Standing Up for Farm Animal Welfare in the Field and in Court

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Background
As the acknowledged stewards of animal care, veterinarians are considered professional experts when it comes to cases of animal neglect and cruelty. Although veterinarians may be aware of the link between cruelty to pets and family violence, they may turn a blind eye to farm animal abuse. Animal abuse, often associated with human mental health concerns, can range from intentional cruelty (beating, breaking tails, dragging downer animals) to negligent (starvation, dehydration, freezing). By oath, veterinarians are obliged to protect animal health and welfare and prevent animal suffering. However, some veterinarians may prefer to avoid involvement in cases of farm animal cruelty and neglect for a variety of reasons, including alienation of clientele.

Intensification of animal agriculture since the 1950s has resulted in a paradigm shift in food animal production and the veterinary profession as food animal medicine moved away from individual animal care toward population medicine. Farms rely on workers to follow standard operating procedures (SOPs) developed by the farm veterinarian covering actions such as animal handling, pain mitigation, culling, down cow management, and animal treatment. Veterinarians should provide ongoing oversight of worker training and SOP compliance to prevent animal abuse by workers. Workers’ attitudes towards animals shape their behaviors pertaining to animal care; animal care influences animals’ mental state (e.g., fear or pain vs contentment). Environmental challenges can also influence human behavior, so facilities should be assessed to reduce stress for workers and animals.

Although cases of animal abuse do occur on farms, most veterinarians recognize occurrences are rare when regular training and best practices are conducted. Veterinarians and producers should drive improvements in animal welfare to gain public trust through service, competence, and adherence to ethical norms. Determining those norms can be a challenge because public perceptions change. Consumers want to be assured producers share their values and ethics regarding animal care so they can have confidence in the food animal production system and its products.
Animal activist groups recognize their power to alter public perceptions by their campaigns targeting major brands. Between 1998 and 2015, more than 126 farms were the focus of covert video recordings. All industry sectors have been affected (poultry, eggs, swine, dairy, auction, transport, veal, aquaculture, and beef in descending order). As a result, “Ag Gag” or “Right to Farm” laws were passed in seven states to disallow on-farm photos or videos or requiring them to be turned over to farm management. For consumers, these laws create an environment of mistrust. Consumers desire transparency in food production systems and often expect veterinarians to ensure animal welfare on farms. All industry sectors raising, transporting, or harvesting animals have a responsibility to treat farm animals with care. Veterinarians play a key role by upholding their duty to protect animal welfare and prevent animal suffering.

Responding to animal neglect/cruelty cases
Cases of animal cruelty or neglect are often investigated due to a citizen’s complaint to local law enforcement (LE), which may or may not employ an animal control officer (ACO). ACOs can usually handle these cases on their own. Anytime medical attention or consultation is needed, however, they may seek the expertise of a veterinarian familiar with the species of concern to secure treatment plans and increase assessment accuracy. Veterinarians may not want to be involved in an investigation due to time constraints, lack of VCPR, fear, community perceptions, compensation concerns, liability, safety issues, compassion fatigue, etc. If attempts to find a private veterinarian fail, ACOs can request assistance from the state veterinarian’s office; such assistance is approved on a case-by-case basis. Animal welfare investigations are an unfunded mandate at WSDA and cases are only accepted as a last resort (refer to graphic below).

Steps for practitioners
When responding to requests from ACOs or LE to assist in an investigation, practitioners will engage in four distinct aspects of the process:
1. The request
2. The assessment
3. The report
4. The court appearance

![Animal cruelty/neglect investigation flow chart.](image-url)
Request

- Before veterinary expertise has been solicited, an ACO or LE has already conducted an investigation for days to years.
- A veterinary expert is contacted by an ACO or LE requesting assistance for an investigation.
- The veterinarian reviews the complaint and available history from the ACO.
- The veterinarian reviews records documenting the animal’s condition prior to the alleged abuse or neglect, as well as veterinary records for other animals on the premises. This review can be included as part of the investigative report, lending powerful case evidence.
- A search warrant may be necessary to gain access to the animal(s), conduct a thorough investigation, and seize evidence; this will be at the discretion of the LE agency requesting veterinary assistance. A veterinarian should never enter a premises under investigation unless accompanied by LE.
- Animal Control must execute the search warrant within 1-10 days, determined by the judge signing the document. This may influence the urgency of the response. The search warrant should be provided to the veterinarian so the constraints of the warrant are fully disclosed and everyone involved understands what areas can be searched and samples collected.
- Veterinarians should avoid contact with the animal owners during the investigation.

