

SMELLING OUT
BOGUS K-9
ALERTS: *Who
let the dogs
out?*

presented by:

OGEECHEE CIRCUIT PUBLIC DEFENDER

KELLY L. TURNER



REQUIREMENTS FOR A MOTION TO SUPPRESS EVIDENCE

In the State of Georgia, a Motion to Suppress must meet *all* of the following requirements:

- Motion must be in writing and timely filed -O.C.G.A. 17-5-30(b)
- Within ten (10) days after arraignment - O.C.G.A. 17-7-110 AND
- Must state the facts showing why the search was illegal -Cadle v. State, 131 Ga. App. 175 (1974)).

WARRANTLESS SEARCHES

For warrantless searches, the Motion shall allege the following:

- Date of the search
 - General location of the search (precise location unnecessary)
 - Identity of the person searched
 - Number of officers making the search (specific identities and agencies of officers not required)
 - Search was completed without a warrant
- AND**
- That no consent for search was given

Mill v. State, 222 Ga. App. 839 (1996)

CAN YOU AMEND YOUR MOTION?

- A defendant may amend his Motion to Suppress as a matter of right **AT ANYTIME PRIOR TO THE HEARING!**

See, *Cadle v. State*, 131 Ga. App. 175 (1974). In the *Cadle* case, the defendant's motion was dismissed for not stating sufficient facts, and the appellate court confirmed that the defendant could not pursue the appeal without first perfecting or amending the motion at the trial court level.

Next Steps

What can I use
to prove my
case?

Who has them
and how do I
get them?

C.A.D. RECORDS

C.A.D. -Computer Aided Dispatch

- The Georgia Open Records Act establishes the right to inspect and/or receive public records, excluding those specifically exempt by court order or law.
- *911 materials and computer-aided dispatch (CAD) records are subject to the Act's disclosure requirements, except for audio recordings which contain speech in distress of a caller who died during the call or was a minor at the time of the call. The name, address, or telephone number of the caller may also be redacted if necessary to prevent the disclosure of a confidential source or investigation, or if disclosure would endanger a person's life or safety.*
- All 911 materials (including 911 telephone calls) and computer-aided dispatch (CAD) records are held at the local agency that received the 911 call.

A large, dark blue ink splash graphic on the left side of the slide, with smaller blue ink splatters extending to the right.

WHAT CAN YOU GET FROM A CAD REPORT?

- Names of Officers who arrived on scene (or at least their unit/badge number).
- Times the officer's arrived and left the scene.
- When the officer asked for the Defendant's driving/criminal record.
- When the officer received the Defendant's driving/criminal record.

WHAT DOES IT
LOOK LIKE?

Run Date: 09/29/2025 14:13:25

Page: 1 of 4

Incident Number: 25-030987

Incident Type: OFFICER INITIATED

Incident State: CLOSED

Global Number:

Linked Numbers:

Incident Detail

Received At:	Created At:	Dispatched At:	Created By:
04/13/2025 14:43:24	04/13/2025 14:43:24	04/13/2025 14:43:24	OLOCKARD

Event Type: TRAFFIC STOP

25

Incident Case Numbers:

Incident Dispositions: STAT 5

Disposition Comment:

Caller Location: RUDRA FOOD MART BP GAS, 1398 OLD RIVER RD, BLOOMINGDALE [042] [32.134330, -91.389375]

Event Location: RUDRA FOOD MART BP GAS, 1398 OLD RIVER RD, BLOOMINGDALE [042] [32.134330, -91.389375]

Location Kind: CIVIC ADDRESS

Caller Name:

Business Name: RUDRA FOOD MART BP GAS

Phone Number:

Service Class:

Cell Sector:

Callback Number:

