

160426MKT03-A  
6 pages



# Lincoln Police Department

## Officer Report for Incident 16L-01098

**Nature:** Animal Problem  
**Location:** LNL2

**Address:** 356 Enfield Rd  
Lincoln ME 04457

<b>Offense Codes:</b> ANPR		
<b>Received By:</b> Lovejoy W	<b>How Received:</b> 9	<b>Agency:</b> LNPB
<b>Responding Officers:</b> Walsh J, Murchison N		
<b>Responsible Officer:</b> Walsh J	<b>Disposition:</b> INA 04/25/16	
<b>When Reported:</b> 16:41:18 04/23/16	<b>Occurred Between:</b> 16:41:06 04/23/16 and 16:41:18 04/23/16	

<b>Assigned To:</b>	<b>Detail:</b>	<b>Date Assigned:</b> **/**/**
<b>Status:</b>	<b>Status Date:</b> **/**/**	<b>Due Date:</b> **/**/**

<b>Complainant:</b> 390063		
<b>Last:</b> Thornton	<b>First:</b> Ronald	<b>Mid:</b> D
<b>DOB:</b> 12/14/31	<b>Dr Lic:</b> 3661050	<b>Address:</b> 95 Center Pond Dr
<b>Race:</b> W <b>Sex:</b> M	<b>Phone:</b> (207)794-6936	<b>City:</b> Lincoln, ME 04457

### Alert Codes:

CCWP Concealed Weapon Permit

### Offense Codes

<b>Reported:</b> ANPR Animal Problem	<b>Observed:</b> ANPR Animal Problem
<b>Additional Offense:</b> ANPR Animal Problem	

### Circumstances

<b>Responding Officers:</b>	<b>Unit :</b>
Walsh J	LN202
Murchison N	LN220
<b>Responsible Officer:</b> Walsh J	
<b>Received By:</b> Lovejoy W	<b>Agency:</b> LNPB
<b>How Received:</b> 9 911 call	<b>Last Radio Log:</b> 18:31:43 04/23/16 CMPLT
	<b>Clearance:</b> CRO Cleared by Responsible Officer
<b>When Reported:</b> 16:41:18 04/23/16	<b>Disposition:</b> INA Date: 04/25/16
<b>Judicial Status:</b>	<b>Occurred between:</b> 16:41:06 04/23/16
<b>Misc Entry:</b>	<b>and:</b> 16:41:18 04/23/16

<b>Modus Operandi:</b>	<b>Description :</b>	<b>Method :</b>
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**Involvements**

<b>Date</b>	<b>Type</b>	<b>Description</b>	<b>Relationship</b>
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## Narrative

### Free Form Narrative

On 04/23/16 at approximately 1641 Hours, I received a report of 2 dogs that were believed to have been poisoned. The complainant stated that both dogs died within minutes.

I arrived on scene at 356 Enfield Road and met with Hawley "TIM" Thornton, Lincoln ACO, Nicole Murchison had also arrived on scene. Tim brought me around the back of the residence and showed me a deceased dog. "Jasper", a male English Setter, had died while in the fields behind their house according to Tim. He stated that his wife Ann, had taken "Jasper" and "Moxie", a female Dachshund, for a walk in the fields behind their house. He stated that they do this on a very regular basis. While she was there, Tim stated that he received a call from Ann, stating that something was wrong with "Moxie" and that "Jasper" was still in the field somewhere. He stated that he went to look for "Jasper" while his wife came down and left for the emergency vet with "Moxie". Tim stated that he went back into the field looking for "Jasper" and found him lying in the tall grass. "Jasper" died while he was carrying him out of the field.

Tim brought me into the fields, which are accessed through the Bedford Farm Road, just down the road from their house. He walked me to the area that he found Jasper lying. According to Tim, Jasper was convulsing and foaming at the mouth when he found him. On the ground in the tall grass area, was a patch of grass that was flattened and had a large amount of foam on it. I asked Tim if the animals had encountered anything there and he stated that he wasn't sure.

