DELAWARE DOG CONTROL PANEL

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Hearing taken before Pamela C. Herrmann,
(formerly Pamela C. Washington), Registered
Professional Reporter and Notary Public, at Sussex
County Council Chambers, The Circle, Georgetown,
Delaware, on May 12, 2014, beginning at 7:00 p.m.

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APPEARANCES:

On behalf of the Dog Control Panel:
ANNE CAVANAUGH, Chairperson
BETTY JANNUZZIO
CRAIG STONESIFER
TARA LAUSCH

On behalf of Delaware Animal Care & Control:
CAPTAIN SHERRI WARBURTON
STAFF SERGEANT DAVID HULSE

On behalf of Faithful Friends:
Young, Conaway, Stargatt & Taylor
ATTN: CURTIS J. CROWTHER, ESQ.

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CHAIRPERSON CAVANAUGH:  Okay, it's 7:00 o'clock, you want to get started everyone? This is the Delaware Dog Control Panel. My name is Anne Cavanaugh, and I'm the Chairperson for tonight. I'll ask the other Panel members to introduce themselves.

MS. JANNUZZIO:  Betty Jean Jannuzzio, I represent the Delaware SPCA.

DR. STONESIFER:  Craig Stonesifer, I'm a veterinarian for the Brenford Animal Hospital.

CHAIRPERSON CAVANAUGH:  I'm going to read the proceedings and what we're hoping to accomplish, and then we'll get started.

Delaware Dog Control Panel deals with the Dangerous and Potentially Dangerous Dogs law.

Delaware Code Title 9, Chapter 9, Subchapter II, Subsection 925(a) states that a dog who has inflicted physical injury upon a human or domestic animal, killed a human or domestic animal, pursued a person in an apparent attitude of attack, and/or who was used to facilitate animal cruelty or animal fighting is in violation of this Code and must be seized and impounded by Delaware Animal Care and Control until determination as to whether the dog's actions were dangerous or potentially dangerous.

The owner of such an impounded dog may...
abide by the findings and conclusions of Animal Care
and Control as per Subsection 925 of this code. If
the owner disagrees with the conclusion, he or she may
request a hearing before the Dog Control Panel to
present evidence as to why the actions of the dog for
which it was seized should not be considered dangerous
or potentially dangerous as defined by the Code.

All hearings shall be informal, open to
the public, and need not conform to standard rules of
evidence. Hearsay evidence shall be allowed but may
not be relied upon as the sole evidence in the Panel's
determination.

This hearing is not a community
meeting. There will be no public comment, and you
will be asked to leave if you disrupt the proceedings.
This hearing will open with instructions and brief
statements from each party, noting what they intend to
establish. For example, we're going to establish the
dog is dangerous, potentially dangerous, or not
dangerous. They also should state the number of
witnesses and amount of time they expect to need for
their presentation.

The members of the Delaware Dog Control
Panel will hear evidence and testimony concerning the
incident that caused the dog to be seized in
accordance with Delaware law. The Panel may exclude any evidence which is plainly irrelevant, immaterial, cumulative or unduly repetitive.

Each witness will clearly state and spell if requested their full name for the record and be sworn in prior to testimony. Following opening statements, each party shall produce witnesses and evidence on their own behalf, and have the opportunity to cross-examine witnesses. The Panel may examine the witness after testimony, cross-examination, and reserve the right to recall a witness to answer additional questions or clarify testimony.

After brief closing statements from both parties, deliberations of the Panel will be conducted in executive session. At that time, the Panel will determine based upon the preponderance of evidence and testimony provided during the hearing whether the dog's actions for which it was seized meets the level of public hazard as defined by Delaware law.

After returning, the Panel shall announce its decision by reading the conclusion into record. After this reading, the owner will then be provided with a copy of the written notice. The decision of the Panel is final.
MR. CROWTHER: May I be heard, Madam Chairman?

CHAIRPERSON CAVANAUGH: I'm sorry?

MR. CROWTHER: May I be heard for a moment?

CHAIRPERSON CAVANAUGH: Usually we start with opening statements from Animal Control.

MR. CROWTHER: I don't believe there's a quorum here that's proper under the code. Miss Jannuzzio is your alternate; there's not three separate representatives from three divisible groups on the dog panel.

CHAIRPERSON CAVANAUGH: I don't believe that's necessary.

MR. CROWTHER: There has to be three for a quorum of the five. Miss Jannuzzio is your alternative. If you weren't here, she could be here, but you're here and that means this system is not with the five -- or three separate representatives.

CHAIRPERSON CAVANAUGH: I don't believe that's necessary. I believe that any of the members of the Panel, as long as there are three, can hold a hearing.

MR. CROWTHER: I ask that the record be noted that I objected to the quorum, that it does not
exist and this meeting is invalid.

CHAIRPERSON CAVANAUGH: Okay, so now we have opening statements by Animal Control.

CAPTAIN WARBURTON: Good evening, Panel members, ladies and gentlemen. Tonight we're going to talk about a series of unfortunate and tragic events. What I mean by unfortunate events are when Tacia McIlvaine called Delaware Animal Care and Control to report two elderly homeless women who had three dogs in the back of a pickup truck at a motel. Unfortunate that the responding officer attempting to locate them was unsuccessful, however Tacia McIlvaine was and she took responsibility of Ricky and Lady Jane. You'll then hear how Tacia McIlvaine contacted Kathy Hughes, asking her to keep Ricky and Lady Jane for one evening, and how that one evening turned into four weeks.

You will hear from Kathy Hughes and Cindy Myers that when they took the two dogs over to Lisa St. Clair's place for evaluation, there was a miscommunication, and how she was not prepared for their arrival as she was outside with her dogs. Her senior lab, Daisy, who is deaf, did not hear her call to come inside. Kathy Hughes will tell you that Ricky launched himself from her SUV and, with no hesitation
in an apparent attitude of attack, and latched onto
Daisy's neck.

You will hear from Lisa St. Clair how
she grabbed Ricky's collar, pulling him away and
tightening his collar, restricting his air while her
dog was screaming. You will hear from Kathy Hughes
that she attempted numerous times after the attack to
contact Tacia McIlvaine, leaving her messages about
the attack and how she can no longer keep the pair.

Finally, Hughes puts Ricky and Lady
Jane in Tacia McIlvaine's shed with bedding, food, and
water because she could no longer care for them. A
series of unfortunate events indeed.

Flash forward to March 18th, a cool
spring day, a woman is gingerly taking her small furry
white dog out of her vehicle. Little Banks, who has
Lyme's disease, is particular about who grooms him,
and Todd Clyde is so gentle that she drives from
Maryland to Delaware to have him groom her dog. You
see her walking Banks toward the salon where she walks
past a younger man who is taking a black and white
pitbull with tan markings past her. You see her and
Banks moving forward when a white and black blur
speeds towards the woman and her dog. The woman looks
down as her dog screams in pain as the bigger dog
grabs the smaller dog with no hesitation and in an apparent attitude of attack, and in a violent manner starts shaking him back and forth.

You see a man appear, striking the bigger dog on the head of with wooden pole to no avail. The bigger dog finally releases the little dog and the man scoops up the bleeding dog and rushes him inside the building and then to the vet. Ricky is transported to Faithful Friends where Ricky and Lady Jane were turned over to Faithful Friends without full disclosure of Ricky's aggression.

A series of tragic unfortunate events, ladies and gentlemen. These events are supported by facts. And the facts, as facts sometimes are, will be sad. They will literally break our hearts, as sad facts sometimes do. And facts, unlike opinions, do not vary.

It's a fact that Ricky pursued and attacked a senior lab who was on her owner's property, unprovoked. It's a fact that Ricky pursued and attacked a senior Lhasa Apso who was merely walking past him. It's a fact that Ricky has inflicted serious physical injury upon a domestic animal in the immediate control of its owner, and it's a fact now that Banks has passed.
My name is Captain Sherri Warburton, and together with my co-counsel, Field Sergeant David Hulse, it's our honor to stand here before you representing Delaware Animal Care and Control on behalf of Banks and Daisy.

The testimony you will hear tonight will prove Ricky, a black and white with tan markings American pitbull terrier, is a dangerous animal and should be deemed dangerous in accord with Delaware Title 9, Chapter 9, Subsection 2. Delaware Animal Care and Control requests about 90 minutes to call up to eight witnesses. Thank you.

CHAIRPERSON CAVANAUGH: Thank you.

MR. CROWTHER: What you're going to find when you hear the testimony is what they didn't tell you, what they won't tell you on their direct. But when they're crossed, you're going find out this information seems to all have come about after March 18th. That these so-called witnesses made contrary statements before March 18th. Why? You ask. Why would they do that?

Well, that's because this case started back when First State Animal Control was called, and they didn't report. They were called because two animals were suffering in the back of a pickup truck.
in cages covered by a tarp with no food. They didn't show up. They were called again. Well, the person who had the original report isn't here, they'll get back to you later. But they don't.

So someone goes and does their job for them, and what do they do after that? They complained to Animal Control about not doing their jobs.

Suddenly, on March 18th, focus is on that person.

Now, my client is Faithful Friends. My client did not get involved at all until after February of 2014 because they were asked if they could take these dogs; they had no space at the time, but they were building new space. And they said well, when we have space available, when our construction is complete, we'll let you know.

Well, the time came, and the space became available, and Faithful Friends said you can bring them here. And they arrived on March 18th, on the same day and after the incident involving Banks. What you will actually hear about what happened will not remotely sound like what Sergeant Warburton described.

CAPTAIN WARBURTON: Captain.

MR. CROWTHER: Sorry. It won't sound remotely like that. So when you're sitting here
listening to testimony, wait until you find out what they didn't say to other people, wait until you find out what they did say that's completely inconsistent, and then ask yourselves is this really about trying to get back at one individual, going through a dog? Because that's what it really is.

CHAIRPERSON CAVANAUGH: Hetti?

HETTI BROWN: Madame Chair, I'm sorry, I know this is out of order. But we do have an additional Panel member here tonight because of some of the concerns of the defendant; if you'd like to call that Panel member. I don't know if you want to speak to her first or convene off to the side.

CHAIRPERSON CAVANAUGH: That would be good, yeah. Excuse us for one second.

(Whereupon, a short recess was taken.)

CHAIRPERSON CAVANAUGH: So we have a new Panelist, this is Tara Lausch. Tara is an animal behaviorist, she was part of the group of people that volunteered to be on the Panel. And Betty will remain but she will not vote. Does that --

MR. CROWTHER: I need to ask for Miss Lausch to be recused. Part of my case will involve a group that she is a member of, Delaware Animal Advocacy Guild.
MS. LAUSCH: I am not a member of that group.

MR. CROWTHER: My understanding is that she has an affiliation with that group.

CHAIRPERSON CAVANAUGH: My understanding is that she says she does not.

MR. CROWTHER: She says she's not a member; she didn't answer the question whether she was affiliated with that group.

MS. LAUSCH: I am friends with people that are in that group, but I'm not a member of that group.

MR. CROWTHER: Are any of those people in the room today?

CHAIRPERSON CAVANAUGH: Is that relevant? It's not relevant.

MR. CROWTHER: Are they going to be witnesses?

CHAIRPERSON CAVANAUGH: I do not know. I'm just trying to get this Panel going.

MR. CROWTHER: Well, I need to preserve my client's rights, and that involves determining whether or not a member should be recused, especially when the member's added after the meeting is already convened.
CHAIRPERSON CAVANAUGH: As you know, this is the first time this Panel has met in some time. We are not attorneys, we are volunteers who were asked to be here as members of the community to try and make a decision about a dog. It would really be helpful if we could proceed.

MR. CROWTHER: Are any of the people that she's affiliated with going to testify?

CHAIRPERSON CAVANAUGH: I do not know.

MR. CROWTHER: Does she have an obligation to say if she knows them when they are called if she has an affiliation?

CHAIRPERSON CAVANAUGH: I suppose she does. But if she knows them, does that mean she has to be recused, just because she knows them? I mean we're talking about Delaware. I mean I know --

MR. CROWTHER: Knowing someone is different from having a close affiliation with them and working with them in things they do with respect to a group.

CHAIRPERSON CAVANAUGH: So if she knows them, she does haven't to recuse herself?

MR. CROWTHER: No, if she merely knows them.

CHAIRPERSON CAVANAUGH: Because if
that's the case, I need to recuse myself.

MR. CROWTHER: Absolutely right, because you don't have a close working relationship with that person or something that's going to happen here where you have to establish whether or not you're impartial, that's all we're asking. I don't know who she knows in this group, I just know of her affiliation with the group.

CAPTAIN WARBURTON: I call to the stand Staff Sergeant Palacio.

WHEREUPON:

MARY PALACIO,

having first been duly sworn by the court reporter, thereupon testified upon her oath as follows:

BY CAPTAIN WARBURTON:

Q Staff Sergeant Palacio, how long have you been with Delaware Animal Care and Control?

A Eight years.

Q And do you have any animal experience prior to working with Delaware Animal Care and Control?

A Yes, I was a vet tech at Rehoboth Animal Hospital for two years.

Q Okay. Coming to the incident that
we're here for, on 4/10 you received a complaint about
two dogs that belong to a rescue that may have been
involved in some dog attacks; could you expand on
that?

A Yes. I was notified by the director
that we had an anonymous email that there was a
possible aggressive dog that may be going to be
adopted into the community, and the dog was now at
Faithful Friends and they would like us to investigate
an incident that happened at Mrs. St. Clair's house
with a dog that was attacked there.

Q This is Plaintiff's Exhibit 1. Through
your investigation, is this the dog identified in the
attacks?

A Yes, that's Ricky.

Q Okay. And Ricky is a?

A He's a male. He's neutered now, he
wasn't neutered at the time, I don't believe, American
pitbull terrier.

CAPTAIN WARBURTON: Okay, I'd like to
enter this into evidence Plaintiff's Exhibit 1.
(Plaintiff's Exhibit 1, marked for
identification.)

BY CAPTAIN WARBURTON:

Q Okay, so you had contacted Savannah
Animal Hospital; did they have any information on the
dog attack?

A No. That was one of the pieces of
information we were given, is that the dog that was
under the attack may have been taken there for
treatment. I consulted with them, and it was not
taken there. They would not give me the information
for the owner, but they did contact Mrs. St. Clair for
me, and she did call me and we had a conversation as
to what happened on that attack.

Q And just quickly, what was the
conversation?

A That Kathy Hughes had come to her house
with two pitbulls, they were going to try to do like a
meet and greet to see if the pitbulls could be engaged
for their -- you know, to be adopted, to see if they
could get along with other animals. And there was an
attack that happened on her elderly dog, Daisy was
attacked by Ricky.

Q Plaintiff's Exhibit 2 is another size
of Ricky, did you take this picture?

A Yes, I did.

CAPTAIN WARBURTON: And that was
Plaintiff's Exhibit 2.

