

Citation: ☼ R. v. Haughton
2012 BCPC 0505

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File No: 88396-1
Registry: Kamloops

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA

REGINA

v.

CAROL ELAINE HAUGHTON

**REASONS FOR JUDGMENT
OF THE
HONOURABLE JUDGE S.D. FRAME**

Counsel for the Crown:	Mr. C. Balison
Counsel for the Accused:	Mr. D. Pedersen
Place of Hearing:	Kamloops, B.C.
Dates of Hearing:	July 6, July 14, 2011, January 17, April 25, April 26, April 27, June 11 and June 12, 2012
Date of Judgment:	November 5, 2012

[1] Carol Haughton is charged with three counts as follows:

Count 1

Carol Haughton, between the 7th of June, 2009 and the 13th of June, 2009, inclusive, at or near Knutsford, in the Province of British Columbia, being the owner, did wilfully, permit to be caused unnecessary pain, suffering or injury to animals, to wit: dogs and cats, contrary to section 445.1(1)(a) of the Criminal Code.

Count 2

Carol Elaine Haughton, between the 7th of June, 2009 and the 13th of June, 2009, inclusive, at or near Knutsford, in the Province of British Columbia, did, being the owner or the person having custody or control of domestic animals, to wit: dog and cats, abandon them in distress or wilfully neglect or fail to provide suitable and adequate food, water, shelter and care for them, contrary to Section 446(1)(b) of the Criminal Code.

Count 3

Carol Haughton, between the 7th day of June, 2009 and the 13th day of June, 2009, inclusive, at or near Knutsford, in the Province of British Columbia, being a person responsible for animals, to wit: dogs and cats, did cause or permit the animals to be or to continue to be in distress, contrary to Section 24(1) of the Prevention of Cruelty to Animals Act, R.S.B.C. 1996, Chapter 372.

[2] The word “wilfully” in Section 445.1(1)(a) of the *Criminal Code* is defined in Section 429(1) of the *Code*:

429. (1) Every one who causes the occurrence of an event by doing an act or by omitting to do an act that it is his duty to do, knowing that the act or omission will probably cause the occurrence of the event and being reckless whether the event occurs or not, shall be deemed, for the purposes of this Part, wilfully to have caused the occurrence of the event.

[3] Section 1(2) of the *Prevention of Cruelty to Animals Act* defines distress as follows:

1(2) For the purposes of this Act, an animal is in distress if it is

(a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,

(a.1) kept in conditions that are unsanitary,

(a.2) not protected from excessive heat or cold,

(b) injured, sick, in pain or suffering, or

(c) abused or neglected.

[4] Section 10.1(1)(a) of the Prevention of Cruelty to Animals Act defines an abandoned animal to include an animal that is apparently ownerless. The other three categories specifically identified for abandoned animals do not apply to this case.

BACKGROUND:

[5] Carol Haughton is 60 years old. She has been around animals all of her life. Her father retired to a farm when she was a teenager. She cared for cows, chickens, pigs, dogs and cats. She married when she was 19. Her husband was an orchardist, who had chickens, dogs, ponies and cats. She got her first Great Dane in 1974. She said the dogs are a hobby, not a career. She joined the kennel club, went to shows and learned about the breed and pedigrees. When she became a widow, she purchased a farm in Clearwater in 1981. It was a small farm with about a dozen cows. She and her children looked after feeding and watering them. There were six children to assist with the pigs, chickens, horses and cows. Her children were in 4-H and had farm animals.

[6] She eventually moved to her ranch in Knutsford in 1986, which is where she met James Haughton. Ms. Haughton was building a herd at that time. She had 40 head

when she met Mr. Haughton. She had 100 when they got married. He was involved with his family's ranch. Ms. Haughton also has a ranch in Alberta.

[7] Ms. Haughton described raising cattle as a full time job. She spends every day looking after them from morning until night. She learned from veterinarians what she could do for herself and what she had to refer to them.

[8] Ms. Haughton said she had a heart attack in 2006 which took essentially a year to recover from. She said that now she can do pretty much what she did before, just slower. She also said she cannot throw hay bails like she used to.

[9] When Mr. and Ms. Haughton split up, Ms. Haughton wanted something easier to care for, so she began breeding sheep. She raised a few chickens as well as a handful of turkeys and some pigs for awhile as well. However, the divorce proceedings became a significant stressor in her life. Apart from the necessities, the limbo of the divorce interfered with fixing anything up. Building, renovating and new projects were put on hold because she did not know if she was even going to own the property at the end of the divorce.

[10] Ms. Haughton's goal in breeding Great Danes is to produce the ideal breed. For her, that is a perfect harlequin colour. The majority of her stock are considered pet stock and she requires a contract for purchasers for spaying and neutering. She said there is no profit in Great Danes. She estimates she puts about \$5,000 into a dog before it breeds. This includes having their hips x-rayed. The veterinary bills are significant and the dogs eat a lot. Additionally, they do not live a long time. The dogs must have their hips certified before they are bred, which cannot be done until they are

two. The dogs are typically retired at the age of six, which means they typically have about three litters in their lifetime.

[11] Only the puppies that will be sold for breeding stock are x-rayed for hips. She said there is no point to x-raying if the pups would not be bred. X-raying would not change the outcome. It would simply be wasting money. The dogs have to be registered first before they can get the x-rays because they must be permanently identified.

[12] Ms. Haughton said that she only receives \$600 to \$800 for the pet stock puppies. A nicely marked harlequin puppy might attract \$1,000. There are very few of those. Her vet bill averaged \$7,000 to \$9,000 for all of the animals, with the majority being for the dogs.

[13] Ms. Haughton lived in the house with the dogs. She sees them all the time. They come with her when she is fencing or checking the cattle. It helps keep the coyotes away.

[14] She keeps perhaps one dog out of each litter. She tattoos each dog with the year it is born, its kennel number and the number of pup for the year. She matches that to the purchaser. She keeps in touch with them with pictures and messages on how they are doing. She uses this in part to track inherited genetics. She knows where each of her pups has ended up.

[15] Ms. Haughton had only intended for her dogs to produce two litters in 2009. One female was bred accidentally so she ended up with three litters.

[16] The litters were born one day apart. Charlie, a runt, was not even half a pound when he was born and was unresponsive. Ms. Haughton resuscitated him, milked his mother and fed him by syringe. The pup needs to be kept warm when born with this deficiency so she kept him inside her shirt. She said he was too small and would not have survived. He was mostly bottle fed by her.

[17] Ms. Haughton said quite often there is a runt in the litter. She said this is determined by position in the uterus, meaning the pup does not get as much nutrition. She said they do not necessarily remain small as they mature but can grow to genetic size once on proper food. She said some breeders put them down right away, but she does everything to save them.

[18] Ms. Haughton had 13 cats on the property. She seldom bred them. She said she had perhaps two litters a year. That year, she had two litters. One of the litters had to be hand raised which Ms. Haughton described as time consuming but enjoyable. However, there were no litters in the house in the months before the seizure. It is important, however, to keep the toms separate from the cats to prevent unwanted breeding.

[19] Ms. Haughton had left for her Alberta farm on the Friday before the seizure. She believes it was the 7th of June. She was only going to be gone for five days to brand and move cattle but had to stay to repair some fences. She was gone an extra three days.

[20] Ms. Haughton said that from January to June, she had gone back to Alberta three times. She would go back to look after her ranching business. She went back for

calving but one of the first chores is to check the perimeter fences before the cattle are moved in. The cattle are then given water and checked for injury or illness. She gets help at round-up, branding, weaning or calving. No one was hired in June to help.

[21] Ms. Haughton said that she had asked her son Jason Haughton to look after the animals at the house and her husband to look after some sheep at the corrals. James Haughton had agreed to look after the sheep.

[22] Jason Haughton had a troublesome memory when it came to details. However, he could remember that he was asked at one point to care for the animals for a week when his mother was away in Alberta. He knew that it was in relation to the time that the animals were seized. I also found his evidence to be contrived in many circumstances. Much of his evidence must be viewed in the context of the objective evidence because he otherwise often lacked credibility.

[23] Jason Haughton is 30 years old. He has a mobile home on the ranch just down the road from where Ms. Haughton lives. He had looked after the animals when he was a child. He was the closest of Ms. Haughton's sons to her home so he would look after the animals when she was required to be away. Ms. Haughton said never once has she come home from such a time away to find empty food or water dishes. She believed her son had looked after her animals probably more than a dozen times but could not put a precise number on it. This would only be in the last couple of years after her separation from Mr. Haughton. It is her son's practice to call her if there is a problem and for her to call if she is expected to be gone longer than expected.

