

**Animal Cruelty Investigation and Prosecution:
A User Manual
for
New Hampshire
Law Enforcement**

**Compiled by:
The Governor's Commission
on the
Humane Treatment of Animals
2012**

The New Hampshire Governor's Commission
on the
Humane Treatment of Animals

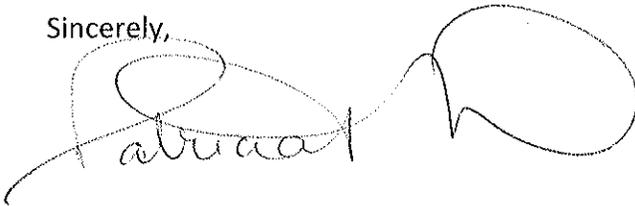
December 2012

To the New Hampshire Law Enforcement Community:

It is with great pride that I present to you the 2012 Annual Report from the Governor's Commission on the Humane Treatment of Animals titled ***Animal Cruelty Investigation and Prosecution: A User Manual for New Hampshire Law Enforcement***. The Commission's goal in producing this Manual was to provide law enforcement, prosecutors and the courts with a comprehensive document that could be used in the field, or in court, as a guide for animal cruelty investigations and prosecutions. In this Manual the Commission sets forth an analysis of the current New Hampshire cruelty laws, background information on various types of cruelty, and recommended procedures and guidelines for each stage of an animal cruelty case - from the initial phases of investigation to the sentencing of a convicted animal cruelty offender. The Manual also provides a list of resources in both the Appendix and a Resources website (www.neacha.org/resources) which provides detailed articles and lists of local resources that are available for assistance in specific types of cruelty cases.

I would like to make a very special thank you to Commission members Jerilee Zezula (General Public), Susan Morrell (Attorney General's Office) and Andrew Shagoury (Police Chiefs' Association) for their extraordinary efforts on this Manual.

Sincerely,

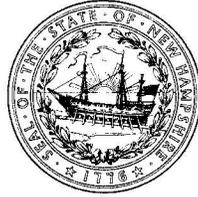
A handwritten signature in black ink, appearing to read "Patricia Morris", with a large, stylized flourish extending to the right.

Patricia Morris, Commission Chair
(New Hampshire Bar Association Member)

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December 2012

To all law enforcement agencies:

I am pleased to recommend **Animal Cruelty Investigation and Prosecution: A User Manual for New Hampshire Law Enforcement**. The manual was created by the Governor's Commission on the Humane Treatment of Animals to serve as an investigative resource for law enforcement agencies. It is a New Hampshire-specific manual that includes a discussion of laws, background information related to animal cruelty issues in the state, model procedures for law enforcement response, and the challenges facing prosecutors. In addition, the Commission has created a website, <http://www.nh.gov/humane/>, where law enforcement can access supplemental investigative resources and background materials.

The procedures set forth in this manual are intended to serve as a model. They are not intended to define a minimum standard of practice or to create substantive rights for individuals. The procedures were developed with the recognition that an individual department's ability to comply with them will depend to some degree on department size, staffing, and financial resources. They define a standard to which law enforcement agencies should strive.

Many in law enforcement have had little exposure to cases involving animal cruelty. This manual provide will provide officers with the information and resources necessary to address incidents of animal cruelty in their communities and, ultimately, to hold offenders accountable.

Very truly yours,

A handwritten signature in black ink, appearing to read "M. Delaney", written over a circular stamp or seal.

Michael A. Delaney
Attorney General

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INTRODUCTION AND PURPOSE

Animal cruelty is a crime in the New Hampshire Criminal Code against domestic animals, household pets and/or wild animals in captivity. Citizens of New Hampshire, many of whom currently are or have been animal owners, are highly sensitized to the issues surrounding animal cruelty and expect the cruelty laws to be enforced. State law affords animals this protection by deeming animal cruelty a serious crime.

Because law enforcement officers, prosecutors and the judiciary may not be well versed in the New Hampshire cruelty laws or the unique protocols for investigation and prosecution of those laws, the Governor's Commission on the Humane Treatment of Animals has undertaken the task of producing this manual to provide background information about many facets of animal cruelty and provide a user manual for investigation and prosecution of these cases.

While this manual was in the process of being written, the National District Attorneys Association (NDAA) created The National Center for Prosecution of Animal Abuse (NCPAA). Its purpose mirrors that of this manual:

“To educate and train prosecutors and allied professionals on the effective handling of animal cruelty and neglect cases, including cases involving the co-occurrence of animal abuse and violence to people. NDAA desires to bring greater awareness to the often misunderstood nature of animal maltreatment and how it can interconnect with family violence and contribute to lethality issues for victims of interpersonal violence. With growing awareness by the public to recognize and report animal abuse, combined with increased attention by the media, prosecuting attorneys need the resources to properly address incidents of animal abuse in their community and properly hold offenders accountable.”¹ (Documents cited in this protocol are referenced with a superscript number can be found on page 61 as **Works Cited**.)

The framework of this manual will follow as much as possible the formats of the ***Model Protocol for Police Response to Domestic Violence Cases*** and ***Stalking Protocol: A Model for Law Enforcement 2009*** as police officers are already familiar with and using those documents.^{2,3} It is expected that police officers will reference the ***New Hampshire Attorney General's Law Enforcement Manual, 2008*** (hereafter known as Law Enforcement Manual) in using this protocol.⁴ (Links to these documents in full text are provided in **Appendix C**.) It should also be noted that the term ***veterinarian*** in this document refers to a veterinarian licensed in New Hampshire under NH RSA 332-B.

Governor's Commission on the Humane Treatment of Animals

The Governor's Commission on the Humane Treatment of Animals (the Commission) was established to “evaluate animal abuse in New Hampshire, perform an analysis of all statutory and

administrative rules, assess State, community and private programs that address animal abuse, and provide recommendations on ways to better prevent and address animal abuse in New Hampshire".⁵ The Commission is made up of representatives of animal-related organizations, law enforcement, state agencies, the legislature, law professionals and the public. Each member is appointed by the Governor. (See 2011 list p. 59)

The Commission, in the course of its duties, has researched and published two significant reports:

Cost Analysis of Animal Cruelty in New Hampshire, 2008 Report and ***Analysis of Three Animal Cruelty Cases, 2009 Report***. Both of these highlighted the need for prevention, public education, law enforcement/prosecution/judicial education, and funding to effectively deal with the issues of animal cruelty in New Hampshire. (Both reports are available on the Commission website www.humane.nh.gov)

This user manual is the latest endeavor by the Commission to provide New Hampshire law enforcement professionals with protocols and guidelines for the investigation and prosecution animal cruelty in New Hampshire.

Structure and Use of the User Manual

Following these introductory pages, the manual is laid out in the following format:

Section 1: Animal Cruelty Laws and Other Issues

This section discusses the New Hampshire animal cruelty laws, other laws that might be considered in conducting and prosecuting a cruelty investigation, and conflicting issues that may occur between those laws. (The text of the New Hampshire statutes (NH RSAs) related to animal cruelty can be found in **Appendix A** and should be referred to when using this manual.)

There is a lengthy discussion of animal owner rights. In New Hampshire animals are property. There is sometimes confusion as to the scope of owners' rights with respect to animal husbandry and care.

This is followed by a brief discussion on the prevention of animal cruelty. This is included to make the reader aware of what preventive measures are in place in the forms of education, intervention, and regulation, and which professional disciplines are involved in the delivery of each.

Section 2: Overview of Types of Animal Cruelty

This section contains a general discussion of the types or manifestations of animal cruelty that may be encountered in New Hampshire. It is background information to give the reader a realistic view of cruelty occurrences.

Section 3: Law Enforcement Protocols

This section contains recommended law enforcement protocols for responding to animal cruelty complaints both in general and in relation to the specific types of cruelty mentioned in **Section 2**.

Section 4: Courtroom Considerations

This section contains information specifically for prosecutors that discusses issues pertinent to their roles.

The four major sections are followed by:

- A list of **Commission members**
- References are listed in **Works Cited** found on page 61 in consecutive order of citation. In the text of the manual, each reference is indicated by a unique superscript number with the number reused if the reference is cited again later in the document.
- The **Appendices** contain the laws, useful web links, check sheets, lists of New Hampshire courts, and other relatively short documents.

Resources of greater length, illustrations and photographs are available at www.neacha.org/resources. (**Resources**) The **Resources** web page is planned to be dynamic. It will be amended and revised periodically. The reader should bookmark this site and become familiar with its organization and contents.

Suggestions for Best Use of the Manual

It is best if the reader takes time to read the *complete manual* to fully understand the impact of animal cruelty issues in New Hampshire and to become familiar with its contents. Although there may appear to be redundancy, each section is written as a unit. After initial reading, law enforcement may then use **Section 3** as a guideline to conducting investigations while using **Sections 1** and **2** as resources. Prosecutors will want to refer to **Section 4** in preparing a court case, but will also use **Section 3** when working with investigators and use **Sections 1** and **2** when preparing arguments.

SECTION 1: ANIMAL CRUELTY LAWS, OTHER LAWS AND ISSUES

The majority of New Hampshire's animal cruelty statutes can be found under two title sections: Title LXII, the Criminal Code and Title XL, Agriculture Horticulture and Animal Husbandry. (See **Appendix A** to find complete text of the applicable NH statutes.) The laws in the Criminal Code can only be enforced by law enforcement officers certified by New Hampshire Police Standards and Training Council having jurisdiction where the animal is located or kept unless otherwise provided for in the law. Title XL, while not part of the criminal code, has sections related to equine cruelty cases that can be enforced by the local law enforcement agency, animal control officer, state police, and/or sheriff having jurisdiction where the animal is located or kept.

TITLE LXII: CRIMINAL CODE

The Cruelty to Animals statutes are in Chapter 644, Breaches of the Peace and Related Offenses.

NH RSA 644:8, I states "'cruelty' shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter."

The law uses generally accepted terms and concepts in this definition of cruelty but it does not limit the offense to those terms. While the statute sets forth specific offenses under this law, it does not provide specific criteria or accepted standards as to what is "necessary care, sustenance or shelter" of animals by defining these terms.

NH RSA 644:8, II gives the definition of "animal" as "domestic animal, household pet or a wild animal in captivity". These are generally accepted terms describing animals other than wild animals living in their natural habitat. There is some overlap of meaning in the terms as a household pet is most often a domestic animal or a legally owned wild animal in captivity. The definition of "wild animal" and laws pertaining to the welfare of free living wild animals come under the jurisdiction of the New Hampshire Fish and Game Department in NH RSA Title XVII, Chapter 207.

It should be noted that animals, as defined in RSA 644:8, II, are considered private property by common law (See generally, *Pinet v. N.H. Fire Ins. Co.*, 100 N.H.346,348 (1956); *State v. M'Duffie*, 34 N.H. 523,528 (1857)). This fact complicates the investigation since the owner's rights cannot be violated despite the fact that the animal is both the subject of a crime and the evidence of a crime. (More on owner's rights to be covered in pp. 8-10.)

NH RSA 644:8, II-a defines “shelter” or “necessary shelter” for dogs - the only species where shelter is explicitly required in the criminal code.^a This section is concerning shelter for dogs living outside or kept outside for long periods of time, not those living in a house or kennel area that are let out frequently during the day and monitored while outside.

NH RSA 644:8, III and III-a define the criminal offenses constituting animal cruelty and the applicable penalty. The investigator may have opinions about the seriousness of an offense, but to ask for a specific penalty, the offense must fall into the correct category as written in the law. For the most part, NH RSA 644:8, III covers “negligent” offenses and NH RSA 644:8, III-a covers “purposeful” offenses.

For those convicted of a crime under NH RSA 644:8, III, the penalty is a misdemeanor for a first offense and a class B felony for a second or subsequent offense. Because there is an enhanced penalty for a second cruelty offense, animal cruelty charges may not be downgraded to a violation by a prosecutor. (NH RSA 625:9, VI) (Law Enforcement Manual p. 242.) The dates of the prior convictions are kept in court records permanently.

For those convicted under NH RSA 644:8, III-a, the penalty is a class B felony.

The primary penalty is determined by the *mens rea* (mental state) or intention of the perpetrator as long as the action is prohibited by NH RSA 644:8, III or III-a. (See Culpable Mental States NH RSA 626:2, II, also p. 15 footnote.)

NH RSA 644:8, IV (a) allows an officer to confiscate the animal when a person is charged with cruelty. The term “confiscate” is used but the officer must remember the animal is more than just property – it is a victim of crime and evidence of a crime. It must be examined by a veterinarian, treated for any injuries or diseases, and cared for until the disposition of the case unless other measures are taken. This statute further provides that any costs incurred regarding the animal must be borne by the officer (seizing agency) until otherwise ordered by the court. The costs may include any bills from a private business or non-profit agency for transportation, veterinary exams, diagnostic procedures, laboratory tests, treatments, medication, supplements in addition to boarding and food. There may be contracts in place for set fees on some of these potential costs or a business or agency may choose to donate services to the town which may cut down actual costs to the seizing agency.

Courts are required to give cases involving confiscated animals priority on the court calendar. Unfortunately with crowded court calendars, this can still be a long period of time. *Id.*

^a See NH RSA 435:14 for shelter requirements for horses in Appendix A, p. viii.

When a person is convicted, the court may order the disposition of the animal(s). *Id.* In addition, all costs related to the animal's care "shall be borne by the person convicted." *Id.* A court order for restitution should be issued. *Id.* See also NH RSA 651:63, I (Supp 2000); *State v. Burr*, 147 N.H. 102,104 (2001) (Restitution for full reimbursement of actual costs can be ordered even if there were general public donations received for the care of the animals.)

The court may also impose future animal ownership restrictions upon the convicted person(s) for any reasonable period of time and impose other reasonable restrictions concerning animal care, contact or custody as necessary for the protection of animals. NH RSA 644:8,IV(a)

NH RSA 644:8, IV (b) authorizes the court to require a \$2000 bond or security for costs expected to be incurred for the care of the animal during the appeal process.

NH RSA 644:8, IV-a (a) can be referred to as the "temporary protective custody" or exigent circumstances clause. It allows a law enforcement officer, animal control officer, or officer of a New Hampshire licensed humane society to take any animal into temporary protective custody when there is probable cause to believe it has been or is being abused or neglected in violation of NH RSA 644:8 III or NH RSA 644:8 III-a, when there is clear and imminent danger to the animal's health or life, and there is insufficient time to get a warrant.

NH RSA 644:8, IV-a (b) states that in order to take livestock into custody, the officer must be accompanied by a New Hampshire licensed veterinarian or the state veterinarian who "shall set the probable cause criteria" for the seizure under the temporary protective provisions. In other words, it is the accompanying veterinarian who determines if there is probable cause to believe the animal is in imminent danger to its health or life. Livestock definition is in NH RSA 427:38, III.^b

NH RSA 644:8, IV -a (c)(1) and (2) discuss some additional requirements for temporary protective custody at dog and horse racetracks in New Hampshire. Dog racing is no longer legal in the state, and horse racing is currently not occurring.

NH RSA 644:8, V absolves a New Hampshire licensed veterinarian from criminal or civil liability for any decisions or services rendered in an investigation of animal cruelty.

NH RSA 644:8-a (**Exhibitions of Fighting Animals**) is a section of the statute that deals with illegal animal fighting in New Hampshire. This law is comprehensive in addressing animal fighting

^b "Livestock" shall mean all cattle, goats, sheep, swine, horses or other equidae, as well as domesticated strains of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (*cervus elephus canadensis*), fallow deer (*dama dama*), red deer (*cervus elephus*), reindeer (*Rangifer taradus*).

but it does not preclude charges being brought under other sections of the cruelty law in addition, if warranted.

NH RSA 644:8 –a, I states that “no person shall keep, breed, or train any bird, dog or other animal with the intent that it or its offspring shall be engaged or used in an exhibition of fighting or shall establish or promote an exhibition of fighting.” The penalty is a class B felony. The investigating officer must prove the “intent” of the accused in regards to situations where animals are not caught in the act of or obviously involved in fighting. (Illegal animal fighting will be discussed in more detail in **Sections 2 and 3.**)

NH RSA 644:8-a, II provides that any person present at the site of a future “exhibition” (fight), at a fight, or involved in organizing or promoting a fight is also guilty of a class B felony.

NH RSA 644:8-a, III discusses seizure of the fighting animals and states that upon the defendant’s conviction, animals may, “at the discretion of the court,” be destroyed in a humane manner. This does not prevent the possibility of conducting temperament evaluations for possible placement of some of the animals.

NH RSA 644:8-a, IV states that upon conviction all assets seized, including animals, equipment, paraphernalia, and money, may be forfeited to the state at the discretion of the court to reimburse local and state agencies for costs of prosecution. Any proceeds not used to cover prosecution costs shall be deposited in the Companion Animal Neutering Fund. (NH RSA 437-A:4-a)

NH RSA 644:8-aa (**Animals in Motor Vehicles**) states it is cruelty to confine an animal in a motor vehicle or other enclosed space in which the temperature is either so high or low as to cause serious harm to the animal. Animal is defined as in NH RSA 644:8, II. The penalty is a misdemeanor. Any law enforcement officer or agent of a licensed humane society may take action to rescue an animal and will not be held liable for damage reasonably necessary to rescue the confined animal.

NH RSA 644:8-b, c, d, and e relate to specific procedures and incidences such a docking a horse tail, animals in classrooms, interference and maiming of police dogs or horses, and interference with organizations, projects or facilities involving or housing animals.

NH RSA 644:8-f (**Transporting Dogs in Pickup Trucks**) describes the acceptable (safe) ways to transport a dog in a pickup truck. It includes some working dog exceptions. Those transporting dogs in unsafe ways in a pickup truck are guilty of a violation. (NH RSA 644:8, III (d) applies to other forms of unsafe transportation. This law will be discussed further in **Sections 2 and 3.**)

Finally, in the Criminal Code, there is a statute NH RSA 644:16, which prohibits purposely exposing poisons for the destruction of an animal. It excludes destruction of vermin on a person’s property. This statute is a violation-level offense, but it is possible if an animal dies in an inhu-

mane manner due to the poisoning, charges could also be brought under NH RSA 644:8 as an act of cruelty.

TITLE XL: AGRICULTURE, HORTICULTURE, AND ANIMAL HUSBANDRY

NH RSA 435:11-435:16 (**Treatment of Horses**) describe the proper care and treatment of horses (all members of the equine species). It reiterates section NH RSA 644:8 as it applies to horses and also describes proper feeding and shelter. It also authorizes the seizure of a horse on a second offense if probable cause of animal cruelty is determined by a New Hampshire licensed veterinarian. There are administrative rules (CHAPTER Agr 3700) that can be enforced under this law. Offenses under these statutes are violation-level. (**Note:** The Commission has identified a conflict between the penalties for violations of this law with the penalties for violation of NH RSA 644:8. ⁶)

Complaints under these laws should initially be filed with the local law enforcement agency, animal control officer, state police, or sheriff which has jurisdiction over where the animal is located or kept. At the request of the local law enforcement agency, animal control officer, state police, or sheriff, the state veterinarian shall assist in a secondary capacity in enforcing the provisions of and investigating said complaints. (NH RSA 436:8)

Additional Cruelty Related Laws

NH RSA 105:14-105:18 are very old sections of the law that can be referenced for guidance on field euthanasia or the appointing of special sheriff deputies for the enforcement of animal cruelty laws.

ANIMAL OWNER'S RIGHTS

The legal relationship between animals and people is simple and clear- companion animals are property under the law. A person owns a domestic animal even when that animal is not directly under the person's control. ⁷ Although treating animals as property affords them, and their owners, some protection in the law, it also limits animals' and owners' rights. There are difficulties in treating animals as property, as they are sentient beings, and are often integral parts of their human families. Nevertheless, general property laws apply to companion animals in both criminal and civil legal proceedings. ⁸

In some cases, such as with registered purebred animals, ownership of an animal is supported by registration documentation. It is important to note that it is possible to have multiple owners for a given animal, who may not reside at the same premises. There also might be ownership paperwork for animals adopted from shelters or rescues. For most companion animals, for which the animal owner is not designated in writing, ownership is determined more by association. This association is implied and supported by the action of daily care, feeding, training, transporting or any other activity related to time spent with the animal. In performing these

duties, an ownership relationship and responsibility is created. In addition to purebred dogs and purebred cats, horses are commonly transferred by means of a written purchase and sales contract that will not only define the ownership of the animal, but will also give the animal a declared value. In the specific case of horses, ownership can extend to a wider number of owners in the case of syndication. It is also possible that a horse may have lien holders who have a claim on the value of the horse. In addition, horses may also have a mortality value, if insured.

Valuation of an animal, absent a written contract as discussed above, is a particularly difficult task.⁹ The traditional method for assigning a monetary valuation to companion animals is fair market value, which also accounts for “any special value, particular qualities, or capabilities”.¹⁰ The court is free to utilize any reasonable valuation method; however, no matter which method is employed, evidence must appear on the record to support it. The burden is on the parties to present such evidence, although the court may reject any it chooses.

In recent years, courts and the legislature have come to recognize the importance of companion animals to their families, and have also begun to realize that companion animals deserve more protection than traditional property law affords them.⁷ If a companion animal is wrongfully killed, the owner can usually collect compensation for the cost of the animal. However, this is often inadequate because the compensation is based upon the animal’s market value. Although purebred animals have a determinable worth, mixed breeds do not. Thus, traditionally, no compensation was required. Some courts have recognized the inadequacy and inconsistency in awarding pet owners only market value for the wrongful death of their pet, and have started to award non-economic damages. However, courts are still reluctant to award punitive damages in cases of the wrongful death of a companion animal.¹¹ If it is shown that the animal has no fair market value, the owner may introduce evidence of a special value. (*Carbasha v. Muslin*, 618 S.E. 2d.368 (2005))

Standards of property rights have been changing recently as evidenced by the fact that some courts have started to consider the best interests of the animal in divorce cases, which is a standard generally applied to child custody. Also, persons are able to set up trusts for their companion animal’s care and are able to provide for their animals in wills and in estate planning.¹² (NH RSA 564-B:4-408)

LOSS OF PROPERTY INTEREST IN A COMPANION ANIMAL

As the law gives more recognition to the familial status of animals in today’s society, shelters and law enforcement must be careful to respect the rights of companion animal owners. Thus, shelters and law enforcement officers must be well informed in the law regarding when the town or organization gains title and ownership in a found or relinquished animal, and what those rights mean.

SURRENDER/TRANSFER

As title-holders, owners of companion animals can transfer that title through several means. Owners can transfer title immediately to a third party by giving an animal as a gift to another person. An owner can give (surrender) an animal to an animal shelter or town, which results in an immediate transfer of title to the shelter or town if the owner shows the intent to relinquish title. In that case, the shelter or town will have both possession and title, and the ability to then adopt the animal out or otherwise dispose of it, as if it were the animal's rightful owner (NH RSA 437:20).

