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# INVESTIGATING SERIOUS AND FATAL

## DOG ATTACKS:

### A Suggested Protocol

James W. Crosby CPDT

Canine Aggression Research

Jacksonville, FL

## Introduction: The Problem

Every year in the United States nearly 5 million people suffer from a dog bite. Statistics show that, by the time a child graduates High School there is a fifty-fifty chance they will have been bitten by a dog. On average, twenty one people in the US are killed by dogs every year.

Now, twenty one out of almost 300 million isn't bad-but fatal dog attacks are certain headline grabbers. Serious non-fatal bites also draw attention, especially when you add a child victim and an identified "evil" breed, like a Pit Bull, to the mix. Guaranteed attention, guaranteed outrage on someone's part, and typically caged dog video with sound bites.

Yet, despite the high profile of these cases, investigative standards for dog bite cases are, in some circles, lacking. Too often it is a case of "Yep, there's a dog, there's a body-must have been the dog."

But a combination of public perception, as aided by the O.J. case and shows such as CSI, increasing civil litigation, and the new propensity for examining high profile dog attack cases for possible prosecution has upped the ante. Fatalities involving dogs should now address the same standards as any other form of homicide. Serious maulings carry the possibility of prison time and full trials. And public safety demands a better accounting.

For instance. A Midwestern dog attack fatality was blamed on the two large purebred dogs found in the back yard with the victim's body. "Yep, the dogs did it!" At least until the investigating agency did some tests after calling for some advice. Despite all of the wounds on the victim, and despite the long, actively shedding fur of the suspect dogs, no canine hair was found in the wounds. Bite patterns did not match victim to either dog. DNA testing found neither dog had any human DNA, and the canine DNA from the wounds did not match either dog. Yet both dogs had already been euthanized, and the public there still believes that these two dogs committed this act. Meanwhile, the agency of record is A) hoping the actual killer dog never resurfaces, and B) that no-one locally ever finds out the real scoop.

It this where you hope to find your agency someday?

Take another instance. A small child's body is found in a yard, brutally savaged by a large dog. Gaping, nasty wounds. The child is initially delivered to the hospital by the parent. Cause of death is found to be a broken neck, and everyone safely thinks "Yep, the dog did it!" Too bad when a sharp Medical Examiner just happens to notice that the bites were all post-mortem: the child was actually killed by a parent shaking the kid. The suspect (hate to use the word 'parent' here) then took the lifeless child out back and teased the dog to bite and tear the child's body to cover their tracks. Prosecution may now be hampered by an inadequate investigation at the time of the incident-any attorney with half a brain cell could at least introduce reasonable doubt. Suspect walks, dog has already been euthanized. Justice swerved.

Ready to take the flack for this one?

## What do we do?

No one is accusing any person or agency of being cavalier about dog bite investigation. In fact, ninety-nine percent of all of the bite investigations the average working ACO comes across are minor, clear cut, and need no major effort. Typically a human does something that, ultimately, turns out to be stupid, and the dog acts like a dog. Or an owner has been less than the best, the dog has learned bad behavior, and the behavior leads to a bite. Pretty simple.

But on those occasions that serious injury or a fatality are involved, we must kick up the level of investigation to meet the standard that the legal profession, and society, is beginning to demand. True, funding for animal investigations is nearly non-existent; that issue must be taken up with town, city, and county governments, and those bodies are typically non-responsive to our issues. But there are investigative steps that can be taken, and in serious cases the local law enforcement agencies may be able to assist. After all, a homicide is a homicide, even if the proximate cause of death is a dog attack.

And for those involved in litigation and liability issues, a detailed initial investigation can make the critical difference between a clear-cut case and one dependant only on guesses and innuendo.

The first step in all of this is to establish a plan of action that centers around an assessment of how serious a bite actually is. Subjectively every bite is bad. How bad needs to be clarified in an objective, quantifiable manner.

Dr. Ian Dunbar of California, veterinarian and behaviorist, originally developed a six-level bite assessment based on his experience and study. I have adapted that assessment tool slightly, as shown in Appendix A. This assessment tool uses the number of bites, depth of tooth puncture, and presence of cues such as tearing, bruising, and tissue damage to classify dog bites. This ranges from Level 1, a no-contact incident, to Level 6, a human fatality. This assessment tool gives investigators, attorneys, judges, and litigants a solid basis for comparison. No longer will it depend on how many sutures a surgeon decides to place in a wound. Horrible accounts of blood and guts won't matter. We will have a simple, clear, quantifiable tool by which we can compare and evaluate bites.

This leads to the ability to establish investigative plans. For instance we can say that any bite of Level 3 or less can be handled by a simple, casual investigation. Basic documentation is needed, but detailed testing and analysis is unnecessary. Level 4 and 5 we investigate closely, bringing on line most of our procedure, perhaps even taking all the recommended samples and data, but storing them without full testing and analysis to save a bit of money, unless future events show that the data is needed. A Level 6 bite-we pull out all of the stops.

