

Animal Welfare Task Force REPORT

Submitted to

**Governor
James E. McGreevey**

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INTRODUCTION

On July 25, 2002, Governor James E. McGreevey signed an Executive Order creating the Animal Welfare Task Force and charging it to do the following:

- ♦ Examine the current laws concerning animal abuse and neglect, animal population control and animal welfare;
- ♦ Examine the manner in which the anti-cruelty laws are enforced throughout the State;
- ♦ Examine the status of population control and the animal shelter systems in the State;
- ♦ Recommend changes to the laws and regulations of this State so as to protect the State's animals from inhumane treatment, improve the enforcement of anti-cruelty laws, and address the problem of unwanted and euthanized animals in the State.

On February 7, 2003, the Governor announced the members of the Task Force. The members who served are as follows:

- ♦ Judith Lieberman, Esq., Chair (Ocean County)
- ♦ Dante Di Pirro, Esq., Vice-Chair (Mercer County)
- ♦ Nina Austenberg (Morris County)
- ♦ Steven Dash (Atlantic County)
- ♦ Camillo Di Donato (Mercer County)
- ♦ Linda Ditmars, Esq. (Mercer County)
- ♦ Karen Dixon (Gloucester County)
- ♦ B. Stephan Finkel, Esq. (Bucks County, PA)
- ♦ Theresa Fritzges, Ph.D. (Mercer County)
- ♦ Ralph Froehlich, Sheriff (Union County)

- ♦ Stuart Goldman (Monmouth County)
- ♦ Archie Gottesman (Union County)
- ♦ Mary Gotz-Rother (Essex County)
- ♦ Nancy Halpern, DVM (Mercer County)
- ♦ Lisa Handel (Monmouth County)
- ♦ Lara Heimann (Mercer County)
- ♦ Elaine Kaufmann, Esq. (Middlesex County)
- ♦ Cheryl Maccaroni, Esq. (Mercer County)
- ♦ Sharon McGreevey (Middlesex County)
- ♦ Michael Melchionne (Ocean County)
- ♦ John Podeszwa (Mercer County)
- ♦ John Queenan (Cape May County)
- ♦ Sherry Ramsey, Esq. (Monmouth County)
- ♦ Gwyn Sondike (Essex County)
- ♦ Faye Sorhage, DVM, MPH (Bucks County, PA)
- ♦ Gordon Stull, DVM (Burlington County)
- ♦ Alan Van Savage (Essex County)
- ♦ Lisa Weisberg, Esq. (New York County, NY)

The Task Force's large and diverse membership included representatives of humane organizations, animal caregivers, shelter operators, animal control officers, cruelty enforcement officers, a breeder, veterinarians, public health professionals, lawyers and government officials and employees.

The Task Force held its first meeting in March 2003 and met regularly thereafter, in order to thoroughly examine and address the important issues within its charge. The Task Force established three standing committees: law enforcement, population and animal facilities. The committees conducted research, invited distinguished guest speakers, debated issues and made presentations to the full Task Force. The full Task Force met at

least monthly to consider the committee work, refine proposals and ultimately to approve recommendations. The committees held additional meetings, oftentimes meeting weekly. All in all, the members of the Task Force devoted hundreds of hours to this endeavor so that it could present sound, practical and effective recommendations to the Governor, Attorney General and Commissioner of Health and Senior Services.

As an integral component of the process, the Task Force actively engaged the public. The Task Force held four open meetings held around the State where members of the public were invited to present their concerns and suggestions for reform. Over 200 citizens attended these meetings and offered their insights and suggestions. In addition, the Task Force solicited and received numerous letters and phone calls from members of the public.

All told, the Task Force heard and fully considered the real life experiences, interests, concerns, and reform ideas from hundreds of New Jerseyans and experts, both New Jersey-based and from throughout the country. It coalesced into a number of significant points:

First, based on their experiences, the public believes that there is a need for improvement in the animal cruelty laws and their enforcement. The laws need to be updated and stricter penalties for animal cruelty offenses should be allowed by law and should be imposed when appropriate. The public also expressed concern about the manner in which citizens may communicate with law enforcement and animal control officers about animal cruelty complaints and cases. They also suggested that law enforcement officers should be provided training specific to animal cruelty matters.

Second, it is important to the public that management and operation of the State's animal facilities (shelters, impoundment facilities, kennels and pet shops) be adequately regulated and subject to proper oversight. Uniform standards of care need to be established and compliance monitored. Employees and managers should receive training concerning animal shelter operations. Euthanasia should not be employed as the only response to shelter overcrowding. Alternatives need to be developed and promoted that will negate and ultimately eliminate the need to euthanize animals due to overcrowding in impoundment facilities and shelters.

Third, the public wishes to see steps taken to aggressively address the problem of animal overpopulation. They strongly recommended that trap, neuter, vaccinate, return and monitor programs, which have worked successfully in the United States and in this State, be utilized to control the population of feral cats. They also stressed that low and reduced-cost sterilization programs for dogs and cats must be made available to New Jersey residents. Moreover, the establishment of laws requiring animals to be sterilized prior to adoption or sale would be an important step in preventing pet overpopulation and the eventual euthanization of so many dogs and cats in the State. Microchip technology should be implemented to enhance identification and ultimately reduce euthanasia. Furthermore, the public stressed that significant efforts must be made to increase public awareness and education concerning the humane treatment of animals.

Many of the citizens who appeared before the Task Force or expressed their concerns and suggestions for reform had considerable experience with, and had spent considerable time and resources addressing, animal issues. The practical, first-hand experience of the public — from their work at shelters, rescue operations and the like — was exceptionally valuable to the Task Force and its work.

Apart from public hearing comments, phone calls and letters, the Task Force engaged in an ongoing dialogue with interested groups, associations and governmental officials. In addition, the Task Force benefited from presentations from and meetings with experts from the State and around the country, including but not limited to representatives of the New Jersey Chiefs of Police Association, County Prosecutors Association, Municipal Prosecutors Association, Sheriffs Association, New Jersey Health Officers Association, New Jersey Veterinary Medical Association, Best Friends Animal Society, American Kennel Club, New Jersey Federation of Dog Clubs, Cat Fanciers' Association, ASPCA, Animal Legal Defense Fund, New Jersey Audubon Society, Mayor's Alliance of New York City, Humane Society of the United States, Spay USA, and the New Jersey Society for the Prevention of Cruelty to Animals as well as experts including psychiatrists, psychologists and law enforcement experts.

The Task Force specifically desired to conduct outreach to animal facilities so that they could be advised of the Task Force's existence and charge, and would have the opportunity to provide input to the Task Force. The Department of Health and Senior Services provided a list of licensed animal facilities, including those that provide impoundment services. The Task Force's animal facilities subcommittee spent considerable time reaching out to each of these facilities. Many facilities took the time to respond to the Task Force. Although not constituting a scientific survey nor presenting a full account of how all of the State's animal facilities operate, the responses that were provided -- and resulting dialogue -- were helpful to the Task Force.¹

The Task Force also examined other states' practices, in order to identify best practices that could be implemented in and benefit New Jersey. In doing this, the Task Force consulted with experts in law enforcement, shelter practices and population policy.

In addition to the representatives of the many organizations that provided their expertise and time, The Task Force also met with and received the assistance of many consultants and speakers who contributed their extensive knowledge and expertise. The Task Force wishes to express its sincere thanks to these individuals, who include: Ellen Lacy, Psy.D., Assemblyman Wilfredo Caraballo, Sheriff Edward V. Rochford, Sheriff John F. Callinan, Mary Lou Randour, Ph.D., Stephanie LaFarge, Ph.D., Cheryl Mills, Marianne Sullivan, Esq., Jane Hoffman, Esq., Dana M. Campbell, Esq., Stephan Otto, Esq., Dr. Carmen Battaglia, Jessica Oppenheim, Esq., Dermot O'Grady, Esq., Karen Froberg, DVM, Barbara Wicklund, Ed Boks, Kim Saunders, Martha Armstrong, Nathan Winograd,

¹ The information provided confirmed the importance of looking further into issues including but not limited to facility resources, animal control services and euthanasia policies. (See Section IV of this Report, concerning animal facilities).

Bryan Kortis, John Saccenti, Larry Hazard, Esq., Lee C. Seglem, Ileana Saros, Esq., Kenneth J. Shapiro, Ph.D., Marcello Forte, Peter Marsh, Sharon Coleman, Karen Johnson, Lydia S. Antoncic, Esq., Merritt Clifton, Esther Mechler, Chancy Luby, Rebecca Guinn, Vivian Kiggins, Martha Armstrong, Ed Sayres, Jill Van Tyle, Lt. Randall B. Covey, Renee Cirillo, Heather Bailey, Megan Metzelaar, Esq., Keith Silverman, and Sina Adl.

The Task Force would like to extend its deepest appreciation to those individuals and organizations that have participated in this process, and to all those who, in their daily lives, contribute so much of their time, effort, money, and concern to the welfare of animals. Their participation and continuing efforts are an invaluable resource to this Task Force and to the State of New Jersey.

The Task Force would also like to extend its deep appreciation to Mercer County College, Union County College, Cumberland County College and Gloucester County College for hosting the Task Force's public meetings and providing substantial assistance in this regard. Additionally, the Task Force is grateful for the ongoing assistance provided by Denise Guidotti-Hoffman, Eileen Musarra, Leslie Shepherd and the staff at the Office of the Chief Counsel to Governor McGreevey.

Pursuant to Governor McGreevey's Executive Order No. 23, the Animal Welfare Task Force presents this report to the Governor, the Attorney General, and the Commissioner of Health and Senior Services. This report recommends reforms designed to promote the humane treatment of animals; to improve the cruelty laws and their enforcement; address the problem of abandoned, homeless and stray animals; provide for the proper inspection and operation of animal facilities; improve animal control services; and provide education in our schools to break the cycle of violence against animals and humans and the inhumane treatment of animals. Whether through legislation or executive branch action, it is time to implement these reforms.

SUMMARY OF RECOMMENDATIONS

The greatness of a nation and its moral progress can be judged by the way its animals are treated.

— Mohandas Gandhi

*He 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

Of the many important public issues that face us today as a society, one that never fails to generate intense public interest and involvement is animal welfare. Whether it is upon hearing a news story of an animal that has been abused, the discovery of squalid conditions at an animal shelter or the issuance of findings by the State Commission of Investigation that there are serious failures in the enforcement of animal cruelty laws or animal facility regulations, the people of this State express their justifiable outrage and demand that we do better. It is no wonder that New Jerseyans feel such strong emotions about animals, since so many of us have welcomed pets into our families — several million dogs and cats by latest count.¹

But the general public may not be aware of the magnitude of the problems from the snippets of information they may catch from news stories and periodic governmental reports. Others may wonder why we care about the welfare of animals or why we should take the time to work on reform. Consider these facts and statistics:

- ◆ Every year, over 100,000 animals enter impoundment facilities in New Jersey.²

¹ The Humane Society of the United States estimates that there are 2 million licensed cats in New Jersey. The number of cats kept as pets is certainly higher than that since a good number of cats are unlicensed. By way of comparison, there are approximately 8 million people living in New Jersey.

² According to statistics compiled by the New Jersey Department of Health and Senior Services (hereinafter “DHSS” or “NJDHSS”), in 2003, the last year for which records are available, 126,000 animals entered impoundment facilities in the State. This is based on information provided by those facilities that reported their intake data. This number does not include the animals that were housed by facilities that did not serve as impoundment facilities, such as rescue groups, foster agencies, kennels and other shelters.

- ◆ Approximately 40% of the animals that entered New Jersey’s pounds last year were euthanized (at a rate of 4,000 every month).³
- ◆ Shelters and impoundment facilities often lack sufficient space to accommodate all of the stray, homeless and abandoned dogs and cats that are found in each municipality by their animal control departments and by concerned citizens;
- ◆ Animals picked up by municipal animal control officers (hereinafter “ACOs”) are routinely euthanized after seven days (the minimum holding period as established by law) and some animal control officers and animal facility managers do not even wait for the statutorily mandated period to expire, presumably due to overcrowded facilities.
- ◆ Our animal cruelty laws date back to the 1800s, and with the exception of a few amendments, have not been significantly updated;
- ◆ Enforcement of our animal cruelty laws falls in large part to a group of private citizens (the Society for the Prevention of Cruelty to Animals, hereinafter “SPCA”) that, since the 1800s, has had the authority to carry weapons and make arrests but is not under the supervision of the Attorney General or County Prosecutors;
- ◆ The State Commission of Investigation (hereinafter “SCI”), after in-depth investigation, found significant problems in the enforcement of the animal cruelty laws and the conditions at animal facilities;
- ◆ The regulations governing shelters, pounds, kennels and pet shops are not consistently enforced, and these facilities are not necessarily subjected to the inspections and oversight called for by law;
- ◆ Local health offices have threatened to bar or restrict state facility inspectors from inspecting their municipalities’ animal facilities.

This reality compels us to action. Sound, concrete action is needed to address these issues. The Task Force’s recommendations are designed to present a comprehensive plan for taking this needed action. A summary of the recommendations is as follows:⁴

³ According to NJDHSS statistics, the number of dogs and cats euthanized in New Jersey pounds was almost 50,000. The Humane Society of the United States estimates that nationwide approximately 30-60% of all animals brought into animal shelters are euthanized. “Euthanasia” is the act of inducing painless death. N.J.A.C. 8:23A-1.1. It should be noted that many individuals have eschewed the use of this term, instead choosing to use the word “kill,” as animals that have been euthanized have ultimately been killed. The intent is to underscore the harsh reality inherent in the circumstances presently faced by animals here and throughout the country. Conversely, others differentiate “euthanasia” from “killing,” as euthanasia is often conducted when it has been deemed to be in the best interest of the animal (e.g., due to a medical condition) or because the animal is homeless and no provisions can be made for it. The Task Force has adhered to the more traditional approach of utilizing the term “euthanasia” when discussing the process of causing an animal death when necessitated by circumstances such as health conditions or shelter overcrowding. This is not intended to constitute a commentary concerning preferred usage.

I. Update the animal cruelty laws

The animal cruelty laws date back to the 1800s. The laws need to be updated to address current animal cruelty issues, provide clear language utilizing modern statutory enforcement language terminology, allocate the statute with the rest of the State's criminal laws in Title 2C (the statutory volume containing most of New Jersey's criminal laws), upgrade sanctions where appropriate, and, in addition to other amendments, provide for new remedies.

II. Improve the enforcement of animal cruelty laws

In the 1800s, the Legislature authorized private citizens (the Society for the Prevention of Cruelty to Animals) to enforce the State's animal cruelty laws — and to do so using weapons, the power to search, to arrest and to commence legal actions — all without any oversight by government. This system, which was severely criticized by the State Commission on Investigation (“SCI”) in its report that called for the repeal of the SPCA's law enforcement powers, persists to this day. The system needs to be revamped. Law enforcement functions need to be handled by professional law enforcement and the SPCA's law enforcement functions need to be “professionalized.”

Police and Sheriffs' officers — professional law enforcement officers who are already authorized to enforce the cruelty laws — need to play a more prominent role in handling these cases. Moreover, we recommend that each municipality employ animal cruelty investigators, that is, animal control officers who are trained and authorized to enforce the criminal laws protecting animals. Currently, a small number of municipalities have enlisted the aid of these individuals. These officers have an enhanced understanding and training in animal cruelty matters and would play a vital role in their towns' law enforcement efforts.

⁴ The Task Force did not address an emerging issue, the legal characterization of the relationship between humans and animals, which is an issue with substantial social, legal and practical implications. A core question is whether animals should be considered “property” belonging to human “owners” or whether a preferable characterization may be found in the concept of “animal guardian.” Throughout the country, the legal status of animals is the subject of current debate both in and out of the courts, attracting the attention of legislative bodies as well. Some courts have determined that the traditional notions of property should not be applied to domestic animals, while certain governing bodies have amended the terminology in their laws or ordinances from animal owners to guardians, to reflect a conceptual change in the legal nature of the human/animal relationship. This issue has generated substantial public debate and support on both sides. Although obviously an issue of significance, the Task Force's mission did not call for us to delve into this topic and, therefore, the Task Force did not address it substantively in this Report. We note, however, that this and related issues, including whether a person having custody of an animal should be entitled to non-economic damages when that animal is subjected to cruelty or neglect inflicted by another person, may shape the future of animal cruelty jurisprudence and other animal welfare issues in the future. In line with this issue, many individuals have chosen to use personal pronouns when referring to an animal (that is, “he” or “she,” rather than “it”). While this is not inconsistent with some common practices, this Task Force Report adheres to the more traditional approach of employing the impersonal pronoun when referring to animals, which is not intended to convey any policy stance on terminology issues nor serve as a commentary on a preferred usage.

Furthermore, in order to ensure a consistent transition to a newly structured law enforcement system and enhance our utilization of existing resources, Sheriff's Offices could be utilized as "point offices" that would be responsible for maintaining records concerning complaints and responses throughout the county and providing assistance to local law enforcement when necessary or desired, by way of specially trained officers.

SPCA humane officers could continue in an enforcement role, but the SPCA's power to arrest and carry weapons should be repealed. Thus, the SPCA would remain involved in the investigation of animal cruelty, subject to new, mandatory prerequisites including but not limited to certification by the State, State mandated and controlled training, and reporting requirements, and general oversight by the Attorney General. In addition, because the success of the law enforcement system in handling animal cruelty complaints depends upon the coordinated, professional and effective functioning of police, prosecutors, judges, animal control officers, social workers and SPCA officers, there should be an increased emphasis on training to all who enforce the cruelty laws.

III. Establish best practices to prevent overpopulation

The overpopulation of dogs and cats in the State is a significant problem that contributes to the needless killing of homeless animals every year. Aggressive efforts are needed to address the cause of the problem, which is unchecked reproduction. This includes well designed and implemented trap, neuter, vaccinate, return and monitor programs for feral cats, low cost sterilization programs, sterilization of animals prior to adoption or sale and the use of microchipping. Furthermore, euthanasia should not be considered a solution of first resort in response to overcrowding at shelters when alternate responses are available. Aggressive adoption programs and other practices, including those that may be achieved by way of public-private partnerships, would substantially aid shelters and impoundment facilities as they attempt to obviate the need to euthanize animals in their charge.

IV. Create additional shelter and impoundment space, through low cost financing and other methods, in order to ensure coverage for all geographic areas of the State

Currently, there are not enough animal shelters to provide for the basic needs of the homeless, stray and abandoned animals in the State and to provide each citizen appropriate access to an animal facility. There needs to be sufficient shelter space such that all regions of the State have access to shelters. By way of analogy, New York City requires a full-service animal shelter in each borough. Low cost financing would assist in getting these needed facilities built; uniform construction standards would ensure that they are adequately constructed.

V. Improve animal facility operations

To ensure that conditions within shelters allow for the proper and humane care of the animals housed there, shelters need to be subject to proper regulation and oversight. This could be facilitated through the establishment of uniform standards of care and best

practices, and monitoring of compliance. Employees and managers must be properly trained. Euthanasia must no longer be the sole approach, or first resort, to dealing with overcrowding.

VI. Establish a more effective approach for inspecting animal facilities and enforcing operational standards

To ensure humane conditions in animal facilities, there must be aggressive inspection and enforcement. This requires regular and effective inspections: regular inspections by the DHSS as well as by local health departments; specific training in animal facility inspections and issues relevant to the welfare of animals housed in these facilities; the issuance of fines and other sanctions to achieve compliance with legal requirements for facilities; an increase in the current statutory cap on the amount of fines that can be levied; other appropriate remedies; and increased oversight and involvement by DHSS.

VII. Improve animal control services

By law, each town must provide animal control services. Animal control services may include: responding to calls and complaints from the public concerning lost, stray, or injured animals or animals suspected of being rabid or aggressive; capturing of stray domestic animals as well as wild rabid animals; patrolling for stray cats and dogs; investigating reports of bite incidents and aggressive dogs and seizing and impounding dogs that meet the criteria of the State's vicious dog law; investigating reports of cruelty to or neglect of livestock; confining animals for rabies observation; evaluating the need for veterinary care for captured animals; transporting captured animals to municipal impoundment facilities; documenting all calls, activities and animals captured; educating the public on responsible pet ownership, rabies prevention and the need to sterilize pets; participating in local or county rabies task forces and other animal control related committees; and canvassing for unlicensed cats and dogs.

However, the manner in which these services are provided by animal control officers (hereinafter "ACOs") working in the State is not uniform, nor are ACOs' duties uniformly defined. Some ACOs provide full service while others do not. As a result, there is a lack of consistency in the nature, scope and manner that animal control is provided. In addition, some towns even use uncertified personnel though this is expressly prohibited by statute. Moreover, as a general matter, animal control services would benefit from licensing and continuing education requirements. Furthermore, some private animal control agencies contract with multiple municipalities such that they are not able to fully serve each town.

To improve animal control services, the Task Force recommends measures such as better defining animal control services, duties and authority; licensing and continuing education requirements of ACOs by the DHSS; enhancing training by the DHSS in consultation with appropriate agencies; standardizing of municipal obligations; providing for animal control services during non-business hours; limiting the number of animal control contracts a private animal control services business can enter into with municipalities;

and authorizing ACOs to utilize emergency vehicles, with the approval of their appointing municipality.

VIII. Provide humane education in schools

There is a well-established connection between violence toward humans and violence toward animals. Currently, New Jersey law permits, but does not require, humane education to be taught in schools. That education should be made mandatory and the core curriculum established by the New Jersey Department of Education, in consultation with school districts and appropriate interested parties.

RECOMMENDATIONS

I. Update the animal cruelty laws

A. Background: Review of New Jersey Animal Abuse and Neglect Laws

As part of its mission, the Animal Welfare Task Force was charged with examining the current law concerning animal abuse and neglect, with an eye toward recommending changes to the laws and regulations to better protect animals in New Jersey from inhumane treatment. In order to develop cogent recommendations for comprehensive reform, it is necessary to consider the animal abuse and neglect laws as they have developed to date.

1. Reconstruction Era Roots

If the terminology of the current New Jersey animal anti-cruelty law seems antiquated, that is because it actually is; New Jersey's animal abuse and neglect laws, like those of many other states, is of 19th century vintage and despite the passage of years has retained its essential character and basic formulation. In 1880, New Jersey enacted a comprehensive animal abuse and neglect statutory scheme, which established civil and criminal penalties for cruelty in general, neglect, abandonment, sale of horses unfit for work, use or disposal of diseased animals, use of live birds as targets, fighting or baiting of animals, and use of a dog for drawing a vehicle. The laws reflected a prevalent role of animals in commerce at that time, used for transportation and as beasts of burden. Thus, the anti-cruelty laws were designed in part to protect against improper exploitation in commerce, and also intended to prevent the unnecessary or unjustified infliction of abuse or neglect (tacitly authorizing the infliction of pain, abuse and neglect where necessary or justified). New Jersey has changed dramatically in the past 125 years, as have the roles of animals in our society and our attitudes toward animal welfare. The animal abuse and neglect laws, however, have failed to evolve to keep pace with our social, technological and economic progress. While circumstances today are markedly different than those of the 19th century, New Jersey's animal abuse and neglect laws have stagnated. In fact,

until the last few years, the area of animal abuse and neglect had received scant legislative attention, with even minor statutory modifications a relative rarity, let alone any significant reforms. The end result has been that the current law addresses considerations no longer relevant to our lives and values today, utilizes archaic terminology which often hampers or defies compliance and enforcement, and often requires strained application to address emergent animal and law enforcement issues. This review briefly examines the salient features of the seminal 1880 animal cruelty law, as well as the recent animal protection initiatives that have begun to bring the law into line with the values and conditions of our evolving society. Finally, this section concludes by offering suggestions for a legislative initiative to transform New Jersey's outdated animal abuse and neglect laws to a unified, comprehensive statutory framework that more closely resembles the State's traditional criminal law formulation.

As indicated above, the source law for the current New Jersey animal abuse and neglect statutes was originally enacted in 1880, and much of the language of that original law is still retained in the law today, virtually unchanged for well over a century. Chapter 157 of the General Public Laws of 1880 made animal cruelty a misdemeanor, punishable by fine not exceeding two hundred and fifty dollars, imprisonment in county jail not exceeding six months, or both. The law by its terms applied to "animals" and "creatures," defined to include "the whole brute creation."⁵ Under the law, it was illegal to "overdrive, overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, or unnecessarily or cruelly beat or otherwise abuse, or needlessly mutilate or kill ... any living animal or creature," or to cause or procure such acts to be done. Section 1 of the 1880 law, codified as N.J.S.A. 4:22-17, also made it a misdemeanor for "any person having the charge or custody of any living animal or creature, either as owner or otherwise, who inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, shelter or protection from the weather[.]"⁶ Some of these statutory terms have fallen out of common usage, while others like "cruelly" invite subjective interpretation, and these formulations may be subject to prior interpretation from decades past which have little utility or relevance to the issues and concerns of today. Moreover, the law did not differentiate between severity of offense, or make any qualitative distinctions between types of abusive conduct covered under the law with respect to the penalty imposed. This 19th century criminal law remained virtually intact and unchanged through numerous recodifications of the New Jersey statutes, until the 1990s.

2. Historical Civil Penalties

The 1880 law also featured an adjunct provision, N.J.S.A. 4:22-26, which established civil penalties for acts constituting cruelty in general. Certain of these provisions included formulations which precisely mirrored the acts which were subject to criminal liability (e.g., conduct such as overdriving, overloading, overworking, torturing,

⁵ P.L.1880, c. 157, § 20, codified at N.J.S.A. 4:22-15.

⁶ N.J.S.A. 4:22-17.

tormenting, depriving of necessary sustenance, animal fighting or baiting, etc.), as well as a variety of other activities that the Legislature deemed worthy of penalty but implicitly found not to merit criminalization. Over the years, the list of enumerated acts subject to civil penalty has been expanded repeatedly, to penalize specific instances of improper conduct or mistreatment involving animals. There are now 27 such subsections. Most recently, provisions were added to establish civil penalties for the surgical debarking or silencing of a dog, the sale of domestic dog or cat fur, hair or flesh, and the use of live birds as shooting targets. While the amount of the civil penalty was originally the same for all acts covered under N.J.S.A. 4:22-26 (a fine not to exceed \$100), through a variety of statutory amendments these civil penalties are now assessed in accordance with a comprehensive fine schedule, ranging from a minimum penalty of less than \$500 for certain violations up to a maximum of \$5,000 for more serious violations. Under the law as it has existed from its inception (with only minor technical amendment), these penalties are “to be sued for and recovered, with costs, in a civil action by any person in the name of the New Jersey Society for the Prevention of Cruelty to Animals[.]”⁷ The availability of civil penalties is often useful in addressing cruelty violations where the evidence may be equivocal or the conduct may not rise to a level to warrant criminal prosecution.

3. Steps Toward Modernization

The version of the animal abuse and neglect law now on the books is in certain aspects completely identical to the source law enacted well over a century ago. In recent years, however, there have been some salutary, progressive amendments enacted into law which have sought to distinguish between different levels of cruelty violations, to make the punishments more commensurate with the egregiousness of the abuse, and to incorporate remedial provisions to address collateral issues such as community service, restitution for the care and treatment of abused animals, and mental health counseling. These enhancements, while surely beneficial, demonstrate that New Jersey’s animal cruelty laws are a work in progress, as the law continues to feature antiquated and subjective terminology which does not necessarily reach or appropriately punish the breadth and types of animal mistreatment that occurs in the State today.

Beginning in 1995, in keeping with the evolving criminal penalty terminology used in New Jersey’s Code of Criminal Justice, the animal abuse and neglect law was amended to classify violations as disorderly persons offenses rather than misdemeanors, with the practical effect of increasing the maximum fine that could be assessed for some abuse and neglect violations (from the statutorily prescribed \$250 maximum to a fine not to exceed \$1,000, as provided by N.J.S.A. 2C:43-3(c)), as well as clearly providing for restitution (which is authorized generally for victims of offenses in accordance with N.J.S.A. 2C:43-3(e)). It should be noted, at the outset, that the criminal prohibitions against animal abuse and neglect were not part of the New Jersey Code of Criminal Justice (Title 2C of the New Jersey Code), but rather had, since 1880, been part of Title 4, Agriculture and Domestic Animals. Thus, in 1979, when New Jersey abandoned the

⁷ N.J.S.A. 4:22-26.

term “misdemeanor” from its criminal law penalty terminology, that change was not necessarily reflected in criminal offenses which were codified in Titles other than the New Jersey Criminal Code of Justice (Title 2C).⁸ The practical aspect of including criminal animal abuse and neglect offenses in Title 4 rather than Title 2C has been to segregate this particular type of criminal prohibition from the bulk of New Jersey’s criminal laws, often leading to a lack of familiarity with these provisions by police, prosecutors, attorneys and judges used to dealing with the Criminal Code.

In 1996, the law was further amended to refine and upgrade the applicable penalties, specifying a penalty of either a fine of not less than \$25 nor more than \$1,000, or a term of imprisonment of not more than six months, or both, to be imposed at the discretion of the court.⁹ The 1996 amendment further mandated the court to impose a term of community service of up to 30 days, authorizing it to direct that such service be provided to the Society for the Prevention of Cruelty to Animals or to any other recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality’s animal control or animal population control program. The 1996 amendments also authorized the court to order the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs, incurred by any agency, entity, or organization investigating the violation. Further, the law clarified that the court could impose any other appropriate penalties established for a disorderly persons offense under the New Jersey Code of Criminal Justice, and that all criminal penalties for animal cruelty violations would be in addition to any civil penalties authorized under the law. In 2000, the law was again amended to add to the list of animal abuse and neglect offenses leaving an animal unattended in a vehicle under inhumane conditions adverse to the health or welfare of the living animal or creature.¹⁰

These changes, however, were merely prologue for the landmark revision which took place in 2001, where certain forms of animal abuse were elevated to the status of a crime – a fourth degree crime which, under New Jersey law, is punishable by a term of imprisonment not to exceed eighteen months and a fine not to exceed \$10,000.¹¹ Specifically, the law made it a fourth degree crime to purposely, knowingly or recklessly “torment, torture, maim, hang, unnecessarily or cruelly beat, needlessly mutilate, or cruelly kill a living animal or creature,” or to “cause or procure any such acts to be

⁸ The classifications of “misdemeanor” and “felony” have been utilized to distinguish between indictable and non-indictable offenses, the primary difference being in degree of punishment authorized, which triggers a variety of constitutional protections such as right to indictment and right to trial by jury, with concomitant procedural and jurisdictional consequences. The New Jersey Criminal Code uses the terms “disorderly persons offense” and “crime” to make this distinction.

⁹ P.L. 1996, c.64, § 1.

¹⁰ P.L. 2000, c.162, § 1.

¹¹ P.L. 2001, c.229, § 1.

done[.]”¹² Additionally, the law mandated mental health counseling by a licensed psychologist or therapist for juveniles adjudicated delinquent for violations of the animal cruelty law. Thus, New Jersey law now drew a clear distinction, at least for purposes of severity of punishment, between two categories of offenses: the “disorderly persons offense” category involving simple abuse, needless killing, overwork (the original 1880 terminology of overdriving, overloading, driving when overloaded and overworking) or neglect (depriving of “necessary sustenance” or of proper food, drink, shelter or protection from the weather); and the “crimes” involving what may be fairly termed as inhumane acts of cruelty (such as torment, torture, needless or cruel beating, mutilation or killing). According to the legislative sponsors, the legislation was inspired by numerous acts of cruelty committed against cats and dogs, including the case of a dog named “Butch” that was beaten with a bowling ball and left to die on a Cape May beach.

In January 2004, the law was further amended to clarify that the 4th degree animal cruelty crime formulation included poisoning an animal, and established a third degree crime if an animal is “cruelly killed” or dies as a result of such an animal cruelty law violation, or if the violator had a previous conviction for animal cruelty in violation of N.J.S.A. 4:22-17(b).¹³ A third degree crime is punishable by a term of between three and five years of imprisonment and a fine not to exceed \$15,000. According to the legislative sponsors, this most recent upgrade was in response to a continuing and disturbing trend of animal mistreatment of an increasingly vicious nature. The sponsors cited numerous examples of animal murder and mutilation, including the discovery of ostrich carcasses, and incidents involving a tortured, burned goose and a dog thrown out of a moving car. Thus, New Jersey law now provides a more severe criminal punishment for offenders who cruelly kill an animal or whose abusive acts result in an animal’s death.

With respect to neglect, the original 1880 law made it a misdemeanor to deprive an animal of “necessary sustenance” or to “unnecessarily fail to provide it with proper food, drink, shelter or protection from the weather[.]”¹⁴ In addition to the criminal misdemeanor penalty of a fine of not more than \$250 or six months imprisonment or both, those prohibited acts were also subject to a \$100 civil penalty. The operative language of these prohibitions has not been changed in any respect over the years; however, the penalties applicable to all civil and criminal cruelty violations were increased, and these provisions are now classified as disorderly persons offenses subject to a criminal fine of between \$250 to \$1,000, up to six months’ imprisonment, or both. The civil penalty for all cruelty offenses now follows a graduated schedule of fines, which provides a fine of up to \$1,000 for these violations. The 1880 law also made it a misdemeanor for a person who impounded or confined an animal to “fail to supply it with a sufficient quantity of good and wholesome food and water[.]”¹⁵ This law has since been

¹² N.J.S.A. 4:22-17(b) (1) & (2).

¹³ P.L. 2003, c.232, § 1.

¹⁴ N.J.S.A. 4:22-17(a) & (c).

¹⁵ P.L. 1880, c.157, § 1.

expanded to proscribe certain methods of euthanizing an impounded animal, applicable to kennels, pet shops, shelters and pounds. These violations are also treated as disorderly persons offenses under current law. The criminal prohibition against abandonment, which can be fairly characterized as a form of mistreatment related to neglect, was under the 1880 source law limited to abandoning a maimed, sick, infirm or disabled animal to die in a public place, which like all other cruelty offenses at that time was punished as a misdemeanor. In 1986, the penalty was upgraded to a disorderly persons offense, and the law was expanded to make it a disorderly persons offense, with a mandatory fine of \$1,000, to abandon a domesticated animal.

4. Long-Standing Prohibitions on Animal Fighting

Another significant animal abuse law, N.J.S.A. 4:22-24, addresses a specialized and barbaric form of inhumane mistreatment of animals for the “amusement” of its patrons, prohibits the fighting or baiting of animals and related offenses. This law also has its roots in the same 19th century law that made animal cruelty a misdemeanor; the 1880 law, in the Article entitled “Prevention of Cruelty,” included a provision that proscribed animal fighting or baiting as a misdemeanor, punishable “by a fine not exceeding one thousand dollars, or by imprisonment at hard labor, or both, at the discretion of the court.”¹⁶ Thus, the law recognized the barbarity of this particular form of cruelty by providing a more severe criminal penalty than was available under the general animal cruelty law. However, the law failed to make any punitive distinction among participants, providing the same penalty for the various types of conduct implicated under the law, regardless of an actor’s level of culpability or involvement in the animal fighting situation. Thus, whether the actor managed a place kept or used for the purpose of fighting or baiting an animal, attended an animal fight or allowed a place he or she owned or controlled to be used for animal fighting or baiting, he or she was subject to the same penalty. This feature of the law remained intact, despite the 1989 amendment that upgraded the penalty for animal baiting or fighting to a third degree crime, replacing the prior sanction of two years’ “hard labor” with a term of imprisonment between three and five years.¹⁷ The 1989 amendment retained the particular formulations for the proscribed conduct, but supplemented the law by adding provisions to expand criminal liability to those who engage in various activities associated with animal fighting: paying admission to be present at an animal fight; permitting the fighting or baiting of an animal for amusement or gain; gambling on the outcome of a fight involving an animal; and owning, possessing, keeping, training, promoting, purchasing or knowingly selling an animal for the purpose of fighting or baiting that animal. However, those clarifications did not necessarily reach other offensive animal fighting-related conduct, nor provide a greater deterrent such as more severe punishment for organizers, breeders and others most responsible for perpetuation of animal fighting.

The Article setting forth the animal abuse and neglect law also contains certain

¹⁶ P.L. 1880, c.157, § 2.

¹⁷ P.L. 1989, c.35, § 1.

enumerated exemptions, set forth at N.J.S.A. 4:22-16, which clarify that nothing contained in the cruelty laws “shall be construed to prohibit or interfere with” certain enumerated types of conduct directed at animals. These exceptions include scientific experiments authorized by the Department of Health or United States Department of Agriculture, State-authorized killing or disposing of an animal, shooting or taking of game or game fish, training or use of a working dog, raising and care of domestic livestock in accordance with statutory standards, and killing and disposing of certain types of rodents. In practical application, these exemptions insulate from criminal or civil liability conduct that might otherwise fall within the scope of the animal abuse or neglect laws.

5. Comparing New Jersey Laws with Laws of Other States

The animal abuse and neglect laws of other states are fundamentally similar in nature and scope to New Jersey’s, although they range in technical formulation and penalties. The types of conduct proscribed by these laws loosely breaks down into categories covering animal abuse, neglect and abandonment. Statutes covering animal abuse may consist of an expansive list of proscribed acts (overdrive, overwork, beating, mutilation, torture, killing, etc.) or, alternatively, set forth a basic formulation intended to encompass the broader range of conduct (inflicting severe physical pain or suffering). Neglect laws of the various states are also categorized with similar divergent approaches (enumerating the deprivation of necessary sustenance, drink or shelter versus criminalizing the negligent failure to care for an animal which causes its death or suffering). In reviewing these different approaches, the element of general applicability emerges as a positive quality for a sound animal protection law. A review of recent animal cruelty cases reported in the media demonstrates a disturbing, almost unlimited variety of horrific acts: drowning puppies, shooting dogs, setting them on fire, abandoning reptiles, stoning a raccoon, taping shut a dog’s muzzle, smashing a kitten against the ground, abandoning a dog to die in a kennel, burying a cat alive after dousing it with kerosene and beating it, beating swans and ducks with clubs or sticks, pouring acid on a dog’s back, hoarding dozens of cats ... the list is as varied as it is disturbing. Rather than attempt to capture the circumstances of each specific type of animal mistreatment through endless enumeration and amendment, the better approach is to devise a scheme that encompasses in a broader rubric the myriad forms of abuse to which animals may be subjected.

The states that, unlike New Jersey, have adhered to a more generalized approach have in some cases adopted the formulation recommended in the Model Penal Code,¹⁸ establishing a misdemeanor if a person purposely or recklessly (1) subjects an animal to cruel mistreatment; or (2) subjects an animal in his custody to cruel neglect; or (3) kills or

¹⁸ The Model Penal Code was adopted at the 1962 meeting of The American Law Institute, an organization whose membership consists of judges, practicing attorneys and legal scholars, which drafts and publishes law restatements, model codes and other proposals for legal reform. The ALI’s model codes are often consulted and relied upon for substantive guidance in the process of statutory recodification and legislative reform.

injures any animal belonging to another without legal privilege or consent of the owner.¹⁹ The Model Penal Code includes a specific exception for accepted veterinary practices and activities carried on for scientific research. The Model Penal Code does not provide a definition for the critical term “cruel,” noting in its comment that certain states have sought to define cruelty with more expansive formulations (the approach New Jersey may be considered to have followed) while others have attempted to define the term more generally. In their explanatory comment, the drafters of the Model Penal Code were of the opinion that there was no utility in attempting to expand upon use of the term cruel, that it encompasses the fundamental implicated issues such as whether infliction of pain or killing is unjustified. States that have followed the Model Penal Code formulation include Alabama, Arizona, Delaware, Pennsylvania, Massachusetts and West Virginia. A few states, such as Oregon and Illinois, have recently adopted new model laws, which follow approaches suggested by animal welfare advocates such as the Animal Law Defense Fund. These statutes more closely resemble traditional criminal laws, focusing on physical injury to the animal and the *mens rea* of the actor rather than on whether the abuse was justifiable or cruelly inflicted.

The latter approach points up a valid observation; the animal abuse and neglect laws of New Jersey and most other states are of a different nature than criminal laws that address comparable conduct directed at human beings. The animal abuse and neglect laws incorporate a critical element, that of needless or unnecessary cruelty, which is not required to secure conviction for an act of physical harm directed toward a human victim. That is, the infliction of physical harm is sufficient for a conviction, regardless of whether it was done in a cruel or unnecessary manner, when it is inflicted upon an innocent person. When an animal is the victim, however, the law requires proof – beyond a reasonable doubt – of the additional element of cruelty, or lack of justification or necessity, or a particular type of inhumane treatment in order to obtain a criminal conviction. Mere physical injury is not sufficient when animals are physically abused, even when the mistreatment is intentional.

The majority of states (forty, as of the date of this Task Force report) have adopted at least one felony provision in their animal cruelty laws, usually applicable to an extreme form of intentional cruelty or torture or malicious killing. The 2001 amendment to New Jersey law, which elevated certain acts of cruelty to a crime of the fourth degree, accomplished that result. The fines provided under the animal protection laws of other states are commensurate generally with those available under New Jersey law, although some states, such as Arizona, Colorado and Oregon, provide for maximum fines of \$100,000 or more for acts of aggravated or extreme animal cruelty. However, there appears to be a wide disparity in both the level of punishment provided among states and fines imposed. Another aspect in which states differ, sometimes dramatically, is with respect to remedial provisions contained in animal cruelty laws. Many states’ animal abuse and neglect laws include provisions authorizing the immediate seizure of an animal or animals where there is suspicion of abuse, and forfeiture upon conviction, as well as reimbursement for cost of care for seized and forfeited animals. Some states also require

¹⁹ M.P.C. § 250.11.

psychological evaluation and mental health counseling or anger management treatment for those convicted of serious animal cruelty offenses. Other states provide restrictions on or supervision of contact with animals by abusers, and may restrict or prohibit future possession or ownership of animals. Still other provisions authorize or require animal abusers to perform community service, often in an animal welfare-related capacity.

There is a prevalent perception in the animal welfare community (and among the general public when the media reports on a particularly egregious or horrific incident of animal abuse) that the penalties for animal abuse and neglect are not stringent enough and are applied inconsistently or too leniently, thereby failing to appropriately punish violators and deter future acts of abuse and neglect. The argument is also proffered that animal abuse penalties are not necessarily proportional to the punishments provided for other criminal offenses under the New Jersey Criminal Code. Penalties for inflicting physical pain upon another person range from disorderly persons offenses for simple assault to crimes of the second, third or fourth degree for aggravated assault. As a general rule, the more severe the punishment, the more gravity the public and the courts afford the sanction. By way of illustration, in the relatively recently past, the legislative response to domestic violence, including increasing criminal sanctions for domestic violence offense, has helped heighten the perception of law enforcement and the courts of the gravity of such offenses and sensitized the entire criminal justice system and the public to domestic violence issues in general. Enhancing criminal penalties applicable to incidents of animal abuse and neglect can help serve the same purposes. Moreover, appropriate proportionality of punishment in animal abuse and neglect cases and more effective deterrence could be achieved through statutory gradation of penalties based on the particular degree of harm inflicted upon an animal (similar to the graduated range of penalties provided in the statutory scheme applicable to assault against another person), and by taking into greater account the history of the actor with respect to prior acts of animal abuse (with more severe punishment imposed upon repeat offenders).

B. Recommendations for Legislation

With these considerations in mind, we turn to recommendations for changes to the laws and regulations to better protect animals in New Jersey from inhumane treatment. The current laws establishing criminal prohibitions against animal abuse and neglect need to be revised to better and more clearly address the conduct sought to be proscribed and to enhance the remedies that may be applied to better protect animals and to prevent future victimization of animals. Additionally, judicious revisions to the sentencing provisions applicable to those who commit abuse and neglect against animals could better serve the public interest in humane treatment of animals, giving due consideration to the gravity of the offenses and the need to provide deterrence of the proscribed conduct, promoting fairness, uniformity and certainty in sentencing. To help achieve these overarching criminal justice goals with respect to the prevention and punishment of animal cruelty, the following recommendations are offered.²⁰

²⁰ The text of a proposed bill that would amend Title 2C in order to effectuate the Task Force's recommended updates to the anti-cruelty laws is attached as Appendix A to this Report.

1. Consolidation

- **Move criminal animal cruelty offenses from Title 4 (Agriculture Domestic Animals) to Title 2C (Criminal Code)**

There is a perception, whether justified or not, that animal abuse and neglect laws are often overlooked or under-emphasized in the operation of the criminal justice system. Under the current law, criminal animal abuse and neglect offenses are set forth in Title 4 of the New Jersey statutes (the volume of the Code entitled “Agriculture and Domestic Animals”). However, particularly since New Jersey’s 1971 adoption of the Model Penal Code, the majority of criminal laws have been consolidated into a single volume of the New Jersey Code, Title 2C, which provides the focus for police training and enforcement, criminal law prosecutions and judicial application.²¹ An annotated Title 2C is basically standard issue for criminal prosecutors, whose ready access to the rest of New Jersey law (the New Jersey Statutes are organized by broad subject matter category into 66 separate Titles) may be somewhat limited. Additionally, investigating and responding to indictable crimes is a matter of routine to police. However, because the animal cruelty laws are not set forth in Title 2C, police officers (who receive extensive training related to the Criminal Code) may be unfamiliar with the nuances and application of these laws. As a general matter, there is less familiarity among law enforcement, prosecutors, criminal defense counsel and criminal division judges with (and, hence, a comparatively lesser degree of utilization of and reliance upon) laws that establish criminal penalties or otherwise proscribe conduct as criminal which appear in Titles other than 2C. One response to a Task Force survey sent to prosecutors provides a compelling illustration of this point. In response to the question of whether it would be advisable to move the animal cruelty statutes from Title 4 into Title 2C, one municipal prosecutor replied that it was neither advisable nor necessary to do so because Title 2C is for crimes. The lack of awareness that many animal cruelty offenses are in fact crimes by an individual charged with prosecution of such offenses reaffirmed the opinion of the Task Force as to the lack of familiarity with animal cruelty statutes due to their placement in Title 4.

There is also an appreciable sense among the law enforcement community, prosecutors and judges that non-Title 2C offenses may be less “important” based on that placement; that is, there is a feeling that proscribed conduct is deemed as less offensive or significant because it is not prohibited as part of New Jersey’s Criminal Code. Both in terms of public perception and systemic treatment, it is appropriate to “elevate” the animal abuse and neglect laws by moving them from Title 4 to Title 2C, to consolidate these criminal prohibitions with the bulk of other criminal laws. There is clear precedent for this type of revision; over the years, there have been several major recodifications undertaken in an effort to consolidate all criminal prohibitions into Title 2C, most recently in 1999, based on a Law Revision Commission initiative (see P.L.1999, c. 90, codifying into Title 2C criminal offenses compiled from Titles 2A and 24, superseding and repealing obsolete provisions from those titles). In this fashion, animal cruelty laws would be consolidated

²¹ In its 1971 adoption, New Jersey in numerous instances deviated from the recommended formulations of the Model Penal Code, and did not enact the recommended animal cruelty provision, section 250.11.

with the majority of all other criminal laws, eradicating any perception that they are of secondary importance and facilitating the reference to and application of such laws through inclusion in the Criminal Code.

2. Animal Cruelty Crimes and Offenses

- **Establish a new framework for animal cruelty crimes that establishes new, revised cruelty and neglect offenses utilizing updated terminology and incorporating existing criminal justice concepts.**

As reviewed earlier, under the law as it currently stands, animal cruelty offenses are based upon source code initially enacted in 1880. Although recent revisions have modified the statutory formulation somewhat, the terminology contained in these provisions remains archaic and overly subjective, incorporating outmoded concepts and unnecessary or ambiguous elements, which in some cases is confusing in application and makes violations difficult to prove. For example, N.J.S.A. 4:22-17 makes it a disorderly persons offense to “inflict unnecessary cruelty upon a living animal or creature.” Under this formulation, one may inflict severe physical harm upon an animal, but it must be demonstrated that such infliction was both unnecessary and cruel (which elements must, under the standard of proof applied in criminal cases, be proven beyond a reasonable doubt). Other terms are ill-defined, lack standardized definition or invite subjectivity, such as the provision of the law concerning killing an animal that requires proof that the act was done “needlessly.” This term appears nowhere else in the Criminal Code, which typically defines the specific elements of the proscribed conduct and requisite mental state of the actor to establish culpability. Prosecutors and judges have great familiarity with and expansive experience applying and interpreting criminal laws applicable to human victims, which if carried over into matters involving animal cruelty would likely enhance the ability of prosecutors to bring meaningful and appropriate prosecutions and for judges to apply the law in a more consistent, comprehensive fashion. Thus, revising the animal cruelty offenses to incorporate standard terminology used in other criminal offenses could result in better prosecutions and improved deterrence.

Generally, conduct conceived of as animal cruelty falls into one of two broad categories, involving either the unjustified infliction of pain upon an animal, or the failure to provide an animal with minimum care when there is an obligation to do so (as in neglect or abandonment). Additionally, there are other types of egregious misconduct that exploits animals, such as animal fighting or sexual abuse that warrants more specialized statutory treatment in a comprehensive animal cruelty scheme.

- **Animal abuse and aggravated animal abuse**

The first category of abusive acts, which feature a common element of inflicting pain upon an animal, may be organized into a unified framework analogous to aspects of existing criminal laws prohibiting assault (N.J.S.A. 2C:12-1, under which it is an offense to purposely, knowingly or recklessly cause bodily injury to another), aggravated assault (involving causing serious bodily injury to another) and criminal homicide (N.J.S.A.

