

3. Investigating an Animal Cruelty Complaint

Overview:

There are no hard and fast rules when you investigate animal cruelty; you must use your best judgement in each situation. However, in all situations, we recommend your response be guided by the following concerns:

- What is the best thing to do for the animal?
- What would a reasonable person do in this situation?
- Do I have “reasonable cause” to do what I am doing, based on the facts as I know them?

Be aware of the following general considerations when investigating cruelty complaints:

Arriving at the scene

- When you investigate an animal cruelty case, always bring a camera with you.
- Are there any witnesses? If so, note their names, addresses, and phone numbers for follow-up contact.
- Pay attention to the conditions as you approach the property, and document them, if possible:
 - What buildings are on the property?
 - Are there any sounds coming from the buildings?
 - What is the condition of any animal in plain view on the property?
 - Is the property well kept?
 - Are there any bad smells coming from the property?

These observations will provide you with an idea of what to expect with regards to the condition of the animals as well as clues as to where you might ask to look.

Preparing for Owner Reactions

Throughout this manual, wherever we refer to “owner,” the term includes anyone responsible for the care of the animal, as well as the owner himself.

When you confront an owner with an animal cruelty complaint, his or her response can range from cooperation to outrage. Be prepared for anything. Keep in mind that short of being caught in the act of beating their dog, owners generally will not admit to mistreating or neglecting their animals, or they will find excuses for why it happened. It is important to remember this when confronting an individual.

Obtaining a Search Warrant Before Confronting Owner

You may be faced with a situation in which animals are in very bad condition. You may have obtained signed statements attesting to the animals’ condition, in addition to your own observations. If it is a situation where you anticipate that confronting the owner first will cause him to remove the animals before you have a chance to obtain a search warrant, consider obtaining the search warrant beforehand.

If the animals are in plain view, consider taking photographs of them from a location where you are not trespassing. Submitting the photographs along with the search warrant application will enhance your chances of obtaining a search warrant. The photographs will also be useful as evidence in your case.

Animal’s Condition/Circumstances

The following scenarios can be used for guidance in investigating any animal cruelty complaints: i.e. complaints relating to house pets or farm animals on private property; animals that are part of a circus; animals at county fairs; or animals in a pet store.

The scenarios are based on the assumption that you have received a complaint (anonymously or not) about an animal or that you have personally observed a situation in which an animal is being neglected or abused.

The scenarios cover the following situations:

1) Non-exigent circumstances

- Arriving at the scene

- Serious neglect
- Less serious neglect
- Confronting owner/owner reactions
- Owner cooperative - wants to surrender animal
- Owner cooperative - doesn't want to surrender animal
- Owner uncooperative - allows you access to animal
- Owner uncooperative - refuses you access to animal

2) Exigent circumstances

- Arriving at the scene
- Animal easily accessible
- Animal not easily accessible
- Confronting owner/owner reactions

3) Abandonment

- Arriving at the scene
- Non-exigent circumstances
- Exigent circumstances

4) Large numbers of animals - unable to remove easily

Your assessment of the animal's circumstances and condition will determine how you proceed. (See also chapter 6, "Animal Care Practices for Some Common Animals", for additional guidance in assessing an animal's condition.)

At the end of this section, we have provided samples of the types of excuses you will hear when you confront a person with the neglect or abuse of their animal.

NON-EXIGENT CIRCUMSTANCES

Non-exigent circumstances exist when an animal does not appear to be in extreme pain or in imminent danger of losing its life but is neglected or abused to a greater or lesser degree.

- **Arriving at the scene**

It may not always be easy to distinguish between severe neglect and exigent circumstances - determining the degree of neglect is often a judgment call.

- 1. Some Examples of Serious Neglect**

- animal is very thin
- animal appears to be constantly scratching at itself or rubbing against walls (possibly from mange or lice)
- animal has numerous sores on its body
- animal is limping
- animal is living in filthy, squalid conditions
- animal is in the hot sun (a pig without shelter in the hot sun could die)

- 2. Some Examples of Less Serious Neglect**

Do you believe that the animal is being neglected but is not yet in a state of severe neglect?

- the animal does not have proper shelter (for example, a dog with only the tailgate of a truck for shelter - if it were winter, this could be deadly for the animal)
- water bowl overturned/dry - no fresh water available
- the animal's appearance indicates a general lack of proper care

The neglect must be corrected before it becomes serious.

NOTE: If an owner is not at home, and your observations indicate that an animal is being neglected, consider leaving a notice for the person to call you when he returns. If you do not receive a call, return later when you expect the person to be present and proceed to investigate the complaint.

- **Confronting owner/owner reactions**

Attempt to talk to the owner and ask to examine the animal. Attempt to find out how the situation came about. His response will likely follow one of the scenarios outlined below.

