

BLOOD SPORT OF DOGS KILLING AND MAULING COYOTES AND FOXES—A.K.A. COYOTE AND FOX PENNING

By: Stacey Evans

Introduction

Like many coyote fathers, Luke is helping his life mate Lily rear their pups. Today he has left their den in southern Indiana to hunt for food to feed his family. After hours of hunting, he finally sees a dead deer that can nourish his family. As he draws closer to it, he suddenly feels a hot penetrating pain in his left leg. When he looks over at his leg, he sees his blood oozing around the sharp jaws of a strange steel creature gripping his leg.

Hundreds of miles away in Virginia, Sally, a red fox, gathers berries for her babies, known as kits. As she runs back to her den with the berries, she too feels a sudden intense pain in her leg from the same type of steel animal gripping Luke's leg. Though in different states, Luke and Sally struggle against the searing pain from the steel jaws that have gnawed into their legs for hours.

They then begin to panic as they hear human footsteps coming towards them. In Indiana, the source of the footsteps uses a catch pole to subdue Luke as he resists. He is then forced into a cage next to other injured coyotes—some still alive, some dead—in the back of a truck. He and the other coyotes are taken to a bigger dog cage-like enclosure. There he feels scared being with strange coyotes, in a foreign place hundreds of miles away from his den, with the smell of blood and death.

The following afternoon, Luke hears a cacophony of baying from underfed and steroid injected dogs coming towards him. He begins to run despite being wounded, exhausted from the trauma of his recent experience, and from outrunning a different group of dogs earlier that day. Moments later, Luke feels searing pain as those dogs rip his flesh from his injured leg and the rest of his body. He thinks of Lily and their pups before his taking his last breath. Sally faces the same fate at a foxhound preserve in Virginia.

This glorified form of dog fighting—where dogs are pitted against their canine cousins—is known as fox and coyote penning (penning). This blood sport, where coyotes and foxes are trapped and sold to pens, has existed in the United States at least since the 1980s. Like dog fighting, dogs in coyote and fox pens are judged on how aggressively they pursue another canine—a fox or coyote. These pursuits, which train dogs to hunt coyotes and foxes in the wild, can continue for many days with dogs mauling and tearing apart live captive coyotes and foxes.

Proponents of this violent practice, say enclosures allow them to retrieve their dogs after a hunt, avoid having their dogs hit by traffic, control coyote and fox populations, and provides for good family fun. People who oppose penning



acknowledge the inhumanity, deaths, mauling, spread of fatal diseases, and proliferation of illegal activity from it. They also recognize that penning does not control coyote and fox populations. Even many hunters see penning as an unethical practice that fails to follow moral codes of fair chase.

Fox and Coyote Penning Happening Near You

While penning mostly occurs in mid-western and southern states, it can happen anywhere that allows it or fails to prohibit it.¹ There are laws that explicitly allow fox and coyote pens with various degrees of restrictions.

¹ States where coyote or fox penning is or may be legal include: Alabama, Arkansas, California, Delaware, Georgia, Iowa, Illinois, Indiana, Kansas, Louisiana, Maryland, Mississippi, New York, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. See IND. DEPT. OF NAT. RESOURCES, *Coyote Petition Report* (Mar. 2010), available at http://www.in.gov/nrc/files/Item_10_NRC_March_2010.pdf.

Such laws usually allow coyotes or foxes to be trapped and sold alive to pens, hunting preserves, or enclosures, where dogs can hunt them. There are also laws that may unintentionally allow penning because of loopholes.

Indiana is an example of a state that explicitly allows fox and coyote penning with few restrictions. There, a person with a permit can trap coyotes or foxes during hunting season,² and sell them dead or alive.³ A person may also possess a coyote or fox they trap during trapping season, with a wild animal permit.⁴ If the person is so inclined, he or she can obtain a field trial permit, which allows dogs to chase or kill coyotes and foxes.⁵

Like Indiana, fox penning is also legal in Virginia, but with more restrictions. For example, Virginia prohibits importing, buying, or selling foxes and coyotes.⁶ However, Virginia allows people to stock foxhound training preserves also known as fox pens, with live foxes obtained from a trapper.⁷ While it is illegal to sell foxes in Virginia, a foxhound preserve may reimburse a trapper for his or her “time and expenses” in trapping foxes used to stock the preserves.⁸

