

**Procedures for
Pursuing
Animal Abuse Cases**

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PROCEDURES FOR PURSUING ANIMAL ABUSE CASES

Introduction

There are two separate bodies of law dealing with animal abuse. One is the civil law and the other is the criminal law. Civil law is used to obtain custody of animals from their abusers, while criminal law is used to prosecute and punish those abusers.

The Texas civil law is codified in Sections 821.021-821.026 of the Texas Health and Safety Code. A copy of those Sections is attached hereto as **Appendix "A"**.

The Texas criminal law is codified in Sections 42.09, 42.092, 42.10 and 42.105 of the Texas Penal Code. A copy of those Sections is attached hereto as **Appendix "B"**.

Almost always, the first legal action to be taken in an animal abuse case is a civil action to obtain custody of the animal(s) being abused or cruelly treated. Civil actions are much quicker than criminal actions and should be initiated promptly in order to extricate the animal(s) from the abusive environment. Thus, when a report of animal abuse is received, the first action should be to extricate the animal(s) from the abusive environment. This can be done either by convincing the owner to voluntarily release the animal(s) or, failing that, through legal proceedings to force the owner to release the animal(s) to the custody of the applicable humane organization (herein called the "Humane Organization").

Civil Proceedings

The chronological steps of a civil proceeding to require an abusive owner to release custody of the animal(s) are as follows:

1. **Investigation and Documentation.**

When animal abuse is suspected, an investigation should be made by the Humane Organization's cruelty investigator to determine the nature and extent of the abuse. If abuse is found, it must be documented through a written report of the investigator's findings; statements from witnesses; photographs; or other evidence establishing the nature of the abuse and the identity of the abuser. (See Section 821.021 for a definition of animal abuse for purposes of civil actions.)

2. Application for Seizure Warrant.

Once evidence has been obtained, it should be presented to a law enforcement officer (such as a police officer, a sheriff or sheriff's deputy, a constable or constable's deputy, etc.) or an animal control officer. Based on the evidence presented, the officer should then be asked to apply for a warrant to seize the animal(s) and remove it (them) from the owner's custody. This is done by having the officer complete and file an Application for Warrant. (See Section 821.022(a)) A copy of a form of Application for Warrant together with instructions for completing the form is attached hereto as **Exhibit 1**. The Application for Warrant should be filed with a justice of the peace court in the precinct in which the owner lives or in which the animal(s) is (are) located. If the animal(s) is (are) located within a city limit, the Application for Warrant may instead be filed with a municipal judge.

3. Issuance of Seizure Warrant.

When the Application for Warrant is filed, it should be presented immediately to the justice of the peace or municipal judge, as the case may be (herein called "Judge") and, at that time, the officer filing the Application for Warrant should ask the Judge to sign a Warrant ordering the seizure of the animal(s). (See Section 821.022(b)) The Warrant will order (and thereby authorize) the officer to seize and remove the animal(s) from the owner's custody and will also set a time and place for a hearing to determine whether the animal(s) has (have) been abused and to determine the future custody or disposition of the animal(s). (See Section 821.022(c)) A copy of a form of Warrant to be presented to the Judge for his signature is attached hereto as **Exhibit 2**. Although the Judge should know how to complete the form, if he does not, instructions for completing the form are included as a part of **Exhibit 2**. When the officer goes before the Judge, have the officer ask the Judge to authorize the Humane Organization to keep and care for the animal pending the custody hearing. (See discussion in paragraph 6 below.)

4. Service of Warrant.

As soon as the Judge signs the Warrant, the officer who applied for the Warrant or any other law enforcement officer can serve the Warrant on the owner and take the animal(s). When the Warrant is served on the owner, the animal(s) should be taken from the owner immediately and kept by the Humane Organization until the custody hearing.

5. Custody and Care of Animal.

When the animal(s) is (are) seized, it (they) should be taken immediately to a veterinarian for examination to determine its (their) physical condition. This is important, not only for the well-being of the animal(s) but also because the veterinarian's testimony will be important in proving the cruelty charges at the custody hearing. After examination, the animal(s) should be given the care recommended by the veterinarian.

