No. 11-817

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# In The
# Supreme Court of the United States

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STATE OF FLORIDA,
*Petitioner,*
v.

CLAYTON HARRIS,
*Respondent.*

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On Writ of Certiorari to the
Supreme Court of Florida

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## BRIEF OF THE NATIONAL POLICE CANINE ASSOCIATION AND POLICE K-9 MAGAZINE AS AMICI CURIAE IN SUPPORT OF PETITIONER

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## INTEREST OF AMICI CURIAE[1]

Police canine handlers across the United States have an ardent interest in combating illegal narcotics. Drug detection dogs perform a crucial service for law enforcement related to these efforts. Police K-9 Magazine is a national publication with a 20,000 canine handler readership that covers every state in the union. Most of these law enforcement officers are canine handlers that have a vested interest in the issue before the court. The National Police Canine Association is an association that governs, sets standards and certifies police work dogs for their membership. Upon passing their independent certification, police dogs are certified that they are well trained and have the unique ability to locate the source of existing narcotic odor. The National Police Canine Association is headquartered out of Arizona. The amici have a substantial interest in this Court's determination of whether the Florida Supreme Court has decided an important federal question in a way that conflicts with the established Fourth Amendment precedent of this Court by holding that an alert by a well-trained narcotics detection dog certified, to detect the odor of illegal contraband, is insufficient to establish probable cause for the search of a vehicle. The Magazine and all law enforcement officers and canine handlers in all fifty states, along with the National Police Canine Association, have a distinct interest in the correct disposition of this matter.

[1] Pursuant to Supreme Court Rule 37, Consent was granted by both the Petitioner and the Respondent. The amici's motion to participate in this cause was granted at the petition phase. This brief was authored by counsel for the amici and funded by the amici.

## SUMMARY OF THE ARGUMENT

The amici advances two main arguments to this Honorable Court. First, that a well trained narcotics dog is entitled to a presumption of probable cause when it alerts to the exterior of an automobile indicating only the presence of illegal narcotic odor in the automobile to be searched, and that a statistical analysis, focusing merely on the field performance records (as the Florida Supreme Court did in Harris) is improper because of the uncontrolled setting in which the alert takes place. The controlled environment that training provides is the most accurate assessment of a dog's ability to detect illegal drug odor because the atmosphere allows for a definitive measurement of whether the dog was right or wrong because the setting is controlled. The amici contends that the training records, and only the training records, should be analyzed in determining the narcotics dog reliability because the dog is evaluated in a controlled setting (unlike the field performance records which have unknown variables) thus enabling the trial court to fairly and accurately assess the dogs reliability based upon it's performance in the controlled setting. This style of information may only be obtained from an evaluation of the training records and/or certification's controlled environment.

In the alternative, the State can make a prima facie showing of probable cause for a warrantless search based on a narcotic dog's alert by establishing that the dog has been properly trained and independently certified. After the state meets its initial burden, the dog's reliability can then be contested by the defendant utilizing the performance records of the dog, training records of the dog or the presentation of other evidence, such as expert testimony.

An alert by a well trained and/or certified narcotics detection dog, standing alone, provides an officer with probable cause to search and consequently, this Court should reverse the decision of the Florida Supreme Court in their decision *Harris v. State,* 71 So. 3d 756 (Fla. 2011) discussing that such an alert only provides 'mere suspicion' of criminal activity. Thereby approve of the First District Court of Appeal's decision in *Harris v. State*, 989 So. 2d 1214 (Fla. Dist. Ct. App. 2008), and in doing so, approve the holdings of two others Florida District Courts of Appeal in *State v. Coleman*, 911 So. 2d 259, (Fla.. Dist. Ct. App. 2005), and *State v. Laveroni*, 910 So. 2d 333 (Fla. Dist. Ct. App. 2005) and bring the State of Florida in line with the vast majority of the courts and jurisdictions across the country that properly follow this court's precedent of *Illinois v. Caballes*, 543 U.S. 405 (2005); *Indianapolis v. Edmond*, 531 U.S. 32 (2000); *United States v. Place*, 462 U.S. 696 (1983).

