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Animal Cruelty: The Nexus Between Admonishable Violence and Sanctionable Criminal Acts

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ANIMAL CRUELTY: THE NEXUS BETWEEN ADMONISHABLE
VIOLENCE AND SANCTIONABLE CRIMINAL ACTS

by

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A thesis submitted in partial fulfillment of the requirements
for the Honors in the Major Program in Legal Studies
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ABSTRACT

In recent years, animal cruelty has stirred into the limelight as society has given the issue further consideration. State and federal laws as well as the establishment of diverse non-governmental organizations exist to abate animal cruelty, but such institutions have lagged in creating effective control mechanisms in spite of the growth of this modern day pandemic. This thesis will discuss animal cruelty, the types of cruelty, legislative developments, correlation of animal cruelty to violence among humans, and ways to strengthen control mechanisms. Credible findings have indicated a propensity for offenders of animal cruelty to escalate their acts of violence towards a human. Although animal cruelty has made a modest impression on society, a significant segment of our population nevertheless shares the belief that animals are property lacking a holistic set of basic rights, which in turn perpetuates egregious forms of abuse towards animals. Said abuses will be thoroughly reviewed in this thesis with the intent of bringing a collective consciousness to the reader of the extensive types of abuses animals are subjugated to by some of the most heinous offenders.

Then, a discussion will proceed of the hoisting impact animal cruelty has in galvanizing violence towards humans. By meticulously analyzing a variety of empirical research showing the overarching effects of animal cruelty as well as by analyzing state and federal laws that have been hindered tepid enforcement control mechanisms over the years, this thesis will argue for an overhaul of enforcement mechanisms so as to cause broader circumvention of animal cruelty. While research shows that there has been a growth in awareness by another significant segment of the population as to gravity of the situation dealing with the mistreatment of animals in our society, there still remains insufficient societal awareness and governmental power to abundantly

curtail this imminent problem. Only when society is enlightened with the dangers of animal cruelty and how it can have dire undulating effects within the community, will substantial advancements be made to give animals the wide spectrum of rights they deserve. After conveying the societal necessity for change in constructively protecting animals, a discussion will ensue on the inadequacy of animal laws today. Then, a discussion will proceed on ways to strengthen animal rights in a manner that is reflective of the general cultural norms and values in this modern age. It is the intent of this thesis to affect change and begin a constructive discourse in society of how to mend the preceding errors of prior generations when dealing with animal abuse. While for a significant segment of the population the merit of such argumentation may rest solely in the notion that animals deserve certain basic rights, this thesis widens the purview of consciousness with the empirically-proven affirmation that animal violence can potentially lead to attacks against humans by people who progressively engage in anti-social acts. Thus, the nexus between admonishable violent acts and sanctionable criminal acts is intrinsically intertwined in the notion that animal abuse is a potential precursor to human abuse. In this light, even that segment of the population apathetic towards the plight of animals may not refute the importance of impugning any and all admonishable violent acts against animals into the realm of punitive criminal sanctions orchestrated by a governmental body empowered with seeking the common good—for to otherwise refute animal rights through this newly-endowed lens would be to refute human rights as well.

DEDICATION

To every animal that has been or is currently being subjected to cruelty and abuse, I pray that you are aware that there are people out there that are devoted to nothing but your well-being and will continue such cause until animal violence recedes.

To my committee, Dr. Irene Pons, Dr. Janice Scott, Dr. Abby Milon and Dr. Jeffery Bedwell for having faith in my research and accepting to partake as members of my committee. I know that all of you have so many things to do already and I appreciate everything you did to aid me in completing such goal.

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INTRODUCTION

Animal cruelty constitutes the unnecessary infliction of pain or suffering to any animal for purposes other than self-defense or survival. Since ancient times, Hindu and Buddhist scriptures have advocated vegetarianism for ethical reasons to spare the life of animals (Lin, 2013). Yet, the animal rights movement as the Western world envisages it today did not come about until the publication of *The Animal Liberation Movement* by Peter Singer in 1975. Prior to that time, the notion of animal cruelty had been systematically dismissed through the assertion that animals cannot reason or talk about ostensible pain; only then did the notion of animal suffering begin to sprout into the collective conscious of society (Singer, 1985). Since then, an array of organizations, such as the American Society for the Prevention of Cruelty to Animals (ASPCA) and the Animal Defense Legal Fund, has taken a more prominent role in society to end animal cruelty and educate the general public. Through grassroots movements involving civic organizations, pressure has been exerted to pass statutes that assertively sanction animal cruelty. Presently there are forty-nine states, in addition to the District of Columbia, Virgin Islands, Guam and Puerto Rico, that have passed felony animal cruelty laws. Before such state laws were enacted, animal cruelty was considered a misdemeanor and the maximum penalty was a fine, usually around \$1,000.00 with no imprisonment sentence. Even as tough statutes have been enacted, robust enforcement mechanisms are required to produce the intended consequences of such statutes.

PROBLEM

Animal cruelty has perpetuated from ancient times when brute force was law to the modern age when the rule of law ostensibly governs our conduct. Animals continue to be victims without a voice, subjected by irrational people to abuse such as the following: beating, stabbing, burning, drowning, hanging, fighting, hoarding, poisoning, shooting, neglect, torture, choking, mutilation, being thrown against a wall, vivisection, bestiality and kicking. The entertainment industry has also perpetuated animal abuse for the enjoyment of viewers of television production, circuses, crush films and bullfighting; this type of abuse will be discussed in the latter portion of this thesis. In addition, animals are subjected to abuse by laboratory companies as they are experimented on and treated as dispensable commodities to be used and disposed of, as safety standards for human consumption are established. Such laboratories are affiliates of manufacturers whose brand names are ironically synonymous with family, unity, and harmony and include reputable brands such as Aveeno, Band-Aid, Aim, and Avon. (Support, 2013) The disparity is reflective of the disconnection between product and consumer in the modern age, but it is also reflective of consumer apathy towards social causes. While considerable strides of advancing animal rights have been accomplished, further and substantial advancement is necessary to match modern-day general credence with modern-day actions towards animals. A discussion of the history of animal cruelty will shed light into how far society has come in alleviating the plight of animals and how far we still must stride to obtain a decent standard of justice for animals.

HISTORY OF ANIMAL CRUELTY

As previously mentioned, some eastern cultures have advocated for animal rights since ancient times. Yet, western traditions have lagged behind since ancient times in ascertaining a comprehensive standard of treatment for animals, as evidenced in Christian scriptures. While the Scriptures indicate that Jesus did value animal creation, it is well noted that Jesus valued humanity more highly. For example, in the Garderene swine story, Jesus sends demons into a pig pen in order to expel them from town, knowing that the pigs would perish as a result of his actions (Preece, 2002). Against this backdrop, theologians and philosophers occasionally discussed the treatment of the “brute creation” and the responsibilities of humans for such treatment. The notion has been that concern for the treatment of animals is secondary to the well-being of humankind. However, to what extent animal sacrifice is justifiable to achieve such well-being is a relative assessment. Thus, such relativity has led to laxity throughout time in Western society in providing at least a decent standard of treatment for animals and, even more appealing, those that do at least recognize a certain responsibility towards treatment of animals have condoned animal cruelty through their indifference. The evolution towards anti-animal cruelty movements has been sluggishly progressing since the 1600s; not until the 19th century did attempts to make conspicuous changes arise (Yount, 2004, p. 1). The early crusades in such movements produced various organizations with missions to protect animals from mistreatment. Yet, the struggle to achieve a milestone for animal rights is evident in the societal perspective of animals during that time. For instance, during the 1600s, Rene Descartes, a prominent and influential French philosopher and activist, expanded on the protracted notion that animal rights

were either nonexistent or trivial compared with the long-espoused higher value of human creation. Such an idea had long been promulgated by Thomas Aquinas, a thirteenth century theologian and philosopher who believed that animals lacked reason; the continuum of such ideas evidences the obstinate philosophy in Western society through that wide period of time. Rene Descartes claimed: “[Animals] could not really suffer because they did not possess reason, soul, or feeling . . . the cries . . . made when scientists operated on them, had no more significance than the squealing of ungreased machine parts” (Yount, 2004, p. 4). This belief in the trivialness of animal rights was essentially followed by Western society until the second half of the 18th century when some activists began to question such belief. As a pioneer in animal rights, Great Britain developed comprehensive anti-animal cruelty laws that would later influence similar laws in the United States. To understand the frustration with the pace of legislative reform and the urgency of revamping enforcement mechanisms of animal anti-cruelty laws, it is advantageous to delve first into the types of animal abuse that make exigent the need for remedial action now.

