to discuss at length not only the canine's training and
110 experience, but also his or her own training, education and experience, both in the classroom and in
111 the field.

112 5.2 It is not unusual to encounter attorneys who have little to no experience in the area of canine
113 related evidence. Pretrial conferences are important to educate the sponsoring attorney about the
114 specifics of the canine related evidence.

115 5.3 The sponsoring attorney can provide the canine handler with guidance on: courtroom attire
116 and decorum, how to address the attorneys and the judge, how to seek guidance during questioning
117 (e.g., if they don't understand a question, if they did not hear a question, if they do not know the
118 answer), strategies for providing accurate, clear, transparent and truthful testimony on direct and
119 cross examination, how to handle interactions with jurors or other attorneys before, during and
120 after testifying.

121 6 Qualifying as an Expert Witness

122 6.1 Whether the witness is qualified to testify to the opinion evidence is a determination made by
123 the judge based on the background and qualifications of the specific witness.

124 6.2 Experts draw from a broad mix of education, training, and experience. Acceptable technical
125 qualifications allow the expert to testify in the form of an opinion within the scope of their
126 expertise, as determined by the judge.

127 6.3 Potential qualifications for an expert witness may include:

- 128 a) specialized knowledge or skill;
- 129 b) existing degrees;
- 130 c) honors;
- 131 d) licenses;
- 132 e) practical training;
- 133 f) years of experience;
- 134 g) relevant teaching and writing of publications;

- 135 h) professional internships or apprenticeships; and
 136 i) relevant professional activities and membership in associations.

137 **6.4** Per Federal Rules of Evidence 702, which is jurisdictionally specific, “a witness who is
 138 qualified as an expert by knowledge, skill, experience, training, or education may testify in the form
 139 of an opinion or otherwise if the proponent demonstrates to the court that it is more likely than not
 140 that:

- 141 a) the expert's scientific, technical, or other specialized knowledge will help the trier of fact (jury
 142 or judge) to understand the evidence or to determine a fact in issue;
 143 b) the testimony is based on sufficient facts or data;
 144 c) the testimony is the product of reliable principles and methods; and
 145 d) the expert’s opinion reflects a reliable application of the principles and methods to the facts of
 146 the case.”^a

147 **7 Preparing for Testimony in Court**

148 **7.1** The witness is encouraged to reach out to the sponsoring attorney, to discuss what
 149 documents they have provided, what other documents may exist and what they generally contain.

150 **7.2** The witness is encouraged to request a pre-trial conference to detail their experience, the
 151 limit(s) of their expertise, the method(s) employed, limitation(s) of the method employed, their
 152 opinion(s), the basis(es) for their opinion(s), and the anticipated examination of the witness.

153 **7.3** The witness is encouraged to:

- 154 a) be thoroughly familiar with the canine-related records in the possession of the attorney
 155 handling the matter;
 156 b) conduct a detailed review of the records associated with the canine’s participation in the case;
 157 c) be prepared to render an opinion about the canine team's ability to accurately and reliably
 158 complete the task assigned under the circumstances of the case and the basis (e.g., training
 159 records, test results) for such opinion;
 160 d) consider in consultation with the sponsoring attorney preparing visual aids to illustrate specific
 161 topics (e.g., diagram of a track or trail)
 162 e) handler review of videos from deployment prior to their testimony helps prepare them to
 163 answer questions regarding agreement with reporting, operational environment, handling of
 164 the canine, performance of the handler and canine, path of travel, and outcome of the sniff.

^a Cornell Law School, Legal Information Institute, *Rule 702. Testimony by Expert Witnesses*.
https://www.law.cornell.edu/rules/fre/rule_702 (last accessed 5/13/2026)

165 **8 Courtroom Decorum**

166 When testifying, every witness swears an oath to tell the truth. The truth requires accurate, clear,
167 transparent and complete information. Thus, it is important to:

- 168 a) listen carefully to the question being asked;
- 169 b) answer only the question being asked;
- 170 c) direct answers to the trier of fact;
- 171 d) avoid technical jargon and acronyms unless providing a clear explanation of what the term
172 means;
- 173 e) articulate your responses so the trial participants can hear and consider your answers:
- 174 f) avoid references to the scientific literature unless familiar with the specifics of the study; and
- 175 g) avoid expressing opinions outside of your expertise.

