

ARTICLES

ENACTING AND ENFORCING FELONY ANIMAL CRUELTY LAWS TO PREVENT VIOLENCE AGAINST HUMANS

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Felony animal anti-cruelty laws should be enacted and strictly enforced to protect animals and humans. Studies show that violence in the home, of any type, is self-perpetuating, creating generations of abusers and victims. Children who witness abuse are more likely to abuse animals and eventually humans; even minor acts of animal abuse are signs of a disturbed individual and should be taken seriously. Current animal anti-cruelty laws fail to prevent this violence. This article proposes that stronger anti-cruelty laws must be enacted and properly enforced to prevent this cycle of violence.

I. INTRODUCTION

Newspapers are full of stories about people whose abuse against animals escalated into violence toward humans.¹ This progressive cy-

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¹ For example, Kipland Kinkel, a 15 year-old high school freshman from Oregon, enjoyed torturing small animals. He boasted about lighting firecrackers in the mouths of squirrels and chipmunks. On May 21, 1998, Kinkel turned his violence toward humans when he walked into his high school cafeteria armed with two pistols and a rifle. Pulling a semiautomatic rifle from beneath his coat, he sprayed the room with 51 .22 caliber bullets, killing two students and wounding 22 others. Investigators later discovered that before coming to school that morning Kinkel had shot and killed his parents. Don Terry & Frank Bruni, *Lethal Fantasies of a 15-Year-Old Become a Reality*, N.Y. TIMES, May 24, 1998, at A14. As a teenager, Richard Allen Davis routinely set cats on fire. As an adult he kidnapped 12 year-old Polly Klass from her bedroom, put her in the back seat of his car, and then strangled her to death. Melissa Fletcher Stoeltje, *Abusive Behavior May be Linked to Violent Past/Many Perpetrators Have a History of*

cle of violence—from animals to humans—is not an aberration. Studies show that animal abusers often abuse their children, partners, and even strangers.²

Violence in the home is self-perpetuating, creating generations of abusers and victims. Children who witness abuse to either a pet or human, often become violent themselves, repeating the violence they have learned at home by abusing animals and eventually humans. Even minor acts of animal abuse are signs of a disturbed individual and should be taken seriously by parents, teachers, and law enforcement.

This article examines the cycle of violence that connects animal abuse and violence toward humans. Section II discusses the historical development of animal anti-cruelty laws. Further, the current state of the law is discussed, focusing particularly on continuing legislative and enforcement problems. Section III discusses studies that connect animal abuse and violence toward humans. The interplay between animal abuse and domestic abuse, child abuse, violent crimes, and serial killers is discussed. Finally, Section IV offers suggestions on how to legislate and enforce animal abuse to prevent this continuing cycle of violence.

II. ANIMAL ANTI-CRUELTY LAWS

Historically, animal abuse was not a crime, mainly because animals are considered property.³ This view has progressively changed over the years and anti-cruelty laws now exist in all fifty states.⁴ The early property based views, however, continue to influence current legislation.⁵ For this and other reasons, animal cruelty is rarely enforced and minimally punished.⁶

Animal Cruelty, HOUSTON CHRONICLE, Oct. 19, 1997, at 1. Three teenagers convicted of the 1993 murders of three 8 year-old boys in Memphis, Tennessee, had reportedly killed, skinned, and eaten parts of dogs in the past. Melissa Moore, *Torture-Killing of Dog Seen as Danger Sign*, BATON ROUGE ADVOCATE, Mar. 29, 1995, at 9B. S. Scott Dean Harberts enjoyed trapping animals and watching them chew their paws off while attempting to escape. Harberts also shot his stepmother's dog for trying to jump out of a pickup truck. In July 1989, Harberts raped and beat to death the two-year old daughter of his housemate and best friend. Steven Amick, *Harberts' Trial Penalty Phase Starts*, THE OREGONIAN, Oct. 20, 1994, at D2.

² See discussion *infra* notes 80-101 and accompanying text for a discussion on studies that demonstrate the link between animal abuse and violence toward humans.

³ David Favre & Vivien Tsang, *The Development of Anti-Cruelty Laws During the 1800s*, 1993 DET. C.L. REV. 1, 5 (1993).

⁴ American Ass'n for Horsemanship Safety, *Cruelty to Animal Statutes* (visited Feb. 16, 2000) <<http://www.law.utexas.edu:80/dawson/cruelty/cruelty.htm>>. This internet source has links to anti-cruelty statutes throughout the country.

⁵ See generally, GARY FRANCIONE, *ANIMALS, PROPERTY, AND THE LAW* (1995).

⁶ See generally, Sonja A. Soehnel, Annotation, *What Constitutes Offense of Cruelty to Animals—Modern Cases*, 6 A.L.R. 5TH 733 (1993).

A. *The Historical Development of Animal Anti-Cruelty Laws*

Animal cruelty was not a crime at common law.⁷ The absence of any law prohibiting even the most extreme violence toward animals reflected society's view at that time.⁸ Namely, those animals were the property of their owners who consequently could treat them as they pleased.⁹ Thus, abusing your horse was no more a crime than kicking your plow.

It was not until the 1800s that serious attempts were made to pass anti-cruelty laws.¹⁰ The 1829 New York anti-cruelty statute was the model used by several states over the next thirty years.¹¹ The statute stated:

Every person who (1) shall maliciously kill, maim or wound any horse, ox or other cattle, or any sheep, belonging to another, or (2) shall maliciously and cruelly beat or torture any such animals, whether belonging to himself or another, shall upon conviction, be adjudged guilty of a misdemeanor.¹²

This statute made only limited acts of animal cruelty a crime. It was, however, a step in the right direction, if only a minor one. While the punishment was a maximum of one year imprisonment,¹³ it did not cover the torture of dogs¹⁴ because of the societal belief that valuable personal property (e.g., commercially valuable animals such as cattle) was protected, not the animal.¹⁵ In reality, this statute made destroying property, not animal abuse, a crime. Human interests con-

⁷ Larry Falkin, *Taub v. State: Are State Anti-Cruelty Statutes Sleeping Giants?*, 2 PACE ENVTL. L. REV. 255, 266 (1985) (discussing developments in anti-cruelty laws); *State v. Prater*, 109 S.W. 1047, 1049 (Mo. Ct. App. 1908) ("[if] cruelty to animals was a criminal offense at common law, which some writers deny, it was superseded so entirely in England by statutes as to pass out of view"). In 1641, the Puritans of the Massachusetts Bay Colony passed the world's first anti-cruelty statute. Susan L. Goodkin, *The Evolution of Animal Rights*, 18 COLUM. HUM. RTS. L. REV. 259, 261 n.7 (1987). The Puritans statute provided in part that "no man shall exercise any Tyranny or Crueltie towards any brute Creature which are usuallie kept for man's use." *Id.*

⁸ For example, the philosopher Rene Descartes argued that people and animals felt pain differently. Goodkin, *supra* note 7, at 261. Descartes viewed animals as machines. *Id.*

⁹ Charles E. Friend, *Animal Cruelty Laws: The Case for Reform*, 8 U. RICH. L. REV. 201, 201 (1974) (discussing property concepts underlying anti-cruelty statutes). The owners could torture, starve, or kill their animals without facing criminal prosecution. *Id.* The property concept has lingered in recent anti-cruelty laws. See, e.g., VA. CODE ANN. § 29-193 (Michie 1973) (classifying dogs as personal property). See generally FRANCHIONE, *supra* note 5.

¹⁰ Favre & Tsang, *supra* note 3, at 5 (discussing developments in early anti-cruelty laws). See also Goodkin, *supra* note 7, at 261 n.7.

¹¹ *Id.* at 12. Michigan, Connecticut, Minnesota, Vermont, New Hampshire, and Pennsylvania all used New York's law as a framework; however, their laws were more inclusive than New York's. *Id.* For example, both Michigan and Pennsylvania included "other domestic animals." *Id.*

¹² N.Y. REV. STAT. tit. 6, § 26 (1829).

