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Justice for All:  
Navigating the Legal Landscape of Animal  
Cases in the Courtroom

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# The “Why”

- Animal cruelty laws teeter between administrative proceedings in Muni/JP Court, underlying animal cruelty criminal charges in county/district courts, criminal offenses falling in Muni/JP courts (Class Cs)
- Other animal-related cases appear in your courts, too!
- The general public’s eyes are on animals...and they love them
- But they are “just \_\_\_\_\_” – dogs, cats, gerbils, etc.
  - Special type of property (*Strickland v. Medlen*)
- Have you heard of “The Link?” ...let me tell you about it!



## What is the LINK?

*When animals are abused, people are at risk; when people are abused, animals are at risk.* Increasing awareness of the link is encouraging legislators, community agencies, and caring people to take action by giving greater importance to suspected animal abuse, knowing that they may be also preventing other forms of violence.





# The National LINK Coalition

- National Resource Center
- Organized in 2008, Portland, Maine.
- 3,400+ members, 50 states, 53 countries.
- Informal collaboration addressing linkages, prevention and response to animal abuse, domestic violence, child maltreatment and elder abuse.
- Policy, programs, awareness, & research (1,200+ citations).
- LINK-Letter, local coalitions, trainings.
- By recognizing how human and animal violence are intertwined, violence prevention is enhanced and families and communities are safer – and more humane.



NATIONAL LINK COALITION

*Working together to stop violence  
against people and animals*

# What's Cruelty Got to Do With It?

- Look for other crimes (POCS, PODP, Weapons, Child Abuse, DV)
- 71% of women entering DV shelters reported their partners abused or killed her pet
- 1/3 of vics report their kids have harmed animals
- Animal abusers are 5x likely to harm humans
- 50% of rapists and 33% of child molesters admitted to animal abuse



**“Animal cruelty is more than just a legal issue. It’s a community issue. If you improve animal welfare in a community, you improve public safety for everyone.”**

**-- Former Baltimore Mayor Stephanie Rawlings-Blake**



# Why should animal cruelty be taken seriously?

## FBI National Incident-Based Reporting System Tracking:

- 2014: Previously filed in “other,” FBI changed its policy regarding the tracking of animal abuse crimes in National Incident-Based Reporting System (NIBRS)
- 2016: FBI added an animal cruelty offense category broken down into four subcategories: simple/gross neglect, intentional abuse and torture, organized abuse (dog fighting and cock fighting), and animal sexual abuse. **Mandated in 2021.**
- Participating NIBRS agencies reported
  - 2023: 22,418 instances reported
  - 2022: 20,527 instances
  - 2017: 3200 instances (10% of crimes).
  - 2016: 1100 instances



Left Behind image courtesy of Debra Mitchell-Ibe, LMSW. As expressed and drawn by a young domestic violence victim, "My dog got left, my other dog died."

# Scope of the Problem

## ***DOMESTIC VIOLENCE (TX Council on Family Violence, 2023)***

- 205 Texas women killed by intimate partner
- Family violence programs served more than 70,000 Texans
- State hotline received 172,573 calls (472/day!) from 2016 statistic

## **ANIMAL ABUSE (AVMA 2024)**

- **89.7 million households with pets (77% of all homes)**
- **59.8 million have dogs – 42.2 million have cats**
- **Cruelty investigations: Unknown**

## ***ADULT PROTECTIVE SERVICES (TX DFPS, 2024)***

- 4.5 million residents 65+; almost 1/2 have a disability
- Over 123,000 reported
- Of that, 88,000 investigated for abuse, neglect, exploitation

## **CHILD ABUSE (DFPS, 2024)**

- 7.8 million children
- 286,690 intakes for child abuse & neglect
- 144,189 completed investigations
- 46,365 neglect – 6,200 physical abuse – 5,210 sexual abuse
- 182 child fatalities (FY 22)





## **Serial Killers & Animal Abuse**

**Albert DiSalvo (the Boston Strangler):** strangled and killed 13 women and trapped dogs in crates and shot arrows through them.

**Ted Bundy:** as a child, serial killer and rapist – who was convicted of two murders but was suspected of actually killing more than 40 women – Ted Bundy witnessed his father's violence towards animals, and he himself later tortured animals.

**Jeffrey Dahmer:** impaled the heads of dogs and cats on sticks.

***\*\*The FBI estimates there are 500 serial killers operating in the US at any one time and all known serial killers abused animals.***

## Mass Shooters in TX

- Sutherland Springs, Texas (2017): *History of DV and animal cruelty*
- Midland-Odessa, Texas (2019): *History of DV and animal cruelty*
- Uvalde, Texas (2022): *History of animal cruelty*



# LINK between Animal Abuse and Interpersonal Violence



# Animal Cruelty Issues: Common Statutes

- TX Penal Code § 42.09 (Livestock)
- TX Penal Code § 42.092 (Non-Livestock/Companions)
- TX Penal Code § 42.105(b)(6) (Spectator at cockfight - Class C, unless previously convicted, then Class A)
- TX Penal Code § 31.03 (Theft)
- TX Health and Safety Code
  - § 821.002 (also relates to shelters; shall supply animal with sufficient wholesome food and water during confinement)
  - § 821.021 (definitions –including “cruelly treated” and “owner”)
    - **Cruelly treated** means tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, caused to fight with another animal, or subjected to conduct prohibited by § 21.09, Penal Code
    - Owner includes a person who owns **OR** has custody **OR** control of an animal
  - §§ 821.022 and 821.023 (Seizure and hearing)
  - § 821.025 (Right to Appeal)
  - § 821.077 (Unlawful Restraint) – see next slide

