

*State of New Jersey
Commission of Investigation*



**SOCIETIES FOR THE
PREVENTION OF
CRUELTY TO
ANIMALS**

December 2000

State of New Jersey
Commission of Investigation

**SOCIETIES FOR THE
PREVENTION OF
CRUELTY TO
ANIMALS**

The Report is available on the Commission's
Web Site at www.state.nj.us/sci



State of New Jersey
COMMISSION OF INVESTIGATION
PO Box 045
TRENTON, NJ 08625-0045
TEL (609) 292-6767
FAX (609) 633-7366

LESLIE Z. CELENTANO
Chair
M. KAREN THOMPSON
W. CARY EDWARDS
AUDRIANN KERNAN
Commissioners

JAMES J. MORLEY
Executive Director
ROBERT J. CLARK
Deputy Director
BRUCE W. BILLINGS
Assistant Director
LEE C. SEGLEM
Executive Assistant
CHARLOTTE K. GAAL
ILEANA N. SAROS
Counsel

December 2000¹

Acting Governor Donald T. DiFrancesco
The President and Members of the Senate
The Speaker and Members of the General Assembly

The State Commission of Investigation herewith formally submits, pursuant to N.J.S.A. 52:9M, a report and recommendations based on its investigation into the Societies for the Prevention of Cruelty to Animals.

Respectfully,

Leslie Z. Celentano

M. Karen Thompson

W. Cary Edwards

Audriann Kernan

¹ Release of this report has been delayed by compliance with N.J.S.A. 52:9M-12.2.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
HISTORY OF THE SPCAs	3
AUTHORITY OF THE SPCAs IN NEW JERSEY	5
Arrest Powers	7
Search and Seizure Powers	8
Power to Carry Weapons	9
Red Lights and Sirens	10
A Question of Effectiveness	13
Recordkeeping	15
PROFILE OF THE COUNTY SPCAs	17
Overview of the County Societies	18
The County Societies	19
Atlantic County SPCA	19
Bergen County SPCA	19
Burlington County SPCA	22
Cape May County SPCA	24
Cumberland County SPCA	24
Gloucester County SPCA	25
Hudson County SPCA	27
Hunterdon County SPCA	28
Mercer County SPCA	29
Middlesex County SPCA	30
Monmouth County SPCA	32
Morris County SPCA	34
Ocean County SPCA	35
Passaic County SPCA	37
Somerset County SPCA	38
Union County SPCA	38
Warren County SPCA	39
Relationships With Police Departments, Municipal Courts and Prosecutors' Offices	42

FINANCIAL PROFILE OF THE COUNTY SPCAs	44
Atlantic County SPCA	46
Bergen County SPCA	47
Burlington County SPCA	54
Cape May County SPCA	61
Cumberland County SPCA	63
Gloucester County SPCA	64
Hudson County SPCA	65
Hunterdon County SPCA	74
Mercer County SPCA	75
Middlesex County SPCA	77
Monmouth County SPCA	79
Morris County SPCA	80
Ocean County SPCA	81
Passaic County SPCA	86
Somerset County SPCA	87
Union County SPCA	88
Warren County SPCA	89
The Largess of Bequests	95
THE NEW JERSEY SPCA	97
Finances	99
Relationship Between the State and County Societies	101
THE SPCA ANIMAL SHELTERS	106
SPCA Shelters	107
Burlington County SPCA	107
Cape May County SPCA	107
Cumberland County SPCA	110
Hudson County SPCA	110
Hunterdon County SPCA	116
Mercer County SPCA	117
Middlesex County SPCA	117
Monmouth County SPCA	117
Ocean County SPCA	118
Union County SPCA	118
County Shelters	119
Atlantic County Animal Shelter	119
Bergen County Animal Shelter	120
Burlington County Animal Shelter	121
Camden County Animal Shelter	121

Gloucester County Animal Shelter	123
Ocean County Animal Shelter	124
Proposed County Shelters	126
Municipal Shelters	126
Wayne Township Animal Shelter	126
West Milford Animal Shelter	127
Government Inspection of the Shelters	127
The Inspection System	128
Cape May County SPCA Shelter	132
Cumberland County SPCA Shelter	134
Hudson County SPCA Shelter	135
Hunterdon County SPCA Shelter	147
Monmouth County SPCA Shelter	147
Ocean County SPCA Shelter	147
THE ASSOCIATION BETWEEN ANIMAL ABUSE AND HUMAN VIOLENCE	148
ADDITIONAL ISSUES RELATED TO ANIMAL WELFARE	158
Licensing of Cats	159
Feral Cats	159
Spaying and Neutering of Dogs and Cats	159
RECOMMENDATIONS AND REFERRALS	160
INDEX	168
APPENDIX	171

EXECUTIVE SUMMARY

Despite its reputation for advancing innovative animal welfare and control programs, New Jersey remains mired in an archaic legislative scheme that places the enforcement of animal cruelty laws in the hands of unsupervised, volunteer groups of private citizens. The 1868 and 1873 laws that created the New Jersey and county Societies for the Prevention of Cruelty to Animals arose at a time when law enforcement agencies were in their infancy and the enforcement of laws was entrusted frequently to private citizens. Today, the SPCAs represent a rudimentary system that has not kept pace with the state's advancements in law enforcement or its interest in the welfare of animals. Against the backdrop of a highly stratified and professional law enforcement system, it is an anomaly that the state continues to empower organizations of private citizens to carry weapons, investigate criminal and civil conduct, enforce laws, issue summonses, effect arrests and obtain and execute search warrants. The issue is no longer whether or how to fix this errant group of self-appointed, self-directed and uncontrolled entities, but whether to eliminate the archaic system entirely. The Commission concludes that the time has come to repeal the government authority vested in the SPCAs and place the function of enforcing the cruelty laws within the government's stratified hierarchy of law enforcement. Those who are truly devoted to animal welfare may continue that effort by forming humane organizations or participating in the numerous groups already in existence.

At present, there are 16 county SPCAs and a state SPCA.¹ All societies, except one, conduct

¹In addition to the New Jersey SPCA, societies exist in Atlantic, Bergen, Burlington, Cape May, Cumberland, Gloucester, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Union and Warren

animal cruelty investigations and four operate animal shelters. The Commission's investigation disclosed that key officials in six of the county societies diverted funds and property (Bergen, Burlington, Cape May, Hudson, Ocean and Warren) and that two of the animal shelters maintained deplorable conditions (Cape May and Hudson).

The SPCAs are accountable to no governmental authority. Because there are no standards, rules or guidelines governing their composition, operation, training or activities, there is no consistency or uniformity in their make-up, functioning or enforcement of the laws. These autonomous organizations present a true hodgepodge of extreme diversity and a danger to the state's structured system of law enforcement. Once individuals in a county receive a charter from the state SPCA, they control the selection, discipline and removal of their members, officers and agents; the election and terms of office of members of the board of directors; the content of any by-laws; the formulation of any rules or regulations; what training, if any, will be provided; how they will enforce the animal cruelty laws, and how they will spend the income. As a result, the SPCAs run the gamut in effectiveness of operation, scrupulousness in financial matters and enforcement of the cruelty laws. While some are operated in a highly professional manner, according to set rules and regulations, others are run as the personal domain of a well-entrenched few who discard the rules on whim. Many individuals involved in these societies are dedicated to the

Counties. This report includes the Commission's findings as to the Mercer County society and the animal shelter operated by the Cape May County society, both of which were eliminated subsequent to the start of the investigation.

welfare of animals and committed to functioning within an organized, structured environment, while others are “wannabe cops” or motivated by personal gain. Because SPCAs operate outside the realm of government, they have become havens for those who cannot obtain legitimate law enforcement positions. Although they represent opportunities for some to improve the plight of animals, they symbolize cash cows for others. Many societies are stagnant because of the longevity of their officers. Typically, individuals continue in office because no one else is willing to assume the positions. Consequently, either there is no nomination process or it is a farce, *viz.* officers are handpicked, slates of officers are unopposed and elections are rendered meaningless. Just as the activities and operations of the societies are characterized by vast diversity, so are the animal shelters operated by four of the county societies and, until recently, a fifth county society. Only three of these shelters have represented decent refuges for animals.

Enforcement of the cruelty laws by the SPCAs is personality driven as opposed to law driven. In the absence of any formal law enforcement training, any standards or guidelines governing their activities and any monitoring by a government entity to ensure the uniform and proper application of the laws, SPCA officers and agents exercise unbridled discretion in investigating complaints of animal cruelty and issuing civil and criminal summonses. Their erratic application of the statutes has rendered them ineffective as enforcers of the cruelty laws. Although many of the SPCAs have attempted to be scrupulous in enforcing Title 4 of the New Jersey Statutes and have been diligent in their efforts to bring pet owners into compliance, many others have been derelict in their responsibilities. The vast majority of the county SPCAs that contain a law enforcement component enlist woefully inadequate numbers to respond to the number of

cruelty complaints throughout their jurisdictions. Similarly, the state society lacks sufficient numbers to respond fully in the five counties where no SPCAs are organized. Very few of the societies have escaped criticism, by either residents or local officials, for delayed response to complaints, lack of responsiveness to complaints and failure to take appropriate enforcement action in the face of clear animal cruelty. Criticism has been leveled even against those societies that have appeared active in the investigation of cases. There also is unwillingness by many SPCAs to seize animals in appropriate cases because of the lack of resources to board and care for the animals.

The Commission’s investigation of the SPCAs led to an examination of a number of issues related to the welfare of animals in our state. These issues concern the efficacy of the governmental inspection system for animal shelters, the association between cruelty to animals and violence against humans, the adequacy of the animal cruelty laws, the licensing of cats and the overpopulation of animals. Accordingly, recommendations are made to strengthen the shelter inspection system to ensure routine inspections and vigorous enforcement of the regulations, to establish county animal shelters, to promote training and cross-reporting with respect to incidents of animal cruelty and human violence, to update the animal cruelty laws, to extend the dog licensing laws to include cats and to require animal shelters and pet shops to spay or neuter dogs and cats before adopting or selling them.

This report raises issues of significant concern surrounding the operation of several county SPCAs and the conduct of various persons associated with them. Nevertheless, the Commission wishes to emphasize its belief that most individuals involved with the SPCA are honest and motivated by a sincere interest in animal welfare.

HISTORY OF THE SPCAs

The enactment of laws for the protection of animals represented the culminating step in the evolution of society's attitude toward animals. The initial view of animals as one's personal property eventually yielded to the recognition that animals are capable of pain and suffering and, therefore, deserve protection from abuse. Adoption of laws for the protection of animals occurred toward the latter part of the nineteenth century. Their enactment coincided with, and no doubt was spurred by, the formation of societies for the prevention of cruelty to animals.

The earliest evidence of anti-cruelty laws is found in the Body of Liberties enacted in 1641 by the Puritans of the Massachusetts Bay Colony. In simple language, the law stated: "No man shall exercise any Tyranny or Crueltie towards any brute Creature which are usuallie kept for man's use." Fledgling laws appeared in the beginning 1800s, but enforcement was virtually nonexistent. The first anti-cruelty statute in the United States appears to have been passed in Maine in 1821. Its scope was very narrow, providing only for the punishment of anyone who "cruelly beat" any horse or cattle. In the early and middle 1800s, New Jersey adhered to the common law, which did not punish the infliction of cruelty to animals, except to the extent that another's acts deprived the animal's owner of its services. In a New Jersey Supreme Court case decided in 1858, the Chief Justice affirmed the "general rule" that "injuries [to an animal] of a private nature" were not indictable at common law.²

Establishment of the New Jersey Society for the Prevention of Cruelty to Animals in 1868 mirrored a nationwide, indeed an international, movement on the part of private citizens to improve

the welfare of animals.³ The movement first realized its potential in 1840, when England's Royal Society for the Prevention of Cruelty to Animals was founded. Organizations soon followed in Germany, France, Austria, Norway and Russia. In the United States, the movement gained momentum immediately after the Civil War as public reaction mounted to the flagrant infliction of cruelty to animals. Cruelty was found in the horrific conditions in slaughterhouses, the racing of horses over muddy winter roads to their death, the use of dogs in "sport" fighting, the lack of treatment for horses whose flesh was rubbed raw by harnesses and saddles, the use of live pigeons at shooting events and the failure to provide water or food to dogs used to pull small carts or turn treadmills. The movement had its roots in the efforts of Henry Bergh, a European aristocrat who, following his appointment in 1863 to a diplomatic post at the Russian court of Czar Alexander II, championed the cause of animals against inhumane treatment. Bergh soon immigrated to America, but only after stopping in London to confer with the president of England's Royal Society. In February 1866, Bergh delivered an impassioned speech at New York City's Clinton Hall before an audience that included influential government and business leaders. In recounting the horrific practices in America of the inhumane treatment of animals, he emphasized that the protection of animals had neither class lines nor political boundaries. Bergh's speech was covered extensively by the press. Recognizing that anti-cruelty statutes were meaningless in the absence of enforcement, Bergh's approach was two-pronged. His efforts culminated in the New York Legislature's passage of a charter incorporating the American Society for the

²*State v. Beekman*, 27 N.J.L. 124, 125 (1858).

³Mid-1800s America also witnessed the emergence of other social reform movements that included women's suffrage, the abolition of slavery and child welfare.

Prevention of Cruelty to Animals on April 10, 1866, and, nine days later, of an anti-cruelty law that vested the society with the authority to enforce it. Bergh, whose successes were due largely to his political and social connections, was elected as the society's first president.

A second influential force in the animal protection movement in the United States was George T. Angell, who founded the Massachusetts SPCA in 1868. Angell was perhaps the first to recognize the value of humane education of school-children as the most effective means of eliminating cruelty to animals, as well as humans. He theorized

that inculcating children with sympathy and kindness toward animals would eradicate the roots of cruelty and even criminal predilections and would foster positive social values in them as adults. In furtherance of his beliefs, he founded the American Humane Education Society in 1889.

Animal protection societies and anti-cruelty laws sprang up throughout the country. By 1888, there were laws in 37 of the 38 states, 33 societies throughout the country and 15 state branches of the American Society for the Prevention of Cruelty to Animals.

AUTHORITY OF THE SPCAs IN NEW JERSEY

The authority of the SPCAs to enforce the animal cruelty laws derives from a statutory scheme that dates back to the 1800s. Their role was created at a time when a structured law enforcement system was in its nascent stage and the enforcement of laws typically was turned over to private citizens. Their existence today as enforcers of the animal cruelty laws constitutes an anomaly within the state's sophisticated system of law enforcement. Further, the statutes governing the SPCAs are meager in delineating the parameters of their composition, operation and authority. They are riddled with inconsistencies, archaic provisions and nebulous language. The result is 17 separate and distinct societies whose volunteer members dictate who may join, how they operate and how they enforce the cruelty laws. Consequently, there is no uniformity in operation or consistency in enforcement of the laws, but many opportunities for abuse.

On April 3, 1868, the Legislature incorporated the New Jersey Society for the Prevention of Cruelty to Animals for the purpose of enforcing all current and future laws enacted for the protection of dumb animals.⁴ The act named 10 men, together with their associates and successors, as constituting the body politic and corporate. The Legislature vested the society with the general powers of a corporation, including the powers to elect and appoint officers and agents for carrying on its business; establish by-laws or regulations for its governance; make, use and alter a common seal, and, in its corporate name, sue and be sued and defend and be defended in all courts. The corporation was authorized to hold real estate, but only at a value not to exceed \$25,000 at any one time. In addition, "the police forces of all places in

this state where police organizations exist" were required to provide assistance to the society when necessary in the performance of its mandate. Finally, the 1868 act directed that the society receive one-half of any fines and forfeitures, with the other half presumably going to the governing body where the offenses were committed. Subsequent acts expanded the powers and authority of the New Jersey society. Today, the society is empowered specifically to enforce all laws and ordinances enacted for the protection of dumb animals. In addition to electing or designating officers and agents to carry on its business, it may also elect its own members and officers. Further, the society is empowered to adopt a common badge to establish its authority for making arrests; purchase and hold real estate of any value, and receive by bequest or gift all real estate and personal property without regard to value.⁵

Five years after the establishment of the New Jersey society, the Legislature authorized the creation of district societies in the various counties.⁶ On March 21, 1873, it enacted a law vesting the president of the state society with sole discretion to appoint in the counties "special agents" of the state society who could then organize a district society in their particular counties. Similar corporate powers were bestowed upon each district society, including the powers to elect officers and agents to conduct business; establish by-laws and regulations for its governance; make, use and alter a common seal, which could be identical to that of the state society, and purchase and hold real estate at a value not to exceed \$10,000 at any one time. The law gave the state society a clear role over the county societies. Although a county society was empowered to take

⁴L. 1868, c. 335.

⁵N.J.S.A. 4:22-1 *et seq.*

⁶L. 1873, c. 311.

by devise or gift real estate of any value and its president controlled the disposition of the real estate, title had to rest in the state society as trustee for the district society. Any suits brought by or against the district society were to be brought in the name of the state society, but any judgment or decree bound only the property of the district society. With respect to fines, penalties or monies imposed and collected in cruelty cases, one-half was to be paid to the complainant or the prosecutor and the other half to the district society, if one existed in the county, or, if one had not been formed, to the state society. It appears that the district society was to receive one-half of the monies even when the state society initiated the case.

Subsequent legislative acts modified the composition of the district societies and enhanced some of their powers, while at the same time clarifying and strengthening the control of the state society over them. Under legislation enacted on March 27, 1893,⁷ district societies were no longer to be organized by state agents. Although the president of the state society retained full control over the formation of the district societies, he now had to appoint in each county “as many persons as he shall deem fit” to organize the district society. The authority of the district society was derived from a certificate of authority, which the president of the state society alone was empowered to issue and revoke “at any time for cause.” Under the amending statute, the district society was granted, for the first time, the right to receive personal property by devise or gift. In addition, the act removed the requirement that any real estate received by devise or gift be held in the name of the state society as trustee, thus allowing the district society to claim real estate in its own name.

Despite its statutory power to enforce the cruelty laws, no governmental authority has

recognized the SPCAs as constituting a law enforcement agency. Indeed, prosecutors’ offices, as well as the Attorney General’s Office, have been confronted with reports of improper actions by SPCA officers and have been deeply troubled by their ability to carry weapons and lack of accountability. At the same time, judicial scrutiny of the societies has been sparse. Case law has done little more than acknowledge that limited governmental power was delegated to them⁸ and recognize that they constitute public entities and their officers public employees or officials for certain limited purposes.⁹ As early as 1899, the Court of Errors and Appeals stated that the 1868 act and its supplements “do not confer either upon the societies or their agents any special powers or duties with regard to the prevention of cruelty, but merely declare the purpose of their organization to be ‘the enforcement of all laws which are now or may hereafter be enacted for the protection of dumb animals.’”¹⁰ This year, the Appellate Division of the New Jersey Superior Court ruled that because of the SPCAs’ statutorily delegated law enforcement powers, an SPCA officer is a “public employee” entitled to the substantive immunities, defenses and restrictions under the Tort Claims Act, *N.J.S.A. 59:1-1 et seq.*¹¹

The existence of the SPCAs as enforcers of certain laws poses a grave constitutional issue that was recognized in a 1982 court case brought by a

⁸*Mesgleski v. Oraboni and the New Jersey Society for the Prevention of Cruelty to Animals, Ocean County Branch*, 330 *N.J. Super.* 10, 18-19 (App. Div. 2000); *State v. Vickery*, 275 *N.J. Super.* 648, 651-652 (Law Div. 1994).

⁹*Id.*

¹⁰*Hanna v. New Jersey Society for the Prevention of Cruelty to Animals*, 63 *N.J.L.* 303, 304 (E. & A. 1899).

¹¹*Mesgleski, supra*. The case arose from the service of a summons for animal cruelty by an SPCA officer upon a homeowner, who claimed torts and civil rights violations from his alleged assault and false arrest.

⁷*L. 1893, c. 260.*

county society against the state society.¹² The Honorable Reginald Stanton, J.S.C., recognized, but refrained from ruling on, the issue of the constitutionality of the statutory scheme. His comments are compelling:

The powers granted under the various statutes [regarding the enforcement of the animal cruelty laws, adoption of a common badge, making of arrests and carrying of weapons] are significant law enforcement powers. It is important to note that all of the members of the state society and the county societies are self-selected. They are simply private persons who are interested in protecting animals. They are not selected by the public. They are not subject to managerial control by any public officials. They are not subject to any publicly imposed training standards or discipline.

At an early stage in this litigation, it occurred to me that the broad grant of powers to the state society and to the county societies might involve an unconstitutional delegation of governmental powers to private persons....

... Although I have serious misgivings about the wisdom of granting extensive law enforcement powers to private persons, there is, of course, a vital difference between what I might view as an unwise legislative policy and an unconstitutional policy. Furthermore, the record in this action is particularly ill-suited for making a sound

adjudication on the issue of possible unconstitutionality of the statutory scheme. I have decided to refrain from any ruling on constitutional issues in this case.

* * * *

Broad law enforcement powers were bestowed upon the SPCAs almost from the time of their inception. Delegation of such powers may have been understandable, indeed a necessity, in the 1800s, but not today. Not only is the idea of entrusting private citizens with the enforcement of laws anathema to the state's advanced system of law enforcement, but specific statutory provisions governing the SPCAs run counter to the state's methodical establishment of clearly defined police powers. The absurdity of the statutory scheme that delegates law enforcement powers to private citizens is underscored by the continued inclusion of the provision that mandates cooperation by "police forces of all places where such organizations exist."¹³ Further, the legislative scheme is inconsistent in that certain powers, such as the power to arrest both with and without a warrant, are given to the state SPCA, but not the county societies. Moreover, it is noteworthy that the power to enforce the animal cruelty laws is not restricted to the SPCAs, but extends to police officers, sheriffs, undersheriffs, constables and, as of December 1997, certified animal control officers when authorized by their municipal governing body to conduct cruelty investigations.¹⁴

ARREST POWERS. The legislative provision governing arrests for violations of the animal cruelty laws is contained in *N.J.S.A. 4:22-44*. It empowers only the state society and not the county societies. Arrests may be made with a warrant or without a warrant when the violation

¹²*Sussex County Society for the Prevention of Cruelty to Animals v. New Jersey Society for the Prevention of Cruelty to Animals, Charles Gerofsky and Paula Malatesta*, Superior Court of New Jersey, Chancery Division – Sussex County, Docket No. C 1315-80E, Letter Opinion (1982) (unpublished). The opinion is discussed at page 103 of this report.

¹³*N.J.S.A. 4:22-4.*

¹⁴*N.J.S.A. 4:19-15.16b.*

occurs in the individual's presence. Since the provision was first enacted in 1880,¹⁵ the power to arrest has been conferred not only upon the New Jersey SPCA's officers and agents, but also upon its members. However, nowhere in the statutes governing the societies is the term "member" defined. Therefore, it includes dues-paying members and those members of the Board of Directors who are not agents or officers. These individuals receive no law enforcement training. Further, the training that is given to officers and agents is woefully inadequate. Moreover, it is inconsistent that agents and members are empowered to effect arrests, but not to carry weapons. This statutory provision is in apparent conflict with the general provision bestowing upon the county societies "the same rights, powers and privileges as are vested in the New Jersey society" under another statute that includes the adoption of a common badge as "the authority for making arrests."¹⁶

Specific provisions, originally enacted in 1880,¹⁷ proscribe the exhibition of live animals for fighting or baiting.¹⁸ SPCA agents, in addition to police officers, sheriffs, undersheriffs, constables and certified animal control officers, when authorized by their municipalities, may enter any building or place where such exhibitions are planned or being conducted to arrest without warrants all persons present and take possession of any living animals. Curiously, the authority is granted only to agents and not officers or members, as is the general authority to make arrests.

In reality, the New Jersey SPCA rarely has exercised its power of arrest. In fact, it made no arrests in 1998 or 1999. Further, even though county societies are not authorized to make arrests,

several have done so. During 1998 and 1999, the Bergen County and Ocean County SPCAs made arrests for animal cruelty. Two of the arrests were made with warrants and three were effected without warrants. In addition, the Bergen County and Passaic County societies made arrests pursuant to bench warrants issued for the individual's failure to appear in municipal court to answer charges of animal cruelty.

SEARCH AND SEIZURE POWERS. A clear anomaly exists in the statutory scheme concerning the application for and execution of search warrants. Although some societies have applied for search warrants, their authority to do so is highly questionable. Their execution of warrants clearly is not authorized. Although other societies have never sought search warrants, they nevertheless believe that they have the right to obtain and execute them. Unlike *N.J.S.A. 4:22-44*, which specifically bestows the power of arrest upon the New Jersey SPCA, the provision that deals with search warrants, *viz. N.J.S.A. 4:22-46*, states only that courts having jurisdiction over violations of the animal cruelty laws may issue search warrants to enter buildings and places where violations are reasonably believed to occur. The statute is silent as to who is authorized to apply for and execute the warrant. Although the original 1880 statute referred to a complainant as the one authorized to obtain a warrant and identified police officers, sheriffs, undersheriffs, constables and agents of the New Jersey society as those authorized to execute the warrant,¹⁹ a 1953 amendment eliminated any reference to who is authorized to apply for or execute a search warrant.²⁰ The criminal practice rules that govern the courts of this state define who may execute a warrant as "any law enforcement officer, including the Attorney General or county

¹⁵L. 1880, c. 157, §15.

¹⁶*N.J.S.A. 4:22-9*.

¹⁷L. 1880, c. 157, §2.

¹⁸*N.J.S.A. 4:22-24; N.J.S.A. 4:22-47*.

¹⁹L. 1880, c. 157, §9.

²⁰L. 1953, c. 5, §81.

prosecutor or sheriff or members of their staffs,” but do not identify who may apply for the warrant.²¹ It would be incongruous indeed if private citizens were allowed to approach judges with affidavits and request search warrants that would then be delivered to law enforcement officers for execution. In addition, it is questionable whether an SPCA officer or agent constitutes a “law enforcement officer” for purposes of executing a search warrant. If an SPCA agent is empowered to execute a warrant, the additional anomaly exists because an agent is not even authorized to carry a weapon. Moreover, it is noted that *N.J.S.A. 4:22-46* appears to be in violation of the Fourth Amendment of the United States Constitution by applying a standard of “reasonable belief,” instead of probable cause, to the issuance of search warrants for the violation of the animal cruelty laws.

Very few societies have applied for and executed search warrants. Only four county societies obtained and executed search warrants during 1998 and 1999. The Monmouth County SPCA executed one search warrant in 1998, the Cape May County society executed one warrant each year and the Atlantic County SPCA executed three warrants in each year. The Ocean County SPCA has executed about 15 warrants annually since 1993. On the few occasions when the Passaic County SPCA searched premises and seized evidence, the permission of the homeowner was obtained first. Typically, when an SPCA has been accompanied by or has accompanied local police on pit bull or cock fights, it has been the police officers who effected the arrests or seized the evidence.

POWER TO CARRY WEAPONS.

Perhaps the most disturbing area of unbridled authority bestowed upon SPCAs is the ability of their officers to carry firearms without being subject

to governmental oversight or to most of the stringent requirements governing legitimate law enforcement officers. While some SPCAs do not allow their officers to carry weapons or do not use the designation “officer” in order to eliminate the firearms issue, the officers of nine SPCAs are armed.²² Both county and state SPCA officers are exempt from the permit requirement for carrying a weapon under *N.J.S.A. 2C: 39-6c(7)*, which empowers SPCA officers to carry weapons in the actual performance of their official duties. SPCA agents are not accorded the same privilege. Designation of an individual as an SPCA officer, which is all that is required to trigger the exemption, falls completely within the discretion of whoever controls the particular SPCA. Once designated as an officer, the individual avoids completing the state-prepared application, which contains questions involving issues of moral turpitude, criminal activity, and mental and physical impairments; supplying names of character references, and undergoing a criminal history check. However, at the same time, the firearms area is the only one where the societies are subject to at least some regulation, albeit inadequate. The Police Training Commission of the Office of Attorney General has issued a firearms manual governing the basic firearms course for SPCA officers and training requirements for their requalification. The Commission found that some SPCA officers who carry weapons have not received training by individuals certified by the Police Training Commission to teach. Further, in conducting their own qualifying of officers, the SPCAs have not complied with all of the mandated guidelines. Not all societies include an annual

²¹PRESSLER, Current N.J. COURT RULES, R. 3:5-1 and R. 3:5-5(a) (GANN).

²²The societies that allow their officers to carry weapons are the New Jersey SPCA and the Bergen, Burlington, Middlesex, Morris, Ocean, Passaic and Warren County SPCAs. Although the Somerset County SPCA does not have an armed officer, its president is a gun-carrying officer of the New Jersey SPCA and conducts investigations in the county in that capacity. Officers in the Union County SPCA ceased carrying weapons after the Commission’s investigation commenced.

refresher course on the use of deadly force and most do not forward the qualifying records to prosecutors' offices. In addition, none of the societies have maintained the officers' completed examination papers or complete qualification records. Despite the existence of a firearms manual and regulations promulgated by the state, the fact remains that no governmental agency monitors the firearms training of society officers or supervises their qualifying with weapons.

Against this backdrop, then, it is not surprising that irregularities have occurred. It was reported to the Commission that an officer with the Middlesex County SPCA, Robert LaCour, discharged his weapon to celebrate New Year's Eve. The Commission also was told that Scott Churchill, the treasurer and ranking officer of the Warren County SPCA, drew his gun as he was transporting an individual who had failed to appear on a charge of animal cruelty and threatened to shoot him if he ran. The Commission's investigation confirmed the accuracy of the reputation of some county SPCAs, with the public as well as other SPCAs, as "gun clubs" and their officers as "gun-toting." Individuals have joined SPCAs specifically for the ability to carry weapons and some officers have carried their weapons even when not on SPCA business and when traveling outside of the state. Officers in the Bergen and Warren County societies admitted that even though they did not investigate any cruelty complaints and owned no guns before joining the SPCA, they purchased numerous weapons after they became qualified to carry as SPCA officers. Even though only a handful of officers of the Bergen County SPCA conducted investigations, 21 qualified with a weapon in 1995, 27 in 1996 and 1997, and 33 in 1998. These numbers included the qualification of four agents and four agents-in-training, none of whom were permitted to carry weapons. The explanation provided by the society's then chief, *viz.* that they were allowed to qualify in order "to keep up [their]

interest," illustrates the "gun club" mentality. Further, despite the policy that officers were authorized to carry only .357 or .38 caliber or 9mm handguns, officers routinely qualified with other types of weapons. The Bergen County SPCA also permitted a retired police officer, who had a permit to carry but was never an officer with the society, to qualify with its officers. Even though only two or three officers of the Warren County SPCA conducted investigations, eight qualified in 1994, six in 1995, and nine in 1996 and 1997. One ranking officer qualified with 13 different guns. From November 1994 to the present, nine officers have been "qualified" by an individual who was not certified to qualify them. In addition, some qualified with small weapons that are not suitable for animal cruelty investigations and one officer, who regularly qualified but never conducted an investigation, worked for a ranking officer's private detective and bailbond business.

RED LIGHTS AND SIRENS. These accouterments appear to be just one more gadget for those SPCA officers who are cop "wannabes." Under *N.J.A.C. 13:24-1.1 et seq.*, the regulations governing the use of red lights and sirens on vehicles, the SPCAs neither qualify under an exemption nor qualify for a permit. Nevertheless, eight of the societies have equipped their vehicles with emergency red lights and/or sirens.²³ Only two societies sought and obtained, although they did not qualify for, a permit from the Division of Motor Vehicles, while the others simply believed that they were entitled to equip their vehicles because they were used for "emergencies." Personnel in the Division of Motor Vehicles mistakenly issued the permits. The motivation of SPCA officers in equipping their vehicles with red lights and sirens is suspect in light of the fact that most of the societies

²³These include the New Jersey SPCA and the Bergen, Burlington, Morris, Ocean, Passaic, Union and Warren County SPCAs.

admitted that they never had occasion to utilize them. The reason offered by Bergen County SPCA officers was their need for the equipment when they “back up” police on motor vehicle stops and assist disabled vehicles. An officer of the Warren County SPCA used the red lights and siren to pull over horse trailers to check for the Coggins certificate, a reason which, as explained below, is a questionable practice.

* * * *

Some statutory provisions are archaic and nonsensical. Some of the provisions that were enacted over 100 years ago have not been implemented for most, if any, of the 20th century. Nevertheless, they remain on the books today. For example, *N.J.S.A. 4:22-43*, which embodies the language of its 1880 source legislation, empowers members, officers and agents of the New Jersey society to exercise and perform those powers and duties that are exercised and performed by state agents “who have been specially deputized by a sheriff.”²⁴ It is absurd to think that sheriff’s offices, whose members are trained professionals, will deputize SPCA members, officers or agents under any circumstances. Further, the provision bestows law enforcement powers upon the society’s members, who receive no training, investigate no animal cruelty and usually attain that status by contributing money.

Other statutory provisions are impractical for volunteer SPCA officers and agents to enforce and, to the Commission’s knowledge, have never been enforced by any society. SPCAs simply lack the resources, expertise and time to enforce any but the simplest of the animal cruelty laws. For example, *N.J.S.A. 4:22-50.1*, enacted in 1986, authorizes an SPCA officer or agent, following the arrest for animal cruelty of an owner or operator of an animal

pound or shelter, to petition the Chancery Division of the Superior Court to remove the owner or operator as custodian of the animals and appoint a receiver to operate the facility. The officer or agent is further required to serve a copy of the petition on the state Department of Health, the local board of health and the owner or operator. Enforcement of this provision highlights yet another problem, namely, the potential conflict of interest presented when an SPCA operates a shelter. As noted elsewhere in this report, conditions at some SPCA shelters have constituted cruelty to the animals housed there. Nevertheless, the state SPCA repeatedly refused to investigate the conditions. Another example involves the disorderly persons offense of transporting an animal in a vehicle in a cruel or inhumane manner.²⁵ Pursuant to *N.J.S.A. 4:22-52*, an SPCA officer or agent who arrests a person for transporting an animal in this fashion must seize the vehicle and its contents. Not only must the SPCA officer or agent initially incur the expense of maintaining them, but if the owner does not redeem the vehicle and contents by paying the expenses within 10 days, then the SPCA officer or agent must resort to advertising for their sale by placing advertisements “in a newspaper circulating in the neighborhood in which the seizure was made for at least three times in a daily paper or one time in a weekly paper, stating the time and place of the sale and the reason for the sale.” The sale must then be made to the highest bidder and the proceeds, if sufficient, used to reimburse for the expenses, with any balance paid to the owner, and, if not, an action in law must be filed against the owner to recover the balance. A final illustration is the seizure of living animals at fighting or baiting exhibitions, under *N.J.S.A. 4:22-47*. Within 24 hours of seizing the animals, the SPCA agent must apply to the proper court to have the animal forfeited and sold. The costs for sheltering, caring for, treating or, if necessary, destroying the animal must

²⁴*L. 1880, c. 157, §15.*

²⁵*N.J.S.A. 4:22-18.*

be borne by the owner if the animal is adjudged forfeited and, if not, by the person seizing it.²⁶

* * * *

Because the SPCAs operate independently of all established law enforcement institutions and without any governmentally imposed regulations, those who control each separate society are free to define the scope of their authority and powers. As a result, interpretation and application of the cruelty laws are inconsistent. Even where some SPCAs attempt to operate by strict rules and regulations and adhere to a rank structure, it has not been uncommon for an agent or officer to act beyond the scope of that society's dictates and for the society to be without adequate recourse in addressing the dereliction. Moreover, officers in many of the societies have taken it upon themselves to reproduce the Great Seal of the State of New Jersey on their badges, patches and business cards, in violation of *N.J.S.A.* 52:2-3 and 4. Further, according to the Secretary of State's Office, the SPCAs do not qualify even to receive authorization under *N.J.S.A.* 52:2-9 to reproduce the Great Seal.

Examples of abuse abound. In an obvious attempt to intimidate, the officers of several county SPCAs typically make it known that they are carrying weapons when they conduct investigations. Some officers carry their weapons even when not engaged in the actual performance of SPCA duties. Other SPCA officers believe that they possess the authority to enforce not only the animal cruelty laws, but also certain criminal law provisions, including burglary for the theft of animals and laws concerning domestic violence. One society routinely ordered riders at a horse stable to dismount in order to inspect the horses for saddle sores. A couple of societies employ coercive tactics to convince owners to surrender their pets, which the SPCA agents deem to be neglected or abused. A couple of

societies, whose vehicles are equipped with red lights and siren, interpret their powers as allowing them to stop pickup trucks when an animal is untethered in the back of the truck, while most do not believe that they possess the authority to pull over vehicles. Checking for Coggins test certificates²⁷ is a glaring example of the abuse of authority. While the Warren County society routinely stops vehicles with horse trailers for proof of the Coggins test certificate, the other societies do not and a few, including the New Jersey society, specifically reject the action as beyond an SPCA's authority. Not only is the absence of a certificate not cruelty, but SPCA personnel lack the expertise to know whether the horse described in the certificate, such as a Bay or Chestnut, is in fact the horse being transported.

The Warren County SPCA repeatedly has abused its authority. Perhaps the most flagrant example of any society's abuse of authority is the incident that occurred in Warren County in January 1992 when the SPCA, on cruelty allegations involving a 71-old man and his dogs, chose to approach his home at night. When the elderly man fired a shotgun at what he thought were burglars, a 17-hour standoff ensued. Following the man's fatal heart attack about two weeks later, the estate sued the society and SPCA officers involved. The case was settled with two officers making monetary payments. In another case involving the Warren County SPCA, officers directed a landlord to give them access to an apartment where they suspected animal neglect and videotaped the interior. Amid accusations of the SPCA's "rearranging" of the evidence, a judge later dismissed all summonses filed against the individual. Yet another incident involved the Warren County society's issuance of criminal

²⁶ *N.J.S.A.* 4:22-48.

²⁷The state Department of Health requires that horses be tested annually for equine infectious anemia, which causes death within a week and is highly contagious, but is very rare. The certificate proving that the test was administered must accompany the horse when transported.

and civil summonses for cruelty based upon an individual's transportation of guinea hens in a box that did not have sufficient holes. The summonses were issued after the SPCA officer observed the purchase of the hens at an auction, followed the vehicle off premises and stopped the vehicle on the roadway. Subsequently, at the urging of the officer, the offender pled to the civil offense and the municipal judge, also on the officer's recommendation, dismissed the criminal charge.

In the few instances where prosecutors' offices or police departments have had occasion to address the issue of SPCA officers effectuating arrests or executing search warrants, the consensus has been for the SPCA to notify the local police department and seek its assistance. Few SPCAs have done so. Similarly, the Commission uncovered instances when a prosecutor's office advised an SPCA on the legal restrictions of its authority, but some officers chose to ignore the admonitions.

A myriad of problems has occurred because of the confusing status of SPCAs in the law enforcement community – a confusion that some SPCA officers have used to their advantage. Although only a few SPCA officers and agents have issued summonses to violators, instead of having them issued by municipal clerks, the issue is not clear. Although SPCAs do not qualify under *N.J.A.C. 13:24-1.1 et seq.* to have their vehicles equipped with red lights and sirens, the Division of Motor Vehicles nevertheless has issued permits to some of them. The division also has issued special registration license plates, with the designation "county officer," to several members of the Bergen County SPCA, even though SPCAs are not qualified under *N.J.S.A. 39:3-27.29* to obtain them. Some societies have misrepresented their role in order to obtain high capacity magazines for weapons, which are strictly for the use of police officers. Even though SPCAs are not qualified to participate in the state contract-pricing program, the

state's contract vendors are confused by them and mistakenly grant them the benefit of state contract prices. Equally confused, gun and ammunition stores have given SPCAs the lower rates afforded to police agencies. The confusion extends to law enforcement agencies, as well. Many, if not most, are unfamiliar with SPCAs and uncertain as to the parameters of their authority. A few police departments erroneously allowed SPCA officers access to motor vehicle and criminal history data. In addition, although a few of the county prosecutors' offices have assigned an assistant prosecutor to respond to questions and review applications for search warrants, they have given inconsistent advice to the societies because of the historical lack of familiarity with them. Further, some SPCAs have resisted directives given to them by prosecutors' offices. For example, some officers in the Bergen County SPCA resented being told the narrow parameters within which they may carry weapons and ignored the directive. Several years ago, the county prosecutor attempted to control the Warren County society's enforcement activities when its reckless actions resulted in the 17-hour siege of the home of an elderly man, who died of a heart attack within two weeks.

A QUESTION OF EFFECTIVENESS

Issues of timeliness of response to complaints, training and financial cost adversely impact on the overall effectiveness of the 14 county SPCAs that enforce the animal cruelty laws.²⁸

The Commission received from a few to many complaints about a majority of the SPCAs regarding their failure to respond to allegations of animal cruelty or neglect or to respond in a timely

²⁸Because the Monmouth County SPCA only recently instituted a law enforcement component, it is not included in this analysis.

manner. The Cumberland County SPCA was the only one to escape any criticism. The lack of a timely response has been particularly acute in counties such as Salem, where there is no county SPCA and state society officers and agents do not reside nearby, and Camden, where the number of complaints is overwhelming for the two state agents assigned there. Further, despite the high numbers of agents and officers in some of the societies, their records demonstrate that the majority of cases were handled by only a few individuals. For example, 10 of the 35 individuals in the Bergen County society conducted 69% of the investigations; seven of the 30 in the Middlesex County society conducted 53%; four of the 13 in the Morris County society conducted 70%; two of the 16 in the Warren County society conducted 80%, and six of the 38 in the New Jersey society conducted 54%.

Generally, the decision of a particular SPCA officer or agent on whether to conduct an investigation is not subject to any higher review. Moreover, the societies have no system in place to ensure a timely response to complaints. Typically, there is no supervision of the conduct of an investigation or the issuance of summonses. Consequently, there have been numerous instances where acts of cruelty or abuse were not prosecuted because of the failure of SPCAs to promptly and thoroughly investigate the complaints. In some instances, SPCAs ignored clear acts of cruelty. In addition, there have been instances when agents exceeded their authority by charging offenses of the general penal provisions or by signing an indiscriminate number of offenses pertaining to the same conduct. At the other extreme are cases that were prosecuted, but the charges dismissed because of the overzealousness of the SPCA officers.

Cases in Gloucester County and Ocean County required the euthanasia of horses because of their neglect, but the SPCAs failed to conduct any investigation or take enforcement action. When an

agent with the Burlington County SPCA was asked about the lack of response to complaints in the western portion of the county, she told the Commission that it was too far to travel. An officer of the Passaic County SPCA ignored substantial and credible evidence of the killing of a dog by the owner's neighbor and failed to bring charges. In 1996, the SPCAs in Bergen County and Passaic County conducted separate investigations of a young man who slew and decapitated a German Shepherd, but each mishandled the case. The state SPCA failed to investigate allegations of cruelty involving the Hudson County SPCA shelter and the conditions under which the president of the Gloucester County SPCA kept animals on her property. Even though the chief of the Ocean County SPCA actively investigated many cases, there were numerous complaints by county residents, local officials and the New Jersey SPCA about his delayed response in some cases and lack of responsiveness in others. Complaints also centered around his refusal to pursue certain types of cases, such as those involving pit bulls, and his lack of aggressiveness in failing to take appropriate enforcement action. His reluctance to seize cruelly treated animals was bottomed upon the financial inability of the society to board the animals. The one-woman SPCA operation in Gloucester County presents an extreme case of the failure to respond to complaints. The void created by her deteriorating health was filled by the Gloucester County Animal Shelter.

The effectiveness of many SPCAs is dampened by their reluctance to pursue difficult cases because of the potential for lawsuits. Many individuals, who are concerned about personal liability for their actions, opined that they lack the training to investigate all but the simplest and clearest of cases of animal cruelty and abuse. Because the SPCAs fall outside of the structured law enforcement system, the only training their officers and agents receive is that which the governing individuals decide to provide. Generally, the training

is either nonexistent or informal and on-the-job. There is no professional legal training on arrest and search and seizure procedures or on the advising of *Miranda*²⁹ rights. Only four societies have some officers with law enforcement training because of their current or prior positions with governmental police agencies. The remaining officers and agents in those societies and the ones in the other 12 societies have no formal police training. It is the lack of proper training that has made some societies reluctant to enforce the laws aggressively out of fear of liability and others reckless in enforcing them.

The effectiveness of the SPCAs is lessened further by the financial cost that may accompany certain enforcement actions. The sheltering and care of animals seized by SPCAs in forfeiture actions can create tremendous expense for the volunteer SPCA agent or officer. Not only is an initial outlay of money required until a judgment against the owner is obtained, but it is frequently difficult, if not impossible, to recover costs from the owner. Because of the potential for substantial expense, many SPCAs have been reluctant to become involved in the cases. In the few instances where animals were seized, the individual volunteers incurred inordinate personal expense.

RECORDKEEPING. Another measure of the effectiveness of the SPCAs is their recording of law enforcement activity. As in other areas of operation, their recordkeeping represents a conglomeration. Not only do they not adhere to any standard reporting procedures, but not one society maintains the records necessary to track every case from initial complaint to ultimate disposition. The societies maintain records under four categories: (1) law enforcement summary reports, which consist of summary statistics of the number of complaints received on a quarterly or yearly basis; (2) incident

or investigation reports, which document the investigation of complaints; (3) summonses, which were issued for violations of the cruelty laws, and (4) fine information, which identifies the receipt of revenue collected from the imposition of fines in animal cruelty cases. Only the societies in Hunterdon and Middlesex Counties maintained essentially complete records in all four categories. The societies in Cape May and Gloucester Counties maintained no records or statistics as to their activities. Although the Morris, Ocean, Passaic and New Jersey SPCAs maintained records in each category, the records were incomplete. Only the Cumberland and Ocean County SPCAs recorded the cases referred to other agencies.

Nine of the societies recorded quarterly and/or annual statistics in summary reports, but they did not adhere to a uniform system. While some maintained separate documents on the statistics, others recorded them in the minutes of Board of Directors meetings. The accuracy of some of the societies' records is questionable. For example, although Passaic County SPCA's 1998 year-end summary report noted 442 complaints and 442 investigations, minutes of its monthly meetings indicated that significantly fewer investigations were conducted.

A few societies kept detailed records on the issuance of summonses and the collection of fines, while others documented the summonses without noting the fines and still others documented no summons or fine information. None of the societies documented the imposition of fines in order to track their collection. With rare exception, incident reports were not linked to the relevant summons numbers and the receipt of fines was not tied to the apposite summons. Even when summons numbers were noted on incident reports, the practice was not followed in every case. Further, court dispositions as to the

²⁹ *Miranda v. Arizona*, 384 U.S. 436, 478-479, 86 S.Ct. 1602, 1630, 16 L.Ed.2d 694, 726 (1966).

finding of guilt and amount of fine imposed were rarely noted on the summonses. Not one society

consistently recorded the information. The Middlesex County SPCA was the only society to document the number of warnings issued each year.

PROFILE OF THE COUNTY SPCAs

Sixteen county SPCAs currently exist. The Camden County society, which was incorporated in 1946, was terminated in 1985 and the Mercer County society, which was chartered in 1952, was dissolved in 1998. According to records of the Office of Secretary of State, societies were incorporated in Salem County in 1953 and Sussex County in 1912. Their charters were relinquished in 1981 and 1983, respectively. There is no record that a society was ever formed in Essex County.

The county societies are a study in diversity. Most of the societies are informal operations, while only a few are structured organizations that abide by set regulations and policies. A few emulate police or military operations. Most lack continuity in operation. Although all depend upon volunteers for their existence, eight pay salaries. Very few societies dismiss individuals for lack of involvement. The effectiveness of the societies in enforcing the animal cruelty laws depends upon the competence and ability of their self-appointed volunteers. Their continued existence is dependent upon the interest and physical capability of their members. Societies collapse when participants lose interest or advance in age. Because of the volunteer nature of these groups, many individuals become officers or agents for as long they like, regardless of whether they conduct investigations, attend meetings or contribute in any meaningful way. For the same reason, individuals typically are reelected as officers and directors year after year. Consequently, with some organizations, there is an abuse of power by the entrenched few.

Unlike a formal law enforcement agency, there is no initial assessment of a complaint or scrutiny of the conduct or result of an investigation. Even where particular societies give the appearance of being well-structured and responsive to complaints, there is nevertheless no assurance that all valid complaints are investigated properly. Because the SPCAs lack formal training, operate outside of a governmental structure and are left to their own discretion in interpreting the laws, many are unsure of the exact parameters of their authority. Consequently, many are concerned about their personal liability and proceed very cautiously in conducting investigations and issuing summonses.

Because of their volunteer nature and limited resources, most of the societies are unable to comply with the mandates of their by-laws or to avoid conflict situations. For example, it is not uncommon for related individuals to hold key positions and possess authority to co-sign checks. Most societies cannot afford to hire a firm of certified public accountants to perform an annual audit of their finances. Because of the unpredictability of income, all are unable to prepare a budget.

The volunteer nature of the societies also has led to a lack of continuity and cohesiveness in operation. As a result, there frequently is no orderly transition of records when new individuals assume leadership roles. Another consequence is that there is no documented history of a particular society. Preservation of past and recent events depends upon the institutionalized memory of current participants and, therefore, is usually lost.

OVERVIEW OF THE COUNTY SOCIETIES

The Commission investigated the operations and activities of 17 county SPCAs, one of which was dissolved before the conclusion of its investigation. A composite overview of the county societies exemplifies their diversity and the lack of uniformity:

1. Currently, 11 of the county SPCAs enforce the animal cruelty laws, without involvement in any humane activities, one enforces the laws and engages in some humane activities, two conduct both a law enforcement function and a shelter operation, one combines a law enforcement, shelter and animal control operation, and one operates only a shelter without any law enforcement component.
2. Three societies appear to operate without by-laws (Cape May, Gloucester and Hudson).
3. The presidents of only five societies have held their positions for fewer than 10 years (Cumberland, Mercer, Monmouth, Ocean and Warren).
4. Membership in the county societies, which typically is based upon contributions, varies widely. Two of the societies have no members; one has between three and 20; two have between six and eight; three have between 12 and 15; five have between 20 and 46; two have between 65 and 80; one has about 1,000, and one has about 5,500. Many do not collect dues.
5. Only four societies require county residency for their board members and/or law enforcement officers and agents (Atlantic, Hunterdon, Monmouth and Ocean). One society has a residency requirement, but exempts law enforcement personnel and individuals who were board members prior to its adoption (Burlington). Only five societies have officers who reside outside of the county (Bergen, Burlington, Middlesex, Union and Warren).
6. Five societies (Cumberland, Hunterdon, Middlesex, Morris and Ocean) revised their by-laws in the last decade and two revised them twice in the past 10 years (Bergen and Cumberland).
7. Of the 16 societies that enforce the animal cruelty laws, one has 12 officers and no agents (Warren); three have 10 to 25 officers and three to seven agents (Bergen, Middlesex and Passaic); five have no officers and one to four agents (Atlantic, Cape May, Cumberland, Hunterdon and Somerset), and seven have one to five officers and one to six agents (Burlington, Gloucester, Mercer, Monmouth, Morris, Ocean and Union). Only officers are authorized by law to carry weapons.
8. Excluding the shelter operations, eight of the societies have salaried employees (Atlantic, Burlington, Cape May, Cumberland, Hunterdon, Mercer, Ocean and Union).
9. Eight of the SPCAs require formal uniforms, with two societies utilizing both winter and summer ones (Bergen,

Burlington, Middlesex, Morris, Ocean, Passaic, Union and Warren). Some of the uniforms are strikingly similar to those of the New Jersey State Police or municipal police departments. Six societies employ a rank structure for their officers (Bergen, Middlesex, Morris, Passaic, Union and Warren).

has published an annual magazine entitled *The Scoop*.

Although the society does not operate a shelter, it accepts the surrender of animals from their owners, as well as stray animals brought in by area residents. Animals requiring medical treatment are taken to a veterinarian if they are deemed adoptable. The society has a network of volunteers who care for the animals and are reimbursed their expenses for food, bedding and any necessary veterinary care. The animals are offered for adoption at various events sponsored by the society. In 1999, the society arranged for the adoption of 100 animals, all of which were spayed or neutered and inoculated.

THE COUNTY SOCIETIES

ATLANTIC COUNTY SPCA, which was chartered and incorporated in May 1990, is a relatively small organization that relies extensively upon the efforts of volunteers. The society investigates allegations of animal cruelty, operates a spay and neuter clinic and arranges for the adoption of animals that are surrendered by county residents. It actively engages in fundraising programs. The society has an 11-member Board of Directors; 15 members who pay annual dues of \$10; one full-time and three part-time agents who conduct cruelty investigations, and two agents who perform administrative work. The current president, who is also a part-time agent, has held the position since 1990. She is highly aggressive, to the point of being accused of employing intimidation tactics, in urging owners to spay or neuter their pets and convincing individuals to surrender their pets where abuse or neglect is suspected. The law enforcement agents, who do not have a rank structure, carry a badge and identification card and wear no uniform. Because there are no officers, no one with the society carries a weapon. In March 1998, a 1986 Mercury station wagon was donated to the society. The vehicle, which is unmarked and not equipped with either red lights or siren, was sold to a society agent for \$1.00 and will revert to the SPCA when she leaves the society's employ. The society assumes all expenses for the vehicle. The society built seven dog runs in a junkyard to place animals confiscated during investigations. Beginning in late 1994, the society

With the assistance of grants from private foundations, the society established a spay and neuter clinic in January 1994. The society contracts with area veterinary hospitals to use their facilities to operate the clinic and arranges with veterinarians and technicians there to perform the surgeries. The clinic, which is open one or two days a week, is available to the general public. The fees for male and female cats are \$30 and \$45, respectively, and \$40 and \$55 for male and female dogs, respectively. There are additional charges for any shots or tests requested by pet owners.

In accordance with the by-laws, the Board has held monthly meetings and has established membership, finance and nominating committees. Monthly Board meetings were usually conducted, but annual meetings of the society were held only in 1994, 1996 and 1997.

BERGEN COUNTY SPCA, which has no record of a charter, was incorporated twice, first in December 1927 under the name of Bergen County District SPCA and later in June 1978 under the name of New Jersey SPCA, Bergen County Branch, Inc. The 1927 certificate

was not revoked until January 1987. From approximately mid-1999 to the beginning of 2000, the society was plagued by acrimony and turmoil, resulting in the resignation of eight officers, most of whom joined the state SPCA as agents. The conflict, which related to the operation of the society, involved a tug-of-war between those who wanted to fashion a more police-type organization and those who wanted to maintain a more informal atmosphere. The defection of officers has pitted the society against the state SPCA, which is assigning complaints from the county to these new state agents, rather than referring them to the county society.

The society has a 20-member Board of Directors, 25 officers and three or four agents. The primary positions of authority have been held by the same individuals for extended periods of time. For example, one person has been the president for approximately 14 years, prior to which he served as vice-president for 7 years and, before that, as secretary for two years; the individual who served as treasurer for about six years became deputy chief for four years and then chief for five years; the next treasurer held the position for five years, and one person has been secretary for six years. The society's only members are its officers and agents. Annual dues were recently reduced from \$65 to \$25 because officers must now pay for their own ammunition to qualify.

The society operates in paramilitary fashion. All officers are required to carry weapons while investigating complaints. There are printed guidelines on the carrying of a concealed firearm and an ASP Tactical Baton (expandable steel baton). Policy guidelines on the use of the Law Enforcement Division's vehicles mandate that the driver "must back up other police departments if they are alone on M[otor] V[ehicle] Stops." An extensive procedure exists for an individual to become an agent and to advance to officer. There is a rank

structure of chief, deputy chief, two captains, four lieutenants, six sergeants and about 15 officers, who are divided into three squads. Each squad, which is headed by a lieutenant and sergeant, is on duty for a two-week period. Officers are required to wear and pay for summer and winter uniforms. Sergeants wear blue shirts, while those in the rank of lieutenant and above wear white shirts. Pursuant to the by-laws, applications for leaves of absence, other than sick leave, must be submitted to the Board of Directors in writing. The society provides identification cards and badges, which bear the State Seal. Used bulletproof vests were donated by a local law enforcement agency. Currently, the society has two vehicles that bear the SPCA emblem and are equipped with red lights and sirens. Until recently, one vehicle was driven by the chief and the other one utilized by the squad on duty. All officers are required to attend in-service training on report writing, the use of pepper spray and the use of deadly force.

This society exemplifies the "wannabe cop" and "gun club" mentality typical of some of the societies. As one officer asserted, "It was widely known in certain circles that the SPCA was the short cut to a carry permit." Some officers have interpreted the statutory requirement for carrying a weapon "while in the actual performance of his duties" as permitting them to carry all of the time because they consider themselves always to be "on call." Others claimed that it was their prerogative to define the statutory language. Still others stated that they carried a weapon because they always kept an "open case" in their "back pocket." Many have worn weapons at society meetings, where the butt of a gun was employed as a gavel on occasion to silence the group. Officers also have carried weapons when traveling to and from their jobs, even when the office was located outside of the state. A number of officers have carried weapons even though they handled no or relatively few investigations. The reckless attitude toward

weapons is demonstrated further by the childish pranks of setting off firecrackers and exploding targets at the firing range.

The society's broad interpretation of the right to carry a weapon is reflected in its guidelines on the carrying of concealed weapons. Pursuant to an undated document, officers may carry a firearm to and from any cases as well as "any reasonable diversion" along the way and while "on call"; immediate supervisors may carry at all times; officers "should" conceal the weapon when not in uniform, and ankle holsters are recommended only for a "back-up" weapon and not as the primary weapon.

