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## FROM HELPING TO HOARDING TO HURTING: WHEN THE ACTS OF "GOOD SAMARITANS" BECOME FELONY ANIMAL CRUELTY

By Lisa Avery\*

### I. INTRODUCTION

When Sacramento Animal Control told Suzanna Youngblood she could not keep more than four cats without violating the county's pet limit ordinance, she simply placed her three-dozen cats in a trailer and moved to nearby cat friendly Placer County.<sup>2</sup> Initially, Youngblood lived in the seven-and-a-half-foot by eleven-foot trailer with the cats, then in a tent next to it, and she continued to expand her brood with additional homeless cats from her former Sacramento neighborhood.<sup>3</sup> Eventually, Youngblood moved back to Sacramento alone but returned regularly to the trailer to care for the cats.<sup>4</sup> Two weeks before her cats came to the attention of the local Animal Control, an illness prevented Youngblood from attending to their care.<sup>5</sup>

A complaint from a neighbor that numerous cats were kept in neglectful conditions prompted an investigation by Placer County Animal Control to Youngblood's trailer.<sup>6</sup> Through the windows the animal control officer observed at least thirty-five visibly ill cats living among urine and fecal matter.<sup>7</sup> The officer obtained a search warrant and towed the trailer to an enclosed building to prevent the loss of control of the cats.<sup>8</sup> When the trailer was opened, animal control

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\* Ms. Avery is an attorney and management consultant to nonprofit organizations. The author would like to thank the editors of the *Valparaiso University Law Review* for their interest in this article. The author would also like to acknowledge a few of the many organizations and individuals who advocate tirelessly to improve the welfare and protection of animals: The American Society for the Prevention of Cruelty to Animals, The Humane Society of the United States, Best Friends Animal Society, Farm Sanctuary, In Defense of Animals, Last Chance For Animals, Los Angeles Lawyers for Animals, Ace of Hearts Foundation, and Los Angeles Deputy City Attorney Robert Ferber.

<sup>2</sup> *People v. Youngblood*, 91 Cal. App. 4th 66, 69 (Cal. Ct. App. 2001).

<sup>3</sup> *Id.* at 69-70.

<sup>4</sup> *Id.* at 70.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 68.

<sup>7</sup> *Id.* at 69.

<sup>8</sup> *Id.*

discovered ninety-two cats – provided with less than one square foot of space each – living inside.<sup>9</sup>

Each cat was examined and treated by a veterinarian who summarized the condition of the cats as follows: Most cats were covered in feces and suffered urine scald.<sup>10</sup> Many were malnourished, emaciated, and had ear mites and fleas.<sup>11</sup> Cats were found ill with upper respiratory virus and neurological problems.<sup>12</sup> There were cats that had deformed limbs or were missing portions of their limbs.<sup>13</sup> Some cats were “either blind, partially blind in one or both eyes[, or] were missing eyes.”<sup>14</sup> The attending veterinarian determined that many of the cats’ illnesses resulted from long-term neglect.<sup>15</sup>

At Youngblood’s trial, the prosecution showed a videotape of the conditions of the cats and the trailer in which they were kept to a jury<sup>16</sup> that convicted Youngblood of felony animal cruelty.<sup>17</sup> In her defense, Youngblood maintained that she was trying to save the homeless cats’ lives, and that the “messy conditions” inside the trailer resulted from the removal by animal control.<sup>18</sup> Youngblood also asserted a defense of necessity,<sup>19</sup> and she attacked the trial court’s interpretation of the animal cruelty statute and consequent error instructing the jury.<sup>20</sup> The California Court of Appeal rejected Youngblood’s claims, upheld her conviction, and sentenced her to ninety-two days in jail, five years of formal probation, and a prohibition from possessing or caring for any animals, except one specific cat named Holly Angel.<sup>21</sup> Youngblood was also ordered to pay restitution as part of her sentence.<sup>22</sup> Placer County officials, however, are not likely to ever recover the \$132,741 in costs they

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* (stating for example, dehydration, chronic malnourishment, anorexia, urine scald and severe infection).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 68; CAL. PENAL CODE § 597.1(b).

<sup>18</sup> *Youngblood*, 91 Cal. App. 4th at 70.

<sup>19</sup> *Id.* at 72.

<sup>20</sup> *Id.* at 70.

<sup>21</sup> *Id.* at 68.

<sup>22</sup> *North State Datelines*, THE SAN FRANCISCO EXAMINER, Oct. 10, 1999, at C-2.

incurred while taking care of Youngblood's cats for the five-month period from the time of their rescue until the end of the trial.<sup>23</sup>

Despite professions of love and intent to care for animals, animal hoarders like Youngblood not only neglect to provide their animals with needed medical care, they also deprive them of the minimum basic necessities of adequate food, water, and shelter.<sup>24</sup> Left untreated and uncared for, the animals and their diseases multiply.<sup>25</sup> Blind to the reality of the tremendous suffering they inflict, animal hoarders maintain they are saving animals that no one else would.<sup>26</sup> This Article addresses the largely misunderstood phenomenon of animal hoarding. It proposes that in order to protect hoarders' animals and to prevent the inevitable victimization of shelter animals impacted by hoarder rescues, it is necessary to dispel the common perception that hoarders are Good Samaritans whose intentions have gone awry and to educate the agencies and individuals called to respond to hoarding cases of the severe animal, human, and economic harm hoarders cause. Part II introduces the phenomenon of animal hoarding and efforts to study its cause and effect.<sup>27</sup> From those studies and recent hoarding cases, Part III describes the characteristics animal hoarders share and discusses psychological conditions that may trigger their conduct.<sup>28</sup> Part IV chronicles efforts to prosecute animal hoarders and explores the possibility of intervention programs to address hoarding cases, and concludes recommending the involvement of all agencies and individuals affected by animal hoarders' behavior to work together to prevent them from hoarding and hurting again.<sup>29</sup>

## II. FROM HELPING TO HOARDING

### A. *What Animal Hoarding Is and What It Is Not*

The story of Suzanna Youngblood is neither an isolated incident nor is it uncommon. Animal hoarding occurs in numerous cities in every state in the United States, every province in Canada, and in countries

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<sup>23</sup> *See id.*

<sup>24</sup> Randall Lockwood & Barbara Cassidy, *Killing with Kindness?*, HSUS NEWS, Summer 1988, at 16.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *See infra* Part II.

<sup>28</sup> *See infra* Part III.

<sup>29</sup> *See infra* Part IV.

around the globe.<sup>30</sup> Animal hoarding is one of the greatest causes of animal suffering in the United States, and hoarders are responsible for causing more injuries, suffering, and deaths to animals than the intentionally cruel acts of violent animal abusers.<sup>31</sup> The Humane Society of the United States (“HSUS”) reports that cases involving acts of intentional violent abuse results in the injury of 2.3 animals compared to approximately thirty animals victimized in high-profile hoarding and neglect cases.<sup>32</sup> Not only does hoarders’ possession of extremely high numbers of animals cause mass scale suffering, hoarders’ conduct causes animals to suffer over long periods of time.<sup>33</sup> The magnitude of the injury hoarders cause is illustrated by the incidents of animal hoarding and consequent animal victims in the state of Illinois.<sup>34</sup> In the years 1999 and 2000, eleven cases of animal hoarding resulted in the harm of two thousand animals, and thirteen cases involved the harm of over twenty-four hundred animals respectively.<sup>35</sup>

Randall Lockwood, vice president of research and educational outreach for the HSUS, states that seven thousand cases of animal hoarding are reported each year in the United States alone.<sup>36</sup> Despite the

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<sup>30</sup> Lucy Gibson, *Two-Faced Cruelty; RSPCA Says Hoarders Pose as Animal Lovers*, CANBERRA TIMES, May 23, 2004, at 15, available at 2004 WL 78514562 (discussing animal hoarding in Australia); Justine Hankins, *Love Is the Drug – They Start off with One Cat, Then Two, and Before They Know It the House Is Teeming*, THE GUARDIAN (U.K.), Mar. 1, 2003, at 59, available at 2003 WL 14810872.

<sup>31</sup> Lockwood & Cassidy, *supra* note 23, at 15.

<sup>32</sup> Randall Lockwood, *Animal Cruelty and Violence Against Humans: Making the Connection*, 5 ANIMAL L. 81, 85 (1999).

<sup>33</sup> Lockwood & Cassidy, *supra* note 23, at 15.

<sup>34</sup> Sarah Antonacci, *Hoarders’ Mentality Endangers Pets*, ST. J.-REG. (Springfield, Ill.), Dec. 31, 2000, at 1.

<sup>35</sup> *Id.*

<sup>36</sup> Rosemary Barnes, *Animal Hoarders Called Abusive; Area Adult Protective Services Workers Say Cases May Be on Rise*, SAN ANTONIO EXPRESS-NEWS (Tex.), Nov. 6, 2003, at 3B, available at 2003 WL 63255416. This reported number may be lower than the actual number of cases because each municipality may characterize animal hoarding incidents differently; for example, as an animal neglect or cruelty case, a public health issue, or as a zoning or city ordinance violation. Margaret Littman, *Taking Aim at Animal Hoarding’s Human Element*, CHI. TRIB, Mar. 5, 2003, at 3C. This number is also likely conservative because of the difficulty of reporting and observing cases due to the clandestine conduct of animal hoarders and their ability to hoard animals easier in rural areas. Isabel Sanchez, *A Cruel Obsession*, ALBUQUERQUE J. (N.M.), Mar. 13, 2004, at A1, available at 2004 WL 71850252. In March 2004, New Mexico Animal Protection was aware of at least thirty animal hoarding locations in the state and suspected many more existed as the open spaces of the state provide hoarders with the ideal conditions to hide their animals. *Id.* Dr. Gary Patronek, founder of the Hoarding of Animals Research Consortium (“HARC”), believes that there are likely thousands more undetected animal hoarders in the nation. *Pet Hoarding Bill in Ryan’s Hands*, STATE J.-REG. (Springfield, Ill.) June 10, 2001, at 14.

wide-scale occurrence of animal hoarding there is very little medical research or county resources devoted to effectively address the problem.<sup>37</sup> Similarly, there is very little academic study regarding animal hoarding in general.<sup>38</sup>

*B. The Hoarding of Animals Research Consortium*

In 1997, the Hoarding of Animals Research Consortium ("HARC"), a joint venture between professionals from Tufts University, the Massachusetts Society for the Prevention of Cruelty to Animals, Massachusetts General Hospital, and others was formed to investigate the problem of animal hoarding from an interdisciplinary perspective.<sup>39</sup> HARC's members include professionals from the fields of psychology, psychiatry, sociology, social work, veterinarian medicine, epidemiology, and animal protection.<sup>40</sup> HARC founder, Dr. Gary Patronek, a

<sup>37</sup> Ellen Liberman, *Experts Hard-Pressed to Explain Causes Behind Hoarding Animals*, PROVIDENCE J.-BULL. (R.I.), Apr. 1, 2001, at 5C.

<sup>38</sup> Gary J. Patronek, *Hoarding of Animals: An Under-Recognized Public Health Problem in a Difficult-to-Study Population*, PUB HEALTH REPS., Jan./Feb. 1999, vol. 114, 81, 82 [hereinafter Patronek, *Hoarding of Animals*]. Dr. Dooley Worth and Dr. Alan Beck of the Purdue University School of Veterinary Medicine conducted the first formal research of animal "collecting" in 1981. Geoffrey L. Handy, *Handling Animal Collectors, Part 1: Interventions That Work*, SHELTER SENSE, May-June 1994 (The Humane Society of the United States); Dooley Worth & Alan M. Beck, A. M., *Multiple Ownership of Animals in New York City*, TRANSACTIONS & STUDIES OF THE COLLEGE OF PHYSICIANS OF PHILADELPHIA 3(4) 280-300 (1981). Worth and Beck studied thirty-one cases of owners with more than ten animals, handled by the American Society for the Prevention of Cruelty to Animals ("ASPCA") and the New York City Bureau of Animal Affairs. *Id.* Their hypothesis supported the common stereotypical characterization of the older, single, "cat lady" who lives alone; more than two-thirds of the people involved were women and seventy percent were unmarried. *Id.* (stating that Worth and Beck found that twenty-three of the thirty-four people involved in these cases were female, and twenty-four were unmarried). They found, however, that most individuals began acquiring animals as young adults, upon leaving their parents homes in their teens and twenties. Merritt Clifton, *Animals in Bondage: The Hoarding Mind*, ANIMAL PEOPLE, Jan./Feb. 1999. The study further revealed that hoarders tended to have either many cats or dogs, and only a few of the other animal, and that those with many different species of animals averaged thirty-four cats or twenty dogs. *Id.* Major traumatic events often triggered the compulsion, such as the death of a close parent or a divorce, they generally collected for many years before being discovered, and many animal hoarders hoarded inanimate objects as well. Worth & Beck, *supra*; Patrones, *supra*, at 85.

<sup>39</sup> Members include Dr. Arnold Arluke, Northeastern University, Boston, MA; Dr. Randy Frost, Smith College, Northampton, MA; Mr. Carter Luke, Massachusetts Society for the Prevention of Cruelty to Animals, Boston, MA; Dr. Ed Messner, Massachusetts General Hospital, Boston, MA; Ms. Jane Nathanson, LCSW, LRC, CRC, Boston, MA, and Dr. Gail Steketee, Boston University, Boston, MA. The Hoarding of Animals Research Consortium, *Members of the Hoarding of Animals Research Consortium*, at [http://www.tufts.edu/vet/cfa/hoarding/har\\_dtt.htm](http://www.tufts.edu/vet/cfa/hoarding/har_dtt.htm) (last visited Mar. 16, 2005).

