

Ranger Procedure - Dog Attacks

1 Objective

To provide guidelines for the City of Albany Ranger team for the response to and effective management of dog attacks.

The procedure aims to ensure that:

- reports of dog attacks are investigated in a thorough, consistent and transparent manner;
- where a dog has been found to have undertaken an attack, the person(s) responsible are treated in a fair and equitable manner; and
- the dog is dealt with in a way that minimises the risk to the community and reduces the likelihood of the dog causing another attack.

2 Scope

This procedure applies to City of Albany Authorised Officers when dealing with dog attacks on people or animals within the municipality.

This procedure does not address an attack by a dangerous dog. (Refer *Dog Attacks – Dangerous Dogs procedure – to be developed*).

3 Guidelines

This section contains guidelines that Rangers should consider during the investigation of a dog attack. The step-by-step procedure is contained in *Part 4 Procedure* section of this document.

3.1 Investigation Considerations

The Ranger is to investigate the alleged attack and determine if an offence (or a number of offences) has been committed.

This will include determining:

- if the elements of the offence have been met;
- who is the person(s) responsible for the dog at the time of the attack;
- if there are any defences that are likely to be applied; and
- solvability factors (i.e. can the person responsible be identified).

3.2 Elements of the Offence – Dog Attack

There are three dog attack offences under section 33 of the Dog Act 1976. The offence relate to whether or not the attack resulted in physical injury, and if the dog was urged to attack.

In all cases it will be necessary to address each particular element of the offence to determine if a breach has occurred, before proceeding with enforcement action. There are also several defences available that must be considered in all circumstances where an attack is suspected.

- **Section 33D(1):**

If a dog attacks or chases any person or animal and **physical injury is caused** to the person or animal that is attacked or chased, every person liable for the control of the dog commits an offence.

- **Section 33D(2A):**

If a dog attacks or chases any person or animal **without causing physical injury** to the person or animal that is attacked or chased, every person liable for the control of the dog commits an offence.

- **Section 33D(2):**

*The City of Albany is **not able to prosecute for offences against this section.** Where a Ranger suspects that a person has urged a dog to attack, the matter **must be referred to the Police.***

A person shall not set on or urge a dog to attack or chase any person or animal, whether or not any injury is caused, except in good faith —

- (a) in the reasonable defence of any person or property; or
- (b) for the droving or removal of any animal if —
 - (i) the owner or person in charge of the animal consents to the droving or removal; or
 - (ii) the animal is found trespassing.

3.3 Defences to a Dog Attack

In addition to general defences provided in other legislation, the following defences are contained in the Act:

- **Provocation**

Section 3(1) of the Act states: **attack**, in relation to the behaviour of a dog, does not include behaviour which was an immediate response to, and was induced by, provocation.

Provocation, in relation to the behaviour of a dog, includes —

- (a) on the part of a person, other than a person liable for the control of the dog —
 - (i) any teasing, tormenting, or abuse of the dog; or
 - (ii) any assault on, or act of cruelty towards, the dog; or
 - (iii) entry without lawful excuse on any land or premises of which the owner of the dog is an occupier or where the dog is ordinarily kept; or
 - (iv) any intrusion into or upon any vehicle in or on which the dog is present; or
 - (v) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective;or
- (b) on the part of another animal —
 - (i) an attack on the dog made by any other animal; or
 - (ii) the entry of that other animal on any land or premises of which the owner of the dog is an occupier or where the dog is ordinarily kept; or
 - (iii) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective,

but does not include an intentional provocation of the dog by a person liable for the control of the dog;

- **Dog Act Section 33D Defences**

- (2B) It is a defence to a charge of an offence under subsection (1) or (2A) if the person charged satisfies the court —
 - (a) in the case of any person, that the dog was being used in good faith in the reasonable defence of any person or property or for the droving or removal of any animal found trespassing; or
 - (b) in the case of the occupier of premises where the dog is ordinarily kept or ordinarily permitted to live, that at the material time the dog was owned by another person who had reached 18 years of age, and who is identified by the person charged; or
 - (c) in the case of the owner, that at the material time the dog was in the possession or control of another person without the owner's consent, express or implied.

