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ANIMAL ABUSE IS VIOLENCE.

ASSOCIATION OF PROSECUTING ATTORNEYS QUARTERLY NEWSLETTER | FALL 2010 VOLUME 2 ISSUE 3

ON OCTOBER 27-29, we held the 2<sup>nd</sup> National Conference on Prosecuting Animal Cruelty and Fighting Cases, funded by the Bureau of Justice Assistance (BJA), at the University of Denver in Colorado. The conference was a great success. Over 75 attendees, including federal, state, and local prosecutors; animal control officers; and non-profit organizations from around the country, learned about innovative practices to better prosecute animal cruelty and fighting cases. Our faculty conducted sessions on animal hoarding, puppy mills, forensics in animal cruelty and fighting cases, and digital evidence. Finally, a mock trial allowed faculty and participants to present an animal abuse case, and the defense team decided that I should be the accused!

APA and I extend our sincere appreciation to Michelle Welch, Assistant Attorney General for Virginia and chair of the Animal Cruelty Advisory Council and conference planning committee, and Nancy Blaney, Senior Federal Policy Advisor at AWI and co-chair of ACAC and the conference planning committee, for their support and efforts throughout the conference. We are also grateful to AWI and ALDF for hosting receptions during the conference. Lastly, we thank Dr. Cathy Grieve from the University of Denver and Patricia Farmer and her team at the Fritz Knoebel School of Hospitality Management for providing an exceptional conference environment.

There is additional positive news from across the country. On November 2, Missouri voters approved an important animal welfare measure: Proposition B cracks down on the state's commercial dog breeders and "puppy mill" operators. The law establishes stricter requirements for breeders to provide adequate care and shelter for their dogs, and also limits the number of dogs at each facility and the number of times they can be bred within a certain time frame.

Regionally, Baltimore's mayor recently signed the Anti-Animal Abuse Advisory Commission into law. The Commission began last year as a task force; with guidance from the American Society for the Prevention of Cruelty to Animals (ASPCA), it has now been codified. The new Commission's goal is to prevent crimes of animal cruelty, including dogfighting, and to prosecute those responsible. The Commission will



KELSEY DORTY

*Scott Heiser, Senior Attorney and Criminal Justice Programs Director for the Animal Legal Defense Fund, addresses the 2010 training conference.*

also conduct trainings for law enforcement and animal control as well as educate the public on anti-cruelty laws. The Commission is the first of its kind in the country.

APA is also currently working on a monograph with the Humane Society of the United States (HSUS) that highlights their End Dogfighting Program. The program, which consists of Community Outreach through Anti-Dogfighting Advocates, Pit Bull Training Team classes, Humane Education Team classes, Law Enforcement and Prosecutor Training, and Community Participation Activities, has been operating in Chicago and the Atlanta area since 2006 and 2008, respectively. End Dogfighting focuses on identifying and reducing animal fighting in communities as a means to reducing overall violence. The monograph examines each aspect of the program and includes some statistics relating to its effectiveness in reducing violent behaviors and attitudes in at-risk populations.

Our thanks to Michelle Welch and Jody Jones for contributing this issue's main articles and to the Animal Welfare Institute for its ongoing assistance.

APA is continuing our outreach efforts to combat animal cruelty and fighting. Please visit our website at [www.APAInc.org](http://www.APAInc.org), connect with us through our Facebook Fan page and follow us on Twitter. Please feel free to contact me at [David.LaBahn@apainc.org](mailto:David.LaBahn@apainc.org) for case assistance inquiries, issues you would like to see addressed in future trainings or publications, or to be added to our Animal Welfare Listserv.

*-David LaBahn, President and CEO, APA*

# Tips for DOGFIGHTING CASES

By Michelle Welch

IN DOGFIGHTING CASES, the prosecutor should be involved from the very beginning and that means before the search warrant is ever executed. Most dogfighting cases are paraphernalia cases, which means that the perpetrator has indicia of dogfighting. Just as in drug cases, where you have paraphernalia of drug dealing, dogfighting has paraphernalia associated with it, including such things as treadmills, steroids, dogfighting tapes, and match records. In addition, dogfighting operations may contain a drug



MICHELLE WELCH

*Makeshift pits come in many guises; be sure to look for the unexpected.*

component. Because of the connection between dogfighting and drugs, law enforcement may already be on the premises executing another kind of search warrant, usually a drug search warrant. It is imperative that law enforcement **not** search for dogfighting paraphernalia on the basis of the original drug search warrant. They need to go back to the magistrate and obtain a separate dogfighting search warrant. Additionally, if computers are seized, make sure to have a separate search warrant for the hard drive of the computer. In many dogfighting cases, the defense challenges the validity of the search warrant. This is the reason why the prosecutor should be involved from the beginning.



