

# How to Investigate Animal Cruelty in New York State

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A Manual of Procedures

Produced by the New York State Humane Association, Inc.

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## **NOTICE**

### **IMPORTANT - PLEASE READ**

This manual is intended to serve as a general and reference tool guide to enable law enforcement officers to benefit from the actual experiences of both police and SPCA investigators who have had practice in investigating animal cruelty.

The authors and publisher are not legal experts or attorneys and are not offering legal services. In any case where the reader has a question regarding the intent of the laws and/or legal proceedings discussed in this manual, or their legal rights and duties in the situations described in this manual, they should consult an attorney for advice BEFORE proceeding.

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The opinions expressed in this book are those of the authors and the publisher and not necessarily those of any humane organization or government agency.

## ***Dedication***

*Dedicated to the memory of **Phyllis Wright** and **Samantha Mullen**, compassionate individuals, who dedicated their lives to champion the cause of humane treatment of animals.*

***Phyllis Wright** was an animal control officer for many years until she became the Director of Animal Sheltering and Control for The Humane Society of the United States (HSUS). In 1982, she was promoted to Vice President for Companion Animals. Her guiding principle was her belief that "education is one of the most effective tools we have to prevent cruelty to animals."*

***Samantha Mullen** served as NYSHA's Administrator for many years and was the director of operations for the Animals Farm Home hoarder case, the largest in the country at the time. She worked tirelessly to improve animal protective legislation in New York State. Subsequent to her tenure at NYSHA, she worked at The HSUS in the companion animal field. Following retirement, she returned to New York to continue advocating for animals before her untimely death in 2012.*

*Their courage, determination, and compassion will remain an inspiration to all of us who continue to work toward a time when all companion animals will have responsible, caring owners.*

*Both Phyllis Wright and Samantha Mullen are greatly missed by us all.*

## About the Authors

### Susan McDonough

#### *Law Enforcement Technical Input*

Sue McDonough, a police officer for many years until her retirement, has vast experience in the investigation of animal cruelty. In addition, she has taught the New York State cruelty laws to police and humane law enforcement officers throughout the state. She was a past president and board member of the New York State Humane Association. In addition to her volunteer work for animals, Sue is an equestrian, a former licensed wildlife rehabilitator, and a past board member of the Columbia-Greene Humane Society in Hudson, New York.

### Patricia Valusek

#### *Technical Writer*

Pat Valusek has numerous years of technical writing experience with IBM and other companies. She has created technical material and written proposals for both private enterprise and the nonprofit sector. During the course of her volunteer work with NYSHA, she has worked on various cruelty cases throughout New York State. She has served on the Board of the New York State Humane Association for many years, and for the past several years has held the position of president.



## Authors' Notes

1. To avoid the awkwardness of referring to both female and male pronouns throughout the text, we have adopted the convention of using the masculine pronouns to encompass both genders. Thus, wherever you see "his" or "he" used, please understand that it refers to both women and men.
2. Wherever possible, we have provided examples of actual case related documents, such as search warrants, *etc.* However, to protect us as well as the law enforcement agents involved from the possibility of any litigation, we have obscured the names of both the law enforcement agents and defendants from the documentation.
3. Throughout this manual wherever we refer to "owner," the term includes anyone responsible for the care and wellbeing of the animal, as well as the owner himself. Section 353 of the Agriculture & Markets Law is written in broad language (see the "Various NYS Laws Dealing with Animals" section.) Thus, we believe anyone responsible for the care and wellbeing of the animal can be charged with animal cruelty, if the animal is abused or neglected.
4. We have provided Article 26 of the Agriculture & Markets Law as well as other laws which are current as of 2022. We have annotated them with notes based on our experience and provided cross references to other laws that may have been violated in the belief that this information will be of assistance to you.
5. However, laws may change each year. Thus, to stay current, with the animal cruelty laws and dog control laws, you can print the PDF copies of Article 26 and Article 7 from the NYSHA website. You can also go to the NYS Senate website ([nysenate.gov/legislation/laws/AGM/A26](https://nysenate.gov/legislation/laws/AGM/A26) or [nysenate.gov/legislation/laws/AGM/A7](https://nysenate.gov/legislation/laws/AGM/A7), respectively) and keep them with this manual.
6. You can also contact for information:

NYS Department of Agriculture  
Animal Industries  
1 Winners Circle, Albany, NY 12235  
(518) 457-3502

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Anna Charlton, Esq., Rutgers School of Law

Todd Davis, Esq., former Assistant District Attorney, Kings County

Valeria DeSantis, former Shelter Executive Director, Ulster County SPCA

Lee DeLisle, Cruelty Investigator, Columbia-Greene Humane Society

Edward L. Freer, Sergeant, retired from City of Poughkeepsie Police Department

Evelyn Garrett, former Cruelty Investigator, Ulster County SPCA

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Mark MacDonald, former Special Investigator, ASPCA

Gilda I. Mariani, Esq., New York County District Attorney's Office

Michael J. Moore, Esq., retired from Ward, Sommer & Moore, L.L.C.

Edmund F. Pierce, A.C.P., Director of E. F. Pierce and Associates

John Prizzia, Esq., former Assistant District Attorney, Ulster County

Dean S. Sommer, Esq., Ward, Sommer & Moore, L.L.C.

Thomas J. Sommerville, former Chief & Senior Director of ASPCA Humane Law Enforcement

Timothy Stack, former Special Agent, ASPCA

Vincent Tartaglia, former Law Enforcement Officer, Dutchess County SPCA

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Columbia-Greene Humane Society  
Erie County SPCA  
Hi-Tor Animal Care Center  
Humane Society of Rochester and Monroe County  
Mohawk and Hudson River Humane Society  
Newburgh SPCA  
Rockland County SPCA  
Saratoga County Animal Welfare League  
The Animals' Agenda  
The Fund for Animals  
The Humane Society of the United States  
Ulster County SPCA

## What This Book Is About

The purpose of this manual is to provide law enforcement officers in New York State with sufficient information to investigate animal cruelty complaints. The manual will also be helpful to animal cruelty investigators employed by humane societies.

Contrary to popular belief, the American Society for the Prevention of Cruelty to Animals (ASPCA) does not have cruelty investigators available throughout New York State, and most local dog control officers or animal control officers do not have peace officer status that would allow them to make arrests. In addition, very few local SPCAs and other animal protective agencies have the knowledge or funds to investigate animal cruelty.

Thus, the bulk of animal cruelty cases in certain areas will become the responsibility of police who must investigate cruelty complaints as mandated by Section 371 of Article 26 of the Agriculture & Markets Law which states:

"A constable or police officer **must**, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals **may** issue an appearance ticket pursuant to section 150.20 of the criminal procedure law; summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of article twenty-six of the Agriculture & Markets Law. Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any of said societies may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in presenting the law and facts before such court, tribunal or magistrate in any proceeding taken." (*Emphasis added*)

We intend for this manual to assist these police officers as much as possible in this difficult and painful task.

In many jurisdictions, given the high volume of criminal cases, animal neglect and abuse cases rank lower on the totem pole; in some cases, they will not be considered serious enough to be pursued by the District Attorney's office. Thus, the objective of an investigation is to make a case as solid as possible so that its chances of being dealt with are enhanced. Even if the DA's office decides only to plea bargain, the better the case, the better plea bargain the prosecutors can strike to help the animals involved.

The best way to enhance **your** chances of successfully investigating animal cruelty and building a solid case is to be prepared beforehand. Thus, before an animal cruelty complaint comes to your attention, review this manual and familiarize yourself with the elements and processes that are important to a successful cruelty investigation.

We sincerely hope that you find this information helpful in your animal cruelty work.

**A Note of Caution to Humane Societies Enforcing Article 26**

Though the intended audience for this manual is law enforcement personnel, we realize that cruelty investigators may look to it for guidance in some situations.

All cruelty investigators must have peace officer status and whatever training is required by the Division of Criminal Justice Services. For information on accreditation, contact the Office of Public Safety, Law Enforcement Accreditation, 80 So. Swan Street, Albany, NY 12210, or call (518) 485-1417. For information on training, contact the Training Unit at (518) 485-1959.

For further information on the role and responsibilities of peace officers, see section 2.10 and 2.20 of the NYS Criminal Procedure Manual.

## How To Use This Book

In this manual, we have attempted to convey to you what we have learned to date about investigating animal cruelty. For maximum benefit, we suggest reading the following sections first:

1. Being Prepared Ahead of Time
2. Receiving the Complaint
3. Investigating the Complaint

Afterward, you will find it worthwhile to review the "Common Complaints" and "Special Cases" sections, and their examples.

- As you review these sections, refer to the "Various NYS Laws Relating to Animals" section for a further discussion and complete text of the laws.
- In addition, review the "Animal Care Standards for Some Common Animals" section formulated by several NYS licensed veterinarians who have generously donated their time for this purpose to become aware of the standards of care that are expected for the types of animals mentioned in each case.
- Review Appendix IV, "Forms & Supplies List" to see the forms that might be used in a case; for example, Veterinarian's Statement.

Lastly, consider reading the various articles that are included in the "Appendix of Articles" section. We have chosen them because they provide added information on investigating animal cruelty as well as an exploration of the connection between animal abuse and other crimes.

Refer to the "Appendix of Agencies" if you need assistance with a particular case. Once you understand the layout of the manual, you can use it.

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# 1. Be Prepared Ahead of Time

## Overview

There are several elements critical to the success of your animal cruelty investigation. They include:

- [Local Resources](#)
- [District Attorney's Office](#)
- [Expert Witnesses](#)
- [Photographic Evidence](#)
- [Key Concepts: Exigent Circumstances and Plain View Doctrine](#)
- [Search Warrant Procedure](#)

If you become familiar with these elements before you receive an animal related complaint, your chances of presenting a good case will be enhanced.

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## Local Resources

### Overview

One of the best ways to be prepared to investigate an animal-related complaint is to know the people in the area who deal with animals. When you receive an animal cruelty complaint, the following are people who will help you:

#### ✓ **Humane Society Personnel/Animal and Dog Control Officers**

You will find it helpful and sometimes necessary to enlist the assistance of the local humane society or animal and dog control officers. They often are familiar with the people in the community and are aware of animal-related complaints that may have occurred in the past. In addition, they have or know of facilities to which seized animals can be taken.

It is important to find out the capacity and capabilities of the local shelter to determine if it is able to accommodate extra animals or farm animals on an emergency basis. Even if the local shelter cannot accommodate an influx of animals, it may be able to enlist the aid of other shelters or individuals who can.

Also, advise the shelter to petition the court to hold a security bond hearing, to compel the defendant to post a bond to cover the cost of animal care up front. This process is explained in Agriculture & Markets, Article 26, Section 373 6(a). A complete explanation of the process and downloadable forms are provided on the NYSHA website at: <https://nyshumane.org/security-bond-posting/>.

#### ✓ **Veterinarians**

One of the people essential to the successful outcome of any cruelty investigation is the veterinarian you engage on the case. The importance of the veterinarian cannot be stressed enough.

Thus, as part of your contact effort, locate a few local veterinarians who would be willing to assist you with animal cruelty cases and provide you with sworn statements. Ensure that they understand that they may be required to testify in court at a later date regarding the condition of the animals. They are testifying as expert witnesses; thus, it would be helpful if they have testified in previous proceedings.

#### ✓ **Local riding academies, stables, farmers**

Some cruelty complaints will involve large animals and farm animals. In some cases, a problem might arise in removing the animals from the circumstances because many shelters do not have facilities to accommodate them.

To be prepared ahead of time, become familiar with the stables, riding academies, and farmers in your area who are sympathetic to the plight of animals involved in animal cruelty complaints. Ask if they would be receptive to boarding such animals if the need should arise. Be aware that animals coming from a cruelty case generally will have health issues, so it is more likely that you might find placement with people who own a different species of animal. For example, a person who has

horses will not want to help with diseased horses, but might help with goats, if the goat diseases are not transmittable to horses.

You might also find out who is responsible for the local fairgrounds. Most fairgrounds generally contain barns or large buildings on the property. You might ask if they could be used on a temporary basis if the need arises.

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## District Attorney's Office

### Overview

Because animal cruelty cases are not the norm, it is important to establish contact with the District Attorney's (DA's) office early and maintain it throughout a case.

There are several elements the DA's office considers in determining whether to prosecute an animal cruelty case: the strength of the evidence, the admissibility of the evidence, the background and history of the offender, the experience and training of the arresting officer, and the recommendations of the arresting officer.

To ensure that you are presenting a good case, inform the appropriate Assistant District Attorney (ADA) about the case as soon as possible. In addition, make your initial investigation solid; it is the foundation upon which the rest of the case is built.

### ✓ What to do

7. If you are involved in a complicated case, ask an ADA to review your application for a search warrant to ensure that it is in accordance with the United States and New York State Constitutions. (If possible, have all applications for search warrants reviewed.)
8. Always contact the DA's office on serious and complicated cases. If the case warrants it, the ADA can send an officer undercover to gather evidence for your case, thus enhancing the chances of bringing charges against the defendant and crafting a solid case.
9. Make the DA's office aware of the condition of the animals as soon as possible after they are seized. Ensure that the ADA assigned to the case has copies of all necessary paperwork (Depositions, Information, etc.), and copies of all photographs and video tapes. (Be sure to obtain a receipt from the DA's office for all photographs, video recordings, and all other evidence.)
10. After presenting your Information or Felony Complaint to the DA's office, continue working with the ADA to obtain whatever additional evidence he requests.
11. Decisions as to how the case will be handled will be made by the DA's office, generally with input from law enforcement and the humane organization involved.

If the DA's office seems to lack interest in your case, find out why, if possible. Perhaps past cases they received were not well documented, the evidence was poor, and the case was not win-able. If your case is well prepared, and you are supportive and enthusiastic about its prosecution, the response may be different.

**IMPORTANT:** *Occasionally, the probation department sends inquiries to the arresting officer asking for opinions as to what should be done with regard to sentencing. Respond to them, especially for cases in local Justice Courts. Your response is important to the recommendations of the Presentence Investigation Report. If you fail to respond, your input cannot get factored into the sentence.*

Whether the case ends in a plea bargain or a conviction after trial, ask the ADA to recommend that as part of the sentencing, the judge order the person to:

12. surrender the animals to the local humane organization (see section 374.5 of the Agriculture & Markets Law, Article 26)
13. not have any more animals for a reasonable period of time (see section 374.8(c) of the Agriculture & Markets Law, Article 26)
14. pay restitution for the cost of care to all humane organizations involved in the case, if there has not been a security bond posting hearing held prior to the case being adjudicated

Regardless of the number of animals seized, it is important that the case be resolved as quickly as possible. It is a great burden for local shelters to house animals if cases drag on for months. The quality of your evidence and your witnesses may facilitate a speedy resolution to the case.



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## Expert Witnesses

### Overview

One of the best ways to build a strong animal cruelty case is to support your charges with experts dedicated to animal welfare.

In most circumstances, your best expert witnesses are veterinarians. They have extensive knowledge of animals and can testify to the fact that an animal was malnourished, diseased, suffering, *etc.*

In addition to veterinarians, a person can testify as an expert witness if he knows more about a given subject than the average individual. Be aware that sometimes the witness must have the judge's approval to be considered an expert witness in order to testify at trial as to certain opinions and facts.

The following are examples of expert witnesses:

- Veterinary technicians
- Reputable dog trainers or animal behaviorists
- Reputable breeders
- Farriers (blacksmith/horse shoer)
- Reputable horse breeders or stable owners
- Wildlife rehabilitators

### ✓ What to do

When you investigate the case, assemble your expert witnesses. A case of animal cruelty is very difficult to prove in a criminal trial without expert testimony.

You might use them at the actual scene when you are executing a search warrant, or you might use them after the animal has been seized. We recommend the following:

- Call a local veterinarian whom you know and request that he assist you by examining the animals and providing a sworn statement as to their condition.
- Ask the veterinarian and the local humane society staff for the names of any additional expert witnesses.
- Call those witnesses and ask if they would assist and possibly be willing to sign a statement with regard to the condition of the animals.

**NOTE:** *NYSHA has developed a "Veterinarian's Statement Animal Evaluation" form to be used to document an animal's condition and dispositions (see Appendix IV Forms & Supplies List). Make photo copies and provide them to the veterinarian. They will make his job easier, especially if there are numerous animals involved, and will provide you with a consistent documentation format to give to the ADA. When this form is completed and signed, it is a court-ready document.*

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# Photographic Evidence

## Overview

One of the best pieces of evidence that you can use to document animal cruelty/neglect is photographic evidence. The importance of photographs cannot be over-emphasized. Your objective is to show the judge and jury the neglect or cruelty that prompted the complaint and caused you to charge the owner (or person responsible for the care of the animal) with animal cruelty charges.

Animals cannot generally be brought into the court room, and even if they could, their physical condition always will have improved by time the case goes to court. Thus, it is critical that a judge or jury see the poor condition the animals were in on the day they were seized. No amount of verbal testimony can convey the suffering as well as photographs which clearly depict emaciation, injuries, filthy conditions, *etc.* They validate all the written documents you have accumulated.

## ✓ What to do

Always take a digital camera, and if possible, a body camcorder, when you are investigating a complaint. Ideally, both should be capable of generating a date and time stamp on the film and video. Also, depending on the circumstances, you might consider taking a Polaroid as a backup. That way, if something goes awry with your digital photos, you will still have the Polaroid photos.

**CAUTION:** *Normally you would take photographs or video the scene; however, if exigent circumstances were involved, and you had to remove the animal(s) immediately to a veterinarian's office, you would take photographs of the animal there.*

**IMPORTANT:** *Images of police and others helping at the scene will appear in photographs and videos. In cases involving large numbers of animals, many volunteers may be needed. **Insist that they maintain a professional image at the scene.** Assisting at a scene of animal cruelty is very stressful and people act to ease the stress in various ways, one of which is telling jokes. Images of people laughing and smiling in photos or video comes across as callousness. In court, the defense can contrast this with the crying face of the owner, and you could lose your case as a result.*

## Photo Taking Guidelines

We have found the following guidelines to be useful:

15. Take photos of the animal from various angles. If possible, take front, back, and both sides. Take a picture of the animal's surroundings.
16. Certain details of the animal's appearance will demonstrate neglect; for example, overgrown toenails, overgrown hooves, skin infections, sores. Take a close-up photo of any such detail.
17. Take photos of all animals, including any dead ones.
18. If there are many animals, or if some of them look alike, identify each of them with an ID number. This can be done in a simple manner by using a thick black marker to write a large identifying number on a sheet of paper and placing the numbered sheet in all pictures of that

animal. (A process for dealing with large numbers of animals is explained in the Animal Hoarders portion of the Special Cases section.)

19. If you have access to a video recording device, you can use it to show any problems the animal may have in moving about. In addition, you can use it to record the entire scene relating to the condition of the animals.

### ✓ What do you do with the evidence?

Ensure that you have two copies of the photos or video recording. Provide one to the District Attorney's Office. Secure the other in your evidence file. Save all notes made by investigators, animal control officers, *etc.* and enter them into evidence.

#### EXAMPLES OF DETAIL PHOTOGRAPHS



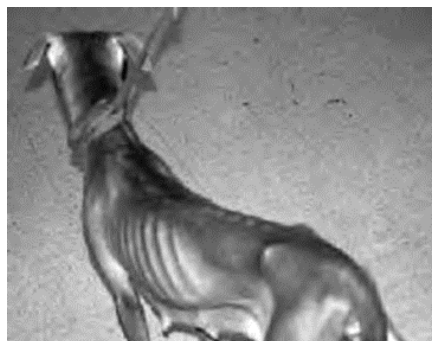
*Images 1&2. Detail of toenails*



*Image 4. Detail of eye encircled by mange*



*Image 3. Detail of hernia*



*Images 5&6. Detail of emaciated mother dog*

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## Key Concepts: Exigent Circumstances and Plain View Doctrine

### Overview

There are two concepts that are important to your investigation of animal cruelty:

- Exigent circumstances
- Plain view doctrine

### ✓ Exigent Circumstances

Within the context of animal cruelty, exigent circumstances exist if you find an animal in circumstances that put its life in danger. Section 371 of the Agriculture & Markets Law states,

"A constable or a police officer must, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals may issue an appearance ticket pursuant to section 150.20 of the criminal procedure law; summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of article twenty-six of the Agriculture & Markets Law. **Any officer or agent of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence...**" (*Emphasis added*)

In addition, Subdivision 4 of Section 373 of the Agriculture & Markets Law states:

"When a person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer **may take charge of such animal** and of such vehicle and its contents, **and deposit the same in a safe place** or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon." (*Emphasis added*)

Based on these sections of the law, it has been our experience that if you come across an animal in such circumstances, you should consider removing it immediately rather than waiting to obtain a search warrant.

### Examples of Exigent Circumstances:

- 1) You are investigating an animal complaint. As you approach the property, you see a cat that is emaciated and unable to get up lying on the porch. It appears to be in danger of dying. You can seize the animal and remove it, and charge the owner with a violation of Section 353 of the Agriculture & Markets Law. The person may also be charged with a violation of 353-a, the felony cruelty law.
- 2) It is a hot day. You are called to a parking lot to investigate a complaint about a dog in a locked car with the windows rolled up. The dog is panting heavily and is in danger of death. You can enter the car and remove the dog and provide whatever assistance is needed. If possible, have someone witness the situation and sign a statement. You can charge the

owner or person responsible for the dog's situation with a violation of Section 353, as well as a violation of Section 353-D of the Agriculture & Markets Law.

**NOTE:** *If authorities have to break a window to enter the car, they are not held criminally or civilly liable for actions taken to enforce this law.*

- 3) You are sent on a complaint and see a dog chained with a collar embedded in his neck, causing extreme suffering. You may seize the dog and call the animal control officer or humane agency personnel to take the animal to a veterinarian for treatment and charge the person responsible with a violation of 353 of the Agriculture & Markets Law.
- 4) You are going about your duties and see a man beating a dog with a baseball bat. Arrest the man under Section 353 of the Agriculture & Markets Law, seize the dog, and call the dog control officer or humane agency personnel to take the animal for veterinary treatment. The man may additionally be charged with 353-a, felony cruelty.
- 5) You come upon two men fighting their pit bulls. Arrest the men under Section 351 of the Agriculture & Markets Law, and call the dog control officer or humane agency personnel to remove the animals and take them for veterinary treatment, if necessary.

## ✓ Plain View Doctrine

There are two aspects of the plain view doctrine that are important in animal related cases:

### 1. Plain View Observation

Based on our experience with the law, when you are investigating an animal related complaint, you can make observations to determine its validity from a place where you have a right to be while doing your job. (The plain view doctrine regarding a search of persons and property suspected of criminal activity was established by court cases, some of which are: *People v. Jackson*, 41 NY2d 146 (1976), *People v. Dancy* 84 AD2d 763, 443 NYS2d 776 (2d Dept., 1981), *People v. Arroyo*, 188 AD2d 655 592, NYS2d 52 (2d Dept., 1992).) The lead federal case on the plain view doctrine is *Horton v. California*, 496 U.S. 128 (1990).

#### **Examples:**

- 1) You are driving up to a person's house to investigate a cruelty complaint, and you see an animal that appears to be extremely neglected in plain view. You can use that observation as evidence in your investigation.
- 2) An owner will not allow you on the property to see the animal; however, a neighbor, whose property adjoins the owner's property, allows you to observe the animal from there. If your observations confirm the complaint, you can use them to apply for a search warrant.

Based on your observations of the animal's situation in plain view you can do the following, depending on the animal's condition:

- Make contact with the owner to discuss the situation.
- Remove the animal if exigent circumstances exist.
- Apply for a search and seizure warrant.

## 2. Plain View Doctrine (during a search)

Based on our experience with the Plain View Doctrine, if while you are executing a search warrant during an animal related investigation, an object that is evidence of criminal activity is found, that object may be seized and used as evidence. Bear in mind that you must be in a place where you are authorized to be by the search warrant, and you must search within the scope of the search warrant. (The Plain View Doctrine during a search was established as a result of court cases, some of which are: *Arizona v. Hicks*, 480 U.S. 321, 3245 (1987), *People v. Jimenez*, Misc.2d, N.Y.L.J. 4/23/93 (Sup. Ct. N.Y. Co. 1993), and *People v. Spinelli*, 35 NY2d 77, 358 NYS2d 743 (1974).) The lead federal case on the plain view doctrine is *Horton v. California*, 496 U.S. 128 (1990).

### **Examples:**

- 1) You are executing a search warrant relating to dog fighting. During the course of executing it, you come across some birds that appear to be fighting cocks. You can seize the birds and use them as evidence.
- 2) You are executing a search warrant to investigate a complaint about dogs barking in a vacant building. You come across objects in plain view that indicate that dog fighting has been taking place there. You can seize the objects as evidence.
- 3) You are executing a search in a barn looking for an injured horse. During the course of your search, you open the drawer of a file cabinet and find a photo of the owner beating the horse. The photo could not be used in court because it was found outside the scope of the warrant; you would not look for an injured horse in a drawer.

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# Search Warrant Procedure

## Overview

In this section, we have outlined procedures that deal with applying for and executing a search warrant in an animal cruelty case, as well as examples of documents used in actual cases that you can use as models:

- Applying for a search warrant
- Executing a search warrant
- Completing the search and seizure receipt/inventory

A search warrant is needed anytime you wish to enter private property to investigate an animal related complaint. The Fourth Amendment to the United States Constitution specifically protects against entering a person's property without probable cause:<sup>1</sup>

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

If you wish to seize animals, or if you need to enter the property for the purpose of gathering evidence, such as photographs, or a combination of both, you need to apply for a search warrant.

## ✓ Applying for a Search Warrant

Your application identifies in detail the property you are requesting to search, the law that is being violated, the animals and related elements you wish to search and seize, and facts that led you to this request. The way you draft the search warrant is key to your success in an animal related case.

Ensure that your application for a search warrant is as comprehensive as you need it to be because items seized outside the confines of what is specified on the search warrant may not be allowed as evidence.

Consider the following questions when applying for a search warrant in an animal related case.

### Animal-related Questions

1. Do you have any expertise with regard to animals that is relevant to the case? For example, the case involves horses and you are an experienced rider.
2. What is the exact location and description of the property that you wish to search? (Note that animal- related cases have been thrown out of court because the location of the property was not properly specified. Other cases have been invalidated because the wrong houses have been searched.) Being as precise as possible is critical.
  - What street/road is the property located on?

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<sup>1</sup> **EXCEPTION:** In case of exigent circumstances an animal is in a situation where its life is in danger if action is not taken, you may enter the property and remove the animal without a search warrant. See "Key Concepts: Exigent Circumstances and Plain View Doctrine" in the "Be Prepared Ahead of Time Section."

- What side of the street/road? North? *etc.*
  - What is the closest street? (*e.g.*, Green Hollow Road is 1/4-mile South of Main Street.)
  - What color is the house? What is it made of?
  - Does it have a fence? Is it a corner lot?
  - What other identifying characteristics make it clear that it is this property that you wish to search?
  - Ensure that you provide a description of all buildings.
  - (If you have the time, list the lot and block numbers, according to the tax maps of the town/county.)
3. What probable cause do you have to believe that a violation is being committed on the property? The reasons you cite here will determine whether or not the judge will issue a search warrant, so you must be specific. Enter your reasons, followed by those of your witnesses, based on their sworn statements, as follows:

**IMPORTANT:** *Ensure that you and your witnesses state facts, not conclusions in the sworn statements. For example, state "the cat had a yellow, foul-smelling discharge running from its eye," rather than "the cat looked like it had a cold."*

- What is the name, address, telephone number, and date of birth of the person who provided you with a sworn statement?
  - What was the date of the sworn statement? Recap the statement, ensuring that times, dates, and instances of cruel behavior are carefully documented.
  - Follow the same process with each sworn statement that you have.
4. What are you specifically requesting to search (you must have probable cause for each area you wish to search)?
- The house? All outbuildings? Storage areas? Specify all the areas you want to search.
  - What property and evidence are you asking the court to seize? Dogs, cats, carcasses? Records? You must include all elements you expect to encounter that you wish to seize.
  - Who should enter the property with you? What humane animal agencies? What veterinarians?
5. What are you asking that you and the agencies specified above be allowed to do while on the property? Remove the animals? Feed the animals? Provide them with veterinary care? Euthanize the animals that need to be euthanized? Impound the animals on the property?

**IMPORTANT:** *For maximum effectiveness and cooperation, if possible, ask the Assistant District Attorney assigned to the locality involved to check your search warrant before submitting it to a judge for signature.*



### **Is there a time limit?**

Once you ascertain that probable cause for a complaint exists, there is no time limit within which you must ask for and receive a search warrant. A court will not count the number of days between the time of the occurrence of events and the time you ask for a search warrant; you only need to satisfy the court that the property you described in your application, and are seeking to obtain, is still at the designated location.

In general, to ensure that the conditions of the complaint have not changed, you would apply for the search warrant as soon as possible.

### **✓ Executing the Search Warrant**

If a local magistrate agrees with your application, he will issue and sign a search warrant that directs the law enforcement agency named on the warrant to legally enter and search the designated location and seize the property specified on the warrant in addition to performing other tasks designed to bring relief to the animals.

Keep the original copy of the search warrant in your possession. Before you conduct the search, give a copy to whoever is on the property that appears to be in a position of responsibility. If no one is on the property, leave a copy of the search warrant in a prominent place.

You must execute the warrant between 6 a.m. and 9 p.m., unless the warrant expressly allows for a nighttime search. Also, you must knock and announce your presence before you conduct the search unless the warrant expressly allows for a "no-knock" search.

**NOTE:** *If the magistrate turns down your application, the reason will generally be a lack of probable cause, in which case you will have to obtain more evidence and apply again.*

### **Staying on the Property**

You can stay on the property for as long as it takes you to complete the search and render assistance to the animals. When you are on the property, you must maintain a chain of custody by your continuous presence.

Post an officer on the scene if you are forced to leave for a short period of time to get an updated warrant for a new area to search, bring animals for treatment, *etc.*

Once the search warrant is executed, and you release the premises back to the owner/occupant, you will need a new warrant to re-enter.

After you complete the search, give the original copy of the search warrant to the court and keep a copy for your records.

### **Is there a time limit?**

According to Article 690 of the NYS Criminal Procedure Law dealing with Search Warrants, once the search warrant is issued, it must be executed within ten days, or it becomes invalid.

### **✓ Completing the Search and Seizure Receipt and Inventory**

Once you complete the execution of a search warrant and seize property, you must complete a receipt in which you specify all property that you seized at an individual's property. This includes

animals (dead and alive) and any related elements that indicate that the animals were neglected or abused on the property.

**How do I fill it out?**

When you complete the document, be specific. Indicate the type of animal that was seized (dog, cat, pig, *etc.*), the sex of the animal, the breed (or if it is a mixed breed, indicate the mix), the color, and how many of each were seized. Veterinarians or other expert witnesses will be able to provide you with this information.

For property other than animals, describe the property in detail. Specify the size, the color, and the shape. If, and only if, you know what it is, list it as such. For example, if you are seizing evidence in a dog fighting case, and you come across an implement that is normally used to pry a dog's mouth open during the fight (breaking stick), you would list it as "1 breaking stick."

**What do I do with it?**

Leave a copy with the individual whose property you searched. If the individual is not at home, leave a copy in a prominent place.

File the inventory receipt with the court as soon as possible after you execute your search warrant and keep a copy for your records.

Provide the District Attorney's Office with the veterinarian's sworn statement of the animals' condition as well as the documentation that indicates where the animals are being held.

**Examples follow:**

- Application for Search Warrant
- Search Warrant
- Property Statement
- Receipt and Inventory

APPLICATION FOR SEARCH WARRANT

TOWN COURT )  
TOWN OF )  
COUNTY OF )

[redacted], being duly sworn deposes and says:

1.) I am the applicant for this search warrant. I am a sworn police officer employed by the New York State Police as a trooper, assigned to the [redacted] New York, Sub Station. I do hereby state that there is reasonable cause to believe that crime of FAILURE TO PROVIDE PROPER SUSTENANCE section 353, of the Agriculture and Markets Law is being committed at the residence and property of [redacted] N.Y.

The property being further described as a [redacted] with brown trim including two outbuildings on the property, situated on the [redacted] of [redacted], and approx. [redacted] of a mile south of the intersection of [redacted] and [redacted]

The facts supporting my statement above and the request for special authority set out below on information and belief are as follows:

a. ) On January 11th, 1993, I went to the residence of [redacted] at the above described location after I received a call to check on the residence do to the fact that they reportedly had no heat. I could immediately smell animal feces. I noticed that the walls inside were covered with cockroaches. I saw animal cages containing various animals with piles of droppings in each cage, none of the animals appeared to have been cleaned for a long time, and I didn't see any food or water in the cages. Cockroaches were crawling in and outside the animal cages. The statement of Tpr. [redacted] is attached hereto and made a part thereof.

b.) Statement of [redacted], N.Y. dated [redacted]. Mr. [redacted] stated that he is a self employed electrician; on [redacted], at 10:30PM, he went to the residence of [redacted] to check out her furnace, after she contacted him. [redacted] stated that there were swarms of cockroaches everywhere. The trailer was full of clutter and garbage, ad there were cages containing animals throughout the trailer. Mr. [redacted] stated that the stench was so bad that he couldn't breath inside the trailer. Mr. [redacted] stated that outside the trailer was a small shed type structure, it was all boarded up and there was a dog locked inside barking. Mr. [redacted] further stated that in his opinion the house is a fire trap, since there were wires exposed in various places. the statement of [redacted] is attached hereto and made a part thereof.

c.) On [redacted], I again went to check on [redacted] along with Inv. [redacted] Mrs [redacted] refused us access into trailer but as we stood outside, the strong smell of animal feces emanated from the trailer. We also observed a doghouse type structure approx. 3X3ft., the apparant doorway was blocked shut with heavy bolders. We could hear a dog barking inside the structure. There were no footprints, human or animal, in the snow around the structure showing that the dog had been let out within the past 12 hours

2.) the applicant therefore requests that the court issue a search warrant directing the New York State Police, with proper and necessary assistance, to search the entire above described premises of [redacted] and [redacted] along with any and all outbuildings located on the property; and to seize the following property and evidence: Dogs, cats, birds, and any and all other animals, carcasses, pet food and cages and other property in order that the evidence may be procured to be used in the prosecution of a violation of the laws of the State of New York.

TAR [redacted]

Subscribed and Sworn to Before Me  
this 30 day of January, 1993

[redacted]  
Town Justice  
Town of [redacted]

SEARCH WARRANT

STATE OF NEW YORK: COUNTY OF [REDACTED]  
JUSTICE COURT: TOWN OF [REDACTED]  
HONORABLE [REDACTED] ISSUING JUSTICE

IN THE MATTER OF THE APPLICATION OF [REDACTED]  
A NEW YORK STATE TROOPER ASSIGNED TO THE NYS POLICE,  
BRUNSWICK, NEW YORK, FOR A WARRANT AUTHORIZING A SEARCH AND  
SEIZURE OF ANIMALS LOCATED ON THE FOLLOWING PREMISES:

The residence and property of [REDACTED] and her son, [REDACTED]  
located on [REDACTED], T/[REDACTED] further described as an approx.  
1/2 acre lot including [REDACTED] with [REDACTED] trim  
and two outbuildings situated on the [REDACTED],  
T/[REDACTED] N.Y.

TO: THE NEW YORK STATE POLICE WITH PROPER AND NECESSARY ASSISTANCE:

You are hereby directed to search the aforementioned property and to  
seize as evidence:  
Dogs, Cats, any other animals which may be located on the property  
and other property in order that the evidence may be procured to be used  
in the prosecution of a violation of the laws of the State of New York.

This warrant must be executed between the hours of 6:00AM and 9:00PM

This warrant must be executed not more than ten (10) days after the date  
of its issuance and any property seized pursuant hereto shall be returned  
and delivered to the court, without unnecessary delay.

DATED: Jan 30 93

[REDACTED SIGNATURE]  
HONORABLE S [REDACTED]  
T/J Town of [REDACTED]

STATE OF NEW YORK

COUNTY OF Rensselaer

Town COURT

THE PEOPLE OF THE STATE OF NEW YORK AGAINST:

DEFENDANT(S): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

PURSUANT to the provisions of Section 690.55, Subdivision 1B of the Criminal Procedure Law of the State of New York, I do hereby direct that the property taken pursuant to a duly executed Search Warrant, from the aforestated defendant(s) and delivered to me this date, upon the return thereof, be retained in the possession of and held in the custody of the Division of State Police of the State of New York, subject to any further order of the Court as provided by the provisions of Section 690.55, Subdivision 1B of the Criminal Procedure Law of the State of New York.

Dated at \_\_\_\_\_, New York,  
this 30 day of January, 19    

\_\_\_\_\_  
Town Justice

NEW YORK STATE POLICE  
SEARCH AND SEIZURE  
RECEIPT AND INVENTORY

\_\_\_\_\_ Town \_\_\_\_\_ COURT, \_\_\_\_\_ Town \_\_\_\_\_ OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_, N.Y. \_\_\_\_\_ ) SS.

I SWEAR THAT THE FOLLOWING IS A TRUE AND DETAILED INVENTORY OF ALL PROPERTY TAKEN BY ME ON THE WARRANT  
FILED HEREWITH:

\_\_\_\_\_ 16 cats \_\_\_\_\_  
\_\_\_\_\_ 5 dogs \_\_\_\_\_  
\_\_\_\_\_ 24 birds \_\_\_\_\_  
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SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 30th DAY OF January 19

\_\_\_\_\_  
(SIGNATURE)  
Town Justice  
(TITLE)

\_\_\_\_\_  
Tpr. [REDACTED]  
(SIGNATURE OF MEMBER)

## 2. Receiving an Animal Cruelty Complaint

### Overview

Most of the animal related complaints you receive will stem from violations of Section 353 of the Agriculture & Markets Law which deals with neglect and abuse. They will generally involve the failure to provide proper sustenance which means the animals:

- are not being fed or watered properly,
- are lacking an appropriate shelter,
- are lacking clean air to breathe,
- living in unsanitary conditions, or
- needing veterinary care.

You may also receive complaints stemming from violations of Section 353-a of the Agriculture & Markets Law which deal with aggravated cruelty to animals, such that they are being seriously physically injured or killed.

Though many complaints will be anonymous, you should still investigate them. Most anonymous complaints are legitimate; people often refuse to give their names because they fear reprisal from their neighbors.

Section 371 of Article 26 of the Agriculture & Markets Law states in part:

"A constable or police officer must, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals may, summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of Article 26 of the Agriculture & Markets Law..."

### Questions to ask with regard to animal complaints

Regardless of whether the complaint is anonymous or not, ask the following questions:

20. What is the name and address of the alleged abuser? (Obtain this if at all possible.)  
Complainants may know the address, but not the name. So, ask them if they can describe what he looks like.
21. What types of animals are involved in the complaint, and how many of them are there?
22. Why do you believe the animals are being abused or neglected?
23. Where are the animals confined? an apartment? house? barn? pen? Can the animals be seen from the road side or through a window?
24. When was the last time you saw the animals?
25. What were the weather conditions at the time of the abuse or neglect? Was the weather extremely hot or cold?
26. Are you willing to sign a sworn statement as to what you saw?



27. Do you know of additional witnesses that I can interview?
28. What are the explicit directions to the location of the complaint? (It is especially important in rural areas to get an exact description of house (its color, one story two story), road, landmarks to get to the property.)

Based on the response to these questions, you can determine the laws which may be being violated and the urgency of the situation.

**Is there a time limit to investigate the complaint?**

You should investigate the complaint as soon as possible to bring relief to the animals that are suffering.

## 3. Investigating an Animal Cruelty Complaint

### Overview

There are no hard and fast rules when you investigate animal cruelty; you must use your best judgement in each situation. However, in all situations, we recommend your response be guided by the following concerns:

- What is the best thing to do for the animal?
- What would a reasonable person do in this situation?
- Do I have *reasonable cause*<sup>2</sup> to do what I am doing, based on the facts as I know them?

### Arriving at the scene

29. When you investigate an animal cruelty case, always bring a camera with you.

30. Are there any witnesses? If so, note their names, addresses, and phone numbers for follow-up contact.

- Pay attention to the conditions as you approach the property, and document them, if possible:
  - What buildings are on the property?
  - Are there any sounds coming from the buildings?
  - What is the condition of any animal in plain view on the property? Is the property well kept?
  - Are there any bad smells coming from the property?

These observations will provide you with an idea of what to expect as to the condition of the animals as well as clues as where you might ask to look.

### Preparing for Owner Reactions

Throughout this manual, wherever we refer to "owner," the term includes anyone responsible for the care of the animal, as well as the owner himself.

When you confront an owner with an animal cruelty complaint, his or her response can range from cooperation to outrage. Be prepared for anything. Keep in mind that short of being caught in the act of beating their dog, owners generally will not admit to mistreating or neglecting their animals, or they will find excuses for why it happened. It is important to remember this when confronting an individual.

### Obtaining a Search Warrant Before Confronting Owner

You may be faced with a situation in which animals are in very bad condition. You may have obtained signed statements attesting to the animals' condition, in addition to your own

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<sup>2</sup> Article 70, Section 70.10 of the NYS Criminal Procedure Law states, "Reasonable cause to believe that a person has committed an offense exists when evidence or information which appears reliable discloses facts or circumstances which are collectively of such weight and persuasiveness as to convince a person of ordinary intelligence, judgment and experience that it is reasonably likely that such offense was committed and that such person committed it. Except as otherwise provided in this chapter, such apparently reliable evidence may include or consist of hearsay."

observations. If it is a situation where you anticipate that confronting the owner first will cause him to remove the animals before you have a chance to obtain a search warrant, consider obtaining the search warrant beforehand.

If the animals are in plain view, consider taking photographs of them from a location where you are not trespassing. Submitting the photographs along with the search warrant application will enhance your chances of obtaining a search warrant. The photographs will also be useful as evidence in your case.

### **Animal's Condition/Circumstances**

The following scenarios can be used for guidance in investigating any animal cruelty complaints: (*i.e.*, complaints relating to house pets or farm animals on private property; animals that are part of a circus; animals at county fairs; or animals in a pet store).

The scenarios are based on the assumption that you have received a complaint (anonymous or not) about an animal or that you have personally observed a situation in which an animal is being neglected or abused.

The scenarios cover the following situations:

#### 1. [Non-exigent circumstances](#)

- Arriving at the scene
- Serious neglect
- Less serious neglect
- Confronting Owner/Owner reactions
- Owner cooperative - wants to surrender animal
- Owner cooperative - doesn't want to surrender animal
- Owner uncooperative - allows you access to animal
- Owner uncooperative - refuses you access to animal

#### 2. [Exigent circumstances](#)

- Arriving at the scene
- Animal easily accessible
- Animal not easily accessible
- Confronting Owner/Owner reactions

#### 3. [Abandonment](#)

- Arriving at the scene
- Non-exigent circumstances
- Exigent circumstances

#### 4. [Large Numbers of Animals / Large Animals / Unable to Remove Easily](#)

Your assessment of the animal's circumstances and condition will determine how you proceed. (See Chapter 6, "Animal Care Standards for Some Common Animals" for additional guidance in assessing an animal's condition.)

#### 5. [Some Common Excuses You Will Hear](#)

At the end of this section, we have provided samples of the types of excuses you will hear when you confront a person with the neglect or abuse of their animal.

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## Non-exigent Circumstances

Non-exigent circumstances exist when an animal does not appear to be in extreme pain or in imminent danger of losing its life but is neglected or abused to a greater or lesser degree.

### ✓ Arriving at the scene

It may not always be easy to distinguish between severe neglect and exigent circumstances determining the degree of neglect is often a judgment call.

#### 1. Some Examples of Serious Neglect

- the animal is very thin
- the animal appears to be constantly scratching at itself or rubbing against walls (possibly from mange or lice)
- the animal has numerous sores on its body
- the animal is limping
- the animal is living in filthy, squalid conditions
- the animal in the hot sun (a pig without shelter in the hot sun could die)

#### 2. Some Examples of Less Serious Neglect

Do you believe that the animal is being neglected but is not yet in a state of severe neglect?

- the animal does not have proper shelter (*e.g.*, a dog with only the tailgate of a truck for shelter if it were winter; this could be deadly for the animal)
- water bowl overturned/dry no fresh water available
- the animal's appearance indicates a general lack of proper care

The neglect must be corrected before it becomes serious.

**NOTE:** *If an owner is not at home, and your observations indicate that an animal is being neglected, consider leaving a notice for the person to call you when he returns. If you do not receive a call, return later when you expect the person to be present and proceed to investigate the complaint.*

### ✓ Confronting owner/owner reactions

Attempt to talk to the owner and ask to examine the animal. Attempt to find out how the situation came about. His response will likely follow one of the scenarios outlined below.

1. Owner *cooperative* - may want to surrender animal
  - a. Discuss the welfare of the animal with the owner, and ask him how the situation came about.
  - b. If the owner wants to surrender the animal for the sake of its well-being, attempt to obtain a written statement granting permission to the local humane agency to take over care and control of the animal.

- c. Enlist the aid of the local humane agency (or animal control officer) and a veterinarian and have the animal removed from the property.
2. Owner *cooperative* - doesn't want to surrender animal
- a. Provide the owner with a list of things he must do within a specified time period to bring the animal's situation into compliance with the law. The more serious the condition of the animal, the quicker the owner must act.
  - b. Explain to the owner that you will return within a day or so, and you expect to see the animal's care in compliance with the instructions you left. Let him know that if it is not, he will be considered in violation of Article 26 of the Agriculture & Markets Law and may be facing an arrest.
  - c. Ensure that whatever conditions are causing the complaint are temporarily corrected before you leave; for example, make sure the animal has food, water, and shelter before you leave.
  - d. Return within the time period you specified and determine if the animal's situation has improved.
  - e. If it has not, consider obtaining a search warrant and contacting the animal control officer or local humane agency to remove the animal from the property.

**NOTE:** *You must use your own judgment. If you believe that an owner cannot follow through with instructions, then you would not give him any. Instead, you would take steps to obtain a search warrant to seize the animal. Also, if it is clear that the person does not have the means (monetary or otherwise) to correct the animal's problem, consider obtaining a search warrant to seize the animals.*

3. Owner *uncooperative* - but you are allowed access to animal

If the owner is uncooperative (*i.e.*, refuses to acknowledge the state of the animals, acts belligerent, *etc.*) and you have sworn deposition or complaint OR you are the complainant based on what you saw then consider doing the following:

- a. Document any statements the owner makes.
- b. Apply for a search warrant and an arrest warrant. If you have reason to believe that the animal will be removed by the abuser before you can secure a search warrant and obtain the assistance you need to seize the animals, leave an officer at the scene, if possible.
- c. Contact the animal control officer/local humane agency and ask them to come to the scene.
- d. Execute the search warrant. Give a copy of the search warrant to the owner. (If the owner is not on the property, leave a copy in a prominent place.)
- e. Photograph the animal and its surroundings.

- f. Have the animal control or local humane agency remove the animal either to a veterinarian or to the local humane society.
  - g. Advise the owner of his rights, and attempt to talk to him to determine how the situation came about. If he refuses to cooperate, arrest him and remove him from the property. If the owner is not on the property when he is found, arrest him (and whomever else is responsible for the state of the animals) and charge him with the appropriate sections of the Agriculture & Markets Law.
  - h. If the animal is taken to the veterinarian's office, take additional photos there. Obtain a statement from the veterinarian documenting the animal's condition.
  - i. Meet with the District Attorney's office to discuss the case and present your evidence as soon as possible.
4. Owner *uncooperative* - and you are not allowed access to the animal

If the person refuses to allow you to see or examine the animal, the way you proceed depends on the evidence you have.

- a. If you have a signed complaint and probable cause to believe that the complaint is valid, apply for a search warrant to enter the property.
- b. If you do not have a signed complaint, consider doing the following:
  - Interview the neighbors to see if anyone has knowledge of the situation and will sign a complaint.
  - Look into the background of the person to see if there have been previous complaints.
  - Determine if there is any health hazard to the neighbors; for example, bad smells emanating from a garage where animals are kept or vermin present in the area of the property. (See the Environmental Conservation Law in Chapter 7, "Various New York State Laws Dealing With Animals" section.) You may gather enough information to be able to apply for a search warrant.
- c. If you have nothing concrete on which to go, you may simply have to wait until you do.

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## Exigent Circumstances

Exigent circumstances exist when an animal may be in danger of losing its life.

### ✓ Arriving at the scene

Examples of exigent circumstances:

- the animal is severely emaciated, near death
- the animal's collar is imbedded in its neck
- the animal has numerous sores on its body, or obvious inflicted injuries, such as gunshot wounds, arrows, *etc.*
- the animal appears to be overcome with heat exhaustion
- the animal is whimpering and vomiting, or appears too undernourished and weak to stand
- in a farm-related case, involving large animals such as horses or cows, the animals may be too weak to stand
- the animal is crying out in pain behind a locked door
- a building is on fire or flooding and an animal is inside

Police have successfully employed the exigent circumstances rule in the past to remove an animal from such circumstances/conditions. (See the "Key Concepts" discussion in Chapter 1, "Be Prepared Ahead of Time.")

#### 1. Animal is easily accessible

- a. If exigent circumstances exist, and you can remove the animal, we recommend that you consider doing so rather than waiting to obtain a search warrant.
- b. Call the animal control officer/local humane agency to take the animal to a veterinarian or to an animal shelter.
- c. If the animal is taken to the veterinarian's office, take photographs of it there. Get a statement from the veterinarian, documenting the animal's condition.

#### 2. Animal is not easily accessible: in locked car/or behind locked door

If you believe exigent circumstances exist, and the animal is not easily accessible, consider doing the following:

- a. If you have exigent circumstances involving an animal suffering from heat exhaustion, such as a dog in a hot car, do whatever is necessary (such as breaking the window) to remove the animal from the circumstances immediately. Agriculture & Markets, Article 26, Section 353-D, states: Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, peace officer acting as an agent of a duly incorporated humane society, emergency medical services personnel, paid firefighter, or volunteer firefighter who in the performance of such volunteer firefighter's duties are directed to respond to a call for assistance for such animal may take necessary steps to remove the animal or animals from the vehicle. Take the animal

- to a veterinarian for treatment, if necessary. After removing the animal from the vehicle, the authority figure that did it must leave a note indicating contact information.
- b. If you can see the animal through the window of a locked building or apartment, or if you can't see it, but hear it crying in distress behind a closed, locked door, consider doing the following:
    - i. Break the lock or the door and remove the animal. If possible, have a neighbor witness the circumstances and sign a statement attesting to the circumstances. If a witness is not available, document your actions very carefully. Take photos if possible.
    - ii. Take the animal to a veterinarian for treatment, if necessary.

### **3. Entering Property Some Considerations**

Remember you are responsible for the security of the property that you entered; you must re-secure it after you remove the animal. With regard to a person's house, there would have to be an extremely compelling reason for you to break into a person's house without a search warrant; for example, the house was on fire or flooding, and an animal was trapped inside. As an alternative to taking such action, without a search warrant, you might consider obtaining an telephonic search warrant (oral search warrant) from a judge to seize the animal. The telephonic search warrant can be followed up by a written one.

### **✓ Confronting owner/owner reactions**

1. Talk to the owner to determine how this situation came about. Based on the conversation, you might arrest him, issue him an appearance ticket, and/or obtain a written statement from him granting the local humane society permission to take over control of the animals.
2. If the animal has been abandoned, try to find the owner after ensuring that the animal is moved to a safe place. When the owner is found, charge him with the violations of the appropriate sections of the Agriculture & Markets Law.



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## Abandonment

You may receive a complaint that an animal has been left without food or water for several days and appears to be abandoned. These complaints often occur in vacation/resort areas at the end of tourist season, but they can occur anywhere. In this situation, it is especially important to obtain a sworn statement from the complainant, if possible, to establish how long the owner has been gone.

### ✓ Arriving at the scene

When you enter the property, announce your arrival, and look for the owner/occupant. Knock on the front door to see if anyone is at home. If no one answers, go to the rear of the house and knock on the back door, then shout out for the owner/occupant. As you do so, look for the animal that was the cause of the complaint and any other animals that may be on the property.

Exercising this type of behavior calling out, looking for the owner demonstrates a "good faith" effort in finding the owner/occupant while doing your job.

If you discover an animal on the property, determine whether exigent circumstances exist.

#### 1. Non-exigent circumstances

The animal you found appears to be in a neglected state, but not in danger of dying. Perhaps you cannot see the animal, but you hear sounds inside a locked barn or house. In either case (accessible or not), consider the following approach:

- a. Talk to the neighbors, to determine how long the owner/occupant has been gone. Obtain signed statements, if possible.
- b. Based on the input you receive, your observations, and the signed affidavit (if you have one) of the complainant, obtain a search warrant.
- c. If you cannot ascertain how long the owner/occupant has been gone, you might try the following:
  - Leave a notice for the owner to contact you OR place a piece of clear tape across the door and jamb.
  - If the owner does not call or the tape has not been broken in 24 hours, obtain a search warrant to seize the animal(s).
  - If it is a rental property, attempt to contact the landlord. If he has reason to believe the tenants have abandoned the property, ask him to sign a permission slip to enter the property and remove the animals.
- d. Call the animal control officer/humane society to accompany you to the property.
- e. After securing the search warrant, enter the property. Take photographs of the animal on the property.
- f. Have the control officer/local humane society take the animal to a veterinarian or to the animal shelter.

- g. If the animal is taken to the veterinarian's office, take photographs of it there. Get a statement from the veterinarian, documenting the animal's condition.
- h. Leave a receipt and a copy of the search warrant on the property.

**NOTE:** *Provide food and water for accessible animals.*

**CAUTION:** *Although you have a search warrant, if you enter a locked building (especially a house) and remove an animal, you are responsible for re-securing that building. This is especially important with regard to an individual's residence. See "Entering Property Some Considerations" in the "Exigent Circumstances" discussion earlier in this section.*

## 6. Exigent Circumstances

See the "Exigent Circumstances" discussion earlier in this section.

### ✓ **Confronting owner/owner reactions**

When you find the animal's owner or person responsible for the animal's situation, interview him to determine how the situation came about. Based on the conversation, you might charge him with the appropriate violations of the Agriculture & Markets Law (sections 355 and 353).

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## **Large Numbers of Animals / Large Animals / Unable to Remove Easily**

There may be situations where it is difficult to remove the animals easily there are too many, they are big farm animals, circus animals, or you suspect there may be more animals that are hidden from your view.

For information and suggestions on how to handle this situation, see the discussion of "Animal Hoarders" in the "Special Cases" section. In addition, see the article on animal hoarders reprinted from Shelter Sense, a publication of the Humane Society of the United States, in Appendix VI, "Articles."

**IMPORTANT NOTE:** *In some cases, especially where many animals are involved, some animals may appear more neglected than others. Nevertheless, all the animals should be seized, if possible, because the conditions in which the animals are being kept are causing the problem, and it is usually only a matter of time before the healthier ones will be in bad shape as well.*

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## Some Common Excuses You Will Hear

Here are some excuses and fabrications you may hear from people when they are confronted about neglect or outright cruelty. Be aware that in many cases, the person says what he does in an effort to avoid being punished.

The assumption in the situations below is that there is neglect that must be addressed, but the animal is not in danger of losing its life.

### ✓ Situation 1:

Thin animal. The truth is that animal is not being fed enough or has a serious case of internal parasites.

#### Excuses:

- Oh, I guess we take him on too many walks. He must be getting too much exercise.
- He's always been a thin dog.
- The cat is such a fussy eater lately.
- His mother was thin, too.
- Oh, you should have seen him when we got him. He's put on a lot of weight since then.
- We've had him to the vet, and he's being treated. This may or may not be true, and must be checked out as soon as possible.

#### Your possible responses:

- Where and when did you get the animal?  
If the person tells you where they got the animal, consider checking with that person or place as to the condition of the dog when it was given to the person.
- Who is your veterinarian? When did you last have the animal examined?  
If they give you the name of the veterinarian, consider checking with the veterinarian to see when the animal was last seen and its condition at that time.
- When do you plan to have him examined?  
Make sure the person gives you a reasonable time frame, within the next few days. Check with the veterinarian to ensure the animal was seen and to determine the veterinarian's opinion of the animal.
- How much food do you give the animal every day?  
When they respond with the amount of food they give the animal, consider telling them that given the condition of the animal, that amount of food does not appear to be adequate.

### ✓ Situation 2:

Dog outside no water available or water bowl dry. The truth is the dog has not been given water.

#### Excuse:

He must have drunk it all. I gave him a big bowl this morning.

**Your possible response:**

Get a bigger bowl.

**Excuse:**

Every time I give him water, he throws it up. (The truth is the dog has water so rarely that he gulps it greedily and throws it up.)

**Your possible response:**

That means he is not getting enough water.

**Excuse:**

He knocks over that water bowl all the time.

**Your possible response:**

Get a bowl that doesn't tip over.

**✓ Situation 3:**

Dog outside no shelter available and the weather is either extremely hot or cold. The truth is that the dog is kept outside all the time.

**Excuses:**

- Oh, John (or whomever) must have forgotten to let him back in. We always bring him in.
- We just put him outside for some air.
- He always comes in at night.

**Your possible response:**

- Inform the person that there is a NYS law, Agriculture & Markets, Article 26, Section 353-B, that states that a dog that is kept outside must have a dog house appropriate to its breed, physical condition, and climate. And this dog house must be provided as soon as possible.
- Check back the next day to ensure it was done.

*NOTE: If the weather conditions have the potential to be harmful to the animal without shelter, you can order them to immediately bring the animal inside.*

**✓ Situation 4:**

Two or more people are standing next to two dogs fighting. The truth is they had bets on their dogs and were fighting them.

**Excuse:**

"I was just standing here talking to my friend, and his dog attacked mine. I swear it."

**Your possible response:**

Make careful notes as to what you observed; if the dogs just happened to get into a fight, the persons should have been trying to break it up. If they were not, consider arresting them and charging them with felony dog fighting. If you do not have enough to arrest them now, get ID and make notes. If the dogs are pit bulls, you will see them fighting the dogs again.

**✓ Situation 5:**

A dog is bloodied or hurt; you suspect the owner hit him.

**Excuse:**

I let him out and he got in a fight with a dog down the street. Or, he just fell down the stairs.

**Your possible response:**

Tell the owner he must get medical attention for the dog immediately, or you can call the humane society or dog control and have them take the dog to the veterinarians. Call the veterinarian later to get a report.

Interview the neighbors to see if they saw the owner beating the dog. If so, attempt to obtain statements from them.

## 4. Common Complaints

### Overview

This section discusses some common situations you may encounter when investigating animal cruelty complaints. Our objective is to make you aware of these situations and provide you with possible ways to respond to them.

At the end of each discussion are actual examples, along with related documentation (where available). The situations we include are:

- [Neglected Pets](#)
- [Neglected Large Animals](#)
- [Animals in Hot Car](#)
- [Physical Abuse](#)
- [Abandoned Animals](#)

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## Neglected Pets

### Overview

You may receive a complaint that an animal is not being fed or watered properly, not receiving medical care, not being provided with shelter, or all of the above.

These complaints are difficult to deal with because they are in the grey area - though the animal is not being subjected to outright abuse, the animal is suffering nevertheless.

Situations involving neglect generally occur because people acquired an animal on impulse and did not think through the responsibilities involved. Some examples include:

31. An owner acquired a dog as a puppy. When the puppy started to grow, the owner was unable to housebreak it, or the novelty wore off, or the dog got too big. The owner feels guilty taking the animal to the shelter; as a result, the dog is put outside and is only fed/watered when someone remembers.
32. An owner acquired a kitten, and it clawed the furniture; or it simply grew older and lost its cuteness, so it was deemed an outside cat and left to "fend for itself."
33. An owner is ignorant of how to care for an animal or has lost interest in caring for it.

The causes vary, but the results are the same: neglected animals. The way people respond to your intervention will vary from being cooperative to acting hostile.

### ✓ Things to be aware of when investigating

34. Does the animal have access to clean water in a weighted bowl that cannot overturn?
35. Does the animal appear thin? Is there any evidence that the animal has been fed recently?
36. If the animal is a dog, and there is a path worn around where he is tied or the grass is nonexistent, it's likely that he is tied out all the time. Does the animal have access to shelter? Inform the person that there is a NYS law, Agriculture & Markets, Article 26, Section 353-B, that states that a dog that is kept outside must have a dog house appropriate to its breed, physical condition, and climate. This dog house must be provided as soon as possible. Check back the next day to ensure it was done.
37. **NOTE:** If the weather conditions have the potential to be harmful to the animal without shelter, you can order the person to bring the animal inside immediately. If the person refuses, seize the animal based on exigent circumstances, and remove it to a safe place.
38. What is the condition of the animal's coat and skin? Does it have areas where hair is missing? Is it constantly scratching at itself?
39. If the animal is a dog, how does the collar fit? It may never have been adjusted for growth. Is there room to put two fingers in between the collar and the dog's neck?



40. Does the dog have a license and a rabies tag? Dogs in NYS must be licensed at 6 months and have current rabies shots.

For additional, more specific information related to animal care, see Chapter 6: "Animal Care Standards for Some Common Animals."

**NOTE:** *Be aware that when you are confronting people with the condition of their pet(s), they will tend to mislead you with regard to the care the pet has received. They will deny that they have neglected the animal and create excuses for its condition. See "Common Excuses You Will Hear" at the end of Chapter 3, "Investigating an Animal Cruelty Complaint."*

### ✓ **What to do**

The way you handle the situation depends on the circumstances of the animal and how the owner responds to your intervention.

### ✓ **If exigent circumstances exist, seize the animal**

1. If the circumstances of the pet are desperate - animals are emaciated, collar is embedded in the dog's neck, halter is embedded in horse's neck or cheek bone - consider seizing the animal based on exigent circumstances.
2. Call the local humane agency or animal control to transport the animal to the veterinarian.
3. Take photographs of the animal and obtain a signed statement from the veterinarian as to the animal's condition.
4. Interview the owner. Based on his behavior and responses, decide whether or not to bring charges.

### ✓ **Non-exigent circumstances**

For suggestions on how to approach the situation, see Chapter 3: "Investigating an Animal Cruelty Complaint."

### **Examples of various situations follow**

1. Neglected Pets: Lack of Shelter
2. Neglected Pets: Lack of Food and Shelter
3. Neglected Pets: Starving Mother and Puppies
4. Neglected Pets: Starving Dog
5. Neglected Pets: Multiple Animals
6. Neglected Pets: Starving Animals in Apartment

## ***Example 1***

### ***Neglected Pets: Lack of Shelter***

#### **The Complaint**

A complainant called a local humane agency during the summer and reported that a neighbor's dog was outside constantly, regardless of the weather. It had no shelter and was chained to a stake. The caller was afraid to sign a complaint.

The caller informed the investigator that another neighbor had called the dog control officer because of the dog's barking at night.

#### **The Response**

1. The investigator observed the dog in plain view from the complainant's yard and verified that the animal had no shelter.
2. The investigator then went to the residence and spoke to the owner's wife about the complaint and asked to see the dog. With the exception of the lack of shelter, the dog appeared to be in good health, although wild acting because of being constantly tethered.
3. The investigator advised the woman about the negatives of keeping a dog outside constantly and said if the dog was going to be kept outside, it needed a proper dog house, per NYS law, Agriculture & Markets, Article 26, Section 353-B, that states that a dog that is kept outside must have a dog house appropriate to its breed, physical condition, and climate. And this dog house must be provided as soon as possible.
4. He stated he would return in two days to ensure it had been obtained and put into place. He also told her to move the dog to a shadier area which she did.
5. The investigator returned. A dog house stood in the front yard, but it had not been moved to the backyard for the dog. The investigator told the woman that the dog house had to be in the backyard for use by the dog by the next day (with the entry way facing south); the investigator then asked to see the dog; the woman refused. The investigator said he would return the next day.
6. When the investigator returned the next day, the husband was at home and stated that the dog house had been placed out back. The investigator accompanied the husband out back to ensure the dog house was in place and the dog had water available and was satisfied that the cause of the complaint had been corrected.

#### **Charges Brought**

None, because the individuals involved had cooperated.

#### **Supporting Documents Follow**

Not available

## ***Example 2***

### ***Neglected Pets: Lack of Food and Shelter***

#### **The Complaint**

A complainant called the local humane agency and reported that two dogs had been tied to a fence at a residence and not been fed for at least a week.

#### **The Response**

1. The investigator went to the residence and found two emaciated dogs chained to a fence, with no food or water available. The chains were held with heavy padlocks.
2. The investigator took photographs which he would later use for evidence.
3. He applied for an "Order to Seize Dog" from the local judge.
4. He returned to the property, used bolt cutters to cut the chains, seized the dogs, and removed them to the animal shelter. He left a copy of the "Order to Seize Dog" at the residence.
5. The investigator returned to the residence later and issued the owner an Appearance Ticket.

#### **Charges Brought**

The individual involved was charged with 2 counts of violating Article 26 Section 353 of the NYS Agriculture & Markets Law.

#### **Supporting Documents Follow**

- Order to Seize Dog
- Appearance Ticket
- Information

### Example 2

v. 6/81) ORDER TO SEIZE A DOG

City, Town  
Village of \_\_\_\_\_  
County of \_\_\_\_\_, N.Y.

The \_\_\_\_\_ against \_\_\_\_\_ defendant  
City of \_\_\_\_\_  
Court of the Town of \_\_\_\_\_ Village of \_\_\_\_\_ County of \_\_\_\_\_, N.Y.

To \_\_\_\_\_ Dog Control/Peace Officer City, Town of \_\_\_\_\_ Village of \_\_\_\_\_  
County of \_\_\_\_\_, N.Y.

Complaint having been made that the above named defendant

- Harbors a dangerous dog within the meaning of Sub. 4, Sec. 121 of the Agriculture and Markets Law.
- Failed to destroy or securely confine a dog which has been determined to be dangerous within the meaning of Sub. 4, Sec. 121 of the Agriculture and Markets Law.
- Other SECTION 353 AS + MARI LAW within the meaning of ART 26

Said dog ARX MIXED age \_\_\_\_\_ sex \_\_\_\_\_ known as \_\_\_\_\_ I.D. No. \_\_\_\_\_  
and harbored at \_\_\_\_\_, N. Y.

Now therefore, pursuant to the authority found in Article 7 of the Agriculture and Markets Law of the State of New York or ART 26, you are hereby ordered to seize the said dog so harbored by the said \_\_\_\_\_ defendant, and hold, care for and dispose of said dog pursuant to the provisions of Article 7.

City, Town  
Village of \_\_\_\_\_  
Dated SEPT 21, 19\_\_\_\_  
Judge or Justice \_\_\_\_\_

Complete Three Copies: Original copy - Defendant  
2nd copy - Court  
3rd copy - Seizing Officer

Example 2.1. Order to Seize Dog

Example 2

Defendant: [REDACTED] APPEARANCE TICKET CP 7002  
 [REDACTED] Police Department

Issued To: [REDACTED] Name of Defendant: [REDACTED]  
 [REDACTED] St. [REDACTED] NY 12601  
 Street and Number City or Town State Zip Code

You are hereby directed to appear in the court described below on  
 Thursday [REDACTED] 1994 at 8:00 A. M. in connection with your alleged  
 commission of the offense of Overdriving/torturing/injuring animals contrary to the  
 Provisions of section 353 of the Agriculture & Market Law.  
 Name of court City of [REDACTED]  
 Location of court Memorial Square [REDACTED]

\*NOTE --- If you fail to appear on the date and at the time indicated, the court may issue a summons or warrant for your arrest (Criminal Procedure Law Section 150.60).

If you have posted bail, the bail will become forfeit upon your failure to comply with the directions of this ticket (Criminal Procedure Law Section 150.30).

Issued and subscribed by:  
 [REDACTED]  
 Signature of Member Shield  
 [REDACTED]  
 Poughkeepsie Police Department

Example 2.2. Appearance Ticket

*Example 2*

ACCUSATORY INSTRUMENT  
 INFORMATION — GENERAL C.P.L. 100.15 FORM NO. 256 WILLIAMSON LAW BOOK CO., ROCHESTER, N. Y. 14609

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STATE OF NEW YORK : COUNTY OF \_\_\_\_\_  
 City \_\_\_\_\_ COURT \_\_\_\_\_ City \_\_\_\_\_ OF \_\_\_\_\_

The People of the State of New York  
 against  
 \_\_\_\_\_  
 Defendant

Information

---

\_\_\_\_\_, residing at \_\_\_\_\_, S.P.C.A., by this information makes written accusation as follows:

That \_\_\_\_\_, on the 21st day of September, 19\_\_\_\_, at \_\_\_\_\_ Street in the \_\_\_\_\_ City of \_\_\_\_\_ (Localities) County of \_\_\_\_\_, New York, did commit the offense of Overdriving, torturing and injuring animals: Failure to provide proper sustenance, a (misdemeanor) (violation) in violation of Section 353 of the Ag. & Market Law Law of the State of New York, in that (s)he did, at the aforesaid time and place\*

Count One: A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, is guilty of a misdemeanor.

The facts upon which this information is based are as follows:

I went to the residence of Mr. \_\_\_\_\_ at approximately 12:30 p.m. on the 21st of September \_\_\_\_\_ Mr. \_\_\_\_\_ had two dogs tied to a fence both severely emaciated. I had an order to seize signed by Judge \_\_\_\_\_. I seized the dogs at 3:00 p.m. that afternoon and took them to \_\_\_\_\_ Veterinary Hospital.

*Example 2.3. Information*

### ***Example 3***

#### ***Neglected Pets: Starving Mother and Puppies***

##### **The Complaint**

A complainant called the local humane agency and reported that she had gone to a residence to buy a puppy. The complainant stated that she was shocked at the condition of the mother and four puppies at the residence and believed they were starving.

##### **The Response**

1. The investigator went to the residence and asked to see the mother dog and puppies. She then established that the persons answering the door were the owners.
2. The investigator determined that both the mother dog and her puppies were emaciated. The investigator asked the owners how the animals got that way. They stated that the "bitch was thin" when they acquired her and did not see anything wrong with the condition of the animals.
3. The investigator advised them that the animals appeared to be starving and that it was against the law to starve an animal. After discussing it with the investigator, they decided to surrender the animals to the humane agency.
4. The investigator removed the animals to the animal shelter and took photographs of them.

**NOTE:** *If the owners had not been cooperative, the investigator could have seized the animals based on exigent circumstances and charged the owners with a violation of Article 26 Section 353 of the Agriculture & Markets Law.*

##### **Charges Brought**

None were brought because the owners agreed to surrender the animals, and the investigators felt the individuals acted from ignorance rather than intent.

##### **Supporting Documents Follow**

Not available

## ***Example 4***

### ***Neglected Pets: Starving Dog***

#### **The Complaint**

A dog warden called the local humane agency and reported that he saw a very thin looking dog in a person's yard and asked that they check on it.

The owner was known to the humane agency because he had been asked to surrender a dog before.

#### **The Response**

1. The humane agency investigator went to the residence. In the yard, she saw an emaciated dog tied to a picnic table. There was no food or water available.
2. The investigator asked the two people there if the dog belonged to them. They said the dog's owner was out of town and would return the next day.
3. The investigator seized the dog based on exigent circumstances and removed it to the shelter where she took photographs of it.
4. In the morning, the investigator returned to the residence and asked if the owner was there. The woman who answered the door denied any knowledge of the owner.
5. The investigator advised the woman that if the owner was not identified, each person in the household could be charged with a violation of Section 353 of the Agriculture & Markets Law.
6. Later that day, the investigator received a call from the owner who agreed to come to the humane society. He was issued an Appearance Ticket and charged with a violation of Section 353 of the Agriculture & Markets Law. He was also persuaded to surrender the dog. The investigator told him that she would inform the ADA assigned to the case that he had surrendered the dog.

#### **Charges Brought**

The individual involved was charged with a violation of Article 26 Section 353 of the Agriculture & Markets Law.

#### **Supporting Documents Follow**

- Information





## ***Example 5***

### ***Neglected Pets: Multiple Animals***

#### **The Complaint**

A complainant called the State Police and reported that several animals (dogs and cats) were not being fed, watered or taken care of properly at a residence. The owner had moved away several months before and left the animals behind and periodically returned to the property. Since he moved, the condition of the property and animals had deteriorated and animals were dying. It was winter weather.

#### **The Response**

1. Two officers investigated and corroborated the statements of the complainant.
2. Based on the complaint and their own knowledge, they obtained a search warrant to enter the premises.
3. In addition, the officers did the following:
4. Contacted the local dog control and humane agency to be present when the warrant was executed to remove and hold the animals.
5. Contacted a veterinarian to be present to examine the animals and provide a sworn statement as to their condition.
6. On the day the warrant was executed, the team entered the property, removed the animals, and took them to the local shelter. (A dead animal was also seized for evidence.)
7. The officers took photographs of the animals and their surroundings at the scene. They obtained signed statements from the veterinarian as to the state of each animal.
8. The officers then obtained an arrest warrant for the owner.

#### **Charges Brought**

The individual involved was arrested and charged with 6 counts of violating Article 26 Section 353 of the Agriculture & Markets Law.

#### **Supporting Documents Follow**

- Application for Search Warrant
- Sworn Statement of Complainant
- Search Warrant
- Statement from Judge that State Police were to retain property
- Search and Seizure Receipt and Inventory
- Arrest Warrant
- Information

*Example 5*

## APPLICATION FOR SEARCH WARRANT

TOWN COURT  
TOWN OF [REDACTED]  
STATE OF NEW YORK

[REDACTED] being duly sworn, deposes and says: 1) I am a sworn police officer employed by the New York State Police as a trooper, at the [REDACTED], New York Sub-station. I am the applicant for this search warrant. I do hereby state that there is reasonable cause to believe that the crime of FAILURE TO PROVIDE PROPER SUSTENANCE - Section 353 of the AGRICULTURE AND MARKETS LAW- is being committed at the property rented to [REDACTED], DOB [REDACTED] on [REDACTED] Road, [REDACTED] New York. Residence being further described as a blue with white trim, one story wood structure located approximately 75 feet south of the residence of [REDACTED], box [REDACTED] Road [REDACTED] New York.

2) The facts supporting my statement above and the request for special authority set out below on information and belief are:

a) Interview of [REDACTED], Box [REDACTED] Road [REDACTED] New York, on January 11th, [REDACTED], by deponent [REDACTED]. [REDACTED] stated that the defendant has not resided at the above described property since October 19 [REDACTED] and further stated that defendant has failed to provide proper sustenance, food and water on a daily basis, for his two dogs and an unknown number of cats. One of the dogs has been locked inside the building for the duration of this time, defecating inside the building on a regular basis. [REDACTED] also stated this dog has remained inside the residence for the duration of the time defendant has not resided there. Complainant also stated that the other dog which is chained outside the property to a doghouse is suffering from an unknown ear infliction. Further on same date, complainant located one of defendant's cats which was dead on her property. The statement of [REDACTED] is attached hereto and made a part thereof.

b) On direct knowledge and information and belief, deponent observed the conditions of the aforementioned property with Sergeant [REDACTED] of the New York State Police on January 11th, 19 [REDACTED]. These conditions were found to be unhealthy and unsanitary with no running water for the property. Deponent also observed that the dog inside the building was attempting to bite through the rear door of the structure. Deponent also observed dog feces throughout the property.

*Example 5*

3) I therefore request that the court issue a search warrant directing the search of the property of [redacted] as described in paragraph one of this application to seize dogs, cats other animals including carcasses. And that this warrant be directed to any member of the New York State Police, any agent of the New York State Humane Association any veterinarian licensed in the State of New York, the [redacted] Animal Control Officer.

Trooper [redacted]  
Trooper [redacted]

Subscribed and sworn before me this 12<sup>th</sup> day of January, 199[redacted]

[redacted]  
\_\_\_\_\_  
Honorable [redacted]  
Town Justice - Town of [redacted]

Example 5

SUPPORTING DEPOSITION (CPL §100.20) New York State Police

STATE OF NEW YORK  
TOWN COURT

COUNTY OF [redacted]  
Town of [redacted]

THE PEOPLE OF THE STATE OF NEW YORK  
- vs.  
[redacted]  
(Defendant)

SUPPORTING DEPOSITION

PARI

STATE OF NEW YORK  
COUNTY OF [redacted]  
Town of [redacted]

ss.

On DATE 01-11-99	at TIME STARTED 1:45 p.m.	at [redacted]	STATE NY
DATE OF BIRTH [redacted]	NO. & STREET [redacted]	CITY [redacted]	

state the following: that on [redacted], I contacted the State Police to complain about the welfare of my neighbors animals. My neighbor is [redacted] and he has not lived in the house since he moved out in [redacted] (He now lives with his father in [redacted]). For the last 2 months or so, [redacted] has not been providing for his animals (2 dogs and an unknown amount of cats). This morning I found one of [redacted] cats dead under my house. I believe that some other of [redacted] cats have also died in the last couple of months. One of [redacted] dogs, [redacted] lives in the house and defecates inside the house because [redacted] does not let the dog out. The dog has started to chew a hole in the door in order to get outside. Inside the house is a complete mess with garbage all over. [redacted] keeps the other

NOTICE (Penal Law §210.45)

(cont)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury  
this 11<sup>th</sup> day of January, 19 99

X [redacted signature]  
[redacted]

- OR -  
\*Subscribed and Sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

(WITNESS)  
Tpr [redacted] TIME ENDED 2:15 p.m.

\*The form need be sworn to only when specifically required by the court.

### Example 5

New York State Police

STATE OF NEW YORK  
 COUNTY OF \_\_\_\_\_  
 Town of \_\_\_\_\_ COURT

THE PEOPLE OF THE STATE OF NEW YORK  
 - vs -  
 \_\_\_\_\_  
 (Defendant)

STATE OF NEW YORK  
 COUNTY OF \_\_\_\_\_  
 Town of \_\_\_\_\_

SUPPORTING DEPOSITION

Page 2

ss.

On	DATE 01-11-99	at	TIME STARTED 7:45	am	PLACES	_____
GATE OF BIRTH	_____	NO	_____	pm	CITY	STATE NY

state the following: dog lady outside all the time on a chain. The dog has ear mites, but \_\_\_\_\_ has not taken it to a veterinarian. Both of the dogs bark all night and \_\_\_\_\_ has not taken care of this problem. The home also has no running water inside. The cats also enter and exit the house through a hole in the bathroom floor. \_\_\_\_\_ also does not feed his animals enough and I often have to give them food. I contacted the dog warden \_\_\_\_\_ who advised me to call the State Police. I have talked to \_\_\_\_\_ about these problems, but he has refused to do anything about it. The conditions of \_\_\_\_\_ house is very unsanitary for the neighbors close by and I would like to see appropriate action taken.

#### NOTICE

(Penal Law §210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury

this 11<sup>th</sup> day of January 1999

- OR -

\*Subscribed and Sworn to before me

this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
 (NAME OF DEPOSITOR)

\_\_\_\_\_  
 (WITNESS)

TIME ENDED 2:15 pm

\_\_\_\_\_  
 (NAME OF PERSON TAKING DEPOSITION)

\*This form need be sworn to only when specifically required by the court.

*Example 5*

## SEARCH WARRANT

STATE OF NEW YORK: COUNTY OF [REDACTED]  
 JUSTICE COURT: TOWN OF [REDACTED]  
 HONORABLE [REDACTED], ISSUING JUSTICE

---

IN THE MATTER OF THE APPLICATION OF [REDACTED],  
 A NEW YORK STATE TROOPER ASSIGNED TO THE NYS POLICE,  
 [REDACTED], NEW YORK, FOR A WARRANT AUTHORIZING A SEARCH AND  
 SEIZURE OF ANIMALS LOCATED ON THE FOLLOWING PREMISES:

[REDACTED], property located on  
 N.Y. and further being described as a blue and white frame one story  
 structure located approximately 75 ft south of the residence of  
 [REDACTED], N.Y.

---

TO: THE NEW YORK STATE POLICE - ANY AGENT OF THE NEW YORK STATE HUMANE  
 ASSOCIATION - ANY VETERINARIAN LICENSED IN NYS - THE [REDACTED] ANIMAL  
 CONTROL OFFICER.

You are hereby directed to search and seize the following property and  
 evidence: Dogs, Cats, any other animals which may be located on the  
 aforementioned property including any and all animal carcasses.

You are authorized and directed to search the the aforementioned property  
 of

This warrant must be executed between the hours of 6:00AM and 9:00PM

This warrant must be executed not more than ten (10) days after the date  
 of its issuance and any property seized pursuant hereto shall be returned  
 and delivered to the court, without unnecessary delay.

DATED: Jan 12 1999

[REDACTED]  
 HONORABLE [REDACTED]  
 T/J Town of [REDACTED]

*Example 5*

STATE OF NEW YORK

COUNTY OF Bennington

Town COURT

THE PEOPLE OF THE STATE OF NEW YORK AGAINST:

DEFENDANT: [REDACTED]  
[REDACTED] NY  
[REDACTED]  
[REDACTED]

PURSUANT to the provisions of Section 690.55, subd. 1B of the Criminal Procedure Law of the State of New York, I do hereby direct that the personal property taken pursuant to a duly executed search warrant from the aforestated defendants and delivered to me on this date, upon the return thereof, be retained in the possession of and held in the custody of the Division of State Police of the State of New York, subject to any further order of the court as provided by the provisions of Section 690.55, subd. 1B of the Criminal Procedure Law of the State of New York.

Dated at [REDACTED], New York

This 13th day of January

[REDACTED]  
Town Justice - [REDACTED]  
Title

*Example 5.4. Statement from Judge that State Police were to retain property*



*Example 5*

NEW YORK STATE POLICE  
SEARCH AND SEIZURE  
RECEIPT AND INVENTORY

Town \_\_\_\_\_ COURT, \_\_\_\_\_ OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_, N.Y. ) SS.

I SWEAR THAT THE FOLLOWING IS A TRUE AND DETAILED INVENTORY OF ALL PROPERTY TAKEN BY ME ON THE WARRANT

FILED HEREWITH: (From the property of \_\_\_\_\_ = \_\_\_\_\_, \_\_\_\_\_)

- \_\_\_\_\_ 1 female dog - mixed breed - brown
- \_\_\_\_\_ 1 female dog - shepard mix - brown
- \_\_\_\_\_ 1 gray tiger cat with white paws - unneutered male
- \_\_\_\_\_ 1 gray tiger cat - female
- \_\_\_\_\_ 1 gray tiger cat - unneutered male
- \_\_\_\_\_ 1 black & white cat - unneutered male

\_\_\_\_\_ also seized from property situated next to \_\_\_\_\_ property  
\_\_\_\_\_ was one dead black & white unneutered male cat.

SUBSCRIBED AND SWORN TO BEFORE ME  
THIS 13 DAY OF January 19 9  
[Signature]  
T/J - \_\_\_\_\_

\_\_\_\_\_  
(SIGNATURE OF MEMBER)

*Example 5.5. Search and Seizure Receipt and Inventory*

*Example 5*

WARRANT OF ARREST  
(CPL Sec. 120.10)

TOWN Court, TOWN of [REDACTED] : )  
County of [REDACTED], New York )

In the Name of the People of the State of New York,

TO ANY MEMBER OF THE NEW YORK STATE POLICE:

An ACCUSATORY INSTRUMENT having been filed with this court charging the offense(s)  
of FAILURE PROVIDE SUSTEN contrary to SECT 353 AGRICULTURE & MARKETS LAW has (have) been  
-ANCE committed and designating [REDACTED]

as the defendant who committed it.

YOU ARE, THEREFORE, COMMANDED TO FORTHWITH ARREST SAID DEFENDANT, and to bring  
him before this court for the purpose of arraignment on such accusatory instrument.

This warrant issued on this 12th day  
of JANUARY, 1990

at \_\_\_\_\_  
(ADDRESS OF COURT)

\*A duplicate copy of the accusatory instrument is attached hereto

\_\_\_\_\_  
SIGNATURE OF JUDGE JUSTICE  
TOWN JUSTICE  
\_\_\_\_\_  
(TITLE OF JUDGE JUSTICE)

\*DELETE IF NOT ATTACHED

*Example 5.6. Arrest Warrant*

Example 5

STATE OF NEW YORK COUNTY OF Rensselaer  
Town COURT OF Town

THE PEOPLE OF THE STATE OF NEW YORK )  
 )  
 -vs- ) [INFORMATION] [ ]  
 )  
DOB 9/8/40 )  
 )  
 Defendant(s) )

BE IT KNOWN THAT, by this [Information] [Complaint], Tpr. [REDACTED]  
 as the Complainant herein, [stationed] [ ] at SP [REDACTED]  
 accuses [REDACTED]  
 the above mentioned Defendant(s), with having committed the [ ] [ ] [misdemeanor] [felony]  
 of Failure to Provide Proper Sustenance 6 counts, in violation of Section 353  
 Subdivision   of the Agriculture & Mkts Law of the State of New York.

That on or about the 12 day of January, 1992, at about 11:00 [a.m.] [p.m.] in the  
 Town of [REDACTED], County of Rensselaer, the  
 Defendant(s) did [intentionally,] [knowingly,] [ ] and unlawfully,

Did commit the crime of Failure to Provide proper sustenance, a person is guilty of Failure to provide proper sustenance when he deprives any animal of necessary food drink or sustenance or in any way furthers any act of cruelty to any animal- cruelty being defined as any act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted; to wit: at the aforementioned time and at the residence of the defendant on [REDACTED], T/[REDACTED], the defendant did leave two dogs and approx. four cats without proper food, water, shelter or veterinary care all contrary to the provisions of the statute herein provided for.

The above allegations of fact are made by the Complainant herein [on direct knowledge and/or upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of P [REDACTED], Dr. [REDACTED], Dr. [REDACTED]

[WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant(s).]  
 -OR-  
 [WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant(s) to appear before the Court on [REDACTED], 19 ]

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL § 210.45)

Affirmed under penalty of perjury  
 this 12 day of January, 1992  
 -OR- Tpr. [REDACTED] COMPLAINANT

Subscribed and Sworn to before me  
 this   day of  , 19

[ ] - STRIKE OUT ANY WORDS THAT DO NOT APPLY COPY 2

## ***Example 6***

### ***Neglected Pets: Starving Animals in Apartment***

#### **The Complaint**

A complainant called the local humane society and reported that her mother and brother had too many animals and were not taking care of them properly. The daughter signed a sworn statement.

#### **The Response**

1. The investigator went to the residence and knocked on the door. No one answered. He heard several dogs barking at the time.
2. The investigator left a "Notice to Comply" requesting the owner to call. The owner did not respond.
3. The investigator returned the next day, knocked again and no one answered. He left another "Notice to Comply" requesting the owner to call.
4. On the following day, because he had not heard from the animals' owner, the investigator applied for a search warrant to enter the property.
5. A police officer and the investigator went to the property to execute the warrant. As they knocked on the door, it opened ajar. Inside they saw a great number of cats and 4 dogs. Most of the cats were emaciated and suffering from upper respiratory disease. Several dead kittens were observed in the residence.
6. The investigator took photographs of the animals and the surroundings.
7. The investigator called the humane society and county animal control for assistance. 65 cats and 4 dogs were taken to the shelter.
8. The police officer and investigator secured the residence before leaving.
9. Upon further investigation, the investigator discovered that the woman who owned the animals was in the hospital; he went to the court clerk and had a criminal summons mailed to her house. He later found the son in a bar and gave him an appearance ticket.

#### **Charges Brought**

The individuals involved were charged with 69 counts of violating Article 26 Section 353 of the NYS Agriculture & Markets Law.

**Supporting Documents Follow**

- Application for Search Warrant
- Search Warrant
- Summons
- Information

*Example 6*

## ALLEGATIONS OF FACTS

The following allegations of facts are submitted in support of this application:

I [REDACTED], [REDACTED], on Tuesday November 29, 199[REDACTED], went to the house on [REDACTED] Street. There was no reply to my knocking on the door. I did hear several dogs barking. I left a " Notice to Comply " that he should call me, he did not. I went back on Wednesday November 30, and left another " Notice to Comply ". He still hasn't responded. I have spoken to people that know him and they have told me that he will not let me in to inspect the animals without a search warrant.

From your deponents observations, I feel the complaints were valid and that these animals should be removed for their own protection.

In a written instrument, any person who knowingly makes false statements which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL 210.45)

Subscribed and Sworn to before me this  
1<sup>st</sup> day of DECEMBER, 199[REDACTED]

[REDACTED]  
Complainant

*Example 6.1. Application for Search Warrant*

*Example 6*  
SEARCH WARRANT

State of New York	)	Pursuant to Section 690.35
County of [REDACTED]	)	of
City Court	)	New York State
City of [REDACTED]	)	Criminal Procedure Law

To any Police Officer or deputy of the [REDACTED] Sheriff's Department and any humane officer from any SPCA:

You are hereby authorized and directed to search for and seize the following property:

Four dogs and a number of cats.

Your are authorized and directed to search the following designated premises, persons and/or vehicle:

Property located at [REDACTED] Street, [REDACTED], [REDACTED] County, New York, occupied by Mr. [REDACTED]

This court hereby directs that any property seized pursuant there to be returned and safeguarded by the [REDACTED] County S.P.C.A. and if ordered, be made accessible to the Court together with such other and further relief that this Court may deem proper.

This warrant to be executed between the hours of 6:00 am and 9:00 pm.

Dated this 1<sup>st</sup> day of December, 1999

Signed, [REDACTED]  
Title, City Court Judge

*Example 6*

STATE OF NEW YORK : COUNTY OF [REDACTED]  
CITY COURT : CITY OF [REDACTED]

-----X  
THE PEOPLE OF THE STATE OF NEW YORK

- against -

DOCKET #: 94-2211

CRIMINAL SUMMONS

[REDACTED]  
[REDACTED] N.Y. [REDACTED] Defendant.  
-----X

YOU ARE HEREBY NOTIFIED that an Accusatory Instrument has been filed in this Court charging you, as a Defendant, with the following offense:

-AM- TORTURING ANIMALS in violation of AG-353 of the State of New York.

YOU ARE THEREFORE DIRECTED to appear personally before this Court at [REDACTED] City Court, Civic [REDACTED] Poughkeepsie, New York [REDACTED] on December 5, 199[REDACTED] at 8:00 in the forenoon for arraignment upon the Accusatory Instrument.