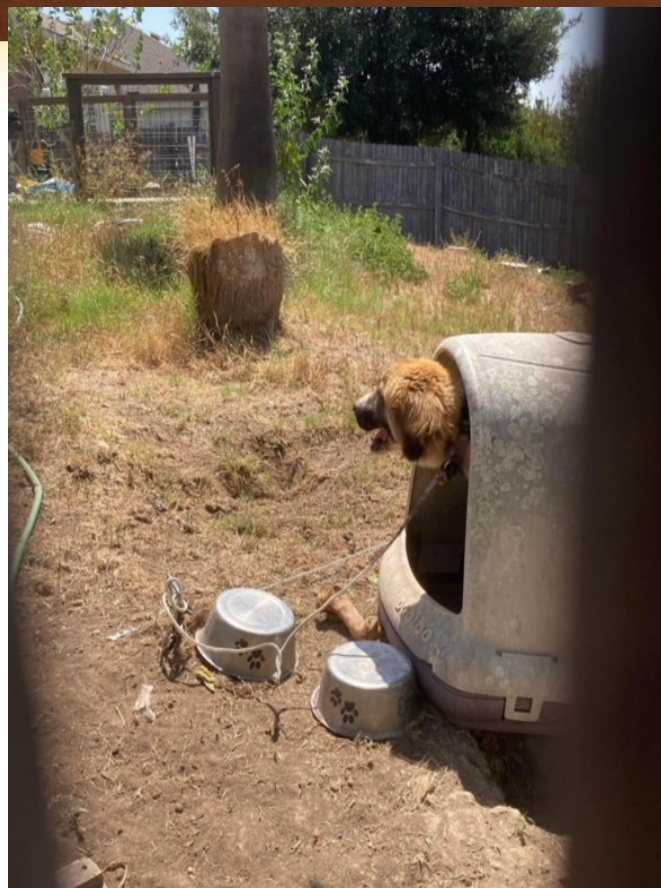
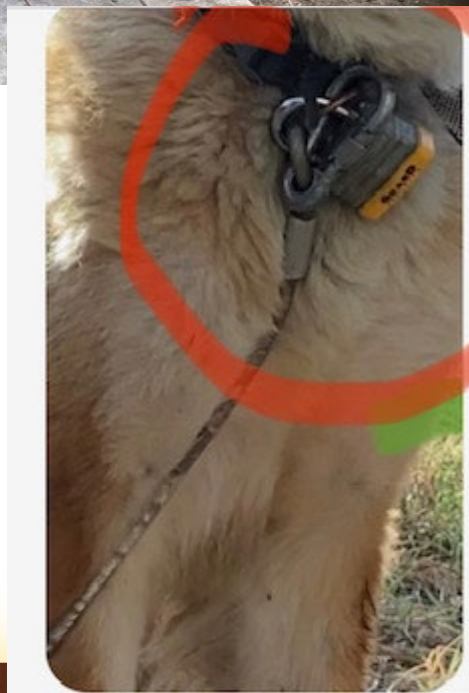
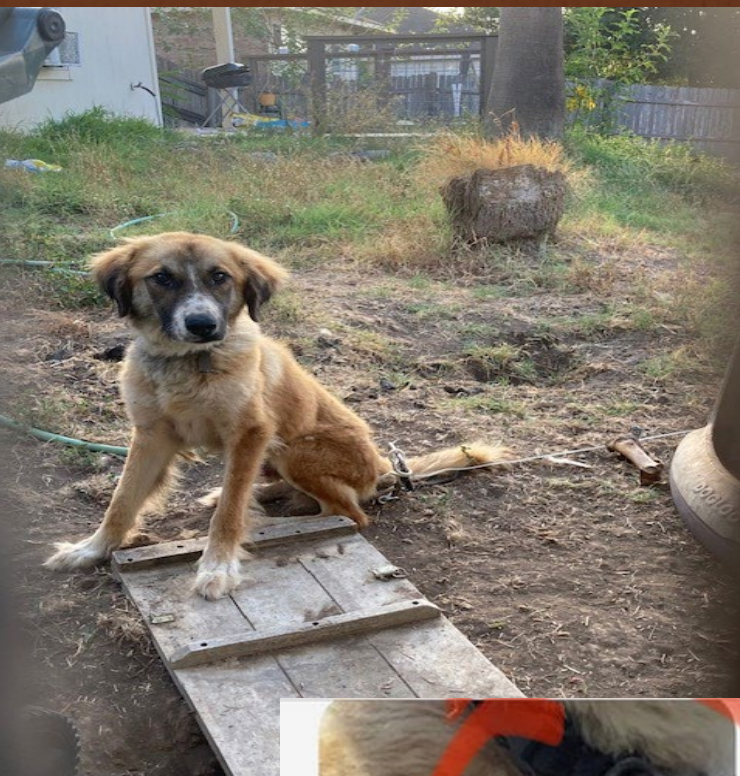


# Animal Cruelty Issues: Common Statutes

## § 821.077 (Unlawful Restraint)

- Limits when dogs can be restrained outside, under certain conditions, using certain collars, length of ties
- Important to take these seriously and get convictions, because if previously convicted, next is Class B (county court)
- Each dog is a SEPARATE offense
- Can prosecute under this section, AND another (§ 42.092, ordinance, etc.)







# Animal Cruelty Issues: Ordinances

- Warrants to seize or enforcing a county ordinance
- Hoarding (Limiting # of animals)
- Requiring food, water, and shelter (see Hays County Ord. 20893, 4<sup>th</sup> Amended; Bastrop County, 2021 )
- Selling animals at flea markets/roadside sales/vendors \*see new legislation! HB 2012 and HB 2731 (eff. 9/1/25)
- Animals in cars

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Animal Cruelty: Civil Seizures: Tex.  
Health & Safety Code Ann. § 821

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# Animal Cruelty Seizures

- Civil hearings –remember, animals are property
  - *Strickland v. Medlen*, 397 S.W.3d 184 (Tex. 2013)
- Animal defined as including “every living nonhuman creature”
  - Tex. Health & Safety Code § 821.001
  - Even includes spiders
- Note to JPs: This is really about the disposition of property – you are NOT deciding if someone gets a criminal conviction.



# Proceedings to Remove a Cruelly Treated Animal: Overview

## 1. Investigation and Documentation

Written Reports, Witness Statements, Photographs

## 2. Application for Seizure Warrant

“Has been or is being cruelly treated”

## 3. Issuance of Seizure Warrant

## 4. Service of Warrant

Animal taken to designated shelter until custody hearing.

Animal should be examined by veterinarian ASAP

## 5. Custody Hearing

To determine if cruelty treated and whether or not owner regains custody. Judge will determine this and the future disposition of the animal.

