Animal Issues in Indiana Law
Presented by Sarah Simpson, JD
Jodi Lovejoy, DVM
Indiana State Board of Animal Health

Topics to be covered:
- Current Indiana law
- Standards of Care, BOAH
- Neglect investigations
- Dog/cock fighting investigations
- Commercial Dog Breeder/Broker Program

Establishment of BOAH
- IC15-17-3-1 Creation
  - Sec. 1 the Indiana state board of animal health is established
- IC15-17-3-12 Powers
  - Sec. 12 the Board has all powers necessary to fulfill the Board's duties under this article
- IC15-17-3-13 Additional Powers and Duties
  - Sec. 30 Assist law enforcement agencies investigating allegations of cruelty and neglect of animals
  - Sec. 32 Establish a registry of commercial dog brokers and commercial dog breeders in Indiana
Livestock and Poultry Standards of Care

IC 15-17-3-23 Livestock and poultry standards of care

Sec. 23. The board may adopt rules to establish standards governing the care of livestock and poultry. The board shall consider the following when adopting the standards:

1. The health and husbandry of the livestock and poultry.
2. Generally accepted farm management practices.
3. Generally accepted veterinary standards and practices.
4. The economic impact the standards may have on:
   A. Livestock and poultry farmers;
   B. The affected livestock and poultry sector; and
   C. Consumers.

Standard of Care – Scope

BOAH standard of care rules:

Apply to Livestock and Poultry only.
Do not apply to research animals in a facility regulated by the USDA under the Federal Animal Welfare Act.

Standard of Care – Scope

BOAH standard of care rules apply to:

A person responsible for caring for livestock or poultry
The person with custody of the animal
The person who has immediate charge and control of the animal with implicit responsibility for protection and care of the animal
Not necessarily the owner
Standard of Care – Maintain Health

- Each Standard of Care - Core Principle
  - Care that can reasonably be expected to maintain the health of the animals;
  - For that species, breed, sex and age;
  - Raised using the applicable production method.

Standard of Care

1. Food & Water
   - Provide access to food and water that can reasonably be expected to maintain health

2. Shelter
   - Sufficient shelter from the weather when it can reasonably be expected to be necessary to maintain health

Standard of Care

3. Disease, Injury & Treatment
   - Reasonable measures to protect animals from injury or disease that can reasonably be expected to seriously endanger life or health.
   - Animals with an injury or disease that seriously endangers the life or health of the animal:
     - provide treatment or euthanize
Standard of Care

4. Animal Stewardship
   - Provide an environment that can reasonably be expected to maintain the health

5. Handling & Transportation
   - Use methods and equipment that can reasonably be expected to prevent injury that would endanger the life or health of animals

Applicability

- No violation of the care standards if:
  - Failure is due to an act of nature, such as a natural disaster; or
  - Care is provided or withheld in a manner prescribed by a veterinarian.

Implementation

- No Inspections.
- Investigation of Credible Complaints.
  - BOAH veterinarians
  - Health of the animals evaluated
  - Report of findings created
- Progressive enforcement policy – compliance is the goal.
- BOAH will not seize animals for violations of the care rules.
Potential Outcomes of BOAH Investigation

No violation
Notice of violation issued
  Opportunity to correct
  Follow-up inspection
Warning letter

Potential Outcomes

Administrative Order
  Order to correct violation
  Monetary penalty possible
  Opportunity to appeal
    * Meeting with the State Veterinarian.
    * Formal appeal to the State Board of Animal Health
Class A Infraction for Knowing/Intentional violation of a BOAH rule (IC 15-17-18-9)

Potential Outcomes

Court Order
  Enforcement of administrative order
  Violation of court order = contempt penalties
Referral to Law Enforcement
  Possible when severity of conduct rises to criminal abuse or neglect under the Indiana Code
  Investigation by law enforcement and criminal charges
  Seizure of animals possible
  Court may order restrictions on contact with animals
Indiana Laws Governing Animals