UPON YOUR FAILURE TO APPEAR AS ABOVE DIRECTED  
A WARRANT WILL BE ISSUED FOR YOUR ARREST

DATED: December 2, 199[REDACTED]

[REDACTED SIGNATURE]  
-----X  
[REDACTED]  
City Court Judge

*Example 6.3. Summons*



*Example 6*

ACCUSATORY INSTRUMENT  
 INFORMATION - GENERAL C.P.L. 100.15 FORM NO. 256 WILLIAMSON LAW BOOK CO., ROCHESTER, N. Y. 14609

STATE OF NEW YORK : COUNTY OF [REDACTED]  
 City [REDACTED] COURT [REDACTED] City [REDACTED] OF [REDACTED]

The People of the State of New York  
 against  
 [REDACTED]  
 Defendant

Information

I, [REDACTED], residing at  
 [REDACTED], employed by the [REDACTED], by this information make  
 written accusation as follows:

That [REDACTED], on the  
 day of [REDACTED], 19 [REDACTED], at  
 in the City [REDACTED] of [REDACTED]  
 County of [REDACTED] New York, did  
 commit the offense of Overdriving, torturing and injuring animals: Failure to provide  
proper sustenance, a (misdemeanor) (violation) in violation of Section 353  
 of the Ag. & Market Law Law of the State of New York, in that (s)he did, at the aforesaid time and place<sup>a</sup>

Count One: A person who overdrives, overloads, tortures or cruelly beats or unjustifiably  
 injures, maims, mutilates or kills any animal, whether wild or tame, and  
 whether belonging to himself or to another, or deprives any animal of necessary  
 sustenance, food or drink, is guilty of a misdemeanor.

The facts upon which this information is based are as follows:  
 On Thursday, December 1, 199 [REDACTED], together with City of  
 [REDACTED] Officer [REDACTED] and [REDACTED] City of [REDACTED] Animal Control  
 Officer, went to the residence of [REDACTED] with a search warrant. The subject  
 was not home. As Officer [REDACTED] knocked on the door, the door opened. The stench  
 that came from within almost knocked us over. We entered the premises and found  
 4 dogs and 52 cats and 3 one-week old kitten and 1 dead two-week old kitten.

There wasn't any food or water available for these animals. The animals were extremely  
 thin and obviously undernourished. There was dog and cat excrement everywhere. We  
 could hardly put our feet down without stamping in filth.

Upon examination by a local veterinarian, 1 of the dogs was in such poor condition  
 that it could not have been rehabilitated and was Euthenized. Also, one of the  
 kittens had hole in its neck. The hole was full of maggots and kitten was also  
 Euthenized.

*Example 6.4. Information*

---

## Neglected Large Animals

### Overview

Some of the most troublesome cases involve large animals and farm animals, such as horses, cows, goats, *etc.* because it is difficult to find places to keep large animals while a case proceeds through the court system.

You may receive complaints such as:

- animals appear emaciated
- animals are lying in a field and cannot stand up
- horse(s) have broken from a pasture and are very thin, eating trees and shrubs

Occasionally, you may receive a complaint about someone transporting a farm animal in a cruel manner. See Example 9.

There are various causes for the neglect of large animals, such as:

41. The costs involved. When people are short of money, they often cut down on their animals' feed and veterinary care.
42. Related to this, there are cases where owners have intentionally not spent money to take care of animals (especially horses) until they were ready to breed them.
43. General ignorance. People are trying to run a farm or own horses, but do not know how to do it properly.
44. Revenge. In some cases (involving divorce), one side may try to hurt the other by not caring for the animals left behind.

### ✓ Things to be aware of when investigating

- There is no food or grain in sight. Pasture land is chewed down.
- Horse's stall is filled with manure buildup.
- Animals are infested with lice and scratching at themselves to bring relief; hair may be missing in spots.
- No clean, fresh water available.
- No shelter available.
- Horses' hooves may be long or turned up indicating a lack of exercise and lack of farrier care.
- Animals may have sores on their bodies.

See Chapter 6: "Animal Care Standards for Some Common Animals" for more information on indicators of neglect.

## ✓ What to do

1. Talk to the local humane agency staff to determine if they are able to care for large animals. If they are not, ask if they can assist by coordinating a group of farmers, horse owners, or stables that might house the animals while the case is in litigation.
2. Talk to the District Attorney's office to see if it can assist with plans to care for the animals once they are secured.
3. Coordinate an effort with the local humane agency and a veterinarian for the day you plan to execute the search warrant.
4. Execute the search warrant and have the animal handling team enter the property with the authorities.
5. Take photographs of the individual animals and their environment. Take detailed photographs of any sores or injuries.
6. Have the veterinarian examine the animals and provide you with a signed statement as to the condition of the animals.
7. Have the local humane society remove the animals from the property.
8. Arrest the owner or issue him an appearance ticket.

**IMPORTANT NOTE:** *In some cases, especially where many animals are involved, some animals may appear more neglected than others. Nevertheless, all the animals should be seized, if possible, because the conditions in which the animals are being kept are causing the problem. And it is usually only a matter of time before the healthier ones will be in bad shape as well.*

### **Examples of various situations follow**

7. Neglected Large Animals: Starving Horses
8. Neglected Large Animals: Starving Horses Running Loose
9. Transporting Animals in a Cruel Manner

## ***Example 7***

### ***Neglected Large Animals: Starving Horses***

#### **The Complaint**

A complainant called the local humane agency and reported that numerous horses on the property of a resident were not being fed and appeared to be starving.

The humane agency had been to the same property in the recent past to investigate a complaint that the horses were not being fed. The owners had been told to worm the horses and increase their feed. The owner had agreed to cooperate at that time.

#### **The Response**

1. Based on an interview of the complainant and the past knowledge of the cruelty investigator, the humane agency applied for a search warrant and contacted the sheriff's department. A local veterinarian was contacted to be present when the warrant was executed.
7. The sheriff's department entered the property to execute the warrant, along with the humane society and the veterinarian.
8. They found emaciated horses as well as two dead horses and a dead foal. There was no food or water available.
9. The humane agency and sheriff's deputies took photographs of the animals and their surroundings.
10. The emaciated horses were seized and taken to the animal shelter.
11. The veterinarian examined the animals and provided a signed statement as to their condition.
12. The owner was ordered to bury the dead horses based on Section 377 of the Agriculture & Markets Law.

#### **Charges Brought**

The individual involved was charged with five counts of violating Article 26 Section 353 of the Agriculture & Markets Law. (Note: Because of the felony cruelty law, enacted since this case occurred, the individual could now be charged with a violation of Section 353-a, felony animal cruelty. Section 353-a, states that it applies to companion animals, but since these horses were not being used for subsistence or commercial purposes, but were more like pets, this section of the law would apply. A case in point to substantiate this view is the *People v. Jeanne Ryan* case in which there were numerous horses starved. She was arrested in 2017, and convicted in 2018, of 10 counts of felony cruelty and sentenced to two years in county jail and precluded from having any animals for 15 years after release. The case is discussed in <https://horseauthority.co/state-new-york-v-jeanne-ryan/>. She is also listed in the Orange County Animal Abuse Registry.

**Supporting Documents Follow**

- Deposition
- Veterinarian's Statement
- Application for Search Warrant
- Search Warrant
- Search and Seizure Inventory
- Sheriff's Department Report
- Information

Example 7

STATE OF NEW YORK )

SS:

COUNTY OF [REDACTED] )

[REDACTED], being duly sworn, deposes and says: I am the Assistant Director of the [REDACTED] County Society for the Prevention Cruelty to Animals. In that capacity I often receive complaints of animal abuse. I have been investigating such cases for over five years, and am quite familiar with animal neglect and cruelty.

ON Oct. [REDACTED] I responded to a complaint that had been called into the shelter about possible abuse of horses owned by [REDACTED]. Upon arrival at the [REDACTED] property I was able to see two horses surrounded by barrels. Mr. [REDACTED] refused to let myself and my partner, [REDACTED] see the horses. He ordered us off his property.

The following day [REDACTED] called the shelter and offered to let us see the horses. We made arrangements to meet her on Nov. 14, [REDACTED] at the property off route [REDACTED] in the Town of [REDACTED]. We saw seven horses at that time some horses were somewhat underweight. We suggested a vigorous deworming program and increased feed. we left a livestock report with Mrs [REDACTED]

On June 27, [REDACTED] I talked on the telephone to [REDACTED] road, New Paltz. She stated that she had given food to the horses (we were speaking of [REDACTED] horses). She stated that the horses water was very slimy and green, and that the horses were in very bad condition, particularly a Leopard Appaloosa. She was very upset and stated that the horses were dying up there. She hoped that we would be able to do something.

I believe based on my years of experience that these animals are being treated cruelly and kept in inhumane conditions.

SWORN TO ME THIS  
27 DAY OF JUNE 19[REDACTED]

[REDACTED]

[REDACTED]  
Notary Public, State of New York  
Residing in [REDACTED] County  
No. [REDACTED]  
Commission Expires Nov. 30, 1991

*Example 7*

[REDACTED] D.V.M.  
 Box [REDACTED]  
 [REDACTED], NY [REDACTED]  
 (914) [REDACTED]

To Whom It May Concern:

On June 28, 199[REDACTED], I accompanied the [REDACTED] County SPCA to investigate a suspected cruelty case in the town of [REDACTED]. The case involved an unknown number of horses on the property.

On arrival I observed two corrals constructed of underground fuel tanks, each tank being about 8 feet in diameter by 15 feet long. The large corral had four live horses in it and 3 horse carcasses; an approximately three-week-old foal dead about two days, and two adult carcasses severely decayed with skin rotted and bones exposed.

The tanks were too heavy to move so we crawled over them to gain access to the corral. There was no feed, hay, or water available for the horses. A discolored water-seep puddle with algae was in the corral. As there were no water troughs, I assume Mr. [REDACTED] intended this to be the horses water source. A tractor trailer bed was parked outside the corral. Some rotting hay was strewn on the ground next to the trailer, outside the corral, unavailable to the horses.

In the second corral of similar construction but with a gate, there was one horse. This animal also was underweight and malnourished.

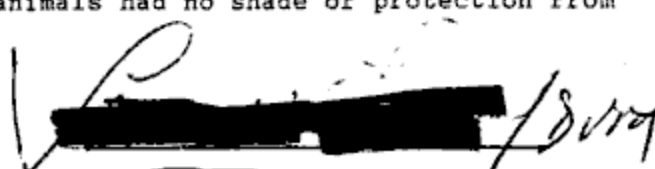
The following horses were in the two corrals:

Appaloosa mare approximately 3 years old  
 Appaloosa mare approximately 11 years old  
 Appaloosa stallion approximately 11 years old  
 Appaloosa stallion approximately 6 years old  
 Appaloosa stallion approximately 7 years old

All were approximately 20-30% under their acceptable weight as the result of starvation and neglect.

It is important to note that in addition to lacking necessary food and water, these animals had no shade or protection from the elements.

September 14, [REDACTED]

  
 [REDACTED]  
 [REDACTED] D.V.M.

*Example 7*

APPLICATION SEARCH WARRENT (CPL SEC.690.35)

STATE OF NEW YORK

COUNTY OF [REDACTED]

TOWN COURT

TOWN OF [REDACTED]

-----  
 IN THE MATER OF  
 THE APPLICATION OF [REDACTED]  
 FOR A WARRENT AUTHORIZING THE SEARCH  
 OF [REDACTED]

for **CRUELTY TO ANIMALS**

-----  
 STATE OF NEW YORK ))  
 COUNTY OF [REDACTED] )) SS;  
 TOWN OF [REDACTED] ))

I, [REDACTED] A PEACE OFFICER, employed by the [REDACTED] County S.P.C.A., do hereby state that there is reasonable cause to believe that property of a kind of character described in section 690.10 of the Criminal Procedure Law may be found in or upon a designated or described place, vehicle, or person.

THE FACTS SUPPORTING MY STATEMENT OF ABOVE and the request for special authority set out below (on my personal knowledge)

A. CHARACTER OF PROPERTY: (STOLEN) (UNLAWFULLY POSSESED) (USED TO COMMIT AN OFFENSE) (**AS EVIDENCE**)

B. THE PROPERTY

LAND OFF ROUTE IN THE TOWN OF [REDACTED] PERSONALLY KNOWN TO YOUR DEONENT OR DESCRIPTION

C. THE PROPERTY

HORSES ON THE PROPERTY AND PHYSICAL EVIDENCE OF ABUSE

D. SOURCE OF INFORMATION & GROUNDS FOR BELIEF

DEPOSITION OF [REDACTED]  
 PHONE CALL FROM [REDACTED]

THEREFORE REQUEST THAT THE COURT ISSUE A SEARCH WARRANT DIRECTING A SEARCH OF / AT

THE AFORE MENTIONED PROPERTY, ROUTE [REDACTED], TOWN OF [REDACTED]

AND SEIZURE THEREOF




*Example 7*

APPLICATION FOR SEARCH WARRANT (CONT)

FURTHER THAT SUCH SEARCH WARRANT BE EXECUTABLE AT ANY TIME DAY OR NIGHT  
BASED UPON THE FOLLOWING FACTS (Sec. 690.35/3 (a) (i) (ii) )

FURTHER REQUEST THAT SUCH WARRANT AUTHORIZE THE EXECUTING POLICE  
OFFICER TO ENTER PREMISE WITHOUT GIVING NOTICE OF HIS AUTHORITY OR  
PURPOSE BASED UPON THE FOLLOWING FACTS:  
(Sec. 690.35/3 (b) (i) (ii) )

BETWEEN THE HOURS OF 6:00A.M. AND 9:00 P.M.

  
Applicant

Subscribed and sworn to me  
this 28 day of JUNE 19

*Example 7*

STATE OF NEW YORK : COUNTY OF [REDACTED]  
 TOWN COURT : TOWN OF [REDACTED]

in the matter of Application of  
 [REDACTED]

for a warrant of search and seizure pursuant  
 to the Agriculture and Markets Law of the  
 State of New York

WARRENT DIRECTING  
 SEARCH AND SEIZURE  
 AT PREMISES LOCATED  
 AT: ROUTE TOWN  
 OF [REDACTED] TAX  
 MAP [REDACTED]

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK

TO: ANY MEMBER OF THE [REDACTED] COUNTY SOCIETY FOR THE PREVENTION OF  
 CRUELTY TO ANIMALS HOLDING AUTHORITY UNDER LAW AS A HUMANE AGENT:

Proof by affidavit having been made before me by [REDACTED] that  
 certain animal or animals have been abused, abandoned, or denied  
 sustenance within the scope of Agriculture and Markets Law, sections  
 372, 373, at the time and place stated in the affidavit, and finding  
 by this Court having been made that it is essential to the said  
 animal's welfare that it be taken into protective custody of the [REDACTED]  
 County S.P.C.A.;

NOW, THEREFORE, YOU ARE COMMANDED TO SEARCH BETWEEN THE HOURS OF  
 6:00 A.M. AND 9:00 P.M., THE LANDS, BUILDINGS, VEHICLES, AND OTHER  
 STRUCTURES LOCATED AT ROUTE TOWN OF [REDACTED] TAX MAP  
 [REDACTED], NEW YORK, CONSISTING OF  
 OPEN LAND AND VARIOUS OUT BUILDINGS

and deliver same into the possession and control of the [REDACTED] COUNTY  
 S.P.C.A. animal shelter located at [REDACTED], N.Y. and

YOU ARE FUTHER COMMANDED to report to this Court on the 27 day of  
JUNE 1990, for further proceedings with respect to the same  
 animal(s). 6:00 P.M.

Dated: 28 JUNE [REDACTED] Enter [REDACTED] Judge

Example 7

SEARCH WARRANT - INVENTORY  
C.P.L. 690.50 FORM NO. 312 WILLIAMSON LAW BOOK CO., ROCHESTER, N.Y. 14609

STATE OF NEW YORK : COUNTY OF [REDACTED]  
JUSTICE COURT TOWN OF [REDACTED]

A search warrant having been issued by this court on the 28 day of  
JUNE, 19 90, directing a search of the following designated or described place, premises or  
person, to wit:

ROUTE TOWN OF [REDACTED] TAX MAP [REDACTED] 30

and a search having been made and property having been seized pursuant to said search warrant on the 28<sup>th</sup>  
day of JUNE, 19 90, the undersigned does hereby return said seized property to this Court and file  
this written inventory of such property.

The following property was seized:

- 1 LEOPARD APP. STALLION
- 1 BROWN APP. STALLION
- 1 BLACK APP. STALLION
- 1 APP. MARE
- 1 GRAY MARE

Subscribed and Sworn to before  
me this 28 day of JUNE, 19 90  
[REDACTED] Peace Police Officer

Example 7.5. Search and Seizure Inventory

Example 7

#	DATE OF REPORT	06-28-89	COUNTY SHERIFF'S DEPT.	AS NO.	
	CASE NO.		INVESTIGATION REPORT	DATA NO.	
C O M P L A I M	C-1 (COMPLAINANT (FIRM NAME IF NUMBER))	[REDACTED]	County S.P.C.A.	SEX	
	ADDRESS	[REDACTED]	N.Y. 12401	AGE	
	EMPLOYEE	[REDACTED]		PROFESSION	
I N C I D E N T	CHARACTER OF INCIDENT (IF COMPLAINT, WRITE C-1)	[REDACTED]	Co. ASPCA	MP	AGE
	DATE REPORTED	[REDACTED]	Head Coordinator	P	32
M O D E	TYPE OF CASE	Home-made corrals in auto salvage yard			
	MODE OF ENTRY OR METHOD OF ESCAPE	Closed horses in (above) corrals without providing proper care			
P R O P E R T Y	CHARACTER OF CASE	Request for Assistance/ Cruelty to Animals, Complaint			DATE REPORTED 06-28-89
	PROPERTY NO.				1300183
V E H I C L E	V-1 (CHECK IN CASE) <input type="checkbox"/> CARS <input type="checkbox"/> TRUCKS <input type="checkbox"/> BUSES <input type="checkbox"/> MOTORCYCLES <input type="checkbox"/> OTHER				
	REGISTRATION STATE				
W E A P O N	W-1 (CHECK IN CASE) <input type="checkbox"/> FIREARMS <input type="checkbox"/> KNIVES <input type="checkbox"/> OTHER				
	TYPE OF WEAPON				
D O C U M E N T	D-1 (TYPE OF DOCUMENT)				
	NAME OF OWNER - LAST NAME AND ADDRESS GIVEN				
D A M A G E	REPAIRS OR LIST PHYSICAL DAMAGE OR ANY OTHER LOSS				
I N S U R.	PROPERTY INSURED	NAME OF INSURER			TOTAL VALUE
D I S P O	DISPOSITION				
W I T N E S S	NAME (LAST, FIRST, MIDDLE) - ADDRESS	W. Rt. [REDACTED]			AGE

Example 7.6. Sheriff's Department Report (page 1 of 4)



Example 7

██████████ COUNTY SHERIFF DEPT.

STATION ██████████ / Zone 2	CONTINUATION SHEET	AUG 01 REC'D	PAGE NO. 1
COMPLAINANT - LAST NAME, FIRST, MIDDLE ██████████ Co. S.P.C.A. vs.		CASE NO. ██████████	

Box 19, NARRATIVE, Continued:

chose to stay without his attorney present. ██████████ was occupied in casual conversation by deputies a few hundred feet away that afforded a good view of the examination of the horses by SPCA personnel and their veterinarian, Dr. ██████████ stated that he was going to contact his personal Veterinarian and have him respond; ██████████ was advised he had the right to do so but he failed to do so. ██████████ left the area about 45min. to 1hr. after the beginning of the warrant's execution after refusing to open the home-made corrals and threatening to lock the involved parties in the yard.

This incident stems from allegations by the SPCA that ██████████ has contained several horses in two (2) home-made corrals since November of 1980 without providing proper food, water, and shelter for them; ██████████ vehemently denies this. ██████████ states that the five (5) horses found at the salvage yard are 17 or more years old and that they are being adequately cared for by him until the die a natural death. He states that 17 years is very old for a horse and they will die soon.

The scene of the complaint was then jointly viewed by ██████████ and this writer. Large (approximately 5ft by 20ft) metal tanks, such as those buried in the ground at service stations to store fuel, were arranged in two (2) circles to form corrals in the northeast and southeast corners of the salvage yard. The northeast corral was not viewed closely by this writer but one (1) horse was later seen being removed from it by SPCA personnel. The southeast corral was closely examined by this writer. It contained four (4) live horses and three (3) corpses, lying unburied in various stages of decay. One of the corpses was that of a young colt which the veterinarian estimated to have been about 3 weeks of age. The smell of the rotting corpses was very strong and they were covered with flies. Several mounds of dirt were noticed that were possibly other buried corpses. Prior to viewing the animals, ██████████ made the statement that as they died he just buried them.

No food or water was available for the horses upon arrival of this writer. The only water present was a small puddle of rusty water that was choked with a green slime. Although there was no food in the corrals, there was a large pile of rotting hay placed a few feet away from the horses, lying just outside the corral where they could not reach it.

The animals were very thin and sluggish in their movements. SPCA personnel and the veterinarian stated that they were very malnourished and possibly would have not lasted more than another week.

was issued an appearance ticket by SPCA personnel for cruelty to animals and released.

SIGNATURE AND RANK Deputy ██████████	SHELD NO #13	APPROVED	CASE STATUS	SA	CED	CMT	CMT/OPRT	OTHER
						XXX		

Example 7.6. Sheriff's Department Report (page 3of4)

Example 7

██████████ COUNTY SHERIFF DEPT.

AUG 01 REC'D

██████████ ██████████ Zone 2	CONTINUATION SHEET	PAGE NO. 2
██████████ ██████████ Co. S.P.C.A. vs. ██████████	██████████	██████████

NARRATIVE Continued:

The horses were removed by horse trailer by SPCA personnel to the SPCA facility in the T/██████████. Fo further action was taken by this department. END OF REPORT.

SIGNATURE AND NAME Deputy ██████████	SHIELD NO. #13	APPROVED	CASE STATUS	Ca	CEC	ENV	CAMP	OPEN	OTHER
						XXX			

Example 7.6. Sheriff's Department Report (page 4of4)

Example 7

STATE OF NEW YORK COUNTY OF \_\_\_\_\_  
 COURT OF \_\_\_\_\_  
 THE PEOPLE OF THE STATE OF NEW YORK  
 -vs-  
 Defendant(s)

Complaint  
[Information] [Criminal]

**ACCUSATION**  
 BE IT KNOWN THAT, by this [Information] [Criminal] I, \_\_\_\_\_, \_\_\_\_\_ SPCA  
 as the Complainant herein, [stationed] [XXXXXX] at \_\_\_\_\_, NEW YORK  
 accuses \_\_\_\_\_  
 the above mentioned Defendant(s), with having committed the [Misdemeanor] [XXXXXX]  
 of FAILURE TO PROVIDE SUSTENANCE, in violation of Section 353 5 COUNTS  
 Subdivision \_\_\_\_\_ of the AGRICULTURE & MARKET Law of the State of New York.

**FACTS**  
 That on or about the 28 day of JUNE, 19\_\_\_\_, at about 4:50 [a.m.] [p.m.] in the  
 TOWN of \_\_\_\_\_, County of \_\_\_\_\_, the  
 Defendant(s) did [intentionally,] [knowingly,] [XXXXXX] and unlawfully,

COMMIT THE MISDEMEANOR OF FAILING TO PROVIDE PROPER SUSTENANCE TO AN ANIMAL BELONGING TO HIM/HER SELF OR ANOTHER, TO WIT, DEPRIVED ANY ANIMAL BELONGING TO HIM, BEING 5 HORSES, OF NECESSARY SUSTENANCE, FOOD OR DRINK OR CAUSES PROCURES IN ANY WAY ANY ACT OF CRUELTY TO ANY ANIMAL

ALL CONTRARY TO THE PROVISIONS OF THE AGRICULTURE & MARKETS LAW IN SUCH CASE MADE AND PROVIDED. THE ABOVE SAID FACTUAL ALLEGATIONS ARE MADE OF YOUR DEONENTS PERSONAL KNOWLEDGE DURING THE INVESTIGATION CONDUCTED BY YOUR DEONENT, A HUMANE AGENT EMPLOYED BY THE ULSTER COUNTY S. P. C. A.

THE ABOVE SAID FACTS ARE BASED UPON THE DEONENTS PERSONAL KNOWLEDGE AND/OR UPON INFORMATION AND BELIEF, WITH THE SOURCES OF COMPLAINANT'S INFORMATION AND THE GROUNDS FOR BELIEF BEING THE FACTS CONTAINED IN THE ATTACHED SUPPORTING DEPOSITION(S) OF \_\_\_\_\_

[WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant(s).]  
 -OR-  
 [WHEREAS, an Appearance Ticket was issued to the said Defendant(s), directing [him] [her] [them] to appear before this Court at 6:00 [a.m.] [p.m.], on the 6 day of JULY, 19\_\_\_\_]

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL § 210.45)

**NOTICE**  
 Affirmed under penalty of perjury  
 this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

-OR-  
 \_\_\_\_\_  
 COMPLAINANT  
 Subscribed and Sworn to before me  
 this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.



## ***Example 8***

### ***Neglected Large Animals: Starving Horses Running Loose***

#### **The Complaint**

A complainant called the State Police and reported that 5 horses belonging to a neighbor were running loose near the complainant's property. They appeared very thin and were trying to eat tree branches.

#### **The Response**

1. An officer went to the owner's house, interviewed him, and examined the horses. They were very thin with ribs visible under the skin. Virtually no food was available.
2. The officer interviewed the neighbor who stated that she was an experienced horse person and had been invited by the owner to stop by and see the horses. On the day she did, the owner was not home, but she saw that the horses were starving and living in deplorable conditions. She signed a sworn statement to that effect.
3. Based on his own observations and the signed statement of the neighbor, the officer applied for a search warrant to seize the horses. In addition, the officer did the following:
4. Contacted the local humane agency to be present when the warrant was executed to remove and board the animals.
5. Contacted a veterinarian to be present to examine the horses and provide a sworn statement as to their condition.
6. The officer entered the property to execute the warrant, along with the humane agency and the veterinarian.
7. The team photographed the animals and their surroundings, and removed the animals to the local shelter.

#### **Charges Brought**

The individual involved was charged with 6 counts of violating Article 26 Section 353 of the Agriculture & Markets Law.

#### **Supporting Documents Follow**

- Application for Search Warrant
- Sworn Statement of Witness
- Sworn Statement of Veterinarian
- Search Warrant
- Information

*Example 8*

## APPLICATION FOR SEARCH WARRANT

Town Court )  
 Town of [REDACTED] )  
 State of New York )

[REDACTED] - being duly sworn, disposes and says:  
 1) I am the applicant for this search warrant. I am a sworn police officer employed by the New York State Police as a trooper, at the [REDACTED] New York Sub-Station. I do hereby state that there is reasonable cause to believe that the crime of FAILURE TO PROVIDE PROPER SUSTENANCE - CRUELTY TO ANIMALS Section 353 of the AGRICULTURE & MARKETS LAW is being committed at the residence of [REDACTED] - DOB [REDACTED] - of [REDACTED] N.Y. Residence being further described as a two story log cabin situated on approx. ten acres of land. Also located directly behind the house is a wood barn, approx. 34Ft x 34Ft, having a flat roof and sliding wooden doors on the front and back of the barn and no windows. The interior of the barn has a blacktop floor - twelve straight stalls and one box stall. The driveway to the property is a dirt road, with a metal gate at the entrance to the driveway. Said property is located on the east side of [REDACTED] approx. one half mile north of the intersection of [REDACTED]

2) The facts supporting my statement above and the request for special authority set out below on information and belief are:

a) On 4/1/[REDACTED] Tpr. [REDACTED] was dispatched to a complaint of loose horses in the area of [REDACTED] and [REDACTED] Road in [REDACTED] Tpr. [REDACTED] interviewed [REDACTED] of Robinson Lane, near [REDACTED] Mrs. [REDACTED] stated that five horses have been running loose throughout the neighborhood since 3/28/[REDACTED] and that she believed that the horses were owned by [REDACTED] Tpr. [REDACTED] further stated that an interview of [REDACTED] was conducted at the [REDACTED] property. Mr. [REDACTED] stated that he was out of town for a few days and the horses had "gotten out". Mr. [REDACTED] showed Tpr. [REDACTED] his barn and horse stalls and the following observations were made: General condition of the shelter was poor, there were no bails of hay and only a small quantity of hay in the feeders. The barn was extremely filthy and although there were three grain barrels in the barn, there was little or no grain in them. There were six horses on the property. On two of the horses, the ribcages were plainly visible. Mr. [REDACTED] stated to Tpr. [REDACTED] that he just obtained those horses and hasn't had time to build them up. The statement of Tpr. [REDACTED] is attached hereto and made a part thereof.

b) On 4/3/[REDACTED] interview of [REDACTED] of [REDACTED] Ave., [REDACTED] revealed the following:

Example 8

That [redacted] has owned horses for 36 years and is a former employee of the MSPCA in [redacted] Ms [redacted] stated that she has known [redacted] for several years and in the past, he had invited her to stop by and see the horses. On 4/1/ [redacted] went to [redacted] barn and Mr [redacted] was not home. Ms [redacted] stated that she went into the unlocked barn and looked at the horses. Two of the horses were so thin that you could count their ribs and Ms [redacted] stated that she knows that Mr [redacted] purchased these horses several months ago from [redacted] Deputy [redacted] of [redacted] Four of the other horses which were present lost about 400 pounds since she last saw them in February, 1992. The horses are so weak that they can barely stand. Their feet are badly overgrown. There was no hay, grain or water in any of the stalls or in the barn. The horse manure was up to her knees. The statement of [redacted] is attached hereto and made a part hereof.

2) I therefore, request that the court issue a search warrant directing the search of the property of [redacted], specifically, the barn or any out building or area where animals would be confined to seize the following property and evidence: Horses, carcasses, animal food, animal excrement. And that this warrant be directed to any member of the New York State Police and any officer or employee of the [redacted] Animal Shelter.

[redacted]  
Trooper

Subscribed and Sworn before me  
this 4 day of April, 19 [redacted]

[redacted]  
County Court Judge  
[redacted] County  
New York.

### *Example 8*

#### AFFIDAVIT

I, [REDACTED] on oath, do hereby depose and say the following:

1) I have owned horses for 36 years and grew up in the 4-H horse club program.

2) I formerly worked for the MSPCA shelter in [REDACTED] Massachusetts under the direction of [REDACTED]

3) I have known [REDACTED] for several years as he is a former client of the law firm I work for.

4) I have had occasion to visit Mr. [REDACTED] horses on East Road in [REDACTED], New York a number of times since the summer of 1990 and am familiar with what the horses used to look like. In the past, Mr. [REDACTED] has invited me to stop by anytime to see the animals.

5) I know that Mr. [REDACTED] purchased two of the horses, a grey curly-haired Appaloosa gelding and a red Appaloosa mare, from [REDACTED] of [REDACTED], Massachusetts, several months ago. I also know that he purchased the palamino, [REDACTED], from [REDACTED] in the Fall of 19[REDACTED].

6) I spoke with [REDACTED] of [REDACTED] New York on Monday, April 1, 19[REDACTED] and was told by her that she had five starving horses in her backyard who had been there since the Thursday before. She described the horses to me and she described the man who picked them up late Monday. The description fit [REDACTED] and his horses.

7) I went up to Mr. [REDACTED] barn on Monday, April 1, 19[REDACTED] to see if the horses were alright. Mr. [REDACTED] was not home. I went into the unlocked barn and looked at each horse. Two of the horses, the grey curly-haired Appaloosa and the red Appaloosa mare, are badly malnourished - you can count their ribs and they have lost a great deal of muscle tissue from lack of food and water. The other horses are also malnourished and have lost about 300 to 400 pounds each since I last saw them in February of 19[REDACTED]. The horses are so weak that some of them can barely stand up. The horses' feet are all badly overgrown. In my experience as a horsewoman, these horses need both veterinary attention and blacksmith work as soon as possible.

8) There was absolutely no hay, grain, or water in any of the horses stalls or anywhere in the barn. The horse manure in the barn is up to my knees.

*Example 8*

9) I bought 10 bales of hay on Monday, April 1, 1990, and brought it over to Mr. [REDACTED]. I threw the bales under the gate because the gate was chained on both sides. I have herniated discs in my back and could not carry the hay up the hill to the barn but brought it over in the hopes that Mr. [REDACTED] would feed it to the horses. I do not know if the horses ever got the hay I brought over.

10) It is my sincere belief, based upon my years of experience as a horse owner and my work in an animal shelter and veterinary office, that Mr. [REDACTED] horses need immediate assistance if they are to survive. Two of the horses will probably die if they go more than another 48 hours without food or water. The other horses will be irreparably harmed if they are not rescued soon.

11) I am willing to testify to any of the above facts in a court of law.

I swear that the above statement is true to the best of my knowledge and belief. I am aware that false statements are punishable as a Class A misdemeanor.

Subscribed and sworn to under the pains and penalties of perjury this 4th day of April, 1990.

[REDACTED]  
[REDACTED]  
[REDACTED], MA [REDACTED]

COMMONWEALTH OF MASSACHUSETTS

Then personally appeared the above named [REDACTED] and acknowledged the foregoing affidavit to be her free act and deed, before me

[REDACTED]  
Notary Public

My commission expires:  
6-27-1991

### Example 8

SUPPORTING DEPOSITION (CPL §100.20)

New York State Police

STATE OF NEW YORK

COUNTY OF \_\_\_\_\_

\_\_\_\_\_ COURT

\_\_\_\_\_ of \_\_\_\_\_

THE PEOPLE OF THE STATE OF NEW YORK

— vs. —

SUPPORTING DEPOSITION

\_\_\_\_\_  
(Defendant(s))

STATE OF NEW YORK

COUNTY OF \_\_\_\_\_

ss.

Town of \_\_\_\_\_ of \_\_\_\_\_

On DATE <u>4/6/92</u> at TIME STARTED <u>10:00</u> <small>Day</small> <u>1</u> FULL NAME <u>[Redacted] DVM</u>
DATE OF BIRTH <u>[Redacted]</u> NO. & STREET <u>[Redacted] Animal Hosp. Blvd</u> CITY <u>[Redacted]</u> STATE <u>NY</u>

state the following: I am a practicing veterinarian licensed in New York State, employed at the [Redacted] Animal Hospital. On 4/6/92 I examined 6 horses at the [Redacted] Humane Society, at the request of the New York State Police.

The condition of the horses are as follows:  
 #1 Curly Hair Appaloosa 7-9 yrs old gelding. very poor debilitated condition, emaciated and 5% dehydrated. (Significant dehydration). He has a nasal discharge and respiratory distress with increased expiratory effort. The right femur has a midshaft bony protuberance. This horse has difficulty eating and has an abscessed tooth - Right lower jaw. His penis is swollen and he is unable to retract it into his sheath (paraphimosis) feet are overgrown. This horse is obviously in a state of extreme neglect.

**NOTICE**  
(Penal Law §210.45)

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the state of New York punishable as a Class A Misdemeanor.

Affirmed under penalty of perjury  
 this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
 \_\_\_\_\_ DVM  
(Signature of Dependent)

\*Subscribed and Sworn to before me  
 this 6 day of April, 1992  
 \_\_\_\_\_  
Notary Public  
 Qualified Albany County  
 TIME ENDED 10:30 Day 1  
 J-mm. 92 3/20/92

\*The form need be sworn to only when specifically required by the court.

Example 8.3. Sworn Statement of Veterinarian (1of2)

Example 8

STATEMENT CONTINUATION SHEET

PAGE 2 OF 2 PAGES

NAME: Ta...

DATE April 6, 19...

#2 Appaloosa roan mare 9-10 yrs old  
(due to frost in 3 months) very thin, poor haircoat,  
feet overgrown

All the following horses were malnourished,  
in poor haircoat, thin; all the horses' feet  
were overgrown and neglected.

#3 Black & white Appaloosa gelding 10 yrs old.

#4 Palomino gelding 10 yrs old.

#5 Buckskin mare 10 yrs old.

#6 Walnut Quarterhorse gelding 9 yrs old.

~~Signature [Redacted] & Title [Redacted]~~

Example 8.3. Sworn Statement of Veterinarian (2of2)

*Example 8*

## SEARCH WARRANT

STATE OF NEW YORK: COUNTY OF [REDACTED]  
 JUSTICE COURT: TOWN OF [REDACTED]  
 HON [REDACTED] ISSUING JUSTICE

-----

IN THE MATTER OF THE APPLICATION OF  
 [REDACTED], A NEW YORK STATE TROOPER,  
 NYS POLICE [REDACTED], NEW YORK, FOR A  
 WARRANT AUTHORIZING THE SEARCH AND  
 SEIZURE UPON THE FOLLOWING PREMISES:

[REDACTED] PROPERTY LOCATED ON  
 ( [REDACTED] ), N.Y.  
 AND BEING FURTHER DESCRIBED AS A  
 TWO STORY LOG CABIN WITH A 34ft x 34ft  
 WOOD BARN LOCATED BEHIND THE HOUSE AND  
 HAVING A DIRT DRIVEWAY WITH A METAL  
 GATE. SAID PROPERTY BEING LOCATED ON  
 THE EAST SIDE OF [REDACTED]  
 APPROX. ONE HALF [REDACTED]  
 RD. [REDACTED]

-----

TO: THE NEW YORK STATE POLICE, ANY OFFICER OR EMPLOYEE OF THE  
 [REDACTED] ANIMAL SHELTER.

You are hereby directed to search for and where practical seize  
 the following property and evidence : horses, animals, carcasses,  
 feed, animal excrement.

You are authorized and directed to search the following  
 property: THE BARN LOCATED BEHIND THE RESIDENCE OF [REDACTED]  
 OF [REDACTED], [REDACTED]. BEING FURTHER DESCRIBED  
 AS A 34ft x 34ft STRUCTURE MADE OF WOOD AND HAVING SLIDING WOODEN  
 DOORS ON THE FRONT AND REAR OF THE STRUCTURE.

This warrant must be executed between the hours of 6:00AM and  
 9:00PM.

This warrant must be executed not more than ten (10) days  
 after the date of its issuance and any property seized pursuant hereto  
 shall be returned and delivered to the court, without unnecessary  
 delay.

DATED: April 4 19[REDACTED]

[REDACTED SIGNATURE]



Example 8

SEAL 3 REV. 5/88 INFORMATION/COMPLAINT

STATE OF NEW YORK COUNTY OF [redacted]
Town COURT Town OF [redacted]

THE PEOPLE OF THE STATE OF NEW YORK
-vs-
[redacted] DOB [redacted]
Defendant(s)
[INFORMATION] [COMPLAINT]

BE IT KNOWN THAT, by this [Information] [Complaint], [redacted] as the Complainant herein, [stationed] [residing] at [redacted] accuses the above mentioned Defendant(s), with having committed the [violation] [misdemeanor] [felony] of Failure to Provide Proper Sustenance - 6 counts, in violation of Section 353 Subdivision of the Agriculture & Markets Law of the State of New York.

That on or about the 1 day of April, 19[redacted], at [redacted] in the Town of [redacted], County of Rensselaer, the Defendant(s) did [intentionally,] [knowingly,] [recklessly,] [with criminal negligence,] and unlawfully,

Commit the crime of Failure to provide proper sustenance - cruelty to animals. A person person who deprives any animal of necessary food or drink or neglects to furnish it with such necessary food or drink or sustenance or in any way furthers any act of cruelty to any animal is guilty of a misdemeanor; to wit; at the aforementioned time/date and at the residence/farm of [redacted] of [redacted], the defendant did fail to provide proper food, water and sustenance to six horses, all contrary to the provisions of the statute provided herein.

The above allegations of fact are made by the Complainant herein [redacted] upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of [redacted].

[WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant(s).]
-OR-
[redacted] Defendant(s), directing [him] [her] [them] to appear before [redacted] the day of [redacted], 19[redacted].

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL § 210.45)

Affirmed under penalty of perjury this 4th day of April, 19[redacted].

[redacted signature]
COMPLAINANT

Subscribed and Sworn to before me this [redacted] day of [redacted], 19[redacted].

[ ] - STRIKE OUT ANY WORDS THAT DO NOT APPLY

## ***Example 9***

### ***Transporting Animals in a Cruel Manner***

#### **The Complaint**

City police officers on routine patrol came across a man selling baby calves from the back of his hatchback to people on a street. Upon seeing the police, the man shoved the calf he had in his arms back into the hatchback and closed the hatch door shut.

#### **The Response**

1. The police told the man to open the hatch door, and there they discovered three young calves stuffed under a cloth hatch cover.
13. The animals were struggling to get free. The sun was hot, and the animals in addition to being cruelly stuffed into the small area were not getting any air. The young calves looked dazed.
14. Police called the local humane agency for assistance to remove the calves.
15. Police arrested the man.

#### **Charges Brought**

The individual involved was charged with violations of Article 26 Sections 353 and 359 of the Agriculture & Markets Law.

#### **Supporting Documents Follow**

- Information 1
- Information 2

Example 9

STATE OF NEW YORK

CITY COURT CRIMINAL PART

THE PEOPLE OF THE STATE OF NEW YORK

-vs.-

(THREE COUNTS)

Defendant(s)

CITY OF

( INFORMATION )

( MISDEMEANOR COMPLAINT )

( FELONY COMPLAINT )

INC.# 95-12345677

By this [Information] [Complaint] Police Officer

the Complainant, [Stationed] [Residing] at Police Dept./Directed Patrol Unit

accuses

the Defendant(s), of committing:

CARRYING ANIMAL IN A CRUEL MANNER in violation of Section 359(1) of the Agriculture and Markets Law of the State of New York, a MISDEMEANOR, in that the defendant(s), on or about / between:

TIME: 8:00 PM

DATE: 07/22/

LOCATION:

in the City of , County of , State of New York, (1) a person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhumane manner, or so as to produce torture, is guilty of a Misdemeanor, punishable by imprisonment of not more than one year, or by a fine of not more than one thousand dollars, or by both.

TO WIT: At the aforesaid time, date, and place the defendant(s) did have in his possession and under his control, within a 1985 Chevrolet Citation (NY Reg#: , three (3) holstein calves which were contained in the trunk of said vehicle with the hatch shut limiting their air supply. Said animals were transported in such manner for a distance of over 35 miles and for a time period of over 12 hours. At the time of discovery, said animals were panting and acting in a dazed and confused manner.

THE SOURCES OF THE DEPONENT'S INFORMATION AND THE GROUNDS FOR HIS BELIEF ARE ORAL STATEMENTS MADE TO DEPONENT BY THE DEFENDANT THAT HE COMMITTED THE FOREGOING ACTS AT THE TIME, PLACE AND IN THE MANNER ABOVE SET FORTH; AND/OR FROM INFORMATION OBTAINED FROM WITNESSES WHOSE DEPOSITIONS ARE ATTACHED HERETO AND MADE A PART HEREOF.

AFFIRMED UNDER PENALTY OF PERJURY this 22 day of July, 1995

OR

SUBSCRIBED AND SWORN TO BEFORE ME this day of , 19

Commissioner of Deeds

Complainant

FALSE STATEMENTS CONTAINED HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK.

*Example 9*

STATE OF NEW YORK

COUNTY OF [REDACTED]

[REDACTED] CITY COURT CRIMINAL PART

CITY OF [REDACTED]

-----  
THE PEOPLE OF THE STATE OF NEW YORK

-vs.-

( INFORMATION )

( MISDEMEANOR COMPLAINT )

( FELONY COMPLAINT )

(THREE COUNTS)

Defendant(s)

INC.# 95-12345678

-----  
By this [Information] [Complaint] Police Officer [REDACTED]

the Complainant, [Stationed] [Residing] at [REDACTED] Police Dept./Directed Patrol Unit

accuses [REDACTED]

the Defendant(s), of committing:

OVERDRIVING, TORTURING AND INJURING ANIMALS: FAILURE TO PROVIDE PROPER SUSTENANCE in violation of Section 353 of the Agriculture and Markets Law of the State of New York, a MISDEMEANOR in that the defendant(s), on or about / between;

TIME: 8:00 PM

DATE: 07/22/95

LOCATION: IFO [REDACTED]

in the City of [REDACTED], County of [REDACTED], State of New York, A person who overdrives, tortures or cruelly beats or unjustifiably injures, maims, mutilates, or kills any animal, whether wild or tame, and whether belonging to himself or another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act or cruelty to any animal, or any act tending to produce such cruelty, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

TO WIT: At the aforesaid time, date, and place the defendant(s) did have in his possession and under his control, within a 1985 Chevrolet Citation (NY Reg#: [REDACTED]), three (3) holstein calves which were contained in the trunk of said vehicle with the hatch shut limiting their air supply. Said animals were transported in such manner for a distance of over 35 miles and for a time period of over 12 hours. At the time of discovery, said animals were panting and acting in a dazed and confused manner.

THE SOURCES OF THE DEPONENT'S INFORMATION AND THE GROUNDS FOR HIS BELIEF ARE ORAL STATEMENTS MADE TO DEPONENT BY THE DEFENDANT THAT HE COMMITTED THE FOREGOING ACTS AT THE TIME, PLACE AND IN THE MANNER ABOVE SET FORTH; AND/OR FROM INFORMATION OBTAINED FROM WITNESSES WHOSE DEPOSITIONS ARE ATTACHED HERETO AND MADE A PART HEREOF.

AFFIRMED UNDER PENALTY OF PERJURY  
this 22 day of July, 1995

\_\_\_\_\_  
Complainant

OR

SUBSCRIBED AND SWORN TO BEFORE ME  
this      day of     , 19    

FALSE STATEMENTS CONTAINED HEREIN ARE PUNISHABLE  
AS A CLASS A MISDEMEANOR PURSUANT TO SECTION  
210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK.

\_\_\_\_\_  
Commissioner of Deeds

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## **Animals in Hot Car**

### **Overview**

This is a common problem in the warm months and can happen with any animal, but generally involves dogs. People take their animal along for a ride. They go into a store and forget the time, leaving the animal in the

hot sun with the car windows closed or opened just a crack. The animal soon is at the point of death from heat exhaustion.

### **✓ Things to be aware of when investigating**

Generally, the animal will be desperate, clawing at the window, trying to get out. It will be panting hard with its tongue hanging out struggling to breathe. In some cases, the animal may be lying on the seat, exhausted, beyond fighting for its life.

### **✓ What to do**

If in your judgment the animal will die if not removed immediately, consider doing the following:

1. If you have exigent circumstances involving an animal suffering from heat exhaustion, such as a dog in a hot car, do whatever is necessary (such as breaking the window) to remove the animal from the circumstances immediately.
16. Agriculture & Markets, Article 26, Section 353-D, states, "Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, peace officer acting as an agent of a duly incorporated humane society, emergency 13 medical services personnel, paid firefighter, or volunteer firefighter who in the performance of such volunteer firefighter's duties are directed to respond to a call for assistance for such animal may take necessary steps to remove the animal or animals from the vehicle."
2. Get the animal into the shade. Have someone get wet towels and cool water. Have the animal taken to the veterinarian, if necessary.
3. Determine who the owner is and interview him to determine if he should be charged with a violation of Section 353 of the Agriculture & Markets Law.

### **Example of situation follows**

10. Animals in Hot Car

## ***Example 10***

### ***Animals in Hot Car***

#### **The Complaint**

A store employee called the local humane agency and reported that two dogs were in a car in a store parking lot in hot sun. He said he had seen the car there several times before with the dogs in it.

#### **The Response**

1. The investigator responded and found the car in the hot sun with two dogs inside. The windows were up, and the dogs were panting very heavily. Their behavior indicated that they were in immediate danger of dying (exigent circumstances).
2. He took photographs of the dogs in the car.
3. He tried the door and found it to be unlocked. With the store keeper as a witness, he secured the dogs using leashes and removed them from the car. (He would have broken the windows had the doors been locked.) Agriculture & Markets, Article 26, Section 353-D, states, "Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, peace officer acting as an agent of a duly incorporated humane society, emergency 13 medical services personnel, paid firefighter, or volunteer firefighter who in the performance of such volunteer firefighter's duties are directed to respond to a call for assistance for such animal may take necessary steps to remove the animal or animals from the vehicle."
4. He moved them to a shaded area and had the store keeper bring water to cool the animals. He poured some of the water over the dogs and gave them some to drink.
5. The owners returned and expressed great concern for the dogs. They said that the family had lost their home and were currently living out of the car, but planned to get an apartment.

#### **Charges Brought**

Because of the extenuating circumstances and the concern of the owners, the investigator chose not to charge them, but instead worked out an agreement whereby the owners agreed to leave the dogs in the care of the humane society until they found an apartment.

#### **Supporting Documents Follow**

Not available

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## Physical Abuse

### Overview

The reasons that people beat animals vary.

45. A person may be angry at a dog for digging up the yard and begin beating him.
46. A person may take out his or her own frustrations or anger out on an animal by kicking it, shooting it, or hitting it with an object.
47. In more sinister cases, sometimes involving drug dealers, the person may be beating a dog to "make it mean" because he thinks he can use the animal or sell it as a guard dog.

The abuse varies in degree and severity of results, but any kind of abuse is illegal.

### ✓ Things to be aware of when investigating

If the person is still beating the animal when you arrive, the situation is obvious. In other cases, by the time you arrive, the beating may have stopped. The animal may have marks, welts, or blood on him. He may be limping or whimpering, or a combination of these things.

### ✓ What to do

1. If you see the beating still going on when you arrive, it has been our experience that you should consider entering the property because a crime is being committed and exigent circumstances exist, based on Section 371 of the Agriculture & Markets Law. See the "Key Concepts" discussion in Chapter 1, "Be Prepared Ahead of Time."
  - a. Seize the animal for evidence and medical treatment. Call the dog control officer or humane agency to take the animal to a veterinarian.
  - b. Obtain a signed statement from the veterinarian as to the condition of the animal.
  - c. Take photographs of the animal for evidence.
  - d. You can charge the person with animal cruelty under Section 353 of Section 26 of the Agriculture & Markets Law or under Section 353-a, felony animal cruelty, or both.

OR

2. If, when you arrive, you do not see the animal or the person who was reportedly doing the beating, consider doing the following:
  - a. Obtain statements from any witnesses or neighbors who may have witnessed the beating.
  - b. Find the person who was reportedly doing the beating and examine the animal.

- c. If the person does not allow you to see the animal, but you have a signed statement from a witness, or you have seen some evidence that makes you believe the animal has been beaten, or both, you can obtain a search warrant to seize the animal.
- d. If when you execute the search warrant, you find the animal has been beaten, call the humane society or animal control and have them take the animal to a veterinarian.
- e. Take photographs of the animal at the scene and/or at the veterinarian's office. Obtain a signed statement from the veterinarian indicating that the animal has been beaten and the animal's condition.
- f. You can charge the person with animal cruelty under Section 353 of the Agriculture & Markets Law or under Section 353-a, felony animal cruelty, or both.

**NOTE:** *With regard to dogs, exercise caution if you arrest the individual at the scene, as a dog may attack an officer who is arresting its owner.*

**Example of situation follows**

11. Physical Abuse



## ***Example 11***

### ***Physical Abuse***

#### **The Complaint**

A complainant called the local humane agency and reported that an individual who lived nearby had kicked a neighborhood cat. The complainant added that this was not the first time this individual had kicked the cat.

#### **The Response**

1. The investigator investigated the complaint and interviewed the complainant who stated that he saw the individual kick a cat from his (the individual's) front porch. The cat landed on the sidewalk. The complainant stated that he had told the individual not to do this. The individual responded by saying that the cat's owners should keep the cat at home and that the complainant could call someone if he wanted to. The cat did not appear to be in need of veterinary care.
2. The complainant signed a statement relating these facts to the investigator.
3. Based on signed complaint, the investigator went to the individual's house and issued him an appearance ticket.

#### **Charges Brought**

The individual involved was charged with a violation of Article 26 Section 353 of the Agriculture & Markets Law. Had the cat been seriously injured, the individual could have been charged with 353-a, Felony Animal Cruelty.

#### **Supporting Documents Follow**

- Deposition
- Appearance Ticket
- Information

Example 11

SUPPORTING DEPOSITION  
GENERAL C.P.L. 100.20

STATE OF NEW YORK COUNTY OF [REDACTED]  
JUSTICE COURT TOWN OF [REDACTED]

The People of the State of New York  
against  
[REDACTED]  
Defendant

Supporting Deposition  
General

I, \_\_\_\_\_, residing  
at \_\_\_\_\_  
[REDACTED]

by this Supporting Deposition, makes the following allegations of fact in connection  
with an accusatory instrument filed, or to be filed, with this court against the above  
named defendant (s):

ON MARCH [REDACTED] AT ABOUT 11<sup>30</sup>  
AM  
LONDON ON  
Kicked Black & white cat Rowley from his front porch AND side WITH  
I CALLED OVER AND SAID NOT TO DO THIS. HIS SAID FOR THE PEOPLE  
TO KEEP HIM HOME. WAS TAKING IN HIS GROCERIES, AND  
THE CAT WAS IN HIS WAY. HE TOLD ME TO CALL SOMEONE IF I WANTED  
to  
ON MARCH 22<sup>ND</sup> ABOUT 4<sup>30</sup> PM HE KICKED AND ~~HE~~ RAN AFTER THE  
CAT UPON COMING HOME. HIS WIFE AND DOG CAME OUT THE DOOR. SHE PICKED  
ROWLEY UP AND PUT HIM DOWN AND CLOSED THE DOOR.  
Towards the Bush THAT HAS EGGS ON.

The foregoing factual allegations are based upon personal knowledge of the deponent  
(and upon information and belief, the sources of deponent's information and belief being,

Example 11

**HUMANE LAW ENFORCEMENT DIVISION**  
**APPEARANCE TICKET**

**1008**

Agriculture and Markets  
Article 26  
DEFENDANT

Address: [Redacted] City: [Redacted] State: NY Zip Code: 12601 Animal Type: CHAT License No.: [Redacted] Sex: M

Phone No.: 518 9222

You are hereby directed to appear before Presiding Judge or Justice [Redacted] at [Redacted] Court, [Redacted] N.Y., on Nov. 3. 27. at 4 PM M. Defendant accused of the offense of ABUSE TO AN ANIMAL a violation of Section 353 Sub. [Redacted] of Article 26, Agriculture and Markets Law committed on 3/23/00 at 1130 AM at [Redacted] in the TOWN of [Redacted] County, N.Y.

OFFICER'S NAME, TITLE & I.D. NO. [Redacted] Date: 3/23/00 Officer's Signature: [Redacted]

NOTE: 1. YOUR FAILURE TO APPEAR MAY RESULT IN A WARRANT OF YOUR ARREST.  
2. A PLEA OF GUILTY TO THIS CHARGE IS EQUIVALENT TO A CONVICTION AFTER TRIAL.

CODE:  
WHITE - Defendant's Copy  
CANARY - Officer's Copy  
PINK - Court Copy

Example 11.2. Appearance Ticket

Example 11

APRIL 10<sup>TH</sup>

ACCUSATORY INSTRUMENT INFORMATION — GENERAL C.P.L. 100.15 FORM NO. 256 WILLIAMSON LAW BOOK CO., ROCHESTER, N. Y. 14607

STATE OF NEW YORK : COUNTY OF [REDACTED] JUSTICE COURT TOWN OF [REDACTED]

The People of the State of New York against

Information

Defendant

[REDACTED] HUMANES LAW OFFICER, residing at [REDACTED] [REDACTED] [REDACTED] information makes written accusation as follows:

That [REDACTED] on the 23<sup>RD</sup> day of [REDACTED], 19 [REDACTED], at [REDACTED] in the TOWN of [REDACTED]

County of Dutchess, New York, did commit the offense of overdriving, torturing and injuring animals: Failure to provide proper sustenance, a (misdemeanor) (violation) in violation of Section 353

of the Ag & Market Law Law of the State of New York, in that (s)he did, at the aforesaid time and place\*

Count One: A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, is guilty of a misdemeanor.

The facts upon which this information is based are as follows:

BY SUPPORTING DEPOSITION OF OR

Example 11.3. Information

---

## **Abandoned Animals**

### **Overview**

Rather than take the time to find their animal a decent home or take it to the local animal shelter, some people abandon it when they move. This problem occurs in vacation rentals and college dorms as well.

You may receive a call from a concerned neighbor that people have moved away, but the neighbor hears an animal inside. You may receive a call from a landlord who discovers that an animal has been left after the tenants have moved.

### **✓ Things to be aware of when investigating**

If possible, look in the windows of the property to see if you can see the animal and determine its condition. Food or water dishes may not be available to the animal, or they may be overturned. Feces may cover the floor. The animal may be tied to a chair or table. There may be no furniture in the unit. Take photographs of these conditions if possible.

### **✓ What to do**

See the discussion on "Abandonment" in Chapter 3: "Investigating an Animal Cruelty Complaint" for an explanation of how to proceed in these cases.

### **Examples of various situations follow**

12. Abandoned Animals: Animal Abandoned in Apartment
13. Abandoned Animals: Animal Abandoned in Rented House
14. Abandoned Animals: Animal Abandoned in Owned Trailer
15. Abandoned Animals: Inside and Outside

## ***Example 12***

### ***Abandoned Animals: Animal Abandoned in Apartment***

#### **The Complaint**

A landlord called the local humane society and reported that a tenant had moved away approximately a month before. The tenant had left her dog in the apartment, but had been coming back to feed it. Now, however, the tenant had not returned for ten days.

#### **The Response**

1. The investigator went to the premises and looked through a window and did not see any signs of food or water. In addition, the furnishings of the apartment were torn up and feces and urine were all over. It was clear that the dog had been left for some time.
2. Based on exigent circumstances, the investigator asked the landlord for permission to enter the apartment. It was granted, and the investigator and staff from the animal rescue unit of the humane society entered the apartment and removed the dog.
3. The investigator took photographs of the dog and the conditions in the apartment.
4. A notice was left on the door informing the former tenant of the seizure and how to contact the humane society.
5. The dog was taken to the humane society and examined by a veterinarian.
6. The former tenant called the humane society about the dog and met with the investigator who issued her a Summons to Appear. After discussing the state of the animal, the tenant agreed to surrender the animal.

#### **Charges Brought**

The individual involved was charged with a violation of Article 26 Section 353 of the Agriculture & Markets Law. The individual could have been charged with 355 (Abandonment) as well.

#### **Supporting Documents Follow**

- Report of complaint investigation
- Information (which contains a Summons portion)

**Example 12**

## THE AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

Report of complaint investigation

who-what-where-when-why &amp; how

TIME 1:20 to 2:05 CASE # [REDACTED] DATE [REDACTED]LOCATION TWO FAMILY PRIVATE HOUSE IN RESIDENTIAL AREA  
DOG BLACK FEMALE ROTTWEILER ABOUT ONE YEAR OLD NAMED [REDACTED]

I met with the complaint in this case at [REDACTED] Ave [REDACTED]. He is the owner of [REDACTED] Ave where the subject resides. he stated the subject [REDACTED] had rented the ground floor apartment and moved away approximately one month ago. Subjects had left her dog in the apartment but was coming back to feed it. The owner stated he had not seen anyone at the apartment for the last ten days. Through an open window I viewed the apartment and saw no sign of food or water. The furnishings in the apartment were ripped and torn with feces and urine through the apartment. The owner signed a permission to enter form and along with Animal Rescue I entered and removed the dog. Intake # [REDACTED] dog placed on hold for HLE. A Notice To Comply was taped to the door informing subjects of the seizure and how to contact the undersigned. Dog removed to Brooklyn Shelter with a request for a vet statement.

[REDACTED]  
Special Agent

Badge # [REDACTED]

## CRUELTY COMPLAINT

Date Received: 05/06/9[REDACTED]

Date Assigned: 05/09/9[REDACTED]

RECEIVED BY:

ASSIGNED TO:  
Agent

Case Number: [REDACTED]

COMPLAINANT INFORMATION  
=====[REDACTED]  
H : (718) [REDACTED]  
W :SUBJECT INFORMATION  
=====[REDACTED]  
X-St:COMPLAINT:  
=====Dog locked in abandoned apartment  
without food.ADDITIONAL INFORMATION  
=====Complainant can allow access to the  
rottweiler.VIOLATION:  
=====

10-19 Animal Abuse Investigation

*Example 12*

5-15-94

Subject called HLE office requesting information on her dog. An appointment was made to meet with her at her job [REDACTED] and [REDACTED] on 5-17-94

Special Agent

Badge #

5-17-94

Meet with subject at her place of employment [REDACTED] Hospital. I issued one Summons # [REDACTED] for Cruelty to Animals returnable to Queens Criminal Court on 8-31-94

Special Agent

Badge #

8-31-94

Queens Criminal Court part AR-1, spoke with Assistant District Attorney assigned and agreed to Acquittal in Contemplating Dismissal (ACD) if the Defendant agreed to sign the dog over to the ASPCA

The Defendant agreed and signed the dog over on Intake # [REDACTED]

Special Agent

Badge #



### Example 12

**CRIMINAL COURT INFORMATION (DESCRIBE OFFENSE)**

ATPD DenFent Did Leave Dog In  
house confined for 5 days without food  
exercise and Bad sanitary conditions. An-  
act tending to produce cruelty

I PERSONALLY OBSERVED THE COMMISSION OF THE OFFENSE CHARGED HEREIN. FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW. AFFIRMED UNDER PENALTY OF PERJURY.

5-26- [Signature]  
 Date Signature

**PLEA**

Defendant pleads Guilty Not Guilty

Date Judge

**ADJOURNMENTS**

1  
 2  
 3

**TRIAL**

Defendant tried and found Guilty Not Guilty

Date Judge

**SENTENCE**

Fine: \$ \_\_\_\_\_ or in default of payment imprisonment for \_\_\_\_\_ days

Imprisonment for a term of \_\_\_\_\_

Date Judge

**CASH REGISTER IMPRINT**

Copy of Notice of Violation COMPLAINT/INFORMATION The People of the State of New York

118699403 4 1994892

Last Name First Name Initial

Street Address 54 10th

City (See above) State NY Zip Code 11557

LICENSE OR ID NUMBER NY B Date Expires 01/22/2008 Sex F Date of Birth 01/22/1968 Operator Owns Van  Yes  No

OWNER OF THE VEHICLE BEARING LICENSE

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time of Occurrence 8:45 AM Date of Occurrence 7/20/08 Place of Occurrence 105

VIOLATION OF CODE Time Reg VTL Act of Code

Sec 353 Cruelty to Animals

Other Violation

Expired Meter

Speeding

Description of Traffic Violation: Fines Shown Above

City:  Albany  Queens  Manhattan  Brooklyn  Richmond  Westchester

County Court Offense including Traffic Misdeemeanor COMPLETE INFORMATION ON REVERSE SIDE

Ⓢ CRUELTY TO ANIMALS

Schedule Fine: \$100 \$150 \$200 \$250 \$300 \$350 \$400

The person described above is summoned to appear at CRIMINAL COURT

Summons By: County

Located at: [Redacted]

20 July 08 at 08:00 AM

Signature of Complainant: [Redacted]

Signature of Defendant: [Redacted]

Complainant's Name printed: [Redacted]

City: [Redacted] State: NY Zip: 11557

Example 12.2. Information (which contains a Summons portion)

### ***Example 13***

#### ***Abandoned Animals: Animal Abandoned in Rented House***

##### **The Complaint**

A landlord called the local humane agency and reported that a tenant had moved three days before and left a dog in the basement of the building. No one had come to feed it.

##### **The Response**

1. The investigator interviewed the landlord and took photographs of the dog and the conditions in the basement.
  
17. Because of his observations and the landlord's statements, the investigator removed the dog to the animal shelter.
  
18. The landlord gave the investigator the tenant's new address.
  
19. The investigator located the individual and interviewed him. The individual stated that he had moved a few days before. When asked who was responsible for feeding the dog, the individual said, "No one."
  
20. The investigator issued the individual an appearance ticket.

##### **Charges Brought**

The individual involved was charged with a violation of Article 26 Section 355 of the Agriculture & Markets Law. (The individual could also have been charged with a violation of Section 353 as well for failure to provide food and water to the dog.)

##### **Supporting Documents Follow**

- Deposition of Investigator
- Evidence Sheet
- Appearance Ticket
- Information

### Example 13

S.P.C.A. HUMANE LAW ENFORCEMENT

SUPPORTING DEPOSITION  
SEC. 100.20 CPL ~~Check X with State of New York~~

STATE OF NEW YORK )  
County of \_\_\_\_\_ )  
Town of \_\_\_\_\_ of \_\_\_\_\_ )

On	5/3/95	at	10:37	DAM	I.	FULL NAME	DATE OF BIRTH
NO. & STREET	Po Box						2/19/66
							STATE
							NY

state the following: That on or about April 26, 1995 @ about 12:05 pm the SPCA received a call from a Mr. [redacted] from [redacted] St. City of Kings [redacted] When I arrived @ the residence I met Mr. [redacted] outside. He stated that a dog, 1 "Pitbull brown" had been left in the basement for 3 days now. The owner had moved out & left it behind. The dog was removed & brought to the SPCA

NOTICE: False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

\*Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_

[redacted] *SPCA*  
(SIGNATURE OF DEPONENT)

\_\_\_\_\_  
(WITNESS)

\_\_\_\_\_  
(NAME OF PERSON TAKING DEPOSITION)

TIME ENDED	DAM
10:56	PM

\*NOTE: THIS FORM NEED BE SWORN ONLY IF COURT SPECIFICALLY REQUIRES OATH.

Example 13.1. Deposition of Investigator

Example 13

STATE OF NEW YORK

COUNTY OF [REDACTED]

City OF [REDACTED]

JUSTICE COURT

DATE: - 4/28/9 [REDACTED]

CASE #: 95 [REDACTED]

THE PEOPLE OF THE STATE OF NEW YORK

-against-

PLEASE TAKE NOTICE, pursuant to Section 710.30 of the Criminal Procedure Law, that during the trial of the above named matter, the People intend to offer evidence of statement (s) made by the defendant to a public servant,

TO WIT: " I moved out a few days ago "

when asked who's feeding dog those few days he said " No one " "I had to move so I left him there"

[REDACTED]  
PEACE OFFICER  
SPCA

[REDACTED] NY [REDACTED]

Example 13

**APPEARANCE TICKET**  
C.P.L. 150.10 48156

YOU ARE HEREBY NOTIFIED TO APPEAR PERSONALLY IN THE

<p><b>██████████ COUNTY S.P.C.A.</b> <b>HUMANE LAY/ ENFORCEMENT</b></p> <p>TO: LAST NAME ██████████ FIRST ██████████ INITIAL ██████████        STREET ADDRESS ██████████ Ave        CITY ██████████ STATE NY ZIP 12501        IDENTIFICATION NO. ██████████        DATE OF BIRTH ██████████</p> <p><b>PRE - ARRAIGNMENT BAIL</b></p> <p>PRE - ARRAIGNMENT BAIL IS FIXED IN THE FOLLOWING AMOUNT ██████████ RECEIPT WHEREOF IS HEREBY ACKNOWLEDGED AND THE PERSON ARRESTED HEREIN IS RELEASED FROM CUSTODY TO APPEAR AS HEREIN DIRECTED.</p> <p><b>NOTICE:</b> IF YOU DO NOT APPEAR AS DIRECTED, A WARRANT FOR YOUR ARREST MAY BE ISSUED.</p> <p>AUTHORIZED OFFICER ██████████        DEPT. &amp; DIV. ██████████        UPON YOUR FAILURE TO APPEAR AS HEREIN DIRECTED, THE BAIL POSTED WILL BE FORFEITED.</p>	<p>CITY COURT ██████████ OF ██████████        1 GACCASHAN DRIVE        ██████████ NY 12161</p> <p>ON <u>Monday</u> 19 <u>98</u> AT <u>9:30 A.M.</u>        TO ANSWER A CHARGE OF <u>Cruelty to Animals</u>        AN OFFENSE</p> <p>COMMITTED IN <u>CITY</u> TOWN/VILLAGE OF ██████████ NEW YORK</p> <p>ON THE <u>26</u> DAY OF <u>April</u> 19 <u>98</u> AT <u>12:05</u> P.M.        IN VIOLATION OF SECTION <u>355</u> SUB-DIVISION        OF THE <u>Vehicle &amp; Traffic</u> LAW OF THE STATE OF NEW YORK</p> <p>ISSUED THIS <u>27</u> DAY OF <u>May</u> 19 <u>98</u></p> <p>██████████ OFFICER'S SIGNATURE        OFFICER'S IDENTIFICATION NO. ██████████</p>
--	--

POLICE AGENCY COPY

**DISPOSITION:** UPON YOUR FAILURE TO APPEAR AS ABOVE DIRECTED, A WARRANT FOR YOUR ARREST MAY BE ISSUED.

Example 13.3. Appearance Ticket

Example 13

STATE OF NEW YORK COUNTY OF [REDACTED]  
 City COURT City OF [REDACTED]  
 THE PEOPLE OF THE STATE OF NEW YORK  
 -VS-  
 [REDACTED]  
 Defendant(s)

BE IT KNOWN THAT, by this information, I [REDACTED] as the Complainant herein, stationed at [REDACTED] County S.P.C.A. accuses [REDACTED] the above mentioned Defendant(s), with having committed the Misdemeanor of Abandonment of an Animal, in violation of Section 355 Subdivision of the AGRICULTURE & MARKET Law of the State of New York.

That on or about the 26 day of April, 1995, at about 1205 (a.m.) (P.M.) in the City of [REDACTED], County of [REDACTED], the Defendant(s) did ~~( )~~ intentionally, ~~( )~~ knowingly, and unlawfully,

COMMIT THE MISDEMEANOR OF Abandonment of ~~FAILING TO PROVIDE PROPER SUSTENANCE TO AN ANIMAL BELONGING TO HIM/HER SELF OR ANOTHER, TO WIT,~~ did move out of his residence and leave behind his pitbull without

ALL CONTRARY TO THE PROVISIONS OF THE AGRICULTURE & MARKETS LAW IN SUCH CASE MADE AND PROVIDED. THE ABOVE SAID FACTUAL ALLEGATIONS ARE MADE OF YOUR DEPONENT PERSONAL KNOWLEDGE DURING THE INVESTIGATION CONDUCTED BY YOUR DEPONENT, A HUMANE AGENT EMPLOYED BY THE [REDACTED] COUNTY S.P.C.A. and or upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of [REDACTED].

(WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant(s).)

(WHEREAS, an Appearance Ticket was issued to the said Defendant(s), Directing, (X)him ( )her ( )them to appear before this Court at 9:30 (a.m.) ( )p.m., on the 10 day of May, 1995.)

In a written instrument, any person who knowingly makes false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL§210.45)

Subscribed and Sworn to before me this [REDACTED] day of [REDACTED], 19 [REDACTED] COMPLAINANT

## ***Example 14***

### ***Abandoned Animals: Animal Abandoned in Owned Trailer***

#### **The Complaint**

A complainant called the local humane agency during the winter and reported that an animal was abandoned in a house trailer.

#### **The Response**

1. The investigator went to the premises and saw a dog inside the trailer. It appeared as though no one had been on the premises for some time. There were no tire tracks or foot prints in the snow.
21. The investigator left a card in the door, so if the door were opened, the card would fall out. The card instructed the owner to call the humane society.
22. The investigator returned the next day. The card had not been removed, nor were there any other foot prints in the snow.
23. Based on the circumstances, the investigator applied for a search warrant, citing Violations of Sections 353 and 355 of the Agriculture & Markets Law.
24. The county sheriff's department executed the warrant, and humane society investigators removed the dog to the animal shelter.

#### **Charges Brought**

The individual responsible was not found.

#### **Supporting Documents Follow**

- Complaint
- Deposition of Investigator
- Application for Search Warrant
- Search Warrant

Example 14

STATE OF NEW YORK, COUNTY ANIMAL CONTROL, LAW ENFORCEMENT

No. 94-

Complaint made by \_\_\_\_\_ Date 12/2/94 Time \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_

Against \_\_\_\_\_ RD Box \_\_\_\_\_ on silver mailbox 9.5A Address & Directions \_\_\_\_\_

9W + \_\_\_\_\_ @ \_\_\_\_\_ go @ 5mi in on \_\_\_\_\_ Property on For sale sign NYC phone # on sign. Name on mailbox Trailer - off white - overgrown property

Defendant's Phone \_\_\_\_\_

Allegations 1 dog abandoned in mobile home

Investigation Chronology 12/6/94 1:20 Old black dog seen inside trailer. No obvious signs of any activity @ residence. Left card. Electric

White dilapidated trailer w/ beige shutters + black trim - old falling down wood + wire fencing to R of trailer \_\_\_\_\_ on R of \_\_\_\_\_ 1/2 m. or @ from 44'55. Overgrown 12/7/94 10:40 Card still in door

Example 14.1. Complaint



*Example 14*

## ALLEGATIONS OF FACTS

The following allegations of facts are submitted in support of this application:

The [REDACTED] SPCA received a complaint on [REDACTED] regarding a dog abandoned in a mobile home.

On [REDACTED] at 1:20 pm your deponent and [REDACTED] went as representatives of the [REDACTED] SPCA to the property to investigate the complaint. At that time we observed an older looking black dog in the trailer. There was no obvious indications that any one had been to the property in a while. Our tire tracks were the only ones in the driveway and our foot prints were the only ones there. At that time your deponent placed a yellow card in the door announcing we had been there. It was placed in such a spot so that if the door had been opened the card would have fallen out.

On [REDACTED] at 10:40 am we returned to the property and observed that the card was still there and so was the dog. I believe that it is reasonable to assume that this dog has been abandoned and should be removed from the premises.

Dated this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 19\_\_\_\_

Signed, [REDACTED]  
Cruelty Investigator

*Example 14*

State of New York : County of [REDACTED]

Regarding the Application for Search  
warrants for Certain Designated  
Premises, Persons and /or Vehicles

AFFIDAVIT  
SEARCH WARRANT  
(Sec.690.35 CPL)

State of New York            ))  
County of [REDACTED]        ))     ss:  
Town of [REDACTED]         ))

I, [REDACTED] being duly sworn, deposes and says:  
I am the applicant herein, and I am a public servant of  
the kind specified in Section 690.05(1). my title being  
CRUELTY INVESTIGATOR, and am employed by the [REDACTED] COUNTY  
SPCA.

That there is reasonable cause to believe that certain  
property of a kind and character described in Section 690.10  
of the Criminal Procedure Law of the State of New York,  
specifically described in attachment A, may be found in or  
upon a designated place, person or vehicle.

TO WIT:

Premises located at [REDACTED] Turnpike also known as  
RD#3 Box [REDACTED] on [REDACTED] or County Rt. [REDACTED] in the  
Town of [REDACTED]  
Said property being further described as being a white  
trailer w/ beige shutters and black trim and a run down  
appearance. Said property also has a falling down wood  
and wire fence to the right of the trailer. Said  
property being located on the right side of the road  
[REDACTED] miles from Rt. [REDACTED] and [REDACTED] mile from Hull Ave.  
On the right side of the driveway is a silver mailbox  
with the lettering [REDACTED] and the numbers [REDACTED] and  
RD#3 Box [REDACTED]. On the left side of the driveway is a for  
sale sign with the phone number [REDACTED] on the  
sign.

I make this affidavit in support of an application for a  
Search Warrant to search the premises, persons and /or  
vehicles as described above and to seize the property set  
forth in Attachment A, attached hereto.

Dated this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_, 19\_\_\_\_

signed, [REDACTED]  
Cruelty Investigator

Example 14

SEARCH WARRANT

State of New York	)	Pursuant to section 690.05
County of [redacted]	)	of
Justice Court	)	New York State
Town of [redacted]	)	Criminal Procedure Law

To any Police Officer or Deputy of the [redacted] Co. Sheriff's Department and any humane officer from [redacted] Co. SPCA:

You are hereby authorized and directed to search for and seize the following property:

One black dog abandoned by owner or possessor and found to be without proper sustenance or deemed unhealthy or in unhealthy living conditions.

You are authorized and directed to search the following designated premises, persons, and/or vehicle:

property located at [redacted] Turnpike in the Town of [redacted] also known as RD#3 Box [redacted] on County Rt. [redacted] in the Town of [redacted]. Said property containing a run down looking white trailer with beige shutters and black trim with a wood and wire fence to the right of the trailer. A silver mailbox on the right of the driveway contains lettering [redacted] and numbers [redacted] and RD#3 Box [redacted]. Located to the left of the drive is a For Sale sign with the phone # [redacted] on the sign.

This court hereby directs that any property seized pursuant thereto be returned and safeguarded by the Ulster County SPCA and if ordered, be made accessible to the Court together with such other and further relief that this Court may deem proper.

This warrant to be executed between the hours of 6:00 am and 9:00 pm.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Signed, \_\_\_\_\_  
Title, \_\_\_\_\_

## ***Example 15***

### ***Abandoned Animals: Inside and Outside***

#### **The Complaint**

A complainant called the local humane society during the winter and stated that two dogs at a house trailer appeared to be abandoned. One was inside the trailer and the other was tied to a dog house on the property.

#### **The Response**

1. The investigator went to the residence and found a grey, matted Chow tied to a dog house, with no food in sight and frozen water in a bucket. The other dog was in the trailer.
25. The investigator interviewed a neighbor who stated that the owner had not been around in three weeks and that the owner's children came there on occasion but did not care for the animals.
26. The investigator placed a business card in the door in such a way that it would fall out if anyone opened the door. The investigator provided the outside dog with some food and water.
27. The investigator returned the following day, and the card had not been moved.
28. Based on the fact that it appeared that no one had returned to feed or water the animals in a 24-hour period, the investigator applied for a search warrant to seize the animals.
29. The search warrant was issued. The county sheriff's department executed the search warrant, and along with the humane society entered the property and seized the animals.
30. humane society investigators took photographs of the animals and their surroundings and kept them as evidence for the court case.

#### **Charges Brought**

The individual involved was not found.

#### **Supporting Documents Follow**

- Complaint
- Investigator's Deposition
- Application for Search Warrant
- Search Warrant

Example 15

STATE OF NEW YORK, ██████████ COUNTY  
ANIMAL CONTROL, LAW ENFORCEMENT

No. 95-60

Complaint made by \_\_\_\_\_ Date ████████ Time \_\_\_\_\_

Address \_\_\_\_\_ Phone \_\_\_\_\_

Against ██████████ ██████████ ██████████ ██████████ ██████████

Address & Directions \_\_\_\_\_

Defendant's Phone \_\_\_\_\_

Allegations 2 Dogs tied in corner house / abandoned.  
no one there for three days. no feed.

Investigation Chronology 7-2-95 2:55 PM saw one back  
chew in backyard no food, saw one frozen  
bucket of water left one card on front door  
+ 2 on back doors of house one dog in  
side of house. Neighbor (complainant) will  
call tomorrow - he'll sign deposition. Chew  
looks very thin. Complainant says 'dog bear'  
freeze to death. Temp 37°

*Example 15*

## ALLEGATIONS OF FACTS

The following allegations of facts are submitted in support of this application:

The SPCA received a complaint on 1/31/ that animals at the residence of [REDACTED] were abandoned and not being fed or watered.

On 2/2/ at about 2:50 pm the SPCA went to property to investigate complaint. At that time a grey matted chow was seen in the back yard tied to a dog house - no food seen, water in bucket was frozen solid and dog appeared even with all the mats to be underweight. One dog was seen in the house. Neighbor - [REDACTED] - stopped to speak with us while we were at the residence. She stated that the owner [REDACTED] has not been home in three weeks and that the kids sometime come home but don't care for the animals.

Before we left I placed a card in each of the three doors so if opened the cards would fall out. Ms. [REDACTED] said she went by residence at 9 pm on the 2nd and at 7am on the 3rd of February and the cards had not been removed.

I feel the animals are neglected and should be removed for their own safety.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ Signed, \_\_\_\_\_  
 \_\_\_\_\_, 19\_\_\_\_\_  
 Cruelty Investigator

Notary -

*Example 15*

state of New York : County of [REDACTED]

Regarding the Application for Search  
Warrants for Certain Designated  
Premises, Persons and /or Vehicles

AFFIDAVIT  
SEARCH WARRANT  
(Sec.690.35 CPL)

state of New York            ))  
County of [REDACTED]        ))        ss:  
Town of [REDACTED]         ))

I, [REDACTED] being duly sworn, deposes and says:  
I am the applicant herein, and I am a public servant of  
the kind specified in Section 690.05(1). my title being  
CRUELTY INVESTIGATOR, and am employed by the [REDACTED] COUNTY  
SPCA.

That there is reasonable cause to believe that certain  
property of a kind and character described in Section 690.10  
of the Criminal Procedure Law of the State of New York  
(specifically described in Attachment A )may be found in or  
upon a designated place, person or vehicle.

TO WIT:

Premises in [REDACTED] Trailer Park located off [REDACTED]  
[REDACTED] in the Town of [REDACTED]. Said property being  
the [REDACTED] trailer on the [REDACTED] side of the road entering  
the park. Said property surrounded by a stockade type  
fence. The entrance to the trailer is facing [REDACTED] with a  
wooden porch at the entrance. Said trailer is  
with brown trim.

I make this affidavit in support of an application for a  
Search Warrant to search the premises, persons and /or  
vehicles as described above and to seize the property set  
forth in Exhibit A, attached hereto.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ Signed, \_\_\_\_\_  
\_\_\_\_\_, 19\_\_\_\_  
Cruelty Investigator

Notary -

*Example 15*

## SEARCH WARRANT

State of New York    ))                   Pursuant to Section 690.05  
County of ████████    ))   of  
Justice Court   New York State  
Town of ████████    ))                   Criminal Procedure Law

To any Police Officer or Deputy of the ████████ Co. Sheriff's  
Department and any humane officer from ████████ SPCA:

You are hereby authorized and directed to enter and  
search for and seize the following property:

One Grey Chow dog, one white and brown mix dog and one  
white cat found to be unhealthy, in unhealthy living  
conditions or to have been without proper food or water for a  
twelve hour period of time.

You are authorized and directed to enter and search the  
following designated premises, persons, and/or vehicle:

Property located in ████████ off  
██████ Rd. in the Town of ████████. Said trailer being  
with brown trim, the entrance facing to the ████████ with  
a porch at the front entrance and a stockade type fence  
around the perimeter of the property. Said trailer being the  
first on the right after entering the trailer park.

This court hereby directs that any property seized  
pursuant thereto be returned and safeguarded by the ████████  
County SPCA and if ordered, be made accessible to the Court  
together with such other and further relief that this Court  
may deem proper.

This warrant to be executed between the hours of 6:00 am  
and 9:00 pm.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ Signed, \_\_\_\_\_  
\_\_\_\_\_, 19\_\_\_\_. Title, \_\_\_\_\_



## 5. Special Cases

### Overview

This section discusses complex situations you may encounter in the course of investigating animal cruelty complaints. The objective is to make you aware of these situations and provide you with possible ways to respond to them.

At the end of each discussion are actual case examples, along with related documents (where available). The situations included are:

- [Animal Hoarder](#)
- [Dog Fighting](#)
- [Cock Fighting](#)
- [Animal Crimes Related to Satanic and Other Cults](#)
- [Irresponsible Breeders / Puppy Mills](#)
- [Pet Store Complaints](#)

---

## Animal Hoarder

### Overview

Animal hoarders are people who harbor large numbers of animals and fail to provide them with proper food, water, or medical care. Animal hoarder cases are complicated and require cooperation and coordination among police agencies, veterinarians, and animal shelters.

Normally, this type of case will come to your attention when you receive complaints from persons seeing starving animals and smelling bad odors coming from an individual's property.

For additional information, see the articles on animal hoarders in *Shelter Sense*, a publication of the Humane Society of the United States, in Appendix VI "Articles."

### ✓ Things to be aware of when investigating

When investigating the complaint, you may find large numbers of animals in extremely bad physical condition. In some cases, they may be lacking food, water, and shelter. In other cases, though they may receive some food, they are denied medical care, and as a result, are suffering intensely. Sometimes, all these conditions are present. In general, the conditions will be filthy and the animals overcrowded.

### ✓ What to do

When you investigate this situation and it appears that you have an animal hoarder, consider this approach:

Enlist the aid of the local humane society and veterinarians and coordinate a rescue operation to render aid to the animals humanely euthanizing those that need it, and then depending on the number of animals remaining, consider either:

- **Removing the salvageable animals to selected shelters until the case is adjudicated.** (Advise the agencies that are holding the animals to apply file a petition with the court requesting that the person from whom the animals were seized be ordered to post a security bond to care for the animals while the case is being adjudicated (see Article 26, Section 373 6(a) in Chapter 7, "Various NYS Laws Dealing with Animals").
- **Impounding the remainder on the property.** In some cases, when you have a lack of places to put the animals, you may have to remove the ones in the worst condition and impound the balance on the property.

The arrangement here is that though the animals remain on the property, their care will be directed by the local shelter until such time as the case is adjudicated. The owner of the animals is responsible for the cost of the care.

In order to impound the animals, you need to:

- talk to the District Attorney's office
- make a request to the local judge, through the DA's office, that the humane agency involved be responsible for directing the care of the animals until the case is adjudicated
- ask that the judge stipulate that the owner is responsible for the cost of care

## ✓ **Planning the rescue effort**

Cases involving large numbers of animals, particularly farm animals, involve a lot of planning. Prior to the rescue effort, we recommend the following procedures:

1. Contact a local reputable humane society to determine its capacity for holding animals. Given the limited capacity of any shelter, it may be necessary to contact shelters outside the area to allow for enough housing for the seized animals. Ask the humane society if it can coordinate the effort.
2. If the animals are impounded on the property, determine which humane agency is willing to assume the duty of directing and monitoring the care of the animals until the case is adjudicated.
3. Contact the appropriate people (*e.g.*, veterinarian, animal control officer, humane society staff) to form a rescue team. *Be sure to instruct all people involved in the rescue effort not to discuss the case beforehand.* In addition, consider contacting other expert witnesses who might be helpful to your case, such as wildlife experts, reptile experts, bird experts. If it appears that any air or water pollution is taking place or wildlife is involved, consider contacting the Department of Environmental Conservation.
4. Ask the humane society to bring collars, tags, animal carriers, white cards, black markers, and any other items necessary to perform animal identification, to the scene.
5. Photocopy an adequate number of "Veterinarian's Statement" forms and "Agreement From Organization or Individual" forms to take to the scene. A complete list of equipment and supplies for animal rescue operations is also available. See Appendix IV, "Forms and Supplies List" for masters of these documents.
6. Arrange a date for proceeding with the rescue. Keep this *very confidential*; animal hoarders have a network which will spring into action if talk of a rescue effort gets out, and the animals you hope to rescue will be gone from the premises into the hands of another hoarder.
7. Apply for a search warrant; specify all the buildings on the property you wish to enter and the treatment procedures you wish to use on the animals. Also, apply for an arrest warrant.
8. Advise the Assistant District Attorney (ADA), who is assigned to the town where the case is occurring, of your plans. Have the ADA review your search warrant for completeness.

## ✓ **Executing the Search Warrant in an Animal Hoarder Case**

When the police execute a search warrant, it is permissible for non-police personnel to assist them. This type of assistance is almost always necessary when large numbers of animals are involved. We recommend the following procedures:

1. On the day you plan to execute the warrant, alert all people assisting in the case (including humane society personnel, veterinarians, volunteers, health department officials, *etc.*) and arrange for them to meet you prior to the time of the animal rescue in an area where you will not attract attention and a good distance away from the property where the animals are kept.

2. People should be formed into teams and assigned duties before entering the property. Persons should be designated to handle the animals, ID them, and assist the veterinarians. One or two police officers should collect any additional evidence, photograph the scene, *etc.*
3. If an arrest warrant was issued, only the police should enter the property initially for the purposes of executing it. Volunteers and others should be secured away from the scene until the defendants have been removed from the property.
4. Once the defendant has been removed, secure the scene, and allow shelter personnel, veterinarians, *etc.* to tend to the animals.
5. In general, perform tasks in the following order, so the animals can be processed. (Bear in mind that the circumstances at the time will govern how you carry out the operation; for example, if the weather is bad, you may have to remove the animals to wherever you are taking them and identify and photograph them there.)
  - a. Persons responsible for handling the animals must assign each animal an ID number, and place the number on a "Veterinarian Statement" form. Different types of animals can be identified and numbered as separate groups; for example, the first cat to be identified could be 1C, the second cat 2C, *etc.*; the first dog could be 1D, the second dog 2D, *etc.*
  - b. Using a thick, black felt-tip marker, write the ID number that has been assigned, on a large white card or sheet of paper. Place the card in front of the animal without obscuring the body, and photograph the animal.
  - c. Place a collar on each animal. Specify the animal's ID on a small paper/plastic tag, and attach the tag to the animal's collar. With kittens, puppies, and other tiny animals, secure them in carriers and mark the carriers clearly with the IDs of the animals within.
  - d. Have a veterinarian examine the animal and fill in its "Veterinarian Statement" form. Specify the physical problems with the animal and its disposition on the form (*e.g.*, euthanized, specifying reason), *etc.* The veterinarian should sign each form. To save time, the veterinarian can dictate information to a clerical assistant as the animals are being examined. Then at the end of the rescue effort, he can personally sign all the forms.
  - e. If animals are being transported to various shelters, complete the "Agreement From Organization or Individual" form to keep track of the whereabouts of the animals. Find the form in Appendix IV, "Forms and Supplies List."

**IMPORTANT NOTE:** *In some cases, especially where many animals are involved, some animals may appear more neglected than others. Nevertheless, all the animals should be seized, if possible, because the conditions in which the animals are being kept are causing the problem. And it is usually only a matter of time before the healthier ones will be in poor condition as well.*

6. Process the defendant at the police station. The owner may be in violation of Section 353 of Article 26 of the Agriculture & Markets Law, as well as other sections of the law. The defendant should be fingerprinted and an arrest report written. After reading the defendant his constitutional rights, attempt to obtain a statement by asking the following types of questions:
  - When was the last time the animals were fed and watered? When was the last time the cage, stall, barn, *etc.* was cleaned?

- When was the last time they were seen by a veterinarian? What is the name of the veterinarian?
- In the case of horses, sheep, and goats, when was the last time they were seen by a farrier?
- Name?

Keep in mind that a lack of sufficient funds is no excuse for neglecting an animal, and neglect constitutes cruelty.

7. During the arraignment which may occur while the team is on the property, consider asking the judge to order the defendant not to return to the property while the animals are being treated and removed.
8. After the rescue operation is completed, ensure that the defendant receives a copy of the search warrant, as well as a copy of the inventory receipt for any animals or property seized.
9. Deliver a copy of the executed search warrant and a copy of the inventory receipt to the court as soon as possible. (Even if you impound the animals on the property, you might still seize evidence that indicates their neglect; that evidence must be specified on the inventory receipt.)
10. If it appears that the animals may have to remain impounded on the property, via a court order, advise the District Attorney's office immediately, so that arrangements can be made to provide proper care for the animals.