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178

Annex A (informative)

179

Legal Terms and Definitions

180 The legal definitions that are listed in this section may not be used in this document but are defined
181 for knowledge in the legal context. For each definition provided, there are likely jurisdictional
182 variations. Whenever a legal term is used, it is the responsibility of the FSP to request the
183 sponsoring attorney clarify the meaning and any of the procedures related to the term as they
184 might apply to the FSP.

185 **A.1**
186 **admonished witness**

187 A witness that has been given specific directions by a judge regarding the testimony.

188 **A.2**
189 **affidavit**

190 A written statement of facts confirmed by the oath of the party making it. Affidavits are notarized or
191 administered by an officer of the court with such authority.

192 **A.3**
193 **affirmed**

194 Judgment by appellate courts where the decree or order is declared valid and will stand as decided
195 in the lower court.

196 **A.4**
197 **attorney**

198 A person who is authorized to practice law in the relevant jurisdiction.

199 NOTE 1 As used in this Technical Report, "attorney" includes the attorneys of record for each of the parties to
200 the litigation in which the canine handler or expert witness is involved.

201 NOTE 2 The report distinguishes the attorneys by identifying the sponsoring attorney. The sponsoring
202 attorney is the attorney who is calling the witness. In criminal matters, this attorney is typically, but not
203 always, the prosecutor.

204 **A.5**
205 **bench trial**

206 Trial without a jury in which a judge decides the facts.

207 NOTE Defendants will occasionally waive the right to a jury trial and choose to have a bench trial.

208 **A.6**
209 **continuance**

210 Decision by a judge to postpone trial until a later date.

211 **A.7**
212 **cross-examine**

213 Questioning of a witness by the attorney for the other side.

- 214 **A.8**
215 **curtilage**
216 The immediate land and buildings that surround a home, where a person can expect to have
217 reasonable privacy.
- 218 **A.9**
219 **deposition**
220 An oral statement made before an officer authorized by law to administer oaths.
- 221 NOTE Such statements are often taken to examine potential witnesses, to obtain discovery, or to be used
222 later in trial.
- 223 **A.10**
224 **discovery**
225 The process by which the prosecution and defense share certain evidence in their possession, or in
226 the possession of members of their team (e.g., experts, agents, police officers).
- 227 **A.11**
228 **exculpatory evidence**
229 Evidence that favors a defendant in a criminal trial, helping to prove their innocence or cast doubt
230 on their guilt.
- 231 **A.12**
232 **expert testimony**
233 The testimony made by an expert witness when called upon to testify due to his/her familiarity
234 with the subject or special training in the field.
- 235 **A.13**
236 **expert witness**
237 A person who, under applicable law, is deemed qualified by virtue of their knowledge, skill,
238 experience, training or education to testify.
- 239 **A.14**
240 **forensic service provider**
241 **FSP**
242 An organization or individual that provides forensic services.
- 243 **A.15**
244 **hearsay**
245 Statements by a witness who did not see or hear the incident in question but learned about it
246 through secondhand information such as another's statement, a newspaper, or a document.
- 247 NOTE Hearsay is usually not admissible as evidence in court, but there are many exceptions to that rule.
- 248 **A.16**
249 **impeachment evidence**
250 Evidence that, if credited, tends to cast doubt on the credibility of a witness's testimony or
251 reliability of evidence.

- 252 **A.17**
253 **inculpatory evidence**
254 Evidence which tends to show the defendant's guilt.
- 255 **A.18**
256 **interrogatories**
257 Written questions asked to one party by an opposing party, who answer them in writing under
258 oath. Interrogatories are a part of discovery in a civil lawsuit.
- 259 **A.19**
260 **jury trial**
261 Trial in which selected citizens make findings of fact and render a verdict for the trial.
- 262 **A.20**
263 **legal rules**
264 The Constitution, statutes, case law, local rules, and other rules that govern criminal proceedings.
- 265 **A.21**
266 **mistrial**
267 An invalid trial caused by fundamental error. When a mistrial is declared, the trial must start again,
268 beginning with the selection of a new jury.
- 269 **A.22**
270 **mitigating evidence**
271 Evidence that, if credited, tends to diminish the seriousness of the accused's alleged conduct.
- 272 **A.23**
273 **motion**
274 Attempt to have a limited issue heard by the court. Motions can be filed before, during, and after
275 trial.
- 276 **A.24**
277 **oath**
278 A legal obligation to tell the truth.
- 279 **A.25**
280 **objection**
281 A protest by an attorney, challenging a statement or question made during legal proceedings.
- 282 **A.26**
283 **opinion evidence of expert witness**
284 In criminal cases, witnesses may only provide an opinion under strictly defined circumstances. The
285 decision of whether to permit opinion testimony and the scope of the opinion testimony is made by
286 the judge pursuant to the legal rules of the jurisdiction and in consideration of the facts of the
287 specific case.
- 288 **A.27**
289 **overruled**
290 Ruling by the court following an objection. If during testimony, the witness answers the question.