[24] Jason Haughton confirmed that he would always have the ability to call his mother if there was anything abnormal happening with the dogs. She would always tell him exactly where everyone was supposed to be and what was supposed to happen.

[25] Jason Haughton had a full time job. He would go to the ranch every day as soon as he got off work, arriving around 8:30 p.m. He would check every food dish. He dumped every water dish and filled it back up. Seldom would the water be empty. There were quite a few buckets and pails of water around.

[26] Jason Haughton said that when he attended, the dogs were healthy and happy to see him. They would bark when he first arrived but would calm down when they realized it was him. Some would lean against him to be petted but none stood out as depressed or lethargic.

[27] Jason Haughton said that when he came to feed them, the dogs would come up to greet him and go about their business. They were not starving for the food when they came. Sometimes they would eat and drink right away, but not always.

[28] When the food ran out, he bought a lower quality to replace it because he did not make a lot of money. He bought what he could in smaller bags from Safeway. He bought five or more bags.

[29] When Jason Haughton attended, he would do a head count to ensure all animals were accounted for. He would ensure none were sick or bleeding. He visually inspected them when he did a head count. He would pet the ones that wanted to be petted but would not put hands on all of them. All of the dogs seemed quite happy to

see him. Jason Haughton said he did not miss a single day. He was there every night and, on occasion, went twice a day.

[30] Jason Haughton said when he arrived the first time the animals were not where they were supposed to be. He said someone had been there prior to him. He did not know where the dogs belonged so he made do.

[31] On June 9, 2009, Special Constable (SPC) Jamie Wiltse received a complaint from Dennis Copeland regarding animals kept at the home of Carol Haughton on a ranch in Knutsford. The interview report taken by Ms. Wiltse referred to 49 colour photographs Mr. Copeland had taken when he attended the premises. He advised SPC Wiltse that he attended with his friend Jim Haughton on June 7, 2009. She said Mr. Copeland seemed genuinely concerned. She did not inquire of him why he took until June 9 to report these concerns if he observed the circumstances on June 7.

[32] Constable Wiltse learned that Mr. Haughton was separated from Carol Haughton and was worried about the animals still in her care. Mr. Copeland said that the two men went into the house. They said the smell was repulsive and described it as a mix of feces and urine. Outside, Mr. Copeland saw Great Dane dogs and pups living in kennels loose in the yard surrounded by chewed up mattresses and garbage, and by feces. The whole of the interview report was not attached to the Information to Obtain. However, the grounds for belief disclosed that Mr. Copeland told SPC Wiltse that Mr. Haughton no longer lived at the residence. It disclosed that he and Copeland had attended to check on the welfare of the animals as they were concerned that Ms. Haughton was in Alberta and no one was caring for the animals.

[33] Mr. Copeland also advised SPC Wiltse that the dogs could access the home at free will through a hole in the door located at the rear of the residence. He said there was no food or water available to the animals, some animal bones appeared to have been left as food for the dogs, but the body conditions of the dogs appeared adequate. He told her that the dogs were not contained in the yard and could stray at large and access the road. He also observed several cats in the residence and litter boxes overflowing with feces. He said some dry cat food was available to the cats but one cat was contained in a kennel in the basement. Mr. Copeland told SPC Wiltse that he was worried about the animals and did not believe anyone was there looking after them while Ms. Haughton was away.

[34] Constable Wiltse said that she was not aware Mr. Haughton had been asked by Ms. Haughton to care for the larger animals she had on her ranch. She based her beliefs on Mr. Copeland saying that he and Mr. Haughton were concerned that no one was caring for the animals. She was unaware of the hostile divorce proceedings between the Haughtons until one of the trials Ms. Haughton was engaged in. Constable Wiltse did not consider calling Mr. Haughton to get contact information for Ms. Haughton.

[35] Constable Wiltse said she was told Ms. Haughton had gone to Alberta but she could not remember if Mr. Copeland said why. It is the practice of the SPCA to make contact with whomever is caring for the animals. They do not telephone, but attend the location directly to make contact.

[36] The information contained in the statements made by Mr. Copeland does not form evidence on this trial. Mr. Copeland did not testify. However, this was the information the SPCA relied upon in obtaining its warrant.

[37] Special Constable Wiltse was quite busy with other calls, so she asked the assistant manager of the Kamloops SPCA, Risa Leake, to attend the premises in order to make contact with the owner or to leave a notice requesting the owner make contact with the SPCA.

[38] Ms. Leake attended that day at 2:30 p.m. She reported the front door to the residence was open but nobody appeared to be home. Ms. Leake testified that she arrived on the property and was met by a couple of dogs and puppies running loose. She observed dogs in a fenced area. She went to the open door and knocked and called out repeatedly. She observed a smell like rotten spaghetti coming from the house. She said there was a strong ammonia and rotting smell coming from the residence; feces and garbage could be seen on the floor; and one adult dog was observed in the residence.

[39] She posted a notice requesting the owner contact the SPCA immediately. She observed 9 adult Great Danes and 16 puppies loose in the yard. She observed one adult male limping with a swollen right rear leg. She observed another male dog with great difficulty walking due to weakness in his hind end and with visible sores on his hind legs.

[40] Otherwise, Ms. Leake observed that all dogs appeared in thin to adequate body condition; most with dull, dirty coats. She observed that broken glass, wire, garbage,

animal bones and feces contaminated the entire living space of the dogs. She observed water was available to the dogs in buckets. She saw various sizes of water dishes in the pen to the side of the house with water in them. Although she observed two kennel areas, she said the dogs were not contained in the kennels or yard and appeared to have access both inside the residence and outdoors.

[41] Ms. Haughton said that what the SPCA was calling garbage was fencing material she had all around the house. She did not have a shop and the material was necessary for a ranch. Wire had been placed as a block against ranch dogs getting into the pens. A border collie had dug its way in once so she had a big roll of wire for a pen she was going to build which she used to block the access.

[42] Jason Haughton said he would look for deficits that could cause hazards. He would get rid of wire and fill holes where the dogs had tried to dig. He said one of the doors to the pen was ajar as though someone had opened it and had not known how to close it properly. He noticed this in one of the first days. Apparently, he did not feel compelled to call his mother about this breach, to sort out where the various dogs belonged, or to fix the breach.

[43] Ms. Leake did not observe trees in the back of the residence and nor did she observe any maples on the property. She did not note whether the dogs had access to the shade outside.

SEARCH WARRANT:

[44] Having received no response to the posted notice, the SPCA sought a warrant to enter the premises and take any action necessary to relieve the animals' distress. That warrant was issued. Video tape and numerous photos were taken at the time of the execution of the warrant. These show several buckets of water, most of them at least half to three-quarters full. While the water is certainly dirty in the buckets, it does not appear to be full of algae. Nor does it look brackish. However, it is also not particularly clean. It certainly did not appear as though some of the buckets had been cleaned in the recent days. The pen areas do have a considerable amount of debris which appears to have settled largely in the corners leaving a large open space mostly without debris.

[45] The video and photo evidence shows more than Ms. Haughton described. There is household garbage in the yard and kennels as well, such as cans, pails, and plastic jugs.

[46] The pictures inside the home show a general mess as well as considerable destruction evidently wreaked by the dogs. The kitchen is particularly filthy with dishes, groceries, garbage and other items stacked on nearly every surface, including the floor. Papers and newspapers had been spread throughout to collect animal waste. During the playing of the video, those in attendance could be heard gasping for air and gagging on the smell.

[47] A veterinarian, Dr. Sarah Greenwood, attended with the SPCA for the purposes of examining and relieving the animals in distress. In her report, Dr. Greenwood observed that the front yard, which was not fenced, was heavily littered with what appeared to be small pieces of insulation and other garbage. Two Great Dane adults

and one puppy were noted to be loose and roaming the front of the property. The front door of the house was ajar and two more puppies came out. Within a few minutes of arriving at the property, several more puppies became loose. This was noted to occur through a gap between the back of the house and the fencing of the main pen.

[48] Dr. Greenwood said the vast majority of the insulation was strewn outside around the pens. There was some inside the pens as well. She did not observe any dogs eating the insulation.

[49] Ms. Haughton said there might have been some insulation in the wood shed which she later turned into a puppy house. No dogs had access to that insulation except when the puppies got out in her absence. She said they should never have been able to get near it. The only dogs visible in the shed on the video were the puppies accompanying the SPCA team as they went in. It did appear that the dogs had previously shredded a mattress in that shed.

