

**ENFORCING WASHINGTON'S ANIMAL CRUELTY STATUTES –
NECESSARY CHANGES IN INVESTIGATION AND PROSECUTION**

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FEBRUARY 24, 2007

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I) INTRODUCTION

A) Mooie's Story

On March 10, 2006, a woman in Federal Way, Washington, looked out her window and saw her granddaughter trying to play with an injured puppy inside her fenced backyard. The puppy was a four-month-old female Pit Bull named Mooie, who turned out to be not far from home. The woman thought at first that Mooie had been hit by a car and dragged several miles, so destroyed was her little body. Up close, the woman discovered that Mooie had been dipped in something that caused her skin to scald and disintegrate. Yet Mooie was still alive, barely, and was suffering very badly. A neighbor came, took Mooie to the veterinarian, and called 9-1-1.¹

It turned out that Mooie was struggling to survive after having been submerged in concentrated ammonia, causing over 90% of her skin to burn off.² The innocent puppy had tried in vain to lick this horrible substance off her little body, only to ingest it and cause her mouth and organs to burn as well. There was no way to save Mooie's life and she was in so much pain that the veterinarian euthanized her in order to end her suffering. So harsh was the chemical on Mooie's body that some staff members in the veterinarian's office became ill from their exposure to her.³

Mooie's tragic story was documented in the local newspapers and by a local humane organization called Pasado's Safe Haven. Tens of thousands of people from all over the world

¹ The facts in the introductory paragraph are compiled from the following three articles: Craig Welch, Puppy scalded by acid draws worldwide anger, SEATTLE TIMES, March 19, 2006, at B4 [hereinafter Welch]; Christine Clarridge, Agencies deny they bungled investigation of dog's death, SEATTLE TIMES, March 21, 2006, at B1 [hereinafter Clarridge: Agencies deny]; and, Christine Clarridge, Critics decry probe of pit bull's death, SEATTLE TIMES, March 24, 2006, at B1 [hereinafter Clarridge: Critics decry].

² Clarridge: Critics decry, supra note 1, at B1.

³ Clarridge: Agencies deny, supra note 1 at B1.

reacted with anger and outrage to the incident and to the actions subsequently taken by law enforcement in the case.⁴

In the State of Washington, we have thorough and well-drafted animal cruelty laws that make what happened to Mooie a felony. However, these statutes are widely underenforced. Police departments do not focus on crimes against animals, believing that such duty falls on animal control officers. Yet animal control has many duties overburdening it, and its officers lack extensive training in criminal procedure, making the organization ill-equipped to tackle felonies.

Washington, led by King County, must enforce the animal cruelty laws by taking two important and necessary steps: first, the County should create positions within the Sheriff's Office dedicated to felony animal abuse cases, where the officers have specific training in crimes against animals; and, second, the Prosecutors' Office should devote one deputy prosecuting attorney to following through on the police reports and taking these cases to trial. Only with focused enforcement will these important and popular laws be given their intended effect.

The case of Mooie's pain and suffering will be used throughout this paper as an illustration of what is wrong with the present system in Washington, and as an example of how best to fix the problems. However, she is only one of more than a thousand *reported* incidents of animal cruelty every year in King County alone.⁵ Animal cruelty is not as rare a crime as many people think, or would like to believe.

⁴ Id., citing a statement by Pasado's Safe Haven founder Susan Michaels that her web site was receiving 80,000 hits an hour following the release of Mooie's story.

⁵ Gregory Roberts, Activist calls for animal-cruelty officer, SEATTLE POST-INTELLIGENCER, April 12, 2006, at B2 [hereinafter Roberts] reporting that King County Animal Control receives a reported 34,000 calls per year, of which 3-5%, 1000-1700, are reports of cruelty; and, Christine Clarridge, Everybody here loves animals, SEATTLE TIMES, April 22, 2006, at B1 [hereinafter Clarridge: Everybody here] quoting King County Animal Services Sgt. David Morris as saying that in 2005 there were "more than 1,000 animal-cruelty complaints in the county."

1) The Actions of the Federal Way Police Department

While Washington State has in place animal cruelty laws that criminalize what happened to Mooie,⁶ flaws in law enforcement, particularly in the chain of command and evidentiary procedures, prevented the crime against Mooie from being punished or even thoroughly investigated.

The Federal Way Police Department (“FWPD”), like the police departments of other cities in Washington, has jurisdiction over all felonies that occur inside its city limits, including animal cruelty crimes. While the department knew about Mooie almost immediately from the neighbor’s 9-1-1 call, and knew from the call that the crime could be a felony, the department assumed that King County Animal Control (“KCAC”) would handle the case. In fact, because this was a crime against an animal, the Federal Way Police Department wrongly assumed that the case *must* be handled by animal services and not by the police department.⁷ Therefore, the FWPD took no action in Mooie’s case.⁸

2) The Actions of King County Animal Control

King County Animal Control took possession of Mooie’s body from the veterinarian and promised to perform a necropsy, an animal autopsy, but never did. Instead, the agency cremated Mooie’s body, thus destroying the most important piece of evidence in this terrible crime.⁹ KCAC officers do not have the same training as police officers with respect to investigating crimes, gathering and preserving evidence, nor do they have as established a relationship with the local prosecutors. Thus, the animal control officers are significantly less equipped to prepare for a criminal trial than the police. The Mooie case is a prime example of these weaknesses.

⁶ RCW 16.52.205 et seq.

⁷ Clarridge: Agencies deny, *supra* note 1, at B1.

⁸ *Id.*

⁹ *Id.*

3) The Actions of the Prosecutors' Office

Finally, the King County Prosecuting Attorney's Office ("KCPAO") has not been able to do anything because no police report has been filed, no suspect has been discovered, and thus no charges may be brought. One year later, nothing has happened in this terrible case and it is unlikely that anything ever will with the evidence destroyed and the system unwilling to focus on this year-old animal cruelty matter.

B) Mooie's experience illustrates many of the problems in enforcing animal cruelty laws. This article will propose a model for the participants in the criminal justice system to take the tools we already have and make them effective.

Part II looks at general notions of animal welfare and why societies should seek to prevent needless cruelty against living creatures; this part then explains why cruelty to animals is a crime that should be taken seriously by all people, not merely those who love animals, by demonstrating the strong link between abuse of animals and current or future abuse of persons, particularly in the context of domestic violence.

Part III examines why criminal prosecution is an effective means to combat crime, and why the same reasoning applies to the crime of animal cruelty.

Part IV outlines Washington's animal cruelty statutes and their origin. This part provides some statistics of animal cruelty crimes in Washington and other cities and states around the country and outlines some of the programs that other jurisdictions have adopted to combat the recognized, serious crime of animal cruelty.

Part V summarizes the problems with Washington's current system and then presents a specific model for Washington to employ, beginning with King County, to tackle the problem of animal cruelty: the King County Sheriff's Office ("KCSO") should create two full time law

enforcement positions dedicated to investigating incidents of animal cruelty, and the King County Prosecuting Attorney's Office should dedicate one deputy prosecutor to handling every case of animal cruelty that is referred from law enforcement. Only with these two steps will Washington effectively address the real problem of animal cruelty.

II) WHY ANIMAL CRUELTY IS A SERIOUS CRIME

This part of the article investigates why it is imperative for law enforcement and prosecutors to focus on the crime of animal cruelty: Section A looks at general notions of animal welfare, including the common desire to see animals live free from intentional and cruel harm or neglect, while Section B explains the demonstrated link between cruel acts committed against animals and the current or future violent abuse of persons by the same perpetrator.