## How do we do it?

I have developed a tentative set of investigative protocols and questions that I feel will materially aid the investigation of these cases. These suggestions come from my years as a Police Officer and from the investigations I have done into serious and fatal bites. Some of these are pretty straightforward. Some of these have come after an investigation when a question came up and I was caught flatfooted, unable to answer. Some of this stuff seems pretty esoteric and maybe irrelevant, but behaviorally it is information that I am selfishly hoping we can amass downstream to aid in analyzing why these attacks happen, and perhaps developing preventative measures to reduce the number and frequency of these incidents.

## Investigative outline-bite investigation protocol

### Immediate actions for First Responders

- 1) Secure the scene from contamination. Exclude unnecessary personnel. Identify condition of victim and of suspect animal(s). If animal(s) alive, contain safely.
- 2) Identify and secure potential witnesses. Separate them from each other and from the immediate scene.
- 3) Exclude media from filming victim or actual scene until after all processing and removal is complete.

### Initial response-animals

- 1) Observe animal(s) demeanor while handling immediate tasks. Take notes. How are they acting towards EMS workers? Others? Each other? Are they aggressive, fearful, quiet? Watch for unusual behaviors-excessive salivation, chewing on selves or unusual objects. Vomiting? Try to prevent animal(s) from eating or drinking before capture and testing.
- 2) Physically capture/secure the animal(s) and separate. **MAKE SURE YOU ARE FULLY GLOVED BEFORE YOU TOUCH THE ANIMAL TO AVOID CONTAMINATING WITH HUMAN DNA.** Do not secure multiple animals in same kennel. Insure they are placed in clean kennel.
- 3) If animal(s) vomited or defecated at the scene collect for analysis.
- 4) Your next priority is sample collection. Animal(s) may have to be sedated to safely handle-if so document type and dosage of sedative. Once animal(s) is safely restrained and docile, collect

DNA swabs of upper and lower jaw area of each animal. Examine animal for visible signs of blood or fluids on fur. If any is seen, either use swabs to collect or cut and collect fur in the stained areas. If possible re-examine for further stains or fluids using ultraviolet lamp. Have a veterinarian evacuate the stomach of each animal and save the contents separately for testing for human tissue or DNA. Document any pieces of tissue visible in the stomach contents-suggest labeling as "potential tissue-unknown origin" unless you are absolutely sure it is human tissue-the tests will positively identify it later. Have blood samples from each dog collected and preserved for testing. Two five-milliliter tubes for each animal should be sufficient.

- 5) If the animal is deceased at the scene, the same samples must be collected. A veterinarian or Medical Examiner can dissect the stomach for contents, etc. Use a clean body bag to transport the animal after external samples are taken to avoid contamination. Try to avoid using simple trash bags, blankets, etc. If you have to cover the animal during scene processing, use a clean sheet from EMS and retain the sheet with the body after transport. Blood samples must also be collected from each animal and should be gathered by a veterinarian or technician using care to prevent contamination of the sample.
- 6) Once samples are collected from the animal they must be securely identified. Check for micro chipping. If animal is not micro chipped, have veterinarian immediately microchip each involved animal and use chip numbers to label all samples for continuity. Simple photos are not enough-you don't want to lose evidence because of a questioned identification of the dog.
- 7) If animal is alive then transport and secure properly at Animal Control facility. An animal involved or implicated in a fatality must not be allowed to remain in the custody of the owners during the investigation. These animal(s) must be securely and separately contained. Keep them apart from other animals and each other. Only a limited number of experienced Animal Control personnel should be allowed direct contact with these animals.
- 8) If at all possible, even if the owners request or permit euthanasia, keep the animals alive for evaluation by a behavior expert. Observation and evaluation of the animals may give valuable information regarding recreating the incident. Most jurisdictions provide for a ten-day observation period for rabies control-don't be in a hurry to destroy the animals.
- 9) If the animal is deceased at the scene and rabies testing is needed, please request that the State Lab use only the minimum brain tissue needed for their testing and return the rest of the brain. Also ask them to retain and return the animal's head, keeping chain of custody, so that bite impressions and comparisons can be made. Brain tissue is best quick-frozen, preferable within twelve hours of the animal's death, and stored in deep freeze. The animal's brain should be examined by a skilled veterinarian for evidence of lesion or physical abnormality that may have affected the animal's behavior.
  - a) NOTE: If Law Enforcement personnel are forced to destroy the animal at the scene for safety reasons, please instruct them to shoot for center of body mass, not a head shot. Heads are a small, moving target, well armored, and damage to the brain and jaw of the dog may limit information needed for full investigation.