¹³ *Id.* See also Favre & Tsang, *supra* note 3, at 10.

¹⁴ Favre & Tsang, *supra* note 3, at 11.

¹⁵ *Id.* at 12.

tinued to outweigh the animals'. Nevertheless, with a law on the books, at least some forms of animal cruelty could finally be prosecuted.

Between 1800 and 1850 several animal abuse cases were successfully prosecuted in the United States under different theories.¹⁶ These theories ranged from the traditional view, that harm to the animal was damage to the property of another,¹⁷ to a public nuisance theory, requiring proof that the abuse caused a breach of the public peace.¹⁸

By the 1860s, societal attitudes toward animals were changing for the better and serious efforts were made to enact anti-cruelty legislation.¹⁹ Even with these changing views, however, the statutes generally reflected society's continued belief that animals were the property of humans.²⁰ For example, it was *generally* not a crime for people to abuse their own animals.²¹ A notable exception was a Maine statute enacted in 1821 that made no distinction between who owned the animal.²² While Maine's statute progressed beyond the property concept, it provided for minimal punishment of only a two to five dollar fine and up to thirty days in jail.²³ Legislative change was slow, in part because no one was leading the fight to protect animals for their own sake.

This all changed in 1866 when Henry Bergh, later the first president of the American Society for the Prevention of Cruelty to Animals (ASPCA), emerged as the first great protector of animal rights in the United States. Bergh made his impact in New York state, where he was instrumental in redrafting anti-cruelty legislation²⁴ and implementing proper enforcement of these laws.²⁵ Although Bergh's efforts led to the enactment of tougher laws,²⁶ this legislation continued to

¹⁶ *Id.* at 5. See also *Davis v. American Soc'y for the Prevention of Cruelty to Animals*, 75 N.Y. 362 (1873) (listing thirteen cases).

¹⁷ *Favre & Tsang, supra* note 3, at 6. See also *State v. Pierce*, 7 Ala. 728 (1845) (requiring proof that animal was property of another). In contrast, England's Criminal Damage Act of 1791 defines animals as property and excuses punishment if the person at the time of committing the alleged act of cruelty believed the animal's owner would have consented had the owner known of the circumstances. Kristi Vetri, *Animal Research and Shelter Animals: An Historical Analysis of the Pound Animal Controversy*, 31 *St. Louis U. L.J.* 551, 570 (1987) (discussing England's animal laws).

¹⁸ *Favre & Tsang, supra* note 3, at 6. While animals had no legal rights, this theory rationalized that treating animals cruelly in public injured the moral character of those who witnessed such abuse. *Id.* at 6 n.28.

¹⁹ *Id.* at 6-7.

²⁰ *Id.* at 7. The 1857 Michigan and 1846 Vermont anti-cruelty statutes limited their protection to commercially valuable property. *MICH. COMP. LAWS* § 181.45 (1857); 1846 *VT. LAWS* 34 (1846).

²¹ *Favre & Tsang, supra* note 3, at 7. *But see* N.Y. REV. STAT tit. 6, § 26 (1829) (stating individual is criminally liable for abusing own animal).

²² *ME. LAWS* ch. IV, § 7 (1821).

²³ *Favre & Tsang, supra* note 3, at 8 (discussing the Maine anti-cruelty statute).

²⁴ *Id.* at 14.

²⁵ *Id.* at 13.

²⁶ *Id.* at 14. The law applied regardless of who owned the animal, with negligent acts leading to criminal liability. The list of illegal actions was also expanded. *Id.*

protect only commercially valuable animals.²⁷ Further, instead of focusing on the harm caused to the animal, the New York statute required prosecutors to prove the defendant acted with malice.²⁸ Defendants were able to exculpate themselves by invoking the valid "good-faith effort to train" defense because the victim—the animal—could not prove the defendant's intent to harm.²⁹ Animals simply cannot take the witness stand and testify about what the defendant may have said or how the defendant may have behaved during the beating. When there was no human willing to testify about the defendant's wrongful intent at the time of the beating, this defense was capable of swallowing the law.

In 1867, New York passed an anti-cruelty law that focused on the objective evidence, rather than the subjective *mens rea* of the abuser.³⁰ This statute looked at the harm caused to the animal,³¹ thus limiting the use of the "training defense." This law also changed the way cruelty laws were enforced by allowing the ASPCA, or any person, to enter the property and care for the abused animal.³² These changes in the enactment and enforcement of anti-cruelty laws, which soon gained acceptance throughout the United States, proved that Henry Bergh's crusade in New York was finally giving animals a voice in the criminal justice system.

²⁷ *Id.*

²⁸ N.Y. REV. STAT. tit. 6, § 26 (1829).

²⁹ *State v. Avery*, 44 N.H. 392 (1862) ("Punishment administered to an animal in an honest and good faith effort to train it is not without justification.").

³⁰ N.Y. REV. STAT. §§ 375.2-9 (1867). Section 1 of the act provided:
Penalty For Overdriving, Cruelly Treating Animals, Etc.

If any person shall overdrive, overload, torture, torment, deprive of necessary sustenance, or unnecessarily or cruelly beat, or needlessly mutilate or kill, or cause or procure to be overdriven, overloaded, tortured, tormented or deprived of necessary sustenance, or to be unnecessarily or cruelly beaten, or needlessly mutilated, or killed as aforesaid any living creature, every such offender shall, for every such offense, be guilty of a misdemeanor.

Id. See also Favre & Tsang, *supra* note 3, at 15-16 (discussing early New York anti-cruelty laws, in which, the 1867 statute had language stating that "none of the acts were qualified by the term 'maliciously'").

³¹ Favre & Tsang, *supra* note 3, at 15-16.

³² N.Y. REV. STAT. § 375.4 (1867). See also Favre & Tsang, *supra* note 3, at 16 (discussing the statutory enforcement provision of early New York anti-cruelty law). The ASPCA's power was expanded further, when it was given the power to arrest violators. N.Y. REV. STAT. § 375.4 (1867). Today, in some states, humane societies can actually prosecute the case. Friend, *supra* note 9, at 217 (stating humane societies regularly assist in prosecution of the case); Karen L. McDonald, *Creating a Private Cause of Action Against Abusive Animal Research*, 134 U. PA. L. REV. 399, 422 (1986) (discussing the ASPCA's prosecutorial powers). However, this power was recently criticized. Amy Rinard, *Animal-Control Bill Endorsed*, MILWAUKEE JOURNAL SENTINEL, Jan. 21, 1998, at 5 (discussing politicians' criticism of humane societies' powers); Nick Green, *Humane Society Under Fire Over Power, Secrecy Animals: Critics Are Upset By What They See As Intimidating Clout Wielding By A Well-Off Nonprofit Group That Gets Little Public Scrutiny*, L.A. TIMES, Nov. 7, 1997, at B1 (discussing minimal oversight of humane societies' powers).

While New York's example spread to other states, which enacted tougher anti-cruelty laws,³³ humane societies also began emerging throughout the country.³⁴ Nevertheless, punishments and fines varied greatly between states. For example, jail time ranged from one year³⁵ to no time at all,³⁶ and fines varied from \$250³⁷ to \$5.³⁸

In addition, enforcement of these newly enacted cruelty laws continued to be a problem. Although the laws were stronger, they were still difficult to prosecute. Under most statutes, killing an animal was not enough, by itself, for criminal liability because the law required killing in a cruel manner.³⁹ In addition, the "necessity"⁴⁰ and "justification"⁴¹ defenses were used by defendants to escape criminal liability. For example, in *Hodge v. State*,⁴² a Tennessee court held that individuals had the right to protect themselves, their premises, and property from animals by using any means that were reasonably necessary.⁴³ In *State v. Avery*,⁴⁴ a New Hampshire court held the beating of a horse, no matter how severe, was not malicious if done for the purposes of training.⁴⁵ While social conscience was changing,⁴⁶ these cases illustrate the legal system's continued focus on protecting human interests over animal interests.⁴⁷ Indeed, this philosophy continues to be the foundation upon which current cruelty laws are built.

