



Roll Call Training Bulletin

Produced by: Michael Fry, Deputy City Attorney
Prepared by: Obed Magny, Professional Standards Unit

Sam Somers Jr., Chief of Police

Volume 28

September 30, 2014
Service Dogs

ISSUE:

What should Officers do if they are on a call for service pertaining to a business denying service to a patron accompanied by a service dog pursuant to the American with Disabilities Act (ADA)?

ANSWER:

Service animals are animals that are individually trained to perform tasks for people with disabilities such as guiding people who are blind, alerting people who are deaf, pulling wheelchairs, alerting and protecting a person who is having a seizure, or performing other special tasks. Service animals are working animals, not pets.

The ADA, limits the questions, officers may ask to determine if the dog is a “service dog”. To aide in the determination, Officers can ask two important questions:

1. Is the dog a service animal?
2. What work or task has the dog been trained to perform? (you are looking for a specific task but **cannot** ask for a demonstration)

Officers **CANNOT** ask about the individual’s disability, proof of disability or proof the the dog is a trained or a licensed service dog.

In most cases, the answers will quickly determine the validity of the dog’s designation as a legitimate “service animal.” However, at times it may be difficult to determine the dog’s validity.

For example, the ADA does not recognize “comfort” animals. A comfort animal is not trained to perform a task; rather, they make the individual feel better if they are close by.

The ADA does however; recognize service dogs that provide assistance to people with Post-Traumatic Stress Disorder (PTSD). A dog that is trained for PTSD will respond to an individual’s specific PTSD-related disability, whereas a ‘comfort’ animal will not.

If cases where officers are unable to determine if the animal is a service dog they shall treat it as a civil case and advise both parties of the law. If requested, officers should take an “I” report. Businesses can refuse services to a service dog if it’s out of control and the owner is not taking action to control it, or if its not housebroken.

Ultimately it’s the owner’s discretion on whether or not they will allow the dog into the business. Officers should advise the owners that it’s a misdemeanor to deny service dog admittance into a business (365.5 PC). Subsequently, officers should advise the individual that it’s a misdemeanor to fraudulently represent a pet as a service dog (365.7 PC).

Officers responding to these calls should:

- make every effort to educate both parties,
- mediate the situation and advise both parties about civil remedies.
- encourage civil remedies over criminal prosecution.

The citizen can file a complaint against the business for violating ADA laws with ADA. For more information regarding service animals and ADA laws, please visit www.ADA.gov.