Comment: F150/ DISTORTED TAG

Narrative Log

Narrative By	Narrative At	Category	Is Sensitive	Narrative
BHODGES	04/13/2025 14:43:32		NO	4155 CB
BHODGES	04/13/2025 14:53:30		NO	C4
BHODGES	04/13/2025 14:54:06		NO	1 10-26
BHODGES	04/13/2025 14:54:10		NO	POSITIVE K9 ALERT
BHODGES	04/13/2025 14:54:14		NO	VEH SEARCH
OLOCKARD	04/13/2025 14:59:35		NO	10-95
OLOCKARD	04/13/2025 14:59:39		NO	NEXT LIST FOR TRUCK
OLOCKARD	04/13/2025 15:02:13		NO	C4
OLOCKARD	04/13/2025 15:03:20		NO	SMITHEYS 25
OLOCKARD	04/13/2025 15:04:00		NO	52209519
OLOCKARD	04/13/2025 15:04:19		NO	2018 F150
BHODGES	04/13/2025 15:18:14		NO	BMUG - 31111
BHODGES	04/13/2025 15:18:42		NO	C4 EXT
BHODGES	04/13/2025 15:42:48		NO	10-51 10-23
BHODGES	04/13/2025 15:46:33		NO	4155 STAT 4 - K9 LOG
BHODGES	04/13/2025 15:46:36		NO	STAT 5

Disposition Log

Disposition By	Disposition At	Disposition
BHODGES	04/13/2025 15:59:13	STAT 5

BODY WORN CAMERA

Officer Hutto pulled in front of motorcycle and client crashed into the rear of his patrol car and fell on the roadway. Hutto is captured tasing him repeatedly; he is not resisting. Video captured by another officer's BWC from another jurisdiction. Other officer DASH CAM captured the crash.



DASH CAM



DASH CAM

Client stopped for not turning on blinker. Runs his Driver's License – comes back with valid license no wants or warrants.



K-9 REPORT

Deployment Report

Case: 240829014
Hayes Joseph and K9 Demon at K9/Patrol, Rincon Police Department
Thursday, August 29, 2024 at 3:57 PM

Overview

Category: Detection Deployment
Location: 411 Georgia Ave
Address: 411 Georgia Ave, Rincon, GA, United States, 31326
Report Reviewed: No
Requesting Agency: Hynko 209
Dog-Assisted Arrests: 1
Alerts / Indications: 1
Environments: 1 (Vehicles: 1)