DIFFERENT FORMS OF ABUSE AND THEIR CHARACTERISTICS

Many different forms of animal abuse have been exposed and characterized as animal cruelty, either by law or by the collective consciousness of segments of the population. Though some forms have not been considered unlawful, the following can be characterized as forms of abuse to animals: experimentation, unconventional food source, circus mistreatment, bestiality, bullfighting, crush videos, dogfighting, horse racing, usage as actors, cockfighting, hoarding, and weight hauling. Pressing action is required to prohibit, curtail, or regulate such activities. Unlike our predecessors, we possess more scientific basis to concede that animals do suffer. Thus, the current struggle in this modern-age is to bring about a collective consciousness that such suffering should cease as a moral prerogative due to animals—and, indeed, a prerogative to which deliverance is long overdue.

TELEVISION AND PRODUCTION

While animals in television production may provide entertain to the general populace, animal abuses behind the black studio curtains plague the production of some of the eclectic television productions society has come to cherish. In response to animal abuse behind the scenes, the American Humane Association monitors the safety conditions of animals on production sets to ensure no harm is being subjected to animals that are casted in television productions or films. The organization began monitoring after producers in the film “Jessie James” in 1939 forced a horse to leap to its death off the top of a cliff. According to the organization People for the Ethical Treatment of Animals (PETA), “AHA [American Humane Associate] does not monitor living conditions of animals off set, during pre-production training, or during the premature

separation of infants from their mothers. The organization . . . rarely, if ever, files formal complaints when animals are mistreated” (People for the Ethical Treatment of Animals, 2013). Many times animals are subjected to poor living conditions, such as being cramped in cages until they are temporarily released for their part in the film to be taped. In an article by Randy Malamud, the author gives examples of two films that depicted the mistreatment of animals casted in film productions:

In *Cannibal Holocaust* (1979) . . . [d]uring the making of this film, [an] opossum was slit with a knife; the shell was ripped off a turtle; and a monkey was scalped. [In] *Apocalypse Now* (1979) [the film] was found unacceptable because a water buffalo was hacked to pieces. (Malamud, 2010, pp. 2-3)

Even more recently, in the film *Manderlay* (2005) donkeys were slaughtered and eaten for food for the purposes of cinematographic effects portraying an eccentric scene (Adams, et al., 2013).

CIRCUSES

For most spectators, a day at the circus consists of family fun enjoying the performances. Most spectators, though, are unaware of the excruciating pain that animals experience in performing circus acts. Circus animals are subjected to callous forms of punishment and deprivation to force the animals to perform tricks. Trainers use whips, tight collars, muzzles, electric prods, bull hooks and other tools of reprimand to train the animals to perform acts that, after all, are unnatural behaviors forced upon them. Such unethical training methods are not just used by fringe companies that fall under the radar of monitoring by nongovernmental organizations. On

the contrary, well-known and respected circus companies, such as the Ringling Brothers Circus, have been criticized by organizations for atrocious mistreatment of circus animals.

Circuses easily get away with routine abuse because no government agency monitors training sessions. Undercover video footage of animal training sessions has shown that elephants are beaten with bull-hooks and shocked with electric prods, big cats are dragged by heavy chains around their necks and hit with sticks, bears are whacked and prodded with long poles, and chimpanzees are kicked and hit with riding crops. (People for the Ethical Treatment of Animals, 2013)

Some communities are banning animals from being part of circuses in their jurisdiction due to the recognized mistreatment of animals. Yet, such actions only provide a scintilla of promise for a set of holistic solutions, since long-reaching and uniform governmental actions are needed.

CRUSH FILMS

Crush films are another form of animal cruelty and provide fringe entertainment for pockets of the population aroused by such psychotic acts. Crush films consist of an animal being mortally stomped and is described in an article by Randy Malamud as: “amateur sadistic/fetishistic pseudo-pornographic footage of erotically costumed women stepping on insects, mice, cats . . . crushing them in stiletto heels” (Malamud, 2010). In some instances the women aren’t even wearing shoes and are performing the acts with their bare feet. One sample of a crush video depicted:

A kitten, secured to the ground, watches and shrieks in pain as a woman thrusts her high-heeled shoe into its body, slams her heel into the kitten's eye socket and mouth, loudly fracturing its skull, and stomps repeatedly on the animal's head. The kitten hemorrhages blood, screams blindly in pain, and is ultimately left dead in a moist pile of blood-soaked hair and bone. (Beerworth, 2010, p. 902)

While such videos are illegal, enforcement is lax and intermittent, and prominent cases have had limited success, as will be further discussed in the latter part of this thesis. Complicating prosecution, offenders do not show their face and hide behind masks and elaborate costumes while performing their cowardly acts. The creation of the videos is illegal; yet producers are farce companies hiding under an intricate web of corporate entities. Furthermore, the act of purchasing crush videos is not itself illegal, since the purchasing act is deemed protected speech. Thus, in practicality, crush videos are no more regulated than abuses of circus animals.

BULLFIGHTING

Every year 40,000 bulls are barbarically slaughtered in bullrings around the world. Mutilation techniques have been employed to facilitate a win for the matador, the bull's opponent. Such techniques are comprised of weakening the bull by beatings with sandbags, debilitating it with laxatives, drugging it, shaving of its horns to impair navigation, and rubbing petroleum jelly into its eyes to impair distance perception. In Spanish bullfights, men will drive lances in the backs and necks of the bulls, consequently affecting the bulls' ability to raise its head and use its bull horns as a defense. At the end of the fight, the matador attempts to kill the bull with a sword. At

times, the attempt is not successful and the bull remains conscious, but paralyzed. Later, the bull is dragged out of the arena (People for the Ethical Treatment of Animals, 2013).

BESTIALITY

The act of bestiality is among the most controversial and repugnant acts of animal cruelty, and is defined as sexual relations between a human and animal. The prevalence of such acts is impossible to measure since animal victims are silent victims subjugated to abuse in the private chambers of the perpetrator. Research, though, indicates that such acts do occur and the abhorrent natures of such acts make any figure of occurrence alarming.

Three researchers conducted a study using 381 institutionalized or adjudicated male offenders, average age of 11.3. The offenders were given an anonymous self-report questionnaire which found that 6% admitted to have done sexual acts with an animal. Of the 6% 14 of the 24 juveniles indicated they had ‘rubb[ed] my private parts against it’ . . . 10 of the 24 admitted to ‘putting my penis into its private parts’ . . . [t]wo of the 24 juveniles indicated they had ‘inserted an object into the animal’ and six had “inserted a finger into the animal . . . [researchers] noted that 23 of the 24 individuals who reported prior acts of bestiality also admitted to having committed sexual offenses against humans. (Fleming, Jory, & Burton, 2002)

Bestiality is a form of abuse that cannot be adequately halted just with government enforcement. Thus, holistic approaches of education and government intervention, during those rare times of detection, are necessary to combat such abnormal, yet tacit abuse.

VIVISECTION

Although this form of abuse may ostensibly be justified as necessary for the advancement of science, the methods and regularity with which such procedures are conducted make such abuse no more justifiable than the blatant abuses discussed above. Vivisection is a method of using animals for experimental purposes in a manner that is unjustifiably painful, with no proper use of anesthesia to ease the agony. Such method of experimentation was quite common as a form of medical advancement through the 19th Century. Important medical advancements have been achieved through vivisection and thus, its practice cannot be wholesomely dismissed as abuse. For instance, in 1628, William Harvey, an English physician, discovered through vivisection the circulation of blood (Yount, 2004, p. 37). Around 1875, however, concern arose in Western society that this practice required a more humane methodology. Mounting from such concern, George Hoggan, a British scientist, published an account detailing his encounters with Claude Bernard, a French physiologist, wherein he would perform painful experiments on animals without placing them under anesthesia (Yount, 2004, pp. 37-38). Such concern prompted legislation in Britain to regulate the practice of vivisection; such legislation later influenced legislation in the United States. The legislative reforms will be analyzed in the latter portion of this thesis. Yet, according to LCA (Last Chance for Animals), a nongovernmental organization monitoring vivisections; “because vivisection is done behind closed doors at the hands of scientists, the suffering continues. To hide this suffering, animal experimentation laboratories are built without windows. They have extensive security systems to prevent public entry. They are hidden away in basements, cellars, and underground rooms” (LCA, 2013). Thus, the holistic approach to preventing animal cruelty, as will be discussed in a latter portion of this thesis, must

include more effective governmental control mechanisms. In light of the extensive forms of animal cruelty discussed, the progress of the aforementioned control mechanisms will be analyzed in conjunction with statutory developments and methods to strengthen control mechanisms will be promulgated in an effort to curtail the alarming pandemic of animal cruelty.

