



Off Leash, But In Line

Maintaining Law and Order at the Dog Park
by Emily A. Gardner, Esq.

types of animals can stimulate aggression and prey response in normally well-mannered dogs and ruin the experience for all.

As far as human behavior goes, it is best to avoid bringing dog treats or any type of food to a dog park, to closely supervise young children, and to avoid taunting or teasing any dog. Lastly, to reduce the potential for the spreading of pathogens and disease, it is extremely important for all dog park users to clean up after their dogs and to discard their dog's waste in an appropriate waste receptacle. Failure to pick up after your dogs may result in fines, can spread disease and might even prompt municipal authorities to close a dog park entirely for health code violations.

Legal rights if you or your dog become injured:

Adults and mature children who voluntarily encounter a known risk are generally deemed to have consented to the injuries they receive as a result of that particular risk. Thus, if you go to an off-leash dog park and you or your dog are injured by a dog (e.g. are bitten or knocked down) and the injury would not have occurred if the aggressor dog was leashed, then a strong argument exists that you assumed the risk of being injured when you entered the dog park. You were aware that leashes were optional and entered the park to take advantage of the same leash-optional rule that resulted in your injury. This legal doctrine is known as assumption of the risk and can bar or limit your right to recover for your injuries.

The assumption of the risk doctrine is not foolproof. Just because the county leash laws do not apply does not mean that all other laws go out the window. Common law negligence still applies in a dog park and requires that all dog park users behave reasonably and responsibly. This means that irresponsible dog owners who bring dogs that are known to be aggressive towards people or other animals, or dogs that have previously been determined "dangerous" can still be found liable for the injuries caused by their dogs, as it would be unreasonable to take an aggressive or dangerous dog to a dog park.

Similarly, it would also be considered unreasonable for a dog owner to bring a dog that is in heat, a puppy, an under socialized or fearful dog, or another type of pet to a dog park. Dog owners who engage in this type of conduct can be found liable for any injuries their behavior directly or indirectly causes to people or other dogs. For instance, bringing a dog that is in heat could stimulate competition among male dogs at the dog park, resulting in a dogfight. People are often injured when they try to break up a dogfight, or may even get into an altercation themselves by one dog owner accusing another dog owner of improper behavior. For a dog park to be successful, it is important that its users behave responsibly and avoid engaging in activities that could foreseeable cause injury to other human and canine users. If injury should occur, dog owners should exchange phone numbers and current tag information.

Lastly, in the event of injury, it is unlikely that the victim could prevail in a suit against the government entity that owns and operates the dog park. City and county governments generally enjoy some form of immunity from claims in instances where they undertake an activity to benefit the community. There are a few exceptions to this general rule, such as when city and county governments knowingly fail to enforce their laws, or knowingly fail to act after repeated violations or dangers have been brought to their attention. Thus, if the owner of an irresponsible dog owner has a habit of bringing a dangerous dog to the dog park and allows it to harm other people or dogs, and the local animal control fails to act, despite being informed, there may be a legitimate claim against the city or county government.

The above are general guidelines only. All dog parks and incidents occurring in them will be different and must be evaluated under the particular laws of your state and county government as well as the rules that apply to the dog park at issue. To best ensure that a good time is had by all and to avoid injury, it's important for all dog owners using the park to behave responsibly and respectfully towards other dog owners and their dogs.

A dog park is a recreational facility set aside for dogs and their owners to exercise and play off-leash, hopefully, in somewhat of a controlled environment. Dog parks can be a great place to take your dog, as there is generally no need to worry about joggers, inattentive drivers, kids on bikes, or being harassed by people who do not like or who are afraid of dogs.

As recreational areas, however, dog parks are not free of risks. Some of the risks associated with the use dog parks include: injuries to people, injuries to dogs, exposure to pathogens, and the potential for abandonment of unwanted dogs. Below are guidelines for ways to avoid injury and a review of your legal rights if the unfortunate should occur.

Suggestions for avoiding injury:

While dog parks are created for everyone's enjoyment, not everyone's dog is appropriate to take to a dog park. Dogs that are known to be aggressive towards people or other dogs should not be taken to the dog park. Doing so, not only puts other people and pets at risk, but also exposes the owner of the aggressive dog to liability (see below).

Along the same lines, dogs that are in heat, young puppies, especially timid or fearful dogs, or dogs with communicable diseases should not go to the dog park. The same goes for other types of pets, such as cats, ferrets, rabbits, pot bellied pigs and birds. Bringing these

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