Assessment:

- **History**
  - It is essential to capture a complete history from ACOs on the case
  - Document the timeline of events whenever possible

- **Animal health**
  - The veterinarian should assess the health status of all affected animals to determine the cause, severity, and duration of an animal's injuries or death
  - Each animal should be body condition scored on a standard species-specific scale (Henneke scale 1-9 for horses, Elanco BCS 1-5 scale for cattle, sheep, and goats)
  - Identify each animal (be sure it matches or cross references the animal control officer identification)
  - Take photos of each animal from three angles
  - Look for evidence of fecal staining or diarrhea
  - Look for skin conditions such as halter abrasions, ingrown chains, blanket rubs, saddle sores, rain rot, scratches, chronic wounds with proud flesh or other conditions associated with neglect; pressure sores on down animals indicate long-term neglect
  - Examine for hoof and horn growth stress lines or overgrowth
  - Assess evidence of routine care neglect (overgrown hooves, dental issues, matted hair coats, overgrown fleece, etc.)
  - Seek evidence of injury or lameness.
  - Determine morbidity and mortality rates

- **Environment**
  - The veterinarian should assess the suitability of the animal’s environment
• Document type and condition of shelter and bedding
  o Look for evidence of cribbing or stereotypic behavior associated with hunger
  o Look for graze lines and fence damage from animals leaning to reach food
  o Note husbandry practices
  o Note absence of manure (indicating starvation), unacceptable amount of accumulated manure, manure consistency, and fecal staining on walls; long-standing manure accumulation may only recently been addressed
  o Note lack of mud management forcing animals to constantly stand in mud
  o Note any evidence of struggle of down animals
  o Look for evidence of bones or exposed carcasses in the environment
• Nutrition
  o The veterinarian should assess the quality, quantity, and appropriateness of nutrition available to all animals on the premises
  o Note the presence or absence of food, water, pasture conditions, availability of supplements, and forage quality
  o Note condition (cleanliness or contamination) of water and feed
  o Look for evidence of feed only recently brought to premises or feed storage areas obviously empty for long periods
  o Report stocking density, availability of feeding/bunk space, and evidence of social competition for resources
  o Look for available feed stored on site. Assess how much and how often animals are fed; compare to recommended daily dry matter intake per head. Oftentimes there is feed in storage but it isn’t being delivered to the animals in the right amount or frequency.
• Pain and Suffering
  o Assess the pain and suffering of the animal(s) as defined by case law (above).
  o Describe responsiveness and mental state (dull and depressed vs bright and alert)
  o Use behavioral inferences (stereotypic behavior, bruxism, weakness, ability to bear weight, posture, barbering, self-harm, coprophagia, pica) to support assessment
• Diagnostic Samples
  o Take duplicate diagnostic samples (one each for defense and prosecution) or other evidence to support the case:
    ▪ Fecal material for flotation, culture, etc.
    ▪ Forage/feed samples for analysis
    ▪ Bone marrow (to assess starvation)
    ▪ Tissue samples from necropsy (document untreated conditions)
    ▪ Note stomach contents
    ▪ Note any abnormal changes to the teeth from cribbing or abnormal foraging behavior
  o Strict chain of custody must be maintained at all times when handling evidence or submitting samples. Failure to do so may result in a case being dismissed.
Report

Writing a strong report will make a compelling case with a better chance of settling out of the courtroom. Make reports consistent, clear, and concise. Document, document, document. If it is not documented, it didn’t happen.

- Be familiar with applicable laws (Revised Code of Washington) and use key words as applicable in your report (see below):
  - RCW 16.52.205 Animal cruelty in the first degree
  - RCW 16.52.207 Animal cruelty in the second degree—Penalty
  - RCW 16.52.080 Transporting or confining in an unsafe manner
  - RCW 16.36.102 Duty to bury carcass of diseased livestock—Dead livestock presumed diseased.

- Include your credentials (degrees, training, experience)

- Be specific regarding what constitutes "necessary" or "proper" food, drink, shelter, and veterinary care. These terms can be ambiguous, especially when investigators or observers are unfamiliar with a particular species or type of animal and its needs.

- Give your professional opinion regarding the extent of “animal suffering” and “pain” experienced by the animal(s). These are important legal elements of a cruelty case’s written report. The ability to prosecute animal cruelty crimes is contingent on the veterinarian stating the animal endured pain or suffering.

- Give your professional opinion as to whether neglect or cruelty played a role in the animal's condition.

- Investigative reports or statements may be written in any format.

- The veterinarian should reference the LE agency’s case number, animal identification, and date and time of the assessment.

- Include the results of any diagnostics. Interpret those results in the report in layman’s terms. Do not let a single result dictate your entire assessment—make a holistic determination.

- Digital photographs contained within the body of the report or as a separate attachment are essential to document findings and build a strong case. Do not delete any photos you take because this may be interpreted as destroying evidence, thereby weakening the case.

- State your opinion regarding the duration or chronicity of the abuse (weeks, months, years).

- Document conditions of all animals in the case. If there are subsequent visits to the premises to re-evaluate animals, document any changes in animal and/or environmental conditions as a response to changes in animal care and treatment or enactment of husbandry recommendations.

- Comment on reasonable actions and or standards of care that could have been taken to prevent disease, injury, or death.

- Once the report is finished, the final copy should be signed by the examining veterinarian and provided to the LE agency as soon as practical.

- The report ultimately affects the custody of the animals (civil case) and criminal charges. Civil refers to property and criminal refers to law and crime. These
cases may be tried together or separately. To prevent animals from being returned to the neglectful owner, pain and suffering must be documented.

