

Ladies and Gentlemen,

The State of Delaware passed CAPA in 2010, and it has been horrible legislation for the taxpayers and for the animals of our state. We are a small state that has a population of around 900,000 people, but this legislation still had a significant impact on our state. Here are just some of the highlights of the costs we've seen:

- A new office had to be created under public health to clean up the mess that was created by CAPA at a cost of \$700,000.
- Per public health, the cost of dog control contracts across the state have [increased from \\$2.37 million to \\$3.2 million](#) for a total increase of \$830,000.
- At the same time as the costs increased, services have gone down.
 - Less hours.
 - Shelters no longer handle livestock at large situations, leaving residents handling sometimes dangerous situations on their own.
 - Shelters no longer handle cruelty cases in many cases.
 - Shelter intake of cats only occurs if a spot opens up, so cat intake rarely happens, even if it is [sickly or severely injured cat](#) because of the "irremediably suffering" clause in CAPA that has cost shelters in personnel and attorney costs due to the continual complaints questioning the disposition of individual animals.
- The Kent County SPCA shelter, now known as First State Animal Center, was handling dog control for all 3 of our counties when CAPA went into effect and faced a financial deficit of \$450,000 the first year under CAPA.
- Due to the drama that was created under CAPA, my county of Kent awarded the dog control to a "No-Kill" shelter called Safe Haven that [went bankrupt within 18 months and left a slew of businesses with debts in the process](#), not to mention [some horrific conditions for the animals](#).
- Another shelter, Delaware SPCA, which has been in operation for 140 years is also teetering due to the financial costs of CAPA and becoming "No-Kill".

Delaware SPCA

Deficits since No-Kill Effort Began 2008

Losses going down by taking less animals each year.

2008 (814,100)

2009 (573,154)

2010 (361,163)

2011 (120,123)

2012 (4,782) *

*(this loss was lowered by the investment returns of \$200-300,000 more than previous years, so the shelter was fortunate there was a booming stock market)

- We also have residents that are dealing with large numbers of cats on their properties as a result. Some as many as 30+ cats.
- Within the first months of CAPA, the state was dealing with CAPA complaints on a regular basis, including the one attached where a dog was released to a rescue as required under CAPA and 40 days later was found on the streets "emaciated, with multiple bites of unknown origin, possible bait dog".



Delaware dog released to rescue by animal shelter under requirements of CAPA



The same dog after 40+ days under rescues care (transfer occurred less than 3 months after CAPA went into effect)

I just ask that you consider what has happened in Delaware before you consider passing CAPA. Keep in mind that your CAPA, like Delaware's, includes no enforcement provisions. What purpose is a law without enforcement such as fines or prosecution? The only purpose is for it to become a weapon of mass harassment, which is exactly what occurred in Delaware. If that were not the case, your city would merely be issuing a proclamation instead of a law without any recourse.

CAPA is costly, it results in more cruelty by [leaving animals on the streets 's to suffer](#), and it will affect the quality of life for your residents and their pets.

And in case you haven't seen, the very groups that are advocating for this law in your city have already taken shots at your cities choice to become head of animal control. This will only be the beginning if CAPA is passed, mark my word. We've seen the harm that CAPA creates in Delaware.

Fix Minneapolis shared No Kill Nation's photo.
March 8 · Edited ·

While this page is dedicated to fixing Minneapolis, we don't want to do that by shipping our problems elsewhere. We, therefore, encourage you all to take action...



No Kill Nation
Urgent Action Alert!

There is breaking news in Minnesota. It is a good news/terrible news situation. First, the good news: Dan Niziolek, head of Animal Control in Minnesota's largest city, has announced that his last day in that position will be March 18.

See that announcement here: <http://tinyurl.com/nmrwz0a>

That is good news for Minneapolis because Niziolek has a long history of killing savable animals, retaliating against volunteers and rescue groups that criticize him and worse. Animal advocates in that city are celebrating loudly the departure of this man from their town.

The terrible news is in the same announcement. Niziolek is leaving Minneapolis to work in St. Paul, and is apparently replacing Christine Rozek, who retired last year. Rozek oversaw the Safety & Inspections department that oversees animal control in Minnesota's capitol city (along with other duties).

Perhaps more importantly: St. Paul recently hired a new head of animal control that has brought about record-level life-saving. Niziolek, with his record of killing (<http://tinyurl.com/p2caab>), will be her new boss.

Contact officials in St. Paul and ask them what they were thinking when they hired Niziolek. Contact information is below:

Ricardo Cervantes: Ricardo.cervantes@ci.stpaul.mn.us
Mayor Chris Coleman: chris.coleman@ci.stpaul.mn.us

Like · Comment · Share

14 people like this.