(Exhibit 2, marked for identification.)
BY CAPTAIN WARBURTON:

Q So after speaking with Kathy Hughes, did you go to her residence?
A Mrs. St. Clair?
Q I'm sorry, yes, after speaking with Miss St. Clair --
A Yes.
Q -- did you go to her residence?
A Yes, I did go to her residence.
Q Okay. And can you explain what this picture is?
A Yes, that's her driveway right outside her home, and that's where the location of the attack took place.

CAPTAIN WARBURTON: Okay, this is Plaintiff's Exhibit 5.
(Exhibit 5, marked for identification.)

BY CAPTAIN WARBURTON:

Q And can you explain quickly, did you take this picture?
A Yes, I did.
Q Okay, and can you explain the details of the --
A Well, that's Mrs. St. Clair right there. Actually, that is her other dog right there,
approximately in the same location that Daisy would
have been. The van is parked where the SUV was that
had the two pitbulls in it.

Q Okay, and the dogs were inside of the
SUV?

A Yes, yes.

Q Okay, thank you. And you took this
picture when you were at Miss St. Clair's?

A Yes.

Q And this is just basically a wider
view --

A Yes.

Q -- of the area?

A When they arrived, actually Mrs. --

Mrs. St. Clair has invisible fence so her dogs stay
out, and they can only go so far to the driveway. And
Daisy was laying out in the front yard by the porch.
She doesn't hear and she doesn't see well so they have
to use hand gestures to bring her in, so she was
unaware of the dogs in the van at the time.

Q So at the time of the attack, it sounds
like Daisy was not being tethered or restrained by her
owner?

A No, no, because --

Q Is that against the law in Sussex
County?

A  No, because she's restrained by the invisible fence.

Q  Okay.

A  That's her restraint.

CAPTAIN WARBURTON:  And that was Plaintiff's Exhibit 7.

(Exhibit 7, marked for identification.

BY CAPTAIN WARBURTON:

Q  And Plaintiff's Exhibit 8, whose leg is that?

A  That's Mrs. St. Clair's leg.

Q  And did you take this picture?

A  Yes, I did.

Q  And what's the picture of?

MR. CROWThER:  Objection. The picture is what the picture is.

BY CAPTAIN WARBURTON:

Q  Is it a picture of her leg?

A  Yes, it's a picture of her leg.

Q  And is she pointing to scars?

A  Yes, there's puncture wounds that she was bitten during the attack with Ricky and Lady Jane and her dog, Daisy.

CAPTAIN WARBURTON:  Okay, that's
Plaintiff's Exhibit 8.

(Exhibit 8, marked for identification.)

BY CAPTAIN WARBURTON:

Q When you met with Miss St. Clair, did you take a written statement from her?
A Yes, I did.

Q Is this her statement?
A Yes, it is.

Q And is that your signature at the bottom?
A Yes, it is.

CAPTAIN WARBURTON: Okay, I'd like to enter this into evidence.

BY CAPTAIN WARBURTON:

Q After speaking with Miss St. Clair, did she provide the vet where she took Daisy to?
A Yes, she took Daisy to Nonantum Vet Clinic, it's in Langburg, Pennsylvania, that's where Daisy has gone pretty much all her life. Being an older dog, you know, she's been taking her there so she felt it was best to take her back to the vet that knew her for treatment.

Q And is this the fax you received from Nonantum Vet Clinic?
A Yes, I contacted them and they faxed
that to me.

Q Okay. This is in the Panel's packet and on there is a date of 12/4.

A Uh-huh.

Q Does that coincide with what you learned about the dog attack --

A Yes.

Q -- on that date? After speaking with Miss St. Clair, did you also speak with anybody else who witnessed the attack?

A Yeah. I had -- she had given me information of two ladies that had brought the two pitbulls to the residence, it was Kathy Hughes and Cindy Myers. So I contacted them and was able to meet with both of them, get statements from them and information.

Q So you met with them physically to obtain their statements?

A At their residence, yes, I did.

Q And with Miss Hughes, did she tell you what happened during the attack?

A Yeah. She -- she actually was a little bit shocked at the way Ricky responded to the dogs because, with her, he was great. And he can be great with people, but not with other dogs.
Q Okay.
A Not always. And she was -- she expressed to me the concern she had about how he just goes off, and she wasn't prepared for that when she took him there. And I'm sure she wouldn't have if she thought that. But she expressed that how aggressive he was and how he was -- would not let go of the dog.

Q And did you get a statement from her?
A Yes, I did.

Q Okay. Along with -- let me see this -- Miss St. Clair and --
A Cindy Myers.

Q -- yes, Cindy Myers, did you meet with Cindy Myers as well?
A Yes, I did.

Q Did Cindy Myers -- you took a statement from her, and did anything stick out at you when you took her statement?

A Yeah, she is a retired veterinarian from the State of Maryland, and she knows dogs pretty well, she's been around dogs a while. And she expressed to me that she really felt that this was truly an aggressive dog that was very unpredictable, and she encouraged Miss Hughes to not keep him at her home any more because of the liability she would
assume by doing so. That is why she tried so hard to
get ahold of Miss McIlvaine to return the dog; she did
not want that responsibility.

Q And these are the two statements that
you took from the two women?

A Yes.

Q Are these your signatures at the
bottom?

A Yes. Yes, they are.

Q Okay, thank you.

CAPTAIN WARBURTON: We have two
separate incidences of attacks, and if the Panel is
okay, I would rather just deal with this one instead
of recall Staff Sergeant Palacio for the second
incident.

CHAIRPERSON CAVANAUGH: Okay.

CAPTAIN WARBURTON: Okay.

CHAIRPERSON CAVANAUGH: Do you have
questions?

MR. CROWTHER: Yes.

BY MR. CROWTHER:

Q Is Palacio your married name?

A Yes.

Q Your maiden name was Genetti?

A Yes, it was.
Q And you were the animal control officer that was originally called to report to pick up a --

A No, I was not. I was not.

Q You never spoke with Miss McIlvaine?

A I spoke with her on the phone, I took her complaint, but I was not the responding officer.

Q Would it surprise you if your office said that you were, and that you were not available to follow up later, would that surprise you?

A Yes, it would.

Q Thank you.

A Because they would have it on the computer.

MR. CROWTHER: Thank you.

CHAIRPERSON CAVANAUGH: Questions from the Panel?

(No response.)

CHAIRPERSON CAVANAUGH: You are excused.

THE WITNESS: Thank you.

CAPTAIN WARBURTON: Delaware Animal Control would like to call Lisa St. Clair.
WHEREUPON:

LISA MARIE ST. CLAIR,

having first been duly sworn by the court reporter,
thereupon testified upon her oath as follows:

BY MR. HULSE:

Q Miss St. Clair, you just gave me some pictures; what are they?

A This was Daisy when she was feeling better. And then this is Daisy after -- about two months after the attack, right before she passed away.

Q So this is before the attack?

A Yes.

Q And this was after?

A This was after.

Q On December 4th, were you aware of the dog Ricky coming to be shown?

A I didn't -- there was a miscommunication, we had discussed the possibility of doing a meet and greet because she didn't know if they were good with other dogs, and she didn't know if they were good with cats, and she was trying to find homes for them. And I said well, I have a pack of six dogs and they're great with other animals, and that if she ever wanted to arrange a time where we could go not on my property but to like have them meet on leash and
stuff like that. But they arrived unexpectedly around 4:00 o'clock in the afternoon.

Q Is Daisy normally one of the dogs that you have with the meet and greet?

A No, I would never, she's too old, in case something could happen. She's super mellow, but I would never take a chance.

Q Are your other dogs around Daisy?

A Yeah, they're always around her.

Q Has she ever shown aggression towards other dogs?

A No. She didn't even have teeth. She was a rescue that she didn't have teeth, she ...

Q How old was Daisy?

A At the time, 12. 12 years old.

Q Can you tell us exactly what took place that day?

A Around 4:00 o'clock, Kathy Hughes arrived at my property and she was just all of a sudden on my porch. And I live like back off the road on five-and-a-half acres, I don't get unexpected guests. And --

Q Were you inside or outside when she arrived?

A I was inside. And my dogs, half of
them were inside, half of them were outside, the
younger ones were running around. I have an under-
ground fence in my front area all the way around my
property, and then I have an enclosed fenced yard as
well.

So they typically go out the front door
and greet people when someone arrives at my door. And
Kathy was there, and I was like, "Kathy, what are you
doing?" And she was like, "I thought this would be a
good time to have Ricky and Lady Jane meet your dogs."
And I was like, "This is a bad time." I was still
working, I worked from home at the time.

And now I look out and there's two dogs
going ballistic in the car, they're not leashed,
they're not caged, they're just in the car. And Cindy
Myers was in the car, and she was looking overwhelmed,
and she like got out of the car. And I was like,
"Don't get out of the car, I have loose dogs right
now, let me get my dogs in the house."

So I got my -- like four of my dogs in
the house, but Daisy and Oscar were still out. And
Daisy -- Daisy had gone out the front door, and she
can't hear when she's walking away. So she goes, "Oh,
there's a truck down the driveway," so she goes
waddling down to say hi, and she was going around the
And Kathy had opened the back, and I was screaming — I had screamed at her not to open the truck. And she opened the back to get their leashes, I guess. And at the time, Ricky just dove out of the truck and locked onto Daisy's face. And he had her totally — he had her skin here, but he had her totally here, and he had his whole mouth was around her head she couldn't even open her mouth.

And I grabbed ahold of his choke collar, but it wasn't — it wasn't on choke, so I was just holding him up as high as I could. And she was screaming, like this sound like you would think a human being would make, it wasn't a dog sound at all, it was just terror. And Cindy Myers tried to help me like bash his face in, and we were doing everything, I was — I was choking him out, I was trying to kill that dog.

Q Were you using an object to bash his face in?

A No, my hand; I couldn't let go. But I was telling her to go grab a rock, I was saying grab a rock, to grab something. And then right around then -- it seemed like it went on forever and ever.

And all of a sudden, Lady Jane jumped out of the car,
because that's right when Daisy just stopped making any noise, and then I was freaking out because I thought she was dead, like, or either she was dying or she was dead.

And Lady Jane jumped out of the car, and my leg was between -- I was here, and Lady Jane just started malling my leg; from here to here, I was black and blue for three months.

And then one of the other dogs -- the dog that was out, all he did was keep barking about it. And one of the other dogs came out, and I think he must have bit Ricky from behind on his butt or something and startled him. And I think between that and me -- I had the collar completely wrapped by that point, and he couldn't have been getting any air, but he wasn't stopping until right then, and then he let go.

And I had so much adrenaline in me, I just threw him up into the car. I shoved Kathy Hughes in the back of the car with him, I didn't care if he ate her, I just wanted him off my property. So I shut the door and told them get off my property.

Q You described Daisy, what she was doing and how she was acting; how was Ricky acting at that point and any noises he may have been making?
A He didn't make a noise when he -- he just launched himself and was just trying to kill her. He was just -- he was intent on killing my dog, and I was intent on trying to kill him.

Q So he was not making any noise or anything at that point in time?

A No. He was just -- it was awful.

MR. HULSE: Okay, I have no further questions.

BY MR. CROWTHER:

Q You care a lot about your dogs, right, Miss St. Clair?

A I do.

Q You talk about them on the internet a lot?

A I posted when she passed away.

Q But you talk about dogs in your life and what happens to them on the internet, right?

A Well, I own a dog bakery, so on one of my Facebook pages, I do post pictures of when dogs are eating my dog treats and --

Q It's not a trick question, I'm just asking, you talk about your dogs on the internet?

A Yeah.

Q It's okay, it's not a bad question,
it's okay, I mean you love your dogs. And I know that
Daisy died on February 12th, correct?

A Yes.

Q Do you recognize that document?

A Yes.

Q That's your post, right?

A Yes.

Q And that's talking, February 22nd of this year, talking about Daisy and that you lost two of your family members within -- well, within a couple of days of each other in February of 2014. Daisy's death, what was it caused by, what did she have?

A Daisy was an older dog, so she was -- I gave her fluids once a week for kidney failure, she was in kidney failure but she was fine. I mean she had arthritis, and just all old dog things. But after the attack, she just changed. I mean she was so in shock that day and she just -- it was like something just changed in her.

Q How long prior to December had you been giving your dog fluids because of kidney problems?

A It had just started not -- it's probably in my vet records, but not that long, hadn't been that long. But after that, it increased in the amount that I had to give it to her, it started being
1 daily.

2 Q And it's possible her kidney failure
3 just got worse, right?
4 A Yes.
5 Q She wasn't bit on the kidneys, right?
6 A No.

7 MR. CROWTHER: Faithful Friends 1.
8 (Faithful Friends Exhibit 1, marked for
9 identification.)

10 BY MR. CROWTHER:

11 Q Do you recognize this, Miss St. Clair?
12 A Yes.
13 Q That's your post?
14 A Yes.
15 Q And this is from December 5th and
16 December 2nd, correct?
17 A I guess.
18 Q Take a look at it, go ahead.
19 December 5th and December 2nd, 2013, right? There's
20 no mention of any injury to your dog between
21 December 2nd and December 5th, is there?
22 A No, I did not -- I purposely did not
23 mention anything about that.

24 MR. CROWTHER: Faithful Friends 2.
25 (Faithful Friends Exhibit 2, marked for
MR. CROWTHER: No further questions.

MR. HULSE: May I ask her a few more questions?

CHAIRPERSON CAVANAUGH: Yes.

BY MR. HULSE:

Q  What was Daisy's behavior like before the attack?

A  She was like an old dog, but she was the pack leader, she was the mommy of everybody so she was a really -- just a mellow old lady.

Q  Did she have any different behavior starting the day after the attack?

A  She had different behavior from the minute it happened. She was very -- in a lot of pain that week or so following.

Q  Did she have injuries from the attack?

A  She had puncture wounds, and she had to be on antibiotics.

Q  All right. And have you ever posted any injuries to any of your animals on the internet before?

A  No. I never had anything like that.

MR. HULSE: No further questions.

CHAIRPERSON CAVANAUGH: Any questions
from --

MR. CROWTHER: I have follow-up.

BY MR. CROWTHER:

Q You do post about your animals, don't you, Miss St. Clair? That's a March 21st posting about a disease your German Shepherd had because you're seeking funding for that disease, right?

A I wasn't seeking any funding.

Q That's not you?

CHAIRPERSON CAVANAUGH: I'm not sure exactly what --

MR. HULSE: That's not an injury, that's a disease.

CHAIRPERSON CAVANAUGH: I'm not sure exactly what the relevance of this is to this case.

MR. CROWTHER: Oh, it will become crystal clear, I ask for some indulgence.

THE WITNESS: This is not my dog. My dog had just passed away from that same disease. So I read about this dog, and they had a go-fund-me, so I donated money to their go-fund-me account. And if you read the post, it says, "This is one of the diseases my German Shepherd was suffering from, that and EPI. Please help these people keep their dog and treat their dog."
BY MR. CROWTHER:

Q You posted your dog had these diseases and you were trying to get some help for them, right, and this disease?

A I was not posting that, sir. I posted information --

MR. CROWTHER: No further questions.

THE WITNESS: Am I allowed to continue or no?