In addition to their fascination with guns, the society's officers also relish their perceived "law enforcement" authority. Officers possess both winter and summer uniforms, in addition to sporting hats, jackets, sweatshirts, golf shirts and tee shirts with the SPCA logo. They carry ASP batons and pepper spray and have special sights for their Glock weapons. At various times, the society has had between two and four vehicles. The 1999 Ford Crown Victoria, the approval for which appears in the November 11, 1998, minutes, was characterized by the chief as the society's "stealth" vehicle. All vehicles have been equipped with red lights, sirens, electric lights, flashlights, bulletproof vests and raincoats. The red lights and sirens were justified to the Commission on the ground that officers may have to back up police officers on motor vehicle stops or assist occupants of disabled vehicles.

Despite a proliferation of written policies and guidelines, this is a society where procedures have been ignored and a few have done as they pleased. Despite the "official" version as to the timely response to complaints and the extensive training of officers and agents, the Commission was told of repeated instances when there was no response or a delayed response to a telephone complaint and that the actual training has not always been as effective or

thorough as it appears on paper. Even when matters were brought to its attention, the Board of Directors usually served as a rubber stamp for the president or chief. One officer was allowed to keep a society-purchased computer because it was "an older one." SPCA vehicles were driven for personal reasons, including commuting to and from work. In fact, one officer admitted to driving the SPCA vehicle assigned to him to travel to central Pennsylvania. The society's gasoline credit cards were used for gasoline purchases when vehicles were driven for non-SPCA business. One officer paid a parking ticket received in Florida with an SPCA check because he had not yet received his personal checks. Officers enjoyed all the accouterments of fraternal membership – hats, jackets, tee shirts, golf shirts and sweatshirts. One officer even purchased jumpsuits and patches in anticipation of forming a SWAT-type unit, termed a CAT squad. Not only were many officers allowed to retain their SPCA badges upon retirement or resignation, but the badges also became gifts that were given to various individuals unassociated with the society. On occasion, society jackets also were handed out. The chief and deputy chief each ordered 1,000 business cards, with the explanation that they were distributed at an exposition that they attended. The ordering of 1,000 business cards by the treasurer could not be explained. The society's official telephone was used to place personal calls to locations both within and outside of the state. Despite a conflict of interest, equipment was purchased from a company owned by an officer.

The society's by-laws, which were revised in January 1979, June 1992 and October 1999, are extensive, addressing a variety of topics and setting forth the officers' responsibilities in greater detail than is common for most societies. The current by-laws reduced the number of membership categories to three, *viz.* life, active and honorary. The by-laws require the holding of monthly meetings of the Board of Directors, but meetings usually are suspended for

the summer months. An annual meeting of the society is to be held in January and reports of the president, secretary, treasurer, Board of Directors and chief of law enforcement are to be given. However, meeting minutes do not indicate compliance with respect to the presentation of reports. The secretary is required to keep full minutes of all proceedings of the society and the Board. However, there were no minutes for 1993 or for numerous meetings from 1994 through 1998. Very few of the minutes referred to a treasurer's report, and those that did contained only a checking account balance. Contrary to the by-laws, membership, badge and finance committees were not appointed in every year. Although the by-laws provide an extensive procedure for the removal of individuals in all categories of positions and although the Commission was told of instances warranting implementation of the process, the minutes do not indicate that a removal was ever attempted or achieved. The by-laws also provide for the election of a parliamentarian to serve at all of the society's meetings and render binding decisions on issues of parliamentary law.

The current by-laws continue the same unique provisions, contained in the earlier versions, that reflect the society's emphasis on law enforcement. Specifically, the by-laws mandate that at least 15 of the 20 members of the Board of Directors be actively engaged in the law enforcement field as members of municipal, state or federal law enforcement agencies or as practicing attorneys in the state. However, there is no adherence to this requirement. The officers of the society, who are elected by the Board and include the president, vice-president, secretary and treasurer, may not receive any compensation for their services. Another provision mandates the establishment of a Division of Law Enforcement, whose stated duty and responsibility is to investigate and prosecute allegations of animal cruelty. The division is to be headed by a chief, who is recommended by the

president with the advice and consent of the Board to serve "during good conduct." His stated duties include the supervision of the day-to-day operation of the division; the formulation and operation of training programs for the division's officers and agents; the promulgation of rules and standards of conduct; the assignment of cases and duties, and the recommendation to the president of individuals for promotion. The chief also has the right to suspend from duty, for cause, an officer or agent until the next meeting of the Board. In addition, officers in the division are to fill the ranks of deputy chief, captain, lieutenant, sergeant, officer and agent. While the number and duties of each rank is within the chief's discretion, subject to the Board's approval, it is the president, with the advice and consent of the Board, who makes the recommendations. The recently enacted by-laws eliminated the mandatory retirement age of 65 years for law enforcement officers.

BURLINGTON COUNTY SPCA received a temporary charter from the state SPCA in April 1956 and a permanent one the following year. It was incorporated in August 1956 and filed an amendment in May 1967 to address the issue of distribution of its assets upon dissolution. The society, which at one time enjoyed 120 members and 12 officers, now has nine members, a six-member Board of Directors, two agents and one officer, who is the law enforcement chief. The society's members consist of its Board members and agents. The society is marked by longevity of its key officers. The chief law enforcement officer, who also serves as vice-president, has held the position for about 20 years; the president has served since 1960; the same individual has functioned as the treasurer for the past 10 to 15 years, and the secretary has been in the position for about 12 years. The chief also has served as the president of the New Jersey SPCA since 1980. The Commission was told that the same officers repeatedly were voted into office because they were the only ones willing to serve. The society's

constitution is unique in providing for the expulsion of any member convicted of the crime of cruelty to animals under Title 4 of the New Jersey Statutes.

This society is controlled by the chief law enforcement officer in all respects except the financial area, which has been under the control of the treasurer. It is the chief who decides what equipment is purchased and who becomes an officer. Other Board members typically defer to his judgment because they regard him as highly experienced. Indeed, some members are surprisingly uninformed about the society's operations, even though they usually were present at the monthly meetings. The president admitted that he is not made aware of a great deal that occurs. He knows nothing about the law enforcement activities except for what is contained in the chief's monthly report to the Board. He does not receive copies of meeting minutes and has not seen any financial statements in years. He has pressed the treasurer for financial reports and an accounting, but to no avail. As the president pointed out, "You cannot hold people accountable when you don't pay them." The treasurer maintains all financial records at her home and signs the checks. From 1973 until recently, she also served as dispatcher to receive calls of complaint and refer them for investigation. Although most of the complaints are handled by the agents, only the chief has a uniform and carries a gun. The chief conducts all training of the agents. According to the president, when he directed that officers could no longer carry guns, many resigned their positions. The society provides the uniform, badges, weapons, hand-held radios, cellular telephone, camcorder and a bulletproof vest for the chief. There are two vehicles, *viz.* an unmarked 1991 Chevrolet Caprice, equipped with flashing red lights in the grille, and a marked 1993 Jeep Cherokee sport-utility vehicle. Both vehicles, which are equipped with sirens and video cameras, are maintained in Trenton, where the chief lives and conducts his business. According to the chief, he

pays for most of the maintenance for the vehicles and the New Jersey SPCA pays for the gas because he also uses both vehicles for state SPCA business.

The society has not adhered to several provisions of the constitution. It has not conducted monthly Board meetings or an annual and two regular meetings of the membership each year. Despite the mandate that the secretary maintain minutes of all proceedings of the society and the Board, minutes were not produced for a significant number of meetings. The secretary admitted that when he was not present at meetings, no minutes were recorded. Further, most of the minutes were handwritten and difficult to read. The constitution requires establishment of membership, finance, nominating and badge committees, but only a nominating committee has been appointed each year. Although the constitution stipulates two classes of membership, *viz.* active and life members, members are not categorized. Despite a provision requiring the payment of \$50 annual dues by active members, no dues have been collected because the society's only members have been the directors and law enforcement personnel, who are exempt from the payment of dues.

The constitution requires that members be residents of the county, but provides an exemption for law enforcement personnel and for those individuals who were members before the document's adoption. However, the constitution is undated and, therefore, it is not possible to determine who was a member at the time of its enactment. The law enforcement chief and one Board member reside outside of the county.

CAPE MAY COUNTY SPCA was incorporated in July 1978. The society does not possess its charter from the New Jersey SPCA and there is no record of when a charter was granted. Currently, the society only investigates animal cruelty complaints. For more than 25 years, the society

also operated an animal shelter, which was closed on December 31, 1998. There is no record to indicate when the shelter was opened.

The society has been a family operation that is now under the control of Dennis Kelly, who has been its president for the past 14 years and an enforcement agent for 20 years. Kelly was introduced to the SPCA by his father-in-law, the previous president. The four individuals who comprise the Executive Board and constitute the corporate officers are Kelly; his wife, who serves as secretary; his stepson, who serves as vice-president, and his cousin. Kelly admitted that he usually operates without consulting the Board, which essentially is a "rubber stamp" for his decisions. No dues are paid. Approximately 30 individuals make contributions each year. There are no by-laws or constitution to guide the society's operation.

There are three agents, *viz.* Kelly, his stepson and stepdaughter. The vast majority of complaints are investigated by Kelly. No one wears a uniform or carries a weapon. Cruelty cases in the county tend to be seasonal, with more occurring during the summer months. Warnings are frequently issued, while the issuance of summonses is reserved for very serious cases. A case is documented only if expected to lead to the issuance of a summons. The society used to maintain a marked vehicle.

The society's president also operates a private animal control business, which contracts with 10 municipalities for animal control services and, until January 1999, operated a separate shelter located on his five acres of land. Incorporated in November 1977, the company has listed Kelly as its sole shareholder since 1993. When asked to distinguish between his role as SPCA president and a private animal control officer, Kelly responded, "You can't draw a line between the ACO [animal control officer] and the SPCA."

He readily admitted that he often utilized the shelter facilities interchangeably.

CUMBERLAND COUNTY SPCA, which was chartered in July 1946 and incorporated in June 1947, successfully operates both a law enforcement component and a shelter, which includes a pet shop. The society actively sought grants from several private foundations for its spay and neuter program, improvements to the shelter and education programs for the public. Its philosophy is expressed in its by-laws and achieved in practice: "to prevent all forms of cruelty to animals, provide a temporary refuge for homeless and unwanted animals, place such animals in good homes when practicable, assure a humane euthanasia for those that it is impracticable to find homes, and further humane education."

Although the society does not provide animal control services to any municipality, it has contracts with numerous municipalities to house the stray animals picked up by their animal control officers. Its two principal contracts have been with the cities of Vineland and Millville. The society has approximately 1,200 members, who pay \$20 in annual dues, receive a newsletter and vote for the eight members on the Board of Trustees. The executive director has held the position for nine years and the president has been in her position for eight years. The society implements three of the four classes of membership set forth in its by-laws, *viz.* life, annual and junior, each with a separate dues schedule.

With respect to its law enforcement activities, the society has one full-time agent, who seeks to counsel the pet owner and allows the individual to correct the problem instead of issuing a summons. The agent, who originally had been employed by the society as a veterinarian technician, later received on-the-job law enforcement training

by her predecessor. She also attended the 40-hour National Cruelty Investigations School offered by the University of Missouri-Columbia. The agent does not wear a formal uniform, but only a tee shirt with the society's logo. The society believes that it is unnecessary for her to carry a weapon because of its good relationship with local police departments. Approximately 75 complaints are received each month, of which about 70 involve cruelty. At least one case each month requires the issuance of a civil summons. A criminal summons is issued on occasion in addition to the civil summons. Criminal complaints for indictable offenses are usually signed by police officers.

The by-laws, which were revised in 1991 and again in 1998, contain several unique provisions. They identify the responsibilities of each officer in greater detail than those of most societies. They also prohibit two immediate members of a family and society employees from serving on the Board of Trustees. In addition, no one who has been fired from the staff of the shelter or dishonorably discharged as a law enforcement agent may become a member of the Board or of the society.

The society's minutes of meetings reflect adherence to the by-laws. For example, a nominating committee was appointed each year. Regular monthly meetings of the Board of Trustees were held with rare exception and annual meetings of the membership were conducted. At monthly meetings, the treasurer, shelter personnel, law enforcement investigators and various committees presented reports. The secretary prepared thorough minutes of each meeting. The Board reviewed all expenditures and approved their payment.

GLOUCESTER COUNTY SPCA, according to the Secretary of State's Office, was never incorporated. This society has been synonymous with the 80-year old woman who received the charter in 1972 and has been its

president ever since. The history of the society, from initial effectiveness to essential collapse, tracked her declining physical and mental health. The situation was exacerbated by the fact that she exhibited the classic symptoms of an animal collector or hoarder. Over the course of many years, as she was accumulating an inordinate number of dogs, cats, wildlife and fowl on her property and in her home, she believed that only she was capable of caring for them, even as her health deteriorated and the well-being of the animals was jeopardized. She allowed very few onto her property or into her home. The dilemma for the animals and those concerned about them was that the person who fostered the deteriorating conditions for the animals was the one entrusted to enforce the animal cruelty laws.

Agatha Abruzzo was consistently touted to the Commission as epitomizing an individual who has sacrificed her personal life to devote herself to the care and welfare of animals. She frequently paid for the spaying or neutering of animals when pet owners were unable to afford the surgery and accumulated innumerable animals on her property to save them from euthanasia. Her dedication is admirable. However, her control of the SPCA for decades highlights the problems attendant to an organization that operates outside of a governmental structure. It is immaterial that at one time she was responsive to complaints, timely in filing summonses and meeting court dates. The issue is whether the effectiveness of the society has been weakened severely because of her advanced age and health problems. By her own admission, she has neglected cases at various times because of health problems. Further, she has demonstrated herself to be forgetful and disorganized when attempting to respond to allegations of animal abuse or neglect. Complaints of her lack of responsiveness date back to the middle to late 1980s and have continued to increase during the past decade. Even the SPCA agents have been critical of her performance. For the last

several years, the void created by Abruzzo has been filled by the Gloucester County Animal Shelter, whose director is a former New Jersey and Cumberland County SPCA agent and some of whose animal control officers are also the Gloucester County SPCA agents. Initially, the director advised complainants to telephone Abruzzo to report the animal abuse. As Abruzzo's non-responsiveness increased, the director had the shelter's animal control officers/SPCA agents conduct the investigations, but report the results to Abruzzo for action. When this course also proved fruitless, the director then assumed full control over the cases. Presently, the shelter's animal control officers/SPCA agents follow up on all complaints received by the shelter and sign the complaints when the issuance of summonses is warranted. Abruzzo is apprised of the progress of cases.

Abruzzo's deteriorating health and increasing detachment from her SPCA duties culminated in a complete collapse of the SPCA organization and in the abandonment of the animals maintained on her property. In October 1999, Abruzzo was incapacitated by very serious health problems that caused her hospitalization and lengthy recuperation away from her property. Only recently did she return to her home. During her absence, individuals close to her undertook the removal of animals from her property. What they discovered was appalling. The stench of dead and decaying animals permeated the cat shed. The cat food was contaminated and water bowls contained algae. Newspapers placed on the floors of the cages and shed were soiled with feces and urine. The animal food contained in large barrels appeared to have mold. The wood floor of the cat trailer, which housed both feral and tame cats, was deteriorating. The trailer contained decaying cat food and filthy water bowls. Feces accumulated in the dog runs. Shelter structures had deteriorated to the point that they no longer offered protection to the animals from inclement weather. One of the individuals involved in the removal of

animals recalled that when she was on the property about six years ago, the cat shed contained 30 to 40 laboratory-size cages, each housing more than one cat. Because of the small size of the cages, the cats were unable to stand and, consequently, their legs were atrophied. Dead and dying cats were in the cages, the shed and the basement of the house. Subsequent to the recent removal of the animals, Abruzzo returned to her home and has been attempting to resume her SPCA duties and collection of animals.

A clear conflict arose from Abruzzo's role as SPCA president and the conditions under which she kept animals on her enclosed property. She began accepting animals from at least 1980. Although she was unwilling to approximate for the Commission the number of animals on her property, others estimated the number at more than 100. Abruzzo's 13-acre property is enclosed by a fence and contains 25 dog runs and two cat trailers. She not only cared for animals forfeited in SPCA cases, but also developed a reputation among area residents and police departments for accepting and caring for any unwanted or stray animals. Abruzzo usually had the animals altered. She not only allowed animals to roam freely on her property, but also brought them into her house, which witnesses described as filthy and permeated with a strong stench of urine, feces and decaying animals. The number of animals that Abruzzo allowed to be adopted to individuals paled in comparison to the number that she was accepting. Although her motive in wanting to save these animals is worthy, the animals were maintained under inhumane conditions. Because Abruzzo represented the SPCA in the county, there was no entity to determine whether any of the conditions constituted cruelty. A clear conflict existed. The New Jersey SPCA chose not to become involved.

Abruzzo was not able to provide the society's by-laws or charter from the state society.

She compiled no quarterly or annual law enforcement reports and maintained no record of fines imposed in cruelty cases. When interviewed, Abruzzo stated that the society has a six-member Board of Directors and five agents, three of whom are animal control officers employed by the county. Abruzzo is the only officer. No roster or rank structure is maintained. Abruzzo's priority in accepting agents was that they love animals. In her opinion, there is no need for SPCA personnel to carry firearms. According to Abruzzo, she received telephone calls of complaints at her home and assigned them to agents depending upon geographical location. She appeared to keep the majority of complaints for herself. She also maintained control of the summons book, and agents had to discuss the case with her first before she would sign a complaint. Because she emphasized education of the pet owner, she allowed agents to have only warning books. A warning was issued only if the attempt to educate failed. If the violation remained uncorrected, a summons was issued. Abruzzo stated that she issued few summonses because, in her opinion, an animal owner found not guilty would be more abusive to the animal. Abruzzo did not require agents to wear uniforms because of the expense and because they intimidate the public. Abruzzo's description of the procedures that she followed was refuted by the agents and the records. Agents also denied that they completed any application or that Abruzzo provided them with training. The Board of Directors has been virtually nonexistent.

HUDSON COUNTY SPCA, which was chartered in April 1895³⁰ and incorporated in September 1990, is one of three societies that operate shelters and the only one that operates a shelter without engaging in any law enforcement

activities. The society's shelter has been criticized sharply by individuals in both the private and public sectors for its inhumane conditions. The society has contracts with six municipalities in Hudson County to provide shelter services and to pick up animals from their communities.³¹ At one time, the society had a few law enforcement agents, but the Board of Trustees eliminated them more than 10 years ago because they had become a police force unto themselves. The shelter now refers complainants to the municipalities. There is a nine-member Board of Trustees, an unknown number of members and five salaried employees. Until recently, no volunteers were allowed to assist at the shelter. Edward Pulver has held the position of Board president for more than 15 years and his brother, until recently, served as the uncompensated manager of the shelter for about the same period. One person has served as treasurer for more than 12 years. The society has engaged in no fundraising. The president believes that it is a conflict for an SPCA to operate both a shelter and a law enforcement component.

The Board of Trustees has been an ineffectual and disinterested body. Edward Pulver admitted in an interview that it was nothing more than a rubber stamp for his actions. The Board never adopted any constitution or by-laws of its own. Although the president stated that the Board utilized the by-laws of the New Jersey SPCA, he was unable to produce a set until he obtained it from the state society. If, in fact, the Board was governed by these by-laws, it repeatedly operated in contravention of them. No minutes were recorded for most of the Board meetings. Between January 1, 1993, and December 31, 1998, only 40 meetings were reflected in minutes. No minutes were taken during 1999. According to the minutes, 15 meetings

³⁰The Hudson County SPCA is only one of two societies whose charters from the New Jersey SPCA date back to the 1800s.

³¹The status of the contractual arrangements is unclear at this time in light of recent events that resulted in the hiring of an executive director to operate the shelter.

were conducted with less than the necessary quorum of seven members and no meeting had all 12 members present. The minutes that existed lacked detail as to what transpired at the meetings and revealed that some meetings lasted only a brief 15 minutes. Although they indicated that treasurer's reports were read and approved, none were attached to the minutes. The minutes made no reference to the capital improvements or to investment activities, which involved more than \$1 million. The Board never appointed a finance committee or prepared a budget.

HUNTERDON COUNTY SPCA, which was chartered in July 1965 and incorporated in August 1965, is a well-run operation that combines a law enforcement component, a shelter operation and an animal control service. Since the early 1980s, it also has operated a thrift shop. This society epitomizes the volunteer nature and interest in animals that initially gave rise to the SPCAs. Not only are the members of the Board of Directors not compensated in any way, but they include two veterinarians and three attorneys who donate their services to the society. The Board's president also serves as the shelter's executive director and is present at the shelter six days a week. The society has the benefit of a cadre of more than 18 dedicated volunteers, who assist

with the operation of the thrift shop, grooming and walking the animals, and various chores around the shelter. Employees and volunteers foster animals in their homes when the shelter is overcrowded. Society members contribute to the costly medical treatment of animals when necessary to save their lives and avoid the alternative of euthanasia.

The society has contracts with 13 of the county's 26 municipalities to provide animal control services. The per capita fee charged by the society includes not only the pick up of stray and dead animals, but also any medical care that is necessary.

The four certified animal control officers are available 24 hours a day, seven days a week to respond to calls.

The society adheres to rules and regulations in its governance and operation. A 10-member Board of Directors is elected by a majority vote of the contributing members at the annual meeting and is governed by a president, vice-president, secretary and treasurer. Regular meetings of the Board are held during only 10 months of the year instead of every month, as dictated by the by-laws. Pursuant to the by-laws, a nominating committee is convened annually. No other committees are mandated. The same woman has held the position of president for 10 years. The society has a staff of five full-time and 10 part-time employees to operate the shelter, provide the animal control services and investigate cruelty complaints. Of the four certified animal control officers, one also serves as the society's law enforcement agent and two are training to become SPCA agents. Uniforms are not worn and guns are not carried. The society's primary goal in enforcing the cruelty statutes is to protect the animals by educating the owners, and summonses are issued only in extreme, clear cases. Three vehicles are maintained without red lights and sirens. Contributing members number close to 1,000.

The society's by-laws contain several unique provisions regarding the law enforcement agents. Agents must be residents of the county and salaried employees of the society. They are prohibited from carrying firearms in fulfilling their duties. They also are barred from working for or representing the state SPCA. In addition, Board members are authorized to investigate animal cruelty complaints. Although it has never been implemented, the provision was included in the event of extenuating circumstances requiring additional investigative assistance.

The by-laws also are unique in seeking to preserve the society's shelter operation and to place

its assets beyond the reach of the state society. In the event of the revocation of its charter by the state SPCA, and upon a two-thirds vote of the Board of Directors, all of the society's assets would be transferred to a new entity to be known as the Hunterdon County Humane Shelter.

MERCER COUNTY SPCA was chartered and incorporated in July 1952 and dissolved in September 1998, pursuant to a plan of dissolution adopted in June of that year. It is an example of an SPCA that is dependent upon the volunteer spirit of its participants and dissolves when they are no longer able to sustain the organization. The society was a small organization operated informally for more than a decade by a close-knit group of individuals that included several members of one family. It was dissolved when three active participants died and the remaining individuals, some of whom are elderly, were unwilling to continue. At the time of its dissolution, there was only one agent and, because of death, the number of members on the Board of Directors was reduced from nine to six and the number of officers was reduced from eight to five. Of the officers, the Commission was told, three were active in conducting investigations and several older ones remained with the society in order to have something to do. The positions of president and chief law enforcement officer were held by Edward Jones, Sr., from 1951 until his death in January 1994, when his son became the chief and held the position until the organization's dissolution. The son also served as treasurer from January 1993 until the dissolution. Another officer served as president from January 1994 until his death in June 1998. A different officer, who had been serving as secretary since the mid-1980s, then assumed the presidency. Jones' wife, Helen, was involved with the society for 44 years, serving as manager of the society's shelter from the time of its establishment in 1956 until its dismantling in 1992. Beginning in 1955, she served as the dispatcher, receiving telephone complaints and assigning them for

investigation, and since 1991 or 1992, maintained the financial records. She was described as the backbone of the operation in recent years. She was the only paid employee, receiving compensation from 1955 to the time of dissolution. The society received donations from approximately 20 individuals, who were considered non-voting members. "Active" members were considered to be those individuals who were involved with the society for two years, received the approval of the Board of Directors and attended all but one meeting in a given year. Wives or family members of officers were allowed to become active members as a courtesy.

Contrary to the requirements of the society's by-laws that the Board of Directors meet monthly and that minutes be maintained, minutes were not always recorded and meetings were held only when deemed necessary by the chief officer, but at least four times a year. Although it was represented to the Commission that the society held annual meetings pursuant to the by-laws, there were no minutes to confirm this representation. In fact, for the last six years of its existence, the society was able to produce the minutes for only three meetings. The minutes for all other meetings either were lost by those responsible for taking them or were not taken. One individual blamed the lack of minutes on the nature of a volunteer system. Although the few minutes provided referred to an attached treasurer's report, only one set of minutes included such a report. Annual treasurer's reports were submitted in most of the years, but contained no detail as to sources of income or types of expenditures. Further, the society did not appoint a membership or finance committee as required by the by-laws.

Board meetings were held at the society's shelter until it was closed in 1992 and then in the vacant portion of the Jones' two-family house until approximately 1996, when Helen Jones allowed relatives to occupy the house. Thereafter, meetings were conducted in Jones' kitchen. The society

never paid rent because, when the dwelling was vacant, Jones allowed children and grandchildren to live there without rent. The entire two-family dwelling was secured by an alarm system that was paid for by the society and installed by society members. The system was justified to the Commission by the fact that Mr. Jones had received threats in connection with an investigation.

Since the early 1980s, uniforms were not supplied to the agents and officers. Instead, they attached to their own jackets the society's badge, bearing the State Seal and patch. The society maintained no vehicle, property or equipment since the early 1980s. Officers paid for their own weapons and the ammunition used to qualify with their weapons. The society paid for an insurance policy to cover the liability of the officers.

As dispatcher, Helen Jones had a society telephone in her home for 44 years to receive cruelty complaints and assign them. Response time was within 48 hours for routine matters, within 24 hours for emergencies and "as soon as possible" for extreme emergencies. The officers signed few complaints because of their interest in preventing cruelty through education of the pet owners. In the last few years, only three or four summonses were issued each year, and only criminal summonses were signed.

MIDDLESEX COUNTY SPCA was chartered in May 1956. There is no record of an earlier charter, even though its certificate of incorporation was filed in September 1949. The certificate was amended in February 1957 to include the operation of a shelter. Although the shelter operation was eliminated in approximately 1991, the certificate of incorporation and corresponding by-laws were not amended to reflect that change. Since the elimination of the shelter operation, the society's sole function has been to enforce the cruelty laws. The society is governed by a nine-member Board of

Directors, whose core officers have remained the same for most of the past decade. The president has held the position since 1990, the vice-president and secretary have served since at least 1993 and the treasurer has held his position since 1996.

The society is a highly structured, paramilitary-style organization. It is governed by the *Operations Manual, Rules and Regulations*, and the 1990 "Constitution or By-laws," which is referred to as the by-laws. The *Operations Manual* identifies the Law Enforcement Department as the operational arm of the society. It sets forth the responsibilities of the trainees, who are required to attend society-sponsored training classes and the county's Basic Auxiliary Police Training Academy³² or similar school, and their advancement to the position of agent-in-training. Following satisfactory completion of field training, the agent-in-training advances to the position of agent and, thereafter, to the position of officer if there is an opening. The Badge Committee oversees the progression of an individual. The training required by this society appears to be the most thorough and formal of all the societies. The *Manual* also stipulates that enforcement officers and agents must purchase their own uniforms and equipment, unless otherwise approved by the Board of Directors; must supply their own transportation without any reimbursement for mileage, and may be paid an annual sum of money by the Board.

The society's *Rules and Regulations*, "designed to maintain order and the professionalism of the Department," governs all aspects of conduct.

³² The NJ Civil Defense and Disaster Control Plan (Title 58, Appendix A:9-33.1, New Jersey Statutes Annotated) provides for the appointment of civil defense auxiliary police to augment the regular police departments in the event of emergencies, such as war and disaster. Auxiliary police may not be substituted by a municipality for regular or special police officers. The basic training course for auxiliary police is 36 hours of prescribed instruction, which includes only 20 hours of actual police training.

It delineates a strict chain of command for the Law Enforcement Department; outlines the duties and responsibilities of the chief, captain, lieutenants, sergeants, officers and agents; sets forth procedures for leaves of absence, discipline, suspensions and demotions, and states the requirements for the investigation of cases. It also describes in detail the winter and summer uniforms that must be worn by officers, as well as the optional accessories and optional fatigue uniform. The extent of the detail is reflected in the provisions prohibiting male officers from wearing full beards, unless approved by the chief for good cause, and requiring that the makeup of female officers be “in good taste and not excessive.”

Pursuant to the by-laws, the president appoints the chief, one captain, one lieutenant and any number of sergeants to the Law Enforcement Department. The appointments are permanent and may be terminated only by resignation or removal for cause, subject to a prescribed procedure. There are five officers, *viz.* four sergeants and one lieutenant, who also serves as acting chief; two or three agents, and between 70 and 80 members. The society carries a liability insurance policy for the officers who carry weapons. The president imposed the rule that no more than 10 officers may carry guns and that an officer may carry only after serving for two years. The Badge Committee functions as an internal affairs group and, in recent years, revoked the badges of two individuals who had violated the rules. The society owns an office condominium where meetings are held, assignments obtained and investigation reports completed. Recently, the society arranged for the dispatcher of a local police department to answer its telephone number and forward complaint information to the society. Pagers are assigned to all personnel. Each sergeant is placed on duty for four months each year and is paid \$30 a month as reimbursement for telephone costs. Summonses are issued only in clear cases of cruelty. Summonses for civil violations are written only to recover any

investigative expenses. Contrary to the *Manual's* requirement that officers purchase their uniforms, the society supplies each officer with a uniform, which includes dark blue trousers with a blue stripe and a light blue shirt with the society's patch on one shoulder and the American flag on the other one. The lieutenant wears a white shirt. The society also provides silver badges containing the society's name, the individual's rank and the State Seal. There are no society vehicles and no reimbursement for mileage.

In 1995, the society obtained a dog that was trained to detect the presence of drugs. The dog was acquired at the insistence of the president, who opined that the society would be able to share in the proceeds of successful drug seizures involving the dog. According to the president, the society has informal agreements with towns and civic organizations, including schools, for use of the dog. A fee is not charged. In 1999, the society began paying the president to maintain a second dog when he had his personal dog certified to track individuals. An SPCA's ownership of a “drug dog” and a “tracking dog” is highly questionable.

The “police” mentality that permeates the society is reflected further in minutes of Board meetings. The minutes indicate discussions about purchasing uniform jackets with the wording “SPCA POLICE”; ordering surveillance equipment; using a US Army helicopter to search for cockfights; seeking government “undercover money” for cockfight investigations; requesting from the Division of Motor Vehicles “confidential plates” for SPCA officers assigned to “stakeouts”; purchasing a “dog police badge” for the drug dog; establishing a “warrant execution squad,” and purchasing a night scope to assist with investigations.

Although the Board has held an annual meeting of the society in accordance with the by-laws, it has not always conducted a monthly meeting

of the Board of Directors. As dictated by the by-laws, the secretary has kept full minutes of all proceedings of the society and the Board. The typed minutes are organized and reflect the presentation of committee reports, a law enforcement report and a treasurer's report, which includes account balances and projected income and expenses. In accordance with the by-laws, membership, nominating, badge, and constitution and by-laws committees have been established. The chairman of the constitution and by-laws committee is considered to be the society's parliamentarian. The by-laws specifically prohibit the compensation of the society's officers for their services. The by-laws contain several unique provisions. They prohibit individuals from serving on the Board of Directors if they hold the rank of chief, captain or lieutenant in the Law Enforcement Department, are paid employees of the society, or have a contract with the society for goods or services. In addition, they provide for reduced dues in the categories of active and general members for family memberships and senior citizens.

MONMOUTH COUNTY SPCA, which has no record of the charter granted by the state society, was incorporated in November 1945. An amendment to the certificate of incorporation in October 1970 added as a purpose of the society "to maintain and operate one or more rest farms, kennels, pounds, shelters, or hospitals or any or all of them, for animals." This society presents a unique picture. It has operated a shelter since 1945, the Noah's Ark Thrift Shop since January 1998, a dog training program, which is available to the public, since January 1995, a spay and neuter clinic since December 1988, and a law enforcement unit since November 1998. The society also provides humane education programs to school-children. The society's various operations were centralized with the completion of its current facilities in Eatontown in December 1995. It has an 11-member Board of Trustees; an executive director, who has held the

position since January 1990; a chief of law enforcement, who is also the Board's president; 10,000 "supporters," who pay \$10 or more annually, and a staff of 25 full-time and 12 part-time employees, which include a veterinarian and veterinarian technicians for the spay and neuter clinic. The Board, whose membership was changed significantly at the June 1999 meeting, intends to revise the by-laws.

Sparse documentation and poor recollections indicate that the society had conducted a law enforcement component from perhaps as early as the 1970s until approximately 1980. The unit was disbanded primarily because of the financial cost and, to a lesser degree, because of problems arising from the conduct of some agents. Following the elimination of the enforcement component, the society's president entered into an agreement with the president of the state society for state agents to conduct

cruelty investigations in the county in exchange for an annual payment, which, according to the then society president, was offered by the county society. Others recalled that the payment was suggested by the state society's president as reimbursement for the added insurance cost for providing enforcement personnel. Initially, the county society paid the state society \$5,000 each year. Its Board of Trustees unilaterally reduced the payment to \$2,500 because of the state society's failure to respond to complaints. The county society paid \$2,500 each year from 1993 through 1997 and only \$225 in 1998. The society referred the 30 to 35 calls that it received each month to the New Jersey SPCA, which in turn referred the complaints to a society Board member, who was also a state agent. In emergency cases, the society notified its Board member directly and simply advised the state society. However, when the Board member found that he was receiving many of the complaints several days after they were made, he began obtaining them

directly from the county society. He was chastised by the state society for taking this initiative.

The Board of Trustees realized its goal of establishing its own law enforcement component in November 1998, when the Board member resigned as a state agent and became a county agent. In June 1999, Board members elected the agent as president of the Board and also chief of the Law Enforcement Division. Currently, the chief, who is a dentist with a practice in Brooklyn, New York, is assisted by two volunteers, who are being trained by him. In the future, the Board intends to accept additional volunteers as agents. The chief, who wears a uniform that he purchased, completes investigation reports as necessary and makes an oral presentation to the Board on the complaints. At his request, he is paid a monthly salary of \$100, which he then donates to the society, in order to enhance his credibility when he appears in court.

The society's by-laws are extensive and perhaps the most comprehensive of all the by-laws of the various societies. They require that members of the Board of Trustees be residents of the county. Contrary to the by-laws, the Board has not convened a regular meeting each month. Although minutes refer to a written treasurer's report, none were attached to the minutes or provided to the Commission. The by-laws establish as standing committees the Executive Committee, which consists of the president, vice-president and between two and four officers elected by the Board, and the Committee on Nominations. They mandate that a member of any committee who is also a Trustee shall cease to serve on the committee if he ceases to be a Trustee. Each committee must appoint a secretary to maintain minutes of the meetings and submit them to the Executive Committee. Additional and special committees may be established for specific purposes by the president, with the approval of the Board. These committees have no power to act except to recommend action to the Board.

This is the only society that addresses the establishment of auxiliary groups and their representation on the society's Board of Trustees. The by-laws permit any group of 10 or more persons, who organize for the sole purpose of supporting the society, to apply to the Board to become an accredited auxiliary of the society. If approved, the president of each accredited auxiliary serves on the Board. For approximately the last 25 years, the Monmouth County SPCA Auxiliary has supported the society. It is not incorporated, but operates under the society's by-laws. A second auxiliary operated the society's spay and neuter clinic in Neptune from December 1988 to July 1993, when it disbanded for lack of interest. A third auxiliary, whose sole accomplishment was a fundraiser in the early 1990s, dissolved as its elderly members left the area.

The by-laws contain several unique provisions. They permit one person to hold two or more offices on the Board, except that one person may not hold the offices of president and secretary at one time. Another provision requires that checks be signed in accordance with a resolution approved by the Board. At present, the resolution requires the signature of only the executive director. The by-laws also are unique in providing for the indemnification of its past and present officers and trustees in connection with any related litigation. In addition, they are the only ones to address contracts between the society and any of its officers or trustees or any entity in which an officer or trustee possesses a financial or influential interest. Such contracts or transactions are declared to be void unless certain conditions, including good faith disclosure and approval by a majority of the Board, are met. Pursuant to the by-laws, the Board may adopt "duality of interest policies."

The society is one of only a few SPCAs whose by-laws provide for the distribution of assets upon its dissolution. A plan of distribution must be

prepared by the Executive Committee and approved by a two-thirds vote of the Board of Trustees. The assets may be distributed only to organizations possessing an IRS Section 501(c)(3) designation.

MORRIS COUNTY SPCA received a charter from the state society in November 1892³³ and another one in January 1957, with no apparent reason for the issuance of a second charter. The Morris County Humane Society, which was incorporated in April 1949, amended its certificate of incorporation in December 1964 to change its name to the SPCA.

This society is another example of a closely held and family-controlled operation. The president has held the position since April 1995, after being a member for 13 years and an agent for 10 years; her husband, who became a member 11 years ago and an agent shortly thereafter, has been the treasurer and a lieutenant since April 1995, and their daughter has been involved as an agent, board member or dispatcher for eight years. The president seeks to have the seven-member Board of Directors balanced between members and agents and include some animal control officers. There are four officers, *viz.* a chief, lieutenant and two sergeants; six agents, and approximately 36 members, who pay annual dues of \$25. Only the chief and lieutenant carry weapons. The society recently began accepting associate members, who may become members after one year. Only criminal summonses are issued because the society now is able to recover investigative expenses without signing civil complaints. It is estimated that an officer or agent personally expends between \$200 and \$400 each year on ammunition, uniforms and their cleaning, film, and gasoline for their vehicles. Because of the added maintenance expense, the society sold its vehicle with red lights and siren in 1994 and its van

in 1995. The lieutenant's personal vehicle has red lights and siren.

The society has not complied with the dictates of its by-laws in conducting the requisite number and types of meetings. Specifically, annual meetings were held in 1993 through 1996, but not in 1997 and 1998, and concurrent regular meetings of both the society and the Board of Directors were not held quarterly in every year. The society's minutes of meetings indicate that it established membership, nominating and auditing committees, as required by the by-laws, but not a finance committee.

In a unique provision, the society's certificate of incorporation addresses its involvement in the political arena. A 1964 amendment to the certificate prohibited the society from devoting a "substantial part of [its] activities" in an attempt to influence legislation and from participating in any political campaign to further its objectives. However, under a November 1996 amendment, the society is allowed to expend a "substantial part of [its] activities" to influence legislation that impacts upon the welfare of animals.

OCEAN COUNTY SPCA was chartered in June 1946 and incorporated in April 1955. The certificate of incorporation was amended in November 1965 to provide for the construction, maintenance and operation of an animal shelter and again in August 1975 to provide for the disposition of assets upon dissolution. The society opened an official office in Brick Township in the summer of 1999.

The society's commitment to the welfare of animals is reflected in its constitution. In order to prevent the society "from ever becoming an instrument for the sale or traffic in animals," an animal that has come within the care, custody or control of the society may not be released or sold to

³³It appears that the Morris County SPCA was the first county to receive a charter from the state society.

an individual, company or institution whose purpose or intent is scientific experimentation, even if designed as educational. Further, any person who deals in supplies or engages in animal work in either a scientific or commercial capacity is barred from membership.

The society has published two newsletters, the first, entitled *Newsletter*, in May 1995 and the second, entitled *The Protector*, in May 1999. The first publication not only offers a unique glimpse into the history of this society, but also highlights the dependency of these organizations on the volunteer spirit of people. According to the article, which was assembled from people's recollections as opposed to records, the society first received a charter from the state society in 1901, when "meetings were held in the home of our first president and founder Mrs. Jasper Lynch." It was dissolved 23 years later "[d]ue to the lack of funds and interested person[s]." The society was resurrected in 1946, "due to the untiring efforts of Margeret Bonnell and a small group of people with animal welfare in mind." In 1966, the society opened an animal shelter, which was initially staffed by volunteers. However, when the volunteers ceased to be interested, the society was compelled to employ a staff. After operating for 29 years, the shelter was closed in 1995 because of the increased cost of salaries, utilities and supplies.

This society continues to be dependent on a few individuals who have served for considerable lengths of time. The current president, who became an agent in 1973, has held the position since 1996 and has been the lieutenant of enforcement officers for approximately 20 years. Her husband had been the law enforcement chief for 21 years. She stated that she would like to step down as president, but no one else is willing to serve. The current chief law enforcement officer has held the position since 1997. He had been a volunteer from 1978 to 1989, when he became a ranking officer. His wife has been the

secretary for the past six years. His two daughters and son-in-law are also members of the society. His son-in-law, a computer programmer, provides services to the society at no charge. The same person has served as treasurer for at least 10 years. The Commission was told that were it not for the chief, there would be no SPCA.

The society has a six-member Board of Directors and, according to its financial records, about 26 voting members who pay \$3 in annual dues. The May 1996 constitution sets forth three categories of membership, *viz.* active, associate and honorary. According to the society's constitution, all officers, agents and members of the Board of Directors must be residents of the county. Although the constitution requires monthly meetings, they have been held infrequently since 1996 because of the lack of a quorum, an insufficient agenda and the waning interest of some members due to age. If necessary, Board members communicate by telephone and convene special meetings. When meetings are held, the chief law enforcement officer presents a written report on the enforcement activity, including the number of complaints received and the amount of fines imposed, and an oral report on activities such as firearm qualifications and attendance at training schools. The society has conducted an annual meeting each year, as mandated by the constitution. However, contrary to the requirement of the constitution, the secretary has not kept full minutes of all proceedings of the society and Board of Directors. However, the minutes that were recorded were thorough and indicated the oral and written presentation of a treasurer's report, the Board's approval of bills for payment and the presentation of committee reports. When proceeds were received from bequests, the minutes noted the amount and the Board's decision on where to deposit the funds. Although the by-laws require establishment of membership, nominating and finance committees and specify the number of members for

each, only a nominating committee has been appointed.

The constitution addresses the compensation and business dealings of the members and officers of the Board of Directors. Although the Board is authorized to appoint members and officers to paid positions, officers and members of the Board may not receive compensation for their services or for holding a position on the Board. No Board member may be appointed to a paid position that was created during his or her term of office. Further, Board members are prohibited from transacting any business with the society. In addition, no member of the society may receive compensation from any animal humane organization. A unique provision of the constitution prohibits the society's members from writing or sending to publishers any articles on animals or their welfare that mention the author's affiliation with the society, unless the article has been first approved by the Board of Directors.

The Law Enforcement Division is headed by a chief and includes a captain, lieutenant and five officers. The chief abolished the position of agent because he believed that the title would be confused with agents of the FBI or IRS. Only the chief is permitted to carry a weapon. Under the constitution, a member of the Law Enforcement Division with the rank of lieutenant or above is allowed to sit on the Board as a non-voting member. Officers are supplied with a uniform, a badge, identification card and society patch for their jackets. Applicants for enforcement personnel must complete an application and undergo a background investigation that includes a criminal history check with the person's police department. The chief's policy is not to issue both civil and criminal summonses to the same offender. On occasion, criminal summonses are downgraded to civil violations. The society maintains a 1999 Jeep Cherokee, which was purchased using the trade-in value of the society's prior vehicle, a 1994 Ford

Taurus station wagon. Both vehicles were equipped with red lights, siren and a police radio on the same frequency with the Ocean County Sheriff's Department. Prior vehicles had been donated to the society by local police departments. The chief law enforcement officer is the society's only salaried, full-time position. In addition, he alone receives reimbursement for expenses. For the entire period under review, he was provided with a vehicle, a cellular phone, a microwave oven and a low-band police radio.

According to the constitution, the corporation may be dissolved at the request of two-thirds of the Board and with the subsequent approval of two-thirds of the membership. The assets are to be distributed to the New Jersey SPCA or any other organization with IRS Section 501(c)(3) exemption.

PASSAIC COUNTY SPCA was incorporated in January 1950. In March 1973, it received a new charter, following the surrender of the prior one at the request of the state society because of public controversy over the county society's activities. A third charter was issued in April 1985 to a different faction within the society. For the last 18 years, there has been one person holding the positions of president and chief law enforcement officer. There are a five-member Board of Directors; 28 members; 16 officers, 13 of whom carry weapons; eight agents, and two agent trainees. Of the officers, eight are regular or special police officers, two are retired police officers, and five are animal control officers. There is a rank structure consisting of a chief, two captains, two lieutenants, three sergeants and eight officers.

The society is a paramilitary-type organization that is governed by strict rules and regulations. Its by-laws specifically require that all law enforcement personnel comport with the regulations formulated by the chief. The *Policy &*

Procedure manual, adopted in August 1996, states “the basic duties and responsibilities of the organization” and is to be “used by all Officers, Agents and members.” It contains regulations on such topics as chain of command, the release of information to the press, organizational forms, arrest and handling of prisoners, use of belt, ankle or shoulder holsters, and uniforms. The officers and agents are issued a three-hole, loose-leaf binder containing the society’s standard operating procedures, which cover such topics as the authorized uniform and firearm use. The binder must be brought to the monthly meeting and carried during enforcement duty. The training officer, who is also a regular police officer, updates the book as necessary. He trains the non-police officers in firearm safety and the use of deadly force. Meetings are held on the second Tuesday of every month and the minutes are tape recorded and then typed. At least one-half of each meeting is devoted to training. Complaints are taken by an answering service, which then pages the officer responsible for assigning the matter for investigation. The assigning officer completes a forwarding report and retains one copy for himself, provides a second copy to the investigating officer or agent, and forwards a third copy to the dispatcher who inputs the data into the computer. A written report is prepared for every investigation. The society’s policy is to issue warnings for minor violations in an effort to educate the pet owners. A document explaining the animal cruelty laws also is provided. Summonses are issued for each violation, but never for both civil and criminal violations. Recently, because of concern over the potential liability of the society for the acts of agents, the chief law enforcement officer directed that an officer must accompany an agent on an investigation. In a unique provision in the by-laws, only the president or his designee is authorized to issue press releases or give interviews to the media.

Officers and agents wear uniforms consisting of dark blue trousers, white shirts for the officers and dark blue ones for the agents, and a shoulder patch. The society maintains two vehicles that are equipped with red lights and sirens, *viz.* a 1985 Ford LTD Crown Victoria and a donated 1993 Ford Aerostar van. The vehicles are assigned to two ranking officers and may be used by any officer for official business. The officer driving the vehicle must complete a logbook and pay for the gas. No personal use of the vehicles is permitted. Those who use their own vehicles for investigations are not reimbursed for mileage. Officers who carry weapons must purchase their own. Weapons are deemed necessary because of the high-crime areas in the county’s cities.

In accordance with the by-laws, there are annual meetings of the Board of Directors and monthly regular meetings, with minutes of all meetings maintained. The minutes indicate adherence to the required agenda items that include attendance information, fundraising efforts, checkbook balances, investigations, membership status and legislative matters. They also reflect the appointment and activity of committees. Unlike other societies where officers or agents typically hold such status until they withdraw, the minutes of this society reflect that the badge committee routinely initiated discussion on whether the badges of individuals who were not active or attending meetings should be confiscated. The society complies with the by-laws’ mandate to appoint badge, membership, firearms, finance and nominating committees.

SOMERSET COUNTY SPCA, which was chartered and incorporated in May 1989, is a very small society with a five-member Board of Directors; four members, who pay \$10 in annual dues, and one agent, who wears no uniform, but carries a badge with the State Seal. The society’s president also conducts investigations, but does so

under his authority as deputy chief of the New Jersey society. Until recently, another state society officer conducted investigations. One man has held the position of president since the society's inception. No record is made of the few complaints that are received each month. The priority is to educate animal owners and not to prosecute them. According to the president, the last summons was issued more than two years ago. When an investigation is conducted, the agent completes a report on the same form utilized by the New Jersey SPCA. The society has never obtained liability insurance, engaged in fundraising or received donations or bequests. It owns no property or assets. The society's telephone is maintained in the president's house.

Because of its small size and control by one person, the society is operated in an informal manner without adherence to many provisions of the by-laws. Although the by-laws set forth categories of membership with a concomitant dues structure, the only category of members has been active ones. Membership and finance committees were never formed. The Board of Directors has only five members, instead of the requisite seven. Despite the mandate that the Board meet every other month and that minutes be prepared of the meetings, the records indicate that only six meetings were held in 1993; one in each of 1994, 1995, 1996 and 1997, and none in 1998. Some of the minutes were contained not in the county society's files, but in the files of the New Jersey society. Annual meetings of the society, to be conducted in January, were held only in 1992, 1994 and 1995. There is no indication that the Board has conducted annual elections.

UNION COUNTY SPCA was chartered in June 1946 and incorporated in November 1946. The certificate of incorporation was amended in May 1964 to include a provision for the distribution of its assets upon dissolution. This society is a small, informal operation that has been under the direction

of the same man for the past 30 years. One individual has held the positions of chief enforcement officer since 1970 and president since 1980. Pursuant to the by-laws, the president also serves as chairman of the Board of Directors. The chief enforcement officer and a captain, both of whom carried weapons until recently, are the society's only two officers. There also is an agent, but he is not active because of the demands of his job. A seven-member Board of Directors meets once a month. There are three salaried employees, *viz.* the chief enforcement officer, dispatcher, and bookkeeper, who has an accountant review the financial records every six months and produce a

financial statement. Telephone complaints are received either at the office maintained by the society or at the president's home. The society's dispatcher records each complaint in a logbook. Although written reports of investigations are not prepared, the results are reported to the dispatcher, who records them in the logbook. When summonses are issued, the final disposition of the case is noted on the back of the officer's copy of the summons. The society's policy is not to issue both civil and criminal complaints to the same violator. A civil complaint is reserved generally for situations when the violation is too severe for a warning, but not serious enough for the issuance of a criminal complaint. The society owns an unmarked 1992 Ford Taurus, which is equipped with a portable red light and siren and is assigned to the chief enforcement officer.

The society is in violation of several provisions of its by-laws. Despite the identification of five categories of membership with a corresponding dues structure, the categories have not been utilized and no dues have been paid. Consequently, the Board's members have been holding office improperly because, pursuant to the by-laws, only dues-paying members may vote them into office. Although the society's by-laws require annual meetings, quarterly general meetings and

meetings of the Board of Directors prior to the annual or quarterly meetings, the minutes indicate that only annual meetings were held from 1993 through 1997. The same directors and officers were elected each year. The minutes make reference to a treasurer's report that recited only the balances in various accounts and no itemization of revenue and expenses. They did not reflect that the Board of Directors reviewed and approved any expenditures. However, according to the society's president, the Board approves all expenditures of \$100 or more, while the president has authority to approve those under \$100. The by-laws do not require that the secretary take and maintain minutes of the meetings, but state simply that the duties of secretary are to include those usually imposed upon such office. The society was unable to produce the minutes to numerous meetings.

WARREN COUNTY SPCA is the paradigm of a society that is out-of-control, that exists for the personal benefit of some of its participants and that has wielded its authority in highly inappropriate ways. It is the only society that has come under fierce criticism from governmental agencies, including law enforcement offices, and private citizens. Complaints centered on the intimidation tactics of certain officers and their arrogant display of weapons. Law enforcement officials were critical of the society's inadequate screening process for applicants and lack of training for members. Efforts by one of the society's presidents to reform the society and establish internal controls were thwarted and that he resigned in frustration.

The society was incorporated in December 1975. The certificate of incorporation was amended in February 1977 to provide for the distribution of assets upon dissolution to any similarly tax-exempt organization operated for the prevention of cruelty to animals. Although there is no record of when the original charter was granted, it was surrendered in

January 1983 because of the lack of volunteers following the resignation of some Board officers and investigators. In 1989 and 1990, a group of individuals sought a charter from the state society, but its requests were denied. Instead, in November 1990, the state society granted a one-year conditional charter to another group of individuals, who sought the charter when they learned that a substantial bequest was available to the Warren County SPCA. One of these individuals is reputed to have remarked, "The SPCA is a magnet for people leaving wills." The second beneficiary under the will, a local animal welfare organization, challenged the bequest to the SPCA because it was not a viable entity at the time. It was believed that if the county society had not been reconstituted, then the other beneficiary would have succeeded in its argument. Between 1991 and 1996, the county society received a total of \$93,871 under the will. During this period, at the direction of the Surrogate's Court, the society provided budgets and financial statements limited to its receipt and disposition of the funds from the bequest. However, no audit was ever performed regarding the bequest proceeds or the society's entire financial operation. Objections to the sufficiency of the data provided by the society did not persuade the court to order a certified audit. When the state society granted the charter, it required the newly formed county society to enter into an agreement granting the state society certain powers over it. Specifically, the state society was accorded full control over the county society's law enforcement activities and training, and the county organization not only had to provide the state society with monthly reports of its activities and copies of minutes of meetings, treasurer's reports, and summonses, but also had to remit to the state society any bequests left to it. In addition, the county society's officers were prohibited from carrying weapons or wearing uniforms. These conditions generally were ignored by the county society's officers. Nevertheless, in October 1991, the state society issued a permanent charter.

Almost from its inception, this society has been controlled and dominated by one person. Scott Churchill has occupied the position of treasurer for nearly the entire existence of the society under its present charter. He determines who is allowed to join, who holds the positions of president and chief, and how the society operates. Any involvement that he chooses to give other officers is merely perfunctory. Churchill also is in complete control of the society's finances. Individuals whom he placed in the position of president knew nothing of the society's finances. Indeed, the current president deferred to him when subpoenaed for SPCA records and queried about its operation. Churchill decides the slate of officers and whether they are installed by motion or meaningless election. It has not been uncommon for officers to learn after-the-fact that they were made society officials. Churchill has not permitted any audit of the society's books and records. He has thwarted all attempts to implement changes and establish regulations and procedures to govern the society's operation and make its members accountable. He has employed intimidation tactics in conducting investigations and engaged in the highly questionable practice of stopping horse trailers for the purpose of checking for Coggins test certificates. There is no evidence that the society ever established the committees mandated in the by-laws. However, at one point in time, there was an entertainment committee.

The society has no Board of Directors and an unknown number of members. There are 12 officers, six of whom carry guns, and no agents. According to a ranking officer, everyone is made an officer instead of an agent because "it looks more official." No dues have been collected for the past several years. Michael Russo, one of the three original members, held the position of president from the society's inception until January 1998, when he stepped down because of a demanding job and assumed the position of deputy chief, which was re-

established for him. Uniforms consist of navy blue pants with a gold stripe down the outside of each leg, a blue or white shirt, depending upon the individual's rank, with an SPCA patch on one shoulder and the American flag on the other one, and a cap. During the course of the Commission's investigation, the uniform allowance of \$200 to \$300 that was initially given to each officer was eliminated and officers now pay for their own uniforms. The Commission was told by society officers that the uniforms are strikingly similar to those of the New Jersey State Police and that many officers do not attach the society patch in order to be mistaken as police officers. Badges contain the State Seal, as do the patches on the uniform shirts. Because very few officers actually conduct any investigations, on-the-job training has been given only to some of the officers.

Complaints are received on the society's telephone that is maintained at the home of an officer, who then provides them to Churchill for assignment. Investigations are conducted either by him or one of the four active officers. A log of the complaints is kept only because the officer chooses to do so. Similarly, minutes of meetings are kept only because of that officer's initiative. Churchill set the policy that both civil and criminal complaints are to be filed in order to provide plea bargaining leverage at court hearings. Typically, defendants are told that the criminal charges will be dropped if a guilty plea is entered to the civil charges. The approach has been to generate fine money as opposed to educating the public. Churchill alone has retained possession of the official SPCA vehicle, an unmarked 1996 Ford Crown Victoria equipped with red lights and siren, since its purchase in May 1996.

This society also exemplifies one where the motivation in joining has nothing to do with an interest in detecting animal cruelty or in the welfare of animals:

- Churchill recruited as officers at least four individuals who, at some point, were employees of his bailbond and/or private detective business.
 - An attorney, whose neighbor was a Warren County SPCA officer, joined the society in the hope of generating business for his law firm. He never intended to conduct any investigations. He was introduced to Churchill, who had him complete an application and told him that he was “in” before the Board formally approved him. In the span of about five years, he attended only two meetings. He received no training and was never requested to conduct an investigation. However, after receiving firearms training at a sports center, he qualified with a weapon every year for the “camaraderie” and because he “enjoy[s] shooting.” He classified most of the officers as Churchill’s “group of followers.” As a courtesy to the attorney, Churchill allowed the attorney’s father and an employee of his law practice to become associate members, a designation that appears to have been utilized solely for them. Although they never were involved with the society, Churchill issued them special badges and identification cards. Accepting Churchill’s offer of pagers, the attorney received four pagers because they were less expensive through the society. He used one of the pagers, kept a second as a spare in his law office and gave the remaining to his father and office employee. Whenever he was told by Churchill the amount to pay for them, he issued a check to the SPCA from his law account. The attorney was unsuccessful in acquiring clients from the society’s members.
 - An accountant joined the society after being convinced of its potential for generating business for his accounting firm. He never conducted any investigations, but did obtain clients from the membership.
 - One of the officers, who was interested in becoming a police officer, joined the society in order to enhance his resume.
- The abuses by officers of this society are many. SPCA vehicles were driven for commuting purposes and for out-of-state trips for personal reasons and for purposes connected to the individual’s work or business. The society also paid for the gasoline purchases for these trips. The society’s cellular phones were used for personal calls. One officer purchased clothing and equipment items for use in his private business. Some of the receipts submitted for reimbursement were either inflated or not legitimate. During the past six years, the officers who have carried weapons have not been qualified properly because they engaged an individual who is not certified to qualify persons in the use of weapons. Both Churchill and Russo knew that the individual was not certified. When subpoenaed to testify before the Commission, both Churchill and Russo invoked the privilege against self-incrimination and refused to answer questions in this regard. In addition, the society has not exercised sound judgment in the appointment of officers. It retained as an officer an individual who had been forced to resign his position as a municipal police officer and relinquish his permit to carry a weapon as the result of criminal charges related to the falsification of his applications to become a policeman and for a gun permit.

