Animal Abuse

Recognizing, Documenting, Reporting and Testifying for New Jersey Veterinarians

Prepared by
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I INTRODUCTION

As veterinarians we are responsible for the well-being of our patients. That can place us in an uncomfortable position, especially when our patients are being harmed by their owners. Almost all of us will be placed in this situation at some time, and it is important for us to understand how to react.

Animal abuse is under-recognized by many veterinarians for a variety of reasons. The belief among many of us that it does not exist in our practice, the small amount of training given to us, and the infancy of the field of veterinary forensics all contribute to our lack of ability to recognize and document animal abuse.

One reason we do not report animal abuse is the difficulty we have believing our clients could have done what we suspect. Some of us place too much trust in our clients, and some of us do not believe an abuser would present the victim to us for help. It has been shown that the latter is untrue, and many abusers will bring their pets to us. Additionally, when we do recognize animal abuse, we frequently do not report it. A survey of Michigan veterinarians (Stolt 1997) revealed that although 88% believed they had seen non-accidental injury in their patients, only 27% had ever reported it. Similarly, in pediatrics, although child protection agencies had long recognized the problem of child abuse, human medicine did not recognize abuse as the epidemic it is until a groundbreaking article was published in the Journal of the American Medical Association in 1962 entitled "The Battered Child Syndrome". In it, Dr. Henry Kempe outlined the physical findings associated with child abuse. With this article, physicians had research and published data to help provide them with a comfort level for filing reports of suspected child abuse. Shortly afterwards, physicians became legally mandated reporters of child abuse. We need additional research and publications to help document findings associated with animal abuse, but until then we need to use what is already known to help our current and future patients.

Some statistics

How common is cruelty to animals? There is no national database yet, however a 1996 Massachusetts study estimated that there were 9.3 reported cases of cruelty to animals involving dogs per 1000 dog-owning households, and 2.3 reported cases involving cats per 1000 cat-owning households. Of 110 veterinarians surveyed in this study, 79% reported having seen at least one patient during their career with injuries they suspected were inflicted by the client or another member of the household. Nearly half (47%) were positive or very sure they had seen deliberate injuries, and 34% indicated that a client admitted causing injury to the pet.

In 1999 a survey of the deans of 31 American and Canadian schools of veterinary medicine was done regarding animal abuse. Of these, 97% agreed that veterinarians would encounter instances of intentional animal abuse, and 63% agreed that veterinary professionals would encounter cases of animal cruelty associated with family violence. Thirty-one percent of these schools reported they had a policy requiring reporting suspected animal abuse, but only 17% of the deans reported that students are made aware of these policies. It was estimated in this study that the average veterinary curriculum spends only eight minutes on the issue of animal cruelty and human violence. In another survey of small animal practitioners, only 8% of the 368 respondents felt that they had received adequate training in general abuse prevention, and less than 44 percent thought they adequately understood their rights and responsibilities when responding to suspected animal abuse (Forensic Investigation of Animal Cruelty p. 25).

Regardless of what we believe or wish to be true, we can expect to see patients in our careers that will need our protection. Understanding our obligation to report, as well as how to successfully collect evidence for prosecution, how to report such cases, and how to present ourselves in court to best aid the prosecution's case will help us to offer our patients the best protection from their abusers.

II OUR LEGAL AND ETHICAL OBLIGATION

There is currently legislation pending in the state of New Jersey requiring veterinarians to report animal abuse or neglect. In addition, the AVMA stated in their 2005 position statement on Animal Welfare:

> The AVMA recognizes that veterinarians may have occasion to observe cases of cruelty to animals, animal abuse, or animal neglect as defined by federal or state laws, or local ordinances. When these situations cannot be resolved through education, the AVMA considers it the responsibility of the veterinarian to report such cases to the appropriate authorities. Disclosure may be necessary to protect the health and welfare of animals and people. Veterinarians should be aware that accurate record keeping and documentation of these cases are invaluable.