[50] Ms. Haughton testified that the puppies were in fact kept separate from the adult dogs, both male and female. She had them contained in an area where there was a back gate which she never accessed. She used to place a large rock to hold the gate in place because she would access the pen through the house. However, evidently when Mr. Copeland and Mr. Haughton went in to take their pictures, they left the gate loose when they closed it. During her absence, the puppies got out and mingled with the other dogs in their penned areas. It also let them into the house to chew up the cushions and everything else they could get their teeth into. It also explains how the

dogs gained access to the insulation, why they were all mingled in each other's pens, and why so many were at large when the SPCA attended.

[51] Ms. Haughton said the puppies had been weaned at six weeks and were kept separate from their mothers. When she left for Alberta, two of the females had dried up but one mother was still lactating. She said if the mother has not dried up, the puppies can cause the mother to start to milk again.

[52] Dr. Greenwood noted that many of the dogs were fearful but many were also friendly and forward. She agreed that an animal can be under stress meeting new people. The video evidence shows that all the dogs were friendly, enthusiastic and energetic. They crowded around and followed the SPCA personnel. Even those in the kennels came to the fence to greet the people.

[53] Dr. Greenwood said that most of the dogs were fairly dirty but none were covered in massive amounts of dirt. The photo and video evidence shows dogs with clean coats. No dirt is visible on any of them.

[54] Ms. Haughton said that the dogs romp and play and roll in the dust. None of the dogs were stained which she said they would be if they were living in a filthy kennel. There is no evidence before me of what it could possibly mean if dogs living on a ranch are dusty. It does not seem to cause them any harm and there is no evidence that it affects their health. In any event, none of the photos or video of the dogs at the time of the seizure showed dirty coats.

[55] Dr. Greenwood said the house was removed from everything in an isolated location. She did not remember sheds being on the property or the types of trees that may have been present. She said the animals were competing for space under the porch area.

[56] Constable Wiltse observed a shed in one of the areas adjacent to the front door. The first kennel adjacent to the garage had an open-ended plywood box that only the puppies could fit in. The dogs could also go inside the residence off the balcony. There was some shade under the porch but the slats were wider apart and the porch was in pretty poor repair. She could not recall a tree affording shade.

[57] Constable Wiltse agreed that there were several trees in the kennel but could not recall what kind. She said it is bare in Knutsford, being grassland, so the trees were not plentiful. She described the area as a “pretty bare open area”. She did not take note of the movement of the shade while she was at the premises. She knew the dogs could get inside the residence and that the dogs beside the front door could get inside the shed. She felt the shed was not adequate shelter because proper shelter needed to be provided at all times regardless of when the sun changes. She could not say what shade the house itself would provide to the outside areas.

[58] Ms. Haughton testified that there is shade on the property and this is supported in the photographs produced. There is a tree in the middle of one of the kennels providing shade in the summer throughout the day. Ms. Haughton said the house is divided into three with doors for access to the yard. There is shade under the entire deck.

[59] The photo and video evidence shows shade throughout the kennels and yard affording ample space for all the dogs in each area to seek shelter from the sun completely and other elements to some degree. I find that there was adequate shade for all of the dogs and adequate shelter from the elements.

[60] Dr. Greenwood said that amongst the garbage scattered around the house there were two to three bags of empty dry dog food and several animal bones. The bones appeared to be from cattle.

[61] Dr. Greenwood said the cow leg looked like a full leg. It was somewhat decomposed with mostly bone and tendon. She said it was quite dried out and dirty in the sun. The concern was for salmonella and other bacteria, more than splintering and perforations from eating them. The bones looked old and she was not sure how long they had been there. She said that, academically speaking, one should never give a dog a bone. She agreed that some of the benefits of bones are cleaning the teeth and obtaining calcium from raw diet. However, she felt that a dog would not be done a disservice by not giving it bones.

[62] Dr. Greenwood also said that she could not comment on the age of the cow legs. She said there was no meat on them and they were bleached. They were outside the pen scattered amongst other things such as the insulation and garbage.

[63] Ms. Haughton said that she likes to give her dogs bones. She said it keeps them busy and keeps them from chewing other things. She said she goes to the butcher and gets bones and scraps. Even in the summer, she will put bones in the freezer and give it to them as a treat. She said that this is cattle country and there are bones everywhere

from 100 years of ranching. The bone that had been dragged into the yard by the dog Cazio had no meat on it and did not appear to be harming anyone. The other bones in the field are dried up and do not seem to bother the dogs when they dragged them home to chew on them. She said that pet shops offer cow hooves for dogs to chew on. Indeed, there is no conclusive evidence before me that providing bones, either old or with raw meat on them, to dogs causes any harm or distress to the dogs. There is no evidence that these specific bones were causing any health problems to these dogs.

[64] Dr. Greenwood found the dogs housed in four pens surrounding the home each with its back wall contacting the wall of the house. The four pens had been divided to create four separate areas. The first area consisted of a pen housing two female dogs. The area was described as dry and dusty with one small pot of dirty water in what appeared to be the remains of a cattle's hind leg on the ground. The dogs in this pen had access through a dog door to a garage. Inside the garage the floor was heavily littered with garbage, a torn up dog bed and much feces. The garage itself was dark and heavily littered. A bowl with dry dog food lay on the floor. She said the behaviour of the dogs in this pen was of both curiosity and fear.

[65] Dr. Greenwood observed a second penned area contained a single intact male adult Great Dane. The pen was heavily littered with feces and garbage. No water or food was noted in this part of the pen but the dog did have access to the house via stairs up the back porch. The porch had been divided to prevent access to the remainder of it which was accessible to the rest of the dog's adjacent pen. The porch was unstable with multiple planks having broken through, so Dr. Greenwood did not investigate further.

[66] Ms. Haughton said that nails had rusted out where the deck was attached to the house but it was secured well. She had braces to secure it but it did have a slope. A concave area held moisture and so the plywood was rotted. She had put fresh plywood on top to cover the holes. When she got back from Alberta, all of this work had been undone. Ms. Haughton provided photographs of the work done to the deck before she had gone to Alberta.

[67] Dr. Greenwood observed the largest of the penned areas was apparently meant to house the remaining adult dogs and puppies. However, the puppies had found a means to get through the fences into the pen housing the largest of the intact males and to the general penned area.

[68] I have already referenced Ms. Haughton's explanation of how the puppies were able to escape their penned area when someone removed the rock that had previously blocked their gate.

[69] Dr. Greenwood observed this final penned area contained three to four metal water containers with water. There was a small dog house of adequate size for a few puppies but not for any of the adults. There was a dirty, chewed up dog pillow inside the dog house. The penned area had the potential to be closed off but was open. This pen was also heavily littered with garbage and feces. Partial shade was noted under the porch. There was a large, chewed, plastic dog bowl and multiple small metallic bowls present which were upside down and spread throughout the pen. These dogs had access to the inside of the house via the porch and a sliding door into a section of the living room.

[70] Dr. Greenwood noted that leaving animal feces around could facilitate the ongoing cycle of parasitism which causes the leaching of nutrients and general immune comprimization. She said the amount of feces was not ideal for sanitary and hygiene reasons. There was a lot of it, both in diarrhea and formed state. In her view, it was not something that happened overnight. Dr. Greenwood felt that the urine and feces had to have built up over a week or perhaps two. Ms. Haughton had been gone for four days by the time Dr. Greenwood attended, which generally accords with the build-up observed.

[71] Ms. Haughton concedes that she had quite a bit on her hands during this time. Initially when the animals had been seized, she did not believe the place to be as messy or dirty as represented. She has come to realize that her normal living conditions even before they were compounded by her absence and the destruction wreaked by the dogs was at least unsatisfactory. However, she said that the animals primarily defecated in the corners of the pens. This is substantiated in the photographs in evidence but the feces and debris was spreading out from those corners. When she is home, the dogs normally relieve themselves in the field when she has them out with her. She cleans the yard every few days with a rake and shovel. Torn and chewed bedding goes into a barrel and is burned or is taken to the dump. She admitted that her cleaning routine involved a rotation of whatever needed the most at any given time. It was certainly suffering insofar as her own living conditions were concerned. She said every time of year has different demands between the cattle, the sheep and the dogs. She said that the dogs do not toilet where they sleep or eat or play. That pattern clearly changed

while she was away, primarily because the living quarters were not being cleaned much, if at all.

[72] Ms. Haughton had told the SPCA that the puppies were not house trained so she had put paper down. While they were pretty good about going outside, she felt that she should be on the safe side. In her absence, they were using that paper a considerable amount. It was spread through most of the living area and was quite soiled.

