



# Vicious and Dangerous Dogs

Hearing Officer

## STATEMENT OF DECISION

September 13, 2019

Captain Amy Corso  
Department of Animal Care & Control  
1200 15<sup>th</sup> Street  
San Francisco, CA 94103

Re: *Cochise* (A378135 / A432228)  
*Lakota* (A320869)

Dear Captain Corso:

On August 29, 2019, at San Francisco City Hall, Room 408, a Vicious and Dangerous Dog Hearing was held. The purpose of the hearing was to determine if a black and white Pitbull Mix dog identified by Animal Care and Control as “Cochise” (A378135 / A432228) and a brown Pitbull Mix dog by Animal Care and Control as “Lakota” (A320869) meet the “vicious and dangerous” criteria set forth in Article I, Section 42(a) of the San Francisco Health Code. Both dogs are owned by Robert Powell, but are under the periodic guardianship of Henry Cho.

This hearing was audio-recorded. The audio recording is part of the administrative record and is maintained by the San Francisco Police Department’s Vicious and Dangerous Dog Unit, located in San Francisco, California.

All interested parties testified at the hearing and had the opportunity to present documentary evidence, photographs, and videos. All testimony and documentary evidence was carefully considered and incorporated in the within *Statement of Decision*. Both the San Francisco Department of Animal Care and Control (ACC) and the San Francisco Police Department (SFPD) were requested to make a recommendation as to the matter on the record.

The above-referenced hearing was calendared at the request of the complainant, Patrick Yuen, with the concurrence of the San Francisco Police Department.

### EVIDENCE

The evidence from the San Francisco Police Department’s file was thoroughly reviewed and considered in this matter. The file was submitted as evidence by Officer Ryan Crockett (#1516) of the San Francisco Police Department’s Vicious and Dangerous Dog Unit (SFPD VDDU), and supplemented by the witnesses, which was carefully reviewed and considered. The case file contains the following evidence:

Ex.1: Signed SFPD VDDU complaint form submitted by Patrick Yuen, on July 27, 2019

- Ex. 2: SFPD Incident Report No.190521469, dated July 18, 2019, with six photographs
- Ex. 3: ACC records: Bite Report No. B19-010578, Person History and Tag Records for Henry Cho, Memos for Animal (A378135), Person History for Robert Powell, Memos for Animal (A320869)
- Ex. 4: Notice of Hearing to Patrick Yuen dated August 9, 2019
- Ex. 5: Notice of Hearing to Henry Cho dated August 9, 2019, with San Francisco Health Code sections 42-45.5, SFPD Case File contents, and proof of service
- Ex. 6: Notice of Hearing to Robert Powell dated August 9, 2019, with San Francisco Health Code sections 42-45.5, SFPD Case File contents, and proof of service
- Ex. 7: Notice of Hearing to Sherrie Arnold dated August 9, 2019, with San Francisco Health Code sections 42-45.5, SFPD Case File contents, and proof of service
- Ex. 8: Surveillance video of dog attack
- Ex. 9: Tashi's SPCA veterinary records with photos of injuries appended thereto. (Submitted by Mr. Yuen)
- Ex. 10; Video submitted by Ms. Arnold

**San Francisco Police Department Vicious and Dangerous Dog Unit's Complaint Form**

The complainant, Mr. Yuen, stated that on July 18, 2019, at approximately 5:15 p.m., he was walking his 12-pound dog Tashi, who was on-leash, on the north side of Jackson Street. Two pitbulls bit and attacked Tashi. The dogs' handler, Henry Cho, lost control of both pitbulls who were initially on leash. The brown pitbull bit Tashi multiple times in the rear and thigh inflicting multiple wounds. The black and white pitbull bit Tashi in the head. Mr. Yuen attempted to wrestle the pitbulls for his dog. The fight moved into the street between two parked cars.

He was able to free Tashi and placed his dog on top of trunk of a nearby car as he called 911. The brown pitbull jumped on top of the car high enough to grab Tashi's leg again. Mr. Yuen had to fight the pitbull again.

Once Mr. Cho regained control of the two dogs, he refused to stop walking despite Mr. Yuen's repeated orders that he do so. Mr. Yuen put Tashi in his vehicle and followed him for three blocks. Mr. Cho did not stop walking until the police responded and ordered him to do so.

During the struggle, Mr. Yuen suffered multiple lacerations and cuts.

Tashi was treated at SPCA and suffered numerous dog bite lacerations to his right and left limbs, abdomen, a broken jaw, a possible hip fracture, and damaged teeth.