1. Owner *cooperative* - May want to surrender the animal

- a. Discuss the welfare of the animal with the owner, and ask him how the situation came about.
- b. If the owner wants to surrender the animal for the sake of its well being, attempt to obtain a written statement granting permission to the local humane agency to take over care and control of the animal (See sample on page 218 of Appendix III, Forms and Supplies List, “Agreement for Surrendering Animals to Humane Society”).
- c. Enlist the aid of the local humane agency (or animal control officer) and a veterinarian and have the animal removed from the property.

2. Owner *cooperative* - Doesn't want to surrender the animal

- a. Provide the owner with a list of things he must do within a specified time period to bring the animal's situation into compliance with the law. The more serious the condition of the animal, the quicker the owner must act.
- b. Explain to the owner that you will return within a day or so, and you expect to see the animal's care in compliance with the instructions you left. Let him know that if it is not, he will be considered in violation of Title 13.
- c. Ensure that whatever conditions are causing the complaint are temporarily corrected before you leave; for example, make sure the animal has food, water, and shelter before you leave.
- d. Return within the time period you specified and determine if the animal's situation has improved.
- e. If it has not, consider obtaining a search warrant and contacting the animal control officer or local humane agency to remove the animal from the property.

NOTE: *You must use your own judgment. If you believe that an owner cannot follow through with instructions, then you would not give him any. Instead, you would take steps to obtain a search warrant to seize the animal. Also, if it is clear that the person does not have the means (monetary or otherwise) to correct the animal's problem, consider obtaining a search warrant to seize the animals.*

3. Owner *uncooperative* - but you are allowed access to the animal

If the owner is uncooperative (i.e., refuses to acknowledge the state of the animals, acts belligerent, etc.) and you have sworn deposition or complaint or you are the complainant based on what you saw, then consider doing the following:

- a. Document any statements the owner makes.
- b. Apply for a search warrant and an arrest warrant. If you have reason to believe that the animal will be removed by the abuser before you can secure a search warrant and obtain the assistance you need to seize the animals, leave an officer at the scene, if possible.
- c. Contact the animal control officer/local humane agency and ask them to come to the scene.
- d. Execute the search warrant. Give a copy of the search warrant to the owner. (If the owner is not on the property, leave a copy in a prominent place.)
- e. Photograph the animal and its surroundings.
- f. Have the animal control or local humane agency remove the animal either to a veterinarian or to the local humane society.
- g. Advise the owner of his rights, and attempt to talk to him to determine how the situation came about.

If the owner is not on the property, and cannot be located with reasonable efforts, apply for an arrest warrant. Issue him a citation (and whoever else is responsible for the state of the animals) and charge him with the appropriate sections of Title 13. Be sure to contact your State's Attorney's office to commence forfeiture proceedings immediately.

- h. If the animal is taken to the veterinarian's office, take additional photos there. Obtain a statement and/or medical record from the veterinarian documenting the animal's condition.
- i. Meet with the State's Attorney's office to discuss the case and present your evidence as soon as possible.

4. *Owner uncooperative* - and you are not allowed access to the animal

If the person refuses to allow you to see or examine the animal, the way you proceed depends on the evidence you have.

- a. If you have a signed complaint and probable cause to believe that the complaint is valid, apply for a search warrant to enter the property.
- b. If you do not have a signed complaint, consider doing the following:
 - Interview the neighbors to see if anyone has knowledge of the situation and will sign a complaint.
 - Look into the background of the person to see if there have been previous complaints.
 - Determine if there is any health hazard to the neighbors; for example, bad smells emanating from a garage where animals are kept or vermin present in the area of the property.

You may gather enough information to be able to apply for a search warrant.
- c. If you have nothing concrete to go on, you may simply have to wait until you do.

EXIGENT CIRCUMSTANCES

Exigent circumstances exist when an animal may be in danger of losing its life.

- **Arriving at the scene**

Examples of exigent circumstances:

- Animal is severely emaciated - near death
- Animal's collar is imbedded in its neck
- Animal has numerous sores on its body, or obvious inflicted injuries, such as gunshot wounds, arrows, etc.
- Animal appears to be overcome with heat exhaustion
- Animal is whimpering and vomiting, or appears too undernourished and weak to stand up
- In a farm-related case involving large animals such as horses or cows, the animals may be too weak to stand
- Animal is crying out in pain behind a locked door
- A building is on fire or flooding and an animal is inside

Police have successfully employed the **exigent circumstances** rule in the past to remove an animal from such circumstances/conditions. (See also page 10 of Chapter 1, Be Prepared Ahead of Time, "Key Concepts").

