



Indiana — Coyote — “Penning”

An Inside Look at Animal
Abuse and Cruelty



Introduction

“Penning” is the brutal practice of placing live foxes and coyotes in an enclosed pen as bait for hunting dogs. Predictably, this blood sport frequently ends violently for the prey animals, who are often cornered, maimed, and killed by the packs of dogs that are set upon them. Despite its inherent cruelty, penning is legal in several states across the country. Growing public awareness of what actually happens within these pens, however, is encouraging more and more governments to ban or restrict penning.

This report addresses penning in Indiana, where recent regulations and litigation have made it a particularly controversial subject. Mounting evidence has shown that pen operators in the state are blatantly violating the law, and are regularly killing prey animals and even dogs as part of their “field trial” hunting competitions. The Indiana Department of Natural Resources (IDNR)¹ has nonetheless turned a blind eye to this illegal conduct, and continues to allow and encourage penning in the state.

Pen operators in Indiana have historically operated in remote locations, and have taken measures to protect themselves from public scrutiny. Despite this, recent efforts to prohibit penning have provided unique opportunities to learn more about what penning facilities actually look like, and how pen operators have evaded shutdown by state officials for as long as they have. It is the goal of this report to present this new information to the public and to encourage anyone who cares about animals to speak out against this barbaric and unnecessary cruelty.

¹According to the Indiana Department of Natural Resources Division of Fish and Wildlife website, its mission is “to professionally manage Indiana’s fish and wildlife for present and future generations, balancing ecological, recreational, and economic benefits.” (<http://www.in.gov/dnr/fishwild/5446.htm#mission>)



Matt Knott

The Development of Penning Laws in Indiana

Many states enforce strict rules prohibiting the possession of furbearing mammals outside the legal hunting and trapping seasons. This has not been the case in Indiana, and trappers have taken advantage of the increased demand from pen operators for live bait during these periods. Emboldened by the lucrative profits derived from penning and the state's under-enforcement of wildlife regulations, trappers have historically operated a year-round black market for live animals.

Until recently, few people were aware of penning except for the participants in this illegal animal market. This changed after a 2007 interstate sting operation by Alabama conservation officers that revealed a large network of wild animal traffickers.² The sting operation produced a great deal of media attention in Indiana and elsewhere, and the public called for immediate regulation to prevent the unfettered trade of live animals for use as bait. In response to this public outcry, the Indiana Natural Resources Commission (INRC)³ adopted a rule in 2008 to prohibit the trade and sale of live coyotes *outside* of hunting and trapping season.^{4,5}

During this rule adoption process, it was revealed that there were coyote penning enclosures operating in Indiana.⁶ IDNR dodged repeated requests for additional information about these facilities, but months later finally admitted that there is one known coyote penning facility (now known as the WCI Fox Hound Training Preserve, Inc., or "WCI") that exists in Greene County just north of Linton, Indiana. IDNR also disclosed that this same facility had been operating "without complaint for over 20 years" despite the fact that Indiana lacks any law explicitly authorizing coyote and fox pens.⁷

According to Sandra L. Jensen, Hearing Officer with the Indiana Natural Resources Commission, the state has the duty to "act responsibly in carrying out its obligation to provide for the protection and management of its own wildlife, as well as consider the health of wildlife throughout the country."⁸ Officer Jensen also suggests that coyotes are inhumanely treated and that penning indiscriminately allows for the torturous killing of these animals.⁹ In spite of this report, IDNR continues to misinterpret and blatantly ignore its own regulations in a manner that allows WCI to stay open.¹⁰ Encouraged by the state's lack of interest in wildlife protection, WCI continues to operate without regulations specifically addressing its controversial activities.

Despite INRC's half-hearted attempts to address the penning issue in 2008, a disgusted public persisted in pressing the agency for decisive action. In April, 2009, INRC received petitions 09-069D, 09-073D, and 09-074D, asking the agency to prohibit (1) fox- and coyote-running enclosures during hunting and

²The Associated Press (November 13, 2007), "18 Are Arrested in Illegal Twist on Fox Hunts," New York Times, available at http://www.nytimes.com/2007/11/13/us/13hunt.html?ref=foxes&_r=0 (last accessed Sept. 19, 2012).