<sup>40</sup> *Id.*

veterinarian and an epidemiologist, stated that the genesis for this research was the frustration he felt by the exclusive treatment of animal hoarding cases as animal welfare problems,<sup>41</sup> which tended to ignore the adverse effects of hoarding on the health and welfare of people as well as animals.<sup>42</sup> Also, although most animal hoarding cases are directed to animal control or humane agencies, neither have the resources or expertise to address its root causes.<sup>43</sup> In response, HARC aims to promote a greater level of awareness of animal hoarding among those agencies and individuals likely to be called upon when a hoarding crisis occurs.<sup>44</sup> Further, it is HARC's hope that through increased awareness of this wide-spread phenomenon, additional research will be initiated to help animal care agencies, public health and social services, and the legal community to develop integrated humane and lasting intervention for the animals and humans involved.<sup>45</sup>

The first step toward this goal was a study conducted to evaluate the occurrence of existing animal hoarding cases by surveying interactions between the public health and social service agencies responding to the problems of animal hoarding.<sup>46</sup> The results of Patronek's survey, conducted from case reports from ten animal control agencies and humane societies, closely mirrored some of Worth and Beck's findings and supports the common public stereotype of an animal hoarder as a single, elderly woman who lives alone but with many animals.<sup>48</sup> Specifically, Patronek's study demonstrated that seventy-six percent of hoarders were single, forty-six percent were sixty years of age or older, thirty-seven percent between the ages of forty and fifty-nine, and most, whether single, divorced or widowed, lived alone.<sup>49</sup> While these findings support the neighborhood cat lady stereotype, hoarding is not restricted by age, gender, or socioeconomic boundaries.<sup>50</sup> Hoarding has been observed in both men and women, young and old, married, single

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<sup>41</sup> Littman, *supra* note 36.

<sup>42</sup> See The Hoarding of Animals Research Consortium, *F.A.Q.*, at [http://www.tufts.edu/vet/cfa/hoarding/hoardqa\\_dt.htm](http://www.tufts.edu/vet/cfa/hoarding/hoardqa_dt.htm) (last visited Mar. 23, 2005).

<sup>43</sup> Childs Walker, *Experts Say Pet Hoarders Don't See (or Smell) a Problem; Is It a Delusion? Why Is Their Perception so Different from Ours?*, ROANOKE TIMES & WORLD NEWS (Roanoke, Va.), Sept. 27, 1999, at C1.

<sup>44</sup> The Hoarding of Animals Research Consortium, at <http://www.tufts.edu/vet/cfa/hoarding/index.html> (last visited Mar. 20, 2005).

<sup>45</sup> *Id.*

<sup>46</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 82.

<sup>48</sup> Patronek, *Hoarding of Animals*, *supra* note 38.

<sup>49</sup> *Id.* at 84.

<sup>50</sup> Worth & Beck, *supra* note 38.

and widowed, and in professionals and those employed in white-collar jobs.<sup>51</sup> Indeed, many animal hoarders are typified as relatively high achievers and intelligent.<sup>52</sup> Many have a savvy ability to delay prosecution and outwit the systems that would otherwise prevent them from keeping numerous animals.<sup>53</sup> Animal hoarders also exist among human health professionals and veterinarians,<sup>54</sup> and they manage to live a double life, deceiving friends and co-workers about the true conditions at home.<sup>55</sup>

While the media and animal care agencies have traditionally labeled those who amass large amounts of animals as animal "collectors," HARC urges the use of the term animal *hoarder* rather than animal *collector* to help distinguish the hoarding pathology from those who have many healthy and well-cared for pets.<sup>56</sup> The term collecting also does not promote the seriousness of the problem and connotes a benign hobby rather than the pathological behavior described in medical and psychological literature characteristic of other forms of hoarding.<sup>57</sup> HARC uses the following criteria to define animal hoarding: possession of more than the typical number of companion animals; the inability to provide even minimal standards of nutrition, sanitation, shelter, and veterinary care; and denial of the inability to provide this minimum care; and the resultant impact of that failure on the animals, the household, and human occupants of the dwelling.<sup>58</sup>

HARC maintains that animal hoarding is not necessarily defined by the number of animals in a household but rather by the ability to properly care for the animals.<sup>59</sup> Some people are capable of caring for a

<sup>51</sup> See Chris Clayton, *Animal Hoarding Cases Present No Pat Solutions*, OMAHA WORLD-HERALD (Neb.), Feb. 25, 2001, at page 1A.

<sup>52</sup> Pamela J. Podger, *Cat Lady Believes in Her Work, Report Says, Psychologist Concludes Barletta Thinks She Is Helping When She Hoards Felines*, SAN FRANCISCO CHRON., Nov. 15, 2003, at A21, available at 2003 WL 3768312 (stating that Barletta, a microbiologist/real estate agent, kept 220 cats in a Petaluma house, faces two felony conviction charges, and is in custody with bail set at \$125,000).

<sup>53</sup> *Too Many Animal Hoarding Stories*, STATE J. REG. (Springfield, Ill.), Jan. 2, 2002, at 4.

<sup>54</sup> *Id.*

<sup>55</sup> Jody Callahan, *Nightmare of a Home on Boyce Street*, COM. APPEAL (Memphis, Tenn.), Apr. 29, 2003 at B1, available at 2003 WL 18423765.

<sup>56</sup> The Hoarding of Animal Research Consortium, *F.A.Q.*, available at [http://www.tufts.edu/vet/cfa/hoarding/hoardqa\\_dt.htm](http://www.tufts.edu/vet/cfa/hoarding/hoardqa_dt.htm) (last visited Mar. 20, 2005).

<sup>57</sup> *Id.*

<sup>58</sup> The Hoarding of Animal Research Consortium, *About Hoarding*, at <http://www.tufts.edu/vet/cfa/hoarding/abthoard.htm> (last visited Mar. 16, 2005) [hereinafter, HARC, *About Hoarding*].

<sup>59</sup> See *id.*

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large number of animals without compromising the animals' health or the health and safety of those around them.<sup>60</sup> For example, in the eastern Canadian province of Nova Scotia, a woman regarded by neighbors as a Good Samaritan left one hundred companion cats upon her death in December 2003.<sup>61</sup> The woman lived on a large property, and the veterinarian caring for her cats reported that the cats were all spayed, neutered, properly groomed and vaccinated.<sup>62</sup> Conversely, a Utah woman was deemed a hoarder for allowing the appalling deterioration of six cats.<sup>63</sup> Accordingly, those with significantly fewer, but grossly uncared for animals, can meet the definition of hoarder, and as such, the number of animals in a person's possession indicates neglect when the number of animals exceeds that person's ability and financial resources to spay, neuter, vaccinate, and properly feed the animals.<sup>64</sup>

HARC aims to produce a working definition of animal hoarding as a diagnosable psychiatric illness to be published in the Diagnostic and Statistical Manual of Mental Disorder,<sup>65</sup> and it strives to educate the public to see animal hoarding as a widespread and complex public health problem instead of what Patronek refers to as a "series of isolated freak shows."<sup>66</sup>

### C. *The Many Victims of Animal Hoarders*

Almost every type of animal has been a victim of hoarding.<sup>67</sup> Reports document a wide range of companion animals such as cats, dogs, rabbits, ferrets, birds, and guinea pigs; farm animals; and exotic and sometimes dangerous wildlife<sup>68</sup> whose special handling requirements compound costs for shelters charged with their care.<sup>69</sup>

<sup>60</sup> Diane White, *Are They Helping or Hoarding?*, THE BOSTON GLOBE, Jan. 25, 1999, at C6.

<sup>61</sup> Shawna Richer, *New Owners Sought for N.S. Cats, Woman's Death Leaves 100 Felines Who Need Homes*, THE GLOBE AND MAIL (Toronto, Can.), Jan. 3, 2004, at A8.

<sup>62</sup> *Id.*

<sup>63</sup> See Matthew D. LaPlant, *House Overrun by Cats Is Locked*, THE SALT LAKE TRIB., Apr. 10, 2004, at B3, available at 2004 WL 57844637.

<sup>64</sup> Patronek, *Hoarding of Animals*, *supra* note 38.

<sup>65</sup> Alexander Lane, *Animal Attraction: Compulsion to Hoard Pets Could Indicate Behavior Disorder*, NEWHOUSE NEWS SERV., July 8, 1999; see also American Humane Society, at <http://www.americanhumane.org> (last visited on Mar. 20, 2005); Humane Society of the United States, at <http://www.hsus2.org> (last visited on Mar. 20, 2005); The American Society for the Prevention of Cruelty to Animals, at <http://www.aspc.org> (last visited on Mar. 20, 2005).

<sup>66</sup> Childs Walker, *supra* note 43.

<sup>67</sup> HARC, *About Hoarding*, *supra* note 58.

<sup>68</sup> *Id.*

<sup>69</sup> Handy, *supra* note 38.

Hoarders' animals also include miniature ponies, deer, ferrets, pot-bellied pigs, various species of fowl, and spitting llamas.<sup>70</sup> It is not uncommon for multiple species to be present in any isolated hoarding case, although in most situations, HARC's studies show that hoarders tend to concentrate on one species.<sup>71</sup> These studies reveal that the majority of women hoard cats and more men hoard dogs,<sup>72</sup> although HARC's research has not yet examined what psychological factors lead to individual species preferences in hoarding situations.<sup>73</sup>

Domestic species are the largest group of animals represented in hoarding cases, most likely because of availability and relative ease of requirement of care, albeit ultimately not performed.<sup>74</sup> The hoarding of cats is very common and their availability and ease of concealment over other types of animals could explain the high frequency of cat hoarding compared to some other species.<sup>75</sup> A resulting "crazy cat lady" label is inaccurate and deceiving because animal hoarders generally function well in other aspects of their lives and are described as high achievers and intelligent.<sup>76</sup> This high level of intelligence is particularly significant when it enables a hoarder to manipulate donors and animal humane organizations as well as seasoned judges and prosecutors.<sup>77</sup>

Hoarders amass their animals in many different ways. Some hoarders seek animals offered free in newspaper classified ads.<sup>78</sup> For example, when a Missouri sheriff's deputy pulled over a woman driving a moving truck with dogs loose in the truck's cab, his inspection revealed five dead animals, and fifty-one live animals in poor condition locked in the back of the truck.<sup>79</sup> Although the woman told the deputy she was en

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<sup>70</sup> Antonacci, *supra* note 34.

<sup>71</sup> HARC, *About Hoarding*, *supra* note 58.

<sup>72</sup> Patronek, *Hoarding of Animals*, *supra* note 38.

<sup>73</sup> HARC, *About Hoarding*, *supra* note 58.

<sup>74</sup> Gary J. Patronek, *The Problem of Animal Hoarding*, MUNICIPAL LAWYER, May/June 2001, at 6 [hereinafter Patronek, *The Problem of Animal Hoarding*].

<sup>75</sup> *Id.*

<sup>76</sup> *Pet Hoarding Bill in Ryan's Hands*, *supra* note 35.

<sup>77</sup> Wes Alwan, *Serial Collectors: Animal Hoarders "Love" Their Pets to Death*, *The Strange Case of Vicki Kittles*, VETCENTRIC, June 15, 2003, available at <http://www.vetcentric.com/magazine/magazineArticle.cfm?ARTICLEID=817>.

<sup>78</sup> Paul Rioux, *Profile Fit in Pet Cruelty Case; Hoarders Have Void in Lives, Experts Say*, TIMES-PICAYUNE (New Orleans, La.), Mar. 21, 2004, at 1 [hereinafter Rioux, *Profile Fit*].

<sup>79</sup> Todd C. Frankel, *Woman with Truckload of Animals Faces at Least Four Abuse Counts*, ST. LOUIS POST-DISPATCH, Mar. 17, 2004, at B1, available at 2004 WL 72541573 (stating that forty-two dogs, three cats, three guinea pigs, two rabbits, and a rat were found alive; two cats, two rabbits, and a dog were found in the truck dead; and that a baby guinea pig died shortly after discovery).

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route to Nevada in search of work, she had a collection of local Missouri newspapers with "Free to Good Home" ads circled.<sup>80</sup> More than five hundred dogs were seized from an elderly couple in Vale, Oregon, who also collected dogs that were offered free in classified ads.<sup>81</sup> Animal hoarders also acquire animals when sold or given away outside of grocery stores,<sup>82</sup> some hoarders find animals roaming as strays,<sup>83</sup> and some animals are simply given to hoarders.<sup>84</sup> Indeed, hoarders often become known in neighborhoods as "*the person who takes in strays.*"<sup>85</sup> In these cases, although animal hoarders may have a genuine interest in helping a few needy animals, because they are unable or unwilling to provide basic veterinarian care including sterilization,<sup>86</sup> small and already large collections grow to overwhelming populations because animals that are not spayed or neutered are allowed to breed.<sup>87</sup>

1. "It Began Many Years Ago with One Abandoned, Unspayed Kitten."<sup>88</sup>

Mass cat hoarding cases are disturbingly common. Years of neighbors' complaints finally resulted in a court order requiring a sixty-eight year old woman to give up her last two-dozen cats or face eviction.<sup>89</sup> The cats, which once numbered one hundred, were found malnourished and suffered from upper respiratory infections.<sup>90</sup> The New Mexico Police took eighty-nine live and eighty-two frozen cats from a home in Las Cruces after receiving complaints from neighbors about the strong odor present around the home.<sup>91</sup> Animal control found cats on cupboards, in cabinets and closets, in the basement ceiling rafters, and locked in a pet-carrying case by a woman who kept one hundred cats in

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<sup>80</sup> *Id.*

<sup>81</sup> Rioux, *Profile Fit*, *supra* note 78.

<sup>82</sup> Chereen Langrill, *Experts Say Ericksons Exhibits Symptoms of Animal Hoarding*, THE IDAHO STATESMAN, Feb. 8, 2003, at 10.

<sup>83</sup> *Id.*

<sup>84</sup> Mike Kilen, *Animal Kindness Can Go Too Far; Pet Hoarders Often Have Mistaken Beliefs About the Fate of Animals. They See Themselves as the Only People Who Care*, DES MOINES REG., Mar. 5, 2001, at 1E.

<sup>85</sup> Lockwood & Cassidy, *supra* note 24 (emphasis in original).

<sup>86</sup> *Id.*

<sup>87</sup> See Langrill, *supra* note 82.

<sup>88</sup> Amy Sacks, *A Hoarder Loses Her Cats*, N.Y. DAILY NEWS, Feb. 28, 2004, available at 2004 WL 59134855.