The AVMA's model practice act is intended to serve as a guide for composing a state's practice act. In 2003 the AVMA model practice act was amended regarding animal abuse as follows:

> Section 21 – Cruelty to Animals – Immunity for Reporting
> Any veterinarian licensed in this state who reports, in good faith and in the normal course of business, a suspected incident of animal cruelty, as described by law, to the proper authorities shall be immune from liability in any civil or criminal action brought against such veterinarian for reporting such incident.

The American Animal Hospital Association's position statement states:

While some states and provinces do not require veterinarians to report animal abuse, the association supports the adoption of laws requiring, under certain circumstances, veterinarians to report suspected cases of animal abuse to the appropriate authorities. In order to encourage veterinarians, and practice team members to be responsible leaders in their communities and to assist in the detection and reporting of animal abuse, the profession should educate its members to recognize, document and report animal abuse, develop forensic models, promote legislation concerning reporting by veterinarians, and collaborate with other animal and human welfare groups and professionals within communities to eliminate the incidence of animal abuse.

Veterinarians concerned about liability may call the AVMA's Professional Liability Insurance Trust at 1(800)228-7548 for free advice. One exclusion in the malpractice policy for lawsuits is if the veterinarian makes the report with "willful malice", i.e. reports a client as abusive when there is no evidence of abuse for personal vindictive reasons. The AVMA's Professional Liability Trust advises that veterinarians wishing to report abuse should:

1. Check with their state's Department of Professional Regulation or Veterinary Medical Examining Board;
2. Check with any state, county and local offices that regulate animal control;
3. Check with their state's veterinary association to determine the climate for reporting and prosecution in their area.

In addition to animal abuse as a crime, it has been found in research to be associated with domestic abuse, and sometimes as a forerunner to other violent crimes. In 1987, The American Psychiatric Association classified cruelty to animals as a symptom of Conduct Disorder in its diagnostic manual. Conduct disorder is a childhood and adolescent disorder of antisocial behavior sometimes persisting into adulthood. In the next edition in 1994, "physically cruel to animals" is listed under the heading "Aggression to people and animals", placing animal cruelty in a similar realm with domestic abuse.

As professionals who took the Veterinarian's Oath to "use my scientific knowledge for the benefit of society through the protection of animal health, the relief of animal suffering", we all are aware of our duty to protect our patients. By protecting our patients, we may be helping to protect other members of an abuser's family, or helping to get the abuser court-ordered mental health help which he might otherwise not seek.

III RECOGNIZING THE SIGNS OF ANIMAL ABUSE

Recognizing animal abuse can be difficult, particularly if we tend not to believe our clients are capable of it, and we have never been trained in interrogation. Some of the ways that abuse cases may be presented to veterinarians include:

1. The owner or caregiver may present the patient for treatment and misrepresent the circumstances surrounding a non-accidental injury or medical condition.
2. Another member of the household may present the animal and may or may not be aware of how the animal was injured.
3. A good samaritan may present the animal that was found in that condition.
4. The victim may have been rescued by animal control or law enforcement and brought to the hospital for care and an opinion as to whether abuse or cruelty has occurred.
5. The client may tell the veterinarian about animal cruelty or neglect that they have seen in the hopes that the veterinarian will make a report or advise them of the appropriate action to take.
6. On rare occasions, the veterinarian may be a first-hand witness to cruelty.

Additionally, there are many warning signs of abuse, that include:

- Injuries that could not logically have occurred in the manner that the owner has described
- Discrepancies in the description of how injuries occurred from varying family members, especially children
- A lack of concern about the disposition of previous pets
- Lack of concern about their (in)ability to care for animals
- Repeated refusal to acknowledge the seriousness of a condition
- Indifference to or lack of awareness or concern about how the animal was injured
- Refusal to treat an animal for a clearly painful condition, such as a fracture
- Repeated failure to follow up on the treatment of serious medical conditions that cause suffering
- Use of several veterinarians to hide one's tracks

It should be noted if, when relating the history, the owner refers to the animal as being "bad" or needing "discipline." We should listen for language indicating harsh or rigid standards of behavior.