³INRC is an autonomous board consisting of twelve members that addresses issues pertaining to IDNR.

⁴LSA # 07-749, proposed rule to amend 312 IND. ADMIN. CODE 9-3-12, available at <http://www.in.gov/legislative/iac/irdin.pdf?din=20080326-IR-312070749PRA> (Mar. 26, 2008); LSA # 07-749, final rule to amend 312 IND. ADMIN. CODE 9-3-12, available at <http://www.in.gov/legislative/iac/20080827-IR-312070749FRA.xml.pdf> (July 31, 2008).

⁵Two years prior to that recommendation, IDNR adopted a proposed rule (312 IAC-9-3-12) in 2008, to prohibit the trade and sale of live coyotes outside of hunting and trapping season. LSA # 07-749(F), Report of Public Hearing and Comments, and Recommendation Regarding Final Adoption, available at http://www.in.gov/nrc/files/Item_4_July.pdf (July 1, 2008); and INRC Meeting Minutes, available at http://www.in.gov/nrc/files/July_2008.pdf (July 15, 2008).

⁶LSA # 07-749(F), Report of Public Hearing and Comments, and Recommendation Regarding Final Adoption, available at http://www.in.gov/nrc/files/Item_4_July.pdf (July 1, 2008).

⁷Natural Resources Commission, Minutes, Nov. 16, 2010, available at http://www.in.gov/nrc/files/NRC_November_2010_Minutes_final.pdf

⁸LSA # 07-749(F), Report of Public Hearing and Comments, and Recommendation Regarding Final Adoption, available at http://www.in.gov/nrc/files/Item_4_July.pdf (July 1, 2008).

⁹*Id.*

¹⁰See e.g., 312 IND. ADMIN. CODE 9-3-12 (2011); IND. CODE § 14-22-26 (West 2011); 312 IND. ADMIN. CODE 9-11-7 (2011); 312 IND. ADMIN. CODE 9-10-7 (2011); IND. CODE § 14-8-2-89 (2011).

trapping seasons, (2) using a dog to hunt, injure, maul, pursue, track, harass, take, or kill coyotes or foxes within a confined area where the purpose is to train and/or run dogs, and (3) using a dog to take, hunt, kill, injure, maul, pursue, track, harass, or disturb coyotes and foxes in any manner.¹¹

On October 26, 2009, in partial response to these petitions, IDNR issued a Coyote Petition Report, recommending that dogs be able to continue hunting coyotes and foxes.¹² On March 10, 2010, however, IDNR surprisingly sided with public opinion and recommended that INRC not allow anyone to chase or kill a coyote or fox in an enclosure with dogs due to concerns about fair chase, disease and parasitic transmission, illegal activities, and conversion of public animals to animals used for private profit.¹³

Unfortunately, in 2011, INRC undermined IDNR's proposed 2010 rule to ban penning, and instead proposed language that would continue to allow penning. The proposed rule, LSA # 11-4, would require escape areas for foxes and coyotes in pens, limit the number of dogs (no more than seven dogs released for each coyote or fox, or 175 dogs total), limit the number of hours dogs can chase coyotes and foxes, prohibit coyotes and foxes from being imported, and ostensibly prevent dogs from getting to coyote pups or fox kits.¹⁴ It would also impose a moratorium on new penning facilities after January 1, 2012.¹⁵ IDNR quickly fell in line with INRC's position and posted a FAQ sheet on its website rationalizing, while tacitly approving, proposed regulations that would allow coyote/fox penning in Indiana.¹⁶

In 2011, in response to further public outrage surrounding the utter lack of safety and animal welfare concerns in INRC's proposed regulations, Representatives Dave Cheatham and Linda Lawson introduced H.B. 1135 to address these issues. Had it been adopted, this legislation would have prohibited coyote and fox penning statewide in Indiana.¹⁷ The bill, however, died in committee without a hearing.

