

“Compassion for animals is intimately connected with goodness of character; and it may be confidently asserted that he who is cruel to animals cannot be a good man.”
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PROSECUTOR’S GUIDE TO ANIMAL CASES

STATUTES FOR MOST COMMON CRIMES

CR 10-604: Abuse or Neglect of Animal

(a) A person may not:

- (1) overdrive or overload an animal;
- (2) deprive an animal of necessary sustenance;
- (3) inflict unnecessary suffering or pain on an animal;
- (4) cause, procure, or authorize an act prohibited under item (1), (2), or (3) of this subsection; or
- (5) if the person has charge or custody of an animal, as owner or otherwise, unnecessarily fail to provide the animal with:
 - (i) nutritious food in sufficient quantity;
 - (ii) necessary veterinary care;
 - (iii) proper drink;
 - (iv) proper air;
 - (v) proper space;
 - (vi) proper shelter; or
 - (vii) proper protection from the weather.

Penalty

(b)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine not exceeding \$1,000 or both.

(2) As a condition of sentencing, the court may order a defendant convicted of violating this section to participate in and pay for psychological counseling.

(3) As a condition of probation, the court may prohibit a defendant from owning, possessing, or residing with an animal.

§ 10-606. Aggravated cruelty to animals--In general

(b) A person may not:

(1) intentionally:

- (i) mutilate an animal;
- (ii) torture an animal;

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- (iii) cruelly beat an animal;
- (iv) cruelly kill an animal; or
- (v) engage in sexual contact with an animal;

(2) cause, procure, or authorize an act prohibited under item (1) of this subsection; or

(3) except in the case of self-defense, intentionally inflict bodily harm, permanent disability, or death on an animal owned or used by a law enforcement unit.

Penalty

(c)(1) A person who violates this section is guilty of the felony of aggravated cruelty to animals and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

(2) As a condition of sentencing, the court may:

(i) order a defendant convicted of violating this section to:

1. participate in and pay for psychological counseling; and
2. pay, in addition to any other fines and costs, all reasonable costs incurred in removing, housing, treating, or euthanizing an animal confiscated from the defendant; and

(ii) prohibit a defendant from owning, possessing, or residing with an animal for a specified period of time.

§ 10-615. Care of mistreated animal

Seizure

(b)(1) An officer or authorized agent of a humane society, or a police officer or other public official required to protect animals may seize an animal if necessary to protect the animal from cruelty.

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Impounded animal

(c)(1) If an animal is impounded, yarded, or confined without necessary food, water, or proper attention, is subject to cruelty, or is neglected, an officer or authorized agent of a humane society, a police officer, another public official required to protect animals, or any invited and accompanying veterinarian licensed in the State, may:

(i) enter the place where the animal is located and supply the animal with necessary food, water, and attention; or

(ii) remove the animal if removal is necessary for the health of the animal.

(2) A person who enters a place under paragraph (1) of this subsection is not liable because of the entry.

Limitations

(f) This section does not allow:

(1) entry into a private dwelling; or

(2) removal of a farm animal without the prior recommendation of a veterinarian licensed in the State.

Notification to owner

(d)(1) A person who removes an animal under subsection (c) of this section shall notify the animal's owner or custodian of:

(i) the removal; and

(ii) any administrative remedies that may be available to the owner or custodian.

(2) If an administrative remedy is not available, the owner or custodian may file a petition for the return of the animal in the District Court of the county in which the removal occurred within 10 days after the removal.

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“Our review of the statute, in light of its legislative history, yields the following conclusions:

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- Subsection (b)(1) confers on an officer the authority to seize—i.e., take possession of—a mistreated animal if necessary to protect the animal from cruelty.
- Subsection (c) provides some specific direction as to seizure under specific circumstances—when removal of an animal from a place of confinement is necessary for the health of the animal. It absolves an officer of liability for trespass when entering an area to care for, or to take possession of, a mistreated animal.
- Whenever an animal is seized by an officer under the statute, the officer must notify the animal's owner or custodian as prescribed in Subsection (d)(1), if the owner or custodian is known, and otherwise must make reasonable efforts to locate the owner or custodian for at least 20 days in order to provide notice of the seizure.
- The owner or custodian may seek return of the animal pursuant to any available administrative remedy. If there is no administrative remedy available, the owner or custodian has 10 days from the time of the notice to file a petition for return of the animal pursuant to Subsection (d)(2). A failure to do so results in the animal's treatment as a stray under Subsection (e)(1).
- While the statute is silent on how a petition for return is to be litigated, it appears appropriate for the court to require the seizing party to establish that seizure was—and remains—necessary to prevent cruelty or to maintain the health of the animal.” *Rohrer v. Humane Soc'y of Washington Cty.*, 454 Md. 1, 37, 163 A.3d 146, 167 (2017)

“the District Court may consider the question of whether it remains necessary for the Humane Society to retain the animals to prevent abuse or neglect or to maintain their health” *Rohrer v. Humane Soc'y of Washington Cty.*, 454 Md. 1, 44, 163 A.3d 146, 171 (2017)

“the statute provides no explicit guidance as to the standard by which a petition for return should be decided, or even who has the burden of proof. It seems fair to infer that the seizing party would have the burden of justifying the legality of the seizure and its retention of the animal by establishing the statutory predicates for a seizure—that the seizure was “necessary to protect the animal from cruelty” or “necessary for the health of the animal.” *Rohrer v. Humane Soc'y of Washington Cty.*, 454 Md. 1, 35–36, 163 A.3d 146, 166 (2017)

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I. WHEN ANIMAL CONTROL CALLS YOU FROM THE SCENE

A. Can they go onto the property?

- i. Md. Code Ann., Crim. Law § 10-615(b)(1) Allows police officers/ ACOs to enter property and seize animal(s) to protect animal(s) from animal cruelty
 - a. Does NOT allow entry into private dwelling
 - b. Requires recommendation by Vet for removal of farm animal
- ii. Look to your County Code County Code outlines powers and responsibilities of ACOs and those powers usually are broader than what PD is allowed to do.
 - a. Most county codes in Maryland give ACOs the ability to go onto the owner's property and enter backyards/ fences/ dog kennels BUT NOT the ability to enter the home
- iii. Search Warrant if you need to get into residence, ask local PD to help you draft and serve a warrant

B. Can they seize the animal(s)?

- i. (b)(1) An officer or authorized agent of a humane society, or a police officer or other public official required to protect animals may seize an animal if necessary to protect the animal from cruelty. Md. Code Ann., Crim. Law § 10-615(b) (1)
- ii. Look to County Code most counties in Maryland allow ACOs to seize/ impound animals if the owner is in violation of county regulations regarding animal cruelty and neglect
 - a. If in yard/ within fence/ kennel/ outdoor open barn officer can go in and seize animal if suspected neglect/ cruelty
 - b. If owner allows ACO into home and ACO witnesses neglect/ evidence of cruelty officer can seize animal
 - c. If PD serving arrest warrant and ACO is on scene officer can seize animal if witnesses neglect/ evidence of cruelty
 - d. Search Warrant ACO/ PD can seize animals that are subjects of SW and ACOs can seize any other animals if neglect/ abuse is suspected

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- C. What documentation do ACOs have to give if they seize the animal(s)?**
- i. Make sure your ACO clearly posts (or hands owner if they are home) an impound/ seizure notice Notification to owner Md. Code Ann., Crim. Law § 10-615(d)(1)
 - a. Notice should notify owner which agency removed the animal, how to contact the agency about redemption, and the process for redemption
 - b. ****Practical Tip** have ACO take a picture of notice after posting so that owner cannot claim later that notice was not posted. ACO should include in report whether they handed owner the notice or posted notice.

