

Prosecutor's Guide to Dogfighting Cases

1. Why Prosecute Dogfighting?

Dogfighting is a crime.

Dogfighting cases have been prosecuted in the U.S. since the arrest of Kit Burns in New York City in 1868. The 2007 prosecution of NFL star Michael Vick on federal and state charges related to dogfighting activity has focused increased attention on this “blood sport”.

Dogfighting is illegal in all 50 states and the District of Columbia, Puerto Rico, and the Virgin Islands. As of 2009, dogfighting is a felony in all states. In most states, the possession of dogs for the purpose of fighting is also a felony offense. Being a spectator at a dogfight is currently a felony in about half the states and a misdemeanor in most remaining states.

The federal Animal Fighting Prohibition Enforcement Act (2007) provides for felony penalties for interstate commerce, import and export relating to commerce in fighting dogs, fighting cocks and cock fighting paraphernalia. Each violation can result in up to three years in jail and a \$250,000 fine.

Dogfighting can be a “gateway crime”

Many communities report growing involvement of juvenile offenders in dogfighting, often as a part of gang involvement. The sense of power and control gained from having an aggressive dog, as well as the potential financial gain, can lure juveniles into an underground scene that often includes other criminal activities.

Dogfighting is associated with many other crimes

In addition to the animal cruelty and illegal gambling that are at the core of dogfighting activity, virtually all dogfight raids involve the discovery and seizure of illegal drugs and about two-thirds result in the seizure of illegal weapons. Such raids often result in the arrest of many offenders with outstanding warrants. Dogfighting is also frequently associated with violent crimes, including assaults and homicides and has increasingly been associated with gang-related activities.

Dogfighting destabilizes communities

Dogfighting is a classic example of a “broken-window” crime. The evidence of it’s presence in an area may be very visible, particularly in the case of street fighting, but the difficulty of mounting an effective law enforcement response may create the perception that no one cares about the threats this crime presents to the community.

2. What makes dogfighting prosecutions difficult?

When suspected dogfighting activities have been discovered by law enforcement or humane agencies, the successful pursuit of such operations presents special challenges to prosecutors:

Dogfighting cases frequently involve multiple defendants

A Detroit College of Law analysis of dogfighting raids indicated that the number of arrests in such actions ranged from 1 to 123, with an average of 20 arrests per raid. Prosecutors need to be prepared to deal with multiple defendants, many of whom are likely to have past criminal records from a number of states.

Dogfighting raids usually involve multiple law enforcement units and result in multiple charges

Almost all actions against dogfighters involve the participation of local and state police, along with animal control or state humane officers, gang units, narcotics units and others. Federal agencies may also be involved (FBI, DEA, USDA). It is essential that the activities of these various agencies are well-coordinated. In addition, such actions are likely to result in multiple charges for violations at the local, state and federal level and the various agencies responsible for enforcement of these laws must coordinate their actions.

Virtually all raids involve the discovery and seizure of considerable quantities of illegal drugs and many raids uncover production or growing facilities.

Dogfighting actions involve living evidence.

The dogs involved in dogfighting activities are both *victims* and *evidence* of the crime. Recent raids have resulted in the seizure of from 1 to nearly 500 dogs, with an average of 35 dogs per case. They often have special medical and behavioral needs that must be met. Housing, assessment and disposition of fighting dogs can be complicated and expensive. Maintaining animals as “evidence” for a lengthy period is not only costly for local humane organizations or municipal animal control agencies, but often detrimental to the well-being of the animals. Arrangements for the care and housing of any animals to be seized should be made in advance of any operation. In addition, arrangements should be made for medical assessment and possible behavioral evaluation.

Nearly all states have provisions within their animal cruelty laws providing for the seizure of animals being cruelly treated or neglected. Some states require that a veterinarian be consulted to determine if seizure is in the best interests of the animals. Such input is desirable even when not specifically required by law. Such seizures can place an enormous burden on the responding agencies. An animal fighting investigation may involve dozens to hundreds of animals needing immediate and long-term care. The special requirements for animal care in dogfighting cases demand that these cases be moved as quickly as possible through the system. Prolonging proceedings is problematic

for all concerned. The animals can suffer additional stress, disease or harm from improper or prolonged confinement.

