

COMMENTS

ANIMAL VIOLENCE COURT: A THERAPEUTIC JURISPRUDENCE-BASED PROBLEM-SOLVING COURT FOR THE ADJUDICATION OF ANIMAL CRUELTY CASES INVOLVING JUVENILE OFFENDERS AND ANIMAL HOARDERS

By
Debra L. Muller-Harris*

Cases involving cruelty to animals are currently handled by the traditional criminal courts. These courts, however, are not effective at punishing animal abusers or protecting animal victims. Although all states have laws criminalizing various forms of animal cruelty, the reality is that most cruelty cases are not prosecuted; even when cruelty cases are successfully prosecuted, punishments are weak. This Comment proposes the creation of an Animal Violence Court, using juvenile animal abusers and adult hoarders as ideal candidates for a pilot animal cruelty justice system. The Animal Violence Court will provide for the ongoing safety and care of animal victims, will work to rehabilitate offenders, and will require long-term monitoring of offenders by the court. Modeled after similar problem-solving courts, the Animal Violence Court will improve upon the current criminal justice system, rehabilitate offenders, and protect innocent animals, sending a clear message that animal abuse will not be tolerated.

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* © Debra L. Muller-Harris. Ms. Muller-Harris is a Licensed Clinical Social Worker and a 2011 J.D. Candidate at Phoenix School of Law. She currently serves as a Student Liaison to the Animal Law Section of the State Bar of Arizona. Ms. Muller-Harris expresses her gratitude and appreciation to Judge David Cole and Judge Michael Jones for their comments, suggestions, and encouragement. She also thanks the law review board and editorial staff at Lewis & Clark Law School. Special thanks go to Robert Harris and the “Harris Hounds” for their unconditional love and support.

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I. INTRODUCTION

*MY LORDS, I [am] now to propose for the humane consideration of the House a subject which has long occupied my attention, and which, I own to your Lordships, is very near my heart.*¹

This Comment is intended to begin a discussion on the useful applications of a problem-solving court to adjudicate animal cruelty cases involving juvenile offenders and animal hoarders. As a structural and operational blueprint, the proposed court looks to the victim-centered domestic violence courts² that have been successfully implemented in many jurisdictions across the United States. This new problem-solving court, the Animal Violence Court, would offer offenders charged with animal abuse or animal cruelty an alternative to traditional criminal court proceedings.

The Animal Violence Court is designed to integrate the criminal justice system with animal protection agencies, humane law enforcement officers, probation officers, case managers, and community-based mental health treatment providers. All of these entities must work to-

¹ Animal Rights History, *The Speech of Lord Erskine on the Second Reading of the Bill for Preventing Malicious and Wanton Cruelty to Animals*, <http://www.animalrights.org/library/ers-lord-erskine/1809-erskine-speech.htm> (accessed Apr. 2, 2011). In 1809, Lord Erskine stood before the English Parliament and presented this bill to his peers in Parliament. Unfortunately, it did not pass, and England would not have comprehensive animal cruelty legislation until “Martin’s Act” was passed in 1822. J.E.G. De Montmorency, *State Protection of Animals at Home and Abroad*, in *The Law Quarterly Review* 31, 41–42 (Sir Frederick Pollock ed., Clarendon Press 1902). Meanwhile, in America, Henry Bergh was leading a growing anti-cruelty movement, beginning with the 1866 founding of the American Society for the Prevention of Cruelty to Animals (ASPCA) in New York City. ASPCA, “Regarding Henry”: A “Bergh’s-eye” View of 140 Years at the ASPCA, <http://www.aspc.org/about-us/history.aspx> (accessed Apr. 2, 2011).

² See e.g. Ctr. for Ct. Innovation, *Brooklyn Domestic Violence Court*, <http://www.courtinnovation.org/index.cfm?fuseaction=page.ViewPage&PageID=599¤tTopTier2=true> (accessed Apr. 2, 2011) (describing the Brooklyn Felony Domestic Violence Court).

gether if they are to achieve the primary mission of the Animal Violence Court: to safeguard and protect the animal victim. Holding an offender accountable for acts of cruelty to animals is the most effective means to achieve this goal.³

The criminal justice system's current method of dealing with cases involving acts of violence against animals is to use the traditional criminal court proceeding.⁴ These proceedings make use of existing state animal cruelty laws, for which the resulting punishments are often very short jail sentences, usually with time served, or nominal fines.⁵ These types of punishments are ineffective at reducing recidivism or preventing future acts of violence against animals and humans because they rarely deal with the underlying psycho-social issues that are at the root of the offender's behavior.⁶ Unfortunately, many perpetrators of animal cruelty will never even be punished for their crimes because prosecutors do not always prosecute animal abusers.⁷

There are many reasons why animal abuse cases are not prosecuted. Some prosecutors do not prosecute animal cruelty cases because they are influenced by local politics to ignore such "trivial actions against perpetrators of 'minor' crimes."⁸ Others do not have the knowledge, resources, or money to successfully prosecute animal cruelty cases,⁹ which usually require evidence and testimony from veterinary medicine practitioners, veterinary forensics experts, animal care and husbandry experts, law enforcement officers, animal care and control officers, and animal rescue organizations.¹⁰

Whether the reason is a lack of funds, resources, or knowledge, or simply politics, the reality is that prosecutors are not consistently prosecuting animal cruelty and abuse cases.¹¹ In doing so, prosecutors are missing a valuable opportunity to bring offenders into the criminal

³ See Humane Socy. of the U.S., *First Strike: The Violence Connection*, 9 (Humane Socy. of the U.S. 2008) (available at http://www.humanesociety.org/assets/pdfs/abuse/first_strike.pdf (accessed Apr. 2, 2011)) (offering reasons why prosecution of animal cruelty offenses can be an effective weapon for law enforcement) [hereinafter *First Strike*].

⁴ See *id.* (listing animal cruelty as a crime that is often considered a secondary offense compared to the other crimes that dominate prosecutors' caseloads).

⁵ See e.g. Animal Leg. Def. Fund (ALDF), *Animal Fighting Case Study: Craig Boyd*, <http://www.aldf.org/article.php?id=929> (updated Feb. 2009) (accessed Apr. 2, 2011) (demonstrating that many offenders receive short, lenient penalties for dog fighting); see also e.g. ALDF, *Animal Hoarding Case Study: Vikki Kittles*, <http://www.aldf.org/article.php?id=1301> (accessed Apr. 2, 2011) (showing little effect of criminal penalties on one exploitive animal hoarder).

⁶ Margit Livingston, *Desecrating the Ark: Animal Abuse and the Law's Role in Prevention*, 87 Iowa L. Rev. 1, 29-30 (2001).

⁷ See generally ALDF, *Why Prosecutors Don't Prosecute*, <http://www.aldf.org/article.php?id=245> (accessed Apr. 2, 2011) (suggesting reasons why prosecutors do not always charge animal abusers for their crimes).

⁸ Randall Lockwood, *Animal Cruelty Prosecution: Opportunities for Early Response to Crime and Interpersonal Violence* 1 (Am. Prosecutors Research Inst. 2006).

⁹ *Why Prosecutors Don't Prosecute*, *supra* n. 7.

¹⁰ Lockwood, *supra* n. 8, at 3.

¹¹ *First Strike*, *supra* n. 3.

justice system, hold them accountable for their acts, and provide them with valuable behavioral health treatment that may prevent future crimes, make our communities safer, and protect the animal victims who are voiceless and powerless to protect themselves.¹²

II. THERAPEUTIC JURISPRUDENCE AND PROBLEM-SOLVING COURTS

The term “therapeutic jurisprudence” was first introduced to the legal community by Professors David Wexler and Bruce Winick.¹³ Since its introduction, therapeutic jurisprudence has become an integral part of the American legal system, so much so that the term has earned a much coveted place in Black’s Law Dictionary, where it is defined as “[t]he study of the effects of law and the legal system on the behavior, emotions, and mental health of people; esp., a multidisciplinary examination of how law and mental health interact.”¹⁴

Therapeutic jurisprudence “focuses on the law’s impact on emotional life and psychological well-being.”¹⁵ It asks “whether [the] law’s antitherapeutic effects can be reduced and its therapeutic effects enhanced without subordinating due process and other justice values.”¹⁶ Therapeutic jurisprudence “regards the law as a social force that produces behaviors and consequences”¹⁷ that will serve to promote justice and protect victims when “law is a therapeutic agent; positive therapeutic outcomes are important judicial goals; and the design and operation of the courts can influence therapeutic outcomes.”¹⁸

Problem-solving courts emerged from the theoretical groundwork laid by the therapeutic jurisprudence movement.¹⁹ Some examples of problem-solving courts include: mental health courts; drug courts; domestic violence courts; juvenile justice courts; sex offense courts; community courts; truancy courts; veterans courts; and homeless courts.²⁰

¹² *Id.* at 2–3.