CHAIRPERSON CAVANAUGH: If you want to answer the question, go ahead.

THE WITNESS: All that I did was educate people about a disease that's -- predominantly German Shepherds get, and my dog had suddenly passed away from a horrible disease. And then I read about this family that was not going to be able to afford the treatment.

CHAIRPERSON CAVANAUGH: I understand.

THE WITNESS: And so I gave money to them, and then I just reposted it.

CHAIRPERSON CAVANAUGH: Are there any questions from the Panel?

(No response.)

CHAIRPERSON CAVANAUGH: You are excused, thank you.
MR. HULSE: I call Miss Myers, Cynthia Myers.

WHEREUPON:

CYNTHIA LEE MYERS,

having first been duly sworn by the court reporter,
thereupon testified upon her oath as follows:

BY MR. HULSE:

Q Miss Myers, going back to December 4th --
A Yes.

Q -- what were you doing that day?
A Okay, I was under the misunderstanding that Kathy and Lisa had arranged for a meet and greet with their dogs.

Q Who communicated that to you?
A I can't remember. We were at a little dinner the night before, and I said I would help if they wanted -- you know, because I'm a retired veterinarian, I thought I would see some subtle signs of something if there was a meet and greet where it was a controlled environment, that I could maybe help them assess if there could be any future problems.

And other than that, I was out of the decision to go there. And I was under the understanding that it was all prearranged. All the
details -- I was not involved in any of the details. So with that in mind, I went.

Originally, we were going to go in Kathy's car which was a Pilot, and mine's a High Lander and I was -- she asked me to change cars at the last minute and asked me to drive. So I ended up driving, even though that wasn't the original plan. So she got directions to where Lisa lived, and we ended up going to her house. And I guess it was around 4:00 o'clock.

Q You say you have experience with animals, what kind of experience do you have?

A I'm a veterinarian.

Q For how many years?

A I practiced for 15 years.

Q And I guess you were left in the vehicle alone with the dogs?

A Yes. What happened was we arrived and Lisa wasn't outside. And I thought because it was prearranged, she would be outside, so I said to Kathy, please call. And Kathy said, "No, I'll go up and knock on the door."

So Lisa answers the door, and her dogs come pouring out the door. And Lady Jane and Ricky are in the back of the car, and both of them come up
to -- up to the front, they're charging to the front of my car. And I'm getting a little freaked out already because I want this to stop right now, because what has happened is they're acting -- especially Ricky was actually like getting over into the -- actually to the glass of the front door of the car, and I was concerned for my safety.

So I was trying to signal to Kathy to get back in the car. And I got out I think at one point, I really can't even remember the sequence, but I think I got out and I think Lisa said to get back in. Kathy got in.

And then Lisa went back in the house, and then came back out, and I don't remember if Daisy was with her at that point. And before we could stop her, Kathy opened the hatch of the car, and we were both screaming no. And Ricky just dashed out the car, and apparently Daisy was there. Lisa and I rushed and pinned him to the back bumper of my car and Lisa --

Q Before you go any further, you said he was acting very mean and everything in the car and you were scared for your life?

A I wasn't scared for my life, I was just worried about like if there was any -- I had never seen him -- I have seen him three times including that
day, all brief periods, and he seemed fine. I never saw any sign of aggression with him whatsoever, and this was the first time he was acting aggressive. It wasn't a tail wag, it wasn't excitement; it was, you know, he saw dogs.

Q So he was acting very aggressive at that point?

A He was acting aggressive. And I was just worried for myself at that point.

Q Can you describe what aggressive behavior would be like?

A He was going back and forth in the car. And, you know, I was worried he was going to start stepping on me. He's a big dog, and I'm small, and I was -- and he was looking at the dogs that were with her, and it wasn't like a nice -- I can't describe it.

Q Did he have hair standing up on his body?

A No, I didn't see anything like that but --

Q Was he growling, was he --

A He wasn't growling at all, and he never growled the entire time. He never barked, he never growled, nothing. That was the spooky part of this, he was completely silent during the attack, during
everything.

Q  Okay. So back to where the hatch was opened, he jumped out, and then you jumped out of the car as well?

A  I was out already at that point, and had screamed no, don't let him out. And Lisa and I pinned him to the back bumper. And Lisa had the front near his head, and I was at -- sort of at his abdomen and his rib cage area. And she was trying -- and Daisy was just -- this horrible screaming was going on and on, and we couldn't -- we couldn't dislodge him.

Lisa was doing everything up front, I was actually literally with my hiking boots kicking him in ribs, I was pounding on his head. And Lisa had asked me to go get something to hit him on the head, and I know that that doesn't work with pitbulls.

And I also was very concerned at this point for her safety as well as mine, and I thought if we could pin him there, at least have him pinned. Because this was so out of the ordinary for any behavior I had seen before, I actually in my mind was concerned that we could all be in a blood bath and nobody would know it. Because we were in the woods; there were dogs out, we were in the woods, there's nobody around, and I was concerned for our safety as
Q You have a statement that you wrote?
A Yes.
Q Is this your signature on that?
A Yep, uh-huh.
Q Did you recommend anything after the meet and greet?
A Well, after it was all over with, and the dog was in the car, I raced back to Kathy's house and pretty much said he needs to be euthanized and he needs to be not at your property anymore because of liability and risk to other dogs in her neighborhood. I know that she had told me she had been walking him every day in her neighborhood, which has a lot of dogs, and it was just by the grace of God that nobody -- this had not happened yet, because he is strong, and she would not have been able to control him.
Q As a veterinarian, animals undergoing treatment, liver issues or anything like that, if they were attacked, is that a great possibility of possibly hurting that animal even further?
A Absolutely, it decreases their immune system, just common sense. You know, not even as a veterinarian, just common sense, you know, it's going
to impact.

MR. HULSE: I have no further questions.

BY MR. CROWTHER:

Q It sounds like Kathy misled you about the entire thing on December 4th, didn't she?

A She did, but it really has no bearing on the behavior of the dog, because whether she misled me or not, that dog was going to attack another dog.

Q And sounds --

A And it did.

Q It sounds like Kathy was a little bit reckless in letting the dogs out of the truck when in fact everyone was telling her not to, right?

A Yeah.

Q You'd agree with that, right?

A Yeah.

Q So you never actually examined Daisy, did you, as a vet?

A Nope.

Q You never reviewed her medical records, did you, as a vet?

A Nope.

Q So basically you just threw out some opinion on something you never actually saw or read?
A What are you talking about?
Q The last question to you about the injury that would be sustained if she was already sick; you didn't see --
A No, he asked me a general question about immunity.
Q But you don't know anything about Daisy, right?
A No, I don't, but I do know medicine, I do veterinarian medicine.
Q You don't know Daisy's injuries?
A I don't know Daisy as a particular dog, but I do know about her wellness and I know about immunity.
Q So you were simply saying generally this could be a problem, does that summarize it?
A Yep.
Q Okay. Did you once ask that a dog be euthanized because it knocked you over?
A Huh?
Q Did you once ask that a dog be euthanized because it knocked you over?
A Oh, yeah, yeah. That was a dog, Corkie, yes.
Q Thank you.
A And it wasn't euthanized, I didn't ask that it be --

MR. CROWTHER: That's all the questions I have, ma'am.

DR. STONESIFER: You can finish your statement if you like.

THE WITNESS: I don't remember asking that it be euthanized. It knocked me over and I said that it needs to be under a very controlled -- I asked that it be evaluated for behavioral issues.

BY CHAIRPERSON CAVANAUGH:

Q When you were in the car with the dogs --

A Which has nothing to do with this.

Q -- did this agitated behavior start when the other dogs came out of the house, I assume?

A Yes.

Q So once they saw the other dogs is when they started --

A As a matter of fact, on the way over to the house, Lady Jane, the mother dog, and he were actually playing in the back of the car. He was very relaxed.

CHAIRPERSON CAVANAUGH: Any other questions from the Panel?
BY MS. JANNUZZIO:

Q You said the other dog or the mother dog? Were these two dogs related, Lady Jane and --

A Yes, she was the mother dog and he was the son.

Q Okay.

A Now, that's per what I heard from Kathy what she heard from Tacia.

MS. JANNUZZIO: Okay.

CHAIRPERSON CAVANAUGH: Thank you.

THE WITNESS: You're welcome.

MR. HULSE: Dog Control would like to call Kathy Hughes.

WHEREUPON:

KATHY HUGHES,

having first been duly sworn by the court reporter,

thereupon testified upon her oath as follows:

BY MR. HULSE:

Q Kathy, December 4th.

A Yes.

Q Do you recall that day?

A I certainly do.

Q Okay. Did you make prior arrangements to meeting there?

A I did. I'd just like to make a short
statement about that. There were -- they say there
were no prior arrangements; there were. I don't even
go to my neighbor's house without calling first. We
were supposed to be there at 4:00 o'clock. In fact, I
have a text where Cindy says, you know, something
about 3:30 picking them up and so forth.

But the reality of the situation is
whether there was a prearrangement or not, there are
certain facts that occurred. So the fact is is that
those dogs were supposed to be at my house for one
night. I was told -- Tacia McIlvaine called me up --

CHAIRPERSON CAVANAUGH: Can I interrupt
for one minute?

THE WITNESS: Yes.

CHAIRPERSON CAVANAUGH: It's all very
interesting, and I know there's a lot of background
here, but we have a lot of material to get through.
So I'm sorry, but we really need to stay focused on
this incident that happened, and all the other
miscommunication is really not involved.

THE WITNESS: Right, and that's why I
don't want to go into who shot John, it's absolutely
irrelevant at this point.

CHAIRPERSON CAVANAUGH: It's
irrelevant. So we need to know what happened with the
BY MR. HULSE:

Q So again, your right there, how were the dogs’ behaviors?
A They were fine, you know, until we got there.

Q How long have you been around animals? Do you have any kind of certifications or anything with dealing with animals?
A I have no certification. I have always had animals. And after I retired from the Federal Government, I worked at Annapolis Animal Hospital for six years. I’m just currently not in a technical position, although I am certainly involved with the animals. And I am now employed part time at Rehoboth, also not in a technical.

I’m also the transport coordinator for the English Cocker Spaniel Club of America the rescue. I have had minimal dealings with pitbulls; the ones that I knew in Annapolis were very friendly. I have never experienced anything like this before.

Q Okay. And prior to this, the dogs had never shown any sign of aggression or anything with each other?
A No.
Q Okay. And after you had gotten out of
the vehicle and you apparently knocked on the door --

A Right.

Q -- everybody has said so far, you went
back to the vehicle; why did you open up the hatch?

A Well, what had happened, and again as
Cindy said, it was a horror show, and everything is so
mixed up that, you know, to be absolutely precise
about what happened I think is impossible.

But I knocked on the door, hi, how are
you and all this kind of stuff. And I was introduced
by Lisa to her dogs, and we thought they were going
back in. And I got back into the car and one of the
little dogs was there, and I quickly shut the door.

And so I don't remember what happened
next but, anyway, in any event, I got outside of the
SUV again. I was under the impression that all the
dogs had gotten in, they were called a second time.
And in the meantime, I was in the back of the SUV so I
didn't see any of the dogs.

And Cindy was screaming, you know, get
these dogs away, whatever. And the leashes were in
the back. So the two dogs were at the front of the
SUV, and I opened the hatch that went up a small
amount to -- and I got rushed. I guess Ricky
obviously heard the door being -- and I mean he barreled, the two of them, but I caught Lady Jane before she went out.

Q Is there a middle seat in this second?
A It was flat. It was flat with the -- yeah.

Q But they were completely in the front seat of the vehicle?
A They were -- I don't know if they were actually in the front seat; they were --

Q Toward the front?
A Toward the front, yeah. They were way in the front; I don't know if they were sitting on the seat or not. And they were barking, and I had no idea, really, and this could be reckless, stupid, call it whatever you want. But I had no idea they were carrying on because of the dogs, because I didn't know the dogs were there.

Q Did you try to keep the hatch down once you saw him barreling at you?
A Oh, my God, yeah.

Q And you were not able to put the hatch back down?
A No. I mean he went right through me.

Q All right. And during the attack, did
you hear Ricky make any kind of noises?
   A   No.
Q   Fur standing up?
   A   No. I didn't notice any.
Q   Didn't notice any. Did you notice any
injuries to the lab, Daisy, after the attack?
   A   He had his teeth inside of her face,
and it was the most horrific thing I have ever seen in
my life. And he just -- and I was trying to open his
teeth; impossible. And they were doing exactly what
they were saying. And she just stood there and she
was in total shock. And I couldn't get him.
   And then Lady Jane, I had her on the
leash, and I was thinking about Daisy. And then Lady
Jane -- and Lisa said get her out of here. So I don't
know how I did it, but I threw her back in.
Q   What do you think would have happened
to Daisy if you three weren't there at that time?
   A   Oh, dead, I'm sure.
Q   And why did you get rid of the dogs?
   A   I had asked Tacia several times before,
one day turning into four weeks. And she said oh, no,
can't do it, can't do it, can't do it. As you can
tell, I mean this is a long time later, I came home,
and thank God my husband was there, because the only
thought was to get rid of these dogs. I have a 15-year-old English Cocker at home, and I was keeping them all separate, and God forbid something happen to him like it did to Daisy.

Q So you got rid of them due to the fact that you had another dog at home, a senior dog, and you were scared something would go wrong?

A Oh, my God, yeah.

Q Okay. How long did it take you to get rid of the dogs?

A As soon as I got home, I ran in and I said to my husband, "You've got to get rid of them." And I called Tacia, and she didn't answer, wouldn't answer her phone. And I told her what happened, and I said I'm bringing them over.

Q You said you told her what happened, I think you said you left a message telling her what happened?

A I left a message. And we put a crate in the car, and I put the two of them in with food, water, everything, bedding. And I tried to get ahold of her another time, and then I texted her -- I have a horrible headache -- I texted her, telling her. She wasn't home and we put them in the shed.

And we felt terrible, quite frankly,
both of us, because to people, they were so loving and
so sweet, but obviously that doesn't include other
dogs.

Q All right. You have filled out a
statement form --
A Yes, I did.

Q -- for Officer Palacio? Is that your
signature at the bottom?
A Yes.

MR. HULSE: I have no other questions.

BY MR. CROWTHER:

Q Your Cocker Spaniel, is that Simon?
A Yes.

Q He's 15?
A Yes.

Q He was in the same yard with Ricky,
wasn't he?
A There was one time where -- we have a
doggie door, and Simon can't see and he can't hear.
He was 14 when this happened, he was 15 in January.
And at this point when I was giving him -- Lady Jane
was in season, which complicated and -- and anyway, I
opened the back gate and took them in there, you know,
to get some exercise.

Q It's a very simple question. They were
in the same yard together, right?

A  It's a simple question, but it's a misleading question if you're going someplace to say well, everything was fine and ducky. The reason it was fine and ducky is because Ricky was all the way around the corner, okay? And Lady Jane happened to see Simon, and he's going like -- because he can't see a thing. And Lady Jane starts humping Simon, and I grabbed him and threw him through the doggie door and got him the hell out of there because I was afraid of what would happen. So Ricky was totally unaware of Simon.