In some cases, animals cannot receive needed medical treatment without the owner's consent or willingness to surrender ownership, which may be withheld. The responding agency can accumulate huge costs in providing long-term housing and care for animals that are likely to be returned, adopted or euthanized at the conclusion of proceedings.

Dogfighting actions often involve substantial asset seizures.

About 25% of raids result in the seizure of other assets including vehicles, cash, medical supplies, real estate and other property. The involvement of these assets in the conduct of the illegal fighting activity should be well-documented.

Dogfighters are often well-funded and well-informed about other prosecutions.

The dogfighting underground is well-connected through publications, Internet communications and word-of-mouth. Fighters follow the arrest and trial of other fighters and any successful defense strategies are quickly disseminated throughout the network. It is important for prosecutors to be well-informed about common defense tactics that are likely to be used.

3. What options are available for housing animals seized in dogfighting cases pending trial?

Several options may be available to minimize some of the costs and delays associated with prosecuting a dogfighting case:

Voluntary Surrender

Owners of animals that are the subject of an animal cruelty or animal fighting prosecution may voluntarily surrender ownership of the animals to an animal control or humane organization either in the best interest of the animals or as part of an initial plea agreement. To avoid future complaints that this surrender was granted under duress, this usually should not be done in the emotional environment of the initial seizure or arrest and should be arranged with the participation of defendant's counsel. Voluntary surrender offers the best opportunity for meeting the immediate needs of the animals without compromising their value as evidence in a prosecution.

Declaration of Animals as Abandoned

In cases where animals have been left without proper care and the owner is not in residence, many states allow for the consideration of such animals as abandoned and subject to immediate seizure by appropriate humane, animal control or agricultural authorities. Animals whose owners do not admit to ownership at the time of seizure or do not appear at hearings scheduled to determine disposition may also be considered abandoned in many states.

Declaration of Unfit Owner

Several states have procedures in place that do not necessitate a criminal prosecution for animal cruelty, but which may find that an owner is unable or unfit to adequately provide for animals and order other animals be seized and enjoin owner from further possession or custody of other animals.

Impound on Premises

When an animal abuse or neglect case involves a large number of animals for which there is no suitable site to hold them, it may be appropriate to arrange for an impound on the defendant's premises with provisions for local authorities to provide for feeding, care and medical attention. If animals are to be held in this way, it is important to carefully document each individual animal and, when feasible, to require that each animal be provided with permanent identification (e.g. microchip) to prevent the removal or replacement of seized animals. In the case of animals of high value or at high risk for theft (e.g. fighting dogs), it may be necessary to have full-time law enforcement presence at the scene until the court allows another disposition.

Bonding Provisions

When animals are not immediately surrendered and local authorities must provide care to maintain them until final disposition, it is often desirable to require defendants to post a bond or security that is intended to compensate agencies providing care and to prevent the adoption or euthanasia of the animal while the case is being prosecuted. About twenty states currently have provisions that either require or allow for such a procedure within their cruelty laws. For those that do not, there is still the option for seeking a court order requiring such a bond in the interests of both the owner and the caretakers of the animals. Usually such bonds are based on a reasonable cost of care per animal per day, payable in advance on a month-by-month basis with failure to comply resulting in forfeiture of the animals. Most other states consider costs of care and treatment a lien on the animal(s) that have been seized, however it is often very difficult for agencies to recover these costs *after* the disposition of the case. Failure to comply with a court order to post a security bond can trigger either mandatory or discretionary forfeiture of the dogs. Dogs forfeited in fighting cases may be placed in appropriate sanctuaries, adoptive homes or humanely euthanized.

Destruction of fighting animals as contraband

Some states consider seized fighting animals to be the equivalent of "contraband" and allow for their destruction prior to conviction. This provision has been challenged on constitutional grounds and can prejudice the prosecution of a dogfighting case if it can be argued that the defense had no opportunity to counter claims of other legitimate use of the animals. Euthanasia of animals without any detailed medical or behavioral assessment and without adjudication can also produce considerable negative public reaction. Effective application and enforcement of forfeiture, bonding and euthanasia laws require attention to the due process rights of defendants charged with fighting offenses and the best interests of the animals.

