



2014-2015 SANTA CLARA COUNTY CIVIL GRAND JURY REPORT

SANTA CLARA COUNTY ANIMAL CONTROL OFFICERS AND CERTIFICATION

Summary

The 2014-2015 Civil Grand Jury (Grand Jury) accepted a complaint concerning the procedures and management of the Santa Clara County Animal Care and Control Division (Animal Care and Control) of the County of Santa Clara Department of Agriculture and Environmental Management. Specifically, the complaint expressed concerns that:

- Management reversed citations on several occasions, and
- Animal control officers did not receive proper training for required certifications.

Based on documents and interviews, the Grand Jury did not find evidence to support either of these two concerns. However, the Grand Jury did find that:

- Only one infraction citation was voided in 2013, and none were voided in 2014,
- Animal control officers receive the arrest and firearms training required by the County of Santa Clara (County),
- It is more humane to tranquilize or perform humane euthanasia on a severely injured animal in the field rather than transporting the animal, sometimes more than an hour, to the County Animal Shelter in San Martin. But due to changes in California Penal Code Section 597.1, the required training regulations to allow animal control officers to transport and use controlled substances are still not available from the California Veterinary Medical Board (Veterinary Board), and
- The Santa Clara County Animal Control Officer Training and Procedure Manual does not include any references to Penal Code Section 832 training regarding arrest procedures and firearms. See Appendix C for text of Penal Code Section 832.

Background

The mission of Animal Care and Control is to ensure and protect the health and safety of the people and animals of unincorporated areas of the County.¹ Animal Care and Control is regulated by several laws and ordinances that govern their actions.

To achieve their mission, Animal Care and Control provides shelter services, field services, and upholds State of California (State) laws and County ordinances. Licensing of dogs and cats, rabies immunization, spay/neuter, and animal bite prevention programs are some of the critical components.

The Animal Care and Control program manager supervises both the field services, located at 80 W. Highland Avenue, Building K, San Martin, and shelter services, located at 12370 Murphy Ave., San Martin. There are four animal control officers in field services. The shelter has 7 full-time positions, 1 full-time contract position, 2 half-time positions, and about 40 volunteers.² This investigation was limited to evaluating documents and conducting interviews related to field services.

County Animal Care and Control Field Services

Animal control officers have the authority to enforce State law and County ordinances pertaining to animal control and provide field services to unincorporated areas of the County including the Stanford University campus. Field services, as listed on the Animal Care and Control website, include:

- Pick up confined, stray domestic animals,
- Patrol for stray, roaming domestic animals,
- Pick up owner surrendered domestic animals within County jurisdiction for a fee,
- Investigate animal bites,
- Investigate animal abuse and neglect, including domestic animals and livestock,
- Investigate dangerous dog complaints,
- Pick up injured, stray domestic animals,

¹ County of Santa Clara Animal Care and Control Division website, January 2015.

² Animal Care & Control Division organization chart, 8/26/14.

- Investigate domestic animal nuisance complaints,
 - Barking complaints
- Assist with injured wildlife, and
- Pick up deceased animals within County jurisdiction and all expressways within Santa Clara County.

State Laws

California State law defines animal control officers and states that they “are not peace officers but may exercise the powers of arrest of a peace officer ... and the power to serve warrants ... during the course and within the scope of their employment, if those officers successfully complete a course in the exercise of those powers pursuant to Penal Code Section 832. That part of the training course specified in Penal Code Section 832 pertaining to the carrying and use of firearms shall not be required for any animal control officer whose employing agency prohibits the use of firearms.”³ This is reiterated in the County’s Animal Control Officer Training and Procedure Manual, Section Three, (reviewed June 2014), that the animal control officer is a “Public Officer” not a “Peace Officer”. As a public officer, the Animal Control Officer has powers specific to the enforcement of animal laws.

In the County, animal control officers are allowed to carry carbon dioxide pistols which are defined by the State as firearms which include “capture guns, blowguns, carbon dioxide operated rifles and pistols, air guns, handguns, rifles, and shotguns.”⁴

County Ordinances

County ordinance Division B31, titled Animals and Fowl, includes 126 sections and is the governing section for Animal Care and Control. Some examples of the sections are the authority of the manager and animal control officer in Section B31-10, the limit of two dogs on parcels less than five acres in Section B31-32, and the limit of five cats on parcels less than five acres in Section B31-51.⁵

Enforcement of State Law and County Ordinances

Animal control officers in the County of Santa Clara enforce California state law and the County ordinance code as they relate to animal control matters. Animal control officers investigate matters that involve a felony, misdemeanor, or infraction. Violations of State law that can constitute a felony include: “felony dog fighting, felony animal cruelty, horse

³ California Penal Code, Section 830.9.