2C:11-2, causing the death of another human being). Key terms like bodily injury and serious bodily injury are already defined in N.J.S.A. 2C:11-1, the construction and application of which have been well established under the case law and in practical application. Judges, prosecutors and the criminal defense bar have a working familiarity with these terms and their construction. These terms could be adapted to apply to animals; for example, the existing criminal law definition of “bodily injury” could be modified to a definition of “physical injury” when applied to an animal, meaning physical pain, including but not limited to physical trauma, illness or any impairment of physical condition. Similarly, the existing criminal law definition of “serious bodily injury” could be revised, in the context of infliction upon an animal, to apply to physical injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. The utilization of this terminology encompasses the range of conduct covered under current animal cruelty law, and its codification will lead to more consistent, predictable application that will result in greater justice.

In addition, cruelty-related concepts may be derived from Title 4 and incorporated into the revised scheme, but framed in more objective, modernized terminology, to establish more definitive standards to better guide personal conduct, law enforcement and prosecutorial decision-making and judicial application. A framework that mirrors the current criminal law scheme applicable to assault in N.J.S.A. 2C:12-1 could be employed to create a structured sentencing scheme that grades offenses based on the severity of the conduct, utilizing common elements to define those proscribed conduct. Sentencing nuances, affirmative defenses and appropriate remedies could be incorporated into a cohesive, workable statutory scheme that provides objective definitions of elements of offenses and enhanced penalties for more serious conduct. The baseline offense of animal abuse would be analogous to simple assault, making it an offense to torment an animal, subject an animal to an act of violence or attempt to cause or purposely, knowingly or recklessly cause physical injury to an animal. Similar to the more serious offense of aggravated assault, the higher graded offense against an animal would be aggravated animal abuse, where an actor attempts to cause serious physical injury or death to an animal, or causes such injury or death purposely or knowingly or under circumstances manifesting extreme indifference to the value of life recklessly causes such injury; or purposely or knowingly tortures an animal. The most extreme animal offense would mirror criminal homicide, and would be established as part of aggravated animal abuse, the killing of an animal in an outrageously or wantonly vile, horrible or inhuman manner (which is modeled after one of the aggravating factors in N.J.S.A. 2C:11-3 related to murder). Additional offenses that could be incorporated into the comprehensive animal abuse scheme would include purposely or knowingly committing an act of sexual penetration or sexual contact (which terms are already defined in the criminal law, at N.J.S.A. 2C:14-1) with an animal. Further refinements may be appropriate, where there is ambiguity over whether certain forms of borderline conduct constitute abuse, such as chaining an animal for an excessive period of time or in a manner in which the animal could be injured.

- **Animal abandonment and neglect**

Other areas in which the criminal law could be revised to provide greater clarity and uniformity are animal abandonment and neglect, which both implicate the concept of a responsible person failing to satisfy an obligation imposed by the law of providing reasonable minimum care for an animal. Current law does not provide anything more than a generalized notion of the types of care that should be provided to an animal. For example, N.J.S.A. 4:22-17(c) criminalizes animal neglect as unnecessary failure to provide an animal with “proper food, drink, shelter or protection from the weather[.]” The law criminalizing animal abandonment pursuant to N.J.S.A. 4:22-20 is not so specific, simply making it a crime to abandon a maimed, sick, infirm or disabled animal to die in a public place or to abandon a domesticated animal, and makes no provision for what might be deemed a constructive abandonment through failure to provide minimum care (or enabling an actor who relinquishes control of an animal to assert an affirmative defense of having made arrangements to provide for the minimum care of the animal).²²

The revised animal abandonment law would also address the issue of leaving animals at an animal shelter or pound, establishing that a person has not made reasonable provisions for the minimum care of the animal unless the person ensures that the animal is left with a person authorized by the animal pound or shelter to accept possession of the animal (and, conversely, creating an affirmative defense by leaving an animal with such person). Additional statutory language could better clarify the proscribed conduct, to identify with greater specificity those situations in which prosecution would be warranted and more clearly establish appropriate defenses. Thus, the law could benefit from including objective standards in greater detail and applicability, setting forth the elements constituting the minimum care for an animal to specify that minimum care which is sufficient to preserve the health and well-being of an animal includes the following: (1) food of sufficient quantity and quality to allow for normal growth or maintenance of body weight; (2) open or adequate access to drinkable water of an appropriate temperature in sufficient quantity to satisfy the animal’s needs; (3) access to an enclosed non-hazardous structure sufficient to protect the animal from the weather that has adequate bedding to protect against cold and dampness; (4) adequate protection from extreme or excessive sunlight and from overexposure to the sun and other weather conditions; (5) veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease; (6) continuous access to a clean and adequate exercise area. The

²² Another issue related to the current statutory formulation is that the Title 4 provisions do not expressly designate a particular state of mind, or “*mens rea*,” applicable to the offense (that is, these provisions do not specify whether a person must act purposely, knowingly, recklessly or negligently for criminal liability to apply). In such cases, State law applies a presumptive culpability requirement of “knowingly” to establish criminal liability. N.J.S.A. 2C:2-2(c)(3). However, as the annotation to Title 4 suggests, an additional requirement of a mischievous motive or intent has been applied in some cases. Moreover, the presumptive requirement of “knowing” conduct is sometimes further confused in the context of crimes such as animal neglect or abandonment, which may be crimes of omission where a person has a duty but fails to act. It is important therefore, for any statutory recodification of such offenses to clearly identify the applicable level of culpability, to enable prosecutors and judges to determine and apply the correct mental state needed to establish criminal liability for acts of animal abuse and neglect.

neglect law could be further refined to address particular situations in which failure to provide appropriate care leads to a physical manifestation of abuse, such as an embedded collar, which could constitute a per se violation.

- **Excessive chaining or tethering as a particular form of neglect**

The Task Force engaged in extensive deliberation on a particular form of neglect, the practice of chaining and tethering dogs. Chaining or tethering refers to the practice of fastening an animal to a stationary object or stake, usually in the owner's yard, as a means of keeping the animal under control or confined to the property. The United States Department of Agriculture opined against this practice in a statement published in the July 2, 1996 Federal Register: "Our experience in enforcing the Animal Welfare Act has led us to conclude that continuous confinement of dogs by a tether is inhumane. A tether significantly restricts a dog's movement. A tether can also become tangled around or hooked on the dog's shelter structure or other objects, further restricting the dog's movement and potentially causing injury." Authoritative animal welfare organizations, such as the Doris Day Animal League, the Humane Society of the United States and the New Jersey Animal Rights Alliance, have studied the issue and concluded that continuous tethering or chaining is both inhumane and a threat to the safety of the confined dog, other animals, and humans. The continuous chaining or tethering of a dog is a key contributor to poor socialization, as dogs subjected to excessive chaining tend to bark excessively and often suffer great psychological damage which makes them neurotic, unhappy, anxious and aggressive. A chained or tethered dog is unable to take flight and often feels forced to fight any unfamiliar person or animal that wanders into his or her territory. A chained dog also is vulnerable to attack by other animals, biting insects, malicious passers-by and criminals. The collars of dogs subject to excessive chaining may also become imbedded, which is a painful condition detrimental to the well being of the animal. Moreover, tethered dogs may be more likely to suffer from overturned water bowls and less able to get protection from unfavorable weather conditions.

The advantages of banning or limiting chaining or tethering are apparent. Such measures would substantially reduce the high volume of calls to animal control and the police regarding the plight of chained dogs, and complaints from annoyed neighbors over the incessant barking of a tethered dog. The public safety will be enhanced, as dogs that are chained excessively often become aggressive, and a prohibition would reduce the risk that children passing through property where a dog is chained will be attacked.

Some New Jersey towns have adopted anti-chaining ordinances, while others have not. For example, the Township of Nutley and the Borough of Bloomingdale have in effect an ordinance that bans the chaining or tethering of dogs for more than 8 hours in any 24-hour period. The City of Camden has an ordinance that bans the chaining or tethering of dogs, either indoors or outdoors, for more than two consecutive hours in any 24-hour period. Galloway Township has recently passed an ordinance that restricts the chaining or tethering of dogs to no more than 9 hours in a 24-hour period. Outside the borders of New Jersey, at least 28 cities and six counties nationwide restrict the tethering of

animals.²³ In Jefferson County, Kentucky, dogs are prohibited from being tethered or chained for more than eight hours in any 24-hour period.²⁴ In 2003, Connecticut became the first state to enact any kind of anti-chain legislation applicable statewide. The law provides that dogs may not be chained out for an unreasonable amount of time. Communities that prohibit the chaining or tethering of dogs as a means of continuous confinement include: Maumelle, Arizona; Tucson, Arizona; Gulfport, Mississippi, and New Hanover, North Carolina. The chaining or tethering of dogs and cats is banned outright in Okaloosa, Florida. The tethering of dogs is banned outright in Lawton, Oklahoma and Electra, Texas.

The Task Force reached a general consensus in recommending that dogs should not be chained, tied, fastened or otherwise tethered to dog houses, trees, stakes, poles, fences, walls, or any other stationary objects outdoors or indoors for more than eight hours in a 24-hour period, and should not be chained during overnight hours (between the hours of 10 p.m. to 5 a.m.). If an animal must be chained, the length of the chain should be at least 15 feet, but should not be used or set up in such a way as to injure the animal or create the risk of injury (for example, it should be fastened only to a properly fitted harness or buckle-type collar, not a choke or prong collar). It should be emphasized that the recommended method to keep a dog under control or confined is a soundly constructed and properly maintained fence of adequate height, or a soundly constructed and properly maintained pen or enclosure, adequately sized depending on the breed of the dog.

- **Animal fighting and baiting**

The crime of animal fighting is currently prohibited under N.J.S.A. 4:22-24, which makes it a crime of the third degree to (1) keep, use, be connected with or interested in the management of, or receive money for the admission of a person to, a place kept or used for the purpose of fighting or baiting an animal; (2) be present and witness, pay admission to, encourage or assist in the fighting or baiting of an animal; (3) permit or suffer a place owned or controlled by that person to be used for the purpose of fighting or baiting an animal; (4) for amusement or gain, cause, allow, or permit the fighting or baiting of an animal; (5) own, possess, keep, train, promote, purchase, or knowingly sell an animal for the purpose of fighting or baiting that animal; or (6) gamble on the outcome of a fight involving an animal. This is a comprehensive formulation that adequately covers the animal fighting and baiting conduct that should be criminally proscribed, but the current law provides the same gradation of all the conduct covered under the statute, regardless of a person's role in the animal-fighting ring. Thus, a person who merely observes an animal fight is subject to the same degree of punishment as is the organizer of the fight, or the person who breeds, trains and fights an animal or stable of animals. This provision could be improved significantly by appropriately differentiating between actors involved in animal fighting, establishing a higher level of punishment applicable to

²³ *The Lawrence Journal World*, "Wichita Anti-tether Law Considered a Success," January 4, 2004.

²⁴ Source: Doris Day Animal League.

those responsible for this kind of egregious animal exploitation, as well as to repeat animal offenders. Additional provisions could clearly establish the court's authority to order the immediate seizure and forfeiture of possession of any animals used for fighting or baiting, and to order forfeiture of any other animals in the person's custody or possession, as well as prohibit future possession of any animal for any period of time the court deems reasonable, including a permanent prohibition, and any other reasonable restrictions on the person's future ownership or custody of and involvement with animals as necessary for the protection of the animals. Additionally, the law could be improved by including a specific definition of animal baiting (defined as "to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, a fight with or among other animals"), clearly setting forth the conduct prohibited to circumscribe the opportunity for narrow construction or arguments of vagueness.

- **Use of guard dogs without human supervision**

The Task Force also recommends legislation prohibiting the commercial use of dogs as guards, left unattended on premises other than personal residences. The nature of the guard dog business is to promote aggression. Dogs (often taken from pounds and shelters) are made aggressive through instruction, rough handling or deprivation of food and/or shelter. The security guard dog business often endangers the public. For example, in May of 2001, two guard dogs were shot to death in New Jersey after they attacked a teenager who jumped a fence on the property they were guarding. The continuing utilization of dogs in this capacity demonstrates an apparent incongruity in the law: New Jersey has a statute that provides for impoundment and destruction of vicious and potentially dangerous dogs, N.J.S.A. 4:19-18 et seq., yet condones an industry whose practices almost inevitably produce such animals.

Guard dogs are often employed for security purposes in the State's larger urban cities (particularly Newark, Jersey City, and Irvington), despite the availability of a variety of modern electronic security systems and people to provide live security services. In this era of modern security technology, the use of guard dogs as a means of protecting property appears to be archaic and outdated. The commercial use of dogs as guards also has unfortunate consequences for the animals that have been chosen for this task. They are often placed on vacant, run-down properties, warehouse lots, construction sites, auto lots and other commercial properties to provide security. Some of these sites have shattered glass, pooled chemicals, rotting garbage, and contaminated water and soils. These animals are regularly exposed to other hazards including malicious passers-by. These animals spend the majority of their time on short chains. Also, shelter on site is not always adequate. It is common for these dogs to live outside year round. Moreover, they do not always get the medical care they need.

When these dogs — that have been deprived of socialization and the opportunity to form positive relationships with people and other animals — are no longer needed to provide security, it is common for them to be unceremoniously killed. The insidious nature of the neglect that most guard dogs suffer makes their plight one that may evade being properly

addressed by the existing animal cruelty laws. Guard dog companies often rotate dogs, which make it extremely difficult for anyone to closely monitor their condition. Rotation is a routine practice in the industry and is intended to keep guard dogs unfamiliar with their surroundings in order to prevent them from becoming too friendly toward people in any given area. Because guard dogs are treated like commodities in every sense of the word, most guard dogs are given only the care required to ensure that they will be able to perform their so-called job. In reality, this amounts to little or no care.

Accordingly, the Task Force recommends a statutory prohibition on the use of guard dogs in non-residential properties without human attendants providing appropriate on-site supervision of the animals. The law should subject repeat offenders to enhanced criminal penalties, to provide a strong disincentive that may overcome the economic incentive this type of animal exploitation may otherwise present for determined entrepreneurs.

- **Provide suitable and appropriate exceptions, to cover areas such as veterinary care, training, lawful hunting, agriculture, etc.**

Current law, in N.J.S.A. 4:22-16, provides that nothing contained in the current cruelty law shall be construed to prohibit or interfere with six enumerated exceptions, including properly conducted scientific experiments; duly authorized killing or disposing of an animal; shooting or taking of game or fish as allowed under State law; training or engaging a dog in “working dog” activities or exhibitions; raising, keeping, care, etc. of domestic livestock in accordance with standards developed pursuant to N.J.S.A. 4:22-16.1; and the authorized killing or disposing of certain species of rats or mice. This list should be replicated with respect to the animal cruelty offenses to be incorporated into Title 2C, and expanded to include an exemption for the provision of veterinary care by or under the immediate supervision of a veterinarian licensed pursuant to chapter 16 of Title 45 of the Revised Statutes or by the laws of any other state. The law should be clarified, however, to unambiguously provide that those who engage in so called “nuisance” wildlife control are not exempt from the ambit of animal cruelty laws and are required to use humane, non-lethal methods as appropriate, and to make clear that there is no general exemption from animal cruelty laws applicable to exotic animals.²⁵

²⁵ Significant concern was expressed to the Task Force over the lack of regulation with respect to these animals and the apparent failure of the law to protect animals from acts of cruelty in these contexts. For example, it was reported that nuisance animals such as squirrels often die from heat exposure when caught in traps placed on hot asphalt roofs in the summer, and beavers captured in traps set underwater are left to thrash about helplessly until they drown. Additionally, the Task Force would support recommendations that the method of first resort for addressing nuisance wildlife problems be non-lethal (and, if non-lethal is impossible, that the measures be painless), and that individuals who perform this service be subject to appropriate training and appropriate measures in order to obviate inadvertent acts of cruelty. With regard to exotic animals, the Task Force would recommend prohibitions against selling at auction, captive breeding or display of such animals, except by duly authorized zoos, circuses or sanctuaries. That would help ensure that conditions and handling are regulated and appropriate.

- **Modernize or repeal discreet archaic Title 4 animal protection statutory provisions**

Certain criminal provisions in Title 4 address specific conduct directed toward animals, including carrying an animal in a cruel or inhumane manner, selling horses unfit for work and using live birds as targets, surgically debarking or silencing a dog, and other offenses. Rather than simply repeal these provisions, which could give rise to an argument of a legislative intent to legalize these forms of conduct, consideration should be given to providing clarifying language to modernize these prohibitions where appropriate and moving the resultant provisions into Title 2C as part of the recommended framework. For example, the current prohibition in N.J.S.A. 4:22-18 which makes it a disorderly persons offense to “carry, or cause to be carried, a living animal or creature in or upon a vehicle or otherwise, in a cruel or inhumane manner” could be amended to make clear that the law prohibits allowing dogs to ride unrestrained in the back of a pick-up truck. There are other provisions currently contained in Title 4 which invite reconsideration for either outright repeal (e.g., N.J.S.A. 4:19-8, establishing civil liability and an obligation to kill within 24 hours a dog “found killing, worrying or wounding any sheep, lamb, domestic animal or poultry”) or amendment and transfer into Title 2C (e.g., N.J.S.A. 4:22-23, a disorderly persons offense for using live birds as targets). There are other criminal prohibitions, including but not limited to the law prohibiting unauthorized surgical debarking or silencing of a dog as a third degree crime, N.J.S.A. 4:19-38 and -39, which should simply be repealed from Title 4 and recodified as part of Title 2C.²⁶

- **Amend the civil penalty formulations to reflect any changes to the criminal prohibitions**

For ease of application and consistency, the civil cruelty penalties need to be amended or supplemented to mirror any criminal revisions. Although it is appropriate for the civil provisions to remain in Title 4 (as they are not causes of action of a criminal nature), appropriate cross-references would be helpful to guide application of these concurrent criminal and civil provisions. This will continue to allow the option of a civil remedy in addition to a criminal prosecution, and may provide a viable alternative when a criminal conviction is not attainable.²⁷

²⁶ Similarly, it is appropriate to add clarifying language to Title 4 to make clear that: any person who violates statutes or administrative regulations concerning animal care and treatment may also be subject to violation of the criminal law, depending upon the facts and circumstances of the matter. For example, failure to abide by the law concerning a mandatory seven-day holding period for impounded animals—discussed later in this Report—may give rise to a violation of the administrative, civil or criminal law. Furthermore, no person is above the law and even humane officers are bound by it. Also, Title 4 should be clarified to prohibit shelter animals from being turned over to any public or private entity for demonstrations or procedures that are not intended to directly benefit the animal. The current law prohibits this type of activity in a general manner. However, a recent case involving the use of animals for the demonstration of medical procedures (which were not medically necessary for the animals) highlighted the need for clarification in the law.

²⁷ Current law requires that all civil actions must be brought in the name of the SPCA. For reasons fully explained later in this Report, the Task Force recommends that this provision be revised.

3. Sentencing

- **Provide hierarchical penalties more in line with other comparable criminal offenses, to provide greater general and specific deterrence, with additional remedies specifically tailored to animal welfare issues (such as animal forfeiture, counseling, cost of care bonding, etc.).**

It is axiomatic that “the punishment should fit the crime;” that is, our system should punish more serious acts more severely, and strive to provide comparable punishment for comparable acts. A touchstone of an effective system of criminal justice is that sentences imposed for a given crime are fair and proportionate to other sentences imposed under the code, considering the nature of the conduct, the impact on society, the need for deterrence and retribution, etc. All too often, this principle has not been realized in the context of animal abuse and neglect. Not only are certain offenses graded too low (which fails to provide a level of punishment sufficient to deter offenders and prevent the commission of offenses), the law could be significantly improved by incorporating remedial or prophylactic provisions aimed to preventing future offenses, serving the interests of the victims (that is, the abused or neglected animals), or facilitating rehabilitation. Such remedies as prohibitions on future possession of animals, immediate seizure and forfeiture of abused animals or animals used in animal fighting, restrictions on employment in fields involving animal care or welfare (including permanent debarment), mandatory counseling for both adult and juvenile offenders,²⁸ cost of care bonding, or reimbursement or restitution, to provide for the needs of abused animals, mandated community service related to animal care if appropriate, should be specifically incorporated into the animal cruelty law framework, to give fair warning of the availability of the nature of those measures as part of a possible sentence, and clearly conveying to prosecutors and judges alike that such measures are authorized (if not mandated) in appropriate cases.

Under the current scheme, animal cruelty offenses are generally either disorderly persons offenses (which are punishable by up to six months in jail and/or a fine not to exceed \$1000) or fourth degree crimes (punishable by imprisonment not to exceed 18 months and a fine not to exceed \$10,000). Animal fighting is punishable as a third degree crime, subject to a term of three to five years in prison and a fine not to exceed \$15,000, regardless of the actors level of involvement in the offense (that is, irrespective of whether the actor is an organizer of the event, one who trains or fights animals, a ticket-seller or a mere spectator). Aside from animal fighting, the sentences authorized under the law are comparatively low. There is some advantage for this, in that disorderly persons offenses are tried in municipal court and often are handled more expeditiously, with the imposition of appropriately severe (or lenient) penalties. Indictable offenses, that is, crimes of the first, second, third or fourth degree, may only be handled in Superior Court, which entails additional process and sometimes delay, with attendant rights such

²⁸ The Task Force recommends that the Department of Human Services and the Juvenile Justice Commission independently review and issue recommendations concerning counseling and treatment options for juveniles.

as a jury trial, but with the possibility of greater punishment. Sometimes, the availability of a downgrade so that a matter may be disposed of in municipal court is preferable. Careful consideration, therefore, should be given to designing sentences, understanding how the system works while serving the goals of deterrence, through incapacitation, the threat and reality of retribution, and rehabilitation, recognizing the appropriate discretion of judges and the interests of fairness.

- **Animal abuse sentencing**

Given those considerations, it is appropriate to increase in certain instances the grading of certain cruelty offenses, particularly where the harm inflicted upon animals is more severe or the conduct is particularly egregious. In the revised cruelty offenses defined above, it would be appropriate to make animal abuse a disorderly persons offense for the first-time offender, with an upgrade to a fourth degree crime for repeat offenders (which would include persons who have previously committed a violation of the animal abuse statute or any other animal cruelty law, or an act of domestic violence). The latter upgrade recognizes the well-established connection between domestic violence and animal abusers, and seeks to provide deterrence through a higher graded sentence for such repeat offenders. Aggravated animal abuse, which involves more serious harm inflicted upon an animal, would be graded as a third degree crime, with a second degree sentence for killing an animal in an outrageous or inhuman manner. Additional sentencing provisions would authorize the court to order mental health counseling by a licensed psychologist or therapist named by the court for those convicted of abusing animals (mandating such counseling for juveniles), and to order the forfeiture of the abused animal or animals and to place restrictions on future possession of any animals for any period of time the court deems reasonable, including a permanent prohibition, and any other reasonable restrictions on the person's future possession or custody of and involvement with animals as necessary for the protection of the animals.

- **Animal abandonment and neglect sentencing**

In line with the gradation for abuse offenses, animal abandonment, which constitutes a failure to satisfy an obligation of care which places an animal at risk of physical harm, would be graded as a disorderly persons offense, with an available upgrade if the actor's failure to provide care results in serious physical injury or death to the animal. Further, enhanced fines would be imposed if an animal is abandoned on or near a roadway or if the abandonment involves a maimed, sick, infirm or disabled animal. The law would further clarify that each animal abandoned and each incident involving the abandonment of a particular animal constitutes a separate offense (which could be merged with or handled — and punished — independently of the other implicated abandonment offenses). Animal neglect offenses would be graded in the same fashion, as disorderly persons offenses with upgrades to a fourth degree crime if the failure to provide care results in physical injury to the animal and to a third degree crime if failure to provide care results in serious physical injury or death to the animal (as those terms would be defined in the revised animal cruelty scheme). Also, the statute would specify that where more than one animal is involved, each animal neglected in violation of the law would

constitute a separate offense. It is appropriate for the sentence for this offense to also incorporate provisions authorizing community service, in which the actor may be required to provide assistance to an organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program. The law would also authorize the court to require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, or veterinary care or treatment, or other costs incurred by any agency, entity, or organization investigating the violation. As with the animal abuse violations, the authorized sentence would allow the court to order the violator to forfeit possession of the animal or animals involved and prohibit future possession or custody of any animal for any period of time the court deems reasonable, including a permanent prohibition, as well as other reasonable restrictions future possession or custody of and involvement with animals.

- **Animal fighting and baiting sentencing**

With respect to animal fighting, it is appropriate in a sentencing scheme to differentiate between the conduct of those responsible for animal fighting (the organizers and promoters of the event and those who actually train and fight animals) and those who support such conduct through their attendance at and gambling upon animal fighting. We would establish a graduated sentencing structure that makes it a second degree crime for those with the greatest level of responsibility (that is, operators of the place used for animal fighting, the owners, trainers etc. of animals used in animal fighting), and lesser graded offenses for others involved (attendants, spectators and gamblers). We would also build in an upgrade for prior offenders with previous convictions for animal fighting or other offenses against animals. Additionally, community service, restitution of cost of care provisions, mental health counseling, mandatory animal seizure and other animal possession restrictions and prohibitions would apply to these offenders. Also, property involved in or related to animal fighting (including the premises at which such matters are conducted, equipment, training paraphernalia, etc., and any moneys wagered) would be subject to criminal forfeiture provisions of N.J.S.A. 2C:64-1 et seq.

4. **Duty to Report Animal Abuse**

- **Establish a duty to report animal cruelty, with appropriate immunity protections.**

Currently, the law provides in certain situations a duty to report acts of abuse or violations of the law. For example, there are statutes establishing a duty to report suspected abuse or exploitation with respect to children (see, for example, N.J.S.A. 9:6-8.10), the institutionalized elderly (N.J.S.A. 52:27g-7.1), those living in residential health care facilities (N.J.S.A. 30:1A-3) and residents of community residential facilities for the developmentally disabled (N.J.S.A. 30:6D-17). The subjects of these laws are all vulnerable to exploitation or abuse, and may not be in a position to protect themselves from such victimization. Typically, duty to report laws provide a mandatory duty for those whose jobs bring them into situations in which they will be in a position to observe

directly such acts of abuse. These laws are coupled with provisions that immunize the reporter, and also may provide additional protections from adverse consequences such as repercussions from an employer related to the report of abuse. To better protect animals and to enhance our ability to enforce animal cruelty laws, it would be appropriate to enact a law requiring any person having professional animal care or maintenance responsibilities who knows or has reasonable cause to believe that an animal has been subjected to abuse or neglect or involved in animal fighting to report it to the police or to any other law enforcement agency or officer authorized to investigate a report of animal abuse. Such persons would be defined to include veterinarians, including any intern or resident; veterinary or animal care technicians; employees of a humane society, animal shelter or other animal control agency; employees of a business engaged in the sale of animals, animal-related merchandise, or in the providing of services, transportation or housing for animals; and zoo or circus employees.

It is well-established that animal abusers often graduate to acts of violence against people, and therefore it is also appropriate to establish a similar reporting duty for any employee of a State, county or local child or adult protective services agency, social worker or domestic violence counselor or crisis response team member, while acting in his or her professional capacity or within the scope of his or her employment, who knows or has reasonable cause to believe that an animal has been subjected to abuse or neglect, unless in that person's professional judgment such a report would place a vulnerable child or adult at risk of harm. Finally, a discretionary duty, with appropriate immunity, could be established to apply to any State or local law enforcement officer as well. The technical requirements of the reports would be modeled on the provisions of the existing laws cited above.

C. Conclusion

After a long period of dormancy, New Jersey's animal abuse and neglect laws have been significantly improved by a series of reforms, which in the last year culminated in a significant increase in the number of animal cruelty complaints, prosecutions and convictions. This trend should continue, and with a commitment to true reform of the animal abuse and neglect laws New Jersey can move from a state trying to bring its laws into the 20th century to a national leader in legislative measures designed to promote humane treatment of animals and provide appropriate accountability for those who would engage in acts of animal cruelty.

II. Improve the enforcement of animal cruelty laws

A. Background

New Jersey's goal for enforcement of its animal cruelty laws is to devise and implement a system that is effective, comprehensive and cost-efficient, which ensures uniform and consistent application of the laws in an even-handed, vigorous manner. This system should take advantage of the strengths of the components in the system, and minimize or eliminate the weaknesses. It goes without saying that the effectiveness of animal cruelty law enforcement depends largely on the quality, dedication and capabilities of the individuals involved. The great majority of law enforcement personnel engaged in enforcing the anti-cruelty laws are committed to serving and protecting both animals and the public, as are the animal control officers, animal cruelty investigators and SPCA officers who devote substantial time and effort to protecting animals. However, the most noble intentions and heartfelt efforts of capable individuals dedicated to animal causes can be frustrated by an unwieldy system, and an enforcement scheme that lacks necessary clarity and appropriate oversight mechanisms may condone or actually induce indifferent efforts and incompetent performance. The bottom line is that even the best-conceived, most judicious laws to protect animals against cruelty are only as good as the system in place to enforce them.

In the realm of animal protection in New Jersey, antiquated laws must be enforced through an archaic, disjointed and often ineffective statutory scheme. As part of our charge, the Task Force spent considerable time examining the manner in which the animal anti-cruelty laws are enforced throughout the State, to develop recommendations to improve enforcement throughout the State. To fulfill this mandate, the Task Force sought and considered input from representatives of the various enforcement entities in New Jersey, as well as from numerous animal advocates both in this State and nationally. Task Force members heard presentations from and met with various persons and entities with relevant expertise, involvement or interest in animal issues, receiving practical and insightful input from members of law enforcement, including local police chiefs and officers, county and municipal prosecutors, and Sheriff's officers. Task Force members also met with New Jersey Society for the Prevention of Cruelty to Animals (SPCA) officials, and with animal control officers ("ACOs") and animal cruelty investigators (referred to in this Report as "ACIs," which are ACOs who have completed specialized law enforcement training) from around the State. Task Force members also attended seminars and conferences, and consulted with national experts to learn about current trends and best practices in animal cruelty law enforcement. In addition to information and insight gleaned from these various sources, the Task Force's deliberations were

informed by a Report of the State of New Jersey Commission of Investigation (“SCI”)²⁹ issued in December 2000 (hereafter, “SCI Report”), which offered a highly critical examination of the enforcement operations of the SPCA. The Task Force’s mission was in some respects greatly facilitated by the information provided in the SCI Report.

The image that emerged from our examination is one of uncoordinated overlapping jurisdiction, confusion on the part of the public and inconsistency in enforcement and dispositions. As discussed in detail below, the enforcement scheme in New Jersey features a variety of enforcement personnel, from the public and private sectors. There is substantial variation between and among the different municipalities and enforcement entities throughout this State. Unlike standard criminal law enforcement, animal protection involves not only the police and prosecutors, but is the domain of numerous other public and private officials who play a role in the enforcement scheme. These roles are often ill-defined, uncoordinated and subject to inconsistent implementation.

The Task Force heard criticism from the general public that police failed to respond at all to cruelty complaints. There was a perception expressed on the part of the public that, in the absence of a humane officer — either an ACI or SPCA enforcement officer — animal cruelty calls would go unanswered and complaints were not fully and properly investigated. The Task Force also received input from police officers suggesting that they are overburdened and lacking in training and equipment needed to safely and properly handle animal-related complaints, requiring additional funding beyond the level now provided. The end result of these shortcomings is inconsistency, unpredictability, uncertainty and, occasionally, inequity. The Task Force viewed its primary goal as devising an enforcement scheme in which there is competence, responsiveness, integration and effectiveness, with appropriate institutional controls to assure positive results and to promote accountability. The recommendations suggested later in this section are intended to lead to a system of enforcement that features clearly defined roles and assignment of responsibilities; promotes uniformity, consistency and reliability; enhances communication, coordination and accountability; and provides an appropriate role for “citizen enforcers.”

Plainly, enforcement of animal cruelty laws is systemically different from enforcement of other types of criminal laws. In New Jersey, criminal law enforcement is carried on generally by professional law enforcement personnel, employed by State, county or local government. These law enforcement professionals — police officers, Sheriffs and state troopers, among others — are subject to governmental supervision and control, utilize public resources in the performance of their jobs, are required to be qualified by training and experience, and must meet numerous standards of professional competence. These law enforcement professionals exercise generalized, but not necessarily exclusive, police powers in enforcing the criminal laws of this State. That is, there are certain areas in which other entities are afforded enforcement authority, in contexts such as child welfare,

²⁹ The SCI is a statutory commission established pursuant to N.J.S.A. 52:9M-1 et seq. charged with investigating “[t]he faithful execution and effective enforcement of the laws of the State..., the conduct public officers and public employees..., and the public peace, public safety and public justice.”

alcoholic beverage control or gambling. Animal protection is another such area; for example, the current statutory scheme vests arrest powers for violations of the animal cruelty laws in “[a]ny member, officer or agent of the New Jersey Society for the Prevention of Cruelty to Animals, or any Sheriff, undersheriff, constable, certified animal control officer who has been properly authorized pursuant to section 4 of P.L.1983, c. 525 (C.4:19-15.16b) or police officer[.]”³⁰ The law also provides that, except as to ACIs, when a local police officer makes an arrest for a violation of the animal cruelty law in a locality where the State or county SPCA exists, he or she must notify the State or county SPCA in that region, so that the SPCA may “take charge of the case and prosecute it under the provisions of this article.”³¹

The most salient aspect in which the animal protection enforcement scheme differs from enforcement in other areas is the presence of the SPCA, which in the eyes of the general public is perhaps the foremost animal protection entity. As a matter of long standing, the SPCA is often the first place the public thinks to turn when faced with an animal protection matter. The SPCA has been part of the animal cruelty law enforcement structure in New Jersey since shortly after the Civil War, when the Legislature passed a law constituting the New Jersey SPCA as a body politic and corporation “for the purpose of the enforcement of all laws which are now or may hereafter be enacted for the protection of dumb animals.”³² The law mandated that “the police in all places in this state where police organizations exist” must aid the SPCA in its statutory mission³³ (which reflects the extant circumstances in post-Civil War New Jersey with respect to law enforcement; that is, there were not necessarily police forces available throughout all regions of the State). It made eminent sense, at that time and given the extant circumstances, to statutorily allocate to private volunteers the primary authority to enforce criminal laws enacted for the protection of animals. Thus, the law vested SPCA members, officers or agents with various law enforcement powers, including the authority to conduct investigations, make arrests with or without a warrant, petition a court for the confiscation and forfeiture of any animal, and to carry firearms. Subsequently, in 1873, the Legislature authorized the formation of district (county) societies, to be organized under a certificate of authority issued by the president of the SPCA, with the same rights, powers and privileges of the State SPCA. As pointed out in the SCI Report, the statutory provisions setting forth SPCA authority are replete with inconsistencies and impracticalities, which is none too surprising considering that the law dates back to the 19th century. And, despite the development over time of a professional, highly structured criminal law enforcement system in this State, the SPCA’s animal cruelty law enforcement powers and functions have remained fairly constant. For a detailed review of the history and enforcement powers of the New Jersey SPCA, and a critique of its enabling laws, see pages 3-13 of the SCI Report.

³⁰ N.J.S.A. 4:22-44.

³¹ N.J.S.A. 4:22-45.

³² P.L. 1868, c.335, § 1, codified at N.J.S.A. 4:22-1.

³³ P.L. 1868, c.335, § 4, codified at N.J.S.A. 4:22-4.

A second aspect in which the animal cruelty law enforcement scheme differs from the enforcement applicable to “ordinary” criminal laws is with respect to the existence of another statutory enforcement position at the municipal level, that of animal control officer and animal cruelty investigator. In 1983, New Jersey law established the position of certified animal control officer, which are appointed public employees responsible for animal control within the jurisdiction of the appointing municipality, charged with enforcing the provision of law then captioned “destruction of dogs.”³⁴ The goal of the 1983 law, according to a legislative committee statement, was “to provide for more professional and highly trained people to enforce the laws concerning animal control.”³⁵ The law required each municipality to appoint a certified ACO within three years of the effective date of the act.

In 1997, the Legislature significantly expanded the statutory authority applicable to ACOs, empowering them to “[e]nforce all laws or ordinances enacted for the protection of animals, including animal control, animal welfare and animal cruelty laws of the State and ordinances of the municipality.”³⁶ That same law also provided ACOs with the authority to “[i]nvestigate and sign complaints concerning any violation of animal control, animal welfare or animal cruelty law and act “as an officer for the detection, apprehension and arrest” of such violators.³⁷ The new law gave the municipal governing body discretion over whether to authorize its ACO to exercise such law enforcement powers as an ACI (provided the officer has completed the statutorily required training).³⁸ The specifics of the animal cruelty law enforcement function of ACOs have been further refined through regulations adopted by the Department of Health and Senior Services, which state that “[o]nly Certified Animal Control Officers who have completed an Animal Cruelty Investigator course of study can be authorized by the municipal governing body to investigate and sign complaints, arrest violators and otherwise act as an officer for detection, apprehension and arrest of offenders against the animal cruelty laws of the State and ordinances of the municipality.”³⁹ The regulations further provide that “[a]n Animal Cruelty Investigator who has completed the training shall not have the authority to act unless authorized by the governing body which is employing the officer or contracting for the officer’s services.”⁴⁰ It should be noted that neither the law nor

³⁴ P.L. 1983, c.525 (codified at N.J.S.A. 4:19-15.16a through -15.16b).

³⁵ Senate Natural Resources and Agriculture Committee Statement, A. 3205 (1983).

³⁶ N.J.S.A. 4:19-15.16c(a).

³⁷ N.J.S.A. 4:19-15.16c(b) & (c).

³⁸ N.J.S.A. 4:19-15.16b.

³⁹ N.J.A.C. 8:23A-2.5(b).

⁴⁰ *Id.*

implementing regulations impose any requirement that ACIs be retained as government employees.

In practice, there is no consistency in the overall enforcement scheme, as the entities charged or utilized to enforce the animal cruelty law differ throughout the State. These disparities are due in part to the discretion accorded to municipalities with respect to appointing ACIs to enforce the animal cruelty law, the absence of local SPCA's in over half of the State's 21 counties,⁴¹ the uneven concentration of SPCA volunteers statewide, and the need for the State Police to provide "rural policing" in nearly 100 smaller, remote towns which do not maintain their own local full-time police forces. Thus, many municipalities rely primarily on State or local SPCA officers to enforce the cruelty laws in their jurisdictions. Still other municipalities hire or contract with ACIs, many of whom are private contractors, to investigate complaints and enforce the laws. Unfortunately, some municipalities simply hire the least expensive private contracting animal control officer to handle their statutory animal control obligations. Further, there is no legal prohibition that would prevent a private contractor from entering into arrangements with multiple municipalities, which monopolistic arrangement could result in inadequate coverage in particular areas and poor performance overall. And while some municipalities require or encourage their animal control officers to become certified as ACIs, most do not. Still other local governments rely on police or local law enforcement authorities to enforce the animal cruelty laws. In many municipalities, both ACIs and SPCA officers enforce the animal cruelty laws. In addition to the wide variance in enforcement entities, there is a great disparity between resources dedicated to animal protection, which is exacerbated by fiscal, demographic and other factors.

Consequently, local police, State Police, Sheriffs' officers, animal control officers, animal cruelty investigators and SPCA officers, members and agents are all authorized to perform some functions in the enforcement of the animal protection laws, often with confusing divisions of responsibility. Moreover, the prosecution of violators falls to both municipal and County Prosecutors (depending on whether a matter involves a disorderly persons offense or rises to the level of a crime of the fourth degree or higher), which may be tried in municipal or Superior Court respectively. The SPCA may also bring civil and criminal charges against violators. There needs to be an optimum level of communication or cooperation among prosecuting entities, or between prosecutors and law enforcement. Obviously, the quantity of entities authorized to enforce the animal cruelty laws does not necessarily equate to quality in enforcement. Any lack of coordination, competence and commitment in the utilization of these available enforcement resources will fail to accomplish the purposes of animal protection law, resulting in inconsistent enforcement, and lack of accountability for and true deterrence to those who would harm animals. The importance of proper coordination is particularly heightened as the State moves from an historical scheme in which the SPCA bore the primary enforcement responsibility to a system of mutual cooperation in which the role of traditional governmental law enforcement is emphasized.

⁴¹ Eleven of the 21 counties lack a local SPCA and, at the time this Report is being prepared, at least two additional counties face the potential loss of their office.

These observations concerning New Jersey's oft inconsistent, disjointed animal protection cruelty enforcement scheme provides only the starting point. The more critical issue is how it can be improved. In contemplating ways to improve the enforcement of animal cruelty law in New Jersey, it is useful to analyze the current system and understand the different components.

B. Analytical Considerations

Two critical areas invite careful analysis in any attempt to develop recommendations to improve enforcement of animal protection laws in New Jersey: (1) the future role of the SPCA in animal cruelty law enforcement; and (2) the coordination and integration of the various entities and officers involved in enforcing the cruelty laws. The overarching issue of the SPCA dominated the Task Force's deliberations on animal cruelty law enforcement. This is hardly surprising, given the SPCA's historical prominence and seminal role in animal cruelty law enforcement in New Jersey for more than a century.

Based on its investigation, the SCI recommended the immediate repeal of the statutes authorizing animal cruelty law enforcement by the SPCA, and requiring municipalities to place the enforcement this function with their animal cruelty officers. The SCI concluded that placing the enforcement function within the framework of government is the only way to ensure "adequate funding and resources, including manpower, to enforce the animal cruelty laws in a professional, uniform and responsive manner."⁴² The assumption underlying the SCI recommendation is that there will be adequate public resources available to properly enforce our animal cruelty laws.

The Task Force has been assured that numerous changes have taken place in the several years since the SCI issued its report on the operations of the SPCA, and in that time issues related to individuals and particular operational shortcomings may have been addressed. Nevertheless, as noted by the SCI, from an institutional perspective the SPCA is a private volunteer organization statutorily authorized to serve a public law enforcement function, an "errant group of self-appointed, self-directed and uncontrolled entities" free from the governmental controls and accountability to which law enforcement is generally subject.⁴³ In addition to disapproving as anachronistic the legislative scheme that delegates to private citizens responsibility to enforce the criminal law protecting animals, the SCI Report noted an absence of standards governing the composition, operation, training and activities of the State and county SPCAs, resulting in a lack of consistency and uniformity in the operations of these organizations. The SCI reasoned that law enforcement is a public function, and therefore that responsibility should not be placed with a group of self-selected private volunteers, no matter how devoted such individuals may be to animal welfare. This reasoning fueled the SCI's conclusion in 2001 that "the time has come to repeal the government authority vested in

⁴² SCI Report, *supra*, page 159.

⁴³ SCI Report, *supra*, page 1.

the SPCAs and place the function of enforcing the cruelty laws within the government's stratified hierarchy of law enforcement."⁴⁴

The current status of the SPCA as an animal cruelty law enforcement entity may be contrasted to corresponding developments in the enforcement structures in place for the protection of children. Similar to the SPCA in historical development, the law provided to members or agents of "[a] duly organized or incorporated humane society, having one of its objects the protection of children from cruelty," the authority, if commissioned by a mayor, to be commissioned to act as police officers to enforce the child cruelty laws in that city.⁴⁵ The law recognized the role of "private agencies and institutions for the care of children in this State,"⁴⁶ identifying a coordinating role for the Division of Youth and Family Services. Over time, the prominent enforcement role of the child cruelty societies was phased out, functionally supplanted by a State agency (which is now the Division of Youth and Family Services) whose requisite powers include enforcement of laws for the protection of children. This precedent suggests that the SPCA's humane officers are an anachronism, perhaps no longer a necessary component in an effective enforcement scheme. The enforcement functions previously performed by the SPCA could be picked up by local police, or — as in the analogous context of child protection — by a State agency dedicated to animal welfare, or by other public officers such as governmentally-employed ACIs, as recommended in the SCI Report. The Task Force discussed the concept of a State agency with statewide jurisdiction over and responsibility for animal protection, but at this point such a proposal appears impractical and politically infeasible. Substantial expense would be required to establish and staff a new department or agency at the State level, rendering any such proposal not viable at this time; however, the concept merits further review when economic conditions are more favorable.

The role of the police may be supplemented or even supplanted by specialized humane officers, who play a role in animal control and may be authorized to investigate and enforce the criminal animal protection laws. Numerous other jurisdictions have achieved strong results utilizing established specialized enforcement structures which feature governmental officers specifically dedicated to animal protection matters or private entities that enforce or assist in the enforcement of animal cruelty laws. The SCI has endorsed an enforcement structure consistent with this approach, recommending that municipalities be mandated to place the enforcement function with their animal control officers (who are frequently private contractors), notwithstanding (or perhaps because of) its sharp criticisms of private humane officers appointed by the SPCA. Yet, other jurisdictions have achieved strong results by adopting an inclusive approach, which utilizes all of the currently existing enforcement resources, including some form of humane officer in conjunction with local authorities, to enforce their animal cruelty laws.

⁴⁴ *Ibid.*

⁴⁵ See P.L.1915, c.246, § 7 (codified at N.J.S.A. 9:10-8).

⁴⁶ N.J.S.A. 30:4C-4.

For example, Michigan utilizes private humane officers who serve regions in and around Detroit. The humane officers are employed by the Michigan Humane Society (MHS), and neither exercise police powers nor are subject to governmental oversight. The humane officers handle multiple cases on matters that they initiate or which are referred to them by the police. The humane officers work cooperatively with the police in many instances, lacking adequate staff to handle all cases independently. Outside the Detroit area, the local police and animal control officers exclusively handle the cases. The MHS has also established a task force in conjunction with the Detroit Sheriff's Office to address dog fighting. According to the MHS, the organization has received strong community support, including the support of local officials, law enforcement officers and the media, for their efforts.

The Houston SPCA assigns its humane officers to handle cases in approximately eight Texas counties. The SPCA officers have statewide jurisdiction and are not subject to government oversight, but cannot arrest offenders and lack the authority to conduct interrogations. As such, they must work with law enforcement officers and district attorneys whenever necessary. This system has been in place for approximately five years, and the SPCA officials report that they have developed a strong working relationship with law enforcement over that time. The SPCA officers train with the district attorneys and other law enforcement officers to learn the law and the enforcement process. The SPCA officers, in turn, provide animal welfare and protection training to law enforcement officers at the police academy and advise on specific cases. Law enforcement officers and other agencies solicit the SPCA's assistance on specific cases, and the SPCA reports a high level of cooperation between SPCA officers and law enforcement. In geographic areas outside the SPCA officers' regular territory, they reach out to the local officers and provide guidance when necessary. The Houston SPCA has worked with police officers on large-scale cases such as dog fighting rings, and has called in the police after investigating and compiling evidence in particularly serious cases.

The State of Oregon utilizes another variation of the humane officer model, in which the Governor appoints special humane law enforcement agents pursuant to a general statute, which authorizes the appointment of special agents for a variety of criminal law enforcement purposes. The Governor has applied this statutory authority to empower Oregon Humane Society ("OHS") officers to enforce state animal welfare laws, appointing individuals to four-year terms as special humane law enforcement agents. Although the Governor may rescind the appointments at any time, the appointed agents remain affiliated with and paid by the OHS, which receives no government funding or reimbursement. The OHS is a private animal welfare organization, and its humane officers are employees of OHS, not volunteers, and the OHS carries its own liability insurance covering the acts of its employees. Except for restitution ordered to reimburse the OHS for cost of care, all fines and monetary proceeds from OHS enforcement are directed to the State or county.

In the Oregon model, the special humane law enforcement agents provide an essential resource that supports and supplements the police. With respect to matters involving animals, these special agents have the same enforcement powers as "regular" law

enforcement officers. Based on a policy decision by the OHS, its agents do not carry firearms. OHS special agents are not dispatched by another law enforcement agency, but respond to calls or complaints independently. If OHS receives a complaint in the first instance, it will contact the local law enforcement agency with jurisdiction in the area where the complaint originates, to ascertain whether that office will handle the matter. If the local law enforcement defers, an OHS agent will handle the case. However, when OHS receives a complaint from a citizen in the metropolitan Portland area (the officers are located primarily in the Portland area), its officers will respond without contacting other local authorities unless they have specific information that another agency may already be aware of or is handling the matter. If an OHS officer responds and finds that another agency has already responded, he will contact that agency before taking further action. The OHS agents have been able to handle animal-related matters beyond the expertise or resources of the local police. If a complaint involves a matter outside the OHS agents' geographic area the OHS agent will direct the complainant to contact the local law enforcement office or, if the matter appears to be serious, the OHS agent will call the local office directly and offer to help or to handle the case. Police are reportedly receptive to this system. In practice, the special agents handle only certain cases, both due to the limited number of appointments and also in order to avoid fostering a situation in which regular police and enforcement officers virtually cede responsibility for all animal protection matters. Law enforcement officers do, however, regularly utilize the OHS agents as resources in animal welfare and protection cases, seeking the assistance of the OHS agents when they lack sufficient expertise in an area or require assistance in handling the animals. In addition, OHS agents also provide education, encouragement and information to "regular" law enforcement officers to enhance their understanding, willingness and comfort level in addressing animal crimes.

A different variation utilizing humane officers in an integrated scheme is in place in Richmond, Virginia, where the prosecutor has assigned an assistant prosecutor to handle all cruelty cases and also oversee a team of animal control officers. Some of the officers have police powers, while others do not. Those with police powers may carry weapons, but are required to call upon police to effectuate arrests. The goal of the program is to educate police so that they can start to handle these cases on their own. According to the assigned prosecutor, this system works effectively due to the unified "team" approach and ongoing prosecutorial supervision.

It is certainly a legitimate question of whether the enforcement function should be allocated solely to government rather than shared with private entities. The advantages of placing law enforcement responsibilities exclusively in the hands of governmental law enforcement personnel are obvious: the laws would be enforced more consistently and even-handedly by professional law enforcement personnel with the training and experience to perform the necessary enforcement functions. These professionals are also accountable, subject to internal oversight, discipline and coordination. There are, however, disadvantages: in practical application, other types of crimes may take priority over animal protection matters, as there may be an emphasis on more "serious" crimes committed against people, and governmental resources allocated for law enforcement purposes may in fact be limited. This is particularly so at the current point in time, when

police may be called upon frequently to provide domestic security-related protection in terror alerts and public events. Moreover, animal-related offenses may often implicate facts and considerations that are outside the ordinary scope of “regular” police work, as the nature of these matters can be substantially different from other, more routinely handled criminal matters, often requiring “animal skills” rather than the “people skills” that police officers develop with experience.