Maryland is an example of a state with laws that may unintentionally allow penning. Maryland lets people possess coyotes or foxes with a permit.⁹ While Maryland has no regulations on fox or coyote pens, all a person needs is a valid hunting license to train their dogs to hunt game mammals, which includes foxes and coyotes.¹⁰ Maryland laws indicate that it is legal for those dogs to kill any coyote or fox during training, if done in open season for coyotes or foxes.¹¹

Developments in Banning Fox and Coyote Penning

Earlier this year, the Virginia General Assembly considered bills from the Senate and the House of Delegates that proposed to ban coyote and fox penning in Virginia.¹² Last year, Indiana considered legislation that would have prohibited coyote and fox penning statewide.¹³ That bill died in committee. Last year the Indiana Natural Resources Commission (INRC) changed a rule it proposed in 2010 that set out to ban penning to a proposed rule that would continue to allow penning. This change of heart outraged and inspired Hoosiers and organizations like Project Coyote, the Animal Legal Defense Fund, Inc. (ALDF), and the Animal Welfare Institute, to oppose that proposed rule, and seek other legal strategies to target penning.¹⁴ The proposed rule would require appropriate escape areas for foxes and coyotes in pens, limit the number of dogs released on a coyote or fox, limit the number of hours dogs can chase coyotes and foxes, prohibit coyotes and foxes from being imported, and prevent dogs from getting to coyote pups or fox kits.¹⁵ The INRC decided to delay further action on the proposed rule until December 31, 2012. Meanwhile, Project Coyote and other organizations continue working to ban penning in Indiana and to hold pen operators accountable for violating pen regulations.¹⁶

In 2010, the Florida Fish & Wildlife Conservation Commission (FWC) also considered similar restrictions to Indiana following a multi-state and multi-agency investigation that revealed illegal activities in Florida pens.¹⁷ After an initial temporary ban on coyote and fox

2 [312 IND. ADMIN. CODE 9-3-12 \(2011\)](#).

3 [312 IND. ADMIN. CODE 9-3-14.5\(d\) \(2011\)](#).

4 [IND. CODE § 14-22-26 \(West 2011\)](#).

5 [312 IND. ADMIN. CODE 9-10-7 \(2011\)](#); [IND. CODE § 14-8-2-89 \(2011\)](#).

6 [4 VA. ADMIN. CODE § 15-30-10 \(2011\)](#).

7 [4 VA. ADMIN. CODE § 15-110-75 \(2011\)](#). There is no regulation in Virginia that allows people to stock pens with coyotes.

8 *Id.* VA. DEPT. OF GAME & INLAND FISHERIES, *Permit Application To Operate A Foxhound Training Preserve* at 5 (Jun. 17, 2011), available at <http://www.dgif.virginia.gov/forms/PERM/PERM-024.pdf>.

9 [MD. CODE ANN., Natural Resources, § 10-902 \(West 2011\)](#).

10 [MD. CODE ANN., Natural Resources, §§ 10-101\(h\) and \(i\) \(West 2011\)](#); [MD. CODE ANN., Natural Resources, §10-413\(a\) \(West 2011\)](#).

11 [MD. CODE ANN., Natural Resources, §10-413\(a\) \(West 2011\)](#).

12 S.B. 202, Gen. Assem., Reg. Sess. (Va. 2012); H.B. 695, Gen. Assem., Reg. Sess. (Va. 2012). Senator Marsden carried over SB 202.

13 H.R. 1135, 117th Gen. Assem., Reg. Sess. (Ind. 2011).

14 See Project Coyote, *Action Alert: Help Ban the Brutal Practice of Penning Coyotes and Foxes*, <http://www.projectcoyote.org/action/actionpenning.html> (last visited Feb. 16, 2012); and Animal Legal Defense Fund, *ActionAlerts: Help Stop the Cruel Practice of Penning Coyotes & Foxes in Indiana*, <http://aldf.org/article.php?id=1698> (last visited Feb. 16, 2012);

15 LSA # 11-4, proposed rule to amend [312 IND. ADMIN. CODE 9-10-7](#) (Mar. 30, 2011), available at <http://www.in.gov/legislative/iac/20110330-IR-312110004PRA.xml.pdf>.