After the failure of H.B. 1135, INRC received thousands of pages of comments from concerned citizens, constituents, and others regarding the proposed rule to authorize penning.¹⁸ Citing the myriad issues raised by these public comments, IDNR announced that it would require more time than the usual one-year time-frame to decide whether or not to pass the rule.¹⁹ As a result, INRC gave IDNR and the Indiana Governor until December 31, 2012, to adopt or withdraw the rule.²⁰ As of March 2013 no action had been taken.

Meanwhile, wildlife conservation and animal protection organizations continue working to ban penning in Indiana.²¹

¹¹Coyote Petition Report, *available at* http://www.in.gov/nrc/files/Item_11_nov_2009.pdf (October 2009).

¹²*Id.*

¹³Coyote Petition Report, *available at* http://www.in.gov/nrc/files/Item_10_NRC_March_2010.pdf (March 2010).

¹⁴LSA # 11-4, proposed rule to amend 312 IND. ADMIN. CODE 9-10-7, *available at* <http://www.in.gov/legislative/iac/20110330-IR-312110004PRA.xml.pdf> (Mar. 30, 2011).

¹⁵*Id.*

¹⁶Indiana Department of Natural Resources, Division for Fish and Wildlife, FAQs on Coyote/Fox Enclosures, *available at* http://www.in.gov/dnr/fishwild/files/fw-Dog_Training_Rule_FAQs_Final.pdf (last accessed Oct. 14, 2012).

¹⁷H.R. 1135, 117th Gen. Assem., Reg. Sess. (In. 2011).

¹⁸INRC Letter to Administrative Rules Oversight Committee Chairperson Michael Young, *available at* <http://www.in.gov/legislative/iac/20110706-IR-312110004ARA.xml.pdf> (June 2011).

¹⁹*Id.*

²⁰*Id.* See also INRC Meeting Minutes, *available at* http://www.in.gov/nrc/files/nrc_minutes_july_2011.pdf (July 19, 2011).

²¹On 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).

The Lawsuit to Stop Penning

While new legislation is essential to establishing a permanent prohibition on penning in Indiana, activists are also using existing law to try to shut down penning in the state. In May of 2011, the Animal Legal Defense Fund, Project Coyote, the Animal Welfare Institute, and a handful of concerned individuals (Plaintiffs) sued IDNR for illegally supporting and encouraging coyote penning at WCI.²² If successful, the lawsuit will stop WCI from operating during the off season until new laws and regulations authorizing or banning penning are passed. The case is currently pending before Judge David Certo in the Environmental Court of Marion County.

For years, IDNR has made a practice of illegally waiving wildlife permitting requirements for WCI, allowing the organization to keep wild animals without proper state oversight. Indiana regulations require anyone keeping a wild animal (outside the lawful hunting season for that animal) to obtain a wild animal possession permit from IDNR.²³ These requirements also prevent wild animal owners from using these animals for “sporting” or “commercial” purposes, such as for live bait in dog training or field trials.²⁴ There is no process in the regulations that allows IDNR to exempt, at will, wild animal possessors/owners from permitting requirements.

IDNR knows that WCI possesses captive wild animals outside of the lawful hunting season and uses these animals for impermissible purposes. Nevertheless, IDNR does not require WCI to obtain wild animal possession permits for the prey animals in its pen, and has actively issued the organization permits to conduct field trials on its property. IDNR presumably grants such informal permitting exemptions because applying the law as written would force WCI to stop operating year round. Exempting WCI from permitting requirements not only violates wildlife possession regulations, but also defies IDNR’s statutory duty to manage wild animals in “the best interests of the resources and the people of Indiana.”²⁵

In response to IDNR’s unlawful conduct, Plaintiffs are asking the court for an order declaring that WCI’s possession of wild animals for use in penning is unlawful, and that IDNR’s process of exempting WCI from permitting requirements is improper. Plaintiffs are also seeking an order preventing IDNR from informally waiving permitting requirements for WCI in the future. If Plaintiffs are successful, and the court forces IDNR to apply wildlife regulations to WCI as written, WCI will no longer be able to practice penning on its property outside of trapping season.