**San Francisco Police Department Incident Report No. 190521469**

Officer Eugene O'Malley (#317) reported that on July 18, 2019, he and Officer Hope (#112) were dispatched to 784 Jackson Street on report of a dog bite. Prior to their arrival, Officer Nord (#912) had been flagged down by Patrick Yuen in front of 1212 Powell Street. Mr. Yuen stated that two

pitbulls, later identified as Lakota and Cochise attacked Tashi, his 13-pound Tibetan Spaniel, in front of 786 Jackson Street. Mr. Cho's two pitbulls were both initially on leash. Both dogs started to bark at Tashi and they started to fight with Tashi "out of nowhere." The fight lasted for one minute. Mr. Yuen stepped in and tried to stop the fight, but the brown pitbull attacked again. Mr. Yuen estimated that the pitbulls bit Tashi approximately ten times in the stomach and lower back.

Henry Cho told the police that he was walking his two pitbulls on-leash on the north side of Jackson, toward Mr. Yuen when the dogs started to bark at each other. The three dogs began to fight. Mr. Cho told the police he does not know which dog started the fight, how long the fight occurred, or how many times each dog was bitten because it happened so quickly. Both Mr. Cho's dogs were uninjured. Mr. Cho was not wearing shoes.

Officer O'Malley photographed the three dogs as well as Mr. Cho. Based upon Mr. Yuen's statement, he cited Mr. Cho for violating San Francisco Health Code section 41.5.1(a)(i), for the unprovoked dog bite.

### **Animal Care and Control Records**

ACC Bite Report No. B19-010578 reports that the severity of Cochise's bites to Tashi was a Level 2 prolonged bite.

ACC Memos for Animal A378135 (Cochise) indicated that on September 28, 2015, an unknown person called ACC because Cochise was attempting to attack other dogs in the park at Silver and Bayshore. The reporting party was able to secure Cochise in the tennis courts until ACC arrived and took custody of the dog.

### **Hearing Testimony**

Multiple witnesses testified at a hearing held on August 29, 2019. The testimony is summarized and paraphrased below.

#### **Officer Ryan Crockett**

Officer Crockett played the surveillance video he obtained from the jewelry store located at 786 Jackson Street which captured the entire incident. (Ex. 8.) The video shows the following:

Mr. Cho, who is wearing house slippers, appears on the video walking both Lakota, the brown dog, and Cochise, the black and white dog. Both dogs are on leash. Mr. Cho loses control of both dogs as Mr. Yuen and Tashi approach and attempt to pass by. Lakota lunges and attacks Tashi. (15:16:27.) Mr. Yuen pulls Tashi's leash to get him away from Lakota as Lakota continues to attack. (15:16:29.) Mr. Cho momentarily regains control of the two dogs and Mr. Yuen attempts to pass by again. (15:16:39.) Mr. Cho loses control of both dogs who chase Tashi and Mr. Yuen into the street and into oncoming traffic.

A vehicle has to brake suddenly to avoid hitting Mr. Yuen, Tashi, and the two pitbulls. (15:16:41.) For 20 seconds both dogs attack and bite Tashi as Mr. Cho and Mr. Yuen try to separate the dogs. Finally, Mr. Yuen frees Tashi and places him on top of a parked vehicle as he pulls out his cell phone. Both Lakota and Cochise continue to lunge up at Tashi as Mr. Cho attempts to regain control by holding onto their leashes. (5:17:16)

Both dogs break free from Mr. Cho. Lakota jumps on top of the trunk of the vehicle and attacks and bites Tashi. (5:19:53) Mr. Cho still does not have the dogs under control once when he walks down the street. (05:20:46)

### **Patrick Yuen**

The complainant, Patrick Yuen, testified as follows in pertinent part: The video is consistent with his memory of the incident. He parked his car and exited with his dog Tashi, a 12-pound Tibetan Spaniel Mix. He walked two car lengths and saw the two pitbulls. As soon as he could tell they were aggressive, he turned around immediately. One of the dogs got ahold of his dog. A fight ensued, and he and his dog were on the ground. Both pitbulls had ahold of Tashi, tearing at Tashi from different sides. The black dog bit Tashi on the head and the brown dog bit his thighs. It was an impossible task to fend off both dogs at the same time. The dogs would "come back in" and bite Tashi again.

The black pitbull did the most damage because the dog broke Tashi's lower left jaw. The brown pitbull bit Tashi multiple times on his buttocks, abdomen, and both thighs. Any one of the bites could have been fatal.