## 6. Appeal

If an owner is divested of ownership of an animal, the owner has 10 days to file an appeal

# Differences in Civil & Criminal Animal Cruelty Seizure Laws

## CIVIL SEIZURE

- Remove animal from an abusive situation
- Handled by City Attorney's Office or JP Prosecutors with the County
- Applicable Law: Sections 821.021- 821.025 TEXAS HEALTH & SAFETY CODE are used to obtain custody of animals from their abusers by the filing of an Affidavit for Seizure of Animals with the appropriate court.
- A court hearing is held within 10 days of the issuance of the warrant so not held forever pending appeal.
- Seize animals under 821.022
- Burden of proof at hearing: *Preponderance of Evidence*
- Can be Rescued/Adopted !!!

Cruelty Seizures

## CRIMINAL SEIZURE

- Seek justice through punishment
- Handled by DAO or CAO
- Applicable Law: SECTIONS 42.09, 42.092, 42.10 & 42.105 PENAL CODE (prohibits animal cruelty and animal fighting)
- Seize animals under CCP 18.02(10)
- Hold onto them for pendency of case
- Burden of proof: *Beyond a Reasonable Doubt*



# Animal Cruelty Seizures: Civil or Criminal?

- Tex. Health and Safety Code § 821.022
- Civil seizure be preferable:
  1. Saves taxpayers \$ and shelter \$
  2. Takes the animal to disposition more quickly (happens within 10 days)
  3. Lower burden of proof for ACO to seize (reason to believe to apply for warrant), PC to issue, POE to “win”
- Peace officer CAN do this. Not just ACOs!
- Magistrate or Court SHALL issue a warrant (not discretionary)—821.022(b)

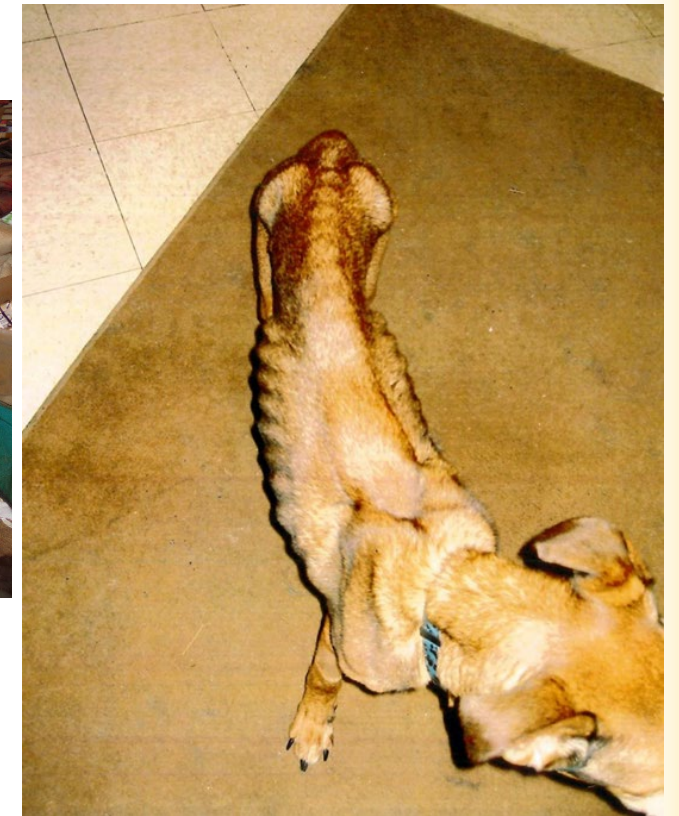


## Animal Cruelty Civil Seizure: Warrant/Setting of Hearing—§ 821.022

- Any peace officer or ACO who has “reason to believe...” can apply for a warrant to seize the animal(s)
- Must show PC “to believe that the animal **has been** OR **is being** cruelly treated”
- Filed in the county where the animal is located- no filing fee
- If JP finds PC exists, **SHALL** issue the warrant and set a time within 10 calendar days
- Officer who executes warrant shall impound the animal and must give written notice to owner of time/place of hearing
- JPs: Focus on definition of cruelly treated in § 821.021(1)
- Torture= unjustifiable pain/suffering

# Definition of Owner

Person who owns or has custody or control of an animal. § 821.021(3)





# The Seizure Affidavit and Warrant

- Better to have observations from officer who can swear to them in the affidavit
- If officer did not observe, witness can write observations in a sworn affidavit, which can be attached to the application for the warrant—officer then swears the s/he believes the animal is being cruelly treated based on the statements by the person with actual knowledge
- Courts say that judges can make reasonable inferences from facts presented
- Warrant should articulate the facts observed, indicate exactly which animals officer or complainant observed, etc.
- Warrant can be for one or multiple animals

# Agreements Before the Hearing



- Should be clear if any agreement will have any effect on criminal animal cruelty charges\*
- Agreement could include a waiver of costs in return for relinquishment or if animals are returned a monitoring schedule
- If owner surrenders animal, prosecutors should draft an agreed order, and **include language that states the animal has been cruelly treated. There SHOULD be an affirmative finding of animal cruelty in there. This will assist future prosecution.**



# Cruelty Seizure Hearing – § 821.023

- JP or municipal court has jurisdiction
- Must be set within 10 days
  - Not jurisdictional in *In re Brehmer*, 428 S.W.3d 920, 924 (Tex. App.—Fort Worth 2014, no pet.)
  - Jurisdictional in *In re Strachan*, No. 05-12-00640-CV, 2012 Tex. App. LEXIS 4036, at \*1, 2012 WL 1833895 (Tex. App.—Dallas May 21, 2012) – BUT...



# Cruelty Seizure Hearing – § 821.023

- Owner has a right to a jury trial, but that right may be waived
- Each interested person is entitled to present evidence (owner, city/state, etc.)
- Owner doesn't need to be present—just have been provided written notice of hearing
- Rules of Ev. do not apply unless local rules enacted






# Cruelty Seizure Hearing – § 821.023

- Prosecutor must prove animal was cruelly treated by a preponderance of the evidence- NOT BRD
- “includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, caused to fight with another animal, or subjected to conduct prohibited by Section 21.09, Penal Code.”
  - Tex. Health & Safety Code § 821.021 (cruelly treated)
  - Penal Code § 21.09 is Bestiality Statute





“Do. Or do not.  
There is no try.”