<sup>89</sup> *Id.*

<sup>90</sup> *Id.*

<sup>91</sup> Leslie Linthicum, *171 Cats 82 Dead Found in Home*, ALBUQUERQUE J. (N.M.), Feb. 21, 2003, at B3.

two houses.<sup>92</sup> A Los Angeles woman was found hoarding 589 cats, many of which were feral and inbred.<sup>93</sup> The woman, who also had nine dead cats stuffed between sofa cushions and in a closet, insisted her cats were fine.<sup>94</sup>

Canadian SPCA investigators responded to an anonymous tip of an inner-city woman hoarding cats and living in filth-ridden squalor they could smell from the street.<sup>95</sup> Donned in masks and gloves, the investigators removed over forty emaciated, flea-infested, and disease-infected cats.<sup>96</sup> Only a few weeks before, the same Hamilton-Burlington SPCA rescued sixty-seven cats from conditions they described as, "[t]he worst dump imaginable with four walls around it."<sup>97</sup> Forty of the cats were immediately euthanized for severe health or socialization problems.<sup>98</sup> The animals healthy enough to be adopted are not likely to fare any better; only twelve hundred of the eight thousand cats brought in to their SPCA in 2001 were adopted—a mere fifteen percent.<sup>99</sup> Animals seized from hoarders are not the only animal victims. When shelters cannot attend to all of the animals in their care because of a hoarder mass-rescue, the result is that otherwise healthy and adoptable animals must be euthanized to make space available for animals that are not likely to be adopted because of illness or unsocialization.<sup>100</sup>

## 2. House of Horrors: The Harm of Hoarding to Animals, Humans, Their Homes and the Environment

The lack of a space or a traditional residence is not a deterrent for animal hoarders. In addition to homes and apartments, dozens to hundreds of hoarders' animals have been rescued from trailers,<sup>101</sup> cars,<sup>102</sup>

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<sup>92</sup> Randal Edgar, *More Than 100 Cats Found in 2 Homes*, PROVIDENCE J. (R.I.), Aug. 9, 2003, available at 2003 WL 57184796.

<sup>93</sup> Lane, *supra* note 65.

<sup>94</sup> *Id.*

<sup>95</sup> Bill Dunphy, *SPCA Raids 2nd City Home in a Month*, THE HAMILTON SPECTATOR (Ontario, Can.), Sept. 19, 2003, at A3, available at 2003 WL 62718771.

<sup>96</sup> *Id.*

<sup>97</sup> *Id.*

<sup>98</sup> *Id.*

<sup>99</sup> Cheryl Stepan, *Cat Lady Kept Under Scrutiny by Officials*, THE HAMILTON SPECTATOR (Ontario, Can.), Feb. 8, 2002, at A3.

<sup>100</sup> Sanchez, *supra* note 36, at A1.

<sup>101</sup> *Id.*; see also *People v. Youngblood*, 91 Cal. App. 4th 66 (Cal. Ct. App. 2001); *Vikki Kittles Nationally Known for Collecting Animals*, WYO. TRIB.-EAGLE (Cheyenne, Wyo.), July 14, 2002, [hereinafter Milner, *Vikki Kittles*]; Heather Ratcliffe, *29 Dogs Are Taken from Woman Convicted of Hoarding in 2000*, ST. LOUIS POST-DISPATCH, May 16, 2002, at B3 (stating that

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moving trucks,<sup>103</sup> buses,<sup>104</sup> and boats.<sup>105</sup> A forty-four year old man shared a northern California storage unit with thirty-seven cats.<sup>106</sup> These animals held captive almost never thrive; sick or dead animals are found in eighty percent of animal hoarding cases.<sup>107</sup> Animal control and humane agencies almost always describe animal hoarders' dwellings as the most deplorable conditions they have encountered.<sup>108</sup> They are often described as containing animal carcasses, standing water, refuse, and animal and human waste,<sup>109</sup> and conditions inside the dwellings are "knee-deep in garbage and feces."<sup>110</sup> This accumulation of waste in floors and wallboards compromises the structural soundness of hoarders' homes, which are not only deemed uninhabitable but are required to be condemned.<sup>111</sup>

While animal hoarders may begin with good intentions and the desire to help the animals in their possession, they instead create perilous conditions for their animals, their communities, and other persons living in their households. Seventy-five percent of hoarders' homes are found overwhelmed by garbage and animal feces.<sup>112</sup> These appalling conditions also pose grave dangers to the physical safety of the

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twenty-nine dogs were rescued from the mobile home of a woman also convicted of hoarding sixty dogs in 2000).

<sup>102</sup> Jeremy Redmon, *Experts Say Pet 'Hoarders' Mean Well*, WASH. TIMES, May 15, 1999, at A8 (stating that a team of Virginia police, fire, health and animal control officials rescued forty-eight dogs from a woman and her daughter, including thirty kept in cars, pens and tied to boxes); John Woolfolk, *Watsonville Woman Convicted of Hoarding 43 Cats; Diseased Animals Discovered in Her Volkswagen Van*, SAN JOSE MERCURY NEWS, Mar. 5, 1999 (stating that animal control officers found "43 cats ranging from 5-day-old kittens to 7-year-old adults in cramped cages and milk crates," and that this was the woman's second animal abuse conviction).

<sup>103</sup> Frankel, *supra* note 79.

<sup>104</sup> See Milner, *Vikki Kittles*, *supra* note 101.

<sup>105</sup> Sarah Wye, *A Perilous Illness for People and Animals*, PROVIDENCE J.-BULL. (R.I.), Dec. 18, 2000, at 5B.

<sup>106</sup> Emma Schwartz, *'Animal Hoarder' Faces Charges; Man Shared Storage Unit with 37 Sick Cats*, ALAMEDA TIMES-STAR (Alameda, Cal.), Feb. 26, 2004, at 1.

<sup>107</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 81.

<sup>108</sup> See *infra* Parts II-IV.

<sup>109</sup> Jayette Boinski Suget-Fox, *Second Street Home Faces End*, STATE J.-REG., Aug. 23, 2003, at 6.

<sup>110</sup> Mark Cooper & Bernard Pilon, *Animal Hoarding Suggested*, EDMONTON SUN (Alberta, Can.), June 18, 1999, at 28.

<sup>111</sup> *Combat Animal Hoarding*, PROVIDENCE J.-BULL. (R.I.), Aug. 11, 2003, at B6.

<sup>112</sup> Jim Bodor, *Those Who Hoard Animals Described as Mentally Ill; Officials Fail in Dealing with Issue, Tufts Study Finds*, TELEGRAM & GAZETTE (Mass.), June 17, 1999, at A16.

hoarders and rescue workers forced to enter the homes.<sup>113</sup> Dangerous levels of toxicity rated in a Tennessee hoarder's home as a "biohazard" required the use of gas and oxygen masks for the rescue of forty cats when their owner died.<sup>114</sup> In these extreme cases, hazmat groups are needed for the emergency cleanup, and the cost of the cleanup is assessed as a lien upon the home.<sup>115</sup> When home conditions have deteriorated to this degree, it is rare for many of the hoarders' animals to come out alive; as illustrated in the Tennessee hoarder's home, thirty-six of the forty cats rescued required euthanasia.<sup>116</sup> An Alberta, Canada residence described as a "swamp of fecal matter, rotting clothes and maggots," was home to 126 emaciated cats and 117 decaying feline corpses.<sup>117</sup> The home, whose foundation was visibly "leaking feces," was ultimately condemned.<sup>118</sup> The surviving cats suffered a variety of ailments ranging from stress and starvation to feline infectious peritonitis, a fatal blood disease likened to AIDS, and cats starved to the point that they consumed their offspring.<sup>119</sup>

Shockingly, animal hoarders learn to endure and adapt to this deplorable filth.<sup>120</sup> In 1989, authorities confiscated one hundred cats from a Springfield, Illinois, home from a woman who was living in a tent in the yard because the house was uninhabitable;<sup>121</sup> another animal hoarder slept in her car,<sup>122</sup> and still another slept on garden furniture.<sup>123</sup> Famed hoarder, veterinarian Dr. Janis Walder, showed incredulous deputies how she placed a plastic sheet over her feces-stained mattress before going to sleep.<sup>124</sup> Yet this bizarre behavior is surprisingly common; seventy percent of hoarders' homes are found to contain animal urine or feces in living areas and in beds.<sup>125</sup> The general distrust

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<sup>113</sup> Deborah Caulfield Rybak, *As More Minnesotans Are Found with an Uncontrollable Number of Pets, Researchers Are Describing Chilling Aspects of This Stockpiling Syndrome*, STAR TRIB. (Minneapolis, Minn.), Aug. 25, 1999.

<sup>114</sup> Callahan, *supra* note 55, at B1.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> Carmen Wittmeier, *Cat House of Truly Ill Repute: But Why Is the Neighbourhood "Cat Lady" Always a Lady?*, ALBERTA REPORT (Can.), Aug. 9, 1999.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> *Pet Hoarding Bill in Ryan's Hands*, *supra* note 36, at 14.

<sup>122</sup> Alayna DeMartini, *17 Dead Animals Taken from Home; Dozens of Sick Pets Found by Workers in Filthy Residence on North Side*, COLUMBUS DISPATCH (Ohio), Nov. 14, 2002, at 4C.

<sup>123</sup> Isabel Sanchez, *supra* note 36, at A1.

<sup>124</sup> Rioux, *Profile Fit*, *supra* note 78.

<sup>125</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 85.

hoarders have of animal control and even humane organizations drives them to go to great lengths to hide the animals in their possession,<sup>126</sup> and as a consequence, many hoarders willingly forego the use of water, working appliances, and utilities rather than risk repairpersons entering their homes.<sup>127</sup> Such hazardous conditions force public health officials to remove hoarders from their homes, and many of the homes must ultimately be condemned.<sup>128</sup> A condemned home, however, is not a deterrent for the most troubled hoarders. One woman simply purchased a new house every few years as each home became uninhabitable.<sup>129</sup>

Living with numerous sick animals poses high health risks and creates unhealthy conditions for the animals and humans in the hoarders' homes.<sup>130</sup> Humans in hoarders' homes may be at risk of cat-related disease such as rabies, ringworm, and cat-scratch disease.<sup>131</sup> External parasites can also be transferred from animals to humans.<sup>132</sup> Hoarders have suffered severe anemia from multiple fleabites, and one hoarder in Worth and Beck's study reportedly died from a bacterial infection caused by feline saliva.<sup>133</sup> Severe accumulation of feces and urine in hoarders' homes can result in dangerously high levels of environmental ammonia that presents serious health hazards.<sup>134</sup> Although hoarders are able to adapt to, or tolerate, very high levels of ammonia, this ability is not to be interpreted as safe or without adverse health consequences.<sup>135</sup> The young, elderly, infirm, and those with respiratory or heart conditions may be at great risk when exposed to toxic ammonia.<sup>136</sup> This exposure is capable of compounding existing poor health conditions, and acclimatization to this toxicity can decrease the ability to detect other dangerous gases, further endangering animal and human safety.<sup>137</sup>

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<sup>126</sup> Lockwood & Cassidy, *supra* note 24, at 15.

<sup>127</sup> Sanchez, *supra* note 36, at A1.

<sup>128</sup> Clayton, *supra* note 51, at page 1A.

<sup>129</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 86.

<sup>130</sup> Barnes, *supra* note 36, at 3B.

<sup>131</sup> Center for Disease Control and Prevention, *Diseases from Cats*, available at <http://www.cdc.gov/healthypets/animals/cats.htm> (last visited Mar. 20, 2005).

<sup>132</sup> Kilen, *supra* note 84, at 1E.

<sup>133</sup> Lockwood & Cassidy, *supra* note 24, at 17.

<sup>134</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 86.

<sup>135</sup> HARC, *Environmental Ammonia, Ammonia as a Health Hazard*, available at <http://www.tufts.edu/vet/cfa/hoarding/ammonia.htm> (last visited Mar. 20, 2005).

<sup>136</sup> *Id.*

<sup>137</sup> *Id.* (citing for example, cooking or heating gas, and smoke from a fire).

In extreme cases, animals and humans must be removed from the unhealthy conditions of hoarders' homes.<sup>138</sup> Public health officials who deemed the ammonia level unsafe for habitation locked a Utah cat hoarder out of her home.<sup>139</sup> The stress of being discovered by inspectors caused the woman to pull out her own hair from worry.<sup>140</sup> Not only does the neglected sanitation of a hoarder's dwelling compromise his or her health and safety, extreme deterioration places neighborhoods and communities at risk.<sup>141</sup> Hoarders' home conditions can subject neighbors to fire hazards, insect and rodent infestation, and odor and noise.<sup>142</sup> Even those part of a rescue team face health risks as animal control officers have suffered nosebleeds,<sup>143</sup> severe eye irritation,<sup>144</sup> and fleabites when rescuing hoarders' animals.<sup>145</sup>

In addition to the tremendous harm animal hoarders are responsible for inflicting on the animals in their possession, many hoarders pose grave dangers to humans living in their households. While the majority of animal hoarders live alone, HARC determined that in fifteen percent of hoarding cases dependent adults or minor children are present.<sup>146</sup> Investigations reveal that gross neglect of animals is accompanied by neglect of humans in the hoarders' care.<sup>147</sup> Tragically, these human victims often suffer unnoticed until intervention occurs on behalf of the animals involved.<sup>148</sup> When a Humane Society cruelty investigator

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<sup>138</sup> LaPlant, *supra* note 63, at B3.

<sup>139</sup> *Id.*

<sup>140</sup> *Id.*

<sup>141</sup> Patronek, *The Problem of Animal Hoarding*, *supra* note 74, at 7.

<sup>142</sup> Jill Bowen, *Call Authorities if You Think Neighbor Is Hoarding Animals*, ROANOKE TIMES & WORLD NEWS (Roanoke, Va.), Dec. 1, 2002, at NRV 19.

<sup>143</sup> Kirk Mitchell, "Hoarders" Take Animal Obsession to Rancid Level, DENVER POST, Feb. 19, 2003, at A1, available at 2003 WL 5507110.

<sup>144</sup> See Robert K. Gordon, *A Need for Pets, Too Many Pets at Least 285 Animals Removed from Women's Home Since 2000*, BIRMINGHAM NEWS (Ala.), Jan. 26, 2003.

<sup>145</sup> Randal Edger, *House Full of Cats and Dogs Found*, PROVIDENCE J.-BULL. (R.I.), Aug. 27, 2003, at B3, available at 2003 WL 57186813.

<sup>146</sup> The Hoarding of Animals Research Consortium, *Elder Abuse, Child Abuse and Animal Hoarding*, available at <http://www.tufts.edu/vet/cfa/hoarding/eldabuse.htm> (last visited Mar. 20, 2005).

<sup>147</sup> Karen Samples, *Too Many Pets: Offensive, Perplexing*, THE CINCINNATI ENQUIRER, Jan. 7, 2001, at A1. A disabled man was found "lying motionless" in an animal hoarder's filthy home in Kern County. *Id.* The man survived "but his mother and sister were charged with second-degree wanton endangerment," and the house was ordered condemned. *Id.*; see also Ellen Lieberman, *Experts Hard-Pressed to Explain Causes Behind Hoarding Animals*, PROVIDENCE J.-BULL. (R.I.), Apr. 1, 2001, at 5C (stating that the State Department of Children, Youth and Families won temporary custody of a nine-year-old boy living in the squalid conditions of his grandmother's condo with more than thirty dogs and cats).