The black dog bit Mr. Yuen's hand during the attack but it was a cut wound. His knees were scraped as were wrists and hands. SFFD provided first aid at the scene.

Tashi suffered bite wounds to both thighs, buttocks, and abdomen. The black dog bit his head and broke his lower left jaw. Both dogs bit Tashi. When they were on the ground, the black dog "reacquired" and bit Tashi in the head after Mr. Yuen first got Tashi loose. Tashi has a plate in his jaw. Tashi went through two surgeries to align his jaw but he is permanently disfigured. Tashi has a broken bone in his hip that the veterinarian cannot treat. He is unable to lift his tail.

Once Mr. Yuen placed Tashi on top of the car, Mr. Yuen called 911. The brown dog jumped up on top of the car and attacked Tashi again.

After the incident, Mr. Yuen followed Mr. Cho, the pitbulls' handler, because Mr. Cho tried to leave the scene. Mr. Yuen asked him to stop multiple times. He followed Mr. Cho for three blocks. He only stopped because an SFPD patrol unit came on scene and ordered him to stop.

Mr. Yuen believes the dog should be removed from Mr. Cho's care because he was unable to control the dogs. The dogs are vicious, unadoptable, and cannot be trusted in public places. Thousands of dogs get put down every year for doing nothing. If euthanasia is the outcome then "so be it." The two dogs attacked in a pack.

Mr. Cho has not reached out to apologize or take responsibility since the incident. He did not provide his contact information at the scene. Mr. Yuen obtained his contact information from the police report.

After the owners' testimony, Mr. Yuen said they owners are in denial by stating that Tashi provoked the incident by barking.

He is also troubled by the fact that the owners took videos of the dogs off-leash in public, in violation of the law, to prove the dogs are not vicious.

He believes Mr. Cho has a physical disability. During the incident, he had a bandage on his leg and was limping. Mr. Powell and Ms. Arnold also described injuries which demonstrate, the three of them are unable to control the dogs.

Mr. Yuen submitted Tashi's SPCA veterinary records and appended photographs of Mr. Yuen and Tashi's injuries. (Ex. 9.)

### **Henry Cho**

Henry Cho, the subject dogs' guardian, testified as follows in pertinent part: Mr. Cho does not own Cochise or Lakota. Mr. Powell does. Cochise has been under Mr. Cho's care for about a year. He just had Lakota that day.

Mr. Cho blamed the incident on Tashi for first barking at Lakota and Cochise, neither of whom are vicious. Tashi provoked the incident by barking.

Both dogs were on leash. He "guessed" he just lost control. He then said the dogs got loose, because the leash broke. He is unsure what happened that day but does not believe the dogs are violent.

Neither Lakota or Cochise have previously bitten another animal or human.

He had no knowledge of the September 28, 2015, described in ACC records during which Cochise attacked dogs in the park at Silver at Bayshore.

Cochise is neutered. Mr. Cho played one iPhone video of Cochise playing at dog park with other dogs, two of which are small, and a video of Cochise walking with a ball in his mouth not under Mr. Cho's leash control. The second video was taken the day before the hearing.

Lakota and Cochise are regularly in the dog park without incident.

### **Robert Powell**

Robert Powell, who owns both subject dogs, testified as follows, in pertinent part: Mr. Powell apologized to Mr. Yuen for the incident. Mr. Cho called him and told him what happened. He owns Lakota and Cochise. He is unable to walk the dogs due to a work injury. Mr. Cho has kept Cochise for about a year. Mr. Cho has kept Lakota on and off for a year.

He was not present for the incident.

With regard to the September 28, 2015, incident, described in ACC records, during which Cochise attacked dogs in the park at Silver at Bayshore, he never attacked another dog. Cochise chased a ball.

Cochise breaks all the myths about pitbulls. He has never seen Cochise or Lakota be aggressive. They are around little kids all das as Mr. Powell has numerous grandkids.

He has never had the dogs formally trained but he would be willing to do so. He loves his dog like his own children.

Cochise is 50-60 pounds.

Lakota is 9-years old and weighs 45 pounds.

Neither dog is under a veterinarian's care due to the expense.

He said he is able to physically care for his dogs, but uses Mr. Cho for physical assistance walking the dog.

He is willing to muzzle both dogs. He will not let Mr. Cho walk his dogs again.

Mr. Powell takes responsibility for the incident. Nothing like this will happen again because he will resume care of his dogs.