¹³ David B. Wexler, *The Development of Therapeutic Jurisprudence: From Theory to Practice*, 68 Rev. Juridica. U.P.R. 691, 693–95 (1999).

¹⁴ *Black’s Law Dictionary* 933 (Bryan A. Garner ed., 9th ed., West 2009).

¹⁵ David B. Wexler, *Therapeutic Jurisprudence: An Overview*, 17 Thomas M. Cooley L. Rev. 125, 125 (2000).

¹⁶ Bruce J. Winick & David B. Wexler, *Therapeutic Jurisprudence*, in *Encyclopedia of Law & Society: American and Global Perspectives* 1480, 1481 (David S. Clark ed., Sage Publications 2007).

¹⁷ Wexler, *supra* n. 15.

¹⁸ Natl. Council of Juv. et al., *Juvenile Drug Courts: Strategies in Practice*, <http://www.ncjrs.gov/txtfiles1/bja/197866.txt> (accessed Apr. 2, 2011).

¹⁹ See Bruce J. Winick, *Therapeutic Jurisprudence and Problem Solving Courts*, 30 Fordham Urb. L.J. 1055, 1060 (2003) (stating that problem-solving courts grew out of an interdisciplinary approach to address the underlying problem, not just the symptoms, of substance abuse, domestic violence, child abuse, mental illness, and certain kinds of criminality).

²⁰ See Erie Co. Govt., *The Buffalo Veterans Treatment Court*, http://www.erie.gov/veterans/veterans_court.asp (accessed Apr. 2, 2011) (describing the launch of the first veterans treatment court training program in the nation); Gen. Relief Opportunities for Work, *Homeless Court*, http://www.ladpss.org/dpss/grow/homeless_court.cfm (accessed

These courts were created by the legal community in response to frustration with the traditional, adversarial court system, which had become overwhelmed, overburdened, and increasingly unsuccessful at reducing recidivism and keeping communities safe.²¹

Today's problem-solving courts are "distinguished by a number of unique elements: a problem-solving focus; a team approach to decision-making; integration of social services; judicial supervision of the treatment process; direct interaction between defendants and the judge; community outreach; and a proactive role for the judge inside and outside of the courtroom."²² Problem-solving courts have been described as "specialized tribunals established to deal with specific problems, often involving individuals who need social, mental health, or substance abuse treatment services."²³

III. PRINCIPLES AND PRACTICES OF IMPLEMENTING AN ANIMAL VIOLENCE COURT

Through the integration of community-based treatment programs within the legal system, the Animal Violence Court must strive to meet such goals as: assuring the ongoing safety and care of the animal victim; rehabilitating the offender; preventing future criminal acts with long-term monitoring; and holding animal abusers accountable for their actions, making it clear that animal abuse is unacceptable in our society.²⁴

As ideal candidates for a pilot therapeutic jurisprudence-based Animal Violence Court, I have chosen both juvenile animal abusers and adult animal hoarders. The reason for my choice: Each of these types of offenders' abusive behavior toward animals may be indicative of an underlying mental illness (e.g., conduct disorder, impulse control disorder, schizophrenia, dementia, delusional disorder, or obsessive compulsive disorder);²⁵ physical abuse; sexual abuse; psychological abuse; environmental issues; interpersonal problems; or dysfunctional

Apr. 2, 2011) (describing Los Angeles's Homeless Court Program); see generally Ctr. for Ct. Innovation, <http://www.courtinnovation.org/> (accessed Apr. 2, 2011) (providing information on a variety of different problem-solving courts)

²¹ See Winick, *supra* n. 19, at 1055–56, 1060 (stating that "[a]ll of these courts grew out of the recognition that traditional judicial approaches have failed, at least in the areas of substance abuse, domestic violence, certain kinds of criminality, child abuse and neglect, and mental illness").

²² Donald J. Farole, Jr., et al., *Applying Problem-Solving Principles in Mainstream Courts: Lessons for State Courts*, 26 Just. Sys. J. 57, 57 (2005) (available at http://www.cuttingedgelaw.com/sites/default/files/applying_ps_principles.pdf (accessed Apr. 2, 2011)).

²³ Winick, *supra* n. 19, at 1055.

²⁴ See generally Yukon Cts., *Domestic Violence Treatment Option Court*, <http://www.yukoncourts.ca/courts/territorial/dvtoc.html> (accessed Apr. 2, 2011) (listing several goals of the Yukon Court's Domestic Violence Treatment Court option).

²⁵ See Am. Psychiatric Assn., *Diagnostic and Statistical Manual of Mental Disorders* 93–99, 147–150, 297–302, 323–26, 456–58 (4th ed. & Text Revision, 2000) (listing symptoms and diagnostic criteria for each disorder).

family issues. Left without proper behavioral health treatment and social service interventions, individuals with these issues may make communities unsafe and become long-term drains on tax dollars unnecessarily.²⁶

Failing to intervene when an offender is young can lead to the accumulation of enormously high costs associated with a lifetime of crime (e.g., property damage, arrests, court proceedings, probation, parole, and incarceration).²⁷ The financial threat posed by hoarders is particularly intimidating because the recidivism rate for animal hoarders is nearly 100% and each animal hoarding incident can quickly deplete the finances of municipalities and animal rescue organizations tasked with the cleanup and care of hundreds of sick and dying animals.²⁸ Thus, by intervening, holding the offender accountable, and requiring the appropriate mental health treatment, the Animal Violence Court will provide a better chance for successful rehabilitation of juvenile offenders and adult animal hoarders than the existing criminal justice system.

A. Juvenile Offenders

*One of the most dangerous things that can happen to a child is to kill or torture an animal and get away with it.*²⁹

²⁶ See Press Release, Just. Policy Inst., *Prisons and Policing Prioritized over People During Economic Crisis* (Sept. 16, 2010) (available at <http://www.justicepolicy.org/content-hmID=1811&smID=1581&ssmID=104.htm#press> (accessed Apr. 2, 2011)) (describing how positive social investments will improve public safety and promote the well-being of communities).

²⁷ See Ctr. for Pub. Policy Research, U. of Cal. & St. of Cal. Dept. of Corrects. & Rehab., *The Cost of Crime: Issues for California-Specific Estimation, Interim Rpt.* 15 (Oct. 2009) (available at http://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/CDCR%20Interim%20Report%20Cost%20of%20Crime%20Project%2010-31-09.pdf (accessed Apr. 2, 2011)) (attributing savings to crime reduction); Dept. of Health & Human Servs., *Youth Violence: A Report of the Surgeon General*, <http://www.surgeongeneral.gov/library/youthviolence/chapter5/sec7.html> (accessed Apr. 2, 2011) (asserting that preventing crime averts the costs associated with incarceration and property losses); see also Mark A. Cohen, *The Monetary Value of Saving a High-Risk Youth*, 14 *J. of Quantitative Criminology* 5, 16 (1998) (available at <http://springerlink.com/content/j238622781280404/fulltext.pdf> (accessed Apr. 2, 2011)) (illustrating costs associated with criminal investigations, legal defense, parole, and probation); see generally RAND Corporation, *Diverting Children from a Life of Crime: What Are the Costs and Benefits?*, http://www.rand.org/pubs/research_briefs/RB4010/index1.html (accessed Apr. 2, 2011) (illustrating reduction in arrests resulting from various crime prevention programs).

²⁸ Lisa Avery, *From Helping to Hoarding to Hurting: When the Acts of "Good Samaritans" Become Felony Animal Cruelty*, 39 *Val. U. L. Rev.* 815, 834, 839 (2005).

²⁹ Melissa McHendrix, *The Kids Aren't Alright: A Critique of Animal Cruelty Statutes and the Juvenile Justice System in Kentucky*, 1 *J. Animal Envtl. L.* 290, 298 (2010) (available at http://www.jael-online.org/wp-content/uploads/2010/07/V1N2_McHendrix.pdf (accessed Apr. 2, 2011)) (quoting Margaret Mead).