#### **CONDITIONS YOU MIGHT FIND IN A HOARDER CASE**



*Images 7&8. Starving dog being ID'd*

**CONDITIONS YOU MIGHT FIND IN A HOARDER CASE**



*Image 9. Squalid conditions found*



*Image 10. Overcrowding*



*Images 11&12. Dog with mange*

**CONDITIONS YOU MIGHT FIND IN A HOARDER CASE**



*Image 13. Goat with arthritis - unable to stand*



*Image 14. Starving dog*



*Image 15. Conditions found*



*Image 16. Illegally kept raccoon in cat carrier*

**Examples of various situations follow**

16. Animal Hoarder

17. Animal Hoarder: Extremely Large Number of Animals



## ***Example 16***

### ***Animal Hoarder***

#### **The Complaint**

A complainant called the State Police and stated that the animals at a private shelter were suffering from health problems and were being denied medical care. In addition, the shelter operator would not allow volunteers or employees to take animals who needed to be euthanized to a veterinarian.

The complaint was corroborated by a veterinarian who had visited the shelter and noticed that the animals were suffering from various maladies and in need of medical care.

#### **The Response**

1. An officer visited the premises and verified the statements of the two complainants.
2. The officer discussed the situation with the District Attorney's office and applied for a search warrant to enter the premises. In addition, he did the following:
  - Contacted several veterinarians in the area to assist at the scene when the search warrant was executed.
  - Contacted various humane societies in the area and arranged for them to be present with vans to remove the salvageable animals.
31. On the day the warrant was executed, the officers assembled the various humane societies at the edge of the property for a briefing and assignments.
32. The officer presented the owner of the shelter with a copy of the search warrant. The officer then arrested the owner and had her removed from the property. The owner was not allowed to return while the rescue effort was going on. The humane agencies entered the property with the police.
33. The animals were each identified by placing a card with a unique number for each animal and photographed.
34. The animals who were deemed not savable were euthanized by a veterinarian; the others were removed to the humane societies involved in the effort. The destination of each animal was documented.
35. The arresting officers obtained copies of the photos of each animal and attached the photos to the corresponding Information, along with the veterinarian's report and gave them to the District Attorney.

#### **Charges Brought**

The owner was charged with 100 counts of violating Article 26 Section 353 of the Agriculture & Markets Law.

**Supporting Documents Follow**

- Application for Search Warrant
- Search Warrant
- Arrest Warrant
- Information

*Example 16*

## APPLICATION FOR SEARCH WARRANT

TOWN COURT )  
 TOWN OF [REDACTED] )  
 STATE OF NEW YORK )

[REDACTED] being duly sworn, desposes and says:

1) I am the applicant for this search warrant. I am a sworn police officer employed by the New York State Police as an Investigator, assigned to the Bureau of Criminal Investigation at the [REDACTED], New York, Sub-Station. I do hereby state that there is reasonable cause to believe that the crime of FAILURE TO PROVIDE PROPER SUSTENANCE - section 353 of the AGRICULTURE & MARKETS LAW is being committed at the [REDACTED] which is owned and operated by [REDACTED] DOB: [REDACTED] and located at [REDACTED] Road, [REDACTED] New York. The shelter being further described as an approximate 50 acre site, consisting of several wood frame buildings situated on both the East and West sides of [REDACTED] Road. The residence on the property being described as a two story wood-frame green colored house located on the West side of [REDACTED] Road. Also, located on the West side of [REDACTED] Road, and South of the residence are two "cat buildings" which are wood-frame, shed type structures and one "infirmery" which is also a wood-frame structure. On the East side of [REDACTED] Road, are three wood frame buildings, one "gift shop" and two long kennel buildings, both approximately 20' X 60', and used for housing dogs. The property also consists of several wire dog runs and is surrounded, on both the East and West side of the road, by a wire fence. The property is approximately 1/4 mile North of the intersection of [REDACTED] and [REDACTED] Road.

2) The facts supporting my statement above and the request for special authority set out below on information and belief are:

3) Interview of [REDACTED] DOB: [REDACTED] of [REDACTED], [REDACTED], New York, on [REDACTED] stated that on January 5th, 19[REDACTED] she began working for [REDACTED] at the [REDACTED] animal shelter as a volunteer and that she worked every Saturday, with the exception of a few weeks, up until and including [REDACTED]. During the course of those weeks it was noted that the majority of the cats which were housed at the shelter were suffering

### *Example 16*

from ear mite infestation. Also, many had uncontrollable diarrhea, flea infestation and vomiting. [REDACTED] further stated that there are at least one hundred cats being housed at the shelter. Also many of the dogs, of which there are approximately seventy-five, appear to be suffering from arthritis and tumors. [REDACTED] also stated that when the animals become sick, they are denied any veterinary attention and the employees are instructed by [REDACTED] to put the animals in the "infirmary" to die. [REDACTED] also stated that on several occasions she offered to transport animals, which appeared to be in a great deal of pain, to a veterinarian and also she agree to pay for any treatment, but was denied that privilege by [REDACTED]. Also, no visitors or employees were allowed, under any circumstances, to adopt any of the dogs or cats. The statement of [REDACTED] is attached hereto and made a part thereof.

b) Statement of Dr. [REDACTED] DVM, DOB: [REDACTED] of [REDACTED] Box [REDACTED], New York. On [REDACTED] at approximately 1:00PM, the applicant for this search warrant and Dr. [REDACTED] observed the conditions of approximately 30 cats which were suffering from earmites, flea infestation, severe diarrhea, chronic and acute upper respiratory infections and severe nasal discharge. Dr. [REDACTED] also saw approximately 40 dogs which showed various health and behavioral problems including severe crippling arthritis, tumors, flea infestation. During the course of this visit, Dr. [REDACTED] asked [REDACTED] about veterinary care and [REDACTED] stated that she will occasionally call a vet, but prefers her own "home remedies", including vaseline and olive oil. [REDACTED] also refused to allow Dr. [REDACTED] to adopt any of the animals and advised that the dogs are never let out of their cages. [REDACTED] also remarked that most of the cats abort their kittens due to the fact that they are too crowded. Dr. [REDACTED] further stated that she visited the [REDACTED] Shelter in February [REDACTED] and the conditions of the animals were worse at that time due to the cold weather. Dr. [REDACTED] also stated that some of the animals at the shelter are too ill, aged and painful to be treated successfully and would be handled most humanely by euthanasia. The statement of Dr. [REDACTED] is attached hereto and made a part thereof.

*Example 16*

c) On direct knowledge, the applicant for this search warrant was present with Dr. [REDACTED] on the [REDACTED] visit to the [REDACTED] Shelter and overheard the conversations, as stated in paragraph 2b of this application, between Dr. [REDACTED] and [REDACTED]. It is the opinion of the applicant, based on her personal observation of the [REDACTED] Shelter, that the animals are being denied proper veterinary care and sufficient shelter. The applicant is the President of the [REDACTED] Association.

4) I, therefore, request that the Court issue a search warrant directing the search of the [REDACTED] Animal Shelter, as described in paragraph one of this application including the residence along with any and all out buildings or storage areas located on the property, and to seize the following property and evidence: Dogs, cats, animal carcasses and any and all records relating to the operation of the aforementioned shelter. I further request that this warrant be directed to any Member of the New York State Police, the [REDACTED] County [REDACTED] League, the [REDACTED] County Animal Shelter, the [REDACTED] Animal [REDACTED], the [REDACTED] Association and the [REDACTED] Association, and any veterinarian licensed by the State of New York, and any Agent or Officer of the Humane Society of the United States, and any agent or employee of the [REDACTED] Humane Society.

5) It is further requested that authorization be granted to any of the aforementioned agencies to enter upon as often as shall be deemed necessary and to remain upon the aforesaid premises for the purpose of impounding said animals, supplying them with necessary food, water and veterinary care and to humanely euthanize any of said animals which have been certified by a veterinarian, duly licensed by the State of New York, in writing, to be so maimed, diseased, or disabled or infirmed, so as to be unfit for any useful purpose or said veterinarian believes to be suffering serious pain and discomfort. It is requested that the authorization to enter upon the property be granted for a period of three (3) days subject to an extension in the discretion of the court.

[REDACTED]  
Inv. [REDACTED]

Subscribed and sworn to before  
me this 1<sup>st</sup> day of Jan [REDACTED]

[REDACTED]  
Signature [REDACTED]

*Example 16*

## SEARCH WARRANT

STATE OF NEW YORK: COUNTY OF [REDACTED]  
 JUSTICE COURT: TOWN OF [REDACTED]  
 HONORABLE [REDACTED] ISSUING JUSTICE.

---

IN THE MATTER OF THE APPLICATION OF  
 [REDACTED] A NEW YORK STATE  
 INVESTIGATOR ASSIGNED TO THE NYS  
 POLICE, [REDACTED], NEW YORK, FOR A  
 WARRANT AUTHORIZING A SEARCH AND  
 SEIZURE OF THE ANIMALS LOCATED UPON  
 THE FOLLOWING PREMISES:

THE [REDACTED] ANIMAL SHELTER LOCATED AT  
 RD#1 [REDACTED], [REDACTED], N.Y. OPERATED  
 BY [REDACTED]. PROPERTY BEING FURTHER  
 DESCRIBED AS A 50 ACRE SITE CONSISTING OF  
 SEVERAL WOOD FRAME BUILDINGS SITUATED ON  
 BOTH THE EAST AND WEST SIDES OF [REDACTED]  
 THE RESIDENCE ON THE PROPERTY BEING DESCRIBED AS  
 A TWO STORY WOOD - FRAME GREEN COLORED HOUSE  
 LOCATED ON THE WEST SIDE OF [REDACTED] RD. ALSO  
 LOCATED ON THE WEST SIDE OF [REDACTED] D., ARE  
 TWO "CAT BUILDINGS" AND ONE "INFIRMARY" WHICH ARE  
 ALSO WOOD FRAME STRUCTURES. ON THE EAST SIDE OF  
 RUSSELL RD., ARE THREE WOOD FRAME STRUCTURES  
 ONE "GIFT SHOP" AND TWO DOG KENNELS.  
 THE PROPERTY CONSISTS OF SEVERAL WIRE DOG RUNS  
 EAST AND WEST SIDES OF RUSSELL RD. THE PROPERTY  
 IS APPROXIMATELY 1/4 MILE NORTH OF THE  
 INTERSECTION OF [REDACTED] AND [REDACTED]

---

TO: THE NEW YORK STATE POLICE, ANY AGENT OF THE [REDACTED]  
 [REDACTED] THE [REDACTED] COUNTY ANIMAL  
 SHELTER, THE [REDACTED] ANIMAL RIGHTS ACTION LEAGUE, THE NEW  
 [REDACTED] ASSOCIATION, THE [REDACTED] HUMANE  
 ASSOCIATION, THE [REDACTED] ANIMAL SHELTER AND THE  
 [REDACTED] UNITED STATES, ANY VETERINARIAN  
 LICENSED IN NYS.

You are hereby directed to search and seize the following  
 property and evidence: DOGS, CATS, CARCASSES AND ANY AND ALL  
 RECORDS RELATING TO THE AFOREMENTIONED ANIMAL SHELTER.

*Example 16*

You are authorized to search the following premises:  
 The [REDACTED] located of  
 Rd., [REDACTED] N.Y. and being further described as:  
 An approximate 50 acre site consisting of a green colored  
 two story wood frame residence situated on the West side  
 of [REDACTED] Rd. The shelder also consisting of several wood  
 frame out-buildings situated on the East and West sides  
 of [REDACTED] Rd., as previously described. Said property  
 being surrounded by a wire fence and located approximately  
 1/4 mile North of the intersection of [REDACTED] and  
 [REDACTED]

You are authorized to enter and remain upon the premises  
 for a period of three (3) days subject to extension in  
 the discretion of this court for the purpose of seizing  
 said animals, supplying them with necessary food, water  
 and veterinary care.

This warrant must be executed between the hours of  
 6:00AM and 9:00PM, except for the right to remain upon  
 premises as hereinbefore provided.

This warrant must be executed not more than ten (10)  
 days after the date of its issuance and any property seized  
 pursuant herto, shall be returned and delivered to the  
 Court, without unnecessary delay.

DATED: [REDACTED]

June 1, [REDACTED]

[REDACTED]  
 HONORABLE [REDACTED]

Town Justice  
 Town of [REDACTED]

**Example 16**

**WARRANT OF ARREST  
(CPL Sec. 120.10)**

Town \_\_\_\_\_ Court, Town \_\_\_\_\_ of \_\_\_\_\_ ; )  
County of \_\_\_\_\_, New York )

In the Name of the People of the State of New York,

TO ANY MEMBER OF THE NEW YORK STATE POLICE:

As ACCUSATORY INSTRUMENT having been filed with this court charging the offense(s)  
of Failure to Provide Proper Sustenance contrary to Section 353 Agric. & Markets Law has (have) been  
committed and designating \_\_\_\_\_

as the defendant who committed it.

YOU ARE, THEREFORE, COMMANDED TO FORTHWITH ARREST SAID DEFENDANT, and to bring  
him before this court for the purpose of arraignment on such accusatory instrument.

This warrant issued on this 28<sup>th</sup> day

of May, 19 94

at \_\_\_\_\_, NY  
(ADDRESS OF COURT)

\*A duplicate copy of the accusatory instrument is attached hereto

[Signature]  
\_\_\_\_\_  
SIGNATURE OF JUDGE/JUSTICE  
Town Justice - Town of \_\_\_\_\_  
(TITLE OF JUDGE/JUSTICE)

\*DELETE IF NOT ATTACHED

Example 16.3. Arrest Warrant



Example 16

GEN. J. REV. 5/85 INFORMATION/COMPLAINT

STATE OF NEW YORK COUNTY OF [redacted]
Town COURT OF [redacted]

THE PEOPLE OF THE STATE OF NEW YORK

--vs.--

[INFORMATION] [COMPLAINT]

[redacted] DOB 6/5/15

Defendant(s)

ACCUSATION

BE IT KNOWN THAT, by this [Information] [Complaint], I, [redacted] as the Complainant herein, [stationed] [resided] at [redacted] accuses the above mentioned Defendant(s), with having committed the [misdemeanor] [violation] [misdemeanor] [violation] of Failure to Provide Proper Sustenance - 100 counts in violation of Section 353 Subdivision of the Agriculture & Mts. Law of the State of New York.

FACTS

That on or about the 25th day of May, 19 91, at about 1:30 [pm] in the Town of [redacted], County of [redacted], the Defendant(s) did [intentionally,] [knowingly,] [recklessly,] [with criminal negligence,] and unlawfully, Commit the crime of Failure to provide Proper Sustenance. A person who deprives any animal of necessary sustenance, food or drink or neglects or refuses to furnish it such sustenance, food or drink or in any way further any act of cruelty to any animal or any act tending to produce such cruelty is guilty of a misdemeanor, punishable by imprisonment for not more than one year or by a fine of not more than one thousand dollars or by both; to wit; at the aforementioned time and at the [redacted] Animal Shelter, Town of [redacted] the defendant did fail to provide approximately 40 cats and 60 dogs with proper sustenance including veterinary care and shelter, all contrary to the provisions of the statute provided herein.

This Information is based upon my own direct knowledge and the attached Depositions.

The above allegations of fact are made by the Complainant herein [on direct knowledge and/or upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of [redacted] & [redacted].

[WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant(s).]

--OR--

[WHEREAS, I, the undersigned, do hereby certify to the said Defendant(s) directing [him] [her] [them] to appear before this Court on the [redacted] day of [redacted], 19 [redacted].

NOTICE

In a written instrument, any person who knowingly makes a false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL § 210.45)

Affirmed under penalty of perjury this [redacted] day of [redacted], 19 [redacted].

--OR--

COMPLAINANT

Subscribed and Sworn to before me this [redacted] day of [redacted], 19 [redacted].

[ ] - STRIKE OUT ANY WORDS THAT DO NOT APPLY

COPY 4

## ***Example 17***

### ***Animal Hoarder: Extremely Large Number of Animals***

#### **The Complaint**

A complainant sent a local humane agency a well-documented, written complaint that a large number of animals being kept at a private "shelter" in a farm setting were living in deplorable conditions. The complainant stated that hundreds of animals of various types were harbored at the farm, including dogs, cats, sheep, goats, horses, pigs, chickens, ducks, and peacocks.

The complainant further stated that the animals were starving, as well as suffering from mange and other ailments. There had been complaints about the "shelter" in the past, but no successful investigations were undertaken.

#### **The Response**

1. Based on the well-documented complaint and a phone conversation with the complainant, the humane agency contacted the sheriff's department, and both agencies contacted the district attorney's office.
2. Because of the history of complaints about the "shelter," the district attorney's office assigned an undercover investigator to work there.
3. The investigator's report corroborated the statements made in the complaint
4. Based on the investigator's report and the sworn statement from the complainant, the humane society applied for a search warrant and contacted the sheriff's department. A date was agreed upon to execute the warrant.
5. The humane society made arrangements with various animal organizations, veterinarians, and volunteers to be present on the day the search warrant was to be executed by the sheriff's department.
6. On the agreed upon day, the sheriff's department assembled the various humane societies at the edge of the property.
7. The sheriff's department entered the property. The officers issued the owner an appearance ticket, and he was required to stay away from the property while the rescue team entered the property.
8. The humane society, a team of veterinarians, the animal organizations and volunteers entered the property to minister to the animals.
9. The animals were identified and photographed. See the "Executing the Search Warrant in An Animal Hoarder Case" discussion in the "Animal Hoarder" discussion in this Chapter and the "Photographic Evidence" discussion in Chapter 1, "Be Prepared Ahead of Time."
10. The animals who were deemed to be not savable were euthanized; the others were provided with initial veterinary treatment on the premises.

11. It took several days to tend to all the animals. When the humane society staff, veterinarians, and volunteers left in the evening, sheriff's deputies remained on the property overnight, so the chain of evidence would not be broken and another search warrant did not have to be obtained.
12. The execution of the search warrant was completed in a few days. Though numerous animals had to be euthanized, a large number of animals had to remain on the property because there were no quarters large enough to hold them. The humane society and the sheriff's department met with the DA to decide how to care for the animals. Because it was decided that the owner had the funds to pay for feed and veterinary care, the decision was made to impound the animals on the property and an order to impound the animals was obtained from the judge.
13. The court instructed the owner to provide food and veterinary care. The court assigned the humane society the responsibility of closely monitoring the condition of the animals to ensure that they were cared for until the case was adjudicated.
14. The humane agency monitored the feeding of the animals and hired its own veterinarian to administer the various treatments the animals needed to regain their health.
15. The humane agency also hired a security firm to monitor the property at night to prevent the unauthorized removal of animals from the premises. (After the decision was made to impound the animals on the property, and the humane agency was put in charge of monitoring the animals, the sheriff's department no longer remained on the property.)

### **Charges Brought**

Because of the numbers of animals involved, and the inability to find an impartial jury in the township where the case occurred, the case went to a grand jury which indicted the farm owner on numerous counts of violating Article 26 Section 353 of the Agriculture & Markets Law. A plea bargain was agreed to in the criminal case, and the humane agency was granted custody of the animals. In addition, the Attorney General brought a civil action which stripped the "shelter" of its nonprofit status and resulted in its closure; it further specified that the shelter owner could never operate a non-profit shelter again anywhere.

### **Supporting Documents Follow**

- Application for Search Warrant
- Veterinarian's Deposition
- Search Warrant

*Example 17*

STATE OF NEW YORK : COUNTY OF [REDACTED]  
 JUSTICE COURT : TOWN OF [REDACTED]  
 HON. [REDACTED] Issuing Judge.

-----  
 IN THE MATTER OF THE APPLICATION OF [REDACTED]  
 [REDACTED], AN EMPLOYEE OF THE [REDACTED] COUNTY  
 SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS,  
 FOR AN ADMINISTRATIVE WARRANT AUTHORIZING A SEARCH,  
 SEIZURE AND IMPEDIMENT FOR THE PURPOSE OF ADMINIS-  
 TERING TO AND/OR THE EUTHANIZATION OF ANIMALS  
 UPON THE FOLLOWING PREMISES:

[REDACTED] HOME LOCATED ON  
 [REDACTED] ROAD, SR [REDACTED], NEW YORK AND  
 BEING FURTHER DESCRIBED AS A FARM HAVING TWO  
 THREE-STORY BARNS, EACH BEING WHITE WITH GREEN  
 TRIM; TWO TWO-STORY BARNS, EACH ALSO BEING WHITE  
 WITH GREEN TRIM; ONE SHED; ONE DOG TRAILER; AND ONE  
 RESIDENTIAL TRAILER AND BEING FURTHER DESCRIBED AS  
 LOCATED ON THE LEFT SIDE OF [REDACTED] APPROX-  
 IMATELY [REDACTED] MILES FROM THE INTERSECTION OF ROUTE  
 AND [REDACTED] ROAD AND BEING FURTHER DESCRIBED AS THE  
 FIRST FARM ON THE LEFT PAST OTENS ROAD AS ONE PROCEEDS  
 FROM THE INTERSECTION OF ROUTE [REDACTED] AND [REDACTED] ROAD.

AFFIDAVIT

STATE OF NEW YORK)  
 ) SS:  
 COUNTY OF [REDACTED])

[REDACTED] being duly sworn, deposes and says  
 as follows:

- (1) I am the applicant herein and am an employee of the [REDACTED] County Society for the Prevention of Cruelty to Animals.
- (2) Acting upon authorization of a warrant previously issued by this Court on the 21st day of November, 19[REDACTED], I entered upon the premises of the [REDACTED]; in the company of several representa- tives of the [REDACTED] County Sheriff's Department. Upon entering said premises, the first building I entered contained numerous fowl, a few dogs, cats, and a raccoon in a small cage. The floor of the raccoon's cage was covered with feces.

### *Example 17*

(3) From there we proceeded into another building where numerous dogs were housed. Upon entering, I detected an ammonia type odor caused by the accumulation of urine and fecal material. The floors of the building were covered with feces, urine and pieces of bread. The dogs housed in this building were extremely thin with many of them showing no visible signs of body fat. These dogs all exhibited varying degrees of severe hair loss and gave off the appearance of walking, hairless skeletons. While in this building I also observed dogs eating the remains of other dogs with still other dogs huddled together in lethargic groups, many appearing not to have the strength to lift their heads.

(4) As we entered other buildings that housed dogs upon said premises, I observed varying degrees of hair loss, extreme pruritis and varying degrees of malnutrition. Scabs indicative of mange appeared on most of the dogs. Many of these animals exhibited open sores and lesions.

(5) Throughout our time within and upon said premises, I observed about one dozen animal carcasses scattered throughout the property.

(6) Although your deponent, as well as the other officials who entered upon said premises pursuant to your previous warrant, were authorized and directed thereby to seize and remove said animals, because of the exceedingly large number of said animals, their seizure was impractical. Because however, it was very obvious that many of the animals were not being properly cared for, maintained or fed, with a subjected number appearing to be maimed, diseased, disabled and infirmed, this administrative warrant is being sought to enable your deponent, as well as the other persons to whom it is directed, to re-enter upon said premises for the purpose of providing these animals with food,

*Example 17*

water and veterinary care and to euthanize these animals which in the opinion of a veterinarian licensed by the State of New York are so maimed, diseased, disabled or infirmed so as to be unfit for any useful purpose, and in the opinion of said veterinarian to be in pain or serious discomfort, with said activities to be conducted upon said premises, whereon authorization to impound said animals is herein sought.

(7) The foregoing representatives represent the grounds for my belief. Also annexed hereto in support of said application is an affidavit of [REDACTED] a Doctor of Veterinarian medicine, duly licensed to practice within the State of New York, following his inspection of the said premises made on [REDACTED] pursuant to the aforesaid warrant of this Court.

WHEREFORE, your deponent request that this Court issue an Administrative Warrant authorizing a search of all of the barns and other structures contained upon the premises of the [REDACTED] on [REDACTED] Road in [REDACTED], New York and further authorizing the seizure or impendment of said animals upon said premises for the purpose of providing them necessary food, drink and veterinary services and where necessary, as provided for herein, euthanizing said animals, said euthanization to be carried out in accordance with accepted humane standards and procedures.

Sworn to before me this [REDACTED]  
day of [REDACTED]

[REDACTED]  
Notary Public

[REDACTED]  
Notary Public, State of New York  
Resident in and for [REDACTED] County  
Commission Expires January 31, 19[REDACTED]

*Example 17*

State of New York

County of [REDACTED]

SS

[REDACTED] W.

[REDACTED], DVM

Town of [REDACTED]

of [REDACTED], NY

age: 46 years

occupation: Veterinarian, states as follows:

On [REDACTED] at approximately 9:30 a.m. to noon, I was at the [REDACTED], New York, operated by [REDACTED]

The horses we saw outside and the farm animals such as goats which were housed indoors appeared to be in generally good condition.

I observed what I estimate to be about 1,000 dogs housed in various types of facilities: some were in a large yard with access to a barn-like building; some were kept in quarters which did not appear to afford an opportunity for outdoor exercise.

In one building, I observed dogs housed with large amounts of fecal material the floor. There were no food dishes visible. These dogs were being fed hard rolls which were scattered on the floor through the fecal material. All were afflicted with severe itching and had hair loss in areas that indicate they have mange.

In one building, we observed approximately 75 dogs housed in unsanitary, wet, dark, foul-smelling, and overcrowded conditions. Old mattresses had been placed in this converted poultry barn for the dogs to lie on. Unfortunately, these were soaking wet, as was the floor in this building, which was covered with urine and fecal material. Water was available, but the only food visible was some hard rolls scattered on a few of the mattresses. These dogs all had severe itching, probably as a result of mange and fleas. They were severely emaciated, to the point that these dogs looked like skeletons with skin stretched over them. Many of the dogs were lethargic, huddled in a corner, shivering. All of the dogs have severe hair loss as the result of constant itching. Most importantly, we observed about 12 bodies of dead dogs while we were on the farm. The bodies of the dogs that had died in this barn were being consumed by some of the living dogs. The dogs were fighting over the carcasses. Several dogs had pulled off parts of a carcass and would run off to a corner to eat it unchallenged by another dog. No food, other than the rolls, was visible for the dogs. From the cannibalism occurring, it would seem the animals are extremely hungry.



*Example 17*

Upon entry into another building, we had to step over a disemboweled carcass with the head severed that said he didn't get out of the dog pen soon enough. This had been left on the floor with two pieces of cardboard thrown over it.

Many of the dogs on these premises suffer from diarrhea.

Most of the cats I saw are housed in one room. They are overcrowded and underweight. Dry food was visible in pans on the floor. Some cats were using these food pans as litter pans. There were also some cats housed in a room with other animals, including a raccoon, caged in a small, dirty, portable kennel, and peacocks.

In general, the dogs and cats, especially the dogs, are forced to live under horrible conditions. One dog appeared to have frozen to death in a transport kennel that had been left outside in subfreezing conditions next to the trailer home of Mr. Nearby, under a picnic table bench, was the skeletal body of a doberman.

*associated with*

Many of the animals are in need of immediate medical attention. A substantial percentage of the dogs are severely afflicted with contagious disease, and are undernourished, debilitated, and are suffering beyond the point where their health can be restored; for them, humane euthanasia would be the only means of offering relief.

Sworn to before me on this

23<sup>rd</sup> day of [redacted]

*[Handwritten initials]*  
[redacted]

Box 428

NY [redacted]

*[Handwritten signature]*  
[redacted]  
(Signature)

[redacted]  
Notary Public, State of New York  
County of [redacted]  
Commission Expires September 30, 1989



*Example 17*

## SEARCH WARRANT

STATE OF NEW YORK : COUNTY OF [REDACTED]

JUSTICE COURT : TOWN OF [REDACTED]

HON. [REDACTED], Issuing Judge.

-----

IN THE MATTER OF THE APPLICATION OF  
 [REDACTED] AN EMPLOYEE OF THE  
 [REDACTED] COUNTY SOCIETY FOR THE PREVENTION OF  
 CRUELTY TO ANIMALS, FOR AN ADMINISTRATIVE  
 WARRANT AUTHORIZING A SEARCH, SEIZURE AND  
 IMPENDMENT FOR THE PURPOSE OF ADMINISTERING  
 TO AND/OR THE EUTHANIZATION OF ANIMALS UPON  
 THE FOLLOWING PREMISES:

[REDACTED] LOCATED  
 ON [REDACTED] ROAD, [REDACTED] NEW YORK  
 AND BEING FURTHER DESCRIBED AS A FARM HAVING  
 TWO THREE-STORY BARNS, EACH BEING WHITE WITH  
 GREEN TRIM; TWO TWO-STORY BARNS, EACH ALSO BEING  
 WHITE WITH GREEN TRIM; ONE SHED; ONE DOG  
 TRAILER; AND ONE RESIDENTIAL TRAILER AND BEING  
 FURTHER DESCRIBED AS LOCATED ON THE LEFT SIDE  
 OF OAKRIDGE ROAD APPROXIMATELY 2.5 MILES FROM THE  
 INTERSECTION OF ROUTE 209 AND OAKRIDGE ROAD AND  
 BEING FURTHER DESCRIBED AS THE FIRST FARM ON THE  
 LEFT PAST OTENS ROAD AS ONE PROCEEDS FROM THE  
 INTERSECTION OF ROUTE 209 AND OAKRIDGE ROAD.

-----

TO: NEW YORK STATE POLICE; [REDACTED] COUNTY SHERIFF'S DEPARTMENT; ANY  
 AGENT OR OFFICER OF THE AMERICAN SOCIETY FOR THE PREVENTION OF  
 CRUELTY TO ANIMALS; ANY AGENT OR OFFICER OF THE HUMANE SOCIETY OF  
 THE UNITED STATES; ANY AGENT OR OFFICER OF THE NEW YORK STATE  
 HUMANE ASSOCIATION; ANY AGENT OR OFFICER OF THE ULSTER COUNTY  
 SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS; REPRESENTATIVES  
 OF THE [REDACTED] COUNTY DEPARTMENT OF HEALTH; REPRESENTATIVES OF THE  
 TOWN OF [REDACTED] HIGHWAY DEPARTMENT; ANY REPRESENTATIVE OF THE  
 STATE OF NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION; ANY  
 VETERINARIAN LICENSED BY THE STATE OF NEW YORK.

You are hereby authorized to search for, and where practical, to  
 seize the following property and evidence: dogs, cats and all other domestic  
 animals, wildlife, animal carcasses, animal food, stale bread, water,  
 trays or buckets, animal excrement, cages, and any and all records  
 relating to the operation and maintenance of the aforementioned  
 animal farm.

**Example 17**

You are authorized and directed to search the following premises:  
 located on , SR ,  
 , New York and being further described as a farm having two  
 three-story built barns, each being white with green trim; two two-story  
 barns, each also being white with green trim; one shed; one dog trailer;  
 and one residential trailer and being further described as located on  
 the left side of Road approximately 2.5 miles from the  
 intersection of Route and Road and being further described  
 as the first farm on the left past Road as one proceeds from the  
 intersection of Route and Road, which ,  
 upon information and belief is a not-for-profit corporation organized  
 and existing pursuant to the laws of the State of New York.

You are authorized to enter upon as often as shall be necessary  
 and to remain upon for a period of five (5) days subject to extension  
 in the discretion of this Court, the aforesaid premises for the purpose  
 of impounding said animals, supplying them with necessary food and  
 water, as well as veterinary care and to euthanize any of said animals  
 which have been certified by a veterinary surgeon, duly licensed by the  
 State of New York, in writing, to be so maimed, diseased, disabled  
 or infirmed so as to be unfit for any useful purpose, which said animals  
 said veterinary surgeon believes to be suffering pain or serious dis-  
 comfort. Said euthanization to be performed in accordance with accepted  
 humane means and procedures. This warrant must be executed between the  
 hours of 6:00 A.M. and 9:00 P.M., except for the right to remain upon  
 said premises as hereinbefore provided.

This warrant must be executed not more than ten (10) days after  
 the date of its issuance and any property seized pursuant hereto, shall  
 be returned and delivered to the Court, without unnecessary delay.

DATED: [REDACTED]

[REDACTED]  
 TOWN JUSTICE, TOWN OF [REDACTED]

---

## Dog Fighting

### Overview

There are several aspects of dog fighting about which you may receive complaints:

48. **Pit bull "hotels"** - between fights, dogs used for fighting are sometimes harbored in abandoned buildings. You may receive a complaint about dogs barking in an abandoned building or shed, or you may receive a tip from a former member of the ring who feels that he has been cheated.
49. **Organized dog fighting ring** - you may receive a complaint that dog fighting is going on in a certain location. Often these complaints may come from a former participant who got "burned" by the ring and became an informant.
50. **Unorganized fighting** - you may receive complaints from neighbors about an injured dog, or a complaint from a veterinarian that a dog has come in with an ear chewed off and numerous scars, or you may receive a complaint that states, "Every Friday night I hear dogs fighting down in the alley behind my house."

**NOTE:** *The ASPCA offers a full menu of support to law enforcement and prosecutors handling animal cruelty and animal fighting investigations and prosecutions, including legal, investigative, forensic, and other assistance. ASPCA subject matter experts also provide training to agencies looking to build on their knowledge and skills with these cases. Contact: Legal Advocacy and Investigations: [LAI.Investigations@aspc.org](mailto:LAI.Investigations@aspc.org) (see Appendix III, "Resource Agencies").*

## INVESTIGATING PIT BULL "HOTELS"

These may have fighting dogs chained to walls in separate rooms of an abandoned building; they may also be kept chained to the walls of a shed or garage. (In rural areas, fighting dogs may be kept chained to dog houses, next to the person's house. See Example 19 Training Dogs for Fighting which follows this discussion.

### ✓ Things to be aware of when investigating

**CAUTION:** *When you investigate a complaint about dogs in an abandoned building, handle such investigations with great care. **BE AWARE OF BOOBY TRAPS**, such as cut-away stairs, cutaway floors, razor blades imbedded in stair banisters, etc. Also, be aware that an attack dog may be roaming the premises. The dog may have had his voice box and nails removed, and thus not be heard. When you come through the door, he may lunge.*

51. The condition of the dogs
52. Normally missing pieces of their ears, an eye, toes; current bite marks or scars around necks, shoulders, and legs. Ears and tails may be cut down or cut off.

53. Generally, you will find pit bulls, sometimes Akitas and Rottweilers.
54. You will find presence of paraphernalia:
55. Pry bars/bite sticks/breaking sticks pieces of plastic or wood of varying length, thin at one end and wider at the other. Used to pry open the jaws of a dog that has a death grip upon another dog.
56. Chains, ropes, or spring poles hanging from beams with various items attached to them (such as tires, or live/dead cats or puppies in burlap bags). The dog "locks on" to the items with his jaws and hangs there for long periods which builds strength in the jaw and neck muscles.
57. Cats and puppies that are injured or dead from having been used as bait and mauled by dogs.
58. Various sized weights attached to dog's collar or heavy chains and padlocks around the neck, worn to develop strength in neck muscles.
59. Large bottles of various vitamins, such as Vitamin K, or steroids. The bottles may say "For Cattle Use Only."
60. Saline solutions in plastic bags. This is used to rehydrate dogs' bodies after strenuous activities.
61. Various vials may contain medications and Vitamin E solution, *etc.* Short needles and syringes.
62. Surgical needles shaped like fish hooks to suture the wounds after a fight.
63. Treadmills (similar to those in a gym) to build strength and stamina in a dog.

### ✓ **What to do**

When investigating the complaint, consider doing the following:

1. If the door to the abandoned building is loosely chained, and you can see dogs in immediate need of medical attention, call the dog control officer or local humane society for assistance. Based on exigent circumstances, break the chain, and have the dogs removed.
2. If the door is locked, and the property appears to be abandoned, if possible, contact the owner about a key to the building. In a large city, you can call the housing authority. Ask the owner or housing authority to accompany you to the building, along with the dog control officer or local humane society. Unlock the door and have the dogs removed.
3. If the door is locked, and you are unable to obtain a key, obtain a search warrant based on your evidence; call the dog control officer or local humane society to accompany you. Enter the property and have the dogs removed. Seize related paraphernalia.

**NOTE:** *If you believe that there are dogs in the building, and you have to leave to find the owner or obtain a search warrant, ensure that you leave an officer there to guard the building so the animals are not removed while you are gone.*

4. In all cases, take photos and video of the dogs and the conditions in which they were kept.
5. Have the dogs examined by a veterinarian and obtain a sworn statement from him indicating that the dogs were used for fighting. Take photographs of any injuries.
6. If the dogs do not need to be euthanized, have the animal shelter hold them as "dangerous dogs" until you complete your investigation. For a definition of "dangerous dogs" see Agriculture & Markets Law, Article 7, Section 121, in Chapter 7, "Various NYS Laws Dealing With Animals."
7. The shelter is not to release the animals, but ask the staff to obtain as much information as possible about any individuals who attempt to claim the dogs, such as their license plate number, name of their veterinarian.

## **INVESTIGATING ORGANIZED DOG FIGHTING RING**

Information on this type of activity generally comes from disgruntled participants.

### **✓ Things to be aware of when investigating**

Investigating this type of dog fighting requires undercover work, which can be lengthy. It is extremely difficult to go undercover and get involved in an organized, dog fighting ring as it is very tightly knit.

### **✓ What to do**

Be sure your informant is reliable. Based on the information provided, consider the following approach:

1. Do surveillance and determine the night of the fight.
2. Obtain a search warrant and coordinate your effort with the local humane agency.
3. Cover all exits, enter the premises, and arrest the participants and bystanders.
4. Take photos of the scene and record it with a video camera. A video camera will capture the suffering involved in the event.
5. Have the animals removed to an animal shelter.
6. Have a veterinarian examine the dogs and obtain a signed statement indicating that injuries sustained by the dogs indicate that they were used for fighting. Take photographs of the dogs and detailed photos of any wounds.
7. If possible, have the animals declared as "dangerous dogs" until your investigation is completed. For a definition of "dangerous dogs" see Agriculture & Markets Law, Article 7, Section 121, in Chapter 7, Various NYS Laws Dealing With Animals.

8. The shelter is not to release the animals, but ask the staff to obtain as much information as possible about any individuals who attempt to claim the dogs, such as their license plate number, name of their veterinarian.

**CAUTION:** *Ensure that you have support and assistance. Be aware that the organizers may turn the dogs on you and attempt to flee. Be prepared for this.*

## **INVESTIGATING UNORGANIZED DOG FIGHTING "STREET FIGHTING"**

This involves individuals "street fighting" their dogs in back alleys or makeshift dog rings. The majority of complaints you will receive will be of the "street fighting" variety.

### **✓ Things to be aware of when investigating**

**IMPORTANT:** *The defendants will most likely tell you that they were engaged in a conversation, and their two dogs got into a fight. If that were the case, the defendants should have been trying to break it up. Your report must state that the dogs were engaged in fighting, and the defendants were not trying to break it up. The arrest may be based entirely on your observations, so it is important to make this point.*

### **✓ What to do**

When investigating the complaint, consider the following approaches:

1. Interview neighbors or known informants to determine when and where the street fights are normally held. Conduct surveillance to verify the place and time.
2. On the specified night, arrange to be there in adequate force, along with the dog control officer and humane society. Prepare for the possibility that the dogs may be fighting and will need to be tranquilized.
3. Arrest the persons involved and have the dogs removed to a veterinarian or the shelter.

**CAUTION:** *Be aware that the participants may turn the dogs on you and flee. Be prepared for this.*

4. Take photos of the scene and video it. A video camera will capture the suffering involved in the event.
5. Have the animals removed to an animal shelter.
6. Have a veterinarian examine the dogs and obtain a signed statement indicating that the injuries sustained by the dogs indicated they were used for fighting. Take photographs of the dogs and detailed photos of any wounds.

7. If possible, have the animals declared as "dangerous dogs" until your investigation is completed. For a definition of "dangerous dogs" see Agriculture & Markets Law, Article 7, Section 121, in Chapter 7, Various NYS Laws Dealing With Animals.

### CONDITION OF THE DOGS YOU MIGHT FIND



*Image 17. Pit bull with ears cut back*



*Image 18. Dog with scars from fighting*

### Examples of various situations follow

18. Unorganized Dog Fighting (Street Fighting)
19. Training Dogs for Fighting

## ***Example 18***

### ***Unorganized Dog Fighting (Street Fighting)***

#### **The Complaint**

A humane agency cruelty investigator encountered two individuals fighting their dogs on a city street.

#### **The Response**

1. The investigator arrested the two people and took them to the police station.
2. He carefully documented that the dogs were fighting and the owners were making no effort to break up the fight.
3. He took the seized dogs to the animal shelter and had them examined by a veterinarian. The veterinarian provided a signed statement indicating that the wounds on the dogs indicated that they had been fighting.
4. The investigator took photographs of the two dogs that documented the wounds they had sustained.

#### **Charges Brought**

The individuals involved were charged with Felony dog fighting, a violation of Article 26 Section 351 of the Agriculture & Markets Law.

#### **Supporting Documents Follow**

Not available



## ***Example 19***

### ***Training Dogs for Fighting***

#### **The Complaint**

A complainant called the State Police and reported that she saw six pit bulls chained to dog houses on the property across from her residence. At various times, she also saw the dogs hanging by their teeth from a rope tied to a tree. Other reports from neighbors verified what the complainant had said.

#### **The Response**

1. Based on the information contained in the complaints, a State Police investigator was sent undercover to investigate the situation. His observations confirmed that dogs were being trained for dog fighting.
2. The state police applied for a search warrant.
3. They contacted humane agencies to see which could house dangerous fighting dogs for them.
4. The state police, along with the humane agencies, went to the property.
5. The state police executed the search warrant. They took photographs of the scene and the individual animals, and arrested the individuals involved.
6. The humane agencies removed the animals from the premises.
7. They were later examined by a veterinarian who provided a signed statement as to their condition.

#### **Charges Brought**

The individuals involved were charged with Training Animals to Fight, a violation of Article 26, Section 351, Subdivision 2a, of the Agriculture & Markets Law, which is a felony.

#### **Supporting Documents Follow**

- Application for Search Warrant
- Search Warrant

*Example 19*

## APPLICATION FOR SEARCH WARRANT

TOWN COURT )  
 TOWN OF [REDACTED] )  
 STATE OF NEW YORK )

[REDACTED] being duly sworn, deposes and says:

1.) I am the applicant for this search warrant. I am a sworn police officer employed by the New York State Police as an Investigator, assigned to the [REDACTED] at the [REDACTED], N.Y. sub-station.

I do hereby state that there is reasonable cause to believe that there is a violation of Article 26 Section 351. of the Agriculture & Markets Law under subdivision 2.b. - "Training an animal for fighting" and subdivision 3.b. "Owning, possessing or keeping of any animal under circumstances evincing an intent that such animal engage in animal fighting" being committed by xxxxxxxx DOB xxxxx---at his residence located at xxxxxxxxxx, N.Y. The property being located on the North side of xxxxx, across from xxxxx Ave. Further described as a two story wood frame green colored house. The west side of the property includes an area approx. 50' by 50', surrounded by a wooden fence, approx. 6ft in height, which cannot be seen through as the boards are placed together.

2.) The facts supporting my statement above and for special authority set out below on information and belief are:

a) Deposition of xxxxx, DOB xxxx, of xxxxxxx Ave., xxxx N.Y. on 11/13/92.

xxxxxxx stated that on [REDACTED] she noticed that there were about six pit bulls, all chained to dog houses, on xxxxxx Ave., which is across from her residence.

[REDACTED] also stated that on [REDACTED] she observed at the xxxxx property a brown and white pit bull hanging by its teeth from a rope which was tied to a tree in xxxxxx yard, xxxxxxx was standing next to the dog as it was hanging--for about ten minutes. On [REDACTED] she saw a brown and white dog hang from a rope by its teeth for 15 minutes in xxxxxxx yard. On [REDACTED] she saw a dog hang by its teeth at the xxxxxx property for 30 minutes. On [REDACTED], there were about ten *MEN* present with Mr. [REDACTED] while he made a dog hang by its teeth.

The Deposition of xxxxxxx is attached hereto and made a part thereof.

b) Deposition of xxxxxxxx DOB xxxxxx of xxxxxxxx, N.Y., dated [REDACTED]

xxxxxx stated that on Saturday, [REDACTED] he saw at least three different dogs hanging from a rope which was tied to a tree at xxxxx. One dog was multi-colored, (brindle), one was a rust color and he could not recall the color of the third dog.. Mr.xxxxx further stated that he saw a black male subject

### Example 19

drive up to the property in a dark colored Ford Mustang and take one of the dogs. A heavy set white male subject also showed up in a tan Oldsmobile, he looked at the dogs and left.

The Deposition of xxxxxx is attached hereto and made a part thereof.

c) Affidavit of State Police Investigator [REDACTED] assigned to the New York State Police Station, [REDACTED] N.Y. dated [REDACTED]

Inv. [REDACTED] stated that on [REDACTED] and in an undercover capacity, he phoned xxxxx at his residence at xxxx (which is a phone number listed for xxxxxx in the GAME DOG TIMES, Winter, 1991, and Summer 1992 issues where xxxxx is listing pit bull dogs for sale). Inv. [REDACTED] stated to xxxxx that he was looking for a dog with a "hard mouth". xxxxxx replied that all of his dogs are "game bred", out of Champions like "Chinaman".

On [REDACTED] Inv. [REDACTED] met with xxxxxx and followed him to his residence on xxxxxxxx Ave., [REDACTED] Inv. [REDACTED] advised that xxxxxx took him into his "yard", which was an area surrounded by a wooden fence, approx. 6-7ft. in height. and in the yard there were three pit bulls chained to dog houses. Baudoux pointed to one of the dogs and said, "I rolled her once". XXXXXXXX took one of the pit bulls out of the yard, to a tree, where a spring type rope was tied and made this dog grab and hang on the rope by its teeth.

On [REDACTED], Inv. [REDACTED] recontacted xxxxx telephonically at 518 xxxxxxxx. At this time, xxxxxxxx stated that his "buddy" has a dog that's "ready to go", further stating, "he doesn't need schooling or anything, he's ready to rock and roll", but further explaining that right now the dog is in "Philly".

On [REDACTED] Inv. [REDACTED] again called xxxxxx telephonically and xxxxxx advised that his buddy's dog, "Scudds Missile", was sold. XXXX further informed Inv. [REDACTED] that he knows of a dog in North Carolina for sale that's been "chopping some dogs up".

On [REDACTED], Inv. [REDACTED] called XXXXXXXXXX telephonically and advised him that he was still looking for a good fighter. XXXXXXXX advised that the only thing he can get right now is the dog in North Carolina or his dog, "Wild Bill", is still for sale. The Affidavit of Inv. [REDACTED] is attached hereto and made a part thereof.

d) Between [REDACTED] and [REDACTED] approx. 26 pit bulls were shipped from xxxxxxxx to Ed [REDACTED] and Tom [REDACTED] in [REDACTED]. Both [REDACTED] and [REDACTED] have arrest and conviction records for dogfighting.

e) On his application for a purebred license dated [REDACTED] XXXXX lists one of his dogs as "Wildside & Baudoux "Myrna". "Wildside", is "Wildside Kennels", owned by the same Ed [REDACTED] in North Carolina.

Copies of xxxxxx purebred license dated [REDACTED] is attached hereto and made a part thereof.

f) Affidavit of Dr. [REDACTED], Ph.D of the Humane society of the United States dated [REDACTED]

### *Example 19*

Dr. ██████ stated that his doctorate is in the field of animal behavior, obtained in 1975 from Washington University in St. Louis Missouri. For many years, his primary area of specialization has been canine aggression and the behavior of fighting breeds. Since 1984, he has been closely involved in the investigation of animal fighting ventures.

Dr. ██████ stated that the designation of American Pit Bulls as "champions" most often means that they have won three dog fights. XXXXXX advertisements and phone conversations to Inv. ██████ make reference to the fact that the animals which he is offering for sale are "bred from champions".

The "champion" most frequently listed on pedigrees advertised by xxxxxx is ██████ Champion, "Chinaman", a well known fighting dog. The breeder of the animal, Tom ██████ of ██████, plead guilty to dog fighting in ██████

Further, the term, "game bred" used in telephone conversations and ads, by XXXXXXXX, refers exclusively to the animal's willingness to fight with other dogs. Similarly, the term, "proven", refers to the animals prior experience in the fighting pit.

Dr. ██████ also referred to the fact that neighbors have observed dogs being trained on xxxxxxxx property by allowing them to hang for 10-15 minutes or more, and stated that fighting dogs must be physically conditioned to develop grip strength needed for success in dogfighting.

The Affidavit of Dr. ██████ is attached hereto and made a part thereof.

3. The applicant therefore requests that the court issue a search warrant directing the New York State Police, with proper and necessary assistance to search herein the described premises and curtilages thereof, together with any person or vehicle found thereat, and to seize as evidence animals used or raised for fighting purposes or otherwise mistreated, all animal fighting and training equipment (treadmills, breaking sticks, and weight scales), phone records, computer equipment and other data storage devices, photographs, negatives, undeveloped film, animal medical records, animal fighting publications, mail, trophies, medications, hypodermic needles, dog breeding records, address and phone books and other property in order that the evidence may be procured to be used in the prosecution of a violation of the laws of the State of New York.

---

Subscribed and Sworn to before me  
this \_\_\_\_\_ day of January, ██████

---

The Honorable  
Town Justice, Town of ██████



*Example 19*

## SEARCH WARRANT

STATE OF NEW YORK: COUNTY OF [REDACTED]  
 JUSTICE COURT: TOWN OF [REDACTED]  
 HONORABLE

---

IN THE MATTER OF THE APPLICATION OF  
 [REDACTED], A NEW YORK STATE POLICE  
 INVESTIGATOR ASSIGNED TO THE  
 NYS POLICE, [REDACTED] STATION,  
 FOR A WARRANT AUTHORIZING A SEARCH AND SEIZURE OF  
 THE ANIMALS LOCATED UPON THE FOLLOWING PREMISES:

THE RESIDENCE OF [REDACTED], LOCATED AT  
 [REDACTED] AVENUE, [REDACTED], N.Y., ACROSS  
 FROM [REDACTED] AVE. PROPERTY BEING FURTHER DESCRIBED AS A  
 TWO STORY WOOD FRAME GREEN COLORED HOUSE. THE WEST SIDE  
 OF THE PROPERTY INCLUDES AN AREA APPROX. 50' X 50'  
 WHICH IS SURROUNDED BY A WOODEN FENCE, APPROX. 6' IN  
 HEIGHT, WHICH CANNOT BE SEEN THROUGH SINCE THE BOARDS  
 ARE PLACED TOGETHER. THE CURTILLAGES THEREOF, TOGETHER  
 WITH ANY PERSON OR VEHICLE FOUND THEREAT.

---

TO: THE NEW YORK STATED POLICE ALONG WITH NECESSARY ASSISTANCE.

You are hereby directed to search and seize the following  
 property and evidence. Dogs, and other animals used or raised  
 for fighting purposes or otherwise mistreated, all animal fighting  
 and training equipment (treadmills, breaking sticks, weight  
 scales, etc.), phone records, computer equipment and other  
 data storage devices, photographs, negatives, undeveloped film,  
 animal medical records, animal fighting publications, mail,  
 trophies, medications, hypodermic needles, dog breeding records,  
 address and phone books and other property in order that the  
 evidence may be procured to be used in the prosecution of a  
 violation of the laws of the State of New York.

This warrant must be executed between the hours of 6:00AM  
 and 9:00PM.

This warrant must be executed no more than ten (10) days  
 after the date of its issuance and any property seized pursuant  
 hereto, shall be returned and delivered to the court without  
 necessary delay.

DATED: February [REDACTED]

---

HONORABLE  
 TOWN JUSTICE  
 TOWN OF [REDACTED]

---

## Cock Fighting

### Overview

There are two aspects of cock fighting about which you may receive complaints:

64. Cock fighter "hotels" similar to dog fighting, birds used for fighting may be housed in abandoned buildings or sheds. (In rural areas, fighting cocks may be kept in barns or outbuildings.)
65. Organized cock fights generally take place in cellars, alleys; in rural areas, they take place in barns.

The birds are transported to and from the fights in decorated sacks about the size of pillow cases and are kept in cages until their turn to fight.

Big money is involved in cock fighting; as a result, investigating it can be dangerous; however, in general, a cock-fighting ring is easier to infiltrate than a dog fighting one.

**NOTE:** *The ASPCA offers a full menu of support to law enforcement and prosecutors handling animal cruelty and animal fighting investigations and prosecutions, including legal, investigative, forensic, and other assistance. ASPCA subject matter experts also provide training to agencies looking to build on their knowledge and skills with these cases. Contact: Legal Advocacy and Investigations: [LAI.Investigations@aspca.org](mailto:LAI.Investigations@aspca.org) (see Appendix III, "Resource Agencies").*

## INVESTIGATING "COCK FIGHTER HOTELS"

In a city environment, you may receive a complaint about a rooster crowing in a backyard or in a building. In a rural environment, you may receive complaints about someone keeping large numbers of roosters.

### ✓ Things to be aware of when investigating

**CAUTION:** *When you investigate a complaint of fighting cocks being kept in a building, handle such investigations with great care. **BE AWARE OF BOOBY TRAPS**, such as cutaway stairs, cutaway floors, razor blades imbedded in stair banisters, etc. Also, an attack dog may be roaming around loose. The dog may have his voice box and nails removed, and thus not be heard. When you come through the door, he may lunge.*

66. The condition of the birds

- Kept in single cages, stacked in double and triple layers
- Combs and wattles (red growths on head and under chin) cut off
- Bodies may be shaved: from half way down the chest to the bottom of their bodies or their entire back may be shaved. (This is done to keep them cooler while fighting; it is also done to determine the winner; the loser has more wounds on his body.)

## 67. Presence of paraphernalia

- Teasers (small sticks with 8-10 strips of cloth attached to it) used to taunt the bird and make him aggressive
- Various types of sharp spurs (made of bone/plastic) which attach to the cock's dew claws to enable him to gash and hurt the other bird
- Sparing "gloves" (little leather booties that are temporarily placed over the spurs)
- Glue stick to attach the spurs; candles to heat the glue
- Knives to cut the glue stick
- Nail files/toe clippers (like veterinarians use) to cut the claws
- Weight scales and cock holding bags (look like pillow cases)
- Syringes, antibiotics, alcohol

## ✓ What to do

When you investigate a complaint about a large number of birds being harbored at a location, consider doing the following:

1. **Exigent Circumstances:** If the door to the abandoned building is loosely chained, and you can see birds in immediate need of medical attention:
  - a. Call the local humane agency for assistance.
  - b. Based on exigent circumstances, break the chain, and have the birds removed and provided with medical attention.
  - c. Have the birds examined by a veterinarian and obtain a sworn statement indicating that based on their injuries, the birds were used for fighting. Take photographs of any injuries.
  - d. Find the owner of the building, if possible, to determine if he was aware that birds were housed there.
2. Non-exigent Circumstances
  - a. If the door is locked, and the property appears to be abandoned, if possible, contact the owner about a key to the building. In a large city, you can call the housing authority. Ask the owner or housing authority to accompany you to the building, along with the local humane society and enter.

OR

- b. If the door is locked, and you are unable to obtain a key, apply for a search warrant based on your evidence. Arrange for a humane society to meet you there.

**NOTE:** *If you believe that there are birds in the building, and you have to leave to find the owner or obtain a search warrant, ensure that you leave an officer to guard the building so the animals are not removed.*

- c. In either case, enter the property, and take photographs of the animals and the conditions in which they were kept. Seize any related paraphernalia on the property.
  - d. Have the birds examined by a veterinarian and obtain a sworn statement indicating that based on their injuries, the birds were used for fighting. Take photographs of any injuries.
3. If the birds do not need to be euthanized, have them kept at the humane agency or other shelter as evidence until you complete your investigation. Ask the local humane society to obtain as much information as possible about any individuals who attempt to claim the bird(s), such as their license plate number, name of their veterinarian.

## INVESTIGATING A COCK FIGHTING RING

You might receive complaints about cock fighting going on in an alley or a cellar; in a rural area, it may be a barn.

### ✓ Things to be aware of when investigating

Refer to "Cock Fighter Hotels - Things to be aware of when investigating." The conditions of the birds and the paraphernalia will be the same.

### ✓ What to do

Consider doing the following:

1. Attempt to develop an informant to provide you with information about the participants and times of the fights.
2. If you do not have an informant, do surveillance of the area to determine where and when fights are being held. Try to get someone in undercover.
3. If you become aware of when a fight is to occur (*e.g.*, from personal observations at a fight reported to you), apply for a search warrant to enter the premises.

**IMPORTANT:** *Apply for a NO KNOCK search warrant and ensure that it specifies searching for all paraphernalia and searching above the ceiling as well; things often get hidden there.*

4. Arrange to have the local humane agency present to remove the birds. Humane agencies handling birds should be equipped with gloves and carrying bags.
5. Be sure *all* parties who are involved in the raid wear either uniforms, hats, or jackets to separate themselves from the participants, in case weapons must be used. If there is an undercover person, ensure that everyone that needs to know, knows who it is.
6. Ensure there is police coverage of all exits and entrances.



7. Arrest lookouts and persons charging admission for acting "in concert" with the organizers, which means they could be charged with a felony as well.
8. Take photos and video of the birds and the conditions at the ring. A video camera can better capture the suffering involved in the event.
9. Have the birds examined by a veterinarian and obtain a statement from him indicating their condition: eyes missing, puncture wounds, *etc.*, to indicate that they were used for fighting.
10. The shelter is not to release the animals, but ask staff to obtain as much information as possible about any individuals who attempt to claim the bird(s), such as their license plate number, name of their veterinarian.

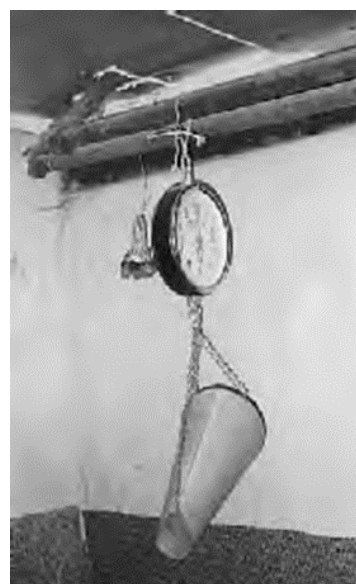
### ITEMS AND CONDITIONS YOU MIGHT FIND IN A COCK FIGHTING CASE



*Image 19. Paraphernalia associated with cock fighting*

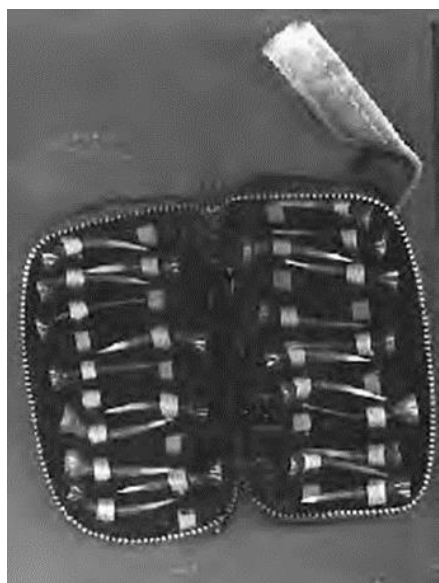


*Image 20. Needles, glue, files, used in fighting*



*Image 21. Weight scale to weigh birds*

### ITEMS AND CONDITIONS YOU MIGHT FIND IN A COCK FIGHTING CASE



*Image 22. Pouch with fighting spurs*



*Image 23. "Boxing gloves" used when birds are practicing to fight*



*Image 24. Fighting bird being received via US Postal Service*



*Image 25. Fighting cock with shaved stomach*

**ITEMS AND CONDITIONS YOU MIGHT FIND IN A COCK FIGHTING CASE**



*Image 26. Cock fighter hotel - wooden*



*Image 27. Cock fighter hotel - wire mesh*

**Example of situation follows**

20. Cock Fighting

## ***Example 20***

### ***Cock Fighting***

#### **The Complaint**

An informant notified a city humane society about a large cock fighting ring that held regularly scheduled fights involving approximately one-hundred fighting cocks.

#### **The Response**

1. The humane society did surveillance and had an undercover investigator to attend a fight.
2. After verifying that fights were being held, the humane society applied for a search warrant.
3. On the night of a scheduled fight, the humane society investigators along with officers from the police department executed the search warrant. Video footage and still photographs were used to document the scene.
4. The humane society provided vehicles to remove the birds.
5. Ninety-six people were arrested at the scene.
6. The badly damaged birds were euthanized; those that were not euthanized were held for evidence.

#### **Charges Brought**

Twelve individuals who organized the fighting ring were charged with animal fighting, a (felony) violation of Article 26 Section 351 of Agriculture & Markets Law, Subsection 2a, and the rest (attendees) were charged with a violation of 351, Subsection 4a, a misdemeanor.

#### **Supporting Documents Follow**

- Application for Search Warrant
- Search Warrant

*Example 20*

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF BRONX

-----X  
In the Matter

of

the application of [REDACTED]  
Special Agent of the ASPCA, for a  
search warrant authorizing the search  
of the premises located at [REDACTED]  
Avenue, [REDACTED] New York.

AFFIDAVIT

-----X  
STATE OF NEW YORK        )  
                                  ) SS. ;  
COUNTY OF BRONX        )

[REDACTED], being duly sworn deposes and says:

1. I am the applicant herein and I am presently employed as a Special Agent with The American Society for the Prevention of Cruelty to Animals. I am a Peace Officer and my shield number is [REDACTED]

2. There is reasonable cause to believe that on [REDACTED] 19[REDACTED] between the hours of 10:00 P.M. and 6:A.M. in the basement of the above captioned premises, a game of chance otherwise described as a cockfight between roosters will take place. Said cockfight will include the use of razor sharp spurs attached to the natural spurs of the participating roosters which will most likely result in the death or mutilation of said participating roosters.

Cockfighting is classified as a felony under Section 351 of the New York State Agriculture and Markets Law.

3. In support of your deponent's assertion as to the existence of probable cause the following facts are offered. The source of my information is as follows:

On [REDACTED] your deponent, pursuant to his lawful duties, was involved in a surveillance operation designed to locate games of chance otherwise described as cockfights between roosters. On [REDACTED] at approximately 8:00 P.M. your deponent pursuant to his lawful duties was investigating games of chance, otherwise described as cockfights in the vicinity of the above captioned premises. Your deponent witnessed several individuals enter the above captioned premises, carrying moving sacks of a type, which in your deponents' experience are commonly used in the transport of roosters. Your deponent heard the sounds of cocks crowing emanating from said sacks. Your



*Example 20*

deponent recognized several of said individuals from prior cockfighting arrests. Your deponent, while in an undercover capacity and pursuant to his duties, made inquiries and overheard conversations, the substance of which indicated that games of chance, otherwise described as cockfights, were routinely scheduled on Friday nights in the basement of the above captioned premises. Your deponent further witnessed an individual, with a portable radio transmitter, at the entrance to the above captioned premises, stopping, conversing with, and inspecting the sacks of individuals before they entered said premises. Your deponent further observed two other individuals, each carrying portable radio transmitters patrolling the vicinity of the above captioned premises.

On [REDACTED], your deponent continued his above described surveillance operation and returned to the above captioned premises. Your deponent witnessed several individuals enter the above captioned premises, carrying moving sacks of a type, which in your deponents' experience are commonly used in the transport of roosters. Your deponent heard the sounds of cocks crowing emanating from said sacks. Your deponent recognized several of said individuals from prior cockfighting arrests. Your deponent, while in an undercover capacity and pursuant to his duties, made inquiries and overheard conversations, the substance of which indicated that games of chance, otherwise described as cockfights, were routinely scheduled on Friday nights in the basement of the above captioned premises. Your deponent further witnessed the same individual present on [REDACTED], again with a portable radio transmitter, at the entrance to the above captioned premises, stopping, conversing with, and inspecting the sacks of individuals before they entered said premises. Your deponent further observed the same two individuals who were present on [REDACTED], again carrying portable radio transmitters patrolling the vicinity of the above captioned premises.

On [REDACTED], your deponent continued his above described surveillance and investigation. At approximately 10:00 P.M. your deponent witnessed several individuals enter the above captioned premises, carrying moving sacks of a type, which in your deponents' experience are commonly used in the transport of roosters. Your deponent heard the sounds of cocks crowing emanating from said sacks. Your deponent recognized several of said individuals from prior cockfighting arrests. Your deponent, while in an undercover capacity and pursuant to his duties, made inquiries and overheard conversations, the substance of which indicated that games of chance, otherwise described as cockfights, were routinely scheduled on Friday nights in the basement of the above captioned premises. Your deponent further witnessed the same individual present on [REDACTED] and [REDACTED] again with a portable radio transmitter, at the entrance to the above captioned premises, stopping, conversing with, and inspecting the sacks of individuals before they entered

*Example 20*

said premises. Your deponent further observed the same two individuals who were present on [REDACTED] and [REDACTED] again carrying portable radio transmitters patrolling the vicinity of the above captioned premises.

On [REDACTED] your deponent continued his above described surveillance and investigation. At approximately 10:00 A.M. your deponent returned to the above captioned premises and observed an individual enter said premises carrying moving sacks of a type, which in your deponents' experience are commonly used in the transport of roosters. Your deponent heard the sounds of cocks crowing emanating from said sacks. Your deponent further observed the same individual carry what appeared to be soda, liquor, saw dust and chicken wire into said premises. Your deponent, while in an undercover capacity and pursuant to his duties, made inquiries and overheard conversations, the substance of which indicated that games of chance, otherwise described as cockfights, were routinely scheduled on Friday nights in the basement of the above captioned premises.

4. Your deponent thus is of the opinion that there is probable cause to believe that an illegal cockfight will be held at the date, time and location previously indicated, and said cockfight may result in the death or mutilation of the participating roosters.

WHEREFORE, I respectfully request that the Court issue a warrant and order of seizure in the form annexed authorizing the search of the basement of the premises located at 1018-20 [REDACTED] Avenue, Bronx, New York.

It is further requested that the warrant contain an authorization to enter the premises without giving notice of authority or purpose on the ground that there is reasonable cause to believe that the property sought could easily be removed, destroyed or otherwise disposed of.

No previous application in this matter has been made in this Court or any other Court or to any other judge or justice.

Dated: Bronx, New York

[REDACTED]

S/A [REDACTED]

Sworn to before me this

1<sup>st</sup> st day of May 19 [REDACTED]

[REDACTED]  
JUSTICE OF THE SUPREME COURT

*Example 20*

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

X

In the Name of the People of  
the State of New York

To any Special Agent, Peace  
Officer of The American Society  
for the Prevention of Cruelty  
to Animals, and Any  
New York City Police Officer

SEARCH WARRANT

X

YOU ARE HEREBY authorized and directed to search between the hours of 10:00 P.M. and 6:00 A.M. the basement of the premises located at [REDACTED] Avenue, [REDACTED] New York, and the person of any individual present at the above premises at the time of the execution of this warrant and to seize the following property: roosters, hens, cages, pits, spurs, scales, teasing probes, gambling records and any other items and paraphernalia commonly used in or related to a game of chance otherwise described as a cockfight.

This court hereby specially determines that adequate grounds exist for authorizing any executing Special Agent and New York City Police Officer to enter the premises to be searched without giving notice of his authority or purpose.

This warrant must be executed not more than ten (10) days after the date of its issuance and any property seized pursuant hereto shall be returned and delivered to the Court without unnecessary delay.

Dated: [REDACTED], New York

[REDACTED SIGNATURE]

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JUSTICE OF THE SUPREME COURT



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## Animal Crimes Related to Satanic and Other Cults

### Overview

This type of case may come to your attention when you receive complaints about a mutilated animal(s) being found with symbols of cult activity around the body such as satanic symbols, bones, and candles.

The following information was provided by the Animal Rescue League (ARL) of Boston which has vast experience with investigating animal related crimes resulting from cult activity. This agency, as well as the Rutgers University Animal Rights Law Center, can be used as a resource for law enforcement agencies investigating cult activity (see Appendix III, "Resource Agencies").

According to the ARL, satanic and other nontraditional cults are on the rise in the US, particularly in large cities where large numbers of immigrants come together to practice the cultural beliefs of their homeland, be it Voodoo, Santeria, Palo Mayombe, Condomble or Brujeria. In addition, there has been an increase in cults in the American prison system, as well as in the general population.

This section of the manual concerns itself only with cult ceremonial activity involving cruelty to animals. It may take place in wooded areas, cemeteries, commercial or residential buildings or abandoned buildings.

There has been some confusion with regard to these cults and their practices and freedom of religion. Individuals have the freedom to practice their religion as they define it; however, they are not permitted to commit criminal acts, or interfere with the rights of others, while in the process. Thus, harming, killing, or mutilating an animal is not permitted because it is a criminal act. If they engage in this behavior, they are subject to prosecution.

**NOTE:** *In 1987, the city of Hialeah, Florida enacted an ordinance that banned Lukumi Babalu Aye practitioners from performing animal sacrifice as part of their religious ceremonies. The practitioners appealed the decision, and it went to the US Supreme Court. In the Lukumi Babalu Aye v. City of Hialeah (113 S. Ct. 2217 (1993), the Supreme Court overturned the Hialeah ordinance. The important thing to note, however, is that anti-cruelty laws were not affected by the decision. In fact, the Supreme Court unanimously held that governments have the right to enforce prohibitions on animal cruelty, the keeping of livestock, and zoning violations.*

*According to the Rutgers University's Animal Rights Law Center, the ordinances enacted in Hialeah were deemed unconstitutional only because they targeted the ritualistic animal sacrifice of one group of practitioners, rather than outlawing animal sacrifice in general. It was important to understand that this does not mean that animal sacrifices cannot be regulated or banned. In fact, if Hialeah had used the existing Florida anticruelty statute in prosecuting the ritualistic killings, the lawyers at Rutgers University believe that it is unlikely that the case would have reached the Supreme Court at all.*

In NYS, any ritualistic animal sacrifice, such as nailing an animal to a tree, would be a violation of Article 26 Section 353-a, felony cruelty, of the Agriculture & Markets Law.

## ✓ Things to be aware of when investigating

You may have complaints resulting from an animal sacrifice related crime that occurred in a cemetery, park, wooded area, *etc.* When investigating such a crime, the presence of the following elements at the scene may indicate the presence of a cult and indicate that the animal died as the result of a cult related sacrifice.

- Mutilation of the animal, including removal of specific body parts (anus, heart, tongue, ears, front teeth and front legs, genitals, *etc.*)
- Cages for animals, limbs, lumber, *etc.* from which animals may have been hung. Look for any ligatures (ropes or leather ties) that may have been used to secure the animal.
- Bones or animal parts (such as finger and arm bones, human or animal skulls, feathers, eyes, tongues)
- Absence of blood in the animal
- Mockery of Christian symbols (inverted cross, vandalized Christian artifacts)
- Use of stolen or vandalized Christian artifacts
- Unusual drawings or symbols on walls or floors (Baphomet, an upside-down pentagram often with the head of a goat within, hexagram, pentagram, *etc.*)
- Non-discernible alphabet
- Altars, chalices, wands, biblical passages, ceremonial type knives
- Candles and candle drippings (candles may be in the shape of genitals, or colored black or white)
- Oils, powders, wax, herbs, incense
- Dolls (a child's doll burned or tied to a cross, also what is commonly known as a voodoo doll)
- Bowls of powder or colored salt
- Skulls with or without candles
- Robes, especially black, white, or scarlet
- Rooms draped in black or red
- Books on Satanism, magic rituals, *etc.*
- Crystal balls or other crude crystals, usually found in unusual forms
- Pyramids
- Sea shells
- Necklaces made of beads, bells or gongs
- There may be a circle which may or may not contain a pentagram
- Look for a trail leading from the circle towards water. Search for stakes, *etc.*, used to place victims in a spread-eagle position (head towards the water)

**CAUTION:** *Never investigate these cases alone. Wear surgical gloves when handling evidence. Some cult practitioners are avid herbalists and use poisons as booby traps. Be aware that poisonous snakes may have been placed in cabinets and drawers to attack those who might be looking for evidence. Other booby traps include: fish hooks hung at eye level, shotguns tied to trip wires, falling bricks and other such setups.*

## ✓ What to do

If your investigation of the scene indicates that the animal's death may be the result of cult-related animal sacrifice, consider doing the following:

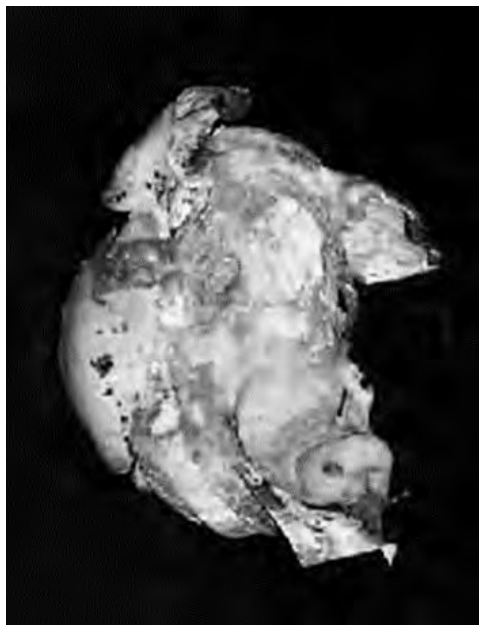
1. Interview the people who live in the area where the animal sacrifice was found to determine if they have any information on any occult activity in the area.
2. Run a check to see if there were any criminal activities in the area such as:
  - Church burglaries
  - Satanic, cult graffiti in the area
  - Any missing animals within a three-mile radius (check with animal control officers and humane agencies.)
3. Attempt to develop informants. You may find people who became disenchanted with cult practices and are willing to talk to you. Maintain Strict Confidentiality at all times.
4. Try to find persons in the area who practice "white magic" or are witches. Many of these people may be able to provide you with information on cult activities or people who practice "black magic."
5. Locate stores (called Botanicas) that sell cult-related paraphernalia. Do surveillance to see who enters and leaves. See if there is a connection between those persons and any names you might have been given.
6. If the suspects are teenagers, go to the high school and find someone who knows the students and what they are doing, perhaps a teacher or coach.
7. Once you have suspects, develop an intelligence file.
8. If the information you have gathered is sufficient to indicate that animal sacrifice is taking place at a specific location, consider applying for a search warrant to seize all animals and paraphernalia relating to animal cruelty.
9. Execute the warrant and arrest the persons involved and charge them with cruelty to animals under Article 26 Section 353-a and Section 353 of Article 26 of the Agriculture & Markets Law.
10. Take photos of the animals and conditions at the scene. In addition, video the conditions of the animals and the surroundings.
11. Arrange to have the local humane agency present for the purpose of removing the animals.
12. Have any dead and live animals examined by a veterinarian (and have him euthanize any animals that are not savable). Obtain a statement from him describing their condition: eyes missing, puncture wounds, cuts, *etc.* to indicate that they were used for animal sacrifice.

## ✓ Preparing the search warrant in cult-related investigations

According to the ARL, if you have enough evidence to request a search warrant involving animal sacrifice, prepare the warrant to include the residence, property, and curtilages. While executing the search warrant, the ARL suggests looking for the following types of items any of which may contain evidence of animal remains or documentation relating to an animal sacrifice:

- Hypodermic needles/vials/bottles (may contain blood)
- Animal body parts in freezers/refrigerators
- Ashes from fire pits including fireplaces, wood stoves
- Wooden stand for alter, marble slab, crosses
- Heavy wooden staff, sword, knives
- Bull whip, cat of nine tails, ligatures
- Human or animal bones, flesh, blood (especially skull or long bones, finger bones)
- Animal carcasses
- Ritual books, books on Satanism, diaries
- Small animals in cages, and empty cages
- If adolescents are suspects, school composition books should be examined.
- Computers and computer diskettes
- Occult books, *etc.* may be found under mattresses, *etc.*

### EXAMPLES OF CULT RELATED ANIMAL SACRIFICES



*Image 28. Mutilated head of pig that was sacrificed*



*Image 29. Cat that was tortured and sacrificed*

**EXAMPLES OF CULT RELATED ANIMAL SACRIFICES**

*Image 30. Birds that were beheaded and sacrificed during Santeria, along with small doll*



*Image 31. Carcass of skinned cat*



*Image 32. Cat that was crucified and burned*

**Example of situation follows****21. Cult-related Animal Crime**

## ***Example 21***

### ***Cult-related Animal Crime***

#### **The Complaint**

An animal control officer called a city police department in Massachusetts and reported that an individual had killed a woman's cat. The police responded and arrested the individual.

#### **The Response**

1. The Animal Rescue League (ARL) received a call from the city animal control officer who had reported the crime to the police. He suspected that occult activity was involved in the death of the cat.
2. The ARL investigator went to the scene and observed various occult indicators as well as the body of the dead cat. They interviewed the owner of the cat.
3. Based on the information that had been obtained from the owner, a representative of the ARL with experience in cult-related crime went to police headquarters to interview the individual accused of killing the cat.
4. During the conversation, the suspect admitted that he killed the cat as part of his cult-related beliefs and practices.

#### **Charges Brought**

The individual was charged with a felony for violating a section of Massachusetts law that deals with killing and mutilating animals.

**NOTE:** *In New York State, anyone harming or torturing an animal can be charged with violating Section 353 of Article 26, of the Agriculture & Markets Law and can also be charged with felony cruelty, Section 353-a.*

#### **Supporting Documents Follow**

- Report and Arrest Information from Animal Rescue League of Boston

*Example 21***ANIMAL RESCUE LEAGUE OF BOSTON**

TREMONT &amp; ARLINGTON STS. • MAIL P.O. BOX 265 • BOSTON, MASS. 02117 • TEL. 617-426-9170

8/14/ [REDACTED]

1. 5:05 a.m. [REDACTED] Animal Control Officer [REDACTED] called Animal Rescue League Shelter Manager [REDACTED] Officer [REDACTED] said he was working on a case that probably involved the occult and that a cat had been killed. He asked [REDACTED] what Chapter and Section of the Animal Laws would apply in this case.
2. Approx. 5:20 a.m. Jim [REDACTED] called me on my pager. I returned his call and told him to suggest that the defendant be charged under M.G.L. Chapter 266 Section 112 (a felony) since he did not own the animal in question.
3. Approx. 7:10 a.m. Jim [REDACTED] and I arrived at the scene of the incident, [REDACTED] where we met Officer [REDACTED] and his assistant [REDACTED].

We proceeded upstairs to Apt. 2 where we were introduced to [REDACTED] (the owner of the cat) (592-[REDACTED]) (569-[REDACTED]), her roommate [REDACTED] and a neighbor [REDACTED]. Ms. [REDACTED] and [REDACTED] gave us permission to enter their apartment. Prior to entry we saw what appeared to be a cross near the top of the door. One entry we found a drawing (veve) appearing to be two triangles pointing in the opposite direction and containing an eye in the center covered by a playing card (the ace of spades). Directly below the eye was a photograph of [REDACTED]. There were other cards in various positions around the drawing (see photo). The drawing itself was in a red lipstick matching the color of the drawing on a table in the living room.

In the kitchen we found more drawings and a photograph of Ms. [REDACTED] with a kitchen knife piercing her picture. This picture was also marked with the same lipstick type substance (see photos).

We next entered the bedroom where Ms. [REDACTED] pointed to the bathroom and told us that the cat was in there.

Entering the bathroom I saw a young cat (light grey tiger) suspended by a telephone cord which was tied around its neck. The kittens eyes were open but the animal was dead.

On a wall in the bathroom near where the cat was hanging was a medicine cabinet with writing on it again in lipstick.

We then made arrangements to see Ms. [REDACTED] and her roommate later that day to obtain further statements from them.

Helping animals since 1899

A non-profit Humane Society

### *Example 21*

- 2.
4. Approx. 8:30 a.m. We went to the [REDACTED] Police Department and asked if we could interview the defendant [REDACTED] who had been in custody since earlier in the morning.
  5. 9:08 a.m. We were brought to a room adjacent to the holding cell where Lynn Police Officer William [REDACTED] read Mr. [REDACTED] his Miranda rights. After he acknowledged that he understood them I introduced myself. He was asked if we could talk to him and he said we could. Mr. [REDACTED] was asked if he knew why we were there he said "yes that cat."

I told Mr. [REDACTED] that we were here because we were concerned about what happened to the [REDACTED] cat. I showed him a photo of the cat and asked him if he could tell me what happened to it. He smiled and said "no".

I then said to him that I had spent some time in the Carribean and had seen quite a few drawings like this (I showed him the photos of the drawing on the livingroom floor) while I was there. I asked him if this was Rada or Petro. [REDACTED] asked me how I knew this. I just told him I knew. I again asked him if it was Rada or Petro. This time he said it was Petro.

I asked Mr. [REDACTED] if he could explain the drawing to me and he looked at me smiling and said "you know what it is". I asked him if it was a neve he just smiled and stared.

Mr. [REDACTED] was then asked if the cat was alive or dead when it was hung. He said "it was alive". He was then asked how he did this. He motioned with his right hand in a closed fist at his side and then demonstrated a jerking motion from his waist to his shoulder. He said he shook the cat and then it was still.

Mr. [REDACTED] then gave me some background information. He said he was originally from the Dominican Republic, later spent tow years in Haiti where he saw animals sacrificed (including chickens, rabbits and goats) moved to South America where he witnessed other traditions (Palo Mayombe, Condomble, etc.), and then moved to New York City.

We then returned to the incident at [REDACTED] Street where he said he sacrificed the animal because he was angry at Ms. [REDACTED] because she had accused him of killing her other cat. He later said he "sacrificed" the animal to the evil one". I asked him who the evil one was and he said "you know".

I asked him if the "evil one" was the Christian Satan and he said "no".

Sincerely,  
 [REDACTED]  
*State Prosecuting Officer*



Example 21

Lynn		NAME, ADDRESS AND ZIP CODE OF DEFENDANT [REDACTED] aka David the dead address unknown		Assigned [REDACTED]	
DEF. DOB AND SEX		OFFENSE CODE(S) 508,900 068227083 h/m		TERMS OF RELEASE Cont BSA [REDACTED] Chap 123 [REDACTED] 25,000 to 25000	
DATE OF OFFENSE		PLACE OF OFFENSE		DATE 8-14-90	
COMPLAINANT		POLICE DEPARTMENT		PROCEEDING - Arraigned before J. [REDACTED]	
DATE OF COMPLAINT		RETURN DATE AND TIME Report # [REDACTED]		<input type="checkbox"/> Advised of right to counsel <input type="checkbox"/> Advised of right to drug exam <input checked="" type="checkbox"/> Advised of right to bail review <input checked="" type="checkbox"/> Advised of right to F.I. Jury Trial <input type="checkbox"/> Waives <input type="checkbox"/> Requests F.I. Jury Trial	
COUNT-OFFENSE a. MAL. DESTRUCTION OF PROP. OVER \$250 C266 S127		FINE		SURFINE	
DATE 2-21-91		PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts		IMPRISONMENT AND OTHER DISPOSITION one yr. N.C. Com credit for time served COR, 4633/90	
FINDING [REDACTED]		JUDGE [REDACTED]		<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.	
COUNT-OFFENSE b. MALICIOUS KILLING - DOMESTIC ANIMAL C266, S112		FINE		SURFINE	
DATE 2-21-91		PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input checked="" type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts		IMPRISONMENT AND OTHER DISPOSITION one yr. N.C. Com cor. cl. w/4633/90	
FINDING [REDACTED]		JUDGE [REDACTED]		<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.	
COUNT-OFFENSE		FINE		SURFINE	
DATE		PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		TRUE COPY ATTEST: [REDACTED] CLERK	
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		<input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE	
COUNT-OFFENSE		FINE		SURFINE	
DATE		PLEA <input type="checkbox"/> Not Guilty <input type="checkbox"/> Guilty <input type="checkbox"/> Nolo <input type="checkbox"/> New Plea: <input type="checkbox"/> Admits suff. facts		IMPRISONMENT AND OTHER DISPOSITION	
FINDING		JUDGE		2-21-91 PRC	
<input type="checkbox"/> Cont. w/o finding until: <input type="checkbox"/> Appeal of find. & disp. <input type="checkbox"/> Appeal of disp.		<input type="checkbox"/> Discharged from probation <input type="checkbox"/> Dismissed at request of probation		DATE	

CONT TO	PURPOSE	CONT TO	PURPOSE
9-13-90	PT	10-16-90	PT
9-21-90	PT	10-23-90	PT
9-25-90	PT	11-1-90	PT
9-27-90	PT	11-6-90	PT
10-4-90	PT	11-15-90	PT

DATE	TAPE NO	START	STOP
11-27-90	5106	1-18-91	PTC
10-6-90	Station	1-25-91	PT
10-20-90	Station	1-31-91	PT
1-3-91	Station	2-1-91	PT
1-10-91	Station	2-5-91	PT

Example 21. Report and Arrest Information from Animal Rescue League of Boston (page 3of3)

**EVIDENCE IN THE CASE**

*Image 33. Cat hung in bathroom*



*Image 34. Cards laid out on floor with picture and satanic pentagram*

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## Irresponsible Breeders / Puppy Mills

### Overview

Many breeders of dogs or other animals take good care of the animals they raise because they make their money based on their reputation for producing healthy, purebred animals. However, periodically, you may receive a complaint that the animals being raised by a breeder are not being fed properly or given adequate shelter.

"Puppy Mills" are operated by irresponsible breeders, with the focus on mass production of puppies, keeping the females constantly breeding with no concern for their health. The puppies may be shipped via air freight to various locations around the country and often die in transit. The conditions at a puppy mill are generally deplorable.

In most of these cases, because of the number of animals involved, you will have to coordinate your rescue effort with both a local veterinarian and the local animal shelter.

### ✓ Things to be aware of when investigating

Environmental conditions:

- lack of fresh water and insufficient food
- overcrowding, cages often stacked on top of one another
- cages not cleaned; feces piled up
- little or no protection from the elements
- lack of sufficient/adequate shelter (animal carriers serving as housing in lieu of proper shelter)
- no floors on cages, only mesh wire; feces fall through on top of animal below

Animals' physical appearance/behavior:

- body sores/poor coats
- bloated stomachs
- missing hair, excessive itching (may indicate mange)
- animal attempts to hide, crouches down, pulls head back if you put your hand near the dog (all signs that may indicate abuse)
- aggressive behavior (may indicate abuse)
- lethargic behavior

### ✓ What to do

If you receive a complaint that sounds as though someone is running an irresponsible breeding operation, consider doing the following:

1. Obtain a signed statement from the complainant, if possible.
2. When investigating the complaint, look for the conditions mentioned above. If they are present, apply for a search warrant to enter the property. If possible, have the district attorney's office review your application.

3. Contact a veterinarian and the local humane agency to accompany you to the scene. The humane agency can help remove and house the animals.
4. Arrest the owner and remove him from the scene.
5. Charge the owner or person responsible for the care of the animals with the appropriate number of cruelty charges.
6. Notify the United States Department of Agriculture which is in charge of licensing and standards of care for animal breeders (see Appendix III, "Resource Agencies").
7. If the person is convicted of the charges or negotiates a plea bargain, notify the registering agency responsible for granting registration status to the particular species of animal, or ask the humane society that assisted you on the case to do so. For example, in the case of dogs, the American Kennel Club should be notified (see Appendix III, "Resource Agencies"). Upon receipt of this information, the registering agency will normally revoke the person's registered breeder status, thus discouraging him from engaging in this type of behavior again. In the case of someone breeding animals without a license, file a complaint with the NYS Department of Agriculture & Markets at: <https://agriculture.ny.gov/animals/pet-dealer-complaint-form>.

**Examples of various situations follow**

22. Irresponsible Breeders
23. Puppy Mills

## ***Example 22***

### ***Irresponsible Breeders***

#### **The Complaint**

A complainant wrote a detailed letter to a local humane society stating that 13 purebred dogs kept on a neighbor's property were not being fed or watered properly. The dog owner/breeder no longer lived on the property and only periodically returned.

Because it was winter, it was critical that the dogs be given proper food and water. In addition, some of the dogs were chained to plastic dog carriers that provided inadequate shelter.

#### **The Response**

1. The investigator had the complainant complete a deposition stating exactly what he had seen and when.
2. The investigator then observed the dogs and their conditions from the roadway. In addition, the investigator observed the conditions of the dogs from the window of the complainant's home which was adjacent to the breeder's property.
3. Based on his observations and the signed statement of the complainant, the investigator applied for a search warrant and an arrest warrant.
4. The investigator coordinated the rescue effort with the State Police responsible for the area.
5. He also secured the services of a local veterinarian to assist in the rescue effort.
6. On the day of the rescue, the state police executed the search warrant and entered the property along with staff of the humane society. Each animal was given an identification number and was photographed, along with their living conditions.
7. The dogs were transported to the shelter.
8. The state police found the breeder and arrested him.
9. The veterinarian examined each dog and completed a "Veterinarian's Statement" form, specifying the condition of each animal.

#### **Charges Brought**

The individual involved was charged with violations of Article 26 Section 353 of the Agriculture & Markets Law.

**Supporting Documents Follow**

- Application for Search Warrant
- Depositions of Complainant and Investigator
- Diagram of Dog Locations
- Search Warrant
- Arrest Warrant
- Search and Seizure Inventory and Receipt
- Veterinarian's Animal Assessment Statement
- Misdemeanor Complaint (Information)
- Letter to American Kennel Club

## Example 22

GENL. 12 REV. 8/71

### APPLICATION FOR SEARCH WARRANT (Sec. 690.35 CPL)

Justice Court, Town of                     , County of                     

I,                      Peace officer of the State of New York, to wit, a  Peace Officer of the                      Humane Society, of                     , N.Y., do hereby state that there is reasonable cause to believe that property of a kind or character described in Section 690.10 of the Criminal Procedure Law may be found in or upon a designated or described place, vehicle or person.

THE FACTS SUPPORTING MY STATEMENT ABOVE and the request for special authority set out below \*on my personal knowledge \*on information and belief and the sources of my information and belief are:

**\*\*A. CHARACTER OF PROPERTY AS STOLEN, UNLAWFULLY POSSESSED, USED TO COMMIT OFFENSE, AS EVIDENCE ETC. (Sec. 690.10 CPL)**

Adult Brittany Spaniel dogs and Puppies consisting of at least eight dogs and at least four puppies, gender unknown, in the possession of  
                    Rt. 20,                      , N.Y.

**\*\*B. THE PROPERTY IS: (describe fully)**

An open yard located on the North side of a dwelling located on the North East corner of Rt. 20, known as the                      and                      Avenue,                      , N.Y., on which are situated at least eight dog-houses and a wooden shed type structure housing at least four puppies.

This is believed to be the property of                      Rt. 20,                      NY.

**\*\*C. DESIGNATION OR DESCRIPTION OF PLACE, VEHICLE OR PERSON TO BE SEARCHED: (Include specific address, where applicable)**

Each doghouse and a wood frame kennel type structure with a wire enclosure on the North side of the structure, located in an open yard that is situated on the North side of a dwelling located on the North East corner of Route 20, the                      and                      Ave. in                      , N.Y.

