

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

The “Why”

- Animal laws teeter between courts
- The general public’s eyes are on animals
- 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.*

What's Cruelty Got to Do With It?

- Other crimes
- 71% of women entering DV shelters reported their partners abused or killed her pet
- 1/3 of vics report their kids have harmed animals
- 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
(NIBRS) Tracking:

- 2014: the FBI policy changed
- 2016: animal crimes offenses Mandated in 2021.
- Participating NIBRS agencies reported
 - 2016: 1,100
 - 2017: 3,200 (10% of crimes)
 - 2022: 20,527
 - 2023: 22,418

The National Law Enforcement Perspective on Animal Abuse #1

“Over the last decade, social scientists and law enforcement agencies have begun to examine cruelty to animals as a serious human problem closely linked to domestic violence, child abuse, elder abuse, and other violent crimes. [Preventing animal cruelty] cannot undo generations of abuse, but can be an effective means of breaking the cycle of family violence from one generation to the next.” -

International Association of Chiefs of Police

“A strong connection has been made between domestic violence, child abuse and animal abuse. The evidence shows that a batterer’s first victim is usually an animal followed by a child or person. It’s up to law enforcement and prosecution to bring these criminals to justice.” - **National Sheriffs’ Association**

The National Law Enforcement Perspective on Animal Abuse #2

“Animal abuse has received insufficient attention as one of a number of ‘red flags’ - warning signs or sentinel behaviors that could help identify youth at risk for perpetrating interpersonal violence and youth who have themselves been victimized.” - **US DOJ OJJDP, 2001**

“The topic of animal cruelty may seem unimportant in the face of events like the Boston bombing, school shootings, and other recent tragedies, but we know there’s a history of animal cruelty in the backgrounds of many perps of violent acts. Understanding the link between animal cruelty and interpersonal violence is critical to the Department.” - **US DOJ Working Group on Animal Cruelty**

Serial Killers & Animal Abuse

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

Ted Bundy: as a child, serial killer and rapist – who was convicted of two murders– 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

- 2017: Sutherland Springs, TX (Devin Kelley)
- 2019: Midland-Odessa, TX (Seth Aaron Ator)
- 2022: Buffalo, NY (Payton Gendron)
- 2022: Uvalde, TX (Salvador Ramos)

*30% of school mass shooters 1998-2012 had a history of **hands-on** abuse of dogs or cats (compared with approx. 1% of the general population)

Animal Cruelty Issues: Penal Code

- 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)***

Animal Cruelty Issues: Health and Safety Code

- Shelters shall supply animal with sufficient wholesome food and water during confinement - § 821.002
- Definitions - § 821.021
 - 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 bestiality
 - Owner** is a person who owns **or** has custody **or** control of an animal
- Seizure, hearing, appeal - §§ 821.022, 821.023, 821.025
- Unlawful Restraint – § 821.101 (see next slide)

Animal Cruelty Issues: Unlawful Restraint § 821.101

- Limits on restraining dogs outside (conditions, collars, length, shelter)
- Take seriously and convictions - 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

- Requiring food, water, and shelter (see Hays County Ord. 20893, 4th Amended; Bastrop County, 2021)
- Selling animals at flea markets/roadside sales/vendors *see new legislation! HB 2012 and HB 2731 (eff. 9/1/25)

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

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” - § 821.001
 - Even includes spiders
- This is 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, Photos
- 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. Disposition Hearing:** To determine if cruelty treated and if owner regains custody. Judge determines this and the future disposition of the animal.
- 6. Appeal:** If owner is divested of ownership, owner has 10 days to file an appeal

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

- Any peace officer or ACO who has “reason to believe...”
- 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 & set a time within 10 cal days *
- *Written notice* to owner of time/place of hearing
- Focus on definition of cruelly treated in § 821.021(1) & owner (3)
- Torture= unjustifiable pain/suffering

The Seizure Affidavit and Warrant

- Observations from officer who can swear to them in the affidavit
- If officer ≠ observe → W writes observations in sworn affidavit, attaches → officer swears based on statements by W with actual knowledge
- Articulates facts observed, specificity of animals, etc.
- One or more animals
- Reasonable inferences from facts presented

Agreements Before the Hearing

- Effect on criminal charges—NO!
- Waiver of costs in return for relinquishment or if animals are returned a monitoring schedule
- If owner surrenders, 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 Under § 821.023