3.4 Person responsible for the dog

Under s.33D(1) and 33D(2A), every person liable for the control of the dog commits an offence. This includes:

- a) the registered owner of the dog; or
- b) the owner of the dog; or
- c) the occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live; or
- d) a person who has the dog in his possession or under his control.

3.5 Collection of Evidence

1. The Ranger should try to collect evidence that will support each element of the offence. This may include interviewing witnesses and taking statements and photos. (Refer Appendix 5 – Witness Statement template.)
2. The owner or person in control of the dog at the time of the attack should be considered a “person of interest”, not a witness. Therefore a caution must be given prior to commencing any questioning (refer to Appendix 5 – Record of Interview).

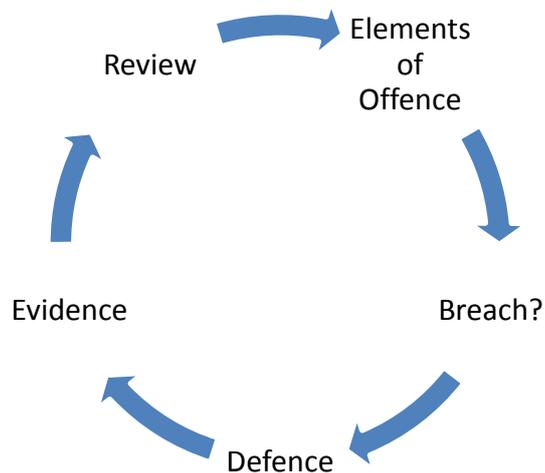
Under section 43A. Name and address to be supplied

A person who is alleged by an authorised person to be concerned in the commission of an offence against this Act shall furnish to that authorised person on demand his full name, date of birth and the address of his place of residence.

3. Research on Synergy may also be carried out to identify the dog, the dog owner and any previous relevant history.
4. Evidence can be entered into an evidence matrix to determine if it is sufficient to support each of the elements of the offence (see Appendix 6 – Evidence Matrix).

3.6 Review of Evidence

The evidence collected is to be reviewed to determine if it sufficient to support each element of the offence as illustrated below:



If the evidence is not sufficient, the Ranger may need to seek further clarification and information from witnesses or person(s) of interest.

3.7 Ranger Recommendations

Based on the evidence collected, the Ranger is to make a recommendation of enforcement action to the Ranger Team Leader (RTL) and Manager Ranger & Emergency Services (MRES). The recommendation must be in accordance with the *Regulatory Compliance Policy & Guidelines* and include consideration of the establishment of a prima facie case and the application of the public interest test.

3.8 Possible Outcomes

The circumstances surrounding each dog attack will be different and the outcome depends on the circumstances of the attack. Therefore it is not possible to prescribe a definite outcome in this procedure. The RTL or MRES may determine that one or more of the following actions are appropriate:

- Evidence shows that the dog's behaviour did not constitute an attack (e.g. provocation);
- The issue of warnings or fines to the person(s) liable for control of the dog (even if a dog attack did not occur, infringements may be issued for other offences under the Act);
- Prosecution action, as per the Regulatory Compliance Policy;
- The dog being declared dangerous under s.33E of the Act. (Refer to *Declaring a Dog Dangerous* procedure);
- If the dog is seized and detained, the City of Albany may cause the dog to be destroyed pursuant to s.29(10)(e) of the Act;
- If the dog was not seized, and the owner refuses to relinquish the dog, a warrant to seize the dog may be sought from a Justice of the Peace, under s.29(5a) of the Act; (Refer Application for Warrant Procedure)
- Destroy the dog without it being seized under s.29(13) by reason of the savagery of the dog, repeated evasion of attempts at seizure or other sufficient cause. **Manager's prior approval must be obtained. If the dog is to be destroyed by the use of a firearm, the Albany Police must be notified this action is commenced.**
- A court order sought by the City of Albany for the destruction of the dog under s.39 of the Act – *Dogs causing injury or damage may be destroyed.*
- Owner chooses to voluntarily euthanise the dog. Please note that this does not in any way indemnify the person(s) responsible for liability for the attack.

