

LEX CANIS

ANIMAL ABUSE IS VIOLENCE.

ASSOCIATION OF PROSECUTING ATTORNEYS QUARTERLY NEWSLETTER | WINTER 2010/11 VOLUME 2 ISSUE 4

I HOPE EVERYONE had a safe and productive holiday season and is ready for 2011. At APA, we are looking back at the accomplishments of 2010 and forward to a great 2011. I would like to thank all of our supporters who contributed to the wonderful achievements of last year. Your assistance with the planning, training, publications, and technical assistance is making a difference in animal cruelty and fighting cases throughout the country. The 2nd National Conference on Prosecuting Animal Cruelty and Fighting Cases was a highlight from last year, and with the new year come new programs and opportunities to hone your skills as we know the abusers have not taken a holiday from their criminal behavior.

One important update from last year is the signing of the Animal Crush Video Prohibition Act of 2010 by President Obama on December 9, 2010. It was approved by an overwhelming majority in the House last July. In September, the Senate approved the legislation, but with some modifications. Representative Elton Gallegly (R-CA), the author of the bill, worked with the Senate's amendments and Senator Jon Kyl (R-AZ) to ensure the bill's passage before the New Year. We are

glad this important piece of legislation is now in effect and applaud all of you, especially HSUS, for this legislative accomplishment after the disappointing Supreme Court decision.

Looking forward to 2011, we are excited about continuing our work to enhance the effectiveness of prosecutors' efforts to hold animal abusers accountable. APA

now offers technical assistance 24 hours a day, 7 days a week. If you have any technical assistance needs, you can e-mail info@APAINC.org, and someone will respond to your inquiry within 24 hours.

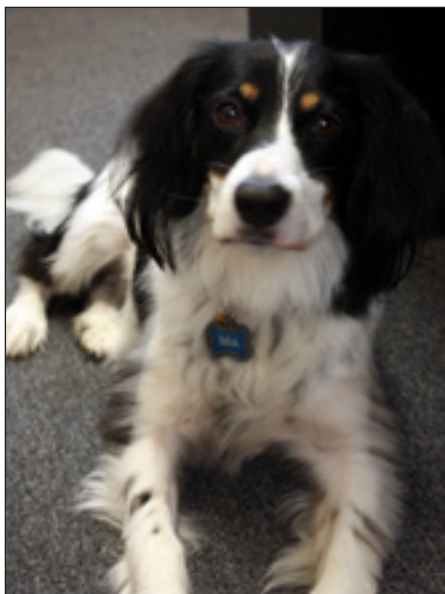
Lex Canis is now in its third year of production! Please continue to share your thoughts and suggestions for topics for this quarterly publication. APA also maintains an Animal Cruelty Listserv both to assist prosecutors and their criminal justice partners (with sample documents, research, serving as a forum for asking questions or seeking help, etc.) and to provide updates on pending cases, issues, Supreme Court opinions, and legislation in the field. If you are not yet a member of the Animal Cruelty Listserv and would like to be, please email me at the address below to sign up. APA will also be publishing a monograph related to animal fighting this year. Watch our site for the release of this document.

Once again, we plan to host trainings throughout the year, and will expand our outreach through web-based trainings. Stay apprised of the schedule for these sessions through our website, Listserv and future editions of *Lex Canis*. If there is an emerging technique or topic you would like to see covered, please contact me and we will try to incorporate your suggestions into future trainings.

Special thanks to Los Angeles Deputy City Attorney Don Cocek and Virginia Assistant Attorney General Michelle Welch for providing the articles for this newsletter; and of course our continued thanks to Nancy Blaney and the Animal Welfare Institute for their ongoing support in bringing you *Lex Canis*.

APA is committed to combating animal cruelty and fighting. Please visit our website, www.APAINC.org, for updates and resources. You can also "like" us on Facebook: www.facebook.com/APAINC or follow us on Twitter: www.twitter.com/APAINC for more timely information. As always, feel free to contact me at David. LaBahn@apainc.org for case assistance or with any questions or comments. We look forward to a productive 2011 with you.

-David LaBahn, President and CEO, APA



CAMERON CREININ

THERE'S MORE TO COCKFIGHTING THAN THE FIGHT

By **Don Cocek**, Deputy City Attorney,
Los Angeles City Attorney's Office

Officer Marty Weigh, a pilot assigned to the Los Angeles Police Department's Air Support Division, was on duty flying his helicopter over Sylmar, a suburb of Los Angeles in the San Fernando Valley. As he looked down, he noticed a property with a large number of covered enclosures. It's not illegal to have structures like this on property, but based on the training he received from LAPD's Animal Cruelty Task Force (ACTF), he suspected someone was trying to conceal the fact that the location was being used for animal fighting and training. He called for assistance and thus began a criminal prosecution involving the largest seizure of fighting birds in the City of Los Angeles.