Q  So they were in the same yard?

A  They could have been in the same country, yes.

Q  Nothing happened?

A  Nothing happened because Ricky did not see Simon. I don't know what would have happened, but I can pretty much guess that he wouldn't be around.

Q  On December 1st, you sent the following email to Tacia.

A  Yes.

Q  "It will be three weeks tomorrow that the homeless kids are here. It's been very difficult to handle logistically, and while we love them, they
can't continue to stay here. I think you need to
figure out a plan as soon as possible. Ed has been
asking when they will be leaving. He loves them, too,
but we can't make them members of the family with
Simon." Right?

A Right.

Q So you loved the dogs?

A Yeah, I said with people, they were
great. And we did love them, and I think this is a
tragedy.

Q On December 3rd, you sent an email to
Al Mollica at Delaware SPCA. And you say, "The
homeless people called her sometime later and she
tried ac again and no help. She then called me to see
if I could house them for one night," you capitalized
that.

A Yeah, because that's one night, not
four weeks.

Q "Well, one night turned into more than
three weeks. Ownership of Lady Jane and Ricky was
transferred to Tacia. We had them vetted and they are
now up to date on vacs, heart worm tested, et cetera.
We have tried to find someone to adopt or foster and
no luck. They are great dogs, 11 year old female, 7
year old male pitbull mixes. They are well mannered
and very loving."

   A  With people.

   Q  That's what you wrote, right?

   A  That's my experience; with people. I had no experience with these dogs with other dogs.

MR. CROWTHER: Numbers 4 and 5.

(Faithful Friends Exhibits 4 and 5, marked for identification.)

BY MR. CROWTHER:

   Q  Now, your statement said that you fed the dogs and gave them water before you left them in the shed, doesn't it?

   A  No. What it says -- I don't know -- I can tell you what happened, I don't have the statement in front of me. We brought food, we brought a water bucket which I filled up at Tacia's house, we had bedding that we gave them, and made sure that they were warm. It was a mild night, they were perfectly wonderful.

   Q  On December 2nd, Tacia sent you a text message that said, "Kathy, I am on the phone calling all rescues within a 100 mile radius. Please stop calling and leaving voice messages, I don't check them." December 2nd, 2013, she said it right in this, correct?
A Yeah, so?

Q And your next text message to her was, "I left you two messages. LJ and Ricky are in your shed. They have water but have not been fed yet."

A Right. That we sent the food with them.

Q Where is any message, because Tacia's already told you she doesn't check her messages, where is the text message that says they had any involvement in any dog attack?

A There was no text message.

Q Where is the email that says, because you're certainly prolific at emailing, where is the email that says they were involved in any dog attacks?

A You know what? I'm prolific at telling the truth, too. And the fact of the matter is that I was hysterical after this happened, and I called her on the phone and I told her what had happened, that I could not possibly have them in my home anymore. And Tacia carries her cell phone around like it's attached to her body, and she refused to answer the calls.

CHAIRPERSON CAVANAUGH: Again, I really don't see the relevance here of what happened with Facebook, et cetera, and text messages.

THE WITNESS: Thank you.
CHAIRPERSON CAVANAUGH: We're here to talk about the dogs' behavior --

THE WITNESS: And the fact that they attacked.

CHAIRPERSON CAVANAUGH: -- not the people's behavior.

MR. CROWTHER: The voracity of the witnesses testifying is very important. The absence of any mention of an attack is very telling.

CHAIRPERSON CAVANAUGH: I think we have heard several other witnesses that witnessed the attack.

THE WITNESS: And I have, under perjury, stated that I called Tacia and left a message telling her about the attack.

CHAIRPERSON CAVANAUGH: And that's great, and it's irrelevant to what we're talking about now.

BY MR. CROWTHER:

Q And that's your posting on March 18th about Lady Jane and Ricky, too, correct?

A Correct.

Q It doesn't describe any dog attack, does it?

A If you want to hand it back to me and

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I'll be able to answer your question --

CHAIRPERSON CAVANAUGH: No, it's not relevant.

THE WITNESS: -- or you don't want any answers?

MR. CROWTHER: No further questions.

THE WITNESS: Yeah, thank you.

CHAIRPERSON CAVANAUGH: Excuse me, Kathy. Does anyone from the Panel have a question that's relevant to the attack of the dog on the other dogs?

BY MR. HULSE:

Q I have one quick question. Did Daisy show any sign of aggression --

A None.

Q -- before, prior to the attack?

A Before, after, anything, none; she's a sweet, gentle dog. Thank you.

CHAIRPERSON CAVANAUGH: You can step down.

THE WITNESS: Thank you.

CAPTAIN WARBURTON: I ask to re-call Staff Sergeant Palacio.
WHEREUPON:

MARY PALACIO,

having previously been duly sworn by the court reporter, thereupon testified upon her oath as follows:

BY CAPTAIN WARBURTON:

Q Staff Sergeant, on 3/18 when you were doing your research, did you find an incident in regards to a dog attack?

A Yes. There had been a dog-on-dog attack and it was phoned in by the dog owner, Paula Purcell, and evidently it involved Ricky when he was staying at Delmarva Pet Resort.

Q Okay. Were there any case notes in the case?

A Yes, there was.

Q And what did they say?

A Sergeant Jester had gone out and spoke to -- he's the owner of Delmarva Pet Resort, and he was asked what happened. And it was the day that Tacia McIlvaine and a gentleman friend of hers had arrived to remove the dogs. Ricky broke loose and there was an incident between him and another dog.

Q So after discovering this, did you contact Todd Clyde?
Q And in speaking with him, did he also
give you victim information?
A Yes, he did.
Q Okay. So after speaking with him, did
you contact Miss Purcell?
A Yes, I did.
Q And what was your conversation with
her?
A She was explaining to me that her Lhasa
Apso named Banks has lyme disease, and he's real funny
about how he gets groomed or when he gets groomed;
he's very achy and has a lot of issues. So the only
person that seems to be able to groom him and do well
with him is Mr. Clyde, so she does take him there,
traveling to Maryland to groom him.
Q And did she describe what happened
while at Delmarva Pet Resort on 3/18?
A Yeah. When she arrived with Banks to
be groomed, she noticed a gentleman coming out of the
building with Ricky, the black and white pitbull. She
saw him proceed up the driveway with the pitbull, so
she put Banks on his leash and they were going in.
And she told me she just was not ever aware, just all
of a sudden he was there and had Banks by the neck and
was shaking him. And she started screaming, and
Mr. Clyde came out and assisted her in trying to get
Ricky off the dog.

Q And did she take the dog to a vet for
treatment?
A Yes. Actually, Mr. Clyde did, once
they got Ricky off, he brought Banks inside the
building and tried to wash him off. And when he saw
the wound severity, he started calling around, and the
only veterinarian that could see him right away was in
Ocean City, so they took Banks over there immediately.

Q And did she send you pictures?
A Yes. Actually when I spoke to her,
they had met -- her whole family, actually her
daughter and husband and everything had been there at
the vet's, and they did take pictures and I did
acquire the pictures from them.

Q Plaintiff's Exhibit Number 11, can you
describe what this is?
A They're trying to show I believe that
there's hemorrhaging in the eye. You can see the
blood vessels are broken.

Q And this dog is Banks?
A Yeah, that's Banks.

(Plaintiff's Exhibits 11 and 12, marked
BY CAPTAIN WARBURTON:

Q This is Plaintiff's Exhibit Number 12, the same view. As a vet tech, is that injury something that he would just get from a little bite or is that --

A No, no. A lot of times when -- I have seen it with hit-by-car dogs, even when they have pressure or a blow to the head or anything like that, their eyes will -- you're a vet so you know -- but they can get bleeding in the eye, the blood vessels get broke. I'm not sure even if he may have had, you know, teeth in the eye, I don't know.

Q And this is still Banks in the picture that you received --

A Yes.

Q -- Plaintiff's Exhibit 13?

A Yes.

(Plaintiff's Exhibit 13, marked for identification.)

BY CAPTAIN WARBURTON:

Q Plaintiff's Exhibit 14, can you describe what this is?

A Yeah, that's the neck wound that he sustained.
Q And would you call that just a physical injury or would that be a severe physical injury?
A That's definitely a severe injury and, from what I understand, it was rather deep.
Q And why would you call it a severe?
A It required two surgeries and a drain; they couldn't close it because of how deep it was and infection could set in.

CAPTAIN WARBURTON: Okay, that's Exhibit 14.

(Plaintiff's Exhibit 14, marked for identification.)

DR. STONESIFER: Can you pass 13 around? The copy we have is black and white.
CAPTAIN WARBURTON: Sure. Would the Panel just like these?
DR. STONESIFER: I just want to see the ones of the eyes. Thank you.

BY CAPTAIN WARBURTON:
Q And Plaintiff's Exhibit 15; same injury, just a different view?
A Yes, yes. Where they actually have it opened up and you can see how deep it goes.

MR. HULSE: Would you like that one as well?
DR. STONESIFER: I don't need those.

(Plaintiff's Exhibit 15, marked for identification.)

BY CAPTAIN WARBURTON:

Q After speaking with Miss Purcell, did you go down actually to Delmarva Pet Resort?

A Yes, I did.

Q And did you take these pictures?

A Yes, I did, of the location.

Q And can you describe what this picture is?

A That is the parking lot outside the building. Where the ACV is parked right there is actually where Miss Purcell was parked.

CAPTAIN WARBURTON: And that's Plaintiff's Exhibit 16.

(Plaintiff's Exhibit 16, marked for identification.)

BY CAPTAIN WARBURTON:

Q Plaintiff's Exhibit Number 17, can you describe the person in the picture?

A Yeah, that's Mr. Clyde, he's the owner of the kennels, and he's showing me where Banks was and Ricky at the time of the attack.

CAPTAIN WARBURTON: Okay.
(Plaintiff's Exhibit 17, marked for identification.)

DR. STONESIFER: Was Ricky on a leash when this happened?

THE WITNESS: Ricky, what I understand, was on a leash, he broke free from the gentleman, I'm not sure if he pulled the leash out of his hand or he slipped, I'm not sure how he got loose but he was loose at that point.

BY CAPTAIN WARBURTON:

Q And can you describe what this picture is?

A Yeah. I asked Mr. Clyde to show me where Ricky was when this happened. And Ricky had already walked up the lane to this point, and that's approximately where he was.

(Plaintiff's Exhibit 18, marked for identification.)

BY CAPTAIN WARBURTON:

Q And then Plaintiff's Exhibit Number 19?

A That's another view of where it happened.

Q Okay.

(Plaintiff's Exhibit 19, marked for identification.)
BY CAPTAIN WARBURTON:

Q And Plaintiff's Exhibit Number 20?
A That would be standing up where Ricky was, looking down to the building where Banks was going in.
Q And you said Banks was approximately over in this area --
A Correct.
Q -- and Ricky was up in here?
A Correct.
Q Okay.

(Plaintiff's Exhibit 20, marked for identification.)

BY CAPTAIN WARBURTON:

Q Did you also get a statement from Mr. Clyde?
A Yes, I did.
Q Is this the statement?
A Yes, it is.
Q Is that your signature --
A Yes, it is.
Q -- at the bottom? And basically what did Mr. Clyde tell you he did when he was at --
A He -- okay, Mrs. Purcell was so distraught over her dog, he was just shaking
violently. And she just was like paralyzed, she
didn't know what to -- I don't know if she didn't know
what to do or --

Q    It was unexpected?
A    Yes, definitely, because she did not
see him coming. From what she told me, she was
walking this way, and he came from this way and just
picked up the dog. Mr. Clyde came out and tried to
separate them, he ended up picking up that ice breaker
right there and hitting Ricky with that to try to get
him to release the dog. He would not release the dog.

Q    This is Plaintiff's Exhibit 27, an ice
breaker.

(Plaintiff's Exhibit 27, marked for
identification.)

THE WITNESS: But he hit him with the
wooden end. He told me that he couldn't get Ricky to
release, so his next move was to go in and get a taser
that he had. But by the time he came out, I believe
the gentleman and Miss McIlvaine were there, and they
were able to get the dogs apart. He immediately
scooped up Banks and took him into the building
because he has a grooming center in there, and he put
him in the tub and started washing all the blood off,
and realized the severity of the wounds. And they,
like I said, they called around and found a vet that
would see him immediately and took him in.

CAPTAIN WARBURTON: Plaintiff's Exhibit
22.

(Plaintiff's Exhibit 22, marked for
identification.)

BY CAPTAIN WARBURTON:

Q Did you receive these from Mr. Clyde?
A Yes.

Q And what is the first page?
A It is billing for the couple months
that Lady Jane and Ricky were there.

Q And were they housed separately or
together?
A In the beginning, they housed them
together, they said that they grew up together, it was
a mother and a son. He put the -- he has a couple
extra large kennels there that can house two dogs.
You know, when he has families go on vacation and
stuff, they can bring their dogs in and house them
together.

He started out housing them together,
but his kennel manager, John, told him that they had
an incident one day where Ricky became very aggressive
with Lady Jane over food, and they were fighting, and
he separated them. And after that, he started billing
them for separate kennels, which he was doing special
for them I guess it's $10 a night, because it's $20
now for two dogs. And he did tell Miss McIlvaine that
she would be paying for two kennels at this point
because of, you know, them not being able to be fed
together.

Q And also there were some vet bills?
A Yes. Mr. Clyde, beings that it
happened at his establishment, was helping Miss
Purcell pay some of the vet bills for Banks.

Q Okay. And did you contact the vet
where Banks went to?
A Yes, I did.

Q And did they send you a vet report?
A Yes, they did, they sent me a
preliminary vet report. And then recently, I had
contacted the vet again and asked her for her personal
statement as far as how she felt about, you know, the
incident, all the things that Banks had gone through,
and she did send me her own personal report.

Q And is Plaintiff's Exhibit 9 the vet
report --
A Yes.

Q -- of the injuries?
A Yes.

(Plaintiff's Exhibit 9, marked for identification.)

BY CAPTAIN WARBURTON:

Q And then Plaintiff's Exhibit 10 is the letter that she wrote --

A That she wrote to me yes.

Q -- in regards to Banks' injuries?

A Yes.

(Plaintiff's Exhibit 10, marked for identification.)

BY CAPTAIN WARBURTON:

Q How did you get possession of Ricky?

A We contacted Faithful Friends, their director, Jane Pierantozzi, and said that we were going to take Ricky and, due to the severity of the attacks, we wanted to do a dangerous dog on him. So we went up there the one day to acquire him from them.

Q And when you were at Faithful Friends, was he on the property?

A No, he was not.

Q Did they eventually bring Ricky to you?

A They did bring him back eventually, yes.

CAPTAIN WARBURTON: Okay, I believe I
have no further questions.

