



December 11, 2014

Dr.Carolynn Bissett
VDACS - Office Of Animal Care & Health
P.O. Box 1163
Richmond, VA 23218-1163

Dear Dr. Bissett,

On April 17, 2013, our organization unsuccessfully petitioned Dr. Dan Kovich, your predecessor, to revoke the status of People for the Ethical Treatment of Animals (PETA) as a "shelter" within the meaning of Chapter 65 of Title 3.2 of the Virginia Code. For the reasons discussed below, our conviction that PETA does not maintain a "facility" under the statutory definition of an animal shelter, nor is it substantially engaged in activities with the "purpose of finding permanent adoptive homes for animals," as required for such designation (Chapter 65 § 3.2-6500) has only become stronger.*

Since the time of our original petition (a copy of which is enclosed), additional evidence has come to light which now confirms that PETA does not operate a shelter within the meaning of Virginia law and is violating state laws proscribing larceny, mandated holding periods, and VDACS Administrative Directives governing euthanasia of animals at animal shelters.

Specifically, it has now been made public that PETA staff members took a dog, named Maya, off her owner's property and killed the dog. According to reports, over several weeks, PETA officials came to the trailer park where the family lives, where most of the residents are Spanish speaking with few resources. The PETA representatives befriended the residents. They got to know who lived where and who had dogs. In fact, they sat with the family on the same porch off which they later took Maya. Waiting until the family was away from the home, PETA employees backed their van up to the porch and threw biscuits to Maya, in an attempt to coax her off her property and therefore give PETA the ability to claim she was a stray dog "at large." But Maya refused to stay off the

* The 2014 amendment to this chapter did not change the requirement of "*operating for the purpose of finding permanent adoptive homes for animals.*"

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porch and ran back. Thinking that no one was around, one of the employees—who was later charged with larceny—went onto the property and took Maya. A copy of the surveillance video is posted online here: <http://youtu.be/hpOyHnvyckE>. A newspaper article about the alleged theft and killing is enclosed.

When the family returned and found their beloved Maya missing, they searched around the neighborhood before checking the video on the surveillance camera. That is when they saw the PETA van on the film and recognized the woman who had come to their house on prior occasions to talk to them about Maya. They called PETA and asked for Maya’s return. According to a family spokesperson, PETA claimed it did not have the dog. When PETA learned that its employees had been filmed taking the dog, they hung up. Shortly afterward, a PETA attorney called and informed the family that Maya, a “healthy and friendly” dog, was dead. PETA had killed her.

This is not the first time PETA has been accused of taking animals from people under false pretenses and putting the animals to death, thus suggesting that the taking and killing of Maya cannot be dismissed as the action of rogue employees. As such, PETA is using its designation as an animal shelter to deceive the public and acquire animals for the purpose of killing them. Rescuers, private individuals, shelters, and veterinarians have stated that they turned over animals to PETA after PETA promised to find homes only to learn that PETA killed the animals, in some cases within minutes of taking them. Nor is Maya’s story the first time that PETA employees have been arrested over their taking and killing of animals. In a 2007 criminal trial against two PETA employees in North Carolina, jurors heard similar testimony (see enclosed article).

PETA’s actions potentially violate several state statutes and regulations, including Chapter 5 of Title 18.2 (a dog is considered property within the meaning of Virginia’s criminal statutes against larceny),** Chapter 59 of Title 3.2-6546 (PETA was required to

** Although the Commonwealth Attorney declined to pursue criminal charges following the arrest of the two PETA employees who took Maya, his decision does not control. The Commonwealth Attorney explained that he was not convinced the employees’ criminal intent could be established “beyond a reasonable doubt.” Although we disagree with the Commonwealth Attorney’s decision and believe there is more than sufficient evidence to prove beyond a reasonable doubt that the PETA employees knowingly stole Maya off private property where they knew Maya lived with her family, a lesser “preponderance of

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notify the local animal control authority if the dog was lawfully impounded as a “stray” animal at large and hold the dog for at least five days), and VDACS regulations governing euthanasia of animals at animal shelters.

Specifically, Section 2 of Directive 79-1 states that “euthanasia” in an “animal shelter” is only appropriate under the following circumstances:

1. “A companion animal in the custody of a local jurisdiction or animal shelter which has exceeded its mandated holding period.” Since Maya was not lawfully in the custody of an animal shelter and, even if she was, she was killed within the mandated holding period, this provision does not apply.
2. “A companion animal which has been properly surrendered to a local jurisdiction or animal shelter by its lawful owner.” The owner did not surrender Maya and, thus, this provision does not apply.
3. “A companion animal in the custody of a local jurisdiction or animal shelter which is critically injured, critically ill, or unweaned.” Once again, Maya was not lawfully in the custody of an animal shelter and, even if she was, this provision does not apply because, according to the family and news reports, Maya was a “healthy and happy” dog.
4. “A dog or cat showing active signs of rabies or suspected of having rabies, for which confinement is impossible or impracticable.” This provision also does not apply. Maya did not have rabies, was not exhibiting symptoms of rabies (as is evident from the surveillance video), and there was no cause to suspect she had rabies.