- Style of the case (In re: [description of animal])
- Each interested person is entitled to present evidence (owner, city/state, etc.)
- Owner ≠ be present—just provided written notice of hearing
- Rules of Evidence & TRCP
- Jury trial?
- Prosecutor must prove animal was cruelly treated by a preponderance of the evidence- not BRD

Cruelty Seizure Hearing Under § 821.023, Definitions

- Some 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 Under § 821.023, Prior CCH and Records

- Criminal animal cruelty or bestiality guilty verdict=prime facie evidence that animal was cruelly treated (rare, but happens)
- Statements owner makes during an animal seizure hearing used in a later criminal trial
- Record/court reporter

What happens to the animal after the hearing? Title Transfer

Court does not find cruel treatment
animal returned to owner

Court finds cruel treatment
owner divested of ownership

If Owner Is Divested...

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

Judgment Against Owner

- List animals with descriptions
- Court costs must include restitution
 - Investigation
 - Expert witnesses
 - Housing and caring for the animal(s)
 - Cost of sale or destruction of the animal
- Spay/neuter of animal(s) or to receiving party

Appeal – §§ 821.023, 821.025

- Owner (Respondent) can appeal to CC or CCAL
- Notice & a surety bond within 10 calendar days of judgment
- Clerk must file record (transcripts, etc.) within 5 calendar days of perfection
- Must hear appeal *de novo* w/in 10 cal days of receiving the record
- That's all, folks! No further appeal (dist. from DD/SBI)
- Do not sell or give 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)
- Even if 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	\$
Court costs	\$

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
Estimated costs during appeal process	\$

Bond for appeal:

Court costs	\$
Estimated costs during appeal process	\$
Appellate Bond amount	\$

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 Case Law #1

- 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 & 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 #2

“[a]n 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.)

And “Odd Duck” – CCP §15.03(a)(2)

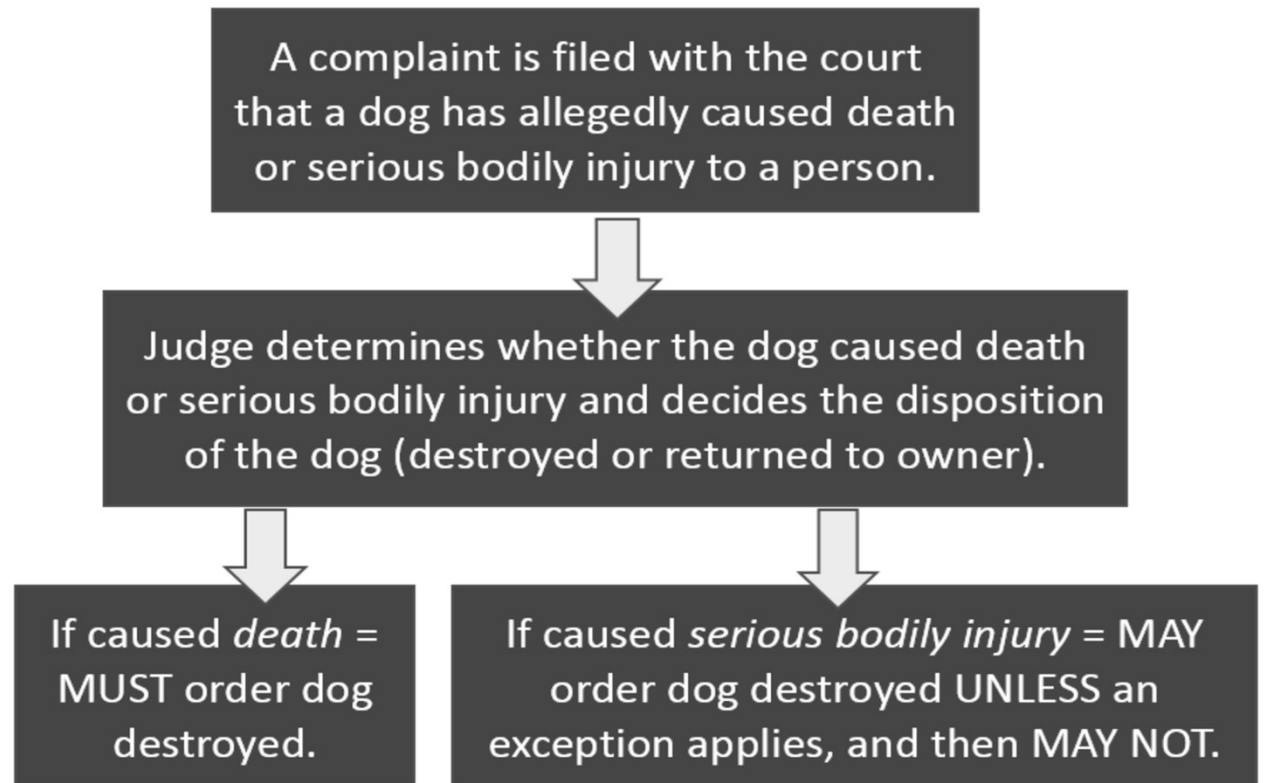
- A mag may issue a warrant or summons...[w]hen any person shall make oath before you that another has committed some offense against the laws of the State
- In this case, the “person” needs to make the oath in front of you in person OR through video conferencing (zoom, etc.)—but a recording must be made and kept [§15.03(c), (d), and also see (e)]