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D. Pre-Conviction Forfeiture of Animals

1. “Protracted hold periods”
2. Animal is property of D until
 - a) Voluntary forfeiture
 - b) Forfeiture as part of sentence
3. Pre-conviction Dispositional Statutes
 - a) Bond/ Security posting (judge can always reconsider when \$ runs out) requires D to post bond for costs if they do not animal forfeited
4. Due Process Requirements
 - a) Notice
 - b) Opportunity to be heard
5. Should be handled by attorney
6. In multi-animal/ large scale cases litigate big picture, not case of every individual animal at bond hearing (not required and don’t want to show your hand)
7. Common Defense Challenges/ Arguments
 - a) Double Jeopardy but doesn’t apply bc forfeiture hearing is a civil hearing and does not expose owner to incarceration. Also, animal is technically the subject of the hearing
 - b) 6th amendment confrontation clause/ right to jury trial only applies in criminal cases
 - c) 8th amendment excessive fine/bond only applies in criminal cases
 - d) Brady Concerns does seizure of animal effect ability of defense to prepare case no, animals to be monitored until at normal levels and subsequent observation is not right given to defendants (liken to assault/rape/murder case defense not entitled to victim/body/etc... just entitled to reports)

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II. PREPPING ANIMAL CRUELTY CASES

A. What should be in your file

1. Report (from Animal Control and/or PD)

2. Photographs

a. Make sure that your veterinarian/ACO uses ruler/object for scale when showing injuries, size of animal, etc...

3. Signed Witness Statements

a. Practical Tip make sure statement includes witness's address, phone number, and email before you leave to save you a trip back later

4. Veterinary Records

a) If the report references the animal being seen by a veterinarian, your office should send a subpoena for the records

b) Ask for all records for animal that is the subject of the case AND all other animals that defendant has owned/ brought in

i. ****Practical Tip** Have ACO ask Owner about all veterinarians that Owner has used in the past, frame it as you want to follow up and confirm that they are good pet owner and take their animals to vet. If that doesn't work, list proof of veterinary care as one of the requirements for redemption.

5. Expert Letter (examples attached to guide)

a) A letter needs to be sent detailing the veterinarian's name, address, phone number and a brief description of what the veterinarian will testify to

i. A Veterinarian should be summonsed and expert letter sent in EVERY case involving neglect or cruelty, even if animal did not see a veterinarian

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- a. Vet can look at all evidence and give opinion to Court of whether situation constitutes failure to provide food/water/shelter etc... or abuse
- ii. ****Practical Tip** Try to keep expert letter as broad as possible so that veterinarian has good amount of leeway in what he/she can testify to at trial
- iii. ****Practical Tip** always best practice to have all seized animals examined by veterinarian, even if they appear healthy
 - a. Vet may find underlying condition or rule out underlying condition as cause of low body condition score, etc...
 - b. Vet may notice subtle signs of neglect/ abuse that confirm your theory of the case

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6. Animal Control Records

a) If your defendant has had prior incidents where animal control has been contacted for this animal, or any other they have owned, there should be reports indicating why animal control responded on prior dates

(1) **Relevance:** This may show a continued course of conduct that endangers the animal/s- in animal cruelty cases the animal control officer may take previous contacts with the humane society/ animal control officers into account in their decision to remove the animal. It will also be relevant in sentencing when arguing why the defendant should not be allowed to own/care for/ have animals on property.

*(a) “In our view, an officer may rely on previously-observed conditions to justify seizure of an animal under CR § 10–615. The physical act of taking possession of an animal need not be contemporaneous with the conditions on which the *43 officer relies to take possession. Nothing in the statute requires that an officer seize a mistreated animal at the moment the officer first observes abuse or neglect. On the other hand, the age of the evidence of mistreatment is a relevant consideration for a court that must decide whether seizure by the officer was truly “necessary to protect the animal from cruelty” or “necessary for the health of the animal.” Rohrer v. Humane Soc’y of Washington Cty., 454 Md. 1, 42–43, 163 A.3d 146, 170 (2017).*

B. Humane Society/ Shelter Personnel/ Staff of Organization Where Animal Boarded Pending Trial

- i. Great fact witnesses
 - a. If possible, ask that same person cares for that animal during duration of stay, or at least checks in on animal on a regular basis and records their observations
 - b. Can testify about observations when animal brought in

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- i. Ask them to go through 5 senses when writing witness statement
- ii. Ask about temperament
- iii. Ask about what happened when animal first offered food/water
- c. Should do routine records of weight, socialization, food and drink intake and provide for trial
- d. Can also testify about animal's progress during stay
 - i. Really impactful when able to testify that animal's well-being greatly improved
 - ii. ****Practical Tip** consider asking your shelter to reach out to find a temporary foster for the animal. Shelters are extremely stressful environments for animals and frequently animals fail to thrive if kept at shelter for extended stay. Foster should bring animal in for regular check ins to monitor progress and maintain contact with ACO and SAO.