Indication #1: Vehicle

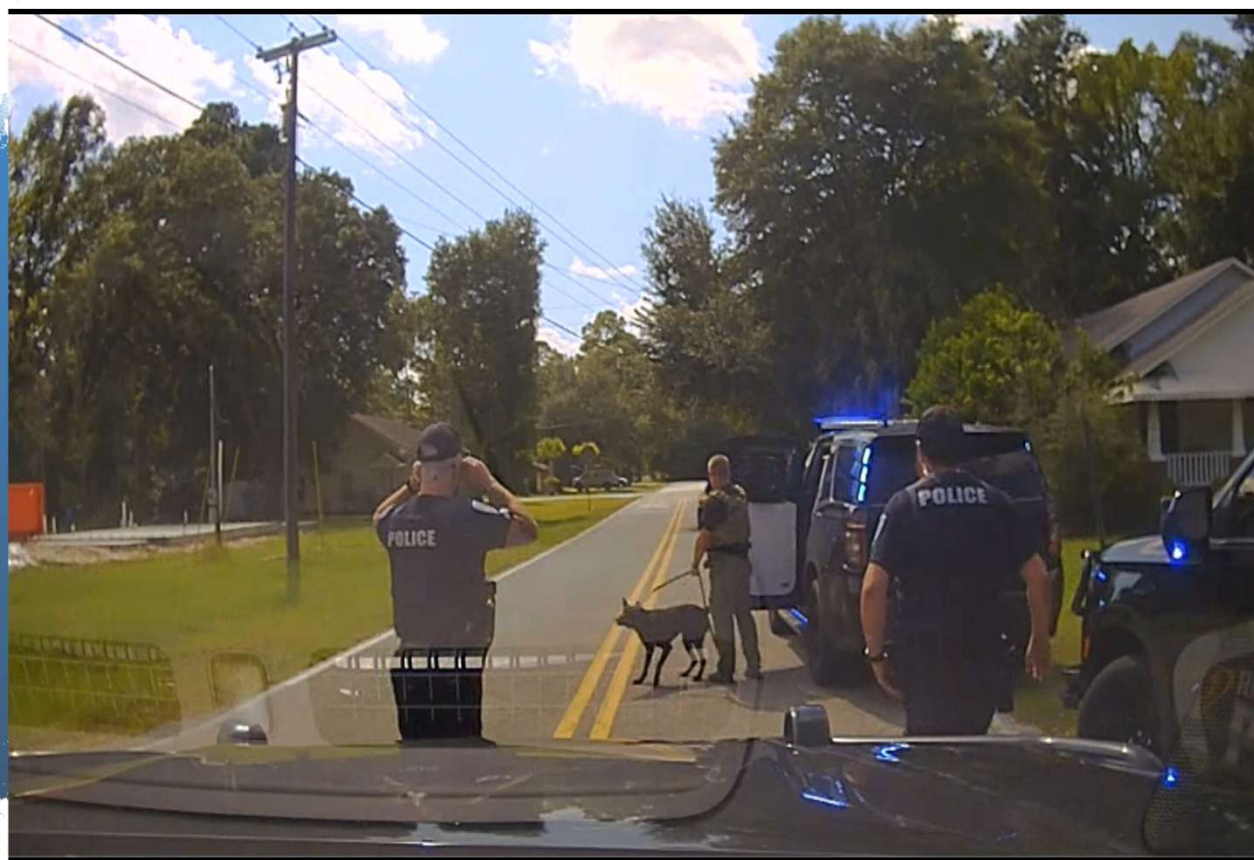
Name: Chevrolet Silverado
Description: Registered in GA, US.
Seizure Incidents: 1
Odor Type: Firearms
Amount: 1 Items
Sub-Type: Hand Gun
Packaging: None
Concealed Location: Driver side between seat and console.