⁴ Ibid.

⁵ Santa Clara County, CA Code of Ordinances, Division B31 - Animals and Fowl, as amended and adopted May 2, 2006.

theft.”⁶

Citations are civil violation notices to appear in Court, similar to speeding tickets. The citations written by animal control officers can be a misdemeanor or an infraction, depending upon the cited statutory or code violation involved. A sample voided citation is shown in Appendix A.

Misdemeanors are defined by several State laws and County ordinances. California Penal Code 19 PC provides: “Punishment for misdemeanor; punishment not otherwise prescribed. (“Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one **thousand dollars (\$1,000)**, or by both.”)⁷

An infraction is a “minor offense where the penalty is monetary only.”⁸ Infractions include unlicensed dogs and cats, leash law violations, and exceeding the maximum number of pets. When the infraction is for failure to license a pet, the pet owner can purchase or renew a license without going to Court. The unlicensed pet infraction is similar to a vehicle “fix-it” ticket; when the pet is licensed, the infraction is resolved and dismissed.

Certifications of Animal Control Officers

There are three certifications that the animal control officers may maintain.

The first certification is compulsory and is required for the Animal Care and Control program manager, animal shelter supervisor, senior animal control officer, and animal control officer. The job specifications⁹ state that “Incumbents must successfully complete Certified Penal Code Section 832 Arrest and Firearm training within twelve (12) months of appointment and maintain certificate thereafter or vacate the position.”¹⁰ This is a basic course, including a basic familiarity with arrest procedures and firearms, through the California Commission of Peace Officer Standards and Training and conducted at the Santa Clara County Sheriff’s Office.

The second certification is preferred, but not required and enables an animal control officer to carry a baton. Penal Code Section 22295 (g) provides that an animal control officer may carry a wooden club or baton when he or she has satisfactorily completed a course of instruction certified by the Commission on Peace Officer Standards and Training in the carrying and use of the club or baton.

⁶ Animal Control Officer Training and Procedure Manual, Santa Clara County Environmental Resources Agency, Department of Animal Control, October 25, 2000, Reviewed June 2014.

⁷ California Penal Code 19

⁸ Ibid.

⁹ County of Santa Clara job descriptions, County of Santa Clara, Employee Services Agency.

¹⁰ Ibid.

The third certification is also preferred, but not required. It is for chemical capture and euthanasia. In 2011, the State Attorney General opined that an “animal control officer is not permitted to possess and administer controlled substances to capture or treat animals in the field without contemporaneously consulting [sic], and receiving direction from, a licensed veterinarian.”¹¹

In response to this opinion, the State Legislature and the Governor approved SB-1162, Animal Control Tranquilizers, which became State law in January 2013, revising Section 597.1 of the Penal Code.¹² This was to acknowledge that veterinarians are not always available to all animal control officers and transporting injured animals to a veterinary clinic may be considered inhumane. As part of this amendment to the Penal Code, animal control officers are required to successfully complete: “euthanasia training set forth in Section 2039 of Title 16 of the California Code of Regulations”¹³ and receive: “training in the administration of tranquilizers from a licensed veterinarian. The training shall be approved by the California Veterinary Medical Board.”¹⁴

The Veterinary Board approved the “Animal Control and Humane Officer Tranquilizer Administration Training Guidelines, June 2014” in July 2014.¹⁵ The Veterinary Board staff has not, as of April 2, 2015, finalized the regulations for the Veterinary Board approval. Therefore, the training courses are not currently available.

Although not required in their job descriptions, the Animal Care and Control program manager and animal control officers have previously received training under the prior standard and used chemicals for the immobilization of animals and euthanasia. They can no longer use this method because the new training for certification is not currently available. County staff indicated that this practice would begin again after the California Veterinary Medical Board (Veterinary Board) adopts new training regulations and staff receives the training.

Methodology

The Grand Jury interviewed Animal Care and Control personnel, toured the animal shelter, and collected and reviewed relevant documentation, including the documents identified in Appendix B.

Discussion

The Grand Jury investigation focused on citation, training, and the “Animal Control

¹¹ Office of the Attorney General, State of California, Opinion of Kamala D. Harris, Attorney General and Taylor S. Carey, Deputy Attorney General, No. 08-505, 12/22/11.

¹² California Penal Code, § 597.1, as amended 9/26/12.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ State of California Department of Consumer Affairs Veterinary Medical Board memorandum to Veterinary Medical Board from Annemarie Del Mugnaio, Executive Director regarding Animal Control Officer Training Proposal, 7/7/14.