INTRODUCTION TO THE FIRST SET OF STATUTORY LAWS ENACTED

While comprehensive animal cruelty controls still require significant advancements, formidable progress has been made when a relative assessment is conducted of the inadequacies of Western society in dealing with this pandemic just a few centuries ago—at least in the form of written laws. In the first milestone for the curtailing of animal abuse, in 1723, Britain enacted the Black Act, which proscribed the destruction of another person’s property and categorized the violation as a capital offense. Because animals were classified as property, the Black Act inadvertently gave animals at least a certain degree of rights. Yet, it was not until a century later that resolute enactment of some animal rights was established by law. Britain’s Martin Act of 1822 became the first national law against animal cruelty, prohibiting the beating of horses and cattle. The Martin Act influenced later animal legislation in the United States. In 1835, the Act expanded to cover all domestic animals and consequently rendering acts of bullbaiting and cockfighting illegal in Britain. Around 1867, Henry Bergh, founder of the American Society for the Prevention of Cruelty to Animals, persuaded the New York Legislature to pass a law against animal cruelty, similar to that of Britain’s law. The New York act was heavily influenced by British law and essentially became the model for later animal anti-cruelty laws in the United States (Yount, 2004, p. 107). From that state statute, the same principle of humane treatment of animals was applied to federal statutes. The first instance of such application came in the enactment of the Humane Slaughter Act of 1958, which required all livestock, with the exception of birds, to be rendered unconscious before being slaughtered. While the British Parliament swiftly passed the Cruelty to Animals Act of 1876, which regulated the use of animals in research, the United States was sluggish in its regulation of laboratories performing tests on

animals and did not pass legislation until almost a century later after Great Britain. While British laboratories, at least in writing, were regulated in the experimentation of animals, by 1957 about 17 million animals were being used for research in laboratories that were unregulated in the United States. Finally, in 1966 the Laboratory Animal Welfare Act was enacted to regulate experimentation of animals. This milestone, however, was not achieved until after Congress became flooded with letters from the public demanding humane treatment of animals in laboratories (Yount, 2004, p. 38). The Laboratory Animal Welfare Act mainly protected family pets and later legislation was enacted to widen the scope of protected animals. That scope was widened by the Animal Welfare Act of 1970, which revised the Laboratory Animal Act of 1966. The Animal Welfare Act created stringent regulation for the handling of animals that were to be used in exhibitions and laboratories throughout the United States (National Agriculture Library , 2013). Among the most important pieces of legislation to arise during this period of environmental and bio-ecological awakening was the Endangered Species Act of 1973, which protected endangered and threatened animal species. The Act established cooperative agreements with states so that multilevel government entities could work together to ensure the survival of wild animals listed in a designated endangered species lists (Fish and Wildlife Commission, 2013). Thus, in about a century, Western society began spinning the wheels of justice, though at a slight and frustrating pace, so that a threshold of a basic standard of humane treatment could be achieved for both domesticated and wild animals. Comparing those standards with the abusive treatment animals have endured since Biblical times, modern Western society has achieved a milestone; however, more needs to be accomplished.

ANIMALS CONSIDERED PROPERTY

Since the dawn of time, classification of animals has been degraded to the status of property, with no standing legal rights. Legislative proposals to advance the rights of animals have at times been stifled as politicians cater to the interests of industry. While the status of animals is certainly more amenable than that of a few centuries ago, more work has to be done to achieve systematic humane treatment of animals in Western societies. Since the 19th century when the first set of laws were enacted for the protection of certain animals, the controversy as to whether animals merit a more humane and modern legal status remains. A professor at St. Cloud State University commented on the rights of animals:

They have none. In the eye of the courts, animals are things . . . or property . . . period. As such, they have no legal standing, or value in their own right. Laws have protected animals only in order to benefit humans . . . judges have almost unanimously interpreted even laws against cruelty to animals as being intended ‘not really to protect animals . . . [but] to protect humans from harm and prevent the decay of their moral character. (Yount, 2004, p. 9)

Such distorted perspective hinders the work of attorneys who attempt to file a lawsuit on behalf of an animal. Because animals have no legal standing, they do not qualify as an acceptable plaintiff. As explained in Black’s Law Dictionary, an acceptable plaintiff in a lawsuit must be able to show that the defendant(s) “invaded[ed] a private substantive legally protected interest... belonging to them” (Yount, 2004, p. 9). Such impediment to filing a lawsuit for an animal still stands even if it is well documented that the subject animal was mistreated in such a way that a violation of current law occurred. Thus, an animal has no standing to sue through a party with

interest and is delegated the mere status of property; a lawsuit to recover the value of a broken chair is thus equivalent to the recovery of mutilated animal in modern-day United States. Hence, the conduits of imposing sanctions for animal cruelty are only worthwhile to pursue in the realm of administrative law sanctioning industry violators and criminal law sanctioning individual violators. Even in both of those realms, serious progress is still lacking.

LACKADAISICAL ENFORCEMENT

The need for more enforcement of animal cruelty laws is evident in numerous studies conducted by reputable nongovernmental organizations. For instance, Northeastern University and Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA) completed a study ranging from 1975 to 1996 and was comprised of a thorough review of any cases concerning animal cruelty during that timeframe. Of the 80,000 complaints identified “268 resulted in efforts to prosecute criminally individuals who had allegedly committed intentional physical abuse to one or more animals”; that means less than 1% were prosecuted (Cruelty to Animals and Other Crimes, 1997). Less than half of the cases that were tried resulted in guilty verdicts. When correlated to a control group, the study found that of the one hundred fifty-three individuals that were prosecuted by the MSPCA within the years of the study, seventy percent of offenders that committed a violent crime towards an animal had a criminal record for either violent, property, or drug crimes. Because of this comparison it was found that: “[P]eople who abused animals were five times more likely to commit property crimes, and three times more likely to have a record for drug or disorderly conduct offenses” (Cruelty to Animals and Other Crimes, 1997).

Animal cruelty is a substantial predicament for the quality of life for communities as it is a precursor to other types of violence in the community. Federal and state laws need to be refined and reshaped to allow for more effective prosecution of violators of animal cruelty laws. According to David S. Favre: “[a] major shortcoming of these criminal laws is that they require government action, through the prosecutor's office, and prosecutors, as individual humans, [who] may or may not be motivated to act on behalf of animals” (Favre D. S., 2004). The issue is two-fold as inadequate laws that do not allow for more stringent investigation and enforcement gives rise to cases having insufficient supporting evidence for proper prosecution of offenders. Offenses not being properly reported by members of society coupled with unmotivated prosecutors results in low prosecution rates for violators of animal cruelty laws. Even when prosecutors do attempt to prosecute animal cruelty, daunting obstacles make a conviction unlikely.

According to Jennifer H. Rackstraw, an animal rights activists and attorney, Reno City Attorney's Office Chief Prosecutor, William Gardner, blames a lack of documentation of animal crimes as the main obstacle to trying cases of animal abuse and neglect. The chances of prosecution of an animal crime . . . or any crime perceived as less important by prosecutors . . . are greater if a prosecutor possesses well-documented evidence of that crime. (Rackstraw, 2003)

In order to curtail animal abuse, prosecution of such abuses must be more robust and consistent to send clear to potential violators that their behavior will not be tolerated. Until such a conspicuous message becomes part of the vibrant public policy, perpetrators will be tangled in a web of mixed messages as to permissible and tolerated conduct. Evaluating the success of

prosecutions of animal cruelty in the country that spearheaded legislative reform in this area may provide clues on how the United States may achieve greater success in its prosecutions.