I informed Tim that I believed it to be something chemical as I didn't believe anything else would cause just a rapid and violent reaction in the animals. I noted that the field was in fact below an agricultural field, belonging to Alfred "AL" Fugazzi. Tim confirmed this and stated that Al does have his crops further up the hill. Tim wasn't sure if Al had sprayed any pesticides on his crop. I attempted to contact Al but received no answer. I left a message, asking him to call back. Tim and I then went back to his residence as Ann should have been back at this point.

Once back at the residence, I met with Ann. She stated that "Moxie" had died while en-route to the emergency vet's office. She died in identical circumstances as "Jasper", convulsing and foaming at the mouth. In speaking with Ann, she informed me that she had taken the dogs into the field to walk as she has done many times before. She stated that she did in fact see the animals "get into" something on the back side of Al's crops. She stated that she didn't know exactly what it was but figured it was rotten gourds from last years crop as the dogs often do. Within 30 seconds of eating whatever it was, she stated that "Moxie" dropped and couldn't stand. She stated that she picked "Moxie" up and began to run back towards the house. According to Ann, "Jasper" kept running and she figured that he had taken off as he usually does this in the field, looking for birds. She stated that she called her husband as she was leaving the fields and immediately left for the vet's office. I asked Ann if she could take me to the area in question where the dogs "got into" something. She stated that she could.

We drove up the road to the main entrance of Al's fields. As we approached the gate, there was a rope across the road with signs on either side stating "sprayed fields, keep out". We removed the rope and entered. Ann directed us to the back side of the fields, along the wood line. From here, I could clearly see a portion of field that was covered in plastic, with 5 gallon

buckets holding the plastic down. Ann exited the vehicle and walked us along her path. Ann stated that she came in from the back side of the fields and was walking back towards Bedford Farm Road. It should be noted that the path she took, enters the south side of the field from a woods trail, where there are no signs indicating pesticide use or to stay out. From there, she was walking North along the edge of the field and was going to exit on another, un-posted trail leading to Bedford Farm Road. Along the edge of the tilled soil, almost directly between two tilled plots, she stated that the dogs were eating something. I checked the area and found a small spot that had what appeared to be bread crumbs on the ground. Ann confirmed that this was the area that the dogs were eating something on the ground. In the dirt, next to the bread crumbs, were footprints belonging to some species of K-9. These crumbs were collected in a plastic bag and later taken back to the PD.

While I was searching the area for anything else, Det. Fucile arrived on scene and stated that Al had been calling the PD looking for me. I called Al again and stated that I was in his field and that I needed to know if he had recently sprayed any pesticides and if so, what. Al asked what was going on and I informed him that 2 dogs had suddenly died after being in his field. I informed him that it looks as though they may have eaten a piece of bread. Al's only response was "I'll be there in 10 minutes".

Al showed up about 10 minutes later. I walked over to greet him and thanked him for coming out. I began to explain what had happened and Al replied "It was me". I asked Al to explain and he stated that over the course of 2 days, he's lost over \$1,000.00 in planted seeds to crows, pointing to the area that was covered in plastic. He stated that this morning, he put out 3 pieces of bread that he had laced with a powerful pesticide known as "Lannate". Al stated that it was a "RESTRICTED USE" pesticide. He informed me that he does have a license for it however, he is not licensed to use it on crows. I asked Al what that meant and he stated that he is allowed to spray it in a diluted solution on his crops. However, he is not authorized to use it in concentrate as he did. Al stated that a violation of this would mean that the BOARD OF PESTICIDES would revoke his license, effectively putting him out of business. I asked Al to show me where the other locations were that he placed the bread. As we walked, Al explained to me what he did. He stated that he placed a teaspoon of "Lannate" on 3 pieces of bread that he had crumbled up. As he left this morning, he drove around the field and in 3 different locations, he dropped a handful of crumbles out of the window of his truck. As we approached the first location, I could see several dead crows, littered across the ground. I counted 7 in the immediate area, with what appeared to be more in the distance. Al stated that this was one spot and directed me to a point on the ground where there were very small crumbs left. We then walked to another location to find that this point had been untouched. Al buried the crumbs and stated that the nature of the pesticide itself would neutralize it in the ground. The third point was where the dogs had eaten it. Not knowing anything about "Lannate", I asked Al to explain this stuff to me and how fast it worked. He informed me that when used properly, he dilutes 2 ounces of the powered pesticide in 1,000 gallons of water. This effectively dilutes it enough to spray over 1 acre of crops, only killing the bugs that feed on his crops. In the super concentrated form he used, it would kill anything that ate it. I asked him how fast it worked and he replied "if you stick your finger in it, then lick your finger, you'd be dead before you hit the ground". I spoke with Al further about the product and incident. I told Al that I wasn't sure what was going to happen as I don't know anything about pesticides. Al stated that he knew what was going to happen and that was that his license would be revoked and he would have to close. I informed Al that at this point, nothing was going to happen as I needed to do a