1. Animal is easily accessible

1. If exigent circumstances exist, and you can remove the animal, consider doing so rather than waiting to obtain a search warrant.
2. Call the animal control officer or local humane agency to take the animal to a veterinarian. NOTE: *When animals are seized without a warrant, a humane officer is required by law (see Title 13, Section 354 (b) 3) to immediately take the animal to a licensed veterinarian to assess its health.*
3. When an animal is taken to the veterinarian's office, take photographs of it there. Get a statement from the veterinarian, documenting the animal's condition.

2. Animal is not easily accessible: in locked car/or behind locked door

If you believe exigent circumstances exist, and the animal is not easily accessible, consider doing the following:

1. If you have exigent circumstances involving an animal suffering from heat exhaustion, such as a dog in a hot car, find a witness if possible, and do whatever is necessary (such as breaking the window) to remove the animal from the circumstances immediately. (See Title 13, Section 386 (b)).

NOTE: *You are responsible for securing the vehicle afterward.*

2. If you can see the animal through the window of a locked building or apartment, or if you can't see it, but hear it crying in distress behind a closed, locked door, consider doing the following:
 - a. Break the lock or the door and remove the animal. If possible, have a neighbor witness the circumstances and sign a statement attesting to the circumstances. If a witness is not available, document your actions very carefully. Take photos if possible.
 - b. Take the animal to a veterinarian for treatment, if necessary. NOTE: *When animals are seized without a warrant, a humane officer is required by law (see Title 13, Section 354 (b) 3) to immediately take the animal to a licensed veterinarian to assess its health.*

3. Entering Property - Some Considerations

Remember you are responsible for the security of the property that you entered; you must re-secure it after you remove the animal.

With regard to a person's house, there would have to be an **extremely** compelling reason for you to break into a person's house without a search warrant; for example, the house was on fire or flooding, and an animal was trapped inside.

Confronting owner/owner reactions

1. Talk to the owner to determine how this situation came about. Based on the conversation, you might arrest him, issue him a citation, and/or obtain a written statement from him granting the local humane society permission to take over control of the animals.
2. If the animal has been abandoned, try to find the owner after ensuring that the animal is moved to a safe place. When the owner is found, charge him with the violations of the appropriate sections of Title 13.

ABANDONMENT

You may receive a complaint that an animal has been left without food or water for several days and appears to be abandoned. These complaints often occur in vacation/resort areas at the end of tourist season, but they can occur anywhere. In this situation, it is especially important to obtain a sworn statement from the complainant, if possible, to establish how long the owner has been gone.

• **Arriving at the scene**

When you enter the property, announce your arrival, and look for the owner/occupant. Knock on the front door to see if anyone is at home. If no one answers, go to the rear of the house and knock on the back door, then shout out for the owner/occupant. As you do so, look for the animal that was the cause of the complaint and any other animals that may be on the property.

Exercising this type of behavior - calling out, looking for the owner - demonstrates a “good faith” effort in finding the owner/occupant while doing your job.

If you discover an animal on the property, determine whether exigent circumstances exist.

1. Non-exigent circumstances

The animal you found appears to be in a neglected state, but not in danger of dying. Perhaps you cannot see the animal, but you hear sounds inside a locked barn or house. In either case (accessible or not), consider the following approach:

- a. Talk to the neighbors, to determine how long the owner/occupant has been gone. Obtain signed statements, if possible.
- b. Based on the input you receive, your observations, and the signed affidavit (if you have one) of the complainant, obtain a search warrant.
- c. If you cannot ascertain how long the owner/occupant has been gone, you might try the following:
 - Leave a notice for the owner to contact you OR place a piece of clear tape across the door and jamb.
 - If the owner does not call or the tape has not been broken in 24 hours, obtain a search warrant to seize the animal(s).

- If it is a rental property, attempt to contact the landlord. If he has reason to believe the tenants have abandoned the property, ask him to sign a permission slip to enter the property and remove the animals.
- d. Call the animal control officer/humane society to accompany you to the property.
- e. After securing the search warrant, enter the property. Take photographs of the animal(s) on the property and any provisions (or lack thereof) of food, water, sanitation, etc. (See pg 266 of Appendix IV, Fact Sheets and Articles, “Ten Top Tips for Good Photography, Videography”)
- f. Have the animal control officer/local humane society take the animal to a veterinarian or to the animal shelter.
- g. If the animal is taken to the veterinarian’s office, take photographs of it there. Get a statement and/or medical records from the veterinarian, documenting the animal’s condition.
- h. Leave a copy of the receipt and the search warrant (*not* the application or affidavit) on the property.

