

# State lags in closing dog abuse cases, lawmaker has answers

State admits many cases are more than 1 yr old

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WEST PALM BEACH, Fla. - Greyhound racing as we know it may be going to the dogs. That is, if Florida Representative Jared Moskowitz (D-Coral Springs) has his way.

“No one is coming to watch the dogs run, I've been there I've seen it,” he told the Contact 5 Investigators.

Now, a series of answers he recently received from the state Division of Pari-Mutuel Wagering is giving the 3<sup>rd</sup> year lawmaker more reason to push his proposal to end what he describes as an outdated state law.

The current law requires that dog tracks must offer greyhound racing if they want to cash in on slot machines and card tables which have proven to be the money maker at the remaining 6 dog tracks nationwide.

“If racing goes away, all the problems go away,” he said.

The problems, Moskowitz says, stem from the state's failures to quickly resolve greyhound abuse and cruelty cases.

In the 5-page letter to the lawmaker the state admits to taking, on average, 8 months to close these cases.

Right now, more than half of the 16 open cruelty and abuse cases are more than one year old, according to the state.

“It's completely unacceptable,” Moskowitz said.

The lingering cases include Robert Dawson's. Last month, the Contact 5 Investigators reported how the licensed greyhound trainer in Palm Beach is at the center of two state investigations. One case was opened after a greyhound tested positive for cocaine, that was back in 2012.

"We in Florida are well beyond what the national average is to get a final adjudication on these cases and that's not acceptable," said Representative Moskowitz.

If he can't separate racing from gambling this year, the Representative will settle for better reporting for greyhound injuries and shorter timelines for abuse investigations. He also wants stiffer penalties if someone is found guilty of greyhound abuse.

The state did not offer a direct comment to the Contact 5 Investigators. Instead, a spokesperson for the Department of Business & Professional Regulation referred us to the letter they sent to Representative Moskowitz.

As for the idea of separating racing and gambling, according to a spokesperson at the Palm Beach Kennel Club, which is one of just 6 remaining dog tracks nationwide, "It's been successful with its year-round racing dates and currently has no intention to discontinue live greyhound racing."

A state committee is expected to begin discussion next month.

**Read the letter the state sent to the lawmaker in regards to his question.**

January 2, 2015

The Honorable Jared Moskowitz  
State Representative, District 97  
2826 North University Drive  
Coral Springs, Florida 33065-1425

Dear Representative Moskowitz:

Thank you for the opportunity to brief you on these very important matters relating to the welfare and safety of greyhounds in Florida's pari-mutuel industry. Ensuring the proper care and well-being of all greyhounds in the pari-mutuel industry is critically important to me and

my staff.

We take our role in protecting the welfare of greyhounds very seriously. Throughout the state, investigators with the Division of Pari-Mutuel Wagering diligently inspect all pari-mutuel kennels to ensure the health, safety and well-being of all racing greyhounds. The Animal Welfare Rule, which was proposed by the division, went into effect May 2013, and further protects Florida's racing greyhounds. These diligent efforts to protect greyhounds include identifying preliminary signs of abuse or negligence. Kennels are examined to ensure that each greyhound is housed in its own kennel and that all kennels are free from infestations, well ventilated and free from hazards that may be harmful. In addition, random inoculation and vaccine reviews are conducted to verify that each greyhound is in good health.

In view of the upcoming Legislative Session and understanding that we provided you with answers to your questions by phone on October 13, 2014, we wanted to provide you with updated numbers as of December 15, 2014, as well as more recent case status. Enclosed is the data you requested as it relates to open cases and more details about legal process as governed by the Administrative Procedure Act. Bear in mind that as a result of departmental changes that we previously discussed, some of the averages may have increased; however, that is a reflection of disposing older cases.

As always, I welcome every opportunity to work with you and other members to continue to protect the safety and well-being of racing greyhounds.

Sincerely,

Ken Lawson

Secretary

1. For the past five years, please indicate the average resolution time for cases of greyhound cruelty, greyhound neglect, and greyhound drug positives, from the actual incident to the issuance of a Final Order.

The average number of days from incident to Final Order of these cases is approximately 238 days, which may include conducting an investigation, collecting evidence, serving the licensee with administrative action and election of rights, conducting an informal and/or formal

hearing, issuing

a Final Order and potentially an appeal. Many of the steps of this process have minimum allotted timeframes as dictated by the Administrative Procedure Act.

2. For the same time period, indicate how many total cases of greyhound cruelty, greyhound neglect, and greyhound drug positives have been investigated by the Division of Pari-Mutuel Wagering.

Of the nearly 3,800 total pari-mutuel cases opened by the Division of Pari-Mutuel Wagering in the past five years, approximately 279 cases were related to greyhound cruelty, greyhound neglect or greyhound drug positives.

3. For the same time period, indicate what percentage of greyhound cruelty, greyhound neglect, and greyhound drug positives have remained pending for more than one year after the actual incident date.

Approximately 16 percent of these cases remained pending for more than 365 days from the date of the incident. Note that each investigation is unique. Cases may appear to be similar in nature, but can vary drastically based on the totality of factors involved.

4. Indicate how many cases of greyhound cruelty, greyhound neglect, and greyhound drug positives are currently pending before the Division.

Approximately 16 cases against nine individuals are currently pending before the Division of Pari-Mutuel Wagering as of December 15, 2014.

5. For all cases of greyhound cruelty, greyhound neglect, and greyhound drug positives that are currently pending before the Division, indicate how many involve alleged incidents that occurred more than one year ago.

Approximately ten cases against seven individuals are currently pending before the Division of Pari-Mutuel Wagering involving alleged incidents that occurred more than 365 days ago. Of those ten cases, nine of them have administrative complaints filed, five have had hearings and one has a hearing scheduled.