BY MR. CROWTHER:

Q You never saw Banks' wounds, right?
A No, I never personally saw them.
Q Right. So everything you're talking about from his injuries was from somebody else's observations or records, right?
A I just went by the vet report and what the pictures were.
Q Right, because you have no personal knowledge about any of the injuries, right?
A No, but I was a vet tech for several years.
Q My question was you have no personal knowledge about any of the injuries, correct?
A I spoke to the owner, so -- and I spoke to Mr. Clyde.
Q We'll do it again --
A But I did not see them personally, but I do have knowledge of them, yes.
Q You did not see them, you did not examine them?
A No, but I have knowledge of them, yes, I do.
Q Everything you know is from somebody
else, correct?

A  Correct.

Q  Okay, very good. Now, the records you
have at Plaintiff's 9 actually start out before the
attack, March 14th, correct?

A  Well, they sent me everything; I asked
them to send me a complete report. That has nothing
to do with what the incident says happened to the dog.

Q  I understand. I'm just saying the
first entry says not eating or moving on March 14,
2014?

A  That still has nothing to do with the
attack.

Q  That's still what it says, though,
right?

A  Right. But from how long ago was that?

Q  Four days.

A  All right, well --

Q  I'm glad that you don't think it's
important, but we do. Now, on the note on the 18th is
about the actual exam and everything going on, right?

A  Uh-huh. Yes.

Q  Now, the 20th, it says, "Re-check.
Owner says doing better. Moving around better. Owner
doesn't want to come in. Owner mentions something
about pulling drain tube." That's what it says, correct?

A  Okay.

Q  So two days after the incident, owner doesn't want to come in the vet anymore, right?

A  No, she did want to come in and he relapsed several times and had to have two surgeries.

Q  The note on the 20th, his owner doesn't want to come in, right? So two days later --

A  Well, I'm sure the vet left it up to her if he was feeling well, is that she --

Q  This is a very simple question, ma'am. Two days after the 18th attack, as you described it, the owner did not want to go back to the vet?

A  I don't think they were planning --

Q  Is that what it says right here --

A  That's what it says.

Q  -- owner doesn't want to come in?

A  That's right.

Q  Thank you. Oh, by the way, you didn't actually speak with Faithful Friends before you showed up on that Friday, did you?

A  No, actually my captain did.

Q  Right. So when you're talking about what we did, you weren't --
A I was with her.

Q -- you weren't even on the phone?

A I was there with her.

Q But you weren't on the phone, were you?

A I was right there with her, sir.

Q So if someone testifies the whole discussion went somewhere different --

A I was sitting right there with her, sir.

CAPTAIN WARBURTON: Objection.

CHAIRPERSON CAVANAUGH: We're going to talk about the dog attack. We're not here to talk about who said what about who. We're here to talk about the actions of the dogs.

THE WITNESS: Thank you.

MR. CROWTHER: The voracity of these witnesses is very important. We have one witness say one of the witnesses already lied.

CHAIRPERSON CAVANAUGH: We will make our judgement about the voracity.

BY CAPTAIN WARBURTON:

Q Staff Sergeant Palacio, do we have the full vet report that shows Banks' injuries prior to the attack and after the attack?

A Yes, I asked for them to send me the
full report of everything the dog's ever been through.
He's had lyme disease, he's had several issues. He's a nine-year-old Lhasa, he's had issues. It still has nothing to do with how he was after the attack.

Q And did Miss Purcell, did she say that Banks provoked the attack in any way?
A No. Banks was not aware of the dog even -- she was unaware of the dog even coming.

CAPTAIN WARBURTON: No further questions.

THE WITNESS: Okay.

CHAIRPERSON CAVANAUGH: Any questions from the Panel?

DR. STONESIFER: No.

MS. JANNUZZIO: I do not.

CAPTAIN WARBURTON: Delaware Animal Care and Control calls Todd Clyde.

WHEREUPON:

TODD CLYDE,
having first been duly sworn by the court reporter, thereupon testified upon his oath as follows:

BY CAPTAIN WARBURTON:

Q Good evening. Did Staff Sergeant Palacio come to your location and take pictures?
Q Okay. And is this a picture that she had taken when you were there?

A Uh-huh.

Q Does that show basically where Miss Purcell's vehicle was?

A Yes.

Q Okay. And looking from this perspective, is that about where Ricky was?

A Yeah.

Q And over here approximately was where Banks was?

A I didn't see Banks get out of the car. When I came out of the kennel, that's about where the incident, where Ricky had Banks.

Q And what's the procedure when somebody gets a dog out of your kennel, when they're going to take the dog out?

A We bring the dog up and we give it to them.

Q Okay. Do you have the dog on your lead when you take it out?

A Yeah, we have them on our leads, and the owner puts them on their's.

Q So the owner takes their collar and
their leash, and puts it around the dog?

A Yeah. We never keep collars, we never keep leads.

Q Okay. So when Miss McIlvaine was walking Ricky -- or Ricky was being walked outside by her friend, was Ricky on a leash?

A Yes.

Q Okay. So he was under the control of his owner?

A Uh-huh.

Q Okay. And then what happened? Were you outside?

A No, I was inside. I mean I saw Mrs. Purcell pull up in her car, and pull into the thing. And then I saw him walking down the driveway. And I went into the grooming room which is in the second room in the building, just because I knew it was Banks, he was coming in for grooming, what cage was I going to put Banks in.

And then I heard Mrs. Purcell scream out in the parking lot. And I came out, and I saw Ricky had Banks. And just happened it was when we had all that snow, and the ice chipper was right next to the door.

Q When you say you saw Ricky had Banks,
what do you mean by that?

A Ricky had Banks in his mouth, his head in his mouth. So I grabbed the ice chipper and went over and beat -- literally jumped down on the dog and beat him about five or six times --

Q Is this the ice chipper you used?

A -- with the ice chipper.

Q Would you show me how you went?

A Okay, say Ricky's there, I went (demonstrating).

Q And did he release?

A No.

Q He did not?

A No.

Q So then what did you do?

A Dealing with pitbulls I have had over the years, we have a taser in the back of the kennel just for incidents like that. We've never had to use it, but I've always told my kennel help if any of them ever get in a fight, do not put your hands in the middle of it, you'll get eaten, use the taser. We've never had to do it, but it's there, but -- and that's -- we couldn't get him, two big men trying to get them apart and it wasn't working. So I ran back to the kennel to get the taser, and by the time I came
back out, he had released.

Q And were you aware that Ricky was aggressive towards other dogs?

A No. We were never told of any incidents before he came in. The only incident we had was sometime in the middle of January, they had a fight over food, Ricky and Lady Jane. They had lived together, we had them in the same cage because we were told mother and son, they have lived their whole life together, there wouldn't be -- there shouldn't be a problem. And we didn't have a problem with them, but we had -- they had the one fight over food, so we separated them and put them in two cages instead of a double run.

Q Did you contact Tacia when that incident occurred?

A Yeah, we told her we had separated them, that it wasn't really a problem, Ricky got aggressive over food so we put them in side-by-sides.

Q Okay. Is this the invoice that you gave to Staff Sergeant Palacio?

A Yeah.

Q And on here, it shows December 5th is when the dogs went in?

A When the dogs came in, December 5th.
Q And then March 18th --
A Is when they left.
Q -- is when they left? Okay. And you
did charge for two kennels for the dogs?
A Well, we charge by the dog. We charge
them $10, our normal boarding rate is $20 a night.
But we've dealt with rescues before and I always give
them a break, I charge them about what it costs me.
It costs me about $10 a night to house a dog, so I
just do it for -- I've done it for the Airedale
Terrier Club of America, the Irish Terrier Club of
America, and probably half a dozen others.
Q That's very generous. Is this your
statement?
A Uh-huh.
Q Is this your signature?
A Yep.
CAPTAIN WARBURTON: Okay, I have no
further questions.
BY MR. CROWTHER:
Q Sir, would it be fair to describe the
screaming you heard as sustained?
A Yeah.
Q It went for a long period of time,
didn't it?
A Well, by the time I got, maybe three --
I don't know, through a room, 20 feet; five, ten
seconds.

Q So you didn't see the actual initial
contact --

A No.

Q -- between Ricky? And you also didn't
see the end of the contact with Ricky?

A No.

Q During the time that Ricky had Banks,
were you trying to separate by pulling Banks and they
were trying to pull Ricky?

A No. I was trying to beat him over the
head with a stick.

Q Did you have Banks in your hands?

A I had one hand on the back of his neck
and the stick in my hand.

Q And when that didn't work, you didn't
try to pull him out?

A No; that wouldn't work, you're not
going to open that.

Q Did you happen to pass an Animal
Control officer on your way out?

A On my way to the vet hospital, yes.

Q Yes. What happened?
I told them what had happened — quickly what had happened and I was off to the vet to get Banks stitched up.

And do you know if Tacia in the vehicle behind you stopped to talk to him?

No, I didn't see it.

Do you recognize that, sir?

Yeah.

That's your text messages to Tacia and her's to you, right?

Uh-huh.

And it says, "Tacia, do you have a rabies certificate on Ricky?" And she said, "Sending now." She wrote, "Todd, is the dog okay?" You wrote, "Dog will be fine stitched up with drain." You wrote that on March 18th, didn't you?

Uh-huh.

That's what you thought, too, didn't you?

That's what I thought. I mean I figured the vet would stitch it on up, there would be a drain in it for about a month or so, and he would heal.

These are other messages between you and Miss McIlvaine, correct? A few weeks later in
April of 2014?

A Yeah.

Q And she's saying that she's hearing from other people that you're complaining because you haven't been paid, isn't that right?

A No -- well, yeah, somebody -- Mrs. Lefthouse called about taking them. And no, actually what happened was somebody called about wanting to bring in two more rescue dogs, and I said no. And they wanted to know why, and I said because I haven't -- between Safe Haven, the other rescue dog I have in the kennel, and these two, I haven't been paid. So I was not doing any more rescue.

MR. CROWTHER: Thank you. No further questions.

BY CAPTAIN WARBURTON:

Q When you were outside with Ricky and Banks, was Ricky on a leash.

A No. He went out the door on a leash, but I was told he slipped the leash.

Q So when you grabbed him, there was no tether around his neck?

A No, nothing.

CAPTAIN WARBURTON: No further questions.
CHAIRPERSON CAVANAUGH: Does the Panel have questions?

(No response.)

CHAIRPERSON CAVANAUGH: Thank you.

CAPTAIN WARBURTON: Delaware Animal Control would like to call Miss Paula Purcell.

WHEREUPON:

PAULA MARIE PURCELL,

having first been duly sworn by the court reporter,

thereupon testified upon her oath as follows:

BY CAPTAIN WARBURTON:

Q Hi, Mrs. Purcell. You brought pictures in tonight; would you identify this picture?

A It's -- sorry -- it's Banks as a puppy and my lab and collie at -- you know, they were other dogs that I had.

Q So he gets along with other dogs?

A Yeah. When I brought Banks to get groomed that day, I had my two Golden Retrievers at home and my daughter's two rescue dogs that lived in Philly, I was watching them for two weeks. So, yeah, yeah, he gets along.

Q And Exhibit 26?

A Just Banks before he was groomed.
Q Before he was groomed?
A Yeah.
Q Okay. How long have you owned Banks?
A Nine years.
Q And on March 18 when you went to Delmarva Pet Resort, when you got out of the vehicle was Banks on a leash?
A Yes.
Q And did you see Ricky?
A When I pulled in the driveway and parked, the gentleman and the dog had come out of the groomer and were walking up the lane, so I thought he was taking his dog to go to the bathroom. So I just had to go straight across in to be groomed, so that's what we were doing was just going straight across to be groomed. And that dog came from nowhere, I didn't see it, I didn't even -- just next thing I know, my dog was hanging from the dog's mouth.
Q So he didn't pause by your leg?
A No.
Q He didn't bark at all?
A No. It was immediate. I mean Banks was just -- he's short, he's 35 pounds, and he's bow-legged and has an underbite and -- he was just dangling from this dog, so I was screaming.
And then he ran to try to get his dog, and Todd came out, because we're both pulling, trying to get them apart. And Todd just kept beating him with that dog -- I mean with the stick. And he -- he wouldn't let Banks go, so I really just thought I was watching my dog get killed right in front of me. But he -- I don't know how he got -- but he did let him go, and Todd scooped Banks up and brought him in the back.

Q Okay. And then after Todd brought him into the back, what happened then?

A I mean I was hysterical, I was traumatized. I was just in the front waiting room, and Todd's trying to deal with Banks and me, and with them, and try to call a vet, and he was doing the best he could under the circumstances. But I -- I was hysterical, I was hysterical. And the people did try to say they were sorry, but I didn't -- I didn't -- my dog was just viciously unprovoked attacked for no reason.

Q And when you took him to the vet, how many times have you been to the vet with Banks?

A Well, Todd took him initially, I don't even know how I drove home, I was in shock. And I have been to that vet two or three times a week for
the last two months; he had the initial surgery, he came home. And, yes, the officer did talk to me two days later, and I was grateful my dog was fricking alive.

So that's what you heard, I was grateful that Banks was okay, but we were by no means done with vets. He still had to get staples out, he was on a form of morphine, he was on four different pills, he had a drain. And when he went to get his drain out, the drain -- all the staples were gone, and they had to redo the surgery because it was infected.

So I had two solid months of being in and out of the vets, and Banks had a few nights spending the nights there. And they did all that they could. And Banks did have the lyme disease prior, he's an older dog, Banks -- we had to have put Banks down on Saturday.

Q I'm sorry.

A And, yeah, I mean it wasn't ultimately -- he didn't die from the dog attack, but his whole life was spent on -- I mean his immune system was compromised, he was on drugs for the whole two months.

Q So after this, using your words, vicious attack, did Banks ever fully recover?

A No.
Q He did not?
A No.

CAPTAIN WARBURTON: I have no further questions. Thank you, ma'am.

MR. CROWTHER: I have no questions.

CHAIRPERSON CAVANAUGH: Does the Panel have questions?

DR. STONESIFER: No.

CHAIRPERSON CAVANAUGH: Thank you.

MR. HULSE: Delaware Animal Control would like to call Tacia McIlvaine.

WHEREUPON:

TACIA McILVAINE,

having first been duly sworn by the court reporter, thereupon testified upon her oath as follows:

BY MR. HULSE:

Q Tacia, were you aware of any of the attacks that Ricky had been involved in?
A March 18th when he attacked Banks.

Q You were not aware of the other attack prior in December?
A No.

Q Were you there present when the attack occurred?
A The attack at Delmarva Pet Resort?
Q Yes.
A I was in the truck when the attack occurred.
Q Did you try to get out to help as well?
A I did, after I realized what was going on.
Q All right. How far were you parked from the incident?
A There's a picture of where he showed where Miss Purcell was parked. Okay, right here, I think. On this one, okay, we would have been here or in this area. Sorry.
Q All right. Why did he walk all the way down the lane with the dog?
A I don't know, I didn't have the dog.
Q Was the dog -- did you have a leash for the dog, a collar for the dog?
A He did have a leash. Todd had put a collar on it, I guess, because we didn't leave him with a collar. It was a collar from the kennel, and he just said to take it, because I asked him if he wanted his collar back when we were inside.
Q So you guys did not put the collar on the dog?
A No; it was put on in the kennel when he brought him out.