In contrast, the advantage of an enforcement scheme which incorporates a role for private entities is that such individuals are generally dedicated to the cause of animal protection, and it provides additional manpower and resources above and beyond those which would otherwise be available, particularly in these times of unprecedented demand on local law enforcement resources. Private sources, rather than the taxpayers, could help bear the fiscal burden of vigorous enforcement. Also, private entities dedicated to the cause of animal protection do develop an expertise in matters of this type, learning how to deal with animal victims, how to better identify instances of abuse, leading to better investigations and more successful prosecutions. The disadvantages of including private volunteers are equally apparent: the potential for “wannabe cops,” armed, dangerous and irresponsible, who lack the training, expertise, temperament or accountability to be vested with authority to enforce the law. Further, the existence of private enforcement could confuse jurisdictional responsibilities, or facilitate the willingness of law enforcement professionals to eschew their obligations to respond to animal cruelty calls or enforce the law against violators.

Conceptually, there should be nothing objectionable or unattainable about maintaining a system in which police are required to vigorously enforce *all* the criminal laws, rather than just selected prioritized crimes, abdicating or deferring to private specialists in animal cruelty complaints. As is evident from its statutory authorization, the SPCA’s primacy in enforcement derived from a time when police coverage was lacking in certain parts of the State. Today, there are 532 local police departments, and the Division of State Police provides coverage in the rural areas and towns that do not maintain a full-time police force. Thus, professional law enforcement is available to enforce the animal cruelty laws throughout the State, if the system so mandates. The Task Force recognizes, however, that in practice there are extraordinary demands to which police forces are now subject, with an emphasis on domestic security preparation and incident response, as well as heightened interest in issues involving domestic violence and sex offenders. As a result, police resources may be stretched thin, and choices must be made in how to best direct these limited resources and manpower in enforcing the laws to best protect the public. The issue may be distilled to a question of whether it is more desirable to compel the additional expenditure of police resources to handle exclusively animal cruelty matters, or to utilize other available resources — namely, animal control officers and humane officers — to combine with police in an integrated, multi-faceted system of enforcement.

The Task Force, after careful consideration of the findings and recommendations of the SCI Report, recommends retention of the SPCA’s humane officers in the enforcement structure, but subject to State oversight and certification and with certain limitations on

their prior authority to affect arrests and carry firearms. That is, rather than eliminate the SPCA as an animal cruelty law enforcement mechanism, the Task Force offers recommendations to provide appropriate uniformity, standards, training, oversight and accountability for the SPCA, utilizing the resources and manpower available to promote animal welfare, while appropriately limiting the authority accorded to such private, volunteer entities engaged in law enforcement activities (such as the authority to carry and use firearms and arrest powers). For this scheme to be successful, however, it is crucial to provide coordination between the law enforcement entities charged with enforcing anti-cruelty law as part of their standard law enforcement function, and to promulgate standards and implement and maintain effective oversight and integration mechanisms to ensure that all humane officers performing animal welfare activities are best serving the public interest.

Concern has been expressed that the presence of other agencies or officials to handle animal cruelty calls would encourage police to refer such matters elsewhere or treat them as trivial, ultimately failing to develop an expertise in handling such complaints. This would be an unacceptable result. Although it is apparent that police may sometimes face practical challenges based on limited resources and expediencies, they are charged with enforcing all criminal laws and responding to all calls as may be warranted. In jurisdictions outside New Jersey where both police and humane officers are tasked with cruelty law enforcement, a divestment of authority has not proven to be the case, however. There is a sharing of responsibilities, with humane officers handling calls and complaints they receive from the public, unless safety risks or other factors warrant referral to the police. Concomitantly, police are responsible for directly handling calls and complaints they receive from the public, but they are permitted to refer certain matters requiring particular animal knowledge and expertise to humane officers (for example, where an expert's evaluation is needed to ascertain whether an animal has been neglected or subjected to abuse, or where an ongoing investigation may be called for in the absence of an expediency to respond). There is no reason that this should not be the case in New Jersey as well, but it is nonetheless appropriate to institute a monitoring mechanism to track animal cruelty calls, complaints and dispositions and provide coordination as necessary.

Based on discussions with various officials and our assessment of the agencies involved, the Task Force has concluded that the Sheriff's Offices in each county could best serve this coordination function. Thus, the Task Force envisions an enforcement system in which municipal and county law enforcement officers are responsible for handling those animal cruelty complaints they receive directly from the public. The Task Force recognizes the need to incorporate better coordination and information sharing to enable these officers to better deal with animal matters. Accordingly, the system we propose would also incorporate "competency resources," persons with expertise in handling animals and cruelty-related matters who would be available to provide guidance to officers responding to cruelty complaints. An example commonly used to illustrate this concept involved a police officer who encounters a dog chained under a porch on a cold night. The officer might not know what is appropriate, in terms of housing and temperature. In that event, the officer could call upon on a competency resource, such as

an SPCA enforcement officer, a trained specialist in the Sheriff's Office or local police department, or an ACI, to provide guidance, based on the facts of the case. As police officers and experts work together in this fashion, close relationships will develop which will promote better-informed and capable handling of such cases. This particular proposal has been suggested and endorsed by the Sheriffs' Association of New Jersey. Indeed, the Morris County Sheriff independently determined to implement an oversight mechanism in that county which is similar to the proposal recommended by the Task Force.

C. Recommendations for Reform

After lengthy debate and discussion, the Task Force arrived at the consensus recommendation to utilize those enforcement resources already in existence and to establish additional layers of scrutiny, oversight and accountability to promote greater effectiveness. In debating whether to recommend eliminating the enforcement authority of SPCA humane officers, thereby making cruelty law enforcement solely a governmental task, the Task Force was guided by the observation: "There's plenty of cruelty to go around." This sad but true observation led the Task Force toward endorsing an inclusive system that brings to bear all available public and private enforcement resources which, to be successful, will entail a high degree of coordination and cooperation between various State, county and local governmental and private entities. The essence of this recommendation is a commonsense recognition that, although there may be logistical problems that will have to be dealt with, a system in which there are more personnel than may be needed to handle cruelty complaints is preferable to a system in which there are more cruelty complaints than there are personnel that can handle them. Thus, we believe that, in order to most effectively enforce the animal cruelty laws in New Jersey, there are vital and necessary roles for police, Sheriffs, ACIs and SPCA enforcement officers.

These recommendations also seek to address some of the specific problems noted in the SCI Report, as well as other problems and issues that were identified by law enforcement, SPCA officers, ACIs and other interested groups or individuals. The recommendations that follow are intended to specifically address and offer solutions for identified problems that fall within the scope of the Task Force's mandate, taking into account practical considerations such as limitations on resources and manpower. The Task Force believes that these recommendations, if properly implemented, will strengthen enforcement on the State and local level of the laws protecting animals from abuse and neglect.

1. Systemic Changes

The general enforcement structure recommended by the Task Force initiates a new coordination and tracking role for the County Sheriff's Offices, emphasizes the enforcement role of municipal police, incorporates the animal control expertise of certified animal cruelty officers and animal cruelty investigators, and utilizes the specialized expertise of SPCA enforcement officers who would be required to be trained and duly certified to act in an enforcement capacity. This system may be implemented through a combination of statutory, administrative and procedural changes, but to be

viable and effective will require the coordinated efforts of State, county and local entities as well as the willingness of individuals committed to work together. Each enforcement entity has the authority to act independently in investigating cruelty matters, and has the obligation to respond (or make an appropriate referral) when it receives a call from the public. The authority and roles of each entity, and the critical inter-relationships, are described below.

- **State, county and local police**
 - **Emphasize the role and functions of police in responding to and investigating animal complaints**

Municipal police officers, Sheriff's officers and State Police officers are responsible for enforcing all applicable animal cruelty laws and ordinances, and responding to complaints they receive concerning animal cruelty. Consultation with animal specialists such as an SPCA humane officer or an ACI or a certified livestock inspector, where appropriate, is entirely appropriate, and in some cases encouraged, as such communication is likely to improve handling of animal matters, combining the knowledge of the animal expert with the skills of the law enforcement professional. The availability of such animal specialists should not, however, provide impetus for the police to pass on the complaint or "dispatch" an SPCA officer to respond. There may be matters in which a humane officer is well suited to assist with a reported incident, for example a neglect complaint which requires an expert evaluation of an animal's condition and monitoring over time, but it cannot be overstated that the police are the State's primary instrumentality to enforce *all* criminal laws and should conduct themselves accordingly. In no event should a police department delegate an animal cruelty complaint to the SPCA, beyond asking for advice or assistance, in which case the governmental entity would remain responsible for the handling and disposition of the matter.

The expanding role of police is critical to the success of this proposal, as New Jersey would transition from an SPCA-based enforcement system (in areas where those organizations operate) to a more inclusive, cooperative scheme. The role of the police will go beyond the responsibility to respond to animal cruelty calls and complaints they receive directly from the public or which arise as a result of their observations. That is, police will also now be called upon to effect arrests in animal matters being investigated by SPCA enforcement officers and ACIs, and to respond to calls from such officers to provide assistance in situations where circumstances warrant (particularly considering that the Task Force is recommending that humane officers not be authorized to carry firearms). Enforcement of the criminal law is, as the SCI concluded, a governmental function, and police officers are empowered to carry and use firearms and make arrests. The police have received the requisite training in law enforcement procedures and the substantive law, been trained and qualified to use firearms, and are empowered to investigate criminal complaints, conduct lawful searches, and seize evidence. They have the background, training, experience and temperament to serve the public in this critical role. Delegating this function (use of firearms) to police exclusively will help reduce the

potential for undesirable confrontations in attempts to enforce the cruelty law while still permitting the participation of humane officers in the investigation and disposition of such offenses.

Additionally, as described below, police officers should coordinate with their counterparts in the County Sheriff's Office when animal cruelty calls come in, forwarding information on calls or complaints on any animal cruelty charge, as well as providing copies of relevant incident reports, complaints or other follow up reports as they become available. This function is explained in detail below.

- **Sheriffs' Offices**
 - **Utilize the county Sheriff's Offices to provide systemic coordination and tracking:**

Sheriff's officers have countywide jurisdiction over violations of all State criminal laws, including animal cruelty offenses, and like the municipal police have the responsibility to act as first responder when they receive an animal cruelty call. The Task Force recommends that, in addition to their traditional law enforcement role in the county, Sheriff's Offices serve an additional function with respect to information tracking and coordinating of animal cruelty complaints originating in their respective counties.

One of the frequent complaints concerning animal cruelty law enforcement is the lack of consistency and coordination. Often, enforcement agencies operate in isolation, in situations calling for cooperation and information-sharing. This stems in part from the fact that many of these laws are enforced on the municipal level — through local police or ACIs — or by SPCA officers who are not subject to governmental supervision or oversight. As a statement of fact rather than criticism, local officials tend to deal with problems on a local level. The Task Force was also made aware of a general perception on the part of the public that law enforcement entities, when they receive an animal cruelty call or complaint, do not seem to respond or inappropriately delay in responding, or direct the caller elsewhere. The solution to this problem is to devise a means to provide oversight and accountability for information sharing and coordination.

In examining possible approaches to accomplish this result, the Task Force took note of the strategic position of the Sheriff's Offices, each with countywide jurisdiction and law enforcement responsibilities, which suggested the possibility that these entities could serve in a regional "point office" capacity and act as administrators in tracking and reviewing animal cruelty incidents. This dual role would require Sheriff's Offices to develop particular expertise in animal care and in the animal cruelty laws, to assist local enforcement efforts of the local police, ACIs and SPCA enforcement officers. Accordingly, the Task Force recommends that each County Sheriff's Office have at least one officer who receives additional, advanced training as an animal cruelty expert. It is contemplated that this function may be subsumed within the K-9 units of many Sheriff's Offices. This person would serve as a resource for all local law enforcement officers in the county, as needed. This function will be especially useful in areas where there are no

SPCA officers or relatively few animal control officers, and in areas that have no local police department.

The Sheriff's Offices would also perform an information gathering function with respect to animal cruelty calls and complaints, enabling better coordination of enforcement through this reporting information-sharing process. To be successful, this process will require the commitment and cooperation of not only the county Sheriffs, but also from local police chiefs, animal control personnel, SPCA officials, County Prosecutors and the courts. The Task Force believes that this kind of additional review will be especially useful as reforms are enacted and implemented to enhance reporting and prosecution of animal-related offenses. The Sheriffs' Association of New Jersey has consented to serve in this capacity, and indeed expresses support for this proposal.

Accordingly, the Task Force recommends that local police, ACIs, SPCA enforcement officers and the State Police in rural policing areas regularly report in a timely manner to the Sheriff's Office with jurisdiction in that county on all calls and complaints received on any animal cruelty charge, and provide copies of relevant incident reports, complaints or other follow up reports as they become available. The Sheriffs have volunteered their services to compile and analyze the information. This reporting and information-sharing procedure will enable the designated officer trained in animal cruelty within the Sheriff's Office to become cognizant of any local issues, regional concerns and recurring problems that may arise, and will help them identify gaps, if any, in local and regional coverage. By acting in this administrative role, this will allow the Sheriffs to maintain a comprehensive overview of cases in the region and their dispositions, which will help facilitate a review of the new enforcement system and allow for adequate redress of any problems within the county. This will also enhance the governmental oversight of SPCA and general animal cruelty law enforcement efforts. Additionally, the reporting system will enable the identification of matters that are being handled by more than one law enforcement entity, or matters that are being left unattended to. This new layer of expertise within the Sheriff's Office will in no way divest the local police, prosecutors or humane officers of authority. Rather, this new function for the Sheriff's Offices will serve to establish a system that will allow for review and follow-up as needed and, accordingly, will provide for better and more consistent enforcement of the animal cruelty laws.

The public will also benefit from this information-sharing process. A significant advantage of an inclusive, integrated system is that people with complaints can call virtually any animal law enforcement agency — the SPCA, local police, animal control officer, County Sheriff — to report an animal cruelty matter, and the agency would be obligated to provide an appropriate enforcement response. Currently, there is a public perception that they should call the SPCA on any animal-related matter, even though the State and county SPCA may not provide coverage in a given area, nor have sufficient staffing to respond to all calls because it may not have full-time officers employed or available. This feeds a further perception that animal complaints are being "passed off" from one agency to another, with no entity taking responsibility for handling the matter. An inclusive approach may help resolve such issues for the public.

Thus, the absence of a single entity, which in the public mind represents the “face” of animal cruelty law enforcement, is more than compensated by a comprehensive structure, ensuring that coverage is available on the municipal, county and statewide levels. A complainant could make status inquiries either to the agency called or to the Sheriff’s Office, which in its coordinating role would have access to such information. Members of the public would also be able to contact the Sheriff’s Office to get case updates or pass along relevant information, even to voice dissatisfaction with a perceived lack of responsiveness at the local level. This type of coordinated reporting structure may provide a remedy to public communications problem encountered in the current system, where complainants often do not know who to call or how to determine if action has been taken.

Data should continue to be reported to the County Prosecutor, in accord with current practice. Additionally, however, it is recommended that each Sheriff’s Office compile the reports on animal cruelty filed by police and enforcement officers monthly, and share this information with the Attorney General’s Office and the County Prosecutor’s Office. These reports could then be analyzed statistically to identify trends and ascertain whether the cruelty laws are being adequately and consistently enforced. This will facilitate the State’s review and if necessary can be referred to an appropriate officer or agency, as appropriate, for follow-up. This will help increase consistency in the enforcement of the cruelty laws throughout the State.

Finally, it should be noted that the Task Force envisions the possibility that, in the future, when animal cruelty laws are enforced and prosecuted as effectively as other types of offenses, this additional layer of enforcement may no longer be necessary and consequently could be eliminated.

- **Animal Cruelty Investigators**
 - **Retain ACI statutory enforcement authority and encourage municipal appointment of such officers:**

Certified ACIs are trained and statutorily authorized to enforce all applicable animal cruelty laws and ordinances in their appointing municipality. The Task Force recommends that they retain this authority and, ideally, each municipality would appoint at least one ACI. In devising this recommendation, the Task Force recognizes the importance of the essential role ACIs currently play in enforcing the animal cruelty laws. As the public official most likely to be called to an animal nuisance or abandonment situation, an ACI is uniquely situated as a frequent first responder in what may very well turn out to be an animal abuse or neglect offense. The early intervention of an ACI and the initial investigation and detection such officers can provide may help avoid exacerbation in matters that, if left undetected, could escalate or aggregate into far more serious abuse cases. Because of their animal control experience and general expertise in dealing with animals, these officers may also be called in to consult with the police on calls the police receive in the first instance, to provide assistance when needed to care for

abused or neglected animals that often require veterinary treatment. Thus, ACIs can provide effective enforcement services of animal cruelty laws at the local level. Accordingly, the Task Force recommends that all ACOs continue to pursue the training requirements to become qualified as ACIs, which would enable them to better fulfill this critical early intervention role.

The training which must be successfully completed in order to exercise enforcement authority, discussed below, must be sufficient to enable these officials to carry out this obligation safely and professionally, to better serve the municipality which employs them. Consistent with our recommendation concerning SPCA officers, the Task Force recommends against authorizing ACIs to carry and use firearms or make arrests without police participation.⁴⁷ As discussed below, however, it is appropriate to vest ACIs (and other duly-qualified humane officers) with the statutory authority to use non-lethal animal control devices, provided they receive proper training and qualification in the use of such devices.

The Task Force further recommends strongly that municipalities retain public employees to provide animal control services, rather than contract with private contractors, which will help avoid the current detrimental situation, where private contractors can underbid the contract and end up providing a lower level of service than is needed. When the animal population in an area exceeds the resources available for animal control services, not only do the animals fail to receive the proper care or treatment, the community is forced to endure inadequate, unresponsive performance of a necessary governmental function provided for public safety. Accordingly, the Task Force recommends that all ACIs be employees of the municipality for which they provide services and that they serve within the local police departments where possible.

Additionally, the Task Force recommends that the law should be amended to require each municipality to maintain animal control services 24 hours a day, seven days a week (considering that incidents involving animal abuse or cruelty may occur at any time of day or on weekends). This requirement may compel municipalities to hire additional officers, or join with other municipalities in an inter-local services agreement to share officers to ensure full coverage. It would also be beneficial for the State to develop a formula to provide guidance to local governments concerning the level of animal control services needed, based on a formula which takes into account animal population density, cost of care, geographical considerations and other relevant factors, to ensure the adequacy of animal control service delivery in a given area and to ensure that ACOs are not overextended or overburdened. This will help enable all municipalities to provide humane care for the animals within their borders. Finally, we recommend that procedures be adopted to have ACIs notify the police departments in the municipality in which they are employed, or the Sheriff where there is no police department, upon receipt

⁴⁷ This does not mean that ACOs or ACIs would be precluded from becoming Special Law Enforcement Officers, in which case they would have all the authority so vested in such an officer.

of a call or complaint concerning any violation of an animal cruelty statute or ordinance or upon observing possible violations of the law. Similarly, to help facilitate the Sheriff's county level information compilation and coordination role proposed in these recommendations, ACIs should notify the municipal police department or Sheriff of the disposition of all such matters.

- **SPCA Enforcement Officers⁴⁸**
 - **Retain the SPCA in an enforcement role but provide appropriate controls and governmental oversight:**

The enforcement role envisioned for SPCA officers is that they would be authorized to initiate investigations and respond to calls from the public regarding animal cruelty matters (so long as they report to the county Sheriff's Office as required), but that they would no longer be authorized to affect arrests and carry firearms. These officers would be authorized to conduct investigations and sign complaints concerning any violation of a State animal cruelty law or municipal ordinance, with statewide jurisdiction. The limitations on the authority of SPCA officers will require them to work in conjunction with State or municipal police or with Sheriff's officers, especially in situations calling for arrest or involving confrontation. Although SPCA enforcement officers would lack independent power of arrest (except for that which is accorded to a private citizen), they would be authorized to direct that an arrest be effectuated under police authority for a violation of animal protection law. Where sufficient cause for arrest exists, as determined by an SPCA officer, the SPCA officer would call in a law enforcement officer who would exercise his or her authority to make an arrest. Additionally, SPCA enforcement officers would be available to provide assistance to municipal police departments, county Sheriff's offices and municipal and County Prosecutors' offices when so requested, and may also serve as experts and advisors in prosecution of animal cruelty cases.

A major problem with the SPCA is that there is no authoritative, mandatory mechanism to ensure that its officers receive sufficient training, guidance, supervision and screening that makes such officers capable of impartially exercising the judgment and authority necessary to properly enforce the cruelty law. As the SCI observed, "[i]n 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."⁴⁹ The Task Force, like the SCI, views as anathema the exercise of unbridled discretion by

⁴⁸ The Task Force notes that, while the SCI investigated the organization's personnel and administration, this Task Force examined overall structural solutions that would enhance the enforcement of animal cruelty in the State. The Task Force did not investigate or review the current personnel or administration of the SPCA and cannot comment on this. Therefore, nothing in these recommendations is intended to be an evaluation or endorsement of the organization.

⁴⁹ SCI Report, *supra*, page 2.

some SPCA officers, but after careful consideration recommends that, rather than eliminating the SPCA entirely from the enforcement scheme, appropriate qualifications and requirements be established to ensure a level of professionalism and competence for SPCA enforcement officers, which measures would include State certification, formal law enforcement training, and governmental oversight and discipline.

Thus, the Task Force recommends that procedures be put in place to require the SPCA to provide access to all records and file copies of all animal cruelty reports to the coordinating Sheriff's Office in the county where the incident occurred (which requirement, as explained herein, would apply to all other enforcement entities in the scheme the Task Force is recommending). The chief enforcement officer of the SPCA or his or her designee would act as a liaison between the SPCA and the Attorney General's Office. The chief enforcement officer would maintain records concerning enforcement officers' work and provide monthly reports to the Attorney General (which may be considered with respect to the State certification and renewal process described below).

A requisite element for SPCA officers to perform in an enforcement capacity would be State certification, which would require the applicant to demonstrate that he or she has met appropriate minimum qualifications in areas such as training (the Task Force would recommend that the applicant complete a training course that provided that same curriculum that is required for certification as an ACI), education (at least a high school degree and proficiency in reading and writing the English language), relevant experience, good health (a medical examination which shows that the individual is in sufficient good health to perform the duties of the position), good moral character and other criteria deemed relevant to the performance of such enforcement duties. Consideration should be given to appropriate development of provisions to "grandfather" experienced officers with respect to training or education requirements. Certification would be contingent upon a State and federal criminal background check, with suggested disqualification where there is criminal or civil liability for animal abuse or neglect or a criminal conviction for any offense involving dishonesty or moral turpitude. The certification would be subject to periodic review and renewal by the Attorney General, subject to suspension or revocation for cause. The certification would only qualify an individual for enforcement duties; the SPCA would not be obligated to hire or appoint all applicants who are certified, nor would the Attorney General's authority to revoke or suspend the certification of an enforcement officer (and the failure to exercise such authority) preclude the SPCA from removing any officer for good cause.⁵⁰

All SPCA enforcement officers would be required to receive training in animal care and treatment, the substantive law, and police procedures so that they are sufficiently knowledgeable in areas such as search and seizure to enforce the law without violating the rights of defendants and suspects. Consistency in training is essential in providing adequate enforcement throughout the State and, therefore, the Task Force recommends that SPCA officers be required to receive the same or equivalent training as is required for ACIs (discussed *infra* in Subsection B.).

⁵⁰ There would also need to be authority for the Attorney General to impose a reasonable fee to cover the administration of the certification process.

In considering complaints received by the Task Force as well as the incidents detailed in the SCI Report, it is clear that some of the powers currently bestowed upon SPCA officers, such as the power of arrest and the authority to carry firearms, carry the potential for abuse and misapplication. Misuse of such powers could place the safety of the public and the enforcement officers themselves at risk, with little resultant benefit to the public. As a general rule, these formidable enforcement powers should be the sole province police and Sheriff's officers. Even with the provision of formal training and certification requirements, these types of powers are truly governmental in nature and are not necessarily appropriate to be wielded by private individuals, particularly considering the relative availability of law enforcement professionals throughout the State who may be summoned when the exercise of these powers is warranted. In animal cruelty cases being handled by SPCA enforcement officers, when the need for an arrest or confrontation arises, egregious problems could be reduced or avoided with the requirement that all such arrests be effected by a police officer, summoned by the SPCA enforcement officer. The Task Force's recommendation of retaining an enforcement role for SPCA humane officers is contingent upon the statutory revocation of the SPCA's powers of arrest and the authority to carry and use deadly weapons. This recommendation implicitly recognizes the critical importance of developing a symbiotic, cooperative relationship between the SPCA's humane officers — with their particular expertise in handling animals and in addressing animal-related incidents — and professional law enforcement officers — trained in police procedures and application of the substantive law and qualified in the use of firearms — as has been accomplished in some of the enforcement models cited earlier in this section.

- **Training and authority for humane officers to use non-lethal animal control devices**

Police officers may be called upon and are duly qualified to use firearms in the course of their duties. Conversely, it is generally neither necessary nor warranted for humane officers such as ACOs, ACIs and SPCA enforcement officers, who are not police officers but are charged with and perform duties related to animal cruelty investigation and protection of animals, to use or carry firearms in the course of their duties. However, the ability of these individuals to effectively perform their jobs and protect the public safety would be enhanced if they were able to qualify for and use in the performance of their duties certain non-lethal devices designed or suitable for animal control purposes.

The Task Force therefore recommends that the Police Training Commission be directed to develop an expanded course to train individuals empowered to enforce the animal cruelty laws (such as ACOs, ACIs and SPCA officers) in the use of non-lethal animal control devices, including: (1) any device that projects, releases or emits any substance specified as being non-injurious to animals by the Director of the Division of Animal Health in the Department of Agriculture, and which may immobilize animals and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the purpose of repelling animal attacks or for the aversive conditioning of animals; and (2) hand-held pistol-like devices, rifles or shotguns that

launch pyrotechnic missiles for the sole purpose of frightening, hazing or aversive conditioning of nuisance or depredating animals, chemically immobilizing animals.

In order to carry an animal control device, such individuals would be required to take and successfully complete the animal control device training course administered by the PTC, and annually qualify in the use of such devices prior to being permitted to carry an animal control device. One additional provision would be that an individual's employer make appropriate arrangements to provide liability coverage related to the use of such devices as may be necessary to protect the public.

To provide the necessary statutory authority, N.J.S.A. 2C:39-6 would need to be amended to establish a new statutory exemption to the firearm law applicable to enable animal cruelty law enforcement personnel not otherwise permitted to carry firearms in the performance of their duties to authorize them to possess, transport or use, while in the actual performance of duties, devices that projects, releases or emits any substance specified as being non-injurious to animals by the Director of the Division of Animal Health in the Department of Agriculture, and which may immobilize animals and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the purpose of repelling animal attacks or for the aversive conditioning of animals, and hand held pistol-like devices, rifles or shotguns that launch pyrotechnic missiles for the sole purpose of frightening, hazing or aversive conditioning of nuisance or depredating animals, chemically immobilizing animals. Misuse of such devices would subject ACOs and ACIs to discipline and removal, and would subject SPCA enforcement officers to de-certification.

- **Allocate fines for animal cruelty violations to promote better enforcement**

Under current law, N.J.S.A. 4:22-55 provides that all fines ordered to be paid by defendants for violations of the animal cruelty laws are to be paid to the county SPCA (or the State SPCA if there is no society in existence in that county) and, if an enforcement action is brought primarily as the result of the discovery and investigation of an ACI, then half goes to the municipality in which the violation occurred and half to the New Jersey SPCA, even if the SPCA was not involved in the matter. Current law requires that monies that go to municipalities and the SPCA shall be allocated to defray the cost of the enforcement of animal control, welfare or cruelty enforcement. The Task Force recommends amending the law to provide funding to the entity or entities that were actually involved in the investigation and prosecution of animal cruelty cases. This will encourage and provide for investigations and prosecutions. A proportionate share of the proceeds should go to the Sheriff's Office in the county in which the complaint is filed to fund its tracking and oversight function. The law should specify that all fines be used for animal welfare, control or cruelty enforcement and usages be reported annually (no later than two months after the close of the fiscal year) to the Attorney General's Office. The current law provides that fines remitted to the SPCA are to be used by the society in aid of the benevolent objects for which it was incorporated; consideration should also be given to amending the law to provide a portion of that funding collected by the SPCA in

enforcement matters in which its officers are primarily involved to defray the cost of enforcement officer certification. Additionally, the Task Force recommends consideration of legislation that would add a surcharge to fines imposed against animal abusers, to be used for purposes and programs that promote animal welfare.

- **Implement a public relations program to educate the public about revisions to the animal cruelty laws and enforcement scheme**

The Task Force recommends, at the initiation of the new enforcement scheme, that the State provide funding for a public relations campaign on significant revisions to the animal protection law and enforcement scheme, and generally promoting the message of anti-cruelty. It is important to publicize the facets of the new system, to allow the public to gain some familiarity with who to call in the event of an animal complaint.

2. Training

- **Enhance animal cruelty-related training requirements**

The Task Force recommends that the law be changed, and the administrative structure be put in place, to require and ensure that enforcement officers receive adequate and appropriate training concerning animal protection and the animal cruelty laws, particularly in light of the recent and anticipated changes to the statutes governing animal cruelty. Similarly, we recognize that county and municipal prosecutors and county and municipal court judges do not receive uniform or formal training on the animal cruelty laws and the procedures and issues that are specific to animal cruelty cases. The training on animal cruelty law and enforcement that is currently required for police officers, Sheriff's officers, animal cruelty investigators and SPCA officers is inconsistent in application and limited in scope. Police and Sheriff's officers, prosecutors and judges receive relatively little training specifically with respect to animals and animal cruelty laws. ACIs are statutorily required to take a course that has been approved by the Police Training Commission (PTC), but which offers only the basic elements of required training. The training of SPCA officers is neither mandated nor regulated by the State. The University of Missouri's National Cruelty Investigators' School is nationally recognized and is considered the premiere training course. It is the Task Force's understanding that this course was used as a model in fashioning New Jersey's course; however, the Missouri course could not at that time be fully implemented in New Jersey.

The Task Force recommends that state-of-the-art training materials and courses be developed and made available, as appropriate, to those charged with enforcement of the animal cruelty laws. It is further recommended that ACIs and SPCA enforcement officers be required to take and pass the same training curriculum.⁵¹ We would propose that the PTC be responsible for developing this specialized training curriculum (including

⁵¹ Evaluation of training course participation could be done on an objective basis, with testing designed to ascertain whether the individuals have truly become sufficiently knowledgeable (rather than based on mere participation) with respect to the laws and procedures they will be expected to apply (for example, closed-book testing is recommended rather than the current practice in some courses of open-book testing).

that for continuing education), which may be modeled after the University of Missouri's National Cruelty Investigators' School, and should identify the modules that should be offered to the various enforcement officers. The training courses should of course be predicated on New Jersey's animal abuse and neglect laws as well as the State's criminal procedures, and should include other appropriate elements as determined by the PTC in consultation with organizations and entities with recognized expertise in this area (including but not limited to the Humane Society of the United States and the New Jersey Veterinary Medicine Association). The training curriculum should generally include: law enforcement methods and techniques of investigation, arrest, search, and seizure specifically in connection with violations of local and State animal cruelty laws; specific instruction on animal behavior and traits; best practices for controlling or neutralizing a potentially dangerous situation using the least force, causing the least harm to the animal and ensuring public safety; methods to identify and document animal abuse and/or neglect; specific instruction in investigation of animal fighting; direction on evaluation of animals at a crime scene; forensic training; provision of first aid to animals in need; the handling of stray, sick or diseased animals; and the link between violence toward animals and violence toward humans.

With respect to providing specialized animal cruelty enforcement training to police officers, that may be accomplished through enhancing the relevant curriculum offered in the police academies. Such training may also be provided, after graduation from Police Academy, by way of roll call training (that is, instruction provided during daily roll call rather than in a formal classroom setting) or through other education or training opportunities. One suggestion is that specialized animal cruelty training could be incorporated into the training that is presently offered concerning domestic violence. It should also be noted that some police or Sheriff's officers will, on their own volition, take additional animal cruelty training to develop an expertise to help them better enforce these laws, by attending ACI classes or educational seminars. These officers can provide tremendous assistance to their colleagues in dealing with animal-related matters. Accordingly, even with the additional animal cruelty training recommended by this Task Force for police officers, it is also beneficial to have at least one officer at each local police department undertake advanced training as an expert in this area of law, in order to serve as a resource for the entire department.

Moreover, common sense suggests that it should not be necessary for police officers to take the identical course of training provided to ACIs or SPCA officers, considering that police officers already receive extensive training in New Jersey criminal procedure in matters such as use of force, arrest and search and seizure. For this reason, it is recommended that the training course be modular, to allow police officers to take just those portions of animal-related instruction that are not redundant to or duplicative of training they already receive.⁵² Accordingly, it would make sense to develop a module that covers the substantive animal-specific offenses, and provides guidance on

⁵² Similarly, we would suggest exempting ACO taking an ACI course from the more basic ACO-related elements of the ACI training course if he or she has served as an ACO for a requisite period of years (e.g., five years). Moreover, certified officers who are currently serving should be permitted to continue working while they take the advanced or enhanced training contemplated by these recommendations.

responding to and investigating abuse and neglect cases (with elements unique to animal offenses such as how to identify possible abuse or signs of use of an animal in fighting or baiting). All police and other enforcement officers should also be educated on the connection between animal abuse and violence against humans (see Subsection D. of this section, *The Link Between Violence Toward Animals and Violence Toward Humans*).

We also recommend that prosecutors receive specialized training regarding how to prosecute animal abuse cases including evidentiary issues particular to animal cruelty cases and the evolving case law and statutes, as well as education concerning the correlation between animal abuse and human violence. This training should be substantially similar to that required of police officers. County and municipal prosecutors should coordinate with local police and Sheriff's departments, as well as ACIs, ACOs and SPCA officers, to provide updates when the animal cruelty law is revised.

The Task Force also recommends that the Administrative Office of the Courts include in its training programs information regarding the correlation between animal abuse and human violence as well as issues and procedures specific to animal cruelty cases. The information should be provided as part of the required annual "Domestic Violence" training that is required pursuant to N.J.S.A. 2C:25-21b(1) - (3), or provided independently as part of the New Judges Orientation Program. Similar training should also be provided to new and experienced probation officers. The Animal Law Committee of the New Jersey Bar Association has offered its assistance to courts, prosecutors and law enforcement officers in this regard.

3. Prosecution

- **Enhance prosecution of animal cruelty offenses by utilizing specially trained prosecutors or establishing specialized units**

Although certain serious animal cruelty acts are classified as indictable crimes under New Jersey law, it is apparent from media reports, testimony at hearings and the personal experiences of Task Force members that many especially cruel acts against animals have been downgraded from crimes to disorderly persons offenses, and that defendants who engaged in egregious cruelty were nonetheless permitted to participate in the Pre-trial Intervention Program (PTI). Humane officers voiced dissatisfaction that, despite their efforts to build what they believed to be a strong case, the prosecutor handling the case would frequently dismiss or downgrade a charge or allow the defendant to enter PTI. After meeting and speaking with prosecutors throughout the State, it is apparent that specific training in this area of law would help enhance the prosecution of these crimes and offenses.

To improve the quality of prosecution of animal cruelty cases, it would be beneficial to provide municipal and County Prosecutors with enhanced education and training related to handling animal-specific offenses. As discussed elsewhere in this report in recommending consolidation of animal cruelty offenses into Title 2C, the fact that these

laws are currently codified in Title 4 rather than the criminal code makes these laws and this particular area of jurisprudence less accessible to prosecutors. Accordingly, there is relatively less familiarity with these laws and violations may be viewed as less serious than other crimes, creating the perception that enforcement is better left to humane officers and municipal prosecutors. Countering this perception, however, the recently enacted felony animal cruelty laws have made serious animal cruelty offenses the province of the County Prosecutors, rather than municipal prosecutors. Further, there are numerous studies that reveal the demonstrated link between violence toward animals and violence toward humans. In New Jersey, juvenile psychiatric evaluations as well as domestic violence questionnaires already recognize the increased risk when animal cruelty is present.

To address this situation, the Task Force recommends that, for prosecuting animal cruelty complaints, each County Prosecutor's Office either establish a specialized unit or designate a prosecutor specifically trained in the animal cruelty laws. Currently, there is no uniform approach among New Jersey's 21 County Prosecutor's Office in handling animal cruelty cases. Some Offices have a prosecutor assigned to answer calls regarding animal cruelty, but most do not. Even in Prosecutor's Offices that do have a designated prosecutor assigned to animal matters, this task often falls to the least experienced or newest assistant prosecutor to join the office, and the responsibility is passed along in the event of staff turnover. Novice prosecutors are often overwhelmed with the demands of beginning prosecutorial practice, and may not have sufficient time or attention to master a different area of law which they have reason to believe they will be dealing with only temporarily. Accordingly, these cases sometimes fail to receive the full attention they merit. The impact of a lack of prosecutorial expertise in animal cruelty cases may be particularly detrimental, considering the reliance of judges on prosecutors' submissions and recommended dispositions in matters before them. Therefore prosecutors should consider adopting practices and procedures which ensure that animal cruelty cases are handled or directly supervised by prosecutors specifically trained or experienced in this area of law. This is already standard practice in other areas of law, such as drug crimes, sex crimes, white-collar crime, domestic violence, sex offenses, juvenile crimes as well as many other specialized areas of crimes. One measure that would advance this effort would be implementation of a requirement for municipal prosecutors to regularly report the disposition of all animal cruelty cases to the designated animal cruelty prosecutor at the County Prosecutor's office for review.

One prosecutorial model that has proven successful in other jurisdictions, and which is endorsed by the Task Force, is the establishment by each County Prosecutor of an Animal Cruelty Unit that consists of one or more full or part-time prosecutors with advanced education and training in animal protection matters. These animal cruelty prosecutors would be selected and assigned based on prior experience, personal interest or knowledge of this area of practice. These prosecutors would receive enhanced training in the animal cruelty laws and dispositions, which may include non-traditional remedies such as restitution for care and medical treatment of any animals involved, forfeiture and seizure principles specifically applicable to animals, and additional forms of redress such as mental health counseling for offenders and restrictions on future contact with animals.

There are programs currently available which are designed to educate prosecutors in this area of law. The Law Enforcement Training Institute of the University Missouri offers this type of training, as do other organizations. The Animal Law Committee of the New Jersey Bar Association also presents conferences on this subject. Better training will enable prosecutors to more effectively deal with these crimes.

The creation of an animal crimes unit would also help address another frequent complaint, that violent animal abusers were often permitted to enter into the Pretrial Intervention (PTI) Program in situations where that disposition was not necessarily appropriate. Pursuant to the provisions of N.J.S.A. 2C: 43-12 (a)(3) and (e)(10), PTI should only apply to defendants charged with “victimless” and non-violent crimes. The concern arises because of a sense that prosecutors should but do not object to PTI in certain cases, and judges consequently order PTI for undeserving offenders. As a general proposition, prosecutors could be better sensitized, either through an administrative mechanism such as an Attorney General directive, or through training or education, to the argument that animal cruelty is not a so-called victimless crime. Rather, it is often a violent crime against animals that often suffer greatly as a result. It is clear that the owners or caretakers of the animals, as well as the public at large, also experience a sense of offense and outrage engendered by these crimes, which is exacerbated when there is a perceived lack of serious prosecution.

- **Attorney General “checklist” to guide prosecutors**

We recommend that the Attorney General’s Office develop a “checklist” of issues to be considered prior to disposition in an animal cruelty case, and distribute this checklist to municipal and County Prosecutors for guidance in handling such cases. This proposal would be similar to the checklist established pursuant to 5 N.J. Pl. & Pr. Forms § 40:28 (in New Jersey Pleading and Practice Forms) that sets forth all “matters to consider in filing a domestic violence complaint.” This type of checklist is particularly important in matters in which an animal requires continuing care after disposition of a matter or where there is an ongoing need to monitor a convicted animal abuser. The numerous new remedial provisions recommended in the animal cruelty law revision section of this Report further buttresses the need for such a checklist.

- **Improve coordination between county and municipal prosecutors**

Another proposition that merits consideration is mandatory consultation between county and municipal prosecutors prior to downgrading any animal cruelty cases to municipal court, or requiring County Prosecutor review before disposing of an animal cruelty case in municipal court (on matters that could be prosecuted as crimes). Further, the system could be improved by implementing a requirement that municipal prosecutors report on the disposition of all animal cruelty cases to a designated liaison at the County Prosecutor’s office.⁵³

⁵³ Similarly, properly certified SPCA officers should consult with prosecutors so that the prosecutors will have knowledge of SPCA activities, in order to ensure that they are properly coordinated.

- **Develop an animal cruelty violator database**

The Task Force also recommends the development of an expanded animal cruelty database which contains information such as complaints and dispositions of animal cruelty criminal offenses as well as civil penalties. To enable this system, it is recommended that all persons convicted or adjudicated delinquent for animal abuse or neglect offenses be subject to fingerprinting. Such a tracking system would increase the reliability of the ACO debarment law by enhancing the accuracy of the information that triggers disqualification (and, if the Task Force’s pertinent recommendation is adopted, disqualification as an SPCA enforcement officer as well) pursuant to N.J.S.A. 4:22-57 (which establishes a list of persons ineligible for certification as animal control officers for any person who has been convicted of, or found civilly liable for, a violation of any animal protection law). More complete and up-to-date information in this regard will help ensure that animal abusers are not placed in positions of trust or responsibility with respect to animal protection and welfare.

Additionally, the contemplated database would also result in more reliable sentencing of repeat animal offenders, as it would provide more reliable criminal history data to impose the enhanced criminal penalties applicable to second and subsequent animal cruelty violations.

- **Provide more current educational materials and update annotations to the animal cruelty laws in the New Jersey Code**

As previously noted, many jurists and attorneys have limited familiarity with the specific nuances of the animal cruelty laws. Recent changes in the cruelty laws and confusion over Title 4 have increased the potential for incorrect verdicts or inappropriate sentences. Because animal cruelty cases are generally less prevalent than other types of criminal cases, judges may not be aware of current precedent and consequently rely upon outdated cases that are no longer good law. Of course, prosecutors and defense attorneys bear a responsibility to maintain currency with animal protection jurisprudence as well. However, these obligations would be more easily met for all concerned if the annotations to the animal cruelty statutes were updated. The notes in Title 4 under the Cruelty to Animals section, still cite to cases from 1859, 1913, 1929, 1942 and 1966, while current cruelty laws have been updated and numerous cases have been decided which have greater relevance for application of the current law.

For example, our current cruelty laws have been amended to include crimes of omission, such as failure to provide the animal with food, water or shelter, and most recently, leaving an animal unattended under inhumane conditions (that is, locked in a sweltering car), yet certain old cases refer to requisite elements of proof such as “some malevolent or mischievous motive[.]”⁵⁴ These cases are still cited and relied upon by judges who are not necessarily familiar with the new laws or the underlying intent, with the potential

⁵⁴ *New Jersey Society for the Prevention of Cruelty to Animals v. Board of Ed. Of City of East Orange*, 91 N.J. Super. 81, affirmed 49 N.J. 15 (1966).

that defendants who may have grossly neglected animals are found not guilty. This is quite often the worst and most common type of abuse. A person who leaves a small Chihuahua outside in the snow to freeze to death could arguably be acquitted if the prosecutor did not prove a malevolent motive. This is certainly not the intent of our cruelty statutes, yet some judges still rely on these outdated cases because they are noted in Title 4 or because they are misinformed or unfamiliar with the laws.

Accordingly, it is important for judicial schools and interested organizations to offer specific training and circulate current materials concerning the animal cruelty laws and jurisprudence. The Animal Law Committee of the New Jersey Bar Association, which is preparing bench books, could coordinate with the Administrative Office of the Courts for distribution of books and materials and the provision of additional training.

4. Uniform Crime Reporting

- **Enhance enforcement by collecting and analyzing information on animal abuse and neglect offenses through the Uniform Crime Reporting System**

Local, county and state law enforcement agencies track and report crime statistics based on a model developed by the Federal Bureau of Investigation called the Uniform Crime Reporting Program (“UCR”). Although animal cruelty is often linked to other crimes, there is no separate category to track animal cruelty in the UCR program. Adding this category to police reports would facilitate compilation and utilization of this information, and its inclusion and analysis in the annual Uniform Crime Report issued each year by the New Jersey Department of Law and Public Safety.

The Uniform Crime Reporting System in New Jersey was established by P.L. 1966, c.37, and took effect on January 1, 1967. The law provides for a system of criminal reporting and recordkeeping, classification and analysis, at the local, county and state levels. New Jersey’s uniform crime reporting system parallels the federal crime reporting system. The Attorney General of New Jersey is responsible for the collection and gathering of crime information, and designated the Division of State Police as the responsible agency to collect and collate the crime data received from law enforcement agencies within the State pursuant to N.J.S.A. 52:17B-5.2. Currently, a total of 552 law enforcement agencies (comprised of full and part-time municipal police departments, prosecutors, Sheriffs’ departments, county police departments, county park police departments, state agencies with law enforcement responsibilities, and college campus police departments) submit the reports to the New Jersey State Police. In accordance with the law, the Attorney General compiles crime statistics “in order to present a proper classification and analysis of the volume and nature of crime and the administration of criminal justice within this State.”⁵⁵ The Attorney General is mandated to render an annual Uniform Crime Report pursuant to N.J.S.A. 52:17B-5.5; the 2003 edition will be the 37th annual report to date. The motivation for the Uniform Crime Report is the recognition that

⁵⁵ N.J.S.A. 52:17B-5.4.

effective law enforcement requires accurate crime statistics in order to identify the extent, type and location of criminal activity. Utilizing this information, governmental and law enforcement officials can evaluate needs and design programs to more effectively fight crime, and to make administrative, planning and operational determinations. Accurate information on animal abuse and neglect offenses, however, is relatively difficult to obtain. Thus, we are limited in our ability to identify manpower and equipment needs and assess the general trends in animal cruelty offenses and enforcement.

Law enforcement agencies report the number of known offenses according to the following categories: Homicide (Murder and Manslaughter), Rape, Robbery, Burglary, Larceny-Theft, Motor Vehicle Theft, and Arson. The Task Force recommends an administrative amendment to require the crime reporting forms prescribed by the Attorney General to include “animal abuse or neglect” as a category of offenses to be reported by law enforcement entities. The addition of this category to the uniform crime reporting and recordkeeping protocols will make this data available for compilation and statistical analysis, helping us gain greater insight into the extent of and developmental trends in such criminal conduct, enabling us to utilize the data to respond more effectively in the future.

D. The Link Between Violence Toward Animals and Violence Toward Humans⁵⁶

As referenced earlier in recommendations for training, it is important for law enforcement, prosecutors, judges and the public to understand the link between violence toward animals and violence toward humans. Education on this aspect of the psychology of animal abusers is essential to a thorough understanding of why it is important to treat animal cruelty matters with the gravity they warrant. Animal protection efforts are often denigrated with the notion that animal abuse is simply insignificant when compared to human victimization, which observation may be used to call into question the need for stronger animal protection laws or to downplay efforts to improve enforcement of such laws. However, no one would disagree that an advanced society — a society that prides itself not only on its scientific and cultural achievements, but also on its high moral and ethical standards — would consider animal suffering as inhumane, unconscionable, and unacceptable.

Animal cruelty has been generally defined in the psychological literature as socially unacceptable human behavior that intentionally causes an animal pain, suffering, distress or death. Such cruelty includes acts of omission and commission, including physical or emotional pain, inhumane death, abandonment in an unsafe or unnatural environment, or neglect.⁵⁷ More specifically, intentional acts encompass the spectrum of cruelty including killing, mutilating, maiming, torture, bestiality, harsh disciplinary actions or

⁵⁶ This portion of the report was adapted from materials submitted to the Task Force by Ellen Lacy, Psy.D.

⁵⁷ Flynn, C.P. (1999). Exploring the link between corporal punishment and children’s cruelty to animals. *Journal of Marriage and the Family*, 61, 971-81.

provocation, or could include deprivation of veterinary care, socialization, food, water, or shelter.⁵⁸

Studies in the fields of psychology, sociology and criminology have investigated various aspects of animal abuse. Researchers have attempted to answer questions of who abuses and why; what are the societal implications and ramifications of such abuse; and what can be done to prevent, ameliorate, or stop future abuse. An important concept has been recognized. Termed “the link,” it characterizes the relationship between abuse toward animals and abuse toward humans.⁵⁹ The link has been studied through a variety of methodologies for approximately 25 years.⁶⁰ The FBI was the first to identify this connection in the 1970’s when, in analyzing retrospectively the lives of serial killers, over one-third reported killing and torturing animals during childhood and nearly half reported doing so as adolescents.⁶¹

Well-known criminals, mass murderers, and serial killers such as Ted Bundy, Jeffrey Dahmer, and Albert DeSalvo (the “Boston Strangler”), as children, were reported to have grossly tortured and killed animals.⁶² Other research has consistently demonstrated patterns of animal victimization in people who either concurrently or at a later time also victimized children, spouses, and elders.⁶³ Recently, Lee Boyd Malvo, one of the so-called Washington D.C. snipers, was reported to have tortured cats as a young boy.⁶⁴ Studies of criminals involved in sexually aggressive crimes have reported a history of animal abuse. In one such study, nearly one-half of rapists and over one-quarter of pedophiles engaged in cruelty toward animals as children.⁶⁵

⁵⁸ Humane Society of the United States (2002). First Strike Campaign: Animal Cruelty/Human Violence. Washington, D.C.