4. Does successful prosecution require catching dogfighters in the act?

Few crimes are prosecuted on the basis of the offender being “caught in the act”. Although some dogfighting prosecutions are based on evidence gained through undercover documentation of fights or during a raid on an ongoing fight, these are relatively rare. Most actions involve investigation of a facility where animals are being raised, trained and may have been recently fought. As with most crimes, successful prosecution will be based on assembling circumstantial evidence and testimony from witnesses or informants that build a strong case for the involvement of the defendants in these crimes.

5. What charges are typically brought in dogfighting cases?

In most cases the primary charges in a dogfighting prosecution will be under state laws specifically addressing animal fighting and/or charges related to animal cruelty. Dogfighting is currently a felony offense in every state. Dogfighting laws criminalize activities engaged in for money or just for entertainment - whether done at the spur of the moment- like a fight conducted on the street, or whether a carefully orchestrated event staged in a private or even secretive location where the public cannot see it.

Under most state laws, the crime of dogfighting covers a wide range of activity beyond just the act of causing dogs to fight. These laws continue to be updated regularly. Refer to the **Resources** section of this document for links to current information on state and federal laws related to dogfighting.

Dogfighting laws carry with them a “mens rea” or mental state requirement. The mental state requirements differ from state to state, but all fighting laws require that the prosecution establish beyond a reasonable doubt that the defendant committed the particular offense with some form of mental culpability - intentionally (or willfully) knowingly, recklessly, or negligently- depending on the particular state statutory scheme.

In addition to actually fighting dogs, state laws typically make it a crime to:

- Train dogs to fight other dogs
- Prolong a fight between dogs
- Possess a dog with intent that it engage in dogfighting (even if not accompanied by actual fighting or training to fight)
- Use dogs (or other animals) as “bait” for training or fighting purposes
- Organize, advertise or promote a dogfight
- Act as a referee, provide concessions or act as a judge at a dogfight.
- Allow use of one’s premises for dogfighting or training dogs to fight
- Place a bet on a dogfight or pay and admission fee to a dogfight
- Sell, breed, transport or receive dogs to be used for dogfighting (even if not accompanied by actual fighting or training activity)
- Possess or own a dog with injuries consistent with dogfighting (such as torn or missing ears, bite wounds, puncture wounds, bruising or other injuries) when

accompanied by evidence that the dog has been or is intended to be used for dogfighting..

- Possess equipment used for training dogs to fight or to enhance fighting ability.
- Knowingly attend an animal fight as a spectator or knowing presence where preparations are being made for a fight.
- Encourage, entice, assist or cause another person do any of these activities.

Knowledge and intent to be present are often necessary elements of proof for spectator culpability to avoid the possibility of capturing innocent bystanders or passers-by under the coverage of the law. Depending on the state, spectator liability can carry either misdemeanor or felony penalties. State law makers, increasingly aware that without spectators there is little impetus to carry on the cruel “sport” of dogfighting, are successfully championing efforts to elevate intentional spectator behavior to felony level offenses.

“Aiding and abetting” provisions substantially broaden the reach of state dogfighting laws, making it a crime to knowingly or intentionally engage in any behavior that furthers or supports dogfighting activities.

6. What additional charges can be filed in a dogfight case?

Dogfighting does not occur in isolation. Often, there are a variety of other criminal charges that apply- many of which may carry more serious penalties than the dogfighting charges. Being armed with all applicable charges is an essential tool for the prosecution in every phase of the criminal proceeding- from plea negotiations, to pretrial proceedings, through trial and at sentencing where aggravating factors may justify more severe punishment for the offender.

In considering appropriate charges to bring in dogfighting cases, it is important to look beyond those crimes that most readily come to mind, such as illegal drugs, weapons and gambling offenses. In addition to these charges, there may be others that are just as applicable and that help law enforcement address the full range of public safety threats created by dogfighting enterprises.

Animal Cruelty

Animal cruelty is an integral part of dogfighting. Training and compelling dogs to engage in combat that typically results in death or serious physical injury to one or both canine participants, is cruelty. In many jurisdictions, intentionally causing serious injury or death to a dog is a felony level offense. In addition, the death or injury to animals used as “bait” in the training of fighting dogs may constitute separate felony offenses. These animals might include other dogs, including stolen pets; cats; rabbits and others,

Possession of Dogfighting Paraphernalia

Some state provisions criminalizing possession of dogfighting paraphernalia contain generic prohibitions on the manufacture, sale and/or possession of any devices or equipment used (or intended to be used) to condition dogs to fight or to enhance fighting ability. Other state laws prohibit manufacture, sale, transport or possession of specific devices such as treadmills, cat mills, jennies, break sticks, spring poles, and fighting pits. Others make it unlawful to fasten an animal to a propelled device to cause that animal to be pursued by a dog as a training technique for a fighting dog.

