

HOLDING CELL



Know Your Options

“You should not examine legislation in the light of the benefits it will convey if properly administered, but in the light of the wrongs it would do and the harm it would cause if improperly administered.”

Lyndon Johnson, 36th President of the U.S.

Busted! What to Do When Animal Control Comes Knocking

by George J. Eigenhauser Jr., Attorney at Law

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 principals 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 can not 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

LOBBY FOR YOUR HOBBY

A MESSAGE FROM THE ARBA LEGISLATIVE COMMITTEE

On July 27th California Governor Jerry Brown signed SB 917 into law. This bill increases penalties and bans the sale of animals in public places (such as rabbit shows). As this issue goes to press AB 1117 is in Assembly for concurrent senate amendments, then it will land on the governor's desk to await a signature, veto or to allow it to become law without a signature. In a nutshell AB 1117 strips the due process rights of animal owners. Separately each bill impacts animal raisers, together they have the potential to have a severe impact on our hobby in the state of California.

WHAT HAPPENED?

When the bills became a hot topic on the chat groups, so many of us dismissed it, proclaimed “it can't possibly pass, the state wouldn't allow it”, or “someone else is dealing with this so I don't need to do anything”. While a few folks sounded the alarm, many of us did nothing while the bill made its way through the Senate and to the Governor.

That was the wake up call that Californians needed: Across the state offices were flooded with calls and faxes opposing the bill to no avail. AB 917 was signed into law becoming effective January 1, 2012. Our actions were “too little too late”.

IT CAN HAPPEN TO YOU - HERE'S WHAT YOU CAN DO

Be aware, Know what bills are being introduced that may impact your hobby. In the state of California a website called Bill Tracker: <http://www.leginfo.ca.gov/bilinfo.html> allows one to track a bill through its processes. California Responsible Pet Owners' Coalition is another: <http://www.carpoc.org>.



A well-worded “no trespassing” can act as a deterrent to unwanted visitors.

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 rabbitry, having more pets than allowed by zoning, even extension cords in violation of fire codes! No matter how clean your rabbitry, 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 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 cats does not include an inventory of your jewelry box. A warrant to search your rabbitry in the garage or in the barn does not include a search of your home.

5. In some locations fanciers 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 can not 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, baby sitter, housekeeper and others know that they should not let animal control into your home.

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 **can not** be used in court (hearsay). Anything you say that is harmful to you **will** be used in court (confessions are not considered hearsay.) You can not 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 can not 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 she/he 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 others with them (i.e. Humane Society, press, etc.) get the names and organizations for all present.

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Your state has sites too. Google them and stay informed.

If you are unaware of how to do a search for pending legislation in your state, county, or municipality; do a search for the webpage of the office and find links to pending legislation. If you need help doing so, contact your ARBA District Director or State Representative. If you do learn that there are initiatives afoot that could adversely impact breeders in your area please contact the ARBA Legislative Committee and your ARBA District Director so we can heighten the awareness in your area. The ARBA is unable to directly address these legislative initiatives although can support efforts to educate and inform breeders who do have a voice with their elected state/local officials.

Work Together

There are chat groups, Facebook pages and blogs pertaining to animal legislation in your state. Joining them makes becoming an advocate for your hobby a team effort. You will receive updates from other members and can work more effectively together to oppose

legislation that may impact rabbit and cavy enthusiasts. Below is a partial list:

Yahoo Groups:

<http://groups.yahoo.com/group/wethepeoplepets/>
<http://pets.groups.yahoo.com/group/pet-law/>

Facebook Groups:

Real Bunny World:
<http://www.facebook.com/groups/125157017579447/>

Educate:

Rabbits have a multitude of uses: Loveable pet, wool production, fur and meat. When legislation addresses one aspect yet ignores the others it impacts our hobby. Be an informed advocate for your hobby. Educate people and politicians on the versatility of the rabbit.

The ARBA does not endorse nor is affiliated with any of the above organizations.

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- Note the names (and addresses) of any witnesses to the encounter.
- If you are physically injured by the officer, you should take photographs of the injuries immediately, but do not forego proper medical treatment first.
- Write down all of the information, as well as the date and time of the incident immediately, while details are fresh in your mind.
- If your rights are violated, file a complaint with the appropriate body.

IF YOU ARE ARRESTED:

- Remain silent.** Answer no questions until you have consulted with a lawyer.
- Don't "explain" anything. You will have time for explanations after you have talked to your lawyer.
- 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 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.

PREVENTATIVE MEASURES:

- Always keep your rabbitry clean and take good care of your animals.
- 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 phone number from a nearby community forwarded to your phone or to a voice mail. Avoid local newspaper classifieds, they are often monitored.
- Screen any potential rabbit buyers carefully. Always be alert that they may be Animal Control or even Animal Rights working under cover.
- Don't allow strangers into your home until you have screened them. Consider meeting at a neutral location to deliver rabbits instead.
- 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 rabbit buyer, or a cranky neighbor who doesn't like you parking in front of his house.
- Anything about you that can be observed in "plain sight" from the street or sidewalk can become probable 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.

- 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.

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.

WHAT HAPPENS IN CALIFORNIA WON'T STAY IN CALIFORNIA

Similar bills are already in process in other states, and there are many laws already on the books that you not may be aware of that could be enforced if an animal rights extremist targets you. It is up to all of us to pay attention, resist complacency, and take action as a group to ensure that California's tragedy doesn't become yours.

To read these California bills follow the links below:

SB 917

http://www.aroundthecapitol.com/Bills/SB_917/20112012/

AB 1117

http://www.aroundthecapitol.com/Bills/AB_1117/20112012/

WHAT CAN THE ARBA OFFICERS AND DIRECTORS DO?

The ARBA's non profit tax status limits activities by the directors and paid employees that lean towards lobbying. However, the officers and directors of the ARBA recognize the impact this legislation is having on our hobby and is actively keeping abreast of new legislation that may affect your district. (Read Executive Director Eric Stewart and District 4 Director Carrol Hooks' reports in this issue for more info). You should contact your district representative with updates and or questions.

WHAT CAN WE, AS ARBA MEMBERS DO?

As Franco Rios, a long time rabbit breeder from California, wisely noted:

"The ARBA is comprised of all the the dues paying members. Those of us who are ARBA need to get involved. When California Senate Bill 917 putting restrictions on rabbit sales went to the legislature for a vote, ARBA President Mike Avesing heard about it from ARBA members and issued a call to action requesting all ARBA members to contact the California legislature to lobby against the bill. We are ARBA. We are mobilizing. We are going to take action. Mike Avesing is with us and so are other leaders, directors, and committee members. If we want ARBA to involved then we need to get involved with ARBA.

ARBA is not there to do things for us, ARBA is us. We need to do these things. Contact your director today. Contact the clubs you belong to and the clubs where you show rabbits and cavies. Get involved with running the shows. Help with setting up and taking down. Help with watching each other's animals. Roll up your sleeves and become an ARBA activist. Have a good day!"

This article is not intended to be nor should it be construed as legal advice. It is only a general discussion of legal principals. If you have legal questions, consult a lawyer.