⁵⁹ Doris Day Animal Foundation (2002). The violence connection: An examination of the link between animal abuse and other violent crimes, 1-14.

⁶⁰ HSUS (2002), *supra*.

⁶¹ Flynn, C.P. (2000). Why family professionals can no longer ignore violence toward animals. *Family Relations*, 49, #1, 87-95.

⁶² Beirne, P. (2002). Criminology and animal studies: A sociological view. *Society and Animals*, 10, 4, 381-86; DDAF (2002), *supra*.

⁶³ Flynn (2000), *supra*.

⁶⁴ Barakat, M. (2003). Lee Boyd Malvo (D.C. Area “Sniper” and Serial Killer) Killed and Tortured Cats as a Child. *Associated Press: Yahoo News*. 12/8/03.

⁶⁵ Flynn (2000), *supra*.

In spite of the difficulty obtaining accurate incidence and prevalence data for the link,⁶⁶ researchers have collected information through what they characterize as case studies and reports; anecdotal records; questionnaires, surveys, and inventories; retrospective studies; and, more recently, empirical investigations.⁶⁷ Data has been collected from battered women, abused children and adolescents, veterinarians, animal control officers, animal shelter employees, police officers, and criminals. Studies have evaluated social harm to humans in the form of abuse, abandonment, pain, injury, or suffering and, likewise, similar types of harm to animals. A major question addressed in these studies was whether those who abused animals, or who observed animals being abused, were later more likely to demonstrate subsequent abuse toward people, and, conversely, whether those humans who were abused, or who observed human abuse, were later more likely to become animal abusers.

Studies demonstrated that 31% of acts of intentional cruelty to animals were committed by persons under age 18 and that 4% of such acts were committed by children under age 12.⁶⁸ One study found that people who abuse animals were five times more likely to commit violent crimes against people, four times more likely to commit property crimes, and three times more likely to commit drug or disorderly conduct offenses.⁶⁹ Studies also showed that children who were particularly cruel to animals had an increased likelihood to engage in aggressive or violent behavior toward other humans.⁷⁰

Other studies reported that, in cases of intentional animal cruelty, 21% also involved family violence, 13% also involved domestic violence, and child abuse in 7%.⁷¹ Numerous studies showed that children who abuse animals are more likely to demonstrate interpersonal violence as a child and to become violent adults.⁷² Numerous studies show that, in a disproportionate number of family violence contexts, companion animal abuse occurs in proximity to interhuman violence.⁷³ This link held true whether it

⁶⁶ Ascione, F.R. (2001). Animal abuse and youth violence. U.S. Department of Justice – Office of Juvenile Justice and Delinquency Prevention. *Juvenile Justice Bulletin*, 9, 1-15.

⁶⁷ Luk, E.S.L., Staiger, P.K., Wong, L., & Mathai, J. (1999). Children who are cruel to animals: A revisit. *Australian and New Zealand Journal of Psychiatry*, 33, 29-36.

⁶⁸ HSUS (2002), *supra*.

⁶⁹ Roudebush, P.L. (2001). Why animal law? *Juris: The Duquesne University School of Law*, 35, #1, 1-7.

⁷⁰ Flynn, (2000), *supra*.

⁷¹ Roudebush (2001), *supra*.

⁷² Beirne (2002), *supra*; Boat, B.W. (1995). The relationship between violence to children and violence to animals: An ignored link? *Journal of Interpersonal Violence*, June, 229-35.

⁷³ Children who are cruel to animals: A review of research and implications for developmental psychology pathology. *Anthrozoos*, 6, 226-47; and Flynn (1999), *supra*.

was a family of heterosexual or homosexual partners, between parent and child, or between siblings.⁷⁴

A study was done in 1983 on 53 New Jersey families identified by the State as involved in various forms of child abuse. In 88% of these families, pet abuse was also present.⁷⁵ In one study, respondents who had been abusive to animals as children were more likely to approve of some forms of domestic violence.⁷⁶ Here, abusing animals as a child was seen as related to acceptance of and approval for family interpersonal violence when the child became an adult. In some domestic violence situations, animals were sometimes used to frighten, threaten, retaliate, punish, coerce, intimidate, and immobilize the humans in the family.⁷⁷

Recognizing this link between animal and human abuse can be useful for identification of abuse of children or other victims such as the elderly, the handicapped, or women living in dysfunctional, violent families.⁷⁸ It was also found that children need only witness animal abuse to later possibly become abusers themselves.⁷⁹ It has been postulated that animal cruelty may signify an acting-out child who needs evaluation and intervention.⁸⁰ Such an evaluation might identify an abusive family context as the etiological factor of the animal abuse and call for additional interventions for the family members. In nearly every study reporting animal abuse, and in nearly every example of abuse in the literature, the animals were passive, insentient “objects” acted upon negatively by a human. The animals were victimized, used as property, weaponry, and signifiers of violence between humans.⁸¹ The needless suffering and death of these victims do not go unnoticed by children and by other impressionable human beings in our society.

Researchers offer several explanations for the link between violence toward animals and violence toward humans. One explanation is the “cultural spillover theory” where “...the

⁷⁴ Ascione (1993), *supra*.

⁷⁵ Flynn (1999), *supra*.

⁷⁶ Flynn (2000), *supra*.

⁷⁷ Ascione, F.R., Weber, C.V., & Wood, D.S. (1997). The abuse of animals and domestic violence: A national survey of shelters for women who are battered. *Society and Animals*, 5, #3, pages 205-18.

⁷⁸ Boat, B.W. (1995). The relationship between violence to children and violence to animals: An ignored link? *Journal of Interpersonal Violence*, June, 229-35.

⁷⁹ Miller, K.S. & Knutson, J.R. (1997). Reports of severe physical punishment and exposure to animal cruelty by inmates convicted of felonies and by university students. *Child Abuse and Neglect*, 21, pages 59-82.

⁸⁰ Duncan, A., & Miller, C. (2002). The impact of an abusive family context on childhood animal cruelty and adult violence. *Aggression and Violent Behavior*, 7, pages 265-383.

⁸¹ Beirne (2002), *supra*.

more exposure to socially approved violence... the more likely it is for a person to engage in culturally unacceptable violence.”⁸² There can be generalization from observation of animal abuse to later practice of animal abuse. A second explanation is that of the “distortion of empathy.”⁸³ When feelings of living beings, whether humans or animals, are disregarded, the lack of empathy builds and causes what some researchers call a “...callous disregard...without feeling of regret or remorse.”⁸⁴ Others have related this hardening to inadequate societal laws and a legal system that, if it does not protect its animals, can also promote a lesser degree of empathy in its people.⁸⁵ This emotional hardening toward the feelings and well being of animals and humans can increase the likelihood for continued or additional abuse. A third explanation speculates that abuse, whether toward animals or humans, is committed by persons with low self-image and low self-esteem.⁸⁶ Theorists see cruelty as often associated with children who do poorly in school, have no friends, are bullies, or have a history of truancy, vandalism and other antisocial behaviors. These children can choose animals, to scapegoat creatures they perceive as even more powerless than themselves.

The American Psychiatric Association lists animal abuse as a symptom of Conduct Disorder in its diagnostic manual of major psychiatric disorders.⁸⁷ Conduct Disorder is a behavioral manifestation, a cluster of symptoms in which a child demonstrates disregard for societal rules and for the feelings of others. Should the child (or later the adult) be found to mistreat animals, New Jersey is not one of the 18 states that permit a judge to order psychiatric evaluation and counseling for perpetrators of animal abuse.⁸⁸ Without such professional mental health counseling, an avenue for positively changing the person’s attitudes and increasing his or her level of empathy is unavailable.

Each state has its own unique animal anti-cruelty laws in place designed to protect animals from abuse. When these laws, which are intended to prohibit, deter, or punish wrongs committed, are inadequate or not enforced, there is no break in the cycle of violence that permits animals, children, women, the elderly, and all of society to be victimized. Considering the link between violence toward animals and violence toward humans, having “zero tolerance” for animal cruelty is the first step toward protecting society from the cycle of permitting victimization, which then permits additional victimization. A multifaceted approach is needed to break the cycle of animal/human

⁸² Beirne (2002), *supra*, page 384-85.

⁸³ Flynn (1999), *supra*.

⁸⁴ Flynn (2000), *supra*, page 90.

⁸⁵ Roudebush (2001), *supra*.

⁸⁶ HSUS (2002), *supra*.

⁸⁷ American Psychiatric Association – *Diagnostic and Statistical Manual*, (1999).

⁸⁸ Frasch, P.D., Otto, S.K., Olsen, K.M. & Ernest, P.A. (1999). State animal anti-cruelty statutes: An overview. *Animal Law*, 5, pages 69-80.

violence. There needs to be strict, effective enforcement of strong laws that protect the animals, punish the abusers, and deter future abuse. Mental health professionals and child protection agencies could be enlisted to help identify the children and others vulnerable to the cycle of animal/people abuse. Animal humane philosophy education must be provided in the schools and the community. Education could be provided to enable recognition of animal cruelty, and adequate care for the victims, preventing further abuse in a way in which children can observe empathy toward all living beings. Enforcement could be improved through statutory changes to encourage anonymous reporting of animal abuse without fear of reprisal or other negative consequences. Such disclosure might help identify violent home situations where children or other vulnerable members of our society are being abused.

Studies done over the last 25 years demonstrate the link in our society between violence toward animals and violence toward humans. Therefore, the reduction and elimination of animal abuse can be reasonably expected to extend into reduction and elimination of interpersonal violence. Reinforcing an ethic of respect and compassionate treatment of animals can generalize and translate into respect and compassionate treatment of all living beings.⁸⁹ Along these lines, the Task Force also proposes and strongly supports early intervention in kindergarten and grade schools in situations where children have exhibited aggressive, anti-social behavior and in situations where the child has intentionally injured or killed a cat, dog, bird, or other animal, and the promotion of curricula in schools, colleges, and universities that educate students about the link between violence toward animals and violence toward humans. Perhaps, as a result of these combined efforts, we will be able to reduce animal abuse and cruelty both in the short term and for generations to come.

⁸⁹ Felthous, A. and Kellert, S. (1987). Childhood cruelty to animals and later aggression against people: A review. *American Journal of Psychiatry*, 144, pages 710-17.

III. Establish best practices to prevent overpopulation

A. Introduction

In establishing the Animal Welfare Task Force, the Governor recognized that there are more animals in the State than available homes, resulting in thousands of animals being relinquished to animal shelters throughout the state, many of which are ultimately euthanized. The Task Force was charged with developing recommendations to address this problem, with the goal of reducing the number of animals born and relinquished to shelters, resulting in fewer animals euthanized. New Jersey is one of the more progressive states with respect to its responses to this problem. Its landmark Animal Population Control Program (APCP), a State-operated program that provides low-cost spay/neuter surgeries to eligible pet owners, serves as a model for other states. Also, the euthanasia rate in New Jersey compares favorably to that of other states and regions. Nonetheless, animals continue to be euthanized in shelters due to a lack of space and other resources. In calendar year 2003, over 126,000 animals entered New Jersey impoundment facilities:⁹⁰

- ◆ 47,925 were dogs
- ◆ 68,597 were cats
- ◆ 9,968 were other animals, such as rabbits and other small animals

Of these animals, over 50,000, or 40%, were euthanized:

- ◆ 13,759 were dogs
- ◆ 34,220 were cats
- ◆ 2,658 were other animals

These statistics, compiled by the Department of Health and Senior Services, are from 106 impoundment facilities throughout the State. They do not account for the thousands of animals that die in other settings, including, pet shops and other facilities, on the streets, by other means within impoundment facilities, during transport to the facility, or by way of disposition in the facility that cannot be accounted for. A variety of factors contribute to this problem. Throughout the country, animals are euthanized because there are an insufficient number of government-operated and privately run shelters that can house

⁹⁰ Impoundment facilities are those operated by or on behalf of municipalities which, by law, must accept and house all animals for a seven-day holding period, in accordance with N.J.A.C. 8:23A-1.10.

homeless animals until a home is found for them. Homes are not routinely found, as there are far more animals than available homes. At the same time, some pet owners allow their pets to roam and reproduce. This is not to say that most pet owners are irresponsible or that rescue groups and shelters have not endeavored to find homes for all of the animals that should be adopted that are within their charge. Nor is it suggested that this problem would be solved if nothing more is done beyond providing additional shelter space and finding new homes for the animals in the shelters. The reality is that the mere acts of sheltering, adoption, euthanasia, and fostering are reactions to the problem of animal overpopulation. While we should strive to perform the reactive aspect of our charge to the best of our ability, this crisis will only be solved or minimized through proactive programs that are properly funded.

Public education, legislation, sterilization and innovative solutions, to be implemented by both public and private entities, are needed to reduce the number of animals that are born and are relinquished, with the ultimate long-term goal that reproduction will be substantially reduced and public and private shelters will have more resources to re-home the animals that can be re-homed. While we realize that we can do a better job of placing those animals already born, there will always be animals that cannot and should not be placed back into the community. While euthanasia is not an ideal solution to pet overpopulation, it may be considered an acceptable method to prevent needless suffering, especially in situations when an animal suffers from serious infirmity, or is behaviorally unsound and beyond rehabilitation. It must be underscored, however, that we should strive to eliminate euthanasia as the primary or initial response when an animal simply does not have a home.

Accordingly, it should be a common goal of the State and facilities that house homeless animals to not euthanize any animal in order to save space. Ideally, euthanasia should be utilized only when appropriate, given the best interests of the animal.⁹¹ Multiple methodologies, including aggressive sterilization and adoption programs, public outreach, and coordination between facilities, should be employed to reach this goal.

While individual shelters have adopted policies against euthanizing animals in order to save space, these are often smaller private organizations that do not have municipal contracts⁹² and therefore have the option of limiting intake to maintain their policy. Animal control departments and facilities with municipal and county contracts, however, have few options to limit the number of animals they must accept.⁹³ It is therefore

⁹¹ The phrase “no kill” is often used to describe this goal. As noted, however, there are circumstances when euthanasia is in the best interest of the animal. Also, some facilities may achieve “no kill” status by refusing new admissions and/or sending animals to facilities that do euthanize when there is no more space in the facility. Thus, this term is often confusing or misleading.

⁹² Some municipalities in New Jersey contract with private companies that provide animal control and/or impoundment services.

⁹³ As discussed below, there are incidents in which multiple municipalities contract with the same private animal control entity. As a consequence, animal control entities may be stretched beyond their ability to serve each municipality fully. While this does not cause the overpopulation problem described herein, it

imperative that the State and facilities and organizations involved in the disposition of homeless animals identify and implement means to prevent overpopulation. In addition to saving lives, this goal would reduce the burden imposed upon local governments, which are required to provide animal control services and impoundment facilities. As the number of homeless animals decreases, the animal control departments would be less frequently called upon to respond to complaints concerning these animals. Impoundment facilities would be responsible for housing fewer animals and their employees would be spared the painful duty of euthanizing those animals that are neither claimed by their owners nor adopted.

Total animal control and impoundment costs in the country are estimated to be between \$1 and 2.7 billion annually.⁹⁴ Considering that over 50,000 animals were euthanized last year in New Jersey, even using the lowest cost estimate, approximately \$2,550,000 was spent in New Jersey on euthanasia alone.

It is uncontroverted that sterilization is essential to reducing and eventually eliminating the problem. Recognizing this, New Jersey created the Animal Population Control Fund, which provides reduced-cost sterilization procedures to individuals who receive public assistance or who have adopted an animal from a shelter. Private veterinarians who choose to participate in this program provide sterilizations, at a reduced cost (80% of their normal fees). The owner pays a co-payment of \$10 (for those who receive public assistance) or \$20 (for those who adopted the animal from a licensed animal shelter, pound, holding/impoundment facility or animal adoption referral service). The program is funded by a \$3 surcharge on the license fee for each unsterilized dog, the \$10 and \$20 co-payments, the sale of Animal Friendly license plates, and the annual \$10 license plate renewal fee. The revenue is deposited in a dedicated fund maintained by the Department of the Treasury.

Based on the most recent available data, more than 160,000 surgeries have been conducted on dogs and cats since the inception of the program in 1984. Revenue, however, has fluctuated since the inception of the program and, on average, these funds run out just one month into each quarter. Indeed, the Domestic Companion Animal Council, which is charged by N.J.S.A. 4:19A-17 with monitoring, studying and reviewing the activities of the APCP, reports that funds did not last one month in any quarter in FY 2003 and the program closed after only one day in the third and fourth quarters.⁹⁵ Not all of the eligible clients are able to participate as a result of the routine shortfall in revenue. Also, monies from the APCP dedicated fund have been diverted, in prior years, by the Department of Health and Senior Services, on occasion, for use in other, non-animal related programs. The APCP has served as a model for other states

contributes to a reduced ability to adequately respond to this problem. This issue is fully addressed infra, in the section concerning animal control services.

⁹⁴ Peter Marsh, Solutions to Overpopulation of Pets, Inc. The average cost of euthanizing an animal is between \$50 and \$90 per animal. *Animal Control Management, A Guide for Local Governments* (International City/County Management Association), page 18.

⁹⁵ *Domestic Companion Animal Council Annual Report* (2003), page 2.

and New Jersey has consequently been seen as a national leader in this area. New Hampshire implemented a statewide sterilization program that was modeled after New Jersey's program. It found that, over the first seven years of its statewide sterilization program, 37,210 fewer dogs and cats entered its shelters than in the prior seven-year period. Because the average cost for sheltering and euthanizing each animal is \$105, the state realized a total savings of \$3,907,050. Only \$1,236,817 was spent over the seven-year period to achieve this. Thus, it has been estimated that every dollar spent on the sterilization program resulted in a savings of \$3.15 in reduced impoundment costs as well as a reduction in the number of animals that entered shelters and were euthanized there.⁹⁶

Nonetheless, additional methods must be employed to aid in reducing the population of homeless animals, with the ultimate goal of eliminating euthanasia as a method for population control. These recommended methods are detailed below as follows: mandatory sterilization by shelters, pet stores and breeders; trap, neuter and return; microchipping; licensing; differential licensing; reconsideration of pet limit ordinances; prohibition of no-pet clauses in residential rental leases; pediatric sterilization; review of and possible revisions to the Animal Population Control Program; alternative sterilization and adoption programs; public-private partnerships for shelters and impoundment facilities; and additional measures to aid individual pet owners and help reduce the number of homeless animals.

B. Mandatory sterilization by shelters, pet stores and breeders

Shelters, pet stores and breeders are the primary suppliers of pet dogs and cats. While there is no doubt that many adopters and purchasers alter their animals, there is no mechanism to ensure that the animals will not be allowed to reproduce. It is essential that appropriate measures be employed to prevent reproduction and overpopulation. Accordingly, the Task Force recommends that the following measures be implemented:

- ⇒ Sterilize all animals before they are adopted from a shelter (publicly or privately operated) or rescue facility.
- ⇒ Sterilize all animals before a pet store or breeder sells them to a purchaser, with appropriate exceptions for responsible breeders.

1. Shelters and rescue facilities

Currently, many shelters in New Jersey and throughout the country voluntarily sterilize all animals before adoption. Many of the shelters are able to obtain reduced-cost sterilization services, or perform the surgery in-house, and include the cost of the procedure in the adoption fee. This additional cost, which should otherwise be borne by the new owner after the animal has been adopted, has not caused a decrease in the number of adopted animals. Indeed, it streamlines the adoption process by removing an obligation that the adopter would otherwise need to satisfy. There is evidence that the

⁹⁶ Solutions to Overpopulation of Pets, Inc., www.bestfriends.org/nmhp/resources/nhneuterprog.html.

rates of adoption have remained consistent or increased after the cost of sterilization has been added to the total adoption cost.

Many pounds and shelters, however, particularly in less affluent regions, do not sterilize all animals prior to adoption. Some shelters struggle due to inadequate financial resources as well as limited access to reduced-cost veterinary services and/or transportation services that would help bring some of the animals to veterinarians. Others merely recommend that adopters sterilize the animal after adoption and/or collect a refundable deposit that would be returned upon proof that the animal was sterilized. These deposits are frequently not reclaimed, suggesting that the animal was not sterilized. Of the individuals who signed binding spay/neuter contracts when adopting a dog or cat from a shelter, only 60% have been compliant in having post-adoption neuter surgery performed on the adopted pet.⁹⁷ The Humane Society of Atlantic County (HSAC) similarly ascertained that approximately sixty percent (60%) of the refundable deposits remained unclaimed. Consequently, the HSAC now sterilizes all adopted animals prior to release to ensure 100% compliance.

It is clear that, despite the number of responsible pet owners, care must be taken to ensure that all animals adopted from shelters and rescue facilities are sterilized. To do this, the animals must be sterilized prior to their release from the facility. Alternative programs that rely upon the adopter to procure the procedure have not proved to be successful. Indeed, the Task Force is advised that refundable deposits as high as \$100 have not been redeemed in some instances. Moreover, even if animals were sterilized, the procedure may not have been performed in time to prevent at least one reproductive cycle. Accordingly, to ensure that the animals are sterilized promptly, all shelters and rescue facilities should be required to sterilize all animals prior to releasing them to their new owners.⁹⁸

2. Breeders and pet stores

The Humane Society of the United States reports that one of every ten pets in the United States is euthanized at a shelter (at a rate of one every six seconds) and that almost a third of euthanized pets originated from breeders. Approximately 25-30% of dogs that enter shelters nationwide are purebred.

Data compiled by SPCA organizations in California and Pennsylvania revealed similar figures. The SPCAs of Santa Cruz and Monterey, California, reported in 1987 and 1991, respectively, that approximately 27% of the dogs they received were purebreds. Less than 1% of the cats were purebred. The Bucks County, Pennsylvania SPCA estimated that 25% of the dogs it received were purebred. Thirty percent of the purebred dogs were

⁹⁷ Christiansen, Robert (1998). *Save our Strays*, CLC Publishing.

⁹⁸ At the discretion of the facility director, exceptions should be made for hardships, including medical conditions that prohibit sterilization. Provision should be made to ensure that the animal is sterilized when medically appropriate.

euthanized.⁹⁹ In addition, *Cats* magazine has estimated that breeders are responsible for adding at least 25,000 cats to the random breeding population per year. Though these cats' offspring are not recognizably purebred, their offspring may number in the millions.¹⁰⁰

Clearly, purebred animals are not immune from overpopulation and, ultimately, euthanasia. Recognizing this, the American Kennel Club has repealed rules that barred neutered animals from competition and has produced a grade school curriculum guide that emphasizes neutering pets. Also, the Project BREED Directory lists more than 3,200 breed rescuers and small rescue groups that are collectively neutering and finding homes for more than 50,000 animals per year.

The sources of purebred animals, largely breeders and pet stores,¹⁰¹ should comply with measures to help respond to the pet overpopulation problem in the same manner as shelters and rescue facilities must comply. Indeed, pet stores and breeders sell their animals while shelters and rescuers perform a public service with no intent or ability to turn a profit or, often, even recoup their costs.¹⁰² Therefore, it is important that breeders and pet stores sterilize all animals before turning them over to their new owners in order to prevent needless pet reproduction and the concomitant suffering and financial cost that inevitably follow.

Representations, however, have been made that certain hobby and show breeders are significantly different from "backyard" and other profit-driven breeders. We are advised that responsible hobby and show breeders carefully restrict their animals' reproduction, whereas other breeders allow their animals to reproduce indiscriminately and often, solely in pursuit of financial gain. Therefore, consideration should be given to developing exceptions for qualified hobby or show breeders.¹⁰³ It is recommended that, for these breeders, if the dog or cat is not spayed or neutered at the time of the sale, the purchaser should be required to pay a refundable deposit (the amount suggested by the

⁹⁹ *Animal People*, May 1993.

¹⁰⁰ *Ibid.*

¹⁰¹ It has been reported that "puppy mills" located in states other than New Jersey supply local stores with puppies for sale. Reports indicate that these animals are often raised under unsuitable conditions that differ substantially from those provided by responsible breeders.

¹⁰² It should be noted that breeders and organizations that promote breeding also work to rescue homeless purebred animals.

¹⁰³ The New Jersey Federation of Dog Clubs and the Cat Fanciers' Association advised the Task Force that there is a distinction between responsible and irresponsible breeders. The Task Force recommends that these organizations, in conjunction with other appropriate organizations, determine the criteria for distinguishing between responsible and irresponsible breeders. The New Jersey Federation of Dog Clubs advised that, among other important criteria, responsible breeders make every effort to eliminate or prevent genetic disease; every available test would be employed that would minimize genetic disease from that breeder's line.

Task Force is \$200) to a fund to be held in escrow for six months. The deposit would be refunded upon proof that the animal has been sterilized within six months. Otherwise, the deposit would escheat to the municipality for deposit in the APCP.

An appropriate penalty would create an incentive to comply. To further ensure compliance, consideration should be given to a licensing/registration system that would effectuate the above provisions, particularly if compliance is otherwise difficult to ascertain. Any licensing/registration system should be utilized only for implementation of the above provisions and should not be used to regulate the breeding profession itself.

This would allow for individuals to pursue breeding their animal while creating a disincentive for those who are not serious about responsible, healthful breeding.¹⁰⁴ We are advised that responsible hobby and show breeding is an expensive undertaking and responsible breeders accept the costs associated with this practice. Those who are unwilling to accept the cost of the refundable deposit should either accept a sterilized animal or opt to not purchase a hobby-bred purebred animal.¹⁰⁵

C. Trap, Neuter and Return

In order to effectively control the population of feral and stray cats living outdoors, it is important to take immediate steps to curtail the reproduction of these cats. The Task Force recommends that governments, groups and individuals be permitted and encouraged to practice “trap, neuter, vaccinate, return and monitor” (hereinafter “TNR” for short) pursuant to standards that should be established by the New Jersey Department of Health and Senior Services, in consultation with the New Jersey Department of Environmental Protection, and community groups and individuals with an interest in cats and/or threatened or endangered species. Local governments should consider utilizing this method where appropriate (not all locations or circumstances will be conducive to TNR) and all participants should be apprised of the guidelines to be devised by the Department.

1. Background

A feral cat is a domestic cat that was lost or abandoned and has reverted to a wild state or a cat that was born to a stray or feral mother and has had little or no human contact. Adult feral cats can rarely be tamed without months or years of effort and are often not suited to living indoors with people. They live outside in family groups, called colonies, which form near a source of food and shelter.

¹⁰⁴ Particular attention should be directed at breeding healthy dogs and especially stressing the importance of genetic tests and selective breeding in an effort to minimize the incidence of inheritable disease and the accompanying needless suffering and euthanasia that often follows.

¹⁰⁵ Consistent with the provisions concerning shelters and rescue facilities, exceptions should be made for hardships, including medical conditions that prohibit sterilization. Provision should be made to ensure that the animal is sterilized when medically appropriate.

By contrast, a stray cat is a domestic cat that strayed from home and became lost or was abandoned. Strays, due to their previous contact with people, can usually be re-socialized and placed in an adoptive home.

New Jersey has a large number of feral cats and stray cats living outdoors year round. Projections indicate that this population is likely to approximate 400,000 cats in the summer and 200,000 cats in the winter.¹⁰⁶

Many ferals are brought into shelters and are usually euthanized, at considerable expense to towns and shelters. Once at a shelter, it is extremely unlikely that feral cats will be adopted or returned to their home, if any, as they are ordinarily not suited to live indoors and with people. “Although these are “domestic” cats by definition, and they remain so in the wild, circumstances have caused them to be no longer “domesticated.” Consequently, as sheltering of feral cats is not an option, feral cats in shelters are frequently euthanized.

With this traditional approach to overpopulation, the town must pay not only for staff and equipment to trap the cats but also for the cost of housing the animals for seven days (the period of time required by law to allow persons to come and claim the animal) as well as the cost to euthanize. This cost is estimated to be, on average, as high as \$90 per cat.¹⁰⁷ In addition, as the number of feral cats increases, there is a concomitant increase in the numbers of complaints made to local animal control departments as well as the number of cats that are trapped or otherwise picked up by animal control officers. This adds to the burden placed upon municipal governments.

Studies have shown euthanasia to be unsuccessful in curtailing feline overpopulation or reducing the size of cat colonies. A small number of breeding cats can, in just a few short years, overpopulate an area.¹⁰⁸ Cats can have two to three litters a year starting as young as five months old. Even when cats are removed from a location, other cats will gravitate

¹⁰⁶ According to the United States Census Bureau, the population of New Jersey in 2001 was 8,484,431 people. According to the American Veterinarian Medical Association Pet Estimate Formula, to estimate the dog and cat populations, divide the total human population by 2.6; this is the number of households. Multiply that number by .534 to obtain the dog estimate or .568 to obtain the cat estimate, excluding ferals. Center for Information Management, American Veterinary Medical Association, *United States Pet Ownership and Demographics Sourcebook*, September 8, 1997.

¹⁰⁷ Nationwide, the average cost of impounding and euthanizing an animal is reported to be between \$50 and \$90 per animal. *Animal Control Management, A Guide for Local Governments* (International City/County Management Association), page 18.

¹⁰⁸ SPAY USA. *Did You Know* (Fact Sheet 2003) (Two uncontrolled breeding cats ...plus all their kittens...if none are ever neutered or spayed add up to 80,399,780 cats in a ten-year breeding period. Note that this number assumes the cats live 10 years. Not all cats live 10 years when facing factors such as weather elements, old age, sickness, road kills and predation on the cats.) See also Berkeley, Ellen Perry (1987/2001) *Maverick Cats: Encounters with Feral Cats*, (Shelburne, VT: New England Press), pages 120-121; Hartwell, Sarah (1999), Why Feral Education Won't Work, www.feralcat.com; Chappell, Michelle S., DVM, (1999), A Model for Humane Reduction of Feral Cat Populations, *California Veterinarian*, September/October 1999, www.feralcat.com.

to the food source and fill the vacuum where the previous colony was removed.¹⁰⁹ Accordingly, animal control departments cannot remove, house and euthanize all of the animals so that reproduction will be prevented or sufficiently reduced.

Nonetheless, towns often feel compelled to trap and euthanize feral cats year after year. In addition to not ameliorating the problem, full scale trap and euthanize programs require a much larger allocation of resources than most communities can afford. Moreover, these expenses must be incurred annually, and these practices may also be subject to costly legal challenges.¹¹⁰

Given the traditional responses to feral cats, there is a substantial and ever growing number of feral cats living outdoors in our State, neither cared for nor managed. In addition to not remedying or reducing the population problem, traditional methods typically do not respond to public health issues, as they do not cause the animals to be vaccinated. As such, these methods allow large numbers of unvaccinated feral cats to remain outdoors. In addition, because it is unlikely that these animals could be placed in traditional homes, they would likely be euthanized when no alternatives are permitted. Accordingly, appropriate methodologies must be employed to respond to all of these problems.

2. Analysis and Recommendations

Controlling the feral cat population through sterilization is crucial. Overpopulation must be curtailed at its source; sterilization is the logical solution to unchecked reproduction. TNR is designed to achieve this goal by reducing the stray and feral population through attrition by trapping, sterilizing, and inoculating feral and stray cats against distemper and rabies, and then returning them to their already established territory, where they are monitored.¹¹¹ The sterilization prevents the cats from reproducing while inoculations prevent disease. Ear-notching provides an easy way to identify cats in a TNR program. If a cat is abandoned in the area or otherwise finds its way to the area, it can be put up for adoption if possible or added to the TNR program.¹¹²

¹⁰⁹ Slater, Margaret R. (2002), *Community Approaches to Feral Cats*. (Washington, DC: Humane Society Press); Zaunbrecher, Karl, and Smith, Richard E., (1993), Neutering of feral cats as an alternative to eradication programs, *JAVMA*, Vol. 203, No. 3, pages 449-52; Hartwell, Sarah, Why Feral Eradication Won't Work, www.feralcat.com.

¹¹⁰ Hughes, K.L., Slater, M.R., Haller, L. (2002), The Effects of Implementing a Feral Cat Spay/Neuter Program in a Florida County Animal Control Service. *Journal of Applied Animal Welfare Science*, 5(4), pages 285-98.

¹¹¹ Clifton, Merritt, Editor, (1993), Can We Outlaw Pet Overpopulation?, *Animal People*, May 1993.

¹¹² *Ibid.*

TNR has a history in Denmark, England and the United States,¹¹³ is endorsed by the American Veterinary Medical Association and is currently being implemented with local governments' approval in some New Jersey towns and in other states. Humane organizations have endorsed TNR, including Friends of Animals, Alley Cat Allies, the Best Friends Animal Sanctuary in Utah, the Tufts Center for Animals and Public Policy,¹¹⁴ the Association of Veterinarians for Animal Rights (AVAR) and the Cat Fanciers' Association.¹¹⁵ A recent national opinion poll conducted by Alley Cat Allies in May 2003 found that out of 24,599 respondents, 94% supported TNR as an effective tool in addressing feral and stray cat population.¹¹⁶ Since March 2002, the Journal of the American Veterinary Medical Association has published four articles in favor of TNR. These scientific studies were conducted by veterinarians, scientists and academics.¹¹⁷

TNR has proven to be an effective and workable program for long-term population control and is increasingly being utilized by public and private entities to address feral cat populations and the concomitant problems of protecting the public health from rabies and cat nuisance complaints. It has been demonstrated to reduce overpopulation, complaints about roaming and the number of cats in shelters in communities in the United States and abroad.¹¹⁸ It reduces the use of euthanasia, and costs less than half of the cost of traditional trap and euthanize programs. Dr. Julie Levy, DVM, Ph.D., monitored an eleven-year TNR project that involved 155 cats in eleven colonies on a central Florida campus. Dr. Levy concluded that "a comprehensive long-term program of neutering followed by adoption or return to the resident colony can result in reduction of free-roaming cat population in urban areas."¹¹⁹

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ The Cat Fanciers' Association, Inc., (1998), *CFA Guidance Statement: Free Roaming/Unowned/Feral Cats*, February 8, 1998.

¹¹⁶ Alley Cat Allies, (2003), *National Opinion Poll*. May 2003.

¹¹⁷ Alley Cat Allies, (2003) Building the Body of Scientific Evidence that TNR Works, *Feral Cat Activist*; Spring 2003; Zaunbrecher, Karl and Smith, Richard E., (1993), Neutering of feral cats as an alternative to eradication programs, *JAVMA*, Vol. 203, No. 3, pages 449-52; Levy, Julie K., DVM, Ph.D., DACVIM; Gale, David W.; Gale, Leslie A., B.S., (2003), Evaluation of the effect of a long-term trap-neuter-return and adoption program on a free-roaming cat population, *JAVMA*, Vol. 222, No. 1, January 1, 2003; Centonze, Lisa A., B.A.; Levy, Julie K., DVM, Ph.D., DACVIM, (2002), Characteristics of free-roaming cats and their caretakers, *JAVMA*, Vol. 200, No. 11, June 1, 2002; Patronek, G.J., (1998), Free-Roaming and Feral Cats, Wildlife and Human Beings, *JAVMA*, Vol. 212, pages 218-26; Griffin, Brenda, DVM, M.S., (2001), Prolific Cats: The Impact of their Fertility on the Welfare of the Species, *JAVMA*, Vol. 23, No. 12, December 2001.

¹¹⁸ Johnson, Karen, (1995), National Pet Alliance Report on Trap/Alter/Release Programs, *Cat Fanciers' Association, Inc. Almanac*, July 1995, pages 92-94.

¹¹⁹ Levy, Julie K., DVM, Ph.D., DACVIM; Gale, David W.; Gale, Leslie A., B.S., (2003), Evaluation of the effect of a long-term trap-neuter-return and adoption program on a free-roaming cat population, *JAVMA*, Vol. 222, No. 1, January 1, 2003.

TNR is already working successfully in New Jersey in model TNR programs in Cape May, Atlantic City (at the Boardwalk), Phillipsburg and Bloomfield. In addition, support for TNR was one of the top three recommendations of New Jerseyans in comments received at the Task Force's public hearings and via correspondence.

Elsewhere in the country, the Orange County, Florida, Animal Services Department, the San Francisco SPCA, and statewide programs in California and Utah, have successfully implemented TNR programs.¹²⁰ Maricopa County, Arizona and correctional institutions in Ohio, Montana and New York State have also officially approved TNR as a means to feline population control. These programs are additionally beneficial to local governments, as volunteers can often be found to assist governments in managing feral cat colonies but are generally not willing to assist in trapping and removing cats for euthanasia.

Following are examples of TNR programs that have provided value to both cats and people, as well as financial savings to local governments, as compared to the costs associated with the conventional and far less compassionate methods of population control.

⇒ Maricopa County, Arizona

Ed Boks, former Director of Animal Care and Control, Maricopa County, Arizona,¹²¹ studied conventional methods of feral cat control for over 20 years. He determined that these methods do not properly regulate the population and, consequently, initiated a TNR program that is operated by the county animal control department. Within eight years the euthanasia rate dropped from 23 cats per 1000 county residents to only eight cats per 1000 county residents.¹²²

⇒ Orange County, Fla.

Orange County, Florida has a population of 700,000 people. Its animal control department incurs costs of approximately \$105 per animal when it must respond to a complaint and impound and euthanize the animal. Before its TNR program was introduced, there were approximately two hundred complaints per year, resulting in as many animals being captured, with a cost of \$21,000 to the county. Within six years after the introduction of TNR by animal control services in 1995, complaints decreased by approximately 10% as did the number of impoundments, with a total savings to animal

¹²⁰ Krebsbach, Susan B., D.V.M, (2003), TNR-The Most Viable Option for Expedient Reduction of Stray and Feral Cat Populations, February 1, 2002.

¹²¹ Maricopa County, Arizona is approximately 9200 square miles and has approximately 3 million residents.

¹²² The Proof is in-TNR Works, *Neighborhood Cats*, August 24, 2003, www.neighborhoodcats.org.

services of over \$100,000.¹²³ Within the six years of the start of the program, euthanasia decreased by 18%.¹²⁴

⇒ San Diego, California

Founded in 1992 by Dr. Rochelle Brinton and volunteer cat caretakers, the Feral Cat Coalition (FCC) introduced TNR to San Diego on a countywide basis. FCC is an all-volunteer organization that provides free sterilization procedures for feral and stray cats. In addition to sterilization procedures, the cats are vaccinated for rabies and treated for fleas and any immediate medical problems. FCC volunteers and others monitor the feral cats after they are returned to the outdoors. The Task Force is advised that the local animal control departments support the program as it has had a positive impact in reducing the feral population, thus reducing the number of cases to which they would have otherwise been required to respond. The Task Force is further advised that by 1994, two years after the start of the TNR program, the total number of cats brought into San Diego shelters dropped over 34% and the euthanasia rates in county shelters for all cats dropped 40% (instead of the usual 10% increase). San Diego euthanized 8.0 shelter animals per 1,000 people in 1997; 4.9 in 2002. The reduction in the euthanasia rate translated to an estimated tax savings of \$795,976.¹²⁵

⇒ San Francisco, California

The San Francisco SPCA initiated a citywide TNR program in 1993. The SPCA has been working with feral cat caregivers to control the feral cat population, provide some medical care, keep the cats adequately fed and — when possible — adopt them into homes. There are three aspects to the program. The first is “feral fix,” a program through which the SF/SPCA provides vaccinations and spay/neuter surgery for San Francisco feral cats, all at no charge to their caregivers. Since the program began they report altering over 10,000 cats. The second aspect of the program is “Cat Assistance Teams.” In neighborhoods throughout the City, CAT members work together to humanely trap feral cats, transport them to Feral Fix, provide post-surgery recovery care, and socialize feral kittens before placing them in homes. CAT members also provide expert advice and assistance to novice caregivers in their neighborhoods. Finally, there is 9 Lives™ Humane Feral Cat Management Video Series including nine comprehensive

¹²³ Orange County, Fla.: A Model Animal Services Program, *Alley Cat Allies* (fact sheet 2003).

¹²⁴ Hughes, K.L., Slater, Margaret R., Haller, Linda, (2002), The Effects of Implementing a Feral Cat Spay/Neuter Program in a Florida County Animal Control Service, *Journal of Applied Animal Welfare Science*, Vol. 5 No. 4, page 292.

¹²⁵ Chappell, Michelle S., DVM (1999), A Model for Humane Reduction of Feral Cat Populations, *California Veterinarian*, September/October 1999.

videos that cover all aspects of caring for feral cats.¹²⁶ Within six years of commencing the TNR program, euthanasia rates dropped by 70%.¹²⁷

⇒ New York City, NY

The New York City Feral Cat Council (“NYCFCC”), operating within the Mayor’s Alliance (discussed later in this report), is a coalition of NYC animal groups working to humanely reduce the City’s feral cat population through the use of TNR. They established a TNR program on the Upper West Side of Manhattan in 1999. Based on statistics compiled by New York City’s Office of Animal Care and Control, the number of stray cats from the Upper West Side going into all shelters was reduced by 73% in the first three years of the program. During the first year of the program, there was a 59% reduction in the number of cats arriving in shelters.

⇒ Cape May, New Jersey

In 1995 John Queenan, the animal control officer and animal cruelty investigator for Cape May City, proposed an ordinance to facilitate TNR and the feeding of feral cat colonies. ACO/ACI Queenan based his proposal for the ordinance on similar regulations in Santa Cruz County, California. Because pick-up and euthanasia had not resolved the city’s overpopulation problem, the ordinance focused on preventing reproduction by unaltered ferals. As a result of Cape May’s ordinance change, 200 cats were altered in 1997. Based on the number of nuisance complaints, litters of kittens and visual sightings of the colonies, it is estimated that the feral cat population, which was between 500 and 800 cats in 1994, has been reduced by 50%.¹²⁸

⇒ Atlantic City, New Jersey

The Humane Society of Atlantic County, in conjunction with the Health Department of Atlantic City and local volunteers, has used TNR successfully and with municipal approval. Through kitten adoptions and natural attrition (since these cats no longer reproduce), the feral cat population under the Atlantic City boardwalk has been reduced by more than 70% since the program began approximately three years ago. Cat related nuisance complaints, common before enactment of the TNR ordinance, are now rare.¹²⁹

⇒ Phillipsburg, New Jersey

Phillipsburg, Warren County also authorized TNR. Dr. Robert Blease, a veterinarian and founder of Common Sense for Animals (“CSA”), a non-profit organization that receives

¹²⁶ www.sfspca.org/feral/index.shtml.

¹²⁷ The Proof is in-TNR Works, *Neighborhood Cats*, August 24, 2003, www.neighborhoodcats.org.

¹²⁸ John Queenan, ACO/ACI, Cape May, New Jersey.

¹²⁹ Report on Atlantic City’s Feral Cat Colonies, *Alley Cat Allies*, Vol. 11, Issue No. 4, Winter 2001.

no public funding, initiated the municipality's TNR ordinance in 2001. All feral cats that are brought to CSA are vaccinated, sterilized, and identified by way of ear notching. Cats that are infected with FIV/FEHV, unhealthy or vicious, are humanely euthanized. If necessary, cats are adopted out to families or individuals before being returned to colonies. The Task Force is advised that since Phillipsburg authorized TNR the stray cat population has reportedly dropped by an estimated 350 cats, in the first year alone, and citizen complaints about stray cats have dropped to zero.¹³⁰

⇒ Bloomfield, New Jersey

The Friends of the Bloomfield/Bukowski Animal Shelter (FOBAS) recently initiated a TNR program. The program, which began in September 2003 with two colonies, has been endorsed and supported by the mayor, the town council and the Bloomfield Department of Health. Neighborhood Cats, a New York City-based volunteer non-profit organization, provides advice and assistance to the town, which adopted TNR as its official feral cat program.¹³¹

As illustrated above, TNR is a viable tool that, if implemented properly, will not only save lives and reduce feral cat populations, but will ultimately reduce municipal fiscal expenditures. TNR programs cost less than half to operate than the traditional trap and kill approach. The average cost to trap, neuter and vaccinate is approximately \$30.00 to \$40.00 per cat, whereas the traditional trap and kill approach can cost as much, on average, as \$90.00 per cat.¹³² Moreover, citizens who oppose the trapping of cats for euthanasia are willing to volunteer to trap animals as part of a TNR program, thus providing a cost-free resource to local governments.

Furthermore, TNR may be carried out in a manner that accommodates concerns for threatened or endangered bird species and wildlife. Consultation by the Department of Health and Senior Services with the New Jersey Department of Environmental Protection and bird advocates can ensure that TNR programs can be established at locations which further the protection of birds and wildlife.

It should be stressed that TNR, through its provision of vaccinations, provides protection against disease, including rabies, which would not otherwise be provided. DHSS guidelines concerning TNR should address the provision of appropriate vaccinations.

For all of these reasons, TNR is a solution that should be embraced. The Task Force encourages local governments and interested organizations to implement this program.

¹³⁰ www.common senseforanimals.org.

¹³¹ The Proof is in-TNR Works, *Neighborhood Cats*, August 24, 2003, www.neighborhoodcats.org.

¹³² *Animal Control Management, A Guide for Local Governments* (International City/County Management Association), page 18 (for nationwide averages).

D. Microchipping

Microchips, implantable devices that are about the size of a grain of rice, are used as a permanent form of identification. They are implanted under an animal's skin by way of an injection, a process that takes only a few seconds. Hand-held scanners are used to read a uniquely encoded number, which links to the owner's name, telephone number and other vital information that is stored in a database. By ensuring that most cats and dogs are microchipped, shelters and veterinarians would have the means to quickly identify and notify the owners of lost animals while owners would have a reliable method for identifying and tracking their pet. Shelter occupancies would be reduced, as would the need for corresponding animal control services. Moreover, microchipping would enable identification of the owner of an animal that is involved with an incident involving biting or another incident, thus facilitating a proper response to the event. Accordingly, the Task Force makes the following recommendations with respect to the microchipping of animals:

⇒ Shelters and impoundment facilities should microchip all dogs and cats before they are released or adopted to a new owner.

⇒ Rescue groups should be encouraged to microchip every animal before completion of the adoption process.

⇒ Microchipping should constitute a condition for the issuance of a license. Animals already owned or acquired prior to the effective date of this requirement should not be required to be microchipped as a prerequisite to licensure, although microchipping of these animals is strongly recommended.

⇒ Individuals who care for feral cat colonies should have the cats microchipped at the time the cats are sterilized.

⇒ All animal facilities should scan all animals for microchips at the time of impoundment and again before euthanasia.

⇒ The State should endeavor to fund microchip clinics, which are free to the public, in the same manner as it funds free rabies clinics.

Animals are often euthanized in shelters and pounds, not because there is no owner, but rather because the shelter cannot identify or locate the owner and the owner is unable to find the right shelter. According to the Humane Society of the United States, of the estimated 6-8 million cats and dogs entering shelters each year, owners reclaim only 15-30% of the dogs and 2%-5% of the cats each year. A four-year study conducted by the National Council on Pet Overpopulation Study and Policy revealed that only 20% of stray dogs and 3% of stray cats were returned to owners.

This can be attributed, in many cases, to a lack of proper identification. Although New Jersey law currently requires licensure of all dogs, compliance with this requirement is low (estimated at 20%-30%). According to statistics compiled by the Humane Society of Atlantic County, more than 75% of dogs that are reported missing do not have collars or other forms of identification. Current State law does not require mandatory licensing of cats; however, more than half of New Jersey municipalities have passed ordinances requiring cat licensing. Nonetheless, even if an animal is licensed, the identification tag can easily be lost, or collars slipped off or broken. Therefore, while licenses are an important identification tool, a permanent form of identification, such as a microchip, has proved to be more reliable and useful in animal retrieval. Tattoos, although also permanent, have no universal retrieval database. Calgary, Alberta, Canada has implemented a comprehensive microchipping program and requires mandatory microchipping and rabies vaccination as requisites for licensing. Calgary enjoys low per animal sheltering costs and exceptionally high licensing compliance (90%) and is a good model for New Jersey.

The adverse impact on retrieval attributable to the low license compliance rate is compounded by the fact that there is often not a single location to which an owner may go to retrieve a lost animal that was picked up by an animal control agency or otherwise turned over to a shelter or pound. It is common for pets in one county or municipality to be taken to a shelter in another county or municipality. Owners often do not know where to look for their animal, thus preventing or delaying retrieval of the animal. Given the general low rate of licensure and difficulties inherent in finding lost animals, additional measures are required to ensure that animals can be identified and returned home when lost.

The Humane Society of Atlantic County has a mandatory microchip program in place that has been well received by the public. The chips are typically installed at the time the animal is sterilized. All animals that arrive at the shelter are scanned for chips and again before they are adopted, reclaimed or euthanized. The cost (average \$4-8 per chip and a fee for registration) is included in the regular adoption fee. The Humane Society enters the microchip information into the animal's file and, after adoption, the client registers the microchip.

The American Kennel Club promotes microchipping by way of its Companion Animal Recovery ("CAR") Program, which provides 24-hour-per-day recovery services for microchipped pets. CAR has donated over \$1.5 million toward a scanner distribution fund that enables facilities to scan for microchips in stray and otherwise unidentified animals.

In addition to saving more animals' lives, a mandatory microchip requirement would reduce expenses that would otherwise be incurred by the shelter. It would necessarily reduce the number of animals for which they would have to care and, likely, euthanize if their owner did not claim them within the required seven-day holding period.

