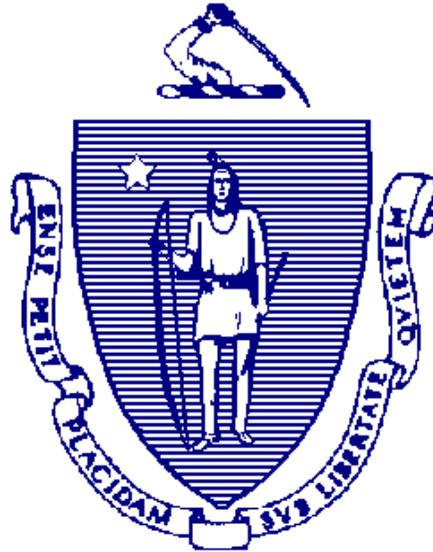


**HANDBOOK OF MASSACHUSETTS
STATUTES AND CASES
PERTAINING TO ANIMAL CRUELTY**



**OFFICE OF THE DISTRICT ATTORNEY
FOR THE NORFOLK DISTRICT
MICHAEL W. MORRISSEY**

June 2012

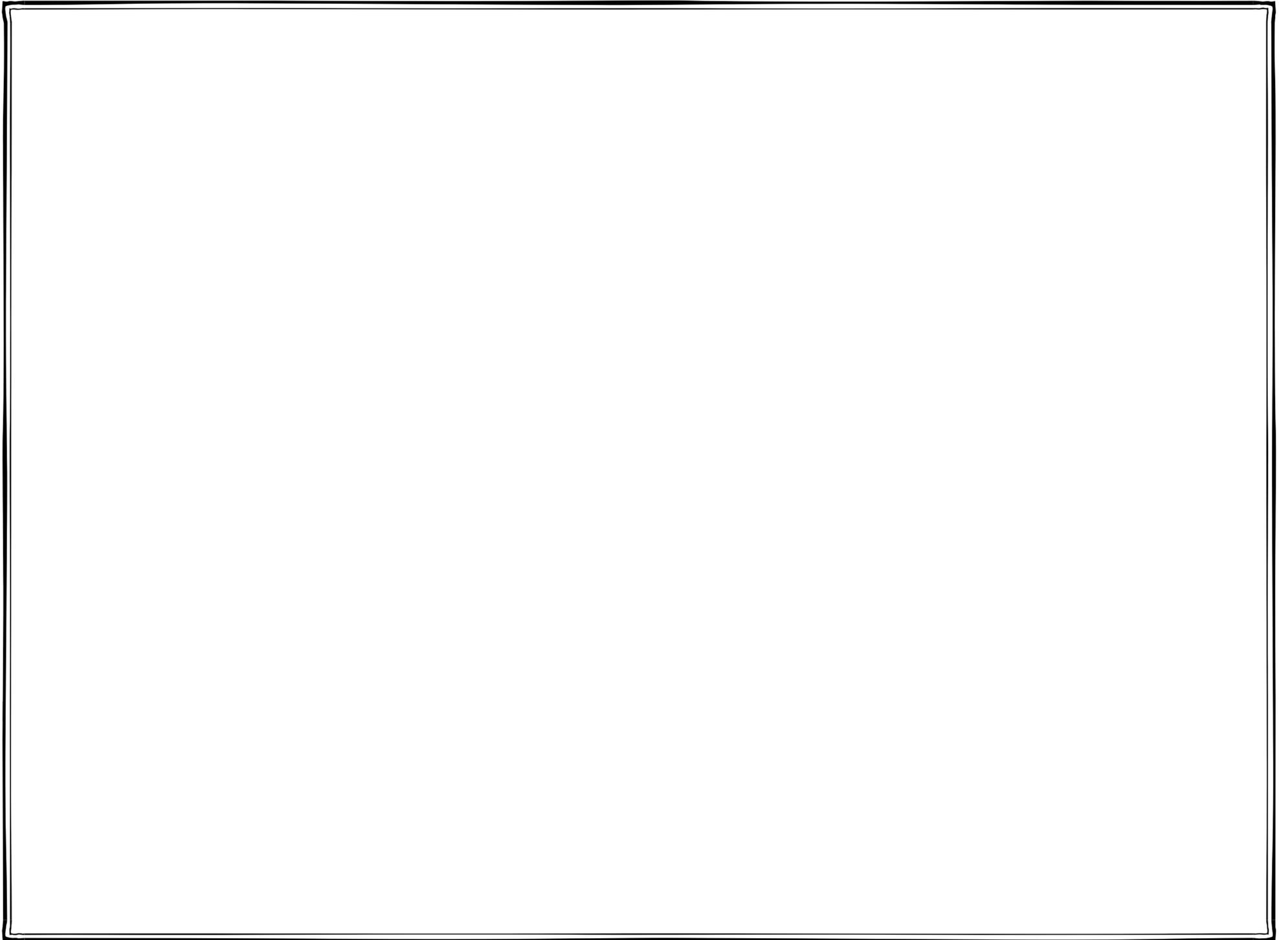


Table of Contents

Practice points	1
Links to free legal resources	7
Disposition codes	7
Summaries of selected cases	8
Index of selected statutes and cases	15
Selected statutes	18
Selected cases	28

This handbook is intended to help in the prosecution of animal cruelty cases in Massachusetts state courts. It will be revised as caselaw develops and statutes are amended. Please send comments or suggestions to ADA Tracey Cusick at tracey.cusick@state.ma.us.

Compiled by Assistant District Attorney Tracey Cusick, Norfolk District Attorney Office, 45 Shawmut Road, Canton, MA 02021.

June 2012

Greetings from District Attorney Michael W. Morrissey

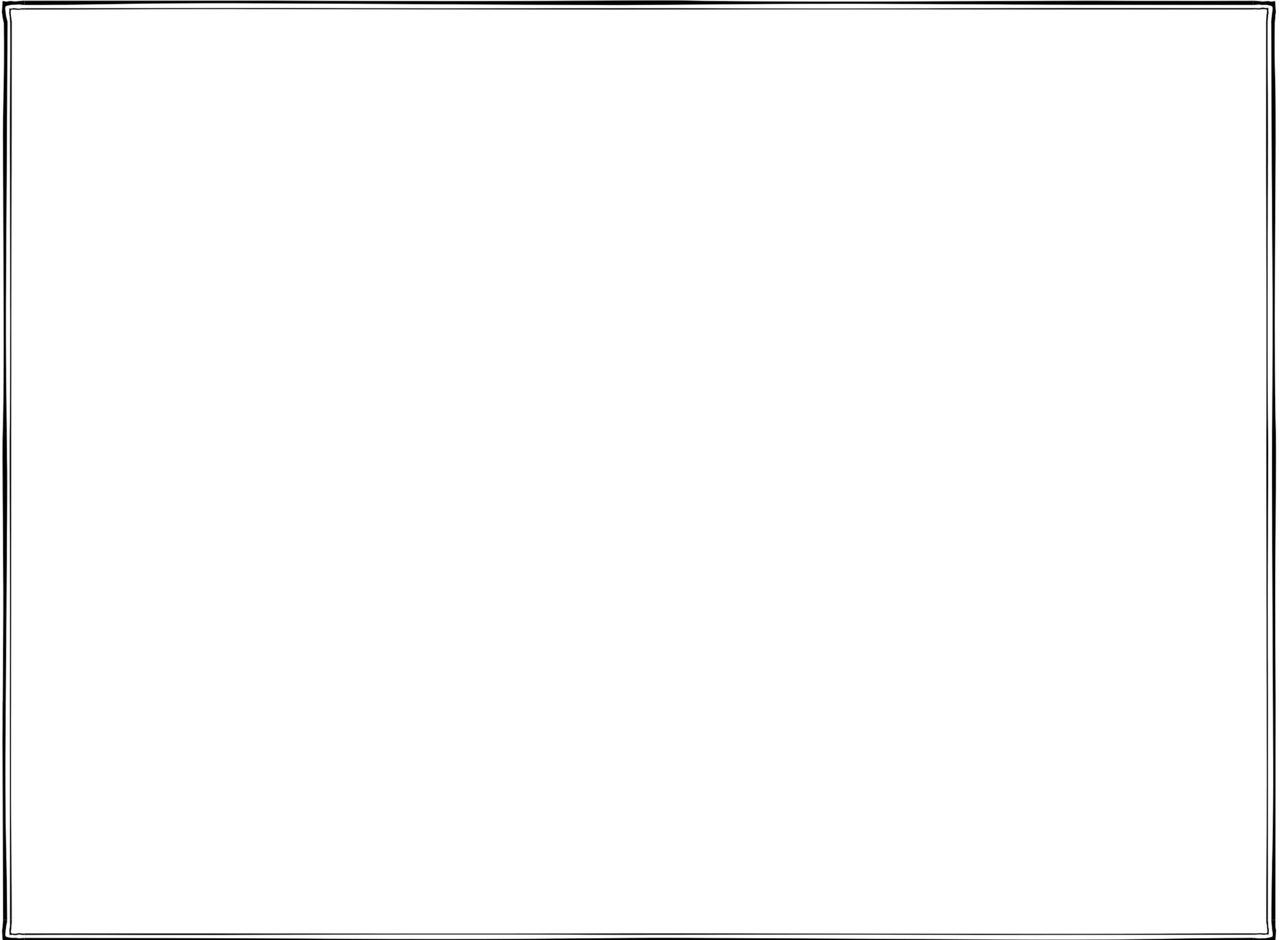
Cruelty to animals has always been a serious matter in Massachusetts.

More than 350 years ago, the Massachusetts Bay Colony adopted a law prohibiting "Tyranny or Cruelty towards any brut Creature which are usually kept for man's use."¹ More recently, in 2004 the Massachusetts legislature made cruelty to animals a felony punishable by up to five years imprisonment in state prison. In addition to the animal cruelty statute, other laws such as those criminalizing malicious killing of animals and prohibiting spectators at illegal animal fighting matches also protect animals.

This office is committed to rigorous enforcement of the laws prohibiting cruelty to animals. We hope that all law enforcement professional involved in animal welfare find this collection of statutes, cases and practice points helpful.

Michael W. Morrissey
District Attorney

¹ The General Laws and Liberties of the Massachusetts Colony (1641) available online at winthropsociety.com/liberties.php (accessed June 6, 2012).



Practice Points to Consider in Animal Cruelty Cases

These comments are not intended to be "best practices" but merely describe issues that may arise in actual practice.

