

Deadline of Submission of Comments:
Document Number:
Document Title:

10-Nov-25
ASB TR 084
Presentation of Canine Detection Evidence in Court

Comm ent #	Text Line # (s)	Document Section	Type of Comment E-Editorial T-Technical	Current Document Wording	Proposed Revision	For Working Group and Consensus Body use only, not to be completed by commenter.
						Final Resolution
1		Throughout document	E	Through Section 4.4, the document is written specifically for handlers. Only after Section 4.4 are other experts mentioned.	Be specific and consistent throughout. Who exactly is the document intended for?	Accept with modification- additional wording added in the forward for clarification
2		Throughout document	T	the document fluctuates between "agency" and "organization"	Pick one and be consistent throughout document. Alternatviely, make a statement in the Forward that they may be used interchangeably in the TR.	Accept with modification- all instances of agency and organization has been clarified in the document
3		Whole doc	T	The whole document is a little bit strange - it is a mix of educational material on how admissibility, disclosure, and court decisions work, and guidelines for canine handler who testify.	Decide what the purpose of the document is and stick to that - we would suggest removing the educational material and focusing on guidance for the target audience (canine handlers).	Reject- educational material is part of training or technical information
4		Whole Doc	T	There are substantive issues with the legal and scientific parts of this document.	The usual line-specific critique and revision suggestions was difficult because there is enough that is problematic about this document that it should be rewritten from scratch and a good lawyer should be involved in rewriting legal definitions.	Reject. No language modifications to the existing text provided for proposed resolution. If recommended modifications to the specific sections, tailored to the canine discipline are provided, the CB will review during the next round of public comment
5	1		E	"canine olfaction" is more accurate than "canine detection" because of the possibility of an unverified response like an NPR	change term from "canine detection" to "canine olfaction"	Reject- in court the witness presents testifies to the canine's detections of trained odor/scent.
6	1		E	This TR provides guidance for more than just "in court." It also provides guidance for preparation. Change to "in legal procedures" or "in legal context."	make recommended change	Accept with modificaiton- expanded scope to legal proceedings
7	multiple		E	Section 12.2.1 of ASB Guide 001, 4th Ed. 2025 states "Do not define common terms."	remove definitions such as attorney, testify, testimony, trial, witness, subpoena, etc.	Reject with modification. All legal terms and definitions have been moved to Annex A, whether or not they appear in the document, for informational purposes.
8	3		E	recommend adding definitions for "odor/scent detection" since a definition of "substance detection" is provided (3.3.4) and that excludes human scent	make recommended change	Accept
9	3		E	Add "sponsoring agency" definition or remove the term "agency" from Section 4.1	make recommended change	Reject with modification- two instances of sponsoring agency have been revised sponsoring agency/organization, so sponsoring agency no longer needs to be defined
10	3.1		E	Section 12.1.5 of ASB Guide 001, 4th Ed. 2025 states "the Terms and Definitions section begins with the phrase:" "For purposes of this document, the following terms and definitions apply." I think you would have to stop there and then begin a new sentence to continue. Maybe with a note?	"For purposes of this document, the following terms and definitions apply." NOTE: These terms and definitions are also important for a forensic service provider (FSP) to be aware of when involved in legal proceedings.	Accept with modification- removed additional wording from description.
11	3.2		E	Section 12.2.1 of ASB Guide 001, 4th Ed. 2025 states "Only include terms which are used in the document". Your NOTE states "The legal definitions that are listed in this section may not be used in this document but are defined for knowledge in the legal context."	Remove the terms not used in the document. You could probably add a helpful terms section at the end in an appendix. Since you prefaced there being jurisdictional variations and that the agency should refer to the sponsoring attorney to clarify the meaning, I'd think it would be better to not even define the term in the 1st place (the ones not in the document). If I opened a dictionary that said the term may not mean what it says, I wouldnt even bother reading it. I'd have to find a more confident dictionary (i.e., attorney in this case). Why bother? 1- it shouldnt be in here per 12.2.1 and 2- it may not be accurate.	Accept with modification. All legal terms and definitions have been moved to Annex A, wether or not they appear in the document, for informational purposes.