6. Custody Hearing.

As stated above, the Warrant will set a date and time for a hearing to determine if there was abuse as charged and whether or not the owner regains custody of the animal(s). (See Section 821.023) The following information and instructions apply to that hearing:

- (a) The hearing must be held within ten (10) days of the date of issuance of the Warrant. As stated above, the Warrant will set forth the date, time and place for the hearing.
- (b) Technically, at the hearing the plaintiff is the State of Texas vs. the owner and the State's case will normally be presented by the District or County Attorney's office. However, since many District and County Attorney's offices are either not interested or too busy to pursue this type of case, arrangements should be made with private attorneys to appear (hopefully on a no-cost voluntary basis) to represent the State at the hearing if the District or County Attorney chooses not to do so. It would be wise to get several private attorneys to volunteer ahead of time to appear at custody hearings, if needed. That way, you will have a list of private attorneys to call on if the District Attorney or County Attorney does not wish to pursue the case. The Humane Organization and the cruelty investigators should do everything possible to assist the attorney presenting the State's case by way of gathering evidence, scheduling witnesses, etc. It is important that a strong, well-prepared case be presented at the hearing in order to assure the best results.
- (c) At the hearing, evidence will be presented by the State and, if he so chooses, by the owner. Based on that evidence, the Judge will then decide whether or not the animal(s) has (have) been "cruelly treated" (as defined in Section 821.021) and, if so, the Judge will determine the future disposition of the animal(s). As part of its presentation, the State should request the Judge to include in the custody grant of the animal(s) and any offspring so if the animal(s) is (are) pregnant the Judge's order will also cover the animal's offspring.
- (d) If the Judge finds in favor of the State and divests the owner of his ownership in the animals, the owner has ten (10) days to file an appeal to the County Court. In this instance, the Humane Organization should attempt to get the owner to waive that appeal so that the animal(s) can be disposed of immediately; failing that, the Humane Organization should wait until the time for filing an appeal has expired before disposing of the animal(s) and, in the event an appeal is filed, the Humane Organization should hold the animal(s) pending the outcome of the appeal. If the owner files an appeal, he must post a bond to cover the costs awarded by Judge plus the estimated costs as determined by the Judge to keep and care for the animals during the appeal.

- (e) The decision of the County Court hearing the appeal is final and non-appealable.

From the time of the initial investigation through the conclusion of the custody hearing, the cruelty investigator should be assisting the law enforcement officers and attorneys because often times law enforcement officers and attorneys have never handled an animal abuse case and may not know exactly what to do. Also, animal abuse cases often have a low priority with law enforcement officers and attorneys and they need to be encouraged to act promptly.

Criminal Prosecution

If the situation warrants, the Humane Organization should seek criminal prosecution of the perpetrator. In such cases, you should present all of the facts and evidence to the District or County Attorney's office and file a criminal complaint charging the perpetrator with cruelty to animals in violation of either Section 42.09, 42.092, 42.10 and 42.105 of the Texas Penal Code which makes cruelty to animals a criminal offense and ask the District Attorney's office or County Attorney's office to prosecute the perpetrator to the fullest extent of the law.

Certain more aggravated acts of animal cruelty are punishable as a state jail felony while other less aggravated acts are punishable as a Class A misdemeanor. A state jail felony carries a punishment of not less than 180 days or more than two years in the state penitentiary and a fine of up to \$10,000 or both. A Class A misdemeanor carries a penalty of up to one year in the county jail and a fine of up to \$4,000 or both.

Since most District or County Attorney's offices are overworked and probably have (in their opinion) more important cases, you will need to have your facts and evidence in good order and be prepared to insist that the case be prosecuted. Also, you should put public pressure on the District or County Attorney to prosecute the case through the media and through calls and letters from members of the Humane Organization and the public at large. A mail out to the Humane Organization membership detailing the case and requesting them to call and write the District Attorney or County Attorney and demand action can provide tremendous positive results. The Humane Organization is looked upon by the public as the organization responsible for protecting animals and prosecuting cruelty cases and a strong demand from the Humane Organization and its members will definitely get the District Attorney's or County Attorney's attention.

APPENDIX "A"

SECTIONS 821.021 - 821.026 TEXAS HEALTH AND SAFETY CODE

§ 821.021. Definitions

In this subchapter:

(1) "Cruelly treated" includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

(2) "Nonprofit animal welfare organization" means a nonprofit organization that has as its purpose:

- (A) the prevention of cruelty to animals; or
- (B) the sheltering of, caring for, and providing homes for lost, stray, and abandoned animals.

(3) "Owner" includes a person who owns or has custody or control of an animal.

§ 821.0211. Additional Definition

In this subchapter, "magistrate" means any officer as defined in Article 2.09, Code of Criminal Procedure, except that the term does not include justices of the supreme court, judges of the court of criminal appeals, or courts of appeals, judges or masters of statutory probate courts, or judges or masters of district courts that give preference to family law matters or family district courts under Subchapter D, Chapter 24, Government Code.

§ 821.022. Seizure of Cruelly Treated Animal

(a) If a peace officer or an officer who has responsibility for animal control in a county or municipality has reason to believe that an animal has been or is being cruelly treated, the officer may apply to a justice court or magistrate in the county or to a municipal court in the municipality in which the animal is located for a warrant to seize the animal.