- 291 **A.28**
 292 **pre-trial conference**
 293 A meeting with attorneys and witnesses prior to a trial to ask and answer questions and review
 294 testimony to ensure accuracy, clarity, transparency, and completeness of the information.
- 295 **A.29**
 296 **probable cause**
 297 An amount of suspicion leading one to believe certain facts are probably true. The Fourth
 298 Amendment requires probable cause for the issuance of an arrest or search warrant.
- 299 **A.30**
 300 **public defender**
 301 A public defender is an attorney appointed by the court to represent people who otherwise cannot
 302 afford to hire an attorney to defend themselves against criminal charge(s).
- 303 **A.31**
 304 **search warrant**
 305 Orders that a specific location be searched for items, which if found, can be used in court as
 306 evidence. Search warrants require probable cause in order to be issued.
- 307 **A.32**
 308 **subpoena**
 309 A court order that requires the recipient to attend a court proceeding on a particular date and time.
- 310 **A.33**
 311 **subpoena duces tecum**
 312 A court order that requires the recipient to attend a court proceeding on a particular date and time
 313 and bring with them designated documents or physical items.
- 314 **A.34**
 315 **sustained**
 316 Ruling by the court following an objection. If during testimony, the witness does not answer the
 317 question.
- 318 **A.35**
 319 **testify**
 320 Answer questions in court.
- 321 **A.36**
 322 **testimony**
 323 Evidence presented orally by witnesses during trials or before grand juries.
- 324 **A.37**
 325 **tort**
 326 A civil wrong or breach of a duty to another person as outlined by law.
- 327 **A.38**
 328 **transcript**
 329 A written, word-for-word record of what was said, either in a proceeding such as a trial, or during
 330 some other conversation.

331 **A.39**
332 **trial**
333 A formal examination of evidence before a judge and or a jury to decide guilt in a criminal case or
334 liability in a civil case.

335 **A.40**
336 **voir dire**
337 One aspect of a determination of whether a witness can provide opinion testimony is the expertise
338 of the witness. Voir dire is the questioning of the witness by the parties that is specific to the
339 witness' expertise and the scope of their expertise.

340 **A.41**
341 **warrant**
342 An arrest warrant is a written order directing the arrest of a party. A search warrant orders that a
343 specific location be searched for items, which if found, can be used in court as evidence. Search
344 warrants require probable cause in order to be issued.

345 **A.42**
346 **witness**
347 A person called upon by either side in a lawsuit to give testimony before the court or jury.

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Annex B **(informative)**

Bibliography

The following bibliography is not intended to be an all-inclusive list, review, or endorsement of literature on this topic. The goal of the bibliography is to provide examples of publications addressed in the standard.

- 1] ANSI/ASB Standard 024, *Standard for Training and Certification of Canine Detection of Humans: Location Check Using Pre-scented Canines*, 1st Ed., 2021.
- 2] ASB Technical Report 025, *Crime Scene/Death Investigation - Dogs and Sensors - Terms and Definitions*, 1st Ed., 2017
- 3] ANSI/ASB Standard 026, *Standard for Training and Certification of Canine Detection of Humans: An Aged Trail Using Pre-scented Canines*, 1st Ed., 2021.
- 4] ANSI/ASB Standard 027, *Standard for Training and Certification of Canine Detection of Humans: Patrol Canine Team*, 1st Ed., 2021.
- 5] ANSI/ASB Standard 085, *Standard for Detection Canine Selection, Kenneling, and Healthcare*, 1st Ed., 2021.
- 6] ANSI/ASB Standard 088, *General Guidelines for Training, Certification, and Documentation of Canine Detection Disciplines*. 1st Ed., 2020.
- 7] ANSI/ASB Standard 092, *Standard for Training and Certification of Canine Detection of Explosives*, 1st Ed., 2021.

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<https://www.nist.gov/topics/forensic-science/dogs-and-sensors-subcommittee>

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