Q All right, but you don't know that for sure because you were weren't inside as well either?

A I was in the building when John took Ricky out, I was talking to Mr. Clyde.

Q So you were not in the vehicle, you were inside?

A When we left, I had gotten in the truck with the other dog, and John was putting the dog into the truck.

Q All right. Do you post things for Faithful Friends or for animals that you have, you try to rescue?

A I post, I share posts.

Q You share posts?

A Uh-huh.

Q Is this a post that you were doing for Ricky?

A Yes.

CHAIRPERSON CAVANAUGH: Again, I hope these are relevant to the attack in some way --

MR. HULSE: Yes.

CHAIRPERSON CAVANAUGH: -- and not human attacks on humans.
BY MR. HULSE:

Q When you posted this one, what does it say there on for Ricky?

A Which part? Seven years old and up to date, neutered male, no other male dogs, prefers laid-back home, sweet and loving, beautiful.

Q No other male dogs, why did you put no other male dogs?

A That's what his previous owners had indicated to me.

Q All right, so you always post dogs that have attacked other dogs and saying they need loving homes and they're beautiful?

A Let me see that. You see the date on that, sir?

Q Do you see the print date on the paper?

A Well, when you print something out, that's generally the day that it's printed out up there.

Q Right. So is it still posted that this is a loving dog, great for a new home?

A I guess it could be, if it was still there; I didn't -- I don't know exactly on the 18th.

Q But was it a good dog for adoption for anybody besides anybody with male dogs?
A As far as I knew, yes, as long as there were no other male dogs around.

MR. HULSE: Okay. I have no other questions for her.

BY MR. CROWTHER:

Q Did you ever speak with Mr. Clyde about Ricky and Lady Jane?

A Yes.

Q Did you inquire about how they were doing?

A I did.

Q When was the first time you inquired?

A I had spoken with him a couple of times in January because of they were going to be spayed and neutered. We had some snow, so appointments were rescheduled. But on the 29th of January, specifically, we spoke.

Q And what did he tell you, what did you ask and what did you tell him?

A I asked him about the temperament of the dogs, how they were behaving because I wasn't there, I didn't have any interaction really with the dogs. And he said that they were really sweet; there had been an incident of some food aggression when they first came in; he expected it because they appeared to
be starving and it was normal.

Q When you first came in contact with Ricky and Lady Jane, were they in fact starving?

A They were. They were very mal-nourished, their skin condition was bad, it was a bad situation.

Q Did Todd ever mention that he was separating the dogs?

A No.

Q He never mentioned it?

A No.

Q Did you have any further conversations with him about the dogs?

A I spoke with him a few times in between, but on March 18th, we spoke again extensively, we were actually late going up to Faithful Friends because there was an extended conversation.

Q Was this before the Banks incident?

A Before the incident, yes.

Q And what did he tell you about Ricky and Lady Jane then?

A He told me the same thing, you know, we discussed the same thing, that there had been some food aggression in the beginning, and that that was
it, that they were sweet dogs.

Q Did you pass an Animal Control officer
on the way out from Delmarva Pet Resort?
A We stopped behind the Animal Control
officer and Mr. Clyde, and then we stopped and spoke
with the Animal Control officer.

Q Do you know what his name was?
A Officer Holland.

Q And did anyone tell Officer Holland
what had just transpired?
A I believe Mr. Clyde did, because
Officer Holland stopped and we stopped. And he said
it's no big deal, it's a dog-gone dog bite. He said
the worst thing that can happen is Ricky will have a
ten-day quarantine. He said go on line to the
Department of Agriculture, I think he said, and
there's a way to fill out a bite report on line.

Q Is that all he said?
A That was it. It was no big deal.

Q Did he just continue on his way up?
A He never even got out of the truck. He
just rode past us and we went on up and went to
Faithful Friends to take the dogs up.

MR. CROWTHER: I don't know how the
Panel wishes to proceed. I can do my whole
examination of her because I was going to call her as
a witness, too.

CHAIRPERSON CAVANAUGH: In the interest
of time, maybe you could do that.

MR. CROWTHER: Okay, I'll try to
expedite it a little bit.

BY MR. CROWTHER:

Q How much contact did you actually have
with Ricky and Lady Jane?

A Well, I met Ricky and Lady Jane on
November 10th when we went to Dewey Beach and pulled
the dogs out of the situation. And then I had them at
my house on -- from December 4th when they were
dropped in the shed until December 5th when I took
them to Todd Clyde's at Delmarva Pet Resort.

Q On December 4th, we showed you the text
message you received; did you receive any other
messages from Kathy Hughes on that day?

A No.

Q Have you ever been told by Kathy Hughes
that Ricky or Lady Jane were involved in any
aggressive incidents before --

A No.

Q -- before March 18th?

A No.
Q Was it ever explained to you that the Lisa St. Clair situation?
A No.
Q At the time on March 18th when you brought the dogs to Faithful Friends, did you tell them that something had happened?
A Faithful Friends?
Q Yes.
A Yes.
Q Did you think it was a serious situation?
A No. I mean it didn't seem like it was that serious at the time, just because it was an open gash, and I had texted Mr. Clyde, I had spoken with the vet that they had taken Banks to, and everybody seemed to indicate that everything was going to be fine.
Q So you thought it was a cut, be sewed up, and that would be the end of it?
A Right.
Q Did you have any reason to believe it was anything other than that?
A No.
Q Now, the Animal Control officer wanted to make a big deal about you putting down not with
male dogs; did you have any experience with Ricky not being with male dogs?

A No. Actually, I had seen him in the back yard with Kathy Hughes' elderly dog, Simon.

Q Well, she said that they weren't even near each other.

A Well, that's not true, because I had went up one Sunday, and she said to go ahead and let Ricky loose in the back yard, she had a nice gated back yard. I was concerned because there was a dog door, and I asked her if Simon was in, she said everything was fine.

I let Ricky loose, I walked around the back, and Simon was there by the rocks and Ricky was standing over him. And I was concerned obviously, so I walked over to Ricky and I grabbed his collar and just led him away. He was standing over him, he could have done something, he didn't. But he didn't give me any indication, he wasn't growling at the dog, he wasn't doing anything like that.

Q Is it possible Miss Hughes didn't even know that that had happened?

A It's a good possibility that, but I thought I told her after the fact that Simon was in the back yard and that's why I was bringing Ricky back
1 out.

2 Q Did she ask you if anything happened?
3 A No.
4 Q Did you tell her nothing happened?
5 A I just said it was fine, he, you know, he just came right with me when I directed him away.
6 Q On March 18th during the incident involving Banks, tell us what you witnessed, what you saw.
7 A Well, I had gotten in the vehicle with Lady Jane. John was on one side of the truck, I'm not sure exactly because I was making a phone call to Faithful Friends to let them know that we were going to be late because we were getting held up, talking to Mr. Clyde.
8 Q This is before anything happened?
9 A This is before anything happened.
10 Q Go ahead.
11 A And I turned around to look to see what was taking so long. John had went around to the other side of the truck to put the dog in. And apparently Ricky had slipped his collar and was walking over to another dog. And I didn't see the attack happen so I don't know; I did walk up on it, you know, after the fact. I got off the phone and went out to see what
they needed.

And Mr. Clyde said go get John, the kennel manager. And I ran into the building, trying to find whoever he was. And it just was a lot of confusion. I went around looking for him, I couldn't find him. Then when I went out, he was coming from like around down the lane.

Q When the dogs were separated, did you see Ricky after that?

A Yes.

Q And how was he?

A He seemed fine.

Q Was he trying to get back to Banks?

A No.

Q Was he trying to pull towards Banks?

A You're talking about Ricky, correct?

Q Yes, was he trying to pull towards Banks?

A No. John had ahold of Ricky. I mean he didn't have anything on, he had to, you know, hold him, and he put him in the truck.

Q He just held him like this and put him in the truck?

A Well, however he held him, I mean he's a big guy.
Q Right.

MR. CROWTH: Thank you, no further questions.

BY MR. HULSE:

Q I have a few more questions. You're saying it wasn't nothing serious that you felt at that point in time?

A No. When I saw Banks inside, because Mr. Clyde had shaved the hair from where he had been bitten --

Q So you're saying seeing him beating your dog with a stick was nothing serious?

A I did not see that.

Q You didn't see that right next to your vehicle?

A That stick was laying there when I came out. It wasn't near the vehicle, it was near the building. I saw the cattle prod, I didn't see him hitting with that.

Q And when you're saying he put the dog into the vehicle, you're saying he was holding him; he wasn't just holding him like a puppy dog, I'm sure he had his arms wrapped around, restraining him and putting him in the vehicle, correct?

A He didn't have to restrain him because
1 Ricky wasn't trying to do anything at that point.
2 Q How big is Ricky?
3 A I don't know.
4 Q Approximately?
5 A Maybe 65 pounds.
6 Q 65 pounds? So he just lightly had the
dog in his hands, a 60 pound dog?
7 A Yes.
8 Q All right. Now knowing what we know
that he's been involved in two different attacks, one
male, one female, would you still say he's a great dog
for the public to go out and to adopt?
9 A I wouldn't know personally, because I'm
only familiar with one incident.
10 Q Right, but you were with Ricky, you
had --
11 A He's not a dog apparently that would be
doing well with male dogs is the information that I
have.
12 Q Right, but what you do know now, you
know he has been involved in two attacks --
13 A Well, I don't know that he was involved
in two attacks; I know that he was involved in one dog
attack.
14
15 MR. HULSE: No further questions.
CHAIRPERSON CAVANAUGH: Excuse me.

Wait just one minute.

THE WITNESS: Oh, I'm so sorry.

CHAIRPERSON CAVANAUGH: Questions from the Panel?

MS. JANNUZZIO: I do. Can you tell me on what date Ricky was neutered?

THE WITNESS: It was January 29th of 2014.

MS. JANNUZZIO: Thank you.

THE WITNESS: You're welcome. I'm sorry, anything else?

DR. STONESIFER: When was it?

THE WITNESS: I'm sorry?

DR. STONESIFER: When was he neutered?

THE WITNESS: January 29th of 2014. We had had some snow, and we went and picked him up from Delmarva Pet Resort.

DR. STONESIFER: And who performed the procedure?

THE WITNESS: Doctor Popas at I believe it's called Delmarva Pet Medical Center.

DR. STONESIFER: Okay.

CHAIRPERSON CAVANAUGH: Any other questions?
(No response.)

CHAIRPERSON CAVANAUGH: Thank you.

CAPTAIN WARBURTON: We would like to call John Lathbury.

WHEREUPON:

JONATHAN WADE LATHBURY,

having first been duly sworn by the court reporter,

thereupon testified upon his oath as follows:

BY CAPTAIN WARBURTON:

Q Good evening, Mr. Lathbury. Can you state your occupation, please?

A I am the current acting manager for Delmarva Pet Resort.

Q And what are your duties?

A Range from taking care of the dogs to feeding them, watering them, sometimes bathing them. I'm pretty much involved with their life the whole stay at the kennel.

Q So when somebody comes to get their dog from Delmarva Pet Resort, what's the normal procedure that you follow?

A I ask them to remove the leash that they have on, we put on our slip leads because no way a dog's going to get off the slip lead. And then I
escort them to the back.

The same procedure counts as they leave: We take our slip lead, put it on, escort the dog out to them. We tell them go ahead put your leash on, and they walk out.

Q So when Miss McIlvaine grabbed Ricky, when you released Ricky to their custody, did you have him on your lead?

A No, I wasn't present at the time; I was in the back taking care of the rest of the dogs.

Q Okay, do you know who did give Ricky --

A My boss.

Q Okay, Mr. Clyde did?

A Uh-huh.

Q And does he normally follow that procedure?

A Oh, yes. Four years straight working with him, yeah.

CAPTAIN WARBURTON: Okay, I have no further questions.

THE WITNESS: All right, cool.

BY MR. CROWThER:

Q Just a real simple question. What if the dog had to leave but didn't have a collar, you wouldn't help out?
A Well, yeah, if there's a --

MR. CROWTHER: Okay, no further questions.

CHAIRPERSON CAVANAUGH: Any questions from the Panel?

MS. JANNUZZIO: No.

DR. STONESIFER: No.

CHAIRPERSON CAVANAUGH: You're excused, thank you.

CAPTAIN WARBURTON: We rest.

CHAIRPERSON CAVANAUGH: Thank you. If you want to, you may proceed.

MR. CROWTHER: Call John Nusbaum.

CHAIRPERSON CAVANAUGH: One of our Panelists needs a break.

(Whereupon, a short recess was taken.)

MR. CROWTHER: I'll call Mr. Nusbaum, John Nusbaum, he's back.

WHEREUPON:

JOHN W. NUSBAUM,

having first been duly sworn by the court reporter, thereupon testified upon his oath as follows:

BY MR. CROWTHER:

Q I guess by looking at you, we now know how you carry 65 pound dogs, supposedly, right?
Q Mr. Nusbaum, on March 18th, were you with Tacia at Delmarva Pet Resort?
A Yes.
Q And did you enter the actual building to pick up Ricky?
A Yes.
Q Who put the collar on Ricky?
A The collar was on, as far as I know. It was on him in the kennel wherever he had him in the back.
Q Did you attach a leash?
A No.
Q Who did?
A Todd.
Q Did you take the leash from him?
A I took the leash.
Q Where did you go then?
A And I walked out the door. And I seen the lady with her dog, she was pulling in, and I seen right off she was nervous, she's like oh, pitbull. So I tried to walk him -- I never walked down the lane. I walked around the front of my truck which is where Tacia showed we parked. I walked around the long way instead of the driver's side, to the passenger door.
Well, I was going to let him in that passenger door but Lady Jane jumped over there, so --

Q So Lady Jane was already in the truck?
A She was already in the truck.

Q Then what did you do?
A I walked around to the driver's side and opened the door -- well, I had to walk around and open the door, and I turned my back to him, had the leash, and I felt the leash go limp.

Q And what did you see when you turned around?
A I seen Ricky, and she was walking her dog like heading towards the door. And I thought I said something, maybe I didn't, I'm pretty sure I did, because it was shocking that -- Ricky is old, his hips, I mean he's a big boy but his whole back hips, he has no back strength, but he just walked, he walked towards her dog.

Q Did he run?
A At a trot, at a fast trot; he didn't walk slow, he walked at a fast trot. And when he walked over, he bit right ahold of her dog.

Q Now, what was the owner doing before Ricky even got to the dog?
A She started -- when she seen him
coming, she did start screaming.

Q So she started screaming before Ricky even got to Banks?

A Yes, before he got -- she started to scream.

Q What exactly did you see from that point, forward? Tell us what you saw.

A Well, I walked over as fast as I could, I have these -- and these are the same boots, I think, I have on, they're slick, and there was ice and snow, I walked over and I took control, got behind Ricky and pulled him up in a Nelson, and I had him here. And I tried to pull his jaws off, it was just me.

