



DOG BOARD OF SUPERVISORS Hearing August 1, 2024

A hearing was held at 2:00 p.m. on Thursday, August 1, 2024 for Deschutes County Sheriff's Office Case No. 2024-41064. Pursuant to Deschutes County Code section 6.12, one dog, a chocolate lab ("Chip"), owned by Angela Garcia (A. Garcia), was seized on July 22, 2024 by Deschutes County Sheriff's Office in response to a report of a dog chasing, wounding and killing livestock 510 NE Oneil Way in Redmond. In this matter, the livestock were domestic fowl (chickens). This hearing was audio/video recorded.

Present: Senior Assistant Legal Counsel Chris Bell; BOCC Administrative Assistant Angie Powers; Deschutes County Sheriff's Office Animal Control Technician Mariya Leufven (*via Zoom*); dog owners Angela Garcia, Mark Garcia and Leita Jardine; livestock owner Lindsey Morlan (*via Zoom*); eyewitness Talon Robedeau (*via Zoom*); and Dog Control Board Members Sandy Storrie, Lynn McAward (*via Zoom*), and Greg Brady.

CALL TO ORDER: Counsel Bell convened the hearing at 2:02 p.m.

Counsel Bell stated the facts of the case. While off the property of its owner, A. Garcia, and not within the control of her, one dog, "Chip" allegedly killed chickens owned by and on the property of Lindsey Morlan (Morlan). The incident occurred at/near 510 NE Oneil Way in the unincorporated Deschutes County. There are no other allegations of prior incidents of Chip chasing, injuring, or killing livestock. In response to questions from Greg Brady (Brady), it was determined that the Dog Board Decision Making Flowchart will be updated for future use to accurately reflect the options available to the Board for dogs who have been found to have chased, injured or killed domesticated fowl and DCC 6.12.130, Release of Dog Found to Have Harmed Domesticated Fowl, was read. Counsel Bell will follow up with Deschutes County Legal and have the flow chart modified.

Counsel Bell shared this hearing is governed under Oregon Law ORS 609.010-609.190 and Deschutes County Code 6.12. The purpose of this hearing solely concerns the disposition of Chip, the dog who had been held at the Brightside Animal Shelter but was subsequently released to A. Garcia due to health concerns for Chip. 13-year-old Chip was released into her custody and held at its home pending the outcome of this hearing. If a citation was issued to A. Garcia, that matter will go before the Deschutes County Circuit Court at a later date and is separate and distinct from this hearing.

Based on the evidence and testimony presented at this hearing, the Dog Board will deliberate and has the authority to determine the disposition of Chip. Their options depend upon whether they find that Chip chased, injured, or killed livestock while away from A. Garcia's property and whether he has chased, injured or killed livestock in the past. For the purposes of this proceeding, chickens are livestock. The allegation is that two chickens owned by Morlan were killed and one was injured following the incident.

Counsel Bell explained the Board's decision-making process following their decision-making flowchart. Counsel Bell stated the Board's role is as the factfinders and they will determine the disposition of Chip. They may apply penalties as the allowed by law and they have discretion to craft remedial measures to prevent reoccurrence. Counsel Bell's role is to ensure that evidence and testimony is presented in a timely manner and the law is followed. Counsel Bell described the format of the hearing and the order in which testimony will be provided and evidence presented.

This hearing is informal, and discourse will be kept civil and orderly. This hearing is video/audio recorded should there be an appeal. Once the evidence is closed the Board will deliberate and make findings. They will come to an oral decision on the disposition of the dogs and make any remedial findings. Counsel Bell will prepare the written order in the coming days, to be signed by the Board and sent to both parties. Should either party disagree with the decision, they may choose to appeal, per DCC 6.12 or ORS Chapter 609.