## ARGUMENT

**THE STATE CAN MAKE A PRIMA FACIE SHOWING OF PROBABLE CAUSE FOR A SEARCH BASED ON A NARCOTICS DETECTION DOG'S ALERT BY DEMONSTRATING THAT THE DOG HAS BEEN PROPERLY TRAINED AND/ OR CERTIFIED.**

### STATE AUTHORITY

The First District Court of Appeal of Florida (hereinafter "1st D.C.A.") decided *Harris* relying on The Fifth District Court of Appeal's of Florida (hereinafter "5th D.C.A.") decision in *State v. Coleman,* 911 So.2d 259 (Fla. 5th D.C.A. 2005) and The Fourth District Court of Appeal's of Florida (hereinafter "4th D.C.A.") decision in *State v. Laveroni,* 910 So.2d 333 (Fla. 4th D.C.A. 2005) that the state can make a *Prima Facie* showing, of a narcotics dog reliability, by demonstrating that the dog has been properly trained and certified. Thereby, the three intermediate appellate courts of Florida have aligned themselves with this Honorable Court's established precedent in *Illinois v. Caballes*, 543 U.S. 405 (2005); *United States v. Place*, 462 U.S. 696 (1983) by holding that the state make a prima facie showing of a narcotics dog's reliability by establishing that the canine has been properly trained.

For example, the Fourth District Court of Appeal wrote in *Laveroni,* "Our review of cases from around the country indicates that *Matheson*,[*Harris* is based upon *Matheson*] which held that the state must establish the reliability of the dog through performance records in order to show probable cause, ***is out of the mainstream***." (Emphasis added) The 4th D.C.A. extensively researched the issue that is before the Court, relying on both State and Federal authority.

The Court of Appeals in and for the State of Georgia in *Dawson v. State,* 518 S.E. 2d 477 (Ga. Ct. App. 1999) on this specific issue held that evidence of certification as a narcotics detection dog constitutes prima facie evidence of reliability but that this presumption can be rebutted by the defendant with proof of the failure rate of the dog or through other evidence the defendant wished to present, with the final determination to be made by the trial court. The 4th D.C.A., in relying on *Dawson* and rejecting the *Harris* style of reasoning of the Florida Supreme Court, aligned itself with the mainstream legal philosophy embraced by most courts in the country.

The 5th D.C.A. found itself in a unique position in resolving this issue in their opinion *State v. Coleman,* 911 So.2d 259 (Fla. 5th D.C.A. 2005). The 5th D.C.A. rejected the *Harris* style of

reasoning of the Florida Supreme Court as flawed and united itself with the 4th D.C.A. and the rest of the country in finding: "Having reviewed both decisions and the authorities upon which they rely, we align ourselves with the Fourth District Court and conclude: [T]hat the state can make a prima facie showing of probable cause based on a narcotic dog's alert by demonstrating that the dog has been properly trained and certified. If the defendant wishes to challenge the reliability of the dog, he can do so by using the performance records of the dog, or other evidence, such as expert testimony.... Whether probable cause has been established will then be resolved by the trial court." *Coleman at 261.* Thereby, aligning themselves with the legal precedent of this Honorable Court decisions in *Illinois v. Caballes*, 543 U.S. 405 (2005); *Indianapolis v. Edmond*, 531 U.S. 32 (2000); *United States v. Place*, 462 U.S. 696 (1983).

State courts across the country have ruled on this issue following the authority of the United States Supreme Court. In *State v. Lopez,* 166 Ohio App.3d 337, 850 N.E. 2d 781 (2006) the Ohio Court of Appeals held that "…the majority hold that the state can establish reliability by presenting evidence of the dog's training and certification, which can be testimonial or documentary. Once the state establishes reliability, the defendant can attack the dog's "credibility" by evidence relating to training

procedures, certification standards, and real-world reliability". Thus aligning themselves with the legal precedent of this Honorable Court decisions in *Illinois v. Caballes*, 543 U.S. 405 (2005); *Indianapolis v. Edmond*, 531 U.S. 32 (2000); *United States v. Place*, 462 U.S. 696 (1983).