Q You had your fingers in his mouth?

A I put my fingers in his mouth, which you never -- I would never do that. This pitbull -- but he wasn't being aggressive like everybody is saying. Yeah, if it was my little dog, I guess he was aggressive, because I felt her pain, I ain't going to -- you know, I felt that.

Q Sure. When you say he's not being aggressive, did he shake?

A He wasn't shaking. He just bit and would not let go.

Q Did he pick the dog up?
A I don't -- no, because I had him. I had ahold of him right -- you know, and when it first happened he -- I think when he walked over, he bit and he -- he's a big dog, and he pushed that little dog down and just bit, I mean ...

Q Now, there was some rumor in the report saying that he threw the dog, did that happen?

A No, he didn't throw the dog.

Q Now, we heard the situation involving the giant tool over there; how did -- did you and Todd try to separate the dogs?

A I was the only one with the dog. Finally I guess he did hear the scream, he came out, and I had Ricky already, and I kind of told him, I said get a shovel. Because I've had pitbulls before, and I wanted him to take the spade and the flat spot, and you got to bust them as hard as you can like you're hitting a 300 pound man. I'd rather him hit the pitbull, the poodle wouldn't take it --

Q Right.

A -- obviously, but the pitbulls are hard-headed. He didn't -- he only had an ice scraper, and obviously you couldn't hit him with that end, you know, that it would cut the pitbull and maybe make him even bite the poodle harder. So he whacked him
with the handle.

And we both had him, I think -- we both -- we tried to get them apart. Not saying he was pulling, but we were trying to get them apart. And we weren't yanking, you know.

Q Could you see the bite wound while they were still connected?

A It was so stressful, painful watching her scream, I really -- yeah, I could see his tooth in his fur the whole time because that's what I kind -- it was his -- one side of his canines were right on that one side where the cut is.

Q How did you ultimately separate them?

A That kept going, and finally he realized that wasn't working, he was getting ready to hit him with the sharp end, I was like no, no, because if he would have did that, he probably would have bit down harder on the poodle, and that's when he ran in to get the prod.

And I was like I'm using all my everything. And I was like, man, he's going to leave me alone, I'm thinking to myself I'm going to have a heart attack, trying to -- he goes in, and by the time he came out, which wasn't long, I seen -- I'm sitting there watching, and I got Ricky, and I had him at this
point now and I'm pulling him back, and I'm looking and his tooth was right there where it ready to slip, and when it was, I yanked at this point.

Now, Ricky wasn't -- I got him off, the poodle was laying there in shock and pooped itself, the Lhasa Apso, it was a horrible thing, I felt bad for the dog, you know. I don't know what Ricky was thinking, why it happened.

And I had to yell -- actually, Tacia is the one who got her dog initially away, I'm pretty sure, because he was just coming back with the prod. And we had them apart, and I had to yell for somebody to get the collar, get the collar because now all I had was his greasy fur, he had been in the kennel.

So I'm holding him, and I need to get that collar on him. And at that point I grabbed the collar and gave it a twist so it was tight, and walked him to the car, and tossed him in with one arm because I could pick that dog up with one arm; especially after that, my adrenaline was pumped. And I really felt bad for her, it was horrible; I've had Lhasa Apsos, I've had pitbulls, I've had -- it's just horrible. They're you're children, doesn't matter what kind of dog they are.

Q You don't want them bitten at all.
A You don't want them bitten at all.

Q Now, did you go in and see when Banks' wound was cleaned up by Todd?

A Yes.

Q Tell us about that.

A I walked in, and I knew -- I wanted to say I was sorry to her, but I knew her feelings would be like -- you know, it probably wasn't best. So I kind of walked in and walked past. And Todd had just shaven Banks, and he was sitting there. And Todd had to -- he went out and helped her I think make a phone call, she was really shook up.

And Banks, obviously he was shook up. So I sat there and pet him, and told him -- you know, I was talking to him, I said, "I'm sorry, Buddy."

Because neither dog was mine, I was just helping and caught in the situation, and tried to keep calm and make the best of it.

But Banks was there, you know, it was about a three-inch, it basically -- it wasn't deep, he never got his muscle or neck bone or the dog would have killed him.

Q What do you mean it wasn't deep?

A It wasn't deep; it was long.
not a vet.

MR. CROWTHER: He personally witnessed the wound.

CHAIRPERSON CAVANAUGH: We do have a vet report here.

MR. CROWTHER: He personally witnessed the wound so he can describe what he saw.

CHAIRPERSON CAVANAUGH: I would rather have the vet's opinion.

THE WITNESS: I was just trying to answer.

CHAIRPERSON CAVANAUGH: I understand.

BY MR. CROWTHER:

Q So what exactly did you see?

A About a three-inch gash, it looked like someone took a knife and cut the membrane in the skin to where you could see the muscle tissue. And, you know, it wasn't pretty, the poor dog was shaken.

Q Was the wound cleaned while you were there?

A Todd had -- did a pretty good job, he shaved it and cleaned it up, and I guess he rubbed it with some gauzes and alcohol. Well, he had it pretty clean when I got there because I stayed out and ...
got in there?

A There was some blood there but it wasn't like -- it wasn't on an artery that I know of. And because of the dog's mouth, you know, they had to tube it, obviously. If a dog bites, you know, it doesn't matter how far, once it breaks your skin, you've got to have a drain in it or you better be taking big strong antibiotics for a while because it's dirty. Even a human mouth's dirty. It's just dirty when you get bit. Ricky's an old dog so his mouth was probably really dirty.

Q Did you see Ricky charge Banks to attack him?

A Ricky can't really run, he don't have no back legs. He did walk at that dog at a fast pace. I have one, it would attack on him like an NFL pro ball player. It was the weirdest way I've ever seen a dog, a pitbull go after a dog, because he just like he walked real quick and bit. And there wasn't no shaking, and usually a pitbull would have grabbed that, he would have shook it, it would have been dead quick, but it wasn't like that.

It was like he just walked over to that dog fast as he could because, like I said, his hips are bad, and he just bit. And it was like the calmest
attack for a pitbull, which was lucky for all of us, because I wouldn't have been able to reach in his mouth. Normally I would never have reached in his mouth but when I seen that he was just there, and he just bit, and he wouldn't move. And I was just like, well, the hell with it, let me try. But he was too -- I couldn't even budge his jaws, they say it's 1300 pounds and that's ...

Q Was he growling?
A No growling. I think Banks was crying.

There wasn't no growling or snarling or, you know, nothing, or I wouldn't have stuck my hands in his mouth. And I stuck them in through the side, too, and this way, and he would have broken my fingers.

Q Did you get bit?
A No, I didn't get bit. Scratched, clawed. No, Ricky never acted -- like actually when we took him to the vet to get neutered, we walked him by Irish Setters right in the vet, and they had cats in there.

Q Anything happen?
A Nothing.

Q Did he try to pull towards them, lunge towards them?
A He never tried to pull. But, you know,
that breed, if you ain't an alpha, you got to be more
alpha than that dog and kind of let them know that.
Which I did let him know that with the way I handled.
I handled a bunch this past summer for Safe Haven, All
Aboard, and you can feel out the ones that like, you
know what? You don't want to walk them even near
another dog, even know though I could out-power them,
you don't want to do it, but Ricky wasn't like that.

MR. CROWTHER: No further questions.

BY CAPTAIN WARBURTON:

Q Good evening. When you were taking
Ricky out of Delmarva Pet Resort, was he jumpy and
active --

A No.

Q -- or was he just walking?

A Docile. He was docile.

Q Docile?

A I mean he's -- he seems old to me,
especially his hips seem arthritic, very skinny.
Maybe it was from being locked in the kennel for
months.

Q Sure. So when he saw Banks, how did he
slip his collar?

A Well, see, that's the thing. When I
walked around to the -- I walked around the front of
the truck -- can I do this? I walked around, I opened the door. When I opened this door, I walked around and went like this. The only thing I felt was as I went to pull and there was slack, and I turned around, and he's from there to the bench, and he was walking fast to her dog, that way.

Q So he was pursuing the dog?
A Yeah, and I -- I think I tried to yell, but I tried to go as quick as I could but it was ice, and these are nothing --

Q Oh, yeah, I see that.
A -- but slick, so ...

Q So what you saw is when Ricky slipped his collar, he didn't go to you, he didn't -- did he jump in the truck?
A No.

Q No. So he went straight --
A When he slipped it --

Q So he went straight to Banks?
A -- he went straight to Banks.

Q So you would call that pursuing?
A Yeah, if that's what you want to say, yes, it was pursuing.

Q Did he bark or did he do --
A Wasn't no bark, wasn't no growl.
Q: And you said this was the calmest attack you ever saw?

A: For a pitbull. If you have been around pitbulls --

Q: So he was stealthy, he knew what he was doing?

A: In all reality, if a pitbull would bite a Lhasa Apso, usually one bite, one shake, and you're burying the Lhasa Apso, or a cat.

Q: So Ricky knew he was pursuing that dog and he knew --

A: He might have been. Lady Jane, you know, I thought of Lady Jane was right about where Banks walked to when I first brought her out, and maybe it was something like that. But I mean he -- if you want to say pursue, okay. He walked to it, is how I'm saying. He didn't pursue it like an attack. Yes, once he got it --

Q: Well, if he was walking towards the dog, then he is pursuing?

A: Yeah, he walked right to that. He wasn't going nowhere else, he walked right to Banks and bit and held.

Q: So you would call that an unprovoked attack?
A Yeah.

Q Yes?

A If you want to say.

Q Yes. When you were behind Ricky picking him up, were you able to see Banks or were you focusing more on Ricky's back?

A No, I could see him but I was focusing on Banks more than Ricky, trying to get that tooth to -- get it out of his fur, you know.

Q Okay, so he had a good hold of him?

A Oh, yeah, I had a good hold.

Q No, Ricky had a good hold of Banks in his mouth?

A Yeah, he had a hold of Banks with actually the one side of his canines is where he broke through the skin, that's the one I was working on. Once I seen it was there, I gave it a little -- just a tight jerk, and I got him away, and I needed help, no one was around.

Q So that was just the calmest attack you ever saw?

A It sure was.

CAPTAIN WARBURTON: No further questions.

THE WITNESS: Okay.
CHAIRPERSON CAVANAUGH: Does the Panel have questions?

(No response.)
CHAIRPERSON CAVANAUGH: You're excused, thank you.

THE WITNESS: You're welcome.

MR. CROWTHER: Call Jane Pierantozzi.

CAPTAIN WARBURTON: We object. Miss Pierantozzi did not see any of the attacks and thereby cannot provide any witness testimony to the attacks.

CHAIRPERSON CAVANAUGH: So can you please make sure that this testimony is about the attacks involved with Ricky and Banks?

MR. CROWTHER: It's about the dog.

This is a dangerous dog panel.

CHAIRPERSON CAVANAUGH: We're talking about the specific attacks of Ricky on dogs; if that's what this is about, okay.

MR. CROWTHER: Are you saying I can't ask my witness questions about the dog?

CHAIRPERSON CAVANAUGH: If they're about Ricky attacking the dogs, you can ask her questions.

MR. CROWTHER: But what if Ricky didn't attack the dogs?
CHAIRPERSON CAVANAUGH: I have heard many, many witnesses say that they witnessed a dog attack of Ricky on other dogs.

WHEREUPON:

JANE PIERANTOZZI, having first been duly sworn by the court reporter, thereupon testified upon her oath as follows:

BY MR. CROWTHER:

Q   When were you first contacted about getting Ricky and Lady Jane?

A   I think it was about early December when Lynn Lofthouse called me and said that there were two dogs that were homeless and in bad conditions, and that people had pitched in and were boarding them at a boarding facility in Sussex and they wanted to get them into a shelter for adoption and to get them in better condition, she was worried about the stress and the conditions there.

I told her at the time we didn't have room because we were renovating, and that we basically were moving many of our dogs out into foster care or adoption while we renovated our kennels, but when we had room and completed, we would try to bring them in.

I asked her if they were nice dogs, she
said that they were nice dogs, they lived -- there
were three dogs in the home but one I think was
staying with the family, and these two dogs she said
had been in carriers and were in poor conditions.

So then she called a couple more times
maybe while we were renovating, and finally I said we
will call you when we're done, and I let her know we
were done and we had room in March.

Q And was Ricky and Lady Jane planning on
coming there on March 18th?

A Yes, they were planning on coming on
March 18th. I wasn't sure exactly who was bringing
them, but one of the rescue individuals, it ended up
being Tacia ended up bringing them there. And we had
a kennel for both of the dogs prepared for them.

Q Were you told that they lived together?

A Yes, and we prepared a kennel for them
to live together, and they did live together at
Faithful Friends.

Q Now, the first time you heard from
Animal Control was when?

A Let's see. I heard from Animal Control
when Sherry called me -- well, Sherry called me, left
me a message, then she called Lou; it was on 4/11, I
believe or that's when I picked up the message. And
her message to me was I could call back on Monday
because it was a Friday. Lou had spoke to her and she
wanted to specifically speak with me, and she had
concerns about Ricky but we didn't know the specifics
at that time.

Q  Did you speak to her on that Monday?
A  Yes, I did.

Q  So you did not know anything about
these supposed incidents in December or November or
whenever they claimed to have occurred?
A  No. Lou had said that Tacia mentioned
there was an incident with another dog, that it was
minor, and that was really all we knew. And on the
surrender forms, she listed that they were not good
with dogs or kids or cats, so we put them on the
website that way to start until we got to know them.

Q  Now, when you put dogs on your website,
does that mean they're ready for adoption?
A  No; we usually put them up there within
the first couple days to a week. And then if we don't
know their behavior, we may put still learning about
them or something like that.

MR. CROWTHER: No further questions.

THE WITNESS: Okay.
BY MR. HULSE:

Q Just a few questions. So you didn't know these animals when they were first brought to your facility?

A No.

Q Did they show any signs of aggression while they were at your facility?

A No, they didn't. I mean they were very nice; nice, easy-going dogs. They did well in the kennel while they were with us. We didn't have any food fight incidences like I think Todd mentioned; we didn't have any of that happen. They were just kind of calm, mild-mannered dogs.

Q Then why is it Ricky was not at your facility when we went to get Ricky?

A Because we take the dogs on walks. The dogs go on walks three times a day in our kennel, and he was on his afternoon walk.

Q So he didn't come out from a vehicle; he was on the premises the whole time?

A No, he was on the walk with someone else, but Lou went to get him to make sure he came back when the officer wanted him back.

Q So he was out of your facility, he was gone from your facility?
A Right, right.
Q So you don't walk your dogs on your facility?
   A We don't have -- our property is on Germay Drive, so we have to walk them at the local park, or up and down Germay Drive, in the neighborhood, so they're walked in the area.
   Q Okay. Now that you know these dogs have attacked, you have heard testimony from witnesses that have been there, including the person that helped I guess with the dog bring him to your facility, do you think these are great dogs to put out in the --
   A I think --
   Q -- public, Ricky?
   A I think right now, Lady Jane's in a foster home, she's doing good. I think knowing what we know about Ricky is that we would reassess him with dogs, and we would have a behavior trainer that we work with work with him more, and go from there, reassess him and go from there.
   Q So you don't believe Ricky to be an endangerment right now to the public?
   A Obviously he can't be off leash and be around other dogs.
   Q But right now, is he a danger to the
public?