VIRGINIA ATTORNEY GENERAL'S OFFICE

*Michelle Welch is an assistant attorney general in Virginia Attorney General's Office and is charged with taking all animal law questions in Virginia. She has prosecuted many dogfighting cases and is vice-president of the Virginia Animal Fighting Task Force.*

Prosecutors should also educate themselves about what dogfighting paraphernalia looks like. Law enforcement should seize anything that looks like it is related to the dogfighting operation. However, if they do not know what they are looking for, they can miss key

pieces of evidence, such as a portable pit (which may resemble a sled to the untrained eye). Prosecutors should make sure both their animal control and their law enforcement divisions receive training on what dogfighting paraphernalia is and what is included in a dogfighting operation.

In preparing a dogfighting case for trial, prosecutors should familiarize themselves with the kinds of witnesses they will have. For example, there should be animal control officers, veterinarians, and a dogfighting expert. Obviously, animal control officers will have specialized knowledge regarding animals, but for the most part, their testimony will be like that of any other law enforcement officer. Thus, preparing these kinds of witnesses will be the same in terms of establishing experience and levels of expertise.

Veterinarians likewise have different specialized knowledge but are similar to medical professionals prosecutors may have directed in other cases. But prosecutors should definitely meet with the veterinarian in advance. For example, you will need to elicit information about the condition of the dogs and then determine whether that information helps or hurts your case. Your veterinarian can acquaint you with the Purina Body Conditioning Scale and other medical terms that can prove invaluable at trial.



*Be sure to file cruelty charges for the animals' living conditions and body condition if it scores 1 or 2 on the Purina Body Conditioning Scale.*

Moreover, most dogfighting charges should come with animal cruelty charges. In typical dogfighting cases, the dogs probably won't be in good condition; therefore, you can also lodge animal cruelty charges based on that. However, some dogs may be in acceptable body condition but are living in squalid conditions. Most states permit animal cruelty charges to be brought for squalid conditions. Thus, the importance of meeting with the veterinarian in advance to determine what charges to bring and also how to proceed with your trial strategy cannot be emphasized enough. Judges tend to accept veterinarians' testimony at face value, so fully prepping them can really help a prosecutor's case.

In a dogfighting paraphernalia case, a prosecutor has to put a dogfighting expert on the stand. Dogfighting expert testimony is a lot like putting on a drug enforcement police officer to talk about what drug distribution looks like on the street, and a prosecutor would qualify a dogfighting expert in the same way. An animal control officer may or may not have enough experience to be a dogfighting expert. So, it is important to have someone who has enough experience to be declared an expert. There are a lot of experts around the country or even in your own state; the Association of Prosecuting Attorneys can also be resource for you if you need an expert.

There are certain questions to ask to qualify such an expert: How many years has he (or she) been an animal control officer? If the expert is not an officer, how many years has he been an expert in dogfighting cases? This probably needs to be substantial amount of time but more relevant is the answer to another question: How many dogfighting operations has he/she helped to investigate and bring to trial? Highlight your expert's education

by asking how many dogfighting training classes she has taken or taught. Is he seen as an expert at the local, state, or national level? Obviously, if the expert has been recognized in certain courts (locally or in other jurisdictions around the state), then she has been declared an expert before now. Publishing treatises or books is not necessary for a dogfighting expert to be declared as such. Although defense attorneys may make a big deal about this aspect, remember that an expert is anyone who has more knowledge than the court about a particular area. Obviously, veterinarians have specialized schooling and have more academic knowledge, so it is harder for the defense to discredit them. It would improve an expert's performance on the stand for the prosecutor to practice at least the qualifying questions in advance. (For sample questions to ask in qualifying your expert, visit [www.APAInc.org](http://www.APAInc.org).)

After qualifying your expert, the substance of his/her testimony is going to be cataloguing all the evidence seized during the bust. You should go through each piece of evidence and why it is dogfighting paraphernalia. Some judges may try to speed this process along, but you should ask the judge's indulgence and let her know you plan to demonstrate how and why each piece of evidence is important. You should meticulously describe what each piece of equipment does and what each piece of evidence means. In taking your time and really describing what the evidence means, you will build your case so that the judge or jury has to find for you. In addition, one common defense is that the



## Training Equipment

- Treadmill
- Carpet mill
- Catmill/Jenny
- Spring Pole
- Pit
- Breaksticks
- Swim Tank



defendant is a weight puller not a dogfighter. In essence, the defense's argument is that all this equipment is for recreational weight pulling. Your expert should address this on the stand either on direct or on rebuttal depending on your trial strategy. Another defense is that the defendant is just breeding these dogs and the equipment is for breeding. Your expert can very readily describe the difference between the two and make a contrast for the court. Remember that you know more about dogfighting than the judge does. These cases are not so common that all judges have had one before. Educate the judge and be adamant about conviction!