Some animals are at higher risk for abuse including young males, pit bull terriers and mixes, Rottweilers and other dominant breeds, and animals with chronic or expensive behavior and/or health care problems. Such problems include animals that urinate, defecate or vomit in the house frequently, animals with resistant, noisy, destructive or

aggressive behavior, and animals with chronic illnesses resulting in significant financial or time-consuming burdens.

The signs associated with animal cruelty or neglect have not been researched as extensively as the signs of child abuse, but many of these signs are similar. They include multiple fractures in different stages of healing, bruising, dislocated limbs or tail, or lacerations.

Some behaviors such as cringing or aggression, also may suggest abuse. Unfortunately, in contrast to child abuse, knowledge of animal abuse is very limited and currently there are no clinical signs reported as "highly suggestive," or "virtually diagnostic."

VI DOCUMENTING ABUSE

Documentation of animal abuse is critical in pursuing justice against the abuser. Cases rely heavily on eyewitness reports, the history, and law enforcement investigations of the physical evidence of the crime scene, as well as the preservation and documentation of the physical evidence by the veterinarian. Evidence includes everything connected with the case, including the body of the patient or victim, the medical records, laboratory tests, radiographs, notes, etc. Complete records must be maintained for the duration of the case by a clinician who is preparing to testify in court. Pictures are very helpful in the prosecution of abuse cases and should be taken before treatment begins and throughout the course of treatment.

Once abuse is suspected, the veterinarian should immediately begin to preserve all the evidence. This includes the patient, anything in the fur or nails, collars and tags, any laboratory tests and all medical records. The records are a legal document and should be complete, detailed, legible and initialed daily. During the physical examination a protective gown and examination gloves should be worn to prevent contamination of the evidence. Photographs should be taken, close up and far away, as well as from all angles. These should be labeled with the name, date, photographer's initials, location and any other pertinent information. A ruler should be included to give an indication of the dimension of the lesions. Digital photographs are admissible and digital cards should be safeguarded as evidence. If possible, photographs should be taken throughout the animal's recovery periodically to show the stages of healing. Videotapes can be helpful if there is evidence of pain or neurologic deficits that can best be appreciated with a moving image. Comments during the video should be professional and confined to remarks about the animal's medical condition.

The chain of custody of the evidence must be maintained at all times. This refers to the ability to identify the whereabouts of any and all evidence. The investigator should work closely with the veterinarian to make sure all rules pertaining to the chain of custody are followed. Failure to maintain chain of custody can result in charges of evidence tampering being levied and may result in the case being compromised.

The medical record providing complete documentation of the animal's condition is a key component of the successful investigation and prosecution of an abuse case. It is considered evidence and even if the veterinarian is not called to testify, the medical record is a legal document that requires a high degree of detail and accuracy. The medical record should include the following information:

- The owner or caregiver's name, address, phone number, day and emergency contact information.
- The name of the animal.
- Identification of the animal including reproductive status, age (if known), colors, tattoos, distinctive markings or scars, cropped ears, docked tail, dewclaws and microchip.
- Breed. If the breed cannot be determined and it is described as a mixed breed, then the description should include the weight, height, and in some cases, the nose to base of tail length.
- The body weight, and an estimate of the percentage below normal. (The weight should be monitored weekly for starvation cases. The Tufts Animal Care and Control Scale may be used for standardizing body scoring in these cases.)
- All physical findings, normal and abnormal.
- The animal's behavior or mental status. Changes in the behavior of the animal from the abusive environment may be helpful to the case.

Complete laboratory work and whole body radiographs are advised in all cases. If the blood is sent to a commercial laboratory it must be properly sealed and labeled. The chain of custody of the evidence must be maintained by notifying the laboratory in writing to use caution in safeguarding the samples. This will help to avoid accusations of tampering with or otherwise interfering with a criminal investigation. Radiographs can provide important evidence, particularly when fractures in various stages of healing can be found. The most important areas to examine are the head, ribs and extremities. Evidence of past abuse may be critical in winning the case.