1 share

Donnell Doyle Ass****
March 9 at 12:05am · Like

Tracy Schlax oh God, I had no idea he would be overseeing Animal Control in St. Paul. What the heck are these people thinking?
March 9 at 3:10am · Like

Jude Musky I hope this HEARTLESS, IGNORANT EXCUSE OF A MAN, finds his pathetic ass bitten by BAD KARMA for life.
March 9 at 7:22am · Like

Christopher Holt St Paul doesn't need him! People like this make excuses so they don't feel the remorse for what they do. Or maybe he's just used to it so he feels numb. I'll take action to stop him. In this life he can get away with it but I feel he'll regret what he's done when he faces God.
March 16 at 3:53pm · Like

Write a comment...

I wish you, your residents, and your animals only the best in providing this information.

J Jacob Carter
Kent County Delaware Resident

**Delaware Department of Agriculture
Shelter Complaints - Investigation Form**

TITLE 3

CHAPTER 80. ANIMALS HELD IN SHELTER

Initial Contact:

5/20/2011 - Jennifer Ranji of the Governor's Office was contacted by Jay Hans of Canine Nation regarding conflicting reports that a dog named "Neo/Brownie" – microchip #985121009242803 was euthanized, or was possibly still alive and shown on the Kent County SPCA stray listings as Shelter ID #250568. The case was forwarded to Department of Agriculture on that same date by Ms. Ranji and initial contact was made by writer in phone call to J. Hans of Canine Nation. Multiple complaints made by J. Hans against Kent County SPCA are listed in this document below in the order of the formal complaint letter dated 6/1/11 provided by J. Hans.

Complainant – Jay C. Hans / Canine Nation
Shelter Complaint Against – Kent County SPCA (KCSPCA)

Investigator/Writer – Lisa Tanielian
Supervisor – Heather Hirst, DVM MS

Background Information:

Dog "Neo" was transferred from Kent County SPCA to Canine Nation on 3/11/11. Per Jay Hans of Canine Nation, he transported "Neo" to Kaylynn Daniels on that date.

When questioned, Ms. Daniels claimed to Kent County SPCA that the dog was under her daughter's care when the dog was lost/stolen on 4/16/11. Writer has contacted and verified no report of this dog being lost or stolen was ever made with any of the 3 major shelters in New Castle County (Delaware SPCA, Delaware Humane, Faithful Friends) or with Kent County SPCA.

The first report of the dog "Neo" being stolen/lost did not occur until 5/20/11, and that was due to the incorrect belief that another dog (identified as #250568 – an intact male without a microchip) listed on the Kent County SPCA stray list was the dog "Neo".

On 5/20/11, as a result of inquiring about dog #250568, the complainant became aware that "Neo" had been euthanized after being picked up in poor condition in the city of Wilmington a month earlier on 4/20.

Information From Delaware SPCA Animal Control Officer Report

On 4/20/11 at 14:07, "Neo" was picked up by Delaware SPCA at Taylor & Bennett Streets in Wilmington, DE. The officer secured dog, then transported the dog to the Delaware SPCA shelter in Stanton. The dog was impounded according to DE SPCA policy and procedure. The officer noted in report that the dog's condition was "emaciated, with multiple wounds of unknown origin, possible bait dog". Officer scanned for microchip and noted "Microchip scan proved positive – chip #985121009242803". Officer contacted Home Again and was advised that the chip went back to KCSPCA. Delaware SPCA then made arrangements with KCSPCA to "pick up the dog since it was their adopt".

Writer has contacted Kaylynn Daniels on multiple occasions (5/25, 5/27, 6/8). Voicemail messages have been left, but no response received. Kent County SPCA officers have met with her on 2 occasions. She claims that she was out of town when the dogs were lost/stolen on 4/16/11 and she claims to have adopted the animal contrary to Mr. Hans' claim that she was fostering. Writer requested foster agreement from J. Hans by email on 6/3/11, but no agreement between Ms. Daniels and Canine Nation has been produced to date.

Violation of DE Code, Title 3, Ch. 80? NO
Section, subpart of Chapter 80 in question: 8003(c)(3)

§ 8003. Animal adoption, recovery, and rehabilitation.

(c) Animal recovery. –

(3) If a possible owner is identified, the animal shelter shall make every reasonable attempt to reunite the animal with its owner. Upon the owner's or caretaker's initiative of recovery procedures, the animal shelter shall retain custody of the animal for a 5-day period to allow for completion of the recovery process. The owner or custodian of the animal may be held responsible for reasonable housing and boarding costs once the owner or custodian has been notified of the animal's location, provided that the owner or custodian has been advised of such costs prior to the costs being incurred.