Crimes against Property

Larceny

Animals are considered property under the law in every state. Therefore stealing dogs to use in fighting contests or as bait animals constitutes theft. Penalties typically hinge on the market value of the animal and range from misdemeanor to felony offenses. In some states, theft of a dog is a serious felony regardless of the value of the dog. In other jurisdictions, stealing a dog specifically for use in dogfighting is a felony offense regardless of the value of the dog.

Damage or Destruction

Damaging, destroying or rendering useless property that belongs to another constitutes criminal mischief, malicious mischief or criminal damage, depending upon the law in the particular state. Like larceny, the level of offense is generally measured by the market value of the property damaged. When dogfighting activity involves injuring or killing a dog that belongs to another person mischief or damage charges may be appropriate (as well as animal cruelty and dogfighting charges).

Use of dogs to attack, harm or interfere with Law Enforcement

Assault

Assault crimes involve causing injury to a person. The level of offense is gauged based on the seriousness of the injury, and also often on the manner in which it was inflicted. Use of “dangerous instruments” or “deadly weapons” generally elevates an assault to a higher level offense. A dangerous instrument is defined as any item that under the circumstances in which it is used is readily capable of causing death or serious physical injury

In addition to weapons such as guns and knives, many otherwise innocuous objects have been deemed “dangerous instruments” based on the manner in which they were used to cause an injury or death. A dog used or attempted to be used to attack another person or law enforcement officials, could likewise be considered a “dangerous instrument”. In states that use aggravating factors to justify imposition of lengthier prison terms, use of a “dangerous instrument” or “deadly weapon” is often considered an aggravating factor supporting imposition of heightened penalties.

Obstructing Governmental Administration

Behavior aimed at preventing or obstructing law enforcement from performing its official duties is often characterized as obstructing governmental administration, or an offense of similar title depending on the applicable state law. Training or using dogs to guard against police entry or to attack law enforcement would fall within the purview of these “obstructing” offenses.

Dangerous/Vicious Dog Laws

State and local laws governing dangerous and vicious dogs may also be useful to law enforcement when dogs trained or used for fighting are employed to guard or attack the police attempting to investigate, execute search warrants or perform other functions related to investigation of dogfighting activity. These laws are sometimes civil and sometimes criminal in nature and may authorize seizure, restraint orders and/or euthanasia of dogs deemed to either pose a serious threat of injury or death or to have already caused serious physical harm or threats to public safety. Some states automatically define dogs trained or intended to be used in dogfighting as “dangerous”, imposing special requirements for the keeping of such animals.

Endangerment Laws

States make unlawful a variety of offenses that involve causing or permitting risks to the well being or safety of children, the elderly and the disabled. These “endangerment” laws typically make it a crime for a caregiver to fail to provide adequate supervision, basic care or services necessary to maintain good mental and physical health. Some laws include contributing to the neglect or delinquency of a minor and make it unlawful to fail to prevent such neglect or a child’s involvement in illegal activity.

Endangerment laws can apply in dogfighting cases where:

- Dogs trained to fight or to be vicious, along with illegal drugs; weapons and gambling activity are found in a residence where children or vulnerable elderly or disabled people are living
- Children are present at or actively involved in dogfighting or training activities, causing them to associate with criminals, making them a part of the illegal enterprise and hence “contributing the delinquency of a minor”.

Professional Licensure Issues

Each state has its own law defining the practice of veterinary medicine and delineating those activities that can lawfully be performed only by a veterinarian licensed to practice in that particular jurisdiction. Violation of these laws often constitutes felony offenses.

In most states, practice of veterinary medicine is defined quite broadly, encompassing everything from administering vaccinations, conducting any form of diagnosis or treatment of a disease or injury, to performing surgical procedures. Some procedures that

can lawfully be performed by a lay person on animals that they own (e.g. administering vaccinations, other medications) may be crimes if done for a fee to animals owned by someone else. And certain more intrusive procedures –such as surgery- typically cannot be performed by anyone other than a licensed veterinarian.

