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February 26, 2025

Privileged and Confidential

Jack Campbell
4424 Lakewood Rd.
Stanwood, Washington, 98292

**Re: Requested Opinion Letter, Incident at Mr. Campbell's Property on February 2, 2025
File No. 25177**

Dear Mr. Campbell,

Thank you for meeting to discuss the incident on your property on February 2, 2025. As requested, you have engaged our firm to provide a legal opinion on whether the Snohomish County Prosecutor's Office can pursue criminal charges, if any, based on our February 10, 2025, discussion.

This letter solely advises whether the Snohomish County Prosecutor's Office may file criminal charges against you. It does not provide legal representation. Our opinion is based on the facts received during our meeting and the police report which you agreed to share.

I. Facts

The facts of this case, as we understand them from our phone call, are as follows:

You are a 63-year-old retired law enforcement officer who lives alone on two acres of land in Snohomish County. Your property is adjacent to a public hunting area; however, there are no fences or posted signs warning hunters about trespassing or the presence of guard dogs.

At 8:30 a.m. on February 2nd, 2025, you saw Ms. Sherwood, carrying a hunting rifle and wearing an orange vest, with her dog on your property. Police responding to your emergency call at 9:30 a.m. noted you told them that you had become angry seeing another hunter and "wanted to teach her a lesson." According to the report, you grabbed your rifle, stepped onto the porch, aimed at the dog, and fired, wounding its hind leg. Ms. Sherwood screamed as her dog yelped in pain. You then reloaded and shot the dog in the head, killing it. Ms. Sherwood reported her dog was worth \$4,000 to \$6,000.

After the shooting, Ms. Sherwood stated that she started screaming and ran toward her Jeep, which was parked about 50 yards away. As she fled, she heard your dog being released from your front porch as you shouted, "Go attack him, boy!" During the interview with the officers, you mentioned that your dog immediately sprinted after Ms. Sherwood as she ran toward her vehicle. According to the report and Ms.

Sherwood, just before she could climb inside, the dog lunged at her and bit her right calf, causing a three-inch-wide laceration. Ms. Sherwood pulled herself into the vehicle, closed the door, and called 911. She described the attack as fast, aggressive, and relentless, barely making it to her vehicle. Ms. Sherwood suffered a deep wound that required eight stitches. Medical personnel who treated her injury noted that the wound was not just a puncture but exhibited signs of tearing, consistent with an aggressive bite.

During your initial interview, you also told the officers that the dog attacking was owned by you and that you had trained it from a puppy to protect your property from hunters and trespassers, incorporating bite training and aggression drills that included sessions using padded training equipment to simulate intruders. According to the law officers, you stated during the interview, *"I raised [the dog] to keep people off my land. He knows what to do when I say 'attack.'"*

II. Explanation

A. Dog as a Deadly Weapon - Assault

The first issue is whether a dog can be used as a deadly weapon under Washington State law and whether or not you can be charged with any crimes related to this matter.

Washington law defines a deadly weapon as any instrument capable of causing death or serious harm RCW 9A.04.110(6). Courts have ruled that a dog can be considered a deadly weapon in assault cases, as it can inflict harm *State v. Hoeldt*, 139 Wn. App. 225, 229, P.3d 55, (2007).

The prosecutor may charge first-degree assault with a deadly weapon, intending to cause "great bodily harm" RCW 9A.36.011(1)(a). This term refers to injuries that could lead to death, permanent disfigurement, or significant loss of body parts RCW 9A.04.110(4)(c). Maximum penalties for Class A felonies include life imprisonment, a \$50,000 fine, or both RCW 9A.20.021(1)(a).

The prosecutor may pursue second-degree assault charges, defined by intentional or reckless actions causing "substantial bodily harm," using a deadly weapon, or knowingly inflicting pain, considered torture. RCW 9A.36.021(1)(a)(c)(f). "Substantial bodily harm" refers to injuries causing temporary significant disfigurement, considerable loss of bodily function, or fractures. RCW 9A.04.110(4)(b). The maximum penalty for a class B felony in Washington is 10 years in prison, a \$20,000 fine, or both. RCW 9A.20.021(1)(b).

Third-degree assault is defined as acting negligently, causing bodily harm with a weapon, or through carelessness, resulting in injury and substantial pain. RCW 9A.36.031(1)(d)(f)(2). Criminal negligence involves recklessly causing injury, harm, or death while disregarding the consequences. This class C felony is punishable by up to five years in prison, a fine of \$10,000, or both. RCW 9A.20.021(1)(c).

Your dog, trained to protect and attack on command, is considered a deadly weapon under Washington law. You said, according to the report, that you expressed anger when Ms. Sherwood crossed your property, wanting to "teach her a lesson." This could be seen as intentional assault, classified as a Class A or B felony.

