

Busted? What to Do When Animal Control Comes Knocking

by George Eigenhauser

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 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 kitten room, having more pets than allowed by zoning, even extension chords in violation of fire codes! No matter how clean your cattery, 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 cattery in the garage or in the barn does not include a search of your home.

5. In some locations cat 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, cat 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.

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

If You Are Arrested:

1. Remain silent. Answer no questions until you have consulted with a lawyer.
2. Don't "explain" anything. You will have time for explanations after you have talked to your lawyer.
3. 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:

1. Always keep your cattery clean and take good care of your animals.
2. 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.
3. Screen any potential kitten buyers carefully. Always be alert that they may be Animal Control or even Animal Rights working under cover.
4. Don't allow strangers into your home until you have screened them.
5. 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 kitten buyer, or a cranky neighbor who doesn't like you parking in front of his house.

6. 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 you home are visible from the outside, and plan accordingly.

7. 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. If you are over limit on the number of pets, find friends who can provide temporary shelter for your cats.

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.

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