RELATIONSHIPS WITH POLICE DEPARTMENTS, MUNICIPAL COURTS AND PROSECUTORS' OFFICES

Eight societies described their relationships with local police departments as excellent, seven as good and one as good and bad. The Bergen County and Ocean County societies provide local police departments with the pager numbers of their officers and Bergen County SPCA personnel also notify the local police whenever they enter a town to conduct an investigation. Many officers of the Passaic County society are members of municipal police departments.

Except for the Hudson County SPCA, which does not include a law enforcement component, three societies described their relationships with the Office of the County Prosecutor as excellent, nine as good and three as "okay." Two prosecutors' offices have assistant prosecutors assigned to respond to questions from the SPCAs in their counties and review applications for search warrants. Hunterdon County SPCA relies upon the prosecutor's office for questions concerning its law enforcement responsibilities.

In general, the societies have concluded that municipal courts are not knowledgeable about the animal cruelty laws and that some are unsympathetic to their cases. Many societies have engaged in an educational process with the courts with which they deal on a regular basis. Many have experienced difficulty in receiving the fines assessed in animal cruelty cases, but only a few societies follow up with the courts to ensure that the fines are collected. Some judges seek the recommendation of the SPCA officer or agent as to the amount of fine to impose in a particular case. Excluding the Hudson County SPCA, three societies have rated their relationships with the municipal courts as excellent, three as good, three as fair, three as "okay" and two as unsatisfactory. One society has found that some courts in the county are good, while others are not. The almost uniform complaint among county societies is that the fines meted out should be higher and that jail time should be imposed more frequently. One society complained that the cases are no longer handled by the court, but rather are referred for arbitration, a process that was found to be unacceptable. Almost all of the societies complained that a substantial portion of the fines imposed was not collected.

FINANCIAL PROFILE OF THE COUNTY SPCAs

The financial composition and viability of the SPCAs are as diverse as their structures and methods of operation. Their operating accounts range from under \$3,000 to over \$900,000. Ten have investment instruments. Those held by the Passaic County SPCA represent the smallest at \$7,700, while those of the Hudson County SPCA exceed \$1 million. Some have no physical assets, while others have substantial assets. Only a few own land. Some incur very limited expenses, while others have legitimate operating expenses in excess of \$250,000. Many are fiscally prudent, while some squander their money on purchases that are lavish for their mission. Many conduct extremely lax financial operations, while others operate under strict financial controls and oversight. About half of the societies pay salaries to their officials. Some financial operations are characterized by integrity, while others are ravaged by greed. The reckless disregard by some officials to the financial well-being of the organizations creates an atmosphere in which abuses are many and varied and the diversion of funds facilitated.

All of the societies are non-profit, tax-exempt organizations. Many are small operations that depend upon the magnanimity of volunteers. These are ordinary people who band together to improve the welfare of animals. As such, they operate not in a structured environment adhering to the dictates of their governing documents, but in a highly informal manner, oblivious to any corporate or legal requirements. Further, these societies have no fixed budgets. With the exception of the societies that operate shelters, the societies are unable to anticipate a steady stream of revenue each year. The receipt of income is sporadic and unpredictable. These organizations frequently operate at deficits. In fact, all but two societies have experienced deficits,

from as low as \$2,600 to as high as \$77,600 in one year.³⁴ During the six years under review, three societies incurred deficits each year, three had deficits in three of the years and six had deficits in most of the years. As a result, it has been necessary for the volunteers of some societies to give not only of their time, but also of their money. Societies have collapsed and individuals have resigned because of the financial hardship of trying to sustain the organizations.

Generally, the financial viability of the SPCAs depends upon the philanthropy of contributors or testators and, to a lesser degree, on the amount of fines received in animal cruelty cases. Many are able to survive only because of bequests and the income produced by investing the proceeds. For example, for the six-year period under review, the Ocean County SPCA received 65% of its income from bequests and 22% from investment income. The financial soundness of other societies has been bolstered by the sale of real property. For example, by taking a mortgage when it sold its shelter property, the Union County SPCA has received steady income each year and has been able to overcome major deficits in five of the six years under review. Similarly, investment of the proceeds from the state's condemnation of the Middlesex County SPCA's shelter property has provided the society with a financial cushion of more than \$400,000.

Because of their volunteer nature, the societies and those who conduct cruelty investigations expose themselves to tremendous liability should anyone be injured or sued in the

³⁴This analysis includes the New Jersey society, but not the Gloucester County society, which produced very few records.

course of conducting investigations. Typically, they incur substantial expense to obtain insurance coverage, thereby diverting money from areas that would more directly benefit animals. In fact, several societies have had to defend such suits. Some societies operate on such low budgets that they are unable to pay for any insurance coverage, while others expend a majority of their revenue to finance a liability policy. For example, the cost for liability insurance represented the primary expenditure for the Morris County and Passaic County societies each year. Moreover, most of the cost for liability coverage is due to the carrying of weapons.

Fourteen of the societies retained the services of accountants. However, because the accountants typically were not paid well and were asked to prepare only financial statements and/or tax returns, the Commission found the work of some to have been inadequate and that of a few to have been inaccurate. Some did not even reconcile the bank statements with the checks and deposits or request supporting documentation for deposits and expenditures. If they had, they may have discovered the diversion of monies in some cases.

A comparison of the societies, including the state society, reveals the following:

- The Monmouth County SPCA is the largest financial operation, while the Somerset County SPCA constitutes the smallest.
- The governing documents of only five societies (Atlantic, Middlesex, Monmouth, Morris and Passaic) address the personal financial relationship between the organization and its members.
- The societies in 11 counties maintain formal financial records. Of these, the records of seven societies are computerized (Atlantic, Cape May, Hudson, Hunterdon, Monmouth, Morris and New Jersey), while four maintain the records manually (Cumberland, Mercer, Ocean and Union). Six societies maintain no formal records and typically have only a checking account (Bergen, Burlington, Middlesex, Passaic, Somerset and Warren). Only the Gloucester society kept minimal records and was unable to produce most of those.
- The by-laws of nine societies mandate that the board of directors prepare and approve an annual budget for the upcoming fiscal year, but none have done so (Atlantic, Bergen, Burlington, Hunterdon, Mercer, Passaic, Somerset, Warren and New Jersey).
- Although the by-laws of only three societies require two signatures on checks (Mercer, Morris and Ocean), it is the practice of an additional five societies to require two signatures (Atlantic, Hudson, Hunterdon, Middlesex and Passaic). One society requires one signature for payroll checks and two for all other checks (Hunterdon).
- The by-laws of only three societies require the board of directors to approve the payment of bills (Cumberland, Middlesex and Ocean). However, the practice of two boards is to review and approve all expenditures (Atlantic and Morris) and the practice of one is to review most of them (New Jersey). Only the by-laws of one society dictate that all bills incurred by the society must be made out to the society (Passaic).
- The by-laws of nine societies mandate that a firm of certified public accountants audit the financial records (Atlantic, Burlington,

Hudson, Hunterdon, Mercer, New Jersey, Passaic, Somerset and Warren), but only two have complied with the directive (Hudson and New Jersey).

- The by-laws of 12 societies mandate the establishment of a finance committee (Atlantic, Bergen, Burlington, Cumberland, Mercer, Monmouth, Morris, Ocean, Passaic, Somerset, Warren and New Jersey), but five have not adhered to the requirement (Burlington, Morris, Passaic, Somerset and Warren).
- The governing documents of eight societies provide for the disposition of their assets upon dissolution of the corporation (Atlantic, Burlington, Hunterdon, Mercer, Monmouth, Morris, Ocean and Warren). Only the Hunterdon County society provides for the continuation of the operation under the new name of a county humane shelter.
- Nine societies pay salaries that are unrelated to a shelter operation (Atlantic, Burlington, Cape May, Cumberland, Hunterdon, Mercer, New Jersey, Ocean and Union).

ATLANTIC COUNTY SPCA is a medium-size financial operation that maintains formal, computerized books of account. There are adequate controls over the expenditure and receipt of monies, except for the accounting related to the clinic operation and some fundraising projects. The society retains invoices supporting expenditures and receipts for income. Although not required by the by-laws, the Board of Directors reviews and approves all expenditures. Members and employees submit expense reports for reimbursement of their business expenses. With few exceptions, both the president and treasurer sign all checks. The society's employees include an agent, veterinarians and veterinarian technicians, all of whom are paid at

hourly rates. Contrary to the by-laws, the Board has not prepared and approved an annual budget. The Board complied with the by-law provision to engage an independent accountant to perform an audit and submit certified financial statements only for years 1993, 1994 and 1995. Thereafter, his audit services were discontinued because of the expense. To generate financial records and statements in 1997 and 1998, the society retained a bookkeeper, who is the president's daughter. The society attempted to justify the conflict of interest on the ground that she charged substantially less than the accountant.

For each year from 1993 through 1998, the society had income of \$41,513, \$64,543, \$68,976, \$73,450, \$79,119 and \$59,967, respectively. Since its opening in 1994, the spay and neuter clinic usually generated most of the society's income – \$15,958 (25%) in 1994, \$32,825 (48%) in 1995, \$28,051 (38%) in 1996, \$26,034 (33%) in 1997 and \$17,778 (30%) in 1998. Fundraising activities, which have included raffles, golf tournaments, the sale of tee shirts and Santa Paws, accounted for \$16,561 (40%) in 1993, \$14,205 (22%) in 1994, \$11,957 (17%) in 1995, \$21,335 (29%) in 1996, \$21,720 (27%) in 1997 and \$15,276 (25%) in 1998. Monies collected from the placement of canisters in approximately 95 locations throughout the county added close to 12% in 1993 and between 5% and 7% in each of the other years. Private foundation grants contributed \$14,426 (35%) in 1993, \$12,000 (17%) in 1995, \$7,500 (10%) in 1996, \$8,100 (10%) in 1997 and \$7,500 (13%) in 1998. The majority of the grant monies was earmarked for the establishment and operation of the society's spay and neuter clinic, with the remainder targeted for educational programs to encourage spaying and neutering. Donations ranged between \$896 and \$6,386 (1% and 8%) each year. Fines collected in animal cruelty cases fluctuated between \$2,505 and \$9,122 (3% and 12%) annually. The society received only two bequests –

one in 1994 for \$22,480, which constituted 35% of the revenue that year, and the other in 1998 for \$360.

For the same six-year period, expenses totaled \$39,670 in 1993, \$54,258 in 1994, \$76,733 in 1995, \$79,697 in 1996, \$76,112 in 1997 and \$65,893 in 1998. Costs related to the operation of the society's spay and neuter clinic, which included payroll, rent, supplies and equipment, accounted for the majority of the annual expenditures – \$17,347 (44%) in 1993, \$35,231 (65%) in 1994, \$40,686 (63%) in 1995, \$43,863 (55%) in 1996, \$43,631 (57%) in 1997 and \$24,225 (37%) in 1998. There were wide fluctuations in the salary paid by the society for the one agent position that has been filled by different individuals. Payroll was \$10,514 (27%) in 1993, \$3,855 (7%) in 1994, \$5,500 (7%) in 1995, \$10,323 (13%) in 1996, \$10,906 (14%) in 1997 and \$18,494 (28%) in 1998. In 1997 and 1998, a second salary was paid to a bookkeeper, whose remuneration accounted for less than 2% of the total expenses each year. Fundraising costs were \$2,662 (7%) in 1993, \$3,675 (7%) in 1994, \$3,812 (5%) in 1995, \$7,117 (9%) in 1996, \$7,693 (10%) in 1997 and \$8,002 (12%) in 1998. Annual insurance costs for general and special liability, automobile coverage and workers' compensation ranged between 2% and 6%.

The society's by-laws contain several unique provisions that also were made the subject of an amendment to its certificate of incorporation in May 1991. They prohibit the distribution or use of any part of the net earnings for the personal benefit of anyone associated with the organization, except for the payment of reasonable compensation for services rendered. They also proscribe the use of a substantial part of the society's activities to influence legislation. Finally, the society is barred from engaging in any political activity.

According to its by-laws, in the event of dissolution, the society's assets are to be distributed for any exempt purpose enumerated under Section 501(c)(3) of the Internal Revenue Code or to the federal, state or local government for a public purpose. This provision was incorporated into an amendment to the society's certificate of incorporation in May 1991.

BERGEN COUNTY SPCA is a small financial operation that has been characterized by wanton spending practices and an absence of financial controls. The manual system of bookkeeping consisted merely of maintaining a check register. There was no separate recording of expenditures or the receipt of income by cash or check. Similarly, no records were kept of the petty cash fund. Invoices were rarely retained and, many times, no invoice was required before a check was issued at the request of an officer. The society's practice was to allow only the treasurer to sign the checks. There was no documentation of reimbursements that officers made or were supposed to make to the society or of reimbursements that the society made to officers. Consequently, it is impossible to determine whether all cash was deposited and all checks issued to officers ostensibly for reimbursement were valid. There was never any follow-up to collect reimbursements from officers. Neither the Board of Directors nor the finance committee exercised any oversight of the society's financial matters. The Board rarely reviewed or approved any expenditures. In addition, the society was able to produce only a paucity of the financial records for the seven-year period under review.³⁵ Although several individuals had possession of the records at various times, each claimed to have turned them over to others. A flood in the basement of one of the officers also was cited as a reason for the loss of

³⁵The year 1999 was added to the period of review because of allegations of questionable expenditures in that year.

records. A provision in the certificate of incorporation directs the distribution of assets, upon dissolution of the society, to IRS Section 501(c)(3) charities "concerned with the protection of dumb animals."

This is a society where the officers occupied themselves not with the financial integrity of the operation, but with accumulating law enforcement accouterments. The extravagance of the officers, combined with the absence of any financial controls, created an atmosphere that fostered profligate spending and duplicitous activity. The manipulation of the system is highlighted by the actions of Jason Peters, who, as deputy chief of law enforcement, diverted the society's finances and property for his personal aggrandizement.

The society's revenue has fluctuated widely from year to year, depending on the amount of donations, bequests, dues, fundraising income, fines from cruelty cases, and investment income. No one source has provided a steady flow of revenue. The society had income of \$11,973 in 1993, \$4,746 in 1994, \$20,084 in 1995, \$160,999 in 1996, \$37,373 in 1997, \$14,227 in 1998 and \$21,330 in 1999. Proceeds from bequests, which were received only in two of the years, constituted \$131,302 (82%) of the income in 1996 and \$22,186 (59%) in 1997. Donations ranged from lows of under 5% of the annual income in 1994 (\$235), 1997 (\$796), 1998 (\$600) and 1999 (\$50), to between 5% and 10% in 1993 (\$5,322), 1995 (\$1,560) and 1996 (\$9,810). Fluctuating between .13% and 65%, fines generated \$3,500 in 1993, \$2,035 in 1994, \$2,317 in 1995, \$210 in 1996, \$3,402 in 1997, \$4,219 in 1998 and \$13,833 in 1999. Membership dues, which ranged between 2% and 23%, yielded \$949 in 1993, \$1,103 in 1994, \$1,990 in 1995, \$3,105 in 1996, \$2,664 in 1997, \$1,625 in 1998 and \$2,900 in 1999. Income from the investment of bequests, which ranged between 3% and 55%, generated

\$2,202 in 1993, \$1,373 in 1994, \$587 in 1995, \$4,572 in 1996, \$8,325 in 1997, \$7,783 in 1998 and \$4,547 in 1999. The only fundraiser conducted by the society was an event in 1995 that produced \$13,630, or 68% of that year's income, but cost the society \$10,202 in professional fees. As of December 1999, the society had \$70,087 in investments. Only one year earlier, its investments were valued at \$111,028. The difference of \$40,941 was squandered on such items as clothing, police-type equipment, communications equipment, increased liability insurance, automobile expenses and computer equipment.

Expenses were \$15,725 in 1993, \$16,033 in 1994, \$29,148 in 1995, \$24,493 in 1996, \$43,719 in 1997, \$66,678 in 1998 and \$63,721 in 1999. The five largest categories of expenditures each year were uniforms, equipment, communications, insurance and firearms qualifications. The combined purchase of uniforms and equipment, which are detailed below, constituted \$2,153 in 1993, \$2,401 in 1994, \$2,855 in 1995, \$2,647 in 1996, \$6,542 in 1997, \$8,399 in 1998 and \$10,413 in 1999. Communications, which included the purchase of six pagers, 13 two-way portable radios, six mobile radios, four Nextel units and one cell phone and charges for a telephone, cellular phones and pagers, amounted to \$4,935 in 1993, \$5,742 in 1994, \$4,558 in 1995, \$7,689 in 1996, \$7,765 in 1997, \$5,912 in 1998 and \$13,643 in 1999. Insurance costs for liability coverage for "a detective-armed patrol/investigative agency" for every year and for automobile coverage for the latter four years were \$2,462 in 1993, \$2,213 in 1994, \$2,212 in 1995, \$3,814 in 1996, \$6,787 in 1997, \$7,454 in 1998 and \$14,093 in 1999. Expenses related to firearms qualifications, which included range fees, targets, magazines and ammunition, amounted to \$2,483 in 1993, \$1,735 in 1994, \$2,576 in 1995, \$2,847 in 1996, \$2,401 in 1997, \$6,501 in 1998 and \$4,294 in 1999. Additional expenses included the purchase of a new

1999 Ford Crown Victoria for \$20,700 in December 1998; motor vehicle expenses of \$18,431 for years 1996 through 1999, and, for the years 1993 through 1999, meeting expenses of \$6,133, accountant fees of \$3,841 and dispatcher fees of \$10,970.

Expenditures exceeded revenue in every year except 1996, when substantial proceeds of \$131,302 from bequests were received. Expenses outpaced income by 31% in 1993, 237% in 1994, 45% in 1995, 16% in 1997, 368% in 1998 and 198% in 1999. To compensate for the deficits during these years, the society transferred a total of \$223,600 from investment instruments to its operating account.

***ABUSES AND DIVERSION OF FUNDS BY
THE DEPUTY CHIEF OF LAW
ENFORCEMENT***

As deputy chief, Jason Peters devised a variety of schemes to victimize the SPCA. He directed the treasurer, his brother, to issue society checks to vendors to pay for items that he purchased not only for the SPCA, but also for his personal use and disposal. Peters' diversion of society funds and property was no doubt facilitated by the fact that the treasurer was his brother. According to the brother, he simply paid whatever bill or invoice that was submitted to him and, where there was no invoice, issued a check in the amount directed by Peters. The Commission has no evidence to indicate that the treasurer knew of Peters' abuses. However, he clearly abrogated his responsibilities by failing to require receipts before issuing checks, to question the magnitude of uniform and equipment purchases and to keep track of reimbursements. When Jason Peters appeared before the Commission, he asserted his privilege against self-incrimination when asked if he ever directed his brother to issue a check in an amount

that was different than the amount contained on an invoice. Both individuals, together with several other officers, resigned in early 2000 when dissension grew between two factions over the operation of the society. According to officials who remained with the SPCA, their discovery of all the clothing items and equipment ordered by Peters was a key factor in the removal of his brother as treasurer and the resignation of both brothers.

Peters perpetrated the following schemes:

- In September 1996, Peters directed his brother to issue a check to a computer consulting company for \$750. Peters submitted a phony invoice that he created on his computer and that purported to be the invoice of the company. The check paid for equipment that the society purchased for \$450, in addition to satisfying a \$300 debt that Peters' own computer consulting business had incurred with the company. When Peters was subpoenaed before the Commission, he invoked his privilege against self-incrimination in response to questions on whether he generated the bogus invoice, as well as questions concerning his personal use of SPCA computer equipment and any computer services that he provided to the SPCA.
- In September 1998, at Peters' direction, his brother issued a check to a sporting goods store in the amount of \$2,399. The check was dated September 23 and deposited by the store on September 25. The society's records contained no invoice for this amount. However, the figure was charged to training in the accountant's financial statements. According to the store's records, the \$2,399 check paid, in part, for 5,000 rounds of ammunition that was ordered on September 17 by Peters at an

invoice cost of \$1750. Although the store had no invoice regarding the remaining \$649, its records did establish that Peters ordered a Glock gun, model 26, 9mm on September 24 and picked it up on October 6. The store's owner recalled that the Glock would have sold for \$450 at that time and opined that the \$649 could have paid for the gun and related items. The store employee who handed the gun to Peters on October 6 stated that when he checked with the owner, he was told that Peters had already paid for the weapon. Peters denied that the SPCA paid for the weapon, but was not able to provide any evidence to the Commission that he had paid for it from his personal funds.

- Despite the society's policy that uniform items were not supplied to officers and agents and because of the absence of any financial controls or oversight, Peters was able to order through the society a total of \$13,574 in various clothing items that either were for his personal use or were questionable for SPCA duties. According to the chief at the time, he never authorized Peters to purchase the clothing items or the equipment, which totaled \$21,837, except for some equipment items for the vehicles. Moreover, the society did not supply such items as holsters and jackets, which Peters ordered. The items were purchased from the same mail order supply company during 1998 and 1999. All but one of the orders placed by Peters were delivered to his family's business, where he worked. In one instance, Peters placed a clothing order in the name of another SPCA officer, who told the Commission that he neither ordered nor received the items. In another instance, Peters ordered three different jackets in the name of his brother, who denied receiving

them. Other ranking officers stated that they neither received any of the merchandise nor knew that the orders were placed. The items purchased are detailed below.

- During 1997, 1998 and 1999, Peters directed the treasurer to issue checks to him that totaled \$1,298. Also at his direction, the treasurer issued a \$250 check in 1998 to Peters' father with the notation indicating high capacity magazines. All of the checks lacked supporting documentation.

EXTRAVAGANT PURCHASES

The extent of the society's spendthrift practices was in direct proportion to its receipt of substantial bequests of \$131,302 in 1996 and \$22,186 in 1997. As the society overspent its income by \$52,451 in 1998 and \$42,371 in 1999, its investments of \$162,318 at the end 1997 plummeted to \$111,028 by the end of 1998 and to \$70,087 by December 31, 1999. In an understatement, the treasurer testified: "We probably overdid what we needed." Officers and agents of this society enjoyed a variety of law enforcement accouterments that had more to do with their fascination with being "wannabe cops" than their responsibility for enforcing the cruelty laws. The SPCA paid for the vast majority of items for which individuals were supposed to, but did not always, reimburse the society. According to the treasurer, there was never any follow-up to collect the money. Officers told the Commission that any reimbursements made by them were in cash. However, the financial records indicate no cash deposits in 1999. Some of the items, such as badges, jackets and hats were given to individuals outside of the society who had done "favors" for the society. No list was maintained of who received these items.

From 1993 through 1999, the society spent \$35,411, or 14% of its expenditures, on equipment and clothing. The following purchases exemplify the society's extravagances:

- Purchases from a local store for tee shirts, golf shirts, sweatshirts, hooded sweatshirts, turtleneck shirts, kid's shirts, hats, wool jackets, khaki jackets, nylon jackets, polar fleece jackets, garment bags and travel bags totaled \$7,865 for 1997 through 1999. Many of the items were ordered without the SPCA logo.
- In 1998, the society spent \$2,255 on badges, patches, trophies and plaques and \$878 on "uniform" hats and "non-uniform" baseball caps with the society's badge embroidered on them.
- In 1999, there were additional purchases of hats for \$286 and badges for \$1,510. The society also spent \$411 on white shirts, buttons, insignias, money clips, ties, tie bars, handcuff holders, handcuff key, name plates, badge and badge holder.
- During a one-year period from November 1998 through November 1999, \$7,661 was paid to a popular law enforcement mail order supply company for police equipment and clothing items. The society spent \$6,647 on equipment that included laser mirrors, remote sirens and amplifier, siren speakers, a special "Street Thunder" multi-function speaker and siren, a multi-flash dashlight and mirror, multi-pattern flashers, a swivel radio holder, concealable belts and holsters, defender holster, nylon holster, lightning holster, duty holsters, Beretta airweight lockback knives, double magazine

pouch/holders, CombatLight and holster, a flashlight, a flashlight with charger, a flashlight with holder, leather flashlight holders, expandable baton holders, mace cases, pepper spray, Smith and Wesson blue steel cuffs, covered cuff case, handcuff case, slim line cuff case, trunk guard liner, laptop briefcase, strobe lights, clip-on badge holder tri-fold wallet with chain, Meprolight sights for a Glock, gold-plated and two tone badges, steel pistol and security cabinet, body armor/vest, carrier for body armor, badge holder, double magazine staggered case, clipboard, camera, spotlight, autolock 21-inch baton, expandable baton case, MagnaLite, and a Kiwi military spit shine kit. The clothing items cost \$1,014 and included polar fleece jackets, a polar fleece vest, reversible jackets, triplex jackets, a bomber jacket, a lightweight bomber jacket, Ballistic shirts and undershirts, crewneck Ballistic shirt and undershirt, tactical pants and shirt, several pairs of washable wool-blend trousers, elastic trousers, men's trousers, battledress uniform shirts and pants, tropical shirt, long-sleeve tropical shirts, dress belts, reinforced dress belt, leather trouser belts, a Velcro outer duty belt, Velcro trouser belt, concealable contour belts, duty belt, tactical belt, battle dress uniform belt, namestrips, full length raincoats, cool max neck tie, Pershing cap with scrambled eggs, modified Pershing cap with scrambled eggs, professional crew socks, several pairs of Rocky Professional crew socks and a pair of Rocky Professional leather Chukka.

- In 1999, the society paid \$390 for four sets of sights for Glock weapons.
- Between 1995 and 1999, computer expenses totaled \$8,075 for the purchase of three computers, the leasing of two

computers and various related equipment. A digital camera, which was purchased in 1999, cost \$919. Ranking officers and Board members, who were interviewed by the Commission, disagreed on whether one of the officers was permitted to keep a society computer, whether another officer had permission to possess a society computer and whether the Board approved the purchase of any computers. According to the minutes, the Board did not approve any of these transactions.

- In 1997, the society expended \$4,422 for the purchase and installation of light bars, sirens, headlight flashers, CB radios and scanners, special antennas and toggle switches on SPCA vehicles.
- In 1998 and 1999, the society purchased two bulletproof vests, even though a local law enforcement agency had donated many used vests.
- Between 1993 and 1999, the society paid \$14,471 for the purchase of communications equipment that included 13 portable radios, six pagers, four Nextel units, six mobile radios and one cellular phone.
- The more aggressive faction of the society was eager to form a “CAT” squad, *viz.* “the Cruelty Action Team.” Although the squad never materialized, the society purchased tactical/battle dress shirts and pants and patches for the shirts. The patches were supplied by one of the officers, who reduced the price from \$1,400 to \$1,100 when others complained about the high cost.
- Between 1993 and 1999, the society spent \$19,247 on the purchase of ammunition. Even though the society’s internal policy

authorizes officers to carry only 9mm and .38 caliber weapons, the society paid for ammunition for officers to qualify with 10mm, .40 caliber, .45 caliber and .357 caliber handguns.

- Each December, the society paid for a holiday party for members and their guests. The festivities, which included food and alcohol, cost \$1,196 in 1997, \$1,441 in 1998 and \$1,541 in 1999. Holiday parties in prior years cost \$496 in 1993 and \$510 each year from 1994 through 1996.
- The society paid a total of \$200 in dues for the law enforcement chief to join the National Rifle Association for four years.
- The society engaged a professional fundraising company to conduct a telephone campaign from January through July 1995. Although the project yielded \$13,630, the society received only \$3,428 because it paid \$10,202 in commissions. Moreover, the society made the individual who solicited the donors an honorary member so that he could represent that he was an SPCA member.

ABSENCE OF FINANCIAL CONTROLS AND IRREGULAR PRACTICES

The Board of Directors completely abrogated its responsibilities under the by-laws to exercise full control and supervision over the society’s property and assets. The Board never supervised the treasurer’s actions, but allowed him full discretion in deciding whether to deposit income to the checking or savings account and when to transfer funds from the savings to the checking account. Further, the Board contravened many of the by-laws’ specific financial provisions. For

example, the Board did not engage an “outside auditor not a member of the Society” to inspect the books and records. Therefore, no audit report was presented at any of the society’s annual meetings. The accountant hired by the society merely presented financial statements based on the incomplete records provided by the treasurer. The Board also failed to prepare an annual budget. Under the 1999 revisions to the by-laws, the finance committee, as opposed to the Board, is to prepare a detailed annual budget. There was no compliance with the provision prohibiting officers from exceeding the total amount of expenditures except with the Board’s consent. The Board never engaged in any review of the bills or expenditures. When two substantial bequests were received, the minutes reflected no discussion of where or how to invest the funds. Finally, the Board failed to comply with the provision mandating adoption of resolutions by the Board and membership for any purchase, sale of assets or change in investments in an amount greater than \$2,500.

The role of the treasurer was simply to issue checks regardless of whether or not it was supported by invoices or other documentation. The treasurer paid every bill that was submitted, including a florist charge and a bill for a gift sent by an officer to another officer’s ill wife. He testified that on the few occasions that he questioned a bill, he was directed to pay it. However, he did not retain all of the invoices. He also issued checks to vendors on the instruction of officers when no invoices were provided. Similarly, he issued reimbursement checks to officers on their mere say-so. Although society funds were to pay only for an individual’s badge, case and identification, the treasurer nevertheless issued SPCA checks for numerous and varied types of uniform items and equipment. The notion that officers were supposed to reimburse the society for these items was never enforced and reimbursement was rarely made. There was no record of who ordered what personal clothing item

or equipment, who was supposed to reimburse the society or who did reimburse. Whenever there was reimbursement, it was always in cash, the transaction was not recorded and no receipt was provided. The treasurer for five of the past 10 years estimated that 30% to 35% of the bills that he paid was not substantiated by invoice. He did not believe that he had any discretion as to whether or not to pay a particular bill – his job was simply to issue checks.

There was no recording of checks or cash received as income. Similarly, there was no accounting of the petty cash. The treasurer stated that he maintained a petty cash journal, but admitted that he failed to record all cash reimbursements that he received. The treasurer kept approximately \$100 in cash, which occasionally paid for food and drink following a meeting. According to the treasurer, he produced the journal at a Board meeting, together with other records, for surrender to the Commission pursuant to subpoena. The journal was never turned over to the Commission.

Although constituted, the finance committee made virtually no attempt to supervise the society’s expenditures. At the April 12, 1995, meeting, the committee requested that the treasurer prepare an itemized list of the expenditures each month and, at the April 10, 1996, meeting, it requested budgets from the law enforcement and training committees. When its requests were ignored, the finance committee failed to pursue the issues.

The following additional irregularities are noted:

- A ranking officer was allowed to keep a computer that the society had purchased when it was replaced by a newer version. He told the Commission that he reduced his dispatcher fees the following year as a result.

- Officers used personal credit cards to make purchases and were either reimbursed by the society, without having to provide any receipt, or had the society pay the credit card company, with no supporting records to substantiate that the expenditures were for the SPCA. The SPCA purchases made by one officer on his personal credit card earned him over 9,000 air miles.
- The society failed to issue W-2 or 1099 tax forms for the remuneration of officers for dispatching duties.
- There was no scrutiny of any bills to determine whether personal charges were contained. As a result, officers abused the use of SPCA telephones, vehicles and funds. There were numerous instances of the use of SPCA vehicles for personal reasons, including commuting to and from an officer's place of employment and personal trips by an officer to Pennsylvania. No mileage logs were maintained for the vehicles and gasoline charge receipts frequently lacked a signature and identification of the license plate. In addition, the SPCA telephone and cellular phones were used to place calls to locations outside the county and the state and from locations in other states to places in New Jersey. No one was held accountable for the use of the telephones and there was no attempt to exclude charges unrelated to the SPCA. Further, toll records were never given to the treasurer with the payment stubs.
- Upon the treasurer's return from a vacation in Florida where he incurred a motor vehicle parking ticket, he paid the ticket with an SPCA check because he had not yet received checks for his checking account.

He claimed, but could not document, that he later reimbursed the society with cash.

BURLINGTON COUNTY SPCA is a small financial operation that maintains a bare minimum of financial records and very poor documentation of its transactions. In April 1967, its certificate of incorporation was amended to provide for the distribution of its assets upon dissolution to similar organizations that also enjoy exempt status under Section 501(c)(3) of the Internal Revenue Code.

In response to the Commission's subpoenas, several individuals, including the treasurer, president and chief law enforcement officer, disclaimed knowledge and were unable to produce many of the financial records. The society's finances have been in the hands of the same treasurer since the early 1980s. In the absence of any oversight or controls, the treasurer not only engaged in improper practices, but also diverted society funds. She operated in a vacuum, independently of the Board's knowledge. She treated the society's finances as her own funds on occasion and, on others, clearly violated principles of conflict of interest. She also accommodated the request of one agent not to have payments to her categorized as salary in order to avoid paying taxes and the request of an officer to be paid for his duties without the Board's approval. She rarely recorded deposits and never maintained a running balance in the checkbook register. The minutes that were produced indicate that she was absent from nearly half of the Board's meetings. When she was present, the extent of her treasurer's report

was simply to state the checking account balance or the fact that she paid the bills. In all but one instance, the balance stated was inaccurate, by thousands of dollars most times. The utter disinterest of some Board members and the failure of

others to exercise financial oversight created a situation in which the treasurer was able to run rampant with the society's finances. From 1993 through 1998, the treasurer fraudulently diverted \$40,203 in SPCA funds for her gross salary, bonuses, personal telephone charges, automobile insurance and home heating oil. This amount represents 31% of the society's total expenses for the six-year period. Apart from the treasurer's exploitation of the society, there was a variety of other abuses and irregularities.

The treasurer, Laura Lorraine Smith, has had a long history with the society. She stated that she joined the society as a member in 1971 in order to help animals. She became a law enforcement agent in 1973, was elected to the Board in the early 1980s, was elected soon thereafter as treasurer, managed the society's shelter during the last year of its operation, and was the dispatcher from 1973 until May 1999. At some point, her devotion to animals turned into greed. She told the Commission that when she saw that the chief officer was paid for investigating complaints and received allowances for uniform and ammunition, that the agents were paid for court appearances and investigative time, and that the secretary was paid for picking up the mail, she felt that she, too, was entitled to be paid for her efforts. However, she never sought the Board's approval, but simply helped herself to the society's funds.

Smith's failure to keep the Board properly advised of the financial transactions and status of accounts, no doubt, facilitated her diversion of monies. Although she stated that she presented the Board with written reports that listed the beginning and ending checking account balances and the total receipts and disbursements, no written reports were provided to the Commission and Board members refuted her claim. Further, of the 42 meetings supported by minutes between January 1993 and June 1998, Smith attended only 22 meetings and

only 18 sets of minutes indicate an oral treasurer's report that included merely the checking account balance or the total amount of expenditures. Her claim that she paid only the routine bills upon receiving them and that the Board of Directors approved in advance only the "non-routine" ones was also refuted by Board members and minutes of meetings. In addition, while minutes reflect the Board's approval to purchase an answering machine for \$139.95 and a night scope for \$950, they are silent as to any approval for the purchase of a Jeep Cherokee or the \$2,500 payment for the veterinary treatment of an animal arranged by Smith.

There was a complete absence of controls over the treasurer's activities. The practice of the Board has been to allow only the treasurer to sign checks. No one examined the checkbook that was under the treasurer's control. The issuance of checks was handled solely by the treasurer. The Board did not seek to review or approve any expenditures or payments of bills. Contrary to the dictates of the constitution, the Board never established a finance committee, prepared a budget denoting income and expenses, or submitted the financial records to an independent accountant for an audit. Had the Board instituted any of these measures, the treasurer, presumably, would have been stymied in her diversion of monies or her actions would have been uncovered. The situation was exacerbated by the incompetence of the accountant, who was hired by the treasurer.

Although some meeting minutes reveal the Board's recognition of problems with the treasurer and its efforts to exercise control over her, those efforts never resulted in corrective action or oversight. For example, at the December 1993 meeting, the Board instructed the secretary to write a letter to the treasurer insisting that she attend the January meeting to report on the financial status and the auditor's report. At the next meeting, the treasurer stated that she did not have a formal report

prepared and merely gave the checking account balance. No auditor's report was ever prepared.

The society's total income for the years 1993 through 1998 was \$50,281. Annual income ranged between \$4,900 and \$7,000, except for 1996, when it reached \$21,200 because of two bequests totaling \$15,314, the only bequests received during the entire period. The primary sources of income were interest from certificates of deposit (\$17,124 or 34%), bequests (\$15,314 or 30%) and fines (\$11,307 or 22%). Although the by-laws provide for the payment of dues, none have been collected for more than 10 years, perhaps due to the fact that the entire membership consists of directors and law enforcement personnel, who are specifically exempt under the by-laws from paying dues. The society failed to realize \$3,093 in income as a result of maintaining large balances of up to \$66,977 in a non-interest-bearing checking account, instead of opening an interest-bearing business checking account.

The SPCA's total expenses for this time period were \$131,639. Expenditures greatly exceeded the income each year, *viz.* by 196% in 1993, 216% in 1994, 306% in 1995, 12% in 1996, 304% in 1997 and 370% in 1998. Annual expenses ranged between \$19,500 and \$23,800, except for 1993 when expenses soared to \$40,608 with the purchase of a Jeep Cherokee for \$19,839. In order to meet its burgeoning expenses, the society drew upon the income produced from certificates of deposit and, when necessary, redeemed certificates. By December 15, 1997, all of the certificates had been redeemed for a total of \$143,897. As of December 31, 1998, the society's checkbook balance was \$48,317.88. Clearly, unless the society receives a windfall or engages in serious financial planning that includes fundraising or increasing membership and charging dues, it soon will be out of money. Full responsibility rests solely with the

Board for its inattentiveness to the society's financial condition.

The largest expense category consisted of payments to the treasurer, the chief law enforcement officer, two agents and the secretary for payroll, bonuses, allowances and reimbursement. The society's constitution allows for the payment of salaries only to the assistants of the secretary and treasurer and to law enforcement officers and agents. For the six-year period, this category accounted for \$78,533, or 60% of the total expenditures. Of this amount, \$6,482 was unsupported by documentation – not because individuals did not submit any records to the treasurer, but because she failed to maintain the supporting records. Further, no income taxes were paid on \$21,908 because of the failure to include the amounts on W-2 income tax forms or issue 1099 forms for miscellaneous income and because the individuals did not report the income. Payments were made as follows:

- The treasurer was paid a total of \$19,930 in net wages, \$5,000 in bonuses and \$200 in undocumented reimbursement, for a total of \$25,130.
- The chief law enforcement officer was paid a total of \$30,133 – \$27,033 in net wages, \$1,500 in ammunition allowance and \$1,600 for a uniform allowance. Specifically, between October 1990 and June 1997, the chief was paid by the hour for an average salary of \$350 a month, or \$14.10 an hour. Thereafter, when he complained that submitting time records was too time-consuming, the Board of Directors voted to pay him a fixed monthly salary of \$510, which represented a 21% increase in his hourly rate. Other than sporadic time sheets maintained by the chief for about the first three years, there were no records to

indicate the amount of time spent by him on investigations. The chief also received an annual ammunition and uniform allowance of \$500 between 1993 and 1995 and \$400 between 1996 and 1998. Chief Charles Gerofsky, who is also president and chief of the state society, accepted the annual uniform allowance even though he admitted to the Commission that he has not worn the county uniform in 10 years and has worn the New Jersey SPCA uniform when he has appeared in court on county cases. The minutes of Board meetings reflect that the allowances were approved in all years except 1994, 1995 and 1998. In violation of IRS regulations, the society failed to include these amounts on the chief's W-2 forms each year. The ammunition allowance is questionable because the chief carried a weapon through the New Jersey society, which also paid him an ammunition allowance. Gerofsky justified the allowance to the Board by stating that he conducted investigations for the county society.

- One of the agents received a net salary of \$3,449 and reimbursement of \$4,997 for such items as film and postage. In 1993, she was paid a salary for the time spent on investigations and her appearances in court. However, when she complained to the treasurer that she did not want to be paid a salary because taxes were being withheld, the treasurer ceased withholding taxes after 1993 and

categorized the payments as reimbursement. In violation of IRS regulations, the agent was never issued a 1099 form for miscellaneous income and did not pay taxes.

- From 1995 through 1998, a second agent was paid \$1,289 for investigative time and expenses such as mileage, postage, film and dog food. Although the Board approved an increase in the hourly rate from \$7 to \$10, the treasurer continued to pay him at the lower rate. No 1099 form was issued to this agent.
- The secretary was paid \$840 for picking up the mail from the post office box and delivering it to the treasurer twice each month, \$60 for postage, \$32 for a post office box rental and \$248 for a society Christmas dinner. Although he stated that he provided receipts and mileage reports, the treasurer was able to produce supporting documentation for only six of the 12 payments. Consequently, the source of \$881 in payments cannot be ascertained. The treasurer also failed to pay him the increased hourly rate of \$10. The secretary never received a 1099 tax form. Payments to the secretary commenced when he complained to the treasurer about his traveling to pick up and deliver the mail. The minutes of Board meetings do not indicate any approval of the financial arrangement.
- In 1993, \$68 in net wages was paid to an individual, who also served as secretary to the state society, for an unspecified and undocumented reason. Approval of the payment was not contained in minutes of the Board meetings.

During 1999, similar payments to the treasurer, chief, secretary and one agent continued at a cost of \$10,526.

The society's next largest expense category was automobile and liability insurance, which totaled \$24,853 (19%), followed by telephone charges of \$5,125 (4%), automobile phone charges of \$5,048 (4%) and accountant fees of \$3,350 (3%). Since April 1993, the society has paid \$763 for a safe-deposit box that is in the name not of the society, but of Gerofsky and his wife. It is located at a bank in Trenton where Gerofsky has his home and business. The purpose of the box is questionable because most of the secured items belong to the New Jersey SPCA. Moreover, it contains 11 guns that are not used by anyone, and the only individual in the county society who is permitted to carry is Gerofsky, who carries a New Jersey SPCA weapon.

Over the years, the society maintained certificates of deposit. On two occasions in 1995, withdrawals of \$2,274 and \$328 were made from one of the certificates. On each occasion, there was no corresponding deposit into any of the society's accounts or corresponding purchase of another certificate. Unfortunately, the bank is unable to locate the records that would indicate the disposition of the monies. No one with the society is able to explain what happened to the money. The treasurer's reaction was simply, "This makes no sense to me." In other instances, because of poor financial planning, certificates were redeemed or depleted when the checking account balance was insufficient to meet operating expenses. In March and December 1997, two certificates were redeemed in order to transfer \$84,060 into the checking account. The premature redemption of the certificates caused the society to incur penalties of \$1,037. Currently, the society has no investments of any type.

OVERREACHING BY THE TREASURER FOR PERSONAL GAIN

Of the society's total expenses of \$131,639 from January 1993 through December 1998, the

treasurer diverted \$40,203, or 31%, to pay for a salary, bonuses, insurance premiums for her automobile, fuel oil charges for her home and personal telephone charges. Laura Lorraine Smith justified paying herself the monies because "they owed it to me" – "Everybody else got everything. I figured I'd get mine."

For the six-year period, \$21,615, or 32%, of the \$68,585 in payroll expenses was attributable to Smith's unauthorized salary and bonuses. She received \$19,930 in net wages and \$3,750 in additional bonuses. To compound matters, she failed to record \$4,291 of the \$19,930 on the payroll records that she maintained, thereby avoiding state and federal taxes on this amount. With respect to bonuses, the Board approved only \$450 in December 1993, \$400 in December 1996, and, in December 1997, \$400, which Smith increased to \$500. Because Smith did not include the additional bonus payments of \$3,750 on any W-2 or 1099 tax forms, she paid no federal or state taxes on the income. Although Smith had the president sign a check to her for \$800 for dispatching duties in May 1996, the Board did not approve the payment. Even though Smith ceased performing dispatcher duties in the spring of 1999 and thereafter only issued checks, she nevertheless continued paying herself surreptitiously. For 1999, she received a net salary of \$3,309 and two bonuses totaling \$920.

Smith had the society pay for her personal telephone bill even after the SPCA phone was installed in her home. She never made any attempt to preserve the integrity of the SPCA phone or to distinguish between personal calls, which included out-of-state calls, and

SPCA-related calls. Smith attempted to justify her actions by stating that prior to the society placing a telephone in her home, she had used her own telephone for society business for about 15 years without reimbursement and that for the last several

years, she utilized both the society phone and her phone for SPCA business. She stated that she is "sure" that the Board of Directors was aware that the society was paying both bills because she itemized the expenses in her reports to the Board. However, the few sets of minutes that made any reference to the payment of telephone bills did not reflect that the society was paying for two telephones. No treasurer's reports were attached to the minutes and the few minutes that referred to expenses did not provide any detail. Of the \$5,124 paid by the society for telephone charges, \$1,632, or 32%, was for Smith's personal telephone. In addition, Smith also abused the society's telephone credit card. Between June 1995 and December 1998, charges to the card totaled \$222. There were 41 out-of-state calls, including ones placed from locations in Florida to other parts of Florida and the treasurer's home in New Jersey, and from the treasurer's place of employment in New Jersey to locations in Arizona, Pennsylvania and Virginia.

In addition to the unauthorized payments for her salary, bonuses and personal telephone charges, Smith wrote a check from the SPCA checking account to pay her \$250 home fuel oil bill in July 1998. From 1993 through 1998, she also wrote 24 checks totaling \$8,556 to an insurance company for the annual premiums for coverage on her personal automobile. Continuing the practice in 1999, she issued four checks to her automobile insurance company for a total of \$1,274.

The treasurer's financial machinations have been protected by her selection of a friend as the society's accountant, her control over what financial records were furnished to him and his failure to adhere to basic accounting principles or to perform even a basic review. The accountant, whom Smith had hired in approximately 1990, is the husband of her close friend and has prepared income tax returns for members of her family. Smith, who controlled what financial records were given to the accountant,

gave him none of the invoices and not all of the cancelled checks, check stubs and bank statements. The check stubs were virtually useless because there was no balance on any but five of them and only three of the 65 deposits were noted. When the accountant was unable to ascertain the purpose of a check from the check itself, he asked Smith. Smith provided the source of the deposits only on the bank statements for 1995. The accountant never requested the source of deposits for the other years. As a result, when deposits represented proceeds from the redemption of certificates of deposit, he mistakenly categorized them as income. The accountant never was asked to audit the society's records and, apparently, produced only one annual financial statement that simply contained the total income for the year and categories of expenses. He utilized the handwritten payroll sheets prepared by Smith to prepare the quarterly tax reports, but failed to reconcile the quarterly tax returns to the cancelled checks. Had he done so, he would have discovered the additional salary payments that Smith made to herself. Further, if he had performed even the most basic review, namely, checking the time periods covered on the bank statements and reconciling the cancelled checks to the statements, he would have realized that he did not have all of the bank statements and cancelled checks. The spreadsheets, which he has been preparing on a quarterly basis since 1994, listed only the expenses with corresponding check numbers, dates and categories of expenses. They were based solely on the checks provided to him by Smith and, therefore, omitted many of the expenses. Not surprisingly, Smith did not provide the accountant with all of the unauthorized bonus checks made out to herself, the two checks that she wrote to pay for her personal automobile insurance premiums, and the check written to her fuel oil company. However, although the accountant charged the three bonus checks, which he did examine, to payroll, he failed to direct that taxes be withheld and did not include the amounts on Smith's W-2 forms. In addition, he

listed them as “miscellaneous,” not payroll, on the annual statements furnished to the Board. With respect to the one agent whose salary Smith agreed to categorize as reimbursement at the agent’s insistence, the accountant nevertheless categorized the transactions as payroll, but failed to issue a W-2 or 1099 tax form. The Commission also found numerous, and significant, mathematical errors in the accountant’s reports to the society.

Smith’s unilateral actions resulted in the payment of a substantial veterinary bill. On occasion, the society paid for the veterinary treatment of stray animals or ones whose owners were unable to afford the cost. In the eight instances where this occurred, three instances involved stray animals that cost the society between \$50 and \$85 each and four of the cases ranged in amounts from \$106 to \$265. However, the eighth case involved the expenditure of \$2,500 to pay a February 1997 veterinary bill for a dog’s surgery. Smith, who knew the owners of the dog, issued a check dated March 24, 1997, without the Board’s authorization. Her representation that she obtained the prior approval of the other Board members by telephone was refuted by those members and by the minutes of the March meeting, which contained no reference to the incident. In fact, there was no mention of the payment until the May 6, 1997, minutes, which indicate that Smith “reported...\$2500 [was] paid to Vet for dog treatment which owner will repay on time payments.” The society was never reimbursed any portion of the \$2,500. The treasurer’s orchestration of the payment of the bill contravenes her assertion that she always sought the Board’s prior approval for the payment of non-routine bills.

IRREGULAR FINANCIAL PRACTICES

The society engaged in a business transaction that favored a Board member, who is also a current Board member and former ranking

officer of the state society. Minutes of the September 1993 meeting of the Board of Directors state that the 1987 Dodge patrol car, which had 32,000 miles, was sold to this individual for \$6,500. Significantly, no minutes indicate the Board’s prior approval of the vehicle’s sale to him. The undated sale agreement, which also indicated a price of \$6,500, stipulated a down payment of \$1,000 and monthly minimum payments of \$100 to commence on October 1, 1993. However, the certificate of title transferring the vehicle from the society to the individual stated a sale price of only \$1,900. The Board member admitted to the Commission that a lesser amount was noted on the certificate in order to avoid a higher sales tax. As of April 1999, the Board member had paid only \$2,600 toward the vehicle. He paid the down payment eight months late and rarely paid the monthly minimum requirement. The Commission was told that he had to be pressed to make any payment.

The sale of the Dodge vehicle, which had only 32,000 miles, occurred when Chief Gerofsky wanted the society to purchase a sport-utility vehicle. Minutes of the Board’s meetings do not indicate approval of the purchase. However, according to several Board members, the purchase was made because Gerofsky wanted to have a Jeep.

The Board of Directors has violated several provisions of its constitution. Despite the mandate to prepare an annual budget detailing its estimate of the necessary expenditures and of the income, together with their sources, it failed to do so. In addition, although required to engage a firm of certified public accountants to perform an annual inspection of the society’s books and to have a report of the audit results presented by the secretary to the full Board at its February meeting, the Board requisitioned only a financial compilation by the accountant. However, in light of the treasurer’s failure to turn over all of the records to him, the compilations were inaccurate. Finally, pursuant to the constitution, where the Board

of Directors seeks to change an investment in excess of \$25,000 or to purchase or sell any property or asset in excess of \$25,000, it may do so only through the adoption of a resolution by a vote of three fourths of its members, followed by its adoption at a regular or special meeting by a vote of three-fourths of those present. In violation of this provision, the society transferred investment funds of \$34,647 in September 1995 and \$68,556 in December 1997 without the requisite vote or adoption of a resolution.

CAPE MAY COUNTY SPCA is a small financial operation that has been under the control of its president, Dennis Kelly, for at least the past 14 years. The position of treasurer was in name only and the Board of Directors served as a rubber stamp for whatever actions Kelly chose to bring before it. Kelly treated the society's funds as his own cash reserves, drawing upon them whenever he needed to supplement his personal income or the cash flow in his private animal control business.

The society's president has operated two businesses – the SPCA and Dekelco, a private, for profit animal control company that contracts with eight municipalities. Incorporated in November 1977, the company has listed Kelly as its sole shareholder since 1980. The two entities operated separate shelters until January 1, 1999, when Kelly leased both shelters to Animal Outreach of Cape May County, an animal welfare group, for \$1.00 a year. As SPCA president and agent, Kelly continues to investigate animal cruelty cases and, as president of Dekelco, continues to operate the animal control business. When necessary under either capacity, he houses any animals at the shelters pursuant to a fee schedule with Animal Outreach.

When asked to distinguish between his roles as SPCA president and private animal control officer, Kelly responded, "You can't draw a line between the ACO [animal control officer] and the

SPCA." He admitted that he often utilized the shelter facilities interchangeably. Indeed, although he maintained separate financial records and bank accounts, Kelly failed to maintain the integrity of the two shelter operations. When bills had to be paid, he drew the funds from whichever account contained money. When one shelter was out of supplies, he utilized the supplies of the other shelter. One telephone, which was attached to a recorder at the SPCA shelter, was used for both SPCA matters and the animal control business. When one shelter reached capacity and was unable to receive additional animals, he directed the overflow to the other shelter. At no time did he document any of the financial transactions in order to make an accurate accounting for each operation. According to Kelly, at the conclusion of each year, he attempted to determine "in my head" which entity paid more than its fair share in order to make an appropriate financial adjustment. As a result, it is impossible to know which shelter operation benefited and which was disadvantaged financially. Moreover, Kelly failed to maintain full financial records of the SPCA operation. Because of the inability of banks to furnish complete records, it was impossible for the Commission to reconstruct the society's financial history. During the six-year period under review, the society maintained five checking accounts, four savings accounts and 13 certificates of deposit in four separate banks. It also had eight loans.

From 1993 through 1998, the society had revenue of \$102,812 – \$22,484 in 1993, \$22,020 in 1994, \$14,500 in 1995, \$15,285 in 1996, \$15,575 in 1997 and \$12,984 in 1998. Of the total revenue for the six-year period, contributions, which were essentially fees for the adoption of animals, accounted for 59%, or \$61,147, and income from the investment of bequests constituted most of the remainder, or \$40,826. Nominal amounts totaling \$839, or less than 1%, were generated from fines collected in cruelty cases in 1993, 1995 and 1996.

During the same time frame, the society had expenditures of \$188,991 – \$34,557 in 1993, \$39,449 in 1994, \$40,127 in 1995, \$29,074 in 1996, \$25,116 in 1997 and \$20,668 in 1998. Of the total amount, 95%, or \$178,629, was for the shelter operation and 5%, or \$10,362, was for law enforcement, which included expenses for repairs and gasoline for the vehicle, charges for telephone and pager, liability insurance and postage. Kelly's salary, together with related payroll expenses, accounted for 48%, or \$86,233, of the shelter expenditures. Other shelter expenses included salaries for part-time kennel workers (\$1,925 or 1%), food (\$8,794 or 5%), utilities (\$11,564 or 6%), animal disposal fees (\$5,566 or 3%) and insurance (\$3,762 or 2%). Another expense was the SPCA truck, which amounted to \$8,290 or 5%. No 1099 tax forms were ever issued to the kennel workers, who were Kelly's relatives.

Operating at a deficit in each year, the society incurred losses of \$12,073 in 1993, \$17,429 in 1994, \$25,627 in 1995, \$13,789 in 1996, \$9,541 in 1997 and \$7,720 in 1998. Kelly covered the losses by redeeming certificates of deposit that were opened as a result of a \$412,790 bequest paid to the SPCA at various times between December 1973 and November 1977. As of December 31, 1998, the society had one certificate of deposit valued at \$18,096.

The Board of Directors never approved Kelly's salary. However, according to Kelly, the members would have given approval if asked. Kelly was paid an annual salary of between \$8,000 and \$20,000 for his SPCA shelter work, which he described as including paperwork, caring for the animals, adoptions, feeding the animals, cleaning the shelter, euthanasia and transporting the dead animals. After the shelter was leased to Animal Outreach, Kelly continued to draw an annual salary of \$12,000 from the SPCA.

In addition to deciding unilaterally to take a salary, Kelly also helped himself to the society's funds by taking a mortgage, loans and advances on his salary whenever he needed extra cash. Except for the mortgage, he never obtained the Board's approval or documented the transactions in any agreements. Illustrating the "rubber stamp" approach of the Board, Kelly stated that the Board would have approved the loans had he made the request. In February 1990, Kelly took a mortgage of \$57,000 from the society for the construction of his residence until he was able to satisfy it by obtaining a mortgage from a bank three months later. On January 4, 1995, he took a \$13,000 advance on his annual salary of \$20,000. The funds used to finance the advance were obtained from the premature redemption of a certificate of deposit, thereby incurring a penalty of \$670. Between July 11, 1995, and August 20, 1998, he took 10 loans totaling \$84,451, \$49,451 of which was used to pay off his credit card balances. He took loans of \$21,000 in 1995, \$10,000 in 1996, \$4,000 in 1997 and \$49,451 in 1998. Although he returned the money at the end of each year or the beginning of the following year to the society's account, he never paid any interest. In order to finance 83% of these loans, Kelly redeemed two of the society's certificates of deposit valued at \$157,037. The premature redemption of the certificates caused the society to incur penalties of \$2,729. Acknowledging his actions, Kelly stated that he "dipped" into the certificates for cash flow purposes when necessary. In addition to taking personal loans from the society, Kelly also effectuated loans from the society to his company, Dekelco, to meet expenses. Kelly neglected to obtain Board approval or to draft loan agreements for these transactions, as well. Between September 28, 1993, and December 11, 1997, Dekelco repaid to the SPCA a total of \$3,125 in loans that apparently had been made to Dekelco prior to 1993, the date from which the Commission began its review. Although Kelly borrowed from the society for either himself or his company in each year

from 1993 through 1998, he falsely stated on the annual federal income tax form 990, Organization Exempt from Income Tax, that the SPCA did not engage in lending money.

Kelly also was unscrupulous in his accounting of personal and business vehicles. In December 1991, Kelly purchased a 1992 Ford pickup truck in the name of Dekelco and in September 1993, purchased a 1993 Ford pickup truck in the name of the SPCA with SPCA funds. In March 1996, Kelly traded in both vehicles in order to lease a 1994 Ford pickup truck in the name of Dekelco. When that lease expired in March 1998, Kelly personally leased a 1997 Ford pickup truck. Kelly used whichever truck he possessed at the time for SPCA business, Dekelco business and personal reasons, but never maintained records of the usage in order to prorate the mileage and expenses. As with all other expenses, he estimated in his head how much the SPCA owed versus how much Dekelco owed.