Finally, Section 4 of Directive 79-1 provides that the supervising veterinarian of an “animal shelter” is,

[E]xpected to provide oversight of euthanasia through orientation, instruction, guidance, and periodic monitoring of euthanasia activities.

the evidence” standard applies in the administrative (civil) context, not the more onerous “beyond a reasonable doubt” standard which controls in criminal proceedings.

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PETA's history of unlawfully killing animals, evidenced by the North Carolina arrest and prosecution of two PETA employees under circumstances similar to the taking and killing of Maya, demonstrates that PETA has not complied with this mandate.

In light of this new evidence, it has become clear that VDACS action in maintaining PETA's designation as an "animal shelter" pursuant to Virginia law, and therefore vesting it with the power to take in and "euthanize" animals, is arbitrary, capricious, and contrary to law. As such, we respectfully request that VDACS remove PETA's designation as an "animal shelter" that meets the state's requirements for what a shelter must be. Alternatively, even if VDACS finds that PETA meets the definition of a shelter, it should still revoke their status in light of the serious violations of law.

I would be happy to speak with you in more detail about any of these matters if you have any questions at all.

Very truly yours,

Nathan J. Winograd

Enclosures



**IN THE DEPARTMENT OF AGRICULTURE & CONSUMER SERVICES
FOR THE COMMONWEALTH OF VIRGINIA**

NO KILL ADVOCACY CENTER

Petitioner,

Removal of “Animal Shelter” Designation for People for the Ethical Treatment of Animals

PETITION OF THE NO KILL ADVOCACY CENTER

NATHAN J. WINOGRAD
NO KILL ADVOCACY CENTER
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510.689.1530

ACTION REQUESTED

Pursuant to Chapter 65 of Title 3.2 of the Virginia Code, and implementing regulations of the Department of Agriculture and Consumer Services for the Commonwealth of Virginia (“VDACS”), the No Kill Advocacy Center (“NKAC”) submits this petition to request that VDACS take regulatory action to remove People for the Ethical Treatment of Animals’ (“PETA”) designation as a statutory shelter under Title 3.2, Chapter 65, § 3.2-6500.

PETA does not maintain a “facility” under the statutory definition of an animal shelter, nor is it substantially engaged in activities with the “purpose of finding permanent adoptive homes for animals,” as required for such designation (Chapter 65 § 3.2-6500). As such, its designation as a shelter is arbitrary, capricious, and contrary to law.

Since employees of animal pounds and animal shelters are the only non-veterinarians authorized by the Virginia Code to perform animal “euthanasia,” removing the designation will prevent PETA staff from putting to death thousands of animals every year which it does without making any effort to find them adoptive homes.

INTEREST OF PETITIONER

NKAC is a national, non-profit organization dedicated to ending the unnecessary killing of dogs, cats, and other animals in our nation’s animal-sheltering system through the implementation of proven and cost-effective programs and policies that have ended unnecessary shelter killing in dozens of American communities—including several in Virginia. NKAC staff has held seminars, workshops and training for Virginia shelter staff and community advocates, has advised Virginia shelters on best practices, and has worked with shelters to improve

operations. In 2012, legislation written by NKAC, the Virginia Companion Animal Protection Act, was introduced in the Virginia Legislature. Likewise in 2012, NKAC successfully petitioned VDACS to alter its practice of killing healthy animals as part of state-mandated “euthanasia” training.

NKAC files this petition to lend a voice to the thousands of animals put to death by PETA every year.

STATEMENT OF GROUNDS

In 2010, Dr. Dan Kovich, DVM, MPH, from the Office of Veterinary Services, Animal & Food Industry Services, VDACS, investigated PETA pursuant to an email forwarded by a citizen (not related or known to the NKAC) in which a representative of PETA indicated that the organization did not maintain a “physical” animal shelter. Specifically, VDACS correctly noted that its investigation was performed to determine if PETA met the statutory definition of a shelter; and it would only meet such a definition *“if the primary purpose of the [PETA] facility was to facilitate finding permanent adoptive homes for companion animals.”*

Chapter 65 of the Virginia Code, § 3.2-6500, defines a “facility” as “a building or portion thereof as designated by the State Veterinarian, other than a private residential dwelling and its surrounding grounds, that is used to contain a primary enclosure or enclosures in which animals are housed or kept” and further defines “animal shelter” as “a facility, other than a private residential dwelling and its surrounding grounds, that is used to house or contain animals and that is owned, operated, or maintained by a nongovernmental entity including a humane society, animal welfare organization, society for the prevention of cruelty to animals, or any other

organization operating for the purpose of finding permanent adoptive homes for animals.”

(Emphasis added.)