12	3.2.3		T	Definition should focus on the word "expert".	The definition should focus on the word "expert," since an expert witness is one who testifies in that capacity. What is essential is that the testimony conveys specialized information acquired through education, training, or experience. While expert witnesses may offer opinions, that is not what defines an expert or expert testimony. An expert may testify about observations without offering an opinion—for example, a toxicologist can report analytic findings and state their meaning without giving an "opinion"	Accept with modification- in the form of an opinion has been deleted
13	3.2.3		T	Exculpatory evidence is not usually defined as only "defence-favourable" evidence of the prosecution, it's usually any "defence-friendly" evidence.	Eliminate the 'in the control of the prosecution...' language in this definition.	Accept with modification- clarified definition
14	3.2.3		E	Recommend defining "evidence" within the definition	make recommended change	Reject with modification- evidence is a common term, exculpatory evidence defintion clarified based on previous comment

15		3.2.4	E	Recommend defining "testimony" within the definition	make recommended change	Reject- Testimony is a commonly found term
16		3.2.4	T	The term "professional issues" does not work.	Where does the term "professional issues" come from? What is key is that the testimony comes from someone with knowledge that the jurors are unlikely to have. This knowledge could be scientific, technical, or experiential. For example, police officers and plumbers can both serve as expert witnesses on certain issues.	Accept with modification- clarified definition
17		3.2.7	T	Impeachment evidence casts doubt on the testimony of a witness. It is not defined by its effect on "the state's evidence."	Impeachment evidence casts doubt on the testimony of a witness. It is not defined by its effect on "the state's evidence." For instance, evidence that a document is forged is not impeachment evidence, because impeachment applies to testimony, not real evidence. Also, defendants in criminal cases and witnesses in civil cases can be impeached, so do not refer specifically to "the state."	Accept with modification- clarified definition
18		3.2.8	T	Remove references to legality here.	Ethical rules are called ethical rules because they are not legal rules.	Accept with modification- clarified definition
19		3.2.9	T	Incorrect definition.	The oath is not the legal obligation to tell the truth; that obligation exists regardless of whether an oath is taken. An oath is a solemn promise to tell the truth in a legal proceeding.	Accept with modification- deleted definition
20		3.2.10	E	Replace the phrase "plan testimony." It seems conspiratorial.	Change to "review testimony to ensure accuracy, clarity, transparency, and completeness of the information." This terminology mirrors Section 9.	Accept
21		3.2.10	E	It could be just me but, when I read "...and plan testimony", I got a little uneasy about that phrasing. I think I understand what your point is, but it comes out like collusion rather than strategy. Attorneys cannot tell witnesses what to say, only help them present their own knowledge truthfully and effectively, but the phrase "plan testimony" sounds like they are planning what to say (the definition of testimony...evidence presented orally by witness)	A meeting between attorneys and witnesses prior to a trial during which potential questioning and strategies are discussed to ensure that testimony at trial is presented effectively.	Accept with modification: definition modified to read: "A meeting with attorneys and witnesses prior to a trial to ask and answer questions and review testimony to ensure accuracy, clarity, transparency, and completeness of the information"
22		3.2.14	T	change "and or" to and/or	make recommended change	Definition removed, change not needed.
23		3.2.15	E	recommend adding a note to define how this is different from "expert witness"	make recommended change	Definition removed, change not needed.
24		3.3.2	T	The definition is wrong.	This definition is confused. The first sentence is correct, but what follows does not make sense. Some of it appears to describe conditions for considering a canine alert reliable, but that does not define reliability, and a "fair probability" that a scent is present does not necessarily make an alert reliable. The last sentence of this paragraph is also puzzling—reliability does not require freedom from random error. Often, a test is considered reliable if, upon retesting, any differences can be attributed solely to unavoidable random error. The second paragraph (beginning at line 93) similarly confuses a statistical concept with criteria for determining whether a canine alert is reliable. Reliability should be defined statistically, and then a separate section should state something like: "A canine alert can be considered reliable only if...." That explanation should not be part of the definition. Line 117 "The decision whether..." (not "decision of whether").	Reject with modification. Definition replaced with the definition for "reliability" in the current draft of TR 025. The extent to which (1) a measurement is repeatable and consistent; (2) there is a low probability of the canine alerting to anything other than a target odor/scent and a high probability of the canine alerting to a target odor/scent. NOTE consistency: measure of the conformity of a stimulus and response.
