In animal cruelty investigations, it is not always obvious what could be considered evidence. Furthermore, the evidence collected may hold more value than the investigator or prosecutor realizes. With animal abuse the first responder's actions becomes critical for successful collection and analysis of the evidence and ultimately prosecution. Viewing a crime and the crime scene from a veterinarian's perspective will enable you to recognize crucial evidence and handle the case appropriately. It is important that law enforcement treat animal cruelty as a potential felony until proven otherwise. Animal cruelty is similar to crimes against children except the victim cannot testify – we will be testifying for the victim.

RECOGNIZING ANIMAL CRUELTY

There are numerous situations that qualify as animal cruelty: starvation, dehydration, untreated medical problems, failure to provide relief from extreme environmental conditions, hoarding, embedded collars, assault, poisoning, and animal fighting. Any physical abuse cases often have neglect as a component of the crime. Animal cruelty is basically any action or lack of action that results in illness, injury or death of an animal. The rule of thumb taken from the police training video, In the Line of Duty - "if it looks like cruelty to you, it will look like cruelty to a judge."

The intent of the suspect has to be determined to charge the suspect appropriately. Prosecutors and solicitors can look at the case several ways to determine intent. In Georgia, in order to charge someone with a felony, you have to prove "knowingly and maliciously". In order to prove this, it is important that every piece of potential evidence needs to be collected, investigated and analyzed for successful prosecution. It takes all parties to fulfill their role in the investigation to prove the elements of the crime.

Making the case for animal cruelty requires a perfect investigation from the beginning by all parties involved. The same mistakes we see in high profile murder cases will cripple these cases as well. The burden of proof that must be met for crimes against humans applies equally to crimes against animals. In animal cruelty cases this standard is even harder to meet because there are usually no witnesses and the victim cannot speak. The veterinarian’s role is crucial – we will be testifying for the victim.

Veterinary forensics is a new and emerging field. Veterinarians by nature are already skilled investigators. For each medical “puzzle” we investigate we collect clues and employ the power of deductive reasoning to arrive at a solution. The field of forensic medicine requires an adjustment to your normal way of thinking to expand the list of possible solutions to include the horrific. To enter this field you have to consider the dark side of human nature and think "outside the box". You can no longer afford to turn a blind eye – for the sake of both the animal and society.
REPORTING ANIMAL CRUELTY

Immunity: Veterinarians are often reluctant to become involved in animal cruelty cases due to concern about civil and criminal liability. Some jurisdictions have specific language in their laws protecting veterinarians from civil and criminal liability when reporting suspected cruelty in good faith. Without such language, there is still protection through the Good Samaritan law. This protects citizens from civil or criminal liability when reporting a suspected crime in good faith. The veterinary organizations also support the reporting of suspected animal cruelty. Several states in the US have passed mandatory reporting laws for veterinarians. It is important to stay informed of your current laws as new legislation may be passed.

Report of Exam Findings: Your report should be professional, logically structured and complete. Based on this report the DA’s office will decide whether or not and how to prosecute. You may be asked for a preliminary report – this should only contain confirmed findings and pending tests. You cannot retract what is in there later on without a valid reason. In this report you must address the survival period: the time from injury to death. This speaks to the animal’s suffering and is important for the prosecution. It can make the difference between misdemeanor and felony charges.

Report Format
Heading: Include name of the agency, the officer/investigator, your name, address, contact info, date of exam
Subject of Exam: Accurately describe the animal – color, sex, intact or not, estimated age
Reason for Exam: Why the animal was brought to you – usually “Animal cruelty investigation”
Crime Scene/Forensic Information: List what you personally observed at the scene or from photos, what the investigator told you or information from his report
Medical History: Any pertinent medical history
Examination Findings: Details of your findings using medical terminology; separate subheadings are: External Exam (weight, coat condition, body condition score, decomposition, ectoparasites, head, chest, abdomen, legs, feet); Evidence of Medical/Surgical Intervention; Radiograph Interpretation; Internal Exam (necropsy- head, thoracic cavity, abdominal cavity, neck, respiratory tract, cardiovascular system, gastrointestinal tract, biliary tract, pancreas, spleen, adrenals, urinary tract, reproductive tract, musculoskeletal system); Evidence of injury (list all pertinent evidence of injury)
Procedures and Results: List all procedures, treatments, samples taken, test results or if they are pending
Entomology Findings: List of insects found, location of what collected, entomology report findings
Summary of Findings: List all pertinent findings
Survival Period: If there was evidence the animal survived for any period after injury
Time of Death: estimate of the time of death based on all findings
Mechanism of Death/Injury: The biochemical or physiological abnormality that resulted in death (e.g. shock, sepsis, cerebral edema)
Cause of Death/Injury: This refers to the injury or disease which began a sequence of events that ultimately lead to the death of the animal (e.g. gunshot to the head)
Contributory Cause: Any contributing causes towards the cause of death (e.g. clotting disorders)

Manner of Death: Please note this category is not to categorize the act as criminal or not which is a legal determination made by law enforcement or the prosecutor when charging.