Officer Training and Procedure Manual."

Citations

Animal control officers make approximately 3,500 visits and issue about 70 citations per year. In 2013, one citation, for exceeding the number of allowed pets, was voided. In consultation with management, Animal Care and Control decided to void the citation and allow the standard 30 days to place an animal in another location.

One of the concerns in the complaint submitted to the Grand Jury was that Animal Care and Control routinely voided citations. Citations are notices to appear in Court, similar to speeding tickets, and document either misdemeanors such as animal abuse or infractions such as having too many animals or an unlicensed animal. A citation may be cleared or voided. A citation is cleared when the violation has been corrected. A citation may be voided at the discretion of management before the citation is filed with the court. For example, if a pet owner receives a citation for an unlicensed animal and then purchases a license; the citation can be cleared, not voided, by Animal Care and Control. The pet owner has to present the proof of license to one of the three locations listed on the back of the citation. See Appendix A.

Based on the documentation provided to the Grand Jury, Animal Care and Control followed their issuing and processing citations procedures and do not routinely void citations issued.

Certification of Animal Control Officers

The animal control officers depend on the animal control program manager to be current on all laws and requirements and schedule training and certification as needed.

The only certification required by the County, as referenced in the County job specifications for the animal control program manager and animal control officers, is the Penal Code Section 832 Arrest and Firearms Course. The County requires both the arrest section and the firearms section of the training prescribed by the Commission on Peace Officers Standards and Training. Penal Code Section 832 is not mentioned in the "Animal Control Training and Procedures Manual." The Grand Jury confirmed that all animal control officers are currently Penal Code Section 832 certified in arrest procedures and firearms. Although not required, all current animal control officers also have their baton certification.

After the State Attorney General opined that animal control officers are not allowed to possess and administer controlled substances to capture or treat animals in the field, California Penal Code Section 597.1 changed in 2013 to allow capture and euthanasia in the field when the animal control officer is certified in accordance with new standards approved by the California Veterinary Medical Board (Veterinary Board). The Board completed the required certification training guidelines in July 2014. However, it has not yet approved the regulations; so training programs are not available.

Although this is not a requirement of the position, Animal Care and Control staff stated they prefer to humanely treat animals in the field rather than transporting severely injured animals, sometimes over an hour, to the County Animal Shelter in San Martin.

Animal Care and Control representatives indicated that as soon as the Veterinary Board approves training regulations and training is available for administering tranquilizers and humane euthanasia in the field, all animal control officers and program manager will complete that training. According to the “Animal Control Officer Training and Procedures Manual,” the animal control program manager, at the manager’s discretion, may or may not choose to allow animal control officers to participate in euthanasia.¹⁶

Training and Procedure Manual

The Grand Jury reviewed the “Animal Control Officer Training and Procedure Manual,” which was last reviewed by staff in June 2014. This document is over 200 pages and very detailed but does not include information regarding the required Penal Code Section 832. Representatives from Animal Care and Control indicated the need to revise the “Animal Control Officer Training and Procedure Manual” to conform to changes in State law regarding the use of batons, chemical capture, and euthanasia in the field.

Conclusions

Based on the information provided to the Civil Grand Jury, there is no evidence to indicate that citations are routinely voided by Animal Care and Control. Only one citation, out of 70, was voided in 2013. No citations were voided in 2014.

The animal control officers and animal control program manager are currently certified in arrest procedures and firearms and have their baton certification. The animal control officers and program manager are waiting for the new state certification training so they can use controlled substances for tranquilizing or euthanizing severely injured animals in the field.

The County specifically identified the arrest and firearms sections of Penal Code Section 832 training as a job specification. However, the requirement is not mentioned in the Animal Control Training and Procedures Manual.

Findings and Recommendations

Finding 1

The Santa Clara County Animal Care and Control follow their issuing and processing citations procedures and do not routinely void citations issued.

¹⁶ Animal Control Officer Training and Procedure Manual

Recommendation 1

No recommendation needed.

Finding 2

The Santa Clara County Animal Care and Control animal control officers and animal control program manager are currently Penal Code Section 832 certified in arrest procedures and firearms and have their baton certification.

Recommendation 2

No recommendation needed.

Finding 3

The Santa Clara County Animal Care and Control animal control officers and program manager want to be and should be certified in the use of controlled substances for tranquilizing or euthanizing severely injured animals in the field.

Recommendation 3

The Santa Clara County Department of Agriculture and Environmental Management should ensure that Animal Care and Control officers and program manager receive the new state certification training for use of controlled substances for tranquilizing or euthanizing severely injured animals in the field, once the new certification training is available.