Cockfighting is illegal in every state and all animal fighting that affects interstate commerce is punishable as a federal felony under the Animal Welfare Act. Thirty-nine states and the District of Columbia have made cockfighting a felony offense, 37 states and the District of Columbia prohibit the possession of birds for fighting, 42 states and the District of Columbia prohibit being a spectator at cockfights, and 13 states prohibit the possession of cockfighting implements.

California has a comprehensive set of laws banning all activities involving cockfighting. It is illegal to conduct cockfights and any person who permits cockfighting on any premises under

his or her charge or control, and any person who aids or abets cockfighting, is subject to prosecution. It is illegal to be a spectator. It is illegal to raise or be in possession of fighting birds and gaffs or slashes used for fighting. Of course, if animals are harmed, animal cruelty and neglect charges can be filed. Illegal gambling is associated with cockfights, as are drug dealing,

illegal firearms, and other serious crimes.

Cockfighting, and the raising and training of fighting cocks, occurs in many urban communities like Sylmar.

It is very common for law enforcement to come upon a location where cockfighting related activities are present, but due to the secretive nature of the sport, no cockfighting is observed.

Consequently, just as in dog fighting cases, it is important that prosecutors and investigating officers be familiar with the paraphernalia and the activities associated with cockfighting. Something as common as a piece of string or carpeting is a very valuable piece of evidence. The Sylmar case is an example of how suspects can be brought to justice in the absence of an actual fight.

Based on the observations of the police helicopter pilot, Animal Control Officer Troy Boswell from the Los Angeles Department of Animal Services went to the location to investigate. Attempting to locate the property owner, Boswell entered the property and observed a man holding a rooster in his arms and using a tool attached to a door-jam to cut the spur off the rooster's leg. The man told the officer that he was cutting off the spur to stop the rooster from scratching itself. Boswell also saw a shelf with sparring muffs, syringes, and bottles containing



Don Cocek, Deputy City Attorney, Los Angeles City Attorney's Office, releasing a hawk he saved.

CALIFORNIA DEPT. OF FISH & GAME



PHOTOS BY LOS ANGELES POLICE DEPARTMENT

liquids. The officer had been trained that these items were commonly used by persons involved in cockfighting.

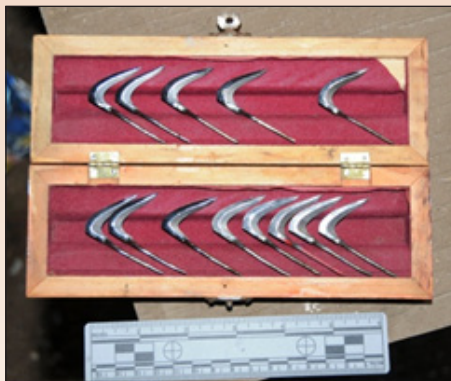
“**Sparring muffs**” are used to cover the roosters’ spurs so the roosters can be fought without injuring each other. “**Sparring**” is a common way of training roosters as they are prepared and conditioned during their “**keep**,” the training period prior to a fight. “**Syringes**” and “**injectable medications**” are commonly used by persons involved in cockfighting to inject the roosters with vitamins, coagulants, and steroids.

Boswell reported his observations to the ACTF, which checked property records and identified the property owner as a person named Ybarra. The ACTF had aerial photographs taken of the location. The photographs revealed multiple coops in the rear of the property as well as a makeshift structure that might have concealed a fighting pit. Based on their past experience investigating cockfighters, the officers knew that it was common in an urban setting for fighting pits to be covered in an attempt to conceal fighting activities from the police, neighbors, and passersby, and to keep the events from being canceled due to inclement weather (...yes, it rains in LA!). Interestingly, examination of the photographs revealed that the location next door also had multiple covered enclosures possibly housing roosters as well.

ACTF officers went to the property next door to investigate and from the driveway in front of the house, they saw two men near the middle of the property “**hand sparring**,” a variation of sparring two birds where a trainer holds a “**cull**” or “**trash bird**” that has no fighting value and allows it to be used as a moving target by the other bird.

When the men saw the officers, they immediately stopped and put the birds into cages.