Manner of Death Categories for Animals:
1. Natural
2. Accidental
3. Non-Accidental
4. Undetermined

Conclusion: Where you state your opinion of all the evidence including crime scene findings. You should use lay terms for the investigator and prosecutor to understand.

TESTIFYING IN CRUELTY CASES

Prosecution: During the entire investigation it is important for you to communicate with the investigator and the prosecutor. They may have information for you and they certainly need any information you have. You may need to explain your findings or additional evidence they have uncovered. It is a very important role that veterinarians play in every animal cruelty investigation. Everyone involved needs to know that the veterinarian will step up and become a part of the process that ensures justice for the animals we swore an oath to protect.

Expert Witness Testimony: You need to be prepared to testify in these cases. Try to go over the case and your testimony with the solicitor or prosecutor prior to trial. You need to dress professionally and address the judge (in a bench trial) or jury when answering questions. It is important to maintain your cool while testifying. Try to avoid using medical terms; instead, use lay terms that the judge and jury can understand. Bring all reports, records, radiographs, and pictures to court. You will not be allowed to read from your papers but you will be allowed to refer to them while testifying. If you can, bring an X-ray viewer for the radiographs. Or you may take a picture of the radiograph to show in court; but have the original there to authenticate the photo. You also may be asked to review veterinary records or other pieces of evidence prior to trial to assist the solicitor or prosecutor on the case. Remember that all notes you take, all emails sent are subject to “discovery” and the prosecutor will need to send copies to defense counsel.

In general, there are two types of witnesses who testify in criminal proceedings: factual witnesses and expert witnesses. A factual witness testifies only to what he or she saw, heard, felt, smelled, tasted, or did in association with an event. The factual witness is not generally allowed to tell what others have said (hearsay) or to offer opinions or responses to hypothetical questions.

A veterinarian who has examined a victim of animal cruelty can testify as a witness to the facts. In addition, any veterinarian associated with a case will likely be considered an expert witness, capable of rendering an opinion on the evidence that falls within their area of expertise. Any testimony they may give based upon review of evidence collected by others, such as another veterinarian, police officer or a cruelty investigator, will also be considered expert testimony.

A veterinarian may become involuntarily involved as a witness in the prosecution of an animal cruelty case, particularly if they examined at any time the animal who was the victim, even prior to the onset of abuse or neglect. For example, if a pet owner has been charged with starving their dog to death (criminal neglect),
either the prosecution team or the defense may choose to subpoena any veterinarian who has previously examined that animal to attest to the level of care the dog was receiving at that time. In most cases, veterinarians are asked by either the prosecution or the defense to act as expert witnesses voluntarily, and may choose to be paid for their involvement in a case.

Prior to testifying, the witness should compile and review records, paying attention to time tables and the history of contacts regarding professional involvement in the case. The witness will not be expected to have all of this in memory and will be allowed to refer to these records when testifying, but any written work product that may be entered into evidence can be reviewed by opposing counsel. The witness should review any prior testimony (e.g. deposition) that they may have given in earlier proceedings to refresh their memory about what they have already said. If conclusions or interpretations have changed since the earlier prior testimony, counsel should be advised of these changes.

It is important to prepare counsel for using expert testimony effectively. The witness should provide an up-to-date C.V. and copies of relevant professional publications. They should review professional strengths and be forthcoming with the prosecutor or other counsel about potential weaknesses (e.g. “this is the first gunshot wound I have seen”). Make sure counsel understands any arguments that need to be made.

In dealing with a prosecutor, the expert witness must remember that this individual is not their attorney, so discussions and correspondence are not protected by attorney-client privilege. If the expert has concerns about participation in this process, they should consult with their own attorney.

Testimony from experts is generally first introduced through the process of direct examination by the counsel that retained their services, e.g. the Crown’s attorney. There should be few surprises during this process, but the witness should be sure they understand each question and pause briefly before answering. Statements should be confident, but should not appear rehearsed.

Expert witnesses in animal cruelty cases, particularly veterinarians, are often surprised by attacks on their expertise. Opposing counsel will attempt to characterize the expert as less than thorough, even incompetent and unfamiliar with the particular circumstances of this case. Since the standard for prosecution in serious cases is usually proof “beyond reasonable doubt”, the opposing counsel role will often be to suggest that the evidence presented should be seen as not meeting this standard – to exploit normal professional caution and make it appear as doubt. They may point to a lack of special training in the area in question, relevant experience with the species involved, or direct knowledge of the animal, suspect or circumstances involved. (e.g. “You never actually saw my client break the cat’s leg, did you?).

Veterinary evidence gathered in the investigation of animal cruelty helps tell the story of a creature who may have suffered or died. The experience of providing testimony can be stressful and unnerving for anyone, regardless of experience and professional expertise. When the result is a just verdict that may prevent future animal or human suffering, the experience can also be deeply satisfying. (“Veterinary Forensics in the Investigation of Animal Cruelty: An Emerging Discipline”. Randall Lockwood, Sr. VP of Anti-cruelty Initiatives and Legislative Services, ASPCA. Presented at HSUS Expo 2004)