A) Animal Welfare is an Important Goal Unto Itself

An estimated 63% of American households, which is more than 69 million homes, have at least one pet.¹⁰ 45% of households have more than one pet in the family.¹¹ We as a people care about and love these animals. One piece of evidence for this love is the amount we spend on our animals annually: more than \$36 billion in 2005.¹² For many people, their beloved dog or cat is truly a member of the family. This love and respect for animals results in widespread outcry and horror whenever an account of animal cruelty is publicized.

Cruelty toward animals evokes in many people a visceral reaction that such acts are inherently evil. Long before the legal system recognized animal cruelty as criminal, many within the general populace saw these acts as morally wrong. This common feeling is different from a

¹⁰ American Pet Products Manufacturers Association 2005/2006 National Pet Owner's Survey, *available at* http://www.appma.org/press_industrytrends.asp (last visited Feb. 24, 2007).

¹¹ *Id.*

¹² *Id.*

reaction to a crime like stealing: there we recognize the need for laws to maintain order in our society. With animal cruelty, the act evokes a response of good versus evil.¹³

A just and kind society does not tolerate torture and cruel mistreatment of living creatures and Washington is no different. Residents of King County in particular are extremely sympathetic to the plight of animals. The crime against Mooie and several other publicized incidents of animal cruelty drew extraordinarily strong reactions from Washington residents: people wrote articles, letters to the local papers, letters to prosecutors and law enforcement demanding justice. When the donkey Pasado was brutally tortured and killed in 1992,¹⁴ the King County Prosecuting Attorney's Office reported receiving more than 800 calls and 500 letters offering support and demanding justice in the case.¹⁵ A memorial service held for Pasado the donkey attracted more than 300 people mourning his death.¹⁶ It is clear that the residents of Washington care very much about animals, and they also want to encourage then state to do as much as it can to investigate and prosecute these crimes.

B) The Link Between Violence Toward Animals and Violence Toward Humans

Love and care of animals is not the only reason for animal cruelty legislation or its enforcement: a growing body of evidence demonstrates that abuse of animals is one part of a pattern of violence that can exist in its perpetrators.

Even those people who do not particularly care for animals, or those who do not view animal cruelty as a serious crime deserving of investigation and prosecution, *should care* because

¹³ For a fascinating and thorough discussion of animal cruelty as a crime *malum is se* as compared to a crime *malum prohibitum*, see Beth Ann Madeline, Cruelty to Animals: Recognizing Violence Toward Nonhuman Victims, 23 U. HAW. L. REV. 307, 320-326 (2000) [hereinafter Madeline].

¹⁴ This incident is discussed in greater detail in Part IV.

¹⁵ Stephen Clutter, One Year After Pasado: Animal-Cruelty Laws Unchanged, SEATTLE TIMES, April 13, 1993, at C1 [hereinafter Clutter].

¹⁶ Id.

of evidence linking acts of animal cruelty to other violent acts by the same perpetrator. This link means everyone, not only animal lovers, should care about the crime of animal cruelty.

Intuitively, would you want to hire a babysitter for your five-year-old daughter who, for fun, shoots cats with a BB gun? How about a secretary who watches crush videos¹⁷ on the Internet during her lunch break? Or maybe it is your 10 year-old son who “experiments” with fire by dousing the neighbor’s friendly Labrador with gasoline and lighting her on fire. Wouldn’t you, with each of these actors, believe that something was amiss, and that some form of treatment or punishment was both needed and justified? And doesn’t it also make sense that, without punishment or treatment, the perpetrator of these acts might very well move on to other targets?

Research supports these intuitions: the link between abuse of animals and current or future abuse of humans is well documented and continues to be demonstrated with an increasing body of research. There have been several different approaches to the study of the link between abuse of animals and abuse of humans—all of it relevant and important.

1) Sexual assault of humans and animals

Some researchers have looked at the connection between sexual assault of animals and sexual assault of humans and have concluded that there is strong evidence supporting this particular link. The Federal Bureau of Investigations (“FBI”) conducted some of this important research and found that among serial sexual homicide perpetrators there were high rates of sexual assault of animals.”¹⁸ Another study comparing acts of victimization found that “up to

¹⁷ Crush videos depict women in stiletto-heeled shoes stepping on and cruelly killing small animals such as kittens.

¹⁸ Stephan K. Otto, *State Animal Protection Laws—The Next Generation*, 11 ANIMAL L. 131, 149, 2005, citing Robert K. Ressler et al., *Sexual Homicide: Patterns and Motives*, (LEXINGTON BOOKS 1988), at 38.

thirty-seven percent of sexually violent juvenile offenders had a history of animal sexual assault.”¹⁹

2) *Animal abuse as part of domestic violence*

Some researchers have approached the issue of animal abuse within the context of domestic violence. “The overwhelming majority of [[battered women] shelters ... indicated that women seeking shelter mention experiences of companion animal abuse.”²⁰ Dominion by one person in a domestic relationship over others, be they spouses, children, or others, may be achieved through abuse and torture of the domestic animal in the situation. “One of the things abusive men do is threaten, batter, or kill pets in the presence of their partner or their children, or both, in order to threaten the humans or control them.”²¹

In May 1996, Senator Cohen made a presentation to then-President Bill Clinton regarding the abuse of animals in a domestic violence setting and the future abuse of humans by the same perpetrator. Senator Cohen referred to several studies such as those by the National Research Council and the FBI. Senator Cohen argued that “[v]iolence is not an isolated event and animal abuse is often part of a larger cycle of violence.” In particular, Senator Cohen stressed the domestic violence element of this problem, citing studies conducted by Dr. Frank Ascione of Utah State University finding that of “38 abuse victims at a crisis shelter found nearly 75 percent of women with pets reported their partner had threatened, hurt, or killed the animal. Researchers

¹⁹ Id., citing Monique R. Frazier, Physically and Sexually Violent Juvenile Offenders: A Comparative Study of Victimization History Variables, (unpublished dissertation, UTAH ST. U. 1998) (on file with Utah St. U.), at 99.

²⁰ Daniel M. Warner, Environmental Endgame: Destruction for Amusement and a Sustainable Civilization, 1 S.C. ENVTL. L. J. 1, 49, n. 150 (2000) [hereinafter Warner] (*quoting* Frank R. Ascione et al., The Abuse of Animals and Domestic Violence: A National Survey of Shelters for Women Who Are Battered, 5 SOCIETY AND ANIMALS 205, 213 (1997)).

²¹ Id., n. 151 (*citing* Carol Adams, Bringing Peace Home: A Feminist Philosophical Perspective on the Abuse of Women, Children, and Pet Animals, 9 HYPATIA 63, 66-69 (1994)).

in child abuse cases found that in 88 percent of these family situations, the pet was also abused.”²²

3) *Violent offenders already incarcerated for crimes against humans self-report past violence towards animals*

Still more studies look the past behavior of people incarcerated for violent crime compared to the behavior of the general public, that is, those not incarcerated. “Twenty-five percent of men incarcerated for violent psychiatric or criminal behavior were found to have engaged in ‘substantial cruelty’ to animals, versus zero percent of non-incarcerated men. Thirty-six percent of assaultive women offenders had a history of animal cruelty, versus zero percent of non-assaultive women.”²³

“Studies have shown that a statistically significant number of criminals who committed acts of violence against humans have a history of cruelty to animals.²⁴ Prosecutors are gradually realizing that violent acts directed towards humans and animals are not separate and distinct forms of violence, but are part of a cycle.”²⁵

4) *Animal cruelty by juveniles as a predictor of future violence as adults*

One of the most important ways of studying animal abuse is by looking at animal cruelty as a predictor of future violence, not merely as historical data. This is very hard to show but is nonetheless crucial because, from the criminal justice perspective, the goal is not merely to

²² 142 Cong. Rec. S4630-05 (daily ed. May 2, 1996) (statement of Sen. Cohen).