Ohio Courts have continued to dismiss defense arguments that the state cannot establish probable cause for a search by introducing evidence that the dog was trained and certified. The Ohio Court of Appeals, as recently as December 12, 2011, held that *United States v. Place*, 462 U.S. 696, (1983) (holding a K–9 sniff by a "well-trained narcotics-detection dog" as " *sui generis* " because it "discloses only the presence or absence of narcotics, a contraband item"). *Ohio v. Simmons*, 2011 WL 6179577 (Ohio App. 11 Dist.) "[O]nce a well-trained dog alerts to the odor of drugs from a lawfully detained vehicle, an officer has probable cause to search the vehicle for contraband." "Ample evidence related to Rebel's training and certification was presented during the suppression hearing to establish that he is a 'well-trained narcotics dog' under *Place,* supra. …Based on that information, we presume that Rebel is a reliable narcotics dog, and Mr. Simmons failed to put on any evidence to the contrary." *Simmons,* supra. *State v. Nguyen,* 157 Ohio App.3d 482, 2004–Ohio–2879, engaged in a substantial survey of federal and state law related to the matter of

establishing K–9 reliability and the evidence required. The *Nguyen* court recognized that the national trend stated "that a drug dog's training and certification records can be used to uphold a finding of probable cause to search and can be used to show reliability, if required, but canine reliability does not always need to be shown by real world records." *Id.* at 46. In conclusion, the Sixth District held that "proof of the fact that a drug dog is properly trained and certified is the only evidence material to a determination that a particular dog is reliable." *Simmons*, supra.

The Supreme Court of the Commonwealth of Kentucky, in a dog tracking case (a dog that smells and follows human scent), held in *Debruler v. Commonwealth,* 231 S.W.3d 752 (Ky.2007) that the Commonwealth provided sufficient foundation for admission at trial of the dog's tracking ability. As to the issue of the dog's training and qualifications, the Kentucky Supreme Court found "…Officers Howard and Morgan provided evidence that the dogs had been trained at an Indiana dog-training facility. According to Officer Howard's testimony about Denise [the 1st dog], she had been certified in tracking by the Owensboro Police Department and is recertified every year following thirty-two hours of additional training. Furthermore, she completes practice runs every week. Officer Morgan testified that Bady [the 2nd dog] has been certified by the United States Police Canine Association and

competes twice a year to maintain this certification. Like Bady, she completes practice runs on a weekly basis". *Debruler at 758.*

The amici notes in the rationale above, that if evidence of a dog's unique olfactory ability meets the admissibility standard at trial by the officer's testimony related to training and certification, then certainly it should be sufficient to establish a *prima facie* presumption of reliability at a motion to suppress which may be rebutted by the defense.

The Supreme Court of South Dakota tackled a similar issue in their decision *State v. Nguyen,* 726 N.W.2d 871 (S.D. 2007). The Supreme Court of South Dakota held that a drug detection canine was deemed reliable based upon the presentation of its certification and training. The South Dakota Supreme Court was aware of and rejected the *Harris* rationale used by the Florida Supreme Court as flawed. Through this finding, once again a state court aligned themselves with the legal precedent of this Honorable Court decisions in *Illinois v. Caballes*, 543 U.S. 405 (2005); *Indianapolis v. Edmond*, 531 U.S. 32 (2000) *United States v. Place*, 462 U.S. 696 (1983).

Because of the Florida Supreme Court's *Harris* decision, Florida District Courts of Appeal are now ***not*** following this Court's decisions in *Illinois v. Caballes*, 543 U.S. 405 (2005) and *United States*