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C. Veterinarians

1. **CONTACT THE VET WHEN THE CASE IS CHARGED AND WHEN A TRIAL DATE IS SET** . Giving them a heads up early on about why you need them and on what date will give them a chance to block their schedules and to make sure they have their notes and certifications prepared for trial.

2. **CONTACT THE VET AT LEAST A WEEK BEFORE TRIAL** and put them on standby if possible. Please remember that we rely heavily on the veterinarians to prosecute these cases and that they donate their time and leave sick animals at their offices to come to court.

a) Ask if the veterinarian is aware of how the animal is doing now- this may be particularly useful at sentencing and the judges generally want to know the status of the animal

b) Go through the medical records with the veterinarian and establish what the veterinarian will testify to and what opinions the veterinarian intends to give in this case (**must be disclosed pretrial to defense counsel). Also, make sure you are aware of what the Vet is NOT comfortable saying, so that you don't put yourself and your vet in an awkward position in the middle of trial.

c) Have the Veterinarian explain all of his/her findings and observations to you in layman's terms and remind them that this is how they will have to convey their testimony at trial. Ask them to envision that they are explaining their observations and findings to an owner of a sick animal.

d) Ask veterinarian to review all pictures and evidence from case and explain what they see- may pick up on more subtle evidence that you and ACO missed

i. Ex: I had a really bad neglect case once where dogs were kept in outside cages full of debris and feces during extremely cold temperatures. During trial preparation, I was going through pictures with the veterinarian and I mentioned that it was clear that the dogs had not been removed from the cages for at least

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several days because you could see undisturbed snow (from a storm several days prior) outside of the kennel doors. The veterinarian also pointed out a bucket with a rope off to the side in one of the pictures that she concluded the defendant was using to feed the dogs so that the defendant did not have to expose herself to the conditions that the dogs were experiencing inside of the kennel. I asked her to please write down that quote/ conclusion and the jury audibly gasped when she repeated that conclusion at trial.

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e) Ask if they have any helpful visuals or exhibits that can be used during trial. Charts showing a progression of body scores for an animal, educational skeletons or skulls, infrared images showing starvation/ lack of body fat, and other tools they may have can really hit home the extent of harm to a judge/ jury.

3. Qualify as Expert

a) Your veterinarian should remain in the courtroom and listen to the testimony of your fact witnesses (the veterinarian is typically the last witness to testify)

(1) ****the veterinarian is excluded from having to leave the courtroom if the defense asks for a rule on witnesses because you intend to qualify them as an expert**

b) Qualifying the Vet

(1) At the beginning of the veterinarian's testimony, ask about their qualifications, certifications, years in practice, trainings they have attended and if they have a specialty

(2) Ask the Court to qualify the veterinarian as an expert in the field of veterinary science and medicine (or veterinary forensic science if necropsy vet)

*(a) MD RULE 5-702. TESTIMONY BY EXPERTS:
Expert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. In making that determination, the court shall determine (1) whether the witness is qualified as an expert by knowledge, skill, experience, training, or education, (2) the appropriateness of the expert testimony on the particular subject, and (3) whether a sufficient factual basis exists to support the expert testimony*

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4. Fact Witness AND Expert Witness

a) Fact and Expert Witness: In many cases, the veterinarian will be able to testify as a fact witness (as they examined the animal after the act of cruelty or neglect) AND they are able to testify as an expert in the field of veterinary science regarding the impact of the act upon the animal

b) Solely Expert Witness: In other cases, the veterinarian may not have examined the animal, however, (if qualified as an expert) the veterinarian may still testify after listening to testimony from fact witnesses as to his opinion

(1) For example, fact witnesses may testify regarding their observations of the animal's conduct and the veterinarian can then testify that the conduct described is an indication that the animal is in distress/in pain/over-heated/ malnourished, etc...