Finding 4

The “Animal Control Officer Training and Procedures Manual” does not include mandatory training referenced in State Penal Code Section 832 Arrest and Firearms Course.

Recommendation 4

The County should ensure that the “Animal Control Officer Training and Procedures Manual” includes references to State Penal Code Section 832 Arrest and Firearms Course.

Appendix A

COUNTY OF SANTA CLARA						No 4376
NOTICE TO APPEAR						
DATE-MONTH, DAY, YEAR					TIME M	
NAME-FIRST, MIDDLE, LAST					PHONE #	
RESIDENCE ADDRESS				CITY		
DRIVERS LICENSE NO.			STATE/COUNTRY		BIRTHDATE	
SEX	HAIR	EYES	HEIGHT	WEIGHT	ZIP CODE	
NAME	DOB		COLOR		SEX	
1.						
2.						
3.						
OFFENSE	CODE & SECTION	DESCRIPTION	MISDEMEANOR OR INFRACTION(CIRCLE)			
			M I			
			M I			
			M I			
			M I			
LOCATION OFFENSE(S) COMMITTED						
<input type="checkbox"/> OFFENSE(S) NOT COMMITTED IN MY PRESENCE. CERTIFIED ON INFORMATION AND BELIEF. I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON THE DATE SHOWN ABOVE AT _____ CALIF.						
ISSUING OFFICER			PLACE	BADGE #		
NAME OF ARRESTING OFFICER—IF DIFFERENT FROM ABOVE				BADGE #		
WITHOUT ADMITTING GUILT, I PROMISE TO APPEAR AT THE TIME AND PLACE CHECKED BELOW.						
<input checked="" type="checkbox"/> SIGNATURE						
<input type="checkbox"/> 301 DIANA AVE, MORGAN HILL, CA, 95037 (408) 695-5000 <input type="checkbox"/> 1095 HOMESTEAD RD, SANTA CLARA, CA, 95050 (408) 556-3000 <input type="checkbox"/> 270 GRANT AVE., PALO ALTO, CA, 94306 (650) 462-3800 <input type="checkbox"/> 190 WEST HEDDING ST., SAN JOSE, CA, 95110 (408) 808-6600						
<input type="checkbox"/> DATE—MONTH, DAY, YEAR				TIME	M	<input type="checkbox"/> WITHIN 30 DAYS
IF YOU HAVE RECEIVED A CITATION FOR LICENSING FOLLOW THE INSTRUCTIONS ON THE REVERSE.						
COUNTY OF SANTA CLARA DIVISION OF ANIMAL CARE & CONTROL						
IMPORTANT-READ CAREFULLY						
WARNING: If you fail to appear in court as you have promised, you may be arrested and punished by SIX (6) MONTHS IN JAIL AND/OR A \$1,000.00 FINE , regardless of the disposition of the original charge. (P.C. 853.7)						
FOR FURTHER INFORMATION REGARDING YOUR APPEARANCE, CONTACT THE COURT AT ADDRESS ABOVE.						
<small>PARENTAL COUNCIL OF CALIFORNIA FORM REV. 05-20-00 (PDA CODE 413-0)</small>			<small>007 02/19/00 78-129</small>			
<small>WHITE-COURT GREEN-OFFICER CANARY-RESPONDENT PINK-DISTRICT OFFICE GOLDENROD-SURVEY (PC)</small>						
ACTIVITY # _____			VIOLATION # _____			
<small>796 REV 9/12</small>						

If you have received a citation for licensing, you must clear your citation according to the following steps:

1. Obtain a copy of proof of a current rabies certificate issued by a licensed veterinarian or low-cost clinic for the animal(s) listed on the citation.

2. Bring the copy or proof of the rabies certificate and your citation to any of the following animal control office locations (during normal business hours):

County Dept of Agriculture/Animal Control
1553 Berger Drive, Bldg. 1, 2nd floor
San Jose, CA 95112
Hours: M-F, 8-5

Division of Animal Care & Control
80 W. Highland Ave., Bldg. K
San Martin, CA 95046
Hours: M-F, 8-5

County Animal Shelter
12370 Murphy Ave.
San Martin, CA 95046
Hours: M-F, 12-6; Weekends 12-5

Upon purchase of the license, your citation will be stamped and recorded as cleared by the Division of Animal Care & Control.

You must mail or bring this cleared/stamped citation to the court that has been checked on the front. Or if you prefer, you may wait to mail in your cleared citation until you receive a courtesy notice from the court.

