

Dangerous Dogs Administrative Hearing Type 1

Procedure When a Dog Causes Death or Serious Bodily Injury to a Person

Health and Safety Code: Sections 822.001, .002, .003

Any person (including a county attorney, city attorney, or peace officer) may file a sworn complaint directly with the justice court alleging that a dog has caused serious bodily injury or death by attacking, biting, or mauling a person. *(Conservative approach is to not charge a civil filing fee, but law is unclear. So up to court – but be consistent.)*

Does the court find that the complaint establishes probable cause that the dog caused the DEATH of a person?

Yes

Court shall issue a warrant ordering animal control authority to seize the dog.
Animal control authority shall seize dog or order its seizure and provide for impoundment in secure and humane conditions until the court orders disposition of the dog.

Court must hold hearing no later than **10th day** after warrant is issued and must allow any interested party to present evidence. Although the case must be called and a hearing must be conducted within ten days, the court has discretion to postpone the hearing once called and may issue its ruling after the ten-day period.

Court finds that dog DID cause **serious bodily injury** to a person.

The court **MAY** order dog destroyed (unless exceptions apply – see Exceptions box), or **MAY** order dog released.

An order to destroy the dog is automatically **STAYED** for 10 days from the date of the order and the owner may appeal by filing a notice of appeal within that time. The dog **MAY NOT** be destroyed pending appeal.

Court finds that dog DID cause DEATH of a person.

Court **MUST** order dog destroyed.

Court finds that dog did NOT cause death or serious bodily injury of a person

Court **MUST** order dog released to owner, person from whom dog was seized, or any other person authorized to take possession.

No

Does the court find that the complaint establishes probable cause that the dog caused serious bodily injury to a person?

(An injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization, whether or not the person actually sought medical treatment.)

No

Dismiss the case

Exceptions (these do not apply if a dog causes a death; only if the dog causes serious bodily injury)

Even if the court finds that a dog DID cause **serious bodily injury**, the court **MAY NOT** order the dog destroyed if any of the exceptions under HSC 822.033(f) apply:

- 1) Dog was being used for protection of a person/their property; attack/bite/mauling occurred in dog's enclosure which was reasonably certain to prevent escape and warned of presence of dog; and injured person was at least 8 years old and was trespassing in enclosure
- 2) Dog was NOT being used for protection; attack occurred in dog's enclosure; and injured person was at least 8 years old and was trespassing in enclosure.
- 3) Attack/bite/mauling occurred during an arrest/ other action of a peace officer while using dog for law enforcement.
- 4) Dog was defending a person from an assault, property damage, or theft being committed by the injured person.
- 5) Injured person was under 8 years old, attack occurred in dog's enclosure; and enclosure was reasonably certain to keep a person under 8 years old from entering.