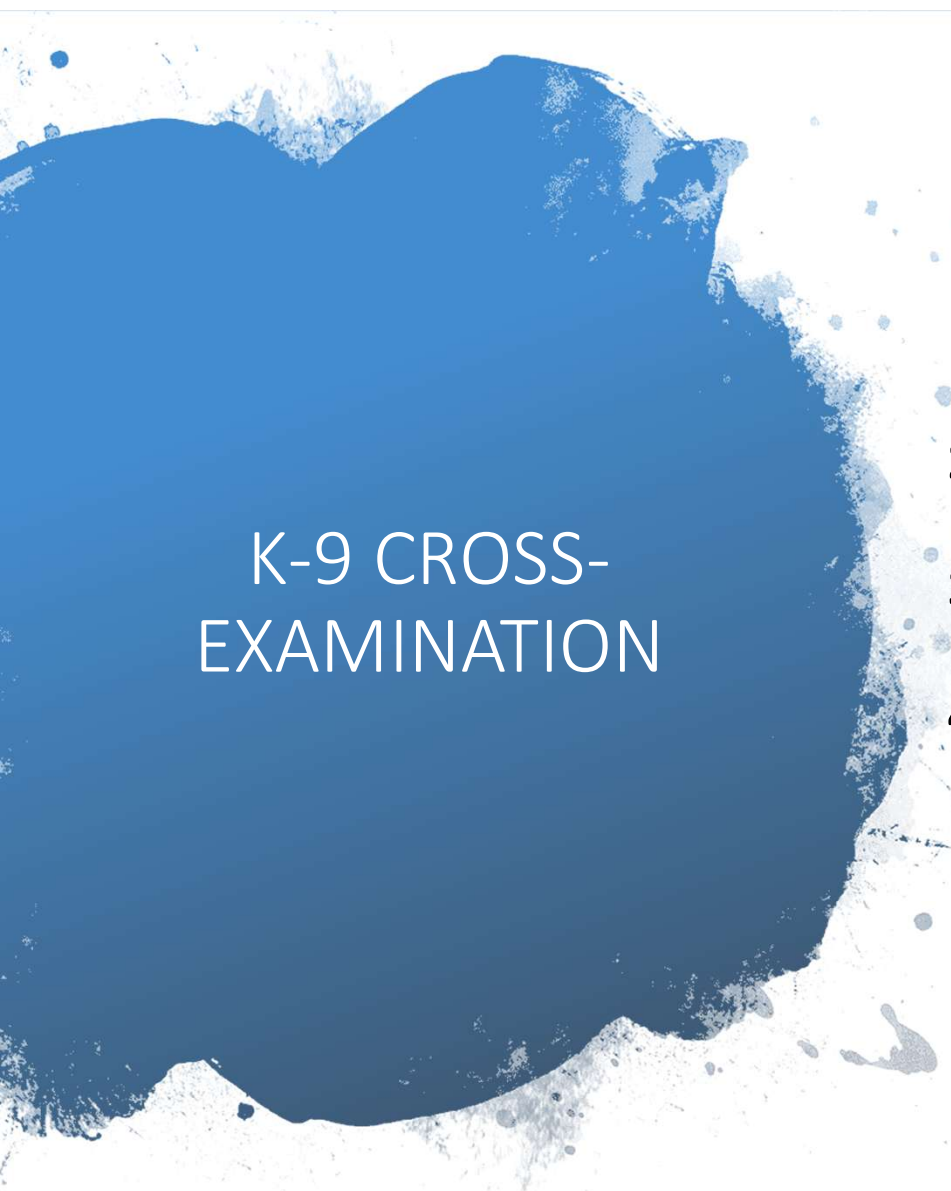
Arrests

Arrest #1
Race/Ethnicity: Black or African American
Sex At Birth: Male
Age: 40
Subject Was Bitten: No



K-9 DEPLOYMENT
No Audio
No View of Dog
Sniff of Vehicle
USELESS?