<sup>148</sup> See *supra* note 147.

removed a severely malnourished pit bull and rabbit from a Tennessee home, the children in the home "begged her to take them with her."<sup>149</sup> The children exhibited behavioral signs of emotional abuse, yet the Department of Social Services had not been contacted about the children prior to the animal abuse investigation.<sup>150</sup> The woman found with animals locked in a moving van was also wanted on two counts of child neglect for allegedly not maintaining livable conditions for her three-year-old and eight-year-old grandchildren.<sup>151</sup>

When Denver Police responded to a tip of suspected animal hoarder Mary Flanagan, not only were they unprepared for the overwhelming odor, piles of garbage, and dead animals they encountered at her home, they were shocked to discover a disabled thirteen-year-old girl watching television in a room surrounded by ten cages of dead and decomposed animals.<sup>152</sup> Firefighters also found eighteen cats and dogs inside the house living amongst rotting fecal matter and garbage piled five feet high.<sup>153</sup> All of the animals were found emaciated, with feces-matted fur except for five well-fed and well-groomed dogs.<sup>154</sup> Flanagan, a registered nurse, was charged with misdemeanor child abuse and animal cruelty and ordered to undergo parenting classes and psychotherapy.<sup>155</sup>

### III. FROM HOARDING TO HURTING: WHY "GOOD SAMARITANS" BECOME FELONS

#### A. *The Characteristics of Animal Hoarders*

Although little scientific or medical literature about animal hoarding exists, several patterns and characteristics hoarders share have been identified. Primarily, animal hoarders share an apparent need to surround themselves with many animals, significantly more than they

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<sup>149</sup> Holly Edwards, *Reports of Animal Cruelty Triple*, THE TENNESSEAN-NASHVILLE, Jan. 24, 2003, at 1, available at 2003 WL 11365117.

<sup>150</sup> *Id.*

<sup>151</sup> Frankel, *supra* note 78, at B1.

<sup>152</sup> Sue Lindsay, *Caretaker Who Lived in Filth on Probation; Mary Flanagan Will Still Care for 14-Year-Old Girl*, ROCKY MOUNTAIN NEWS, June 21, 2003, available at 2003 WL 6367077.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

<sup>155</sup> DenverDA.org, *Woman Sentenced in Child Abuse/Animal Cruelty Case*, June 20, 2003, available at [http://www.denverda.org/html\\_website/denver\\_da/News\\_release/Mary%20Flanagan%20sentencing.html](http://www.denverda.org/html_website/denver_da/News_release/Mary%20Flanagan%20sentencing.html). Flanagan received a one-year deferred judgment on a child abuse count, and sentenced to two years probation for counts of animal cruelty. *Id.* Conditions of her probation include offence specific treatment, a prohibition on animal ownership, and home monitoring to ensure compliance. *Id.*

can properly maintain.<sup>156</sup> While many animal hoarders begin with good intentions to rescue a stray or to foster a litter, the hoarders' focus gradually shifts from rescuing animals to accumulating them.<sup>157</sup> The median number of animals rescued from hoarders is thirty-nine, although many are found with more than one hundred animals.<sup>158</sup> Animal hoarders form deep attachments to their animals, refusing to part with them even though clearly overwhelmed with their care and despite the availability of suitable homes in which to place them.<sup>159</sup> This stubborn refusal to relinquish the animals perpetuates their suffering, and the harm of this behavior is illustrated in many cases including a rescue by New Mexico Police who took eighty-nine live and eighty-two frozen cats from a home in Las Cruces.<sup>160</sup> Because the forty-six-year-old woman refused to legally surrender her cats, even once in the care of a rescue group, the severely ill animals continued to suffer and were unable to be treated, humanely euthanized, or made available for adoption.<sup>161</sup>

It is not uncommon for hoarders to refuse to part with their dead animals as well. Sixty percent of hoarders are found in possession of dead animals.<sup>162</sup> The Mid-Atlantic Regional Office of the Humane Society reported finding dead animals in hoarders' freezers and found kittens "interred in shoeboxes stacked to the ceiling."<sup>163</sup> Boston authorities found sixty dead cats stored in the refrigerator and freezer in a hoarder's apartment.<sup>164</sup> Dr. Patronek reported encountering animal hoarders that ritually store dead animals by their color, size, and the date of their death.<sup>165</sup> Some experts state that the retention of dead animals may reflect the hoarders' inability to acknowledge the animals' death or an unnatural attachment to the animals.<sup>166</sup> Others posit that the

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<sup>156</sup> See Handy, *supra* note 38; Patronek, *Hoarding of Animals*, *supra* note 38.

<sup>157</sup> Rioux, *Profile Fit*, *supra* note 78.

<sup>158</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 81.

<sup>159</sup> Randy Frost, The Hoarding of Animals Research Consortium, *People Who Hoard Animals*, PSYCHIATRIC TIMES, Apr. 2000, at 2.

<sup>160</sup> Leslie Linthicum, *171 Cats 82 Dead Found in Home*, ALBUQUERQUE J. (N.M.), Feb. 21, 2003, at B3.

<sup>161</sup> *Id.*

<sup>162</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 86.

<sup>163</sup> Nancy Dooling, *Animal Hoarders Put Themselves, Pets in Trouble*, PRESS & SUN-BULL. (Binghamton, N.Y.), May 14, 2002, at 3A.

<sup>164</sup> Scott S. Greenberger, "Animal Hoarding" Said to Be Symptom of a Mental Illness, THE BOSTON GLOBE, May 12, 2003, available at 2003 WL 3395730.

<sup>165</sup> Rioux, *Profile Fit*, *supra* note 78.

<sup>166</sup> *Id.*

retention of dead animals may also be due to the hoarders' denial of reality and refusal to face their culpability in the animals' demise.<sup>167</sup>

While hoarders refuse to part with animals, they also have a tendency to deny the reality that the animals in their possession are not healthy;<sup>168</sup> and despite overwhelming evidence to the contrary, they have strong convictions that they are providing proper care for their animals.<sup>169</sup> Although hoarders fail to provide minimal food and water, sanitary living conditions, and veterinarian care, they refuse to recognize the resultant diseases and starvation their animals suffer. They also refuse to acknowledge the filthy and dangerously overcrowded conditions in which their animals are forced to live.<sup>170</sup> The few hoarders who have acknowledged the ill conditions of their animals have attributed their decline to the lack of care their animals receive once seized by authorities.<sup>171</sup>

In *Brinkley v. County of Flagler*,<sup>172</sup> the Fifth District Court of Appeals of Florida gave one of the most graphic court opinions illustrating hoarders' neglect when it upheld a couple's animal cruelty conviction for keeping 358 dogs in conditions described as a "horrid existence of inhumanity."<sup>173</sup> The court stated that as

a Flagler County sheriff's deputy and an animal cruelty investigator met at the Brinkley's farm . . . they were overwhelmed by the nauseating smell of animal waste; [] the front yard was covered with animal feces . . . . Approaching the farmhouse they could see that the front porch was also covered with animal feces along with the decaying carcass of a dog on top of a stack of small pet carriers and fluid from the carcass was dripping onto a live poodle inside one of the carriers. The poodle's cramped quarters lacked food and water and the dog could not straighten its legs when it was

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<sup>167</sup> Worth & Beck, *supra* note 38.

<sup>168</sup> HSUS, *Animal Hoarder Fact Sheet*, available at [http://www.hsus2.org/sheltering/library/hoarders\\_factsheet.html](http://www.hsus2.org/sheltering/library/hoarders_factsheet.html) (last visited Mar. 20, 2005) [hereinafter HSUS, *Animal Hoarder Fact Sheet*].

<sup>169</sup> Frost, *supra* note 159.

<sup>170</sup> *Id.*

<sup>171</sup> See, e.g., *infra* notes 259-276 and accompanying text (describing the cases of Vicki Kittles); *supra* notes 1-22 and accompanying text (discussing Suzanna Youngblood).

<sup>172</sup> 769 So.2d 468 (Fla. App. Dist. 5, 2000).

<sup>173</sup> *Id.* at 471.

later released. Three inches of feces and newspaper thickly lined the bottom of the animal cages stacked on the porch. Food was scattered so that it intermingled with the feces and water bowls were either tipped over or contained water that was black and foul smelling . . . . Further inspection of the property revealed a second dead dog, partial canine body parts that suggested other animal deaths, and dead rats. Roaches and fleas infested the property. Roaches crawled throughout the structures, in and on the animals['] cages, and on the animals themselves. Roaches were found 'feeding' on a puppy. Additionally, a canine litter was being born in a cage lined with feces, so that the birthing mother was cleaning both afterbirth and feces from the newborn pups.<sup>174</sup>

The dogs' owner stated, however, that had he been given a few days notice of the county's inspection, the conditions that he and his wife kept the dogs in would not have been discovered.<sup>175</sup> He further maintained that the dogs' cages were cleaned daily and that food and water were always available to the dogs.<sup>176</sup>

Most animal hoarders lead clandestine lifestyles,<sup>177</sup> and like the Brinkleys, they are only discovered when tipped off to authorities by neighbors or anonymous callers.<sup>178</sup> While some research reveals that animal hoarders tend to be solitary by nature, Beck and Worth assert that hoarders' isolation from society results from their accumulation of animals rather than their solitary nature.<sup>179</sup> For some animal hoarders, their embarrassment over their living conditions will cause them to isolate themselves from family and friends, while others function well in public and choose to keep their home conditions hidden. Family members of a seventy-four-year-old man stated that each time they socialized, he would meet them out and away from home and they had no idea of how he was living.<sup>180</sup> The outwardly well-dressed, clean-

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<sup>174</sup> *Id.* at 469-70.

<sup>175</sup> *Id.* at 470.

<sup>176</sup> Charlene Hager, *2 Found Guilty of Abusing Dogs on Flagler Farm; A Couple Got 180-Day Jail Sentences and Probation in a Case in Which 358 Animals Were Confiscated by Investigators*, ORLANDO SENTINEL (Fla.), Nov. 14, 1998, at D1.

<sup>177</sup> HSUS, *Animal Hoarder Fact Sheet*, *supra* note 168.

<sup>178</sup> *Brinkley*, 769 So.2d at 469.

<sup>179</sup> Lockwood & Cassidy, *supra* note 24, at 16.

<sup>180</sup> Callahan, *supra* note 55, at B1.

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shaven man was living with forty cats.<sup>181</sup> Neighbors and family members traced the decline of the man to the date of the death of his only child, a son who died suddenly following surgery.<sup>182</sup> The week his son died and family visited, he had only six cats.<sup>183</sup>

The most troubling characteristic animal hoarders share is recidivism of their cruel conduct.<sup>184</sup> Even once authorities seize hoarders' animals they simply accumulate more.<sup>185</sup> Dr. Janis Walder, charged with 164 charges of cruelty to animals stemming from a discovery of 119 dogs, forty-five ponies, seven turtles and the remains of six puppies on her property, is one such example.<sup>186</sup> For Walder this "dog and pony horror show" was a repeat occurrence that outraged the animal community—many of the dogs were locked inside small, wooden crates with poor ventilation and the house was covered in a layer of feces, urine, and dead rats as much as a foot deep.<sup>187</sup> Walder was well known by animal control authorities who seized fifty dogs, forty-seven ponies, ten cats, eight turtles, four geese, a peacock and a pigeon from her in 1998; at that time, no charges were filed.<sup>188</sup>

HARC reports that without an ongoing system of support the rate of recidivism among animal hoarders is almost one hundred percent; the "old adage is that [animal hoarders] will pick up a stray cat on the way home from the courthouse."<sup>189</sup> After authorities removed eighty-two live and 108 dead cats from a seventy-three-year-old woman and her two daughters, the women moved to another apartment and were found to have accumulated more cats and a dog within two days.<sup>190</sup> Two years after the San Antonio Animal Control removed sixty cats from a woman's home, they found her hoarding cats in another home,<sup>191</sup> and an Omaha hoarder whose house was demolished when over one hundred cats were removed from the feces-caked, urine soaked home, had been

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<sup>181</sup> *Id.*

<sup>182</sup> *Id.*

<sup>183</sup> *Id.*

<sup>184</sup> Frost, *supra* note 159.

<sup>185</sup> Paul Rioux, *Dog Hoarder Has Done It Before, Neighbors Say; 1998 Raid on Trailer Seized 121 Animals*, TIMES-PICAYUNE (New Orleans, La.), Mar. 12, 2004, at 1 [hereinafter Rioux, *Dog Hoarder*].

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> Rioux, *Profile Fit*, *supra* note 78.

<sup>189</sup> Rioux, *Dog Hoarder*, *supra* note 185.

<sup>190</sup> David T. Roen, *Animal Hoarders Face Real Hazards*, LEWISTON MORNING TRIB. (Idaho), Sept. 2, 2002, at 5A.

<sup>191</sup> Barnes, *supra* note 34, at 3B.

cited seventeen times over fifteen years for violating city animal ordinances.<sup>192</sup> Other animal hoarders who do not repeat in their communities or who are driven out of town often start hoarding somewhere else.<sup>193</sup>

*B. Animal Hoarding's Psychological Roots*

Animal hoarding is not a new phenomenon, however, the attention it is receiving as a potential mental disorder is. Until recently it was not widely recognized as symptomatic of a mental illness or a diagnosable disorder and was instead dismissed by many as a lifestyle.<sup>194</sup> Indeed, hoarders often defend their conduct and their right to live their lives the way they determine.<sup>195</sup> Famed "serial collector" Vikki Kittles claimed she was labeled a collector because she was poor and because law enforcement did not like her "lifestyle."<sup>196</sup> Both Lockwood and Patronek reject animal hoarding as a "lifestyle choice" and believe that those who live surrounded by infectiously diseased and dying animals, feces, and filth have crossed the line into mental disorder.<sup>197</sup> It is also a mistake to dismiss this conduct as a lifestyle choice because of the harm to the animals, hoarders, and other humans who may be in hoarders' homes.<sup>198</sup> Eighty percent of hoarders' animals are found dead or dying,<sup>199</sup> and two animal hoarders were found with human corpses.<sup>200</sup> Although animal hoarders claim to be rescuing animals and saving them from certain death, more than half of hoarders' animals ultimately die,<sup>201</sup> and those that survive are found in conditions described as "worse than death."<sup>202</sup>

No comprehensive psychological study has been conducted to conclusively determine the causes of animal hoarding.<sup>203</sup> While it appears to be a mental health problem, the exact type is unclear.<sup>204</sup> The

<sup>192</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 85.