- Remember that all email and text message correspondence may be used in court. Keep all correspondence objective and professional.

Court Appearance

- If the veterinarian is subpoenaed to testify at trial, witness reimbursement or mileage costs should be agreed upon ahead of time.
- Veterinarians should be prepared to dedicate a full day to testifying as court times and dates can be changed at the last minute. Court days can occur years after the event.
- If the veterinarian is asked to meet with the defending attorney prior to the court appearance, Animal Control and/or the prosecuting attorney should be consulted prior to establishing a meeting.
- Veterinarians should be prepared to present their findings to the judge or jury in the form of testimony. Veterinarians can reference their report and only speak in terms of what was documented.
- Review the case with the prosecuting attorney prior to trial. In this way, key elements of the testimony can be emphasized, and cross examination questions anticipated. Avoid speaking to defense attorneys outside the courtroom unless approved by the prosecuting attorney.
- On the stand, stick to what you know, be objective with your report, and be honest when asked for your opinion. Reference your report. Only testify regarding what was observed and the facts of the case. Ask for clarification of questions if needed. If you don’t know the answer to a question, say so. Make eye contact and engage with the judge and jury to strengthen credibility.
- If it is determined the owner will seek veterinary intervention to avoid prosecution and establish a plan for proper care of the animals, additional follow up is critical. Recuperation of the animals should be documented, as well as any changes in the environment, feeding plans, preventive care, etc. This information establishes a paper trail that might need to be referenced in the future to charge repeat violators for failure to comply.

Conclusion

There is a definite need for veterinarians to act as leaders within their communities to help combat animal cruelty and neglect, while improving public perception of farm animal welfare. Large animal veterinarians play a key role by promoting on farm training for workers and establishing best practices for animals entrusted to their care. Producers and veterinarians alike must be committed to advancing animal welfare to secure consumer confidence and ensure a “good life” for animals. Supporting local animal control when requested is one way to separate responsible producers from the few neglectful ones. Writing a strong report will make a compelling case with a better chance of settling out of the courtroom.
There are four laws in Washington used to prosecute cases of animal cruelty/neglect. Local jurisdictions may have additional rules applying at the local level.

**RCW 16.52.205 Animal cruelty in the first degree.**
(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering or while manifesting an extreme indifference to life, or forces a minor to inflict unnecessary pain, injury, or death on an animal.
(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

**RCW 16.52.207 Animal cruelty in the second degree—Penalty.**
(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.
(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:
   (a) Fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure;
   (b) Under circumstances not amounting to animal cruelty in the second degree under (c) of this subsection, abandons the animal; or
   (c) Abandons the animal and
      (i) as a result of being abandoned, the animal suffers bodily harm; or
      (ii) abandoning the animal creates an imminent and substantial risk that the animal will suffer substantial bodily harm.

**RCW 16.52.080 Transporting or confining in unsafe manner—Penalty.**
Any person who willfully transports or confines or causes to be transported or confined any domestic animal or animals in a manner, posture or confinement that will jeopardize the safety of the animal or the public shall be guilty of a misdemeanor. And whenever any such person shall be taken into custody or be subject to arrest pursuant to a valid warrant therefor by any officer or authorized person, such officer or person may take charge of the animal or animals; and any necessary expense thereof shall be a lien thereon to be paid before the animal or animals may be recovered; and if the expense is not paid, it may be recovered from the owner of the animal or the person guilty.

**RCW 16.36.102 Duty to bury carcass of diseased livestock—Dead livestock presumed diseased.**
Every person owning or having in charge any livestock that has died because of disease shall dispose of the carcass within a time frame and in a manner prescribed in rule by the director, which may include, but is not limited to, burial, composting,
incinerating, landfilling, natural decomposition, or rendering. Any livestock found dead from an unknown cause is presumed to have died because of disease.

References
Washington State Department of Agriculture Animal Services Standard Operating Procedure, 2018; Dr. Dana Dobbs

AVMA Animal Abuse Response: Resources for Veterinarians
www.avma.org/kb/resources/reference/animalwelfare/pages/animal-abuse-resources-for-veterinarians.aspx

American Veterinary Medical Association (AVMA) Model Veterinary Practice Act (MVPA) Section 21 www.avma.org/KB/Policies/Pages/Model-Veterinary-Practice-Act.aspx#cruelty-to-animals

AVMA Animal Welfare Policy Statements
www.avma.org/KB/Resources/Reference/AnimalWelfare/Pages/Animal-Welfare-Policy-statements.aspx


Practical Guidance for the Effective Response by Veterinarians to Suspected Animal Cruelty, Abuse and Neglect
ebusiness.avma.org/Files/ProductDownloads/AVMASuspectedAnimalCruelty.pdf

2nd Dairy Welfare Symposium: Intersection of Best Practices and Sustainability June 1-2 2017 Milwaukee WI; Dr. David Fraser, Dr. Michelle Calvo-Lorenzo, Dr. Jim Reynolds and Jim and Maria Goedert