4 Procedure

4.1 Create CS for reported dog attack

1. Record the details of the attack on a Report of Dog Attack form
2. Administration staff to create CS for Ranger to attend using the following values:
 - **Subject:** ANIMAL CONTROL,
 - **Service:** DOG ATTACK (if the attack is currently happening or happened earlier in the day) or DOG ATTACK HISTORIC (if the attack occurred more than one day ago).
 - **Ext Corresp:** Locate the name of the complainant if on the City of Albany database.
 - **Details:** enter the attack details captured on the Dog Attack Report form.
 - **Resp Officer:** Ranger Team Leader for allocation to Ranger for investigation and action. Note: If Ranger Team Leader is not immediately available, Ranger Admin is to assign the CS to any available Ranger.
3. Scan the Dog Attack Report form and attach to CS.
4. If the report is received outside of business hours, the on-call Ranger undertakes the administration and allocates the task either to themselves or others on duty.

4.2 Ranger to investigate reported dog attack

1. Ranger to initiate investigation and record details on the Dog Attack Details Form (refer Appendix 2 – Dog Attack Details Template).
2. Ranger to determine if the elements of the offence of dog attack are met as per Appendix 3 – Dog Attack Investigation Plan. (See Part 3 – Guidelines of this document for investigation guidelines).
3. The Ranger may determine that impounding the dog is an appropriate course of action. (Refer to Impoundment and Release of Dogs Procedure for details)
4. All evidence collected, such as photos are to be scanned and attached to the CS.
5. Witness statements and records of interview are to be treated as a new record and cross referenced to the CS. (Refer to Appendix 4 – Witness Statement Template and Appendix 5 – Record of Interview Template).
6. If the dog has previously been declared dangerous, to Dog Attacks – Dangerous Dogs (Declared or Restricted Breed) procedure.

IMPORTANT: If the evidence indicates that the dog was urged or incited to attack [refer s.33D(2)] the matter is to be referred to the Police. Advise RTL.

4.3 Ranger determines elements of the offence are not met

1. If the Ranger determines that the elements of the offence for a dog attack are not met, infringement notices may still be issued for other offences under the Act, if applicable, such as unregistered or un-microchipped dog. Note: infringement notices issued under the Act must be issued within 28 days of the date of the offence.
2. Record actions taken on the CS and close off NFA.

4.4 Ranger determines a dog attack occurred

1. If the Ranger determines that sufficient evidence has been collected to support the charge of a dog attack, the Ranger is to make recommendation to the RTL or MRES regarding enforcement action to be taken.
2. Compliance actions taken must be in accordance with the City's *Regulatory Compliance Policy & Guidelines*.
3. The Ranger is to ensure any follow up actions, such as the issue of infringement notices is carried out. All actions taken to be recorded on Synergy. Note: infringement notices issued under the Act must be issued within 28 days of the date of the offence.