Appendix B Documents Reviewed

Resources

- Charter of the County of Santa Clara
- Santa Clara County, CA Code of Ordinances, Division B31
- List of California codes related to Animal Care and Control: Penal Codes, Health and Safety Codes, Food and Agriculture Codes, Welfare and Institutions Codes
- Opinion of Kamala D. Harris, Attorney General and Taylor S. Carey, Deputy Attorney General in response to “Is an animal control officer permitted to possess and administer controlled substances to capture or treat animals in the field without contemporaneously consulting [sic], and receiving direction from, a licensed veterinarian?”, December 2011
- SB-1162 Animal Control: tranquilizers (2011-2012), in effect January 1, 2013
- State of California Department of Consumer Affairs Veterinary Medical Board memorandum to Veterinary Medical Board from Annemarie Del Mugnaio, Executive Director, regarding Animal Control Officer Training Proposal, July 7, 2014
- County of Santa Clara Organization Chart
- Agriculture and Environmental Management organization chart
- Animal Care and Control organization chart
- County of Santa Clara job specifications for:
 - Director of Agriculture & Environmental Management
 - Animal Control Program Manager
 - Animal Shelter Supervisor
 - Senior Animal Control Officer
 - Animal Control Officer
 - Veterinarian Assistant
 - Kennel Attendant
- County of Santa Clara Human Resources Practices Manual, Employee

Services Agency, updated January 14, 2009

- Animal Control Officer Training and Procedure Manual, Santa Clara County, Environmental Resources Agency, Department of Animal Control, October 25, 2000, Reviewed June 2014
- Training certificates for chemical immobilization of animals and for firearm familiarization
- Animal Care and Control fiscal year 2014-2015 budget
- County of Santa Clara, Fiscal Year 2015 Final Budget
- 2013 and 2014 citations
- Voided citation
- Letters of Understanding with the Cities of Morgan Hill and Gilroy
- List of calls handled in one week in 2014

Appendix C

California Penal Code Section 832

832. (a) Every person described in this chapter as a peace officer shall satisfactorily complete an introductory training course prescribed by the Commission on Peace Officer Standards and Training. On or after July 1, 1989, satisfactory completion of the course shall be demonstrated by passage of an appropriate examination developed or approved by the commission. Training in the carrying and use of firearms shall not be required of a peace officer whose employing agency prohibits the use of firearms.

(b) (1) Every peace officer described in this chapter, prior to the exercise of the powers of a peace officer, shall have satisfactorily completed the training course described in subdivision (a).

(2) Every peace officer described in Section 13510 or in subdivision (a) of Section 830.2 may satisfactorily complete the training required by this section as part of the training prescribed pursuant to Section 13510.

(c) Persons described in this chapter as peace officers who have not satisfactorily completed the course described in subdivision (a), as specified in subdivision (b), shall not have the powers of a peace officer until they satisfactorily complete the course.

(d) A peace officer who, on March 4, 1972, possesses or is qualified to possess the basic certificate as awarded by the Commission on Peace Officer Standards and Training is exempted from this section.

(e) (1) A person completing the training described in subdivision (a) who does not become employed as a peace officer within three years from the date of passing the examination described in subdivision (a), or who has a three-year or longer break in service as a peace officer, shall pass the examination described in subdivision (a) prior to the exercise of the powers of a peace officer, except for a person described in paragraph (2).

(2) The requirement in paragraph (1) does not apply to a person who meets any of the following requirements:

(A) Is returning to a management position that is at the second level of supervision or higher.

(B) Has successfully requalified for a basic course through the Commission on Peace Officer Standards and Training.

(C) Has maintained proficiency through teaching the course described in subdivision (a).

(D) During the break in California service, was continuously employed as a peace officer in another state or at the federal level.

(E) Has previously met the requirements of subdivision (a), has been appointed as a peace officer under subdivision (c) of Section 830.1, and has been continuously employed as a custodial officer as defined in Section 831 or 831.5 by the agency making the peace officer appointment since completing the training prescribed in subdivision (a).

(f) The commission may charge appropriate fees for the examination required by subdivision (e), not to exceed actual costs.

(g) Notwithstanding any other law, the commission may charge appropriate fees for the examination required by subdivision (a) to each applicant who is not sponsored by a local or other law enforcement agency, or is not a peace officer employed by, or under consideration for employment by, a state or local agency, department, or district, or is not a custodial officer as defined in Sections 831 and 831.5. The fees shall not exceed actual costs.

(h) A probation department that is a certified provider of the training course described in this section shall not be required to offer the course to the general public.