<sup>193</sup> Kelly Milner, *Collectors Think Their Animals Are Healthy*, WYO. TRIB.-EAGLE (Cheyenne, Wyo.), at A9 (citing Randall Lockwood) [hereinafter Milner, *Collectors Think*].

<sup>194</sup> Denise Kusel, *Only in Santa Fe: Animal Collectors Are a Bizarre Breed*, SANTA FE NEW MEXICAN (N.M.), Sept. 1, 2000, at B1 (citing Kate Rindy, director, Santa Fe Animal Shelter and Humane Society).

<sup>195</sup> Milner, *Collectors Think*, *supra* note 193, at A9.

<sup>196</sup> *Id.*

<sup>197</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 85.

<sup>198</sup> Diane White, *Are They Helping or Hoarding?*, THE BOSTON GLOBE, Jan. 25, 1999, at C6.

<sup>199</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 85.

<sup>200</sup> Worth & Beck, *supra* note 38; Frost, *supra* note 159.

<sup>201</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 85.

<sup>202</sup> Milner, *Collectors Think*, *supra* note 193, at A9 (citing Randall Lockwood).

<sup>203</sup> Patronek, *Hoarding of Animals*, *supra* note 38.

<sup>204</sup> See Frost, *supra* note 159.

common perception is that animal hoarders are motivated by a love of animals that got out of control. This obsessive love is one of many possible causes of hoarding, and most experts agree that it is pathological.<sup>205</sup> Studies available offer a variety of suspected psychological underpinnings including the following: delusional disorder, dementia, obsessive-compulsive disorder (“OCD”), and attachment.<sup>206</sup> Randy Frost of HARC suggests that animal hoarding may be symptomatic of other disorders.<sup>207</sup> Often the compulsion is triggered by a major event, such as the death of a close relative or a divorce.<sup>208</sup> When authorities seized four-dozen cats from a seventy-two-year-old man and found 114 more dead in freezers, the man explained he became depressed several years ago when his wife died and that he accumulated cats to fill the void.<sup>210</sup> A woman whose animals were seized on four occasions between 1992 and 2003 explained in a deposition that her twin sister died when she was a toddler and her father bought her pets to console her.<sup>211</sup> Officers found starving and injured dogs, calves, pigs, and goats in her possession as well as carcasses and bones of dead livestock on her property.<sup>212</sup>

Although hoarders claim to be motivated by their desire to help animals in need, considering the tremendous harm and mistreatment they cause to their animals,<sup>213</sup> it is more likely that animal hoarders are not helping animals but instead fulfilling needs of their own.<sup>214</sup> Susan Gilbert, program coordinator at Colorado’s Aurora Center for Treatment,<sup>215</sup> believes that animal hoarding is a form of dependence whereby when an individual’s needs are not being met by human companionship he or she will turn to animals to fulfill that need.<sup>216</sup> Gilbert posits that it is not a disorder one is born with, but is developed

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<sup>205</sup> *Id.* at 4.

<sup>206</sup> *Id.*

<sup>207</sup> *Id.*

<sup>208</sup> Worth & Beck, *supra* note 38.

<sup>210</sup> Rioux, *Profile Fit*, *supra* note 78.

<sup>211</sup> Sam Trantum, *Animal Farm Under Fire; Ranch Owner Accuses Officials of ‘Just Picking on Me,’* SUN-SENTINEL (Fort Lauderdale, Fla.), July 26, 2003, at 1B.

<sup>212</sup> *Id.* (citing Dr. Gary Patronek).

<sup>213</sup> Edgar, *supra* note 92 (citing HARC member Dr. Edward Messner, psychiatrist at Massachusetts General Hospital).

<sup>214</sup> Rioux, *Profile Fit*, *supra* note 78.

<sup>215</sup> Milner, *Collectors Think*, *supra* note 193, at A9 (stating that the Center treats those with alcohol, substance and animal abuse).

<sup>216</sup> *Id.*

over time, and is a manifestation of another underlying issue.<sup>217</sup> A pattern of unstable or chaotic childhoods is present in many hoarders where pets were the only constant and stable presence.<sup>218</sup> In some cases animal relationships substitute for human relationships whereby hoarders seek an unconditional love from animals that they do not have or are unable to attain with humans.<sup>219</sup> A San Diego, California man living away from relatives refused to part with the eighty-eight cats he kept that he regarded as part of his family.<sup>220</sup> In a rare voluntary surrender of forty-three cats, a Missouri woman explained that she did not intend to keep so many cats but that after losing her factory job she suffered from depression and the cats provided "love and companionship."<sup>221</sup>

Dr. Patronek opines that hoarding is an addiction with symptoms and behaviors that parallel alcohol or substance abusers, including: isolation from society, denial, alibis for the behavior, preoccupation with the addiction, and enablers who allow the behavior to continue or relapse.<sup>222</sup> Veterinarian Karen Kemper agrees, and her studies determine that the behavior of animal hoarders parallels that of substance abusers in the following ways: preoccupation with the addiction, repetition of the addictive behavior, alibis for their behavior; neglect of personal and environmental conditions, claims of persecution; the presence of enablers who assist financially, denial that the addiction exists, isolation from the rest of society except for those who also deal in the addiction, and abuse of animals through neglect.<sup>223</sup>

Dr. Stephanie LaFarge, director of counseling services for the New York City ASPCA, believes that hoarding is a symptom of OCD, that hoarders are obsessed with animals and think about them constantly, and that this compulsion inhibits their ability to control the harm by neglect they cause the animals.<sup>224</sup> The connection to mental illness may

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<sup>217</sup> *Id.*

<sup>218</sup> Clayton, *supra* note 51, at 1A.

<sup>219</sup> *Id.*

<sup>220</sup> Bruce Lieberman, *Man with 88 Cats Didn't Want to 'Tear up Families,'* THE SAN DIEGO UNION-TRIB., Mar. 18, 2000, at B5.

<sup>221</sup> Trisha L. Howard, *Woman Turns over 43 Cats to Animal Shelter,* ST. LOUIS POST-DISPATCH, Nov. 30, 2000, at A1.

<sup>222</sup> Christine Byers, *Hoarding Animals, a "Powerful Compulsion,"* ROCKFORD REG. STAR (Rockford, Ill.), Jan. 9, 2004, at 8A.

<sup>223</sup> Handy, *supra* note 38.

<sup>224</sup> Laura Maloney, *Disorder Drives Some to Get Hundreds of Animals,* TIMES-PICAYUNE (New Orleans, L.A.), Feb. 26, 2004, at 2.

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help to explain the high rate of hoarder's recidivism.<sup>225</sup> Hoarding, although not very well understood, is a fairly common problem.<sup>226</sup> Jim Claiborn, a psychologist from the Obsessive-Compulsive Foundation in Portland, Maine, states that OCD occurs in approximately two percent of the general population and that hoarding tendencies are present in as many as one-third of people with OCD.<sup>227</sup> Eighty percent of animal hoarders also hoard inanimate objects.<sup>228</sup> Unlike the hoarding of inanimate objects, symptomatic of many psychiatric conditions, the hoarding of animals is even less understood than hoarding in general and is not linked definitively with any specific psychological order.<sup>229</sup> The lack of recognition as a serious medical illness inhibits professionals' response for treatment, intervention, and prosecution of those with the undiagnosed disorder.

## IV. PREVENTING HOARDERS FROM HURTING AGAIN

## A. Prosecution of Animal Hoarders

Prosecuting animal hoarders is complex, time consuming, and costly.<sup>230</sup> Animal hoarders are often intelligent and experienced in challenging and delaying prosecution and case adjudication.<sup>231</sup> As a result, the costs to care for hoarders' animals during investigations cause major financial drains for private and public shelters and animal control facilities.<sup>232</sup> A California Humane Society spent more than forty-five thousand dollars to care for twenty-three cats and dogs that a woman hoarded in her van.<sup>233</sup> Veterinarian bills and a modest ten dollars per day boarding charge for 110 seized dogs cost a Florida Humane Society a staggering \$450,000 to care for the animals of a repeat hoarder until trial.<sup>234</sup> One hoarder's mass neglect required daily visits to her property by animal control officers to care for more than 150 pigs, goats, cows,

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<sup>225</sup> Rioux, *Profile Fit*, *supra* note 78.

<sup>226</sup> Kelli Samantha Hewett, *Recent Cases of Seized Pets Raise Specter of 'Hoarding,'* THE TENNESSEAN, Jan. 28, 2004, at 1B [hereinafter Hewett, *Recent Cases*].

<sup>227</sup> *Id.*

<sup>228</sup> Frost, *supra* note 159, at 5.

<sup>229</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 87.

<sup>230</sup> Milner, *Collectors Think*, *supra* note 193, at A9.

<sup>231</sup> See, e.g., *infra* notes 259-276 and accompanying text (describing the case of Vikki Kittles).

<sup>232</sup> Lockwoods & Cassidy, *supra* note 24, at 14.

<sup>233</sup> Becky Oskin, *Animal Hoarding Presents Paradox; Love for Creatures Can Help Some Turn Blind Eye to Unsanitary Conditions*, PASADENA STAR-NEWS (Cal.), Mar. 17, 2002.

<sup>234</sup> Jill Taylor, *Breeder Says She Has Made Changes*, PALM BEACH POST (Fla.), Aug. 29, 2001, at 1B.

cats, and emus.<sup>235</sup> The high costs of hoarding cases can quickly exhaust non-profit agencies' lean budgets, thereby eliminating resources for animal care and animal care employees.<sup>236</sup> Further, animal hoarder rescues can double a shelter's population overnight;<sup>237</sup> large rescues can force shelters into bankruptcy.<sup>238</sup>

In addition to financially draining already over-taxed shelters, animal hoarders create additional victims. Even temporary impoundment jeopardizes the health and lives of existing shelter animals awaiting adoption.<sup>239</sup> Hoarders' seized animals often have contagious diseases, and otherwise healthy adoptable animals are euthanized to make room for hoarders' animals that become "evidence" awaiting trial.<sup>240</sup> Animals that are held as part of cruelty cases cannot be released for adoption until case adjudication; thus, when they become available, their health has deteriorated having contracted contagious and deadly diseases, and they are ultimately euthanized.<sup>241</sup> Resident shelter animals lucky enough to be spared euthanasia due to an influx of hoarders' animals are often overlooked by those wanting to adopt hoarders' animals instead.<sup>242</sup>

The successful prosecution of animal hoarders is often hindered by those who fail to recognize the serious harm of hoarders' conduct. Despite the severe cruelty hoarders inflict upon their animals and the enormous costs to public and governmental agencies as a result of their criminal behavior, the media routinely characterizes animal hoarders and their behavior sympathetically.<sup>243</sup> The media often depict animal hoarders as "well-meaning saviors of animals" and "kindly eccentrics" and, at the same time, unfairly portrays cruelty investigators and prosecuting attorneys as heartless and unsympathetic.<sup>244</sup> *The Press*

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<sup>235</sup> Sam Trantum, *supra* note 211, at B1.

<sup>236</sup> Alayna DeMartini, *Seeking Funds for Fido*, THE COLUMBUS DISPATCH (Ohio), Jan. 18, 2003, at 1C, available at 2003 WL 2838041.

<sup>237</sup> Rioux, *Dog Hoarder*, *supra* note 185.

<sup>238</sup> *Pet Hoarding Bill in Ryan's Hands*, *supra* note 36, at 14.

<sup>239</sup> Sanchez, *supra* note 36, at A1.

<sup>240</sup> *Id.*

<sup>241</sup> Paroma Basu, *A Mental Disorder Behind the Urge to 'Hoard' Pets*, THE BOSTON GLOBE, May 15, 2001, at C1.

<sup>242</sup> *Liberty Shelter Finds Homes for Seized Cats, but Shelter Workers Say Dogs Have Been Overlooked*, The Kansas City Channel.com, July 29, 2002, available at <http://www.thekansaschannel.com/news/1582390/detail.html> (last visited Mar. 20, 2005).

<sup>243</sup> Lockwood & Cassidy, *supra* note 24, at 15; see also, Arnold Arluke et al., *The Press Reports of Animal Hoarding*, reprinted from SOCIETY AND ANIMALS, Oct, 10, 2002.

<sup>244</sup> *Id.*

*Reports of Animal Hoarding* is an in-depth study of the media treatment of hoarders. The study concludes that the majority of press reports often portray animal hoarders as those with good intentions gone bad or as mentally disturbed and do not give proper accounts to reflect the severe cruelty to animals the hoarders caused.<sup>245</sup> Consequently, inaccurate reporting instills confusion and apathy in readers and in some cases dilutes the seriousness of the problem and the crime.<sup>246</sup>

This apathy and lack of appreciation of the severity of harm caused by animal hoarding also extends to law enforcement and judges.<sup>247</sup> A landlord who discovered thirty abandoned cats and dogs on her property was turned away when she sought help from the Sheriff's Department and Animal Services.<sup>248</sup> Only after a woman with a fifteen-year history of hoarding had numerous neglected animals removed four times in a decade and was cited numerous times with thousands of dollars of fines, was she barred from keeping pets or livestock.<sup>249</sup> Often the few judges who are willing to entertain prosecutors' cases are not willing to impose meaningful sentences to deter animal hoarders. The punishment for a New Mexico man who collected 160 animals resulted in only a small fine for the hoarder and a prohibition of keeping more than five dogs.<sup>250</sup>

Recidivism of this animal cruelty by severe neglect is also often not enough to persuade judges to impose appropriate sentences on hoarders. In one case, a Chicago man kept eighty-two animals in violation of an order permitting him to keep only one dog and two cats.<sup>251</sup> The order resulted after animal control workers found over one hundred severely neglected animals in his home the prior year.<sup>252</sup> When the judge originally fined the man five hundred dollars and sentenced him to thirty days in jail, the man's attorney argued for leniency claiming the man suffered from OCD.<sup>253</sup> The Assistant State Attorney asserted that

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<sup>245</sup> Arluke et al., *supra* note 243.

<sup>246</sup> *Id.*

<sup>247</sup> Lane, *supra* note 65.

<sup>248</sup> Michael Davis, *30 Pets Found Abandoned*, ALBUQUERQUE J. (N.M.), May 24, 2003, at 1, available at 2003 WL 55392606.