Furthermore, microchipping would aid in the management of feral cat colonies and reduce the burden that feral cats impose upon shelters. Individuals who care for feral cats are usually unable to reclaim them from the shelters for several reasons. First, feral cats seldom, if ever, wear identification. Second, despite State law requiring that all animals be held for seven days, some shelters euthanize these cats upon receipt because they are deemed “unadoptable,” “wild” or not “owned.” Third, some shelters will not allow caregivers to reclaim these cats because of their “unadoptable” status. Consequently, many cats are euthanized each year simply because the shelters do not have an owner/caregiver to call to reclaim the cat. The shelters are left with the dangerous task of housing these cats and the financial and emotional stress of euthanizing them. If, however, these cats were readily identifiable, by way of a microchip that links them to a caretaker, the shelters could release them to the caretaker, thus eliminating the need to euthanize and the attendant costs. It is important, therefore, that feral cats be microchipped at the time they are sterilized.¹³³

It is anticipated that, if a mandatory microchip policy were implemented, the State’s pet population would be fully microchipped and accounted for in approximately 10-15 years. New Jersey would also have access to more complete data concerning its pet population than it currently has and would be better able to quantify needs and provide adequate services. Currently, companion animal demographic data is largely based upon license or food sales data and does not include data concerning feral cats, which can represent upwards of 50% of the total cat population. The data is also often incomplete, as it does not include other important demographics, such as breed, age and medical information and reproductive status.

Without reliable data concerning companion animals, the size and scope of New Jersey’s pet population can only be estimated, thus impairing the State’s ability to plan for and respond to the problem of pet overpopulation. If, however, a microchip program were to provide accurate population and demographic data, the State could use this when projecting how much money would be needed for animal control and welfare purposes.

To ensure that the utility of microchips is fully realized, the following provisions should also be implemented:

- ⇒ All shelter and rescue organizations should be equipped with at least one universal scanner. Chip manufacturers offer these scanners to shelter and rescue groups free of charge.
- ⇒ All animal control officers and shelter staff should be trained to use the scanners.
- ⇒ All shelters and impoundment facilities should scan all animals entering the facilities and rescan all sheltered animals prior to euthanasia in order to doubly ensure that owned animals and animals that have caretakers are identified.

¹³³ See proposal concerning feral cat colony management, which addresses programs that involve sterilization, vaccination and continued monitoring of feral cats.

To achieve both access to complete population data and uniformity, New Jersey should contract with an established microchip database company (one that has a successful track record and a strong future) to build and maintain the New Jersey pet database. Microchip manufacturers have expressed their willingness to service and provide a database that would be dedicated to animals in this State. In the event that New Jersey contracts with a microchip database company for the construction and maintenance of a New Jersey pet database, we recommend the following provisions be incorporated into the contract:

- ⇒ Any microchip manufacturer should provide for universal access and every shelter should have at least one universal scanner)¹³⁴
- ⇒ The State should have unlimited access (24 hours per day, seven days per week) to the pet population data.
- ⇒ The database company should accept and store information on a customized New Jersey data submission form.
- ⇒ Should the database company become defunct, the State should have the legal right to ownership of the database and its data.

Additionally, municipalities are encouraged to offer microchipping in conjunction with their free rabies clinics. A free or reduced-cost microchip clinic, offered in conjunction with the State-funded rabies clinic, would enable individuals who already own cats and dogs to avail themselves of the microchip technology. The following proposals concerning licensing fees and other funding solutions addressed herein are intended to provide sufficient funds for this and other proposals.

E. Licensing

The Task Force makes the following recommendations with respect to pet licensing:

- ⇒ Increase the State portion of the license fee in order to fund animal welfare programs.
- ⇒ Authorize municipalities to increase their licensing fees.
- ⇒ Dedicate new revenues to animal welfare programs.

¹³⁴ There are multiple microchip manufacturers and, in recent years, some have sold chips keyed to an international reference standard that could not be read by a United States-based universal scanner. Noting that technology currently exists for universally readable chips, the Humane Society of the United States suggests that the various companies manufacturing microchips agree to share their technology to make this a reality. It has appealed to the microchip manufacturers to develop or modify existing scanners to make them capable of detecting all microchips, regardless of brand.

- ⇒ Require cat licensing statewide (contingent upon passage of additional measures described below); the cat license fee should be the same as that for dog licenses.
- ⇒ Establish by law that the absence of a license does not constitute an independent basis for euthanasia when there is no other cause to seize and euthanize the animal.
- ⇒ Adopt a policy which makes clear that the licensing requirement is not intended as a prohibition of allowing cats to roam outdoors,¹³⁵ nor of feeding outdoor cats, whether feral or otherwise.
- ⇒ Issue citations for licensing violations.
- ⇒ Provide an exemption from licensing requirements for properly monitored feral cat colonies. (See the section of this report addressing “TNR.”)
- ⇒ Enhance enforcement of licensing laws.

To aid in the identification and recovery of lost animals, increase funding to the APCP, and establish a statewide microchip program, it is important that both cats and dogs be licensed and licensing fees be increased. The proposed fee increase would be modest: a nominal increase (\$4.00) of the basic license fee for dogs and cats.¹³⁶

It is recommended that the new revenue be dedicated to specific animal welfare programs, as follows:

- ⇒ 50% (\$2.00) to a statewide microchip program
- ⇒ 25% (\$1.00) to the APCP
- ⇒ 25% (\$1.00) to be distributed by the State to qualified low-cost sterilization clinics. There would be no change in the current statutory requirement that directs 20 cents from each license paid to the State to the People for Animals Clinic.¹³⁷

¹³⁵ This is not intended to constitute an endorsement of allowing cats to roam freely outdoors. Rather, it is an acknowledgement that this is a common practice. The Humane Society of the United States and the New Jersey Audubon Society stress the importance of keeping cats indoors. HSUS’ Safe Cats campaign highlights the risks associated with allowing cats to roam outdoors, which include threats from traffic, diseases, poisons and injuries inflicted by other animals. Cats can also be victims of animal cruelty and could contract rabies from wild animals. The Humane Society stresses that it is a common misconception that cats are “low maintenance” pets that require little in the way of care or attention and thrive outdoors.

¹³⁶ Currently, the State receives \$1.20 for each sterilized dog. \$1.00 is directed to the Rabies Control Fund; 20 cents is directed to the People for Animals low-cost sterilization clinic. An additional \$3.00 is charged for each unneutered dog; these revenues are directed to the Animal Population Control Program. Municipalities are authorized by law to charge between \$1.50 and \$7.00 for all dog licenses. This revenue is to be used to fund animal control programs. These fees have not been increased for over two decades. Approximately 50% of the State’s municipalities require cat licensing.

¹³⁷ Consideration should be given to the following criteria when determining whether a clinic is eligible to receive State funds: operated by a 501(c)(3) animal welfare organization; provides surgeries to a minimum number animals per year; in operation at least five years; provides service at a cost that is below average

This, coupled with effective municipal canvassing (which is required by current law) and other enforcement measures, to ensure that dogs and cats are being licensed, could raise revenue that would help better fund the State's low cost spay-neuter program and would help establish a statewide microchip program. The Commissioner of Health and Senior Services (DHSS) should be authorized to increase the new license fee by a cost of living factor every five years. He should also be able to shift this new revenue between the microchip and APCP dedicated funds, but only when there is a surplus in one fund that would not be needed. The money should not be moved to or used for other programs. Municipalities should also be authorized to increase their licensing fees by a cost of living factor every year.

It should be noted that Task Force members and animal welfare advocates have expressed support for proposals that would ultimately cost pet owners more money than is currently required (i.e., for licenses and registrations), so long as the money is dedicated to animal welfare programs. In years past, however, funds in DHSS' Animal Population Control Program were, on prior occasions, directed to other programs. Therefore, animal welfare advocates expressed concern that the new revenue could be diverted to unrelated programs. Accordingly, they would strongly support the Task Force's funding proposals but would strongly oppose unintended uses for this revenue. Provisions, such as an outside audit, should be made to prevent unintended uses or inappropriate diversions of these funds.

It must also be noted that cat licensing is a controversial issue. Some animal advocates may oppose it (because they fear that some people will dump their animals rather than pay licensing fees or because they fear that they will be punished or forced to abandon their pets if they report that they care for more animals than allowed by municipal ordinance). A cat licensing requirement is not intended to impose undue burdens on cat owners or to deter rescue efforts. Accommodations must be made for households with multiple animals and individuals and organizations that rescue animals, serve as foster homes and locate new homes for homeless cats. It is therefore imperative that the imposition of a cat licensing requirement be contingent upon passage of these and other measures to ensure that owners are not penalized for caring for these animals, as follows:

- ⇒ Discounts for rescue groups and foster homes.
- ⇒ Clarifying language in any cat licensing law stating that a lack of evidence of licensure alone shall not constitute a sufficient basis to euthanize the cat.
- ⇒ Household licenses for households with 5 or more animals.

market value; is in compliance with laws governing regulated medical waste, controlled dangerous substances and record keeping; is subject to annual audit by outside accounting firm (already required for all non-profit organizations generating more than \$100,000 per year); and maintains worker's compensation and liability insurance.

- All animals in household must be spayed or neutered and have current rabies vaccinations;
- Issuance of a household license would not exempt the licensee from public health and cruelty laws.

⇒ Elimination of laws limiting the number pets that may be kept per household, as these laws may be arbitrary or unfairly limit the number of pets an individual may care for. Concerns relating to hoarding, neglect or excessive population considerations may still be effectively addressed through public health and nuisance laws. Note that Warren Township’s cat licensing ordinance (BH:13-1, et seq.) provides a maximum dollar amount for cat licenses; the maximum fee per household is \$25 for unsterilized cats and \$15 for sterilized cats. There is no limit on the number of cats a resident may own.¹³⁸ (See section of this Report concerning pet limit laws).

⇒ Statewide authority for properly conducted programs that involve caring for feral cats (i.e., trapping, neutering, vaccinating and monitoring feral cats that can not otherwise be placed in homes or shelters). (See section of this Report concerning “TNR”).

⇒ As a matter of policy, it should be made clear that cat licensing should not be interpreted as implicitly prohibiting the feeding of outdoor cats.

It is anticipated that, over time, if the programs that are funded by these licensing fees are fully funded and meet demand, the licensing fees could be reduced. As discussed above, it is expected that within approximately 10-15 years the vast majority of New Jersey’s dogs and cats would be microchipped. As we approach that time, more and more accurate pet demographic data will be available, thus enabling better decision-making and better use of resources to benefit the State and its animals. Fewer resources from licensing fees would therefore need to be applied to microchipping and database building. Therefore, licensing fees could be reduced or redirected to other projects to benefit pet animals. Moreover, once a pet is entered into the database, licensing and relicensing would be easier. An electronic pet database would allow easy online annual relicensing and payment by credit card, thus reducing the burden currently placed upon municipalities, which administer and maintain licensing programs.

F. Differential Licensing Fees

Differential licensing refers to the practice of charging higher fees to license unsterilized animals (i.e., those capable of reproducing), as compared to lower fees charged for sterilized animals. The rationale underlying a licensing fee differential is to provide an economic incentive to encourage responsible pet owners to have their animals sterilized. Consequently, the Task Force makes the following recommendations:

⇒ Increase the licensing differential for unsterilized dogs and cats to at least \$25.

¹³⁸ The Task Force recommends, however, incorporating the requirement that all animals covered by a household license be sterilized.

- ⇒ Revenue from differential license fees should be directed to the APCP and used for the purpose of offering low-cost spaying and neutering surgical services to dogs and cats.
- ⇒ The differential should be increased if it is demonstrated that the \$25 fee would not fully fund the APCP such that all demand is satisfied. Based on data provided by the Department of Health and Senior Services concerning licensing compliance and the estimated number of intact pets, it is anticipated that a \$25 differential could fully fund the APCP.
- ⇒ Provision should be made for automatic cost of living increases for the licensing differential.
- ⇒ Enforcement of licensing laws should be enhanced.

After the APCP was implemented in 1984, there was a steady decline for several years in the number of dogs and cats that were euthanized by shelters. The euthanasia rate, however, has reached a plateau and the rates of shelter impoundments and shelter euthanasia have remained relatively stable in New Jersey. In 2000, 48,551 animals were euthanized, dropping to 45,540 in 2001 and 41,210 in 2002. This figure, however, increased to 47,979 in 2003. The APCP is unable to offer subsidized sterilization services to many qualified applicants due to a lack of funds. It is currently funded by a \$3.00 differential for unsterilized dogs, revenue from the sale of Animal Friendly license plates and renewal fees and clients' co-payments. A significant increase in revenue to the APCP is needed¹³⁹ and can be achieved by a moderate increase in dog and cat licensing differential fees, in addition to a basic cat-licensing requirement.

Fully funding the APCP is essential to solving the State's overpopulation problem. Studies of New Jersey shelter statistics reveal vast differences among counties, depending upon each county's average income. The wealthier counties had exceptionally low euthanasia rates (ranging from .43 to 2.61 per 1000 residents), while the less affluent counties had significantly higher rates (21.45 and 34.86 per 1000 residents).¹⁴⁰ This underscores the need to assist the State's lower-income residents to obtain sterilization procedures for their pets. The APCP is intended to do just this, but cannot fully serve this community without proper funding.

Licensing fee differentials have served as an effective tool to promote sterilization, and are relatively easy to implement and collect. The majority of local and county

¹³⁹ The Domestic Companion Animal Council reports that the APCP subsidized 5,972 surgeries in FY 2003 and 8,500 in FY 2002, at an average cost of \$90 per surgery. In FY 2003, 1,453 of the animals were owned by individuals who received public assistance while 4,519 were owned by individuals who adopted them from a licensed animal shelter, pound, holding/impoundment facility, or animal adoption referral service. *Domestic Companion Animal Council Annual Report, 2003, page 4.*

¹⁴⁰ Solutions to Overpopulation of Pets, Inc.

governments that have imposed a meaningful licensing differential for unsterilized animals have experienced a rapid, significant decrease in shelter euthanasia. The areas that have successful licensing differential programs require only modest differential fees, in most cases not exceeding \$30.¹⁴¹ Houston's shelter euthanasia rate, for example, has decreased by 50% in 10 years and the current Charlotte shelter euthanasia rate is about 55% of the state average. Some regions have experienced an initial decrease in licensing compliance after instituting a new licensing differential. However, with the passage of time and public education, which is imperative to the success of such programs, licensing compliance routinely returns to its original rate.

Establishment of a \$25 licensing fee differential would serve multiple important goals.¹⁴²

¹⁴¹ Among these communities are: Dade County, Florida; Palm Beach County, Florida; Fort Wayne, Indiana; Charlotte, North Carolina; Pittsburgh, Pennsylvania; Houston, Texas; King County, Washington; and the states of California and Connecticut. Little Rock, Arkansas began charging a differential licensing fee of \$30 in 1999, which is credited in reducing the shelter euthanasia rate in 2001 from 26.6 to 17.6 per 1000 human residents. St. Louis, Missouri recently increased its licensing differential from \$3 to \$50. This generated increased revenue of \$40,000-\$50,000 last year and the city expects a total increase of \$80,000 by the end of this year.

¹⁴² The Task Force calculates that \$25 would likely fully fund the APCP such that it would be able to satisfy its demands. This estimate is based on the following data. The total owned dog population in New Jersey is approximately 1.2 million; the total owned domestic cat population is approximately 1.7 million. *United States Pet Ownership and Demographic Sourcebook*, American Veterinary Medical Association, 2002. Approximately 28% of dogs and 16% of cats remain sexually intact in the United States. *National Pet Owners Survey*, American Pet Products Manufacturing Association. These figures are applied to New Jersey for the purposes of these calculations. Dog licensing compliance for unsterilized dogs is approximately 21%. Department of Health and Human Services data for fiscal year 2003. The introduction of significant increases in licensing differential prices has been found to result in reduction in general licensing compliance (often by as much as 25%). Based upon this rate of compliance, 70,500 owners of intact dogs and 57,000 owners/caregivers of intact cats (for a total of 127,500) would be required to pay the licensing differential. Consideration should be given to incorporating microchipping as an important and new component to the APCP package of services (See Section III of this Report). In this event, until revenue from licensing fees is sufficient to subsidize this service, a supplemental fee should be paid to the veterinary surgeon/hospital for the microchip that can be injected at the time of surgery. Because the microchip cost to private clinics buying small volumes of chips is significantly greater (customary cost of microchip to non-shelter is approximately \$12.00 each), a reasonable mark-up and injection fee would be considered fair. It is not unusual for private clinics to charge \$40.00 or more for microchip injections. For purposes of this calculation, and assuming no revenue from licensing fees for this purpose, a reduced price of \$25.00 to cover the price of microchip and injection is assumed. DHSS estimates that \$2.4 million per year is needed to enable the APCP to satisfy current demand for service. *APCP Report to the Legislature for period of July 1, 2001 through June 30, 2002*, Department of Health and Senior Services, Nov. 2003. A licensing differential of approximately \$25.00 to fully fund APCF can be derived by the following formula:

$$LD = [TC + (TS)(MC)]/NL$$

LD = Calculated licensing differential price to fully fund APCF

TC = Current financial need to fully fund APCF annually = \$2.4M

NL = Total anticipated number of owners paying licensing differential = 127,000

TS = Total number of anticipated surgeries annually (average surgery cost of approx. \$80.00, data from DHSS) = 2.4M/80 = 30,000 (approx.)

MC = microchipping supplemental cost = \$25

$$LD = [2.4M + (30000)(25)]/127500$$

$$LD = \$24.70 \text{ (rounded to } \$25.00)$$

It would discourage those other than serious professional breeders from keeping sexually intact animals; subsidize sterilization procedures in an attempt to alleviate the overpopulation problem that was created by the unchecked reproduction of dogs and cats; provide a source of revenue that can be used to educate the public on the importance of sterilization; and reduce the burden on the local tax base for the additional expenses associated with housing, feeding and euthanizing sexually intact and breeding dogs and cats.¹⁴³

In addition to fully funding the APCP, enforcement is essential to successful implementation of any fee-based program. Currently, no more than one in three dog owners in New Jersey has licensed his or her pet. This deprives the State of revenues that could significantly improve the infrastructure and quality of life for dogs and cats. Looking at licensing differential alone, every additional 1% of paying licensees generates an additional \$130,000 toward sterilization programs, which in turn saves lives and money for the State and its municipalities. Creative enforcement measures, in addition to municipal canvasses that are currently required by law, must be implemented in order for the licensing differential to be meaningful.

Calgary, Alberta, Canada has achieved a particularly high licensing compliance rate of 78%. The city's success is attributed, in part, to high monetary penalties for those who violate animal control laws. First offenders for license violations are fined \$250; third offenders are fined \$750. The threat of these penalties, however, is supplemented by a substantial citywide effort to promote responsible pet ownership. As a result of these programs, 85% of impounded stray dogs (4421/5244) were reclaimed by their owners and, in 1996, only 100 unclaimed and unadopted stray dogs were euthanized. As recently as 1984, which predated the current program, an average of 30 dogs were euthanized in Calgary's shelters each week.

Municipalities should also endeavor to make it easier for owners to obtain licenses. License applications and renewal forms could be made available at a variety of locations, including public libraries, shelters, kennels, veterinarians' and government offices. The forms could also be available via the Internet and at rabies and microchip clinics.

Moreover, breeders and pet stores should provide data concerning all sales,¹⁴⁴ including name and address of the purchaser, to the licensing bureau of the municipality in which the purchaser resides. This will help enable the municipality to ensure that the newly purchased animal is properly licensed and complies with all conditions of licensure (e.g., rabies vaccination and microchip).

¹⁴³ The Domestic Companion Animal Council conservatively estimates that, since over 40,000 fewer euthanasias were reported in FY 2002 than in FY 1984, when the APCP began, New Jersey's citizens and its local governments have realized a cost savings of at least \$1,600,000 (40,000 euthanasias at \$40 per euthanasia). *Domestic Companion Animal Council Annual Report*, 2003, page 4.

¹⁴⁴ Pet stores are currently required to provide, to the local health authority of the municipality in which they are located, records of the total number of dogs and cats sold. N.J.S.A. 4:10-15.8e.

G. Pet limit ordinances

The Task Force makes the following recommendations:

- ⇒ State law should not place *per se* limits on the number of animals for which a person may care.
- ⇒ Existing nuisance, animal cruelty and public health laws should be applied to all animal caretakers.

Some municipalities limit the number of companion animals that any person can own or care for. The ordinances are varied: for example, Hamilton Township, Mercer County, limits its residents to a maximum of two pets; Delanco, Burlington County, limits its residents to no more than two cats per household; while Cranford, Union County, allows no more than twelve “household animals.” East Amwell, Hunterdon County, Hopewell Township, Mercer County and Howell Township, Monmouth County impose no such limits. In order to alleviate the State’s pet overpopulation problem and help reduce the number of animals that are euthanized each day, every effort should be made to facilitate pet ownership.

Advocates of pet limit ordinances argue that they are necessary to prevent neglect and abuse by people who own more animals than they can properly care for. It is also argued that these ordinances are necessary to prevent nuisances and public health hazards. However, these ordinances do not necessarily achieve these goals and may actually run counter to them. One individual may be able to responsibly care for several animals whereas another may not be able to care for even one. Such an ordinance would, however, punish only the person who adequately cares for his animals and does not create a public nuisance or other hazard. Moreover, such ordinances are not needed to achieve their goal. Enforcement agencies and landlords already have at their disposal animal cruelty and welfare, public health and property rights laws. Laws prohibiting unsanitary conditions, excessive noise and interference with property are also available.

Additionally, ordinances that limit ownership would prevent proper rescue efforts. Throughout the state, there are hundreds, if not thousands, of individuals who rescue and provide foster care, at their own expense, for animals that would otherwise be euthanized in a shelter. If it were not for these rescuers, thousands of additional animals would be euthanized each year at shelters. These individuals live in almost every community and alleviate the burdens imposed upon their municipal and county impoundment facilities and shelters, thus relieving their fellow taxpayers’ burden.

Moreover, other concerned citizens feed and care for neighborhood stray and feral cats. Many pet limit ordinances define these individuals as “owners” for the purpose of holding them accountable for the animals in their charge. As with rescuers and foster care givers, these individuals are providing a public service, using their own time and resources, and should not be penalized by way of a pet limit law, particularly when the law would not prevent the mischief it is intended to prevent.

Although some jurisdictions allow “responsible” pet owners to apply for an exemption from the pet limit ordinance, this is an inappropriate compromise. The vague and subjective nature of the exemption places the pet owner in an exceptionally difficult position. He must choose between applying for the exemption, thus risking rejection and a resultant obligation to eliminate some or all of his animals from his home, or violate the law. Other compromise ordinances allow for “kennel” licenses, however, this can be insufficient when municipalities prohibit kennels in residential neighborhoods.

Furthermore, pet limit ordinances could arguably contribute to the overpopulation problem to the extent they prevent people from keeping animals. Faced with a litter of puppies or kittens, or a rescued animal, owners would be compelled to turn the animals over to a shelter immediately in order to avoid being caught with more animals than allowed by law. Absent the limit ordinance, such individuals would have an opportunity to find appropriate homes for the animals. As noted, these individuals often alleviate the burden imposed upon shelters and pounds. is a need to encourage and support all persons who properly care for animals that would otherwise be homeless and/or rounded up and euthanized, there should be no pet limit ordinances and public health, nuisance and animal cruelty laws should be applied when necessary.

H. No-pets clauses in residential rental leases

The Task Force makes the following recommendations:

- ⇒ No-pets clauses in leases should be prohibited, with the following conditions:
 - Landlords would retain the right to evict for cause, as in any landlord/tenant case.
 - The prohibition should not apply to seasonal rental units.
 - Landlords should require that animals be spayed or neutered.
 - Landlords should be permitted to charge a reasonable additional fee.
 - Landlords should be permitted to compel a tenant to replace damaged property.
 - Landlords should be exempted from liability in matters involving animals on property they own or operate.
 - Tenants should be protected from punitive or retributive eviction actions.
- ⇒ To protect the rights of tenants who are not pet owners, consideration should be given to legislation that would provide that portions of rental properties remain

pet-free in order to accommodate those who cannot live with animals because of allergies, noise or fear.

- ⇒ Consideration should be given to the creation of “tenant/pet committees” comprised of pet owners and non-pet owners and a veterinarian, if possible. The committee would “mediate” or “adjudicate” conflicts, thus preventing further disputes.

In an effort to maximize housing options for homeless animals, and create parity for individuals who want to own animals but are prohibited from doing so because they reside in rental housing, the Legislature should endeavor to prohibit “no pets” clauses in rental leases.

Such measures are not unprecedented. Currently, all residents of public housing in New Jersey, as well as throughout the United States, are permitted to keep companion animals. Pursuant to Section 527 of the federal public housing regulations, residents are allowed to have “one or more common household pets, subject to reasonable requirements of the Public Housing Act. Likewise, federal law allows the elderly to keep common household pets in federally assisted elderly rental housing.

In New Jersey, current law, N.J.S.A. 2A:42-104, gives residents of all subsidized senior citizen housing projects the right to have pets as long as they meet reasonable conditions and adequately care for their pets. This applies to both state and private housing projects for the elderly. Also, pursuant to N.J.S.A. 2A:42-105 landlords cannot refuse to renew a lease because a senior citizen (over 62 years old) has a pet. Under these provisions, if the animal is not otherwise causing a health hazard or safety problem, the presence of the animal cannot be the sole reason for refusing to renew the lease. This is meant to provide security and peace of mind for the elderly tenant who has a companion animal, by removing the threat of having to leave a rented dwelling because he or she cares for an animal.

The senior citizen has the statutory obligation to properly care for the companion animal, and to ensure that the presence of the animal does not threaten or unduly inconvenience neighbors by using a leash if necessary and preventing the animal from damaging common areas. The landlord is expressly authorized to promulgate reasonable rules and regulations concerning care and maintenance of domesticated animals by senior citizens. To protect the tenant, these rules must be written, must be given to each tenant, and must be incorporated into subsequent written leases when they are renewed, or the master lease and bylaws of the project.

Both Federal and New Jersey Law also protect the rights of persons with disabilities in rental housing to keep certain animals. Moreover, a landlord cannot evict an elderly or disabled tenant from their present apartment without providing them assistance in finding comparable housing that would allow companion animals.

Other residents of non-public rental housing, who have or want pets, do not enjoy the same protections. These individuals are often given the choice of either giving up their home or their pets. This results in unequal protection of New Jersey residents, who often suffer greatly from this decision especially if they have no choice financially but to remain in their current dwelling.

Blanket prohibitions on pets also contribute significantly to the State's overpopulation problem and the burden imposed on shelters. Otherwise responsible owners are unable to adopt animals from shelters. Moreover, many of the animals found at shelters were relinquished by owners who could not find housing that allowed them to keep their companion animals.

Studies have found that approximately 6.5 million companion animals could be adopted in the U.S. if all apartment owners/managers permitted their tenants to have pets in their rental units.¹⁴⁵ Similarly, a study reported in *Canine Practice* found that 35% of renters would own pets if rental housing permitted.¹⁴⁶ Accordingly, upwards of approximately 2,275,000 animals that would likely be euthanized could instead be adopted (assuming that renters choose to adopt from shelters rather than purchase). The National Council on Pet Population Study and Policy confirmed that landlord refusal to allow pets in rental units constitutes a prime reason for people relinquishing their dogs and cats to shelters.¹⁴⁷ Indeed, "one of the simplest and most important things the humane community can do to boost adoptions and keep animals in the homes they have is to work with landlords and tenants to increase the number of rental units that allow companion animals."¹⁴⁸

New York (including New York City), parts of California¹⁴⁹, and parts of Hawaii have laws permitting pets in apartments. Successful programs have addressed the financial and practical incentives important to landlords. Successful laws have addressed the financial and practical incentives that are important to landlords while providing tenants the ability to keep their pets. In exchange, satisfied tenants have been found to rent for longer periods, resulting in reduced vacancies. Landlords also enjoy other unanticipated benefits: The Humane Society of the United States lists, via a website

¹⁴⁵ Peterson, Nancy (1999), *Animal Sheltering: A New Lease on Life*, Jan.-Feb., pages 19-21.

¹⁴⁶ *Ibid.*

¹⁴⁷ The Top Ten Reasons for Pet Relinquishment to Shelter in the United States, *National Council on Pet Population Study and Policy*, Copyright 2000, <http://www.petpopulation.org/topten.html>.

¹⁴⁸ Maddie's Fund: The Pet Rescue Foundation, Creating a Pets in Rental Housing Program in Your Community, www.maddies.org/organizations/pet_rentals.html.

¹⁴⁹ In 1993, the San Francisco SPCA helped plan, develop and implement the nation's first pets in rental housing program. Its "Open Door Program" has become a model that many other organizations use to develop their own programs. It has been reported that, in the first year of operation, over 900 rental units were opened to pets; rental units allowing cats increased 12%; and those that allowed dogs increased 18%. See, www.maddies.org/organizations/pet_rentals.html.

www.RentWithPets.org, pet-friendly rental properties, thereby providing landlords who permit pets free advertising.

Encouraging responsible pet ownership is consistent with New Jersey policy and its residents' interests. Statistics show that approximately three out of every five households have companion animals. It is a well-accepted fact that these animals are an important part of our families.¹⁵⁰ Recently passed legislation in New Jersey confirms this. For example, New Jersey now allows testators to set up trusts to provide for their companion animals after the death of the owner or guardian. New Jersey has also changed and upgraded many of our laws, especially in the area of animal cruelty, to reflect the importance of these animals to our lives. However, we do not provide consistent protection to our citizens who either cannot afford to purchase a home or choose to rent.

Consequently, rental properties should be opened to persons who own animals, with proper accommodations for the landlords and other residents. The Legislature is currently considering a bill that would achieve this balance. Assembly Bill No. 2570 (Session Introduced in the 2004-05 Legislative Session), sponsored by Assemblyman Wilfredo Caraballo, is designed to help pet owners find housing by permitting renters to keep pets after providing written notice to their landlord. The bill takes those rights currently given to public housing, senior and disabled citizens to keep companion animals, and extends them to all citizens. It also provides landlords with the same protections that have been given under these special categories, thus applying the law consistently to all New Jersey residents. It would, in addition to other provisions, allow landlords to charge an additional security deposit of up to \$300; retains their authority to refuse to renew leases or require removal of the animal under certain circumstances; and requires the animal to be sterilized. Passage of this bill would benefit pet owners, shelters, taxpayers and landlords.

I. Pediatric Sterilization

The Task Force makes the following recommendations:

- ⇒ The American Veterinary Medical Association (AVMA), American Animal Hospital Association (AAHA), and many state veterinary medical associations (VMAs) support pediatric sterilization, finding it to be a safe and effective tool in the arsenal of dog and cat overpopulation control.

¹⁵⁰ Moreover, it has been widely documented that pet ownership enhances both mental and physical health. See, Austenberg, Nina. (1989). Tackling the Issues Facing Pet-Owning Tenants. *Shelter Sense*, October, 1989, pages 1-4. Moreover, relationships with animals can enhance empathy and IQ in children. Brimacombe, Douglas. *British Columbia SPCA Recommends Pets Allowed Legislation: An Open Letter to the BC Government*, http://www.bcsPCA.com/rental/prh_OpenLetter.html and http://www.sPCA.bc.ca/media/PetsRentalLegislation.Jan2002_Press.htm.

⇒ The Task Force endorses these associations' positions and encourages veterinary schools and practitioners to routinely teach and provide pediatric sterilization in order to facilitate a reduction in the number of unwanted litters.

Pediatric sterilization refers to spaying or neutering anytime before sexual maturity, but usually between 8-16 weeks of age. It has been carefully studied, with the results of those studies reviewed in the veterinary medical literature¹⁵¹. The studies have concluded that the procedure presents neither an additional risk to the pediatric patient nor any significant negative consequences for the performance of sterilization surgeries on pediatric versus adult patients. Consequently, the American Veterinary Medical Association has approved of the procedure for more than 10 years. Nonetheless, while private practice veterinarians generally promote sterilization, it appears that they are often not as comfortable with the concept and technique of pediatric sterilization performed between eight to sixteen weeks of age than when it is more commonly performed at four to six months of age.

Sterilization has been shown to be the most effective tool in combating pet overpopulation. All animals must be sterilized before they are adopted from a shelter or purchased from a pet store or breeder. If veterinarians routinely offered pediatric sterilization services, mandatory sterilization before adoption or sale would be more readily practicable. Most shelters do not have in-house sterilization facilities and must rely upon local private veterinarians for their sterilization services.

Routine use of pediatric sterilization would significantly help reduce the number of homeless animals. A Massachusetts study demonstrated that, while approximately 75% of owned adult dogs and cats are spayed or neutered, up to 20% of those spayed and neutered pets had reproduced before their sterilization surgeries.¹⁵² This fact alone highlights the importance of pediatric sterilization. Indeed, since kittens can become sexually mature as early as five months of age, sterilizing cats after that age may be unsatisfactory vis-à-vis population control. As pediatric sterilization becomes more

¹⁵¹ Lieberman, Leo, (1987), *JAVMA*, Vol. 191, No. 5, Sept. 1987; Stubbs, Preston; Bloomberg, Mark, (1995), *Seminars in Vet Med and Surgery, Small Animal*, Vol. 10, No. 1, Feb. 1995; Salmeri, Katherine; Bloomberg, Mark; Scruggs, Sherry; Shille, Victor, (1991), *JAVMA*, Vol. 198, No. 7; Howe, Lisa, (1999), *DVM Compendium*, Vol 21, No. 2, Feb. 1999; Howe, Lisa, (1997), *JAVMA*, Vol. 211, July 1997; Theran, Peter, (1993), *JAVMA*, Vol. 202, No. 6, Mar. 1993; Herron, Mary, (1972), *JAVMA*, Vol. 160, No. 2, Jan. 1972; Aronson, Michael; Faggella, Alicia, (1993), *JAVMA*, Vol. 202, No. 1, Jan. 1993; Stubbs, Perston; Salmeri, Katherine; Bloomberg, Mark, (1995), *Current Vet Therapy XII*; Land, Tracy; Wall, Samantha, (2000), *JAVMA*, Vol. 216, No. 5, Mar. 2000.

¹⁵² Massachusetts Society for the Prevention of Cruelty to Animals (1991), *Spay/Neuter*. The NCPPSP offers basic statistics tracking forms that may be copied and used by shelters. *Summary*; Additional studies in Massachusetts, Santa Clara, California, San Diego, California, and Las Vegas, Nevada each found that between 86% and 91% of owned female cats were spayed. However, somewhere between 16% and 20% of owned cats have one or two litters prior to being altered. The vast majority of these litters were unexpected and unwanted, as most owners were not aware of the age at which young dogs and cats can begin the reproductive cycle. Christiansen, Robert, (1998), *Save our Strays*, (CLC Publishing).

widely taught and practiced, the performance of sterilization surgeries on puppies and kittens between 8 weeks and 16 weeks will become routine.

In endorsing the position of the AVMA, the AAHA, and the many state VMAs, the Task Force is encouraging widespread use of pediatric sterilization and the many benefits that this procedure offers in the area of dog and cat overpopulation control.

J. Animal Population Control Program (APCP)

As previously discussed, the APCP is a landmark program established by the State, whose purpose is “to reduce the population of unwanted and stray dogs and cats by encouraging the owners of dogs and cats to have them permanently sexually sterilized, thereby reducing potential threats to public health and safety posed by the growing population of these unwanted and stray animals, and by providing low-cost animal sterilization services” to owners meeting certain statutory criteria.¹⁵³ The APCP, which serves as a model for other states’ programs, has subsidized sterilization procedures for over 160,000 animals, but has not been able to serve all eligible clients due to revenue shortfalls. Accordingly, an examination of the terms and conditions that govern the program, as well as the administration of the program itself, should be conducted in order to determine how to maximize both participation and revenue. Thus, the Task Force makes the following recommendations:

- ⇒ DHSS should annually review the APCP to determine whether eligibility criteria, veterinary reimbursement schedules and other elements of the program should be modified in order to achieve both greater participation and cost savings.
- ⇒ Similarly, the APCP’s administrative structure and costs should be fully re-examined in order to identify potential cost-saving measures.
- ⇒ The Domestic Companion Animal Council should similarly review these issues and make recommendations pursuant to its statutory authority.

Also, as noted above, an increase in the State portion of dog license fees, and the implementation of a cat-licensing requirement, would aid the APCP with respect to revenue. An increased licensing differential, for unsterilized dogs and cats, would help support the program. Additional cost-saving or revenue-generating measures should be explored, as follows:

- ⇒ DHSS should examine whether the current \$20 co-payment required from program participants, which has remained unchanged for 20 years, should be increased to generate more revenue or reduced or eliminated to increase participation in the program. The Domestic Companion Animal Council, which pursuant to N.J.S.A. 4:10A-17 is charged with monitoring, studying and

¹⁵³ N.J.S.A. 4:19A-1.

reviewing the activities of the APCP, should similarly review these issues and make recommendations pursuant to its statutory authority.

- Consideration should be given to eliminating co-payments for participants who receive public assistance. Since it has been documented that low-income pet owners less frequently procure sterilization procedures, concerted efforts should be made to facilitate procedures for these owners.
- If shelters and impoundment facilities were required to sterilize all animals in their custody prior to release for adoption, these facilities should be eligible for program participation, for a period of time. In this event, consideration should be given to adjusting the co-payment that shelters would be required to pay for each sterilization performed. In addition, consideration should be given to authorizing the APCP to direct monies to shelters for their use for sterilization procedures, in order to achieve a more efficient process.

⇒ DHSS should fully examine the administration of the program in order to identify ways to decrease administrative operating costs. The Domestic Companion Animal Council should similarly review these issues and make recommendations pursuant to its statutory authority. The Animal Population Control Fund (APCF) pays administrative operating costs to the Department. These costs were \$201,821 in FY 2001, \$218,119 in FY 2002, and \$161,228 in FY 2003. In FY 2000, personnel costs were \$188,898. In FY 2001, they were \$190,158. In examining the administration of the program, the Department and Council should consider the following, in addition to other possible alterations of policy or procedure:

- Shifting the source of the program's personnel costs from the APCF to the Department. This would allow for significantly more in the way of available funds that could be used to provide low-cost sterilization procedures.
- Allow veterinarians to keep co-payments that are paid to them by clients and subtract this amount from their fee, rather than require them to send the co-payments to the APCP, as per current practice. This could enhance program administration efficiency.

⇒ Encourage and facilitate more veterinary hospitals to participate in the APCP. Currently, 205 hospitals participate in the program. The program depends upon veterinarians' participation, the current level of which is considerable, but more participation is needed to provide even coverage throughout the State. Continued and enhanced cooperation between the veterinary and animal welfare communities would benefit the animals they both seek to help. Veterinarians' associations would benefit by encouraging their members to participate in the

APCP and other programs that provide pro bono and reduced cost services, particularly those that involve sterilization procedures.

- Consideration should be given to reviewing the reimbursement schedule for veterinarians' work and providing increases as appropriate. (This has been done previously; veterinarians received an increase of 6% per year from 1998-2000, an increase of 3.2% in 2001 and a 2% increase in 2002.)

⇒ Consideration should also be given to expanding the APCP in order to allow program eligibility for low-income residents who do not qualify for public assistance. The Department should study this concept; however, it is recommended that no such expansion be implemented until the APCP is fully funded and thus able to satisfy the demand from the current categories of participants.

There should also be consideration of whether to incorporate microchip services into the APCP, as discussed in the section of the Report concerning microchipping.

K. Alternative sterilization and adoption programs

As an essential part of the effort to reduce the number of homeless animals, and consequently the euthanasia rate, it is important to take aggressive steps to provide and facilitate effectively targeted sterilization and other veterinary procedures for as many animals as possible. Similarly, progressive and creative measures should be implemented to encourage individuals to consider shelter adoption rather than obtaining a pet from another source. Currently, shelters and rescue organizations throughout New Jersey have implemented numerous programs designed to encourage and assist owners to sterilize and treat their animals, as well as to aid the shelters in providing necessary care for its charges. These entities also encourage individuals to adopt from shelters.

Similar to New Jersey's efforts with the APCP, other states and local governments have implemented sterilization and adoption programs that have helped reduce shelter intakes and euthanasia. The state of Utah and the town of Lodi, California implemented adoption and spay/neuter programs for both dogs and cats over a two-year period. Dane County, Wisconsin implemented a program that focused on feral cat spay/neuter over an 18-month period. Euthanasia rates declined in all three regions, despite rapid population growth in each area:

	Baseline data	FY 2000-2001	FY 2001-2002
Lodi total euthanasia	1,464	1,302	790
Utah total euthanasia	46,009	41,372	40,719

	Baseline year	Program period (18 months)
Dane County euthanasia	1,574	776

This data reflects a decrease in the number of adoptable animals who were euthanized, as well as total euthanasia.¹⁵⁴

Logically, the adoption rate rose as the euthanasia rate declined, including in Dane County, where the focus was exclusively on feral cats.¹⁵⁵ *Id.* at 12. It is reported that adoption programs, which benefited both “no-kill” organizations and animal control facilities, were largely responsible for the improvements.¹⁵⁶

	Adoption change over entire period studied
Utah	30%+
Lodi	50% +
Dane County	Approx. 28% +

Consequently, programs designed to encourage sterilization and adoptions are essential elements of any long-term solution. The following recommendations are intended to supplement the programs that are currently in place in New Jersey. As with most programs, adequate funding is essential to their success. Accordingly, the Task Force makes the following recommendations.

1. Sterilization programs

⇒ Spay/neuter mobiles. These vehicles are equipped to allow sterilization procedures to be conducted within the vehicles, thus enabling veterinarians to travel to areas where many residents do not routinely get their pets sterilized and/or that are underserved by veterinarians. Currently, there are two spay/neuter mobiles in operation in this state, which are operated by the Animal Welfare Association and the Atlantic County Humane Society. Recently, the Passaic County Spay/Neuter Coalition secured funding for such a spay/neuter mobile from the Geraldine R. Dodge Foundation, PETsMART Charities and the Passaic County Freeholders.

¹⁵⁴ Frank, Ph.D., Carlisle-Frank, Ph.D, *Companion Animal Overpopulation: Trends and Results of Major Efforts to Reach a “No-Kill” Nation*, pages 9-12.

¹⁵⁵ *Id.* at 12.

¹⁵⁶ *Id.* at 13. It is conceivable that factors other than adoption could account for reductions in the euthanasia rate; however, the cited studies credit aggressive adoption programs for much of the success in reducing the euthanasia rate.

- ⇒ Underwrite local private practitioners. This would enable shelters to obtain regular veterinary care without building a clinic or hiring additional staff. By including private practitioners, the shelters would broaden the availability of care for the community's cats and dogs and generate good will in the veterinary community. For example, offer all the local veterinarians in the community, if possible, a standard fee for sterilizations (based on type of animal and gender), until a goal is reached (e.g., 500 sterilizations).

- ⇒ Vanpools to facilitate travel to veterinarians' offices. According to research conducted by students at Stanford University, individuals in the San Francisco Bay Area who are unable to get their pets sterilized often cited as a significant impediment inconvenience in traveling to a facility. The Task Force's shelter survey revealed that access to veterinarians, due to accessibility and geography, had a substantial impact on shelters' ability to procure certain veterinary services. A vanpool would help provide necessary transportation in these circumstances.
 - Dallas' Spay-Neuter Assistance Program (SNAP) operates a vanpool that transports animals to and from veterinarians' offices for surgeries.
 - The San Francisco SPCA currently uses a volunteer shuttle program for its Feral Fix Program. A core group of about 70 volunteers receive referrals from the SFSPCA to help trap and pick up feral cats for surgery. The volunteers use traps provided by the SFSPCA; they use their own cars to pick up and return the cats. No appointments are required. Veterinarians perform surgeries 5 days a week and fit the incoming cats into their daily schedule. The volunteers bring in as many as 200 cats per month.
 - In Asheville, North Carolina, a group (www.humanealliance.org) has coordinated a program to conduct 100 spay/neuter surgeries a day. In 10 years, the local shelter relinquishment rate has dropped 40%, due to this and other proactive programs.

- ⇒ Work with veterinarians to provide care in underserved areas for limited periods of time. For example, the Western Montana Spay/Neuter Task Force travels to the small towns and Indian reservations of Montana, where its veterinarians perform surgeries in community centers and other public buildings over a period of days (in one instance, 1,540 surgeries were performed over a nine-day period). Since November of 1996, the Task Force has held 21 such events, during which 5,500 surgeries were performed.

2. Adoption programs

- ⇒ To encourage the public to go to their local shelter to adopt animals, we recommend implementation of the following suggestions.

- Shelter standards, to ensure the operation is following guidelines.¹⁵⁷
 - Directional signs from main highways, to direct the public to the facility.
 - Properly designed facilities that allow the staff to isolate and separate the animals, to ensure that animal health is maintained and that aggressive animals are kept from the public.
 - Provisions to prevent overcrowding of the facility, as studies have shown that the public is less willing to visit and adopt from overly crowded facilities.
- ⇒ Aggressively promote shelter animals in order to increase market share.
- ⇒ Encourage public service announcements and other media productions like “Homeless Tails,” a daily program on the New Jersey Network that features animals from shelters that are available for adoption. The program also features a veterinarian from the New Jersey Veterinary Medical Association who voluntarily performs one sterilization procedure for an animal adopted from the featured shelter.
- ⇒ Effectively utilize advertising and public relations to generate interest in shelter adoptions.
- ⇒ Increase the number of visitors and potential adopters by making shelters more inviting facilities. Potential adopters often avoid shelters, fearing that they are dismal facilities at which the adoption process may be unpleasant.
- ⇒ Create aggressive adoption campaigns.
- No More Homeless Pets in Utah organizes three-day “Super Adoptions” twice each year in addition to smaller adoption events in other communicates throughout the state. More than 28 rescue organizations and shelters participate. Over 500 animals were adopted at each of two recent events. After the May 2002 Super Adoption, no healthy animals had to be euthanized by the Humane Society of Utah for three weeks.
 - Establish adoption centers, staffed by a cooperative of local shelters and rescue groups, located in central areas, such as shopping malls.

These programs require financial, professional and material resources to which many shelters do not have ready access. Fundraising efforts may facilitate these measures. However, many shelters are lacking in funding for basic services. Together, coalitions of shelters, rescue organizations and volunteers may be able to implement such programs.

¹⁵⁷ Best practices for shelters are more fully addressed in Section IV of this Report.

L. Public-Private Partnerships for shelters and impoundment facilities

The Task Force makes the following additional recommendation:

- ⇒ To facilitate placing animals in homes and maximize resources, impoundment facilities and private shelters should create public–private partnerships that integrate the community, veterinarians, rescue groups and other pound and shelter facilities.

An increasing number of communities are finding that building relationships between the private and public sector have resulted in better communication, sharing of resources and addressing both the reactive and proactive aspect of the community’s response to overpopulation. These programs, however, must be funded mandates. Without the proper structure, base and accountability, there will be no platform for these relationships to strengthen or be successful.

Currently, there are numerous government-run and private impoundment and shelter facilities that are independently working to achieve the same goal of saving animals’ lives. Their relative degrees of success vary to the extent they function under different sets of conditions and with different resources. For instance, government-run animal control facilities are obligated to accept and house all homeless, lost and abandoned animals. Historically, however, animal control services may receive lower prioritization from government. This fact, coupled with difficult fiscal circumstances throughout the state, generally causes government animal control services to be under-funded. As there are typically more animals that need to be housed in these facilities than there is space, and insufficient resources, many of these facilities are forced to euthanize a substantial number of the animals. Private organizations and community groups simultaneously work to reduce the number of homeless and euthanized animals. While some of these organizations and facilities are relatively well funded, most are not.

These organizations all share the common goal of helping homeless animals and could better achieve their goal by coordinating their efforts. Successful public-private partnerships serving this purpose have been implemented elsewhere in the country, and the public and private sectors in New Jersey should seek to cultivate similar cooperative endeavors. In particular, government and private entities, including shelters and rescue groups, should establish partnerships through which private organizations would accept animals from government impoundment facilities that have exhausted their resources and cannot find a home for the animal. This would provide an option other than euthanasia for those facilities that must accept all animals but which have limited space for them. Integrating the community, including veterinarians, into the partnership, would enhance these agreements. Below, we describe programs that have attained a measure of success; each of these programs first established regulations, protocols, an agreement on language, a recognition of areas of disagreement and the understanding that for this relationship to succeed, and the infrastructure that must be in place before the program is carried out.

By way of examples, the following cities or regions have implemented the following partnerships:

- ⇒ In Denver, Colorado, the Denver Alliance, founded 15 years ago, has provided coordination among rescue groups, local non-profit and municipal organizations. In order to reduce the number of animals that are euthanized, it has:
 - Established uniformity in collecting, analyzing, and reporting statistics. It believes that uniform definitions and disposition criteria and data collection methods would allow them to provide more understandable and credible community-wide results.
 - Communicated successes as well as needs to their communities.
 - Fostered an inclusive animal rescue committee that focuses on the positive work contributed by each of its partners.
 - Adopted a set of definitions that enabled clear communication concerning the issues to be addressed by the coalition (e.g., definitions of shelters as open or limited admission, and categorization of animals, as adoptable, potentially adoptable, or unadoptable).

- ⇒ In San Francisco, California, the San Francisco Department of Animal Control (SFDACC) entered into an “Adoption Pact” in 1994 with the San Francisco SPCA (SFSPCA). The Department of Animal Control operates a municipal, “open-door” shelter while the SFSPCA operates a private, limited-intake shelter. The Department takes in all of the city’s lost, abandoned, surrendered or rescued animals; the SFSPCA receives the majority of its animals (those that were not adopted) from the Department but is able to focus its resources on treatment and longer-term care for those animals that are not placed in homes.
 - The Department works with other shelters and rescue groups to place animals that are not adopted directly from the Department or transferred to the SFSPCA.
 - The Friends of San Francisco Animal Care and Control, a volunteer organization, actively supports the programs and services of the Department.
 - Other volunteer organizations, including those that work with feral cats, aid the SFSPCA.
 - Individual volunteers (over 900 at the SFSPCA and approximately 90 at the Department) provide additional support for both agencies.