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YODA



# Cruelty Seizure Hearing – § 821.023

- Some of the terms are defined in the Penal Code
  - Torture = act causes unjustifiable pain or suffering
  - Unreasonably abandon = no reasonable arrangements
  - Fail to provide = to maintain in good health
  - Cruelly = causes or permits unjustified pain or suffering



## Cruelty Seizure Hearing – § 821.023

- Criminal animal cruelty or bestiality guilty verdict=prime facie evidence that animal was cruelly treated (rare, but happens)
- As of 9/1/2017 statements the owner makes during an animal seizure hearing to be used in a later criminal trial
- Prosecutor or other party might ask for a record- give them an estimate and allow them if possible





# What happens to the animal after the hearing?

Court does not find cruel treatment →  
animal returned to owner

Court finds cruel treatment →  
owner divested of ownership





# What happens to the animal after the hearing?

If owner divested:

- (1) Public sale of animal ordered under § 821.024 (owner cannot bid!);
- (2) Animal given to animal shelter or non-profit animal welfare organization; or
- (3) Court orders the humane destruction of animal if it is in the best interest of the animal or public health and safety



Cruelty Seizures



# Judgment

- List animals with descriptions
- Can attach a list to an order for large seizure





# Judgment Against Owner

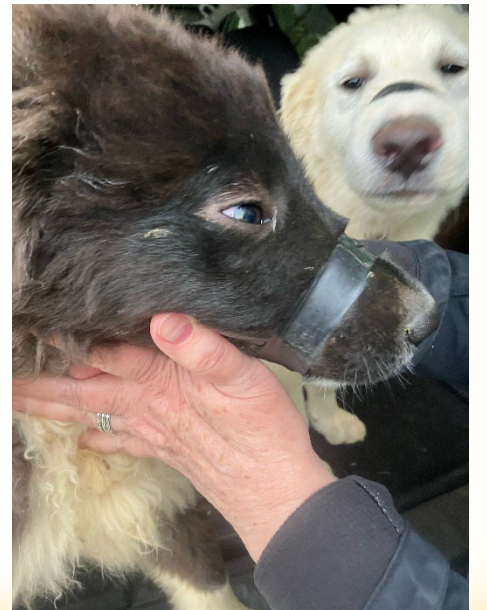
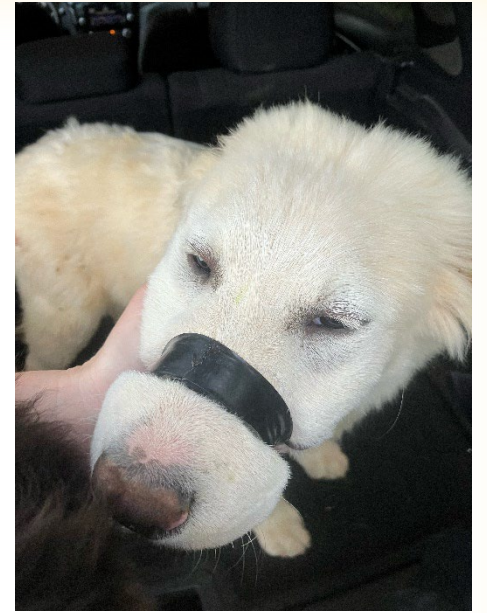
- Court costs must include restitution
- Restitution includes
  - Investigation
  - Expert witnesses
  - Housing and caring for the animal(s)
  - Cost of sale or destruction of the animal
- Court may order owner to pay for spay/neuter of animal(s) or to receiving party





# Appeal – §§ 821.023, 821.025

- Owner (Respondent) can perfect an appeal to county court or county court at law
- Owner must file notice of appeal and a surety bond within 10 calendar days of judgment
- Clerk must file record (transcripts, etc.) with county court or court at law within 5 calendar days of perfection
- County court or court at law must hear the appeal *de novo* within 10 calendar days of receiving the record
- That's all, folks! No further appeal (dist. from DD/SBI)
- During appellate process animal cannot be sold or given away, but may be humanely destroyed to prevent suffering of the animal



# Appellate Bond

- Court must set
- Court costs plus cost of caring and housing for the animal for 25 days (10+5+10)
- Not unreasonable because someone can't afford
  - *Tex. City Animal Control v. Dixon*, No. CV66,854, 2012 Tex. Cnty. LEXIS 2058 (Tex. County Ct. Feb. 10, 2012)
- Amount does not count against jurisdictional limit of the court





*Court Costs:*

Administrative costs	
Investigation	\$
Expert witnesses	\$
Conducting any public sale ordered by the court	\$
Animal shelter/animal welfare organization costs	
Housing and caring for animal(s) during its/their impoundment	\$
Humanely destroying the animal(s) if ordered by the court	\$
<b>Court costs</b>	\$

*Estimate of animal shelter/animal welfare organization costs to house and care for the animals during appeal process:*

Daily cost of housing, food, veterinary care, medication, etc. for animal(s)	\$
Multiplied by statutory length of appeal	x 25
<b>Estimated costs during appeal process</b>	\$

*Bond for appeal:*

Court costs	\$
Estimated costs during appeal process	\$
<b>Appellate Bond amount</b>	\$



## Emergency Doctrine? (Warrantless seizure)

*Pine v. State*, 889 S.W.2d 625, 631 (Tex.App.—Houston [14<sup>th</sup> Dist.] 1994, reh overruled).

- Anonymous tip for cruelty, found malnourished colt
- Deputy seized livestock animal w/ no warrant based on observations & knowledge of livestock, & the emergency doctrine applies to remove him from the necessity of getting a warrant before seizure
- Jury trial – guilty—probation sentence
- COA: no warrant needed to remove malnourished colt; no reasonable expectation of privacy if legally allowed to be where observing

# Cruelty Seizure Laws: Warrantless Seizures

- To justify a warrantless seizure in an animal cruelty case, the State must show
  - (1) the officer had probable cause to believe the animal was being cruelly treated, and
  - (2) obtaining a warrant was impractical because the officer reasonably believed there was an immediate need to act to preserve a life

Pine v. State, 889 S.W.2d 625, 631 (Tex. App.—Houston [14th Dist.] 1994, no pet.)