16 On May 10, 2011, ALDF, Inc., Project Coyote, and the Animal Welfare Institute filed a lawsuit against the Indiana Department of Natural Resources and its Director, Robert Carter, for waiving permit requirements on a pen in Indiana. *ALDF, Inc., et. al. v. Robert Carter*, Cause No. 49D04 11 05 PL 018181, Marion County Superior Court (2011).

17 Camilla Fox, *Coyote & Fox Penning: A Blood “Sport” That Must End*, HUFFINGTON POST, Jun. 22, 2010, available at http://www.huffingtonpost.com/camilla-fox/coyote-fox-penning-a-bloo_b_620435.html.

penning in Florida, the FWC decided to permanently ban coyote and fox penning in Florida.¹⁸ This major victory came after Project Coyote and other organizations advocated banning penning completely in Florida.

What You Can Do to Ban Fox and Coyote Penning

Contact legislators of states where fox or coyote penning is legal to let them know that penning is bad for their citizens because it:

- Is inhumane;
- Spreads disease and parasites to humans, dogs, coyotes, foxes, and other wildlife;

- Attracts illegal and illicit activity; and
- Does not control coyote and fox populations.¹⁹

You may also use your skills to help an organization like Project Coyote, which is working to end coyote and fox penning.²⁰ ⚖️

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¹⁸ FL ADMIN. CODE ANN. r. 68A-24.002(c) (2010).

¹⁹ See Project Coyote, *Letter Re: Proposed rule to regulate fox/coyote penning in Indiana* (Dec. 8, 2010) at <http://www.projectcoyote.org/action/IN-Penning-Sign-on-letter-Dec%202010.pdf>.

²⁰ For more information on Project Coyote, see www.ProjectCoyote.org.

BREED SPECIFIC LEGISLATION...

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ordinance and considered “grandfathered in.”³ The ban includes service dogs. Sak, his wife, and Snickers attended the City Council meeting seeking a reprieve based on Snickers’ status as a service dog. The matter was tabled to seek legal advice.

After that meeting, the Sak family retained counsel to draft a proposed exception permitting service animals, pursuant to the ADA. Correspondingly, a group of Aurelia citizens circulated a petition to enforce the ordinance. At the next City Council meeting, the Sak family and their attorney presented the proposed language and were denied. The petition signed by less than forty residents was received by the City Council.⁴ The City Council, in a 3-2 decision, voted Snickers’ presence violated the ordinance and that he must be removed.

Distraught and confused, the Sak family sought assistance from the Animal Farm Foundation, a non-

profit advocacy group dedicated to securing equal treatment and opportunity for “pit bull” dogs. With a commitment from the Animal Farm Foundation to assist the Saks with the case, the Sak family engaged subsequent counsel to file a federal lawsuit pursuant to the ADA, Title II and sought preliminary injunctive relief pursuant to [Federal Rule of Civil Procedure 65](#).

Sak alleged Title II is a mandate to municipalities against discrimination of disabled persons.⁵ Contained therein is the requirement to “reasonably accommodate” one’s disability.⁶ Sak alleged a service animal is considered a reasonable accommodation.

To grant relief under [Rule 65\(a\)](#), the federal court, in its discretion, considers plaintiff’s probability of success on the merits; the threat of irreparable harm to plaintiff; the balance between the harm to plaintiff and defendant if an injunction is granted; and, whether an injunction serves the public interest.⁷ No single factor is dispositive, requiring consideration of each factor to determine the balance of the equities.⁸



³ AURELIA, IOWA, CODE § 48, *et seq.* (2011)

⁴ Aurelia City Council Minutes (Dec. 14, 2011), http://www.aureliaia.com/City_Council_Agendas_&_Minutes.htm.

⁵ 42 U.S.C. § 12131, *et seq.*

⁶ 28 C.F.R. § 35.130(b)(7); *Wis. Cmty. Servs., Inc. v. City of Milwaukee*, 465 F.3d 737, 751 (7th Cir. 2006).

⁷ *Dataphase Sys., Inc. v. CL Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981).

⁸ *Sanborn Mfg. Co., Inc. v. Campbell Hausfeld / Scott Fetzer, Co.*, 997 F.2d 484, 486 (8th Cir. 1993).