

IS IT ANIMAL CRUELTY TO HAVE AN “OUTSIDE DOG?”

By Penny Conly Ellison

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All of us have seen one. A dog tied to a doghouse or in a pen outside or “guarding” a garage or car lot, 24 hours, seven days a week in all kinds of weather. Many of us wonder, especially in extreme heat or cold: “Is it legal to do that or should I report it to authorities?” In Pennsylvania, the answer can be a little vague.

Pennsylvania’s animal cruelty statute, 42 Pa. C.S. 5511 provides:

“[a] person commits an offense if he . . . neglects any animal as to which he has a duty of care .., or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or *access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.*”

While this sounds like it should protect “outside dogs”, at least in extreme weather conditions, humane police officers sometimes find that the law lacks “teeth.” By “teeth”, I mean specificity that makes it clear when the law has been violated. Most animal cruelty statutes, including Pennsylvania’s, cover a wide variety of offenses from neglect to hoarding to animal fighting. These offenses can be summary offenses, misdemeanors or felonies. Perhaps because of this breadth, the law speaks in general terms and does not specify in any detail the type of shelter required or state specific weather conditions that render keeping an animal outdoors criminal. That doesn’t mean it’s legal, of course, it just means that violations can be more difficult to prove.

It should also be noted that, although most pet owners consider their pets to be part of their family, many people do not consider keeping dogs outside all the time to be cruel. The answer to whether it is cruel (at least from a physical perspective) may depend on the dog’s breed, the climate and the conditions of confinement. In addition to being exposed to extreme temperatures, chained dogs often suffer neck injuries from ill fitting collars and strangulation can result from entanglement with nearby objects and

fences. Tethering also can render the dog virtually invisible to his owner, leading to more owner neglect including lack of food, water and veterinary care. In addition, most animal behaviorists agree that tethered or penned dogs suffer frustration, which can lead to increased aggression and greater tendency to attack or bite humans and other animals. Outdoor female dogs that are unspayed can also lead to unwanted litters of dogs that end up in shelters.

Many states or municipalities have enacted laws specifically regulating the tethering of dogs. The laws generally address one or more of the following elements: the type of tether (prong, pinch or choke collar); duration of tethering (number of consecutive hours a dog may be tethered); restriction of movement (the radius that the dog is able to travel); proximity to dangerous objects such as fences; time of day the dog is tethered; the age of the dog; and the potential detriment to overall health and welfare.

For example, Texas law prohibits an owner from keeping a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:

- (1) between the hours of 10:00 p.m. and 6:00 a.m. or
- (2) within 500 feet of a school, or
- (3) where extreme weather conditions are present.

The law also specifies the appropriate type of collar and tether length. The overnight restriction allows for easier enforcement than restricting the number of hours per day a dog can be tethered (in addition to guarding against noise complaints from neighbors). Banning tethering during specific hours instead of simply limiting the total number of hours is key to enforcement since a humane officer cannot stay at a location long enough to calculate the total number of hours a dog has spent tethered outdoors. A ban on overnight tethering is simple to enforce. Presumably, the restriction on distance from a school represents a legislative recognition of the increased danger tethered dogs present to humans, demonstrating that these laws are designed to protect humans as well as animals.

The best laws are both highly specific, so humane officers can know without question when they witness a violation and can prove it in court, and comprehensive, so that all possible dangers to the health and welfare of the dog and the public are addressed. Connecticut has arguably the strongest protections in place for tethered dogs specifying the length and type of tether permitted, requiring swivels on both ends to prevent twisting and tangling.

In 2013, Connecticut amended and strengthened its law by specifically addressing heat and weather conditions. The Connecticut statute now prohibits tethering a dog outdoors when a weather advisory has been issued or when outdoor environment conditions pose an adverse risk to the health or safety of such dog, unless the dog is tethered for no more than 15 minutes.

Bills addressing outside dogs have been introduced in the Pennsylvania legislature for several years but, as yet, none has passed. The City of Harrisburg recently passed its own ordinance protecting outside dogs in its jurisdiction. The ordinance gives humane officers and dog owners specific weather guidelines keyed to National Weather Service alerts. Most significantly, it protects dogs left outside even if they are not tethered by a chain. The ordinance defines “outside” to mean “any unattended dog that is outside subject to the weather and elements, which *expressly includes, but is not limited to, a dog in a securely fenced in yard, a dog in a carrier, or a dog tethered or tied out.*” The prohibition applies regardless of whether a doghouse is provided. This is crucial as humane officers summoned during heat waves will tell you that a dog house can become an oven, reaching dangerous temperatures, and similarly provides little comfort in subfreezing temperatures.

In 2013, the Pennsylvania House and Senate each had a proposed bill that would have provided additional protections for outside dogs. Neither bill is comprehensive and both fail to protect outside dogs not attached to a tether. House Bill 41 prohibits tethering between 10:00 p.m. and 6:00 a.m and requires a minimum six foot tether or five times the length of the dog. It further mandates that the dog be able to access shelter, food and water and requires an area of shade in addition to the shelter or doghouse. It bans tethering dogs outdoors in periods of “extreme weather . . . or when a weather advisory or warning has been issued.” The House Bill contains important exceptions including any dog “actively engaged in or actively training for an activity that is conducted pursuant to a valid license” and any dog “used for the protection of commercial farm property, agricultural supplies or products.”

Pennsylvania Senate Bill 522 requires a minimum 12 foot tether, is more specific about extremes of temperature (banning tethering outside when the temperature is below freezing, above 90 degrees Fahrenheit or when a weather advisory or warning is in effect) and does not contain any

exceptions. Both bills ban the use of choke, pinch, prong or other chain collars.

Both the House and Senate bills were referred to their chamber's Judiciary Committees but neither was brought to a vote. Animal advocates are hopeful that state and local legislatures will act to provide humane law enforcement the tools they need to ensure that every dog is provided with sufficient shelter and protection from the elements.