25		3.3.2	E	Section 12.3.1 of ASB Guide 001, 4th Ed. 2025 states Attempt to write definitions to the terms as a single phrase or sentence. 12.4.1 states you can use notes to give supplemental information. 3.3.2 Reliability is a long paragraph and contains a lot of supplemental information.	The extent to which an experiment, test or measuring procedure yields the same results on repeated trials. Note 1: Low probability of alerting to anything other than a target odor/scent and a high...Note2. Note3. 3.3.6 is an example of how this one should be written.	Accept with modification. Definition replaced with the definition for "reliability" in the current draft of TR 025. The extent to which (1) a measurement is repeatable and consistent; (2) there is a low probability of the canine alerting to anything other than a target odor/scent and a high probability of the canine alerting to a target odor/scent. NOTE consistency: measure of the conformity of a stimulus and response.

26		3.3.2	T	The current definition conflates multiple concepts (e.g., reliability, accuracy, sensitivity, etc).	The reliability of a discipline, test, or person/team depends on: 1) how consistent the same person/team's judgments are across time or across cases with the same/similar circumstances (repeatability); 2) how similar the judgments made by different people/teams are under the same/similar circumstances (reproducibility). This is independent of the accuracy of those judgments, the validity of the process used to come to those judgments, and the sensitivity/discriminability/response bias of the people/teams. The definition needs to make this clear.	Accept with modification. Definition replaced with the definition for "reliability" in the current draft of TR 025. The extent to which (1) a measurement is repeatable and consistent; (2) there is a low probability of the canine alerting to anything other than a target odor/scent and a high probability of the canine alerting to a target odor/scent. NOTE consistency: measure of the conformity of a stimulus and response.
27		3.3.2	E	The first and second definitions are almost identical.	Select first or second definition and remove the other.	Accept with modification. Definition replaced with the definition for "reliability" in the current draft of TR 025. The extent to which (1) a measurement is repeatable and consistent; (2) there is a low probability of the canine alerting to anything other than a target odor/scent and a high probability of the canine alerting to a target odor/scent. NOTE consistency: measure of the conformity of a stimulus and response.
28		3.3.6	E	"methodically" is subjective here	either define or remove the term	Accept.
29		3.11	T	Missing elements.	A subpoena may also require the production of documents and other items in a person's possession.	Definition removed, change not needed.
30		4	E	The contents page states that Section 4 is called "Establishing Reliability", but then it is actually called "Admissibility".	Pick one of the proposed titles (though neither may be appropriate after the changes suggested here at #2).	Accept. The TOC will be finalized prior to publication.
31		4.1	T	Though it is also not the canine-handler's job to establish the reliability of their expertise--that is for the lawyers to worry about-- it is useful for them to know what accreditation testing, training protocols, and validated approaches they should be using if they wish to have their role as an expert admitted at trial.	Reframe this so that it is about the canine-handler's role in this process - not what the lawyer or judge should do/can do.	Accept with modification. Section 4.1 is intended to be general information for the user of the document. For additional clarification "which may include the documentation in 4.2" has been added to the end of the section.
32		4.2	E	who typically requests these documents?	define who is the requester	Accept.
33		5	T	"Additional Disclosure"...What is the initial disclosure?	change section title	Accept with modification. Section reorganized so that Video and "Brady" moved into section 4 and veterinary records moved to Terms section.
34		5.2.1	T	there should be a space before the ellipses in line 153	make recommended change	Accept
35		5.2.1	T	This needs to be rewritten.	Rewrite this. The Brady rule requires the prosecutor in a criminal case to disclose certain exculpatory evidence to the defendant before trial. It does not require reversal of a conviction. Although reversal can be a consequence of a Brady violation, such violations may be deemed harmless error, or claims may be rejected because they were not properly preserved.	Accept. " the prosecutor in a criminal case to disclose certain exculpatory evidence to the defendant before trial" replaced most of the first sentence.