# Cruelty Seizure Law: Warrantless Seizures

- ACO received a call about animals fighting; officer saw a puppy stuck under a fence entered the property and ended up seizing 13 dogs without a warrant; Court found it was an illegal seizure
  - *State v. Betts*, 397 S.W.3d 198 (Tex. Crim. App. 2013)
- Warrantless seizure of cattle from an **open field** was upheld
  - *Westfall v. State*, 10 S.W.3d 85, 88 (Tex. App.—Waco 1999, no pet.)
- Warrantless seizure of horse was justified where officer had training and background in the care of horses and believed a horse was in imminent danger and was about to die
  - *Matus v. State*, No. 10-08-00149-CR, 2011 Tex. App. LEXIS 2316, at \*28-29 (Tex. App.—Waco Mar. 30, 2011, pet. ref'd)













# Cruelty Seizure Case Law

- Where owner contests his knowledge of an animal's condition, other animals on owner's property are relevant  
*Pine v. State*, 889 S.W.2d 625, 633-34 (Tex. App.—Houston [14th Dist.] 1994, no pet.)
- Some effort to care for the animal does not negate a failure to provide; lack of resources not a defense  
*Martinez v. State*, 48 S.W.3d 273, 276-77 (Tex. App.—San Antonio 2001, pet. ref'd)  
*Matus v. State*, No. 10-08-00149-CR, 2011 Tex. App. LEXIS 2316, \*12 (Tex. App.—Waco March 30, 2011, pet. ref'd)
- Veterinarian is capable of committing animal cruelty and fact that owner was a vet was not required to be in the PC affidavit  
*Charboneau v. State*, No. 05-13-00340-CR, 2014 Tex. App. LEXIS 13923 (Tex. App.—Dallas Dec. 30, 2014)

# Cruelty Seizure Case Law

- Forms consenting to ACO taking an animal are admissible as an admission by a party opponent

*Martinez v. State*, 48 S.W.3d 273, 277 (Tex. App.—San Antonio 2001, pet. ref'd)

- Where a deputy was dispatched on a animal cruelty call, and ACO observed a dog that was "emaciated and in poor health" and the ACO heard other dogs on the property barking in such a manner that he believed they could also need medical care, "[t]he combined logical force of these facts is that an officer, trained in the area of animal cruelty, saw and heard animals on the property that he believed were being unreasonably neglected and in need of medical care. Such facts provide a substantial basis for the magistrate to conclude there was a fair probability that evidence of a crime would be found on the property."

*Charboneau v. State*, No. 05-13-00340-CR, 2014 Tex. App. LEXIS 13923, at \*11-12 (Tex. App.—Dallas Dec. 30, 2014, no pet.)

# Denton County pet owner loses rare appeal in puppy abuse case

By Christian McPhate Staff Writer [cmcpbate@dentonrc.com](mailto:cmcpbate@dentonrc.com) Jun 16, 2023



Levi, left, and Wrangler are currently staying with a foster family until they find adoptive homes.

Courtesy photo



Listen to this article now

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00:00

09:55



Levi and Wrangler were free at last. The 4- and 3-month-old Great Pyrenees puppies, one white and the other black, ran down the road in the Aubrey area, no doubt searching for help. Their snouts had been taped shut with black electrical tape that was leaving a circular imprint.

"The tape appeared to be so tight, the puppies would not be able to pant, eat, drink, nor defend themselves," according to the animal seizure affidavit filed by the Denton County Sheriff's Office.



## Trend



calcula



10 year



Member **FDIC**

**NEIGH  
FRIEN**

Accounts t



WILLIAMSON COUNTY

# One dog dies, another rescued in Williamson County animal cruelty case

by: [Sarah Al-Shaikh](#)  
Posted: Jan 22, 2025 / 07:52 PM CST  
Updated: Jan 22, 2025 / 10:17 PM CST



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WILLIAMSON COUNTY, Texas (KXAN) — With another freeze expected Wednesday night, a deadly and heartbreaking animal cruelty case out of Williamson County is top-of-mind.

Judge KT Musselman, Williamson County Justice of the Peace in Precinct 1, said he received a call on Tuesday with an animal control officer on the line.

“There were two dogs outside of Bartlett on a property in a chain link fence with no support. No housing out in the cold with the wind blowing, w

PAIGE

Please see the full prescribing information. pressure leading to fainting have been reported with efgartigimod alfa-sab.

• **Infusion-Related Reactions.** VYVGART HYTRULO can cause

their snouts had mud and dirt in their teeth indicating that they had started eating the ground and the dirt because they had been in that pen for too long,” Musselman said.

| **MOST READ: Is 6th street opened to traffic day and night?** ➤

He said one of the dogs was seizing in the animal control officer’s hands while she was banging on the homeowner’s door and asking if anyone was there.

### **Delay serving the warrant**

Any justice of the peace or municipal judge within the county can issue a warrant to seize an animal they believe is being treated cruelly, Musselman said.

ADVERTISEMENT



But in this situation, he said they lost about 15 minutes trying to figure out who had the authority to sign that warrant.

“We were 60 feet away from the county line, and we had a jurisdictional question,” Musselman said. “We did our best to issue that warrant as quickly as possible. Unfortunately, because of the time, one of those dogs died in the animal control officer’s arms.”

The surviving dog is now at the county’s regional hospital and veterinary center, Musselman said.