**\*\*D. SOURCE OF INFORMATION AND BASIS OF BELIEF: (If not of personal knowledge)**

The source of my information and grounds for belief is a sworn deposition by                      of                      Ave.,                      , N.Y. who states that for a period of 24 hours on                      , no food or water was provided to the above described dogs and my own investigation and observations on                      ,                      , a                      at the above described location, that the animals were not receiving necessary food and water due to the absence of sufficient water containers and the apparent undernourished physical condition of the dogs.

I THEREFORE REQUEST THAT THE COURT ISSUE A SEARCH WARRANT DIRECTING THE SEARCH ~~of~~ FOR the property of                      consisting of an open yard and kennel structure on the North side of the dwelling on the North East corner of Rt. 20 and                      Ave.,                     , N.Y., all animals ~~thereon~~ AND THE SEIZURE THEREOF

**\*\*I FURTHER REQUEST THAT SUCH WARRANT BE MADE EXECUTABLE AT ANY TIME OF THE DAY OR NIGHT BASED ON THE FOLLOWING FACTS:**

**\*\*I FURTHER REQUEST THAT SUCH WARRANT AUTHORIZE THE EXECUTING OFFICER TO ENTER PREMISES TO BE SEARCHED WITHOUT GIVING NOTICE OF HIS AUTHORITY OR PURPOSE BASED ON THE FOLLOWING FACTS:**

Example 22

SUPPORTING DEPOSITION  
SEC. 100.20 CPL

STATE OF NEW YORK

County of \_\_\_\_\_

Town of \_\_\_\_\_

Page 1 of 3

I, <u>[REDACTED]</u>		DOB	<u>12/29/62</u>
NO. & STREET	CITY	STATE	NY
<u>HICK 2</u>	<u>[REDACTED]</u>	state the following:	

We (my wife and I) reside on the property adjoining and on the north side of \_\_\_\_\_ property. The thirteen dogs that \_\_\_\_\_ owns or boards on that property are located between my house and the house on his property. There are single dog houses and a larger dog house that has four dogs in it.

We have an unobstructed view of the larger dog house and five of the single dog houses, from inside our house. There is a street light across the street from my driveway near where my property adjoins \_\_\_\_\_ property and where the dogs are located.

I've witnessed many occasions when \_\_\_\_\_ has fed his dogs. At the time when they are being fed or think they will be fed, they all bark very loud and aggressively such that they can be heard from at least a quarter mile away.

Since the beginning of November 1992 I've watched closely when \_\_\_\_\_ feeds his dogs. During the feeding, he carries a white bucket of food and a small metal bowl. He scoops out some food with the bowl and drops it into either another bowl next to a dog or on the ground near the dog. One of the dogs in the larger house is fed by \_\_\_\_\_ reaching high over a fence in area and dropping the food from about six feet in the air. While watching him do this on several occasions I could see that the dogs are not given any more than about

NOTICE: False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

\*Sworn to before me this 25<sup>th</sup> day of JANUARY 1994

[REDACTED] Notary Public, State of New York  
Qualified in Albany County  
Reg. No. 4957044  
Commission Expires May 15, 1995

[REDACTED] (Signature of Deponent)  
\_\_\_\_\_  
(Address or Rural Route) NY

Example 22.2. Depositions of Complainant and Investigator (page 1 of 6)



Example 22

SUPPORTING DEPOSITION  
SEC. 100.20 CPL

STATE OF NEW YORK

County of \_\_\_\_\_

Town of \_\_\_\_\_

Page 283

NAME	DOB	DATE OF BIRTH
Wansor, The		12/29/62
STATE	NY	

I, \_\_\_\_\_, state the following:  
 1/2 cup of food. During most feedings, the dogs were not given any water. On 12/31/19 \_\_\_\_\_ I witnessed him piling up snow in front of some of the dogs, instead of giving them water.

When we noticed that on some days we did not see or hear any feeding activity, my wife called the Humane Society. The women at the Humane Society told us that the dogs should be given fresh food and water daily, during any 24 hour period.

On 1/1/19 \_\_\_\_\_ beginning at 12:00 pm I watched the dogs continuously from my kitchen, bathroom and living room. All of these rooms have windows that face \_\_\_\_\_ property where the dogs are located. I watched the dogs until 9:00 am the next morning at which time my wife began to watch. She observed up until 12:00 pm on 1/2/19 \_\_\_\_\_. During that time we saw none of \_\_\_\_\_ dogs fed or given water.

We have also seen that \_\_\_\_\_ uses a white Ford pickup for transportation. The house on his property is without electricity, running water and phone service. \_\_\_\_\_ is not living in the house and we see him only on the occasions when he feeds the dogs as described previously. Once he is done feeding them he leaves the property.

NOTICE: False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

\*Sworn to before me this 25<sup>th</sup> day of January 19 \_\_\_\_\_  
 Notary Public, State of New York  
 Qualified in Albany County  
 Reg. No. 495104  
 Commission Expires May 15, 1993  
 \_\_\_\_\_  
 (SIGNATURE OF DEPOSITOR)  
 \_\_\_\_\_ NY  
 (ADDRESS OR RURAL ROUTE)

Example 22

SUPPORTING DEPOSITION  
SEC. 100.20 CPL

STATE OF NEW YORK

County of [REDACTED]

Town of [REDACTED]

Page 3 of 3

I, FULL NAME [REDACTED]		DOB	DATE OF BIRTH
[REDACTED]			12/29/62
[REDACTED]		STATE	NY
, state the following:			

The last major snow fall we had was on 1/13/ [REDACTED] and the morning of 1/14/ [REDACTED]. On 1/21/ [REDACTED] at 7:15am I walked around the perimeter of [REDACTED] property to see how many sets of foot tracks there were to each dog, to indicate how many times the dogs were fed during that period. I saw only three sets of tracks.

On 1/23/ [REDACTED] at 9:45am, I walked along the east side of [REDACTED] property and saw that some dogs had food and water bowls and some did not. None of the dogs had any food or water and throughout the day and up until 5:20pm none of the dogs were fed.

NOTICE: False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

\*Sworn to before me this 25<sup>th</sup> day of JANUARY 19 [REDACTED]

[REDACTED] (SIGNATURE)

Notary Public, State of New York  
 Qualified in Albany County  
 Reg. No. 4961044  
 Commission Expires May 15, 1993

[REDACTED] (SIGNATURE OF NOTARY)  
 1000 [REDACTED] NY  
 (STREET OR RURAL ROUTE)

*Example 22*

NY 12422

Humane Society  
Animal Cruelty Unit

Branch

Route

January 1, 19

Dear Sirs,

Since we moved to the town of over a year ago, my wife and I have witnessed the mistreatment of dogs owned and boarded by (our neighbor). The humane society was called in last fall because the twelve or so dogs owned/boarded by him were not being fed and cared for properly. At that time, (Town Health Officer) stated that was given a warning and was told that the dogs had to be given fresh food and water daily, and that the area around the dogs had to be kept clean.

For a couple months after the warning I've witnessed giving his dogs food and water once per day. Over the last couple of months I've witnessed him only providing a very scarce amount food once per day and on some days, none at all. Also over the last month I've witnessed that he hasn't been giving the dogs fresh water when being fed. On 12/31/ I actually witnessed him piling some snow together on the ground in front of the dogs or in a bowl. For the record, my wife and I watched the dogs constantly for a 24 hour period from 12:00pm on 1/1/ to 12:00pm on 1/2/. During that time none of the dogs were fed or given water.

Along with not feeding them properly, he has not cleared any snow around the dogs houses or removed their waste. has not even been living at the house were the dogs are kept. There is no electricity, running water, or telephone service at the house. I am appalled that someone can board dogs on a piece of property without the proper care and facilities necessary. I hope someone at your office will find it in their heart to put a stop to this. Like I said before, he has been warned already by your office last fall, and from what I've been told, he has a track record for mistreating his animals. Thanks in advance for your help.

After seeing the treatment of the dogs over the last month, my wife called the Humane Society, Branch and spoke to about it. ked that we put this information in writing and send it to the Animal Cruelty Unit.

Example 22

SUPPORTING DEPOSITION  
SEC. 100.20 CPL

STATE OF NEW YORK

County of \_\_\_\_\_

Page 1 of 2

TOWN \_\_\_\_\_

of \_\_\_\_\_

I, [REDACTED]		DOB	[REDACTED]
NO. & STREET	TOWN	STATE	state the following:
Rt. 66	Town of [REDACTED]	N.Y.	

I am a cruelty investigator and peace officer of the [REDACTED] Society, [REDACTED] N.Y., and function in that capacity in both [REDACTED] and [REDACTED] Counties. On January 20th., 19[REDACTED], I received a letter from [REDACTED] of [REDACTED] N.Y., who stated in his letter that his next door neighbor, [REDACTED], did not provide food or water to his several Brittany Spaniel dogs for an entire 24 hour period, from 12:00PM, 1/1[REDACTED] to 12:00PM, 1/2[REDACTED]. The letter further alleges that for a period of about one month, the dogs were not being given fresh water at the time of feeding. On the evening of January 20th., 19[REDACTED], during a telephone conversation with [REDACTED], wife of [REDACTED], I was advised that the situation remained the same and that she and her husband felt that the dogs' health was in jeopardy unless something was done soon. On the afternoon of Friday, January 22nd, 19[REDACTED] I drove to the Town of Durham and located the animals described above in an open field area on [REDACTED] in Durham, on the North side (rear) of a house situated on the NorthEast corner of [REDACTED] Ave. and Rt. [REDACTED] Turnpike). I arrived at this location at about 4:50PM, 1/22/[REDACTED], and had an unobstructed view of at least eight (8) adult Brittany Spaniels, each chained to individual doghouses with several having no visible food or water dishes. Also located in the yard is a wooden structure with what appears to be wire mesh enclosures on the back (North side of the structure) that serve as a containment area for at least four (4) younger Brittany Spaniels. I was able to further observe that several of the dogs appeared to be thin and abnormally underweight. These observations were conducted from the public roadway known as [REDACTED] Ave.. At about 5:30PM, 1/22/[REDACTED] I interviewed [REDACTED] at her home which is located on the North side

NOTICE: False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.45 of the Penal Law.

\*Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

(SIGNATURE OF OFFICER)

(SIGNATURE)

(STREET OR RURAL ROUTE)

Example 22.2. Depositions of Complainant and Investigator (page 5of6)

*Example 22*

**SUPPORTING DEPOSITION  
SEC. 100.20 CPL**

STATE OF NEW YORK

County of \_\_\_\_\_

Page 2 of 2

TOWN of \_\_\_\_\_

I, FULL NAME _____	DOB _____	DATE OF BIRTH 05/26/44
NO. & STREET Rt. 66	CITY/Town of _____	STATE N.Y.

\_\_\_\_\_ state the following:

\_\_\_\_\_ of the \_\_\_\_\_ property, on \_\_\_\_\_ Ave.. From a living room window on the first floor of the \_\_\_\_\_ home, there is a clear view of the kennel structure and some of the other dog houses. At about 6:05PM, 1/22/19\_\_\_\_, while standing at the living room window with \_\_\_\_\_ we observed two people, one with a flashlight, the other with a white bucket, throwing what appeared to be dogfood to some of the animals. At no time however, did we observe water being given to the animals. On Sunday, January 24th., 19\_\_\_\_, at about 8:25AM, I again responded to \_\_\_\_\_ Ave. and again observed the same conditions that I saw on Friday January 22nd., 19\_\_\_\_ that is, several of the dogs chained to doghouses without visible food or water dishes. On Monday, January 25th., 19\_\_\_\_ at about 11:20am, I once again responded to \_\_\_\_\_ Ave. and again observed that conditions remained the same with the exception that at one of the doghouses situated just to the east of the kennel structure, there was now a bowl on the ground in front of the doghouse. All observations on each visit to this location were made from the shoulder of the East side of \_\_\_\_\_ Ave.. My personal investigation and observations along with the information provided to me by \_\_\_\_\_ and \_\_\_\_\_ lead me to reasonably conclude that \_\_\_\_\_ is in violation of Sect 353 of the Agriculture and Markets Law of the State of New York by failing to provide necessary food, water and sustenance to the above described animals and that these animals should be seized under Sect. 373, Subd.2 of the Agriculture & Markets Law of the State of New York, which permit such seizure when an animal has been confined or kept for a period of more than twelve successive hours without necessary sustenance, food or drink.

NOTICE: False statements made herein are punishable as a Class A misdemeanor pursuant to Section 210.43 of the Penal Law.

\*Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

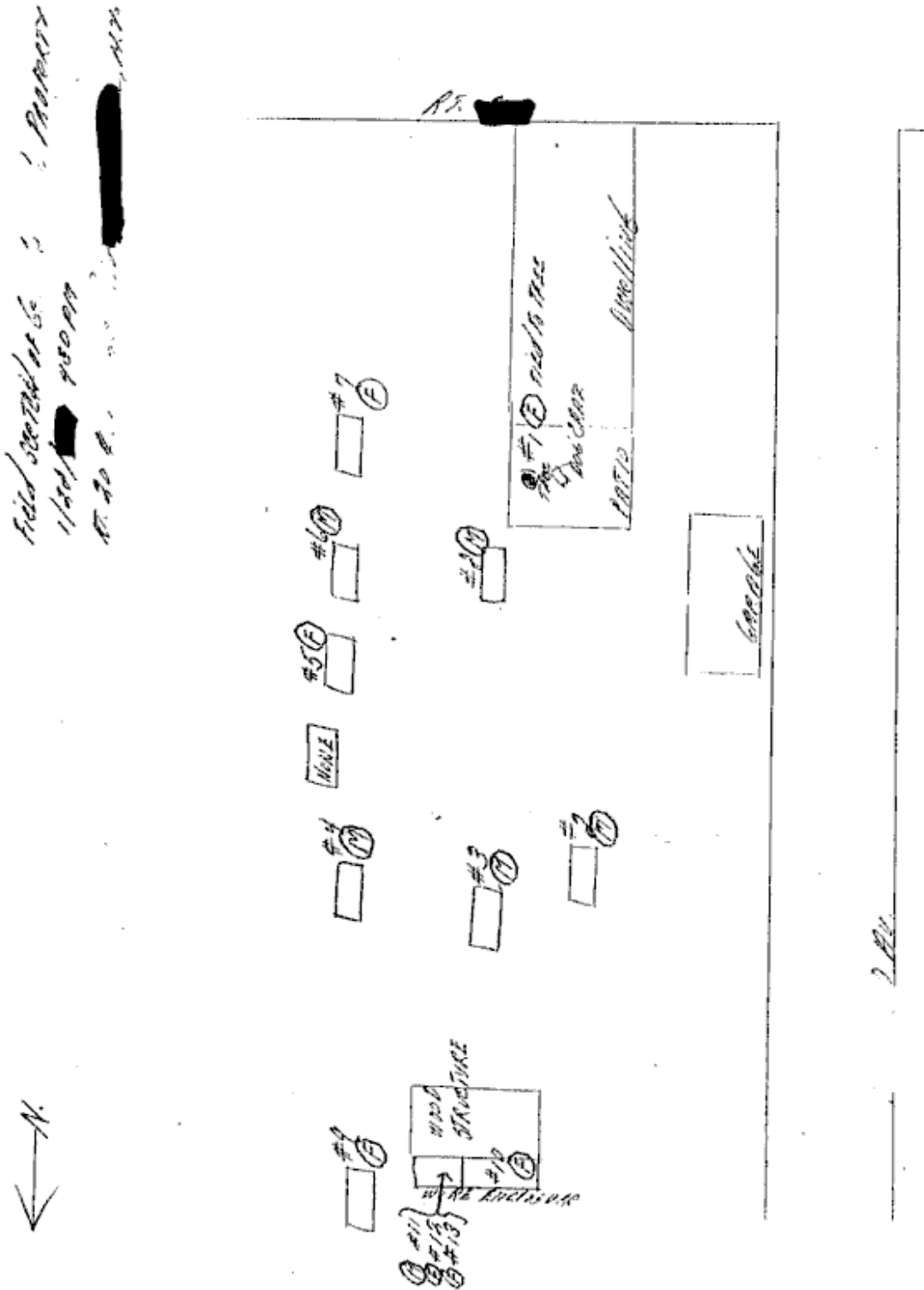
\_\_\_\_\_  
[SIGNATURE OF DEPONENT]

ADDRESS: \_\_\_\_\_

\_\_\_\_\_  
[STREET OR RURAL ROUTE]

\_\_\_\_\_  
[SIGNATURE]

### Example 22



Example 22.3. Diagram of Dog Locations (page 1 of 3)





## Example 22

These #s correspond w/ Field Photo #s.

Dog #	Color	Age	M/F	Description
①	Red	5	Female	White w/ pt. saddle & pink face
②	Red	7	Male	Tan - white
③	Blue	8	male	White bundle white w/ pt. saddle & face
④	Orange & brown	8	male	
⑤	Red	5	Female	mostly brown
⑥	Red	10	male	White w/ tan spots
⑦	Red	11	Female	Brown w/ white bundle
⑧	Brown	10	male	White chest, tan saddle & face
⑨	Red	5	Female	Orange & white spots
⑩	Red	5	Female	Orange & white bundle
⑪	Mucron (Skinner)	7	Male	Chocolate
⑫	It. Blue (Skinner)	4	Female	Orange & white spots
⑬	Black	4	Female	Chocolate bundle

Example 22.3. Diagram of Dog Locations (page 3 of 3)



### Example 22

#### SEARCH WARRANT

Justice Court, Town of [REDACTED]

TO: ANY MEMBER OF THE NEW YORK STATE POLICE

YOU ARE HEREBY DIRECTED TO SEARCH\* OPEN YARD SITUATED ON THE NORTH SIDE OF A DWELLING AT THE NORTH EAST CORNER OF [REDACTED] AND AT [REDACTED] NY. AND A WOOD FRAME STRUCTURE IN THE YARD SERVING AS A KENNEL AND ALL DOG HOUSES

FOR THE FOLLOWING PROPERTY:

ALL ANIMALS, LIVING OR DECEASED, ALL CARCASSES & REMAINS OF ALL ANIMALS ON PROPERTY AT THE NORTH SIDE OF A DWELLING ON THE NORTH EAST CORNER OF RT. 20 AND [REDACTED] Ave, [REDACTED] NY.

AND IF ANY SUCH PROPERTY IS FOUND, you are hereby directed to seize the same and, without unnecessary delay, return it to this court together with this warrant and a written inventory of such property subscribed and sworn to by you. YOU ARE DIRECTED TO EXECUTE THIS WARRANT: \*\*BETWEEN THE HOURS OF 6:00 A.M. AND 9:00 P.M., \*\*AT ANY TIME OF THE DAY OR NIGHT-

\*\*YOU ARE AUTHORIZED, IN THE EXECUTION OF THIS WARRANT, TO ENTER THE PREMISES TO BE SEARCHED WITHOUT GIVING NOTICE OF YOUR AUTHORITY AND PURPOSE

This search warrant issued this 22 day of JANUARY 19 [REDACTED]

[REDACTED SIGNATURE]  
SIGNATURE OF JUDGE OR JUSTICE  
Town Justice  
(TITLE)

\*COMPLETELY IDENTIFY PREMISES, VEHICLE OR PERSON TO BE SEARCHED  
\*\*STRIKE ALL ITEMS NOT APPLICABLE

Example 22.4. Search Warrant

Example 22

WARRANT OF ARREST  
C.P.L. 120.10 - 120.90

FORM NO. 169

WILLIAMSON LAW BOOK CO., ROCHESTER, N.Y. 14609

STATE OF NEW YORK : COUNTY OF

*Justice* COURT *Town* OF *N.Y.*

Warrant of Arrest

IN THE NAME OF THE PEOPLE OF THE STATE OF NEW YORK:

To any Police Officer of the

*State Police Dept* Department,  
*N.Y.* N.Y.

An Accusatory instrument having been this day laid before this court, that the offense of *Sailing to*  
*Provide Food Water + Substances*  
*Section 353 Agricultural + Markets*  
*Class A Misd*

has been committed, and accusing

thereof.

YOU ARE, THEREFORE, COMMANDED forthwith to arrest the above named

and bring him before this court at

in the

County of

Issued this

*25*

day of

*January*

19

*[Signature]*

Judge-Justice

**Example 22**

**SEARCH AND SEIZURE  
RECEIPT AND INVENTORY**

JUSTICE COURT, TOWN OF [REDACTED] )  
COUNTY OF [REDACTED], N.Y. ) **SS.**

I SWEAR THAT THE FOLLOWING IS A TRUE AND DETAILED INVENTORY OF ALL PROPERTY TAKEN BY ME ON THE WARRA  
FILED HEREWITH:

7 FEMALE BRITTANY SPANIELS  
6 MALE BRITTANY SPANIELS

SUBSCRIBED AND SWORN TO BEFORE ME

THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 19 \_\_\_\_\_

(SIGNATURE)

(TITLE)

[REDACTED SIGNATURE]  
(SIGNATURE OF MEMBER)

Example 22.6. Search and Seizure Inventory and Receipt

### Example 22

HUMANE ASSOCIATION, INC.  
P.O. BOX 284  
NEW PALTZ, NY 12561

VETERINARIAN'S STATEMENT RE: PHYSICAL CONDITION OF ANIMALS IN ABUSE CASE

(FS12)

ID # 7614 Species Dog Breed Border Sex M Weight \_\_\_\_\_  
Approx. age 2-4 yrs Description (color, markings) white with brown saddle & face

I, \_\_\_\_\_, am a veterinarian licensed in the state of NY. I am responding to a request by the \_\_\_\_\_ State Police and/ or the \_\_\_\_\_ SECA/Humane Society, that the above-identified animal receive my evaluation.

\_\_\_\_\_ I hereby certify that this animal exhibits the following symptoms:

- . extreme emaciation \_\_\_\_\_ . excessive hair loss \_\_\_\_\_ . dermatitis \_\_\_\_\_
- . dehydration \_\_\_\_\_ . multiple bite wounds \_\_\_\_\_ . heartworm \_\_\_\_\_
- . generalized debility \_\_\_\_\_ . severe itching \_\_\_\_\_ . all of the above \_\_\_\_\_
- . other: filthy body condition, slightly underweight, slightly bloated abdomen mild dental tartar

Signature \_\_\_\_\_

Date 1/29/ \_\_\_\_\_

Kept on premises \_\_\_\_\_

Relocated to \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*

STATEMENT TO BE SIGNED BY VETERINARIAN IF EUTHANASIA OF ANIMAL IS TO BE PERFORMED:

\_\_\_\_\_ I hereby certify that this animal is so maimed, diseased, disabled, or infirm as to be unfit for any useful purpose.\* Euthanasia is appropriate for this animal, whose symptoms are as described above.

Signature \_\_\_\_\_

Date \_\_\_\_\_

\* This language is excerpted from New York State Law which was drafted in the 19th century.

### Example 22

HUMANE ASSOCIATION, INC.  
P.O. BOX 284  
NEW PALTZ, NY 12561

VETERINARIAN'S STATEMENT RE: PHYSICAL CONDITION OF ANIMALS IN ABUSE CASE

<sup>F33</sup>  
ID # 7646 Species Dog Breed Brittany Sex F Weight \_\_\_\_\_  
Approx. age 4-5 yrs Description (color, markings) Brindle-Tan/wh

I, Dr. [Redacted], am a veterinarian licensed in the state of N.Y.. I am responding to a request by the \_\_\_\_\_ State Police, and/or the [Redacted] SPCA/Humane Society, that the above-identified animal receive my evaluation.

\_\_\_\_\_ I hereby certify that this animal exhibits the following symptoms:  
. extreme emaciation \_\_\_\_\_ . excessive hair loss \_\_\_\_\_ . dermatitis \_\_\_\_\_  
. dehydration \_\_\_\_\_ . multiple bite wounds \_\_\_\_\_ . heartworm \_\_\_\_\_  
. generalized debility \_\_\_\_\_ . severe itching \_\_\_\_\_ . all of the above \_\_\_\_\_

. other: dental disease - filthy hair coat slightly thin body condition with bloated abdomen. walks with crooked position - stifle abnormality?

Signature [Redacted] Date 1/29/

Kept on premises \_\_\_\_\_  
Relocated to \_\_\_\_\_ Date \_\_\_\_\_

\*\*\*\*\*

STATEMENT TO BE SIGNED BY VETERINARIAN IF EUTHANASIA OF ANIMAL IS TO BE PERFORMED:

\_\_\_\_\_ I hereby certify that this animal is so maimed, diseased, disabled, or infirm as to be unfit for any useful purpose.\* Euthanasia is appropriate for this animal, whose symptoms are as described above.

Signature \_\_\_\_\_ Date \_\_\_\_\_

\* This language is excerpted from New York State Law which was drafted in the 19th century.

Example 22

STATE OF NEW YORK  
COUNTY OF \_\_\_\_\_  
TOWN/VILLAGE OF \_\_\_\_\_

THE PEOPLE OF THE STATE OF NEW YORK

v.

Defendant(s)

ACCUSATORY INSTRUMENT  
MISDEMEANOR COMPLAINT  
C.P.L. §100.15

I, \_\_\_\_\_, the COMPLAINANT herein, am a \_\_\_\_\_ Peace Officer  
of the \_\_\_\_\_ Humane Society  
(If police officer give rank & department. If not police officer, specify residence)

I ACCUSE \_\_\_\_\_ (jointly) the Defendant(s) in this action,  
and charge that on or about the \_\_\_\_\_ 1st \_\_\_\_\_ day of \_\_\_\_\_ January, 19 \_\_\_\_\_, at 24 hour period  
\_\_\_\_\_ Town \_\_\_\_\_ of \_\_\_\_\_ County of \_\_\_\_\_ Greene \_\_\_\_\_, New York, said  
Defendant(s) did intentionally, knowingly, ~~recklessly~~, unlawfully, ~~willfully~~, ~~with intent or negligence~~  
commit the offense(s) of (1) ~~Failing to provide food, water & sustenance~~ <sup>contrary to the</sup>  
provisions of Section 353 ~~Subdivision~~ \_\_\_\_\_ of the ~~Law of the State of~~ <sup>Agriculture & Markets</sup>  
New York, a Class A \_\_\_\_\_ misdemeanor. Each of said defendants is jointly charged with every offense  
alleged therein. The facts upon which this accusation is made are as follows:

\*\* ~~Of my own knowledge~~ \_\_\_\_\_  
\_\_\_\_\_

Upon information and belief: A Sworn Deposition by \_\_\_\_\_ to wit: That  
above named defendant did fail to provide food, water and sustenance to  
several Brittany Spaniels during the above described times and date at  
a location at \_\_\_\_\_ Ave. and Rt. 20, \_\_\_\_\_ N.Y. all contrary to the  
provisions of the statute herein provided for.

WHEREFORE, I pray the defendant be dealt with in accordance with the Criminal  
Procedure Law.

Complainant

Sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 19 \_\_\_\_\_  
Title \_\_\_\_\_

Verification of this instrument is made pursuant to Section 100.30(d) of the Criminal Procedure Law  
and I know that a false statement herein is punishable as a Class A misdemeanor pursuant to Section  
210.45 of the Penal Law of the State of New York.

Complainant

Dated: \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\*Strike out words not applicable.

\*\*See C.P.L. Section 100.40

Copies must be sent to the following: \_\_\_\_\_ Court, \_\_\_\_\_ Defendant, \_\_\_\_\_ Agency and \_\_\_\_\_ District Attorney

(rev.87)

{20}

*Example 22*

A NON-PROFIT ORGANIZATION



June 14th., [REDACTED]

American Kennel Club  
51 Madison Avenue  
New York, New York, 10010

ATTN: [REDACTED]  
Investigations and Inspections Department

Dear Ms. [REDACTED],

On January 29th., [REDACTED], Rt. 20  
[REDACTED], N.Y., a breeder of Brittany Spaniels, was arrested and charged  
by this Agency on a single count of violating section 353 of the New  
York State Agriculture and Markets Law relating to Cruelty to Animals.  
Mr. [REDACTED] was charged specifically with failing to provide proper food,  
water and sustenance to thirteen (13) Brittanys' chained and caged in  
the rear yard of his home.

On [REDACTED], a jury trial was held in the Town Court, Town  
of [REDACTED], with a guilty verdict being rendered on the charge specified,  
that is, Section 353, Failure to Provide Proper Food, Water and Susten-  
ance. Subsequently, a notice of appeal was filed on May 17th., [REDACTED]  
appealing from the judgement of the Town Court. However, no further  
steps to perfect the appeal were taken and on September 21st., [REDACTED]  
County Court Judge [REDACTED] rendered his decision dismissin  
the appeal and allowing the original conviction to stand.

Enclosed is a copy of Judge [REDACTED] Decision and Order of the Court.  
This Agency is requesting that whatever revocation of privileges with  
the AKC and/or breeders certificates that might be imposed against Mr.  
Kuhn be so applied. This Agency also has on file, other complaints by  
purchaser's of Mr. [REDACTED] dogs specifying dissatisfaction with the health  
and temperament of the animals. Details will be made available should you  
so request.

Thank-you for your attention to this matter and please feel free to  
contact me if necessary.

Sincerely,

[REDACTED]  
Chief Investigator,  
[REDACTED] S.P.C.A.

## Example 22

[REDACTED] HUMANE SOCIETY, INC.

BOX 424  
[REDACTED]

TO Patricia [REDACTED]  
Investigations and Inspections  
A.K.C. *51 Madison Ave*

DATE August 9th., 19[REDACTED]

SUBJECT [REDACTED]

Dear Ms. [REDACTED]

*117 N.Y. 10010  
(212) 676-4376*

Per our telephone conversation and your request of this date, attached you will find a copy of Sect. 353 (hi-lited), Article 26, of the N.Y. State Ag. & Mkts. Law under which we charged [REDACTED] with failing to provide proper food, water and sustenance. Also enclosed is a copy of the misdemeanor complaint that was filed with the court as well as a copy of my sworn deposition that accompanied the complaint. I've also enclosed photocopies of a few of the photographs taken during the course of the investigation. I have many other photos as well as the negatives in the event you may require additional copies.

I hope this information will meet your requirements.

Sincerely,

[REDACTED]  
Chief Investigator,  
[REDACTED] SPCA



## ***Example 23***

### ***Puppy Mills***

#### **The Complaint**

A complainant called a local humane society and reported that she went to a breeder to buy a puppy. The person was appalled by the conditions that she witnessed at the premises and described them in a signed affidavit to the humane society.

#### **The Response**

1. The humane society sent two investigators to the property on the premise of looking to buy a puppy.
2. They were not allowed into the kennel areas; instead, the puppies were brought out to the porch of the house. In addition to looking lethargic, the puppies had a bad/dirty smell.
3. They asked to see the parents of the puppies and the owner refused.
4. Based on the condition of the animals, the owner's behavior, and the original complaint, the investigators applied for a search warrant to enter the premises.
5. The investigators contacted other area shelters to assist in a rescue effort. They also contacted a local veterinarian and volunteers from other humane agencies.
6. On an agreed upon date, the Sheriff's department executed the search warrant and entered the property along with the humane society and the veterinarian.
7. The owner and caretaker of the kennels were given an appearance ticket and removed from the property.
8. The team entered the property. Each animal was photographed and given an identification number. In addition to numerous dogs, 4 cats, 1 goose, 1 duck, and 5 doves in poor condition, were on the premises. Animals were assigned to the various shelters and removed. Their locations were documented.
9. The situation was complicated by the fact that there were two individuals involved, each of whom technically owned numerous of the animals. Thus, the investigators had to determine which animals technically belonged to whom, identify them, and specify the "Informations" accordingly.
10. The humane society kept an accounting of the paperwork and presented it to the District Attorney's office.

#### **Charges Brought**

The owner of the kennels was charged with 86 violations of Article 26 Section 353 of the Agriculture & Markets Law. The caretaker of the kennels was charged with 47 violations of Article 26 Section 353 of the Agriculture & Markets Law.

**Supporting Documents Follow**

- Application for Search Warrant and Receipt for Property Taken
- Deposition of Complainant and Investigator
- Search Warrant
- Information

*Example 23*

Town of [REDACTED] )) INVENTORY UNDER SEARCH WARRANT  
 County of [REDACTED] )) ( CPL 690.55 (5) )  
 State of New York ))

---

## IN THE MATTER

-of-

The application of [REDACTED], an employee of the [REDACTED] County Society for the prevention of cruelty to animals, for a search warrant authorizing a search, seizure for the purpose of administering to and/or the Euthanization of animals upon the following premises: The property and premises of [REDACTED] which also does business as [REDACTED] Kennels & Stables located on [REDACTED] Rd in the Town of [REDACTED] County, New York and being further described as a gray in color two story wood structure with white trim, and a red door on the left side of the structure as you face the front of the structure, more specifically as you proceed onto [REDACTED] Rd from state route [REDACTED] you proceed 3/10th's of a mile onto [REDACTED] Rd and the residence is on the right hand side of [REDACTED] and is further identified as having a brown in color wooden sign at the entrance to the said property that reads [REDACTED]. The property is further described as having a red in color barn with a brown wooden addition with beige trim which is located to the left rear of the residence as you face the residence.

## FOR

Property that tends to demonstrate that an offense was committed more specifically, Dogs, Cats, or any other animals having been examined by a licensed veterinarian and deemed unhealthy or living in unhealthy conditions, and to euthanize any of said animals which have been certified by a veterinarian surgeon, duly licensed by the state of New York in writing, to be so maimed, diseased, disabled, or infirmed as to be unfit for any useful purpose, which said animals said veterinarian surgeon believes to be suffering pain or serious discomfort. Said Euthanization to be preformed in accordance with accepted humane means and procedures. These animals constitute evidence that the offense of failure to provide proper substance ( section 353 of the Agriculture and Markets law ) and animals improperly confined or kept ( section 357 of the Agriculture and Markets law ) had been committed.

Example 23

-----  
State of New York ))  
County of [REDACTED] )) ss:  
City of [REDACTED] ))

[REDACTED], being duly sworn, deposes and says that she is a public servant of the kind specified in CPL section 690.05 (1) her title being cruelty investigator employed by the [REDACTED]. That she is one of the public servants by whom the attached search warrant was executed on the [REDACTED] day of [REDACTED] between the hours of 6:00 A.M. and 9:00P.M. on said date, and that the following is a true and detailed account of all of the property seized pursuant to the said warrant:

- 1./ 80 ( eighty ) Dogs of mixed breeds
- 2./ 1 ( one ) Cat
- 3./ 5 ( five ) Doves

sworn to before me  
this 25th day of  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED] Investigator

[REDACTED]  
Notary Public, State of New York  
Qualified in [REDACTED] County  
Commission Expires Oct. 6, 19[REDACTED]

*Example 23*AFFIDAVIT

STATE OF NEW YORK        )  
                                  ) ss.:  
COUNTY OF ██████████    )

██████████, being duly sworn, deposes and says the following:

1. In September 19██████ I saw an ad in the "Pennysaver" which read, "AKC HOMEBRED PUPS: Lhasa Apso, Cocker Spaniels, Welsh Corgies, Pomeranians, Black German Shepherds, Pekingese. Also adults. Call Anytime - 914-██████████." (See attached - Lhasa spelled wrong)
2. I called the telephone number in the ad and left a message on a telephone recorder.
3. Approximately 11:00 p.m. the following evening I received a telephone call from a man who identified himself as ██████████ of ██████████ Kennels.
4. I told him that I was interested in purchasing a Pomeranian puppy.
5. He told me that he had Pomeranian puppies but at this particular time had only one (1) left and other people were also coming to look at her so I would have to come up as soon as possible or she would be gone.
6. On September 28, ██████████ I drove to ██████████ Kennels which was located on ██████████ in ██████████, New York.
7. When I arrived, I saw a Pomeranian out on the front lawn inside of a small fenced in area. The Pomeranian

*Example 23*

looked full grown to me.

8. A man came out of the house and introduced himself as .  
He said that the Pomeranian inside the fence was the only one he had left.
9. The Pomeranian's backside was covered with feces.
10. I noticed that the feces was a strange green color and I also noticed that the dog was coughing and sneezing.
11. : said that he had just given the dog a bath and that she must have messed on herself.
12. I told him that I was looking for a puppy and stated that the Pomeranian looked full grown.
13. He said that she was only five (5) months old and showed me two (2) teeth inside the dog's mouth which he said were baby teeth.
14. I also noticed that her coat seemed to be chopped and uneven. As if the fur had been matted and later cut away with scissors. I mentioned that her coat didn't look very full.
15. He said that her coat hadn't grown in completely yet. He told me that she would not grow any larger in size but that her fur would get thicker and longer.
16. I thought about it for a moment and decided to buy the dog. One of the reasons for this decision was because I felt sorry for her.

*Example 23*

17. He told me that the price would be \$300.00 and asked me to wait outside while he cleaned her backside.
18. While I was waiting, I began to get suspicious about the conditions of the kennel because he wouldn't let me go inside.
19. I also observed another man wandering about the property. He appeared somewhat disheveled.
20. When                    returned, he had with him some equipment. He told me that he was going to give the dog her last two (2) shots and clip her nails.
21. He proceeded to give her two (2) shots standing up in the front yard and clip her nails. One of the dog's nails began to bleed quite a bit. We wrapped the dog's paw in a towel.
22. Just out of curiosity I decided to ask to see some other dogs.
23. He asked me what kind of dog specifically that I wanted to see.
24. I told him that I wanted to see the Llasa Apso's.
25. Again, he told me to wait in the front yard while he went in to what appeared to be a barn to retrieve a Llasa Apso.
26. I could hear lots of dogs barking.
27. When he returned with the Llasa Apso, I noticed immediately

### *Example 23*

that the dog was in very poor condition. Large patches of the dog's fur was gone.

28. I asked him what was wrong with the dog.
29. He said that the dog was changing coats. He said that the dog was losing it's summer coat and preparing for it's winter coat.
30. I did not believe this explanation because I have had many animals and have never seen one lose it's fur completely before getting the next coat. The condition looked to me like "mange".
31. My heart broke when I saw the Llasa Apso and at that point I just wanted to leave Kennels.
32. I asked for the AKC registered papers that should have come with the Pomeranian.
33. He told me that his partner had just died and said that he would mail them to me.
34. I did not receive the papers so on November 8, 19 I telephoned He told me that he sent the papers to the American Kennel Club with the wrong fee so it would be about three or four more weeks before I would get the papers. I never did receive the AKC papers.
35. I continued to feel very uncomfortable about the whole situation at Kennels and decided to try to locate an agency that might be able to do an inspection and ease my mind.



*Example 23*

36. I called Directory Assistance for a telephone number to an SPCA in ██████ County. I thought that was the county in which ██████ was located. I later found out it is in ██████ County. Directory Assistance did not have a telephone number.
37. I contacted the ██████ SPCA. They could offer no assistance to me and suggested that I call the ██████ Police Department.
38. I called the ██████ Police Department and they could offer no assistance.
39. I contacted ██████ television station in ██████ New York to see if they had a telephone number for the SPCA. I spoke to ██████ who provided a telephone number for the ██████ County SPCA. Again, because I thought ██████ was in ██████ County.
40. I called the SPCA in ██████ County and my complaint was ultimately referred to the ██████ County SPCA.
41. Another reason I chose to pursue this matter is because after I shared my experience with others, I was told that ██████ might be running a "puppy mill" and if this is true, the conditions might be horrible.
42. I've purchased dogs from kennels in the past and have always been able to walk through the kennel and look at all the dogs before choosing one. ██████ acted like he had something to hide.

*Example 23*

43. . . . continues to advertise in the Pennysaver. His most recent advertisement, a copy of which is attached, reads, "AKC Homebred Pups: Lhasa Apsos, Wire Fox Terriers, Toy Fox Terriers, Miniature Dachsunds, Siberian Huskies, American Eskimos, German Shepards. 914- . . . anytime.

44. After an examination at the veterinarian's office, I was told that the Pomeranian was older than I was told by . . . I was told that the baby teeth pointed out to me by . . . may never fall out as this is a condition that dog's can have whereby they grow double teeth.

45. . . . 's latest excuse for not providing AKC papers for my dog is that he bought the Pomeranian from some people in Middletown and must get the papers from them. Also, that he had a death in the family.

*[Handwritten signature]*

Sworn to before me this  
15<sup>th</sup> day of January, 1977.

**NOTARY PUBLIC**  
Notary Public, State of New York  
No. 24-4628581  
Qualified in Kings County  
Commission Expires 12.12.92

*Example 23*SEARCH WARRANT

STATE OF NEW YORK: COUNTY OF [REDACTED]

JUSTICE COURT: TOWN OF [REDACTED]

HON: [REDACTED], Issuing Judge

-----

IN THE MATTER OF THE APPLICATION OF [REDACTED], AN EMPLOYEE OF THE [REDACTED] COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, FOR A SEARCH WARRANT AUTHORIZING A SEARCH, SEIZURE FOR THE PURPOSE OF ADMINISTERING TO AND/OR THE EUTHANIZATION OF ANIMALS UPON THE FOLLOWING PREMISES:

THE PROPERTY AND PREMISES OF [REDACTED] WHICH ALSO DOES BUSINESS AS [REDACTED] AND STABLES LOCATED ON [REDACTED] ROAD IN THE TOWN OF [REDACTED] COUNTY, NEW YORK AND BEING FURTHER DESCRIBED AS A GRAY IN COLOR TWO STORY WOOD STRUCTURE WITH WHITE TRIM, AND A RED DOOR ON THE LEFT SIDE OF THE STRUCTURE AS YOU FACE THE FRONT OF THE STRUCTURE, MORE SPECIFICALLY AS YOU PROCEED ONTO [REDACTED] RD FROM STATE ROUTE [REDACTED] YOU PROCEED 3/10TH'S OF A MILE ONTO [REDACTED] RD AND THE RESIDENCE IS ON THE RIGHT HAND SIDE OF [REDACTED] RD AND IS FURTHER IDENTIFIED AS HAVING A BROWN IN COLOR WOODEN SIGN AT THE ENTRANCE TO THE SAID PROPERTY THAT READS "[REDACTED] AND STABLES". THE PROPERTY IS FURTHER DESCRIBED AS HAVING A RED IN COLOR BARN WITH A BROWN WOODEN ADDITION WITH BEIGE TRIM WHICH IS LOCATED TO THE LEFT REAR OF THE RESIDENCE AS YOU FACE THE RESIDENCE.

-----

TO ANY MEMBER OF THE [REDACTED] COUNTY SHERIFF'S DEPARTMENT.

You are hereby authorized and directed to search for and seize the following property and evidence: Dogs, Cats, or any other animals having been examined by a licensed veterinarian and deemed unhealthy or living in unhealthy conditions, and to euthanize any of said animals which have been certified by a veterinary surgeon, duly licensed by the state of New York, in writing, to be so maimed, diseased, disabled, or infirmed as to be unfit for any useful purpose, which said animals said veterinary surgeon believes to be suffering pain or serious discomfort. Said euthanization to be preformed in accordance with accepted humane means and procedures.

*Example 23*

This warrant must be executed between the hours of 6:00AM and 9:00PM.

This warrant must be executed not more than ten (10) days after the date of it's issuance and any property seized pursuant hereto, shall be returned and delivered to the court, without unnecessary delay.

This search warrant issued  
this [redacted] day of [redacted]

[redacted signature]  
-----  
Town Justice,  
Town of [redacted]

*Example 23.3. Search Warrant (page 2of2)*

Example 23

STATE OF NEW YORK COUNTY OF \_\_\_\_\_  
 \_\_\_\_\_ town COURT \_\_\_\_\_ town OF \_\_\_\_\_  
 THE PEOPLE OF THE STATE OF NEW YORK )  
 -VS- )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ Rd. )  
 \_\_\_\_\_ N.Y. Defendant(s) )

BE IT KNOWN THAT, by this information, I \_\_\_\_\_  
 as the Complainant herein, stationed at \_\_\_\_\_ Co. S.P.C.A.  
 accuses \_\_\_\_\_ the above mentioned  
 Defendant(s), with having committed the Misdemeanor of  
FAILURE TO PROVIDE SUSTENANCE, in violation of Section  
353 Subdivision \_\_\_\_\_ of the AGRICULTURE & MARKET Law of the  
 State of New York.

That on or about the 18 day of March, 1991,  
 at about 1:03 (~~XXXX~~) (P.M.) in the town of  
wawarsing, County of \_\_\_\_\_, the Defendant(s)  
 did (x) intentionally, (x) knowingly, and unlawfully,

COMMIT THE MISDEMEANOR OF FAILING TO PROVIDE PROPER  
 SUSTENANCE TO AN ANIMAL BELONGING TO HIM/HER SELF OR  
 ANOTHER, TO WIT,  
5 Doves, 1 cat, and 80 dogs without medical care or proper  
food or water

ALL CONTRARY TO THE PROVISIONS OF THE AGRICULTURE & MARKETS  
 LAW IN SUCH CASE MADE AND PROVIDED. THE ABOVE SAID FACTUAL  
 ALLEGATIONS ARE MADE OF YOUR DEPONENT PERSONAL KNOWLEDGE  
 DURING THE INVESTIGATION CONDUCTED BY YOUR DEPONENT, A  
 HUMANE AGENT EMPLOYED BY THE \_\_\_\_\_ COUNTY S.P.C.A. and or  
 upon information and belief, with the sources of  
 Complainant's information and the grounds for belief being  
 the facts contained in the attached SUPPORTING DEPOSITION(s)  
 of \_\_\_\_\_ and \_\_\_\_\_.

~~(WHEREFORE Complainant prays that a Warrant be issued for  
 the arrest of the said Defendant(s))~~

(WHEREAS, an Appearance Ticket was issued to the said  
 Defendant(s), Directing, (x) him ( ) her ( ) them to appear  
 before this Court at 7:00 ( ) a.m. (x) p.m., on the 30<sup>th</sup>  
 day of March, 1991.)  
 In a written instrument, any person who knowingly makes  
 false statement which such person does not believe to be  
 true has committed a crime under the laws of the State of  
 New York punishable as a Class A Misdemeanor. (PLS210.45)

Subscribed and Sworn to before me this  
 \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
 \_\_\_\_\_ COMPLAINTANT

Example 23

STATE OF NEW YORK COUNTY OF \_\_\_\_\_  
 Town COURT Town OF \_\_\_\_\_  
 THE PEOPLE OF THE STATE OF NEW YORK )  
 -VS- )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ N.Y. Defendant(s) )

BE IT KNOWN THAT, by this information, I \_\_\_\_\_  
 as the Complainant herein, stationed at \_\_\_\_\_ Co. S.P.C.A.,  
 accuses \_\_\_\_\_ the above mentioned  
 Defendant(s), with having committed the Misdemeanor of  
FAILURE TO PROVIDE SUSTENANCE, in violation of Section  
353 Subdivision of the AGRICULTURE & MARKET Law of the  
 State of New York.

That on or about the 18 day of March, 19 98,  
 at about 1:03 (XXXX) (P.M.) in the Town of  
 \_\_\_\_\_, County of Ulster, the Defendant(s)  
 did ( ) intentionally, (X) knowingly, and unlawfully, \_\_\_\_\_

COMMIT THE MISDEMEANOR OF FAILING TO PROVIDE PROPER  
 SUSTENANCE TO AN ANIMAL BELONGING TO HIM/HER SELF OR  
 ANOTHER, TO WIT,  
1 goose, 1 duck, 3 cats, and 42 dogs without medical care or  
proper food or water

ALL CONTRARY TO THE PROVISIONS OF THE AGRICULTURE & MARKETS  
 LAW IN SUCH CASE MADE AND PROVIDED. THE ABOVE SAID FACTUAL  
 ALLEGATIONS ARE MADE OF YOUR DEPONENT PERSONAL KNOWLEDGE  
 DURING THE INVESTIGATION CONDUCTED BY YOUR DEPONENT, A  
 HUMANE AGENT EMPLOYED BY THE \_\_\_\_\_ COUNTY S.P.C.A. and or  
 upon information and belief, with the sources of  
 Complainant's information and the grounds for belief being  
 the facts contained in the attached SUPPORTING DEPOSITION(S)  
 of \_\_\_\_\_ and \_\_\_\_\_

~~(WHEREAS, an Appearance Ticket was issued to the said Defendant(s) directing, (X)him ( )her ( )them to appear before this Court at \_\_\_\_\_ ( ) a.m. (X)p.m., on the \_\_\_\_\_ day of \_\_\_\_\_, 1998.)~~

(WHEREAS, an Appearance Ticket was issued to the said Defendant(s) Directing, (X)him ( )her ( )them to appear before this Court at 7:00 ( ) a.m. (X)p.m., on the 30th day of March, 1998.)  
 In a written instrument, any person who knowingly makes false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PLS210.45)

Subscribed and Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
 \_\_\_\_\_ COMPLAINTANT

---

## Pet Store Complaints

### Overview

People may call and complain about the conditions that exist at a local pet store. The complaints may range from overcrowded cages to outright animal abuse.

Because the animals in pet stores are all generally visible to the public, in one sense the case is easier to address; on the other hand, because the pet store is a business and someone's livelihood, it must be treated very carefully.

### ✓ Things to be aware of when investigating

- Overcrowding, too many puppies or kittens to a cage
- Cages not clean, feces piled up
- Lack of clean water and food
- Animals with hair loss, body sores
- Animals are lethargic
- Birds have overgrown beaks because they have nothing to gnaw on.

### ✓ What to do

1. Investigate the complaint. Examine the conditions that appear in plain view.
2. If an animal appears to be suffering to a point where you believe exigent circumstances exist:
  - Arrest the person responsible or issue him an appearance ticket.
  - Contact the local humane agency, seize the animal and have the humane agency take it to a veterinarian.
  - Obtain a signed statement from the veterinarian regarding the condition of the animal and photograph the animal.
3. If the animals you see in plain view appear to be neglected, but they are not in danger of dying, discuss the situation with the owner or employees. Ask him how the animals got in this state.
  - Inform the owner what needs to be done to correct the situation and provide him with a written list.
  - Tell him you will return in a day or so to see if the situation has been corrected.
4. If the situation has not improved on the day you return:
  - Obtain a search warrant (and perhaps an arrest warrant).

- Call the local humane society and a veterinarian to assist you.
- Return to the pet store and have the humane society remove the animals.
- Arrest the person(s) responsible with a warrant or issue them an appearance ticket.
- Take photographs at the scene of the animals, their cages, food/water bowls, *etc.*
- Have the veterinarian sign a statement as to the condition of the animal(s) and have photographs taken of the animal's condition.
- File a complaint with the NYS Department of Agriculture & Markets at <https://agriculture.ny.gov/animals/pet-dealer-complaint-form>.

**NOTE:** *If the pet store has a bad reputation with regard to treatment of animals, but you do not see evidence in plain view that would substantiate the complaint and obtaining a search warrant, consider sending someone undercover to work in the pet store to gather evidence.*

**Example of situation follows**

24. Pet Store Complaint



## ***Example 24***

### ***Pet Store Complaint***

#### **The Complaint**

A landlord contacted the animal control officer and reported that foul smells were emanating from a pet store which recently had rented space in his building, but had not yet opened for business. The landlord reported that in addition to regular pet store animals, wildlife, such as baby foxes and a raccoon, were also housed in the pet store. The landlord stated that the pet store owner had not been at the premises in days and the rent was in arrears. Because of the foul smells, the landlord was worried about the fate of the animals and the state of his property.

The animal control officer notified the police. The landlord was willing to sign a statement.

#### **The Response**

1. Based on the information provided by the landlord, the police applied for a search warrant to enter the property.
2. The police called the animal control officer, as well as the Department of Environmental Conservation (DEC) because of the wildlife involved, a veterinarian, and the humane agency to form a team to deal with the situation.
3. The veterinarian and the humane society informed the police that there had been past complaints against the pet store when it was located at other sites. The Department of Environmental Conservation informed the police that the pet store owner had a license to keep specific wildlife for educational purposes, but the animals had to be kept in prescribed conditions.
4. The police obtained a search warrant and they entered the property along with the team.
5. All the animals were examined and individually identified. The animals and conditions were photographed.
6. The DEC called a wildlife rehabilitator to the scene to remove the foxes, flying squirrel, *etc.* to his facility.
7. The rest of the animals were removed to the veterinarian's office and the animal shelter.
8. Records were created to document the location of the animals and the persons responsible for their care.

#### **Charges Brought**

The police charged each of the three partners (owners) of the pet shop with 153 counts of violating Article 26 Section 353 of the Agriculture & Markets Law.

In addition, they were charged by the DEC with violating Section 211.2 of the Environmental Conservation Law, New York Code of Rules and Regulations, Chapter III, Air Resources, Part

211, which deals with air quality. In addition, the DEC plans to revoke the owners' license to keep wildlife.

**Supporting Documents Follow**

- Application for Search Warrant
- Search Warrant
- Inventory Receipt
- Agreement to Keep Animals
- Information

*Example 24*

-----X  
 IN THE MATTER OF THE APPLICATION  
 OF  
 \_\_\_\_\_ FOR A SEARCH WARRANT  
 FOR A CERTAIN DESIGNATED PREMISES, PERSON  
 AND/OR VEHICLE.  
 -----X

AFFIDAVIT FOR A  
 SEARCH WARRANT  
 Pursuant to Section  
 690.35 of CPL

STATE OF NEW YORK)  
 ) ss.:  
 COUNTY OF [REDACTED] )

Det. Sgt. \_\_\_\_\_, being duly sworn, deposes and

says:

I am the applicant herein, and I am a Public Servant of the kind specified in the Criminal Procedure Law, Section 690.05(1), my title being Detective Sergeant, and employed by the Town of [REDACTED] Police Department.

I do hereby state that there is reasonable cause to believe that property of a kind and character as described in Section 690.10 of the Criminal Procedure Law may be found in or upon a designated Premises, Person, and/or Vehicle.

I make this affidavit in support of an application for a search warrant to search the Premises, Persons, and/or Vehicles as described within this affidavit and to seize the property as identified below:

Three potbelly pigs, four foxes, one dog, one raccoon, several prairie dogs, one ferret, several exotic birds, one squirrel, four rabbits, several reptiles, two turtles, and any other animals deemed unhealthy, in unhealthy conditions, or without food, water, or shelter.

That there is reasonable cause to believe that the property sought: (Refer Section 690.10 CPL, 1 thru 4, whichever is applicable).

Constitutes evidence or tends to demonstrate that an offense was committed.

## Example 24

### SUPPORTING ALLEGATIONS OF FACTS

The following allegations of facts are submitted in support of this application. That on [REDACTED] at 1600 hrs., the [REDACTED] police Department was contacted by the Town of [REDACTED] Animal Control Officer, who at that time requested police assistance at [REDACTED] in the Town of [REDACTED]. [REDACTED] police officers responded and were informed by the animal control officer that the town had received complaints about the foul odor coming from the building located at [REDACTED]. This complaint was made by Mr. [REDACTED] who is in fact the owner of the [REDACTED] of the building. Mr. [REDACTED] informed the animal control officer that the downstairs section of the building was rented recently to two individuals who he identified as [REDACTED], and that these persons were intending to open a pet shop type business. [REDACTED] was concerned and felt that there may be deceased animals in the downstairs section of the building due to the strong odor coming from the area. Attempts were made by the police to contact [REDACTED]. The police were unable to locate these individuals. The owner of the building, [REDACTED] authorized entry to the building and he himself made entry based on the existing circumstances. Building Inspector [REDACTED] was present during this entry. Mr. [REDACTED] and Building Inspector [REDACTED] observed animals stacked on top of one another and an extreme strong odor of feces and other unsanitary conditions. Many of the animals did not have water or food in the kennels. Most of the animals coats were matted and dirty. Inside of three of the cages there was vegetation growing, showing that the seeds they would normally eat, germinated from the extensive period of time being left inside the cages. The cages were not properly maintained or clean. These existing conditions were observed by [REDACTED] the animal control officer, [REDACTED] the town building inspector, and two police officers from the Town of [REDACTED] Police Department. Attempts were further made to contact [REDACTED] regarding these conditions. The police were unable to contact these individuals. The investigation was to continue and at that time the building was secured by the owner.

On [REDACTED], this investigation continued and attempts were made to contact [REDACTED] with negative results. Due to the existing conditions at this location and the well-being of the animals, request is being made for a search of this building and seizure of any endangered animals.

*Said actions being in violation of Section #35B, of the Agriculture and Market Law, Failure To provide proper food and drink to animals.*

*Did 21.*

### THE PREMISES TO BE SEARCHED

This affidavit is submitted in support of an application to search the following designated premises, persons, and/or vehicles:

Property located at [REDACTED], which is located at the [REDACTED] in the Town of [REDACTED], County of [REDACTED].Y. The property is described as a two-story building with [REDACTED] siding. The entrance to the building is on the southwest side.

Example 24

New Windsor Justice COURT : COUNTY OF [REDACTED]  
 STATE OF NEW YORK  
 IN THE MATTER OF THE APPLICATION  
 OF  
 Det. Sgt. [REDACTED] FOR A SEARCH WARRANT  
 FOR CERTAIN DESIGNATED PREMISES, PERSONS AND/  
 OR VEHICLES.

SEARCH WARRANT  
APPLICATION  
AMENDMENT

Application amendment as follows:

Additional items to be added to the original list of designated property regarding search and seizure, those items being any and all written material to include any purchase receipts, records of purchases, permits and licenses relating to exotic animals and/or any animals as required by law.

STATE OF NEW YORK :  
 COUNTY OF [REDACTED] : ss. :  
 Town of [REDACTED] :

SUPPLEMENTAL AFFIDAVIT

[REDACTED], being duly sworn, deposes and says:  
 That I am a Detective Sergeant [REDACTED], employed by the [REDACTED] Police Department.

That on date of [REDACTED] of the [REDACTED] I prepared an affidavit in support of [REDACTED] the search warrant authorized the search of a premises located at # [REDACTED] Turnpike in the Town of [REDACTED] County of [REDACTED] N.Y.

[REDACTED] facts in the subject search warrant affidavit dated [REDACTED], [REDACTED], are re-affirmed and re-alleged as if herein set forth in length. A copy of my affidavit is annexed hereto and made part of this supplemental affidavit.

In support of your deponent's assertion as to the existence of reasonable cause, the following facts are offered:

That during execution of warrant, property existed that would require by law, the existence of proper licenses and permits to purchase said property, that property being exotic animals. Therefor, reasonable cause is established for search warrant amendment.

Example 24.1. Application for Search Warrant (page 3of4)

*Example 24*

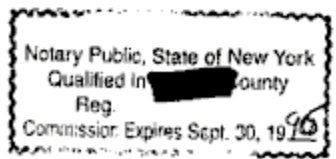
REQUEST is hereby made for determination, pursuant to CPL Section 690.40(2), that the executing officers be authorized to enter into said premises to be searched "WITHOUT GIVING NOTICE OF THEIR AUTHORITY OR PURPOSE", on the grounds that there is reasonable cause to believe:

WHEREFORE, your affiant requests that the Court issue a warrant of search and seizure in the form annexed, authorizing the search of the aforesaid described premises, persons, and/or vehicles and directing that such property or evidence or any part thereof be found, that it be seized and retained ~~and stored in the~~ by the SPCA in ~~County~~ ~~and if so ordered, be made accessible to the Court~~ together with such other and further relief that the Court may deem proper.

*Det. Sgt.*  
\_\_\_\_\_  
APPLICANT

Sworn to before me this 12<sup>th</sup> day  
of \_\_\_\_\_ 19    

\_\_\_\_\_  
Notary Public



- 5 -

OCDA-92

*Example 24.1. Application for Search Warrant (page 4 of 4)*

*Example 24*

## S E A R C H   W A R R A N T

Town of [REDACTED] COURT  
 STATE OF NEW YORK  
 COUNTY OF [REDACTED]

Pursuant to Section  
 690.05 of CPL

TO ANY POLICE OFFICER OF THE Town of [REDACTED] Police Department.  
 Animal Control Officer, any Humane Officer from [REDACTED] County SPCA.

YOU ARE HEREBY AUTHORIZED AND DIRECTED TO SEARCH FOR AND SEIZE THE  
 FOLLOWING DESIGNATED PROPERTY:

Three potbelly pigs, four foxes, one dog, one raccoon, several prairie dogs, one ferret,  
 several exotic birds, one squirrel, four rabbits, several reptiles, two turtles, and any  
 other animals deemed unhealthy, in unhealthy conditions, or without food, water, or  
 shelter.

YOU ARE AUTHORIZED AND DIRECTED TO SEARCH THE FOLLOWING DESIGNATED  
 PREMISES, PERSONS AND/OR VEHICLES:

Property located at [REDACTED] which is located at the  
 in the Town of [REDACTED], County of [REDACTED], N.Y. The property is described as a two-  
 story building with [REDACTED] siding. The entrance to the building is on the southwest side,  
 this being the entrance to the ground level floor.

\* YOU ARE THEREFORE COMMANDED [between the hours of 6:00 A.M. to  
 9:00 P.M.] [~~AT ANYTIME OF THE DAY OR NIGHT~~] to conduct said search.

\* This Court hereby determines that adequate grounds exist for  
 authorizing the executing officers to enter into said premises to be  
 searched WITHOUT giving notice of his authority and purpose.

AND, if you find such property or any part thereof, a search  
 warrant return is to be made to this Court listing and identifying the  
 property seized which I further direct be safeguarded by your  
 department.

Dated at the [REDACTED]  
 this [REDACTED] day of [REDACTED], 19[REDACTED]

I hereby certify that this is a true copy of the original Search Warrant issued  
 on [REDACTED] by the [REDACTED]

(Mrs.) [REDACTED], Court Clerk  
 \* Cross out which is not applicable

OCDA-1992

*Example 24*

SEARCH AND SEIZURE INVENTORY

Search Warrant Return  
Pursuant to Section  
690.50 of the C.P.L.

Name of Issuing JUSTICE: \_\_\_\_\_

Date and time Warrant was executed: [REDACTED] 1:45 P.M. \_\_\_\_\_

Location seized property was removed from: \_\_\_\_\_  
Town of [REDACTED], New York. \_\_\_\_\_

List all property seized:

See Attached List

I do hereby swear and state, that the aforesaid property as identified,  
was seized pursuant to the execution of a search warrant and that said  
property is being safeguarded in the See Attached evidence locker,  
unless otherwise directed by the Court.

Sworn to before me this \_\_\_\_ day

of \_\_\_\_\_ 19 \_\_\_\_

[Signature]  
Executing Police Officer



*Example 24*

Search And Seizure Inventory; ' town of ██████████, N.Y.

1 Raccoon with cage  
 1 Dragon lizard with aquarium  
 2 Tortoises with aquarium  
 2 cages (empty hamster)  
 1 Silver fox with cage  
 2 cages (empty)  
 1 brownish colored snake  
 1 California King snake with aquarium  
 2 Python snakes with aquarium  
 1 Columbian Red Tail Boa snake  
 1 Green terror fish with tank full of fungus  
 1 Black pomeranian dog  
 1 Aquana with aquarium  
 2 coy fish with tank  
 2 starfish in plastic tank  
 1 hermit crab  
 1 yellowtail blue damsel fish  
 1 milk snake with aquarium  
 1 albino burmes python  
 3 Ratsakes  
 1 Green burm  
 1 Albino burm  
 1 Tank that contained a dead Lizard  
 1 Milk snake  
 1 pine snake  
 1 California King snake  
 2 fancy hamsters with aquarium  
 3 hamsters with aquarium  
 3 mice with aquarium  
 9 hamsters with aquarium  
 9 gerbals with aquarium  
 1 white rabbit with cage  
 5 gerbals with aquarium  
 1 aquarium empty  
 2 baby foxes with kennel  
 2 hedgehogs with cage  
 2 cockateils with cage  
 3 prairie dogs with cage  
 1 yellow parrot with cage  
 2 parots with cage  
 8 exotic spinney mice with aquarium  
 1 ferret with cage  
 2 Teddy bear hamsters with aquarium  
 2 gerbals with aquarium  
 2 prairie dogs with cage  
 2 Frogs in carrying cases  
 1 aquarium (empty)  
 1 hamster with aquarium  
 1 Angora rabbit with cage  
 2 young rabbits  
 2 Flying squirrels  
 3 Ferret with cage  
  
 1 small perot with cage and toys  
 5 Hermit Crabs with aquarium  
 Aquarium (empty)  
 1 parot with cage and toys  
 1 Savanough snake with aquarium  
 1 Nile monitor snake  
 2 turtles  
 1 Blue tongue skink  
 1 American alligator  
 1 blue tongue skink with aquarium  
 1 fox with cage  
 3 pot belly pigs

Example 24

Date: 10/12/90

AGREEMENT BY AND BETWEEN THE [redacted] COUNTY S.P.C.A.  
[redacted] ROAD  
[redacted], N.Y.  
AND

Rob [redacted]  
[redacted]

FOR IN CONSIDERATION OF \$1.00 AND OTHER VALUABLE CONSIDERATION THE PARTIES HERETO AGREE AS FOLLOWS:

WHEREAS THE [redacted] COUNTY S.P.C.A. On [redacted] did seize  
2 Albino Burmese Pythons, 1 Green Burmese Python, 1 Bull Snake, 1 milk snake, 3 water snakes,  
WHEREAS Rob [redacted] HAS OFFERED TO CARE FOR SAID ANIMAL AND FURNISH IT WITH FOOD, SHELTER AND CARE; 1 Albino Cat,  
King Snake,  
1 small rat  
snake, 1 yellow  
rat snake, 1  
gopher snake,  
1 tan phase  
rat snake;

WHEREAS THE [redacted] COUNTY S.P.C.A. HAS INVESTIGATED THE REPUTATION OF Rob [redacted] AND FIND HIM/HER TO BE A VERY KNOWLEDGEABLE AND RESPECTED PERSON IN THE AREA OF HUSBANDRY  
reptile

AND WHEREAS THE [redacted] COUNTY S.P.C.A. FEELS THAT IT IS IN THE BEST INTEREST OF THE ANIMAL TO BE PLACED IN THE TEMPORARY CARE OF Rob [redacted] SUBJECT TO ORDER OF THE COURT. THE PARTIES AGREE AS FOLLOWS:

1. Rob [redacted] WILL TAKE FULL RESPONSIBILITY FOR THE CARE AND FEEDING OF THE reptiles AND WILL GET NO REIMBURSEMENT FROM THE [redacted] COUNTY S.P.C.A., THE FORMER OWNER OR ANY PARTY.
2. Rob [redacted] AGREES TO RELINQUISH CUSTODY OF SAID ANIMAL AND RETURN TO THE [redacted] COUNTY S.P.C.A. SAID ANIMAL SHOULD THE COURT DECIDE THAT ANY PARTY BESIDES THE [redacted] COUNTY S.P.C.A. WILL BE AWARDED CUSTODY OF THE above reptiles. THE [redacted] COUNTY S.P.C.A. WILL BE RESPONSIBLE FOR SHIPPING COSTS RELATED TO TRANSPORTING THE [redacted] BACK TO ULSTER COUNTY S.P.C.A.  
reptiles
3. IN THE EVENT THAT THE COURT AWARDS CUSTODY OF THE above reptiles TO THE [redacted] COUNTY S.P.C.A., [redacted] AGREES TO SIGN THE STANDARD ADOPTION CONTRACT OF THE [redacted] COUNTY S.P.C.A.

SIGNED [redacted] SIGNED [redacted]  
S.P.C.A. Cruelty Investigator

Example 24.4. Agreement to Keep Animals (page 1 of 2)

Example 24

Date: 10/12/95

AGREEMENT BY AND BETWEEN THE [redacted] COUNTY S.P.C.A.  
[redacted] ROAD  
[redacted], N.Y.

AND

Richard [redacted]  
[redacted]

FOR IN CONSIDERATION OF \$1.00 AND OTHER VALUABLE CONSIDERATION THE PARTIES HERETO AGREE AS FOLLOWS:

WHEREAS THE [redacted] COUNTY S.P.C.A., on [redacted] d.d Seize  
4 rabbits, 4 ferrets, 2 kit foxes, 5 prairie dogs + 2 flying squirrels  
WHEREAS [redacted] HAS OFFERED TO CARE FOR  
SAID ANIMAL AND FURNISH IT WITH FOOD, SHELTER AND CARE;

WHEREAS THE [redacted] COUNTY S.P.C.A. HAS INVESTIGATED THE REPUTATION OF [redacted] AND FIND HIM/HER TO BE A VERY KNOWLEDGEABLE AND RESPECTED PERSON IN THE AREA OF ANIMAL HUSBANDRY

AND WHEREAS THE [redacted] COUNTY S.P.C.A. FEELS THAT IT IS IN THE BEST INTEREST OF THE ANIMAL TO BE PLACED IN THE TEMPORARY CARE OF [redacted] SUBJECT TO ORDER OF THE COURT. THE PARTIES AGREE AS FOLLOWS:

1. [redacted] WILL TAKE FULL RESPONSIBILITY FOR THE CARE AND FEEDING OF THE <sup>above animals</sup> AND WILL GET NO REIMBURSEMENT FROM THE [redacted] COUNTY S.P.C.A., THE FORMER OWNER OR ANY PARTY.
2. [redacted] AGREES TO RELINQUISH CUSTODY OF SAID ANIMAL AND RETURN TO THE [redacted] COUNTY S.P.C.A. SAID ANIMAL SHOULD THE COURT DECIDE THAT ANY PARTY BESIDES THE [redacted] COUNTY S.P.C.A. WILL BE AWARDED CUSTODY OF THE <sup>above animals</sup>. THE [redacted] COUNTY S.P.C.A. WILL BE RESPONSIBLE FOR SHIPPING COSTS RELATED TO TRANSPORTING THE <sup>above animals</sup> BACK TO [redacted] COUNTY S.P.C.A.
3. IN THE EVENT THAT THE COURT AWARDS CUSTODY OF THE <sup>above animals</sup> TO THE [redacted] COUNTY S.P.C.A., [redacted] AGREES TO SIGN THE STANDARD ADOPTION CONTACT OF THE [redacted] COUNTY S.P.C.A.

SIGNED [redacted] SIGNED [redacted]  
SPCA Investigator

Example 24

STATE OF NEW YORK COUNTY OF [REDACTED]  
Justice COURT Town OF [REDACTED]  
 THE PEOPLE OF THE STATE OF NEW YORK  
 -VS-  
 [REDACTED]  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_ Defendant(s) )

BE IT KNOWN THAT, by this information, I [REDACTED] as the Complainant herein, stationed at U.S. PCA accuses [REDACTED] the above mentioned Defendant(s), with having committed the Misdemeanor of FAILURE TO PROVIDE SUSTENANCE, in violation of Section 353 Subdivision 1 of the AGRICULTURE & MARKET Law of the State of New York.

That on or about the [REDACTED] day of [REDACTED], 19 [REDACTED] at about 2:00 (~~3:00~~) (P.M.) in the Town of [REDACTED], County of [REDACTED], the Defendant(s) did ~~(intentionally, &)~~ knowingly, and unlawfully,

COMMIT THE MISDEMEANOR OF FAILING TO PROVIDE PROPER SUSTENANCE TO AN ANIMAL BELONGING TO HIM/HER SELF OR ANOTHER, TO WIT, (156 counts)  
Did keep 24 reptiles in unsanitary conditions, w/o proper heater/light, 1 pomeranian dog in unsanitary conditions w/ proper ventilation, food/water

ALL CONTRARY TO THE PROVISIONS OF THE AGRICULTURE & MARKETS LAW IN SUCH CASE MADE AND PROVIDED. THE ABOVE SAID FACTUAL ALLEGATIONS ARE MADE OF YOUR DEPONENT PERSONAL KNOWLEDGE DURING THE INVESTIGATION CONDUCTED BY YOUR DEPONENT, A HUMANE AGENT EMPLOYED BY THE ULSTER COUNTY S.P.C.A. and or upon information and belief, with the sources of Complainant's information and the grounds for belief being the facts contained in the attached SUPPORTING DEPOSITION(s) of \_\_\_\_\_.

(WHEREFORE, Complainant prays that a Warrant be issued for the arrest of the said Defendant(s).)

(WHEREAS, an Appearance Ticket was issued to the said Defendant(s), Directing, ( ) him ( ) her ( ) them to appear before this Court at \_\_\_\_\_ ( ) a.m. ( ) p.m., on the day of \_\_\_\_\_, 19\_\_\_\_.)  
 In a written instrument, any person who knowingly makes false statement which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PLS 210.45)

Subscribed and Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ [REDACTED]  
 \_\_\_\_\_  
 \_\_\_\_\_ COMPLAINTANT



## Example 24

page 2

2 foxes in unsanitary condition, w/o proper food or medical care, 2 young foxes in overcrowded, unsanitary conditions + w/o proper ventilation, 3 ferrets in unsanitary, overcrowded conditions w/o proper ventilation, 1 white ferret in unsanitary conditions w/o proper medical care, 1 Angora rabbit + 2 small rabbits in unsanitary conditions w/o proper ventilation, food or water, 1 rabbit w/ 3 large snakes w/o proper medical care, food or water, 2 turtles in unhealthy environment causing 1 turtle shell rot, 2 flying squirrels in ~~two~~ unhealthy conditions w/o a dark place to hide for the nocturnal animals + w/o proper water or ventilation + unsanitary conditions, 1 green parrot in ~~the~~ unhealthy conditions w/o any perch, w/o proper water, food, ventilation causing stress to the bird, 5 other birds w/o proper ventilation, light, food or water + in unsanitary conditions, 5 prairie dogs in overcrowded conditions, w/o proper ventilation, food or water + in unsanitary conditions, 3 pot bellied pigs in overcrowded conditions, unsanitary conditions, no food or water or medical care, 44 rodents in unsanitary conditions w/o proper food or water, 2 hedgehogs in unsanitary conditions + w/o proper ventilation, 1 alligator in unsanitary conditions, 1 green terror fish w/ fungus from unsanitary conditions, 2 starfish, 1 hermit crab + 1 yellow tail blue damsel fish in an unsanitary tank filled w/ algae. 1 snake in unsanitary conditions.

### Example 24

w/o proper ventilation, food or water, 1 rabbit in  
 w/ 3 large snakes w/o proper medical care, food or  
 water, 2 turtles in unhealthy environment  
 causing 1 turtle shell rot, 2 flying squirrels  
 in ~~two~~ unhealthy conditions w/o a dark place to  
 hide for the nocturnal animals + w/o proper water  
 or ventilation + unsanitary conditions, 1 green  
 parrot in ~~the~~ unhealthy conditions w/o any  
 perch, w/o proper water, food, ventilation causing  
 stress to the bird, 5 other birds w/o proper ventilation  
 light, food or water + in unsanitary conditions,  
 5 prairie dogs in overcrowded conditions, w/o  
 proper ventilation, food or water + in unsanitary  
 conditions, 3 pot bellied pigs in overcrowded  
 conditions, unsanitary conditions, no food or  
 water or medical care, 4 rodents in unsanitary  
 conditions w/o proper food or water, 2 hedgehogs  
 in unsanitary conditions + w/o proper ventilation  
 1 alligator in unsanitary conditions, 1 green  
 terror fish w/ fungus from unsanitary conditions  
 2 starfish, 1 hermit crab + 1 yellow tail blue  
 damsel fish in an unsanitary tank filled w/  
 algae, 1 raccoon in unsanitary conditions,  
 w/o proper ventilation, food or water, 2 tortoises  
 w/o proper food or water, also failed to provided  
 proper food or water to 1 bird causing death +  
 2 snakes causing death.

## 6. Animal Care Standards for Some Common Animals

### Overview

We are providing a set of care guidelines for the various types of animals generally involved in cruelty complaints. We have presented the minimum conditions that should be present to ensure that the animals are receiving basic care. In addition, we have added recommendations that ideally should be followed.

We also have described what to look for in terms of the appearance of the animals and the environmental conditions that are symptoms of neglect and cruelty. If these are present, call a veterinarian to examine the animal(s).

In some cases, the neglect and cruelty will be obvious even to an untrained eye. In others, it may be more subtle, but if you become familiar with the following animal care standards, you will be better prepared to recognize it.

Minimum care guidelines for the following animals are included:

- [Dogs](#)
- [Cats](#)
- [Horses](#)
- [Cattle](#)
- [Sheep](#)
- [Goats](#)
- [Pigs](#)
- [Rabbits](#)
- [Birds](#)
- [Chickens/Ducks/Geese](#)
- [Gerbils/Guinea Pigs/Hamsters/Mice/Rats](#)

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## Dogs

### Terminology

Female: Bitch

Male: Male

### ✓ Basic Animal Care Standards

68. Fresh, clean water (in a spill proof container) should be accessible at all times.
69. Should be fed at least once a day with a good quality dog food, based on feeding instructions on package.
70. Even if the dog is outside for short periods, it should have shelter available to protect it from the elements.
71. **IMPORTANT:** With regard to being outside in winter weather, the breed of dog must be taken into consideration. Short haired dogs (Dobermans, Dachshunds, Pit bulls, etc.) and thin haired dogs (Russian Wolf Hounds, etc.) should not be left outside for extended periods in cold weather because they were not bred to withstand the cold. They should only be let outside for a short time to relieve themselves.

*NOTE: Article 26, Section 353-b, of the Agriculture & Markets Law requires that appropriate shelter be provided for dogs left outside. That section of the law specifies what must be provided in terms of shelter. Some basic standards are indicated in the following bullet.*

72. Keeping a dog outside: NYSHA does NOT recommend that dogs be constantly kept outside alone because dogs by nature are social "pack" animals and have a psychological need to be with their human packs. However, if for some reason a dog is kept outside, the owner should provide a dog house that meets the following standards:
73. The dog house should accommodate the size of the dog; that is, it should be large enough to allow the dog or dogs to get inside and move about. However, it should not be too large because in cold weather it must permit the dog's body heat to accumulate inside the structure to provide some warmth. The dog's breed, physical condition and age must be considered when determining whether a dog house meets its needs. The structure should:
  - Be raised at least two inches off the ground to prevent it from sitting in pooled water.
  - Be shaded during the hot weather months; during the winter, the doorway should have a flap of windproof material to cover it.
  - Contain sufficient bedding, such as straw or wood shavings that are changed often enough to remain dry and clean.
  - To ensure that a dog's water does not spill, a water pail should be attached to the dog house with an "O" ring screw and a double end snap.



- Food should be increased during the winter months to provide the extra calories necessary for warmth, and water must be offered frequently to counteract freezing.
74. Tethering (chaining) a dog any tethering should be done for brief periods of time to allow a dog some exercise. The dog should have access to shade and protection from rain and snow.
- Problems associated with constant tethering:
    - Abnormally restrictive and can result in behavior problems
    - Chains can get tangled and result in the dog's being strangled or dangerously restricted
    - Exposes dogs to attack by other dogs and wildlife
    - Owners forget to check dog collars and they often become imbedded in the dog's neck; this is a case of neglect and the owner can be charged with cruelty under Section 353 of Article 26 of the Agriculture & Markets Law.

As an alternative to tethering, to provide exercise only: NYSHA recommends placing a long cable between two trees or poles. A ring can be attached to the cable and the dog's chain or lead attached (clipped) to the ring.

### ✓ **Additional recommendations**

75. The dog should have yearly veterinary exams to ensure the proper health and to provide preventative shots and medications (such as rabies shots, heartworm blood tests, medication, etc.).
76. The dog should be spayed or neutered. This will prevent the birth of additional litters and improve the health and behavior of the dog. An additional reason for spaying is to prevent Pyometra a uterine infection which can prove deadly if not treated.

### ✓ **Signs of neglect/cruelty - what to look for**

77. **Appearance of animal:** dull hair coat; thin (ribs showing, sunken-in flanks); hair loss; diarrhea; chronic cough; heavy flea infestation with hair loss and scabs; bare ear tips and other body areas, indicating sarcoptic mange.

**IMPORTANT:** *Remember to check for collar which is too tight, and for overgrown or ingrown nails, especially dewclaws (i.e., the "thumb nails" on the first digit), which tend to overgrow since they don't contact the ground.*

78. **Housing conditions:** overturned water bowl (water should be in spill proof container); no evidence that dog has been fed; no shelter from elements; ground covered with fecal matter, or sometimes not covered, as a dog will eat his own feces, if starving.
79. **Behavior:** listless; depressed the animal does not respond to attention; excessively fearful; aggressive; shy; constant scratching, biting at body, indicating heavy flea infestation or sarcoptic mange.

***If any of the elements above are present, call a veterinarian to examine animals.***

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## Cats

### Terminology

Female: Queen

Male: Tom

### ✓ Basic Animal Care Standards

- 80. Fresh, clean water in a spill proof container should be accessible at all times.
- 81. Should be fed at least once a day with a good quality cat food, based on feeding instructions on package.
- 82. Indoor cats must be provided with litter pans and litter material, cleaned daily to prevent urine and fecal buildup and odor.

### ✓ Additional recommendations

- 83. Should have yearly veterinary exams to ensure health of cat and to provide any necessary medications and vaccinations against feline distemper, rabies, and (optional) feline leukemia.
- 84. The cat should be spayed or neutered. This will prevent the birth of additional litters and improve the health and behavior of the cat.
- 85. NYSHA believes that a primary responsibility of a cat owner is to protect cats from outdoor hazards by keeping them inside; however, if a cat is let outside or kept outside, it should have access to proper shelter, such as a barn, garage, *etc.* Feline leukemia testing and vaccinations are strongly recommended for outside cats.

### ✓ Signs of neglect/cruelty - what to look for

- 86. **Appearance of animal:** runny nose and eyes; congested breathing; ear mites; sores from fighting; thin body; matted fur; vomiting; diarrhea; parasites or allergies; hair loss.
- 87. **Housing conditions:** no clean litter boxes; no clean water; no food available; no shelter; overcrowding, as overcrowding causes stress and infectious disease.
- 88. **Behavior:** excessively aggressive; fearful; listless; unresponsive; self-mutilation; constant scratching, biting at self.

*If any of the elements above are present, call a veterinarian to examine animals.*

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## Horses

### Terminology

Female: Mare

Young female: Filly

Male: Stallion

Young male: Colt

Castrated male: Gelding

### ✓ Basic Animal Care Standards

89. Fresh, clean water should be available at all times.

90. Should be fed as follows:

- A complete hay diet consisting of good quality hay (a 1000 pound horse will eat between 1/2 and 3/4 bale of hay per day; a pony or small breed, 1/3 bale)

OR

- A partial hay diet consisting of a sufficient supply of good hay (1/6 to 1/3 bale), along with either oats, sweet feed, or other grain

OR

- A "complete" grain type feed for those horses who cannot eat hay because of health problems.

91. Hay and grain should not be thrown on ground which could lead to infection/reinfection from parasites, but rather placed in manger or hay rack, or in case of grain, in a bucket or suitable container. All feed should be kept dry to avoid mold.

92. Salt blocks always should be available either white salt or preferably trace mineralized salt (red blocks).

93. Should be provided with shelter that affords them protection from heavy rain, snow, and high wind. The shelter should also provide sufficient shade in the summer.

94. Stalls can be box stalls (that is minimum 10' by 10' per horse) or straight stalls (only permits the horse to stay in a straight alignment, that is, it can stand and lie, but cannot turn around.) If confined to a straight stall, daily turnout should be provided. Natural light should be available and horses should not be overcrowded.

### ✓ Additional recommendations

95. Should be wormed every three months ideally, but minimally in the spring and fall.

96. At a minimum, should be vaccinated for rabies and tetanus on an annual basis; other vaccinations as recommended by veterinarian.

97. Should receive proper hoof care. Hooves require trimming approximately every 8-12 weeks. A horse does not always require horse shoes. Shoeing depends on the condition of the horse's feet, the type of work the horse does, the road surface it travels on, and how often it travels. Teeth should be checked annually and floated (filed down) if necessary.
98. Need to "graze" (*i.e.*, have access to grass or hay). Ideally, hay should always be available whether inside or outside. The total time devoted to grazing and chewing hay should amount to approximately 18 hours a day. (This should minimize wood chewing.)

✓ **Signs of neglect/cruelty - what to look for**

99. **Appearance of animal:** thin (ribs and vertebrae prominent); halter and other harness or saddle sores (check to see if halter has grown into the horse's head); halter should not be kept on constantly; excessive hoof length (possibly with tips of hooves turned up); a hoof which is spongy on the bottom side and has a foul odor; bite wounds from constant fighting resulting from stallions pastured together or with mares.
100. **Housing conditions:** no fresh water or food available; no shelter; overcrowded; no place to lie down; excessive manure and urine buildup; standing on muddy ground with no dry areas.
101. **Behavior:** head down and unresponsive; inactive; indifferent to surroundings and visitors; excessively fearful; displays excessive aggression toward other horses; odd standing behavior, such as standing on one forefoot while holding the other forefoot up so that only the toe touches the ground, lying on the ground excessively, standing with weight on hind quarters, resting chin on fence rail to get weight off forefeet.

*If any of the elements above are present, call a veterinarian to examine animals.*

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## Cattle

### Terminology

Female: Cow

Young female: Heifer (has not yet had a calf; after two years considered cow even if never had a calf)

Male: Bull

Castrated male: Steer

Young animal, either sex: Calf

### ✓ Basic Animal Care Standards

102. Fresh, clean water should be available at all times.
103. Should have good quality hay available or be able to graze at all times. Grain should be provided if the animal is growing, pregnant, being milked.
104. Hay (with the exception of big bales) and grain should not be dumped on the ground, but rather placed in manger or hay rack, or in case of grain, in a bucket, or other container.
105. All feed should be kept dry to avoid mold.
106. Salt blocks always should be available either white salt or preferably trace mineralized salt (red blocks).
107. Should be provided with shelter that affords them protection from heavy rain, snow, and sun. Facilities should be well ventilated.
108. Calves cannot digest hay or grass until three months old; so must be on milk and/or "calf starter" grain until then.
109. Should have dry bedding can be sand, sawdust, shredded paper, straw, packed manure (if DRY). In the winter, there should be enough bedding to provide insulation from the cold floor/ground.

### ✓ Additional recommendations

110. Hoof trimming is not necessary unless the hooves are excessively long.
111. Should be vaccinated annually for rabies and other diseases, and dewormed according to veterinary advice.

### ✓ Signs of neglect/cruelty - what to look for

112. **Appearance of animal:** note that dairy cows are by nature "bony" in the hip area; however, one sign of an emaciated dairy cow may be a protruding back bone and sunken eyes; udder is red, swollen, hot, or dark blue or grey; milk is clotted or chunky or tinged with blood; bubbly gas from teat indicates severe infection; tears in teats or udder resulting from cow stepping on

them when getting up which indicates poor husbandry (poor surface resulting in poor footing, no bedding.)

113. **Housing conditions:** no place to exercise for adult animals; no dry place to lie down; no water or food; overcrowded; strong ammonia odors (not just a manure odor) from lack of ventilation.
114. **Behavior:** weak; minimally responsive; note that cattle who receive minimal handling (*i.e.*, beef cows) will be naturally fearful of humans.

*If any of the elements above are present, call a veterinarian to examine animals.*

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## Sheep

### Terminology

Female: Ewe

Male: Ram

Castrated male: Wether

Young sheep of either sex: Lamb

### ✓ Basic Animal Care Standards

115. Fresh, clean water should be available at all times.
116. Should have good quality hay and/or be able to graze at all times. Grain should be provided if the animal is growing, pregnant, being milked. "Grain" can be oats, corn, or various mixtures, but the mixture must say SHEEP feed because cow feed mixes have too much copper, which is poisonous to sheep.
117. White salt or "sheep salt" block should be available at all times. (Avoid red salt block because it contains excess copper.)
118. Should be provided with shelter that affords them protection from heavy rain, snow, high wind, and sun, and a dry place to rest.

### ✓ Additional recommendations

119. Should be wormed about 2-4 times a year to prevent disease. Lambs may need routine worming over the summer about every six weeks, based on veterinary advice.
120. Veterinary care should include being vaccinated for rabies, enterotoxemia (over eating disease), and tetanus once a year.
121. Should have hooves trimmed once a year.
122. Should be sheared each spring to prevent matting and overheating in the summer.

### ✓ Signs of neglect/cruelty - what to look for

123. **Appearance of animal:** thin (with an unshorn/unclipped sheep you must feel the body of the animal to determine if it is underweight); maggots in genital area of unshorn female sheep; excessive hoof length look to see if sides of hoof have overgrown and curled under the bottom of hoof; limping; animal "walking" on knees.
124. **Housing conditions:** lack of food, water, and shelter; overcrowding (insufficient manger space for the number of sheep, a condition which causes the weakest sheep to be excluded from the food source).

125. **Behavior:** dull, minimally responsive; drooping head; animals rubbing up against objects in an effort to relieve itching from lice (wool on objects that sheep rub against). Note that sheep are naturally fearful of strangers.

*If any of the elements above are present, call a veterinarian to examine animals.*



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## Goats

### Terminology

Female: Doe

Male: Buck

Castrated male: Wether

Young animal, either sex: Kid

### ✓ Basic Animal Care Standards

126. Fresh, clean water should be available at all times.
127. Should have good quality hay available and/or be able to graze at all times. Grain should be provided if the animal is growing, pregnant, being milked.
128. Salt block always should be available, either white salt or trace mineralized salt (red block).
129. Should be provided with shelter that affords them protection from heavy rain, snow, sun, and drafts. There should be enough air circulation to control humidity without being drafty.
130. Sanitary conditions should be maintained (*i.e.*, dry, clean bedding). Kids are especially susceptible to unsanitary conditions.

### ✓ Additional recommendations

131. Should have hooves trimmed at least once a year.
132. Should be vaccinated for rabies, tetanus, and other diseases once a year. Should be dewormed 2-4 times a year to prevent disease.

### ✓ Signs of neglect/cruelty - what to look for

133. **Appearance of animal:** excessive hoof length (look to see if sides of hoof have overgrown and curled under the bottom of hoof); limping; animal "walking" on knees; swollen, hot, red udder, or dark blue or grey, if gangrenous; milk showing chunks or discoloration; very thin (normally should feel slight padding over bony areas).
134. **Housing conditions:** too many animals to permit free movement; lack of food, water, and shelter; overcrowding (insufficient manger space for the number of goats, a condition which causes the weakest goats to be excluded from the food source); filth.
135. **Behavior:** dull, minimally responsive, not interested in surroundings (well cared for goats are very friendly and curious); drooping head; biting at themselves, rubbing on objects to relieve itching from lice; if overcrowded, and bucks are present, can butt each other.

*If any of the elements above are present, call a veterinarian to examine animals.*

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## Pigs

### Terminology

Female: Sow

Young female: Gilt (female that has not yet given birth) Male: Boar

Castrated male: Barrow

Young weaned pig, either sex: Shoat

### ✓ Basic Animal Care Standards

136. Fresh, clean water should be available at all times.
137. Should be fed complete pig ration at least twice a day; many complete pig rations are available on the market today. In addition, they can be fed table leftovers that are free of any plastic spoons, wrappers, animal bones, *etc.* as well as vegetables and fruits. Area should be large enough to allow all animals access to food.
138. Don't need a salt block *as long as they get a minimum* of 1-2 pounds daily of a complete swine ration.
139. Should be provided with shelter that protects them from rain, snow, and drafts. Concrete, sloped pens that can be hosed down, expanded metal or slotted floors, or a clean, bedded pen are necessary for housing. If they are kept on concrete, they should be offered a forkful of sod once a week to chew on. Straw should be used in cold weather to help keep them warm.

