

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF VIRGINIA
3 ROANOKE DIVISION

4 - - - - - :
5 COREY E. JOHNSON, :
6 :
7 Plaintiff, : CASE NO.
8 :
9 vs. : 7:20-cv-00582
10 :
11 CANINE OFFICER MCCOWAN, ET :
12 AL., :
13 :
14 Defendants. :
15 :
16 - - - - - :

17 DEPOSITION OF CANINE SERGEANT JIMMY STANLEY

18 DATE: June 24, 2022
19 TIME: 10:00 a.m.
20 LOCATION: Via Zoom Videoconference

21 REPORTED BY: Constance H. Rhodes
22 Reporter, Notary

Veritext Legal Solutions
1250 Eye Street, Northwest
Washington, DC 20005

1 You said that you were a canine officer
2 until you were a canine sergeant?

3 A Yes.

4 Q So about when did you become the canine
5 sergeant?

6 A I believe it was 2012.

7 Q 2012.

8 In the time that you were a canine
9 officer, did you -- to your knowledge, did you
10 receive any negative performance reviews?

11 A I did not.

12 Q And were you the subject of any lawsuits
13 for violating facility regulations or other rules?

14 A No.

15 Q Okay. So then I believe that means
16 we're up to role as a canine sergeant.

17 A Okay.

18 Q So your title was -- could -- could you
19 say your title? Your exact title?

20 A Sergeant.

21 Q And which facility did you work at?

22 A Red Onion.

1 THE WITNESS: It's got several exhibits
2 down, all the way through zero to nine.

3 MR. DAVIS: Sophie, do you mind if we go
4 off the record?

5 MS. ANGELIS: Yeah, please.

6 (Whereupon, a brief recess was taken.)

7 (STANLEY Exhibit Number 1 was marked for
8 identification.)

9 BY MS. ANGELIS:

10 Q So, Mr. Stanley, do you recognize this
11 document?

12 A Yes, I've seen that, yes.

13 Q And what is it?

14 A It shows chain of command.

15 Q Does it show the chain of command for --
16 I'm looking at the date 2019?

17 A Of 2019? Yeah, April 28th, 2019, yes.

18 Q And so this was when you were still in
19 the position of canine sergeant?

20 A Yes.

21 Q So can you explain to me who your -- who
22 you reported to in the canine program?

1 A William Barbetto.

2 Q And is it correct that William Barbetto
3 reported to Cherry Wallace?

4 A I do not know his chain.

5 Q Okay. So can you tell me -- so your
6 supervisor was William Barbetto, and then who did
7 you supervise?

8 A Throughout the years, there was many
9 officers, but here is Michael Addington, Baker,
10 Nathan Cobb, Gibson, Haze, McCowan, McReynolds,
11 Mullins, Wampler, and Williams.

12 Q And so about how many officers would you
13 supervise at one time?

14 A Ten to 12, somewhere around there.

15 Q Would they all be at Red Onion?

16 A Yes.

17 Q And how many dogs were you responsible
18 for supervising?

19 A If we had 12 handlers. That would be 12
20 dogs.

21 Q Okay. The same number of officers --

22 A Yes.

1 A When you went there, yes.

2 Q Did you ever suggest changes to policies
3 at supervisor school?

4 A No.

5 Q Okay. Oh, you know, I don't think I
6 asked you when did you retire?

7 A April of last year.

8 Q So April of 2021?

9 A I believe it was, yeah.

10 Q Okay. So I'm next going to start asking
11 you about some of your responsibilities as the
12 canine sergeant, but before I do that, I just want
13 to ask you a little bit about your perspective on
14 the job in general.