GREAT BRITAIN

A report by the Royal Society for the Prevention of Cruelty to Animals indicated that successful prosecution rates in Great Britain, specifically England and Wales, rose by nearly a quarter last year (BBC, 2012). Britain's success in prosecuting animal cruelty provides a sharp contrast to the lukewarm prosecutions in the United States. Such contrast is not surprising since the development of animal cruelty laws and nongovernmental organizations aimed at promoting ethical treatment of animals first developed among Western societies in Great Britain. The United States has followed suit in advancing the cause of animals, but in relatively modest strides. The pace of advancement of animal rights in Great Britain, while not ideal, has certainly been making progress for an extensive period and is ahead of the progress made in the United States. According to Professors David Favre & Vivien Tsang "[t]he first articulations of concern for the moral and legal status of animals appeared in British writing . . . Reverend Humphrey Primatt, in *A Dissertation on the Duty of Mercy and Sin of Cruelty to Brute Animals*, written in 1776, pleaded for the care of animals" (David Favre, 1993). The ideas promulgated in *A Dissertation* influenced Jeremy Bentham, an English barrister and animal activist, to argue in his *Introduction to the Principles of Morals and Legislations* that "[i]nterests of the inferior animals [were] improperly neglected in legislation" and he extended his argument with the following rhetorical question to start a public dialogue in British society: "The question is not, can they reason? Nor, can they talk? But can they suffer?" (Bentham, 1988). The answer to that rhetorical

question was answered by Lord Erskine as he presented a bill for the protection of animals to Parliament; unsettlingly, the bill was defeated in the House of Commons (David Favre, 1993). Thirteen years later, however, in 1822, Richard Martin achieved the passage of the “Dick Martin’s Act” which, as discussed earlier, prevented mistreatment of cattle. Since that time, humane treatment of animals has been a fundamental principle engrained in mainstream British society. Even if such ideals fall short on their practice by the mainstream, more unwavering commitment to those ideals are practiced in Great Britain and more prosecutorial avenues are at the disposal of government officials seeking to secure those ideals.

UNITED STATES

In contrast, in the United States, special interest groups spent substantial amounts of money fighting animal rights bills. A holistic approach as to what constitutes animal abuse is not ingrained in mainstream America and as a result of this misinformation, and at times indifference, lobbying groups are able to maintain industry standards that from a humane perspective constitutes animal abuse. For instance, Barnum and Bailey Circus last year spent \$355,000 last year to lobby against the passage of animal rights laws, up from \$280,000 and just \$120,000 (Tornoe, 2013). Most of the lobbying efforts are concentrated on defeating legislation that would prohibit the use of elephants in circuses. Yet, the treatment of elephants at circuses underscores the importance its owners imputes on them and instead is a core example of industrial efforts to place profits over humane treatment of animals. One account describes the plight of elephants subjugated to a circus life as follows:

Ringling elephants spend most of their long lives either in chains or on trains, under constant threat of the bull hook, or ankus—the menacing tool used to control elephants. They are lame from balancing their 8,000-pound frames on tiny tubs and from being confined in cramped spaces, sometimes for days at a time. They are afflicted with tuberculosis and herpes, potentially deadly diseases rare in the wild and linked to captivity. (Tornoe, 2013)

Despite such dire conditions for elephants, circuses are ironically branded as a family pastime in a civilized, modern Western society. Patronage of circuses is strong and accentuates the indifference or obliviousness mainstream society has towards animal abuse. Exertion of citizen pressure in prohibiting such abuse in circuses is slowly coming to fruition. For example, the cities of Anaheim and Los Angeles are considering banning the use of elephants in circus acts, while at the federal level Congressman Jim Moran (D-VA) has attempted to regulate the use of elephants in traveling shows (Tornoe, 2013). While such efforts are commendable, it is the goal of this thesis to raise the societal awareness so that such pocketed efforts become broad public policy and law.

ORGANIZATIONS

Since the looming animal rights movement entered the shores of the United States from its passage originating in Great Britain, various nongovernmental organizations have germinated in the United States to shape movements against animal cruelty. Such movements have spurred against a backdrop of ruthless industry players unwilling to change their business practices and callous individuals subjugating animals to an inferior order deserving of abuse for the fulfillment

of human glut and debauchery. Said organizations have waged laudable fights against those malefactors and a discussion of some of the most important nongovernmental organizations is necessary to fully appreciate the animal rights movement in the United States. The following list and discussion of those organizations:

- The American Society for the Prevention of Cruelty to Animals (“ASPCA”) was founded by Henry Bergh in 1866. Its purpose being “to provide effective means for the prevention of cruelty to animals throughout the United States.” (American Society for the Prevention of Cruelty to Animals, 2013)
- The American Anti-Vivisection Society was founded by a group of Philadelphians in 1883. Their intended goal was to regulate the use of animals in the field of science; their goal later amended to focus on the abolition of vivisection within the United States (Santoro, 2013).
- In 1954 The Humane Society of the United States (HSUS) was founded. This organization fights for the protection of animals and is known as one of the nation’s largest animal protection organizations.
- The Animal Legal Defense Fund was founded in 1979 by attorneys who decided to take an activist role in the animal rights arena. This organization works to protect animals by fighting for stronger enforcement of animal cruelty laws and proper humane treatment of animals within the United States.
- The People for the Ethical Treatment of Animals also known as PETA was founded in 1980. It is a non-profit charitable organization with a main goal of defending the rights of animals.

MODERN DAY DYNAMICS

A plethora of organizations exist to fight for the rights of animals and to end abuse towards them. Prestigious law schools such as Harvard and Georgetown have introduced courses in animal law to their curriculum. Also, law journals dedicated to animal law issues currently hold a prominent place in conjunction with other law journals in other traditional fields of law. For instance, the law journal of Northwestern School of Law at Lewis and Clark University is the leading journal in the animal rights field and promulgates in a scholarly form ways to protect animals (Lewis and Clark Law Review , 2013). Currently there are twenty-seven State Bar Animal Law Sections and Committees whose main focus is animal laws and the issues currently affecting society (Animal Legal Defense Fund, 2013). Through the diligent nongovernmental efforts of organizations and institutions of higher learning, awareness of the plight of animal cruelty is being brought to the attention of mainstream society with the ultimate intent of creating a collective conscience in society to the vices of animal abuse. Yet, considering that mainstream society in the United States is far removed from its agricultural roots, abuses, such as those that occur in food processing plants, are hard to transmit to an ever-detached and indifferent society.

THE CONNECTION TO HUMAN VIOLENCE

Not only is the prevention of animal abuse necessary for the well-being of animals, but also the preclusion of such cruelty may stop the affliction of human abuse, which may often stem from animal abuse. The connection between animal cruelty and human violence is indubitable and creates a general quandary for society as a whole to deal with the eradication of animal cruelty—whether arising out of mere egotistical concern in human well-being or as part of an altruistic sense of moral conviction to stop animal suffering. Empirical data unequivocally disseminates a positive correlation between animal abuse and human violence, and the exclusive scholarly inference that can be made from such consistent data is that animal abuse is a possible precursor to human violence. According to Mary Lou Randour, “further studies continue to confirm an association between animal abuse in childhood and later criminality” (Becker, F., & French, L. 2004; DeGue & DeLillo, 2009; Merz-Perez & Heide, 2003; Lewchanin & Randour, 2008). Furthermore, such findings are also shared by an animal activist and jurist at the Environmental Crimes Division at the Harris County, Texas, District Attorney’s Office.

According to Cynthia Hodges, research in psychology and criminology indicates that people who commit acts of cruelty to animals often do not stop there many of them later turn on humans. Psychology, sociology, and criminology studies have shown that many violent offenders had committed repeated acts of serious animal cruelty during childhood and adolescence. People who abused pets as children are more likely to commit murder or other violent crimes as adults. (Hodges, 2008)

Further studies scrutinize more in-depth the correlation between animal cruelty and human violence. The statistical data confirms that the positive correlation between these two factors establishes a causal relationship that cannot be dismissed as a mere coincidental relationship. A study conducted by researchers Simmons and Lehman of 1,283 women who were seeking services at an urban domestic violence shelter found that “abusive males who were also cruel to animals used more forms of violence and employed more controlling behaviors toward their female victims than men who did not abuse their pets” (DeGrue & DiLillo, 2009, p. 1039).