Counsel Bell summarized **Exhibits 1** through **7**. Exhibits are summarized below:

Exhibit 1: Redacted DCSO Report no. 2024-41064

Exhibit 2: Complaint of Dog(s) Chasing, Injuring, and/or Killing Livestock, completed by Talon Robedeau, Lindsey Talon's nephew and eyewitness to the alleged attack

Exhibit 3: Dog Owner's Rights Form, completed by Angela Garcia for "Chip"

Exhibit 4: Photographs of deceased chickens, provided by DCSO

Exhibit 5: Map showing proximity of dog and livestock owner's properties (copies provided only to DCSO, Dog Board and Legal)

Exhibit 6: Dog license status for "Chip"

Exhibit 7: Shelter questionnaire, completed by Brightside Animal Center

Counsel Bell made stipulations which were accepted, without objection and entered into the record. These are summarized below:

Stipulation 1: Exhibit 2, Complaint of Dog(s) Chasing, Injuring and/or Killing Livestock, was completed and signed by Talen Robedeau

Stipulation 2: Exhibit 3, Dog Owner's Rights Form, was completed by Angela Garcia on behalf of "Chip" on July 22, 2024

Stipulation 3: Exhibit 7, Questionnaire completed by Brightside Animal Center for "Chip"

Angela Garcia stipulated that Chip was not licensed at the time of the incident. As such, Counsel Bell stated that **Exhibit 6** does not need to be entered into the record.

Counsel Bell asked both parties to stipulate that the site of the alleged incident is located within Deschutes County, that the dog known as Chip is owned by A. Garcia, and that Chip is currently residing at her residence.

Talon Robedeau (Robedeau) was sworn in and provided testimony. He is Morlan's cousin and resides at 510 Oneil Way. He was present at Morlan's residence on July 22, 2024. He testified that around 11:30-11:45 a.m. he was outside and heard a chicken in distress. He observed a dog, described as a brown or chocolate lab, with one of their chickens in its mouth. He confronted the dog, who dropped the chicken. He ordered it to go home, and it disappeared under the fence. After the dog left, headed in the general direction of A. Garcia's residence. He stated that he did not recall whether it had a collar on, and that no other unique features were noted, and he had not previously seen the dog. After the dog left, he phoned Morlan to tell her what happened. Morlan called the Sheriff's Office non-emergency number for assistance. He went into the coop and witnessed one injured chicken in front of the coop, in addition to the injured chicken the dog dropped. One of these two chickens succumbed to its injuries. He described the coop as surrounded by an 8-foot chain-link fenced area. The man gate is opened each morning, allowing the chickens to roam freely on the property. At the time of the incident, the gate was open, and he witnessed the dog inside the fenced area around the coop. At the time of the incident, the man gate was open and the chickens were able to move around on the property freely. The chain link fence is approximately 8-feet tall. Talon stated that when the gate is closed, there is no way for a dog to get into the enclosure.

Exhibit 4, photographs taken by Tech Leufven, were shown. Robedeau testified that the photographs shown were taken by Tech Leufven following the incident. Counsel Bell indicated that Robedeau testified that there were no other identifying characteristics of the brown lab. Two photos of the brown lab were shown. Brady noted the Sheriff's Office report reads that the brown lab was wearing a blue collar. Robedeau recalled saying something about a blue collar during his questioning by Animal Control Tech Leufven.

Deschutes County Sheriff's Office (DCSO) Animal Control Technician Mariya Leufven (Leufven) was sworn in and provided testimony. She has served in her role for six years and has Level 2 certification from the National Animal Control Association. She recalled and summarized the events of July 22, 2024 as described in DCSO report (case no. 2024-00041064) and acknowledged that she drafted the report and electronically submitted it for approval. She testified that the report is true and accurate to the best of her recollection. After receiving the call for service from Morlan, she visited the property. Two of Morlan's chickens were reported to have been killed by a neighbor's dog and a third was

