

ANIMAL CRUELTY AND PROTECTION TASK FORCE

*Findings and
Recommendations*

July 2016

TABLE OF CONTENTS

Message From The Chair	3
Structure of the Task Force	5
Executive Summary	7
Animal Cruelty In Massachusetts	10
Recommendations for Effectively Addressing Animal Cruelty in Massachusetts	14
Chapter 272 – Animal Cruelty	14
Summary of Recommendations	14
Importance of Updating Select Laws in Chapter 272	14
Current Practices	15
Recommendations	16
Animals Seized in Cruelty Cases	19
Summary of Recommendations	19
Importance	19
Current Practices	19
Recommendations	20
Reporting Suspected Animal Cruelty	24
Summary of Recommendations	24
Importance of Facilitating the Reporting of Suspected Animal Cruelty	24
Current Practices	24
Recommendations	25
Animal Control and Statutes – Chapter 140	28
Summary of Recommendations	28
Importance	28
Current Practices	28
Recommendations	30
Education and Training Opportunities	33
Summary of Recommendations	33
Importance	33
Current Practices	34
Recommendations	37
Education	47
Summary of Recommendations	47
Importance	47

Current Practices	48
Housing Policies	52
Summary of Recommendations	52
Importance of Addressing Housing Policies.....	52
Current Practices	53
Recommendations	55
Animal Abuse Registry	60
Summary of Recommendations	60
Importance	60
Current Practices	60
Recommendations	61
The Link Between Animal Cruelty and Other Forms of Violence	64
Summary of Recommendations	64
Importance	64
Current Practices	65
Recommendations	67
Appendix A: Chapter 293 of the Acts of 2014	70
Appendix B: G.L. c. 272 § 77.....	72
Appendix C: Recommended Amendments to G.L. c. 272 § 91	73
Appendix D: Recommended Amendments to G.L. c. 272 § 79	74
Appendix E: Recommended Amendments to G.L.c. 104 and Explanation.....	74
Appendix F: Information from the Connecticut Department of Agriculture on Housing Seized Animals	78
Appendix G: Recommend Legislative Changes Relating to the Reporting of Animal Cruelty .	80
Appendix H: Model Reporting Form to Report Suspected Animal Cruelty	84
Appendix I: Recommended Amendment to G.L. c. 140 §173A	85
Appendix J: Recommended Amendments to G.L. c. 140, 174E	86
Appendix K: Model Municipal Bylaws	88
Appendix L: Recommended Amendments to G.L.c. 6 § 178C.....	106
Appendix M: Recommended Amendments to G.L. c. 276 § 58A.....	107

MESSAGE FROM THE CHAIR

On behalf of the Massachusetts Animal Cruelty Task Force, I am pleased to present this report for your consideration.

In August 2013, law enforcement and others responded to a suspected cruelty matter where a puppy—who became known as “Puppy Doe”—was systematically and severely tortured over several months. She had to be humanely euthanized because her injuries were so severe. Her alleged abuser has been charged. The details of this case galvanized people who care about animals to ensure that perpetrators like Puppy Doe’s alleged abuser (and others who engage in such cruel acts) are penalized in a manner sufficient for the crime, and for the public to seek to ensure the Commonwealth’s laws are sufficient to prevent animal cruelty and neglect.¹

The impact of animal abuse is far-reaching and the link between animal abuse and violence toward humans is well-documented. For example, a Massachusetts study found that 70% of people who committed crimes against animals had also been involved in other violent, property, drug, or disorderly crimes.² The study also concluded that a person who has committed animal abuse is: five times more likely to commit violence against people, four times more likely to commit property crimes, or three times more likely to be involved in drunken or disorderly offenses. When our policies and programs recognize this link, all our family members can be better protected.

In addition to the work that this Task Force completed, nationwide efforts to tackle animal abuse are also underway and we will continue to learn from these and ensure our Massachusetts work is coordinated. Starting this year, the Federal Bureau of Investigation reports animal cruelty crimes as a separate offense under the agency’s Uniform Crime Report (UCR) Program, the prime source of information on crime in the United States. Previously, when and if information about animal cruelty crimes was captured in the UCR, the data were relegated to a catchall category entitled “All Other Offenses” and grouped in with a variety of other, mostly minor, crimes. With this significant revision, animal cruelty statistics will now be itemized separately and become available for review and analysis.

With the passage of the Chapter 293 of the Acts of 2014, Massachusetts decided that we must do all we can to prevent cruelty to animals and engage in a thorough investigation of the strength and effectiveness of existing laws, as well as to determine what gaps exist. Our recommendations do not just touch on the main cruelty statutes but go deeper—seeking to prevent animals from languishing in vulnerable situations, to remove barriers to reporting abuse when it is suspected, and also to ensure that animals who have been abused have systems to care for them during a pending case, as well as the best chance for a new life.

¹ The legislation was inspired by the brutal beating of ‘Puppy Doe,’ who was left to die in a Quincy park in 2013. See S. Annear, *State Gets Tough on Animal Abusers By Passing ‘PAWS’ Act*, Boston Magazine, August 14, 2014 (available at <http://www.bostonmagazine.com/news/blog/2014/08/14/paws-act-senator-bruce-tarr/>).

² A. Arluke et al., *The relationship between animal cruelty to violence and other forms of antisocial behavior*, Journal of Interpersonal Violence 14: 245-253 (1999).

The researching, analysis, and discussion involved in this report over the 23 meetings also provided a benefit in addition to the recommendations: the meetings brought a variety of individuals representing multiple agencies to the table, enabling them to better understand each other's role in preventing, investigating, and prosecuting animal cruelty, and to determine how we can work together toward shared goals. The recommendations included here reflect a collaborative effort based on the expertise and compassion of individuals representing these agencies, as well as members of the public who participated in this process.

The Task Force had a large mandate in the statute authorizing its creation. We sought to give significant consideration to every issue enumerated in the statute, as well as address any ancillary issues that arose in discussion. We know that as more information becomes available, as more ideas develop and relationships created, more recommendations should be made.

We recognize that implementation of the suggestions in the report will not happen immediately; many will involve more research and outreach to additional entities. The Task Force also recognizes that implementation of suggested programs may require change in agency operation, capacity, or the ability to develop and execute recommendations.

I hope that this report signifies the beginning of a thoughtful, comprehensive approach to these issues and sets the groundwork for future advances to ensure we have the most effective laws needed to help prevent animal cruelty.



Elissa Flynn-Poppey

STRUCTURE OF THE TASK FORCE

On August 20, 2014, Governor Patrick signed into law, Senate Bill 2345, **An Act Protecting Animal Welfare and Safety**. The Legislation increased the maximum penalties for animal cruelty from 5 to 7 years in prison and from a \$2,500 to \$5,000 fine and created enhanced penalties for repeat offenders (up to 10 years in prison and up to \$10,000); required veterinarians to report suspected animal cruelty; and created this task force to consider future protections for animals and ways to strengthen Massachusetts' cruelty laws. The law took effect on November 18, 2014.

Since its first meeting on December 17, 2014, the Task Force has formally met 23 times and each of the respective sub-committees numerous times. Following are the individuals who serve on the Task Force:

E. Lauren Atkins, MS, DVM, MPH, *Veterinarian*
Michael Cahill, *Massachusetts Department of Agricultural Resources*
Hilary Cohen, *Animal Control Officer*
Elissa Flynn-Poppey, *designee of the Massachusetts Bar Association*
Kara Holmquist, *Massachusetts Society for the Prevention of Cruelty to Animals*
Robert Likins, *Pet Industry Joint Advisory Council*
District Attorney Michael Morrissey, *Massachusetts District Attorneys' Association*³
Mary Nee, *Animal Rescue League of Boston*
Alicia Rebello-Pradas, *Office of the Attorney General*
Detective Lieutenant Carla Pivero, *Massachusetts State Police*
Assistant District Attorney Tracey Cusick, *Massachusetts District Attorneys' Association*

See Appendix A for complete language of the authorizing statute.

In order to engage members in the most effective way possible, Task Force members researched and reported back to the group on specific issues. The Task Force also engaged as many relevant experts as possible. These included:

Martha Smith-Blackmore, DVM, *Forensic Veterinary Investigations, LLC*
Lieutenant Alan Borgal, *Animal Rescue League of Boston*
Megan Glasere, Masters Student, Animals and Public Policy, *Cummings School of Veterinary Medicine at Tufts University*
Chris Green, JD, *then Legislative Director, Animal Legal Defense Fund*
Lee Greenwood, *Best Friends Animal Society*
Laura Hagen, JD, *Massachusetts Society for the Prevention of Cruelty to Animals*
Captain Richard LeBlond, *Massachusetts Society for the Prevention of Cruelty to Animals*
Gary Patronek, VMD, PhD, *Independent Consultant*
Nadine Pellegrini, *Animal Rescue League of Boston*

³ District Attorney Michael Morrissey was the MDAA designee from 2014 until March 2016. Tracey Cusick replaced him as the MDAA designee starting on March 16, 2016 until the completion of the Task Force report.

Ray Connors, *Supervisor of the Animal Control Division under the Connecticut Department of Agriculture*

Lorna Grande, DVM, *Human/Animal Violence Education Network*

Honorable (ret.) Martha P. Grace, *former Chief Justice of the Massachusetts Juvenile Court*

Amanda Kennedy, *Director of Animal Care and Control, City of Boston*

Stephanie Harris, *Massachusetts State Director of The Humane Society of the United States*

EXECUTIVE SUMMARY

In this report, the Task Force makes the following recommendations:

Importance of Updating Select Laws in Chapter 272

- a. Amend G.L. c. 272 § 91 to remove the requirement that animals who were the victims of animal fighting be automatically killed and amend the language relating to jurisdiction;
- b. Amend G.L. c. 272 § 79 to make entities, in addition to a “corporation,” subject to this law, and to expand the violations for which an entity could be prosecuted;
- c. Keep G.L. c. 272 § 77 unchanged at this time; and
- d. Promulgate a statute or regulation to clarify that drowning animals, including wildlife, is inhumane and should be expressly prohibited.

Animals Seized in Cruelty Cases

- a. Amend G.L. c. 272 § 104 to be more effective;
- b. Explore alternative sheltering options for seized animals;
- c. Explore alternative funding to care for seized animals; and
- d. Explore ways to expedite criminal cases when custody of live animals is at issue.

Reporting Suspected Animal Cruelty

- a. Amend statutes to remove barriers to reporting suspected animal cruelty;
- b. Implement and promote a uniform and user-friendly reporting systems and forms to facilitate the reporting of suspected animal cruelty, and to standardize information gathered and investigative responses; and
- c. Collaborate and share information between agencies.

Animal Control and Statutes – Chapter 140

- a. Amend G.L. c. 140 § 174E;
- b. Encourage municipalities to update their bylaws to reflect changes to state law in 2012 and ensure consistent and effective local ordinances relating to animals;
- c. Amend G.L. c. 140 § 173A to improve enforcement of Chapter 140 laws;
- d. Amend G.L. c. 140 § 137C and add a new section to authorize the Department of Agricultural Resources to regulate kennels and breeders;
- e. Encourage municipalities to assign animal control departments to the jurisdiction of the police department and have adequate budgets; and
- f. Amend G.L. c. 140 § 141 to increase the penalty for not having a kennel license.

Education and Training Opportunities

- a. Develop specific training for law enforcement personnel on animal cruelty, and the connection to domestic violence;

- b. Expand the current ACO training curriculum;
- c. Train and educate judges, appropriate court personnel, and prosecutors;
- d. Educate veterinarians about recognizing animal cruelty and understanding current law;
- e. Create a state multidisciplinary team to train and implement an emergency response to hoarding and oversee a task force to focus on early intervention of hoarding; provide mental health counseling in all animal hoarding cases; and create a Department of Mental Health and Department of Corrections forensic assessment protocol for early intervention, sentencing, treatment, and rehabilitation; and
- f. Develop and promote animal cruelty prevention, identification, training and screening tools among pet service providers, associations, and the commercial pet industry.

Education

- a. Providing education to young children from basic care of an animal to prevention of animal cruelty is a cost-effective use of government and private resources.

Housing Policies

- a. Create greater public awareness about existing services for animals and their families; increase or provide services to prevent relinquishment due to housing issues; alleviate landlord concerns about renting to pet owners by permitting refundable pet deposits; and consider financial assistance for those deposits;
- b. Develop more pet-friendly housing through education and legislation; prevent insurance companies from discriminating based on breed; encourage public housing authorities, private owners, and property agents and managers to remove breed, height, and weight restrictions in housing and encourage responsible pet ownership through spaying, neutering and vaccination; and
- c. Consider methods to identify animals during eviction proceedings to ensure that the court, the parties, and law enforcement identify and ensure care of animals during eviction; require landlords, owners, and assignees of vacated housing to inspect such properties as soon as reasonably possible to alert authorities to and assist animals abandoned in such properties.

Animal Abuse Registry

- a. Encourage the federal government to establish a national abuse registry; and
- b. Create a future task force focused solely on examining the feasibility and utility of a state abuse registry if no federal registry exists.

The Link Between Animal Cruelty and Other Forms of Violence

- a. Amend G.L. c. 6 § 178C to include an animal sexual abuse conviction as a predicate offense for sex offender registration;

- b. Amend G.L. c. 276 § 58A (dangerousness statute) to include the crimes of animal cruelty and animal fighting to serve as the basis for a request for a determination of detention and/or release upon conditions;
- c. Explore adding animal cruelty as a domestic violence offense; and
- d. Explore the use and awareness of G.L. c. 209A § 11 protective order for animals and ensure it is utilized when needed.

ANIMAL CRUELTY IN MASSACHUSETTS

Massachusetts has one of the oldest animal cruelty laws, dating back to 1641.⁴ The Commonwealth also has some of the oldest and most comprehensive state organizations to protect animals in the country.⁵ The primary statutes relating to animal cruelty are found in G.L. c. 272, though other relevant statutes are found in other Chapters.⁶

Animal abuse can take many forms and G.L. c. 272 § 77 covers many types of what would be considered cruelty. It does not contain any exemptions for species or certain activities. However, many Massachusetts residents who contact law enforcement about a situation involving animal cruelty still find that some actions, or inaction, that people take toward animals may not violate this or other statutes. Through the years, legislative and regulatory action has sought to change this, as will the numerous recommendations found within this report.

1. RECENT PROGRESS

There have been many updates to add and improve upon this body of law. Most recently:

A. ANIMAL CRUELTY

In 2014, the legislature increased the maximum penalties for animal cruelty from 5 to 7 years imprisonment and from a \$2,500 to \$5,000 fine; instituted enhanced penalties for repeat offenders (up to 10 years in prison and up to a \$10,000 fine); required veterinarians to report suspected animal cruelty; and created a task force to consider future protections for animals and ways to strengthen Massachusetts' cruelty laws. Prior to that increase, in 2004, cruelty to animals became a felony punishable by up to five years imprisonment and/or a \$2,500 fine.

B. ANIMAL CONTROL

In 2012, a multi-pronged bill passed that, among other things, required animal control officers to receive training; restricted dog tethering; prohibited keeping dogs in "cruel conditions"; and prohibited carbon monoxide and carbon dioxide gas as a means to "euthanize" dogs and cats. It also allowed pets to be included in domestic violence restraining orders.

⁴ The 1641 "law" in the Massachusetts Bay Colony was contained within a "Body of Liberties" compiled by Nathaniel Ward with relevant provisions to "Bruite Creature." An animal cruelty law was enacted in 1836 and significantly amended in 1868 and throughout the following years.

⁵ The Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA) was founded in 1868; the Animal Rescue League of Boston (ARL) in 1899.

⁶ Statutes that govern animal control are found in G.L. c. 140. Other statutes that impact animals may be found in other Chapters. For example G.L. c. 129 (Livestock Disease Control); G.L. c. 90 (prohibition on animals in open vehicles), G.L. c. 209A (allowing animals in domestic violence orders), and more. See Massachusetts Court System, *Massachusetts Law About Animals*, www.mass.gov/courts/case-legal-res/law-lib/laws-by-subj/about/animals.html (a comprehensive, though not exhaustive, list of laws governing animals in Massachusetts).

C. ANIMAL FIGHTING

In 2006, a law passed that strengthened Massachusetts' statutes pertaining to animal fighting. The law clarified the authority of law enforcement to seize paraphernalia intended to be used for illegal animal fighting and to seize the offspring of animals intended to be used in future fights. The law also required forfeiture or surrender of an animal if the owner has been convicted of animal cruelty, so that the animal does not go back to the abuser. In 2008, the penalties for aiding or being present at an exhibition of fighting animals were increased to a maximum \$1,000 fine and/or five years imprisonment. The previous fine was \$250 or imprisonment for not more than one month, or both.

D. CROSS-REPORTING

In 2004, a law was passed allowing employees/agents of the department now known as the Department of Children and Families (DCF) to report animal abuse, cruelty or neglect when they are conducting investigations. The DCF employee may report the case to any organization that investigates animal abuse within two days of witnessing the abuse. In 2001, a law was passed that protects veterinarians from civil or criminal liability when they alert authorities to an animal they suspect has been cruelly treated. The 2014 law makes reporting mandatory.

E. POSTING BOND FOR ANIMAL CARE

In 2002, a law passed allowing the court to require the defendant to post a bond to help care for the seized animal.

2. ENFORCEMENT

Massachusetts' animal cruelty laws are enforced by local police, state police, animal control officers (ACO) in those communities where they are special police officers,⁷ and Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA) and Animal Rescue League of Boston (ARL) special state police officers.

General Laws c. 22C § 57 authorizes the MSPCA and ARL (and some other organizations, now defunct) to enforce the law pertaining to cruelty to animals, an authority that has existed since 1909.⁸ The state's Department of Agricultural Resources (MDAR) also has authority to enforce

⁷ The varied governmental structure in communities across Massachusetts means that not all animal control officers (ACO) are public safety officials or report to the police department.

⁸ "The colonel may appoint, at the request of the Massachusetts Society for the Prevention of Cruelty to Animals, the Berkshire Animal Protective Society, Inc., the Animal Rescue League of Boston...duly accredited agents of said corporations as special state police officers to serve for one year subject to removal by the colonel. Such special state police officers shall report to him relative to their official acts as such police officers at such times and in such manner as the colonel may require..." (G.L. c. 22C § 57).

laws when they pertain to infectious disease control; this includes licensing and regulating pet shops.⁹

In 2015, the MSPCA investigated 1,864 complaints of alleged cruelty, resulting in 607 warnings and 16 cases in which charges were filed. Officers made 153 court appearances. In 2015, the ARL responded to complaints/inspections involving 2,248 animals and took custody of 163 animals. Both the MSPCA and ARL work with municipalities and assist and offer expertise in the investigation of those cases. However, there currently is no central data-gathering mechanism to know all of the investigations that occur between the myriad of agencies that can enforce the cruelty statutes.

Several district attorneys have designated assistant district attorneys who handle animal cruelty cases and have conducted trainings on this subject.¹⁰

3. STATISTICS

The Massachusetts Sentencing Commission collects data of charged animal cruelty offenses. Massachusetts Sentencing Commission data from 2013 shows that there were 212 charges for animal cruelty in 2011, 252 charges for animal cruelty in 2012, and 261 charges for animal cruelty in 2013. There were 17 convictions in 2011 and 2013 and 12 convictions in 2012.¹¹

National efforts undertaken by the Federal Bureau of Investigation should improve data collection on animal cruelty charges. Starting in 2016, the FBI reports animal cruelty crimes as a separate offense under the agency's Uniform Crime Report (UCR) National Incident Based Reporting System (NIBRS) Program, the primary source of information on crime in the United States. Previously, when and if information about animal cruelty crimes was captured in the UCR, the data were relegated to a catchall category entitled "All Other Offenses" and grouped in with a variety of other, mostly minor, crimes. With this significant revision, animal cruelty statistics will now be itemized separately and become available for review and analysis. Animal cruelty crimes will be classified as distinct Group A offenses, joining other major crimes such as arson, assault, and homicide, and will require the reporting of both incidents and arrests. The reported crimes will be categorized as simple/gross neglect; intentional abuse and torture; organized abuse; and animal sexual abuse. It will be important to ensure Massachusetts data is inputted into this program. Procedures will need to be developed to ensure data is gathered from all enforcing bodies. This includes reports from the private non-profit entities empowered to enforce animal cruelty laws and animal control officers without direct access to their city or town's police records management software. However, a current shortcoming is that Massachusetts is not a National Incident Based Reporting System reporting state. In participating

⁹ G.L. c. 129.

¹⁰ See e.g., Norfolk District Attorney, *Animal Cruelty Unit* (available at www.mass.gov/norfolkda/animalcrueltyprevention.html) (detailing special prosecutors designated to deal with animal cruelty) and Wicked Local, Marblehead, *Essex County DA moves to stop animal cruelty* (April 14, 2016) (available at <http://marblehead.wickedlocal.com/article/20160414/NEWS/160417251>).

¹¹ Massachusetts Court System, *Survey of Sentencing Practices* (available at <http://www.mass.gov/courts/court-info/trial-court/sent-commission/survey-of-sentencing-practices-generic.html>). This data may not reflect multiple charges in a single case or include cases dismissed or resolved short of a guilty finding.

states, data uploaded to the Uniform Crime Report will be automated through this software when updates are released and implemented by each municipality.

RECOMMENDATIONS FOR EFFECTIVELY ADDRESSING ANIMAL CRUELTY IN MASSACHUSETTS

CHAPTER 272 – ANIMAL CRUELTY

This section covers a part of Chapter 293 of the Acts of 2014:

“(i) assess the adequacy, effectiveness and necessity of laws pertaining to animal cruelty and protection including, but not limited to, the laws pertaining to the protection of animals contained in chapters 266 and 272 of the General Laws and the duties of the Massachusetts Society for the Prevention of Cruelty to Animals and the Animal Rescue League of Boston under chapter 129 of the General Laws, the process of charging for animal cruelty and the issuing of citations under section 174E of chapter 140 of the General Laws;”

1. SUMMARY OF RECOMMENDATIONS

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| <ul style="list-style-type: none">a. Amend G.L. c. 272 § 91 to remove the requirement that animals who were the victims of animal fighting be automatically killed and amend the language relating to jurisdiction;b. Amend G.L. c. 272 § 79 to make entities, in addition to a “corporation,” subject to this law, and to expand the violations for which an entity could be prosecuted;c. Keep G.L. c. 272 § 77 unchanged at this time; andd. Promulgate a statute or regulation to clarify that drowning animals, including wildlife, is inhumane and should be expressly prohibited. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

2. IMPORTANCE

The main laws addressing animal cruelty are found in G.L. c. 272, many of which are quite old. These are the statutes under which people who perpetrate animal cruelty are usually prosecuted.

General Laws c. 272 § 91 requires that animals engaged, intended to be engaged, bred, trained or kept to be used in animal fighting be automatically killed. However, it does not reflect current thinking or best practices among experts in animal behavior and sheltering – to evaluate animals as individuals. Animals seized under animal fighting laws can live, and have lived, out their lives in adoptive families.

It was also brought to the Task Force’s attention that G.L. c. 272 § 79 had not been updated when additional sections were added to G.L. c. 272, resulting in this section not having the intended impact.

Drowning has been determined not to be a humane death by the leading authority on euthanasia, the American Veterinary Medical Association (AVMA) in its Guidelines for the Euthanasia of Animals.¹² Wildlife in Massachusetts are currently being killed in this inhumane manner.

¹² American Veterinary Medical Association, *AVMA Guidelines for the Euthanasia of Animals*, Appendix 3 (2013 Edition) (available at <https://www.avma.org/KB/Policies/Documents/euthanasia.pdf>).

3. CURRENT PRACTICES

A. G.L. c. 272 § 91

Massachusetts is one of only 11 states that has a provision requiring automatic killing of animals involved in animal fighting. In the past four years, four states have changed similar laws.¹³

General Laws c. 272 § 91 was originally enacted in 1869.¹⁴ All Task Force members agreed that this language is not appropriate given current practices in animal sheltering that evaluate animals as individuals. The Task Force reworked the sections and ended up with two slightly different versions that were voted upon. In both versions, the Task Force agreed that: 1) the language relating to jurisdiction should be updated (changing to state that application for forfeiture of animals shall be made to a court having jurisdiction over the offense, instead of just to the district court); and 2) the language that the court *shall* issue and order for killing animals should be removed. The other issues discussed were whether to be specific about animal protection organizations completing an assessment of an animal (and by whom) and whether the statute should include detail about where an animal goes (and its disposition) when it is forfeited. When discussing not including provisions in the statute, Task Force members emphasized that the issues are not just about statutory language, but about education and training for officials involved in these cases and about options for animals who have been involved in animal fighting.

B. G.L. c. 272 § 79

The statute currently provides that “A corporation violating either *of the two preceding sections* shall be punished...” (emphasis supplied). At one time, this likely meant section 77 and section 78 (section 79 was enacted in 1868). In later years, additional sections added to G.L. c. 272 changed the meaning of “two preceding sections.” At the very least, section 78A was enacted in 1969, making that one of the “two preceding sections” and displacing section 77.

The Task Force was unable to find any current applications of this statute. Task Force members suggested that it has not been used recently because of the problems noted above.

C. G. L. c. 272 § 77

Currently, G.L. c. 272 § 77 does not have a misdemeanor provision nor is there an explicit attempted or threatened animal cruelty provision. The Task Force discussed whether to recommend amendments to the primary cruelty statute G.L. c. 272 § 77.¹⁵ While some members believe the statute is working well, others expressed concern. Situations can arise where treatment of animals would be considered unacceptable, but prosecution would not be possible.

D. DROWNING WILDLIFE

¹³ Florida, Delaware, Rhode Island, and Wisconsin. California has a similar bill pending in its 2016 session.

¹⁴ In 1959 an amendment changed the words “or a trial justice” to “justice or.” More recently, the statute was amended to clarify law enforcement authority to seize paraphernalia related to animal fighting and to seize animals being bred to fight. The language requiring issuance of a court order for killing animals is outdated—more than 146 years old.

¹⁵ G.L. c. 266 § 112 (malicious killing) is often used in cruelty cases where an animal belonging to another is killed or poisoned.

Currently, the Massachusetts Division of Fisheries and Wildlife (Division) Problem Animal Control (PAC) Agent handbook lists drowning as a viable method for dispatching nuisance wildlife.¹⁶ This method is also discussed in the current PAC training. MSPCA and ARL law enforcement officers also receive calls from citizens who have been advised to drown nuisance wildlife by the Division of Fisheries and Wildlife.

In the past, the Division's position has been that G.L. c. 272 § 77 does not apply because the language of the statute does not explicitly list drowning of wild animals as inhumane. The Division contended that G.L. c. 131 (Inland Fisheries) and CMR 321 (Division of Fisheries and Wildlife) were instead controlling, giving the Division jurisdiction to determine illegality.

The Massachusetts Supreme Judicial Court has determined that the Commonwealth's animal cruelty statute applies to all animals.¹⁷

The Task Force reached out to the Division to begin a discussion on the issue. While the initial discussion was productive, the Division was unable to schedule follow up meetings in time to allow resolution prior to issuance of the Task Force report.

4. RECOMMENDATIONS

A. AMEND G.L. c. 272 § 91 TO REMOVE THE REQUIREMENT THAT ANIMALS WHO WERE THE VICTIMS OF ANIMAL FIGHTING BE AUTOMATICALLY KILLED AND AMEND LANGUAGE RELATING TO JURISDICTION

- i. **Amend the language in G.L. c. 272 § 91** to remove the requirement that animal victims of animal fighting be automatically killed. In addition, the Task Force recommends updating the language relating to jurisdiction to state that application for forfeiture of animals shall be made to a court having jurisdiction over the offense (instead only to the district court). *See* Appendix C for recommended language.
- ii. **Ensure adequate training and education.** The Task Force emphasized the need to work on education and training relating to animal fighting seizures. This would include training for law enforcement (and also training for municipal or non-profit animal sheltering organization staff evaluating animals seized as a result of being associated with animal fighting). *See* Education and Training section in this report.
- iii. **Improve laws and resources to ensure the ability of entities to hold seized animals.** Animals seized under the animal fighting laws face being held as evidence. Holding animals for long periods of time can be costly and not behaviorally or medically in the animals' best interest. The Animals Seized in Cruelty Cases section of this report addresses these issues and offers recommendations to address animals held under animal cruelty and fighting statutes.

¹⁶ Massachusetts Division of Fisheries and Wildlife, *Problem Animal Control Agent Handbook*, sixth edition (2010) states "Drowning: While generally discouraged as a primary means of dispatch, this technique of last resort may be the only **practical** method of dispatch for problem animals under field conditions." (emphasis in original).

¹⁷ *Commonwealth v. Turner*, 145 Mass. 296 (1887); additionally cited by *Commonwealth v. Higgins*, 277 Mass. 191 (1931) and *Knox v. MSPCA*, 12 Mass. App. Ct. 407 (1981).

B. AMEND G. L. c. 272 § 79 TO MAKE ENTITIES, IN ADDITION TO A “CORPORATION,” SUBJECT TO THIS LAW, AND TO EXPAND THE VIOLATIONS FOR WHICH AN ENTITY COULD BE PROSECUTED

The Task Force recommends the current language of G.L. c. 272 § 79 be amended to make additional entities subject to this law, in addition to a “corporation” as currently permitted. The amendment should include a: “...for profit corporation, nonprofit corporation, business, professional corporation, partnership, limited liability company, partnership, limited partnership, limited liability partnership, or any other business entity...” These changes recognize that these types of entities should be held responsible for a violation of the enumerated statutes and that entities doing business with animals might not be a formal corporation.

