

OFFICE OF THE STATE ATTORNEY

EIGHTEENTH JUDICIAL CIRCUIT OF FLORIDA
BREVARD AND SEMINOLE COUNTIES

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NORMAN R. WOLFINGER

STATE ATTORNEY



Viera

December 18, 2009

Ms. Margaret Wetzel Williams
5665 Live Oak Avenue
Melbourne Village, Florida 32904

Re: MVPD Case No.: 9111925

Dear Ms. Williams:

I have been asked to review and respond to your letter of December 14, 2009, expressing your desire that this office file appropriate charges against your neighbor for shooting your cat. However, based upon the documentation provided in the police investigation; the applicable law; and input from Brevard Animal Services Enforcement Officer Sgt. Robinson who also spoke with you, it is the conclusion of this office that there is insufficient evidence to support a successful prosecution for any criminal charge.

As the investigation revealed, there is a documented history of problems with hogs in the area and of Mr. Lester's efforts to protect his property from damage; animal control confirmed that a hog is classified as a nuisance animal and that a property owner may shoot a hog to eliminate that nuisance on their private property without first obtaining a license or permit; the Melbourne Village City Ordinance allows a homeowner to discharge a firearm within the city limits to protect a "person or property"; an animal trapper confirmed that there are hogs in the area as small as 20 pounds in weight; and lighting was poor at the time of the incident. Under these circumstances, there is insufficient evidence to overcome Mr. Lester's claim that he believed that he was shooting at a hog and that he had no intention of harming your cat.

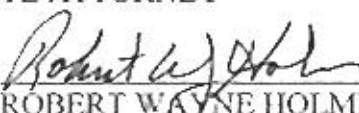
Your concerns are understandable as it was your pet that was harmed. However, in a criminal case the State is under an ethical obligation not to file a criminal charge where there is insufficient evidence of a crime. Not only is there insufficient evidence of a crime, even the Animal Services Officer would testify that based upon his review of the facts, this is not an animal cruelty case.

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Thank you for your letter. I hope this additional information about the investigation and the law will help you understand the final decision of this office.

Sincerely,

NORMAN R. WOLFINGER
STATE ATTORNEY

BY: 
ROBERT WAYNE HOLMES
ASSISTANT STATE ATTORNEY
CHIEF OF OPERATIONS

RWH:clr

c: Ms. Lynn Miraglia
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