*You may seize a variety of treadmills in a dogfighting operation case.*

## STIFF PENALTIES IN DOG FIGHTING CASES SHOW RICHMOND TAKES ANIMAL CRIMES SERIOUSLY

*By Jody Jones, Operations Manager, Richmond (VA) Animal Care and Control*

Three recent animal fighting cases heard in the Richmond (VA) Circuit Court are evidence that prosecutors and the community take these crimes seriously. After a day-long trial, a jury sentenced Richard Robinson to ten years in prison for felony dog fighting. The defendant had been convicted on similar charges in 2005. A second jury found Robinson's mother, Ordella Morris, guilty of dog fighting and animal cruelty for allowing others to use her property to train their dogs for fighting. In a separate case, Deano Jones was convicted on dog fighting and animal cruelty charges, which brought a five-year sentence (with two years suspended). All three defendants were barred for life from owning animals.

## BREAKING NEWS

IN 2004, DAVID TANT OF SOUTH CAROLINA, who ran a major dog fighting enterprise and has been described as a national kingpin among dog fighters, was sentenced to 40 years in prison after pleading guilty to 41 counts of dog fighting and one count of assault (a trap he had set on his property wounded a county employee). The sentence was reduced to 30 years after he paid \$80,000 in restitution to the shelter that cared for his dogs.

This is one of the most significant sentences in a dog fighting case ever handed down, and was a result of the vigorous investigation and prosecution by South Carolina's dog fighting task force, the Attorney General's office, the State Law Enforcement Division, and the federal Bureau of Alcohol, Tobacco, and Firearms. It is clear from the sentence that the judge also recognized the gravity of the charges. But on September 8, Mr. Tant was granted parole. According to the *Charleston Post and Courier* (September 9, 2010), South Carolina Attorney General Henry McMaster called the decision "an outrage," and said that it "undermines the efforts of law enforcement and sets back the work advocates have done to eradicate dog fighting." Read more at <http://postandcourier.com/news/2010/sep/09/breeder-of-fighting-dogs-gets-parole/>

IN JUNE 2009, BALTIMORE, MD, POLICE arrested twin brothers Trevor and Tremayne Johnson on charges of dousing a pit pull puppy with gasoline and setting her on fire. The two were each indicted on five counts (including felonies) of animal cruelty and abuse. While the puppy, affectionately named Phoenix, survived for a few days, her injuries were so extensive that she ultimately had to be euthanized. Although the brothers were 17 at the time of the incident, the judge ordered that they be tried as adults. It has also been reported that they are members of a gang. Their jury trials, originally scheduled to start on September 20, have been rescheduled again for January 19, 2011. They are currently out on bond. The public outcry over this case led to the creation of the Mayor's Anti-Animal Cruelty Task force.

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## BREAKING NEWS

(CONT'D FROM P. 4)

**ANOTHER ANIMAL CRUELTY CASE** in Baltimore, MD, has generated public outrage, but for a different reason. Derrick Chambers was charged with four counts (one felony) of animal cruelty for beating a small miniature pinscher repeatedly with a pipe. Neighbors reported seeing him do this. Police found the dog in a plastic bag with a cord tied around his neck. Although still alive, his injuries were so severe that he was quickly euthanized. Had Mr. Chambers been convicted on all counts, he would have faced nearly 4 years in jail and \$8,000 in fines. However, the prosecutor agreed to drop the case if Mr. Chambers stays out of trouble and performs 50 hours of community service at the Maryland SPCA. Chambers claimed that the dog had bitten his wife and him, and the prosecutor’s office said that it could not prove the case “beyond a reasonable doubt.” The shelter was not contacted ahead of time, was horrified at the proposal, and has refused to have Chambers volunteer there. Caroline Griffin, chairwoman of the Anti-Animal Abuse Task Force (see above), was quoted as saying, “The prosecutor had substantial evidence to try this case but instead, dropped the ball.” (Baltimore Sun, September 22, 2010).

**INDIANA HAS JOINED** the growing number of states considering legislation to make promoting dog fighting a predicate offense under their state racketeering laws. In fact, the Indiana bills (SB 5, HB 1258) refer to “animal fighting” contests, without limiting coverage to dog fighting, and they also increase the penalties for attending animal fighting contests. HB 1258 passed the House on February 2. No action has occurred on the Senate bill. The bills differ substantially from one another; the House bill addresses pet stores and care of horses, while the Senate bill also defines “baiting.”

### MISSION

Support and Enhance the Effectiveness of Prosecutors in Their Efforts to Create Safer Communities.