³³ Massachusetts, Pennsylvania, Illinois, New Hampshire, and New Jersey followed the New York framework. Favre & Tsang, *supra* note 3, at 21.

³⁴ *Id.*

³⁵ New Hampshire and Massachusetts provided for up to one year in jail. *Id.* at 22.

³⁶ Illinois provided for no jail time. *Id.*

³⁷ New Hampshire and Massachusetts had fines up to \$250. *Id.*

³⁸ Nebraska's fines ranged from \$5 to \$50. *Id.*

³⁹ *Horton v. State*, 27 So. 268 (Ala. 1900). See also *State v. Neal*, 27 S.E. 81, 81 (N.C. 1897) (requiring proof of suffering).

⁴⁰ Friend, *supra* note 9, at 208, 219 (stating "a clever defense counsel will use [these defenses] to the utmost"). See also Gary L. Francione, *Animals, Property and Legal Welfare: "Unnecessary" Suffering and the "Humane" Treatment of Animals*, 46 RUGERS L. REV. 721, 768 (1994) (stating defendant can easily raise reasonable doubt by arguing necessity).

⁴¹ Favre & Tsang, *supra* note 3, at 27. See also 4 AM. JUR. 2D *Animals* § 29 (1995) (discussing justification).

⁴² 79 Tenn. 528 (1883).

⁴³ *Id.*

⁴⁴ 44 N.H. 393 (1862).

⁴⁵ *Id.* See also *Commonwealth v. Lufkin*, 89 Mass. 579 (1863); *People ex rel. Walker v. Court of New York*, 4 N.Y. Sup. Ct. 579 (App. Div. 1975) (holding that it is not cruel to train and subject a dog to any useful purpose); *Winckler v. Commonwealth*, 27 S.E.2d 211 (Va. 1943) (requiring intent to maim livestock). The "necessity" defense continues to linger in some statutory law. See, e.g., CAL. PENAL CODE § 597 (West 1970 & Supp. 1984) ("inflicts unnecessary cruelty"); DEL. CODE ANN. tit. 11, § 1325(a)(2) (1974 & Supp. 1984) ("unnecessary or unjustifiable physical pain or suffering").

⁴⁶ Friend, *supra* note 9, at 204 (discussing changing social conscience). See also *Stephens v. State*, 3 So. 458, 459 (Miss. 1887) ("[H]uman beings should be kind and just to dumb brutes; if for no other reason than to learn how to be kind and just to each other").

⁴⁷ Stephen I. Burr, *Toward Legal Rights for Animals*, 4 ENVTL. AFF. 205, 213 (1975) (discussing how anti-cruelty statutes protect human interests over the animal's); Anita Dichter, *Legal Definitions of Cruelty and Animal Rights*, 7 B.C. ENVTL. AFF. L. REV.

B. Recent Developments in Animal Anti-Cruelty Laws

By the early 1920s, most states had some form of anti-cruelty law,⁴⁸ and today every state has an anti-cruelty statute.⁴⁹ Many of these laws, however, still impose a heavy burden on prosecutors with regard to the required statutory elements. For example, current statutes require prosecutors to prove elements such as "cruelty," "torture,"⁵⁰ "intentional," "willful," or "malice"⁵¹ in order to secure a conviction. In addition, several statutes continue to provide the defenses of "necessity"⁵² and "justification."⁵³ These are not the only exceptions or defenses under current law. Alabama has a "good cause" exception.⁵⁴ Utah allows for the killing of an "abandoned" animal on one's property.⁵⁵ Arizona and Maine still allow the defendant to invoke the "training" defense to exculpate themselves from criminal liability.⁵⁶

Judicial interpretations of these antiquated statutes have further weakened these anti-cruelty laws. For example, the "training" defense was successful in *State v. Fowler*,⁵⁷ where the defendants beat their dog, then repeatedly submerged the dog's head in a hole filled with water for fifteen to twenty minutes.⁵⁸ In reversing the conviction, the Court of Appeals of North Carolina accepted the defendants' claim,

147, 160 (1978); Francione, *supra* note 40, at 769. *See also* *State ex rel. Miller v. Clairborne*, 505 P.2d 732 (Kan. 1973) (allowing cockfights); *State v. Buford*, 331 P.2d 1114 (N.M. 1958).

⁴⁸ Falkin *supra* note 7, at 266 (citing 2 H. BRILL, CYCLOPEDIA CRIMINAL LAW § 844 (1923)).

⁴⁹ *Id.* at 255. *See also* American Ass'n for Horsemanship Safety *supra* note 4; Pamela D. Frasch et al., *State Animal Anti-Cruelty Statutes: An Overview*, 5 ANIMAL L. 69 (1999).

⁵⁰ 4 AM. JUR. 2D *Animals* § 31 (1995) (discussing elements of animal cruelty statutes). *State v. Wrobel*, 207 A.2d 280 (Conn. Cir. Ct. 1964) (requiring proof that the abuse was cruel or unjustifiable). *See generally* Soehnel, *supra* note 6, at 733 (statutes may exclude certain types of animals). *Commonwealth v. Massini*, 188 A.2d 816, 818 (Pa. Super. 1963) (reversing conviction for killing a cat because cats are not "domestic animals" within the meaning of the statute; reasoning that, at common law, cats had no value in eyes of the law). Other statutes have allowed for a "consent of the owner" defense. *State v. Jones*, 625 P.2d 503, 504 (Kan. 1981) (discussing the common law right to kill to protect property; stating consent of owner as another possible defense).

⁵¹ Jennifer Holdt, *The Challenge of Cruelty Prosecutions*, THE ANIMALS' AGENDA, 1995, vol. 15 No. 2, at 30-31 (discussing elements prosecutors must prove in animal cruelty cases).

⁵² Falkin, *supra* note 7, at 264; Friend, *supra* note 9, at 219; McGinnis v. State, 541 S.W.2d 431, 432 (Tex. Crim. App. 1976) (discussing "unnecessary standard").

⁵³ 4 AM. JUR. 2D *Animals* § 29 (1995) (discussing justification). *See also* MONT. CODE ANN. § 45-8-211 (1993) ("A person commits the offense of cruelty to animals if *without justification* . . .") (emphasis added).

⁵⁴ ALA. CODE § 13A-11-14 (1975).

⁵⁵ UTAH CODE ANN. § 76-9-301 (1996).

⁵⁶ ARIZ. REV. STAT. ANN. § 13-2910 (West 1997). *See also* *Regalado v. United States*, 572 A.2d 416, 420 (D.C. 1990) (discussing training defense).

⁵⁷ 205 S.E.2d 749 (N.C. Ct. App. 1974).

⁵⁸ *Id.* at 750.

reasoning that “punishment administered to an animal in an *honest and good-faith effort to train* it is not without justification and not willful.”⁵⁹ The court reversed the conviction despite acknowledging that the same conduct could fall within the statutory language to prove the element of “torture.”⁶⁰

Under current law, even convicted defendants (without a defense) ordinarily suffer only minor punishments for their abusive behavior. Only thirty-one states make animal cruelty a felony under certain circumstances.⁶¹ Most defendants who are convicted receive only probation or community service.⁶² In some states only one in ten receive jail time, with an average fine of only \$132.⁶³ Some states even return the animal to the abuser after a conviction.⁶⁴

Recent cases illustrate the lax punishment of animal abusers. For example, in March 1997, two men were convicted of breaking into an animal shelter and beating to death twenty-three cats and kittens with baseball bats.⁶⁵ The defendants’ four-year sentences were suspended pending successful completion of probation and counseling.⁶⁶ In March 1991, a Minnesota defendant was fined \$1 for dumping five puppies into a trash bin in freezing weather.⁶⁷ In 1996, an Orlando “art” student was ordered to pay \$500 to the Humane Society, perform fifty hours of community service, and write a letter of apology for dipping forty live mice into heated polyester resin, allowing the resin to harden, and then slicing it into blocks.⁶⁸ The defendant said he was “not ashamed of what [he] did [but] of how people reacted.”⁶⁹ These few examples show that the punishment does not fit the crime under current anti-cruelty laws; however, unlike most cases at least these were reported and prosecuted.