Thus, in order to maintain its designation as a shelter, PETA must meet three statutory requirements: 1. It must have a facility used to house or contain animals, 2. The facility must be operated by an animal welfare organization, and 3. The facility must be operated for the purpose of finding permanent adoptive homes for animals. According to VDACS’ own investigation and the analysis provided below, PETA does not meet the required conditions.

I. PETA DOES NOT MAINTAIN A “FACILITY” WITHIN THE STATUTORY DEFINITION.

PETA does not maintain a “facility” to adopt animals. There are no cages or kennel runs. According to VDACS, PETA “does not contain sufficient animal enclosures to routinely house the number of animals annually reported as taken into custody... The shelter is not accessible to the public, promoted, or engaged in efforts to facilitate the adoption of animals taken into custody.” Kovich, Dan, DVM, MPH, PETA Summary of Findings, July 7, 2010, attached (hereinafter “Kovich”).

While PETA claims it has three rooms designated to house animals, during the inspection there were only three total animals at PETA: “one being held in conjunction with the [spay/neuter] clinic operations, one was being boarded for an indigent community member, and one on behalf of a PETA employee” (Kovich). No animals were being held “for the purpose of finding permanent adoptive homes.” In fact, prior inspections found “no animals to be housed in

the facility” (Kovich). As such, PETA headquarters is not a “facility” “used to house or contain animals.” At best, it is an office used to kill animals and for other purposes.

According to VDACS records, PETA puts to death roughly 90% to 97% of all animals it takes in every year. In 2011, for example, PETA acquired 1,992 animals, killed 1,911 of them, and sent the remaining 44 to killing shelters. Only 24 were adopted, the vast majority or all of them to PETA staff and affiliates. In 2010, PETA acquired 2,345 animals, killed 2,200 of them, and sent 65 to killing shelters. Only 44 were adopted, the vast majority or all of them to staff and affiliates. In 2009, PETA acquired 2,366 animals, killed 2,301 of them, and sent 31 to killing shelters. Only 8 were adopted, the vast majority or all of them to staff and affiliates. For the three year period of 2009-2011, PETA killed 6,412 of the 6,703 animals it acquired, a killing rate of 96 percent. It adopted out only 76 animals, or 1 percent of the total it took in. Over the last 11 years, PETA has killed 29,426 animals, while adopting out a negligible amount, the vast majority or all of them to staff and affiliates. By contrast, Virginia shelters as a whole adopt out roughly 60% of all animals they impound in any given year and several communities in Virginia have save rates in excess of 90%.

Given that PETA only adopts out about 1 percent of the animals it takes in, and most to employees and affiliates, adoption is at best an incidental use. The statutory definition of “animal shelter” presupposes that the facility is primarily or substantially used to house or contain animals for purposes of finding them permanent adoptive homes, which PETA admits it does not do (see below).

II. PETA DOES NOT MAINTAIN A SHELTER “FOR PURPOSES OF FINDING ANIMALS PERMANENT ADOPTIVE HOMES.”

PETA staff admitted that PETA does not run a shelter: “The [PETA] receptionist stated that PETA did not operate an animal shelter” and “an additional staff member was called to the desk and reiterated that there was no shelter” (Kovich). Furthermore, Ingrid Newkirk, PETA’s president, admitted in an interview with the *Virginian-Pilot* that:

*"We are not in the home finding business, although it is certainly true that we do find homes from time to time for the kind of animals people are looking for. Our service is to provide a peaceful and painless death to animals no one wants."*¹

As such, Newkirk admits that adoption is an incidental practice; that PETA takes in animals for the express purpose of killing them. In the face of mounting criticism for operating a pet killing facility, PETA more recently claimed it refers people with adoptable animals to other shelters because PETA exists solely to provide “euthanasia services” for irremediably suffering animals (see, e.g., Winograd, Nathan J., “Shocking Photos: PETA's Secret Slaughter of Kittens, Puppies,” *Huffington Post*, <http://huff.to/XZQ0n6>, April 2, 2013). Accepting their latest rationale at face value, PETA’s own admissions prove that it does not meet the statutory definition of “animal shelter.”

¹ This, of course, begs the questions: How can people “want” animals whom PETA kills within 24 hours and often within minutes of taking custody of them, without ever making them available to the public for adoption? How can people “want” animals they do not know exist because PETA has no adoption hours, does little to no adoption promotion, and does not show animals for adoption, choosing to kill them instead?

NKAC does not believe, however, that all of the animals PETA takes in are irremediably suffering as PETA sometimes claims. Otherwise, PETA would do no adoptions, however incidental. Clearly, PETA is taking in animals who can be rehomed. In addition, PETA has admitted it kills “healthy” animals and admitted it has killed animals who are, in PETA’s own words, “adorable” and “perfect.” Confirming this, people have come forward to testify that they have given PETA “healthy” and “adoptable” animals after PETA promised to find those animals homes only to discover that PETA killed the animals instead without making any effort to adopt them out (see, e.g., “Testimony underway in PETA trial,” *Roanoke-Chowan News Herald*, <http://bit.ly/XCSdI3>, January 24, 2007).