Appendix D

California Code - Section 597.1

(a) (1) Every owner, driver, or keeper of any animal who permits the animal to be in any building, enclosure, lane, street, square, or lot of any city, county, city and county, or judicial district without proper care and attention is guilty of a misdemeanor. Any peace officer, humane society officer, or animal control officer shall take possession of the stray or abandoned animal and shall provide care and treatment for the animal until the animal is deemed to be in suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall immediately seize the animal and comply with subdivision (f). In all other cases, the officer shall comply with the provisions of subdivision (g). The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid, if the seizure is upheld pursuant to this section.

(2) Notwithstanding any other law, if an animal control officer or humane officer, when necessary to protect the health and safety of a wild, stray, or abandoned animal or the health and safety of others, seeks to administer a tranquilizer that contains a controlled substance, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, to gain control of that animal, he or she may possess and administer that tranquilizer with direct or indirect supervision as determined by a licensed veterinarian, provided that the officer has met each of the following requirements:

(A) Has received training in the administration of tranquilizers from a licensed veterinarian. The training shall be approved by the California Veterinary Medical Board.

(B) Has successfully completed the firearms component of a course relating to the exercise of police powers, as set forth in Section 832.

(C) Is authorized by his or her agency or organization to possess and administer the tranquilizer in accordance with a policy established by the agency or organization and approved by the veterinarian who obtained the controlled substance.

(D) Has successfully completed the euthanasia training set forth in Section 2039 of Title 16 of the California Code of Regulations.

(E) Has completed a state and federal fingerprinting background check and does not have any drug- or alcohol-related convictions.

(b) Every sick, disabled, infirm, or crippled animal, except a dog or cat, that is abandoned in any city, county, city and county, or judicial district may be killed by the officer if, after a reasonable search, no owner of the animal can be found. It shall be the duty of all peace officers, humane society officers, and animal control officers to cause the animal to be killed or rehabilitated and placed in a suitable home on information that the animal is stray or abandoned. The officer may likewise take charge of any animal, including a dog or cat, that by reason of lameness, sickness, feebleness, or neglect, is unfit for the labor it is performing, or that in any other manner is being cruelly treated, and provide care and treatment for the animal until it is deemed to be in a suitable condition to be returned to the owner. When the officer has reasonable grounds to believe that very prompt action is required to protect the health or safety of an animal or the health or safety of others, the officer shall immediately seize the animal and comply

with subdivision (f). In all other cases, the officer shall comply with subdivision (g). The full cost of caring for and treating any animal properly seized under this subdivision or pursuant to a search warrant shall constitute a lien on the animal and the animal shall not be returned to its owner until the charges are paid.

(c) (1) Any peace officer, humane society officer, or animal control officer shall convey all injured cats and dogs found without their owners in a public place directly to a veterinarian known by the officer to be a veterinarian who ordinarily treats dogs and cats for a determination of whether the animal shall be immediately and humanely destroyed or shall be hospitalized under proper care and given emergency treatment.

(2) If the owner does not redeem the animal within the locally prescribed waiting period, the veterinarian may personally perform euthanasia on the animal. If the animal is treated and recovers from its injuries, the veterinarian may keep the animal for purposes of adoption, provided the responsible animal control agency has first been contacted and has refused to take possession of the animal.

(3) Whenever any animal is transferred to a veterinarian in a clinic, such as an emergency clinic that is not in continuous operation, the veterinarian may, in turn, transfer the animal to an appropriate facility.

(4) If the veterinarian determines that the animal shall be hospitalized under proper care and given emergency treatment, the costs of any services that are provided pending the owner's inquiry to the responsible agency, department, or society shall be paid from the dog license fees, fines, and fees for impounding dogs in the city, county, or city and county in which the animal was licensed or, if the animal is unlicensed, shall be paid by the jurisdiction in which the animal was found, subject to the provision that this cost be repaid by the animal's owner. The full cost of caring for and treating any animal seized under this subdivision shall constitute a lien on the animal and the animal shall not be returned to the owner until the charges are paid. No veterinarian shall be criminally or civilly liable for any decision that he or she makes or for services that he or she provides pursuant to this subdivision.

(d) An animal control agency that takes possession of an animal pursuant to subdivision (c) shall keep records of the whereabouts of the animal from the time of possession to the end of the animal's impoundment, and those records shall be available for inspection by the public upon request for three years after the date the animal's impoundment ended.

(e) Notwithstanding any other provision of this section, any peace officer, humane society officer, or any animal control officer may, with the approval of his or her immediate superior, humanely destroy any stray or abandoned animal in the field in any case where the animal is too severely injured to move or where a veterinarian is not available and it would be more humane to euthanize the animal.