- For the fiscal year ending June 30, 2002, 72% of the dogs and cats that entered the San Francisco shelter system were reunited with their owners or adopted to new homes. This “save rate” is more than double the norm for major American cities.
- ⇒ In Maricopa County, Arizona, the Maricopa County Animal Care and Control Services (ACCS) entered into a contractual agreement with private organizations that facilitated the adoption of over 3500 animals outside the ACCS facility. ACCS notifies its contractual partners of the animals for which all resources have been exhausted; the partners adopt the animal free of cost and try to find them homes.
- ACCS also works closely with the community and its local veterinary association to develop and provide pet owner assistance programs, foster programs and low cost sterilization programs.
 - By including the community in its work, it has developed a strong base of support for its work and, consequently, receives significant donations that support its programs and simultaneously reduce government spending. ACCS established its own 501(c)(3) charity, Friends of Animal Care and Control, to raise money for animal welfare programs.
- ⇒ In New York City, the City of New York entered into a partnership with the Mayor’s Alliance for NYC’s Animals, Inc., a coalition of animal rescue organizations, to develop creative solutions to deal with issues of animals care and control in the city.
- The Alliance acts as a liaison between city government and a coalition of 35 animal rescue groups and shelters, including the New York City Center for Animal Care and Control, which provides all animal control and sheltering services for the City.
 - The Alliance has also partnered with the Veterinary Medical Association of New York City to submit a joint Maddie’s Fund¹⁵⁸ grant application seeking \$16 million in grant funding to be used to facilitate programs throughout the city.

In order to facilitate public-private partnerships, the DHSS, in consultation with statewide and/or national animal welfare organizations and the New Jersey Veterinary Medical Association, could maintain a list of recognized organizations and help establish

¹⁵⁸ Maddie’s Fund is a foundation that invests in veterinary medicine colleges and community collaborations of rescue organizations, shelters, animal control agencies and veterinarians to achieve a reduction in the number of euthanized animals, with the ultimate goal of creating a “no kill” society.

partnerships between them and government entities.¹⁵⁹

Similarly, the Animal Law Committee of the New Jersey Bar Association and State and local governments could work together to establish a sanctioned organization that would serve as a liaison between government and not-for-profit organizations. The liaison would work with State and local governments to identify and provide additional resources, develop creative solutions and help obtain private funding.

M. Additional measures to reduce the number of homeless animals

The Task Force makes the following recommendations:

- ⇒ Aid pet owners who are victims of domestic violence: It has been reported that victims of domestic violence remain in abusive situations because of a reluctance to leave a pet with the abuser, given the general lack of resources available to such individuals who care for an animal or animals. The victim may fear – with justification – that the domestic violence abuser may take out frustrations on the animal through violence, but the victim frequently cannot secure temporary shelter where affected animals will also be taken in. Means should be developed to encourage or enable domestic violence and animal rescue organizations to establish a system of foster care for pets whose owners seek refuge from incidence of domestic violence.
- ⇒ Distribute information to purchasers and adopters. Pet stores, breeders, shelters, pounds and rescue groups should be required to provide information concerning pet care (including but not limited to housing, nutrition, behavior, grooming, and health recommendations) to all individuals who purchase or adopt an animal. Pet stores should also be required to provide individuals who purchase animals from them, as well as potential buyers, with the name, street address, and town or city of the breeder, as well as the name, street address, town or city of each broker, including but not limited to Class A and Class B dealers, if any are involved. The rationale for recommending this proposal is that a substantial percentage of animals are surrendered to shelters and pounds because of circumstances inherent in animal care that the purchaser or adopter failed to comprehend or anticipate and consequently was unequipped to respond adequately. By way of example, recent studies¹⁶⁰ demonstrate that pet owners who relinquish their pets frequently identify one of the following factors as having influenced their decision:
 - The animal engaged in behaviors that the owner was unwilling or unable to resolve.
 - The owner realized that he did not have a full understanding or acceptance of the commitment that is required of pet owners. Because animals are

¹⁵⁹ It is contemplated that shelters and impoundment facilities would participate in such associations.

¹⁶⁰ Animal Control Management, *A Guide for Local Governments*, page 5.

easy to procure, they are often purchased or adopted hastily without appropriate prior deliberation.

- The owner is unable to find housing that would allow pets or the owner's home is ill-suited to keeping a pet. A family member has health problems that are exacerbated by the pet.

As a result of these and other related factors, animals are frequently relinquished, thus increasing the number of homeless animals and adding to the burden of shelters. To avoid this ongoing cycle of adoption/purchase and relinquishment, individuals who are considering bringing an animal into their home should be provided with information sufficient to properly inform their decision. They should also be provided with solutions and resources that would be useful in resolving problems before being forced to relinquish the animal. Animal welfare organizations have recognized this need. By way of example, the Humane Society of the United States has developed a program called "Pets for Life," which is intended to help pet owners solve the problems that cause them to relinquish their pets (more details on this program may be found on-line at www.Petsforlife.org). Efforts such as these would be aided considerably by the dissemination of resource information at the point of sale or adoption. Owners would, therefore, have access to solutions that they may have otherwise not discovered, which could be utilized to resolve issues without resorting to relinquishment.

Pet distributors and adoption agencies should also be required to provide the above-referenced information. Failures to provide the information should be subject to an appropriate fine for each violation.

- ⇒ Public Transportation: Encourage public transportation systems, rail and bus, to allow companion animals if maintained under appropriate control, such as in an appropriate carrier or properly restrained on a four-foot leash and properly restrained and muzzled. Specification for such measures could be established by regulation.
- ⇒ Senior Pet Programs: Encourage the establishment of senior pet programs that would help seniors who are on fixed incomes to be able to keep companion animals. Consideration could also be given to establishing programs to give assistance to people with pets who lose their home.
- ⇒ Insurance: Prohibit insurance companies from refusing to write or renew homeowners insurance based on ownership of a particular breed of dog.

Many insurance companies refuse to write or renew homeowners' insurance policies if the applicant owns a dog of a particular breed. In many states, including New Jersey, this underwriting practice does not violate the law. It is, however, arbitrary and fosters discrimination against certain breeds of dog. The insurance company's refusal to offer homeowners insurance is based solely on whether the dog is a breed on the excepted list. There is no inquiry into an individual dog's behavior, bite history or evidence of

aggression, nor does the insurance company take into account whether the homeowner is a responsible dog owner.

The result is a dramatic increase in these dogs being relinquished to shelters. Euthanasia is the likely fate for these dogs, as the possible loss of or ineligibility for homeowners' or renters' liability insurance acts as a strong disincentive to adoption of these animals.¹⁶¹

Current Pennsylvania law protects against this type of breed-specific discrimination, providing that "[n]o liability policy or surety bond issued pursuant to this act or any other act may prohibit coverage from any specific breed of dog."¹⁶²

Michigan law has also been applied to provide similar protection. In September of 2003, Michigan's Office of Insurance and Financial Services issued Bulletin 2003-07-INS, which states that insurance companies that exclude liability coverage due to ownership of a particular breed of dog are in violation of Michigan's Essential Insurance Act. Many states have introduced legislation that would make it illegal for an insurance company to discriminate against homeowners based on the breed of dog they own.

One such bill has already been introduced in New Jersey. Assembly Bill No. 1135 (2004-05 legislative session), sponsored by Assemblyman Joseph Azzolina, would prohibit insurers writing homeowner's insurance policies in this State from utilizing underwriting guidelines which result in the declination, termination, limitation or increased pricing of coverage under a homeowners insurance policy on the basis of the type or specific breed of dog harbored upon the insured property. The bill's provisions would not apply in the event that a dog harbored upon the insured property is declared dangerous or vicious by a municipal court pursuant to the provisions of N.J.S.A. 4:19-17 et seq. New Jersey legislators should give serious considerations to this bill and any other similar measures that may be introduced to prevent underwriting discrimination based on breed.

¹⁶¹ *ASPCA Animal Watch*, Summer 2003.

¹⁶² 3 P.S. § 459-507-A (Pennsylvania law also prohibits local ordinances from banning or otherwise limiting a specific breed of dog).

IV. Create additional shelter space to ensure adequate coverage for all geographic areas of the State.

A. Background

An animal shelter is a facility that houses unwanted and stray animals (which includes animals that are homeless, lost, abandoned or that people no longer want to keep). Animals enter shelters in two main ways: when people turn in their animals and when the shelter functions as an impoundment facility for strays picked up by local animal control officers. By law, each municipality must provide animal control services and must hold the animals a minimum of seven days; the place where seized animals are held is called an impoundment facility. Due to the lack of space and other resources, many animals are destroyed after seven days if they are not adopted or released to another facility that has space to hold them for an extended period of time. Thousands of dogs and cats end up at shelters every year; many are euthanized.¹⁶³

There is not enough shelter space in New Jersey to accommodate the number of unwanted animals and strays. Of the 21 counties in this State, only seven (Atlantic, Bergen, Burlington, Camden, Cape May, Gloucester and Ocean) have county-run shelters. Only a fraction (approximately 6%) of the State's 566 municipalities operate their own shelters (there are approximately 35 municipal shelters in operation). There are some private shelters run by non-profit organizations, but in much of the State there is likely no nearby shelter or if one exists, it is already filled to capacity. The grim reality is that even where adoptions are actively encouraged, room for new animals at shelters is created by euthanizing currently-housed animals.

Building a new facility or renovating or expanding an existing one can be expensive.¹⁶⁴ A number of things can be done to assist in the creation of additional space. Government can enter into public-private partnerships so that tax dollars can be stretched further. In addition, the State should provide low-cost financing to assist local governments and non-profits to construct the additional shelter space that is so desperately needed. It can

¹⁶³ Record keeping at shelters is not adequate to indicate reliable numbers but according to a survey done by the DHSS, in 2003, there were approximately 126,000 animals impounded in this State, over 50,000 of which were euthanized.

¹⁶⁴ Note that the mere creation of additional shelter and impoundment facility space would not solve the problem created by unchecked reproduction. As discussed elsewhere in this Report, proactive measures, designed to curtail reproduction, as well as other measures, are essential.

provide assistance in identifying and procuring grants. Local government units can also take advantage of a recent shelter funding law.

It is important that each municipality and each county assess its needs and determine what additional facilities and services are needed. The Associated Humane Societies has developed an accepted formula that local governmental units can use.¹⁶⁵ Once a town has evaluated its needs, it can discuss possible regional solutions with neighboring towns.

B. Public-Private Partnerships

Financing will surely be a consideration. Given the budget constraints that affect the State and local governments, the most realistic prospect for funding for additional shelters may be through public-private partnerships. Some regions of New Jersey are currently benefiting from the efforts of not-for-profit organizations that joined the shelter effort or have teamed with local governments to provide or facilitate animal care services:

- ⇒ Jersey City: The Liberty Humane Society is considering taking over the management and operations of the Jersey City shelter and plans to build a \$3.5 million state-of-the-art shelter.
- ⇒ Chatham Township: St. Hubert's Animal Welfare Center is conducting a campaign to raise \$10 million to fund a major expansion of its facility, which accepts animals from other, overcrowded shelters. Its plans include an isolation wing for sick animals, a surgical suite for spaying and neutering, a training center, grooming facilities, kennels for animals awaiting adoption and space for humane education classes.
- ⇒ Bloomfield: The Friends of Bloomfield shelter are considering taking over management and operations of the City of Bloomfield's Animal Shelter.
- ⇒ Ringoes: Tabby's Place, A Cat Sanctuary, funded largely by an individual resident, can house 100 cats, which will remain at the facility until a home is found. The cats it houses are taken from shelters where they would otherwise be euthanized.

Not all of New Jersey's regions or cities benefit from privately run facilities that supplement the existing services, which are routinely lacking, as described herein.

In 2000, New York City required that there must be a full-service animal shelter in each borough. In so requiring, the City Council declared, "Given the large and growing

¹⁶⁵ Its equation (included in its publication "Keys to a Great Shelter") sets the number of animals appropriate for any one facility as a function of the number of available cages/runs and the average holding time. The equation is $y = 365(r \times n)/a$, where y = approximate number of dogs or cats handled per year; 365 = number of days in a year; r = the number of runs or cages needed; n = the number of dogs or cats per run or cage; and a = the average holding time in days for dogs or cats in days.

number of unwanted dogs and cats, the Council finds that a law providing for a full-service animal shelter in each borough and the spaying and neutering of animals adopted from animal shelters or purchased from pet shops is necessary to protect the health, safety and welfare of New York City Residents.” This requirement will be phased in over the next several years to allow for site acquisition and construction.¹⁶⁶

Full service shelters are defined in New York City’s law as: a facility that houses lost, stray or homeless animals and (1) accepts dogs and cats 24 hours per day, seven days per week; (2) has an adoption program open seven days a week; and (3) provides sterilization services for dogs and cats and any other veterinary services deemed necessary by a licensed veterinarian at such shelter or at a veterinary facility.

In order to aid in the implementation of programs such as those described above, DHSS and the Department of Community Affairs should work with regions and cities to analyze current expenditures and identify organizations that can provide the necessary services.

C. Low Cost Financing

A second potential solution to the funding issues is low cost financing. Low cost financing will assist in the construction of these needed facilities while the imposition of uniform standards can ensure that they are adequately constructed. Such funding might be provided through New Jersey’s Economic Development Authority (EDA). The EDA offers financing for non-for-profit organizations that have been designed by the Internal Revenue Service as 501(c)(3) organizations. Animal shelters with this IRS ruling would fit all the other criteria for financing.

Tax-exempt bond financing offers a way to access a lower cost of capital than would typically be available through conventional bank financing. Access to this type of financing helps to reduce financing costs, improve cash flow, and utilize the savings achieved to expand programs without having to sacrifice needed capital improvement projects.

The costs that qualify for tax-exempt bond financing include land and building acquisition, fixed-asset financing, such as the construction of the building, new equipment, furniture and fixtures, renovations, and leasehold improvements. Under certain circumstance organizations can also refinance existing, higher-interest-rate convention debt.

EDA has advised that the “New Jersey Municipal Loan Pool Program” may be used to buy equipment, fund capital improvements or refinance debt. In 2000, the New Jersey Conference of Mayors (NJCM) launched a loan pool program to enable municipalities to borrow the money for capital improvements and the like.

¹⁶⁶ N.Y.C. Admin. Code, Animal Shelters and Sterilization Act, § 17-801.

This financing opportunity is offered to municipalities that do not have pooled loan programs available through a county improvement authority or other bond issuing entities. The NJCM has arranged for the EDA to serve as a conduit bond issuer on behalf of such municipalities needing to borrow money on a long-term basis.

The Municipal Loan Pool Program may be an ideal way for a municipality to save money while simplifying the issuance of long term bonds. Under the program, the financing needs of a number of municipalities would be identified by the NJCM and packaged together by the EDA into a single pooled bond issue. The structure will provide savings, attractive interest rates and certain shared issuance costs for the participating municipalities. This form of financing could be used to provide funding for a municipal or county shelter. Moreover, many counties and larger municipalities have their own improvement authorities that can accomplish the first goal of financing a shelter.

The above-referenced financing methods, along with private foundations and donations, would help municipalities and counties provide more shelter space and allow for renovation to meet new best practices standards for shelters.

D. Municipal and County Funding

Local government units and tax-exempt charitable organizations should take advantage of a new shelter funding law that went into effect earlier this year. N.J.S.A. 40A:2-3.1 et seq. authorizes a municipality or county to appropriate funds as a capital improvement under the “Local Bond Law,” N.J.S.A. 40A:2-1 et seq., to a tax-exempt charitable organization for the construction of a licensed facility to shelter and care for abandoned and stray animals.

This law requires that the facility be constructed on publicly owned land, that the facility be constructed by a tax-exempt organization that has a contract for services with the municipality or county, and that, on termination of the service contract, ownership of the constructed facility revert to the municipality or county on whose land the facility is constructed. The facility must be properly licensed pursuant to law.

The utilization of this new law would assist in the creation of needed additional shelter space.

E. Government Assistance in Identifying and Procuring Grants

The New Jersey Office of Faith Based Initiatives, within the Department of State, provides faith-based organizations with information about private and public funding sources and grant writing assistance. This office could assist organizations that provide sheltering and related services. Given that these organizations relieve local governments and the State of some of the burden associated with housing and caring for homeless and stray animals, such State-level assistance would be appropriate as well as beneficial to the organizations that provide these important services.

V. Improve animal facility operations

A. Background

Numerous facilities house or handle domestic animals in New Jersey, including shelters, impoundment facilities, kennels and pet shops. Any analysis of these facilities must begin with an understanding of their divergent and sometime overlapping purposes and functions.

Current law requires that each town must provide an impoundment facility (through their own staff or by contracting with an outside provider) in order to house the animals that are seized, in the town, including abandoned, homeless and stray animals, in the performance of the town's animal control services. An impoundment facility is required to accept all animals that are seized. It is obligated by law to house all animals for a seven-day holding period.

A "shelter" also houses abandoned, homeless and stray animals. Unlike a pound, it may be owned by a governmental or private entity. It is not legally obligated to accept all animals brought to it and the seven-day holding period for pound animals does not apply unless the shelter provides impoundment services. If a town hires a shelter to serve as its impoundment facility, the impoundment functions that it performs are subject to the laws that govern pounds; this includes the obligation to accept all seized animals and to comply with the seven-day holding period requirement.

A "kennel" is a facility where animals are boarded (usually for a fee), or are bred and sold.

The Task Force specifically desired to conduct outreach to animal facilities so that they could be advised of the Task Force's existence and charge, and would have the opportunity to provide input to the Task Force. The Department of Health and Senior Services provided a list of licensed animal facilities, including those that provide impoundment services, and the Task Force reached out to each of these facilities.

Of the facilities that were contacted, 81 responded. A summary of the issues and observations that were identified is attached as Appendix B.¹⁶⁷ Noteworthy comments include the following:

¹⁶⁷ The compiled results are not scientific and do not present a full account of the manner in which all of the State's animal facilities operate; however, the results are instructive in identifying trends among the facilities that voluntarily responded.

- ⇒ **Seven-day holding period:** Feral cats are not uniformly being held for the seven-day period required by statute (the facilities report that they hold feral cats anywhere from one day to over seven).
- ⇒ **Acceptance of feral cats:** 47 facilities accept feral cats. 25 facilities do not.
- ⇒ **Feral cat colony caretakers:** Seven of 23 municipal-funded facilities work with feral cat colony caretakers while 20 of 44 private and non-profit facilities work with feral cat colony caretakers.
- ⇒ **Redemption:** As of 2001, 25 percent of dogs and two percent of cats (that were lost or stray and were taken to pounds) are redeemed from the facilities by their owners.
- ⇒ **Sterilization prior to adoption:** 16 of 23 municipal facilities sterilize their animals prior to adoption. 39 of 44 private and non-profit facilities sterilize animals before adoption. Of those that did sterilize before adoption, the respondents report four of 23 municipal facilities that responded report that they procure pediatric sterilization procedures. 18 of 44 private and non-profit provided this service. Cost and availability of pediatric sterilization services were cited as the reason for not providing this service.
- ⇒ **Resources:** Budget shortfalls, insufficient staffing and limited resources are a constant concern of animal facilities.
- ⇒ **Overcrowding and euthanasia rates:** The major factors contributing to overcrowding and high euthanasia rates in animal facilities are lack of funding, need for animal owner education, lack of animal facility space and steady influx of feral cats.
- ⇒ **Rescue groups:** Rescue groups contributed significantly to the reduction in the number of impounded animals, by taking the animals out of the facilities. They have also helped generate an increase in the number of animals that are sterilized before adoption by offering or facilitating low or reduced cost sterilization procedures as well as public education campaigns.
- ⇒ **Adoptions:** Most shelters and rescue groups advertise on the www.Petfinder.com website or another website that facilitates animal adoptions. In addition, most non-profit animal shelters and impoundment facilities are working with rescue groups, volunteers and other resources to help reduce the number of impounded animals. Municipal shelters are doing this as well, but not to the same degree.

The Task Force hopes that the information provided by the responding facilities will provide a starting point that would enable facilities in New Jersey to comparatively

evaluate their impoundment and sheltering practices.¹⁶⁸ In addition, local governments could utilize this information to help get a complete understanding of the obstacles that shelter and impoundment facility employees must overcome in order to minimize euthanasia rates, all while working with limited resources.

Improvement is needed to ensure that all types of animal facilities uniformly adhere to best practices. The public demands that all animal facilities provide proper and humane care and follow established operating standards. Currently, “best practices” have not been established and operations vary greatly, as do conditions at these facilities.

Reform can be achieved through the following: development of standard operating procedures; improved euthanasia procedures; facility manager training; effective record keeping; increasing the daily fee a shelter or pound can charge to house an animal; increasing shelter and impoundment fees; promoting disease control programs; establishing a redemption surcharge on animals reclaimed from shelters and pounds; increasing licensing fees for kennels and pet shops; and enhancing reporting by pet shops.

B. Standard Operating Procedures

The DHSS should develop uniform shelter guidelines/best practices and strengthen any existing regulations addressing the operation of shelters, pounds, kennels and pet shops. The following recommendations should be incorporated:

- ⇒ Policies in writing: All policies and standard operating procedures shall be in writing.
- ⇒ Training: All managers and staff need to be trained subject to a statewide certification or licensing system.
- ⇒ Euthanasia Policy: Adherence to standard euthanasia practices, in accordance with N.J.A.C. 8:23A-1.11, is vital. There needs to be a mechanism to ensure that all those who euthanize animals in shelters, pounds or other animal facilities, or in the field, are properly trained. This could be accomplished through a certification and licensing scheme, established on a statewide basis.
- ⇒ Adoption Policy: It is important for shelters to screen all potential adopters. Screening should involve an inquiry of the adopter’s veterinarian, if available. Every adoption should be effectuated through a written contract, which should include all necessary terms, including a provision that the animal must be brought back to the facility if the adopter can no longer care for the animal.

¹⁶⁸ The data that was compiled by the Task Force, as well as the responses submitted to the Task Force by respondents, have been kept confidential such that no individual or entity can identify any respondent’s submissions.

- ⇒ Record Keeping: All animal facilities are required to comply with record keeping requirements, set forth at N.J.A.C. 8:23A-1.13, and compliance should be strictly enforced to ensure that all appropriate information is maintained and provided.
- ⇒ Animal Care and Housing: All facilities are currently required to comply with existing animal care and housing requirements, set forth at N.J.A.C. 8:23A-1.1 et seq., and strict enforcement is necessary to ensure full compliance. The veterinarian of record should visit the facility regularly, ideally once each week and no less than once a month, and respond to all medical emergencies. Regular sanitary inspections need to be conducted by the local and regional health agencies and DHSS.¹⁶⁹
- ⇒ Operations: All animal facilities are required to comply with existing facility operational requirements, set forth at N.J.A.C. 8:23A-1.1 et seq., and compliance should be monitored and the standards strictly enforced. Each kennel, shelter and impoundment facility needs to post a sign in a place that is clearly visible to the public, which identifies the names of all contracting municipalities.
 - All dogs and cats need to be licensed before the completion of the adoption process from a municipal or county shelter.
 - Each kennel, shelter and pound should periodically review their animal service contracts (that is, agreements a town may have for an outside entity to provide the local animal services that the town is obligated by law to provide) and perform a cost benefit analysis.
 - Impoundment facility contracts that any one facility can enter need to be limited unless the facility has adequate space to house all the animals for all of the towns that are being serviced. Each town ought to undertake its own analysis since each currently has a legal obligation to provide adequate impoundment services. DHSS should work closely with local governments and provide assistance to ensure compliance.
 - A team of trained staff members should conduct behavioral assessments of animals, in accordance with established protocols, conducted only after the animal has had sufficient time to acclimate to its new environment. Currently, assessments are not always done by qualified individuals or under appropriate circumstances.
 - All dogs and cats should be microchipped before the completion of the adoption process.

¹⁶⁹ It has been suggested that this degree of veterinary supervision may involve some increase in costs for shelters. The Task Force believes, however, that veterinary supervision and monitoring is essential to maximizing animal care.

- To facilitate owners' searches for their lost animals and to help find new homes for homeless or abandoned animals, each kennel, shelter and pound should post a picture and information about each animal available for adoption on the Internet and weekly update its list of adoptable animals. The popular web site, www.petfinder.com, has offered to post adoptable New Jersey animals on their site, in a state-specific dedicated database.
 - Hours open to public: The Task Force recommends that animal facilities be open to the public Monday through Friday (at least four hours a day), at least one evening a week (at least three hours) and at least once during the week end (for three hours).
- ⇒ Spay/Neuter: It is imperative that all animals be sterilized before completion of the adoption process, unless the age or medical condition of the animal prevents the procedure. Free and low cost spay/neuter services should be accessed or made available whenever possible. (See Section III of this Report).
- ⇒ Education: All facilities should distribute fact sheets and other information on health, diet, behavior, training and pet grooming.
- ⇒ Volunteers: Written policies and procedures for working with rescue groups and volunteers should be established.
- ⇒ Community partnerships: Community involvement with shelters, pounds and kennels should be encouraged. (See Section III of this Report.)
- ⇒ Community expertise: Organizations such as the Humane Society of the United States American Humane can aid local governments and the DHSS in providing facility assessments.

C. Euthanasia

“Euthanasia” is defined in DHSS regulations as the act of inducing painless death (the regulations regarding euthanasia may be found at N.J.A.C. 8:23A-1.11). Currently, formal training or certification is not required for shelter staff performing euthanasia in licensed animal facilities; instances have been documented where euthanasia has been performed improperly. The Task Force recommends that all persons (other than licensed veterinarians) who euthanize animals, whether in animal facilities or in the “field” (outdoors or anywhere outside of an animal facility), receive approved and standardized training and become certified in euthanasia techniques. The Task Force recommends that DHSS establish the subject areas to be addressed in training and create and implement a certification process for practitioners.

In addition, euthanasia policy needs to be reformed. Today, animals are euthanized simply because the owner asked for it even when an animal is healthy and suitable for adoption. Shelters should be authorized to attempt to find new homes for such animals

when, in their discretion, the animal is suitable for adoption. This is in line with the discretion shelters routinely exercise when evaluating the proper course of action for animals that come to the shelter by other means.

Moreover, N.J.A.C. 8:23A-1.10 mandates that animals must be kept alive for seven days in order to enable health officials to determine if rabies is present and also to provide owners a full and fair opportunity to reclaim their lost animals. It has come to the attention of the Task Force that there have been situations in which an animal has been euthanized prior to the end of the seven-day period for a variety of reasons. The Task Force believes that euthanasia should be allowed during the mandatory seven day holding period only when a licensed veterinarian first examines the animal and determines that it is beyond a reasonable hope of recovery and is experiencing pain and suffering that cannot be alleviated. Accordingly, the Task Force recommends the following changes to the euthanasia regulations.

- ⇒ Amend N.J.A.C. 8:23A-1.10(5) to clarify that, while shelters are fully authorized to perform elective euthanasia, they should not be required to do so and may, in exercising their discretion, take other appropriate action (such as offer the animal for adoption) with respect to animals left in their custody.
- ⇒ Amend N.J.S.A. 4:19-15.16 to expressly provide that although discretion is left to the impounding facility and shelter, euthanasia should be a last resort (after every reasonable effort has been made to adopt, find a foster home, or place with a breed rescue or other *bona fide* rescue organization). As noted in the Population section, above, euthanasia may be necessary under certain circumstances; however, all facilities should make every effort to avoid this measure.
- ⇒ Amend N.J.A.C. 8:23A-1.10 to provide that an animal may be euthanized prior to the end of the seven-day holding period but only when a licensed veterinarian first examines the animal and determines that it is beyond a reasonable hope of recovery and is experiencing pain and suffering that cannot be alleviated.

Current law should be clarified to state that determinations concerning euthanasia should, under the following circumstances, be made by veterinarians:

- ⇒ Amend N.J.S.A. 4:22-54 to specify that, when an animal is found on the highway or elsewhere, whether abandoned or not, in a maimed, sick, infirm or disabled condition, the examination of an animal in order to determine whether euthanasia would be appropriate under the circumstances should be performed by a veterinarian. Thus, “suitable person,” as it is used in this section, should be defined to mean a licensed veterinarian.
- ⇒ Amend N.J.S.A. 4:22-48.1 to state that, when an animal is seized as a result of an incident involving or related to animal fighting, a licensed veterinarian must make the determination whether the animal is beyond reasonable hope of medical

recovery and therefore that euthanasia would be proper and humane under the circumstances.

- ⇒ Enact a “Humane Euthanasia In Animal Shelters Act” to provide for humane euthanasia procedures as an alternative or supplement to DHSS regulations.
- ⇒ Shelters and veterinarians are encouraged to eschew euthanizing healthy adoptable animals simply because the owner has requested it (for example, when an owner requests that an animal be euthanized because he cannot take his pet when he moves, or because the animal is not fully housebroken). As a humane alternative, these owners should be directed to enlist the aid of local shelters, rescue groups, breeders or animal trainers, which may be able to help find a new home for the animal or resolve other issues.

D. Facility Manager Training

Managers of shelters and impoundment facilities are not uniformly trained in facility operations, behavioral assessments, safe animal handling, domestic animal disease control, euthanasia standards, sanitation techniques, public outreach and adoption program initiatives, personnel and volunteer relations, record keeping systems and financial oversight. The absence of a uniform training program results in a lack of consistency with respect to shelter management, with some managers having excellent backgrounds while there are others with little or poor training. Insufficient training can cause shelters to be poorly maintained, as well as high employee and volunteer turnover, and low adoption/high euthanasia rates. Therefore, the Task Force recommends that comprehensive, standardized facility management training curriculum be developed and a training course incorporating this curriculum be made available to facility managers who would receive certification for completing such training. An effective facility manager training course would incorporate or require instruction in:

- ⇒ Animal care and housing: including protocols for housing conditions when isolation is required;
- ⇒ Animal handling and behavior assessment;
- ⇒ Adoption policies and procedures: covering the latest trends in and best practices regarding adoptions, and developing partnerships and collaborations within the community for this purpose;
- ⇒ Sanitation and disease control: kennel cleaning and disinfectant procedures, control of cross-contamination of infectious diseases, animal care protocol, nutrition and stress reduction;
- ⇒ Euthanasia: preventing and responding to compassion fatigue (stress experienced by individuals who must euthanize animals or otherwise be engaged in the

euthanasia process) and protocol and safety issues, in addition to specific training concerning euthanasia;

- ⇒ Personnel and volunteer management issues: retaining and developing the shelter staff and providing good customer service;
- ⇒ Record keeping systems: maintaining proper records of intake, disposition and adoption; and
- ⇒ Financial oversight: generating revenue and enabling the shelter to maintain a sound budgeting system.

The DHSS should establish the training curriculum, approve courses that satisfy the curriculum requirements (as private entities currently offer courses that may satisfy some or all of these needs), and certify persons who have successfully completed an approved training course. We also recommend a requirement of recertification every five years.

E. Facility Record Keeping

Effective animal facility operations require good record keeping (including but not limited to intake information, medical care provided, disposition of animals, location of animals). Records must be kept in a uniform and complete manner to ensure proper and efficient operation and ease of accessing important information.

The information provided to the Task Force by some of the State's licensed animal facilities indicates that some facilities keep minimal records. The records that are maintained are often not kept in a uniform or complete manner, resulting in an inability to document work that has been performed, the disposition of animals and location of animals being sought by owners. In addition, there is frequently no differentiation for recordkeeping purposes between feral and adoptable cats, or any breakout of euthanasia categories (i.e., identifying the reason for euthanasia). Current disposition statistics only require reports regarding transfers to other animal facilities but do not require reports concerning the vast number of animals that are retrieved from animal facilities by rescue organizations. Thus, there is no way to fully assess the disposition of the State's animals.

The primary goal of any shelter should be to save lives, and to evaluate and improve its performance toward that goal, a shelter needs the information conveyed by basic statistics: number of animals coming in, adopted, transferred, returned to owners and deaths by category (healthy/adoptable, treatable, non-rehabilitatable). Statistics should be used to measure progress toward goal attainment and to identify problems so that modifications can be made accordingly.

A public shelter also needs to collect data relevant to the agency's mission on behalf of the community. For example, if dog bites are a local problem, the shelter would provide a useful service if it tracked the number and location of incidents, documented dog bite histories, noted commonalities between incidents, etc.

The National Council on Pet Population and Study and Policy (NCPSP) suggests that proper record keeping advances the following goals:

- ⇒ **Accountability:** Accurate data will demonstrate the facilities' work to government entities that have procured their services. These facilities perform substantial work, both in terms of quantity and substance. Often, governing bodies are not fully apprised of their work.
- ⇒ **Liability:** Proper record keeping will demonstrate that the facility housed each animal for the legally required time.
- ⇒ **Public Image:** Accurate data will increase public awareness of the magnitude of the facilities' mission and help them convey the results of their efforts.
- ⇒ **Budgeting/Fundraising:** A good budgeting process requires statistics to identify needs. Adequate statistics will allow for proper planning and demonstrate the need for additional funding and donations.
- ⇒ **Program Evaluation and Planning:** Statistics uncover both strengths and weaknesses in programs, procedures and strategies. Statistical analysis also assists in the design of future programs, and comparison of statistics helps define animal population trends (local, regional, and national).

The NCPSP therefore recommends, and the Task Force concurs, that animal facilities track the following statistics, at a minimum:

- ⇒ **Number of animals, according to entry:**
 - Species: dog, cat and other animals by species.
 - Method of Entry: owner surrendered-adoptable; owner surrendered-unadoptable; running-at-large/stray; transfers in State; transfers out of state; dog-bites/SPCA/animal control department seizures; owner-requested euthanasia.
 - Adoptable or unadoptable (owner request-adoptable, owner request-unadoptable, healthy/adoptable, treatable, or non-rehabilitatable).
- ⇒ **Number of animals, according to disposition:**
 - Returned to owner.
 - Placed/adopted.
 - Euthanized-adoptable.
 - Euthanized-unadoptable.
 - Transferred (animals transferred to other shelters, organizations, institutions).

- Returned to wild (applicable only to wildlife and TNR of feral cats).
- Injured animals given to wildlife rehabilitators.
- Other.¹⁷⁰

The Task Force endorses the preceding recommendations and consequently commends DHSS to promulgate regulations governing record keeping, at a minimum identifying the information that must be reported to the county health office and DHSS with appropriate reporting schedules and applicable penalties for failure to comply. The Task Force recognizes that DHSS currently has certain reporting requirements; accordingly, these recommendations are intended to supplement the reports that are currently required.

F. Daily Impoundment Fees

By law, pursuant to N.J.S.A. 4:19-15.16, impoundment facilities may not charge more than \$4.00 per day to house a stray animal. This charge has not been updated in a number of years despite the fact that costs have gone up over that time. This low rate of reimbursement puts facilities in a disadvantageous financial position because the facilities incur costs as a result of housing the animal and are often hard-pressed to collect sufficient funds to support their operations.

Therefore, we recommend amending N.J.S.A. 4:19-15.16 to allow impoundment facilities to charge a fee of more than \$4.00 per day per animal. A \$10.00 maintenance fee is recommended. In the alternative, DHSS should promulgate regulations regarding the daily maintenance fee so that it can be increased by a cost of living factor when appropriate, in addition to reasonable costs that facilities may recoup.

G. Disease Control and the Role of the Facility Veterinarian

It is important that every shelter, pound, kennel and pet shop follow an established program for disease control and adequate health care. Unfortunately, this sound practice is not followed by all shelters.¹⁷¹ In addition, it is important to have more veterinarians working at shelters and pounds, and greater institutional encouragement for veterinarians to report violations. To accomplish these goals, the Task Force makes the following recommendations for amendments to the pertinent DHSS regulations:

- ⇒ Enhance the role of the veterinarian of record for the facility: In some instances, veterinarians of record for shelter and impoundment facilities do not visit their facilities on a regular and frequent basis and not all veterinarians see animals other than the ones the facility brings to them. The Task Force recognizes that there are many veterinarians who provide their services to shelters and impoundment facilities on a volunteer basis or for a reduced fee. This is a significant and important contribution. It is recommended, however, that each

¹⁷⁰ The NCPPSP offers basic statistics tracking forms that may be copied and used by shelters.

¹⁷¹ See, e.g., *The Report of the State Commission of Investigation on the Associated Humane Societies* (March 2003) (finding disease control program in shelters to be inadequate).

veterinarian who has taken on responsibility for a facility should: visit the facility regularly (ideally, once per week and not less than once each month); examine all animals; respond to all medical emergencies; ensure that the animals are being properly housed in clean areas; make certain that animals with contagious diseases are being isolated from the general population; and provide medical treatment to alleviate pain and suffering of animals, even during the initial seven-day holding period. The Task Force recommends that DHSS consult with the New Jersey Veterinary Medical Association to achieve feasible guidelines in this regard.

Steps should be taken to ensure that the following important provisions in the current disease control program regulations are performed fully:

- ⇒ The requirement that disease control and health care programs (including changes, updates, etc.) that are established and maintained under the supervision and assistance of a doctor of veterinary medicine are filed yearly with the DHSS and should be posted in an area clearly visible to the public, as required by N.J.A.C. 8:23A-1.9;
- ⇒ Notification by the veterinarian to the local health department with jurisdiction over the licensed animal facility, the DHSS, and the Department of Agriculture where appropriate, in the event that disease control procedures are not being followed or of a diagnosis of zoonotic diseases in animals at the facility.¹⁷²

Through the rulemaking process, DHSS should establish effective mechanisms to promote compliance with these requirements (e.g., where a facility has failed to promulgate a disease control program, a fine of \$250 would be appropriate).

- ⇒ Improve the process for the certification of acclimation. Currently, N.J.A.C. 8:23A-1.4 provides that kennels must have “indoor facilities, except for animals which the supervising veterinarian certifies are acclimated to the climatic conditions in New Jersey.” An appropriate amendment would provide that the certification shall be filed with the DHSS within five days and that failure to comply shall result in a fine of \$250 against the facility.¹⁷³

H. Redemption Surcharges for Unsterilized Animals

Currently, when an animal is reclaimed by an owner from a shelter or impoundment facility (typically, after the animal was found away from the owner’s home and

¹⁷² Other reporting requirements are already in place in the law, e.g., N.J.S.A. 4:5-4, N.J.A.C. 2:2-1.1.

¹⁷³ The Task Force notes that the proper operation of veterinary hospitals and clinics is important to the issues and concerns addressed in this Report, but may be not within our charge. We note that we are unaware of any inspection system for veterinary hospitals and suggest that this is an area worthy of governmental inquiry and follow up.

consequently was delivered to a facility), the facility may charge a redemption fee. The fee is intended to help cover the facilities' costs in housing and caring for the animal and, potentially, create an incentive for the owner to prevent the animal from roaming away from home. There is no uniformity among shelters with regard to redemption fees. They can charge any fee they like or no fee at all.

The Task Force recommends that all shelters and pounds charge a redemption fee of \$50 for each unsterilized animal (\$25 if the animal is unsterilized but microchipped) when the animal is reclaimed by the owner. The fee would be refunded once the owner provides proof that the animal has been sterilized. (An exemption should be provided for those animals that cannot be sterilized due to medical reasons, which should be attested to by a licensed veterinarian.)

This two-tiered fee would encourage animal sterilization, which is significant because, as discussed in the Population section of this Report, unsterilized animals that run loose are more likely to reproduce and thus add to the existing population problems. In addition, the revenue will help reimburse shelters for the work they are required to perform.

Information about low cost sterilization programs and the benefits of procuring a sterilization procedure should be provided to the owner at the time the animal is reclaimed, in order to assist the owner and reduce his or her expenses.

I. License Fees for Kennels and Pet Shops

Kennels and pet shops are licensed by municipalities, which are statutorily authorized to charge and collect annual licensing fees. This revenue is to be used by municipalities for their animal control services, including the inspection of animal facilities (pet shops, kennels, impoundment facilities and shelters). The kennel and pet shop licensing fees, which were originally established in 1941 and have never been increased, are woefully inadequate. Under current law, N.J.S.A. 4:19-15.9, a municipality may charge a fee of only \$10.00 for kennels that can accommodate ten or fewer dogs and \$25.00 for a kennel that can accommodate more than ten dogs. The annual license fee for pet shops is \$10.00. It is high time for an increase in the fees, to provide a boost in funding for animal control programs and services.

Recognizing that the fee levels are over 60 years old and that any increase can easily be passed along to customers, the Task Force recommends that license fees be increased for kennels (from the current levels of \$10.00 and \$25.00 to \$100 and \$250) and for pet shops (from the current \$10.00 to \$250), and that 50% of this new revenue should be dedicated to the DHSS' animal facility inspector program to help enforce the regulations governing shelters, pounds, kennels and pet shops. The remaining new revenue should be used by municipalities to subsidize and enhance their annual canvasses and local inspections of these facilities.

J. Reporting Requirements for Pet Shops

Pet shops are not required by law to provide detailed information about the breeders who supply the animals that they offer for sale and, as a result, most pet shops do not provide any such information to their customers. This deprives consumers of important information about the animals they bring into their homes and unwittingly aids unscrupulous “puppy mills” and other irresponsible breeders.

It is important that pets sold at pet shops be healthy. Good health means more than just the absence of disease: the animals must have been well bred and raised in good conditions with appropriate socialization. If an animal was born to a mother that was bred too many times in a year, or the animal was kept in unsanitary conditions or did not receive proper nutrition, the animal’s health is at risk. That is unacceptable not only for the animal, but for the purchasers who believed that they had added a healthy new member to their family.

In addition, the sad reality is that there are breeding mills in locations throughout the country that are motivated purely by profit. The unconscionable practices of these breeders, such as breeding females to exhaustion, failing to properly vaccinate, medicate and feed their animals, and subjecting animals to inhumane conditions in housing and transport, have been brought to light in media exposés and legal prosecutions. The sale of animals bred at these breeding mills supports those unsavory operations. Giving consumers information about where the animals came from gives them the ability to “vote” against those operations – by deciding not to purchase or encouraging the pet shop to get its stock from responsible breeders. It further gives the public the information needed to check into the conditions in which the breeding animals are kept and under which their own animal was born. Consumers could also opt to adopt from a shelter, or purchase from a reputable breeder.

Therefore, the Task Force recommends that legislation be enacted requiring pet shops to provide members of the public and the government with the name, street address, and town or city of the breeder, as well as the name, street address, town or city of each broker, including but not limited to Class A and Class B dealers, if one is involved. Each failure to comply would result in a fine of \$250.

The legislation should further require pet stores to provide their customers appropriate pet care information (housing, feeding, grooming, and health recommendations), with available fines to be imposed for failure to comply with the law (\$250 would be an appropriate fine).

In addition, we recommend the institution of mandatory reporting by pet shops to DHSS of the following information, annually and broken out by species: the number of animals purchased or offered for sale by the pet shop; the number of animals sold; the number of animals returned; the number of animals that died while in the possession of the pet shop; the number of animals that died in transit to the pet shop; the number of animals euthanized; and the source (including but not limited to Class A and Class B dealers) of

the animals. Current law, N.J.S.A. 4:19-15.8(e), requires pet shops to annually report only the total number of cats and total number of dogs sold by the pet shop, which information is provided to the municipality in which the pet shop is located. The municipality, in turn, is to forward this information to the local health department. The additional information is needed so that the public can be assured that the health, safety and welfare of the animals, consumers and public at large are being served. Not every pet shop complies with the current reporting requirements and not every municipality forwards the information to the local health department. The Task Force's recommendation would cure these failings and require additional necessary information.

VI. Ensure that conditions in animal facilities are humane

A. Background

The conditions in New Jersey's animal facilities (shelters, impoundment facilities,¹⁷⁴ kennels and pet shops) vary greatly. The SCI identified numerous problems and conditions that need to be improved in animal shelters and pounds throughout the State; While there are a number of model facilities, the conditions at some others are nothing short of deplorable.

Only regular and effective inspections can ensure that conditions in our animal facilities are adequate. DHSS has an important role to play in ensuring that animal facilities are regularly and effectively inspected and that best practices for these facilities are established and enforced throughout the State. Increasing fines for facility violations and dedicating fines recovered for use on animal welfare will further improve conditions. The SCI recommended that DHSS play an enhanced role in these reforms.

B. Recommendations¹⁷⁵

Currently, the job of inspecting animal facilities — shelters, impoundment facilities, kennels, and pet shops — falls primarily to local health departments, which are responsible for safeguarding the public health in diverse arenas throughout the State's municipalities. The State should work with these agencies to facilitate uniform inspections of animal facilities and to ensure that proper fines and penalties are imposed when necessary. Indeed, when fines or penalties are imposed, they often fail to have a meaningful impact, as the statutory cap on fines is set too low. Proper training, increased fees and other appropriate remedies along with routine inspections, with appropriate oversight and involvement by DHSS, would be useful in maximizing the State's shelter inspection system and in responding to problems and concerns that were

¹⁷⁴ Impoundment facilities include facilities such as shelters, kennels and veterinary establishments, to the extent that they are used by their municipalities to house seized animals, i.e. perform impoundment functions.

¹⁷⁵ It should be noted that the Task Force is fully cognizant of the current lack of adequate shelter and impoundment facility space throughout the State. We therefore recommend that, in enforcing current and future laws and regulations, DHSS and local inspectors attempt to remedy violations while improving the facilities' overall functions so that they may improve their service to the community.

highlighted by the SCI. Therefore, the Task Force makes the following recommendations concerning inspections, training, enforcement and oversight.

1. Inspections

⇒ Facilities must be inspected on a regular basis:

Local health departments should inspect each animal facility a minimum of two times per year (inspections conducted in response to complaints should not count for this purpose). DHSS should supplement local oversight by inspecting each facility at least once each year.¹⁷⁶

New facilities must be inspected by the State before their initial opening; no new facility should be permitted to open for business before the State has inspected and certified the facility as in compliance with law.

⇒ Inspection information must be accurately recorded and promptly reported to DHSS:

- Copies of all inspections conducted by the local health departments should be reported on a standard form and promptly provided to DHSS;
- Copies of all enforcement actions (or determinations that no action is required) should be reported, by fax, to DHSS;
- Copies of all complaints received by inspectors should be forwarded to DHSS.

⇒ DHSS should develop an electronic communication system to facilitate communication between local inspectors and the Department.

⇒ DHSS should also devise an animal facility inspection-tracking database, which would log data concerning all facility inspections and complaints. The system should flag facilities needing routine or follow-up inspections as well as those receiving an unusually large number of complaints. Local inspection records should also be entered into the system, which should aid in the analysis of trends and the identification of repeat offenders.

2. Training

⇒ Basic training must be provided for all inspectors.

¹⁷⁶ This proposal will result in more frequent shelter inspections, without placing additional burden on local government resources, and will help ensure greater uniformity in animal facility operations statewide. This suggestion is in no way intended to impugn the competence or integrity of local public health inspectors who currently perform such inspections; however, an additional benefit of supplementary inspections by DHSS will be to alleviate any concerns that might arise due to the appearance of a conflict when local health officials inspect animal facilities operated by agents of the same locality. The well-being of the animals, as well as the public's confidence in the quality of shelter operations, will be bolstered through the availability of the additional oversight that such a safeguard will provide.

Currently, the focus of inspections is largely on public disease control, sanitation and structural issues. It is important to ensure that all health officers evaluate the conditions of the facilities and their impact upon physical and mental health of the animals housed there. Consequently, all health inspectors, whether employed by or otherwise serving local health departments or the State, should be well educated concerning matters particular to the health and welfare of the animals housed in shelters and pounds. DHSS should take the lead in defining and devising an appropriate training curriculum, in accordance with its oversight authority over local health departments.

- ⇒ Minimum training requirements for inspectors should include the following:
- A training course, tailored to issues that are specific to shelters and the welfare of animals in these facilities, as an element of the requisite training for all health officers. This could be done as a certification system, with inspectors required to list their certification number on inspection reports;
 - An in-depth training program (with an accompanying handbook) that is offered with sufficient frequency to ensure an adequate number of trained inspectors to meet each jurisdiction's needs; and
 - Frequent on-site training opportunities.

Again, DHSS should establish an electronic communication system to allow animal facility inspectors and supervising health officers (State and local) to communicate concerning educational updates, emergencies and other facility-related information and inquiries.

3. Enforcement and Oversight

- ⇒ It is important that enforcement action be taken whenever appropriate:

Prior to 1999, DHSS did not initiate penalty actions against noncompliant facilities or facilities with serious violations. Local health departments seldom initiate penalty actions or call for hearings concerning non-compliant facilities.

Health inspectors must be fully conversant with the range of available sanctions applicable to facility violations. To assist in this regard, DHSS should create materials and educational programs for the training and periodic re-training of inspectors; materials should cover the range of sanctions available (including but not limited to cease and desist orders, orders to take remedial action, penalty assessments, fines and license revocations). Local officials should be encouraged and supported in their attempts to take such actions whenever appropriate.

There should be mandatory reporting to DHSS of all enforcement actions by local health departments. This would ensure that the Department would have the ability to monitor, intervene and participate in charging and penalty decisions, in order to facilitate uniformity.

⇒ Increase fines for facility violations.

Fines for facility violations should be commensurate with the violation. Currently, the amount that can be imposed as a penalty is statutorily limited to not more than \$50 for each offense.¹⁷⁷ This amount, which has not changed since 1974, is inadequate to address current violations, which can include the failure to remedy unsanitary conditions, health and safety violations or animal cruelty. Also, the statute is silent with regard to whether additional fines can be imposed for each day of continuing non-compliance. The Task Force recommends that the amount of the fines be increased and that specific language be added to the statute to specify that each day during which a violation continues unremedied shall constitute an additional, separate and distinct offense.

⇒ DHSS must take a more active role.