(b) On a showing of probable cause to believe that the animal has been or is being cruelly treated, the court or magistrate shall issue the warrant and set a time within 10 calendar days of the

date of issuance for a hearing in the appropriate justice court or municipal court to determine whether the animal has been cruelly treated.

(c) The officer executing the warrant shall cause the animal to be impounded and shall give written notice to the owner of the animal of the time and place of the hearing.

§ 821.023. Hearing; Order of Disposition or Return of Animal

(a) A finding in a court of competent jurisdiction that the owner of an animal is guilty of an offense under Section 42.09 or 42.092, Penal Code, involving the animal is prima facie evidence at a hearing authorized by Section 821.022 that the animal has been cruelly treated.

(b) A statement of an owner made at a hearing provided for under this subchapter is not admissible in a trial of the owner for an offense under Section 42.09 or 42.092 Penal Code.

(c) Each interested party is entitled to an opportunity to present evidence at the hearing.

(d) If the court finds that the animal's owner has cruelly treated the animal, the owner shall be divested of ownership of the animal, and the court shall:

(1) order a public sale of the animal by auction;

(2) order the animal given to a municipal or county animal shelter or a nonprofit animal welfare organization; or

(3) order the animal humanely destroyed if the court decides that the best interests of the animal or that the public health and safety would be served by doing so.

(e) After a court finds that an animal's owner has cruelly treated the animal, the court shall order the owner to pay all court costs, including:

(1) the administrative costs of:

(A) investigation;

(B) expert witnesses; and

(C) conducting any public sale ordered by the court; and

(2) the costs incurred by a municipal or county animal shelter or a nonprofit animal welfare organization in:

(A) housing and caring for the animal during its impoundment; and

(B) humanely destroying the animal if destruction is ordered by the court.

(e-1) After a court finds that an animal's owner has cruelly treated the animal, the court shall determine the estimated costs likely to be incurred by a municipal or county animal shelter or a nonprofit animal welfare organization to house and care for the impounded animal during the appeal process.

(e-2) After making the determination under Subsection (e-1), the court at the time of entering the judgment shall set the amount of bond for an appeal equal to the sum of:

- (1) the amount of the court costs ordered under Subsection (e); and
- (2) the amount of the estimated costs determined under Subsection (e-1).

(e-3) A court may not require a person to provide a bond in an amount greater than or in addition to the amount determined by the court under Subsection (e-2) to perfect an appeal under Section 821.025.

(e-4) Notwithstanding any other law, the amount of court costs that a court may order under Subsection (e) and the amount of bond that a court determines under Subsection (e-2) are excluded in determining the court's jurisdiction under Subtitle A, Title 2, Government Code.

(f) The court may order that an animal disposed of under Subsection (d)(1) or (d)(2) be spayed or neutered at the cost of the receiving party.

(g) The court shall order the animal returned to the owner if the court does not find that the animal's owner has cruelly treated the animal.

§ 821.024. Sale or Disposition of Cruelly Treated Animal

(a) Notice of an auction ordered under this subchapter must be posted on a public bulletin board where other public notices are posted for the county or municipality. At the auction, a bid by the former owner of a cruelly treated animal or the owner's representative may not be accepted.

(b) Proceeds from the sale of the animal shall be applied first to any costs owed by the former owner under Section 821.023(e). The officer conducting the auction shall pay any excess proceeds to the justice or municipal court ordering the auction. The court shall return the excess proceeds to the former owner of the animal.

(c) If the officer is unable to sell the animal at auction, the officer may cause the animal to be humanely destroyed or may give the animal to a municipal or county animal shelter or a nonprofit animal welfare organization.

§ 821.025. Appeal

(a) An owner divested of ownership of an animal under Section 821.023 may appeal the order to a county court or county court at law in the county in which the justice or municipal court is located.

(b) As a condition of perfecting an appeal, not later than the 10th calendar day after the date the order is issued, the owner must file a notice of appeal and a cash bond or surety bond in an amount set by the court under Section 821.023(e-2).

(c) Not later than the fifth calendar day after the date the notice of appeal and bond is filed, the court from which the appeal is taken shall deliver a copy of the clerk's record to the clerk of the county court or county court at law to which the appeal is made.

(d) Not later than the 10th calendar day after the date the county court or county court at law, as appropriate, receives a copy of the clerk's record, the court shall consider the matter de novo and dispose of the appeal. A party to the appeal is entitled to a jury trial on request.

(e) The decision of the county court or county court at law under this section is final and may not be further appealed.

(f) Notwithstanding Section 30.00014, Government Code, or any other law, a person filing an appeal from a municipal court under Subsection (a) is not required to file a motion for a new trial to perfect an appeal.

(g) Notwithstanding any other law, a county court or a county court at law has jurisdiction to hear an appeal filed under this section.