²³ Warner, supra note 20, at 50, n. 155 (*citing* Frank R. Ascione, Children Who Are Cruel to Animals: A Review of Research and Implications for Developmental Psychopathology, 6 ANTHROZOOS 226, 231 (1993)).

²⁴ M. Varn Chandola, Dissecting American Animal Protection Law: Healing the Wounds With Animal Rights and Eastern Enlightenment, 8 WIS. ENVTL. L. J. 3, 5-6 n. 21 (2002) [hereinafter Chandola], (*citing* David Tingle, George W. Barnard, Lynn Robbins, Gustave Newman & David Hutchinson, Childhood and Adolescent Characteristics of Pedophiles and Rapists, 9 INT’L J.L. & PSYCHIATRY 103-16 (1986)) (explaining that “[a] study conducted by the aforementioned scientists demonstrated the strong correlation between cruelty to animals and violent crimes. Forty seven percent of the rapists studied, for example, were shown to have a history of cruelty to animals.”)

²⁵ Id., n. 22 *citing* A. William Ritter, Jr., The Cycle of Violence Often Begins with Violence Toward Animals, 30 THE PROSECUTOR 31-33 (1996) [hereinafter Ritter].

accumulate data; rather the goal is to stop, treat, and deter perpetrators of crime sooner rather than punishing them later for their future crimes.

“[T]he connection between childhood animal abuse and extreme violent behavior later in life...reaches far beyond the Jeffrey Dahmers and Ted Bundys of this world.²⁶ The human-animal link to violence has a much more common application. In recent years, a pattern has emerged that clearly links intentional animal abuse with various other forms of violent crimes.”²⁷

5) Conclusion

Animal cruelty is an indicator crime: it is violence towards helpless, living creatures that is associated either concurrently or as a next stage with violence toward humans, especially women and children. Whether caused by a psychological malfunction, a lack of appreciation of life, a desire to cause suffering, a need to dominate other living creatures, or any other reason, from a psychological perspective crimes against animals suggests a serious problem requiring intervention. “More and more, violent animal abuse is being recognized not as a separate entity, but as part of the continuum of violence. Violent cruelty to animals has gained widespread recognition as an important predictor of violent behavior in general.”²⁸

Here in Washington, the Clark County government released a press statement asking citizens to pay closer attention to incidents of animal cruelty: “Evidence from the research into the reasons, and influences, that lead to violent actions by juveniles indicate that these are not separate and distinct acts, but part of a pattern of behavior which develops over a period of time. The involvement of children in acts of animal cruelty, fire starting, or exposure to domestic violence are indicators of potential future acts of violence. As a community, it's time we heed

²⁶ Madeline, *supra* note 13, at 325, (*citing* Ritter, *supra* note 25) (recalling press accounts of infamous serial killers with known histories of animal abuse, including Jeffrey Dahmer, “Son of Sam,” and the “Boston Strangler”).

²⁷ *Id.*, *citing* Randall Lockwood, Animal Cruelty and Violence Against Humans: Making the Connection, 5 ANIMAL L. 81 (1999).

²⁸ *Id.*

the early warnings available to us.”²⁹ Clearly, governments, researchers, politicians, and many others have recognized animal cruelty as a very serious crime requiring intervention.

III) CRIMINAL JUSTICE IS AN EFFECTIVE MEANS TO COMBAT CRIME, INCLUDING THE CRIME OF ANIMAL CRUELTY

In deciding how to respond to criminal conduct, the State chooses criminal prosecution as the best mechanism to combat crime for four theoretical and philosophical reasons. These are: *rehabilitation*, where the offender is sought to be “cured” of his criminal propensities; *retribution*, where the offender is punished for his acts; *deterrence*, where, either, the specific offender is intended to be deterred from future crime by the imposition of punishment for the present crime (*specific deterrence*), or where the public at large is said to be deterred from committing crime by the fear of punishment generally (*general deterrence*); and *incapacitation*, where the offender is simply removed from society so that he or she cannot do more harm.

Successful prosecution may result in a variety of sanctions: prison sentences, community service, financial penalties, which include restitution or outright fines, behavior-modification training, community supervision, moral approbation, and others. The sanctions that are applied to a particular offender for a particular crime support the purposes and intent of the criminal justice system generally. The same theories, philosophy, and sanctions that justify and support criminal prosecution for general crime apply equally well to the crime of animal cruelty.

²⁹ Clark County Government Press Release: Violence Indicators Prevention, *available at* <http://www.clark.wa.gov/commdev/documents/animal/vip.pdf> (last visited Feb. 24, 2007).

A) Rehabilitation and deterrence are the strongest arguments supporting animal cruelty prosecutions, however, all four justifications for criminal justice should be considered.

1) Rehabilitation

Rehabilitation of a criminal offender is a goal that is frequently cited as one of the fundamental purposes of the criminal justice system generally. Rehabilitation is a particularly strong justification for juvenile offenders within the system, on the grounds that minors have a greater likelihood than adults of abandoning criminal behavior and making positive improvements in character that may last well into their future. However, for any offender, rehabilitation is a challenging task. It requires money from the state, local and/or federal governments. It requires devoted attention, patience, and skill by employees of the rehabilitation facilities. It also requires willing participation on the part of the offenders. Yet no matter the offender's age or crime, rehabilitation should always be a goal because it betters both society and the individual.

Rehabilitation is a powerful justification for the prosecution of animal cruelty crimes. For one thing, in King County and elsewhere animal abuse is often perpetrated by juveniles,³⁰ and the arguments for the success of rehabilitation for juveniles is substantial. When a child or young adult abuses an animal, he may be experimenting, either with domination over another living creature or with lawbreaking generally. If he can be stopped, and treated, so that he learns the wrongfulness of his actions, he may grow up never to reoffend. For adults, rehabilitation is more difficult, as adults tend to be more ingrained in their behaviors and it is difficult for an adult to change learned ill-behavior that has never before been stopped or corrected.

³⁰ Interview with Senior Deputy Prosecuting Attorney Page Ulrey, Dec. 7, 2006.

Nonetheless, with animal abuse, even adults may benefit from some forms of rehabilitation, such as by having repeated positive and kind interactions with animals. Indeed, with animal abuse convictions, many states impose as a sanction community service projects that include interaction with animals in a kind and positive way.³¹

The link between cruelty toward animals and the current and/or future abuse of humans, documented and explained in Part II, above, provides very strong support for early involvement in the form of rehabilitation in an animal abuser's life.

2) Deterrence

Deterrence comes in two forms: general and specific. General deterrence is the notion that, by prosecuting one particular offender, other potential offenders are deterred from committing the same or similar crime. Specific deterrence works by deterring one particular offender from reoffending.