injured. Leufven observed the chicken coop and photographed the coop, enclosure, deceased chickens and pile of feathers. Robedeau told her that he observed a brown dog, described as a chocolate lab, in the coop with a chicken in its mouth and ordered it to go home. Leufven's conclusion is that the dog entered the coop through the open gate. Robedeau reported to her that the dog left their property and travelled N/NE towards A. Garcia's property. She described the chicken carcasses as soft (not stiff) and freshly killed. In her expert opinion, the chickens died within a few hours of her arrival. Her observation was that the chickens were killed, possibly by a dog or other predator. The feathers were ruffled but she did not observe puncture wounds or tears to the tissue. **Exhibit 1**, DCSO report (case no 2024-41064) was entered into the record. There were no objections from either party. She noted that the replacement cost for the chickens was not discussed on July 22. Leufven's opinion is that Morlan's chicken enclosure is acceptable and secure from predators if the gate is closed. The fencing surrounding Ms. Morlan's property was described as metal fencing, more suitable for large livestock such as horses and cows. Smaller animals such as dogs can easily go under the fence.

Leufven then visited A. Garcia's property. Mark Garcia (M. Garcia) was home at the time and explained the dog in question belonged to A. Garcia. He phoned A. Garcia, put it on speakerphone and Leufven explain the impoundment process to her. A. Garcia arrived home shortly after and completed and signed the Dog Owner's Rights form. Leufven then transported Chip to Brightside. M. Garcia reported to Leufven that Chip was home all day. Leufven recalled that Chip did not have a collar on when she impounded him, and she transported Chip with her own leash. Counsel Bell highlighted the photos of Chip which show that he has some missing patches of fur. Leufven stated that her trained eye did notice Chip was shedding. Neither A. nor M. Garcia believed Chip was off their property on July 22 nor responsible for killing Morlan's chickens. Leufven described Chip as a "happy boy", and slightly overweight. He required assistance being loaded into her truck but jumped out of the vehicle onto the ground with no issue, so she believed he was physically capable. Upon arrival at the shelter, Chip's demeanor was calm. In the following days, she learned from Brightside staff that Chip wasn't eating at the shelter and plans were subsequently made for Chip to be released to A. Garcia and kept at home pending the outcome of this hearing.

A. Garcia stated that a green perimeter collar was worn by Chip at the time he was impounded, and she asked M. Garcia to remove it prior to handing him over to Leufven for loading into the vehicle. Leufven did not recall M. Garcia removing the collar. A. Garcia noted that Chip would have had to walk past their own free-range chickens to get to the Morlan's residence to kill their chickens, and that Chip has never harmed their own chickens.

Lindsey Morlan was sworn in and provided testimony. She was inside her house with her three children when Robedeau called her to report that a dog came onto their property

and killed some of her chickens. She went over to the coop, observed two deceased chickens in her coop and called the non-emergency line. She noted that the third chicken mentioned in the report has recovered from its wounds and is doing fine but has mangled feathers. She testified to having a falling out with the Garcia family in the past year that has nothing to do with the incident subject of this hearing, or prior incidents with Chip or the Garcia's other dogs. Responding to Counsel Bell, Morlan was not able to provide an estimated replacement cost for her two deceased chickens. She described the Garcia's property as 200-300 feet north of her property. Her property boundary fence was described as fencing to keep large livestock such as horses and cows on her property. Both deceased chickens were found inside the chain link fence enclosure and the gate was left open, noting that each morning she opens the gate to allow her chickens to roam freely on her property. Responding to A. Garcia, Morlan said she received a call from Robedeau at 11:48 a.m.

Rafael "Mark" Garcia was sworn in and provided testimony. On July 22, he, A. Garcia and their 9-year-old daughter left the house at around 9:30 a.m. and they returned home between 1:00-1:30 p.m. Their older daughter was home during this time. While they were away, Chip was inside the house. He described their daily routine. They own 7 dogs, 6 of which stay in the house when they are away and the 7th is an outdoor dog, a smaller black-and-white border collie kept in an outdoor enclosure. When Leufven arrived at their house, all of his dogs were inside the house. Responding to Counsel Bell, he said that none of their other dogs are brown / chocolate labs. He stated he is unaware if other brown labs reside at any of these houses. He said that on February 12, he received a message from Mr. Morlan that one of the Garcia's dogs was on his property, so he and A. Garcia have been vigilant about keeping their dogs on their property. That subject dog has since been rehomed. He testified that his dogs, including Chip, wear perimeter shock collars. When he collected Chip to hand him over to Leufven, A. Garcia directed him via phone to remove Chip's collar. He described Chip as old and lazy, arthritic and not aggressive. He walks with his head hung low as it likely hurts him to raise it. He's confident that Chip was inside their house during the incident. Responding to Storrie, M. Garcia stated that they have no dog doors and there is no way Chip could have exited and reentered the home in their absence.