In December 2011, IDNR moved for summary judgment against Plaintiffs, arguing that the judge should throw the case out without a trial. Plaintiffs responded with their own motion for summary judgment, which they submitted to the court in April 2012. The court heard oral arguments on both the motions on

²²*Id.*

²³312 Indiana Administrative Code 9-11-2(b) (2012).

²⁴312 Indiana Administrative Code 9-11-14(c)(1-2) (2012).

²⁵Indiana Code § 14-22-2-3(2) (2012).

June 20, and on August 30 decided the case should be allowed to move forward, with WCI added as a party.

While WCI was joined to the litigation, they failed to mount a defense. On November 30, the court filed a default judgment against WCI, declaring that the organization's possession of coyotes is unlawful under Indiana law. This judgment is an important victory against WCI, but as of March 8, 2013, the court had not yet ruled on whether to order IDNR to actively enforce state wildlife possession law. And until IDNR takes action to stop WCI from illegally possessing coyotes, the penning group will be able to continue its unlawful activity with impunity.

Whatever the court's ultimate decision, the suit against the IDNR has revealed how hard the agency is willing to fight to keep WCI in business. Plaintiffs will continue to use any legal means available to stop penning, but without vocal public support and a law explicitly prohibiting penning, these efforts are unlikely to *permanently* end this brutal practice in the state.

Brutality Revealed — The Inspection of WCI

As the lawsuit against IDNR progressed, it eventually became clear that Plaintiffs would need to physically inspect WCI's property in order to properly make their case. In December 2011, Plaintiffs sent WCI a request for entry onto its land, which WCI was legally bound to comply with under Indiana Trial Rules. When WCI ignored the request, Plaintiffs sought a court order against WCI for entry into the penning facility. After a hearing on February 24, 2012, the judge granted Plaintiffs' order. The resulting ruling required WCI to permit Plaintiffs onto the property, and ordered WCI to pay a \$750 fee for its initial failure to cooperate.

With the judge's order behind them, Plaintiffs arranged for investigators to visit WCI's pen. On March 17, 2012, by virtue of the court order and on behalf of the Plaintiffs,²⁶ several individuals comprising an investigatory team were provided access to the WCI property in Linton, Indiana. This fenced, 300-acre facility hosts competitive field trials and provides hound hunting dog-training opportunities where coyotes are used as bait.

The objective of the investigation was to collect evidence of animal suffering or mistreatment—to support or refute WCI's assertions that its coyotes rarely die in the course of penning and that the organization provides its animals with generous food and care within the pen. WCI had had plenty of notice that this inspection would occur, so it was expected that the pen would be cleared of any evidence that animals had died during field trials and dog training. This made it all the more surprising when investigators found a veritable animal graveyard within WCI's boundaries.

²⁶*ALDF, Inc., et. al. v. Robert Carter*, Cause No. 49D04 11 05 PL 018181, Marion County Superior Court (2011).

²⁷Mike Hardy, registered agent and property manager

²⁸Richard "Red" Bedwell

The team was met at the gate by WCI's property manager,²⁷ president,²⁸ and several Indiana state personnel.²⁹ Immediately upon arrival, all members of the team were informed that they would need to be accompanied at all times by WCI and/or IDNR personnel. Three team members, escorted by WCI's president and IDNR's operations staff specialist, headed off to the west section of the enclosure, while the State of Indiana's attorney, IDNR conservation officer, and WCI's property manager accompanied the three remaining investigators.

The WCI manager was polite and professional, but provided minimal feedback to team members' questions.³⁰ It was clear his role was to supervise team actions, not to facilitate a good-faith inspection.

Less than twenty minutes into the inspection, a foul odor was detected near the southwest corner of the facility. The odor led to the discovery of a decomposing carcass of a female hound with a fractured femur³¹ located about 15 feet from the main trail.³²

Wafts of decomposition odor were again detected while team members were inspecting the series of contiguous pens containing hounds in the southwest corner of the property. The odor led team members to swatches of fur, sticky fluid, and some small bones approximately 100 yards west of the decomposing dog carcass.