lot of research and find out more information. I advised him that I would be in touch if I needed anything else and thanked him for his cooperation.

After Al left, I went and met with Tim and Ann again. I informed them that it was in fact something that was put down for pests and that was all that I could tell them at this point. I advised them that I would be in touch as the investigation goes on and that I would keep them abreast as I could.

After reviewing the facts surrounding the case, I contacted the District Attorney's Office. It is in their belief that no violation of law occurred in regards to the dogs. They stated that the complainants may have a civil case in regards to negligence, in the manner that he used the pesticide. They added that Al was operating well within his rights to deal with a nuisance animal problem that were damaging his crops. However, they did request that I check with the Maine Warden Service in the event that there was something that we may be overlooking in terms of the crows.

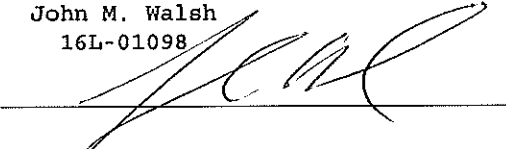
After speaking with the Maine Warden Service, they advised me that they believe it could be a violation of trapping law. However, in reading the statute, I do not personally feel as though it is. In further research, I did locate and do however feel that, under Title 12, section 12404-3, there is a clear violation in term of the crows. Title 12, section 12402-1, gives a landowner the right to take or kill wild ANIMALS (mammals) or wild TURKEYS, that create substantial damage to crops. However, section 12404-3, specifically states that a person may NOT take or kill wild BIRDS, with the exception of rock doves or wild turkeys. After speaking with Assistant District Attorney Tracy Collins about this matter, she is in agreement but recommended that the report be forwarded for review.

At the recommendation of Chief Summers, I will also be placing a call into the Board of Pesticides, in regards to any administrative action they may wish to take against Al.

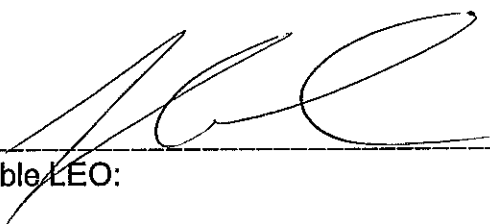
This report is to be forwarded to the District Attorney's Office for review.

Cleared.202

Date, Time: Tue Apr 26 08:54:53 EDT 2016  
Reporting Officer: John M. Walsh  
Law Incident # 16L-01098

Officer Signature: 

Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_\_

  
Responsible LEO: \_\_\_\_\_

Approved by:

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Date



MAINE DEPARTMENT OF AGRICULTURE,  
FOOD & RURAL RESOURCES

STATEMENT  
FORM

Address: BOARD OF PESTICIDES CONTROL  
Deering Bldg, AMHI  
28 State House Station  
Augusta ME 04333 Tel: 207/287-2731

Code No.

Saturday, April 23rd @ approx 3:30 pm, Jasper, Moxie, and I were walking - from Bedford Farm Road with back entrance to field. I kept the dogs out of the field due to new planting (plastic down) and nesting birds. The dogs stayed loose with me and walked along the field edge. They were ~75' ahead of me and I saw Jasper eat (something), then Moxie followed, at the field edge. They frequently would sniff and eat a few old veggies along the edge, so I never thought anything about it. Within 30 seconds, while Moxie was chasing after Jasper, she began stumbling and fell. She began coughing and foaming at the mouth, shaking and twitching. I picked her up and couldn't see any foreign objects in her mouth. I called my husband and ran with her to meet him. He took Jasper's remote to locate him. I attempted to induce vomiting w/ Moxie (salt & home) with no results. I got in the car with her to go to Emergency Vet. She passed ~45 min after ingestion. Continued coughing, shaking, struggling to breathe until she passed.