*v. Place*, 462 U.S. 696 (1983) which held that a well-trained narcotics dog provides probable cause to search. They are instead are now applying a more arduous and cumbersome standard: …"[T]he State must present the training and certification records, an explanation of the meaning of the particular training and certification of that dog, field performance records, and evidence concerning the experience and training of the officer handling the dog, as well as any other objective evidence known to the officer…" Joe v. State, 73 So.3d 791 (Fla. 5th DCA 2011). The slippery *Harris* slope continues in the Florida District Courts of Appeal most recently writing: "Thus, in *Harris*, the court is requiring that law enforcement train dogs to distinguish between the odor of minute quantities of drugs and larger quantities of drugs. If that cannot be done for a particular drug, it seems we will need to abandon dogs as a method of obtaining probable cause for that drug." *Wiggs v. State*, 72 So. 3d 154, 161 (Fla. Dist. Ct. App. 2011)(Altenbernd J., specially concurring). This style of analysis has resulted into a convoluted statistical review of only the field performance records focusing on the various ways to formulate statistic or percentages based upon the dog alerts with subsequent searches producing tangible drugs being found versus alerts with subsequent searches producing no tangible drugs being found.

The Florida Supreme Court's indication that it did not have the "benefit of quantifying" the narcotic canine's success rate in the field shows the court's misconception regarding narcotics odor and the true inaccuracy of field performance records in determining a dog's reliability and a proper probable cause analysis. *Harris*, 71 So. 3d at 773. "The probable cause standard is incapable of precise definition or quantification into percentages." *Maryland v. Pringle*, 540 U.S. 366, 371 (2003) citing *Brinegar v. Unites States*, 338 U.S. 366 (2003).

At this point the amici are compelled to point out that many courts across the country, both state and federal, have attempted to label narcotics odor in order to legally examine the topic of drug odor. Descriptive adjectives such as residual, lingering, or stale have all been applied in order to attempt to reach a well reasoned legal opinion. But simply put, to a well-trained narcotics dog, odor is odor. It either exists or it does not. The dog can not communicate the strength of the odor uncovered. Odor is able to be detected by a dog's unique strong olfactory sense to be located in a certain location and sitting (the alert) or it is not. The well-trained drug dog does not have the ability to lift its right leg if the odor is strong or lift its left leg if the odor is weak but the odor of an illegal substance is present under each of the above scenarios. It is the **presence of the odor** of an illegal substance which is the basis

for the legal probability that real tangible drugs are present or were recently present.

In 2005, the Mississippi State Supreme Court tackled this very same issue as it relates to drug odor and money in *Evans v. City of Aberdeen,* 926 So.2d 181 (Miss. 2006). It refused to adopt the theory that all money was contaminated and practically discredited it. Relying on scientific studies, the Court explained that the answer lies with methyl benzoate, a bi-product of cocaine. Narcotic dogs are not trained to detect cocaine itself, but the smell of methyl benzoate. They will alert only when the levels of methyl benzoate, thus cocaine, are substantial. Methyl benzoate is also extremely volatile and **evaporates very quickly**. Currency in general population, although tainted for the most part, will not trigger an alert. It was scientifically established to the satisfaction of the Mississippi Supreme court that only currency which was very **recently** in contact with significant amounts of cocaine can be detected by a narcotic trained dog. *Evans v. City of Aberdeen, supra.* Since, the odor of illegal drugs (like cocaine) evaporate very quickly, only current odor from actual drugs present or from drugs that were recently present can be detected by the dog, hence, probable cause.

The Court of Appeals of Idaho in *State v. Yeoumans,* 172 P.3d 1146 (Ct.App.2007) The Idaho court noted the isolated legal *Harris* rationale used by the Florida Supreme Court as

flawed. The court also rejected the argument that the information communicated by the dog's alert could not support a finding of probable cause because it was "stale." The Court said that " 'there is no arbitrary time limit on how old information [supporting probable cause] can be.' ... Rather, the test for staleness is whether the available information justifies a conclusion that contraband is ***probably*** on the person or premises to be searched." In so doing, once again a state court, aligned themselves with the legal precedent of this Honorable Court decisions in *Illinois v. Caballes*, 543 U.S. 405 (2005); *Indianapolis v. Edmond*, 531 U.S. 32 (2000) *United States v. Place*, 462 U.S. 696 (1983).