ABANDONMENT

Loss of property interest also occurs with abandonment. In a situation where an animal is left at a veterinary hospital, kennel, or similar facility, and the owner does not collect their animal and pay for the services within 7 days, the animal is deemed abandoned (NH RSA 437:18, IV). At that time, the facility has certain responsibilities it must carry out before it may gain title to the animal. First, there is a general requirement that the facility must contact the owner(s) and notify them that they can obtain the animal by paying for the services. In this case, the abandonment is not a cruelty offense, but a civil offense.

If a stray cat with identification (e.g. tattoo, collar, microchip, ear tag) is brought to an animal care center by a citizen or officer, the center must keep the cat for 7 days to allow the owner time to locate it after which it is considered abandoned (NH RSA 437:18, IV (d)). A cat without identification does not have to be held for any prescribed period of time.

If a dog is brought into a pound, humane society or shelter without a rabies tag or other identification (stray), that organization has an obligation to keep the animal for the prescribed minimum 7-day period of time, during which time the shelter must make reasonable efforts to find the owner or keeper of the animal, including looking for license tags, tattoos, microchips, or other identifying information (NH RSA 436:107). During this time, the shelter has possession, but not title to the animal. Only the original owner can reclaim the animal, and he/she shall be required to pay costs. If the owner does not pay, it is considered a forfeiture of the animal, and the shelter then would have title to the animal. (NH RSA 466:18-a)

An owner can also abandon an animal by leaving it in a public place or uninhabited home. This act demonstrates the owner's refusal to care for the animal. New Hampshire defines that abandonment as an owner's failure to provide proper care, sustenance, protection or shelter (NH RSA 644:8, I). An owner is guilty of a misdemeanor for a first offense and a class B felony for a second or subsequent offense if their actions "negligently deprive any animal in their possession or custody necessary care, sustenance or shelter." (NH RSA 644:8, III (e)) If an owner attempts to reclaim an animal which has been abandoned in this manner, the owner is liable for the costs of treating the animal and may be charged with animal cruelty. If the animal was

taken into temporary protective custody, and not claimed for 7 days, the officer shall petition the municipal court or district court seeking either permanent custody or a one-week extension of custody, and may file cruelty charges under NH RSA 644:8, IV-a (a).

CONFISCATION OR SEIZURE

Any person charged with cruelty to animals may have their animals confiscated by an arresting officer under NH RSA 644:8, III. Upon such person's conviction of cruelty to animals, the court may dispose of said animal in any manner it deems appropriate. (NH RSA 644:8, IV (a))

The seizure of horses, pursuant to a cruelty investigation, is specifically covered under two separate statutes, NH RSA 644:8 and NH RSA 435:16. Seizure is not permitted without a probable cause determination by a New Hampshire licensed veterinarian. Under NH RSA 435:16, (civil law) an owner failing to comply with the mandated care, feeding, and shelter provisions will receive notification of the proper care requirements. Upon a second offense, the horse or horses shall be seized and not returned until restitution for the expenses involved in the seizure is made, and proof of proper care is given. Upon a third or subsequent offense, the horse or horses are to be permanently seized. (NH RSA 436:16)

TEMPORARY PROTECTIVE CUSTODY

A law enforcement officer, animal control officer, or officer of a duly licensed humane society may take an animal into temporary protective custody when there is probable cause to believe that it has been abused or neglected, or when there is a clear and imminent danger to the animal's health or life, and there is insufficient time to obtain a court order (NH RSA 644:8, IV- a). (See detailed information in **Section 3.**)

ADDITIONAL OWNERSHIP RIGHTS

Beyond the mandated provision of proper care, sustenance, protection, or shelter as generally discussed in NH RSA 644:8 and NH RSA 435:15, companion animal and horse owners have the right to train, work, compete, exhibit, and otherwise engage in active pursuits with their companion animals, livestock, and horses unless otherwise prohibited by law. This provision also extends to the owner's right to obtain veterinary services for their animals from licensed veterinarians and other associated animal health providers for such services as dentistry, massage, holistic and other non-traditional therapies that they may seek.

Standards of Animal Care

The acceptable standards of animal care are not written into the cruelty laws in the criminal code except for the shelter requirements for dogs, animals in enclosed spaces when weather is excessively hot or cold, or dogs being transported in pickup trucks. As mentioned in the owner's rights section, there is wide variation in the way people care for their animals; most of them acceptable for the animal's health and well-being. Minimum standards for certain animal care

are covered in other NH RSA's and Administrative Rules overseen by the New Hampshire Department of Agriculture, Markets, and Foods, Division of Animal Industry. (<http://www.nh.gov/agric/rules/index.htm>) Additional standards may be found in the Federal Animal Welfare Act. *Guidelines for Standards of Care in Animal Shelters*, published by the Association of Animal Shelter Veterinarians, may prove useful in assessing multi-animal cases. These rules and documents might be used as resources for determining minimal standards of care if documentation is needed in a case. (See **Appendix C** and **Resources**.) These documents have not been challenged and validated in New Hampshire criminal courts but have been referenced in other state statutes, courts, and jurisdictions. New Hampshire has not sufficiently developed its animal cruelty "case law" to provide guidance on standards of care. Investigating officers may need to do research and call in expert witnesses to testify as to acceptable standards of care to convince a judge or jury in cases of neglect or inhumane handling.

NH statutes also lack minimum requirements for acceptable grooming and appropriate housing environment. The Tufts Animal Care and Condition Scoring (TACC) system,¹³ has been developed for dogs and is used by many communities and has been accepted by courts. (e.g. Ft. Wayne, IN Municipal Courts) The TACC has sometimes been extrapolated for use in cats. (See **Resources** for a copy of this scoring chart and body scoring procedures for other species including horses and livestock.) The investigator and expert witnesses should be very familiar with these scoring charts to determine if a seizure is warranted and be able to testify to their use in court.

Prevention of Animal Cruelty

The best solution for fighting animal cruelty is prevention through education. Most laws are written to be a deterrence, but if people are not familiar with the laws or proper care of animals, education is needed to prevent animal cruelty.

HUMANE EDUCATION

When dealing with the crime of animal cruelty, a logical solution is to educate the public about acceptable standards of care and the level of commitment and costs required in taking care of an animal.

Formal "humane education" in schools and other structured settings is conducted by humane organizations, classroom teachers, 4-H leaders, organizations such as FFA (formerly Future Farmers of America), scouting, and volunteers from veterinary and other animal care professions. This education should, and does, start early during a child's development and continue throughout school years. Less formal education continues into adulthood through advertising, media, public events and by animal ownership itself. As owners interact with veterinarians, and other animal care and control professionals regarding the care of their animals, they learn about proper diet, husbandry, preventive health care, legal responsibilities, and more.

Humane education, in all its forms, embraces a respect for the world in general and helps a person develop empathy for others – human and non-human.

EARLY INTERVENTION AND PREVENTION OF FUTURE CRIMES

An act of animal cruelty can be a precursor to more violent crime towards humans as well as animals. When such a pattern is recognized early, intervention can be employed to possibly curtail this violent behavior.

For the child or adult who has not previously been exposed to the proper care and treatment of animals, the intervention could range from attending humane education classes to psychiatric evaluation and therapy. There are those who consciously inflict cruelty on animals, and those who do not understand the consequences of their behavior. The latter could simply be educated on how to take care of that pony he/she got for Christmas, or how to find it a better home. The former may be a candidate for therapy in addition to an appropriate penalty.

An intervention program for children must start as early as possible - at the very first sign of any conduct disorder. This is the time period when children are most receptive to enriching and supportive environments.¹⁴

It should be noted that violence towards animals is one of the earliest, if not the earliest, warning sign that a young child might have the potential to become a violent offender. Parents have reported children “hurting animals” as early as 6.5 years old.¹⁵ Without any intervention such children have the propensity to become violent criminals later in life - even more so than juvenile delinquents who start their violent behavior when teenagers.¹⁶

ANIMAL CARE AND CONTROL SERVICES

The public should no longer think of an animal control officer as the “mean dog catcher” rounding up strays. Pet owners expect an animal control officer to be professional and polite, to be able to solve all animal issues and to enforce the cruelty laws. Television shows like “Animal Cops” on Animal Planet have changed the public’s perception of Animal Control and Humane Officers.

Progressive communities are requiring their animal control officers to have law enforcement training as well as animal control training. Professional training is available through many venues. (See **Appendix C.**) This training, though, is subject to officer availability (many animal control officers are only paid by the call and have other jobs) and budget of the town in which he/she works.

A town with professional animal care and control services is providing a form of education and early interventions that can, and does, often keep ignorance from becoming cruelty. A trained animal control officer patrols, responds to citizen cares and concerns, provides humane educa-

tion, conducts investigations, and presents animal related information knowledgeably at public meetings and during court proceedings.

REGULATION OF ANIMAL FACILITIES

In addition to the education of individuals to prevent cruelty to animals, the same prevention methods need to be provided to businesses that make their livelihood selling and caring for animals.

The New Hampshire Department of Agriculture, Markets and Foods, licenses and inspects animal shelters, rescues, pet stores, and commercial kennels. It also regulates the slaughtering of animals and sanitation at New Hampshire intrastate abattoirs (slaughter houses), and establishes guidelines for winter equine housing. All this helps ensure that the animals are cared for properly and, thus, prevents animal cruelty. The statutes regulating these facilities are in NH RSA Chapters 427, 435, 437, and 466 and their associated administrative rules.

Another agency that regulates animal care is the United States Department of Agriculture (USDA) through the federal Animal Welfare Act and other federal laws.

The New Hampshire Fish and Game Department is responsible for wildlife.

(See **Appendix C** for web links for above referenced statutes and more information related to New Hampshire Department of Agriculture, Markets and Food, USDA and NH Fish and Game Department.)

SECTION 2: TYPES OF ANIMAL CRUELTY

New Hampshire cruelty offenses are divided into either purposeful or negligent acts.

“Purposeful”^c actions are conscious choices to inflict harm on an animal.

“Negligent”^d actions or omissions of an animal’s care include, but are not limited to failure to provide adequate food, medical care, safety, and other needs of the animal in a manner that constitutes a gross deviation from the conduct of a reasonable person.

Brief descriptions illustrating the manifestations of cruelty by “type” follow. Detailed information regarding the investigation of many of these types of cruelty follows in **Section 3**.

PURPOSEFUL CRUELTY

Domestic Violence and Violent Crime Links (For investigation recommendations, see **Section 3**, p. 39.)

Acts of animal cruelty are linked to a variety of other crimes, including violence against people, property crimes, drug crimes and disorderly conduct offenses.¹⁷ Reporting, investigating, and prosecuting animal cruelty can help take dangerous criminals off the streets.

If an animal is being abused in a family, it is possible that a child or other family member is also being hurt or threatened. Animal control officers, in the performance of their duties, often have easier access to homes than representatives of other law enforcement and social service agencies. A woman, afraid to report her partner’s abusive behavior toward her, may feel less threatened reporting his cruelty to animals. Likewise, a neighbor of a family in trouble may witness and report the abuse of animals earlier than the abuse of human family members. This may start a dialogue with appropriate agencies that uncovers the perpetrator’s human-directed violence.

Animal cruelty may be a warning sign for at-risk youth, according to the National School Safety Council, the U.S. Department of Education, the American Psychological Association, and the National Crime Prevention Council.¹⁸ It is an indicator that children pose a risk to themselves as well as to others. Ongoing longitudinal studies begun in 1987 demonstrate that chronic physical

^c RSA 626:2, II (a). “Purposely.” A person acts purposely with respect to a material element of an offense when his conscious object is to cause the result or engage in the conduct that comprises the element.

^d RSA 626:2, II (d) “Negligently.” A person acts negligently with respect to a material element of an offense when he fails to become aware of a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that his failure to become aware of it constitutes a gross deviation from the conduct that a reasonable person would observe in the situation.

aggression by elementary school boys increases the likelihood they will commit continued physical violence as well as other nonviolent forms of delinquency during adolescence. Animal cruelty is one significant form of physical aggression ¹⁹.

Experts agree that the early implementation of prevention and treatment strategies for conduct disorder behaviors, such as animal cruelty, is key to their effectiveness. Some suggest the most strategic point for intervention is in the preschool and early elementary school years. (See also Prevention p. 12.) As aggressive children get older, they are less responsive to therapeutic intervention (^{20, 21}).

Beating (See **Section 3**, p. 40 for investigation recommendations.)

Beating is an act of striking with repeated blows. (NH RSA 644:8, III(b) and III-a) This form of cruelty varies in degree and severity of results. Beating should not be confused with self-defense from a dangerous animal or certain training methods that may resemble beating to an untrained observer.

Sexual Molestation of Animals (See **Section 3**, Animal Sexual Assault, p. 41 for investigation recommendations.)

Sexual molestation of animals (also sometimes referred to as zoophilia, bestiality, zooerasty or sodomy) is unnatural sexual conduct of a human toward an animal. This kind of molestation includes a wide range of behaviors such as vaginal, anal, or oral penetration; fondling; oral-genital contact; penetration using an object; and killing or injuring an animal for sexual gratification. Animal sexual molestation may or may not include physical violence other than the sexual violation, and may or may not result in physical injury to the animal. If the animal is harmed or injured during the sexual acts, it is an act of animal cruelty. Animal sexual molestation or assault, like rape, is often the eroticization of violence, control, and exploitation. Sometimes people can be coerced by their peers or abusers to perform sex acts on an animal. The sexual molestation of animals can occur in the same households as the sexual molestation of women and children. ²² A child's sexual molestation of an animal may be a warning sign that the child is a victim or witness of physical, sexual or emotional abuse themselves. These correlations should be kept in mind when investigating domestic disturbances or sexual assaults where there are/have been animals in the home.

It should be noted that accepted practices for the controlled breeding of animals are considered animal husbandry methods (e.g. artificial insemination, assisted breeding or ejaculation) and are not considered sexual molestation.

Animal Fighting (See **Section 3**, p. 36. for detailed investigation recommendations.)

Dog fighting is a felony offense in all 50 states and the Federal Animal Welfare Act prohibits the interstate transportation of animals for fighting purposes. Cockfighting is also illegal in all states. Additional species of animals and birds (other than dog or cock) may also be involved in fighting. New Hampshire law defines all animal fighting and acts related to it as felony offenses. (NH RSA 644:8-a.) While animal fighting is not common in New Hampshire, it does occur. It is clandestine and seldom comes to the attention of law enforcement. See *U.S. v. Kizeart*, 2010 WL 3768023(S.D.ILL) (The court discusses the history of dog fighting in the United States.) (This case may be found on the **Resources** website.)

Dog Fighting

According to humane law enforcement professionals, there are three categories of fighting dog owners:

Professionals: Professionals breed, train, and fight their own dogs on a national/international basis, spending hundreds and thousands of dollars. They use drugs such as antibiotics to fight off infections, steroids to boost the dogs strength, and treadmills and other devices to condition the dogs.

Hobbyists: Hobbyists are small time operators who regularly arrange matches within a certain region and tend to put a greater emphasis on gambling rather than controlled breeding. Their dogs are purchased through classified ads and are entered in matches with little or no prior conditioning. The owners hope to win the purchase price of the dog back through gambling.

Street Fighters: Street fighters are often juveniles or members of gangs that fight their animals as a show of status. Many of the animals are stolen or obtained under false pretenses. Dogs often show signs of physical abuse as they are often hit, stabbed, poked with objects, and even burned to make them mean/aggressive. The dogs are often disposed of after the fight; left in alleys or thrown in dumpsters when they fail to perform.

Common complaints that may be received about possible dog fighting include: ²³

- **Pit bull “hotels”** - Between fights, dogs used for fighting are sometimes harbored in abandoned buildings or by other owners. A complaint may come in about dogs barking in an abandoned building or shed or about pit bull owners who suddenly have a lot of dogs.

- **Organized dog fighting ring** -A complaint may be received that dog fighting is going on in a certain location. Often these complaints come from former participants who got “burned” by the ring.
- **Unorganized fighting** –Neighbors may complain about an injured dog, or report hearing frequent dog fights in the area. A veterinarian may report that a dog has come in with an ear chewed off and numerous scars. Animal control officers may also become aware of possible fighting when doing dog bite or licensing investigations.

Cock Fighting

Cock fighting (and other types of bird fighting) in New England is often a cultural event that goes unnoticed. Reports usually come from municipal or other agency workers who become aware of the birds while conducting their duties.

Ritualistic Rites Involving Animals^{23, 24} (See **Section 3** for investigation recommendations p. 43.)

Complaints may be received about a mutilated dead animal(s) being found with symbols of cult activity around the body such as satanic symbols, bones, and candles. Voodoo, Santeria, Palo Mayombe, and Brujeria are all religions that practice animal sacrifice- usually involving goats, sheep and chickens. True practitioners of neo-paganism and witchcraft (Wicca) do not perform animal sacrifice. Rites may take place in wooded areas, cemeteries, commercial or residential buildings, or abandoned buildings.

True ritualistic animal cruelty is not that common. It is estimated that only .15% of animal cruelty cases can be categorized as ritualistic. Sometimes what appears to be a ritualistic scene is actually an abandoned campsite. A thorough investigation of evidence is required to determine if a scene is truly related to a cult religion.

There has been some confusion with regard to true cults and their practices and freedom of religion. Individuals have the freedom to practice their religion as they define it; however, they are not permitted to commit criminal acts, or interfere with the rights of others, while in the process. Thus, torturing or mutilating live animals is not permitted because it is a criminal act. If they engage in this behavior, they are subject to prosecution.

NEGLIGENT CRUELTY

Abandoning An Animal

Abandonment of an animal- leaving an animal without food, water or supervision- occurs in a variety of situations. Abandonment cruelty complaints are often received in vacation/resort areas at the end of tourist season, but they can occur anywhere. In difficult economic times, animals may also be left behind in homes during a forced move and eviction. Animals may often be dropped off in the vicinity of a humane society or farm in hopes that they will be taken in. While abandonment is usually an intentional act, only negligence needs to be proven to meet the elements of the crime. (NH RSA 644:8, III (e))

The term “abandonment” is also used when animals are left without payment of a bill at a veterinary hospital, boarding facility, or other animal care center. In that circumstance, it is not a violation of the cruelty law, but a violation of NH RSA 437:19 (Unclaimed and Abandoned Animals). (See also **Section 1, Animal Owner Rights**, p. 8.)

Multiple Animals Not Cared For (See **Section 3**, p. 34 for investigative suggestions.)

It is not uncommon in New Hampshire to find a person who has multiple animals but cannot provide them with appropriate care. While the term “hoarder” is not defined in the New Hampshire statutes, it is defined in Illinois and Hawaii law. According to the Hoarding of Animal Research Consortium (HARC), ²⁵ animal hoarding was formally defined in the public health literature in using the following criteria:

- Having more than the typical number of companion animals
- Failing to provide even minimal standards of nutrition, sanitation, shelter, and veterinary care, with this neglect often resulting in illness and death from starvation, spread of infectious disease, and untreated injury or medical condition
- Denial of the inability to provide this minimum care and the impact of that failure on the animals, the household, and human occupants of the dwelling
- Persistence, despite this failure, in accumulating and controlling animals

Normally, this type of cruelty case will come to law enforcement’s attention when complaints are received from persons observing thin animals and/or smelling bad odors coming from an individual’s property, or from representatives of other agencies or businesses who have been on the premises.

The investigation may reveal large numbers of animals in extremely poor physical condition. In some cases, they may be lacking food, water, and shelter. In other cases, they may receive some food but they are denied medical care, and as a result, are suffering intensely. Sometimes, all of these conditions are present. In general, the conditions will be filthy and the animals overcrowded.

Neglect (See **Section 3**, p. 42 for investigation recommendations)

Neglect is failure to provide adequate food, water, care, or shelter. (NH RSA 644:8, III (a)) Neglect complaints may be difficult to resolve because the standards of care (other than housing of dogs and horses) are not specifically defined in the cruelty laws. An officer must rely on the “standards of a reasonable person” (NH RSA 626:2, II (d)). Determining those reasonable standards may require research and interviewing professionals to establish whether the conduct constitutes negligence.

Neglect sometimes occurs because people acquired an animal on impulse and did not think through the responsibilities involved.²³ The causes vary, but the results are the same: neglected animals. The way owners respond to intervention will vary from being cooperative to acting hostile.

Irresponsible Breeders

Most breeders of dogs and other animals provide adequately for the animals they raise because they care about their animals and the betterment of the breed. They strive for a reputation for producing healthy, purebred animals. However, complaints may be received about animals that are not being fed properly or are not provided with adequate shelter. This breeder may have one or a few animals and be unfamiliar with the standards for breeding and care of the offspring.²³

High volume breeding kennels with multiple breeds operated by irresponsible owners are often referred to as “puppy mills”^e, however there is no legal definition for this in New Hampshire. The housing conditions and care of dogs at these facilities are substandard. The poor care of the animals may constitute negligent cruelty.

Since the Department of Agriculture Markets and Food (hereafter known as NHDAMF) has licensing enforcement authority over New Hampshire licensed commercial kennels, it should be contacted in conjunction with a cruelty investigation to verify the breeder’s licensing status (or lack thereof) and to check for any previous violations. (NH RSA 437:1)

Pet Store Issues

People may call and complain about the conditions that exist at a local pet store. The complaints may range from overcrowded cages to cruel acts. Pet stores are legal in New Hampshire and animal care is regulated by the NHDAMF and the USDA. NHDAMF has enforcement author-

^e The term “puppy mill” was coined by the court in *Avenson v. Zegart*, 577 F. Supp. 958, 960 (U.S.D.Ct., D. Minnesota, 6th Division)(1984): “a dog breeding operation in which the health of the dogs is disregarded in order to maintain a low overhead and maximize profits.”

ity over animal care in pet stores, and should be contacted for licensing status (or lack thereof) and for any information on possible previous violations. The USDA regulates wholesalers of animals (those supplying pets to retail stores for resale) and should be contacted as well. They also regulate the possession and sale of “pocket pets” such as sugar gliders and hedgehogs.

The pet store is a business and someone’s livelihood. Other laws must be considered such as NH RSA 382-A Uniform Commercial Code, and such cases should be investigated very carefully.²³ Often there is a question of who is actually responsible for animal care according to the organizational structure of the business.

Equine/Livestock Neglect (See **Section 3**, p. 40 for investigation recommendations.)

Some of the most difficult negligent cruelty investigations involve livestock (horses, cows, goats, etc.) because the officer may be unfamiliar with the care and handling of these animals. Also, it is difficult and expensive to find places to keep seized large animals while a case progresses through the court system.

In New Hampshire, the decision to seize livestock must be made by a New Hampshire licensed veterinarian or the state veterinarian. This portion of the law was enacted to ensure that the judgment to seize was sound and based on the expertise of the veterinarian. (NH RSA 644:8 IV-a (b) and NH RSA 435:15)

Unsafe Transportation (See **Section 3**, p 42. for recommendations for all transportation related investigations.)