⁵⁹ *Id.* at 751 (emphasis added). In another case, the defendant tied the dog to the back of his truck and dragged the animal at 20-25 miles per hour to “teach the dog a lesson.” *State v. Stout*, 958 S.W.2d 32 (Mo. Ct. App. 1997). *Fowler*, however, may have stretched the possible defense so far as to find a “good-faith effort” to train the dog. *Fowler*, 205 S.E.2d at 749.

⁶⁰ *Fowler*, 205 S.E.2d at 751.

⁶¹ Telephone Interview with Lila Wadhvani, The Humane Society of the United States (Aug. 21, 2000). See also, Pamela D. Frasch et al., *State Animal Anti-Cruelty Statutes: An Overview*, 5 ANIMAL L. 69 (1999) (listing states).

⁶² Stoeltje, *supra* note 1.

⁶³ Arnold Arluke & Jack Levin, *Animal Cruelty, Crimes Against People Linked*, SALT LAKE TRIB., Nov. 9, 1997, at AA5. *McGuire v. State*, 497 P.2d 451 (Okla. Crim. App. 1972) (discussing a defendant who was fined \$10 for killing a dog).

⁶⁴ Holdt, *supra* note 51, at 30-31.

⁶⁵ *Humane Society Says 1997 Was Tough Year for Animals Internationally*, U.S. NEWSWIRE, Dec. 24, 1997, available in 1997 WL 13915282.

⁶⁶ *Id.*

⁶⁷ Holdt, *supra* note 51, at 30-31.

⁶⁸ *Mice-Slicing Art Student Makes Deal: The Orlando Man Has Reached an Agreement with the State to Avoid Prosecution*, ORLANDO SENTINEL, May 18, 1996, at D8.

⁶⁹ *Id.*

Existing anti-cruelty laws are often poorly enforced because of loose statutory language,⁷⁰ lack of funds,⁷¹ and indifference toward animals.⁷² For example, of the 3816 cases reported to the Humane Society between 1986 and 1991, only forty-seven were prosecuted.⁷³

The good news is that animal cruelty is starting to be taken more seriously.⁷⁴ In 1997, forty states enacted new or stronger anti-cruelty laws.⁷⁵ The bad news, however, is that some states wait until a particularly gruesome case grabs the public attention before changing their laws. For example, Washington changed its laws only after a donkey was beaten to death with a baseball bat in a petting zoo.⁷⁶ Pennsylvania changed its law after three men were convicted of putting duct tape over a Dalmatian's mouth, tying the dog to a tree, and letting their pit bull attack it.⁷⁷ The Dalmatian did not die, so the men

⁷⁰ See discussion *infra* notes 50-56 and accompanying text for discussion of statutory language.

⁷¹ Friend, *supra* note 9, at 217. See also Michael Quintanilla, *A Pet's Best Friend: Bobby French Wages a One-Man War on Abuse*, DALLAS MORNING NEWS, Oct. 25, 1988, at 1C (discussing small numbers of pet-abuse investigators in Texas); Tim Tesconi, *Defense Fund Offering Free Help to Prosecutors*, PRESS DEMOCRAT, Feb. 26, 1995, at B3 [discussing Animal Legal Defense Fund's (ALDF) offer to help California prosecutors]. ALDF has a Special Prosecutor Program. The office can be reached at (503) 231-1602 or <<http://www.ALDF.org>>.

⁷² Friend, *supra* note 9, at 217. The average citizen is reluctant to testify in animal cruelty cases. *Id.* at 218. Judicial attitudes, as reflected in recent reported decisions, offer an insight into what prosecutors must face when they bring an animal cruelty case to court. See, e.g., *State v. Buford*, 331 P.2d 1110, 1115 (N.M. 1958) ("Society could not long tolerate a system of laws which might drag to the criminal bar . . . every man who might drown a litter of kittens."); Joshua Marquis, *The Kittles Case and its Aftermath*, 2 ANIMAL L. 197 (1996) (discussing judge who initially would not allow treatment of an abused dog because that would be altering evidence); *State v. Griffin*, 684 P.2d 32 (Or. Ct. App. 1984) (refusing to allow the state to take a dog because that would deprive defendant of property).

⁷³ C.T. Revere & Said Deep, *Animal Rights Activists Laud Prosecution of Trio in Case*, GRAND RAPIDS PRESS, Aug. 18, 1991, at A3. See Friend, *supra* note 9, at 220 (discussing prosecutorial indifference to animal cruelty cases); Stoeltje, *supra* note 1 (quoting Houston SPCA's chief investigator who stated "[w]hen we file animal charges, they're always taken lightly"). In Japan, there was only one cruelty prosecution in 1996. Ian Burrell, *Japanese Fads Condemn Pets to Mass Slaughter*, INDEPENDENT - LONDON, Feb. 7, 1998, at 8. This is not necessarily because the country is more humane than the United States. *Id.* (stating that in 1997, 307,000 cats and 235,000 dogs were put down in Japan). One terrier, for example, was delivered to the pound by its owner with its mouth taped shut and a paper around the dog's neck saying, "This dog bites." *Id.* The owner was not prosecuted. *Id.*

⁷⁴ Holdt, *supra* note 51, at 30-31 (discussing changes in animal cruelty law over the last ten years); Ann Church, *Legislative Progress for Animals: State by State, Vote by Vote*, THE ANIMALS' AGENDA, 1997, vol. 17 No. 2, at 22-26 (discussing recent legislative changes).

⁷⁵ *Humane Society Says 1997 Was Tough Year for Animals Internationally*, *supra* note 65.

⁷⁶ Church, *supra* note 74, at 22-26.

⁷⁷ Leslie Klein Funk, *Three Sentenced in Dog's Killing Neither Side Happy with Length of Terms for Dalmatian's Death*, ALLENTOWN MORNING CALL, Mar. 11, 1995, at B01.

crushed his skull with cinder blocks.⁷⁸ One of the men then cut off the dog's tail and ears and sewed the ears to his hat.⁷⁹

While anti-cruelty laws have evolved considerably since the 1800s, many improvements are still warranted, and although current anti-cruelty laws are tougher on animal abusers, they are poorly enforced. Even when they are enforced, the punishment, if any, seldom fits the crime.

III. THE LINK BETWEEN ANIMAL CRUELTY AND HUMAN VIOLENCE

Recently, the link between animal abuse and interpersonal violence has been given serious consideration.⁸⁰ Studies show that animal abuse is a sign of a deeply disturbed family situation. Animal abusers are more likely to abuse partners,⁸¹ children,⁸² and strangers.⁸³ On the extreme end of the spectrum, many serial killers and mass murderers have a history of animal abuse.⁸⁴

Animal abuse is rarely isolated to a single act of violence against one victim.⁸⁵ Generally, there are other victims, human and non-human, and other abusers, thus creating a web of violence. People who are cruel to animals also commonly abuse other humans in the home. Multiple animal and human victims, however, are not the only concern; often the children who witness violence toward animals and humans begin to abuse animals themselves.⁸⁶ Studies show the next progressive step for these children is to turn their violence toward humans.⁸⁷ This cycle of violence continues because once children become violent toward humans they are more likely to raise another gen-

⁷⁸ *Id.*

⁷⁹ *Id.* Jason Trapper, 22, who cut off the dog's tail and ears and sewed the ears to his hat, was sentenced to 1 1/2 to 3 years in prison. *Id.* Roy Elliott Jr., 22, was sentenced to nine to twenty-three months; Jan W. Pyatt, 23, was sentenced to six to twenty-three months. *Id.*

⁸⁰ See generally CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE: READINGS IN RESEARCH AND APPLICATION (Randall Lockwood & Frank R. Ascione eds., 1998) [hereinafter CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE].