## FEDERAL AUTHORITY

Federal Courts have repeatedly held that appropriate certification by an organization is sufficient to show reliability of a dog. See *United States v. Robinson,* 390 F.3d 853 (6th Cir. 2004) reh'g en banc denied, Feb. 5, 2005 (testimony by the handler that the dog was trained and certified was sufficient to show reliability for purposes of probable cause); *United States v. Lopez*, 380 F.3d 538 (1st Cir. 2004), cert. denied, 543 U.S. 1074, 125 S.Ct. 924, 160 L.Ed.2d 812 (2005) (handler's testimony that the dog was certified on the day of the sniff and had never given a false indication was sufficient to show reliability); *United States v. Boxley*, 373 F.3d 759 (6th Cir.), cert. denied,

543 U.S. 972, 125 S.Ct. 435, 160 L.Ed.2d 345 (2004); *United States v. Outlaw*, 319 F.3d 701 (5th Cir. 2003) (reliability acceptable when handler and dog have completed all standard training procedures for drug detecting teams); *United States v. Hill*, 195 F.3d 258 (6th Cir. 1999), cert. denied, 528 U.S. 1176, 120 S.Ct. 1207, 145 L.Ed.2d 1110 (2000) (handler's inability to state with precision what in-service training should be conducted; reliability nonetheless established); *United States v. Sundby*, 186 F.3d 873 (8th Cir. 1999) (training records were not required to show reliability). And recently, in *U.S. v. $1,032,980.00 in U.S. Currency*, --- F.Supp.2d ----, 2012 WL 684757 (N.D. Ohio March 2, 2012), the court recognized that according to the Sixth Circuit precedent, "detector dog reliability is established by credible testimony from the dog's handler/partner (or, arguably, by other knowledgeable and credible witnesses) that the dog was trained and certified.

The Supreme Court has repeatedly held that a drug dog sniff is not a search under the Fourth Amendment and a reliable dog alert provides probable cause that illegal drugs are present. *Illinois v. Caballes,* 543 U.S. 405 (2005). Moreover, the United States Fourth Circuit Court of Appeal recently held "We have rejected a requirement that "dog alert testimony must satisfy the requirements for expert scientific testimony ... [because] the dog's alert ... would

serve not as actual evidence of drugs, but simply to establish probable cause to obtain a warrant to search for such substantive evidence." *United States v. Allen,* 159 F.3d 832, 839–40 (4th Cir.1998)." *U.S. v. Age*, Slip Copy, 2011 WL 4495307 C.A.4 (Md.2011). "Assuming, without deciding, that we would require specific evidence of a dog's reliability before permitting his alert to provide probable cause, we find sufficient evidence in this case. The Government provided evidence regarding the dog's detailed training and continuing certification." *Age*, supra.

Notably, the United States Court of Appeals for the Eight Circuit announced in *United States v. Olivera-Mendez,* 484 F.3d 505, 512 (8th Cir. 2007), "We have held that to establish a dog's reliability for the purpose of a search warrant application, the affidavit need only state the dog has been trained and certified to detect drug and a detailed account of the dog's track record or education is unnecessary." If the canine's reliability in a search warrant affidavit is established by merely stating that the dog is trained and certified allowing for a finding of probable cause to issue the warrant to enter into someone's property, then it goes without saying that establishing the canine's training and certification through testimony at a motion to suppress should surely be sufficient to establish a *prima facie* finding of reliability that the defendant may rebut at the hearing. See; *United States v. Klein,* 626 F.2d 22 (7th Cir. 1980)

(finding the affiant's representation to the magistrate that the dog "graduated from a training class in drug detection in October 1978" and "has proven reliable in detecting drug and narcotics on prior occasions" sufficient) and *United States v. Berry,* 90 F.3d 148 (6th Cir. 1996) (finding contrary to defendant's suggestion; to establish probable cause, the affidavit need not describe the particulars of the dog's training. Instead, the affidavit's accounting of the dog's sniff indicating the presence of controlled substances and its reference to the dog's training in narcotics investigations was sufficient to establish the dog's training and reliability.)

Drawing an analogy to search warrant law, the State's search warrant is presumed valid at a motion to suppress hearing. When the defendant is challenging the validity of a search warrant, the prosecution is afforded a presumption that the issuing magistrate acted properly in determining probable cause prior to signing the warrant. The presumption may be rebutted by the defendant, but the burden is on the defendant to attack the foundation of the warrant.