(f) Whenever an officer authorized under this section seizes or impounds an animal based on a reasonable belief that prompt action is required to protect the health or safety of the animal or the health or safety of others, the officer shall, prior to the commencement of any criminal proceedings authorized by this section, provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a postseizure hearing to determine the validity of the seizure or impoundment, or both.

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice of the seizure or impoundment, or both, to the owner or keeper within 48 hours, excluding weekends and holidays. The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal seized, including any identification upon the animal.

(C) The authority and purpose for the seizure or impoundment, including the time, place, and circumstances under which the animal was seized.

(D) A statement that, in order to receive a postseizure hearing, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning an enclosed declaration of ownership or right to keep the animal to the agency providing the notice within 10 days, including weekends and holidays, of the date of the notice. The declaration may be returned by personal delivery or mail.

(E) A statement that the full cost of caring for and treating any animal properly seized under this section is a lien on the animal and that the animal shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in liability for this cost.

(2) The postseizure hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who directed the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or of his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a postseizure hearing or right to challenge his or her liability for costs incurred.

(4) The agency, department, or society employing the person who directed the seizure shall be responsible for the costs incurred for caring and treating the animal, if it is determined in the postseizure hearing that the seizing officer did not have reasonable grounds to believe very prompt action, including seizure of the animal, was required to protect the health or safety of the animal or the health or safety of others. If it is determined the seizure was justified, the owner or keeper shall be personally liable to the seizing agency for the full cost of the seizure and care of the animal. The charges for the seizure and care of the animal shall be a lien on the animal. The animal shall not be returned to its owner until the charges are paid and the owner demonstrates to the satisfaction of the seizing agency or the hearing officer that the owner can and will provide the necessary care for the animal.

(g) Where the need for immediate seizure is not present and prior to the commencement of any criminal proceedings authorized by this section, the agency shall provide the owner or keeper of the animal, if known or ascertainable after reasonable investigation, with the opportunity for a hearing prior to any seizure or impoundment of the animal. The owner shall produce the animal at the time of the hearing unless, prior to the hearing, the owner has made arrangements with the agency to view the animal upon request of the agency, or unless the owner can provide verification that the animal was humanely destroyed. Any person who willfully fails to produce the animal or provide

the verification is guilty of an infraction, punishable by a fine of not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000).

(1) The agency shall cause a notice to be affixed to a conspicuous place where the animal was situated or personally deliver a notice stating the grounds for believing the animal should be seized under subdivision (a) or (b). The notice shall include all of the following:

(A) The name, business address, and telephone number of the officer providing the notice.

(B) A description of the animal to be seized, including any identification upon the animal.

(C) The authority and purpose for the possible seizure or impoundment.

(D) A statement that, in order to receive a hearing prior to any seizure, the owner or person authorized to keep the animal, or his or her agent, shall request the hearing by signing and returning the enclosed declaration of ownership or right to keep the animal to the officer providing the notice within two days, excluding weekends and holidays, of the date of the notice.

(E) A statement that the cost of caring for and treating any animal properly seized under this section is a lien on the animal, that any animal seized shall not be returned to the owner until the charges are paid, and that failure to request or to attend a scheduled hearing shall result in a conclusive determination that the animal may properly be seized and that the owner shall be liable for the charges.

(2) The pre-seizure hearing shall be conducted within 48 hours, excluding weekends and holidays, after receipt of the request. The seizing agency may authorize its own officer or employee to conduct the hearing if the hearing officer is not the same person who requests the seizure or impoundment of the animal and is not junior in rank to that person. The agency may utilize the services of a hearing officer from outside the agency for the purposes of complying with this section.

(3) Failure of the owner or keeper, or his or her agent, to request or to attend a scheduled hearing shall result in a forfeiture of any right to a pre-seizure hearing or right to challenge his or her liability for costs incurred pursuant to this section.

(4) The hearing officer, after the hearing, may affirm or deny the owner's or keeper's right to custody of the animal and, if reasonable grounds are established, may order the seizure or impoundment of the animal for care and treatment.

(h) If any animal is properly seized under this section or pursuant to a search warrant, the owner or keeper shall be personally liable to the seizing agency for the cost of the seizure and care of the animal. Further, if the charges for the seizure or impoundment and any other charges permitted under this section are not paid within 14 days of the seizure, or if the owner, within 14 days of notice of availability of the animal to be returned, fails to pay charges permitted under this section and take possession of the animal, the animal shall be deemed to have been abandoned and may be disposed of by the seizing agency.

