

# Animal Control Cases



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# Overview



1. Knowing the Ins and Outs of the Laws
2. Preparing for Prosecution at the Scene
  1. In the Courtroom

# Part 1

(Know the Ins and Outs of the Laws you Enforce)



- ❧ Know what to charge
- ❧ Know your elements
- ❧ Be knowledgeable of other statutes to alert police
  - ❧ Criminal damage (A.R.S. 13-1602(a)(1) \*Felony or Misdemeanor [depends on value]  
\*Recklessly causes damage to property [pet] of another)
  - ❧ Disorderly conduct (A.R.S. 13-2904(A)(1) \*Disturbs peace of another)
  - ❧ Assault; Vicious animals (A.R.S. 13-1208 \*Felony: Knows dog has propensity to attack and dog injures or attacks a human)
- ❧ Keys for repeat offenders
  - ❧ Get PD assistance for booking/arrest

# Know Your Charges



❧ DOG AT LARGE

❧ FAILURE TO WEAR

❧ FAILURE TO LICENSE

❧ AGGRESSIVE DOGS (FABIAN'S LAW)

# Know Your Elements



## Dog at Large

A.R.S. 11-1012(C) or Local

1. **On** owner's property\*; **AND**
  - a. Not confined entirely

OR

1. **Off** owner's property; **AND**
  - a. Not confined; OR
  - b. Not on leash 6ft or less; OR
  - c. Not under *handler's* control

# Know Your Elements



## At Large; Public Park or Public School

A.R.S. 11-1012(C) or Local

1. Not physically restrained ; **AND**
2. By leash, car, cage, or similar enclosure; **AND**
  - a. In a public park; OR
  - b. In a public school

# Know Your Elements



## What is NOT required:

- ❧ *Knowledge*: no defense that D was unaware dog was loose
- ❧ *Intent*: no defense that D didn't mean for dog to become loose



# Know Your Elements



## ⌘ Dog at Large is Strict Liability:

- ⌘ Doesn't matter how the dog got loose
- ⌘ Doesn't matter that D didn't cause dog to become loose
- ⌘ Liable *regardless* if they were negligent, reckless, acted knowingly or acted intentionally
- ⌘ Very few criminal laws are strict liability
  - ⌘ Certain offenses strict liability because they're considered to pose great danger
  - ⌘ Another example: DUI
  - ⌘ Most criminal statutes require some mental state
- ⌘ Note: some localities require mental state (i.e. Fountain Hills for NON-owner, some Phoenix judges interpret mental state)

# Know Your Elements



## Failure to Wear

A.R.S. 11-1012(C) or Local  
(Class 2 misdemeanor)

1. Running at large; **AND**
2. Over 3 months; **AND**
  - a. Not wearing a collar/harness; OR
  - b. Not wearing valid license tag

# Know Your Elements



## Failure to License

A.R.S. 11-1008(E) or Local  
(Class 2 Misdemeanor)

1. Knowingly; **AND**
2. Within 15 days after written notice; **AND**
  - a. Fails to obtain a license for a dog; OR
  - b. Counterfeits a dog tag; OR
  - c. Removes tag from any dog for purpose of intentional & malicious mischief; OR
  - d. Places a tag on dog that is not issued for the dog

# Know Your Elements



## Aggressive Dogs

A.R.S. 11-1014.01(A)(1)

(Class 3 Misdemeanor)

1. Be the owner or responsible for an aggressive dog;  
AND
2. Did not take reasonable care to prohibit dog from escaping

# Know Your Elements



## Aggressive Dogs

A.R.S. 11-1014.01(A)(2)  
(Class 1 Misdemeanor)

1. Be the owner or responsible for an aggressive dog; AND
2. Did not take reasonable care to control the dog in a manner that prevents the dog from biting or attacking a person or domestic animal at all times; AND
3. Dog is off the owner's or responsible person's property.

