

Police Service Dogs are not ADA (Americans with Disabilities Act) Dogs

By Terry Fleck

Police service dogs are not ADA (Americans with Disabilities Act) dogs.

ADA dogs have Federal law which allows them to assist their handler anywhere they go:

Americans with Disabilities Act of 1990:

28 CFR 36.104:

Definitions:

Service animal means any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a **disability**, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

28 CFR 36.302:

Specific Requirements:

(c) Service animals--(1) General. Generally, a public accommodation shall modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability.

Unfortunately, police service dogs do not meet the ADA definition.

There are two issues with police service dogs:

1. **ON-DUTY:** The police service dog may accompany the handler where ever the handler has a lawful right to be.

DENNEN v CITY OF DULUTH

350 F. 3d 786 (U.S. Court of Appeals Eighth Circuit 2003)

Police officer with canine unit did not act in an objectively unreasonable manner by pursuing underage drinking suspect with unleashed dog as cover.

DUNIGAN v NOBLE

(390 F. 3d 486 (2004) U.S. Court of Appeals Sixth Circuit

Police officers entered a residence with a police dog to arrest a parolee at large. Unaware of the suspect's precise whereabouts, the K-9 handler lawfully brought dog into the home. The circumstances undoubtedly justified the dog's presence. The handler legitimately believed the suspect might attempt to flee. The dog's presence served the legitimate purpose of curtailing that possibility.

UNITED STATES v ESQUILLIN

(208 F. 3d 315 (2000) U.S. Court of Appeals First Circuit

Important factor in determining whether dog's sniffing behavior constitutes a "search" is not whether the sniff occurs in a public place like an airport, but whether the observing person or the sniffing canine are legally present at their vantage when their respective senses are aroused by obviously incriminating evidence.

2. **OFF-DUTY:** The handler must abide by the same restrictions as placed on any "pet". Therefore, the handler would need permission to take the dog in many public and private locations.

Those locations would include:

- Hotels;
- Flying on an airline;
- Being in a rental vehicle;
- Restaurants;
- Etc.

Unfortunately, other locations where police dogs are excluded are places where the handler wants to reside or stay:

- Apartments;
- Condominiums;
- Private-community residential areas.

The good news is that many apartment, condominiums and private-community residential homeowner's associations / co-ops have rules, amendments, regulations, policies, etc., that may be amended to allow a police service dog. I know of many apartment, condominium and homeowner's associations that have amended their policies to allow police service dogs.

Solutions:

Plan ahead:

Vacations:

There are many dog friendly companies. Those include hotels, car rental agencies and airlines. Communicate in advance with these companies. Tell them that you have a police **service** dog. Many of those companies will accommodate your dog.

I can personally recommend American Airlines, National Car Rental and Holiday Inn Hotels and Resorts. There are many more dog friendly companies.

The only airline, that I'm aware of, that is not dog friendly is Southwest Airlines. Here is their policy: "Southwest Airlines does not accept live animals in the aircraft cabin or cargo compartment other than fully trained assistance animals accompanying a person with a disability or being delivered to a person with a disability."

Residences:

Do your research before considering a purchase, lease or rental. There are many dog friendly residential areas.

In addition, many residential rules, amendments, regulations, policies, etc., have been amended to allow to a police **service** dog. This is usually done by membership vote. This is time consuming, however, I have never seen an amendment allowing a police service dog not being successful.

Statutory Relief:

There is at least one state where the State Legislature has provided statutory relief:

Nevada Revised Statute Section 651.075

1. It is unlawful for a place of public accommodation to:
 - (d) Refuse admittance or service to a person because he is accompanied by a police dog.
 - (e) Charge an additional fee or deposit for a service animal, service animal in training or a police dog as a condition of access to the place of public accommodation.
4. This section does not relieve:
 - (b) A person who is accompanied by a police dog from liability for damage caused by the police dog.
6. Persons who are accompanied by police dogs are subject to the same conditions and limitations that apply to persons who are not so

accompanied.

9. As used in this section:

(a) "Police dog" means a dog which is owned by a state or local governmental agency and which is used by a peace officer in performing his duties as a peace officer.

Summary:

I have been traveling with three police service dogs for twenty-one years and I only had a problem one time. That one time was simply a miscommunication within the airline I was flying on and was resolved immediately.

First, I planned ahead. Secondly, I was an ambassador of law enforcement K-9. That means, I put the professional image of our industry in place of my law enforcement presence.

I ask all handlers to be ambassadors of law enforcement K-9, cooperating in a nation where police service dogs are not ADA dogs.