Factually, this court has come across many cases where an officer has smelled the odor of an illegal substance and searched. *United States v. Sharpe*, 470 U.S. 675 (1985) is one such case. "After confirming his [D.E.A. agent] suspicion that the truck was overloaded and upon smelling marihuana, the agent opened the rear of the

camper without Savage's permission and observed a number of burlap-wrapped bales resembling bales of marihuana that the agent had seen in previous investigations. The agent then placed Savage under arrest and, returning to the Pontiac, also arrested Sharpe. Chemical tests later showed that the bales contained marihuana." *Sharpe* at 675. *New York v. Belton*, 453 U.S. 950 (1981) created the doctrine of search incident to arrest as related to automobiles stops. *Belton* factually started with the stopping officer smelling marihuana emanating from a car at a traffic stop. The law legally recognizes a law enforcement officer's ability to smell narcotics and search. However, Florida Supreme Court instituted, with their holding, a mandated statistical analysis in order to be able to ascertain if there is probable cause to search because the *Harris* court found that an alert by a well-trained drug dog to the exterior of a vehicle only provides 'mere suspicion' of criminal activity. The law does not require a statistical analysis of the nose of police officers. If the officers in *Sharpe* and *Belton* had smelled marihuana odor, from a joint completely smoked 5 minutes before the traffic stop but no drugs were found in the car, would their search be deemed wrong or illegal? The answer is a simple '**no**', as long as the officer had the prerequisite training and experience to recognize such odor as illegal contraband. It should be the same standard for well-trained narcotics dogs and their handlers.

Therefore, the legal philosophy of the request of the amici is already well established in United States criminal law. The amici are merely requesting that this Honorable Court treat the issue of a dog's training and/or certification in the same fashion. The *Amici* wish to emphasize that in reversing the Florida Supreme Court and establishing this presumption, in no way deprives the defendant of his right to confront the officer regarding his canine partner's reliability. The training records and certification documentation are discoverable. They can be reviewed by the defendant and challenged in court. The trial court, at the close of all the evidence at the motion to suppress, is still free to determine the reliability of the dog. Enabling the State to make this ***prima facie*** showing merely puts the proverbial ball in the defendant's court and deprives him of nothing.

The significant flaw in the Florida Supreme Court's *Harris* analysis is the focus on their requirement that the state be mandated to present to the trial court the dog's field performance records, along with concentrating on the issue of residual odor. The Florida Supreme Court's mistake is losing sight of the basic premise that dogs do not find drugs but instead locate drug odor. The rigorous testing standards set forth by the independent national governing bodies for narcotics dog certification are being

basically ignored in the *Harris* reasoning. (See, Appendix pgs. A-1-4) They need to be given their due deference in court.

By concluding that "**...**when a dog alerts, the fact that the dog has been trained and certified is simply not enough to establish probable cause to search the interior of the vehicle and the person," the Florida Supreme Court in *Harris v. State*, 71 So. 3d 756, 767 (Fla. 2011), failed to adhere to precedent clearly established by this Court that an alert by a well-trained drug detection canine provides an officer with probable cause to search. *U.S. v. Place*, 462 U.S. 696, 706-07 (1983); *Illinois v. Caballes*, 543 U.S. 405, 409-410 (2005). The Florida Supreme Court has set forth the wrong standard of review for the reliability of a drug dog combined with the *Harris* rationale that an exterior alert, by a well-trained dog to a vehicle, provides only '**mere suspicion**' of criminal activity. The Florida Supreme Court's exclusively focuses on a statistical analysis of field performance records to determine a narcotics canine's reliability while ignoring the evidence of training and certification is clearly erroneous.