Where there is violence to animals there is also violence to humans; they co-occur.³⁰ This co-occurrence between animal violence and human violence has long been recognized by commentators and historians.³¹ In 1751, British artist and social commentator William Hogarth depicted the co-occurrence of animal and human violence in a terrifying series of engravings called “The Four Stages of Cruelty.”³² Hogarth’s engravings chronicle the life of Tom Nero, a fictional character who is depicted torturing a dog during childhood, committing a rape and murder as an adult, and ultimately facing his inevitable and exceptionally gory death by hanging as punishment for his crimes.³³ Today, social scientists and researchers have firmly established, through well-documented research, that there is a co-occurrence between violence to animals and violence to humans, which they commonly refer to as “the link.”³⁴

An abused or neglected animal could very likely be indicative of an abused or neglected person.³⁵ Many times a family’s first intervention by social services results from an investigation following a report of animal abuse.³⁶ The dangers to children and animals who live in violent homes is so prevalent that many states have begun to recognize the need to mandate the cross-enforcement and cross-reporting of incidents of animal abuse and child abuse between child protective services and animal control officers. In 2010, nine states and the District of Columbia enacted laws mandating that animal control officers and social service agencies cross-report incidents of child and animal abuse.³⁷ In addition, recognizing a growing need to protect all members of a family, including pets, many states have begun to enact laws

³⁰ Interview with Dr. Christina Risley-Curtiss, Assoc. Prof. at Ariz. St. U. (Sept. 6, 2010).

³¹ Joan E. Schaffner, *The Link Between Animal Abuse and Human Violence* 228 (Andrew Linzey ed., Sussex Academic Press 2009).

³² Tate Britain, *Hogarth’s Modern Moral Series: The Four Stages of Cruelty*, <http://www.tate.org.uk/britain/exhibitions/hogarth/modernmorals/fourstagesofcruelty.shtm> (accessed Apr. 2, 2011).

³³ *Id.*

³⁴ Frank R. Ascione & Phil Arkow, *Child Abuse, Domestic Violence and Animal Abuse: Linking the Circles of Compassion* preface, xviii (Frank R. Ascione & Phil Arkow eds., Purdue U. Press 1999).

³⁵ See Barbara W. Boat, *Abuse of Children and Animals: Using the Links to Inform Child Assessment and Protection*, in *Child Abuse, Domestic Violence and Animal Abuse: Linking the Circles of Compassion* 84 (Frank R. Ascione & Phil Arkow eds., Purdue U. Press 1999) (stating that “[q]uestions about animal-focused violence or threats of violence can be included in standard assessments made during child protection investigations . . .”).

³⁶ Angel Group, *Facts about Animal Abuse and Domestic Violence*, <http://www.angelgroup.org/articles/239-facts-about-animal-abuse-and-domestic-violence> (accessed Apr. 2, 2011).

³⁷ Stephan K. Otto, *Animal Protection Laws of the United States of America and Canada* CA-7, CA-63, FL-6, FL-27, ME-11, ME-23, MA-5, MA-17, NE-5, NE-21, OH-9, OH-43, OR-7, OR-27, TN-7, TN-43, WV-7, WV-8, WV-41 (5th ed., ALDF 2010) (identifying states with cross-reporting statutes: California, Florida, Maine, Massachusetts, Nebraska, Ohio, Oregon, Tennessee, and West Virginia).

that include animals in orders of protection. By 2010, fifteen states had adopted legislation designed to include pets in orders of protection, especially following an incident of domestic violence in the home.³⁸

There are many questions that arise when assessing the link between animal abuse and domestic violence. Are there reliable predictors that indicate whether a juvenile will develop into an adult criminal? Do juvenile victims of abuse run a greater risk of becoming abusers as adults? Can the same be said of juveniles who have witnessed animal abuse in their homes? One study done in 2003 found that adults incarcerated for violent crimes had an extremely high incidence of childhood and adolescent animal cruelty offenses.³⁹ Another study conducted in 2005 found that out of twenty sexual homicide offenders, all twenty had a history of animal abuse.⁴⁰ Still another study that began in 1990 and was conducted over the course of ten years found that children aged six to twelve years old who were described as being “cruel to animals” were more than twice as likely as other children in the study to be reported to juvenile authorities for a violent offense.⁴¹ This research demonstrates the need for the legal system to recognize animal cruelty as a reliable indicator, if not a predictor, of the likelihood of a juvenile offender developing into a violent adult. It also suggests and supports the need for proactive intervention before it becomes too late.

As if the research was not enough, there are stories almost daily of juvenile violence reported by the media. For example, in 1999 Eric Harris and Dylan Klebold killed fourteen classmates and one teacher at Columbine High School in Littleton, Colorado. Both Klebold and Harris had reportedly told their friends that they had mutilated animals.⁴² After Luke Woodham killed his mother and two classmates, investigators recovered his journal, which contained an entry describing how he tortured and burned his dog, Sparkle, to death, recalling his horrific acts as a thing of “true beauty.”⁴³ Kip Kinkel, who mur-

³⁸ Joshua L. Friedman & Gary C. Norman, *Protecting the Family Pet: The New Face of Maryland Domestic Violence Protective Orders*, 40 U. Balt. L. Forum 81, 9495 n. 99 (2009); Minn. Voters for Animal Protection, *Legislative Wrap Up for 2009–2010*, <http://votersforanimals.org/issues-legislation/legislative-wrap-up-for-2009-2010/> (accessed Apr. 2, 2011).

³⁹ Linda Merz-Perez & Kathleen M. Heide, *Animal Cruelty: Pathway to Violence against People* 92 (Altamira Press 2003).

⁴⁰ Eleonora Gullone & John P. Clarke, *Animal Abuse, Cruelty, and Welfare: An Australian Perspective*, in *The International Handbook of Animal Abuse and Cruelty: Theory, Research, and Application* 305, 327 (Frank R. Ascione ed., Purdue U. Press 2005).

⁴¹ Kimberly D. Becker et al., *A Study of Firesetting and Animal Cruelty in Children: Family Influences and Adolescent Outcomes*, 43 J. Am. Acad. Child Adolescent Psych. 905, 905–12 (2004).

⁴² Pet-abuse.com, *Abuse Connection—The Link between Animal Cruelty and Interpersonal Violence*, http://www.pet-abuse.com/pages/abuse_connection.php (accessed Apr. 2, 2011) [hereinafter *The Link*].

⁴³ Pet-abuse.com, *Animal Abuse Case Details: Brutally Beat His Dog, Sprayed Lighter Fluid down Her Throat, Then Set Her on Fire*, <http://www.pet-abuse.com/cases/1> (accessed Apr. 2, 2011).

dered both of his parents before he killed two classmates and injured twenty-two others, reportedly had a history of violence to animals that included “decapitating cats, dissecting live squirrels and blowing up cows.”⁴⁴

Juveniles who are not immediately held accountable for their acts of violence against animals are far more likely to develop into murderers and serial killers as adults, just like Patrick Sherrill, Earl Kenneth Shriner, Brenda Spencer, Albert DeSalvo (a.k.a. the “Boston Strangler”), Carroll Edward Cole, and Jeffrey Dahmer, all of whom had a history of animal cruelty.⁴⁵ This array of adult criminals who committed acts of violence against animals in their childhoods is as much chilling as it is compelling.

Clearly, animal abuse is not an act of cruelty reserved only for adults, and many juveniles who begin abusing animals early in their lives do so for vastly different reasons.⁴⁶ Some juveniles who abuse animals may be mimicking the abuse that they have witnessed in their own homes.⁴⁷ Other juveniles may harm an animal because they are seeking to protect the animal from an abuser.⁴⁸ Still others are forced to harm an animal by their abuser.⁴⁹ Regardless of the reason, when a juvenile has abused an animal, that is a behavior that must not be ignored, excused, or left unpunished. In doing so, we may be condemning the juvenile to a lifetime of criminal, maladaptive behaviors that can be passed down from one generation to the next.

Given the prevalence of juvenile violence in our society and the co-occurrence between animal violence and human violence, it can easily be concluded that early intervention in animal cruelty cases committed by juvenile offenders provides an important opportunity for treatment and monitoring that may in turn prevent future acts of violence toward animals and humans.⁵⁰

When a juvenile commits an act of animal cruelty, the case may be prosecuted in a traditional criminal court proceeding, referred to the Animal Violence Court, or referred to pre-adjudication juvenile diversion program. Disposition of the case will depend on a number of factors including: the seriousness of the offense; the age of the offender; concerns about community’ safety; the nature of the crime; the result-

⁴⁴ Pet-abuse.com, *Animal Abuse Case Details: Cats Decapitated, Mounted on Sticks, Burned*, <http://www.pet-abuse.com/cases/37> (accessed Apr. 2, 2011).

⁴⁵ *The Link*, *supra* n. 42.

⁴⁶ Frank R. Ascione, *Animal Abuse and Youth Violence*, Juv. Just. Bull. 5 (U.S. Dept. of Just. Sept. 2001) (available at <http://www.ncjrs.gov/pdffiles1/ojdp/188677.pdf> (accessed Apr. 2, 2011)).