⁸¹ Stoeltje, *supra* note 1. For example, seventy percent of women seeking protection from domestic abuse reported that their pets were also harmed or killed by their abusive partners.

⁸² Randall Lockwood & Guy R. Hodge, *The Tangled Web of Animal Abuse*, in CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE 78, 81 (Randall Lockwood & Frank R. Ascione eds., 1998). For example, a 1983 New Jersey study of fifty-seven pet-owning families who were being treated for child abuse showed that eighty-eight percent of these families also reported that at least one person was abusing animals.

⁸³ Arluke & Levin, *supra* note 63, at AA5. For example, a three year study conducted by the ASPCA revealed that animal abusers are five times more likely to commit violent crimes, including assault, robbery, and rape.

⁸⁴ Lockwood & Hodge, *supra* note 82, at 78 (discussing serial killers with history of animal abuse).

⁸⁵ *Id.* at 81.

⁸⁶ Stoeltje, *supra* note 1.

⁸⁷ Lockwood & Hodge, *supra* note 82, at 82.

eration of abusers.⁸⁸ Thus a cycle of violence, which may have started with a child's cruelty toward the family pet or merely observing cruelty toward animals, spawns generations of victims and abusers. Additional and more stringent law enforcement investigations into alleged animal abuse may break the cycle of violence and save many potential human and animal victims.⁸⁹

This section examines the link between animal abuse and violence against humans. Specifically, Part A discusses the connection between animal abuse and domestic abuse. Part B discusses the affect of animal abuse on children, both as victims and abusers. Part C examines animal abusers' propensity to commit other violent crimes. Finally, Part D discusses the extreme cases where young animal abusers become multiple murderers. The Federal Bureau of Investigations (FBI) use of this link to profile serial killers and mass murderers is also discussed.

A. Domestic Abuse and Animal Cruelty

Domestic abusers are often cruel to animals.⁹⁰ Therefore, "[w]here you find an abused woman you'll likely find her abused pet."⁹¹ Several studies demonstrate this point. In a survey of thirty-eight women seeking protection from domestic violence, seventy-one percent of those who owned pets reported that their abusers also harmed or killed their pets.⁹² Another study reported that twenty-eight percent of animal abusers were also charged with domestic violence.⁹³

When domestic violence also includes abuse of the pet, the animal abuse may have its own serious psychological affects on the abused victim. Killing or abusing a pet shows the abuser's control and domina-

⁸⁸ *Id.*

⁸⁹ PETA, ANIMAL ABUSE & HUMAN ABUSE: PARTNERS IN CRIME, available in PETA On-line (visited Feb. 16, 2000) <<http://www.peta-online.org/kids/pjfsmis13.html>>.

⁹⁰ Carol J. Adams, *Bring Peace Home: A Feminist Philosophical Perspective on the Abuse of Women, Children and Pet Animals*, in CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE 318, 320 (Randall Lockwood & Frank R. Ascione eds., 1998) (discussing domestic abusers treatment of animals). A survey also reported that seventy-five percent of the non-criminals who experienced parental abuse also reported animal abuse in the home. Stephen R. Kellert & Alan R. Felthous, *Childhood Cruelty Toward Animals Among Criminals and Non-Criminals*, in CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE 194, 208 (Randall Lockwood & Frank R. Ascione eds., 1998).

⁹¹ Chris Rizk, *Pets Suffer Domestic Abuse, Too: State Humane Society Teams Up with Shelters to Protect Animals Owned by Victims of Violence*, DETROIT NEWS, Nov. 5, 1997, at C5. See generally Marina Angel, *Susan Glaspell's Trifles and a Jury of Her Peers: Woman Abuse in a Literary and Legal Context*, 45 BUFF. L. REV. 779, 804-05 (1997) (discussing a story where women and men act as "a jury of her peers" to a woman who kills her abusive husband; "The women find a bird cage with a broken door; it looks as if someone had been 'rough with it.' The symbolism is again clear.").

⁹² Frank R. Ascione, *Battered Women's Reports of Their Partners' and Their Children's Cruelty to Animals*, in CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE 290, 290-91 (Randall Lockwood & Frank R. Ascione eds., 1998).

⁹³ Anita Manning, *Hurting Animals Often Sign of Abuse*, USA TODAY, Sept. 10, 1997, at 4D.

tion over the abused partner.⁹⁴ Further, when a batterer kills or harms a pet, he may also be killing the woman's last hope of comfort and affection.⁹⁵

Recognizing this connection between animal abuse and domestic violence also helps predict future antisocial behavior by others, namely the children living in the violent household. Studies clearly show that domestic violence affects the children who grow up in this hostile environment.⁹⁶ Specifically, the most common predictor of childhood cruelty to animals is domestic violence.⁹⁷ In one study, thirty-two percent of battered women with children reported their children had hurt or killed pets.⁹⁸ When this result is juxtaposed with non-abused children's lack of propensity to abuse animals, it demonstrates the dire consequences domestic violence has on children's future behavior. Parents report that thirty-five percent of abused boys and twenty-seven percent of abused girls were cruel to animals, while only five percent of non-abused boys and three percent of non-abused girls were cruel to animals.⁹⁹

In sum, these studies show that domestic abuse, animal abuse, and childhood cruelty to animals are commonly intertwined. If a woman is being abused by her partner, her pet is also likely being abused. The web of violence does not, however, stop with just these two victims. Domestic abuse often creates abusers. If there is a child in the home who witnesses his father hit his mother then there is a strong probability that the child will adopt this abusive behavior and become violent toward animals and later humans.

B. *How Animal Cruelty Affects Children*

While most children do not abuse animals, studies show that children who are cruel to animals are often repeating a lesson of violence (e.g. witnessing domestic abuse or being victims themselves of physical or sexual abuse) they have learned at home.¹⁰⁰ One study shows that

⁹⁴ Adams, *supra* note 90, at 320.

⁹⁵ *Id.* at 321-22.

⁹⁶ Kellert & Felthous, *supra* note 90, at 208.

⁹⁷ Michael Robin & Robert ten Bensel, *Pets and the Socialization of Children, in CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE* 105, 118 (Randall Lockwood & Frank R. Ascione eds., 1998).

⁹⁸ Ascione, *supra* note 92, at 290.

⁹⁹ Frank R. Ascione, *Children Who Are Cruel to Animals: A Review of Research and Implications for Developmental Psychopathology, in CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE* 83, 96 (Randall Lockwood & Frank R. Ascione eds., 1998).

¹⁰⁰ A. William Ritter, Jr., *The Cycle of Violence Often Begins with Violence Toward Animals*, PROSECUTOR (Jan./Feb. 1996) (discussing connection between animal abuse and violence toward humans); Lockwood & Hodge, *supra* note 82, at 81. Children who abuse animals usually bully others, vandalize property, and commit more serious crimes. THE HUMANE SOCIETY OF THE UNITED STATES, FIRST STRIKE CAMPAIGN, MAKING THE CONNECTION: WHAT LAW ENFORCEMENT AND PROSECUTORS NEED TO KNOW (1997). The child often does poorly in school, has a low self-esteem, and few friends. *Id.* A child who witnesses pet abuse may suffer long-term effects which are similar to post-trau-

thirty to forty percent of children who grow up in abusive homes become abusers.¹⁰¹ A disturbing example of this cycle occurred where a nine year-old girl bound her cat's hind legs together with rubber bands and left them there until the cat's paws died and rotted off.¹⁰² Investigators subsequently discovered that the girl was being physically and sexually abused at home.¹⁰³

It follows from these studies that animal abuse by a child is often a sign of a deeply disturbed family and should be taken seriously.¹⁰⁴ Pets may be harmed or killed as punishment to a child¹⁰⁵ or to keep a sexually abused child quiet.¹⁰⁶ An example of using animal abuse to silence a child occurred where an abuser of a two-and-a-half year-old girl claimed to have killed the pet rabbit, cooked it, and forced the child to eat it as a warning to the child that if she reported the abuse, she too would suffer the same fate as the rabbit.¹⁰⁷

These studies and examples serve to demonstrate that even minor acts of animal abuse must be taken seriously. Children who are cruel to animals are often repeating violent behavior they learned at home. Therefore, when violence toward animals and/or humans is reported the whole family, including pets, must be investigated to prevent further abuse.