36		5.2.2	T	This is unclear.	The phrase "attorney sponsoring the testimony" is unclear. Do you mean the party offering the witness, usually the prosecutor? A dog handler should provide all potentially relevant information to the attorney who will be calling them. Whether any such information constitutes Brady material is for the prosecutor or judge to decide.	Accept. Sentence modified to read "the attorney presenting the evidence". Last sentence also modified to read "presenting attorney"
37		5.3	E	I don't know why the Brady Rule is here. At the very least, it seems out of place	remove for lack of need or find a better place.	Reject. It is important for the canine handler to know about the Brady Rule.
38		5.3.1	T	Like with eyewitness identifications, it should be best practice to videotape canine identifications. This language suggests it is at the purview of the FSPP.	Change language to mandate videotaping or state that videotaping is best practice.	Reject. At this time, this document is a Technical Report, and is therefore only informational and a mandate cannot be included.
39		5.3.2	T	The sentence beginning "Handler review of videos from deployment..." is not relevant to this section on deployment use. Move it to the relevant Section 8.3.	make recommended change	Accept.
40		5.3.2	T	This is unclear.	It is unclear how the material in lines 164-169 fits under "use on deployment." Consider breaking the paragraph into: (1) ways to document procedures; and (2) how video or other records may be used before trial and in court.	Accept with modification. The second sentence has been moved to the section on preparation for trial.

41		5.3.3	T	All videotapes of identifications should be kept as evidence. This language sounds as though it is not appropriate to keep videotapes on hand for evidentiary purposes.	We think this means "don't keep videotapes instead of paper documents," so please change to clarify that both paper documents and videotaped identifications should be kept according to evidence preservation standards.	Accept with modification. This document is a Technical Report and cannot contain a "should" statement. The sentence has been modified to read: "State law may provide guidance on video retention requirements."
42		6	T	It would be beneficial to provide guidelines about what should not happen at these meetings (e.g., the prosecution or defense attorney should not provide information that may bias the witness, or provide guidance about what to say).	Frame the guidance for these meetings as "Appropriate issues to address at the meeting" and "Inappropriate issues to address at this meeting" or something similar. Practice without leading the witness is beneficial, but there is a lot of leading that can happen in such a meeting. The best things that comes out of a meeting like this is that the attorney understands how to introduce the witness and their expertise effectively and knows what questions to ask that will allow the expert to give their independent opinion.	Reject. This document is a Technical Report and cannot contain "should" statements or recommendations. Additionally it is the responsibility of the attorney to not discuss information that may bias the witness.
43		6.1	T	Remove the term "sponsoring attorney".	Remove the term "sponsoring attorney." Earlier in the document, you could state that canine handlers may be called as witnesses by prosecutors, defense counsel, or attorneys in civil litigation. Most commonly they will testify for the prosecution. You could then state that this document will refer to the attorney offering the testimony as "the prosecutor," but that the same principles apply to defense or civil counsel. The items under section 6 seem somewhat random and incomplete with respect to what is involved in preparing to give testimony, rather than "preparing for court."	Reject with modification. The updated section 4.4 has been revised to include "sponsoring attorney (i.e., the attorney presenting the witness)." In regards to the comment regarding the section being incomplete, there is no proposed resolution. The section has been revised to "Preparing for Testimony" for clarification.
44		6.2	T	We do not believe that it this is standard practice in all jurisdictions.	Please remove.	Accept
45		7	T	This is somewhat misleading - the admissibility question is for court with whatever set of expert rules they follow.	This should be removed - it is not for the canine handler to establish whether they are an expert or not, or the attorney that retained them. That is for the judge to decide based on relevant laws and precedent.	Reject with modification. (now section 6.1) has been revised to read: "Whether the witness is qualified to testify to the opinion evidence is a determination made by the judge based on the background and qualifications of the specific witness."
46		7.2	T	This language needs to be more limited.	Even if experts may give opinion testimony, this does not mean they may offer opinions on any issue. For example, an expert may opine that a canine alert indicates a person was at a location within the past X hours, but the handler cannot give an opinion that the person actually was present during that time. As written, the section seems to suggest that all expert opinions are admissible.	Accept with modification. Section (now 6.2) revised to read: "Experts draw from a broad mix of education, training, and experience. Acceptable technical qualifications allows the expert to testify in the form of an opinion within the scope of their expertise, as determined by the judge."
