

Dog owners face tougher standards

- Several maulings have forced Bay Area counties to take another look at how they enforce laws on potentially vicious canines

By Malaika Fraley

STAFF WRITER

PG&E meter reader Richard Aquino lay on a gurney with "penny-size holes" in his cheek when the first animal control officer arrived at the Washingtons' Pittsburg home, a place he had been to before.

Homeowner Sandra Jenkins-Washington was horrified. One year later, she still cannot explain how her dogs Bella, a pit bull, and Cisco, a German shepherd-Rottweiler mix, got over the fence, which stands more than 6 feet high. Jenkins-Washington said she and her husband, Edward Washington, made every effort to secure their yard long before the dogs were labeled "potentially dangerous" by Contra Costa County.

But on Sept. 1, 2006, they did get out, and Aquino suffered.

Edward Washington, 48, and Jenkins-Washington, 45, who have never been arrested nor charged with a crime, await trial on felony charges that could result in six years in prison if they are convicted. In civil court, Aquino is suing the family for more than \$5 million.

"It's mindboggling to us that we can be in so much trouble, that something so innocent like having a dog would cause me so much grief in my life," Jenkins-Washington said. "Financially and emotionally, I'm at the breaking point."

As the Bay Area reacted to several horrific maulings in recent years, laws governing vicious dogs have evolved to make owners more responsible and at risk of stronger penalties when their animals attack. The preventive nature of the laws puts owners whose dogs have threatened, but never bitten, at risk of

euthanasia if the owner does not follow government-mandated restrictions.

"The best way for owners to exercise more responsibility is to identify potentially dangerous dogs before they've caused harm," said County Costa County Supervisor John Gioia. "You will never know how many bites will be prevented. Some people may be unhappy, but if the overall effect is a benefit, ultimately, that's the price you pay for protection."

Strengthening laws

Contra Costa County beefed up its "dangerous animal" ordinance in 2005, the same year a Concord boy was mauled by pit bulls running loose and a San Francisco boy was killed by his family's pit bulls. The law empowered Animal Services officers to bring civil and criminal sanctions to owners of dogs who bite, bark or charge.

Jenkins-Washington said the two incidents that led Animal Services to deem her dogs "potentially dangerous" were minor.

Animal Services said Bella jumped on a neighbor boy's chest, drawing a small amount of blood with her nails or teeth when the Washington children brought it to a park in June 2005. Jenkins-Washington said her children argued that the boy lied -- he didn't want his mother to know he ripped his new shirt climbing a fence.

Five months later, a police officer fired two shots at the dogs after they slipped by the owners as they opened a door and ran in the officer's direction.

The "potentially dangerous" designation laid the foundation for felony prosecution in the 2006 attack for which the couple is charged with owning a mischievous animal that causes serious injury. Because Bella and Cisco had a record of aggressive behavior, the District Attorney's Office can argue that the family knew there was a potential for harm.

To date, Contra Costa has designated 74 dogs "potentially dangerous." It has designated six dogs "dangerous" and has euthanized 205 dogs in accordance with the ordinance.

The number of reported dog attacks before and after the ordinance is about the same -- 972 reported in 2003 and 929 last year -- which officials say reflects increased reporting and enforcement.

Fewer repeat attacks

Proof the law is working, said Animal Services Deputy Director Dan Barrett, is the decrease in repeat attacks involving the same animal.

"When people are put on notice, we don't have additional incidents, or if we do, they are isolated," he said.

Not everyone is happy with the process that deems animals "potentially dangerous," particularly owners whose pets receive the designation based on incidents that they perceive as minor. Officials said that few people fight the consequences after someone is seriously harmed.

Earlier this year, Richmond resident Wouter Meijer successfully fought the "potentially dangerous" designation recommended for his two dogs after they charged at a Fed Ex driver, the third person to complain. Meijer said he spent countless hours and hundreds of dollars working to clear his dogs. Ultimately, the county agreed not to make the designation in a case, Barrett said, showing that the county's process works for both sides.

Next month, a Contra Costa judge will hear arguments in the first court challenge to the local law. A Walnut Creek couple is suing Animal Services Director Glenn Howell over their dog's "potentially dangerous" designation.

"There's always going to be a couple cases where people feel it's (the ordinance) mistreating me and my animal," said Gioia. "But the goal is to be preventative, and it's better to prevent the harm than deal with injury after the fact."

Aftermath of slaying

In San Francisco, anyone who feels a threat from a dog is granted a hearing, at which restrictions upon the animal are decided. But it wasn't until after an attack by two 120-pound Presa Canarios killed Diane Whipple, a lacrosse coach at St. Mary's College, in 2001 that people "came out of the woodwork" to report aggressive behavior by animals, said Carl Friedman, director of San Francisco Animal Care and Control.

"We didn't know any of that," Friedman said. "Had people come forward with their concerns beforehand, no matter how insignificant they may have seemed at the time, we could have held a hearing and maybe that tragedy could have been prevented."

Legal implications

The state Supreme Court in June ordered a San Francisco trial judge to reconsider restoring a second-degree murder conviction for Marjorie Knoller, co-owner of the dog that mauled Whipple.

Knoller served nearly four years in prison after the trial judge reduced the jury's second-degree murder conviction to involuntary manslaughter. She risks 15 years to life based on the state court's decision, which said a murder conviction applies when a dog owner knows an animal is capable of seriously injuring someone and still puts the public at risk.

In an ideal world, lawmakers aiming to control aggressive dogs also would have the money to promote education for dog owners and training for dogs, said Mim Carlson, executive director of the Berkeley-East Bay Humane Society. But they don't, she said, so nonprofit organizations like hers must pick up the slack to educate the public.

"A good dog owner is one who sends their animal through a training program," Carlson said. "Training does well for most dogs. Good dogs are not lunging at people, not lunging at other dogs."

For Jenkins-Washington, her days as a pet owner are over.

"We took every precaution to keep the dogs in a safe place, not just for ourselves but for others," she said. "I will never own any pet of any kind again. I've crossed that bridge and somehow the bridge has fallen on me and I'm trying to dig my way out."

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Vicious-dog laws

Laws in the East Bay are virtually identical, with dogs at risk of being declared "potentially dangerous" by a city or county after two reported incidents of aggression in three years -- such as growling, barking, chasing or lunging. Qualifying aggression also includes injuring or killing another animal, inflicting a nonserious injury on a person, or any action that causes a person to take a defensive action.

Requirements for the owners of "potentially dangerous" animals include annual permits, sterilization, obedience school, microchip identification and muzzling when the animal is outside the owner's property, liability insurance of as much as \$100,000, posting warning signs at the residence and keeping the animal in a secured yard subject to government inspection.

"Potentially dangerous" designations are removed when no further incidents are reported in three years. Penalties for violating restrictions can include a misdemeanor charge for the owner and euthanasia for the animal. In Contra Costa County, owners also can be prohibited from keeping another dog for five years.

Animals can be deemed "dangerous" and are subject to euthanasia after a serious attack or multiple attacks upon a person. In rare cases, an owner can obtain a permit to keep a "dangerous" dog, but with strict restrictions, including keeping the animal penned on the owner's property at all times except for trips to a veterinarian.

Under state law, an owner risks felony prosecution when a dog with a documented history of aggression causes serious injury.

Exceptions are made for service and government animals, and animals who attack a person engaged in criminal activity, including animal abuse.