### **Sherrie Arnold**

Sherrie Arnold, Mr. Powell's fiancé, testified as follows in pertinent part: She happened to be driving by with her manager and saw Mr. Cho walking her dogs just prior to the incident.

She was shocked and disgusted by what she saw the video. She described it as "horrible." She was troubled by the fact that Mr. Cho walked the dogs in slippers.

She would be heartbroken if her dogs were euthanized. Mr. Powell and Mr. Cho love the dogs.

She just had a knee replacement.

Ms. Arnold played an iPhone video of her walking Lakota shortly before the hearing. Cochise was off-leash. (Ex. 10.)

Mr. Powell should keep the dogs going forward.

### **Recommendation of the San Francisco Police Department**

On behalf of San Francisco Police Department, Officer Ryan Crockett, recommended that both dogs be humanely euthanized because they cannot risk public safety. Had the vehicle been travelling at a higher rate of speed, it could have struck and killed Mr. Yuen.

### **Recommendation of Animal Care and Control**

Lieutenant Ellie Sadler, of Animal Care and Control, had no recommendation.

## **FINDINGS**

1. On July 18, 2019, Mr. Yuen was walking his leashed dog Tashi, a 12 pound Tibetan Spaniel, along Jackson Street. At the same time, Mr. Cho was walking Lakota and Cochise, both of whom were initially leashed. Mr. Cho lost control of both dogs both of whom bit Tashi repeatedly on the head and body. Lakota and Cochise chased Tashi and Mr. Yuen into the street and to attack Tashi. Mr. Yuen fell to the ground. The group was nearly hit by an oncoming vehicle. Mr. Yuen was able to free Tashi and placed Tashi atop a parked vehicle as he called 911. Lakota leapt atop the car and bit Tashi again. The incident lasted approximately four minutes. Both Lakota and Cochise repeatedly bit Tashi.

2. Tashi suffered bite wounds to both thighs, buttocks, and abdomen as a result of the dog bits. Tashi underwent two surgeries to align his jaw, which was broken during the attack, but he is permanently disfigured. Tashi has a possible broken bone in his hip.
3. Mr. Yuen suffered a small bite wounds on his hand as well as abrasions.
4. The evidence presented is sufficient to show that Lakota and Cochise's attack on Tashi was unprovoked.
5. Both Lakota and Cochise meet the vicious and dangerous dog criteria.

### **CONCLUSION AND ORDER**

Article 1, Section 42 of the San Francisco Health Code defines "vicious and dangerous dog" as:

1. Any dog that when unprovoked inflicts bites or attacks a human being or domestic animal either on public or private property, or in a vicious or terrorizing manner, approaches any person in an apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or
2. Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
3. Any dog which engages in, or has found to have been trained to engage in, exhibitions of dogfighting; or
4. Any dog at large found to attack, menace, chase, display threatening or aggressive behavior or otherwise threaten or endanger the safety of any domestic animal or person.

Based on the testimony at the hearing, the documents presented, and these findings, Lakota and Cochise pose a grave threat to public safety. The surveillance video shows a sustained, vicious, and harrowing attack that lasted nearly four minutes. Both dogs bit Tashi repeatedly. Any one of the bites could have been fatal. The attack could have been fatal to Mr. Yuen because the two dogs chased Mr. Yuen and Tashi into the street. Even if Tashi barked first, which the undersigned doubts, a tiny dog barking does not render a subsequent four-minute attack by two large dogs provoked within the meaning of Section 42.

In determining the appropriate remedy for Cochise, the undersigned also considered ACC records which show that ACC seized Cochise in 2015 in a park because Cochise was attempting to attack other dogs.

The undersigned concurs with the recommendation made by the San Francisco Police Department: Lakota and Cochise must be humanely euthanized to ensure that an attack of this nature will never happen again. The risk to the public is simply too great to do otherwise particularly with guardians who continued to let the dogs off leash in public places while a vicious and dangerous dog hearing was pending. Under the facts of this case, the standard vicious and dangerous dog restrictions are inadequate to protect public safety.

**THEREFORE, the undersigned makes the following ORDER:**


1. The dogs Lakota (A372197) and Cochise (A378135), meet the “vicious and dangerous” criteria set forth in Article I, Section 42(a) of the San Francisco Health Code;
2. The restrictions set forth in Section 42.2 of the San Francisco Health Code are not adequate to protect public safety;
3. The health safety and welfare is not adequately addressed by the requirements provided in Section 42.3(c)(ii) of the San Francisco Health Code.
4. Therefore, the undersigned orders that the dogs Cochise and Lakota be humanely euthanized.