CUMBERLAND COUNTY SPCA is a large financial operation that records transactions manually and maintains the documentation necessary to substantiate all transactions. In accordance with its by-laws, the society's fiscal year is the calendar year. Although the treasurer, executive director and supervisor of agents are authorized to sign checks, only one signature is necessary. This society is the only one with by-laws that mandate the retention of a safe-deposit box in a bank for the safekeeping of its securities. Access to the box is granted to the president, vice-president and treasurer.

The Board of Trustees appears to be well-apprised of the society's finances. Pursuant to the by-laws, the Board reviews all bills of \$50 or less and reviews and approves the payment of all bills over \$50 before the treasurer issues checks. At each monthly meeting, the treasurer presents the

Board with a report itemizing the month's receipts and disbursements, as well as the opening and closing balances of the checking account. The minutes reflect that, in accordance with the by-laws, the Board fixes all salaries and payments for services. In addition, the Board authorizes the execution of all contracts.

The by-laws stipulate only that the treasurer's accounts be audited annually, with no requirement that the audits be performed by certified public accountants. Nevertheless, a firm of certified public accountants produced certified financial audits for years 1993 through 1996. Thereafter, for 1997 and 1998, financial compilations replaced the certified audits because of their substantially lower cost and because the foundations that award grants do not require audited statements.

The society's annual income for years 1993 through 1998 was \$292,004, \$282,048, \$286,862, \$270,776, \$350,749 and \$311,716, respectively. The three primary sources of revenue each year were municipal contracts, donations and the shelter operation, which included the pet shop. Revenue generated by municipal contracts, which fluctuated between 16% and 32% annually, generated the most income each year – \$87,241 in 1993, \$88,954 in 1994, \$76,800 in 1995, \$87,302 in 1996, \$74,912 in 1997 and \$50,906 in 1998. The shelter operation, which ranged between 90% and 96% each year, produced \$279,121 in 1993, \$262,413 in 1994, \$268,044 in 1995, \$246,012 in 1996, \$318,029 in 1997 and \$279,104 in 1998. Although fluctuating widely from year to year, between 1% and 26%, substantial income was received in many of the years from bequests – \$76,667 in 1993, \$43,618 in 1994, \$40,014 in 1995, \$489 in 1996, \$6,868 in 1997 and \$47,014 in 1998, and from grants – \$15,000 in 1993, \$10,000 in 1994, \$7,000 in 1996, \$19,000 in 1997 and \$5,000 in 1998. The society's law enforcement activities generated increasing income each year – \$6,007 in 1993,

\$9,072 in 1994, \$11,995 in 1995, \$18,683 in 1996, \$27,387 in 1997 and \$27,424 in 1998. Annually, dues generated between \$6,995 and \$14,261 and fundraising activities, including canisters, between \$41,213 and \$132,060. Dividend and interest income yielded additional revenue each year. The proceeds from bequests and fundraising activities were deposited into an investment account, from which funds were transferred to the operating account as needed. As of December 31, 1998, the society had \$170,009 in investments.

The society's annual expenses were \$259,571 in 1993, \$268,966 in 1994, \$281,552 in 1995, \$316,800 in 1996, \$273,638 in 1997 and \$317,079 in 1998. To compensate for deficits in 1996 and 1998 and to assist with cash flow in 1994 and 1995, the executive director obtained the Board's approval by telephone to transfer funds from the savings account to the operating account. A total of \$119,000 was transferred. For the entire six-year period, the shelter operation represented the largest expense category at 94%, followed by the law enforcement component at 6%. The annual expenses for the shelter operation were \$221,710 in 1993, \$219,695 in 1994, \$233,646 in 1995, \$255,536 in 1996, \$230,010 in 1997 and \$276,158 in 1998. Expenditures for the law enforcement component were \$34,728 in 1993, \$41,936 in 1994, \$42,161 in 1995, \$57,031 in 1996, \$39,171 in 1997 and \$34,728 in 1998. Salaries accounted for 50% to 59% of the shelter operation and 9% to 13% of the law enforcement component. Insurance costs for health coverage, workers' compensation, automobile and liability, including coverage of the volunteers, constituted \$4,606 in 1993, \$4,266 in 1994, \$4,488 in 1995, \$4,793 in 1996, \$4,887 in 1997 and \$3,600 in 1998.

The society's fundraising efforts are assisted by an auxiliary group of 20 to 25 volunteers who are

overseen by the Board of Trustees. The group, whose primary function is fundraising, also performs other services, such as laundry and dish washing. Liability considerations preclude the volunteers from interacting with the animals.

GLOUCESTER COUNTY SPCA, which essentially has been a one-woman operation for the past 28 years, is a financial operation in shambles. Because no by-laws were provided to the Commission, it is impossible to know what provisions regarding financial matters have been ignored. There has been no review of the society's financial records by anyone, no approval of any expenditures and no auditing of the records. Agatha Abruzzo was able to produce very few checking account records, and what she was able to find were stained with animal excrement and bore a strong stench. She maintained no books of account or even a check register; nor did she retain any invoices or bills to explain the expenditures or any records to document the receipt of fines, bequests or donations. Abruzzo exercises sole discretion in how she utilizes the society's money. She is accountable to no one.

Because of the paucity of financial records provided by Abruzzo, the Commission sought to reconstruct the society's income and disbursements from its bank records. However, because of repeated mergers, the bank was not able to provide statements and accompanying checks and deposit tickets prior to November 19, 1993. Accordingly, based on the financial records from that date through December 1998, the society had total income of \$17,057 and total expenditures of \$16,227. These figures do not include the \$12,000 in income and \$11,500 of expenses related to a 1998 case involving the investigation and successful prosecution of an individual for raising 22 pit bulls for fighting. Apart from these unique items, the majority of the society's income appears to have been from fines collected in animal cruelty cases. Its largest expenditures were for telephone charges, animal

food, and donations to local law enforcement groups and children's funds. The remaining expenses included supplies and dues to the New Jersey society.

Although Abruzzo has not been motivated by self-aggrandizement in conducting the affairs of the SPCA, she nevertheless has taken great liberties in pursuing her concept of what is best for animals. In 1979, the society received a \$50,000 bequest. Under the terms of the will, the money was left to the SPCA "to help the poor unfortunate animals" on condition that Abruzzo was still the president. Abruzzo used the money to purchase property in her name in Swedesboro, where she opened the Agatha Abruzzo Not-for-Profit Animal Clinic, a corporation, in 1980. In the absence of records, she explained to the Commission why she used the money as she did. According to Abruzzo, the testator intended the money for her personal use for the animals, but left the money to the SPCA so that she could avoid paying taxes on it. It is noted that Abruzzo would not have been liable for any taxes had the bequest been made directly to her. Abruzzo further stated that the society's Board of Directors voted to release the money to her personally because of concern that the state SPCA would revoke the charter and seize the assets. Her purpose in opening the clinic was to continue the spay and neuter program that she had organized several years earlier. Under that program, participating veterinarians agreed to perform the surgery at a reduced price for indigent pet owners. With the money from the bequest, she established the clinic and leased it to veterinarians who agreed to offer a discounted fee to appropriate pet owners. Abruzzo was able to produce only two bank statements and a few cancelled checks for her corporation. Based upon bank records, the clinic has operated on an annual budget of approximately \$7,000. The year-end bank statement for 1998 indicated a balance of \$20,127. Abruzzo has rented the premises to two successive veterinarians, who

have operated the clinic under their individual names and have paid monthly rent of approximately \$700. One veterinarian rented the clinic from November 1986 through October 1991 and the second from November 1994 to the present. Both veterinarians treated animals brought by Abruzzo for the SPCA at reduced rates.

Abruzzo also told the Commission that she maintains a separate bank account, which she refused to identify, for the purpose of saving money to care for "my" animals when she dies. According to Abruzzo, the account, which currently has a balance of about \$15,000, is funded by individuals who donate money to her each month to assist in the feeding of her animals.

HUDSON COUNTY SPCA is a loosely run financial operation with no controls, no procedures and no policies. The abuses were many and the diversion of money rampant.

The society had receipts of \$124,572 in 1993, \$131,394 in 1994, \$140,866 in 1995, \$132,600 in 1996, \$648,923 in 1997, \$156,049 in 1998 and \$479,519 in 1999.³⁶ The spikes in revenue for 1997 and 1999 were due to a \$415,991 bequest in 1997 and the \$300,000 settlement that the society received in 1999 under a lawsuit stemming from a contractual dispute with Jersey City. Apart from these amounts, the primary sources of revenue were the contracts with municipalities, shelter fees and investment income. The municipal contracts produced between 12% and 43%, or \$53,172 in 1993, \$48,467 in 1994, \$44,475 in 1995, \$43,630 in 1996, \$21,855 in 1997, \$19,050 in 1998 and \$310,010 in 1999. Income from shelter fees for the adoption, surrender and re-claim of animals generated between 27% and 32%, or \$36,732 in 1993, \$38,184 in 1994,

³⁶The year 1999 was added to the period of review for this society.

\$39,733 in 1995, \$42,180 in 1996, \$48,663 in 1997, \$41,494 in 1998 and \$42,690 in 1999. Donations ranged between \$2,800 and \$6,600, or .45% and 4%, each year. Investment income, which increased substantially as major bequests were received, ranged between 10% and 37% and accounted for \$15,174 in 1993, \$12,761 in 1994, \$50,211 in 1995, \$42,900 in 1996, \$159,188 in 1997, \$57,139 in 1998 and \$77,902 in 1999. Annually, the society received proceeds from bequests, which produced between .71% and 64%, or \$11,884 in 1993, \$25,000 in 1994, \$1,000 in 1995, \$1,000 in 1996, \$416,241 in 1997, \$33,000 in 1998 and \$42,250 in 1999. Additional sources of income, which were nominal, included proceeds from a vending machine and the sale of an old truck.

The society's expenditures were \$167,845 in 1993, \$159,113 in 1994, \$147,983 in 1995, \$161,477 in 1996, \$203,344 in 1997, \$198,523 in 1998 and \$266,276 in 1999. The largest expense each year was payroll for the shelter workers – \$72,679 in 1993, \$90,850 in 1994, \$88,308 in 1995, \$90,372 in 1996, \$92,452 in 1997, \$93,034 in 1998 and \$88,382 in 1999. Bonuses and gifts for the workers and some Board members cost an additional \$2,563 in 1993, \$2,272 in 1994, \$2,236 in 1995, \$2,407 in 1996, \$3,572 in 1997, \$3,033 in 1998 and \$5,776 in 1999. Payments to a company for the pickup and disposal of the euthanized animals, which ranged between \$16,759 and \$26,735, was the second largest category from 1993 until 1998, when legal fees soared to \$31,898 in 1998 and \$87,378 in 1999, primarily because of the Commission's investigation and litigation with Jersey City. In 1998 and 1999, the society also incurred an expense of \$8,117 for an outside company to photocopy documents provided to the Commission pursuant to subpoena. In 1999, a fee of \$1,500 was paid to the society's accountant for engaging in a telephone conversation with a Commission investigator and for searching for and producing its file on the SPCA in response to a

Commission subpoena. The purchase of animal food cost \$5,526 in 1993, \$4,367 in 1994, \$4,780 in 1995, \$4,946 in 1996, \$4,444 in 1997, \$4,215 in 1998 and \$4,474 in 1999. Expenses for veterinary services and medications were \$2,112 in 1993, \$1,942 in 1994, \$1,922 in 1995, \$4,581 in 1996, \$6,086 in 1997, \$2,991 in 1998 and \$8,446 in 1999.

The society experienced a deficit in five of the seven years – \$43,273 in 1993, \$27,719 in 1994, \$7,117 in 1995, \$28,877 in 1996 and \$42,474 in 1998. It realized profits of \$445,579 in 1997 and \$213,243 in 1999. Throughout the seven-year period, the society maintained substantial sums in investment accounts. As of December 31 of each year, it had balances of \$543,206 in 1993, \$531,288 in 1994, \$548,253 in 1995, \$518,705 in 1996, \$995,164 in 1997, \$869,845 in 1998 and \$1,181,295 in 1999.

Clearly, the Board of Directors abrogated its responsibility to oversee the society's finances. Based on the minutes provided to the Commission, it never appointed a finance committee or prepared a budget. It did not even involve itself in capital improvement programs or decisions regarding the investment of over \$1 million. Although minutes of Board meetings provided to the Commission indicated that treasurer's reports were read and approved, none were attached to the minutes and the minutes did not contain any financial information. Although the society engaged a certified public accountant to provide a certified financial audit and financial statements each year, the reports and statements were rife with inaccuracies.

The Board established no procedure for the approval and payment of bills, even significant ones. Very few expenditures appear in the minutes. The society paid not only the ordinary and necessary operating expenses, but also the items wanted by Edward Pulver or the treasurer, who admitted that

she simply continued to call Board members until she obtained the approval of two members. These expenditures included bonuses to the employees and holiday gifts to Board members or individuals who had provided services to the SPCA. For example, at Pulver's direction, the treasurer arranged for fruit baskets to be delivered to the Board's women members at Christmas in 1998 for \$339. Except for approving the transfer of an account to a different institution, which was reflected in the minutes to the December 1993 Board meeting, the Board never discussed or directed the investment of funds or the opening or closing of operating accounts, which numbered 34 at seven different banking institutions during the seven-year period, or investment accounts, which numbered four.

The same individual has served as treasurer and bookkeeper since 1988. She maintains the check register and makes deposits of the funds that are given to her. Income and expenses are maintained on a computer program at her home. The treasurer's husband has been a salaried employee of the society since September 1993. According to the treasurer, after he began assisting her by entering data into the SPCA computer at their home, she telephoned members of the Board and received their approval to pay him a salary. Minutes of the October 1993 reflect Board approval of his hiring as a part-time bookkeeper, but no discussion of any salary. From 1993 through 1999, he was paid a total of \$33,085. The treasurer admitted that her husband, who has no accounting training, was unemployed at the time that he was placed on the SPCA's payroll.

Both the president and treasurer signed checks from the society's operating account. Although their signatures also appeared on the checks from the payroll and special checking accounts, only Pulver signed the checks and he utilized a stamp of the treasurer's signature. The special checking account was used to reimburse

Frank Pulver for deliveries of dog food and to pay for some purchases of antibiotics and several registration fees.

The society maintained its accounts at banks where the treasurer was the branch manager. The accounts followed the treasurer to new institutions. As the bank manager, she often authorized the cashing of payroll checks for the shelter employees in their absence and, on one occasion, approved the cashing of an SPCA check issued to a contractor, even though the person cashing it was not related to the company.

CONCEALMENT OF RECORDS

In the course of its investigation, the Commission subpoenaed from SPCA officials all records related to the disposition of animals, in addition to numerous other records related to the shelter operation. The SPCA's president, Edward Pulver, failed to comply with the demands of the subpoenas and, instead, secreted many of the records on the premises of the shelter. In fact, the Commission received information that he issued directives to destroy these records. As a result, the Commission obtained and executed a search warrant on the premises in late December of 1999. Commission staff discovered some records in the shelter building and many more in the warehouse building adjacent to the shelter facility. The records included completed "Disposition" forms dating back to 1989. Not one of these forms, some of which were found in a plastic garbage bag in the warehouse building, had been turned over to the Commission.

FRAUDULENT DIVERSION OF MONEY

Edward Pulver boasted to the Commission that he and his manager brother never received any

salary in their tireless work for the shelter. He was correct in stating that neither was paid a salary. However, they were compensated in other ways. The Commission found that both the SPCA president and shelter manager devised and participated in schemes to divert funds:

SKIMMING OF SHELTER FEES. For the period under review, *viz.* 1993 through 1999, Pulver and his brother, Frank, who was the manager, failed to report the full proceeds collected from the surrender of animals. None of the fees that were paid by the public pursuant to a Disposition form, that is, when a pet owner brought an animal to the shelter or had the SPCA pick up the animal at the house, were recorded in the SPCA's financial records or deposited in the SPCA's accounts.

The procedure at the shelter for the collection and recording of fees included three types of forms and consisted of the following. A form entitled "Adoption" was completed when an animal was adopted or re-claimed by its owner. Fees for these purposes typically ranged between \$35 and \$100 for a dog and were \$10 or \$15 for a cat. A form entitled "Surrender" was completed when an individual brought an animal to the shelter to surrender it for adoption. The usual fee was \$10 for a dog, puppy or cat and \$5 for a kitten. A form entitled "Disposition" was completed when a pet owner brought the animal to the shelter or arranged for the shelter to pick up the animal, usually to have it euthanized and disposed of. Fees in these instances were generally \$35 when the animal was brought to the shelter or \$55 when the SPCA picked up the animal. The Adoption and Surrender forms contained areas for insertion of the fee charged, while the Disposition forms did not. At the end of the day, Frank Pulver wrote the numbers assigned on the Adoption and Surrender forms, together with the corresponding amounts of money, under the categories of "adoptions" and "surrenders" on a sheet entitled "Daily Receipts." A third

category, entitled "donations," also was included on this document, but rarely reflected any amount. The sheet contained no category related to the Disposition forms and none of the money collected under the Disposition forms was recorded on the sheet. According to the evidence, as well as Edward Pulver's admission, each day, Frank Pulver turned over the Daily Receipts record, together with all of the money, to his brother. The cash was in one stack, but was separated between the money paid as surrender and adoption fees and the money paid under the Disposition forms and for leashes or dog food. Edward Pulver then matched the cash against the amounts listed on the Daily Receipts record. Pulver testified that when the cash exceeded the total amounts reported for adoptions and surrenders, he recorded the excess amount under the "donations" category. His additions and initials appear on every Daily Receipts sheet. Pulver delivered all of the money recorded on the sheets to the treasurer, who deposited the cash into the society's bank account. The treasurer, who confirmed that the day's income was reported on the Daily Receipts sheet, stated that the shelter's receipts, along with the Daily Receipts reports, were brought to her once a week by Pulver, that she prepared the bank deposit ticket from these records and that she then deposited the cash. This was the procedure for the entire period under review.

After obtaining the Disposition forms as a result of executing the search warrant, the Commission examined the 329 forms that were completed by shelter staff during 1999. The review was performed in conjunction with an analysis of the society's financial records, including those obtained directly from the banks. The Disposition forms were issued to members of the public when they brought animals to the shelter or when they arranged for the animals to be picked up by the SPCA at their homes. All of the animals, which were typically labeled "sleepers," were intended to be euthanized. The Commission conducted interviews of 222, or

67%, of the individuals who were listed on the 329 Disposition forms. The following scenarios emerged. One group of individuals contacted the SPCA to have their pets picked up; two men, one of whom met Frank Pulver's description, drove to their homes in an SPCA van (Edward Pulver testified that his brother always drove the van to pick up animals); the individuals paid \$55 in cash to one of the men and received a receipt, which was a copy of the Disposition form, and the animal was taken away. The other group of individuals brought the animals to the shelter, where they paid \$35 in cash to one of the staff and received the form. The total money collected under both scenarios amounted to \$9,231. None of this money was reported by the SPCA as income – it was not recorded on the SPCA's Daily Receipts records or deposited to any of the SPCA's bank accounts. Based upon the statistical sampling of the 329 forms, the Commission projects that as much as \$14,000 may have been skimmed from surrender fees in 1999. Further, the Commission found that from 1993 through 1998, the society reported income from the adoption and surrender of animals on the Daily Receipts records, but the income from fees collected under the Disposition forms was never recorded on any financial record or deposited to any account. If similar amounts of money were received in each of the six years, as the Commission found to have been diverted in 1999, then as much as \$98,000 or more may have been diverted fraudulently from the society's bank accounts from 1993 through 1999.

Edward Pulver admitted to the Commission that during the day, all of the cash was given to one employee (an individual who had been working at the shelter for a substantial period of time); “[a]t the end of the day, [this employee] gave the lump sum to Frank”; his brother “held the money,” and, “at the end of the day,” his brother prepared the Daily Receipts record from the Adoption and Surrender forms, specifically “match[ing] the monies” against these forms and recording the amounts under the

categories for “adoptions” and “surrenders.” Edward Pulver further testified that he usually picked up the Daily Receipts records, together with the cash, at the shelter. In addition, at the end of every month, he received all of the Disposition forms, which he reviewed. He explained that the handwritten Daily Receipts report contained three categories, *viz.* adoptions, surrenders and donations. The “surrenders” category referred to the animals surrendered for adoption, not euthanasia. The fee to surrender animals for this purpose was \$10 for a dog and \$5 for a cat. When Pulver was asked to explain why the fees collected under the Disposition forms were never reported on the Daily Receipts record, he provided an explanation that was strained, at best. He was unable to articulate clearly why there was proper reporting as to the fees collected for adoptions and surrenders for adoption, but not those collected for surrenders for euthanasia. He explained that when he totaled the day's receipts and checked the amounts against the Daily Receipts record, which bore his initials next to the adoption and surrender categories as confirmation of the amounts recorded, he recorded any monies that were in excess of the adoption and surrender fees under the “donations” category. He denied that he misappropriated any of the monies or that he gave any of these funds to his brother. When Frank Pulver appeared before the Commission, he asserted his privilege against self-incrimination in response to all questions regarding the receipt and disposition of monies collected under the Disposition forms.

The Commission was able to refute Edward Pulver's testimony that the “donations” category included the fees that were collected under the Disposition forms. For 1999, the monetary amounts listed under “donations,” and deposited to the SPCA's bank account, totaled only \$6,251. Of this amount, \$1,650 represented contributions under four checks, thereby leaving \$4,601. Significantly, the fees paid under 177, or 80%, of the 222

Disposition forms where individuals were interviewed were on dates when no donations were recorded on the Daily Receipts sheets. Fees under the remaining 45 Disposition forms were paid on dates when they were less than, equal to or exceeded the amounts listed under donations. The Commission's analysis established that the maximum amount under the 45 Disposition forms that could have been recorded as "donations" on these dates was \$1,376. Therefore, even if Pulver's flawed explanation is accepted, the diverted amount of \$9,231 would be reduced only by \$1,376. Moreover, according to the bookkeeper, donations were unrelated to the shelter fees.

Significantly, it was only after the execution of the search warrant that the SPCA began to report the income from the disposition of animals. For the first time, three new income categories – "pick-ups," "sleepers" and "DOA" – appeared in the society's records. In addition, substantially higher amounts of donations began to be reported as income. For the month of January 2000, \$1,511 in donations was reported, compared to a total of \$1,947 reported for the same month in years 1993 through 1999.

USE OF SPCA FUNDS TO ERECT A WAR MEMORIAL. In May 1993, Edward Pulver hired a contractor to erect a memorial dedicated to the Philippine-American veterans at Manila Way in Jersey City. The project was spearheaded by Edward Pulver, whose name is listed first on the plaque that reads:

The Philippine Plaza Foundation Inc.
Extends Its Gratitude To:
Labor Leader Edward Pulver, Hudson
County Central Labor Council.

Based upon the Commission's analysis of financial records and review of documents and the interview and testimony of witnesses, the SPCA paid \$6,900 for the project.

The contractor testified that he was hired by Pulver to prepare the site, install a wrought iron fence, erect a plaque and plant shrubbery. Although he was asked by Pulver to volunteer his services, he refused. The contractor, who incurred costs of \$1,900 for his company's labor and miscellaneous items, paid \$5,000 for supplies and subcontractors. The contractor was emphatic that he was paid with an SPCA check for the project. When Pulver appeared before the Commission, he denied that he paid the contractor with SPCA funds. When questioned about the hiring of the contractor, he testified, "If anybody did the work, it had to be me [who did the hiring].... I don't recall hiring.... I asked for volunteer workers for that memorial, to the best of my knowledge, okay...." When asked if he paid the contractor, he responded, "To my knowledge, no. To my knowledge, no. I don't remember.... I don't recall the whole incident, no.... All I know, I asked for volunteer. It was put up, the monument. It was donated by me. And that's the best of my recollection to do.... And I don't remember any transactions of finances to it.... I don't remember that.... Whether [the contractor] volunteered or was paid, I don't recall that."

SALE OF SPCA DOG FOOD. On a routine basis for at least the past five years, the shelter's manager, Frank Pulver, has been siphoning off 40-pound bags of dog food, selling them to an individual who had guard dogs policing his junkyard and pocketing the money. The shelter routinely received deliveries of 15 to 20 bags of dog food every two weeks. Based upon surveillances and interviews, the Commission established that, at the direction of Pulver, when a delivery was made to the shelter, six bags were loaded into the SPCA van and transported either by Pulver or a shelter employee to the junkyard, where the bags were unloaded and the owner paid \$66 in cash for the delivery. Edward Pulver testified that he "was aware" that his brother was selling bags of dog food to the junkyard owner,

but did not “know” how he learned of it or why his brother was selling the dog food. He “assum[ed]” that the money was included in the receipts that he received at the end of each day. Pulver’s claim that the money paid by the junkyard owner was reported as donations was refuted by an analysis of the records. When Frank Pulver was subpoenaed before the Commission, he invoked his privilege against self-incrimination in response to all questions concerning the dog food, including whether he sold bags of dog food for personal profit.

FINANCIAL IRREGULARITIES

A variety of suspect, improper and questionable practices occurred:

MISSING FUNDS. Revenue totaling \$1,560 was recorded in the society’s receipts register in May 1995, but was not deposited to any of the society’s bank accounts.

COMMINGLING OF MONIES. The society’s income and expense records were maintained by the treasurer, Harriet Hughes, on the SPCA computer at her home. The computer disks surrendered to the Commission contained not only SPCA data, but also the treasurer’s personal banking information from 1997 through 1999. An examination of this information revealed that between November 20, 1998, through March 19, 1999, there were nine instances where the cash daily proceeds of the SPCA were deposited into the treasurer’s personal bank account. The cash deposits, which ranged between \$250 and \$1,470, totaled \$7,474. The treasurer always reimbursed the SPCA for the amounts, but waited several days to a week following the deposits to her account.

QUESTIONABLE EMPLOYEE. Jersey City’s supervising animal control officer, Joseph T. Frank, was employed by the SPCA as a shelter worker

from June 28 through December 6, 1995, when his superior told him that the employment posed a conflict of interest. Frank testified that he sought the employment because he was under the impression that it was necessary in order for him to become an agent with the state SPCA. When Edward Pulver appeared before the Commission, he stated that when Frank approached him for “[e]xtra work at the shelter after hours,” he hired him because he “needed somebody to work.” In an apparent attempt by Pulver to conceal Frank’s involvement with a facility over which he had inspection authority, Frank was paid his wages of \$2,224 under the name of Frank J. Thomonas. Frank denied knowledge that he was paid under this name and appeared genuinely surprised when presented by the Commission with the checks, the great majority of which had been endorsed and negotiated by someone else at the shelter. Even though Pulver signed the payroll checks, he claimed that he did not know that Frank was paid under a different name and could not explain why he never signed any checks payable in Frank’s name. Pulver also loaned money to Frank, who testified that Pulver offered to loan him \$3,000 when he complained of financial difficulties and needing that amount. Frank offered to pay interest on the loan, but Pulver refused it. Pulver told the Commission that it was Frank who requested the loan. Following a few initial payments in cash, Frank repaid a total of \$2,270 by issuing checks, usually in the amount of \$125 each, between October 10, 1994, and December 3, 1996. The first check was issued on October 10, 1994, and the second check was not issued until the time that Frank began working at the shelter. According to Frank’s testimony, Pulver also invited Frank to join him on his boat, but Frank refused. Pulver denied that the employment and loan were attempts to influence Frank’s inspections of the shelter or that the employment was to assist Frank in making the loan payments.

INADEQUATE DOCUMENTATION AND REPORTING FOR TAX PURPOSES.

At times, the society was generous with its employees and members, but without proper approval of the Board of Directors, supporting documentation or consideration of the tax consequences:

- Most of the \$2,587 in medical expenses paid by the SPCA on behalf of one of the workers was categorized as a medical expense for the shelter, rather than as an employee benefit. The society failed to include the amount on the employee's W-2 tax form or issue tax form 1099 for miscellaneous income.
- The minutes of Board meetings reflect approval of employee bonuses or gifts only in December 1993. From 1994 through 1999, \$19,297 was spent on gifts that included bonuses for shelter workers and others at Thanksgiving and Christmas, and flowers and fruit baskets for Board members. Of this amount, \$5,957 was paid to Frank Pulver by checks. From 1997 through 1999, \$1,200 was paid to a woman who was an accountant and Edward Pulver's friend. According to Pulver, she assisted him typing some shelter statistics that had to be reported. Bonuses and gifts were not included on employee W-2 tax forms and no 1099 tax forms for miscellaneous income were filed to reflect any of the amounts.
- From 1993 through 1999, Frank Pulver was reimbursed \$15,943 by checks for out-of-pocket expenditures such as supplies, repairs, fuel and oil. In many instances, it was impossible to ascertain whether there was proper supporting documentation for the expenses. Further, none of the gasoline

receipts submitted by Pulver identified the vehicle.

CONTRIBUTIONS TO UNRELATED CAUSES.

Board members were more interested in making contributions to their favorite causes than in expending money to improve the shelter conditions:

- For the six-year period from 1993 through 1999, the society contributed \$1,570 to the Hudson County Chamber of Commerce.
- At Edward Pulver's direction, the society paid \$6,575 from 1993 through 1999 for tickets to the annual dinner sponsored by a foundation run by Pulver in honor of a friend who had died of cancer. Pulver has been president of this foundation since 1988.
- In 1996, the society paid \$600 for tickets to a dinner and a journal advertisement in honor of Edward Pulver.
- In 1994, a society check for \$375 was issued for a testimonial dinner for one of the Board members.
- In 1994, a \$625 check was issued to a local foundation that was honoring another Board member with a dinner.

According to the minutes, the only expenditure approved by the Board was the \$625 payment in 1994 for the purchase of five tickets for a member's testimonial dinner. In addition to the foregoing expenditures, Edward Pulver had the society pay his personal \$10 annual dues to the New Jersey SPCA in 1996, 1997 and 1999, when he was a state Board member.

DEFICIENT INVESTMENT POLICIES. The society's inattentiveness to its investment portfolio is evident in the following:

- According to the treasurer, there was no Board policy placing limits on the amount of funds that could be maintained in non-interest bearing accounts. Consequently, the society failed to transfer substantial funds to interest bearing accounts and, thereby, was deprived of investment income. For example, a non-interest bearing operating account contained balances in excess of \$87,000 in 1998 and between \$27,000 and \$52,000 in 1999. More than \$79,000 was placed in another non-interest bearing operating account for approximately one month in 1999 before being transferred to a money market account. As of December 31, 1998, the society had \$106,552 in non-interest bearing checking accounts.
- Several bank accounts contained sums that exceeded the \$100,000 insured limit placed by the Federal Deposit Insurance Corporation. Balances as high as \$405,991 and \$414,883 were kept in two separate accounts in 1998 through 1999.
- For six months in 1999, the society failed to maintain investment account records for investments exceeding \$800,000.

IMPROPER ACCOUNTING. Both the society's accountant and bookkeeper made errors in the society's financial records:

- Between 1993 and 1999, the accountant repeatedly failed to disclose income and expense items in the financial statements that he put together for the SPCA. Further, he properly characterized two shelter repair expenses as capital expenditures, but failed

to remove them as repair expenses. Consequently, the expenses were deducted twice. In addition, the financial statements that he put together for the society incorrectly characterized the society's investments as temporary cash investments, consisting solely of short-term certificates of deposit and US government obligations when, in fact, substantial amounts were invested in stock equity funds and corporate bonds. The statements did not include any breakdown of the investments. As a result, the volatility of these investments was concealed.

- The Commission's examination of the bookkeeping entries made by the treasurer's husband revealed repeated errors in the recording of receipts and disbursements. He either failed to record or improperly recorded income items and expenditures.
- The society received a \$1,575 check, dated December 6, 1995, for services rendered to a municipality. Because the society used a deposit slip encoded with the incorrect bank account number, the bank did not credit the deposited check to its bank account. The society never realized that the funds were not credited to its account. Had the society reconciled its receipts and disbursements with the monthly bank statements, it would have discovered the discrepancy, which, to this date, has not been rectified.

HUNTERDON COUNTY SPCA is a well-managed, large financial operation that functions on a fiscal year of May 1 through April 30. It maintains a full complement of accounting records under both computerized and manual systems. Adequate checks and balances are in place. Although the signatures of both the executive director and treasurer are required on checks, the

executive director's husband has been the treasurer since August 1996. There are three distinct components of the society's operation, *viz.* the shelter, animal control services provided to municipalities and the thrift shop. The financial soundness of this society rests with the Board of Directors, which closely monitors the cash flow. The Board has evidenced a balanced approach to capital improvements, general operations and investments, with a recognition of the importance of promoting the society's reputation in the community. The emphasis placed by the society on good will and fundraising efforts is reflected in the significant bequests, donations and membership dues that it receives. As of April 30, 1999, the society had assets of \$747,235 in cash and investments, in addition to the 19.33 acres of land occupied by the society since 1969 and the 12.5 acres of land purchased for \$1.00 in the late 1960s.

Until recently, the Board failed to comply with the requirement of the by-laws that a certified public accounting firm perform an annual audit of the financial records and, instead, engaged a firm to provide only a compilation each year. The accounting report was presented to and approved by the Board each year. The Board fails to comply with the by-law provision requiring a proposed annual budget. According to the president, it is impossible for the society to estimate its income. Although not required by the by-laws, the Board approves all capital expenditures and those expenditures that are not ordinary and regular. In addition, the minutes indicate that at each meeting, the Board approves the treasurer's written report, which itemizes the categories of income and expenditures.

The society received revenue of \$171,337 in 1993, \$329,633 in 1994, \$233,702 in 1995, \$264,768 in 1996, \$593,229 in 1997 and \$467,072 in 1998. The shelter operation accounted for the greatest percentage of the society's income

each fiscal year, ranging between 58% and 88%, followed by the animal control services contracts, which produced between 9% and 30%, and then the thrift shop, which yielded between 3% and 12%. Specifically, the shelter operation produced \$99,229 in 1993, \$250,746 in 1994, \$161,819 in 1995, \$200,728 in 1996, \$521,647 in 1997 and \$401,957 in 1998. The contracts with municipalities generated \$50,757 in 1993, \$57,390 in 1994, \$51,779 in 1995, \$43,499 in 1996, \$52,614 in 1997 and \$47,703 in 1998. Revenue from thrift shop sales was \$20,686 in 1993, \$19,927 in 1994, \$18,719 in 1995, \$20,066 in 1996, \$18,663 in 1997 and \$17,873 in 1998. Of the shelter revenue, bequests constituted the primary source in each fiscal year except 1993 – \$7,378 in 1993, \$114,740 in 1994, \$45,628 in 1995, \$71,162 in 1996, \$351,545 in 1997 and \$194,174 in 1998. Substantial amounts also were generated by donations, including canisters – \$28,998 in 1993, \$56,594 in 1994, \$18,573 in 1995, \$48,375 in 1996, \$31,486 in 1997 and \$62,455 in 1998; shelter fees – \$20,400 in 1993, \$33,666 in 1994, \$29,032 in 1995, \$26,657 in 1996, \$36,364 in 1997 and \$30,623 in 1998, and membership dues – \$22,593 in 1993, \$23,447 in 1994, \$26,414 in 1995, \$27,683 in 1996, \$33,571 in 1997 and \$26,889 in 1998. An annual fundraising event yielded \$9,628 in 1993, \$12,648 in 1994, \$26,221 in 1995, \$8,131 in 1996, \$16,099 in 1997 and \$23,372 in 1998. Investment income yielded \$10,232 in 1993, \$9,651 in 1994, \$15,951 in 1995, \$18,720 in 1996, \$52,582 in 1997 and \$63,444 in 1998. Fines from animal cruelty cases produced \$4,939 for the six-year period.

Expenditures for the same time period were \$153,870 in 1993, \$173,632 in 1994, \$172,427 in 1995, \$192,572 in 1996, \$218,209 in 1997 and \$235,602 in 1998. The shelter operation constituted the largest portion of the annual expenses, accounting for between 89% and 93% every fiscal year, while the animal control services contracts

constituted between 5% and 10% and the thrift shop between 1% and 1.5%. Of the shelter expenditures, payroll constituted more than 50% (\$92,151 in 1993, \$95,439 in 1994, \$91,991 in 1995, \$105,915 in 1996, \$113,345 in 1997 and \$119,584 in 1998), followed by telephone and utilities (\$12,936 in 1993, \$16,426 in 1994, \$15,585 in 1995, \$22,260 in 1996, \$20,165 in 1997 and \$23,788 in 1998) insurance for automobile, liability and employee coverage (\$8,718 in 1993, \$11,473 in 1994, \$12,049 in 1995, \$8,907 in 1996, \$13,659 in 1997 and \$12,836 in 1998) and supplies (\$1,526 in 1993, \$1,297 in 1994, \$1,786 in 1995, \$8,015 in 1996, \$20,561 in 1997 and \$20,068 in 1998). The primary expenses incurred under the municipal contracts were for payroll (\$3,273 in 1993, \$8,110 in 1994, \$11,876 in 1995, \$9,891 in 1996, \$9,234 in 1997 and \$13,272 in 1998); motor vehicle-related expenses (\$2,626 in 1993, \$2,532 in 1994, \$2,421 in 1995, \$1,552 in 1996, \$166 in 1997 and \$2,203 in 1998) and insurance (\$1,003 in 1993, \$1,549 in 1994, \$1,939 in 1995, \$1,276 in 1996, \$1,838 in 1997 and \$1,483 in 1998). The only expenditures incurred for the thrift shop operation were for insurance, telephone and utilities, which totaled \$2,420 in 1993, \$2,097 in 1994, \$2,396 in 1995, \$2,042 in 1996, \$2,536 in 1997 and \$2,427 in 1998. The thrift shop is operated by volunteers and all the merchandise is donated.

The society's by-laws contain a dissolution provision, requiring a two-thirds vote of the total members entitled to vote after the issue is brought before them by a two-thirds vote of the Board of Directors. The provision further provides for the distribution of the assets only to a "no-kill" shelter that also enjoys tax-exempt status under Section 501(c)(3) of the Internal Revenue Code. Further, as noted previously, the by-laws provide for the continuation of the operation under the name of the Hunterdon County Humane Shelter in the event of

the revocation of the society's charter by the state society.

MERCER COUNTY SPCA, until its dissolution in September 1998, was a small financial operation controlled by Helen Jones, the dispatcher. She maintained a checkbook, a handwritten ledger of the sources of income and expenditures, and retained all bills and invoices. She prepared all of the checks, which required the signatures of the president and treasurer, who was her son. Although she stated that the Board of Directors approved the payment of all bills, the minutes do not indicate such approval. The few meeting minutes provided to the Commission refer to a treasurer's report, but none were submitted to the Commission. According to Board members, Jones presented an oral report at meetings. The society did not prepare annual budgets or establish a finance committee as required by the by-laws. The society engaged in no fundraising activities. Officers and agents purchased their own uniforms and rarely were reimbursed for any expenses.

At the time of its dissolution, the society held over \$93,000 in liquid assets, consisting of certificates of deposit in the amount of \$80,640 and \$12,582 in a checking account. These monies were transferred to the New Jersey society. The county SPCA also provided the state society with a list of its fixed assets, which consisted of depreciated equipment that was in poor condition and which the state society declined to accept. Although the list omitted a computer purchased in April 1998 for \$2,721 and an adding machine purchased in 1994 for \$85, the society's dispatcher claimed that the president of the state society knew of these items, but refused them because of lack of space. The plan of dissolution adopted on June 14, 1998, directed that Jones be paid through the end of the year.

The society's income for each year from 1993 through 1998 was \$11,059 in 1993, \$18,040

in 1994, \$7,467 in 1995, \$13,001 in 1996, \$33,361 in 1997 and \$73,536 in 1998. Most of the society's income derived from bequests, the most notable ones of which were \$10,000 in 1994, \$21,736 in 1997 and \$62,091 in 1998, and interest from certificates of deposit that were purchased with the proceeds from the bequests and totaled \$14,835. The expenses for the same period were \$29,952 in 1993, \$29,331 in 1994, \$24,892 in 1995, \$24,547 in 1996, \$24,176 in 1997 and \$50,675 in 1998. Salaries usually accounted for the majority of the expenses – 57% in 1993, 56% in 1994, 45% in 1995, 46% in 1996 and 1997 and 68% in 1998. Of the total expenditures, the cost for liability and workers' compensation insurance accounted for 5% to 6% in 1993 and 1994, 16% to 18% in 1995 and 1996, 16% in 1997 and 8% in 1998. There were additional expenses for accountant, attorney and veterinarian fees. When expenses exceeded revenue in four of the six years, certificates of deposit were redeemed to finance the excess expenditures.

Wages were paid only to Jones, her son and her husband, who passed away in January 1994. It appears that the Board approved whatever salary Jones requested. Her son was paid \$5,600 in 1993 and \$6,200 in 1994 for mowing the lawn and other maintenance duties at the shelter property. Jones admitted that her salary was necessary to their household income after her husband retired as shelter manager for the Trenton Pound. In 1992, half of Jones' \$10,400 salary was paid to her husband when he performed her duties while she was out of the state on family matters. Her salary of \$10,400 was continued in 1993 and 1994, but was raised to \$11,180 in 1995, 1996 and 1997. In 1998, her salary was increased substantially to \$34,622. The minutes to the January 1998 meeting reflect the passage of a motion to increase her salary to \$24,000. However, the figure was altered by hand to indicate a salary of \$34,000. Jones admitted that she altered the figure, but claimed that

the Board had approved the higher figure and the lower figure was simply a typographical error. However, at another point, she stated that she made the alteration when the accountant advised her that to receive that amount, the annual gross salary would have to be approximately \$34,000. Jones attempted to justify the amount to the Commission by explaining that she had worked without compensation for a number of years and that she was supposed to have received a pension from the society, but the papers evidencing such an action, she claimed, were lost in a flood, which she later changed to a fire. She stated that the Board wanted her to receive a net salary of \$500 each week. When the Commission questioned the surviving members who were present at the time that the increased salary was approved, no one recalled who raised the issue. However, one recalled receiving a telephone call subsequently from Jones' son, who denied making the call, explaining a mistake in the figure, while another had no recollection and a third recalled only a discussion about Jones clearing \$2,000 a month. However, everyone uniformly echoed Jones' devotion to the society and her tireless efforts on its behalf. In addition to paying Jones a salary, the society also paid her health insurance premiums in the amount of \$4,397 from February 1995 through January 1998, but never issued her tax forms 1099 for miscellaneous income. Further, the issue was not recorded in the minutes of any Board meetings. According to interviews of the surviving officers present at that time, they approved the payment of premiums under her husband's plan in order to continue her coverage because she was unable to afford the payments herself and would not have been able to obtain other coverage because of a pre-existing medical condition. No one recalled who raised the issue. Jones assumed the cost of the premiums when her salary was increased to \$34,622.

Jones owns a two-family house in Trenton and lives in one of the dwellings. For brief periods of

time when family members did not occupy the other half of the house, she allowed the society to hold meetings and store various records there. The society did not pay rent or the charges for electricity, property taxes or repairs to the heating system. Although fuel oil deliveries were made to each unit and were billed separately, it appears that, at times, the SPCA paid for deliveries to Jones' side, which consumed more fuel oil, and that Jones paid for some to the SPCA side. In September 1994, the society paid \$734 for a security system that encompassed not only the side where the SPCA was holding meetings, but also the dwelling where Jones and her family resided. Members of the society explained that the system was installed because of threats arising from some investigations.

MIDDLESEX COUNTY SPCA is a small financial operation that has enjoyed substantial investment assets since the state condemnation of its shelter property in 1991. The Board of Directors has been fiscally responsible in essentially preserving its investment principle of more than \$400,000. Although the society does not maintain formal books of account, revenue and expense items are recorded in the check register and then transferred to a computer program from which various financial statements are generated. Detail is maintained on the sources and dates of income and the types and dates of expenditures. Although not required by the by-laws, two Board members, one of whom is usually the treasurer, sign all checks. The society failed to maintain all of the bank statements, cancelled checks and invoices for the period under review. In the past decade, the society was the subject of a substantial lawsuit filed in 1991 by former members of the Board concerning the society's operation and finances. As a result, the society incurred substantial legal, accounting and settlement costs of \$70,453 in 1993 and \$4,036 in 1995.

The closing of the society's shelter not only shifted the focus of the society to law enforcement, but also marked a change in its revenue base. The funding sources related to the shelter operation, *viz.* fees, grants and municipal contracts, were replaced by donations, dues, fines, bequests and fundraising. When the society received \$682,500 in 1991 from the state's condemnation of its shelter property, it purchased a condominium as its headquarters in East Brunswick for \$105,000, satisfied mortgages and tax liens, and invested the balance of \$467,851. For each year since 1993, the society's investments have been valued at more than \$407,000. The interest paid on the investments has constituted a substantial portion of the society's revenue since then and has been more than sufficient to pay all of its ordinary operating expenses. As of December 31, 1998, investments totaled \$484,234.

The society's total revenue for years 1993 through 1998 was \$240,599, of which \$165,932 (69%) was investment income. Investments produced \$23,569 in 1993, \$19,980 in 1994, \$28,520 in 1995, \$31,883 in 1996, \$31,289 in 1997 and \$30,691 in 1998. Excluding investment income, the society had total receipts of \$74,667 – \$6,895 in 1993, \$5,078 in 1994, \$26,725 in 1995, \$9,345 in 1996, \$15,831 in 1997 and \$10,794 in 1998. Fines collected in animal cruelty cases constituted the largest source of the society's revenue at \$28,321 (12%). Other significant sources were contributions, which included donations, canisters and fundraising income and produced \$21,386 (9%), and one bequest of \$20,000, which was received in 1995 and constituted 8%. Membership dues generated \$4,960 (2%).

For the same time period, the society had total expenses of \$259,755 – \$92,447 in 1993, \$35,977 in 1994, \$32,035 in 1995, \$28,221 in 1996, \$29,169 in 1997 and \$41,906 in 1998. Of the total amount, most of the expenses were for

accountant, legal and investment fees, which accounted for \$88,678 (34%). The majority of the legal and accounting fees were related to the lawsuit. The second largest expenditure was \$70,280 (27%) for property and general liability insurance. Another major expense was \$41,276 (16%) for communications, which included the purchase of 17 Nextel units, a \$30 monthly fee for the duty officer/dispatcher, and charges for an SPCA telephone, an answering service and pagers. Expenses related to the condominium office accounted for \$40,092 (15%). There also were expenses of \$5,483 (2%) for ammunition and other qualifying costs, and \$3,928 (2%) for uniform and police-type equipment. The “drug dog” represented an additional expense after it was acquired by the president in 1995. The \$4,030 spent on its education, care and feeding included payments to the president of a monthly \$60 “K-9 Unit Maintenance” fee for housing the animal and \$567 for using his vehicle to drive the dog to and from a canine drug-training school. The society also paid \$335 in dues for 1995, 1997 and 1998 for the president to join the International Association of Chiefs of Police. The society maintained a petty cash account with proper recordkeeping of the expenditures.

The society experienced deficits of \$61,983 in 1993, \$10,919 in 1994 and \$421 in 1998. It realized profits of \$23,210 in 1995, \$13,007 in 1996 and \$17,951 in 1997. To compensate for the deficits, the society transferred \$84,925 in investment principal to the operating account. Nevertheless, the society was able to replenish all but \$2,789 of the principal as a result of a \$20,000 bequest and because all investment income was not drawn from the account in the years 1995 through 1998.

The society’s by-laws contain unique provisions in the financial area. They mandate the creation of a Board of Trustees consisting of three

voting members, who are not also members of the Board of Directors, for the purpose of reviewing and approving all bills incurred by the society. Approval of bills requires the consensus of two of the three trustees. However, no term for the trustees is specified. Although the practice of the Board of Trustees is not to review and approve the routine bills, any “unusual bills” are presented at meetings of the society and the Board of Directors. Although the society has acted responsibly with the investment of between \$407,953 and \$484,234 during the six-year period, the by-laws lack specificity on the investment and disposition of funds. The only reference is a general one in defining the role of the treasurer as being charged with the custody and investment of the society’s funds under the direction of the Board of Directors.

In seemingly conflicting language in the by-laws, the Board of Directors “must” annually “at their discretion” engage a firm of certified public accountants to inspect the books and the secretary must report the results of such audit at the annual meeting of the society. The Board has not commissioned an annual audit of the financial records since the audit of the 1992 to 1993 period, which was requisitioned because of the lawsuit.

MONMOUTH COUNTY SPCA constitutes the largest financial operation of the societies. It maintains extensive books and records and fully documents all expenditures and sources of income. Financial data are maintained in a computerized accounting system from which monthly printouts are produced. Although not required by the by-laws, an independent certified public accountant conducts periodic reviews of the records and performs annual audits. At each meeting of the Board of Directors, a treasurer’s report is presented and the expenditures and any transfers of funds are reviewed and approved by the Board. However, only one signature, that of the executive director, is required on checks.

The society's annual revenue was \$780,152 in 1993, \$1,320,964 in 1994, \$563,867 in 1995, \$731,860 in 1996, \$833,057 in 1997 and \$1,234,244 in 1998. Except for 1994, when a capital campaign to construct a new clinic produced 40% of the annual income, the shelter operation produced most of the income each year, accounting for between 59% and 74%, with the spay and neuter clinic accounting for between 29% and 38% and the thrift shop venture contributing between 1% and 2%. The shelter generated \$509,746 in 1993, \$432,685 in 1994, \$392,043 in 1995, \$474,560 in 1996, \$542,372 in 1997 and \$918,787 in 1998, while the clinic generated \$253,899 in 1993, \$876,204 in 1994, \$160,052 in 1995, \$239,128 in 1996, \$280,335 in 1997 and \$294,873 in 1998, and the thrift shop contributed \$16,507 in 1993, \$12,076 in 1994, \$11,772 in 1995, \$18,172 in 1996, \$10,350 in 1997 and \$20,584 in 1998. Shelter fees for the adoption, surrender, re-claiming and euthanizing of animals produced \$69,857 in 1993, \$78,273 in 1994, \$90,713 in 1995, \$84,948 in 1996, \$86,846 in 1997 and \$90,587 in 1998. Revenue from the society's contracts with 11 municipalities for shelter services was \$6,344 in 1993, \$45,851 in 1994, \$44,697 in 1995, \$47,462 in 1996, \$48,763 in 1997 and \$64,939 in 1998. Monmouth County paid \$7,500 each year from 1993 through 1995 and in 1998, and \$15,000 in 1996 and 1997. Fundraising activities, including canisters and membership appeals, raised \$100,846 in 1993, \$148,504 in 1994, \$163,679 in 1995, \$222,299 in 1996, \$282,464 in 1997 and \$263,990 in 1998. Grants, which the society actively sought from a variety of foundations to fund its spay and neuter program and educational programs, produced \$47,500 in 1993, \$35,279 in 1994, \$24,500 in 1995, \$47,433 in 1996, \$40,000 in 1997 and \$93,243 in 1998. The society also received substantial bequests of \$243,798 in 1993, \$48,816 in 1994, \$5,000 in 1995, \$36,576 in 1996, \$6,904 in 1997 and \$335,187 in 1998. The

society sold properties for \$389,948 in 1994, \$189,577 in 1995 and \$232,060 in 1998. As of December 31, 1998, the society's investments totaled \$475,278.

The society incurred expenses of \$741,605 in 1993, \$832,013 in 1994, \$1,336,704 in 1995, \$1,189,516 in 1996, \$849,884 in 1997 and \$1,041,816 in 1998. The largest expense category was payroll, constituting between 62% and 70% of the annual expenses. The annual payroll expense for the shelter was nearly double that of the clinic. The shelter operation accounted for the majority of the society's annual expenses, between 64% and 70%, while the clinic operation constituted between 28% and 35% and the thrift shop venture for less than 2%. Specifically, the expenses for the shelter accounted for \$471,384 in 1993, \$582,360 in 1994, \$505,953 in 1995, \$550,481 in 1996, \$545,684 in 1997 and \$705,297 in 1998, while those for the clinic constituted \$259,316 in 1993, \$242,645 in 1994, \$823,705 in 1995, \$632,347 in 1996, \$299,508 in 1997 and \$325,459 in 1998, and those for the thrift shop were \$10,905 in 1993, \$7,008 in 1994, \$7,046 in 1995, \$6,688 in 1996, \$4,692 in 1997 and \$11,060 in 1998. Insurance costs, which included coverage for workers' compensation, automobile, building, health and general liability, fluctuated between 4% and 9% of the total annual expenses. Until November 1998, the society had the added expense of paying an annual sum to the state society to investigate cruelty complaints in the county – \$2,500 in 1993, 1994 and 1995, \$1,000 in 1996, \$2,500 in 1997 and \$225 in 1998.

In addition to its own fundraising activities, the society is benefited by the efforts of the Monmouth County SPCA Auxiliary, which was formed approximately 25 years ago. The Auxiliary, which raised between \$9,900 and \$13,504 each year in 1995, 1997 and 1998, provides the shelter with money to undertake specific purchases, such as

vaccinations. Under the society's by-laws, the Auxiliary's president also serves as a trustee of the society and enjoys a seat on the Board.

MORRIS COUNTY SPCA is a very small financial operation whose books and records have been handled by the same treasurer for the past five years. Other members of the Board of Directors have provided review and oversight. Since April 1995, the society has recorded its cash receipts and cash disbursements on computer-generated ledgers that include the purpose of each disbursement and the source of every receipt. Very few invoices are maintained. There is no requirement in the by-laws or by the Board of Directors that the society engage an independent accounting firm to audit the financial records and provide a report to the Board. All that is mandated by the by-laws is that an auditing committee be appointed to conduct an annual review of the financial records, verify the balances and certify as to the correctness of accounts. The society's minutes indicate that an audit committee was formed annually, but not that the committee always reported on the finances. One of the society's members, who became an agent in 1995 and had bookkeeping experience, performed an "audit" each year, but exactly what she did is questionable. Minutes of the July 1996 meeting indicate that she merely reported to the Board that she had "completed the audit and the books and records were fine." Although the by-laws also mandate the establishment of a finance committee, the minutes make no reference to such a committee. Further, the minutes reflect no approval of any expenditure by the Board. The minutes of Board meetings contain financial information that consists only of opening and closing balances and categories of income and expense items. There are also references in some minutes to an oral presentation of a treasurer's report, but no detail is included, and written treasurer's reports, when attached to minutes, are not in-depth.

For the six-year period from 1993 through 1998, the society had income of \$32,184 and expenditures of \$28,027. Of the total income, 38% was obtained from fines collected in animal cruelty cases; 17% from a \$5,500 bequest received in 1996 and 1997; 16% from donations, and 8% from dues. The society did not engage in any fundraising activities. The sale of two vehicles, a Chevrolet automobile for \$2,000 to a society member in 1994 and a van for \$1,500 in 1995, represented 11% of the total income. However, there was no documentation as to the year or model of the vehicles, the purchase price of each or the identity of the buyer of the van. Of the total expenses, insurance coverage accounted for the largest expenditure at 40%, with liability insurance constituting most of the cost, and telephone charges constituting the second largest expense at 32%.

The society operated at a deficit in 1993. Although only a small amount was needed for operating expenses, a certificate of deposit in the amount of \$15,966 was redeemed and the proceeds deposited into the operating account. As a result, the checking account swelled to between \$22,054 and \$26,500 for the next 64 months and bore an annual interest rate of between only 1% and 1.39%. There was no justification for not transferring the majority of the money to a higher interest bearing money instrument.

When the Morris County Humane Society changed its name to the SPCA in December 1964, it further amended its certificate of incorporation to mandate that the society's entire net income be devoted to the welfare of animals and the prevention of animal abuse, with none of it inuring to the benefit of the corporation, its shareholders or any individuals. Another amendment provided for the distribution of assets to similarly exempt organizations upon dissolution of the corporation. This provision was amended in November 1996 to

restrict the distribution of assets to similarly exempt organizations located within Morris County.

OCEAN COUNTY SPCA is a medium-size financial operation that utilizes a manual recordkeeping system and operates on a June 1 to May 31 fiscal year. It maintains invoices for the expenditures and documents the sources of income. Although the constitution requires that both the treasurer and president sign all checks, the assistant treasurer has been allowed to act as a second signatory and both the treasurer and president have signed checks in blank on numerous occasions. The constitution allows the Board of Directors to appoint members of the society or Board to paid positions authorized by it, but no Board member may be appointed to such a position if it was created during his or her term of office. It also prohibits a society member from receiving compensation from an animal humane organization. Further, under the constitution, the society may be dissolved by a two-thirds vote of the total membership, following a recommendation by two-thirds of the Board. All assets are then to be distributed to the New Jersey SPCA or any other organization enjoying exempt status under Section 501(c)(3) of the Internal Revenue Code. The inattentiveness of the Board of Directors to matters of finance and its deference to Chief Peter Oraboni fostered an atmosphere that allowed him repeatedly to submit bogus invoices for reimbursement.

For fiscal years 1993 through 1998, the society had total income of \$460,620 – \$67,786 in 1993, \$148,279 in 1994, \$26,310 in 1995, \$40,220 in 1996, \$151,391 in 1997 and \$26,634 in 1998. The primary sources of income for the six-year period were bequests, which constituted 65%, and interest from financial investments, which produced 22%. The society, which was named as a beneficiary in eight wills, received a total of \$299,276, 77% of which was invested in certificates of deposit. Specifically, bequests produced

\$34,665 (51%) in 1993, \$124,090 (84%) in 1994, \$3,619 (14%) in 1995, \$2,000 (5%) in 1996, \$130,250 (86%) in 1997 and \$4,652 (17%) in 1998, while investment income yielded \$22,725 (34%) in 1993, \$16,163 (11%) in 1994, \$15,505 (59%) in 1995, \$15,804 (39%) in 1996, \$14,695 (10%) in 1997 and \$15,708 (59%) in 1998. In 1996, the \$18,000 in proceeds from the sale of the shelter property represented most of the society's income at 45%. Donations accounted for only 3% of the total income and fines collected from animal cruelty cases for only 6%.