According to the American Humane Association:

13% of intentional animal abuse cases involve domestic violence. As many as 71% of pet-owning women seeking shelter at safe houses have reported that their partner had threatened and or actually hurt or killed one or more of their pets; 32% of these women reported that one or more of their children had also hurt or killed pets. Battered women report that they are prevented from leaving their abusers because they fear what will happen to the animals in their absence. Animal abuse sometimes is used as a form of intimidation in domestic disputes. (Animal Cruelty Facts and Statistics, 2011)

Not only is animal cruelty inhumane, it is tantamount to a psychological cry for help by the perpetrators of such offenses. Animal cruelty is noted to be a serious antisocial behavior that could aid in the discontinuance of possible future criminal acts towards an animal or human but it can aid to identify a child or adolescent subjected to dysfunctional family practices. If the government were to set proper policy to realistically and pragmatically end such acts of violence, the rate of violence towards humans would possibly be circumvented as well. The lack of a

permissible avenue to channel such anger towards an animal would in many cases prevent the mustering of violence all together. Thus, later on, the nonexistence of such violence would be a factor that would dynamically play a role in the nonexistence of violence towards humans.

Studies have shown that the correlation between animal abuse and human violence becomes even stronger when animal abuse begins in childhood. “Exposure to animal abuse may desensitize children to violence . . . and aggressive acts committed by children against animals can be an early diagnostic indicator of future psychopathology” (Becker & French, 2004). For example, Jeffrey Dahmer, a well-known serial killer and sex offender, would, during his childhood years, kill animals and mutilate their bodies for experimentation purposes and impale their skulls on sticks displaying them in his backyard. Later, during adulthood, Jeffrey Dahmer engaged in heinous, violent crimes against humans; he would dismember his victim’s bodies just as he did with his animal victims, he would also engage in raping his victim’s either before or after death, then upon completion of the removal of skin and meat from the bones he would engage in cannibalistic acts (Wright & Hensley, 2003, p. 78). In another study conducted of childhood cruelty of animals, characteristics of the most foretelling signs of later aggression against humans were identified. Said characteristics included the following: lack of remorse, commission of an assortment of cruel acts, victimization of a variety of species, and cruelty to socially-valuable animals (Becker & French, 2004). When such aggression is not detected and controlled from the onset the likelihood increases substantially of transgression into a criminal act against a human. Among the most abhorrent acts of animal violence occur when the subject animal being abused is comparatively weaker and frailer than the human perpetrator. Such lack of empathy towards living creatures is indicative of a condition identified as conduct disorder,

which will be more thoroughly analyzed in a latter portion of this thesis. Although a plethora of studies exist on this issue and findings are shared in scholarly circles, the lack of knowledge in mainstream society of the prevalence of animal abuse as a possible precursor to human violence is alarming. An article by Clifton P. Flynn, an activist and sociologist, studied the lack of awareness of the problem within the context of family and concluded the following:

Violence toward animals by family members is an issue that has been largely neglected by family professionals. The time has come to correct this oversight. Our attempts to do so may be impeded by society's contradictory attitudes toward animals, as well as by the temptation to see animals as less worthy victims. But if we are to address the needs of children and families, if we are to promote a nonviolent society, then we must pay attention to all forms of violence, including violence against animals. (Flynn, 2000)

Such insufficient attention has ripple effects and, ultimately both the animal and human world become injured parties. Educators who have minimal knowledge of the effects of animal cruelty thus, do not appreciate the daunting consequences of identifying and halting such appealing behavior during adolescent years. If said behavior is not corrected in time, such cruel attitudes towards animals can cause major emotional deficits in adult life, affecting social behaviors and relationships with others (Flynn, 2000). Hence, a discussion of the most prevalent anomalous behavior follows with the aim of raising awareness of their existence and, more importantly, their curtailment.

CONDUCT DISORDER

Known as one of the most common psychiatric disorders of individuals under the age of eighteen, conduct disorder is classified as a psychological disorder in which a repetitive and persistent pattern of behavior violates societal norms or rules, or basic rights of others. Individuals over the age of seventeen who meet the same criteria as conduct disorder are diagnosed with antisocial personality disorder. The disorder was found to be most common in boys, where a study indicated the general population range for boys is 6%-16% and for girls is 2%-9% (Jain, p. 1). Conduct disorder constitutes a psychiatric disorder that has been linked to animal cruelty, listed under the Diagnostic and Statistical Manual for Mental Disorders V. This disorder consists of the following four main characteristic behaviors: aggressive conduct producing or threatening physical harm to others or animals, nonaggressive conduct producing property damage or loss, theft or deceit, and breach of rules (American Academy of Child and Adolescent Psychiatry , 2012). Conduct disorder may be executed in two forms of behavior, discussed below exhibited by impassive or dramatic acts.

PASSIVE CRUELTY

Another form of anomalous behavior that constitutes animal abuse is passive cruelty. Passive animal cruelty is the act of omission. The offender does not necessarily inflict direct pain towards an animal. Rather the offender has a duty of care towards an animal and inflicts pain and suffering in the following forms: starvation, dehydration, neglect of necessary medical care, and inadequate shelter. Most forms of passive cruelty are due to ignorance that leads to negligence in the care of an animal (Pet-Abuse.com, 2013).

ACTIVE CRUELTY

In contrast, active cruelty constitutes a committed and functional act designated to inflict pain on an animal. The offender intentionally harms an animal with malicious intent and with no justifiable purpose. The earlier discussion of Jeffrey Dahmer constitutes such cruelty. Both active and inactive cruelty can be perpetrated simultaneously and do not necessarily occur in a mutually exclusive manner. The types of animal cruelty previously analyzed in this thesis constitute active cruelty. “Animal cruelty is no longer a simple issue and categorically cannot be ignored . . . Animal cruelty is now recognized as signature pathology” (Canadians For Animal Welfare Reform, 2010). Prominent criminologists insist that the insidious behavior exhibited in the torture of animals is reflective of deeper psychological issues that underwrite a culture of violence. According to FBI Supervisory Special Agent Allen Brantley was quoted as saying, "Animal cruelty is not a harmless venting of emotion in a healthy individual; this is a warning sign" (Canadians For Animal Welfare Reform, 2010).

VIOLENCE GRADUATION HYPOTHESIS

Violence graduation hypothesis consists of the concept that “animal cruelty may be a form of rehearsal for human-directed violence . . . a developmental incremental step toward violence directed at humans” (Gullone, 2012, p. 93). In 1987, Alan Felthous and Stephen Kellert interviewed habitual violent offenders and traced their childhood history. Their study reviewed fifteen controlled subjects and concluded that there is an association between animal cruelty in childhood or adolescence and recurrent aggression towards people at a later age (Gullone, 2012, pp. 92-93). Their work confirmed the hypothesis of violence graduation from childhood to

adolescence to adulthood. Since the study conducted by Felthous and Kellert, the violence graduation has been an accepted principle in the scientific and law enforcement communities.

LEARNED BEHAVIOR

Studies have shown the tendency of some criminal offenders who have committed cruel acts towards an animal either in childhood or adolescence to later graduate violence against a human. One study found that animal cruelty can be learned by others who witness the commitment of such heinous acts. A study of 180 incarcerated inmates found that 103 of the participants admitted to have at least once committed an act of animal cruelty during childhood. Finding that inmates who witnessed someone hurt or kill animals at a young age were more likely to frequently commit acts of animal cruelty, those who witnessed a family member commit acts of animal cruelty were also less likely to report they had witnessed a friend committing those same acts. Inmates who witnessed a family member commit animal cruelty were found to engage in recurrent acts of animal cruelty themselves (Hensley, Tallichet, & Dutkiewicz, Exploring the Age of Onset and Recurrence of Childhood Animal Cruelty: Can Animal Cruelty Be Learned From Witnessing Others Commit It?, 2011, pp. 621-622). One theory which explains such learned behavior is social learning theory. Social learning theory is the belief that people learn to engage in certain behaviors by others. According to American Sociologist Edwin H. Sutherland “learning typically takes place with intimate personal groups. In addition, the motives, drives, rationalizations, and attitudes for engaging in any behavior are learned from these same groups” (Hensley, Tallichet, & Dutkiewicz, Exploring the Age of Onset and Recurrence of Childhood Animal Cruelty: Can Animal Cruelty Be Learned From Witnessing Others Commit It?, 2011, p.