The Task Force also recommends amendments to correct and expand the sections listing those violations for which an entity could be prosecuted. The Task Force has listed specific statutes (as opposed giving a range of sections that may change when sections may be added in between them) to prevent such an oversight from occurring again and to expand the list of those crimes a corporation or other entity could be charged with. *See Appendix D* for recommended language.

C. KEEP G. L. c. 272 § 77 UNCHANGED AT THIS TIME

The Task Force members expressed concerns about amending G.L. c. 272 § 77 at this time. The Task Force discussed creating a misdemeanor penalty and while members were not opposed to this idea, it was unclear how to accomplish this effectively. There were several alternatives to amending G.L. c. 272 § 77 that were suggested and would allow enforcement entities to address situations that might not rise to animal cruelty under the current statute, or otherwise be able to be prosecuted, but where there should be some legal mechanism to assist animals.

One alternative is to improve the laws found in Chapter 140. The members made those recommendations in the Animal Control and Statutes – Chapter 140 section of this report.

The Task Force also suggests exploration of procedures that would allow the health, safety and well-being of animals to be addressed and that could provide, in appropriate cases, an alternative to criminal prosecution. One idea that was discussed, reviewed, and explored, similar to provision regarding emergencies involving children, is the concept of immediate protective custody with potential outcomes including (among others) continued work with the owner; return of the animal; seizure of the animal; or animal cruelty charges. There would be notice to the owner and a petition filed with the appropriate court. Animals would be taken into immediate protective custody when the officers have reasonable and articulable suspicion to believe that the animal is threatened by or is in immediate danger from abuse and neglect. There was no consensus by the Task Force on this issue.

Discussions about amending G.L. c. 272 § 77 were complicated and will likely continue to be needed in the future.

D. PROMULGATE A STATUTE OR REGULATION TO CLARIFY THAT DROWNING ANIMALS, INCLUDING WILDLIFE, IS INHUMANE AND SHOULD BE EXPRESSLY PROHIBITED

The Task Force recommends promulgating a regulation or statute to clarify that drowning animals, including wildlife, is inhumane and prohibited. Legislation could require the Massachusetts Department of Fish and Game to adopt regulations that require adherence to the AVMA Guidelines for the Euthanasia of Animals for disposition of wildlife, or regulations that clarify that drowning is not a humane form of euthanasia. Such a provision could be adopted in Chapter 272 (Crimes Against Chastity, Morality, Decency and Good Order (which includes animal cruelty statutes)) or Chapter 131 (Inland Fisheries and Game).¹⁸

¹⁸ General Laws c. 131 may be a preferred option as the Massachusetts Supreme Judicial Court has already clarified that the cruelty statute (G.L. c. 272) applies to all animals. *See id.*

ANIMALS SEIZED IN CRUELTY CASES

This section covers issues related to this portion of Chapter 293 of the Acts of 2014:

“(ii) identify and review the existing services, facilities and funding to meet the needs of animals seized in cruelty cases and explore interagency options for coordination and funding to care for these animals;”

1. SUMMARY OF RECOMMENDATIONS

- | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none">a. Amend G.L. c. 272 § 104 to be more effective;b. Explore alternative sheltering options for seized animals;c. Explore alternative funding to care for seized animals; andd. Explore ways to expedite criminal cases when custody of live animals is at issue. |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

2. IMPORTANCE

An ongoing issue is where to shelter, and how to care for, animals seized in cruelty investigations.

Unlike other seized property, animals seized from situations involving cruelty or animal fighting require food, water, shelter, and often-extensive medical care, often provided by the authority that seized them. This can cause extreme financial hardship for these authorities, which include municipalities and non-profit animal sheltering organizations.

Animals confined for long periods may be subject to behavior and medical problems and need extensive medical care. Animals can develop temporary or permanent behaviors, including, but not limited to, aggression, loss of house or litterbox training, or development of obsessive behavior such as chewing and gnawing on themselves. Medically, they are susceptible to infectious diseases due to immune-system suppression from stress. Despite the very best of intentions and care, a shelter is not a permanent home and therefore not an ideal or long-term solution for an animal.

3. CURRENT PRACTICES

State, local police, ACOs who are special police officers, and officers authorized under G.L. c. 22C § 57 (such as the MSPCA and ARL) enforce the laws relating to animal cruelty.

General Laws c. 272 § 104 was enacted in 2002. This law allows an authority holding animals lawfully seized pursuant to animal cruelty or fighting statutes to request that a court order a bond/security to cover costs of animal care. If a person ordered to post bond fails to do so, the animals may be deemed forfeited and may be placed into permanent homes.

Currently, the entity holding the animals must file the petition requesting posting of security for animal care, often requiring municipal or non-profit animal sheltering organizations to pay for legal representation. In some cases, the petition is filed in a civil proceeding; in others the authority moves to intervene in the criminal case for the purposes of filing the petition. The Massachusetts legislature has attempted to strengthen G.L. c. 272 § 104 multiple times.

When animals come into the custody of a municipal or non-profit animal sheltering organization the animals' legal status may remain unresolved for long periods, with cases taking months to years to resolve. Assuming prosecution, animals may be held for the pendency of the case. In certain situations, hundreds of animals have been seized requiring new housing to be created. For example:

- In *Commonwealth v. Pina*, 28 equines and 33 sheep (which became 55 once the pregnant females gave birth) were seized in Plympton. The animals were held for 2.5 years until the defendant was found guilty. Space at the Brockton Fairgrounds had to be used due to the large number of horses.
- In *Commonwealth v. Erickson*, 52 cats were held over 2 years. This seizure took up an entire isolation section in an animal care facility in Pembroke and one person was assigned to the isolation room for the day due to ringworm exposure to other animals in the building.
- In the recent case of *Commonwealth v. Perry*, 12 dogs were seized and 5 dogs were held by the City of Boston for over 2.5 years.

These situations result in significant expense for the authority holding the animal, which they bear without any guarantee of reimbursement.

4. **RECOMMENDATIONS**

A. **AMEND G.L. c. 272 § 104 TO BE MORE EFFECTIVE**

Petitions brought pursuant to G.L. c. 272 § 104 have allowed some animals to be placed in permanent homes expeditiously. A bill filed for the past several legislative sessions would:

- i. Amend the language in the statute to reflect that animal cruelty became a felony in 2004;
- ii. Allow the prosecutor to file the petition for the bond. It would, in many cases, be more efficient to allow the bond issue to be addressed as part of the prosecution. Many local police departments seize animals which are held in municipal shelters; this would particularly help them.¹⁹

See Appendix E for recommended amendments.²⁰

¹⁹ Other changes the bill would make include (1) acknowledging that substantial expenses can be incurred before the judicial decision on the petition and allowing these expenses to be recovered; (2) eliminating ambiguity if the defendant fails to post the bond; (3) adding language relating to when the seizing authority has already incurred the security amount; and (4) clarifying what happens if an animal is suffering and needs to be humanely euthanized during the period when the bond is posted.

²⁰ At the October 15, 2015 meeting, Task Force members voted to support H. 1220, 189th General Court (2015-16), *An Act Updating the Law Relating to Posting a Security for Seized Animals in Cruelty Cases*, and for that support to be publicly expressed at a hearing in the legislature the following week.

B. EXPLORE ALTERNATE SHELTERING OPTIONS FOR SEIZED ANIMALS

Because the care and sheltering of seized animals falls to municipalities or non-profit animal organizations, the Task Force recommends exploring other options for sheltering seized animals. The Task Force recommends:

- i. Explore partnerships with agricultural schools to care for seized animals.

A partnership between agencies that seize animals and schools that teach animal care could allow students to have additional training in animal care.

- ii. Explore partnerships between municipal or non-profit animal sheltering organizations holding seized animals, county sheriffs, the MDAR, and the Department of Correction.

Non-violent inmates could be taught animal care and grooming and could care for seized animals, allowing the animal to receive care, and the inmate to learn marketable skills.²¹ Such a program could be modeled in part on other programs where inmates care for animals.²²

C. EXPLORE ALTERNATIVE SOURCES OF FUNDING TO CARE FOR SEIZED ANIMALS

The Task Force recognizes the need for funding to care for seized animals. There are several ways additional funding could be created:

- i. Create a new fund for care of seized animals.

²¹ The pet grooming industry is growing and learning these skills might be beneficial to both animals and inmates. See C. Tice, *Why One Recession-Proof Industry Just Keeps Growing*, Forbes (Oct. 30, 2012) (available at <http://www.forbes.com/sites/caroltice/2012/10/30/why-one-recession-proof-industry-just-keeps-growing/#6747db7d4c22>).

²² The concept of incarcerated individuals caring for animals and gaining hands-on experience and job skills is not new; a number of models are available nationally and locally. See Appendix F for a summary of the Task Force meeting with Ray Connors, Supervisor of the Animal Control Division under the Connecticut Department of Agriculture who discussed the Connecticut program that houses seized animals. The Florida Department of Corrections partners with a number of community rescue groups and animal service agencies on its Dog Obedience Programs. See Florida Department of Corrections, *Want to know more about our inmate Dog Training Programs?* (available at <http://www.dc.state.fl.us/apps/utopia/learn.html>). The partnerships are intended to increase adoptability of shelter dogs and provide inmates with job skills beneficial after release. In Louisiana, a small animal shelter is run from a correctional institution as part of the Pen Pals program. Inmates provide daily care for animals and work with students from Louisiana State University's School of Veterinary Medicine shelter medicine program to provide medical care in the facility's clinic. G. Cima, *Within Prison Walls*, Journal of the American Veterinary Medical Association (Dec. 1, 2013) (available at <https://www.avma.org/News/JAVMANews/Pages/131201a.aspx>). In New England, National Education for Assistance Dog Services, also known as Dogs for Deaf and Disabled Americans (NEADS), is a non-profit organization based in Princeton, Massachusetts. Ninety to 95% of NEADS service dogs are training in 9 correctional facilities throughout New England. Information about the Prison PUP Partnership program is available at www.neads.org. In Massachusetts, non-violent Norfolk County inmates apply to participate in a competitive and popular program providing care for dogs and wild animals at the New England Wildlife Center. See *A place of work that leaves inmates dreading the weekends*, Boston Globe (June 10, 2016) (available at <http://www.bostonglobe.com/metro/regionals/south/2016/06/10/place-work-that-leaves-inmates-dreading-weekends/KispfrvlgUegLq4jRzpQmJ/story.html>). This privately-funded program could be expanded and emulated throughout the Commonwealth.

A Seized Animal Fund could be included in the budget, or another source for such a fund could be created legislatively. The legislature has previously attempted to do this.²³

- ii. Expand the mandate and funding sources of the Massachusetts Animal Fund.

The Massachusetts Animal Fund was created in 2012 and is funded with a voluntary donation option on state tax forms. The Fund's purposes are to provide training to ACOs and spaying, neutering, and vaccinations for homeless animals and animals belonging to people who cannot afford those services. In order to expand the Massachusetts Animal Fund to provide funding to care for seized animals, additional funding sources would be needed. The Task Force recommends exploring other options for funding, including models used in other states.²⁴

D. EXPLORE WAYS TO EXPEDITE CRIMINAL CASES WHEN CUSTODY OF LIVE ANIMALS IS AT ISSUE

It may take a period of months to years to reach final disposition in a criminal case involving live animals. While it is unclear whether the judicial process can be expedited, the Task Force suggests further exploration of procedures to assist in expediting these matters including the following:

- i. Establish a special session for cruelty cases to assist in the prompt scheduling of pre-trial hearings, motions, and trials;

²³ In 2014, a Senate budget amendment was introduced proposing \$100,000 to establish a Fund for Seized Abused Animals. (JUD 108). The amendment was not accepted. The amendment would have provided "reimbursement to any state, municipal, public or private agency or person for the purpose of the housing, care and welfare of any animal seized under sections 77 or 94 of chapter 272, until final disposition of such animal if such temporary care exceeded thirty days in duration and such costs exceed the amount of any bond or security posted under section 104 chapter 272."

In two previous legislative sessions, a bill to amend G.L. c. 94C to expend "no less than 1% to assist animals seized by the commonwealth under this chapter with funds to be deposited into the Seized Animal Fund" was filed. H. 2887, 187th General Court (2011-12) and H. 1824, 188th General Court (2013-14), *An Act Establishing a Seized Animal Fund*, would have amended G. L. c. 94C § 47 (Controlled Substances Act/forfeiture of property) by inserting a provision requiring that all animals forfeited under the chapter be brought to a local shelter. It would have amended the statute by inserting in line 134 the following "- and expend no less than 1% to assist animals seized by the commonwealth under this chapter with funds to be deposited into the Seized Animal Fund." It would have further amended the law by adding a new section 2CCC, "There shall be established and set on the books of the commonwealth a separate fund to be known as the Seized Animal Fund. There shall be credited to such fund 1% of revenues generated from section 47 of chapter 94C. Revenues credited to this fund will be used to aid animals that are seized pursuant to chapter 94C." It also specified the distribution of the funds.

²⁴ The Task Force reviewed suggestions from the Vermont Animal Cruelty Task Force report (*Vermont Animal Cruelty Task Force Report to the Vermont House and Senate Judiciary Committees* (Jan. 15, 2016) (available at http://www.vermonthumane.org/wp-content/uploads/2015/08/Report_to_Judiciary_FINAL-APPROVED.pdf)) and similarly understands that funding is a challenging issue. The Vermont Task Force noted potential sources of funding, with the understanding that some may not be feasible. The following sources of funding were discussed: the sale of special lottery tickets, a surcharge on animal feed, companion and/or livestock, fines collected from civil tickets for animal cruelty, a pet food tax, a portion of dog license fees, a tax on the sale of animals, equine and/or cat licensing fees, a surcharge on Coggins tests (horses), and a surcharge on animal vaccines. Massachusetts already has a donation option on state income tax return forms and sells special animal license plates. Review of these funding options do not equate to an endorsement by the Task Force.

- ii. Establish an expedited timetable whereby the defense must promptly conduct any examination of the live animal. Thereafter, unless there is a claim of ownership by the defendant, there may no longer be a need to hold the animals as evidence.

REPORTING SUSPECTED ANIMAL CRUELTY

This section covers the following section of Chapter 293 of the Acts of 2014:

- (v) examine existing methods to report animal abuse and explore additional mechanisms, if needed, and ways to promote these reporting mechanisms;

1. SUMMARY OF RECOMMENDATIONS

- a. Amend statutes to remove barriers to reporting suspected animal cruelty;
- b. Implement and promote a uniform and user-friendly reporting systems and forms to facilitate the reporting of suspected animal cruelty, and to standardize information gathered and investigative responses; and
- c. Collaborate and share information between agencies.

2. IMPORTANCE

The link between animal cruelty and other forms of violence is clearly established. *See* The Link Between Animal Abuse and other Forms of Violence section of this report. Often, professionals who may encounter suspected animal cruelty in the course of their professional activities are concerned about reporting for fear of legal repercussions.²⁵ Others may not know how to report.²⁶ Yet others may believe they need to *know* that something is animal cruelty, not just that they suspect it could be.

Because forms of violence are so interconnected, investigating one type of abuse often can help address other violence that may be found in a home; sharing information between agencies is often referred to as “cross-reporting.” When an agency is investigating animal abuse (or child abuse or neglect) and sees or hears about other abuse (if the child welfare investigators suspect animal abuse or if an ACO suspects child abuse or neglect), the other form of abuse can also be addressed. This ensures that the appropriate information gets to the agency that must conduct the investigation or family assessment. The intent of cross-reporting is not to engage professionals in an investigation outside of a field of expertise, it is to create an avenue to make a report across agencies to engage in a preventative approach.

3. CURRENT PRACTICE

For 15 years, veterinarians have been immune from civil or criminal liability when they alert authorities to an animal they suspect has been inhumanely treated.²⁷ In 2014, Section 1 of the Chapter 293 of the Acts of 2014 required veterinarians to report suspected animal cruelty.²⁸ Prior to that, in 2004, the Legislature passed a law that allows Department of Children and Families (DCF) employees to report instances of animal abuse, cruelty or neglect when they are conducting investigations. The DCF employee may report the case to any organization that

²⁵ M. Benetato et al. *The veterinarian’s role in animal cruelty cases*, Journal of the American Veterinary Medical Association, Vol. 238, No. 1 (January 1, 2011).

²⁶ M. Glasere, *How can veterinarians report animal abuse if they don’t know who to report it to?* Journal of the American Veterinary Medical Association, Vol. 248, No. 9 (May 1, 2016).

²⁷ G.L. c. 112 § 58B.

²⁸ *Id.*

investigates animal abuse within two days of witnessing the abuse. Other states have passed other laws to encourage or require “cross-reporting”²⁹ or use memoranda of understanding (MOU) to facilitate this. Where reporting is allowed or mandated it is important to ensure a professional is not criminally or civilly liable for such reporting.

When the law passed in 2014 requiring veterinarians to report animal abuse, it became clear that information about how to do this is needed, not only by veterinarians, but by other professionals and members of the public.

There are several agencies that investigate animal abuse: state and municipal police, MSPCA, ARL, ACOs (some are designated as special police officers). The Task Force found that there was confusion about how to report and to whom (amongst reporters and agencies accepting reports). There appears to be inconsistency in the way that police departments process and investigate suspected animal cruelty reports. Likewise, veterinarians have been confused about who to contact regarding suspected animal cruelty.³⁰

The Task Force found that most professionals in Massachusetts who may encounter animal cruelty do not receive training on how to report. *See* Education and Training section of this report for more suggestions on education and training.

4. RECOMMENDATIONS

A. AMEND STATUTES TO REMOVE BARRIERS TO REPORTING SUSPECTED ANIMAL CRUELTY

The following legislative initiatives would expand on Massachusetts’ existing reporting statutes. The Task Force recognizes the importance of publicizing these proposed changes and assisting professionals in understanding how to report suspected animal cruelty. *See* Appendix G for recommended language.

- i. Amend G.L. c. 119 § 85 to mandate reporting by DCF employees or contractors;
- ii. Add ACOs³¹ as mandatory reporters of child abuse in G.L. c. 119 § 21, elder abuse, and abuse against disabled persons;³²

²⁹ For a summary of other states’ laws in this area, *see* National Link Coalition, *Resource Materials: Cross-Reporting – By Reporter and Cross-Reporting – By Type of Abuse* (available at <http://nationallinkcoalition.org/resources/articles-research>).

³⁰ Some guidance to veterinarians has been provided after the law passed. M. Smith-Blackmore, D.V.M., *Mandated Reporting: What it Means for Your Veterinary Practice*, MassVet News (September 2014). The Massachusetts Veterinary Medical Association (MVMA) also held a continuing education seminar on this topic with Lila Miller, DVM. Other national resources exist. *See* P. Arkow et al., *Practical Guidance for the Effective Response by Veterinarians to Suspected Animal Cruelty, Abuse and Neglect* (2011) (available at <https://ebusiness.avma.org/Files/ProductDownloads/AVMA%20Suspected%20Animal%20Cruelty.pdf>).

³¹ MSPCA and ARL are already mandated reporters as special state police officers.

³² H. 132, 189th General Court (2015-16) would require this, among other provisions. The National Animal Care & Control Association adopted a recommendation that “supports and encourages legislation that includes animal care and control personnel on the list of mandated reporters of suspected abuse of dependent persons where they are not already included...” (March 2016).

- iii. Create new statutes to require Department of Elder Affairs investigators and Disabled Persons Protection Commission investigators to report suspected animal cruelty.
- B. IMPLEMENT AND PROMOTE UNIFORM AND USER-FRIENDLY REPORTING SYSTEMS AND FORMS TO FACILITATE THE REPORTING OF SUSPECTED ANIMAL CRUELTY AND STANDARDIZE INFORMATION GATHERED AND INVESTIGATIVE RESPONSES

The Task Force created a model form to facilitate suspected animal cruelty reporting. The form would also gather information in a uniform and consistent format to compile consistent data. *See* model form in Appendix H. This form, or a similar one, should be disseminated to all stakeholders and made available on the websites of police and animal control departments, the MDAR, the Massachusetts Veterinary Medical Association (MVMA), humane organizations, the Division of Professional Licensure, and others where the information may be useful.

Every police department is encouraged to develop a protocol for investigating reports of suspected animal cruelty. This protocol should be consistent with the directive to prosecute all violations of animal cruelty that come to their notice.³³ Police dispatchers and 911 operators should be trained to forward reports of suspected animal cruelty to local police departments or special police officers as this may be the method of reporting most utilized by private citizens.

The Task Force recommends engaging in a campaign to inform the general public about how to report suspected animal cruelty. Several organizations have such informational campaigns.³⁴

C. COLLABORATE AND SHARE INFORMATION BETWEEN AGENCIES

In the absence of legislation, it is possible for agencies to enter into an MOU to work together to share information and address family violence.³⁵ Another example of collaborations may be the interagency coalitions that address hoarding. *See* Education and Training section of this report addressing interagency coordination.

The Task Force encourages the legislature to designate a governmental agency or entity to collect a copy of all suspected animal cruelty reports. This will allow for data collection and analysis, which can help guide future funding, training, and resource allotment. It also may allow

³³ *See e.g.*, G.L. c. 272 § 84. ("Sheriffs, deputy sheriffs, constables and police officers shall prosecute all violations of sections seventy-seven to eighty-one, inclusive, which come to their notice."). The Task Force suggests this be amended from "eighty-one" to "ninety-four" to include animal fighting statutes.

³⁴ *See e.g.*, the ARL "See Something Say Something" campaign (<http://www.arlboston.org/see-something-say-something-report-animal-cruelty>) and SpotAbuse.org (www.spotabuse.org), a collaboration of Wisconsin government and non-profit entities. There are also organizations developing apps to ease reporting. *See e.g.*, Animal Legal Defense Fund, *LiveSafe Mobile App to Report Animal Cruelty* (available at <http://aldf.org/resources/when-you-witness-animal-cruelty/aldf-livesafe-mobile-app-to-report-animal-cruelty/>) and H. Kovar, *Animal Cruelty Task Force adds online additions*, ABC News 10 (Feb. 27, 2015) (available at <http://news10.com/2015/02/27/albany-district-attorney-to-make-animal-cruelty-taskforce-announcement/>).

³⁵ *See* Vermont Humane Federation, *Memorandum of Understanding* (Draft April 4, 2005) (available at <http://www.vermonthumane.org/wp-content/uploads/2015/08/DCF.Humane-Society-MOU.pdf>) for an example of a memorandum of understanding.

for follow-up if cases are not investigated in a timely manner and allow for sharing of information across jurisdictions.

The legislature may choose to expand the list of mandated reporters of suspected animal cruelty to include other professions, some of which may be those included in the list of mandated reporters of child abuse and neglect.³⁶ Professionals who may encounter suspected animal cruelty should be considered for inclusion as well (including, but not limited to, pet groomers, veterinary technicians and assistants).

³⁶ G.L. c. 119 § 21. A mandated reporter is a person who is: “(i) a physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, optometrist, osteopath, allied mental health and human services professional licensed under section 165 of chapter 112, drug and alcoholism counselor, psychiatrist or clinical social worker; (ii) a public or private school teacher, educational administrator, guidance or family counselor, child care worker, person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed under chapter 15D that provides child care or residential services to children or that provides the services of child care resource and referral agencies, voucher management agencies or family child care systems or child care food programs, licenser of the department of early education and care or school attendance officer; (iii) a probation officer, clerk-magistrate of a district court, parole officer, social worker, foster parent, firefighter, police officer; (iv) a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, or person employed by a church or religious body to supervise, educate, coach, train or counsel a child on a regular basis; (v) in charge of a medical or other public or private institution, school or facility or that person’s designated agent; or (vi) the child advocate.”

ANIMAL CONTROL AND STATUTES – CHAPTER 140

This section covers recommendations related to the animal control laws in Chapter 140 that would fall under the following provision of Chapter 293 of the Acts of 2014:

(i) assess the adequacy, effectiveness and necessity of laws pertaining to animal cruelty and protection including, but not limited to, the laws pertaining to the protection of animals contained in chapters 266 and 272 of the General Laws, and the duties of the Massachusetts Society for the Prevention of Cruelty to Animals and the Animal Rescue League of Boston under chapter 129 of the General Laws, the process of charging for animal cruelty and the issuing of citations under section 174E of chapter 140 of the General Laws;

1. SUMMARY OF RECOMMENDATIONS

- a. Amend G.L. c. 140 § 174E;
- b. Encourage municipalities to update their bylaws to reflect changes to state law in 2012 and ensure consistent and effective local ordinances relating to animals;
- c. Amend G.L. c. 140 § 173A to improve enforcement of Chapter 140 laws;
- d. Amend G.L. c. 140 § 137C and add a new section to authorize the Department of Agricultural Resources to regulate kennels and breeders;
- e. Encourage municipalities to assign animal control departments to the jurisdiction of the police department and have adequate budgets; and
- f. Amend G.L. c. 140 § 141 to increase the penalty for not having a kennel license.

2. IMPORTANCE

Animal control officers provide education and enforcement of municipal and state laws within their jurisdiction. Animal control officers work in a variety of ever-changing situations where they need to make decisions to create solutions for society and the animals. Officers deal with livestock and domestic, feral, and wild animals.³⁷ Many times, ACOs are placed in positions where potential danger is high when dealing with animals and the people involved. Gone are the days of the dog catcher or dog officer in Massachusetts. ACOs are trained professionals who handle anything from dogs running loose, animals in peril, loose livestock running down the street, to preparing rabies specimens, bats flying in houses, and animals in need of rescue.³⁸ It is important to have strong and enforceable laws that protect animal welfare and public safety.

3. CURRENT PRACTICES

Animal control officers enforce G.L. c. 140 §§ 136A-174E.³⁹ In 2012, state law was updated by “An Act to Further Regulate Animal Control” (The Act) that made some local control laws outdated.⁴⁰ The Act was intended to provide more comprehensive laws for ACOs to use to better protect animals and the public. The changes removed antiquated laws, increased penalties for violations, and enacted new sections to better address animal care and health concerns relative to

³⁷ The species an ACO deals with may vary among municipalities, but all ACOs handle dogs.

³⁸ For more information on the training of ACOs, *see* Education and Training section of this report.

³⁹ For a more detailed discussion of the role of ACOs, *see* Education and Training section of this report.

⁴⁰ Chapter 193 of the Acts of 2012.

chaining, tethering and confining dogs. The Act also changed language pertaining to the designation of “dog officers” to “animal control officers,” a move toward more accurately recognizing the work of ACOs.

While this was a significant first step in revising statutes—that had not been updated for decades—and provided greater protection for animals and the public, the Task Force noted there are still some revisions needed in G.L. c. 140, some of which were not addressed in 2012, and others identified since that time.

Currently, ACOs operate under several different parts of local government. For example, ACOs can fall under the jurisdiction of the police, board of health, selectmen, health and human services, or environmental departments. This can be confusing for the public and may not offer the best support for ACOs.

General Laws c. 140 § 173A delineates a process for issuance of citations and fines imposed, but the current process is of limited impact. For example, a first citation is *automatically* dismissed. While fines increase for subsequent violations, the increase is only imposed if the second violation occurs in the same calendar year.

General Laws c. 140 § 174E prohibits tethering a dog for 24 consecutive hours. Tethering for 24 consecutive hours is not healthy for the animal physically and/or behaviorally.⁴¹ On a practical level, it is not possible for an ACO to conduct surveillance in one place for 24 consecutive hours and, as a result, this law cannot always be enforced. The lack of a viable enforcement mechanism results in tethering of dogs for longer periods than legally allowed.

There are generally three ways to acquire a pet dog or cat in Massachusetts: (1) purchase from a retail pet shop; (2) adopt from a domestic charitable corporation incorporated exclusively for the purpose of protecting animals from cruelty, neglect or abuse or through an animal control entity; and (3) purchase directly from a breeder. General Laws c. 129 § 1 defines a “pet shop” as “every place or premise where mammals are kept for the purpose of sale at either wholesale or retail, import, export, barter, exchange or gift.”⁴² General Laws c. 129 § 39A specifically exempts “...persons selling, exchanging or otherwise transferring the offspring of their personally owned animals...”⁴³ As a result, two of the three options (acquiring an animal from a pet shop or a shelter/rescue entity) are well regulated at the state level. However, the only laws governing breeders are administered and enforced at the municipal level.⁴⁴ Further, without a specific bylaw or ordinance, municipalities are limited to inspection and licensing of those breeders who also meet the definition of a kennel which is defined as a breeder with 4 or more adult dogs.⁴⁵ Without legislation authorizing an agency to establish regulations at the state level,

⁴¹ Studies have shown that tethered dogs have increased aggression levels. For a summary, see New Mexico Department of Public Safety, *The Public Safety and Humane Implications of Persistently Tethering Domestic Dogs, Report to the Consumer and Public Affairs Committee* (January 2008).

⁴² G.L. c. 129 § 1.

⁴³ G.L. c. 129 § 39A.

⁴⁴ This regulation is a result of a kennel license issued by a municipality. Under the 2012 law, ACOs must inspect any kennel for cleanliness and safety prior to a kennel license being issued. The ACO is required to inspect all kennels annually.