(2) The veterinarian can also describe in detail the physiological consequences the animal suffers when the animal is in distress/in pain/over-heated/ malnourished, etc...

(3) The veterinarian can then render an opinion as to whether they believe that the animal suffered as a result of the conduct or did not receive the necessary food/water/shelter/medical care

III. Plea Offers

A. Speak with animal control officer before making offer

1. Run plea offer by the officer

2. Removal- Ask officer if they would like the animal removed from custody of the defendant

a) *§ 10–615. Care of mistreated animal.*

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(a) Court-ordered removal. If an owner or custodian of an animal is convicted of an act of animal cruelty, the court may order the removal of the animal or any other animal at the time of conviction for the protection of the animal.

3. Prohibited from Ownership of Animals- Ask the officer if they want the defendant to be prohibited from owning/caring for animals as a part of the defendant's probation. It is extremely rare that this would not be a condition of probation in a neglect/abuse case.

(a) Tip: ask for 4th amendment waiver from Defendant so that ACO can periodically check on animal (if returned) or on property to make sure that defendant does not have animals in residence (if D does not agree, ask probation agent to conduct home visits)

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IV. Relevant Case Law

A. **There is barely any MD case law on the subject of animal cruelty- so included below are cases from other jurisdictions that may be used for guidance

B. Cruelty

1. Knowledge/Intent

a) *Specific intent to cause harm is not required under cruelty to an animal statute; in circumstances involving the direct infliction of pain on an animal, all that must be proved is that the defendant intentionally and knowingly did acts which were plainly of a nature to inflict unnecessary pain. M.G.L.A. c. 272, § 77. Com. v. Szewczyk, 89 Mass. App. Ct. 711, 53 N.E.3d 1286 (2016).*

b) *Defendant's guilt for cruelty to an animal did not depend upon whether he thought he was unnecessarily cruel, but upon whether he was so in fact. M.G.L.A. c. 272, § 77. Com. v. Szewczyk, 89 Mass. App. Ct. 711, 53 N.E.3d 1286 (2016).*

c) *It is not necessary to prove that wrongful acts, as defined by the cruelty-to-animals statute, were done maliciously; rather, the mens rea that is required is the conscious knowledge or awareness that acts or omissions or failures would result in harm to the animal. McKinney's Agriculture and Markets Law §§ 350, 353. People v. Meadows, 54 Misc. 3d 697, 46 N.Y.S.3d 843 (N.Y. City Ct. 2016).*

d) *Evidence was sufficient to convict defendant of cruelty to animals, even though defendant claimed that he was privileged to kill dog because it was attacking his cat; viewing evidence in light most favorable to State, and considering conflict between defendant's testimony and his original statement, trial court was not compelled to entertain any reasonable doubt about killing being unjustified. State v. Libby, 556 A.2d 1099 (Me. 1989).*

2. Circumstantial Evidence is Sufficient

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a) *Sufficient evidence supported defendant's conviction for cruelty to animals; jury could have inferred from evidence that defendant trapped cat, killed it, and placed it in his girlfriend's mailbox. Harrell v. State, 778 S.E.2d 196 (Ga. 2015).*

b) *Evidence was sufficient to find that defendant subjected his dogs to unjustifiable physical pain and suffering, so as to support conviction of cruelty to animals; pitbull dogs lived in metal drums or under boards without adequate shelter or bedding, a pit was reinforced with bloodstained boards, and several animals had neck scars and other abrasions, consistent with dogfighting. Stephens v. State, 247 Ga. App. 719, 545 S.E.2d 325 (2001).*

3. Even Nemo is Protected

a) *Pet goldfish were "companion animals" within the meaning of statute prohibiting aggravated cruelty to animals, and therefore defendant who stomped on a boy's pet goldfish was guilty of violating that statute; goldfish were domesticated inasmuch as they had been adapted to live in close association with humans, and they were being kept as part of boy's household. McKinney's Agriculture and Markets Law §§ 350(5), 353–a(1). People v. Garcia, 812 N.Y.S.2d 66 (App. Div. 1st Dep't 2006).*

