

# Court: Conviction unconstitutional

■ **Police use of a dog to sniff through apartment door violated Fourth Amendment, ruling says.**

**By JAKE BLEED**  
Senior staff writer

The Nebraska Supreme Court on Friday overturned an Omaha man's 1997 conviction, saying police use of a dog outside his apartment door to sniff for drugs was unconstitutional.

Based partly on the dog's reaction, police searched the home of Eddie R. Ortiz Jr. and found one-quarter of an ounce of cocaine, four ounces of marijuana and \$17,300, court documents said.

"We conclude that, given the legitimate expectation of some measure of privacy in the hallway, the canine sniff for illegal drugs ... violated the Fourth Amendment," Justice Lindsey Miller-Lerman wrote in the opinion.

Ortiz was convicted of possession of cocaine with intent to sell and marijuana with intent to sell. He was sentenced to serve five to eight years in prison.

Omaha Police brought Pogo, a dog specially trained to detect the smell of narcotics, to the door of Ortiz's apartment in the 800 block of S. 70th St., on the evening of Aug. 7, 1997, the opinion

said. After Pogo's reaction indicated drugs were inside, police obtained a "no-knock" daytime search warrant, which allowed them to enter and search Ortiz's apartment.

Ortiz, who turned himself in to police on Aug. 18, 1997, objected to the inclusion of the drugs and money seized by police in the search. The trial court overruled the objection.

"Because the fruits of the unconstitutional search should have been excluded, the trial court erred in overruling Ortiz's motion to suppress the evidence seized pursuant to the search and in admitting that evidence at trial," Justice Miller-Lerman wrote.

The court ruled apartment residents have a reasonable expectation of privacy outside their apartment doors and that hallways are not entirely public areas.

Justice William Connolly concurred with the opinion, adding the use of a dog to sniff through a door constituted a search and therefore violated the Fourth Amendment.

But unlike the majority of the court, Connolly wrote that to use a dog outside an apartment's door, police needed a search warrant before being constitutional.

Miller-Lerman wrote that a canine can only be used outside an apartment's door after police "possess at a minimum reasonable, articulable suspicion that the location to be tested contains drugs."

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## Law & Order

### Woman charged with child neglect after chase ends

A high-speed chase that began outside Ceresco ended on Fairfield Street just past First Street early Sunday morning, said Capt. David Beggs.

A Saunders County deputy tried to pull over Norma Jean Goodteacher, 34, around 4 a.m. Sunday, Beggs said.

Goodteacher sped away down Highway 77, took 56th Street into Lincoln, turned first onto Cornhusker Highway and then onto Adams Street, Beggs said.

Goodteacher turned onto First Street and then onto Fairfield Street, where she drove across "stop sticks," a device which punctures a car's tires slowly, allowing the driver to retain control of the car, Beggs said.

The stop sticks were laid by a Lancaster County Sheriff.

In the car, police found Goodteacher's 5-year-old child.

Goodteacher was arrested on suspicion of felony child neglect, a host of driving offenses and an outstanding warrant.

Goodteacher was also wanted on several warrants in Saunders County.

### 17-year-old suspected of planning robbery

Police arrested a 17-year-old in Lincoln after they found him outside a convenience store apparently waiting to rob it, Beggs said.

### Activists protest anti-rape ad's ban

JOHANNESBURG, South Africa (AP) - South African activists on Sunday slammed a decision to ban an anti-rape television advertisement some men thought was anti-male. The country has one of the world's highest rape rates.

The Advertising Standards Authority of South Africa quashed the ad after about 30 men complained the ad implied that all South African men are rapists, Sunday newspapers reported.

"Basically, this ad was saying that half of South Africa's men are rapists, and the other half condone rape," Peter

Police received a telephone call at 4:25 p.m. Saturday that the teen-ager was planning to rob the Kwik Shop, 5600 Holdrege St., Beggs said.

Officers found the teen dressed in black outside the store armed with a BB pistol, Beggs said.

The teen was arrested on suspicion of carrying a concealed weapon, giving false information to a police officer and attempted robbery.

### \$21,434 in property stolen from Lincoln home

Two men broke into an apartment at 30th and O streets Thursday morning and took \$21,434 in property, police said.

The apartment's resident came home and found his apartment door kicked in, said officer Katherine Finnell.

A neighbor told police she saw two men moving items out of the apartment between 9 and 10 a.m., Finnell said.

The pair loaded the items into a red pickup truck parked behind the apartment building, Finnell said.

Taken were three televisions, stereo equipment, men's watches, sunglasses, a VCR, a mountain bike and a 7,000-piece sports card collection valued at \$15,000. Damage to the door totaled \$100.

Compiled by senior staff writer  
**Jake Bleed**

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