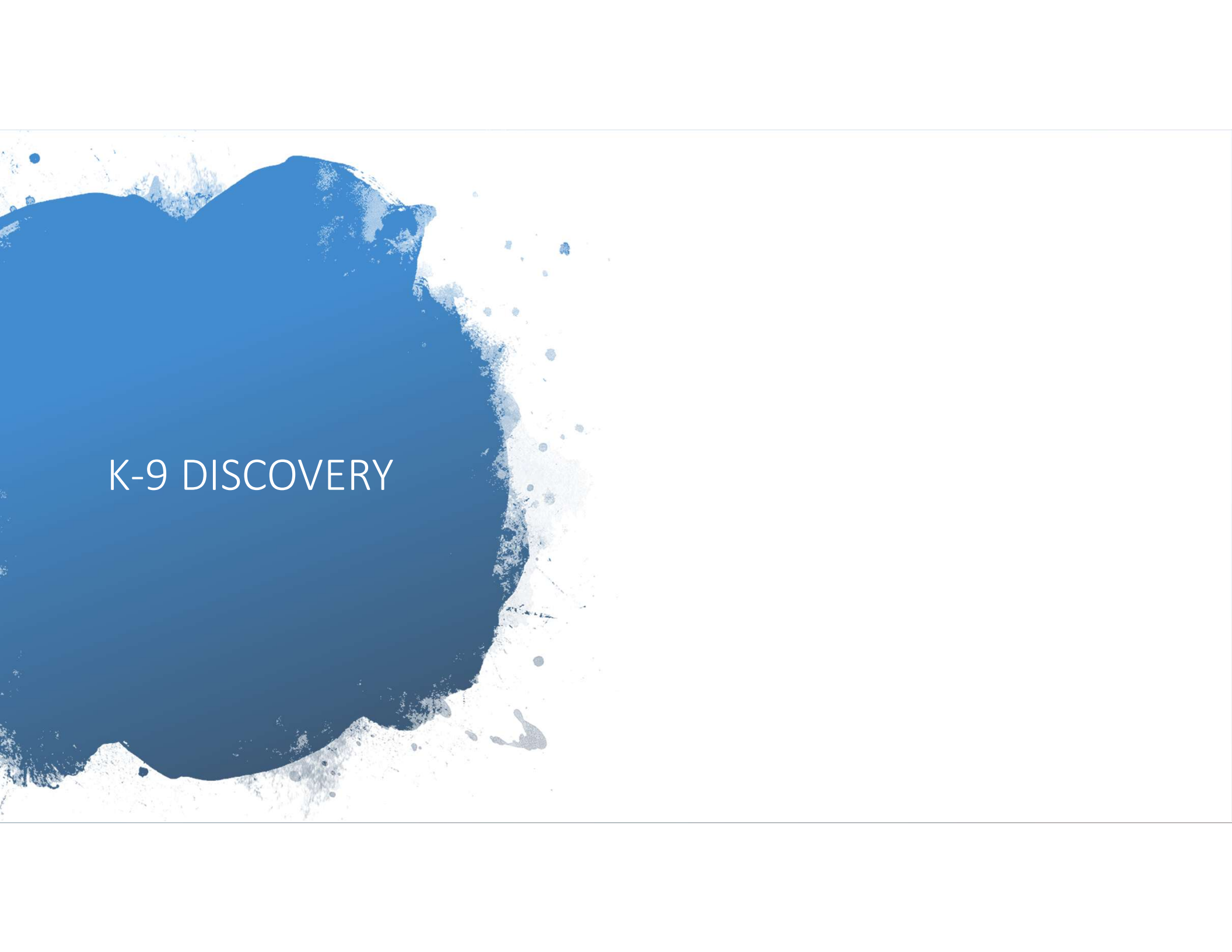




K-9 CROSS-EXAMINATION

THINGS TO BE AWARE OF WHEN CROSS-EXAMINING THE K-9 OFFICER:

1. IF THE DOG FINDS NOTHING THEY DON'T WRITE A REPORT!
2. THEY DON'T KEEP A RECORD OF HOW MANY FALSE ALERTS THEY HAVE!
3. THEY ARE NOT REQUIRED TO WEAR BWC OR HAVE DASH CAM!
4. STATE WILL CHOSE WHICH VIDEO TO PROVIDE TO YOU-MAKE SURE YOU GET CAD REPORT TO SEE WHO WAS THERE SO YOU CAN REQUEST ALL THE DASH CAM VIDEO



K-9 DISCOVERY

CHATHAM COUNTY CANINE OFFICERS

TWO TYPES OF CANINE OFFICERS – EXPLOSIVES OR NARCOTICS?





NARCOTICS CANINE TEAM CERTIFICATION STANDARDS CHATHAM COUNTY, GEORGIA

Narcotics Canine Team Certification Standards

Purpose and Scope:

1. To evaluate the K-9 teams ability to successfully identify target odors in a typical environmental and operational setting.
2. Areas will be selected at the discretion of the evaluators.
3. All efforts will be made to assure the evaluation is a single blind.
4. Certification may be terminated at any time for performance and or safety.
5. Certification is valid for 1 calendar year.

Testing Standards:

1. K-9 team must correctly locate 9/10 hides.
2. Testing will be pass/fail.
3. 1 false response will be allowed, any other false response will constitute a failure.
4. Handler may call a recognized false response with no penalty.
5. 1 retest is permitted 24-48 hours after test
6. Failure on retest will result in dismissal of student from class.
7. Odors will be set out a minimum of 30 min prior to testing.
8. Ethical Violations

Deliberate compromise of a certification will not be tolerated:

Any communication (in person, by cell phone, text messaging, or by any other means) between handlers and personnel participating in the certification, concerning specifics of an area still being evaluated, placements of narcotic training aids or any other information pertaining to the certification, prior to the termination of said certification (by certifying official), will constitute a compromise of the certification. The handler(s) will not be allowed to continue and will be removed from the certification.

Basic Odors:

- All odor will come from a certified source. DEA or Crime Lab
 - Pseudo will not be used
 - Minimum amount is 5 grams
 - Maximum Amount is 1 pound
1. Marijuana
 2. Methamphetamines
 3. Cocaine/Crack
 4. Heroin/Black Tar Heroin

TACKLING TRAFFIC STOPS – VALID STOP?