Charging considerations

- Animal cruelty is a felony. Since 2004, G.L. c. 272, § 77 has provided for a possible five year state prison sentence upon conviction for animal cruelty. G.L. c. 274, § 1 (crime punishable by imprisonment in state prison is a felony; all other crimes are misdemeanors.)
- The standard for issuance of a criminal complaint is probable cause, which means there is reasonably trustworthy information to warrant a prudent person in believing a crime has been committed and that the accused is the perpetrator.
- Superior Court indictments may be sought for animal cruelty. Whether to seek indictments lies within the discretion of the district attorney's office.
- Lack of competence / lack of criminal responsibility are affirmative defenses to be raised during court proceedings; questions or concerns about a suspect's mental status are not a bar to seeking criminal charges.
- Characterizing any situation where animals have suffered from cruel or inhumane treatment as being due to an "overwhelmed caregiver" or other circumstances could lead to claims of selective prosecution in other cases where criminal charges are sought against other defendants for similar conduct. Selective prosecution means deliberately failing to prosecute, or deliberately prosecuting, based on impermissible classification of the defendant.
- An "accord and satisfaction" means resolving a dispute between parties by agreement. In the context of an animal cruelty or malicious killing case, someone who harmed an animal might want to pay the animal's owner a sum of money to resolve the matter. However, ownership of the animal is not an element of animal cruelty, and the accord and satisfaction statute (G.L. c. 276, § 55) applies only to misdemeanors. Accordingly, the statute does not apply; and because cases are prosecuted by the government (rather than by private individuals), the fact that the owner of an animal that was the subject of cruelty might not wish to proceed is not a bar to prosecution.
- Because animal cruelty is a felony, a defendant is not entitled to a clerk's hearing before issuance of district court complaint. G.L. c. 218, § 35A; *see Commonwealth v. Clerk-Magistrate West Roxbury Div. District Court*, 439 Mass. 352 (2003).
- If a clerk's hearing occurs at the request of law enforcement (clerk does not have authority to require law enforcement participation in clerk's hearing), the magistrate should neither suggest nor approve "restitution" or other payment in excess of actual economic damage caused by the accused as "**private payments exchanged for releases from criminal responsibility** erode, if not completely erase, the demarcation between the criminal and civil systems of justice [and] **create the perception that a class-based criminal justice system exists and those with resources may buy their way out of criminal liability.**" *Commonwealth v. Rotonda*, 434 Mass. 211, 220-222 (2001)(emphasis supplied); *Commonwealth v. Nawn*, 394 Mass. 1 (1985); *see also District Court Standards of Judicial Practice* (October 1, 2008) 3:19.
- If probable cause is found, it is not appropriate to resolve the matter without a complaint issuing upon the accused making a donation to an animal-based charitable organization; this may also appear to be the use of public authority in an inherently coercive situation to extract an unauthorized financial penalty for the benefit of a charity. *See also District Attorney for the Norfolk District v. Quincy Division of the District Court Department*, 444 Mass. 176 (2005) regarding issuance of complaints where probable cause has been found. Such a

purported resolution may be unlawful as it involves someone giving something of value (money) in exchange for an official action by a municipal employee or [special] police officer (not pursuing criminal process). *See e.g.*, G.L. c. 268A, §§ 1-4.

- Taking money, gratuity, or reward, or engagement therefore, upon an agreement, express or implied, to compound, conceal, or not prosecute a felony, may constitute the offense of compounding or concealing a felony. G.L. c. 268, § 36.
- In some circumstances, a clerk magistrate appropriately defers acting on a law enforcement application for complaint with consent of the parties where informal resolution is appropriate, such as the accused resolving a matter involving neglect and/or avoiding repetition of the conduct. However, if the Attorney General or a district attorney has decided to prosecute and probable cause has been found, the magistrate must authorize the complaint. A magistrate must ordinarily assume that a district attorney's office will prosecute a complaint supported by probable cause that is sought by police or otherwise authorized law enforcement officials, but may inquire in doubtful cases. *District Court Standards of Judicial Practice* (October 1, 2008) 3:00.
- The animal cruelty statute sets forth several grounds for prosecution. These grounds may be charged in one count or multiple counts within the same complaint; this is a strategic decision.
- If more than one animal is involved in a single prosecution, individual animals should be uniquely identified in complaints or indictments (name; number; or description). *See Commonwealth v. Welansky*, 316 Mass. 383 (1944) (Cocoanut Grove fire; difficulties with multiple involuntary manslaughter indictments where individuals identified as John / Jane Doe rather than by name). This may be vital for forfeiture of the animals upon conviction.
- If a defendant has been charged and arraigned, the right to counsel has attached. Accordingly, law enforcement or animal

welfare personnel should not be contacting defendant for information or to discuss issue regarding animals without consulting the district attorney's office; such contact may be a violation of the defendant's right to counsel and may compromise a criminal prosecution.

- That animal cruelty may be committed by neglect or acts of omission is not a new concept. During the American Civil War, the Supreme Judicial Court held that ". . . torture inflicted by mere inattention and the agony resulting from it . . . would be punishable under the [animal cruelty] statute, even if it did not appear that the pain inflicted was the direct and principal object." *Commonwealth v. Lufkin*, 89 Mass. 579, 581 (1863).
- For starvation or deprivation of necessary sustenance cases, complaint should allege appropriate range of dates for deprivation (not just date the offense came to attention of law enforcement). For example: "on divers dates and times on or about and between February 1, 2009 and May 2, 2009" or "on or about May 15, 2008 and divers dates prior."
- The prosecutor can amend so much of the complaint as is form rather than substance. For example, because the date of offense is not an essential element of the crime, the Commonwealth may amend the date of offense in the complaint. *See e.g.*, Kent Smith, *Criminal Practice & Procedure*, 30 Mass. Practice § 15.5 (3d ed.)(insertion of correct dates generally regarded as matter of form).
- When necessary changes to the complaint are of a substantive nature rather than of form, they must be made by police. It is not unusual for prosecutors identifying charging issues or noticing uncharged crimes in police reports to contact police and suggest that police seek appropriate charges; this occurs in all types of cases.

Conditions of pretrial release

- The district court bail statute (G.L. c. 276, § 58) provides that "defendant may be ordered to abide by specified restrictions on personal associations or conduct, including but not limited to, avoiding all contact with an alleged victim of the crime and any potential witness or witnesses who may testify concerning the offense, as a condition of release." If defendant might show up where seized animals are kept or at public fundraising events by animal welfare group, or stalk persons who work or volunteer at animal organizations, court should be asked to specifically require stay away / no contact conditions.
- Under bail statute, a defendant may be restricted from custody or control of animals. Sample conditions requested by the Commonwealth have included: (1) no temporary or permanent custody, possession, guardianship, control, or other responsibility for any dog, including assuming temporary guardianship or custody of any dog, such as dog walking, dog sitting, or in any way being the sole adult who has custody of any dog; (2) no participation in sales of any dogs to any person without notice to the prospective purchaser that criminal charges pending and notice to court. This includes internet, in-person, or any other form of sale or transfer of ownership; (3) stay away from witnesses / persons associated with seizure of dogs, any animal welfare organizations; (4) provide residential and business address to probation department and allow inspection of premises for presence of dogs.

Security for care of animals during pendency of case

- G.L. c. 272, § 104 allows court to order posting of bond for care of animals during pendency of case. The judge presiding over the criminal case has inherent power and ancillary jurisdiction to handle the issue of posting of bond. *See Sommer v. Maharaj*, 451 Mass. 615, 621 (2008)(Superior Court has inherent power to enforce its own orders and manage its own affairs to achieve orderly and expeditious disposition of cases); New England Tel.

& Tel. Co. v. District Attorney for Norfolk District, 374 Mass. 569, 572 (1978)(Superior Court is court of general rather than limited jurisdiction and has inherent powers of common law court); Police Commissioner of Boston v. Municipal Court of Dorchester, 374 Mass. 640, 665 at n. 18 (1978)(ancillary jurisdiction, referred to as "a common sense solution" of problems courts face in attempting to do complete justice).

Pretrial publicity and discovery issues

- The Massachusetts Rules of Professional Responsibility govern the conduct of lawyers. Rule 3.6 provides that neither prosecutors nor defense lawyer should make extrajudicial (i.e., to the media or in a public online forum) statements if the lawyer knows or reasonably should know that the statement will have a substantial likelihood of material prejudicing an adjudicative (i.e., prosecution) proceeding in the matter. Rule 3.6 identifies what information may be publicly disseminated without violating the rules of professional conduct.
- Mass. R. Prof. Responsibility 3.8(e) requires that the prosecutor "exercise reasonable care to prevent investigatory, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6." Statements to the media include postings on websites, blogs, facebook and other social networking sites. Animal control officers, veterinarians, and other staff assisting with the prosecution should not make public statements about a pending prosecution that the prosecutor would be prohibited from making, doing so may compromise criminal prosecution.
- Anyone involved in the prosecution of an animal cruelty matter publicly commenting (including facebook, blog, media interview) on the matter is subject to being called as a witness and questioned regarding public comments.

- Animals that are the subject of cruelty charges are technically evidence in the criminal case; the prosecutor should be notified about any material changes in an animal's condition. This will avoid the prosecutor being taken by surprise in court by defense presenting information about animal that other participants in the prosecution released to the public or shared with defense counsel or the defendant's friends.
- The Legislature has not created a privilege for veterinary records, nor is there any such common law privilege. However, a private veterinarian or animal shelter is under no obligation to provide records at request of the district attorney or defense absent court order.
- The defense is generally entitled to examine material and relevant tangible objects before trial. *See* Mass. R. Crim. P. 14(a)(1)(A)(vii). Defense usually examines physical evidence at police station or district attorney's office. However, as live animals ordinarily are not held at police station or district attorney's office, it may be appropriate to allow defense veterinarian to examine animal at the shelter or veterinary clinic where the animal is held if veterinarian in charge of shelter or clinic agrees. Private shelter or clinic may decline to allow defense expert (or anyone else) on their premises (Court has no authority to order private shelter to admit anyone), but the likely alternative is transporting the animal elsewhere (Court has authority over the animal), which would require personnel for transportation and supervision. It may be less stressful for the animal if a defense examination is performed in a familiar environment with staff on the premises.
- Depending on the circumstances, if a defense examination of a live animal is to be conducted, it is recommended that a police officer be present and write a report documenting the visit and the length of time expert spend with the animal. This would rebut any claim by the defense that access to the animal was denied.
- A defense expert who intends to examine a live animal should ordinarily be a veterinarian or otherwise qualified to offer an expert opinion at trial (i.e., a defendant's friend not otherwise qualified should not examine an animal under the guise of expert evaluation).
- A defendant charged with cruelty and ordered to have no contact with animals as condition of bail should not be permitted "visitation" with the animal that is the subject of cruelty charges. A private shelter or veterinarian kenneling an animal subject to cruelty charges is under no obligation to allow a defendant (or anyone else) on their premises. However, if the owner is not the abuser and either receives a court order allowing visitation (or a judge strongly suggests that such an order would be allowed), and if there are no safety concerns, logistically it may be advisable to ask the private shelter to host visitation on their premises.
- The defendant is entitled to all relevant evidence. Accordingly, for example, if dozens (or hundreds) of photographs of injuries or condition are taken, all must be turned over, even though they may be very similar. Likewise, all reports must be provided to defense, even if the information is the same. Any lab results, while likely meaningless to non-veterinarians, should also be turned over.
- The bodies of deceased animals found in the defendant's possession or other relevant place may be evidence of the crime of animal cruelty. Where animal cruelty charges are being contemplated, animal control officers or anyone else taking possession of the bodies of dead animals should treat the bodies as evidence and not dispose of bodies without consulting with district attorney's office.
- Failure to turn over evidence could result in a mistrial. For example, if defendant's theory of the case is that an animal had a disease, and argues that the prosecution failed to rule out disease by running specific tests, and it is then revealed that certain lab

testing was done and ruled out disease (but that lab testing had not been provide to defense), likely result is a mistrial.