When animals are transported, their owners must ensure that they are transported safely, for their benefit as well as the benefit of the public, and, in some cases, the driver.

NH RSA 644:8, III (d) defines negligent transportation of animals as transportation in a manner that is “injurious to the health, safety or physical well-being of such animal.” There are also federal, and equine-specific interstate transportation laws.^f Negligent transportation is very often difficult to discover and prove unless the animals are seriously injured or the situation can be easily viewed.

Pickup Trucks

Dogs that are riding in the backs of pickup trucks may look like they're having fun, but they're in danger and are a hazard to motorists. If the truck hits a bump, or if the operator brakes suddenly or swerves to avoid an obstacle, the dog can easily be thrown from the truck bed and onto

^f Federal Animal Welfare and Equine Protection Acts.

the road. This can injure or kill the dog. Also, motorists may cause an accident by swerving to avoid hitting the dog.

New Hampshire law requires that dogs be restrained or confined in pickup trucks. (NH RSA 644:8-f, Transporting Dogs in Pickup Trucks.)

Animals in Motor Vehicles or Other Confined Spaces

Companion animals (usually dogs) often accompany their owners in the car while running errands or travelling. This can cause a serious health problem when the car is parked in the sun and during warm months. The animal may quickly be overcome by heat exhaustion. On a warm and/or sunny day, the temperature in a car can reach 120 degrees Fahrenheit in a matter of minutes—even with the windows partially open.²³ (See **Resources** for scientific references on thermal accumulation.)

It is a misdemeanor offense to confine an animal in a car or other enclosed space in conditions when that enclosed environment becomes dangerously hot or cold. (NH RSA 644:8-aa Animals in Motor Vehicles) Officers or humane agents may remove an animal from these dangerous conditions.

OTHER CONSIDERATIONS – JUVENILE OFFENDERS/OBSERVERS

Children are frequently witnesses to and/or offenders of animal cruelty.

Although this topic was briefly discussed under Prevention of Cruelty (p. 12) and Domestic Violence (p. 15), it is mentioned again because of its common occurrence and importance. Cruelty to animals may be part of the landscape of violence in which youth participate and to which they are exposed. In an ideal world, national data would be available on the yearly incidence of juvenile perpetrated animal cruelty, data which could be used to track trends and serve as a baseline against which the effectiveness of specific interventions could be assessed. The existing national data collection systems in the area of child abuse and neglect illustrate the value of such archival records.²⁶ Animal cruelty offenses committed by youth in New Hampshire should be charged as delinquent behavior. (NH RSA 169-B)

Violent behavior is multidimensional and multi-determined, and its developmental course is still the subject of concerted research.²⁷ However, animal cruelty has received insufficient attention—in fact it is sometimes explicitly excluded²⁸ as one of a number of “red flags,” warning signs, or sentinel behaviors that could help identify youth at risk for perpetrating interpersonal violence (a relation first noted in the psychiatric literature by Pinel²⁹) and youth who have themselves been victimized. Addressing cruelty to animals as a significant form of aggressive and antisocial behavior may add one more piece to the puzzle of understanding and preventing youth violence. Retrospective studies show that violent criminals often committed acts of animal cruelty when they were juveniles.³⁰

SECTION 3: LAW ENFORCEMENT PROTOCOLS

Note: The format for this section is based on the format from the *Law Enforcement: A Model Protocol for Police Response to Domestic Violence Cases*, Office of the Attorney General, Second Edition, 2004. The reader should refer to the *New Hampshire Attorney General's Law Enforcement Manual 2008* (Law Enforcement Manual) for generally accepted procedures.

ROLE OF THE DISPATCHER

Officers rely on dispatchers to describe in as much detail as possible what has and what is occurring throughout a call. Animal cruelty calls should be treated as any other criminal complaint. Whenever possible, and consistent with department policy, the dispatcher should assign an animal control officer with powers of arrest or an animal control officer and a back-up patrol unit.

As with all criminal complaints, information obtained should include:

- The exact nature of the incident, why the caller believes animals are being abused or neglected; when it happened; whether any person or animal is hurt
- Name, contact information and location of the caller
- Description of the animal(s) involved
- Exact location of the incident with physical description of the property and landmarks
- Precise location and description of the suspect(s)
- Precise location of the animals; where are the animals confined? an apartment? house? barn? pen?
- When was the last time the caller saw the animals?
- Whether firearms or deadly weapons are involved
- Whether there other animals or humans at the location
- Whether the animals are in plain view from a roadside, through a window, or can they be seen from the caller's property
- What were the weather conditions at the time of the abuse or neglect? Was the weather extremely hot or cold?
- Is the caller willing to sign a sworn statement as to what he/she saw?
- Does the caller know of additional witnesses that can be interviewed?

In trying to determine the suspect's state of mind, the callers should be asked if they have knowledge of the suspect's:

- Alcohol and/or other drug use
- Mental illness including depression or dementia

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

The dispatcher should also determine if there are warrants in effect for the suspect.

When the officer indicates that he or she is in a position to meet with the caller, the dispatcher should instruct the officer where to meet the caller.

If the caller has hung up, the dispatcher may, according to circumstances, consider calling back to ask about the best location to view the animal(s).

ROLE OF THE INVESTIGATOR

Officer Safety

- The parties involved may or may not know animal control or law enforcement is responding. Officers should be prepared for both angry people and unpredictable animals.
- Officers should obtain all available information from the dispatcher before arriving at the scene and should notify the dispatcher on arrival.
- If the officer is not comfortable dealing with a particular type of animal (i.e. reptiles, horses), he/she should know who to contact for assistance and bring that person with him/her if necessary.
- Officers should avoid the use of sirens and emergency lights as they may startle or frighten the animals involved.
- Officers should pause outside the location and observe and listen to everything possible in the immediate area. This is necessary for both the officer's safety from the animals and to determine the presence, location, and well-being of the animals.

Beginning an Investigation

- The officer should, if possible, interview the caller and speak to the owner or anyone present at the location where the animals are kept to confirm or dispel the substance of the complaint and to obtain consent to view the animals.
- When an officer investigates an animal cruelty case, he/she should always bring a camera. (See ***Photographic Evidence*** below.)
- The complainant and witnesses' names, addresses, and phone numbers should be recorded for follow-up contact.
- When an officer is investigating an animal related complaint, he/she should make personal observations to determine its validity, from a place where he/she has a right to be carrying out duties. (See **Plain View Doctrine** below) Observations should include :
 - Buildings on the property
 - Sounds coming from the buildings

- Condition of any animal in plain view on the property
- Maintenance of the property
- Odors coming from the property
- Animals easily observed (Note: The officer should take photographs of them from a location where he/she is not trespassing.)

These observations will provide the officer with an idea of what to expect as to the condition of the animals as well as clues to their location.

Examples:

- 1) Officer is driving up to a person's house to investigate a cruelty complaint, and sees an animal that appears to be extremely neglected in plain view. He/she can use that observation as evidence in the investigation.
- 2) An owner will not allow an officer on the property to see the animal; however, a neighbor, whose property adjoins the owner's property, allows the officer to observe the animal from there. If observations confirm the complaint, they can be used in the affidavit with any witness statements to apply for a search warrant.

If, based on the officer's observations and other information obtained, he/she has probable cause to believe an animal cruelty related crime has occurred; the officer can do the following, depending on the animal's condition:

- Remove the animal immediately if exigent circumstances exist. (Temporary protective custody NH RSA 644:8, IV-a (a))
- Apply for a search warrant and then seize the animals and search for further evidence of cruelty.

If the life of the animal(s) is not in immediate danger, the officer has no right to enter the property without the owner's consent but shall make reasonable efforts to ascertain the well-being of animals present.

The officer should remain until he/she reasonably believes there is no immediate threat to an animal, or an arrest or animal seizure is made and a criminal investigation is begun.

DEFENDANT (SUSPECT/OWNER) INTERACTIONS

When an officer confronts a suspect with an animal cruelty complaint, the suspect's response can range from cooperation to outrage. The officer should be prepared for anything. Law enforcement officials should rely on their training and experience when confronting a suspect who denies wrongdoing. Short of being caught in the act of beating their animal, owners generally will not admit to mistreating or neglecting their animals, or they offer excuses for why it

happened. It is important for the officer to remember this when confronting an individual. There may also be more than one person responsible for the abuse or neglect. New Hampshire law permits an officer to charge the crime of accomplice to animal cruelty, even if it is alleged as negligent conduct. (See *State v. Anthony*, 151 N.H. 492(2004))

It is also important to document and record all contacts with the defendant/owner. Part of ensuring the animal's safety is to observe the obvious and not so obvious behavior of a defendant. When answering a call for service and/or doing an animal cruelty investigation, officers are encouraged to document the suspect's:

- Body language
- Tone of voice
- Statements/emotions/mood swings
- Whether the defendant appears to be under the influence of alcohol or other drugs.

PHOTOGRAPHIC EVIDENCE^{23, 31}

In addition to physical evidence collected at the scene, one of the best pieces of evidence that an officer can use to document animal cruelty/neglect is photographic evidence. Photographs are often the **most important** evidence in the case. The officer's objective is to show the judge and jury the neglect or cruelty that prompted the complaint and caused the owner (or person responsible for the care of the animal) to be charged with animal cruelty.

Animals cannot generally be brought into the court room, and even if they could, their physical condition has likely improved by the time the case goes to trial. Thus, it is critical that a judge or jury see the condition the animals were in on the day they were seized. No amount of verbal testimony can convey the situation as well as photographs that clearly depict the conditions that lead to the initial investigation. They validate all the written documents that may have been accumulated and corroborate the witnesses' testimony.

Procedure:

The officer should always take a still (35 mm or good quality digital) camera and, if possible, a camcorder when investigating a complaint. Ideally, both should be capable of generating a date and time stamp on the image and video.

Caution: It is important to keep cameras warm in cold weather as their delicate parts may fail if exposed to the cold. In particular, batteries can fail; spare batteries and/or disposable cameras should be available as backup.

It is preferable to use digital cameras over 35mm because the quality of the photograph is known immediately. Polaroid type cameras are not recommended because the pho-

tographs fade with time. Regardless of the type of camera used, it is important for the photographs to be authenticated in court. With 35mm, the negatives must be kept as evidence. With digital cameras, the memory cards or sticks may be copied onto a CD. Three CD's should be made – one for the prosecution, one for the defense, one for the officer. The CD may be used to authenticate the photographs in court and the memory cards or sticks re-used.

Photos should be taken in the following sequence and a photo log should be kept of each photograph taken:

- Overall view: General shots of the location of the alleged crime including all buildings.
- Mid-range Shots: Showing the areas where the animal was kept and the relationship of objects or lack thereof in the area surrounding the animal.
- Close-ups: Photos of the animal(s) including the case and animal ID number.

Animal photos should include distant photos showing the entire body of the animal: right and left side, front, back and top views. Photographs should be taken of any obvious lesions, abnormal physical findings, and any evidence found on the body. It is best to include a special photographic scale in most pictures to show dimensions and proximity to physical landmarks.

Clear close-up views should be taken of any pertinent findings. These photographs may need to be enlarged to 8x10 for court so the resolution of the photographs should be one that will not lose the detail with this enlargement. The digital SLR cameras are similar to 35 mm cameras in that they have interchangeable lenses. A macro lens may be used for clear close-ups of tiny lesions measuring 1-2mm. Because fine detail lenses are sensitive to movement, it is recommended that a mini-tripod be used for stability when taking photos.³¹

Normally the officer would take photographs or video tape at the scene; however, if exigent circumstances were involved, and the animal had to be removed immediately to a veterinarian's office, photographs of the animal would be taken at that location.

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

The officer should inspect the animals very closely to determine if there is significant visible physical trauma to the animal which photographic representation would clearly and accurately depict.

Any injured areas should be photographed with and without enhancements. In order to show the size of the injury and relative location, a measuring device should be used like a six-inch photographic gray card ruler or ABFO ruler. It is important to keep the measuring device on the same plane as the injury, or in close proximity in order to depict an accurate representation of the injury.

PLAIN VIEW DOCTRINE (FOURTH AMENDMENT) (Law Enforcement Manual pp. 69-72.)

Under the plain view doctrine, an officer may seize an item of evidence without a warrant if the officer is in a place he or she is lawfully entitled to be, the discovery of the evidence must be inadvertent (meaning the officer did not have probable cause to believe the item was there before the search when the officer could have obtained a warrant), and the incriminating nature of the evidence must be immediately apparent. (*State v. Davis*, 149 N.H. 698, 701 (2003)) With respect to the third part of that test, in an animal cruelty case, it must be apparent from observation of the animal - not handling - that the animal has been subjected to cruelty. The experience and training of the officer is critical to determining the incriminating nature of the evidence. (*State v. Ball*, 124 N.H. 226,235 (1985)) New Hampshire also has an "open fields" doctrine can be used to justify certain observations made outside of a home's curtilage, for instance livestock in a field. (*State v. Orde*, 161 NH 260 (2010); *State v. Johnson*, 159 NH, 109 (2009))

There are aspects of the plain view doctrine that are important in animal related cases. While an officer is executing a search warrant during an animal-related investigation, if an object that is evidence of criminal activity is found that is not listed in the warrant, that object may be seized and used as evidence. The officer must be in a place authorized by the search warrant, and must search within the scope of the search warrant.

Examples: ²³

- 1) An officer is executing a search warrant to search for and seize evidence of dog fighting. During the course of executing it, he/she comes across some birds that appear to be fighting cocks. He/ she can seize the birds and use them as evidence. ⁸

⁸ The evidentiary value of the items must be immediately apparent to the seizing officer, based upon his/her experience and training.

- 2) An officer is executing a search warrant to investigate a complaint about dogs barking in a vacant building. He/she comes across objects in plain view that indicate that dog fighting has been taking place there. The officer can seize the objects as evidence.^h
- 3) The officer is executing a search in a barn looking for an injured horse. During the course of the search, the officer opens the drawer of a file cabinet and finds a photo of the owner beating the horse. The photo could not be used in court because the officer was not looking in a place where he was entitled to look. A person would not look for an injured horse in a drawer.

OBTAINING A SEARCH WARRANT BEFORE CONFRONTING OWNER

(See also section on **Search and Seizure** p. 31.)

When investigating a complaint in which animals are in very poor health or hazardous conditions, the officer should consider when to obtain a warrant. The officer should obtain signed statements attesting to the animals' condition, in addition to making his/her own observations and taking photographs. If it is a situation where the officer anticipates that confronting the owner first will cause the owner to remove the animals before the officer has a chance to obtain a search warrant or the owner is hostile, the officer should consider obtaining the search warrant in advance of confronting the owner.

Any photographs of the animals or their conditions should be submitted along with the search warrant application to support its issuance. The affiant of the search warrant should detail his/her experience and training in the field of animal cruelty to further support a finding of probable cause. The photographs will also be necessary evidence in the case.

Exigent Circumstances (Temporary Protective Custody)

In exigent circumstances, the animal should be examined immediately by a veterinarian or transported to a veterinarian for immediate assessment.

An officer may remove an animal without a warrant if there is probable cause to believe the animal has been abused and there are exigent circumstances. Exigent circumstances exist when an animal may be in danger of losing its life or there is reason there is belief that evidence of the crime may be destroyed. (*State v. Stern*, 150 N.N. 705,709 (2004) Some of these circumstances are addressed in NH RSA 644:8, IV-a. (a) and are addressed in detail on p. 45. The investigating officer should be prepared to articulate the basis for finding exigent circumstances.

Examples of exigent circumstances:

- Animal is severely emaciated.

- Animal has numerous sores on its body, or obvious inflicted injuries, such as gunshot wounds, arrows, etc.
- Animal appears to be overcome with heat exhaustion.
- Animal is whimpering and vomiting, or appears too weak to stand up.
- In a farm related case, involving large animals such as horses or cows, the animals may be too weak to stand.
- A building is on fire or is flooding and an animal is inside.

Police, animal control and humane officers should refer to the **Temporary Protective Custody** section (NH RSA 644:8 IV-a(a)) to remove an animal from such circumstances/conditions.

Animal is easily accessible

If exigent circumstances exist, and the officer can remove the animal this should be done.

- Call the animal control officer/local humane agency to take the animal to a veterinarian or to an animal shelter.
- When the animal is taken to the veterinarian's office, photographs of it should be taken there.
- Written statements should be obtained from the veterinarian, and other witnesses documenting the animal's condition.

Animal is not easily accessible: Example in locked car/or behind locked door

If the officer believes exigent circumstances exist, and the animal is not easily accessible, he/she should consider doing the following:

- If there are exigent circumstances involving an animal suffering from heat exhaustion, such as a dog in a hot car, the officer should find a witness if possible, and do whatever is necessary (such as breaking the window) to remove the animal from the circumstances immediately. The officer is not responsible for damage he/she did but is responsible for securing the vehicle afterward. (NH RSA 644:8-aa, IV)
- If the officer can see the animal through the window of a locked building or apartment, or if he/she can't see it, but can see evidence of an injured animal and hear an animal crying in distress behind a closed, locked door, the officer should consider breaking the lock or the door and removing the animal. If possible, he/she should have a neighbor witness the circumstances and sign a state-

ment attesting to the circumstances. If a witness is not available, actions should be documented very carefully. Photos should be taken if possible.

WHEN REMOVAL OF ANIMALS MAY BE DIFFICULT (LARGE NUMBERS OF ANIMALS OR LIVESTOCK)

There may be situations where it is difficult to remove the animals easily i.e. there are too many, they are large farm animals, circus animals, or the officer suspects there may be more animals that are hidden from view.

For information and suggestions on how to handle this situation, see the following sections on Animal Hoarding, p. 34 and Livestock, p. 40.

Important Note: In cases where many animals are involved and the condition of the animals varies, it is important to assess the condition of the animals as a population, bearing in mind that every population has a normal distribution of thin, average, and over conditioned animals. Some things to be considered: Is the condition of the animals normally distributed (most average with a few thin and a few overweight)? Is there a medical condition that is causing the poor condition of one or more of the animals? Can claims of any such medical condition be validated by veterinary reports? Are the animals housed in separate areas and handled, fed, or managed differently, which may explain the disparate condition of the animals?

If the animals are being seized under the temporary protective custody clause, only those in extreme danger of death may be seized. If the condition of the animals is directly related to the situation in which they are being kept, a warrant should be obtained to seize the remainder of the animals not in immediate danger.

SEARCH AND SEIZURE

Search Warrant Verbiage

There is a particularity requirement for all warrants to detail the places to be searched and the items to be seized. (See Law Enforcement Manual p. 105; *State v. Tucker*, 133 N.H. 204, 206 (1990)) In animal cruelty cases, the wording of a search warrant may be quite different from a conventional search warrant. The officer must remember the animal(s) and all related supplies, equipment, and records can be evidence in a cruelty case and this should be included in the description of evidence being sought. Proof of ownership records and, depending on the case, boarding and care contracts can be especially important. (Different investigations will warrant the search for different items and more will be mentioned under **Specific Investigation Concerns**) Some terms to consider including in the warrant include: ³²

Evidence to be seized:

- All animals living or dead, born or unborn, above or below the ground^h, contained or free roaming, inside or outside
- Trace evidence at the scene or on the animal such as blood, hair, semen
- All cages, crates, containers, or other items or objects that could be used for the confinement or shelter of an animal
- All animal or animal related records written or electronically kept (computers, CD's DVD's, thumb drives)... including medical treatment, drugs and other prescribed items, intake or export, sales receipts, food and water bills, proof of ownership documents, care and boarding contracts and agreements, photographs
- Any and all implements for the training, control or transport of animals
- Food, supplies, medications
- Paperwork that ties parties/owners to the location where evidence is found.

Places to be searched:

- All buildings, barns and outbuildings attached or unattached
- Fenced pasture and gated fields
- All vehicles or trailers used for the transport of animals

People conducting the search:

- Any non-law enforcement personnel who may be assisting in the execution of the warrant should be listed on the warrant. For example, a veterinarian or volunteers helping to transport the animals. No one else is allowed to assist in serving that warrant. (*Wilson v. Lane*, 526 U.S. 603,614 (1999). It is a violation of the Fourth Amendment to bring the press or other third parties.

STAYING ON THE PROPERTY ²³

The officer should stay on the property for as long as it takes to complete the search and render assistance to the animals. When on the property, the officer must maintain a chain of custody by his/her continuous presence. An officer should be posted on the scene if the investigating officer is forced to leave for a short period of time to get an updated warrant for a new area to search, bring animals for treatment, etc. Once the search warrant is executed, and the officer turns the property over to the owner/occupant, he/she will need a new warrant to re-enter.

^h Animal burial sites and the remains found there will frequently produce significant evidence.

TIME TO RETURN WARRANT

According to NH RSA 595-A:7, once the search warrant is issued, it must be executed and returned to the court within seven days, or it becomes invalid.

Completing the Search and Seizure Receipt and Inventory (Returning the Warrant)

Once the officer completes the execution of a search warrant and seizes property, he/she must complete a receipt specifying all of the property that was seized at an individual's property. This includes animals (dead, alive, unborn, and remains) and any related evidence that indicates the animals were neglected or abused on the property.

Details

The receipt must be specific. The type of animal that was seized (dog, cat, pig, etc.), the sex of the animal, the breed (or if it is a mixed breed, indicate the mix), the color, and how many of each were seized. Veterinarians or other expert witnesses will be able to provide this information. As evidence that the animals were neglected or abused on the property, the receipt should contain the veterinarian's sworn statement of each animal's condition as well as the documentation that indicates where the animals are being held. Ideally, each animal should be given a unique identification number and photographed on site.

For property other than animals, the property should be described in detail - the size, the color, and the shape. If, and only if, the officer knows what an item is, its name should be listed. For example, when seizing evidence in a horse neglect case, and the officer comes across an implement that is normally used to clean a horse's hooves (hoof pick), that item should be listed as " 1 hoof pick."

Distribution

- The officer leaves a copy of the receipt with the individual whose property was searched. If the individual is not at home, a copy is left in a prominent place.
- The inventory receipt is filed with the court as soon as possible, but not more than seven days after the issuance of the search warrant. A copy is kept for the officer's records.

ARREST DECISION

An officer may make a warrantless arrest for a misdemeanor offense whenever the crime occurs in the presence of that officer or that officer "has probable cause to believe that the person to be arrested has committed a misdemeanor or violation, and, if not immediately arrested, such person will not be apprehended, will destroy or conceal evidence of the offense, or will

cause further personal injury or damage to property.” (NH RSA 594:10 I (a) & (c)) A warrantless arrest for a felony offense is lawful, so long as the arrest is supported by probable cause (NH RSA 594:10, II.) (Law Enforcement Manual pp. 35-50) ⁴

If the officer has probable cause to believe that a person has committed animal cruelty as defined in NH RSA 644:8, an arrest warrant should be sought because there is a clear judicial preference for arrests made with a warrant, unless exigent circumstances compel a warrantless arrest. (Law Enforcement Manual pp. 39-40) ⁴

An officer is not required to make an arrest as soon as he or she develops probable cause. It is permissible to continue gathering evidence and seek an arrest warrant later.