⁴⁷ *Id.* at 6.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ See generally Am. Humane Assn., *Facts About the Link between Violence to People and Violence to Animals*, <http://www.americanhumane.org/assets/docs/human-animal-bond/HAB-LINK-facts-about-the-link.pdf> (accessed Apr. 2, 2011) (describing the prevalence of childhood animal abuse in later perpetrators of violent crimes against humans, the link between human and animal abuse, and the predictive value of both).

ing harm to the animal victim; and the offender's underlying motivation for the crime (e.g., whether the crime was violent, premeditated, aggressive, or gang-related).⁵¹

Juveniles who abuse animals are motivated to do so for a variety of different reasons, depending on their unique life experiences and history of exposure to violence. Researchers have identified several "motivations" behind juvenile animal abuse that include harming an animal out of curiosity or during exploration, because of peer pressure, as a mood enhancement (e.g., to relieve boredom or depression), as a way to emotionally abuse others via an animal victim, as an expression of trauma or aggression, or as practice for future interpersonal violence.⁵²

These motivations led Frank Ascione, a leading authority on the connection between child abuse and animal abuse, to develop three distinct types of juvenile animal abusers: 1) the exploratory/curious animal abuser; 2) the delinquent animal abuser; and 3) the pathological animal abuser.⁵³

When animal cruelty is perpetrated by an exploratory/curious animal abuser, the offender is typically a pre-school- or early elementary school-aged child who has been poorly supervised and who lacks "training on the physical care and humane treatment" of animals.⁵⁴ The most appropriate intervention for this type of offender is referral to a pre-adjudication diversion program that will conduct a thorough evaluation of the offender, and family members, before making treatment referrals.⁵⁵ In addition to providing treatment referrals, the program should also include animal education and humane treatment

⁵¹ Lockwood, *supra* n. 8, at 20, 34, 40.

⁵² Ascione, *supra* n. 46, at 5–6. Additional motivators include sexual gratification (i.e., bestiality); forced abuse (i.e., the child is coerced into abusing the animal by a more powerful individual); out of an attachment to an animal (e.g., the child kills the animal to prevent its torture by another individual); an animal phobia that causes the child to try to regain a sense of power by victimizing a more vulnerable animal (e.g., preemptively attacking a feared animal); a sense of identification with the child's abuser; and copying a parent or other adult's abusive behavior or discipline of animals (e.g., a child uses an animal to inflict injuries to the child's own body). *Id.*

⁵³ *Id.* at 7.

⁵⁴ *Id.*

⁵⁵ See generally Ariz. St. U., (ASU) *Assessment and Diversion Program*, <http://ssw.asu.edu/portal/research/animal-human-bond/children-animals-together-assessment-and-diversion-program> (accessed Apr. 2, 2011) (describing the ASU Assessment and Diversion Program in the School of Social Work). ASU currently operates the Children and Animals Together Assessment and Diversion Program (CAT) in collaboration with the Arizona Animal Welfare League/Society for Prevention of Cruelty to Animals (AAWL/SPCA). The program is for "children and youth, ages 6–17, who have committed acts of cruelty against animals" and is "designed to prevent and reduce childhood cruelty to all animals. Through age-specific interactive activities, CAT taps into the human-animal bond to build empathy and connections to animals as a means to end childhood animal cruelty and potential subsequent societal violence." *Id.*

classes designed to teach offenders empathy and compassion, and how to appropriately care for animals.⁵⁶

If the juvenile is a delinquent animal abuser, the offender's acts of animal abuse and cruelty are likely to be part of a series of antisocial behaviors and activities.⁵⁷ The delinquent animal abuser's violent and destructive behaviors may be the result of a mental illness, such as a conduct disorder, or may be the result of gang-related activities, substance abuse, or peer pressure.⁵⁸

Finally, there is the pathological animal abuser. This abuser's acts of animal violence may be symptomatic of a psychological disturbance resulting from exposure to physical abuse, sexual abuse, or domestic violence.⁵⁹ Regardless of whether the offender is a delinquent animal abuser or a pathological animal abuser, the case should be referred to the Animal Violence Court, where the offender will be held accountable and will receive individualized mental health treatment under the supervision and monitoring of the court.⁶⁰

B. Adult Animal Hoarders

*[H]e who is cruel to animals becomes hard also in his dealings with men. We can judge the heart of a man by his treatment of animals.*⁶¹

An animal hoarder is *not* the same as a reputable breeder, shelter, or rescue.⁶² According to the HOARDING OF ANIMALS RESEARCH CONSORTIUM (HARC) at Tufts University, “[a]nimal hoarding is not about animal sheltering, rescue, or sanctuary, and should not be confused with these legitimate efforts to help animals. It is about satisfying a human need to accumulate animals and control them, and this need supersedes the needs of the animals involved.”⁶³

⁵⁶ See generally Animals & Socy. Inst., *Resource Details*, <http://www.animalsandsociety.org/resources/details.php?id=26> (accessed Apr. 2, 2011) (describing one such youth-oriented education program called AniCare). AniCare is a psychological intervention program for animal abusers under age 17 that “provides comprehensive strategies and practical suggestions for assessing and treating childhood animal abuse.” *Id.*

⁵⁷ Ascione, *supra* n. 46, at 7.

⁵⁸ See *id.* at 1, 7 (describing how delinquent animal abuse may be related to gang activities, other group violence, or the use of alcohol and other substances); see also Am. Psychiatric Assn., *Diagnostic and Statistical Manual of Mental Disorders* 94, 98–99 (4th ed. Text Rev., Am. Psychiatric Assn. 2000) (stating that physical cruelty to animals may be indicative of conduct disorder).

⁵⁹ Ascione, *supra* n. 46, at 7.

⁶⁰ *Infra* pt. III(C)(1) (discussing individualized, monitored treatment through the Animal Violence Court).

⁶¹ Immanuel Kant, *Duties in Regards to Animals*, in *Animal Rights and Human Obligations* 23, 24 (Tom Regan & Peter Singer eds., Prentice Hall 1989).

⁶² Hoarding of Animals Research Consortium (HARC), *Welcome* (scrolling side bar), <http://www.tufts.edu/vet/hoarding/index.html> (2010) (accessed Apr. 2, 2011).

⁶³ *Id.*

Animal hoarders are defined as people who accumulate a large number of animals (usually cats or dogs),⁶⁴ are unable to provide the animals with food, water, shelter, or medical care, and who deny that their inability has resulted in the illness, starvation, or death of the animals.⁶⁵ Early research into the causes of animal hoarding indicates that this behavior may be the result of psychological illnesses such as obsessive compulsive disorder, delusional disorder, or dementia, which are often accompanied by self-neglect and noncompliance with psychiatric treatment, and which require long-term social and/or mental health services and interventions to achieve symptom stabilization.⁶⁶

Adult animal hoarders not only accumulate large numbers of animals, they also accumulate massive amounts of “stuff” on a continual basis that clutters, suffocates, and eventually envelopes their home.⁶⁷ Living in and amongst this squalor may be hundreds of animal victims.⁶⁸ These animal victims may lay about the debris, too ill or too malnourished to move. Even if the animal victims are not ill, the home may be so cluttered with junk and garbage that moving about is difficult, if not impossible.⁶⁹

The floors, walls, furniture, countertops, tables, rugs, and beds in a hoarding situation are usually coated with thick layers of urine and feces, polluting the air with pathogens and ammonia, making breathing while inside the home difficult and dangerous.⁷⁰ Large piles of garbage, feces, and urine within a hoarder’s home creates a health risk for the public.⁷¹ They also place all of the human and animal inhabitants

⁶⁴ Randy Frost, *People Who Hoard Animals*, 17 *Psychiatric Times* ¶ 5 (Apr. 1, 2000) (available at <http://www.psychiatrictimes.com/print/article/10168/54031?pageNumber=1&printable=true> (accessed Apr. 2, 2011)).

⁶⁵ See HARC, *Common Questions about Animal Hoarding: How Is Animal Hoarding Defined*, <http://www.tufts.edu/vet/hoarding/abthoard.htm#A1> (accessed Apr. 2, 2011) (defining an animal hoarder as a person: “[h]aving more than the typical number of companion animals”; “[f]ailing 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”; “[d]enial 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”; and “[p]ersistence, despite this failure, in accumulating and controlling animals”).

⁶⁶ Frost, *supra* n. 64; Gary J. Patronek & HARC, *The Problem of Animal Hoarding*, 2, http://www.environmentalgeriatrics.com/pdf/pro_ani_hoa.pdf (accessed Apr. 2, 2011).

⁶⁷ Frost, *supra* n. 64.