DHSS' active involvement in inspections and oversight is crucial. Before Governor McGreevey's administration, DHSS had no staff dedicated solely to conducting animal facility inspections, training local officials to perform inspections or for providing systematic oversight of the process. DHSS recently created a new office, the Office of Animal Welfare, and charged it with the inspection and enforcement with regard to animal facilities, among other duties, in accord with current law. The Task Force applauds the creation of this office and the high priority the Department has put on its animal welfare work, particularly given that, in 2000, the SCI found that the Department has not been sufficiently active in this regard and commended it to become significantly more involved in enforcing current law as well as addressing these issues generally.¹⁷⁸

The Task Force recommends that such an office, among other things, should be adequately staffed and should adopt the recommendations contained in this Report, including but not limited to the following: provide education and community outreach; respond to calls and complaints; analyze the effectiveness of local inspections; provide disease control program oversight;¹⁷⁹ train inspectors; conduct supplementary inspections; review and oversee inspections by local health departments; compile and analyze statistics on facilities; enforce regulatory compliance; determine shelter adequacy; and devise new initiatives.

In addition, issues involving disease control and outbreaks would be supervised by public health officers and veterinarians to ensure adequate measures are implemented to protect the health and well being of animals and staff at these facilities.

¹⁷⁷ N.J.S.A. 4:19-15.19.

¹⁷⁸ See *Report of the State Commission of Investigation on the Society for Prevention of Cruelty to Animals* (December 2000).

¹⁷⁹ Issues involving disease control oversight and outbreak should be supervised by DHSS' public health veterinarians, with such consultation as may be appropriate, to ensure that adequate measures are taken to protect the health and well-being of animals and staff at facilities.

VII. Improve animal control services

A. Background

All municipalities are required, by statute, to appoint at least one animal control officer who would be responsible for animal control within the municipality.¹⁸⁰ Animal control services include, but are not limited to: responding to calls and complaints from the public concerning lost, stray, or injured animals or animals suspected of being rabid or aggressive; capturing stray domestic animals as well as wild rabid animals; patrolling for stray cats and dogs; investigating reports of bite incidents and aggressive dogs and seizing and impounding dogs that meet the criteria of New Jersey’s vicious dog law; confining animals for rabies observation; evaluating animals captured for veterinary care; transporting captured animals to impoundment facilities; documenting all calls, activities and animals captured; educating the public on responsible pet ownership, rabies prevention and the need to sterilize pets; participating in local and county rabies task forces and other animal control related committees; and canvassing for unlicensed cats and dogs.

However, there is a lack of uniformity as to the manner in which ACOs provide these services, nor is there a standard definition of ACO duties. As a result, the nature, scope and manner that animal control services are provided is inconsistent. Moreover, as a general matter, animal control services would be enhanced and professionalized through improved uniformity, education and licensing.

Examples of the lack of consistency in the provision of animal control services include:

- ⇒ “After hours” incidents: Lack of standard operating procedures governing how to handle injured animals after hours and on weekends and holidays. Some towns have written policies and contracts with emergency veterinary clinics. Others have no written policies or standard operating procedures. Some towns do not provide after-hours services for any injured animals, while others mandate that their animal control officers are on duty 24 hours per day.
- ⇒ Responders: Some municipalities rely upon their police officers to respond to calls concerning animals that would ordinarily be routed to animal control officers. Police officers do not routinely have the training that is required to

¹⁸⁰ N.J.S.A. 4:19-15.16b.

respond to these matters. A properly trained ACO would be best able to evaluate and respond to these matters.

- ⇒ Treatment and disposition of cats: Some animal control agencies pick up injured cats or cats otherwise in need of assistance; some will do this only when a resident captures and secures the cat, while others refuse to pick up cats under any circumstances.
- ⇒ Additional fees: Some animal control agencies charge residents an additional fee to place a trap on the resident's property in order to catch a stray animal (notwithstanding the agency's contract with the municipality), while others do not.
- ⇒ Wildlife: There is inconsistent handling of injured wildlife. Some animal control officers will respond to calls concerning wildlife, while others will not respond, even if no other officer is available.

While municipal and county-run animal control programs generally provide some form of basic animal control services, several municipalities utilize the services of private contractors, some of whom do not provide all of the necessary services or impose an additional charge to the town residents for the performance of these services. Also, many contractors overextend themselves by taking on contracts with multiple towns. This, coupled with a lack of clear standards and widely divergent approaches to animal control, has resulted in a less-than-thorough, often haphazard, and more costly approach to animal control services throughout the State.

The Task Force finds that animal control services should be improved through the following reforms: providing clear articulation of definitions for animal control services, duties and authority; licensing of animal control officers and the establishment of continuing education requirements by DHSS; standardization of municipal obligations; provision for animal control services during non-business hours; limitations on the number of animal control contracts private animal control companies can enter with local governments; and authorizing animal control officers to utilize emergency vehicles, with the approval of their appointing municipality. These reforms will be discussed in turn.

B. Defining Animal Control Services, Duties and Authority

The Task Force recommends that DHSS provide needed uniformity and oversight. The Department, through its Office of Animal Welfare, should, in consultation with the New Jersey Animal Control Officers' Association:

- ⇒ More clearly define animal control services and functions and the responsibilities of animal control officers;¹⁸¹

¹⁸¹ Including, but not limited to clarification of ACOs' responsibilities with respect to wildlife. As each municipality should provide animal control services, ACOs should be responsible for responding to calls

- ⇒ Ensure that proper training is available for all animal control officers;
- ⇒ Establish a compliance system that includes standardized incident reports and other relevant forms;
- ⇒ Establish an enforcement mechanism that would enable ACOs to assess penalties and take other appropriate action to address non-compliance by violators, enforcement agencies or personnel;
- ⇒ Create a formula for determining adequacy of animal control services and communicate the formula to local governments;¹⁸²
- ⇒ Specify the essential components of inter-local agreements¹⁸³ and animal control services contracts, and set guidelines for determining reasonable fees.¹⁸⁴

In addition, the Task Force recommends that all animal control officers should report to the local health officer, or county health officer if there is no municipal officer; both should be subject to oversight by DHSS for animal related activities. DHSS should reach out to other agencies, such as the Department of Agriculture and the Department of Environmental Protection, as appropriate.

C. Standardizing Municipal Services

Under the law, municipalities have an obligation to provide animal control services, including impoundment services. As noted above, some towns do not always meet these obligations, and the functions are not consistently defined or performed. In addition, establishing clear remedies for a failure to provide the mandated services would

concerning wildlife. If the matter requires the expertise of the Division of Fish and Wildlife, the Department of Agriculture or any other agency, the ACO should call upon the appropriate entity.

¹⁸² The International City/County Management Association (ICMA) and American Humane provide standards that municipalities may use to determine the adequacy of the animal control services they are providing: (1) *ICMA Standard*: According to *Animal Control Management: A Guide for Local Governments*, published by ICMA in 2001, adequate funding of an animal care and control program costs at least \$4.00 per citizen annually; and (2) *American Humane Standard*: American Humane proposes an equation (included in “Keys to a Great Shelter”) that makes the number of animals appropriate for any one facility a function of the number of available cages/runs and the average holding time. The equation $[y=365(r \times n)/a]$ is discussed in footnote 166 of this Report. The DHSS should consider these and any other reliable formulas.

¹⁸³ When an inter-local agreement is utilized for the provision of animal control services, municipalities that provide animal control services agree to provide some or all of these services for one or more other municipalities, in exchange for a fee. The fee is determined by the nature of the services to be provided and the degree to which the contracting municipality uses those services. By way of example, Stafford Township charges other towns a percentage based on the past year’s service to that town.

¹⁸⁴ See DHSS’ list of essential components at www.state.nj.us/health/cd/acontrol.htm.

encourage better compliance. To address these issues, the Task Force recommends the following:

With regard to a municipality's obligation to provide impoundment services, the municipality may provide impoundment services by way of private contractors or by government entities. If these services are procured by way of contract, the award must go to the lowest responsible bidder, not merely the lowest bidder. The Task Force has been advised that sole reliance upon the lowest bid has often resulted in inadequate animal control services for the contracting town. "Responsible" must be determined by compliance with essential components:

- ⇒ All facilities must meet essential components, many of which are already defined by the DHSS.¹⁸⁵ This includes the following requirements:¹⁸⁶
- Provide availability 24 hours a day, seven days a week.
 - Guarantee enough capacity to handle animals from their contract service areas.
 - Agree to handle all animals (including rabbits, vicious dog and cruelty seizures, exotics, non-game animals, others).
 - Maintain list of resources, including wildlife rehabilitators and others that should be called upon when necessary.
 - Be equipped to provide immediate veterinary care for sick, injured, lame or debilitated animals, 24 hours a day, seven days a week.
 - Accept owner-surrendered animals.
 - Be located in reasonable proximity to contract area/jurisdiction.
 - Not charge citizens for legally mandated services or those paid by the municipality by way of its contract with the provider.
 - Provide appropriate information and access to facilities so that people find lost pets or animals.¹⁸⁷

In performing animal control services, the following should also be implemented:

- ⇒ The municipality should provide these services for all animals.¹⁸⁸

¹⁸⁵ See DHSS' web site for its list of components. Also, in formulating impoundment facilities' services, municipalities should consult with interested citizens and experts.

¹⁸⁶ Municipalities that seek to contract with a private provider for these services must include all essential components in a Request for Proposals (RFP).

¹⁸⁷ "www.petfinder.org" has offered to establish a database for New Jersey which would contain all lost or found animals, including those at impoundment facilities and shelters.

¹⁸⁸ Impoundment facilities need not have facilities equipped for all forms of wildlife or other animals that are not commonly housed; however, they must respond to calls involving these animals and make provisions for them if they do not have the means to house them.

- ⇒ It is important that the municipality clearly articulate where animals will be taken to be impounded, and direct animal control officers to take the animals there.
- ⇒ Municipalities should submit their plans for impoundment services and facilities to DHSS, which should review them for adequacy and to ensure that no single contractor has contracted with more municipalities than it can properly serve.¹⁸⁹
- ⇒ The above requirements should apply to all facilities that offer impoundment services, including veterinarians, to the extent their facilities are used to provide impoundment services.

With regard to the provision of animal control services generally:

- ⇒ The same review system as described above relative to impoundment facilities should be used to ensure that private contractors are not overextended and that the municipality is therefore able, via its contractor, to adequately provide animal control services. The local health officer should review contracts with private animal control services, to determine if the towns are being properly served.

Oversight by the regional health officer is required if the local health officer does not directly supervise the animal control officer.

- ⇒ DHSS should incorporate the Task Force's recommendations into the Department's list of essential elements of animal control services; as noted above, that animal control services should be uniform, in compliance with DHSS regulations and include particular terms (24 hour service, emergency service, etc).

If a municipality were to fail to provide proper services and refused to work with DHSS to refine its program, the authority should be provided for the State, as a last resort only, to take over the contracting function for the municipality. The State would, in such a circumstance, establish the terms of the impoundment and/or animal control contract. The municipality should, in such a case, be obligated to comply with the terms of the contract and pay the attendant costs.

Finally, given the lack of consistency and uniformity, the provision of impoundment services and animal control services would benefit from the creation of a citizen review board, comprised of interested citizens and experts, to review and participate in these matters. It would therefore be important for the county health department to establish a citizen review board that would be authorized to receive complaints, examine the complaints and facts and make recommendations to local governments concerning animal control, impoundment and cruelty issues as well as the terms and conditions of the municipalities' animal control and impoundment services. Any such board would benefit

¹⁸⁹ The proposal should benefit municipalities because they are currently losing up to 10% annually, as their contracts now contain automatic cost increases in cost without the provision of new services, and because citizens are being charged for services for which the municipalities have already paid.

from members such as one or more of the following: veterinarians; health officers; animal control officers; members of rescue groups; animal facility operators; interested citizens; attorneys; municipal and county prosecutors; and law enforcement officers, including police and sheriffs.

D. Regulating Animal Control Services

Currently, DHSS is statutorily authorized pursuant to N.J.S.A. 4:19-15.16a to adopt rules and regulations concerning the training and education qualification for the certification of animal control officers. Proper training (both initial and on-going education) and licensing and continuing education of animal control officers is critical for animal control functions to be performed well. So, too, is a clear standard for license revocation, to ensure that accountability and the proper discharge of ACO duties.¹⁹⁰

For these reasons, regulation by the Department should go beyond certification to the licensing of animal control officers. This licensing should include testing, license issuance, and mandatory continuing education, as a condition of licensure, and a “just cause” definition for license revocation.

E. Animal Control Services During Non-Business Hours

Because injuries and emergencies do not just arise during normal business hours, the Task Force further recommends that all municipalities make provision for animal control services 24 hours a day, seven days a week. Currently, in some towns, a complainant reaches only a recorded message when seeking animal control services at any time other than normal business hours. The advent of pagers and cell phones facilitates the performance of on-call animal control services.

F. Limiting the Number of Animal Control Contracts

Private animal control officers are permitted to contract with towns to perform the towns’ animal control services. The animal control officer is not required to own or provide an animal facility to house any animals he seizes or rescues. When there is no such facility, the officer must look for space at a facility to take any animal that he picks up. When there is no space, the animal is often euthanized. Moreover, when an animal control officer (or animal control services company) enters into contracts with multiple towns, the animals usually get taken to a single facility where space is quickly exhausted; this then results in euthanasia. Currently, there is no limitation on the number of contracts that a private animal control officer or service can enter into.

To reform this, the Task Force recommends that when a private animal control company seeks to contract with a municipality but does not have access to its own facility to house animals, it should be required to certify that it has adequate facility space available to it

¹⁹⁰ A separate but related problem is that not all towns hire certified animal control officers as required by statute.

(and provide copies of executed, valid contracts with licensed facilities) before it can enter into contracts to perform animal control services.

G. Emergency First Responder Vehicles

While animal control officers are often asked to respond to animal emergencies in an expedited fashion their vehicles are not classified as emergency vehicles.

Animal control officers should be able to respond to the scene of an animal emergency in the following circumstances:

- ⇒ Request for immediate assistance from:
 - Police officer;
 - Fire fighter; or
 - Emergency Medical Technician

- ⇒ Such requests would be appropriate for animal emergencies such as:
 - Bio/agro terrorism
 - Animal in possible life threatening situation (e.g. drowning/ fall through ice, etc.)
 - Vicious animal/ animal attack
 - Rabid animal
 - Animal hit by car
 - Animal creating a traffic hazard

Emergency vehicle status should not apply to an animal control officer's private vehicle. Government issued vehicles should have emergency lights and a police radio, if authorized by the municipality. Finally, before being permitted to drive an emergency vehicle, an animal control officer should be required to pass an appropriate driving course for such vehicles.

In line with this, the Task Force notes that it supports the Animal Emergency Working Group's efforts to develop and implement safe, effective and efficient responses to animal emergencies at the local, county, state and federal level; protect wild and domesticated animals, public health and the environment during disasters and emergencies; and ensure the humane care and treatment of animals during emergency situations. In addition, the Task Force endorses the mandate from the Governor's Office that each county shall expand its county emergency plans to include all hazard disaster planning, response and recovery involving animals in their counties. Among the various individuals who would be involved in these plans, the Task Force anticipates that animal control officers would have a role in this regard.

VIII. Provide humane education in schools

Humane education promotes respect and compassion for living things and the environment, discourages violence and provides the knowledge and understanding necessary for children to behave according to these principles. When New Jersey piloted humane education as a voluntary program in public schools in 2002, it was a resounding success, with most school districts opting to provide it in their schools. However, participation has fallen off and the curriculum would benefit from standardization. Therefore, the Task Force recommends that humane education for grades K-12 be made mandatory for all schools that receive public funding (and strongly recommended for schools that receive no public funding) and that a standard core curriculum be established through the New Jersey Department of Education, upon consultation with school districts and interested parties.

A. Background

Unfortunately, violence (including youth violence), bullying and a general lack of compassion for others and the world around us are all too common. This is often first manifested in abuse toward animals. The link between violence toward animals and violence toward other people is explored in greater depth in Section I of this Report. However, as recognized by our State legislators, the link between humane education and the prevention of violence is indisputable. Important research has been conducted and continues to be conducted that shows the inter-relationship between violence to animals and humans. As early as 1905, Sigmund Freud suggested that clinicians pay special attention to children who are especially cruel to animals, and today's news media regularly points out to the public the animal cruelty-human violence connection.¹⁹¹ (For more information, see Subsection D. of Section II of this Report on "The Link Between Violence Toward Animals and Violence Toward Humans.")

The established link between violence toward animals and violence toward humans emphasizes the importance of humane education in order to deter violence before it begins. "[W]e are now only beginning to understand why and how child abuse, domestic violence, animal cruelty, and aggressive acts we witness in our communities and schools are connected. But the fact that they are connected is all too clear."¹⁹²

¹⁹¹ See *The Calgary Sun*, "Pet Killers Graduate to Humans," September 29, 2002.

¹⁹² Coder, Cathy, "Violent Connections," *Children's Voice*, Winter 1999, page 4.

Schools can make a difference. As Governor McGreevey stated in his inaugural address: “Our schools must also provide a compass to our youngsters, to help them navigate between right and wrong, between fact and fiction, between faithful and false.”¹⁹³

To combat violence, domestic violence and animal abuse, and promote good character in our youth, New Jersey has promoted the teaching of humane education in public schools. In January 2000, the New Jersey Character Education Partnership Initiative (NJCEP) was announced, with \$4.75 million in State aid devoted to humane education in both the fiscal year 2001 and 2002 state budgets. The initiative was also included in the Fiscal Year 2003 state budget.¹⁹⁴ Indeed, New Jersey was the first state in the nation to provide state funding for the purpose of implementing character education programs and services. In response to the initiative, 99% of public school districts participated during the second year of state funding.¹⁹⁵

Humane education, as authorized in New Jersey, provides instruction in the principles of humanity as they apply to kindness and avoidance of cruelty to animals:

Each board of education may teach, by special courses or by emphasis in appropriate places of the curriculum, in a manner adapted to the ages and capabilities of the pupils in the several grades and departments, the principles of humanity as the same apply to kindness and avoidance of cruelty to animals and birds, both wild and domesticated.¹⁹⁶

However, such instruction is purely voluntary and there is no core curriculum established; therefore, instruction is not always comprehensive and consistent.

Mandatory humane education has been implemented by a growing numbers of states. As of 2003, fifteen states have enacted laws that mandate humane education, another fourteen states have either statutes or expressions of legislative intent that encourage the provision of humane education, and twenty states have demonstrated support for humane

¹⁹³ From the Inaugural Address of Governor James E. McGreevey, January 17, 2002.

¹⁹⁴ New Jersey Character Education Partnership Initiative Report on Year Two Outcomes, www.state.nj.us/njded/shared/outcomes/, at page 1.

¹⁹⁵ *Id.* at 7.

¹⁹⁶ N.J.S.A. 18A:35-4.1. There is a similar provision for instruction in domestic violence and child abuse, N.J.S.A. 18A:35-4.23, which authorizes education concerning these issues. The statute provides: “A board of education may include instruction on the problems of domestic violence and child abuse in an appropriate place in the curriculum of elementary school, middle school and high school pupils. The instruction shall enable pupils to understand the psychology and dynamics of family violence, dating violence and child abuse, the relationship of alcohol and drug use to such violence and abuse, the relationship of animal cruelty to such violence and abuse, and to learn methods of non-violent problem-solving.” The Task Force believes this education should be mandatory as well.

education through non-legislative methods such as the adoption of policies and endorsement of programs created by parent and community groups.¹⁹⁷

Several states have specific laws regarding humane education in the classroom.¹⁹⁸

- ⇒ New York has what many believe is the strongest humane education law in the country. It has a comprehensive law that mandates that elementary school instruction include “humane treatment and protection of animals” and lessons in the necessity of “controlling the proliferation of animals which are subsequently abandoned.” Notably, the penalty provision is such that a school district loses funding if the humane education requirements are not met. New York also requires that in celebration of Conservation Day, school authorities conduct exercises to “encourage the planting, protection, and preservation of trees and shrubs” and provide other learning tools that shall “tend to increase the interest...in the fish and wildlife... of the state.”
- ⇒ California law requires initiatives to prevent hate violence and promote tolerance for diversity, but only suggests that teachers “endeavor to impress” upon students “the meaning of equality and human dignity, including the promotion of harmonious relations, kindness toward domestic pets and the humane treatment of living creatures.”
- ⇒ Florida law mandates teaching “kindness to animals” and “conservation of natural resources and that its instructional materials committee recommend materials that encourage “humane treatment of people and animals.”
- ⇒ Illinois was the first state to pass a compulsory humane education law with a penalty provision in 1909, but this measure was repealed in 1967.¹⁹⁹ Currently, Illinois law provides for Arbor and Bird Day in order “to show the value of trees and birds and the necessity of their protection.” Illinois includes one year of “moral and humane education in the program of the teachers’ institute.” Finally, Illinois law states that “in every public school there shall be instruction, study and discussion of current problems and needs in the conservation of natural resources, including but not limited to...preservation of wilderness areas... [and] protection of wildlife and humane care of domestic animals.”

¹⁹⁷ Antoncic, Lydia S., A New Era in Humane Education: How Troubling Youth Trends and A Call For Character Education are Breathing New Life Into Efforts to Educate Our Youth About the Value of All Life, 9 *Animal L.* 183, 206-08 (2003).

¹⁹⁸ Antoncic, *supra* n.7, at 200.

¹⁹⁹ *Id.* at 201.

- ⇒ Louisiana encourages the state board of education “to take steps as it may think necessary... to provide for the teaching of kindness to dumb animals in the public schools[.]”²⁰⁰
- ⇒ Maine requires teachers to use “best endeavors” to encourage virtue and morality, including “kindness to birds and animals.”
- ⇒ Oregon law states that, “special emphasis shall be given to instruction” in a list of character issues including “humane treatment of animals.” The Superintendent of Public Instruction is mandated to prepare an outline of suggestions to accomplish the mission of this law for all public schools.
- ⇒ Pennsylvania mandates that “humane education shall be given to all pupils up to and including the fourth grade,” although it “need not exceed half an hour each week during the whole school term.”
- ⇒ Washington requires instruction on “the worth of kindness to all living creatures and the land.”
- ⇒ Wisconsin has designated Arbor and Bird Day for the observance in schools of the “promotion of a spirit of protection to birds and trees and the cultivation of an appreciative sentiment concerning them.”

Humane education has been successful. For example, in Calvert County, Maryland, the Patuxent Animal Welfare Society (PAWS) and the Calvert Animal Welfare League (CAWL) united to create a program that introduced animal welfare issues into the Calvert County Public Schools character education curriculum, founded on the idea that character and humane education “go hand-in-paw.”²⁰⁰ The program is designed for third grade children, and teachers are provided with instructional material plus given the resource of humane education volunteers who can be invited into the classroom. According to PAWS education chair Teresa Culver (who is also a school psychologist), students are much more interested in learning about the core values of respect and responsibility when applied to animals, since animals “capture a child’s attention, imagination and heart in ways that people-focused subject matter may not.” However, teachers and guidance counselors have also embraced the PAWS program because of the support it lends to the character education curriculum without additionally burdening the teachers.²⁰¹

At the farther end of the spectrum, in the San Juan, California school district, an innovative charter school called the Humane Education Learning Center is scheduled to open in Fall 2004. This school will promote compassion and discourage violence and incorporate these principles into all of the subjects taught. One of the guiding principles

²⁰⁰ *Id.* at 19.

²⁰¹ *Ibid.*

of the school is teaching curriculum “based on kindness, compassion, respect and consideration for all humans, all species, and the environment.”²⁰²

Studies establish the positive effect achieved through humane education:

- ⇒ A study of the Massachusetts Society for the Prevention of Cruelty to Animals school-based humane education presentations found that a single presentation increased humane attitudes among second-graders, and that a series of three presentations had the same effect on third and fourth-graders.²⁰³
- ⇒ Two studies demonstrated that students who had classroom programs on humane treatment of animals and empathy scored higher on humane attitude scales than those who did not.²⁰⁴
- ⇒ Another study was performed on third and seventh-graders who received eight weekly classroom lessons covering topics such as basic pet care, the role of animal shelters, safety around animals, animals in entertainment, endangered species, pet overpopulation, and animal-related moral dilemmas. Results revealed statistically significant gains in knowledge, attitudes and intended behavior at both grade levels.²⁰⁵
- ⇒ An examination of attitude transference indicated that children who were more knowledgeable about and favorably disposed toward animals were more likely to respond with greater empathy to people and have better relationships with peers.²⁰⁶
- ⇒ A Kids in Nature’s Defense (KIND) 2002-03 Teacher Survey shows how much teachers support humane education. Eighty-six percent believe that teaching children to respect wildlife and the environment is “very important,” and thirteen percent believed it was “important.” Eighty-four percent believed that it is “very important” to teach children to act responsibly for pets and fourteen percent believed it was “important.” The group of teachers was diverse, representing all

²⁰² *The Sacramento Bee*, “New School Will Stress Compassion,” October 15, 2003.

²⁰³ Ascione, F.R., “Evaluating Efforts to Encourage Children’s Kindness and Caring Towards Animals,” *Genetic, Social and General Psychology Monographs*, 123(1), 55-57 (1997).

²⁰⁴ Ascione, F.R., “Enhancing Children’s Attitudes About the Humane Treatment of Animals and Empathy: Generalization to Human-Directed Empathy,” *Anthrozoos*, 5(3), 176-91 (1992) and Ascione, F.R. and Weber, C.V., “Children’s Attitudes About the Humane Treatment of Animals and Empathy: One-Year Follow-up of a School-Based Intervention,” *Anthrozoos*, 9(4), 188-95 (1996).

²⁰⁵ Montminy-Danna, M. & O’Hare, T. (2001), *Evaluation Report: Effectiveness of the Potter League Humane Education Program*, Potter League for Animals, Middletown, R.I.

²⁰⁶ *Id.*

ethnicities, and all school settings including rural, suburban, urban, and inner city.²⁰⁷

⇒ Another study's results showed that students receiving environmental action instruction reported engaging in more environmentally responsible actions following a workshop in environmental education than they did prior to the workshop.²⁰⁸

New Jersey's anti-bullying statute provides a useful model for what could be done to address humane education. The statute, N.J.S.A. 18A:37-13 et seq. (enacted September 2002), required each school district, by September 2003, to adopt a policy prohibiting harassment, intimidation or bullying on school property at school-sponsored events or on school buses.

B. Recommendations

Humane education for grades K-12, which is voluntary under New Jersey's Humane Education Statute, N.J.S.A. 18A:35-4.1, should be made mandatory for all schools that receive public funding and strongly recommended for schools that receive no public funding.

Humane education is too important not to make mandatory. Violence, domestic violence and animal abuse are significant social problems. Across the country, communities, parents, legislators, educators and school administrators are recognizing that schools cannot afford to be passive bystanders in the moral upbringing of our youth. Indeed, New Jersey created the previously mentioned Charter Education Partnership (which promotes humane education) in response to a 1992 report of the National Research Council that ranked the United States as the most violent of all industrialized nations.²⁰⁹

Humane education is effective. It is not expensive and is well worth the nominal cost. Attacking crime and avoiding the monetary and societal costs inherent in the criminal justice system up front by keeping people out of the system is the best approach. Materials and labor are available from willing third parties like the American Society for the Prevention of Cruelty to Animals, the New Jersey Animal Rights Alliance and the Humane Society of the United States.

²⁰⁷ National Association for Humane and Environmental Education, Research & Evaluation Documents, KIND News Teacher Surveys, www.nahee.org/research_evaluation/documents.as#rnr2. This website contains an extensive annotated bibliography of research relevant to humane education.

²⁰⁸ Jordan, J.R., Hungerford, H.R., & Tomera, A.N., "Effects of Two Residential Workshops on High School Students," *Journal of Environmental Education*, 18(1), 15-21 (1986).

²⁰⁹ Lickona, Thomas, "The Return of Character Education," *Educational Leadership*, Nov. 1993, Vol. 51, No. 3, pages 6-11.

Moreover, the inclusion of a humane education “model” in the curriculum is simple enough to accomplish.²¹⁰ The New Jersey Department of Education should be responsible for determining appropriate grade-level programs and may, at its discretion, coordinate with appropriate State agencies and outsource the teaching of humane educational programs to organizations that specialize in humane education.

²¹⁰ Humane education should include “School Intervention,” namely, encourage kindergarten and grade schools to engage in early intervention in situations where children have exhibited aggressive, anti-social behavior and in situations where the child has intentionally injured or killed a cat, dog, bird, or other animal.

APPENDICES

Appendix A:
Text of Proposed Amendments to Title 2C

AN ACT concerning animal cruelty and supplementing Title 2C of the New Jersey Statutes and repealing parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. (New section) **Definitions.**

As used in this act:

“Animal” means any nonhuman living creature.

“Minimum care” means care sufficient to preserve the health and well-being of an animal and, except for emergencies or circumstances beyond the reasonable control of the actor, includes, but is not limited to, the following requirements: (1) food of sufficient quantity and quality to allow for normal growth or maintenance of body weight; (2) open or adequate access to drinkable water of an appropriate temperature in sufficient quantity to satisfy the animal’s needs; (3) access to an enclosed non-hazardous structure sufficient to protect the animal from the weather that has adequate bedding to protect against cold and dampness; (4) adequate protection from extreme or excessive sunlight and from overexposure to the sun, heat and other weather conditions; (5) veterinary care deemed necessary by a reasonably prudent person to relieve distress from injury, neglect or disease; (6) continuous access to a clean and adequate exercise area.

“Physical injury” means physical pain, including but not limited to physical trauma, illness or any impairment of physical condition.

“Physical trauma” means a fracture, cut, burn, puncture, bruise or other wound or illness produced by violence or by a biological, chemical or thermal agent.

“Possession” means to have physical custody or charge of, or control over, an animal.

“Serious physical injury” means physical injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

“Torment” means to purposely cause unnecessary, extreme or unjustifiable mental or emotional anguish.

“Torture” means to purposely inflict, subject to or prolong exposure to unnecessary, extreme or unjustifiable pain or suffering.

2. (New section) **Animal abuse.**

a. A person is guilty of animal abuse if, except as otherwise authorized by law, the person torments an animal, subjects an animal to an act of violence or attempts to cause or purposely, knowingly or recklessly causes physical injury to an animal. Animal abuse is a crime of the fourth degree if the person (1) has previously been convicted of one or more of the following offenses: (i) animal abuse pursuant to this section or aggravated animal abuse pursuant to section 3 of P.L. , c. (C.) (now pending before the Legislature as this bill) or any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to this section; (ii) a violation of any other animal protection statute of this State, including but not limited to sections 3, 4, 5, 6, 7 and 8 of P.L. , c. (C.)(now pending before the Legislature as this bill), or any provision of chapter 22 of Title 4 of the New Jersey Statutes or any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to an animal protection statute offense of this State; or (iii) any crime enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19) inflicted upon a person protected under the Prevention of Domestic Violence Act of 1990, P.L.1991, c.261 (C.2C:25-17 et seq.) or any act of domestic violence under the equivalent law of another jurisdiction; or (2) knowingly commits the animal abuse in the presence of a child under 16 years of age. Otherwise, animal abuse is a disorderly persons offense.

b. Notwithstanding the provisions of N.J.S. 2C:43-3, an person who is convicted of a disorderly persons offense in violation of subsection a. shall be liable to a fine of \$1000 if the person commits the animal abuse in the presence of a child under 16 years of age. For purposes of assessing a fine pursuant to this subsection, the defendant shall be strictly liable upon proof that the offense occurred, in fact, in the presence of a child under 16 years of age. It shall not be a defense that the defendant did not know that the child was present or reasonably believed that the child was 16 years of age or older.

c. Each act of abuse in violation of subsection a. shall constitute a separate offense.

d. In addition to imposing any other appropriate penalties established for an offense pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to a recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program, provided that the organization or municipality, as the case may be, consents and there are conditions in place to ensure that such service is appropriately supervised and that animals are not placed at risk by the defendant's participation. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, veterinary care or treatment, and other costs incurred by any agency, entity, or organization investigating the violation.

e. The court may order a person convicted of an offense pursuant to subsection a. of this section to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist, except that the court shall order mental health counseling to a person convicted of an offense pursuant to subsection a. of this section who was previously convicted of one or more of the offenses enumerated in paragraph (1) of subsection a. of this section. If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute an offense pursuant to subsection a. of this section, the court shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist. The court shall order the defendant to pay for the mental health counseling.

f. In addition to any other penalty or penalties imposed, the court may, upon request of the prosecutor or on its own motion, order any person convicted of a violation of this section to forfeit possession of the animal or animals involved, and may prohibit any such person from having future possession or custody of any animal for any period of time the court deems reasonable, including a permanent prohibition, and may impose any other reasonable restrictions on the person's future possession or custody of and involvement with animals as necessary for the

protection of the animals. When the court orders a defendant to forfeit possession of an animal, the court may further order that all rights to possess the animal be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals.

3. (New section) **Aggravated animal abuse.**

a. A person is guilty of aggravated animal abuse if, except as otherwise authorized by law, the person:

(1) Attempts to cause serious physical injury or death to an animal, or causes such injury or death purposely or knowingly or under circumstances manifesting extreme indifference to the value of life recklessly causes such injury; or

(2) Purposely commits a violation of subsection a. of section 2 of P.L. , c. (C.)(now pending before the Legislature as this bill) in the presence of a child under 16 years of age; or

(3) Purposely or knowingly commits an act of sexual penetration or sexual contact, as those terms are defined in N.J.S.2C:14-1, with an animal; or

(4) Purposely or knowingly tortures an animal; or

(5) Kills an animal by virtue of the order of a constituted authority of the State but does so needlessly; or

(6) Kills an animal in a manner that was outrageously or wantonly vile, horrible or inhuman in that it involved torture or depravity of mind.

Aggravated animal abuse under paragraph (1), (2), (3), (4) or (5) of this subsection is a crime of the third degree; under paragraph (6) of this subsection is a crime of the second degree.

b. Each act of abuse in violation of subsection a. shall constitute a separate offense.

c. In addition to imposing any other appropriate penalties established for a crime pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to a recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program,

provided that the organization or municipality, as the case may be, consents and there are conditions in place to ensure that such service is appropriately supervised and that animals are not placed at risk by the defendant's participation. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, veterinary care or treatment, and other costs incurred by any agency, entity, or organization investigating the violation.

d. (1) The court may order a person convicted of an offense pursuant to subsection a. of this section to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist, except that the court shall order mental health counseling to a person convicted of an offense pursuant to subsection a. of this section who was previously convicted of one or more of the following offenses: (i) aggravated animal abuse pursuant to this section or animal abuse pursuant to section 2 of P.L. , c. (C.)(now pending before the Legislature as this bill) or any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to this section; (ii) a violation of any other animal protection statute of this State, including but not limited to sections 2, 4, 5, 6, 7 and 8 of P.L. , c. (C.)(now pending before the Legislature as this bill), or any provision of chapter 22 of Title 4 of the New Jersey Statutes or any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to an animal protection statute offense of this State; or (iii) any crime enumerated in section 3 of P.L.1991, c.261 (C.2C:25-19) inflicted upon a person protected under the Prevention of Domestic Violence Act of 1990, P.L.1991, c.261 (C.2C:25-17 et seq.) or any act of domestic violence under the equivalent law of another jurisdiction.

(2) If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute an offense pursuant to subsection a. of this section, the court shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist.

(3) The court shall order the defendant to pay for the mental health counseling.

e. In addition to any other penalty or penalties imposed, the court may, upon request of the prosecutor or on its own motion, order any person convicted of a violation of this section to forfeit possession of the animal or animals involved, and may prohibit any such person from having future possession or custody of any animal for any period of time the court deems reasonable, including a permanent prohibition, and may impose any other reasonable restrictions on the person's future possession or custody of and involvement with animals as necessary for the protection of the animals. When the court orders a defendant to forfeit possession of an animal, the court may further order that all rights to possess the animal be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals.

4. (New section) **Animal abandonment.**

a. (1) A person commits a disorderly persons offense if, with the purpose of relinquishing possession of an animal and without making reasonable provisions for the minimum care of the animal, the person knowingly leaves the animal or causes the animal to be left at a location where the animal is beyond the person's control, custody or possession.

(2) A person violating the provisions of paragraph (1) of this subsection shall be guilty of a crime of the fourth degree if failure to provide care results in serious physical injury or death to the animal.

b. Notwithstanding the provisions of N.J.S. 2C:43-3, a person who commits a violation of subsection a. shall be liable to a fine of \$1000 if the violation: (1) occurs on or within 200 feet of a roadway; or (2) pertains to a maimed, sick, infirm or disabled animal; otherwise a person who violates subsection a. shall be liable to a fine of \$500.

c. Each animal abandoned in violation of subsection a. and each incident involving the abandonment of a particular animal shall constitute a separate offense.

d. A person who leaves an animal at an animal pound or shelter shall not be deemed to have made reasonable provisions for the minimum care of the animal

unless the person ensures that the animal is left with a person authorized by the animal pound or shelter to accept possession of the animal.

5. (New section) **Animal neglect.**

a. A person is guilty of animal neglect if, except as otherwise authorized by law, the person purposely, knowingly or recklessly fails to provide minimum care for an animal in the person's possession. Animal neglect is a disorderly persons offense.

b. (1) A person violating the provisions of subsection a. of this section shall be guilty of a crime of the fourth degree if failure to provide care results in physical injury to the animal.

(2) A person violating the provisions of subsection a. of this section shall be guilty of a crime of the third degree if failure to provide care results in serious physical injury or death to the animal.

c. Where more than one animal is involved, each animal neglected in violation of subsection a. shall constitute a separate offense.

d. In addition to imposing any other appropriate penalties established for an offense pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to a recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program, provided that the organization or municipality, as the case may be, consents and there are conditions in place to ensure that such service is appropriately supervised and that animals are not placed at risk by the defendant's participation. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, veterinary care or treatment, and other costs incurred by any agency, entity, or organization investigating the violation.

e. In addition to any other penalty or penalties imposed, the court may, upon request of the prosecutor or on its own motion, order any person convicted of a violation of this section to forfeit possession of the animal or animals involved, and may prohibit any such person from having future possession or custody of any animal for any period of time the court deems reasonable, including a permanent prohibition, and may impose any other reasonable restrictions on the person's future

possession or custody of and involvement with animals as necessary for the protection of the animals. When the court orders a defendant to forfeit possession of an animal, the court may further order that all rights to possess the animal be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals.

6. (New section) **Animal Fighting.**

a. A person is guilty of animal fighting if that person knowingly: (1) keeps, uses, is connected with or interested in the management of, or receives money for the admission of a person to, a place kept or used for the purpose of fighting or baiting an animal; (2) owns, possesses, keeps, trains, promotes, purchases, or knowingly breeds or sells an animal for the purpose of fighting or baiting that animal; (3) for amusement or gain, causes, allows, or permits the fighting or baiting of an animal; (4) permits or suffers a place owned or controlled by that person to be used for the purpose of fighting or baiting an animal; (5) is present and witnesses, pays admission to, encourages or assists in the fighting or baiting of an animal; or (6) gambles on the outcome of a fight involving an animal.

b. (1) An offense under subsection a. constitutes a crime of the second degree if the offense falls within paragraph (1), (2) or (3) of that subsection.

(2) Except as provided in subsection c., an offense under subsection a. constitutes a crime of the third degree if the offense falls within paragraph (4), (5) or (6) of that subsection.

c. Notwithstanding the provisions of paragraph (2) of subsection b., animal fighting is a crime of the second degree if the person: (1) has previously been convicted of one or more of the following offenses: (i) animal fighting pursuant to this section or any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to this section; or (ii) a violation of any other animal protection statute of this State, including but not limited to sections 2, 3, 4 and 5 of P.L. , c. (C.)(now pending before the Legislature as this bill), or any provision of chapter 22 of Title 4 of the New Jersey Statutes or any similar statute of the United States, this State or any other state for an offense that is substantially equivalent to an animal protection statute offense of this State.

d. In addition to imposing any other appropriate penalties established for a crime of the third degree pursuant to Title 2C of the New Jersey Statutes, the court shall impose a term of community service of up to 30 days, and may direct that the term of community service be served in providing assistance to a recognized organization concerned with the prevention of cruelty to animals or the humane treatment and care of animals, or to a municipality's animal control or animal population control program, provided that the organization or municipality, as the case may be, consents and there are conditions in place to ensure that such service is appropriately supervised and that animals are not placed at risk by the defendant's participation. The court also may require the violator to pay restitution or otherwise reimburse any costs for food, drink, shelter, veterinary care or treatment, and other costs incurred by any agency, entity, or organization investigating the violation.

e. The court may order a person convicted of an offense pursuant to subsection a. of this section to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist. If a juvenile is adjudicated delinquent for an act which, if committed by an adult, would constitute an offense pursuant to subsection a. of this section, the court shall order the juvenile to receive mental health counseling by a licensed psychologist or therapist named by the court for a period of time to be prescribed by the licensed psychologist or therapist. The court shall order the defendant to pay for the mental health counseling.

f. In addition to any other penalty or penalties imposed, the court shall order the seizure and forfeiture of possession of any animals used for fighting or baiting, and may, upon request of the prosecutor or on its own motion, order any person convicted of a violation of paragraph (1), (2) or (3) of subsection a. of this section to forfeit possession of any other animals in the person's custody or possession, and may prohibit any such person from having future possession or custody of any animal for any period of time the court deems reasonable, including a permanent prohibition, and may impose any other reasonable restrictions on the person's future possession or custody of and involvement with animals as necessary for the protection of the animals. Additionally, any property involved in or related to a violation of this section shall be subject to forfeiture and may be seized by the State or any law enforcement officer in accordance with the provisions of N.J.S. 2C:64-1 et

seq. When the court orders a defendant to forfeit possession of an animal, the court may further order that all rights to possess the animal be given over to an appropriate person or agency demonstrating a willingness to accept and care for the animal or to an appropriate animal care agency for further disposition in accordance with accepted practices for humane treatment of animals.

g. For purposes of this section, “bait” means to attack with violence, to provoke, or to harass an animal with one or more animals for the purpose of training an animal for, or to cause an animal to engage in, a fight with or among other animals.

7. (New section) **Overworking an animal**

A person is guilty of overworking an animal if that person knowingly overdrives, overloads, drives when overloaded, or overworks an animal or causes or procures any such acts to be done. Overworking an animal is a disorderly persons offense.

8. (New section) **Duty to report acts of animal abuse, neglect or fighting**

a. (1) Any person having professional animal care or maintenance responsibilities who knows or has reasonable cause to believe that an animal has been subjected to abuse or neglect or involved in animal fighting in violation of section 6 of P.L. , c. (C.)(now pending before the Legislature as this bill) shall report or cause to be reported the same immediately, by telephone or otherwise, to the police or to any other law enforcement agency or officer authorized to investigate a report of animal abuse.

(2) Any employee of a State, county or local child or adult protective services agency, social worker or domestic violence counselor or crisis response team member, while acting in his or her professional capacity or within the scope of his or her employment, who knows or has reasonable cause to believe that an animal has been subjected to abuse or neglect shall report or cause to be reported the same immediately, by telephone or otherwise, to the police or to any other law enforcement agency or officer authorized to investigate a report of animal abuse, unless in that person’s professional judgment such a report would place a vulnerable child or adult at risk of harm.

(3) Any employee of a State, county or local law enforcement agency who knows or has reasonable cause to believe that an animal has been subjected to abuse or neglect or involved in animal fighting in violation of section 6 of P.L. , c. (C.)(now pending before the Legislature as this bill) shall report or cause to be reported the same immediately, by telephone or otherwise, to the police or to any other law enforcement agency or officer authorized to investigate a report of animal abuse.

(4) Any other person who has reasonable cause to believe that an animal has been subjected to abuse or neglect or involved in animal fighting may report the same immediately, by telephone or otherwise, to the police or to any other law enforcement agency or officer authorized to investigate a report of animal abuse.

b. The report, if possible, shall contain the name and address of the alleged perpetrator and time and location of the alleged act of abuse, neglect or animal fighting, the nature and possible extent of the animal's injury or condition as a result of abuse, neglect or fighting, and any other information that the person reporting believes may be helpful with respect to the act of abuse, neglect or animal fighting and the identity of the alleged perpetrator.

c. Any person who reports information pursuant to this act, or provides information to the appropriate authorities concerning the abuse, neglect or fighting of an animal, or testifies at a grand jury, judicial or administrative proceeding resulting from the report, is immune from civil and criminal liability arising from the report, information or testimony, unless the person acts in bad faith or with malicious purpose.

d. An employer or any other person shall not take any discriminatory or retaliatory action against a person having animal care or maintenance responsibilities who reports abuse, neglect or animal fighting pursuant to this act. An employer or any other person shall not discharge, demote or reduce the salary of an employee because the employee reported information in good faith pursuant to this act. A person who violates this subsection is liable for a fine of up to \$1,000.

e. A person with professional animal care or maintenance responsibilities who reports or causes to report in good faith an allegation of animal abuse or neglect or animal fighting pursuant to sections 2 or 3 of P.L. , c. (C.)(now pending before the Legislature as this bill) encountered during the course of his or her employment and as a result thereof is discharged from employment or in any

manner discriminated against with respect to compensation, hire, tenure or terms, conditions or privileges of employment, may file a cause of action for appropriate relief in the Superior Court in the county in which the discharge or alleged discrimination occurred or in the county of the person's primary residence. If the court finds that the person was discharged or discriminated against as a result of the person's reporting an allegation of animal abuse or neglect or animal fighting, the court may grant reinstatement of employment with back pay or other legal or equitable relief and impose a fine as authorized in subsection d. of this section.

f. For purposes of this section, persons having professional animal care or maintenance responsibilities include the following, whether paid or unpaid:

- (1) veterinarians, including any intern or resident;
- (2) veterinary or animal care technicians;
- (3) employees of a humane society, animal shelter or other animal control agency;
- (4) employees of a business engaged in the sale of animals, animal-related merchandise, or in the providing of services, transportation or housing for animals; and
- (5) zoo or circus employees.

8. (New section) **Exceptions**

Nothing contained in this act shall be construed to prohibit or interfere with:

- a. Properly conducted scientific experiments performed under the authority of the Department of Health and Senior Services or the United States Department of Agriculture. Those departments may authorize the conduct of such experiments or investigations by agricultural stations and schools maintained by the State or federal government, or by medical societies, universities, colleges and institutions incorporated or authorized to do business in this State and having among their corporate purposes investigation into the causes, nature, prevention and cure of diseases in men and animals; and may for cause revoke such authority;
- b. The killing or disposing of an animal or creature by virtue of the order of a constituted authority of the State, except if done needlessly;
- c. The shooting or taking of game or game fish in such manner and at such times as is allowed or provided by the laws of this State;

d. The administration of a reasonable and recognized animal training or handling technique, provided that such act is carried out in a manner which does not adversely or unjustifiably affect the health or safety of the animal.

e. The raising, keeping, care, treatment, marketing, and sale of domestic livestock in accordance with the standards developed and adopted therefor pursuant to subsection a. of section 1 of P.L.1995, c. 311 (C. 4:22-16.1);

f. The killing or disposing, by a reasonable or commercially acceptable method or means, of a Norway or brown rat (*Rattus norvegicus*), black rat (*Rattus rattus*), or house mouse (*Mus musculus*) by any person, or with the permission or at the direction of that person, while the animal is on property either owned or leased by, or otherwise under the control of, that person, provided that the animal is not a pet; and

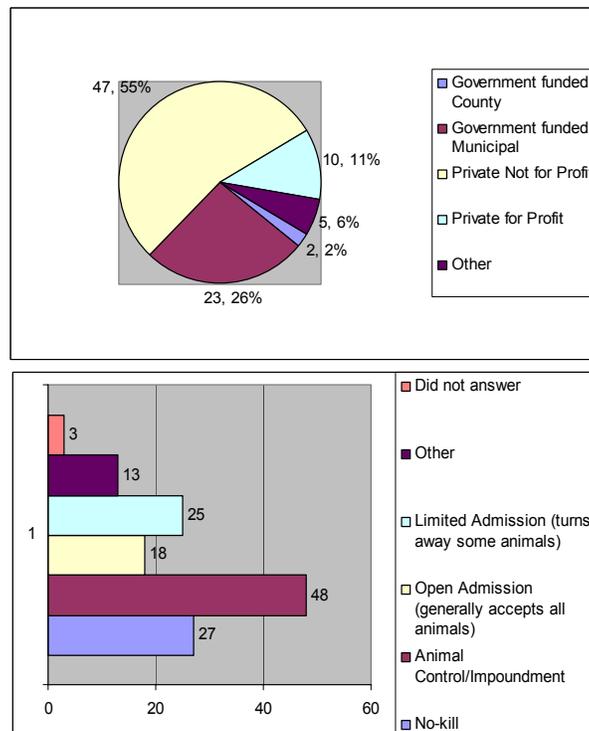
g. The provision of veterinary care by or under the immediate supervision of a veterinarian licensed pursuant to chapter 16 of the Revised Statutes or by the laws of any other state.

Appendix B: Outreach to Animal Facilities

The Task Force desired to conduct outreach to animal facilities so that they could be advised of the Task Force’s existence and charge, and would have the opportunity to provide input to the Task Force. The Department of Health and Senior Services provided a list of licensed animal facilities in the State, including those that provide impoundment services. The Task Force’s animal facilities subcommittee spent considerable time reaching out to each of these facilities, many of which took the time to respond and provide information and commentary. The Task Force extends its deep appreciation to each of these organizations for their time and interest in aiding our inquiry.