⁴⁵ G.L. c. 140 § 136A.

municipalities are left to enact their own standards which would vary from community to community.

The Department of Agricultural Resources is a state agency charged with preventing the introduction and spread of infectious disease among domestic animals. The connection between animal welfare and animal health has long been recognized. When conditions are unfavorable, the animal is subject to stress. Increased stress in animals directly impacts their immune system by suppressing the body's response to harmful pathogens, which leaves them more susceptible to illness.⁴⁶

4. RECOMMENDATIONS

A. AMEND G.L. c. 140 § 174E

i. Tethering language

The Task Force recommends amending the tethering law to make enforcement more effective and to better protect dogs and the public. The recommended change would remove unenforceable language allowing dogs to be tied to a structure for up to 24 hours. Instead, new language would prohibit tethering between specific hours - 10pm to 6am - during which time a dog could not be tethered, the hours a dog is most likely to be impacted by adverse conditions and/or become a nuisance to neighbors.

This change would include enforcement and would prevent dogs from living on a tether. *See* Appendix J for recommended language.⁴⁷

ii. Enforcement

The Task Force had a robust discussion about expansion the enforcement of G.L. c. 140 § 174E by extending enforcement of this provision to the MSPCA and ARL special state police officers. The Task Force could not reach a consensus. The proponents' goal was to provide special state police officers with additional enforcement tools; their view was that this expanded enforcement power would reduce "cruel conditions"⁴⁸ for more animals. The concerns raised in opposition included a feasible method of tracking written citations, and a belief that this is a function of ACOs.

B. ENCOURAGE MUNICIPALITIES TO UPDATE BYLAWS TO REFLECT CHANGES TO STATE LAW IN 2012 AND ENSURE CONSISTENT AND EFFECTIVE LOCAL ORDINANCES RELATING TO ANIMALS

The Task Force systematically reviewed state laws regarding the care of animals. During this review, the Task Force discussed how municipalities may strengthen their bylaws to ensure

⁴⁶ See e.g., P. Peterson et al., *Stress and Pathogenesis of Infectious Disease*, Reviews of Infectious Diseases, Vol. 12, No. 4 (1991).

⁴⁷ There are bills in the legislature addressing G.L. c. 140 § 174E. See H. 1866, S. 1085, S. 1092, and S. 2369, 189th General Court (2015-16).

⁴⁸ G.L. c. 140 § 174E(f).

appropriate care and keeping of animals in their jurisdictions. The Task Force consulted bylaws from several municipalities to create a model ordinance for any municipality to use to update their existing bylaws. Each city or town will have their own needs relative to what laws may be helpful to them. A future task force may wish to examine additional regulation of the growing pet service industry, dog walkers, groomers, and other animal related services. Municipalities are encouraged to review and update their bylaws regularly so the laws are relevant for their community. The Task Force also learned that some municipalities lack a citation system, an important component of a successful animal control program. Included at the end of the model ordinances in Appendix K is a court-approved sample citation.

C. AMEND G.L. c. 140 § 173A TO IMPROVE ENFORCEMENT OF CHAPTER 140 LAWS

Recommended changes include the following:

- i. Remove language that the clerk is *required* to dismiss a first offense;
- ii. Remove language requiring a violation to occur in the same calendar year in order to be considered a subsequent offense;⁴⁹
- iii. Increase the fines;
- iv. Recognize that spaying and neutering can reduce roaming, aggression and other unwanted behaviors, and provide the municipality with the ability to require that an animal be spayed or neutered after a fourth bylaw violation; and
- v. Ensure that this section does not preclude a municipality from seeking a remedy for a nuisance dog under G.L. c. 140 § 157.

See Appendix I for recommended language.

D. AMEND G.L. c. 140 § 137C AND ADD A NEW SECTION TO AUTHORIZE THE DEPARTMENT OF AGRICULTURAL RESOURCES TO REGULATE KENNELS AND BREEDERS

The Task Force recommends adopting detailed statewide minimum standards for kennels (more than 4 adult dogs on the property).⁵⁰ Currently, section 137C requires that kennels be maintained in a sanitary and humane manner. The Task Force recommends inclusion of the following language (underlined below) in order to provide minimum standards:

“137C. The mayor of a city, the selectmen of a town, the police commissioner in the city of Boston, a chief of police or an animal control officer may at any time inspect a kennel or cause the inspection of a kennel. If, in the judgment of such person or body, the kennel is not being maintained in a sanitary and humane manner or if records are not properly kept as required by law required by law, such person or body shall, by order, revoke or suspend the license for the kennel. The commissioner, subject to the approval of the governor, may make rules and regulations regarding the oversight of kennels. ...”

⁴⁹ For example, if a violation occurs in December and again in January, the second violation should be fined as a second or subsequent offense. It should not matter that these violations span a calendar year.

⁵⁰ G.L. c. 140 § 136A.

And recommends inserting a new section, G.L. c. 140 § 141C:

The commissioner, subject to the approval of the governor, may make rules and regulations regarding the activity of breeding and selling dogs and cats, relative to the maintenance of premises, buildings and conveyances, and the health of the animals.

E. ENCOURAGE MUNICIPALITIES TO ASSIGN ANIMAL CONTROL DEPARTMENTS TO THE JURISDICTION OF THE POLICE DEPARTMENT AND APPROPRIATE ADEQUATE BUDGETS

The Task Force recognizes some municipalities, for specific reasons relevant to their city or town, may have their ACOs operate under a different department, but recommends the police department be the default. A more standardized approach would help the public know who/where to call for services (and facilitate dispatch), align the ACO with law enforcement, which allows more efficient backup when needed, as well as training and support services. The Task Force also recommends that animal control department budgets be maintained and controlled by the animal control department. The animal control budget should always be funded to ensure the necessary resources to carry out this important role, and at a minimum should include adequate staff time, transportation, supplies, shelter, veterinary care, and training.

F. AMEND G.L. c. 140 §141 TO INCREASE THE PENALTY FOR NOT HAVING A KENNEL LICENSE.

The Task Force recommends increasing the penalty for not having a kennel license when required in G.L. c. 140 § 141 from the current fine of \$50 to “not less than \$500 nor more than \$5,000.”

EDUCATION AND TRAINING OPPORTUNITIES

This section covers recommendations related to the animal control laws in Chapter 140 that would fall under the following provision of Chapter 293 of the Acts of 2014:

(iii) evaluate approaches and offer recommendations for education and training opportunities for law enforcement, animal control officers, judges, veterinarians and other professionals including, but not limited to, methods to identify animal abuse, the link between domestic violence and animal abuse and animal hoarding;

1. SUMMARY OF RECOMMENDATIONS

- a. Develop specific training for law enforcement personnel on animal cruelty, and the connection to domestic violence;
- b. Expand the current ACO training curriculum;
- c. Train and educate judges, appropriate court personnel, and prosecutors;
- d. Educate veterinarians about recognizing animal cruelty and understanding current law;
- e. Create a state multidisciplinary team to train and implement an emergency response to hoarding and oversee a task force to focus on early intervention of hoarding; provide mental health counseling in all animal hoarding cases; and create a Department of Mental Health and Department of Corrections forensic assessment protocol for early intervention, sentencing, treatment, and rehabilitation; and
- f. Develop and promote animal cruelty prevention, identification, training and screening tools among pet service providers, associations, and the commercial pet industry.

2. IMPORTANCE

Currently, law enforcement personnel, ACOs, judges, veterinarians, and other professionals are not consistently aware of how to identify, address and report suspected animal cruelty. While there are effective mechanisms to identify, report, and refer these suspected cruelty cases, there is no systematic and consistent mechanism across the Commonwealth. To effectively identify, treat and protect harmed animals, it is critical that these parties, in particular, attain knowledge and skills to identify and address cruelty. All parties need to understand and be trained in best practices regarding animal cruelty.

Other groups encounter animals on a regular and daily basis and could be instrumental in the early detection of animal cruelty. More and more, pet owners are turning to the services of pet groomers, sitters, trainers and homeopathic specialists to help care for their animals. Comprehensive education and training in best practices should also include these groups.

Additionally, consistent messaging across the state is necessary to both protect abused animals and prevent animals from suffering.

3. CURRENT PRACTICES

A. LAW ENFORCEMENT

The link between animal abuse and violence towards people is widely supported, for example: animal abusers are 5 times more likely to commit violent crimes against people, 4 times as likely to commit property crimes, and 3 times more likely to have record for drug or disorderly conduct offenses.⁵¹ Experts estimate that from 48% to 71% of battered women have pets that were abused or killed.⁵²

The FBI and other law enforcement agencies have recognized the high incidence of repeated animal abuse in the early history of many of the most violent offenders including serial killers, serial rapists, and sexual homicide perpetrators. As former FBI Supervisory Special Agent Alan C. Brantley explains, “It has been long accepted among professionals who must assess dangerous populations that the best predictor of future behavior is past behavior. Violence against animals is violence, and when it is present, it is synonymous with a history of violence.”⁵³

In some states, municipal workers are trained to recognize and report animal abuse. For example, Tallahassee, Florida is using the potential for animal abuse to escalate into violence against humans as the rationale for a proposal that all city workers who go door-to-door watch for signs of animal abuse.⁵⁴

In the domestic violence context, animals are now specifically authorized to be included in abuse and protection orders. Effective October 2012, the Massachusetts courts can specifically order the possession, care and control of any domesticated animal owned, possessed, leased, kept or held by either party or a minor child residing in the household to the plaintiff or petitioner in a no contact or restraining order.⁵⁵ The court may order the defendant to refrain from abusing, threatening, taking, interfering with, transferring, encumbering, concealing, harming or otherwise disposing of such animal.⁵⁶

Currently there is no training for recognizing or investigating suspected animal cruelty provided to police recruits in the Commonwealth. However, recruits in the Massachusetts State Police Academy, Municipal Police Training Council Academy, State Police Municipal Academy and Special State Police Officer Academy all receive mandatory training in domestic violence.

⁵¹ See note 2.

⁵² F.R. Ascione et al., *Battered pets and domestic violence: Animal abuse reported by women experiencing intimate violence and by non-abused women*, Violence Against Women 13, 354-373 (2007).

⁵³ Community Oriented Policing Service (COPS), U.S. Department of Justice, *Domestic Violence and Animal Abuse: A Multidisciplinary Approach in Illinois*, COPS e-newsletter Vol. 3, Issue 3 (March 2010) (available at http://cops.usdoj.gov/html/dispatch/March_2010/domestic_violence.htm).

⁵⁴ City of Tallahassee, *City of Tallahassee Announces Efforts to Combat Animal Cruelty*, News Release (May 2016) (available at <http://www.wctv.tv/home/headlines/City-announces-efforts-to-combat-animal-cruelty-378171861.html>).

⁵⁵ G.L. c. 209A § 11.

⁵⁶ Id.

B. ANIMAL CONTROL OFFICERS

Many ACOs became interested in their line of work based on a desire to help animals suffering from cruelty. The ACO is frequently the first responder in suspected cases of animal cruelty. Despite their unique ability to discover and document related violations of law, some ACOs have been frustrated with varying levels of cooperation when passing cases along to law enforcement or prosecuting attorneys. Some municipalities have engaged police departments that are aggressive in such matters, and thus have regular communications with a receptive district attorney's office. However, there are still many municipalities who rely solely on the ARL or the MSPCA's law enforcement divisions to handle any case of alleged animal cruelty. These private non-profit organizations do not have the capacity to serve in this role for all of the Commonwealth's 351 municipalities. With adequate training and support, most ACOs will appreciate being empowered to play a key role in protecting animals from cruelty.

Professional training for ACOs on recognizing and investigating animal cruelty is available through several national organizations as well as the Animal Control Officers Association of Massachusetts (ACOAM). National trainings can be beneficial, but none of the instruction is geared towards the Massachusetts General Laws. ACOAM is the professional organization for the Commonwealth's ACOs. The ACOAM training provides approximately 12 hours of instruction on issues related to animal cruelty within the 110-hour Animal Control Officer Certification Course. Since 1987, ACOAM has offered a comprehensive certification course to ACOs. The 12 hours of cruelty training relates to cruelty investigations, hoarding, the Fourth Amendment, exceptions to the warrant requirement, and the link between violence towards humans and animals. The ACOAM certification course consists of 12, eight-hour days, once weekly, for 12 weeks. The course is offered once annually, at a cost of \$495 per officer, and has a maximum capacity of 40 students.

C. JUDGES AND PROSECUTORS

Judges sitting in the trial courts (the district, superior, probate and juvenile courts) may encounter cases involving animal cruelty. It does not appear that incoming judges are formally trained in animal cruelty matters, but training is sometimes available at judicial conferences for sitting judges.

Several district attorneys' offices have hosted animal cruelty training conferences and training is available at national conferences. On-line webinars are another source of information for prosecutors handling animal cruelty cases. Some district attorneys' offices have specifically designated prosecutors to handle animal cruelty cases; these prosecutors serve as resources for other prosecutors.

Victim witness advocates are an integral part of every district attorney's office. In addition to general training conferences, victim witness advocates may attend animal cruelty trainings hosted by district attorneys' offices. Human/Animal Violence Education Network (HAVEN), a Berkshire County based organization, has developed and implemented training programs about

the links between animal cruelty and human violence and has presented this training to victim witness advocates and other members of law enforcement at several district attorney's offices.⁵⁷

D. VETERINARIANS

Historically, veterinarians have not been taught to recognize animal cruelty. Fortunately, veterinary colleges are starting to teach students how to recognize animal cruelty. For example, the Cummings School of Veterinary Medicine at Tufts University now includes this as part of the core curriculum so that all new veterinary graduates will be familiar with this subject. However, most veterinarians currently practicing in Massachusetts graduated from veterinary school before this subject was taught and many veterinarians who practice in Massachusetts graduated from veterinary schools outside of the state.

The vast majority of the current veterinary workforce did not receive formal training on recognizing and reporting animal cruelty. Since this is a relatively new subject, continuing education training on animal cruelty has only been available for the past few years.

E. HOARDING

Animal hoarding has long been recognized as one of the most complex and challenging types of animal cruelty cases. There are generally several characteristics of hoarding behavior: (1) hoarders amass a large number of animals; (2) hoarders fail to provide for animals' most basic physical and social needs, including food, water, shelter, veterinary care, and sanitary living conditions; and (3) hoarders offer excuses for, or deny, the abysmal living conditions of their animals and, in some cases, their children.⁵⁸

Over ten years ago, animal hoarding was described as “a poorly understood phenomenon which transcends simply owning or caring for more than the typical number of pets, and affects every community in the United States. It has serious consequences for people, animals, and communities. New cases are reported in the media each day, with dozens of others unreported and still more undetected.”⁵⁹ Research in the intervening years has resulted in a better understanding of some of the characteristics and motivations of hoarders, but that understanding has not reached many who actually come face-to-face with hoarding situations. Additionally, the passage of time has not diminished the difficulties facing those who attempt to address animal hoarding situations.

In addition to the problem posed by the limited understanding of the causes of hoarding, the intake of the animals from a hoarding case—with its large numbers of ill, emaciated, and poorly socialized conditions animals—represents a significant challenge for municipal or non-profit animal sheltering organizations who are constantly tasked with the care and upkeep of the

⁵⁷ The Human/Animal Violence Education Network (HAVEN) is a collaboration of Berkshire County professionals in education, animal protection, human services, law enforcement and veterinary medicine working to create a safer, healthier, and more humane place for people and animals. See havennetwork.org. HAVEN also provides training to professionals who work with families.

⁵⁸ G. Patronek, *The Problem of Animal Hoarding*, Municipal Lawyer (May/June 2001).

⁵⁹ Hoarding of Animals Research Consortium (HARC), *What is the Hoarding of Animals Research Consortium?*, (available at <http://vet.tufts.edu/hoarding/about/>).

animals usually without compensation. This upkeep may continue for long periods of time until the resolution of a court case or another disposition outside of the legal system is reached.⁶⁰

Nonetheless, the Task Force is unaware of any focused and consistent training for law enforcement, court personnel, ACOs, prosecutors, and other professionals who may be called upon to deal with the myriad of complex issues surrounding animal hoarding. The Task Force is unaware of any currently active animal anti-hoarding task force within the Commonwealth that would allow for a multidisciplinary response and follow-up. The Task Force is unaware of any current comprehensive attempt to address hoarding situations. Instead, it appears that situations are dealt with as they arise and usually on an emergency situation. Cooperation amongst agencies and groups appears to occur on an *ad hoc* basis.

F. OTHER GROUPS

Currently, many pet services providers are recognizing the need to identify and report suspected animal cruelty. With that in mind, these service providers, along with shelter, rescue, and other animal protection organizations have published online tools to help individuals identify, prevent and report suspected cruelty.⁶¹

4. RECOMMENDATIONS

A. DEVELOP SPECIFIC TRAINING FOR LAW ENFORCEMENT PERSONNEL ON ANIMAL CRUELTY, AND THE CONNECTION TO DOMESTIC VIOLENCE

- i. Develop specific training for law enforcement personnel.

The Task Force recommends that law enforcement training should emphasize the importance of early detection and recognition of animal cruelty and understand the link to forms of human violence. Therefore, allowing the appropriate agencies to intervene before criminal and abusive behavior becomes a pattern of escalating violence and first time juvenile offenders become serious violent offenders is important. There are existing programs that offer training resources and comprehensive information about “the link” or other similar programs that should be considered.

Considerable research has connected interpersonal violence—including domestic violence—to animal abuse. Animal abuse should be considered an indicator of other problems in dysfunctional and violent households. Animals are abused in 88% of the families in which children are abused.⁶² Violence is perpetrated by the very young as well as the elderly, which speaks to the cycle of violence. Training for law enforcement and other first responders is a

⁶⁰ J. Marquis, *The Kittles Case and Its Aftermath*, Animal Law, 2: 97-201 (1996) (describing the investigation and prosecution of Vikki Kittles who officials permitted to travel from jurisdiction to jurisdiction in order to avoid dealing with her). Ms. Kittles was finally arrested in 1993 but not brought to trial until two years later. During this time, there were 8 different attorneys assigned to Kittles, 6 judges assigned throughout the two-year period, and 3 prosecutors. The trial itself took 5 weeks to find a woman who housed 115 dogs in a school bus guilty of neglect in a hoarding case.

⁶¹ See note 34.

⁶² E. DeViney et al., *The Care of Pets Within Child Abusing Families*, Humane Society Institute for Science and Policy Animal Studies Repository (1983).

necessary component to stop the cycle of violence and to understand the connection between animal cruelty and family violence.

Given the correlation between animal cruelty and domestic violence, the Task Force recommends either adding training in animal cruelty to current law enforcement training or as part of current domestic violence training, thereby expanding existing domestic violence training an additional 4 hours. The Task Force recommends online training as part of periodic in-service training for active duty police officers. The Task Force recommends a 4-hour block of instruction be added to curriculum training at the recruit level. In addition, the Task Force recommends utilizing daily training bulletins, roll call videos and webinars for training and dissemination of information to current active duty police officers.

Domestic violence is a difficult topic to discuss. Victims suffer not only physical pain and injuries, but also psychological trauma. Many times human victims are recognized but pets are overlooked. However, pets can be the first victims of domestic abuse within the home. Animal abuse in the home is underreported. Chronic or repetitive antisocial crimes like animal abuse and fire setting committed by children are crimes of power. Youthful sex offenders have admitted to engaging in animal abuse and bestiality to elevate their mood state when bored or depressed. Additionally, when a child is victimized, he or she may seek out a more vulnerable victim to abuse, including younger children or pets.⁶³

Additionally, officers should be trained to: inquire about pets in the home (if the batterer has abused the pet(s) or threatened to abuse the pet); arrange for pet emergency shelter if necessary; document any signs of animal cruelty and report it to the appropriate agency empowered with investigation and prosecution of animal cruelty; and to follow up on animal complaints. When responding to domestic violence calls, personnel must understand that children in these situations may be more willing to discuss what happened to their pet (and do so honestly), rather than what happened to them.

- ii. Encourage collaboration with animal control officers.

The Task Force cannot overemphasize the importance of law enforcement officers working with and supporting local ACOs. Often the successful investigation and subsequent prosecution of an animal cruelty case is dependent on the strength of this professional working relationship. Each can play an important role to the others. For example, law enforcement can help ACOs by documenting observations when responding to a domestic violence call and passing the information to ACOs for follow up. Conversely, ACOs can provide valuable assistance to law enforcement in the field, assisting police officers at incidents involving animals.

In general, law enforcement officers should recognize and understand that they are able and should respond to complaints of animal cruelty and similar calls. Call-takers need to recognize that law enforcement can and should be dispatched to these calls and there may not be an ACO immediately available. The law enforcement officer can respond whether or not an ACO is available and document the details for follow up by the ACO for further investigation.

⁶³ Id.

To this end, joint training between law enforcement and ACOs would also prove effective. Training should include search warrant affidavit writing, a comprehensive review of the laws, pertinent statutes, and all applicable ordinances or bylaws. A network of resources and contacts should be made available to all law enforcement and animal control officials to assist them in their duties.

iii. Encourage collaboration with other groups.

Community coalitions against violence should invite representatives from animal control agencies, humane societies, and veterinarians to train staff and help train law enforcement on how animal cruelty cases are investigated and prosecuted. In Massachusetts the MSPCA is one of the first humane organizations in America founded shortly after the Civil War. Its mission is to protect animals, relieve their suffering, advance their health and welfare, prevent cruelty and work for a just and compassionate society. The MSPCA Law Enforcement Department employs uniformed special state police officers that investigate suspected animal complaints. The MSPCA Law Enforcement officers work jointly with state and local police, and periodically provide instruction at the ACOAM academy and participate in other trainings.

The ARL was established in 1899 and is dedicated to rescuing domesticated animals and wildlife from suffering, cruelty, abandonment and neglect. The ARL has law enforcement services staffed by SSPO's that investigate crimes against animals. The ARL conducts periodic training for law enforcement, ACOs, and prosecutors.

Additional resources for animal cruelty training are associations such as the Massachusetts Chiefs of Police Association (MCPA) and the Massachusetts Major City Chiefs (MMCC). The Task Force suggests presentations to law enforcement as a helpful method of disseminating information and materials. Lastly, the International Chiefs of Police is another, larger police organization that can partner with humane organizations and other groups to work to break the cycle of violence.

Volunteers and staff in municipal or non-profit animal sheltering organizations should be trained about domestic violence issues. It is important to make a strong connection between victims and available services, including a safe place for pets so they will not be left behind in an abusive situation, prevent the victim from leaving, or be used to intimidate or threaten the domestic violence victim.

B. EXPAND THE CURRENT ACO TRAINING CURRICULUM

The Task Force recommends expanding the current ACO training curriculum. Chapter 193 of the Acts of 2012 established the Homeless Animal Prevention and Care Fund, also known as the Mass Animal Fund. The Mass Animal Fund was established for two main purposes; to provide spay and neuter services and vaccinations for animals in need, and to establish a mandatory training program for ACOs in accordance with G.L. c. 140 § 151C. In May 2014, the Mass Animal Fund issued a survey to all ACOs in the Commonwealth to assess current levels of training and identify gaps in knowledge. In response to the survey results, and in conjunction with an assessment of existing ACO training nationwide, the Massachusetts Animal Fund Animal Control Officer Training Institute was created. In April 2016, the Mass Animal Fund

launched the first mandatory Core Competencies course. Between April and July 2016, more than 350 Massachusetts ACOs were trained at 6 regional locations: Pittsfield, Springfield, Worcester, Lowell, Boston, and Plymouth. The Core Competencies module covers topics including state laws, record keeping and report writing, communication, companion animal behavior and safe handling, and ethics and professionalism. The course is taught at no cost by experienced and proven ACOs.

The Task Force recommends expanding the existing curriculum of the Mass Animal Fund's mandatory training to include animal cruelty investigation, evidence gathering, lawful searches, and other topics resulting from recommendations in this report. Additional continuing education courses and on-line training are being developed, and such opportunities could be made available to a variety of related professionals. The Mass Animal Fund has found that ensuring ease of access to this information is key.

The current funding mechanism for the Mass Animal Fund is a voluntary donation on the Massachusetts resident income tax form. Since this funding mechanism lacks consistency, it is essential to establish a fixed funding source to ensure this curriculum remains available to the professionals who need it.

C. TRAIN AND EDUCATE JUDGES, APPROPRIATE COURT PERSONNEL, AND PROSECUTORS

- i. Develop training and education for judges and appropriate court personnel.

Animal cruelty cases present a variety of unique issues. It is essential that all judges understand the importance and significance of animal cruelty cases, both as they relate to human violence and as they relate to an understanding of a defendant's behavior. As such, the Task Force recommends that animal cruelty issues be incorporated into all training for judges, including training for new judges as well as continuing education of sitting judges. Such training should include available research on why it is essential that pets be included in restraining orders when appropriate.⁶⁴

It is equally critical that judges know the consequences of animal cruelty cases, for example:

- a. the care and custody of live animals that are suspected victims of cruelty during the pendency of the criminal case is initially the responsibility of law enforcement or municipal or non-profit animal sheltering organizations;
- b. failure to provide animals with adequate food, water, necessary veterinary care to treat a disease or injury, or a sanitary environment constitutes animal cruelty;
- c. judges may order defendants to assume the costs of animal care during the pendency of the criminal case;⁶⁵
- d. long-term confinement in shelters negatively affects the health and well-being of animals;⁶⁶

⁶⁴ G.L. c. 209A § 11; *see also* *Commonwealth v. Duncan*, 467 Mass. 746, 752 (2014).

⁶⁵ G.L. c. 272 § 104.

- e. the monetary and resource costs associated with long-term sheltering of animals negatively impacts the ability of municipal or non-profit animal sheltering organizations to care for other animals;⁶⁷
- f. by operation of law, upon conviction defendants forfeit animals that were the subject of the charges;⁶⁸
- g. judges have discretion to impose conditions prohibiting defendants from possessing or having contact with any animal (either as pretrial release conditions, or as a probationary condition after a guilty finding or continuance without a finding);⁶⁹ and
- h. persons convicted of cruelty to animals are prohibited from working in any capacity that requires contact with animals, and that proposed probationary conditions involving work with animals are not appropriate.⁷⁰

Judges and appropriate court personnel should be familiar with the roles of those authorized to enforce the animal cruelty laws. State and local police have the responsibility and authority to enforce the laws prohibiting animal cruelty.⁷¹ Special state police officers employed at the MSPCA, the ARL, and ACOs who are special police officers within municipalities, have law enforcement powers, including the power to seek search warrants, make arrests, and file complaints as law enforcement officers.⁷²

ii. Develop training and education for prosecutors.

Prosecutors can play a crucial role in the investigation of potential animal cruelty allegations prior to the formal issuance of a complaint. Involving prosecutors familiar with prosecuting animal cruelty cases at the outset of any animal cruelty investigation is often an important factor in the outcome.

Because the animal cruelty statute encompasses a wide range of behavior, animal cruelty cases can be remarkably different. Animal cruelty prosecutions may involve complex search warrant issues, human and non-human DNA, cyber-investigation, and complex veterinary testimony. Prosecutions of suspected animal cruelty may also involve the care and custody of live animals. Assistant district attorneys who may handle animal cruelty cases should be familiar with resources necessary to address the varied issues that may arise in these cases.

All assistant district attorneys should be trained to recognize that animal cruelty may be present in other types of cases; for example: domestic abuse cases may also involve cruelty toward a

⁶⁶ S. Newbury et al., *Guidelines for Standard of Care in Animal Shelters*, Association of Shelter Veterinarians, at 26 (2010) (when confined in animal shelter long-term, animals frequently suffer due to chronic anxiety, social isolation, inadequate mental stimulation and lack of physical exercise) (available at <http://www.sheltervet.org/assets/docs/shelter-standards-oct2011-wforward.pdf>)

⁶⁷ C. Berry et al., *Long Term Outcomes in Animal Hoarding Cases*, *Animal Law*, 11: 167, 180 (2005) (long term holding of animals absorbs a shelter's resources and space that could be used for other animals and adds to stress animals have already experienced, essentially victimizing them a second time) (available at <http://vet.tufts.edu/wp-content/uploads/Berry.pdf>).

⁶⁸ G.L. c. 272 § 77.

⁶⁹ G.L. c. 276 § 58.

⁷⁰ G.L. c. 272 § 77.

⁷¹ G.L. c. 272 § 84.

⁷² G.L. c. 22C § 57.

household pet and illegal gambling operations may involve dog or cockfighting. When reviewing reports and communicating with officers and potential witnesses, assistant district attorneys should be cognizant that additional investigation or charges may be appropriate in cases where animal are involved, and should always consider whether seeking indictment is appropriate.

When interacting with domestic violence victims, victim-witness advocates should be trained to inquire as to whether household pets are present, whether there is any threat of harm to pets,⁷³ and that in appropriate circumstances, a pet may be included in a G.L. c. 209A order.⁷⁴ When reviewing reports, victim witness advocates should be aware that unaddressed issues of potential mistreatment of animals should be brought to the attention of the prosecuting assistant district attorney, the investigating police department, and other appropriate personnel.

Given the frequent need to address the care and custody of live animals suspected of being victims of animal cruelty, and the strong emotions of participants and the public that often accompany allegations of animal abuse, most animal cruelty cases would benefit from being assigned to one prosecutor from arraignment to disposition. Ideally, each office would have one or more assistant district attorneys specializing in prosecuting animal cruelty cases with whom all prosecutors could consult. A designated prosecutor trained in prosecuting animal cruelty cases would also be able to provide guidance to ACOs, veterinarians, and others who may not have previously been involved in both the investigatory and prosecution stages of any case.

