

GOING TO THE DOGS

I have been around dogs all my life, have owned and trained bird dogs, and ride to hounds. I love dogs. But I am always amazed at the impassioned arguments of irresponsible dog owners when they try to justify their actions. As a defense attorney, I have represented many responsible dog owners. But when I was a prosecutor, with several animal-control cases each month, I saw the same irresponsible owner with ticket after ticket after ticket. I told the judge, "It's unfair that the only remedy in this case is to fine the owner—which isn't working—or put the dog down. I'd rather put the owner down. The dog is just doing what he was trained to do by the owner—run the neighborhood and bite." So I creatively asked that the dog be put down, but only if, he did not have a new owner and residence within thirty days. The judge entered the maximum fine and the order as I had requested. Luckily, the owner found his dog a new home with a responsible owner. The new owner had no problems with the dog.

Colorado does not have a state-wide leash law, but does have a statute authorizing county commissioners to adopt resolutions for the control and licensing of dogs. Most counties have adopted leash laws, which vary. Douglas County, for instance, prohibits people from allowing their dogs to run at large. A dog owner who does allow their dog to run at large commits a class two petty offense. "Running at large" means off the premises of the owner, and not under the real and immediate physical control of an owner—which means either restraining the dog by a leash or tether no more than thirty feet long, or confinement in a fully enclosed area adequate to ensure that the dog will not escape. Douglas County does not accept voice control over the animal as sufficient control.

In Douglas County, failure to keep a vicious dog under control is also a class two petty offense. A "vicious dog" is one that bites or attacks a person or a domestic animal without provocation, or that approaches any person in an apparent attitude of attack and/or in a vicious or terrorizing manner, or has been



found to be a vicious dog by any court in any action brought pursuant to this resolution. But it is an affirmative defense if, at the time of the attack, the victim was committing or attempting to commit a criminal offense.

In addition to punishment by fines or orders to destroy the dog, all dog owners who are convicted of these offenses can be ordered to pay restitution. This can include any monetary loss suffered by a victim, including: 1) all out-of-pocket expenses, interest, loss of use of money, or anticipated future expenses; 2) rewards paid by victims; 3) money advanced by law enforcement agencies; 4) adjustment expenses; and 5) other losses or injuries proximately caused by an offender's conduct that can be reasonably calculated and recompensed in money. Restitution cannot be reduced because the victim was also negligent or at fault. A court may order restitution even when a civil claim for damages by the victim against the defendant is contemplated or pending. Not surprisingly, restitution awards can become quite large.

Restitution does not include damages for physical or mental pain and suffering, loss of consortium, loss of enjoyment of life, loss of future earnings, or punitive damages. But Colorado law does allow a victim to bring a civil lawsuit to recover these damages against the dog's owner for serious bodily injury, regardless of the knowledge of the dog's dangerous propensities.

There can be a lot of monetary exposure for damages from a dog bite, both in criminal and in civil cases. It can also lead to the destruction of the dog or removal from the owner's care. Check with your animal-control officers or attorney, they can help you find the laws for your area. We owe it to man's best friend. **H**

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