## Initial response-human victim(s)

- 1) Treat the scene like any homicide: control access, protect evidence, prevent contamination. **REMEMBER-HUMAN HOMICIDE SUSPECTS MAY USE A DOG ATTACK/DOG CAUSED DAMAGE TO CONCEAL A MURDER.**
- 2) Take as many samples as possible on the scene, before the body is disturbed. If the body is undisturbed seek blood, tissue, hair, and other fluids in the immediately surrounding area.
- 3) Limit access to the body and the general scene until after photos have been taken. The disturbed ground around the scene may give clues to the event, such as fleeing footsteps, initial impact with the ground and subsequent dragging, etc. Document the physical scene in detail. Look for evidence that may indicate an additional animal involved, such as blood stains going up to a fence, etc.
- 4) Collect samples of fluids, tissue, hair and fibers from the surrounding area. A person may actually be killed in one place and then dragged, sometimes by an animal that did not participate in the actual death. Once a human is dead other animals have no more regard for a human body than for any other carrion.
- 5) Have the Medical Examiner take swab samples from within the wounds. Canine DNA can be individually compared and identified, so the dog that inflicted a specific bite can be identified.
- 6) Have detailed photos, including reference measurements, taken of all bite wounds. Such photos can be compared later with bite molds and documentation to determine which dog bit where.
- 7) Ask the Medical Examiner to identify, as far as possible, the bite(s) that are the proximate cause of death, along with which bites are pre-mortem, and which tissue damage was post-mortem. A dog that may have inflicted damage after death that did not participate in the actual killing. Also, cases have occurred wherein people were murdered, then the body was placed with dogs and they were induced to bite the dead person to confuse or obscure the actual mode of death.
- 8) Document any scratches, dirt marks, or other non-fatal wounds to determine whether there are indicative of flight, defense, etc.

## Breed-Specific Legislation

The question of breed-specific legislation comes up often. Headlines in the news and horror stories abound that seem to label certain breeds as inheritantly dangerous, and legislators under pressure from frightened constituents grasp toward what seems to be a quick fix.

But breed bans are not all they are cracked up to be. I, quite honestly, am against them. I am reluctant to label any entire population of anything with too broad a brush. Those sorts of labels have led to human issues such as criminal profiling. And sure enough, the way the universe works, about the time you enact that kind of legislation you have a banned animal that saves Timmy from the well and pulls its family from a burning house. And you wind up looking foolish.

Still, I have concerns that I must share, concerns that are based on behavioral science, not knee-jerk fear.

First we will look at 'normal' canine interaction. Two strange canines interact, and the potential for tension is there. Territory, access to food or reproductive resources, or social dominance are often the source for tensions. Canines have, over time, evolved an extensive vocabulary of body postures and positions, and some vocalizations, that enable two canines to 'negotiate' an understanding. The level of negotiation depends on the drive each of the affected canines feels, their own social and reproductive status, and needs for resources. Only rarely do these contacts devolve into physical fights, and when they do the fights are rarely to the death; after all, if every dispute ended in the death or maiming of the animals, the species as a whole would not last long. Canines have clear signals that provide an off button, if you will, that enables the combatants to stop fighting and survive.

Enter now the Pit Bull, and other breeds specifically selected by Man to fight each other. These animals have several concerning behavioral difference from most other canines. When they fight, human intervention has selected for animals that do not turn off, and **do not stop fighting until one, or both, are dead**. There is no surrender for these animals. A fully submissive body posture is no more than another opportunity for them to disembowel their adversary.

As a corollary to this, these dogs seem to have a shorter negotiation sequence. Many times we hear of a Pit Bull or similar dog that "...just went off..." The expected precursors to a full fight seem to be lacking, much like the quick interactions we see with some teens and young adults these days; one insults another, and the first response is to "...pop a cap..." into the offender. Even popular Pit Bull sites on the Internet admit that fights between Pit Bulls can occur with little or no warning.

Granted, Pit Bull enthusiasts insist that their dogs are also bred for positive human interaction and sociability, and that is largely true. But take the example of a dog that is trained for protection work, mistreated, or reinforced for meanness by someone wanting an aggressive 'yard dog'. These dogs already have a propensity for tenacity and continued aggression based on years of selective breeding. One than takes and, through fear, mistreatment, or misguided training, positively reinforces the display of aggressive behavior towards humans without the establishment of a clear set of controls. This animal has now learned to manipulate its environment, to its own benefit and sometimes safety, by directing aggressions towards people, with a genetically selected lack of an off button. A bad situation has now become tragically dangerous.

Are breed bans the answer? I don't believe there is a single answer. Breeders of these dogs must be responsible for the intelligent placement and homing of these animals. And I would suggest

rather than banning breeds, that the behavior of the dogs must be handled on a case by case basis, with the overall caution that those choosing to own these animals must be held to a higher level of control and care than owners of other, less-potentially hazardous breeds. Are they all dangerous? No. Do we need to use caution? Yes, and we also need the cooperation of the responsible owners to educate and inform on the nature of these animals and the potential for disaster.

## Conclusion

I realize that there are as many styles of investigation as there are investigators. I do not presume to tell anyone the “right” way of doing their investigation. I do wish to encourage agencies, investigators, and others to establish a higher standard for investigations of all kinds as relates to dogs, dog bites, and dog issues. After all, a misdetermination of cause or fault in such an investigation can easily lead to consequences far beyond the academic. People’s lives are affected, their safety can be impacted, and in the case of dangerous dog laws and consequences people’s property can be taken, potential income affected, and companions destroyed. We owe it to ourselves, our constituents and clients, and our animal companions to do it right the first time. Although pets are not people, their owners are and they deserve the same consideration we would give to any crime victim or accused person.