- **Neglect**: IC 35-46-3-7
- **Abuse**: IC 35-46-3-12
- **Domestic Violence**: IC 35-46-3-12(b)(2), IC 35-46-3-12.5
- **Animal Fighting**:
  - IC 35-46-3-4, IC 35-46-3-4.3, IC 35-46-3-8, IC 35-46-3-8.5, IC 35-46-3-9, IC 35-46-3-9.5, and IC 35-46-3-10
- **Commercial Dog Breeder/Broker Program**: IC 15-21
- **Animal Control**: IC 15-20

Definitions: IC 35-46-3-0.5

- **Offenses Relating to Animals**:
  - **Abandon**: leave an animal without provisions for long term care
  - **Beat, mutilate, torture**:
    - various levels of causing physical harm and/or pain
  - **Neglect**:
    - endangering an animal's health by failing to provide or arrange to provide food or drink
    - restraining an animal in a manner that endangers its life or health by use of rope, chain, or tether that:
      - Is less than 3 times the length of the animal
      - Is too heavy to permit the animal to move freely or
      - Causes the animal to choke

Definitions (continued):

- **Restraining an animal in a manner that endangers the animal’s life or health**:
  - Providing reasonable care for or seek veterinary care for an injury or illness to a dog or cat that seriously endangers the life or health of the dog or cat and
  - Leaving a dog or cat outside and exposed to:
    - Excessive heat without a means of shade or
    - Excessive cold if the animal is not provided with straw or another means of protection from the cold
    - Regardless of whether the animal is restrained or kept in a kennel
### IC 35-46-3-6 Impoundment, Bond

**Impoundment:**
- Any law enforcement officer or any other person having authority to impound animals may take custody of the animal involved if he or she has:
  - Has probable cause to believe a violation has occurred
  - Violation of IC35-46-3 or IC15-20-1-4 (Animal Control/Dog bite)

**Bond**
- The owner may prevent disposition of the animal by posting bond sufficient to provide for the animal’s care for at least thirty days
  - Post bond not later than 10 days after impoundment
  - Bond may be renewed every 30 days
  - If bond expires the shelter may determine disposition of the animal, subject to court order
- The shelter may euthanize an animal if a veterinarian determines the animal is suffering extreme pain, despite a paid bond

### IC 35-46-3-6 (e) Impoundment cont.

**Investigation**
- Whenever charges are filed under this chapter the court shall appoint the state veterinarian or state veterinarian’s designee to:
  - Investigate the condition of the animal and the circumstances relating to its condition
  - Make a recommendation to the court regarding confiscation of the animal
Penalties for Neglect or Abandonment

- IC 35-46-3-7:
  - A person who recklessly, knowingly, or intentionally abandons or neglects an animal; commits cruelty to an animal
  - Penalty: Class A misdemeanor. However, the offense is a Class D felony if:
  - The person has a prior, unrelated conviction under this chapter
- IC 35-46-3-6 (b):
  - the court may require the person pay the costs of caring for the animal during impoundment; order the termination or impose conditions on person’s right to possession, title, custody, or care of an animal involved in the case or any other animal in the custody or care of the person

Penalties for Domestic Violence Animal Cruelty

- IC35-46-3-12 (b) (2):
  - A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal
  - Penalty: Class A misdemeanor. However the offense is a Class D felony if:
  - The person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member

Penalties for Domestic Violence Animal Cruelty

- IC35-46-3-12.5:
  - A person who knowingly or intentionally kills a vertebrate animal with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member commits domestic violence animal cruelty
  - Penalty: Class D felony
Penalties for Animal Fighting

- Purchase or possession of animal for fighting:
  - Class D felony
- Possession of animal fighting paraphernalia:
  - Class B misdemeanor,
  - Class A misdemeanor when the person has a prior conviction
- Promotion, use of animals, or attendance with an animal at a fighting contest:
  - Class D felony
- Promoting an animal fighting contest:
  - Has animal fighting paraphernalia and an animal with a scar, wound, or injury consistent with training or being in a fight
  - Class D felony

Investigations Involve

- Local Authorities
  - Sheriff Department
  - Animal Control
  - Humane Society
  - Prosecutor
  - Private Practitioners
- State Authorities
  - BOAH: Legal Department, Field Veterinarians
  - Attorney General’s Office: Gaming Commission, Tax Authority
- Federal Authorities
  - USDA: exotic animals, dog breeders
May Also Involve
- Media
  - Local
  - State
  - National
- Other local agencies
  - Department on Aging
  - Department of Mental Health/Social Services
  - Child Protection
  - Sanitation/Zoning/Code Enforcement