Miranda Warning

The Miranda warning is required prior to custodial interrogations including custodial interrogations in cruelty investigations. (See Law Enforcement Manual pp. 16 and 47) ⁴

Specific Investigation Concerns and Suggestions by Type of Cruelty

HOARDING/ MULTIPLE ANIMAL CASES ²⁵

Investigation of animal hoarding cruelty cases is often very difficult for many reasons:

1. Number of animals involved
2. Mental state of the owner/keeper
3. Conditions in which the animals are kept
4. Coordination with other agencies for animal seizure, housing and disposition
5. Financial cost to the town for the investigation, adjudication and animal care.

Anyone involved in the management of an animal hoarding case should bear in mind that animal cruelty can occur despite the owner’s best intentions. The owner does not acknowledge and, therefore, will not correct the conditions in which the animals are kept. Hoarding cases frequently involve large scale seizures.

Initial complaints may be difficult to validate. Often a hoarder’s home is well kept on the outside and the hoarder is very reluctant to let an officer in. The officer may need to seek written statements from complainants and other witnesses who have been in the house to pursue the investigation and obtain a warrant to search the home.

However, once supportive evidence is obtained to secure the necessary search warrants, the officer/town needs to organize and coordinate the seizure. Usually outside agencies (humane societies, rescue groups, veterinarians) need to be contacted for help. At the seizure site, all

animals should be triaged for life threatening circumstances, given an individual identification number, photographed and removed to a prearranged safe location. Forensic physical exams should be performed on each animal as soon as possible and forensic necropsy should be performed on each dead or euthanized animal. Depending on circumstances, there may also be a burial location that needs to be excavated for further evidence.

The officer/police department should consider having a release form prepared for the owner to sign to relinquish ownership of the animals to the town. (See **Resources** for example.) This would enable the officers, with input from veterinarians and humane societies, to make immediate decisions on the disposition of the animals. This would save on total costs of seizing and caring for the animals. If a release form is to be signed, there should be at least one witness present who can attest to the voluntariness of the hoarder's agreement to sign. This witness should preferably be a person who works for the town or state in human services or mental health field. The hoarder's ownership of the animals should also be validated. (Sometimes the animals are actually owned by other individuals.)

This release form could also indicate whether cruelty charges are being sought or waived and other stipulations (Plea bargains, future animal ownership, board of health requirements, etc.), although these conditions may also be sought as part of the disposition of the case if the animal owner does not agree to these conditions.

Possible Evidence to Note in Multiple Animal Cases

Environmental conditions:

- Lack of a fresh, potable water source and insufficient food
- Overcrowding
- Cages (if used) not cleaned, feces piled up
- Lack of sufficient/adequate shelter appropriate for the weather and time of year
- No floors on cages, only mesh wire; feces falls through on animal below when cages are stacked
- Improper manure storage and disposal
- Improper ventilation
- Weak caging, protruding wires/nails

Animals' physical appearance/behavior:

- Body sores/poor coats
- Bloated stomachs
- Missing hair, excessive itching - may indicate mange
- Animal attempts to hide, crouches down, pulls head back if you put your hand near the dog - all signs that may indicate abuse

- Aggressive behavior
- Lethargic behavior
- Lameness
- Ear mites
- Aural (ear) hematoma
- Cloudy eyes (could be fighting or injury from cage wires, etc.)

ILLEGAL ANIMAL FIGHTING ³³

General background information on animal fighting is set out in **Section 2** pp. 16-18. Further information and forms and photos related to animal fighting may be found in **Resources.**)

Dog Fighting

***Note:** Dog fighting investigations are very difficult and often dangerous. If an officer becomes aware of a possible dog fighting situation, he/she should consult with agencies that have had experience with such investigations and be prepared to involve many branches of law enforcement. **Resources** contains a list of national and local agencies to consult.*

Dog fighting is a “sport” or “contest” in which two dogs, usually pit bulls that are bred, conditioned and trained to fight, are placed in a pit or a small enclosed area to fight each other. Fights can average nearly an hour in length and can last as much as two hours. The fight ends when one of the dogs is no longer willing or able to continue or the owner stops the fight. Dog fighting can take place anywhere-in an alley, a basement, an empty building, or out in the woods.

Dog fighting is an underground activity. It is by invitation only, which makes it nearly impossible to investigate when suspicious activity comes to the attention of law enforcement.

The injuries sustained by dogs participating in a fight are usually severe. Injuries from dog fighting include deep facial and forelimb bites, punctured or broken bones and some turn into fatal wounds. Professional dog fighters usually do not seek medical attention for these animals and often treat the injuries themselves. Veterinarians may see the dogs of hobbyists or street fighters.

Cats, dogs, rabbits and other small animals are often used as “bait” animals during training, and these may be stolen animals or obtained through ads like “free to a good home.” Usually the “bait” animal is killed by the fighting dog after the training is complete to “reward” the dog for good training. Animal control may receive calls about dead animals found in remote areas and

should be aware that these animals could be bait animals and an indication of a dog fighting ring in the area.

Participants of organized fighting come from all walks of life but are often involved in other crimes such as gambling, sale and possession of drugs, and possession of weapons. In addition, dog fighters and spectators may have a history of violent and criminal behavior towards people. It is not uncommon for dog fighters or spectators to involve their children. They are taught it is acceptable to inflict the cruelties and they learn that dog fighting as an acceptable practice.

Because dog fighting locations (exhibitions) are also venues for many other crimes, an investigation of dog fighting should document any evidence found of drug and weapons crimes, domestic violence, child abuse, and others. This information should be passed on to the appropriate agencies.

When dealing with the crime scene of organized professional fighting, there are often two or more environments to investigate:

1. The primary environment is the fight location and the location where the live dogs are housed.
2. The secondary environments include but are not limited to burial sites, transport vehicles, suspect's clothing and residence.

At the scene, each dog should be identified, photographed, examined, triaged for injuries and treated if needed. Each live dog should later receive a thorough forensic exam by a veterinarian. Fighting specific report forms (See **Resources**) should be completed for each dog. In addition, deceased dogs should receive forensic necropsies to document evidence of fighting and cause of death.

When writing a search warrant, in addition to seeking animal cruelty evidence, the investigator needs to include canine blood, fighting paraphernalia, and other specific fighting evidence in the list of evidence to be seized. Some examples include:

Dog fighting paraphernalia (Photos may be found in Resources):

- hanging scales
- jennies (cat mills)
- treadmills
- spring poles
- electrocution cords
- wash tubes
- the pit itself
- rugs

- medications (illegal drugs, human medication)
- “go” (first aid) kits

Other evidence to list:

- pedigrees
- registration papers
- fight records
- electronic technology
- cash
- guns
- calendars
- date books
- business cards
- magazines
- photos
- trace evidence

The officer preparing the affidavit for the warrant should include his/her experience and training in the investigation and prosecution of animal cruelty cases to support this request for search of items typically found at an animal fighting scene. That experience and training can include information contained in this manual and the resources cited throughout.

At the scene, the presence of canine blood or other trace evidence should be documented and samples collected to determine the species and/or sex of the animal it came from. Photos should also be taken to determine blood spatter patterns. This type of evidence may be needed to later prove that actual fighting occurred and that the blood was not a result of something else. (See **Resources** for information on collecting and processing blood samples.)

Handling of seized dogs:

Before a search warrant is executed, arrangements should be made for the housing and care of the seized dogs. Each dog must be housed in a safe and secure cage or pen isolated from view of another dog. Personnel handling these dogs should know about the temperament of fighting dogs. They are generally easy to handle if there are no other dogs, but are easily aroused and become aggressive in the presence of other dogs. In addition, this location must be kept confidential and secure as fighting dogs are valuable and may be stolen by owners or other fighters.

Cock Fighting

Cockfighting, like dog fighting, is clandestine. Law enforcement is unlikely to discover the location of cock fighting activity. However, a complaint about noisy roosters or someone reporting many birds in an unexpected location such as a house basement may lead to such a discovery.

Cockfighting also involves breeding, training, baiting and fighting. The cocks are placed in a ring to fight and normally have weapons (gaffs) attached to their spurs to inflict more damage to the opponent bird. Animals usually die in the ring from their injuries.

Fighting birds often have combs and wattles cut off, plucked feathers on their chests, and their natural spurs will be blunted. Birds are often tethered by a leg with material that stretches as a form of conditioning the leg muscles.

Paraphernalia associated with cock fighting that can be put on the list of evidence to be seized in the warrant includes: (See **Resources** for photos of some paraphernalia.)

- gaffs (picks or blades)
- drugs (antibiotics, steroids)
- scales
- pit
- magazines
- mitts

The officer preparing the affidavit for the warrant should include his/her experience and training in the investigation and prosecution of animal cruelty cases to support this request for search of items typically found at an animal fighting scene. That experience and training can include information contained in this manual and the resources cited throughout.

As with dog fighting, a veterinarian should be involved to examine the live and dead birds. Housing and care arrangements need to be arranged for the seized birds.

DOMESTIC VIOLENCE AND ANIMAL CRUELTY

As discussed in **Section 2**, there is a documented link between cruelty to animals and domestic violence. Animals are often considered part of people's families and are sometimes injured or threatened during incidences of domestic violence. If an officer is dispatched to a domestic violence situation, he should be cognizant of animals in the household and those kept outside. As human victims are interviewed, questions should be asked about animal ownership and whether there has been any injury or threatened injury to the animal. If injuries are reported and if the situation permits, the officer should observe the animals for evidence of injury, keeping in mind that human victims are the first priority.

If there is a protective order in effect, the officer should ascertain whether the no contact provisions extend to the animals. Even if there is no protection order, injuring or threatening to injure a person's pet may constitute an act of stalking in violation of NH RSA 633:3-a, II(a)(6).

If a domestic violence arrest is made, the officer should consider whether there is sufficient evidence to bring an animal cruelty charge as well.

If no domestic violence arrest is made, when the officer is advising the victim of his/her rights, the officers should confidentially mention that emergency plans should be made for the animals either separately or through the local crisis center. If a protective order is sought, the officer should remind the victim to have the animals included on the order.

For a list of Domestic Violence Help Lines and Shelters, see **Appendix I**. Many of these shelters have made arrangements with foster homes or animal care centers for clients with animals. These animals should be kept in a safe location away from public view as they may also need protection. (Also, see **Resources** for a list of “Safe Havens” for pets.)

BEATING (See p. 16 for definition of “beating”.)

If the officer observes an animal being beaten, or has probable cause to believe an animal has been beaten, a warrantless arrest can be made as this is a felony. (NH RSA 594:10, II). The animal can be seized without a warrant (644:8, IV-a(a)) when “there is clear and imminent danger to the animal’s health or life and there is not sufficient time to obtain a court order.” If the animal is livestock, a veterinarian must examine the animal so he/she “shall set the probable cause criteria for taking the animal(s).”

In most cases, the officer will not have witnessed the act of cruelty. An animal that has been beaten may have marks, welts, or blood on him. He may be limping or whimpering, or doing a combination of these things. Typical bruising is difficult to see on an animal due to body hair and differences in skin blood vessels. In such cases, the officer should, depending on the evidence, take the animal under temporary protective custody or obtain a warrant to seize the animal and other evidence. If it appears the animal was beaten with an object, a warrant should specifically include authorization to search for and seize such object. The animal should be taken to a veterinarian for both care and a forensic physical exam as soon as possible.

JUVENILE INVOLVEMENT

Animal cruelty cases may involve juveniles as perpetrators. In these cases, it is important to try to ascertain their motivation for the animal cruelty acts. Depending on the age of the perpetrator and the motivation, the investigator, prosecutor, and judge should choose an appropriate course of action in the best interest of the juvenile. The animal cruelty act may be an indicator of family dysfunction, (child copying adult behavior he/she has witnessed), a personality disorder, or ignorance among others. (For resources for mental health professionals concerning testing and treatments, see **Resources**)

EQUINE/LIVESTOCK SPECIFIC CASES

While most dispatchers and officers have personal experience with dogs and cats, they often have no practical knowledge of livestock and horses. This fact may make it necessary for an officer to bring along a knowledgeable person to the investigation. New Hampshire law requires a

licensed veterinarian or the state veterinarian to be present to make probable cause judgments about seizing an animal considered livestock, whether exigent circumstances exist or not. The state veterinarian may be reached at (603) 271-2404 (Website: www.nh.gov/agric/index.htm). To locate a large animal veterinarian licensed in New Hampshire, the officer should contact the Board of Veterinary Examiners by phoning (603) 271-3706 (Website: www.nh.gov/veterinary)

Complaints regarding livestock may include: ²³

- Animals appear emaciated.
- Animals are lying in a field and cannot stand up.
- Horse(s) have broken from a pasture and are very thin, eating trees and shrubs.
- Animals being kept in filthy conditions.
- Observable hoof problems.

Possible observations indicating cruelty:

- There is no food or grain in sight. Pasture land is chewed down.
- Horse's stall is filled with manure build-up.
- Animals are infested with lice and scratching themselves to bring relief; hair may be missing in spots.
- No clean, fresh water available.
- No shelter available when needed according to weather and time of year.
- Horses' hooves may be long or turned up indicating a lack of exercise and other forms of severe neglect.
- Animals may have sores on their bodies.

Appendix C and/or **Resources** contain a listing of resources for background information and organizations and individuals who might be willing to provide assistance with investigations involving livestock and horses.

ANIMAL SEXUAL ASSAULT (MOLESTATION)

New Hampshire law does not specifically address bestiality or sexual molestation of animals, although such acts may constitute a violation of the obscenity statute (NH RSA 650:2) if filmed or performed in the presence of others. If performed in the presence of others, it may also be a violation of NH RSA 645:1, Indecent Exposure and Lewdness. Sexual conduct or molestation encompasses many behaviors between humans and both companion animals and livestock, some of which may not be injurious to the animal. Male juveniles having sex with livestock is viewed as an obscene prank in some agricultural communities rather than animal sexual molestation. ³⁴

Many forms of human perpetrated sexual molestation or assault are harmful to animals because of cruel restraint methods, beating, and subsequent physical injury. This is animal cruelty.

Physical signs may include observable traumatic injury to the anus, rectum, or vulvar/vaginal areas. There may be behavioral signs in dogs when the tail or genital areas are touched.

If an officer suspects an animal has been sexually assaulted, it is important that that animal receive a forensic physical and behavioral exam by a veterinarian as soon as possible. Some of the possible physical evidence of such an assault is fragile and must be gathered quickly before the animal cleans itself, or the bruises and wounds heal.

ABANDONMENT

In abandonment complaints, it is important for the officer to obtain a sworn statement from the complainant, if possible, to establish how long the owner has been gone and/or how long the animal has been left without care, food, and water.

When investigating such a complaint, the officer should announce his/her arrival, knock on all doors, shout out greetings, and look for the owner/occupant while looking for animals. This behavior demonstrates a "good faith" effort in finding the owner/occupant. The officer may then have sufficient evidence to establish probable cause to obtain a search warrant to seize the animal(s).

NEGLECT /FAILURE TO PROVIDE

Neglect of an animal is cruelty in that it involves omission of care, shelter, or sustenance generally deemed necessary for the day to day welfare of the animal. Many times neglect is directly due to lack of observation and daily contact by the owner or keeper. (Dogs with ingrown collars, dogs with mats and maggots, cats with bite wounds and abscesses, frozen water sources, etc.) It is often difficult to prove when a lapse of care becomes neglect. It requires a very thorough investigation with an accurate time line and review of veterinary and other care related records.

Often, an owner will voluntarily seek veterinary care when the effects of the neglect become obvious, in an effort to help the animal. This may be when the neglect is reported to law enforcement by a veterinarian or staff member. The officer investigating such a complaint needs to discuss these issues with the veterinarian(s) and interview the owner to determine if a negligent cruelty complaint is warranted.

UNSAFE TRANSPORTATION AND CONFINEMENT IN MOTOR VEHICLES

It is a violation to transport dogs in the back of pickup trucks unrestrained. (NH RSA 644:8-f, **Transporting Dogs in Pickup Trucks**) Violators should be stopped and ticketed when observed.

Other potentially unsafe modes of transportation (e.g. dogs unrestrained in convertibles or on motorcycles, and livestock unrestrained in pickup trucks) are also readily observable and the driver may be stopped and charged under NH RSA 644:8, III (d) negligent transportation. An

unrestrained animal in a car, interfering with the driver might also fall into this category, but may be difficult to observe and later prove unless it is affecting the operation of the vehicle. In some cases, an owner may confess to an animal “causing an accident.” In such a case, an officer may consider charges under NH RSA 644:8 III, (d) and/or negligent driving under NH RSA 265:79-b.

NH RSA 644:8-aa **Animals in Motor Vehicles** is a section of law that is meant to serve as a deterrent to owners who travel with their pets during hot or extremely cold weather and as a liability safeguard for appropriate officers (law enforcement officer or agent of a licensed humane organization) who wish to aid an animal in distress. If an officer is called to the scene of an animal confined in a hot car that is showing distress, he/she can remove that animal without liability for damage he/she may cause to the vehicle or animal. (NH RSA 644:8-aa, IV)

Signs of heat distress include:

- Extreme panting with tongue hanging way out
- Extreme agitation with panting
- Unresponsiveness

Note: Old animals, very young animals, and animals with short noses are more prone to heat stroke and show signs very quickly.

Animals should be removed from the vehicle, offered water, gradually cooled by soaking with cold (not ice) water, and transported to a veterinarian as soon as possible.

If the owner is not present, the car should be secured before leaving the scene with the animal.

After the animal has been safely taken care of, the officer should get witness statements as to the time the animal was confined and their observations of the animal’s behavior as evidence for owner/keeper cruelty charges. The officer should also obtain weather records for that day. (For scientific references, see **Resources**.)

RITUALISTIC ANIMAL CRUELTY

In cases involving the ritualistic use of animals, the officer must determine legal ownership of the animal, the cause of death of the animal and whether mutilation was before or after death. (For example, certain cultures will buy or raise and then kill goats to eat as food. They often have a religious ceremony involving body parts. Whether this killing is cruelty depends on how the animal was slaughtered.)

Possible indications of cult involvement: ²³

- Mutilation of the animal, including removal of specific body parts (anus, heart, tongue, ears, front teeth and front legs, genitals, etc.). (Note that a forensic necropsy exam is necessary to determine how the animal was killed and if the mutilation was before or after death to prove cruelty.)
- Cages for animals, limbs, lumber, etc. from which animals may have been hung.
- Ligatures (ropes or leather ties) that may have been used to secure the animal.
- Bones or animal parts (such as finger and arm bones, human or animal skulls, feathers, eyes, tongues).
- Absence of blood in the animal.
- Mockery of Christian symbols (inverted cross, vandalized Christian artifacts).
- Use of stolen or vandalized Christian artifacts.
- Unusual drawings or symbols on walls or floors (baphomet - an upside down pentagram often with the head of a goat within, hexagram, pentagram, etc.).
- Non-discernible alphabet.
- Altars, chalices, wands, biblical passages, ceremonial type knives.
- Candles and candle drippings (candles may be in the shape of genitals, or colored black or white.)
- Oils, powders, wax, herbs, incense.
- Dolls (a child's doll burned or tied to a cross, also what is commonly known as a voodoo doll).
- Bowls of powder or colored salt.
- Skulls with or without candles.
- Robes, especially black, white, or scarlet.
- Rooms draped in black or red.
- Books on Satanism, magic rituals, etc.
- Crystal balls or other crude crystals, usually found in unusual forms.
- Pyramids.
- Sea shells.
- Necklaces made of beads, bells or gongs.
- There may be a circle which may or may not contain a pentagram.
- A trail leading from the circle towards water. Search for stakes, etc., used to place animal victims in a spread-eagle position (head towards the water).

Note: Possession of these items alone is not sufficient to establish probable cause of animal cruelty. Possession of these implements and symbols is not a crime.

CAUTION: *An officer should not investigate these cases alone. Gloves should be worn when handling evidence. Some cult practitioners are avid herbalists and use*

*poisons as booby traps. Be aware that poisonous snakes may have been placed in cabinets and drawers to attack those who might be looking for evidence. Other booby traps include: fish hooks hung at eye level, shotguns tied to trip wires, falling bricks and other such setups.*²³

Temporary Protective Custody (Exigent Circumstances) NH RSA 644:8, IV-a(a) and (b)

NH RSA 644:8, IV-a(a) outlines procedures for seizing an animal under exigent circumstances, namely “when there is probable cause to believe that the animal has been or is being abused or neglected”, and “there is clear and imminent danger to the animal’s health or life and there is not time to obtain a court order (warrant)”.

- Only “law enforcement officers, animal control officers, or officers of a duly licensed humane society” may enforce this statute. *Id.*
- If the animals in question are livestock or horses, a New Hampshire licensed veterinarian must be present to determine whether there is probable cause to seize the animal. (NH RSA 644:8,IV-a(b))
- If animals are taken under this section of the statute and the owner is not present, the seizing officer must leave a readily visible written notice indicating the type and number of animals taken, the officers’ name, date and time taken, reason it was taken, the procedure to have it returned and any other relevant information. Although not mentioned in the statute, the same information should be given to the owner in writing even if present at the time of seizure, similar to the inventory provided after executing a search warrant. (NH RSA 644:8,IV-a(a))
- For any animal seized, the officer (in effect the agency the officer represents) must provide for proper care, including veterinary care, and housing until the case or ownership is resolved. *Id.*
- Under the statute, if owners do not reclaim or have the animals returned in 7 days, the officer shall petition the court seeking permanent custody or a one-week extension or shall file charges of cruelty. *Id.*
- If the one-week extension is granted and the animal still remains unclaimed at the end of that week, the animal becomes the possession of the officer’s department or society. *Id.*
- If circumstances indicate, cruelty charges should be filed during this time period. *Id.*

Animal Seizure and Disposition

When an animal is seized with a warrant, the animal is considered evidence in the cruelty case. Evidence must remain available until the case is resolved. (NH RSA 595-A:6) The importance of photographs cannot be emphasized enough. Seized animals should be photographed at the time of seizure (preferably before being moved) and periodically throughout their custody. The animal's condition may markedly improve as it is cared for properly waiting adjudication of the case. Documenting this positive change in the animal's condition is powerful evidence that will strengthen a cruelty case.

On occasion, animals may need to be euthanized humanely because of injuries or untreatable disease, injury or pain. This decision should be made by a veterinarian and documented for the court. If there is time, and circumstances permit, a court order should be obtained to prevent a claim that the state improperly disposed of evidence.