15 So do you think that attack dogs -- or
16 how -- how do you describe -- do you -- canines
17 or...

18 A Patrol canine.

19 Q Patrol canines.

20 Do you think that patrol canines are
21 useful?

22 A Yes.

1 A Yes.

2 Q Were you responsible for hiring canine
3 officers?

4 A Yes.

5 Q Were you responsible for certifying
6 them?

7 A Yes.

8 Q Were you responsible for training them?

9 A Yes.

10 Q Were you responsible for reviewing uses
11 of force?

12 A Some.

13 Q Okay. I'll ask about that a little bit
14 later.

15 And were you responsible for writing post
16 orders?

17 A No.

18 Q Were there any other responsibilities
19 that I didn't list?

20 A Scheduling.

21 Q What do you mean by scheduling?

22 A Schedule the officers to work and

1 Some dogs -- it's not for them.

2 Q So what happened if a dog failed
3 aggression training?

4 A I would let William Barbetto know and
5 send the dog to his kennel. I don't know what
6 happened to them.

7 Q Did aggression training also include --
8 so it includes when -- when the dog should bite.
9 Does it also include how hard?

10 A No.

11 Q Is that included in any training?

12 A No. No, I can't make a dog bite hard.

13 Q Did aggression training include when a
14 dog should release after biting?

15 A Yes.

16 Q When should a dog release after biting?

17 A When all orders are followed.

18 Q Does that mean when the officer gives an
19 order?

20 A Yeah. An officer gives an order, then
21 they comply to his orders, yes.

22 Q Does that mean a dog only releases when

1 Q Okay. And how did you determine which
2 dogs needed a backup.

3 A The ones that was stubborn to come off a
4 bite, then William Barbetto would approve of that.

5 Q So it wasn't necessary that a dog
6 release after a bite on the orders of a handler in
7 order for the dog to be certified?

8 A Say again?

9 Q Did a dog have to release after a bite
10 in order to be certified?

11 A Yes.

12 Q But that could happen with an electric
13 collar?

14 A Yes.

15 Q Okay. So I want to talk a little bit
16 more about some other parts of aggression
17 training.

18 So aggression training included when a dog
19 would bite; is that correct?

20 A Yes.

21 Q And in what circumstances was the dog
22 taught to bite?

1 A Inmates fighting.

2 Q So is that -- is that the only
3 circumstance?

4 A If an inmate came after the officer.

5 Q So inmates fighting; if an inmate
6 attacks an officer. Were there any other?

7 A Building searches -- building searches.
8 If an inmate escaped and was in a building, yes.

9 Q Are those the only circumstances where a
10 dog was taught to bite?

11 A Yes.

12 Q Can you just -- what do you mean by
13 inmates fighting? What is that circumstance?

14 A Inmates fist fighting, clutches.

15 Q Do they need to be engaged for the dog
16 to bite?

17 A Yes, if they're not fighting, we do not
18 engage.

19 Q Are the dogs taught to bite only if
20 their officer commands?

21 MR. DAVIS: Objection. Asked and
22 answered.

1 A No.

2 Q Okay. I just want to ask a couple more
3 questions about the training.

4 How could you ensure during training that
5 a dog used the minimum force necessary while biting?

6 A The handler would have to judge that
7 minimum force.

8 Q So you couldn't teach the dog to use the
9 minimum force necessary?

10 A No.

11 Q Okay. I want to ask a little bit about
12 continuing training.

13 So did your responsibilities include
14 continuing to ensure that dogs are properly trained
15 after the initial certification?

16 A Yes.

17 Q What continuing training was required?

18 A Sixteen hours training per month then
19 you would have quarterly evaluations, yearly
20 certification.

21 Q And what was so -- I'm sorry. You said
22 quarterly evaluations?

1 Q What kinds of references would you look
2 for?

3 A Who they put down for references, you
4 know, their names.

5 Q What was a good sign from a reference?

6 A Well, on the application, I don't
7 believe it had to -- I think it just had the
8 person's name as a reference. I don't think it
9 had any documentation or any writing after that.

10 Q I presume you would call the references
11 and speak on the phone?

12 A No, we did not. I wasn't the only one
13 in charge of hiring. There was like three -- two
14 or three people interviewing.

15 Q Who were the other people in the hiring
16 committee?

17 A Well, I've done one with Major -- Major
18 Blevins, but throughout the years, I can't
19 remember. Daniel Fida is one.

20 Q What positions would people on the
21 hiring committee normally have?

22 A Major, captain, lieutenant, sergeant.

1 Q At Red Onion?

2 A I think that's -- well. Yeah, I've
3 had -- yeah, I had Red Onion. I'll just speak for
4 Red Onion, yes.

5 Q And did you only hire canine officers at
6 Red -- for Red Onion?

7 A No, I've done some interviews at other
8 institutions throughout the years.

9 Q In terms of hiring practices, were those
10 consistent across all of the institutions that use
11 the canine program?