At this juncture, the WCI/IDNR contingent lost interest in closely chaperoning the investigation team, which had proceeded further into the nearby marshy area, where two bleached canid skulls³³ were found. Another heavier skull³⁴ was also collected in this same area.

Roughly 250 yards up the well-traveled dirt trail, the team discovered another site where an animal had decomposed, as evidenced by liquefied body fluids, flies, and some sticky fur in the weeds. An actual carcass could not be found in this location, but shortly thereafter the team discovered a blood-stained, wooden pallet covered in flies and awash in the smell of decomposition. Engulfed in a writhing mass of maggots, the putrefying body of a large hound was discovered beneath this wooden platform. The cause of death could not be determined due to field conditions and the degree of putrefaction, but the team concluded that the pallet had been placed over the carcass to conceal its presence.

Following a short break, the team searched the northwest corner³⁵ of the facility, where an apparent animal "graveyard" was discovered, consisting of numerous bleached-out bones and skulls.³⁶ Again, the smell of rotting flesh was detected, which led to the decomposing body of a small female coyote lying in the adjacent briars. With the head and most of the hide intact, the corpse condition allowed for accurate species identification. Of note, this animal appeared to have sustained the traumatic loss of multiple digits from two of her

²⁹Timothy J. Junk, Indiana Office of the Attorney General, Conservation Officer Swafford, IDNR, Division of Fish & Wildlife, and Linnea Petercheff, Operations Staff Specialist, IDNR, Division of Fish & Wildlife.

³⁰Of note, the manager mentioned that WCI was staffed with two mobile "animal-rescue-teams" whose purpose is to intervene if the hounds capture a coyote. When summoned, rescue teams are responsible for pulling the dogs off of their victim. When queried further as to how a frenzied pack of dogs is successfully prevented from mauling their prey, he responded, "it ain't pretty." There was no response to questions pertaining to the provision of veterinary care to injured hounds or coyotes.

³¹Whereas field conditions and the advanced stage of decomposition prevented cause of death determination, Rachael Jones, DVM, estimated that the dog had been dead for at least 10 to 14 days. Post mortem assessment corroborated that the leg fracture had occurred prior to death.

³²Rachael Jones, DVM, queried Mike Hardy as to the ownership of the dog, how it had sustained a fractured leg, and how it had died, and whether its loss was reported or accounted for during a training exercise or field trial. Mr. Hardy would only reply that he had "no idea."

³³Rachael Jones, DVM, determined that both were coyote skulls. These determinations were later corroborated by Steven D. Holladay, Professor and Department Head, Biosciences and Diagnostic Imaging, College of Veterinary Medicine, University of Georgia.

³⁴Rachael Jones, DVM, determined this heavier skull was that of a domestic dog. This determination was also later confirmed by Dr. Holladay.

³⁵The WCI/IDNR chaperones again declined to further accompany the investigation team.

paws.³⁷ Entanglement in thorny briars, decomposition, as well as maggot and beetle infestation precluded detailed examination for cause of death.

A couple of PVC-tube feeding stations were located in this area. Upon inspection, no evidence of recent feeding activity could be found.³⁸ A few 4- to 6-foot metal tubes were scattered in the northwest section, structures touted by penning proponents as “safe havens” for fleeing coyotes. These so-called safe havens could be more accurately described as death traps, as pursuing hounds could easily fit within the same tubes from both ends, thereby trapping their prey and subjecting doomed coyotes to extreme fear and distress when hauled forth and mauled. The claim that “rescue” teams provide meaningful measures for maintaining the welfare of the captive coyotes is unsubstantiated and highly dubious.

The WCI enclosure fence line was comprehensively inspected by team members and despite DNR’s repeated claims to the contrary,³⁹ there were no holes or weaknesses that would provide exit routes for coyotes to escape the confines of the enclosure. In fact, the perimeter fencing was hot-wired around the base of the entire enclosure,⁴⁰ while any culverts had been blocked with stone or boulders. Furthermore, sections of fence with damaged chain link had been obviously reinforced with new chain link patches.