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Dogs Attacking Persons (SBI and  
Dangerous Dog Cases): HSC Ch.  
822, Subchapters A and D

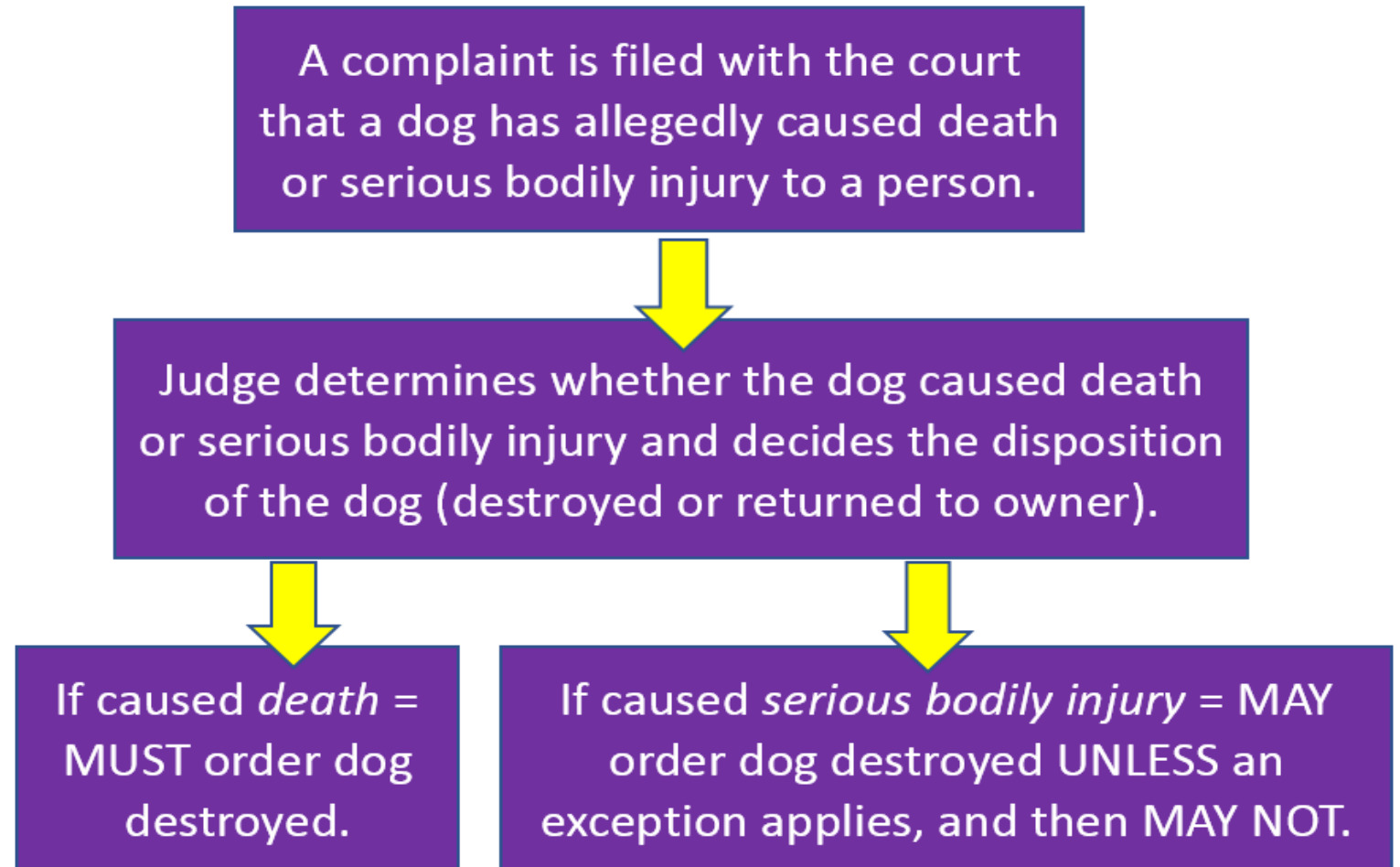
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- Two Subchapters (A and D) authorize these proceedings
- There are 4 different situations that might appear in your court:
  - (1) Dog causes SBI
  - (2) Is the dog a “dangerous dog” after an appeal of an animal control authority determination
  - (3) Is the dog a “dangerous dog” when a report is made directly to your justice court (only in certain counties)
  - (4) An owner of a dangerous dog fails to comply with statutory requirements for a DD owner