- **WAS THE STOP VALID?**

- Was there a stop in the first place? [Lights, siren, marked vehicle?]
- What was the basis for the stop? (Generally, reasonable suspicion is all that is required for stop.) *Navarette v. California*, 572 U.S. 393, 396-97 (2014).
- Traffic violation → PC for the stop, regardless of intent. *Whren v. United States*, 517 U.S. 806 (1996).
- Who made the stop? [If the stop was made for a traffic violation by a municipal or campus security officer outside their jurisdiction, stop is illegal.] *Zilke v. State*, 299 Ga. 232 (2016); see also *Bacon v. State*, 347 Ga. App. 689 (2018). But see *Zilke*, 299 Ga. at 237 (Nahmias, J., concurring) (suggesting exclusion should not apply to illegal stop by municipal officer outside their jurisdiction).

TACKLING TRAFFIC STOPS – PURPOSE OF THE STOP?

- **WHAT IS THE STOP'S PURPOSE?**

- What does the officer say is the reason for the stop?
- Traffic Stop's Mission → address the reason for the stop and attend to “related safety concerns” *Rodriguez v. United States*, 575 U.S. 348, 354 (2015).
- Related safety concerns → License checks, warrant checks, inspecting car registration and proof of insurance, etc. *Rodriguez*, 575 U.S. at 355.
- Test is whether the “safety concerns” involve the same objective as the traffic stop: Enforcement of the traffic laws. *Rodriguez*, 575 U.S. at 355.

TACKLING TRAFFIC STOPS – PROLONGED STOP?

- **WAS THE STOP PROLONGED?**
- Two types of prolonged stops: *Rodriguez v. State*, 295 Ga. 362, 369-70 (2014).
 - Officers keep suspect detained after the traffic stop missions concluded without reasonable suspicion of criminal activity justifying the detour.
 - Officers do not keep suspect detained but take unreasonably long time because of unrelated questioning.

TACKLING TRAFFIC STOPS – PROLONGED STOP?

- Regardless of which type, the requirement's the same:
- Must have reasonable suspicion; no de minimis continuation allowed without it. (“[A]ctivities unrelated to the mission of the [traffic] stop must not extend the time of the stop at all, and such a prolongation of the stop is not permissible even if those activities are done in the middle of the stop.”) *Rodriguez*, 575 U.S. at 356 (rejecting *de minimis* rule); *State v. Allen*, 298 Ga. 1, 11 (2015)

TACKLING TRAFFIC STOPS – PROLONGED STOP?

- **FEDERAL COURTS HAVE TAKEN THE “NO DE MINIMIS RULE” TO HEART**, holding extensions as small as 20 seconds unreasonable. See *United States v. Clark*, 902 F.3d 404, 410-11 (3d Cir. 2018); see also *United States v. Stewart*, 902 F.3d 664, 674 (7th Cir. 2018) (suggesting that 75 seconds used to call for backup might unlawfully prolong the stop, but the record was inadequate to determine if the officer's purpose was for safety or a dog sniff).

TACKLING TRAFFIC STOPS – PROLONGED STOP?

- **Four-minute extension held unreasonable after purpose of the stop was over.** *Watts v. State*, 334 Ga. App. 770, 778 (2015); *Heard v. State*, 325 Ga. App. 135, 139 (2013).
- But see *Lewis v. State*, 332 Ga. App. 466, 470 (2015) (holding where dog sniff initiated “within six minutes of the moment the officers first made contact with [the defendant] on the roadside,” and “completed fewer than ninety seconds later,” prolongation not unreasonable because “the written warning had not been completed, and police dispatch had not returned its check of [the driver’s] license information, which [the officer] had requested earlier via radio.”)