If the animals have been relinquished to the agency or, in the case of temporary protective custody, where the animals have become property of the agency, or if the case is prolonged and therefore the custody of the animals is prolonged, the agency should petition the court to release the "living animal" evidence in lieu of photographs and other evidence, pursuant to NH RSA 595-A:6. In this way, costs to the agency will be reduced and the long-term well-being of the animals may be tended to.

If the owner is convicted of animal cruelty, the "court may dispose of said animal in any manner it decides". (NH RSA 644:8, IV (a)) The animal may be returned to the owner, may be humanely euthanized, or its ownership may be transferred. (For transfer definitions and rules, see NH RSA 437.)

Animal Care in Custody

New Hampshire law does not regulate care standards for animals in custody except to say that it is the seizing officer's responsibility. In most cases, the companion animals are housed in licensed animal shelters or pounds that are regulated by the New Hampshire Department of Agriculture, Markets and Foods. Occasionally foster homes and private kennels are used.

In the case of livestock and horses, animals are usually sent to private farms. Most New Hampshire humane organizations do not have the facilities to house livestock.

Wherever these animals are housed, they need to have proper care and exercise. Since the animals are often evidence in a court case or may be in "safe haven" from domestic violence, they should not be housed in view of the general public, if at all possible. No matter where these animals are housed, the officer's organization is ultimately responsible for their welfare and the costs associated with animal care.

Veterinary Involvement

As has been mentioned, much of the evidence involved in cruelty cases is the animal itself. Animal examination (alive or dead) is always best performed by a licensed veterinarian or, in some instances, an experienced veterinary technician. Police departments and organizations that do cruelty investigations should consider a partnership with a small animal veterinarian and a large animal veterinarian before needing their assistance on a cruelty investigation.

Veterinarians may be considered expert witnesses in a cruelty investigation so any assistance that an officer can give that veterinarian with the case will go a long way toward a successful conclusion. Most veterinarians are in private practice and have had no exposure to forensics. They and their staff may need some guidance from law enforcement regarding standards for evidence collection, chain of custody, report writing and court testimony. (Many resources for veterinarians are available in **Resources** and **Appendix C**.) The veterinarian should be made aware that forensic cases, with the detailed record keeping and possible court appearances, may take a considerable amount of time.

For example, forensic physical exams are more meticulous than typical wellness physical exams because evidence of a crime is being sought in addition to assessing and treating the animal's health. Findings are recorded in much more detail. (See sample forms in **Resources**.) Photographs should be taken during the process. Often additional diagnostic tests (radiographs) and laboratory work should be done to determine a possible history of abuse or the presence of disease or toxicity.

Forensic necropsies, too, are more detailed than typical gross necropsies. While a private practice veterinarian is qualified to perform a forensic necropsy, it may be better to have the animal necropsied by the NH Veterinary Diagnostic Laboratory at UNH, Angell Memorial Animal Hospital in Boston, Tufts Veterinary School, or a veterinarian with forensics training. (See **Resources**.)

“The difference between a necropsy and a forensic necropsy is in its objectives and relevance. In addition to determining the cause of death, the goal is to establish the manner of death (non-accidental, accidental, natural, undetermined), any contributory causes, and the time of death. The forensic necropsy exam is a process of documenting all injuries and the unremarkable findings, interpretation of how the injuries occurred, and the determination or exclusion of other contributory or causative factors. A necropsy should never be performed without investigation findings and crime scene information including photographs of the scene. The environment and husbandry for the animal directly affects the health of the animal and must be analyzed along with physical exam findings. A gross necropsy may be performed by the veterinarian and tissue samples submitted to a pathologist for histopathology and additional testing. Photographs of the necropsy, preliminary necropsy report and

crime scene findings should be provided to the pathologist. As with all evidence, the defense has the right for independent examination and testing so all tissue and slides should be retained by the pathologist until the case is concluded.”³⁵

The veterinarian should be involved in the case as early as possible either by assisting in the crime scene investigation, determining probable cause for seizures (required for livestock and recommended for companion animal cases), viewing crime scene photos, performing physical exams, performing forensic necropsies, examining animal related evidence from a crime scene and more. The veterinarian may ask that the investigator get further information from witnesses, take more photos, or collect other evidence such as possible toxins or weapons that may help the case.

Police departments should remember that veterinarians are, for the most part, self-employed or have a set work week and may be unable to assist when needed. This is why departments need to have good working relations with local veterinary services. Many veterinarians will give municipalities reduced rates or donate their time, but still must charge for supplies, lab work and staff time.

In the same context, private veterinary hospitals are seldom open 24 hours a day, so police departments should be aware of the closest emergency clinic and perhaps make an arrangement with that facility for after hours or weekend cases.

Another role of the veterinary hospital might be that of emergency protective custody housing in the case of a domestic violence situation. The law enforcement department should work with the local domestic violence shelter to make sure there is a place for the animals to go in an emergency situation, be it an animal shelter, foster care, veterinary hospital or emergency clinic.

In the reverse, a police department may receive a call from a veterinarian or employee reporting animal cruelty. While New Hampshire veterinarians are not required by law to report cruelty, many do. If the offense is minor, often the veterinarian may attempt to educate the client and not report the offense. If the veterinarian sees evidence of serious neglect, domestic violence, or purposeful abuse, hoarding, or animal fighting, he /she is likely to report it to the local police department. **Reminder:** Veterinarians have no investigatory or arrest powers and must always work with law enforcement.

Financial Considerations and Restitution

Cruelty cases involving large numbers of animals can become quite costly for the seizing organization. Even cases involving one or two animals that require expensive veterinary care can be a burdensome expense for small towns or organizations.³⁶

If owners do not or cannot contribute to the cost of care for their animals, towns and organizations can save some resources by securing ownership of the animals as early as possible in the case and working with the courts to allow disposition before the case is completed. Towns and organizations can also look to various rescue organizations for assistance in providing care to the animals.

If the owner is convicted of animal cruelty, the court is authorized to order restitution for the expenditures for the care of the animal. The defendant may be ordered to pay even if donations have been received to offset the costs of the animal's care. (See *State v. Burr*, 147 N.H. 102,104 (2001)) Realistically, this restitution is infrequently paid and the seizing agency is left with the bill. This should not influence whether or not to act on a complaint.

SECTION 4: COURTROOM CONSIDERATIONS ³⁷

Case Preparation

A prosecutor's case is only as good as its underlying investigation. In some instances, the evidence as turned over to the prosecutor will not be sufficient to meet the burden of proof at trial. More investigative work may need to be done before the case can move forward successfully. It is not uncommon for the prosecutor to ask the original investigator (or the prosecutor's own investigator) to do follow-up work. This should be done whenever the evidence does not clearly establish the defendant's guilt beyond a reasonable doubt, or when there is the possibility of building an even stronger case for trial. This follow-up could include a canvas of the suspect's neighbors to see if they heard or saw anything that might indicate animal cruelty before or during the incident in question, obtaining veterinary records for that animal, or submitting evidence to a lab for further analysis.

Some cases have been lost or thrown out because the prosecutor alleged an incorrect date on the complaint for the offense. However, the date of the offense is not an element of the crime. (*State v. Meekins*, 127 N.H. 777 (1986)) If faced with such a motion to dismiss, the prosecutor may request to amend the complaint to reflect the correct date or dates. This request should be granted by the court. If it is unclear when the abuse occurred, the complaint can allege that the crime occurred within a short range of time instead of on a specific date. In either case, the prosecutor does not have the burden of proving that the act happened on a precise date, rather the statement must show the offense occurred "on or about the dates alleged." (*State v. Williams*, 137 N.H. 343, 348 (1993)) At times it can be very difficult to determine the exact date of the cruelty incident, thus it is better to allege a narrow time span of when the crime most likely occurred should be acceptable.

Every complaint must allege the appropriate mental state such as "purposely" or "negligently". This is an element of the crime and must be proven beyond a reasonable doubt.

EVIDENTIARY TOOLS

Many times, animal cases benefit from the same tools and procedures as those used in human abuse cases, such as fingerprint or blood analysis, lab testing for possible poisons, detailed professional analysis of crime scene evidence, and so on. In cases where an animal has died, as with humans, it is important to remember that the animal's body should be preserved in a refrigerated environment, preferably not in a freezer, as a freezer will destroy the animal's tissue, making subsequent analysis useless. (See **Resources** for information on laboratory testing.)

VETERINARIANS

Certain cases may require expert testimony. In animal cruelty cases, a licensed veterinarian may be needed to provide an expert opinion. Even the submission of a veterinary bill must overcome the defendant's hearsay objections. Having the veterinarian as keeper of the records to testify will overcome that objection. The keeper of the records can testify that the bill is a business record under NH Rule of evidence 803(6). If an expert is going to testify, notice must be given to the defense in advance of trial in compliance with the court rules. (See NH Superior Court Rule 98(c) and District Court Rule 2.10(B).) Specifically, in equine cases, because horses are considered livestock, a veterinarian must be on site to order the seizure of an abused animal. (NH RSA 644-8) He/she may then be required to testify later at trial. A veterinarian's report in a cruelty case must be detailed and provided in discovery along with the investigative reports. If the veterinarian can determine (or conclude with reasonable degree of medical certainty) the animal's cause of death, describe its injuries, and provide forensic information to the judge or jury, it will help the court understand the extent of such cruelty. (See NH Rule of Evidence 702.) When the veterinarian is examined at trial, standards of care should be a topic of questioning. For example, in a dog neglect case, the expert should be able to describe the appearance of a healthy animal. In the case of a dog shooting, the veterinarian should establish the fact that a dog was shot at close range from the back based upon the trajectory of the bullet or arrow. Testimony as to the pain and suffering, or "torture" caused by the nature of the cruelty should be elicited for the court. Often the defense will call its own expert to testify that the charged conduct was not cruelty, or was not as severe as the prosecution expert portrayed. The prosecutor may depose any expert noticed by the defense as the defense may depose the state's expert. If appropriate, a motion may be filed to exclude any irrelevant or unfounded opinions. (See NH RSA 517:13)

As soon as neglect or intentional abuse is suspected, a veterinarian should be brought in by law enforcement to examine the animal (at the scene or as soon as possible after seizure) and make a written report of findings for later use. (Sample report forms may be found in **Resources**.) This will also foreclose the suspect's ability to claim that the animal's condition developed after the animal was seized and not before. Even in cases where the cause of death was apparent, such as a gunshot wound, a definitive cause of death should be obtained by a veterinarian performing a forensic necropsy, to rule out any other possible theories or pre-existing conditions that could cause death (such as cancer). (See **Resources**.)

Experts can be used to assist the judge and jury in understanding the specifics of a case, such as describing the differences in types and breeds of dog and their physiological responses to acts of cruelty. They can also provide informed estimates of how long the animal would need to be neglected to be in its current condition (such as long hooves on a horse), or if an animal may have suffered pain as a result of its injuries. These expert opinions must be provided in discov-

ery in advance of the trial pursuant to the court rules and the rules of evidence. (See NH Superior Court Rule, 98(C), District Court Rules 2.10 (B) , and NH Rule of Evidence 703.)

VISUAL AIDS

Visual aids are critical in animal cruelty cases as there will obviously be no victim testimony. For example, it is much more effective to show the jury a photo of debris covering the floor in a hoarding situation than testimony alone. This makes a powerful, lasting impression. Photos can be enlarged for easy viewing by the jurors. Photos must be authenticated by a witness with first-hand knowledge, meaning the witness must be able to identify what is shown in the photo and state that it is an accurate depiction of the scene on a particular date and time. The photos should be dated and initialed by the photographer. Photos are usually the most effective means of convincing the jury that a crime was committed. A defendant may decide to plead guilty to the crime after viewing photographs of an abused animal that may be shown in court.

While photos and even videos of the evidence and crime scene are integral parts of the case, other standard evidence remains a must. Such standard evidence might include: the weapon used, blood spattered clothing, comparison of a neglected horse before and after, food bowl caked in feces and x-rays of broken bones.

Charging and Sentencing Considerations

New Hampshire's animal cruelty statute is found in NH RSA 644-8. (See **Appendix A** for complete document.) Animal cruelty charges are either misdemeanors or felonies. Misdemeanor cruelty is generally for first offense neglect cases (omission). Felony cruelty is for second offense neglect cases. (Because there is an enhanced penalty for a second cruelty offense, animal cruelty charges may not be downgraded to a violation as a form of plea bargaining by a prosecutor.) (NH RSA 625:9 VI)

First offense intentional cruelty (commission) constitutes a felony. (NH RSA 644:8, III-a) If a felony case can be proven for intentional cruelty, it should be forwarded to the County Attorney for prosecution. A felony conviction as part of the defendant's criminal history will identify him/her as a violent offender and signal a potential for future offenses.

Whether convicted of a felony or misdemeanor, the prosecutor may ask the court to impose specific restrictions on the defendant regarding future animal ownership and custody (prohibition or maximum number permitted) as part the sentence. (NH RSA 644:8,IV(a)) The prosecutor should also request restitution for the costs of boarding and treating the animal(s) pending disposition of the case and/or for the costs of disposing of the animal regardless if the defendant regains possession of the animal(s). *Id.*

The acceptance of a guilty plea, or a no-contest plea also authorizes the court to impose the appropriate services, counseling and probation terms at sentencing.³⁸ (NH RSA 651:2) In cer-

tain cases, it may be appropriate to agree to continue the case for a period of time during which the defendant completes certain services or counseling and then dismiss the charges upon proof that the defendant completed those requirements.

For example, in cases of animal hoarding, criminal charges are often not brought or are dropped because no harm was intended by the hoarder and the costs of seizing and holding the animals. However, if there is no conviction, the court cannot prevent future harm to animals or ensure that the hoarder obtains mental health treatment. A more prudent course of action for both the defendant and any animals he/she may own in the future is prosecution with a sentencing goal of mandatory mental health treatment for the hoarder, limiting or prohibiting future ownership of animals, and long term monitoring.³⁹ The prosecutor should also seek ownership of the animals as early as possible in the case by petitioning the court per NH RSA 644:8 IV-a. (a) or NH RSA 595-A:6 (see below). Photographs of hoarding case animals and conditions are convincing evidence of the need for permanent competent custody of the neglected animals.

Should the defendant appeal the conviction, New Hampshire law permits the trial court to require said person to post a bond up to \$2,000.00 for each animal in custody. (NH RSA 644:8, IV (b)). This bond represents the boarding costs anticipated to be incurred during the appeal process. If the conviction is affirmed, the bond is given to the custodian of the animals, and any remaining balance is returned to the defendant. *Id.*

CONSIDERATION OF CUSTODY OF THE ANIMALS

Unique to cruelty cases, the costs to house feed and care for animals pending the trial can be extremely high. With costs averaging \$20/day per horse or \$10/day per dog, a six month wait before a trial will result in accruing immense care costs.³⁶ While New Hampshire law requires the defendant to pay these charges upon conviction, the prosecutor can request the court to release the animals to the owner as a money saving measure, before the case is resolved. However, this is generally not in the best interest of the animals and runs counter to the purpose of the cruelty statutes.

When animals are seized pursuant to a search warrant, the court may have the authority to dispose of the animals as the public interest requires. NH RSA 595-A:6 sets forth a general rule that, if requested prior to trial or upon an appeal, the court will return the evidence to its rightful owner (which is usually determined by an evidentiary hearing). The exception to this is where good cause is shown why the evidence (animals) should not be returned to the rightful owner. The prosecution may file this motion and ask the court to immediately forfeit the animals to a local animal shelter, thus avoiding care, custody and control costs from rapidly and dramatically increasing throughout case. A defendant may agree to the release of the animal rather than risk the imposition of the costs associated with the care of the animal.

Fairly unique to New Hampshire is the animal cruelty law's temporary protective custody clause. (NH RSA 644-8,-IV-a(a)) This statute provides that when taking an animal into protective custody, the seizing officer must secure proper care for the seized animal. Seven (7) days after the seizure, if the owner has not come forward, the officer can petition the court seeking either permanent custody of the animal, or a one-week extension of custody. If the officer requests a one-week extension, at the end of the 14 days, if the owner has not claimed the animal, ownership will transfer automatically to the officer on behalf of the department. Upon that occurrence, the department may dispose of the animal or transfer custody in any lawful manner. *Id.*

MULTIPLE COUNTS

In cases involving more than one animal (the most common in N.H.), the prosecutor should consider filing one count for each animal victimized, for several reasons:

- It more accurately depicts the nature of the case.
- It makes the case simpler to prove – if cruelty against four dogs is lumped together into one charge and one dog is found “ok” but the others were not, the case for all four dogs could be dismissed rather than just that one count.
- It limits defenses.
- The defendant is less likely to be successful in a pretrial motion for return of property, since each of the animals are the subject of a specific charge.
- It gives the prosecutor more options in a plea bargain.

MULTIPLE DEFENDANTS

It is not uncommon to have animal cruelty cases involving multiple defendants. If multiple defendants are identified, they should be charged, and accomplice and/or conspiracy charges should be considered.ⁱ When multiple defendants are charged together in the same case, they can be consolidated for a trial. However, usually the defense will object to consolidation. It can be argued that the consolidation of defendants will result in an economy of time and resources, both for the courts and the prosecutor. (See Superior Court Rule 97-A. for joinder of offenses. Similar standards apply to joinder of defendants. Superior Court Order, *State v. Callahan*, 9/17/04, 2004 WL 2295111 (N. H. Super).)

ⁱ The crime of accomplice to negligent cruelty to animal has been upheld in New Hampshire. (*Sate v. Anthony*, 151 N.H. 492,496 (2004))

Motions in Animal Cruelty Cases

MOTION TO SUPPRESS EVIDENCE

In animal cruelty cases, as in other criminal cases, the defense may challenge the validity of the seizure of evidence or the voluntariness of a confession. The prosecutor has the burden of proving the evidence was legally seized or the confession was voluntary. For a warrantless search, the prosecutor must prove the search occurred pursuant to an exception to the warrant requirement, such as plain view or exigent circumstances.

MOTION TO DISMISS THE CASE OR INDICTMENT

A motion to dismiss may be filed if the complaint fails to set forth all elements of the crime including the mental state. (See Law Enforcement Manual pp. 238-256 & 380-383.)

Lack of specificity in the charging document for cruelty cases involving a number of animals is a common basis for a motion to dismiss the indictment or complaint. As previously mentioned, a specific complaint for each animal and a broad time span should be drafted to overcome a motion to dismiss. These charges should be consolidated for trial.

There have been cases dismissed because the prosecutor mistakenly failed to present evidence it had available. If certain evidence is not admitted due to error, the case may be reopened prior to verdict, upon a motion, and that evidence may be admitted. (*State v. Martineau*, 114 N.H. 552, 559 (1974))

MOTION FOR BAIL OR PERSONAL RECOGNIZANCE/SENTENCING

To protect the animals pending trial, the prosecutor should ask the court for a “no contact with animals” order as a condition of the defendant’s bail/release. This is more comprehensive than a typical “no possession of animals” bail order, as it prevents the defendant from transferring the animals to a relative or a third party friend. The defendant could also be ordered to post a bond in certain situations (appeals from conviction) to cover the cost of the care of the animal during the appeal (NH RSA 644:8, IV(b)). Finally, if the animals are placed in foster homes or given back to innocent owners, the court may place limitations on contact between the defendant and these providers as part of the bail order.

The prosecutor should consider the following recommendations for conditions on a defendant’s sentence: ³⁸

- Prohibition on owning/possessing any animals (indefinitely or for specified time period).
- Limiting the number of animals the defendant may have.
- Requiring mandatory visits by an animal control officer, law enforcement officer, humane officer, or perhaps veterinarian to ensure proper care.
- Requiring education and training for the owner.

- Requiring mental health counseling and monitoring in the cases of hoarding.

Common Issues That Arise in Cruelty Cases

NEGLECT

Neglect is a vague term in the law. Specifying the acts of neglect is critical to survival of the complaint. Generally, neglect is summed up as the failure to provide adequate water, food, shelter, or veterinary care. The complainant should allege one or more of these acts. New Hampshire also law provides a list of several examples of neglect and a catch-all phrase “otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.” (NH RSA 644:8, III (f)) If using this provision, the defendant’s acts should be specified in the complaint.

New Hampshire statutes do define lack of “shelter” as a negligent act. The law specifically defines the requirements for horse shelter (NH RSA 435) and dog shelter. (NH RSA 644-8, II-a) Photos of the “shelter” are the best evidence for the court or jury to understand the unsatisfactory conditions. Again, in proving neglect (be it sustenance or shelter) the key in this assessment is the opinion of the expert - the veterinarian. The veterinarian provides the testimony that water, food and care were not adequately provided and that the ramifications/results were below the level of care a reasonable person would provide. Some cases may be so egregious that no expert testimony is necessary.

CRUELTY DEFENSE

Animal cruelty cases are similar to some domestic violence cases in that the subject of the crime is unavailable to testify. The case must be built on evidence other than the subject’s testimony. Thus, the more evidence obtained, the easier the case is to prove. As already discussed, even with a thorough investigation at the outset, additional follow-up may be necessary. Also important to proving the case, is establishing the defendant’s mental state; *mens rea*. Usually just the nature of the intentional abuse proves the necessary mental state. Proof of a second charge of neglect (negligent cruelty) could include evidence that the owner was informed of and educated to the appropriate standards of care upon his first conviction.

Typical defenses for purposeful acts include:

- I wasn’t there.
- The animal was attacking me or my family.
- I was training or disciplining the animal.
- I was temporarily insane.
- I didn’t mean for this to happen.
- I didn’t know.

Effective strategies to counter defense arguments:

- The prosecutor may file a motion to admit character evidence by others familiar with the abused animal, showing its peaceful nature and harmless past to rebut any evidence of the animal's aggressive nature presented by the defense. (NH Rule of Ev., 404(a)(2))
- The prosecutor may argue that there is no exemption under the statute for cruel methods of training or discipline.
- The prosecutor will need witnesses (neighbors or complainants) to prove the accused was at the scene and/or committed the acts.

Neglect cases often involve these common defenses:

- It wasn't my responsibility.
- I cannot afford the animal or its care.
- I am not the owner/keeper.
- The animal came to me that way. I am trying to nurse it back to health.

ABANDONMENT

In abandonment cases, it can be difficult to prove who was responsible for the care of the animal. Common defenses are "the animal escaped" or "I hired someone to care for it." If there is evidence that an owner dropped a dog off in a dumpster, or abandoned a farm leaving livestock behind without sustenance or water, intent to abandon can be proven. To escalate an abandonment charge to a felony, purposeful cruelty (mutilation, beating, torture) must be proved. While the end result may be torture due to starvation or dehydration, the charge requires proof that was the owner's intent.

NOTE: N.H. also has a civil abandonment law (NH RSA 437:19) which may be used to obtain ownership of animals outside a criminal proceeding. (See **Section 1**, p. 10.)