12 A As far as I know it was. Through an
13 interview process, yes.

14 Q Could you estimate how many officers you
15 hired while you were a canine sergeant?

16 A I would -- I would not have a clue. You
17 want a guess? Twenty? I don't know. That's a
18 guess.

19 Q Sure. Of the -- well, let's -- let's
20 just look again at the -- do you still have the
21 exhibit -- the Exhibit 1 pulled up?

22 A Yes. With the chief of security

1 good as a team?

2 A If they bond together. Like I mentioned
3 before, if the dog didn't run off smelling grass
4 somewhere, you know, they worked good as a team.

5 Q Okay. Did you ever have a handler not
6 complete this portion of the training?

7 A Not that I recall. A handler, no.

8 Q So if the -- if the dog failed the
9 obedience training the handler would be given
10 another dog?

11 A Yes.

12 Q I'm going to skip the part of the
13 searches and ask about aggression.

14 So what were handlers taught during the
15 aggression component of the training?

16 A To get the dog to engage, get the dog to
17 release, observe -- now we're going back to the
18 scenario -- the bite work. I mean, if you've got
19 inmates aggression fighting, to recognize that.

20 Q So in terms of engagement, what were
21 handlers taught about when it is appropriate to
22 engage a canine?

1 A They was taught that if inmates were
2 fighting, inmates was trying to run way, escaping,
3 that -- that covers that. I mean, if inmates are
4 fighting.

5 Q So you said fighting, escaping. Are
6 there any other scenarios where using a canine
7 would be appropriate?

8 A Not that I know of.

9 Q In terms of fighting, in what
10 situations -- is it in every situation where there
11 is a fight, would it being appropriate to engage a
12 canine?

13 A If the inmates stop fighting and comply
14 with orders, no, you don't engage.

15 Q If -- so that means that if inmates are
16 fighting, and if they don't stop fighting after
17 orders, then it's always appropriate to engage a
18 canine?

19 A If all else has failed as far as the
20 officers in the booth using OC rounds, they gave
21 them already a verbal command to stop, plus firing
22 the 40 millimeter rounds at the inmate, there's no

1 people warrants engaging a canine?

2 A If they don't comply with orders, yes.

3 Q Okay. When you say "if they don't
4 comply with orders," what does that -- what --
5 what does -- what does the order have to be?

6 A Stop fighting; get on the ground.

7 Q Is that always -- sorry. Go ahead.

8 A That's what the orders are. Stop
9 fighting; get on the ground.

10 Q And that's always the order?

11 A Get on the ground; stop fighting; you
12 know, show hands.

13 Q Show your hands.

14 In what way are inmates to show their
15 hands?

16 A Put your hands up.

17 Q So when you say show hands, you mean
18 raise their hands above their head?

19 A Just open your hands. You're on the
20 floor, just open your hands up.

21 Q Oh, I see. Okay. So the order that is
22 always given before a canine is engaged is that

1 written policy any -- or written training
2 materials?

3 A I cannot remember if it is.

4 Q Okay. All right. I want to -- I
5 believe we've covered most of this ground when we
6 talked about training dogs, but I just want to
7 talk about continuing training for canine
8 officers.

9 What sorts of continuing training is
10 required for canine officers?

11 A Sixteen hours of training a month.
12 Unless this has changed. This is back when I was
13 working here. Quarterly -- quarterly evaluations
14 and certification, yearly certifications.

15 Q And have you ever had a canine officer
16 fail in -- at their quarterly certification?

17 A I think I have, yeah. Yeah. I think I
18 have, yeah.

19 Q How many times?

20 A I cannot remember how many times.

21 Q What was the reason that they failed?

22 A Obedience. The dog running off as we

1 Q Yeah. And in that situation was the
2 officer taken out of service or just the dog?

3 A Just the dog.

4 Q Okay. So now I want to get to moving
5 beyond training. What happens when a canine is
6 involved in the use of force.

