



March 17, 2016

The Honorable Patti B. Saris
Chair
United States Sentencing Commission
One Columbus Circle NW, Suite 2-500
Washington DC 20002

Dear Chief Judge Saris:

The Massachusetts Society for the Prevention to Cruelty to Animals (MSPCA) is a Massachusetts-based animal protection organization, and we would like to thank you for proposing an amendment to revise animal fighting penalties in the U.S. Sentencing Commission Guidelines.

Since the MSPCA was formed in 1868, we have been involved in the protection of animals. By the 1870's when Massachusetts' first modern animal cruelty laws were enacted, the MSPCA supported both paid and volunteer law enforcement officers working across the Commonwealth to investigate and prosecute animal cruelty. Today, we have a full-time humane law enforcement department consisting of commissioned special state police officers who investigate and enforce Massachusetts animal cruelty laws.

As part of their work, our law enforcement officers assist state and local police in investigating and prosecuting animal fighting cases in the Commonwealth. Some cases have also involved the seizure of large amounts of money and numerous fighting animals, which have been subsequently cared for in MSPCA's Animal Care and Adoption Centers.

In addition to enforcing animal fighting laws, our organization has also lobbied to strengthen state-level animal fighting penalties. Most recently, we were successful in increasing state penalties for participating in or spectating at an animal fight.

The Commission's attention to this issue at the federal level reflects the importance the public has placed on preventing animal fighting, an abhorrent form of animal cruelty. We hope the final amendment will lead to meaningful federal sentences that will deter potential perpetrators and encourage prosecution of this horrific crime.

Recent Changes to Animal Fighting Statute

Several high-profile animal fighting cases drew increased attention to animal fighting in recent years. In response, Congress passed legislation in 2008 increasing the maximum sentence for animal fighting to 5 years, and again in 2014, when it created federal penalties for attending an animal fight and bringing a child to one of these events. We appreciate the Commission's responsiveness in amending the guidelines

to reflect these statutory changes. We encourage the Commission to adopt the higher of the two proposed base offense levels (10) for the new felony of bringing a child to an animal fight.

We also appreciate the Commission's proposal to raise the base offense level for the crime of animal fighting to 16, bringing that level closer to the 5-year statutory maximum. However, the amendment falls short of Congressional intent to allow longer sentences of up to 60 months. Unfortunately, the typical animal fighting sentence is currently only 6 months. While an increase in the base offense level from 10 to 16 could result in an increase, it would still permit sentences as low as 12 months once judges consider mitigating circumstances and acceptance of responsibility (a 2- or 3-point reduction). We believe that a 12-month sentence for animal fighting does not achieve Congressional intent.

Specific Offense Characteristics

We request that the proposed amendment include specific offense characteristics to allow for longer sentences when a case includes certain factors that make animal fighting a greater threat to the public interest. The Commission should create specific offense characteristics that increase the base level offense by 2 points in the following circumstances:

1. When an animal is intentionally killed or suffers due to lack of veterinary care for an injury sustained during fighting or from neglect;
 2. When there is a pattern of activity showing an exceptional degree of involvement in the business of animal fighting; and
 3. When a dangerous weapon (including a firearm) is present.
1. The Commission should provide an enhancement of 2 points when the offender has inflicted specific acts of cruelty on animals used in animal fighting.

All animal fighting is cruel and violent. Fighters keep their animals in poor conditions, either confined in small cages or restrained with heavy chains around their necks. When subjected to the actual fights, these animals experience extreme violence in bouts that can last up to several hours. Dogs in these fights suffer puncture wounds, broken bones, lacerations, and other injuries. Even with its inherent violence, some customs and practices found in large-scale, professional animal fighting enterprises should demand longer sentences.

The cruelty of animal fighting is not confined solely to the fighting pit. Fighters may also continue their cruelty by withholding food and shelter or by failing to seek professional medical attention for wounds. Animals that no longer have value to fighters are killed through inhumane methods such as electrocution or hanging. When an offender has intentionally killed an animal, or caused additional suffering through neglect, a specific offense characteristic should allow for longer sentences.

2. The Commission should provide an enhancement of 2 points when the offender demonstrates an exceptional degree of involvement in the business of animal fighting.

We recommend that individuals who actively perpetuate and inflate the profitability of this criminal enterprise through breeding, organizing, sponsoring, and promoting animal fighting also receive enhanced sentences. They are responsible for causing harm to larger numbers of animals and enabling the high profits that draw many people to this blood sport. Creating a specific offense characteristic for those professional-level fighters who demonstrate an exceptional degree of involvement in the business of animal fighting via their participation in breeding, organizing, sponsoring, and promoting animal fighting would ensure longer sentences for those who profit most from inflicting large-scale harm.

3. The Commission should provide an enhancement of 2 points when the offender possessed a dangerous weapon.

Finally, a specific offense characteristic should be included if a dangerous weapon is present. Animal fighting is commonly linked to other felonies, including drug and human trafficking, child abuse, domestic violence, and money laundering. Often, animal fighting operations are discovered while law enforcement is investigating these other crimes. Because of the violent nature of the crime and the large wagers placed on the fights, firearms are often present at animal fights. Due to the increased risk that violent and armed offenders pose to law enforcement and the public, a specific offense characteristic should provide for an increased sentence when a dangerous weapon is present.

Upward Departure Provision

We appreciate the expansion of the upward departure provision to account for offenses involving animal fighting on an exceptional scale. This will allow judges the discretion to provide longer sentences where an unusually large number of animals have been harmed.

Thank you very much for your attention to this important matter and for the opportunity to present our comments.

Sincerely,



Chief Richard LeBlond
MSPCA Law Enforcement