Virginia law also specifically requires that an animal shelter “shall be accessible to the public at reasonable hours,” (Chapter 65 § 3.2-6548). PETA staff “confirmed that the shelter [sic] was not accessible to the public, and that most adoptions of animals were to PETA employees and affiliates” (Kovich). PETA has no adoption hours, it does not keep animals alive long enough to find homes, and it does no adoption promotion. Virginia statutes do not contemplate a pet killing facility to meet the statutory definition of a “shelter.”

III. VDACS OWN INVESTIGATION CONCLUSIVELY DETERMINED THAT PETA DOES NOT MEET THE STATUTORY DEFINITION OF AN ANIMAL SHELTER.

Following its investigation, VDACS correctly concluded that PETA does not meet the statutory definition of a shelter:

1. “The shelter is not accessible to the public, promoted, or engaged in efforts to facilitate the adoption of animals taken into custody.”

2. “PETA reception has historically been unaware of the existence of an animal shelter, and has stated to enquiring members of the public that no such facility exists.”
3. “PETA has published suggested guidelines for animal shelters on their website that indicate their organizational preference for the operation of such facilities; their own facility does not satisfy many of the key recommendations.”²
4. “The agency is not aware of any substantive efforts to facilitate adoption of animals taken into custody.”
5. “Previous inspections of this office have found no animals to be housed in the facility, or few animals in custody.”

² According to PETA, the ideal “animal shelter” “has kind, attentive, knowledgeable staff members, cruelty investigators, spacious indoor/outdoor housing for dogs and cats, a pre-release spay-and-neuter program, pre-adoption screening and follow-up programs, and a comprehensive humane education program. The staff is supplemented by active volunteers. Animals are provided with veterinary care, and there are sick wards and rooms for isolating newcomers...

“The ideal cat room has windowsills and various nooks and perches where cats can lounge, feel safe, or sleep. Cats are allowed to roam the room freely. They won’t fight because they know that no one cat “owns” this territory and because each adult is spayed or neutered before being introduced into the room. The ideal shelter also has areas for cats who must be confined because they need to be observed or because they feel more secure alone when they first arrive...

“The public is made to feel welcome, and there is a quiet room where people can be alone with the animal they are considering adopting...

“Through a strong publicity program, the public is made aware that the shelter is working to eliminate the companion animal overpopulation crisis, the primary cause of homelessness among animals, and that animals are available for adoption at the shelter. Sometimes, as a public service, local newspapers are willing to publish a notice or a list of animals who are available for adoption, along with the shelter’s public hours. They may also print a photo of one of the animals, which is a good way to attract attention. As a public service, local radio and television stations may also be willing to publicize the shelter. Notices and photos can also be posted in stores, animal hospitals, etc.

“The ideal shelter is open for redemption and adoption of animals during hours that are convenient for working people. It is open at least several evenings a week and at least several hours each weekend.”

PETA’s “shelter,” by contrast, is little more than a freezer to store the bodies of animals they have killed.

6. “Review of submitted annual animal record summaries by PETA and all reporting animal shelters for the past six years does not support the facility has a primary intent to find permanent adoptive homes for companion animals (Kovich).

IV. VDACS’ REVERSAL OVERSTEPS ITS AUTHORITY BY CIRCUMVENTING VIRGINIA STATUTES.

After PETA protested VDACS finding that PETA did not maintain a “facility” nor a “facility” “operating for the purpose of finding permanent adoptive homes for animals” (thereby precluding it from taking in and killing animals), VDACS reversed course. It did so based on an impermissible reinterpretation of Virginia law.

In its reversal, Dr. Kovich subsequently stated that “In reference to PETA,” the definition of an animal shelter “means a facility that is used to contain animals and is operated by an animal welfare organization.” (Email dated October 25, 2012.) This interpretation not only ignores years of VDACS practice that such a facility be “*operating for the purpose of finding permanent adoptive homes for animals,*” it also rewrites the express language of the statute.

Even if this new interpretation were a valid exercise of its regulatory power, rather than an impermissible amendment of statutory law, VDACS would still be required to rescind PETA’s designation as an animal shelter that meets the state’s requirements for what a shelter must be because it does not meet the threshold definition of a “facility.”

CONCLUSION

For all the foregoing reasons, VDACS actions in maintaining PETA's designation as an "animal shelter" pursuant to Virginia law, and therefore vesting it with the power to take in and "euthanize" animals, is arbitrary, capricious, and contrary to law. As such, NKAC respectfully requests that VDACS remove PETA's designation as an "animal shelter" that meets the state's requirements for what a shelter must be.