Dogfighters frequently perform treatment on their own dogs and on dogs owned by others that may run afoul of state professional licensure laws. They often administer injections, suture wounds, deliver subcutaneous fluids and even crop ears and dock tails. These activities may well constitute felony level offenses under applicable state law.

Disposition of Dead Animals

State and local laws govern the appropriate means for disposing of dead animals, giving due deference to public health and safety concerns. Dogfighting investigations may uncover evidence that a suspect has killed dogs that were used as “bait” animals, considered not sufficiently “game”, deemed to be past their prime, or that merely came out the loser in a recent fight. Disposal of the bodies of the dogs may be as unceremonious as dumping in a shallow grave or burning in order to conceal illegal activity. These methods of disposing of dead animals may well violate local and state proper disposal laws. Animals that are found at burial or burn sites in association with dogfighting activity should be subjected to veterinary forensic analysis which may provide additional evidence of the use of the animals in dogfighting and/or inhumane killing.

Miscellaneous Local Laws

A variety of local laws covering zoning, building code restrictions, dog control ordinances (licensing, spay/neuter, rabies inoculation, “at large” laws) and provisions prohibiting creation of a public nuisance are also important to consider in dogfighting cases. While often violations rather than crimes, these local ordinances can provide law enforcement with valuable leverage in securing voluntary surrender of dogs before criminal charges are even levied.

7. What evidence is most effective in building a case against dogfighters?

As noted above, successful dogfighting prosecutions are usually the result of gathering a variety of forms of evidence which collectively demonstrate a pattern of intentional use of animals for fighting. Cases in which ongoing fights have been interrupted are relatively rare for organized dogfighting, but may be more common in the case of street fighting incidents. The most significant sources of evidence will be:

Care and condition of the dogs

Many dogfighting prosecutions begin with a focus on the conditions of the dogs that are present. Detailed veterinary reports should be available for all animals found at the scene. This should include careful documentation of all scars and injuries on the animals. The age and pattern of such wounds can be indicative of a history of fighting. Any evidence of ear cropping, tail docking or other surgery that does not appear to have been done by a

veterinarian may be grounds for additional charges. Any evidence of untreated injuries or illnesses or excessive internal or external parasites may provide evidence of criminal animal abuse or neglect.

Dogs that are known or suspected to have been recently fought should also undergo blood tests to screen for possible drugs that may have been administered (e.g. amphetamines, steroids). If possible, buccal swabs should be taken from all dogs showing evidence of fighting. These can be of use in linking specific animals to bloodstain or other evidence that may be collected at the scene.

The housing conditions should also be noted. As described in the Toolkit, fighting dogs are often kept tethered to heavy chains just out of reach of each other. Lack of appropriate food, water or shelter may constitute evidence of animal cruelty.

Direct evidence of a fight operation

The presence of a fighting pit, as detailed in the Toolkit, is another major piece of evidence for the prosecution of fight operations. The pit should be photographed in place and dismantled for storage. The walls and flooring should be closely examined for bloodstain evidence, with samples collected. Entryways into the fighting area should also be examined for bloodstain or spatter evidence from animals that may have been taken in or out of the fight area.

Other direct evidence of dogfight activity can include videotapes, DVD's, and photographs, including cellphone photos and videos. Efforts should be made to accurately determine the time and location of such records and the identities of any individuals seen in these recordings.

Eyewitness or informant testimony is another important component of a dogfight prosecution. Since cases often involve the potential prosecution of many participants, it is often possible to find some cooperative witnesses.

Presence of dogfighting paraphernalia

Most dogfighting prosecutions rely on cumulative evidence of materials associated with the breeding, raising, training, conditioning, fighting and veterinary care of fighting dogs – as detailed in the Toolkit. This will include breeding stands (“rape stands”), training and conditioning equipment (treadmills, spring poles, jennies, swimming pools), fight paraphernalia (breaking sticks), medical and surgical supplies beyond what would be reasonably expected for a dog owner.