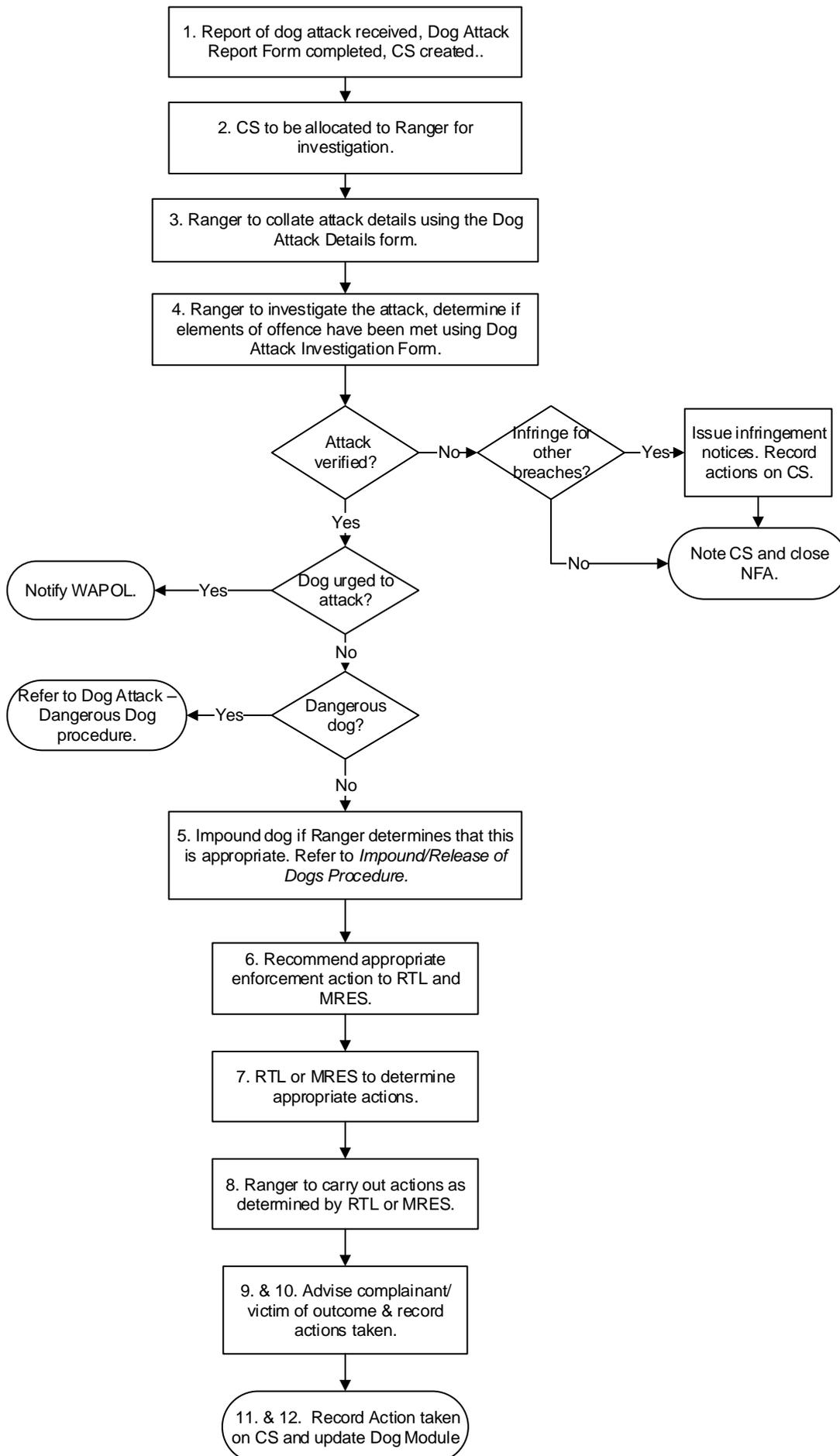
4.5 Advise complainant/victim of outcome

1. Advise the complainant or victim of the outcome of the case, noting that the advice should be general rather than specific (e.g. "further action has been taken against the other party" or "the City has elected to issue a warning on this occasion").
2. Any written correspondence should be treated as a new record (i.e. a new coversheet created for each piece of correspondence) and cross referenced to the CS.

4.6 Finalise CS record & update Dog Module

1. Update the CS with details of actions taken. Close CS when actions are finalised.
2. All documents, including Dog Attack Investigation Plan is to be scanned and cross referenced to the CS.
3. Update the Dog Module record for the dog, Extended Details tab, with any action taken.

5 Procedure Flowchart



6 Legislative Context

Dog Act 1976:

- The terms “dog attack” and “provocation” are defined under s.3(1) of the Act.
- The offence of Dog Attack is contained in s.33D. of the Act.
- The authority for Rangers to seize and impound dogs suspected to be involved in a dog attack is provided in s.29(3)(a) and (b) of the Act (and City of Albany Delegation 2017:031).
- Under s.29(3)(e), if an Authorised Officer in pursuit of a dog has reasonable grounds to believe that it is necessary to do so for that purpose, he may enter any premises other than a dwelling.
- Where the person responsible for the dog refuses to surrender the dog, under s29(5a) a Justice of the Peace, if he is satisfied on the balance of probabilities that an attack by a dog has or may have caused injury or damage, may issue a warrant authorising any authorised person to seize the attack dog.
- Where a warrant is issued, a Ranger, under s.29(5b)(b), enter any premises if he has reasonable grounds to do so for the purpose of seizing the dog.
- The provision for a dog that has been seized and detained to be destroyed if “an authorised person is satisfied that to deliver up the dog would create circumstances that give rise to an offence against the Act” is contained in s.29(10)(e) of the Act.
- The provisions for applying to a court for a dog causing injury or damage to be destroyed is contained in s.39 of the Act.
- The dog may be destroyed without seizing under s.29(13):