Respectfully submitted,

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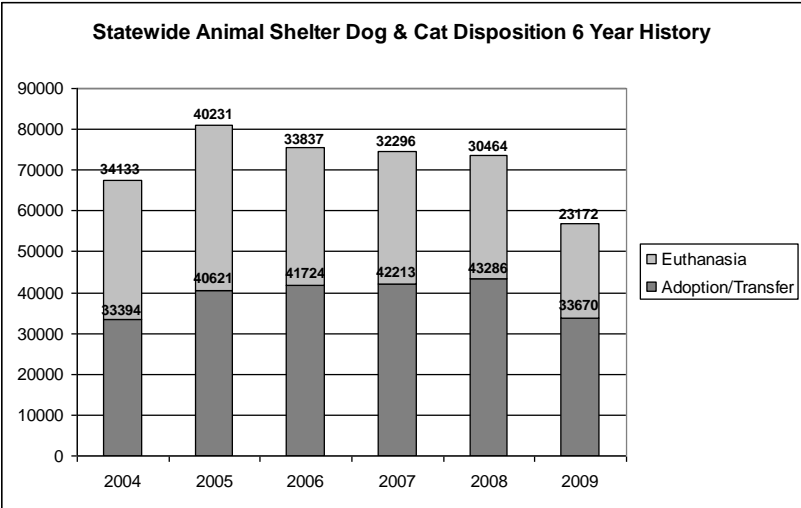
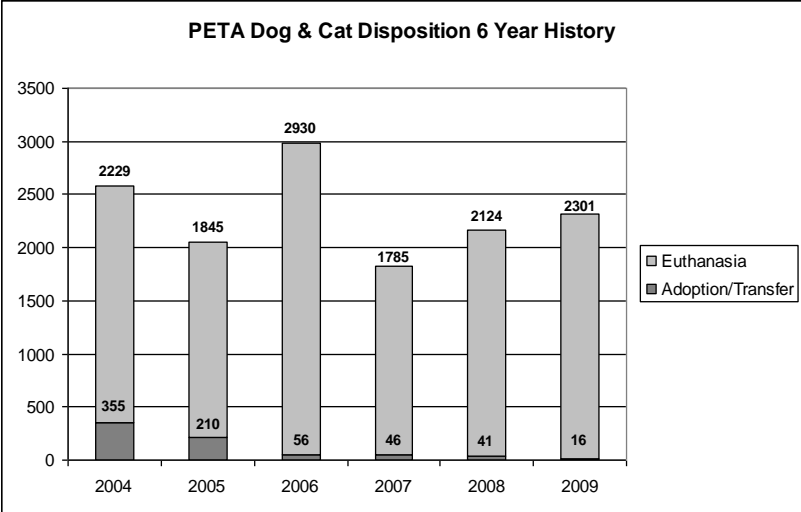


**Animal and Food Industry Services
Office of Veterinary Services
SUMMARY OF FINDINGS
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DATE		Investigation	X	Site Visit
07/07/10		Inquest		Telephone Call
NAME OF SUBJECT		People for the Ethical Treatment of Animals (herein PETA)		
CONTACT INFO (Address, Phone #, Fax #, Email)		PETA attn: Ms. Daphna Nachminovitch 501 Front Street Norfolk, VA 23510 (757) 622-7382		
DATE	FINDINGS			
07/07/10	<p>A site visit was performed to the PETA headquarters building on July 7, 2010 to determine if the organization's current activities allowed for the continued inspection of the facility as an animal shelter; if the primary purpose of the facility was to facilitate finding permanent adoptive homes for companion animals. The following items were noted during the course of this visit:</p> <ol style="list-style-type: none"> 1. The receptionist stated that PETA did not operate an animal shelter. When I indicated that PETA did report to operate an animal shelter and that this office has inspected in it in the past, an additional staff member was called to the desk and reiterated that there was no shelter. At this point I asked for Ms. Nachminovitch. Ms. Nachminovitch was called and indicated that she would be at the facility shortly. No other staff was available to begin the inspection. 2. The facility contains three rooms designated as animal enclosures. The rooms are not further subdivided into runs or cages. The three animals occupying the rooms were not being held for adoption purposes (one was being held in conjunction with the clinic operations, one was being boarded for an indigent community member, and one on behalf of a PETA employee). The facility does not contain sufficient animal enclosures to routinely house the number of animals annually reported as taken into custody. 3. 290 2010 animal custody records were reviewed. 17 or 6% were recorded as adopted or in foster homes, 273 or 94% were recorded as euthanized. Of these, 245 or 90% were euthanized within the first 24 hours of custody. 			
DATE	PREPARED BY		Dan Kovich, DVM, MPH	
	SIGNATURE			