Forensic examination of animals includes some steps not normally done on a routine examination of animals, such as collection of material from the nail beds or hair coat of the pet, careful palpation to find tenderness associated with bruising, and clipping fur to look for bruising. A complete ophthalmologic exam should always be done, looking for petechiae, retinal hemorrhage or vitreous displacement. The ears should be examined with an otoscope, looking for ruptured tympanic membranes or blood in the ear canals. Petechiations have also been seen deep in the ear canals of animals with head trauma, a finding unknown in humans. The mouth should be examined for broken teeth, torn palates, mandibular fractures or foreign material in the teeth. Post-mortem examination includes reflecting the skin over the head, thorax, limbs, abdomen and pelvis to look for bruising. In post-mortem examination the cause of death should be determined, if at all possible, noting that this may vary from the apparent cause. The possible causes raised by

the defendant should be ruled out, or at least brought into question. Possible underlying disease should be noted, because it may create mitigating circumstances for the pet's death (many cruelty laws provide an exemption for killing an animal to end suffering). A necropsy may require multiple tissue and DNA sampling. It is important to use accurate terminology in describing lesions to avoid providing opportunities for the opposing counsel to bring veterinary competence into question. Stab wounds should be counted and described in detail. The collection of bullets for ballistics testing requires guidance from the law enforcement for their proper preservation, so these authorities should be notified prior to the bullet's removal. Neck wounds caused by tight collars should be photographed and the circumference of the animal's neck compared to that of the collar should be measured, and the collar should be saved for evidence.

V REPORTING ANIMAL ABUSE

Reporting animal abuse can be done through the police department in the jurisdiction where the crime took place, or through the local or state humane society. In New Jersey the first choice for reporting animal cruelty should be the local, county, or state SPCA. You may call the local Police Department, however, they may refer you to the SPCA. An officer will come to your clinic and interview you regarding the case. The officer will then check with the local police for any criminal history of the person or persons suspected of the cruelty. Next, they will approach the person and discuss the complaint with them directly without revealing the source of the complaint. According to the Bergen County SPCA, approximately 80% of reported cruelty cases are due to ignorance. If the cruelty is due to ignorance, then the person is educated rather than cited or arrested. The officers will follow up on the case to be sure that the abuse is no longer occurring, and that the animal is recovering and under proper care. If there is evidence for intended cruelty, then the animal is taken into custody, and the person is cited or arrested for breaking the law.

VI TESTIFYING IN COURT

Veterinarians are being called upon more frequently to testify in cases of animal abuse and neglect. With the strengthening of the human-animal bond and the increasing awareness of animal suffering, there are more cases documented and brought to trial, and more veterinarians and their staff are being called as witnesses than in the past. The experience of testifying in court can be a daunting one.

The Veterinary Witness

Veterinary professionals can be called as two types of witnesses – factual and expert. A factual witness can only testify to exactly what they themselves observed, felt, heard, and medically collected and interpreted in regards to the incident in question. They cannot comment on what others have said or offer opinions.

Expert witnesses can provide opinions on evidence and also comment on evidence reviewed by others. Expert testimony can come under intense scrutiny with rules that vary by state. Knowledge, skill, experience, training and education are all factors that play a part in defining someone as an expert witness. Such witnesses can include veterinary technicians, groomers, breeders, behaviorists, cruelty investigators and other technical experts. The expert witness may give testimony based upon review of evidence collected by others. A veterinarian who has examined a victim of animal cruelty can testify as a witness to the facts. In addition, any veterinarian associated with a case will likely be considered an expert witness.

There have been cases where veterinarians have been asked to testify outside their common practice. These cases include forensic pathology, animal behavior, and other areas that are not well defined in veterinary medicine as of yet. In these cases, the court is viewed as having a "gate keeping" role to ensure that any such testimony be on "good grounds". In general, the court will consider:

- Whether the expert's hypothesis can be and has been tested;
- Whether the expert's methodology has been subjected to peer review and publications;
- How often the methodology yields erroneous results;
- Whether controls over the methodology exist and are maintained;
- Whether the scientific community has accepted the methodology.