Prosecutors may charge you with first-degree assault for allegedly directing your dog to attack Ms. Sherwood, knowing it could cause serious harm. They must prove intent to kill or seriously injure her for first-degree charges. If evidence is lacking, they might pursue second-degree charges, as third-degree charges are less likely given the potential to demonstrate intent with a deadly weapon, favoring first or second-degree charges instead.

The seriousness of criminal assault charges will depend on the nature of Ms. Sherwood's injuries and whether there was any intent to inflict harm.

B. Destruction of a Dog as Personal Property – Malicious Mischief

The second issue is whether, under Washington State law, a person can be charged with a crime for destroying a hunting dog valued between \$4,000 and \$6,000.

Malicious mischief occurs when a person knowingly and maliciously causes physical damage to another person's property. RCW 9A.48.070(1). Washington courts have consistently recognized that dogs are classified as personal property for purposes of criminal statutes. *Sherman v. Kissinger*, 146 Wn. App. 855, 870-71, 195 P.3d 539 (2008). The courts have also held that shooting and killing hunting dogs constitutes malicious mischief. *State v. Long*, 98 Wn. App. 669, 673-74, 991 P.2d 102 (2000).

Malicious mischief in the first degree applies when the damage exceeds \$5,000. RCW 9A.48.070(1)(a). Damage between \$750 and \$5,000 constitutes malicious mischief in the second degree. RCW 9A.48.080(1)(a). Malicious mischief in the third degree involves knowingly and maliciously causing harm to another person's property but does not reach the levels classified as first or second degree. RCW 9A.48.090(1)(a).

Malicious mischief in the first degree is classified as a Class B felony, punishable by a maximum of 10 years in prison, a fine of up to \$20,000, or both. RCW 9A.20.021(1)(b). Malicious mischief in the second degree is a Class C felony, punishable by a maximum of five years in prison, a fine of up to \$10,000, or both. RCW 9A.20.021(1)(c). Finally, a third-degree malicious mischief charge is a gross misdemeanor, with a maximum penalty of 364 days in county jail or a fine of \$5,000 or both. RCW 9A.20.021(2).

The prosecutor may determine that your actions showed intent to harm. Washington courts view dogs as property, and such actions have resulted in malicious mischief convictions. If the dog is valued over \$5000, you could face first-degree malicious mischief charges. You may be charged with second-degree malicious mischief if valued between \$750 and \$5000.

Therefore, charges could vary depending on the dog's final valuation.

C. Potential Crimes for Killing a Pet -Taking, Concealing, Injuring or Killing– A Pet Animal, or Animal Cruelty

The final issue we'll address is whether there are crimes you may be charged with for killing a pet dog.

Washington law specifies that a person is guilty of Taking, Concealing, Injuring, or Killing a Pet Animal if they recklessly or intentionally kill or injure someone else's pet, which is classified as a gross

misdemeanor. RCW 9A.02.021(1)(c)(2). A gross misdemeanor can result in a maximum confinement in county jail for up to 364 days, a court-imposed fine of up to \$5,000, or both. RCW 9A.20.021(2).

A person is guilty of animal cruelty in the first degree when he or she intentionally injures or kills an animal that causes undue suffering or while manifesting an extreme indifference to life. RCW 16.52.205(1). A first-degree animal cruelty charge is a Class C felony, punishable by confinement in a state correctional institution for five years, a fine fixed by the court of \$10,000, or both. RCW 9A.20.021(1)(c).

A second-degree animal cruelty charge applies when the circumstances do not meet those of first-degree animal cruelty. Instead, the individual knowingly, recklessly, or through criminal negligence inflicts unnecessary suffering or pain on an animal. RCW 16.52.207(1)(a). Animal Cruelty in the second degree is a gross misdemeanor, punishable by confinement in the county jail for no more than 90 days, a fine up to \$1,000, or both. RCW 9A.20.010(2).

The prosecutor may charge you with Taking, Concealing, Injuring, or Concealing a pet animal because they may prove that you intentionally killed the hunter's dog, which was also a pet. They may also argue that the dog suffered undue cruelty, as it was yelping after the first shot to its hind leg; this could lead them to charge you with Animal Cruelty in the first degree.

Therefore, the prosecutor may elect to bring charges for both Animal Cruelty and Taking, Concealing, Injuring, or Concealing a Petitioner Animal, based on whether or not they prove you intentionally killed the hunter's dog.

III. Answer

Yes, the Snohomish County Prosecutor's Office can charge you with Assault (first, second, or third-degree) and Malicious Mischief (first- or second-degree) for killing an animal. Charges of Animal Cruelty (first- or second-degree) may also apply to killing a pet.

In conclusion, you should consider hiring a defense attorney, as charges may be likely. This letter does not constitute representation; rather, it offers advice on potential criminal charges. If you wish to retain our services, please contact our office for the next steps. Please note that this opinion is valid only as of the date of writing and is based on the provided facts.

Sincerely,

Scott Haddock, WSBA# 39008
Attorney at Law

SEL/sel