⁶⁸ Patronek & HARC, *supra* n. 66, at 1.

⁶⁹ Gary J. Patronek, *Hoarding of Animals: An Under-Recognized Public Health Safety Problem in a Difficult-to-Study Population*, 114 *Pub. Health Rpts.* 81, 85 (1999) [hereinafter Patronek, *Public Health Safety Problem*].

⁷⁰ Patronek & HARC, *supra* n. 66, at 1; see e.g. Pet-abuse.com, *Animal Abuse Case Details: Hoarding—39 Dogs Caked with Feces, Fort Myers Shores, FL, Case Update*, <http://www.pet-abuse.com/cases/11328/FL/US/> (accessed Apr. 2, 2011) (describing one animal hoarder’s home where urine and feces covering the floor and the furniture and four feet up the walls).

⁷¹ See City of L. A. Dept. of Animal Servs., *Hoarding*, http://www.ci.la.ca.us/ani/inf_hoarding.htm (accessed Apr. 2, 2011) (finding that the homes of most animal hoarders were covered with garbage and feces, creating a public health risk).

of the home at risk of contracting respiratory problems, parasites, and other animal-related diseases.⁷² Often, the hoarder's residence is in such a deplorable condition that it must be condemned by public health authorities as uninhabitable.⁷³

Animal rescue teams called to respond to "disasters"⁷⁴ at an animal hoarder's home often find the living and seriously ill animal victims lying among the decomposing carcasses belonging to animal victims who did not survive.⁷⁵ Sadly, many of the rescued animals are too ill or too aggressive, due to a lack of socialization, to be rehabilitated, and are euthanized.⁷⁶

Animal hoarders may not live alone. If there are children or vulnerable adults in the home, they are all living in the same deplorable conditions as the animal victims and may require referral to social service agencies as a matter of law.⁷⁷ In most hoarding cases, there have been previous referrals accompanied by previous attempts to intervene in the squalid living conditions. However, animal hoarders typically lack insight into their problems and many reject any attempts made to assist them.⁷⁸ Thus, social service efforts to intervene in situations involving these horrific living conditions may fail repeatedly.⁷⁹

Animal hoarding cases can be particularly challenging for the criminal justice system because of the large number of animal victims involved (often several hundred) and the mental health issues of the offender.⁸⁰ These cases can span several jurisdictions or municipalities and require multiple animal rescue agencies with the ability to respond to each animal hoarding incident on the same scale as a natural

⁷² *Id.*; HARC, *Animal Hoarding and Public Health: Air Quality*, <http://www.tufts.edu/vet/hoarding/pubhlth.htm> (accessed Apr. 2, 2011).

⁷³ Patronek & HARC, *supra* n. 66, at 2.

⁷⁴ See HARC, *Intervention, Large Scale Animal Rescue*, <http://www.tufts.edu/vet/hoarding/intervention.htm#A5> (accessed Apr. 2, 2011) (asserting that due to the large numbers of animals that can be involved in a single hoarding incident, animal rescue organizations must respond by implementing their disaster-type response models) [hereinafter *Intervention*].

⁷⁵ Patronek, *Public Health Safety Problem*, *supra* n. 69, at 82, 84–85.

⁷⁶ *Id.* at 82; Patronek & HARC, *supra* n. 66, at 1.

⁷⁷ Patronek & HARC, *supra* n. 66, at 2; see Randall Lockwood, *Animal Cruelty and Human Violence: The Veterinarian's Role in Making the Connection—The American Experience*, 41 *Can. Veterinary J.* 876, 877 (2000) (explaining that veterinarians are among the mandated reporters of elder abuse in Illinois).

⁷⁸ Frost, *supra* n. 64, at 5; Gary J. Patronek, Conference, *Animal Hoarding: What Caseworkers Need to Know* (Marlborough, Mass. Dec. 12, 2007) (available at https://www.masshousing.com/portal/server.pt/gateway/PTARGS_0_0_2685_0_0_18/Animal_Hoarding.pdf (accessed Apr. 2, 2011)) [hereinafter Patronek, *Caseworkers*].

⁷⁹ *Intervention*, *supra* n. 74; see generally Patronek, *Public Health Safety Problem*, *supra* n. 69, at 85–86 (identifying other factors impeding intervention by social service agencies).

⁸⁰ See Susan E. Davis, *Prosecuting Animal Hoarders is Like Herding Cats*, 22 *Cal. Law.* 26, 26–29, 67 (Sept. 2002) (outlining challenges of prosecuting animal hoarding cases).

disaster.⁸¹ Also, animal hoarding incidents are not an everyday occurrence for the courts and can evoke sentiments of sympathy for the adult animal hoarder, resulting in judicial leniency.⁸²

The cost of a single incident of hoarding has the potential to deplete the resources of all of the agencies involved in the disaster response.⁸³ This includes the animal rescues, police and fire departments, animal control, public health and safety, zoning and building inspectors, and local municipalities who are tasked with the cleanup and care of, potentially, hundreds of animal victims. When there are at least 3,000 cases of animal hoarding incidents reported annually, involving approximately 250,000 animal victims per year,⁸⁴ with 60% of the cases involving repeat offenders,⁸⁵ any costs associated with an Animal Violence Court will be money well spent on a preventive intervention that will save lives and reduce recidivism.

According to HARC's Dr. Gary Patronek, there are three types of animal hoarders: 1) the overwhelmed caregiver; 2) the rescuer hoarder; and 3) the exploiter hoarder.⁸⁶ The overwhelmed caregiver tends to be more based in reality than the other types of hoarders.⁸⁷ These individuals are more aware and more likely to admit that they have become overwhelmed by the large numbers of animals in their care. On the other hand, the rescuer hoarder is a much more mission-driven individual than the other types of hoarders.⁸⁸ They are constantly and compulsively seeking to acquire animals based on a firm belief that only they can properly care for and love the animals. Finally, there is the exploiter hoarder. This individual is far more manipulative and malingering than either the overwhelmed caregiver or the rescuer hoarder. Exploiter hoarders do not feel any empathy toward animals, or humans for that matter, and will acquire animals purely to

⁸¹ See *id.* at 6 (stating that hoarding cases can overlap or fall between jurisdictional cracks); Colin Berry et al., *Long-Term Outcomes in Animal Hoarding Cases*, 11 *Animal L.* 167, 170 (2005) (noting that it requires a team of animal welfare workers to address a hoarding case); *Intervention*, *supra* n. 74 (stating that animal rescue organizations must respond by implementing disaster-type response models).

⁸² Davis, *supra* n. 80, at 67.

⁸³ See Berry et al., *supra* n. 81, at 170 (observing that hoarding taxes the resources of shelters and local government agencies). The total cost of a single incident of animal hoarding is difficult to determine. It will depend on the community where the incident occurs, the number of animal victims involved, the immediate costs, and the long-term and hidden costs to municipalities and animal rescue organizations. Davis, *supra* n. 80, at 67 (one hoarding case cost a city \$49,000 and another cost a county \$135,000).

⁸⁴ Animal Hoarding Project, *Animal Hoarding Project, Fact Page*, <http://www.animalhoardingproject.com/facts.html> (accessed Apr. 2, 2011); Gary J. Patronek, *Animal Hoarding: Its Roots and Recognition*, <http://license.icopyright.net/user/viewFreeUse.act?fuid=MTE2ODA4Njc%3D> (updated Aug. 1, 2006) (accessed Apr. 2, 2011).

⁸⁵ Patronek, *Public Health Safety Problem*, *supra* n. 69, at 83.

⁸⁶ Patronek, *Caseworkers*, *supra* n. 78, at 1.

⁸⁷ *Id.*

⁸⁸ *Id.*

serve their own selfish needs while rejecting the legitimate concerns of authorities and animal rescue organizations.⁸⁹

The exploiter hoarder needs to be carefully evaluated before being accepted into the Animal Violence Court. Their lack of empathy, the motivations behind their exploitive behavior, and their exceedingly manipulative behaviors may be driven by sociopathic components that may not be adequately addressed by the proposed program. On the other hand, the overwhelmed caregiver and the rescuer hoarder possess slightly better insight into their behaviors, and thus they possess better potential for rehabilitation when placed in a structured, heavily supervised judicial program mandating comprehensive behavioral health treatment, the surrender of their animals, a permanent prohibition or limitation on animal ownership, and long-term monitoring.

C. *The Basic Components of an Animal Violence Court*

The Animal Violence Court⁹⁰ is designed to combine comprehensive behavioral health treatment, targeting each offender's individual psycho-social needs, and long-term monitoring to provide an effective, alternative process for either the pre-adjudication or post-adjudication of animal cruelty cases. Establishing an Animal Violence Court will ultimately bring more animal cruelty offenders into the criminal justice system, but the Animal Violence Court will be better equipped than traditional courts to offer offenders the opportunity for rehabilitation by focusing on behavioral health treatment, as opposed to ineffective incarceration.