Summary of findings:

To establish whether a violation of this section has occurred, it must first be established who the owner is. This statute does not define "Owners", so writer must look at other statutes and case law for guidance.

State of Delaware vs. Sophia Bennett – New Castle County Court of Common Pleas C.A. No. 1004022592

For purposes of Section 8204(a), the term "owner" is defined as any person owning, keeping or harboring 1 or more animals. 3 Del. Code § 8202(m). Ownership can be determined in a number of ways, including through title, custody, prior assertions of ownership, location of the animal, lack of intervention by any other purported owner, and keeping or harboring of the animal. *Smith v. Caldwell*, No. Civ. A. 00-05-057, 2000 WL 33653407 (Del. CCP July 14, 2000).

Using the definition in conjunction with the case law as guidance, the writer looked at the following factors:

Microchip ID

Standard procedure at Kent County SPCA is to provide adopters and rescue transfers with Microchip information that allows them to register the microchip in their name. In this case, the microchip registration continued to list Kent County SPCA on 4/20/11 when the animal was picked up as a stray, despite the fact that the dog was transferred on 3/11/11.

Mr. Hans acknowledged the importance of the microchip in establishing ownership in his recent television interview with WMDT when he stated "And they are throwing out the window everything that had to do with the microchip. And if that's the case, all the pet owners out there who had their animals microchipped, it's worthless."

Writer therefore acknowledges both Kent County SPCA and Mr. Hans' assertion that the microchip registration is a part of establishing a claim to ownership. Writer also acknowledges that the microchip registration standing alone does not always provide a clear title to ownership, so other factors were also considered below.

Custody, Keeping, Harboring

According to Mr. Hans, the dog was allegedly in the custody of Kaylynn Daniels as a foster caregiver from the date of 3/11/11 until the dog was stolen/lost on the weekend of 4/16/11 – 4/17/11, which is the date Kaylynn Daniels stated to Kent County SPCA that the dog was stolen during an interview with Capt. Whipple and Lt. Hopper on 5/27/11.

Mr. Hans claims that since Kaylynn Daniels was acting only as a foster caregiver, that he thereby retained title to the dog. Ms. Daniels has claimed to Kent County SPCA during their follow-up interview of 6/7/11 that she had adopted the dog, and that she therefore had title to the dog. To date, writer has not received a response from Kaylynn Daniels but she stated on Friday, 6/10/11 that she will provide the ownership paperwork to the Kent County SPCA. Ms. Daniels did not provide that information when Kent County officer returned to her home on 6/10/11. A request was made by writer to Mr. Hans on 6/3/10 for a copy of the foster agreement between Canine Nation and Kaylynn Daniels, but to date, it has not been provided either.

Adoption/Transfer Contract – Kent County SPCA

The adoption/transfer contract that Mr. Hans signed with Kent County SPCA has a section regarding non-compliance that addresses Kent County SPCA's right to superior title.

"It is agreed that KC SPCA retains superior title to said pet for the purpose of assuring the pet's well-being and humane care in which case it may be taken through claims proceedings."

Writer noted that on some of the transfer forms to other organizations, the Non-Compliance section heading was circled to highlight that section as pertaining to the transfer.

Documentation (from an unrelated case involving Canine Nation) was provided by Kent County SPCA to the writer with regards to Mr. Hans' understanding of Canine Nation's right to title. On March 15, there was an issue with one of Canine Nation's foster caregivers for a cocker spaniel named "Batista". As part of the investigation into that matter, the Kent County SPCA has a transcript of text messages that Mr. Hans had sent to that caregiver, in which Mr. Hans states "Batista still belongs to the SPCA". Although not conclusive, this does appear to acknowledge Mr. Hans' understanding of Kent County SPCA's claim to title even though the Non-Compliance section was not circled.

Lack of Intervention

As noted above, "assuring the pet's well-being and humane care" is a core requirement of adoptions/transfers for almost any animal shelter or rescue.

In this case, Mr. Hans/Canine Nation released a dog to the care of Kaylynn Daniels on 3/11/11. While he did intervene during an illness for the period of 3/21-3/23, it does not appear there was any intervention between Canine Nation and Kaylynn Daniels thereafter until 5/20, when Mr. Hans had contact with the caregiver (Daniels) and it was realized the dog "Neo" was no longer in her care.

Also noted are the lack of follow up care regarding Neo's illness treated 3/21-3/23/11.