SUMMARY

Animal cruelty charges can be very challenging to investigate and difficult to prove in court for a variety of reasons. These include:

- There is no crime victim who can testify.
- Most cases are circumstantial.
- The care of seized animal(s) often becomes a financial burden.
- The animals are evidence.
- There is need for forensic evidence, which can be expensive.
- It is difficult to obtain meaningful sentencing (treatment) for juveniles and hoarders.
- The community and media response to cruelty cases is often overwhelming.

Law enforcement officials throughout the nation have recognized the seriousness of animal cruelty. The Commission hopes that this manual provides the necessary background and information for New Hampshire law enforcement professionals to successfully investigate and prosecute cruelty cases.

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THE GOVERNOR’S COMMISSON ON THE HUMANE
TREATMENT OF ANIMALS
2011

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WORKS CITED

1. National District Attorney's Association. National Center for Prosecution of Animal Abuse. *National District Attorney's Association*. 2011. Available at: www.ndaa.org/animal_abuse_home.html. Accessed Aug 28, 2011.
2. Governor's Commission on Domestic and Sexual Violence, Office of the Attorney General. *Law Enforcement: A Model Protocol for Police Response to Domestic Violence Cases*; Second Edition, 2004.
3. Governor's Commission on Domestic and Sexual Violence and the Office of the Attorney General. *Stalking Protocol: A Model for Law Enforcement*; 2009.
4. New Hampshire Attorney General. *Law Enforcement Manual v. 2008*. Concord 2008.
5. Executive Order 2006-3; John H. Lynch, Governor
6. Governor's Commission on the Humane Treatment of Animals. *Analysis of Three Animal Cruelty Cases; 2009 Report* 2010.
7. Bolen PA. Lost and Found: Humane Societies' Rights and Obligations Regarding Companion Animal Ownership. *The Animal Legal & Historical Center*. 2005. <http://www.animallaw.info/>.
8. McLain TT. Knick-Knack, Paddy Whack, Give the Dog a Home?: Custodial Determination of Companion Animals Upon Guardian Divorce. *Animal Legal & Historical Center*. 2009. <http://www.animallaw.info/>.
9. Hessler K. Mediating Animal Law Matters, 2. *J. Animal Law and Ethics* 21, 35. 2007.
10. Favre D. Living Property: A New Status for Animals Within The Legal System. *Marquette Law Review* [93:101]. 2010.
11. Byszewski ET. Valuing Companion Animals in Wrongful Death Cases: A Survey of Current Court and Legislative Action and Suggestion for Valuing Pecuniary Loss of Companionship. *Animal Law*. 2003.
12. Beyer GW. Estate Planning For Pets. *Probate & Property*. August 2001.
13. Patronek G. Tufts Animal Care and Condition Scoring. *Animal Sheltering*. July-August 1998:21-23.

14. Saminsky A. Preventing Juvenile Delinquency: Early Intervention and Comprehensiveness as Critical Factors. *Student Pulse Academic Journal*. Feb 2, 2010. Available at: <http://www.studentpulse.com/a?id=165>. Accessed Feb 22, 2011.
15. Ascione F. Animal Abuse and Youth Violence. *Juvenile Justice Bulletin*. Sept 2001. http://www.ncjrs.gov/html/ojdp/jbul2001_9_2/contents.html. Accessed Feb 22, 2011.
16. Loeber R, Farrington DP, Petechuk D. Child Delinquency: Early Intervention and Prevention. *Office of Juvenile Justice and Delinquency Prevention*. May 2003. <http://www.ncjrs.gov/pdffiles1/ojdp/186162.pdf>. Accessed Feb 22, 2011.
17. Luke C, Arluke A, Levin J. Study Shows Link Between Animal Cruelty and Other Crimes. *Law Enforcement Bulletin*. 1997:pp.1 & 8.
18. Randour ML. Including Animal Cruelty as a Factor in Assessing Risk and Designing Interventions. Paper presented at: Proceedings of Persistently Safe Schools, 2004; Washington, DC.
19. Broidy LM, et.al. Developmental Trajectories for Childhood Disruptive Behaviors and Adolescent Delinquency: A Six Site Cross National Replication. *Development and Psychopathology*. 2003:222-245.
20. Kazdin AE. *Conduct Disorder in Childhood and Adolescence (2nd ed)*. Thousand Oaks, CA: Sage; 1995.
21. Loeber R. Developmental Risk Factors in Juvenile Anti-social Behavior and Delinquency. *Clinical Psychology Review*, 10. 1990:1-42.
22. Kowal L. Recognizing Animal Abuse: What Veterinarians Can Learn From the Field of Child Abuse and Neglect. *Recognizing and Reporting Animal Abuse: A Veterinarian's Guide*. 1998:40-49.
23. McDonough S, Valusek P. *How to Investigate Animal Cruelty in NY State - A Manual of Procedures*. Kingston, New York: New York State Humane Association, Inc.; 1996.
24. Lockwood R. Occult Animal Abuse- Truth or Fiction: Ritual or Not? Paper presented at: 4th Annual Veterinary Forensics Science Conference, 2011; Orlando. FL.
25. Patronek G, et al. The Hoarding of Animals Research Consortium. 2010. Available at: <http://www.tufts.edu/vet/cfa/hoarding/index.html>. Accessed February 2, 2011.

26. Sedlak AJ, Broadhurst DD. *Third National Incidence Study of Child Abuse and Neglect: Final Report*. Washington, D.C. 1996.
27. Moffitt TE. Adolescence-limited and Life-course Persistent Offending: A Complementary Pair of Developmental Theories. *Developmental Theories of Crime and Delinquency*. New Brunswick, NJ: Transaction Publishers; 1997:11-54.
28. Stone R, Kelner K. Violence: No Silver Bullet. *Science*. 2000;289:569.
29. Pinel P. *Traite medico[philosophiquesur l'alienation mentale*. Paris: Brosson; 1809.
30. Lockwood R. *Animal Cruelty Prosecution: Opportunities for Early Response to Crime and Interpersonal Violence*. Alexandria 2006.
31. Merck M. Animal Cruelty: Recognition, Reporting and Testifying. Paper presented at: Pennsylvania VMA Meeting;October , 2009; Hershey, PA.
32. Eyre J. *Warrant Terminology (Personal Communication)* August 2010.
33. Destreza K. Blood Sports: A Basic Introduction for Veterinarians and Investigators. Paper presented at: Combating Cruelty: Blood Sport Investigations, 2011; Gainesville, FL.
34. Beirne P. *Confronting Animal Abuse, Law, Criminology, and Human- Animal Relationships*. Lanham: Rowman & Littlefield; 2009.
35. Merck M. Forensic Necropsy Examination and Pathology. Paper presented at: Pennsylvania VMA Meeting;October , 2009; Hershey.
36. Governor's Commission on the Humane Treatment of Animals. *Cost Analysis of Animal Cruelty in New Hampshire 2008 Report* 2009.
37. Campbell D. *Legal Advocates' Manual for Animal Abuse Cases*. Cotati: Animal Legal Defense Fund; 2007.
38. Phillips A. *The Link For Prosecutors*. Denver 2010.
39. Dicine J. Animal Hoarding: More Than Rescuing the Animals. Paper presented at: New England Animal Control/Humane Academy Class;July 21, 2011; Durham.
40. Legal Terms, Definitions, and Dictionary. *USLegal.com*. 2011. Available at: <http://definitions.uslegal.com/p/puppy-mill/>. Accessed June 19, 2011.

41. McLaren C, Null J, Quinn J. Heat Stress From Enclosed Vehicles: Moderate Ambient Temperatures Cause Significant Temperature Rise in Enclosed Vehicles. *Pediatrics*. 2005:e109-e112.

Appendices

APPENDIX A: NEW HAMPSHIRE RSA'S RELATED TO CRUELTY TO ANIMALS 2011

Title LXII Criminal Code

CHAPTER 644 BREACHES OF THE PEACE AND RELATED OFFENSES

644:8 Cruelty to Animals. –

I. In this section, "cruelty" shall include, but not be limited to, acts or omissions injurious or detrimental to the health, safety or welfare of any animal, including the abandoning of any animal without proper provision for its care, sustenance, protection or shelter.

II. In this section, "animal" means a domestic animal, a household pet or a wild animal in captivity.

II-a. In this section, "shelter" or "necessary shelter" for dogs shall mean any natural or artificial area which provides protection from the direct sunlight and adequate air circulation when that sunlight is likely to cause heat exhaustion of a dog tied or caged outside. Shelter from the weather shall allow the dog to remain clean and dry. Shelter shall be structurally sound and have an area within to afford the dog the ability to stand up, turn around and lie down, and be of proportionate size as to allow the natural body heat of the dog to be retained.

III. A person is guilty of a misdemeanor for a first offense, and of a class B felony for a second or subsequent offense, who:

(a) Without lawful authority negligently deprives or causes to be deprived any animal in his possession or custody necessary care, sustenance or shelter;

(b) Negligently beats, cruelly whips, tortures, mutilates or in any other manner mistreats or causes to be mistreated any animal;

(c) Negligently overdrives, overworks, drives when overloaded, or otherwise abuses or misuses any animal intended for or used for labor;

(d) Negligently transports any animal in his possession or custody in a manner injurious to the health, safety or physical well-being of such animal;

(e) Negligently abandons any animal previously in his possession or custody by causing such animal to be left without supervision or adequate provision for its care, sustenance or shelter;
or

(f) Otherwise negligently permits or causes any animal in his possession or custody to be subjected to cruelty, inhumane treatment or unnecessary suffering of any kind.

III-a. A person is guilty of a class B felony who purposely beats, cruelly whips, tortures, or mutilates any animal or causes any animal to be beaten, cruelly whipped, tortured, or mutilated.

IV. (a) In addition to being guilty of crimes as provided in paragraphs III and III-a, any person charged with cruelty to animals may have his or her animal confiscated by the arresting officer and, upon said person's conviction of cruelty to animals, the court may dispose of said animal

in any manner it decides. Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. The costs, if any, incurred in boarding and treating the animal, pending disposition of the case, and in disposing of the animal, upon a conviction of said person for cruelty to animals, shall be borne by the person so convicted. In addition, the court may prohibit any person convicted of animal cruelty from having future ownership or custody of other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals.

(b) If a person convicted of cruelty to animals appeals the conviction and any confiscated animal remains in the custody of the arresting officer or the officer's designee pending disposition of the appeal, in order for the appellant to maintain a future interest in the animal, the trial court may require the appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the appeal. If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal shall be paid to the custodian from the posted security and the balance, if any, returned to the person who posted it.

IV-a. (a) Except as provided in subparagraph (b) any appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society may take into temporary protective custody any animal when there is probable cause to believe that it has been or is being abused or neglected in violation of paragraphs III or III-a when there is a clear and imminent danger to the animal's health or life and there is not sufficient time to obtain a court order. Such officer shall leave a written notice indicating the type and number of animals taken into protective custody, the name of the officer, the time and date taken, the reason it was taken, the procedure to have the animal returned and any other relevant information. Such notice shall be left at the location where the animal was taken into custody. The officer shall provide for proper care and housing of any animal taken into protective custody under this paragraph. If, after 7 days, the animal has not been returned or claimed, the officer shall petition the municipal or district court seeking either permanent custody or a one-week extension of custody or shall file charges under this section. If a week's extension is granted by the court and after a period of 14 days the animal remains unclaimed, the title and custody of the animal shall rest with the officer on behalf of the officer's department or society. The department or society may dispose of the animal in any lawful and humane manner as if it were the rightful owner. If after 14 days the officer or the officer's department determines that charges should be filed under this section, the officer shall petition the court.

(b) For purposes of subparagraph (a) the investigating officer for livestock, as defined in RSA 427:38, III, ¹⁰ shall be accompanied by a veterinarian licensed under RSA 332-B ¹¹ or the state veterinarian who shall set the probable cause criteria for taking the animal or animals.

¹⁰ **427:38 Definitions.** – As used in this subdivision:

III. "Livestock" shall mean all cattle, goats, sheep, swine, horses or other equidae, as well as domesticated strains

(c)(1) For purposes of subparagraph (a), for facilities licensed to conduct live running or harness horseracing or live dog racing pursuant to RSA 284¹², the appropriate law enforcement officer, animal control officer, or officer of a duly licensed humane society shall:

(A) Notify the director of the pari-mutuel commission of the circumstances arising under subparagraph (a);

(B) Enter the grounds of the facility with the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission;

(C) Take such horses or dogs into temporary protective custody as determined by the director of the pari-mutuel commission or such person designated by the director of the pari-mutuel commission; and

(D) Comply with subparagraph (a) after taking a horse or dog from a facility licensed pursuant to RSA 284 into temporary protective custody.

(2) This paragraph shall not preempt existing or enforcement authority of the pari-mutuel commission, pursuant to RSA 284 or rules and regulations adopted pursuant to such authority.

V. A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this section or RSA 435:11-16.¹³ Such a veterinarian is, therefore, under this paragraph, protected from a lawsuit for his part in an investigation of cruelty to animals.

Source. 1971, 518:1. 1975, 460:1. 1979, 23:1. 1981, 575:2. 1982, 8:4. 1983, 231:2. 1985, 72:3. 1989, 57:1. 1994, 234:1-3. 1998, 283:1. 1999, 152:1; 308:1. 2000, 4:1, eff. Feb. 4, 2000. 2008, 240:1, eff. Jan. 1, 2009; 288:1, 2, eff. July 1, 2008.

644:8-a Exhibitions of Fighting Animals. –

I. No person shall keep, breed, or train any bird, dog, or other animal, with the intent that it or its offspring shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof. Whoever violates the provisions of this paragraph shall be guilty of a class B felony.

II. Any person present at any place or building when preparations are being made for an exhibi-

of buffalo, bison, llamas, alpacas, emus, ostriches, yaks, elk (*cervus elephus canadensis*), fallow deer (*dama dama*), red deer (*cervus elephus*), reindeer (*Rangifer taradus*).

Source. 1985, 72:1. 1995, 130:5. 1998, 310:2, eff. Aug. 25, 1998.

¹¹ NH Veterinary Practice Act

¹² Laws pertaining to horse and dog racing

¹³ Law related to the Treatment of horses. This section follows.

tion of such fighting with intent to be present at such exhibition, or present at, aiding in or contributing to, such an exhibition, shall be guilty of a class B felony .

III. All animals so kept, bred, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, pursuant to RSA 595-A:6¹⁴ and RSA 644:8. Upon said person's conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.

IV. Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6. Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.

V. In addition to other penalties prescribed by law, the court may issue an order prohibiting a person who is convicted of a violation of this section from owning or possessing any animals within the species that is the subject of the conviction, or any animals kept for the purpose of training, fighting, or baiting, for a period of time determined by the court.

Source. 1979, 30:1. 2003, 98:1, eff. Jan. 1, 2004. 2008, 326:1, eff. Jan. 1, 2009.

644:8-aa Animals in Motor Vehicle. –

I. It shall be cruelty to confine an animal in a motor vehicle or other enclosed space in which the temperature is either so high or so low as to cause serious harm to the animal. "Animal" means a domestic animal, household pet, or wild animal held in captivity.

II. Any person in violation of this section shall be guilty of a misdemeanor as set forth in RSA 644:8.

III. Any law enforcement officer or agent of a licensed humane organization may take action necessary to rescue a confined animal endangered by extreme temperatures, and to remove the threat of further serious harm.

IV. No officer or agent taking action under paragraph III shall be liable for damage reasonably necessary to rescue the confined animal.

¹⁴ Pertaining to Search Warrants

Source. 1981, 575:1, eff. July 7, 1981.

644:8-b Docking Tail of Horse. – If any person shall cut the bone of the tail of a horse for the purpose of docking the tail, or shall cause or knowingly permit the same to be done upon the premises of which he is in control, or shall assist in or be present at such cutting, he shall be guilty of a misdemeanor. Written permission from the state veterinarian shall be obtained by a licensed veterinarian to perform surgical operations pursuant to this section. The state veterinarian shall promulgate rules relative to granting authorization for such operation.

Source. 1979, 263:1, eff. Aug. 20, 1979.

644:8-c Animal Use in Science Classes and Science Fairs. –

I. In this section:

(a) "Animal" means any member of the kingdom of Animalia.

(b) "Vertebrate animal" means any animal belonging to the subphylum Vertebrata of the phylum Chordata, and specifically includes all mammals, fishes, birds, reptiles and amphibians.

II. Live vertebrate animals shall not be used in experiments or observational studies, with the following exceptions:

(a) Observational studies may be made of the normal living patterns of wild animals, in the free living state or in zoological parks, gardens, or aquaria.

(b) Observational studies may be made of the living patterns of vertebrate animals in the classroom.

(c) Observational studies on bird egg embryos are permitted. However, if normal bird embryos are to be allowed to hatch, satisfactory humane consideration shall be made for disposal of the baby birds.

(d) Vertebrate animal cells such as red blood cells or other tissue cells, plasma or serum, or anatomical specimens, such as organs, tissues, or skeletons, may be used in experiments or observational studies.

III. No school principal, administrator or teacher shall allow any live vertebrate animal to be used in any elementary or secondary school, or in any activity associated with such school, such as science fairs, as part of a scientific experiment or procedure in which the health of the animal is interfered with, or in which pain, suffering, or distress is caused. Such experiments and procedures include, but are not limited to, surgery, anesthetization, and the inducement by any means of painful, lethal, or pathological conditions through techniques that include, but are not limited to:

(a) Administration of drugs;

(b) Exposure to pathogens, ionizing radiation, carcinogens, or to toxic or hazardous substances;

(c) Deprivation; or

(d) Electric shock or other distressing stimuli.

IV. All experiments on live vertebrate animals which are not prohibited by this section shall be carried out under the supervision of a competent science teacher who shall be responsible for ensuring that the student has the necessary comprehension for the study to be undertaken.

V. No person shall, in the presence of a pupil in any elementary or secondary school, perform any of the procedures or experiments described in paragraph III or exhibit any vertebrate animal that has been used in such manner. Dissection of any dead animal, or portions thereof, shall be confined to the presence of students engaged in the study to be promoted by the dissections.

VI. Science fair projects originating in other states that do not conform with the provisions of this section shall not be exhibited within the state.

VII. Any live animal kept in any elementary or secondary school shall be housed and cared for in a humane and safe manner and shall be the personal responsibility of the teacher or other adult supervisor of the project or study.

VIII. Ordinary agricultural procedures taught in animal husbandry courses shall not be prohibited by this section.

IX. Any person who violates this section is guilty of a misdemeanor.

Source. 1985, 54:1, eff. June 22, 1985.

644:8-d Maiming or Causing the Death of or Willful Interference With Police Dogs or Horses. –

I. Whoever willfully tortures, beats, kicks, strikes, mutilates, injures, disables, or otherwise mistreats, or whoever willfully causes the death of a dog or horse owned or employed by or on behalf of a law enforcement agency and whoever knows that such dog or horse is owned or employed by or on behalf of a law enforcement agency shall be guilty of a class B felony.

II. Whoever willfully interferes or attempts to interfere with the lawful performance of a dog or horse owned or employed by or on behalf of a law enforcement agency and whoever knows that such dog or horse is owned or employed by or on behalf of a law enforcement agency shall be guilty of a misdemeanor.

Source. 1988, 203:1. 1994, 111:1, eff. Jan. 1, 1995. 1998, 365:1, eff. Jan. 1, 1999.

644:8-e Willful Interference With Organizations or Projects Involving Animals or With Animal Facilities. –

I. Whoever willfully causes bodily injury or willfully interferes with any property, including animals or records, used by any organization or project involving animals, or with any animal facility shall be guilty of a class A misdemeanor.

II. Whoever in the course of a violation of paragraph I causes serious bodily injury to another individual or economic loss in excess of \$10,000 shall be guilty of a class B felony, and may be subject to an order of restitution pursuant to RSA 651:63.¹⁵

III. For the purposes of this section:

(a) "An organization or project involving animals" means:

(1) A commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, education, or testing.

(2) Any lawful competitive animal event, including but not limited to conformation shows or obedience trials, field trials, agility events, hunts, sled races, or training activities.

(3) Any fair or similar event intended to advance the agricultural arts and sciences.

(b) "Animal facilities" means any vehicle, building, structure, research facility, or premises where an animal is kept, handled, housed, exhibited, bred or offered for sale.

(c) "Economic loss" means "economic loss" as defined in RSA 651:62, III.¹⁶

IV. Nothing in this section shall be construed to restrict any constitutional, statutory, regulatory or common law right.

Source. 1993, 170:1, eff. May 24, 1993.

644:8-f Transporting Dogs in Pickup Trucks. –

I. No person driving a pickup truck shall transport any dog in the back of the vehicle on a public way, unless the space is enclosed or has side and tail racks to a height of at least 46 inches extending vertically from the floor, the dog is cross tethered to the vehicle, the dog is protected by a secured container or cage, or the dog is otherwise protected, in a manner which will prevent the dog from being thrown or from falling or jumping from the vehicle.

II. Notwithstanding paragraph I, this section shall not apply to the following:

(a) A dog being used by a farmer or farm employee while actually engaged in farming activities requiring the services of a dog; or

(b) A hunting dog being used at a hunting site or between hunting sites by a licensed hunter who is in possession of all applicable licenses and permits for the species being pursued during the legal season for such activity.

III. Any person who violates this section shall be guilty of a violation.

Source. 1996, 191:1, eff. Jan. 1, 1997.

¹⁵ Restitution laws

¹⁶ III. "Economic loss" means out-of-pocket losses or other expenses incurred as a direct result of a criminal offense.

644:16 Exposing Poisons. – If any person shall in any way or place purposely expose an active poison or deadly substance for the destruction of any animal, or for any other purpose except the destruction of rats or other vermin in his own building or upon his crops, he shall be guilty of a violation.

Source. 1971, 518:1, eff. Nov. 1, 1973.

Title XL Agriculture, Horticulture and Animal Husbandry

CHAPTER 435 ANIMAL CARE, BREEDING AND FEED

Treatment of Horses

435:11 Similar Animals. – The term "horse" as used in this subdivision shall include all members of the equine species.

Source. 1985, 72:1, eff. July 1, 1985

435:12 Proper Care. – No person shall overdrive, overwork or overload a horse in his or her care. No person shall buy, sell or exchange any horse that is unfit to be used for riding, driving, draft or reproduction purposes, unless it is for rehabilitation or slaughter. No person shall torture, beat, mutilate or abandon any horse, or aid in such abuse, or permit any horse in his or her care to be subject to abuse of any kind.

Source. 1985, 72:1, eff. July 1, 1985. 2003, 9:1, eff. April 22, 2003.

435:13 Proper Feeding. – All horses shall receive roughage in proportion to their size, age, temperament and amount of work they are required to perform. Grain may also be required when roughage alone will not meet their daily nutritional requirements. All horses shall be fed on a regular daily schedule, and all food shall be clean and free from excessive moisture. All horses shall have available a sufficient quantity of fresh water to maintain hydration.

Source. 1985, 72:1, eff. July 1, 1985. 2003, 9:1, eff. April 22, 2003.