D. EDUCATE VETERINARIANS ABOUT RECOGNIZING ANIMAL CRUELTY AND UNDERSTANDING CURRENT LAW

i. Educate veterinarians on recognizing animal cruelty.

Although there are potentially many perceived barriers for veterinarians to overcome regarding reporting suspected cruelty, the most common and difficult barrier results from the veterinarian failing to recognize his/her role in the process. When practicing medicine, veterinarians are trained to come to a conclusion. Thus, it is often natural for the veterinarian to attempt to reach a conclusion regarding cruelty. However, veterinarians often are unaware that their role is only to report and that it is the role of the investigator to gather facts and the responsibility of the judicial system to reach a conclusion. There are some well-recognized resources and publications that could help educate veterinarians on best practices to recognize cruelty.⁷⁵

ii. Provide information to veterinarians about the law.

⁷³ HAVEN has developed an overview of safety planning for pets.

⁷⁴ G.L. c. 209A § 11.

⁷⁵ See e.g., P. Arkow, et al., *Practical Guidance for the Effective Response by Veterinarians to Suspected Animal Cruelty, Abuse and Neglect* (2011) (available at <https://ebusiness.avma.org/Files/ProductDownloads/AVMA%20Suspected%20Animal%20Cruelty.pdf>); Humane Society Veterinary Medical Association, *Mandatory Veterinary Reporting of Animal Cruelty Resources* (available at http://www.hsvma.org/assets/pdfs/reporting_animal_cruelty_veterinary_resources.pdf); and Animal Law Resources MN, *Reporting Animal Cruelty, Role of Veterinarian: Establishing Protocols to Identify and Report Suspected Animal Cruelty in MN*, First Edition (Updated May 8, 2016) (available at http://www.animalfolksmn.org/documents/FINAL_AnimalFolks_VeterinarianManual_Reporting_031116.pdf).

It is equally important to inform veterinarians about current law. Through this, veterinarians will be better equipped to identify suspected cruelty, as well as the proper steps to report. The delivery method of this education can take many forms and should be worked into each veterinarian's schedule in the most convenient form possible. The Task Force considered:

- a. Sharing information via the MVMA website and newsletter;⁷⁶
 - b. Including information at professional conferences and continuing education courses;
 - c. Mailing information with annual license renewals, which should reach all licensed veterinarians in Massachusetts;⁷⁷
 - d. Posting information on MDAR or other state agency websites; and
 - e. Creating a Massachusetts version of Minnesota's manual on animal cruelty for veterinarians.⁷⁸
- E. CREATE A STATE MULTIDISCIPLINARY TEAM TO TRAIN AND IMPLEMENT AN EMERGENCY RESPONSE TO HOARDING AND OVERSEE A TASK FORCE TO FOCUS ON EARLY INTERVENTION OF HOARDING; PROVIDE MENTAL HEALTH COUNSELING IN ALL ANIMAL HOARDING CASES; AND CREATE A DEPARTMENT OF MENTAL HEALTH AND DEPARTMENT OF CORRECTIONS FORENSIC ASSESSMENT PROTOCOL FOR EARLY INTERVENTION, SENTENCING, TREATMENT, AND REHABILITATION

Every step of an animal hoarding situation poses risks and dangers—both to people and to animals. Many hoarding situations are not addressed until there is a crisis. “Surveys of caseworkers dealing with [hoarding] indicate that a lack of appropriate sanitation appears in 70 to more than 90% of animal hoarding cases, and together with the large number of animals involved, increases the likelihood of zoonotic diseases for the occupants and the community.”⁷⁹

- i. Create a state multidisciplinary team to (i) train and implement an emergency response team to intervene in hoarding cases and (ii) oversee a task force to provide on-going assistance, including training, in the identification and possible early intervention of hoarding situations with the inclusion of social service agencies, including services for children and families, the elderly, mental health, public health, fire, home inspection, veterinarians, and others who may have access to the homes, people, and animals.

Research and literature on the nature and characteristics of animal hoarders makes clear that there is not one type of hoarder or hoarding situation. However, almost every situation presents the following common problems: the hoarder, family members residing with them, and the animals will require physical, mental, and humane assistance. The Task Force recommends

⁷⁶ Not all Massachusetts veterinarians are members of the MVMA.

⁷⁷ This would require the approval and cooperation of Massachusetts Division of Professional Licensure.

⁷⁸ Animal Law Resources MN, *Reporting Animal Cruelty, Role of Veterinarian: Establishing Protocols to Identify and Report Suspected Animal Cruelty in MN*, First Edition (Updated May 8, 2016) (available at http://www.animalfolksmn.org/documents/FINAL_AnimalFolks_VeterinarianManual_Reporting_031116.pdf).

⁷⁹ R. Frost et al., *The Hoarding of Animals: An Update*, *Psychiatric Times* (April 30, 2015) (available at <http://www.psychiatrictimes.com>).

formation of a state multidisciplinary team because no single agency, department, or organization can address all of these issues. A multidisciplinary problem requires a multidisciplinary response. A loosely-formed coalition may not be as effective because there may be different interpretations of the mission at hand, the terminology employed, and the protocol to be implemented. A team formed and led at the state level will have the ability to have oversight and provide guidance and discipline for an effective response. Having the team led by those who understand and work with many of the agencies is crucial as “understanding agency structure and culture contributes an integrated, comprehensive and lasting solution to animal hoarding cases.”⁸⁰

There are two aspects to the state-led team. The first is an emergency response group. As noted earlier, health situations for hoarders and the animals are often severely compromised. The entire community may be at risk if a hoarder situation exists. From the outset, the entry into properties where animals are hoarded presents serious challenges. If this is an emergency situation, then this first step cannot be accomplished without proper consideration for the health and safety of all concerned. Therefore, it is imperative that an emergency response team is trained to address all potential issues and is sufficiently equipped to enter hoarding properties.

The second responsibility of the multidisciplinary team will be the ongoing formation and supervision of an animal anti-hoarding task force. Animal hoarding situations cannot be successfully addressed in piecemeal fashion. Municipal or non-profit animal sheltering organizations can address animals’ needs and participate in their rescue, but they cannot address the human needs. Equally, there are times when the human needs cannot be addressed because animals are still on site.

Recognizing hoarding is not straightforward. There are institutional or quasi-institutional hoarders who may appear to possess some legitimate status. While the majority of hoarders come from socioeconomically disadvantaged backgrounds, hoarding behavior has been noted in all socioeconomic and demographic groups. A closer examination is required and responding personnel must know what to look for in such situations.⁸¹ The response will not always be the same. Some hoarders respond well to intervention, may be receptive to assistance, and may have sufficient abilities to downsize. Other types of hoarders will be unlikely to respond to any assistance and will resist all attempts to release the animals in question to law enforcement or shelters, and will not admit to hoarding, even when it is clear that animals are suffering. Cats and dogs are frequently the types of animals hoarded, but farm, wild, small animals and exotic animals have also been hoarded. Those responding to hoarding must be prepared for the common hazards and the innumerable variables often encountered when intervening.⁸²

⁸⁰ Hoarding of Animals Research Consortium (HARC), *Animal Hoarding: Structuring interdisciplinary responses to help people, animal and communities at risk* (2006) (available at <http://vet.tufts.edu/wp-content/uploads/AngellReport.pdf>).

⁸¹ G. Patronek, *Animal hoarding: its roots and recognition*, DVM 360 (Aug. 2006) (available at <http://veterinarymedicine.dvm360.com/animal-hoarding-its-roots-and-recognition>).

⁸² The people involved may require housing. The housing situation may require the response of home inspection officials, waste management companies, hazardous material removal, zoning boards, and fire departments. There may be a need for medical care and mental health treatment for both adults and children.

Follow-up once a hoarding situation has been identified is equally important. If prosecution is determined to be the correct action, then law enforcement personnel need to know who to contact and what to do with the animals.

Additionally, there is a need for a procedure whereby members of the animal anti-hoarding task force are able to share information without violation of privacy or confidentiality concerns, and whether the sharing needs to be mandated, or whether a MOU might suffice.

- ii. Provide mental health counseling in all animal hoarding cases and create a Department of Mental Health and Department of Corrections forensic assessment protocol for purposes of early intervention, sentencing, treatment, and rehabilitation.

Research has shown that animal hoarding behavior has an extraordinarily high rate of recidivism and, as of yet, there is not a definitive answer as to the most appropriate mental health treatment. Given the spectrum of hoarding behavior, not all hoarders react to intervention in the same manner. In order to identify the particular behaviors and motivations of the hoarder, a forensic assessment may be required. Researchers have noted an “important difference with regard to intentionality, pattern, and insight. These factors substantially affect the feasibility of intervention and the potential for rehabilitation counseling.”⁸³ The timing of the assessment may be part of an early intervention or part of a sentencing process. Regardless of the timing, there should be a standard protocol for the assessment.⁸⁴

It should be made clear, however, that even with counseling, there is not yet enough information to suggest that mental health counseling will, in fact, have long-lasting results. It is an unknown factor at this point. As a result of the uncertainty, the success or availability of mental health counseling should be considered separate and apart from the final disposition of the welfare of the animals.

F. DEVELOP AND PROMOTE ANIMAL CRUELTY PREVENTION, IDENTIFICATION, TRAINING, AND SCREENING TOOLS AMONG PET SERVICE PROVIDERS, ASSOCIATIONS, AND THE COMMERCIAL PET INDUSTRY

The Task Force recommends that Massachusetts pet services providers and the commercial pet industry continue to develop and promote animal cruelty prevention, identification, training, and screening tools that are appropriate for their respective services and clientele. Where practicable, law enforcement, licensing entities, ACOs and/or animal welfare groups should be consulted to help develop these tools for uniform and consistent messaging. Where industry associations exist, the association should consider distributing materials to its members.

Additionally, the Task Force recommends that other professions, including eldercare service providers, Department of Children and Families personnel, first responders, teachers, nurses, other health professions, and those that work with vulnerable populations be trained to recognize the signs of animal cruelty and the correlation it may have with the people they interact with on a regular basis. *See The Link Between Animal Cruelty and Other Forms of Violence.*

⁸³ L. Levitt et al., *Animal Maltreatment: Forensic Mental Health Issues and Evaluation*, 171, Oxford Press (2016).

⁸⁴ *Id.* at 332-359.

EDUCATION

This section covers recommendations related to the animal control laws in Chapter 140 that would fall under the following provision of Chapter 293 of the Acts of 2014:

(vi) recommend ways to develop and promulgate educational materials to children to educate them about animal abuse

1. SUMMARY OF RECOMMENDATIONS

- a. Providing education to young children from basic care of an animal to prevention of animal cruelty is a cost-effective use of government and private resources.

This section provides an exemplar of the humane education initiatives being undertaken by various organizations and agencies around the United States, with a focus on educational objectives for children in the 2nd and 6th. Lesson plans designed for students at the 2nd-grade level overwhelmingly concentrate on promoting positive pet ownership skills, an understanding of animal care, and compassionate interactions with animals. Plans designed for students at the 6th-grade level, on the other hand, are somewhat more varied in their approach: with some focusing on the importance of spaying and neutering to prevent overpopulation or on the habitat needs of wildlife and endangered species and others centered around the consequences of factory farming and GMOs and engendering a sense of student activism for animal protection.

2. IMPORTANCE

Animal cruelty is one of the more destructive ills in society. More than ever we are realizing the connection between animal abuse, child abuse, and violence towards one's peers. The need to teach kindness and empathy through guided humane education programs is therefore greater than ever. Humane education is the teaching of respect, kindness and compassion in relation to animal welfare, social justice and environmental issues. More concretely, humane education teaches people how to properly care for and respect their companion animals, such as cats and dogs, and all forms of animal life. It can be used as a tool to explain the consequences of irresponsible behavior and to motivate people to see the importance of living creatures other than ourselves.

A 1997 study by Northeastern University and the MSPCA found that over a 20-year period, a group of individuals who had abused animals as youths were 5 times more likely as the non-abusers to commit violent crimes, 4 times more likely to commit property crimes and 3 times more likely to have drug or disorderly conduct offenses. Government and community organizations across the country are implementing a diverse set of initiatives to reverse statistics like these, by nurturing empathy in children so they will in turn, show compassion toward animals and each other.

After reviewing a sampling of educational materials from different states and organizations, it is evident that programs targeting students in the 2nd grade are geared towards engendering basic compassion and care for animals, almost uniformly addressing issues such as responsible pet

ownership and pet care. These values form the foundation of the 6th grade humane education curricula, wherein children are sensitized to issues regarding animal welfare and cruelty, the importance of spaying/neutering, dogfighting, and pet overpopulation, and are encouraged to become advocates for animal protection.

By educating our youth in humane education, we are teaching them the value of kindness toward one another, animals, and the environment. Initiatives such as those outlined in this section provide citizens with an opportunity to integrate qualities such as compassion, tolerance, and integrity in their daily lives, traits we as a global society will undoubtedly need as we look to our future.

3. CURRENT PRACTICES

A. THE HUMANE SOCIETY OF THE UNITED STATES

The Humane Society of the United States (The HSUS) has developed a wide array of educational materials for teachers and students alike, emphasizing the importance of character-building and shaping good citizens through lessons focused on proper pet ownership, animal kindness, and pet “socialization.” Splitting its lesson plans into three distinct grade-level groupings, the Humane Society’s material for teachers is geared for grades pre-K-2nd, 3rd-6th, and 7th and up. These lesson plans include fully-prepared worksheets and stated objectives for student comprehension.

i. 2nd Grade

In the 2nd grade level grouping, common throughout each of the lessons is the overarching goal of educating this young group of children about the responsibilities of pet ownership, the potential dangers to pets and humans alike when these responsibilities are not met with positive action, and the importance of showing kindness to animals. Among the more specific objectives from the lessons is the idea of educating students about the training and behavior necessary for pet owners to be good neighbors. In another lesson, students become familiar with the responsibilities of proper pet care by assessing actions, such as keeping a dog on a leash, taking a cat to the vet, and brushing guinea pigs to keep them clean, with positive or negative reviews.

ii. 6th Grade

With its lessons for students in the 6th grade level, The HSUS advances the goals of animal kindness and proper pet ownership through exercises which engage students’ academic proficiency by challenging basic math, reading, writing, and critical thinking skills. Assignments in these lessons include budgeting for animals which live at “Black Beauty Ranch,” for instance, wherein students must describe the needs of each of the animals, calculate budgetary demands to meet those needs, develop fundraising strategies, and reflect on character traits of kindness, responsibility, and respect through group discussion. Lessons for this age group also advance more serious, mature topics, such as the importance of spaying and neutering pets, the terrible effects of violent profiteering through dogfighting, how to help injured pets with first aid skills, and the broad implications of endangered species and extinction. At this age level, The HSUS also promotes encouraging children to become advocates for animal protection at a community and societal level by lobbying against dogfighting and championing causes which defend animal

populations from the threat of extinction. Furthering efforts to stimulate student activism, in addition to its many released lesson plans, the organization also publishes a children's magazine—*Kind News*; through this medium, youth are encouraged to coexist humanely with animals, to celebrate the human-animal bond, and to become active advocates in efforts to protect animals.

B. MSPCA

Like the Humane Society of the United States, the MSPCA has developed a number of educational materials for teachers to implement in the classroom, divided into lesson plans for kindergarten to 2nd grade students and 6th to 8th grade students. In addition to its many lesson plans, the MSPCA also sponsors events which allow young students to interact with animals at adoption shelters through “socialization” programs like the Nevins Farm Adoption Center Reading Initiative, through which students journey to pet adoption centers to read storybooks to cats and dogs alongside family members or friends.

i. 2nd Grade

The MSPCA's focus in its 2nd grade lessons is centered both on proper pet care and on the distinctions between wildlife and domesticated animals. The lessons concentrating on pet ownership encourage students to properly train, feed, and interact with their pets, emphasizing an owner's responsibilities of kindness and meeting the animal's many needs. The MSPCA also has lessons which exclusively focus on the distinctions between domesticated animals and wildlife, both centered on ensuring students understand the meaningful distinctions across this divide, and on encouraging students to do what they can to protect wildlife habitats. Finally, the MSPCA has also developed a lesson dealing with safety concerns around other pets, teaching how students might recognize signs that a dog is communicating fear or aggression, and helping them to prevent situations where they might be injured.

ii. Older Students

For older students much of the education is through the MSPCA's camps (summer and vacation), where students have hands-on experiences with animals, including farm animals. They also learn about animals in a variety of situations and have discussions featuring ethical dilemmas challenging students to come up with humane solutions. Students also learn about careers with animals and how to advocate for animal protection issues that interest them. The staff also works with educators to develop lessons tailored to a particular unit, particularly those that impact the MSPCA's work, such as Pit Bull myths and adoption issues.

C. HOUSTON SPCA

Echoing the initiatives of the MSPCA, there are efforts by the Houston Society for the Prevention of Cruelty to Animals (HSPCA) to integrate humane education into regular classroom education. The HSPCA has programs for pre-K through 12th grade as well as school-wide assembly presentations. Each school-wide assembly provides an in-depth look into the operations of the HSPCA as well as the services offered to the community. Topics include

animal welfare-related careers, the relationship between animal cruelty and peer bullying, and a look at animal behavior.

i. 2nd Grade

Among the in-classroom topics that the HSPCA directs towards 2nd grade students are pet ownership and responsibility, and an inside look at an animal shelter. Students are educated on the basic care required for pets to be comfortable and happy in their homes and are given the chance to explore what happens during the day at an animal shelter, including veterinarian visits, cleaning, feeding, donations, fostering, and adoptions.

ii. 6th Grade

The topics directed toward 6th grade students also include an in-depth look at an animal shelter, but with a focus on how different technological advances have helped further our knowledge of veterinary medicine. In addition, the 6th grade program discusses the overpopulation crisis, the effects of increased number of animals on various environmental and economic factors, and the benefits of spaying and neutering pets.

D. LOS ANGELES INITIATIVES

In Los Angeles, through a specially-tailored program, young people are learning firsthand about animal welfare, animal safety and spaying and neutering from an attorney who specializes in animal abuse cases. The program is sponsored by After-School All-Stars, Los Angeles, an after-school program provider, and by Voice for the Animals, a nonprofit animal protection organization. Voice for the Animals Foundation's Humane Education Program teaches empathy, compassion and non-violence to students in schools in the Los Angeles area. Taking an interactive approach to animal safety education, it provides several educational videos on topics such as animal testing and pet homelessness in order to sensitize young people to animal issues.

In addition, another organization the Humane Education Department of the spcaLA, an independent, nonprofit animal welfare organization, provides a variety of prevention and intervention programs to the Los Angeles community and beyond to decrease both animal cruelty and interpersonal violence. One noteworthy initiative is a series of Do-It-Yourself Classroom Presentations in English and Spanish. For 2nd graders, these cover issues such as pet care and animal safety, while for 6th graders they cover the topics of animal cruelty, animal-related careers, animal safety, city wildlife, and pet overpopulation.⁸⁵

E. CHICAGO INITIATIVES

In Chicago, animal advocates are working year-round to end the perception of animals as commodities rather than sentient beings. Safe Humane Chicago, an animal advocacy group, has

⁸⁵ The organization also offers a week-long summer camp experience where 8-13 year olds learn basic care and responsibility for pets and the beginnings of dog training. It also provides introductory and advanced workshops for 6-8 year olds and 8-12 year olds, respectively that teach responsible ways to care for pets. spcaLA also partners with local school districts to bring its Teaching Love and Compassion™ violence prevention program to communities. These three initiatives do request some sort of fee.

developed a program for teenagers in juvenile detention that allows them to interact with shelter dogs for 12 weeks. The program includes some enrichment and training, as well as discussions on proper animal care.

Safe Humane Chicago also runs programs at two Chicago public high schools to train teenagers in humane education; the youths, in turn, travel to area elementary schools and teach children what they've learned. One activity involves a grab bag with items such as a dog brush, rabies tag, bowl, slippers and chocolate. Children take turns pulling items out of the bag, and the group discusses whether each item is "good" or "bad" for a dog.

Another innovative initiative was developed in Chicago by The HSUS with its End Dogfighting campaign. It involves young male consultants—some of them ex-dogfighters—walking the streets in high-risk urban communities and initiating conversations with preadolescent and teenage boys and inviting them to free dog obedience and agility classes. End Dogfighting was expanded into a larger program called Pets for Life, and quickly spread from Chicago to Atlanta, Philadelphia, New York and Los Angeles. Both young people and adults now can enroll their pets in its free training classes, wellness clinics, in-home dog training and other activities.

F. 4-H

National 4-H Curriculum focuses on 4-H's three primary mission mandates: science, healthy living, and citizenship. From "Wind Power" to "Workforce Readiness," youth activity guides are filled with engaging experiences that cultivate the skills that youth need for everyday living as they gain knowledge about subjects that interest them.

4-H divides the curriculum by subject matter versus grade. For example, Science / STEM; Plant & Animal Science; Environment & Outdoors; Business & Citizenship; Healthy Living; Creative Arts; and Professional Development.

HOUSING ISSUES

This section covers the following section of Chapter 293 of the Acts of 2014:

(vii) assess the impact of housing issues including, but not limited to, homeowners insurance and abandonment in vacated housing, on the surrender or abandonment of animals.

1. SUMMARY OF RECOMMENDATIONS

- a. Create greater public awareness about existing services for animals and their families; increase or provide services to prevent relinquishment due to housing issues; alleviate landlord concerns about renting to pet owners by permitting refundable pet deposits; and consider financial assistance for those deposits;
- b. Develop more pet-friendly housing through education and legislation; prevent insurance companies from discriminating based on breed; encourage public housing authorities, private owners, and property agents and managers to remove breed, height, and weight restrictions in housing and encourage responsible pet ownership through spaying, neutering and vaccination; and
- c. Consider methods to identify animals during eviction proceedings to ensure that the court, the parties, and law enforcement identify and ensure care of animals during eviction; require landlords, owners, and assignees of vacated housing to inspect such properties as soon as reasonably possible to alert authorities to and assist animals abandoned in such properties.

2. IMPORTANCE OF ADDRESSING HOUSING POLICIES

The most recent available statistics show that 50.4% of Massachusetts households have pets.⁸⁶ However, many animals do not remain in the same household throughout their lives. According to current estimates, over 7.6 million dogs and cats enter municipal or non-profit animal sheltering organizations annually and owner-relinquished animals make up at least 1/3 of that number.⁸⁷ The reasons behind surrender or re-homing are varied. According to recent studies, lack of available housing is the third-leading cause of surrender of family pets to animal shelters.⁸⁸ For renters, housing is the top cause of surrender or re-homing.⁸⁹ Individuals with incomes under \$50,000 or living in high-density population areas consistently cited the lack of pet-friendly housing and temporary pet care and boarding as factors affecting the decision to surrender their pet.⁹⁰ Even when pet owners can afford available pet-friendly housing, there are additional fees which are not always related to any services or potential pet-related damage. Pet

⁸⁶ This information is provided by the American Veterinarian Medical Association from a survey conducted every five years and that includes a breakdown of pet ownership by state. See American Veterinary Medical Association, *U.S. Pet Ownership Statistics* (available at <https://www.avma.org/KB/Resources/Statistics/Pages/Market-research-statistics-US-pet-ownership.aspx>).

⁸⁷ E. Weiss et al., *Goodbye to a Good Friend: An Exploration of the Re-Homing of Cats and Dogs in the U.S.*, Open Journal of Animal Sciences, 5: 435, 436 (2015).

⁸⁸ Id. at 435.

⁸⁹ Id. at 445.

⁹⁰ Emily Weiss et al., *Large Dog Relinquishment to Two Municipal Facilities in New York City and Washington, D.C.: Identifying Targets for Intervention*, Animals, 4: 409-433 (2014).

owners are also often impacted by breed, size, height, and weight restrictions on available housing; these are imposed without consideration of the individual owner or the animal.

When an owner can no longer afford housing or cannot find housing, not all animals are brought to animal shelters or re-homed; some are left to die in vacated housing.

The Task Force reviewed ways to increase pet-friendly housing. These included requiring insurance companies and encouraging public housing authorities, private owners, agents and property managers to remove breed, height, and weight restrictions in housing promote and encouraging responsible pet ownership; increasing temporary housing; allowing and/or providing financial assistance for pet deposits; and decreasing the incidents of pets abandoned and left behind to die in vacated housing.

3. CURRENT PRACTICES

Finding affordable pet-friendly housing in Massachusetts can be a daunting task. While Massachusetts law prohibits cities and towns from enforcing specific breed restrictions,⁹¹ the law does not prevent insurance companies, private housing, public housing authorities, landlords, property agents and property managers from restricting based upon the breed of dog, number of animals, and other factors such as height, size, and weight of animals.

Families who wish to foster or adopt children from the Massachusetts Department of Children and Families cannot own certain breeds of dogs.⁹² It appears that only one other state has such a policy.⁹³ Dogs of certain breeds can become homeless when families wish to foster or adopt a child, but have a dog that conflicts with this policy.

Financial burdens can pose barriers to finding appropriate housing. General Laws c. 186, § 15B, prohibits landlords from requesting funds exceeding first and last month's rent, a security deposit of up to one month's rent, and costs for the purchase and installation of locks and keys. Under existing law, any additional deposit is prohibited. However, anecdotally, the Task Force is aware that some landlords impose a "pet fee" to circumvent this prohibition; it is unclear if pet fees are legal.⁹⁴ The need for pet-friendly housing often causes tenants to accept additional costs without complaint as there appears to be little oversight or awareness.

⁹¹ "No city or town shall regulate dogs in a manner that is specific to breed." (G.L. c. 140 § 157)

⁹² 110 CMR 7.105 (18) available at <http://www.mass.gov/eohhs/docs/DCF/regs/110cmr7.pdf>

⁹³ Results from a survey of 49 other state agencies mandated to protect children. Kansas appears to be the only other state maintaining this type of policy. See KAR 28-4-825.

⁹⁴ "Pet deposits" generally refer to those funds collected in advance, held throughout the tenancy, and that may be refundable if no damage occurs during the course of the tenancy. Sometimes, a one-time non-refundable pet fee is collected to bring the pet into the home or a monthly "pet fee" is charged. "Pet rent" is a cost imposed monthly upon the owner in order to continue to have the pet in the home. Pet fees or pet rent would generally not be associated with damages incurred and is not refundable. However, the terms pet rent and pet fee may be used interchangeably, causing some confusion. See *Broad Street Assoc. v. Levine*, No. 12-SP-2014, Northeast Housing Court (July 30, 2012) (landlord violated the excess payments requirements of the Security Deposit Law, G.L. c.186 § 15B(1)(b) and (d), by requiring the tenant to pay the \$50-per-month pet fees) and *Perry v. Equity Residential Management, LLC*, 2014 WL 4198850; D. Ma., 12-CV-10779-RWZ (August 26, 2014) (finding up-front pet fee is not among the permissible charges under G.L. c. 186).

Current trends suggest that new luxury housing is often advertised as pet-friendly and includes services such as grooming and pet food deliveries.⁹⁵ However, pet-friendly housing is limited because it may not allow all pets and may restrict the breed, weight and size of a pet.

In other situations, the status of the animal—such as an assistance animal or as a service dog—allows the owner to obtain housing even if pets are not generally allowed.⁹⁶ However, the rights and obligations of both the landlord and the tenant may not always be clearly understood by either party.

In federal elderly and disabled public housing, leases must allow tenants to keep "common household pets" in their apartments. The housing authority may choose to establish pet rules that are designed to ensure a safe and sanitary living environment, protect the complex's physical condition, or protect the housing authority's financial interest in the building.⁹⁷

Massachusetts provides that tenants in state-owned housing developments for the elderly or disabled are permitted to have pets and the local housing authority make reasonable regulations about the pets.⁹⁸

Some organizations help find pet-friendly housing, but it remains difficult to rent with pets, especially large dogs and breeds "blacklisted" by certain insurers.⁹⁹ Other organizations encourage landlords to open their properties to pets, making the case that pet owners make good and long-term tenants.

When animal owners move out of their homes, there is no procedure to ensure that animals are not abandoned. For example, in 2011, a two-year-old Labrador was left in a Massachusetts apartment, causing the dog's horrific death by starvation. In November 2015, two dogs were locked in a small rabbit cage in a dark closet when their owners moved out. The dogs were

⁹⁵ Sanjay Salomon, *Boston apartments that offer pets a slice of the good life*, Boston.com Real Estate (July 8, 2015).

⁹⁶ Under the Fair Housing Act (FHA) and the Americans with Disabilities Act (ADA) dogs are the only species considered *service* animals. Confusion may surround the use of emotional support and therapy animals—generally referred to as *assistance* animals. These animals can be of various species and are covered under the FHA (under which an emotional support animal is viewed as a "reasonable accommodation" in a housing unit that has a "no pets" rule for its residents). An owner of an assistance animal meeting the requirements (the person has a disability and a disability-related need for an assistance animal) can obtain a reasonable accommodation for the animal. See U.S. Department of Housing and Urban Development, FHEO Notice: FHEO-2013-01 (April 15, 2015) (available at https://portal.hud.gov/hudportal/documents/huddoc?id=servanimals_ntcfheo2013-01.pdf).