C. Neglect

1. Knowledge/ Intent

a) *Proof of a specific intent to cause harm is not required for a conviction for animal cruelty by unnecessarily failing to provide the animal with proper food, drink, shelter, sanitary environment, or protection from the weather. G.L. c. 272, § 77. Com. v. Erickson, 74 Mass. App. Ct. 172, 905 N.E.2d 127 (2009).*

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b) *Affirming a conviction of neglecting dogs in violation of a statute prohibiting cruelty to animals (Ind Code § 35-46-3-2 (Supp 1981)), the court in Biggerstaff v State (1982, Ind App) 435 NE2d 621, noted that the animal cruelty statute provided that a person having a vertebrate animal in his custody who knowingly or intentionally abandoned, neglected, or tortured the animal was guilty of a Class B misdemeanor and that a definitional statute (Ind Code § 35-41-2-2 (Supp 1981)) stated that a person engaged in conduct "knowingly" if, when he engaged in the conduct, he was aware of a high probability that he was doing so.*

(1) Note: The Maryland statute does not have a knowledge element, but this argument can be made if the defense argues that the defendant did not know the consequences of his actions to the animal

c) *It is not necessary to prove that wrongful acts, as defined by the cruelty-to-animals statute, were done maliciously; rather, the mens rea that is required is the conscious knowledge or awareness that acts or omissions or failures would result in harm to the animal. McKinney's Agriculture and Markets Law §§ 350, 353. People v. Meadows, 54 Misc. 3d 697, 46 N.Y.S.3d 843 (N.Y. City Ct. 2016).*

d) *In Miller v State (1986) 179 Ga App 217, 345 SE2d 909, the court, affirming a conviction for violating the animal cruelty statute (Ga Code Ann § 16-12-4(a)) where the defendant's dogs had killed another dog, held that the defendant's continuing to let his dogs run loose after having knowledge of their vicious propensities constituted negligence on his part. The court declared that malice and intent are not elements of the offense of cruelty to animals. The statute provided that a person was guilty of a misdemeanor when his or her act, omission, or neglect caused unjustifiable physical pain, suffering, or death to any living animal. The court rejected the defendant's argument that he had not violated the statute because there was no evidence of intent, malice, knowledge, or criminal negligence on his part.*

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e) *Evidence supported finding that defendant knew, or should have known, about risk of injury to horses from her lack of care, and disregarded risk, and thus, that she acted knowingly or negligently in subjecting horses to mistreatment or neglect, as required to support convictions for cruelty to animals; horses were confined for days in trailer designed for cows, which prevented horses from standing upright, veterinarian observed bite wounds and bruises on horses, likely caused by two stallions fighting each other in attempt to get to mare, livestock inspector who examined horses several days later observed that horses appeared very gaunt, that they were underweight, that mare's legs were swollen, and that all three had several bite wounds that were actively bleeding, and defendant had fled with horses when she saw veterinarian, thus, indicating her awareness that conditions in trailer were inadequate. MCA 45-8-211(1)(c). State v. Beaudet, 2014 MT 152, 375 Mont. 295, 326 P.3d 1101 (2014).*

2. Dogs in Cars

a) *Finding that defendant acted recklessly by leaving a dog in his sealed van, as required to support conviction for cruelty to animals based on incident, was not against the manifest weight of the evidence and was supported by sufficient evidence; state presented evidence that defendant parked his van in an unshaded, black-top parking lot and subsequently left the dog in the van for over 40 minutes on a hot, humid, and sunny day, that van's windows were sealed, and that dog was lethargic and panting, defendant testified that he had left dog in a vehicle on prior occasions, and evidence showed that danger of leaving dog in van was brought to defendant's attention. Ohio Rev. Code Ann. §§ 959.13(A)(3), 2901.22(C). State v. Graves, 2017-Ohio-6942, 83 N.E.3d 963 (Ohio Ct. App. 12th Dist. Warren County 2017).*