615). Thus, if a child or adolescent witnesses others engaging in acts of animal cruelty it can be assumed that they are then more likely to engage in similar behavior themselves. If a child or adolescent learns acts of cruelty toward an animal from witnessing another and then proceeds to commit such acts in front of another child or adolescent, that child can then consequently repeat the cycle. Therefore, the importance to curtail acts of animal cruelty not only stems from the empirical data finding a connection to human violence and animal cruelty but also due to the possibility one might learn such behaviors from others. Thus, ineffectively enforcing punishment for such heinous acts runs the risk of creating more offenders of animal cruelty which can subsequently lead to more offenders who graduate from acts of animal cruelty to human violence.

ANALYSIS OF STATUTORY ACTS

Over the last century, a plethora of legislative initiatives have been enacted into law. While the statutes in effect are comprehensive and wide-ranging in their protection of animals, a shift by activists is necessary so that the focus of animal rights movement becomes exerting pressure on the utilization of effective enforcement mechanisms of these laws. An analysis of statutory acts in Florida and at the federal levels will be conducted and a discussion of ways to strengthen their enforcement will follow. Statutes are only meaningful if effective enforcement control mechanisms bolster their proscriptions—otherwise, such statutes succumb to the trivialness of voluntary guidelines.

MISDEMEANOR

Sentencing for a misdemeanor conviction varies by state. For example, if someone were to be convicted of animal cruelty, classified as a misdemeanor of the first degree in Florida, punishable by a fine not exceeding \$5,000.00 or a term of imprisonment not exceeding a year, or both.

FELONY

A felony conviction also varies by state. Some states do not impose felony conviction for the violation of their animal cruelty statutes. If an offender, however, were to be convicted of animal cruelty in Florida and the act is classified as a felony of the third degree it would be punishable by a fine not exceeding \$10,000.00 or a term of imprisonment not exceeding five years, or both.

FORMS OF SANCTIONS

Most states contain laws allowing for a combined sentence imposition of fines and imprisonment upon conviction. In some states, mandatory psychological evaluations and adequate medical treatment follow conviction.

PSYCH EVALUATION

Currently, most states do not deem counseling or psych evaluation necessary following the conviction of animal cruelty. Of the forty-nine states that have enacted stricter animal cruelty laws, only twenty-eight have counseling provisions in their animal cruelty laws. Four of those states require counseling if convicted. Colorado only requires counseling if it is the second offense. Kansas and West Virginia require only an evaluation, and only six of those states require counseling for juveniles (Animals & Society Institute, n.d.). Florida currently is one of twenty-eight states that impose such mandatory evaluation upon conviction. If the finder of fact determines such act was intentional, in addition to the mandatory psychological evaluation, the offender will be ordered to pay a fine of \$2,500.00 and or undergo an anger management program.

FEDERAL STATUTES

Federal statutes dealing with animal rights are intrinsically intertwined with activities that affect interstate commerce. Thus, their purview of mandates is directed at industries dealing with animals, while state statutes focus on the treatment of domesticated animals, for the most part. The wording of statutes encompasses holistic proscriptions on some of the most egregious behavior of animal cruelty and an examination of statute wording confirms that the next battle of

animal rights lay in the enforcement of these statutes. For instance The Animal Welfare Act states the following:

Congress finds that . . . animals and activities as provided in this Act is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order . . . to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatments . . . to assure the humane treatment of animals during transportation in commerce; and . . . to protect the owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen. 7 U.S.C. § 2131 (West 2012)

Violation of any of the subsection from section 26 of the Animal Welfare Act is punishable by a fine and imprisonment for not more than 5 years, or both for each violation. 18 U.S.C. § 49 (West 2012)

The Animal Fighting Venture Prohibition states the following:

It shall be unlawful for any person to knowingly sell, buy, possess, train, transport, deliver, or receive any animal for purposes of having the animal participate in an animal fighting venture. . . [t]he criminal penalties for violations of subsection . . . provided in section 49 of Title 18. 7 U.S.C. § 2156 (West 2012) (Legal Information Institute, 2013)

Through the enforcement of federal statutes imposing some of the most heinous crimes, producing modern-day scandals, have been punished. For instance, in 2007, Michael Vick, was

indicted and convicted of running a dogfighting operation in violation of § 2156 (Maske, 2007). His case will be further analyzed in a latter portion of this thesis.

FLORIDA STATUTES

The State of Florida is one of forty-nine states containing both misdemeanor and felony statutes with regard to animal cruelty. Florida, through its police powers and authority to regulate the well-being and morals of its citizens, enacted laws that proscribe animal cruelty behavior that may take place in more private spheres of life, not necessarily dealing with commerce.

The following Florida Statute states:

A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal . . . in a cruel or inhumane manner, is guilty of a misdemeanor of the first degree . . . or by a fine of not more than \$5,000, or both. Fla. Stat. § 828.12 (2012)

Florida Statute § 828.12, classifies animal cruelty as a felony under the following circumstances:

A person who intentionally commits an act to any animal which results in the cruel death or excessive or repeated infliction of unnecessary pain or suffering . . . is guilty of a felony of the third degree . . . punishable . . . by a fine of not more than \$10,000, or both.

Under Fla. Stat. § 828.073 (2012), if an agent finds an animal under distress, that agent can take affirmative action as remedial course within the scope of his delegated powers. The pertinent statute reads as follows:

Any law enforcement officer or any agent of any county or of any society or association for the prevention of cruelty to animals appointed under the provisions of [§] 828.03 may . . . [l]awfully take custody of any animal found neglected or cruelly treated by removing the animal from its present location, or [o]rder the owner of any animal found neglected or cruelly treated to provide certain care to the animal at the owner's expense without removal of the animal from its present location . . . and shall file a petition seeking relief under this section in the county court of the county in which the animal is found within 10 days after the animal is seized or an order to provide care is issued.

Fla. Stat. § 828.125 (2012) discusses the killing or aggravated abuse towards horses/cattle and the applicable punishment. The pertinent statute reads as follows:

Any person who willfully and unlawfully . . . kills, maims, mutilates, or causes great bodily harm or permanent breeding disability to any animal of the genus *Equus* (horse) or any animal of any registered breed or recognized registered hybrid of the genus *Bos* (cattle) commits a felony of the second degree . . . any person who commits a violation of this subsection shall be sentenced to a minimum mandatory fine of \$3,500 and a minimum mandatory period of incarceration of 1 year.

Fla. Stat. § 828.126 (2012) discusses sexual activities involving animals. The pertinent statute reads as follows:

Any touching or fondling by a person . . . of the sex organs . . . of an animal or any transfer or transmission of semen by the person upon any part of the animal for the

purpose of sexual gratification or arousal of the person . . . [a] person may not . . . engage in any sexual conduct or sexual contact with an animal . . . [a] person who violates this section commits a misdemeanor of the first degree.

Like the federal statutes on animal cruelty, the pertinent Florida statutes proscribe holistic the most egregious behaviors of animal cruelty. Yet, it is the enforcement mechanisms that fall short on providing animals well-being espoused by the statutes. An examination of animal cruelty laws in other states will reveal, while considerable differences exist in classification and punishment, that most states proscribe egregious acts of animal cruelty and that, like in the federal system and in Florida, the fight lay in exerting pressure on law enforcement to investigate, apprehend, and prosecute offenders.

ANALYSIS OF MISCAELLANOUS STATE LAWS

In the State of Idaho, under Idaho Code § 25-3504, any person who is cruel to an animal or causes an animal to be cruelly treated shall be punished with an imprisonment term of not more than six months and or by a fine not less than \$100.00 or more than \$5,000.00 upon first offense conviction (Animal Legal and Historical Center, 2013).

North Dakota § 36-2.1.1-02 states that no person shall overwork, abandon or mistreat an animal. If offender is found guilty of violation of said chapter such act will be classified as a Class A misdemeanor. Under North Dakota penalties for Class A misdemeanors is a maximum year of imprisonment and or a \$2,000.00 fine (Animal Legal and Historical Center, 2013). North Dakota just recently passed a felony animal cruelty law

South Dakota § 40-1-21 states that no person shall intentionally kill or injure any animal. Such violation of said chapter is classified as a class 1 misdemeanor. A Class 1 misdemeanor in South Dakota is punishable of a maximum imprisonment of more than thirty days (Animal Legal and Historical Center, 2013).