Ideally, the Animal Violence Court will be operated as a post-adjudication, problem-solving court where participation is only offered to appropriate candidates as a sentencing option for a guilty plea on the charges of animal abuse, neglect, or cruelty. Offenders will be required to contract to, and adhere to, all of the terms of the Animal Violence Court, including close court supervision and monitoring by a treatment team. Failure to follow the requirements of the Animal Violence Court may result in a remanding of the offender's case back to the regular criminal courts and possible incarceration.

The process will begin when offenders are charged with animal cruelty and offered a choice between participating in the Animal Violence Court or having their cases adjudicated by traditional criminal prosecution proceedings. Each offender will be evaluated by a case manager and required to have a full battery of psychological tests performed by a qualified psychologist to assess motivations behind the

⁸⁹ *Id.*

⁹⁰ The Animal Violence Court does not contain a community service component. Animals are placed in unnecessary danger when an offender is required to perform community service at a local humane society or animal control agency because many of these organizations do not have staff available to provide adequate supervision. See Randall Lockwood, *Humane Concerns about Dangerous-Dog Laws*, 13 U. Dayton L. Rev. 267, 271 (1988) (stating that animal control departments are generally understaffed and underfunded).

acts of cruelty, determine offender type, evaluate treatment needs, and make a determination as to whether the offender is eligible for participation in the Animal Violence Court.⁹¹ If offenders are found to be eligible, they will be required to enter a plea of guilty with the court. If offenders choose to plead not guilty, their case must be referred back to the regular criminal court system.

1. *The Animal Violence Court Staff*

A key feature of the Animal Violence Court is its staff. In order to achieve the program's goals, the Animal Violence Court must consist of a dedicated judge, a legal staff that includes prosecutors (e.g., an Animal Abuse Special Prosecution Unit)⁹² and defense counsel, probation officers, case managers, humane law enforcement officers (to act as advocates for the animal victim), and trained treatment providers.⁹³ Under the direction of the judge, this "treatment team" will be responsible for holding the offender accountable and providing for the safety of the animal victims, thereby reducing recidivism, saving money, making communities safer, and breaking cycles of violence.⁹⁴

Every Animal Violence Court will include case managers,⁹⁵ one of which will be assigned to provide supervision and direction to the offender while in the Animal Violence Court. Initially, the case manager will meet with the offender and family members—just as is currently required for juvenile offenders—for the purpose of evaluating the offender and orienting them to the Animal Violence Court.⁹⁶ As part of

⁹¹ See e.g. Otto, *supra* n. 37, at AR-4, CA-5, CO-5, DE-4, FL-5, GA-5, IL-7, IN-5, LA-5, KS-4, LA-4, ME-9, MD-4, MI-5, MN-6, NJ-5, NM-4, OH-7, OR-5, PA-7, RI-5, TN-5, TX-6, UT-5, VT-5, VA-6, WA-6, WV-5, DC-4 (states that have provisions for psychological evaluation and counseling within their state animal cruelty laws: Arkansas; California; Colorado; Delaware; Florida; Georgia; Illinois; Indiana; Iowa; Kansas; Louisiana; Maine; Maryland; Michigan; Minnesota; New Jersey; New Mexico; Ohio; Oregon; Pennsylvania; Rhode Island; Tennessee; Texas; Utah; Vermont; Virginia; Washington; West Virginia; and the District of Columbia).

⁹² Some prosecutors' offices have created specialized units to deal with animal abuse and cruelty cases. E.g. Madison Co. St. Atty's Off., *Animal Abuse Special Prosecution Unit*, <http://www.madco-sa.org/animal-abuse.html> (accessed Apr. 2, 2011) (describing Madison County State Attorney's Office's Animal Abuse Special Prosecution Unit); City of L. A., Off. of the City Atty., *Animal Protection Unit*, http://atty.lacity.org/OUR_OF-FICE/CriminalDivision/AnimalProtectionUnit/index.htm (accessed Apr. 2, 2011) (describing the City Attorney's Office's Animal Protection Unit).

⁹³ See generally Animals & Socy. Inst., *supra* n. 56 (describing the assortment of professionals involved in assessment and treatment of childhood animal abuse).

⁹⁴ See e.g. N.Y. St. Dom. Violence Cts., *Program Fact Sheet*, <http://criminaljustice.state.ny.us/ofpa/domviolcrtfactsheet.htm> (accessed Apr. 2, 2011) (describing the role and goals of New York's state domestic violence courts).

⁹⁵ See Randy Monchick et al., *Drug Court Case Management: Role, Function, and Utility*, ix (Natl Drug Ct. Inst. 2006) (available at http://www.ojp.usdoj.gov/BJA/pdf/Drug_Court_Case_Management.pdf (accessed Apr. 2, 2011)) (discussing the role of case managers).

⁹⁶ See e.g. Queens Misdemeanor Treatment Ct., *Policy and Procedures Manual—Assessment*, 51–81 (available at http://www.courts.state.ny.us/courts/nyc/drug_treatment/publications_pdf/QMTC-%20Policy%20and%20Procedure%20Manual.pdf (up-

the evaluation process, the Animal Violence Court will consider mandating that the offender have a psychological evaluation so that a comprehensive, individualized treatment plan can be developed to address all of the offender's issues.⁹⁷

Once the evaluation process is complete, and if the case manager determines the offender is an appropriate candidate, the results of the evaluation will be used to create an offender's treatment plan.⁹⁸ A treatment plan is a summary of the case manager's findings and recommendations for the type of treatment referrals and/or programs the offender and family members will be required to attend or complete while in the Animal Violence Court. If there are other children or vulnerable adults in the home, the case manager will always consider whether it is appropriate to include social service referrals in an offender's treatment plan.⁹⁹

A case manager may make the determination that the offender, or family members, must attend psycho-education programs such as anger management classes, animal education classes, or batterer education programs (e.g., when the animal cruelty has occurred as a result of domestic violence). Other offenders may be referred to substance abuse treatment, cognitive-behavioral therapy, family therapy, group therapy, or day treatment services. If an offender's behavioral issues cannot be managed in an outpatient setting, the case manager may require referral to a higher level of care such as a partial hospitalization program or a residential treatment program.

Regardless of the treatment setting, it will be the responsibility of the case manager to make all the necessary treatment referrals, oversee the treatment to assure offender compliance, and provide the court with regular progress reports. Of these responsibilities, perhaps the most important is the case manager's oversight of the referral process to ensure that the offender is linked with the necessary providers, programs, and resources.¹⁰⁰ Many offenders, especially juveniles, are unknowing or inexperienced and find the referral process extremely frustrating, confusing, and stressful. The result is that offenders will fail to follow through on referrals or drop out of the program completely.¹⁰¹ Careful oversight by the case manager can go a long way in reducing these issues and stressors.

dated Sept. 9, 2006) (accessed Apr. 2, 2011)) (providing examples of assessment information, documents, and tools used during an intake evaluation).

⁹⁷ See e.g. Monchick et al., *supra* n. 95, at 12–13 (describing the role of assessment in drug court case management).

⁹⁸ See e.g. Queens Misdemeanor Treatment Ct., *supra* n. 96, at 83–86 (describing treatment plans in the Queens Misdemeanor Treatment Court).

⁹⁹ See also Berry et al., *supra* n. 81, at 187, 190 (discussing the inclusion of social workers in decisions to address animal hoarding situations and providing a checklist inquiring as to whether children are involved in hoarding situations).

¹⁰⁰ See generally Monchick et al., *supra* n. 95, at 16–18 (discussing the importance of linkage in drug court case management).

¹⁰¹ *Id.* at 20–21.

Offenders are required to follow all of the instructions given to them in court by the judge, and to comply with any treatment plan created for them by their case manager or treatment providers. While the offender is in the Animal Violence Court, the case manager will closely monitor all areas of the offender's life and provide periodic reports to the court.¹⁰² To properly perform this duty, a case manager may have to visit offenders' places of employment, schools, or homes. In addition to site visits, case managers will be responsible for obtaining regular progress reports from schools, employers, and treatment providers to monitor the offenders' attendance and participation levels, and they will report any problems immediately to the court.¹⁰³ Furthermore, where the court requires the offender to make restitution to an animal rescue organization or municipality for the cleanup, care, housing, or medical treatment of the animals, the case manager will monitor the restitution process to ensure the offender is compliant with all of the court's requirements.