Neglect Investigations
- Look for
  - Water, must be drinkable and accessible
    - At least available twice daily for at least an hour each time
    - Preferably available 24/7
  - Adequate feed, to keep animal in normal body condition
    - Look for mold/dust, is any feed present on the site
    - +/- shelter
      - Required for dogs and cats, encouraged for livestock (can be natural or man-made for livestock)
  - Standardized body condition scoring system
    - Available for almost all species
  - Untreated illness or injury

Body Condition Scoring (BCS)
- Standardized system to access the body fat and muscularity of an animal.
- Most systems run from 1.0 to 9.0
  - 1.0 being emaciated and 9.0 being obese
  - Normal is considered in the 4.0 to 6.0 range
- Some systems are 1.0 to 5.0 scale
  - Example: dairy cattle
    - 1.0 being emaciated, 5.0 being overweight, and normal in the 2.5 to 3.0 range
- Two systems for dogs,
  - Purina: 1.0 to 9.0
  - Other is 1.0 to 5.0; simply need to note which is being used
Horse Body Condition Score Chart

BCS 7.0 to 8.0

BCS 5.0 to 6.0
Animal Fighting Investigations

- Animal fighting
  - Possession of animal fighting paraphernalia
    - Bite sticks, tread mills, drowning barrels, medications, supplements, components of pit arenas, awards, videos, weapons, lots of roosters with few hens, roosters housed separately, artificial spurs, transport boxes
  - Possession of an animal with scar, wound, or injuries consistent with training or being in a fighting contest
  - unlikely to see wounded roosters
    - losing roosters are usually killed after the fight if they don’t die during the fight

Medications/Supplements
Drowning barrel/Contest Awards/Weapons

Bite wounds

Healed wounds
Restraint endangering health

Restraint endangering health

Supplements/transport boxes
Large Volume of Roosters

Commercial Dog Breeder/Broker Program (CBB)

- Commercial Dog Breeder:
  - a person who maintains more than 20 unaltered female dogs that are at least 12 months of age

- Commercial Dog Broker:
  - a person who is a Class “B” licensee under 9 CFR 1.1 (USDA) and who sells at least 500 dogs in a calendar year
CBB Program

- A commercial dog breeder or broker must register with the Board of Animal Health
- Penalty for not registering:
  - Class A misdemeanor and
  - Liable for 2 times the registration fee applicable to their circumstance

CBB Program

- IC 15-21-4-1 Standards of care:
  - Dog breeder must comply with 9 CFR 3.1 through 9 CFR 3.12 (USDA regulations)
  - If the housing has a wire floor the dog must be able to get off the wire floor
  - If housing a dog in a wire cage, the cage must allow room for reasonable movement
  - Must provide reasonable opportunity for exercise outside of a cage at least once per day

CBB Program

- IC 15-21-5-1 Requirement to provide consumers with certain records
  - A commercial dog breeder shall provide a consumer with a copy of a dog’s vaccination, medication, and treatment records at the time the consumer purchases, exchanges, or adopts the dog
CBB Program

- IC 15-21-6-1
  - After Dec. 31, 2009 a unit may not adopt an ordinance concerning regulation of commercial dog breeders that imposes more stringent or detailed requirements than the requirements under this article.

CBB

- IC 15-21-7-1 Enforcement
  - The Board (BOAH) may enforce this article when the Board determines that sufficient funds have been deposited in the commercial dog breeder and broker fund to permit enforcement.

For More Information Contact:

- Indiana State Board of Animal Health
  - Discovery Hall, Ste 100
  - 1202 E 38th Street
  - Indiana State Fairgrounds
  - Indianapolis, IN 46205-2898
  - 317-544-2400, toll free: 877-747-3038
  - Fax: 317-542-1415, Ann to Sarah Simpson
  - animalhealth@boah.in.gov
  - www.boah.in.gov
  - Can contact your local BOAH field vet directly.