C. Violent Criminals

Studies show that animal abusers are five times more likely to commit violent crimes, such as assault, robbery, or rape;¹⁰⁸ four times more likely to commit property crimes; and three times more likely to

matic stress disorder. Stoeltje, *supra* note 1. Further, children who are exposed to wartime violence also show a heightened propensity of animal abuse. Adams, *supra* note 90, at 334.

¹⁰¹ Barbara Rosen, *Watch for Pet Abuse—It Might Save Your Client's Life*, in *CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE* 340, 341 (Randall Lockwood & Frank R. Ascione eds., 1998) (discussing this recent study). A 1971 study reported that thirteen of eighteen boys whose progress was followed, showed that eight still abused animals. Lockwood & Hodge, *supra* note 82, at 81. Generally, the animal cruelty only ended when the boys were removed from their abusive parents' homes. *Id.*

¹⁰² Gabrielle Crist, *Animal Torture, Homicide Linked the Humane Society Works to Raise Awareness About How Cruelty Can Lead to More Serious Violence*, *FORT WORTH STAR-TELEGRAM*, Nov. 10, 1997, at 1.

¹⁰³ *Id.*

¹⁰⁴ Lockwood & Hodge, *supra* note 82, at 81. A 1983 New Jersey study of fifty-seven families being treated for incidents of child abuse reported that in eighty-eight percent of those families at least one person was also abusing animals. Elizabeth DeViney et al., *The Care of Pets Within Child Abusing Families*, 4 *INT'L J. FOR THE STUDY OF ANIMAL PROBLEMS* 321-29 (1983). A 1980 study conducted in England of twenty-three families with a history of animal abuse showed that eighty-three percent had children at risk of abuse or neglect. Rosen, *supra* note 101, at 340 (discussing this study in more depth).

¹⁰⁵ Robin & ten Benschel, *supra* note 97, at 118.

¹⁰⁶ Adams, *supra* note 90, at 322; Stoeltje, *supra* note 1.

¹⁰⁷ Adams, *supra* note 90, at 323.

¹⁰⁸ Arluke & Levin, *supra* note 63; Stoeltje, *supra* note 1. Rapists who show higher levels of aggression also have a greater tendency to commit animal cruelty. David Tingle et al., *Childhood and Adolescent Characteristics of Pedophiles and Rapists*, in *CRU-*

be arrested for drug related offenses.¹⁰⁹ Animal abusers propensity to commit violent crimes was illustrated in one survey that examined three different groups of individuals: aggressive criminals, nonaggressive criminals, and noncriminals.¹¹⁰ This survey showed that among aggressive criminals, twenty-five percent reported five or more acts of animal cruelty compared with only six percent of the nonaggressive criminals and none in the sample of noncriminals.¹¹¹ Another study demonstrating that animal abuse often leads to violence toward humans reported that eighteen individuals who had repeatedly tortured dogs and cats were all highly aggressive toward people.¹¹² These studies are another important illustration of why animal abuse must be taken seriously. The studies show that if animal abusers are not deterred and properly counseled they are more likely to commit future violent crime, often against humans.¹¹³

D. Serial Killers, Mass Murderers, and FBI Profiling

While not all animal abusers become serial killers, many serial killers have a history of animal abuse.¹¹⁴ Psychologist David Silber believes that the serial killer's behavior does not change, only the object of his or her violence changes.¹¹⁵ In other words, if their violence toward animals is not appropriately treated they become violent toward humans.

Recognizing this connection helps FBI investigations of mass murders and serial rapists. The link between animal abuse and serial killers was first recognized in the 1960s by psychiatrist John MacDonald.¹¹⁶ Based on his studies, he suggested that individuals who become

ELTY TO ANIMALS AND INTERPERSONAL VIOLENCE 211, 221-22 (Randall Lockwood & Frank R. Ascione eds., 1998).

¹⁰⁹ Arluke & Levin, *supra* note 63.

¹¹⁰ Kellert & Felthous, *supra* note 90, at 194.

¹¹¹ *Id.* at 200-01. There are many reasons why people abuse animals, including: retaliation against the animal or the animal's owner, prejudice toward a specific animal, and the desire to shock or impress people. Lockwood & Hodge, *supra* note 82, at 80.

¹¹² Rosen, *supra* note 101, at 340 (discussing this study in more depth).

¹¹³ See discussion *supra* note 90 and accompanying text.

¹¹⁴ See Lockwood & Hodge, *supra* note 82, at 78-80 (discussing the history of animal abuse in several serial killers); Revere & Deep, *supra* note 73 (discussing FBI profiling of mass murders). Many recent serial killers had a history of animal abuse. For example, Jeffery Dahmer had a history of impaling dogs' heads. David Berkowitz, the "Son of Sam," who pleaded guilty to thirteen murders and attempted murders, also shot the neighbor's dog claiming the dog was the spiritual force that compelled him to kill. Lockwood & Hodge, *supra* note 82, at 79. Albert DeSalvo, the "Boston Strangler" who killed thirteen women, had a history of trapping dogs and cats in orange crates and shooting arrows through the boxes. *Id.* at 78. Brenda Spencer, who opened fire at a San Diego school killing two children and injuring nine, had a history of abusing dogs and cats, often by setting their tails on fire. PETA, *supra* note 89. Had these obvious signs of animal abuse been detected at an early age, there is no telling how many lives could have been saved.

¹¹⁵ Adams, *supra* note 90, at 324.

¹¹⁶ Arluke & Levin, *supra* note 63.

homicidal began as children torturing small animals.¹¹⁷ The FBI recognized this link in the 1970s when they interviewed thirty-six multiple murderers. Thirty-six percent of those interviewed admitted killing or torturing animals as children, and forty-six percent admitted doing so as adolescents.¹¹⁸ In addition to multiple murderers, the FBI has also found that serial rapists often have a history of animal abuse.¹¹⁹ These FBI findings are important to law enforcement because investigating homicides and animal abuse may not be mutually exclusive.¹²⁰ For example, law enforcement can use this connection in criminal investigations to help create a profile of the suspect. The profile includes common characteristics of people who commit the type of crime under investigation.¹²¹ Often when the crimes are serial rapes or multiple murders, a history of animal abuse will be part of the suspect's profile. When the profile is created, police release it to the public who can report those suspects who fit the characteristics.¹²² Not only does understanding this connection help catch criminals, it can help prevent violent crimes. An early intervention plan can be implemented so that animal abusers can be appropriately punished, treated, and counseled in order to prevent future serial killers and serial rapists.¹²³

IV. SUGGESTIONS TO PREVENT ANIMAL ABUSERS FROM ABUSING HUMANS

In view of the demonstrated link between animal abuse and violence against humans, legislatures, prosecutors, police, and society should recognize the need for preventing animal cruelty. First and foremost, felony animal cruelty statutes should be enacted and strictly enforced to protect the animal. An ancillary benefit is that these statutes would also prevent violence against humans. Voters should pressure legislatures to enact tougher animal anti-cruelty laws. Witnesses of animal abuse should report these crimes and be willing to testify. Police, in addition to actively enforcing cruelty laws, should look beyond that single victim of violence, such as a pet, child, or partner, for other victims within the family and possibly other abusers who were influenced by the hostile environment to become violent themselves. Finally, prosecutors must treat even minor acts of cruelty seriously

¹¹⁷ *Id.*

¹¹⁸ Randall Lockwood & Ann Church, *Deadly Serious: An FBI Perspective on Animal Cruelty*, in *CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE* 241, 242 (Randall Lockwood & Frank R. Ascione eds., 1998) [interviewing Supervisory Special Agent Alan Brantley of the FBI's Investigative Support Unit (ISU), also known as the Behavioral Science Unit]. The FBI believes this number may be even higher because many of the multiple murderers may not have been willing to admit to animal abuse. *Id.*

¹¹⁹ PETA, *supra* note 89.