Where an authorised person may seize a dog under subsection (3) but by reason of —

- (a) the savagery of the dog; or
- (b) repeated evasion of attempts at seizure; or
- (c) other sufficient cause,

it is, in the opinion of the authorised person, dangerous or impracticable to seize the dog, the dog may, subject to subsection 29(13a), be destroyed without being seized if —

- (d) the assistance of the owner, or some other person likely to be able to control the dog is not reasonably available; and
- (e) there is no other practicable way to enforce the provisions of this Act.

(13a) A dog may be destroyed under subsection (13) only —

- (a) in a public place; or
- (b) on premises that are not a public place if the occupier of those premises consents to the destruction.

- Where a Ranger seeks to destroy a dog under s.29(13) the **Manager’s approval must be obtained prior to taking any action. If the dog is to be destroyed by the use of a firearm, the Albany Police must be notified.**
- The rights of land owners regarding the protection of livestock from attacks by dogs is provided under s.34 of the Act.
- Section 44(2) Any proceedings under this Act, whether civil or penal, may be taken —
 - a) by any police officer, in the name of the Crown; or
 - b) by any employee of a local government authorised in that behalf by the local government, in the name of the local government; or
 - c) by any person aggrieved.
- The Ranger team should not become involved in any proceedings regarding liability, damages or compensation between the complainant and the dog owner (or person deemed to be the owner of the dog). Part VIII of the Act deals with civil remedies, including damages.

7 Strategic Context

Community Strategic Plan: 3.2.1 Plan for and monitor community safety and security.

8 Definitions

The following terms defined under the *Dog Act 1976* are relevant to this procedure:

Attack	In this Act, unless the context otherwise requires — attack , in relation to the behaviour of a dog, does not include behaviour which was an immediate response to, and was induced by, provocation, but includes — a) aggressively rushing at or harassing any person or animal; or b) biting, or otherwise causing physical injury to, a person or an animal; or c) tearing clothing on, or otherwise causing damage to the property of, the person attacked; or d) attempting to attack, or behaving in such a manner toward a person as would cause a reasonable person to fear physical injury, unless the owner establishes that the behaviour was justified by a reasonable cause;
Person liable for the control of the dog	person liable for the control of the dog means each of the following — a) the registered owner of the dog; or b) the owner of the dog; or c) the occupier of any premises where the dog is ordinarily kept or ordinarily permitted to live; or d) a person who has the dog in his possession or under his control,
Provocation	provocation , in relation to the behaviour of a dog, includes — a) on the part of a person, other than a person liable for the control of the dog — (i) any teasing, tormenting, or abuse of the dog; or (ii) any assault on, or act of cruelty towards, the dog; or (iii) entry without lawful excuse on any land or premises of which the owner of the dog is an occupier or where the dog is ordinarily kept; or (iv) any intrusion into or upon any vehicle in or on which the dog is present; or (iv) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective; or b) on the part of another animal — (i) an attack on the dog made by any other animal; or (ii) the entry of that other animal on any land or premises of which the owner of the dog is an occupier or where the dog is ordinarily kept; or (iii) any threat to, or attack upon, another person or animal towards whom the dog could reasonably be expected to be protective, but does not include an intentional provocation of the dog by a person liable for the control of the dog;

9 Associated Procedures/Documents

- Appendix 1 – Report of Dog Attack Form (NF1768709)
- Appendix 2 – Dog Attack Details Template (NF1768741)
- Appendix 3 – Dog Attack Investigation Plan (NF1768759)
- Appendix 4 – Witness Statement Template (NF1768765)
- Appendix 5 – Record of Interview Template (NF1768765)
- Appendix 6 – Sample Evidence Matrix – Dog Attack (NF1768763)
- Impound Dogs Procedure - NPD1549757
- Declaring a Dog Dangerous Procedure - NPD1656044
- Regulatory Compliance Policy – NP1763803
- Dog Attack by a Dangerous Dog Procedure (to be developed)
- Application for Warrant Procedure (to be developed)
- Safe Handling of Dogs Procedure (to be developed)