[73] Jason Haughton said that the house was not too bad in the beginning. It got a lot worse through the week. There was not a lot of feces on the carpet on the first night. He tried to keep up with the mess but he did not have a lot of time having just come off work. Anything dangerous was taken out of the house and he cleaned up as much as he could in a small amount of time. He said that his mother usually cleaned thoroughly when she came home so he just did the basics. Occasionally, he would take a shovel and toss as much as he could. He would dispose of it outside on the farmland. I do not believe him. From the time Ms. Leake attended to the time the dogs were seized, it appears that no cleaning had been done of most litter boxes and none of the paper laid out for the dogs had been removed or changed. Only one litter box appeared to have been cleaned recently. That is hardly enough for 13 cats if they were all indoors.

[74] Jason Haughton said the house was pretty messy. The 18 puppies had made a significant mess in it. They were not toilet trained and went wherever they wanted.

[75] He said his mother would not expect him to do the cleaning but would do a good cleaning herself when she came back. It defies comprehension that he would think it was alright to leave such a horrible mess for his mother's return.

[76] On returning from Alberta, Ms. Haughton found feces in the house. She had said there is always feces in the yard but she had cleaned the pens before she left. She had also cleaned the litter box and the tom cats' pen. It had built up quite considerably while she was gone. She also said the torn cushion mess in the yard was compounded by the fact that she had more puppies than she normally would have had. This is an understatement.

[77] Dr. Greenwood said that the pups should have been weaned because some will nurse indefinitely or until their mother rejects them. She said it was highly unlikely for a weaned pup to latch onto the mother because of stress. She noted that weaning requires complete separation for pups because, as long as the pups continue to latch on, the milk will continue to come in. She said that pups do not typically latch on again once they are weaned but agreed they can do so. In her view, all of the pups and females were housed together. She said there was no suggestion that they had gone from one pen to another. This does not accord with the photographic or other evidence of witnesses describing the pen areas and the escaped dogs. As in other instances, I find that Dr. Greenwood has overstated or exaggerated the evidence. In the context of what Dr. Greenwood saw and the smell she was subjected to, one cannot fault her for these overstatements. However, this case must be decided on the evidence. Certainly what is in evidence does not need overstatement or exaggeration.

[78] The living room contained animal feces and garbage covering most of the floor. There was a couch with cushions pulled off and the insulation ripped or chewed out, leaving springs exposed. There were empty food bags strewn throughout.

[79] Dr. Greenwood opines that ingestion of cushion insulation could cause serious gastrointestinal problems. She did not observe any animals chewing on the cushions. The springs were not a concern for her.

[80] Ms. Haughton testified that puppies simply rip up dog beds. She said it was a continuous battle to keep beds for them. The older dogs were pretty good. She would get puppy toys and other items for the pups to play with. She got old blankets or even old couches for the dogs to sleep on.

[81] Ms. Haughton testified that the debris in the pens was primarily chewed up bedding. There were also some chewed toys. A wooden pallet was put in place and wired to the gate to make sure the dogs would not dig under when a female was in heat. The pallet was not garbage.

[82] Dr. Greenwood said all of the puppies and the two roaming adult males had access to the inside of the house. The basement and the bathrooms were not accessible to the dogs but were accessible to cats found inside the home. Some areas of the house were described as “too vile to facilitate much evaluation” so they were simply checked for the presence of animals.

[83] Dr. Greenwood said that there was an intensely vile smell noted requiring the wearing of face masks. This was for both health reasons and to overcome nausea that the smell triggered. She believed that the source of the smell was a “vast amount of animal feces, urine and garbage present throughout the house, intense heat and lack of adequate ventilation”. She said none of the windows were open and some had been

covered with fabric and a reflective or insulation material. A sliding door to the porch was partially open. The front door was also ajar on their arrival.

[84] Ms. Haughton testified that she opens everything up. It is always blowing in Knutsford. She has fans and opens the windows and doors. She has sliding doors and an air conditioner in the living room. The air conditioner cannot run with the doors open and so it was not running in her absence. The dogs go outside and lay in the shade in the heat of the day. In the evening the house cools down and they come back in. She said they like to be where she is even when it is warm.

[85] Jason Haughton said that there were dog doors and a sliding glass door left open. The dogs could be in or out as they pleased so he was not concerned for their ventilation.

[86] Rudolph E. Suppanz, a member of the British Columbia Institute of Property Inspectors, inspected Ms. Haughton's residence in the fall of 2009 and provided a report dated October 6, 2009. He noted that the basement has a capacity for 11.78 times the required amount of natural ventilation; the main floor had 23.64 times the required amount of natural ventilation; the back room had 12.57 times the required amount of natural ventilation; and the furnace and forced air system allowed fresh air into the dwelling as set out in Article 9.32.3.8. His conclusion was that the building had more than adequate ventilation for summer and winter and was in compliance with the British Columbia Building Code. This was based upon both the non-heating season and the heating season.

[87] The only renovation that would affect ventilation was the addition of a window to Ms. Haughton's bedroom after the animals were seized in June, 2009.

[88] According to Mr. Suppanz, smell and ventilation are distinct issues. There may still be good ventilation even in a room that smells bad. Vile smells aside, I find that the house was adequately ventilated.

[89] Dr. Greenwood said in the living room, an area was cornered off with metal fencing. It contained a broken down whelping box covered in a tarp material that had been chewed apart. There was a bowl of dry dog food and some dirty water in a container. The floor was heavily covered in feces both formed and diarrheic, and garbage.

[90] Upstairs in a loft-style area that appeared to be an office was a small fan which was running. This area was heavily littered with garbage and animal feces. The litter box found in the office was full to the rim with feces. There was a bowl of water and a self-feeding bowl of cat food.

[91] The kitchen was overflowing with garbage and dirty dishes. A puppy was eating out of a bucket on the floor containing rotting vegetable matter, egg shells, fruit rinds and insects. Rotting onions were found on the floor. Dr. Greenwood noted that onions were toxic to dogs. A large bag of milk replacer powder lay on the kitchen floor as well as an empty bag of Purina Puppy Chow. There were two refrigerators. Both were very dirty and contained some human food products as well as veterinary medicines. Veterinary medications were also found outside of the refrigerator.

[92] Ms. Haughton testified that she had a case of puppy vaccine for when she returned. She always has medication for her livestock on hand. The medications for the dogs and cats are labelled by the vet, but the medications for the livestock are not labelled. She said it is just something that ranchers have on hand. She said there is a lot to do continuously on a farm so one does what is needed to be done in the cycle of life. There is always something to be done.

[93] There was some discussion at trial about whether the medication was properly labelled but I am not satisfied that there is any evidence before me to determine the medication was not properly labelled, usable or used as directed.

[94] Ms. Haughton concedes that when she left, the house was cluttered and in disrepair. She said the house needed time and money but her husband was an alcoholic, the cattle business was tough and he was not helping with fixing anything. It was too difficult for her to do everything.

[95] To compound matters, one of the refrigerators had quit right before she was to leave for Alberta. She was able to pick up a replacement while she was gone and bring it back with her. However, in the meantime, she did not take the time to empty out the inoperable refrigerator. As a result, once the door was open, the stench contributed to the smell, compounding the unbearable odours in the house.

[96] Constable Wiltse only recalled opening one fridge in the kitchen. She did not recall seeing one that was not operating. The video evidence shows two refrigerators. One is obviously inoperable. The food products do not yet appear to be rotting, thus

confirming Ms. Haughton's evidence regarding the timing of its failure. It is evident the fridge smells.

[97] Jason Haughton said the odour was a musky smell, but it was not too bad. He said there was a really bad odour if someone opened the fridge. One of them was not working. It smelled like rotting meat and would cause gagging instantly. This is not at all supported in the very vivid evidence from the video where the stench was clearly unbearable to the people executing the warrant. Jason Haughton's evidence in this regard was disingenuous to say the least.

[98] In the basement, Dr. Greenwood found holes in the walls and feces along the floor of the stairway leading down. There was a large pen containing a single male cat. Two other cats were found wandering freely around the room. The windows and doors to the basement were shut and it was unclear to her whether the cats had access to the rest of the house. The floor of the basement was inconsistently covered with material and "heavily laden with feces". She described the smell of urine and feces as overpowering. The male cat's pen contained a litter box overflowing with feces, a soiled sleeping area and a small bowl of water, less than one quarter full and some dry cat kibble. The pen floor was littered with formed feces and what was either vomit or diarrhea.

[99] Dr. Greenwood said that the tom cat was her main concern. He had an abundance of vomit and fecal matter in the area with very little water. The amount of water in the pen was inadequate for a day's worth.

