Veterinarians and SPCAs: An essential partnership

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Animal cruelty is a complex issue to investigate and even more difficult to prosecute successfully. In striving to improve the welfare of all animals, veterinarians and animal protection officers from societies for the prevention of cruelty to animals (SPCAs) are increasingly forming partnerships and a dependency on each other to prevent unnecessary pain and suffering and to relieve distress in all animals.

This article seeks to offer a mere glimpse of the vital role that veterinarians play in the enforcement activities of SPCAs across Canada. Whilst my own experience is limited to the situation prevailing in Ontario, I will attempt to focus on a few topics that find application in all provincial societies and, I hope, amongst all veterinarians.

Before embarking on such a discussion, it may be prudent to provide a brief synopsis of animal welfare legislation in Canada and to contrast the situation that exists federally, as opposed to provincially.

Legislative overview

The Criminal Code of Canada, which is federal legislation, applies in every province and territory, irrespective of whether there is a provincial/territorial animal welfare Act or not. Contained within this Code are a small number of criminal offences that, for want of a better term, I will title "Crimes against animals." They are contained primarily in sections 444 through 447 of the Criminal Code.

All provinces, with the exception of Quebec, have an animal welfare Act of some sort, which usually includes the establishment of provincial SPCAs. A number of these provincial animal welfare Acts contain provincial offences that prohibit the causing of distress in animals. In the true sense, these offences are not criminal matters, but rather are quasi-criminal in nature. Other provincial Acts have no provincial offences, and animal protection officers must rely solely on the Criminal Code of Canada to prosecute suspected cases of animal cruelty.

All veterinarians should be familiar with the animal cruelty sections of the Criminal Code of Canada and with their respective provincial animal welfare Act.

Defining distress

Despite differences that exist in provincial animal welfare Acts across Canada, the one factor common to almost all is the manner in which "distress" is defined. I have found that many veterinarians do not fully understand the criminal court process or what may be expected of them.


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Surely, the various provincial legislatures intended something when they included these terms as part of the definition. The definition clearly goes further than the traditional food, water, and shelter approach. Looking once again at this definition, can one conclude that an animal, despite the fact that it has a sufficient supply of good quality food, water, and an ideal shelter, and is in relatively good external health, can nevertheless still be in distress and so require the officer or veterinarian to issue one of these preventative orders?

Some examples come to mind. Dog fighting is a cruel, brutal “sport” that pits one dog against another in a fight, often to the death. Dogs used for such events spend significant time being trained and groomed to fight, and very little time actually in the “ring.” They are usually well cared for, given suitable and adequate water and food, and usually have adequate shelter. When the dogs are not fighting, they can be in excellent health. The health of the animal is important to the dog’s owner, because any offspring born of a champion fighting dog is extremely valuable.

Taking the above into consideration, one could ask then whether dog fighting is in and of itself distressful to the animal? Should it make any difference whether the animal is actually caused to fight or not? At what stage does this distress manifest itself?

A further case in point revolves around the issue of environmental enrichment, or lack thereof, of captive wildlife! Many zoos provide state-of-the-art enclosures for the animals they are exhibiting, yet provide nothing in the way of environmental enrichment. Is it logical to assume that this lack of enrichment constitutes “privation” under the definition of distress, and so warrants an order or even a criminal charge?

What about a lack of social contact? In Ontario, officers would not normally issue an order to an individual who has provided food, water, and shelter, but has tied up the dog and given it no socialization whatsoever. What about mental abuse of an animal? These are some of the questions to which I do not necessarily have the answer, but they speak to the need for veterinarians to be at the forefront of what will be considered distress in an animal in the future.

Veterinarians as expert witnesses

Surprisingly perhaps, I have found that many veterinarians do not fully understand the criminal court process or what may be expected of them. Perhaps this is because the legal process and animal welfare legislation are not taught at many veterinary colleges in Canada. In my opinion, this should be addressed as soon as possible, so that veterinarians are prepared for animal cruelty and welfare cases.

The primary function of the animal protection officer is to investigate suspected acts of animal cruelty or distress. The officer is the collector of evidence of a particular crime. Photographs, statements, notes, and physical objects are examples of this evidence. Included amongst that evidence, as it relates to animal cruelty, are the observations and reports of the attending veterinarian. In fact, I cannot envisage a situation where veterinary testimony would not be needed in an animal cruelty trial.

In preparing for the task of testifying at a criminal trial, veterinarians should ask the animal protection officer to supply them with a copy of the relevant sections of the Criminal Code of Canada.