- Because veterinarians, animal welfare organizations and shelters may not be familiar with criminal discovery process, they should be reminded that information shared with the district attorney's office (such as the names and addresses of volunteers or anyone fostering animals) is subject to being turned over to the defense, and that unless requested, uninvolved staff, volunteer, and budgetary information should not be provided. Further, shelters should recognize that a request by the district attorney's office (or defense) is not a court order. If the shelter does not wish to provide information, they can decline to do so (the likely result being that defense will seek a court order when the district attorney's office reports that a shelter declines to turn over information, but shelter would have opportunity to object in court).
- If an animal develops what appears to be an imminently life threatening condition, district attorney's office should be notified as soon as practicable so defense counsel can be informed and, if requested, photographs, and if relevant, an examination or evidentiary testing can be performed; this eliminates later claims of evidence being destroyed.
- Failure to humanely euthanize a suffering animal could itself constitute animal cruelty. For animals that are part of court proceedings, if it appears an animal's health is such that humane euthanasia may be imminently necessary, the district attorney's office may file a notice so advising with the court and defense.
- If an animal unexpectedly dies, a necropsy could refute possible defense of "I may not have been the best caretaker, but the Commonwealth [veterinarian, shelter] actually killed my animal."
- An animal's grooming habits may be a factor in the apparent absence of evidence on the animal's body. For example, an animal may lick blood or other bodily fluids off of body as part of normal grooming habits. Some animal habits are undoubtedly

common knowledge; other habits may be better explained with expert testimony.

Proof at trial

- Most charges of animal cruelty require only proof of general intent; specific intent required only for portion of statute charging willful abandonment or knowing and willfully permitting or authorizing an animal to be subjected to unnecessary torture, suffering, or cruelty.
- Malicious killing of an animal (G.L. c. 266, § 112) appears to require proof of malicious intent to kill, injure, or poison an animal that belongs to another, which is a different standard than required to prove animal cruelty.
- Expert assistance by veterinarians may be critical to understanding the injuries an animal sustained and how those injuries correspond to other facts of the case (for example, to confirm or refute a defendant's explanation of how an animal was injured). Not all injuries to animals are the result of animal cruelty committed by a person; a veterinarian may determine that a particular condition is the result of disease rather than cruelty. For example, a severely underweight dog may have ample access to appropriate food but because of illness or incurable disease, be unable to maintain healthy body weight.
- If defense is in the nature of self-defense (i.e., defendant claims he killed dog because dog attacked), the prosecution may consider motion in limine to admit habits of ordinarily gentle, non-aggressive animal. P.J. Liacos, Massachusetts Evidence (7th ed.) § 4.4.8.
- In some circumstances, a dog can be a dangerous weapon. *See e.g., Commonwealth v. Fettes*, 64 Mass. App. Ct. 917 (2005). Accordingly, if there is credible evidence that large dog attacked first, a defendant may be entitled to act reasonably in self-defense. However, this would be a fact-specific inquiry, mere

allegation of defendant that dog attacked may be refuted by evidence of dog's peaceful nature or other relevant evidence.

- A live animal victim should not be brought to court without advance approval by a judge; some members of the public are afraid of animals or have allergies, and the unexpected presence of a live non-service animal in the courthouse could be disruptive to other matters.

Disposition

- Judge does not appear to have discretion to allow defendant to keep animals subject to cruelty charges upon conviction; cruelty statute provides for mandatory forfeiture of defendant's ownership interest in animal subject of the cruelty charge upon conviction. G.L. c. 272, § 77.
- It is not uncommon for an assistant district attorney to contact local animal control officers to discuss potential disposition in a prosecution. The ADA most likely has a potential disposition in mind and is interested in knowing the officer's thoughts about possible disposition.
- At disposition, probationary terms may include no care, custody, or control of any animal, and right of probation or animal control to inspect place where defendant lives to confirm no animals present.
- If an animal has been held during the pendency of the case, in the event of conviction or plea, restitution for necessary veterinary care, food, and kenneling should be requested. Court's order should specify the entity to whom the restitution should be made; i.e. "*Animal Control Gift Account, Town of ____.*" [It appears that as of 2011, \$15 is the minimum generally charged for kenneling/boarding.]
- Absent exceptional circumstances, probationary terms involving community service typically should not include community service at an animal shelter. Animal shelters are under no obligation to allow someone to fulfill community service

requirements, and typically would not want someone charged with a crime involving animals to have contact with animals.

Prosecution team

- Many civil statutes and municipal regulations govern the keeping of dogs. A knowledgeable animal control officer is a very helpful resource to prosecutors and is often able to quickly explain relevant points of non-criminal laws pertaining to the keeping of dogs and other animals.
- Local animal control officers may be aware of patterns of conduct involving a particular defendant and animals in their community; consulting local animal control officer for licensing, vaccination, and any records of prior interactions with a defendant is often quite helpful to the prosecutor.
- The district attorney's office is available to assist law enforcement with search warrant and charging questions prior to formal charges being sought. Given the high volume of many district courts, it is often advisable to contact the supervising district court attorney in advance by telephone rather than showing up at the courthouse and hoping a district court prosecutor will be available to discuss search or charging questions.
- Participants in animal cruelty matters are often very interested in learning the eventual disposition of a prosecution; care should be taken to inform all participants of any disposition.

Links to Legal Resources

The resources below are publicly available at no charge.

These free resources may not contain the most current version of a statute or case updates, and may not be comprehensive. While they provide a good starting point for general research, they should be double-checked for before being relied upon authoritatively.

- The Massachusetts Trial Court Law Libraries offer free access to numerous legal resources online, and free access to Westlaw and Lexis databases at libraries, which are located throughout the state.
<http://www.lawlib.state.ma.us/index.html>
- Public case information: Supreme Judicial Court and Appeals Court (searchable by attorney or party name, contains calendar of upcoming oral arguments)
<http://www.ma-appellatecourts.org>
- Slip opinions from the Supreme Judicial Court and Appeals Court (2001-present)
<http://www.massreports.com>
- Opinions from the Supreme Judicial Court and Appeals Court (limited dates)
<http://masscases.com>
- Searchable database of Massachusetts General Laws (apparently not routinely updated)
<http://www.massachusettsgenerallaws.com>

Selected Disposition Codes²

Admit to a Finding: admission by defendant that criminal charges are true or that there is sufficient evidence that a judge or jury could find such facts true. Court may either continue the case without a finding for a period of time (see CWOFF) or enter a finding of guilty. Also known as admission to sufficient facts.

Continued without a finding ("CWOFF"): not considered a conviction. The court allows the defendant to "save" his record and not have a guilty finding entered as long as he completes a period of probation without further criminal charges and complies with the terms of probation. Most often occurs where the defendant has admitted to sufficient facts.

Dismissed: the court may dismiss a case for various legal reasons. The commonwealth has the remedy of appeal if a case is dismissed over its objection.

Guilty: conviction of criminal charge; a finding by judge or jury beyond a reasonable doubt that defendant committed crime(s) charged by the Commonwealth.

Split Sentence: After a finding of guilty or as part of a plea bargain, a defendant may be ordered to serve a period of incarceration and the balance on probation.

Suspended Sentence: when period of incarceration is not ordered to be served but "suspended" during the period of probation; if the defendant successfully completes the probationary period, he/she will not be ordered to serve the sentence (or period of incarceration).

² Excerpt obtained from the Mass. Executive Office of Public Safety.

Selected Massachusetts State (SJC and Appeals Court) Animal Cases

Cases arranged in reverse chronological order

This is not a comprehensive compilation of all Massachusetts cases and statutes involving animals.

These summaries are provided as a guide and represent only the interpretation by the editors of this handbook, please review the full opinions, which are appended, before citing these cases.

Please review rule for citation of Appeals Court opinions issued pursuant to Rule 1:28 (unpublished decisions).

Commonwealth v. Linhares, 80 Mass. App. Ct. 819 (2011), *further review denied*, 461 Mass. 1106 (2012). **Ducks.** Ducks crossing street deliberately run over by defendant motorist; jury convicted defendant of animal cruelty; judge vacated conviction. *Commonwealth appealed.*

Holding: Conviction reinstated. Evidence was sufficient for jury to find that defendant intentionally ran over the duck. All that was required was proof that the defendant knowingly and intentionally hit the duck with his car, and that such action was clearly likely to inflict unnecessary pain. Commonwealth not required to prove that defendant had a specific intent to be cruel and barbarous.

Commonwealth v. Epifania, 80 Mass. App. Ct. 71, *further rev. denied*, 460 Mass. 1114 (2011). **Cat.** Defendant charged with arson of a dwelling house and malicious killing of an animal, convicted of both charges. An hour after defendant was refused loan from friend, defendant was seen holding neighborhood cat. Ten minutes later, defendant was seen fleeing. Immediately after, a severely burned dead cat was found wrapped in fabric under broken window of man who refused to lend defendant money. Defendant admitted kicking cat so hard that cat died, putting cat in bag, setting bag on fire, and throwing bag through window. Defendant argued on appeal that evidence was insufficient to establish that the deceased cat belonged to "another person" as required under the malicious killing statute.

Holding: Court finds sufficient evidence that cat belonged to person who refused to lend defendant money. Discussion of historical basis of malicious

killing statute, and that a "neighborhood cat" could be owned by more than one person and thus be protected by the statute. **Conviction affirmed.**

Commonwealth v. Gregory Messer, 77 Mass. App. Ct. 1123 (2010) (Rule 1:28). **Dog.** *Co-defendant to Dawn Messer.* Defendant convicted of cruelty as to surviving dog, acquitted as to dog that died. Evidence that defendant intentionally deprived surviving dog of necessary sustenance sufficient: testimony from several witnesses, including veterinarian, revealed that emaciated dog had protruding bones, no body fat, condition not result of other causes, and after being removed from defendant's custody, dog began to gain weight. Motion to amend date of offense from date after dog in Commonwealth's custody to 18-month period when in defendant's custody proper, amendment was form only and defendant could not have been prejudiced. **Conviction affirmed.**

Commonwealth v. Pina, 74 Mass. App. Ct. 1117 (Rule 1:28), *further rev. denied*, 454 Mass. 1108 (2009). **Horses and Sheep.** Dead and dying horses found on defendant's farm. Barns contained no dry bedding, stalls covered in manure, and dead horse in stall. Majority of veterinarians opined that horses suffering from malnutrition. At trial, counts as to sheep were directed out.