[100] Jason Haughton said that he cleaned the main litter box, dumped and filled water, and filled all of the dishes each time he attended. The cats had dispensers for their food so it would last a long time. He checked every day to ensure they had food and water. Sometimes the water would be out but he made sure every day that it was filled. This was supported in the photographic and video evidence, as well as the observations made by the SPCA members on separate days. In particular, Constable Wiltse reported that Mr. Copeland told her there was no food or water available to the animals. Whether this was the truth at the time, a lie, or a gross exaggeration, it was information the SPCA had when they entered the premises. Clearly that state had changed not only from Mr. Copeland's apparent visit on June 7, but Ms. Leake's attendance two days later and Dr. Greenwood's attendance with Constable Wiltse some days later. There was an abundance of food and water throughout the house and kennels.

[101] Ms. Haughton testified the tom cat had to be kept separate from the other cats in order to prevent unwanted breeding. The cats ordinarily had the run of the basement except for the tom. He had a 12 x 14 foot run. The other cats were allowed free roam of the basement into the ceiling. She allowed them this access so that they would control the mice. She said the tom was terrible for mess. He sprayed the walls. Even when they are cleaned, the tom simply sprays immediately after it. She was in the process of building him a pen outside for the summer. It was another project she hoped to complete after she returned from Alberta. The tom was seven or eight years old and had lived his whole life in the basement.

[102] One of the cats observed in the basement had a significant head tilt to the left. Dr. Greenwood said that head tilts such as this are symptomatic of neurological disease and warrant further investigation.

[103] Ms. Haughton testified that this cat's name was Saucy. Ms. Haughton said that the cat had an ear infection at least a year earlier. She took the cat to her vet on the coast. She said she often dropped animals off there when she was visiting her daughter. She was given antibiotics to treat the ear infection. She said it cleared up but there was still something in the ear and so the cat walked around with her head tilted. She said the cat was healthy and happy and not in pain. The video evidence captured this cat. It was curious, friendly and appeared healthy apart from the head tilt.

[104] Jason Haughton observed the cat with the titled head. It was friendly and he was able to pet it. He looked it over but it did not seem to be bothered. It was not yowling or making any noise. It had no trouble walking.

[105] There was a small bathroom in the basement. Dr. Greenwood said there were missing ceiling panels and cat noises could be heard coming from the space within the ceiling. The bathroom was described as vile with a soiled and blackened toilet, a filthy floor covered in cat feces, a cat scratching post, two bowls of water and one container of food.

[106] Jason Haughton said the basement bathroom was closed off and no animals were being kept there. He put food and water in there in case one came out of the ceiling. He never saw any cats in there when he attended. No cats were found there by the SPCA. The food and water appeared untouched in the video evidence.

[107] Ms. Haughton testified that the cats do not ordinarily have access to the basement bathroom. The door was closed but part of the ceiling had to be taken out to access plumbing. She had never fixed that part of the ceiling. The bathroom was not used by anyone except to get water for the animals. She said the overflow litter box in that bathroom was completely dried out. She had not yet taken it out from being stored in that room through winter. The bathroom was appalling but there is no evidence that any animal was being kept there or had been left in distress because of it.

[108] Dr. Greenwood said that the main concern with the cats was the environment in which they were being housed and the apparent lack of anyone coming to feed or water them. They transported three cats to the SPCA but she had no idea what the outcome was of their evaluation. All of the cats captured on the video appeared healthy and curious.

[109] Ms. Haughton testified that she cleaned the tom cat area every day to feed and water him. She cleaned the litter box every two to three days using Pine Sol and hot water. If that was the case, her son certainly did not follow her lead. The tom's cage area was filthy. The litter box was full of feces and plastic garbage. However there did appear to be adequate food and water.

PHYSICAL EXAMINATIONS:

[110] Dr. Greenwood said that Great Danes typically live five to seven years. Nine years would be considered elderly.

[111] Dr. Greenwood conducted physical examinations of each of the animals as they were seized. She examined 26 dogs of which 8 were adults; 3 to 4 cats had been seen but a thorough exam was not possible. She performed a cursory examination of each animal as it was seized.

[112] On June 17, 2009, Dr. Sietske Rijnen was asked by the SPCA to investigate chronic neglect of the Great Danes. She examined eight of the animals on that day. Those animals have been renamed by the SPCA as Captain (Rebel to Ms. Haughton), Soloman (Zarr), Zeus (Tux), Apollo (Cazio), Athena (Steffy), Beso (Spirit), Patience (Tulsa), and Pita (Twyla).

[113] Dr. Rijnen said she examined each dog for approximately 15 minutes. Her conclusion was that the dogs were not in distress. Absent any other evidence, this is the finding I too must make.

[114] I am setting out a small chart of the dogs according to the number they were assigned by the SPCA on seizure, the name given by Ms. Haughton and the name reassigned by the SPCA to assist in the various cross references. Unfortunately, there is no organized evidence before me cross referencing all of the animal numbers to the names later given by the SPCA. This deficiency in the evidence means no accurate findings can be made regarding the condition of most of the animals seized. Some of Dr. Greenwood's evidence is contradicted by Dr. Rijnen's findings. Such shortcomings and inconsistencies must be found in favour of Ms. Haughton. Unfortunately, Dr. Rijnen's charts were not correlated to Dr. Greenwood's and therefore an additional cross reference chart is needed to compare their findings:

Number	HAUGHTON NAME	SPCA NAME
21	Rebel	Captain
26	Zarr	Soloman
	Tux	Zeus
	Cazio	Apollo
10 ?	Steffy	Athena
25	Spirit	Beso
18	Tulsa	Patience
6 or 16	Twyla	Pita
4	Charlie	Hector

[115] It remains unclear whether Twyla was dog 6 or 16, what happened to the pups apparently in poor condition, and whether Steffy is dog 10. Many of the other dogs apparently requiring veterinary care on seizure apparently did not warrant it after all. Similarly, the outcomes for the cats is unknown.

[116] Dr. Greenwood found the overall body condition of the adult dogs to be acceptable with a few exceptions. In contrast, she said the majority of the pups appeared “ill-thrifty, dirty and some were potbellied”. She noted ear discharge, tearing, pale gums, skin and coat lesions, diarrhea and potential orthopaedic abnormalities in the puppies. She was very concerned about the parasite load of the animals, lameness in the adults, neurological issues and ear infections. There is no evidence that her concerns were founded or even pursued.

[117] Based upon her investigation of the property and her examination of the animals, Dr. Greenwood found the animals were clearly in distress due to a lack of general care. Some of the animals required veterinary intervention because they were sick or appeared to be in pain. There is no evidence to support these findings. Dr. Rijnen’s findings are quite the opposite.

[118] Dr. Greenwood said the penned areas provided inadequate space for the number of dogs present; particularly no daily turnout was available. She was concerned by the apparent lack of presence of any owner or caretaker for an extended period of time. That concern is not supported on the Crown evidence. She noted the lack of hygiene, feeding of raw cattle parts and chronic lack of cleaning of the animals' environment to be completely unacceptable. The exposure of the puppies to garbage, onions and high amounts of feces she considered poor practice for dog care.

[119] Dr. Rijnen agreed that onions were toxic to dogs. She said it could cause anemia if they ate them. For a 60 kilogram Great Dane, if they consumed two regular onions this could lead to damage to the red cells and to anemia.

[120] Ms. Haughton testified that the onions in the house were in a bag. It did not appear on her return that any animal had eaten any. She said that she used a slop bucket for compostables which she kept on the kitchen floor. She also keeps potatoes on the floor. She said the dogs had never eaten the onions and would wrinkle their nose at them. The dogs do not bother with the onions or even, typically, the compost. She disagrees that compost is hazardous to the animals and I have no evidence before me otherwise. She agreed that dogs should not eat onions.

[121] Jason Haughton saw the onions. He said that they seemed untouched although some were not in good condition. He thought they had been there awhile. It defies explanation why he would leave rotting onions to add to the stench of the place for his mother to remove on her return.

[122] Despite the quantum of the veterinary medications found in the house, Dr. Greenwood was unable to determine whether the proper level of veterinary care and vaccination was being provided to the animals.

[123] Ms. Haughton testified that everything on the ranch has a vaccination schedule. She said she vaccinated the dogs for parvo, distemper and certain viruses. She also wormed them on schedule. None of her dogs ever got distemper or the corona virus. Normally, vaccinations are given at six, nine and twelve weeks. If they are vaccinated at nine weeks, they only need one booster. If they are done at six weeks, then they need three boosters. She has never not vaccinated a puppy. She said she is very strict about vaccinations on the whole ranch.

[124] Ms. Haughton said typically the dogs are dewormed three times a year. She does hers at three weeks and when they are weaning, and when she sells them she sends them with a dose to take home. The puppies had been done at three weeks and she was going to vaccinate, worm and tattoo the puppies when she came home. They were eight weeks at seizure. This makes them one week younger than recommended for the two dose vaccination schedule.