Take, for example, bank robbery. A potential bank robber knows the teller will push an alarm. If he still escapes, authorities will trace the money. He also knows that, if caught, he faces significant fines and prison time. Finally, given the historical cultural fascination with high-profile crimes such as bank robbery, he knows from the widespread publicity of previous robberies that he will be caught. Even in times of financial need, most people do not ever seriously consider robbing a bank because of the likelihood of being caught and the certainty of punishment. Thus, the public is generally deterred from robbing banks. A person who nonetheless robs a bank and is subsequently caught, prosecuted, and punished will be

³¹ For instance, in Pierce County Washington those convicted of animal cruelty can be required to perform community service at the Tacoma/Pierce County Humane Society and/or participate in the Humane Society's Animal Cruelty Prevention Treatment Program. Christine Clarridge, 9-month term for dog killers 2 repeatedly shot arrows at husky—Judge orders fines, community service, SEATTLE TIMES, October 2, 2004, at B3 [hereinafter Clarridge: 9-Month Term].

specifically deterred in the future based on his experiences with the criminal justice system and with prison life. He will be deterred from committing this or other crimes in the future.

Similarly, deterrence theory applies in curtailing cruelty towards animals. For general deterrence to work, some key elements are necessary: prosecutions must be visible and successful; investigations and prosecutions must also be consistent, cases cannot be allowed to fall by the wayside; and offenders must be punished with more than a slap on the wrist.

For specific deterrence to work, the offender must be treated and taught that this particular crime is not tolerated and is in fact abhorred. Moral approbation is a significant factor in deterring animal cruelty.

Of all of these, consistency on the part of investigations and prosecutions is the most important in order for deterrence to work. If bank robbers got away with their crimes 50% or 75% of the time, no deterrence would occur. There is too great a likelihood of monetary windfall. Likewise with animal cruelty, offenders must be brought to justice for deterrence to play its very important role within the criminal justice system.

3) *Retribution*

Retribution is an easily understood concept. America's love of criminal justice television shows illustrates the widespread acceptance of the notion that criminals deserve to be locked up to pay for crimes they have committed. Retribution is a very important philosophy from the perspective of the victim. For example, rape victims often come to court during the sentencing of their attacker and explain to the judge in detail the suffering they have endured, the fears they live with, and their desire to see their attacker sent away for as long as possible. Victims like these are not made whole when their attacker is sentenced to long prison terms, yet it is often the only result that allows them to move on from the violent event they have endured. The idea is

one of punishment: “The attacker hurt me, and he deserves to be punished. He does not deserve to enjoy life the same way the rest of society enjoys life.”

Retribution is an attempt to establish that society regards a particular crime as serious, and is willing to assign punishment proportional to the offensiveness of the crime itself.

If there is a difficulty in applying retribution to animal abuse offenders, it is the difficulty in determining an appropriate and proportional punishment for a person for a crime committed against an animal. To deal with this problem, one writer, Beth Ann Madeline, has made the argument that violent crime should be punished not according to which the victim is but instead by what the violence is.³² To illustrate her argument, she tells a story thus: “Dillon was a six year-old boy, enjoying a summer picnic at home with his mother and several of her acquaintances. When a guest invited Dillon to go for a ride, Dillon went along willingly.” Once alone, Dillon became afraid and “cried to return to his mother.” The man “grabbed Dillon, and brutally sliced off Dillon’s ears with a razor blade.” The man then tied Dillon to a tree and ordered his pit bull to attack Dillon. “Dillon screamed in pain” until the man beat him to death with a cinder block.³³

Dillon was not a six year-old boy. The victim in this terrible case was actually a Dalmatian named Duchess. And because Duchess was an animal, the perpetrator could only be charged with a misdemeanor offense under the law in Pennsylvania at the time. The thesis of the article argues for stiffer animal cruelty legislation in Pennsylvania: “[v]iolent cruelty to animals constitutes violent crime and should be punished accordingly.”³⁴

Yet not everyone believes this as strongly as Ms. Madeline—there is, among many people, an inherent valuation of human life over the lives of animals such that retribution

³² Madeline, *supra* note 13, at 307.

³³ *Id.*

³⁴ *Id.* at 308.

arguments do not transfer seamlessly. Nonetheless, one does not have to value animals *equally* with humans for the notion of retribution to be relevant. Retribution plays a crucial role in both rehabilitation and deterrence.

For rehabilitation, retribution may supply the critical shock to the offender, making it clear that a person who commits cruel acts against animals is going to be punished because society regards it as wrong. Rehabilitation of the offender must begin with the learning of a new value system and significant retribution is an eye-opening revelation.

For deterrence, retribution plays a more obvious role. The theory of deterrence is that the fear of retributive incarceration deters people from committing criminal acts. If the person cannot adapt to society's values, he or she will pay with unpleasant consequences. Thus, some retribution is necessary for deterrence to work.

4) Incapacitation

Incapacitation does not play a big role in the field of animal abuse cases because, even with felony animal cruelty, the term in prison is not likely to be long, generally not more than a year at most, so the offender is not removed from society for a substantial enough period of time. The offender is incapable of abusing animals during the time in prison, but the notion of incapacitation is generally applied to sentences of much longer duration.

B) Conclusion: Because the successful prosecution of animal cruelty crimes can lead to rehabilitation and deterrence, there is an opportunity lost when the laws are not enforced.

One of the biggest problems in Washington right now, as illustrated by the Mooie case, is that the perpetrators of animal cruelty are rarely brought to justice. As a result, Washington fails to realize *any* of these theoretical goals and justifications for criminal punishment. With no

prosecution, there can be no punishment, no rehabilitation, and no deterrence. Society has embraced criminal prosecution as the best means to combat crime. Yet without enforcement, all of our widely supported animal cruelty statutes go without forceful effect. The perpetrator of the crime against Mooie has “gotten away” with this horrific crime against an innocent creature. He or she is not deterred from re-offending, and potential offenders are likewise not deterred from committing similar crimes. Also, by evading prosecution, this offender has no hope of any sort of treatment for his violent nature. He is free to harm other animals, children, and adults.

IV) WASHINGTON’S ANIMAL CRUELTY STATUTES AND ENFORCEMENT FAILURES

Washington’s legislature recognized that animal cruelty needed to be specifically addressed in the criminal code. In 1994, the legislators passed the bulk of our current animal cruelty statutes.³⁵ The legislation had been in the works for several years, never gaining quite enough momentum to pass, until the torture and killing of Pasado the donkey in 1992.

A) The Experience of Pasado

On April 16th, 1992, caretakers of the Kelsey Creek Farm Park in Bellevue, Washington, arrived at work to discover Pasado, the park’s donkey, dead in his pasture. Pasado had been beaten, first with tree branches, then he was tied to a tree and was beaten some more, with farming tools, and he was eventually strangled and left to die. Pasado was 21 years old, with a life expectancy of at least 10 more years, and had been at the park since he was three, delighting several generations of local children with his cheery demeanor.³⁶

³⁵ RCW 16.52, et seq.

³⁶ All facts in this paragraph may be found in Kay Kusumoto, Donkey’s Death Blamed On Vandals, SEATTLE TIMES, April 17, 1992, at A1.

Three young men, aged 16, 18, and 20, all with prior criminal convictions, were eventually charged with the crime. They initially claimed that they wanted only to “play with” Pasado;³⁷ however, the hangman’s noose that was found around Pasado’s neck led many in the public to believe that the killing was premeditated and intentional.³⁸

The local media covered this incident extensively and the public was outraged. Calls flooded the King County Prosecuting Attorney’s Office. Dan Donohoe, spokesperson for the KCPAO said that the office had not received so many calls about a case since the murder trial of Adam Bartlett in 1991 who was convicted of killing his six-month-old son.³⁹ Mr. Donohoe said: “It’s surprising to receive so many calls...but we understand the outrage. Here’s an animal who was totally defenseless.... He was a public fixture on the Eastside who brought happiness to children and adults every day.”⁴⁰

King County Prosecutor Norm Maleng said, “In my 14 years in office, there has never been a case that has sparked the outrage of the public as the killing of Pasado the donkey.”⁴¹ Unfortunately, for all those hoping for justice for Pasado’s brutal killing, Washington’s animal cruelty laws were outdated, having been written in 1901 with the primary intent to protect cattle.⁴² Mr. Maleng discovered that with the laws as they existed in 1992, “the only way to get a harsh penalty against the three assailants...was by charging them with burglary, which carried a tougher punishment than the killing itself.”⁴³

³⁷ Kay Kusumoto, Calls About Donkey Flood Prosecutor’s Office, SEATTLE TIMES, April 24, 1992, at C1 [hereinafter Kusumoto: Calls About Donkey].