- The veterinarian recommended that Neo/Brownie "be isolated from other dogs, ideally in a dog-less foster home until he is fully recovered" due to the fact that he had a contagious respiratory disease. As Ms. Daniels has mentioned, Neo was lost/stolen with other dogs in her care.
- The veterinarian recommended a "recheck evaluation with your regular veterinarian in 14 days to recheck x-rays on his chest and get 2 more weeks of antibiotics." It has been confirmed that "Neo" did not return to this veterinarian or request any additional antibiotics, per the recommendation. Since the dog was returned to the foster caregiver and no other receipt of veterinary care has been provided, it appears that this recommendation was also disregarded, although writer cannot say with certainty that Kaylynn Daniels did not follow-up due to her lack of response to writer's repeated requests for additional information.

A lack of Canine Nation's involvement with other foster caregivers after 3/23/11 is also highlighted in a later section of this report with regards to Section 8003(d).

Pet ownership also comes with responsibilities, of which the most basic is ensuring that a pet is provided with food and water. In the case of "Neo", the foster caregiver told an Animal Control Officer the dog was lost/stolen on 4/16/11. Delaware SPCA picked up the dog on 4/20/11, and as previously noted, "Neo" was described as "emaciated, with multiple wounds of unknown origin, possible bait dog". The veterinarian report at Kent County SPCA listed him as 26 lbs. underweight on 4/20/11, and the pictures provided by Kent County SPCA to the Department of Agriculture confirm those descriptions. Although the origin of the bite wounds still have not been determined, it is not feasible that the dog became 26 lbs underweight in only 4 days (between 4/16 and 4/20).

While no one item above necessarily establishes ownership, the writer has yet to view any proof that Ms. Daniels or Mr. Hans have met the burden of a valid claim to ownership. Therefore Kent County SPCA has not violated Section 8003(c)(3).

Violation of DE Code, Title 3, Ch. 80? NO
Section, subpart of Chapter 80 in question: 8003(c)(2)

§ 8003. Animal adoption, recovery, and rehabilitation.

(c) Animal recovery. –

(2) Animal shelters shall maintain updated lists of animals reported lost, and attempt to match these lost reports with animals reported found and animals in the shelter, and shall also post all stray animals on the Internet with sufficient detail to allow them to be recognized and claimed by their owners.

Summary of findings:

Most importantly, as ownership was discussed in the previous section, Kent County SPCA was owner of the animal, so posting the animal as a stray while in guarded medical condition and while being under rabies quarantine was not necessary. During the investigation, the writer contacted the 3 major shelters in New Castle County – Delaware SPCA, Delaware Humane, and Faithful Friends in addition to Kent County SPCA. The dog "Neo" was never reported missing with any of these 4 shelters by the foster home or by Jay Hans of Canine Nation, and therefore Neo never made it onto a list of lost animals at any shelter.

It is a matter of record in the Delaware SPCA investigation report dated 5/21/11 that a Chester County SPCA investigator spoke to Kaylynn Daniels after that agency became concerned about a number of pitbull, she admitted that she had not been at her residence in '30 days' and had no knowledge that the dog was no longer in her daughters care. She also stated that her daughter advised her that 'all of her dogs were stolen'.

Although Neo was not posted as a stray due the KCSPCA's ownership, it should be noted that based on statements provided by Ms. Daniels and Mr. Hans, neither party was looking for Neo in April. Ms. Daniels original statement noted in Delaware SPCA report of 5/21/11 said she was away for 30 days and had no knowledge of the dog being lost/stolen, and Mr. Hans statement that he first became aware of Neo's absence on 5/18/11, so neither party was even aware that Neo was missing and the posting would have likely been in vain.

Violation of DE Code, Title 3, Ch. 80? NO
Section, subpart of Chapter 80 in question: 8003(d)

§ 8003. Animal adoption, recovery, and rehabilitation.

(d) Animal shelters shall establish and maintain a registry of organizations willing to accept animals for the purpose of adoption, including breed specific rescues, or to provide the animals with long-term placements. The registry shall include the types and breeds of animals about which the organization wishes to be contacted. Animal shelters shall have the right to inspect the facilities of any adoption organization taking animals from the shelter.

Summary of findings:

Mr. Hans questions Kent County SPCA's removal of Canine Nation from the "established registry". Writer confirmed that Canine Nation was in fact removed from the Kent County SPCA registry in April due to multiple issues that occurred during the first month of Canine Nation "rescuing" dogs from Kent County SPCA.