A Not while he's on a leash. In the shelter, he's fine; on a leash, fine. He walked by other dogs, showed no aggression. He didn't even act reactive in the kennel walking by other dogs. So I would say we would work with him with a trainer and reassess him.

Q So if you're saying you have to work with him, you're saying that he's not ready to go out into the public?

A Some of the dogs in our care can be in rehabilitation or training before they get adopted.

Q I understand that he's been in your care, correct?

A Right.

Q But you're saying right now, he needs to be reassessed?

A I would have someone reassess him, knowing what we know, and have a trainer behaviorist work with him with other dogs first before we put him back out in the public.

MR. HULSE: Okay, no further questions.

THE WITNESS: Okay, sure.

CHAIRPERSON CAVANAUGH: Does the Panel have questions?
(No response.)

CHAIRPERSON CAVANAUGH: Thank you, Jane.

MR. CROWTHER: Call Lou Henderson.

WHEREUPON:

LOUIS HENDERSON,

having first been duly sworn by the court reporter, thereupon testified upon his oath as follows:

BY MR. CROWTHER:

Q Mr. Henderson, what do you do, or what --

A I'm the dog department manager at Faithful Friends.

Q Are you familiar with Ricky?

A Yes.

Q Did you have contact with Ricky from March 18th to the time that he was taken away by Animal Control?

A On a daily basis.

Q How much time did you spend with Ricky?

A Every day, I seen him. Some days, I would walk him. Some days, just interact through the kennel.

Q How was he when you walked him through
the kennels?

A  He walked through fine.

Q  Did he lunge at cages?

A  No.

Q  Did he try to go after a dog?

A  No. I walked him through with his mom usually.

Q  Did he exhibit any aggressive behaviors in your presence?

A  Not that I ever saw.

Q  And you had daily contact?

A  Yes.

Q  Let's talk about the day that Animal Control came; you had Ricky and Lady Jane out for walks?

A  Yes.

Q  Now, when you came back, you were told that Animal Control was going to take him, right?

A  Yes.

Q  And did you come by another dog on your way back towards the Animal Control vehicle?

A  I was taking him in the shelter, yeah.

Q  Tell us what happened there. Well, I should probably say what didn't happen? How close were you to that other dog?
Probably over to by them flag poles, I would say.

Q Did Ricky pull?
A No.

Q Did Ricky try to lunge towards that dog?
A No.

Q Did he make any aggressive action towards that dog at all?
A No.

Q Did he just follow you?
A I walked him right in the front door into the -- yes. And we have cats up there, too.

Q Now, I know that you put him in the Animal Control truck.
A Uh-huh.

Q Before he got in the Animal Control truck, how was he around the group of people that were standing there?
A He was fine. We took pictures of him and everything like that.

Q Was he being pet?
A Yes.

Q Was he just sitting there?
A He was just sitting there, calm as can
Q. Did he exhibit any aggressive behavior at all?

A. No.

Q. When you picked him up and put him in the back of the small cage in the back of the truck, did he try to get back out?

A. No.

Q. Did he act in any aggressive way then?

A. No.

Q. Did he bark?

A. No. I never heard him bark, actually.

Q. Now, you had to let him back out of it to have him checked by the vet, right?

A. Yes.

Q. Did he lunge out of his cage?

A. No. I had to help him down.

Q. And did you bring him back out later on?

A. Yes.

Q. Was it about the same old thing --

A. Yes.

Q. -- acting calm?

A. Fine.
animal showed no sign of aggression, the question you
already asked. Is there anything else besides the
aggression of the dog questioning?

CHAIRPERSON CAVANAUGH: You're out of
order.

DR. STONESIFER: You had your two
cents, let him have his two.

MR. HULSE: Sorry.

BY MR. CROWTHER:

Q How many dogs does Ricky have to pass
from where he was in Faithful Friends to where he goes
out for a walk?

A At least 10 to 12, I would say.

Q And do those dogs change every once in
a while?

A All the time.

Q And never a sign of aggression?

A Not once.

MR. CROWTHER: No further questions.

BY MR. HULSE:

Q Were either these two dogs present when
you walked by with Ricky?

A No.

MR. HULSE: No further questions.

CHAIRPERSON CAVANAUGH: Questions from
the Panel?

(No response.)

CHAIRPERSON CAVANAUGH: Thank you.

MR. CROWTHER: No further witnesses.

CHAIRPERSON CAVANAUGH: Thank you.

Now we're going to have closing statements by Animal Control, and closing statements by the dog's owner.

CAPTAIN WARBURTON: Tonight, Panel members, ladies and gentlemen, you have heard eyewitness testimony of two separate incidents involving Ricky and how each of those facts were supported by evidence, not only witness testimony, but statements, vet records, and pictures.

The facts that Delaware Animal Care and Control has proven are it's a fact that Ricky pursued and attacked a senior lab who was on her owner's property, unprovoked. It's a fact that Ricky pursued and attacked a senior Lhasa Apso who had merely walked past him. It's a fact that Ricky has inflicted serious physical injury upon a domestic animal in the immediate control of its owner.

Through all these facts, there's only one conclusion, and that conclusion the Dog Panel can make is that Ricky is a dangerous animal and should be
found dangerous as per Section 925. Thank you.

MR. CROWTHER: Animal Control has thrown around words and phrases as if they don't have any meaning, but in this statute they have actual definitions. So we should probably look at those definitions to see whether or not they have actually established the proof by a preponderance of the evidence that's necessary, because a dog bite isn't enough.

It's not a dog bites another dog and therefore they're either potentially dangerous or dangerous; that's not the standard. If that were the standard, every dog park would be the subject of about three dog bite complaints a day. They bite all the time. But that's not what this Panel is supposed to look at. Let's take a look at what the definitions actually say, and let's compare that to what the evidence that's actually allowed here shows.

In order to establish a dangerous dog, the statute is pretty clear; it has to have found that a dog killed or inflicted serious physical injury upon a domestic animal. Serious physical injury is what they keep saying, but they actually haven't proven it and they have the burden of proof.

Now, the first rule is this Panel
cannot rely upon hearsay evidence for that
determination. There is no testimony, and the medical
records are not allowed because they're hearsay. So
this Panel cannot --

CHAIRPERSON CAVANAUGH: It can. We can
consider hearsay.

MR. CROWTHER: Not to make the
determination because they don't establish an element,
there's no evidence of an element of an injury at all.
Now, serious physical injury is actually a defined
term. Now, remember, the records show that Banks was
okay two days afterwards. The records show and the
testimony was that it was no big deal. It was all
going to be done -- you saw Todd's text message,
stitches and a drain and he'll be fine. That's what
he said, he saw the injury; stitches and a drain and
he'll be fine.

Just because the dog itself doesn't
respond well to treatment doesn't mean the injury
itself was serious. You can get a cut and get MRSA;
it doesn't mean the cut was serious, it means the
results later on were serious because you got
something else. If they took the drain out and they
shouldn't have, that could be a problem, that could
create a worse injury. If it wasn't done correctly or
cleaned correctly the first time, that could create a worse injury.

The question is whether the injury inflicted by the dog was serious, not whether the treatment was extensive. Because here, there's a little bit of a contradiction between what happened originally, what was -- what people were saying about the injury originally. Every dog bite is going to result in a laceration of some sort; does that mean every dog bite satisfies the criteria for serious injury? The answer is no.

Serious physical injury shall be physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ. That's not the case here. It simply isn't the case here.

What we have is a laceration. There's no organ damage, no impairment or disfigurement; it's a laceration. It is what every dog bite results in, unless this Panel's going to declare every single dog potentially dangerous or dangerous that's involved in a dog bite when there's a puncture or laceration. That's not what the definition means or what the
legislation intended it to mean, that's why it's defined in particular. The Panel has no evidence to support a finding of a dangerous dog because it does not meet the criteria of the statute.

Now, potentially dangerous dog is slightly different. It almost overlaps where the Panel could make a decision even on a dangerous dog that's only potentially dangerous, but it does overlap. And the provision that's applicable is attacked or inflicted serious physical injury upon a domestic animal, provided the domestic animal is on the property of the owner or in the control of its owner.

Now, the word attack is defined by the Code. And that's important because attack isn't just what we say is an attack. Because any time a dog bites other dog, it's an attack. Under general vernacular or general terms, any behavior that results in a bite is an attack. But that's not what the legislature says.

The legislature says that an attack shall be the deliberate action of a dog whether or not in response to a command by its owner to bite, seize with its teeth or pursue any human being or domestic animal with the obvious intent to kill, wound, injure
or otherwise harm the human being or domestic animal. Now, are we to presuppose that a dog knows that biting is going to harm an animal, or is that just a dog’s instinctive reaction?

Remember, the evidence today shows that Ricky bit; didn't shake, didn't do anything else but hold. And in the context, the owner was screaming before he even got there. What impact did that have on his behavior? Did he think she was being harmed and he was protecting her? We don't know, we don't speak dog. But she was screaming before Banks even got bit.

Attack doesn't mean a bite. And this Panel needs to be very careful, because if you say that a dog is potentially dangerous because it attacked because that's a bite, you're going to be having a lot of these hearings, because dog bites occur all the time in the public, and the vast majority of those dogs are not remotely dangerous. But dogs bite; that's how they communicate in ways.

This dog, it's interesting that the incidents involving earlier than March only came to light in April. And in between, no one heard a peep about these. Nothing. Interestingly, there's no evidence of an injury there, none. There is not a
single bit of evidence of anything leading to either
the injury or serious physical injury status of the
statute, not one piece of evidence. So even if the
bite occurred, there is no non-hearsay evidence in the
record, none.

While we certainly have concerns about
Ricky, and I think you have a concern about every new
dog that enters your facility, that's why you assess
them and draw up plans for them. You just don't adopt
them out to anybody you want; you have to work with
dogs, that's what Faithful Friends does. They will of
course assess Ricky and they will have their behavior
people on staff who do that, and they'll have people
who work with him to the extent he has any issues and
to the extent he's available and ready for adoption,
which may or may not ever be a time. But when he is,
he will be placed in an appropriate home.

You heard some discussion about Lady
Jane, but you also heard Jane talk about Lady Jane
being in a foster home and doing just fine. She's
fine. But she was aggressive, too, according to the
testimony of the witnesses who witnessed these
attacks. She's doing just fine.

The statute's here for a reason, it has
its definitions for a reason, and it's not just
throw-around phrases and words that they don't mean anything. They have the burden of proof by competent evidence; they simply haven't met it.

So to the extent that this Panel disagrees, and I hope it doesn't, but if it should, the findings should be a potentially dangerous dog, and then the safeguards that go with that would be automatically triggered. But there is no way that the evidence supports a dangerous dog finding, not even remotely. Thank you.

CHAIRPERSON CAVANAUGH: The Panel is going to go into Executive Session to make our determination and we will be back shortly.

(Following Deliberations in Executive Session, the hearing concluded as follows:)

CHAIRPERSON CAVANAUGH: Dear Faithful Friends Animal Society, as noted in our opening statement, the Delaware Code Title 9, Chapter 9 Subchapter 2, Subsection 925 states that a dog who has inflicted physical injury upon a human or domestic animal, killed a human or domestic animal, pursued a person in an apparent attitude of attack and/or who is used to facility animal cruelty or animal fighting is in violation of this code and is a dangerous or potentially dangerous dog.
According to Code, such a dog must be seized by Animal Care and Control agency and impounded until a final decision is determined. The owner of the seized and impounded dog may abide by the findings and conclusions of the Animal Control Officer as per subsection 925(c) of this code. If the owner disagrees with the conclusion, a hearing before the Dog Control Panel may be requested to present evidence as to why their dog's actions and behavior for which it was seized should not be considered dangerous or potentially dangerous as defined by this Code.

Your dog, Ricky, described as a black and white American pitbull terrier, was just seized and impounded on April 18, 2014 due to an incident which took place on December 4, 2013 at 24500 Hollyville Road, Millsboro, Delaware, and due to an incident which took place on March 18, 2014 at Delmarva Pet Resort, 3602 Polly Branch Road, Selbyville, Delaware.

Ricky, as described above, was seized and impounded in apparent violation of this Code for the following alleged actions: Ricky attacked and injured a dog on the property of its owner; and in the second incident, Ricky attacked and injured a domestic animal that was under the immediate control of its
You disagreed with the Delaware Animal Care and Control decision of dangerous dog regarding the described actions and incidents and requested a hearing. The Delaware Dog Control Panel met tonight, May 12, 2014, to hear your dispute of the charges brought against your dog, Ricky. At the time of impoundment, your dog's rabies vaccination status was up to date, and dog license status was unknown.

Delaware Animal Care and Control presented evidence discovered during their inquiry under case numbers 144366 and 143542 which caused them to find actions of your dog, Ricky, to be in violation of this Code. Delaware Animal Care and Control concluded that public behavior and/or individual actions or a combination of both were in violation of Subsection 926(a) Dangerous and/or Potentially Dangerous Dog. You requested the Panel to present evidence in order to not have the dog declared to be a dangerous dog.

Evidence presented to the Panel included a variety of fact-finding documents such as, but not limited to, investigative reports, sworn statements from victims/owners, witnesses, neighbors, employees, et cetera, including testimony,
photographs, and internet postings by both the Animal Care and Control Agency and the owner of the seized dog.

In the first incident, the Panel found based on the evidence presented that Ricky did attack and inflict serious physical injury upon a domestic animal on the property of its owner; and in the second incident, based on the evidence presented, that Ricky did attack and inflicted serious physical injury upon a domestic animal that was under the immediate control of its owner.

The findings of the Dog Control Panel Hearing: Based on the evidence and testimony provided to this Panel during this hearing held today under Delaware Code Title 9, Chapter 9, Subchapter 2, the Delaware Dog Control Panel finds Ricky, owned by Faithful Friends Animal Society, to be in violation of Subsection 925 or 926 and has been found potentially dangerous.

The final order of the Dog Control Panel is that the dog is potentially dangerous and the owner shall comply with the requirements set forth in Title 9, Chapter 9, Subsection 926(b) one through three for keeping or maintaining such a dog.

And that concludes our hearing for this...
evening.

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C E R T I F I C A T E

STATE OF DELAWARE )

) KENT COUNTY )

I, Pamela C. Herrmann, Registered Professional Reporter and Notary Public, do hereby certify the foregoing pages were taken before me at the time and place indicated herein; that said witnesses were by me duly sworn; that the testimony was stenographically reported by me and thereafter reduced to typewriting under my personal supervision; that I am neither of counsel nor kin to parties in said action nor interested in the outcome thereof.

WITNESS my hand this _____day of _____________, 2014.

________________________
Pamela C. Herrmann
Registered Professional Reporter and Notary Public

Certificate Number: 128-PS

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