DATE	FINDINGS	
	<p>4. Ms. Nachminovitch indicated that the majority of the animals that were taken into custody by PETA were considered by them to be unadoptable. Adoptable animals were routinely referred to other area animal shelters; conversely PETA often took custody of animals denied admittance by other area shelters. Ms. Nachminovitch confirmed that the shelter was not accessible to the public, and that most adoptions of animals were to PETA employees and affiliates.</p> <p>The findings of this site visit support the assertion that PETA does not operate a facility that meets the statutory definition of an animal shelter as the primary purpose is not to find permanent adoptive homes for animals. This is further supported by other information gathered by or reported to this office summarized as follows:</p> <ol style="list-style-type: none"> 1. The shelter is not accessible to the public, promoted, or engaged in efforts to facilitate the adoption of animals taken into custody. PETA reception has historically been unaware of the existence of an animal shelter (Attachment 1), and has stated to enquiring members of the public that no such facility exists (Attachment 2). PETA has published suggested guidelines for animal shelters on their website that indicate their organizational preference for the operation of such facilities; their own facility does not satisfy many of the key recommendations (Attachment 3). The agency is not aware of any substantive efforts to facilitate adoption of animals taken into custody. 2. Previous inspections of this office have found no animals to be housed in the facility, or few animals in custody. 3. Review of submitted annual animal record summaries by PETA and all reporting animal shelters for the past six years does not support that the facility has a primary intent to find permanent adoptive homes for companion animals. The following data was compiled by this office concerning the reported dispositions of dogs and cats taken into custody over this period: 	
DATE		<p>PREPARED BY Dan Kovich, DVM, MPH</p>
		<p>SIGNATURE</p>

DATE	FINDINGS
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Given the findings of the visit, it was determined that an inspection would not occur at present. It was indicated to Ms. Nachminovitch that no further action would be taken regarding this site visit until such point that she could respond with information supporting the legitimacy of PETA for consideration as an animal shelter.

DATE	07/09/10	PREPARED BY	Dan Kovich, DVM, MPH
		SIGNATURE	

Man says PETA took his dog from porch, killed her

By Joanne Kimberlin
The Virginian-Pilot
© December 1, 2014

ACCOMACK COUNTY

Parksley is off the radar, even for Virginia's Eastern Shore. Tucked away west of the peninsula's main corridor, it's surrounded by farm fields and chicken houses - a town of fewer than 1,000 souls living rural lives up near the Maryland border.

No one in this story is used to headlines. Except for PETA - People for the Ethical Treatment of Animals. This just might be the first time in its history that the Norfolk-based group's publicity machine is lying low.

At the center of a drama pitting local officials against each other and drawing outrage from around the globe:

Maya, a 3-year-old Chihuahua. (Picture the Taco Bell dog.)

Video **shot by a security camera (<https://www.facebook.com/video.php?v=1508869982701274>)** six weeks ago shows a woman identified by authorities as a PETA worker scooping Maya off the porch of her owner, a Mexican immigrant named Wilbur Cerate, who lives outside Parksley in a run-down trailer park named - somewhat surreally - Dreamland 2.

Before Cerate could get his dog back, Maya had been euthanized. According to Cerate, a representative from PETA came to his trailer bearing a fruit basket as a token of apology.

Up until last week, Cerate was telling his story to all who would listen. He called the sheriff, who pressed charges against the two PETA workers seen on the video. He gave TV interviews. A week ago today, on Monday morning,, he led a few dozen supporters on a march to the office of the Accomack County commonwealth's attorney to protest the prosecutor's decision to drop charges against the workers.

By that afternoon, though, Cerate had lawyered up. Outside his home, situated on the backside of a muddy, potholed loop through Dreamland 2 (there's also a Dreamland 1), Cerate apologized to a Pilot reporter.

In broken English, he said he now has an attorney, who has advised him to stop talking.

Others remain willing or have become so. Again, except for PETA.

Known for its in-your-face animal advocacy campaigns - everything from throwing

red paint on fur wearers to comparing slaughterhouses to the Holocaust - PETA's public relations staff has not returned multiple messages seeking comment.

The tiny dog's demise began around noon on Saturday, Oct. 18. According to the prosecutor, PETA workers were at the trailer park picking up strays at the request of a nearby landowner, who said dogs from the park had ripped up the udder of his milking cow, killed a goat and terrorized his rabbits.

Cerate was at home when the roundup began but left to buy a dog bed for Maya, according to one of his friends, Edward Armstrong, who runs a tax business in Parksley.

Cerate got Maya as a puppy, Armstrong said - a gift for his daughter, now 9. He'd just given the dog a bath, removing her collar and leaving her loose on the porch - a lean-to built of particle board - to dry out on what was a warm day.

"That dog was very well trained," Armstrong said. "She wouldn't leave the porch."

When Cerate returned and found Maya missing, he suspected PETA and reviewed the video in his security camera. It showed a white van backing up to his trailer, two women getting out and opening its rear doors. There was Maya, wriggling toward them down the steps, then scurrying back up onto the porch. A woman follows, picks her up, puts her in the van, shuts its doors and drives away.

