

WHAT TO DO WHEN ANIMAL CONTROL COMES KNOCKING

by George J. Eigenhauser Jr.

(he is an attorney at law licensed in the State of California since 1979 and practices in the areas of civil litigation and estate planning)

ANTI-DOG ENFORCEMENT - What Every Dog Owner Needs to Know

Dog owners and ethical breeders are increasingly being targeted. Disgruntled neighbors may retaliate against dog owners and may other reasons drive complaints, and anti-dog enforcement action, which many times may be conducted illegally.

The following text outlines methods of inquiry and enforcement which may be used by local officials in attempts to enforce ordinances in your community and suggested techniques of response. These techniques are entirely legal and based upon the rights of citizens as stated by the U.S. Constitution.

No breeder wants to have Animal Control come knocking on the door...but if they do, it will help if you know what your options are.

Remember, Animal Control is law enforcement. They are bound by the same Constitution as any other government agency. To protect yourself, you need to know your rights. These vary slightly one jurisdiction to another, but some general principles apply. One rule applies everywhere: never physically resist an officer.

When Animal Control is At Your Door:

1. Do not let them in, no matter how much they ask. Animal Control generally cannot enter your home without a warrant, or your permission. While regular police can enter in emergency situations when human life is at risk (i.e. they hear gunshots and a scream inside), there are few, if any, situations in which Animal Control can enter your home without a warrant. Simply tell them they may not come in.
2. If you let them in, anything they find in "plain sight" can be used against you. In some circumstances Animal Control officers, unable to find a legitimate reason to make an arrest, have reported building or zoning violations. This may include caging you attached to a wall without a building permit, that extra outlet in the puppy room, having more pets than allowed by zoning, even extension cords in violation of fire codes! No matter how clean your kennel, if they want to find a violation, they will.
3. Do not talk to them from an open doorway. Step outside and close (and lock if possible) the door behind you. This is necessary because:

A) Anything they see through the open door is "plain sight" and may be the basis

for an arrest, or probable cause for a search warrant.

B) If they make an arrest or even feel threatened they are usually permitted to search for weapons in your immediate area. Do you keep a baseball bat inside the door for your protection? Even if you don't, once they step inside to look, they are in your home and may continue to search.

C) It is hard not to be intimidated by someone in authority. Some animal control is even done by local police, who carry guns. It is easy for them to get "in your face", causing you to back up into the home. Once you go in, it will be interpreted as an invitation to follow.

4. If they claim to have a warrant, demand to see it. In general, a search warrant must be signed by a judge. A warrant to search your home for dogs does not include an inventory of your jewelry box. A warrant to search your kennel in the garage or in the barn does not include a search of your home.

5. In some locations dog owners may have obtained special "breeder permits" that stipulate that Animal Control has your permission to enter at any time. If you have signed such a permit they still cannot enter against your wishes, since you can revoke the permission at any time. However, if you refuse permission it may allow them to cancel your breeder permit, so you have to weigh the consequences.

6. Warning - anyone in lawful possession of the premises may be able to give permission for a search. Make sure your roommate, babysitter, dog-sitter, housekeeper and other know that they should not let animal control into your home or on your property (i.e. backyard, garage, etc.).

How to Handle Questions:

1. Don't answer any questions beyond identifying yourself for the officer. Anything you say to the officer in your defense cannot be used in court (hearsay).

Anything you say that is harmful to you will be used in court (confessions are not considered hearsay). You cannot win, except by remaining silent.

2. Be polite but firm. Do not argue, bad-mouth, curse, threaten or try to intimidate the officer.

3. Do not lie to an officer, ever. However, it is NOT a lie to exercise your right to remain silent.

4. Keep your hands in plain sight. People have been shot by police when common objects, such as a wallet, were mistaken for a gun.

5. Do not touch the officer in any way. Do not physically resist an officer, no

matter how unlawful his or her actions.

6. Don't try to tell your side of the story, it cannot help.
7. Do not threaten the officer that you plan to file a complaint for their actions.
8. If the questioning persists, demand to speak to a lawyer first. Repeat as necessary.