Appendix 1 – Report of Dog Attack (Sample) NF1768709

Event Details:

Attack OR chase person: Yes / No

Attack OR chase animal: Yes / No

Was physical injury caused: Yes / No

Describe what happened:

Date: _____ Time: _____

Where did it happen? (exact location of event):

Description of dog(s): _____

Where is the dog now? (if known) _____

Who owns the dog (if known)? _____

Complainant / Victim Details:

Name of complainant: _____

Contact Phone: _____ Email: _____

Address:

Name of victim (if different from Complainant): _____

Contact Phone: _____ Email: _____

Address:

Recorded by (name): _____

CS Number: _____ **Assigned to:** _____

This form is to be scanned and attached to CS. A copy is to be provided to Investigating Officer.

DOG ATTACK DETAILS TEMPLATE (NF1768741)

Office Use:

CS Number: _____ **Date:** _____

Case File Number: _____ **Document Nr:** _____

Attack Details:

If physical injury caused, describe extent and location of injuries:

Medical treatment required: Yes / No _____ by Doctor / Veterinarian

Other damage (e.g. clothes, bicycle): _____

Witness Details: (attach separate sheet if more than three witnesses)

Witness 1 Name: _____

Witness 1 Address: _____

Witness 1 Phone No: _____

Witness 2 Name: _____

Witness 2 Address: _____

Witness 2 Phone No: _____

Witness 3 Name: _____

Witness 3 Address: _____

Witness 3 Phone No: _____

Dog Owner Details:

Owner's Name: _____ DOB: ____/____/____

Place of residence: _____

Phone: _____ Email: _____

Name of person in control of dog at the time of the attack: (if not the owner):

_____ DOB: ____/____/____

Place of residence: _____

Phone: _____ Email: _____

Owner in attendance at time of attack: Yes / No

Owner notified: Yes / No

Dog Details:

Registered: Yes / No Tag number: _____

Microchipped: Yes / No MC number: _____

Previous history of aggressive behaviour by dog? _____

Dog previously declared dangerous? _____

Appendix 3 – Dog Attack Investigation Plan

DOG ATTACK INVESTIGATION PLAN (NF1768759)

Office Use:

CS Number: _____ Date: _____

Case File Number: _____

1	Secure the Scene	Yes	No	Date
a)	Restrain dog?			
b)	Seize objects			
c)	Seize dog under s.29(3)(a) if applicable. Note s.43(1)(c) <i>a person who fails without lawful excuse to produce any dog in his possession or control when required to do so by a person exercising a power under this Act, or fails to allow that person to make an examination thereof; commits an offence.</i>			

2	Determine the Elements of the offence	Yes	No
a)	Identify the dog		
b)	Animal attacked or chased?		
c)	Person attacked or chased?		
d)	Physical injury caused?		
e)	Was the behaviour a response to or induced by provocation?		
f)	Was the behaviour encouraged or incited?		

3	Collect Evidence	Yes	No	Date
a)	Victim identified and contact details obtained			
b)	Witnesses identified and contact details obtained			
c)	Dog owner/person in control of dog identified and contact details obtained			
d)	Photographs taken of injuries and/or damage			
e)	Dog(s) photographed and identified			
f)	Contemporaneous notes taken			
g)	Witness statement(s) obtained			
h)	Other (e.g. medical records)			

5	Person of Interest	Yes	No	Date
a)	Owner/person in control of dog identified?			
b)	Caution issued?			
c)	Record if Interview (video, audio or written) obtained			
d)	Referred to Police (for breach of s.33D(2).			

4	Consider Defences: It is a defence to a charge of an offence under subsection 33D(1) or (2A) if the person charged satisfies the court:	Yes	No
a)	in the case of any person, that the dog was being used in good faith in the reasonable defence of any person or property or for the droving or removal of any animal found trespassing; or		
b)	in the case of the occupier of premises where the dog is ordinarily kept or ordinarily permitted to live, that at the material time the dog was owned by another person who had reached 18 years of age, and who is identified by the person charged; or		
c)	in the case of the owner, that at the material time the dog was in the possession or control of another person without the owner's consent, express or implied.		
e)	In good faith (a) Reasonable defence of person or property (b) for the droving or removal of any animal if – i. the owner or person in charge of the animal consents; or ii. the animal is found trespassing.		

