

Testimony Submitted to the U.S. Sentencing Commission
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My name is Jennifer Chin. I am Vice President of Legal Advocacy at the American Society for the Prevention of Cruelty to Animals (ASPCA). The Legal Advocacy department works alongside the ASPCA's Field Investigations and Response, Forensic Sciences, and Anti-Cruelty Behavior teams to provide a full menu of support to law enforcement and prosecutors in animal cruelty and animal fighting cases nationwide. In the last several years, the ASPCA has provided substantial assistance to federal law enforcement and prosecutors in several large-scale dog fighting cases, and to state and local authorities in numerous other animal fighting investigations and prosecutions.

Prior to joining the ASPCA in 2012, I served as Assistant United States Attorney in the Appeals Division of the United States Attorney's Office for the District of New Jersey, where approximately 70 percent of my caseload involved sentencing matters. I began my legal career as law clerk to the Honorable William G. Bassler (ret.), U.S. District Court for the District of New Jersey, and subsequently to the Honorable Julio M. Fuentes, U.S. Court of Appeals for the Third Circuit.

On behalf of the ASPCA and its 2.5 million supporters, I thank the U.S. Sentencing Commission ("the Commission") for considering an amendment to the animal fighting guideline. Although dog fighting is a felony offense in all 50 states and cockfighting is a felony in the majority of states, organized animal fighting still takes place in every part of the country. The Commission's attention to this issue reflects the importance Congress and the American public have placed on preventing this abhorrent form of animal cruelty and the danger it poses to our communities. We are pleased to provide you with our testimony.

Recent Changes to Animal Fighting Statute

Several high-profile animal fighting cases have drawn greater attention to this crime in recent years. In response, Congress passed legislation in 2008 that increased the maximum sentence for animal fighting to 5 years in prison, and again in 2014, when it created federal penalties for attending an animal fight and bringing a child to one of these heinous events. We applaud the Commission's responsiveness in proposing to amend the United States Sentencing Guidelines (the "Guidelines") to better reflect these statutory changes. We encourage the Commission to adopt the higher of the two proposed base offense levels (10 rather than 8) for the new felony of bringing a child to an animal fight.

We appreciate the Commission's proposal to raise the base offense level for the crime of animal fighting to 16, thereby achieving greater consistency with the increased statutory maximum enacted by Congress. However, that change alone falls short of Congress's intent to provide for longer sentences of up to 60 months to punish the most serious animal fighting crimes, and warrants the inclusion of specific offense characteristics. The typical sentence for animal fighting is currently 6 months. An increase in the base offense level from 10 to 16 could still result in

sentences as low as 12 months after acceptance of responsibility is considered (a 2- 3-point reduction). In many cases, a 12-month sentence for animal fighting does not achieve Congress's intent to address the most egregious violations of the animal fighting statute. Including specific offense characteristics when the animal fighting offense is exceptionally cruel or dangerous would help bring sentences more in line with Congress's intent in increasing the statutory maximum.

Specific Offense Characteristics

The proposed amendment should include specific offense characteristics to allow for longer sentences when a case involves aggravating factors that make certain animal fighting offenses more dangerous, cruel, and harmful to the public interest than others. The Guidelines should provide for higher sentences in cases in which these factors are present:

- When an animal is intentionally killed by methods including but not limited to shooting, hanging, electrocution, or drowning or suffers due to lack of veterinary care for an injury sustained during fighting or from neglect;
 - When there is a pattern of activity showing that the defendant has had a substantial amount of involvement in the business of animal fighting as indicated by breeding animals, selling animals, or organizing, sponsoring, or promoting animal fights;
 - When a dangerous weapon (including a firearm) is present.
1. The Commission should provide an enhancement of 2 points when the offender has intentionally killed or egregiously neglected the suffering of an animal used in fighting.

All animal fighting is cruel and violent. Fighters keep their animals in horrendous conditions, either confined in small cages or restrained with heavy chains around their necks. During 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. In cockfighting, two roosters in a pit strike each other with their beaks and legs, often with needle or razor-like attachments strapped to them. The birds sustain injuries such as punctured lungs, broken bones, and pierced eyes. Notwithstanding the inherent violence of this crime, some 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 escalate the level of cruelty by withholding food and shelter or by failing to seek professional medical attention for wounds. Animals who no longer have value to their owners may be executed by methods such as electrocution, shooting, drowning, or hanging. When an offender has intentionally killed an animal or the animal has suffered due to lack of veterinary care for an injury sustained during fighting or from neglect, a specific offense characteristic should provide 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.

Animal fighters who commit the most brutal acts of cruelty deserve elevated sentences; but so too do those who actively perpetuate this criminal enterprise through breeding and selling animals and organizing, sponsoring, and promoting animal fighting. They are responsible for causing harm to larger numbers of animals and making the blood sport more profitable. Creating a specific offense characteristic for those professional-level fighters who demonstrate a substantial degree of involvement in animal fighting ventures would ensure longer sentences for those who profit most from inflicting large-scale harm.

Activities that constitute organizing, sponsoring, and promoting animal fighting include financing the cost of the fighting animals and training; securing and financing the venue; putting up money for wagers; obtaining security; and soliciting participants and spectators. Activities that indicate involvement in the business of breeding and selling include profiting from stud fees or the sale of puppies, breeding dogs, or birds from fighting bloodlines.

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

In the ASPCA's experience assisting law enforcement agencies with animal fighting seizures, weapons may be 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. The large wagers involved, the likelihood of other criminal activities occurring, and the violence of these offenders, increase the probability of weapons being present at animal fights. The presence of guns and knives escalates the level of danger to the communities in which these crimes are perpetrated, to law enforcement responding to these crimes, and to the public and private animal welfare organizations that are often called upon to assist law enforcement with animal fighting investigations and seizures.

The heightened danger presented by possession of weapons is not currently being captured by other criminal charges because offenders are rarely charged for illegal possession of weapons at animal fights unless the offender has a prior felony conviction. Nor is animal fighting generally treated as a crime of violence or a drug trafficking crime that would warrant a firearm charge. The ASPCA reviewed 30 federal animal fighting cases initiated between 2010 and 2015 and found that charges for illegal firearms were present in only a third of cases. In many cases, sentencing likely has not accounted for the increased danger posed by weapons.

The animal fighting guideline should account for the increased danger to law enforcement, the public, and responders from animal welfare organizations that assist with these cases. The Commission should include a specific offense characteristic that increases the base offense level by 2 points when the offender possesses a dangerous weapon.

Upward Departure Provision

We appreciate the expansion of the upward departure provision to account for offenses involving animal fighting on an exceptional scale, thereby making it explicit that harm to a large number of animals is an appropriate basis for imposing longer sentences.

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