Gathering the Facts:

1. Get the name and badge number of each officer involved. If he/she does not volunteer this information, ask.
2. Ask the name of the agency they represent. Different agencies have different enforcement responsibilities.
3. Ask why they are there. Request the factual basis of the complaint and the identity of the complainant.
4. If they have other people with them (Humane Society, press, etc.) get the names and organizations for all present.
5. Note the names (and addresses) of any witnesses to the encounter.
6. If you are physically injured by an officer, you should take photographs of the injuries immediately, but do not forego proper medical treatment first.
7. Write down all of the information, as well as the date and time of the incident immediately, while details are fresh in your mind.
8. If your rights are violated, file a complaint with the appropriate body.

If You Are Arrested:

1. Remain silent. Answer no questions until you have consulted with a lawyer.
2. Don't "explain" anything. You will have time for explanations after you have talked to a lawyer.
3. Within a reasonable time they must allow you to make a phone call to get a lawyer or arrange bail. They are not allowed to listen to your phone call to your attorney, but they may "monitor" the rooms for "your protection". Do not say anything you do not want them to overhear; save that until after you are out on bail.

Telephone Inquiries or Threats:

You may receive telephone inquiries concerning the number of dogs you own and whether any dogs or puppies are for sale. Other questions may also be asked.

Your response should be to inquire "Are you interested in a puppy?". If the answer is "yes", ask that person for his/her name, address and phone number. Suggest that you or a responsible breeder will contact that person at a more convenient time for you.

If the answer is friendly and genuinely inquisitive, invite the person to look at your puppies.

If the question asked is "What is the price of each puppy?", simply say that puppies of this type are being sold for between "X" and "Y" dollars. Never say that you are selling them.

If the question asked is "Are these your puppies?", you should ask, "Why do you want to know?".

If your conversation indicates that the person is representing the county clerk's office or allegedly representing an official body, ask the caller for:

- Full name, title and phone number
- Agency's full name and full address
- Their supervisor's full name and phone number
- Nature of the inquiry (what it is about)
- Why the inquiry is being made
- How your name and phone number were obtained
- Ask that all future questions from that agency be submitted in writing

Preventative Measures:

1. Always keep your kennel clean and take good care of your animals.
2. Consider a P.O. Box or other address for business cards and advertisements. Keep descriptions of your location general (i.e. Southern California, rather than the name of the city where you live). The internet can provide anonymity for initial contacts. You can even buy a "remote prefix" to get a number from a nearby community forwarded to your phone or to a voice mail. Avoid local newspaper classifieds, they are often monitored.

3. Screen any potential puppy buyers carefully. Always be alert that they may be Animal Control or even Animal Rights working under cover.
4. Don't allow strangers into your home until you have screened them.
5. Be fair and honest in all of your dealings, and be on good terms with your neighbors. Most animal control contacts are complaint-driven. Some complaints may arise as harassment by people with unrelated grievances against you. It may be a disgruntled dog buyer or a cranky neighbor who doesn't like you parking in front of his house.
6. Anything about you that can be observed in "plain sight" from the street or sidewalk can become probably cause for a warrant. Even areas on your property open to visitors can be dangerous. Be aware of which areas of your home are visible from the outside and plan accordingly.
7. If you are confronted by Animal Control and turn them away, assume they will be back. Use the time available to make sure everything is clean and presentable.

If you are over the limit on the number of pets, find friends who can provide temporary shelter for your dogs.

Whatever you do, stay calm and keep your wits about you.

Just say "no", no matter what threats or promises of leniency they make.

When in doubt, say nothing and speak to a lawyer afterwards.

Hermine Stover, Secretary
Responsible Dog Owners of the Western States

Disclaimer: I am passing this article along. I am not giving legal advice as I am not a lawyer or involved with any aspect of the law. I am not advocating that anyone break any law in any shape or form.

This article has been reviewed by a trusted lawyer who found it legally correct if a bit over the top unless one is running an illegal operation. If you act as though you have something to hide, chances are the authorities will assume that there is something to hide and will get a search warrant and the result will not be pleasant. I advise that you operate within the law and act open and honest with any police officers or other authorities. You do not need to allow a search unless there is a warrant and I would not, myself, allow them to do so without a warrant. Be polite and tell them that you do not wish to allow this invasion of your privacy.

Tawni McBee, PDTI
All Greatful Dogs, Inc.