



Animal Welfare Institute

900 Pennsylvania Avenue, SE, Washington, DC 20003
awionline.org phone: (202) 337-2332 fax: (202) 446-2131

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Honorable Patti B. Saris
Chair, United States Sentencing Commission
One Columbus Circle, NE
Suite 2-500, South Lobby
Washington, D.C. 20002-8002

**Attention: Public Affairs—Priorities Comment
Animal Fighting Sentencing Guidelines**

Dear Judge Saris:

The Animal Welfare Institute appreciates that the United States Sentencing Commission has included among its priorities for the 2015-2016 amendment cycle the “study of animal fighting offenses and consideration of any amendments to the *Guidelines Manual* that may be appropriate.” We ask that the Commission revise its sentencing guidelines for animal fighting convictions so that they both reflect the statutory maximum penalty of five years enacted since the last Commission action and reaffirm the brutality of this crime. Currently, federal prosecutors must argue for upward departures in order to obtain equitable sentences consistent with the statutory maximum. Low sentencing recommendations discourage prosecutors from pursuing animal fighting charges that may yield a sentence of only 6 to 12 months.

The Commission last addressed the guidelines for animal fighting offenses in 2008, after the Animal Fighting Prohibition Enforcement Act of 2007 made animal fighting a violation of 7 U.S.C. §2156, a felony offense with a maximum penalty of three years. Shortly thereafter, a federal investigation revealed animal fighting and shocking abuse at Michael Vick’s Bad Newz Kennels in 2007; in response, Congress again underscored the depravity of animal fighting by including in the 2008 Farm Bill an increase in the statutory maximum to five years’ imprisonment. However, the current sentencing guidelines have not incorporated this increase and so do not reflect the heightened seriousness with which Congress, the public, and many judges view the heinous crime of animal fighting.

The animal fighting guideline, categorized with gambling offenses in §2E3.1, provides a base offense level of 10 for a gambling offense that involved an animal fighting venture. This amounts to 6 to 12 months in prison for a defendant in the lowest criminal history category before accounting for any mitigating or aggravating circumstances. While the guidelines allow for an upward departure if an offense involves extraordinary cruelty such as “maiming or death to an animal,” the typical sentence handed down in dog fighting cases over the last few years has hovered around 12 months, consistent with the base level recommendation.

Regrettably, the guidelines do not account for the fact that animal fighting inherently and *always* results in the maiming or death of an animal—usually many animals. In November 2014, U. S. District Judge Keith Watkins of the Middle District of Alabama voiced this concern during the sentencing of defendants

convicted as a result of a four-year-long federal animal fighting investigation that involved more than 450 dogs. Judge Watkins called the guidelines inadequate for failing to distinguish between an offender who supplied one dog for fights and one who supplied hundreds. U.S. District Judge Michael Reagan of the Southern District of Illinois expressed similar views in 2010 during the sentencing of the “Missouri 500” case, the largest dog fighting raid in U. S. history.

Beyond failing to account for the number of animals harmed, the current sentencing guidelines do not reflect the violence and brutality that distinguish animal fighting from other gambling crimes. During the sentencing hearing presided over by Judge Watkins, the government presented evidence that hundreds of dogs were executed for losing or performing poorly, often hanged by their necks from trees, shot, or electrocuted. Witnesses testified that “nobody keeps a losing dog.” The government argued for upward departures, with requested sentences ranging from two to five years per count. Judge Watkins granted the upward departures, handing down prison sentences as high as eight years. He opined that the federal sentencing guidelines for dog fighting are not strong enough to account for the degree of cruelty involved.

Judge Watkins’ statements echo those of U.S. District Judge Terrence Boyle of the Eastern District of North Carolina who in 2012 granted an upward variance to sentence dog fighter Harry Hargrove to five years in prison. Judge Boyle stated:

I would say that other than the criminal dog fighters in America, every other person in America would be shocked beyond belief that you could do what [Hargrove] did and come out with a federal sentence of zero to six months...No one could defend that. No judges. No legislators. No president.

In another expression of the increasing seriousness with which animal abuse, including animal fighting, is regarded, last year the FBI approved the addition of animal cruelty crimes as a separate Group A offense in the Uniform Crime Report. “Organized abuse” is one of the new data elements to be tracked, and animal cruelty is defined as follows:

Intentionally, knowingly, or recklessly taking an **action that mistreats or kills any animal without just cause**, such as torturing, tormenting, mutilation, maiming, poisoning, or abandonment. Included are instances of duty to provide care, e.g., shelter, food, water, care if sick or injured; transporting or confining an animal in a manner likely to cause injury or death; **causing an animal to fight with another**; inflicting excessive or repeated unnecessary pain or suffering, e.g., uses objects to beat or injure an animal. This definition does not include proper maintenance of animals for show or sport; use of animals for food, lawful hunting, fishing or trapping.

Federal prosecutors and law enforcement professionals want meaningful sentences to be handed out to deter animal fighters and encourage vigorous prosecution of these cases. To deter and punish cruelty to the fullest extent allowed by the federal animal fighting statute, AWI urges the Commission to do the following:

- **Increase the base level offense provided in §2E3.1 so that the sentencing guidelines reflect the increased statutory maximum of five years enacted by the 2008 Farm Bill (P.L. 110-234).**
- **Amend the guidelines to provide for specific offense characteristics when the offense involves a large number of animals or egregious animal neglect or cruelty.**

We understand why the Commission grouped animal fighting with other gambling offenses—animal fights attract hundreds of attendees and single bets that often total hundreds of thousands of dollars. However, animal fighting is unique to that category of crime in that, by its very nature, it inflicts immense suffering and death on its victims. The Animal Welfare Institute asks the Commission to join Congress, the American public, and members of the judiciary and law enforcement communities in acknowledging this stark distinction by amending the animal fighting sentencing guidelines to more accurately reflect the seriousness of this crime.

Sincerely,

Nancy Blaney
Senior Policy Advisor
nancy@awionline.org
202-446-2141 (direct)