Signature

Rene Thurston

Date

4/26/16

Inspector's Signature

Marilyn K Tomblak

Date

4-26-16



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My husband (Juni) found Jasper by using his collar/remote. He found Jasper in the tall grass, struggling to breathe, foaming at the mouth, trembling. His legs were drawn up and tense to his body. Juni carried him toward home, but he passed within  $\approx$  30 min of ingestion.

When we returned to the field with the Lincoln PD officer and animal control and we found bread crumbs in the soil near where Moxie + Jasper ingested substance in question. 'Crumbs' were collected by P.D.

There were no signs posted to discourage entry to the field (from the back where we entered). We have walked our dogs along this same route approx 3 years.

Signature

Ann Johnston

Date

4/26/16

Inspector's Signature

Marilyn K Towndale

Date

4-26-16





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On Wednesday April 20, 2016 planted Autumn cup squash, Early Pro squash, Market more cukes, Carolina cukes and Seneca Zucchini seeds  
2 rows Carolina, 1 row Market more, 2 row Autumn cup, 1/2 row of early pro and zucchini (6 rows about 350 feet long). Planted in black plastic with pre drilled holes, It was too windy when the planting was completed (about noon) to put row covers on.

On Thursday morning everything had to be replanted because the crows had eaten all of the seeds. Extra help was called in to assist in planting. Installed row cover on Thursday. No damage occurred after the covers were installed.

On Saturday (April 23) ~~the~~ another area was prepared for planting by plowing/harrowing. Al went to town and ~~when~~ upon return noted over 100 crows in the newly turned field/section. He could not plant beet, chard, cukes and squash because of the crows. About 11AM Al decided to put Lannate out to kill some crows. 4 pieces of bread were crumbled while in a plastic bag and approximately 1oz of Lannate was added and mixed with the bread. The mixture was distributed in 3 locations (shown on

Signature

Inspector's Signature

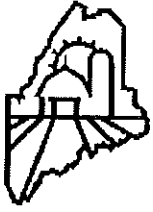
Date

Date

*Alfred J. Auger*  
Marilyn Is Tountalott

4/29/16

4/29/16



MAINE DEPARTMENT OF AGRICULTURE,  
FOOD & RURAL RESOURCES

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Address: BOARD OF PESTICIDES CONTROL  
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map) by hand and on foot. This occurred at approximately 11 AM.  
On Saturday (April 23) Lincoln Police officer John Walsh phoned Al.  
Al went to the field and met with Officer Walsh and Lincoln animal  
control officer. Al was asked if he put anything that would kill  
an animal. Al admitted ~~that~~ <sup>he</sup> did. Officer Walsh recommended Al leave  
as the individuals who lost their dogs were in the field and very upset.  
Al left the scene.

In past years Al has tried various methods to deter the crows,  
including:

- : contacting local wardens
- : contacting and meeting with Federal officials who control crows for  
dairy farms
- : purchase 2 noise cannons, one which was disabled by neighbors  
due to noise
- : place row covers on crops to discourage crows

this statement is stated as accepted

Signature

Alfred J. Jurgens

Date

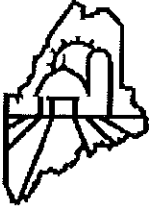
4/29/16

Inspector's Signature

Marilyn Touchette

Date

4/29/16



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Code No.

Additionally:

- Lannate was purchased in 2016 to use on sweet corn in the 2016 season (photos taken of seed for planting)

- Signs were posted, orange cones placed at entrance to field and gate closed after placing the bait.

Signature

*Alfred J. Luger Jr.*

Date

*4/29/16*

Inspector's Signature

*Marilyn S. Tondal*

Date

*4/29/16*