The society had total expenses of \$578,425 – \$145,433 in 1993, \$131,480 in 1994, \$100,972 in 1995, \$61,316 in 1996, \$67,788 in 1997 and \$71,436 in 1998. Expenses, which exceeded revenue in every year except 1994 and 1997, surpassed income by \$77,647 in 1993, \$74,662 in 1995, \$21,096 in 1996 and \$44,802 in 1998. To compensate for the deficits, the society drew upon its certificates of deposit. During the six-year period, the society maintained a total of 12 certificates, seven that were opened prior to 1993 and five that were opened after January 1, 1993. All of the certificates were funded with the proceeds from bequests. If funds were needed for operating expenses when a certificate became due, the Board approved such use. The monies then were transferred to a money market account and, as needed, to the operating account. Of a total of \$646,322 in certificates of deposit, \$293,257 (45%) was used for operations. All of the \$81,129 in interest earned on the certificates was applied to operating expenses. As of the close of the society's 1998 fiscal year, there remained only six certificates valued at \$352,065.

The society had two categories of expenses, *viz.* the law enforcement operation and the shelter. Following the shelter's closure on January 1, 1995, the law enforcement component constituted the society's sole expense category. During its

operation, the shelter accounted for the majority of the society's expenses – \$99,753 (69%) in 1993, \$79,524 (60%) in 1994 and \$44,309 (44%) for the final seven months of its existence. Salaries constituted approximately 65% of the shelter expense each year. Other expenses included supplies, veterinary costs, professional fees and utilities. Following the shelter's closure, the society's greatest expense arose from Chief Oraboni's employment. His salary, reimbursements and related costs amounted to \$50,362 (76%) in 1996, \$54,074 (79%) in 1997 and \$54,878 (76%) in 1998. Even prior to the shelter's closure, Chief Oraboni's employment constituted the greatest expense in the law enforcement category – \$38,482 (84%) in 1993, \$43,615 (84%) in 1994 and \$45,215 (80%) for the final seven months that the shelter operated. Other law enforcement expenses included automobile, uniforms, automobile insurance, firearms liability insurance, telephone, professional fees, pagers and cell phones. In addition, after closing its shelter, the society contracted with the Ocean County Health Department to utilize its shelter facilities to house animals seized pursuant to its law enforcement responsibilities in municipalities that were under contract with the county. According to a fixed fee schedule, the society paid the county \$2,663 in 1996, \$2,991 in 1997 and \$7,805 in 1998.

Of the \$361,188 paid by the society during the six-year period for law enforcement expenses, \$286,626 (79%) was paid to or for Chief Oraboni – \$194,445 in gross salary and \$92,181 in reimbursements for such items as uniforms, the purchase and maintenance of a vehicle, automobile insurance, gasoline purchases for his personal vehicle, insurance coverage to carry a firearm and paging services. The remaining law enforcement expenses of \$74,562 paid for such items as veterinary fees, boarding of animals, office supplies and dues to the state society. This figure also included the annual salary, totaling \$14,038 for the

six-year period, paid to the treasurer for bookkeeping services. However, the minutes of meetings of the Board of Directors never reflected approval of her salary. Further, the treasurer admitted that she failed to pay taxes on the income. No taxes were withheld from her paycheck and a federal form 1099 for miscellaneous income was never issued to her.

Chief Oraboni, the society's only salaried, full-time employee, has enjoyed a generous employment contract with the society. Effective June 1, 1996, and continuing until terminated by mutual consent, the contract stipulates that Oraboni is entitled to an annual salary, together with an annual increase; 10 paid holidays; 10 sick days a year, retroactive to 1989, when he first became a full-time, paid employee; a three-week, paid vacation for six to 10 years of service and a four-week paid vacation beginning in the eleventh year; the option of receiving salary in lieu of taking a vacation (Oraboni has been taking a two-week vacation and receiving additional salary for the third week); an annual uniform allowance of \$250, and an automobile allowance when using his own vehicle. The contract also provides for a retirement package that includes an annual contribution of 6% of his salary to his retirement fund and reimbursement for his unused vacation days and 50% of his unused sick days. However, at Oraboni's request, the 6% contribution has been included in his salary. In the event that Oraboni's position is eliminated, he is entitled to a severance package consisting of payment for all unused vacation time and accumulated sick time and a lump sum payment of not less than one and one-half months of pay for each year of service. Despite the contractual provisions addressing sick time, Chief Oraboni never submitted his sick days to the treasurer for recording. At a minimum, his sick leave included three weeks in 1996 and 17 weeks in 1998. It was not until August 16, 2000, after Commission staff questioned him and the treasurer

about the failure to record his sick days, that the society instituted a procedure.

***DIVERSION OF FUNDS BY THE LAW
ENFORCEMENT CHIEF***

Oraboni devised schemes to supplement his salary and reimbursement by preparing and submitting fraudulent invoices and receipts totaling \$1,295 between March 12, 1993, and February 4, 1998. Typically, he represented to the treasurer that he paid cash and presented an invoice or receipt for reimbursement. The treasurer simply paid him under any invoice that he presented. The incidents illustrate the lack of scrutiny by the treasurer and the failure of the Board to exercise any oversight. Oraboni perpetrated the following subterfuges:

- Under a fictitious invoice, which sets forth a nonexistent automobile repair shop and address, Oraboni was paid \$150 for work allegedly performed on the SPCA vehicle on December 10, 1993.
- Oraboni was reimbursed \$289 based on a phony invoice, which was dated May 17, 1993, and purported to be from a glass company, for the installation of a windshield on the SPCA vehicle.
- Oraboni submitted a phony invoice, dated April 24, 1995, that was purportedly from a sign company for lettering the SPCA vehicle. He was reimbursed the full amount of \$147. According to the owner of the sign company, the invoice was not the form utilized in his business and he probably charged only \$20 for the job, if any amount, because it was for a charitable group.
- A June 2, 1994, letter from the vice-president, now president, authorized the owner of a local gas station to open an SPCA account for the purchase of gas by Chief Oraboni for the society's vehicle and his personal vehicle. Although the letter indicated Board approval for the authorization, according to Board minutes, the action was not approved until July 7, 1994. Chief Oraboni used the account not only for gas purchases, but also to pay for the servicing of both the SPCA vehicle and his personal vehicle. The Board never authorized the servicing of any vehicle under the account. On May 29, 1994, the gas station billed the SPCA \$99.59 for servicing the SPCA vehicle, which included the installation of a new battery and replacement of an alternator under warranty. The station was paid by society check dated July 11, 1994. On June 3, 1994, Oraboni was reimbursed \$346 after submitting a phony invoice, dated June 2, 1994, that purportedly was issued by Brick Mobil Service Center, a nonexistent entity, with the same address as the local gas station. The fraudulent invoice listed charges for installing a new battery, towing the SPCA vehicle and repairing a short in the system. The treasurer failed to notice that she had just paid an invoice from a gas station for a new battery.
- Under two invoices from a fictitious auto repair and service company dated March 12, 1993, and October 28, 1994, Oraboni was paid \$51 and \$147, respectively, for servicing of the SPCA vehicle. The invoices bore the name and home address of Oraboni's friend, who had no such business.
- On two occasions in July 1995, Oraboni submitted separate documentation to be reimbursed for his purchase of a Polaroid camera and was paid \$50 each time. He

was reimbursed \$50 after submitting a petty cash voucher, dated July 16, 1995, for a "Polaroid Camera Garage Sale" and another \$50 after turning in his expense report for the week ending July 21, 1995, that listed a "Polorode [sic] Camera to replace broken one (used) \$50.00." The treasurer failed to notice the duplication in charges.

- At its November 6, 1996, meeting, the Board approved the purchase of a new weapon for Oraboni in an amount not to exceed \$500. On the same date, he received an advance of \$400. On November 14, 1996, he received an additional \$92.89 after submitting a phony invoice purporting to be from a sporting goods supply company and indicating the purchase of a Glock Model 26 for \$425 and a holster for \$39.99, together with tax of \$27.90, for a total of \$492.89. It was not until six months later, on April 4, 1997, that Oraboni actually purchased the weapon for only \$389, together with additional weapon accessories, for a total of \$488.61, with tax. With the trade-in of his personal weapon valued at \$200, the final cost was \$276.61, including tax. Not only did Oraboni fraudulently receive \$31.94, but he also received a six-month interest free loan of \$492.89. Further, although the SPCA paid for the Glock, Oraboni considered it to be his personal weapon.
- By society check dated February 4, 1998, Oraboni received an advance of \$264 to purchase a photocopy machine. He submitted a fraudulent store receipt, dated February 5, 1998, listing the purchase of a Canon copier for \$229.99 and related items for a total of \$350.78. The society then issued a check to Oraboni in the amount of \$86.78 for the difference between the

advance and the receipt. In fact, Oraboni was in the store on that date, but purchased only the copier for \$229.99. By preparing and submitting the fraudulent receipt, he obtained an additional \$120.79 from the society.

ABSENCE OF FINANCIAL CONTROLS AND SOUND JUDGMENT

Additional irregularities, some of which occurred in connection with Oraboni's employment, illustrate the lack of financial controls and the exercise of poor judgment:

- The June 2, 1994, letter by the then vice-president to the owner of a local gasoline station authorized gasoline purchases for two named motor vehicles. One of the vehicles was the official SPCA vehicle assigned to Oraboni and the other one was Oraboni's personal vehicle. Not only was the authorization not approved by the Board until July 7, 1994, but the minutes reflect no authorization with respect to Oraboni's personal vehicle and no authorization for any servicing or repair of the vehicles. Nevertheless, Oraboni used the charge account not only for gasoline purchases, but also for servicing and repair of the two vehicles, as well as another vehicle owned by him and two owned by other members of his family. In addition, another SPCA vehicle was substituted for the one identified in the letter without any approval by the Board. Between June 1, 1994, and May 29, 2000, Oraboni charged a total of \$16,280 to the account – \$1,990 for gasoline and \$3,001 for repairs to the SPCA vehicles; \$4,842 for gasoline and \$853 for repairs for a vehicle leased to Oraboni; \$2,127 for gasoline and \$1,703 for repairs for four

different vehicles registered to Oraboni; \$13 for gasoline for a vehicle registered to one of Oraboni's relatives; \$13 for gasoline for a vehicle registered to another of Oraboni's relatives, and \$1,738 in gasoline purchases where no license plate number was recorded on the receipts. Charges for Oraboni's personal vehicle included repairs to the passenger side mirror, numerous oil changes, new tires and balancing, wiper blades, tune-ups, front brakes (twice), inspection, recharging the air conditioning system, new battery, new muffler, radiator repairs, water pump and tie rods. The SPCA entered into an agreement with Brick Township to purchase gasoline for the SPCA vehicle at the municipal gasoline pumps beginning in April 1996.

- When using a personal vehicle for SPCA business, Oraboni not only received reimbursement of \$.20 per mile until June 1996 and \$.25 thereafter, but also was allowed to obtain gasoline under the society's account at a local gasoline station. He performed no calculations to purchase only that amount of gasoline utilized for SPCA business. Further, contrary to his representations that he submitted detailed expense reports setting forth the odometer readings and purpose of each trip, the records indicate that he submitted merely total mileage figures. Oraboni, who estimated that he drove his personal vehicle 50% of the time, offered surveillances, shopping for SPCA items and travel outside of the county on SPCA business as examples of necessitating the use of his personal vehicle. The society president was unable to explain why the society was paying for Oraboni's gasoline and reimbursing him a mileage fee. Minutes of the Board of Directors contain no authorization for these

payments. Between June 1, 1992, and May 31, 1998, even though he always was assigned an SPCA vehicle, Oraboni was reimbursed \$9,050 for driving 41,843 miles in personal vehicles.

- Despite Oraboni's employment contract stipulating an annual amount of sick and vacation time and providing for reimbursement for vacation time and 50% of unused sick time upon his retirement, Oraboni never reported, and the society never recorded, his sick and vacation time.
- In 1999, when Oraboni's personal computer and printer, which he also utilized for SPCA business, failed, the Board authorized his purchase of a new computer, together with a printer and scanner, for both his personal use and SPCA business.
- In the summer of 1994, a local police department donated a used police vehicle to the society. Considering the vehicle to be "no good," it was removed from the society's insurance policy. Without the Board's authorization, Oraboni gave the vehicle to a friend.
- From July 1995 through December 1996, the society paid \$2,041 in premiums on Oraboni's life insurance policy. Although this was taxable income to Oraboni, the society did not treat it as such and Oraboni failed to report it as income. When the improper arrangement came to the attention of the accountant, the payments ceased and Oraboni's salary was increased by a comparable amount.

Although the Board complied with its by-laws by approving large expenditures, voting on the redemption or rolling over of certificates of deposit

and directing in which institution the proceeds of bequests were to be invested, it appeared to be disinterested in the society's day-to-day financial matters. Even before its 1996 constitution eliminated the requirement of its predecessor that all bills be made out to the society and that the Board approve their payment, the Board failed to adhere to the provisions. Board members never established any procedure to approve the payment of bills and, in fact, never approved their payment. The treasurer simply paid any invoice or receipt that she received from a vendor or Oraboni. Beginning in 1995, the treasurer's reports, which contained the opening and closing balances and a list of the bills, were attached to the minutes of Board meetings. Prior thereto, the minutes reflected that this information had been given orally to the Board. Although the minutes indicate that the Board approved the payment of bills, its approval was purely *pro forma*. According to the treasurer, Board members were not interested in reviewing the actual bills. In addition, although the by-laws require only an annual inspection of the society's books, without specifying by whom, a certified audit was performed each year by an independent firm of certified public accountants. However, the minutes of the annual meetings do not indicate that the secretary reported on the results of the inspections, as required by the by-laws. The treasurer told the Commission that although she made the reports available to the Board members, except for the president, they never chose to review them.

PASSAIC COUNTY SPCA is a very small, fiscally responsible operation that maintains a manual recordkeeping system. Invoices and receipts are maintained and two signatures are required on checks. The society operates on a May 1 through April 30 fiscal year. The by-laws specifically prohibit any member from accepting a donation of equipment in the name of the society for his or her own personal use. According to its president, the society is governed by strict financial procedures,

some of which are dictated by its by-laws. However, the Commission was unable to confirm the practices. For example, the minutes of meetings of the Board of Directors are silent as to any audits, approval of expenditures or appointment of a finance committee. Although they reflect that a treasurer's report was presented, no detail was provided. An accountant was engaged only to prepare the society's tax returns.

Annual revenue for fiscal years ending 1994 through 1998 was \$3,834, \$3,707, \$11,735, \$15,439 and \$7,397, respectively. The primary sources of income were fines collected in cruelty cases (\$1,935 for 1994, \$2,581 for 1995, \$5,050 for 1996, \$9,662 for 1997 and \$2,356 for 1998) and donations (\$350 for 1994, \$630 for 1995, \$5,362 for 1996, \$4,418 for 1997 and \$3,624 for 1998). Other revenue sources included membership dues, which are \$25, interest from checking and savings accounts, and dividends from a stock that had been donated. The society engaged in a limited amount of fundraising and received no bequests. As of April 30, 1998, the society had \$7,712 in investment assets and \$6,530 in its operating account.

Annual expenses for the same fiscal years were \$7,729, \$7,448, \$8,282, \$11,631 and \$9,382, respectively. Deficits totaling \$9,621 were incurred for fiscal years 1994, 1995 and 1998. As a result, \$7,500 was transferred from the society's savings certificate to its operating account. The society's primary expenditure was for insurance costs for general liability, automobile coverage and workers' compensation – \$3,578 for 1994, \$5,089 for 1995, \$5,438 for 1996, \$6,494 for 1997 and \$5,398 for 1998. The next largest expense category was communications costs for answering services, telephone and pagers – \$2,889 for 1994, \$1,494 for 1995, \$2,119 for 1996, \$2,471 for 1997 and \$1,754 for 1998.

Officers reimburse the society for half the cost of the uniforms that they are provided. Those officers who are equipped with pagers reimburse a portion of the initial deposit and the monthly fees for the pagers. Officers also reimburse the full cost of ammunition purchased for their qualification.

The society's certificate of incorporation stipulates that upon dissolution, the assets are "to be retained in their present state" and to be held in trust by named individuals until the corporation is reorganized in order "to proliferate the general purpose of the original Corporation."

SOMERSET COUNTY SPCA is a very small, informal financial operation that has no tangible assets, engages in no fundraising, and receives minimal donations and no bequests. The membership has not exceeded seven members during the past seven years. No formal records of account are maintained. The society's financial records consist solely of a checkbook and register. The president and treasurer sign all checks, some of which are signed in advance by the president. Records are not retained to substantiate all of the expenditures. There has been no compliance with several provisions of the by-laws governing the society's financial responsibilities, presumably because it is such a small operation. For example, there has never been an annual inspection of the society's financial records by a firm of certified public accountants and, therefore, no audit results ever submitted at annual meetings. The Board of Directors never prepared or passed an annual budget. No finance committee was ever established. Although treasurer's reports usually were presented at Board meetings, they did not always encompass the time period following the prior report and they never provided any detail of the expenses or sources of income. No treasurer's report has been presented since October 1996.

For the six-year period from January 1993 through December 1998, the society maintained one checking account with total deposits of \$9,112 and total disbursements of \$9,107. The primary source of income for the society was fines collected in animal cruelty cases, which totaled \$7,325 and accounted for 80% of its income. Dues of \$370 constituted the next largest income source, contributing a mere 4%. During the entire period, the society received only one donation, which was \$25. The society had no records to explain deposits totaling \$896. The significant disbursements were \$2,337 (26%) in telephone charges and \$4,760 (52%) in legal fees to defend against a harassment suit filed in the course of a cruelty investigation. Additional disbursements included \$53 for a floral arrangement, with no explanation appearing in the records, and a \$300 contribution to Associated Humane Societies, whose assistant director is the society's president, for a bulletproof vest for a dog.

UNION COUNTY SPCA, which operates on a May 1 through April 30 fiscal year, is a medium-size, informal financial operation. Very few invoices are kept to substantiate the expenses and the handwritten cash receipts and cash disbursements ledgers identify only the general nature of the items. The president signs the payroll checks, while the signatures of both the president and treasurer are required on the operating account checks. The society has relied primarily upon the interest and principal from a mortgage to finance its operation and, when necessary, has withdrawn money from its certificates of deposit for operating expenses. There are minimal donations, no payment of dues by members and no fundraising activities. Despite the requirement in the by-laws for an annual audit of the society's accounts, an accounting firm has been engaged to produce only an annual compilation. Approximately \$100,000, which was received under a bequest, inexplicably was kept in the society's non-interest bearing checking account

from April 1994 until it was transferred to a certificate of deposit in February 1995. As of December 31, 1998, the society had investments valued at \$137,607.

The society's annual income was \$32,239 in 1993, \$137,403 in 1994, \$33,009 in 1995, \$32,811 in 1996, \$32,216 in 1997 and \$35,065 in 1998. The spike in revenue in 1994 was due to two bequests of \$102,603 and \$5,000. In all other years, the bulk of the society's income derived from a mortgage it holds from the sale of property in February 1992. The 20-year mortgage has yielded an annual income of \$24,319 and has accounted for between 85% and 99.68% of its annual income. Fines from animal cruelty cases contributed \$950 in 1993 and 1994, \$642 in 1995, \$250 in 1997 and \$2,050 in 1998. Donations were nominal each year, *viz.* \$418 in 1994, \$210 in 1995, \$9 in 1996, \$55 in 1997 and \$45 in 1998.

The society's expenses for each year from 1993 through 1998 were \$36,496, \$50,905, \$34,993, \$35,409, \$35,303 and \$35,385, respectively. In each year except 1994, when a substantial bequest was received, the society's expenses exceeded its income. Expenses exceeded revenue by \$4,257 in 1993, \$1,983 in 1995, \$2,597 in 1996, \$3,088 in 1997 and \$319 in 1998. Consequently, the society withdrew monies from its certificates of deposit between 1995 and 1998. For the entire six-year period, the society invested a total of \$148,100 in certificates of deposit and redeemed a total of \$36,326 for operating expenses. The biggest expense each year was payroll. Except in 1994, when the purchase of a vehicle accounted for 29% of the total expenditures and payroll constituted 58%, the payroll category ranged between 77% and 84% of the total expenses each year. Employee payroll, including benefits, constituted \$29,792 in 1993, \$29,296 in 1994, \$26,246 in 1995, \$29,326 in 1996, \$29,278 in 1997 and \$29,346 in 1998. The chief enforcement officer received an annual

salary of \$9,600, plus health benefits that cost the society about \$3,000 each year. The dispatcher was paid \$8,800 each year. The bookkeeper received \$6,000 annually. Each year, automobile expenses, including gas and car washes, fluctuated between \$1,045 and \$2,356 (3% and 6%); insurance costs for the society's one vehicle between \$2,020 and \$3,172 (5% and 9%); telephone charges between \$507 and \$851 (1% and 2%), and professional fees of \$725 in 1997 and \$1,250 in each of the remaining years (2% and 4%). The society maintained a petty cash account of approximately \$550 annually, but there were no records itemizing the expenses.

The society's one vehicle, a 1994 Ford Taurus equipped with a police package, was purchased from a state contract vendor in May 1994 for \$15,141. It replaced a 1990 Plymouth Acclaim, which had been purchased in January 1992 for \$7,500 and sold in April 1994 for \$4,500.

An amendment to the society's certificate of incorporation provides that upon dissolution, the assets are to be distributed to similar tax-exempt organizations under Section 501(c)(3) of the Internal Revenue Code.

WARREN COUNTY SPCA represents a financial operation marked by self-dealing and flagrant abuses. The rampant abuses occurred with respect to the use of gasoline credit cards, pagers and cellular telephones and the purchase of vehicles, ammunition and law enforcement equipment. The same person who controls the society's general operation and activities exercises total control of its finances. Scott Churchill, who has held the position of treasurer for most of the past 10 years, has prohibited everyone, including society presidents, from gaining access to the financial records. He alone has had the authority to issue and sign checks. He alone has determined how the society's money is spent. There has been no approval by the Board or

its officers of any expenditures or purchases. Few federal and no state tax returns were filed for the society as a non-profit organization. The society's failure to enforce certain fiscal provisions of the by-laws has served only to facilitate Churchill's exclusive control over the organization's finances. In violation of the by-laws, there has never been an annual audit of the society's records by a certified public accountant, the appointment of a finance committee or the preparation and approval of an annual budget by the Board of Directors. Churchill maintained a manual bookkeeping system under which he retained most of the vendor invoices to support the expenditures, but failed to record the source and purpose of many of the cash deposits. He created a system whereby officers made "contributions" to reimburse the SPCA for their personal use of SPCA equipment and for personal items that were masked as SPCA assets. However, he failed to keep records to link the reimbursements to specific expenses.

The society had total income of \$12,488 in 1993, \$56,693 in 1994, \$26,655 in 1995, \$65,092 in 1996, \$11,862 in 1997 and \$10,369 in 1998. Of the total income of \$183,159, bequests constituted the largest portion at \$96,631 (53%). Funds received from officers were \$48,588 (27%). Fines collected in animal cruelty cases produced only \$11,531 (6%). The society maintained no records to identify the source of \$26,409 in revenue. For the same time period, the society had total expenses of \$180,569 – \$12,161 in 1993, \$55,195 in 1994, \$28,380 in 1995, \$25,718 in 1996, \$49,946 in 1997 and \$9,169 in 1998. The primary expenditures were for automobile acquisition and maintenance at \$42,682 (24%); legal fees at \$31,077 (17%); insurance coverage for automobiles and liability at \$28,593 (16%); costs related to firearms qualifications, including ammunition, at \$18,590 (10%), and telephone, car radio and pager costs at \$17,716 (10%). The society also paid \$1,842 for Christmas parties and a dinner at a

restaurant in Atlantic City. The society expended \$5,953 for fundraising activities in 1993 and 1994, but maintained no records to indicate the amount of money generated. The society operated at deficits of \$1,725 in 1995 and \$38,084 in 1997.

This society has existed for the benefit of Churchill and those selected by him. When Churchill was subpoenaed to testify before the Commission, he invoked his privilege against self-incrimination in response to detailed questioning concerning his activities with the SPCA. A second individual, Michael Russo, who shared with Churchill in some of the scheming, initially stated in an interview, "I haven't done anything consciously wrong. I never profited a penny from anything with the SPCA." Nevertheless, when subpoenaed to give testimony before the Commission about his dealings with the society and his abuse of society property, Russo invoked the protection of the privilege against self-incrimination and refused to answer all questions. He also invoked the privilege in refusing to produce his personal records, including bank checks and any invoices or receipts, regarding his personal expenditures that were paid for by the SPCA and his reimbursement of the SPCA for personal expenditures. Russo is a police officer with the United States Department of Defense and a former Hunterdon County undersheriff and municipal police officer.

MOTOR VEHICLE SCAM. Six vehicles, registered to the SPCA and placed on its insurance policy, were part of an illicit arrangement that began in February 1991 and allowed certain officers to obtain motor vehicles for their own use at significantly reduced costs. These officers used their own funds to purchase vehicles from a state contract vendor. By titling their vehicles to the SPCA, the officers were able to obtain the reduced state contract price, did not pay state sales tax, did not pay registration fees at the time of purchase or at any time thereafter, and did not incur the cost associated

with higher emission standards required by the state of non-governmental vehicles. According to the state contract vendor, each individual saved between \$3,600 and \$6,500 on the vehicle. Each vehicle was registered to the SPCA and listed on its automobile insurance policy. The officers also obtained confidential license plates for the vehicles.

The officers who participated in the motor vehicle arrangement were John Mace, an officer since 1994, Glenn Reilly, an officer from 1991 to 1992 and from 1996 until he resigned a second time in September 1998, and Michael Russo, an officer since 1990, president from September 1990 to January 1998, chief from January 1993 to January 1998 and deputy chief from January 1998 to the present. Although Churchill played a role in the titling of their personal vehicles in the name of the SPCA, he did not avail himself of the subterfuge, ostensibly because he possessed the official SPCA vehicle. When subpoenaed before the Commission, Russo invoked the privilege against self-incrimination in response to all questions concerning his acquisition of vehicles. Another SPCA officer, an attorney, told the Commission that when he was looking for a new vehicle, both Churchill and Russo told him on separate occasions that he could save money by purchasing a vehicle in the name of the SPCA. He declined the offer and advised each of them of the impropriety of the action.

Glenn Reilly told the Commission that when he was in need of a vehicle, Churchill advised him that he could save money by purchasing it through the society and using it for both SPCA and personal reasons. In January 1997, Reilly purchased a 1993 Ford Crown Victoria from an individual for \$10,900. Churchill placed the car on the SPCA insurance policy and told Reilly the amount to reimburse the SPCA. Despite assurances by Churchill that the arrangement was legal, Reilly became increasingly uncomfortable with the arrangement and, 17 months later, retitled the car to

himself and paid sales tax on the original price of the vehicle. The car was removed from the society's insurance policy in June 1998.

According to the sworn statement of John Mace, when he mentioned to Churchill that he wanted to purchase a car, Churchill told him that he could save money by purchasing it from a state vendor and registering it to the SPCA. The Commission established that in March 1994, Mace purchased a 1994 Chevrolet Caprice from a state contract vendor for \$14,902, at a savings of between \$6,000 and \$7,000, in addition to avoiding sales tax and registration fees. Mace stated in an interview that Churchill accompanied him to the state vendor and signed the certificate of registration for the SPCA. In appreciation, according to his sworn statement, Mace gave \$1,000 in cash to Churchill and, with his spouse, took Churchill and his wife to dinner. Churchill placed the vehicle on the SPCA insurance policy and told Mace how much to reimburse the SPCA each year. When the vehicle required new tires, Mace took it to an automobile service center where the SPCA had an account, charged the tires and afterwards reimbursed the SPCA in the amount directed by Churchill. Mace drove the vehicle primarily for personal and family reasons within and outside the state, as far as Virginia, North Carolina, Maryland, Vermont and Tennessee. He occasionally drove the car to conduct SPCA investigations and estimated that of the 86,000 miles on the vehicle, perhaps 10,000 miles were related to SPCA business. On the two occasions that he permitted other SPCA officers to utilize the vehicle, Mace accompanied them and drove the vehicle. When he sold the car, he retained the proceeds because he considered the car to be his.

Michael Russo used the scheme to acquire four vehicles between February 1991 and June 1995. In April 1991, Russo, as president of the SPCA and individually, obtained a \$7,600 bank

loan for a 1986 Chevrolet Caprice and a 1987 Chevrolet Caprice. The society paid \$3,889 toward the loan, but there is no record of who paid the balance. Although the 1986 vehicle was covered under the society's insurance policy until January 1992, there is no record of its disposition. The 1987 vehicle, which was carried on the society's policy until December 1992, was sold by Russo. In April 1993, Russo purchased a 1992 Chevrolet Caprice from a state contract vendor for \$16,526, at a savings of at least \$3,500, and sold the vehicle in September 1997 for \$7,000. During the period that he owned the vehicle, Russo had five accidents while on personal business. Although he paid the repair bills, the accidents may have affected the society's insurance premiums. In October 1994, Russo acquired a 1994 Ford Ranger pickup truck that he sold in June 1995 for \$10,000. Russo did not deposit the proceeds from the sale of the vehicles into the society's bank account. He regularly drove an SPCA vehicle from his residence in Warren County to his place of employment in Bayonne.

Russo engaged in other improprieties with respect to motor vehicles. In a letter on SPCA stationery dated January 5, 1994, Russo acknowledged receipt of a 10-year-old Mercury vehicle that was donated to the SPCA and valued at \$2,500. The vehicle had been driven over 100,000 miles. It was not listed on the society's insurance policy or reflected in any other documentation. Division of Motor Vehicle records indicate that the vehicle was sold in March 1994 for \$200. Apparently, Russo's letter was intended to inflate the value of the donation for the benefit of the donor. Further, there is no evidence that the \$200 was deposited to the society's account. Russo claimed the privilege against self-incrimination in response to questions concerning his letter and the disposal of the vehicle.

The society paid for the maintenance and repair of the 1996 SPCA vehicle, as well as the ones that its officers acquired for their own use. From May 1991 through July 1999, these costs totaled \$11,009. A substantial portion of the expense was incurred for the officers' personal use of the vehicles. Moreover, because the vast majority of invoices did not identify particular vehicles, it is impossible to know if any expenses were incurred for vehicles that were not titled to the SPCA. Further, from October 1991 through July 1999, \$27,260 was spent on insurance for the vehicles. Although Russo, Mace and Reilly stated in interviews that they reimbursed the SPCA in amounts dictated by Churchill, there is no documentation to verify their claims. Although bank deposit tickets contained names next to cash deposits, no record identified the purpose of the amounts and these amounts did not equal the expenditures for apparently personal items.

MOTOR VEHICLE ABUSES. In May 1996, the society purchased a 1996 Ford Crown Victoria from a state contract vendor for \$19,960. Although purportedly for the use of everyone in connection with society business, it has been located on Churchill's electronically gated and secured property. Churchill stymied attempts by then Chief Glenn Reilly to take control of the vehicle and make it available to others. The minutes of the May 1998 meeting expose the society's abusive practices with motor vehicles. The minutes note that the 1996 Ford was only two years old, but already had more than 40,000 miles recorded. Discussion ensued as to whether a usage and mileage log should be maintained for the vehicle, but no log was ever required. The minutes included the statement of then Deputy Chief Michael Russo that he would have no problem if the car were used for personal reasons. According to the minutes, there was a "heated" discussion about members purchasing their private vehicles, but having them titled and registered to the

SPCA and insured under the SPCA's policy. The practice was not halted.

ABUSE OF GASOLINE CREDIT CARDS. The society has maintained approximately six credit cards with three different gasoline companies. Churchill has controlled the distribution of the cards. The only officers who possessed the cards and signed for purchases with two of the gasoline companies were Churchill, Russo and Mace. From February 1992 through July 1999, gasoline purchases totaled \$17,999, representing more than 17,600 gallons of gasoline. Although the majority of purchases were made within Warren County, there were a number of purchases made throughout the state, most notably in Bayonne, where Russo was employed, and in Pennsylvania. Purchases also were made in Maryland, Virginia, Colorado, South Carolina, North Carolina, Tennessee, Arkansas, Massachusetts, Connecticut and New York. By having the credit cards in the name of the SPCA, which enjoys tax-exempt status, the officers using the credit cards for obvious personal travel avoided paying state motor fuel taxes and federal excise taxes. The issue of the use of the gas credit cards appears in the minutes to the June 1998 SPCA meeting. The president at the time announced that officers who had been assigned gas credit cards "should" relinquish them. In the future, a credit card would be assigned only to the SPCA vehicle and any officers utilizing it for personal travel would have to reimburse the society in order to "relieve the financial burden of the SPCA due to low funds." Although the Commission was told that Churchill advised individual officers of their gasoline purchases and had them reimburse the society, no records were provided to verify whether the amounts paid by them equaled the actual expenditures.

FIREARMS-RELATED EQUIPMENT. Although the society incurred no expenses for the purchases of firearms, there were substantial expenses for related equipment. Of the \$18,885 expended

between December 1991 and June 1998, 66%, or \$12,692, was spent on 65,000 rounds of ammunition for the following weapons: .22, .223, .30-06 and .308 caliber rifles; 12 gauge shotgun; .44 and .357 magnum pistols, and .25, .32, .380, .40 and .45 caliber and 9mm semi-automatic pistols. In addition, sniper ammunition was purchased for the .308 caliber rifle. According to an ammunition vendor, Glazer bullets are the only type of bullets appropriate for animal control. The society paid for 16 boxes of this type of bullet only in 1996. Equipment purchases included a bulletproof vest, night sights, laser sight kits, magazines, mag lights, flashlights, holsters and belts, Apache ankle rigs, ankle holsters, handcuffs and cases, tear gas, traffic code books and a Glock Armorer course. There are no records to indicate who was assigned these items or when they were assigned. Further, both Churchill and Russo refused to answer questions about how the guns, ammunition and other paraphernalia were utilized on the ground that the answers might tend to incriminate them. Churchill also claimed his privilege against self-incrimination in response to questions concerning whether he utilized any of this equipment in his private detective business or bail bond business.

UNIFORM EQUIPMENT. According to records, the officers of this society enjoyed outfitting themselves with all types of law enforcement accouterments. Between November 1991 and July 1999, the society paid \$8,580 for uniforms and equipment that included pants, shirts, hats, jackets, tie bars, patches, stripes, buttons, holsters, shoes, belts and name tags. In addition, the officers enjoyed displaying more than 64 badges that included gold breast badges, hat badges and wallet badges. To display the badges, the officers obtained 45 leather badge holders, identification cases and flip-out badge cases. Some of the badges were distributed to persons not involved with the SPCA. The society maintained no records for the inventory or control of the equipment or badges.

TELEPHONES, CAR RADIOS AND PAGERS.

From December 1991 through July 1999, \$24,073 was spent on communication equipment and service, including telephones, two cellular telephones, at least 15 pagers and three Midland car-mounted radios purchased in 1993. Telephone service constituted the largest expense at \$17,211, of which \$8,395 (35%) was attributable to two cellular phones. Churchill and Russo had possession of the cellular phones, which were acquired in 1994 and had calling cards assigned to them. The bills for these phones are replete with personal calls to all parts of the country, including California, Texas, Oklahoma, Virginia, Florida, Wisconsin, North Carolina, Georgia, Minnesota, Maine, Arizona, Montana, Missouri, Vermont and Connecticut, and to cities in Canada. The bills also indicate that calls were made from locations in Florida to locations within that state, Pennsylvania and Maryland and from locales in Canada to ones in New Jersey. Churchill freely distributed pagers to officers. For example, he gave four pagers to an attorney who joined the society in order to generate business for his law firm, received no training and was never requested to conduct an investigation. Accepting the pagers because they were less expensive through the society, the attorney used one of the pagers, kept one as a spare in his law office and gave the remaining two to his father and an office employee. Whenever he was told by Churchill the amount of the monthly rental fees, he issued a check to the SPCA from his law account. Minutes to the September 1998 meeting indicate that members were notified that the society received a bill for 10 pagers and that members who had not yet reimbursed the society for the ones assigned to them should “pay-up [sic].” The Commission was told that Churchill notified officers of the amounts they owed for reimbursement. However, in response to subpoenas, Churchill turned over no records to indicate which officers owed what amounts for the pagers, or any other items. By contracting for the pagers in the name of the SPCA,

Churchill was able to obtain them at the reduced governmental rate and without sales or excise taxes or surcharges. When Churchill and Russo appeared at a hearing before the Commission, they refused to answer questions about the use of telephones, pagers and radios on the ground that the answers might incriminate them.

ADDITIONAL FINANCIAL IRREGULARITIES.

The society’s officers engaged in the following additional abuses:

- An analysis of the records from January 1992 through July 1999 reflects that deposits totaling \$55,029 represented funds received by the society from officers. Assuming that this amount represented officers’ “contributions” to the society for what were actually their personal expenses, the figure pales in comparison to the combined expenses for automobile repairs, pagers, insurance, gasoline and oil, telephones, ammunition, and firearms qualifications, which exceeded \$104,000. Without records delineating which expenses were personal and reimbursed by officers, it is impossible to determine the expenses that were rightfully borne by the organization. It also is impossible to determine whether individual officers made reimbursements commensurate with the expenses personally incurred by them, but billed to the society, or whether certain officers benefited by failing to reimburse the society.
- Under arrangements made by Churchill, the society treated the officers and their guests to Christmas parties at a restaurant in Allamuchy, Warren County, in December 1996 for \$996 and in December 1997 for \$778.

Churchill paid for each party and then was reimbursed by the SPCA. By having the bills issued to the SPCA, Churchill avoided the payment of sales tax.

- Churchill paid for a second Christmas party at the same location in December 1997. However, this party was for one of his businesses. Although the SPCA did not reimburse Churchill for the cost of \$846, he avoided paying any sales tax by representing it as a party for the SPCA.
- In July 1997, Churchill issued himself a society check for \$67.55 for food and beverage at a casino hotel in Atlantic City in June. No justification appeared for this payment.
- Although fundraising canisters were placed in various locations throughout the county, no records of accountability were maintained. The society did not document the locations of the canisters or the amount of money collected at each location. The collection was entrusted to one officer, who alone removed the money from the canisters. Although more frequent collections were made, the only documentation of canister receipts in the society's financial records was \$540 in August 1992 and \$500 in April 1994.
- The society's records contained two letters, both dated June 1996, that were signed by Russo and addressed to a couple concerning a Packard Bell 386 computer, printer and desk. One letter thanked them for the items, which were sold to the SPCA at a "phenomenal

fee," while the other one stated that the items were donated at a value of \$650. The computer, printer and desk were kept at the home of Russo's mother and no society check was issued for the items. Claiming the privilege against self-incrimination, Russo refused to answer questions about the letters and items.

- No inventory of any society equipment was maintained to record what items were assigned to which officers, when they were assigned or how they were ultimately disposed of.
- Several officers entered into transactions with the society that represented conflicts of interest. In 1991, Churchill issued his wife, a nonactive SPCA officer, a society check for \$450 for a Canon camera, lens, case, flash, winder and cleaning supplies. In 1992, Russo was paid \$150 for a used Westinghouse air conditioner. From 1992 through 1997, Reilly sold and installed \$2,200 worth of various equipment from his radio shop. However, the sales by Reilly were well-documented.

THE LARGESS OF BEQUESTS

The SPCAs have benefited greatly from lovers of animals who leave bequests to them in their wills. Clearly, many, if not all, of these individuals are under the impression that the monies will be applied for the welfare of animals. In those instances where the bequest is made to an SPCA that operates a shelter, the intent is more likely to be realized. However, where the society is strictly a law enforcement organization, the testators would no doubt be appalled to learn that their money is spent

on weapons, ammunition, vehicles, salaries and other items that do not inure directly to the benefit of animals. In one instance, the prospect of receiving proceeds from a particular bequest prompted individuals to seek reinstatement of the charter for the Warren County SPCA. The society quickly devoured the proceeds, which totaled \$93,871, as they were distributed under the bequest. One of these individuals, who still is associated with the society, is reputed to have remarked, “The SPCA is a magnet for people leaving wills” and “This is the greatest scam going if we could get all these little old ladies and men to leave us their money.”

Some testators specified the use of their bequests to SPCAs in order to ensure the benefit of animals. The following are examples of restrictions that testators have placed on how their bequests were to be applied:

- One testator established a trust and stipulated that the income of the trust “shall be payable only so long as it shall be used or expended solely and only by said beneficiaries [animal welfare organizations, which included a county SPCA] for the benefit of animals of all kinds, particularly dogs and mongrel dogs. I further provide that it is on no account to be paid for or applied to the payment of salaries for officers, directors, employees of said beneficiaries...and when said beneficiary or beneficiaries cease to use said income for purposes herein set forth and apply the same for other purposes, the payment of said income...shall cease....” Since August 1992, the SPCA has received \$45,595. The SPCA operated a shelter when the will was written and for a period of time when payments were made. Thereafter, the society applied the income to the care of injured animals. However, it is not known whether the deciding factor for the testator in

including the SPCA was its shelter operation.

- Under one will, 50% of the estate residue was to be distributed to a named county SPCA “on the condition that it agrees to take care of any dog and cat which I may have at the time of my death. If I have no dog or cat, then I direct that said monies be applied...to the care and maintenance of stray animals.” The SPCA maintained a shelter when the will was prepared, but not when it was probated.
- One county society received funds under a charitable foundation that was established by a testator “[f]or charitable [purposes], or for the prevention of cruelty to animals, or for the care and protection of dogs and other animals.”
- Another county SPCA received a bequest on condition that it “provide for my cat...a good home for the rest of his life.” The SPCA operated a shelter at the time that the will was drawn and the proceeds were distributed.
- One will stipulated that the bequest to the county SPCA “be used exclusively for the administration, care and treatment of animals in [that county].” The SPCA operated a shelter when the will was written, but closed it prior to receiving the bequest of \$102,683.

The SPCA name causes considerable confusion among individuals writing their wills. Many testators have confused a local SPCA chapter with other animal welfare groups, such as the American SPCA. There have been instances where the testator combined the name of the American

SPCA with either the name of a county SPCA chapter or its address. At the time of the will's probate, it was impossible to ascertain whether the American SPCA or the county SPCA was the intended recipient. Where the address of the local county SPCA was written, the intent of the testator was interpreted to have meant the county SPCA. However, in the absence of additional descriptive language, there have been instances where the

distribution was made to the local county SPCA, other instances where it was made to the American SPCA and still others where the distributions were divided between the two organizations in order to avoid litigation.

THE NEW JERSEY SPCA

The oldest of the SPCAs, the New Jersey society has always been a law enforcement operation and has never operated a shelter, except for a brief period when it assumed operation of the Camden County SPCA shelter following the society's collapse. It alone has statewide jurisdiction to investigate complaints of animal abuse, cruelty and neglect and has conducted investigations in counties both with and without county societies. Headquartered in New Brunswick since April 1989, the state society is a well organized and tightly controlled organization that has deflected legislative initiatives seeking to curtail its powers in favor of the county societies. During the Commission's investigation, the state society was vigorously criticized for failing to respond or to respond in a

timely manner to complaints of cruelty, implementing a closed-door policy regarding membership and orchestrating the dismissal of individuals who opposed the leadership.

The New Jersey society was established by an act of the Legislature in 1868. Its certificate of incorporation was amended in July 1930 to reflect legislative changes that augmented the powers of the societies to operate rest farms, kennels, pounds, shelters or hospitals for animals. The society is governed by a 12-member Board of Directors and has seven law enforcement officers, 15 to 20 agents and between 100 and 200 members. The society has been under the firm control of one person for

more than 20 years. Charles Gerofsky,³⁷ who has held the positions of both president and chief enforcement officer since 1980, has fended off numerous challenges to his authority. Prior to Gerofsky, the presidency was held by Frank Tomasulo for approximately 15 years.

The society's seven law enforcement officers include the chief, deputy chief, one captain, two lieutenants, one sergeant and one officer. As officers, they may carry weapons in the performance of their duties. Because Gerofsky did not want too many individuals carrying weapons, he reduced the number of officers from 13 by eliminating the positions as individuals resigned or retired. The officers, who train the new agents, receive additional instruction in the use of deadly force.

The procedure to become a member of the state society appears overly cumbersome and has been criticized by many as unfairly restrictive. In order to obtain a membership application, an individual must appear at the society's New Brunswick headquarters. The application is never mailed. The offices are typically open for this purpose only on Sunday afternoons. According to the president, this requirement is for the purpose of informing the person that the society is engaged only in law enforcement action and does not have an animal shelter or rescue league. The individual also is apprised that he or she "must be interested in helping animals," support the society financially by paying dues and "help around" headquarters. Anyone still interested at that point is given an application to complete. Upon its receipt, the society obtains a "police name check." The Commission was repeatedly told of instances where individuals

attempted to become members, but their telephone calls were not returned or they never received applications that supposedly were mailed. However, the application procedure was ignored when it was important to add numbers to the membership for the purpose of swaying an election.

The state society's procedure for becoming an agent appears to be more stringent than that of most county societies. An individual may apply for the position of agent only after becoming a dues-paying member. An application must be completed and submitted with two sets of fingerprints and three photographs. The fingerprint cards are kept in the individual's personnel file and not checked by any law enforcement agency. Once accepted, the person undergoes five to six hours of classroom instruction at the society's headquarters on Sunday afternoons for six to seven weeks. The training includes a review of the animal cruelty laws, how to investigate cruelty complaints, issues of legal liability, the issuance of summonses, court procedures, arrest procedures, and how to apply for and execute a search warrant. Following the classroom training, the person accompanies an officer or senior agent on several cruelty investigations. Thereafter, the agent is assigned investigations. The "active" agent receives \$100 as a uniform allowance and \$20 for any court appearance. Agents and officers are reimbursed their out-of-pocket expenses. Opinions vary greatly on the thoroughness and efficacy of the training.

When an agent is approved to become an officer by Gerofsky, he undergoes additional training on the use of firearms and deadly force. He is required to demonstrate proficiency in the handling and use of a weapon, pass a written test on the use of deadly force and qualify under the courses of both the state Police Training Commission and National Rifle Association. The society issues a Glock 9mm, semi-automatic weapon to each officer. In recent years, only one officer, because of a domestic

³⁷Charles Gerofsky began his 35-year career with the SPCAs as an agent with the Ocean County SPCA, where he rose to the rank of captain. He later became the chief officer of the Monmouth County SPCA. Thereafter, he joined the Burlington County SPCA and has been its chief law enforcement officer for the past 15 to 20 years.

violence incident, did not carry a weapon. Officers have been required to qualify almost every other month with their weapons. Extra weapons, as well as those of officers who are on vacation, are stored in a safe-deposit box. Each officer is authorized to receive an ammunition allowance of \$100 and a uniform allowance of \$200. The society purchased bulletproof vests, which are made available when needed. It also maintains four vehicles, *viz.* three unmarked vehicles with red emergency lights in the grille and one with a red light bar on the roof. The vehicles, which are equipped with two-way radios, are kept at the New Brunswick headquarters. The society also has available to it a vehicle that was purchased with Camden County SPCA funds.

The society maintains an 800 telephone number for the receipt of cruelty complaints. A dispatcher, who is an unpaid volunteer, listens to the messages and records the time, date and nature of each complaint. Some calls are disposed of with a telephone call to the complainant. In all other cases, a state officer or agent is assigned to respond to a complaint in a county where there is no SPCA or where the SPCA has no law enforcement component. In a county where there is an SPCA that investigates cruelty complaints, the complaint usually is referred. Depending upon the results of an investigation, the officer or agent may issue a warning or sign a civil or criminal complaint for the issuance of a summons. The president is opposed to the issuance of both types of complaints for the purpose of later effecting a plea bargain. It is the state society's policy that no search will be conducted without a search warrant and that only an officer, with the president's approval, may apply for a search warrant.

A variety of sources, including animal welfare groups, private citizens and some county societies, voiced vigorous criticism of the state society for failing to respond to complaints in a timely manner. The Commission heard an avalanche

of complaints about incidents that spanned more than 10 years. The criticism was that individuals repeatedly left messages on the state society's answering machine for its 800 number and either were not contacted or were contacted well after the initial call. It also was charged that the state society delayed an unreasonable amount of time before forwarding complaints to the county societies.

The society revised its by-laws in 1988, 1993 and February 2000. The recent amendments made significant changes in the areas of financial compensation of the officers and the relationship between the state and county societies. The new by-laws clarified that Board officers and law enforcement officers and agents may receive compensation. Although they continued the right of each county society to elect one delegate to a one-year term on the state's Board of Directors, a new provision states that delegates will be accepted only from county societies that have provided monthly copies of minutes, treasurer's reports and law enforcement reports and that are current in the payment of the annual dues of \$100. In addition, the 2000 by-laws empower the chief law enforcement officer to control all law enforcement personnel, provide training, and purchase and control the law enforcement equipment.

The recently amended by-laws reduced the number of categories of membership from six to three, *viz.* life, active and junior. Dues have been collected under each category of membership. In accordance with the by-laws, membership, nominating, badge and finance committees have been appointed. The members of the Board of Directors, whose terms are staggered, may not be elected to an office if its term would extend beyond their term on the Board. The revised by-laws eliminated a unique provision of the prior documents that prohibited a member from voting at any meeting where "he shall be elected to the Board of Directors." In practice, if current officers are

unopposed, they are automatically reappointed. It has not been uncommon for opposing factions in the state society to recruit friends, relatives and associates as members in an attempt to influence the outcome of an election. The by-laws provide a procedure for the removal for cause of Board members, enforcement officers and agents, and society members. The procedure has been applied in some cases and ignored in others.

Pursuant to the by-laws, the society must convene an annual and one regular meeting of the society's members each year. Additional regular meetings or special meetings, which are not defined, may be convened at any time. Monthly meetings of the Board must be held. The society's practice has been to conduct meetings every month except February, July and August. Although minutes of the meetings must be recorded, those for a substantial number of meetings were not maintained. Although minutes refer to a treasurer's report, none were attached to the minutes provided to the Commission and, with rare exception, no financial information was contained in the minutes.

FINANCES

The state society is a medium-size financial operation that records the vast majority of its sources of income and expenditures. Invoices were retained for most expenses. A manual bookkeeping system was replaced by a computerized system in 1998. Only one signature, that of the treasurer, is required on checks. The society has compiled separate financial information on the Camden County SPCA, since its elimination in 1985, and the Mercer County SPCA, following its dissolution in 1998. The society appears to have maintained a strict accounting of the reimbursement of personnel. However, not all of the cash deposits were identified and the society maintained no records to track the imposition and receipt of fines. The state society has

flourished financially because of the receipt of substantial bequests. As of December 31, 1998, its investments, which consisted of four certificates of deposit, were valued at \$378,646.

Following the demise of the Camden County SPCA, its assets were transferred to the state society. These assets, which were valued at \$58,513 as of December 31, 1992, have been invested in a money market account and mutual funds. No separate checking account has been maintained. The state society has expended \$28,034 of these funds for such items as automobile insurance, telephone charges, the purchase of a used automobile and automobile repairs. Supporting documentation was lacking for more than \$6,500 of the expenditures. As of December 31, 1998, \$52,511 remained in the account. Following the dissolution of the Mercer County SPCA in September 1998, \$93,222, consisting of \$80,640 in certificates of deposit and \$12,582 in operating funds, was transferred to the New Jersey SPCA.

The state society had income of \$45,921 in 1993, \$31,779 in 1994, \$35,997 in 1995, \$35,193 in 1996, \$456,565 in 1997 and \$260,107 in 1998. Its sources of income were few. Of the \$865,562 in total revenue for the six-year period, bequests constituted \$643,409 (74%), fines imposed in animal cruelty cases accounted for \$118,340 (14%), investment income, including interest, dividends and capital gains, made up \$63,606 (7%) and payments from the Monmouth County SPCA for law enforcement service was \$12,500 (1%). Membership dues, dues from county societies, donations and fundraising activities, which were limited to the sale of hats, tee shirts and jackets primarily to its own membership, each produced less than 1% for a total of \$22,817. While the receipt of fines imposed in cruelty cases produced a steady revenue flow each year, *viz.* between \$15,742 and \$23,355, it was the receipt of bequests that provided the society with its main source of revenue.

The society began 1993 with investments of \$150,378 because of the receipt of bequests in prior years. Thereafter, the society received bequests of \$8,900 in 1995, \$4,509 in 1996, \$420,000 in 1997 and \$210,000 in 1998. In early 2001, more than \$200,000 is expected as the final distribution under an earlier bequest. As of December 31, 1998, the society had investments valued at \$728,757, which included \$93,222 inherited from the dissolution of the Mercer County SPCA and \$52,511 remaining from the elimination of the Camden County SPCA.

The society's expenses for the six-year period were \$81,761 in 1993, \$89,488 in 1994, \$58,950 in 1995, \$59,280 in 1996, \$75,380 in 1997 and \$86,701 in 1998. Of the total expenditures of \$451,560, the largest category was for professional fees, which accounted for \$139,308 (31%). This category included fees paid to a lobbyist (\$15,041 in 1993, \$15,000 in 1994 and 1995, \$13,750 in 1996, \$17,509 in 1997 and \$15,000 in 1998), attorneys, in connection with bequests, organizational matters and litigation instituted against the society (\$12,385 in 1993, \$13,006 in 1994, \$1,401 in 1995, \$1,426 in 1996, \$2,745 in 1997 and \$3,637 in 1998) and accountants (\$2,250 in 1993, \$2,275 in 1994, \$2,250 in 1995, \$2,240 in 1996, \$2,700 in 1997 and \$1,692 in 1998). Insurance for automobiles, general liability, business premises and contents, and workers' compensation constituted the second greatest expense at \$101,986 (23%). Telephone charges, which included an 800 number, pagers and cellular telephones, represented the third largest category at \$53,361 (12%). Other significant expense categories, which ranged between 3% and 5%, were automobile and travel expenses (\$24,395); utilities (\$21,295); maintenance, repairs and lawn care for the society's headquarters (\$16,080), and the purchase of equipment, including a photocopy machine, computer equipment and surveillance equipment (\$14,585). Payments to officers, which included payroll, uniform and

ammunition allowances, insignia, clothing, gifts and bonuses, accounted for \$56,571 (13%) of the expenses. Of this amount, \$8,540 was for bonuses and gift items, including money, bottles of wine and gift certificates. Payroll, which constituted the largest category of payments to officers, was \$8,123 in 1993, \$5,541 in 1994, \$2,300 in 1995, \$1,754 in 1996 and \$83 in 1997, and soared to \$14,032 for only the last two months of 1998. Net wages in relatively nominal amounts were paid to eight officers during 1993, 1994 and 1998, while \$10,618 in net wages was paid to the treasurer from 1993 through 1996 and net salary of \$9,345 was distributed to the president in 1998. The society also made a contribution of \$5,000 to a local animal orphanage and spent money on "entertainment" and "party and barbecue supplies."

The society operated at deficits of \$35,841 in 1993, \$57,709 in 1994, \$23,952 in 1995 and \$24,087 in 1996. These deficits would have been even greater had it not been for the income produced by the investment of the proceeds from bequests. The transfer of funds from the society's investment accounts made up the shortfall each year. The receipt of substantial bequests in 1997 and 1998 prevented deficits in those years, as well. Without the bequests, the society would have operated at deficits of \$47,104 in 1997 and \$58,127 in 1998. Absent the unpredictable generosity of testators, the society exceeded its receipts by more than 185% for the six-year period. The proceeds of the 1997 and 1998 bequests were applied to fund salaries for the officers beginning in 1998.

Pursuant to a resolution adopted at the January 8, 1998, Board meeting, effective September 15, 1998, the chief has been paid an annual salary of \$50,000. In addition, the officers are paid according to a rate schedule, with maximum figures set for each year, as follows: \$41,600 for the deputy chief; \$37,440 for the captain; \$31,200 for

the lieutenant; \$24,960 for the sergeant, and \$15,360 for every other officer.

Pursuant to the by-laws, the Board has appointed a finance committee and engaged a firm of certified public accountants to perform an annual certified audit. However, the state society does not retain a copy of each audit. The 2000 by-laws eliminated the earlier provision imposing a \$20,000 limit on the Board's power to purchase and sell any assets or property without a resolution adopted by 75% of the Board. Contrary to the mandate of the by-laws, the Board did not prepare and approve an annual budget.

The society's financial records contained the following irregularities. The society deposited funds earmarked for the Camden County SPCA in its operating account, instead of segregating the money. Although taxes were withheld from the salaries and W-2 income tax forms were issued, there were no withholdings for the bonuses, uniform and ammunition allowances, holiday gifts and court appearance fees and the amounts were not included on the W-2 forms. These items totaled \$20,829 for the six-year period. In addition, several checks, which were issued to agents and a vendor, were cashed and the money was deposited to the society's account. This type of transaction is suggestive of a petty cash fund, which was not disclosed in the society's records.

RELATIONSHIP BETWEEN THE STATE AND COUNTY SOCIETIES

Each county society is a separate entity, distinct not only from one another, but also from the state society. The county societies are autonomous entities that are not subject to any statutorily mandated regulation or supervision by the state society. The only relationship between the state and

county societies that may be gleaned from the statutory scheme creating them is the authority of the state society to create a county chapter with the issuance of a certificate of authority and its concomitant power to revoke the certificate "for cause." Nowhere is the term "for cause" defined. It was not until 1982 that a court gave expression to the rights of the state society over its counterparts. Nevertheless, until very recently, the New Jersey society never endeavored to test those rights. For at least the past 30 years, and probably longer, the state society assumed no leadership role with respect to the county chapters.

During the past 20 years, the state society issued five charters and revoked none. It issued new charters in Somerset and Warren Counties and reissued ones to new groups in Atlantic and Passaic Counties when the prior charters were surrendered. According to the president of the state society, at one time he attempted to revoke the charter of the Sussex County SPCA, but was unable to recall the reason.