## Conclusion

"Lies, damned lies, and statistics" is a phrase attributed to Mark Twain in describing the persuasive power of numbers, particularly the use of statistics to bolster weak arguments. This Court should reverse the Florida Supreme Court's weak argument which focuses on a purely statistical vetting of field performance records because allowing the ruling to stand would threaten a widely used drug-fighting tactic, the narcotics detection dog. The Florida Supreme Court's decision conflicts with this high court's precedents in *Illinois v. Caballes*, 543 U.S. 405 (2005); *Indianapolis v. Edmond*, 531 U.S. 32 (2000); *United States v. Place*, 462 U.S. 696 (1983). Therefore, this Court should tell the Florida Supreme Court that you meant what you said: that a well-trained narcotics canine provides probable cause to search and reverse the Florida Supreme Court.

Respectfully submitted,

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June 2012

# APPENDIX

# NATIONAL POLICE CANINE ASSCOCIATION
# NARCOTICS STANDARDS FOR CERTIFICATION

## Narcotic Certification

A minimum of two (2) Certified Detector Officials are required for certification.

K-9 Team must locate at least three (3) out of the four (4) finds to certify. This results in a success of seventy-five (75) percent minimum score for certification.

Canine's alert must be obvious to the Certifying Officials.

Certifying Officials may terminate certification at their discretion.

Non-scented objects may be used to mark finds.

No electrical collars and/or equipment resembling same are allowed.

Protest: The handler shall immediately notify the Certifying Officials within 30 minutes of any protest. The protest shall be in writing. If either Official feels the test was effected by the situation that caused the protest, this portion of the test should be re-run. If the test is not re-run, the protest should be forwarded within twenty-four

hours to the Standards Committee Chairman. The Chairman will as quickly as possible pass this on to two (2) members of the committee who will vote on approving or disapproving the protest. The Chairman will notify the handler as soon as possible of the results and if needed discuss the retest with out additional certification fees. Only in cases where the certification failed due to this protested event, will this process be used. Otherwise it will be decided by the Certifying Officials conducting the test.

If K-9 Team fails certification, K-9 Team must wait for five (5) days prior to attempting to certify.

**Search:**
Search shall consist of three (3) indoor rooms and four (4) vehicles with a total of four (4) finds.

Time on searches is **ten (10) minutes for indoor searches and eight (8) minutes for vehicle** searches. A one (1) minute warning at the request of the handler prior to the end of the search may be given. Time begins when the handler begins search and time ends when the handler calls time or upon expiration of time. Handler may call finds by calling time or after the expiration of the time.

**Indoor Search:** Shall consist of three (3) indoor rooms and two (2) finds.

Each room shall be at least 380 sq. ft., but no more than 600 sq. ft. (Exceptions may be made according to the Certifying Officials).
No more than one (1) find will be concealed in a room. (Therefore, no find will be concealed in one (1) of the three (3) rooms).

**Vehicle Search:** Shall consist of four (4) vehicles and two (2) finds. Narcotic finds may be concealed in the interior or exterior of the vehicles. No more than one (1) find may be concealed on a vehicle. (Therefore, no find will be concealed in or on two (2) of the four (4) vehicles).

Due to the numerous makes and models of vehicles available to departments, the decision upon what types of vehicles to be used is the Certifying Officials' discretion.

**Finds:**
All finds shall consist of Controlled Substances classified by law. Two (2) of the finds shall be soft drugs (marijuana) and two finds shall be hard drugs (cocaine or crack cocaine).

Finds shall be concealed in search area at least thirty (30) minutes prior to search.

Finds shall be concealed by a Certifying Official or another person directed by an Certifying Official.

Two (2) finds shall be concealed in the indoor rooms consisting of one (1) soft drug (marijuana) and one (1) hard drug (cocaine or crack cocaine). Two (2) finds shall be concealed in/or on the vehicles consisting of one (1) soft drug (marijuana) and one (1) hard drug (cocaine or crack cocaine).

All finds shall not weigh less than eight (8) grams or more than twenty-eight (28) grams.

No finds shall be concealed higher than eight (8) feet from the floor level.

All finds shall be concealed from view in a manner that the canine cannot retrieve said finds.

All search areas must be contaminated and finds proofed by a canine prior to search, if available.

Additional Substances:

The K-9 Team must complete certification prior to testing on additional substances.

Search area shall consist of one (1) room with one (1) find in said room.

Time for additional substances search shall not exceed five (5) minutes per room.