V. Considerations for Different Cases

A. Trauma Cases

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1. Muscle Enzyme Tests make sure ask Vet to run this if possible trauma levels go up if trauma/ injury
2. Cats/ dogs do not visibly bruise unless SIGNIFICANT hemorrhages
3. Trauma Cruelty v. Accident Indicators to look for
 - a. Rib fractures almost always related to cruelty
 - b. Injuries to skull/teeth/vertebrae/surreal hemorrhage/older fractures = cruelty
 - c. No location pattern in cruelty, but vet should be able to see location pattern in car accident cases

B. Starvation Cases

1. Infrared camera can be used to show lack of fat/ muscle
2. ALWAYS make sure Vet rules out underlying conditions as a possible reason for low body score/ starvation
3. Body Score Index for animals is basically the same type of tool as Body Mass Index used for humans, but is more subjective
 - b. Based upon breed, weight, appearance, feel of bones/lack of fat and muscle
 - c. Make sure vet can describe how the body begins breaking down at each level and what animal experiences during starvation process
4. Details to look out for
 - a. Animal eating/ chewing on non-food items for sustenance
 - b. Yellowing/tackiness/ breakdown of teeth- can be attributed to lack of nutrition and/or animal eating own feces for sustenance
5. Aggravated Cruelty
 - a. Starvation is a slow and very painful experience
 - b. Good argument that animal that starves to death, or has extremely low body score, has experienced a type of torture

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C. Hot Car Cases

1. Temperature

- a. Make sure that you have actual temperature for incident date/ time (not just witnesses saying it was “hot”)
- b. Have ACO/ PD ask witnesses about how they responded to the heat that day (what outfit they chose, hydrated more than usual, sweating, use of air conditioning, if they noticed temperature of inside of their vehicle when entering, etc...)
- c. Ask if ACO/ witnesses noticed heat emanating from inside of vehicle when animal removed

2. Ask about effects of heat on animal

- a. Temperature of animal (ideal if ACO has thermometer with them to take temperature on scene)
- b. Animal hot/ wet to the touch
- c. Panting
- d. Animal rapidly drinking water once removed
- e. Lethargy

3. Use of scale to determine temperature of inside of vehicle based upon outside temperature

4. Ask if car was in direct sunlight or in shade

D. Hoarding Cases

1. Help don't be scared to reach out for assistance with these cases, they take a ton of manpower and resources

- a. Other jurisdictions reach out to other jurisdictions if you think that you will need help with transport/ documentation
- b. Organizations HSUS and other organizations can help to find shelters/ veterinarians to board and examine animals

2. Documentation/photography

- a. Although everyone might be in a hurry to get animals out of the house, it is extremely important that your officers take the time to effectively

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Arthur Schopenhauer



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document/ photograph the scene and to label/ photograph each specific animal

- b. Close doors to keep animals from moving from room to room while trying to document/ photograph
- c. Document what part of house each animal was taken from, description of animal, tag animal if possible with tag on collar or on outside of crate that stays with animal

3. Ammonia Expert

- a. Call your local fire department or health department to see if they have a tool to measure levels of ammonia and a person who knows how to use the equipment- another way to show judge/jury just how bad conditions were.
- b. Expert should be able to tell you if levels are hazardous/dangerous to humans and effect of prolonged ammonia exposure

4. Details to Note

- a. Ask witnesses to go through 5 senses in statement and what effect the environment had on them (ex: burning nose/eyes/ throat, feet sticking or sliding on floor, gagging/vomiting, clothes/ equipment smelling after leaving scene, headaches, etc...)