¹²⁰ Lockwood & Church, *supra* note 118, at 243.

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

and recommend appropriate sentences and treatment as a condition of sentence and/or probation in order to prevent future violent conduct.

This section suggests ways to prevent animal abusers from continuing their cycle of violence. Part A recommends that all states should enact felony animal cruelty laws. Part B suggests the use of criminal fines to support humane societies. Part C recommends that animal cruelty laws should be properly enforced. Part D suggests that early intervention will help prevent violence. Finally, Part E suggests that veterinarians should be required to report animal abuse to law enforcement. While some of these suggestions will require additional resources, the prevention of violence and criminal activity that will result from their implementation will save money in the long-term.

A. *Enacting Felony Anti-Cruelty Laws*

Currently, only thirty-one states make animal cruelty a felony.¹²⁴ This is partially a result of society's continued view that animals are property. This attitude toward animals must first change before the common law property concept can be eradicated from current anti-cruelty laws. Only when society learns to respect animals will laws be enacted in all fifty states to make cruelty to any animal, and not just commercially valuable animals, a felony.¹²⁵ In addition, strengthening these laws would be politically advantageous to legislators. Surveys show that seventy-five percent of Americans support re-electing legislators who are tough on animal cruelty.¹²⁶

Moreover, strengthening animal anti-cruelty laws is an important step in preventing future violence. Because the FBI no longer reports misdemeanors,¹²⁷ a felony conviction would help them track animal abusers. Without felony cruelty laws, convicted animal abusers who move to another state will start with a "clean" record. It follows that unless states enact felony cruelty laws, prosecutors at sentencing will have no way of knowing if a transient defendant has a history of animal abuse. Therefore, they cannot recommend appropriate punishment and counseling.¹²⁸

¹²⁴ Telephone Interview with Lila Wadhali, The Humane Society of the United States (Aug. 21, 2000).

¹²⁵ Arluke & Levin, *supra* note 63. Surveys show that seventy-one percent of adults favor felony laws for animal abuse, and eighty-one percent of adults favor covering all animals.

¹²⁶ HSUS: *Public Wants Tougher Laws, Enforcement, Tracking of Animal Abuse*, U.S. NEWSWIRE, Mar. 11, 1997, available in 1997 WL 5711312.

¹²⁷ Marquis, *supra* note 72, at 199 (arguing for felony anti-cruelty laws).

¹²⁸ Ritter, *supra* note 100, at 33 (discussing evidence prosecutor needs at sentencing). Psychological counseling and anger control management must be part of the sentence for animal abusers. See Church, *supra* note 74, at 22-26 (suggesting mandatory psychological counseling); John Sanko, *Bill Toughens Penalties in Animal Abuse*, ROCKY Mtn. NEWS, May 7, 1997, at 12A (discussing then pending legislation in Colorado). The abuser should also be required to pay for this treatment. Ann Church, *Crimes Against Animals Should Carry Felony Charge*, WASH. TIMES, July 29, 1997, at C2 (discussing The Humane Society of the United States' recommendations). Treatment for the whole

Furthermore, states should require local agencies, such as law enforcement, humane societies, women's shelters, and veterinarians to share information about abusers.¹²⁹ Sharing information will help law enforcement track both human and animal abusers. For example, if women's shelters contacted law enforcement when a woman was seeking protection, police could interview her about other possible human and animal victims in her home, and then, if necessary, police could help find shelters for those victims. This solution would also help prevent children who witness human and animal abuse from becoming abusers themselves. This shared information coupled with a felony conviction could save many potential victims.

Additionally, state anti-cruelty statutes should remove antiquated defenses, such as the "good cause" and "training" defenses, which protect abusers rather than their victims.¹³⁰ These defenses not only reinforce the concept that animals are property by essentially allowing people to treat their animals as they please under the guise of "training," but they also allow abusers to exculpate themselves and continue their violence against animals.

Finally, tougher anti-cruelty laws provide prosecutors with a powerful bargaining tool in plea negotiations, which can be used to mandate counseling, treatment, and fines. This in turn will help prevent violent behavior by the defendant.

B. Criminal Fines Should Support Humane Societies

Studies show that at least thirty percent of abused women would leave their abusive spouse or partner sooner if they could find homes for their pets.¹³¹ A humane society in Provo, Utah has responded by implementing a plan where the pets of abused women are housed for two weeks until a permanent home is found for the animal.¹³² This

family may also be required in order to prevent other forms of violence in the home. Lockwood & Hodge, *supra* note 82, at 82.

¹²⁹ THE HUMANE SOCIETY OF THE UNITED STATES *supra* note 100. See also Frasch et al., *supra* note 61, at 74 (stating that four states and the District of Columbia statutorily provide for cross-reporting); *Cruel to Animals and People*, PROVIDENCE JOURNAL BULLETIN, Dec. 13, 1997, at A15 (discussing a Rhode Island bill which would have required cross-reporting). Surveys show that seventy-five percent of adults favor tracking animal abusers. Arluke & Levin, *supra* note 63. For a further discussion of these issues, see Charlotte A. Lacroix, *Another Weapon for Combating Family Violence: Prevention of Animal Abuse*, 4 ANIMAL L. 1, 21 (1998) (discussing cross-reporting).

¹³⁰ See *supra* notes 50, 52-53 and accompanying text for a discussion of these defenses. See also Friend, *supra* note 9, at 218 (arguing for curtailment of legal defenses in animal cruelty cases).

¹³¹ Stoeltje, *supra* note 1. See also Adams, *supra* note 90, at 332 (discussing sheltering the animals of battered women).

¹³² Vince Horiuchi, *Abused Pets Can Denote Domestic Abuse, Study Says; Abuse of Pets Denotes Family Violence*, SALT LAKE TRIB., Sept. 21, 1997, at C1. Shelters should be reimbursed by the abuser for housing the pets. Merritt Clifton & The Animal Legal Defense Fund, *Judging Cruelty: No Time for Animals*, THE ANIMALS' AGENDA, 1992, vol. 12 No. 3, at 25. Individuals who abuse animals should not have their pet returned to them following a conviction. Frasch et al., *supra* note 61, at 74 (listing thirty-six state

solution allows women to escape the abusive situation before the violence escalates any further. Animal shelters can play an integral role in helping prevent future animal and human violence. Therefore, effective anti-cruelty statutes should include substantial fines to support these local humane societies.¹³³ These fines could be used to implement the Utah plan throughout the country.

C. *Anti-Cruelty Laws Must be Properly Enforced*

The enforcement of anti-cruelty laws should be improved.¹³⁴ This requires the combined efforts of prosecutors, police, and society. First, individuals who witness animal abuse need to report these crimes to the appropriate authorities.¹³⁵ Currently, fifty-eight percent of those who witness animal abuse or neglect never report it.¹³⁶ This permissive attitude allows the progression of animal and human victims to continue.

Second, law enforcement officers should be educated about current anti-cruelty laws and trained how to enforce them properly. Abuse usually involves multiple animal and human victims.¹³⁷ Thus, police should be trained to look beyond a single victim. Once police look beyond the reported violence, many potential animal and human victims may be saved. If police are investigating animal abuse, they should interview other individuals living in the home to see if they are also

statutes which allow court to forfeit animals upon defendant's conviction). *See also* Church, *supra* note 74, at 23 (arguing convicted animal abuser should not get animal back); Church, *supra* note 128, at C2 (discussing The Humane Society of the United States' recommendations). Humane societies could house these pets, at the abuser's expense, until a new permanent home is found. Furthermore, because of the recognized cycle of violence, people convicted of abusing animals and humans in Canada may soon be permanently prohibited from owning *any* pets. Jim Bronskill, *Harsher Penalties Planned for Cruelty Against Animals*, EDMONTON JOURNAL, Apr. 8, 1997, at A9. In order to enforce this type of statute, legislatures should establish either a national or regional pet registry, requiring pet sellers to register all pet owners. Lacroix, *supra* note 129, at 21-23 (arguing for national and/or regional registry documenting incidence of animal abuse). This could help prevent abusers from ever purchasing another victim. Unfortunately, this solution would not prevent private sales of pets to potential abusers. States, however, should closely regulate the sale of animals. Further, this law could include a waiting period to allow pet sellers to check a database for a history of abuse by the potential buyer. If the individual has a conviction for animal, child, or domestic abuse the pet seller would refuse to sell that person the animal. If the pet seller knowingly sells a pet to one of these abusers, the seller could be held criminally liable.