**IMPORTANT:** *In the summer, shade is extremely important; if they are not provided with sufficient shade, pigs may die of heat exhaustion. They should have some method to cool them in the heat: a lawn sprinkler or some other cooling method. It is NOT acceptable to have them in the mud constantly because of the parasite potential. An occasional mud bath is very enjoyable for them, but pigs should have a dry area available to them.*

140. Shelter should allow enough room so that the pigs are not overcrowded.
141. Hoof care is not needed.

### ✓ Additional recommendations

142. Should be wormed twice a year and receive shots based on veterinarian's recommendations (including rabies in endemic areas).

### ✓ Signs of neglect/cruelty - what to look for

143. **Appearance of animal:** droopy/straight tail can indicate ill health (happy, healthy, pigs have a tightly curled tail); thinness; scratching (usually indicates presence of lice); limping. (If you see any of these signs, contact a veterinarian to examine animals.)
144. **Housing conditions:** filthy, muddy, sloppy, manure and trash laden pens; lack of ventilation; lack of light; their sense of smell is extremely sensitive, so ammonia fumes cause

discomfort; no dry areas for them to be dry and clean; overcrowded leads to disease and sickness in pigs, and will prevent the weaker ones from gaining access to food sources.

145. **Behavior:** dull, minimally responsive, listless, not interested in surroundings; drooping head. Note that pigs are shy with strangers.

*If any of the elements above are present, call a veterinarian to examine animals.*

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## Rabbits

### Terminology

Female: Doe

Male: Buck

### ✓ Basic Animal Care Standards

146. Fresh, clean water should be accessible at all times. Water should be placed in water containers especially made to hang on side of hutch. In the winter, if rabbits are outside, water should be changed often to prevent freezing.
147. Should have constant access to food. Should be fed pelleted rabbit food, along with small quantities of raw carrots, pieces of apple; alfalfa and other hay may also be provided. They may be fed fresh grass, but too much fresh grass may cause rabbits to suffer from severe diarrhea which could lead to death. Rabbit pellets must be stored to prevent exposure to moisture and light which causes vitamin loss.
148. Must have access to pieces of hard wood or dog biscuits to gnaw on, so that they can keep their teeth worn down to a proper size to allow them to chew properly.
149. Should be provided with shelter that protects them from snow, rain, extreme cold, and wind. Wintertime subfreezing temperatures can cause death by freezing. In the summertime, shade is extremely important direct sun and heat can quickly kill rabbits.
150. Rabbit hutches should be cleaned daily. Hutch should have a box inside approximately 12" by 12" with dry bedding. The rest of the hutch should have a wire mesh (1/2") floor. The hutch should be raised off the floor to allow the feces to fall through. This is necessary because rabbits eat their feces, and in captivity, parasite levels can become fatal.
151. To prevent overcrowding and further breeding, each hutch should only contain one adult rabbit, or two adults of the same sex if they get along, or an adult female with her litter.
152. Veterinary care as needed to check for diseases, parasites, and intestinal impaction due to hairballs or other foreign matter, also check for malalignment of teeth.

### ✓ Signs of neglect/cruelty - what to look for

153. **Appearance of animal:** thin; fur in poor condition; sores from scratching; portions of ears missing because of frostbite or because they were bitten off from overcrowding.
154. **Housing conditions:** overcrowded conditions; must be sufficient space to permit all rabbits (including smaller ones) access to food.
155. **Behavior:** dull, minimally responsive, not interested in surroundings, depressed. Most rabbits are naturally shy of strangers.

*If any of the elements above are present, call a veterinarian to examine animals.*

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## Birds

Terminology

Female: hen

Male: cock

### ✓ Basic Animal Care Standards

156. Fresh, clean water should be available at all times.
157. Should have access to bird seed at all times. Seed container should be checked to ensure that it really contains seed and is not filled with the empty seed shells. Bird seed must be supplemented with calcium; the easiest way is to provide them with ground, dry dog food in addition to their seed.
158. Should have a perch to rest on.
159. Should have access to "cuttlebone" or some other type of material that allows the bird to sharpen its beak.
160. Should be provided with a cage that allows them to move about freely. Cage should be placed in area free from drafts. Room in which birds are kept should be temperate in temperature – not too hot and not too cold.
161. Cage should be cleaned on a regular basis to prevent buildup of feces and to prevent diseases.

### ✓ Additional recommendations

162. Veterinary care for routine beak trimming as needed; also to check for respiratory and intestinal diseases.

### ✓ Signs of neglect/cruelty - what to look for

163. **Appearance of animal:** feathers fluffed up (indicates fever, illness, or that room temperature is too low.); hard to tell if emaciated, but best indicator is to feel the bird's breast bone to determine if it is too prominent.
164. **Housing conditions:** overcrowding (weaker birds bullied and pecked by dominant ones); filthy cage; no fresh water or food.
165. **Behavior:** dull, minimally responsive, not interested in surroundings, depressed; drooping; "hunched" with feathers fluffed.

*If any of the elements above are present, call a veterinarian to examine animals.*

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## Chickens/Ducks/Geese

### Terminology

	<i>Chickens</i>	<i>Ducks</i>	<i>Geese</i>
<i>Female</i>	hen	duck	goose
<i>Male</i>	rooster	drake	gander
<i>Young</i>	chick	duckling	gosling

### ✓ Basic Animal Care Standards

166. Fresh, clean water should be available at all times.
167. Should have commercial chicken/duck food available at all times. Should be provided with a source of calcium, such as ground oyster shells, and a small amount of gravel.
168. Should be provided with shelter that protects them from snow, rain, extreme cold, and wind. In the summertime, shade is extremely important chickens/ducks/geese can die of heat exhaustion. Shelter should be properly ventilated to minimize ammonia odor; fans can be used to cool the birds. In the wintertime, must be kept warm enough to prevent rooster's combs from becoming frost bitten. This can be done with heat lamps to keep the temperature above 32°F. If the water doesn't freeze, the temperature is OK.
169. Shelter should provide the birds with a place to roost and should be cleaned on a regular basis.

### ✓ Additional recommendations

170. Poultry raised on the ground need to be wormed at least once a year.
171. Veterinary care as needed. Look for respiratory diseases (eyes seem half shut, breathing sounds raspy or rattling) and for diarrhea. Healthy birds should not have fecal matter matting the feathers around their hind quarters.

### ✓ Signs of neglect/cruelty - what to look for

172. **Appearance of animal:** thin (feel the breastbone to see if it is prominent); unkempt feathers (healthy birds keep their feathers clean); frostbitten combs and wattles (red skin under chicken's chin); feather picking; abrasions because of overcrowding.
173. **Housing conditions:** overcrowding this can be fatal in chickens; too hot or too cold for safety of birds.
174. **Behavior:** dull, minimally responsive, not interested in surroundings, depressed; open mouth breathing if respiratory diseases are present, if conditions are too hot, or when stressed.

*If any of the elements above are present, call a veterinarian to examine animals.*

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## Gerbils/Guinea Pigs/Hamsters/Mice/Rats

### Terminology

Female: Sow

Male: Boar

Young: Piglets

### ✓ Basic Animal Care Standards

175. Should have access to fresh, clean water at all times, preferably from water bottle hanging from side of cage.
176. Should have a good quality food as appropriate for the species, usually a seed/pellet mixture. Guinea pigs require a pelleted food fortified with Vitamin C. Rabbit food should not be used for any of these small animals. Fresh vegetables are important in a guinea pig diet, but should be given in very small amounts to others.
177. Should have an odor free, dry, commercially prepared absorbent bedding or shavings. If guinea pigs are housed on wire mesh, it should not be larger than 1/2" x 1/2" mesh.
178. Should have something to gnaw on, such as a piece of untreated wood or branches from fruit (unsprayed), willow or maple trees.
179. Females should be kept separate from males, except for breeding purposes.

### ✓ Additional recommendations

180. Should have a small box to hide in, especially guinea pigs.

### ✓ Signs of neglect/cruelty - what to look for

181. **Appearance of animal:** fur standing on end, or wet, or matted; runny eyes and nose; thin; wet rump; evidence of fighting, such as bite marks around eyes, ears or rump; diarrhea.
182. **Housing conditions:** filthy cage; wet bedding and strong odor; lack of water and food (look under bedding, as all but guinea pigs may take food from dish and hoard it); overcrowded quarters; too hot a location.

*NOTE: After they are three months old, hamsters should be housed alone.*

183. **Behavior:** unresponsive; animals fighting with each other.

*If any of the elements above are present, call a veterinarian to examine animals.*

## 7. Various NYS Laws Dealing with Animals

### Overview

In this section, we have included selected sections of laws from Agriculture & Markets Law, Environmental Conservation Law, General Business Law, Penal Law, and Vehicle and Traffic Law that deal with causing harm or suffering to animals. In the section entitled "NYSHA's notes," we offer insights gained from practical experience in this field. We have also included a section of USDA law that may be relevant when NYS laws are being violated.

Note that in charging a person with violations of Article 26 of the Agriculture & Markets Law dealing with animal cruelty, the number of charges you bring depends on the number of animals involved or the number of individual acts of cruelty. Thus, if you have a violation of Section 353, failing to provide proper sustenance, food or water, and you find 10 animals in that situation, then you have 10 violations of that section, or if you determine that a dog has been beaten on five different occasions, you could have 5 violations of Section 353. Each violation requires its own Information.

Where a violation of an animal related law in one area of law, such as Penal Law, indicates a violation of an animal cruelty statute in Agriculture & Markets Law, we have provided a reference to the additional law that might be in violation. If your investigation indicates that to be the case, the additional violations can be added to your original charge.

**IMPORTANT NOTE:** *As we said at the beginning of this manual, in any case where the reader has a question regarding the intent of the laws and/or legal proceeding discussed in this section or any other section of this manual, or their legal rights and duties in the situations described in this section or any other section of this manual, they should consult an attorney for advice BEFORE proceeding.*

We have provided Article 26 of the Agriculture & Markets Law as well as other laws which are current as of 2022. We have annotated them with notes based on our experience and provided cross references to other laws that may have been violated – in the belief that this information will be of assistance to you.

However, laws may change each year. Thus, to stay up-to-date, with the animal cruelty laws and dog control laws, you can obtain current copies of the PDFs for Article 26 and Article 7 on the NYSHA website. You can find the current set of laws of all areas of law at the NYS Senate website: <https://www.nysenate.gov/legislation/laws/CONSOLIDATED>.

### New York State Laws Reference

- **New York State Agriculture & Markets Law**
  - [Article 7: Licensing, Identification, and Control of Dogs](#)
  - [Article 25B: Abandoned Animals](#)
  - [Article 26: Animals](#)
  - [Article 26-A: Care of Animals by Pet Dealer](#)
- **Environmental Conservation Law**
  - [Article 11 Title 1: Fish and Wildlife](#)
  - [Article 11 Title 11: Fish and Wildlife – Trapping](#)
  - [New York Code of Rules and Regulations, Chapter III Air Resources Part 211 General Prohibitions](#)



- **General Business Law**
  - [Article 35D: Sale of Cats and Dogs](#)
- **New York State Penal Law**
  - [Article 130: Sex Offenses](#)
  - [Article 180: Bribery Not Involving Public Servants and Related Offenses](#)
  - [Article 195: Official Misconduct and Obstruction of Public Servants Generally](#)
- **Vehicle and Traffic Law**
  - [Article 22: Accidents](#)
  - [Article 26: Right of Way](#)
- **Regulations Relating to Movement and Transfer of Horses and Other Equidae**
- **USDA Law and Animal Cruelty**

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**NEW YORK STATE AGRICULTURE & MARKETS LAW**

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**Article 7****LICENSING, IDENTIFICATION AND CONTROL OF DOGS****Sec. 123. Dangerous Dogs**

1. Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may make a complaint of an attack or threatened attack upon a person, companion animal as defined in section three hundred fifty of this chapter, farm animal as defined in such section three hundred fifty, or a domestic animal as defined in subdivision seven of section one hundred eight of this article to a dog control officer or police officer of the appropriate municipality. Such officer shall immediately inform the complainant of his or her right to commence a proceeding as provided in subdivision two of this section and, if there is reason to believe the dog is a dangerous dog, the officer shall forthwith commence such proceeding himself or herself.
2. Any person who witnesses an attack or threatened attack, or in the case of a minor, an adult acting on behalf of such minor, may, and any dog control officer or police officer as provided in subdivision one of this section shall, make a complaint under oath or affirmation to any municipal judge or justice of such attack or threatened attack. Thereupon, the judge or justice shall immediately determine if there is probable cause to believe the dog is a dangerous dog and, if so, shall issue an order to any dog control officer, peace officer, acting pursuant to his or her special duties, or police officer directing such officer to immediately seize such dog and hold the same pending judicial determination as provided in this section. Whether or not the judge or justice finds there is probable cause for such seizure, he or she shall, within five days and upon written notice of not less than two days to the owner of the dog, hold a hearing on the complaint. The petitioner shall have the burden at such hearing to prove the dog is a "dangerous dog" by clear and convincing evidence. If satisfied that the dog is a dangerous dog, the judge or justice shall then order neutering or spaying of the dog, microchipping of the dog and one or more of the following as deemed appropriate under the circumstances and as deemed necessary for the protection of the public:
  - a. evaluation of the dog by a certified applied behaviorist, a board-certified veterinary behaviorist, or another recognized expert in the field and completion of training or other treatment as deemed appropriate by such expert. The owner of the dog shall be responsible for all costs associated with evaluations and training ordered under this section;
  - b. secure, humane confinement of the dog for a period of time and in a manner deemed appropriate by the court but in all instances in a manner designed to: (1) prevent escape of the dog, (2) protect the public from unauthorized contact with the dog, and (3) to protect the dog from the elements pursuant to section three hundred fifty-three-b of this chapter. Such confinement shall not include lengthy periods of tying or chaining;

- c. restraint of the dog on a leash by an adult of at least twenty-one years of age whenever the dog is on public premises;
  - d. muzzling the dog whenever it is on public premises in a manner that will prevent it from biting any person or animal, but that shall not injure the dog or interfere with its vision or respiration; or
  - e. maintenance of a liability insurance policy in an amount determined by the court, but in no event in excess of one hundred thousand dollars for personal injury or death resulting from an attack by such dangerous dog.
3. Upon a finding that a dog is dangerous, the judge or justice may order humane euthanasia or permanent confinement of the dog if one of the following aggravating circumstances is established at the judicial hearing held pursuant to subdivision two of this section:
  - a. the dog, without justification, attacked a person causing serious physical injury or death; or
  - b. the dog has a known vicious propensity as evidenced by a previous unjustified attack on a person, which caused serious physical injury or death; or
  - c. the dog, without justification, caused serious physical injury or death to a companion animal, farm animal or domestic animal, and has, in the past two years, caused unjustified physical injury or death to a companion or farm animal as evidenced by a "dangerous dog" finding pursuant to the provisions of this section. An order of humane euthanasia shall not be carried out until expiration of the thirty-day period provided for in subdivision five of this section for filing a notice of appeal, unless the owner of the dog has indicated to the judge in writing, his or her intention to waive his or her right to appeal. Upon filing of a notice of appeal, the order shall be automatically stayed pending the outcome of the appeal.
4. A dog shall not be declared dangerous if the court determines the conduct of the dog (a) was justified because the threat, injury or damage was sustained by a person who at the time was committing a crime or offense upon the owner or custodian of the dog or upon the property of the owner or custodian of the dog; (b) was justified because the injured, threatened or killed person was tormenting, abusing, assaulting or physically threatening the dog or its offspring, or has in the past tormented, abused, assaulted or physically threatened the dog or its offspring; (c) was justified because the dog was responding to pain or injury, or was protecting itself, its owner, custodian, or a member of its household, its kennels or its offspring; or was justified because the injured, threatened or killed companion animal, farm animal or domestic animal was attacking or threatening to attack the dog or its offspring. Testimony of a certified applied behaviorist, a board-certified veterinary behaviorist, or another recognized expert shall be relevant to the court's determination as to whether the dog's behavior was justified pursuant to the provisions of this subdivision.

5. (a) The owner of a dog found to be a "dangerous dog" pursuant to this section may appeal such determination, and/or the court's order concerning disposition of the dog to the court having jurisdiction to hear civil appeals in the county where the "dangerous dog" finding was made. The owner shall commence such appeal by filing a notice of appeal with the appropriate court within thirty days of the final order pursuant to this section. Court rules governing civil appeals in the appropriate jurisdiction shall govern the appeal of a determination under this section. (b) Upon filing a notice of appeal from an order of humane euthanasia pursuant to this section, such order shall be automatically stayed pending final determination of any appeal. In all other circumstances, the owner of the dog may make application to the court to issue a stay of disposition pending determination of the appeal.
6. The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a person, service dog, guide dog or hearing dog causing physical injury shall be subject to a civil penalty not to exceed four hundred dollars in addition to any other applicable penalties.
7. The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a person causing serious physical injury shall be subject to a civil penalty not to exceed one thousand five hundred dollars in addition to any other applicable penalties. Any such penalty may be reduced by any amount which is paid as restitution by the owner of the dog to the person or persons suffering serious physical injury as compensation for unreimbursed medical expenses, lost earnings and other damages resulting from such injury.
8. The owner of a dog who, through any act or omission, negligently permits his or her dog, which had previously been determined to be dangerous pursuant to this article, to bite a person causing serious physical injury, shall be guilty of a misdemeanor punishable by a fine of not more than three thousand dollars, or by a period of imprisonment not to exceed ninety days, or by both such fine and imprisonment in addition to any other applicable penalties. Any such fine may be reduced by any amount which is paid as restitution by the owner of the dog to the person or persons suffering serious physical injury as compensation for unreimbursed medical expenses, lost earnings and other damages resulting from such injury.
9. If any dog, which had previously been determined by a judge or justice to be a dangerous dog, as defined in section one hundred eight of this article, shall without justification kill or cause the death of any person who is peaceably conducting himself or herself in any place where he or she may lawfully be, regardless of whether such dog escapes without fault of the owner, the owner shall be guilty of a class A misdemeanor in addition to any other penalties.
10. The owner or lawful custodian of a dangerous dog shall, except in the circumstances enumerated in subdivisions four and eleven of this section, be strictly liable for medical costs resulting from injury caused by such dog to a person, companion animal, farm animal or domestic animal.

11. The owner shall not be liable pursuant to subdivision six, seven, eight, nine or ten of this section if the dog was coming to the aid or defense of a person during the commission or attempted commission of a murder, robbery, burglary, arson, rape in the first degree as defined in subdivision one or two of section 130.35 of the penal law, criminal sexual act in the first degree as defined in subdivision one or two of section 130.50 of the penal law or kidnapping within the dwelling or upon the real property of the owner of the dog and the dog injured or killed the person committing such criminal activity.
12. Nothing contained in this section shall limit or abrogate any claim or cause of action any person who is injured by a dog with a vicious disposition or a vicious propensity may have under common law or by statute. The provisions of this section shall be in addition to such common law and statutory remedies.
13. Nothing contained in this section shall restrict the rights and powers derived from the provisions of title four of article twenty-one of the public health law relating to rabies and any rule and regulation adopted pursuant thereto.
14. Persons owning, possessing or harboring dangerous dogs shall report the presence of such dangerous dogs pursuant to section two hundred nine-cc of the general municipal law.

### **Sec. 123-A. Exemption from civil liability**

1. If any dog shall, without justification, attack a person, or behaves in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury to a person, when such person is peaceably conducting himself in a place where he may lawfully be, such person or any other person witnessing the attack or threatened attack may destroy such dog while so attacking, and no liability in damages or otherwise shall be incurred on account of such destruction.
2. If any dog shall, without justification, attack a companion animal, farm animal or domestic animal, or shall behave in a manner which a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a companion animal, farm animal or domestic animal, where such animal is in any place where it may lawfully be, the owner or caretaker of such animal, or any other person witnessing the attack, may destroy such dog, and no liability in damages or otherwise shall be incurred on account of such destruction.

### **Sec. 123-B. Offenses against service animals and handlers**

1. Definitions. For purposes of this section:
  - a. "Service animal" shall mean any animal that has been partnered with a person who has a disability
  - b. "Disability" shall have the same meaning as provided in section two hundred ninety-two of the executive law 29
  - c. "Handler" shall mean a disabled person using a service animal.

- d. "Formal training program" or "certified trainer" shall mean an institution, group or individual who has documentation and community recognition as a provider of service animals.
2. Any person who owns an animal or possesses control of such animal and who, through any act or omission, recklessly permits his or her animal to interfere with the proper working of a service animal, exposing the handler and service animal to danger or resulting in injury or death of the service animal shall be subject to a civil penalty not to exceed one thousand dollars in addition to any other applicable penalties.
3. Any person who owns an animal or possesses control of such animal and who, through any act or omission, recklessly permits his or her animal to interfere with the proper working of a service animal, exposing the handler and service animal to danger or resulting in injury or death of the service animal, where the animal causing such injury has previously been determined to be dangerous pursuant to this article, shall be guilty of a violation punishable by a fine of not more than two thousand dollars, or by a period of imprisonment not to exceed fifteen days, or by both such fine and imprisonment in addition to any other applicable penalties.
4. The handler of the service animal incapacitated, injured or killed shall have the right to pursue any and all civil remedies available to recover damages for medical and veterinary expenses, rehabilitation or replacement of the service animal, and lost wages, transportation expenses or other expenses directly related to the temporary or permanent loss of the service animal.

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# NEW YORK STATE AGRICULTURE & MARKETS LAW

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## Article 25B ABANDONED ANIMALS

### Section

[331. Abandonment of certain animals](#)

[332. Disposition](#)

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### 331. Abandonment of certain animals

An animal is deemed to be abandoned when it is placed in the custody of a veterinarian, veterinary hospital, boarding kennel owner or operator, stable owner or operator, or any other person for treatment, board or care and:

1. Having been placed in such custody for a specified period of time the animal is not removed at the end of such specified period and a notice to remove the animal within ten days thereafter has been given to the person who placed the animal in such custody, by means of registered letter mailed to the last known address of such person; or
2. Having been placed in such custody for an unspecified period of time the animal is not removed within twenty days after notice to remove the animal has been given to the person who placed the animal in such custody, by means of a registered letter mailed to the last known address of such person.
3. The giving of notice as prescribed in this section shall be deemed a waiver of any lien on the animal for the treatment, board or care of the animal but shall not relieve the owner of the animal removed of his contractual liability for such treatment, board or care furnished.

### 332. Disposition

Any person having in his care, custody or control any abandoned animal, as defined in section three hundred thirty-one of this article, may deliver such animal to any duly incorporated society for the prevention of cruelty to animals or any duly incorporated humane society having facilities for the care and eventual disposition of such animals, or, in the case of dogs, cats and other small animals, to any pound maintained by or under contract or agreement with any county, city, town or village within which such animal was abandoned. The person with whom the animal was abandoned shall, however, on the day of divesting himself of possession thereof, notify the person who had placed such animal in his custody of the name and address of the animal society or pound to which the animal has been delivered, such notice to be by registered letter mailed to the last known address of the person intended to be so notified. If an animal **is not claimed by its owner within five days** after being so delivered to such duly incorporated society for the prevention of cruelty to animals, or duly incorporated humane society, or pound, such animal may at any time thereafter be placed for adoption in a suitable home or euthanized in accordance with the provisions of section three hundred seventy-four of this chapter. In no event, however, shall the

use of a decompression chamber or decompression device of any kind be used for the purpose of destroying or disposing of such animal. (*Emphasis added*)

**NYSHA's notes on Article 25B, Sections 331 and 332**

If an owner has placed an animal in one of the aforementioned facilities (custody of veterinarian, veterinary hospital, boarding kennel owner or operator, stable owner or operator, or any other person for treatment, board or care) for a *specified* period of time, the owner must remove the animal from the facility within *ten days* from the time that he receives a notice by means of registered mail.

If the animal were placed in one of the aforementioned facilities for an *unspecified* period of time, the owner has *twenty days* to remove the animal after being given notice by registered mail.

If the owner does not redeem his animal within the specified period of time, the owner/operator of the boarding facility may deliver the animal to any humane society or SPCA having facilities to care for the animals, or in the case of dogs or cats, to a facility within such town or village where the animal was abandoned. The owner/operator of the boarding facility shall then notify the animal's owner as to where the animal was placed.

**Additional laws to consider:**

See Article 26 Section 355, which deals with animals being abandoned in a public place by the animal's owner or other person in charge of the animal.



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# NEW YORK STATE AGRICULTURE & MARKETS LAW

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## Article 26 ANIMALS

### Section

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[384. Special provisions related to the importation of dogs and cats into the state for sale, resale or adoption](#)

[385. Prohibition of slaughtering horses for human or animal consumption](#)

## **350. Definitions**

1. "Animal" as used in this article, includes every living creature except a human being.
2. "Torture" or "cruelty" includes every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.
3. "Adoption" means the delivery to any natural person eighteen years of age or older, for the limited purpose of harboring a pet, of any dog or cat, seized or surrendered.
4. "Farm animal," as used in this article, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or furbearing animals, as defined in section 111907 of the Environmental Conservation Law, which are raised for commercial or subsistence purposes. Furbearing animals shall not include dogs or cats.
5. "Companion animal" or "pet," means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. "Pet" or "companion animal" shall not include a "farm animal," as defined in this section.

## **351. Prohibition of animal fighting**

1. For purposes of this section, the term "animal fighting" shall mean any fight between cocks or other birds, or between dogs, bulls, bears or any other animals, or between any such animal and a person or persons, except in exhibitions of a kind commonly featured at rodeos.
2. Any person who engages in any of the following conduct is guilty of a felony punishable by imprisonment for a period not to exceed four years, or by a fine not to exceed twenty-five thousand dollars, or by both such fine and imprisonment:
  - a. For amusement or gain, causes any animal to engage in animal fighting; or

- b. Trains any animal under circumstances evincing an intent that such animal engage in animal fighting for amusement or gain; or
  - c. Breeds, sells or offers for sale any animal under circumstances evincing an intent that such animal engage in animal fighting; or
  - d. Permits any act described in paragraph (a), (b) or (c) of this subdivision to occur on premises under his control; or
  - e. Owns, possesses or keeps any animal trained to engage in animal fighting on premises where an exhibition of animal fighting is being conducted under circumstances evincing an intent that such animal engage in animal fighting.
3. (a) Any person who engages in conduct specified in paragraph (b) of this subdivision is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed fifteen thousand dollars, or by both such fine and imprisonment. (b) The owning, possessing or keeping of any animal under circumstances evincing an intent that such animal engage in animal fighting.
  4. (a) Any person who engages in conduct specified in paragraph (b) hereof is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment. (b) The knowing presence as a spectator having paid an admission fee or having made a wager at any place where an exhibition of animal fighting is being conducted.
  5. (a) Any person who engages in the conduct specified in paragraph (b) of this subdivision is guilty of a class B misdemeanor punishable by imprisonment for a period not to exceed three months, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment. Any person who engages in the conduct specified in paragraph (b) of this subdivision after having been convicted within the previous five years of a violation of this subdivision or subdivision four of this section is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment. (b) The knowing presence as a spectator at any place where an exhibition of animal fighting is being conducted.
  6. (a) Any person who intentionally owns, possesses, sells, transfers or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate animal fighting as defined in subdivision one of this section is guilty of a class B misdemeanor punishable by imprisonment for a period of up to ninety days, or by a fine not to exceed five hundred dollars, or by both such fine and imprisonment. Any person who engages in the conduct specified in this subdivision after having been convicted within the previous five years of a violation of this subdivision is guilty of a misdemeanor and is punishable by imprisonment for a period not to exceed one year, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment. (b) For purposes of this section, animal fighting paraphernalia shall mean equipment, products, or materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning or furtherance of animal fighting. Animal fighting paraphernalia includes the following:

- i. A breaking stick, which means a device designed for insertion behind the molars of a dog for the purpose of breaking the dog's grip on another animal or object;
- ii. A cat mill, which means a device that rotates around a central support with one arm designed to secure a dog and one arm designed to secure a cat, rabbit, or other small animal beyond the grasp of the dog;
- iii. A treadmill, which means an exercise device consisting of an endless belt on which the animal walks or runs without changing places;
- iv. A spring pole, which means a biting surface attached to a stretchable device, suspended at a height sufficient to prevent a dog from reaching the biting surface while touching the ground;
- v. A fighting pit, which means a walled area, or otherwise defined area, designed to contain an animal fight;

Any other instrument commonly used in the furtherance of pitting an animal against another animal.

#### **NYSHA's notes on Section 351**

It is a Class E Felony for a person to engage in the promotion of animal fighting.

- Or cause any animal to engage in animal fighting.
- Or train any animal with the intent that the animal engage in fighting.
- Or permit animals to be fought or trained for fighting on his premises (the person doesn't have to be involved in the training or fighting to be guilty of the felony).
- Or own, possess or keep any animal trained to engage in fighting on premises where fighting is being conducted and where it is clear that the person intends to engage the animal in fighting (a person doesn't have to be caught actually fighting the animal.)

It is a Class A Misdemeanor for a person to own, possess or keep any animal that he intends to engage in fighting (the person doesn't have to actually be fighting the animal or be present at the location where the animals are being fought).

It is also a Class A Misdemeanor to be a spectator who has paid an admission fee or made a wager.

#### **Additional laws to consider:**

See Article 26 Section 353 which deals with causing and permitting suffering of animals. Persons engaging in 351, 2a-2d can be charged with a violation of Section 353 for causing animal suffering. Also, persons who are present at a dog fight can additionally be charged under Section 353 for permitting animal suffering.

### **353. Overdriving, torturing and injuring animals; failure to provide proper sustenance**

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a class (A) misdemeanor and for purposes of paragraph (b) of subdivision one of section 160.10 of the criminal procedure law, shall be treated as a misdemeanor defined in the penal law.

Nothing herein contained shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations, involving the use of living animals, performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health. The state commissioner of health shall prescribe the rules under which such approvals shall be granted, including therein standards regarding the care and treatment of any such animals. Such rules shall be published and copies thereof conspicuously posted in each such laboratory or institution. The state commissioner of health or his duly authorized representative shall have the power to inspect such laboratories or institutions to insure compliance with such rules and standards. Each such approval may be revoked at any time for failure to comply with such rules and in any case the approval shall be limited to a period not exceeding one year.

#### **NYSHA's notes on Section 353**

The majority of cruelty cases that you will investigate will most likely fall under this section which applies to all animals, whether tame or wild.

Although this section is not specific about any one type of cruelty, it may be used for a dog being locked in a hot car, beating or unjustifiably killing an animal, or failure to provide proper sustenance, such as food, water, shelter and veterinary care.

When considering whether to bring cruelty charges, keep in mind the following with regard to ownership of the animal:

The person(s) who have charge, control or custody of an animal at the time the cruelty is committed can be held liable on a cruelty charge. Those persons may or may not include the owner. The following are examples:

#### *Example 1:*

A person boards his horse at a boarding stable and agrees to pay a set fee per month for food. After a couple months, the owner states he cannot pay the full fee and tells the boarding stable to cut down on the horse food, and the stable owner complies. As a result, the horse becomes very thin and is starving. In this case, both the boarding stable owner and the owner of the horse are liable for the condition of the animal and subsequent cruelty charges. Despite the fact that the boarding stable

owner was not getting paid, under the law, the stable owner as well as the owner of the horse is responsible for the horse, and that means taking proper care of the horse.

Ownership alone does not place the person in actual control of the animal for example, - a person who places his animal in a kennel relinquishes control temporarily. If, however, the owner is aware of the poor condition of his animals and fails to take appropriate action to prevent the cruel circumstances from continuing, he will be liable. Any person in charge of an animal, regardless of whether or not he is the owner of said animal, cannot permit an animal to suffer. If he does, he is liable to be charged with a violation of Section 353. (*People v. Arcidicono*, 1974, 79 Misc. 2d 242, 360 N.Y.S 2d 156. See the "Appendix of Case Law" section of this manual.)

*Example 2:*

A person calls to report that the birds in a pet shop are not receiving proper care. The water container is filled with bird excrement, the cage is dirty, and the birds appear thin.

Find out who is responsible for the care of the birds. Perhaps both the owner of the shop and employee should be charged. The person(s) responsible for the state of the birds is violating Section by virtue of the conditions. The owner, employee, or both are guilty of depriving the birds of necessary sustenance, food or drink.

**Additional laws to consider:**

If you have a situation where the quality of the air is being impacted as a result of the conditions of the animals, consider contacting the Department of Environmental Conservation. (See the New York Code of Rules and Regulations, Chapter III Air Resources, relevant to air quality in the Environmental Conservation laws in this section.)

Also, contact the Environmental Conservation Department if any wildlife is involved in the case.

**Case Law relevant to Section 353:**

Deprivation of necessary sustenance *Mudge v. State*, 1944, 45 N.Y.S. 2d 896. See Appendix I, "Selected Case Law - Related to Animals" section of this manual.

Overloading or Overdriving/Malicious Acts/Neglect *People v. O'Rourke and Robert Greene*, 1975, 83 Misc.2d 175, 369 N.Y.S. 2d 335, motion denied 83 Misc.2d 51, 371 N.Y.S. 2d 603. See Appendix I, "Selected Case Law - Related to Animals" section of this manual.

Torture (formerly under Penal Law) *People v. Koogan*, 1939, 256 App.Div. 1078, 11 N.Y.S. 2d 49. See Appendix I, "Selected Case Law - Related to Animals" section of this manual.

Constitutionality of Section 353 - *People v. Bunt*, 1983, 118 Misc.2d 904. See Appendix I, "Selected Case Law - Related to Animals" section of this manual.

### 353a. Aggravated cruelty to animals

1. A person is guilty of aggravated cruelty to animals when, with no justifiable purpose, he or she intentionally kills or intentionally causes serious physical injury to a companion animal with aggravated cruelty. For purposes of this section, "aggravated cruelty" shall mean conduct which:
  - a. is intended to cause extreme physical pain; or
  - b. is done or carried out in an especially depraved or sadistic manner.
2. Nothing contained in this section shall be construed to prohibit or interfere in any way with anyone lawfully engaged in hunting, trapping, or fishing, as provided in article eleven of the environmental conservation law, the dispatch of rabid or diseased animals, as provided in article twenty-one of the public health law, or the dispatch of animals posing a threat to human safety or other animals where such action is otherwise legally authorized, or any properly conducted scientific tests, experiments, or investigations involving the use of living animals, performed or conducted in laboratories or institutions approved for such purposes by the commissioner of health pursuant to section three hundred fifty-three of this article.
3. Aggravated cruelty to animals is a felony. A defendant convicted of this offense shall be sentenced pursuant to paragraph (b) of subdivision one of section 55.10 of the penal law provided, however, that any term of imprisonment imposed for violation of this section shall be definite sentence, which may not exceed two years.

#### **NYSHA's notes on Section 353a**

##### ***Determining an Animal's Status as a Companion Animal***

To charge a person with aggravated cruelty to animals, one must determine that the animal victim is a "companion animal." Only a "companion animal" is covered by Section 353-a of Article 26.

(This determination is also critical to prevent a person convicted of a misdemeanor or a felony from obtaining more animals post-conviction. See NYSHA's Notes on Section 374 8(c) for additional information.)

Determining an animal's status depends on the definitions in Section 350 of Article 26 of the Agriculture & Markets Law. The key parts are bolded below:

4. "Farm animal", as used in this article, means any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in section 11-1907 of the environmental conservation law, **which are raised for commercial or subsistence purposes**. Furbearing animal shall not include dogs or cats.

5. "Companion animal" or "pet" means any dog or cat, and shall also mean any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal. "Pet" or "companion animal" shall not include a "farm animal" as defined in this section.

The statute applies only to companion animals. If the animal victim in your case is typically considered to be a “farm animal,” for example, cows, horses, goats, sheep, pigs, *etc.*, you will need to present evidence that the animal was in fact a “companion animal.” The animal must be shown to be domesticated, and normally maintained in or near the household of the owner or person who cares for them. Also, the animal needs to NOT meet the definition of a “farm animal” (*i.e.*, the animal is not being raised for commercial or subsistence purposes).

*Example:*

In a case in Orange County Court, a woman starved 10 horses to the point that all but one died. The horses met the criteria cited above in Section 350, and were deemed to be companion animals. She was charged with a Section 353-a felony. In this case, the horses were **not raised for commercial or subsistence purposes** (thus not fitting the definition of farm animals), they were kept close to the house, and the owner said they were her pets. The defendant was charged with 10 counts of Felony Animal Cruelty (353-a.). Also, because the horses were determined to be companion animals, Section 374 8(c) was imposed by the judge to prevent the defendant from having any animals for fifteen years after her jail sentence was served. (Again, see NYSHA’s notes on Section 374 8(c).)

NYSHA was unable to obtain a formal citation for the above-referenced case. However, the case occurred in Orange County Court in 2017, the crime having occurred in Goshen. A Google search for the woman’s name, Jeanne Ryan, along with “horse cruelty,” will yield extensive coverage of the case from multiple sources.

***Felony cruelty applies to starvation***

The felony animal cruelty law (353a) requires several elements be met. The first element requires that there is no justifiable purpose when *intentionally* causing death or serious physical injury to a companion animal with aggravated cruelty.

And key to the first element is the word *intentionally*. A person of normal intelligence knows that a dog needs food and water to survive. And such a person knows that intentionally failing to provide food and water would inevitably result in a dog’s death from dehydration and starvation.

The last elements of this statute define aggravated cruelty as: “is intended to cause extreme physical pain or is done or carried out in an especially depraved or sadistic manner.” Intentionally starving a companion animal, or any animal, to death is an especially depraved thing to do. In addition, the Governor’s memo when signing the felony cruelty bill into law explicitly specifies starvation as being one of the crimes covered.

To recap, if the consequence/result of an act or a failure to act is knowable and inevitable, then by acting or failing to act, the actor intends the consequence/result. One can conclude that if a person of normal intelligence intentionally abandons a dog in a confined area without food or water that person intended the inevitable consequence, that is, starving the dog to death.



If starving to death is the knowable and inevitable consequence of not feeding a dog, then tethering a dog in a way that prevents it from obtaining food and water on its own further indicates the intention of these acts is to cause the death of the dog.

**Case Law relevant to Section 353a:**

*People v. Valdez*, 181 A.D.3d 981 (3d Dept. 2020). Starving animals to death is a felony: Defendant allowed dogs in his care to starve to death. In this case the Court found that the accumulated evidence, showing that the defendant was "'very cognizant' that the dogs were dying and that they were not getting enough food or water, but did not seek any help or take appropriate measures to save the dogs," established that defendant's conduct was unjustifiable and intentional, and caused the dogs tremendous suffering for an extended period of time, thus satisfying the elements of aggravated cruelty to animals by starvation.

### **353b. Appropriate shelter for dogs left outdoors**

1. For purposes of this section:
  - a. "Physical Condition" shall include any special medical needs of a dog due to disease, illness, injury, age or breed about which the owner or person with custody or control of the dog should reasonably be aware.
  - b. "Inclement weather" shall mean weather conditions that are likely to adversely affect the health or safety of the dog, including but not limited to rain, sleet, ice, snow, wind, or extreme heat and cold.
  - c. "Dogs that are left outdoors" shall mean dogs that are outdoors in inclement weather without ready access to, or the ability to enter, a house, apartment building, office building, or any other permanent structure that complies with the standards enumerated in paragraph (b) of subdivision three of this section.
2. (a) Any person who owns or has custody or control of a dog that is left outdoors shall provide it with shelter appropriate to its breed, physical condition and the climate. Any person who knowingly violates the provisions of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred fifty dollars for a second and subsequent offenses. Beginning seventy-two hours after a charge of violating this section, each day that a defendant fails to correct the deficiencies in the dog shelter for a dog that he or she owns or that is in his or her custody or control and that is left outdoors, so as to bring it into compliance with the provisions of this section shall constitute a separate offense. (b) The court may, in its discretion, reduce the amount of any fine imposed for a violation of this section by the amount which the defendant proves he or she has spent providing a dog shelter or repairing an existing dog shelter so that it complies with the requirements of this section. Nothing in this paragraph shall prevent the

seizure of a dog for a violation of this section pursuant to the authority granted in this article.

3. Minimum standards for determining whether shelter is appropriate to a dog's breed, physical condition and the climate shall include:
  - a. For dogs that are restrained in any manner outdoors, shade by natural or artificial means to protect the dog from direct sunlight at all times when exposure to sunlight is likely to threaten the health of the dog.
  - b. For all dogs that are left outdoors in inclement weather, a housing facility, which must: (1) have a waterproof roof; (2) be structurally sound with insulation appropriate to local climatic conditions and sufficient to protect the dog from inclement weather; (3) be constructed to allow each dog adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around and lie down with its limbs outstretched; and (4) allow for effective removal of excretions, other waste material; dirt and trash. The housing facility and the area immediately surrounding it shall be regularly cleaned to maintain a healthy and sanitary environment and to minimize health hazards.
4. Inadequate shelter may be indicated by the appearance of the housing facility itself, including but not limited to, size, structural soundness, evidence of crowding within the housing facility, healthful environment in the area immediately surrounding such facility, or by the appearance or physical condition of the dog.
5. Upon a finding of any violation of this section, any dog or dogs seized pursuant to the provisions of this article that have not been voluntarily surrendered by the owner or custodian or forfeited pursuant to court order shall be returned to the owner or custodian only upon proof that appropriate shelter as required by this section is being provided.
6. Nothing in this section shall be construed to affect any protections afforded to dogs or other animals under any other provisions of this article.

### **353c. Electrocution of fur-bearing animals prohibited**

1. Notwithstanding any other provision of law, no person shall intentionally kill, or stun to facilitate the killing of, a fur-bearing animal by means of an electrical current. For the purpose of this section, "fur-bearing animal" means arctic fox, red fox, silver fox, chinchilla, mink, pine marten, muskrat, and those fur-bearing animals included within the provisions of section 11-1907 of the environmental conservation law.
2. A violation of subdivision one of this section is a class (A) misdemeanor.

### **353d. Confinement of companion animals in vehicles: extreme temperatures**

1. A person shall not confine a companion animal in a motor vehicle in extreme heat or cold without proper ventilation or other protection from such extreme temperatures where such

confinement places the companion animal in imminent danger of death or serious physical injury due to exposure to such extreme heat or cold.

2. Where the operator of such a vehicle cannot be promptly located, a police officer, peace officer, or peace officer acting as an agent of a duly incorporated humane society may take necessary steps to remove the animal or animals from the vehicle.
3. Police officers, peace officers, peace officers acting as agents of a duly incorporated humane society, emergency medical services personnel, paid firefighters, or volunteer firefighters who in the performance of such volunteer firefighters' duties or emergency medical services personnel are directed to respond to a call for assistance for such animal removing an animal or animals from a vehicle pursuant to this section shall place a written notice on or in the vehicle, bearing the name of the officer or agent, and the department or agency and address and other contact information, if available, where the animal or animals will be taken.
4. An animal or animals removed from a vehicle pursuant to this section shall, after receipt of any necessary emergency veterinary treatment, be delivered to the duly incorporated humane society or society for the prevention of cruelty to animals, or designated agent thereof, in the jurisdiction where the animal or animals were seized.
5. Any person who knowingly violates the provisions of subdivision one of this section shall be guilty of a violation, punishable by a fine of not less than fifty dollars nor more than one hundred dollars for a first offense, and a fine of not less than one hundred dollars nor more than two hundred and fifty dollars for a second and subsequent offenses.
6. Officers shall not be held criminally or civilly liable for actions taken reasonably and in good faith in carrying out the provisions of this section.
7. Nothing contained in this section shall be construed to affect any other protections afforded to companion animals under any other provisions of this article.

### **353e. Companion animal grooming facilities: prohibited practices**

1. As used in this section:
  - a. "Cage and box dryer" means a product that is attached to or near a cage or box for the purpose of drying or aiding in the drying of a companion animal contained in a cage or box, and which is capable of functioning without a person manually holding a dryer.
  - b. "Companion animal grooming facility" means an establishment where a companion animal may be bathed, brushed, clipped or styled for a fee.
2. No person shall use a cage or box dryer which contains a heating element with the heating element turned on for the purpose of drying or aiding in the drying of a companion animal.
3. Any violation of this section shall be punishable by a civil penalty of not less than two hundred fifty dollars nor more than five hundred dollars for each violation.

4. Nothing contained in this section shall limit or abrogate any claim or cause of action any person may have under common law or by statute. The provisions of this section shall be in addition to any such common law and statutory remedies.

### **353f. Companion animal piercing and tattooing prohibited<sup>3</sup>**

1. No person shall pierce or cause to have pierced a companion animal unless such piercing provides a medical benefit to the companion animal. Such piercing shall be performed by a licensed veterinarian or under the supervision of a licensed veterinarian. Nothing in this section shall be construed to apply to ear tags on rabbits and cavies.
2. No person shall tattoo or cause to have tattooed a companion animal unless such tattoo: (a) is done in conjunction with a medical procedure for the benefit of the companion animal and to indicate that such medical procedure has been done, provided that such tattoo is not for design purposes; or (b) is done for the purpose of identification of the companion animal and not for design purposes, and such tattoo includes only such numbers and/or letters allotted by a corporation that, in the regular course of its business, maintains an animal tattoo identification registry.
3. For the purposes of this section, "tattoo" shall mean a mark on the body made with indelible ink or pigments injected beneath the outer layer of the skin.
4. Tattooing done in conjunction with a medical procedure for the benefit of a companion animal that indicates that such medical procedure has been done shall be performed by a licensed veterinarian or under the supervision of a licensed veterinarian.
5. Any person who knowingly violates the provisions of this section shall be guilty of a violation punishable pursuant to the penal law.

### **354. Sale of baby chicks and baby rabbits**

1. No person shall sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl or baby rabbits unless such person provides proper brooder facilities where appropriate for the care of such baby chicks, ducklings or other fowl or baby rabbits during the time they are in the possession of such person. For the purposes of this section, a baby rabbit shall be a rabbit of less than two months of age.
2. No person shall sell, offer for sale, barter or display living baby chicks, ducklings or other fowl or baby rabbits which have been dyed, colored or otherwise treated so as to impart to them an artificial color.
  - a. No provision of subdivision two shall be interpreted or applied to prevent or restrict teachers and qualified instructors of youth under the guidance and supervision of the New York state cooperative extension service from using eggs for nonprofit educational

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<sup>3</sup> Effective April 14, 2015

purposes or from observing fowl hatched from such eggs for nonprofit educational purposes.

3. No person shall sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl or baby rabbits under two months of age in any quantity less than six.
4. A violation of the provisions of this section is a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both.

#### **NYSHA's notes on Section 354**

The purpose of Section 354 is to prevent animals from being purchased as novelty items.

Section 1 implies that no person can sell, offer for sale, barter or give away living baby chicks, ducklings or other fowl or rabbits (rabbits that are less than two months of age) in any quantity unless such person acquiring the animals can provide proper brooder facilities.

Section 2 and 2a are self-explanatory.

Section 3 states that none of the above-mentioned animals under two months of age can be given away, sold or bartered, in any quantity less than six. Thus, even if a person has proper brooder facilities, he cannot purchase or have given to him any of the aforementioned animals in a quantity of less than six.

### **355. Abandonment of animals**

A person being the owner or possessor, or having charge or custody of an animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it becomes disabled, to lie in a public street, road or public place more than three hours after he receives notice that it is left disabled, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

#### **NYSHA's notes on Section 355**

A person who either owns an animal, or is in charge of the animal for whatever reason (for example, the animal has been placed in the care of a kennel operator), cannot abandon that animal, or that person is guilty of a misdemeanor.

#### **Additional laws to consider:**

See Article 26-Section 353 which deals with causing and permitting suffering of animals. If a person causes an animal to be subject to the conditions specified in Section 355, he can also be considered as causing or permitting animal suffering which is prohibited by Section 353.

### **356. Failure to provide proper food and drink to impounded animal**

A person who having impounded or confined any animal, refuses or neglects to supply to such animal during its confinement a sufficient supply of good and wholesome air, food, shelter and water is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both. In case any animal shall be at any time impounded as aforesaid, and shall continue to be without necessary food and water for more than twelve successive hours, it shall be lawful for any person, from time to time, and as often as it shall be necessary, to enter into and upon any pound in which any such animal shall be so confined, and to supply it with necessary food and water, so long as it shall remain so confined; such person shall not be liable to any action for such entry, and the reasonable cost of such food and water may be collected by him or the owner of such animal, and the said animal shall not be exempt from levy and sale upon execution issued upon a judgement therefor.

#### **NYSHA's notes on Section 356**

This section pertains to someone other than the owner, who has impounded an animal and refuses to supply it with necessary food, water and shelter. (Refer to the *Chenango County Humane Society v. Polmatier*, 1919, 188 App.Div. 410, 177 N.Y.S. 101.) See Appendix I, "Selected Case Law - Related to Animals" section of this manual.

Situations which apply to the owner of the animal should be handled under Section 353.

### **357. Selling or offering to sell or exposing diseased animal**

A person who willfully sells or offers to sell, uses, exposes, or causes or permits to be sold, offered for sale, used or exposed, any horse or other animal having the disease known as glanders or farcy, or other contagious or infectious disease dangerous to the life or health of human beings, or animals, or which is diseased past recovery, or who refuses upon demand to deprive of life an animal affected with any such disease, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars or by both.

#### **NYSHA's notes on Section 357**

This section applies to a person who permits an animal - that has any contagious or infectious disease dangerous to humans or other animals - to be sold, offered for sale, used OR exposed. Exposed means to put an infected animal in contact with other animals or people and thus expose them to infection; used can mean "working" an animal such as having a horse pull a wagon, *etc.*, that would put the animal in contact with other animals or people that could become infected.

#### **Additional laws to consider:**

Also, for purposes of Civil Law, there is a Pet Lemon Law in New York State General Business Law, Article 35B in this section.

### 358. Selling disabled Equidae

It shall be unlawful for any person holding an auctioneer's license knowingly to receive or offer for sale or to sell at public auction, other than at a sheriff's or judicial sale under a court order, any Equidae which by reason of debility, disease or lameness, or for any other cause, could not be worked in this state without violating the law against cruelty to animals. A violation of this section shall be a misdemeanor punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment.

#### **NYSHA's notes on Section 358**

An auctioneer cannot RECEIVE or offer to sell a horse which could not be worked (pulling wagon, carriage, used as trail horse, *etc.*) without violating the animal cruelty laws unless a court order has been issued for a sheriff's judicial sale.

### 358a. Live animals as prizes prohibited

1. For the purposes of this section "livestock" shall mean any domesticated sheep, goat, horse, cattle or swine.
2. No person shall give or offer to give away as a prize or exchange or offer to exchange for nominal consideration, any live animal other than purebred livestock or fish as a prize in any game, drawing, contest, sweepstakes or other promotion, except when any live animal is given away by individuals or organizations operating in conjunction with a cooperative extension education program or agricultural vocational program sanctioned by the state education department.
3. The commissioner shall promulgate rules and regulations which provide guidelines, conditions and requirements when any live animal is given away under the exceptions provided for in subdivision two of this section.
4. Any person who violates the provisions of this section shall be subject to civil penalty of not more than two hundred fifty dollars or in lieu thereof shall be guilty of a violation punishable solely by a fine of not more than two hundred and fifty dollars.

#### **NYSHA's notes on Section 358a**

No person shall give away or offer to give away ANY animal OTHER THAN purebred livestock or fish as a "prize" unless they are given away through cooperative extension or agricultural vocational programs sanctioned by the Commissioner.

### **359. Carrying animal in a cruel manner**

1. A person who carries or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhumane manner, or so as to produce torture, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.
2. A railway corporation, or an owner, agent, consignee, or person in charge of any horses, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-eight consecutive hours, or thirty-six consecutive hours where consent is given in the manner hereinafter provided, without unloading for rest, water and feeding, during five consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. The consent which will extend the period from twenty-eight to thirty-six hours shall be given by the owner, or by person in custody of a particular shipment, by a writing separate and apart from any printed bill of lading, or other railroad form. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed.

#### **NYSHA's notes on Section 359**

Subdivision 1 refers to ANY animal being carried on ANY vehicle. Subdivision 2 refers to horses, sheep, cattle or swine ONLY, being carried in railroad cars.

### **359a. Transportation of horses**

1. Every vehicle utilized for the transportation of more than six horses shall meet the following requirements:
  - a. The interiors of compartments containing horses shall be constructed of smooth materials, containing no sharp objects or protrusions which are hazardous;
  - b. The floors shall be of such construction or covered with abrasive materials so as to prevent horses from skidding or sliding;
  - c. There shall be sufficient apertures to insure adequate ventilation;
  - d. There shall be sufficient insulation or coverings to maintain an adequate temperature in the compartment containing horses;
  - e. Partitions of sturdy construction shall be placed a maximum of ten feet apart in vehicles which do not have stalls;
  - f. Doorways shall be of sufficient height to allow safe ingress and egress of each horse contained in the compartment;
  - g. Each compartment containing horses shall be of such height so as to allow sufficient clearance above the poll and withers of each horse in the compartment;



- h. Ramps sufficient for loading and unloading horses shall be provided if the vertical distance from the floor of the compartment containing horses to the ground is greater than fifteen inches; and
  - i. There shall be at least two doorways for ingress and egress, which shall not be on the same side.
2. Every vehicle utilized for the transportation of more than six horses over a highway shall have no more than one tier holding animals in the compartment containing horses.
  3. (a) Transporting a horse in violation of this section shall be a violation punishable by a fine of not more than two hundred fifty dollars. (b) Any subsequent violation of this section on a date following a conviction under the provisions of this section shall be a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both.
  4. The commissioner shall promulgate rules and regulations, including size specifications, and establish guidelines in order to facilitate compliance with the provisions of this section.
  5. (a) The term "horse" as used throughout this section shall apply to the entire family *Equidae*. (b) The term "vehicle" as used throughout this section shall apply to every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
  6. The court in which a conviction under the provisions of this section is obtained, shall, within thirty days of such conviction, transmit a copy of the record of conviction for the purpose of identifying subsequent violations of this section.

#### **NYSHA's notes on Section 359a**

For the purposes of this section, for information to help determine a horse's condition, see the "Animal Care Standards for Some Common Animals" section. A diagram of a horse is provided below as you need to understand where a horse's poll and withers are located for purposes of Subdivision 1g.

#### **Additional laws to consider:**

See Article 26-Section 353 which deals with causing and permitting suffering of animals. If any of the animals were injured or suffering, or not provided with proper food or water you can charge the transporter with a violation of Section 353 for causing animal suffering.

### **360. Poisoning or attempting to poison animals**

A person who unjustifiably administers any poisonous or noxious drug or substance to a horse, mule, or domestic cattle, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by horse, mule or by domestic cattle, whether such horse, mule or domestic cattle be the property of himself or another, is guilty of a felony. A person who unjustifiably

administers any poisonous or noxious drug or substance to an animal, other than a horse, mule, or domestic cattle, or unjustifiably exposes any such drug or substance with intent that the same shall be taken by an animal other than a horse, mule, or domestic cattle, whether such animal be the property of himself or another is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

**NYSHA's notes on Section 360**

It is a Class E Felony for a person, whether it be the owner or another, to unjustifiably administer or expose a horse, mule, or cattle to any poisonous or noxious substance.

The animal *doesn't actually have to ingest* any of the substance for a person to be guilty of breaking the law in this section.

It is a misdemeanor to unjustifiably subject ANY animal to a poisonous or noxious substance.

**Additional laws to consider:**

See Penal Law, Section 180.50 and 180.51 in this section which deals with tampering with a sports contest. If a person administered a poisonous or noxious substance in order to tamper with a sports contest (*e.g.*, racing, jumping, *etc.*) you can also charge the person with a violation of the penal law.

### **361. Interference with or injury to certain domestic animals**

A person who willfully or unjustifiably interferes with, injures, destroys or tampers with or who willfully sets on foot, instigates, engages in or in any way furthers any act by which any horse, mule, dog or any other domestic animal used for the purposes of racing, breeding, or competitive exhibition of skill, breed or stamina, is interfered with, injured, destroyed or tampered with, or any act tending to produce such interference, injury, destruction or tampering, whether such horse, mule, dog or other domestic animal be the property of himself or another, is guilty of a felony.

**NYSHA's notes on Section 361**

The phrase "willfully sets on foot" means to initiate the act that caused the animal to be harmed.

**Additional laws to consider:**

See Penal Law, Section 180.50 and 180.51 in this section which deals with tampering with a sports contest. If a person interferes with or injures an animal with the intent to tamper with a sports contest, you can also charge the person with a violation of the penal law.

### **362. Throwing substance injurious to animals in public place**

A person who willfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which

might wound, disable or injure any animal is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

**NYSHA's notes on Section 362**

A person needs only to willfully throw, drop or place a substance on any road, street or public place. It is not necessary for the person to INTEND to injure an animal in order to be guilty of breaking this law.

### **363. Unauthorized possession of dogs presumptive evidence of larceny Agriculture & Markets (AGM)**

The unauthorized possession of a dog or dogs, by any person not the true owner, for a period exceeding ten days, without notifying either the owner, the local police authorities, or the superintendent of the state police at Albany, New York, of such possession, shall be presumptive evidence of larceny.

### **364. Running horses on highway**

A person driving any vehicle upon any plank road, turnpike or public highway, who unjustifiably runs the horses drawing the same, or causes or permits them to run, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both.

**NYSHA's notes on Section 364**

This section only refers to a person who is *driving a vehicle drawn by a horse*, not to a person who is riding a saddle horse.

### **365. Clipping or cutting the ears of dogs**

1. Whoever clips or cuts off or causes or procures another to clip or cut off the whole or any part of an ear of any dog unless an anesthetic shall have been given to the dog and the operation performed by a licensed veterinarian, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or a fine of not more than one thousand dollars, or by both.
2. The provisions of this section shall not apply to any dog or person who is the owner or possessor of any dog whose ear or a part thereof has been clipped or cut off prior to September first, nineteen hundred twenty-nine.
3. Each applicant for a dog license must state on such application whether any ear of the dog for which he applies for such license has been cut off wholly or in part.
4. Nothing herein contained shall be construed as preventing any dog whose ear or ears shall have been clipped or cut off wholly or in part, not in violation of this section, from being imported into the state exclusively for breeding purposes.

**NYSHA's notes on Section 365**

Ear clipping must be done by a veterinarian, AND an anesthetic must be used; there are no exceptions. Breeders are not allowed by law to do ear cropping, whether it is to their own pets or to someone else's.

For the purposes of subdivision 2, there are no dogs currently in existence that were born prior to 1929.

**Additional laws to consider:**

See Article 26 Section 353 which deals with causing and permitting suffering of animals. If a person causes a dog's ears to be clipped, he can also be considered as causing or permitting animal suffering which is prohibited by Section 353.

**366. Companion animal stealing**

It shall be unlawful for any person:

1. To remove or cause to be removed the collar, identification tag or any other identification by which the owner may be ascertained from any dog, cat or any other companion animal as defined in subdivision five of section three hundred fifty of this chapter, or to entice any identified dog, cat or other such companion animal into or out of any house or enclosure for the purpose of removing its collar, tag or any other identification, except with the owner's permission;
2. To entice, seize or molest any companion animal, while it is being held or led by any person or while it is properly muzzled or wearing a collar with an identification tag attached, except where such action is incidental to the enforcement of some law or regulation;
3. To transport any companion animal, not lawfully in his possession, for the purpose of killing or selling such companion animal.

Any person violating any of the provisions of this section, upon conviction thereof, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment not to exceed six months, or by both.

**NYSHA's notes on Section 366**

Although Section 366 is referred to as "Dog Stealing," subsection 366(1) also applies to CATS.

With regard to the reference to "other domestic animal" above, Article 7, Section 108 (Definitions), Subsection 7, reads as follows, "Domestic animal" means any domesticated sheep, horse, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the department of environmental conservation, llama, goat swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit, pheasant or other bird which is raised in confinement under license from the state department of environmental conservation before release from captivity,

except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this article.

### **366a. Removing, seizing or transporting dogs for research purposes**

It shall be unlawful for any person:

1. To remove, seize or transport or cause to remove, seize or transport any dog which belongs to or is licensed to another for the purpose of sale, barter or to give away said dog to a laboratory, hospital, research institute, medical school or any agency or organization engaged in research activity, without the express written permission of the owner or licensee.
2. Any person who violates the provision of this section, upon conviction thereof, shall be guilty of a misdemeanor, and is punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or by both.

### **367. Leaving state to avoid provisions of this article**

A person who leaves this state with intent to elude any of the provisions of this article or to commit any act out of this state which is prohibited by them or who, being a resident of this state, does any act without this state, pursuant to such intent, which would be punishable under such provisions, if committed within this state, is punishable in the same manner as if such act had been committed within this state.

#### **NYSHA's notes on Section 367**

A person would be guilty under this section if, being a *resident of New York State*, he was to take a dog outside of the state for the purposes of having its ears cropped by someone other than a veterinarian. Or, for the purposes of Section 368, a person, being a resident of NYS, would be guilty if he took a horse out of this state, for the purposes of having its tail cut.

#### **Additional laws to consider:**

See Article 26 Section 353 which deals with causing and permitting suffering of animals. If a person causes a dog's ears to be clipped or a horse's tail to be cut, he can also be considered as causing or permitting animal suffering which is prohibited by Section 353.

### **368. Operating upon tails of horses unlawful**

1. Any person who cuts the bone, tissues, muscles or tendons of the tail of any horse, mare or gelding, or otherwise operates upon it in any manner for the purpose or with the effect of docking, setting, or otherwise altering the natural carriage of the tail, or who knowingly permits the same to be done upon premises of which he is the owner, lessee, proprietor or user, or who assists in or is voluntarily present at such cutting, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars or by both. If a horse is found with the bone, tissues, muscles or tendons of its tail cut as aforesaid

and with the wound resulting therefrom unhealed, upon the premises or in the charge and custody for any person, such fact shall be prima facie evidence of a violation of this section by the owner or user of such premises or the person having such charge or custody, respectively.

2. *Any person who shows or exhibits* at any horse show or other like exhibition in this state a horse, mare or gelding, the tail of which has been cut or operated upon in the manner referred to in section one hereof *is guilty of a misdemeanor* punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both; provided that the provisions of this section shall not apply with respect to an animal the tail of which has been so cut or operated upon, if the owner thereof furnishes to the manager or other official having charge of the horse show or exhibition at which such animal is shown or exhibited an affidavit by the owner, or a licensed veterinarian, in a form approved by the State Department of Agriculture and Markets, stating either that the tail of such horse was so cut prior to June first, nineteen hundred sixty-four, or that it was so cut in a state wherein such cutting was not then specifically prohibited by the laws thereof. Said affidavit shall, to the best of the affiant's knowledge, information and belief, identify the animal with respect to sex, age, markings, sire and dam, and state either that the cutting was done prior to June first nineteen hundred sixty-four, or the time and place of such cutting and the name and address of the person by whom performed. The affidavit shall be subject to inspection at all reasonable times by any peace officer, acting pursuant to his special duties, or police officer of this state, or by a designated representative of the commissioner. In lieu of furnishing such affidavit to the manager or other official having charge of such horse show or exhibition, the owner of such horse may specify on the entry blank for the horse show or exhibition the name and address of a central registry office designated by the State Department of Agriculture and Markets where such an affidavit has already been filed and is available for inspection.

#### **NYSHA's notes on Section 368**

NO PERSON, INCLUDING VETERINARIANS, MAY CUT, or PERMIT to be cut, the bones or tissues of a horse's tail for the purposes of altering the natural carriage of the tail. (Illegal tail cutting and/or breaking is typically done to Animal Saddle Breeds and Western Pleasure horses for show purposes.)

#### **Additional laws to consider:**

See Article 26-Section 353 which deals with causing and permitting suffering of animals. If a person causes or allows a horse's tail to be cut, he can also be considered as causing or permitting animal suffering which is prohibited by Section 353.

### **369. Interference with officers**

Any person who shall interfere with or obstruct any constable or police officer or agent of any duly incorporated society for the prevention of cruelty to animals in the discharge of his duty to enforce the laws relating to animals shall be guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

### **370. Protection of the public from attack by wild animals and reptiles**

Any person owning, possessing or harboring a wild animal or reptile capable of inflicting bodily harm upon a human being, who shall fail to exercise due care in safeguarding the public from attack by such wild animal or reptile, is guilty of a misdemeanor, punishable by imprisonment for not more than one year, or by a fine of not more than five hundred dollars, or by both. "Wild animal" within the meaning of this section, shall not include a dog or cat or other domestic animal.

Previous attacks upon a human being by such wild animal or reptile, or knowledge of the vicious propensities of such wild animal or reptile, on the part of the possessor or harbinger thereof, shall not be required to be proven by the people upon a prosecution hereunder; and neither the fact that such wild animal or reptile has not previously attacked a human being, nor lack of knowledge of the vicious propensities of such wild animal or reptile on the part of the owner, possessor or harbinger thereof shall constitute a defense to a prosecution hereunder.

### **371. Powers of peace officers**

A constable or police officer must, and any agent or officer of any duly incorporated society for the prevention of cruelty to animals may issue an appearance ticket pursuant to section 150.20 of the criminal procedure law; summon or arrest, and bring before a court or magistrate having jurisdiction, any person offending against any of the provisions of Article 26 of the Agriculture & Markets Law. Any officer or agent of any of said societies may lawfully interfere to prevent the perpetration of any act of cruelty upon any animal in his presence. Any of said societies may prefer a complaint before any court, tribunal or magistrate having jurisdiction, for the violation of any law relating to or affecting animals and may aid in presenting the law and facts before such court, tribunal or magistrate in any proceeding taken.

#### **NYSHA's notes on Section 371**

Section 371 provides you with the authority to bring an animal relief in a situation which is defined as "Exigent circumstances." If a law enforcement or peace officer has reasonable cause to believe that an animal is in danger of dying, he may act to remove that animal from that circumstance *immediately*.

### **372. Issuance of warrants upon complaint**

Upon complaint under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, that the complainant has just and reasonable cause to suspect that any of the provisions of law relating to or in any wise affecting animals are being or about to be violated in any particular building or place, such magistrate shall immediately issue and deliver a warrant to any person authorized by law to make arrests for such offenses, authorizing him to enter and search such building or place, and to arrest any person there present found violating any of said laws, and to bring such person before the nearest magistrate of competent jurisdiction, to be dealt with according to law.

### **373. Seizure of animals lost, strayed, homeless, abandoned or improperly confined or kept**

1. Any police officer or agent or officer of the American Society for the Prevention of Cruelty to Animals, or any duly incorporated society for the prevention of cruelty to animals, may lawfully take possession of any lost, strayed, homeless or abandoned animal found in any street, road or other public place.
  - 1-a. Any police officer in Lewis County may lawfully take possession of any lost, strayed, homeless or abandoned domestic animal, as defined in section one hundred eight of this chapter, found in any street, road or other public place.
2. Any such police officer or agent or officer may also lawfully take possession of any animal in or upon any premises other than a street, road or other public place, which for more than twelve successive hours has been confined or kept in a crowded or unhealthy condition or in unhealthful or unsanitary surroundings or not properly cared for or without necessary sustenance, food or drink, provided that a complaint stating just and reasonable grounds is made under oath or affirmation to any magistrate authorized to issue warrants in criminal cases, and that such warrant authorizing entry and search is issued and delivered by such magistrate; if just and reasonable cause is shown, the magistrate shall immediately issue such warrant.
3. Any such police officer or agent or officer may also lawfully take possession of any unwanted animal from the person in possession or custody thereof.
4. When any person arrested is, at the time of such arrest, in charge of any animal or of any vehicle drawn by or containing any animal, any agent or officer of said society or societies or any police officer may take charge of such animal and of such vehicle and its contents, and deposit the same in a safe place or custody, or deliver the same into the possession of the police or sheriff of the county or place wherein such arrest was made, who shall thereupon assume the custody thereof; and all necessary expenses incurred in taking charge of such property shall be a charge thereon.
5. Nothing herein contained shall restrict the rights and powers derived from section one hundred seventeen of this chapter relating to seizure of unlicensed dogs and the dispositions to be made of animals so seized or taken, not those derived from any other general or special law relating to the seizure or other taking of dogs and other animals by a society for the prevention of cruelty to animals.
6. a. If any animal is seized and impounded pursuant to the provisions of this section, section three hundred fifty-three-D of this article or section three hundred seventy-five of this article, for any violation of this article, upon arraignment of charges or within a reasonable time thereafter, the duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, hereinafter referred to for the purposes of this section as the "impounding organization," may file a petition with the court requesting that the person from whom an animal is seized or the owner of the animal be ordered to post a security. The district attorney prosecuting the charges may file and obtain the requested relief on behalf of the impounding organization if requested to do so by the



impounding organization. The security shall be in an amount sufficient to secure payment for all reasonable expenses expected to be incurred by the impounding organization in caring and providing for the animal pending disposition of the charges. Reasonable expenses shall include, but not be limited to, estimated medical care and boarding of the animal for at least thirty days. The amount of the security, if any, shall be determined by the court after taking into consideration all of the facts and circumstances of the case including, but not limited to the recommendation of the impounding organization having custody and care of the seized animal and the cost of caring of the animal. If a security has been posted in accordance with this section, the impounding organization may draw from the security the actual reasonable costs to be incurred by such organization in caring for the seized animal.

- b. (1) Upon receipt of a petition pursuant to paragraph-a of this subdivision the court shall set a hearing on the petition to be conducted within ten business days of the filing of such petition. The petitioner shall serve a true copy of the petition upon the defendant and the district attorney if the district attorney has not filed the petition on behalf of the petitioner. The petitioner shall also serve a true copy of the petition on any interested person. For purposes of this subdivision, interested person shall mean an individual, partnership, firm, joint stock company, corporation, association, trust, estate or other legal entity who the court determines may have a pecuniary interest in the animal which is the subject of the petition. The petitioner, or the district attorney on behalf of the petitioner, shall have the burden of proving by a preponderance of the evidence that the person from whom the animal was seized violated a provision of this article. The court may waive for good cause shown the posting of security.
- (2) If the court orders the posting of a security, the security shall be posed with the clerk of the court within five business days of the hearing provided for in subparagraph one of this paragraph. The court may order the immediate forfeiture of the seized animal to the impounding organization if the person ordered to post the security fails to do so. Any animal forfeited shall be made available for adoption or euthanized subject to subdivision seven-a of section one hundred eighteen of this chapter or section three hundred seventy- four of this article.
- (3) In the case of animal other than a companion animal or pet, if a person ordered to post security fails to do so, the court may, in addition to the forfeiture of a duly incorporated society for the prevention of cruelty to animals, humane society, pound, animal shelter or any authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four, three hundred fifty-seven and three hundred seventy-four of this article, order the animal which was the basis of the order to be sold, provided that all interested persons shall first be provided the opportunity to redeem their interest in the animals and to purchase the interest of the person ordered to post security, subject to such conditions as the court deems appropriate to assure proper care and treatment of the animal. The court may reimburse the person ordered to post security and any interested persons any money earned by the sale of the animal less any costs including, but not limited to, veterinary and custodial care. Any animal determined by the court to be maimed, diseased, disabled or infirm so as to be unfit for sale or any useful purpose shall be forfeited to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agent

thereof, and be available for adoption or shall be euthanized subject to section three hundred seventy-four of this article.

(4) Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in the animal or in the proceeds from the sale of such animal.

c. In no event shall the security prevent the impounding organization having custody and care of the animal from disposing of the animal pursuant to section three hundred seventy-four of this article prior to the expiration of the thirty day period covered by the security if the court makes a determination of the charges against the person from whom the animal was seized prior thereto. Upon receipt of a petition from the impounding organization, the court may order the person from whom the animal was sized or the owner of the animal to post an additional security with the clerk of the court to secure payment of reasonable expenses for an additional period of time pending a determination by the court of the charges against the person from whom the animal was seized. The person who posted the security shall be entitled to a refund of the security in whole or part for any expenses not insured by such impounding organization upon adjudication of the charges. The person who posted the security shall be entitled to a full refund of the security, including reimbursement by the impounding organization of any amount allowed by the court to be expended, and the return of the animal seized and impounded upon acquittal or dismissal of the charges, except where the dismissal is based upon an adjournment in contemplation of dismissal pursuant to section 215.30 of the criminal procedure law. The court order directing such refund and reimbursement shall provide for payment to be made within a reasonable time from the acquittal or dismissal of charges.

7. Notwithstanding any other provision of this section to the contrary, the court may order a person charged with any violation of this article to provide necessary food, water, shelter and care for any animal which is the basis of the charge, without the removal of the animal from its existing location, until the charges against the person are adjudicated. Until a final determination of the charges is made, any law enforcement officer, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, may be authorized by an order of the court to make regular visits to where the animal is being kept to ascertain if the animal is receiving necessary food, water, shelter and care. Nothing shall prevent any law enforcement office, officer of a duly incorporated society for the prevention of cruelty to animals, or its authorized agents, from applying for a warrant pursuant to this section to seize any animal being held by the person charged pending the adjudication of the charges if it is determined that the animal is not receiving the necessary food, water, shelter or care.

#### **NYSHA's notes on Section 373**

1. Subdivision 1 of this section refers to police officers and **ONLY** to agents or officers of the ASPCA or SPCA. The term "animal" refers to **ANY** animal.
2. Subdivision 1a of this section refers **ONLY** to police officers in Lewis County, and it only refers to **DOMESTIC** animals. Article 7, Section 108 (Definitions), Subsection 7, reads as follows, "Domestic animal" means any domesticated sheep,

horse, cattle, fallow deer, red deer, sika deer, whitetail deer which is raised under license from the department of environmental conservation, llama, goat swine, fowl, duck, goose, swan, turkey, confined domestic hare or rabbit, pheasant or other bird which is raised in confinement under license from the state department of environmental conservation before release from captivity, except that the varieties of fowl commonly used for cock fights shall not be considered domestic animals for the purposes of this described in Section 108 of the Agriculture & Markets Law. They are as follows: any domesticated sheep, horse, cattle, goat, swine, fowl (except fighting cocks), duck, goose, swan, turkey, confined domestic rabbit, pheasant or other bird raised in confinement under license from the Department of Environmental Conservation.

3. Subdivision 4 applies to *any* police officer as well as any cruelty agent. This section implies that anytime a person is being arrested (not only on charges of animal cruelty), and the person being arrested is in charge of any animal, the police or cruelty agent or officer may take charge of the animal(s) and deposit them in a safe place.

4. Note that *anytime the police seize animals*, whether because of a cruelty situation, an arrest or abandonment, and the owner either loses or gives up control of the animals, the *adoption of the animals must be done* through a duly incorporated humane society or any municipal pound.

### **374. Humane destruction or other disposition of animals lost, strayed, homeless, abandoned or improperly confined or kept**

1. Any agent or officer of any duly incorporated humane society, a duly incorporated society for the prevention of cruelty to animals, any dog control officer, or any police officer, may lawfully cause to be humanely destroyed (by means provided for in paragraph a of subdivision three of this section) any animal found abandoned and not properly cared for, or any lost, strayed, homeless or unwanted animal, if upon examination a licensed veterinarian shall certify in writing, or if two reputable citizens called upon by such agent, officer or police officer to view the same in his or her presence find that the animal is so maimed, diseased, disabled, or infirm so as to be unfit for any useful purpose and that humane euthanasia is warranted; or after such agent, officer or police officer has obtained in writing from the owner of such animal his or her consent to such destruction.
2. In the absence of such findings or certification, a duly incorporated humane society, a duly incorporated society for the prevention of cruelty to animals, or any pound maintained by or under contract or agreement with any county, city, town or village may after five days make available for adoption or have humanely destroyed in accordance with the provisions of this section and subject to subdivisions six, eight and nine of section one hundred eighteen of this chapter, any animal of which possession is taken as provided for in the preceding section, unless the same is earlier redeemed by its owner. Notwithstanding the redemption periods set forth above in this subdivision, any municipality may establish the duration of such periods by local law or ordinance for any cat whose owner cannot be identified by a collar, tag, microchip, tattoo or other identifying mark, provided that no such period shall be less than three days, and

provided further that such cat be made available solely for the purposes of adoption and released to an adoptive owner following an examination by a duly-licensed veterinarian, the details of which shall be provided to the adoptive owner.

3. a. Except as provided in subdivision four of this section, euthanasia of animals pursuant to this section shall be accomplished solely by means of injection of sodium pentobarbital or sodium pentobarbital solution administered by a certified euthanasia technician, a licensed veterinarian or a licensed veterinary technician. Euthanasia by intra-cardiac injection of sodium pentobarbital or sodium pentobarbital solution shall be performed only upon animals that are heavily sedated, anesthetized, or comatose. However, only a licensed veterinarian may perform euthanasia by intra-cardiac injection of sodium pentobarbital or sodium pentobarbital solution upon animals that are not heavily sedated, anesthetized or comatose and only when such licensed veterinarian determines that such intra-cardiac injection is the most humane option available. Whenever a cardiac injection of sodium pentobarbital or sodium pentobarbital solution is administered by a licensed veterinarian upon an animal that is not heavily sedated, anesthetized or comatose, such veterinarian must document, in writing, the administration of such injection and the reason for its administration. Such documentation shall be retained for at least three years. Under no circumstances shall intra-cardiac injection be performed on animals that are not heavily sedated, anesthetized or comatose where such animals are under the care of any duly incorporated society for the prevention of cruelty to animals, animal shelter, humane society or pound.
  - b. No animal shall be left unattended between the time that the euthanasia procedure begins and the time when death is confirmed. The body of a euthanized animal shall not be disposed of in any manner until death is confirmed by a licensed veterinarian, a certified euthanasia technician or a licensed veterinary technician. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars. The department of health shall promulgate regulations deemed necessary for implementation of the provisions of this subdivision, including regulations governing the training and certification of certified euthanasia technicians.
4. a. Any method of euthanasia other than that provided for in subdivision three of this section is prohibited except that euthanasia of an animal by gunshot is permissible as an emergency measure for an animal that is posing an imminent threat of serious physical injury to a person or to another animal as provided in section one hundred twenty-one-a of this chapter and where the use of a humane method of euthanasia prescribed in this section is rendered impossible or where a severely injured animal is suffering and cannot otherwise be aided.
  - b. Within ninety days of the effective date of this subdivision, any chamber used to induce hypoxia by means of a lethal gas shall be dismantled, rendered inoperable and beyond repair, and removed from the premises. Violations of this paragraph shall be punishable by a civil penalty of not more than five hundred dollars.
5. No person shall release any dog or cat from the custody or control of any pound, shelter, society for the prevention of cruelty to animals, humane society, dog protective association, dog control officer, peace officer or any agent thereof, for any purpose except adoption or redemption by its owner, provided, however, that after the time for redemption has expired, release may be made to another such pound, duly incorporated society for the prevention of

cruelty to animals, duly incorporated humane society or duly incorporated animal protective association for the sole purpose of placing such animal in an adoptive home when such action is reasonably believed to improve the opportunity for adoption. Notwithstanding the penalties set forth in paragraph b of subdivision three of this section and paragraph b of subdivision four of this section, any violation of this subdivision, subdivision two, three or four of this section, shall constitute a misdemeanor and shall be punishable by imprisonment for not more than one year, or by a fine of not more than one thousand dollars, or by both.

6. In lieu of such destruction, redemption or other disposition pursuant to this section, such pound, shelter, or society may in its discretion lawfully and without liability deliver such animal for adoption to an individual other than the owner after the time for redemption has expired.
7. Prior to such destruction or other disposition, the owner of the animal may redeem the same upon proving title to the satisfaction of such society and paying such society such amount, approved by a magistrate, as may have been reasonably expended by such society in connection with the care and maintenance thereof.
8.
  - a. In addition to any other penalty provided by law, upon conviction for any violation of section three hundred fifty-one, three hundred fifty-three, three hundred fifty-three-a, three hundred fifty-three-b, three hundred fifty-five, three hundred fifty-six, three hundred fifty-nine, three hundred sixty, three hundred sixty-one, three hundred sixty-five or three hundred sixty-eight of this article, the convicted person may, after a duly held hearing pursuant to paragraph f of this subdivision, be ordered by the court to forfeit, to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, the animal or animals which are the basis of the conviction. Upon such an order of forfeiture, the convicted person shall be deemed to have relinquished all rights to the animals which are the basis of the conviction, except those granted in paragraph d of this subdivision.
  - b. Pursuant to the provisions of subdivisions two, three, four and five of this section, no animal in the custody of a duly incorporated society for the prevention of cruelty to animals, a duly incorporated humane society, duly incorporated animal protective association, pound or its authorized agents thereof, shall be sold, transferred or otherwise made available to any person for the purpose of research, experimentation or testing. No authorized agent of a duly incorporated society for the prevention of cruelty to animals, nor of a duly incorporated humane society, duly incorporated animal protective association or pound shall use any animal placed in its custody by the duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society for the purpose of research, experimentation or testing.
  - c. The court may additionally order that the convicted person or any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, shall not own, harbor, or have custody or control of any other animals, other than farm animals, for a period of time which the court deems reasonable.
  - d. In the case of farm animals, the court may, in addition to the forfeiture to a duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society or authorized agents thereof, and subject to the restrictions of sections three hundred fifty-four and three hundred fifty-seven of this article, order the farm animals which were the basis of

the conviction to be sold. In no case shall farm animals which are the basis of the conviction be redeemed by the convicted person who is the subject of the order of forfeiture or by any person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act. The court shall reimburse the convicted person and any duly determined interested persons, pursuant to paragraph f of this subdivision, any money earned by the sale of the farm animals less any costs including, but not limited to, veterinary and custodial care, and any fines or penalties imposed by the court. The court may order that the subject animals be provided with appropriate care and treatment pending the hearing and the disposition of the charges. Any farm animal ordered forfeited but not sold shall be remanded to the custody and charge of a duly incorporated society for the prevention of cruelty to animals or duly incorporated humane society or its authorized agent thereof and disposed of pursuant to paragraph e of this subdivision.

e. A duly incorporated society for the prevention of cruelty to animals or a duly incorporated humane society in charge of animals forfeited pursuant to paragraph a of this subdivision may, in its discretion, lawfully and without liability, adopt them to individuals other than the convicted person or person dwelling in the same household who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act, or humanely dispose of them according to the provisions of subdivisions two, three, four and five of this section.

f. (1) Prior to an order of forfeiture of farm animals, a hearing shall be held within thirty days of conviction, to determine the pecuniary interests of any other person in the farm animals which were the basis of the conviction. Written notice shall be served at least five days prior to the hearing upon all interested persons. In addition, notice shall be made by publication in a local newspaper at least seven days prior to the hearing. For the purposes of this subdivision, interested persons shall mean any individual, partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity who the court determines may have a pecuniary interest in the farm animals which are the subject of the forfeiture action.

(2) All interested persons shall be provided an opportunity at the hearing to redeem their interest as determined by the court in the subject farm animals and to purchase the interest of the convicted person. The convicted person shall be entitled to be reimbursed his interest in the farm animals, less any costs, fines or penalties imposed by the court, as specified under paragraph d of this subdivision. In no case shall the court award custody or control of the animals to any interested person who conspired, aided or abetted in the unlawful act which was the basis of the conviction, or who knew or should have known of the unlawful act.

g. Nothing in this section shall be construed to limit or restrict in any way the rights of a secured party having a security interest in any farm animal described in this section. This section expressly does not impair or subordinate the rights of such a secured lender having a security interest in farm animals or in the proceeds from the sale of such farm animals.

1. Subdivision 1 means that any properly sanctioned cruelty investigator, any dog control officer, as well as ANY police officer can humanely destroy or cause to be humanely destroyed ANY animal that he finds abandoned and not properly cared for, as well as any lost, strayed, homeless or unwanted animal if:

- A veterinarian certifies in writing that the animal is so maimed, diseased, disabled or infirm as to be unfit for any useful purpose and should be destroyed; or
- Two reputable citizens must agree that the animal is so maimed, diseased, disabled or inform as to be unfit for any useful purpose and should be destroyed; or
- The owner may give written permission to allow the animal to be destroyed.

NOTE: CONCEPT OF CONSTRUCTIVE ABANDONMENT - In a situation where animals are deemed to be in a deplorable state, and the humane alternative is to euthanize them, the concept of "constructive abandonment" is operative. This means that for all intents and purposes, the animal has been abandoned by its owner (because it has not received proper food or veterinary care) even though it is still on the owner's property. This construct allows the veterinarian to proceed with euthanizing the animal if that is the best thing to do. (See *Chernik v. Department of Health*, 69 Misc 2d, 710 and *Hampton Animal Shelter v. American Society for Prevention of Cruelty to Animals*, 169 Appellate Division Reports, 2d Series 702 in Appendix I, "Selected Case Law - Related to Animals."

2. When considering abandonment, sometimes animals can be deemed to be abandoned even though they are in the possession of a shelter or owner. The concept is known as "constructive abandonment;" thus, in effect being "abandoned" though actually being owned. (See *Chernik v. Department of Health*, 1972, 69 Misc 2d, 710 and *Hampton Animal Shelter, Inc. v. American Society for Prevention of Cruelty to Animals*, 1989, 169 Appellate Division Reports, 2d Series 702, in Appendix I, "Selected Case Law - Related to Animals."

3. Subdivision 2 gives any duly incorporated humane society, a duly incorporated society for the prevention of cruelty to animals, or any pound maintained by or under contract with any municipality the authority to humanely destroy any animal of which possession is taken as provided for in the preceding section, unless the animal is redeemed by its owner within five days. This section does not state that a person who has been arrested for animal cruelty may within five days redeem animals that are seized under a court order. Subdivision 2 explains that in lieu of destruction or redemption, the aforementioned organizations may adopt an animal to an individual other than the owner.

4. Subdivisions 3 and 4 explain how animals may or may not be destroyed; note that dogs or cats cannot be killed by gunshot except as an emergency procedure for a dangerous animal or a severely injured animal.

5. Subdivision 4 gives the aforementioned agencies the authority to recover funds which were spent on the care and maintenance, prior to returning an animal over to its owner. The animal shelter that cared for the animals is entitled to restitution for such amount as approved by a magistrate.

6. Subdivision 5 explains that dogs and cats can only be released from shelters or pounds, *etc.*, for the purposes of being adopted or returned to their owners. (This section protects those animals from being sent to research laboratories.)

7. Subdivision 8 provides that if an individual is convicted of animal cruelty, the judge can order that all animals seized as part of the cruelty charges be forfeited to the local humane agency and not returned to the owner. In the case of farm animals, the judge can order that they be forfeited to the local humane agency, or that they be sold with the stipulation that the local humane society be reimbursed for all costs involved with the board and care of the animals.

### **NYSHA's notes on Section 374 8(c)**

To invoke this section of law with regard to an animal normally regarded as a farm animal, you must demonstrate that the animal, though it be a goat, horse, or other animal, is a companion animal by determining if the animal meets the criteria specified for companion animal in Section 350.

1. First, regarding 350-4 Farm Animal: Is the animal used for any commercial or subsistence purposes? For example, if it is a horse, is it used to win money in the racing industry? If a goat, is it used to generate milk to feed the family? If the answer is no, then move to the next definition.

2. Next, regarding 350-5 Companion Animal: Does the animal reside in or near the household. Thus, if it is a goat, horse, or chicken is it kept near to the house? Is it treated as a pet? If the answer is yes, you have made your case that this animal, often considered a farm animal, is indeed a companion animal.

If the animal meets the criteria for a companion animal, Section 374-8-c can be imposed by the judge at sentencing to prevent the person from having animals “for a period which the court deems reasonable” after the perpetrator completes his/her sentence.

#### *Example:*

In a case in Orange County Court, a woman starved 10 horses to the point that all but one died. The horses met the criteria cited above in Section 350, and were deemed to be companion animals. She was charged with a Section 353-a felony. In this case, the horses were *not raised for commercial or subsistence purposes* (thus *not* fitting the definition of farm animals), they were kept close to the house, and the owner said they were her pets. The defendant was charged with 10 counts of Felony Animal Cruelty (353-a). Also, because the horses were determined to be companion animals, Section 374-8-c was imposed by the judge to prevent the defendant from having any animals for fifteen years after her jail sentence was served.

NYSHA was unable to obtain a formal citation for the above-referenced case. However, the case occurred in Orange County Court in 2017, the crime having



occurred in Goshen. A Google search for the woman's name, Jeanne Ryan, along with "horse cruelty," will yield extensive coverage of the case from multiple sources.

### **375. Officer may take possession of animals or implements used in fights among animals**

Any officer authorized by law to make arrests may lawfully take possession of any animals, or implements, or other property used or employed, or about to be used or employed, in the violation of any provision of law relating to fights among animals. He shall state to the person in charge thereof, at the time of such taking, his name and residence, and also, the time and place at which the application provided for by the next section will be made.

### **376. Disposition of animals or implements used in fights among animals**

The officer, after taking possession of such animals, or implements, or other property, pursuant to the preceding section, shall apply to the magistrate before whom complaint is made against the offender violating such provision of law, for the order next hereinafter mentioned and shall make and file an affidavit with such magistrate, setting therein the name of the offender charged in such complaint, the time, place and description of the animals, implements or other property so taken, together with the name of the party who claims the same, if known, and that the affiant has reason to believe and does believe, stating the grounds of such belief, that the same were used or employed, or were about to be used or employed, in such violation, and will establish the truth thereof upon the trial of such offender. He shall then deliver such animals, implements, or other property, to such magistrate, who shall thereupon, by order in writing, place the same in the custody of an officer or other proper person in such order named and designated, to be by him kept until the trial or final discharge of the offender, and shall send a copy of such order, without delay, to the district attorney of the county. The officer or person so named and designated in such order, shall immediately thereupon assume such custody, and shall retain the same for the purpose of evidence upon such trial, subject to the order of the court before which such offender may be required to appear, until his final discharge or conviction. Upon the conviction of such offender, the animals, implements, or other property, shall be adjudged by the court to be forfeited. In the event of the acquittal or final discharge, without conviction, of such offender, such court shall, on demand, direct the delivery of the property so held in custody to the owner thereof.

#### **NYSHA's notes on Section 375 and 376**

Sections 375 and 376 refer to animal fighting. Also refer to Sections 351 and 353.