435:14 Shelter Available. – Horses shall be provided either:

I. An adequately ventilated, dry barn with stalls of sufficient size so that the horse is able to lie down, and shall be provided adequate and suitable exercise in arenas, barn yards, paddocks or pastures; or

II. A roofed shelter, with at least 3 sides from November 1 through April 15, shall be provided for horses kept in paddocks or pastures, and said horses shall not be kept tied but shall be able to move around freely.

Source. 1985, 72:1, eff. July 1, 1985. 2003, 9:2, eff. April 22, 2003.

435:15 Veterinarian Services and Probable Cause Determinations. –

I. A probable cause determination for seizing horses pursuant to a cruelty investigation shall be made only by the state veterinarian or a veterinarian licensed under the provisions of RSA 332-B. No seizing or taking of horses shall be made without a probable cause determination.

II. Pursuant to RSA 644:8, V, a veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made for services rendered under the provisions of this subdivision.

Source. 1985, 72:1, eff. July 1, 1985. 2003, 9:2, eff. April 22, 2003.

435:15-a Rulemaking. – The commissioner shall adopt rules, under RSA 541-A,¹⁷ relative to the care, shelter, and feeding of horses, and the enforcement of this subdivision.

Source. 2003, 9:3, eff. April 22, 2003.

435:16 Penalty. – Any owner failing to comply with the provisions of this subdivision shall be notified as to the proper care of horses. Upon a second offense, the horse shall be seized and not returned until restitution for the expenses involved in the seizure is made and proof of proper care is given. Upon a third or subsequent offense, the horse shall be permanently seized. Whoever violates the provisions of this subdivision shall be guilty of a violation.

Source. 1985, 72:1, eff. July 1, 1985

¹⁷ ADMINISTRATIVE PROCEDURE ACT

Title VII Sheriffs, Constables and Police Officers

CHAPTER 105 POLICE OFFICERS AND WATCHMEN

Domestic Animals 105:14 Cruelty to Animals. – Whenever an officer makes an arrest upon view, or upon a warrant for a violation of any provision of RSA 441:4-a, ¹⁸he may take into his possession the animal which is the subject of such cruelty, and if the owner has no knowledge of such taking he shall give him notice forthwith.

Source. 1870, 4:4. GL 281:29. 1881, 10:1. PS 267:2. PL 382:2. RL 445:2. RSA 575:2. 1973, 532:15, eff. Nov. 1, 1973.

105:15 Examination, etc. – Whenever an officer shall take any such animal into his possession, which appears by reason of age, injury or other cause to be disabled for use, said officer shall call upon 3 disinterested citizens, who, under oath, shall examine such animal, and if they shall find such animal to be disabled for use said officer shall at once cause such animal to be killed.

Source. 1881, 10:2. PS 267:3. 1897, 22:1. PL 382:3. RL 445:3. RSA 575:3. 1973, 532:15, eff. Nov. 1, 1973.

105:16 Expenses. – All expenses incurred under RSA 105:14 and 15 shall be paid by the owner of such animal, and may be collected by an action on the case, or by enforcing a lien upon the animal.

Source. 1881, 10:2. PS 267:3. 1897, 22:1. PL 382:4. RL 445:4. RSA 575:4. 1973, 532:15, eff. Nov. 1, 1973

105:17 Arrest. – If any person shall be found violating the laws in relation to cruelty to animals he may be arrested and held without warrant, in the same manner as in case of persons found breaking the peace.

¹⁸ This law was recodified in 1985 and the reference now is:

435:5 Colts Less Than 90 Days Old. –

I. It is unlawful for any person in this state to have in his possession an equine colt that is less than 90 days old that is not being nursed by its dam, unless the colt was born in this state, and its dam has died within this state before the colt became 90 days old.

II. It is unlawful for any person in this state to sell an equine colt that is less than 90 days old that is not being nursed by its dam.

III. If convicted of a violation of this section a person shall be guilty of a misdemeanor.

Source. 1985, 72:1, eff. July 1, 1985.

Most likely there was a broader reference in 1870 when the law was first written.

Source. 1870, 4:4. GL 281:29. PS 267:8. PL 382:12. RL 445:12. RSA 575:12. 1973, 532:15, eff. Nov. 1, 1973.

105:18 Special Deputies. – Any officer or agent of any incorporated society for the prevention of cruelty to animals, upon being designated in writing for that purpose by the sheriff of any county in this state, may, within such county, make arrests and bring before any court or magistrate having jurisdiction offenders found violating the provisions of this subdivision.

Source. 1870, 4:7. GL 281:32. PS 267:10. PL 382:14. RL 445:14. RSA 575:14. 1973, 532:15, eff. Nov. 1, 1973.

Related Useful Laws

NOTE: It is best to consult with prosecutor before considering these laws in conjunction with in an animal cruelty case.

Title XII Public Safety and Welfare

CHAPTER 173-B PROTECTION OF PERSONS FROM DOMESTIC VIOLENCE

SECTION 173-B:4

173-B:4 Temporary Relief. –

I. Upon a showing of an immediate and present danger of abuse, the court may enter temporary orders to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone or facsimile. Such telephonically issued orders shall be made by a district or superior court judge to a law enforcement officer, shall be valid in any jurisdiction in the state, and shall be effective until the close of the next regular court business day. Such orders shall be returnable to the district court where the plaintiff resides or to which the plaintiff has fled, unless otherwise ordered by the issuing justice. If non-telephonic temporary orders are made ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing on such orders. Such hearing shall be held no less than 3 business days and no more than 5 business days after the request is received by the clerk. Such hearings may constitute the final hearing described in RSA 173-B:3, VII. Such temporary relief may direct the defendant to relinquish to a peace officer any and all firearms and ammunition in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant for the duration of the protective order. Other temporary relief may include:

(a) Protective orders:

(1) Restraining the defendant from abusing the plaintiff.

(2) Restraining the defendant from entering the premises and curtilage where the plaintiff resides, except when the defendant is accompanied by a peace officer and, upon reasonable notice to the plaintiff, is allowed entry by the plaintiff for the sole purpose of retrieving toiletries, medication, clothing, business equipment, and any other items as determined by the

court.

(3) Restraining the defendant from withholding items of the plaintiff's personal property which are specified in the order. A peace officer shall accompany the plaintiff in retrieving such property to protect the plaintiff.

(4) Awarding custody of minor children to either party or, upon actual notice, to the department when it is in the best interest of a child.

(5) Denying the defendant visitation, ordering that visitation shall be supervised, or ordering a specific visitation schedule. Visitation shall only be ordered on an ex parte basis where such order can be entered consistent with the following requirements. In determining whether visitation can be safely ordered, the court shall consider the following factors:

(A) The degree to which visitation exposes the plaintiff or the children to physical or psychological harm.

(B) Whether the risk of physical or psychological harm can be removed by ordering supervised visitation.

(C) Whether visitation can be ordered without requiring the plaintiff and defendant to have contact regarding the exchange of children.

(6) Restraining the defendant from contacting the plaintiff or entering the plaintiff's place of employment, school, or any specified place frequented regularly by the plaintiff or by any family or household member.

(7) Restraining the defendant from abusing the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.

(8) Restraining the defendant from taking, converting, or damaging property in which the plaintiff may have a legal or equitable interest.

(9) Directing the defendant to relinquish to the peace officer, in addition to the relief specified in RSA 173-B:4, I, any and all deadly weapons specified in the protective order that are in the control, ownership, or possession of the defendant, or any other person on behalf of the defendant, for the duration of the protective order.

(b) Other relief, including but not limited to:

(1) Awarding to the plaintiff the exclusive use and possession of an automobile, home, and household furniture, if the defendant has the legal duty to support the plaintiff or the plaintiff's minor children, or the plaintiff has contributed to the household expenses. The court shall consider the type and amount of contribution to be a factor.

(2) Restraining the defendant from taking any action which would lead to the disconnection of any and all utilities and services to the parties' household, or the discontinuance of existing business or service contracts, including, but not limited to, mortgage or rental agreements.

II. The defendant may be prohibited from purchasing, receiving, or possessing any deadly weapons and any and all firearms and ammunition for the duration of the order. The court may subsequently issue a search warrant authorizing the peace officer to seize any deadly weapons specified in the protective order and any and all firearms and ammunition, if there is probable cause to believe such firearms and ammunition and specified deadly weapons are kept on the premises or curtilage of the defendant and if the court has reason to believe that all such firearms and ammunition and specified deadly weapons have not been relinquished by the defendant.

Source. 1999, 240:3, eff. Jan. 1, 2000.

Title LIX Proceedings in Criminal Cases

CHAPTER 595-A SEARCH WARRANTS

Section 595-A:6

595-A:6 Seizure, Custody and Disposition of Articles; Exceptions. – If an officer in the execution of a search warrant, or by some other authorized method, finds property or articles he is empowered to take, he shall seize and safely keep them under the direction of the court or justice so long as necessary to permit them to be produced or used as evidence in any trial. Upon application by a prosecutor, defendant, or civil claimants, the court, prior to trial or upon an appeal after trial, shall, upon notice to a defendant and hearing, and except for good cause shown, order returned to the rightful owners any stolen, embezzled or fraudulently obtained property, or any other property of evidential value, not constituting contraband. This section shall apply regardless of how possession of the property was obtained by the state. Photographs or other identification or analysis made of the returned property shall be admissible at trial as secondary evidence, in lieu of the originals, for all relevant purposes, including ownership. In the case of unknown, unapprehended defendants, or defendants wilfully absent from the jurisdiction, the court shall have discretion to appoint a guardian ad litem to represent the interest of such unknown or absent defendants. The judicial findings on such matters as ownership, identification, chain of possession or value made at such an evidentiary hearing for the restoration of property to the rightful owners shall thereafter be admissible at trial, to be considered with other evidence on the same issues, if any, as may be admitted before the finder of fact. All other property seized in execution of a search warrant or otherwise coming into the hands of the police shall be returned to the owner of the property, or shall be disposed of as the court or justice orders, which may include forfeiture and either sale or destruction as the public interest requires, in the discretion of the court or justice, and in accordance with due process of law. Any property, the forfeiture and disposition of which is specified in any general or special law, shall be disposed of in accordance therewith.

Source. 1969, 317:1. 1977, 320:1. 1981, 553:9. 1988, 88:3, eff. Jan. 1, 1989.

CHAPTER 595-B ADMINISTRATIVE INSPECTION WARRANTS

Section 595-B:1

595-B:1 Definition. – An inspection warrant shall be a written order in the name of the state, signed by a justice, associate justice or special justice of any municipal, district or superior court, directed to an official or employee of a state agency, municipality, or other political subdivision, commanding him to conduct any inspection, testing or sampling required or specifically authorized by state law or administrative rule, or municipal ordinance, code or regulation.

Source. 1981, 533:1. 1987, 342:1. 1991, 231:7, eff. Aug. 9, 1991.

Title LXII Criminal Code

CHAPTER 633 INTERFERENCE WITH FREEDOM

Section 633:3-a

633:3-a Stalking. –

I. A person commits the offense of stalking if such person:

(a) Purposely, knowingly, or recklessly engages in a course of conduct targeted at a specific person which would cause a reasonable person to fear for his or her personal safety or the safety of a member of that person's immediate family, and the person is actually placed in such fear;

(b) Purposely or knowingly engages in a course of conduct targeted at a specific individual, which the actor knows will place that individual in fear for his or her personal safety or the safety of a member of that individual's immediate family; or

(c) After being served with, or otherwise provided notice of, a protective order pursuant to RSA 173-B, RSA 458:16, or paragraph III-a of this section, or an order pursuant to RSA 597:2 that prohibits contact with a specific individual, purposely, knowingly, or recklessly engages in a single act of conduct that both violates the provisions of the order and is listed in paragraph II(a).

II. As used in this section:

(a) ""Course of conduct" means 2 or more acts over a period of time, however short, which evidences a continuity of purpose. A course of conduct shall not include constitutionally protected activity, nor shall it include conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct may include, but not be limited to, any of the following acts or a combination thereof:

(1) Threatening the safety of the targeted person or an immediate family member.

(2) Following, approaching, or confronting that person, or a member of that person's immediate family.

(3) Appearing in close proximity to, or entering the person's residence, place of employment, school, or other place where the person can be found, or the residence, place of employment or school of a member of that person's immediate family.

(4) Causing damage to the person's residence or property or that of a member of the person's immediate family.

(5) Placing an object on the person's property, either directly or through a third person, or that of an immediate family member.

(6) Causing injury to that person's pet, or to a pet belonging to a member of that person's immediate family.

(7) Any act of communication, as defined in RSA 644:4, II.

(b) ""Immediate family" means father, mother, stepparent, child, stepchild, sibling, spouse, or grandparent of the targeted person, any person residing in the household of the targeted person, or any person involved in an intimate relationship with the targeted person.

III. [Repealed]

III-a. A person who has been the victim of stalking as defined in this section may seek relief by filing a civil petition in the district court or the superior court in the county or district where the

plaintiff or defendant resides. Upon a showing of stalking by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of stalking. The types of relief that may be granted, the procedures and burdens of proof to be applied in such proceedings, the methods of notice, service, and enforcement of such orders, and the penalties for violation thereof shall be the same as those set forth in RSA 173-B.

III-b. The minority of a plaintiff or defendant shall not preclude the court from issuing protective orders under this section.

III-c. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon a motion by the plaintiff, showing good cause, with notice to the defendant, for one year after the expiration of the first order and thereafter each extension may be for up to 5 years, upon the request of the plaintiff and at the discretion of the court. The court shall review the order, and each renewal thereof and shall grant such relief as may be necessary to provide for the safety and well-being of the plaintiff. A defendant shall have the right to a hearing on the extension of any order under this paragraph to be held within 30 days of the extension. The court shall state in writing, at the respondent's request, its reason or reasons for granting the extension. The court shall retain jurisdiction to enforce and collect the financial support obligation which accrued prior to the expiration of the protective order.

III-d. (a) A protective order issued pursuant to this section, RSA 173-B:4, or RSA 173-B:5 shall not be construed to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the defendant in an action brought under this chapter, or in any criminal proceeding concerning the abuse alleged under this chapter, from contacting the plaintiff for a legitimate purpose within the scope of the civil or criminal proceeding; provided, that the attorney or person acting on behalf of the attorney: identifies himself or herself as a representative of the defendant; acknowledges the existence of the protective order and informs the plaintiff that he or she has no obligation to speak; terminates contact with the plaintiff if the plaintiff expresses an unwillingness to talk; and ensures that any personal contact with the plaintiff occurs outside of the defendant's presence, unless the court has modified the protective order to permit such contact.

(b) A no-contact provision in a protective order issued pursuant to this section shall not be construed to:

- (1) Prevent contact between counsel for represented parties; or
- (2) Prevent a party from appearing at a scheduled court or administrative hearing; or
- (3) Prevent a defendant or defendant's counsel from sending the plaintiff copies of any legal pleadings filed in court relating to the domestic violence petition or related civil or criminal matters.

(c) A violation of this paragraph may result in a finding of contempt of court.

IV. In any complaint, information, or indictment brought for the enforcement of any provision of this statute, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained herein and the burden of proof of any exception, excuse, proviso, or exemption shall be upon the defendant.

V. Any law enforcement officer may arrest, without a warrant, any person that the officer has probable cause to believe has violated the provisions of this section when the offense occurred

within 12 hours, regardless of whether the crime occurred in the presence of the officer. A law enforcement officer shall arrest a person when he has probable cause to believe a violation of the provisions of this section has occurred within the last 12 hours when the offense involves a violation of a protective order issued pursuant to RSA 173-B, RSA 458:16, or paragraph III-a of this section.

VI. (a) Any person convicted of a violation of this section and who has one or more prior stalking convictions in this state or another state when the second or subsequent offense occurs within 7 years following the date of the first or prior offense shall be guilty of a class B felony.

(b) In all other cases, any person who is convicted of a violation of this section shall be guilty of a class A misdemeanor.

VII. If any provision or application of this section or the application thereof to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.

Source. 1993, 173:2. 1994, 101:1. 1997, 242:1, 2, 3, 4. 2000, 151:1, 2. 2002, 62:1; 79:5. 2005, 284:2. 2006, 214:2, eff. July 31, 2006.

CHAPTER 645 PUBLIC INDECENCY

Section 645:1

645:1 Indecent Exposure and Lewdness. –

I. A person is guilty of a misdemeanor if such person fornicates, exposes his or her genitals, or performs any other act of gross lewdness under circumstances which he or she should know will likely cause affront or alarm.

II. A person is guilty of a class B felony if:

(a) Such person purposely performs any act of sexual penetration or sexual contact on himself or herself or another in the presence of a child who is less than 16 years of age.

(b) Such person purposely transmits to a child who is less than 16 years of age, or an individual whom the actor reasonably believes is a child who is less than 16 years of age, an image of himself or herself fornicating, exposing his or her genitals, or performing any other act of gross lewdness.

(c) Having previously been convicted of an offense under paragraph I, or of an offense that includes the same conduct under any other jurisdiction, the person subsequently commits an offense under paragraph I.

III. A person shall be guilty of a class A felony if having previously been convicted of 2 or more offenses under paragraph II, or a reasonably equivalent statute in another state, the person subsequently commits an offense under this section.

Source. 1971, 518:1. 1992, 254:10. 1993, 297:1. 1999, 321:1, eff. Jan. 1, 2000. 2008, 323:5, eff. Jan. 1, 2009.

CHAPTER 650 OBSCENE MATTER

General Provisions

Section 650:1

650:1 Definitions. – In this chapter:

I. "Disseminate" means to import, publish, produce, print, manufacture, distribute, sell, lease, exhibit or display.

II. "Knowledge" means general awareness of the nature of the content of the material.

III. "Material" means any printed matter, visual representation, live performance or sound recording including, but not limited to, books, magazines, motion picture films, pamphlets, phonographic records, pictures, photographs, figures, statues, plays, dances or other representation or embodiment of the obscene. Undeveloped photographs, molds, printing plates, and the like, shall be deemed obscene material notwithstanding that processing or other acts may be required to make the obscenity patent or to disseminate it.

IV. Material is "obscene" if, considered as a whole, to the average person

(a) When applying the contemporary standards of the county within which the obscenity offense was committed, its predominant appeal is to the prurient interest in sex, that is, an interest in lewdness or lascivious thoughts;

(b) It depicts or describes sexual conduct in a manner so explicit as to be patently offensive; and

(c) It lacks serious literary, artistic, political or scientific value.

V. "Predominant appeal" shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or other specially susceptible audience.

VI. "Sexual conduct" means human masturbation, sexual intercourse, actual or simulated, normal or perverted, whether alone or between members of the same or opposite sex or between humans and animals, any depiction or representation of excretory functions, any lewd exhibitions of the genitals, flagellation or torture in the context of a sexual relationship. Sexual intercourse is simulated when it depicts explicit sexual intercourse which gives the appearance of the consummation of sexual intercourse, normal or perverted.

VII. "Child" means a person under the age of 18.

Source. 1971, 518:1. 1976, 46:3. 1977, 199:3. 1994, 60:1, eff. Jan. 1, 1995.

APPENDIX B: SAMPLE CRUELTY COMPLAINTS

From New Hampshire Attorney General's Law Enforcement Manual

10. RSA 644:8, Cruelty To Animals

NOTE: Any offense listed under RSA 644:8, III is a misdemeanor for a first offense and a class B felony for a second or subsequent offense. To charge a class B felony offense, the prior conviction(s) must be alleged in the complaint, as shown in the sample complaint below.

a. RSA 644:8, III(a)

without lawful authority, negligently [deprived or caused to be deprived] [any animal in his/her possession or custody] [necessary care, sustenance or shelter].

Sample Complaint—class B felony: without lawful authority, he negligently deprived his Akita puppy necessary shelter and sustenance by leaving the puppy outside in a fenced yard without shelter or sufficient food, while he was away on vacation. The defendant was previously convicted of cruelty to animals on June 28, 2005 in the Dover District Court.

Sample Complaint—misdemeanor: without lawful authority, he negligently deprived his Akita puppy necessary shelter and sustenance by leaving the puppy outside in a fenced yard without shelter or sufficient food, while he was away on vacation.

b. RSA 644:8, III(b)

negligently [beat, cruelly whipped, tortured, mutilated or in any other manner mistreated or caused to be mistreated] [any animal].

Sample Complaint: negligently beat a Morgan horse named Shadow by repeatedly hitting the horse with a shovel, while cleaning out the horse's stall.

c. RSA 644:8, III(c)

negligently [overdrove, overworked, drove when overloaded, or otherwise abused or misused] [any animal intended for or used for labor].

Sample Complaint: negligently misused his sheepdog, Cotton, an animal intended for or used for labor. He made Cotton herd sheep for 18 hours without a break for food or water.

d. RSA 644:8, III(d)

negligently [transported any animal in his/her possession or custody] [in a manner injurious to the health, safety or physical well-being of the animal].

Sample Complaint: negligently transported his son's dog Scruffy, while in his custody, in a manner injurious to the physical well-being of the animal. He transported Scruffy in an open trailer attached to his car, thereby causing the dog to be tossed around the trailer and ultimately ejected onto the road.

e. RSA 644:8, III(e)

negligently [abandoned] [any animal previously in his/her possession or custody] [by causing such animal to be left without supervision or adequate provision for its care, sustenance, or shelter].

Sample Complaint: negligently abandoned a brown kitten called Sadie, an animal previously in his possession or custody, by leaving Sadie at the town landfill without any food, water or shelter.

f. RSA 644:8, III(f)

negligently [permitted or caused any animal in his/her possession or custody] to be subjected to [cruelty, inhumane treatment or unnecessary suffering of any kind].

Sample Complaint: negligently permitted his rabbit, Cotton, to be subjected to inhumane treatment by allowing his friends to throw lit firecrackers into Cotton's cage.

g. RSA 644:8, III-a, class B felony

purposely [permitted or caused any animal in his/her custody or possession] [to be beaten, cruelly whipped, tortured, or mutilated].

Sample Complaint: purposely permitted his neighbor, Jeremy Smith, to beat his Cocker Spaniel, Jake, an animal in his custody, by hitting Jake repeatedly with the head of a shovel.

11. RSA 644:8-aa, Animals In Motor Vehicles

a. RSA 644:8-aa, misdemeanor

[purposely, knowingly, negligently or recklessly] [confined an animal in a motor vehicle OR other enclosed space] [in which the temperature is so high or so low as to cause serious harm to the animal].

Sample Complaint: recklessly confined a cat in his Chevy Blazer with the windows closed, when the outdoor temperature was 93 degrees. The temperature in the truck became so high that it caused the cat to become seriously dehydrated.