³⁸ Kay Kusumoto, Pasado’s Cruel Death Raises Fear—Police Say ‘Blatant Torture’ Of Donkey Was Planned, SEATTLE TIMES, April 18, 1992, at A1.

³⁹ Kusumoto: Calls About Donkey, supra note 37, at C1.

⁴⁰ Id.

⁴¹ Clutter, supra note 15, at C1.

⁴² Id.

⁴³ Id.

The public outcry about the terrible torture that Pasado endured, and the State's inability to adequately punish such cruelty, fueled the passage of the legislation, the intent of which was to broadly combat animal cruelty. Pasado demonstrated to the people of Washington the failures in its statutory scheme.

It took over a year to update the laws, but in 1994, Pasado's legacy took legal effect in the new animal cruelty legislation. The laws were passed with incredible legislative support, overwhelmingly passing in the State House of Representatives by a vote of 95-2,⁴⁴ and today Washington has well-drafted, very thorough animal cruelty statutes.

Our legislature broadly prohibited many forms of cruelty and neglect towards animals, including several felony provisions. The legislature passed these laws for two primary reasons: the general care for animal welfare and the well-demonstrated link between animal abuse and other crimes and harms to society.

1) Animal Cruelty in the First Degree

The primary section of Washington's general animal cruelty statute makes First Degree Animal Cruelty a Class C felony.⁴⁵ Importantly, for this entire section, the legislature broadly

⁴⁴ Shannon Johnston, Lawmakers Crack Down On Cruelty To Animals, SEATTLE TIMES, February 16, 1994, at B1.

⁴⁵ RCW 16.52.205 provides:

“(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) A person is guilty of animal cruelty in the first degree when he or she: (a) Knowingly engages in any sexual conduct or sexual contact with an animal; (b) Knowingly causes, aids, or abets another person to engage in any sexual conduct or sexual contact with an animal; (c) Knowingly permits any sexual conduct or sexual contact with an animal to be conducted on any premises under his or her charge or control; (d) Knowingly engages in, organizes, promotes, conducts, advertises, aids, abets, participates in as an observer, or performs any service in the furtherance of an act involving any sexual conduct or sexual contact with an animal for a commercial or recreational purpose; or (e) Knowingly photographs or films, for purposes of sexual gratification, a person engaged in a sexual act or sexual contact with an animal.

(4) Animal cruelty in the first degree is a class C felony.”

defined “animal” to be: “every creature, either alive or dead, other than a human being.”⁴⁶

Within this statute, there are three different ways to commit the crime of first degree animal cruelty, and the *mens rea* for each sub-part is different.

The State may obtain a conviction under *any one* of these sub-parts:

Under part (1), the State may prove that the perpetrator *intentionally* did one of three things to an animal: inflicted substantial pain on, caused physical injury to, or killed by a means causing undue suffering, (or forced a minor to do any of these things.)

Under part (2) the State may show that the perpetrator acted with *criminal negligence* in starving, dehydrating, or suffocating an animal and thereby causing, either, the animal’s death, or substantial and unjustifiable physical pain that “extends for a period sufficient to cause considerable suffering.”

The final part (3) broadly prohibits sexual relations with an animal, or bestiality.⁴⁷ The *mens rea* here is *knowingly* and the statute includes filming, observing, photographing, and all forms of acting as an accomplice, in addition to committing the actual contact.

2) *Animal Cruelty in the Second Degree*

For cases not meeting all of the elements to convict of First Degree Animal cruelty, Washington provides for second degree cruelty as a misdemeanor offense.⁴⁸ To convict under

⁴⁶ RCW 16.52.205(8)(a). For the other statutes within RCW 16.52, “animal” is generally defined as “any nonhuman mammal, bird, reptile, or amphibian.” RCW 16.52.011

⁴⁷ This subsection was added in 2006 in response to an incident in Enumclaw where a man died having sex with a horse. The incident was widely reported in the media, and the residents of Washington discovered that bestiality was not prohibited by State law. The legislature hurried to pass the legislation outlawing any and all sexual contact with animals.

⁴⁸ RCW 16.52.207 provides:

“(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence: (a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical

this section, the perpetrator must “inflict unnecessary pain or suffering” either *knowingly*, or *recklessly*, or with *criminal negligence*. Further, an owner of an animal may be convicted for second degree animal cruelty for failing to provide “necessary shelter, rest, sanitation, space or medical attention” when such a failure results in “unnecessary or unjustifiable physical pain,” or for abandoning an animal, no matter if such abandonment results in pain or suffering.

3) Animal Fighting

The legislature broadly prohibited animal fighting and made all violations a Class C felony.⁴⁹ A person is guilty of the crime of animal fighting not only for being the primary organizer but also for taking any part in the preparations for animal fighting such as breeding, training, advertising, etc. Also, a person may be guilty under this statute for watching an animal fight, for permitting it on or in his property, or any place he has control over, for selling or taking animal intending to use it in animal fighting, and many other acts relating to animal fighting.

attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

(b) Abandons the animal.

(3) Animal cruelty in the second degree is a misdemeanor.”

⁴⁹ RCW 16.52.117 provides:

“(1) A person commits the crime of animal fighting if the person knowingly does any of the following: (a) Owns, possesses, keeps, breeds, trains, buys, sells, or advertises or offers for sale any animal with the intent that the animal shall be engaged in an exhibition of fighting with another animal; (b) Knowingly promotes, organizes, conducts, participates in, is a spectator of, advertises, prepares, or performs any service in the furtherance of, an exhibition of animal fighting, transports spectators to an animal fight, or provides or serves as a stakeholder for any money wagered on an animal fight at any place or building; (c) Keeps or uses any place for the purpose of animal fighting, or manages or accepts payment of admission to any place kept or used for the purpose of animal fighting; (d) Suffers or permits any place over which the person has possession or control to be occupied, kept, or used for the purpose of an exhibition of animal fighting; or (e) Takes, leads away, possesses, confines, sells, transfers, or receives a stray animal or a pet animal, with the intent to deprive the owner of the pet animal, and with the intent of using the stray animal or pet animal for animal fighting, or for training or baiting for the purpose of animal fighting.

(2) A person who violates this section is guilty of a class C felony

... (4) For the purposes of this section, "animal" means dogs or male chickens.

4) Other provisions

The legislature also prohibited or regulated the following: using dogs or cats as bait,⁵⁰ cutting the ears of an animal,⁵¹ docking the tails of horses,⁵² poisoning animals,⁵³ and illegally transferring animals into the research world.⁵⁴

B) Where Mooie Fits Into The Statutory Scheme

What happened to Mooie is First Degree Animal Cruelty, a Class C felony, under Washington law. The material that she was submerged into, concentrated ammonia, is not the sort of product that any animal would get into on its own. There was no open container of such a product anywhere near where she was found, to indicate that she might have accidentally fallen into it. No, her little body was intentionally dipped or somehow covered in this toxic substance. She suffered greatly, and was in extraordinary pain when brought to the veterinarian. The prosecutors would probably have the greatest difficulty in proving the *intentional* element of the act; however, if the perpetrator had been found, the person who dumped Mooie *inside the fenced yard* where she was discovered, the State would have had a very strong case that what happened to her was no accident.