The relationship between the state and county societies has run the gamut from decent to tenuous, at best. The state SPCA has not adopted a uniform policy in dealing with its local counterparts. It has pursued a hands-off approach with some, while making demands of others. The leaders of some county SPCAs have perceived the state society, whether correctly or incorrectly, as employing tactics of intimidation and threats to revoke their charters and seize their assets. The state society, in fact, has made threats to suspend or revoke the charters of some societies in an effort to exact compliance with its requests for records. Its warnings were taken seriously by some and ignored by others. The fear that the state society would swoop in, revoke the charter and seize all assets has led some county SPCAs to take unorthodox actions. For example, the head of the Gloucester County SPCA told the Commission that the Board

authorized the release of a \$50,000 bequest to her to open a spay and neuter clinic in her name to prevent the state society from dissolving the county charter and seizing the funds.

Over the years, the state society has made various demands that the county societies either ignored completely or complied with sporadically. At no time did the state society attempt to enforce the demands. For example, the New Jersey society has required each county society to pay annual dues of \$100. Nevertheless, six societies failed to submit the dues every year. Although the state society required the counties to provide quarterly law enforcement reports, most did not comply at all and some complied only intermittently. Similarly, the request for minutes of Board meetings was generally ignored.

Although the state society has jurisdiction to investigate cruelty complaints in all 21 counties, it is presumed that it will act only in counties where there is no local chapter. However, since 1993, the state society has conducted more than 200 investigations in all of the counties that have societies. When queried by the Commission, many of the local societies were unaware of the state society's involvement in their counties. According to the president, state investigations are frequently undertaken when complainants assert a lack of responsiveness by the particular county chapter. Such was the case with the Middlesex and Ocean County SPCAs. However, state officials were unable to explain why they conducted so many investigations in Passaic and Union Counties. Generally, they were surprised at the number of state investigations conducted in counties with societies. When the state SPCA has referred complaints to the county societies, many have complained that the referrals were not timely. Moreover, the Commission found that the state society does not document the cases that it refers to county chapters.

The line between Gerofsky's association with the Burlington County society, where he has been chief for about 20 years, and the New Jersey society has been blurred. Since April 1993, the county society has paid for a safe-deposit box that Gerofsky uses to store more items belonging to the state society, including eight weapons and motor vehicle titles, than to the county society. Between 1993 and 1997, the county society paid \$5,048 for three car phones that were placed in the society's two vehicles and Gerofsky's personal vehicle. He arranged for the state society to purchase the car phones and for the county society to reimburse the state society. Gerofsky has received ammunition allowances from both the state and county societies, even though, according to his interview, his weapon qualification has been with the state society. He later contradicted himself when he appeared before the Commission and testified that he qualified with weapons from both societies. He also has received a uniform allowance from each society, even though, as he stated in an interview, he has not worn a Burlington County SPCA uniform for the past 10 years. He again contradicted himself before the Commission when he testified that he has worn the county uniform.

In the past decade, the New Jersey SPCA conducted investigations of three county SPCA shelters after receiving complaints. No action was taken. Despite serious allegations of substandard conditions at the Hudson County SPCA shelter, the state society never undertook an investigation. Acknowledging the unacceptable conditions at the shelter, the society nevertheless advised a local animal welfare group that the state society was powerless to proceed against a chartered member for health code violations.

The state society's impotence in dealing with the county societies is no better illustrated than by its historic relationship with the Warren County SPCA. When the New Jersey society agreed in 1991 to

allow a group of individuals to form a county society under a temporary charter, it placed certain restrictions on its operation and activities. Despite the representation of the individuals that they would comply with the conditions, they failed to do so. The state society experienced repeated problems with and received repeated complaints about the conduct of the individuals. Nevertheless, it issued a permanent charter one year later. Minutes of meetings of the state's Board of Directors reflect discussions about the problems and about revoking the charter, but no action against Warren County's charter ensued.

The Gloucester County SPCA presents another example of the state society's inability to respond to the blatant inadequacies of a county society. The state society was apprised of the deterioration of the one-woman operation over the past decade, but took no action. It also ignored allegations of the inhumane conditions under which an inordinate number of animals were kept on her property.

CASE LAW

The seminal case on the relationship between the county societies and the New Jersey SPCA is a January 1982 opinion, together with its corresponding February 1982 declaratory judgment, rendered by the Honorable Reginald Stanton, J.S.C.³⁸ The opinion is as remarkable for what it refused to do as is the declaratory judgment for bestowing certain rights upon the state society over the county societies.

³⁸*Sussex County Society for the Prevention of Cruelty to Animals v. New Jersey Society for the Prevention of Cruelty to Animals, Charles Gerofsky and Paula Malatesta*, Superior Court of New Jersey, Chancery Division – Sussex County, Docket No. C 1315-80E, Letter Opinion (1982).

The case arose from a lawsuit brought by the then Sussex County SPCA against the state society and its president over the control of certain records and operations. When these issues were resolved by the parties prior to the court hearing, the only remaining issue for the court was the state society's counterclaim for declaratory relief to define the respective powers of the state and county societies. While the court recognized certain rights of the state society to "monitor" the activities of the county entities, it soundly rejected the state society's argument that its authority to grant and revoke a county charter carries with it the implied power to supervise and regulate a county society's ongoing activities. The court was not persuaded by the state society's argument that such power would provide a "more orderly and efficient accomplishment of the general objective of protecting animals from improper treatment."

The court ruled that although the state society has no "power to supervise or to regulate the ongoing activities" of the county societies, it does possess certain rights to monitor and assess their activities. Implicit in the state society's statutory power to revoke a county charter³⁹ are the implied rights of the president to inspect the county societies' "records...and...activities...on an ongoing basis" and require reports "on a reasonable periodic basis." The court noted that the president may exercise his "inspection rights" through "responsible agents," who also may be utilized "to receive and analyze reports." Further, the court defined the statutory right of the president to revoke the county society's certificate of authority. The president, stated the court, may do so "if he finds that the county society is substantially and irreparably failing to accomplish its objective of preventing the mistreatment of animals." Presumably, the exercise of his "inspection rights" would assist the president in making such a judgment.

³⁹*N.J.S.A.* 4:22-5.

Until recently, the state society never sought to exert the seemingly broad rights articulated by the court. According to its president, the state society refrained from taking any legal action to compel compliance primarily out of fear of the cost of litigation. Although charter revocation has been threatened as a means of exacting compliance, the intention was never to pursue such action out of trepidation that the particular county society would initiate a court challenge and embroil the state society in costly litigation. Additional factors for the reluctance of the state society may have been the court's failure to define certain key terms in articulating the rights of the state society and the desire of the state society to avoid any challenge to those rights. It also may be that the state society was influenced by the court's speculation that the delegation of law enforcement powers to private citizens is unconstitutional.

RECENT DEVELOPMENTS

Very recently, the state society took steps to exercise control over the county societies. The change in direction appears to have been sparked by questioning of the society's president by Commission staff regarding the failure of the state society to exert the powers articulated in Judge Stanton's opinion. In an effort to convince the county societies to acquiesce to its demands, the state society invoked the Commission's investigation in admonishing that if the societies do not reach an accord, then the State of New Jersey, as a result of the Commission's investigation, will impose restrictive conditions upon them. Several of the county societies have mounted strong opposition to the state society's attempt to interfere with their operations. The outcome is yet to be determined. It remains to be seen how far the state society will go in

attempting to exert its dominance and whether either or both sides will resort to the courts to resolve the issues.

In a May 5, 2000, letter to the county societies, the state society announced its intention to assess "whether each county society is up to standard" and to ensure that each society meets the "standard for proper organization and proper operation" by inspecting the chapters' records and activities on an ongoing basis and requiring their submission of certain reports. Failure to operate "up to standard" will result in revocation of the county SPCA's charter, following notification and two opportunities to comply. The state society convened a meeting on May 23 to discuss compliance. Fourteen of the 15 county societies were represented. Distributed at the meeting were the state society's newly formulated *Policy Statement* and *Rules*. The *Policy Statement* announced the state society's intention to implement "fair and effective exercise of control" over the county societies, while permitting them "to operate autonomously as long as [they] comply with the [state SPCA's] Policies and Rules." The proper use of firearms and charitable contributions were identified as the areas of intended supervision. In addition, requirements were set forth for "uniformity in dress, procedures and general operations." The *Rules* mandate that the county SPCAs submit to the state society very detailed monthly reports of financial activity; law enforcement activity, including all aspects regarding calls, investigations, dispositions, summonses and complaints, assistance by law enforcement agencies and confiscation of animals; complaints against any county society, and firearms training and qualification.

Not unexpectedly, the state society's actions triggered a strong response from nine of the county societies. In a letter to the state society's president dated June 14, 2000, the county societies

“reject[ed] the theory that your organization has the right to dictate the rules and policies of the County organizations” and proposed only that (1) the county societies report on a quarterly basis the number of calls received, the number of cases assigned and the number of summonses issued, and (2) the state SPCA be permitted to inspect the records of county

SPCAs at their offices. The letter clearly opposed and rejected any interference by the state society with the “independent operations and finances” of the county societies. The letter concluded with the threat of litigation if the state society persisted in its position.

THE SPCA ANIMAL SHELTERS

At one time or another, more than half of the county SPCAs have operated an animal shelter. Currently, only four societies (Cumberland, Hunterdon, Monmouth and Hudson) maintain a shelter operation. One (Cape May) closed its shelter at the end of 1998, as did four (Mercer, Middlesex, Ocean and Union) during the 1990s and one (Burlington) in the 1970s. If other county societies have operated shelters, their officials have no memory or record of it. At present, the Hudson County SPCA is the only society that does not incorporate a law enforcement component with its shelter operation. The Monmouth County SPCA conducted only a shelter operation until November 1998, when it began investigating animal cruelty complaints. Members of the animal welfare community, as well as the societies themselves, differ in opinion as to whether it poses a conflict of interest for an SPCA engaged in enforcement work also to operate a shelter. In fact, the president of the New Jersey society believes that SPCAs should not be involved with shelters because of the potential for a conflict of interest. In addition, the consensus appears to be that a shelter cannot be operated at a profit if it places the care and well-being of the animals first.

The Cumberland, Hunterdon and Monmouth County SPCA shelters are clean, well-managed operations where the welfare of the animals is paramount. Several factors are common to all of them. Each has an aggressive adoption program, which accounts for the high adoption rate. Standard procedures include a thorough screening process of individuals interested in adopting animals, fixed adoption fees that do not differentiate between purebreds and mixed breeds, and policies that allow the return of animals for full or partial refunds within specified time periods. There is also a strong

commitment to the spaying or neutering of adopted animals, with the surgery either performed by the shelter or required of the new pet owners. The facilities are routinely and thoroughly cleaned and disinfected. A health and disposition assessment is made of all incoming animals and certain tests and inoculations are standard protocol for the animals upon admission and adoption. The Hunterdon County SPCA shelter euthanizes animals only for reasons of severe illness or aggressiveness. The Cumberland and Monmouth County SPCA shelters, which euthanize animals primarily for space considerations, prioritize the animals according to such factors as health, age and adoptability. Their process includes clear procedures on who is authorized to make the determination and requires the approval of more than one person for the selection.

In stark contrast to these three paradigm shelters are the Hudson County SPCA shelter and the Cape May County SPCA shelter.⁴⁰ The facility conditions can be described only as deplorable and the treatment of the animals as unconscionable. The management of these two shelters has tolerated an atmosphere of indifference to the animals, inadequate staffing, lack of proper cleaning and disinfecting that resulted typically in a stench and outbreaks of disease, substandard condition of the facility, and a lack of, or woefully inadequate, veterinary care. The resultant low adoption and high euthanasia rates at both facilities are not surprising. The conditions at the Hudson County SPCA shelter are particularly appalling in light of the \$800,000 to \$1 million that the society has had invested at least

⁴⁰The Cape May County SPCA ceased operation of its shelter business after the Commission commenced its investigation. Therefore, an assessment of the shelter is included in this report.

since 1994. Similarly, the Cape May County SPCA funds were used to benefit its president and not the shelter. The responsibility for the state of each of these two shelters falls squarely with its president, who exercised complete control over the society's entire operation for years.

SPCA SHELTERS

The **BURLINGTON COUNTY SPCA** operated a shelter in Westampton Township from approximately 1962⁴¹ until 1976, when the county government leased the facility pending construction of its own shelter. The SPCA shelter was a small operation that was criticized for its poor conditions. The decision of the Board of Directors to eliminate the shelter business coincided with the decision of the county freeholders to undertake a taxpayer-supported operation.

The **CAPE MAY COUNTY SPCA** operated a shelter for several decades until January 1, 1999,⁴² when it leased the kennel and grounds to Animal Outreach of Cape May County. According to the five-year lease, Animal Outreach will pay \$1.00 a year to operate the animal sheltering facility for the intake and disposition of stray, unwanted or abused animals. At the same time, the SPCA president, Dennis Kelly, also leased to Animal Outreach his privately owned shelter, which he used in his animal control business operated under the name of Dekelco. Both shelters, which are located within 60 feet of each other, are operated now under the name of Animal Outreach. The SPCA president told the Commission that if Animal Outreach is unsuccessful in running the two shelters, he is

uncertain whether he would resume their operations. Animal Outreach assumed the contracts that Kelly's company had with seven of the county's municipalities to house their stray animals. When Kelly brings an animal to the shelter in connection with his Dekelco business, Animal Outreach bills the apposite town. Kelly has agreed to pay Animal Outreach for the sheltering of any animal that he brings as a result of his SPCA duties. To date, he has not taken any animal there. Animal Outreach was incorporated in June 1998 as a non-profit, charitable organization. Its stated purpose is to provide a full service animal shelter facility to house and protect the county's unwanted and abandoned animals. It was organized in reaction to the substandard conditions that existed at the SPCA shelter.

The society's shelter is situated on a half acre of property in Lower Township. The land, which had been donated to the SPCA by Kelly's grandfather-in-law in 1953, is located in the middle of Kelly's five-acre property that includes his home. The shelter was available to all of the county's municipalities for their unwanted animals. It included 12 dog runs and an area containing four cages made of cyclone fencing on a concrete slab. According to Kelly, a record was created for every animal entering the shelter. The record also noted the disposition of the animal. The shelter operation was essentially a one-man operation. There was no staff to speak of – only Kelly; his stepson, who occasionally assisted with cleaning and is also an SPCA Board member, the vice-president and agent, and young people during the summer. These individuals essentially volunteered their time and did not provide a regular and reliable staff. Indeed, the first cleaning of the animal enclosures sometimes occurred at noon or later each day. The absence of adequate and reliable staffing is highlighted by the fact that a mere \$1,925 was paid to workers for the entire six-year period.

⁴¹There are no records to substantiate the date, which is based on recollections.

⁴²Although the president has no record of when the shelter was first opened, it was in operation when he became involved with the SPCA in 1976.

The shelter was a facility where animals were held briefly and euthanized quickly. Many of the animals that were adopted were ill and some died soon after their adoption. Each year, approximately 25% of the animals were adopted, with the remaining 75% or more euthanized. Euthanasia was the solution for animals that were sick, injured or not adopted immediately. Veterinary care was virtually nonexistent. According to Kelly, no medical treatment was provided at the facility and any animals requiring medical attention were transported to a veterinarian. It is astonishing that between 1993 and 1998, Kelly spent a mere \$562 on veterinary services and that he expended those monies in only four of the six years. The veterinary treatment provided was for minor lacerations and injuries. Contrary to the mandate of state Department of Health regulations and the representations made to governmental inspecting officials, the SPCA had no responsible veterinarian from 1991 through 1998. The veterinarian who was listed during the years 1991 through 1993 admitted to the Commission that he allowed Kelly to use his name, but stated that he had a "very loose" relationship with the shelter. He visited the facility on only a few occasions and merely provided "advice," never any treatment to the animals. He stated that there were routine outbreaks of distemper and parvovirus and no isolation area for sick animals. Another veterinarian, whose name was offered as the responsible veterinarian for the years 1994 through 1998, told the Commission that he was never at the shelter or under contract with the SPCA to provide services. He was outraged to learn that his name was used in such a fashion.

The conditions under which Kelly operated the SPCA shelter were no less than deplorable. The lack of attention given by Kelly to both the facility and the animals is reflected in the paucity of money spent on repairs. For the entire six-year period, Kelly spent a mere \$4,351

for repairs and \$1,123 for plumbing services. According to Kelly, he never replaced the septic tank, but did have it drained "a couple of times." Although the society had investments of between \$97,500 and \$136,838, Kelly repeatedly chose to borrow money for his personal use rather than apply the funds to improve the conditions for the animals. Kelly admitted to the Commission that the shelter was not up to code, explaining that it was "grandfathered in." The shelter was, in fact, a very old facility in severe need of upgrading. Kelly made no improvements to the facility when he took over the operation. He acknowledged that it should have had inside drains for cleaning purposes, solid walls between the cages and a temperature-controlled environment. Although the shelter lacked a separate area for the isolation of sick animals, Kelly characterized the four cyclone-fenced cages as "sort of isolation rooms." He placed sick cats in the corner of a room that housed the healthy ones. Kelly cavalierly remarked that there were no cruelty violations at the shelter, but there might have been health violations.

Numerous witnesses recounted to the Commission their personal observations of the shelter conditions. Their accounts spanned the time periods both prior and subsequent to the commencement of the Commission's investigation. Witnesses described the lack of food and water, severe overcrowding in the cages and runs, extensive filth and a nauseating stench. Similar observations were made by Commission staff, who found that the indoor areas were dark and malodorous; cages were filled with excrement; some cages contained several large dogs; there were no food or water bowls in some cages; cat cages did not contain litter boxes; four enclosed animal traps, located outdoors and housing cats, were without any covering and contained no bowls for food or water, and a dead kitten was lying on the ground next to the animal traps.

Under the management of Animal Outreach, dramatic changes have been made to the former SPCA shelter, as well as to the private shelter previously utilized by Dekelco. There is no longer an offensive odor permeating the facility and the cages are markedly cleaner. The dog runs are cleaned two or three times each day, in comparison to only a morning cleaning under Kelly's management. The septic tanks now are pumped as needed. The entire shelter is bright with light. In fact, there is light during the night for the animals. In addition, Animal Outreach installed automatic watering equipment in the dog runs, repainted the entire facility and redesigned the interior of the facility. A separate room was created for cats. Fans, an air purifier and a heater blower also have been added. New construction allows the shelter to accept more animals. An adoption area is provided where prospective pet owners can interact with the animals. Even though Animal Outreach has made considerable improvements to the shelters, its director acknowledged that a great deal more is necessary to make the facilities acceptable.

Animal Outreach keeps the former SPCA shelter open for considerably more hours each day than it had been under Kelly's control. The SPCA shelter was not always open for the number of hours that were posted. It was not uncommon for individuals to open the cages themselves to retrieve their lost pets. The longer hours, together with Animal Outreach's focus on promoting adoption, has caused a significant rise in the adoption rate. While Kelly reported a euthanasia rate of 75% and an adoption rate of only 25%, more than 60% of the animals are being adopted now and the euthanasia rate has plummeted to 25% to 30%. Animals are euthanized only if severely injured or ill or very aggressive. Space considerations are not a factor in decisions to euthanize. When necessary, volunteers foster animals in their homes. Not only are more animals surviving because of Animal Outreach's implementations, but also more animals are being

accepted at the shelter. During 1999, 1,700 animals were handled under Animal Outreach's management, in comparison to the 1,000 to 1,100 animals estimated by Kelly for 1998.

In contrast to Animal Outreach's adoption process of screening prospective pet owners, Kelly implemented no procedure. All that he required was his personal assessment that the person would be able to afford and care for the animal. He requested the person's name and address, but the information was solely for the purpose of recording the disposition of the animal. No screening or check of any kind was done of the individual. There was no requirement that applicants complete any form or questionnaire and no screening of applicants. Essentially, whoever sought to adopt an animal was allowed to do so. According to Kelly, "I was happy to get them out the front door instead of the back door." Kelly gave everyone who adopted an animal a disclaimer that summarized the society's adoption policy:

Your pet should be taken to a veterinarian for an examination and/or shots. We are not responsible for any expenses incurred. If your pet is not healthy, it can be returned for replacement only.

Another marked distinction between the two operations is the effort to promote the spaying or neutering of adopted animals. While the SPCA shelter under Kelly made no attempt to have the animals altered or to encourage the new owners to do so, Animal Outreach seeks to have the animals spayed or neutered. The adoption fees, which are the same for purebreds and include certain inoculations and tests, are \$87.50 for a dog or puppy and \$62.50 for a cat or kitten. The fee includes the cost to have a cooperating area veterinarian spay or neuter the animal. However, if the animal is not altered, \$20 of the fee will be refunded to the new owner with proof that the

surgery was performed. The fees also include the implanting of a microchip in the animal. Reduced fees are charged to senior citizens.

Animal Outreach charges \$35 for the surrender of a dog with medical records and \$50 for a surrender without records. Individuals are charged \$35 to surrender a cat and \$20 for a litter of kittens. The re-claim fees are \$25 for a dog and \$10 for a cat, plus a \$5-a-day boarding fee.

The fees charged by Kelly were very low, a fact that may have accounted for the SPCA's relatively low income each year. For the adoption of an animal, the shelter suggested a donation of \$20 for a dog and \$10 for a cat. No donation was requested if the person was unable to afford one. Other fees included \$20 for a pet owner to redeem a dog and \$10 to re-claim a cat. No fee was charged to surrender an animal.

The **CUMBERLAND COUNTY SPCA** shelter commenced operations in June 1947 and has been housed at its current location in Vineland since 1954. The shelter accepts the surrender of animals from anywhere in the county and accepts all types of animals, transferring the unusual ones to rescue groups. In 1999, the shelter received 4,992 animals, of which 1,030 were adopted, 548 were re-claimed by their owners and 2,974 were euthanized. The overwhelming majority of the euthanized animals were feral cats. The facility contains 22 indoor/outdoor dog runs, three outdoor dog runs and 100 cat cages. The cages undergo a vigorous cleaning and disinfectant procedure on a daily basis. Each cage is equipped with a blanket and food and water bowls. Dogs and cats receive various tests and inoculations upon entering the shelter.

Individuals interested in adopting an animal from the shelter must undergo a scrutinizing process that includes completion of a questionnaire and checks by the shelter with the landlord, if the person

rents, to verify that pets are allowed, and with the veterinarian who treated a prior or current pet. A successful applicant signs an adoption contract requiring that the animal be altered and a release form representing that the animal will be returned if no longer wanted. A shelter employee telephones the new pet owner after two weeks to ascertain how the animal is doing in its new environment. If there is a problem, the owner may return the animal and receive a partial refund of the adoption fee. A full refund is given if the animal bites someone.

The shelter's adoption fees, which do not differentiate between pedigree and mixed-breed animals, reflect its commitment to the spaying or neutering of animals. The adoption fees of \$96.50 for a dog and \$65.90 for a cat include the cost for a cooperating veterinarian to spay or neuter the animal. Cooperating veterinarians charge the shelter a lower fee for the surgery and also provide the pet owner with a free first visit. The adoption fees also include various inoculations and tests, as well as a collar and leash.

The **HUDSON COUNTY SPCA** shelter has been in operation in Jersey City for more than 100 years. On August 1, 2000, the shelter was placed under new management because of events that were sparked by the June 15 bludgeoning of a dog by a shelter worker, the ensuing scathing publicity, the July 3 unsatisfactory inspection by the state Department of Health [DOH] and the filing of summonses by Jersey City health officials for failure to have a responsible veterinarian and to isolate a dog in a biting case. It remains to be seen whether the change in management is merely for cosmetic purposes until the publicity abates or whether substantive and lasting improvements will result. The Commission's report concerns the conditions that existed at the shelter prior to these recent events.

The reality of the shelter belied the statements of the president, Edward Pulver, that

were contained in an undated press release entitled “Jersey City SPCA: A Story of Compassion”:

We are only a temporary care facility that can hopefully continue a healthy animal’s life long enough for it to be adopted, and in the case of many injured and sick animals, we give the animal time off the streets to help nature take its course. Of course, we do have to intervene with emergency veterinary care for animals that are severely injured. The best and only way to attend to those cases is to refer the animal to professional veterinary hospitals and doctors, as much as our budget will allow.

The deplorable conditions that have existed at the shelter are particularly inexplicable in light of the society’s \$800,000 to \$1 million in investments. This has been a shelter where the well-being and interests of the animals have not been paramount. Rather, the shelter has traded in animals for the money that could be obtained. As detailed in the chapter entitled *Financial Profile of the County SPCAs*, there were a number of fraudulent schemes to divert the shelter’s funds. The Commission also found evidence that one employee utilized the shelter to supply a guard dog company with dogs, without formally adopting them or documenting their disposition.

From 1993 through 1999, the SPCA expended only 3% of its gross receipts on repairs to the shelter, and most of the expenditures related to maintaining the building as opposed to improving the immediate conditions for the animals. The frugality with which the shelter was operated is reflected further in the fact that the lights in the back room, which housed the large dogs, were left off during the day in order to conserve electricity.

The callous disregard for the well-being of the animals is reflected further in the type of

employees that were hired. Shelter workers were neither screened nor provided with training. The manager was termed “useless” by inspecting officials regarding his knowledge of the operation. Very recently, on June 15, 2000, a shelter employee was observed bludgeoning a dog with a shovel. According to the Jersey City Police Department, the employee is a homeless individual with convictions for possession of a controlled dangerous substance, possession of drug paraphernalia and bail jumping, and outstanding municipal arrest warrants against him.

DEFICIENT ADOPTION PROCEDURES. There were no standard adoption procedures. Despite the existence of an adoption agreement, the form was not always utilized and, when used, was rarely completed in full. Even though the agreement contained language that the owner agreed to have the animal spayed or neutered, the issue was never discussed and there was no follow-up to ensure that the surgery was performed. Similarly, the shelter never had “a representative examine the animal” following the adoption to ensure that it was properly cared for. What occurred was very simple – a person entered the shelter, selected an animal, paid the required fee and left with the animal. The individuals were not screened or required to complete a questionnaire. There was no waiting period. A request for identification was the exception. Even though the adoption form required the driver’s license number, none was obtained. The issuance of a receipt and the recording of the individual’s name and address were sporadic. The fees fluctuated and were not posted. Upon adopting an animal, some individuals were not told anything about whether the animal received any inoculations, while others were told that no shots were given and still others that the animal was inoculated. When individuals were told that shots were given, the shots were not identified. The adoption fee had to be paid in cash and, if the animal was returned, even within a brief period of time, the fee was not refunded. In

fact, some individuals were required to pay an additional fee to return the animal. The shelter did not permit a prospective owner to observe the interaction between an animal already owned and the one to be adopted.

INADEQUATE RECORDKEEPING. During the entire period under review, the society failed to maintain adequate records to track an animal from its arrival at the shelter to its ultimate disposition. The “intake” ledger did not note any animal as surrendered for euthanasia, contained only two notations of the receipt of a cat and frequently failed to note the disposition of dogs. Consequently, it is impossible to verify whether all stray animals, especially cats, were held the requisite seven days, how animals were disposed of or whether all adoption fees were recorded. The absence of proper recordkeeping allowed a shelter worker to take dogs for use by the guard dog business where he also was employed. It also accounts for the incidents when pet owners sought to re-claim their animals and were told that they had been adopted, but there was no record of who adopted the animals.

IMPROPER EUTHANASIA PRACTICES. The Commission’s analysis of the euthanasia of animals during 1999 established that the shelter greatly underreported to the state DOH the number of animals euthanized; an insufficient amount of euthanasia agent was used on a significant number of dogs; non-certified personnel performed the euthanasia on occasion, and euthanasia was not always conducted under the supervision of a veterinarian.⁴³

INADEQUATE OR NO VETERINARY CARE. During the past decade, veterinary care was afforded the animals for only very brief periods of

time. For extended periods, the SPCA did not retain a responsible veterinarian. Further, there were periods when, although one appeared to be retained “on paper,” the veterinarian, in fact, provided no care. Even though state regulations mandate that a certification of veterinary supervision be updated annually and kept on file at the facility, the SPCA’s files contained only two annual certifications, one dated July 31, 1996, and the other dated June 7, 1999. A third certification covered only a two-month period in 1996. According to shelter employees, for at least the past six years, although the SPCA had a signed certificate of responsible veterinarian and paid a veterinarian, the individual was never contacted by shelter employees regarding injured or sick animals and appeared at the shelter infrequently, only once or twice a month at times and, at other times, not at all during a month. When he did visit the shelter, he did not treat animals, but simply walked around and indicated which animals should be euthanized. He was frequently absent from the state, as well as from the country, during which times he made no arrangements for another veterinarian to be available for the shelter’s animals. When this veterinarian appeared before the Commission, he testified that he had signed a contract with the SPCA, but neither he nor the society was able to produce one. He stated further that he visited the shelter once or twice a week to inspect the premises, treat the sick animals and observe the general conditions of the animals. His claim that on two occasions he had another veterinarian provide treatment at the shelter on his behalf was refuted by that veterinarian. Although he testified that he was absent from the country only once in 1999, the Commission ascertained that he made two trips abroad that year. He also was confronted with the assertion of a state DOH official that when he was at the shelter, he read the veterinarian’s note dated May 4, 2000, that another veterinarian would provide treatment in his absence. According to the DOH official, while the veterinarian was abroad for two months, no veterinarian

⁴³See *N.J.A.C. 8:23A-1.11(e)*.

provided any care. The veterinarian denied that he left such a note.

EYEWITNESS ACCOUNTS. The Commission heard from many people who observed first-hand the conditions at the shelter. In addition, the Commission reviewed numerous letters of complaint filed by individuals with the Jersey City Division of Health and the state DOH about the conditions. The experiences of all these people occurred both prior to and during the Commission's investigation. Almost without exception, they portrayed a dirty facility with a depressing atmosphere where animals were crowded into cages, animals were housed in cages that were too small for them, sick and injured animals were unattended, sick animals were caged with healthy ones, a stench permeated the facility, and the workers appeared disinterested and unknowledgeable about the animals. Animals that were healthy when taken to the shelter quickly became ill, many very seriously. In violation of the mandated seven-day holding period for strays, animals were adopted or euthanized within that period of time. Individuals reported that after they brought a stray to the shelter, they were directed to complete a surrender form that indicated they were the owners and to make a "donation" of a specified amount of money. Frequently, those who adopted animals found them to be seriously ill. Some dogs died within days of their adoption. When sick or ill-behaved animals were returned, not only did no one receive a partial or full refund of the adoption fee, but some individuals were required to pay an additional fee to surrender the animal. When the disposal company arrived each week, the shelter's two freezers were always filled to capacity, with carcasses typically strewn on the floor around the freezers. According to officials of the Bergen County Animal Shelter, that shelter has received many animals from Hudson County residents who have refused to surrender their pets to the Hudson

County SPCA shelter because of the conditions there.

The earliest account of the horrid conditions at the shelter is found in the extensive letter written to Jersey City's Division of Health by an individual who performed community service at the shelter in December of 1992. In the letter, she noted that no attempt was made to separate the healthy animals from sick ones; the smaller dogs were not exercised; cats were not provided with kitty litter; there was no organized recordkeeping that tracked an animal; adoption fees varied according to the size of the dog and the apparent affluence of the person, and the leashes that accompanied surrendered dogs were not given to individuals who were adopting dogs. She described the cleaning procedures in the following terms:

[A] bucket is filled with bleach and hot water an old rag is dipped into it, and the same rag is used over and over to wipe out the cages. The water in the bucket doesn't get changed until there are actually pieces of excrement floating in it. Clean newspapers are laid on the bottom of the cages and thrown out when they become soaked or caked with excrement.... The feeding bowls are just rinsed once under cold water and no attempt at all is made to wash them well to prevent the spread of germs. [Emphasis in original.]

It has not been uncommon for individuals, concerned about the welfare of the animals housed at the shelter, to adopt dogs and cats with the express intent of fostering them, as they nurtured them back to health, and then seeking permanent homes for them. One individual, who, together with her associates, was responsible for the rescue of at least 12 dogs and 12 to 18 cats during the spring and summer of 1994, stated that most of the animals were sick, with many having parvovirus, distemper

or other diseases, and some of them died. She described the following conditions at the shelter: no food or water in the cages; overcrowded conditions with large and small dogs in the same cages; waste build-up; cages not properly cleaned; sick animals housed with healthy ones; animals kept in a dark room; no isolation room; no hospital area, and no veterinarian present.

When the owner of the company providing animal disposal services to the shelter first went there in March 1995, he was appalled at what he observed. He described to the Commission dead dogs and cats piled in a heap in a room at the rear of the shelter. None of the animals were contained in plastic bags. The stench was overwhelming. A mixture of clear liquid and blood covered the floor. Remarkably, a few animals were still alive. One cat, which appeared to be alive, was oozing blood from its nose. Thereafter, he repeatedly criticized the staff for its failure to clean the freezer.

The following are eyewitness accounts made during the last several years:

- The paws of an adopted dog were caked with excrement and his skin had fungus patches that the veterinarian opined may have been a reaction to bleach.
- Upon entering the shelter, an individual observed a small, sick kitten in a cardboard box near the front door. He selected another kitten to adopt. When the shelter worker was unable to find a box in which to place the kitten, the worker grabbed the kitten that was in the cardboard box, hurled it across the room and placed the adopted kitten in the box.
- During a visit, there were flies and excrement on animals, two dead kittens in one cage, a bleeding cat in another cage, and two workers kicking a cage in order to provoke a fight between the large dog and small dog housed there. On the next day, the dead kittens were still lying in the cage.
- A shelter worker was observed taking a cat from one of the cages and throwing it onto the floor.
- When a six-month-old puppy was taken to a veterinarian within two days of its adoption, the veterinarian found a collar imbedded in the puppy's neck.
- A pregnant dog was shivering in the corner of a cage. When the individual wanted to adopt the animal, the shelter worker stated that the policy is not to adopt a pregnant dog so that the shelter could sell the puppies.
- Approximately one day after a dog was adopted, it became extremely ill and was near death. The dog was diagnosed with parvovirus, which is highly contagious. The individual's other dog then contracted the virus. The veterinary fees to treat both animals exceeded \$500.
- A dead German shepherd was observed in one of the cages.
- Feces was embedded in the coats of dogs that were adopted. Shelter workers did not clean the animals when they were selected for adoption.

- The dogs adopted by two sisters were malnourished. One of the dogs died within a few days from disease.
- Each of three dogs, which were adopted by the same individual during the course of a three-year period, was ill with a different disease that required veterinary treatment. When the dogs were removed from the cages, each was wobbly and had difficulty standing. In addition, each dog appeared ravenous when brought to the individual's home and provided with food.
- When an individual brought home an adopted dog, it devoured five cans of dog food.
- Both the dog runs and the dogs housed there were wet, apparently the result of hosing the runs without first removing the animals.
- When a Chihuahua, which had had a litter the prior week at the shelter, began bleeding immediately after being adopted and died the following day, the shelter refused to refund the adoption fee. Its offer to replace the animal was declined.
- Large dogs housed in pens in the back room were lying in feces.
- Cages containing small dogs were without food and water.
- Despite the shelter's representation that a puppy had been given all of its shots, the veterinarian told the owner that that was not the case.
- A Siamese kitten began bleeding following its adoption and died approximately two weeks later. When the owner adopted the kitten, he was given adult cat food for it.
- About two weeks after an individual returned a dog to the shelter, she found the dog in her backyard. When she called the shelter, the shelter employee told her that the dog had been adopted, but refused to provide her with the new owner's name or to pick up the animal. He said that it was her problem. The woman then contacted the local animal control officer, who retrieved the dog.
- When two women brought abandoned kittens to the shelter, they were told that they were free to leave them, but if they did, the kittens would not be fed and would be dead by the following day. The women, who did not leave the kittens, were able to give them away.
- A veterinarian determined that a dog that was represented to be five years old by the shelter was closer to 11 years old.
- An owner found his two dogs at the shelter approximately one week after they were missing. Both dogs had their collars, but the identification tags were missing. Previously healthy, both animals were now ill and one died of parvovirus two days after being removed from the shelter.

The **HUNTERDON COUNTY SPCA** shelter, located in Alexandria Township, provides refuge for both domestic and farm animals. The society boasts that it operates the only "no-kill" SPCA shelter in the state. Originally constructed in 1972, the shelter has quadrupled in size during the

past 10 years. Its 19 acres include a facility for the dogs, cats and other animals, such as rabbits; two barns with enclosed paddock areas, and two run-in sheds for horses. The livestock includes pigs, horses, goats and sheep. Wildlife and snakes are referred to rescue groups. Four full-time and 10 part-time employees, who include a shelter manager, three kennel technicians and eight kennel workers, staff the shelter. The SPCA also has the benefit of more than 18 volunteers who assist with walking and grooming the animals and housekeeping chores. The shelter places a high premium on the lives of the animals and makes every effort to save a sick or injured one, regardless of the cost. This is the only SPCA shelter that does not euthanize to reduce the animal population. Euthanasia is reserved for those animals that have an incurable disease or are severely injured or vicious. When space becomes a factor, all available areas in the facility are utilized and employees take animals into their homes.

Approximately 1,300 stray and neglected or abused animals enter the shelter each year. The facility also takes individuals' unwanted pets, although there is a waiting list for the surrender of animals. In 1999, 772 animals were adopted, 238 were re-claimed by their owners, 237 were surrendered and 95 were euthanized.

The facility has 20 inside/outside dog runs, which contain one or two dogs depending upon their compatibility and space considerations; a puppy room with 12 large cages; 164 cat cages; two large cat community rooms where the cages are left open most of the time; isolation rooms; a dog adoption room, and a newly constructed infirmary. The cages are supplied with blankets or rugs. When the dog runs are unable to accommodate the number of animals, the overflow is housed in puppy cages, staff offices and areas of the basement.

The shelter's policy is to have veterinary care provided to all animals regardless of the cost or

seriousness of the injury or illness. The society is fortunate in having one of its Board members, who is a veterinarian, tend to the medical needs of the animals at no charge. She and her partner check all the dogs and cats and treat whatever illness or injury they may have. SPCA members respond to requests to contribute to the veterinary expense when treatment is costly. Another veterinarian contributes her time to care for the farm animals.

The shelter, which is open seven days a week, enjoys a high adoption rate, which is attributed to the low adoption fees of \$25 for cats and \$85 for dogs, regardless of whether the animal is a purebred. The fee for dogs includes the insertion of a microchip for identification purposes. The adoption process includes the completion of a form that includes questions about the number of any pets and the number and ages of any children, and, in a rental situation, proof that the landlord allows pets. An individual who already has a dog is encouraged to bring it to the shelter to ensure compatibility with the new pet. The shelter, which strives to ensure that the animal selected is appropriate for the individual, retains the right to refuse an adoption and includes such a notice in its adoption form. For example, the shelter will not allow a family with small children to adopt a kitten and restricts the adoption of certain animals to adults without children. The adoption contract requires that any unaltered animal be spayed or neutered within a specified time period and that verification from the veterinarian be provided. Most of the male dogs are neutered before being adopted. The shelter is firm in enforcing its spay and neuter policy to the point that if follow-up telephone calls are not successful in having the animal altered, the shelter threatens to re-claim the animal and, in fact, has done so on rare occasions. The new owners are urged to take their animals to a veterinarian within 72 hours for a check-up. The shelter will provide a full refund of the adoption fee if the animal is discovered with a medical condition that the person does not

want to handle. The shelter also will provide a full refund if the animal is returned within a certain time period for justifiable reasons, such as the display of aggression. Its return policy requests that the owner return the animal to the shelter at any time in the future if the animal is no longer wanted.

Placing the interest of the animals first, the shelter accepts the surrender of unwanted pets and allows pets to be re-claimed even when the owners cannot afford the fees. The shelter accepts the surrender of animals by their owners only when there is space in the facility. Accordingly, people wishing to surrender their pets are placed on waiting lists and, sometimes, when notified that they may bring in their pets, have changed their minds. No fee is set for a surrender, but a donation is requested. The fee for owners to redeem their pets includes a \$10 administration fee and a fee of \$4 per day for sheltering.

The **MERCER COUNTY SPCA** constructed a shelter in 1956 on property that was located in Hamilton Township and leased from the City of Trenton. It closed the shelter in 1992, when it vacated the property at the request of the city to allow for development of the land. The society was unsuccessful in its attempt to purchase the property. Some members were not interested in continuing a shelter operation because of the cost to maintain and repair the facility. During its operation of the shelter, the society accepted only animals surrendered by individuals and not stray animals captured by animal control officers employed by municipalities. The shelter had an aggressive adoption program. Fees were not charged for adoptions, but donations were requested. The society also assisted individuals in paying for the spaying or neutering of the animals when necessary. The society refused requests by towns to perform animal control services because the dispatcher, who was the wife of the president, did not want the society to become embroiled in

local politics.

The **MIDDLESEX COUNTY SPCA** operated a shelter and provided animal control services from approximately 1980 until 1991, when the state condemned the property in North Brunswick Township to complete the widening of a state highway. The funds received from the condemnation were insufficient to allow the society to continue the shelter operation elsewhere. The society's certificate of incorporation was amended in 1957 to specify the operation of a shelter, thereby indicating that there had been an even earlier shelter operation. However, there are no other records related to an earlier shelter.

The **MONMOUTH COUNTY SPCA** shelter, which is located in Eatontown, opened in 1945. The facility has 21 outdoor and 17 indoor dog runs, 74 indoor cat cages, two cat condos and a playground for cats. Separate areas with cages are for the isolation of sick animals. The shelter enforces a policy of one animal to a cage unless they are from the same family or litter. It also adheres to strict disinfecting procedures. The facility can hold up to 150 animals at any one time and, each year, handles approximately 3,000 animals, primarily dogs and cats. Separate areas with cages are for the isolation of sick animals. For 1998, in approximate numbers, the shelter adopted 1,300 animals, euthanized 900, returned 450 animals to their owners and referred 150 wildlife to rehabilitators. During the same year, pet owners brought 365 animals to the shelter to have them put to sleep because of illness or advanced age. The shelter accepts pet surrenders from anyone in the county. The society has letters of agreement with 13 municipalities and a contract with a fourteenth one to provide a holding facility for their stray animals. Each municipality is charged a fixed amount for each animal brought to the shelter. The municipalities are responsible for having injured or

sick animals treated before bringing them to the shelter.

The shelter has a staff of 15 full-time and eight part-time employees. The shelter relies extensively on the services of approximately 200 volunteers who assist at fundraising events and perform a variety of tasks at the shelter, such as walking the dogs. All volunteers undergo an orientation program that includes instruction on interacting with the animals.

The shelter, which is open to the public every day of the week, has an aggressive adoption program. It engages in a thorough screening process, which includes allowing the family to interact with the animal, completion of an application and submitting to an interview. Shelter staff attempt to ensure that the prospective pet owner understands what will be involved in the care of the animal. Adoption fees of \$99 for a dog or cat include the cost of spaying or neutering the animal, tests for certain diseases and various vaccinations. The society's policy is to spay or neuter all animals before adoption, with rare exception. On occasions in the past, in order to reduce the cat population and avoid euthanizing them, the shelter has offered two cats for one adoption fee. The surrender fees for adoption are \$30 for cats and between \$40 and \$70 for dogs, depending upon the weight. The fees to surrender an animal for euthanasia are \$40 for cats and \$40 to \$100 for dogs, depending upon weight. An owner who re-claims a lost pet pays \$15 for each day that the animal was at the shelter.

The spaying and neutering procedures are performed at the society's on-site clinic. Its staff of six includes a veterinarian and veterinarian technicians. In addition to surgery, clinic staff also perform tests on and administer vaccinations to the adopted animals. Clinic services that are available to the general public include spaying and neutering and the monthly rabies program.

The **OCEAN COUNTY SPCA** operated a shelter in Lacey Township from 1966 until January 1, 1995, when the Board of Directors voted to close it following a vote by the membership. In late 1995, the Board approved the sale of the property to the township. When the SPCA shelter opened, it was the county's only facility. Although volunteers initially operated the shelter, their numbers dwindled to the point that the society eventually had to hire a full-time staff. When the resulting expense for salaries, food, utilities and supplies became onerous for the society, the membership decided that its resources were better spent in the law enforcement area. The minutes of the Board meeting approving the closing noted that it was "due to financial burden and lack of help." The decision was eased by the fact that there were two county shelters already in existence. Following the closure, the SPCA entered into a contract with the Ocean County Health Department to utilize one of its facilities to house animals seized in cruelty cases and for certain additional services, including the quarantine of dogs in biting cases and euthanasia and disposal.

The **UNION COUNTY SPCA** owned and operated Kindness Kennels until February 1991. It had contracts with numerous municipalities to provide animal control services. Its staff of approximately 13 employees included animal control officers. The kennels were closed and the property sold when the SPCA was unsuccessful in bidding on contracts with the municipalities, who contracted with a private company offering lower prices.

COUNTY SHELTERS

Although the Commission focused on the SPCA animal shelters, it also examined the shelters operated by six of the state's county governments. Although the county shelters are quite varied in

operation, all are well-managed and successful havens for animals. County-owned shelters are a relatively new phenomenon. The oldest shelter is in Burlington County, which opened in 1977, while Atlantic, Bergen, Camden, Gloucester and Ocean Counties began shelter operations in the 1990s. The county shelters have certain attributes in common. The primary triggering mechanism for each was a vocal animal welfare group that persisted in calling for the uniform sheltering of animals within the county. None collect higher fees for the adoption of purebred animals. All are clean environments where the animals enjoy sufficient room in their cages. All pursue aggressive adoption programs that include the screening of applicants. Euthanasia is resorted to when compelled by space considerations. The same attributes that make the Cumberland, Hunterdon and Monmouth County SPCA shelters outstanding also are present with the county shelters.

The **ATLANTIC COUNTY ANIMAL SHELTER**, which opened in Pleasantville in October 1995 at a cost of \$1.6 million, is an exemplary facility. It falls under the Division of Public Health within the Department of Human Services. The shelter constitutes the impoundment facility for stray dogs and cats from 19 of the county's municipalities. The county rejected a plan to provide animal control services because of the cost. Most of the county's municipalities contract with private companies to provide animal control services and bring the stray animals to the county facility. The shelter also accepts the surrender of dogs and cats from county residents. The county assesses the municipalities a separate tax for public health services that include the cost of operating the shelter. The shelter generates revenue from the adoption, redemption and surrender of animals and from donations, which are nominal. All income is allocated to the public health budget. The shelter engages in no fundraising activities.

The shelter processes close to 5,000 animals each year. For 1999, 621 animals were adopted, 278 were surrendered by their owners, 545 were re-claimed and 3,388 were euthanized. The euthanasia rate is attributed to the high number of feral cats.

The facility, which is kept immaculate, is temperature-controlled either by air conditioning in the cat area and the adoption room or by a ventilation system in the dog runs. There are 75 dog runs, 300 cat cages and an adoption room for prospective owners to become acquainted with an animal. One dog is housed in each run unless two or more are brought into the shelter together or are very compatible. The facility's 10-member staff includes a shelter manager, a supervising animal attendant, five animal attendants, a veterinarian technician and clerical and administrative personnel. In addition, there are nine part-time animal attendants and a part-time veterinarian, who visits the shelter two or three days a week. A few volunteers assist with walking the dogs and playing with the cats. Individuals interested in volunteering their time must first complete an application.

The shelter is open to the public every day of the week. The adoption fees of \$55 for a dog and \$50 for a cat include the spaying or neutering of the animal and certain inoculations and tests. The shelter's veterinarian spays or neuters all animals before their release for adoption. The service is not provided to the general public. At an additional cost of \$15, the shelter will implant a microchip in the animal for identification purposes in the event that it becomes lost. The adoption process entails completion of an application and checks with a landlord to ensure that pets are allowed and with a veterinarian if the individual has or had another pet. A 24-hour waiting period is mandated. The entire adoption fee is refunded if the animal is returned within a specified time period.

Surrender fees are \$50 for a dog and \$35 for a cat. When a litter is brought to the shelter, the individual is charged \$20 for the first puppy or kitten and \$10 for each additional one. The shelter offers a payment schedule for those who are unable to pay the fee in full. Municipalities pay a \$20 administration fee, plus a \$10-a-day fee for rabies quarantine and a \$4-per-day sheltering fee. Any animals that are injured or ill must first be taken by the animal control officers to a veterinarian and brought to the shelter only if stable.

The **BERGEN COUNTY ANIMAL SHELTER**, which was constructed in Teterboro in 1978, is under the direct supervision of the county Health Department. Although the county funds its annual budget, the shelter must generate sufficient income to reimburse the county in full. Most of the revenue is derived from the shelter's contracts with 49 of the 70 municipalities to provide animal control services, which include the pickup of roadkill. The contracts are based on a strict per capita fee applied to each municipality.

The shelter handles approximately 7,000 animals each year. During 1999, 3,250 animals were adopted, 729 were re-claimed by owners and 1,813 were euthanized. Of the 7,089 animals received by the shelter in 1999, 3,383 were surrendered by their owners.

The shelter, which is open every day, is staffed by 18 individuals who include 12 certified animal control officers, a veterinarian, a veterinarian technician and maintenance people. It has 101 inside dog runs, 13 outside dog runs, 16 cages in the puppy room, 30 cat cages and 150 portable cat cages. In addition, there are 10 cages in the holding room and approximately 40 cages in the isolation room. The shelter adheres to strict cleaning procedures.

The shelter has an active adoption program that includes a strict policy of spaying or neutering all animals, including rabbits and gerbils. The adoption fees, which are \$85 for dogs, \$90 for puppies, \$40 for cats and \$50 for kittens, include spaying or neutering and various tests and inoculations, including a rabies shot. The adoption fee is refunded in full if the animal is discovered to have an illness. To re-claim an animal that was picked up as a stray by one of the shelter's officers, the fee is \$3 or \$4 a day, plus an administration fee of \$37. There is no administration fee if a citizen brought the stray to the shelter. Although the fees for the surrender of animals is \$25 for cats and between \$35 and \$75 for dogs, depending upon the weight, the shelter accepts surrenders even though the individuals usually cannot afford the fees. The shelter also accepts pets for euthanasia and charges \$40 for cats and between \$35 and \$75 for dogs, depending upon the weight.

The shelter has an extensive education program. It offers tours for the Boy Scouts, Girl Scouts and elementary school classes and provides classes on rabies awareness and pet responsibility. Its pet awareness program takes animals to nursing homes and schools.

The Friends of Bergen County Animal Shelter was incorporated in November 1984 to raise funds for the benefit of the shelter. Its stated purpose is to promote the general welfare "of all species of animals." Throughout the year, the organization provides additional items that the shelter needs or wants, such as a four-wheel drive vehicle and additional cages. The organization also operates a dog obedience school at the shelter.

The **BURLINGTON COUNTY ANIMAL SHELTER**, which is under the supervision of the county's Health Department, was the result of the determined efforts of one freeholder, who sought to offer to the residents of the county a

cost-effective, well-managed and clean regional facility. In 1977, pending the construction of a new county facility, the county rented the shelter operated by the Burlington County SPCA. In 1980, the shelter moved to its current location at the county complex in Southampton Township. When the county freeholders decided to provide a shelter, they considered, but rejected, the idea of also providing animal control services because of the inordinately high cost. One half of the shelter's budget is financed by the county's property tax assessment to the municipalities and the other half by the municipalities and residents who use the facility. Although the county never recovered the construction costs, the shelter's operating costs have been recouped each year.

Initially, only 12 to 15 municipalities took advantage of the county's shelter. However, the well-managed, clean operation soon took hold and, now, 40 of the county's 42 municipalities have written or oral agreements with the county for the sheltering of their stray animals. Under the agreements, municipalities are charged a fee only if a stray animal is not adopted or re-claimed, if it has to be euthanized or if it is dead when brought to the facility. The animal control officers must take injured or seriously ill animals to a veterinarian, not the shelter. The shelter also charges a fee to county residents who surrender their pets or bring in

dead animals.

The shelter processes approximately 6,500 animals each year. In 1999, 1,446 animals were adopted, 1,128 were re-claimed by their owners, 3,340 were euthanized and 1,584 were surrendered. Feral cats constituted the vast majority of euthanized animals.

County employees staff the facility, which is open to the public six days a week. The county

contracts with a veterinarian to visit the shelter during the month and to supply a technician to work there 20 hours each week. Volunteers are not allowed because of liability concerns. The shelter contains 46 dog runs, in addition to eight emergency runs, and 85 cat cages, plus 20 emergency cages. Each run or cage contains only one animal, unless more are brought in together or two animals are compatible when there are space limitations. Although isolation areas exist for sick animals, the focus is not to provide extensive treatment for their recovery, but rather to provide sheltering for the county's animals.

The shelter provides a low-cost adoption program and aggressively attempts to place as many animals as possible. It employs several avenues of the media to advertise for the adoption of its animals. The adoption fees are \$39 for dogs, \$28 for cats and lesser amounts for puppies and kittens. There is a rebate of \$10 for an individual who has the animal altered. The fee to surrender is \$19. The fee to re-claim ranges between \$9 and \$37 for the first day and \$4 for every day thereafter.

The **CAMDEN COUNTY ANIMAL SHELTER**, which was newly constructed in Blackwood, opened for operation in October 1997. Since July 1997, the county Board of Chosen Freeholders has leased the property to

the Camden County Humane Society, Inc.,⁴⁴ and has contracted with it to manage and operate the shelter. The Humane Society, which was incorporated in July 1997, was formed to bid on the shelter contract. The language of the contract, which reflects the freeholders' commitment to a humane operation, requires that the Humane Society operate

⁴⁴Camden County Humane Society, Inc., is distinct from The Camden County Humane Society, which was incorporated in August 1909, and Camden County Humane Society, which was incorporated in November 1929, both of which appear to be defunct.

the shelter as “a humane impoundment and adoption facility”; implement “a policy to aggressively promote responsibility in the ownership of and caring for pets and animals”; provide education presentations, and encourage spaying and neutering and inoculation against rabies “so as to minimize the population of unwanted animals.” Recognizing that adoption is “an integra[] [p]art of the animal shelter program,” the contract is very specific about the aggressive program to be implemented. Provisions of the contract also outline standards for the humane treatment of the animals, as well as expound on the spay and neuter program and euthanasia issue.

Pursuant to its contract with the county, the Humane Society offers to the municipalities an annual agreement for the sheltering of their stray cats and dogs and the storage of animals killed on their roadways. No animal control services are provided. Currently, the society has contracts with 11 of the county’s municipalities. The annual charge for the impoundment service is based upon a uniform charge according to municipal population, plus a per animal drop-off fee. Camden City is responsible for the bulk of the shelter’s animals. Injured animals may be brought to the shelter only after being stabilized by a veterinarian. Because severely injured animals are not accepted from the municipalities, euthanasia is based solely upon space considerations. The shelter also accepts the surrender of pets from residents of the municipalities under contract. The Humane Society derives 42% of its income from the county, 21% from municipal contracts, 16% from adoption fees, 6% from the surrender of animals, 6% from the re-claiming of pets and 10% from donations and fundraisers.

The shelter is open to the public six days a week. In 1999, the shelter received 4,553 animals, of which 2,669 were strays and 1,781 were surrendered by their owners. Of these animals, 871 were adopted, 310 were re-claimed by their owners and 3,171 were euthanized. The high euthanasia

rate is because of the aggressive nature of approximately half of the strays received from Camden City, which accounts for 85% of all the dogs brought to the shelter, and the high percentage of feral cats. The shelter is staffed by seven full-time and four part-time employees, plus a part-time veterinarian. There is a high turnover of volunteers, who are welcome at the shelter. The staff follows a strict and thorough cleaning program for the cages. The shelter has 90 dog runs and 75 cat runs. Unless animals arrive at the shelter in a group, the policy is to limit one animal to a cage. Separate isolation areas are set up for dogs and cats. Hot water coils located beneath the kennel floors provide heat for the animals and an air conditioning system is currently being installed.

To adopt an animal, a person must complete an application, undergo reference checks and wait 24 hours. The shelter’s adoption fees of \$75 for dogs and \$50 for cats include certain inoculations and tests and the implant of a microchip for the identification of the animal. Higher fees are not charged for purebreds because all animals are deemed the same and deserve identical treatment. The shelter, which participates in the state’s spay and neuter program, collects an additional fee of \$20 that is refunded upon proof that the animal was spayed or neutered. The individual is allowed seven days to take the animal to a veterinarian and return the animal for any reason to receive a full refund. The shelter’s administrators firmly believe in the spaying or neutering of animals. They will not adopt an animal to anyone who has an unaltered pet over one year old. Further, if a purebred is surrendered for adoption, the shelter has the animal spayed or neutered by a veterinarian. In the future, the Humane Society plans to establish a spay and neuter clinic to perform the surgery on all animals before their adoption. Surrender fees are \$35 for cats and dogs less than 50 pounds and \$45 for dogs weighing 50 pounds or more. There is an additional fee of \$5 for each kitten or puppy that is brought in with the

animal. To re-claim a pet, the owner is charged \$35, plus a \$3-per-day storage fee, for a cat and \$45, plus a \$4-per-day storage fee, for a dog. The person is required to make a deposit of \$50 that is returned upon proof of a license and rabies shot.

The **GLOUCESTER COUNTY ANIMAL SHELTER**, which opened in July 1990 in Clayton, provides both sheltering services and animal control services to the county's 24 municipalities. At one time located within the county's Department of Health, the shelter now constitutes its own department, aptly titled Department of Animal Shelter. The county Board of Freeholders constructed the shelter in response to an insufficient number of existing shelters and the persistence of animal advocates who argued for a county facility to provide continuity in animal services. At the same time, the freeholders determined that providing animal control services was a necessary component of the shelter business. The cost of operating the shelter is calculated in the county's property tax base assessed to the municipalities. It is augmented by the fundraising efforts of a non-profit auxiliary group of volunteers whose purpose is to support the shelter. Revenue generated from donations and the adoption, redemption and surrender of animals is deposited to the county's general treasury. A two-year grant awarded to the shelter in 1999 provides funding for capital improvements to the kennels, improved training, humane education and a study of the county's feral cat problem. For 1999, the shelter received 7,622 animals, of which 2,384 were adopted, 2,779 were surrendered, 3,879 were euthanized and 675 were re-claimed. Feral cats accounted for more than three-fourths of the euthanized animals.