Holding: Regardless of whether 'necessary sustenance' includes medical care, judge's jury instructions did not prejudice defendant because there was ample evidence of deprivation of food upon which jury could base guilty finding. The Commonwealth presented evidence of the horses' malnourished condition and evidence that defendant consistently failed to maintain adequate food supplies; motion for required finding of not guilty properly denied. **Conviction affirmed.**

Commonwealth v. Zalesky, 74 Mass. App. Ct. 908, *further rev. denied*, 454 Mass. 1108 (2009). **Dog.** Defendant convicted of animal cruelty, on appeal he claimed insufficient evidence that his actions exceeded what was necessary and appropriate to train his dog. Court defines cruelty as "severe pain inflicted upon an animal . . . without any justifiable cause." Witness saw defendant beat his dog on head ten times with a plastic whiffle bat. Defendant told officer he used the bat on previous occasions to "put the fear

of God in [the] dog.” Defendant repeatedly referred to dog as "asshole." Veterinarian testified that dog suffered no trauma, but probably experienced pain being struck repeatedly in that manner. Evidence of defendant's words and demeanor permitted conclusion that he was not imposing bona fide discipline, but “indulging vindictive passion” when he struck dog. Defendant's actions were cruel, regardless of whether defendant viewed them as such. **Conviction affirmed.**

Commonwealth v. Erickson, 74 Mass. App. Ct. 172, further rev. denied, 454 Mass. 1105 (2009), cert. denied, 130 S. Ct. 1151 (2010). **Dog and cats.** Failure to provide sanitary environment for animals and failure to provide proper nutrition for dog. Discussion of recklessness. At bench trial, defendant found guilty of six counts of animal cruelty involving one dog and five cats. On appeal, defendant challenged warrantless entry into her apartment and argued that judge erred in denying motion to suppress evidence gathered in the search.

Holding: Entry justified under emergency exception to warrant requirement; entry justified where smell emanating from apartment caused officer to believe a human might be dead inside. Court was not persuaded by defendant's argument that once officer saw dog feces covering apartment was source of odor, it was then objectively unreasonable to conclude the smell was caused by a dead body. "The argument ignores the reality that there were in fact dead bodies in the apartment, not merely dog feces, to say nothing of the additional odor caused by the blood, cat urine, and cat feces that were also found." Discussion of intent; **Commonwealth need only prove general intent, specific intent only required in portions of statute charging willful abandonment or knowing and willfully permitting or authorizing an animal to be subjected to unnecessary torture, suffering, or cruelty. Convictions affirmed.**

Commonwealth v. Santiago, 452 Mass. 573 (2008).

Search warrant / dog. Commonwealth appealed defendant's successful motion to suppress "no-knock" search warrant. Although “mere assertion that the owner of a residence to be searched owns a dog, even of a breed commonly known to be aggressive, would, standing alone, be insufficient to meet the probable cause standard,” combination of safety risks to the arresting officers including the defendant's known ownership of two pit bulls met this requisite standard.

Concurrence: Justice Cowin disagreed with court's dictum concerning potential safety risk dogs present to searching officers. “The police should not be required to establish, as a prerequisite to obtaining a "no-knock" warrant, that the particular dog is dangerous, nor should they need to point to other factors indicating a threat to officer safety. Rather, the fact that the dog is in the home and is of a breed known to be dangerous, either in the officers' own experience or common knowledge, should be sufficient.”

See also the since-overruled Commonwealth v. Santiago, 70 Mass. App. Ct. 519 (2007) where Appeals Court (Vuono, Smith, Meade, JJ.) upheld allowance of motion to suppress and commented:

While we agree with the Commonwealth that a pit bull (or a mutt) may, under the appropriate circumstances, pose a serious enough threat to an officer's safety to justify a no-knock warrant, no such circumstances were present here. There was no information in the affidavit that the defendant might actually use the pit bull as a weapon. See United States v. Gonzalez, 164 F.Supp.2d 119, 125 (D.Mass.2001).FN5 But see United States v. Jewell, 60 F.3d 20, 23-24 (1st Cir.1995) (officer's personal knowledge of defendant's convictions of violent offenses and presence of pit bull, characterized by court as "attack dog," justified no-knock warrant). . . . The relevant inquiry concerns the temperament and purpose of the particular dog, not the breed. Three dissenting SJC judges agreed with Appeals Court reasoning.

SJC issued amicus invitation on question of: "Whether the motion judge correctly allowed the defendant's motion to suppress various narcotics and stolen property seized from his residence, on the ground that the information in the affidavit in support of the search warrant for stolen property (a lawn mower, a tool box on wheels and a BB gun) did not support the issuance of a no-knock warrant." It appears no amicus briefs were filed.

Commonwealth v. Ramos, 72 Mass. App. Ct. 773 (2008), further rev. den'd, 453 Mass. 1102 (2009). Superior Court judge allowed motion to suppress, Commonwealth appealed, question on appeal was integrity of search warrant affidavit. Affidavit described training and experience of K9 officer certified in narcotics detection, omitted that K9 had mistakenly alerted twice in past six months. Trial judge made findings about characteristics of drug dogs, discussion of reliability of dog's alert. Court upholds allowance of motion to suppress, but in dicta comments that "**Our analysis regards Frisco [the K9] as a competent but fallible performer. It does not impugn him as an**

incapable sleuth or in any respect as canis non gratus in his work." (emphasis supplied).

Significant in that it treats dog more like a [human] police officer and less like a machine or breathalyzer.

City of Boston v. Erickson, 450 Mass. 1010 (2007), *cert. denied*, 553 U.S. 1038 (2008). **Cats and dog.** Disposition of six animals (four living and two dead) seized in connection with animal cruelty case against Heidi Erickson. After Erickson was convicted, City withdrew challenge to return of live cats (which were returned in criminal case) and proceeded only as to dead animals. Single justice denied City's G.L. c. 211, § 3 petition on condition that Erickson demonstrate "that she has made arrangements for [t]he prompt and proper disposal [of the deceased animals], which disposal also is in compliance with health codes." Erickson challenged this order, arguing that it interfered with her property rights by requiring her to discard or destroy the deceased animals. Full bench found no abuse of discretion by Single Justice where it interpreted order to mean that Erickson must comply with all applicable health codes rather than forfeit deceased animals.

Lemaire v. MSPCA, 72 Mass. App. Ct. 1118 (Rule 1:28) (2008).

Dogs. Lemaire surrendered dogs to MSPCA following raid on her property, then filed suit in district court claiming her property had been converted. A third party claimed ownership of one dog and sought to intervene. The motion to intervene was denied. Appeals Court upheld denial of motion to intervene, largely on procedural grounds.

Commonwealth v. Bishop, 67 Mass. App. Ct. 1116 (Rule 1:28) (2006), *further rev. den'd*, 448 Mass. 1103 (2007). **Dogs.** Defendant convicted of seven counts of animal cruelty (two counts for failing to provide sanitary environment for five dogs). Sufficiency of evidence: evidence that dogs were malnourished, emaciated, with sunken, crusted eyes, caved bodies with visible hip bones, ribs, and backbones, patches of missing fur and lethargic, along with opinions of two veterinarians that dogs were emaciated from malnutrition rather than pre-existing ailments and lack of adequate veterinary care sufficient to support convictions. Accumulation of feces sufficient to establish lack of sanitary environment convictions. *Intent:* Commonwealth need only show defendant "intentionally and knowingly did acts which were plainly of a nature to inflict' the violation." Defendant ordered to pay over \$60,000 for medical expenses dogs needed after they were removed from

him. While defendant argued amount of restitution excessive, Court found each of the five dogs had medical bills in excess of \$10,000. Defendant sentenced to three months house of correction and ten years' probation. **Conviction affirmed.**

Pina v. MSPCA, 446 Mass. 1017 (2006).

Horses and Sheep. Pina was charged with cruelty for failure to provide proper care for her horses and sheep (conviction affirmed in a separate Appeals Court decision, see cite above). Pina filed civil suit for return of animals during pendency of criminal case. Case illustrates litigation in several different civil sessions (District and Superior Courts) regarding disposition of animals pending resolution of criminal charges and supports argument that any challenges to disposition of the animals must be maintained in the criminal court with jurisdiction over the criminal charged.

Commonwealth v. Erickson, 64 Mass. App. Ct. 1106 (Rule 1:28), *further rev. denied*, 445 Mass. 1105 (2005). **Cats.** Interlocutory appeal, trial court allowed motion to suppress police observations and evidence seized during warrantless entry into defendant's apartment, Commonwealth appealed. Officers responding to report of odor emanating from defendant's apartment encountered news crew present "to interview the cat lady." Neighbor who called police identified herself to police and reported knocking on door in concern for defendant, got no response, but noted foul odor. Police went to porch, then entered after detecting foul odor. Police saw malnourished, sick and dead cats, as well as feces throughout. Two days later police requested and received search warrant. Trial court allowed motion to suppress on basis that emergency doctrine did not apply as officers knew this defendant had a reputation for harboring excessive number of cats and odor not indicative of an emergency situation. Appeals Court reversed, holding that even if warrantless entry improper and officers' observations excised from application to search, probable cause supported issuance of a search warrant. Court did not reach question of whether warrantless entry by police was justified. Warrant not overbroad, it described items to be seized as sick, diseased, malnourished animals, dead or alive. **Reversal of allowance of motion to suppress.**

Krasnecky v. Meffen, 56 Mass. App. Ct. 418 (2002), *further rev. denied*, 438 Mass. 1106 (2003). **Sheep.** Plaintiffs sought damages for emotional distress, loss of companionship, and society when defendant's dogs broke into

plaintiff's backyard and killed seven sheep. Plaintiffs loved sheep as children. Plaintiff's counsel requested court consult a text on veterinary ethics, which defined companion animals to include the plaintiff's sheep within the definition. Court did not address issue concerning emotional distress claim, but instead stated that class of persons authorized to recover were "persons" closely related to injured person. Appeals Court Justice Jacobs noted that it would be irrational for plaintiffs to have greater rights in case of companion animal than in a case of tortious death of immediate human family member.

Commonwealth v. Hurd, 51 Mass. App. Ct. 12 (2001).

Dogs. Based on anonymous tip, animal control officer walked onto defendant's land without warrant and saw two dogs, one dead and one dying, in cage behind defendant's home; he returned with a police officer and removed dogs, defendant subsequently charged with cruelty to animals. Trial court granted defendant's motion to suppress. **Commonwealth appealed.**

Holding: Appeals Court affirmed, holding that animal control officer's warrantless entry on defendant's premises constituted improper search. Dog cage was located in partially fenced-in backyard and entitled to protection from unreasonable searches and seizures. Defendant had reasonable expectation of privacy because cage not visible from street or front of home. G.L. c. 129, § 7 [for purposes of inspecting or examining animals or the places they are . . . animal inspector may enter any building or other place] did not permit officer to make warrantless search. No exigent circumstances permitted warrantless search. Discussion of whether emergency principal extends to animals-even if court assumed without deciding that it does, no such exception applied to the facts of this case. **Allowance of motion to suppress affirmed.**

Knox v. MSPCA, 12 Mass. App. Ct. 407 (1981).

Goldfish. Concessionaire awarded goldfish to winners in a game of chance. MSPCA notified him that awarding goldfish as a prize violated G.L. c. 272, § 80F, concessionaire obtained injunction to prevent enforcement, MSPCA appealed. Court held that injunctive relief improper, the threat of criminal prosecution was not, in itself, ground for relief. The statute was designed to protect animals subject to possible neglect by prizewinners, and the statute applied to goldfish. **Injunction vacated; judgment entered declaring that**

the word "animal," as used in the statute, means all irrational beings, including goldfish.

Commonwealth v. Higgins, 277 Mass. 191 (1931).