**\*Note: Defendant may also be guilty of Felony assault; vicious animal, A.R.S. 13-1208(B). Request police assistance if victim is human.**

# Know Your Elements



## Reasonable Care:

- What a person of ordinary prudence would exercise in the same/similar circumstances
- NOT Reasonable Care:
  - Having hole in fence
  - Leaving door open
  - Keeping aggressive dog outside without supervision and dog can jump fence
  - Allowing a child or an untrained handler to walk aggressive dog
  - Keeping aggressive dog outside where people can access (i.e. chained in front yard or open backyard)

# Know Your Elements



## ⌘ Aggressive dog:

- ⌘ Has bitten a person or domestic animal without provocation; OR
- ⌘ Has a known history of attacking persons or domestic animals without provocation.
  
- ⌘ **NOTE!** Rodrigo Silva, the drafter of this law, states the dog meets the “aggressive” definition if the dog bit a person or animal without provocation on the very incident you were called to, regardless of any history. Therefore most, if not all, cases involving a bite should be charged with Fabian’s law.

# Know Your Elements



## Points:

- For terming dog “aggressive”
  - Has the dog bitten or attacked?
  - Attack is not defined but it can be acts other than bite, i.e. chase, jump at
- Does the dog have to escape?
  - Statute does not require; requires that the owner/controller take reasonable care to prohibit escape
  - If you are checking an area and you see a dog still on owner’s property but not controlled...



# Overview

(Preparing for Prosecution at the Scene)



- ❧ Responding to the scene
  - ❧ What to bring
  - ❧ Who/how to interview
    - ❧ Vital questions to ask
  - ❧ What to document
    - ❧ Photos, audio, written statements, medical bill estimates
- ❧ Keys for repeat offenders
  - ❧ Request PD assistance for booking/arrest or felony/other charging

# At the Scene



## Bring:

- Bring Blank forms for written statements
- Bring Audio recording device
- Bring Camera
  - Remember most phones have a camera if you forget your camera
  - Photos will not have chain of custody issues so long as when you testify you can see the photo shows a reliable and accurate representation of what you saw
- Computer or ability to check records of address, dog, **AND** owner/controller to document whether past incidents in your report

# At the Scene



## Who to Interview:

- ☞ All witnesses at scene
- ☞ All victims
- ☞ Neighbors: that are home as you want to ask if there's a history with this dog/home/owner/controller
- ☞ Everyone you can that lives in the home of the dog to identify who is an owner or controller
- ☞ Record the name, contact info, DL #, DOB of everyone

# At the Scene



## What to Ask:

### Witnesses/Victims/Neighbors:

1. Do you know who owns or controls this dog?
  - a. How so?
  - b. Have they told you they own or control this dog?
2. Was this dog wearing a collar? A tag?
3. Do you know how the dog got out?
4. Has this dog or other dogs from the property got out before?
5. Do you know if this dog has ever bit, chased, or attacked anyone or animal? Explain.
6. What was happening right before the dog attacked?
7. Did you see anyone provoking this dog?
8. Did you see this dog bite, chase or attack without anyone doing anything to the dog?

# At the Scene



## What to Ask:

### Those living on same property as dog:

1. What is this dog's name?
2. How long has this dog lived here?
3. Who cares for this dog?
4. Does anyone else care for this dog?
5. How long have you/they cared for this dog?
6. Has this dog or other dogs from the property got out before?
7. Has this dog ever bit, chased, or attacked anyone or animal? Explain?
8. What was happening before the dog got/bit/chased/attacked? (to later dispute provocation defense)
9. Is this dog licensed?
10. Do you have a collar, tag for this dog?
11. Where/how is this dog regularly kept?
12. What do you do to prevent this dog from escaping? (goes to reasonableness)