Leita Jardine, A. Garcia's daughter, was sworn in and provided testimony. She has resided at her current home for six years. She gets off work at 6:15 a.m. and goes to walk dogs in Prineville. She gets home at 8-8:30 a.m. and goes straight to bed. On July 22, 2024, when she arrived home, she went to bed at around 9:00 a.m. and recalled Chip and the other dogs being inside, apart from the border collie who was outside in his kennel. She slept until 4 p.m. that day. She testified that there was no one else home during that time and she did not let any dogs out during that time. She described Chip as "super sweet". Chip is unable to run, and to her knowledge, has not injured any other animals.

Angela Garcia was sworn in and provided testimony. She recalled the events of July 22, 2024. She described her daily routine. On July 22, she, Mark and their 9-year-old daughter left between 9-9:30 a.m. for Powell Butte and returned home at 1:14 p.m. When they got home, the dogs were inside, she let them out to relieve themselves and then received a phone call from her mom and left the house at 1:38 to visit her dad. She noted the Life 360 app on her phone tells her when she departs and arrives home. She received a call from Mark that Leufven was at their home to impound Chip, and she arrived home a few minutes later. Chip was already loaded into Leufven's vehicle, and she completed the Dog Owner's Rights form. She said that Chip is 13 years old and weighs 130 pounds. She described the dogs' perimeter shock collars which are linked to a phone app with a set GPS radius. She stated she has no reason to believe that Chip was let outside of the house between the hours of 9:00 a.m. and 1:14 p.m. and noted that neighbors have reported homeless individuals with off-leash dogs walking the railroad tracks and these dogs chasing cows. All of their neighbors have dogs but she was unable to recall if any of them are brown labs. She testified that she was confident that Chip wasn't the culprit.

Responding to Storrie, A. Garcia said that their 9-year-old daughter was with them the entire time they were away from home on July 22.

At 4:11 p.m., the evidentiary portion of the hearing was closed. **Exhibits 1 through 5 and 7** were moved into the record.

The Dog Board reviewed the disposition flowchart and deliberated. Counsel Bell noted that the dog board order will be drafted by County Legal and signed by the Dog Board in the coming days.

The following unanimous determinations were made by the Board:

- A. Garcia is the owner/keeper of Chip
- A. Garcia received a copy of the Dog Owner's Rights form
- A. Garcia did request a hearing within 14 days of signing the Dog Owner's Rights form
- Chip was impounded
- Chip was not off the premises of its owner/keeper
- Chip did not chase, wound or kill any livestock
- The injured chicken belongs to Ms. Morlan
- The chickens that were killed belong to Ms. Morlan
- Chip has not previously chased, injured or killed livestock
- Morlan made reasonable efforts to protect her livestock
- A. Garcia made reasonable efforts to contain her dog

The Board's unanimous finding was that there was insufficient evidence to positively identify Chip as the dog on the Morlan's property on July 22, 2024. Chip is to be released to the custody of A. Garcia without any further sanctions.

An order will be drafted by Counsel Bell, signed by the Board, and copies will be distributed to the dog owner, the livestock owner and Brightside Shelter in the coming days.

If Morlan disagrees with the outcome, Counsel Bell explained her right to appeal under DCC 6.12 and ORS 609.010-609.190. Should she wish to appeal, she can consult with an attorney of her own choosing.

Adjournment: There being no further discussion, the hearing concluded at 4:17 p.m.



Recording Secretary,
Angie Powers, Administrative Assistant