Foxes. Defendant farmer set steel traps to attempt to catch foxes attacking his chickens. He admitted he set traps that caused pain and cruelty to animals caught and that traps were set at distance not allowed under § 105A. Defendant contended he was unaware of a valid trap that did not cause pain, nor did he feel that setting traps at distance mandated by statute would enable him to catch the foxes. Jury acquitted defendant on three charges and found him guilty on three. Court found no constitutional violation by statute in that it was a valid legislative enactment that protected public morals and had a humanitarian purpose. Court stated that purpose of animal cruelty statute was to protect the public morals, it is directed against acts that may be thought to have a tendency to dull humanitarian feelings and to correct the morals of those who observe or have knowledge of those acts. Defendant must yield to what is reasonable for that purpose [protecting property from prey] to the judgment of the moral standard of the community as embodied in the statute.

Convictions affirmed.

Commonwealth v. Gentile, 255 Mass. 116 (1926).

Dog. Defendant found guilty of cruelty. Dog's tail was on fire, cord was attached to dog's tail. Discussion of circumstantial evidence; does not appear to have been dispute that setting dog's tail or a cord attached to it on fire constituted animal cruelty. **Conviction affirmed.**

Commonwealth v. McGovern, 183 Mass. 238 (1903).

Horse. Defendant pleaded guilty to cruelty. Probation surrender. Reversed on grounds of unwritten probation contract, no indication of terms of probation. Probation surrendered defendant on basis of SPCA officer's report, suggesting probationary conditions involved animals.

Commonwealth v. Magoon, 172 Mass. 214 (1898).

Horse. Defendant bought sick horse and carried it 8-10 miles in wagon to his home. Evidence that horse was greatly and unnecessarily injured and wounded during journey. Also evidence that horse, although injured and sore when purchased, lay comfortably while being carried, was not injured or wounded by being carried, and gave no signs of suffering while being

carried; also, that defendant did all he could for its comfort while carrying it, and that his purpose in buying horse and carrying it home was to cure it, and that he did not intend to be cruel to it or to hurt it unnecessarily.

Defendant requested the following jury instructions: "(1) The motive of a person who inflicts pain upon an animal, in determining the criminality of the act, may be material. Pain inflicted for a lawful purpose and with a justifiable intent, though severe, does not come within the statute meaning of 'cruel.' (2) If a defendant, in the proper exercise of his own judgment, honestly thinks he is not being unnecessarily cruel, he must be acquitted. (3) It must appear that the defendant, knowingly and willingly, was unnecessarily cruel."

Holding: Trial court correctly declined to give requested instruction.

Whether the acts defendant committed were cruel does not depend on whether defendant thought the acts were unnecessarily cruel, but whether he in fact did unnecessarily cruel acts. Defendant's guilt did not depend upon whether he thought he was unnecessarily cruel, but upon whether he was so in fact. It need not appear that he knew that he was cruel, and that he was willing to be so, but only that he intentionally and knowingly did acts which were plainly of a nature to inflict unnecessary pain, and so were unnecessarily cruel. Proper exercise of one's own judgment must be distinguished from wantonness or recklessness of consequences. Real issue was whether transportation of horse, which was not necessarily any part of a cure, was lawful or criminal. If the transport inflicted unnecessary pain, defendant could be found guilty. ***Conviction affirmed.***

Commonwealth v. Porter, 164 Mass. 576 (1895).

Horse. Horse was unfit for labor, by reason of sores on back and legs; defendant drove horse anyway. Allegation that defendant "did cruelly drive" the horse, following statute, sufficient without further allegation that defendant knew horse to be unfit for labor at the time. Commonwealth need not allege that defendant knew horse unfit for labor. ***Conviction affirmed.***

Commonwealth v. Edmands, 162 Mass. 517 (1895).

Horse. Defendant failed to provide horse with proper shelter and protection from weather. Appears to be a challenge to the form of the indictment: court held that "insertion of the words "and cruelly" added an immaterial allegation, unnecessary in complaint. This allegation need not be proved, and

does not affect the validity of the complaint, but may be rejected as surplusage. ***Conviction affirmed.***

Commonwealth v. Curry, 150 Mass. 509 (1890).

Horse. Defendant hired horse and left it overnight in the woods. Horse found when owner encountered defendant the next day, looked for where defendant may have left the horse, and found horse harnessed to carriage in the woods. Evidence showed that horse did not appear to be injured. Defendant found guilty of failing to provide horse with proper food, drink, and protection from weather. Defendant argued that evidence did not support conviction and jury should have been instructed that to find defendant guilty, it had to find that horse suffered so much that defendant's treatment of horse amounted to cruelty. The court held there was no error. Evidence showed horse was without food and drink for more than 24 hours except food it obtained in woods and was sufficient to support a conviction under Mass. Pub. Stats. ch. 207, § 52. Statute also prohibited as separate matter infliction of unnecessary cruelty to animals; statute did not require that failure to provide proper food, drink, and protection had to be such that it caused animal to cruelly suffer. Evidence permitted jury to find either that defendant was not bewildered, as he claimed, or that intoxication was the only reasonable explanation of his condition (voluntary intoxication defense). ***Conviction affirmed.***

Commonwealth v. Turner, 145 Mass. 296 (1887).

Fox. Defendant held fox hunt, released a fox, and other people then released dogs, and 30 minutes later, a torn-up fox was found in the woods. Offense is against public morals, it is not an offense against the rights of property in animals or the rights of the animals that are in a sense protected by it. Court found statutory basis for the charge and that ***the word "animal" means all brute creatures / irrational beings.*** Right to kill captive fox does not include right to inflict unnecessary suffering in the manner of its death any more than the right to kill a domestic animal includes right to inflict unnecessary suffering or cruelly to kill it. ***Conviction affirmed.***

Commonwealth v. Flannigan, 137 Mass. 560 (1884).

Horse. Defendant charged with overdriving horse. Commonwealth not required to allege that defendant knowingly or intentionally overdrove the horse. Unnecessary use of the word "cruelly" in the complaint immaterial. ***Conviction affirmed.***

Commonwealth v. Whitman, 118 Mass. 458 (1875).

Cow. The defendant was charged with three counts of animal cruelty. The defendant "having the charge or custody of a certain animal, to wit, a cow, did then and there cruelly torture and mutilate said cow, by then and there beating, bruising, cutting and wounding said cow, and did then and there unnecessarily fail to provide proper food and drink for said cow."
Ownership of the animal is immaterial: "The act of cruelty committed by any one, without regard to the ownership or custody of the animal, is made an offence." *Conviction affirmed.*

Commonwealth v. Thornton, 113 Mass. 457 (1873).

Dog. Defendant, having charge and custody of a dog, did knowingly and willfully authorize and permit said dog to be subjected to unnecessary torture, suffering and cruelty, by then and there knowingly and wilfully suffering and permitting said dog to be bitten, mangled and cruelly tortured by a certain other dog. "The indictment thus alleges, with certainty, and without ambiguity, the acts charged against the defendant, and we have no doubt these acts constitute an offence within the spirit and letter of the statute." *Conviction affirmed.*

Commonwealth v. Wood, 111 Mass. 408 (1873).

Horse. Overdriving horse. Evidence that owners of stable had been previously asked not to let horses to defendant properly excluded. Prosecution could properly cross-examine defendant's mother (defendant appears to have been a minor) as to whether she had said defendant was guilty (she testified that she had seen him driving the horse and that he was not then overdriving). Judge properly declined to give defendant's requested instruction which included "[i]f he was not accustomed to have to do with horses, and not acquainted with the proper mode of treating them, this is to be considered by the jury in deciding whether he actually intended to overdrive this horse." Not necessary for Commonwealth to prove defendant's purpose was to torture or inflict pain and suffering. "Pain inflicted in wanton and reckless disregard for the suffering it might occasion, and of the consequences it might produce, would be equally criminal under the statute."

Given instruction, "if, in the proper exercise of his own judgment, he thought he was not overdriving the horse, he must be acquitted," and that he could not be convicted unless upon proof that he knowingly and intentionally

overdrove" was proper. A "'proper exercise of his own judgment' means the honest exercise of his judgment, as distinguished from mere recklessness of consequences, or willful cruelty." *Conviction affirmed.*

Commonwealth v. Brigham, 108 Mass. 457 (1871).

Horse. Defendant moved to quash charges that he did willfully and cruelly torture a certain horse on grounds that manner and means of torture not specified in the complaint. Because defendant did not raise objection below, court did not consider it on the merits. *Conviction affirmed.*

Commonwealth v. McClellan, 101 Mass. 34 (1869).

Horse. "No doubt that the beating of a horse by a man refers to the infliction of blows." "It is unnecessary to allege that the horse was the property of any person, for the statute has made that matter immaterial. *Nor is it necessary to describe the horse particularly, for the sake of distinguishing it from other horses, in order to protect the defendant from a second prosecution for the same offence.* If he is again prosecuted for the offence, he may plead this conviction, and establish the identity of the cases by evidence, the burden being on him." Accidental or non-painful act would not be cruel in the senses of the statute. *Conviction affirmed.*

Commonwealth v. Lufkin, 89 Mass. 579 (1863).

Horse. Defendant was arguing with baker delivering bread and collecting a bill. Defendant told baker to leave, and when he would not, struck baker's horse severe blow with stick about size of broom handle. Evidence of previous difficulty between defendant and the baker, defendant charging the baker with being too intimate with defendant's wife, which baker denied. Defendant asked jury be instructed they had to find that defendant intended to cruelly beat and torture the horse, and if his intention was merely to drive off the baker it was merely an assault against the baker. Judge declined to give instruction but did instruct that under some circumstances a person might lawfully inflict force upon a horse, as where he had the ownership or control of the animal, and did it for the purpose of discipline or government; or where he did it for the purpose of driving the horse from his premises, if trespassing; but that, in such cases, the law required that the force used should not be immoderate, or inflicted in such a manner as to cause unnecessary pain. Jury instructed that defendant's motive for striking horse immaterial.

On appeal, court held that trial judge properly declined to give defendant's requested instruction, as "intending to inflict injury or suffering is not, by the terms of the statute, made an essential element of the offence." ". . . **torture inflicted by mere inattention and criminal indifference to the agony resulting from it**, as in the case of an animal confined and left to perish from starvation; we can have no doubt **would be punishable under the statute even if it did not appear that the pain inflicted was the direct and principal object.**" (emphasis supplied).

Conviction reversed: Reversed on basis of jury instruction. "Pain inflicted for a lawful purpose and with a justifiable intent, though severe, does not come within the statute meaning of "cruel." Thus a surgical operation, occasioning the most intense suffering, may be justifiable, and is not criminal. To drive a horse at a rate of speed most distressing to the brute, when the object is to save human life, for example, or to attain any other object of adequate importance, may yet be lawful." "The jury should have been made to understand that if the defendant struck the horse for the purpose of driving him away, and without any intent to torture or injure him, and the blows given, if they had been given by his owner for the like purpose, would not have been so excessive or immoderate as to be cruel in him, they would not make the defendant an offender under the statute merely because he was a trespasser in striking the horse." "Cruel treatment which the statute contemplates is the same, whether inflicted by the owner of the animal or by another."

Commonwealth v. Sowle, 75 Mass. (9 Gray) 304 (1857).