6. For the past five years, indicate how many individuals have had their licenses revoked for cases of greyhound cruelty, greyhound neglect and greyhound drug positives.

Three individuals have had their occupational licenses revoked for such incidents. Fines or suspensions are also common disciplinary measures authorized by Sections 550.0251(10), 550.105(5)(e), and 550.2415, Florida Statutes.

7. For the past five years, indicate how many Approved Waivers for License Disqualification for occupational pari-mutuel licenses have been granted by the Division.

Approximately 823 waivers were requested by occupational license applicants having a criminal history background. Approximately 326 waivers were issued by the Division of Pari-Mutuel Wagering after careful review of the detailed waiver investigative report. In some cases, a denied waiver applicant obtained a waiver after an Order was issued by a hearing officer. See #8 below for more details on the waiver process.

Of the 326 total waivers granted, only 19 were granted to license types indicating greyhound owner or trainer. Licensees who received waivers represent less than 0.3 percent of the 114,000 license applications processed by the division for the same time period.

8. Indicate whether the Division has a specific policy regarding pari-mutuel Waivers for License Disqualification, and what criteria are used to determine whether such waiver requests are approved or denied.

Section 550.105(5)(c), Florida Statutes provides: "The division may deny, declare ineligible, or revoke any occupational license if the applicant for such license has been convicted of a felony or misdemeanor in this state, in any other state, or under the laws of the United States, if such felony or misdemeanor is related to gambling or bookmaking, as contemplated in s. 849.25, or involves cruelty to animals. If the applicant establishes that she or he is of good moral character, that she or he has been rehabilitated, and that the crime she or he was convicted of is not related to pari-mutuel wagering and is not a capital offense, the restrictions excluding offenders may be waived by the director of the division."

9. When considering requests for pari-mutuel Waivers for License Disqualification, indicate whether the Division applies a different standard for individuals who will be directly responsible for the health and welfare of greyhounds.

The waiver process is identical for any individual applying for a pari-mutuel occupational license that would have access to the racing animals, including horses and greyhounds.

10. Indicate why licensee Osman Martinez was allowed to work in the greyhound racing industry for approximately three years after he entered a plea agreement in a greyhound cruelty case in Palm Beach County in August 2009.

Martinez was served with an Administrative Complaint and elected a formal hearing, but failed to dispute a material fact and was provided an informal hearing. A Final Order was issued against him on August 4, 2011. Martinez filed an appeal with the 1st DCA, which took the case into late 2012 until disposition was imposed. The timeline is dictated by court practice

and through the Administrative Procedure Act, which provided Martinez with due process to a formal or informal hearing as outlined in the Election of Rights. Martinez has subsequently applied for another license and waiver and has been denied.

11. Indicate whether Saul Mays, Ursula O'Donnell, James E. (Barney) O'Donnell, Benjamin Espinal, Robert Dawson, Lance LaFreniere, and Jose A. Lopez currently hold pari-mutuel occupational licenses.

According to our records, each individual has a current/active pari-mutuel occupational license. Here is additional information regarding some of these individuals:

On December 24, 2014, James O'Donnell was found guilty at a formal hearing for 74 violations of failing to maintain proof of vaccination for racing greyhounds and two counts of having prohibited devices where racing animals are lodged. The recommended order suggested a penalty of \$1,000 for each violation for a total of \$76,000.

On October 15, 2014, the Department filed an administrative complaint against Benjamin Espinal. The matter is pending a formal hearing at the Division of Administrative Hearings.

Robert Dawson has two administrative complaints set for formal hearing at the Division of Administrative Hearings on January 16, 2015.

On July 22, 2014, the Division issued a Final Order against Lance LaFreniere whereupon his license was suspended for 45 days and he was issued an administrative fine of \$500.00.

On July 25, 2014, the Department filed an administrative complaint against Jose Lopez. At this time, Mr. Lopez has not been located for proper statutorily required service of process.

12. Indicate whether the Division currently has the legal authority to deny or revoke occupational licenses for pari-mutuel wagering based on a "best interest of racing" provision.

There is no such provision provided in Florida law to the Division of Pari-Mutuel Wagering. Although some gaming jurisdictions have the ability to deny or revoke an occupational license for "suitability" reasons, the requirements in Chapters 550, 551, and Section 849.086, Florida Statutes, as well as the Administrative Procedure Act in Chapter 120, Florida Statutes, outline specific requirements regarding the denial and revocation of a license.

13. Indicate whether the Division currently has the legal authority to grant Waivers for License Disqualification for card room or slot machine licenses.

As it relates to cardroom occupational licenses, Section 849.086, Florida Statutes, provides the Division of Pari-Mutuel Wagering with the authority to grant waivers.

As it relates to slot machine occupational licenses, Chapter 551, Florida Statutes, does not contain a waiver provision.

14. Describe the standard process for a greyhound disciplinary case, including the investigation, issuance of an Administrative Complaint, issuance of a Final Order, and any other relevant details.

The Division of Pari-Mutuel Wagering has 15 investigators who work at pari-mutuel facilities across the state. Investigators initiate an investigation or respond to a report of complaint. Once an investigation is complete, the case is forwarded to the Department's Office of General Counsel for further action. After an investigation is referred to the Office of General Counsel, it is reviewed for legal sufficiency and probable cause to determine further administrative action.

The Office of General Counsel evaluates the case and determines whether to seek disposition through a Consent Order or file an Administrative Complaint. If an Administrative Complaint is filed, the individual then has an opportunity to contest facts or application of laws pursuant to Chapter 120, Florida Statutes. Additionally, due to the transient nature of the industry and movement of licenses to other racing jurisdictions there are sometimes delays in the statutorily required service of process. The length of time can take anywhere from weeks to several months to resolve; or longer if appellate rights are invoked.