C) Enforcement in New York

Several cities and counties around the United States have recognized the unique problems in combating animal cruelty and have taken action in response by creating law enforcement positions or teams to specifically handle these crimes. These cities have approached the problems differently and have come up with various programs that King County should consider.

⁵⁰ RCW 16.52.300

⁵¹ RCW 16.52.095

⁵² RCW 16.52.090

⁵³ RCW 16.52.190 and RCW 16.52.193

⁵⁴ RCW 16.52.220

In New York, the city government, the New York Police Department (“NYPD”), and The American Society for the Prevention of Cruelty to Animals (“ASPCA”) combine their efforts and resources into an animal cruelty investigations team known as the Humane Law Enforcement (“HLE”).⁵⁵ There are about 20 HLE officers, many of whom are former NYPD detectives with more than 20 years of experience in law enforcement; for instance, HLE Agent Joseph Pentangelo was an NYPD officer for 27 years before joining the HLE.⁵⁶

The ASPCA estimates that there are five million pets in the five boroughs of New York City and the HLE investigates more than 4,000 cruelty incidents every year. These officers have general police powers, including the power to carry firearms and the power to arrest. In 2000, they arrested 55 people, issued 30 summonses to court, seized 537 animals, assisted in prosecuting 27 perpetrators, and saw 13 convictions for animal cruelty.⁵⁷

This successful program in New York is the result of the cooperation between the NYPD, the ASPCA, and the participating officers and, very importantly, because the officers of the HLE receive extensive training specific to animal cruelty investigations and they attend the NYPD academy. They also organize and present training programs for police officers within the NYPD and all over the country so that these other police departments will understand the crime of animal cruelty and neglect, recognize the warning signs of animal abuse, and handle these cases as they encounter them in their everyday police work.⁵⁸

⁵⁵ The American Society for the Prevention of Cruelty to Animals—Fight Cruelty Animal Precinct, *available at* http://www.aspc.org/site/PageServer?pagename=cruelty_animalprecinct (last visited Feb. 24, 2007)

⁵⁶ Telephone interview with Agent Pentangelo, January 5, 2007.

⁵⁷ Animal Planet News: Animal Precinct—History of the ASPCA, *available at* <http://animal.discovery.com/fansites/animalprecinct/history.html> (last visited Feb. 24, 2007).

⁵⁸ Telephone Interview with Agent Pentangelo, *supra* note 56. HLE agents will travel to Washington and provide this innovative, thorough, and valuable training to our police departments free of charge.

New York has a statute that differs from that of Washington, however, as it pertains to enforcement.⁵⁹ In order for Washington to follow exactly the New York plan, the legislature would have to rewrite the enforcement provision to allow Humane Officers to have general police powers to enable them to carry firearms and make their own arrests. Nonetheless, the New York model is very important for two reasons. First, in New York the animal cruelty investigators are essentially police officers: they have the power to arrest and they carry firearms. In Washington, the people currently charged with animal cruelty investigations, KCAC, are neither permitted to make arrests nor carry weapons. Second, the New York HLE agents receive extensive police training through the NYPD academy and the agents use their specialized animal cruelty expertise to educate other NYPD detectives. Washington should follow this example closely by dedicating specialized police officers to animal cruelty investigations and by training *all* police officers in recognizing the signs of animal cruelty.

1) Enforcement in Other Jurisdictions

Houston, Detroit, San Francisco, and Miami have all created animal cruelty officer positions either within existing police forces or as separate entities. The City of Chicago has dedicated an entire unit, The Animal Abuse Control Team, from within the Chicago Police Department (“CPD”) to the investigation of animal cruelty cases. The unit is headed by Chicago Police Sergeant Steven C. Brownstein, a 24-year veteran of the CPD, who has led the unit of several detectives since 1999.⁶⁰ Since creating this team, the CPD has seized more than 5,000 animals and has made more than 700 arrests for animal cruelty.⁶¹

⁵⁹ N.Y. McKinney's Agriculture and Markets Law § 371 (2004). Specifically, the HLE agents are statutorily empowered to carry weapons, make arrests, and execute search warrants.

⁶⁰ Tony C. Yang, ASPCA honors cop for efforts on dog fighting, CHICAGO TRIBUNE, November 1, 2006, at 9.

⁶¹ Id.

It is noteworthy that none of these cities would claim to be crime-free in other types of crime; rather, these places have recognized animal cruelty as an additional significant and important crime on which to focus time and resources. Houston reports 9,000 reported animal cruelty crimes per year, Detroit 4,000, and Miami over 1,500. San Francisco receives a reported 10,000 calls per year alleging animal cruelty. The officers dedicated to the field of animal cruelty in each of these cities have the duty to respond and investigate all of these cases. None of these programs require, as part of the duties of the officers, the general office work that King County Animal Control is charged with: pet licensing, leash law enforcement, and the other duties explained in the next part of the article.

D) Conclusion

King County must follow the examples set by these other jurisdictions in enforcing our animal cruelty laws. Washington, with its animal cruelty statutes, has recognized many permutations of animal cruelty as serious crime. The problem is, even with these excellent statutes, broadly defined and well written, the laws do not enforce themselves. They are simply words on a page. Since 1994, when the bulk of the present animal cruelty legislation was passed, very few cases have ever been brought to trial. In order for Pasado's legacy to be realized, in order to effectuate the legislature's broad and forward-thinking intent, and in order for animal abuse to be caught and stopped before an offender moves on to other victims and other acts of violence, we must go beyond putting the laws on the books. Law enforcement authorities and prosecutor's offices must take action to enforce these laws. They must investigate and prosecute with vigor.

KCAC already receives more than 1000 reports of animal cruelty every year. With greater, public enforcement, where people understand the laws and trust the authorities to

respond to complains, the number of cases reported will likely increase.⁶² The legislation passed in 1994 was intended to reach all incidents of animal cruelty. Mooie is an example of the failures of Washington's system where, though we have good laws making animal cruelty a felony, if we do not support these laws with investigative police powers and the focus of the prosecutor's office, then no justice is done. Washington's system is not equipped today to address adequately crimes committed against animals, whether it is a well-publicized case like Mooie or an incident without any publicity. Therefore, this paper will now propose two reforms to help realize the legislature's broad intent of the animal cruelty statutes.

V) A MODEL FOR WASHINGTON

The goal is to end animal cruelty, both because the public abhors the crime, as shown by the outcry following Pasado, Mooie and others, and because of the link between cruelty toward animals and other dangerous crime. The necessary statutes are in place. The public and the state legislature support the goal. Only through structural changes in its law enforcement and prosecution systems will Washington realize the potential of its animal cruelty criminal statutes. This paper will focus on King County because, with more than 1.8 million people, it is the 13th most populous county in the nation⁶³ and is by far the largest county in Washington by population.⁶⁴ King County can effect statewide change and should be a leader of the entire state in combating animal cruelty.

⁶² Telephone interview with Agent Pentangelo, supra note 55. In New York, when the HLE gained more widespread publicity, reports of animal cruelty increased, and, according to Agent Joseph Pentangelo, the increase in reporting led to an increase in investigations, arrests, prosecutions, and convictions.