# At the Scene



## ☞ Photograph, if applicable:

- ☞ Where the dog was seen “at large”
- ☞ The dog without proper collar, tag
- ☞ The dog’s leash
- ☞ Where the bite/chase/attack occurred
- ☞ Area the dog escaped from
- ☞ Other areas of the property showing other dogs that live there
- ☞ Area of the property showing where the dog is regularly kept
- ☞ All injuries on the victims
- ☞ Any injuries or blood on the dog
- ☞ \*Take a few photos of all from different angles\*

# At the Scene



- ☞ Sometimes you will be called to the scene days later: obtain medical bills, if applicable
- ☞ Recording interviews will help case at trial if Defendant or witness dispute saying something.
- ☞ Even if you record an interview still indicate their statements in your report
- ☞ You may want to go back to the scene to interview neighbors to complete a case to find whether there's history or not (so you can charge the class 1 misdemeanor aggressive dogs in addition to the class 3 misdemeanor)

# At the Scene



- ❧ Always note in your report who you asked about dog's history
- ❧ Always note in your report that you checked the owner/controller/dog/property address for history
- ❧ Include all applicable charges in citation
  - ❧ Charge aggressive dogs if there is an indication of prior bite, chase, or attack
  - ❧ Charge failure to wear when dog does not have a collar on or has a collar on without a tag
- ❧ Call police for assistance to arrest suspect if there are prior charges. Repeat offenders should be arrested.
- ❧ Call police if human is victim and there is a history of aggression a felony likely applies



# Overview

(In the Courtroom)



- ❧ Preparing for court
  - ❧ What to bring
  - ❧ What to wear
- ❧ Rules of Evidence
  - ❧ What can be admitted and cannot be admitted
- ❧ Testifying
  - ❧ Direct vs Cross
  - ❧ General Order

# In the Courtroom



- ❧ Make sure ALL evidence is indicated in your report
  - ❧ Why? Because the Defendant's right to evidence may be violated
  - ❧ If you took photos you must notate that
  - ❧ If a witness tells you about photos/video that they took notate it
  - ❧ Don't bring surprise evidence it will most likely be inadmissible and could delay and/or hurt the case

# In the Courtroom



- ❧ Wear your uniform, if unable wear professional attire
- ❧ Bring and know your report
- ❧ You cannot read from your report on the stand. However, if you are asked a question and you do not remember let the court know and the prosecutor can bring you your report to “refresh your recollection”

# In the Courtroom



## General Order:

- Your background and training
- Responding to the scene
  - What did you see?
    - Identify photos
  - What did you do?
    - Interview witnesses
    - Interview Defendant
      - Admissions
- What did you determine?

# In the Courtroom



- ❧ **Hearsay:** any statement made out of the court that is being used to prove the truth of the matter asserted
- ❧ You cannot talk about what witnesses said, they need to tell the court (unless there's an exception)
- ❧ **Inconsistent Statement:** You can say what a witness said after a witness gives a contrary statement in court
- ❧ **Admissions:** You can say what a Defendant said that helps your case
- ❧ **Self-Serving:** Generally cannot say what a Defendant said that helps them and goes to their defense. A Defendant may get their self-serving statements in if they testify.

# In the Courtroom



## Direct Examination:

- Open-ended questions from prosecutor
- You cannot give long narrative answers, but a few sentences is fine
- Its ok to simply respond yes or no to a question if it calls for such
- If you do not understand a question indicate so

# In the Courtroom



## ❧ Cross Examination:

- ❧ Narrow questions from defense
- ❧ They are allowed to ask you leading questions; designed to lead you to the answer desired
- ❧ Be careful to hear and understand the question
  - ❧ I.e. “You did not really determine who owns the dog because you didn’t obtain any records, correct?”
  - ❧ Be careful if they ask multiple questions in one, i.e. “to answer your first question, yes I determined that the Defendant was the owner of the dog” to answer the second question “I did not need to obtain records because the Defendant admitted that the dog was hers and that she has cared for the dog for \_\_ years”
- ❧ You may answer without saying yes or no. You may want to say “it depends” or “yes/no, but I need to explain”



Keep up the Great Work!!!





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