Cerate immediately called PETA, but he couldn't reach anyone. He called again the next day but was told no dogs had been picked up at the park. That Monday, he showed the video to Armstrong, who urged him to call police. On Tuesday, - three days after Maya was taken - the fruit basket arrived at Cerate's front door with word that she had been killed.

Accomack Sheriff Todd Godwin charged the workers, both women from South Hampton Roads, with larceny.

"If it was me or you who did something like that," Godwin said, "PETA would eat us up."

Godwin obtained arrest warrants and contacted PETA, who he said sent the women to Accomack accompanied by an attorney. The workers were booked and released.

PETA euthanizes nearly 90 percent of the animals it takes in, a rate often criticized by other animal groups. PETA defends its practices, referring to itself as a shelter of last resort - a place that provides a merciful death for animals too sick, old or otherwise unfit for adoption.

But state regulations call for a minimum holding period of five days, said Debra Griggs, president of the Virginia Federation of Humane Societies. Pickups are also required to be reported to a locality's animal control.

"In Maya's case, PETA did neither of those things," Griggs said. "It's a serious violation."

Aside from that, she said, the video shows "a happy, healthy, sweet dog on its own property, and that flies in the face of everything we believe in - not only about

our pets but our property rights in general."

Griggs joined the protest march on the prosecutor's office.

"It was a very interesting cross-section of people," she said. "There were some locals, but some were from as far away as D.C."

Godwin, the sheriff, is also frustrated with the prosecutor, Gary Agar. Godwin said he has "no idea" why Agar dropped the charges: "We can't figure it out."

Initially, Agar would say only that he wasn't "satisfied that the evidence is capable of showing criminal intent beyond a reasonable doubt. I don't feel I have to explain it. It only invites argument, and I'm not going to debate my opinion."

On the day of the protest, however, he issued a two-page statement that said Maya had no dog tag and had, at times that day, been off the porch. To convict on criminal intent, Agar wrote, prosecutors would have to prove the women knew they were "stealing property." Instead, it's "more probable" they believed "they were gathering animals that posed health and/or livestock threat."

Cerate and his supporters aren't satisfied with that. They can't imagine how anyone could consider a Chihuahua - average weight: 4 to 6 pounds - a danger to livestock.

Armstrong said PETA workers were familiar with the trailer park, having been there before to collect abandoned pets and donate dog houses.

"They started coming about two months ago," he said. "They'd met Mr. Cerate's family and knew who Maya belonged to."

Outside his trailer last week, Cerate said he was tired. All the ruckus has caused him to lose sleep. His story has appeared in The Huffington Post and the New York Daily News. More than 5,500 people have "liked" a Facebook page dedicated to Maya, with posts from as far away as Asia, Italy and the United Kingdom.

Cerate's surroundings may be humble, but he's trying to provide a decent home for his family. Broken windows, discarded furniture, old tires and trash litter the rest of Dreamland 2. Cerate's lot is neat, with mulched flower beds, a trampoline and a jungle gym.

The security camera was mounted in the hopes of keeping what little the family has.

Without it, Armstrong said, no one except PETA would ever know what happened to Maya.

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Testimony underway in PETA trial

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WINTON – A jury of six men and six women will determine the fate of two PETA (People for the Ethical Treatment of Animals) employees charged with cruelty to animals.

After a day and a half of jury selections, testimony got underway here Wednesday morning in Hertford County Criminal Superior Court in a case involving Adria Hinkle and Andrew Cook, two Virginia residents charged with 21 felony counts each of animal cruelty as well as other charges.

At the center of Wednesday's opening day testimony was Ahoskie Police Detective Sgt. Jeremy Roberts, the lead investigator on the case.

Questioned by District 6B Attorney Valerie Mitchell Asbell, Roberts began his testimony by providing a timeline of the events that led to the arrest of Hinkle and Cook on June 15, 2005.

Roberts said he became involved in the case on May 19, 2005 after being dispatched to an area behind the Piggly Wiggly Supermarket in Ahoskie's New Market Shopping Center. There he was met by Kevin Wrenn of D&E Properties, a local firm that handles the maintenance of the shopping center. During his early morning rounds disposing of trash, Wrenn had discovered what appeared to be some sort of animal in a trash bag that was tossed in the dumpster behind Piggly Wiggly.

"I immediately noticed a strong odor coming from the dumpster," Roberts said.

Probing inside the dumpster, Roberts discovered 20, heavy duty trash bags. He eventually discovered a total of 21 dead dogs inside those bags.

After using the Town of Ahoskie's help to bury the dogs at the town's old landfill, Roberts told Asbell he launched an investigation of how the dead dogs wound-up in an Ahoskie dumpster. He said he checked with the local animal hospitals and animal shelters to inquire of how they discarded of dead animals.