⁶³ About King County Government, *available at* <http://www.metrokc.gov/about.htm> (last visited Feb. 24, 2007).

⁶⁴ U.S. Census Bureau—Washington by County, *available at* http://factfinder.census.gov/servlet/GCTTable?_bm=n&_lang=en&mt_name=DEC_2000_PL_U_GCTPL_ST2&format=ST-2&_box_head_nbr=GCT-PL&ds_name=DEC_2000_PL_U&geo_id=04000US53 (last visited Feb. 24, 2007).

To achieve this, King County must change the way its law enforcement agencies handle crimes of animal cruelty. In addition, the King County Prosecuting Attorney's Office must change the way it handles the animal cruelty cases that are referred. Only when these two participants in the criminal justice system work together consistently to investigate and prosecute animal cruelty will the public realize that animal cruelty is a serious crime. And only then will offenders have an opportunity for rehabilitation and will potential offenders be deterred.

A) Animal Cruelty Law Enforcement

1) Present System in King County

KCAC handles nearly all animal-related tasks in King County, an area of more than 2,000 square miles, encompassing Washington's two largest cities, Seattle and Bellevue, as well as many surrounding cities and towns, including Federal Way, where Mooie was found.⁶⁵ KCAC tasks include pet licensing, responding to calls from neighbors complaining about barking dogs, picking up stray animals, writing citations for leash law and pet license violations, clearing roadways of livestock, and many other time-consuming duties.⁶⁶ To accomplish all of these duties, King County employs only seven animal control officers who handle an estimated 34,000 calls every year.⁶⁷ And, even though local police departments within King County, such as the Federal Way Police Department, have jurisdiction over all felonies, most of the cities within King County, as well as the county itself, have a contract with KCAC such that animal control handles all reports, complaints, and allegations of animal cruelty.⁶⁸

Animal control officers are not police officers and they do not have police power. They do not undergo the intensive training in criminal procedure or evidence gathering that police

⁶⁵ About King County Government, *supra* note 63.

⁶⁶ King County Animal Control—Field Services, *available at* <http://www.metrokc.gov/animals/animalcontrol/field.aspx> (last visited Feb. 24, 2007).

⁶⁷ Roberts, *supra* note 5, at B2.

⁶⁸ King County Animal Control, *supra* note 66.

officers regularly experience nor do they have the power to arrest or to issue search warrants. Instead, if faced with a situation in which they would like to make an arrest, animal control officers must find a police officer and ask the police officer to make the arrest for them.⁶⁹ King County animal control officers are not allowed to carry firearms.

For several reasons, animal control cannot and does not fully investigate all the animal cruelty complaints that are reported every year. First, they have too many other tasks that take a lot of time and prevent the officers from even responding to the majority of animal cruelty complaints.⁷⁰ In the face of these other demands, animal cruelty complaints are pushed aside in the prioritization of resources. Second, without training in evidentiary and other criminal procedures, evidence is effectively or actually destroyed, as demonstrated by the Mooie case where the greatest piece of evidence, Mooie's body, was cremated before a necropsy was performed. This kind of evidentiary mistake confounds investigations and leads to the abandonment of many cases. Third, without the power to arrest and the power to execute a search based on probable cause, time is lost, evidence is never discovered, and cases are lost before they are able to move toward courtroom proceedings. It is a basic rule of police work that an investigator must act quickly, as cases do not become stronger with time. Time lost too often equates to cases lost, in many criminal settings. Lastly, because Animal control officers do not see many cases go forward to trial, they do not become as familiar with the legal hurdles and challenges that arise with prosecution when compared to police officers who spend much of their time testifying and appearing in court. Mistakes may be made that result in acquittal of an animal abuser simply because the investigatory procedure did not comply with the most recent legal developments.

⁶⁹ RCW 16.52.015.

⁷⁰ King County Animal Control, *supra* note 66.

2) What King County Law Enforcement Should Do

To remedy this problem, King County has two options: 1) it can grant police power to the KCAC officers; or 2) it can take animal cruelty investigations out of the hands of animal control and dedicate positions within existing police departments to the investigation of animal cruelty complaints.

No matter which of these plans is selected, or if another is chosen, it is imperative that members of the police forces at large know the provisions of the animal cruelty statutes in Washington and that they be trained to recognize the signs of animal abuse and cruelty. This training is similar to training in domestic violence, child abuse, and elder abuse. As is often the case in child abuse crimes, animal cruelty requires an intervening witness or someone who observes the victim. Police officers at large should be trained in how to recognize and respond to animal cruelty incidents, and why it is important to take these cases seriously.

(a) Police power to KCAC

To grant police powers to KCAC would require a statewide statutory change. If this option is chosen, the legislature should model the statute and the program after New York State.

(b) Create positions within existing Police Departments

The better plan, requiring no legislative changes, is to take animal cruelty investigations out of the hands of KCAC and assign police officers the duty to enforcing the animal cruelty laws. KCAC would retain the bulk of their current work, enforcing the civil laws such as pet licensing, etc.

(c) How to implement this change

King County should start with by dedicating two police officers from the King County Sheriff's Office to animal cruelty investigations. The KCSO has all of King County within its

jurisdiction. This way, each individual city need not dedicate officers to the task. These officers should attend training specific to animal cruelty crimes. The ASPCA will travel to Seattle and provide this training free of charge.⁷¹ These officers should have as their primary task the investigation of animal cruelty complaints. This does not prevent them from acting as general police officers should they be the nearest officers to another, non-animal related crime. It means that they are assigned full time to completing all tasks necessary to prepare an animal cruelty case for trial: responding to calls, questioning witnesses, gathering evidence, following leads, and all the other tasks necessary to prepare a strong case.

Only by creating positions within law enforcement will King County adequately address the problem of animal cruelty. Our current system does not work, evidence is lost, officers are not trained in law enforcement, and animal control officers have too many duties wholly unrelated to cruelty investigations. Cruelty investigations must be made more of a priority for law enforcement.

(d) Costs

The biggest hurdle to overcome in instituting this plan is financial cost. As of 2006, King County deputy sheriffs with four years experiences earn an annual salary of just over \$60,000, and they receive health and other benefits in addition to this salary.⁷² Sergeants with four years experience each just over \$75,000.⁷³ Taking into account the cost for benefits, the likely cost of adding each additional deputy sheriff is in the range of \$100,000-\$150,000 annually.

Current staffing is most likely already fully employed. Consequently, to maintain the current workload and duties of existing deputy sheriffs, and to add the necessary resources to

⁷¹ Telephone interview with Agent Pentangelo, *supra* note 56 and note 58. Training and educating police officers around the nation is one of the tasks of the HLE and the ASPCA.

⁷² King County Sheriff's Office 2006 Pay Scale for Guild Members, *available at* http://www.metrokc.gov/sheriff/_downloads/join/2006payscales.pdf (last visited Feb. 24. 2007).

⁷³ *Id.*

properly handle animal cruelty cases, the department should request funding for two additional sheriff positions dedicated to animal cruelty enforcement.

There are more than 1,000 reports of animal cruelty made every year just in King County.⁷⁴ With greater publicity of the new enforcement measures, the county would likely see an increase in reporting as experienced in New York.⁷⁵ The work would be more than enough to keep two officers busy on a full-time basis.

Much publicity has been made of Washington's present \$2 billion budget surplus.⁷⁶ Adding two additional King County Sheriff's to the important task of animal cruelty investigations would be an excellent use of a small portion of this surplus.