[125] Dr. Greenwood agreed there was no law dictating when puppies should be treated for parasites but said that it was recommended puppies be wormed at two weeks and then every two weeks until they were 16 weeks of age. Annual parasite treatment was recommended for all dogs thereafter.

[126] Dr. Greenwood did not know whether the animals had been tested for parvo virus. She said that it was a recommendation to ensure dogs that are parvo positive not

be introduced to a shelter. She said any animal going into a shelter should be tested for it. There is no evidence before me, however, that not vaccinating an animal and not worming it causes it distress or constitutes failure to provide suitable and adequate care. While it may be common sense and good practice, failure to do so cannot found a charge such as those before me.

[127] Dr. Greenwood said the animals had access to acceptable quantities of food and water (except the male cat which she felt had too little water), but she found the cleanliness of the water questionable. However, in her testimony, she said there were a few bowls of dirty water. She said then that the issue was not the turbidity of the water but the amount. She said lactating females had a very high requirement. The evidence was, frankly, inconsistent on the issue of water both by quantity and quality. The video evidence shows adequate water throughout. Some of the water was contained in dirty buckets. Some was clean but had bits of food dropped in. With the exception of one bucket of water, none was filthy.

[128] Jason Haughton said that the water would not always look good before he cleaned the dishes. There would be bits of kibble and grass and other things from their mouths from drinking. Sometimes there was dirt in the water. I do not believe his evidence that he cleaned out the water dishes but the evidence supports his contention that he replenished the water daily.

[129] Dr. Greenwood said it was advisable for dogs to have clean water available. She said their water was dirty, even black, especially in the house. She said it was not clean, fresh or ample, especially in the weather of that day which was 32 degrees

celcius. She noticed sludge at the bottom of the bowls when she swiped them. She agreed that the sludge could be dirt or mineral from the water and that these dogs can leave dirt in a bowl when they drink. She agreed that dirty water does not cause distress but said that animals will drink better if offered fresh, clean water.

[130] Constable Wiltse said the dogs had water but it was very dirty. Some of the bowls were almost empty. She said animals need clean, potable drinking water, especially in the temperatures at that time, being 32 degrees. She agreed dogs can make a dish dirty by drinking out of it. However, they cannot make algae grow on the buckets. Her evidence was not consistent with that of Dr. Greenwood.

[131] Although the opinion is that fresh, clean water is better for the dogs, it was acknowledged that dogs will drink from toilets and puddles even with clean, fresh water available.

[132] Ms. Haughton testified that the well water, which they use for all purposes, is extremely hard. She brought bowls to court which had been stained by minerals in the hard water. Soap will not dissolve these minerals but the water is potable. She said cattle have drunk this water for a hundred years. This in conjunction with the dirt collected in the jowls of the bigger dogs results in dirty water. This is obviously the case for many of the water dishes but the two or three dirty buckets were dirty from a lack of proper cleaning, not dirty jowls.

[133] She also said that the dogs drink out of anything from the pond in front of the house to creeks, streams and sloughs. It does not affect them.

[134] I am not satisfied on the whole of the evidence before me that the water provided was not suitable or adequate. While some of the buckets were certainly very dirty, the water was not murky or stagnant. There was plenty of water in many of the buckets and dishes. It appeared all animals had access to water and it was evident that the water was replenished daily.

[135] Dr. Greenwood assumed that the food she saw in place was for the day and noted it was not adequate. She could not tell what brand or type of food they had. She did say that all of the dogs had access to the same food except that she found a bag of Puppy Chow in the kitchen and at one point noted there was kibble for the puppies. Dr. Greenwood offered that disease, access to garbage and illness may affect a dog's appetite. There is no evidence before me that this was actually the case with these dogs.

[136] Constable Wiltse noted empty dog food bags and a couple of full ones. She noted that the dogs were eating from the bags. She made no notes about Puppy Chow or closed dog food bags. Constable Wiltse conceded that all of the dogs had some access to food and water. Dog food is evident in the photos and the videos. There appears to be no immediate shortage of it.

[137] Dr. Greenwood also questioned the quality of the dog food saying that a commercial dog food specific for giant breeds would be advised. The lactating bitches had additional needs that had to be supplemented as well. She felt that any of the adult dogs between the ages of six months and two years should be on adolescent food for growing giant breeds given the risk of orthopaedic disease. She did not observe food

for puppies except for the empty Puppy Chow. She observed that most of the pups appeared to be nursing on one bitch and eating adult dog food. Finally, she observed that feeding raw animal parts such as the cow leg found in one pen posed a serious health risk to the dogs, particularly the puppies.

[138] Dr. Rijnen said it was important not to feed giant breed dogs too much protein because it was linked to rapid growth of the long bones, which could lead to problems. This also accords with Ms. Haughton's evidence.

[139] Jason Haughton said the dog food was by the front door. It usually leaned against the closet. There were four or five bags at the start of his stint with them. These were 18 kilograms each.

[140] Ms. Haughton feeds all of her animals by free choice meaning that there is food available at all times. The puppies are started off on Puppy Chow mixed with hot water and milk powder. As they proceed to more solid food, she weans the mothers off. By six weeks, the puppies are on full feed. She starts mixing adult food in with their food at eight weeks. She finishes with adult food by three months so that the puppies do not grow too fast. Great Danes grow fast and she does not want to put too much weight on their bones. She said they do not fill out until they are four years old.

[141] Ms. Haughton said she buys 50 pound bags of Nutri-nuggets. She keeps them in the entry of her home and mixes them with scraps, which she grinds and cooks to mix in. There is no evidence that this food, or indeed Ms. Haughton's feeding plan, is in any way unsuitable or inadequate.

[142] Ms. Haughton seemed to have a very good grasp of the kind of food her dogs ought to be eating. She had to be careful of what the puppies ate to control the speed of their growth. She had the puppies on a weaning schedule as well as an introduction schedule for adult food. The adult food has to be introduced early to slow their growth.

[143] I am not satisfied on the whole of the evidence before me that the food provided was not suitable or adequate. Many of the food dishes around the house for the cats were still full and were in the type of food dish that provides continuous delivery of food. There were bags of dog food stacked in the house and there is no evidence before me that it was not entirely adequate for these dogs. While Dr. Greenwood opined that the puppies should not be eating adult food, there was no evidence that puppies eating adult food for a week would be in distress.

[144] Dr. Greenwood recommended that all of the cats have a thorough veterinary examination, be de-wormed and have their vaccines brought up to date. She recommended the puppies be de-wormed regardless of the history of de-worming, parvo tests be run on the feces of any puppies showing signs of diarrhea and that vaccines be brought up to date. This I find to be primarily for the health of the shelter they would be housed in and not for any specific need of these puppies. She recommended a proper puppy diet, skin scrapings of puppies showing lesions and radiographic evaluation of any puppies showing signs of lameness. She found that most of the puppies had noticeable discharge in their ears and recommended proper cleaning for that. However, the extent of this is impossible to determine from the evidence led since no chart correlates all of the dogs, and only a very few of them

merited a follow up exam once in custody. There is no evidence that any of these recommendations were ever pursued.

[145] A physical examination table provides a body condition score on a scale of 1 to 5. A score of 1 is emaciated, 3 is ideal and 5 is obese. Of the dogs examined, nine were found to have a score of 3. Dog #25, was found to have a score of 2 to 3. Dog #26 was found to have a score of 3 to 4/5. Thirteen of the dogs were found to have a score of 2.5 or less, including: 1, 4, 6, 7, 8, 10, 13, 14, 15, 16, 17, 21, and 22. Dog #9 was not given a body condition score. Only eight of these dogs were referred to Dr. Rijnen. Of the 13 dogs evidently with a score of 2.5 or less, there is only this cursory examination from Dr. Greenwood in evidence. Given the inconsistent findings among the eight dogs referred to Dr. Rijnen for a more fulsome examination, I cannot conclude that any of the 13 dogs had a score of 2.5 or less, or whether having such a body score amounted to distress.

[146] For the cat with the head tilt, Dr. Greenwood said it would likely require further diagnostic evaluation including “an otoscopic evaluation, radiographs and possibly titres”. This was not done and I have no evidence of either its outcome or whether Ms. Haughton’s treatment was suitable or adequate.

[147] Dr. Greenwood identified puppies #1 and 22 as being the most “ill-thrifty”, suggesting they would require additional veterinary treatment if de-worming and nourishment did not improve them. The examination tables shows that she collected feces for parvo tests and parasites for pup #1. There is no evidence that those tests were positive for either issue, for this pup or for any other dog seized. For pup #22, she

observed that it was hiding in the dog house, was lethargic and had noticeably pale gums. Its coat was dirty and dull. She had bilateral ear discharge. Dr. Greenwood advised prompt veterinary evaluation and care. The puppy does not seem to have received that evaluation. Dr. Greenwood suspected gastrointestinal disease, parasitism, dehydration and malnourishment. None seem to have ever been confirmed, much less proved at trial.