### **377. Disposal of dead animals**

1. The carcasses of large domestic animals, including but not limited to horses, cows, sheep, swine, goats and mules, which have died otherwise than by slaughter, shall be buried at least three feet below the surface of the ground or otherwise disposed of in a sanitary manner by the owner of such animals, whether the carcasses are located on the premises of such owner or

elsewhere. Such disposal shall be completed within seventy-two hours after the owner is directed to do so by any peace officer, acting pursuant to his special duties, police officer, or by a designated representative of the commissioner.

2. Notwithstanding section forty-one of this chapter, any violation of this section shall constitute a violation. This section shall not apply to animal carcasses used for experimental or teaching purposes.

**NYSHA's notes on Section 377**

The animals need to be buried as stated within 72 hours, **ONLY** after the owner is directed to do so by a police officer, a peace officer or a designated representative of the commissioner of Agriculture & Markets.

### **377a. Spaying and neutering of dogs and cats**

1. The legislature finds that the uncontrolled breeding of dogs and cats in the state results in an overabundance of puppies and kittens. More puppies and kittens are produced than responsible homes for them can be provided. This leads to many of such animals becoming stray and suffering privation and death, being impounded and destroyed at great expense to the community and constituting a public nuisance and health hazard. It is therefore declared to be the public policy of the New York State that every feasible humane means of reducing the production of unwanted puppies and kittens be encouraged.
2. No animal shelter, pound, dog control officer, humane society, dog or cat protective association, or duly incorporated society for the prevention of cruelty to animals shall release any dog or cat for adoption to any person unless prior thereto:
  - a. the dog or cat has been spayed or neutered; or
  - b. the person intending to adopt the dog or cat shall have executed a written agreement with the animal shelter, pound, dog control officer, humane society, dog or cat protective association or duly incorporated society for the prevention of cruelty to animals to have the dog or cat spayed or altered within thirty days from the adoption date, or in the case of a dog or cat which has not yet reached sexual maturity, within thirty days of the dog or cat reaching six months of age. The person intending to adopt the dog or cat shall deposit with the animal shelter, pound, dog control officer, humane society, dog or cat protective association, or duly incorporated society for the prevention of cruelty to animals, an amount of not less than thirty-five dollars. Not more than every two years, the commissioner, after holding a public hearing, may raise the amount to be deposited to reflect rising costs; or
  - c. the person intending to adopt the dog or cat shall have executed written agreement with the animal shelter, pound, dog control officer, humane society, dog or cat protective association or society for the prevention of cruelty to animals to have the dog or cat spayed or neutered within thirty days from the adoption date, or in the case of a dog or cat which has not yet reached sexual maturity, within thirty days of the dog or cat reaching six months

of age. The person intending to adopt the dog or cat shall have paid an adoption fee which includes the cost of the spay or neuter procedure. The written agreement shall require that the animal shelter, pound, dog control officer, humane society, dog or cat protective association or society for the prevention of cruelty to animals from which the dog or cat is adopted bear the cost of the spay or neuter procedure.

3. For the purposes of this section, the age of the animal at the time of adoption shall be determined by the animal shelter, pound, dog control officer, humane society, dog or cat protective association or duly incorporated society for the prevention of cruelty to animals that releases the animal for adoption and such age shall be clearly written on the written agreement by the animal shelter, pound, dog control officer, humane society, dog or cat protective association or duly incorporated society for the prevention of cruelty to animals prior to the agreement being executed by the person adopting the animals.
4. Any deposit collected pursuant to paragraph (b) of subdivision two of this section that is not claimed within ninety days of its collection or if the deposit is for an animal under six months of age within sixty days after the animal has reached six months of age, shall be deposited in the animal population control fund established pursuant to section ninety-seven-xx of the state finance law. Depositions collected pursuant to paragraph (b) of subdivision two of this section shall be refunded to the adopter upon presentation to the animal shelter, pound, dog control officer, humane society, dog and cat protective association, or duly incorporated society for the prevention of cruelty to animals of written documentation from a licensed veterinarian that the dog or cat has been spayed or neutered, provided that the animal has been spayed or neutered within the time specified in the written agreement, or that because of old age or other health reasons, as certified by a licensed veterinarian examining the dog or cat, spaying or neutering would endanger the animal's life.
5. Nothing contained in this section shall prevent any town, city, village or county in New York State from enacting a local law or ordinance requiring that animal shelters, pounds, dog control officers, humane societies, dog or cat protective associations and duly incorporated societies for the prevention of cruelty to animals within such town, city, village or county spay or altered dogs and cats prior to releasing such animals for adoption, provided that such local law or ordinance may require spaying or neutering at an age earlier, but in no event later than that required in this section, except where because of advanced age or other health reasons, as certified by a licensed veterinarian who has examined the dog or cat, spaying or neutering would endanger the life of the animal. A town, city, village or county in New York State that enacts such a local law or ordinance shall be exempt from the provisions of this section.

### **378. Unlawful tampering with animal research**

1. **Definitions.** For the purposes of this section, the following terms shall have the following meanings:
  - a. "Infectious agents" shall be limited to those organisms that cause serious physical injury or death to humans.

- b. "Animal" means any warm or cold-blooded animal or insect which is being used in food or fiber production, agriculture, research, testing, or education, however, shall not include any animal held primarily as a pet.
  - c. "Facility" means any building, structure, laboratory, vehicle, pasture, paddock, pond, impoundment or premises where any scientific research, test, experiment, production, education, or investigation involving the use of any animals is carried out, conducted or attempted or where records or documents relating to an animals or animals research, tests, experiments, production, education or investigation are maintained.
  - d. "Release" means to intentionally set free from any facility an animal without any right, title, or claim thereto.
  - e. "Abandonment" means the intentional relinquishment or forsaking of possession or control of any animal released from a facility.
  - f. "Person" means any individual, firm, organization, partnership, association, or corporation.
  - g. "Secret scientific material" means a sample, culture, microorganism, specimen, record, recording, document, drawing or any other article, material, device or substance which constitutes, represents, evidences, reflects, or records a scientific or technical process, invention or formula or any part or phase thereof which is stored, tested, studied or examined in any facility, and which is not, and not intended to be, available to anyone other than the person or persons rightfully in possession thereof or selected persons having access thereto with his or their consent, and when it accords or may accord such rightful possessors an advantage over competitors or other persons who do not have knowledge or the benefit thereof.
  - h. "Notice" means to provide information in such detail to make a reasonable person aware of the presence in a facility of infectious agents or secret scientific material.
2. **Notice.** Any person who, after notice has been given by:
- a. actual notice in writing or orally to the person: or
  - b. prominently posting written notice upon or immediately adjacent to the facility: or
  - c. notice that is announced upon entry to the facility by any person:
    - i. knowingly or intentionally releases an animal from a facility or causes the abandonment of an animal knowing that such animal was exposed to infectious agents prior to such release or abandonment and was capable of transmitting such infectious agents to humans; or
    - ii. with intent to do so, causes loss or damage to secret scientific material, and having no right to do so nor any reasonable ground to believe that he has such right, causes loss of or damage to any secret scientific material in an amount in excess of two hundred fifty dollars at a facility, shall be guilty of unlawful tampering with animal research.

Unlawful tampering with animal research is a class E felony punishable in accordance with the penal law.

3. **Private right of action.** Any person who violates any provision of this section shall be liable in any court of competent jurisdiction, including small claims court, in an amount equal to:
  - a. Damages sustained as a result of such violation or fifty dollars, whichever is greater, for each violation,
  - b. Such additional punitive damages as the court may allow,
  - c. Attorney's fees and costs, and
  - d. Cost of duplicating any experiment which was damaged by the unlawful tampering with animal research, if applicable.

In any action brought by a person to enforce this section, the court may, subject to its jurisdiction, issue an injunction to restrain or prevent any violation of this section or any continuance of such violation.

### **379. Prohibition of the selling of fur, hair, skin or flesh of a dog or cat**

1. It shall be unlawful for any person, firm, partnership or corporation to knowingly import, sell, offer for sale, manufacture, distribute, transport or otherwise market or trade in the fur, hair, skin or flesh of a domesticated dog (*canis familiaris*) or domesticated cat (*felis catus* or *felis domesticus*), whether domestically raised or imported for another country, or any product or item containing or comprised of the fur, hair, skin or flesh of a dog or cat. As used in this section the term "domesticated dog or cat" shall not mean or include coyote (*canis latrans*), fox (*vulpes vulpes*, *vulpes cinereoargenteus*), lynx (*felis lynx*) or bobcat (*felis rufus*).
2. Manufacturers or suppliers shall provide certification to each retailer that any fur, hair, skin or flesh contained in such items is not derived from domesticated dog or domesticated cat.
3. The commissioner shall establish a standard for the certification required by the provisions of subdivision two of this section on the effective date of this section.
4. A violation of this section shall be punishable by a civil penalty of up to one thousand dollars for an individual and up to five thousand dollars for a corporation for the first violation. Any subsequent violation shall be punishable by a civil penalty of up to twenty-five thousand dollars.
5. Any civil penalties collected pursuant to this section of law are payable to the animal population control fund established pursuant to section ninety-seven-xx of the state finance law.
6. (a) No provision of this section shall be construed to prohibit or interfere with any properly conducted scientific tests, experiments or investigations involving the use of dog or cat fur or flesh, performed or conducted in laboratories or institutions, which are approved for these

purposes by the site commissioner of health in accordance with section three hundred fifty-three of this article. (b) No provision of this section shall be construed to prohibit any person, firm, partnership or corporation from importing, selling, offering for sale, manufacturing, distributing, transporting, or otherwise marketing or trading in the fur, hair, skin, or flesh of a domesticated dog or cat for the purposes of conducting scientific tests, experiments or investigations that are to be performed or conducted in laboratories or institutions, which are approved for these purposes by the state commissioner of health in accordance with section three hundred fifty-three of this article.

### **380. Use of elephants in entertainment acts<sup>4</sup>**

1. No person shall use or cause to be used elephants in any type of entertainment act.
2. Any person that violates the provisions of this section, or any rule or regulation promulgated pursuant thereto, may be assessed, by the commissioner, a civil penalty not to exceed one thousand dollars for each such violation.
3. The provisions of this section shall not apply to:
  - a. institutions accredited by the Association of Zoos and Aquariums; and
  - b. wildlife sanctuaries as defined in subdivision thirty-two of section 11-0103 of the environmental conservation law.
4. As used in this section:
  - a. "Elephant" means the three species of the family Elephantidae:
    - i. *Loxodonta africana* and *Loxodonta cyclotis*, also known as the African elephant; and
    - ii. *Elephas maximus*, also known as the Asian elephant or Indian elephant.
  - b. "Entertainment act" means any exhibition, act, circus, trade show, carnival, ride, parade, race, performance or similar undertaking which is primarily undertaken for the entertainment or amusement of a live audience.
  - c. "Person" means an individual, partnership, limited liability company, corporation, joint venture, association, trust, estate or any other legal entity, and any officer, member, shareholder, director, employee, agent or representative of any such entity.

### **380[2]. Examination of seized animals or animals taken possession of<sup>5</sup>**

1. Consistent with the provisions of section one hundred seventeen of this chapter and sections three hundred seventy-three and three hundred seventy-four of this article, no later than twenty-four hours, or as soon as practicable, after a companion animal that is a dog or a cat has been

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<sup>4</sup> There are two § 380s.

<sup>5</sup> There are two § 380s.

seized or taken possession of, except for such animals that have been surrendered by the owner, by any dog control officer, animal control officer or peace officer acting pursuant to his or her special duties, or police officer in the employ of or under contract with a municipality, or any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, pound or shelter that is operated by or under contract to a municipality, such officer, society, pound or shelter shall take steps to:

- a. Check such animal for all forms of identification, including, but not limited to, tags, microchips, tattoos or licenses; and
  - b. If practicable and if the necessary technology and equipment are available, for the purposes of this paragraph, make available to the public on the internet on a website or social media maintained by or otherwise made available to such officer, society, pound or shelter by the municipal or county government in which such officer, society, pound or shelter is located, a photograph, and a general description of the animal to assist the owner or owners in finding the animal, including the breed or breeds, if known. Information about the animal may be withheld if deemed appropriate to facilitate finding the owner or otherwise protect the safety of the animal. The notice required by this paragraph may be made by means other than the internet if use of the internet is impracticable.
2. No later than twenty-four hours or as soon as practicable after the seizure or taking possession of such animal potentially identifiable by a form of identification, including a license, tag, tattoo or microchip, or records or reports that are readily available of animals reported to be lost, reasonable efforts shall be made to identify and provide actual notice to the owner of the animal by any means reasonably calculated to provide actual notice to the owner.

### **381. Prohibition of the declawing of cats**

1. No person shall perform an onychectomy (declawing), partial or complete phalangectomy or tendonectomy procedure by any means on a cat within the state of New York, except when necessary for a therapeutic purpose. Therapeutic purpose means the necessity to address the physical medical condition of the cat, such as an existing or recurring illness, infection, disease, injury or abnormal condition in the claw that compromises the cat's health. Therapeutic purpose does not include cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the cat.
2. Any person who performs an onychectomy, partial or complete phalangectomy or tendonectomy procedure on any cat within the state of New York in violation of the provisions of subdivision one of this section shall be punishable by a civil penalty not to exceed one thousand dollars.

### **382. Prohibition of the slaughter of race horses and race horse breeding stock**

1. Notwithstanding any other provision of law, it shall be unlawful for any person, corporation, association, or other entity to slaughter or have another person, corporation, association, or

other entity slaughter a horse for a commercial purpose that such person, corporation, association or other entity knows to have been a race horse or race horse breeding stock.

2. Notwithstanding any other provision of law, it shall be unlawful for any person, corporation, association, or other entity who owns or is in the process of taking ownership of a race horse or race horse breeding stock to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, or receive, or direct another person to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, or receive a horse that such person, corporation, association or other entity knows to be a race horse or race horse breeding stock with the intent of slaughtering or having another person, corporation, association, or other entity slaughter such race horse or race horse breeding stock.
3. For the purposes of this section:
  - a. "race horse" shall mean:
    - i. a thoroughbred horse which meets or ever met the standards to be eligible to race at any track licensed to operate pursuant to article two of the racing, pari-mutuel wagering and breeding law; or
    - ii. a standard bred horse which meets or ever met the standards to be eligible to race at any track licensed to operate pursuant to article three of the racing, pari-mutuel wagering and breeding law;
  - b. "race horse breeding stock" shall mean: any mare or stallion used, or intended to ever be used, to produce a foal that is intended to be used as a race horse as defined in this subdivision, as well as the foal bred by such a mare or stallion.
  - c. "slaughter" shall mean the intentional killing, or having another kill, a race horse or race horse breeding stock, if that person knows that the purpose of such killing is using any part of such race horse or race horse breeding stock for human or animal consumption. Nothing herein shall prohibit a person from lawful disposition of a deceased race horse or race horse breeding stock or any part of such horse or stock.
4. (a) A violation of this section is a misdemeanor punishable by a fine of not more than one thousand dollars per each race horse or race horse breeding stock for an individual person and up to two thousand five hundred dollars per each race horse or race horse breeding stock for a corporation, association or other entity, for the first violation. Any subsequent violation shall be punishable by a fine of up to two thousand dollars per each race horse or race horse breeding stock for an individual person and up to five thousand dollars per each race horse or race horse breeding stock for a corporation, association, or other entity. (b) A violation of this section will subject any New York state gaming commission license to the provisions of section two hundred twenty or three hundred nine of the racing, pari-mutuel wagering and breeding law.
5. (a) Any and all fines collected pursuant to a violation involving a thoroughbred horse shall be remitted to the New York state thoroughbred breeding and development fund established pursuant to section two hundred fifty-two of the racing, pari-mutuel wagering and breeding



law, and shall be deposited by that fund into a dedicated account to be spent by the fund solely for the purpose of the care of retired race horses, consistent with paragraph h of subdivision two of section two hundred fifty-four of the racing, pari-mutuel wagering and breeding law.

(b) Any and all fines collected pursuant to a violation involving a standard bred horse or racehorse breeding stock shall be remitted to the agriculture and New York state horse breeding development fund established pursuant to section three hundred thirty of the racing, pari-mutuel wagering and breeding law, and shall be deposited by that fund into a dedicated account, to be spent by the fund solely for the purpose of the care of retired race horses, consistent with paragraph j of subdivision one of section three hundred thirty-two of the racing, pari-mutuel wagering and breeding law.

6. Notwithstanding any other provision of law, each and every owner of a race horse that has competed in New York state on or after January first, two thousand twenty-two, or any other horse used for breeding purposes in New York state on or after January first, two thousand twenty-two, shall be liable for any violation of this section, unless there is proper documentation of a transfer of ownership, and that transfer must be to a party with no financial or familial relationship to the owner.
7. Legal liability under this section for any race horse shall be limited to the last individual or corporation in the chain of ownership of said horse, as determined by notice to the breed registry as referenced in section two hundred twenty-five of the racing, pari-mutuel wagering and breeding law for that breed or other documentation of ownership. Further, the purchaser or seller of any registered race horse sold by a New York state resident or corporation who is a member of such registry shall be required to provide notification of said sale to the relevant breed registry in order to document ownership and protect previous owners from liability under this section.
8. The commissioner shall develop a program, in cooperation with the gaming commission, New York state thoroughbred breeding and development fund, and the agriculture and New York state horse breeding development fund to disseminate information about the provisions of this section to horse owners, sellers, buyers and transporters including, but not limited to farmers, recreational horse businesses, livestock and horse dealers, horse rescue and aftercare organizations, renderers, animal food producers, and any other organizations or businesses potentially impacted by this section.

### **383. Examination of seized animals or animals taken possession of<sup>6</sup>**

1. Consistent with the provisions of section one hundred seventeen of this chapter and sections three hundred seventy-three and three hundred seventy-four of this article, no later than twenty-four hours, or as soon as practicable, after a companion animal that is a dog or a cat has been seized or taken possession of, except for such animals that have been surrendered by the owner, by any dog control officer, animal control officer or peace officer acting pursuant to his or her special duties, or police officer in the employ of or under contract with a municipality, or any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane

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<sup>6</sup> Effective December 15, 2025

society, pound or shelter that is operated by or under contract to a municipality, such officer, society, pound or shelter shall take steps to:

- a. Check such animal for all forms of identification, including, but not limited to, tags, microchips, tattoos or licenses; and
  - b. If practicable and if the necessary technology and equipment are available, for the purposes of this paragraph, make available to the public on the internet on a website or social media maintained by or otherwise made available to such officer, society, pound or shelter by the municipal or county government in which such officer, society, pound or shelter is located, a photograph, and a general description of the animal to assist the owner or owners in finding the animal, including the breed or breeds, if known. Information about the animal may be withheld if deemed appropriate to facilitate finding the owner or otherwise protect the safety of the animal. The notice required by this paragraph may be made by means other than the internet if use of the internet is impracticable.
2. No later than twenty-four hours or as soon as practicable after the seizure or taking possession of such animal potentially identifiable by a form of identification, including a license, tag, tattoo or microchip, or records or reports that are readily available of animals reported to be lost, reasonable efforts shall be made to identify and provide actual notice to the owner of the animal by any means reasonably calculated to provide actual notice to the owner.

### **384. Special provisions related to the importation of dogs and cats into the state for sale, resale or adoption<sup>7</sup>**

1. Any dog or cat imported into this state for the purposes of sale, resale or adoption shall be held by the consignee for a period of not less than forty-eight hours. Such dog or cat shall be vaccinated in accordance with section twenty-one hundred forty-one of the public health law and part sixty-five of the commissioner's rules and regulations.
2. If, during the holding period prescribed in subdivision one of this section, any dog or cat imported into the state for sale, resale or adoption exhibits signs of infectious, contagious, parasitic or communicable disease, including but not limited to coughing, sneezing, vomiting, diarrhea or bloody stool, such dog or cat must be isolated and examined by a duly licensed attending veterinarian immediately. Any dogs or cats that have been deemed exposed to such dog or cat must be quarantined, if necessary, under the direction of such attending veterinarian and held until such attending veterinarian declares them to be free of disease.
3. Any dog or cat passing through the state to points beyond, or brought into the state for temporary residence for purposes of exhibition, or which enters the state for delivery to research institutions, for fifteen days or fewer, shall be exempt from the provisions of this section, provided that such dog or cat is at all times properly restrained and under the immediate control of the owner or custodian, and that such dog or cat that is in the state for more than fifteen days is accompanied with proof of proper immunization against rabies. It shall be an affirmative defense to the offense of failure to have accompanied proof of proper

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<sup>7</sup> Effective December 15, 2025

immunization against rabies of such dog or cat, upon the presentation of proof that such dog or cat had in fact been immunized against rabies at the time of the infraction.

4. Violation of any provision of this section shall be a civil offense, for which a penalty of not less than one hundred dollars and not more than one thousand dollars for each violation shall be imposed. Any person licensed pursuant to article twenty-six-A or twenty-six-C of this chapter who violates any provision of this section may be subject to denial, revocation, suspension, or refusal of renewal of his or her license in accordance with the provisions of section four hundred twenty-one of this chapter.

### **385. Prohibition of slaughtering horses for human or animal consumption<sup>8</sup>**

1. Notwithstanding any other provision of law, it shall be unlawful for any person, corporation, association, or other entity to slaughter or have another person, corporation, association, or other entity slaughter a horse if any part of such horse will be used for human or animal consumption.
2. Notwithstanding any other provision of law, it shall be unlawful for any person, corporation, association, or other entity who owns or is in the process of taking ownership of a horse to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, receive, give away, hold, or accept, or direct another person to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, receive, give away, hold, or accept a horse, with the intent of slaughtering or having another person, corporation, association, or other entity slaughter such horse for the purpose of human or animal consumption.
3. Notwithstanding any other provision of law, it shall be unlawful for any person, corporation, association, or other entity who owns or is in the process of taking ownership of horseflesh to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, receive, give away, hold, or accept, or direct another person to import, export, sell, offer to sell or barter, transfer, purchase, possess, transport, deliver, receive, give away, hold, or accept horseflesh, with the intent of slaughtering or having another person, corporation, association, or other entity slaughter such horse for the purpose of human or animal consumption.
4. For the purposes of this section:
  - a. The term “horseflesh” shall mean the flesh of a dead horse, including the animal’s viscera, skin, hide, hooves, and bones; and
  - b. The term “slaughter” shall mean the intentional killing, or having another kill a horse if such person knows that the purpose of such killing is using any part of such horse for human or animal consumption.
5. A violation of this section is a misdemeanor punishable by a fine of not more than one thousand dollars per horse for an individual person, and up to two thousand five hundred dollars per

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<sup>8</sup> Effective April, 11, 2024

horse for a corporation, association, or other entity, for the first violation. Any subsequent violation shall be punishable by a fine of up to two thousand dollars per horse for an individual person, and up to five thousand dollars per horse for a corporation, association, or other entity.

6. The provisions of this section shall be in addition to, and not in lieu of, any other laws protecting animal welfare. This section shall not be construed to limit any state law or rules protecting the welfare of animals or to prevent a local governing body from adopting and enforcing its own animal welfare laws and regulations. Nothing in this section shall prohibit a person from otherwise lawful disposition of a deceased horse or any part of such horse.
7. If any provision of this section, or the application thereof to any person or circumstances, is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this section that can be given effect without the invalid or unconstitutional provision or application, and to such end the provisions of this section shall be severable.

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# NEW YORK STATE AGRICULTURE & MARKETS LAW

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## Article 26-A CARE OF ANIMALS BY PET DEALERS

### Section

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### **400. Definitions. As Used in This Article:**

1. "Animal" means a dog or a cat.
2. "Consumer" means any individual purchasing an animal from a pet dealer. A pet dealer shall not be considered a consumer.
3. "Person" means any individual, corporation, partnership, association, municipality, or other legal entity.
4. "Pet Dealer" means any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders who sell or offer to sell animals; provided that it shall not include the following:
  - a. Any breeder who sells or offers to sell directly to the consumer fewer than twenty-five animals per year that are born and raised on the breeder's residential premises;
  - b. Any municipal pound or shelter dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged, established and maintained pursuant to subdivision one of section one hundred fourteen of this chapter; and
  - c. Any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization dedicated to the care of unwanted animals which makes such animals available for adoption whether or not a fee for such adoption is charged that is exempt from taxes pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding

sections of the federal Internal Revenue Code, as from time to time amended, that is registered with the department pursuant to section four hundred eight of this article.

#### **401. Minimum Standards of Animal Care**

Pet dealers shall comply with the following minimum standards of care for every animal in their custody or possession.

1. Housing.

- a. Animals shall be housed in primary enclosures or cages, which shall be constructed so as to be structurally sound. Such enclosures shall be maintained in good repair to contain the animal housed inside and protect it from injury. Surfaces shall have an impervious surface so as not to permit the absorption of fluids and which can be thoroughly and repeatedly cleaned and disinfected without retaining odors.
- b. Primary enclosures or cages housing the animals shall provide sufficient space to allow each animal adequate freedom of movement to make normal postural adjustments, including the ability to stand up, turn around, and lie down with its limbs outstretched. If the flooring is constructed of metal strands, such strands must either be greater than one-eighth inch in diameter (nine-gauge wire) or shall be coated with a material such as plastic or fiberglass, and shall be constructed so as not to allow passage of the animal's feet through an opening in the floor or the enclosure. Such flooring shall not sag or bend substantially between structural supports.
- c. Housing facilities shall be adequately ventilated at all times to provide for the health and well-being of the animal. Ventilation shall be provided by natural or mechanical means, such as windows, vents, fans, or air conditioners. Ventilation shall be established to minimize drafts, odors, and moisture condensation.
- d. The temperature surrounding the animal shall be compatible with the health and well-being of the animal. Temperature shall be regulated by heating and cooling to sufficiently protect each animal from extremes of temperature and shall not be permitted to fall below or rise above ranges which would pose a health hazard to the animal. This shall include supplying shade from sunlight by natural or artificial means.
- e. The indoor facilities housing the animals shall be provided with adequate lighting sufficient to permit routine inspection and cleaning and be arranged so that each animal is protected from excessive illumination which poses a health hazard to the animals.
- f. The indoor and outdoor facilities housing the animals, including the primary enclosure or cage, shall be designed to allow for the efficient elimination of animal waste and water in order to keep the animal dry and prevent the animal from coming into contact with these substances. If drains are used, they shall be constructed in a manner to minimize foul odors and backup of sewage. If a drainage system is used it shall comply with federal, state, and local laws relating to pollution control.

- g. In the event that a pet dealer has a pregnant or nursing dog on his or her premises, the pet dealer shall provide a whelping box for such dog. Separate and apart from the whelping box, a pet dealer shall provide a pregnant or nursing dog with a separate space accessible to her that complies with the standards set forth in paragraph (b) of this subdivision. Each nursing dog shall be provided with a sufficient amount of floor space to nurse and care for her litter.
- h. Pet dealers shall designate and provide an isolation area for animals that exhibit symptoms of contagious disease or illness. The location of such designated area must be such as to prevent or reduce the spread of disease to healthy animals and must otherwise meet all housing requirements of this section.

## 2. Sanitation.

Housing facilities, including primary enclosures and cages, shall be kept in a clean condition in order to maintain a healthy environment for the animal. This shall include removing and destroying any agents injurious to the health of the animal and periodic cleanings. Primary enclosures must be cleaned daily and sanitized at least once every two weeks by washing all soiled surfaces with appropriate detergent solutions and disinfectant or by using a combination detergent or disinfectant product that accomplishes the same purpose with a thorough cleaning of the surfaces to remove excreta, feces, hair, dirt, debris and food waste to permit effective sanitization, followed by a clean water rinse. The primary enclosure or cage shall be constructed so as to eliminate excess water, excretions, and waste material. Under no circumstances shall the animal remain inside the primary enclosure or cage while it is being cleaned with sterilizing agents or agents toxic to animals or cleaned in a manner likely to threaten the health and safety of the animal. Trash and waste products on the premises shall be properly contained and disposed of so as to minimize the risks of disease, contamination, and vermin.

## 3. Feeding and watering.

- a. Animals shall be provided with wholesome and palatable food, free from contamination and of nutritional value sufficient to maintain each animal in good health.
- b. Animals shall be adequately fed at intervals not to exceed twelve hours or at least twice in any twenty-four-hour period in quantities appropriate for the animal species and age, unless determined otherwise by and under the direction of a duly licensed veterinarian.
- c. Food receptacles shall be provided in sufficient number, of adequate size, and so located as to enable each animal in the primary enclosure or cage to be supplied with an adequate amount of food.
- d. Animals shall be provided with regular access to clean, fresh water, supplied in a sanitary manner sufficient for its needs, except when there are instructions from a duly licensed veterinarian to withhold water for medical reasons.

#### 4. Handling.

Each animal shall be handled in a humane manner so as not to cause the animal physical injury or harm.

#### 5. Veterinary care.

- a. Any pet dealer duly licensed pursuant to this article shall designate an attending veterinarian, who shall provide veterinary care to the dealer's animals which shall include a written program of veterinary care and regular visits to the pet dealer's premises. Such program of veterinary care shall include:
  - i. The availability of appropriate facilities, personnel, equipment, and services to comply with the provisions of this article;
  - ii. The use of methods determined to be appropriate by the attending veterinarian to prevent, control, and respond to diseases and injuries, and the availability of emergency, weekend, and holiday care;
  - iii. Daily observation of all animals to assess their health and well-being; provided, however, that daily observation of animals may be accomplished by someone other than the attending veterinarian who has received the guidance identified in subparagraph (iv) of this paragraph; and provided, further, that a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian;
  - iv. Adequate guidance to personnel involved in the care and use of animals regarding handling and immobilization;
  - v. Pre-procedural and post-procedural care in accordance with established veterinary medical and nursing procedures; and
  - vi. In the case of dealers who sell or offer to sell twenty-five or more dogs or cats per year to the public for profit that are born and raised on the dealer's residential premises, annual veterinary examinations, at a minimum, for all intact adult dogs or cats on such dealer's premises.
- b. All animals shall be inoculated as required by state or local law. Veterinary care appropriate to the species shall be provided without undue delay when necessary. Each animal shall be observed each day by the pet dealer or by a person working under the pet dealer's supervision.
- c. Within five business days of receipt, but prior to sale of any dog or cat, the pet dealer shall have a duly licensed veterinarian conduct an examination and tests appropriate to the age and breed to determine if the animal has any medical conditions apparent at the time of the examination that adversely affect the health of the animal. For animals eighteen months of age or older, such examination shall include a diagnosis of any congenital conditions that



adversely affect the health of the animal. Any animal diagnosed with a contagious disease shall be treated and caged separately from healthy animals.

- d. If an animal suffers from a congenital or hereditary condition, disease, or illness which, in the professional opinion of the pet dealer's veterinarian, requires euthanasia, the veterinarian shall humanely euthanize such animal without undue delay.
- e. In the event an animal is returned to a pet dealer due to a congenital or hereditary condition, illness, or disease requiring veterinary care, the pet dealer shall, without undue delay, provide the animal with proper veterinary care.

#### 6. Humane euthanasia.

Humane euthanasia of an animal shall be carried out in accordance with section three hundred seventy- four of this chapter.

#### 7. Exercise requirements.

Pet dealers shall develop, maintain, document, and implement an appropriate plan to provide dogs with the opportunity for daily exercise. In developing such plan, consideration should be given to providing positive physical contact with humans that encourages exercise through play or other similar activities. Such plan shall be approved by the attending veterinarian, and must be made available to the department upon request.

#### 8. Grooming.

All animals shall be groomed regularly to prevent excessive matting of fur, overgrown toenails and flea and tick infestation.

## **402. Records of Purchase and Sale**

Each pet dealer shall keep and maintain records for each animal purchased, acquired, held, sold, or otherwise disposed of. The records shall include the following:

1. The name and address of the person from whom each animal was acquired. If the person from whom the animal was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal dealer identification number. In the case of cats, if a cat is placed in the custody or possession of the pet dealer and the source of origin is unknown, the pet dealer shall state the source of origin as unknown, accompanied by the date, time, and location of receipt. Notwithstanding the provisions of this subdivision, no pet dealer shall knowingly buy, sell, exhibit, transport, or offer for sale, exhibition, or transportation any stolen animal. No pet dealer shall knowingly sell any cat or dog younger than eight weeks of age.
2. The original source of each animal if different than the person recorded in subdivision one of this section.
3. The date each animal was acquired.

4. A description of each animal showing age, color, markings, sex, breed, and any inoculation, worming, or other veterinary treatment or medication information available. Records shall also include any other significant identification, if known, for each animal, including any official tag number, tattoo, or implant.
5. The name and address of the person to whom any animal is sold, given, or bartered or to whom it is otherwise transferred or delivered. The records shall indicate the date and method of disposition.
6. Records for each animal shall be maintained for a period of two years from the date of sale or transfer, whichever occurs later. During normal business hours, the records shall be made available to persons authorized by law to enforce the provisions of this article.

### **403. Licenses**

1. No person shall operate as a pet dealer unless such person holds a license issued therefor by the commissioner. Notwithstanding the foregoing, a pet dealer, in operation on or before the effective date of this section, who has filed an application for an initial license under this article shall be authorized to operate without such license until the commissioner grants or, after notice and opportunity to be heard, declines to grant such license. Each application for a license shall be made on a form supplied by the department and shall contain such information as may be required by the department. Renewal applications shall be submitted to the commissioner at least thirty days prior to the commencement of the next license year.
2. The commissioner may delegate his or her authority pursuant to this section to issue pet dealer licenses to the county or city where the pet dealer seeking licensure is located. Such delegation shall be pursuant to an agreement entered into by the commissioner and such city or county.
3. Each application for a license shall be accompanied by a non-refundable fee of one hundred dollars, except that those pet dealers who engage in the sale of less than twenty-five animals in a year, shall pay a nonrefundable fee of twenty-five dollars.
4. The moneys received by the commissioner pursuant to this section shall be deposited in the "pet dealer licensing fund" established pursuant to section ninety-seven-rr of the state finance law.
5. Where the authority to issue pet dealer licenses is delegated to the county or city pursuant to subdivision two of this section, that county or city shall, on or before the fifth day of each month, remit to the appropriate municipal financial officer one hundred percent of all license fees collected during the preceding month. The remittance shall be accompanied by a report of license sales made during such month. A copy of such report shall simultaneously be sent to the commissioner. All license fees so remitted shall be the property of the municipality, and shall be used solely for the purpose of carrying out and enforcing the provisions of this article and of article thirty-five-D of the general business law.
6. Inspection in accordance with section four hundred five of this article, the results of which establish compliance with the provisions of this article and with the provisions of article thirty-

five-D of the general business law regarding record keeping and consumer disclosure requirements for pet dealers, shall precede issuance of a license or renewal thereof under this section

7. Upon validation by the commissioner or the county or city authorized under this section to issue pet dealer licenses, the application shall become the license of the pet dealer.
8. The commissioner shall provide a copy of the license to the pet dealer. The commissioner shall also retain a copy of the license. In those counties where the commissioner has delegated the licensing authority to the county or city that county or city shall, provide a copy of the license to the pet dealer and a copy to the commissioner. The county or city shall also retain a copy of the license in its own records.
9. No pet dealer shall publish or advertise the sale or availability of any dog or cat unless the publication or advertisement is accompanied by the pet dealer's license number. Notwithstanding the foregoing, a pet dealer, in operation on or before the effective date of this section, who has filed an application for an initial license under this article may publish or advertise the sale or availability of any dog or cat without the publication or advertisement being accompanied by the pet dealer's license number until the commissioner grants or, after notice and opportunity to be heard, declines to grant such license.
10. Such license shall be renewable annually, together with the payment of a nonrefundable fee of one hundred dollars, or upon payment of a nonrefundable fee of twenty-five dollars for those pet dealers who engage in the sale of less than twenty-five animals in a year.
11. Pet dealers shall conspicuously display their license on the premises where the animals are kept for sale so that they may be readily seen by potential consumers.

#### **404. License Refusal, Suspension, or Revocation**

The commissioner may decline to grant or renew or may suspend or revoke a pet dealer license, on any one of the following grounds:

1. Material misstatement in the license application.
2. Material misstatement in or falsification of records required to be kept pursuant to this article, or under any regulation promulgated thereunder, or failure to allow the commissioner or his or her authorized agents to inspect records or pet dealer facilities.
3. Violation of any provision of this article or conviction of a violation of any provision of article twenty- six of this chapter or regulations promulgated thereunder pertaining to humane treatment of animals, cruelty to animals, endangering the life or health of an animal, or violation of any federal, state, or local law pertaining to the care, treatment, sale, possession, or handling of animals or any regulation or rule promulgated pursuant thereto relating to the endangerment of the life or health of an animal.
4. Before any license shall be suspended or revoked, the commissioner, or any hearing officer he or she may designate, shall hold a hearing, upon due notice to the licensee, in accordance

with any regulations promulgated by the department and in accordance with articles three and four of the state administrative procedure act. Where a licensee has three consecutive inspections in which the licensee has failed to correct deficiencies of a critical nature, pursuant to this section, the commissioner shall hold a hearing to consider the suspension or revocation of the pet dealer license. Nothing in this section shall prohibit the commissioner from taking additional actions as otherwise permitted by this section regarding such licenses prior to the occurrence of three consecutive inspections in which the licensee has failed to correct deficiencies of a critical nature.

5. Any action of the commissioner shall be subject to judicial review in a proceeding under article seventy-eight of the civil practice law and rules.

## **405. Inspection of Pet Dealers**

1. The commissioner or his or her authorized agents shall, at a minimum, make yearly inspections of pet dealers' facilities to ensure compliance with the provisions of this article and with the provisions of article thirty-five-D of the general business law, except for those pet dealers who engage in the sale of less than twenty-five animals in a year, in which case inspections shall be made whenever in the discretion of the commissioner or his or her authorized agents, a compliant warrants such investigation.
2. The commissioner may, pursuant to an agreement entered into with a county or city delegate the authority to conduct inspections of pet dealers and to respond to complaints concerning pet dealers to such county or city where the pet dealer is located; provided however such delegation of inspection authority shall only be permitted where the commissioner has delegated his or her authority to issue licenses pursuant to section four hundred three of this article.
3. Any person conducting an inspection of a pet dealer or responding to a complaint concerning a pet dealer shall be specifically trained in the proper care of cats and dogs and in the investigation and identification of cruelty to animals.

## **406. Violations**

1. In addition to the penalties provided for elsewhere in this section, a pet dealer who violates any provisions of this article may be subject to denial, revocation, suspension, or refusal or renewal of his or her license in accordance with the provisions of section four hundred four of this article.
2. Violation of any provision of this article, is a civil offense, for which a penalty of not less than one hundred dollars and not more than one thousand dollars for each violation may be imposed.
3. The provisions of this article may be enforced concurrently by the department and by the county or city to which the commissioner has delegated his or her licensing and inspection authority pursuant to section four hundred three and four hundred five of this article, and all moneys collected thereunder shall be retained by such municipality or local government.

## **407. Construction with Other Laws**

Nothing in this article shall be construed to:

- a. limit or restrict agents or officers of societies for the prevention of cruelty to animals or the police from enforcing other provisions of article twenty-six of this chapter or any other law relating to the humane treatment of, or cruelty to, animals,
- b. limit or restrict any municipality from enacting or enforcing any authorized local law, rule, regulation or ordinance of general application to businesses governing public health, safety or the rights of consumers, or
- c. limit or restrict any municipality from enacting or enforcing a local law, rule, regulation or ordinance governing pet dealers, as such term is defined in this article, including a law, rule, regulation or ordinance governing the health or safety of animals acquired or maintained by pet dealers, the source of animals sold or offered for sale by pet dealers, and the spay or neuter of such animals; provided, however, that any such local law, rule, regulation or ordinance shall be no less stringent than the applicable provisions of this article and may not result in essentially banning all sales of dogs or cats raised and maintained in a healthy and safe manner.

Where any penalty may be authorized for the violation of such a local law, rule, regulation or ordinance, the authorized penalty in such local law, rule, regulation or ordinance may not exceed a civil penalty of up to five hundred dollars. Where a municipality adopts such a local law, rule, regulation or ordinance that is more stringent than the applicable provisions of this article, such municipality shall have sole responsibility for enforcement of such law, rule, regulation or ordinance that is more stringent than the applicable provisions of this article.

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## ENVIRONMENTAL CONSERVATION LAW

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### Article 11 FISH AND WILDLIFE TITLE 1

#### § 11-0103. Definitions

27. "Leashed tracking dog" means a leashed dog which has been certified by the department pursuant to section 11-0928 of this chapter to track and find wounded or injured big game.

#### § 11-0529. Cats hunting birds; dogs pursuing deer or killing other wildlife in certain areas

1. Any person over the age of twenty-one years possessing a hunting license may, and environmental conservation officers and peace officers, acting pursuant to their special duties, or police officers shall humanely destroy cats at large found hunting or killing any protected wild bird or with a dead bird of any protected species in its possession.
2. Every environmental conservation officer, and forest ranger and member of the state police may kill any dog (a) pursuing or killing deer within the Adirondack or Catskill parks, at any time; (b) pursuing or killing any game or wildlife on a state-owned game farm or wildlife refuge; or (c) pursuing or killing any game or wildlife on a state-owned or leased wildlife management area, except a dog being legally used for hunting small game or for dog training.
3. Every park patrolman, park ranger and member of the state police, county police and town police may kill any dog pursuing or killing deer within any state park or state park reservation at any time.
4. At any time (a) any environmental conservation officer, dog warden, forest ranger or member of the state police anywhere in the state; (b) any member of any town police within the limits of the town of which such member is an officer; (c) any member of the Westchester County Parkway police on any park, parkway or reservation owned or controlled by the county of Westchester; or (d) any member of a police force or department of any county, city, town or village in which such member has jurisdiction and is regularly employed may kill any dog pursuing or killing deer and any coyote killing a domestic animal.
5. No action for damages shall lie against any person for the killing of a cat, dog or coyote as provided in this section.

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## ENVIRONMENTAL CONSERVATION LAW

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### Article 11 FISH AND WILDLIFE, TITLE 11 - TRAPPING

#### § 11-1101. Prohibitions

1. Except as provided in title 5 or in sections 11-1901 or 11-1903, no wild bird shall be trapped, netted or snared, or if so taken, possessed.

*NOTE: There are other prohibitions, but this is the one in which we are interested.*

#### **NYSHA's notes on Section 11-1101**

1. The concept of wild bird applies to *all* wild birds, whether protected or not, therefore, Rock Doves (pigeons) would be included in this section.
2. Pigeons are netted by hunting clubs for the purposes of release as live targets. This practice is in violation of this section of the Environmental Conservation Law.
3. The exception with reference to title 5, section 11-0513, 2, is as follows: "Notwithstanding any other law to the contrary, the local legislative body of any city, town or village, or in the city of New York the Department of Health may take or issue a permit to any person to take pigeons at any time and in any humane manner in such municipality, whenever such body or administration finds that pigeons within such municipality are or may become a menace to public health or a public nuisance; provided, however, that no pigeon may be taken in a manner which will endanger other animal life, persons or property.
4. The exception with reference to sections 11-1901 or 11-1903 above applies to shooting preserves where wild birds (that are unprotected by the endangered species act) are deemed to be disturbing domestic game. Those unprotected birds may be taken in any manner.

#### **Additional laws to consider:**

With reference to trapping birds, Section 11-1101 above, See Article 26 Section 353, which deals with causing and permitting suffering of animals. If any of the birds were injured while being netted, or not provided with sustenance, food or water, you can charge the person with a violation of Section 353 for causing animal suffering.

#### § 11-2117. Damage to property, livestock or domestic fowl by hunters and fishermen

No person, for the purpose of or while hunting, trapping or fishing shall, without the permission of the owner, lessee or lawful occupant, enter upon the land of another and while thereon kill or

injure any dog, livestock or domestic fowl or cut, destroy or damage any bars, gates or fence of any part thereof, or deface or damage any vehicle, farm equipment, buildings or appurtenances to the land, resulting in damage to the owner or occupant of the land or of the dog, livestock, domestic fowl, bars, gates, fences, vehicles, equipment, buildings or appurtenances to the land.



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**NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION RULES AND  
REGULATIONS**

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**Chapter III Air Resources  
PART 211, GENERAL PROHIBITIONS**

**§ 211.1 Air Pollution Prohibited.**

No person shall cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property, or which unreasonable interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others.

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## GENERAL BUSINESS LAW

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### Article 35D SALE OF DOGS AND CATS

#### Section

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#### § 751. Legislative intent

It is hereby determined and declared that supervision by the state of the sale of dogs or cats by pet dealers is within the public interest and for the purpose of safeguarding the public and insuring the humane treatment of such animals by guaranteeing the good health of such dogs or cats in the course of such transactions, or providing other alternatives to the consumer.

#### § 752. Definitions

As used in this article:

1. "Animal" means a dog or a cat.
2. "Consumer" means any individual purchasing an animal from a pet dealer. A pet dealer shall not be considered a consumer.
3. For purposes of section seven hundred fifty-three of this article, a "pet dealer" shall mean any person who, in the ordinary course of business, engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders of animals who sell or offer for sale animals directly to a consumer but it shall not include any municipal pound or shelter established and maintained pursuant to subdivision one of section one hundred fourteen of the Agriculture & Markets Law, or any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization that is tax exempt pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended, that is registered with the department pursuant to section four hundred eight of the Agriculture & Markets Law. For

purposes of sections seven hundred fifty-three-a, seven hundred fifty- three-b, seven hundred fifty-three-c and seven hundred fifty-three-d of this article, "pet dealer" shall mean any person who engages in the sale or offering for sale of more than nine animals per year for profit to the public. Such definition shall include breeders who sell animals; but it shall not include the following:

- a. Any breeder who sells or offers to sell directly to the consumer fewer than twenty-five animals per year that are born and raised on the breeder's residential premises.
  - b. Any municipal pound or shelter established and maintained pursuant to subdivision one of section one hundred fourteen of the Agriculture & Markets Law.
  - c. Any duly incorporated society for the prevention of cruelty to animals, duly incorporated humane society, duly incorporated animal protective association or other duly incorporated animal adoption or animal rescue organization that is exempt from taxes pursuant to paragraph (3) of subsection (c) of section 501 of the federal Internal Revenue Code, 26 U.S.C. 501, or any subsequent corresponding sections of the federal Internal Revenue Code, as from time to time amended, that is registered with the department pursuant to section four hundred eight of the Agriculture & Markets Law.
4. "Commissioner" shall mean the Commissioner of Agriculture & Markets.
  5. "Person" means any individual, corporation, partnership, association, municipality, or other legal entity.
  6. "Non-elective surgical procedure" means a surgical procedure that is necessary to preserve or restore the health of an animal, to prevent an animal from experiencing pain, or discomfort, or to correct a condition that would interfere with an animal's ability to walk, run, jump, or otherwise function in a normal manner.
  7. "Clinically ill" means an illness that is apparent to a veterinarian based on observation, examination, or testing of an animal or upon review of the medical records relating to the animal.

## **§ 753. Sale of animal**

1. If, within fourteen business days following the sale of an animal subject to this article or receipt of the written notice required by section seven hundred fifty-four of this article, whichever occurred last, a veterinarian of the consumer's choosing, licensed by a state certifies such animal to be unfit for purchase due to illness or the presence of symptoms of a contagious or infectious disease, or if, within one hundred eighty calendar days following such sale or receipt, whichever occurred last, a licensed veterinarian certifies such animal to be unfit for purchase due to a congenital malformation which adversely affects the health of the animal, the pet dealer shall afford the consumer the right to choose one of the following options:
  - a. The right to return the animal and receive a refund of the purchase price including sales tax and reasonable veterinary costs directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section;

- b. The right to return the animal and to receive an exchange animal of the consumer's choice of equivalent value and reasonable veterinary costs directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section; or
- c. The right to retain the animal and to receive reimbursement from a pet dealer for veterinary services from a licensed veterinarian of the consumer's choosing, for the purpose of curing or attempting to cure the animal. The reasonable value of reimbursable services rendered to cure or attempting to cure the animal shall not exceed the purchase price of the animal. The value of such services is reasonable if comparable to the value of similar services rendered by other licensed veterinarians in proximity to the treating veterinarian. Such reimbursement shall not include the costs of initial veterinary examination fees and diagnostic fees not directly related to the veterinarian's certification that the animal is unfit for purchase pursuant to this section.

The commissioner by regulations shall prescribe a form for, and the content of, the certification that an animal is unfit for purchase, which shall be provided by an examining veterinarian to a consumer upon the examination of an animal which is subject to the provisions of this section. Such form shall include, but not be limited to, information which identifies the type of animal, the owner, the date and diagnosis of the animal, the treatment recommended if any, and an estimate of the actual cost of such treatment. Such form shall also include the notice prescribed in section seven hundred forty -three of this article.

The commissioner by regulations shall prescribe information which shall be provided in writing by the pet dealer to the consumer upon the sale of the animal. Such information shall include, but not be limited to, a description, including breed of the animal, the date of purchase, the name, address and telephone number of the consumer, and the amount of the purchase. The pet dealer shall certify such information by signing the document in which it is contained.

- 2. The refund and/or reimbursement required by subdivision one of this section shall be made by the pet dealer not later than ten business days following receipt of a signed veterinary certification as herein required. Such certification shall be presented to the pet dealer not later than three business days following receipt thereof by the consumer.
  - a. Every pet dealer who sells an animal required to be vaccinated against rabies, pursuant to section twenty-one hundred forty-one of the public health law, to a consumer shall provide the consumer at point of sale with a written notice, provided by the department of health, summarizing rabies immunization requirements.
- 3. A veterinary finding of intestinal parasites shall not be grounds for declaring the animal unfit for sale unless the animal is clinically ill due to such condition. An animal may not be found unfit for sale on account for an injury sustained or illness contracted subsequent to the consumer taking possession thereof.
- 4. In the event that a pet dealer wishes to contest a demand for refund, exchange or reimbursement made by a consumer pursuant to this section, such dealer shall have the right to require the consumer to produce the animal for examination by a licensed veterinarian designated by such dealer. Upon such examination, if the consumer and the dealer are unable to reach an

agreement which constitutes one of the options set forth in subdivision one of this section within ten business days following receipt of the animal for such examination, the consumer may initiate an action in a court of competent jurisdiction to recover or obtain such refund, exchange and/or reimbursement.

5. Nothing in this section shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

### **§ 753A. Veterinarian Examination**

1. Within five business days of receipt, but prior to the sale of any dog or cat, the pet dealer shall have a duly licensed veterinarian conduct an examination and tests appropriate to the breed and age to determine if the animal has any medical conditions apparent at the time of the examination that adversely affect the health of the animal. For animals eighteen months of age or older, such examination shall include a diagnosis of any congenital conditions that adversely affect the health of the animal. Any animal diagnosed with a contagious disease shall be treated and caged separately from healthy animals in accordance with section four hundred one of the Agriculture & Markets Laws.
2. All Animals shall be inoculated as required by state or local law. Veterinary care appropriate to the species shall be provided without undue delay when necessary. Each animal shall be observed each day by the pet dealer or by a person working under the pet dealer's supervision.
3. No pet dealer shall knowingly sell any animal eighteen months of age or older that has a diagnosed congenital condition that adversely affects the health of the animal without first informing the consumer, in writing, of such condition.

### **§ 753B. Information Statement for Purchaser**

Every pet dealer shall deliver to the purchaser of an animal, at the time of sale, a written statement in a standardized form prescribed by the Commissioner of Agriculture & Markets containing the following information:

1. For cats:
  - a. The breeder's and, if applicable, broker's name and address, if known, or, if not known, the source of the cat. If the person from whom the cat was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal identification number;
  - b. The date of the cat's birth, unless unknown because of the source of the cat, the date the pet dealer received the cat, and the location where the cat was received;
  - c. A record of immunizations and worming treatments administered, if any, to the cat as of the time of sale while the cat was in the possession of the pet dealer, including the dates of administration and the type of vaccines or worming treatments administered;

- d. A record of any known disease, sickness, or congenital condition that adversely affects the health of the cat at the time of sale;
- e. A record of any veterinary treatment or medication received by the cat while in the possession of the pet dealer and either of the following:
  - i. A statement, signed by the pet dealer at the time of sale, indicating all of the following: (1) the cat has no known disease or illness; (2) the cat has no known congenital or hereditary condition that adversely affects the health of the cat at the time of sale; or
  - ii. A record of any known congenital or hereditary condition, disease, or illness that adversely affects the health of the cat at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the cat, recommends necessary treatment, if any, and verifies that the condition, disease or illness does not require hospitalization or non- elective surgical procedures, and is not likely to require hospitalization or non-elective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the cat clinically ill or is likely to make the cat clinically ill. The statement shall be valid for fourteen business days following examination of the cat by the veterinarian.

2. For dogs:

- a. The breeder's and, if applicable, the broker's name and address, if known, or, if not known, the source of the dog. If the person from whom the dog was obtained is a dealer licensed by the United States Department of Agriculture, the person's name, address, and federal identification number;
- b. The date of the dog's birth and the date and location the pet dealer received the dog. If the dog is not advertised or sold as a purebred, registered or registrable, the date of birth may be approximated if not known by the seller;
- c. The breed, sex, color and identifying marks at the time of sale. If the dog is from a United States Department of Agriculture licensed source, the individual identifying tag, tattoo, or collar number for that animal. If the breed is unknown or mixed, the record shall so indicate. If the dog is being sold as being capable of registration, the names and registration numbers of the sire and dam, and the litter number, if known.
- d. A record of inoculations and worming treatments administered, if any, to the dog as of the time of sale while the dog was in the possession of the pet dealer, including dates of administration and the type of vaccines and/or worming treatments administered;
- e. A record of any veterinary treatment or medication received by the dog while in the possession of the pet dealer and either of the following:
  - i. A statement, signed by the pet dealer at the time of sale, indicating all of the following: (1) the dog has no known disease or illness; (2) the dog has no known congenital or hereditary condition that adversely affects the health of the dog at the time of the sale; or

- ii. A record of any known congenital or hereditary condition, disease, or illness that adversely affects the health of the dog at the time of sale, along with a statement signed by a licensed veterinarian that authorizes the sale of the dog, recommends necessary treatment, if any, and verifies that the condition, disease or illness does not require hospitalization or non- elective surgical procedures, and is not likely to require hospitalization or non-elective surgical procedures in the future. A veterinarian statement is not required for intestinal or external parasites unless their presence makes the dog clinically ill or is likely to make the dog clinically ill. The statement shall be valid for fourteen business days following examination of the dog by the veterinarian.
  - f. Notification that dogs residing in New York state must be licensed, and that a license may be obtained from the municipality in which the dog resides.
3. A disclosure made pursuant to subdivision one or two of this section shall be signed by both the pet dealer certifying the accuracy of the statement and the purchaser acknowledging receipt of the statement. At the time of sale, each pet dealer shall provide the purchase the information of the value of spaying and neutering of dogs and cats.
  4. Every pet dealer shall post conspicuously within close proximity to the cages of dogs and cats offered for sale, a notice containing the following language in one-hundred-point type: "information on the source of these dogs and cats and the veterinary treatments received by these dogs and cats is available for review by prospective purchasers."

### **§ 753C. Animal Pedigree Registration**

1. Representation regarding animal's pedigree registration.

Any pet dealer who states, promises, or represents that an animal is registered or capable of registration with an animal pedigree registry organization shall provide the purchaser with the appropriate documents necessary for such registration within one hundred twenty days following sale of the animal. If the purchaser notifies the pet dealer in writing on or before such time that he or she has not received the appropriate registration documents, the pet dealer shall have, in addition to the one hundred twenty days, sixty more days in which to provide the appropriate documents.

2. If a pet dealer fails to provide documents as required under subdivision one of this section, the purchaser, upon written notice to the pet dealer, may keep the animal and receive a partial refund of seventy-five percent of the purchase price, in which event the pet dealer shall not be required to provide registration documents. Acceptance by the purchaser of appropriate registration documents, whether or not within the time periods set forth in subdivision one of this section, shall be deemed a waiver of the right to a partial refund pursuant to this subdivision.
3. Registration notice-disclosure statement.
  - a. A pet dealer that sells animals registered or registrable with a pedigree registry shall post conspicuously within close proximity to those animals a notice that states: "pedigree

registration means that the particular registry maintains information on the parentage and identity of the animal."

- b. For every animal sold by a pet dealer that is sold with the representation that the animal is registered or registrable with an animal pedigree registry organization, the following fully completed disclosure shall be made by the pet dealer in writing on a sheet separate from any other statement in substantially the following form: "disclosure of animal pedigree registration: description of animal: the animal you are purchasing is registered/registrable (circle one) with the (enter name of registry). Registration means that (enter name of registry) maintains information regarding the parentage and identity of this animal. Persons buying animals represented by a pet dealer as being registrable are entitled to the papers necessary to effect such registration within 120 days of purchase. Failure to provide such papers entitles the purchaser to remedies under law. However, if the purchaser notifies the pet dealer within the 120-day period that he or she has not received such papers, the pet dealer shall have an additional 60 days commencing at the end of the 120-day period in which to provide the documents. Acknowledged: date: purchaser's signature."
- c. The disclosure shall be signed and dated by the purchaser of the animal, acknowledging receipt of a copy of the statement. The pet dealer shall retain a copy of the signed disclosure.

### **§ 753D. Construction with Other Laws**

Nothing in this article shall be construed to (a) limit or restrict agents or officers of societies for the prevention of cruelty to animals or the police from enforcing articles twenty-six and twenty-six-A of the Agriculture & Markets Law or any other law relating to the humane treatment of, or cruelty to, animals, (b) limit or restrict any municipality from enacting or enforcing any authorized local law, rule, regulation or ordinance of general application to businesses governing public health, safety or the rights of consumers, or (c) limit or restrict any municipality from enacting or enforcing a local law, rule, regulation or ordinance governing pet dealers, as such term is defined in this article, including a law, rule, regulation or ordinance governing the health or safety of animals acquired or maintained by pet dealers, the source of animals sold or offered for sale by pet dealers, and the spay or neuter of such animals; provided, however, that any such local law, rule, regulation or ordinance shall be no less stringent than the applicable provisions of this article and may not result in essentially banning all sales of dogs or cats raised and maintained in a healthy and safe manner. Where any penalty may be authorized for the violation of such a local law, rule, regulation or ordinance, the authorized penalty in such local law, rule, regulation or ordinance may not exceed a civil penalty of up to five hundred dollars. Where a municipality adopts such a local law, rule, regulation or ordinance that is more stringent than the applicable provisions of this article, such municipality shall have sole responsibility for enforcement of such law, rule, regulation or ordinance that is more stringent than the applicable provisions of this article.

### **§ 753E. Prohibited Contracts**

No contract for the purchase of a dog or a cat or the financing of such purchase shall include any provisions which authorize the use of a dog or a cat as security where such dog or cat may be repossessed by the seller or lender contingent on the purchaser making payments under such



contract. Provided, however, nothing in this section shall prohibit the purchase of a dog or cat through an unsecured personal loan, nor be construed to limit the enforcement of other provisions of this article, article twenty-six-a of the Agriculture & Markets Law or other rights or remedies which are otherwise available to all parties under any other law.

### **§ 754. Notice**

Every pet dealer who sells an animal to a consumer shall post a notice clearly visible to the consumer, provide the consumer at the time of sale with a written notice, printed or typed, setting forth the rights provided under this article. Such notices shall be prescribed by the commissioner, but the written notice may be contained in a written contract, an animal history certificate or separate document, provided such notice is in ten-point boldface type. No pet dealer shall restrict or diminish by contract or otherwise, the rights provided under this article.

### **§ 755. Penalties and Enforcement**

In addition to the other remedies provided, whenever there shall be a violation of this article, application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this article, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this article has occurred, the court may impose a civil penalty of not less than fifty dollars and not more than one thousand dollars. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

1. Any person who violates any provision of section seven hundred fifty-three-a, seven hundred fifty-three-b, seven hundred fifty-three-c, or seven hundred fifty-three-e of this article may also be subject to denial, suspension, revocation of, or refusal to renew a pet dealer license, in accordance with the provisions of sections four hundred three and four hundred four of the Agriculture & Markets Law.
2. The provisions of this article may be enforced concurrently by the director of a municipal consumer affairs office, or by the town attorney, or city corporation counsel, and all moneys collected thereunder shall be retained by such municipality of local government.

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## NEW YORK STATE PENAL LAW

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### Article 130 SEX OFFENSES

#### § 130.20 Sexual misconduct.

A person is guilty of sexual misconduct when:

1. He or she engages in sexual intercourse with another person without such person's consent; or
2. He or she engages in oral sexual conduct or anal sexual conduct with another person without such person's consent; or
3. He or she engages in sexual conduct with an animal or a dead human body.

Sexual misconduct is a class A misdemeanor.

#### **NYSHA's notes on Article 130**

##### **Additional laws to consider:**

See Agriculture & Markets Law, Article 26 - Section 353, which deals with causing and permitting suffering of animals. If a person engages in sexual conduct with an animal, and a veterinarian determines that physical harm to the animal has resulted from that contact, you can additionally charge the person with a violation of Section 353.

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## NEW YORK STATE PENAL LAW

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### Article 180

## BRIBERY NOT INVOLVING PUBLIC SERVANTS AND RELATED OFFENSES

### § 180.50 Tampering with a sports contest in the second degree

A person is guilty of tampering with a sports contest when, with intent to influence the outcome of a sports contest, he tampers with any sports participant, sports official or with any animal or equipment or other thing involved in the conduct or operation of a sports contest in a manner contrary to the rules and usages purporting to govern such a contest.

Tampering with a sports contest in the second degree is a Class A misdemeanor.

#### **NYSHA's notes on § 180.50**

#### **Additional laws to consider:**

See Agriculture & Markets Law, Article 26 Section 360, which deals with poisoning or attempting to poison animals and Section 361, which deals with tampering with an animal involved in a race or competitive event.

### § 180.51 Tampering with a sports contest in the first degree

A person is guilty of tampering with a sports contest in the first degree when, with intent to influence the outcome of a pari-mutuel horse race:

1. He affects any equine animal involved in the conduct or operation of a pari-mutuel horse race by administering to the animal in any manner whatsoever any controlled substance listed in section thirty-three hundred six of the public health law; or
36. He knowingly enters or furnishes to another person for entry or brings into this state for entry into a pari-mutuel horse race, or rides or drives in any pari-mutuel horse race any running, trotting or pacing horse, mare, gelding, colt or filly under an assumed name, or deceptively out of its proper class, or that has been painted or disguised or represented to be any other or different horse, mare, gelding, colt or filly from that which it actually is; or
37. He knowingly and falsely registers with the jockey club, United States trotting association, American quarter horse association or national steeplechase and hunt association a horse, mare, gelding, colt or filly previously registered under a different name; or
38. He agrees with one or more persons to enter such misrepresented or drugged animal in a pari-mutuel horse race. A person shall not be convicted of a violation of this subdivision unless an overt action is alleged and proved to have been committed by one of said persons in furtherance of said agreement.

Tampering with a sports contest in the first degree is a class E felony.

**NYSHA's notes on § 180.51**

**Additional laws to consider:**

See Agriculture & Markets Law, Article 26 Section 360, which deals with poisoning or attempting to poison animals and Section 361, which deals with tampering with an animal involved in a race or competitive event.

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## NEW YORK STATE PENAL LAW

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### Article 195

## OFFICIAL MISCONDUCT AND OBSTRUCTION OF PUBLIC SERVANTS GENERALLY

### § 195.06 Killing or injuring a police animal

A person is guilty of killing or injuring a police animal when such person intentionally kills or injures any animal while such animal is in the performance of its duties and under the supervision of a police or peace officer.

Killing or injuring a police animal is a class A misdemeanor.

#### **NYSHA's notes on § 195.06**

##### **Additional laws to consider:**

See Agriculture & Markets Law, Article 26 Section 353, which deals with causing and permitting suffering of animals. If a person harms or kills a police animal, you can additionally charge the person with a violation of Section 353. Also, consider the possibility of charging the person with Article 26 Section 353a, which deals with killing a companion animal with aggravated cruelty.

### § 195.11 Harming an animal trained to aid a person with a disability in the second degree

A person is guilty of harming an animal trained to aid a person with a disability in the second degree when such person intentionally causes physical injury to such animal while it is in the performance of aiding a person with a disability, and thereby renders such animal incapable of providing such aid to such person, or to another person with a disability.

For purposes of this section and section 195.12 of this article, the term "disability" means "disability" as defined in subdivision twenty-one of section two hundred ninety-two of the executive law.

Harming an animal trained to aid a person with a disability in the second degree is a class B misdemeanor.

#### **NYSHA's notes on § 195.11**

##### **Additional laws to consider:**

See Agriculture & Markets Law, Article 26 Section 353, which deals with causing and permitting suffering of animals. If a person harms an animal trained to help a person with a disability, you can additionally charge the person with a violation of Section 353.

## **§ 195.12. Harming an animal trained to aid a person with a disability in the first degree**

A person is guilty of harming an animal trained to aid a person with a disability in the first degree when such person:

1. intentionally causes physical injury to such animal while it is in the performance of aiding a person with a disability, and thereby renders such animal permanently incapable of providing such aid to such person, or to another person with a disability; or
2. intentionally kills such animal while it is in the performance of aiding a person with a disability. Harming an animal trained to aid a person with a disability in the first degree is a class A misdemeanor.

### **NYSHA's notes on § 195.12**

#### **Additional laws to consider:**

See Agriculture & Markets Law, Article 26 Section 353, which deals with causing and permitting suffering of animals. If a person harms an animal trained to help a person with a disability, you can additionally charge the person with a violation of Section 353. Also, consider the possibility of charging the person with Article 26 Section 353a, which deals with killing a companion animal with aggravated cruelty.

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## VEHICLE AND TRAFFIC LAW

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### Article 22 ACCIDENTS AND ACCIDENT REPORTS

#### § 601. Leaving scene of injury to certain animals without reporting

Any person operating a motor vehicle which shall strike and injure any horse, dog, cat or animal classified as cattle shall stop and endeavor to locate the owner or custodian of such animal or a police, peace or judicial officer of the vicinity, and take any other reasonable and appropriate action so that the animal may have necessary attention, and shall also promptly report the matter to such owner, custodian or officer (or if no one of such has been located, then to a police officer of some other nearby community), exhibiting his or her license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, giving his or her name and residence, including street and street number, insurance carrier and insurance identification information and license number. In addition to the foregoing, any such person shall also: (i) (A) produce the proof of insurance coverage required pursuant to article forty-four-B of this chapter if such person is a TNC driver operating a TNC vehicle at the time of the incident who was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip; and (B) disclose whether he or she, at the time such incident occurred, was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip, or (ii) (A) produce the proof of insurance coverage required pursuant to article forty of the general business law if such person is a shared vehicle owner or shared vehicle driver operating a shared vehicle during a peer-to-peer car sharing period while the incident occurred; and (B) disclose whether he or she, at the time such incident occurred, was operating a shared vehicle during a peer-to-peer car sharing period. Violation of this section shall be punishable by a fine of not more than one hundred dollars for a first offense and by a fine of not less than fifty nor more than one hundred fifty dollars for a second offense and each subsequent offense; provided, however where the animal that has been struck and injured is a guide dog, hearing dog or service dog, as such terms are defined in section forty-seven-b of the civil rights law which is actually engaged in aiding or guiding a person with a disability, a violation of this section shall be punishable by a fine of not less than fifty nor more than one hundred fifty dollars for a first offense and by a fine of not less than one hundred fifty dollars nor more than three hundred dollars for a second offense and each subsequent offense.

*N.B.:* Effective June 20, 2022

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## VEHICLE AND TRAFFIC LAW

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### Article 26 RIGHT OF WAY

#### § 1146. Drivers to exercise due care

- a. Notwithstanding the provisions of any other law to the contrary, every driver of a vehicle shall exercise due care to avoid colliding with any bicyclist, pedestrian, or domestic animal upon any roadway and shall give warning by sounding the horn when necessary. For the purposes of this section, the term "domestic animal" shall mean domesticated sheep, cattle, and goats which are under the supervision and control of a pedestrian.
- b. 1. A driver of a motor vehicle who causes physical injury as defined in article ten of the penal law to a pedestrian or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than five hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment. 2. If such driver of a motor vehicle causes physical injury while failing to exercise due care in violation of subdivision (a) of this section, then there shall be a rebuttable presumption that, as a result of such failure to exercise due care, such person operated the motor vehicle in a manner that caused such physical injury.
- c. 1. A driver of a motor vehicle who causes serious physical injury as defined in article ten of the penal law to a pedestrian or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than fifteen days or by required participation in a motor vehicle accident prevention course pursuant to paragraph (e-1) of subdivision two of section 65.10 of the penal law or by any combination of such fine, imprisonment or course, and by suspension of a license or registration pursuant to subparagraph (xiv) or (xv) of paragraph b of subdivision two of section five hundred ten of this chapter. 2. If such driver of a motor vehicle causes serious physical injury while failing to exercise due care in violation of subdivision (a) of this section, then there shall be a rebuttable presumption that, as a result of such failure to exercise due care, such person operated the motor vehicle in a manner that caused such serious physical injury.
- d. A violation of subdivision (b) or (c) of this section committed by a person who has previously been convicted of any violation of such subdivisions within the preceding five years, shall constitute a class B misdemeanor punishable by a fine of not more than one thousand dollars in addition to any other penalties provided by law.
- e. Nothing contained in this section shall prevent the court from imposing any other authorized disposition, including a period of community service.



**§ 1146a. Approaching horses**

1. Notwithstanding the provisions of any other law to the contrary, every driver of a vehicle shall exercise due care to avoid colliding with any horse being ridden or led along a public highway.
2. Every driver of a vehicle shall approach a horse being ridden or led along a public highway at a reasonable and prudent speed so as to avoid frightening such horse and shall pass the horse at a reasonable distance.
3. No driver of a vehicle shall sound the horn when approaching or passing a horse on a public highway.

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# STATUTES AND REGULATIONS RELATING TO MOVEMENT AND TRANSFER OF HORSES AND OTHER EQUIDAE

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## 1 NYCRR, Part 64 CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK (STATUTORY AUTHORITY: AGRICULTURE & MARKETS LAW)

### Section

[64.1 General Requirements](#)

[64.2 Form of certificate, permit or equivalent](#)

[64.3 Time limitation of certificate](#)

[64.4 Test requirements for importation](#)

[64.5 Importation for immediate slaughter](#)

[64.6 Importation from certain areas](#)

[64.7 Test requirements for transport](#)

[64.8 Test requirements for sale or other change of ownership](#)

[64.9 Other authorized movement or transfer](#)

[64.10 Transportation of horses](#)

[64.11 Importation of thoroughbred stallions for breeding; test for equine viral arteritis required](#)

[Article 5 Section 95C Examination of Horses for Equine Infectious Anemia](#)

[Article 26 Section 359A Transportation of Horses](#)

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### 64.1 General Requirements

- a. No horse or other *Equidae* shall be imported into the State, unless:
  - i. exempted by the provisions of section 64.5 or 64.9 of this Part; or
  - ii. accompanied by a certificate of veterinary inspection signed by a veterinarian licensed and accredited by the state or country in which a physical examination of the animal was made and, further provided, that no such animal shall enter the State until the original of said certificate has been placed in the mail for delivery first class to the chief veterinarian of the state or country where the examination was made; or
  - iii. if imported into New York for a purpose other than breeding or sale, it is accompanied by a valid Equine Interstate Passport or the equivalent issued under the authority of the state of origin and bearing the signature of the state veterinarian. chief animal health officer or the equivalent of the state of origin.

## 64.2 Form of certificate, permit or equivalent

- a. The information on the aforesaid certificate of veterinary inspection, Equine Interstate Passport or the equivalent shall include the name of the owner or trainer of the animal or animals, together with the complete address, date of examination, and name, breed or association registration number if any, breed, brand, tattoo if any, sex, age, color and markings of each animal listed on the certificate. In addition, a certificate of veterinary inspection shall include the consignee or destination in New York with the address, number of animals examined, and the establishment or premises where the animals were examined.
- b. Said certificate of veterinary inspection, Equine Interstate Passport or the equivalent shall also include, or have attached thereto, a report of a USDA approved negative agar gel immunodiffusion test, ELISA test or other U.S.D.A.-approved test for equine infectious anemia which complies with the provisions of section 64.4 of this Part.
- c. The commissioner, when he or she deems it appropriate, such as in the case of an outbreak of an infectious or contagious disease, may require that the certificate of veterinary inspection, Equine Interstate Passport or the equivalent, include additional certifications concerning the health status of the herd or state of origin.

## 64.3 Time limitation of certificate

- a. The aforesaid Equine Interstate Passport or the equivalent shall be valid for the purposes of this Part, for 6 months following the date of examination appearing on the permit or 12 months after the date of the negative equine infectious anemia test, whichever is earlier.
- b. The aforesaid certificate of veterinary inspection shall be valid for the purposes of this Part, until and including the 30th day following the date of examination appearing on the certificate.

## 64.4 Test requirements for importation

- a. No horse or other *Equidae* six months or more of age, unless exempted by the provisions of section 64.5 or 64.9 of this Part, shall be imported or brought into the State unless the custodian of such animal has in his possession at the time of entry a report of a negative agar gel immunodiffusion test, a competitive ELISA test or other U.S.D.A. approved test for equine infectious anemia for such animal.
- b. Said test shall have been conducted during the 12-month period prior to entry into the State.
- c. Said test shall have been conducted by a laboratory approved for the purpose by the United States Department of Agriculture and by the New York State Department of Agriculture & Markets.
- d. Said test report shall include:
  - i. a complete description of the animal, including name, registration number if any, breed, brand, tattoo if any, sex, age, color and markings;

- ii. the name and address of the owner;
  - iii. the date the test was conducted; and
  - iv. the name and address of the laboratory that conducted the test.
- e. Said test report shall be signed by:
- i. a duly licensed veterinarian;
  - ii. the director of the laboratory where the test was conducted; or
  - iii. the chief livestock health official of the state or country of origin of such animal.
- f. Said test report shall be retained by the custodian of such animal for a period of 90 days after the date of importation, or until the animal changes ownership in accord with the provisions of section 64.8 of the Part, and during such period said report shall be made available for examination by the Commission of Agriculture and Markets or his authorized agent on request at all reasonable times.

### **64.5 Importation for immediate slaughter**

The provisions of the foregoing sections of this Part notwithstanding, any horse or other *Equidae* may be imported for immediate slaughter, and only for such purpose, without a health certificate or negative test for equine infectious anemia, by making application to the Commissioner of Agriculture and Markets and by complying with the provisions set forth in an application agreement required by the commissioner prior to importation.

### **64.6 Importation from certain areas**

- a. Any horse or other equid originating in a state or country in which the disease Venezuelan equine encephalomyelitis is known to exist, or which has been in a state or country adjoining or contiguous to a state or country in which the disease is known to exist, shall not be transported into the State of New York, or harbored, or kept in this State for any purpose, unless such animal has been vaccinated to prevent said disease at least 14 days prior to entry into this State.
- b. No horse or other equid shall be brought into New York State from the states of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont unless the custodian of such horse has in his or her possession at the time of entry a health certificate issued by a veterinarian attesting that:
  - i. the horse has not been exposed to equine viral arteritis or that the horse has been vaccinated against equine viral arteritis: and
  - ii. has not been exposed either directly or indirectly to equine infectious diseases in the foregoing states.

## 64.7 Test requirements for transport

- a. No horse or other *Equidae* six months or more of age, unless exempted by the provisions of section 64.5 or 64.9 of this Part, shall be transported on any public highway within the State unless the custodian of such animal has in his possession during the period of such movement a report of a negative agar gel immunodiffusion test, a competitive ELISA test or other U.S.D.A. approved test for equine infectious anemia for such animal.
- b. Said test shall have been conducted during the calendar year in which the movement takes place or in the preceding calendar year.
- c. Said test shall have been conducted by a laboratory approved for the purpose by the United States Department of Agriculture and Markets and by the New York State Department of Agriculture and Markets.
- d. Said test shall include:
  - i. a complete description of the animal, including name, registration number if any, breed, brand, tattoo if any, sex, age, color and markings.
  - ii. the name and address of the owner;
  - iii. the date the test was conducted; and
  - iv. the name and address of the laboratory that conducted the test.
- e. Said test report shall be signed by:
  - i. a duly licensed veterinarian;
  - ii. the director of the laboratory where the test was conducted; or
  - iii. the chief livestock health official of the state or country of origin of such animal.

## 64.8 Test Requirements for sale or other change of ownership

- a. No horse or other *Equidae* six months or more of age, unless exempted by the provisions of section 64.5 or 64.9 of the Part, shall be sold, exchanged, bartered or given away, unless such animal has been subjected to an agar gel immunodiffusion test, a competitive ELISA test or other U.S.D.A. approved test for equine infectious anemia and reacted negatively within 12 months prior to such transfer of ownership.
- b. Said test shall have been conducted by a laboratory approved for the purpose by the United States Department of Agriculture and by the New York State Department of Agriculture & Markets.
- c. At the time of such transfer of ownership, the transferor shall deliver, personally or by certified mail, to the transferee a copy of the report of such negative test, which shall include:

- i. a complete description of the animal, including name, registration number if any, breed, brand, tattoo if any, sex, age, color and markings;
  - ii. the name and address of the owner;
  - iii. the date the test was conducted; and
  - iv. the name and address of the laboratory that conducted the test.
- d. Said test report shall be signed by:
- i. a duly licensed veterinarian;
  - ii. the director of the laboratory where the test was conducted; or
  - iii. the chief livestock health official of the state or country of origin of such animal.

#### **64.9 Other authorized movement or transfer**

- a. The provisions of sections 64.1, 64.4, 64.7, and 64.8 of this Part shall not apply to any horse or other *Equidae* which is imported, sold, exchanged, bartered, given away or transported for purposes of immediate slaughter if an owner/shipper statement accompanies the horse from the premise of origin to the livestock market. Such statement shall include the name of the consignor, the name of the market, individual identification of the horses present and the number of horses in the shipment. Upon arrival at the livestock market, such horses will be identified with a green equine waybill back tag applied to the left hip which will serve as a permit for their movement to slaughter within 14 days of the date of purchase. Buyers wishing to purchase animals identified with the equine waybill back tag may do so at their own risk provided that an equine infectious anemia test sample is drawn by a veterinarian prior to movement from the market and the equine waybill back tag remains affixed to the animal until the negative results are received.
- b. The provisions of section 64.8 of this Part shall not apply to any horse claimed in any claiming race conducted by any racetrack licensed by the New York State Racing and Wagering Board, and such horse need not be retested for equine infectious anemia provided such horse and all other horses admitted to said track have been tested and found negative for the disease within one year prior to the date of the claim.
- c. The commissioner hereby finds that the exemptions set forth in this section are consistent with the control and eradication of equine infectious anemia.

## 64.10 Transportation of horses

- a. *Definitions.* For the purposes of this section, the following terms shall have the following meanings:
- i. *Horse* means the entire family of *Equidae*.
  - ii. *Vehicle* means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
- b. Every vehicle utilized for the transportation of more than six horses shall meet the following specifications:
- i. Doorways used by horses shall be wide enough to allow each horse to enter and exit without touching the sides of the doorway. The top of each doorway shall be at least 12 inches above the withers of the largest horse, while that horse is in a natural standing position, transported in the vehicle.
  - ii. There shall be sufficient space for each horse carried in the vehicle to allow each horse to be transported in a humane manner and without the infliction of pain, suffering, injury or death.
  - iii. There shall be sufficient space for each horse carried in the vehicle to allow each horse to be transported in a humane manner and without the infliction of pain, suffering, injury or death.
  - iv. The top of all partitions shall be at least five feet from the floor. If there is a space between the floor and the bottom of the partition, it shall be 12 inches. If slatted partitions are used, there shall be gaps of not more than two inches between the slats.
  - v. Every vehicle shall be in compliance with all of the applicable laws of this State and the United States and the rules and regulations promulgated thereunder.
- c. Every police officer, and every peace officer who acts pursuant to his special duties, shall have full access to any vehicle for the purpose of determining whether that vehicle is in compliance with this section and section 368.a of the Agriculture & Markets Law.

## 64.11 Importation of thoroughbred stallions for breeding; test for equine viral arteritis required

No thoroughbred stallions shall be imported into the State for breeding purposes unless found serologically negative to an equine viral arteritis blood test within 30 days prior to importation or serologically negative prior to vaccination against equine viral arteritis and subsequently proven not a shedder of the disease. The results of such tests shall be duly recorded on the interstate certificate for that horse.

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**NEW YORK STATE AGRICULTURE & MARKETS LAW**

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**Article 5 Section 95C****EXAMINATION OF HORSES FOR EQUINE INFECTIOUS ANEMIA**

1. The commissioner or his authorized agent may cause to be administered to any horse within the state any test he finds appropriate for ascertaining the presence or absence of equine infectious anemia, also known as "swamp fever". Upon order of the commissioner or his authorized agent, the owner, custodian or harbinger of any horse shall confine, present, control and restrain such animal or animals for the examinations, tests and identification procedures the commissioner deems necessary and if exposure to equine infectious anemia is apparent, the commissioner shall order confinement for a period up to sixty days or until a negative test can be obtained. During the period of such test, and until the commissioner or his agent shall otherwise direct, the owner, custodian or harbinger of any animal being tested shall keep such animal in segregation or confinement as the commissioner's agent shall direct, and no person shall remove a horse under test from the premises where the test is being conducted, or remove from the horse, or alter or deface any temporary identification marks or devices affixed for the purpose of the test, except with the written consent of the commissioner's authorized agent.
2. (a) Any horse found by the commissioner after testing to be infected with equine infectious anemia may be freeze branded in a manner prescribed by the commissioner. Upon notification of the results of such test, the owner, custodian or harbinger of any animal found by the commissioner to be infected with equine infectious anemia shall confine, present and restrain such animal for freeze branding by any duly authorized agent of the commissioner at such time as he may direct. (b) Notwithstanding any other provisions of law, the owner, harbinger or custodian of any horse freeze branded pursuant to this section shall not be indemnified for any loss in value of such animal. (c) The term "horse" as used throughout this section shall apply to the entire family of *Equidae*. The commissioner may by regulation exclude from the provisions of this section horses within defined age categories.
3. No person shall import or bring into the state any horse unless such horse has been tested for equine infectious anemia and reacted negatively within a period prior to entry, and in a manner prescribed by the commissioner in regulations.
4. No person shall transport on any public highway within this state any horse unless such horse has been tested for equine infectious anemia and reacted negatively within a period prior to such transportation, and in a manner, prescribed by the commissioner in regulation.
5. No person shall sell, exchange, barter or give away any horse unless such horse has been tested for equine infectious anemia and reacted negatively within a period prior to such transfer of ownership, and in a manner prescribed by the commissioner in regulations.



6. Subdivisions three, four and five of this section shall not apply to horses which are imported, sold, exchanged, bartered, given away or transported under permit from the commissioner or his authorized agent for immediate slaughter, research or such other purposes as the commissioner finds are consistent with the control and eradication of equine infectious anemia, as prescribed by the commissioner in regulations.

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**NEW YORK STATE AGRICULTURE & MARKETS LAW**

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**Article 26 Section 359A  
TRANSPORTATION OF HORSES**

1. Every vehicle utilized for the transportation of more than six horses shall meet the following requirements:
  - a. The Interiors of compartments containing horses shall be constructed of smooth materials, containing no sharp objects or protrusions which are hazardous;
  - b. The floors shall be of such construction or covered with abrasive material so as to prevent horses from skidding or sliding;
  - c. There shall be sufficient apertures to ensure adequate ventilation;
  - d. There shall be sufficient insulation or coverings to maintain an adequate temperature in the compartment containing horses;
  - e. Partitions of sturdy construction shall be placed a maximum of ten feet apart in vehicles which do not have stalls;
  - f. Doorways shall be of sufficient height to allow safe ingress and egress of each horse contained in the compartment;
  - g. Each compartment containing horses shall be of such height so as to allow sufficient clearance above the poll and withers of each horse in the compartment;
  - h. Ramps sufficient for loading and unloading horses shall be provided if the vertical distance from the floor of the compartment containing horses to the ground is greater than fifteen inches; and
  - i. There shall be at least two doorways for ingress and egress, which shall not be on the same side.
2. Every vehicle utilized for the transportation of more than six horses over a highway shall have no more than one tier holding animals in the compartment containing horses.
3. (a) Transporting a horse in violation of this section shall be a violation punishable by a fine of not more than two hundred dollars. (b) Any subsequent violation of this section on a date following a conviction under the provisions of this section shall be a misdemeanor punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both.
4. The commissioner shall promulgate rules and regulations, including size specifications, and established guidelines in order to facilitate compliance with the provisions of this section.

5. (a) The term "horse" as used throughout this section shall apply to the entire family of *Equidae*. (b) The term "vehicle" as used throughout this section shall apply to every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
6. The court in which a conviction under the provisions of this section is obtained, shall, within thirty days of such conviction, transmit a copy of the record of conviction to the department which shall maintain a record of such conviction for the purpose of identifying subsequent violations of this section.

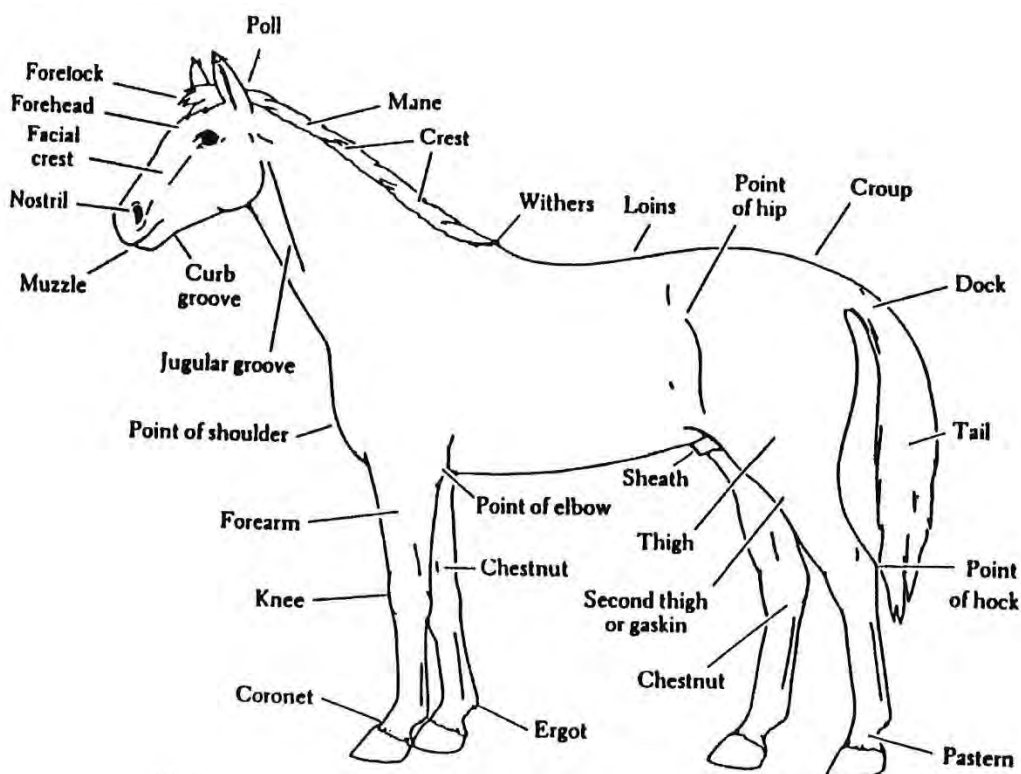


Image 35. Points of the horse

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## USDA LAW AND ANIMAL CRUELTY

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### The Animal Welfare Act

The Animal Welfare Act (AWA) was the first federal law in the US regulating [animals in research](#). The AWA applies to animal carriers, handlers, dealers, breeders, and exhibitors in addition to research laboratories, and sets minimum standards of care that must be provided for animals — including housing, handling, sanitation, food, water, veterinary care and protection from weather extremes. It covers warm-blooded species, with the exception of birds, rats of the genus *Rattus*, and mice of the genus *Mus* — bred for use in research.

USDA Animal Care, a unit within the Animal and Plant Health Inspection Service, administers the Animal Welfare Act (AWA). This federal law establishes requirements concerning the transportation, sale, and handling of certain animals and includes restrictions on the importation of live dogs for purposes of resale, prohibitions on animal fighting ventures, and provisions intended to prevent the theft of personal pets.

For more information: [https://www.aphis.usda.gov/aphis/banner/contactus/SA\\_Animal\\_Welfare](https://www.aphis.usda.gov/aphis/banner/contactus/SA_Animal_Welfare).

The USDA Animal Welfare Act may be relevant when you investigate animal cruelty that involves the following:

- animal dealers, such as dog breeders, breeders of research animals
- breeders of hunting dogs, security dogs
- animal exhibitors, such as zoos (including road side zoos), carnivals, circuses, animal acts, educational exhibits
- airport terminal animal holding facilities
- any business (including pet stores) that deals with wild animals that are not indigenous to New York State (meaning not native to the state, for example, prairie dogs, pot-bellied pigs)

In general, such enterprises must be licensed by the USDA and operated according to the standards established by the Animal Welfare Act. Document your case and contact the USDA. You can or contact them at their **Fort Collins, CO office**:

USDA/APHIS/AC  
2150 Centre Ave.  
Building B, Mailstop 3W11  
Fort Collins, CO 80526-8117

**E-mail:** [animalcare@usda.gov](mailto:animalcare@usda.gov)

**Phone:** (970) 494-7478

**Fax:** (970) 494-7461

If you have a situation of which you are not sure, call the USDA. The complaint form to complete if you have a case that is violating the Animal Welfare Act is: <https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/complaint-form>.

**Examples:**

- 1) You may be investigating a case involving an irresponsible breeder or puppy mill owner who is in violation of sections of Article 26 of the NYS Agriculture & Markets Laws. If the breeder has more than three breeding bitches and is selling the litters wholesale, he must be licensed under the Animal Welfare Act and must be in compliance with standards specified under the Animal Welfare Act.
- 2) You may be investigating a case involving roadside or other zoos which are violating sections of Article 26 of the NYS Agriculture & Markets Laws. If the zoo contains animals that are not indigenous to NYS (meaning they are not native to the state, but have been imported from somewhere else, such as lion cubs, for example) then the zoo must be licensed by the USDA and meet certain mandated standards of care established by the Animal Welfare Act.

**The Horse Protection Act**

The Horse Protection Act is a federal law, *enforced by APHIS*, that makes it unlawful for any person to show, exhibit, sell, or transport sore horses, or to use any equipment, device, paraphernalia, or substance prohibited by USDA – at such events, thus, preventing the soring of horses at such events.

Passed by Congress in 1970, the Horse Protection Act (HPA) (PL 91-540) prohibits the showing, sale, auction, exhibition, or transport of sored horses.