7 So the first thing I want to ask is
8 whether you are notified every time a canine is
9 involved in the use of force?

10 A Yes. Yes, at Red Onion. At Red Onion.

11 Q At Red Onion?

12 A Yes.

13 Q How are you notified?

14 A By phone.

15 Q I'm sorry? Can you repeat that for me?

16 A By telephone if I'm at home. If I'm
17 here, it'd be by radio.

18 Q You are immediately notified then?

19 A Yes.

20 Q Okay. And what kind of information are
21 you given?

22 A They would tell me what the problem was.

1 Was the inmate fighting -- or what they was doing.
2 They was fighting. They'd give me their names,
3 and they would begin starting the paperwork, and I
4 would also notify whoever was above me at that
5 time. And at the last it was William Barbetto.

6 Q And did you receive a canine bite
7 report?

8 A Yes.

9 Q Every time?

10 A Yes.

11 Q Who writes the bite report?

12 A The officer that engaged the offender.

13 Q So it's only canine officers?

14 A I'm just speaking as -- as with the
15 canine officer. I don't know -- I'm sure they do
16 on the inside. I don't know.

17 Q Okay. So a -- the canine officer, each
18 canine officer, who engages a canine will write a
19 canine bite report?

20 A Yes.

21 Q And what do they include in a canine
22 bite report?

1 A Where it happened, what happened,
2 medical -- if anybody had to be taken to medical
3 or the hospital. It would be in there.

4 Q Is this different from a canine
5 utilization report?

6 A Yes, it's -- it's different, yes.

7 Q In what way is it different?

8 A Utilization is -- to me it's always been
9 if you take the dog out of the kennel, if you went
10 inside just to work post, that would be
11 utilization. A bite report is where you engage
12 someone.

13 Q Got it. And did you receive every
14 canine utilization report?

15 A Yes.

16 Q Going back to the canine bite report,
17 you told me that the canine officer will describe
18 on the report what happened.

19 A Yes.

20 Q Do you also receive video along with the
21 canine bite report?

22 A No.

1 Q Did you receive photographs?

2 A Photographs, yes.

3 Q What did you receive photographs of?

4 A The inmate's face, clothing, and area
5 where he had been engaged.

6 Q Okay. Did you receive medical records?

7 A No medical records.

8 Q Did you receive anything else along with
9 the canine bite report?

10 A Just the bite report and a few other --
11 I mean, it was repetitive. They copy and paste it
12 on a utilization report. And there's another form
13 that's in there. I can't remember. Oh, AIR from
14 medical. That would be where they would draw --
15 it's like a figure of a person, and they would
16 draw where the inmate was bitten at. And -- yeah.

17 Q Do you remember anything else being
18 included?

19 A No, I can't remember anything else.

20 Q How long after the canine is engaged
21 does the canine officer have to send the report?

22 A There's no time. He just gets on there

1 understand what you mean. Would you have the
2 criteria from use-of-force policy written down in
3 front of you while you reviewed the video?

4 A No.

5 Q Would you have the -- so would -- did
6 you memorize the criteria of the use-of-force
7 policy?

8 A No, I just relied on the training.

9 Q And when you say you rely on the
10 training to know what constitutes excessive force,
11 is that the training that you received when you
12 started as a canine officer?

13 A I don't follow your question.

14 Q I'm wondering when you were trained on
15 what criteria constitute excessive force?

16 A I'm sure it was back when I became a
17 regular CO. When I was hired.

18 Q And which -- if I'm remembering
19 correctly -- is 1998?

20 A Yes.

21 Q And did you receive additional trainings
22 or refresher courses or things like that on

1 excessive force?

2 A If we had in services, it did include
3 excessive force, yes.

4 Q And how frequent were those?

5 A Once a year.

6 Q Okay. And did that continue while you
7 were a sergeant?

8 A Yes.

9 Q So is your understanding of the
10 excessive force -- of the criteria of excessive
11 force -- does that come from your annual training?