The shelter, which is open six days a week, includes 66 dog runs and approximately 130 cat cages. One animal occupies each cage, except for puppies or kittens. There is an isolation area for

contagious or sick animals. A strict cleaning program is implemented throughout the facility. Upon entering the shelter, each animal undergoes a health and behavioral assessment. The shelter employs a full-time staff of 20 individuals, who include seven certified animal control officers and two veterinarian technicians.

The shelter's animal control officers provide a variety of services to the county's residents. They respond to complaints regarding stray animals from Monday through Saturday, between 8:00 a.m. and 6:00 p.m. and are on call the remaining hours. They also provide emergency services for injured or sick pets if the owner is unavailable, in bite cases and in situations where wildlife threatens an individual. In addition, the officers respond to complaints of animal cruelty received by the shelter in order to assess the nature of the allegations. In minor cases, the officer counsels the person on how to correct the problem. Any matter that involves cruelty is turned over to one of the officers who are also county SPCA agents to conduct an investigation and sign any necessary complaints. Cases involving extreme cruelty are handled by the executive director, who is an agent with the Cumberland County SPCA. Once the state offers a training program for animal control officers on how to conduct cruelty investigations, all of the shelter's officers will receive the training and, thereafter, conduct cruelty investigations.

The shelter has an aggressive adoption program that includes thorough screening of the potential pet owner and an attempt to ensure that the animal selected is suitable for the person. Completion of an application is required and the staff will check with the individual's landlord in a rental situation and with veterinarians if there are or were other pets. An adoption is denied if the person intends to keep the animal outdoors. If the individual already has a pet, it must be brought to the shelter to ensure that it will be compatible with the prospective pet. Adopted animals are provided certain

inoculations and tests. The shelter's policy allows individuals to return the animals at any time.

The shelter charges fixed fees for the adoption, surrender and re-claiming of animals. The adoption fees, which include the cost of various tests and inoculations, are \$50 for an altered cat and \$65 for an altered dog and \$15 for a dog or cat that is not spayed or neutered. The shelter requires that a separate check be written to a participating veterinarian to perform the surgery. Shelter staff follow up to determine whether the animal, in fact, was altered. The same fees apply to puppies and kittens and to purebreds. The shelter's philosophy is that no animal has more value than another. To surrender an animal, individuals are charged \$10 for a cat and \$25 for a dog. The surrender fees are waived for senior citizens. A pet owner who redeems an animal picked up as a stray pays \$25 for the first day and \$4 for each additional day, plus the cost of any medication that was administered.

Euthanasia of animals depends on a variety of factors that include the severity of illness or injury, aggression toward humans or animals, and overcrowding of the facility. The staff also considers the adoptability of the animal, its length of stay in the shelter and the type of animal. The executive director and one of the veterinarian technicians make the determination of which animals are selected for euthanasia.

Save the Animals Foundation is the auxiliary that has supported the county shelter since its incorporation in October 1996. Dedicated to promoting the welfare of all species of animals in general, its stated purpose is to raise funds for the benefit of the county shelter and the animals residing there. The group has provided funding for the animal adoption program; the spay and neuter program; the purchase of equipment; the enhancement of the shelter's aesthetic qualities; educational programs on the care and treatment of

pets, and a volunteer program to disseminate information regarding animals through training courses, newsletters and bulletins.

The **OCEAN COUNTY ANIMAL SHELTER**, which falls under the supervision of the Community Health Services Division of the Ocean County Health Department, is the only county operation with two locations. The shelter in Jackson Township opened in January 1986. Its predecessor was a dog pound, which the county established because of the increasing number of stray dogs plaguing the municipalities and the prohibitive cost for each municipality to have its own pound. Animals were typically euthanized at the pound. The county agreed to transform the facility into a shelter primarily as a result of a vocal animal welfare group that argued for the adoption of the animals instead of their euthanization. In response to the pressure from animal welfare groups for a facility to serve the needs of the southern communities, a second location was established in January 1995 in Manahawkin. There was discussion of whether the county should also provide animal control services, but it was decided that the municipalities would retain that responsibility. The shelter accepts only dogs and cats and refers wildlife to rehabilitators. The shelter, which is open seven days a week, accepts about 5,000 animals each year. Between 1993 and 1999, the adoption rate increased from 25% to 34%, while the euthanasia rate decreased from 47% to 36%. In 1999, 1,708 animals were adopted, 801 were re-claimed, 775 were surrendered and 1,788 were euthanized.

Nineteen municipalities in Ocean County participate in the county's community health services program, the cost of which is reflected in a health tax that is included in the real estate taxes. The county's Health Department has contracts with these municipalities to shelter their stray dogs and cats and dispose of dead animals. The county also has entered into agreements with 14 non-participating

municipalities and a private animal control company to provide sheltering services. In addition, there is a contract with the Ocean County SPCA to house any animals seized in the course of cruelty investigations. Under all of the contracts, injured or ill animals must be taken to a veterinarian and thereafter to the shelter only if stable. The health tax funds 50% of the shelter's operation, with the remaining 50% generated from the contracts with non-participating communities and private entities and the various fees charged by the shelter to the public.

The Jackson facility contains 24 indoor/outdoor dog runs; 18 outdoor dog runs that are utilized during warmer weather, and 54 cat cages, divided equally among the cat room, holding room and isolation room. The Manahawkin facility is larger, with 28 indoor/outdoor dog runs; two isolation dog runs, and 96 cat cages distributed among the adoption/holding/receiving area and the isolation room. The shelter's policy is to house one large dog or two compatible small dogs in each dog run and usually two cats in a regular-size cage or three to a larger one. Euthanasia is performed primarily for space reasons. During the spring and summer, both facilities are inundated with feral cats, which causes a significant rise in the euthanasia rate.

The staff includes a supervising veterinarian, a supervising animal attendant, two full-time animal attendants at each facility and an animal health technician at the southern location. Several volunteer organizations provide a variety of services to the shelter. In addition to assisting with the grooming and walking of the animals, members sponsor adoptions at off-site locations, pay for medical procedures needed by animals and foster animals in their homes to address an overflow problem. The primary volunteer group that assists the Jackson shelter is The Volunteer Auxiliary for Animal Shelters, which was incorporated in February 1990. Its stated purposes are to increase

the adoption rate of shelter animals through activities that include grooming, education and promotion; to reduce the euthanasia rate through programs such as education and spaying or neutering, and to promote the humane treatment of shelter animals. The organization also has donated needed equipment, such as washing machines and dryers, and has obtained grants to purchase such items as surgical equipment. When it hosts off-site adoptions, it donates a portion of the fees to the shelter. Little Egg Harbor Animal Rescue, which was incorporated in December 1993, provides considerable assistance to the Manahawkin shelter in adopting the animals. This organization, whose primary goal is to arrange adoptions for cats and dogs, takes animals from the shelter and offers them for adoption at various area stores. Members also foster sick cats in their homes until they are well enough to be placed for adoption. The rescue group pays for the cats to be spayed or neutered and vaccinated.

A thorough interview is conducted of individuals who are interested in adopting an animal. Shelter employees assess their history with pets and ability to care for a pet. All animals, except very young puppies and kittens, are spayed or neutered when they are adopted. Follow-up is done to ensure that the puppies and kittens are later altered and the additional fee of \$20 is refunded. Adoption fees are \$55 for an adult dog, \$60 for a puppy, \$50 for a cat and \$55 for a kitten. Surrender fees are \$55 for a dog and \$40 for a cat, with \$25 for the first kitten in a litter and \$10 for each additional one. The charge for an owner to re-claim the animal is \$25, plus \$4 a day.

PROPOSED COUNTY SHELTERS

Other counties also have considered the construction and operation of a shelter. While some have rejected the notion as too costly, albeit without extensive exploration of the idea, others seriously

have pursued a proposal. One county that is considering the construction of a regional facility is Union County.

The Union County Shared Services Animal Control Committee was formed to spearhead an effort to have a county-operated shelter with regionalized animal control services. The driving force behind this organization, which was formed in 1994, has been the Sheriff's Office and a former Westfield councilwoman. The primary impetus for the plan is the general dissatisfaction with the conditions at area shelters and the desire of all of the municipalities to decrease their animal control costs. Indeed, 19 of the county's 21 municipalities have adopted resolutions endorsing the concept of the county constructing a shelter and providing animal control services. The county commissioned a three-phase feasibility study to assess the need for such an operation in light of the existing system, to estimate the cost and to present the results in three public forums. It is contemplated that the shelter would engage in an aggressive adoption program and that the animals would be spayed or neutered prior to their adoption. In addition, the investigation of cruelty complaints would be included in the duties of the animal control officers. Finally, in recognition of the link between children who are abusive to animals and their later propensity to violence as adults, a program would be established whereby county offices would intervene with local youths who abuse animals.

MUNICIPAL SHELTERS

The operation of animal shelters by governmental bodies has also proved successful on the municipal level. Again, in each case the governing body responded to a public outcry for a better-managed shelter and a more humane treatment of animals. The critical factor was the tenacity and persuasiveness of a group of volunteers

in demonstrating that it could manage the shelter better and more cost-effectively. Two municipal shelters exemplify this approach.

The **WAYNE TOWNSHIP ANIMAL SHELTER** is operated by the Friends of Wayne Animals, an organization of volunteers that originally incorporated under the name of Friends of the Wayne Animal Shelter in February 1990. According to its certificate of incorporation, the organization's purposes are to give active support to the shelter's activities and operation; to promulgate and support a pet adoption program for the shelter and a spay and neuter program within the township; to educate the public on the care, humane treatment and spaying and neutering of animals; to give special care and attention to the animals, and to give aid and support to the community to provide modern and humane shelter facilities.

The shelter's predecessor was a pound where animals routinely were euthanized and rarely adopted. Managed by the municipality's two animal control officers, the facility was usually filthy and open to the public only three hours on some days. In response to the conditions, a group of volunteers incorporated and began assisting at the pound by cleaning the facility, feeding the animals and obtaining veterinary care for them. Initially, the volunteers met resistance from township officials in their attempt to wrest control of the shelter. However, as time went on, several factors – public concern over the township's failure to address adequately the increasing number of stray animals, new officials who were more sympathetic to the shelter situation, and an incident involving a live kitten being thrown into the freezer – served to bolster the persistent arguments of the volunteer group. In July 1994, these factors culminated in a contract with the Friends of Wayne Animals to manage the shelter. The township provides only about 17% of the shelter's annual budget, with the remainder funded by adoption fees, extensive fundraising activities and

membership dues. About 25 active volunteers, in addition to three employees, care for the animals and the facility. Approximately 1,000 animals enter the shelter annually. The adoption rate has soared from under 1% to about 70%. Because the facility is small, the Friends of Wayne Animals is raising funds to build a cat facility and the township is considering assisting the group in moving to a larger location.

The **WEST MILFORD ANIMAL SHELTER** is owned by the municipality and leased to a volunteer organization incorporated as the West Milford Animal Society. The arrangement struck in April 1994 was the result of an 18-year struggle between the animal control officers who ran the shelter and the volunteers who attempted to care for the animals there. When the volunteer group incorporated in 1976, the conditions at the facility were horrid – the facility was filthy, the cages were not cleaned daily, no medical treatment was provided to the animals, cats routinely were euthanized after the seven-day holding period with no attempt to adopt them, and minimal effort was made to adopt the dogs. As the volunteers became increasingly involved in caring for the animals, cleaning the cages and interfering with the animal control officers' control over the shelter and selection of animals for euthanasia, the discord between the two groups intensified. It erupted into a public issue in 1993. When the volunteers were barred from the facility during the day and allowed to be present only after normal operating hours, the adoption rate plummeted by about one-half, donations ceased and the municipality had to purchase the animal food. As public pressure mounted for an improved shelter operation, the township entered into a contract with the volunteer organization. The municipality provides about 40% of the Animal Society's annual budget, with the balance funded by adoption fees, donations, grants and proceeds from fundraising activities. Although all of the organization's 24 volunteers are active, there is a core group of 12 individuals who devote

substantial time to the shelter. In addition, the seven-member Board of Directors is a "working" Board. The shelter receives between 800 and 1,200 stray and surrendered dogs and cats each year. There is no charge when municipal residents surrender their pets. The success of the operation is evident in the cleanliness of the facility and the adoption rate of 70% to 80%. No animal is euthanized because of lack of space. Instead, when the facility becomes overcrowded, the volunteers foster the additional animals.

GOVERNMENT INSPECTION OF THE SHELTERS

The Commission examined the reports of inspections conducted from 1990 through 1999 by governmental authorities of the SPCA shelters in Cape May, Cumberland, Hudson, Hunterdon, Monmouth and Ocean Counties.⁴⁵ The SPCA shelters that warranted repeated inspections for serious and continuous infractions were the Cape May County and Hudson County SPCA shelters. The inspection reports depicted deplorable conditions at both facilities. However, as egregious as the deficiencies were at the Cape May County SPCA shelter, the animals were not placed in as great jeopardy as those that were housed at the Hudson County SPCA shelter, where infection and disease proliferated and sick and injured animals rarely received veterinary treatment. The inspection history of the Hudson County SPCA shelter also highlights the weaknesses of the inspection system.

Both the state Department of Health [DOH] and the local health offices have responsibility over the operation of shelters. While the state DOH has

⁴⁵Only the Cape May and Ocean County SPCAs did not operate a shelter during the entire period under review. The Union County SPCA shelter, which closed in February 1991, is not included in this analysis.

statewide jurisdiction to inspect all shelters, it is the municipality that issues the shelter license⁴⁶ and the county or municipal health office that must conduct the annual inspection.⁴⁷ There are 17 county health offices and 94 municipal health offices in the state. Municipal health officers inspected two of the SPCA shelters (Cumberland and Hudson) and county health officers conducted inspections of four (Cape May, Hunterdon, Monmouth and Ocean). Annual inspections were conducted only of the SPCA shelters in Cape May, Cumberland, Hunterdon and Ocean Counties. The local inspecting authorities failed to inspect the Hudson County SPCA shelter in two of the years and the Monmouth County SPCA shelter in three of the years. In addition, the Jersey City Division of Health failed to issue the Hudson County SPCA shelter a license for periods of time.

The rules and regulations governing the operation and conditions of shelters are contained in a document entitled *Sanitary Operation of Kennels, Pet Shops, Shelters and Pounds*, which was promulgated by the state DOH.⁴⁸ Generally, it is acknowledged that the rules and regulations are adequate, but that they are not enforced vigorously. It is evident that the thoroughness of the inspection, the findings of deficiencies and the ultimate rating of the facility are dependent upon the discretion, thoroughness and skill of the inspector. As candidly admitted by one local inspector who had not conducted thorough and probing inspections, he simply had lacked the training and experience to perform anything more than a perfunctory visit. Based upon an examination of the inspection system, the Commission finds that the quality of the

inspections and the effectiveness of the system vary greatly. Clearly, the system failed with respect to the Cape May County and Hudson County SPCA shelters.

THE INSPECTION SYSTEM

The inspection function falls by law upon the local health office, which may exist at either the municipal or county level. An annual inspection, with satisfactory findings, must be conducted before a license can be issued. Although there is no mandate for local inspecting authorities to provide a copy of the inspection report to the DOH, it has been common practice for them to do so. The role of the state DOH in conducting shelter inspections has changed dramatically over the past decade. At the beginning of the 1990s, the department's Infectious and Zoonotic Diseases Program had more staff and its focus was considerably more narrow than it is today. There were four field veterinary technicians who inspected shelters once every two years, in addition to a coordinator who occasionally conducted inspections. Typically, joint inspections with the local health official were conducted, and the DOH inspector spent time reviewing procedures and pertinent issues with the local authority. Commencing in about 1994, as department budgets were cut throughout state government and positions were eliminated through attrition, the program's staff was reduced drastically. Currently, the program is not only responsible for many more areas of the public health, but its staff consists merely of the State Public Health Veterinarian, the Senior Public Health Veterinarian and one field veterinary technician. The routine, biannual inspection has been replaced by a reactive inspection, which occurs only when substantive complaints are received. The DOH, which is besieged by numerous complaints daily, dismisses many complaints because it lacks jurisdiction over the matter alleged and routinely refers complainants to the local health office even

⁴⁶See *N.J.S.A.* 4:19-15.8.

⁴⁷*N.J.A.C.* 8:23A-1.2 requires that "[a] certificate of inspection, issued for the current licensing year by the local health authority indicating compliance with these rules, shall be prominently displayed at the facility in an area visible to the public."

⁴⁸*N.J.A.C.* 8:23A-1.1 *et seq.*, which was most recently amended on March 20, 2000, was promulgated pursuant to *N.J.S.A.* 4:19-15.14 and 15.16A and *N.J.S.A.* 4:19A-11.

when it has jurisdiction. In 1999, the DOH conducted approximately six shelter inspections and only three as of August 2000.⁴⁹ Further, there have been occasions when other priorities have prevented officials from returning to a shelter to conduct a follow-up inspection, even though one was warranted and had been threatened to the shelter's management. Nevertheless, despite the reduction in staff and resources, shelter conditions generally have improved over the last decade, with some of the worst facilities closing. DOH officials attribute this fact to heightened public awareness and the expenditure of more money by shelter management.

Lacking supervisory authority over local health offices, the state DOH stands in the limited role of providing counseling and offering technical support. In situations where the DOH deems that suspension or revocation of the shelter license is appropriate, it may do no more than simply recommend such action to the local authority, which has the sole discretion on whether to implement the recommendation. The DOH possesses no statutory authority to initiate revocation proceedings itself. Further, where the local health office fails to issue a license to a shelter, the DOH has no authority to take any action against either the shelter or the local authority. Its only recourse is to criticize the local office for not following the statutory mandate. However, the DOH does possess the statutory authority to institute enforcement proceedings to assess fines against a shelter. According to DOH officials, this remedy is reserved for only the most egregious cases. The department's clear preference has been to bring a facility into compliance through recommendations, technical assistance and frequent reinspections. Its reluctance to institute enforcement proceedings is reflected in the facts that it has imposed sanctions only twice in the past 15 years or more and that both cases were instituted in 2000, the first at the insistence of the Attorney General's

Office and the second on DOH's initiative. The second case involved the DOH's assessment of \$17,475 in penalties against the Hudson County SPCA shelter in October 2000. Given the history of serious deficiencies at the Hudson County SPCA shelter, the repeated warnings by the DOH of instituting legal enforcement and the SPCA's flagrant disregard, DOH's timing is suspect. It may be that, historically, the DOH has preferred to avoid litigation and was spurred to action only recently because of a series of events that was triggered by the fatal beating of a dog by a shelter worker.

There is no requirement for unannounced inspections. The Commission was told, albeit without verification, that some shelters do know when an inspection is scheduled. Although health officers generally adhere to a policy of unannounced inspections, the scheduling of visits at the same time each year, many times, significantly reduces the surprise element.

There is no uniform inspection form that the local inspecting authorities are required to complete when conducting a shelter inspection. The DOH has promulgated a three-part form, which is offered as a model. The form consists of the (1) "Report of Inspection," which includes identifying information about the shelter, the type of inspection (initial, routine, reinspection, complaint, emergency), the result of the inspection (satisfactory, conditionally satisfactory, unsatisfactory) and the projected date for reinspection; (2) "Detailed Data Sheet," which lists the categories of the various inspection requirements under the regulations⁵⁰ and sets forth the ratings of satisfactory, conditional and unsatisfactory, and (3) "Continuation Sheet," which may accompany the Data Sheet for the inclusion of

⁴⁹It is noted that the DOH also conducts inspections of kennels, pet shops and pounds.

⁵⁰The categories include Compliance, Facilities (General), Facilities (Indoor), Facilities (Outdoor), Primary Enclosures, Feeding and Watering, Sanitation, Disease Control, Holding and Re-claiming Animals, Euthanasia, Transportation, and Records and Administration.

any remarks. Although the shelter ratings are not defined in any statute or regulation, according to DOH officials, satisfactory means that the facility is in compliance or substantial compliance with the regulations; conditional connotes that there are violations, but they are not severe enough to cause significant sanitary problems or harm to the animals, and unsatisfactory indicates that there are severe violations requiring immediate action to abate them. The Commission found that the Continuation Sheet was usually completed by state inspectors, but rarely included by local inspectors. The Data Sheet was revised in May 1975, September 1983 and, most recently, October 1995. The local inspecting authorities utilize the Data Sheet, or some variation of it, to conduct the inspections. However, except for the Ocean County Health Department, the Jersey City Division of Health and the Monmouth County Regional Health Commission, local health offices continued to use the state's 1975 and 1983 forms even after they became outdated. Surprisingly, the state inspectors did not always use the current form. Moreover, state inspectors differed on whether to utilize the Report of Inspection and none of the local authorities utilized the form or a comparable one. There were instances where a local inspecting authority created its own form, which was patterned after the state's form, but omitted key sections, and where another office composed a more detailed inspection form, thereby leaving less to the discretion of the inspector.⁵¹

⁵¹The more detailed form created by the City of Vineland Department of Health included the following: under "Primary Enclosures," the possibility of contact with the saliva of a suspect rabid animal; under "Sanitation," excessive excreta in the primary enclosure, building and grounds not clean and in good repair, no effective program to control insects, ectoparasites and pests, and the primary enclosures not disinfected at least once a day; under "Disease Control," no veterinary form, not reporting suspect rabid animals to the Health Department and not holding a suspect rabid animal for 10 days; under "Holding and Reclaiming [sic] Animal," no identification of the person claiming an animal and no written description of an

Although the inspection includes the completion of a form that sets forth areas of examination, the shelter's compliance, or degree of compliance, is left completely to the inspector's discretion. The detail of an inspection report also lies within the discretion of the inspector. Equally arbitrary is the inspector's ultimate rating of the shelter as "satisfactory," "conditional" or "unsatisfactory," terms that are undefined. No standards or guidelines exist to minimize the opportunity for wide variations in judging compliance with the areas of inspection or applying the ultimate ratings. Inspection reports run the gamut from ones containing handwritten notes of the inspector's observations on a continuation sheet, even when no adverse findings were made, to forms that were left virtually blank. Some inspectors failed even to note the name of the responsible veterinarian or the method of euthanasia. Too often, inspection reports on a given shelter lacked continuity by failing to record any follow-up to prior findings of violations.

The arbitrary nature of the evaluations is illustrated by the following examples. After an inspection of the Hudson County SPCA shelter that resulted in a conditional rating with the notation of numerous violations, the reinspection yielded a satisfactory rating with no comment about the prior violations. Another inspection, which occurred one month later, gave a satisfactory rating, even though it found some of the same violations as the initial inspection. Subsequent inspections resulted in conditional ratings even when numerous and serious violations were found. The Cumberland County SPCA shelter received satisfactory ratings despite the inspector's repeated findings that the outdoor dog runs were not completely covered with wire so as to prevent the entrance of rabid wildlife and that several dog runs needed repair. On one occasion,

animal by the person claiming it, and under "Records and Administration," responsibility for this area not admitted.

the same inspection form was used for the inspections of both the Cape May County SPCA shelter and another shelter owned by the SPCA president that occurred on the same day. The inspection report did not differentiate between the findings for each shelter. In addition, even when the rating was conditional or unsatisfactory, the subsequent reinspection report by the same or different inspector did not always contain information on whether the prior violations were remedied. In contrast, the reports of the Cumberland County SPCA shelter typically reflected follow-up on the prior deficiencies. With respect to other shelters, some inspection reports failed to note the nature of the complaint that triggered the inspection or whether the inspection represented an annual inspection or a reinspection.

As evidenced by the inspection forms, not only does the thoroughness of the inspections vary greatly, but also the completion of the form and the use of a continuation sheet. The reports completed by the Hunterdon County Health Department and the Monmouth County Regional Health Commission contained no markings or notes of the inspector's observations. In contrast, those filed by the health departments of Ocean County and the City of Vineland contained extensive notes of the inspectors, even when satisfactory ratings were given.

There were also differences in the types of inspections that were conducted by state officials versus state inspectors and by state versus local personnel. With rare exception, the inspections conducted by state DOH officials were more thorough and more likely to cite violations than those conducted by state DOH inspectors. Examples appear below in the inspections of the Cape May County and Hudson County SPCA shelters. Where SPCA shelters were problematic, the inspections conducted by the state DOH were more thorough and consistent than those conducted by the local authorities. As evidenced by the inspection findings

for the Cape May County and Hudson County SPCA shelters, more thorough inspections were performed and significant violations cited when state officials visited the shelters. Nevertheless, as is made clear by the inspection histories of both these shelters, the number and frequency of inspections during certain periods does not ensure that significant improvements will be made to the facilities or in the care of the animals. The Commission was told that the dilemma perceived by local inspecting authorities in dealing with any shelter that is constantly in violation is that there is no realistic alternative facility if the shelter is shut down. Clearly, this was the situation with the licensing of the Hudson County SPCA shelter, despite the persistent and serious problems found there.

The CAPE MAY COUNTY SPCA SHELTER was plagued by a history of violations. Its inspection history highlights the weaknesses in and the arbitrary nature of the inspection process. The shelter was cited most frequently for maintaining dirty and hazardous conditions in the building and grounds. A continuing problem was improper drainage of animal waste. The monies that should have been applied to improve the conditions, instead, became the personal treasury of SPCA President Dennis Kelly. Since the leasing of the SPCA shelter to Animal Outreach of Cape May County, the DOH has received no complaints warranting an inspection and, in fact, has conducted no inspection.

During the nine year period under review, the facility was inspected a total of 25 times – seven by the state DOH, 17 by the Cape May County Health Department and one by both agencies in a joint inspection. Of these inspections, 11 were reinspections resulting from unsatisfactory or conditional ratings. Although there were 12 satisfactory ratings, most if not all of them are highly suspect. Not only were significant violations overlooked, but, in some cases, the rating was given

even though numerous minor infractions were cited. For example, in September 1990, only seven and one-half months after a state inspector rated the facility as satisfactory and recorded no observations, two higher state DOH officials conducted an inspection and found numerous and serious violations. Further, less than two weeks after the inspection by the state officials, a county inspector entered the facility and rated it satisfactory. Yet, when the state officials conducted a reinspection approximately one month later, they again found the same serious deficiencies and gave a rating of conditional. The same state inspector, who initially rated the facility satisfactory in January 1990, also gave the same rating one year later in January 1991. However, only six days later, a county inspector rated the facility as conditional. In 1996, a state inspection revealed many more, as well as more serious, violations than noted in a county inspection conducted only one day earlier. However, the state never returned for a reinspection and the problems noted in the DOH report were not addressed in subsequent inspections by the county. Thereafter, even though the shelter had a history of deficiencies, the state DOH never visited the facility again and the county inspector conducted an inspection only once in 1997, *viz.* in December, when a conditional rating was given for relatively minor infractions. In 1998, similar, albeit numerous, infractions were found in each of the county's two January inspections, which occurred two weeks apart, and in its October inspection. Yet, the first inspection resulted in a conditional rating, while the two subsequent ones in a satisfactory rating. Further, despite the prior serious problems concerning improper drainage of animal waste, a problem cited by witnesses as existing in 1997 and 1998, the county's reports contained no comment about it in these later years. During the entire inspection period under review, the facility never maintained a separate room for the isolation of sick animals, a violation that was noted in only two 1990 inspections by state officials and not in any state or county inspection report thereafter.

Furthermore, although written complaints to the Cape May County Health Department usually prompted inspections and serious deficiencies were found by state officials, it is astonishing that a county inspector noted in the August 1991 inspection report, "Most of the 'problems' here are purely cosmetic."

The inspection findings depict an old, dilapidated facility that was in constant need of cleaning and repair. Such significant items as inadequate drainage system were never sufficiently addressed by the SPCA. The findings confirm the portrayal of the shelter by countless eyewitnesses, as well as Commission staff. In addition, letters of complaint to the Cape May County Health Department and the state DOH noted the poor condition of the animals, as well as the filthy conditions of the facility in general and the cages in particular. One couple related that within 36 hours of adopting an eight-week-old puppy, it became seriously ill, was diagnosed with the highly contagious parvovirus and had to be euthanized.

The inspections yielded numerous violations in multiple categories:

- **IMPROPER DRAINAGE OF ANIMAL WASTE:** This area presented a continuous problem. The septic system was backing up during most of one year, resulting in the improper drainage of the outdoor runs. All of the waste from the dog runs did not drain into the septic tank. At the same time that waste from the holding pens was draining directly into the main walkways where the public traversed, drainage from other runs was leaking off the sides of the outdoor concrete slabs, thereby contaminating the surrounding ground. To correct the problem, the state DOH official recommended against the use of holding

cages or, if used, the construction of a drainage system around the outside runs to discharge all wastes into the septic system and the erection of a lip along the sides of the concrete slabs to prevent the run-off. Additional drainage problems included wastewater by-passing the drain in the shelter runs and the

ponding of wastewater at the end of the dog runs and around the septic tank. Despite the recommendation of the state inspector in 1990 to install a new septic tank, the old tank was never replaced.

- **DIRTY AND HAZARDOUS BUILDING CONDITIONS:** This was a repeated finding. Interior surfaces were constantly dirty. Surfaces were covered with dead bugs and insects. The chain link fence in all the dog runs had sharp points along the lower edges. Some of the fencing also was improper for animals. Despite Kelly's representation in 1990 to develop a long-term plan to replace the fencing with cinder block partitions or to use piping to protect the animals, he never did. The fencing was also filthy with the build-up of dog hair. The dog runs were in constant need of repair. The cement floor of the dog runs repeatedly contained cracks. Cat litter was strewn on the floors of some of the cat cages, which lacked a litter box. There was an uncontrolled insect problem. The restroom continuously was found to be in need of cleaning and repair. Paint was not removed from the floors of the dog pens. Painted surfaces were chipping and in need of scraping and repainting. Doors to the facility needed repair and some were not self-closing.

- **DIRTY AND HAZARDOUS GROUNDS:** Trash, debris, bottles and cans were strewn on the grounds. Old tires were left on the property, thereby promoting rodent infestation. Leaves accumulated around the building.

- **IMPROPER LIGHTING:** There was insufficient light in the animal areas. On one visit, there was only one working light, which supplied insufficient light for the state DOH official to observe the animals.

- **IMPROPER HOUSING OF ANIMALS:** New cats were kept in traps around the premises instead of being housed under shelter, off the floor and in one location where they could be monitored. Dogs were kept in holding cages without water. Water pails in the outdoor runs were filled with leaves. There were no water bowls in the indoor runs. Food and bedding were unprotected. Animals were not provided with sufficient water throughout the day. Food bowls were dirty. Animals were not protected against the cold weather.

- **IMPROPER STORAGE OF DEAD ANIMALS:** Dead and bagged animals were strewn on the ground. The freezer was not used to store euthanized animals. Dead cats were stored in cages on the grounds.

- **DIRTY TRANSPORTATION ENCLOSURES:** All enclosures in the truck used to transport animals were dirty. One compartment contained urine-soaked cardboard. Enclosures

were dirty with accumulated feces and feces mixed with rain.

- **IMPROPER SANITATION:** Large cracks in the cement of various runs prevented proper sanitation. Animal enclosures were not properly sanitized.
- **IMPROPER SEGREGATION OF SICK ANIMALS:** Throughout the nine-year period under review, the shelter lacked a separate area for the quarantine or segregation of sick animals. Healthy animals were housed together with sick ones.
- **IMPROPER DISEASE CONTROL:** Animals suspected of carrying rabies were not confined in proper facilities for the 10-day confinement period. Animals held under quarantine were not segregated from healthy ones and the proper sign did not mark the pens. Rodents were uncontrolled.
- **LACK OF A RESPONSIBLE VETERINARIAN:**⁵² When one of the veterinarians passed away, arrangements were made with a local hospital for emergency care, but a new veterinarian was not retained for routine treatment. For periods of time, either no veterinarian was engaged for the facility or veterinarians frequently were changed.
- **INCOMPLETE RECORDKEEPING:** Proper records were not maintained on the disposition of animals. Complete

information was not kept on the individuals surrendering or adopting animals.

The **CUMBERLAND COUNTY SPCA SHELTER** underwent an annual inspection and 12 reinspections by the City of Vineland Department of Health, as well as an inspection by the state DOH in 1990, 1991 and 1992. The shelter always received either a satisfactory or conditional rating. In an obvious lack of coordination with the local authority, the state DOH inspector visited the shelter only one month after the city's inspection in 1990 and three days after its 1991 inspection. The perfunctory nature of the state inspector's 1991 visit is exposed by his failure to note any of the infractions found in the city's inspection only three days earlier.

As evidenced by the detail contained in the inspection reports and continuation sheets and by the repeated inspections that persisted until compliance was achieved, the Vineland Department of Health was perhaps the most thorough and conscientious inspecting authority in fulfilling its responsibility to ensure that the shelter was in compliance with the regulations. It gave as much attention to minor infractions as it did to the serious violations. More reinspections were conducted of this SPCA shelter than of any other SPCA facility – not because of the shelter's disregard of the regulations, but because of the local department's attention to even minor deficiencies. The follow-up inspections always addressed the infractions noted in the prior inspections. Indeed, this was the only inspecting authority that withheld issuance of a license until certain problems were corrected. Five of the city's inspections resulted in 12 reinspections. The June 1995 conditional inspection spawned reinspections in August and again in October, when a satisfactory rating was achieved. The conditional inspection in June 1996 resulted in reinspections in July, two in August and three in September, when compliance was adjudged. The reinspections primarily

⁵²Pursuant to DOH regulations, the contracting veterinarian must sign a Certificate of Veterinarian Supervision and agree to follow the established guidelines.

concerned the presence of various rodents, but also included such items as an inadequate drainage system, the improper storage and disposal of trash, and the absence of screens on doors and windows that were opened at times. However, areas that the inspector apparently viewed as insignificant, such as numerous dog runs in need of repair, peeling of paint and lack of complete coverage on the outdoor dog runs, did not prevent satisfactory ratings.

The inspection history of the **HUDSON COUNTY SPCA SHELTER** is revealing not only in terms of the repeated and serious violations that were found, but also because it illustrates a collapse of the inspection system. The inspections, which were conducted primarily by the state DOH, depict the management's utter disregard for the state's regulations and for the welfare of animals under its care. The shelter's extensive history of noncompliance with the regulations, as documented in the findings of the inspection teams, are consistent with the massive information reported to the Commission on the horrendous conditions at the shelter. Significantly, the shelter was the subject of intense effort by several animal welfare organizations to compel improvements at the shelter. In fact, in April 1994, attorneys representing a coalition of animal welfare organizations sought the intervention of the New Jersey Attorney General's Office to institute receivership proceedings against the SPCA. Despite its efforts to work with state and local health officials in an attempt to reform the shelter, the coalition found that "the Shelter administration has been recalcitrant and blatant about its unwillingness to comply with the law."

This shelter has been the subject of more complaints filed with the state DOH and the local inspecting authority than any other SPCA shelter. Nevertheless, the Jersey City Division of Health, Department of Health and Human Services, failed to conduct inspections in some of the years; conducted perfunctory inspections in some years, ostensibly in

order to issue a license; ignored the need for reinspections, even when directed by the DOH, and even allowed the shelter to operate without a license for periods of time. Although the Division of Health requested and received technical assistance from the state DOH on occasion, it never followed up with the shelter. Jersey City officials perceived themselves to be in a predicament regarding the shelter because of the lack of an alternative facility to house the animals in the shelter and the strays that would be picked up on the days that followed. Jersey City's health officer told the DOH that neighboring facilities were not willing to take Jersey City's animals. Even if the DOH recommended closure of the shelter, which it never did, the city probably would not have closed it. Shortly after the June 15, 2000, incident of a shelter employee beating a dog with a shovel, the DOH was contacted by the Jersey City Mayor's Office about the shelter. The DOH advised that in order for Jersey City to break the cycle of dependency on the SPCA shelter, the city should seek a temporary shelter facility – perhaps convert a factory site – for one or two years until it built a facility. The DOH would be available to provide technical assistance. During the past four years that DOH officials have been hearing about Jersey City's plans to operate its own shelter, the city has done little to confront the issue of constructing a shelter or providing an appropriate shelter site to a local animal welfare group. Clearly, the Jersey City Division of Health, as well as the city's officials, abdicated its inspection responsibility and, at a point, the state DOH ceased to fill the void. Patently, the inspection system failed the animals at this shelter. It also is remarkable that officials of the Jersey City Division of Health signed no complaints against the shelter until July 6, 2000, when complaints were issued against the shelter's president and Board chairman for failure to provide proper veterinary care and for violating a local ordinance for failing to confine a dog in a biting case. Coincidentally, the summonses were filed immediately after the highly publicized June incident involving the brutal beating of a dog by

a shelter employee that triggered negative publicity, a demonstration and complaints to the Governor's Office and DOH.

The licensing history of the shelter is replete with irregularities and failures to comply with the law. Under state law, a license cannot be issued to a shelter by the local board of health until the inspecting authority adjudges the facility to be in compliance with the regulations.⁵³ Nevertheless, Jersey City allowed the shelter to operate without a license for six months in 1992; one year from August 1, 1996, to August 18, 1997; one month in 1998, and two and one-half months in 1999. Even though the requisite inspections were not conducted in 1992 or 1995, licenses were issued. Despite inspection ratings of unsatisfactory and conditional in 1993, Jersey City nevertheless issued a license. In 1997, the license was issued on the same day that an obviously perfunctory inspection was conducted at 4:00 p.m.

The shelter was inspected 19 times from 1990 through July 2000, but in only nine of the 11 years.⁵⁴ Inexplicably, no inspections were conducted in 1992 and 1995.⁵⁵ These facts are startling in light of the litany of complaints filed against the shelter and the repeated reinspections occasioned by the 12 ratings of unsatisfactory or conditional. Six of the inspections were conducted by the state DOH and another eight were performed jointly by state and Jersey City officials, although it is clear that the state DOH was the lead inspector. The Commission was told that Jersey City officials were reluctant to conduct the inspections alone because of the serious problems at the shelter and the "politics"

⁵³See *N.J.S.A.* 4:19-15.8; *N.J.A.C.* 8:23A-1.2.

⁵⁴The Commission did not examine any inspections conducted after August 1, 2000, when the shelter was placed under new management.

⁵⁵Despite the Commission's repeated requests for all inspection reports and the Jersey City Division of Health's response that all had been provided, the 1998 and 1999 inspection reports were "discovered" only recently and provided to the Commission.

involved. A state inspector rated the facility as satisfactory on three occasions, but the state DOH official gave a satisfactory rating only once. These satisfactory ratings were made in reports with no findings whatsoever and no comment on whether prior violations were remedied. Further, they are curious in light of the numerous and serious violations found during the state's other inspections and the pattern of complaints. The Jersey City Division of Health conducted four inspections – in 1993, 1997, 1998 and 1999 – and rated the facility as satisfactory each time. From 1990 through 1999, all of the inspections were conducted of the shelter facility and never included the warehouse facility that is located adjacent to the shelter and utilized for the overflow of animals. In fact, the state DOH was only recently informed that the warehouse constituted part of the sheltering facility.

During the period under review, the same deplorable facility conditions, absence of proper recordkeeping and lack of proper veterinary care were in evidence. In fact, for most of the period, there was no responsible veterinarian who provided disease control plans and measures. Specific areas that continuously were deemed to be in violation of the regulations included lack of proper sanitation, filthy condition of the cages, absence of proper disease control, overcrowding of animals in cages, and recordkeeping regarding the intake and disposition of animals. The inspections disclosed the following conditions:

- **DIRTY ANIMAL ENCLOSURES:** The cages for dogs and cats were dirty. Dog runs were wet. Feces accumulated in many of the cages and runs. Feces were on the dogs in the runs. The cages in the sick room were encrusted with feces and vomitus.
- **HAZARDOUS ANIMAL ENCLOSURES:** Many of the indoor and outdoor runs

had sheet metal or chain link fencing in such poor repair that the dogs were exposed to sharp metal edges. During one visit, approximately 30% of the outdoor dog runs were found to have sheet metal in this condition. The chain link divider between two of the cages was in such disrepair that the dogs were able to fight. Some of the outdoor runs had construction problems that posed a potential danger to the animals.

- **IMPROPER HOUSING OF ANIMALS:** Dogs were crowded in cages. Similarly, there were too many cats housed in cages. Large dogs were crowded in cages that were too small for them. Several dogs were kept in such small cages that they were unable to stand without hitting their heads on the ceilings. Large dogs, which were placed in small cages in the puppy room, did not have sufficient space for their comfort.
- **LACK OF EXERCISE FOR ANIMALS:** The dogs were never exercised.
- **IMPROPER HANDLING OF SICK AND INJURED ANIMALS:** Dogs in need of veterinary care were given either inappropriate treatment or no care. Sick animals were not always placed in the sick room. Animals in the sick room were not receiving veterinary care. Dead puppies and kittens were left in cages with live animals. In one of the cages, there were two dead puppies, several puppies that were dying and the mother dog that was not nursing. A dead cat was found in one of the cages with a bowl on top of it. Four dead cats and one dead puppy were found cold and stiff in cages with other animals.

Dogs in several runs had diarrhea, but were not segregated from the other dogs. A dog with a bleeding paw was roaming around under the table in the kitchen area. A dog that was bleeding and ill was not receiving medical attention. No treatment was given to a dog that had skin lesions on its chest and front legs. One of the dogs, which was not relocated to the sick room, had ocular discharge in both eyes. Numerous dogs had a large amount of ticks on their bodies. A dog, which had an injured leg and was brought to the shelter by a local animal control officer, was not taken to a veterinarian until 13 days later for repair of its fractured leg.

- **FAILURE TO QUARANTINE AND SEGREGATE SICK ANIMALS:** The animals described in the above category that were in need of medical attention were kept in the general population and not relocated to the sick room. Generally, sick animals were kept with healthy ones. Cats with upper respiratory infection, which is highly contagious, were not isolated. The sick room improperly contained both healthy animals and animals held under quarantine in bite cases. A cat held under confinement for rabies observation was housed in the same cage as two healthy cats.
- **LACK OF A RESPONSIBLE VETERINARIAN:** Sick animals in both the sick room and general population were not receiving veterinary care. Even when a veterinarian was listed for the shelter, sick animals remained unattended.

- **DIRTY CONDITIONS IN THE BUILDING:** Interior surfaces were dirty. The floors of the sick room, euthanasia room and food preparation area were dirty. There was dirty standing water on the floor of the sick room. The floor of the euthanasia room was dirty with pooled water.
- **IMPROPER DRAINAGE:** The waste drainage trough along one side of the runs was not draining, causing feces and wastewater to pool in the trough. The drainage ditch for the dog runs was filled with feces and wastewater.
- **IMPROPER EUTHANASIA PRO-CE-DURES:** On one occasion, an animal was allowed to roam about in the room until it was euthanized. There was no scale in the euthanasia room to weigh the animals. Consequently, because the weight of animals was estimated, the dosage of euthanasia drugs was either underestimated or overestimated. On one inspection, the euthanasia solution was observed on the table without any supervision.
- **IMPROPER METHODS FOR CLEANING AND SANITATION:** Runs and pens were not scrubbed down with soap or detergent. Animal enclosures were not sanitized before new dogs were placed in them. Animals were not removed from the pens during the hosing process. It was recommended that Clorox be used during the process and that all enclosures be sanitized at least every two weeks or more often as necessary. Even after this recommendation was made, the walls of the cages, the outside of the cages and the floors in the cat kennel area were inadequately sanitized.
- **IMPROPER FEEDING AND WATERING:** Appropriate food for all types of sheltered animals was not available. Animals were not provided with adequate water during the day. Animals in the sick room did not have any water.
- **INADEQUATE ENCLOSURES FOR TRANSPORTATION:** The animal enclosures in the van, which was used to transport animals, were not secured.
- **IMPROPER ADMINISTRATION AND RECORDKEEPING:** Animals housed in the shelter were not properly identified as to their location. Records did not reflect where the animal was picked up or originated. Not all animals were recorded in the intake log. Records on the disposition of animals were incomplete and could not be linked to particular animals. Animals that were re-claimed by their owners were recorded as having been adopted. The intake, disposition and medical records that did exist were not organized in such a manner as to allow for the retrieval of information. On one inspection, there were no records on the impoundment, surrender, reclamation, adoption or euthanasia of cats. Animals brought in as strays were recorded as having been surrendered by their owners. Where the animals wore license tags, the owners were not notified. Records were not maintained in such a fashion so that a particular animal could be traced from arrival to ultimate disposition. In one instance, although a dog, which was brought in as a stray by a local resident, was wearing a license tag, the owner

was not contacted and there was no disposition record on the dog when the owner tried to re-claim it. Individual identification records on the animals in the puppy room were not maintained. The records that were kept did not contain the proper information, including a description of the animal, the date of arrival, where it came from, and its breed and sex. Similarly, cats and kittens were not properly identified. Individual cards describing the animals were not kept on the cages. The treatment records for animals in the sick room were either “totally inaccurate” or were not kept. In one year, the records pertained to sick animals from the prior year.

The violations found at the shelter by the state DOH were deemed so serious that they triggered an avalanche of internal memoranda and correspondence with the shelter’s management and Jersey City’s Division of Health.⁵⁶ The memoranda and letters demonstrate the failure of the Jersey City Division of Health to respond adequately, the attempts and ultimate abdication of the DOH to remedy the situation and the SPCA’s utter disregard for maintaining proper standards. The documents also reveal the DOH’s powerlessness in mandating action by the local inspecting authority.

- A March 31, 1993, inspection of the shelter by the city’s Division of Health produced a satisfactory rating, with the only notation on the report indicating “slight maintance [sic] to run # 4.” However, in a letter to the state DOH regarding this inspection, the city noted the following: the shelter’s veterinarian

only supplied information on animal health problems, did not render “actual hands on service,” and did not know if animals were vaccinated and dewormed, procedures necessary for “a sound ‘infection control policy’”; there was no daily logbook maintained on the intake and disposition of animals, and there were no infection control procedures in place. The city sought the state’s guidance in interpreting the regulations and requested that the DOH accompany it on a joint inspection. The DOH responded and a joint inspection was conducted on May 4.

- The May 4, 1993, joint inspection of the shelter resulted in a memorandum to the file of the state DOH. The memorandum noted that during the inspection, the SPCA president telephoned and spoke, first, with the city’s assistant health officer and then with the state DOH official. The president questioned the state official as to why he was there and stated that his facility was in compliance and that the local authority was harassing him. When informed that the local health department had requested a joint inspection, the president stated that “he would take care of it.” The document also noted that the president’s brother, who was identified as the manager, was unaware of the operating procedures and was unable to produce current records for the animals and that the city’s health officer stated that “the conditions were so bad at the facility that he had to go outside to prevent being physically ill.”
- A May 7, 1993, letter by the DOH advised the Jersey City Division of Health of the conditional rating and

⁵⁶Key personnel in the state DOH and Jersey City Division of Health remained constant throughout this period.

noted some of the violations from the May 4 inspection. The DOH directed the city to conduct a reinspection on or before June 4, 1993, and provide the state with the inspection results, as well as “the plan of action that the management of the Hudson County S.P.C.A. will undertake to bring this facility into full compliance.” (The city failed to conduct a reinspection and to provide “the plan of action.”)

- Following the June 21, 1993, joint reinspection that resulted in a conditional rating, the DOH wrote to the SPCA president and threatened that “[f]ailure to take appropriate corrective measure to bring this facility into compliance will result in the initiation of enforcement procedures, as provided by law.”
- In a July 6, 1993, letter to the city, the state DOH advised that the shelter’s “record-keeping system needs to be totally redesigned and a veterinarian needs to be available to provide disease control management and injury treatment.” It “suggest[ed]” that a city health officer meet with the management of the Hudson County SPCA and “specifically” counsel them on these areas. It also noted that “several hundred animals” listed by the SPCA as having been received at the shelter could not be accounted for as having left the facility.
- An internal memorandum, dated July 8, 1993, indicated an interest by the Commissioner’s office and noted that although the recent June inspection revealed “some improvements, there remain major problems.” (The

conclusion that “major problems” remain renders the conditional rating suspect.)

- In an internal memorandum to the DOH’s Office of Legal Services, dated July 9, 1993, the Senior Public Health Veterinarian sought “guidance concerning the appropriate enforcement action to initiate for noncompliance of the regulations.” He noted that the two prior, joint inspections of the facility uncovered “significant violations.” However, as informed by the city’s health officer, the Division of Health “is reluctant to initiate a license revocation hearing because this is the only animal control facility in Hudson County. I am concerned that ultimately enforcement procedures will need to be initiated by the state Department of Health. I am therefore requesting guidance concerning the appropriate action to take.” (The DOH never instituted “enforcement procedures.”)
- In July 1993, the city’s Division of Health officials met with concerned citizens to discuss the situation with the purpose of leading to the development of a plan to bring the facility into compliance or developing alternative animal impoundment facilities to serve the area.
- Following an unsatisfactory rating from a joint inspection of the shelter on July 22, 1993, the DOH Director of Consumer Health Services authored a letter, dated July 28, 1993, instructing the president of the SPCA to “immediately correct” the violations and requesting his appearance at an administrative conference to be held on August 6,

1993, to discuss “the continued operation” of the shelter. The president also was requested to present “a written, detailed plan of correction,” together with “time frames for commencement and completion.”

- A newspaper article in *The Jersey Journal*, dated July 26, 1993, featured the violations of the May and June inspections. A Jersey City Division of Health official was quoted as stating, “It’s really a shame that we’re subjecting animals to that [violations of the regulations]. It seems like it might be better if they left them on the street.” Another official was quoted as stating that although there were some improved conditions between the two inspections, *viz.* crates were placed in the inside runs so that the larger dogs could sit on them instead of in their own excrement, “animals that are in the sick room are sitting there in urine and feces, and that, to me, by any means is not a sanitary condition.” The veterinarian, who was listed by the shelter as the consulting veterinarian, was quoted as stating that when he suggested improvements to shelter personnel, the president responded that they would be too expensive to implement. The SPCA president was quoted as denying that the shelter operated in a substandard way and asserted that the violations were “all concocted.” He acknowledged that the shelter did not employ a veterinarian, stating that the SPCA was unable to afford one. An article dated August 4, 1993, quoted a Jersey City health official as stating that closing the facility was not an option until an alternative appeared to house the stray animals.
- In a July 30, 1993, memorandum to the file, a DOH official documented a telephone call from the veterinarian, who stated the following: he had been “associated” with the shelter for several years; he had never been paid for providing veterinary services to the animals or to develop a disease control program; he had visited the shelter in October 1992 and July 1993 and “periodically answered general questions about animals”; during the July 1993 visit, he had found unsanitary conditions and the lack of proper disease control; the shelter management had not followed his recommendations on disease control, and the facility had not been properly maintained since 1987.
- An administrative conference was held on August 11, 1993. In attendance were the SPCA president, two officials of the Jersey City Division of Health and two state DOH officials. According to a DOH memorandum to the file, the SPCA president failed to provide the requested “written detailed plan of correction” and simply averred that certain improvements were made. In response to the identification of other deficiencies that had been found, the president merely stated that they would be addressed. The following corrective measures were agreed to by the president: the hiring of someone to handle exclusively the recordkeeping; the segregation of healthy animals from sick ones; providing sick animals with medical care under the supervision of a veterinarian and the documentation of all medical treatments; closer monitoring of the animals; more frequent cleaning of

the cages, and institution of a program to vaccinate and deworm each animal upon entering the shelter. (None of these measures were implemented.) In addition, the veterinarian, whom the president named as being responsible for establishing and maintaining a disease control program at the facility, had informed both the state and city officials that he was merely an unpaid volunteer with limited involvement with the shelter. He described the medical care rendered to the animals as inadequate. A Jersey City Division of Health internal memorandum noted that the SPCA president “disputed the violations found and referred to the inspections as ‘political.’”

- In an August 16, 1993, letter, a state DOH official informed the SPCA president that the shelter/pound survey submitted for the shelter did not account for about 55% of the dogs and cats brought into the shelter. The president was asked to resubmit the survey. (The SPCA president never resubmitted the survey.)
- Following the September 9, 1993, joint inspection, which again found serious violations, the state DOH issued a September 14, 1993, letter to the SPCA president. It noted the deficiencies and again recited the admonition about the initiation of enforcement procedures for failure to take corrective measures. (No enforcement procedures were initiated.)
- A joint inspection conducted on December 9, 1993, resulted in a conditional rating. The report indicated that the facility would be reinspected in 30 days. (There was no reinspection until June 1994, six months later.)
- By letter dated December 14, 1993, the state DOH informed the SPCA president of the violations found during the December 9 inspection. Although the inspection report identified a veterinarian, the letter indicated that “she is not working [to establish a disease control and treatment program] at the current time,” there were 10 animals in the “sick room” that were not receiving medical care, and a dog, which had been impounded for about two weeks, was not receiving medical treatment for its skin lesions and was not segregated from healthy animals. In addition to containing the same admonition about the institution of enforcement proceedings, the letter also directed the president to provide, within 10 days, a written plan of correction to abate the violations. Finally, the letter announced that the Jersey City Division of Health would conduct an inspection within 30 days. The SPCA president responded to the deficiencies in a December 20, 1993, letter. (No official inspected the shelter to determine whether corrective action actually was implemented.)
- By letter dated January 18, 1994, the state DOH requested the Jersey City Division of Health to “conduct all subsequent reinspections necessary to monitor progress and to verify the establishment and maintenance of the corrective measures detailed in Mr. Pulver’s written plan” and to provide the DOH with copies of all inspection reports and correspondence until the

shelter achieved substantial compliance. The letter also noted that “there has been considerable improvement towards abating the violations since the first joint inspection was conducted” in May 1993. The DOH remained available “to offer technical support ...whenever needed.” (Ignoring the DOH’s directive, the city’s Division of Health did not conduct its own inspection until August 1997 and inspected the shelter only once a year thereafter in 1998 and 1999.)

- The satisfactory rating given by a joint inspection on June 17, 1994, is questionable in light of an internal DOH memorandum directed to the Office of Legal Affairs on July 7, 1994. The document noted that “the facility had minimal, but acceptable, records for both dogs and cats and an *adequate* disease control program employing a licensed veterinarian.” [Emphasis supplied] In firm language, it stated that the DOH officials “strongly suggested that the Jersey City Division of Health conduct quarterly inspections to ensure continued compliance with the applicable laws and regulations,” and that “we would recommend that the

City of Jersey City conduct a hearing to revoke the shelter/pound license” if the facility is not maintained in compliance. It was further stated, “Municipal officials have expressed reluctance to take such action without identifying an alternative facility to impound animals. Both a long and short term plan of impoundment alternatives to the Hudson County S.P.C.A. should be developed by the

Jersey City officials in the event an alternative facility is necessary.” (The city never conducted quarterly inspections. In fact, the city conducted no inspection for the remainder of 1994 or in 1995 and 1996 and did not return to the shelter until January 28, 1997, for a joint inspection. Moreover, the city never seriously pursued any impoundment alternatives.)

- In an October 13, 1994, letter responding to a complainant and forwarded to the Jersey City Division of Health, the state DOH stated: “All stray animals are required to be held for seven days to allow owners an opportunity to re-claim their lost pets and impounded animals must be properly cared for and receive medical care if needed.” (The complaint did not prompt any action by the city.)
- In a misleading letter, dated August 30, 1995, from the state DOH to a state senator regarding the complaint of one of his constituents, the DOH noted that “[g]radual improvements following inspection have brought the facility into substantial compliance with the rules and regulations....”
- In a December 13, 1995, letter from the DOH to the Jersey City Division of Health, pursuant to a recent telephone conversation concerning recordkeeping requirements, the state official provided copies of forms utilized by other shelters. Noting that there is a “new manager” of the shelter, the letter continued, “I recommend that your office negotiate specific recordkeeping and disease control provisions with the new management of the Hudson County

S.P.C.A. shelter because of the inconsistent compliance with these requirements in the past.” It suggested that the city require specific types of records to track the intake and disposition of all animals. The letter was very specific as to the recordkeeping and types of records required. It also noted that with regard to disease control procedures, the contracting veterinarian must sign a Certificate of Veterinary Supervision and agree to follow the established guidelines. Specifically, “[a]ll sick and injured animals are required to be separated from other healthy animals, be provided with basic veterinary care, and not sold or offered for adoption until deemed fit by the veterinarian. The treatment of animals should be recorded and this information filed with animal’s records after it leaves the facility.... It may be beneficial to inspect the animal and medical records at this facility on an [sic] quarterly or monthly basis throughout the licensing year, to ensure compliance.” (No inspection was conducted in 1995. None of the recordkeeping requirements were implemented by

the shelter or enforced by the city. Moreover, there never was a “new manager” at the facility.)

- On April 17, 1996, the DOH conducted an inspection without a city inspector. Although a conditional rating was given, the official’s report noted that he expected the facility to have a licensed veterinarian to provide disease control and that a reinspection would be conducted in 30 days. (There was no reinspection or follow-up to determine whether a licensed veterinarian was retained.)
- Following the conditional rating from an inspection conducted by the DOH alone on April 17, 1996, the DOH official again wrote to the SPCA president regarding the violations, which were identical to the ones found in so many of the prior inspections. The letter noted that an employee had identified himself as the new shelter manager. Further, when the official contacted the individual identified as the veterinarian responsible for disease control, he stated that although he “helped out,” he was not affiliated with the shelter. The letter reiterated the threat that a reinspection would be conducted within 30 days, at which time there must be a licensed veterinarian providing disease control, and that enforcement procedures would be initiated for failure to take corrective measures. (Enforcement procedures were not pursued.)
- An April 26, 1996, internal DOH memorandum quoted the veterinarian as stating that shelter management did not seem willing to institute his disease control recommendations and that he felt this was a “highly political situation”; referred to correspondence in which a local animal welfare organization was critical of the shelter, and cited comments by the health officer of a neighboring municipality that he would be willing to help create a county or regional animal control services with other municipalities. The memorandum concluded, “I am concerned that compliance at this facility may become a high profile issue again.”