<sup>249</sup> Trantum, *supra* note 211, at 1B.

<sup>250</sup> Kusel, *supra* note 194, at B1.

<sup>251</sup> Amy E. Williams, *Judge Orders Treatment for Man Who Kept 82 Pets*, CHI. DAILY HERALD, Dec. 24, 1998, at 1.

<sup>252</sup> *Id.* (stating that the animals included rabbits, goats, parakeets, dogs and a cat, and were covered in feces and lice).

<sup>253</sup> *Id.* (stating that animals were among the things the man collected, for example, sprinkler heads, magazines, and empty fish tanks).

that even if the repeat collecting was a result of hoarding, hoarding as a compulsion is not a defense for breaking the order.<sup>254</sup> The judge however, stayed the jail sentence with the provision that the man remain "animal-free" and receive treatment for his illness with a one-year conditional discharge.<sup>255</sup>

The disregard for the seriousness of the crime of animal hoarding by judges can influence jury opinion regarding hoarders' behavior and sentencing. A Vermont jury acquitted a female repeat offender charged with cruelty to almost fifty animals when charged with keeping the animals in extremely unsanitary conditions and denying them proper food, water, or shelter.<sup>256</sup> A few years prior, the woman was convicted for animal cruelty when ninety-seven animals were seized from her under similar conditions of neglect.<sup>257</sup> Although the woman kept rabbits in cages filled with feces and mold, ten dogs and nine cats in an unventilated shed without water, and another twenty animals caged in a closet, the jury determined the conditions did not rise to the level of cruelty prohibited by law.<sup>258</sup> The absence of meaningful penalties to deter hoarders' criminal conduct, and the unwillingness of the legal system, media, and public to recognize the extreme suffering their conduct inflicts, allows animal hoarders to continue to hoard and to continue to harm, without consequence.

*B. The Conviction of Vikki Kittles, Serial Collector*

The prosecution of animal hoarders poses great challenges to even the most skilled and diligent prosecutors. Numerous state prosecutors were "spectacularly unsuccessful"<sup>259</sup> in prosecuting "serial collector" Vicki Kittles because of her savvy ability to manipulate the justice system and seemingly sympathetic character.<sup>260</sup> In 1993, Kittles was arrested in

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<sup>254</sup> *Id.*

<sup>255</sup> *Id.*

<sup>256</sup> Donna Moxley, *Animal Owner Acquitted of Six Cruelty Charges*, THE TIME ARGUS ONLINE, Feb. 5, 2003, available at <http://www.timesargus.com/apps/pbcs.dll/article?AID=/20030205/NEWS/302050339&SearchID=73202845460136>.

<sup>257</sup> *Id.*

<sup>258</sup> *Id.*

<sup>259</sup> Kelly Milner, *Animal Abuse Not a Felony in Wyoming, 13 Other States*, WYO.-TRIB. EAGLE (Cheyenne, Wyo.), July 14, 2002, at A8 (quoting Oregon prosecuting District Attorney Joshua Marquis) [hereinafter Milner, *Animal Abuse*].

<sup>260</sup> Alwan, *supra* note 77. Vikki Rene Kittles is regarded as a tragic legend in national animal hoarding circles. Milner, *Vikki Kittles*, *supra* note 101, at front page (citing Randall Lockwood) (referring to *State v. Kittles*, No. 93-6346 (Clatsop County, Oregon) Dist. Court 1995).

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Astoria, Oregon, when she was found living on a school bus with 115 dogs, four cats, and two chickens.<sup>261</sup> According to Clatsop County's prosecuting District Attorney Joshua Marquis, the animals were confined on the bus for three weeks,<sup>262</sup> and as a result, the bus was filthy<sup>263</sup> and the stench so noxious it required animal control officers' use of gas masks to enter it.<sup>264</sup> Kittles' animals were found starved, caked with their own feces, and suffering from heartworm disease.<sup>265</sup> Kittles, however, maintained that her animals were disease free and properly fed, despite the clear evidence to the contrary.<sup>266</sup>

While Kittles bitterly fought her prosecution, her animals languished in the meantime, as she managed to legally tie up her animals, preventing their medical treatment.<sup>267</sup> Kittles vigorously argued the right to live a lifestyle that included living among animal feces; Marquis rebutted that while that lifestyle was her choice, it was not the choice of the animals.<sup>268</sup> The jury agreed with Marquis, and Kittles was sentenced to 210 days jail and five years probation, and she was ordered to undergo psychiatric counseling, which she managed to evade.<sup>269</sup>

This, however, would not be the first or last time Kittles would be found hoarding animals. In 1985, Kittles was found in Florida with thirty-seven dogs, three cats, and two horses, which she kept in one of the bedrooms converted into a stable.<sup>270</sup> Kittles was charged with two counts of animal cruelty, evicted from the house, and asked to leave town.<sup>271</sup> More recently, Wyoming law enforcement officials seized forty-

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<sup>261</sup> Alwan, *supra* note 77.

<sup>262</sup> Joshua Marquis, *The Kittles Case and Its Aftermath*, 2 ANIMAL L. 197, 197 (1996).

<sup>263</sup> Milner, *Vikki Kittles*, *supra* note 101.

<sup>264</sup> Marquis, *supra* note 262, at 197.

<sup>265</sup> Milner, *Vikki Kittles*, *supra* note 101.

<sup>266</sup> *Id.*

<sup>267</sup> Marquis, *supra* note 262. Kittles was ultimately charged with forty-two counts of animal cruelty, but not before going through eight court-appointed lawyers, six judges and three prosecutors. *Id.* at 197. When Kittles decided to represent herself during the five-week trial, her abrasive treatment of witnesses and jurors resulted in seventeen charges of contempt against her, and seventy-one additional nights spent in jail. *Id.* at 198.

<sup>268</sup> *Id.* Marquis credits the Oregon Humane Society and numerous state citizens for their ability to "miraculously" save almost all of the dogs and providing them good homes. *Id.*

<sup>269</sup> Milner, *Animal Abuse*, *supra* note 259, at A8. Although Marquis was eventually able to convince the court to allow the dogs held as evidence to be treated, some perished awaiting trial, and all tolled, Clatsop County taxpayers paid \$150,000 to care for Kittles' dogs. Milner, *Vikki Kittles*, *supra* note 101 (citing Bradley Woodall, Animal Legal Defense Fund, Oregon).

<sup>270</sup> Milner, *Vikki Kittles*, *supra* note 101.

<sup>271</sup> *Id.*

eight cats Kittles kept in a small, run-down trailer, but the Laramie County District Attorney decided not to charge Kittles with animal cruelty.<sup>272</sup>

Bradley Woodall, Animal Legal Defense Fund cruelty caseworker, states that the combination of weak state animal cruelty laws and the ability of someone to manipulate the judicial system allows conduct like Kittles to flourish.<sup>273</sup> Further, Woodall states that jail time for hoarders is the exception rather than the rule; most hoarders pay a small fine or complete probation, while the rescued animals pay with their lives.<sup>274</sup>

If anything can be considered a positive outcome of the tragic case of Vikki Kittles, it is that it generated enormous publicity and public interest that resulted in the enactment of Oregon House Bill 3377, coined the Kittles Bill.<sup>275</sup> When passed, it was the toughest animal cruelty law in the nation, making aggravated animal abuse a felony and allowing a court to care for and foster animals seized while a criminal charge is pending.<sup>276</sup>

C. *Animal Hoarders Under the Law: A Case for Prosecution*

A proliferation of severe animal hoarding cases in the state of Illinois resulted in the promulgation of the nation's first animal hoarding law.<sup>277</sup> Senate Bill 626, the Companion Animal Hoarding Bill, was signed by Governor George Ryan on Tuesday, August 21, 2001, and amended the Illinois Humane Care for Animals Act to include a legal definition for a "companion animal hoarder,"<sup>278</sup> and specific prohibitions against

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<sup>272</sup> Milner, *Animal Abuse*, *supra* note 259, at A8. Kittles filed a motion in U.S. District Court seeking an emergency restraining order to prevent the disposition of her animals arguing a "federally protected right to rescue and maintain numerous species of animals." *Id.* Kittles' motion was denied. *Id.*

<sup>273</sup> *Id.* In states that do not consider animal cruelty a felony, an abuser can simply cross the state line with a clean record and begin hoarding again. *Id.*

<sup>274</sup> *Id.*

<sup>275</sup> Marquis, *supra* note 261, at 199 (citing to H.B. 3377, 68th Leg., Reg. Sess., (Or. 1995), and stating that with the assistance of ADLF lawyer Pamela Frasc, Sharon Harmon of the Oregon Humane Society, Charles Turner former United States Attorney for Oregon, and the sponsorship of State Representative Tim Josie, the bill was drafted and passed).

<sup>276</sup> H.B. 3377, 68th Leg., Reg. Sess., 1995 (Or. 1995) (describing how in Vickie Kittles' case, fifteen months passed before the judge released the dogs for medical care and foster care placement).

<sup>277</sup> Sarah Antonacci, *Legislation Introduced Aimed at Controlling Animal Hoarding*, THE STATE J.-REG. (Springfield, Ill.), Feb. 6, 2001, at 9.

<sup>278</sup> 510 ILL. COMP. STAT. ANN. 70/2-10 (West 2004).

hoarding animals with felony criminal consequences.<sup>279</sup> The statute defines companion animal hoarder as follows:

[A] person who (i) possesses a large number of companion animals; (ii) fails to or is unable to provide what he or she is required to provide under Section 3 of this Act; (iii) keeps the companion animals in a severely overcrowded environment; and (iv) displays an inability to recognize or understand the nature of or has a reckless disregard for the conditions under which the companion animals are living and the deleterious impact they have on the companion animals' and owner's health and well-being.<sup>280</sup>

In addition to providing prosecutors with a legal definition for animal hoarding, the statute increases the penalties for animal abuse from a misdemeanor to a Class 4 felony, and increases penalties for subsequent offenses.<sup>281</sup> It also enables judges to order psychiatric evaluation and treatment for offenders, at the convicted person's expense.<sup>282</sup> Pursuant to this law, animal owners are required to pay a bond for the care of animals seized in abuse cases and to provide assistance to shelters charged with the animals' care.<sup>283</sup> If a court-ordered bond is not posted within five days of the seizure, ownership of the animals transfers to the sheltering agency, and the animals can then be offered for adoption.<sup>284</sup> The Bill also allows veterinarians, animal welfare investigators, or law enforcement officers to take an animal into protective custody without a court order if it is believed that the animal had been abused or its life was in danger.<sup>285</sup> Additionally, the Bill stipulates the procedural process for allegations of animal hoarding to prevent the inclusion of individuals operating lawful animal rescues.<sup>286</sup>

Although to date, Illinois is the only state that criminalizes animal hoarding with specificity, all states have legal support in their criminal codes for cruelty prosecutions. Every state law charges those who possess companion animals with an affirmative duty to provide for their

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<sup>279</sup> *Id.* § 70/3-02.

<sup>280</sup> *Id.* § 70/2-10.

<sup>281</sup> *Id.* § 70/3-02.

<sup>282</sup> *Id.*

<sup>283</sup> *Id.* § 70/3-05.

<sup>284</sup> *Id.*

<sup>285</sup> *Id.* § 70/3-02.

<sup>286</sup> *Id.*

proper care, and every state has an animal anti-cruelty statute to impose penalties for failure to perform that duty.<sup>287</sup> Thus, despite absence of animal hoarding laws, prosecutors and animal control and humane agencies can use animal cruelty statutes to effectively pursue charges against animal hoarders. In addition to criminal sentences, prosecutors and animal agencies may seek counseling and community service for the offender, seizure or forfeiture of the animals, and obtain restitution or reimbursement for their care.<sup>288</sup> Although efforts to prosecute are challenged by media distortion, sympathetic judges and juries, and the tenacity of the animal hoarders themselves,<sup>289</sup> even the most creative challenges to animal hoarding charges have been successfully defeated.<sup>290</sup>

*D. Constitutional and Procedural Challenges to Anti-Cruelty Laws*

U.S. courts have a long history of defeating defendants' challenges to state cruelty laws. Indeed, most states faced with contentions of the vagueness of animal cruelty statutes have upheld their constitutionality.<sup>291</sup> In *Wilkerson v. State*,<sup>292</sup> a man convicted of cruelly torturing a raccoon challenged the state anti-cruelty statute's definition of "animal" as unconstitutionally vague and overbroad.<sup>293</sup> A unanimous Florida Supreme Court held that the terms "animal" and "every living dumb creature," the statutory definition of animal, are not unconstitutionally vague for purposes of upholding Wilkerson's conviction.<sup>294</sup> The court noted with certainty that the legislature intended raccoons to be included in the statutory definition, and that "unnecessarily," as it relates to conduct prohibited in Florida's animal cruelty statute, is also not unconstitutionally vague.<sup>295</sup> Accordingly, the court found that since Wilkerson's conduct was clearly proscribed by

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<sup>287</sup> Pamela Frasch et al., *State Animal Anti-Cruelty Statutes: An Overview*, 5 ANIMAL L. 69 (1999).

<sup>288</sup> *Id.* at 70-71.

<sup>289</sup> *See supra* Part IV.A.

<sup>290</sup> *See infra* Part IV.D.

<sup>291</sup> *Wilkerson v. State*, 401 So. 2d 1110, 1111 (Fla. 1981) (citing, for example, *State v. Kaneakua*, 597 P.2d 590 (Haw. 1979)); *Moore v. State*, 107 N.E. 1 (Ind. 1914); *State ex rel. Miller v. Claiborne*, 505 P.2d 732 (Kan. 1973); *State v. Hafle*, 362 N.E.2d 1226 (Ohio Ct. App. 1977); *King v. State*, 130 P.2d 105 (Okla. Crim. App. 1942); *McCall v. State*, 540 S.W.2d 717 (Tex. Crim. App. 1976)).

<sup>292</sup> 401 So.2d 1110 (Fla. 1981).

<sup>293</sup> *Id.* at 1111.

