

**Cruelly-Treated  
Animals**

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**Regional Judges Program**

presented by:  
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**Why are we here today?**

- Timely
- Unchartered territory
- Practice points 🐾

**Why do we care?**

- People love pets
- Animal cruelty is a crime
- These cases appear in your courts

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**Animal Cruelty Laws**

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**Chapter 42,  
Penal Code**

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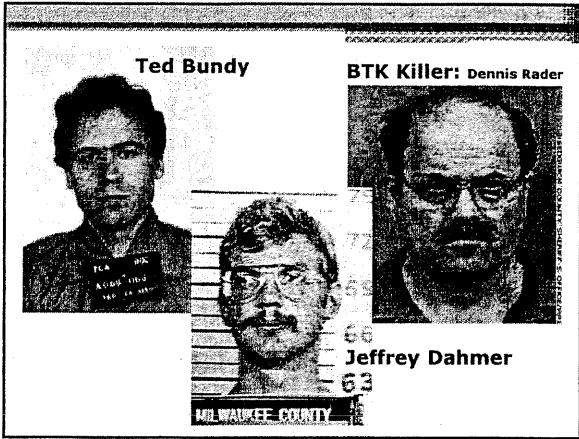
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**A Warning Sign?**

- Psychology behind animal abuse
- Acts of cruelty towards animals as a child
- Statistics show a link between animal abuse and violence towards people
- Recent trend linking animal abuse and domestic violence

"The Link Between Animal Cruelty and Violence Towards People" by Cynthia Hodges (2007)

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**Penal Code Offenses**

- Cruelty to Livestock Animals (PC § 42.09)
  - Criminal Mischief (PC § 28.03)
- Attack on Assistance Animal (PC § 42.091)
- Cruelty to Non-Livestock Animals (PC § 42.092)
- Dog Fighting (PC § 42.10)

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### Cruelty to Non-Livestock Animals

- Fails unreasonably to provide necessary food, water, care, or shelter
- Abandons unreasonably
- Transports or confines in a cruel manner
- Causes bodily injury to
- Seriously overworks

= **Class A misdemeanor**  
 2 prior convictions = state jail felony

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### Cruelty to Non-Livestock Animals

- Tortures or in a cruel manner kills or causes serious bodily injury to
- Kills, poisons, or causes serious bodily injury to
- Causes dog to fight with another non-dog animal
- Uses live animal as a lure in dog race training or coursing on racetrack

= **state jail felony**  
 2 prior convictions = 3<sup>rd</sup> degree felony

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### Dog Fighting

- Own or possess dog fighting equipment\*
- Own or train dog for fighting
- Attend dog fight as a spectator

= **Class A misdemeanor**

\*2009 addition

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### Dog Fighting

- Causing dog to fight another dog
- Share in earnings or operating facility for fighting
- Use or permitting another to use property for fighting

= state jail felony

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- Criminal
- Defendant
- Trial
- Purpose: to punish the actor
- Penal Code

- Civil
- Respondent
- Civil Hearing
- Purpose: to protect the animal
- Health & Safety Code

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### Cruelly-Treated Animals

Chapter 821,  
Health & Safety Code

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**What does "cruelly treated" mean?**

- HSC § 821.021, "cruelly treated" includes:
  - Tortured
  - Seriously overworked
  - Unreasonably abandoned
  - Unreasonably deprived of necessary food, care, or shelter
  - Cruelly confined
  - Caused to fight with another animal

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**Cruelly Treated Animals**

- Beginning the process
- The hearing
- The disposition
- Appeal

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**Beginning the process**

- HSC § 821.022(a): If peace officer or animal control officer believes animal was cruelly treated, officer may apply for a warrant to seize the animal

**➤ Officer can apply to JP or magistrate or municipal judge**

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### Beginning the process

- HSC § 821.022(a): Officer may apply for a warrant to seize the animal

✎ City attorneys should review PC affidavit prior to presentation to JP, magistrate, or municipal judge; owner may challenge validity of PC.

✎ Warrant may be for one or multiple animals. If multiple animals, list why all are cruelly treated – explains why the “conditions as a whole” constitute cruel treatment.

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### Beginning the process

- HSC § 821.022(b): If court or magistrate finds PC, shall issue warrant and set for hearing within 10 calendar days in municipal or justice court

✎ Styling the case:  
In re: (animal/description)

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### Beginning the process

- HSC § 821.022(c): Officer executing warrant shall impound animal and give written notice to owner of time & place of hearing

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**The hearing**

- To be held within 10 calendar days of date seizure warrant issued

**»Which means no more than 10 days to prepare!**

• NOTICE:

- Is animal owned by a business?  
Knowledge and acts of an agent or employee of business are knowledge and acts of the corporation (HSC § 821.004)

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**The hearing**

- Any interested party is entitled to present evidence (HSC § 821.023(c))
  - Owner
  - City/state
- Owner need not be present at hearing; must only have been provided written notice

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**The hearing: unanswered ?s**

- Do the Rules of Evidence apply?
- Do the Rules of Civil Procedure or Criminal Procedure apply?
- Does owner have the right to a jury trial?

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**The disposition**

- No finding of cruel treatment =  
Court shall order animal be returned to owner
- HSC § 821.023(g)

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**The disposition**

- Finding of cruel treatment =  
Owner shall be divested of ownership of animal – and court shall do one of three things:
  - Order public sale of animal at auction
  - Order animal be given to a nonprofit animal shelter, pound, or society for protection of animals
  - Order animal be humanely destroyed if in best interest of animal or would serve public health and safety
- If animal sold or given to shelter, court may order animal be spayed or neutered at cost to receiving party
- HSC § 821.023(d) & (f)

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**The disposition**

- Finding of cruel treatment =  
Court shall order owner to pay all "court costs"
  - Investigation
  - Expert witnesses
  - Housing and caring for animal during its impoundment
  - Conducting public sale or
  - Humanely destroying animal
- HSC § 821.023(e)

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### Ordered sale

- Notice of auction must be posted
- Proceeds applied first to costs; excess proceeds go back to justice/municipal court to return to former owner
- Former owner may not bid
  - If animal unable to be sold at auction, may be given to nonprofit animal shelter, pound, or society for protection of animals or be humanely destroyed
- HSC § 821.024

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### Appeal

- Owner divested of ownership may appeal\*
- Appeal taken to county court or county court at law
- Strict time deadlines
- HSC § 821.025(a)



\*2009 amendment

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### Appeal

- Respondent perfects appeal: must file notice of appeal and appeal bond within 10 calendar days from date order issued
  - Amount of bond determined by municipal/justice court must be adequate to cover estimated expenses for housing and caring for animal during appeal process

**\* Bond is not conditioned on appearance**

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**Appeal**

- Municipal/justice court: shall deliver court's transcript to county court within 5 calendar days from when perfected

✦ Court must provide the transcript at court's cost

✦ From non-record court, is appeal de novo?

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**Appeal**

- County court: shall dispose of appeal within 10 calendar days from when received transcript

COUNTY COURT DECISION IS FINAL

✦ Whole appeal process - for determining costs - should take no longer than 25 (10 + 5 + 10) days

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**Appeal**

- While appeal is pending, animal may not be:
  - Sold or given away
  - Destroyed, unless necessary to prevent undue pain and suffering
- HSC § 821.025(b)

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**The greatness of a nation  
and its moral progress  
can be judged by the way  
its animals are treated.**

**-Mahatma Gandhi**

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