New York § 353 (a) states a person who is convicted of “aggravated cruelty to animals” will be charged with a felony, punishable of a definite sentence not exceeding more than two years imprisonment. Aggravated cruelty to animals is defined as unjustifiable purpose of intentionally killing or causing serious physical injury to a companion animal (Animal Legal and Historical Center, 2013).

EMPIRICAL RESEARCH

One of the first publicly recognized connections between animal cruelty and human violence was established by John Marshall Macdonald with the formation of the Macdonald triad. The Macdonald Triad associated the presence of three behavioral characteristics to be related to later violent behaviors. The three behavioral characteristics were fire setting, bedwetting and animal cruelty. In Macdonald's study he found the three said behavioral characteristics consistent among the most sadistic individuals (Overton, Hensley, & Tallichet, 2011, p. 900). Like Macdonald, in 1964 an American cultural anthropologist by the name of Margaret Mead found that animal cruelty in children was a possible precursor for later human violence. She indicated that:

Childhood cruelty to animals may indicate the formation of a spontaneous, assaultive character disorder . . . [arguing] that children must be taught to distinguish between socially acceptable and unacceptable behavior towards animals . . . [and] that animal cruelty was a warning sign that could be diagnosed and treated early. (Henderson, Hensley, & Tallichet, 2011, p. 2212)

The results from a study consisting of 45 non-violent and 45 violent inmates that were at the time incarcerated at a maximum security facility in Sumter County, Florida, corroborated Margaret Mead's notion of animal cruelty in children being a precursor to later human violence. The findings indicated that "offenders who committed violent crimes as adults were significantly more likely than adult non-violent offenders as children to have committed acts of cruelty against animals in general" (Merz-Perez, Heide, & Silverman, 2001, p. 570). One participant from the

violent offender group conveyed a sense of power and control when he described going into the woods, as an adolescent with his hunting dogs; he stated that he would “stalk and overpower his prey”, and with the use of a spear would hunt and kill wild animals and stray dogs just for the joy of killing them. Researchers conducting the study stated:

The participant articulated . . . control [as] the primary motivation for the acts of cruelty committed [which] distinguishes the power or control response from the thrill response in this case. A police report of the participant’s crimes described how the participant killed his victims in the woods . . . [an] evaluation concluded that the participant had a sociopathic personality, . . . in addition to first degree murder, the participant’s crimes included kidnapping and rape. (Merz-Perez, Heide, & Silverman, 2001, p. 569)

The study concluded: “the results of this study indicate that cruelty to animals committed by children can provide insights into violent behavior that may or may not translate into later violence directed against humans” (Merz-Perez, Heide, & Silverman, 2001, p. 570). The following information evidenced such indication.

A study conducted in 2003 by Wright and Hensley discovered the manner in which an animal was abused by the participating violent offender was similar to the method in which the offender would later use towards their human victims (Henderson, Hensley, & Tallichet, 2011, p. 2216). One study examined 354 cases of serial murder and found that more than 21% had engaged in acts of animal cruelty (Wright & Hensley, 2003, p. 76). Of those 354 cases of serial murder, five cases were used to correlate the connection to animal cruelty and later human violence. As previously mentioned, serial murderer Jeffrey Dahmer mutilated both his human

and animal victims similarly. Another serial murderer known as Edmund Kemper executed one of his first acts of violence towards the family cat. Burying the cat up to its neck and then decapitating its head. He later placed the cats head as a trophy in his bedroom. Kemper later escalated to murdering humans, who he would also decapitate and dismember; after taking pictures of his ‘trophies’ he would engage in sexual acts with the dismembered body parts (Wright & Hensley, 2003, p. 11). Arthur Shawcross, another serial murderer would engage in sexual acts with farm animals during childhood in which he would dominate and torture them essentially beating them to death. Arthur then went on a killing rampage, in which he would sexually assault his victims and proceed to mutilate their bodies (Wright & Hensley, 2003, p. 83). The researchers for said study concluded:

The five serial murderers in this study turned to animals to vent their anger. The persons who caused the frustration were seen as too powerful to hurt, so they chose animals because they were viewed as weak and vulnerable. The torture and ultimate death of the animals made the killers feel as if they had gained some retribution for their pain and suffering. Thus, within the framework of the graduation hypothesis, children who are cruel to animals may then graduate to aggressive behaviors toward humans. After a series of aggressive acts toward animals, the individuals gradually increase the amount of destruction to fully gain the satisfaction of venting their frustration. Therefore, they eventually graduate from violence against animals to violence against humans. In the case of some serial murderers, abusing and torturing animals as children is a precursory activity for future violence against humans. (Wright & Hensley, 2003, p. 83)

STATISTICAL AFFIRMATION

In light of the supposition that lack of strong legislation is not to blame for the continued trend of animal abuse, a reputable study will be analyzed to compare anti-social behavior curtailment with and without enforcement of statutes through adequate control mechanisms. The Pittsburgh Youth Study, a federally-funded study, has been examining youth violence since 1985. The main uncontrolled factor in the study that was found to influence propensity of arrest was a behavior of impulsivity. Such trait is a common denominator in the behavior that leads to animal cruelty. “[A] finding from this data was that a factor associated with persistence in aggressive and anti-social behavior is aggression toward people and animals in childhood . . .” (Randour, 2011). The Pittsburgh Youth Study consisted of a series of studies of various youth with high impulsivity and the variable was the youth’s intellectual level. The study found that the propensity for arrest is equal for both groups when no control mechanism is exerted to curtail anti-social behavior. When a control mechanism was applied, however, in the form of punishment, subsequent probability of arrest diminished for both groups, although more so for those with higher intellectual levels (Loeber, 2012). Thus, the premise that animal cruelty can be curtailed with the public policy that seeks the enforcement of relevant statutes is correct. Law enforcement should not and cannot afford to chase a meandering opportuneness to seize the perfect evidence and the perfect case to prosecute. The legal standard for arrest is probable cause, not perfect clairvoyance, and law enforcement officials must advance in their way of thinking about pertinent animal cruelty laws to constructively and pragmatically give effect to such laws already enacted.

RELEVANT CASES

Relevant cases illustrate that prosecutorial efforts, when they do happen, often times lead to a conviction. A notorious example providing a point at hand is the case with Michael Vick, the NFL quarterback. Vick was charged with violation of state and federal anti-dogfighting statutes. He pled guilty and the court sentenced him to twenty-three months in prison, followed by supervised probation for three years in which he cannot buy, sell or own a dog. On May 22, 2007 during an interview with WAVY-TV, two football players known to Mr. Vick defended his actions, laughing at the fact that dogfighting is a crime:

[I]f [Vick] . . . [is] convicted of being involved in a dog fighting operation . . . authorities would be putting him behind bars for no reason . . . it's his property, . . . [i]f that's what he wants to do, do it. (Animal Legal Defense Fund, 2011)

Tactlessly, such attitude is not that of fringe members of society, but rather mainstream view—a view that has been propagated since Biblical times. More aggressive prosecution of offenders with such attitudes would send a clear message as to public policy and law in our modern-day society.

Another relevant occurred in Miami Florida, when Richard Couto, an animal rights activist, went undercover to purchase a goat, claiming he wanted the goat with the intention to kill it for a ritual. After the incident, Mr. Couto sought law enforcement assistance and told Chief Investigator Michele Gillen the following:

They are killing all the animals with sledge hammers, axes, knives . . . stabbing them to death . . . boiling the animals alive . . . drowning them . . . [and] strangling them to death.

The state of Florida is by far the extreme animal abuse capital of the United States. Horrible, [h]orrible things go on in this State that most of the public is unaware of. (Gillen, 2013)

Furthermore, Jeanette Jordan, President of the South Florida Society for the Prevention of Animal Abuse, agreed with Mr. Couto and lamented on the state of affairs for animals in Florida despite strong laws. When rating Florida's animal quagmire, Ms. Jordan asserted that Florida's place as, "number one in the nation. And it's ironic because we have the strongest animal cruelty laws in the nation but they are not enforced" (Gillen, 2013). Following the rescue of the goat in this case, law enforcement officials raided the premises where such slaughtering practices were taking place and authorities charged the offenders behind the operation with running an illegal slaughterhouse as well as violation of animal cruelty law.