<sup>294</sup> *Id.*

<sup>295</sup> *Id.*

statute he also did not have standing to attack the statute as unconstitutionally overbroad.<sup>296</sup>

In *State v. Hirsch*,<sup>297</sup> the Missouri Court of Appeals rejected Hirsch's contention that he lacked the intent to violate a cruelty law and upheld Hirsch's misdemeanor conviction for unlawfully failing to supply his confined horses with sufficient food, water, shelter and protection.<sup>298</sup> A deputy sheriff responded to numerous complaints of the neglected condition of Hirsch's horses, and found two horses and seventeen emaciated Shetland ponies confined on his property without food.<sup>299</sup> The deputy's inspection of the pasture around the horses' stable revealed almost entirely bare ground and a thorough search for the horses' feed was unsuccessful.<sup>300</sup> While on the property the buried carcasses of two horses that appeared to have starved to death were discovered.<sup>301</sup> Despite the prosecuting attorney and numerous witnesses' testimony to the poor condition of the horses and their pasture, Hirsch claimed that he fed the animals, and further argued that the evidence was insufficient to show his intentional failure to provide them with necessary food or that he was indifferent about their care.<sup>303</sup>

The court held that a showing of malice and intent could be imputed by the facts of the case, and that malice could be inferred by a showing that the defendant knowingly impounded the animals without food.<sup>304</sup> The court noted that the Legislature provided that it was not necessary to show that the act was done maliciously but that it may be inferred to be malicious if the act was done wrongfully, intentionally, and willfully.<sup>305</sup> The court also stated that while a wrongful intent must exist to render an act criminal, when a wrongful act is committed under the circumstances as shown in this case, the court may infer that such acts were intentionally committed.<sup>306</sup>

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<sup>296</sup> *Id.*

<sup>297</sup> 260 S.W. 557 (Mo. Ct. App. 1924).

<sup>298</sup> *Id.*

<sup>299</sup> *Id.* at 557.

<sup>300</sup> *Id.*

<sup>301</sup> *Id.*

<sup>303</sup> *Id.* at 557-58.

<sup>304</sup> *Id.* at 558.

<sup>305</sup> *Id.*

<sup>306</sup> *Id.* The court also rejected Hirsch's argument that the prosecution was conceived in malice and spite. *Id.*

In a similar case, *Missouri v. Brookshire*,<sup>307</sup> the defendant was charged with willfully and unlawfully confining twenty-seven cows on his farm without food.<sup>308</sup> The court rejected Brookshire's arguments that he lacked criminal intent due to a physical injury, his subsequent "inability to get around," and his efforts to obtain feed.<sup>309</sup> The court held that Brookshire's act of confining cattle on his farm in the winter without food, knowing the herd would require approximately five hundred bales of feed to survive for one week, and instead were given a few bales of hay, and that several days without feed could result in their death by starvation, was sufficient for a jury to find the requisite malice and criminal intent the statute contemplated.<sup>310</sup>

Challenges to statutory construction of cruelty laws have also been unsuccessful. In *Florida v. Mary Elizabeth Wilson*,<sup>311</sup> the Florida District Court of Appeals upheld the constitutionality of a statutory prohibition against depriving an animal of sufficient food, water, air, and exercise, rejecting Wilson's argument that the language of the statute was void for vagueness.<sup>312</sup> Wilson was charged with confining seventy-seven poodles

<sup>307</sup> 335 S.W.2d 333 (Mo. Ct. App. 1962).

<sup>308</sup> *Id.* at 335. Section 563.680 of Missouri's Revised Statutes provides in part: "If any person shall impound or confine, or cause to be impounded or confined, in any pound, or other place, any animal or creature, and fail to supply the same during such confinement with sufficient food and water, [he] shall be deemed guilty of a misdemeanor." MO. REV. STAT. § 563.680 (1949)

<sup>309</sup> *Brookshire*, 335 S.W.2d. at 337.

<sup>310</sup> *Id.*

<sup>311</sup> 464 So. 2d 667 (Fla. Dist. Ct. App. 1985).

<sup>312</sup> *Id.* at 668. West's F.S.A. § 828.13 Confinement of animals without sufficient food, water, or exercise; abandonment of animals, provides in part:

(1) As used in this section:

(a) "Abandon" means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

(b) "Owner" includes any owner, custodian, or other person in charge of an animal.

(2) Whoever:

(a) Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,

(b) Keeps any animals in any enclosure without wholesome exercise and change of air, or

(c) Abandons to die any animal that is maimed, sick, infirm, or diseased,

is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.

FLA. STAT. ANN. § 828.13 (West 2000).

in cages in the back of her van without food, water, and sufficient air.<sup>313</sup> The court found that a presumption of constitutionality exists in any statutory analysis,<sup>314</sup> and that statute language is not unconstitutionally vague if it “conveys sufficient definite warnings of the proscribed conduct when *measured by common understanding and practice.*”<sup>315</sup> Specifically, the court held that the phrases “sufficient quantity of good and wholesome food and water” and “[k]eeps any animals in enclosure without wholesome exercise and change of air” were definite enough to give persons of common intelligence notice of the proscribed conduct.<sup>316</sup> Further, the court held that it would be impossible to draft a statute that contemplated all situations in which cruel treatment to animals would result as a violation of the statute.<sup>317</sup>

Indeed, the court in *People v. Speegle*,<sup>318</sup> echoed this holding and found that “[t]here are an infinite number of ways in which the callously indifferent can subject animals in their care to conditions which make the humane cringe,” and accordingly, it is impossible for the legislature to catalogue all conduct that violates a cruelty statute.<sup>319</sup> In *Speegle*, California animal control officers removed two hundred poodles, three horses, and one cat from conditions the public health director deemed to be the filthiest and most unsanitary he had observed in his thirty-five year career.<sup>320</sup> Officers conducting the rescue stated that no food or water was available to the dogs, and that while in the house they “knocked the gelatinous contents of a cup of spoiled milk onto the feces-encrusted floor, at which point ‘[I]t was like a Pirhana feeding frenzy [and the dogs] were jumping on one another, growling, trying to get to that milk to eat it.’”<sup>321</sup> The officers also discovered the corpses of dogs and puppies in Speegle’s freezer, which she explained to be part of an “unspecified experiment.”<sup>322</sup>

Veterinarians for the Northwest Society for the Prevention of Cruelty to Animals (“NWSPCA”) who examined the dogs testified that all were anemic, malnourished, and underweight, and also suffered from ear

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<sup>313</sup> *Mary Elizabeth Wilson*, 464 So.2d at 668.

<sup>314</sup> *Id.* (citing *Scullock v. State*, 377 So. 2d 682, 683-84 (Fla. 1979)).

<sup>315</sup> *Id.* (citing *Gardner v. Johnson*, 451 So. 2d 477, 478 (Fla. 1984) (emphasis in original)).

<sup>316</sup> *Id.* at 668.

<sup>317</sup> *Id.*

<sup>318</sup> 53 Cal. App. 4th 1405 (Cal. 1997)

<sup>319</sup> *Id.* at 1411.

<sup>320</sup> *Id.* at 1409.

<sup>321</sup> *Id.* at 1409-10.

<sup>322</sup> *Id.* at 1409.

mites, flea infestation, chronic maggot-filled fur matting, eye and ear injuries, internal parasites, rotted teeth, and mouth disease.<sup>323</sup> Thirty-four of Speegle's dogs died or required immediate euthanasia.<sup>324</sup> Speegle's failure to trim her pony's "grossly overgrown" hooves resulted in severe splitting and peeling and the pony's inability to walk without severe pain.<sup>325</sup> Speegle's own veterinarian also testified to the deplorable conditions in which she kept her animals as the worst he had seen in his twenty-six years of experience.<sup>326</sup> As a result, Speegle was convicted of eight counts of felony animal cruelty.<sup>327</sup> Specifically, she was found to have subjected her animals to unnecessary suffering prohibited by California law.<sup>328</sup>

Speegle, however, maintained she took good care of her animals, and that any health problems the dogs suffered occurred as a result of NWSPCA's custody.<sup>329</sup> She further challenged her conviction as a violation of an unconstitutionally vague statute arguing that statutory prohibitions against "depriving an animal of 'necessary' sustenance, drink or shelter; subjecting an animal to 'needless suffering'; or failing to provide an animal with 'proper' food or drink" to be so general that a person of common intelligence would be left to guess as to the conduct the statute required.<sup>330</sup> The court was unpersuaded by Speegle's

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<sup>323</sup> *Id.* at 1410.

<sup>324</sup> *Id.*

<sup>325</sup> *Id.*

<sup>326</sup> *Id.* at 1409.

<sup>327</sup> *Id.* (stating that Speegle was initially charged with twenty-seven counts of felony animal cruelty under California's Penal Code section 597(b), and 228 counts of misdemeanor animal neglect under section 597f(a)).

<sup>328</sup> *Id.* California Penal Code section 599(b) provides the following:

In this title, the word "animal" includes every dumb creature; the words "torment," "torture," and "cruelty" include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted; and the words "owner" and "person" include corporations as well as individuals; and the knowledge and acts of any agent of, or person employed by, a corporation in regard to animals transported, owned, or employed by, or in the custody of, the corporation, must be held to be the act and knowledge of the corporation as well as the agent or employee.

CAL. PENAL CODE § 599(b), 597f (a) (West 1999).

<sup>329</sup> *Speegle*, 53 Cal. App. 4th at 1410.

<sup>330</sup> *Id.* at 1410-11 (citing California Penal Code section 597(b)). California Penal Code section 597(b) provides:

Except as otherwise provided in subdivision (a) or (c), every person who overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, drink, or shelter, cruelly beats, mutilates, or cruelly kills any animal, or causes or

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argument and held that “[a]lthough a particular statute is somewhat vague or general in its language because of difficulty in defining the subject matter with precision, it will be upheld if its meaning is reasonably ascertainable.”<sup>331</sup> Moreover, it found that “[i]t is not necessary that a statute furnish detailed plans and specifications of the acts or conduct prohibited. The requirement of reasonable certainty does not preclude the use of ordinary terms to express ideas with adequate interpretation in common usage and understanding.”<sup>332</sup>

The court concluded that the terms “necessary,” “needless,” and “proper” gave fair notice of an objective standard of reasonableness of the provisions of animal care as required by statute to avoid the infliction of suffering.<sup>333</sup> As long as the language embodies an objective concept, it is constitutionally concrete.<sup>334</sup> The court held that the scienter of criminal negligence was also measured by an objective standard of reasonableness, and “[t]he fact that a defendant must assess the point at which a course of conduct becomes criminally negligent does not violate due process.”<sup>335</sup>

The court also rejected Speegle’s contention that the trial court’s denial of her motion to dismiss constituted double jeopardy.<sup>336</sup> Speegle claimed that the confiscation of her animals and the subsequent criminal complaint filed resulted in the punishment of the same conduct twice.<sup>337</sup> The court rejected her reasoning, finding that it would lead to the absurd

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procures any animal to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, drink, shelter, or to be cruelly beaten, mutilated, or cruelly killed; and whoever, having the charge or custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal with proper food, drink, or shelter or protection from the weather, or who drives, rides, or otherwise uses the animal when unfit for labor, is, for every such offense, guilty of a crime punishable as a misdemeanor or as a felony or alternatively punishable as a misdemeanor or a felony and by a fine of not more than twenty thousand dollars (\$20,000).

CAL. PENAL CODE § 597(b) (West 1997).

<sup>331</sup> *Speegle*, 53 Cal. App. 4th at 1411 (citing *People v. Deskin*, 10 Cal. App. 4th 1397, 1400 (1992)).

<sup>332</sup> *Id.* (citing *Smith v. Peterson*, Cal. App. 2d 241, 246, 250 (1955)).

<sup>333</sup> *Id.*

<sup>334</sup> *Id.*

<sup>335</sup> *Id.* at 1411-12 (citing *Walker v. Superior Court*, 763 P.2d 852, 872 (Cal. 1988); *Deskin*, 10 Cal. App. 4th at 1403).

<sup>336</sup> *Speegle*, 53 Cal. App. 4th at 1412 (citing U.S. CONST. amend. V.)

<sup>337</sup> *Id.*

result in an analogy that parents could not be criminally punished for abusing their children after the court removed them from their home or terminated the parents' rights.<sup>338</sup> Moreover, the court held that even if it considered her animals to be "mere chattle," and their confiscation a common "forfeiture," civil forfeitures do not amount to "punishment" for the purpose of the Double Jeopardy Clause.<sup>339</sup>

Section 597(f) of the California Penal Code provides that upon conviction for causing or permitting acts of cruelty to animals, the court adjudges the animals to be forfeited and awarded to the impounding officer for proper disposition.<sup>340</sup> Further, persons convicted under this section of the statute are liable to the impounding officer for all costs associated with impoundment from the time of the seizure to the time of proper disposition.<sup>341</sup> In this case, Speegle did not dispute the calculation of NWSPCA's impoundment costs for her seized animals but argued that it did not have the statutory authorization to recover costs for *all* of the animals impounded and was instead limited to costs for the care of the eight animals who died within a month, upon which her felony cruelty convictions arose.<sup>342</sup> At the same time, Speegle made what the court deemed an "unseemly 'mitigation of damages' argument" that the NWSPCA should have euthanized her animals quicker rather than continue to care for the "physically and mentally maimed animals."<sup>343</sup> In its decision, the court quoted Speegle's argument in its entirety to illustrate her "lack of concern for her animals as living sentient creatures."<sup>345</sup> The court rejected Speegle's assertion that the NWSPCA had a "duty to euthanize to mitigate the repercussion of her cruel behavior."<sup>346</sup>

The court considered the enactment of California's comprehensive array of animal protection laws to be an unmistakable demonstration of intent of the Legislature to prevent cruelty to animals<sup>347</sup> and to provide for the removal of animals in the custody of those unfit to keep them.<sup>348</sup>

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<sup>338</sup> *Id.*

<sup>339</sup> *Id.* (citing *United States v. Usery*, 518 U.S. 267, 273 (1996)).

<sup>340</sup> CAL. PENAL CODE § 597(f)(1) (West 1999).

<sup>341</sup> *Id.*

<sup>342</sup> *Speegle*, 53 Cal. App. 4th at 1417 (Cal. 1997).

<sup>343</sup> *Id.*

<sup>345</sup> *Id.* at 1418.

<sup>346</sup> *Id.* at 1419.

<sup>347</sup> *Id.* at 1418 (citing *People v. Untiedt*, 42 Cal. App. 3d 550, 554 (Cal. Ct. App. 1974)).

<sup>348</sup> *Id.* at 1418.