Horse. An indictment which avers that the defendant did willfully and maliciously kill the horse of another person is sufficient without more particularly setting forth the means or mode of killing. **Conviction affirmed.**

Coolidge v. Choate, 52 Mass. (11 Metcalf) 79 (1846).

Game cocks. Forfeiture. Live animals are not the equivalent of inanimate objects: "The words 'implements' and 'apparatus' have the same meaning, and are so defined. **No one, we apprehend, ever did or ever would call a living animal an apparatus.** Nor is there any reason to suppose that the legislature intended, by this statute, to authorize a magistrate to burn or destroy any living animal. If cock-fighting be a cruel game or sport, as it doubtless is, let the offenders be punished, who stimulate the fighting propensities of these animals, and who furnish them with instruments of destruction, or for the

purpose of inflicting pain or causing bloodshed, which are not furnished by nature; but why should these animals be burnt or otherwise destroyed? This would be authorizing the cruelty which the law is intended to prevent. **Life is the gift of God, not to man only, but to all animals**, and it ought not to be taken away, except from necessity, or for some useful and proper purpose. We cannot therefore think that the statute was intended to authorize such an act." (emphasis supplied).

Commonwealth v. Tilton, 49 Mass. 232 (1844).

Cockfighting. Defendant charged under statute prohibiting unlawful gaming in licensed inn. On appeal, court notes that common law would prohibit cockfighting as cruel and barbarous sport. Court identified main issue as whether cock-fighting was prohibited under statute as unlawful game or sport. Court found analogies in other statutes prohibiting cruelty to animals, Mass. Rev. Stat. ch. 130, § 22, and in the common law prohibition of cock-fighting as a cruel and barbarous sport. Although not specifically enumerated in the statute, Court concluded that an offence punishable by law was set forth in the count to which defendant had pled no contest. Court also noted that in addition to being violation of statute, **the sport of cockfighting violates "the plain dictates of the law of humanity."**

Animal Behavior (may be helpful for motions in limine where defendant claims normally good-natured animal was first aggressor)

Palmer v. Coyle, 187 Mass. 136 (1905) (rule that reputation of human beings cannot be shown by proof of specific incidents of misconduct does not apply when disposition of an animal is at issue. Single instances when horse exhibited many of the traits described, both before and after accident, admissible in proof of horse's general character).

Broderick v. Higginson, 169 Mass. 482 (1897)(dog chasing team; when disputes arise in regard to the acts of an animal, evidence of the animal's habits in that particular are admissible).

Bemis v. Temple, 162 Mass. 342 (1894)(evidence of ordinarily gentle horse suddenly frightened by flag should have been admitted).

Lynch v. Moore, 154 Mass. 335 (1891)(habit of horse towards other horses standing nearby admissible).

Addendum of Massachusetts Animal Cases & Statutes (partial)

Statutes

G.L. c. 266, § 112: Domestic animals: malicious killing or injury ³	18
G.L. c. 272, § 34: Crimes against nature [with a beast]	18
G.L. c. 272, § 77: Cruelty to animals	19
G.L. c. 272, § 82: Arrest without warrant for violation of §§ 77 or 81, notice; care of animals; lien	20
G.L. c. 272, § 88: Complaints and warrants relative to fighting animals; searches; arrests	20
G.L. c. 272, § 89: Exhibition place of fighting animals; entry without warrant; arrests; seizure of animals	21
G.L. c. 272, § 91: Application for decree of forfeiture; notice, hearing; adjudication; returning or killing of animals	21
G.L. c. 272, § 92: Appeal; recognizance; custody and disposition of animals	22
G.L. c. 272, § 94: Owning, possessing or training fighting animals; establishing or promoting exhibition; loaning, selling or exporting fighting animals; owning or possessing animals for breeding fighting animals	23
G.L. c. 272, § 95: Aiding or being present at exhibition of fighting animals	23
G.L. c. 272, § 104: Security for seizure and impounding of animals relating to animal cruelty to animals or animal fighting	24
G.L. c. 140, § 137: Registration and licensing of dogs	25
G.L. c. 140, § 145B: Vaccination against rabies; certificate; tag; proof of vaccination; penalty	27

Cases

<u>Bemis v. Temple</u> , 162 Mass. 342 (1894)	28
<u>Broderick v. Higginson</u> , 169 Mass. 482 (1897)	31
<u>City of Boston v. Erickson</u> , 450 Mass. 1010 (2007)	33
<u>Commonwealth v. Bishop</u> , 67 Mass. App. Ct. 1116 (Rule 1:28) (2006), <i>further rev. den'd</i> , 448 Mass. 1103 (2007)	34
<u>Commonwealth v. Brigham</u> , 108 Mass. 457 (1871)	38
<u>Commonwealth v. Curry</u> , 150 Mass. 509 (1890)	40

³ For formatting reasons, some of the historical notes have been truncated in the printed version of statutes attached herein.

<u>Commonwealth v. Edmands</u> , 162 Mass. 517 (1895)	43
<u>Commonwealth v. Erickson</u> , 74 Mass. App. Ct. 172, <i>further rev. denied</i> , 454 Mass. 1105 (2009), <i>cert. denied</i> , 130 S. Ct. 1151 (2010) .	45
<u>Commonwealth v. Erickson</u> , 64 Mass. App. Ct. 1106 (Rule 1:28), <i>further rev. denied</i> , 445 Mass. 1105 (2005)	49
<u>Commonwealth v. Epifania</u> , 80 Mass. App. Ct. 71, <i>further rev. denied</i> , 460 Mass. 1114 (2011)	52
<u>Commonwealth v. Flannigan</u> , 137 Mass. 560 (1884)	55
<u>Commonwealth v. Gentile</u> , 255 Mass. 116 (1926)	56
<u>Commonwealth v. Higgins</u> , 277 Mass. 191 (1931)	58
<u>Commonwealth v. Hurd</u> , 51 Mass. App. Ct. 12 (2001)	61
<u>Commonwealth v. Linhares</u> , 80 Mass. App. Ct. 819 (2011), <i>further review denied</i> , 461 Mass. 1109 (2012)	65
<u>Commonwealth v. Lufkin</u> , 89 Mass. 579 (1863)	69
<u>Commonwealth v. Magoon</u> , 172 Mass. 214 (1898)	72
<u>Commonwealth v. McClellan</u> , 101 Mass. 34 (1869)	74
<u>Commonwealth v. McGovern</u> , 183 Mass. 238 (1903)	75
<u>Commonwealth v. Messer</u> , 77 Mass. App. Ct. 1123 (2010) (Rule 1:28) ⁴	77
<u>Commonwealth v. Pina</u> , 74 Mass. App. Ct. 1117 (Rule 1:28), <i>further rev. denied</i> , 454 Mass. 1108 (2009)	79
<u>Commonwealth v. Porter</u> , 164 Mass. 576 (1895)	82
<u>Commonwealth v. Ramos</u> , 72 Mass. App. Ct. 773 (2008), <i>further rev. denied</i> , 453 Mass. 1102 (2009)	83
<u>Commonwealth v. Santiago</u> , 452 Mass. 573 (2008)	88

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Appeals Court notice regarding use of Rule 1:28 opinions:

NOTICE: Decisions issued by the Appeals Court pursuant to its rule 1:28 are primarily addressed to the parties and, therefore, may not fully address the facts of the case or the panel's decisional rationale. Moreover, rule 1:28 decisions are not circulated to the entire court and, therefore, represent only the views of the panel that decided the case. A summary decision pursuant to rule 1:28, issued after February 25, 2008, may be cited for its persuasive value but, because of the limitations noted above, not as binding precedent.

<u>Commonwealth v. Sowle</u> , 75 Mass. (9 Gray) 304 (1857)	93
<u>Commonwealth v. Thornton</u> , 113 Mass. 457 (1873)	94
<u>Commonwealth v. Tilton</u> , 49 Mass. (8 Metcalf) 232 (1844)	95
<u>Commonwealth v. Turner</u> , 145 Mass. 296 (Mass. 1887)	97
<u>Commonwealth v. Whitman</u> , 118 Mass. 458 (1875)	101
<u>Commonwealth v. Wood</u> , 111 Mass. 408 (1873)	102
<u>Commonwealth v. Zalesky</u> , 74 Mass. App. Ct. 908, <i>further rev. denied</i> , 454 Mass. 1108 (2009)	104
<u>Coolidge v. Choate</u> , 52 Mass. (11 Metcalf) 79 (1846)	105
<u>Knox v. MSPCA</u> , 12 Mass. App. Ct. 407 (1981)	109
<u>Krasnecky v. Meffen</u> , 56 Mass. App. Ct. 418 (2002), <i>further rev. denied</i> , 438 Mass. 1106 (2003)	112
<u>Lemaire v. MSPCA</u> , 72 Mass. App. Ct. 1118 (Rule 1:28) (2008)	116
<u>Lynch v. Moore</u> , 154 Mass. 335 (1891)	119
<u>Palmer v. Coyle</u> , 187 Mass. 136 (1905)	121
<u>Pina v. MSPCA</u> , 446 Mass. 1017 (2006)	124

G.L. c. 266, § 112:

Domestic animals; malicious killing or injury

Whoever wilfully and maliciously kills, maims or disfigures any horse, cattle or other animal of another person, or wilfully and maliciously administers or exposes poison with intent that it shall be taken or swallowed by any such animal, shall be punished by imprisonment in the state prison for not more than five years or by imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment.

CREDIT(S)

Amended by St.1986, c. 157; St.2004, c. 319, § 3, eff. Nov. 17, 2004.

HISTORICAL AND STATUTORY NOTES

St.1804, c. 131, § 4.
R.S.1836, c. 126, § 39.
G.S.1860, c. 161, § 80.
P.S.1882, c. 203, § 93.
R.L.1902, c. 208, § 98.
St.1986, c. 157, approved July 1, 1986, substituted “animal” for “beast” in two places.

St.2004, c. 319, § 3, approved Aug. 19, 2004, effective Nov. 17, 2004, substituted “imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment” for “a fine of not more than one thousand dollars and imprisonment in jail for not more than one year”.

G.L. c. 272, § 34:

Crimes against nature

Whoever commits the abominable and detestable crime against nature, either with mankind or with a beast, shall be punished by imprisonment in the state prison for not more than twenty years.

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

B.L. c. 94, §§ 7, 8.
C.L. c. 14, §§ 7, 8.
St.1697, c. 19.
St.1784, c. 46, § 1.
St.1804, c. 133.
R.S.1836, c. 130, § 14.
G.S.1860, c. 165, § 18.
P.S.1882, c. 207, § 18.
R.L.1902, c. 212, § 25.

G.L. 272 § 77

Cruelty to animals

Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates or kills an animal, or causes or procures an animal to be overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated or killed; and whoever uses in a cruel or inhuman manner in a race, game, or contest, or in training therefor, as lure or bait a live animal, except an animal if used as lure or bait in fishing; and whoever, having the charge or custody of an animal, either as owner or otherwise, inflicts unnecessary cruelty upon it, or unnecessarily fails to provide it with proper food, drink, shelter, sanitary environment, or protection from the weather, and whoever, as owner, possessor, or person having the charge or custody of an animal, cruelly drives or works it when unfit for labor, or willfully abandons it, or carries it or causes it to be carried in or upon a vehicle, or otherwise, in an unnecessarily cruel or inhuman manner or in a way and manner which might endanger the animal carried thereon, or knowingly and willfully authorizes or permits it to be subjected to unnecessary torture, suffering or cruelty of any kind shall be punished by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment.