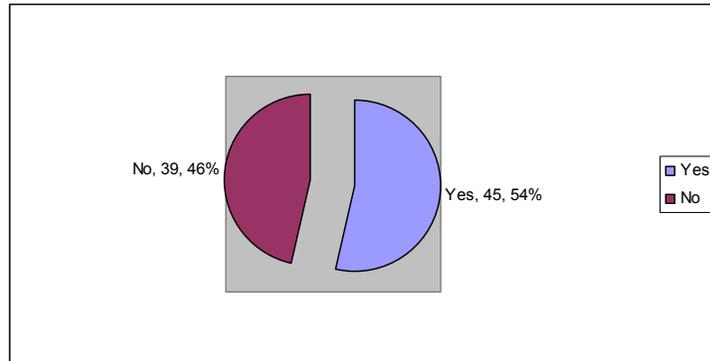
Although not constituting a scientific survey nor presenting a full account of the manner in which all the State’s animal facilities operate, the responses that were provided – and resulting dialogue – were helpful to the Task Force. As noted in the Report, the information provided by those facilities that voluntarily responded to the Task Force’s inquiry confirmed the importance of further examining issues, including but not limited to facility resources, animal control services and euthanasia policies. The following is a summary of some of the questions asked of the facilities and information provided by those that responded.¹

- Nature of the organization.

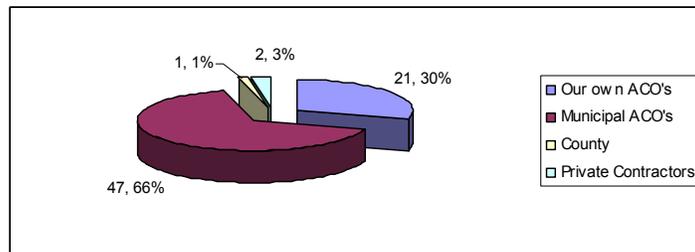


¹ Respondents provided more than one answer in response to several of the questions.

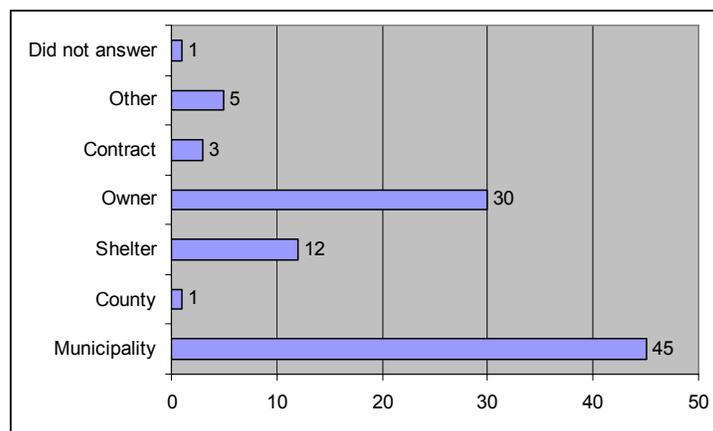
- Does the facility operate as an impoundment facility, contracting with one or more municipalities for the impoundment of stray animals?



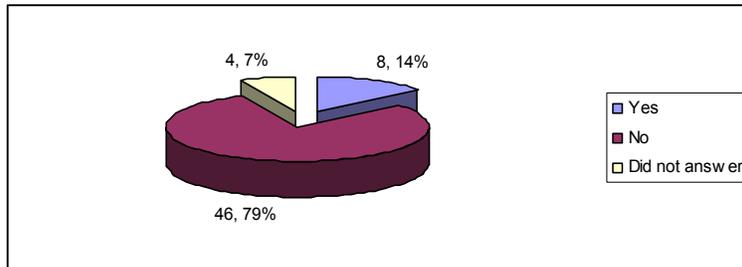
- To the extent the facility works with an animal control officer (hereinafter "ACO"), identify the entity with which the ACO is affiliated.



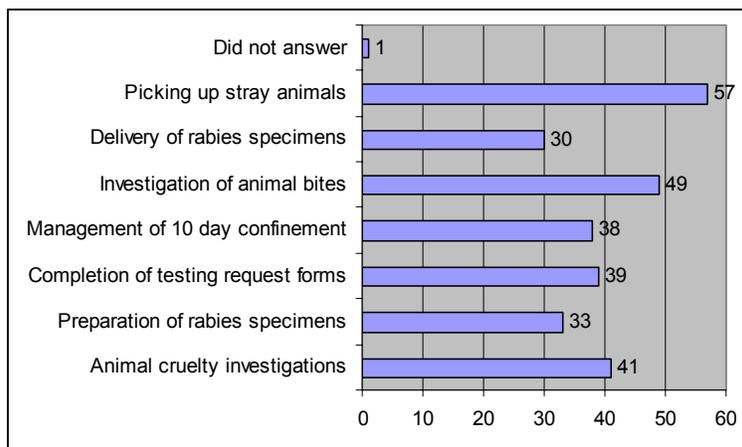
- Source of payment for medical treatment for injured animals picked up by an ACO.



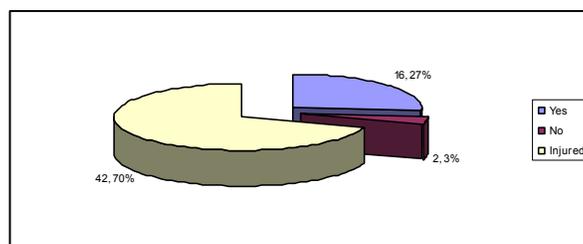
- Does the facility impose a pre-determined monetary limit for veterinary treatment?²



- Identify all activities undertaken by the ACOs who work in conjunction with the facility.



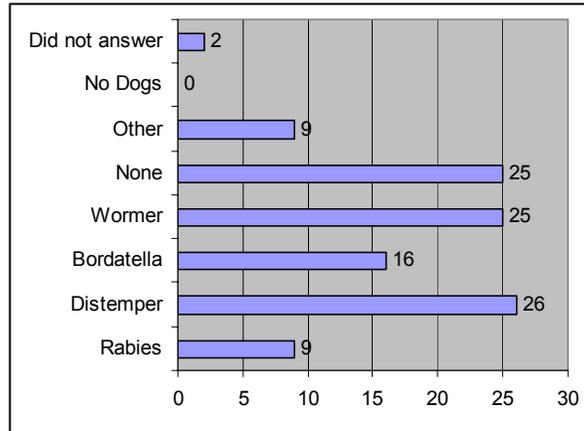
- Does a veterinarian examine the animals during the mandatory seven-day holding period?



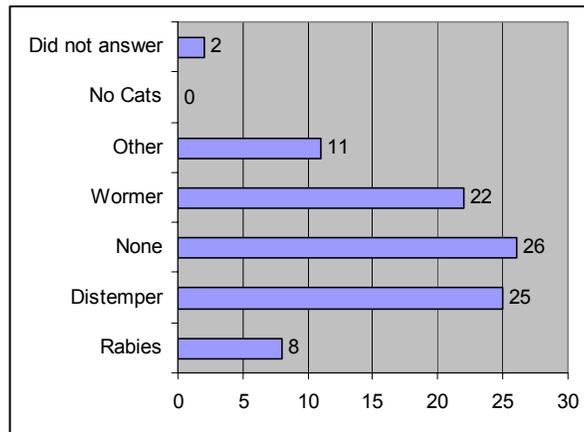
² There were an insufficient number of responses to determine an average monetary limit.

- Are vaccinations or medications given to animals during the seven-day holding period?

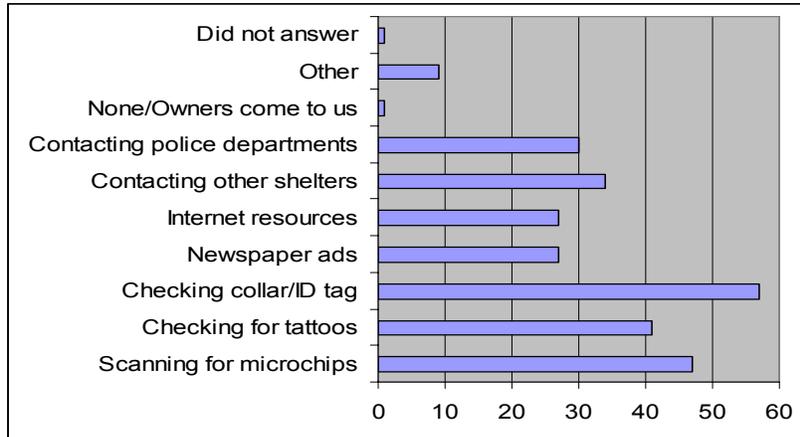
Dogs



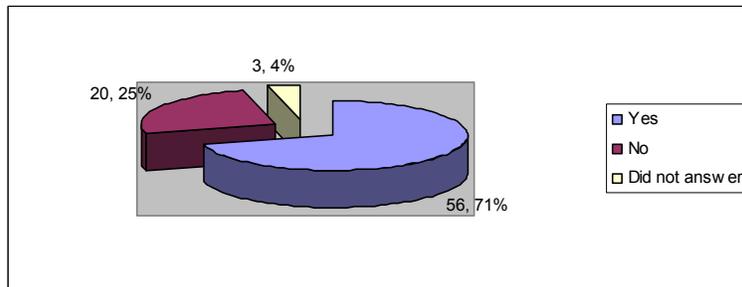
Cats



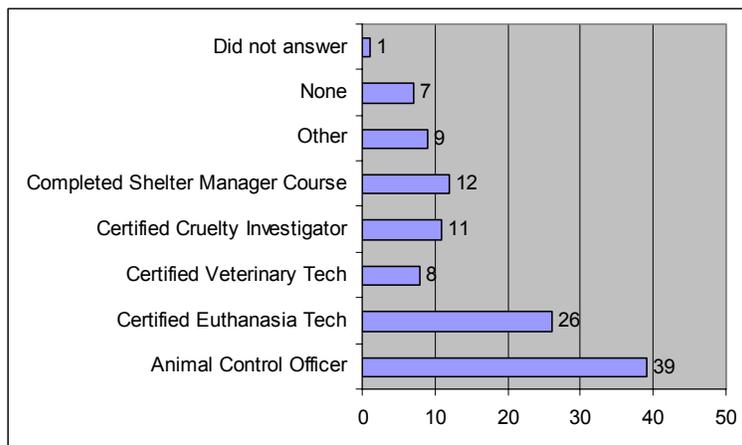
- Identify all of the methods that are employed in an effort to reunite animals with their owners.



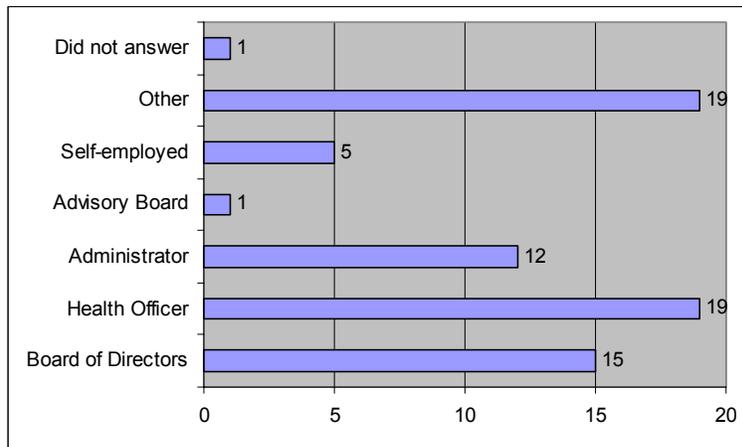
- Does a “shelter manager” work at the facility?



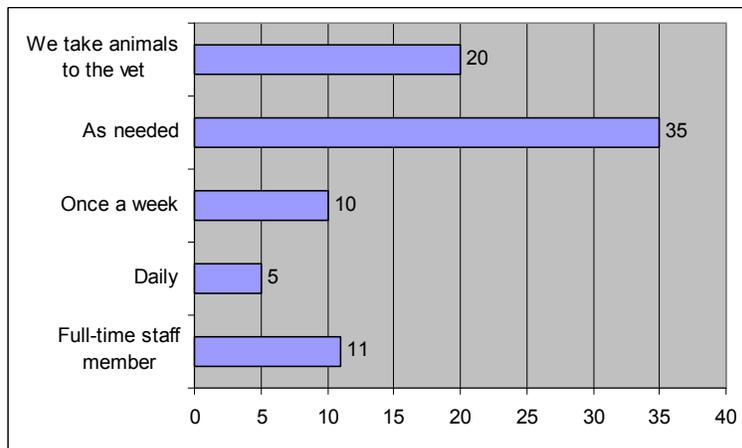
- Identify all of the shelter manager’s certification(s) or credential(s).



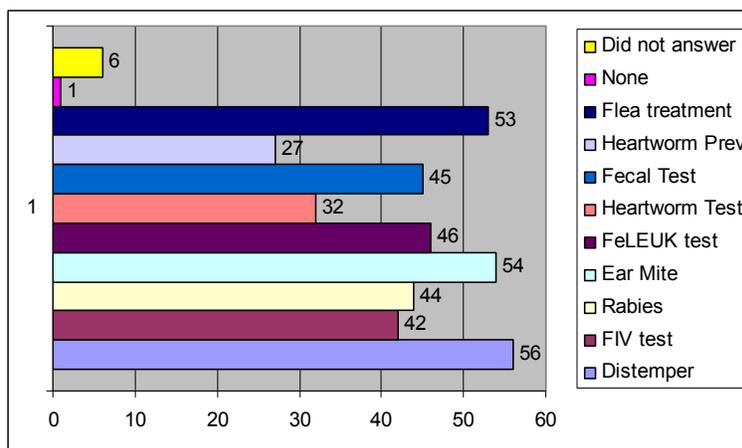
- To whom does the shelter manager report?



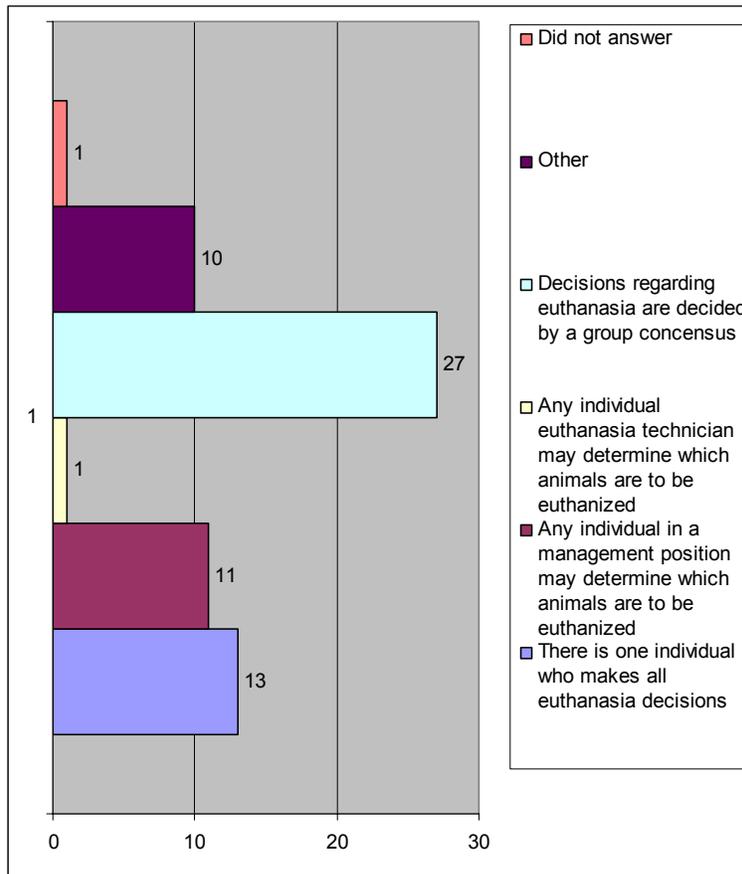
- How often is a veterinarian present in the facility?



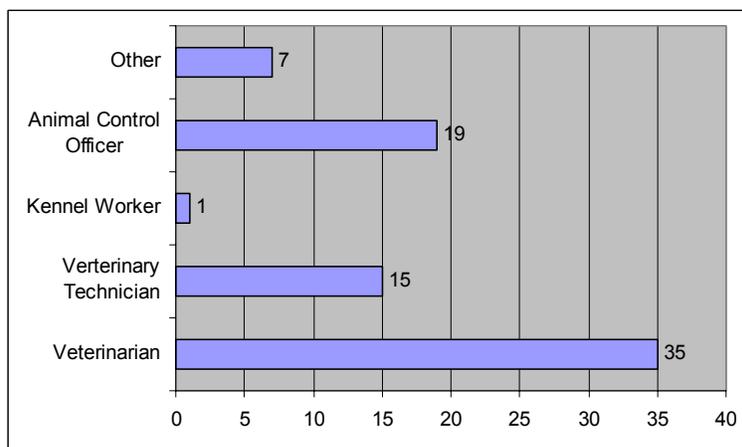
- Indicate those vaccinations, tests and treatments that are routinely provided.



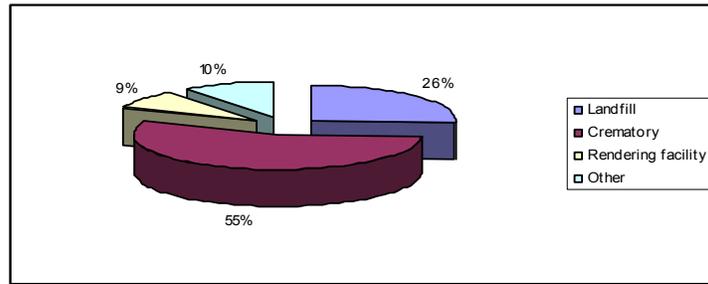
- How are decisions concerning euthanasia made?



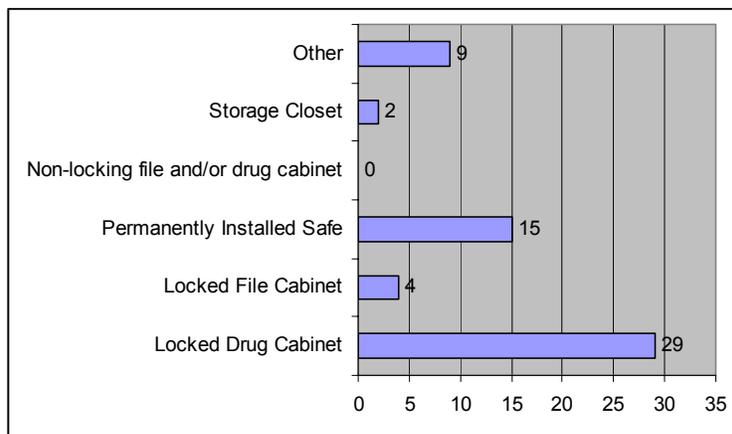
- When respondents were asked if they have a written euthanasia policy, those that responded were divided evenly, half indicating “yes” and half indicating “no.”
- Who performs euthanasia?



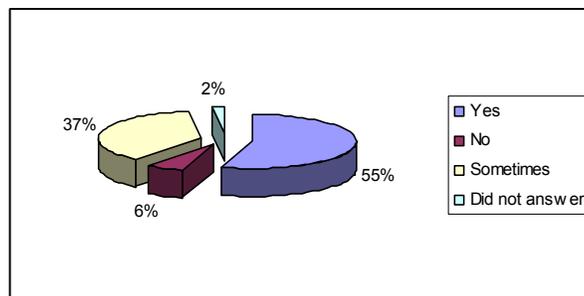
- What methods are used for the disposal of bodies after euthanasia?



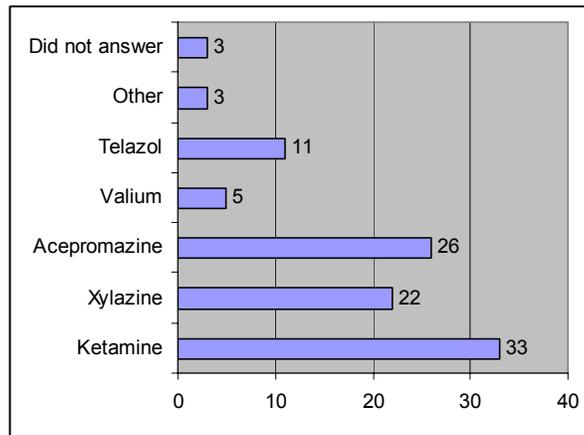
- How are controlled dangerous substances stored?



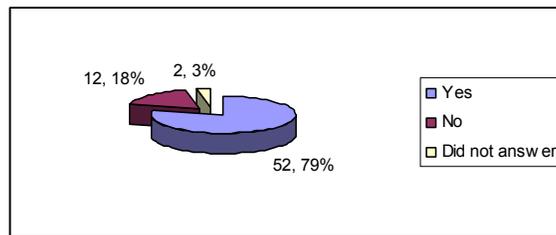
- Are animals pre-tranquilized prior to euthanasia?



- What drugs are used to pre-tranquilize animals prior to euthanasia?

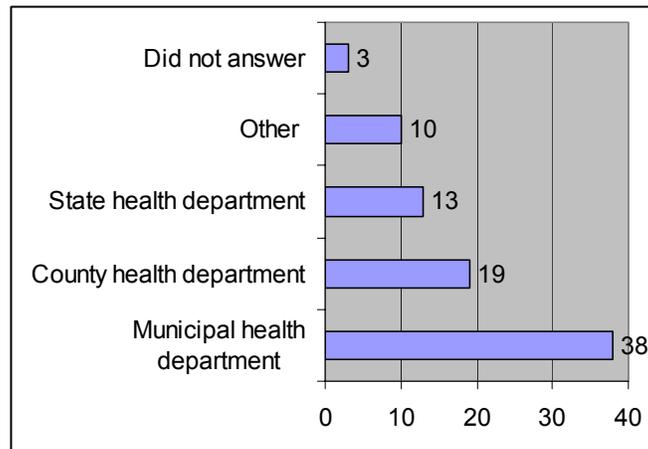


- Does the facility have a separate room or building for isolating/quarantining sick animals?

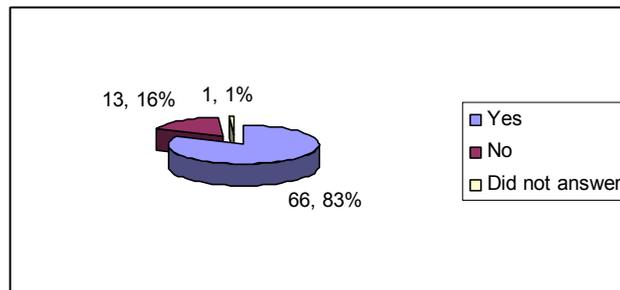


- The facilities were asked if they have a cleaning procedure or protocol in place. Half of those facilities that responded indicated that they do have a procedure or protocol; half indicated that they do not.

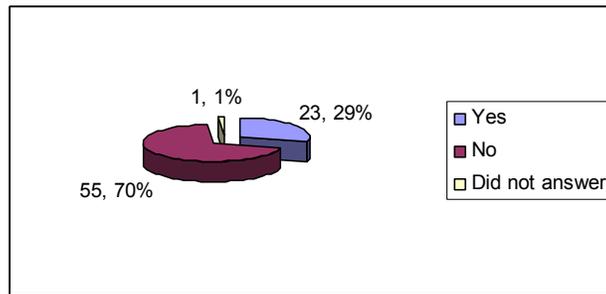
- The facilities were asked if they have been inspected. Almost every respondent indicated that the facility has been inspected within the past three years. Three respondents indicated “4-10 years” and three indicated “never.”
- The majority of responding facilities indicated that they have not been inspected by the State Department of Health and Senior Services.



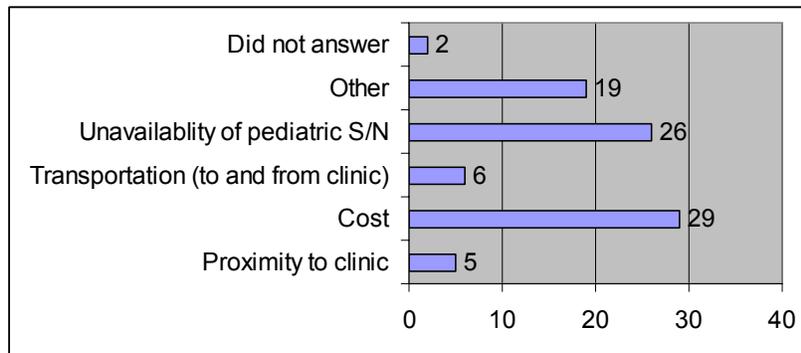
- Are some or all of the animals sterilized prior to adoption?



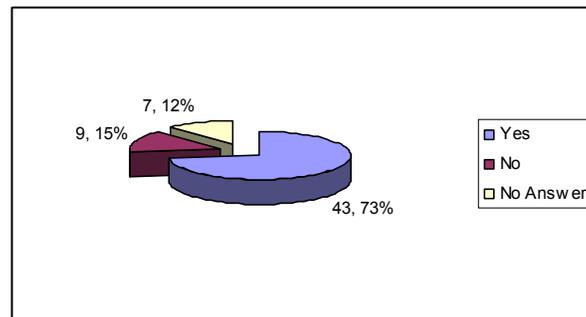
- Is there a policy requiring that all animals must be sterilized prior to adoption?³



- If there is no policy to sterilize all animals prior to adoption, explain why.

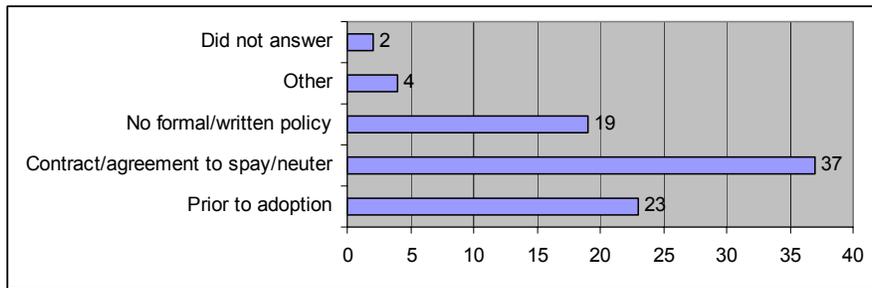


- Would you implement a mandatory sterilization policy if all of the impediments that you reported were eliminated?



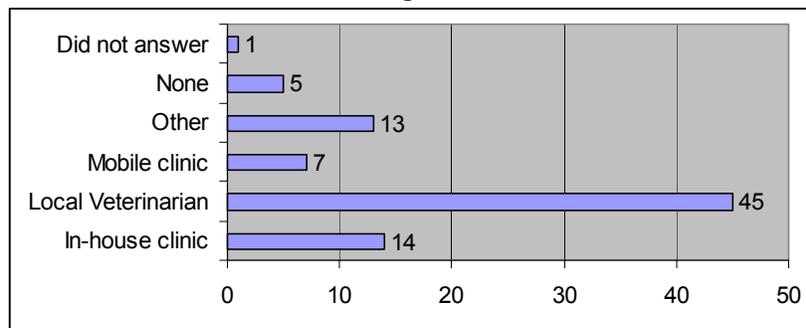
³ Further investigation may alter these figures, as it appears that some respondents may have disregarded the wording "prior to adoption" and considered contractual obligations to sterilize as constituting a mandatory sterilization policy.

- If the facility does not require that all animals be sterilized prior to adoption, does it employ other methods to ensure or encourage sterilization?

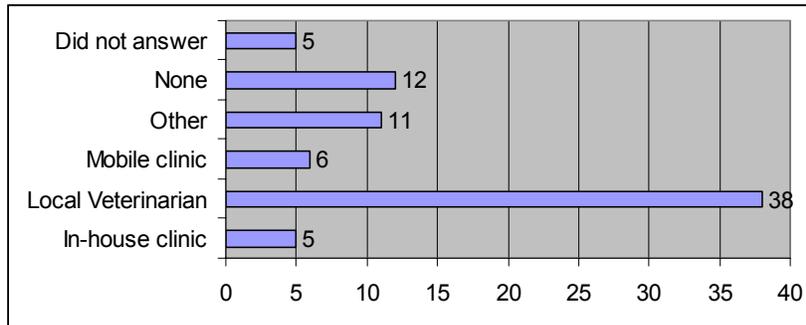


- Who performs sterilization procedures for the animals in your facility?

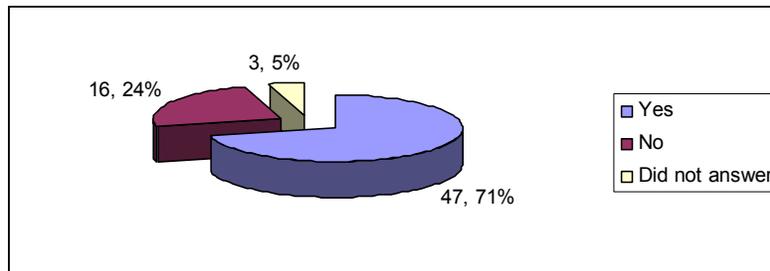
Full cost procedures



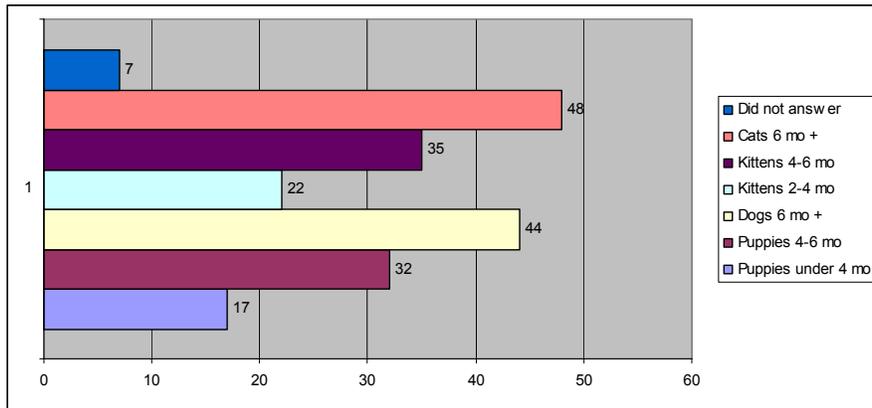
Reduced cost procedures



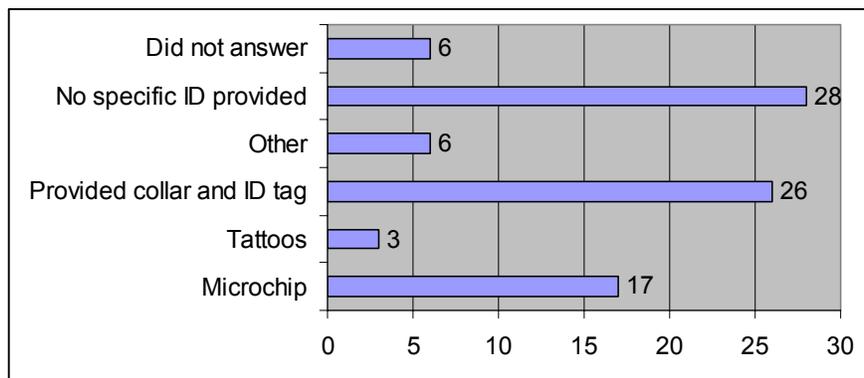
- If you have access to sterilization procedures, do you provide them to feral cats?



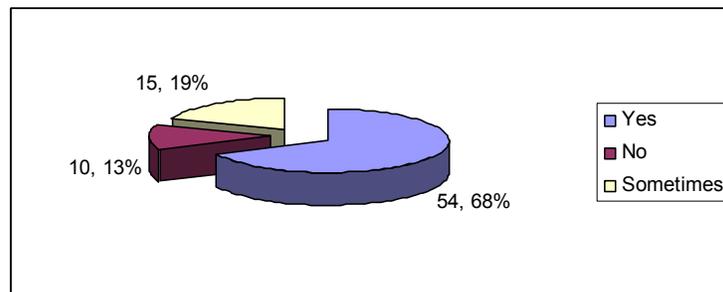
- Identify each category of animal that is sterilized prior to adoption.



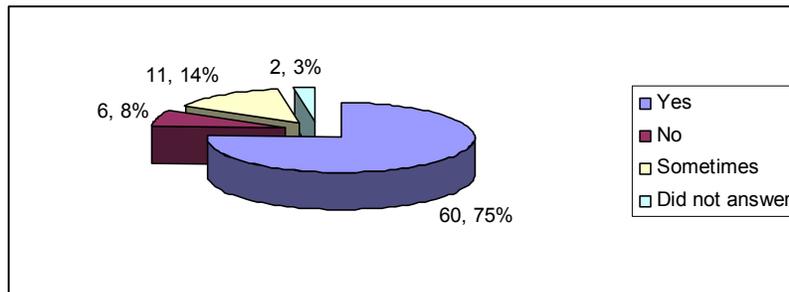
- Indicate whether the facility offers identification for the animals and the methods of identification that are offered.



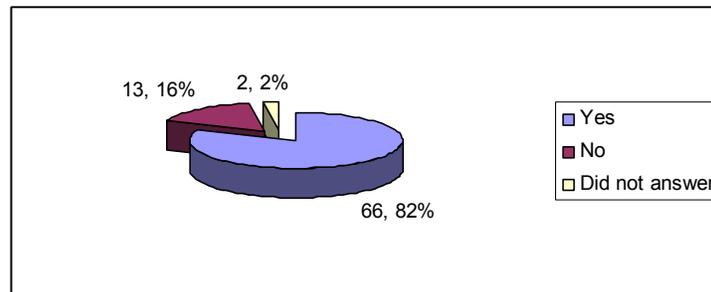
- Does the facility vaccinate animals for rabies or verify a rabies vaccination before releasing the animals to the public?



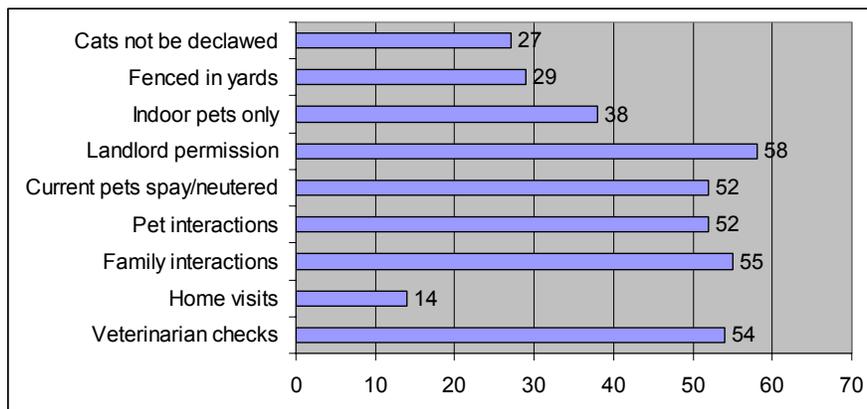
- Do you “temperament test” animals prior to adoption?



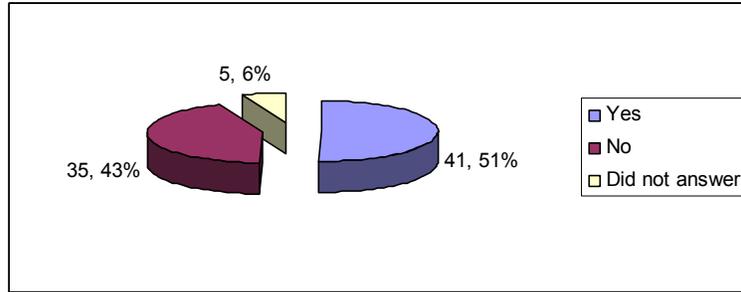
- Do you require potential adopters to complete an adoption application?



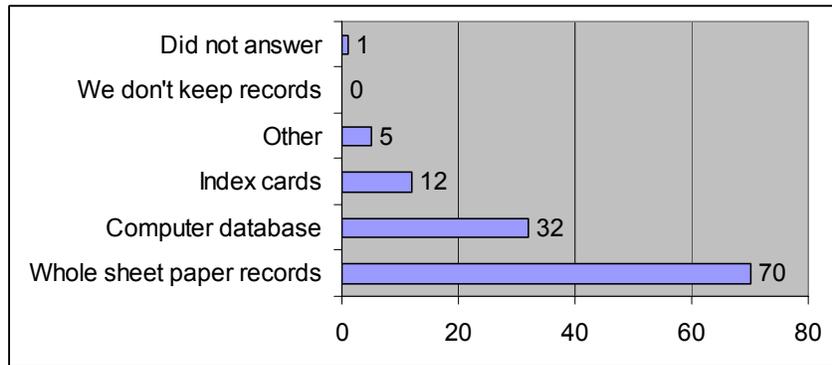
- What factors do you consider when screening applicants for adoption?



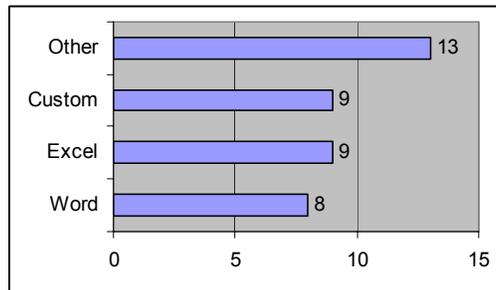
- Does the facility work with feral cat colony caretakers?



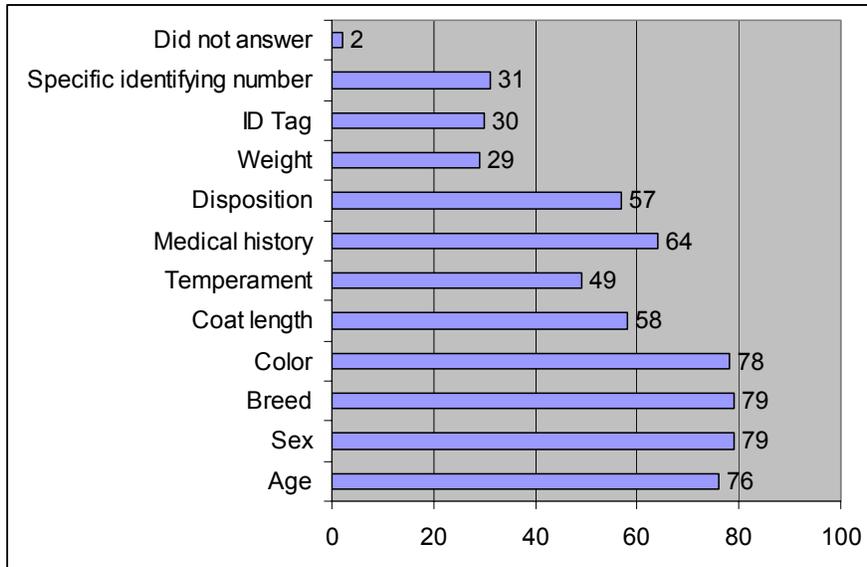
- How are animal intake and disposition records collected and filed?



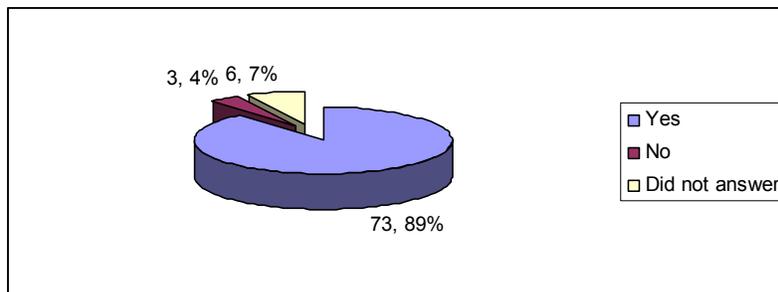
- If software is used, what type is relied upon?



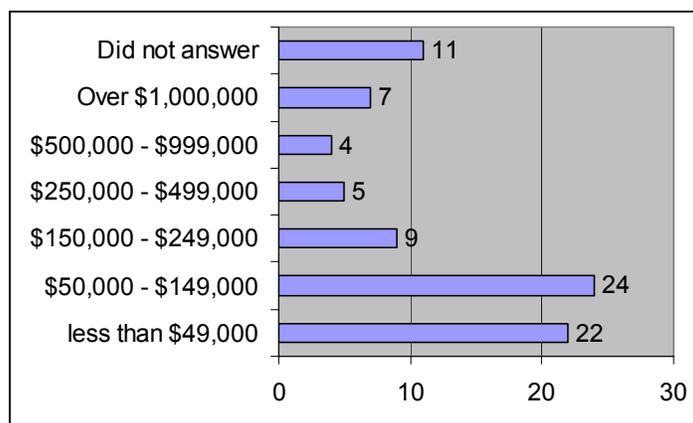
- Identify the categories of information that are recorded for each animal.



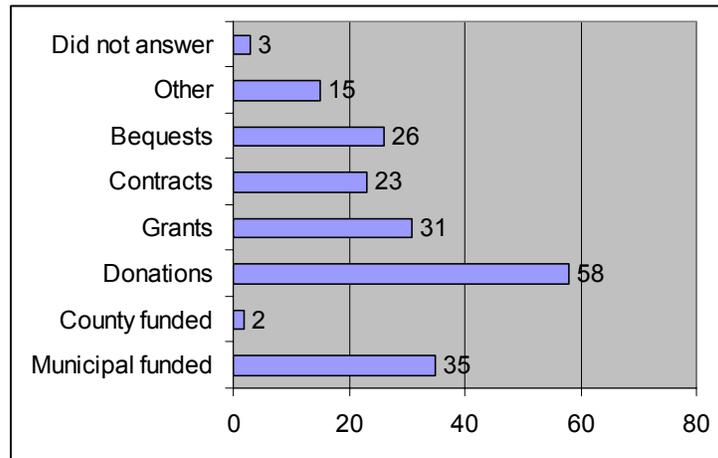
- Are the records readily available and quantifiable?



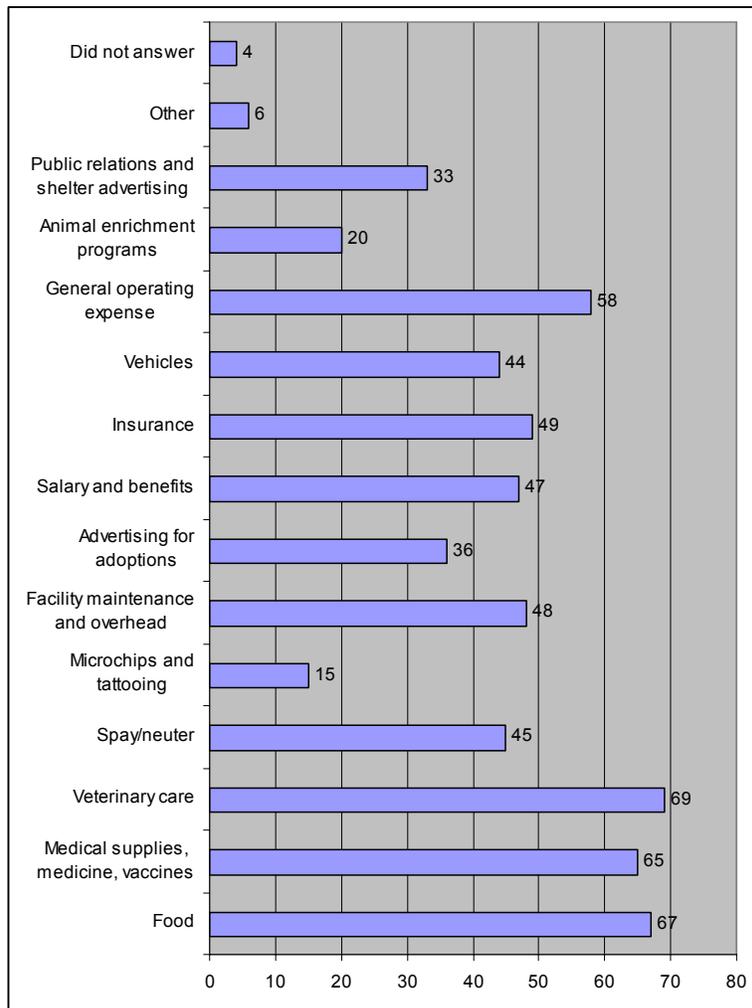
- Total operating budget.



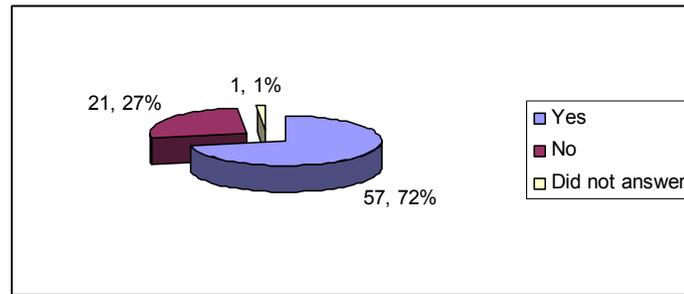
- Sources of income.



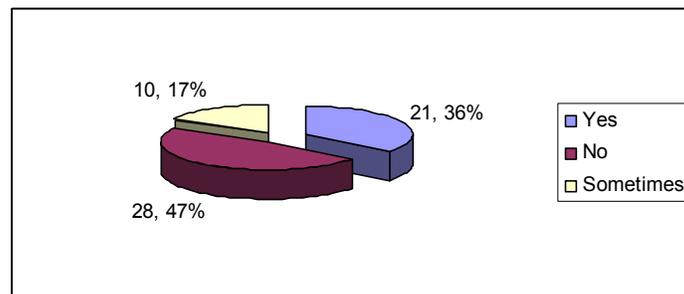
- Categories of expenditures.



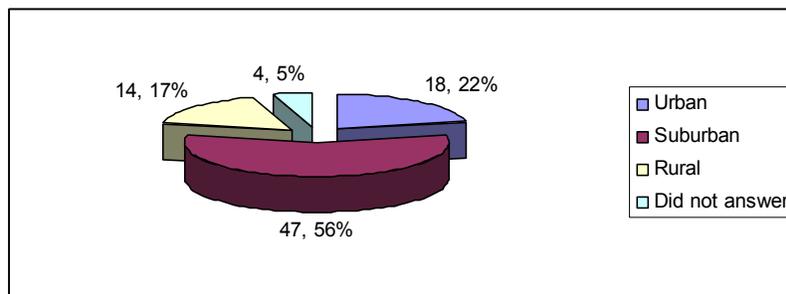
- Does the facility utilize a volunteer program?



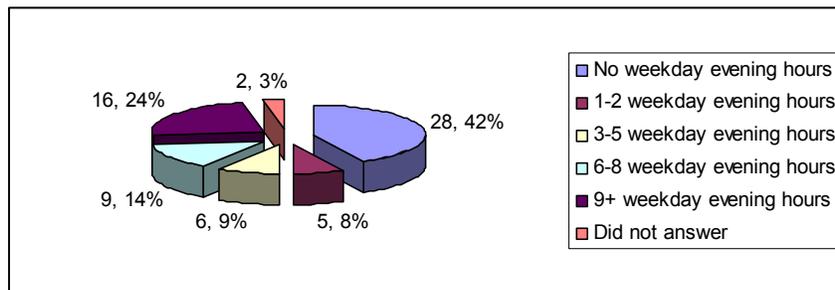
- Do any of the volunteers substitute for paid staff members?



- Nature of the geographic area in which the facility is located.



- Evening operating hours on weekdays (after 5:00 p.m.).



General Observations

- An equal number of respondents conduct off-site adoptions as those who do not conduct off-site adoptions.
- 77% of the respondents utilize Internet sites for the advertisement of animals that are available for adoption, while 20% do not, with 3% not responding.
- 77% of the respondents require that animals be returned to them if the adopter is no longer able to care for them while 10% do not, with 1% not responding.
- 56% of respondents keep statistics concerning the number of animals that are returned while 36% do not, with 8% not responding.
- Average surrender fees are:
 - \$54.00 for dogs
 - \$44.00 for cats
 - \$20.00 for other animals
 - Some respondents indicated that they only request a donation.
- Average adoption fees are:
 - \$73.00 for dogs
 - \$80.00 for puppies
 - \$49.00 for cats
 - \$51.00 for kittens
 - \$76.00 for purebred dogs
 - \$57.00 for purebred cats
 - Some respondents indicated that they only request a donation.
- Average total number of animals handled by each category. (Note that respondents indicated that they do not categorize cats as feral vs. non-feral, therefore these responses cannot be used to estimate the number of feral cats that the facilities handle).

	Dogs	Cats	Other
Stray	322	378	176
Owner Surrendered	179	224	36
Transferred In to Facility	51	19	6
Transferred Out of Facility	32	20	42
Adoptions	214	263	24
Reclaimed by Owner	140	15	6
Died at Shelter	9	43	44
Did Not Answer	14	14	14

Appendix C: **Additional Funding Recommendations**

In addition to the funding mechanisms that are recommended throughout this Report, the following additional funding sources would help pay for animal welfare services and alleviate the burden on governments:

- A tax “check off,” with funds dedicated to the State’s animal welfare programs. Similar “check offs” have been enacted into law and have generated substantial revenue for their dedicated programs.
- A fund, maintained and operated by the State, to collect privately donated monies that would be used for animal welfare programs throughout the State. Contributors would receive appropriate tax benefits.
- In-kind donations. State and local government agencies that send regular mailings to members of the public could include public-service announcements, e.g., concerning the APCP, or license renewal forms, in their mailings.
- Money in municipal animal control funds should not revert to the municipality’s general fund if it is not used within three years. This is the current practice and it creates a disincentive to perform animal control functions.
- Municipalities would specifically benefit from a clarification in the law that would permits them to use their animal control funds for multiple programs, including but not limited to: constructing, maintaining and operating their impoundment facilities/services; adopting and re-homing animals from their impoundment facilities; adoption programs; publicizing animals that are available for adoption; public education; microchipping dogs and cats for identification purposes; establishing properly conducted managed feral cat colony trap, neuter, vaccinate, return, and monitor programs; and animal sterilization programs. Although current law directs municipalities to maintain a separate animal control account, it does not explicitly specify these functions.

Animal welfare advocates have also expressed their strong support for these and other revenue-generating proposals. Task force members and animal welfare advocates have routinely expressed their willingness to contribute more money and bear higher costs so long as their money is dedicated to and promotes animal welfare programs. Accordingly, while animal welfare advocates would strongly support the Task Force’s funding proposals, they would strongly oppose uses for the revenue that were unintended. Provisions should be made to prevent unintended uses or inappropriate diversions of these funds.