[148] Dr. Greenwood said that the pale gums could be caused by blood loss, parasites, disease, shock of any kind, inadequate nutrition and dehydration. Pale gums are a symptom, not a diagnosis. No diagnosis was ever made.

[149] Of the adult dogs, Dr. Greenwood noted #26 (Zarr/Soloman) was lame and would benefit from a thorough veterinary evaluation including sedation and radiographs. She suspected a potential stifle injury. In her examination chart, she noted it was an extremely large and rambunctious dog who was difficult to examine.

[150] Dr. Rijnen said Soloman (Zarr) had conjunctivitis in both eyes and severe dental disease. He was assessed at three years old. In fact, Zarr was 11 at the time of the conclusion of the trial. He would have been eight at the time of the examination. I must consider the outcomes for him in the context of a very elderly dog past the end of his expected life span.

[151] Dental disease was not noted in any of the other dogs. The disease is caused by a build up of plaque and tartar which causes recession at the gums, leading to abscesses of the roots. The treatment is to clean the molars under anaesthetic and to remove the abscess teeth.

[152] Ms. Haughton said that entropion is something dogs are born with. She said Zarr had always had clear eyes. She said three of the dogs had conjunctivitis including Spirit, Zarr and Duchess. She had been treating this before she went to Alberta. Each of the ointments she had tried had not worked. She asked the vet to take a sample so that they would know what was being treated. He sampled Spirit and said it was the same bacteria as the cattle with pink eye. They were to switch drugs when they returned from Alberta. When she went to see Zarr in December, this was being treated with ointment she had already tried. She told his caregivers it does not work. She said all of the dogs were worse when they came home. She went to the veterinarian for medication which cleared them up in two weeks.

[153] Zarr is crippling up now. He is 11 years old and Ms. Haughton expects this will be his last year. Zarr is presently fostered with Ms. Haughton's friend, Roger Drayton.

[154] Dog #25 (Spirit/Beso) was found to have chronic bilateral ear infections and Dr. Greenwood recommended a further veterinary evaluation that might require sedation as this dog was nervous and painful.

[155] Ms. Haughton said Spirit had never had an ear infection that she knew of. She said the symptoms of an ear infection are the dog will shake its head, scratch its ear and, if severe, will cry.

[156] Dr. Rijnen did not see any ear infections in the dogs. Ear infections can be caused by allergies, objects in the ears, long floppy ears and disease. This accords with Ms. Haughton's evidence and particularly refutes Dr. Greenwood's finding of chronic ear infection in Spirit.

[157] Spirit was found to have mild conjunctivitis in both eyes. Dr. Rijnen noted that in both cases the conjunctivitis was likely due to ectropion of the eye lids which is common in Great Danes.

[158] Dr. Rijnen observed inflammation of the eyelids in two animals related to atropine which is seen in larger breeds like Great Danes. She said these features can change as the dog ages. If it is still present at one or two years of age, it is likely to remain for life. She said it is ideal to correct the issue by surgical procedure. She said these animals had mild atropine but she would still recommend the procedure to solve the problem and prevent conjunctivitis. She said you could also treat this symptomatically with drops to reduce the inflammation. There is no evidence that choosing to treat rather than operate means the dogs are in distress or constitutes inadequate care.

[159] Ms. Haughton said that Spirit had never had conjunctivitis before. When the treatments she gave them were not working, she would go back to the veterinarian. There were three different diagnoses of the eye issues including atropine, ectropion of the eyelids, and conjunctivitis. They all appear to be related but there was no conclusive diagnosis. The only evidence before me is that Ms. Haughton was aware of the eye issue and was addressing it with the professional help of a veterinarian.

[160] Dog #21 (Rebel/Captain) had symptoms that Dr. Greenwood considered to be consistent with Wobblers Syndrome but the diagnosis could not be confirmed without imaging. This is a developmental malformation that compresses the spinal cord causing neurological deficits, particularly to the hind limbs. She noted it was a condition

common in Great Danes and was exacerbated by inappropriate nutritional intake during growth periods. She also noted some elbow osteoarthritis in that dog.

[161] Dr. Greenwood said dog #21 had a lovely disposition and was kind and gentle. She felt he was a candidate for euthanasia if he was suffering due to lack of care.

[162] Dr. Rijnen advised that Captain (Rebel) was approximately five years old and had a wobbly gait which she also suspected could be Wobbler's Syndrome. She said five years is senior for a Great Dane. He was found to have a pressure sore on the lateral aspect of his right hock. She noted he was dragging his hind legs when walking. After conducting radiographs of his pelvis on June 19, 2009, she noted no abnormalities. She treated the pressure sore with ointment and a bandage. She noted that diagnosing the neurological problem would be difficult and treatment options would be limited. She recommended limited exercise and, if those symptoms worsened, to reassess with radiographs, a CT scan or an MRI. She said he was not showing his age in dentition or body condition. He was rated a body condition score of three. The evidence is that the failure to conduct radiographs or pursue treatments for the potential Wobblers Syndrome is neither necessary nor entirely hopeful. Certainly there is no evidence before me that the failure to diagnose the neurological problem or pursue limited treatment options constitutes the failure to provide adequate care.

[163] Rebel was in fact eight, and quite senior, at the time of the seizure. He had no problems but had been starting to stiffen up in the last few months. The injury on his hind quarters was from ringworm contracted from yearling cattle. It was itchy so he was licking it and had licked its spot bare. Ms. Haughton was treating it with an ointment.

She said the bigger one was healing when she left and the other two were gone. She buys the ringworm cream at the veterinarian.

[164] With respect to further investigation of the Wobblers, Dr. Rijnen said it would depend on the owner's decision to proceed or decline to proceed. If the owner did proceed with further diagnostic investigation, Dr. Rijnen would recommend trying symptomatic treatment to improve the animal's wellbeing. Unlike Dr. Greenwood, she would not consider euthanasia for Rebel because he could move, had bowel movements and could urinate and eat properly. In short, despite his advancing age and related declining physical condition, Rebel was in good condition and was not suffering. He was receiving proper veterinary care and added comforts to assist with his aging process.

[165] Jason Haughton said that Rebel was old. He said that it was obvious that he was elderly. Rebel could still make it inside and outside to get food and water. He was too old to do any running. He did not whine when he walked but it would take him longer than the younger dogs to get up from lying down. He did not show any signs of pain but just moved slowly.

[166] Ms. Haughton said that most vets, in trying to assess what is wrong with the dog, require an owner to describe the symptoms. She said that when he was four years old he slipped on ice which caused him an injury. In her opinion, arthritis usually starts where injuries have been previously. She said everyone is just guessing at his condition but he is old and is starting to stiffen up. She acknowledges that she is guessing like everyone else. She was not prepared to do surgery on a dog his age.

[167] Ms. Haughton said Rebel's difficulties were from his age and having arthritis. She provided him with a soft bed or a couch to sleep on. Once the animal is unable to move on its own it has to be put down because these dogs are so big. She said he was still able to come around the yard with her and could climb the stairs on his own. She said that he was examined several times by the veterinarian and she was never given any medication for him until she ultimately got prednisone for him.

[168] Rebel was taken in by the Great Dane Rescue after he was seized. They called Ms. Haughton over the Christmas to say that he was deteriorating. She went to Vernon to be with him while they put him to sleep, and then she buried him on her farm. He had lost 30 pounds by the time he was picked up by the Great Dane Rescue. The weight loss occurred in SPCA care.

[169] Dr. Rijnen said that for a Great Dane three is the ideal score. She said all of the animals she examined scored three except for Athena (Steffy). She assessed Steffy's body condition score at two but said it would not cause distress or pain at that point. She found no abnormality in Steffy to show a disease related cause to her weight loss. She was found to be underweight but not emaciated. Dr. Rijnen recommended feeding her a high quality, high energy food.

[170] Ms. Haughton testified that Steffy was around two years old. She was very young and therefore quite thin. She said that Great Danes put a lot into their growing in the earlier stages and tend to be on the thinner side. She said this is a good thing for a large dog. I find her body condition score was too low and Ms. Haughton ought to have

been attending to the weight issue. Dr. Rijnen, however, did not find Steffy to be in distress and nor can I.

[171] Ms. Haughton said Charlie (Harley and apparently pup #4) was growing so fast he could not put weight on. He was thin but not in bad shape. He was not emaciated and had all he could eat at any time. This puppy was the only one who appeared thin in the photographs and video. He was very bony and noticeably smaller than the others. Even so, he was energetic, friendly and enthusiastic in the video.