- The January 28, 1997, joint inspection that produced a conditional rating resulted in yet another letter to the SPCA president concerning the violations, many of which echoed prior findings. The letter again threatened a reinspection within 30 days and the initiation of enforcement procedures for failure to take corrective action. In addition, it stated that a municipal license would not be issued until “the facility is in full compliance....”
- In a January 29, 1997, letter to the DOH, the SPCA president stated that the city’s failure to pay the SPCA, pursuant to their contract commencing in 1991, “is endangering the health and welfare of the animals entrusted to our care.” (It is noted that although the SPCA expected approximately \$325,000 in past and current payments, its investments at the time were valued at \$518,705.)
- A November 22, 1997, letter to the DOH from officials of a local animal welfare organization stated that “Jersey City has made a commitment to open a new shelter and paid for a feasibility study.” (The city obtained a feasibility study, but the “commitment” never materialized.)
- On numerous occasions, the state DOH forwarded letters of complaint to the city’s Division of Health for investigation and corrective action. However, there is no documentation to demonstrate that there was any follow-up by the city.

The written plan provided by SPCA President Edward Pulver, which was dated December 20, 1993, acknowledged receipt of registration forms for the certified animal control officer course at Kean College. However, the society blatantly ignored the DOH’s directive to obtain certification for its employees. According to the June 17, 1994, inspection report, none of the staff were certified as animal control officers, although they impounded animals in some Hudson County municipalities. This finding resulted in the state DOH’s written notification to the municipalities under contract with the SPCA for animal control services that the SPCA did not employ or contract with certified animal control officers and, therefore, the municipalities were in violation of *N.J.S.A. 4:19-15.16* and *16b*, which require municipalities to have a certified animal control officer responsible for the pickup and impoundment of stray animals. It was not until June 1996 that one shelter employee was certified as an animal control officer. Moreover, other employees who were not certified continued to pick up animals.

On July 3, 2000, a joint inspection was conducted by the DOH and Jersey City Division of Health, at the request of the latter. It was preceded by an inspection by Jersey City only 13 days earlier. Both inspections were triggered by public reaction to the June 15 incident of a shelter employee bludgeoning a dog with a shovel. Although essentially the same conditions existed at the time of each inspection, the Jersey City inspection issued a rating of conditional, while the DOH issued an unsatisfactory rating. Further, in a glaring omission, the Jersey City inspector failed to note the lack of a responsible veterinarian. It is also significant that even worse conditions had been found in prior inspections, but had not resulted in unsatisfactory ratings. The findings of the June and July inspections included the following:

- Euthanized animals were stacked in hallways in open bags.
- Strong odors permeated the euthanasia room, which was not ventilated. One of the freezers to hold the bodies of dead animals was encrusted with blood, producing strong odors.
- Dogs in the puppy area were confined in cages that were too small for them to stand or lie in a comfortable position.
- Cats were contained in cages too small for them and without litter boxes.
- Several dogs with respiratory disease were not segregated from the healthy dogs.
- The supervising veterinarian, who was out of the country indefinitely, had not visited the shelter since May 4. Shelter staff admitted that when he has not been available, the animals have not received veterinary care.
- Animal enclosures were not sanitized daily.
- The sick room was “filthy.”
- Animal enclosures in the transport vehicle were not cleaned after animals were removed.
- Records for dogs were incomplete and inaccurate and there were no records for cats prior to June 2000.

During the July 3 inspection, shelter staff gave the DOH official a note, dated May 4, that was written by the supervising veterinarian. Despite the

statement in the note that he had made arrangements for a named veterinarian to provide care in his absence, the DOH official ascertained that no such arrangements, in fact, had been made. Shelter staff informed the official that there was no veterinary care when the supervising veterinarian had been out of town and that he had been away for long periods of time. In addition, the inspection disclosed that there were no medications on the premises for the treatment of animals and no records directing any medical treatment.

The **HUNTERDON COUNTY SPCA SHELTER** was inspected by the state DOH in 1990 and by the Hunterdon County Health Department in each year from 1991 through 1998. State inspectors also made visits in 1994 and 1998 in response to complaints that proved unfounded. Satisfactory ratings always were given to the shelter and no infractions were ever noted. The county’s inspections appeared to be perfunctory. None of the forms completed by county inspectors contained any comments or observations. Continuation sheets were never attached. Further, all but one of their reports failed to identify the veterinarian and none included complete information on the method of euthanasia. Indeed, were it not for the date and signature of the shelter employee attesting to the inspection, the forms were interchangeable.

The **MONMOUTH COUNTY SPCA SHELTER** was inspected by the state DOH in 1990 and by the Monmouth County Regional Health Commission each year from 1994 through 1998. No inspections were conducted in 1991, 1992 and 1993. All inspections resulted in satisfactory ratings. The reports contained no observations of the inspectors and continuation sheets were not attached. Except for the inclusion of the name of the veterinarian and the method of euthanasia, the reports contained no markings by the areas of

inspection. If the inspections were more than perfunctory visits, it is not evident from the reports.

The Ocean County Health Department inspected the **OCEAN COUNTY SPCA SHELTER** annually from 1991 through 1994. The shelter was closed in January 1995. In 1991, two inspections were conducted six months apart. Following the example of the state DOH, the county utilized a three-part inspection report consisting of the Sanitary Inspection Report, which contained information on the establishment and owner, the ultimate rating given the facility, and the type of inspection (complaint, initial, reinspection, plan

review, conference); the Detailed Data Sheet, and the Continuation Sheet. A full report was completed for each inspection. Although all of the inspections resulted in satisfactory ratings, the Continuation Sheet always was utilized to record the inspector's observations of such matters as the condition of the kennel areas and cat room, the method of sanitizing, the absence of any odor, the sheltering of animals from the sun and outdoor elements, the storage of food and supplies, the disposal of dead animals, the septic system and the disposal of trash. All comments by the inspectors were positive.

THE ASSOCIATION BETWEEN ANIMAL ABUSE AND HUMAN VIOLENCE

The Commission's examination of the state's system for the investigation and prosecution of animal cruelty and abuse necessarily entailed a review of the incidents themselves and the individual perpetrators. This area exposed the Commission to the concept that animals constitute another category of victims in our society and that animal cruelty may play a role in the general cycle of violence against humans. As the following quotations reflect, the significance in recognizing and addressing the violent treatment of animals has been noted for at least the past four centuries:

[H]e who is cruel to animals becomes hard also in his dealings with men. We can judge the heart of a man by his treatment of animals.
Immanuel Kant, *Lectures on Ethics*, "Duties Toward Animals and Spirits," p. 240 (Harper & Row, NY 1963) (Translation by Louis Infield).

One thing I have frequently observed in children that when they have got

possession of any poor creature, they are apt to use it ill....the custom of tormenting and killing of beasts will by degrees, harden their minds even towards men; and they delight in the suffering and destruction of inferior creatures, will not be apt to be very compassionate or benign to those of their own kind. John Locke, *The Works of John Locke in Nine Volumes*, 8:112-115, 112 (London: C. & J. Rivington 12th ed. 1824).

Cruelty to [animals] manifests a vicious and degraded nature, and it tends inevitably to cruelty to men.
Mississippi Supreme Court Justice James M. Arnold, *Stephens v. State*, 3 So. 458, 459 (Miss. 1888).

Children trained to extend justice, kindness, and mercy to animals become more just, kind, and

considerate in their relations with each other.... The cultivation of the spirit of kindness to animals is but the starting point toward that larger humanity which include one's fellow of every race and clime. National PTA Congress (1933).

As a society, we must realize that violent behavior rarely exists in a vacuum. We must recognize at-risk youths who lack empathy and compassion for animals and other human beings. It is our responsibility to do all that we can to teach these personality attributes to our youth so that today's animal abusers do not continue these despicable actions and become tomorrow's dangerous felons, thereby perpetuating the cycle of violence that has taken such a devastating toll on our society. William S. Cohen, US Secretary of Defense (testimony delivered as the senior Republican Senator from Maine, "Cycle of Violence," Congressional Record, p. S4631, May 2, 1996).

The correlation between animal cruelty and human violence can no longer be discounted. Acts of animal cruelty must be recognized both as a manifestation of antisocial behavior and as a component of family violence. Growing empirical and anecdotal data point to (1) childhood and adolescent cruelty toward animals as a predictor of future violence toward humans, and (2) a link between an adult's cruelty toward animals and violence against humans.⁵⁷ Accordingly, strategies

⁵⁷ Compilations of authoritative works on this issue are found in *Child Abuse, Domestic Violence, and Animal Abuse*, "Linking the Circles of Compassion for Prevention and Intervention," edited by Frank R. Ascione and Phil Arkow (Purdue University Press 1999), and *Cruelty to*

for child protection and domestic violence prevention must be integrated with animal protection efforts. There must be a coordinated response to all acts of violence among law enforcement agencies, social services organizations, animal control officers, and animal welfare and humane organizations. Such a response requires not only the ability to recognize all forms of violence, but also the cross-reporting of such acts and intervention with the victimizer.

Studies over the last several decades have demonstrated that acts of violence, whether child abuse, street violence, domestic violence or animal abuse, do not occur in a vacuum as separate and distinct incidents, but rather are part of a cycle that encompasses various forms of violence. The experience of several disciplines suggests that violent acts toward animals begin the cycle of violence. Many of the same influences that give rise to cruelty against animals also result in a person's violence against humans. At the heart of each lay issues of power, control and dominance. Because there is a strong link between violence against humans and violence against animals, animal cruelty must be viewed seriously. As a society, we can no longer afford to dismiss the cruel acts committed against animals by children, adolescents or adults.

Specifically, there is increasing evidence that the abuse of animals is an integral part of domestic violence and compelling indications that children who

Animals and Interpersonal Violence: Readings in Research and Application, edited by Randall Lockwood and Frank R. Ascione (Purdue University Press 1997). Publications on the issue are also available from the American Humane Association, 63 Inverness Drive East, Englewood, Colorado 80112, and The Humane Society of the United States, 2100 I Street, NW, Washington, DC 20037. In 1997, The Humane Society of the United States launched the First Strike Campaign to increase public awareness of the issue and promote cooperation and coordination among governmental and private groups. A First Strike symposium was convened in Newark, New Jersey, on November 9, 1999.

commit animal cruelty come from seriously dysfunctional families. In light of statistics demonstrating that 57.9% of all United States households have companion animals and that children are present in 78.7% of those households,⁵⁸ the potential is great that pets will be among those victimized in dysfunctional families. Even when children who do not appear to be the product of a dysfunctional family commit acts of animal cruelty, their conduct may represent a harbinger of future violent acts against humans. Severe or repeated acts of animal cruelty by children usually occur not in isolation, but in conjunction with other antisocial behavior. Therefore, animal cruelty must be recognized as a significant component in a collection of behaviors that signals personal dysfunction warranting intervention.

The web of domestic violence frequently involves more than one act of abuse and more than one victim. In addition to children, women, spouses, the elderly and the disabled, animals represent another category of victims. Patently, the abuse of animals or humans in a particular environment places the other at risk. The adult who inflicts violence on a spouse or child may also abuse the family pet. The victimization of a family pet may take a variety of forms. Threats to abuse, kill or give away the family pet are common coercive tactics to intimidate or control a spouse or child. Specifically, threats of violence against the family pet have been used to intimidate a physically or sexually abused child or spouse into silence.⁵⁹ Abused children, in turn, may inflict cruelty upon a pet because it is more vulnerable. A parent may hurt the pet in order to punish a child. It is not uncommon for an abused

spouse to remain in the home out of fear that the family pet will be injured or killed if she leaves. In order to assist the abused wife in leaving, some organizations now are allowing the pet to accompany the woman or are providing temporary accommodations elsewhere for the pet.

Numerous studies have examined the role of animal abuse in the context of the family.⁶⁰ A 1980 study found that an abusive parent might abuse both a child and family pet. A 1981 study in Great Britain revealed that 82% of the 23 families investigated by the Royal SPCA were known to social services agencies as having children who were at risk for abuse or neglect. Reports in 1988 and 1990 noted the torture and killing of animals by adults as intimidation tactics in the course of family violence or sexual abuse of children in day care centers. A 1992 study reported the threat to kill, maim or remove the family pet as a coercion technique to obtain the silence or acquiescence of a child to physical or sexual abuse. In 1979 and 1992 studies, battered women reported that they were forced to perform acts of bestiality by husbands or boyfriends. A 1992 study noted that animal abuse occurred in 38% of the abusive lesbian relationships examined. A 1995 report cited numerous authors who found incidents of animal abuse, torture and killing in relationships involving physical abuse of women, sexual abuse of children and acts of bestiality. In 1998, a survey revealed that 25% of the 101 battered women interviewed at a shelter delayed leaving an abusive spouse out of fear that the pet would be killed or injured.

⁵⁸ American Veterinarian Medical Association (1992).

⁵⁹ In the manual on institutional abuse investigations that was promulgated by New Jersey's Division of Youth and Family Services, it is noted that some perpetrators of abuse, primarily sexual abuse, threaten their victims with terrible consequences to their parents or pets to force their cooperation.

⁶⁰ The studies are referenced in *Child Abuse, Domestic Violence, and Animal Abuse*, *supra* at 19-37, 53-54, 64-66, and "Another Weapon for Combating Family Violence: Prevention of Animal Abuse," by Charlotte A. Lacroix, DVM, JD (*Animal Law*, Vol. 4, Northwestern School of Law of Lewis & Clark College 1998).

A significant study was undertaken in New Jersey in 1983.⁶¹ In cooperation with the Division of Youth and Family Services, the researchers examined the treatment of pets in 53 families that were monitored by the division because of acts of child abuse. The results were startling in reporting that 63% of the families also had incidents of animal abuse. Specifically, interviews of household members established that pets were injured in 25% of the families. In an additional 38% of the families, the animal abuse or neglect was observed firsthand by the caseworkers, despite its underreporting or denial in the interviews. Further, 34% of the interviewees indicated abuse or neglect of prior pets. Where the animal was subjected to the infliction of pain or death in an inhumane manner, one or both parents were responsible. Children were responsible for the animal cruelty or abuse in 14% of the cases. Despite the gravity of the findings, the Division of Youth and Family Services took no steps to alter its procedure in evaluating families with suspected incidents of child abuse or neglect. Neither the initial interview process nor the Referral Response Form includes any question or provision regarding the presence or treatment of household pets. Specifically, the codes enumerated on the form to indicate the type of family problems and type of parental/caretaker conduct do not include animal cruelty or abuse. Caseworkers are not trained to ask questions or make observations in this area. Any observations that are made regarding the family pet are deemed relevant only in so far as they impact on the child. For example, the presence of animal urine or feces in the house would be noted as relevant to the issue of the child's neglect, but would

⁶¹ Deviney, Dickert and Lockwood, *The Care of Pets within Child Abusing Families* (1983). Drs. Elizabeth Deviney and Jeffery Dickert were with the Family Enrichment Program, Morristown Memorial Hospital, Morristown, New Jersey. Dr. Randall Lockwood was with the Department of Psychology, State University of New York, Stony Brook, New York. The study, which was supported by a grant from the Geraldine R. Dodge Foundation, had the cooperation of the Division of Youth and Family Services.

not prompt questions regarding the pet. There are no formal mechanisms for referrals to be made to law enforcement or animal welfare agencies if animal abuse is suspected or confirmed. Moreover, the Commission was told that even when SPCAs referred suspected child abuse to the division as a result of investigating animal abuse, division staff members rarely pursued the matter. Similarly, referrals of animal abuse to SPCAs by division staffers has been extremely rare.

While acts of animal cruelty by children are unsettling in and of themselves, the prospect that they may foreshadow horrific acts against humans when the same children become adults is all the more alarming. The risk for society is that juveniles may become desensitized to the pain or suffering of humans generally when they engage in or observe acts of flagrant animal abuse. This is not to say that every child who harms an animal will grow into an adult who inflicts injury upon humans. It is not uncommon for young children to harm insects or small animals as part of exploring their surroundings. However, society must view incidents where children act in an unacceptable manner toward an animal as a red flag and an opportunity to intervene in an effort to prevent possible acts of future adult violence.

The concept that adult criminal activity has its roots in the type of children raised by society is not a new one. In a 1751 work entitled "The Four Stages of Cruelty," English artist and social reformer William Hogarth depicted the progression from childhood acts of violence toward animals to the ultimate violent act as an adult of murdering a human being. In 1884, George T. Angell, the founder of the Massachusetts SPCA and its president from 1868 to 1909, wrote eloquently on the subject:

I am sometimes asked, "Why do you spend so much of your time and money in talking about kindness to animals, when

there is so much cruelty to men?" And I answer, "We are working at the roots. Every humane publication, every lecture, every step in doing or teaching kindness to them, is a step to prevent crime"....

... I declare, what I believe cannot be gainsaid, – that just so soon and so far as we pour into all our schools the songs and poems and literature of mercy towards these lower creatures, just so soon and so far shall we reach the roots not only of cruelty, but of crime.⁶²

The value of teaching children compassion toward animals cannot be minimized. Throughout our state, individual teachers in grade schools have brought animals into the classroom in order for the children to develop empathy toward them. Fostering such qualities in children through caring for and interacting with animals, it is believed, will contribute to a less violent society in the future.

Interestingly, the animal protection movement spawned the child protection movement in the 1800s, when many of the newly formed SPCAs extended their efforts to the protection of children as well. In fact, the first reported case of child abuse was brought in 1874 by the American SPCA. Invoking the animal cruelty law, the organization succeeded in having a severely neglected and battered eight-year-old girl removed from her foster parents. Following the success of the case, the society's president, together with its attorney, founded the first Society for the Prevention of Cruelty to Children in December 1874. In 1878, the American Humane Association, which was established the prior year, included a Children's Division. The organization continues to be an

⁶² Angell, "The New Order of Mercy; or, Crime and its Prevention" (Published by National Bureau of Education of U.S. Department of the Interior, pp.32-33 (February 14, 1884)).

advocate for both animal welfare and child protection. Although the two movements initially paralleled each other, they later diverged as child protection was entrusted to the government and animal protection remained the function of voluntary groups of private citizens.

More recently, the concept that animal abuse and cruelty by juveniles may predict future adult violence has been borne out by criminology studies that appear as early as the 1960s.⁶³ A 1966 study, reaffirmed in 1974 and 1977 studies, revealed that 75% of 84 individuals convicted of violent crimes had histories of animal abuse. They identified a triad of behaviors, which included animal cruelty, as useful in predicting future criminal behavior. A 1980 analysis recognized animal cruelty as an indicator of "childhood aggression dyscontrol." A 1985 study concluded that childhood acts of cruelty toward animals was considerably more frequent among aggressive criminals than among nonaggressive ones. Specifically, in comparing the childhood histories of animal cruelty between incarcerated, violent criminal offenders and nonincarcerated, nonviolent offenders, researchers found that 25% of the former group committed substantial acts of animal cruelty, while the latter group reported no history of animal abuse. Similarly, there was a history of animal abuse among 36% of the women convicted of assault, but none by those who did not commit assaults. A 1986 study, which refined the concept of childhood animal cruelty in predicting future antisocial behavior, identified as more important indicators the commission of a variety of cruelty acts, direct involvement in the cruelty as opposed to merely witnessing the acts, and infliction of cruelty against socially valuable animals, *viz.* dogs and cats as opposed to rats. Studies published in 1986, 1988, 1991 and 1993 found high rates of acts of animal cruelty in the early lives of convicted violent

⁶³ See footnote number 57.

offenders, including rapists, murderers and child molesters. For the first time in 1987, the American Psychiatric Association included animal cruelty as a diagnostic criterion for Conduct Disorder and, in 1994, cited it as an aggressive diagnostic criterion. Significantly, a concurrent resolution of the United States Congress, which was presented in the House of Representatives in May 2000, recognized that “individuals who abuse animals are more likely to commit more serious violent crimes against humans.”

A 1988 book presented an analysis of the data compiled between 1979 and 1983 on 36 incarcerated sexual murderers.⁶⁴ Utilizing a checklist of indicators employed in psychosocial research that includes cruelty to animals, the authors found that 36% of the study group committed acts of animal cruelty in childhood, 46% in adolescence and 36% in adulthood.⁶⁵ Significantly, the authors concluded that early acts of cruelty toward animals and humans set the stage for continued abusive behavior, in part because they are reinforced by the absence of negative consequences.⁶⁶

Our state continues to be witness to childhood and adolescent acts of violence against animals. In some areas, animal abuse is a form of entertainment. As disturbing as the incidents are, perhaps even more disconcerting is the failure of the state’s institutions to respond adequately. The following incidents of animal cruelty have occurred in our state during the past five years:

- A teenager, who also had committed acts of violence against his brother and sister, savagely attacked and killed the

⁶⁴ Ressler, Burgess and Douglas, *Sexual Homicide*, “Patterns and Motive” (D.C. Heath and Company 1988). At the time of publication, Robert K. Ressler and John E. Douglas were FBI supervisory special agents associated with the FBI’s Behavioral Science Unit.

⁶⁵ *Id.* at 29.

⁶⁶ *Id.* at 74.

family dog with a machete. His family committed him to the psychiatric unit of a medical center, where he was diagnosed with paranoid schizophrenia. Although criminal complaints were filed against him for the mutilation of and cruelty against the dog, a municipal court judge ultimately dismissed them after the youth completed the court-ordered psychiatric counseling.

- Children in a housing project in one of our major cities participate in what they call Fry Day, a day when they douse dogs with gasoline and set them afire.
- Youths in other cities douse puppies, dogs or cats with lighter fluid and set them on fire. Some set fire to the tails of cats.
- In various major cities, children amuse themselves by throwing cats from rooftops, out of windows and against brick walls and telephone poles. They also toss them in with pit bulls to be mutilated and light firecrackers after inserting them in their anuses.
- In one major city, children threw a dog down a garbage chute equipped with a grinder.

Acts of animal cruelty also were traced in the lives of violent criminals in New Jersey:

- The brother of **Jesse Timmendequas**, who was sentenced to the death penalty on June 21, 1997, for the rape and murder of Megan Kanka, charged that their father sexually abused them and killed family pets to ensure their silence.

- **Samuel A. Manzie** was sentenced to life imprisonment for the September 27, 1997, killing of 11-year-old Edward P. Werner. Only 15 years old at the time of the murder, Manzie admitted to committing violent acts against children and the family pet. He described how he threw the family dog down a flight of stairs and jumped up and down on a sofa cushion after placing the dog underneath the cushion.
- In August 1986, **Dwayne Wright** and **James Cousell** were convicted for the murder of a disabled man in Willingboro. Two years earlier, they had been arrested by the Pennsylvania SPCA for throwing lye on six dogs.
- **Ira Peczenik**, the confessed enforcer and contract killer for the Newark-

based Campisi organized crime family, was convicted on April 20, 1972, for murder and robbery. He later cooperated with state law enforcement authorities in the successful prosecution of members of that organized crime group. Peczenik admitted to dousing alley cats with lighter fluid and setting them on fire in his youth.

All too frequently, acts of animal cruelty in New Jersey are not prosecuted. When they are, the results often are disappointing. Sentences meted out to animal abusers by municipal court judges generally run the gamut from unreasonably lenient to adequate. More often than not, they tend to the former. However, a strong sentencing response was given in January 2000 to an individual who had repeatedly thrown the family's four-month old terrier against the basement wall. The municipal judge in

Bergen County imposed the maximum fine of \$2,000, 200 hours of community service and a two-year probationary period. He also required the individual to undergo a psychiatric evaluation.

Graphic evidence of the connection between animal cruelty and human violence has been documented in criminal cases that have gained national media attention. Serial killers or mass murderers, reputed to constitute one-fourth of all unsolved murders in the United States each year, typically have animal cruelty in their histories:

- On July 24, 1998, **Russell Weston** entered the United States Capitol building where he fatally shot and killed two police officers and wounded a tourist. Shortly before his shooting spree, he killed about 16 cats with a shotgun at his family home in Illinois.
- **Andrew Cunanan**, who was linked to the killing of five individuals, including Gianni Versace and a New Jersey resident from Salem County, fatally shot himself on July 23, 1997, just before his apprehension. In the year prior to his killing spree, he caught crabs at the beach, burned their eyes with lit matches and threw them back into the ocean.
- **Jason Massey**, who was sentenced to death in Texas in 1994 for a double homicide, had killed many dogs and cats in his youth and saved the body parts in a cooler.
- Serial killer **Jeffrey Dahmer**, who admitted to killing, dismembering and, in some cases, cannibalizing 18 men and boys, was sentenced to death on July 15, 1992, on 15 counts of murder. In his childhood, he had impaled frogs and staked cats to trees in his backyard,

decapitated dogs, gathered roadkill that he stored in a toolshed and maintained an animal graveyard with skulls perched on top of crosses.

- Serial killer **Theodore Bundy**, who was executed on January 24, 1989, following his conviction for the murder of two college women in Florida, was suspected of slaying over 40 women. He was witness to his father's torture of animals and later engaged in similar acts himself. He also was linked to graves filled with the bones of animals in Utah.
- Convicted serial killer **Carroll Edward Cole**, who was executed in Nevada in December 1985, reported that his first childhood act of violence was strangling a puppy.
- **James Oliver Huberty**, who killed 21 people on July 18, 1984, at a McDonalds' in San Ysidro, California, shot his neighbor's dog when he was a teenager.
- On January 29, 1979, **Brenda Spencer** randomly fired a rifle at children at a San Diego, California, school, killing two students and injuring nine others. She repeatedly had abused cats and dogs, frequently by setting fire to their tails.
- "Son of Sam" serial killer, **David Berkowitz**, who was convicted in 1979 and sentenced to 365 years imprisonment, hated dogs and killed neighborhood animals in his youth. As an adult, he killed his neighbor's Labrador retriever.

- **Edmund Emil Kemper III**, who was convicted in 1973 in California for killing eight women, including his mother, had a history of abusing dogs and cats. He killed family pets and decapitated the family's cat.
- **Albert DeSalvo**, the "Boston Strangler," who was responsible for the death of 13 women and was convicted in 1967 for armed robbery, assault and sexual offenses, amused himself as a youth by shooting arrows into orange crates after trapping dogs and cats in them.

The backgrounds of other violent criminals also contain acts of animal cruelty:

- On June 27, 1997, four teenagers in Wyandotte County, Kansas, videotaped themselves as they threw a small dog into a plastic garbage bag and set fire to it. Each was convicted and sentenced to about 26 months in prison. The tape reveals that their next intended act was a homicide.
- **Richard Allen Davis**, convicted in August 1996 and sentenced to death for kidnapping and murdering Polly Klaas after abducting her from her home in Petaluma, California, set fire to cats and used dogs as target practice for his knife-throwing in his adolescence.
- **Wayne P. Wooten, Jr.**, was convicted in 1994 of explosives and weapons charges in connection with bombing the NAACP office in Tacoma, Washington, and a gay bar in Seattle, Washington. One year earlier, at the age of 17 years,

he killed a cat when he bashed its head against a newspaper vending machine.

- In his youth, **Earl Shriner**, who was convicted in Tacoma, Washington, on February 7, 1990, for raping, sexually mutilating and stabbing a seven-year-old boy, slaughtered chickens, hanged cats and stuck firecrackers in the anuses of dogs as an adolescent.

In the past decade, the nation has been shocked by the eruption of killings in the schools. In the backgrounds of some of the school shooters was the maltreatment of animals. We are left to speculate if intervention at the time of the animal cruelty incident may have prevented the subsequent carnage:

- In April 1999, high school students **Eric Harris** and **Dylan Klebold** went on a shooting spree at Columbine High School in Littleton, Colorado, killing 12 classmates and a teacher and wounding many more. They then committed suicide. Both were reported to have bragged about mutilating animals. Harris was reputed to have enjoyed smashing the heads of mice with a crowbar and then setting them afire, while Klebold shot woodpeckers.
- In May 1998, **Kipland Kinkel**, who was sentenced to 112 years in prison for killing his parents and two students following a shooting rampage at the high school in Springfield, Oregon, is reputed to have bragged about torturing animals, decapitating cats, dissecting live squirrels and blowing up a cow with sticks of dynamite.
- In March 1998, 11-year-old **Andrew Golden** was one of two shooters at a school in Jonesboro, Arkansas. According to a school friend, he admitted shooting dogs “all the time with a .22.”
- On December 1, 1997, 14-year-old **Michael Carneal** shot and killed three classmates at his school in West Paducah, Kentucky. He had bragged about throwing a cat into a bonfire.
- In May 1994, 17-year old **Clay Shroud** pled guilty in Union, Kentucky, to four counts of murder for fatally shooting his parents and two sisters. Following the killings and armed with his shotgun, Shroud drove to his high school where, it is believed, he intended to shoot his English teacher and the assistant principal who had suspended him days earlier. Shroud had related to a friend that he had fired a BB gun at a bird that had flown down the family room chimney and was trapped in the fireplace and that, at times, he had kicked the family’s two dogs that were caged in the backyard.
- On October 1, 1997, in Pearl River, Mississippi, 16-year-old **Luke Woodham** stabbed his mother to death at home and then proceeded to his high school where he shot and killed two students and injured seven others with a hunting rifle. On July 12, 1998, Woodham was convicted and sentenced to three life terms. Prior to the rampage, he tortured and killed the family dog. An adult neighbor witnessed Sparkle’s killing, but failed to report the incident.

Woodham described the killing in horrifying detail in his handwritten diary:

...4-14-97 On Saturday of last week, I made my first kill. THE date was April 12, 1997, about 4:30 p.m. THE victim was a loved one. My dear dog Sparkle. Me and an accomplice had been beating the bitch for a while and last Tuesday I took a day off from school just because I didn't want to go. My friend came over and we beat the dog. In the process of doing so we hurt her leg. Later in the week, about Thursday, I'd say, my brother realized she was limping. He suggested we take the dog to the vet, but I talked him out of it saying that she probably stepped on something and that she would be okay in a day or two. Saturday, my brother brought up the vet again, but said he didn't have the time to do it today, but he would do it next week. I was afraid the vet would notice all of the bruises on the dog and I would get in trouble. So I called my accomplice and he came over at 2:00. We beat the dog, tied her up in a plastic garbage bag, put the garbage bag in another and then another. We put the subdued little bitch in an old book bag and went to some woods. When we got out to the woods, I took a Billy club that I had and handed it to my accomplice. He ran and hit the bagged dog with it. I will never forget the howl she made, it sounded almost human. We laughed and hit her more. I

picked up the book bag, which was now soaked in her piss and drug her across the ground deeper into the woods. We reached one place where we opened the book bag, tore a hole in the bags and brought her top half out. We touched a nearby ant bed and let them bite her, the[n] we got her out of the plastic bags and we put her in the book bag. We put the plastic bags over to the side where we burned them later. We took the bag even further into the woods, when we reached a clear area, I pulled out my lighter and lighter fluid, made a trail with the fluid across the grass and into the book bag and lit it. THE bag burned some. We put more fluid on there and we heard the dog scream. A hole developed in the bag and the dog stuck her head out, fully engulfed in flames. We put more on her and more and more and more. She got out and tried to run. I took the night stick and hit her in the shoulder, spine, and neck. I'll never forget the sound of her breaking under my night. We set her on fire again, the foolish dog opened her mouth and we sprayed fluid down her throat, her whole neck caught on fire, inside and out. Finally, the fire went out and she was making gurgling noise. I silenced her with the club again. I hit her so hard she started to shit. Then we put her in the burned bag and chunked her in a nearby pond. We watched the bag sink. It was true beauty.

Although the individuals in the foregoing examples committed acts of both animal cruelty and human violence, it bears emphasis that early acts of cruelty toward animals do not guarantee future acts of human violence and that violence against animals does not necessarily express itself in violence against

humans. However, distinctions must be drawn between childhood pranks or youthful experimentation and acts of a serious or repetitive nature, and acts of animal cruelty must be viewed as possible signals of an aggressive and abusive nature toward humans.

ADDITIONAL ISSUES RELATED TO ANIMAL WELFARE

In assessing the effectiveness of the SPCAs, the Commission was confronted with several issues that not only bear upon the welfare of animals generally, but also are problematic for many of the state's communities in dealing with stray and abandoned animals. Issues of spaying and neutering, cat licensing and feral cats are not new, but their formal recognition by the state is overdue. Underlying each issue is the concept that pet ownership carries with it a responsibility.

Pet ownership is a phenomenon of the decades following World War II. The advent of canned animal food and the development of cat litter greatly increased the interest and ability of people to care for companion animals. However, the number of individuals interested in having pets, albeit a vast number, is nevertheless insufficient to prevent the euthanasia of legions of animals each year. As dogs and cats have continued to proliferate at numbers greater than those of individuals willing or capable of adopting them, attention must turn toward methods designed to control their population. The key methods include sterilization and education of the public on responsible pet ownership. While some shelters attempt to inculcate in prospective pet owners the seriousness of having a pet in order to minimize the animal's abandonment, every shelter should take steps to ensure that the animal is appropriate for the individual or family and that the responsibilities, including the expense, of ownership are understood. With respect to reducing the number of unwanted animals, New Jersey has been innovative in its efforts through low-cost spaying and neutering under the Animal Population Control Program. However, the funds, which are released at the beginning of each quarter, are exhausted quickly.

Since 1990, the number of household pets in New Jersey has increased steadily. In the state's approximately 2,957,000 households in 1998, there were 1,579,038 dogs and 1,768,286 cats. Mirroring national statistics, the number of household cats has continued to outpace the number of household dogs. In the last 10 years, dogs have increased by approximately 86,660, while cats have increased by approximately 97,000.

The overpopulation of unwanted dogs and cats presents a serious concern to the health, safety and welfare of the public. According to state Department of Health statistics, which admittedly are underreported, approximately 114,590 dogs and cats entered New Jersey's shelters in 1999. Close to 42% of these animals were euthanized. The vast majority of them had not been spayed or neutered. Further, homeless dogs and feral cats reproduce at alarming rates, exist under inhumane conditions with inadequate food and water and exposure to the elements, and pose a rabies threat to humans because they are at high risk for contracting rabies. The proliferation of stray cats in many communities throughout the state is out of control. For example, it is estimated that 75% to 80% of the approximately 4,000 cats delivered to the Gloucester County Animal Shelter each year are feral. Municipalities frequently are ill-equipped to deal with the problem. Cats rank third in the state, after raccoons and skunks, for the incidence of rabies, while the incidence among dogs, which at one time posed a serious problem that was brought under control by immunization programs, is virtually nonexistent.

LICENSING OF CATS

Since 1941, the state has mandated that individuals license, register and vaccinate their dogs and has specified the imposition and disposition of fees in connection therewith.⁶⁷ The law, which ensures that dogs are inoculated against rabies, effectively abated the rabies epidemic that triggered its passage. It also serves to encourage owners to spay or neuter their dogs by imposing an additional fee for a non-sterilized animal.

Although cats were excluded from the state's statutory scheme, more than half of the state's municipalities, located in every county, have enacted an ordinance mandating that cats be licensed. A number of the ordinances were responses to the high rate of rabies. Cats are more likely than dogs to carry rabies because they frequently are allowed to roam outdoors and, consequently, are more apt to interact with rabid wildlife. Some ordinances also require owners to spay or neuter their cats, while others direct individuals to license feral cats under their care.

The experiences of municipalities that mandate cat licensing have been very positive. A significant result is a reduction in the number of feral cats. Further, because cats, as opposed to dogs, are now more susceptible to contracting rabies, the risk of rabies is reduced when cats are inoculated as part of the licensing process. The registration tags also permit easy identification when household cats become lost and are taken to a shelter. An additional advantage is that the licensing fees contribute to the cost of the municipality's animal control services. With the mandated licensure of cats, it is no longer only

the owners of dogs who assist in financing animal control and protection programs.

FERAL CATS

The proliferation of feral cats poses a serious problem in communities throughout the state. In addition, they present an increased health risk because they are more likely to interact with rabid wildlife. The problem of feral cats is exacerbated, if not created, by the numerous individuals who feed them. However, these individuals typically do not assume full responsibility for them by having them inoculated against rabies or spayed or neutered.

SPAYING AND NEUTERING OF DOGS AND CATS

Although some pet owners have their animals spayed or neutered and some shelters perform the surgery when an animal is selected for adoption, most individuals and shelters do not. Their failure to sterilize the animals has contributed significantly to the high number of unwanted and stray dogs and cats. The health reasons for spaying or neutering include lengthening the animal's life, reducing the risk of cancer and reducing aggression. Clearly, the sterilization of feral cats, in addition to companion cats, will eventually lead to the elimination of the feral cat problem. It also is evident that the spaying or neutering of companion dogs and cats will significantly reduce the number of stray and abandoned animals and, thereby, decrease the rate of euthanasia.

⁶⁷ *N.J.S.A. 4:19-15.2 et seq.*

RECOMMENDATIONS AND REFERRALS

The Commission's examination of the state's system for the investigation of animal cruelty, abuse and neglect, together with its review of related issues concerning animal welfare, prompts the following recommendations that will strengthen the system, improve the welfare of animals and address compelling problems confronted by communities.

ELIMINATE SPCAs AS ENFORCERS OF THE ANIMAL CRUELTY LAWS AND ASSIGN THE FUNCTION TO GOVERNMENT

The Commission strongly recommends the immediate repeal of the statutes bestowing enforcement of the animal cruelty laws upon the SPCAs. The enforcement function should be placed within the framework of government. Only in this way will there be adequate funding and resources, including manpower, to enforce the animal cruelty laws in a professional, uniform and responsive manner.

The enforcement function properly rests with certified animal control officers, who already are empowered under *N.J.S.A. 4:19-15.16b*, albeit with authorization by their municipalities, to investigate and sign complaints, arrest violators and otherwise act as an officer for the detection, apprehension and arrest of offenders against the animal control, animal welfare and animal cruelty laws of the state and ordinances of the municipality. The state-sponsored training course to enable animal control officers to exercise this new authority should be implemented and made available without delay. In addition, municipalities should be mandated to place the enforcement function with their animal control officers. Not only will certified animal control

officers be responsive to the complaints of residents, but they already possess the necessary resources, including the equipment to deal with animals and the support of the police and other municipal departments. With formal training, they will be equipped to enforce the laws in a professional, uniform and responsible manner.

Repeal of the statutes authorizing SPCAs to enforce the cruelty laws will eliminate the incongruities in the extant legislative scheme, including provisions that empower members of the state society to make arrests, allow SPCAs to obtain search warrants under a reasonable belief standard, as opposed to the constitutionally mandated probable cause standard, and seemingly authorize societies to execute search warrants. It also will remove the exemption granted to SPCA officers from the permit requirements for carrying a weapon under *N.J.S.A. 2C:39-6c*.

Municipalities will have to decide whether the animal control officers should report to the police department or health department. However, if they are included in the health department, procedures must be instituted to ensure proper coordination with the police department. Those counties that have shelters should consider providing animal control services and the county shelters that include such services should incorporate the enforcement responsibility.

Absorption of the cruelty function by the municipality or county necessarily presents a cost concern. One source of funding would be the receipt of all fines imposed in animal cruelty cases. To generate additional sources of revenue, the Commission recommends increasing the fees and penalties in connection with the licensing of dogs and

extending the licensing provisions to cats. Recovering investigative costs in cases also will produce revenue.

UPDATE AND VIGOROUSLY ENFORCE THE ANIMAL CRUELTY STATUTES

Because much of the language in the animal cruelty laws is vague or outdated, the provisions offer little protection for animals or guidance for enforcement. Further, the criminal and civil penalties are woefully inadequate. As a result, application of the laws is inconsistent and erratic, sentences frequently are inadequate and there is virtually no deterrent effect. Therefore, the Commission urges that New Jersey's statutory scheme, which provides for both civil and criminal remedies, be reviewed and revamped to upgrade the category of criminal offenses and substantially enhance the civil penalties. The statutes should define what constitutes cruelty, abuse and neglect and establish standards for the care and treatment of various species of animals. Provisions should be enacted to address such areas as shelter, food, water, exercise, sanitary environment and veterinary treatment. Psychological assessment and counseling should be specifically included as a remedy available to the courts in sentencing. In addition, funding must be made available for the State Board of Agriculture and Department of Agriculture to fulfill their mandate under *N.J.S.A. 4:22-16.1*, which became effective in 1996, to develop and adopt standards for the humane treatment of domestic livestock and rules and regulations for their enforcement.

At the same time, the laws should be vigorously applied, penalties fully imposed, and forfeiture of animals pursued when warranted. Vigorous enforcement requires that police officers, in addition to animal control officers, be trained in and respond to incidents of animal

cruelty and abuse. It must not be forgotten that police officers are entrusted specifically with the enforcement of the animal cruelty laws under Title 4 of the New Jersey Statutes. In addition, judges should become familiar with the animal cruelty laws and, in appropriate cases, include psychological evaluation and counseling as part of the sentencing process.

The proper application of the laws and protection of animals require recognition that education of the pet owner has a role in the enforcement process. Animal abuse and cruelty must be distinguished from neglect cases where, many times, the situation may be remedied by education and a warning. Of course, if a warning proves to be insufficient, then further enforcement action would be warranted.

STRENGTHEN THE SHELTER INSPECTION PROGRAM

An aggressive and thorough shelter inspection program at the state and local levels should be implemented. At the same time, the rules and regulations governing shelters, as well as those pertaining to pet shops, pounds and kennels, should be vigorously enforced. The state Department of Health should increase its staff of trained individuals to conduct regular inspections and assist and counsel local health offices.

The department should continue to strengthen the rules and regulations regarding the care and treatment of sheltered animals. For example, the department should provide more detailed guidelines on the infectious disease control program that shelter veterinarians are required to formulate and implement. In addition, the inspectors should communicate with the veterinarians to ensure their

involvement with the shelters and compliance with the guidelines. The Commission found that many veterinarians are not cognizant of the department's one-page set of guidelines. The department also should promulgate regulations concerning the oversight or supervision of veterinary technicians.

The inspection form promulgated by the state Department of Health should be updated and expanded to include more detail as to shelter conditions. In addition, the form should indicate whether the review is an annual inspection or a reinspection and, if a reinspection, the number that it represents. County and municipal health offices should be required to utilize the state form, but allowed to supplement it.

Although it is generally the practice of local health offices to forward copies of their inspection reports to the state Department of Health, the practice should be mandated. By tracking the shelter conditions revealed in the reports, the department will be able to monitor the compliance of shelters with the regulations and, as a result, target those in need of scrutiny. In addition, the department would be able to assess the effectiveness of the local health offices and provide counseling and assistance where necessary. However, the department's receipt of inspection reports would be meaningless without sufficient staff to review and track them. Again, resources must be added to enable the department to meet fully its responsibilities in the area of animal welfare.

Inspecting authorities, whether state, county or municipal, must be scrupulous in conducting inspections of shelters. Inspections must be scrutinizing, not perfunctory, and both positive and negative comments should be documented. The state Department of Health should provide training classes to the county or municipal employees who conduct inspections.

When an inspection results in a conditional or unsatisfactory rating, follow-up inspections should be conducted at regular intervals until deficiencies are remedied. If the violations are severe and remain unabated, then enforcement proceedings must be instituted.

The penalty provisions contained in *N.J.S.A. 4:19-15.19* should be strengthened and expanded. Currently, the penalty for violation of the shelter rules and regulations range from \$5 to \$50 "for each offense," which is interpreted to apply to each day that an offense exists. The range of monetary penalty must be increased substantially. Further, there should be provision for a specified monetary range to apply for each day that an offense continues unabated after passage of a reasonable period of time.

The approach of the state Department of Health to counsel and advise a shelter's management on how to remedy the violations and improve the conditions is admirable. However, such an approach is effective only when the management is amenable to making the improvements. When it becomes clear that such an approach is unsuccessful, then the department must be aggressive in pursuing legal proceedings. The language threatening enforcement proceedings, which typically appears in letters from the department to a shelter's management, must be more than mere words. The failure to follow through leads to a loss of credibility for the department and reinforces the cavalier attitude of the shelter's management. The inspecting and licensing authorities on the local level must conduct themselves in similar fashion. In the event of mounting fines and continued lack of responsiveness by shelter management, the municipality must be prepared to assume control of the shelter or entrust its operation to a suitable alternative.

The responsibility of the state Department of Health to ensure full compliance with its shelter regulations requires that it have the authority to fill the void created by the inaction of a local licensing authority. Therefore, the Commission recommends that the department be empowered to suspend a shelter's license or revoke it and close down the facility.

ESTABLISH A COUNTY-OPERATED ANIMAL SHELTER IN EVERY COUNTY

In light of the growing number of unwanted dogs and cats and the paucity of competent shelter facilities in many counties, the Commission recommends that every county establish comprehensive shelter services. At the very least, a county facility should shelter stray and unwanted animals from its residents and municipalities on a 24-hour, seven-day-a-week basis; implement an aggressive adoption program; provide necessary veterinary services, and sterilize all animals prior to their release. A county shelter should regard volunteers and volunteer groups as a significant resource not only for assisting at the facility and promoting adoptions throughout the communities, but also for raising funds. The counties also should evaluate the cost-effectiveness of providing animal control services to the municipalities.

A county facility should evolve into a vital resource for the community on animal welfare issues generally. Programs such as humane education workshops for school-children and the public, adoption counseling, pet-ownership education, dog behavior training, low-cost vaccination clinics and low-cost spay and neuter clinics, should be considered and eventually offered. For identification purposes in the event that pets are lost, stolen or killed, county facilities should implant a tiny, numbered microchip in every animal that is adopted.

ESTABLISH TRAINING FOR AND CROSS-REPORTING OF ANIMAL ABUSE AND HUMAN VIOLENCE

Individuals who are involved in human and animal welfare in either the public or private sector must recognize and respond to the cruelty, abuse and neglect of both humans and animals. In the absence of a precise formula for assessing and predicting an individual's propensity toward violence, these acts constitute earmarks of antisocial behavior that must be recognized as warning signals. In general, public agencies and private groups must coordinate their efforts to identify incidents of cruelty, abuse and neglect outside of their disciplines and refer them to the appropriate agencies. Diagnosis, intervention and treatment of the child or adolescent prone to animal cruelty are critical. There must be a similar response to an adult's infliction of animal cruelty, which may signal a pattern of violence directed against humans. Documentation of animal cruelty is essential in building an individual's history of violence. The solutions lie in the effective detection of abuse, cruelty and neglect and the implementation of intervention programs for the abusers.

Strategies should be developed for the cohesive and coordinated collaboration among public and private bodies for the intervention and prevention of violence to humans and animals. Organizations and agencies involved in child protection, domestic violence prevention, protection of the elderly, and animal welfare and control are uniquely positioned to identify a variety of forms of violence. Accordingly, to interrupt the progression and cycle of violence, the Commission recommends that the following steps be implemented:

- There should be training for the different professions involved in human or animal welfare, including

law enforcement agencies, social welfare agencies, the judicial system, medicine, animal control officers, animal welfare organizations, and veterinary medicine, to recognize the link among the various forms of violence and abuse and the need to refer incidents outside of one's particular discipline. For example, social welfare agencies should be trained to recognize signs of the abuse, cruelty and neglect⁶⁸ of animals. Similarly, animal protection and control groups should receive training on family abuse, cruelty and neglect.⁶⁹

- Procedures should be established to provide for the coordination and mandated referral between social welfare entities and animal welfare and control agencies to alert the other to actual or suspected abuse, cruelty or neglect.
- Standard assessments formulated during child protection investigations should include questions concerning the presence of family pets and any violence or threatened violence to them. The evaluation form completed by workers of the Division of Youth and Family Services should include a check-off for the presence of a family pet, as well as the history of pets in the family. In addition, there should be routine

questioning of both children and adults about the treatment of each pet.

- Child welfare agencies should be notified when children are present in a home where animal cruelty has been uncovered.
- Assessments of the elderly or disabled by social services agencies for public assistance should include questions concerning household pets.
- Intervention programs should be established for youthful offenders. When children and adolescents enter the judicial system on charges of animal cruelty or when such acts are revealed in their histories, programs must be available to assess and, if necessary, address their propensities to inflict harm on animals. The research is persuasive that intervention, especially with young children, is effective in altering their behavior. However, at the same time, the Commission urges caution so that children and adolescents are not inappropriately labeled or stigmatized.
- Parents, schools and the court system should address early signs of animal cruelty. Specifically, treatment techniques must be developed for children who exhibit signs of antisocial behavior in the form of violent acts toward animals. In addition, grammar schools and teachers should be encouraged to provide students with opportunities to interact with and care for animals in the classroom.
- Adults convicted of animal abuse or cruelty should be required to undergo, at

⁶⁸Abuse has been defined as acts whereby the perpetrator gains satisfaction from dominating the victim, neglect as the passive maltreatment of the victim, with no satisfaction derived, and cruelty as the infliction of suffering from which the perpetrator gains satisfaction.

⁶⁹The American Humane Association has published a training manual for humane investigators and animal control officers to recognize and report child abuse.

their own expense, mental health treatment and/or anger management as part of the sentence.

- In fulfilling their public health responsibilities, veterinarians should be alert to, and mandated to report to law enforcement authorities, suspected or known cases of animal or family abuse, cruelty or neglect. Veterinarians are in a unique position to observe the results of animal cruelty, abuse or neglect. A law that imposes mandatory reporting should include a provision for immunity from civil or criminal liability for good faith actions.
- Shelters for victims of domestic violence should include questions concerning household pets and incidents of animal cruelty on their intake behavioral checklists and risk assessment surveys and refer allegations of animal cruelty, abuse or neglect to the proper authorities. They also should make arrangements for abused women to bring their pets with them or to house the pets at a cooperating local shelter.

MANDATE THE SPAYING OR NEUTERING OF CATS AND DOGS ADOPTED FROM SHELTERS OR PURCHASED FROM PET SHOPS

The spaying or neutering of dogs and cats remains the most effective means of controlling their overpopulation. By reducing the population, we will curtail the need for shelter and animal control services. The sterilization of dogs and cats will extinguish the possibility that they will contribute unwanted offspring to the population in the future. Accordingly, the Commission urges the Legislature

to require animal shelters and pet shops to sterilize all cats and dogs, with very few exceptions, before their adoption or sale.

The procedure should be performed on all puppies and kittens as early as possible. If an animal is deemed too young for the surgery, then the shelter or pet shop should require that a veterinarian perform the surgery within a specified time period as a condition of the adoption or sale.

An exception to the requirement for sterilization should be made in those cases where a veterinarian provides a written certification that the life of the animal would be jeopardized for medical reasons by sterilization.

Although a requirement for the mandatory spaying or neutering of dogs and cats by their pet owners has merit, the Commission does not make this recommendation at this time. Nevertheless, we recommend that individuals who own dogs or cats or care for feral cats spay or neuter them and urge the state to implement a public relations program, as well as enhance incentives, to encourage spaying or neutering by the public.

One area that should be augmented is the state's low-cost spay and neuter program. In order for the program to be successful, it must be affordable. The alternative for a pet owner must not be the abandonment of the animal. Accordingly, more funds should be allocated for the Animal Population Control Fund and the categories of eligibility should be expanded to allow for broader participation by low to middle-income individuals. In addition, the Commission encourages veterinarians to offer their services at more reasonable fees to assist low to middle-income families.

REQUIRE THE LICENSING OF CATS

The state's statutory scheme mandating the licensure of dogs should be extended to cats, as well. Consideration should be given to a lesser fee or a household fee for more than a certain number of cats. Similar consideration also should be afforded to the owners of farm or barnyard cats. In addition, to promote responsibility of individuals who care for or feed feral or stray cats, the Commission recommends that they also be required to license these cats. Substantial fines should be imposed if individuals do not license their cats. The licensing of cats not only will ensure that they are inoculated against rabies, but also will generate significant revenue for the municipality's animal control services and the state's Animal Population Control Fund.

Municipalities should be vigorous in collecting the licensing fees for dogs and cats, and should canvass residents annually and bring violators into compliance. Substantial fines should be levied for the failure to license.

ADDRESS THE PROBLEM OF FERAL CATS

Feral cats present a unique problem. To reduce their numbers and the risk of rabies, the Commission recommends that individuals who care

for or feed feral cats take ownership responsibility for them. They should be required to license the cats, perhaps at a reduced fee for any above a certain number, and spay or neuter them.

The seven-day holding period required for stray animals in shelters should be drastically reduced in the case of feral cats. It is inhumane to maintain them for the full seven days. A reduction in the holding period requires that an effective procedure be implemented to ensure that a cat is indeed feral.

STRENGTHEN THE STATE CONTRACT-PRICING PROGRAM TO PREVENT PERSONAL GAIN

The state's contract vendor program, which allows government entities to benefit from reduced costs for certain goods and services from select vendors, does not penalize individuals or entities that misrepresent themselves as constituting or belonging to a governmental group. Accordingly, the Commission urges the Legislature to establish a criminal penalty for the misrepresentation by an individual or entity for the purpose of obtaining any advantage under the state contract-pricing program.

* * * *

REFERRALS

The Commission refers the findings of this investigation to the following governmental agencies for whatever action they deem appropriate:

- Office of the New Jersey Attorney General, Division of Criminal Justice
- Office of the New Jersey Attorney General, Police Training Commission
- Office of the New Jersey Attorney General, Division of Motor Vehicles
- Office of the New Jersey Attorney General, Division of Consumer Affairs, Regulated Business Section, Charitable Registration and Investigation
- New Jersey State Board of Veterinary Medical Examiners
- New Jersey Division of Purchase and Property
- New Jersey Division of Taxation
- United States Internal Revenue Service

* * * *

This investigation was directed by Counsel Ileana N. Saros and conducted by Senior Special Agent Michael J. Dancisin, Special Agents Paul P. Andrews, Franklin J. Caldwell, Harry J. Curley and William J. Quandt, Chief Investigative Accountant Joseph A. Becht, Investigative Accountants G. Robert Armstrong, Kenneth Cooley, Jeanne M. Jackson and William Sweerus, Investigative Analyst Debra A. Sowney, Intelligence Analyst Julie M. Batchler, Confidential Aides Victoria Barone and Staci Law, Secretarial Assistant Judith A. Krueger and former Investigative Accountant Michael R. Czyzyk.

INDEX

- Atlantic County Animal Shelter, 119-120
- Atlantic County SPCA, 1,9,18,19,45,46,47,102,119
- American Humane Association, 149,164
- American Humane Education Society, 4
- American SPCA, 4,96,152
- Animal Outreach of Cape May, 61,62,107,109-110,132
- Bergen County Animal Shelter, 113,119,120-121
- Bergen County SPCA, 1,8,9,10,13,14,18,19-22,42,45,46,47-54
- Burlington County Animal Shelter, 119,121
- Burlington County SPCA, 1,9,10,14,18,22-23,45,46,54-61,97,103,106,107,121
- Camden County Animal Shelter, 119,121-123
- Camden County SPCA, 17,97,98,99,100,101
- Cape May County SPCA, 1,9,15,18,24,45,46,61-63,106,107-110,128,131,132-134
- Cumberland County SPCA, 1,13,15,18,24-25,26,45,46,63-64,106,110,119,123,128,
131,134-135
- Gloucester County Animal Shelter, 14,26,119,123-124,158
- Gloucester County SPCA, 1,14,15,18,25-27,44,45,46,64-65,102,103
- Hudson County SPCA, 1,14,18,27-28,42,44,45,46,65-74,103,106,110-115,128,129,
131,132,135-147

Humane Society of the United States, 149

Hunterdon County SPCA, 1,15,18,28-29,42,45,46,74-75,106,116-117,119,128,147

Massachusetts SPCA, 4,151

Mercer County SPCA, 1,17,18,29-30,45,46,75-77,99,100,106,117

Middlesex County SPCA, 1,9,10,14,15,16,18,19,30-32,44,45,77-79,102,106,117

Monmouth County SPCA, 1,9,13,18,32-34,45,46,79-80,97,100,106,117-118,119,128,147

Morris County SPCA, 1,9,10,14,15,18,19,34-35,45,46,80-81

New Jersey SPCA, 1,2,3,5,6,7,8,9,10,11,12,14,15,19,20,22,23,24,26,27,28,29,32,33,34,
35, 36-37,38,39,40,44,45,46,57,58,60,65,71,73,75,76,80,81,82,
97-105,106,160

Ocean County Animal Shelter, 119,124-126

Ocean County SPCA, 1,6,8,9,10,14,15,18,35-37, 42,44,45,46,81-86,97,102,106,118,
119,125,128

Passaic County SPCA, 1,8,9,10,14,15,18,19,37-38,42,44,45,46,86-87,102

Salem County SPCA, 17

Somerset County SPCA, 1,9,18,38,45,46,87-88,102

Sussex County SPCA, 7,17,102,103,104

Union County SPCA, 1,9,10,18,19,38-39,44,45,46,88-89,106,118-119,128

Warren County SPCA, 1,9,10,11,12,13,14,18,19,39-42,45,46,89-95,102,103

Wayne Township Animal Shelter, 126-127

West Milford Animal Shelter, 127

APPENDIX

INTRODUCTION TO APPENDIX

N.J.S.A. 52:9M-12.2 provides that

[w]henver a proposed State Commission of Investigation report is critical of a person's conduct, a copy of the relevant portions of the proposed report . . . shall be sent to that person prior to the release of the report. Upon receipt, the person criticized shall have 15 days to submit a written response of a reasonable length which the commission shall include in the report together with any relevant evidence submitted by that person.

The following are the responses to this report that were submitted pursuant to that statute. The reader should note that most are not under oath and some are not even statements by the affected individuals. Material that has been determined not responsive to issues raised in the report has been deleted.