Evidence of free-ranging animals being maintained within this facility was surprisingly scarce. The team observed numerous canid footprints and some deer tracks in the muddy areas of the enclosure, yet no fresh coyote scat or dog feces were found anywhere on the premises. Equally important was the lack of evidence coyotes had been acclimated or housed within the holding pen located near the facility’s entrance. It appeared that WCI does not maintain an established or resident population of conditioned coyotes that have acclimated to the lay of the land. Rather, combined with the secure fence around the property and the numerous coyote remains present, these findings suggest that WCI’s prey animals are transported to the site proximate to the scheduled events and ultimately killed.

In conclusion, the inspection of the WCI enclosure provided ample evidence to conclude that coyotes and dogs are indeed harmed and killed within its confines. The carcasses and skeletal remains discovered also suggest that other, larger animals have met their demise on the property. Additionally, and contrary to what has been claimed by the WCI owners and IDNR, effective escape routes for prey animals are lacking within the enclosure itself and along the perimeter fence, which has been hot-wired to ensure against escape.

³⁶Rachael Jones, DVM, determined that the variety of bones included the following: equine, bovine and other, smaller ruminant (presumably cervid). Dr. Stephan Holladay corroborated that bone samples of these remains included those of bovine origin, as well as some other type of ruminant. The equine skull discovered among the remains was not collected into evidence, precluding Dr. Holladay’s corroboration of species identification.

³⁷The missing toes suggest this coyote may have been captured for training purpose by a foothold trap—injuries that would greatly impair her ability to flee pursuing hounds. No obvious cause of death could be determined due to field conditions.

³⁸A total of three feeding stations were located throughout the facility, supposedly for the purpose of feeding coyotes. Of note, every feeding station appeared to have the identical amount of food in it, suggesting that each was filled with the same-sized bags solely for the purpose of the investigation.

³⁹E-mail from Linnea Petercheff, Operations Staff Specialist, Div. of Fish & Wildlife, IDNR, to Laura Nirenberg, Executive Director, Wildlife Orphanage, Inc. (Nov. 24, 2010, 10:40 CST) (on file with recipient). (“The DNR has not issued any possession permits to the animals inside the enclosure in Linton. DNR staff were present that day for an information-gathering tour, not for an inspection, and DNR staff that were present did see at least one area where coyotes or foxes could escape. The DNR did not take photographs of the pen in Linton on a state camera and since the photographs are not on a state computer or state CD and there is no electronic correspondence with these photographs, the DNR is not required to disclose them. Again, the DNR did not take any written notes while at the facility in Linton in September.”)

⁴⁰According to Mike Hardy’s statement to Laura Nirenberg, the voltage running through the electrified fencing is “110 volts.”

What You Can Do

If you are a resident of Indiana or any other state that allows penning,⁴¹ please write to your state legislators and governor and urge them to take action on this issue and enact a permanent ban on penning. Share this report with them. Let them know that multiple organizations and associations have encouraged regulations against the transport of wildlife for penning purposes—including the Midwest Association of Fish and Wildlife Agencies, which passed a resolution in 2008 urging the adoption of state-by-state regulations prohibiting the importation or interstate transport of foxes and coyotes for the purpose of stocking coursing pens, or for release and pursuit by hounds outside of coursing pens.

⁴¹At least 19 states explicitly allow coyote and/or fox penning: AL, AK, GA, IL, IN, IA, KS, KY, LA, MS, MI, NC, OK, SC, TN, TX, VA, WV, WI

Appendix



Female canid with broken femur



Female canid with broken femur



Coyote skull found near penned hounds/marshy area



Fur, flies, and body fluid



Fur, flies, and body fluid



Hound-type dog found hidden under a bloodied, fly-infested, wooden skid





Hound-type dog found hidden under a bloodied, fly-infested, wooden skid



Radius bone from the front leg of a mature cow

"Graveyard"



"Graveyard"

"Graveyard"



Female coyote carcass with mangled feet found near “graveyard”



Alleged coyote “escape hatches”



Alleged coyote “escape hatches”