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

- 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

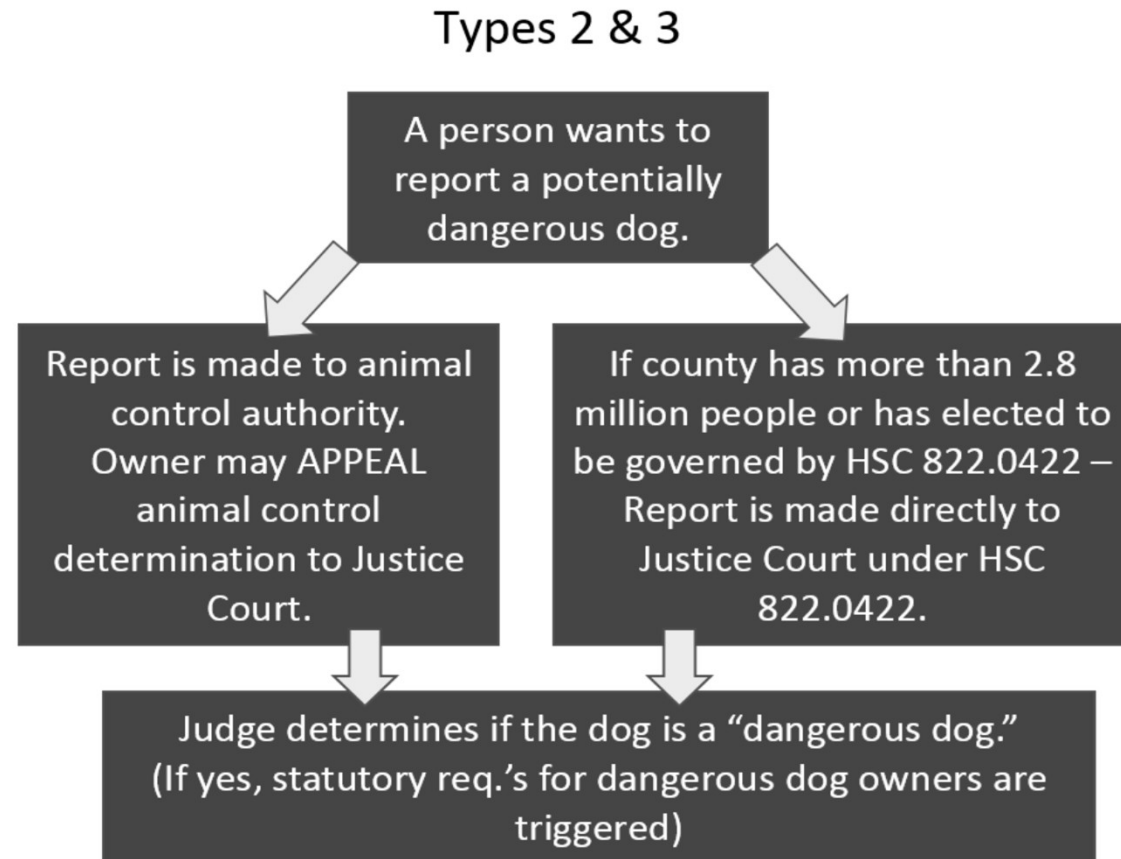
SBI Flow Chart*

Type 1



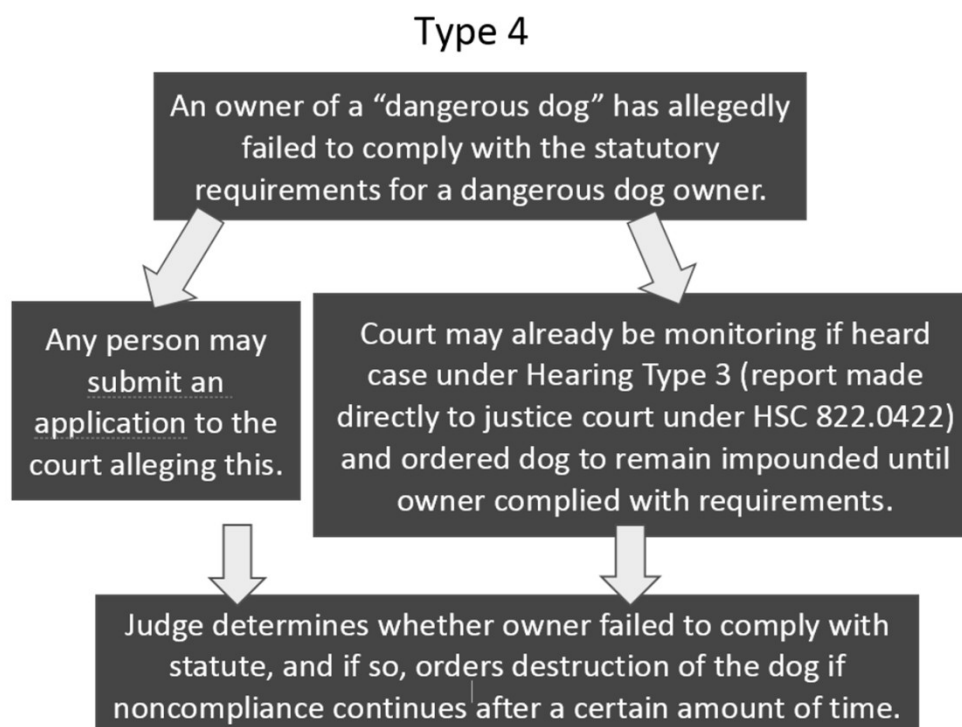
* 4th Ed. Admin. Deskbook, TJCTC

Dangerous Dog Flow Chart*



* 4th Ed. Admin. Deskbook, TJCTC

Violation of DD statutory requirements flow chart*



* 4th Ed. Admin. Deskbook, TJCTC

Dogs Causing SBI (Subchapter A), §§ 822.002-.004

- Causes serious bodily injury or death to a *person*
- SBI = severe bite wounds or severe ripping/tearing of muscle requiring hospitalization*
- *Shall* order the seizure of the dog with a warrant
- Sworn complaint of *any person*....victim, County Atty, City Atty, LEO (see AG ruling KP-0284)
- PC that the dog caused this
- Animal control authority → 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 10th day after warrant issued (not seized)
- Can't limit testimony—"any interested person" is entitled to present
- 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) Protecting person/property, attack was where dog was being kept, notice dog was there, hurt person was 8+ years old, person was trespassing
- 2) 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, attack happened where dog was being kept, but where dog was held reasonably certain to keep a kid under 8 from entering
- 4) 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)

City of Dallas v. Dallas Pets Alive, 566 S.W.3d 914 (Tex. App.—Dallas 2018, pet. denied)

Hayes v. State, 518 S.W.3d 585 (Tex. App.—Tyler 2017, no pet.)

Hypothetical - Tables

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. What say you, judge?

- a) I'd order the dog to be euthanized. Dog caused SBI—the end!