12. RSA 644:8-f, Transporting A Dog In The Open Back Of A Pickup Truck

a. RSA 644:8-f, violation

transported [any dog] [in the back of a vehicle] [on a public way], where [the space was not enclosed, did not have side and tail racks at least 46 inches high, and the dog was not cross-tethered to the vehicle, protected by a secure cage or other container, or otherwise protected in a manner that would prevent the dog from being thrown or from falling or jumping from the vehicle], [the dog was not being used by a farmer or farm employee while actually engaged in farming activities requiring the services of a dog], and [the dog was not a hunting dog being used at a hunting site or between hunting sites by a licensed hunter who was in possession of all applicable licenses and permits for the species being pursued during the legal season for such activity].

Sample Complaint: transported a dog in the back of the Ford F-150 pickup truck on Main Street when none of the protective conditions specified in RSA 644:8-f, I, were met and none of the exceptions in RSA 644:8-f, II, applied.

APPENDIX C: WEB-BASED RESOURCE LINKS

NH LAW ENFORCEMENT MANUALS

NEW HAMPSHIRE ATTORNEY GENERAL'S LAW ENFORCEMENT MANUAL, 2008

<http://doj.nh.gov/criminal/documents/law-enforcement-manual.pdf>

LAW ENFORCEMENT: A MODEL PROTOCOL FOR POLICE RESPONSE TO DOMESTIC VIOLENCE CASES Second Edition, 2004

<http://doj.nh.gov/criminal/victim-assistance/documents/law-enforcement-protocol.pdf>

STALKING PROTOCOL: A MODEL FOR LAW ENFORCEMENT 2009

<http://doj.nh.gov/criminal/victim-assistance/documents/stalking-protocol.pdf>

NEW HAMPSHIRE DEPARTMENT OF AGRICULTURE, MARKETS AND FOOD (NADMF)

Division of Animal Industry

http://www.nh.gov/agric/divisions/animal_industry/index.htm

Laws and Rules

<http://www.nh.gov/agric/rules/index.htm>

Standards of Care Resources

CHAPTER Agr 3700 TREATMENT OF HORSES

http://www.gencourt.state.nh.us/rules/state_agencies/agr3700.html

Lists requirements of shelter and proper care of horses

PART Agr 1702 FACILITIES AND OPERATING STANDARDS RELATIVE TO PET SHOPS AND ADOPTING ANIMAL SHELTERS IN NEW HAMPSHIRE

http://www.gencourt.state.nh.us/rules/state_agencies/agr1700.html

Lists standards for pet stores and shelters

USDA ANIMAL AND PLANT HEALTH INSPECTION SERVICES

TITLE 9--ANIMALS AND ANIMAL PRODUCTS

CHAPTER I--ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

Animal Welfare Act contains standards for most animals.

http://www.aphis.usda.gov/animal_welfare/downloads/awr/awr.pdf

HORSES

New Hampshire Horse Council

<http://www.nhorsecouncil.com/>

American Association of Equine Practitioners (AAEP): Welfare Guidelines

http://www.aaep.org/equine_welfare.htm

LIVESTOCK

UNH Cooperative Extension: Provides information on accepted husbandry of livestock and horses. It is county based and has specialists on staff.

<http://extension.unh.edu/Agric/AGDLEP.htm>

JUVENILE OFFENDERS

AniCare Child: Treatment approach that focuses exclusively on juvenile cruelty to animals.

<http://www.animalsandsociety.org/>

ANTI-CRUELTY RESOURCES

ASPCA: Include resources and tools especially for veterinarians, law enforcement and prosecutors. Included are many sample forms to be used to assemble thorough forensic documentation in animal abuse cases. It also has on line classes in Animal Fighting and Animal Cruelty Investigation.

<http://www.aspcapro.org/fighting-animal-cruelty.php>

The National Link Coalition: Has online library of resources for Link researchers, human services and animal welfare professionals, community organizers and others interested in The Link between violence to people and violence to animals.

<http://www.nationallinkcoalition.org/>

PROSECUTION LEGAL ASSISTANCE

National Center for Prosecution of Animal Abuse

A program of the National District Attorneys Association (NDAA), created in partnership with the American Society for the Prevention of Cruelty to Animals (ASPCA) and Animal Legal Defense Fund (ALDF) to educate and train prosecutors and allied professionals on the effective handling of animal cruelty and neglect cases, including cases involving the co-occurrence of animal abuse and violence to people.

http://www.ndaa.org/animal_abuse_home.html

Animal Legal Defense Fund: Has law and case database, case studies, and professional support. Many Resources.

<http://aldf.org/index.php>

Animal Legal and Historical Center, Michigan State University College of Law;
Comprehensive repository of information about animal law.

<http://www.animallaw.info/>

Get The Edge In Fighting Animal Cruelty Cases - Book by Catherine L. Wolfe, Attorney

“It teaches how to *intelligently* investigate animal cruelty cases, collect the most powerful evidence, and successfully present evidence for a winning result.”

<http://wolfepackpress.org>

NEW HAMPSHIRE FISH AND GAME DEPARTMENT

As the guardian of the state's fish, wildlife, and marine resources, the New Hampshire Fish and Game Department works in partnership with the public to:

- Conserve, manage and protect these resources and their habitats;
- Inform and educate the public about these resources;
- Provide the public with opportunities to use and appreciate these resources.

New Hampshire Fish and Game Department Website

<http://www.wildnh.com>

Current Fish and Game statutes

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XVIII.htm>

Current Fish and Game rules

http://www.gencourt.state.nh.us/rules/state_agencies/fis.html

CHAPTER Fis 800, IMPORTATION, POSSESSION AND USE

http://www.gencourt.state.nh.us/rules/state_agencies/fis800.html

AMERICAN VETERINARY MEDICAL ASSOCIATION

Site has position papers concerning cruelty, various husbandry methods and Euthanasia Guidelines. Also has posters and background information about animals in hot cars and safely transporting pets.

<http://www.avma.org/default.asp>

ANIMAL CONTROL RESOURCES

National Animal Control Association

<http://www.nacanet.org/>

New England Animal Control Humane Academy

<http://www.neacha.org/>

Animal Control Officers Association of New Hampshire

<http://www.acoaonh.com/>

STATEWIDE RESOURCES

New Hampshire Disaster Animal Response Team

This organization has teams that will assist with multiple animal situations such as hoarding.

<http://www.newhampshiredart.org/home.html>

NH Federation of Humane Organizations

<http://www.nhfho.org/index.html>

Handbook of New Hampshire Laws Relating to Animals

http://www.nh.gov/humane/documents/nh_animal_laws.pdf

Governor's Commission on the Humane Treatment of Animals

<http://www.nh.gov/humane/>

ANIMAL ABUSE REGISTRIES

National Animal Cruelty Registry

<http://www.inhumane.org/>

Pet Abuse.com

Has much resource material in addition to the registry.

<http://www.pet-abuse.com/>

HOARDING RESOURCES

The Hoarding of Animal Research Consortium

<http://www.tufts.edu/vet/hoarding/>

APPENDIX D: ANIMAL CRUELTY SEARCH WARRANT CHECK LIST

(See New Hampshire Attorney General’s Law Enforcement Manual Section V for detailed information on warrants. This document is also available in **Resources.**)

Check	Probable Cause Elements are Present
	A crime has been committed
	Evidence of a crime exists
	Evidence will be presently found in a location (or on a person)
The Affidavit Contains:	
	Specific description of the premises (and/or person) to be searched (physical description and/or photos)
	Specific description of the animals, items and evidence to be seized based on the case*
	Statement of the reasons supporting the request to search- may cite laws here.
	Separately numbered paragraphs for organization
	The source of and how all information was obtained are identified
	<i>If informant or third party as a source:</i>
	The source is a truthful person
	Basis of knowledge (first hand or other)
	The source has a motive or reason to be truthful
	The information is corroborated by other information
	Labeled and dated photographs if needed
	Signature of the applicant swearing to or affirming the affidavit
	Signature of a person authorized to administer oaths or affirmations

	Date of oath or affirmation
The Warrant Application Form is Completed	
	Targeted evidence is described in the warrant application
	Any verbal additions to the affidavit or application are put in writing and attached
	Applicant's signature is sworn or affirmed
	Both affidavit and application are presented to a justice

*Terminology may include the following and more: Search for animal evidence: All animals living or dead, born or unborn, above or below the ground, contained or free roaming, inside or outside. All cages, crates, containers, or other items or objects that could be used for the confinement or shelter of an animal. All animal or related to animal records written or electronically kept (computers, CD's DVD's, thumb drives)... including medical treatment, drugs and other prescribed items, intake or export, sales receipts, food and water bills, proof of ownership documents, care and boarding contracts and agreements, photographs. Any and all implements for the training, control or transport of animals. Paperwork that ties parties/owners to the location evidence is found. Food, supplies, medications. Places to be searched: All buildings, barns and outbuildings attached or unattached. Fenced pasture and gated fields. All vehicles or trailers used for the transport of animals.

APPENDIX E: ANIMAL CRUELTY INVESTIGATION CASE CHECKLIST

(This document is also available in Resources)

_____ **Police Department**

I. COMPLAINANT/WITNESSES

- Recorded each complainant/witness's name, address, home and work phone no's.
- Got address and a visual description of the property/location where animal subject is located.
- Got physical description(s) of animal(s) subjects.
- Noted time dispatched, time arrived.
- Noted complainant/witness's relationship to animal and owner/keeper.
- Noted complainant/witness's description of animal cruelty.

II. ANIMAL SUBJECT(S)

- If animal(s) was in plain view, appeared to be the subject of cruelty, and did not need emergency medical attention, photos were taken of location, surrounding areas, and the animal(s).
- Statements and photos and other legally available evidence were used to seek a warrant. Warrant was written with specific situation in mind and was thorough.
 - Warrant was executed. Evidence collected. Photos taken.
 - Animals were seized pursuant to a warrant.
- _____
 - Animals were not seized at this time.
- If the animal (s) (not livestock) was in plain view and in need of temporary protective custody (RSA 466:8IV-a. (a)), procedures were followed to take and transport the animal to a veterinarian.
 - Photos were taken of location and animals as appropriate at site and by veterinarian.
- If the animal (livestock) was in plain view and in need of temporary protective custody (RSA 466:8IV-a. (b)), a veterinarian was contacted to determine probable cause to take the animal(s).
 - Photos were taken of location and animals as appropriate at site and by veterinarian.
- If the animal(s) was not in plain view, but statements and visible conditions and situations indicated an animal was being treated cruelly, an affidavit was prepared and a warrant sought. Warrant was written with specific situation in mind and was thorough.
 - Warrant was executed. Evidence collected. Photos taken.

III. SUSPECT

- Suspect's location was described upon arrival.
- Recorded suspect's name, dob, address, home and work phone numbers.
- Recorded spontaneous statements by suspect.
- Described suspect's emotional condition.
- Documented evidence of alcohol and drug use at the time of cruelty.
- Asked about presence, location, type of firearms and ammunition and other deadly weapons.
- Asked about animal(s) veterinarian and other caregivers (farrier, groomer, etc.).
- If arrested, advised Miranda rights, and asked if s/he wanted to make a statement.
- Received a written or recorded statement from the suspect.
- Obtained a criminal record check.

IV. EVIDENCE

- Recorded the dispatch (911 number) and incident number.
- Obtained call recording.
- Photographed multiple views of animal(s) - alive and dead.
- Photographed crime scene.
- Collected pertinent evidence from both crime scene and case veterinarian.
- Placed animals in a safe, secure location.
 - Kept dead animals refrigerated for necropsy.
- Attached related reports, photos and evidence tags.

APPENDIX F: NEW HAMPSHIRE COUNTY ATTORNEYS OFFICES

Belknap County Attorney

64 Court Street
Laconia, New Hampshire 03246
(603) 527-5440

Carroll County Attorney

PO Box 218
Ossipee, New Hampshire 03864
(603) 539-7769

Cheshire County Attorney

PO Box 612
Keene, New Hampshire 03431
(603) 352-0056

Coos County Attorney

55 School Street
Lancaster, New Hampshire 03584
(603) 788-3812

Grafton County Attorney

RR 1, Box 65E
North Haverhill, New Hampshire 03774
(603) 787-6968

Hillsborough County Attorney

Northern District

300 Chestnut Street
Manchester, New Hampshire 03101
(603) 627-5605

Hillsborough County Attorney

Southern District

19 Temple Street
Nashua, New Hampshire 03060
(603) 594-3250

Merrimack County Attorney

4 Court Street
Concord, New Hampshire 03301
(603) 228-0529

Rockingham County Attorney

PO Box 1209
Kingston, New Hampshire 03848
(603) 642-4249

Strafford County Attorney

PO Box 799
Dover, New Hampshire 03821-0799
(603) 749-4215

Sullivan County Attorney

14 Main Street
Newport, New Hampshire 03773
(603) 863-8345

APPENDIX G: NEW HAMPSHIRE CIRCUIT COURTS

Administrative Judge: Hon. Edwin W. Kelly Deputy Administrative Judge: Hon. David D. King
Circuit Court Administration, District and Family Divisions
PO Box 389
Concord, New Hampshire 03302-0389
Phone: (603) 271-6418; Fax: (603) 271-6406 www.courts.state.nh.us/circuitcourt

1st Circuit - District Division – Berlin

650 Main Street, Suite 100
Berlin, NH 03570
(603) 752-3160

10th Circuit – District Division – Candia

110 Raymond Rd.
Candia, NH 03034
(603) 483-2789

5th Circuit – District Division – Claremont

1 Police Court, Suite 2
Claremont, NH 03743
(603) 542-6064

1st Circuit – District Division – Colebrook

17 Bridge Street
P.O. Box 5
Colebrook, NH 03576-0005
(603) 237-4229

6th Circuit – District Division - Concord

32 Clinton Street
P.O. Box 3420
Concord, NH 03302-3420
(603) 271-6400

3rd Circuit – District Division – Conway

E. Conway Road
Rt. 302
PO Box 940
North Conway, NH
(603) 356-7710

10th Circuit – District Division – Derry

10 Courthouse Lane
Derry, NH 03038
(603) 433-4676

7th Circuit – District Division – Dover

25 St. Thomas Street
Dover, NH 03820
(603) 742-7202

10th Circuit – District Division – Brentwood

10 Route 125
Brentwood, NH
(603) 642-9173

6th Circuit – District Division – Franklin

7 Hancock Terrace
Franklin, NH 03235-0172
(603) 934-3290

9th Circuit – District Division – Goffstown

329 Mast Road
Goffstown, NH 03045
(603) 627-2211

2nd Circuit - District Division – Haverhill

3785 Dartmouth College Highway, Box 10
North Haverhill, NH 03774
(603) 747-3063

6th Circuit – District Division – Henniker

41 Liberty Hill Road
Building 2 Suite 110
Henniker, NH 03242
(603) 428-3214

6th Circuit – District Division – Hooksett

101 Merrimack Street
Hooksett, NH 03106-1416
(603) 485-9901

8th Circuit – District Division – Jaffrey

84 Peterborough St.
Jaffrey, NH 03452-0039
(603) 532-8698

8th Circuit – District Division – Keene

3 Washington Street
P.O. Box 364
Keene, NH 03431-0364
(603) 352-2559

4th Circuit – District Division – Laconia

26 Academy Street
Laconia, NH 03247-3639
(603) 524-4128

1st Circuit – District Division – Lancaster

55 School St., Suite 201
Lancaster, NH 03584
(603) 788-4485

2nd Circuit – District Division - Lebanon

38 Centerra Parkway
Lebanon, NH 03766-0247
(603) 643-3555

2nd Circuit – District Division – Littleton

134 Main Street
Littleton, NH 03561
(603) 444-7750

9th Circuit – District Division – Manchester

35 Amherst Street
Manchester, NH 03101
(603) 624-6510

9th Circuit – District Division – Merrimack

4 Baboosic Lake Road
P.O. Box 324
Merrimack, NH 03054-0324
(603) 424-9916

9th Circuit – District Division – Milford

180 Elm Street
PO Box 943
Milford, NH 03055 (603) 673-2900

9th Circuit – District Division – Nashua

25 Walnut Street
P.O. Box 310
Nashua, NH 03061
(603) 880-3333

5th Circuit – District Division – Newport

55 Main Street
Newport, NH 03773-0581
(603) 863-1832

3rd Circuit – District Division – Ossipee

Carroll County Courthouse
96 Water Village Road - Box 2
Ossipee, NH 03864
(603) 539-4561

10th Circuit – District Division – Plaistow

14 Elm Street
Plaistow, NH 03865
(603) 382-4651

2nd Circuit – District Division - Plymouth

26 Green Street
Plymouth, NH 03264
(603) 536-3326

10th Circuit – District Division – Portsmouth

111 Parrott Avenue
Portsmouth, NH 03801-4490
(603) 431-2192

7th Circuit – District Division – Rochester

76 North Main Street
Rochester, NH 03867-1905
(603) 332-3516

10th Circuit – District Division – Seabrook

130 Ledge Road
Seabrook NH 03874
(603) 474-2637

10th Circuit – District Division – Salem

35 Geremonty Drive
Salem, NH 03079
(603) 893-448

APPENDIX H: NEW HAMPSHIRE SUPERIOR COURTS

Belknap County Superior Court

64 Court Street
Laconia, NH 03246
(603) 524-3570

Carroll County Superior Court

PO Box 157
Ossipee, NH 03864
(603) 539-2201

Cheshire County Superior Court

12 Court Street
Keene, NH 03431
(603) 352-6902

Coos County Superior Court

55 School St., Suite 301
Lancaster, NH 03584
(603) 788-4900

Grafton County Superior Court

3785 Dartmouth College Hwy.
North Haverhill, NH 03774
(603) 787-6961

Hillsborough County Superior Court

Northern District
300 Chestnut St.
Manchester, NH 03101
(603) 669-7410

Hillsborough County Superior Court

Southern District
30 Spring St.
PO Box 2072
Nashua, NH 03061
(603) 883-6461

Merrimack County Superior Court

4 Court St.
Concord, NH 03301
(603) 225-5501

Rockingham County Superior Court

PO Box 1258
Kingston, NH 0348-1258
(603) 642-5256

Strafford County Superior Court

PO Box 799
Dover, NH 03821-0799
(603) 742-3065

Sullivan County Superior Court

22 Main St.
Newport, NH 03773
(603) 863-3450

APPENDIX I: NH SEXUAL ASSAULT, DOMESTIC VIOLENCE AND STALKING SUPPORT SERVICES

NH Statewide Domestic Violence Hotline: 1-866-644-3574

NH Statewide Sexual Assault Hotline: 1-800-277-5570

NH Coalition Against Domestic and Sexual Violence

PO Box 353, Concord, NH 03302-0353

603-224-8893 (Office)

General Web Site: www.nhcadsv.org and Teen Web Site: www.reachoutnh.com

Animal Abuse Information: www.nhcadsv.org/animalabuse.cfm

The NH Coalition is comprised of 14 member programs throughout the state that provide services to survivors of sexual assault, domestic violence, stalking and sexual harassment. You do not need to be in crisis to call. Services are free, confidential, and available to everyone regardless of gender, age, health status (including HIV-positive), physical, mental or emotional ability, sexual orientation, gender identity/expression, socio-economic status, race, national origin, immigration status or religious or political affiliation. The services include:

- Support and information, available in person and through a 24-hour hotline
- Accompaniment, support, and advocacy at local hospitals, courts, and police departments
- Assistance with protective/restraining orders
- Referrals to legal services
- Peer Support Groups
- Access to emergency shelter
- Information and referrals to community programs
- Community and professional outreach and education

RESPONSE to Sexual & Domestic Violence

c/o Coos County Family Health Services

54 Willow Street

Berlin, NH 03570

1-866-644-3574 (**Statewide Domestic Violence Hotline**)

1-800-277-5570 (**Statewide Sexual Assault Hotline**)

603-752-5679 (Berlin office)

603-237-8746 (Colebrook office)

603-788-2562 (Lancaster office)

The Support Center at Burch House

P.O. Box 965

Littleton, NH 03561

1-800-774-0544 (crisis line)

603-444-0624 (Littleton office)

Starting Point: Services for Victims of Domestic and Sexual Violence

P.O. Box 1972

Conway, NH 03818

1-800-336-3795 (crisis line)

603-603-447-2494 (Conway office)

603-539-5506 (Ossipee Office)

Voices Against Violence

P.O. Box 53

Plymouth, NH 03264

603-536-1659 (crisis line)

603-536-3423 (office)

Women's Information Service (WISE)

38 Bank Street
Lebanon, NH 03766
1-866-348-WISE (toll-free crisis line)
603-448-5525 (local crisis line)
603-448-5922 (office)

New Beginnings Without Violence and Abuse

P.O. Box 622
Laconia, NH 03247
1-866-644-3574 (**Statewide Domestic Violence Hotline**)
1-800-277-5570 (**Statewide Sexual Assault Hotline**)
603-528-6511 (office)

Turning Points Network (formerly Women's Supportive Services)

11 School Street
Claremont, NH 03743
1-800-639-3130 (crisis line)
603-543-0155 (Claremont crisis line)
603-542-8338 (Claremont office)
603-863-4053 (Newport office)

Rape and Domestic Violence Crisis Center

P.O. Box 1344
Concord, NH 03302-1344
1-866-644-3574 (**Statewide Domestic Violence Hotline**)
1-800-277-5570 (**Statewide Sexual Assault Hotline**)*
603-225-7376 (office)

Sexual Harassment and Rape Prevention Program (SHARPP) UNH

Verrette House
6 Garrison Avenue
Durham, NH 03824
1-888-271-SAFE (7233) (crisis line)
603-862-SAFE (7233) (local crisis line)
603-862-3494 (office)

A Safe Place

6 Greenleaf Woods, #101
Portsmouth, NH 03801
1-800-854-3552 (toll-free crisis line)
603-330-0214 (Rochester crisis line)
603-890-6392 (Salem crisis line)
603-436-4619 (Portsmouth office)
603-436-7924 (Portsmouth crisis line)

Sexual Assault Support Services

7 Junkins Avenue
Portsmouth, NH 03801
1-888-747-7070 (crisis line)
603-436-4107 (Portsmouth Office)
603-332-0775 (Rochester Office)

YWCA Crisis Service

72 Concord St.
Manchester, NH 03101
603-668-2299 (crisis line)
603-625-5785 (Manchester Office)

Bridges: Domestic & Sexual Violence Support

P.O. Box 217
Nashua, NH 03061-0217
603-883-3044 (crisis line)
603-672-9833 (Milford office)
603-889-0858 (Nashua office)

Monadnock Center for Violence Prevention

12 Court Street
Keene, NH 03431-3402
603-352-3782 (crisis line)
1-888-511-mvcp(6287) (toll-free hotline)
603-352-3782 (Keene office)
603-532-6288 (Jaffrey office)
603-209-4015 (Peterborough office)

APPENDIX J: INDEX FOR RESOURCE WEBSITE

Website Address: <http://www.neacha.org/resources/>

Animal Cruelty Investigation and Prosecution



Resource Topic Index

- o [Animal Husbandry](#)
 - o [Forms](#)
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