More systematic enforcement, such as the cases described above, would reduce the upsurge of similar illicit slaughterhouses. A brief synopsis of similar cases below will reinforce the strong assertion that convictions are possible and that the low conviction rate can be fixed with more investigatory and apprehension efforts by law enforcement.

In *Bartlett v. State*, 929 So.2d 1125, (Fla. App. 2006), the Defendant was convicted and charged with felony cruelty to animals. Evidence supported that defendant shot an opossum numerous times with a BB gun. Defendant appealed conviction. The Court of Appeals held that evidence supported conviction and affirmed the judgment of the lower court.

On March 15, 1973, defendant fired at some of the animals that roamed freely on the 23 acre land on which he lived. The shots fired managed to kill two colts, seriously wound a mare, which subsequently had to be euthanized, and shoot a jackass in the stomach. The defendant was

charged with maliciously maiming, wounding and killing animals. A jury found him guilty. The defendant was put on probation with the condition that he serves six months in the county jail and makes restitution. The defendant appealed the conviction, claiming that the statute required proof of malice intent. The Court of Appeals affirmed the judgment of the lower court and found no error in the Court's reasoning. *California v. Dunn*, 39 Cal. App. 3d 418 (1974).

In *Regalado v. United States*, 572 A. 2d 416 (Dist. Col. App. 1990), Peter Regalado was convicted by a jury of cruelty to an animal. On the day of the incident, a witness by the name of Keith Hall heard cries of a puppy in distress. When Mr. Hall and his roommate went outside to examine, Peter Regalado was beating the puppy next door in the yard. Witness Keith Hall claimed that the Appellant Peter Regalado was "holding the puppy by a leash, a tied rope, in the air, suspending and being held up by his jaw in a choking manner . . . and with his right hand holding with his left hand and with his right hand hitting the puppy in a manner that caused it to swing--hitting it very hard." *Id.* at 417. Peter Regalado appealed the conviction claiming insufficient evidence to sustain such a conviction. The Court of Appeals upheld the judgment of the lower court.

Owners, Carol Fitzgerald and Dennis Herwy, lost their dog while horseback riding in Cove Creek Canyon and the next morning the dog was found lying in the middle of the street. The defendant stated that he accidentally ran over the dog with his car. When the dog was later taken to the veterinarian, Dr. Acker concluded that the dog was injured from a gun barrel being inserted to the nose of the dog in which the gun was then fired. The defendant pled guilty to mistreating an animal and sentenced to six months jail with work release. Defendant appealed stating that the court's sentencing was excessive and was an abuse of the court's sentencing

discretion. The Court of Appeals concluded that the Court did not abuse its sentencing discretion and affirmed the lower courts judgment. *State v. Joy*, 120 Idaho 690, 819 P. 2d 108 (Ct. App. 1991).

In *State v. Iehl*, 100 Mich.App. 277, 299 N.W.2d 46 (Ct. App. 1980) the defendant was found guilty of maliciously and willfully killing a dog owned by another. He was convicted of a felony and sentenced to a term of one year in Allegan County Jail. The defendant appealed the conviction claiming the court erred in the meaning of the statute, prosecution abused discretion to charge defendant under statute that makes act a felony and violation of hearsay rule. The Court of Appeals affirmed the judgment of the lower court.

OVERTURNED CASES

While the numerous cases discussed above prove the point that convictions can be obtained with the cooperation of stringent law enforcement, more needs to be done to educate the legal community as to the validity and merit of animal cruelty laws so as to prevent dismissal of charges in cases that deserve a conviction of an offender. The following cases provide such a case at point.

The defendant was charged with a misdemeanor of unlawfully and maliciously beating or torturing an animal. Upon conviction he was given a suspended sentence and fined. A witness testified that the defendant:

William Fowler [was] beating his dog and tying it up . . . she could hear the dog hollering . . . [t]he defendant's wife came out into the defendant's backyard and filled a hole in the ground with water from a hose . . . the defendant place[d] the dog in the water-

filled hole and submerge its head. The defendant would hold the dog's head under for some period of time and then bring the head up. He repeated this process for about 15 to 20 minutes. During this time the defendant's wife kept the hole filled with water. Following this, they united the dog, hit it once, kicked it once, and tied it to a pole near the water-filled hole. *State v. Fowler*, 22 N.C. App. 144, 205 S.E.2d 749 (1974)

The defendant was not given the opportunity by the trial court to explain such method which is a form of obedience training known as the Koehler Method. The appellate court “held that punishment administered to an animal in an honest and good faith effort to train it is not without justification and not ‘willful.’ ” The appellate court held that the defendant should have been given the opportunity to present his reasoning for such training method. Thus, a new trial was ordered with the understanding that such training methods may be legal. *Id.* at 749.

In *United States v. Stevens*, 130 S. Ct. 1577 (2010), defendant was convicted of selling videos that depicted dogfighting. “Section 48 establishes a criminal penalty of up to five years in prison for anyone who knowingly ‘creates, sells, or possesses a depiction of animal cruelty,’ if done ‘for commercial gain’ in interstate or foreign commerce.” *Id.* at 82-1583. The question asked by the Court was whether: “the statute does not address underlying acts harmful to animals, but only portrayals of such conduct. The question presented is whether the prohibition in the statute is consistent with the freedom of speech guaranteed by the First Amendment.” *Id.* at 1582. Defendant appealed and the United States Supreme Court held that “§ 48 is . . . substantially overbroad, and therefore invalid under the First Amendment.” *Id.* at 1592.

The undertone in the latter case indicates that the status of animals, as perceived by some judges, is still one of subjugation to the whim of humans. Equating the production of videos depicting animal cruelty to free speech is just as erroneous as equating the production of child pornography to free speech. Either speech does not merit protection since it is apolitical and does not promote a genuine course of action in policymaking.

RECOMMENDATIONS AND CONCLUSION

Law enforcement must make enforcement of animal cruelty laws a priority for the intrinsic value of ensuring humane treatment of animals and also for the promotion of the general quality of life and well-being of communities at large. Law enforcement has taken a proactive and staunch approach to many battles it is engaged in from the war on drugs to human trafficking. Mainstream society must be enlightened of the dangers that stem from animal cruelty and must channel that enlightenment in ways that pressure public safety officials to take effective action. In order for a wide-range of animals to coexist with humans in a world in which aberrant and cruel behavior towards them is not permissible or tolerated, law enforcement must act with its arsenal of resources and police powers to detect offenders early on and apprehended them, with the goal of rehabilitation in the criminal justice system. In Britain, nongovernmental organizations are using sophisticated drones to spy on those violating animal rights laws and such information is being passed on to law enforcement so that the perpetrators are caught (Gallagher, 2013). In the United States, such partnerships between those organizations and law enforcement can prove very fruitful. Law enforcement cannot idle while atrocious animal cruelty occurs just because prosecution might be difficult. As animal cruelty laws progress and align to the moral values of modern Western society, law enforcement agencies must respond to the plight of animals—otherwise absconding constitutes a dereliction of duty. Just as law enforcement has a duty to prevent human rights abuses, they, too have a duty to prevent animal rights abuses, since in the end one is tantamount to the other, as decay in the behavior of offenders leads to cruelty against humans as well. Members of society must also contribute in

the curtailment of such admonishable acts. As stated by David Favre “[t]he social stirring of the animal rights movement may change the laws as the next century approaches, but only if it is able to convince the members of this society that a new perspective is justified” (Favre & Tsang, 1993, p. 32). Enlightening members of society who are oblivious to such cruel acts can possibly heighten the diminishment of cruel acts towards animals which then in turn might diminish acts of violence towards humans. Methods that support the enlightenment of members of society include; the discussion of animal cruelty and its proper definition, given information on the various organizations within the community that aid in the abolishment of such heinous acts, information on proper procedure if one were to witness the performance of such acts, information on enacted laws in reference to specified state, proper instruction to children of how to correctly treat an animal and what would constitute as mistreatment. Societies as a whole must work together to effectively curtail such heinous acts, seeing as the abolishment of such acts heightens the possibility of reducing violence to both humans and animals.

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