⁹⁷ See 24 C.F.R. § 5.315(c)(1)(i).

⁹⁸ See 760 C.M.R. 6.07(1).

⁹⁹ For example, The Humane Society of the United States has a Pets are Welcome program (Humane Society of the U.S., *Pets are Welcome* (available at <http://www.humanesociety.org/animals/resources/pets-are-welcome-renting-with-pets.html>)) and Bad Rap also has resources (Bad Rap, *Renting with Your Dog* (available at <http://www.badrap.org/renting-your-dog>)). In Massachusetts, Kane's Crusade, a private organization serving western Massachusetts, provides, among other things, tenant advocacy and assistance with spay and neuter services as well as vaccinations. See generally, <http://www.kaneskrusade.org>. The MSPCA also has resources on the law, links to housing listings, and guidance on how to make a renter and pet desirable tenants (MSPCA, *Pets in Housing Program: Renting with Pets* (available at www.mspca.org/petsinhousing)). The MSPCA has model guidelines for landlords opening their unit(s) to tenants with animals. The Massachusetts Animal Coalition also has helpful information (Massachusetts Animal Coalition, *Tips for Renters with Pets* (available at <http://massanimalcoalition.com/resources/renting-with-pets/>)).

trapped for over a week without food or water. While they did survive, others have been less fortunate.

4. RECOMMENDATIONS

A. CREATE GREATER PUBLIC AWARENESS ABOUT EXISTING SERVICES FOR ANIMALS AND THEIR FAMILIES; INCREASE OR PROVIDE SERVICES TO PREVENT RELINQUISHMENT DUE TO HOUSING ISSUES; ALLEVIATE LANDLORD CONCERNS ABOUT RENTING TO PET OWNERS BY PERMITTING REFUNDABLE PET DEPOSITS; AND CONSIDER FINANCIAL ASSISTANCE FOR THOSE DEPOSITS

Housing is often one of several factors involved when an owner surrenders a pet, but it may also be that owners are not fully aware of other means to address a housing situation. For example, a rambunctious dog not doing well in an apartment might benefit from behavior training or spay/neutering services. The owner may not be aware of, or able to afford, these services and instead look for new housing when that might not be necessary.

In addition to the needs of specific animal owners and their pets, the needs of the community should be identified and considered. According to a 2014 study comparing surrenders of large dogs to animal shelters in New York City and the Washington, D.C. area, the common reason for surrender tended to be the type of housing available in a particular location.¹⁰⁰ “[T]here is a regional component to the housing difficulties experienced by relinquishers.”¹⁰¹ Simply put, if an owner lives in a dense population area without a great deal of single-family housing, rental properties—and the attendant restrictions—are the norm. Competitive rental markets may result in fewer opportunities for pet owners. In a recent news report of the competitive housing situation in San Francisco, a local realty company president stated that landlords can afford to be more selective about tenants because the competition for each apartment is so acute. As a result of this demand, the company does not permit pets in any of its 1,000 units.

This is the dynamic at work in several Massachusetts communities. According to recent information collected by the ARL and MSPCA, Dorchester and Lawrence—two areas with high population density—are also the highest-ranked areas for intakes of surrenders and strays. In western Massachusetts, the Worcester Animal Rescue League, Berkshire Humane Society, Dakin Humane Society and Thomas J. O’Connor Animal Control and Adoption Center report the highest animal intakes from Springfield, Worcester, and Pittsfield. All three areas also have a high population density.

Even when housing is available, current state law prohibiting pet deposits may make landlords reluctant to allow any pets. Allowing pet deposits—which would require a change to G.L. c 186, § 15B—and making the deposit refundable if no damage was incurred, may encourage landlords to make pet-friendly housing available. On the other hand, if additional “pet fees” or “pet rent” are required, it may make some housing cost-prohibitive. A solution may be some form of financial assistance to those who find it difficult to pay additional costs.

¹⁰⁰ E. Weiss et al., *Large Dog Relinquishment to Two Municipal Facilities in New York City and Washington, D.C.: Identifying Targets for Intervention*, *Animals*, 4: 409-433 (2014).

¹⁰¹ *Id.*

As a counterpoint to imposing additional fees and deposits, one method that may alleviate a landlord's concerns about allowing pets is to emphasize that "[t]enants with companion animals tend to rent for twenty-eight (28) months longer, on average, than tenants without pets. Pet-friendly landlords do not have to spend as much time marketing their rental units as compared to landlords who do not allow companion animals."¹⁰²

In addition to the need for more permanent housing, a need also exists for temporary housing that accommodates people with their pets or temporary shelters for pets whose owners may have unexpectedly left or are forced to leave their current housing.¹⁰³ The need for such housing and shelters may be due to different factors including: sudden loss of housing such as an eviction or foreclosure; inability to pay increased rent; destruction of housing due to fire; the need to escape domestic violence, incarceration, or hospitalization. Whatever the situation, a pet owner may be either unable to address the needs of the animals, or unable to leave because the owner does not wish to leave a pet behind.¹⁰⁴ The Task Force recommends programs that (1) allow and encourage people with pets greater access to temporary housing and (2) give shelter to pets if the owner is unavailable to care for the animal. Additional housing and sheltering options would alleviate what may be difficult and dangerous situations for both people and pets.¹⁰⁵

B. DEVELOP MORE PET-FRIENDLY HOUSING THROUGH EDUCATION AND LEGISLATION; PREVENT INSURANCE COMPANIES FROM DISCRIMINATING BASED ON BREED; ENCOURAGE PUBLIC HOUSING AUTHORITIES, PRIVATE OWNERS, AND PROPERTY AGENTS AND MANAGERS TO REMOVE BREED, HEIGHT, AND WEIGHT RESTRICTIONS IN HOUSING AND ENCOURAGE RESPONSIBLE PET OWNERSHIP THROUGH SPAYING, NEUTERING, AND VACCINATION.

As noted, Massachusetts does not permit cities or towns to regulate dogs by breed. However, insurance companies, private companies, and publically-owned and subsidized housing authorities can refuse to offer insurance coverage, renew insurance policies, or can provide housing with restrictions which may require an owner to surrender a pet. These restrictions severely limit the options of pet owners seeking housing and oftentimes result in an owner having to move, re-home, or surrender an animal even if they have lived with the pet for some time without incident.

¹⁰² L. Palluzi, *Four-Legged Tenants: Encouraging Pet-Friendly Housing While Protecting Landlords From Liability*, Mid-Atlantic Journal on Law & Public Policy, 2: 101 (2013).

¹⁰³ This discussion excludes events or natural disasters that would require a response on the state or federal level. The federal *Pets Evacuation and Standards Act* of 2006 (42 U.S.C. 5170b, 5196 and 5196b) requires local and state emergency preparedness authorities to include in their evacuation plans how they will accommodate household pets and service animals in a disaster (in order to be reimbursed for disaster-related expenses). Similarly, Massachusetts passed *An Act Ensuring the Safety of People with Pets in Disasters* (Chapter 54 of the Acts of 2014) that makes similar requirements for cities and towns in the Commonwealth.

¹⁰⁴ Currently, a number of private organizations (including veterinary hospitals, animal shelters and other non-profit organizations) and municipal animal control offices across Massachusetts provide temporary foster care for pets of people who are elderly or disabled and need a temporary stay in a hospital or nursing facility; or those who must seek emergency shelter from domestic violence. *See also* Link Between Animal Cruelty and Other Forms of Violence section of this report.

¹⁰⁵ *See e.g.*, Mayor's Alliance for NYC Animals, *Pet Friendly Housing and Realtors* (available at <http://www.animalallianceny.org/yourpet/housing.htm>).

Insurance company restrictions can affect the landlord and/or property owner as well as the pet owner. Neither may be able to obtain or retain insurance if the company imposes breed restrictions. Because the landlord may be required to impose breed restrictions if insurance companies will not provide coverage, the issue of insurance must have first consideration.¹⁰⁶

Michigan and Pennsylvania have restricted the use of dog-breed profiling by insurance companies. Under Michigan law, insurers cannot deny, cancel, or fail to renew coverage based upon a dog's breed. According to Michigan's Department of Insurance and Financial Services, it is the view of the Commissioner that a person eligible for home insurance does not become ineligible simply based upon the presence of a particular breed of dog.¹⁰⁷ The law does permit an insurer to deny or cancel if there is written notice that a dog bites a person, attacks an animal, or causes a liability claim to be paid.¹⁰⁸

Under Pennsylvania law, an insurer can set premium rates to reflect the risk presented by a dog determined to be dangerous, but the law prohibits canceling or not renewing a policy based upon the particular breed of dog.¹⁰⁹ The insurer cannot cancel or fail to renew unless there is proof that that the particular dog creates a "substantial increase of hazard" in the risk assumed by the insurer.¹¹⁰

The largest home insurer in the United States follows the policy of "it's not the breed, it's the bite."¹¹¹ The policy is grounded in the belief that, depending on circumstances, any dog might bite. Insurance is not based on the breed of the dog, rather, every dog and situation is evaluated individually and the primary focus is on the importance of responsible pet ownership. An insurance company following this model in Massachusetts would likely expand pet friendly housing.

In addition to insurance concerns, size, weight, and height restrictions may act as *de facto* specific breed restrictions. Such restrictions are often based upon erroneous assumptions and inaccurate and incorrect data. Research shows that a dog's breed is not an accurate predictor of behavior, and breed cannot be determined merely by looking at an animal. Research has also confirmed breed bans rely upon misinformation and lack of knowledge about the use and ownership of the breeds.

¹⁰⁶ S. 501, 189th General Court (2015-16) provides: "No insurance company offering homeowners insurance coverage in Massachusetts issuing a policy or contract insuring against liability for injury to any person or injury to or destruction of property arising out of ownership or lease of residential property shall refuse to issue or renew, cancel or charge or impose an increased premium or rate of such a policy or contract based in whole or in part, upon the harboring of any specific breed or breeds of dog upon such real."

¹⁰⁷ Michigan Department of Insurance and Financial Service, Bulletin No. 2003-07-INS.

¹⁰⁸ M.C.L.A. § 500.2103(2) (definition of person eligible for home insurance is not based upon the insured's possession of a particular breed of dog).

¹⁰⁹ 3 Pa. Cons. Stat. Ann. §§ 459-507. A dangerous dog is defined as one that caused injury or death, was involved in prior unprovoked attacks, had a prior bite history, and/or was used in the commission of a crime. Upon a finding that a dog is a dangerous dog, the owner is required to, among other things, carry a \$50,000 liability policy or surety bond.

¹¹⁰ Id.

¹¹¹ State Farm, *All Dog Breeds Deserve a Chance*, Newsroom (available at <https://www.statefarm.com/about-us/newsroom/2015/09/29/all-dog-breeds-deserve-a-chance>).

Policies based upon breed identification are unsupported by science and research. There is a verified inability to correctly identify breeds, a failure to make further inquiry into the use and nature of the ownership of the animals in question, and a failure to understand that the breed of the dog is not an accurate predictor of a dog's behavior.

Visual identification is still the most common method of breed identification, even by law enforcement, animal care and control agencies, and veterinarians.¹¹² However, research confirms that there is a “wide disparity between DNA [which correctly identifies the breed or breeds] and visual identification of the predominant breeds comprising a dog.”¹¹³ This inability to correctly identify the breeds at issue raises concern as to “the justification and ability to implement laws and private restrictions pertaining to dogs based on breed composition.”¹¹⁴

A review of dogs and aggression covering more than a century of information, found that, “as certain breeds became increasingly popular in negative functions, and subsequently more popular with substandard owners, incidents of aggression within the breed would increase.”¹¹⁵

The idea of negative functions has been largely ignored in the media—popular and scientific. Self-reinforced, erroneous, and sensational coverage has become the norm. “Of the factors related to dog bites reported in the media as well as in scientific literature, the breed of dog has come to dominate public policy discussions about prevention and control.”¹¹⁶ A Tufts University School of Veterinary Medicine (now known as Cummings School of Veterinary Medicine) workshop on dog aggression and pit bulls concluded that press coverage of pit bulls was misleading the public. Dr. Franklin Lowe, then Dean of the veterinary school, wrote that “the media maintain the state of hysteria by reporting any pit bull attack but ignoring incidents involving other breeds.”¹¹⁷

A 2013 study of 256 dog-bite related fatalities in the United States found multiple factors involved that were under the control of dog owners: isolation of dogs from positive family interaction and other human contact, mismanagement, abuse or neglect, dog left unsupervised with a child or vulnerable adult, and maintaining dogs in an environment where they are trapped, neglected, isolated, and have little control over either the environment or choice of behavior. The study concluded that “the dogs’ environment had a stronger influence on personality than did genetically determined breed differences.”¹¹⁸

Given these factors, the Task Force recommends encouraging private companies, publically owned and subsidized housing authorities, property managers, condominium associations, and leasing agents to promote responsible pet ownership and increase opportunities for owners to manage pets responsibly. The Task Force understands that a blanket requirement to accept pets

¹¹² V. Voith et al., *Comparison of Visual and DNA Breed Identification of Dogs and Inter-Observer Reliability*, American Journal of Sociological Research, 3(2): (2013).

¹¹³ Id. at 24.

¹¹⁴ Id.

¹¹⁵ Id. at 35.

¹¹⁶ G. Patronek et al., *Co-occurrence of potentially preventable factors in 256 dog-bite related fatalities in the United States (2000-2009)*, Journal of the American Veterinary Medical Association, Vol. 243, No. 12 (December 15, 2013).

¹¹⁷ Id.

¹¹⁸ Id.

may not be feasible for all housing situations; for example, where an owner-occupant has health issues. But, generally, breed restrictions and other restrictions that do not employ an individual assessment should be prohibited and the Task Force recommends that insurance companies be prevented from discriminating based on breed.

C. CONSIDER METHODS TO IDENTIFY ANIMALS DURING EVICTION PROCEEDINGS TO ENSURE THAT THE COURT, THE PARTIES, AND LAW ENFORCEMENT IDENTIFY AND ENSURE CARE OF ANIMALS DURING THE EVICTION; REQUIRE LANDLORDS, OWNERS, AND ASSIGNEES OF VACATED HOUSING TO INSPECT SUCH PROPERTIES AS SOON AS REASONABLY POSSIBLE TO ALERT AUTHORITIES TO AND ASSIST ANIMALS ABANDONED IN SUCH PROPERTIES

As noted, the unavailability of housing for people and animals may arise as a result of various events, including eviction. The Task Force suggests that the appropriate government agency consider review and modification of the eviction process so that the court, the parties, and law enforcement, identify and ensure proper care of the animals during the eviction process. There are also situations which imperil animals and which sometimes may only be remedied with the help and assistance of persons other than the animal owner. The primary focus in this regard should be promptly discovering abandoned animals and ensuring proper care.

The need for an additional safety net is all too apparent. The Task Force recommends legislation that would require a landlord, owner, or assignee that knew or should have known that a property was vacated through foreclosure, termination of tenancy, abandonment or other removal or exclusion of a tenant to check the property within three days. If they encounter an animal, they must immediately notify the police or ACO. The legislation should provide protection for the reporter in that prompt reporting is considered evidence of sufficient regard for the suffering of the animal and that the person who encounters an abandoned animal shall not be considered the owner, possessor or person having the charge or custody of an animal under G.L. c. 272 § 77.¹¹⁹

¹¹⁹ See H. 1865 and S. 2374, 189th General Court (2015-16).

ANIMAL ABUSE REGISTRY

This section covers the following section of Chapter 293 of the Acts of 2014:

(iv) examine the feasibility and effectiveness of participating in a national animal abuse registry or other similar registry, if created;

1. **SUMMARY OF RECOMMENDATIONS**

- a. Encourage the federal government to establish a national abuse registry; and
- b. Create a future task force focused solely on examining the feasibility and utility of a state abuse registry if no federal registry exists.

2. **IMPORTANCE**

Registries, when effectively designed, used and maintained, provide a centralized data source for information. In the animal cruelty context, the purpose of an abuse registry is to prohibit a person with a history of abusing animals from being able to obtain an animal in the future. The Task Force recognizes that the goal of a registry is to ensure that people convicted of animal cruelty are constrained from acquiring animals in the future, and supports this goal. While there may be disagreement about the efficacy of registries in preventing recidivism, the Task Force focused on the practical challenges to establishing one in this context.

3. **CURRENT PRACTICES**

Currently, there is no national animal abuse registry. While there is discussion about creating a national database,¹²⁰ it appears that there is no consensus among animal welfare groups, industry or law enforcement officials as to the efficacy or best format of a federal registry.

Only one state (Tennessee) and a few local jurisdictions in other states have established registries.¹²¹ Nonetheless, the information that is reported into each, as well as who is able to access the information is not consistent across each registry. Of all the registries currently in operation most have between 0 and 3 abusers listed, and the largest list contains 4 names. The Task Force was unable to determine whether this is due to a lack of resources, inadequate administration, or a small population of convicted individuals. The Task Force believes that the Tennessee registry may be instructive in the future, but having been established in May 2015 and taking effect in January 2016, there is not enough information available.¹²²

¹²⁰ The Task Force invited, and received a presentation from, the Legislative Affairs Director of the Animal Legal Defense Fund (ALDF). The ALDF has been attempting to create a national database of animal abusers for several years but does not currently have an operating registry or a timeframe for having one operational.

¹²¹ New York City's city council enacted an animal abuser registry law in 2014. In New York State, Suffolk, Rockland, Albany, and Nassau Counties enacted registries between 2010 and 2014. Cook County, IL enacted a registry in 2016.

¹²² Tennessee Bureau of Investigation, *Tennessee Animal Abuse Registry* (available at <https://www.tn.gov/tbi/topic/tennessee-animal-abuse-registry>).

4. RECOMMENDATIONS

Few subjects contained in the Task Force's mandate received more careful and diligent examination and discussion than the idea of a state-created registry, or the feasibility of Massachusetts participating in a national registry. The Task Force looked extensively at the possibility of establishing a statewide animal abuse registry as well as working to promote a national animal abuse registry.

A. ENCOURAGE THE FEDERAL GOVERNMENT TO ESTABLISH A NATIONAL ABUSE REGISTRY

The Task Force recommends that the Massachusetts Delegation advance legislation in Congress to establish a federal animal abuse registry. The Task Force finds that with the Federal Bureau of Investigation's (FBI) new and specific focus on animal abuse, the creation and maintenance of an abuse registry appears best accomplished at the federal level. The FBI has the greatest access to state information through the National Crime Information Center (NCIC) database.¹²³ Further, the Department of Justice has the resources and expertise to operate such a registry. Such a federal registry would also inhibit the ability of abusers to change their residence to avoid being listed on a registry.

To that end, the Task Force recommends that the state communicate with the FBI to determine what information they are collecting on animal abuse and what can be shared with the state.

Additionally, it would be important to know from the FBI's perspective what information can be shared between states, who can access different levels of information both in law enforcement, and in the public and private sectors.

B. CREATE A FUTURE TASK FORCE FOCUSED SOLELY ON EXAMINING THE FEASIBILITY AND UTILITY OF A STATE ABUSE REGISTRY IF NO FEDERAL REGISTRY EXISTS

On a state level, the Task Force examined several options for an animal abuse registry, including those that could be created by a private organization, a law enforcement entity, or other state agency. The Task Force also explored whether checking the registry would be voluntary or mandatory by staff at pet stores, municipal or non-profit animal sheltering organizations, or individual breeders, as well as whether the general public would have access to the information given that many pet sales and adoptions are now facilitated over the internet. The Task Force also conducted research to consider how much an animal abuse registry would cost to create and maintain. The Task Force was unable to determine what the financial investment required to

¹²³ The National Crime Information Center (NCIC) database currently consists of 21 files. There are 7 property files containing records of stolen articles, boats, guns, license plates, parts, securities, and vehicles. There are 14 persons files, including: Supervised Release; National Sex Offender Registry; Foreign Fugitive; Immigration Violator; Missing Person; Protection Order; Unidentified Person; Protective Interest; Gang; Known or Appropriately Suspected Terrorist; Wanted Person; Identity Theft; Violent Person; and National Instant Criminal Background Check System (NICS) Denied Transaction. The system also contains images that can be associated with NCIC records to help agencies identify people and property items. The Interstate Identification Index, which contains automated criminal history record information, is accessible through the same network as NCIC.

establish and administer an abuse registry would be.¹²⁴ Jurisdictions that have such registries that the Task Force contacted were either unresponsive or did not have cost estimates available.

The Task Force finds that because of the high potential cost of establishing and maintaining a registry and the low number of offenders listed on those registries currently in operation, that the funds required to create the registry could be better utilized in other ways to prevent animal cruelty or to aid abused animals. Therefore, the Task Force does not recommend that Massachusetts establish an abuse registry at this time.

Given the cost and complicated nature of this issue and lack of data, the Task Force further recommends that Massachusetts establish a separate task force strictly to examine issues associated with animal abuse registries. The Task Force recommends that any future task force not convene for a period of two years in order to allow current registries to mature, and technology to advance, and that it consist of representatives from the organizations represented on this Task Force, as well as a representative from the Executive Office of Public Safety.

The Task Force also recommends that the following issues be thoroughly addressed before considering development of a state animal abuse registry:

- i. Determine whether individuals currently convicted would populate the registry retroactively;
- ii. Conduct a study to determine the cost of establishing an abuse registry; and
- iii. Consider legislation outlawing the ownership of animals by convicted abusers for a period of time, unless ownership is specifically allowed by the court.¹²⁵

The Task Force also recommends that a future task force consider the following as part of any registry:

- i. A person should not be placed into the registry until he or she has been convicted;
- ii. A registry in Massachusetts should be state-administered to ensure quality control of the data;
- iii. Some members of the Task Force expressed concern that requiring workers to confront convicted violent felons could be inappropriate and potentially dangerous;
- iv. Because so many pets are acquired through sources other than shelters, rescues or pet stores, registry information should be available to anyone offering to transfer ownership

¹²⁴ The most significant registry currently in Massachusetts is the sex offender registry, which is under the jurisdiction of the Sex Offender Registry Board. That agency was created in the 1990's in order to classify and register sex offenders in a unified, centralized manner. The cost for the creation of the entire board including staffing and operations, along with the registry was approximately \$9 million. Currently, there is legislation pending which would allow Massachusetts to establish a centralized database to track the sale scrap metal. This type registry, if enacted, would cost approximately \$325,000.

¹²⁵ Without such legislation a registry is of limited utility as it forces each retail or shelter/rescue organization to establish, and potentially defend in court, its own policy regarding selling or adopting animals to people on the registry.

- of an animal. Similarly, any penalty for failure to consult a registry should apply equally to anyone offering animals for sale or adoption;
- v. That the animal abuse registry allow all information normally contained within a judgment of conviction to be publicly accessible. Other personal identifying information, such as social security numbers, should be withheld;
 - vi. That anyone convicted of crimes against animals be required to register with the Commonwealth of Massachusetts Department of Criminal Justice Information Services and pay an administrative fee for the maintenance of the registry;
 - vii. That any person who is convicted of crimes against animals be required to notify the appropriate town or city official in which the person lives and, if the defendant moves, s/he is to provide a change of address within a reasonable period to the appropriate town or city official;
 - viii. County Clerks should forward a copy of the judgment of animal cruelty for inclusion on the registry within a specified number of days of the judgment; and
 - ix. That there be a civil or criminal penalty for failure to register, notify, or maintain current information.

THE LINK BETWEEN ANIMAL CRUELTY AND OTHER FORMS OF VIOLENCE

The following recommendations would fall under several sections of Chapter 293 of the Acts of 2014, including but not limited to:

(i) *assess the adequacy, effectiveness and necessity of laws pertaining to animal cruelty and protection including*, but not limited to, the laws pertaining to the protection of animals contained in chapters 266 and 272 of the General Laws, and the duties of the Massachusetts Society for the Prevention of Cruelty to Animals and the Animal Rescue League of Boston under chapter 129 of the General Laws, the process of charging for animal cruelty and the issuing of citations under section 174E of chapter 140 of the General Laws;

and

(iii) *evaluate approaches and offer recommendations for education and training opportunities for law enforcement, animal control officers, judges, veterinarians and other professionals including, but not limited to*, methods to identify animal abuse, *the link between domestic violence and animal abuse*, and animal hoarding;

1. SUMMARY OF RECOMMENDATIONS

- a. Amend G.L. c. 6 § 178C to include an animal sexual abuse conviction as a predicate offense for sex offender registration;
- b. Amend G.L. c. 276 § 58A (dangerousness statute) to include the crimes of animal cruelty and animal fighting to serve as the basis for a request for a determination of detention and/or release upon conditions;
- c. Explore adding animal cruelty as a domestic violence offense; and
- d. Explore the use and awareness of G.L. c. 209A § 11 protective order for animals and ensure it is utilized when needed.

2. IMPORTANCE

The correlation between domestic violence, animal cruelty, child abuse, and elder abuse has been studied extensively for several decades. The findings have perpetually corroborated the link between human and animal abuse, and further substantiated the complex nature of these relationships.¹²⁶ For example, animal cruelty is often used to intimidate, threaten, or silence other family members.¹²⁷ Several studies show that women don't leave or delay leaving an abusive

¹²⁶ A lengthy discussion of the link can be found in A. Phillips, *Understanding The Link between Violence to Animals and People: A Guidebook for Criminal Justice Professionals*, National District Attorneys Association (June 2014) (available at <http://nationallinkcoalition.org/wp-content/uploads/2014/06/Allies-Link-Monograph-2014.pdf>); R. Lockwood, *A brief look back from the front*, in *Child Abuse, Domestic Violence, and Animal Abuse: Linking the Circles of Compassion, Protection and Intervention*, (F. Ascione & P. Arkow, eds.) (1999); and C. Flynn, *Examining the links between animal abuse and human violence*, *Crime, Law & Social Change* 55: 453-468 (2011).

¹²⁷ L. Schnaffer, *Laws and policy to address the link of family violence*, in *The Link between Animal Abuse and Violence*, 228-234 (A. Linzey, ed.) (2009).

relationship due to fear of what would happen to any pets left behind.¹²⁸ Additionally, women seeking refuge at shelters often speak about animal abuse in the home.¹²⁹

Studies show that perpetrators of animal abuse are more likely to commit other crimes. A Massachusetts study found that 70% of people who committed crimes against animals had also been involved in other violent, property, drug, and disorderly crimes. The study also concluded that a person who has committed animal abuse is: 5 times more likely to commit violence against people, 4 times more likely to commit property crimes, and 3 times more likely to be involved in drunken or disorderly offenses.¹³⁰

Researchers at a maximum security prison found that violent offenders who committed crimes as adults were significantly more likely than nonviolent offenders to have committed acts of cruelty against animals as children.¹³¹ Further establishing the link is a 2009 study that found 62.2% of people who had engaged in animal cruelty as children had also witnessed domestic violence or experienced child abuse.¹³² From the research, the conclusion is that “the relationship of a child abuse, domestic abuse or elder abuse victim and his or her pet can be a source of extreme vulnerability” which is then used by the abuser to coerce compliance and silence from the victim so that the abuse—of both human and animal victims—can continue.¹³³

Policies and programs that use this knowledge and incorporate it into decision-making, training, and other efforts will be more effective at addressing all the issues of family violence.

3. CURRENT PRACTICES

In 2012, the legislature passed a law that allows the inclusion of animals in abuse and protection orders of domestic violence cases. Courts can specifically order the possession, care and control of any domesticated animal owned, possessed, leased, kept or held by either party or a minor child residing in the household to the plaintiff or petitioner in a no contact or restraining order. The court can order the defendant to refrain from abusing, threatening, taking, interfering with, transferring, encumbering, concealing, harming or otherwise disposing of such animal.¹³⁴ It is unclear how often this is being used and how aware domestic violence advocates are of it.

Massachusetts has several broad-based coalitions that run programs, trainings and foster collaboration building to address family violence with the knowledge of this link. The Human/Animal Violence Education Network (HAVEN), a coalition that fosters collaboration of Berkshire County citizens and professionals who come together to identify connections between

¹²⁸ F.R. Ascione, *Emerging research on animal abuse as a risk factor for intimate partner violence*, in *Intimate Partner Violence* (K. Kendall-Tackett & S. Giacomoni, eds.) (2007).

¹²⁹ F.R. Ascione et al., *The abuse of animals and domestic violence: A national survey of shelters for women who are battered*, *Society & Animals* 5(3): 205-218 (1997).

¹³⁰ See note 2.

¹³¹ L. Merz-Perez, L. & K.M. Heide, *Animal Cruelty: Pathway to Violence Against People*, Alta Mira Press (2004).

¹³² DeGrue, S. et al. "Is Animal Cruelty a "Red Flag" for Family Violence?: Investigating Co-Occurring Violence Toward Children, Partners, and Pets", *Journal of Interpersonal Violence*, 24:6 (June 2009).

¹³³ Fla. S. Interim Project Report 2005-125. November 2004.

¹³⁴ G.L. c. 209 § 11. See also Massachusetts Courts, Petition Filed Pursuant to G.L. c. 209A, § 11 Relative to Domesticated Animals (available at <http://www.mass.gov/courts/docs/forms/trial/209a/petition-209a-s11-relative-to-domesticated-animals.pdf>).

animal cruelty and human violence, has been in existence the longest of any group of this nature in Massachusetts. This coalition includes professionals in the fields of education, animal protection, human services, law enforcement, and veterinary medicine.¹³⁵ Also in Berkshire County is the SafePet program operated by the Berkshire Humane Society in partnership with the Elizabeth Freeman Center. Through the SafePet program, the pets of women who seek the help of the Elizabeth Freeman Center are fostered in private homes by Berkshire Humane Society volunteers who agree to care for the pets until the owners are able to take them back.