Two weeks later (June 2, 2005) dead animals – 17 dogs and three cats – were discovered within 20 bags in the same dumpster. Photographing the dead animals, Roberts took those photographs to Bertie County Animal Control Officer Barry Anderson from whom Roberts had learned was working with PETA through an agreement to come to the Bertie shelter to collect unwanted, unclaimed animals. Anderson told Roberts he could not positively identify the animals by the photos.

Another report of dead animals found in the same dumpster came in on June 9. Eighteen bags containing 20 dead dogs were discovered.

On this particular occasion, Roberts said he contacted Anderson who drove to Ahoskie and, prior to burial, identified the animals as coming from the Bertie shelter.

From that point, Roberts said he became suspicious of PETA's possible involvement in the case.

Through conversations with Anderson, Roberts understood that PETA workers came to the Bertie shelter every Wednesday to pick-up animals. Each of the dumpster discoveries to that point were always on Thursday mornings.

Working with the Bertie Sheriff's Office, Roberts hatched a surveillance plan. To properly document the plan, Anderson photographed and charted each of the animals in the Bertie shelter on June 14, 2005, one day prior to PETA's normal Wednesday pick-up.

The following day (Wednesday, June 15) when Hinkle and Cook, who was making his very first work-related trip to North Carolina on that particular day, arrived at the Bertie shelter, they immediately became the targets of surveillance.

Upon picking-up and transporting an injured dog to the Ahoskie Animal Hospital (AAH), the PETA van in which Hinkle and Cook were traveling was followed by Bertie Sheriff's detectives Frank Timberlake and Marty Northcott. While at AAH, employees there, through a pre-arranged pick-up, released a mother cat and two kittens to Hinkle and Cook.

The van traveled back to the Bertie shelter where Hinkle and Cook took possession of several animals. At some point (PETA officials attending the trial said it occurred in the van while parked at the Bertie shelter), all of the animals were euthanized by Hinkle.

After leaving the shelter, the van was tailed as it made its way to Ahoskie. The van turned into New Market Shopping Center and headed behind Piggly Wiggly. There, according to Roberts, a female, later identified as Hinkle, was behind the wheel. She made a u-turn and parked the side doors of the van next to the door of the dumpster.

Roberts said while he and Bertie Sheriff's Detective Ed Pittman were approaching the van on foot from their surveillance locations behind the grocery store, he could hear the "thump, thump" of heavy objects striking the bottom of the empty dumpster.

Before the two lawmen could reach the van, it took off, heading out the same way it entered the back area of the grocery store. At that time he made contact with Timberlake who performed a traffic stop on the van while it was still in the New Market parking lot.

Meanwhile, Roberts performed a brief search of the dumpster, discovering the same type of trash bags found during the previous three weeks. At that point he placed Hinkle and Cook under arrest.

Dressed later in a hazmat suit, Roberts retrieved nine trash bags containing 16 dead dogs. Those animals, like their predecessors, were taken to the old landfill for burial. However, this time Anderson was at the burial site documenting the animals as they were removed from the bags. He confirmed they were the same animals picked-up earlier that day by Hinkle and Cook at the Bertie shelter.

A short while later as Roberts said he was preparing to inventory the van, held at the Ahoskie Police Department, he discovered another 12 bags containing eight dogs and 14 cats inside the van. Roberts confirmed that the mother cat and two kittens picked-up from AAH were among the dead animals.

Roberts also revealed during his testimony that he took into evidence several items found in the van. Included were boxes of trash bags, PETA manuals, doggie treats, cat food, animal toys, leashes and a tackle box containing syringes, needles and bottles of liquid substance, later determined by the SBI Lab in Raleigh as the drugs used to euthanize animals.

Following the lunch break, Asbell and Roberts spent the entire afternoon formally entering as state evidence the items found in the van.

During Wednesday morning's opening statements, Asbell said she would prove that Hinkle and Cook acted with malice and without justification or excuse to kill the animals. She said she would also prove that Hinkle and Cook deceived local officials into believing that efforts would be made to find homes for the animals they were collecting.

Blair Brown, who along with Jack Warmack is representing Hinkle, said his client loved animals and performed her job with no criminal intent.

"The only thing she and Andy Cook did wrong on June 15, 2005 was to dump the animals in the dumpster," Brown said. "Placing animals in a dumpster is not cruelty to animals."

Brown went on to praise the work of PETA in northeastern North Carolina, saying they worked to help clean up what he termed as "deplorable" conditions in county operated animal shelters. He added that due to the overpopulation of animals and with animal shelters overflowing with unwanted pets, hundreds of thousands of animals are euthanized every year across the nation.

Brown added that it is PETA's normal operating procedure to place dead animals into heavy duty black trash bags. However, those bags were to be properly disposed in a landfill or incinerated at PETA headquarters.

Mark Edwards, representing Cook, said in his opening statement that his client loved three things: his girlfriend, Penn State football and animals. Edwards said Cook worked to eliminate animal suffering. He added that the animals euthanized in the presence of his client was not performed maliciously, but humanly.

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