The critical role of the veterinarian in an animal cruelty investigation

Presentation by:
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I have advised my client not to fetch any baseball without a contract securing one million ounces of gourmet dog food with bonus belly-scratching and the option to renegotiate after fourteen years... dog years, of course...
Outline

• Overview of the law in Canada
• Distress defined
• The basic animal cruelty investigation
• Preparations prior to attending the property
• Attendance at a property
• Examples
• Post seizure veterinary care
• The report of the veterinarian
• Testifying in a criminal/civil matter
• Questions
Overview of the law in Canada

• Federal government has exclusive authority for criminal law while the provinces have jurisdiction in all matters relating to property
• Animals considered property in the eyes of the law

FEDERAL:
• Criminal Code of Canada contains a number of provisions relating to animal cruelty
• Injuring or endangering animals and causing unnecessary pain and suffering. (sections 444 and 445)
• Federal offences require the element of willfulness (intent)
• Conviction in one province applies in another
PROVINCIAL:

• Provincial legislation for the prevention of cruelty to animals
• Examples: Prevention of Cruelty to Animals Act (BC)
  Animal Health and Protection Act (PEI)
  Ontario SPCA Act (Ontario)
  Animal Protection Act (Alberta)
• All contain sections on causing “distress” to animals
• Offences are quasi criminal offences
• No requirement to prove intent (strict liability offence)
• Exemptions for “generally accepted practices”
• Conviction in one province not applicable in another
Distress defined

From the Prevention of Cruelty to Animals Act (BC)

An animal is in distress if it is

(a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,
(a1) kept in conditions that are unsanitary, (NEW)
(a2) not protected from excessive heat or cold, (NEW)
(b) injured, sick, in pain or suffering, or
(c) abused or neglected
The basic animal cruelty investigation

Initial Complaint received

Valid
- Animals found in Distress
  Order Issued
  - compliance on recheck
  - end of investigation

Not Valid
- end of investigation
  Order Issued
  - non-compliance on recheck
  (may issue new orders or provide additional time)
  Obtain Warrant
  - attend at property
  Owner relieves animals of Distress
  - animals not seized
  - situation monitored

Animals are Seized
- owner unable/not willing to relieve distress
  Disposition of Animals
  - not returned to owner

Animals Returned to owner pursuant to a Care Agreement
Preparing for the investigation

Generally:
• This is NOT for everyone!
• Likely to disrupt your practice in some way
• May cause upset in the community in which you practice
• Establish relationship with the enforcement agency
• Consult resources: Dr. Melinda Merck’s “The veterinarian’s role in handling animal abuse cases; codes of practice

Specific to the investigation:
• Obtain basic information from the enforcement officer
  – Information about animals (type, number, area of concern)
  – Basic info on the animal owner
  – Expected time to conduct investigation
  – Fee for service
  – Don’t pre-judge the situation
Attendance at the Property

- Independence
- Observing the environment
- Physical examination of the animals
- Make notes
- Determine “distress”
- Opinion: stay/go
- Prescribe course of action required
Examples
Post seizure veterinary care

- Transcribe your notes into a written report as soon as possible. Hold on to your rough notes
- Attendance at shelter to monitor progress of animals
- Document progress or change in animals
- Possibility of discussions with other vets
The report of the veterinarian

**Suggested format:**

- Statement of qualifications
- Purpose of the report
- Facts and assumptions
- Opinion
- Appendices
- Photos
Testifying in a criminal or civil matter

• An excellent veterinarian report may negate the need for oral evidence
• Determine beforehand the fees paid to witnesses
• Ask to be accommodated to prevent a major disruption to your practice
• Expert witness testimony allows for the expression of opinions
• The veterinarian will likely be the only expert witness
• Facts and assumptions will naturally lead to opinion
• Be decisive and don’t second guess yourself. Your job is NOT to be agreeable to the defence
off the mark
by Mark Parisi

WHAT A KEEN SENSE OF IRONY. THEY NAME YOU "ROVER" THEN LEAVE YOU TIED UP IN THE BACKYARD...
Thank You!