In Hampden and Hampshire counties, Dakin Humane Society operates a Safety Plan for Animals (SPAN), a coalition of humane and animal service providers that allow foster care for the pets of people who need temporary care because of a domestic violence situation.¹³⁶

Link Up Education Network is an Eastern Massachusetts Coalition that formed in 2001 with similar goals as HAVEN, above.¹³⁷ In addition to offering education and training, Link Up Education Network operates a *Safe People Safe Pets* foster care program to provide limited temporary care for animals of people leaving domestic violence situations. As of May 2016, Link Up Education Network is looking for a Massachusetts site with which to collaborate to provide on-site housing for animals following the model of Sheltering Animals & Families Together (SAF-T)TM. The creators of SAF-TTM recognized that people who are abused often have pets and do not wish to be separated from them when fleeing their abusive environments. SAF-TTM is the first and only global initiative guiding domestic violence shelters on how to house families together with their pets.¹³⁸

Other organizations and municipal or non-profit animal sheltering organizations also offer animal care services, including foster care, but do so quietly to manage demand and confidentiality concerns.

The Pets and Women Safety Act of 2015 is a comprehensive measure that aims to protect the victims of domestic violence, sexual assault, stalking, and dating violence. The bill highlights the need for both emergency and transitional pet shelter and housing assistance programs and strives to train relevant stakeholders on the link between domestic violence, dating violence, sexual assault or stalking and the abuse and neglect of pets.¹³⁹

¹³⁵ See note 57 and www.havennetwork.org

¹³⁶ Dakin Humane Society, *Safety Plan for Animals* (available at www.dakinhumane.org/animal-safety-plan.html).

¹³⁷ Link Up Education Network, *Safe People Safe Pets* (available at www.safepeoplesafepets.org).

¹³⁸ AlliePhillips.com, *Sheltering Animals and Families Together* (available at <http://alliephillips.com/saf-tprogram>).

¹³⁹ H.R. 1258 and S. 1559, 114th Cong. The Congresswoman who filed the federal bill was previously a Massachusetts state legislator. While serving as a state legislator, she sponsored the state law allowing pets to be included in domestic violence restraining orders in that passed in 2012. See G.L. c. 209 § 11.

4. RECOMMENDATIONS

In light of the above, the Task Force recommends the following:

A. **AMEND G.L. c. 6 § 178C TO INCLUDE AN ANIMAL SEXUAL ABUSE CONVICTION AS A PREDICATE OFFENSE FOR SEX OFFENDER REGISTRATION**

The crime of animal sexual abuse (more commonly known as bestiality) is receiving greater attention by law enforcement and the public due to increased awareness of its connection with other criminal behavior including the linkage to crimes against children (including child sexual assault), domestic violence, and the making of child and/or animal pornography.¹⁴⁰ Studies of incarcerated men found that animal sexual assault is related to crimes against people.¹⁴¹ Studies have also found that some offenders force their child and adult victims to engage in bestiality.¹⁴²

Sexual assault against an animal is often characterized in statutes as a crime against nature and is so in Massachusetts.¹⁴³ Currently, 38 states (including Massachusetts) plus the District of Columbia have laws prohibiting bestiality.¹⁴⁴ Twenty-six have laws enumerating animal sex assault crimes that require registration as a sex offender.¹⁴⁵ See Appendix L for recommended language to add animal sexual abuse conviction as a predicate offense for sex offender registration.

B. **AMEND G.L. c. 275 § 58A (DANGEROUSNESS STATUTE) TO INCLUDE THE CRIMES OF ANIMAL CRUELTY AND ANIMAL FIGHTING TO SERVE AS THE BASIS FOR A REQUEST FOR A DETERMINATION OF DETENTION AND/OR RELEASE UPON CONDITIONS**

The Task Force recommends an amendment to G.L. c. 276 § 58A to include the crimes of animal cruelty in violation of G.L. c. 272 § 77; the malicious killing and injury of domestic animals in violation of G.L. c. 266 § 112; and animal fighting in violation of G.L. c. 272 § 94 as specifically enumerated offenses to serve as the basis for a request for a determination of detention and/or release upon conditions.

¹⁴⁰ A. Phillips, *Understanding The Link between Violence to Animals and People: A Guidebook for Criminal Justice Professionals*, National District Attorneys Association (June 2014) (available at <http://nationallinkcoalition.org/wp-content/uploads/2014/06/Allies-Link-Monograph-2014.pdf>).

¹⁴¹ C. Hensley et al., *Exploring the possible link between childhood and adolescent bestiality and interpersonal violence*, *Journal of Interpersonal Violence* 21(7): 910-923 (2006).

¹⁴² See note 128, at 27.

¹⁴³ G.L. c. 272 § 34 (Crimes Against Nature). “Whoever commits the abominable and detestable crime against nature, either with mankind or with a beast, shall be punished by imprisonment in the state prison for not more than twenty years.”

¹⁴⁴ See note 126 at 27. In 2016, New Hampshire Governor Maggie Hassan signed a bill that adds that state to this total.

¹⁴⁵ National District Attorney Association, *Bestiality as a Trigger for Sex Offender Registration*, National Center for Prosecution of Child Abuse (Last updated August 2014) (available at <http://www.ndaajustice.org/pdf/Bestiality%20and%20Sex%20Offender%20Registration.pdf>). The states requiring offender registration for committing bestiality or forcing another person to do so are: AL, AZ, CA, CT, DE, FL, ID, IL, IN, KS, LA, MD, MI, MS, MO, MT, NV, NH, NY, NC, OK, OR, SC, SD, VA, WA.

In order to protect both animals and humans from violence and abuse, the crimes involving animal cruelty and animal killing can, and should be, among those enumerated within the statute as the basis for a motion for pretrial detention. While animal cruelty should, standing alone, be sufficient cause for concern so that a court may indeed order detention or fashion certain conditions. It can also easily be said that, given the link between domestic violence and animal abuse, consideration of the felony offenses of animal cruelty and killing of an animal as a basis for pre-trial detention will provide an extra measure of protection from a situation where there is a substantial risk that physical force against the person or another may result.

Adding the crimes would be a logical follow-up to the legislature's acknowledgement in 2012 that, in domestic violence situations, domesticated animals are often at risk. They are used to coerce, intimidate and threaten their owners and other family members. As the law currently stands, a violation of the protective order that includes a pet could be the basis for a motion for pre-trial detention. The inclusion of the crimes of animal cruelty and killing would extend that protection so that, where a protective order has not yet been ordered or sought, the potential for violence against the pets can be considered when the court considers detention.

As for the crime of animal fighting, recently, the United States Sentencing Commission, after receiving the largest number of comments on any one subject under the federal guidelines, increased the penalties for the federal crime of animal fighting ventures.¹⁴⁶ In addition to the inherent violence, animal fighting enterprises are often found to include illegal possession of weapons and illegal possession of drugs.¹⁴⁷ Those aspects of an animal fighting venture should be fully explored as a court considers detention or release. *See* Appendix M for recommended language.

C. EXPLORE ADDING ANIMAL CRUELTY AS A DOMESTIC VIOLENCE OFFENSE

Several states have defined acts of animal cruelty intended to intimidate or coerce a spouse or partner as an act of domestic violence.¹⁴⁸ In these states, prosecutors have multiple options for

¹⁴⁶ “ . . . [I]n response to Congressional changes to the Animal Welfare Act, the Commission's own research and analysis, and nearly 50,000 citizen letters, the Commissioners also voted to strengthen the federal sentencing guidelines to better reflect the cruelty and violence associated with animal fighting offenses.” United States Sentencing Commission, *U.S. Sentencing Commission Approves Significant Changes To The Federal Sentencing Guidelines*, News Release (April 15, 2016).

¹⁴⁷ In two several recent cases, more in a dozen people were arrested in several states in 2013. Also with 367 dogs, almost \$500,000 in cash, firearms, and drugs were seized. The Humane Society of the U.S., Multi-State Dogfighting Raid Saves 367 Dogs, News Release (Aug. 26, 2013) (available at http://www.humanesociety.org/news/press_releases/2013/08/alabama-georgia-mississippi-dogfighting-082613.html).

¹⁴⁸ Ariz. Rev. Stat. § 13-3601; Colo. Rev. Stat. Ann. § 18-6-800.3(1); Ind. Code Ann. 31-9-2-29.5; Ind. Code Ann. 35-46-3-12.5; Maine Revised Statutes Title 17-A: Maine Criminal Code, Part 2: Substantive Offenses; Chap. 9: Offenses Against the Person sec. 201-1; Nebraska Revised Statutes 43-2922; Nev. Rev. Stat. Ann 33.018(1)(e)(7); Tenn. Code Ann 36-3-601 (1) (West 2011). Although Arkansas law does not define animal abuse specifically as domestic violence, the Spousal Abuse Safety Plan Act of 2007 (A.C.A. § 9-15-403) includes “harming the pet of a spouse” within Arkansas’ definition of “emotional abuse.” Minnesota allows courts to impose double penalties for felony animal torture or cruelty where the violation is done to threaten, intimidate, or terrorize another person (M.S.A. 343.21). Colorado has a statute that includes as a threat or act of violence against, of the taking, transferring, concealing, harming, or disposing of, animal owner or held by an at-risk adult (defined as 60 years or

charging crimes involving both animal cruelty and domestic violence: they can file under the animal cruelty statutes and/or the domestic violence provisions.

The Task Force recommends further exploring whether this would be beneficial in Massachusetts.

D. EXPLORE THE USE AND AWARENESS OF G.L. c. 209A § 11 PROTECTIVE ORDER FOR ANIMALS AND ENSURE IT IS UTILIZED WHEN NEEDED

Since the law passed in 2012 to allow pets to be included in domestic violence orders, the Task Force is not sure how often this is being used and whether additional efforts to educate domestic violence advocates about the ability to request the pet to be included is needed.

older). In addition, H.R. 1258 and S. 1559, 114th Cong., the proposed federal *Pet and Women Safety Act (PAWS)* of 2015 would amend the federal code to prohibit threats or acts of violence against a person's pet under the offenses of stalking and interstate violation of a protection order.

**APPENDIX A: CHAPTER 293 OF THE ACTS OF 2014
ACT PROTECTING ANIMAL WELFARE AND SAFETY**

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Chapter 112 of the General Laws is hereby amended by striking out section 58B, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 58B. A veterinarian who, while in the normal course of business, observes an animal whom such veterinarian knows or reasonably suspects has been the victim of animal cruelty prohibited under sections 77 or 94 of chapter 272 shall report said suspected animal cruelty to a police officer or special state police officer appointed under section 57 of chapter 22C.

A veterinarian duly registered under section 55 who reports, in good faith and in the normal course of business, a suspected act of cruelty to animals prohibited under said sections 77 or 94 of chapter 272 to a police officer or special state police officer appointed under said section 57 of said chapter 22C, shall not be liable in a civil or criminal action for reporting such act.

Any veterinarian who fails to report such an act of animal cruelty shall be reported to the board of registration in veterinary medicine.

SECTION 2. Section 112 of chapter 266 of the General Laws, as so appearing, is hereby amended by striking out, in lines 5 to 8, inclusive, the words “five years or by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment” and inserting in place thereof the following words:- 7 years in state prison or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000 or by both fine and imprisonment; provided, however, that a second or subsequent offense shall be punished by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$10,000 or by both such fine and imprisonment.

SECTION 3. Section 77 of chapter 272 of the General Laws, as so appearing, is hereby amended by striking out, in lines 19 to 21, inclusive, the words “5 years or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment” and inserting in place thereof the following words:- 7 years in state prison or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000 or by both fine and imprisonment; provided, however, that a second or subsequent offense shall be punished by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$10,000 or by both such fine and imprisonment.

SECTION 4. The first paragraph of said section 77 of said chapter 272, as so appearing, is hereby amended by adding the following sentence:- Notwithstanding section 26 of chapter 218 or any other general or special law to the contrary, the district courts and the divisions of the Boston municipal court department shall have original jurisdiction, concurrent with the superior court, of a violation of this section.

SECTION 5. (a) There shall be a task force established to complete a systematic review of the laws pertaining to animal cruelty and protection. The task force shall consist of: the attorney

general or a designee; the president of the Massachusetts District Attorneys Association or a designee; the colonel of the state police or a designee; the commissioner of agricultural resources or a designee; a representative from the Massachusetts Society for the Prevention of Cruelty to Animals; a representative from the Animal Rescue League of Boston; a representative from the Massachusetts Bar Association; a representative of the Pet Industry Joint Advisory Council; and 2 persons appointed by the governor, 1 of whom shall be an animal control officer or representative of an association organized in the commonwealth for animal control officers and 1 of whom shall be a veterinarian or member of a veterinary medical association organized in the commonwealth. The members of the task force shall appoint a chair.

(b) The task force shall:

(i) assess the adequacy, effectiveness and necessity of laws pertaining to animal cruelty and protection including, but not limited to, the laws pertaining to the protection of animals contained in chapters 266 and 272 of the General Laws and the duties of the Massachusetts Society for the Prevention of Cruelty to Animals and the Animal Rescue League of Boston under chapter 129 of the General Laws, the process of charging for animal cruelty and the issuing of citations under section 174E of chapter 140 of the General Laws;

(ii) identify and review the existing services, facilities and funding to meet the needs of animals seized in cruelty cases and explore interagency options for coordination and funding to care for these animals;

(iii) evaluate approaches and offer recommendations for education and training opportunities for law enforcement, animal control officers, judges, veterinarians and other professionals including, but not limited to, methods to identify animal abuse, the link between domestic violence and animal abuse and animal hoarding;

(iv) examine the feasibility and effectiveness of participating in a national animal abuse registry or other similar registry, if created;

(v) examine existing methods to report animal abuse and explore additional mechanisms, if needed, and ways to promote these reporting mechanisms;

(vi) recommend ways to develop and promulgate educational materials to children to educate them about animal abuse; and

(vii) assess the impact of housing issues including, but not limited to, homeowners insurance and abandonment in vacated housing, on the surrender or abandonment of animals.

(c) The task force shall submit a report of its findings and legislative recommendations to the clerks of the senate and the house of representatives and the chairs of the joint committee on the judiciary not later than 18 months after the effective date of this act. The task force shall determine if subsequent reports shall be necessary to properly address animal cruelty and protection.

Approved August 20, 2014.

APPENDIX B: G.L. c. 272 § 77

Section 77. Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by imprisonment in the state prison for not more than 7 years in state prison or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$5,000 or by both fine and imprisonment; provided, however, that a second or subsequent offense shall be punished by imprisonment in the state prison for not more than 10 years or by a fine of not more than \$10,000 or by both such fine and imprisonment. Notwithstanding section 26 of chapter 218 or any other general or special law to the contrary, the district courts and the divisions of the Boston municipal court department shall have original jurisdiction, concurrent with the superior court, of a violation of this section.

In addition to any other penalty provided by law, upon conviction for any violation of this section or of sections seventy-seven A, seventy-eight, seventy-eight A, seventy-nine A, seventy-nine B, eighty A, eighty B, eighty C, eighty D, eighty F, eighty-six, eighty-six A, eighty-six B or ninety-four the defendant shall forfeit to the custody of any society, incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.

A person convicted of a crime of cruelty to an animal shall be prohibited from working in any capacity that requires such person to be in contact with an animal, including a commercial boarding or training establishment, shelter, animal control facility, pet shop, grooming facility, commercial breeder service, veterinary hospital or clinic or animal welfare society or other nonprofit organization incorporated for the purpose of providing for and promoting the welfare, protection and humane treatment of animals.

APPENDIX C: RECOMMENDED AMENDMENTS TO G.L. c. 272 § 91

Section 91. After seizure and removal of animals or property used or employed, or intended to be used or employed, in violation of section 94, application shall be made to a court having jurisdiction over the offense ~~district court~~ for a decree of forfeiture of the animals or property. If, after hearing on the application, notice thereof having been previously given as the court orders, it shall be found that the animals, at the time of seizure, were engaged, or were intended to be engaged, in fighting at an exhibition thereof or the animals were owned, possessed, kept, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94, such animals shall be adjudged forfeited and shall be individually assessed by the organization to whom they are forfeited to determine suitability for adoption, transfer to another organization, or other disposition. ~~the court shall thereupon, unless an appeal is taken as provided in the following section, issue an order for killing them. The order shall be directed to any officer authorized to serve criminal process and the officer receiving such order shall cause the animals to be killed within 24 hours thereafter. Animals or property seized as hereinbefore provided, which are not adjudged forfeited, shall be delivered to the owner or person entitled to the possession thereof.~~ Any person shall be allowed to appear as claimant in the proceeding upon the application for a decree of forfeiture.

APPENDIX D: RECOMMENDED AMENDMENTS TO G.L. c. 272 § 79

Section 79. A for profit corporation, nonprofit corporation, business, professional corporation, partnership, limited liability company, partnership, limited partnership, limited liability partnership, or any other business entity violating sections 77, 77A, 77B, 78, 78A, 79A, 80 ½, 80A, 80B, 80C, 80D, 80F, 80G, 80H, 80I, 81, 85A, 85B, 87, 94, or 95 of this chapter or section 112 of chapter 266 ~~A corporation violating either of the two preceding sections~~ shall be punished ~~by a fine~~ as therein provided, and shall be responsible for the knowledge and acts of its agents and servants relative to animals transported, owned or used by it or in its custody.

The following statutes are those that are now incorporated in sec. 79

Chapter 272:

Section 77 Cruelty to animals; prohibition from work involving contact with animals

Section 77A Willfully injuring police dogs and horses

Section 77B Exhibition of wild animals

Section 78 Selling, leading, or using horses not fit for work; forfeiture of auctioneer's license

Section 78A Sale of foals under five months; penalty

Section 79A Cutting bones or muscles to dock or set tail of horse; wound as evidence

Section 79B Exhibiting horse with tail cut under Sec. 79A; affidavit as to cutting in state where not prohibited; inspection

Section 80 ½ Devocalization of dogs or cats; definitions; penalty; exceptions; records

Section 80A Cropping or cutting off ear of dog; wound as prima facie evidence

Section 80B Exhibiting dogs with ears cropped or cut off

Section 80C Taking cat, dog or bird to exhibit it, subject it to experimentation or mutilation, or to sell it for such purposes; application of law

Section 80D Living rabbits, baby chickens, ducklings or other fowl; sale, barter or gift

Section 80E Use of decompression chambers for putting animals to death

Section 80F Giving away live animals as prize or award

Section 80G Experiments on vertebrates; vivisection, dissection of animals; care

Section 80H Motor vehicles; striking, injuring or killing dogs or cats

Section 80I Leasing or renting dogs; penalties

Section 81 Rest, water and feed for transported animals; lien; liability for detention

Section 85A Injuring, taking away or harboring domesticated animals or birds; removal of dog license tag, collar or harness; imitation tag

Section 85B Assistance animals stolen or attacked; actions for economic and non-economic damages

Section 86 Stabling horses or mules on second or higher floors, in places other than cities

Section 86A Stabling horses and mules above first floor; exceeding six; fire exits

Section 86B Stabling horses or mules exceeding fifteen

Section 86C Smoking in buildings used for stabling horses or mules

Section 86D Pails of water and sand in buildings used for stables

Section 87 Keeping or using birds to be shot at; shooting them; permitting premises to be used for shooting

Section 94 Owning, possessing or training fighting animals; establishing or promoting exhibition; loaning, selling or exporting fighting animals; owning or possessing animals for breeding fighting animals

Section 95 Aiding or being present at exhibition of fighting animals

Chapter 266 sec. Section 112 Domestic animals; malicious killing or injury

APPENDIX E: RECOMMENDED AMENDMENTS TO G.L.c. 104 and Explanation

Section 104. (a) As used in this section the word "Authority" shall mean an organization or authorized agent thereof that seizes or impounds an animal or animals pursuant to the General Laws.

(b) If an animal is, or animals are, is lawfully seized or impounded pursuant to the General Laws relating to cruelty to animals or animal fighting, ~~the owner, custodian or person claiming an interest resulting~~ in the animal, ~~shall be given issuance of a show cause hearing within 30 days after application for the criminal~~ complaint. ~~(c) If an animal is lawfully seized and impounded or a criminal indictment,~~ the authority or prosecuting agency, including the district attorney or attorney general, may file a petition with the court exercising jurisdiction over the criminal complaint or criminal indictment requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was seized taken into custody. The authority shall also serve a copy of the petition on the district attorney or the attorney general, whichever is appropriate. The court may order that person to post a security.

~~(d)~~ (c) The security shall be in an amount sufficient to secure payment for all reasonable expenses incurred, and to be incurred anticipated, by the authority having custody of the seized animal from the date of seizure or impoundment and thereafter for a temporary period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, quarantine costs, shelter, and board.

~~(e)~~ (d) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, quarantine costs, shelter, and board.

~~(f) If the expenses already incurred by the seizing authority at the time of judicial decision on the petition exceed the petitioned for security amount, the court may permit the security to be paid in its entirety to the authority through the court, or directly from the respondent to the authority, as the court deems appropriate in the interest of justice.~~

(e) If the court orders the posting of security, the security shall be posted with the clerk within 10 business days of the show cause hearing court's allowance on the petition. The court defendant's failure to post security within the appointed time shall order the be deemed an immediate forfeiture of the seized animal(s) to the authority if the person fails to post security as ordered, with the full force and effect of a court order. The court may waive the security requirement or reduce the amount of the security for good cause shown.

~~(g)~~ (f) Posting of the security shall not prevent the authority from disposing of the seized or impounded animal for humane reasons and in a humane manner before the expiration of the period covered by the security, if the court rules in favor of the authority.

~~(h)~~ (g) The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal, to provide additional security to secure payment of reasonable expenses and to extend the period of time pending a adjudication by the court of the charges against the person from whom the animal was seized.

~~(i)~~ (h) The owner or custodian of an animal humanely killed euthanized pursuant to this section shall not be entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

~~(j)~~ (i) The court may direct a refund to the person who posted the security in whole or part for any expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

DETAIL & EXPLANATION:

Section (b) (and combined with old section (c))

-- added plural of animal, recognizing that many animals may be seized

- removed “lawfully” since the seizure should be presumed to be lawful
- added “resulting in the issuance of a criminal complaint or a criminal indictment” after the word “fighting”
- added “or prosecuting agency, including the district attorney or attorney general” after the word “authority” in the first sentence to make it clear they may institute this bond if they wish
- added “that is exercising jurisdiction over the criminal complaint or criminal indictment” after the word “court” in the first sentence
- removed show cause language because animal abuse became a felony in 2004

These changes, in part, allow the District Attorney or Attorney General’s office the discretion to file the petition if a municipality or other authority is unable to do so.

Sections (c) and (d) (was (d) and (e))

- Added “incurred, and anticipated” after the word “expenses” in the first sentence
- Added “from the date of seizure or impoundment and thereafter” after the word “animal” -- Removed the word “temporary”
- Added the sentence “If the expenses already incurred by the seizing authority at the time of judicial decision on the petition exceed the petitioned for security amount, the court may permit the security amount to be paid in its entirety to the seizing authority through the court, or directly from the respondent to the authority, as the court deems appropriate in the interest of justice.”
- added “quarantine costs” recognizing this can be a significant expense when caring for sick animals

These changes recognize that there can be substantial costs incurred and anticipated as soon as the animal is seized.

Section (e) (previously section (f))

- Removed language about the show cause hearing because animal abuse became a felony in 2004 -- Changed language to add that the failure to post the security within the appointed time is an immediate forfeiture of the seized animal with the full force and effect of a court order.

Section (f) (previously was section (g))

- Added “for humane reasons and in a humane manner” after the word “animal” -- Removed “, if the court rules in favor of the authority”

Clarified that an animal would be euthanized for humane reasons and in a humane manner. Removed “if the court rules in favor of the authority” due to the suffering it could cause an animal for an extended period of time.

Section (h) (previously section (i))

-- Changed the word “killed” to “euthanized

APPENDIX F: INFORMATION FROM THE CONNECTICUT DEPARTMENT OF AGRICULTURE ON HOUSING SEIZED ANIMALS

Ray Connors from Connecticut Department of Agriculture spoke about the program he runs in Connecticut. Ray reported that many of their animal cruelty investigations deal with large animals and in the past this created a problem because there were no facilities to house them. If animals were seized, volunteers often housed them, but this created an issue in criminal cases with evidentiary chain of custody.

In 2003, the Connecticut Department of Agriculture began working with their state's Department of Corrections on an innovative program to house seized animals. The Department of Agriculture purchased a used portable barn and the Department of Corrections provided five acres of land to house the barn and seized animals. The cost to erect the barn was less than \$25,000. A number of different state agencies cooperated in the effort: the Department of Transportation brought in silt and gravel and Department of Corrections' inmates provided the labor for construction and continue to provide labor for animal care.

The Department of Agriculture manages a training program where inmates are trained about husbandry and care of large animals. Inmates are selected by the Department of Corrections for low security risk and none have been incarcerated for violent crimes. The Department of Corrections liked the program so much they replicated it at other facilities. The Department of Agriculture recently built a 23-stall barn in addition to the portable barn. The inmates provide care daily (are on site for approximately 9 hours daily) and have cared for over 400 animals since 2003, including horses, geese, pigs, cows, chickens from cockfighting rings, and deer. Ray confirmed for Mary that small animal seizures are handled at the municipal level. He indicated that the Department of Agriculture assists with logistics, but doesn't take the case (they can't take on the cost)

There have been a few challenges with the program: the cost of staffing and personnel issues (such as workers compensation claims and administrative leave) that have left them understaffed, requiring other departmental staff to fill in the gaps with overtime. The cost of care for seized animals runs well over six figures annually and program funding is always at risk legislatively.

The program is funded by a dedicated account by statute and lives under the Department of Agriculture. Individuals can donate and money raised from auctioning seized animals goes back into fund. The Department of Correction does not have its own budget for the program—they only supply the labor via the inmates.

Connecticut has a law that as soon as officer seizes animal, they must apply for a verified petition in civil court. The owner must release the animal or post a bond if it is found that there is cause for an animal cruelty case. For horses, owners must post \$25 per day for 30 days in advance. They are usually able to get ownership of animals quickly. Municipalities must use their city attorney to complete the verified petition process. This law has been in place for approximately 15 years. The Department of Agriculture, in difficult cases when animals are held in municipalities, has given money to offset costs. That money came out of the animal abuse cost recovery account. The commissioner may also use monies from the state's animal population account (spay/neuter account) to fund the cost of care.

Municipalities work under mutual aid agreements with other municipalities in the case of large seizures. Ray indicated that he has been able to meet demand and has not seen that happen as they have plenty of space and have some overflow facilities available. Ray indicated that they do have some animals that remain in the program for the entirety of their lives.

Ray indicated that it did and shared some anecdotes about prisoners who were continually cycling through the system but who engaged with the program and have not returned. One prisoner who had been in and out of the facility many times had his wife buy two miniature horses (that he had been working with) at auction and continued to work with them after release; the prisoner has not since been out has not been back. Another prisoner used his new skills to leverage employment—after prison he secured a job with the state’s mounted police department:

APPENDIX G: RECOMMENDED LEGISLATIVE CHANGES RELATING TO REPORTING SUSPECTED ANIMAL CRUELTY

A. Recommended legislative changes to G.L. c. 119 § 85

Chapter 119 of the General Laws is hereby amended by adding the following section:

Section 85. ~~During any investigation or evaluation reported under section 51A, any~~ Any employee of the department or person employed pursuant to a contract with the department, when acting in his professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, ~~may~~ shall report the known or suspected animal cruelty, abuse or neglect ~~to the entities that investigate reports of animal cruelty, abuse or neglect, as described in section 57 of chapter 22C, or any local animal control authority to a police officer or special state police officer appointed under said section 57 of said chapter 22C.~~

(b) The report ~~may~~ shall be made within 2 working days of receiving the information concerning the animal, by facsimile transmission or a written report or by telephone. In cases where an immediate response may be necessary in order to protect the health and safety of the animal, the report should be made ~~by telephone~~ made as soon as possible.

(c) When 2 or more employees of the department are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d) No person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith. Any privilege established by sections 135A and 135B of chapter 112 or by section 20B of chapter 233, relating to confidential communications, shall not prohibit the filing of a report pursuant to this section.

(e) Nothing in this section shall impose a duty on the department to investigate known or reasonably suspected animal cruelty, abuse or neglect.

(f) Nothing in this section shall prevent the department, area office or subdivision from entering into an agreement, contract or memorandum of understanding with the entities that investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C, to require such reports or to engage in training in identification and reporting of animal abuse, cruelty and neglect.

B. Recommended legislative change to G.L. c. 119 § 21 (in the definition of “mandated reporter”)

"Mandated reporter", a person who is: (i) a physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, optometrist, osteopath, allied mental health and human services professional licensed under section 165 of chapter 112, drug and

alcoholism counselor, psychiatrist or clinical social worker; (ii) a public or private school teacher, educational administrator, guidance or family counselor, child care worker, person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed under chapter 15D that provides child care or residential services to children or that provides the services of child care resource and referral agencies, voucher management agencies or family child care systems or child care food programs, licenser of the department of early education and care or school attendance officer; (iii) a probation officer, clerk-magistrate of a district court, parole officer, social worker, foster parent, firefighter, police officer, or animal control officer; (iv) a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, or person employed by a church or religious body to supervise, educate, coach, train or counsel a child on a regular basis; (v) in charge of a medical or other public or private institution, school or facility or that person's designated agent; or (vi) the child advocate.