# SBI Flow Chart\*

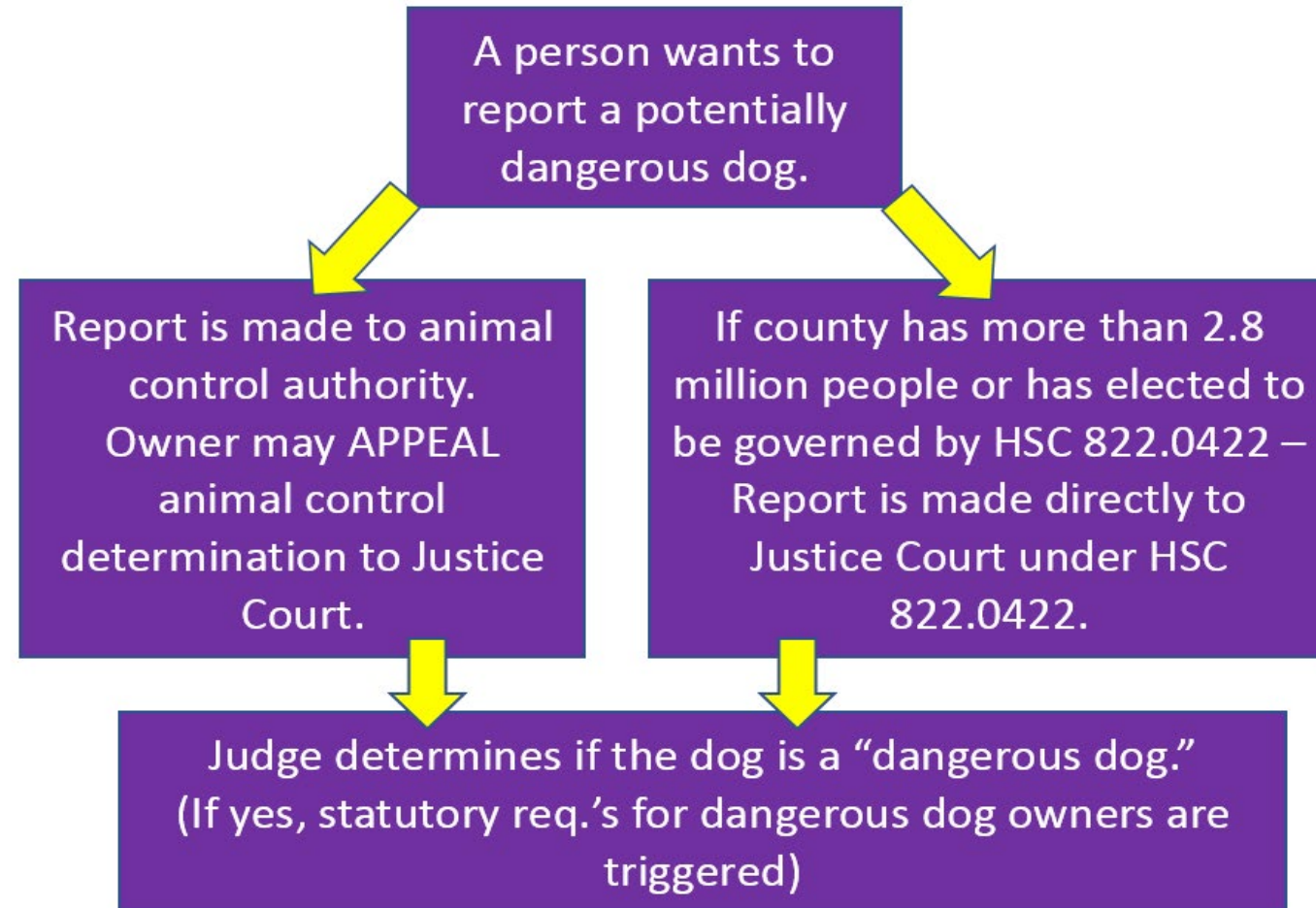
## Type 1



\* 4th Ed. Admin. Deskbook, TJCTC

# Dangerous Dog Flow Chart\*

## Types 2 & 3

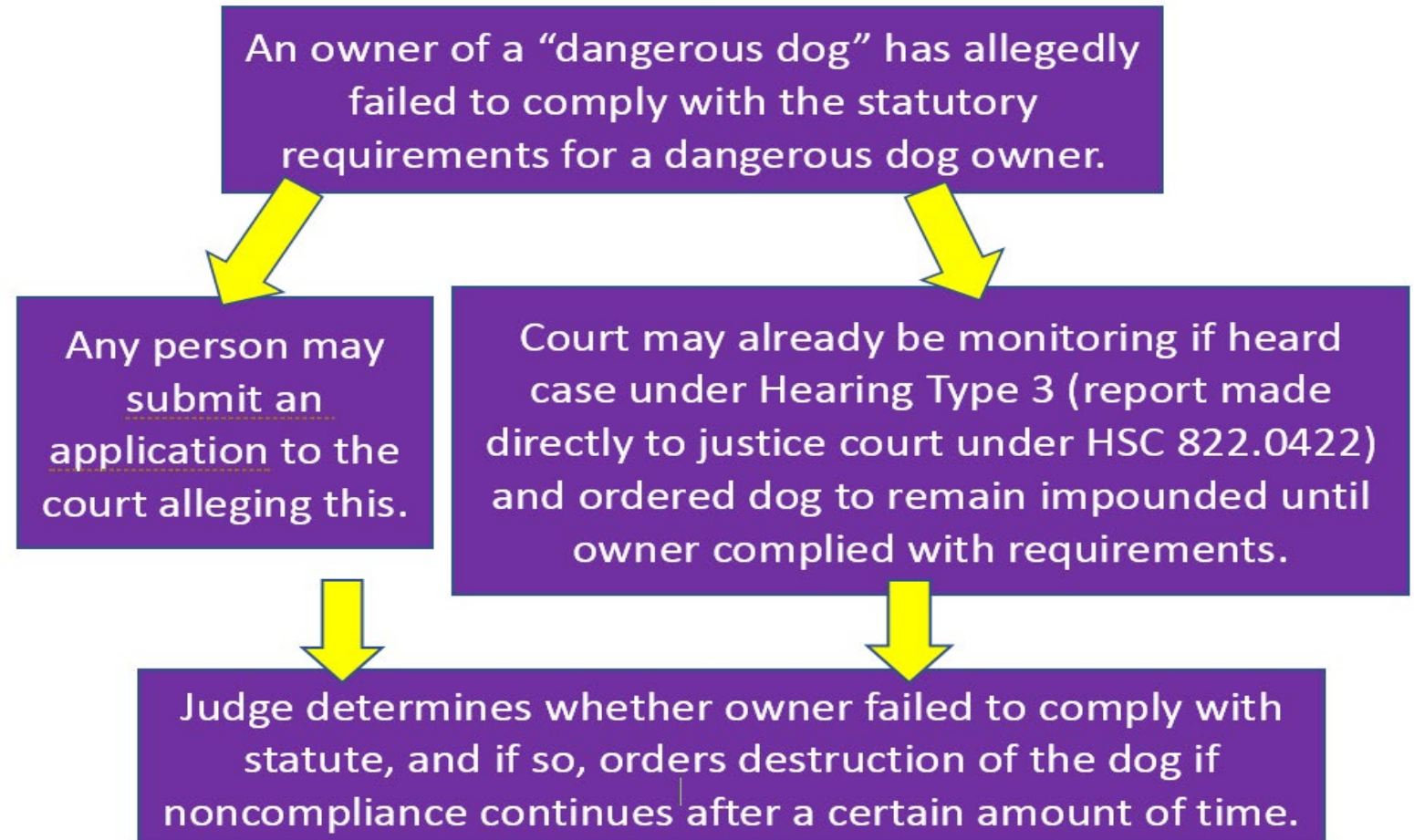


\* 4th Ed. Admin. Deskbook, TJCTC



# Violation of DD statutory requirements flow chart\*

## Type 4



\* 4th Ed. Admin. Deskbook, TJCTC

# Dogs Causing SBI (Subchapter A)

- If a dog causes serious bodily injury or death to a person, §§ 822.002-.004 applies
  - SBI = severe bite wounds or severe ripping/tearing of muscle requiring hospitalization (even if person didn't seek medical tx).
  - Justice court SHALL order the seizure of the dog with a warrant authorizing the same
    - Must have sworn complaint of ANY PERSON....victim, County Atty, City Atty, LEO (see AG ruling KP-0284)
    - Dog caused death or SBI to a person by (manner and means to satisfy statute)
    - Must show PC that the dog caused this
    - Animal control authority (might be police in certain cities) must impound animal until court orders disposition