Dogfight raids often result in seizure of a variety of books and magazines devoted to fighting dogs and the dogfighting underground. Although much of this material is not intrinsically illegal, it can help substantiate the degree of involvement in these activities.

Other records

Dogfight seizures often yield many records that support involvement in illegal activity. This can include breeding and registration papers for dogs from well-established fighting lineages. These may be accompanied by sales and shipping records and correspondence specifically commenting on the animals' fight history or prowess. There may also be records of training and conditioning regimens (or "keep"), contracts for breeding or fighting and fight reports. Many fighters make a sideline of selling paraphernalia (break sticks, treadmills) and may have sales and shipping receipts for such activities. Many of these records may be kept on computer, so any seizures should make use of investigators familiar with obtaining and securing electronic evidence.

Contacts with other dogfighters

Dogfighting requires constant communication with others involved in the practice, so evidence of communication with other known, convicted or suspected dogfighters can be an important source of information. Seizures should include address books, mailing lists, phone records and computer records of email and website traffic. In some cases mail covers have allowed a tracing of correspondence with suspects. Seized GPS devices from vehicles can be a source of information about frequently visited locations and may help document violation of federal laws by providing evidence of the transport across state lines.

In building a dogfighting case, there is no such thing as too much evidence. Even if there is surveillance video, testimony from confidential informants and substantial paraphernalia, it is always possible that some evidence may be excluded or disregarded. For example, examination of buried animal remains from a dogfight location may seem to be an unnecessary addition to a case, but the ability to document the fact that animals have been systematically inhumanely killed can have a profound effect on juries.

8. What obstacles to successful prosecution are commonly encountered?

Most dogfighting prosecutions rely on demonstrating involvement in illegal raising, training and fighting of dogs beyond reasonable doubt through the accumulation of a variety of circumstantial evidence outlined above. The defense of dogfighters is usually based on efforts to produce doubt about as many of these sources of evidence as possible by claiming legitimate, legal explanations for such evidence.

State laws typically delineate activities that are not covered by their dogfighting laws. Among these exceptions are: hunting with the use of dogs, use of dogs to manage livestock or in any accepted agricultural or husbandry practices (such as dogs used to guard livestock or guard agricultural property); simulation of dogfighting for motion pictures and training dogs or use of equipment to train dogs for any lawful purpose. The "other lawful purpose" exceptions seek to ensure that state laws do not inadvertently criminalize behavior that could be criminal if related to dogfighting activity but that can also have entirely legal purposes.

Here are some common tactics used to call such evidence into question:

Care and condition of the dogs

Since the presence of recent and older wounds on seized animals are often a key piece of evidence, fighters generally offer a wide variety of explanations for these injuries. The most common explanation given is a “yard accident” in which an animal has gotten loose and gotten into a fight with another. Veterinary testimony can be very important in explaining the difference between the injuries likely to occur in the course of a single fight and the pattern of injuries seen to many dogs acquired over several instances in the context of organized fighting. These distinctions have been published in a variety of veterinary publications and are often the subject of special instruction in seminars in veterinary forensic sciences.

Dogfighters have also attempted to attribute wounds to injuries inflicted by wild pigs or bears in the context of using the dogs in hunting. Veterinary expert testimony can be used to explain the difference between injuries attributable to dogs and those inflicted by bears or wild pigs. In addition, the absence of any other evidence of involvement in pig or bear hunting may call such defense into question.

The analysis of buried remains found at a suspected scene can also provide strong evidence of a history of injuries unique to dogfight situations and/or the inhumane killing of dogs.

Direct evidence of fight operations

The presence of a blood-stained pit can present a challenge to the defense of an alleged dogfight operation. In some cases attempts have been made to conceal the evidence by disposing of carpeting or flooring or by painting the walls to cover up blood stains.

Fighters have attempted to explain the presence of bloody pits by describing them as whelping boxes for holding breeding females and recently born puppies or areas where hunted animals (e.g. deer) have been butchered. Demonstrating that the blood is from adult male dogs (and in some cases from known, seized animals) can quickly refute such explanations.