12 A Yes.

13 Q Okay. And who taught that training?

14 A Many different training supervisors here
15 at Red Onion.

16 Q Okay. And every year did they -- did
17 they review excessive force?

18 A The best I remember every year, yes.

19 Q Okay. Were there any other criteria
20 that you used to determine whether a use of force
21 was appropriate?

22 A No.

1 ground" or "Release the dogs. Show your hands."

2 Q And when you were reviewing the report
3 would that be necessary in order for -- in order
4 for engaging a dog to have been appropriate?

5 A Yes.

6 Q How many times would an officer need to
7 give that warning?

8 A Two to three.

9 Q So they would need to give the warning
10 two or three times before engaging the canine?

11 A Yes.

12 Q And if they gave fewer -- if they gave
13 it only one time, then engaging the canine would
14 be -- would not be appropriate?

15 A No. Now, I didn't say that. No. But
16 they should have give it at least two to three
17 times.

18 Q But they gave --

19 A That's what I've always taught is two to
20 three times.

21 Q But they gave it fewer than two times;
22 which is to say, if they gave it one time, then

1 that wouldn't necessarily mean that engaging a
2 canine was not appropriate?

3 A It depends how much time allows also.

4 Q Okay. So how much time should a
5 prisoner have -- have to comply?

6 A I -- I don't know how much time. It
7 depends on whether -- I don't know what would be
8 the time of that.

9 Q So when you're reviewing whether a
10 canine officer gave an adequate warning before
11 they engaged their canine, what -- what -- what
12 are you looking for? What should -- what does the
13 canine officer have to do?

14 A To give his warning as he's coming in
15 the building.

16 Q Any particular number of warnings?

17 A No particular number. Two to three. I
18 mean, two to three.

19 Q Okay. And how much time should the
20 officer have given the prisoner to comply?

21 A I -- I don't know how much time there
22 should be. As he's coming in the building, he's

1 A Yes.

2 Q Do you know what information you were
3 required to use when you were reviewing use of the
4 canine?

5 A Required to use?

6 Q So for example, were you required to
7 conduct an interview with staff after a canine bit
8 an inmate?

9 A Yeah, we talk about it, yes.

10 Q Yes? You were required to do an
11 interview with the staff?

12 A I don't know about the -- yeah, we
13 talked about it. Yes, we did. I don't know about
14 if it's in writing that I'm required to do that, I
15 don't know. But we -- we looked over it, yes.
16 What's --

17 Q Okay. So you actually -- sorry.

18 A If that's what you're asking.

19 Q So you're not sure whether you were
20 required to interview staff every time, but as a
21 matter of practice, you did?

22 A As a matter of practice, I did.

1 Q Were you required to interview any other
2 witnesses?

3 A No.

4 Q As a matter of practice, did you?

5 A No.

6 Q Ever?

7 A I can't say ever.

8 Q But you can't recall any time when you
9 interviewed other witnesses to evaluate a bite
10 report?

11 A Right. I can't recall.

12 Q So were you required to interview a
13 prisoner who was bitten?

14 A No.

15 Q And as a matter of practice, did you?

16 A No.

17 Q Were you required to review a video?

18 A Yes.

19 Q And as a matter of practice, did you
20 always review the video?

21 A Best I could. I'm sure there was some
22 that I could not get to, yes.

1 So other than that information that I just
2 described -- and I -- I can go back and list it if
3 you like -- what information could you use to review
4 a canine bite report?

5 A The bite -- bite report, to read it, and
6 to look at the video.

7 Q Okay. And, just to confirm, also the
8 photographs?

9 A Yes, photographs.

10 Q And -- sorry. Are you -- are you not
11 mentioning those separately because they're
12 included in the bite report?

13 A Yes, they are all included, yes.

14 Q What about grievances or informal
15 complaints written by a prisoner?

16 A I'm not sure what you're asking. What
17 about those?

18 Q Would -- would you -- or sorry.

19 Could you use those to review a bite
20 report?

21 A I don't know if I could or not to do a
22 bite report. I don't know.

1 not changing his report.

2 Q What do you mean that's how he saw it?

3 A Well, through his eyes that's how he saw
4 it. I'm not following you I don't guess.

5 Q Well, when you're reviewing whether the
6 use of force is appropriate, and you have video
7 that indicates one thing and officer testimony
8 that indicates another, how do you determine if
9 the officer's testimony is credible?