## Dogs Causing SBI (Subchapter A; § 822.003): Hearing and Disposition

- Court gives written notice to BOTH owner and complainant
- Hearing by the 10<sup>th</sup> day after warrant issued (not seized)
- Court can't limit testimony—"any interested person" is entitled to present evidence
- If court finds dog caused death—shall order euthanized
- Court may order euthanized if court finds SBI
- If court does not find SBI nor death, shall order dog released back
- Provocation doesn't come into play here...IF death; SBI— "maybe"



# Dogs Causing SBI (Subchapter A; § 822.003): Defenses to Euthanasia

Court may NOT order euthanasia if\*\*:

- 1) Dog was protecting person or property, the attack happened where dog was being kept, there was notice a dog was there, hurt person was 8+ years old, person was trespassing when attack occurred.
- 2) Dog was not being used to protect property or person, but attack happened where dog was being kept, hurt person was 8+, and was trespassing
- 3) Hurt person was under 8, the attack happened where dog was being kept, but where the dog was held was reasonably certain to keep a kid under 8 from entering
- 4) Dog was defending a person from an assault or property/theft

## Dogs Causing SBI (Subchapter A) – Appeals

- Not IN the statute, BUT....appealable!
- All Subchapter A proceedings are appealable under the same proceedings applied in Subchapter D (dangerous dog)
- *See State By & Through City of Dallas v. Dallas Pets Alive, 566 S.W.3d 914 (Tex. App.—Dallas 2018, pet. denied)*
- *Also see Hayes v. State, 518 S.W.3d 585 (Tex. App.—Tyler 2017, no pet.)*

# Hypothetical

Sandy, 12 years old, has her friend over (also 12). Dog is in backyard as usual in locked dog run. Sandy's parents tell friend not to enter backyard and not to go near the dog. Friend goes into backyard, sticks fingers in dog run, and dog bites friend's finger off.

Is this prosecutable? Consider defenses from statute...(enclosure, on own property, trespassing)

- Civil action maybe—but not a violation under this Section
- Often argued that “enclosure” is a fenced backyard or even a house—so if one didn't have permission to enter house or backyard, and gets attacked—a good defense
- Pros/ACOs/LEOs with victim and dog owner to get all the facts



# Dangerous Dogs: Subchapter D

- §§ 822.041-.047
- Key words/phrases:
  - Unprovoked attack, bodily injury, other than enclosure where dog kept OR
  - Unprovoked acts, other than enclosure where dog kept, reasonably believe dog will attack and cause bodily injury to person
  - Owner is person who owns OR has custody OR control of dog

# Dangerous Dogs: Subchapter D

Dog breaks off leash, attacks person/Dog gets out of fence, attacks person/Dog gets out of fence and causes person to believe dog will attack her. Then what?

(1) Person reports it to animal control → animal control investigates → animal control notifies owner in writing the dangerous dog determination under (HSC § 822.0421(b), (c)) — OR (2) Person reports it directly to a justice court (§ 822.0422 for certain counties like Harris) and a hearing is automatically held

Upon dangerous determination, owner has 30 days to comply with dangerous dog requirements (§ 822.042 or by ordinance if stricter)

# Dangerous Dogs: Subchapter D - Appeals

## Appeal from Animal Control Authority To JP:

- Owner has 15 calendar days from notification to appeal to JP court- must attach copy of decision and serve a copy of notice of appeal on the animal control authority by mail (HSC § 822.0421(b), (c))

## Appealing JP decision to County Court:

- See § 822.0424
- 10 calendar days from JP's decision to file notice of appeal (MNT not necessary) to county court or CCAL; can request jury trial
- Can continue to appeal like any county court case



# Hypothetical

Bob's fence is in disrepair. Dog "escapes" and runs aggressively up to Sarah who is walking her 30lb dog on a leash. Sarah screams for help as dog jumps up on her and her dog. Sarah sustains scratches. Neighbor Scott runs and holds onto "escapee" until authorities arrive.

- What kind of injury was sustained?
- Does DD statute apply?
- Does Subchapter A (SBI) apply?
  - No! No SBI or death
  - Analysis stops at DD hearing
  - Results in following DD requirements of statute
  - Not subject to euthanasia—no authority for court to order this under these facts
- This fact pattern is common—please consider your individual community standards and your moral compass when going down the DD route—many ramifications for small potatoes
- Is the juice worth the squeeze? Lots of room to negotiate.

# Hypothetical

Tenny likes to walk his dog with no leash—because Jersey “listens and would never harm a fly.” Judd is picking weeds in his front yard, and Jersey lifts his leg up and does his business right there. Judd proceeds to walk aggressively over to Jersey and begins to kick him (Jersey is on the sidewalk). Jersey bites Judd’s leg several times, down to the muscle.

- What kind of injury was sustained?
- Does DD statute apply?
- Does Subchapter A (SBI) apply?
- What options does the court have?

# Hypothetical

Bob's fence is in disrepair. Fido "escapes" and runs aggressively ONLY up to Sarah's dog. Sarah drops her leash and Fido mauls the dog.

- Does DD statute apply?
- Does SBI apply?
- Your county can pass ordinances governing animal on animal attacks or make more stringent requirements of DD restrictions, but technically animal on animal are NOT dangerous dog cases and should not be treated as such under the statute. HSC § 822.047



## Important Considerations/Reminders

- Understanding what “possession” and “ownership” means
  - Who owns the animal for at-large, no rabies, no collar, etc. citations?
- Dangerous Dog/SBI Cases—ONLY dog on human—not dog on another animal
  - Not always euthanasia...work with your prosecutors
  - Any ordinance or law that pertains to removal of property (animals) requires due process
- If an animal is seized under DD or SBI statutes, don't set the hearing 2 days away- the person is entitled to a minimum of 3 days notice in a civil hearing; additionally, issues receiving discovery from prosecutor. Ten days is the goal.
- Calendar days!
- *Res judicata* (*in rem* proceeding) and pleas to the jurisdiction – no dog, no jxn!



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## Contact Information

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