6	Determine Course of action (RTL/MRES)	Yes	No	Date
a)	Prima facie case established? If yes, set up Case File (record number on front of this form)			
b)	Is it in the public interest to pursue? (Refer Compliance Enforcement guidelines)			
c)	Seek warrant seizure under s.29(5a)			
d)	Seek court order to have Dog euthanised under s.39(1)			
e)	Seek to have Dog euthanised under s.29(10)(e)			
f)	Seek to have Dog declared dangerous (<i>refer to Declaring a Dog Dangerous procedure</i>)			
g)	Under exceptional circumstances, destroy the dog without seizure under s.29(13).			
h)	Issue infringement notice			
i)	Commence prosecution			
j)	Other: <i>insert details</i>			

7	Follow up Actions	Yes	No	Date
a)	Complainant/Victim advised of final outcome, including further civil remedies if required.			
b)	Close file (Team Leader or Manager)			

Investigating Ranger Recommendations:

Signed Investigating Ranger: _____

Date: _____

Ranger Team Leader Recommendations:

Signed Ranger Team Leader: _____

Date: _____

Manager Ranger & Emergency Services Decision:

Signed Manager Ranger & Emergency Services: _____ Date: _____

Record of Interview in relation to Alleged Dog Attack

s.43A A person alleged to be involved in the commission of an offence

Full Name: _____

Date of Birth: _____

Address: _____

Penalty for withholding \$10,000.00

Caution

I wish to ask you some questions concerning

You do not have to answer the questions, however any information provided will be recorded and may be used as evidence against you in a court of law.

Do you understand the caution?

Q: Are you the owner of (*describe dog*)?

A:

Q: If not who was the owner?

A:

Q: Who was in charge of the dog at the time of the incident?

A:

Q: If not the owner, did this person have the owner's permission to be in charge of the dog?

A:

Q: Are you aware of previous attacks by this dog?

A:

Q: If so what so what are the details?

A:

Q: Are you aware if this dog is a declared dangerous dog?

A:

Q: Was the dog defending person or property?

A:

Q: Can you identify any witnesses to the attack?

A: Provide Details.

Q: Are there any other matters which you think should be considered by me in this investigation?

A:

Signature of interviewee (*optional*): _____

Name of interviewing officer: _____

Signature: _____

Appendix 6 – Sample Evidence Matrix – Dog Attack (NF1768763)

CS _____

Date: _____

Ranger: _____

Charge- Dog Attack causing physical injury section 33D(1)

If a dog attacks or chases any person or animal and physical injury is caused to the person or animal that is attacked or chased, every person liable for the control of the dog commits an offence.

Charge - Dog Attack not causing physical injury section 33D(2A):

If a dog attacks or chases any person or animal without causing physical injury to the person or animal that is attacked or chased, every person liable for the control of the dog commits an offence.

Element of Offence	Evidence	Circumstantial Evidence	Comment
ID of dog			
Attacked or chased (either or both)			
Animal or person (either or both)			
Physical injury is caused (or not)			
Person liable for the control of the dog			
Defences			

(2B) It is a defence to a charge of an offence under subsection (1) or (2A) if the person charged satisfies the court —

- (a) in the case of any person, that the dog was being used in good faith in the reasonable defence of any person or property or for the droving or removal of any animal found trespassing; or*
- (b) in the case of the occupier of premises where the dog is ordinarily kept or ordinarily permitted to live, that at the material time the dog was owned by another person who had reached 18 years of age, and who is identified by the person charged; or*
- (c) in the case of the owner, that at the material time the dog was in the possession or control of another person without the owner’s consent, express or implied.*

10 Review Position and Date

This procedure reviewed on 19/06/2019. This policy and procedure must be reviewed every two years.

This procedure is to be reviewed by the document owner on or before 19/06/2021.

Document Approval			
Document Development Officer:		Document Owner:	
Administration Coordinator Rangers & Emergency Services		ED Planning & Development	
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