10 A I wouldn't determine that; that would go
11 to investigation.

12 Q So let me -- let me ask. Is it your
13 responsibility to review every bite report to
14 determine whether the use of force was
15 appropriate?

16 A You know, I don't know if that's in
17 writing in my post orders or whatever, but that's
18 what I did for practice, yes.

19 Q Okay. So if it was your practice to
20 review in order to determine if a use of force was
21 appropriate, and you had video that said one thing
22 and officer testimony that said something else,

1 then how would you determine whether the use of
2 force was appropriate?

3 A As I said, we'd have to go talk to the
4 officer in the investigation. It most likely
5 would be turned over to SIU.

6 Q And what is -- sorry.

7 What is SIU?

8 A Special investigation unit. That would
9 be handled through that chain. That's the way I
10 always knew it. I've never run across this is
11 why.

12 Q You never had a situation where the
13 officer's testimony was different from the video?

14 A I've never seen it or recalled it, no.
15 There's no difference.

16 Q Okay. In your experience is video
17 evidence usually very clear?

18 A Not all the time, no.

19 Q So what are times when the video might
20 not be clear?

21 A Depends on the video footage, if it's
22 fuzzy or not clear.

1 Did you hire Officer McCowan to be a
2 canine officer?

3 A I think I did.

4 Q Okay. Do you remember what his
5 qualifications were?

6 A No. He was a correction officer here at
7 Red Onion.

8 Q Did you know him?

9 A No.

10 Q Do you know what his references said?

11 A No.

12 Q Do you remember if he'd ever been
13 disciplined?

14 A No, don't remember.

15 Q Did you train Officer McCowan?

16 A I think I assisted with that school,
17 yes. I think so.

18 Q During his initial certification?

19 A Yes.

20 Q Do you remember what training you
21 provided him?

22 A The obedience, building searches,

1 of jump around. I'm sort of just tracking your
2 earlier testimony so forgive me if it seems a
3 little bit random.

4 To your knowledge would a DOC canine ever
5 go into service at Red Onion it had not passed
6 training and been certified?

7 A No.

8 Q All right. If during training a dog
9 demonstrated that it was biting the decoy at an
10 improper time or was unable to release either on
11 verbal command or using either the choke collar or
12 electric collar, would that dog certify?

13 A No.

14 Q If -- if a -- if a dog failed to
15 recertify, what would be done with the handler who
16 up to that point had worked with that dog?

17 A He would get another dog.

18 Q Would there be any additional training
19 or school?

20 A Yes. Yes, it would be more school.

21 Q Okay. Would that depend on whether the
22 dog was previously certified?

1 A Yes.

2 Q So if the dog had not been certified, if
3 this was just a new dog that was being reassigned
4 to this trainer, how long would they be in school
5 for?

6 A 480 hours; 12 weeks.

7 Q And if this was a previously certified
8 dogs, how long would that go?

9 A 80 hours; 2 weeks.

10 Q Thank you. You had testified as well
11 about that the dog not -- or that the handler is
12 not being trained for the dog to bite in the face,
13 neck, or groin area.

14 Do you recall that?

15 A Yes.

16 Q When the officers are doing bite work
17 either in the initial 480-hour school or during
18 the ongoing training after they've already gone
19 into service, is -- is there a lot of repetition
20 practicing on biting certain parts of the body?

21 A Yes. Repetition.

22 Q Does that act as -- as reinforcement for

1 to show his hands and comply?

2 A No. It's not -- no, it's not a long
3 time, no.

4 Q Is that done immediately once the bite
5 occurs?

6 A Yes.

7 Q Okay. And does an officer are they
8 trained to wait a long time after they seek
9 compliance to direct the dog to release?

10 A No. Once they see compliance, they tell
11 the dog to release.

12 Q Okay. And is that a component of their
13 training?

14 A Yes.

15 Q I believe you also had an exchange with
16 plaintiff's counsel about why do they always
17 training -- for canine officers to recognize that
18 an inmate is -- is approaching somebody in a
19 threatening manner.

20 Do you recall that?

21 A Yes.

22 Q Are -- are officers taught to recognize