The Legislative History of the Treatment of Military Working Dogs in the United States

KAYLEY C. LEON

Military Working Dogs (MWDs) are dogs with trained specialized abilities to assist military operations by, for example, holding down suspects, defending army troops, or sniffing out bombs.¹ Dogs have been used in war since 600 BC.² In the United States, MWDs played a significant role during World War I and II; however, the treatment and recognition of these animals and their pivotal contributions to military operations by the U.S. government have marked a disheartening path.

A. A Brief History of MWD Usage by the U.S. Military

The use of MWDs is well-recorded throughout U.S. military history. Beginning in the mid 1700s, military personnel, including Colonel Benjamin Franklin, recognized the utility of dogs in combat and encouraged their use to defend impending attacks from natives.³ In 1914, the U.S. military borrowed MWDs from France and Britain and primarily utilized them in a messenger role.⁴ While by the beginning of WWII, the U.S. military had adopted military training programs to employ MWDs on the battlefield.⁵ MWDs were utilized throughout WWII and after the war these same dogs were brought back to the United States and reintegrated into civilian life as pets.⁶

During the Vietnam War, the regulations surrounding the discharge of MWDs drastically changed. During this war, over 4,000 dogs served and were such an integral part of the military force that the Viet Cong placed bounties on them.⁷ However, only around 200 dogs made it back home to the United States.⁸ These dogs were responsible for stopping over 10,000 deaths of American troops; however, it was common practice to leave the dogs in foreign nations or euthanize them after the war had ended.⁹ It was not until years later that many MWD handlers—those soldiers who trained

---

² Edward S. Foster, Dogs in Ancient Warfare, 10 Greece & Rome 114, 114 (1941).
³ See Kirchmaier, supra note 1, at 5; MICHAEL G. LEMISH, W AR D OGS: A HISTORY OF LOYALTY AND HEROISM 6 (1999) (attributing early consideration to the use of dogs in combat to Benjamin Franklin).
⁵ See Kirchmaier, supra note 1, at 5.
⁶ See Ravitz, supra note 4.
⁷ Id.
⁸ Id.
⁹ Id.
and worked with MWDs—discovered that these dogs were euthanized or left in Vietnam after the war.

For example, in 1970, a story broke about Prince, a MWD who served with SEAL Team 2 in Vietnam.\(^\text{10}\) After the Vietnam War had ended, Prince made it back to the United States and received multiple honors for his valor.\(^\text{11}\) Unfortunately, these celebrations were cut short when the U.S. government decided to send Prince back to combat as under the then-existing regulations, “dogs were to continue working overseas, then be destroyed when they were no longer useful.”\(^\text{12}\) This story brought light to U.S. citizens regarding the government’s treatment, casualties, and respect for MWDs.

Under Article 52(2) of Additional Protocol I of the Geneva Convention, some argue that canines can be attacked as a military target if “by their nature, location, purpose or use making an effective contribution to military action and whose total or partial destruction, chapter or neutralization, in the circumstances ruling at the time, offers a definite military advantage.”\(^\text{13}\) However, it is not clear if “inherent characteristics” or “incorporation into military training” of these animals is sufficient to be considered a military objective.\(^\text{14}\) Are MWDs’ very nature or training enough to permit them to be targeted in international warfare? What if a dog is merely a bomb sniffing dog and is not engaging in combat? What if an MWD is being used as a messenger, or is merely doing lifesaving activities? What if an MWD is aiding a civilian population? So long as these questions remain unanswered, it is likely that most countries view the very nature of these animals as sufficient to advance in neutralization.

B. Legislative Changes

In November 2000, the United States began to shift their perspective on the treatment of MWDs. The then President, Bill Clinton, passed the Promotion of Adoption of Military Working Dogs Regulation, also known as Robby’s Law.\(^\text{15}\) The law had a dual purpose. First, to end the U.S. Department of Defense practice of euthanizing MWDs at the end of their useful working life.\(^\text{16}\) Second, to facilitate the adoption of retired MWDs by law

---

11. See id.
12. Id.
14. Id.
enforcement agencies, former handlers of these dogs, and other persons capable of caring for these dogs.17 Finally, the law required an annual report from Congress detailing the number of dogs adopted during the preceding year and, if a MWD was euthanized, a detailed explanation for the decision to euthanize.18