2. *The Initial Appearance and the Animal Violence Court Contract*

Once offenders have completed the orientation and evaluation process, they will be required to make an appearance before the Animal Violence Court and sign a contractual agreement with the court. Every contract should be individually written for offenders based on their charges, history, assessments, and treatment recommendations. The contract must contain all of the expectations, rules, terms, rewards, and any consequences for noncompliance while participating in the Animal Violence Court.¹⁰⁴ Before signing the contract, the offender and parents or legal guardians should be afforded the opportunity to review the contract, consult with defense counsel, and have answered any questions they may have about either the contract or the program.¹⁰⁵

At the offender's initial court appearance before the Animal Violence Court, the judge should ensure that all of the parties involved understand the terms of the agreement, what will be required of them, the consequences of noncompliance with the rules, and the rewards and benefits of the program.¹⁰⁶ The court must also ensure that the

¹⁰² *Id.* (discussing the importance of monitoring in drug court case management).

¹⁰³ *Id.* at 12–13 (discussing appropriate benchmarks in drug court case management).

¹⁰⁴ See e.g. Off. of Just. Programs, Bureau of Just. Assistance, *Drug Court Planning Initiative, Training and Technical Assistance*, http://www.dcp.ncjrs.org/dcp/dcp_adult.html; *select* Participant Contracts (accessed Apr. 2, 2011) (providing examples of Drug Court contracts).

¹⁰⁵ See e.g. Manhattan Misdemeanor Treatment Ct. (MMTC), *Handbook for Participants* (MMTC 2005) (available at http://www.courts.state.ny.us/courts/nyc/drug_treatment/publications_pdf/MMTC%20Handbook%20-%20ENGLISH%20-%20WebReady.pdf (updated Mar. 22, 2005) (accessed Apr. 2, 2011)) (describing the process of signing contracts with the Manhattan Misdemeanor Treatment Court).

¹⁰⁶ *Id.*

offender and parents are voluntarily agreeing to participate in, and comply with, all of the recommendations made by the case manager or treatment providers.¹⁰⁷ Once the judge has the required assurances from all of the parties involved, the contract can be signed.

3. *Regular Court Appearances and the Phases of the Animal Violence Court*

The offender will be required to appear before the court on a regular basis so that the court can monitor compliance and be responsive to offender achievements, issues, or violations.¹⁰⁸ During the beginning phases, the court will require the offender to make weekly court appearances that can be tapered to either a bimonthly or monthly basis at the later phases of the program. Requiring regular court appearances is an important tool that allows the court to immediately intervene and prevent problems from escalating (e.g., if a hoarder begins reacquiring animals).

At the court appearances, regular progress reports compiled by the case manager will provide the court with detailed information pertaining to the offender's progress, compliance with court requirements, or any noncompliance issues.¹⁰⁹ Having this information at each appearance, and in real time, enables the court to closely supervise the offender's compliance with treatment and immediately address any problems that arise, continually reinforcing the goal of offender accountability.¹¹⁰

The Animal Violence Court will be comprised of several phases, each highlighting an important achievement or program goal, such as taking responsibility, being held accountable, choosing to participate, engaging in treatment, making restitution, or demonstrating constructive change.¹¹¹ Based on these goals, suggested Animal Violence Court phases include Phase I—Choosing to Participate in the Program; Phase II—Orientation and Evaluation; Phase III—Following Up on Referrals and Linking with Treatment; Phase IV—Engaging in Treatment and Making Constructive Change; Phase V—Graduation.¹¹² At

¹⁰⁷ *Id.* at 4.

¹⁰⁸ See Emily Sack, *Creating a Domestic Violence Court: Guidelines and Best Practices* 20–22, 45–46 (Lindsey Anderson et al. eds., Fam. Violence Prevention Fund 2002) (available at http://endabuse.org/userfiles/file/Judicial/FinalCourt_Guidelines.pdf (accessed Apr. 2, 2011)) (providing an example of similar operations in domestic violence courts).

¹⁰⁹ *Id.* at 20, 45–46.

¹¹⁰ *Id.* at 6, 20, 22, 32.

¹¹¹ Todd R. Clear & Ronald P. Corbett, Jr., *The Community Corrections of Place*, in Natl. Inst. of Just., *Crime and Place: Plenary Papers of the 1997 Conference on Criminal Justice Research and Evaluation*, 69, 73 (1998) (available at <http://ncjrs.gov/pdffiles/168618.pdf> (accessed Apr. 2, 2011)).

¹¹² See e.g. Benton-Franklin Adult Drug Cts., *Drug Court Phases*, <http://www.dcpincjrs.org/dcp/pdf/courtphases-benton-franklin-wa.doc> (accessed Apr. 2, 2011); Va. Drug Treatment Ct. Programs, *Virginia Beach DUI/Drug Court Phases*, <http://www.dcpincjrs.org/dcp/pdf/courtphases-virginia-beach.doc> (accessed Apr. 2, 2011); 7th Jud. Dist.

each phase, an offender must successfully complete the tasks associated with that phase before progressing to the next phase and eventually graduating from the program.¹¹³

When a large and lengthy program is broken down into smaller component phases, offenders have the advantage of setting their own pace, which in turn can help reduce stress and prevent early withdrawal from the program. Another advantage of having several, smaller phases is the opportunity this provides the court to recognize and acknowledge achievements or to impose consequences for noncompliant behavior.¹¹⁴

4. *Rewards, Recognition, Restitution, Restrictions, and Termination*

Incentives, recognition, and rewards are not just acknowledgements by the court, they are also valuable tools that can help offenders feel increasingly more engaged and invested in the Animal Violence Court. At each court appearance an offender will have the opportunity to be rewarded for progress or receive consequences for violations. When hard work and efforts made toward rehabilitation are acknowledged by the court, offenders will be instilled with a sense of achievement and will invariably feel more invested in the program. However, when not compliant with the court's requirements, offenders must be held accountable with consequences for their behavior such as termination from the Animal Violence Court.¹¹⁵

Program rewards may include acts of public recognition such as words of praise, encouragement from the court, or early movement to the next treatment phase.¹¹⁶ Rewards may be written documents like a certificate of program completion, certificate of achievement, or a

Okla., *Phases*, in *Bureau of Justice Assistance*, <http://www.dcpincjrs.org/dcp/pdf/courtphases-7thjudicial-ok.doc> at Court Phases (accessed Apr. 2, 2011) (providing examples of phases instituted in operating drug courts).

¹¹³ See e.g. Benton-Franklin Adult Drug Cts., *supra* n. 112 (observing that Benton-Franklin Adult Drug Court requires offenders to make satisfactory progress in each phase before moving on to the next).

¹¹⁴ Sack, *supra* n. 108, at 46.

¹¹⁵ See 7th Jud. Cir. Volusia Co., Fla., *Incentive Policy*, <http://www.dcpincjrs.org/dcp/pdf/incentive-policy-volusia-fl.doc> (accessed Apr. 2, 2011); 7th Jud. Dist. Okla., *Incentives*, <http://www.dcpincjrs.org/dcp/pdf/incentives-7thjudicial-ok.doc> (accessed Apr. 2, 2011); Benton-Franklin Adult Drug Cts. Wash., *Incentives and Interventions*, <http://www.dcpincjrs.org/dcp/pdf/incentives-interventions-benton-franklin-wa.doc> (accessed Apr. 2, 2011); Greene Co., Mo. Drug Ct., *Sanctions and Incentives*, <http://www.dcpincjrs.org/dcp/pdf/incentives-sanctions-greene-mo.doc> (accessed Apr. 2, 2011) (describing existing reward and sanction programs as utilized by drug courts); Merced Co. Cal. Prop. 36, *Sanctions*, <http://www.dcpincjrs.org/dcp/pdf/incentives-sanctions-sanctions-merced-ca.doc> (accessed Apr. 2, 2011); Palm Beach Co., Fla. Drug Ct., *Sanctions*, <http://www.dcpincjrs.org/dcp/pdf/incentives-sanctions-palmbeach-fl.doc> (accessed Apr. 2, 2011); N.Y.C. Drug Ct., *Moving Between Bands and Phases*, <http://www.dcpincjrs.org/dcp/pdf/incentives-moving-bands-phases-brooklyn-ny.doc> (accessed Apr. 2, 2011); Merced Co., Cal. Prop. 36, *Rewards*, <http://www.dcpincjrs.org/dcp/pdf/incentives-rewards-merced-ca.doc> (accessed Apr. 2, 2011).