The court thus interpreted section 597(f) to allow the removal of all animals in the custody of a defendant found to be capable of cruelty, and that even those animals not victims as a result of a defendant's violation of the statute could be lawfully removed from the defendant's custody to ensure their safety. Speegle's proffered limitation of the statute's impoundment power argument was also rejected to prevent an unintended requirement of prosecution of a separate count of cruelty for each animal to ensure its removal from abusive conditions.<sup>349</sup> Speegle also sought to limit her financial liability for the care of her animals, arguing that once the court deemed her seized animals to be "abandoned," her liability ceased.<sup>350</sup> The court disagreed and refused to limit her liability, reasoning that the express language of section 597(f) subjects her to reimbursement of costs from the time of seizure to proper disposition, and that liability is not conditioned upon a continued ownership interest in the animals.<sup>351</sup>

#### E. Intervention for Animal Hoarding Prevention

While prosecution of animal hoarding may in most cases be warranted, additional efforts are needed to bring a permanent end to animal and human suffering. Animal hoarding is a mental health problem and cannot be investigated or prosecuted like other animal cruelty cases.<sup>352</sup> Without professional intervention, most sentences hoarders receive will be meaningless if they do not effectively prevent them from hoarding animals again. Animal care experts are in agreement that pet hoarding will likely continue regardless of animal cruelty laws<sup>353</sup> and that animal hoarding is something that occurs "beyond the law."<sup>354</sup> The American Humane Association ("AHA"), HSUS, ASPCA, and others are trying to educate law enforcement officials about the severity of the problem.<sup>355</sup> The AHA posits that judges and prosecutors do not appreciate the fact that animal hoarders are driven by a compulsion, and that the problem is best addressed

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<sup>349</sup> *Id.*

<sup>350</sup> *Id.*

<sup>351</sup> *Id.*

<sup>352</sup> Hewett, *supra* note 226, at 1B (citing Laurie Green, Southern Alliance for Animal Welfare).

<sup>353</sup> Michael de Yoanna, *Three-Pet Rule Remains Intact for Larimer County Residents*, FORT COLLINS COLORADOAN, Feb. 21, 2003, at B3, available at 2003 WL 11368304.

<sup>354</sup> *Id.* (quoting Dori Villalon, executive director of the Larimer Humane Society, in Larimer County, Colorado)

<sup>355</sup> Lane, *supra* note 65.

through monitoring and treatment.<sup>356</sup> Dr. Stephanie LaFarge, senior director of Counseling Services for the ASPCA in New York City, echoes these sentiments.<sup>357</sup> Dr. LaFarge states that animal hoarding is rooted in brain chemistry and although hoarders respond well to medication and counseling, because animal hoarders are not a clear threat to themselves or to others, judges are not able to force them to stay in treatment.<sup>358</sup> In order to prevent the recidivism of animal hoarders' criminal conduct, mandatory treatment must be ordered and compliance must be enforced.<sup>359</sup>

The trauma that hoarders experience when animals are removed is severe and can trigger further criminal behavior.<sup>360</sup> In an extreme case, Florida hoarder Chi Luu Linville, found with approximately 150 neglected animals, was arrested for solicitation of first-degree murder of the Palm Beach County Animal Care & Control officer three months after she seized Linville's animals.<sup>361</sup> An undercover investigation revealed that Linville hired a hit woman to kill the cruelty officer in an act of revenge for the removal of her animals.<sup>362</sup> Before her arrest, a judge barred Linville permanently from owning animals, and rather than allow authorities to rescue and care for her animals, Linville opened her fence and set the remaining animals on her property free.<sup>363</sup>

In other cases, experts will allow hoarders to keep one or more spayed or neutered animals. If, and only if, the animal hoarder can demonstrate to the court that he is capable of properly caring for animals, Dr. Lockwood recommends leaving a few healthy animals with the hoarder for several reasons.<sup>364</sup> Allowing animals to remain with a hoarder may help reduce public opposition to intervention by animal control and humane organizations.<sup>365</sup> It may also foster a cooperative relationship with the hoarder while recognizing the importance the animals have in the hoarder's life.<sup>366</sup> Moreover, psychologists

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<sup>356</sup> *Id.*

<sup>357</sup> *Id.*

<sup>358</sup> *Id.*

<sup>359</sup> *Id.*

<sup>360</sup> Oskin, *supra* note 233.

<sup>361</sup> *Loxahatchee Woman Charged with Attempted Murder-for-Hire*, Tallahassee.com, Oct. 7, 2003, available at <http://www.tallahassee.com/mld/tallahassee/6950273.htm>.

<sup>362</sup> *Id.*

<sup>363</sup> *Id.*

<sup>364</sup> Lockwood & Cassidy, *supra* note 24, at 18.

<sup>365</sup> *Id.*

<sup>366</sup> *Id.* A woman who pled guilty to animal cruelty charges for nineteen cats performed the community service component under supervision in an animal shelter. Kelli Samantha

recommend allowing the hoarder to retain a few sterilized animals because of the addiction component to hoarding and preventing the hoarder from going “cold turkey” may prevent recidivism in endemic proportions.<sup>367</sup>

Prosecution, removal of animals, and the sterilization of animals that remain with hoarders alone, however, will not effectively deter hoarders from amassing more animals.<sup>368</sup> Without long-term monitoring and ongoing support for hoarders, an almost one hundred percent rate of recidivism is likely.<sup>369</sup> Careful monitoring of the hoarder and his is crucial to prevent the high risk of relapse.<sup>370</sup> However, the close monitoring that is necessary is difficult, if not impossible, for less well-funded animal care agencies, and monitoring is impeded by the fact that many hoarders simply move after they have been discovered or charged.<sup>371</sup> Because hoarding cases require the response and resources of numerous agencies for each case,<sup>372</sup> a taskforce approach of all interested parties is recommended.<sup>373</sup> These agencies include animal care and control, public and mental health, child and adult protective services, zoning, fire and police departments, veterinarians, and the legal system.<sup>374</sup> Part of HARC’s mission is to develop instruments for agencies to effectively respond to and rehabilitate animal hoarders, and HARC believes that one key to successfully treating animal hoarders is through “a skilled animal welfare agency that recognizes negotiation and building trust can [achieve a better response to prevent recidivism] than prosecution.”<sup>375</sup>

In order to work towards building that trust, the Massachusetts SPCA (“MSPCA”) is experimenting with a new approach that is the first of its kind. In collaboration with HARC, the MSPCA is sending social

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Hewett, *Woman with 19 Cats Pleads Guilty to Animal Cruelty*, THE TENNESSEAN, Feb. 20, 2004, at 1B. The woman, who admitted she was overwhelmed, could then continue to “help” animals, from a safe distance. *Id.*

<sup>367</sup> Patronek, *Hoarding of Animals*, *supra* note 38, at 86.

<sup>368</sup> Maloney, *supra* note 224, at 2 (citing HARC).

<sup>369</sup> *Id.*

<sup>370</sup> Oskin, *supra* note 233.

<sup>371</sup> See, e.g., *supra* notes 259-276 and accompanying text (describing the case of Vikkie Kittles).

<sup>372</sup> Liberman, *supra* note 37, at 5C.

<sup>373</sup> See Oskin, *supra* note 233.

<sup>374</sup> *Id.*

<sup>375</sup> *Id.*

workers to the homes of newly reported hoarders.<sup>376</sup> Social worker Jane Nathanson approaches hoarders cautiously and in a manner modeled after the Boston *Elders at Risk Program*, an initiative to help elderly people who need assistance but are resistant to accept that assistance.<sup>377</sup> Nathanson provides long term monitoring and intervention to animal hoarders receptive to receiving assistance.<sup>378</sup> Through the HARC/MSPCA program, once Nathanson has established a rapport and trusting relationship, she identifies the issues the client hoarder is struggling with and provides intervention and adjustment counseling.<sup>379</sup> Secondly, she and the client develop and implement a mutually agreed upon, written service plan.<sup>380</sup> This contract is important to engage the client and foster the client's feelings of control.<sup>381</sup> When Nathanson determines that the client is ready to accept assistance, she connects the client to community services that the client needs to maintain control in the client's life, and to eliminate the desire to hoard animals.<sup>382</sup> While Nathanson prefers to visit clients in their homes to observe their living conditions and help them improve those conditions, she provides support to a few out-of-state clients by telephone.<sup>383</sup> As with many clients, there are set backs, but thus far all clients referred to the program have voluntarily remained in the program.<sup>384</sup> Progress comes slowly, but progress is made.<sup>385</sup>

#### V. A COMMUNITY APPROACH TO HELP HOARDERS AND THE ANIMALS THEY HURT

Animal hoarding is a complex and multi-faceted problem that requires a multi-agency response. Innovative ways must continue to be developed to respond successfully to animal hoarding cases. Effective treatment of animal hoarding cases requires the involvement of numerous agencies, yet no single agency is willing or able to assume complete authority or coordination of the management of hoarding cases

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<sup>376</sup> Loree Cook-Daniels, *Pilot Project Provides Long-Term Social Work Assistance to Hoarders: An Interview with Jane Nathanson*, ADULT ABUSE REV., Dec. 2002, available at <http://www.wordbridges.net/elderabuse/AAR/Vol1Issue3/nathanson.html>.

<sup>377</sup> *Id.*

<sup>378</sup> *Id.*

<sup>379</sup> *Id.*

<sup>380</sup> *Id.*

<sup>381</sup> *Id.*

<sup>382</sup> *Id.*

<sup>383</sup> Telephone Interview with Jane Nathanson, Member of The Hoarding of Animals Research Consortium (Apr. 6, 2004).

<sup>384</sup> *Id.*

<sup>385</sup> Cook-Daniels, *supra* note 376.

from rescue through prosecution.<sup>386</sup> In order to effectively handle hoarding cases, a multi-component measure including the involvement of animal welfare agencies, police and fire departments, mental health professionals, social welfare workers, elder abuse professionals, code enforcement professionals, and the legal community is required.

First, as HARC suggests, in order to address the serious harm hoarders cause, the media and responding agencies should refer to those who amass large amounts of animals that they are unable to properly care for as animal hoarders rather than well-intending animal collectors.<sup>387</sup> Second, recognition of animal hoarding is essential to eliminate the problem: Hoarding is not only related to sheer numbers of animals in hoarders' possession, but it also refers to the poor condition in which hoarders' animals are kept.<sup>388</sup> Third, society must realize that victims of hoarding are many and include the animals, their hoarders, and others who live in the home, and that all are affected by the diseases and dangerous environments that occur as a result of hoarders' mental health problems as evidenced by hoarding.<sup>389</sup>

Although professionals who study the behavior of animal hoarders diagnose the conduct as pathological animal hoarding, until animal hoarding is commonly recognized as a mental illness of its own or a symptom of another diagnosable illness, there will be little agencies or individuals can do to give animals and their hoarders the help they need.<sup>390</sup> In recognizing that hoarding is a mental illness, the question of treatment is implicated. For example, it may be helpful to allow hoarders to keep one animal with proper supervision to fulfill the companionship need demonstrated by the pathology.<sup>391</sup> Without human health interventions, long-term solutions cannot be achieved. Further, recognition of hoarding as an affliction would help the hoarders receive the help they need and prevent the suffering of thousands of animals every year. Due to the inherent difficulty of observing the behavior of those who do everything in their power to avoid detection, the clandestine conduct of animal hoarders is nearly impossible to prevent the first time.

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<sup>386</sup> See Patronek, *Hoarding of Animals*, *supra* note 38.

<sup>387</sup> See The Hoarding of Animal Research Consortium, *F.A.Q.*, available at [http://www.tufts.edu/vet/cfa/hoarding/hoardqa\\_dt.htm](http://www.tufts.edu/vet/cfa/hoarding/hoardqa_dt.htm) (last visited Mar. 20, 2005).

<sup>388</sup> See *id.*

<sup>389</sup> See White, *supra* note 60, at C6.

<sup>390</sup> See The Hoarding of Animal Research Consortium, *F.A.Q.*, available at [http://www.tufts.edu/vet/cfa/hoarding/hoardqa\\_dt.htm](http://www.tufts.edu/vet/cfa/hoarding/hoardqa_dt.htm) (last visited Mar. 20, 2005).

<sup>391</sup> See Milner, *supra* note 259, at A9.

Once animal hoarders are discovered, however, prosecution must be sought, and penalties must be enforced against animal hoarders to prevent the repetition of their cruel and often deadly behavior. Although states should enact laws similar to that enacted in Illinois to specifically address animal hoarding, prosecution can still occur under current statutes.<sup>392</sup> Because every state requires those who possess companion animals to properly care for them and imposes penalties for failing to properly care for animals, prosecutors and government agencies should use these statutes to pursue charges against animal hoarders.<sup>393</sup> Moreover, counseling and community service should be sought in addition to obtaining restitution for care of the animals.<sup>394</sup>

Further, although prosecution is necessary to eliminate animal hoarding, society should also attempt to rehabilitate animal hoarders where possible due to the likelihood of the person hoarding again.<sup>395</sup> Accordingly, more states should implement programs, such as the MSPCA, that sends social workers to the homes of first-time hoarding offenders.<sup>396</sup> Social workers can model their interactions with hoarders after the Boston *Elders at Risk Program*.<sup>397</sup> Providing long term monitoring and intervention may help animal hoarders from harming animals in the future.<sup>398</sup> Social workers should also strive to connect hoarders to community services to help them remain in control of their lives and avoid hoarding more animals.<sup>399</sup>

At the same time, the public, media, and law enforcement must reject the portrayal of animal hoarders as the kindly saviors of animals no one else is willing to care for and recognize that their conduct prevents the adoption of healthy animals, contributes to the problem of pet overpopulation, and condemns the animals they "save" to a life worse than death. While those like Suzanna Youngblood may begin with good intentions and the desire to help animals, they instead become responsible for creating unsafe, unhealthy, and often-deadly environments for the animals they amass.

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<sup>392</sup> See 510 ILL. STAT. § 70/2-10 (West 2004) (Companion Animal Hoarder).

<sup>393</sup> See Frasch et al., *supra* note 287.

<sup>394</sup> See *id.* at 71; *supra* text accompanying notes 291-306.

<sup>395</sup> See Oskin, *supra* note 233.

<sup>396</sup> See Cook-Daniels, *supra* note 376.

<sup>397</sup> See *id.*

<sup>398</sup> See *id.*

<sup>399</sup> See *id.*

IV. CONCLUSION

Only through a multi-agency response to the problem of animal hoarding, which includes the intervention of public and mental health agencies, social services, law enforcement, and animal care and welfare organizations, will animals and their hoarders get the help and protection they need. The development of specific animal hoarding legislation and the enforcement of existing cruelty laws is also necessary to ensure the victims of animal hoarding's safety. In addition to these efforts, long-term and lasting solutions require continual monitoring of animal hoarders in order to prevent them from hoarding and hurting again.