In addition to any other penalty provided by law, upon conviction for any violation of this section or of sections seventy-seven A, seventy-eight, seventy-eight A, seventy-nine A, seventy-nine B, eighty A, eighty B, eighty C, eighty D, eighty F, eighty-six, eighty-six A, eighty-six B or ninety-four the defendant shall forfeit to the custody of any society, incorporated under the laws of the commonwealth for the prevention of cruelty to animals or for the care and protection of homeless or suffering animals, the animal whose treatment was the basis of such conviction.

CREDIT(S)

Amended by St.1968, c. 59; St.1972, c. 46; St.1977, c. 679; St.1977, c. 921, § 2; St.1984, c. 50; St.1986, c. 337; St.1989, c. 534; St.2004, c. 319, § 4, eff. Nov. 17, 2004; St.2006, c. 434, § 1, eff. April 3, 2007.

HISTORICAL AND STATUTORY NOTES

R.S.1836, c. 130, § 22.

St.1859, c. 96.

G.S.1860, c. 165, § 41.

St.1868, c. 212, §§ 1 to 4.

St.1869, c. 344, §§ 1, 2.

P.S.1882, c. 207, §§ 52, 53.

R.L.1902, c. 212, § 70.

St.1968, c. 59, approved March 19, 1968.

St.1972, c. 46, approved March 2, 1972.

St.1977, c. 679, approved Oct. 25, 1977.

St.1977, c. 921 § 2, approved Jan. 3, 1978.

St.1984, c. 50, approved June 7, 1984.

St.1986, c. 337, approved July 22, 1986.

St.1989, c. 534, approved Nov. 17, 1989.

St.2004, c. 319, § 4, approved Aug. 19, 2004, effective Nov. 17, 2004, in the first paragraph, substituted “imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2 1/2 years or by a fine of not more than \$2,500, or by both such fine and imprisonment” for “a fine of not more than one thousand dollars or by imprisonment for not more than one year, or both”.

St.2006, c. 434, § 1, approved Jan. 3, 2007, effective April 3, 2007, in the second paragraph, substituted “shall” for “may, after an appropriate hearing to determine the defendant's fitness for continued custody of the abused animal, be ordered to surrender or”.

G.L. 272 § 82

Arrest without warrant for violation of Sec. 77 or 81; notice; care of animals; lien

A person found violating any provision of section seventy-seven or eighty-one may be arrested and held without a warrant as provided in section fifty-four; the person making an arrest with or without a warrant shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, shall properly care and provide for such animals until the owner thereof takes charge of them, not, however, exceeding sixty days from the date of said notice, and shall have a lien on said animals for the expense of such care and provision.

HISTORICAL AND STATUTORY NOTES

2000 Main Volume
St.1869, c. 344, § 4.
P.S.1882, c. 207, § 56.
R.L.1902, c. 212, § 74.

G.L. 272 § 88

Complaints and warrants relative to fighting animals; searches; arrests

If complaint is made to a court or magistrate authorized to issue warrants in criminal cases that the complainant has reasonable cause to believe that preparations are being made for an exhibition of the fighting of birds, dogs or other animals, or that such exhibition is in progress, or that birds, dogs or other animals are kept, owned, possessed, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94 at any place or in any building or tenement, such court or magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant authorizing any sheriff, deputy sheriff, constable or police officer, or special police officer duly appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals or at the request of the Animal Rescue League of Boston, to search such place, building or tenement at any hour of the day or night and take possession of all such animals and all paraphernalia, implements, equipment or other property used or employed, or intended to be used or employed, in violation of section 94 there found, and arrest all persons there present.

CREDIT(S)

Amended by St.1988, c. 178; St.1996, c. 151, § 495; St.2006, c. 434, §§ 2 to 4, eff. April 3, 2007.

HISTORICAL AND STATUTORY NOTES

2000 Main Volume
St.1876, c. 85, § 1.
P.S.1882, c. 207, § 60.
R.L.1902, c. 212, § 79.
St.1918, c. 99, § 1.
St.1926, c. 76, § 1.

G.L. 272 § 89

Exhibition place of fighting animals; entry without warrant; arrests; seizure of animals

Any officer authorized to serve criminal process, or any special police officer duly appointed by the colonel of the state police at the request of the Massachusetts Society for the Prevention of Cruelty to Animals, or any municipal officer involved with animal control may, without a warrant, enter any place or building in which there is an exhibition of any fighting birds, dogs or other animals, preparations are being made for such an exhibition, or birds, dogs or other animals are owned, possessed, kept, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94. Any such officer may arrest all persons there present and take possession of and remove from the place of seizure such animals there found in violation of said section 94, and hold the same in custody subject to the order of court as hereinafter provided.

CREDIT(S)

Amended by St.1982, c. 230; St.1996, c. 151, § 496; St.2006, c. 434, § 5, eff. April 3, 2007.

HISTORICAL AND STATUTORY NOTES

St.1869, c. 435, § 1.

St.1876, c. 85, § 2.

P.S.1882, c. 207, § 61.

R.L.1902, c. 212, § 80.

St.1918, c. 99, § 2.

St.1926, c. 76, § 2.

St.1982, c. 230, approved July 1, 1982.

St.1996, c. 151, § 496, approved June 30, 1996, and by § 690 made effective July 1, 1996.

St.2006, c. 434, § 5, approved January 3, 2007, effective April 3, 2007.

G.L. 272 § 91

Application for decree of forfeiture; notice; hearing; adjudication; returning or killing of animals

After seizure and removal of animals or property used or employed, or intended to be used or employed, in violation of section 94, application shall be made to a district court for a decree of forfeiture of the animals or property. If, after hearing on the application, notice thereof having been previously given as the court orders, it shall be found that the animals, at the time of seizure, were engaged, or were intended to be engaged, in fighting at an exhibition thereof or the animals were owned, possessed, kept, trained, bred, loaned, sold, exported or otherwise transferred in violation of section 94, such animals shall be adjudged forfeited and the court shall thereupon, unless an appeal is taken as provided in the following section, issue an order for killing them. The order shall be directed to any officer authorized to serve criminal process and the officer receiving such order shall cause the animals to be killed within 24 hours thereafter. Animals or property seized as hereinbefore provided, which are not adjudged forfeited, shall be delivered to the owner or person entitled to the possession thereof. Any person shall be allowed to appear as claimant in the proceeding upon the application for a decree of forfeiture.

CREDIT(S)

Amended by St.1959, c. 313, § 15; St.2006, c. 434, § 6, eff. April 3, 2007.

HISTORICAL AND STATUTORY NOTES

St.1869, c. 435, § 2.

St.1876, c. 85, § 4.

P.S.1882, c. 207, § 63.

R.L.1902, c. 212, § 82.

St.1959, c. 313, § 15, approved May 18, 1959, in the first sentence, deleted “or a trial justice” preceding “for a decree”, “justice or” preceding “court orders”, and “justice or” preceding “court shall”.

St.2006, c. 434, § 6, approved Jan. 3, 2007, effective April 3, 2007, rewrote the section, which prior thereto read:

“After such seizure and removal of such birds, dogs or other animals, application shall be made to a district court for a decree of forfeiture of the same; and if, upon the hearing of such application, notice thereof having been previously given as the court orders, it shall be found that such birds, dogs or other animals, or any of them, at the time of such seizure were engaged in fighting at an exhibition thereof, or were owned, kept, possessed or trained by any person with the intent that they should be so engaged, such birds, dogs or other animals shall be adjudged forfeited and such court shall thereupon, unless an appeal is taken as provided in the following section, issue an order for killing them, which shall be directed to any officer authorized to serve criminal process; and the officer receiving said order shall cause such birds, dogs or other animals to be killed within twenty-four hours thereafter. Birds, dogs or other animals seized as hereinbefore provided, which are not adjudged forfeited, shall be delivered to the owner or person entitled to the possession thereof. Any person shall be allowed to appear as claimant in the proceeding upon the application for a decree of forfeiture.”

G.L. 272 § 92

Appeal; recognizance; custody and disposition of animals

An owner or claimant aggrieved by such judgment may, within twenty-four hours after the entry thereof and before its execution, appeal therefrom to the superior court; and all proceedings upon and after such appeal, including the right of exception, shall conform, so far as may be, to those in criminal cases, except that before such appeal is allowed the appellant shall recognize to the commonwealth in the sum of two hundred dollars, with sufficient sureties, to prosecute his appeal and to pay such expenses of the prosecution as the court may order and such expenses as may be thereafter incurred in the care and keeping of the birds, dogs or other animals claimed by such appellant if final judgment is rendered against them, and to abide the judgment of the court thereon. Upon the final judgment, the birds, dogs or other animals held in custody to abide such judgment shall be disposed of, under the direction of the superior court, in like manner as the court or justice might have disposed of them if no appeal had been taken. During the pendency of the appeal, all birds, dogs or other animals adjudged forfeited shall be kept in custody in a place other than that from which they were taken.

HISTORICAL AND STATUTORY NOTES

St.1869, c. 435, § 3.

St.1876, c. 85, § 5.

P.S.1882, c. 207, § 64.

R.L.1902, c. 212, § 83.

G.L. 272 § 94

Owning, possessing or training fighting animals; establishing or promoting exhibition; loaning, selling or exporting fighting animals; owning or possessing animals for breeding fighting animals

Whoever: (i) owns, possesses, keeps or trains any bird, dog or other animal, with the intent that it shall be engaged in an exhibition of fighting; (ii) establishes or promotes an exhibition of the fighting of any birds, dogs or other animals; (iii) loans, sells, exports or otherwise transfers any bird, dog or other animal for the purpose of animal fighting; or (iv) owns, possesses or keeps any bird, dog or other animal for the purpose of breeding such animal with the intent that its offspring be used for animal fighting shall be punished by imprisonment in the state prison for not more than 5 years or in the house of correction for not more than 1 year, or by a fine of not more than \$1,000 or by both such fine and imprisonment.

CREDIT(S)

Amended by St.1975, c. 31, § 1; St.1978, c. 111; St.2006, c. 434, § 7, eff. April 3, 2007.

HISTORICAL AND STATUTORY NOTES

St.1859, c. 158, § 1.

G.S.1860, c. 88, § 79.

St.1869, c. 435, § 5.

St.1876, c. 85, § 7.

P.S.1882, c. 207, § 66.

R.L.1902, c. 212, § 85.

St.1975, c. 31, § 1, approved Feb. 25, 1975.

St.1978, c. 111, approved April 28, 1978.

St.2006, c. 434, § 7, approved Jan. 3, 2007, effective April 3, 2007.

G.L. 272 § 95

Aiding or being present at exhibition of fighting animals

Whoever is present at any place, building or tenement where preparations are being made for an exhibition of the fighting of birds, dogs or other animals, with intent to be present at such exhibition, or is present at, aids in or contributes to such exhibition, shall be punished by a fine of not more than \$1,000 or by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2½ years or by both such fine and imprisonment.