47		7.2	T	This is the first use of "fact finder." Either define it as a term or use it in the Forward.	make recommended change	Sentence deleted. No longer applicable.
48		7.3	T	This provides incorrect information.	Honors, licenses, and similar credentials are not "general qualifications" for an expert witness; they are types of information that may be used to show that a particular witness is qualified to testify as an expert.	Accept with modification: Introduction sentence revised to read: "Potential qualifications for an expert witness may include:"
49		7.3h	T	"and" should be "and/or". As written, any expert witness must have multiple years of experience, multiple honors, multiple licenses, publications, and multiple degrees. That is not a fair expectation, especially for handlers or non-academics.	make recommended change	Accept with modification. With the revision to the introduction sentence, the list is a "may" list and the change is not needed.
50		7.4	E	This is the first use of "proponent." Either define it as a term or use it in the Forward.	make recommended change	Reject. This is a quoted section from Federal Rules of Evidence 702. "Proponent" is a term that can be found in a general dictionary.
51		7.4a	E	This is the first use of "fact finder." Either define it as a term or use it in the Forward.	make recommended change	Reject. This is a quoted section from Federal Rules of Evidence 702. "fact finder" is a term that can be found in a general dictionary.
52		8	T	Unless they are able to show how their opinion changed when they received the additional information, the canine handler should not received/view any task irrelevant information prior to providing their opinion in court.	Some types of information (other forensic evidence, investigator reports, criminal history, etc) could bias their opinion and thus should not be made available tot he handler unless appropriate bias mitigation tactics are also incorporated into the process. So, this section should include guidance on how to deal with task relevant and irrelevant information and what to do in the case that the expert has received biasing information.	Reject. No language provided for proposed resolution. Comment is too general to interpret what and where, the commenter would like content added. CB willing to review comment in next round if additional information is provided.

53		8	T	The human factors guidelines could help here, but are currently not present.	<p>Examples of guidance that could be added that are informed by empirical human factors research:</p> <ol style="list-style-type: none"> 1) Avoid possible misunderstandings. 2) Avoid jargon, and use plain language to the greatest extent possible. 3) Avoid terms or phrases such as “match” and “cannot be excluded”, as these are easily misunderstood. 4) Avoid omitting important steps of the procedure or decision process that are obvious to you but not to outsiders. 5) Embrace transparency in note taking and reporting of forensic results. 6) Examiners should share information such as changes in opinion, lab results that run contrary to your opinion, and literature that qualifies your opinion. This level of transparency promotes trust in end-users of the information. 7) Include the caveats and limitations of the results in the report. 8) Examiners should include the limitations of their reported opinion. There are caveats and limitations associated with any scientific opinion, and reporting them provides the context that is necessary to assess the probative value and strength of the evidence. 9) Before finalising reports, examiners should consider what a competent but skeptical reader would think about the report and include responses to possible critiques or statements about caveats and limitations in the report and, where possible, so that they are addressed up front, in writing. 	<p>Reject. No language modifications to the existing text provided for proposed resolution. Additionally, this is a TR and the provided guidance contains recommendations. If recommended modifications to this specific section, tailored to the canine discipline are provided, the CB will review during the next round of public comment.</p>
54		8.2	T	Change "the limits of their expertise, the methods employed, limitations of the method employed, their opinions, the basis for their opinions..." to "the limit(s) of their expertise, the method(s) employed, limitation(s) of the method(s) employed, their opinion(s), the basis(es) for their opinion(s)..." . The number may change based on the facts of the case.	make recommended change	Accept
55		9c	T	This is the first "definition" of 'trier of fact' despite 2 previous uses. Either define it as a term or use it in the Forward.	make recommended change	Accept
56		Footnote 1	T	What if this reference moves and the link is no longer viable?	provide a different type of reference for this material	Accept
57		9d	T	remove "and" because it is not the last point	make recommended change	Accept
58		9f	T	add "and" because it is the last point	make recommended change	Accept