Soring is the unethical and illegal practice of deliberately inflicting pain to exaggerate the leg motion of horses to gain an unfair advantage in the show ring. The chest-high stride achieved by soring is known in the industry as the "big lick."

If you encounter a violation of the HPA, you can use the same contact information as above, and also use the same complaint form.

## Appendix I

### Selected Case Law - Related to Animals

These cases may be of interest to you and helpful to the Assistant District Attorney assigned to the case. We have identified the sections of Agriculture & Markets Law to which the cases apply, and provided a synopsis of each case and specified its cite.

#### Section 353 of NYS Agriculture & Markets Law

Provides that a person is guilty of a Class A misdemeanor when they overdrive, overload, torture or cruelly beat or unjustifiably injure, maim, mutilate, or kill any animal, wild or tame, and whether belonging to themselves or others. Further, a person is guilty of a Class A misdemeanor when they deprive any animal of necessary sustenance, food or drink, or neglect or refuse to furnish it such sustenance or drink, or if they cause, procure, or permit any animal to be so treated.

The following cases are presented as samples of how this law has been interpreted and applied.

***People v. Basile*, 25 NY3d 1111, 1113 (2015)**

Culpable state of mind not necessary for cruelty conviction: In this case, a dog was found in an emaciated and dehydrated condition, also having been bitten by flies and infested with fleas. The owner admitted to being unable to afford the dog and that he had not been feeding the animal. Defendant appealed his conviction of violating Section 353, claiming that the trial court erred by failing to instruct the jury that a conviction required proof of a *mens rea*, a culpable mental state. The Court did not address whether such proof was required, instead holding that even if a culpable mental state was an element of the offense, the defendant would not be entitled to relief due to the circumstances of the case. The Court of Appeals affirmed the decision of the lower court, holding that even had the instructions been given to the jury, the outcome would not have changed.

***People v. Warner*, 194 AD3d 1098, 1105 (3d Dept. 2021)**

Culpable state of mind not necessary for cruelty conviction: Incidental to an altercation between defendant and other members of a motorcycle club, a dog in a nearby van (belonging to one of the parties to the dispute) was injured by gunshots to its head. Defendant claimed he did not violate Section 353 because he did not know the dog was in the van, in spite of the dog being in his line of sight and barking during the shooting. The Appellate Division Court (citing the Court of Appeals affirmance in *Basile*) held that there was "no requirement that the person have a culpable mental state of mind" or an intent to injure the animal to be guilty of a violation of Section 353 and affirmed the lower court decision.

***Mudge v. State*, (271 App. Div. 1039), 45 New York Supplement, 2d Series, 896, Court of Claims, New York, Jan. 13, 1944**

**NOTE:** *We are providing this summary of the case; however, because we could not locate the cite online, at the end of this chapter is what was found in hard copy reporters.*

Probable cause for arrest: The Court found that law enforcement officials could reasonably infer neglect from an animal's circumstances and thus have probable cause to arrest the defendant. Believing that some farm animals were being neglected, State Police and a representative of Schenectady County Humane Society Superintendent, visited claimant's farm. The officials

received claimant's permission to visit the barn where such stock was stabled. Inspection of the barn revealed the main door was so frost-swollen that it could not be closed within four to five inches of its frame; the stock was uncovered and shivering, and had neither bedding nor feed; the drinking water was solidly frozen; and, the unkempt stock was found to be standing in manure varying in depth from one to two feet. This was the second time in three days that the animals were in this condition, and defendant was arrested.

***People v. Arcidicono*, 360 N.Y.S.2d 156, 79 Misc.2d 242 (N.Y. Sup.Ct. 1974)**

Deprivation of sustenance: Case established that a person in charge of an animal is guilty of violating Section 353 of the Agriculture & Markets Law if he fails to provide proper sustenance to an animal in his care. Established the concept that the person in charge of an animal can be found guilty of animal neglect and abuse as well as the owner. The court found that the defendant's guilt was proven beyond a reasonable doubt and affirmed the trial court's conviction. Regardless of the possible culpability of the owners of the gelding, it was clearly established that defendant was in charge of feeding the gelding for the three months prior to its demise, that he was aware of its loss of weight, and that he gave it back to its owners in such a state of malnutrition that it was mercifully destroyed.

***People v. Bunt*, 462 N.Y.S.2d 142, 118 Misc.2d 904 (N.Y. Just. Ct. 1983)**

Constitutionality of Section 353: The defendant brutally beat a dog to death with a baseball bat. After his arrest, he argued that the statute (353) was vague and thus unconstitutional. This court held that section 353 of the Agriculture & Markets Law is constitutional, although it is not well drafted. The defendant is amply informed of the prohibited activity and the statute contains provisions to allow the question of justification to be raised and considered. It sets forth a legitimate legislative activity in prohibiting the unjustified, needless and wanton inhumanity towards animals. The statute is not so broad that it fails to meet the standard of due process, yet it allows sufficient room for application to varied situations. Within its perimeters there is room for the expression of community standards and morals. Statutes similar to New York's have been upheld as constitutional by other State courts and certainly represent a reasonable extension of the State's police powers.

***People v. Koogan*, 11 N.Y.S.2d, 49, 256 A.D. 1078 (N.Y. App. Div. 1939)**

Torture: Defendant was convicted of a violation of statute (Penal Law, § 185) relating to cruelty to animals for permitting a horse who was suffering from open sores to be hired out in such a condition to endure consequent torture. Judgement unanimously affirmed. The proof established that the defendant had personal knowledge of the condition of the horse. It also established that the horse was suffering from open sores and was permitted to be hired out despite this condition, with consequent torture to the animal. Under these circumstances the defendant is guilty of a violation of section 185. *People v. Weeks*, 172 App. Div. 117, 158 N.Y.S. 39. Apart from the element of personal knowledge, the testimony warranted a conviction. *Verona Central Cheese Co. v. Murtaugh*, 50 N.Y. 314; *People ex rel. Price v. Sheffield Farms Slawson Decker Co.*, 225 N.Y. 25, 121 N.E. 474. cruelty to animals. Penal Law, § 185.

***People v. O'Rourke*, (83 Misc. 2d 175, 369 NYS 2d 335 - NY: City Criminal Court, 1975)**

Overdriving: The owner of horse who was limping permitted it to continue working without supplying necessary medical attention. Defendant is guilty of violating section 353 of the Agriculture & Markets Law, which seeks to prevent overdriving, torturing and injuring animals;

employee properly relied on statements of owner as to fitness of horse. Having heard the testimony, this court concludes that defendant Greene, as an employee, properly relied on the statements of defendant O'Rourke as to the fitness of the horse. Thus, the court found that defendant O'Rourke is guilty of violating section 353 of the Agriculture & Markets Law.

**(N.Y. Sup. Ct., *People ex rel. Thomas v. Suffolk County Dist. Attorney*, 911 N.Y.S.2d 694, 28 Misc.3d 1209(A) Suffolk Co., 2010), 2010 NY Slip Op 51236**

This case further analyzes the defense of justification, specifically as it relates to the exemptions provided for in subdivision three of the statute (*e.g.*, lawfully hunting, fishing, trapping, *etc.*). Rather than having killed the squirrel as part of hunting activity, what was brought out at trial was that Defendant/Petitioner lured the animal to his property via bait and killed it without justification. There was assertedly no claim that he was hunting or protecting his property. Upon being found guilty, defendant then attempted to overturn his conviction based on Habeas Corpus proceeding that the court rejected as improper.

## **Section 353-a of Agriculture & Markets Law**

Provides that a person is guilty of felony aggravated cruelty to animals when, with no justifiable purpose, he or she intentionally and with aggravated cruelty, kills or intentionally causes serious physical injury to a companion animal. It defines "aggravated cruelty" as conduct that is intended to cause extreme physical pain or is done or carried out in an especially depraved or sadistic manner.

The following cases are presented as samples of how this law has been interpreted and applied.

### ***People v. Valdez*, 181 A.D.3d 981 (3d Dept. 2020)**

Starving animals to death is a felony: Defendant allowed dogs in his care to starve to death. In this case the Court found that the accumulated evidence, showing that the defendant was "'very cognizant' that the dogs were dying and that they were not getting enough food or water, but did not seek any help or take appropriate measures to save the dogs," established that defendant's conduct was unjustifiable and intentional, and caused the dogs tremendous suffering for an extended period of time, thus satisfying the elements of aggravated cruelty to animals by starvation.

### ***People v. Ivanchenko*, 175 A.D.3d 1428, 1429 (2d Dept. 2019)**

Use of expert witness to confirm intent upheld: The Court upheld the use of expert witness testimony to conclude that a dog's injuries were not accidental and that defendant's actions (striking a puppy on the head, resulting in skull fractures and traumatic brain injury, and putting the pup in a plastic bag and dropping out of a car window on to the road), along with a significant size difference (full-grown human *v.* 1.5 pound puppy) provided sufficient evidence of intent and/or aggravated cruelty. See also *People v. Pastor*, 160 A.D.3d 419 (1st Dept. 2018), and *People v. Brinkley*, 174 A.D.3d 1159 (3d Dept. 2019).

### ***People v. Jiminez*, 189 A.D.3d 882, 883 (2d Dept. 2020)**

Failure to provide a justification charge in the killing of a small dog not required: Because the prosecution in this case failed to provide a "justification charge" to the grand jury, the Supreme Court rendered the proceedings defective. On appeal to the Second Department, the Court found that "there was no reasonable view of the evidence warranting an instruction on the defense of



justification." The defendant, a 6-foot tall, 200-pound person, used a stick to forcefully strike and injure an eight-pound Terrier poodle. The Court found defendant's conduct unjustified to "avoid, at most, a bite by this small animal through denim pants." Importantly, there is a significant dissent by Justice Hinds-Radix in this case that should be noted.

***People v. Augustine*, 89 A.D.3d 1238 (3d Dept. 2011)**

Aggravated cruelty demonstrated by fatal shots to dog's head: The court affirmed the lower court's decision with regard to felony cruelty in a dog killing. Defendant shot a healthy dog in the head five times. The Court determined that as any one of the shots would have been fatal, the act was indeed "carried out in an especially depraved or sadistic manner." Background was that defendant killed a woman and buried her beneath her dog. The bullets used to kill the victim and dog were consistent with each other and with having been fired from a rifle located in the victim's camper. A necropsy revealed that the dog had a full stomach and was in good health prior to death. This testimony dispelled the suggestion that the dog was put down because of illness, thus rendering the death unjustifiable. While defendant contends that the People failed to show "aggravated cruelty" as required by the statute, five shots to the head of a healthy dog — when any one of those shots would have been fatal — qualifies as conduct "carried out in an especially depraved or sadistic manner" (Agriculture & Markets Law § 353-a[1]; see *People v. Garcia*, 29 A.D.3d 255, 261, 812 N.Y.S.2d 66 [2006], lv. denied 7 N.Y.3d 789, 821 N.Y.S.2d 818, 854 N.E.2d 1282 [2006]). Thus, the jury's verdict was not against the weight of the evidence.

***People v. Garcia*, 29 A.D.3d 255 (1st Dept. 2006)**

All non-human companion animals are covered by the felony animal cruelty laws: The defendant stomped to death a pet gold fish that belonged to the children. Considering the depraved nature of the crime, the Court upheld the aggravated cruelty conviction where although the animal likely died instantly, the fact that the killing was "intentionally and menacingly done in the presence of three small children" met the required element of depravity, and further stated that "the Legislature's concern was with the state of mind of the perpetrator rather than that of the victim."

***People v. Knowles*, 184 Misc.2d 474, 478 (County Ct., Rensselaer County, 2000)**

Aggravated cruelty not vague phrase, thus not unconstitutional: The Court in Knowles considered the phrase "especially depraved or sadistic" and found that this element of section 353-a is not "unconstitutionally vague or overbroad." Defendant argued that the felony charge against him should be dismissed because the statute was vague and thus unconstitutional. The court stated that that a witness at the Grand Jury proceeding testified to seeing the defendant "kick it [the dog] down the walkway" and then stated that defendant picked "it up and \*\*\* threw it up against the brick wall." There is also additional testimony that the dog involved was a "relatively young dog, eight months old, 28 pounds, Basset mixed breed." It is clear, in the court's opinion, that a person of ordinary intelligence would realize that the above activity of the defendant is precisely the sort of activity intended to be covered by the statute. Therefore, defendant's motion to dismiss based upon the unconstitutionality of the statute as applied is denied.

***People v. Lohnes*, 112 A.D.3d 1148 (3d Dept. 2013)**

All non-human companion animals are covered by the felony animal cruelty laws: The Third Department, in this case, held that "Any domesticated animal, including a horse, may be a companion animal" where it is not kept for "commercial or subsistence purposes" and is "normally maintained in or near the household of the owner or person who cares for it." In this case, the

defendant broke into the barn and stabbed and slashed a horse, causing its death. The horse was a companion animal to the owner.

***People v. Jones*, 154 A.D.3d 487 (1st Dept. 2017)**

The length of time an animal suffers in not relevant: Defendant, in relation to a domestic violence event, killed his girlfriend's two pet birds. He squeezed one bird to death with his hands for which he was convicted of misdemeanor overdriving, torturing and injuring animals, under Section 353. The other bird died when defendant crushed its cage around it, "flattening the bird and warping the cage bars around the contours of its body (and vice versa)." The First Department affirmed the conviction for aggravated cruelty for the death of the second bird, finding that "the time it takes to kill an animal is not dispositive under the statute" and that a showing that the animal actually experienced "extreme physical pain" is not necessary under the statute.

***People v. Moors*, 140 A.D.3d 1207 (N.Y. App. Div. 2016) 32 N.Y.S.3d 391, 2016 N.Y. Slip Op. 4259**

Intentionally prolonging suffering is depraved or sadistic: The court upheld the aggravated cruelty conviction in a non-jury trial, where a family dog was shot with an arrow by defendant while he was sitting in a blind. Court agreed that defendant intentionally carried out the killing in an especially depraved or sadistic manner by shooting the dog in the abdomen with a type of arrow that was likely to prolong the dog's suffering.

## **Section 356 of Agriculture & Markets Law**

States that a person responsible for impounding an animal must provide that animal with sufficient air, food, shelter and water to survive. This statute does not apply to an owner of an animal on his or her own property.

The following case applies to this section of the law.

***Chenango County Humane Society v. Percy A. Polmatier*, Third Department, App. Div., June 1919 (Vol. 188, page 419)**

Impounded animal must be provided with the necessities of life: Cows were on the property of a caretaker acting for the owner. The animals were not being fed properly and the humane society entered the property and fed the animals. The humane society then sued for payment of said food. The court found in the humane society's favor. The clear purpose of the statute is to secure the necessities of life to an impounded animal which has strayed from the possessions of its owner, until reclaimed by him

## **Section 374 of Agriculture & Markets Law**

Discusses the humane destruction or other disposition of animals lost, strayed, homeless, abandoned or improperly confined or kept. Established that when considering abandonment, sometimes animals can be deemed to be abandoned even though they are in the possession of an owner, rescue, or shelter. The concept is known as "constructive abandonment." Thus, the animal is in effect being "abandoned" (not cared for) though actually being owned. In a situation where animals are deemed to be in a deplorable state, and the humane alternative is to euthanize them, the concept of "constructive abandonment" is operative. This means that for all intents and purposes, the animal has been abandoned by its owner (because it has not received proper food or

veterinary care) even though it is still on the owner's property. This construct allows the veterinarian to proceed with euthanizing the animal if that is the best thing to do.

The following two cases established the concept of "constructive abandonment" which is relevant to this section of the law.

***Chernik v. Department of Health of the City of New York*, 69 Misc. 2d 710 (N.Y. Misc. 1972), 330 N.Y.S.2d 910**

Constructive abandonment: A proceeding under article 78 CPLR by the operator of an animal shelter to direct the Department of Health of the City of New York and the American Society for the Prevention of Cruelty to Animals (hereafter ASPCA) to return animals seized from petitioner is denied and the petition dismissed. In the face of an affidavit of respondents which shows that there was overcrowding of animals, improper ventilation, dogs uncaged or leashed to bannisters, cats uncaged, animal droppings, an overwhelming stench of animal urine, animals with skin diseases, malnutrition, fungus, viral, and bacterial infections and an embargo against the shelter, the impounding of many animals and the destruction of diseased dogs, petitioner's allegations that the animals are "well-fed and well-housed" are insufficient to create any triable issue.

***Hampton Animal Shelter v. American Society for the Prevention of Cruelty to Animals*, 169 Appellate Division Reports, 2D Series**

Constructive abandonment: Appeal to Second Department by plaintive. An order dated October 29, 1984, by the Supreme Court, Suffolk County (Gerard, J.), granted the defendants' ex parte application to permit duly-licensed veterinarians and animal health technicians, as well as any necessary support personnel, to enter the plaintiff's premises for the purposes of conducting further examinations and seizing and/or euthanizing those animals which are, in the veterinarian's discretion, "so maimed, diseased, disabled or infirm so as to be unfit for any useful purpose." The defendants' conduct in entering the plaintiff's premises and humanely euthanizing numerous dogs, cats and farm animals was clearly taken under authority of the order dated October 29, 1984. In light of the affidavits of the veterinarians and animal health technicians who were present during the time in question and the inhumane conditions depicted in the photographs submitted by the defendants, the plaintiff's contention that all of the animals on its premises were wanted and that none were abandoned is incredible. Accordingly, the plaintiff's action for compensatory and punitive damages for the wrongful destruction of its property is dismissed, with prejudice. Thompson, J.P., Kunzeman, Lawrence and O'Brien, JJ., concur.

## From Hard Copy Reporter:

### **Mudge v. State - Probable cause for arrest**

Case established that law enforcement official could reasonably infer neglect from an animal's circumstances and thus have probable cause to arrest the defendant.

*Mudge v. State*

45 NEW YORK SUPPLEMENT, 2d SERIES, 896

Court of Claims of New York

Jan. 13, 1944

#### **1. Habeas corpus 117(1)**

An attack by habeas corpus proceeding on information executed and sworn to by state trooper who arrested claimant against state for neglect and cruelty to animals was at best a "collateral attack," and did not determine that acts of state troopers in arresting claimant and filing information were unlawful. Penal Law, § 185. See Words and Phrases, Permanent Edition, for all other definitions of "Collateral Attack."

#### **2. False imprisonment 13**

If information filed by state trooper for neglect and cruelty to animals was sufficient to call for decision of magistrate as to whether warrant should issue, warrant issued thereunder was not void, and arrest made under the warrant was not unlawful, even though magistrate may have erred grossly in issuing warrant. Penal Law, § 185.

#### **3. False imprisonment 12**

Where warrants on which claimant was arrested were not jurisdictionally defective, claimant had no cause of action against state for false imprisonment even if state caused claimant's arrest under such warrants.

#### **4. False imprisonment 13**

State troopers who, on inspecting claimant's barn with claimant's consent, found main door so frost swollen that it could not be closed and stock uncovered and shivering, without bedding or feed, drinking water solidly frozen, and stock standing in manure one to two feet in depth, had "probable cause" for arrest of claimant for neglect of and cruelty to animals. Penal Law, § 185. See Words and Phrases, Permanent Edition, for all other definitions of "Probable Cause."

#### **5. False imprisonment 13**

"Probable cause," as protection against action for false imprisonment, is the knowledge of facts, actual or apparent, strong enough to justify reasonable man in belief that he has lawful grounds for prosecuting defendant, and want of probable cause does not mean want of any cause, but want of any reasonable cause.

#### **6. States 184**

A judicial determination that there was probable cause was proof that arresting officer had reasonable ground for suspecting that person arrested was the offender and that arrest was made in good faith and without evil design.

#### **7. Arrest 63(3)**

Where state troopers, on inspecting barn of claimant against state, found main door so frost swollen that it could not be closed, stock uncovered and shivering, without bedding or feed, and standing

in manure from one to two feet, with drinking water solidly frozen, it was troopers' duty to arrest claimant for neglect of and cruelty to animals. Penal Law, § 185.

#### **8. False imprisonment 12**

The state was not liable to claimant for damages for acts of state troopers acting under warrant of justice of peace to commit claimant for mental observation after arraignment for neglect of and cruelty to animals, and under subsequent order of county judge returning claimant to justice for further proceedings, since troopers acted under orders over subject matters of which issuing officers had jurisdiction, and which orders on their face did not show lack of jurisdiction of claimant's person. Penal Law, § 185.

#### **9. False imprisonment 12**

The state was not liable for false arrest and imprisonment as to acts of state troopers from time of, and subsequent to, issuance of warrant for claimant's arrest by justice of the peace, since thereafter troopers acted solely under due process of law.

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*Claim by Delbert Mudge against the State of New York to recover damages for false imprisonment after alleged unlawful arrest by state troopers.*

*Claim dismissed on the merits.*

#### **Appearances:**

David B. Alford, of Middleburg (William H. Lynes, of Delanson, of counsel), for claimant.  
45 N.Y.S.2d57

Nathaniel L. Goldstein, Atty. Gen. (Arthur W. Mattson, Edward R. Murphy, and Sidney B. Gordon, Asst. Attys. Gen., of counsel), for the State.

FITZSIMMONS, J.

Alleging unlawful arrest by State Troopers, with subsequent commitment by a Justice of the Peace, for mental observation, claimant seeks damages of \$10,100 for "false imprisonment."

For defense hereto, the State has offered affirmative proof to establish "probable cause for the arrest," together with complete freedom from responsibility in connection with claimant's confinement for mental observation.

At the time of arrest, claimant owned and operated a three-hundred-acre farm at Duanesburg, Schenectady County, where he kept two horses, two cows, one bull and two yearlings.

Believing that such stock was being neglected, Sergeant Eggleston and Trooper Foster, of the State Police, accompanied by the Schenectady County Humane Society Superintendent, visited claimant's farm at 1:30 P.M. on January 23, 1943. Advising claimant of the purpose of their call, such officials requested and promptly received claimant's permission to visit the barn where such stock was stabled, to which they were voluntarily accompanied by claimant.

Inspection of such barn revealed the following conditions: the main door was so frost swollen that it could not be closed within four to five inches of its frame; the stock was uncovered and shivering, and had neither bedding nor feed; the drinking water was solidly frozen; and, the unkempt stock was found to be standing in manure varying in depth from one to two feet.

On a prior visit to claimant's barn, made two days earlier with a town constable, Trooper Foster found seven unopened bales of hay in the subbasement of the barn, one of which bales he opened and partially fed to the stock. On January 23 Trooper Foster found the remaining six and one half bales of hay identically as he had last seen them, except that the upturned end of the opened bale, was then thick with mice dung.

The troopers, after having fed and watered the stock, and completed arrangements with claimant's wife for their further care, advised claimant that he was under arrest "for cruelty to animals," whereupon they brought him before Justice of the Peace MacDougall of the Town of Duaneburg.

Before Justice of the Peace MacDougall, Troop Sergeant Eggleston formally executed and swore to an information, while Trooper Foster executed and swore to a "Deposition of Witness Before Warrant," on the reverse side of which was indorsed "Information." Each of such documents set forth details of claimant's alleged acts of cruelty, the latter in greater detail than the former.

Justice MacDougall then issued a warrant and handed it to Trooper Foster for execution, by whom claimant was at once formally placed under arrest. In such warrant claimant was charged with a violation of the provisions of Sec. 185, Penal Law, which, in part, provides, "A person who \*\*\* deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it \*\*\* or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a misdemeanor \*\*\*."

During the preparation of documents upon which such warrant was issued claimant, in the presence and hearing of Justice MacDougall, was asked by Schenectady County Humane Society Superintendent William H. McGinn, why he had neglected his stock, to which claimant replied, "that morning it was too cold to go out in the barn."

Following claimant's arrest, he was promptly arraigned before Justice MacDougall, but instead of offering a plea, he inquired of State Troop Sergeant Eggleston, in the hearing of Justice MacDougall, "Isn't there some way we can fix this up?"

The occasion of claimant's inquiry, it is reasonable to assume, arose from the fact that Justice MacDougall, on two prior occasions, had merely imposed fines when claimant was arraigned before him on similar charges, first, on January 12, 1942, when the fine so imposed was \$20, and on January 21, 1943, two days prior to that of the instant arrest, when such fine was in the amount of \$50.

Both of such fines so imposed were promptly paid by claimant out of cash then carried on his person, concerning payment of which Justice MacDougall testified, "He just simply paid \*\*\* it didn't seem to bother him at all."

Justice MacDougall, then, solely of his own volition, by written order of commitment, directed that claimant be "held for mental observation," at the Schenectady County Home, which order was handed to and promptly executed by Trooper Foster.

Justice MacDougall testified that neither State Trooper had suggested such commitment. He further testified that his chief reason "was to protect Mr. Mudge and the cattle, \*\*\* it all added up, I could not see any use of his being arrested and pleading guilty and still neglecting his livestock and I'd like to find out what the trouble was before I did any more with it."

Justice MacDougall assigned the following further reasons for his having committed claimant for mental observation: "I knew Mr. Mudge 'all my life'; \*\*\* he has done things that \*\*\* were quite a

little out of the ordinary; I know one time \*\*\* in October he said he wanted to start his harvest, while the usual procedure is to start harvest in the latter part of June, not after October;" and "\*\*\*\* Mr. Mudge had a son who was pronounced criminally insane and committed to Mattewan and \*\*\* another son a mental defective \*\*\* ."

On January 27, 1943, two competent physicians subjected claimant to a mental examination and immediately thereafter filed a report based thereupon, with the Schenectady County Court, which report disclosed that claimant was found to be "self-sufficient, lawless, overestimates himself, \*\*\* (is) shiftless \*\*\* a social, not a mental problem \*\*\* and is fully responsible for his acts."

Honorable James W. Liddle, Schenectady County Judge, immediately upon receipt of such report directed, by written order, that claimant be returned to Justice MacDougall for "further proceedings," which order was handed to and promptly executed by Trooper Foster.

At claimant's request for opportunity to call his attorney, he was brought to the Troop Outpost at Duanesburg, where, Justice MacDougall, upon being advised of claimant's presence there, immediately called in person at such Outpost, and after having advised claimant, as the latter testified, that "the charge still stood against me," read the information to claimant and advised him of his rights, as he had earlier done upon the original arraignment, after which Justice MacDougall waited a considerable time at such Outpost to enable claimant's counsel to appear.

While at the Outpost, Mr. MacDougall was served with a writ of habeas corpus "to inquire into the cause of claimant's detention," which writ had been issued by, and made returnable before, Honorable J. Walter Bliss, Supreme Court Justice, whereupon Mr. MacDougall released claimant upon his own recognizance. A copy of such writ had likewise been served upon the District Attorney of Schenectady County who thereupon advised Mr. MacDougall "to give it no attention."

Supreme Court Justice Bliss, upon the return of said writ on January 28, 1943, sustained same and discharged claimant from further custody, and granted claimant \$25 costs and disbursements "against the Town of Duanesburg," which sum, it was directed, was to be paid to claimant's attorney."

Mr. MacDougall appeared before Supreme Court Justice Bliss, but no appearance was had at such hearing on the part of the District Attorney of Schenectady County.

The order issued by Supreme Court Justice Bliss, effectuating the foregoing, in part recited: "and the District Attorney of Schenectady County having phoned me \*\*\*that he was not going to appear in the matter and that he did not oppose the sustaining of the writ of habeas corpus \*\*\*and the relator having moved for an order sustaining the writ on the ground that the information failed to allege facts sufficient to constitute a crime and there being no opposition thereto and due deliberation having been had \*\*\*."

Since claimant's discharge from custody, as aforesaid, the charge upon which he was arrested on January 23, 1943, has been neither further pressed nor withdrawn, in consequence of which, such matter has not been determined upon the merits.

Claimant presents claim herein on the basis that his discharge from custody by order of Supreme Court Justice Bliss establishes that his arrest was not only initially void, but that all subsequent steps taken were unlawful.

The attack upon the "Information" through the medium of a habeas corpus proceeding was at best a collateral one, and not determinative of the State Troopers' having committed any unlawful acts.

If such information was sufficient to call for a decision by the magistrate as to whether such warrant should issue such warrant is not void and arrest made thereunder not unlawful, even though the Justice of the Peace in issuance of the warrant, may have erred grossly. *Vittorio v. St. Regis Paper Co.*, 239 N.Y. 148, at page 152, 145 N.E. 913.

"Since the warrants upon which the plaintiff was arrested were not jurisdictionally defective, the plaintiff has failed to establish any cause of action against defendant for false imprisonment, even if the defendant caused the plaintiff's arrest under such warrants." *Vittorio v. St. Regis Paper Co.*, supra, 239 N.Y. page 154, 145 N.E. page 915.

The State Troopers had probable cause for claimant's arrest herein. "Probable cause is the knowledge of facts, actual or apparent, strong enough to justify a reasonable man in the belief that he has lawful grounds for prosecuting the defendant in the manner complained of. The want of probable cause does not mean the want of any cause, but the want of any reasonable cause \*\*\*. Probable cause \*\*\* is an absolute protection against an action for malicious prosecution, even when express malice is proved." *Burt v. Smith*, 181 N.Y.1, at page 5, 73 N.E. 495, 496, 2 Ann.Cas. 576.

A further judicial determination of the question of probable cause is proof that a crime was committed and that the arresting officer had reasonable ground for suspecting that the person so arrested was the offender and that the arrest was made in good faith and without evil design. *Schultz v. Greenwood Cemetery*, 190 N.Y. 276, at page 278, 83 N.E. 41. Decision in *Tierney v. State* (Claim No. 25823), April 26, 1943, 266 App.Div. 434, 42 N.Y.S.2d 877, at page 880, turned upon the question of "probable cause." [7] The State Troopers, in view of the existing conditions, were under obligation to arrest claimant. *Schultz v. Greenwood Cemetery*, supra, 190 N.Y. at page 281, 83 N.E.41.

Claimant, maintaining, but offering no proof in substantiation thereof, that neither Justice of the Peace MacDougall nor Schenectady County Judge Liddle had jurisdiction to issue the orders which were respectively issued by them, seeks to hold the State liable for the acts of the State Police in the execution of such orders, together with all consequences flowing therefrom. We feel no necessity here of passing upon such questions so raised, except to point out that in our opinion the State is free of liability for execution of such orders by reason of the fact that the State Police acted under orders, over the subject matters of which the issuing officers had jurisdiction and which orders on their faces did not show any lack of jurisdiction if such there was as to jurisdiction of the person of claimant. *Savacool v. Boughton*, 5 Wend. 170, at page 181, 21 Am. Dec. 181.

Further, the State is free of liability for false arrest and imprisonment, for all acts of the State Police from the time of, and subsequent to, the issuance of warrant for claimant's arrest, as at such times they acted solely under "due process of law." *Gearity v. Strasbourger*, 133 App.Div.701, at page 704, 118 N.Y.S. 257, at pages 259, 260. Claimant having failed to establish that his arrest and imprisonment resulted from any unlawful act or acts on the part of officers or employees of the State, his claim by separate decision herein, has been dismissed upon the merits.

Dated: January 12, 1944.

WILLIAM E FITZSIMMONS,  
Judge of the Court of Claims



## Appendix II

### Animal Shelters & Humane Agencies in New York State

On the following pages, we have provided a table of humane organizations in New York State. The organizations are listed alphabetically by county.

Contact them for assistance when you are investigating animal cruelty cases. Some of them may have animal cruelty investigators that can assist you with your investigation, but this is not something you should expect. When calling for assistance, be sure to ask for the shelter director or manager.

Some of the organizations may be able to hold seized animals. Contact the individual facility to determine the type of animals the facility can accommodate. If they cannot, they may know an alternate organization that can. They may also be able to provide you with names of people who are willing to foster care animals. Information in this table is up-to-date as of June 18, 2022, and is subject to change.

**IMPORTANT:** *Before placing an animal at a facility or in foster care, always inspect the facilities. Not all shelters, unfortunately, are able to maintain high standards.*

## NEW YORK STATE ANIMAL SHELTERS

County	Organization	Address	Town	Zip	Telephone
Albany (also Rensselaer)	Mohawk Hudson Humane Society	3 Oakland Ave	Menands	12204	518-434-8128
Allegany	SPCA serving Allegany County	PO Box 381	Wellsville	14895	585-593-2200
Broome	Broome County Humane Society	167 Conklin Ave	Binghamton	13903	607-724-3709
Broome	Broome County Dog Shelter	110 Cutler Pond Rd	Binghamton	13905	607-778-2493
Cattaraugus	SPCA In Cattaraugus County	2944 Rt. 16	Olean	14760	716-372-8492
Cayuga	Finger Lakes SPCA of CNY	41 York St	Auburn	13021	315-253-5841
Chautauqua	Chautauqua County Humane Society	2825 Strunk Rd	Jamestown	14701	716-665-2209
Chemung	Chemung County Humane Society/SPCA	2435 Rt. 352	Elmira	14903	607-732-1827
Chenango	Chenango County SPCA	6160 County Rd 32	Norwich	13815	607-334-9724
Clinton	Elmore SPCA	556 Telegraph Rd	Peru	12972	518-353-7755
Columbia	Columbia-Greene Humane Society/SPCA	111 Humane Society Rd	Hudson	12534	518-828-6044
Cortland	Cortland County SPCA	879 Mc Lean Rd	Cortland	13045	607-753-9386
Delaware	Delaware Valley Humane Society	17420 County Hwy 23	Sidney	13838	607-563-7780
Delaware	Humane Society of Central Delaware County	Rr 2 Box 201d	Delhi	13753	607-746-3080
Dutchess	Dutchess County SPCA	636 Violet Ave	Hyde Park	12538	845-452-7722
Erie	SPCA serving Erie County	300 Harlem Rd	West Seneca	14224	716-875-7360
Essex	North Country SPCA	7700 Us Rt 9n	Elizabethtown	12932	518-873-5000
Franklin	North Country Animal Shelter	194 Bare Hill Rd	Malone	12953	518-483-5050
Fulton	Fulton County Regional SPCA	117 W. Fulton St	Gloversville	12078	518-725-5956
Fulton	James A Brennan Memorial Humane Society	437 Nine Mile Tree Rd	Gloversville	12078	518-725-0115
Genesee	County Animal Shelter	3841 W Main St	Batavia	14020	585-343-6410
Greene	Columbia-Greene Humane Society	111 Humane Society Rd	Hudson	12534	518-828-6044
Herkimer	Herkimer County Humane Society	PO Box 73	Mohawk	13407	315-866-3255
Jefferson	Jefferson County SPCA	25056 Water St	Watertown	13601	315-782-3260
Lewis	Lewis County Humane Society	6390 Pine Grove Rd	Glenfield	13343	315-376-8349
Livingston	Humane Society of Livingston County	PO Box 233	Avon	14414	585-234-2828
Madison	Wanderer's Rest	7138 Sutherland Dr	Canastota	13032	315-697-2796
Monroe	Humane Society of Rochester/Monroe County (Lollypop Farm)	99 Victor Rd	Fairport	14450	585-223-1330
Montgomery	Montgomery County SPCA	SPCA Rd	Amsterdam	12010	518-842-8050
Nassau	Nassau County SPCA	510 Grumman Rd West	Bethpage	11714	516-576-2921
Niagara	Niagara County SPCA	2100 Lockport Rd	Niagara Falls	14304	716-731-4368
NYC (all boroughs)	ASPCA Adoption Center	424 E 92nd St	New York	10128	212-876-7700
NYC	Manhattan Animal Care Center	326 East 110 <sup>th</sup> St	New York	10029	212-788-4000
NYC	Brooklyn Animal Care Center	2336 Linden Blvd.	Brooklyn	11208	212-788-4000
NYC	Staten Island Care Center	3139 Veterans Rd West	Staten Island	10309	212-788-4000
NYC	Bronx Resource Center	464 E. Fordham Rd	Bronx	10458	212-788-4000
Oneida	Anita's Stevens-Swan Humane Society	5664 Horatio St	Utica	13502	315-738-4357
Onondaga	Central New York SPCA	5878 E. Molloy Rd	Syracuse	13211	315-454-4479
Ontario	Ontario County Humane Society	2976 County Rd 48	Canandaigua	14424	585-396-4590
Orange	Middletown Humane Society	142 Blooming-Burg Rd	Middletown	10940	845-361-1861
Orange	Hudson Valley SPCA	940 Little Britain Rd	New Windsor	12553	845-564-6810
Orange	Humane Society of Walden	2489 Albany Post Rd	Walden	12586	845-778-5115
Orange	Warwick Valley Humane Society	48 Public Works Dr	Warwick	10990	845-986-2473
Orange	Humane Society of Port Jervis/Deer Park	202 Rte 209	Port Jervis	12771	845-856-3677
Orleans	County Animal Shelter	13925 Rt 31 West, Ste 400	Albion	14411	585-589-5528
Oswego	Oswego City Animal Shelter	621 East Seneca St	Oswego	13126	315-343-1803
Otsego	Susquehanna SPCA	5082-5088 St Hwy 28	Cooperstown	13326	607-547-8111
Putnam	Putnam County Humane Society	68 Old Rt 6	Carmel	10512	845-225-7777
Putnam	Putnam County SPCA	47 Gleneida Ave	Carmel	10512	845-520-6915
Rensselaer	Troy Animal Control	55 State St	Troy	12180	518-270-4411
Richland	Staten Island Care Center	3139 Veterans Rd West	Staten Island	10309	212-788-4000
Rockland	Hi-Tor Animal Care Center	PO Box 270	Pomona	10970	914-354-7900
Rockland	Hudson Valley Humane Society SPCA	200 Quaker Rd	Pomona	10970	845-354-3124
Saratoga	Saratoga County Animal Shelter	6010 County Farm Rd	Ballston Spa	12020	518-885-4113
Saratoga	Saratoga County SPCA	PO Box 64	Rexford	12148	518-992-5025
Schenectady	Animal Protective Foundation	53 Maple Ave	Glenville	12302	518-374-3944
Schenectady	Schenectady County SPCA	PO Box 9516	Niskayuna	12309	518-755-9517
Schoharie	Animal Shelter of The Schoharie Valley	304 Howes Cave Rd	Howes Cave	12092	518-296-8390
Schuyler	Humane Society of Schuyler County	124 Marina Dr	Montour Falls	14865	607-594-2255
Seneca	Beverly Animal Shelter	50 E River St	Waterloo	13165	315-539-9357
St. Lawrence	St. Lawrence Valley SPCA	6718 State Hwy 68	Ogdensburg	13669	315-393-5191
Steuben	Hornell Area Humane Society	7649 Industrial Park Rd	Hornell	14843	607-324-1270
Steuben	Finger Lakes SPCA	72 Cameron St	Bath	14810	607-776-3039
Suffolk	Suffolk County SPCA	PO Box 6100	Hauppauge	11788	631-382-7722
Sullivan	Sullivan County SPCA	104 Rock Hill Dr	Rock Hill	12775	914-796-3120

## NEW YORK STATE ANIMAL SHELTERS

County	Organization	Address	Town	Zip	Telephone
Tioga	Stray Haven Humane Society & SPCA	194 Shepard Rd	Waverly	14892	607-565-2859
Tompkins	SPCA of Tompkins County	1640 Hanshaw Rd	Ithaca	14850	607-257-1822
Ulster	Ulster County SPCA	20 Wiedy Rd	Kingston	12402	845-331-5377
Warren (also Washington)	SPCA of Upstate NY	588 Queensbury Ave	Queensbury	12804	518-798-3500
Wayne	Humane Society of Wayne County	1475 County House Rd	Lyons	14489	315-946-3389
Westchester	SPCA Westchester	590 No State Rd	Briarcliff Manor	10510	914-941-2896
Westchester	Humane Society of Westchester	70 Portman Rd	New Rochelle	10801	914-632-2925
Wyoming	Wyoming County SPCA	808 Creek Rd	Attica	14011	585-591-3114
Yates	Humane Society of Yates County	1216 Ny 14a	Penn Yan	14527	315-536-6094

## Appendix III

### Resource Agencies

The following agencies may be of interest to you during the course of investigating animal cruelty complaints. Some agencies can provide you with information and possibly assist in your cruelty investigation. Based on the nature of the complaint, some agencies can bring their own charges against the abuser. In the case of the American Kennel Clubs, it can remove a breeder's accreditation.

#### **American Humane**

American Humane is committed to ensuring the safety, welfare and well-being of animals.

Website: [www.americanhumane.org](http://www.americanhumane.org)

Contact: [info@americanhumane.org](mailto:info@americanhumane.org), or (800) 227-4645

#### **American Kennel Club**

Investigations and Inspections Unit

Website: [www.akc.org](http://www.akc.org)

Contact: (919) 233-9767

*Inform the AKC about animal cruelty cases that involve dog breeders selling AKC registered dogs. The AKC can remove the breeder's registration privileges.*

#### **American Society for Prevention of Cruelty to Animals (ASPCA)**

Offers a full menu of support to law enforcement and prosecutors handling animal cruelty and animal fighting investigations and prosecutions, including legal, investigative, forensic, and other assistance. ASPCA subject matter experts also provide training to agencies looking to build on their knowledge and skills with these cases.

Website: [www.asPCA.org](http://www.asPCA.org)

Contact: (212) 876-7700, for Legal Advocacy and Investigations: [LAI.Investigations@aspca.org](mailto:LAI.Investigations@aspca.org)

#### **Animal Legal Defense Fund**

Expertise in prosecution of animal-related crime

Website: [aldf.org](http://aldf.org)

Contact: (707) 795-2355, or [info@aldf.org](mailto:info@aldf.org)

#### **County Health Departments**

Contact your local county health department for assistance in animal cruelty cases that involve problems that may endanger human health, such as vermin, ground water pollution, and suspected rabies.

#### **Humane Society of the United States**

Website: [www.humanesociety.org](http://www.humanesociety.org)

Contact: (202) 452-1100

*Can provide expert information on animal behavior and animal cruelty which can be used in cruelty investigations. Call and ask to be directed to the person that has expertise in the desired area.*

**NYS Department of Agriculture - Animal Industry**

Responsible for interpreting laws regarding animal cruelty, dog control, dog licensing; also conducts inspections of animal shelters if shelter is contracted with municipality for dog control.  
Contact: (518) 485-1417

**NYS Dept. of Environmental Conservation**

Contact the regional office listed in your local telephone book or in a goggle search for animal cruelty cases involving wildlife. Also contact them in cases involving air pollution. See "Environmental Conservation Law, New York Code of Rules and Regulations, Chapter III, Air Resources" in the "Various NYS State Laws Dealing with Animals" section.

**United States Department of Agriculture - Animal and Plant Health Inspection Service (APHIS)**

Contact the USDA when you have a cruelty case involving animal breeders, animal dealers, *etc.* Such enterprises must be licensed by the USDA and operated according to the standards established by the Animal Welfare Act. Document your case and present them with your findings at <http://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/complaint-form>. See "USDA Law and Animal Cruelty" in the "Various NYS Laws Dealing with Animals" section.

For further information, contact the Center for Animal Welfare (CAW) Office.

**Mailing Address:**

USDA-APHIS Center for Animal Welfare  
2312 East Bannister Road, RM 1180  
Kansas City, MO 64131-3011

**Physical Address:**

USDA-APHIS Center for Animal Welfare  
6501 Beacon Drive  
Kansas City, MO 64133  
(816) 737-4200

## Appendix IV

### Forms & Supplies List

Following are examples of forms we have found to be useful during the course of animal cruelty investigations. Make the appropriate number of copies that you need to accommodate the number of animals you estimate are involved in a case.

Also in this section is a list of supplies that you will need when dealing with cases that involve large numbers of animals.

- [Veterinarian's Statement Animal Evaluation](#)
- [Agreement Between Lead and Assisting Organizations Providing for Care of Animals Seized as Evidence in a Cruelty Case](#)
- [Agreement for Surrendering Animals to Humane Society](#)
- [Agreement for Authorizing Euthanasia](#)
- [Equipment and Supplies List for Animal Rescue Operations](#)

### VETERINARIAN'S STATEMENT ANIMAL EVALUATION FORM

Animal found on the premises of \_\_\_\_\_

Located at (complete address) \_\_\_\_\_

ID# assigned to animal \_\_\_\_\_ Species \_\_\_\_\_ Breed \_\_\_\_\_ Sex \_\_\_\_\_ Weight \_\_\_\_\_

Approx. age \_\_\_\_\_ Description (color/markings) \_\_\_\_\_

I, \_\_\_\_\_, am a veterinarian licensed in the State of \_\_\_\_\_.  
(please print name)

I am responding to a request by (agency) \_\_\_\_\_ to evaluate the above-identified animal.

I hereby certify that this animal exhibits the following:

- presumed neutered/spayed       unneutered/unspayed
- pregnant       nursing       in heat
- evidence of previous litters (enlarged nipples/vulva)
  
- emaciation                               multiple bite wounds                               arthritis, other lameness
- dehydration                               tumors, other growths                               overgrown nails/hooves
- excessive hair loss                               abscesses                               earmites/infection
- severe itching                               diarrhea                               eye infection
- mange                               urine scalding                               generalized debility
- dermatitis                               dental problems                               internal parasites
- flea dirt                               respiratory infection                              (Indicate type below)
- ticks                               heartworm symptoms

Other (e.g., other afflictions, comments on weight, observations of behavior, etc.): \_\_\_\_\_

**Check here if animal was euthanized :**  I hereby certify that this animal is so maimed, diseased, disabled, or infirm as to require euthanasia to be spared suffering. Euthanasia is appropriate for this animal, whose symptoms are as described above.

*In a written instrument, any person who knowingly makes a false statement herein which such person does not believe to be true has committed a crime under the laws of the State of New York punishable as a Class A Misdemeanor. (PL § 210.45)*

\_\_\_\_\_  
Signature of Veterinarian

\_\_\_\_\_  
Date

Animal kept on premises  
or

Relocated to \_\_\_\_\_

Date \_\_\_\_\_

AGREEMENT BETWEEN LEAD ORGANIZATION AND ASSISTING ORGANIZATION OR INDIVIDUAL PROVIDING FOR CARE OF ANIMALS SEIZED AS EVIDENCE IN A CRUELTY CASE

Note: Fill out in duplicate. One copy is to be given to the person/organization taking custody of the animals; the original should be retained by the agency organizing the rescue.

\_\_\_\_\_, (the Lead Organization) and \_\_\_\_\_ (the Assisting Organization/Individual), in consideration of the promises made herein agree as follows:

1. The animals identified in Paragraph 2 have been seized pursuant to a court-ordered inspection of the premises of \_\_\_\_\_ located at \_\_\_\_\_ and will be held as evidence in a criminal case pending in the (city/county) of \_\_\_\_\_.

2. The Assisting Organization/Individual shall house the following \_\_\_\_\_ animals, identified by the following numbers::

List species, sex, and ID #:

Table with 5 columns for species, sex, and ID #. Each column contains a line for text and a line with 'm f' for sex.

3. The Assisting Organization shall ensure that the above-identified animals are so housed that no breeding takes place and risk of injury to the animals is minimized. Males and females must be housed separately, and any animals that are incompatible with others must be housed singly.

4. The Assisting Organization/Individual shall assume all liability for property damage or personal injury caused by any animal identified in this agreement. The Assisting Organization/Individual shall indemnify, defend, and hold the Lead Organization, its officers, and employees harmless from and against any and all claims and liabilities arising out of any claims or suits, or threats of suits, which may be brought or made against the Lead Organization arising from damage or injury caused by any animal identified in this agreement.

5. The Assisting Organization/Individual further agrees to abide by any court order providing for the ultimate disposition of the animals. The Assisting Organization/Individual acknowledges that such a court order will likely either: a) allow the Assisting Organization/Individual to adopt out, or, as appropriate, euthanize the animals; or b) require the Assisting Organization/Individual to return the animals to the defendant.

6. In the event that the Assisting Organization/Individual is permitted to adopt out the animals, it shall sterilize the animals prior to adoption. If sterilization of the animals is not financially feasible for the Assisting Organization/Individual, it shall notify the Lead Organization of its need for financial assistance.

7. In the event the Assisting Organization/Individual notifies the Lead Organization of it need for financial assistance, the Lead Organization agrees to help locate sources of funding to defray reasonable costs of spaying and neutering animals seized in connection with this case.

For the Lead Organization

For the Assisting Organization/Individual

Signed \_\_\_\_\_ / \_\_\_\_\_ Date

Signed \_\_\_\_\_ / \_\_\_\_\_ Date

Title \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

Address \_\_\_\_\_



AGREEMENT FOR SURRENDERING ANIMALS TO HUMANE SOCIETY

I, \_\_\_\_\_, of (city, state) \_\_\_\_\_

relinquish the following animals to \_\_\_\_\_.

List animals and identification numbers of animals to be relinquished with brief description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that (agency) \_\_\_\_\_ will make an effort to find suitable homes for my animals following its normal adoption procedures, with certain exceptions, e. g., those that must be euthanized upon recommendation of a licensed veterinarian. I hereby give up all right, title, and interest to the above-referenced animals voluntarily and without coercion or threats of any kind.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Witness Date

## EQUIPMENT AND SUPPLIES LIST FOR ANIMAL RESCUE OPERATIONS

- Video recording device
- Collars that can be written on (to record ID numbers and sexes of animals), preferably cardboard encased in plastic (sturdier collars and tags must be applied later)
- Leashes
- Muzzles
- Catch poles
- Gurneys
- Scale
- Gloves (both rubber and bite-prevention)
- Flashlights
- Folding tables (for veterinary exams)
- Airline carriers (or other strong but lightweight cages for transporting animals)
- Blankets, towels for various uses including covering cages to reduce stress in animals
- Resealable bags for gathering evidence (food samples, etc.)
- Emergency medical supplies (from veterinarians)
- First-aid kit for humans
- Surgical/dust masks
- Tubes of mentholated ointment, extract of clove, or extract of spearmint (which can be applied to rescuers' surgical masks or around their nostrils to make strong odors less bothersome)
- Body bags for dead animals found on-site or for those who may have to be euthanized on-site
- Plain, carbon, and lined paper
- Clip boards (and plastic coverings in case of rain)
- Large supply of pens and thick felt-tip markers
- Adhesive tape to use for labeling evidence, marking on carriers, etc.
- 35mm camera to take detail photos, Polaroid camera if needed for backup
- Portable lights

## FORMS AND OTHER ESSENTIALS

- Search warrant or other form authorizing your presence on the property of the person being charged
- Lined pad (or prepared form) for ID listing. Information recorded for each animal should include medical condition, brief description, ID number assigned at time of rescue, and destination (for those situations where many animals are being sent to various shelters or other holding facilities until a legal determination about the animals can be made)
- Agreement form for those responsible for foster care
- Veterinarian evaluation form to record each animal's condition
- Euthanasia authorizations
  - For veterinarian's signature
  - For animal owner's signature (for use in those rare cases in which owner voluntarily gives permission for euthanasia of some of his or her animals)
- List of important phone numbers

AGREEMENT FOR AUTHORIZING EUTHANASIA

I, \_\_\_\_\_, of (city, state) \_\_\_\_\_

authorize the euthanasia, by a veterinarian licensed in the State of New York, of any of my (species)

\_\_\_\_\_ that test positive for (disease) \_\_\_\_\_,

or that, in the professional opinion of a veterinarian, are so maimed, diseased, or debilitated as to require euthanasia to be spared undue suffering. I will hold harmless the veterinarian, law enforcement agency, and humane organization that

causes my (species) \_\_\_\_\_ to be humanely destroyed.

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Witness Date

## Appendix V

### Fact Sheets & Handouts

This section contains fact sheets and handouts on various types of animals and how to care for them. They are written in a concise, informative manner and can be used as educational tools. Consider making copies of them to distribute when you investigate animal related complaints.

- [Fact Sheet: Animal Hoarders](#)
- [New York State Department of Health Rabies Fact Sheet](#)
- [How to Avoid Getting Bitten by a Dog](#)
- [What You Don't Know About Outside Dogs](#)
- [Forlorn Forgotten](#)
- [Keep Cats Indoors!](#)
- [A Quick Guide to Rabbit Care](#)
- [Horse Care Information](#)
- [The Realities of Backyard Horse Abuse](#)
- [Adopting An Abused Animal – What You Should Know](#)

# ANIMAL HOARDERS

## A NYSHA Fact Sheet

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### What is an animal hoarder?

A person who amasses more animals than he/she can properly care for. Such individuals generally fail to recognize — or refuse to acknowledge — when the animals in their custody become victims of gross neglect.

### What characteristics do animal hoarders generally share?

- an apparent need to have many animals — and, usually, many inanimate objects as well; an addiction to clutter
- intelligence and communication skills, combined with a shrewd ability to attract sympathy for themselves, no matter how abused their animals may be
- a stubborn refusal to part with any of their animals, be it through adoption of relatively healthy ones or euthanasia of sick ones (Sometimes, they even keep the dead ones!)
- a clandestine lifestyle — There is often a stark contrast between the hoarder's public persona and his/her private life.
- a tendency to deny reality — They insist that all animals are healthy; that those confined for long periods in small cages or kennels are comfortable; that overcrowding does not subject animals to severe stress and related diseases; etc.
- recidivism — Unless expert psychiatric help is obtained, hoarders almost invariably return to old ways, even if convicted to cruelty to animals.

### What motivates anyone to accumulate and “warehouse” large numbers of animals?

No comprehensive psychological study has been made of the hoarder syndrome, and most people tend to think of hoarders as motivated by “love of animals that got out of control.” This is one — but not the sole — possible factor. There are undoubtedly several types of influences (or combinations thereof), such as the following, and they are not the same for every hoarder.

- a “love of animals” combined with a failure to care for them responsibly — Example: the elderly woman who feeds all the neighborhood strays, but has none of them spayed/neutered or given other necessary veterinary care. This type of person is usually genuinely fond of animals, but quickly becomes overwhelmed when they multiply.
- a perception that reverence for life is synonymous with preservation of life, regardless of its quality — Some people find the thought of death so abhorrent that they deem an inhumane life far preferable to a humane death. They often go to great lengths to “rescue” dogs or cats from traditional shelters, sometimes boasting of having thus removed them from “death row,” the brink of euthanasia.
- a “hero/martyr complex” — Hoarders often receive very favorable publicity about the personal sacrifices they make on behalf of animals. They become enamored of their own public image, and won't risk tarnishing it by openly disposing of animals that have become burdensome.

*Continued on reverse side*

- a need to control — Many hoarders create situations which assure them absolute power over every aspect of the existence of animals in their custody. They keep their victims crowded together behind locked doors and gates, denying them human companionship, veterinary care, exercise, bedding, fresh air, and adequate food and water.

### **What can you do to help prevent hoarder tragedies?**

- Promote legislation which provides for licensing, inspection, and strict regulation of both private and public animal shelters.
- Support — morally and financially — organizations, legislation, and programs that focus on spaying/neutering of companion animals.
- To the extent you can afford to do so, become involved in directly assisting individuals who are financially unable to have their companion animals sterilized, even if you must “do it yourself,” i.e., pay the veterinary fee for the surgery and transport the animals to and from the veterinarian’s office.
- Support the humane organization in your community which is responsible for enforcing anti-cruelty-to-animals statutes.
- Work to educate others about the suffering caused by hoarders, individuals who may be aptly characterized as “addicted to animals.” The public, many journalists, and even some representatives of humane organizations tend to sympathize with hoarders because they perceive them to be providing a service: keeping animals alive that would otherwise be euthanized or abandoned. Most people do not understand that keeping animals alive in the environment hoarders provide, invariably lead to intolerable suffering . Compassion for hoarders is not misplaced if one recognizes that most of them are in desperate need of psychological help. What hoarders do not need is the type of sympathy and support which result in enabling them to continue harboring and acquiring ever more animals. It is important for those who are familiar with the “hoarder syndrome” to inform others about the consequences of this problem.
- Do not deceive yourself into believing that animals for whom responsible homes cannot be found are better off warehoused than euthanized. Paradoxically, the animals “saved” by hoarders are usually condemned to infernal living conditions and lingering, painful deaths.

For further information, go to the website of the Hoarding of Animals Research Consortium (HARC), which has published a number of articles by and for professionals in a variety of fields. Go to the Resources link to download the articles. <http://www.tufts.edu/vet/cfa/hoarding/index.html>

Additional articles can be found at The HSUS website:  
[http://www.hsus2.org/sheltering/library/animal\\_hoarders.html](http://www.hsus2.org/sheltering/library/animal_hoarders.html)

*Note: Animal hoarders are also referred to as animal collectors.*



## Department of Health

# Rabies Fact Sheet

## What is rabies?

Rabies is a deadly disease caused by a virus that attacks the central nervous system (brain and spinal cord). Infected mammals can transmit rabies virus to humans and other mammals. Rabies is almost always fatal once symptoms appear. Fortunately, only a few human cases are reported each year in the United States.

## What animals can get rabies?

Rabies is most often seen among wild animals such as raccoons, bats, skunks and foxes, but any mammal can be infected with rabies. Pets and livestock can get rabies if they are not vaccinated to protect them against infection. Among domestic animals, cats are most frequently diagnosed with rabies in New York State.

Some animals *almost never* get rabies. These include rabbits and small rodents such as squirrels, chipmunks, rats, mice, guinea pigs, gerbils and hamsters. It is possible for these animals to get rabies, but only in rare circumstances, such as if they are attacked but not killed by a rabid animal.

Reptiles (such as lizards and snakes), amphibians (like frogs), birds, fish and insects do not get or carry rabies.

## What are the signs of rabies in animals?

The first sign of rabies is usually a change in an animal's behavior. It may become unusually aggressive or tame. The animal may lose its fear of people and natural enemies. A wild animal may appear affectionate and friendly. It may become excited or irritable and attack anything in its path. Staggering, convulsions, choking, frothing at the mouth and paralysis are sometimes seen. Many animals will make very unusual sounds. Infected animals usually die within one week after showing signs of rabies.

## How do people become exposed to rabies?

People usually get exposed to the rabies virus when an infected animal bites them. Exposure may also occur if saliva from a rabid animal enters an open cut or mucous membrane (eyes, nose or mouth).

## What should I do if I am exposed to rabies?

Wash all wounds thoroughly with soap and water and seek medical attention immediately.

Report all animal bites to your county health department, even if they seem minor. The phone number for your county health department can be found in the government listing of your telephone directory or the New York State Department of Health (NYSDOH) website at:

<http://www.health.ny.gov/diseases/communicable/zoonoses/rabies/contact.htm>.

Try to keep track of the animal that exposed you and report this information to your county health department so the animal can be captured safely, if possible. In the case of a bat, you may be able to safely capture it yourself and take it to your county health department where it will be transferred to the state for rabies testing. To learn how to capture a bat safely, view a short video (1 minute 22 seconds) at [www.health.ny.gov/diseases/communicable/zoonoses/rabies/](http://www.health.ny.gov/diseases/communicable/zoonoses/rabies/).

Healthy dogs, cats, ferrets and livestock that have bitten or otherwise caused a potential human exposure to rabies will be confined under the direction of the county health department and observed for ten days following the exposure. If the animal remains healthy during this period, the animal did not transmit rabies at the time of the bite.

Other types of animals that cause a potential human exposure must be tested for rabies under the direction of the county health department. If an animal cannot be observed or tested for rabies, treatment may be necessary for the people exposed. Your county health department will assist you and your physician to determine whether treatment is necessary.

## **What is the treatment for people exposed to rabies?**

Treatment after rabies exposure consists of a dose of human rabies immune globulin (HRIG) administered as soon as possible after exposure, plus 4 doses of rabies vaccine given over two weeks. If there is a wound, the full dose of HRIG should go into the wound, if possible. The first vaccine dose is given at the same time, with the remaining injections given on days 3, 7 and 14 following the initial injection. People who have weakened immune systems may require a fifth dose of vaccine, as determined by their doctor.

A person who has already been vaccinated for rabies and is exposed to rabies must receive two booster vaccine doses three days apart immediately after exposure. They do not need an injection of HRIG.

## **What happens if a rabies exposure goes untreated?**

Exposure to a rabid animal does not always result in rabies. If treatment is initiated promptly following a rabies exposure, rabies can be prevented. If a rabies exposure is not treated and a person develops clinical signs of rabies, the disease almost always results in death.

## **How do I protect my pets from rabies?**

The best way to keep pets safe from rabies is to vaccinate them and keep their shots up-to-date. If your pet has been injured by a rabid animal, contact your veterinarian to get medical care. Even though your pet has been vaccinated, a booster dose of rabies vaccine may be needed within five days of the incident. Contact your county health department to determine what additional follow-up may be needed.

## **What can people do to protect themselves against rabies?**

- Don't feed, touch or adopt wild animals, stray dogs or cats.



- Be sure your pet dogs, cats and ferrets as well as horses and valuable livestock animals are up-to-date on their rabies vaccinations. Vaccination protects pets if they are exposed to rabid animals. Pets too young to be vaccinated should be kept indoors and allowed outside only under direct observation.
- Keep family pets indoors at night. Don't leave them outside unattended or let them roam free.
- Don't attract wild animals to your home or yard. Keep your property free of stored bird seed or other foods that may attract wild animals. Feed pets indoors. Tightly cap or put away garbage cans. Board up any openings to your attic, basement, porch or garage. Cap your chimney with screens.
- If nuisance wild animals are living in parts of your home, consult with a nuisance wildlife control expert about having them removed. You can find wildlife control experts, who work on a fee-for-service basis, in your telephone directory under pest control.
- Teach children not to touch any animal they do not know and to tell an adult immediately if they are bitten by any animal.
- If a wild animal is on your property, let it wander away. Bring children and pets indoors and alert neighbors who are outside. You may contact a nuisance wildlife control expert who will remove the animal for a fee.
- Report all animal bites or contact with wild animals to your county health department. If possible, do not let any animal escape that has possibly exposed someone to rabies.

## Where can I get more information about rabies?

The county health department is your best source of additional rabies information. The phone number for your county health department can be found in the government listing of your telephone directory or the NYSDOH website at: [www.health.ny.gov/diseases/communicable/zoonoses/rabies/contact.htm](http://www.health.ny.gov/diseases/communicable/zoonoses/rabies/contact.htm).

Detailed rabies information is also available at the following websites:

- NYSDOH: [Rabies](#)
- Centers for Disease Control and Prevention (CDC): [Rabies](#)

Revised: November 2011

## How to Avoid Getting Bitten by a Dog

Everyone knows a dog is man's best friend. And it is generally true. But every dog has the *capacity* to bite, and children are most often the ones who get bitten. Everyone, particularly children, should learn some basics about dog behavior and safety around dogs.

### When Dogs Might Bite

- When they feel threatened or afraid.
- When they are protecting their territory, food, toys, family, or pups.
- When they get excited, even in play.
- When they don't know you.
- When their "chase response" is triggered.
- When they have been bred and/or trained to be aggressive.
- When they are in pain or irritated.

### How To Tell When A Dog Might Bite

- The dog may stand stiff and still, maybe with his or her hair up.
- The dog may stare at you.
- The dog may hold his or her tail stiff and up in the air, and may wag it back and forth very fast.
- The dog may growl, snarl, show teeth, or bark.

### What To Do If You're Threatened By A Dog

- Stand very still and try to be calm. **DON'T SCREAM AND RUN.**
- Be aware of where the dog is. Don't turn your back on him or her, but don't stare the dog in

the eyes, either.

- If the dog comes up to sniff you, don't resist. In most cases the dog will go away upon deciding you aren't a threat.

- If you say anything, speak calmly and firmly.

- Try to stay until the dog leaves then back away slowly until he or she is out of sight.

- If a dog does attack suddenly, "feed" him or her your jacket, purse, your bike, anything that may distract the dog and give the animal something to bite besides you.

- If you fall or are knocked down, curl into a ball with your arms and hands over your head and neck. Try not to scream or roll around.



### What To Do If You Get Bitten

- Children should tell their parents immediately. All bites should be reported to the police or animal control department.
- Go to the hospital for treatment.
- Tell the policeman or animal control officer as much as you can about the dog—what he or she looked like, where you saw the animal, if you've seen the dog before, and so on. It's important for them to try to find the dog.

**Remember: Most Dog Bites Are Avoidable**

NEW YORK STATE HUMANE ASSOCIATION, INC.  
PO BOX 3068 KINGSTON, NY 12402

Provided by The Humane Society of the United States.

Art by Beverly Armstrong

## WHAT YOU DON'T KNOW ABOUT OUTSIDE DOGS...

Those of us who work in the animal welfare field have difficulty understanding the concept of the "outside dog".

When our staff conduct adoption interviews, potential owners are reminded that dogs are companion, "pack" animals that crave the attention of their owners, who have in these modern times, replaced the old "ancestral" pack. Our staff stress to prospective owners that dogs need daily socialization and want to be part of your family's daily activities, even something as mundane as sitting in front of the television or lying by the side of a youngster struggling with his math homework.

But there are still those who say they want their pet to spend the majority of its time outdoors. This begs the question we all must ask ourselves every time it comes up...THEN WHY HAVE A DOG AT ALL?

For those believing that a dog spending most of its life outdoors will be more protective of the home, you're wrong! Outside dogs, according to those with experience in the animal welfare field, may become so lonely and isolated that instead of barking at a stranger, they may approach the person for attention and a few pats on the head, since they are not receiving any from their family! So, in the end, the whole idea of your outside dog protecting you better is undermined by the animal's need for socialization with humans.

If circumstances should cause the outside dog owner to be forced to bring the animals in, then that animal may create a variety of problems, not being used to the "rules of behavior" that apply to the indoors. All housebreaking may have been lost, the animal may urinate on furniture to mark territory or may be so stressed by the change that it acts overly exuberant and knocks over things in an attempt to romp and play -- something it has been starved for since it has lead the "outside life". Ultimately, the situation will force the owner to kick the dog out once more.

People wonder why dogs chained or tied outdoors bark so much. The answer is pretty simple. They are bored and lonely. That's why outside dogs dig up the yard. What else do you expect them to do?

When owners turn in "outside dogs" to our animal shelter, adopting them is always difficult. Some are so stressed by being in an "indoor" situation, they may act aggressively, refuse to walk on cement floors, show fear of leashes or display other behaviors that cannot be overcome in a shelter atmosphere. The Humane Society prefers not to adopt out these unfortunate dogs to homes where they will again be subjected to a life of loneliness, boredom and lack of attention.

Sentencing a dog to a life outdoors without attention and companionship from humans, is nothing short of cruel. If you don't want to deal with training a dog, caring for its coat, dealing with fleas, shedding hair or getting home in time to feed it and let it out to relieve itself, then perhaps a dog is not for you!

If you obtain a dog, or a cat for that matter, with the intention of making it live outside, you have committed a major error. You have already decided that there will be no great closeness between you and that animal, no matter how many times you say you'll go outside to visit with it. Many adopters start out with the best intentions, but send a dog to live the outside life because they lack the time or desire to work with it to teach it how to live indoors as a well-behaved member of your family.

Cruelty doesn't just come in the form of outright abuse and neglect...it can be as simple as ignoring an animal that craves only your love and attention.

If you need information about how to train your dog, call the Humane Society! We're here to help. There is almost always an answer to just about any dog behavior problem, if you are willing to put in a little effort.

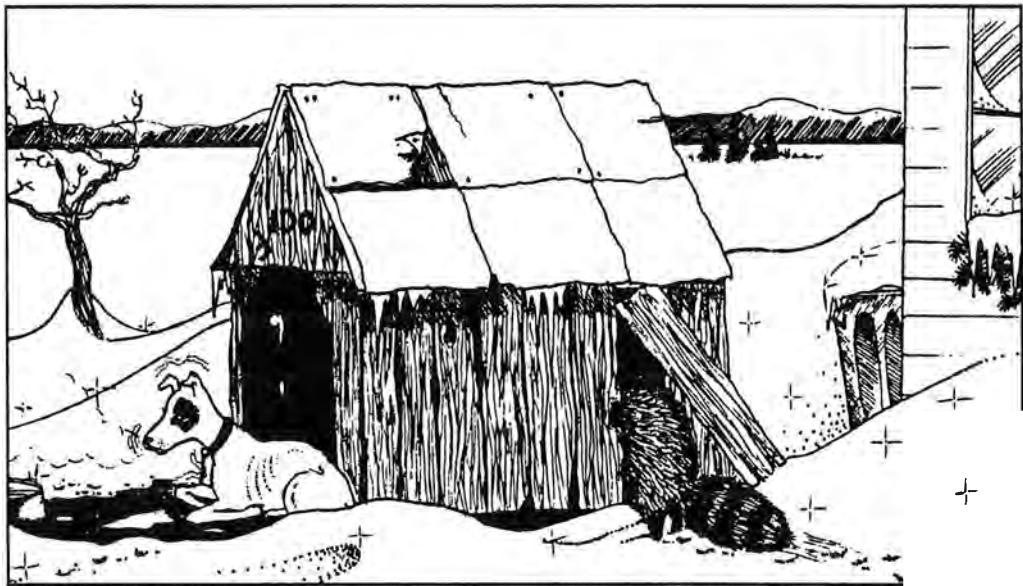
# FORLORN – FORGOTTEN

## What's Wrong in this Picture?

1. The dog is short haired, shivering and underweight. Short-haired, very young and old dogs (and cats) should never be left outdoors in extreme heat or cold weather. Under these conditions, exercise should be limited to 15 minutes, or as long as it takes for a pet to relieve him/herself. Outdoor animals require more protein rich foods in winter. Metal bowls that stick to tongues and skin should be replaced with ceramic bowls; water must be changed frequently.

2. The dog house is too large, dilapidated and drafty. Proper shelter must be structurally sound, waterproof, insulated and appropriate to the size of the dog (or cat) to be effective and retain body heat; 10-12" higher and longer than the animals height and length, allowing just enough room to comfortably stand-up and lay down. The shelter should face South (away from prevailing winds) with a rug or burlap covering the door, be raised 6" off the ground to prevent ground-freeze from infiltrating; the floor covered with 6" of straw or cedar shavings. Wind chill can threaten an animal's life

3. Area is not fenced in, chain has become entangled. A common problem of chained dogs; animals become trapped, can choke or hang themselves. Shelter area should be fenced-in to prevent attack by rabid or loose animals, and discourage human abuse.



### The Cruelty of Chained-Out Dogs:

We've all seen them, docile, listless dogs lying on the ground, grinding their teeth down until their gums bleed, whining briefly when left alone again; or lonely, frustrated dogs pacing back and forth, digging – trying to escape, barking at anything in sight or sound, chained continually or 9-5, day-in and day-out. Once "adorable puppies", their owners soon tired of the responsibilities of caring for and training a young, and at 6 months of age – a sexually driven adolescent dog. Not unlike the plight of a cat, animals are consequently relegated to the backyard, cellar or garage.

Nothing about being kept alone outdoors for a dog or cat is safe or natural. The dog is a social pack animal; a dogs need for companionship, security and structure are as important as food, water, shelter, veterinary care and neutering. Cats are especially vulnerable to exposure and injury from cars.

The truth is, outdoor animals suffer. Isolated, fearful and defensive of the stimuli around them, outdoor dogs are less healthy and prone to become aggressive towards both humans and animals. As an outdoor "guard dog" he/she will fail you. A dog's desire to protect you is built upon a mutual bond of trust that only comes with time spent together. An alienated chained dog barks 20% of the time anyway; at anything; a chained dog cannot thwart a criminal in your home. Please – think responsibly before adopting an animal. **HELP STOP ANIMAL ABUSE.**



**C.A.R.E.S.**

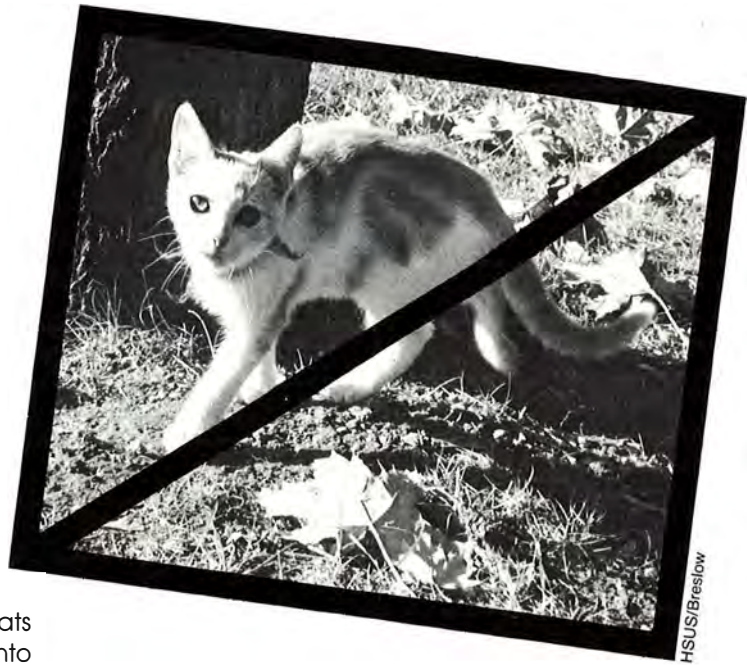
Companion Animal Resource  
& Education Society, Inc.



# KEEP CATS INDOORS!

Cats may love to go outside, but for their own good, keep them in. Although cats are smart, alert, and adroit, they are no match for the many perils that await them outside. That's why the average indoor-only cat lives up to three times longer than the cat who goes outside. Consider these threats:

- **Disease.** Feline leukemia and feline immunodeficiency virus are only two of the diseases that are passed from cat to cat and, once contracted, result in the eventual death of the pet. And outside cats are even more likely than dogs to come into contact with rabid wild animals.
- **Parasites.** Outdoor cats suffer from fleas, ticks, ear mites, and worms that indoor cats are not generally exposed to.
- **Poisoning.** Poisons can be found in lawn chemicals, bait left out to kill rodents, auto antifreeze, and other sources.
- **Other Animals.** Fights with other cats, dogs, and wildlife often leave cats maimed or injured. And it's not just the Toms. Female cats get into fights, too, because cats are by nature territorial.
- **Cruel People.** Cats are often the victims of burning, tarring and feathering, and other tortures. Animal dealers may collect outside cats for sale to research facilities. Outside pets are at the mercy of the people they encounter.
- **Traps.** It is estimated that over 100,000 cats are caught in traps each year. Those who aren't killed may suffer for days before being released and often lose limbs from the injuries.
- **Traffic.** Most outdoor cats die prematurely from auto accidents. It is a myth that cats are "streetwise" about cars. No matter how alert, a cat is no match for a fast-moving vehicle.



- **Pet Overpopulation.** Unaltered cats allowed to roam and mate at will account for millions of the cats who must be euthanized each year because there aren't enough homes for them. Allowing unaltered animals outside is irresponsible and at the root of the terrible pet overpopulation problem.

Cats can be completely happy inside if you provide them with toys, good care, and most importantly, lots of love and attention. If you've got a kitten, start it out right by never letting him or her outside. Older cats who are used to the "great outdoors" can make the transition to being indoor cats with time and attention. For more information on the risks to outdoor cats or converting your feline to life inside, contact us at the number below. We'll be glad to help you provide your cat with a happy and safe life inside with you.

NEW YORK STATE HUMANE ASSOCIATION  
PO BOX 3068 - KINGSTON, NY 12402

Provided by The Humane Society of the United States.

# A Quick Guide to Rabbit Care...

...because bunnies need more than carrots and a cage.

Rabbits are intelligent, social—and cute!—animals who make wonderful companions. The problem is, too many people think of them as “low-maintenance” pets, when in reality they require lots of care and attention. Whether you’ve had a pet bunny for years or are about to bring one home for the first time, follow these simple guidelines to keep your rabbit happy and healthy.



**Caging.** Like all companion animals, rabbits should be kept inside with the family. Although rabbits should be given supervised run of the house, they need a place of their own for security and quiet time. Rabbits’ cages should be spacious to give them room to exercise and stretch out. For a 6-pound rabbit, the cage should be at least 24 inches wide by 18 inches high by 24 inches deep. A large cage, however, is no substitute for socialization and running time around the house.

**Housetraining and Bunny-proofing.** You can help make housetraining easier for your rabbit by placing a litter box inside the cage and at least one outside the cage, too. Before you let your bunny run around the house, make sure all electrical cords are concealed. Rabbits are natural chewers, so give them chewing material to deter them from chewing furnishings.



**Handling.** If you have children, supervise them with the rabbit and make sure they never pick the rabbit up by the ears or let the body hang (a rabbit’s weight must always be supported with another hand). A rabbit’s natural instinct is to be close to the ground, so try sitting on the floor until your rabbit becomes more comfortable being handled.

**Feeding.** Provide your rabbit with fresh water daily, and clean the water bottle frequently. When feeding your rabbit, remember that moderation is the key. A rabbit’s diet should consist of a reputable brand of pellets; greens such as parsley, dandelion greens, and carrot tops; and small quantities of snacks such as golden raisins, shredded wheat, and dried bread. Never feed your rabbit lettuce, tomatoes, cabbage, or table scraps; these foods can cause bloat and diarrhea. Make sure your bunny has fresh hay available at all times for chewing and roughage.



**Health Concerns.** Bunnies have sensitive respiratory and digestive systems. Because rabbits cannot vomit and are susceptible to fatal blockage, it is essential they be fed a proper diet and be groomed regularly to prevent hair balls (use special grooming tools, never scissors). Because your rabbit’s teeth grow continuously and are susceptible to a condition called malocclusion (improper bite), you must check the teeth regularly. To learn more about rabbit health concerns, consult your veterinarian.

**Spaying and Neutering.** Spaying or neutering your rabbit not only helps fight rabbit overpopulation, but also improves litter box habits, corrects chewing behavior, and decreases territorial aggression. Have your rabbit sterilized between 3 1/2 and 6 months of age by a veterinarian experienced in rabbit care and surgery.



**Supplies.** *Housing:* roomy cage, resting board, litter box, pellet bowl or feeder, water bottle, chewing material (such as untreated wood approved for rabbits). *Foods:* fresh pellets, fresh water, limited treats (veggies, fruit, barley, oats, crackers), hay (for chewing and to aid digestion), multiple enzymes (to aid digestion and prevent blockage), and petroleum laxative (for passing hair). *Grooming:* flea comb, brush, and toenail clippers. *Cleaning supplies:* dust-free litter (or paper-product litter), scoop, broom/dustpan, white vinegar (for urine accidents), and chlorine bleach (for disinfecting).

NEW YORK STATE  
HUMANE ASSOCIATION, INC.  
PO BOX 3068  
KINGSTON, NY 12402

## HORSE CARE INFORMATION

Keep animals in a clean, sanitary shelter that is dry and draft free.

Maintain stalls free of sharp objects and with ample natural light.

Remove manure and damp or dirty bedding. Flies multiply around these and lower a horse's or pony's resistance to disease. They also suck its blood, pass on diseases, and cause the animal to become confused and irritated because of the constant need to fight off pests. Good commercial sprays are helpful, as long as they are not sprayed on feeds, in water, or in other areas where they can come into contact with animals. Haul manure away or spread thinly on pastures twice a week, keep stalls dry, and remove garbage or waste materials.

Use a level-clay or packed-gravel floor.

Supply clean water daily. Be certain that water is not frozen during the winter.

Groom a horse or pony frequently during its early life, to promote good health and to help it be more manageable and trusting.

Since internal parasites are common in horses and ponies, arrange for a veterinarian to check a young animal's fecal sample every three months.

Castrate young colts between one and two years of age.

Check fences and corrals for loose posts.

Do not allow a blanketed horse or pony to stand in the rain. Do not halter a horse put out to pasture, because a wet halter can shrink and injure the animal.

Provide a horse or pony that is out to pasture with shade and water.

A good pasture has green grasses or mixtures, including alfalfa or clover (not grazed over or one- or two-inch stubble), and is clipped to prevent high growth and weeds.

If necessary, use several feed boxes (in a group, one animal may try to dominate the others). During winter, or when pastureland is inaccessible, provide clean, sweet-smelling hay and good-quality grain. A reputable feed dealer can tell you about feeds.

Watch for digestive disturbances, such as colic. A full, rich pasture can be bad for a horse that is not used to it.

Some owners are guilty of overfeeding and underexercising; do what is best for an individual animal. In general, feed at least two times a day. Give working horses periodic rests.

Protein is important in feeding a horse or pony. Ask a veterinarian about proper protein supplements.

Salt always should be available to horses and ponies whether or not it is in a salt box or mixed with grain. Minerals, calcium, and phosphorus are other important elements in a horse's or pony's diet.

A horse depends greatly on having healthy feet that feel good. Keep feet clean, prevent them from drying out, and trim them to the proper shape and length. Learn the parts of a horse's feet. Clean and check feet for stones, sores, and other problems every day. Talk to a veterinarian about ways to maintain moist hooves and about finding a good farrier. If hooves are not trimmed approximately once a month, the wall of a hoof may break off.

Keep teeth in good condition by asking a veterinarian to check them every few months.

# The Realities of Backyard Horse Abuse

## What it looks like:

Horse abuse can occur anywhere -- from a backyard pasture, to a private or public boarding stable. Whenever a horse owner fails to properly care for a horse, or cares for it erratically, there is potential risk for abuse and neglect.

Some of the signs of backyard neglect include:

- \* **unusually thin, ribby horses**
- \* **lack of condition -- dull coat & glazed eyes**
- \* **untended & overgrown hooves**
- \* **lethargic manner**

Failure to provide proper medical care is also a form of backyard abuse. Symptoms of animals in need of a veterinarian's care include:

- \* **limping (any form of lameness) or extreme stiffness**
- \* **reluctance to move**
- \* **a "sawhorse" stance -- front legs will be extended (sign of founder)**
- \* **any unusual discharge from the nose, mouth, eyes, or wound**
- \* **weakness or distress**

Beating and overworking are also forms of backyard abuse. Symptoms of an overworked horse include:

- \* **cuts & whip welts**
- \* **spur marks**
- \* **tack sores**
- \* **extreme fear, depression, and distrust**

## What you can do:

If you have reason to believe that a horse is in distress, contact the local humane society, SPCA, animal control agency, the state's cooperative extension service, or as a last resort, the police (Sheriff, State Police). When you report a potential animal abuse case to the authorities, give as complete a description of the animal(s) as possible and the date and time you observed the animal. Animal control agencies will also need the exact street address of the animals in order to investigate. Two cautionary notes: 1) **never** trespass on private property; and 2) if you are not knowledgeable about horses, be aware that horses vary in size, and body condition, and may already be under a veterinarian's care. When reporting a case, do not be afraid to give your name. The authorities should not use your name without your permission. Once you do initiate an investigation, follow up, to make sure the situation has been investigated and resolved. If no one is willing to investigate, contact AHPA at (202) 965-0500.

**American Horse Protection Association, Inc.**  
**1000 29th Street, NW, Suite T-100 Washington, DC 20007; (202)965-0500**



PO BOX 3068 KINGSTON, NY 12402

## **FACT SHEET: ADOPTING AN ABUSED ANIMAL - WHAT YOU SHOULD KNOW**

Cruelty to animals takes many forms and can be found in virtually every community. When the laws to protect animals are effectively enforced, authorities often succeed in removing the victims of abuse from the people who had abused them. Frequently, local animal shelters offer such animals for adoption to responsible homes.

One of the major types of animal mistreatment which has come to light in the past several years is that caused by animal *collectors*. An animal collector can be described as a person who harbors large numbers of animals and who, either through ignorance or by design, neglects to feed and water them or provide them with medical care and other needs—to the point where they are starving, sickly, and dying.

When the facility of a collector is discovered by the authorities and animal rescue staff, large numbers of animals in deplorable condition are found on the premises. Animal collector cruelty cases are generally widely publicized, and peoples' hearts are moved by the sad circumstances of these animals. As a result, there is often an outpouring of offers on the part of animal lovers to adopt these animals. Such offers are generous and genuine, but are sometimes made for the wrong reason and without a real knowledge of the problems involved.

### **The Wrong Reason**

Potential adopters must ask themselves: Do I really want a pet? Or am I reacting with a sympathetic humanitarian response to the atrocity of animal abuse? This is a basic question that has to be answered by anyone thinking about adopting an animal from this situation.

While feeling pity and compassion for these animals is a normal human emotion, it should not be the sole reason for wanting to adopt one of them. Adopting a normal animal—one with no problems—because one wants a pet, is in itself an enormous responsibility and entails a change in life-style. To enter into such an undertaking with an animal that is sure to have health, behavior, and emotional problems is something that must be given serious consideration.

### **Health Problems**

Most of the animals rescued from an animal collector will have numerous medical problems, such as heartworm, for example, which will require long-term, special medical attention.

### **Behavior Problems**

Many of these animals are not housebroken. Since they are not familiar with the routine concept of cleanliness, routine methods used for housebreaking may not be successful. Placed in households where two people work, these animals may never be housebroken. An un-housebroken dog requires an enormous investment of time and patience to unlearn bad habits and learn new ones. Depending on how long the animals were in the abusive situation and at what age they were placed there, their behavior problems may not be reversible.

Many abused animals are unsocialized and distrustful of people. Because they cannot be walked on a leash, particular care must be taken with the way they are confined when outdoors, for example, in

a run or a properly fenced yard. Should they escape, it will usually be extremely difficult to retrieve them. Many will react in fear and will try at all costs to avoid being handled by anyone in pursuit of them. Special techniques and equipment used by trained animal control personnel may be required in order to apprehend animals in these situations.

### **Temperament Problems**

Many of these animals require much patience to accept their new owner as a friend. It is very disheartening to rescue an abused dog, expecting some gratitude, only to find that the dog hides, will not eat in front of you, runs when you call, and prefers to be left alone.

Extraordinary efforts are required to train and socialize them. It is a lifetime commitment. Some of this unsociable, fearful, depressed behavior can be overcome with time, but often these animals remain on the periphery of family life.

### **Eating Disorders**

Abused dogs have often been deprived of food and water for long periods of time. As a result, many of these animals have eating disorders. Often they will gulp their food and then vomit, or refuse to eat in front of anyone. Many times they have been forced to eat rodents, cats, or other dogs to survive, so they must be carefully watched around other pets and children.

### **Summary**

This information is not meant to discourage all potential adopters from offering their homes to an abused animal. It is provided so that people are aware of the potential problems that may occur. Although some of these animals can become good pets, a number of them remain intractable and anti-social in spite of heroic efforts. The commitment that must be made in terms of time, patience, training, and health care needs is often beyond what the average pet owner can manage.

After reviewing the facts and asking themselves hard questions, some people recognize that they really do not want a pet: they simply want to do something to help the animals. That is a good and compassionate response and everyone can act on it in many important ways:

- Give a gift of the heart by making a donation to the shelter that will house the animal while the court case is being adjudicated—or give a contribution to your own shelter to help the animals at that facility.
- Obtain from NYSHA a list of legislative bills that deal with animal welfare issues and write letters to legislators and to the media in support of those bills.
- Scrutinize all appeals for support from individuals who indicate that they are harboring large numbers of animals. Learn more about the facility in question. If it sounds too good to be true, it probably is.
- Keep an eye out for animal abuse wherever you see it and report it to local animal shelters and police promptly; follow up on your reports to see if action has been taken.
- Do not condemn animal shelters for euthanizing animals for whom responsible homes cannot be found. They are forced to take this extreme action in order to prevent the kinds of terrible suffering that results when animals are confined for long periods in unacceptable conditions or fall into the hands of individuals who flagrantly neglect and abuse them in other ways.
- Most importantly, encourage your family, friends, and work associates to spay and neuter all their companion animals.

## Appendix VI

### Articles

The following articles may be of interest to you while preparing for and during the course of investigating animal cruelty complaints.

- [Handling Animal Collectors \(now called Animal Hoarders\), Part 1: Interventions That Work](#)
- [Handling Animal Collectors \(now called Animal Hoarders\), Part 2: Managing A Large-Scale Animal Rescue Operation](#)
- [Cruelty to Animals and Human Violence](#) (teaser), full article available at [/www.nyshumane.org/wp-content/uploads/2015/12/hovell-h-animal-abuse-web-print-2-2020-edition-optim-toc-revised3.pdf](http://www.nyshumane.org/wp-content/uploads/2015/12/hovell-h-animal-abuse-web-print-2-2020-edition-optim-toc-revised3.pdf)
- [The Tangled Web of Animal Abuse: The Links between Cruelty to Animals and Human Violence](#)
- [Children and Animals: A Clinician's View](#)
- [Abuse An Animal – Go to Jail](#)

# HANDLING ANIMAL COLLECTORS, PART I: INTERVENTIONS THAT WORK.

By Geoffrey L. Handy

*This article is the first in a two-part series on handling animal collector cases.*

The scene is a familiar one to virtually every humane agency in the country: A dilapidated house, or perhaps a trailer or even an old school bus, with the smell of urine noticeable from outside...a dark interior, with animals scurrying about, and an overpowering stench that immediately makes the eyes sting and the lungs lock up...tens or even hundreds of animals, usually cats and dogs but sometimes other animals, some in cages or makeshift pens, others given free reign of the place...animals in various stages of neglect, often diseased and emaciated, with afflictions ranging from fleas and ear mites to mange and respiratory infections...feces everywhere, competing for space with open food cans and other trash strewn across urine-soaked floors...almost always, some horrifying characteristic that sets it apart from other cases, such as maggots crawling in animal corpses or dead cats used as bedding...and, finally, the animals' "keeper," an individual who has lost control of the situation, lives in constant denial, and is clearly "addicted to animals," but who doesn't seem to fit any single psychological profile.

Animal collectors crop up anywhere and everywhere, it seems. Collectors have been the subject of increasing numbers of news reports and articles, with coverage in publications as diverse as the *Chippewa Falls* (Wisconsin) *Herald Telegram* and *Cat Fancy*. Humane agencies from Maine to California have struggled to resolve these cases, with mixed success.

"Collectors are not a new phenomenon," says Samantha Mullen, public affairs and programs administrator for



Susan D. Lawson/Daily Press

*San Bernardino County (CA) Animal Control Officer Bob Toliver prepares to remove animals from the home of a 73-year-old woman who had accumulated more than two dozen cats and dogs. Animal collector cases almost always have distinguishing characteristics, and this case was no different: Officials discovered a dead kitten on a paper towel in the collector's oven, apparently put there in an effort to keep the animal warm.*

the New York State Humane Association (NYSHA, P.O. Box 284, New Paltz, NY 12561) and an expert on multiple-animal cruelty cases. "What's new is that they have been *recognized* as a phenomenon, and humane agencies are just beginning to learn how to handle these cases somewhat consistently and effectively."

## Unique Challenges

For investigators and their humane agencies, a collector case is one of the toughest to resolve. Four characteristics in particular set collector cases

apart from other cruelty and neglect cases:

- *Collector cases involve large numbers of animals.* Collectors usually accumulate animals for years before being discovered, and the animals are often in such poor condition by the time they are found by humane authorities that a large-scale rescue operation is essential. To be successful, such operations require significant staff time and volunteer assistance, as well as considerable help from veterinarians, nearby shelters, and the community. Then, dur-



ing protracted court cases, shelters often spend thousands of dollars to rehabilitate and care for the rescued animals, costs which are rarely reimbursed. To compound matters, the animals are usually not accustomed to humans, noise, and other stimulation—and sometimes the animals are unusual or exotic—thus requiring special handling, equipment, and veterinary expertise.