When testifying, the veterinarian must avoid any opinions regarding the character of the defendant and his/her actions. The important points to be touched on are:

- Identity of the victim – extensive documentation and excellent records are vital
- Comment on preventive measures that could have been taken – such as providing shelter for an animal living outside.
- Cause of death and the sequence of injuries and timing of pre-mortem or post-mortem mutilations or other treatment.
- Classification of death – intentional or accidental.
- Evidence linking the injuries to specific people.
- Opinions on the degree of suffering sustained including the speed of unconsciousness and/or death. This may be necessary in order to classify something as "torture", which could be a requirement for classifying the crime as a felony offense.

The cornerstone of successful courtroom performances is good documentation. Veterinarians should bring all files related to the case, several copies of test results, photos, radiographs, diagrams and evidence. They also need to provide an up- to- date CV and copies of licenses and publications. The veterinary witness needs to provide the court with an understanding of his/her expertise as well. The court's expectation of an expert witness is one of complete honesty and integrity. The court will expect the expert's remarks to be "probative" (i.e. they must address the truth of points being raised) and "non-prejudicial", (i.e. they cannot be motivated by an attempt to place a suspect in a bad light).

Cross Examination

Cross-examination by the opposing counsel is often the most stressful part of any courtroom experience. The veterinarian may have his/her education, background and experience, motive for being involved in the case, or performance in the case attacked and questioned. The objective of the opposing counsel is to discredit the veterinarian by finding past ethical violations, inadequate experience or educational inconsistencies. It is often alarming when attacks are made on the veterinarian's dedication and integrity. The process of attacking the witness is often unnerving and this alone can hurt the testimony provided. It is important that the witness not argue with opposing counsel and to try to maintain a professional demeanor.

Some points of conduct to observe on the witness stand include:

- Tell the truth. Relate the facts as you know them. This is the only reason you are on the witness stand. DO NOT introduce details you did not actually see, even if you are sure the defendant is guilty and believe you will be helping the case.
- Don't be fearful. You may feel self-conscious or ill at ease, but it is important to maintain your poise and look squarely at the lawyers, the judge and the jury.
- Be prepared. Review the facts of the case prior to testifying. You may ask permission from the judge to use your notes during your testimony to refresh your memory. Try not to read the answer, but look at it, digest it and answer the question.
- Listen to the question. Make sure you understand the question before you answer it. If you have difficulty hearing or understanding the question, you may ask the judge to tell the attorney to speak so that he can be heard, or rephrase a question.
- Be frank, modest and natural. Always be yourself and speak in a steady, clear, conversational voice.
- Do not volunteer. You may be tempted to go beyond the statement of facts, but this can only get you in trouble. Your only duty is to answer the questions truthfully and concisely.
- Keep control of emotions. Ignore insults or attempted badgering. Keep calm and answer in a dignified manner.
- Be courteous. Even if a question seems absurd, answer it politely.
- Be heard. Speak so the judge and jury can hear you.
- Watch appearance. Sit comfortably but tall on the witness stand. Dress neatly, and turn cell phones or pagers off.

During the trial, the prosecuting attorney will begin with a question like, "Please tell us in your own words what you observed when examining the pet." This is when you repeat the facts exactly as you observed them. When you have finished giving your testimony to the prosecutor, it is the defense attorney's opportunity to question you on your testimony. The cross examination is designed to test your observation, attentiveness in observing including the thoroughness of your records, train of recollection, and disposition to speak the truth. Frequently, the defense attorney will try to demonstrate that a witness could not have recorded the events he claims to have seen. He will try to get a witness excited or confused, and then focus on any discrepancy in his story. Remember, usually the only chance he has to get his client off is to discredit the witness.

When you are undergoing cross-examination, answer all the questions thoroughly, but as briefly as you can. If the question can be answered "yes" or "no" give that answer. Do not answer "I believe so" or "I think not." The less you answer, the less you can be questioned. Do not answer a question before the attorney has finished asking it. If you do not know the answer to a question, admit it freely, and add the reason for not knowing (if possible). Do not panic if you don't know the answer to a question.

Testifying in an animal abuse case can be intimidating, but can also be a very rewarding experience. It can help bring justice for our patients, as well as protect future potential animal or human victims.