The person living in the house, Calderon, told the officers they could look around and the officers observed other cages each containing just one



slashers



inside concealed enclosures

rooster, a typical manner of housing roosters by cockfighters. Due to the aggression of roosters trained to fight, the animals have to be maintained without direct contact with one another so they cannot cause each other injury. Each of these roosters had been “**dubbed**,” i.e., their combs, wattles, and earlobes had been removed. The dubbing is usually done with scissors without the use of anesthesia. Cockfighters normally dub their roosters to lower the bird’s overall body weight and because injury during a fight to any of these locations can cause profuse bleeding. The roosters had the natural spurs on their legs cut to about a half-inch stump. It is on these stumps that “**gaffs**” or “**slashers**” are attached to the bird’s leg. The officers also observed that the roosters’ feathers had been plucked, called “**cutting out**,” where feathers in certain areas are plucked out to lower the rooster’s body weight prior to a fight. The officers also saw perforated “**cardboard boxes**” used by cockfighters to transport roosters to and from fighting locations.

Based on the observations, a search warrant was obtained and served on both locations by officers from LAPD and the Department of Animal Services (LADAS). Accompanying the officers were members of the veterinary staff of LADAS. The area was secured and Calderon’s property was searched first.

Slasher blades were found in several stalls on Calderon’s property as well as “**waxed string**.” Waxed string is commonly used to attach the slasher blade to the rooster’s leg prior to a fight. Sparring muffs were found in another stall in a bucket under a



flirt table

“**flirt table**,” a table covered with carpeting. A rooster is tossed onto the table on its back by the handler. The rooster then flips over to get back on its feet. This technique is repeated over and over to increase the rooster’s agility in preparation for a fight. In a file cabinet in one of the stalls, officers recovered sparring muffs, slashers, “**mounting blocks**” used to attach the blades to the roosters’ legs, papers with step-by-step instructions on how to attach the blades, and “**leg bands**” used to inventory and identify the roosters during a fight. A search of Calderon’s bedroom recovered unregistered weapons, ammunition, and several bird medications; one medication was in a box depicting two roosters engaged in a cockfight. The officers also searched for safes containing cash and jewelry from the gambling that occurs during cockfights, but none were found.

A search was conducted at Ybarra’s property next door and the officers recovered sparring muffs, slasher blades, mounting blocks, and a “**blade gauge**” used to measure the lengths of the blades tied to the rooster’s legs. The officers also found suture kits, rifles, and cockfighting magazines. Two covered rooms were discovered which were used as arenas. Both rooms had dirt floors and visible on the ground were “**scratch lines**,” parallel lines drawn approximately six to eight feet apart on the floor upon which the birds are released at the start of a cockfight.

The officers called Ybarra and asked him to come to the location so they could talk to him. He said he’d be there in a few

minutes, but he arrived over an hour later. When the officers asked him: “What took so long?” he replied: “I was sure that I was going to be arrested, so I took a shower, put on clean clothes, and called my attorney.” As he was being interviewed, his cell phone kept ringing. The people who rented the enclosures from him, the owners of the birds, were calling trying to find out what was happening. He asked them to come to the location but no one showed up.

Although the LAPD ACTF and LADAS officers did not come upon the scene while a cockfight was actually taking place, the locations had all the makings of an active cockfighting operation: altered roosters, training facilities, cockfighting paraphernalia, fighting arenas, guns and ammunition. Both suspects were prosecuted for misdemeanor violations of possession of fighting birds and possession of gaffs and slashers used for fighting. Both defendants pleaded guilty to illegal possession of gaffs and slashers, were placed on three years’ probation, and were ordered to do 45 days of freeway cleanup. The terms of their probation included a ban on owning, possessing, maintaining, or caring for any fowl, plus the removal of the bird-keeping structures from the properties.

In all, 1538 fighting cocks were seized from Ybarra’s property and 696 from Calderon’s, thus making this the largest seizure of fighting birds in LAPD history. Each suspect relinquished the animals to the Department of Animal Services and all 2234 birds were humanely euthanized.

A worker on one of the properties told the officers: “I know they fight the birds, I’m not stupid. You don’t have birds like this for any other reason, you know.”



leg bands

BREAKING NEWS

A REAL ESTATE AGENT visiting a Warfordsburg, PA, pig farm in November 2010 found the mummified carcasses of what turned out to be more than 800 pigs who had died between February and March 2009. In December 2010, Daniel Lee Clark was charged with 832 counts of cruelty in those deaths. Investigators alleged that Clark had neglected the animals, failed to provide proper shelter, food, and water, and left them to die. Clark (whose estranged wife had obtained a protection from abuse order against him in 2008) claimed that an equipment failure caused manure to back up in the barn and that is what killed the pigs. Investigators found no evidence to substantiate Clark's story. On January 7 of this year, it was reported that Clark made an apparently unscheduled appearance before Magisterial District Judge Carol Johnson. He was set to plead not guilty to all 832 charges, but Fulton County District Attorney Travis Kendall offered to drop all but 10 of the charges in exchange for a guilty plea. Clark accepted the deal, entering an open plea. Under Pennsylvania law, because Clark was the owner of the animals, the charges were only summary offenses. Nonetheless, each summary offense is subject to a fine of up to \$750 and up to 90 days in jail—for a possible total of \$7500 in fines and 900 days in jail for the 10 remaining charges. However, after allowing Clark to give his side of the story, (Clark's attorney and the DA were the only others present), Judge Johnson fined Clark \$2500. He now operates another pig farm in Clearspring, MD.