Presence of dogfighting paraphernalia

The most common defense used to explain the presence of other paraphernalia commonly seen in dogfighting is the alleged participation of the suspect and his animals in legitimate activities such as weight pull competitions, conformation shows or hunting. Some of these activities do make use of treadmills and other condition equipment, although usually such legitimate use of this equipment is not associated with blood stains or other signs of injuries. Dogfighters will often acquire false evidence of involvement in legal activities (e.g. trophies or award certificates) to provide a possible fraudulent defense for having such equipment. In some cases they may actually participate in such activities, but use this as a “cover” for meeting other potential contacts for engaging in dogfights. When the presence of paraphernalia is used to build a circumstantial case, it is

important to show that such equipment is operable, has been used and, whenever possible, has been used specifically in the training of animals known or suspected to have been fought. If evidence of legitimate activity is presented, its authenticity should be evaluated. Involvement in legitimate dog sports does not **disprove** possible involvement in illegal activities as well. Most legal activity such as weight-pulling and pig hunting and involve specific equipment (e.g. special harnesses, sleds) or permits. The **absence** of such paraphernalia can be used to question such evidence.

The alleged use of dogs for legal purposes may also be used to explain the presence of unusual medical supplies. While this may explain some items (parasite treatment, nutritional supplements, minor wound treatment), veterinary testimony can establish the fact that other items found at the scene go beyond what any reasonable dog owner or breeder might be expected to possess. This would include surgical equipment (sutures, surgical staple guns, spay hooks), medicines for dealing with shock and severe blood loss, injectable steroids, etc. Records of any veterinary visits should be reviewed. Several states require that veterinarians report known or suspected involvement of clients in dogfighting to the appropriate law enforcement authorities. Failure to report such suspicions can be a criminal offense or may be considered grounds for possible conspiracy charges against veterinarians supplying drugs, equipment or treatment for fighting animals.

“Accidental” Presence at a Dogfight

Since conviction for being a spectator at a dogfight can carry serious, even felony, penalties in many states, those charged with this crime may contend that they “just happened” to be on the scene. This may be a legitimate defense in the case of street fighting where passers-by might be attracted to a gathering crowd. However, it is unlikely to succeed if the location of the fight is remote or in a location to which the access is controlled or where attendees have been screened in any way. Documenting that the alleged spectator has a pre-established relationship with those directly involved in the fight can also be used to challenge this defense.

Other common defense arguments

Premature destruction of dogs

As noted above, the difficulties associated with housing and care of seized fighting dogs is sometimes used as justification for their euthanasia under state law or by court order prior to any finding of guilt. Such actions may prejudice judges or juries and can be used to argue that the defense did not have reasonable access to conduct its own review of the “evidence”. If such euthanasia is to be done, defense should be given reasonable access to the animals for independent assessment if desired.

Controversy over ownership

Some dogfighting prosecutions have been hampered by disputes over the ownership of animals seized, arguing that the animals were being boarded or used for breeding. It is important to be able link ownership of animals used as evidence of fighting to the

defendant through licensing records, photographs, correspondence or any other means. Often charges of animal cruelty do not require proof of ownership of the animal(s) in question, only “possessing” or “harboring”, so such charges may stand even if ownership is in question.

Lack of evidence of current dogfight activity

Some higher profile professional or hobbyist fighters may acknowledge past involvement in dogfighting activities, thus attempting to explain away the irrefutable presence of much of the evidence while arguing that they currently are only engaged in legal activities. It is important to establish a recent timeline for the dogfighting related activities through records, contacts and review of the medical condition of the animals involved. It is also important to associate evidence with the recent timeline of alleged activity. For example, the presence of current issues of dogfighting publications has been used to refute a defendant’s arguments that he had not been engaged in dogfight activity for several years.

9. What are the desired results of a successful prosecution?

Because dogfighting commonly occurs in the context of other serious and violent crimes, it is not unusual for dogfighting charges to be dropped or reduced as part of a plea agreement in conjunction with drug, weapons or parole violation charges. However, dogfighting alone can carry substantial penalties which are often subject to enhancements due to the offender’s past criminal record.

Penalties

Incarceration and Fines

State laws generally include both misdemeanor and felony dogfighting provisions. The trend across the country has been to heighten many of the above referenced dogfighting activities to felony level offenses, if not on the first conviction, than on second or subsequent convictions. State laws impose a wide range of sentencing mandates in dogfighting cases, ranging from 6 months in local jail and modest fines to as much as 10, 20 or even longer prison terms (for repeat offenders) and fines as high as \$150,000 for one count of felony animal fighting. Enhanced penalties may also be in order in states where aggravating and mitigating factors are relevant to sentencing determinations – particularly where animals are severely injured, tortured or killed.