**APPEAL**

The decision of the Hearing Officer is final as to the terms of this Order. Any person or entity aggrieved by an administrative order of a Hearing Officer on an administrative citation may obtain review of the administrative order by filing a petition seeking review with the Superior Court of California, County of San Francisco, in accordance with the statutes of limitation and provisions set forth in the California Code of Civil Procedure section 1094.5. Strict time limits apply for requesting such judicial review of this order. If one wishes to have this Order reviewed by a court, it is advisable to seek and consult with an attorney promptly.

**IT IS SO ORDERED:**

September 13, 2019

  
\_\_\_\_\_  
JANELLE E. CAYWOOD  
HEARING OFFICER





## PROOF OF SERVICE

I, Mary Polk, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am employed in the City of San Francisco, County of San Francisco, California. I am over the age of eighteen years, and not a party to or interested in the within-entitled action. I am an employee of the City and County of San Francisco, and my business address is 25 Van Ness Avenue, Suite 700, San Francisco, CA 94102.

On September 13, 2019, I served the following document(s):

### STATEMENT OF DECISION

In the Following Matter:

*"Lakota" (A#320869)*

on the parties stated below by the following means of service:

Henry Cho  
1329 Powell St. Apt. ½  
San Francisco, CA 94133

Sherri Arnold  
1300 Egbert Avenue  
San Francisco, CA 94124

Patrick Yuen  
403 Piccadilly Place Apt. 13  
San Bruno, CA 94066

Robert Powell  
1300 Egbert Avenue  
San Francisco, CA 94124

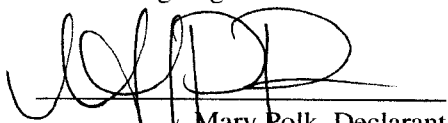
Captain Amy Corso  
San Francisco Department of Animal Care & Control  
1200 15<sup>th</sup> Street  
San Francisco, CA 94103

By Certified U.S. Mail enclosing a true copy in a sealed envelope in a designated area for outgoing mail, addressed with the aforementioned addresses. I am readily familiar with the business practices of the City and County of San Francisco for collection and processing of correspondence for mailing with the United States Postal Service, and correspondence so collected and processed is deposited with the United States Postal Service on the same date in the ordinary course of business.

Officer Ryan Crockett  
San Francisco Police Department  
Park Station  
1899 Waller Street  
San Francisco, CA 94117

By U.S. Mail enclosing a true copy in a sealed envelope in a designated area for outgoing mail, addressed with the aforementioned addresses. I am readily familiar with the business practices of the City and County of San Francisco for collection and processing of correspondence for mailing with the United States Postal Service and correspondence so collected and processed is deposited with the United States Postal Service on the same date in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.  
Executed on September 13, 2019 at San Francisco, California.

  
Mary Polk, Declarant



## PROOF OF SERVICE

I, Mary Polk, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am employed in the City of San Francisco, County of San Francisco, California. I am over the age of eighteen years, and not a party to or interested in the within-entitled action. I am an employee of the City and County of San Francisco, and my business address is 25 Van Ness Avenue, Suite 700, San Francisco, CA 94102.

On September 13, 2019, I served the following document(s):

### STATEMENT OF DECISION

In the Following Matter:

*"Cochise" (A#378135)*

on the parties stated below by the following means of service:

Henry Cho  
1329 Powell St. Apt. 1/2  
San Francisco, CA 94133

Sherri Arnold  
1300 Egbert Avenue  
San Francisco, CA 94124

Patrick Yuen  
403 Piccadilly Place Apt. 13  
San Bruno, CA 94066

Robert Powell  
1300 Egbert Avenue  
San Francisco, CA 94124

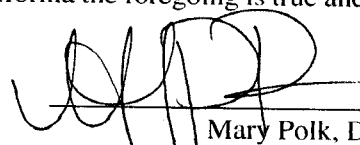
Captain Amy Corso  
San Francisco Department of Animal Care & Control  
1200 15<sup>th</sup> Street  
San Francisco, CA 94103

By Certified U.S. Mail enclosing a true copy in a sealed envelope in a designated area for outgoing mail, addressed with the aforementioned addresses. I am readily familiar with the business practices of the City and County of San Francisco for collection and processing of correspondence for mailing with the United States Postal Service, and correspondence so collected and processed is deposited with the United States Postal Service on the same date in the ordinary course of business.

Officer Ryan Crockett  
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I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.  
Executed on September 13, 2019 at San Francisco, California.

  
Mary Polk, Declarant