MISSISSIPPI STATE SENATOR Bob Dearing has announced that he will reintroduce legislation to increase penalties for the torturing, maiming, and killing of dogs and cats. In 2010, a bill to create felony penalties for egregious animal abuse passed the Senate

with bipartisan support, only to die in a House committee without a hearing.

IT'S NOW OFFICIAL! On November 3, 2010, Baltimore created the Anti-Animal Abuse Advisory Commission. This new permanent body will carry out the work initiated by the Anti-Animal Abuse Task Force. The new commission will have 33 members, including Dr. Randall Lockwood of the American Society for the Prevention of Cruelty to Animals. Randy, who is also a member of APA's Animal Cruelty Advisory Committee, will discuss the work of the Commission in an upcoming issue of Lex Canis.

A CASE OF ELDER ABUSE has prompted a Florida state legislator to propose legislation to protect the companion animal victims of domestic violence. In this particular case, a son brutally beat his elderly mother's dog as a way of intimidating and manipulating her. (She was finally able to get herself and the dog to safety.) The son was not punished for terrorizing his mother or for abusing the dog (though one has to question why no cruelty charges were brought); he was found guilty of scheming to defraud. Recognizing the brutal dynamic at work in cases of domestic violence, including elder abuse, that also involve animal cruelty, State Sen. Mike Fasano introduced S206. His bill redefines "domestic violence" to include injuring or attempting to injure an animal "owned, possessed, leased, kept, or held" by a member of the family or household, or placing that family or household member in fear of harm to that animal. The bill also allows that a court may issue an injunction to prevent the abuser from gaining custody of the animal.

(CONT'D ON P. 7)

ASSOCIATION OF PROSECUTING ATTORNEYS

1615 L Street NW, Suite 1100
Washington, DC 20036
(202) 861-2480 • www.APAInc.org

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Association of Prosecuting Attorneys

CONTRIBUTORS

NANCY BLANEY, SENIOR FEDERAL POLICY ADVISOR
Animal Welfare Institute

CAMERON CREININ, GRAPHIC DESIGNER/ILLUSTRATOR
Animal Welfare Institute

DON COCEK, DEPUTY CITY ATTORNEY
Los Angeles City Attorney's Office

MICHELLE WELCH, ASSISTANT ATTORNEY GENERAL
Office of the Attorney General of Virginia

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BREAKING NEWS (CONT'D FROM P. 6)

A CASE PROSECUTED BY WAYNE COUNTY (MI) Assistant Prosecuting Attorneys Raj Prasad and Amy Slameka resulted in sentences of significant jail time for the two defendants. Kristian Dennard Jackson and Decarlos Leshawn Young pleaded guilty in December to animal killing/torturing and arson of real property in the death of a young pit bull they had set on fire. A passer-by recorded the killing on his cell phone. Judge Cynthia Gray Hathaway sentenced Jackson to 13 months to 8 years in the Michigan Department of Corrections; Young, whose prior record included a conviction for child abuse, received 2 years to 8 years. Amy is a member of APA's Animal Cruelty Advisory Council.

THE ST. JOSEPH'S COUNTY (IN) PROSECUTOR argued that a man who burglarized a home and shot a 3-legged Old English sheepdog should receive 10 years for the burglary and 3 years for killing the dog, which was a Class D felony. In the end, on December 22, the judge sentenced Vince Hunter, Jr., to 10 years for the burglary and 18 months for the shooting, which will be served concurrently.

IN OCTOBER, THE MINNESOTA COURT OF APPEALS upheld the felony animal cruelty conviction of Ajalon Thomas Corcoran for shooting to death his 11-year-old neighbor's cat. Corcoran's attorneys argued that, while he did indeed shoot the cat, he thought the cat was a stray and therefore a felony charge was inappropriate. (Under Minnesota law, if the unjustifiable injuring, maiming, mutilating, or killing of an animal, which is normally a misdemeanor, results in the death of or great bodily harm to a pet or companion animal, the offense is elevated to a felony.) The court agreed with the prosecutor and lower court, finding that "the plain language of Minnesota's cruelty statute does not require that the accused know that the animal being killed is a pet."

MISSION

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