¹³³ Friend, *supra* note 9, at 222 (arguing fines should support animal welfare agencies).

¹³⁴ *Id.* at 221 (arguing for improved enforcement of animal anti-cruelty laws).

¹³⁵ Robin Franzen, *How You Can Help*, THE OREGONIAN, Aug. 11, 1996, at A16 (discussing how the public can help stop animal cruelty). *See also* Rosen, *supra* note 101, at 343-44 (discussing how elder care workers can spot abusive situations).

¹³⁶ Stoeltje, *supra* note 1. A survey of one thousand people reported that sixteen percent witnessed an incident of animal cruelty in the past five years but less than half reported these crimes. HSUS: *Public Wants Tougher Laws, Enforcement, Tracking of Animal Abuse*, *supra* note 126.

¹³⁷ *See generally* Kellert & Felthous, *supra* note 90.

being abused. Conversely, when investigating domestic abuse, police should visually exam pets in the home to determine if they are also victims of abuse.

Finally, once police collect the evidence and witnesses are willing to testify, prosecutors must take animal abuse seriously. Animal cruelty can no longer be dismissed with a slap on the wrist or a simple "boys will be boys" attitude. The criminal justice system must intervene so that animal abusers can receive appropriate psychological counseling and anger control management as a condition of their sentence.¹³⁸ When the criminal justice system intervenes, it will often discover other violence in the home; therefore, treatment to the whole family may be ordered.¹³⁹ Moreover, prosecutors must realize that by appropriately prosecuting the abuser, they are in a position to help protect many future animal and human victims. Prosecuting the abuser removes the violence from the home and prevents the offender's behavior from influencing his or her children from becoming violent toward animals and/or humans. Therefore, proper enforcement of anti-cruelty laws should prevent generations of abuse and abusers, saving resources that can be allocated to prevent other criminal activity.

D. Early Intervention to Prevent Animal Abuse

Children who abuse animals need to be identified, deterred, and counseled at an early age in order to prevent future violence. Childhood behavior is more important than teenage behavior in predicting future violence and presumably easier to treat and control.¹⁴⁰ Intervention at the earliest possible age is recommended because early prevention is more likely to reduce adult crime than criminal sentences later in life.¹⁴¹ Teachers and parents should understand the seriousness of animal abuse and its connection to human violence.¹⁴² If a teacher or parent suspects that a child is abusing animals, they should contact law enforcement to conduct a further investigation.

It follows as part of this early intervention that children should be taught at an early age to both care for and respect animals¹⁴³ and that animals are sentient beings capable of feeling pain.¹⁴⁴ Once children understand how to treat animals, they will be less likely to abuse them.

¹³⁸ Church, *supra* note 128. The abuser should be required to pay for this treatment.

¹³⁹ Lockwood & Hodge, *supra* note 82, at 82. How to properly counsel animal abusers is beyond the scope of this article. However, for more information regarding this issue, please contact Randall Lockwood, Ph.D., Vice President, The Humane Society of the United States, 2100 L Street, N.W. Washington, D.C. 20037; (202) 452-1100.

¹⁴⁰ THE HUMANE SOCIETY OF THE UNITED STATES, *supra* note 100.

¹⁴¹ *Id.*

¹⁴² HSUS: *Public Wants Tougher Laws, Enforcement, Tracking of Animal Abuse*, *supra* note 126.

¹⁴³ PETA, *supra* note 89. See THE HUMANE SOCIETY OF THE UNITED STATES, *supra* note 100.

¹⁴⁴ Lockwood & Hodge, *supra* note 82, at 81.

E. Veterinarians Should Report Animal Abuse

Since 1967, all states have required health care professionals to report child abuse.¹⁴⁵ However, only Minnesota and West Virginia require veterinarians to report animal cruelty.¹⁴⁶ To help prevent a cycle of violence, all states should require veterinarians to report animal abuse.¹⁴⁷ This may raise an ethical dilemma for veterinarians, namely, "does the veterinarian have a primary obligation to the animal or to the owner?"¹⁴⁸ Ethical guidelines appear to protect veterinarians who report animal abuse. The American Veterinary Medical Association (AVMA) Principles of Veterinary Medical Ethics states that "the responsibilities of the veterinary profession extend not only to the patient but also to society [and] [t]he health of the community. . . ."¹⁴⁹ The AVMA ethics further provides that:

The ethical ideals of the veterinary profession imply that a doctor of veterinary medicine and the veterinarian's staff will protect the personal privacy of clients, unless the veterinarian is required, by law, to reveal the confidences or unless it becomes necessary in order to protect the health and welfare of the individual, the animals, and/or others whose health and welfare may be endangered.¹⁵⁰

Anti-cruelty laws should recognize the unique position veterinarians are in to stop future violence to both animals and humans. This is illustrated by Michael McCulloch, a psychiatrist, who estimates that small animal practitioners in the United States see fifty-five million pets and one-hundred million people annually.¹⁵¹ Since animal abus-

¹⁴⁵ Phil Arkow, *The Correlation Between Cruelty to Animals and Child Abuse and the Implications for Veterinary Medicine*, in *CRUELTY TO ANIMALS AND INTERPERSONAL VIOLENCE* 409 (Randall Lockwood & Frank R. Ascione eds., 1998). Only Colorado statutorily mandates that veterinarians report suspected child abuse. *Id.* at 411. Notably, fifteen states do not consider veterinarians health professionals, and therefore, veterinarians are not required to report child abuse. *Id.* This should have changed with a 1981 Internal Revenue Service ruling which considered veterinary medicine to be within the "field of health" and similar to physicians, nurses, and dentists. *Id.* at 410-11.

¹⁴⁶ Frasch et al., *supra* note 61, at 75. *See also* Lacroix, *supra* note 129, at 20-21 (discussing mandatory reporting). Historically, both animal welfare and child welfare were linked. Arkow, *supra* note 145, at 409. Jill D. Moore, *Charting a Course Between Scylla and Charybdis: Child Abuse Registries and Procedural Due Process*, 73 N.C. L. REV. 2063, 2121 n.25 (1995).

¹⁴⁷ Eighty percent of people support requiring animal welfare workers to report animal abuse. *HSUS: Public Wants Tougher Laws, Enforcement, Tracking of Animal Abuse*, *supra* note 126. *See also* Arkow, *supra* note 145, at 412 (recommending how veterinarians should handle animal abuse cases).

¹⁴⁸ Arkow, *supra* note 145, at 411.

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.* This study was conducted in 1976, therefore, current numbers may be much higher.

ers often abuse humans, a law requiring veterinarians to report animal abuse would prevent violence against people.¹⁵²

V. CONCLUSION

It is of vital importance that legislatures, law enforcement, and society apply the conclusions drawn by the studies linking animal abuse and violence toward humans. Enacting and properly enforcing felony animal anti-cruelty laws would be a momentous step in preventing both generations of abusers and scores of animal and human victims.

¹⁵² *Id.* at 412. Arkow also recommends that veterinarians:

(1) Take reports of cruelty to animals seriously. (2) Do not be afraid to become involved. (3) Participate and take leadership in community coalitions against violence. (4) Become aware of various roles which pets play for individuals and families seen in practice. (5) Clarify and articulate your personal responsibilities to both patients and clients, so as to mitigate inevitable ethical dilemmas and avoid sending out mixed messages to your clientele and the general public.

Id. at 414 (arguing veterinarians should be legally mandated to report abuse).