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The function of the veterinarian at trial is to describe his or her particular involvement in the case and, for example, to express an opinion as to whether the animal suffered abuse or was neglected. Veterinarians may be qualified as experts at the trial and are the only witnesses who can give opinion evidence. Officers are not expert witnesses and can testify only to relevant facts, not state an opinion. The testimony of the veterinarian is critical in establishing the guilt or otherwise of an accused and, as such, it is important that if the veterinarian forms the opinion that there has been abuse or cruelty to an animal, he or she does not get caught second guessing him- or herself during cross-examination. Veterinarians sometimes make the mistake of thinking that they are the ones who have to prove that the abuse occurred and make the decision that the animal suffered such abuse. That function is for the judge, who must consider all the evidence, including that of the veterinarian, in determining whether the accused is guilty beyond a reasonable doubt.

In preparing for the task of testifying at a criminal trial, veterinarians should ask the animal protection officer to supply them with a copy of the relevant sections of the Criminal Code of Canada. This will assist them in framing both their report and in reaching their particular
opinion. In view of the length of time it takes to conclude a criminal matter, it is also vital for the veterinarian to have detailed notes from which to refer at the time of trial. Crown attorneys, who are independent court officers, are usually very sympathetic of the fact that veterinarians have private practices, and they will usually make all attempts to inconvenience the veterinarian as little as possible. Unfortunately, this is not always possible, so it is a good idea to be prepared for possible delays.

Animal care standards and welfare improvements

In assessing whether a particular animal husbandry practice is reasonable under the circumstances, or whether it falls below an acceptable standard, SPCA investigators place great reliance on established standards and relevant Codes of Practice.

One of the most powerful tools at the disposal of the officer when conducting kennel investigations is the Canadian Veterinary Medical Association’s (CVMA) A Code of Practice for Canadian Kennel Operations. Animal protection officers consistently refer to the Code when inspecting any dog breeding establishment or suspected puppy mill. It should be noted that the Code is used for both educational and enforcement purposes. Its beauty lies in its clarity, comprehensiveness, and objectivity. Investigators can feel confident that the recommendations contained in the Code, which have been endorsed by the veterinary community, will stand up in court as the standard to which all dog breeders should aspire.

The respective Recommended Codes of Practice for the various livestock industries are also extremely useful in any determination as to whether the producer is meeting the accepted standard for his or her particular industry. Because they were initiated by industry and subsequently developed by various interest groups, including the veterinary community and SPCAs, they can be used in court to provide evidence as to the minimum standards that should be present in each industry.

It is unfortunate that there are not other CVMA Codes of Practice, such as those for catteries. Perhaps the Association can give consideration to this in the near future.

Duty to report

No article on the relationship between veterinarians and SPCAs could be complete without at least some discussion on the issue of whether a veterinarian should have a duty to report suspected animal abuse. Even though the CVMA supports reporting and the Ontario Veterinary Medical Association has taken a position in favor of reporting, it is my own experience that veterinarians are still being discouraged from doing so.

Should there be such a duty? In my mind, the answer is, unquestionably, yes. Just as veterinarians and SPCAs inspectors have a duty to report suspected acts of child abuse to their respective children’s aid societies, so too should there be an obligation to report suspected animal abuse. With the link between animal cruelty and other forms of human violence now fully understood and accepted, there can no longer be any excuses for failing to report.

In my mind, the duty to report encompasses 3 aspects:

i. An obligation on the part of the veterinarian to report suspected acts of animal cruelty to the local SPCA;

ii. A failure to report should be an offence; and

iii. Any veterinarian who does so report in good faith should be exempt from both criminal and civil proceedings for so having reported the suspected act.

A number of states in the USA, including Massachusetts, already mandate such reporting. It is time that we followed suit in Canada. Likewise, SPCAs should not think for a minute that they are let off the hook, as they have an obligation to fully investigate when such a report is received from a veterinarian. I have heard from a number of veterinarians that their attempts to report in the past were either never investigated or not fully investigated.

If we are to have such a reporting relationship, SPCAs throughout Canada must be ready, willing, and able to properly investigate the particular complaint. Anything less would put the veterinarian at risk, and worse still, possibly result in continued suffering of the animal.

Conclusion

It is difficult in this short space to do justice to the vital role that veterinarians play in the day-to-day activities of SPCAs. Certainly, there are many more issues than those mentioned here. I am extremely encouraged by the tremendous cooperation that exists between veterinarians and SPCAs. Much has been achieved in the past few years to break down barriers that had previously existed. There is still much to be done, but the prognosis for animal welfare in Canada is looking increasingly positive, and that can only be of benefit to all animals.