In 2013, under the Obama Administration, Congress passed the National Defense Authorization Act, which furthered the rights of MWDs.19 This Act authorized that retired MDWs—who did not have suitable adoption arrangements at their military location upon discharge—may be transferred back to the Lackland Air Force based in Texas, where the dogs were originally trained or another location to await an adequate adoption.20 Furthermore, this Act shifted the responsibility of the expenses associated with transporting the retired MWDs back from the combat zone to the states and the required specialized veterinary care from the prospective adopter to the Department of Defense.21

Despite these legislative changes, in 2014, 229 MWDs in the Tactical Explosive Unit were disposed of.22 Two years later, the U.S. Air Force grimly reported to congressional committees in the “Tactical Explosive Detector Dog (TEDD) Adoption Report” that the U.S. military had (1) a limited transition window for the disposition of tactical explosive detection dogs, and (2) the lack of a formal comprehensive plan contributed to the disorganized disposition process for the dogs.23

In response to these realities, in December 2018, Congress introduced Resolution 145 which aimed to encourage the Army and other government agencies with specialized MWDs “to prioritize adoption to former tactical explosive detection dog handlers.”24 This corresponds with the U.S. Military’s recognition of the honorable service of WMDs and soldier handlers.25

C. Formal Recognition in the United States

Though each MWD saves, on average, 150 human lives, they receive no formal recognition by the U.S. Military and have historically been

---

17. See id.
18. See id.
21. See H.R. Res. 4310, supra note 19.
25. See id.
deemed “equipment.” The classification of MWDs is evidenced by repeated reference of MWDs alongside rifles, shotguns, and helicopters in Chapter 10 of the U.S. Code. The current classification of MWDs as equipment is problematic because it significantly insulates the military’s obligations regarding their treatment and recognition. In fact, Australia is the only country to date whose military formally recognizes the contributions of MWDs.

Under the U.S. legislative system, MWDs “can be recognized for their service when they perform an ‘exceptionally meritorious or courageous act.’ However, none of these canine achievements have translated into formal recognition.” For example, Chips, a German Shepard-husky mix and MWD, was recommended for the Distinguished Service Cross, the Silver Star and the Purple Heart for his heroic actions in WWII. Reportedly, as his command was being attacked, Chips, a trained sentry dog, ran into an Italian “machine-gun nest,” attacked the enemy, and “single-handedly got them to give up and come out asking for mercy.” Despite suffering scalp wounds and gunpowder burns, Chips’ awards were rescinded upon his return to the United States because the Army policy did not allow animals to receive medals.

The 2012 Canine Members of the Armed Forces Act attempted to change the current policy and proposed that MWDs should be recognized as members of the armed forces, instead of merely equipment. The Act urged the military to “create a decoration or other appropriate recognition to recognize military working dogs under the jurisdiction of the Secretary that are killed in action or perform an exceptionally meritorious or courageous act in service to the United States.” The Act was unsuccessful in changing the longstanding policy. But, the Act did not go unnoticed, as the 2015 U.S. Air Force Instruction 31-125 did remove the word “equipment” from the MWD

28. See id.
30. Warren & Hillas, supra note 26, at 85.
32. Id.
33. Id.
35. Id.
This could potentially demonstrate an honorable shift of attitude and the possibility for more recognition of MWDs in the future.

D. Conclusion

The treatment of MWDs has dramatically changed in recent decades. Although Congress has been silent concerning the Canine Members of the Armed Forces Act, the U.S. Military and Congress’s change of attitude demonstrates a possible shift in the near future. Recognizing the importance of facilitating proper MWD adoption is prioritized by various administrations and is an issue from which to shy away. Additionally, the change in language by the U.S. Air Force may spark a trend for other branches of the U.S. military, even though Congress has not supported the formal recognition of MWDs.

MWDs are an asset to the military; moreover, the execution of MWDs places unnecessary emotional harm on their handlers. In recognition of the causalties of MWDs and the emotional harm caused to their handlers, United States should follow suit with Australia and implement a formal recognition process. Additionally, the United States has an opportunity to be a visionary by implementing the Canine Members of the Armed Forces Act that will not only lend further protections to MWDs, but formally recognize them as members of the armed forces. This Act should be seriously considered and implemented by Congress to recognize the hard work, dedication and sacrifices of these animals.