C. Recommended legislative change to G.L. c. 19A § 15 (in section a)

Section 15. (a) Any physician, physician assistant, medical intern, dentist, nurse, family counselor, probation officer, social worker, policeman, firefighter, emergency medical technician, animal control officer, licensed psychologist, coroner, registered physical therapist, registered occupational therapist, osteopath, podiatrist, director of a council on aging, outreach worker employed by a council on aging, executive director of a licensed home health agency or executive director of a homemaker service agency or manager of an assisted living residence who has reasonable cause to believe that an elderly person is suffering from or has died as a result of abuse, shall immediately make a verbal report of such information or cause a report to be made to the department or its designated agency and shall within forty-eight hours make a written report to the department or its designated agency. Any person so required to make such reports who fails to do so shall be punished by a fine of not more than one thousand dollars.

D. Recommended legislative change to G.L. c. 19C § 1 (in the definition of “mandated reporter”)

"Mandated reporter", any physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, dentist, psychologist, nurse, chiropractor, podiatrist, osteopath, public or private school teacher, educational administrator, guidance or family counselor, day care worker, probation officer, social worker, foster parent, police officer, animal control officer, or person employed by a state agency within the executive office of health and human services as defined by section sixteen of chapter six A, or employed by a private agency providing services to disabled persons who, in his professional capacity shall have reasonable cause to believe that a disabled person is suffering from a reportable condition.

E. Recommended new section G.L. c. 19A § 42

Chapter 19A of the General Laws is hereby amended by adding the following section:-

Section 42. (a) Any employee of the department of elder affairs or person employed pursuant to a contract with the department, when acting in his professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, shall report the known or suspected animal cruelty, abuse or neglect to a police officer or special state police officer appointed under said section 57 of said chapter 22C.

(b) The report shall be made within 2 working days of receiving the information concerning the animal, by facsimile transmission or a written report or by telephone. In cases where an immediate response may be necessary in order to protect the health and safety of the animal, the report should be made as soon as possible.

(c) When 2 or more employees of the department are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d) No person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith. Any privilege established by sections 135A and 135B of chapter 112 or by section 20B of chapter 233, relating to confidential communications, shall not prohibit the filing of a report pursuant to this section.

(f) Any privilege established by sections one hundred and thirty-five A and one hundred and thirty-five B of chapter one hundred and twelve or section twenty B of chapter two hundred and thirty-three relating to the exclusion of confidential communications shall not prohibit the filing of a report pursuant to the provisions of subsection (a), (b) or (c).

(e) Nothing in this section shall impose a duty on the department to investigate known or reasonably suspected animal cruelty, abuse or neglect.

(g) Nothing in this section shall prevent the department, area office or subdivision from entering into an agreement, contract or memorandum of understanding with the entities that investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C, to require such reports or to engage in training in identification and reporting of animal abuse, cruelty and neglect.

F. Recommended new section G.L. c. 19C § 14

Chapter 19C of the General Laws is hereby amended by adding the following section:-

Section 14. (a) Any employee of the disabled persons protection commission or person employed pursuant to a contract with the department, when acting in his professional capacity or within the scope of his or her employment, who has knowledge of or observes an animal whom he knows or reasonably suspects has been the victim of animal cruelty, abuse or neglect, shall report the known or suspected animal cruelty, abuse or neglect to a police officer or special state police officer appointed under said section 57 of said chapter 22C.

(b) The report shall be made within 2 working days of receiving the information concerning the animal, by facsimile transmission or a written report or by telephone. In cases where an immediate response may be necessary in order to protect the health and safety of the animal, the report should be made as soon as possible.

(c) When 2 or more employees of the department are present and jointly have knowledge of known or reasonably suspected animal cruelty, abuse or neglect, and where there is agreement among them, a report may be made by 1 person by mutual agreement. Any reporter who has knowledge that the person designated to report has failed to do so may thereafter make the report.

(d) No person making such report shall be liable in any civil or criminal action by reason of such report if it was made in good faith. Any privilege established by sections 135A and 135B of chapter 112 or by section 20B of chapter 233, relating to confidential communications, shall not prohibit the filing of a report pursuant to this section.

(f) Any privilege established by sections one hundred and thirty-five A and one hundred and thirty-five B of chapter one hundred and twelve or section twenty B of chapter two hundred and thirty-three relating to the exclusion of confidential communications shall not prohibit the filing of a report pursuant to the provisions of subsection (a), (b) or (c).

(e) Nothing in this section shall impose a duty on the department to investigate known or reasonably suspected animal cruelty, abuse or neglect.

(f) Nothing in this section shall prevent the department, area office or subdivision from entering into an agreement, contract or memorandum of understanding with the entities that investigate reports of animal cruelty, abuse or neglect as described in section 57 of chapter 22C, to require such reports or to engage in training in identification and reporting of animal abuse, cruelty and neglect.

APPENDIX H: MODEL FORM TO REPORT SUSPECTED ANIMAL CRUELTY

Report of Suspected Animal Abuse			
<p>Step 1: Immediately report verbally to local law enforcement or special police (see information below)</p> <p>Step 2: Within 48 hours, complete and send this report to the officer who took oral report.</p> <p>Step 3: Send a copy of this report to the governmental agency assigned by the legislature. (Unknown at this time)</p> <p><i>If data is unknown or uncertain, place a "?" after the entry.</i></p>			
Reporter's Information			
name:		Occupation:	
address			
phone number			
email			
Person presenting the animal(s) information			
name		Is English spoken?	
address		reported relationship to animal (owner, dog sitter, etc.)	
phone number			
email			
Owner's information (check box if same as above) <input type="checkbox"/>			
name		Is English spoken?	
address			
phone number			
email			
Involved animals (use separate sheet if necessary)			
Species and breed	Gender	Age	Name
<p>If more animals are involved – please summarize circumstances on separate sheet</p> <p>Current location of animal(s): _____</p> <p>Description of allegation: _____</p> <p>_____</p>			
<p>Is immediate medical treatment required? (check if yes) <input type="checkbox"/></p> <p>What action has been taken thus far to treat or assist the animal(s)? _____</p> <p>_____</p>			
<p>Are there children or other vulnerable persons in the household? (check if yes) <input type="checkbox"/></p> <p>Is owner aware report being made? (check if yes) <input type="checkbox"/></p> <p>Verbal report information: Date/time of oral report: _____</p> <p>Name of officer: _____ Agency/officer's phone #: _____</p> <p>Signature of Reporter _____ Date of report _____</p>			
<p>File reports with your local police department or with a special officer. Special state police officers: Animal Rescue League of Boston Law Enforcement: 617-226-5610; MSPCA Law Enforcement: 800-628-5808.</p>			

APPENDIX I: RECOMMENDED AMENDMENTS TO G.L. c. 140 § 173A

Section 173. A city or town may make additional ordinances or by-laws relative to the licensing and control of animals not inconsistent with sections 136A to 174E, inclusive.

Section 173A. Whenever a complaint is sought in a district court for a violation of an ordinance or by-law, made under the provisions of section one hundred and seventy-three, the clerk shall send a written notice to the person complained against stating that such a complaint has been sought and will issue unless such person appears before such clerk and confesses the offense either personally or through an agent duly authorized in writing, or by mailing to such clerk, with the notice the fine provided herein. ~~The fine F~~for the first offense committed by a person ~~within a calendar year, the clerk shall dismiss the charge without the payment of a fine~~shall be \$50. ~~The fine for~~ For a second offense ~~in the city or town within a calendar year, the payment of a fine of shall be \$100~~50 shall operate as a final disposition of the case. ~~The fine for a~~ For a third offense ~~in the city or town within a calendar year, payment of a fine of shall be \$6300 shall operate as a final disposition of the case.~~ For a fourth or subsequent offense ~~in the city or town within a calendar year, payment of a the fine of shall be \$1500 shall operate as a final disposition of the case and the municipality may order the animal spayed or neutered.~~ Payment shall be made only by postal note, money order or check. Notwithstanding the foregoing procedure and schedule of fines, but subject to all other provisions of this section, a city or town may, by ordinance or by-law, provide for an alternative procedure and a different schedule of fines, ~~but fines may not be lower.~~ Notwithstanding this section, a municipality may seek a remedy under section 157 for a nuisance dog.

Proceedings under this section shall not be deemed criminal; and no person notified to appear before the clerk of a district court as provided herein shall be required to report to any probation officer, and no record of the case shall be entered in the probation records.

If a person notified to appear, as hereinbefore provided, fails to appear or pay the fine within twenty-one days of the sending of the notice, or having appeared, does not desire to avail himself of the procedure established by this section, the clerk shall issue the complaint and the procedure established for criminal cases shall be followed.

If any person fails to appear in accordance with the summons issued upon such complaint, the clerk of the court shall send such person, by registered mail, return receipt requested, a notice that the complaint is pending and that, if the person fails to appear within twenty-one days from the sending of such notice, a warrant for his arrest will be issued.

APPENDIX J: RECOMMENDED AMENDMENTS TO G.L. c. 140, 174E

Section 174E. ~~(a) No person owning or keeping a dog shall chain or tether a dog to a stationary object including, but not limited to, a structure, dog house, pole or tree for longer than 24 consecutive hours. A tethering employed shall not allow the dog to leave the owner's, guardian's or keeper's property. The tether shall be designed for dogs and no logging chains or other lines or devices not designed for tethering dogs shall be used. No chain or tether shall weigh more than 1/8 of the dog's body weight. Nothing in this section shall be construed to prohibit a person from walking a dog on a hand held leash. No dog under the age of 6 months shall be tethered outside for any length of time.~~

~~(b)~~ (a) A person owning or keeping a dog may confine such dog outside, subject to the restrictions in this section, through the use of any of the following methods:

(1) inside a pen or secure enclosure, if the following conditions are met:

- (i) the pen or secure enclosure shall have adequate space for exercise with a dimension of at least 100 square feet; provided, however, that commercial dog kennels with pens intended for the temporary boarding of dogs shall be exempt from this requirement;
- (ii) the pen or secure enclosure is constructed with chain link or other similar material as determined by the Building Inspector, with all 4 sides enclosed; and
- (iii) the minimum height of the fence shall be adequate to successfully confine the dog;

(2) a fully fenced, electronically fenced or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard; or

(3) a trolley system or a tether attached to a pulley in a cable run, if the following conditions are met:

- (i) only 1 dog shall be tethered to each cable run;
- (ii) the tether shall be attached to a properly fitting collar or harness worn by the dog, with enough room between the collar and the dog's throat through which 2 adult fingers may fit; provided, however, that a choke collar and a pinch collar shall not be used to tether a dog to a cable run;
- (iii) there shall be a swivel on at least 1 end of the tether to minimize tangling of the tether;
- (iv) the tether and cable run must each be at least 10 feet in length. The cable must be mounted at least 4 feet but not more than 7 feet above ground level; and
- (v) the length of the tether from the cable run to the dog's collar or harness shall allow continuous access to clean water and appropriate shelter at all times as described in subsection (c); provided, however, that a trolley system or tether shall be of appropriate configuration to confine the dog to the owner's, guardian's or keeper's property, to prevent the trolley system or tether from extending over an object to an edge that could result in injury to or strangulation of the dog and to prevent the trolley system or tether from becoming tangled with other object or animals.
- (vi) the tether shall be designed for dogs and no logging chains or other lines or devices not designed for tethering dogs shall be used. No tether shall weigh more than 1/8 of the dog's body weight; and
- (vii) No dog under the age of 6 months shall be tethered outside for any length of time.

(e**b**) A person owning or keeping a dog confined outside in accordance with subsection (b) shall provide the dog with access to clean water and appropriate dog shelter. The dog shelter shall allow the dog to remain dry and protected from the elements and shall be fully enclosed on at least 3 sides, roofed and have a solid floor. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and shall be small enough to retain the dog's body heat and large enough to allow the dog to stand, lie down and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage shall be provided so that water, ice or waste is not standing in or around the shelter.

~~(d) No person owning or keeping a dog shall leave a dog chained or tethered outside for longer than 24 consecutive hours.~~

(c) No person owning or keeping a dog shall leave a dog tethered outside during the hours of 10:00pm to 6:00am unless the owner, guardian, or keeper is outside and the dog is in sight of the owner, guardian or keeper, unless the tethering is for a duration of not longer than fifteen minutes.

(d) No person shall leave a dog outdoors when a weather advisory or warning is issued by local, state or federal authorities or when outdoor environmental conditions, including, but not limited to, extreme heat, cold, wind, rain, snow or hail, pose an adverse risk to the health or safety of such dog based on such dog's breed, age or physical condition, unless tethering is for a duration of not longer than fifteen minutes.

(e) Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or engaged in conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog or pursuant to the requirements of a camping or recreational area.

(f) No person owning or keeping a dog shall subject the dog to cruel conditions or inhumane chaining or the tethering at any time. For the purposes of this subsection, "cruel conditions and inhumane chaining or tethering" shall include, but not be limited to, the following conditions:

- (1) filthy and dirty confinement conditions including, but not limited to, exposure to excessive animal waste, garbage, dirty water, noxious odors, dangerous objects that could injure or kill a dog upon contact or other circumstances that could cause harm to a dog's physical or emotional health;
- (2) taunting, prodding, hitting, harassing, threatening or otherwise harming a tethered or confined dog; and
- (3) subjecting a dog to dangerous conditions, including attacks by other animals.

(g) A person who violates this section shall, for a first offense, be issued a written warning or punished by a fine of not more than \$50, for a second offense, be punished by a fine of not more than ~~\$400~~ 200 and for a third or subsequent offense, be punished by a fine of not more than ~~\$300~~ 500, and be subject to impoundment of the dog in a local shelter at the owner's or guardian's expense pending compliance with this section, or loss of ownership of the dog.

APPENDIX K: MODEL MUNICIPAL BYLAWS

<p style="text-align: center;">Chapter __ -Animals Article 1. – In General</p> <p>Section __ -1. Preamble, Statement of Purpose, Interpretation, Severability; Definitions.</p> <p>Section __ - 2. Rabies Vaccination and Dog Licensing.</p> <p>Section __-3. Commercial Animal Establishment Permits.</p> <p>Section __-4. License and Permit Conditions, Suspension and Revocation.</p> <p>Section __-5. Restraint and Control of Animals; Public Nuisances; Barking Dogs.</p> <p>Section __ - 6. Impoundment of Unrestrained Dogs and Nuisance Animals, Quarantined Animals.</p> <p>Section __ - 7. Sterilization of Animals Released for Adoption.</p> <p>Section __ - 8. Animal Care Standards.</p> <p>Section __ - 9. Animal Control Officers; Regulatory Authority Vested in __insert Supervisor here__; Hearing Authority.</p> <p>Section __ -10. Dangerous Dogs and Nuisance Dogs; Hearing; Right of Appeal.</p> <p>Section __ -11. Animal Waste.</p> <p>Section __ -12. Wild animals, Livestock Animals.</p> <p>Section __ -13. Order of Restraint by Animal Control Officers.</p> <p>Section __ -14. Warnings; Notices of Violations; Issuance of Citations; Appeals.</p> <p>__-1. Preamble, Statement of Purpose, Interpretation, Severability; Definitions.</p> <p>(A) It shall be the purpose of this Chapter to provide for the orderly licensing and regulation of domestic animals, to provide for their wellbeing and safe keeping, and to prevent and or punish the improper care and training of said animals.</p> <p>(B) The provisions of this Article shall be interpreted in accordance with MGL Ch. 140 sec. 136-174E. In the event of a conflict between these ordinances, or any provisions thereof, the General Laws shall control.</p> <p>(C) In the event that one or more portions of these ordinances are deemed invalid, the remaining ordinances or portions of ordinances shall remain in full effect.</p> <p>(D) The definitions contained in MGL. Ch. 140 sec. 136A are incorporated by reference, and apply to this chapter where applicable, except when otherwise specified below.</p> <p>(E) Supplementary Definitions.</p> <ol style="list-style-type: none"> 1. Alter – to neuter, spay, sterilize, or otherwise render an animal permanently unable to procreate. 2. Animal – any live vertebrate or invertebrate species, domesticated or wild, excluding Homo Sapiens. 	<p><i>Different cities and towns may wish to adopt all or a part of these provisions.</i></p> <p><i>It is important to understand the relevant laws in G.L. c. 140</i></p>
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<ol style="list-style-type: none"> 3. Animal, Livestock – any animal which is ordinarily kept for agricultural purposes and not as pets, such as for the sale or consumption of their meat, eggs, milk, skin, fur, or labor, for profit or otherwise. Livestock animals include, but are not limited to; cattle, horses, swine, sheep, goats, chickens, ducks, geese, and rabbits. 4. Animal, Wild – any animal which is wild or feral by nature, normally found in the wild, and not kept as a pet, including, but not limited to: raccoons skunks, foxes, “big cats” (lions, tigers, cougars, leopards, etc.), bears, birds, and venomous reptiles. 5. Animal Control Center – Any facility or shelter operated by or on behalf of the ____enter town or city____, for the purposes of impounding and caring for the animals held under the authority of this Chapter or the laws of the Commonwealth of Massachusetts. 6. Animal Control Officer- any person designated by the city or town to enforce this Chapter or Sections 137 to 174E inclusive, of Chapter 140 of the Massachusetts General Laws. 7. Animal Exhibition – any act, display, or spectacle which includes or features one or more animals that are exposed to the public for the entertainment or education of the viewers. 8. Board of _____ - shall mean the __insert town__ Board of _____. 9. Commercial Animal Establishment – any pet shop, shelter, auction, riding school, stable, zoological park, circus, animal exhibition or kennel. 10. Dangerous dog – a dog that either: (a) without justification, attacks a person or domestic animal causing physical injury or death; or (b) behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal. 11. Fenced-In Area – shall mean an area which is completely enclosed by a chain-link or similar fence, and is accessible by one or more sealable egresses, and which prevents an animal kept within from leaving the enclosed area. 12. Hearing Authority – shall mean the __insert town/city Authority____. 13. Licensing Authority – shall mean the __insert town/city department that handles licensing __ Licensing Authority. 14. Sheltering – the provision of any type of shelter, whether temporary or permanent, for an animal to enter outside of the primary structure on the property. 15. Unaltered – any animal which has not been neutered, spay, or sterilized and remains able to procreate. <p>1 – 2. Rabies Vaccination and Dog Licensing.</p>	<p><i>Rabbits are also considered companion animals.</i></p> <p><i>Your city or town may have another form of government that you would want to insert.</i></p> <p><i>This definition can be found in G.L. c. 140 § 136.</i></p> <p><i>The hearing authority should not be the Animal Control Officer.</i></p>
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<p>(A) Each owner (or keeper) of a dog, cat or ferret that is 6 months of age or older shall cause such dog, cat or ferret to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions, and shall cause such dog, cat, or ferret to be revaccinated at intervals recommended by the manufacturer and in accordance with state law. Unvaccinated dogs, cats, or ferrets acquired or moved into the city/town shall be vaccinated within thirty (30) days after the acquisition or arrival of such animal into the Commonwealth or upon reaching the age of twelve weeks, whichever occurs later. It shall be the duty of each veterinarian to issue a rabies vaccination tag and to complete a certificate of rabies vaccination which shall include, but not limited to, the following information: the owner's (keeper's) name and address; a description of the animal, including breed, sex, age, name and distinctive markings; the date of vaccination; the rabies vaccination tag number; the type of rabies vaccine used; the route of vaccination; the expiration date of the vaccination; and the vaccine lot number. A dog, cat, or ferret shall be exempt from rabies vaccination if a veterinarian has examined the animal and certified in writing that vaccinating the animal at that time would endanger the animal's health because of its age, infirmity, disability, illness or other medical considerations. All rabies vaccination waivers should be reconsidered at least yearly and, if appropriate, may be renewed on an annual basis following a reassessment of the animal's condition. An animal exempt under the Section must be vaccinated as soon as its health allows.</p> <p>(B) Dog Licenses</p> <ol style="list-style-type: none"> (1) In accordance with Massachusetts General Laws, Chapter 140, Section 137, any dogs that are the age of six (6) months or older, that are kept in the (insert city or town) for more than thirty (30) days shall be licensed. The license application shall include: the name and address of the applicant; a description of the dog; proof of rabies vaccination; or proof of rabies vaccination exemption as defined in part (A) of this section; and the appropriate fee. (2) The owner or keeper of such dog must make application to the Licensing Authority within thirty (30) days after obtaining a dog over the age of six (6) months, or if obtained prior to reaching the age of six (6) months, within thirty (30) days of the dog reaching six (6) months of age. This requirement shall not apply to a non-resident keeping the dog in the (city/town) for fewer than sixty (60) days. (3) If not sooner revoked, licenses for the keeping of dogs shall be for a period of one (1) year, running from (insert calendar year). Reapplication for a license may be made up to thirty days prior to and thirty days after (insert start date for licenses). (4) Upon acceptance of the application of the license fee, the Licensing Authority shall issue a durable tag 	<p><i>Rabies vaccination guidelines and rabies vaccination exemption guidelines.</i></p> <p><i>See also G.L. c. 140 § 145B</i></p> <p><i>Some jurisdictions may offer multi-</i></p>
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<p>stamped with an identifying number and year of issuance. Tags shall be designed so that they may be conveniently fastened to a dog's collar or harness.</p> <p>(5) Dogs shall be made to wear both the dog license tag and rabies vaccination tags at all times.</p> <p>(6) The Licensing Authority shall maintain records of the identifying numbers of all tags issued, and shall make these records available to the Animal Control Officer and to the public.</p> <p>(C) Licensing Fees:</p> <p>(1) Unaltered dogs six month of age or older - \$15;</p> <p>(2) Altered dogs six months of age or older - \$10, with the following requirement:</p> <p style="padding-left: 40px;">a. Applicants for an altered dog license shall, as a condition of obtaining such license, produce: a certificate issued by the veterinarian who spayed or neutered the dog; or, a sworn statement by a veterinarian registered to practice in Massachusetts, describing the dog, and stating that the veterinarian has examined the dog, and that the dog appears to have been spayed or neutered, and is incapable of procreation;</p> <p>(3) Dogs deemed to be dangerous, as defined by this Chapter - \$100;</p> <p>(4) Dogs deemed to be a nuisance, as defined by this Chapter - \$50;</p> <p>(5) A license fee shall not be required for:</p> <p style="padding-left: 40px;">(a) Seeing-eye dogs or other service dogs as defined by the Americans with Disabilities Act or regulations promulgated thereunder;</p> <p style="padding-left: 40px;">(b) Governmental police dogs;</p> <p style="padding-left: 40px;">(c) Dogs owned by persons over the age of seventy (70) years.</p> <p style="padding-left: 40px;">(d) Persons and entities exempt from paying license fees are not exempted from the remainder of the licensing scheme defined in this section. Owners of dogs exempt from paying licensing fees are required to apply for a license with the Licensing Authority, and are required to cause dogs covered under this section to wear tags issued by the licensing authority.</p> <p>(6) No license fee or portion thereof shall be refunded because of the subsequent death, loss, transfer, spaying, neutering, removal from (insert city or town), or the Commonwealth of Massachusetts, or other disposal of the dog.</p> <p>(7) Duplicate licenses may be obtained by payment of \$2 to the licensing authority.</p> <p>(D) There shall not be allowed more than four (4) dogs within a</p>	<p><i>year licensing.</i></p> <p><i>Some communities have higher or lower fees.</i></p> <p><i>State law requires that the fee for unaltered dogs is higher than altered dogs.</i></p>
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single dwelling unit, unless the keeper of such dogs is granted a license to operate a kennel in accordance with this Chapter.

(E) Violations.

- (1) Owners and/or keepers who fail to obtain a license as required within the time period specified in this Section may be fined not more than \$50, separate from any licensing fees and late fees owed, and the unlicensed dog may be subject to impoundment.
- (2) No person may use any dog license for a dog other than for the dog for which it was issued. Violators may be fined not more than \$25.
- (3) Any person keeping a dog in (insert city/town) that does not cause such dog to be vaccinated as required by this Section may be fined not more than \$100.

1-3. Commercial Animal Establishment Permits –

Kennel Licenses.

- (A) No person, partnership, or corporation shall operate a Commercial Animal Establishment without first obtaining a permit in compliance with this Section. A permit shall not be issued unless the applicant is in compliance with this Section and applicable state law, and the applicable permit fee is paid.
- (B) Permits for Commercial Animal Establishments shall be for a period of one year, running from (insert dates). Renewal applications may be made thirty (30) days prior to and thirty (30) days after (insert start date). Application for a permit to establish a new Commercial Animal Establishment under the provisions of this Section may be made at any time.
- (C) An applicant for a Commercial Animal Establishment permit must certify in writing to the Licensing Authority that they have read and agree that he applicant is willing and able to abide by all applicable ordinances and regulations as a precondition to the issuance of any permits.
- (D) If there is a change of ownership of a Commercial Animal Establishment, the new owner may have the current permit transferred to his name upon a payment of a \$10 transfer fee to the Licensing Authority, and a certification of compliance with this Section.
- (E) Annual permits shall be issued upon payment of the applicable fee after inspection by the Animal Control Officer, for each:
 - (1) Kennel authorized to house fewer than five (5) dogs or less, \$25;
 - (2) Kennel authorized to house five (5) or more but fewer than ten (10) dogs, \$50;
 - (3) Kennel authorized to house ten (10) or more but less than twenty-five (25) dogs, \$75;
 - (4) Kennel authorized to house twenty-five (25) or more but less than fifty (50) dogs, \$100;
 - (5) Zoological park, \$100;
 - (6) Circus, \$50;
 - (7) Performing animal exhibition, \$50;
 - (8) Grooming shop that boards overnight, \$50;

You can set the fees for these in your municipalities

- (9) No fee is required for any: veterinary hospital or clinic, animal shelter, or governmentally operated zoological park. Permits will be issued without charge.
- (F) Every facility at a different address regulated by this Chapter shall be considered a separate enterprise, and requires a separate permit.
- (G) Operators of kennels with a kennel permit who keep dogs for breeding purposes may elect to license animals within their care individually.
- (H) Violations.
 - (1) Failure to obtain a permit before opening or operating any facility covered by this Section may result in a fine of up to \$200. Each day of operation shall constitute a separate offense.
 - (2) Any person, partnership, or corporation operating a Commercial Animal Establishment who fails to renew the annual permit shall pay a late penalty of \$100 per month prior to such permit being issued.

1-4. License and Permit Conditions, Suspension and Revocation.

- (A) It shall be a condition for the issuance of any permit or license granted under this Chapter that any holder of such permit or license shall grant access and permission to the Animal Control Officer to inspect all animals and or the premises where such animals are kept at any time. The Animal Control Officer shall provide reasonable notice of any inspections, and such inspections shall be at reasonable times.
- (B) No person who has been convicted of any crime involving cruelty to animals shall be issued a permit or license of any kind under this Chapter for a period of five (5) years from the date of conviction.
- (C) The (city or town) or the Licensing Authority may suspend or revoke any permit or license granted under this Chapter if the person or entity holding the permit or license:
 - (1) Refuses or fails to comply with this Chapter, or any law governing the protection, safety, or keeping of animals;
 - (2) Refuses to allow access to the Animal Control Officer for inspections to determine compliance with this Chapter;
 - (3) Is shown to have withheld or falsified any information on the permit or the license application.
- (D) Any person or Commercial Animal Establishment whose license has been denied or revoked shall cause any and all animals covered by said license to be removed within ten days of such denial or revocation. Failure to remove every animal shall result in a fine of up to \$200 per animal. No part of any permit or license fee shall be refunded.
- (E) Any person or Commercial Animal Establishment whose license has been denied or revoked may reapply after the conditions upon which the denial or revocation were based

See G.L. c. 140 § 137D.

have been corrected, and a \$10 fee has been paid to the Licensing Authority.

- (F) Any animal that is kept without a required license or in violation of any other ordinance or state law may be impounded by an Animal Control Officer, as defined in this Chapter.

1-5. Restraint and Control of Animals; Public Nuisances; Barking Dogs.

- (A) All animals, with the exception of altered cats wearing either a collar with identification or an implanted registered microchip, shall be kept under restraint in public or outdoors. Restraint shall mean a leash, lead, or other physical restraint, held by a person capable of controlling such animal to prevent it from coming into contact with other persons or animals.