NOTE: *Provide food and water for accessible animals.*

CAUTION: *Although you have a search warrant, if you enter a locked building (especially a house) and remove an animal, you are responsible for re-securing that building. This is especially important with regard to an individual’s residence. See pg 29 in this chapter, “Entering Property - Some Considerations”.*

2. Exigent Circumstances

See the discussion of “Exigent Circumstances” starting on pg 27 of this chapter.

- **Confronting owner/owner reactions**

When you find the animal’s owner or person responsible for the animal’s situation, interview him to determine how the situation came about. Based on the conversation, you might charge him with the appropriate violations of Title 13.

ANIMALS — UNABLE TO REMOVE EASILY (Large Numbers of Animals/Large Animals)

There may be situations where it is difficult to remove the animals easily — there are too many, they are big farm animals, circus animals, or you suspect there may be more animals that are hidden from your view.

For information and suggestions on how to handle this situation, see pg 271 in Appendix IV, Fact Sheets and Handouts, “Animal Hoarders Fact Sheet” and Shelter Sense reprint from May/June 1994 (loose) on animal collectors.

IMPORTANT NOTE: In some cases, especially where many animals are involved, some animals may appear more neglected than others. Nevertheless, all the animals should be seized, if possible, because the conditions in which the animals are being kept are causing the problem. And it is usually only a matter of time before the healthier ones will be in bad shape as well.

SOME COMMON EXCUSES YOU WILL HEAR

Here are some excuses and fabrications you may hear from people when they are confronted about neglect or outright cruelty. Be aware that in many cases, the person says what he does in an effort to avoid being punished.

The assumption in the situations below is that there is neglect that must be addressed, but the animal is not in danger of losing its life.

• Situation 1:

Thin animal. The truth is that the animal is not being fed enough or has a serious case of internal parasites.

Excuses:

- *Oh, I guess we take him on too many walks. He must be getting too much exercise.*
- *He's always been a thin dog.*
- *The cat is such a fussy eater lately.*
- *His mother was thin, too.*

- *Oh, you should have seen him when we got him. He's put on a lot of weight since then.*
- *We've had him to the vet's, and he's being treated.* (This may or may not be true, and must be checked out as soon as possible.)

Your possible responses:

- *Where and when did you get the animal?*

If the person tells you where they got the animal, consider checking with that person or place as to the condition of the animal when it was given to the person.

- *Who is your veterinarian? When did you last have the animal examined?*

If they give you the name of the veterinarian, consider checking with the veterinarian to see when the animal was last seen and its condition at that time.

- *When do you plan to have him examined?*

Make sure the person gives you a reasonable time frame within the next few days. Check with the veterinarian to ensure the animal was seen and to determine the veterinarian's opinion of the animal.

- *How much food do you give the animal every day?*

When they respond with the amount of food they give the animal, consider telling them that given the condition of the animal, that amount of food does not appear to be adequate.

• **Situation 2:**

Dog outside - no water available or water bowl dry. The truth is the dog has not been given water.

Excuse:

He must have drank it all. I gave him a big bowl this morning.

Your possible response:

Get a bigger bowl.

Excuse:

Every time I give him water, he throws it up.

The truth is the dog has water so rarely that he gulps it greedily and throws it up.

Your possible response:

That means he is not getting enough water.

Excuse:

He knocks over that water bowl all the time.

Your possible response:

Get a bowl that doesn't tip over.

• **Situation 3:**

Dog outside - no shelter available and the weather is either extremely hot or cold. The truth is that the dog is kept outside all the time.

Excuses:

- *Oh, John (or whomever) must have forgotten to let him back in. We always bring him in.*
- *We just put him outside for some air.*
- *He always comes in at night.*

Your possible response:

- *Check back at different times of the day to see if animal is outside.*
- *Interview the neighbors as to when they see the dog outside.*

NOTE: *If the weather conditions have the potential to be harmful to the animal, you can order them to bring the animal inside.*

• **Situation 4:**

Two or more people are standing next to two dogs fighting. The truth is they had bets on their dogs and were fighting them.

Excuse:

I was just standing here talking to my friend, and his dog attacked mine. I swear it.

Your possible response:

Make careful notes as to what you observed

If the dogs just happened to get into a fight, the persons should have been trying to break it up. If they were not, consider charging them with animal fighting (Title 13, Section 352 (5)) NOTE: *Animal fighting is a felony.*

If you do not have enough to charge them now, get ID and make notes.

If the dogs are pit bulls, you will most likely see them fighting the dogs again.

• **Situation 5:**

A dog is bloodied or hurt; you suspect the owner hit him.

Excuse:

I let him out and he got in a fight with a dog down the street.

He just fell down the stairs.

Your possible response:

Get medical attention for your dog immediately.

Call the veterinarian later to get a report. Interview the neighbors to see if they saw the owner beating the dog. If so, attempt to obtain statements from them.