TACKLING TRAFFIC STOPS – REASONABLE SUSPICION

- **WHAT DOESN'T CONSTITUTE REASONABLE SUSPICION:**

- Nervousness alone is insufficient; *Heard v. State*, 325 Ga. App. 135, 139 (2013).
- Even when other factors present, nervousness from one stopped by police not strong support for reasonable suspicion. *McNeil v. State*, 362 Ga. App. 85, 866 S.E.2d 249, 255 (2021).
- Fitting a pattern of criminal behavior in high-crime area insufficient. *Runnells v. State*, 357 Ga. App. 572, 576 (2020).
- Smoking a cigarette is not reasonable suspicion of drug activity. *Neely v. State*, 362 Ga.App. 103, 866 S.E.2d 639 (Ga. App. 2021).

TACKLING TRAFFIC STOPS – ILLEGAL ITEMS IN VEHICLE?

- **QUESTIONS REGARDING ANY ILLEGAL ITEMS IN THE VEHICLE**

- i.e., “Any illegal alcohol? Any marijuana? Any cocaine? Methamphetamine? Any heroin? Any ecstasy?” – were found to prolong the traffic stop impermissibly, even though only by twenty-five seconds. *United States v. Campbell*, 970 F.3d 1342, 1356 (11th Cir.), vacated pending reh’g, 981 F.3d 1014 (11th Cir. 2020).

TACKLING TRAFFIC STOPS – PROLONGED STOP

- An Officer unreasonably prolonged the traffic stop, where officer diverted from communicating with dispatcher about results of license check to have his drug dog perform a free-air sniff around the defendant's car. Nunnally v. State, 310 Ga. App. 183, 186-187 (1) (713 SE2d 408) (2011)
- An officer unreasonably prolonged the traffic stop, where officer "temporarily abandoned" investigation of traffic violation by contacting K-9 unit and having drug dog sniff the exterior of the car in lieu of starting to write a citation or warning for the traffic offense or communicating with dispatch about the driver's license information); State v. Blair, 239 Ga. App. 340, 342 (521 SE2d 380) (1999)

TACKLING TRAFFIC STOPS – PROLONGED STOP

- If an officer “clearly divert[s]” from conducting his traffic investigation to carry out a task unrelated to the mission of the stop, the traffic stop is unreasonably prolonged. Id. See Bodiford v. State, 328 Ga. App. 258, 263-264 (1) (761 SE2d 818) (2014)
- An Officer unreasonably prolonged the traffic stop, where “officer abandoned [the] investigation [into the car’s registration and licensing] and detained the occupants of the car in order to conduct a search for drugs”). Nunnally v. State, 310 Ga. App. 183, 186-187 (1) (713 SE2d 408) (2011).

TACKLING TRAFFIC STOPS – PROLONGED STOP

- It is well-established that “officers may, without unreasonably prolonging a stop, ask the driver to step out of the vehicle; verify the driver’s license, insurance, and registration; complete any paperwork connected with the citation or written warning; and determine if there are any outstanding warrants for the driver or the passengers.” Flores, 347 Ga. App. at 177 (2).

TACKLING TRAFFIC STOPS – PROLONGED STOP

- With regard to rental cars, examination of the rental agreements and any ensuing investigation are considered part of the traffic stop.” Williams v. State, 329 Ga. App. 650, 653 (766 SE2d 82) (2014).
- While carrying out these tasks, an officer may ask the driver questions wholly unrelated to the traffic stop or otherwise engage in ‘small talk’ with the driver, so long as the questioning does not prolong the stop beyond the time reasonably required to complete the purpose of the traffic stop.” (Citation and punctuation omitted.) Sommese v. State, 299 Ga. App. 664, 669 (1) (b) (683 SE2d 642) (2009). See Flores, 347 Ga. App. at 177 (2).[iii]

WHAT'S IN YOUR MATERIAL?

**Federal and
Georgia Applicable
Case Law**

**Daubert-
Challenging the
Drug Dog Accuracy**

**Drug Dog
Discovery**

**Motion Samples &
Orders**



Need Help With Your Case?



Kelly L. Turner



(770) 365-5866 Cell

kturneresq@gmail.com