- The first issue with Canine Nation involved a Cocker Spaniel named Batista that was transferred from Kent County SPCA. This event resulted in police responding to the caregiver's home, animal control also responding, and the dog being pulled out of the foster home after the dog was posted to Craiglist for \$100. This case was the subject of 2 articles in the Dover Post newspaper. Newspapers articles, Craiglist posting, and transcript of text messages that Mr. Hans sent to foster while the drama was unfolding were provided to the writer.
- As a result of the newspaper articles, Jennifer Daly of the Dover Post began to receive inquiries from other foster families that Canine Nation had placed KCSCPA dogs with in Maryland. Ms. Daly provided

the writer with general information on the issues that they faced with the dogs and their inability to get into contact with Mr. Hans. The fosters claimed that Mr. Hans said that Canine Nation would help them with health-related issues the dogs were known to have, but could not get into contact with him after the dogs were placed in their care. Ms. Daly also tried to contact Mr. Hans on behalf of these fosters to no avail.

- One of the fosters, Melanie Smith-Taylor, has also provided 25 email threads that illustrate the issues with not being able to get into contact with Mr. Hans. In her case, Mr. Hans placed a 14 year old Husky / Pitbull Mix (Sadie) into her care on 3/15/11. The foster knew that the dog had a "softball size tumor" on her chest and cataracts, which she was willing to deal with based on Canine Nation's agreement to handle the medical costs. Once she had the dog, she realized that it had far more health issues than the tumor and cataracts. The vet that Ms. Smith-Taylor took Sadie to on 3/21/11 recommended that the dog be euthanized. The vet did not believe Sadie would live through the surgery since it was suspected that she had Cushings disease and difficulty breathing which pointed to congestive heart failure. Because she was the foster caregiver, she made a tremendous effort to get in touch with Mr. Hans so that he could make the decision needed. Ms. Smith-Taylor tried in vain to contact Mr. Hans. The dog eventually bit someone and in mid April was taken to a local shelter called "BARCS" as a result of the bite. Sadie was euthanized on 4/18/11. BARCS also noted in their email of 4/22/11 that they had made "numerous attempts to contact the rescue where Sadie had come from...to no avail."

Due to the multiple issues that occurred within a short time period, the writer believes KCSPCA is well within their rights in the maintenance of the registry to remove Canine Nation. Documentation concerning the issues has provided adequate justification for removing Canine Nation from their rescue registry. There is nothing in the State law that specifies conditions whereby shelters may remove or add rescue groups.

Violation of DE Code, Title 3, Ch. 80? NO
Section, subpart of Chapter 80 in question: 8004(b)(5)

§ 8004. Euthanasia in animal shelters.

- (b) Animal shelters shall ensure that the following conditions are met before an animal is euthanized:
- (5) Organizations on the registry developed pursuant to § 8003(d) of this title are not willing to accept the animal;

Summary of findings:

In this case, Kent County did not contact any of the organizations on the rescue registry. Upon entry to Kent County SPCA, the dog "Neo" was seen by a veterinarian, wounds scrubbed with topical antiseptic, antibiotic ointment was applied, and he was prescribed antibiotics for 10 days. Accepting shelters are not required under Section 8004(b)(5) to list an animal on the rescue registry while the animal's health condition is still being evaluated. Because of his wounds, he was placed under rabies quarantine. This precludes and posting to the registries.

On April 25, the laboratory technician went to obtain a fecal sample to test for parvo, which turned out to be negative. At this time it was determined that dog was lethargic, had "bloody tarry stool" and ongoing wound infection. It was decided that based on his poor physical condition and the rabies quarantine required due to the wounds of unknown origin that the humane decision was euthanasia.

According to state law, 8004 (c) Notwithstanding any other provisions of this chapter to the contrary, an animal may be euthanized immediately if necessary to **alleviate undue suffering** or to **protect shelter staff and/or other sheltered animals from** an animal's severe aggression **or contagious deadly health condition**. The determination of whether euthanasia is necessary pursuant to this subsection shall be made by a licensed veterinarian or, in cases of extreme emergency occurring after regular business hours in circumstances under which a licensed veterinarian is not available, by other appropriately trained staff.

As referenced under Section 8004(c), Neo was in poor condition and even though officers continue to investigate what happened to Neo, it was not a sufficient reason to force the dog to continue suffering.

Violation of DE Code, Title 3, Ch. 80? NO
Section, subpart of Chapter 80 in question: 8004(b)(2)

§ 8004. Euthanasia in animal shelters.

(b) Animal shelters shall ensure that the following conditions are met before an animal is euthanized:

(2) There are no empty cages, kennels, or other living environments in the shelter that are suitable for the animal;

Summary of findings:

As listed in the previous section, the decision was made to humanely euthanize "Neo" due his poor physical condition. Since he was euthanized to "alleviate undue suffering", Section 8004(c) was met and thereby overrides this requirement.