- *Collector cases not only attract media coverage, but often result in mixed media messages.* In fact, the media often portray collectors as victims. Headlines such as “They’re my family” and “Lover of dogs vows to get animals back” are not uncommon. “There’s such a contrast between the image people have of

the collector and the conditions of the animals,” says Mullen. Indeed, investigators may be portrayed as heavy-handed officials with unreasonable standards who go in and heartlessly remove a beloved caretaker’s cats. Thus, humane agencies not only must be prepared to respond to inquiries from the media and the public, but also must strive to educate them about the realities of animals’ conditions and the psychology of animal collectors.

- *Collectors have an extremely high relapse (recidivism) rate.* Take a collector’s animals away without any other interventions, and he or she will likely accumulate the same number of animals within a short period of time. In one recent case, animal control

authorities in Baltimore County (MD) rescued more than 50 pets from a collector, only to discover just two days later that the individual had already acquired more than 20 additional animals. “Collectors are obsessed with animals,” says Mullen. Persuading a collector to release his or her animals into the humane agency’s custody will get those specific animals out of a bad situation. But it will do nothing to prevent the person from starting a new collection and ending up in the same situation as before. A one-time rescue or a prosecution and a fine are rarely, if ever, permanent solutions.

- *Collectors have unusual psychology.* Moreover, they can only be handled

## THE PSYCHOLOGY OF ANIMAL COLLECTORS

By Randall Lockwood, Ph.D., HSUS Vice President for Training Initiatives

*Adapted and condensed from Trends Magazine, December 1993/January 1994, Volume 9, Number 6. Reprinted with permission of the American Animal Hospital Association.*

Who are collectors and what is wrong with them?

Although the problem is widespread, psychologists and other scientists have devoted little attention to cases where multiple-animal ownership has resulted in animal cruelty. The earliest formal study was a 1981 review by Dooley Worth and Alan Beck of 31 such cases handled by the American Society for the Prevention of Cruelty to Animals (ASPCA) and the Bureau of Animal Affairs in New York City. That study gave some support to the traditional characterization of collectors as older “cat ladies” living in isolation, but there was considerable variation in the

demographics of collectors. In that study, more than two-thirds of the people involved were women and 70 percent of them were unmarried.

Most, however, had started their collections early, often in their twenties. In general, these people specialized in either dogs or cats, owning many of one species and a few of the other. Although all of the collectors in this study were somewhat removed from mainstream society, very few had been institutionalized or diagnosed as suffering from acute mental disorders.

Recently, courts have begun to recognize that behavior that can result in such extensive suffering for animals is not a harmless eccentricity. A growing

number of collectors have been referred for psychiatric evaluation as part of the court-ordered assessment of the situation. What has emerged is a rather complicated picture of the processes that can lead someone to allow animal neglect to reach such a severe level.

Very few collector cases simply involve good intentions gone awry, despite the insistence of the collector that he or she loves the animals and wants to save their lives. This is clear to anyone who has witnessed the conditions of filth and decay in which many of these animals are kept and their often advanced state of malnutrition, parasite infestation, and infection. For most collectors, it is likely that their

effectively through an understanding of that psychology. Collectors often exhibit a variety of psychological disorders, with addiction the most prevalent characteristic (see sidebar beginning on page 4). Cases can thus be won or lost on how collectors are understood, approached, and treated. Most collectors can't conveniently be labeled "abusers" and prosecuted to the fullest extent of the law, nor can they simply

be labeled "ignorant" and educated about proper animal care.

### The Prosecution Dilemma

Those four characteristics all contribute to a fundamental dilemma of animal collector cases: Should collectors be criminally prosecuted?

Some argue that collectors are a classic manifestation of good intentions gone awry, and thus criminal

prosecution may not be an appropriate option. However, according to psychologists who have studied collectors, such as The HSUS's Randall Lockwood, collectors' actions are often less a result of good intentions gone bad and more a result of a true pathology.

Furthermore, as Mullen points out, the intentions and motivations of the collector are not the major issue. "The major issue is that animals are suffering, regardless of whether or not the individual in custody of them is mentally ill, inept but well meaning, or just plain mean," she says.

So the question then becomes, is criminal prosecution the most effective way to prevent animal suffering at the hands of collectors? The answer to



Stuart Bauer/The Gainesville Sun

*HSUS Investigator Ken Johnson tries to console Hazel Swindel during a rescue operation in which most of the woman's 150 cats had to be euthanized because of various ailments. "They breded [sic], and I gave homeless cats a home," she said, according to The Gainesville Sun. "I don't want my cats killed. I consider them part of my family." They are familiar words to most cruelty investigators who have worked on collector cases.*

actions are the result of a true pathology, even though they are still usually able to function quite well in society.

Collectors differ in their attitudes, behavior, and symptoms. Several different models have been suggested to

account for their actions:

- *Obsessive-Compulsive Disorder Model.* The impulse to amass a large collection of some item or items...simply for the sake of collecting it, can be symptom-

atic of obsessive-compulsive disorder. What differentiates these people from other collectors is that the collection is often associated with a significant neglect of personal and environmental conditions. Such disorders are more common in women and often have their onset when the person is in her late 20s or 30s. Many animal collectors have been reported to have huge piles of newspapers, bottles, junked cars, and other refuse in addition to their animal collections. In many cases, the onset of the disorder coincides with early or sudden loss of a loved one, usually a parent, spouse, or sibling. This may contribute to the individual's universal resistance to any consideration for euthanasia for their animals and their overriding ability to deny the deteriorating conditions of their animals' health and environment. Such disorders can be quite resistant to treatment. This is certainly true of animal collectors,

that question, too, hinges on the intentions and motivations of the collector, as two recent cases illustrate.

First, take the case of Hazel Swindel, a 61-year-old woman from Starke, Florida, who by last summer had accumulated more than 150 cats in her 600-square-foot ramshackle house. According to HSUS Investigator Ken Johnson, who worked on the case, Swindel seemed to fit the stereotypical collector profile: a person who seemingly means well, takes in homeless animals, abhors euthanasia, loses control of the situation, and ends up causing large-scale animal suffering.

A court ruled that Swindel was unable to properly and humanely care for all of her cats, and all but six of the cats had to be euthanized. The six cats

without serious health problems were treated by a veterinarian, sterilized, and returned to Swindel. Swindel was not prosecuted for cruelty to animals; under direction of the court, however, she is now monitored on a regular basis.

That resolution would not have been appropriate in a different situation, that involving Justin McCarthy of Ellenville, New York. In one of the most notorious collector cases of the last decade, McCarthy kept nearly 1,000 animals in squalid conditions, many of whom were on the brink of death when local law enforcement and humane agencies entered his Animals' Farm Home under court order in November 1987. According to those who worked on the case, the animals on McCarthy's farm did not arrive there

solely by chance; McCarthy actively raised money to operate as a "refuge" and even had a sign-in form for accepting pet owners' animals.

McCarthy was indicted for 25 separate violations of the animal cruelty statute; he pleaded guilty to four of those counts. His ultimate sentence included the stipulation that he and his wife would never again have anything to do with animal sheltering or any related business.

#### Intervention vs. Prosecution

The Swindel and McCarthy cases illustrate the importance of understanding the profile of the individual collector when deciding how to approach a case. Indeed, the classic "education vs. prosecution" dilemma com-

who almost invariably renew their collections if given the opportunity.

- *Addiction Model.* Several professionals, including City of Houston veterinarian Dr. Karen Kemper, have pointed out many of the parallels between animal collectors and substance abusers, thus they apply the term "animal addicts" to the collectors. Traits common to collectors and substance abusers include a preoccupation with the addiction (animals); denial that the addiction exists; alibis for behavior; isolation from society except those who also deal in the addiction, i.e., enablers; claims of persecution; neglect of personal and environmental conditions; and repetition...of the addictive behavior.

- *Zoophilia Model.* A small number of collectors may fit into the category of zoophilia, a psychosexual disorder in

which animals play a major role in the individual's sexual fantasies or practices. Although reports of bestiality in collector cases are rare, there is occasionally evidence of real or symbolic sexual dependence upon some animal in the care of collectors, and for many of these people, animals are the principle givers and recipients of affection. Some cases involving male animal collectors have been associated with large collections of pornographic material.

- *Need for Power or Control.* Most cases of outright animal abuse (e.g., torture, burning) seem to be motivated by a need to exert power over something on the part of an individual who is often otherwise lacking in skills or abilities that might allow him or her to exert power through more normal channels. Samantha Mullen, public affairs and programs administrator of the New York State Humane Association, feels that this is one of the characteristics of

some of the collectors with whom she has dealt. Some collectors who fit this view may beat or otherwise abuse their captives, despite their insistence on their "love" for the animals.

These models are not mutually exclusive; several may apply to a single individual. Regardless of which model best characterizes a particular animal collector, the important point is that keeping a large number of animals in ill-health and unsanitary conditions is both a crime and symptomatic of an illness.

It is ironic that some of the most severe suffering encountered in animal welfare work is perpetrated by collectors who profess to love animals. These tragic situations point out the continuing need to educate our society that animals are not objects to be collected, but living creatures whose physical and emotional needs must be recognized and met. □



mon to many investigations of cruelty has a corollary for collector cases: intervention vs. prosecution.

All collectors need intervention; all collectors do not necessarily need to be criminally prosecuted to the fullest extent of the law. For the stereotypical “cat lady” or “dog man”—an individual like Swindel who continues to accumulate homeless animals and who gradually loses control of the situation—to successfully intervene in the case is to get the animals out of the home, treat and sterilize any animals who may be returned to the collector, and monitor the collector to prevent a similar problem from developing in the future. In many cases, assistance from mental health and adult protection professionals is needed as well.

“The Swindel case wasn’t a situation where we just went in, removed all the animals, and pushed the prosecutor for a full conviction,” says Johnson.

“People in the community donated furniture, helped clean her house, and basically tried to improve the quality of life for this woman as well as for the animals whom she was allowed to keep. It’s important to look at these collectors as human beings, and try to understand, to a certain extent, why they’ve gotten themselves in this situation. Criminal prosecution is not always the solution. We felt that this woman, with help from the community, could take care of a limited number of cats and continue to be a pet owner.”

In contrast to Swindel, McCarthy did not accumulate animals simply because they showed up on his doorstep. He actively raised money for his “sanctuary,” and assured pet owners that their pets would be well taken care of for life. For a case like his, resolution involves not only getting animals out of the situation, but also working toward a conviction of the collector on animal cruelty



Susan D. Lawson/Daily Press

*Regardless of the intentions and motivations of animal collectors, the major issue is that animals are suffering.*

charges. Jail time, fines, and probation may all be appropriate goals, but the ultimate goal for a collector case like McCarthy’s should be to legally prohibit the collector from owning any animals in the future.

#### Linking Solutions with Causes

Thus, in addition to removal of the animals from the premises, successful case resolution generally involves choosing interventions appropriate for the collector at hand. The key, agrees Lauren Joniaux, assistant director for the San Diego Humane Society and SPCA (887 Sherman St., San Diego, CA 92110-4088), “is concentrating on the individuals and why they have that behavior.” Joniaux organized a training session in San Diego last year to educate local humane investigators about the need for interventions on behalf of collectors.

“Sometimes, we get so wrapped up in enforcing the law that we don’t stop to think about why that person was in that situation in the first place,” she says. “Who’s abusing the animals? It’s the individual. We need to help that individual so that the situation doesn’t develop again.”

Humane agencies commonly apply three types of interventions to collector cases, interventions which often overlap in practice. One is a cooperative approach, aimed at working with the collector to improve the animals’ conditions and, in many cases, persuading the collector to voluntarily relinquish all or at least some of the animals and to spay or neuter any they may keep. Another is the securing of a court order that limits the number of animals the individual can keep in the future and/or authorizes the humane agency to monitor the individual either indefinitely or for a specified period of time. The third is a social services intervention to help “treat” the collector.

#### Working With Collectors

The cooperative approach doesn’t work for most collector cases; in fact, it is often just the first step in a progression of interventions. Cooperation is, however, the method least likely to take a sudden, large chunk out of the agency’s resources. It is also a worthwhile approach in those cases where a judge refuses to grant a warrant based on lack of evidence.



Humane agents for the Toledo Humane Society (1920 Indianwood Cir., Maumee, OH 43537) have used this tactic for years. Investigators first attempt to approach collectors as “equals” and work with them to gain control of the situation.

“I first make a determination about the conditions of the animals,” says Diana Murphy, investigations and rescue supervisor for the humane society. “If the animals don’t have to be removed, I try to establish a relationship of trust with the person.”

Murphy and her colleagues often succeed at helping collectors gradually gain control of their situations. Sometimes, however, the cooperative approach simply doesn’t work. After visiting one collector 13 times within a 10-month period, investigators for the Michigan Humane Society (MHS, 7401 Chrysler, Detroit, MI 48211) recently abandoned the approach and secured a search warrant. “We went in with two police officers, a code enforcement officer from the housing department, and a social services worker,” says Timothy Clements, chief cruelty investigator for the humane society.

Clements still cooperates with several collectors, frequently exchanging food for permission to take some animals to a veterinarian or have others sterilized.

“Working with collectors requires making a judgement based on how adequately the animals are being cared for,” says Mullen. “But where do you draw the line? If you can’t convince a judge to issue a warrant, then helping collectors care for their animals may be the only choice. Yet it’s not always realistic to expect an agency to provide the staff needed to conscientiously monitor a collector indefinitely. It’s a bit like asking the humane agency to assign a team of social workers to each collector.”



Janis Kincaid/Daily Standard

*Armed with a search warrant, Clay County (MO) Sheriff's Detective Duane Wiersma searches for animals during an investigation of a suspected animal collector last year.*

### The Court Order

While the cooperative approach can indeed be time-intensive for humane officers, its value lies in helping a collector gain control of his or her situation and in possibly saving the humane agency from the financial drain of a major rescue operation, multiple-animal impoundment, and court-related actions. But the cooperative approach is clearly inappropriate when animals are in dire need of rescue and ineffectual when attempts at cooperation fail. In those cases, court-related actions usually become essential.

In cases where animals are not in need of immediate rescue, but the collector proves unresponsive to humane agents’ requirements, investigators in some states can try to persuade the court to use a tactic called deferred prosecution. Under deferred prosecution, the collector is charged with cruelty but is allowed to keep his or her animals as long as certain conditions are met—such as providing proper veterinary care, food and water, and exercise, or having all animals spayed or neutered. Only after the person fails to meet those requirements are charges activated and the animals seized.

Typically, though, humane investigators must charge the collector with animal cruelty and/or related charges and have the animals removed. (In some cases, agencies may opt to tem-

porarily keep the animals on the premises under the agency’s supervision—a tactic called “on-site impoundment”—until permanent resolution of the case. In other cases, animals can be removed on the basis of zoning or animal limitation ordinances, or through actions in court to abate nuisances.)

Investigators must then push prosecutors for a full conviction—and the goal, in most cases, is to secure a court order. “Investigators may wonder, ‘What do I have to gain from prosecuting an 82-year-old woman?’” says Belinda Lewis, director of animal control for Fort Wayne, Indiana (2225 Dwenger Ave., Fort Wayne, IN 46803). “What you have to gain is the court order that limits the number of animals that this individual can own. It also allows for ongoing monitoring by your agency. Without that court order, you may never get back [on the premises] again.”

Lewis and Mullen both emphasize that, in most cases, a plea bargain (also called a pre-trial diversion) that includes a court order should be considered a desirable outcome of a collector case. “But to get that court order, humane agencies and the prosecutors they work with must be willing to push for full conviction if the collector and his or her attorney prove uncooperative,” says Mullen. “In other words, remember that a plea bargain is a deal made with the defendant; if the defendant isn’t willing to make a deal you find acceptable, be prepared to take the case all the way to a jury.”

“It’s your responsibility to educate your judge or prosecutor,” says Lewis, whose agency has stopped 14 of the last 15 collectors it has investigated. “They’re not going to automatically know that the protective order must state that your agency has the right to inspect the premises at any given time



Craig Van Steenburgh

*Because state and local laws vary significantly with regard to both substance and procedure, humane agencies must work closely with local judges, prosecutors, or other attorneys in pursuing legal remedies.*

over the next 'X' number of years, that adult protective services has access to inspect the premises, or that only 'X' number of animals may be owned by this individual over the next 'X' number of years."

It's also essential, stresses Mullen, for shelters to specify to the judge or prosecutor that the order include the requirement that any animals returned to the collector be spayed or neutered. "This may sound like an obvious point," she says. "But if it's not specified, it's like giving collectors their seed crop."

Effective court orders typically include the following provisions:

- a total ban or limit on animal ownership indefinitely or for a specified period of time;
- a requirement that any animals returned to the collector be sterilized;
- authorization for the humane agency to monitor the collector indefinitely or for a specified period of time, including specific provisions for home inspections;
- a requirement that the collector reimburse the humane agency for the costs of treating and caring for seized animals; and
- release of veterinary records, if needed.

One requirement that should defi-

nately *not* be included in a court order or sentence is that the collector perform community service work at a shelter. This is because working in a shelter will only fuel the collector's addiction, likely causing problems for the shelter. "Requiring a collector to work in a shelter for community service is akin to requiring an alcoholic to work as a bartender," says Susan McDonough, president of NYSHA and an investigator for the New York State Police.

### Collaborative Interventions

Judges can also include social service or mental health requirements in their orders—such as the stipulation that a collector be assigned a caseworker from the local elder services department. Courts usually include such provisions only in those cases where the applicable agencies have already intervened on behalf of the collector.

Lewis suggests that humane groups strive to develop working relationships with the local mental health department, housing department, and other applicable social service offices—and involve those agencies early in collector cases. This usually means educating them about the psychology of collectors and the fact that collectors, while they often can function in society, nonetheless need social services.

Lewis's agency now approaches every collector case in tandem with the Adult Protective Services (APS) department of the Allen County Mental Health Association. "That way, we handle the animal interventions, and APS handles the human interventions," says Lewis. "In many cases, we actually are perceived as the good guys. I think it's vital that animal care agencies approach collectors as a mental health problem with assistance from other agencies and not attempt to

resolve the cases alone."

Sometimes, humane groups can take advantage of specific actions taken by these other agencies. For instance, a health or housing official can often make demands on the collector based on the environmental and zoonotic problems usually created as a result of the collection. They may require, for example, that the house and yard be cleaned up or that an exterminator be hired. Under these circumstances, the collector may perceive the humane investigator to be the "good guy" who offers to take in animals to help him or her comply with the "bad guy's" demands.

Other collaborative actions may be social-service interventions on behalf of the collectors themselves. Humane agencies can ride the coattails of these interventions, too. They include:

- *Eviction.* Collectors often live in violation of health or housing standards, and eviction may be ordered by the local health or housing department. The humane agency then offers to care for the animals until the collector can find a place for them; faced with the prospect of abandonment, the collector accepts. "We have an impound fee, and this is an emergency impound for us," says Lewis about the collector evictions her department has handled. "We essentially price the collector out of getting the animals back." (This strategy can backfire, however, when the collector knows like-minded individuals who may agree to temporarily house the animals. Thus humane agencies must be prepared to secure a warrant in situations where the animals are in need of immediate rescue.)

*72-hour evaluation.* Sometimes called a 72-hour commitment, this occurs when a person appears to be mentally ill and poses a danger to himself or herself. The mental health agency peti-



Mike Urban/Times News

*This police officer and board of health officer accompanied investigators from the Tamaqua (PA) SPCA during a recent search of a home of two suspected animal collectors.*

tions the court for an order to have the collector placed in a psychiatric facility for evaluation for 72 hours. Here, too, the animals are involuntarily abandoned, and the humane agency may be able to impound them without a warrant of its own (although a separate warrant secured by the humane agency is always recommended). Under 72-hour commitments, patients are often judged to have some kind of mental incapacity; thus, the humane agency can later make a strong case, in arguing for a court order prohibiting or limiting future ownership of animals, that the collector's mental health problem led to the conditions of the animals.

- *Guardianship.* In cases of severe mental impairment, another adult is appointed the guardian of the collector and is responsible for acting on behalf of the collector in every legal capacity. Not only can guardians immediately sign animals over to the shelter, but they can also assist the agency in monitoring the collector in the future so that recidivism is prevented.

These collaborative interventions only work when the humane agency has developed a good working relationship with social service organizations. More common and frustrating, however, are those cases where individuals are judged mentally and/or emotion-

ally competent by social service professionals or those professionals prove unresponsive to humane agencies' requests for assistance. In these cases, humane officers themselves are frequently thrust into the role of counselor or psychiatrist, and they must rely on cooperation or court-related interventions to resolve the case.

### **An Ounce of Prevention...**

Regardless of other interventions—including any specific requirements mandated by a court order—a long-term solution involves continual monitoring to prevent the collector from starting the collection anew. Such monitoring is always time-intensive, but failure to follow up on a court order can have disastrous consequences. In one case in the Midwest less than two years ago, a humane society was successful in securing a court order limiting a collector to seven cats, all of whom were sterilized. Accompanied by a veterinarian, the agency rechecked the animals one month later and found only minor problems with the animals' care. But humane society personnel were devastated earlier this year when the collector's house burned to the ground: Among the ruins were the charred bodies of more than 20 cats.

Developing a cooperative relationship with the collector can be particularly helpful in monitoring the individual's behavior. "When the collector trusts you enough to call on you when there's a problem, or when you are welcome in their home, you're generally going to have better luck at making sure the animals are being taken care of properly," says Toledo's Murphy.

Regardless of the level of cooperation, however, humane officers should take responsible action when a known collector moves: they should notify their counterparts in the area of the

collector's new address so that regular monitoring can continue.

Finally, humane agencies should keep in mind that collectors don't accumulate animals overnight. "Animal collectors are generally people who function normally in society and begin by taking in strays or accepting pets discarded by others," says Robin Weirauch, program coordinator for The HSUS Great Lakes Regional Office. "At some point, they find they have trouble keeping their home clean, and stop inviting people over. Eventually, they lose control."

But until that loss of perspective becomes apparent from the outside, collectors are usually hard to spot. Mullen says she often recounts the story of a rescue in a home in South Carolina, where investigators discovered five cats and a dead dog amid piles of garbage and leftover food. In the bathroom hung a sparkling, freshly washed nurse's uniform.

"Those kinds of situations make prevention difficult," says Weirauch. "How can you know what's going on inside someone's home? But what humane agencies *can* do, as a routine matter, is investigate reports of potential collector situations on a regular basis. These are the calls about 'an awful stench coming from next door,' general complaints about neighbors 'who seem to have a lot of cats,' or other curious reports. After all, the best way to handle collectors is to try to prevent them from becoming collectors." □

*Part 2 of this article, to be published in the July 1994 issue, will provide information about managing multiple-animal rescue operations, identifying legal justifications for removing animals, finding ways to defray impoundment and related costs, dealing with the media and the public, and handling adoptions of rescued animals.*



# HANDLING ANIMAL COLLECTORS, PART 2: MANAGING A LARGE-SCALE ANIMAL RESCUE OPERATION

By Geoffrey L. Handy

*This article is the second in a two-part series on handling animal collector cases.*

When officers for the Brazos Animal Shelter and Humane Society/SPCA (P.O. Box 4191, Bryan, TX 77805) first received complaints about a large number of animals being kept in poor conditions last summer, they weren't entirely prepared for what would come next. Soon, however, those officers and a slew of people assisting them were hard at work rescuing 438 animals confined in filth by their keeper.

Dogs and cats seemingly did not appeal to this animal collector. Instead, his menagerie included 117 rats, 57 gerbils, 49 mice, 39 chickens, 23 hamsters, 17 squirrels, 9 opossums, a European hedgehog, and more than 100 birds ranging from finches to small quail. By the time the shelter had wrapped up the case, it had received assistance from nearby humane societies, several exotic-animal veterinarians, the local game warden and health department inspector, city attorneys, a U.S. Army Medical Center, the Texas A&M Veterinary Medical Center, Ryder Truck Rental, numerous other agencies and businesses, and a host of volunteers.

"We went in thinking there were maybe a hundred animals," says Kathy Bice, executive director for the agency. "When we took an inventory and realized that we had not a hundred, but over 400 animals, the adrenaline started rushing. That day was a 14-hour day, and so were the next three."

## Managing the Crisis

For staff and volunteers of animal care and control agencies, the rescue operation is the most intense and emo-



Tom Price/Free Lance-Star

*Stafford County (VA) Animal Control Officer Cliff Cusick heads for his vehicle with two cages of cats rescued from the home of an animal collector.*

tional part of any animal collector case. Achieving a long-term solution to the case is the ultimate goal, but alleviating the suffering of the animals at hand becomes the immediate focus.

"Large-scale rescue operations invariably force shelters into crisis mode," says Samantha Mullen, public affairs and programs administrator for the New York State Humane Association (NYSHA, P.O. Box 284, New Paltz, NY 12561). "There is just so much that needs to be done."

Not only must humane agencies assemble their own teams of staff and volunteers, but they must also call

around for help from veterinarians, local businesses, and other humane groups. Not only must they coordinate the removal of scores of animals, but they must simultaneously document the cruelty and neglect. Not only must they spend time and money gathering everything from extra carrying crates to surgical masks, but they must also figure out ways to defray the costs of caring for multiple animals. And not only must they work to educate judges and prosecutors about what interventions are necessary, but they must also strive to educate an often fickle media and public that the collector is anything but an animal savior.

This crisis mode is especially acute when the sheer number of animals pushes the agency to its limit. "Agencies that find themselves overwhelmed in a big case or other demanding situation often do not have the time to call around for help," says Mike Oswald, former director of Multnomah County Animal Control (2115 S.E. Morrison, Portland, OR 97214). "All of their time is committed to managing the crisis."

Oswald urges shelters in nearby areas to "put themselves in the shoes of the agency suffering through the crisis." Indeed, a support network of agencies is crucial for handling any large-scale case or disaster involving animals. In many states, humane federations can serve as networking organizations for local agencies in need.

Belinda Lewis, director of animal control for Fort Wayne, Indiana (2225 Dwenger Ave., Fort Wayne, IN 46803), offers this caveat, however: "The lead agency should be careful to maintain control of the case: It is their case, and they're responsible for not only accurately documenting the conditions of the animals but also making sure other agencies know where their roles begin and end." One helpful tool

## EQUIPMENT AND SUPPLIES LIST FOR ANIMAL RESCUE OPERATIONS

### SUPPLIES

- Pocket tape recorder and extra tapes
- Collars that can be written on (to record ID numbers and sexes of animals), preferably cardboard encased in plastic (sturdier collars and tags must be applied later)
- Leashes
- Muzzles
- Catch poles
- Gurneys
- Scale
- Gloves (both rubber and bite-prevention)
- Flashlights
- Folding tables (for veterinary exams)
- Airline carriers (or other strong but lightweight cages for transporting animals)
- Resealable bags for gathering evidence (food samples, etc.)
- Emergency medical supplies (from veterinarians)
- First-aid kit for humans
- Surgical/dust masks
- Tubes of mentholated ointment, extract of clove, or extract of spearmint (which can be applied to rescuers' surgical masks or around their nostrils to make strong odors less bothersome)
- Body bags for dead animals found on-site or for those who may have to be euthanized on-site
- Plain, carbon, and lined paper
- Clip boards (and plastic coverings in case of rain)
- Large supply of pens and thick felt-tip markers
- Adhesive tape to use for labeling evidence, marking on carriers, etc. Camcorder, Polaroid™ camera, 35mm camera, and film (200 speed works well for 35 mm)
- Portable lights
- Back-up camera lights, batteries

*Continued in third column*

for establishing agency responsibilities is a written agreement. (See page 11 for a sample contract developed by NYSHA.)

### Be Prepared

Even with the cooperation of nearby facilities, shelters may still lack the space to house all rescued animals. "While obstacles like lack of space are some of the toughest to overcome, no humane law enforcement agency can let animals languish in bad conditions because they feel they don't have the space or don't have other necessary resources," says Sally Fekety, associate for animal care and control for The HSUS.

That means finding creative solutions to problems. For one case involving more than 200 cats, Fekety remembers driving nearly two hours to a cat fanciers' show to purchase, at a discount, 50 cages from an equipment supplier exhibiting at the show. The shelter she worked for at the time, the Humane Society of Huron Valley in Ann Arbor, Michigan, set up cage banks in the basement of a small house the shelter had previously used for storage. The basement even included a treatment area. "The case cost our shelter a lot of money, although by the end of it we had received quite a few donations and some new members," says Fekety. "But thanks to the cooperation of staff, volunteers, and veterinarians, we managed to handle the case and care for the animals quite well."

Ensuring adequate space and care arrangements is just one of a host of vital preparatory tasks. "Have you appointed a reliable media spokesperson?" says Lewis. "Do you have facilities designated for large, aggressive animals? Do you have the facilities and supplies for the euthanasia of many animals with sodium pentobarbital? And, assuming you will be performing a large number of euthanasias, have

### FORMS AND OTHER ESSENTIALS

- Search warrant or other form authorizing your presence on the property of the person being charged
- ID badges, especially for non-uniformed rescue workers
- Lined pad (or prepared form) for ID listing. Information recorded for each animal should include medical condition, brief description, ID number assigned at time of rescue, and destination (for those situations where many animals are being sent to various shelters or other holding facilities until a legal determination about the animals can be made).
- Agreement form for those responsible for foster care
- Veterinarian evaluation form to record each animal's condition
- Euthanasia authorizations
  - For veterinarian's signature
  - For animal owner's signature (for use in those rare cases in which owner voluntarily gives permission for euthanasia of some of his or her animals)
- List of important phone numbers

you contacted the rendering company to come the day of the rescue?"

To that list of questions Mullen adds another: "Do you have enough cage and kennel space to ensure that unsterilized males and females are kept separated? I've seen too many shelters mix them up 'temporarily,' only to regret it later after the animals bred. Shelters must *never* allow animals in their care to mate."

Finally, there's the job of collecting all the needed equipment and supplies. "Everything should be double-checked in advance, from extra leashes to back-up camcorder batteries to a supply of medical evaluation forms for assisting vets," Mullen says.

### The Team Approach

Of course, adequate human resources are even more essential; it's



common for humane agencies to underestimate the number of staff and volunteers needed for particularly large rescues. And bringing diverse staff and volunteers together to make an effective rescue unit is always a challenge.

Most agencies succeed in improvising based on the circumstances of the case, the number of staff and volunteers available to help, and the types and conditions of the animals. The Loudoun County Department of Animal Care and Control (Route 1, Box 985, Waterford, VA 22190) did just that when it rescued 317 neglected sheep from a local farm.

"We had a number of specialized volunteers helping," said Animal Care and Control Administrator Barbara Cassidy. "We had several people on horseback rounding up the animals on site, we rented livestock haulers to transport the sheep back to the shelter, and we got a friend to bring in her trained sheepdogs to herd the animals into one confined area on the shelter property."

At the shelter, Cassidy and her staff set up a triage operation. One person would straddle and restrain the animal and then administer an oral dosage of worming medication. Another would examine the animal's hooves and apply nontoxic spray paint to the rump of the animal; the color of the spray paint indicated both the animal's sex and whether or not the animal needed additional hoofwork or other veterinary intervention.

Several years ago, NYSHA and the Ulster County (NY) SPCA, in consultation with the American SPCA in New York City, devised a systematic way to conduct multiple-animal rescues using teams of staff and volunteers. Here's how it works:

Before traveling to the rescue site, a coordinator from the lead agency briefs

all staff and volunteers about the case, appropriate behavior, and other matters such as who the designated press contact is. He or she then assembles several teams of five persons each. Each team consists of a team leader, a veterinarian, a photographer, a recorder, and an animal handler. (The number of teams depends primarily on two factors: the number of animals and the number of veterinarians available.) In addition to the teams, several experienced animal handlers are designated as "runners"—those who catch animals and bring them to the teams.

The team leader, usually a shelter staffer, advises team members about individual responsibilities. He or she also records the name, address, telephone number, and organization of each team member; not only is this information essential for case records (and may even be required by local police), but it also makes it easier to send out thank-you notes after the rescue. Each team member is also given a stick-on identification badge.

Once allowed on the property by authorities, teams set up work stations. Then, a "runner" catches each animal and brings him or her to the animal handler for one of the teams. The team handler restrains the animal while the other team members perform their roles, and (under veterinary supervision) provides the animal with water and/or other sustenance. The team recorder writes down information about the animal, including the animal's assigned identification number, a description of the animal, and the animal's eventual disposition. The team photographer takes a picture of the animal. The team veterinarian examines the animal and completes an evaluation form (for sample, see page 10). The animal is then either taken to a special area designated for on-site



Sylvia Sterling

*Before: Staff and volunteers participating in a large-scale rescue in New York are briefed by NYSHA's Samantha Mullen (standing in center of circle) at a police station before being divided into teams and traveling to the rescue site.*



Sylvia Sterling

*During: At the site, team veterinarian Holly Cheever (upper left) examines a dog held by her team's handler and dictates information to the team's recorder while another team member prepares for the next animal.*



Sondra Woodvine/UCSPCA/NYSHA

*After: At the facility, NYSHA's Patricia Valusek and Mullen record dog identification numbers.*

euthanasia, or provided an identification collar and put in a carrier for transport.

### Documenting Cruelty

Although attending to the animals' suffering must be the top priority, investigators should be careful to accurately document the cruelty and neglect with both video and still photography. Mullen offers the following tips:

- On a large index card or plain sheet of paper, write the identification number assigned to the animal, sex of the animal, and date in large, broad strokes using a thick, felt-tip marker.
- Have someone hold the identification card very close to the animal being photographed so that the card appears in the photo.
- Have the photographer stand only about four to five feet away.
- If possible, position animals so that special markings or wounds and other signs of debility will be visible in photographs.
- Take close-ups of overgrown nails, wounds, or other signs of neglect, being careful to include the index card with identifying information in each photo. To demonstrate that close-up photographs are of the same animal, take a short series of photos, gradually increasing the degree of close-up with each one.
- Take two still photos of each animal, one using a 35 mm camera and one using a Polaroid™ camera.
- Try not to photograph consecutively two animals who appear very similar, to avoid possible confusion over whether the same animal was photographed twice.
- If animal handlers are included in any photos, remember that both attire and facial expressions are



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*Because photographs of smiling faces at cruelty sites can be misconstrued by judges and jurors, humane investigators must be careful to avoid taking such photos.*



Sondra Woodvine/UCSPCA/NYSHA

*Each photograph documenting cruelty to an animal should include the animal's assigned identification number.*

important:

- Uniforms or coveralls are best, although jeans and plain shirts are acceptable. Ragged clothing and T-shirts with artwork of dubious taste are not.
- Even during a rescue mission in a tragic animal abuse case, moments of levity will undoubtedly be shared by some of the rescuers

to break the tension. *Beware of recording such moments on film.* A photograph of an apparently jovial person handling a suffering animal would send an extremely confusing message to the judge or jurors examining the evidence in a cruelty case. So too would "gallows humor" picked up by the sensitive microphone of a camcorder. Remember that *all* photographs, recordings, and other evidence gathered at the scene become part of the legal case against the defendant. This evidence is subject to scrutiny by defense attorneys.

### Who Pays the Costs?

After the animals have been photographed and removed from the abusive situation, they all too frequently remain in the humane agency's custody for a long period of time pending the outcome of the case.

Virtually every humane agency that investigates animal cruelty has been left holding the bill for long-term impoundment of animals. For multiple-animal cases, these bills frequently amount to tens of thousands of dollars. Even if a court rules that a multiple-animal owner pay restitution to the impounding agency, it's a rare case indeed in which the owner has any money to give.

Financial costs are just one drawback. Long-term impoundment is an especially cruel fate for animals who have already suffered through neglect. Vicky Crosetti, executive director of the Knox County Humane Society (P.O. Box 9479, Knoxville, TN 37940-0479), expresses a frustration familiar to many shelter personnel: "It's one thing to look at animals in the shelter for a short time," she said after caring for eight animals for more

than ten months. "But you get very attached to animals you hold for a long time, and you live with the knowledge that while they're much better off in the shelter than they were in the place you rescued them from, they're still in an abnormal situation. Where they really belong is in an adoptive home."

Because voluntary surrenders are rare, states and localities have struggled to devise effective ways to address the cost and stress issues. Tactics such as on-site impoundment and deferred prosecution can help, but they are not

always appropriate options.

To help protect shelters from the costs of care, many states prohibit rescued animals from being returned to their owners until the owners have reimbursed impounding agencies for the costs of the seizure and care. As long as the impounding officer follows prescribed rules for seizure, no conviction on animal cruelty charges is needed. If the owner does not pay within a certain period of time (e.g., ten days), then the humane agency takes ownership of the animals.

### Putting the Burden Where It Belongs

These laws help, but humane agencies can still end up in the proverbial poorhouse after animal collectors fail to pay required restitution. A recent legal innovation, however, can prevent these situations from developing in the first place. Enacted by at least two states (Minnesota and Missouri) and several localities, so-called "security bond" laws require the animals' owner to guarantee payment *up front* for the costs of long-term impoundment. If such payment is not guaranteed within

## REMOVING ANIMALS FROM COLLECTORS: LEGAL JUSTIFICATIONS AND PROCEDURAL CONSIDERATIONS

Whether animal collectors are criminally prosecuted or given other appropriate interventions, an investigator's first priority should be the removal of animals in danger from the collector's premises.

Occasionally, in cases where animals have been neglected but are not in a state of severe suffering and the collector is reasonably cooperative, a humane agency may keep the animals on the premises under the agency's supervision until the case is resolved. Sometimes, regardless of the conditions of the animals, on-site impoundment is dictated by the sheer number of animals on the property.

Typically, however, physical removal is the only appropriate action.

Investigators do occasionally succeed in persuading the collector to voluntarily sign over the animals, but they often rely on one of five legal justifications for removing them:

- *Animal cruelty laws.* State animal cruelty laws and local animal care and control ordinances are the usual justification for removing animals from collectors and otherwise resolving collector cases. By far the most common charge filed against collectors is cruelty to animals, but prosecutors often add charges such as failure to vaccinate animals and failure to provide necessary veterinary care.

- *Public health ordinances.* Collectors often live in violation of local health codes—from poor sanitary conditions to improper disposition of dead animals. Public health officials—and in some jurisdictions animal control authorities—can sometimes remove animals on the basis of violations of such codes.

- *Nuisance laws.* These laws protect neighbors and the public generally from persons who use their property in unreasonable, annoying, or injurious ways. A collector's operation will often create problems—such as noise, stench, or wandering animals—that affect neighbors' properties or a larger public interest. In such cases, the

neighbors or the municipal government, depending on the scope and scale of the impacts, can seek an injunction from a court to abate the nuisance. Removing excess animals from the collector's property can be part of the remedy petitioned for, if not the central remedy.

- *Animal limitation ordinances.* The typical animal limitation ordinance limits the number of dogs and cats people in the jurisdiction are allowed to keep. Exceptions are usually made for the operation of licensed kennels and catteries, which must meet specified standards to be licensed.

*Continued on next page*



a short period of time, the impounding agency can adopt out or euthanize animals at its discretion.

Security bond laws generally take the form of amendments to existing laws regarding the disposition of seized animals. Minnesota's law authorizes animals seized under warrant to be "humanely disposed of [i.e., adopted or euthanized] at the discretion of the jurisdiction having custody of the animal seven days after the animal was taken into custody." Such disposition may be prevented by the animals' own-

ers *only* if they post "a bond or security in an amount sufficient to provide for the animals' care and keeping for at least 30 days." The bond is renewable in 30-day increments. Even in cases where a court order prohibits disposition of animals (e.g., for evidence), that order must provide for a bond or other security in the amount necessary to protect the sheltering facility from incurring costs.

*Continued from previous page*

- **Zoning ordinances.** These ordinances typically regulate everything within prescribed community "zones," from the types of buildings allowed to the height of street signs. Enterprising investigators have successfully rescued animals from collectors by persuading zoning commissions or other applicable agencies to enforce zoning ordinances that prohibit the operation of kennels or catteries.

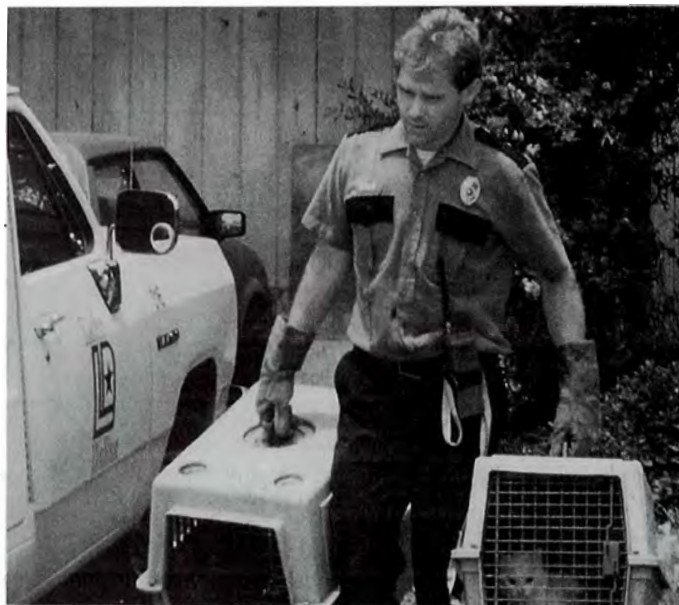
Each of these five legal justifications comes with its own procedural requirements, which vary from state to state and locality to locality. Common procedures for removing animals include:

- **Obtaining a warrant for search and seizure.** In what is by far the most common process used to remove animals, the humane law enforcement agency secures a warrant from a court in advance of the rescue. Fort Wayne's Belinda Lewis offers this caveat, however: "If a humane law enforcement agency secures a warrant, it doesn't necessarily mean that

it has the authority to serve that warrant. It may need to call in a police agency to assist in serving the warrant." Humane agencies, of course, must always be aware of the scope and limits of their enforcement authority, and they may find police support helpful for particular cases even when they themselves do have enforcement authority.

- **Removing animals based on exigent circumstances.** Exigent circumstances are those with such dire, immediate, and obvious consequences (e.g., an animal on the brink of death) that a court does not require a warrant in advance of the seizure (but requires a hearing after the seizure). Because such removals run the risk of violating constitutional protections, agencies must be particularly careful when

"One county [in Minnesota] spent over \$13,000 on horses who were unsound in every way," says Shirley Taggart, president of the Minnesota Federated Humane Societies (810 N. Lilac Dr., Ste. 206, Golden Valley, MN 55422). "The security bond law puts the responsibility for the costs of



Mark Brightenburg/Lake Cities Sun

**Armed with a warrant, Lake Dallas (TX) Animal Control Officer Steve Dickens removes cats from the home of an animal collector in a case handled by the city last year.**

removing animals without a warrant.

- **Removing animals under an order from another authority.** In some jurisdictions, police or health departments can order humane agencies to remove animals for violations of public health and nuisance laws.

**Because state and local laws vary significantly with regard to both substance and procedure, humane agencies must work closely with local judges, prosecutors, or other attorneys in pursuing legal remedies.** □

caring for such animals back on the owner where it belongs.”

According to Taggart, the Minnesota state legislature passed the law in 1991 after a rash of multiple-animal abuse cases siphoned off already-scarce county funds; the legislation had the backing of the state sherriffs' and county attorneys' associations.

Indeed, costly collector cases seem to be the best impetus for the enactment of such laws: The Loudoun County, Virginia, legislature passed its version of a security bond law after two collector cases drained more than \$135,000 from county coffers. (Nonprofit humane agencies that are reimbursed by city or county governments for animal-impoundment costs may wish to suggest such laws to local officials as well.)

Loudoun County's version of the law includes a special wrinkle. Under Virginia law, animal owners who neglect their animals can be charged under a special “unfit owner” clause, and the case must be heard within ten days. Loudoun County requires that the owner post a security bond within ten days as well. Thus, “unfit owner” cases—which frequently apply to col-

lectors—are heard *before* the owner is forced to post a bond.

That's what happened in the case involving the 317 sheep. “When the animals' owner saw that he would have to post the bond if he appealed the case, he signed them over to us immediately,” says Barbara Cassidy. “The security bond law is a total deterrent to

frivolous appeals.” According to Taggart, the Minnesota law has been applied four times and no one has yet posted the security bond; instead, each owner has relinquished the animals to the humane law enforcement agency involved.

(For details on the security bond law passed by Loudoun County, Vir-

## SAMPLE AGREEMENTS FOR SURRENDERING ANIMALS TO HUMANE AGENCY AND AUTHORIZING EUTHANASIA

*Although agreements such as the two that follow are not likely to be accepted by the defendant, it is very worthwhile to propose them before animals are seized or euthanized. They spell out certain bargaining terms and help make clear to the judge, the defendant's lawyer, and other relevant parties that the humane agency is seeking a reasonable as well as humane solution. Note: Animal owners must never be made to sign agreements like the following under duress, even though the forms may indicate that the signee has not been coerced; some individuals have brought successful suits against humane agencies by claiming that they were coerced into surrendering animals.*

**AGREEMENT FOR SURRENDERING ANIMALS TO HUMANE AGENCY**

I, \_\_\_\_\_, of (city), (state), relinquish the following animals to \_\_\_\_\_ (insert name of one or more duly incorporated humane agencies):

(list categories and identification numbers of animals to be relinquished with brief descriptions)

I understand that (name of agency) will make an effort to find suitable homes for my (list all applicable species) following its normal adoption procedures, with certain exceptions, e.g., those that must be euthanized upon recommendation of a licensed veterinarian. I hereby give up all right, title, and interest in the above-referenced animals voluntarily and without coercion or threats of any kind.

Signature \_\_\_\_\_ Date \_\_\_\_\_

**AGREEMENT FOR AUTHORIZING EUTHANASIA**

I, \_\_\_\_\_, of (city), (state), authorize the euthanasia, by a (specifiable species) that test positive for (list heartworm, feline leukemia, or other applicable affliction(s)), or that, in the professional opinion of a veterinarian, are so malnourished, diseased, or debilitated as to require euthanasia to be spared undue suffering. I will hold harmless the veterinarian, law enforcement agency, and humane organization that causes my (list all applicable species) to be humanely destroyed.

Signature \_\_\_\_\_ Date \_\_\_\_\_

The forms and contracts that appear on this and the following two pages have been adapted from the New York State Humane Association (NYSHA). Because state and local laws vary significantly and play a crucial role in the enforceability of contracts, humane agencies must work closely with their legal counsel or other local attorneys when adapting these agreements for their use. In addition, these forms should be ready for use well before they may be needed. □

ginia, see the August 1993 issue of *Shelter Sense*.)

### Other Strategies

Absent security bond laws, humane agencies can pursue several other, albeit less effective, ways to either reduce costs or bring in extra funds. They include:

- Persuading prosecuting attorneys to file motions for expedited proceedings—especially in cases where the animal owner appeals a conviction;
- Persuading the court to allow the humane agency to foster the animals, under written contracts with select foster caregivers, until permanent resolution of the case;
- Persuading local veterinarians, businesses, and nearby humane agencies to donate expertise, equipment, and/or human resources; and
- Appealing for donations through the media.

### Handling Adoptions

Another significant challenge occurs after the shelter secures legal ownership of the animals: placing the animals. Because of publicity, collector cases and puppy mill busts inevitably capture the interest of the public, many of whom transform that interest into a desire to own one of the rescued animals.

As a way to recoup some of the costs of handling the cases, a few shelters have conducted animal auctions, in which animals are literally sold to the highest bidder. Government-run shelters facing funding deficits, in fact, are sometimes instructed to hold such auctions. But, says Ken White, HSUS Vice President for Companion Animals and Field Services, "Auctions do nothing to guarantee the appropriateness of the new owner. Auctions and adoption guidelines simply do not mix."

A close cousin to the auction is the



©1994 Renee Stockdale

*Long-term impoundment takes its toll not only on the shelter's budget, but on the animals themselves; they belong in adoptive homes.*

controlled "sale," a silent auction in which potential adopters are screened after the bidding process takes place. If a bidder does not meet specified guidelines, then the next highest bidder is considered, and so on down the line. These, too, are often ordered by courts as a way to recoup costs. And they offer their own challenges—especially the necessity of telling potential adopters that their bid may be rejected.

Because of the problems associated with auctions and controlled sales, shelters must strive to convince judges to allow them to place animals through normal adoption procedures. "The last

## SAMPLE ANIMAL EVALUATION FORM

*Sufficient copies of a form such as this one should be given to each veterinarian assisting on a case. It spares veterinarians the trouble of devising their own forms and provides the humane agency with a standardized record-keeping format effective for court-related purposes. The form can be filled out by someone taking dictation from the veterinarian (although the veterinarian, of course, must sign the form).*

ANIMAL EVALUATION FORM (WITH RECOMMENDATION FOR EUTHANASIA)

Animal found on the premises of (name), (city), (county), (state):  
 ID# \_\_\_\_\_ Species \_\_\_\_\_ Breed \_\_\_\_\_ Sex \_\_\_\_\_ Weight \_\_\_\_\_  
 Approx. age \_\_\_\_\_ Description (color, markings) \_\_\_\_\_

I, \_\_\_\_\_, a veterinarian licensed in the state of \_\_\_\_\_  
 or \_\_\_\_\_, I am responding to a request by the (list applicable agency  
 or agencies) to evaluate the above-identified animal.

I hereby certify that this animal exhibits the following symptoms:

_____ extreme emaciation	_____ dehydration
_____ excessive hair loss	_____ multiple bite wounds
_____ dermatitis	_____ heartworm
_____ severe itching	_____ respiratory infection
_____ mange	_____ generalized debility

Other (e.g., other afflictions, observations of behavior, etc.): \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_  
 kept on premises \_\_\_\_\_ Date \_\_\_\_\_  
 relocated to \_\_\_\_\_ Date \_\_\_\_\_

Statement to be signed by veterinarian if humane destruction of animal is to be performed:  
 I hereby certify that this animal is so maimed, diseased, disabled, or infirm as to require euthanasia to be spared undue suffering. Euthanasia is appropriate for this animal, whose symptoms are as described above.

Signature \_\_\_\_\_ Date \_\_\_\_\_



thing shelters want to do is put animals who have already been abused into another bad situation," says White.

Adoptions are generally conducted after the shelter takes legal custody of the animals. Some shelters, however, offer adoption "holds," where animals are selected by adopters but held by the shelter prior to the conclusion of the case; the adoptions are conditional on the shelter gaining legal custody of the animals.

For cases involving an extremely large number of animals or particularly heavy media coverage, some shelters have run so-called "lotteries" as a way to make the adoption process run smoothly. Lotteries are used strictly as a traffic-management tool: Instead of having shelter staff face hundreds of potential applicants all clamoring to adopt at the same time, the shelter issues a press release describing the lottery. Those interested in adopting are put into the proverbial hat and chosen at random. Then, the "winners" are given scheduled times to visit the shelter and look over the animals. The shelter is closed to the rest of the public during those times, and animals up for adoption who are not part of the case are made available as well.

While the term "lottery" connotes no adoption screening, responsible shelters apply normal adoption standards to lottery winners, moving on to the next name on the list of lottery winners when an adoption is denied. Those not chosen in the lottery are urged to visit the shelter in the future to adopt a companion.

Regardless of whether adoption priority is determined by random drawing or on the more usual first-come, first-served basis, adopters should always be specially educated about the particular needs of abused or neglected animals, from behavior problems to eating disorders. (See

the sidebar on page 12 for information about obtaining a packet of information that includes a fact sheet on adopting abused animals.)

### Educating the Media

Publicizing special adoption procedures is one of the easiest ways to work with the media on an animal collector case. Much more difficult is educating the media to portray collectors not as caring animal "saviors" but as people who, for reasons that may or may not be worthy of compassion, cause suffering for tens or even hundreds of animals.

"Collectors present an incongruity

that is difficult for the public to accept," says Mullen. "The public often sees issues in black and white: people either intentionally abuse animals or they don't. When presented with an image of a collector who is obviously devoted to animals, the public wants to believe that the charges against that individual are false. It's so hard to convey that someone who professes to love animals is actually causing them to suffer horribly."

The fact that some collectors can be quite sophisticated makes educating the public even more difficult. One collector in the Northeast recently

## SAMPLE AGREEMENT FOR HOLDING ANIMALS

*An agreement such as this one will help cooperating agencies understand the extent and limits of their responsibilities. It should be filled out in duplicate; one copy should be given to the person/organization taking custody of the animal(s), and the original should be retained by the agency organizing the rescue.*

AGREEMENT BETWEEN LEAD ORGANIZATION AND ASSISTING ORGANIZATION PROVIDING FOR CARE OF ANIMALS SEIZED AS EVIDENCE IN A CRUELTY CASE

\_\_\_\_\_, (the "Lead Organization") and \_\_\_\_\_ (the "Assisting Organization"); in consideration of the promises made herein agree as follows:

- The animals identified in Paragraph 3 have been seized pursuant to a court-ordered inspection of the premises of \_\_\_\_\_ located at \_\_\_\_\_
- The Assisting Organization shall provide, pending final disposition of the case at the Assisting Organization's expense for \_\_\_\_\_ animals, identified by the following numbers: \_\_\_\_\_
- The Assisting Organization shall ensure that the above-identified animals are so housed that no breeding takes place and risk of injury to the animals is minimized. Males and females must be housed separately, and such animals that are incompatible with others must be housed singly.
- The Assisting Organization shall assume all liability for property damage or personal injury caused by any animal identified in this agreement. The Assisting Organization shall indemnify, defend, and hold the Lead Organization, its officers, and employees harmless from and against any and all claims and liabilities arising out of any claims or suits, or threats of suits, which may be brought or made against the Lead Organization arising from damage or injury caused by any animal identified in this agreement.
- The Assisting Organization further agrees to abide by any court order providing for the ultimate disposition of the animals. The Assisting Organization acknowledges that such a court order will likely either:
  - allow the Assisting Organization to adopt out, or, as appropriate, euthanize the animals; or
  - require the Assisting Organization to return the animals to the defendant.
- In the event that the Assisting Organization is permitted to adopt out the animals, it shall sterilize the animals prior to adoption. If sterilization of the animals is not financially feasible for the Assisting Organization, it shall notify the Lead Organization of its need for financial assistance.
- In the event the Assisting Organization notifies the Lead Organization of its need for financial assistance, the Lead Organization agrees to help locate sources of funding to defray reasonable costs of spaying and neutering animals seized in connection with this case.

For the Lead Organization:  
 signed \_\_\_\_\_ / \_\_\_\_\_  
 title \_\_\_\_\_ date \_\_\_\_\_  
 address \_\_\_\_\_

For the Assisting Organization:  
 signed \_\_\_\_\_ / \_\_\_\_\_  
 title \_\_\_\_\_ date \_\_\_\_\_  
 address \_\_\_\_\_



Mitch Wojnarowicz

*Images of animal collectors—like this photograph published in an Upstate New York newspaper—frequently contribute to public confusion over collectors, who profess to love animals even as they cause them to suffer.*

sent a well-written press release to local media to counter the facts presented by humane agencies.

Many humane agencies are already painfully aware of the consequences of the media's portrayal of collectors as people wrongly accused of animal cruelty by officials with "ridiculously high standards." Angry attacks on the agency are the all-too-common result.

Animal care and control agencies must strive to educate the media about the animals' actual conditions. More importantly, they must supply the media with information about animal collectors and their psychology, so that the media can report on cases accurately to help the public understand the phenomenon. "It's usually helpful for the agency to assign one reliable person to handle media inquiries about collector cases," says Mullen.

"I actually invited a reporter I'd worked with previously to accompany me in my truck during visits to several collectors," says Timothy Clements, chief cruelty investigator for the Michigan Humane Society in Detroit. The result was an extremely enlight-

ened article that appeared in the *Detroit Free Press*.

To avoid countersuits for defamation of character, agencies should always consult with prosecuting attorneys and their own legal counsel when making statements or releasing information about pending cruelty cases.

#### Ending the Suffering

From working with the media to gathering all the right equipment, the challenges of a large-scale rescue operation are indeed enormous. But humane agencies must never lose sight of their responsibility to end the suffering of the animal victims.

"That means doing whatever it takes," says Mullen. "These cases have a way of taxing shelters' abilities and resources, but there is a silver lining. Not only can they bring the satisfaction of having rescued animals from an intolerable situation, but they can ultimately result in greater public support for the shelter."

"These are the cases we talk about, even have nightmares about, for years," says White. "Shelter personnel and

## NYSHA OFFERS PACKET OF INFORMATION ABOUT ANIMAL COLLECTORS

The New York State Humane Association (NYSHA) has compiled a packet of information about animal collectors that can be useful for local humane agencies that handle such cases. The packet includes:

- A general fact sheet on animal collectors;
- Newspaper and magazine articles ideal for use by local humane agencies to educate the media about animal collectors;
- A fact sheet drafted by Patricia Valusek, vice president of NYSHA, for adopters of rehabilitated animals entitled, "Adopting an Abused Animal—What You Should Know."
- Sample forms and agreements appropriate for collector cases (including those reprinted as part of this article).

To receive the packet, please send \$2 for photocopying and postage to the Companion Animals section, Dept. AC, The HSUS, 2100 L St., NW, Washington, DC 20037, before December 31, 1994.

volunteers will always have memories of what they saw and smelled and felt. These are the memories which assault the senses, sometimes years after the event. But these are also the memories we hold on to in recognition of our own hard work done under seemingly impossible conditions. These are memories we can and should be proud of."





THE CONNECTION BETWEEN

# ANIMAL ABUSE



# HUMAN VIOLENCE

Dr. Harold Hovel  
New York State Humane Association

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New York State Humane Association  
PO Box 3068  
Kingston NY 12402  
info@nyshumane.org

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THE CONNECTION BETWEEN

# ANIMAL ABUSE & HUMAN VIOLENCE

Dr. Harold J. Hovel  
New York State Humane Association

## EXECUTIVE SUMMARY

Animal cruelty is linked directly or indirectly with every type of violent crime, and, what is not as well known, also with most non-violent crime.

Human beings would benefit enormously if fighting animal cruelty (investigating, prosecuting) were taken seriously. Many human lives would be saved and much human suffering would be prevented.

Violent individuals are “made” and not born. Children are born with a love of animals, but the home environment plays a major role in determining a child’s prosocial or antisocial personality and behavior. Child abuse, neglect, abandonment, and witnessing domestic violence are major factors in creating violent individuals, along with poverty, alcoholism, and toxic neighborhoods.

Enuresis, arson, and animal cruelty in children are early identifying factors related to future violence. Early intervention may be effective in changing the pathological path a child is taking.

Many, if not most, juvenile crime offenders and school shooters were involved in animal cruelty. Most violent crimes are committed by young people under the age of 30. A majority of prison inmates were involved in animal cruelty at some time in their early lives.

Dog fighting involves crimes such as drug-dealing, guns, illegal gambling, pet theft, murder, and gang violence. 30 – 35 fatal dog attacks take place annually by dogs trained for fighting.

Serial killers and multiple murderers are often linked to animal cruelty, so much so that it is uncommon to find one who did *not* have a history of animal abuse.

Domestic violence (child abuse, spouse battering, elder abuse) is closely associated with animal cruelty; when one is going on, the other is likely also. Perpetrators use animal cruelty to control women and children in abusive situations. Battered women often remain in abusive situations out of fear for their pet. Animal cruelty is 11x

more likely in domestic violence households than in non-domestic violence households.

Stopping domestic violence is a key to reducing our violent culture. Most violent criminals (60-70%) and violent psychiatric patients were abused as children, and a majority (>60%) started committing animal cruelty at an early age.

Many bullies in schools are linked to animal cruelty and many are subsequently related to criminal acts.

There are more than 5 child fatalities and 3 woman fatalities per day due to domestic violence (“interpersonal violence”).

“Domestic violence” is increasingly designated to include child abuse, woman battering, elder abuse, sibling abuse, and pet abuse.

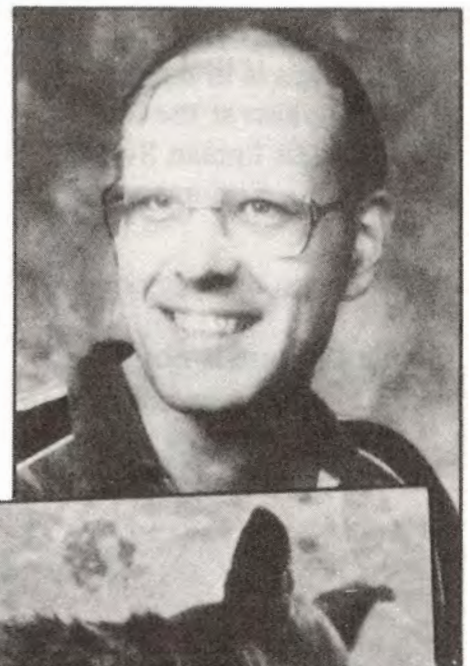
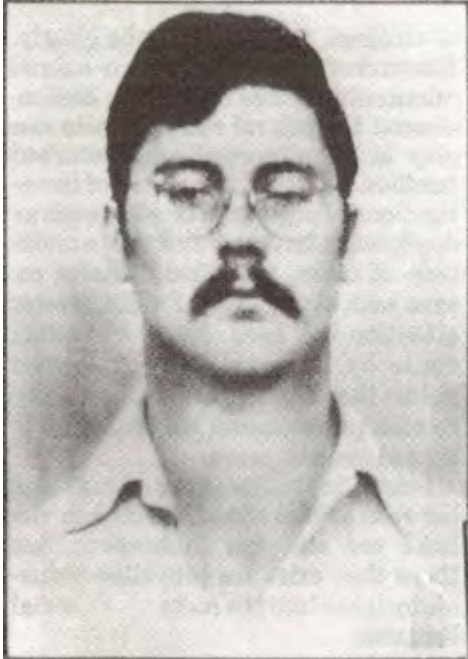
Studies show that toddlers even below the age of 3 are learning from their treatment and their environment at a rapid rate, and prosocial or antisocial personalities are largely determined by the age of 5.



# THE TANGLED WEB OF ANIMAL ABUSE:

## The Links between Cruelty to Animals and Human Violence

—Wide World Photos, Inc.



Four of the most famous violent criminals in recent years had histories of abusing animals: (top left to right) Edmund Emil Kemper III; David Berkowitz; James Oliver Huberty; and (below) Albert DeSalvo.



—The San Francisco Society for the Prevention of Cruelty to Animals



Witnesses said a San Francisco man kicked this puppy to death. When SPCA officials checked police files to see if the accused had a prior criminal record, they discovered he was also wanted on a felony charge. The man later was found guilty of a violent crime and sentenced to the state penitentiary. The link between violent behavior and animal abuse is only now coming to the attention of many in the criminal justice system.



The Humane Society of the United States  
2100 L Street, NW, Washington, DC 20037

“Anyone who has accustomed himself to regard the life of any living creature as worthless is in danger of arriving also at the idea of worthless human lives.”

—ALBERT SCHWEITZER

Animal abuse is not just the result of some personality flaw in the abuser, but a symptom of a deeply disturbed family.

Scientists and lawmakers are slowly beginning to acknowledge the humane movement's long-held position that society's treatment of animals is inseparable from its treatment of human beings.

by Dr. Randall Lockwood and Guy R. Hodge

In 1984, Pennsylvania SPCA officials arrested Dwayne Wright for attacking six dogs with lye in a highly publicized cruelty case. The SPCA reported that “the grisly attacks apparently were committed just to see the dogs suffer.” Before Mr. Wright could stand trial for these offenses in Pennsylvania, however, law enforcement officials in New Jersey requested his extradition to face murder charges in the death of a disabled man. Mr. Wright is presently serving a twenty-year sentence for murder.

Such stories of people who exhibit violence toward both human beings and animals are disturbingly common and come as little surprise to those involved with animal welfare. The belief that one's treatment of animals is closely associated with the treatment of fellow human beings has a long history in philosophy. This idea served as the ethical foundation for the rise of the animal-welfare movement during the nineteenth century.

Despite the widespread historical recognition of the link between cruelty to animals and other forms of violent or antisocial behavior, this connection has, until recently, largely been ignored by law-enforcement agencies, the judicial system, social service agencies, and others in a position to take action. This is not surprising when we consider how long it has taken society to recognize widespread problems of child abuse and other manifestations of domestic violence.

Over the last decade, social scientists and human-service agencies have finally begun to examine cruelty to animals as a serious *human* problem. What has prompted this concern? First, there have been many dramatic cases such as that of Mr. Wright. Second, social scientists have been paying increasing attention to all forms of family violence, including abuse and neglect

of children, spouses, and the elderly. Researchers studying human-animal relationships have repeatedly demonstrated the central role that pets can play in many normal and disturbed families. Increasing numbers of investigations of organized cruelty, such as dogfighting, have revealed that a multitude of other, unrelated offenses co-exist with that activity. Finally, greater attention has been drawn to animal abuse by an increasingly concerned public that has responded negatively to mild punishments handed down in animal-cruelty cases.

Scientific studies of the connections between animal abuse and human violence are still few in number, but those that exist are providing valuable insights into the roots of antisocial behavior.

#### Animal Cruelty and Adult Violence

Much of the early evidence that inspired interest in this issue came from anecdotal case histories of individual criminals. There is compelling circumstantial evidence linking two groups of criminals—serial and mass murderers—with acts of cruelty to animals. There is a significantly high incidence of such acts, usually prior to age twenty-five, among people who have engaged in multiple murders:

- Albert DeSalvo, the self-confessed “Boston Strangler” who killed thirteen women in 1962-63 and was sentenced to life imprisonment on unrelated charges of armed robbery, assault, and sex offenses involving four women, had, in his youth, trapped dogs and cats in orange crates and shot arrows through the boxes.

- Edmund Emil Kemper III, convicted in 1973 on eight counts of first-degree murder for killing eight women, including his mother, had revealed at his trial that he had a history of abusing cats and dogs.



• David Berkowitz, New York City's "Son of Sam" gunman who pleaded guilty to thirteen murder and attempted murder charges, had shot a neighbor's Labrador retriever. Berkowitz claimed that the dog was the spiritual force that compelled him to kill.

• Brenda Spencer fired forty shots from a rifle at arriving San Diego school children, fatally wounding two and injuring nine others. During the subsequent investigation, neighbors informed police that Ms. Spencer had repeatedly abused dogs and cats, often by

setting their tails on fire.

• Carroll Edward Cole, one of the most prolific killers in modern history, was executed in December of 1985 for five of the thirty-five murders of which he was accused. Mr. Cole had said that his first act of violence

### Reporting Cruelty

As a rule, failure to provide adequate food, water, and shelter or the use of physical force sufficient to leave a mark or otherwise cause injury constitutes cruelty to animals according to most state laws.

If you believe an animal is being mistreated, promptly telephone your local animal-welfare agency. If you cannot obtain a listing for a local humane society, call the local police for assistance. If there is no humane society in the area, then the police should investigate your complaint. Provide the dispatcher with all the details, including:

- A description of the incident and type of abuse
- The date and time of the incident
- A description of the animal(s)
- The exact address at which the animal can be found
- The name of the animal's owner, if any
- A description of the abuser (age, height, weight) and name, if known
- Any other relevant details such as license plate numbers that may aid in apprehending the abuser
- Your name, address, and telephone number. Also inform the dispatcher if you were an eyewitness to the incident. If your information is to be of value to law-enforcement and animal-welfare agencies, you must be willing to testify against animal abusers.



—HSUS

as a child was to strangle a puppy.

• In 1984, James Huberty was shot by police after killing twenty-one children and adults at a McDonalds restaurant in San Ysidro, California. As a teenager, Mr. Huberty had been accused of having shot his neighbor's dog with an airgun.

Although most animal abusers will not commit sensational murders, serial killers almost invariably have histories of animal abuse earlier in their lives. This connection has serious implications for law enforcement, since the Federal Bureau of Investigation has indicated that brutal and irrational serial killings account for one-quarter of all unsolved murders in the United States each year.

Single case histories do not provide much insight into the origins of animal abuse and its connections to other forms of violence. For this reason, a number of scientists have looked at larger populations of criminals to explore this association. In 1966, Drs. D.S. Hellman and Nathan Blackman published one of the first formal studies. Their analysis of life histories of eighty-four prison inmates showed that 75 percent of those charged with violent crimes had an early record of cruelty to animals, fire-setting, and bed-wetting. Several subsequent studies looked for this "triad" of symptoms in other violent criminals, with mixed results.

Over the last few years, a different picture has emerged. Psychiatrist Alan Felthous surveyed several groups of violent adults. In one group of eighteen psychiatric patients who had repeatedly tortured dogs and cats, he found that all had high levels of aggression to people, including one patient who had murdered a boy. These abusers also shared a common history of brutal parental punishment. Dr. Felthous and others have thus identified a slightly different triad consisting

of physical abuse by parents, cruelty to animals, and violence toward people. Almost all serious animal abusers are males, but Dr. Felthous has found similar patterns in the lives of assaultive women as well.

One of the most detailed surveys of adult criminals has recently been done by Dr. Felthous and Dr. Stephen Kellert. They looked at animal cruelty among three groups of men including aggressive criminals, nonaggressive criminals, and noncriminals. Ratings of aggressiveness for the criminals were based on reports of their *behavior* in prison, not on the violence of their crimes. Among the aggressive criminals, 25 percent reported five or more childhood acts of cruelty toward animals, compared to 6 percent of the nonaggressive criminals and none in the sample of noncriminals. Aggressive criminals were also more likely to report fear or dislike of particular animals.

This study is one of the first to explore the specific motives behind animal cruelty in these violent men. Some resorted to cruelty to control an animal's behavior, for example, using beatings and electric prods to gain compliance from dogs. Many of the men used violence as a form of retaliation. One burned a cat that had scratched him, and another drowned a dog that barked too much. A third motivation was prejudice. Many abusers harbor hatred for specific animals. Cats were victims because they were often seen as "sneaky" and "creepy."

This study identified additional complex motives for animal abuse. Some cruelty came from a desire to shock other people or to impress them with the abuser's capacity for violence. In some cases, cruelty to animals was used to retaliate against others, especially neighbors.

Animal cruelty has been correlated with other forms of adult wrongdoing.

A recent study by Dr. Michael Bessey of the University of Manitoba concluded that "violators of wildlife laws may be involved in multitudinous illegal activities." He identified three clusters of offenses that seemed to go together. People who engaged in "unethical" acts such as aerial hunting were also likely to hunt endangered species, injure wildlife with snowmobiles, or illegally hunt game at night. Those who were guilty of "dangerous" acts typically violated laws related to firearm handling and public intoxication. A third group of violators typically broke laws related to property and had histories of poaching and trespassing.

Organized abuse of animals also has its links to other crimes. HSUS investigator Bob Baker, who has extensive experience with dogfighting, says, "Dogfights are the scene of all kinds of crimes, including gambling, drug dealing, and possession of illegal weapons." He adds, "One of the most disturbing things is the number of children in attendance at these fights—from infants to teenagers. These children are exposed to all the brutality and illegal acts that go along with this sport!"

#### Animal Cruelty and Juvenile Violence

Most of the research on animal abuse and adult crime has indicated that the first instances of cruelty to animals take place early in the abusers' lives. As anthropologist Margaret Mead noted, "One of the most dangerous things that can happen to a child is to kill or torture an animal and get away with it." Nearly all young children go through a stage of "innocent" cruelty during which they may harm insects or other small animals in the process of exploring the world and discovering their abilities. Most children, however, with proper guidance from parents and teachers, can be

come sensitive to the fact that animals can experience pain and suffering and thus try to avoid causing such pain. Some, however, seem to become locked into a pattern of cruelty that can last a lifetime.

In 1971, Dr. Fernando Tapia reviewed the cases of eighteen boys who were under treatment because of incidents of severe cruelty to animals. All showed other problems of violence including bullying, theft, and arson. Most had histories of parental neglect, brutality, and rejection. Seven years later, Dr. Tapia was able to follow up on thirteen of these cases, now entering young adulthood. Eight of the thirteen were *still* involved in animal cruelty. In general, animal abuse ended only in the case of the boys who had been removed from abusive parents and placed in foster homes.

What starts young boys on the road to animal cruelty and later violence against people? Some have suggested that these children lack the capacity to love, to form close ties to either people or animals, but recent research suggests that it is not that simple. A University of Minnesota study by Dr. Michael Robin and others looked at attitudes towards animals in 507 delinquent and nondelinquent adolescents. Nearly all of these children (91 percent) reported having had a "special pet" at some time in their lives. The delinquent children were three times more likely to report that they sought out their pet during times of trouble and discussed their problems with it. A key difference between the delinquent and nondelinquent groups was that 34 percent of the delinquent children had lost their special pet through intentional or accidental killing. In many cases, an abusive father had disposed of this loved animal in some violent way, resulting in deep resentment on the part of the child.

It may be that some juveniles begin

to abuse animals to convince themselves that they don't care about the things they often seem to lose. Some are convinced of their "badness" by parents and behave in the way that they think is expected of them. Some are imitating the family violence that seems to be a "normal" way of life for them. Others feel helpless and use animals as victims to demonstrate their power and authority or as scapegoats for the anger they feel against parents or society as a whole. Finally, some of these young abusers simply seem to have never learned to value the lives of others.

#### Animal Abuse and Family Problems

The research we have described strongly suggests that animal abuse is not just the result of some personality flaw in the abuser, but a symptom of a deeply disturbed family. As Boris Levinson has observed, "Pets mirror the tensions of their adopted families." Research specifically looking at family dynamics supports this idea.

In 1980, James Hutton reviewed RSPCA cruelty reports for one community in England. Of twenty-three families with a history of animal abuse, 83 percent had been identified by human social service agencies as having children at risk of abuse or neglect. In 1983, Deviney, Dickert, and Lockwood reported on the care of pets within fifty-seven families being treated by New Jersey's Division of Youth and Family Services because of the incidents of child abuse. At least one person had abused pets in 88 percent of the families in which children had been physically abused! In about two-thirds of these cases, it was the abusive *parent* who had killed or injured a pet. Children were the abusers in the remaining third. These and other studies confirm that cruelty to animals can be one of many signs of a

family in need of professional help.

#### Animal Abuse and Mental Illness

Although it would seem to be clear that many animal abusers are in need of help, the psychiatric community has been very slow to recognize this. Surprisingly, the *Diagnostic and Statistical Manual of Mental Disorders*, the "handbook" for many professionals in the American Psychiatric Association, makes *no* mention of cruelty to animals as a sign of mental illness. This troubles many concerned psychiatrists, including Dr. Peter Field of the Psychologists for the Ethical Treatment of Animals. That organization recommends that "children who abuse animals be referred for appropriate treatment inasmuch as this is not a benign stage of growing up, but rather a sign of emotional illness."

Other psychiatrists have found additional links between animal abuse and mental disorders. Dr. Eugene Bliss, a University of Utah psychiatrist and expert on multiple personalities, has described the strange case of "Andrea." This woman had twenty-eight distinct personalities, two of which had killed cats. Like many patients with this disorder, her personality had begun to split when she was a victim of physical and psychological abuse. On at least one occasion, her father had punished her by forcing her to watch him throw kittens in a roaring furnace. Dr. Frank Putnam of the National Institutes of Mental Health has noted that witnessing such acts of cruelty can be as traumatic as being a victim of physical abuse.

Animal abuse rarely involves a single act of cruelty against one victim. It is part of a complex net of disturbed relationships that we are just beginning to understand. Within this tangled web, an abused child becomes violent to others, including animals

It is likely that he, too, is at risk of becoming an abusive parent who, in turn, may produce another generation of violent children.

What can those of us involved in animal welfare do to help the people and animals caught in this web? First, although the connection between cruelty to animals and other human problems has been well established by careful research, many professionals seem unaware of this work. It is important to share this information with those who are in a position to see such problems, including veterinarians, law-enforcement officers, animal-control officers, humane agents, shelter workers, and child-welfare professionals. It is also helpful to get people in these professions talking to each other. Often, they discover that they have been dealing with some of the same families or individuals.

Second, as Drs. Kellert and Feltous point out, "Most judicial authorities tend to minimize the importance of animal cruelty among children." It is essential to urge appropriate psychiatric intervention in the case of adult and juvenile offenders. Ideally, such treatment must deal with the entire family, not just the abuser.

Crime is not only a symptom of other disorders, but animal abuse in and of itself is also a *crime* that often occurs alongside other crimes. Cruelty to animals is generally a misdemeanor punishable by fine and imprisonment, but such penalties are rare. The humane public can voice its concern. In recent cases in Florida, California, Virginia, and Louisiana, outspoken citizens have played a major role in getting stiff penalties for animal abusers.

In a recent case, two seventeen-year-old boys were caught as they attempted to decapitate a cat but went unpunished. The local district attorney offered sound advice to several HSUS members who complained about

this mild treatment. He wrote: "It is obvious by the number of letters I have received that this case has stirred the emotions of many, many people. It would be my suggestion that you advise your local legislators of your concerns and urge them to act on strengthening our Juvenile Court System. Your position is correct and, perhaps, working together, we can effect change which would help stop such violent acts." Another way in which you can help is to be alert to the possibility of animal abuse in your community. Many abusers are able to hide their actions from law enforcement officials as well as from friends and even families. Their best protection has been the fear and silence of others. There are definite steps you can take when you see or suspect cruelty to animals (see sidebar).

Some states, recognizing the severity of the problem, are making it easier to fight cruelty. Wisconsin and Minnesota have enacted unusual statutes that ensure the investigation of cruelty complaints even in the absence of a local humane society. The laws allow a citizen who has reason to believe that an act of cruelty has occurred to apply to a circuit court for a search warrant. A judge will question the citizen and any other witnesses under oath. If the court is satisfied that there is probable cause to believe that an act of abuse has occurred, the judge may issue a warrant directing a local law enforcement officer to "proceed immediately" to the location, conduct a search, and take custody of any animals on the property. The judge also has the authority to direct that a veterinarian accompany law enforcement officers to help with the investigation or to aid the animals. If your community lacks the resources to investigate animal cruelty, similar statutes might be helpful in combating this problem.

Perhaps the most important approach to the problem of animal cruelty is *prevention*. Some acts take place because authority figures *allow* them to occur by failing to discipline childhood episodes of cruelty. Without proper intervention, children may graduate to more serious abuses including violence against people. Do not ignore even minor acts of cruelty. Correct the child and, when possible, express your concerns to his or her parents. Appropriate intervention may, in this way, stop a cycle of escalating abuse.

We also know that some abuse is motivated by fear and ignorance of animals and an inability to empathize with the needs and feelings of others. Humane educators constantly work to instill the knowledge and values that can help prevent children from starting on a destructive path. These efforts cannot undo generations of abuse and other family problems, but they can be an effective step in breaking the vicious cycle of family violence.

Scientists and lawmakers are slowly beginning to acknowledge the humane movement's long-held position that society's treatment of animals is inseparable from its treatment of human beings. This "new" realization echoes the sentiment of eighteenth-century philosopher Immanuel Kant: "He who is cruel to animals becomes hard also in his dealings with men. We can judge the heart of a man by his treatment of animals."

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A bibliography on this subject is available from Dr. Randall Lockwood, The HSUS, 2100 L St., N.W., Washington, DC 20037.

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*Dr. Randall Lockwood is director of Higher Education Programs and Guy R. Hodge is director of Data and Information Services for The HSUS.*



# Children and Animals: A Clinician's View

Steven, a 14-year-old, was referred to me for treatment because he had committed a premeditated, violent, sexual crime against a child seven years his junior. During the assessment I asked his parents a question I have learned to ask over the years: "Does your child now, or has he ever, killed or tortured animals?"

The parents responded without hesitation, "Oh, my yes. You see, we always had a lot of cats, and they were always having kittens, and Steve used to kill one or two out of each litter—there were so many of them, we never thought much of it."

Although some parents deny and ignore such inhumane behavior, it never occurs in a vacuum. When children kill and torture animals, there is something massively wrong. Nonaccidental and calculated torture of pets is a vivid signal of a child's distress.

My concern with children's abuse of animals has increased over the years, since I first noticed that many physically or sexually abused children seemed to mimic their mistreatment on their companion animals. Apparently, children learn the insidious lessons of abuse: people who love them hurt them, and power and dominance are preferable to the victim's experience of helplessness and shame. When children are very young, only smaller children and pets are more vulnerable. Unfortunately, abused children may strike out against others, including their pets, unless someone stops them and gives them the help

they need.

An additional reason to be concerned about children hurting their companion animals is that such behavior may signify a child's preoccupation with death and dying. By hurting animals, some children may be rehearsing their own suicides.

I learned this from Miriam, a six-year-old who had been sexually abused severely. When I asked her to make a picture of herself, she drew a bleeding dog and herself in heaven (see accompanying picture). Miriam's drawing

*By hurting animals, some children may be rehearsing their own suicides.*

revealed the depth of her despair. Her mother later informed me that Miriam had recently begun slapping and choking her dog and had injured him with scissors. It was my hypothesis, confirmed during a hospital-based psychiatric evaluation, that the child was acutely suicidal.

Just as animals are vulnerable to troubled children, they also can nurture those children and help them heal. Adrianna, a seven-year-old, had been in eight foster homes. Neglected cruelly from the time she was born, she was rejected by peers because she spoke in

whispers and felt uncomfortable joining activities or sports. In treatment she was depressed, nonresponsive, and fearful.

I brought in my 12-year-old Sheltie, Puppy, and introduced her to Adrianna. As Puppy lay comfortably in a corner of the room, Adrianna could not take her eyes off the dog. She seemed afraid of the dog, but fascinated by her. I talked to Adrianna about Puppy. Adrianna kept her distance but colored in a picture of a dog in a book. She asked if Puppy would be back next time. I said she would.

The following session Adrianna lay on the floor with her face toward Puppy, smiling as Puppy slept. Again she colored the dog in the book, this time making a white spot, like Puppy's, on the dog's head.

The third session Adrianna took her finger and gently patted the white diamond on Puppy's head. The contact increased, and Adrianna gradually developed a relationship to Puppy, speaking to her, holding and rocking her, and bringing her treats. Because I was Puppy's friend, Adrianna eventually talked to me just as easily as she did to the dog. Puppy's presence had been invaluable as a way for Adrianna to decrease her fear and anxiety and to allow herself to take risks, express herself, and nurture another living being.

In addition to individual treatment, the creative exposure to animals in residential treatment settings also can provide opportunities to test relationships in safety. For example, some residential treatment centers provide children with a structured opportunity to develop a healthy relationship with horses by learning to feed, wash, ride, and care for them. Other therapeutic programs allow and encourage children's participation in raising vegetables that they later prepare and cook.

We are co-existing on a planet replete with life, and we are often in positions to help injured and vulnerable children, elders, physically and emotionally disabled individuals, and others by encouraging interconnectedness with nature and the vast array of living beings. In this exchange, life is enriched for all.

Eliana Gil, PhD

Eliana Gil, PhD, is a family therapist in private practice working with children in Maryland.



When Miriam, a six-year-old who had been sexually abused severely, was asked to draw a picture of herself, she drew a bleeding dog and herself in heaven. This revealed the depth of Miriam's despair. Her mother later confirmed that Miriam had begun slapping and choking her dog and had injured him with scissors.

## Abuse an Animal - Go to Jail!

### *Animal Legal Defense Fund Fights Cruelty to Animals*

Laura Wilensky

In 1994, the Animal Legal Defense Fund (ALDF) introduced a campaign to combat animal cruelty and encourage the aggressive prosecution of animal abuse cases throughout the U.S. The program - "Zero Tolerance for Cruelty" - marks the first time a national organization of lawyers has pledged its services free of charge to assist local district attorneys who are handling animal cruelty cases. The program is proving very successful. ALDF receives numerous calls daily from prosecutors around the country seeking legal assistance, as well as people requesting guidance regarding animal abuse in their communities.

Under the program, as soon as ALDF learns about an instance of animal cruelty, we contact the prosecutor who is handling the case to offer free legal help. ALDF attorney members will then provide whatever assistance is required, from legal research to the drafting of friend of the court briefs in support of the prosecution, to locating expert witnesses, such as veterinarians.

"The program has met with overwhelming enthusiasm by local prosecutors," stated Joyce Tischler, Executive Director of ALDF. "Because District Attorney offices are usually understaffed and underfunded, animal cruelty is a somewhat neglected area. Prosecutors are excited to have a resource to turn to for assistance as public pressure regarding the welfare of animals increases."

In addition, ALDF works with grassroots activists who are working at a local level to strengthen their state's anti-cruelty laws and to ensure the effective prosecution of these cases when they occur. A case

in point is the "Pasado" law, the recently amended Washington state anti-cruelty law which was strengthened to provide stiffer penalties and make animal abuse a felony. ALDF's President, Steve Ann Chambers, helped draft the law, named for a donkey, Pasado, whose brutal torture and death became a rallying point for many people to help change the law.

We are pleased to report that in one of the first convictions under the revised law, a man was sentenced to five years in prison for intimidating a witness and cruelty to animals after he burned a kitten in an oven.

### *District Attorney Training Seminar Launched in Washington*

On April 26, 1995, ALDF held its first training seminar for the Washington Association of Prosecuting Attorneys to educate them that animal abuse is a serious crime, and to stress the importance of aggressive enforcement of state anti-cruelty laws.

Dr. Frank Ascione, the noted psychologist from Utah State University, (and advisor ... contributor to Latham Letter), gave an informative presentation on childhood cruelty to animals as a potential indicator of later violent tendencies directed towards humans. "Several studies clearly demonstrate the association between animal cruelty and human violence," stated



*One of the dogs taken from the Kittle's bus.*

PHOTO: PAT FOGERY

Ascione. "It has been found that cruelty to animals, domestic violence, child abuse and neglect and community violence are all related, and cruelty to animals in childhood is probably more common than we imagined." By arguing these links, we hope to motivate prosecutors and judges to view animal cruelty as a warning sign, and treat the trial and sentencing of these defendants more seriously. The seminar was a positive step in bringing to District Attorneys this kind of valuable information. While many were not yet familiar with the issue, it offered them an insight they had not previously had. ALDF intends to host seminars for prosecutors and judges in other states to bring this issue to the forefront.

### *ALDF to Offer Database on Animal Cruelty*

Another exciting resource that ALDF will be offering soon is a computerized database that will serve as a "Citizens Clearinghouse for Animal Cruelty." It will help prosecutors, judges, state humane officers and animal control officers to have a centralized source for information about cruelty cases, to track how a

*JAIL, continued on next page*



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particular trial level case was handled, and provide research memos, briefs, sentencing options, jury instructions, etc. The database will include information about specific cruelty cases, decisions, sentencing, prosecutors, expert witnesses, model state anti-cruelty legislation, titles and cites for articles on animal abuse/child abuse and violence to animals/humans.

### **Recent Victories**

The following cases show a trend in both public consciousness and the legal system toward treating animal abusers more harshly:

*People v. Kittles* - Notorious animal collector Vicki Kittles, was convicted of animal neglect in the state of Oregon. Kittles had a long history of run-ins with law enforcement.

In April 1993, Kittles was charged with cruelty to animals, after Clatsop County, OR Animal Control officers found 115 dogs, four cats and two chickens living in a dilapidated school bus. The dogs were suffering from malnutrition, dehydration, skin disease, heart worm, and several were found dead. The animals were living in their own excrement, and had not been given food or water for days. For over a year and a half, Kittles tied the legal system in knots. She caused countless delays by filing numerous motions, fired seven court appointed public defenders, and successfully demanded the removal of five judges. The case was a fiasco until Joshua Marquis, the Clatsop County District Attorney, stepped in and began to vigorously prosecute it. An ALDF attorney was actively involved throughout the prosecution.

After a five week trial, Kittles was convicted of 42 counts of animal neglect. She was sentenced to seven months in jail, five years probation, and ordered to undergo psychiatric treatment. While several of the dogs had to be euthanized due to illness, most of the surviving dogs were

placed in loving foster homes.

On March 20, 1995, ALDF honored Josh Marquis for his successful prosecution of Vicki Kittles, and presented him with "The Jolene Marion Aggressive Enforcement Award," which was established to honor prosecutors who handle cruelty cases in an outstanding manner. Despite the overwhelming difficulties in this case, Marquis was tenacious and unwavering.

*Duke the Dalmatian* - Three men were convicted of animal fighting, a felony, for the torture and killing of Duke the Dalmatian. They tied Duke to a tree, set a pitbull upon him, cut his ears and tail off, slit his throat and crushed his head with cinder blocks. 50,000 people signed petitions and 600 showed up at the courthouse to protest the brutal murder. Judge Edward G. Blester said, "Great cruelty for some disturbed person's pleasure is an awful thing. It sends a chill of disgust through the community." The men were sentenced to prison time ranging from 6 months to 3 years.

*People v. Osterholt* - Seafood supplier, Mark Osterholt was convicted of animal cruelty after more than 700 dead and dying turtles were discovered in his possession. Many of the turtles died from dehydration, crushed shells or open wounds, and were infested with maggots. Osterholt was sentenced to 60 days in jail and 30 days on a work crew, as well as ordered to pay restitution to the court for veterinary care for the surviving turtles. The case was handled by Los Angeles Deputy City Attorney, Don Cocek, who regularly handles cruelty cases for his office. ALDF supplied him with specific information and connections to important experts in this field.

The timing is ripe for ALDF to launch this campaign. It parallels the public outcry surrounding animal cruelty that has been rising over the past few years. The publicity surrounding these cases sends a

strong message that the crime of animal abuse will not be tolerated.

As police, prosecutors and judges begin to understand that their enforcement of anti-cruelty laws is being monitored by the public, we will see more active and effective prosecutions. And as more cruelty cases are aggressively prosecuted and more animal abusers go to jail and pay steep fines, previously defenseless animals will finally be brought under the protection of the law.

### **WHAT YOU CAN DO TO HELP COMBAT CRUELTY**

Contact your prosecutor whenever you hear of an animal cruelty incident in your area and ask that office to vigorously prosecute the offenders. You should also inform ALDF, so it can offer free legal assistance and resource materials.

Prosecutors are elected officials and are sensitive to public opinion. Letter writing, making cruelty a campaign issue at election time, and media coverage of high-profile cruelty cases have proven successful in persuading prosecutors to make animal cases a higher priority.

Write for ALDF's free "Zero Tolerance for Cruelty" packet containing informative articles and model anti-cruelty legislation. It can be obtained from ALDF at 1363 Lincoln Avenue, San Rafael, CA 94901 or call (415) 459-0885 for more information.

The Animal Legal Defense Fund (ALDF) is a national nonprofit network of over 650 attorneys and law students, dedicated to protecting and promoting the rights of animals. ALDF's goal is to ensure that the interests and needs of all animals are recognized and respected within the U.S. legal system.

*Laura Wilensky is staff writer for ALDF's "Animals' Advocate" newsletter.*