Imposing higher monetary penalties for animal fighting crimes reflects legislative awareness that animal fighting is a lucrative often underground enterprise, and that enforcement efforts and hence public safety can be enhanced by collection of substantial fines, particularly if some or all of these funds can be directed to enforcement in the jurisdiction where they are collected.

Forfeiture of Dogs

Some states consider dogs bred, trained or used for fighting as contraband subject to forfeiture much like other forms of contraband such as illegal weapons and drugs. In other jurisdictions, dogs seized in fighting cases are subject to forfeiture under applicable state bonding laws, which require the defendant to post a bond to cover the cost of caring for the animals during the pendency of a cruelty or animal fighting case.

Restitution

In most states, even those that have security bond posting provisions, the sentencing court is authorized to order the defendant to make restitution to an organization or government agency that has incurred expense in providing housing, food and veterinary care to dogs seized in dogfighting cases. State laws differ as to applicable maximum restitution order amounts. Violation of a sentencing court's restitution order can be grounds for a contempt of court order and may also constitute a violation of a condition of probation or parole where applicable.

“No Animal” Orders

In many states, the court is authorized to make part of the sentence an order that the defendant not own animals for a designated period of time. In some states, the type of animal that can be subject of the order is limited to “companion animals” which would include dogs used for fighting purposes. Many states give the court substantial discretion in determining a period of time that is “reasonable”. In some states, the courts have upheld lifetime bans on owning animals. In other states, “no animal” orders are limited to the duration of a probationary period or to the time span of an adjournment in contemplation of dismissal. But whatever the parameters of these “no animal” orders they all aim at protecting potential future vulnerable victims

10. Where can you get help in prosecuting a dogfighting case?

The American Society for the Prevention of Cruelty to Animals (ASPCA)

520 Eighth Avenue

New York, NY 10018

Phone (212) 876-7700

www.aspca.org

E-mail contact: randall@aspca.org

The ASPCA enforces New York's animal cruelty laws and provides national leadership in animal cruelty prevention, response and prosecution. The ASPCA provides information on animal laws; training for police officers, prosecutors, judges and others in law enforcement; veterinary forensic training and consultations; expert witness testimony, and other assistance to prosecutors. The ASPCA can assist with the planning and execution of operations against dogfighters, as well as in the gathering, interpretation and explanation of evidence that is obtained.

Animal Legal Defense Fund (ALDF)

170 E. Cotati Ave.
Cotati, CA 94931
Phone: (707) 795-2533
Fax: (707) 795-7280
www.aldf.org

Through its Anti-Cruelty Division, ALDF works with prosecutors and enforcement agencies to ensure that state criminal anti-cruelty statutes are vigorously enforced, and that those convicted of abuse, cruelty and neglect receive appropriate sentences. ALDF also awards monetary grants to assist attorneys with worthy animal-related cases.

The Humane Society of the United States (HSUS)

2100 L Street NW
Washington, DC 20037
Phone: (202) 452-1100
www.hsus.org

The HSUS is the nation's largest animal protection organization. The HSUS provides rewards in animal cruelty cases, information on current and pending animal protection legislation and specialized training and assistance in the investigation of dogfighting and cockfighting.

Pet-Abuse.com

P.O. Box 5
Southfields, NY 10975
Phone: (888) 523- 7387
www.pet-abuse.com
E-mail contact: info@pet-abuse.com

Pet-Abuse.com maintains a database of thousands of cases of animal abuse and neglect with comprehensive tracking of case prosecutions and outcomes. It is a valuable resource for prosecutors wishing to quickly identify animal cruelty cases that have been investigated and/or prosecuted in their state.

Michigan State University College of Law

Shaw Lane
East Lansing, MI 48824-1300
www.animallaw.info
E-mail contact: Editor@animallaw.info

This site maintains an extensive directory of over 700 full text cases (US, Historical, and UK) and 975 U.S. statutes fully available on the site, with Michigan and California being very comprehensive. Also provide detailed reviews of legal background on animal-law related topics including dogfighting and full-text of many relevant law review articles.