B) Prosecution

The prosecutor is a crucial part in the enforcement of laws. In order for the goals of the criminal justice system to be realized, the prosecutor must follow through on police work by taking cases through to convictions. The prosecutor is a necessary link. If law enforcement is expected to take animal abuse cases seriously, we must also expect prosecutors to prosecute them seriously.

1) Present System at the King County Prosecuting Attorney's Office

The King County Prosecuting Attorney's Office ("KCPAO") has units specializing in domestic violence, elder abuse, sexual assault, car theft, juvenile crimes, homicide, drugs, and several others. Additionally, within certain divisions, such as juvenile, there are prosecutors who specialize in particular areas, such as school violence. These prosecutors have become knowledgeable on narrow parts of criminal law over years of experience.

⁷⁴ Roberts, *supra* note 5, at B2.

⁷⁵ Telephone interview with Agent Pentangelo, *supra* note 55 and note 62.

⁷⁶ State Representative Barbara Bailey, 2007 Legislature provides opportunities to address local, state challenges, January 5, 2007, *available at* http://access.wa.gov/leg/2007/Jan/n200708_9532.aspx (last visited Feb. 24, 2007) [hereinafter: Bailey].

However, the KCPAO does not have any deputy prosecutors specializing in animal cruelty cases. The issues that arise in animal cruelty are unique. For instance: judges are less familiar with the animal cruelty laws and as a result, the prosecutor must take the time to keep the court informed and well versed in the latest developments in these laws. Also, presenting a case to a jury requires a different approach than other crimes: the prosecutor must overcome different biases in *voir dire* and challenges that arise throughout the trial.

2) *What The King County Prosecuting Attorney's Office Should Do*

To overcome these obstacles, the KCPAO should dedicate a single deputy prosecutor to animal cruelty cases. This prosecutor should be well educated on the specific animal cruelty laws in Washington and should form a strong working relationship with the dedicated law enforcement officers.

There are 154 deputy prosecutors within KCPAO.⁷⁷ If a different prosecutor handled every animal abuse case, much of the work would have to be recreated each time and the experience gained from one case to the next is largely squandered. Yet, if one deputy handled every single animal cruelty case, he or she would become an expert in this narrow field. KCPAO has followed this logic in creating other positions within the office for the same strategic reasons; they should apply the practice to animal cruelty cases.

(a) Communicating with juries

While, as previously discussed, most cases never reach a courtroom due to systemic problems, King County has had success with those cases it has prosecuted. Many of the animal cruelty cases that have gone to trial in King County have resulted in convictions.⁷⁸ Jurors are

⁷⁷ 2005 Annual Report of the King County Prosecuting Attorney's Office, *available at* <http://www.metrokc.gov/proatty/reports/2005.pdf> (last visited Feb. 24, 2007).

⁷⁸ For instance, in 2004 two defendants were convicted and sentenced to 9 months imprisonment, very close to the 12-month maximum, for tying a dog to a tree and shooting it with arrows. The men pulled the arrows from the

largely intolerant of cruelty towards innocent animals. Nonetheless, presenting an animal cruelty case to a jury is a challenging task. The prosecutor should not be too graphic, because that may upset jurors, but nor should the prosecutor omit evidence about the suffering endured by an animal because the statute requires this element of the crime in many applications.

(b) Working with judges

Judges, however, are a much greater challenge to prosecutors. Judges with lengthy experience have seen many criminal cases come before them. They have heard details of the worst crimes, assaults, and murders in King County. They may not believe that crimes against animals deserve the same level of scrutiny; they may even believe that these cases simply waste precious courtroom time. A prosecutor is well aware of the notion of “judicial economy” and must be conscious of this particularly in a lesser-publicized crime like animal abuse. The prosecutor needs a specific strategy to educate not only the jury on the facts of a given case, but also to educate the judge on the importance of animal cruelty prosecutions within the general field of criminal justice.

The prosecutor must ensure that all evidentiary procedures are precisely followed so as not to risk being overturned on appeal. When a subject matter is relatively new to a judge, this is particular important for the prosecutor to do.

(c) Costs

As with the Sheriff’s Office, deputy prosecutors are not without financial cost to the county. Here, however, unlike within the KCSO, animal cruelty prosecutions would demand only a portion of one deputy prosecutor’s time and resources. An incoming deputy prosecutor starts around \$47,000 annually, and a deputy prosecutor with five years experience, earns

dog’s body and shot the helpless animal repeatedly. The dog’s body was never recovered yet the prosecutor was able to win the case through eye-witnesses to the crime. Clarridge: 9-Month Term, supra note 31.

between \$60,000 and \$75,000 annually, plus benefits.⁷⁹ The necessary changes in the prosecutor's office may be accomplished with approximately half the work time of a single Deputy Prosecuting Attorney; thus, when including as estimated cost for benefits, this additional half-time workload for one deputy prosecutor will cost the County an estimated \$50,000.

New York City has implemented a plan very similar to this proposal in the District Attorney's Offices in two of its five boroughs. In each of these two offices, one Assistant District Attorney handles all the cases that are referred from the HLE officers. The HLE officers know that they can rely on these individual prosecutors to devote time and energy to the animal cruelty cases; and the prosecutors, in turn, form strong working relationships with the HLE officers, keeping them informed of important legal changes and hurdles. This teamwork has resulted in many convictions and has brought good publicity.⁸⁰

C) Summary

Adding two King County Sheriff's and devoting half of one Deputy Prosecuting Attorney's time will have a significant impact on the county's ability to investigate and prosecute crimes against animals. The benefits are numerous: the public will become more acutely aware of the strict prohibition against cruelty towards animals, and will know that the county takes this crime seriously. If these new enforcement measures were combined with a simple publicity effort, such as notices posted inside busses that provide a hotline for the new animal cruelty Sheriff's and information about reporting, then the public will know who to call if they witness any animal cruelty or neglect and will trust that the county will follow up on their reports. Public awareness is an important factor in stopping cruelty towards animals.

⁷⁹ 2006 King County Employees List, *available at* <http://lbloom.net/xking06.html> (last visited Feb. 24, 2007).

⁸⁰ Telephone interview with HLE agent Joseph Pentangelo, *supra* note 56.

The overall financial costs in implementing this plan, in terms of personnel is \$250,000-\$300,000. With an annual budget of \$448,000,000 for the Law, Safety and Justice sectors within the county,⁸¹ which includes both the Sheriff's Office and the Prosecutor's Office, this is but a small percentage. And with the current state-wide budgetary surplus,⁸² this plan will have a great impact relative to its price tag. The county will be able to bring its criminal justice mechanisms into line with the legislature's intent in broadly outlawing animal cruelty.

VI) CONCLUSION

The people of Washington should be proud of their animal cruelty statutes. But to be effective, these laws must be enforced; the laws alone are not enough to stop, prosecute, treat and deter offenders. State legislators cared enough to pass these laws, the public and media supported them, and now it is time to enforce these laws as other jurisdictions in America have done. Crimes against animals, especially against pets, happen more often than most people imagine. Only with dependable law enforcement and capable prosecutions will offenders of this terrible crime be caught, punished, and rehabilitated. Only then will we see justice for innocent animals like Mooie. Only with successful prosecutions will others be deterred. Only then can we begin to stop other cruel acts committed against animals. By implementing the systemic improvements outlined here, King County can and should lead Washington in this important direction to successfully stop animal abuse.

⁸¹ Law, Safety & Justice Program Plan 2006 at 2, *available at* <http://www.metrokc.gov/budget/adopted/8LSJ.pdf> (last visited Feb. 24, 2007).

⁸² Bailey, *supra* note 76.