[172] Dr. Greenwood agreed that hierarchies among pups can be complicated. It is possible that a pup would be a runt when there were not enough teats to feed from and that a puppy not receiving adequate nutrition may stunt and have its immune system affected. He was not referred to Dr. Rijnen and so I cannot conclude that he was not in suitable condition or receiving adequate care.

[173] Dr. Rijnen concluded that the dogs she examined were not in distress and made recommendations regarding their health that would require veterinary care.

[174] Constable Wiltse said she had very limited knowledge of the health of the dogs once they were seized. She knew one dog had been euthanized and one treated for dental care. This falls far below the evidentiary standard required for a conviction on these charges.

[175] This is the case for the Crown to prove. I cannot conclude on the evidence before me that the animals were not receiving adequate and suitable care. To the contrary, Ms. Haughton was obtaining adequate veterinary care and providing sufficient

vaccinations. Dr. Greenwood's cursory findings - made in the context of a seizure from a home in a truly deplorable state - is not corroborated on the evidence before me. Of those referred to Dr. Rijnen, only one animal was found to have a body condition score of less than ideal, and that animal was not in distress.

INCIDENTS IN SPCA CARE:

[176] Ms. Haughton takes some considerable issue with the care given to her dogs while in the custody of the SPCA.

[177] Apollo (Cazio) fractured his femur while in SPCA care, requiring surgery to repair it. Cazio was one of only two perfect harlequins Ms. Haughton had ever bred. He also got in a fight at the SPCA and was castrated.

[178] Pita was put into foster care in Kaleden. She was bred at one year and had pups after she came home. This was a year too young by Ms. Haughton's standards and should never have happened in care.

[179] Zarr got pressure sores in his elbows from inadequate bedding.

[180] Tulsa was in the same home as Pita and was also bred. She is dog #18. Tulsa was five at the time of the seizure. She was healthy when Ms. Haughton left for Alberta. Her teeth were good and she was young. Tulsa died from torsion which Ms. Haughton says is prevented by letting the animals eat small meals instead of one big one, and by not running them after a feed. Apparently the foster family were not present when the incident occurred and so Tulsa's condition was discovered too late to save her.

[181] Tux was not quite two and had not had his hips x-rayed at the time of the seizure. While in the SPCA care, he suffered a torn cruciate ligament. This left him in pain. Ms. Haughton took him to the vet as soon as he was returned to her. She paid \$3,000 for his surgery. None of her dogs had ever had this before. Ms. Haughton said they get this when they are locked up and not getting exercise.

[182] As stated above, Spirit, Zarr and Duchess all ended up with worse conjunctivitis which Ms. Haughton had to treat when they came home. She did so successfully.

[183] Hugo had a very bad conjunctivitis infection when he was returned to Ms. Haughton. Hugo is not mentioned in Dr. Rijnen's chart and is not cross referenced to Dr. Greenwood's chart. She also had to get ear medication for him. At this point, she had six dogs with eye infections returned to her. She obtained ointment for all of them.

[184] The foregoing exemplifies that even when the animals are receiving what is presumably suitable and adequate care, mishaps and infections occur and some of them are tragic.

CONCLUSION

[185] There is no question that Ms. Haughton lived in squalor. Even if one ignored the destruction wreaked by the dogs and cats in the house, there remains the broken fridge full of rotting food, the sink full of dirty dishes, the general mess in and around the living room and kitchen, and the deplorable state of the bathroom downstairs.

[186] She was also in a poor emotional state because of her divorce and the acrimony between herself and James Haughton, and was out of her depth with all of the work required to care for two ranches, 26 dogs and 13 cats.

[187] The video and photographic evidence captured at the time of the seizure is a vivid depiction of how deplorable the house had become in Ms. Haughton's absence. Her pre-existing mess was compounded by torn couch cushions and dog beds, rotting compost and onions, and animal waste throughout the house. These conditions cannot be ignored as I consider the charges before me. However, I find that they also impacted the impressions of the SPCA members and Dr. Greenwood during the seizure such that certain determinations and assumptions were made that are not supported on the evidence. One can hardly fault them, given what they came upon. However, I must assess the case on the evidence.

[188] I deal first with the issue of abandonment in distress as alleged in Count 2. There is no evidence that these animals were abandoned. With the very simplest inquiry of James Haughton, the SPCA could have concluded that. It was not obligated to make that effort, but the failure to do so has resulted in an allegation that cannot be supported on the Crown's evidence.

[189] Ms. Haughton had left her son in care of her dogs and cats while she was away. He was familiar with them and had grown up with them. It was reasonable for her to do so. He said he attended to them every day, doing a head count and topping up the food and water as needed. It is inconceivable, but he did not clean up the animal waste. He left it to his mother for her return, and she expected him to do so.

[190] Ms. Leake observed that there was water available to the dogs when she attended for the purposes of making contact with the owner. This was two days after Mr. Copeland's statement that there was no food or water available to the animals. His statement was either untrue or food and water had been replenished in that time - and since - in considerable quantities. Either way, it should have been evident that someone was feeding and watering these animals when Ms. Leake attended. No doubt the smell emanating from the house coloured her perception, or she simply did not turn her mind to the issue of abandonment.

[191] Furthermore, there was still food and water two days after Ms. Leake's attendance when the SPCA executed the warrant. This was also in varying quantities. Constable Wiltse observed that Ms. Leake's notice had been removed from the door.

[192] With respect to Count 1, I find that Ms. Haughton did not wilfully permit the animals to be caused unnecessary pain, suffering or injury. Of all the animals Dr. Greenwood assessed to be suffering poor body condition and other afflictions, only eight were referred to Dr. Rijnen for follow-up. Dr. Greenwood agreed that her examinations were not fulsome whereas Dr. Rijnen spent approximately fifteen minutes with each animal. Dr. Rijnen's findings did not accord with Dr. Greenwood with respect to the overall health and body condition of each animal examined. Even Steffy, who was the only one Dr. Rijnen observed to be underweight was not found to be in any pain or distress as a result of her lower weight. All of the animals were found to be in good condition and none were in distress. There was no evidence that even Rebel's condition would require any more than what Ms. Haughton was already doing for him. The options given for him were precisely that: options, not requirements.

[193] Ms. Haughton was not a particularly reliable historian and she presented a much more bucolic picture of her life with the animals than the evidence supports. However, her evidence is unrefuted and largely credible that she took her dogs and cats to the veterinarian as they needed. She had medications on hand and she had a course of treatment in place for the dogs with eye infections and ringworm. The only dogs in discomfort were quite elderly, especially for Great Danes. Even Rebel, who was arthritic, was receiving veterinary care for his aches.

[194] The one cat with the head tilt had been treated for an ear infection. While it would have been preferable for her to receive further treatment, she was not in pain. Quite the contrary; she presented as a friendly cat. The dogs who had other ailments including conjunctivitis were receiving treatment. In fact, on their return, the six dogs who acquired conjunctivitis in SPCA care were quickly cured by Ms. Haughton.

[195] I find no evidence before me that the animals were caused any pain, suffering or injury by Ms. Haughton and I acquit Ms. Haughton of Count 1. I also find that the animals were not in distress for the purposes of Count 3 except insofar as subsection 1(2)(a.1) is concerned.

[196] The only charge remaining is the second component of Count 2, being whether Ms. Haughton failed to provide suitable and adequate food, water, shelter and care for the animals. This is to Count 3.

[197] I have already found in these reasons that the Crown has failed to prove that Ms. Haughton did not provide suitable and adequate food, water and care in the sense of

medical attention for these animals. The question of general care and shelter is more complex and comes in two parts.

[198] The first part of the shelter issue relates to shade from the sun and shelter from all other elements. I have found this to be suitable and adequate.

[199] Despite all my other findings, though, the environment in which these animals were kept during Ms. Haughton's absence was neither suitable nor adequate. Although the evidence shows that both dogs and cats had complete run of the house and could evidently come and go at will, the house was filthy. I am mindful that the animals were not trapped in this filth and squalor, but were able to come and go – with the exception of one tom cat. The fact remains that the animals did stay on the property. It was their home and they had complete run of it. It was filthy. The presence of such large quantities of urine and feces, the stench in the house and the garbage strewn throughout the kitchen created an environment that was neither suitable nor adequate shelter or general care.

[200] I convict Ms. Haughton on Count 2 for failure to provide adequate care and Count 3 for causing or permitting the animals to be or continue to be in distress by reason of them being kept in unsanitary conditions.

S.D. Frame
Provincial Court Judge