Attitudes towards the treatment of animals have changed over the course of the past few decades. Veterinary medicine has led the way in recommending more humane anesthetic and pain protocols as they became available, and more advanced diagnostic and treatment techniques as they evolved alongside the strides made in human medicine. As child abuse was recognized and the clinical lesions described over 40 years ago, similarly animal abuse has been documented, and animal forensics is now emerging as a recognized field in veterinary medicine. Currently, there are several textbooks devoted to veterinary forensics, as well as conferences sponsored by organizations such as the American Society for the Prevention of Cruelty to Animals and the William R. Maples Center for Forensic Medicine at the University of Florida. Hopefully, through a continuing educational process, an even greater awareness of animal abuse will occur. As practitioners on the front line, we have an obligation to protect our patients to the best of our abilities. This includes educating ourselves on recognizing, reporting and documenting harm that has been deliberately inflicted upon them, and rising to the occasion to use this knowledge when needed.

Bibliography:

American Animal Hospital Position Statement, revised 2003.

Ascione, F. and Barnard, S. (2005). Recognizing and Reporting Animal Abuse pp. 4 - 10. American Humane Association.

AVMA. Model Practice Act. Section 19 and 21, revised 2003.

AVMA. Position Statements. Animal Abuse and Neglect, current as of June 2005.

AVMA. Principles of Veterinary Medical Ethics of the American Veterinary Medical Association, revised Nov. 2003.

Arkow, P. (2004). Diagnostic and Environmental Indicators of Animal Abuse (CAH-3). Western Veterinary Conference, 2004.

Babitsky, S. and Mangravati, J. (1997). How to excel during cross-examination. Falmouth, MA: SEAK, Inc.

Butler, C. and Lagoni, L. (1995) "Animal, Child, or Partner Abuse: What if you suspect the worst?" Journal of Perspectives: A resource for women in veterinary medicine July/August 1995: pp. 36-38, 40-42.

Kempe, C.H., Silverman, F.N., Steele, B.F., Droegmuller, W. and Silver, H.K. (1962). The Battered Child Syndrome. Journal of the American Medical Association 181:17-24.

Lockwood, R. (2001). Animal Abuse and Human Violence. State of the Art Lecture. World Small Animal Veterinary Association Congress, 2001.

Lockwood, R. (2005). The Veterinarian's Role in Handling Animal Abuse Cases: The Veterinarian as an Expert Witness: What to Expect? Veterinary Information Network, Continuing Education Series, Nov. 2005.

Merck, M. (2005). The Veterinarian's Role in Handling Animal Abuse Cases: Veterinary Forensics: Making the Case – Proving Cruelty Through Forensics. Veterinary Information Network, Continuing Education Series, Nov. 2005.

Miller, L. (2005). The Veterinarian's Role in Handling Animal Abuse Cases: The role of the veterinarian in handling animal abuse cases. Veterinary Information Network, Continuing Education Series, Nov. 2005.

Miller, L. (2005). The Veterinarian's Role in Handling Animal Abuse Cases: Summary of How to Report Animal Abuse. ASPCA, 2005.

Miller, L. (2006). The Documentation of Animal Abuse (CAH12). Western Veterinary Conference, 2006.

Munro, H.M.C. and Thrusfield, M.V. (2001). Battered pets': non-accidental physical injuries found in dogs and cats. Journal of Small Animal Practice 42:279-290.

Operational Guide for Animal Care and Control Agencies: Investigations. American Humane Society, 2005.

Reisman, R. (2005). The Veterinarian's Role in Handling Animal Abuse Cases: Evaluation of Cruelty Cases, Veterinary Forensics. Veterinary Information Network, Continuing Education Series, Nov. 2005.

Sinclair, L., Merck, M. and Lockwood, R. (2006). Forensic Investigation of Animal Cruelty. Humane Society of the United States, 2006.

Stolt, L., Johnson-Iferulundu, Y. and Kaneene, J. (1997). Attitudes of veterinarians, animal control directors, and county prosecutors in Michigan regarding enforcement of state cruelty legislation. JAVMA 211:1521-1523.

Wissow, L. (1995). Child abuse and neglect. The New England Journal of Medicine 332:21 pp. 1425-1431.