¹¹⁶ Benton-Franklin Adult Drug Cts. Wash., *supra* n. 115.

graduation certificate. Some rewards may be more ceremonial, such as graduation from the program or from one phase to another, while other rewards can be more meaningful or age appropriate, such as earning a more liberal curfew or decreased restrictions.¹¹⁷

In lieu of incarceration, the Animal Violence Court will require psycho-legal consequences such as court-ordered psychological evaluations, mandatory school attendance, maintaining employment, adhering to behavioral health treatment plans, forfeiture of animals, and a long-term period of probationary monitoring.¹¹⁸ If offenders do not comply with these, or any other court requirements, they will be held accountable for their noncompliant behavior. For example, failure to adhere to a particular treatment plan recommendation may result in more time spent at a phase or demotion from a phase.¹¹⁹ A moderate infraction may lead to the revocation of previously earned privileges. A more severe infraction, or a refusal to participate, might result in expulsion from the Animal Violence Court. Whenever offenders are expelled from the Animal Violence Court, their cases will be referred back to the traditional courts for disposition.

Another method for holding an offender accountable is court-ordered restitution. Restitution may be made either in trust to the animal victim or to the victim's new owners, an animal rescue organization, or a municipality. It may be made in compensation for the animal victim's medical care, housing, transportation, food, or, in cases where the animal victim has not survived, to dispose of the animal victim's remains.¹²⁰

Convictions on charges of animal cruelty imply that offenders are unable to provide for the needs of the animals in their care.¹²¹ Therefore, offenders may be prohibited from owning, possessing, caring for, or having any contact with an animal during their participation in the Animal Violence Court. The court may extend the prohibition indefinitely or for a specified period of time (e.g., five, ten, or fifteen years) depending on the circumstances of the crime or the recommendations made to the court by the case manager, humane law enforcement officers, and treatment providers. Any animal ownership bans in cases involving juvenile offenders may be extended to include all other residents in the juvenile's home. Furthermore, if an offender resides in a jurisdiction that has established an animal abuser registry, registration will be compulsory.¹²²

¹¹⁷ *Id.*

¹¹⁸ Lockwood, *supra* n. 8, at 13, 26, 29, 33, 39, 41–42.

¹¹⁹ Greene Co., *supra* n. 115.

¹²⁰ See Catharine M. Goodwin, *Restitution in Federal Criminal Cases* 11 (Admin. Off., U.S. Cts. 2001) (available at http://www.ussc.gov/Education_and_Training/Guidelines_Educational_Materials/trainnew.pdf (accessed Apr. 2, 2011)) (providing examples of restitution).

¹²¹ Lockwood, *supra* n. 8, at 27, 39–40; Avery, *supra* n. 28, at 848–851.

¹²² See Barry Leibowitz, CBS News, *Animal Abuse Registry: First-in-Nation Law in NY County Sick of Cruelty* (Oct. 18, 2010), http://www.cbsnews.com/8301-504083_162-

When the court permits an offender to keep animals, the case manager and humane law enforcement officers will provide close supervision to ensure the offender is adhering to any limitations on the number of pets permitted and is providing the animals with adequate care.¹²³ Humane law enforcement officers will also make regular site visits to an offender's residence to monitor compliance and will provide the court with regular progress reports of their findings.¹²⁴

The Animal Violence Court may consider a set of special requirements for animal hoarders, who are notorious for fleeing from one jurisdiction to another and quickly accumulating large numbers of animals in very short periods of time, repeating their horrific patterns of behavior.¹²⁵ There is an adage that an animal hoarder "will pick up another animal on the way home from the courtroom."¹²⁶ To combat this maladaptive behavior, the Animal Violence Court may restrict movement out of the jurisdiction while an offender is in the Animal Violence Court. If an offender is permitted to move out of the Animal Violence Court's jurisdiction, the case manager will ensure that the offender is linked with services in the new jurisdiction.

5. *Program Length and Long-Term Monitoring*

Each phase of treatment will be designed to run for an estimated minimum amount of time needed to accomplish all of the tasks assigned to that particular phase.¹²⁷ For example, during Phases I, II, and III, when an offender is deciding whether to participate in the program, is being evaluated for eligibility, or is receiving a referral for treatment, the minimum amount of time needed may be as little as thirty to sixty days per phase. Whereas, when an offender is in Phase IV, engaging in treatment and demonstrating constructive changes, a minimum of nine to twelve months may be required. In the end, the total amount of time an offender is in the Animal Violence Court will depend on the individual needs and progress of that offender, not on any specified, scheduled, or allotted time period. Therefore, an offender should be prepared to make a long-term commitment to participation in the Animal Violence Court.

Presently, research has not revealed a successful cure for the behaviors associated with animal hoarding, suggesting that only long-term treatment and monitoring will be effective means of preventing recidivism.¹²⁸ Thus, the Animal Violence Court will require the adult animal hoarders to comply with an additional long-term monitoring or probationary phase, in addition to the previously discussed phases of

20019761-504083.html (accessed Apr. 2, 2011) (describing legislation from Suffolk County, New York, which establishes a mandatory animal abuse registry).

¹²³ Lockwood, *supra* n. 8, at 12, 29, 40–41.

¹²⁴ Sack, *supra* n. 108, at 46.

¹²⁵ Davis, *supra* n. 80, at 29.

¹²⁶ *Id.*

¹²⁷ MMTC, *supra* n. 105.

¹²⁸ Frost, *supra* n. 64, at 5–6; Lockwood, *supra* n. 8, at 21.

the program, for a minimum of two years. The “probation” requirement is one of the most important tools for preventing recidivism in adult animal hoarders,¹²⁹ because “[w]ithout a long[-]term plan and support for the hoarder, the available evidence indicates that recidivism approaches [100%].”¹³⁰

6. *Advocating for the Animal Victim*

The Animal Violence Court must always seek to provide for the safety of the animal victim and work closely with animal rescue organizations to link animal victims with emergency services, shelter, food, and medical treatment.¹³¹ Because they are voiceless and unable to advocate for themselves, animal victims are at risk of being further victimized if they are forgotten or ignored or if their needs go unmet. Thus, the Animal Violence Court must assign a humane law enforcement officer to serve as the animal victim’s advocate and link to community-based resources.

The humane law enforcement officer’s primary duty will be to ensure that the animal victim is safe.¹³² In order to accomplish this, the humane law enforcement officer may have to arrange for the immediate removal of the animal victim from a dangerous living condition or, where a statute provides for it, ensure the animal victim’s long-term safety by obtaining an order of protection.¹³³

Once the animal victim is safe, the humane law enforcement officer will assess the short-term and long-term needs of the animal victim.¹³⁴ This assessment will form the basis of the animal victim’s safety plan and of the advocacy progress reports that the humane law enforcement officer will submit to the Animal Violence Court on a regular basis.¹³⁵ The reports will be periodically updated to include real-time information reflecting the progress and ongoing needs of the animal victim.

IV. CONCLUSION

Implementing an Animal Violence Court does not require a dedicated source of funds. If funding is limited or unavailable, establishing an Animal Violence Court is as simple as assembling one judge and a

¹²⁹ Lockwood, *supra* n. 8, at 21, 41; see Berry et al., *supra* n. 81, at 186–87 (providing examples of one officer’s successful home visit program).

¹³⁰ Berry et al., *supra* n. 81, at 173.

¹³¹ Ctr. for Ct. Innovation, *Spotlight on Victim Safety*, ¶¶ 1, 3 <http://www.courtinnovation.org/index.cfm?fuseaction=Document.viewDocument&documentID=549> (accessed Apr. 2, 2011).

¹³² *Id.*

¹³³ Frank R. Ascione & Kenneth Shapiro, *People and Animals, Kindness and Cruelty: Research Directions and Policy Implications*, 65 *J. of Soc. Issues* 569, 581 (2009) (available at http://www.animalsandsociety.org/assets/259_shapiroascione.pdf (accessed Apr. 2, 2011)).

¹³⁴ Sack, *supra* n. 108, at 9.

¹³⁵ *Id.* at 10.

group of dedicated individuals, scheduling animal cruelty cases on specific days of the week, and adjudicating those cases using the practices and principles outlined in this paper.

Animal abuse is characteristic of some of the most violent criminals in American history.¹³⁶ Yet, often the criminal justice system has not intervened until an animal abuser becomes a serial killer, sex offender, child abuser, or school shooter.¹³⁷ An Animal Violence Court provides an opportunity for early intervention. By focusing on accountability, individualized behavioral health treatment, and long-term monitoring, the Animal Violence Court will save animal lives, human lives, and tax dollars, and it will make our communities safer.

¹³⁶ Lockwood, *supra* n. 8, at 10, 20; Merz-Perez & Heide, *supra* n. 39, at 151.

¹³⁷ Merz-Perez & Heide, *supra* n. 39, at 165.