E. Necropsy Cases

1. Necropsy Vet

- d. Have a necropsy veterinarian/ lab lined up (and make sure ACO/PD have contact information) before you get your first deceased animal case
 - i. Time is of the essence in getting the animal to the lab before decomposition sets in and you do not want to be frantically calling around while animal is decaying
- e. Make sure necropsy veterinarian is willing to come to court and testify and know what they require for testimony
 - i. Some out of state jurisdictions require a complicated subpoena process where the subpoena has to be filed and approved by the Court of the jurisdiction where the witness is located to compel

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vet to testify. We found this out the hard way with a lab in Pennsylvania- trust me, it is much easier to confirm with the veterinarian/lab up front that they understand that they will likely have to testify if they perform your necropsy and what they will require from your office for their appearance

f. Decomposition/ Transportation

- i. Best possible scenario is to get animal to necropsy vet within 24-48 hours of death
- ii. Call necropsy vet prior to transport and let them know you are coming/ ask how they would recommend you keep the animal until you can get animal to them
 1. Refrigeration preferable to freezing if you can get animal to vet within a few days
 2. Freezing the freezing and thawing process causes the body of an animal to decompose at a faster rate (especially if you are dealing with a larger animal). Depending on the level of decomposition of the animal, the decomposition process can quickly impede successful necropsy.
 3. Use cooler for transport and do not put animal directly on ice/ cooling source
 4. Wet fur can also contribute to faster rate of decomposition

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EXAMPLE OF EXPERT WITNESS LETTER (1)

September 22, 2020

Defense Attorney, Esq.
123 Main Street
Easton, MD 21601

Re: State v. John Smith

Dear Mr. Attorney,

Please be advised that the State intends to offer at trial, Dr. Kathleen Howard, DVM, Spay Now Animal Surgery Clinic, 125 Pullman Crossing Road, Grasonville MD, 21638, (410) 827-6464, as an expert in veterinary science and veterinary medicine. A copy of Dr. Howard's reports are enclosed with discovery and Dr. Howard is expected to testify consistently with her reports regarding the health of the nine canines seized from John Smith's home, "Buddy," "Charlie," "Chauncey," "Daisy Mae," "Diesel," "Max," "Miles," "Mocha," and "Starr," any other observations or diagnoses made during examinations of the canines, proper care and boarding of canines, and the possible effects of an unsuitable or improper environment on a canine.

If you have questions, please feel free to contact me.

Very truly yours,

/s/ Chelsea Endzel

Chelsea Endzel
Assistant State's Attorney
Queen Anne's County
410-758-2264

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Arthur Schopenhauer



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EXAMPLE OF EXPERT WITNESS LETTER (2)

October 1, 2020

Defense Attorney, Esq.
123 Main Street
Easton, MD 21601

Re: State v. John Smith

Dear Mr. Attorney,

Please be advised that the State intends to offer at trial, Dr. Jamie Weisman, DVM, Warrenton Regional Animal Health Laboratory, 272 Academy Hill Rd, Warrenton VA, 20186, as an expert in veterinary science and medicine, as well as veterinary forensics and necropsy. A copy of Dr. Weisman's reports are enclosed with discovery and Dr. Weisman is expected to testify consistently with her reports regarding canine, "Buster," as well as regarding any other observations, conclusions, or diagnoses made during the necropsy and examination of "Buster," proper care and boarding of canines, the effects of starvation on a canine, the effects of ingesting a foreign body on a canine, and the possible effects of an unsuitable or improper environment on a canine.

If you have questions, please feel free to contact me.

Very truly yours,

/s/ Chelsea Endzel

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Chelsea Endzel
Assistant State's Attorney
Queen Anne's County
410-758-2264

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EXAMPLE OF EXPERT WITNESS LETTER (3)

October 1, 2020

Defense Attorney, Esq.
123 Main Street
Easton, MD 21601

Re: State v. John Smith

Dear Mr. Attorney,

The State intends to call in the State’s case in chief Dr. Karen Hamilton of Annapolis Veterinary And Wellness located at 167 Jennifer Rd Ste. Q, Annapolis MD 21401, as an expert witness in the field of Veterinary Medicine. The State anticipates that Dr. Hamilton will testify regarding the dangers of leaving animals in vehicles, the noticeable indications that an animal is in distress, and the effects that doing so can have on the health of an animal. The defense can contact Dr. Hamilton at 410-224-6624 regarding anticipated testimony and Dr. Hamilton’s credentials.

If you have questions, please feel free to contact me.

Very truly yours,

/s/ Chelsea Endzel

Chelsea Endzel
Assistant State’s Attorney
Queen Anne’s County
410-758-2264