(1) Exceptions:

- (a) A dog may be off restraint if under adequate voice control of a person, and that person has a leash in their possession. A dog which does not respond to commands of the person in control of such animal is not under restraint;
 - (b) A dog may be off restraint if it is completely confined within a fenced-in area or pen, or an area authorized by the municipality as being suitable for off leash (i.e. approved dog park).
- (B) It shall be unlawful for any person owning, keeping, harboring, or possessing any animal to permit the same to be at large at any time within the limits of (city or town), to the damage or annoyance of any resident in the (town or city).
- (C) Notwithstanding any other ordinance, law, or regulation to the contrary, no owner or an animal shall allow his animal to be upon the property of any school within the (town or city) between the hours of 8:00 a.m. and 4:00 p.m.
- (D) Every owner or keeper of an animal shall exercise proper care and control of their animals to prevent them from becoming a public nuisance. An animal found to be a public nuisance may be impounded by an Animal Control Officer, as set forth in this Chapter. Animal nuisance behaviors include, but are not limited to:
- (1) Molesting or attacking persons, animals or vehicles without provocation;
 - (2) Repeated trespassing on public or private property, including school grounds;
 - (3) Repeatedly being found at large, outside of confinement or off restraint;
 - (4) Causing offensive odors through accumulated waste or other reason that is detectable from the public way, any right of way, or adjoining properties;
 - (5) Allowing an animal which tests positive for a communicable disease (for example, feline leukemia, parvovirus, distemper) to interact with

AVMA guidelines promote that all cats that are outdoors should be wearing a collar with ID and/or microchipped, and altered.

<p>other animals in such a manner as to increase the likelihood of the spread of such disease;</p> <p>(6) Barking, whining, howling, braying, crowing or other noises natural to such animal's species in an excessive, continuous or untimely fashion so as to disturb the peace or otherwise be disruptive to any person's quiet enjoyment of property, comfort or repose;</p> <p>(7) Obstructing any public or private way, or distracting drivers upon the public way;</p> <p>(8) Any other circumstances affecting the health or safety of the public or other animals as determined by an Animal Control Officer or the (insert board here).</p> <p>(E) Violations.</p> <p>(1) Failure to properly restrain an animal covered by this Section shall result in a fine to the owner or keeper of such animal in an amount not more than \$50.</p> <p>(2) Failure to properly restrain an animal covered by the Section which is found to be unaltered shall result in the owner/keeper of such animal to be fined an additional \$100.</p> <p>(3) Failure to properly restrain an animal covered by this Section which results in such animal entering upon school property shall result in an additional fine to the owner/keeper of such animal an amount not more than \$50.</p> <p>(4) An owner/keeper of animal covered by this Section that allows such animal to become a public nuisance may be fined:</p> <p style="padding-left: 40px;">(a) Not more than \$50 for a first offense;</p> <p style="padding-left: 40px;">(b) Not more than \$100 for a second offense;</p> <p style="padding-left: 40px;">(c) Not more than \$300 for a third or subsequent offense;</p> <p style="padding-left: 40px;">(d) Each day that a violation occurs shall be deemed a separate offense.</p> <p style="padding-left: 80px;">Following a third offense, any license to keep animals may be revoked, and the offending animal may be impounded.</p> <p>1-6. Impoundment of Unrestrained Dogs and Nuisance Animals, Quarantined Animals.</p> <p>(A) Unrestrained dogs and nuisance animals may be seized by an Animal Control Officer or police officers, and impounded or quarantined in an animal control center or otherwise humanely confined. A person in custody of such animals shall make a reasonable effort to identify the owner(s) of such animal and notify such person(s) of the location of the animal and reason for impoundment.</p>	
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<p>(B) Impounded dogs shall be kept for not less than seven (7) days unless claimed by the owner within such period. An impounded animal may be claimed upon proof of licensure and payment of the following fees, if applicable, to the Animal Control Center:</p> <ul style="list-style-type: none"> (1) An impound fee as set by the Animal Control Center; (2) A per diem boarding fee as set by the Animal Control Center; (3) All charges for veterinary care of the animal; (4) The cost of vaccinating the animal for rabies. <p>(C) Any dog which remains unclaimed after a period of not less than seven (7) days may be either placed for adoption into a suitable home, transferred to a registered animal shelter or animal rescue organization or humanely euthanized.</p> <p>(D) An animal which has been seized following a bite or other violent incident shall be quarantined and confined from contact with persons or other animals for not less than ten (10) days:</p> <ul style="list-style-type: none"> (1) In the home of the owner or keeper of the animal if owner proves that the animal has been vaccinated for rabies; (2) In an Animal Control Center if the owner or keeper is incapable of complying with the quarantine order. <p>(E) Animal Control Officers shall make, keep and maintain records for animals in the custody of the Animal Control Officer or the Animal Control Center, as required by state law. The records for each animal that is impounded shall be maintained by the Animal Control Officer for at least two (2) years.</p>	<p><i>See G.L. c. 140 § 151A.</i></p>
<p>1-7. Sterilization of Animals Released for Adoption.</p> <p>(A) No impounded dog or cat sheltered at an Animal Control Center shall be released for adoption without first being altered, except when a veterinarian states in writing that sterilization would place the animal at considerable risk due to poor health.</p>	<p><i>See G.L. c. 140 § 139A.</i></p>
<p>1-8. Animal Care Standards.</p> <p>(A) Owners and keepers shall provide each of their animals with sufficient good and wholesome food and water, proper shelter, protection from the weather, veterinary care when needed to prevent suffering, and otherwise humane care and treatment.</p> <p>(B) No person shall beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal.</p> <p>(C) No person shall keep or place an animal in a location that would cause an unreasonable risk of injury or death to the animal. If an animal is found to be in a location that causes an unreasonable risk to the animal, an Animal Control Officer, a Police Officer or a Fire Fighter may use reasonable force to remove the animal from the dangerous situation, seek treatment from a veterinarian, and impound said animal.</p> <ul style="list-style-type: none"> (1) Leaving an animal unattended in a stationary or parked car shall be prima facie evidence of keeping an 	<p><i>Spay/neuter of adoption animals prior to adoption is far more effective than a voucher or deposit system.</i></p> <p><i>Standards for animal care should be spelled out clearly in town and city by laws to erase ambiguity. Several cities and towns have provisions that are more specific than state law.</i></p>

<p>animal in a location that causes an unreasonable risk of injury or death. The above stated officials may use reasonable force to remove the animal from the vehicle, including, but not limited to, breaking the windows of the vehicle.</p> <p>(D) No person shall cause, instigate, or permit any animal to fight, combat, or otherwise cause violence with another animal or a human.</p> <p>(E) Dog tethering shall be permitted subject to the following conditions:</p> <ol style="list-style-type: none"> (1) No person shall tether a dog to a stationary object for longer than 12 consecutive hours. (2) A dog tether shall be an appropriate length to prevent a tethered dog from leaving the owner's property. (3) A dog tether shall be designed for dogs, shall not weight more than one-eighth of the dog's body weight, and shall not be a logging chain or other lines or devices not designed for tethering dogs. (4) No dog under the age of six months shall be tethered outside for any length of time. <p>(F) A person owning or keeping a dog may confine such dog outside, subject to the following conditions:</p> <ol style="list-style-type: none"> (1) The following outdoor confinement methods may be used: <ol style="list-style-type: none"> (a) A pen that allows the dog to exercise, with a dimension of at least one hundred (100) square feet, constructed of chain link or similar material, with a fence height sufficient to successfully confine the dog to the pen. <ol style="list-style-type: none"> (i) Commercial dog kennels with pens intended for temporary boarding of dogs are exempt from the requirement that the pen be at least one hundred (100) square feet. (b) A fully fenced, electronically fenced, or otherwise securely enclosed yard, wherein a dog has the ability to run, but is unable to the leave the enclosed yard; (c) A cable run, trolley, or similar pulley system, with the following conditions: <ol style="list-style-type: none"> (i) Only one dog shall be tethered to each cable run; (ii) The tether shall be attached to a property fitting collar or harness worn by the dog, with at least one inch of space between the collar and the dog's throat to prevent choking; and, no choke, pinch or other pressure restricting collars shall be used to tether a dog to a 	<p><i>1-8(C)1 is a great by law to utilize when charging for the offense of an animal in a hot or cold car where that animal has not been seriously affected and the circumstances do not rise to the level of charging through G.L. c. 272 § 77.</i></p> <p><i>Tethering regulations that are similar G.L. c. 140 § 174E.</i></p>
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	<p>cable run;</p> <p>(iii) There must be at least one swivel at one end of the tether to minimize tangling of the tether;</p> <p>(iv) The tether and cable run must each be at least ten feet in length; the tether must be suspended not less than four feet, and not more than seven feet above ground level;</p> <p>(v) The length of the tether from the cable run to the dog's collar or harness shall allow continuous access to clean water and appropriate shelter at all times, as defined in this section;</p> <p>(vi) The tether system shall be of appropriate configuration to confine the dog to the owner or keeper's property, to prevent the dog from accessing an object that would cause injury or strangulation of the dog, and to prevent the cable run or tether from becoming tangled with other objects or animals.</p> <p>(2) A person owning or keeping a dog confined outside in accordance with this Chapter shall provide the dog with access to clean water and appropriate dog shelter. Such shelter shall allow the dog to remain dry and protected from the elements, shall be fully enclosed on at least three sides, roofed, have a solid floor, and be sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures. The entrance to the shelter shall be flexible to allow the dog's entry and exit, and sturdy enough to block entry of weather elements. The shelter shall contain clean bedding and shall be small enough to retain the dog's body heat, but large enough to allow the dog to stand, lie down, and turn comfortably. The enclosure shall be structurally sound and in good repair. Suitable drainage shall be provided so that water, ice, or waste is not standing in or around the shelter. All shelters constructed pursuant to this section shall be constructed in accordance with (insert town or city) zoning ordinances and Massachusetts law.</p> <p>(G) Where, in the opinion of an Animal Control Officer, any violation of any portion of this Chapter regarding the safety or health of an animal which places said animal at imminent risk of harm, the Animal Control Officer may immediately remove and impound the animal for its own protection.</p>	
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(H) Violations.

- (1) Any person who violates this section shall:
 - (a) For a first violation: be issued a written warning, or punished by a fine of not more than \$100;
 - (b) For a second violation: be punished by a fine of not more than \$200;
 - (c) For a third or subsequent violation: be punished by a fine of not more than \$300, and the affected animal shall be subject to impoundment at an Animal Control Center at the owner's/keeper's expense. Such animal shall not be returned until the owner complies with this section, or ownership of the dog is relinquished.

1-9. Animal Control Officer; Regulatory Authority Vested in (add department here); Hearing Authority.

→The (insert Mayor/Selectmen/Police Chief) shall appoint an Animal Control Officer, whose primary responsibilities shall include the enforcement and implementation of this chapter and any rules and regulations promulgated hereunder; any state or federal laws regarding the safety and wellbeing of animals, or their impact on public health. The Animal Control Officer shall coordinate and administer the activities of the animal control program in accordance with the goals, policies, practices, and procedures established by the (name board Health, Selectmen, Police chief).

→No person shall interfere with, molest, hinder, or abuse an Animal Control Officer in the exercise of official duties. A person who violates this section shall be fined not less than \$100.

→The (name board) shall have the power to make rules and regulations, not inconsistent with this Chapter or state or federal law, for the efficient and orderly enforcement of this Chapter, and otherwise to provide for the safety and wellbeing of animals kept within the city.

1-10. Dangerous Dogs and Nuisance Dogs; Hearing; Right of Appeal.

→Any person who observes a dog engaged in nuisance behavior or behavior which is dangerous to persons or other animals, may file a written complaint to the Hearing Authority, The Animal Control Officer, or the Police Department within thirty (30) days of the observed behavior. Such complaint shall state the reasons for the complaint, the specific instances of conduct, the purported owner of the dog, and the names and contact information of any witnesses.

→An Animal Control Officer that discovers a dog which the Officer believes is a nuisance dog or a dangerous dog may request that the Hearing Authority hold a special hearing.

→Upon a complaint, or a request for a special hearing, the Hearing Authority shall cause the investigation of the factual allegations within the complaint. At a public hearing within twenty-one (21) days of the complaint, the complainant and/or Animal Control Officer shall be required to testify under oath as to the factual allegations contained within the complaint. The owner of the alleged nuisance dog or a dangerous dog shall be notified in advance of any hearing, and be permitted to be heard and shall be allowed to cross examine the

Local laws can't conflict with state or federal law, but can be more restrictive.

complainant or any witnesses. Based upon credible evidence and testimony presented at the hearing, the Hearing Authority shall within ten (10) days issue a written decision that the subject dog is: a nuisance dog, a dangerous dog, or neither and dismiss the complaint. The Hearing Authority shall state the grounds for its decision, and serve said findings to the complainant and the owner of the dog.

- (1) If the Hearing Authority finds that a dog is a nuisance dog, the Hearing Authority may issue an order against the owner of such animal to take appropriate remedial action to prevent the cause of the nuisance behavior.
- (2) If the Hearing Authority finds that a dog is a dangerous dog, the Hearing Authority may order one or more of the following:
 - (a) The dog be humanely restrained, as defined in this Chapter;
 - (b) The dog be confined to the premises of the owner/keeper of the dog;
 - (i) The Hearing Authority may order the construction of certain kinds of enclosures, such as setting the size, height, flooring, and materials of construction.
 - (c) That when the dog leaves the premises of the owner/keeper of the dog, the dog be securely and humanely muzzled and restrained by a tether with a tensile strength of at least 300 pounds, and at most three (3) feet in length;
 - (d) That the owner/keeper of such dog procure or provide proof of insurance in an amount not less than \$100,000 insuring the owner/keeper against any claim, loss, damage, or injury to the persons, domestic animals, or property resulting from the acts, whether intentional or unintentional, of the dog found to be dangerous;
 - (e) That the owner/keeper of the dog provided such information to the Licensing Authority and Animal Control Officer to allow them to identify the dog throughout its lifetime, including, but not limited to: photographs, videos, veterinary examinations, tattooing or microchip implantation, or a combination of such methods of identification;
 - (f) That the dog be implanted with microchip identification, with information registered with the (City or Town);
 - (g) That the dog be altered by a licensed veterinarian, unless such veterinarian determines that such procedure would be dangerous to the health of the dog;
 - (h) That the dog be humanely euthanized; or
 - (i) Any other order that the Hearing Authority deems appropriate or necessary to protect the public from the

Dangerous Dogs and Nuisance Dogs by law. Mirrored after G.L. c. 140 § 157.

Under state law the owner or keeper shall produce such policy (if so ordered) upon request of the hearing authority or a justice of the district court and provided further that if a person has not been able to secure a policy the owner or keeper shall produce proof of efforts to obtain such insurance.

<p>dangerous dog.</p> <p>→No dog shall be found to be a dangerous dog solely based upon:</p> <ol style="list-style-type: none"> (1) Barking or growling; (2) Breed of the dog; (3) Reasonable reaction of the dog as a result of: <ol style="list-style-type: none"> (a) The dog protecting itself, its offspring, another domestic animal, or a person from assault or battery; (b) The person attacked or threatened by the dog was committing a crime upon the person or the property of the owner/keeper of the dog; (c) The person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring, or otherwise provoking the dog; (d) The person attacked or threatened by the dog was at the time of the incident within a fenced – in area that kept the dog separated from the public, without the express permission of the owner/keeper of the dog; (e) It shall be a rebuttable presumption that a person under seven (7) years of age was not committing a crime, provoking the dog, or trespassing, as set forth by Massachusetts General Laws, Chapter 140, Section 157 (a) (iii) (4). <p>→An owner/keeper of a dog found to be a dangerous dog may appeal to the district court, in accordance with Massachusetts General Laws, Chapter 140, Section 157.</p> <p>→If a dog which has been found to be a nuisance dog or a dangerous dog has no additional incidences of nuisance or dangerous behavior within a 48-month period and can show sufficient evidence the behavior has been eradicated, the owner/keeper of that dog may petition the Hearing Authority to remove the said dog from the list of nuisance or dangerous dogs. The Hearing Authority may, but is not required to, remove a designation of nuisance or dangerousness.</p> <p>→Any and all costs for impounding of a dangerous dog will be borne by the municipality holding such dog unless otherwise ordered by the Hearing Authority or a court of final appeal. Any costs incurred by the (city/town) shall be repaid by the owner/keeper within twenty-one (21) calendar days of a final decision by the Hearing Authority. An owner reclaiming a dangerous dog shall pay the following costs if so ordered, within twenty-one (21) calendar days, where applicable:</p> <ol style="list-style-type: none"> (1) Impound and boarding fees, as set by the Animal Control Center; (2) All outstanding fines, except those subject to timely appeal; (3) All veterinary charges; (4) The cost of altering the dog; (5) The cost of medicines or vaccinations; (6) The cost of license and registration; (7) The cost of microchip implantation and registration; (8) The cost of euthanasia. <p>→If an owner/keeper of a dog is found in violation of an order issued under this section, the dog shall be subject to seizure and impoundment by a police officer or Animal Control Officer. If the</p>	
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owner/keeper of the dog is in violation, all reasonable efforts shall be made by the seizing authority to notify the owner of the dog of such seizure. Upon receipt of such notice, the owner/keeper may file a petition with the Hearing Authority, within seven (7) days, for the return of the dog to the owner/keeper. The owner/keeper shall be ordered to immediately surrender to the licensing authority the license and tags in the person's possession, if any, and the owner/keeper shall be prohibited from licensing a dog within the (city/town) for five (5) years. If the Hearing Authority determines that a dog is dangerous or a nuisance or that a dog owner/keeper has violated an order issued under this section shall report such violations to the Licensing Authority within thirty (30) days.

1-11. Animal Waste.

→The owner, keeper or person in possession of any animal shall be responsible for the removal of any fecal matter deposited by such animal(s) on the public way, sidewalks, public property, recreation areas, or private property.

→The owner, keeper or person in possession of any animal on any public way, sidewalk, recreation area, or private property shall possess the means to remove any fecal matter left by such animal. Such means include, but are not limited to, any tool, implement, device, and or bag for the purpose of picking up and containing such fecal matter.

→Animal waste must be disposed of in an appropriate manner.

→Violations.

(1) Any owner, keeper or person in possession of an animal who fails to comply with the provisions of this section may be subject to a fine of not more than:

(a) \$50 for the first offense;

(b) \$100 for the second offense;

(c) \$300 for the third or subsequent offenses.

1-12. Wild Animals, Livestock Animals.

→No person shall keep or permit to be kept on his premises any wild, wild-domestic hybrid, or vicious animals as a pet, for display, or for exhibition purposes. This section shall not be construed to apply to zoological parks, animal exhibitions, or circuses, as defined in this Chapter. This section shall not apply to animals which are deemed permissible to keep by the laws or regulations of Massachusetts.

→No person shall provide food or sustenance to wild animals in such a manner that would cause a public health or safety risk, or cause a nuisance, as defined in this Chapter.

→An Animal Control Officer may remove any animals kept in violation of this section and either release such animal into its natural habitat or place it in a suitable animal shelter. Any costs associated with the removal of an animal kept in violation of this section shall be payable by the offender.

→No person shall keep any livestock animals on their property except as otherwise allowed by (town/city) Zoning Ordinance or state law. An Animal Control Officer may seize and impound any animals kept in violation of this Section or (city/town) Zoning Ordinances, as defined by this Chapter.

→No owner or keeper having the care of any livestock, grazing

Pooper Scooper by law.

Nine municipalities in the Commonwealth have local bylaws that prohibit traveling wild animal acts that aren't educational.

<p>animals or fowl, shall permit the animal to go at large or to graze on any street, way, common, square or other public place within the (city/town); nor permit any such animal to go upon any sidewalks therein except for the purposes of crossing the sidewalk.</p> <p>→No owner or keeper shall keep any bird, fowl or other animal which by barks, howls, or makes other noises, disturbs the peace and quietness of any resident of the (city/town).</p> <p>→Violations.</p> <p>(1) Any person/owner/keeper who keeps, feeds, or shelters an animal in violation of this section shall be subject to a fine of not more than:</p> <p>(a) \$50 for the first violation;</p> <p>(b) \$100 for the second violation; and</p> <p>(c) \$300 for third or subsequent offenses.</p> <p>1-13. Restraint By Order of the Animal Control Officer.</p> <p>→If any person shall make a complaint in writing to the Animal Control Officer for the City or Town that any dog within the jurisdiction is a public nuisance or a threat to public safety, the Animal Control Officer shall investigate such complaint and may restrain or muzzle or issue an interim order to restrain or muzzle for a period not to exceed fourteen (14) days. The Animal Control Officer may take similar action, without written complaint, if the Animal Control Officer becomes aware that any dog is a public nuisance or a threat to public safety.</p> <p>→Upon restraining or muzzling, or issuing an interim order to restrain or muzzle, the Animal Control Officer shall submit in writing to the (insert town/city, Hearing Authority) a report of the action and the reasons therefore. Upon such receipt of such report, the (insert town/city, Hearing Authority) may make such order concerning the restraint and/or muzzling of such dog. If the (insert town/city Hearing Authority) fail to act upon the report during the period the dog is restrained or muzzled, upon expiration of the period, the interim order is automatically vacated.</p> <p>1-14. Warnings; Notices of Violation; Issuance of Citations; Appeals.</p> <p>→Animal Control Officers shall be authorized to issue warnings, notices of violations, orders, citations, fines and penalties for violations of this Chapter.</p> <p>→A warning or notice of violations shall be construed to be an order of the (insert town or city) to comply with this Chapter or the laws and regulations of the Commonwealth of Massachusetts. Repeated failure to comply with such orders is grounds for revocation of any licenses or permits granted under this Chapter and or impoundment of any animals owned or kept.</p> <p>→The Animal Control Officer may seek enforcement of orders, citations, fines, and penalties for violations of this Chapter by seeking a non-criminal disposition in the (insert name of your court) District Court.</p> <p>→Fines, Fees, Charges.</p> <p>(1) A citation, fine, or penalty may be issued by the Animal Control Officer for violations of this Chapter with or without a</p>	<p><i>Essentially a control and restraint law for livestock.</i></p> <p><i>Essentially a noise nuisance law pertaining to livestock and fowl.</i></p> <p><i>Temporary restraining orders for public safety situations may be ordered by the Animal Control Officer.</i></p> <p><i>Hearings Authority may decide to uphold the Animal Control Officer's decision or vacate the order.</i></p> <p><i>Powers for issuing written warnings, citations, orders, and remedy for relief through the court</i></p>
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<p>written warning or notice of violation, including for a first offense.</p> <p>(2) All fines, fees, and charges under this Chapter shall be due and payable twenty-one (21) calendar days from the date printed on the citation, notice, or bill. In the absence of a citation, notice or bill, fines, fees and charges issued under this Chapter shall be due and payable within twenty-one (21) calendar days of the date of service or violation.</p> <p>(3) Failure to pay any fine, fee, or charge within twenty-one (21) calendar days shall result in an additional late fee of \$25. for each individual fine, fee, or charge.</p> <p>(4) Persons who are assessed fines, fees, or charges shall make payment to the Licensing Authority.</p> <p>(5) Outstanding fines, fees, or charges and associated late fees shall become a municipal lien against the property of the person issued the fine, fee, or charge, in accordance with the provisions of Massachusetts General Laws, Chapter 40, Section 58. Further, no license under this Chapter shall be issued unless all outstanding fines, fees, or charges and associated late fees have been paid.</p> <p>→ Appeals.</p> <p>(1) A person aggrieved by an action or decision of the Animal Control Officer or the (insert hearing authority) may appeal to the (insert name) District Court by making application within twenty-one (21) days of the decision, ticket, or notice of violation.</p> <p>END OF SAMPLE BY LAWS</p> <p>Sample Citation</p>	<p><i>system.</i></p> <p><i>This may be a feasible way for larger municipalities to recuperate late fees and/or fines.</i></p>
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TOWN OF NORFOLK
Notice of Violation
Town By-Law or Civil Infraction

N^o 1437

(Date of this Notice) _____ 20____

To: _____
(Name of Offender)

(Address of Offender)

(City, State, Zip Code)

Date of Birth
of Offender

YOU HAVE BEEN OBSERVED VIOLATING:

(Specific Law, By-Law or Regulation)

By: _____
(Act Constituting Violation)

at: _____ (A.M./P.M.) on _____ 20____
(Time and Date of Violation)

at: _____
(Place of Violation)

(Signature of Enforcing Person)

Enforcing Dept

I HEREBY ACKNOWLEDGE RECEIPT OF THE FOREGOING CITATION:

(Signature of Offender)

() Unable to obtain Signature of Offender

Date Mailed

THE FINE FOR THIS OFFENSE IS \$ _____ YOU HAVE THE FOLLOWING ALTERNATIVES WITH REGARD TO DISPOSITION OF THIS MATTER.

1. You may elect to pay the above fine, either by appearing in person during regular office hours, or by mailing a check, money order or postal note WITHIN 21 DAYS OF THE DATE OF THIS NOTICE to:

Norfolk Town Clerk
One Liberty Lane
Norfolk, MA 02056

2. If you desire to contest this matter, you may do so by making a written request for a noncriminal hearing, and enclosing a copy of this citation WITHIN 21 DAYS OF THIS NOTICE to:

Clerk-Magistrate
District Court Dept.
District Court of Western Norfolk
Wrentham, MA 02093

3. If you fail to pay the above fine or to request a hearing within 21 days, or if you fail to appear for the hearing or to pay any fine determined at the hearing to be due, a criminal complaint may be issued against you.

() I HEREBY ELECT THE FIRST OPTION above, confess to the offense charged, and enclose payment in the amount of \$ _____

() I HEREBY REQUEST A NONCRIMINAL HEARING on this matter.

Signature: _____

COPIES: Original-Offender/Duplicate-Town Clerk/Triplicate-Enforcer

(This form approved by Chief Justice of District Court)

This is a sample of a citation that is currently in use by the town of Norfolk. It has been brought up that Animal Control Officers do not have a uniform citation book to write citations. Most towns and cities already have Town By-Law or Civil Infraction citations similar to this in circulation for the police department, fire department, building department, etc. Check with your police department for your town/city template.

APPENDIX L: RECOMMENDED AMENDMENTS TO G.L. c. 6 § 178C

Section 178C, Definitions applicable to Secs. 178C to 178P. The relevant part of G.L. c. 6 § 178C:

“Sex offense”, an indecent assault and battery on a child under 14 under section 13B of chapter 265; aggravated indecent assault and battery on a child under the age of 14 under section 13B1/2 of said chapter 265; a repeat offense under section 13B3/4 of said chapter 265; indecent assault and battery on a mentally retarded person under section 13F of said chapter 265; indecent assault and battery on a person age 14 or over under section 13H of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat offense under section 22C of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; aggravated rape and abuse of a child under section 23A of said chapter 265; a repeat offense under section 23B of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; assault of a child with intent to commit rape under section 24B of said chapter 265; kidnapping of a child under section 26 of said chapter 265; enticing a child under the age of 16 for the purposes of committing a crime under section 26C of said chapter 265; enticing a child under 18 via electronic communication to engage in prostitution, human trafficking or commercial sexual activity under section 26D of said chapter 265; trafficking of persons for sexual servitude under section 50 of said chapter 265; a second or subsequent violation of human trafficking for sexual servitude under section 52 of chapter 265; enticing away a person for prostitution or sexual intercourse under section 2 of chapter 272; drugging persons for sexual intercourse under section 3 of said chapter 272; inducing a minor into prostitution under section 4A of said chapter 272; living off or sharing earnings of a minor prostitute under section 4B of said chapter 272; second and subsequent adjudication or conviction for open and gross lewdness and lascivious behavior under section 16 of said chapter 272, but excluding a first or single adjudication as a delinquent juvenile before August 1, 1992; incestuous marriage or intercourse under section 17 of said chapter 272; disseminating to a minor matter harmful to a minor under section 28 of said chapter 272; posing or exhibiting a child in a state of nudity under section 29A of said chapter 272; dissemination of visual material of a child in a state of nudity or sexual conduct under section 29B of said chapter 272; possession of child pornography under section 29C of said chapter 272; unnatural and lascivious acts with a child under 16 under section 35A of said chapter 272; aggravated rape under section 39 of chapter 277; sexually assaulting an animal under section 34 of said chapter 272; and any attempt to commit a violation of any of the aforementioned sections pursuant to section 6 of chapter 274 or a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority.

APPENDIX M: RECOMMENDED AMENDMENTS TO G.L. c. 276 § 58A

Conditions for release of persons accused of certain offenses involving physical force or abuse; hearing; order; review

(1) The commonwealth may move, based on dangerousness, for an order of pretrial detention or release on conditions for a felony offense that has as an element of the offense the use, attempted use or threatened use of physical force against the person of another or any other felony that, by its nature, involves a substantial risk that physical force against the person of another may result, including the crimes of burglary and arson whether or not a person has been placed at risk thereof, or charged with a violation of section 77 of chapter 272, or a violation of section 112 of chapter 266, or a violation of section 94 of chapter 272 or a violation of an order pursuant to section 18, 34B or 34C of chapter 208, section 32 of chapter 209, section 3, 4 or 5 of chapter 209A or section 15 or 20 of chapter 209C, or arrested and charged with a misdemeanor or felony involving abuse as defined in section 1 of said chapter 209A or while an order of protection issued under said chapter 209A was in effect against such person, an offense for which a mandatory minimum term of 3 years or more is prescribed in chapter 94C, arrested and charged with a violation of section 13B of chapter 268 or a third or subsequent conviction for a violation of section 24 of chapter 90, or convicted of a violent crime as defined in said section 121 of said chapter 140 for which a term of imprisonment was served and arrested and charged with a second or subsequent offense of felony possession of a weapon or machine gun as defined in section 121 of chapter 140, or arrested and charged with a violation of paragraph (a), (c) or (m) of section 10 of chapter 269; provided, however, that the commonwealth may not move for an order of detention under this section based on possession of a large capacity feeding device without simultaneous possession of a large capacity weapon; or arrested and charged with a violation of section 10G of said chapter 269.