CREDIT(S)

Amended by St.1975, c. 31, § 2; St.2008, c. 452, eff. April 5, 2009.

HISTORICAL AND STATUTORY NOTES

St.1859, c. 158, § 2.

G.S.1860, c. 88, § 79.

St.1869, c. 435, § 6.

St.1876, c. 85, § 8.

P.S.1882, c. 207, § 67.

R.L.1902, c. 212, § 86.

St.1975, c. 31, § 2, approved Feb. 25, 1975, substituted “two hundred and fifty” for “twenty-five”.

St.2008, c. 452, approved Jan. 5, 2009, effective April 5, 2009, substituted “\$1,000 or by imprisonment in the state prison for not more than 5 years or imprisonment in the house of correction for not more than 2½ years or by both such fine and imprisonment” for “two hundred and fifty dollars or by imprisonment for not more than one month, or both”.

G.L. 272 § 104

Security for seizure and impoundment of animals relating to cruelty to animals or animal fighting

(a) As used in this section the word “Authority” shall mean an organization or authorized agent thereof that seizes or impounds an animal pursuant to the General Laws.

(b) If an animal is lawfully seized or impounded pursuant to the General Laws relating to cruelty to animals or animal fighting, the owner, custodian or person claiming an interest in the animal, shall be given a show cause hearing within 30 days after application for the complaint.

(c) If an animal is lawfully seized and impounded, the authority may file a petition with the court requesting that the person from whom an animal is seized or a person claiming an interest in the seized animal, be ordered to post a security. The authority shall serve a copy of the petition on the person from whom the animal was seized, or if the person cannot be found, by posting of copy at the place where the animal was taken into custody. The authority shall also serve a copy of the petition on the district attorney. The court may order that person to post a security.

(d) The security shall be in an amount sufficient to secure payment for all reasonable expenses to be incurred by the authority having custody of the seized animal for a temporary period of at least 30 days. The amount of the security shall be determined by the court upon the recommendation of the authority. Reasonable expenses shall include, but shall not be limited to, estimated medical care, shelter, and board.

(e) When security is posted in accordance with this section, the authority may draw from the security the actual reasonable costs incurred for medical care, shelter, and board.

(f) If the court orders the posting of security, the security shall be posted with the clerk within 10 business days of the show cause

hearing. The court shall order the immediate forfeiture of the seized animal to the authority if the person fails to post security as ordered. The court may waive the security requirement or reduce the amount of the security for good cause shown.

(g) Posting of the security shall not prevent the authority from disposing of the seized or impounded animal before the expiration of the period covered by the security, if the court rules in favor of the authority.

(h) The authority may humanely dispose of the animal at the end of the period for which expenses are covered by the security, if the court orders the disposition. If the disposition order is denied, the court may require the owner or custodian or any other person claiming interest in the animal, to provide additional security to secure payment of reasonable expenses and to extend the period of time pending adjudication by the court of the charges against the person from whom the animal was seized.

(i) The owner or custodian of an animal humanely killed pursuant to this section shall not be entitled to recover damages or the actual value of the animal if the owner or custodian failed to post security.

(j) The court may direct a refund to the person who posted the security in whole or part for any expenses not incurred by the authority. The court may direct a refund to the person who posted security upon acquittal of the charges.

CREDIT(S)

Added by St.2002, c. 435.

HISTORICAL AND STATUTORY NOTES

St.2002, c. 435, was approved Jan. 1, 2003, effective April 1, 2003.

Another § 104, relating to punishment for photographing, videotaping or electronic surveilling of a partially nude or nude person, added by St.2004, c. 395, § 6, was repealed by St.2008, c. 451, § 149, an emergency act, approved Jan. 5, 2009, effective Jan. 5, 2009. See, now, c. 272, § 105.

G.L. c. 140, § 137

Registration and licensing of dogs

A person who at the commencement of a license period is, or who during any license period becomes, the owner or keeper of a dog six months old or over which is not duly licensed, and the owner or keeper of a dog when it becomes six months old during a license period, shall cause it to be registered, numbered, described and licensed until the end of such license period, and the owner or keeper of a dog so registered, numbered, described and licensed during any license period, in order to own or keep such dog after the beginning of the succeeding license period, shall, before the beginning thereof, cause it to be registered, numbered, described and licensed for such period. The registering, numbering, describing and licensing of a dog, if kept in Boston shall be in the office of the police commissioner or if kept in any other town in the office of the clerk thereof.

No town clerk or, in Boston, the police commissioner, shall grant such license for any dog unless the owner thereof provides such town clerk or, in Boston, the police commissioner, either a veterinarian's certification that such dog has been vaccinated in accordance with the provisions of section one hundred and forty-five B, or has been certified exempt from such provision as hereinafter provided, or a notarized letter from a veterinarian that a certification was issued or a metal rabies tag bearing an expiration date indicating that such certification is still in effect.

A dog licensing official may grant an exemption from the provisions of section one hundred and forty-five B for any dog which has not yet attained the age of six months, any dog which the local board of health, for a specified period of time, declared exempt upon presentation of a veterinarian's certificate stating that because of an infirmity, other physical condition or regimen of therapy, that inoculation is thereby deemed inadvisable, or any dog in transit, or dog brought into the commonwealth, temporarily, for the sole purpose of showing in dog shows or exhibition.

The license shall be in a form prescribed by the director, upon a blank to be furnished, except in the county of Suffolk, by the county in which the town is located, and shall be subject to the condition expressed therein that the dog which is the subject of the license shall be controlled and restrained from killing, chasing or harassing live stock or fowls. The owner of any dog may add descriptive words, not over ten in number, upon the license form to indicate the color, breed, weight and special markings of the licensed dog. The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which shall be securely attached a tag in a form prescribed by the director, and upon which shall appear the license number, the name of the town issuing such license and the year of issue. Such tags shall be furnished in the same manner as the license blanks, and if any such tag shall be lost the owner or keeper of such dog shall forthwith secure a substitute tag from the town clerk or, in Boston, from the police commissioner, at a cost of ten cents which, if received by a town clerk, shall be retained by him unless otherwise provided by law. This section shall not apply where it is otherwise provided by law, nor shall it apply to a person having a kennel license.

CREDIT(S)

Amended by St.1932, c. 289, § 1; St.1934, c. 320, § 2; St.1943, c. 111, § 2; St.1945, c. 140; St.1956, c. 44, § 1; St.1956, c. 78, § 1; St.1979, c. 474, § 1; St.1980, c. 100, § 1; St.1983, c. 525, § 1; St.1987, c. 118.

HISTORICAL AND STATUTORY NOTES

St.1797, c. 53, §§ 1, 2.
St.1798, c. 54, § 1.
St.1810, c. 109.
St.1812, c. 146, § 1.
R.S.1836, c. 58, §§ 10, 12.
St.1850, c. 245.
St.1858, c. 139, §§ 1 to 3, 8.
St.1859, c. 225, §§ 1, 2.

G.S.1860, c. 88, § 52.
St.1864, c. 299, § 1.
St.1865, c. 197, § 1.
St.1867, c. 130, § 1.
St.1872, c. 330, § 1.
P.S.1882, c. 102, § 80.
St.1885, c. 292.
R.L.1902, c. 102, § 128.
St.1909, c. 440, § 4.
St.1914, c. 198, § 4.
St.1917, c. 271, § 2.
St.1932, c. 289, § 1, approved June 6, 1932.
St.1934, c. 320, § 2, approved June 23, 1934.
St.1943, c. 111, § 2, approved March 25, 1943.
St.1945, c. 140, an emergency act, approved March 20, 1945.
St.1956, c. 44, § 1, approved Feb. 2, 1956.
St.1956, c. 78, § 1, approved Feb. 13, 1956.
St.1979, c. 474, § 1, approved Aug. 9, 1979.
St.1980, c. 100, § 1, an emergency act.
St.1980, c. 100, was laid before the Governor on March 31, 1980,
and after ten days it had the “force of law”, as prescribed by the
Constitution, as it was not approved within that time.
St.1983, c. 525, § 1, approved Nov. 29, 1983.

G.L. c. 140, § 145B

Vaccination against rabies; certificate; tag; proof of vaccination; penalty

Whoever is the owner or keeper of a dog or cat in the commonwealth six months of age or older shall cause such dog or cat to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions, and shall cause such dog or cat to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dogs and cats acquired or moved into the commonwealth shall be vaccinated within ninety days after the acquisition or arrival into the commonwealth or upon reaching the age of six months, whichever last occurs. It shall be the duty of each veterinarian, at the time of vaccinating any dog or cat, to complete a certificate of rabies vaccination which shall include, but not be limited to the following information: the owner's name and address; a description of the animal, including breed, sex, age, name and distinctive markings; the date of vaccination; the rabies vaccination tag number; the type of rabies vaccine used; the route of vaccination; the expiration date of the vaccine; and the vaccine lot number.

The veterinarian shall issue a tag with each certificate of vaccination. The tag shall be secured by the owner or keeper of such dog or cat to a collar or harness made of suitable material to be worn by the dog or cat; provided, however, that the owner of a cat may choose not to affix a tag to his cat, but shall have the tag available for inspection by authorized persons. In the event that a tag is lost, the owner or keeper of the animal shall, upon presentation of the original vaccination certificate, be issued a new tag.

In order for a dog or cat to be accepted at an animal hospital, veterinarian's office or boarding facility an owner or keeper of such animal shall show proof of current vaccination against rabies; provided however, that if a dog or cat has not been so vaccinated or such owner or keeper fails to show such proof the animal shall be vaccinated against rabies prior to being discharged if the animal's medical condition permits.

The provisions of this section shall not apply to dogs or cats housed in a research institution.

Whoever violates the provisions of this section shall be punished by a fine of not more than fifty dollars.

CREDIT(S)

Added by St.1969, c. 207. Amended by St.1979, c. 474, § 2; St.1980, c. 100, § 2; St.1983, c. 525, § 2; [St.1989, c. 187](#); [St.1992, c. 237](#).

HISTORICAL AND STATUTORY NOTES

St.1969, c. 207, was approved April 22, 1969.

St.1979, c. 474, § 2, approved Aug. 9, 1979, in the first paragraph, in the first sentence, added “, and shall procure and possess said veterinarian's certificate indicating that such dog has been inoculated against rabies and setting forth the date of such inoculation and the duration of immunity” and added the second and third sentences.

St.1980, c. 100, § 2, an emergency act, in the first sentence, deleted “, and shall procure and possess said veterinarian's certificate indicating that such dog has been inoculated against rabies and setting forth the date of such inoculation and the duration of immunity” from the end and deleted the second and third sentences, which read, “The certificate of inoculation shall be exhibited to the dog licensing official of the municipality when application for a dog license is made. Said certificate shall also be produced by any person owning or keeping a dog upon the request of any dog licensing enforcement official.”

St.1980, c. 100, was laid before the Governor on March 31, 1980, and after ten days it had the “force of law”, as prescribed by the Constitution, as it was not approved within that time.

St.1983, c. 525, § 2, approved Nov. 29, 1983, in the first paragraph, added the second sentence.

St.1989, c. 187, approved June 29, 1989, in the first paragraph, added the third sentence.

St.1992, c. 237, approved Nov. 25, 1992, rewrote the section.