(i) If the animal requires veterinary care and the humane society or public agency is not assured, within 14 days of the seizure of the animal, that the owner will provide the necessary care, the animal shall not be returned to its owner and shall be deemed to have been abandoned and may be disposed of by the seizing agency. A veterinarian may humanely destroy an impounded animal without regard to the prescribed holding period when it has been determined that the animal has incurred severe injuries or is

incurably crippled. A veterinarian also may immediately humanely destroy an impounded animal afflicted with a serious contagious disease unless the owner or his or her agent immediately authorizes treatment of the animal by a veterinarian at the expense of the owner or agent.

(j) No animal properly seized under this section or pursuant to a search warrant shall be returned to its owner until the owner can demonstrate to the satisfaction of the seizing agency or hearing officer that the owner can and will provide the necessary care for the animal.

(k) (1) In the case of cats and dogs, prior to the final disposition of any criminal charges, the seizing agency or prosecuting attorney may file a petition in a criminal action requesting that, prior to that final disposition, the court issue an order forfeiting the animal to the city, county, or seizing agency. The petitioner shall serve a true copy of the petition upon the defendant and the prosecuting attorney.

(2) Upon receipt of the petition, the court shall set a hearing on the petition. The hearing shall be conducted within 14 days after the filing of the petition, or as soon as practicable.

(3) The petitioner shall have the burden of establishing beyond a reasonable doubt that, even in the event of an acquittal of the criminal charges, the owner will not legally be permitted to retain the animal in question. If the court finds that the petitioner has met its burden, the court shall order the immediate forfeiture of the animal as sought by the petition.

(4) Nothing in this subdivision is intended to authorize a seizing agency or prosecuting attorney to file a petition to determine an owner's ability to legally retain an animal pursuant to paragraph (3) of subdivision (l) if a petition has previously been filed pursuant to this subdivision.

(l) (1) Upon the conviction of a person charged with a violation of this section, or Section 597 or 597a, all animals lawfully seized and impounded with respect to the violation shall be adjudged by the court to be forfeited and shall thereupon be transferred to the impounding officer or appropriate public entity for proper adoption or other disposition. A person convicted of a violation of this section shall be personally liable to the seizing agency for all costs of impoundment from the time of seizure to the time of proper disposition. Upon conviction, the court shall order the convicted person to make payment to the appropriate public entity for the costs incurred in the housing, care, feeding, and treatment of the seized or impounded animals. Each person convicted in connection with a particular animal may be held jointly and severally liable for restitution for that particular animal. The payment shall be in addition to any other fine or sentence ordered by the court.

(2) The court may also order, as a condition of probation, that the convicted person be prohibited from owning, possessing, caring for, or residing with, animals of any kind, and require the convicted person to immediately deliver all animals in his or her possession to a designated public entity for adoption or other lawful disposition or provide proof to the court that the person no longer has possession, care, or control of any animals. In the event of the acquittal or final discharge without conviction of the person charged, if the animal is still impounded, the animal has not been previously deemed abandoned pursuant to subdivision (h), the court has not ordered that the animal be forfeited pursuant to subdivision (k), the court shall, on demand, direct the

release of seized or impounded animals to the defendant upon a showing of proof of ownership.

(3) Any questions regarding ownership shall be determined in a separate hearing by the court where the criminal case was finally adjudicated and the court shall hear testimony from any persons who may assist the court in determining ownership of the animal. If the owner is determined to be unknown or the owner is prohibited or unable to retain possession of the animals for any reason, the court shall order the animals to be released to the appropriate public entity for adoption or other lawful disposition. This section is not intended to cause the release of any animal, bird, reptile, amphibian, or fish seized or impounded pursuant to any other statute, ordinance, or municipal regulation. This section shall not prohibit the seizure or impoundment of animals as evidence as provided for under any other provision of law.

(m) It shall be the duty of all peace officers, humane society officers, and animal control officers to use all currently acceptable methods of identification, both electronic and otherwise, to determine the lawful owner or caretaker of any seized or impounded animal. It shall also be their duty to make reasonable efforts to notify the owner or caretaker of the whereabouts of the animal and any procedures available for the lawful recovery of the animal and, upon the owner's and caretaker's initiation of recovery procedures, retain custody of the animal for a reasonable period of time to allow for completion of the recovery process. Efforts to locate or contact the owner or caretaker and communications with persons claiming to be the owner or caretaker shall be recorded and maintained and be made available for public inspection.

This report was PASSED and ADOPTED with a concurrence of at least 12 grand jurors on this 28th day of May, 2015.

Elaine Larson

Elaine K. Larson
Foreperson

Wilma Faye Underwood

Wilma Faye Underwood
Foreperson pro tem

Joe A. Lopez

Joe A. Lopez
Secretary

James L. Cunningham, Jr.

James L. Cunningham, Jr.
Secretary pro tem