- b) I'd order that the dog caused SBI, but there is a defense because dog in dog run and child (over 8) trespassing. So no euthanasia.

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, Example

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, § 822.0421(b), (c)

- 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

Appealing JP decision to County Court, § 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: Dangerous Dogs/SBI #1

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?
- Is the juice worth the squeeze? Lots of room to negotiate.

Hypothetical: Dangerous Dogs/SBI #2

Sarah likes to walk her dog with no leash—because Pedro “listens and would never harm a fly.” Chris is picking weeds in his front yard, and Pedro lifts his leg up and does his business right there. Chris proceeds to walk aggressively over to Pedro and begins to kick him (Pedro is on the sidewalk). Pedro bites Chris’ 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: Dangerous Dogs/SBI #3

Fido “escapes” from his backyard that has a fence in disrepair. Fido runs aggressively ONLY up to Sarah’s dog. Sarah drops her leash in fear of her own safety, and Fido mauls the dog.

- Which statute applies—DD or SBI?
- Technically, animal on animal are not dangerous dog cases and should not be treated as such under the statute—unless... HSC § 822.047

Important Considerations/Reminders

- Understanding “possession” and “ownership” – *theft* comes to mind, too
- Dangerous Dog/SBI Cases—ONLY dog on human
- Not always euthanasia...work with your prosecutors
- Due process
- A 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

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