(h) While an appeal under this section is pending, the animal may not be:

- (1) sold or given away as provided by Sections 821.023 and 821.024; or
- (2) destroyed, except under circumstances which would require the humane destruction of the animal to prevent undue pain to or suffering of the animal.

§ 821.026. Conflict of Laws

In the event of a conflict between this subchapter and another provision of any other law relating to an appeal of a disposition regarding a cruelly treated animal, including the bond required for that appeal, this subchapter controls.

APPENDIX "B"

SECTIONS 42.09, 42.092, 42.10 AND 42.105 OF THE TEXAS PENAL CODE

Sec. 42.09. CRUELTY TO LIVESTOCK ANIMALS. (a) A person commits an offense if the person intentionally or knowingly:

- (1) tortures a livestock animal;
- (2) fails unreasonably to provide necessary food, water, or care for a livestock animal in the person's custody;
- (3) abandons unreasonably a livestock animal in the person's custody;
- (4) transports or confines a livestock animal in a cruel and unusual manner;
- (5) administers poison to a livestock animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;
- (6) causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092;
- (7) uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;
- (8) trips a horse; or
- (9) seriously overworks a livestock animal.

(b) In this section:

- (1) "Abandon" includes abandoning a livestock animal in the person's custody without making reasonable arrangements for assumption of custody by another person.
- (2) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(3) "Custody" includes responsibility for the health, safety, and welfare of a livestock animal subject to the person's care and control, regardless of ownership of the livestock animal.

(4) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(5) "Livestock animal" means:

(A) cattle, sheep, swine, goats, ratites, or poultry commonly raised for human consumption;

(B) a horse, pony, mule, donkey, or hinny;

(C) native or nonnative hoofstock raised under agriculture practices; or

(D) native or nonnative fowl commonly raised under agricultural practices.

(6) "Necessary food, water, or care" includes food, water, or care provided to the extent required to maintain the livestock animal in a state of good health.

(7) "Torture" includes any act that causes unjustifiable pain or suffering.

(8) "Trip" means to use an object to cause a horse to fall or lose its balance.

(c) An offense under Subsection (a)(2), (3), (4), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092. An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.092, or one time under this section and one time under Section 42.092.

(d) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for

the purpose of identifying the ownership of the horse or giving veterinary care to the horse.

(e) It is a defense to prosecution for an offense under this section that the actor was engaged in bona fide experimentation for scientific research.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring solely for the purpose of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2) animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of this section.

Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Depredation" has the meaning assigned by Section 71.001, Parks and Wildlife Code.

(6) "Livestock animal" has the meaning assigned by Section 42.09.

(7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) "Torture" includes any act that causes unjustifiable pain or suffering.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly:

(1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

(2) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal;

(3) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person's custody;

(4) abandons unreasonably an animal in the person's custody;

(5) transports or confines an animal in a cruel manner;

(6) without the owner's effective consent, causes bodily injury to an animal;

(7) causes one animal to fight with another animal, if either animal is not a dog;

(8) uses a live animal as a lure in dog race training or in dog coursing on a racetrack;

or

(9) seriously overworks an animal.

(c) An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this

section, two times under Section 42.09, or one time under this section and one time under Section 42.09. An offense under Subsection (b)(1), (2), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(d) It is a defense to prosecution under this section that:

(1) the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or

(2) the actor was engaged in bona fide experimentation for scientific research.

(e) It is a defense to prosecution under Subsection (b)(2) or (6) that:

(1) the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or

(2) the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring solely for the purpose of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting

preserve practices as regulated by state and federal law; or

(2) animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of the section.

Sec. 42.10. DOG FIGHTING. (a) A person commits an offense if the person intentionally or knowingly:

(1) causes a dog to fight with another dog;

(2) participates in the earnings of or operates a facility used for dog fighting;

(3) uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting;

(4) owns or possesses dog-fighting equipment with the intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting;

(5) owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or

(6) attends as a spectator an exhibition of dog fighting.

(b) In this section:

(1) "Dog-fighting" means any situation in which one dog attacks or fights with another dog.

(2) "Dog-fighting equipment" has the meaning assigned by Article 18.18(g), Code of Criminal Procedure.

(c) A conviction under Subsection (a)(2) or (3) may be had upon the uncorroborated testimony of a party to the offense.

(d) It is a defense to prosecution under Subsection (a)(1) that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.

(e) An offense under Subsection (a)(4), (5), or (6) is a Class A misdemeanor. An offense under Subsection (a)(1), (2), or (3) is a state jail felony.

Sec. 42.105. COCKFIGHTING. (a) In this section:

(1) "Bridle" means a leather device designed to fit over the head and beak of a cock to prevent the cock from injuring another cock.

(2) "Cock" means the male of any type of domestic fowl.

(3) "Cockfighting" means any situation in which one cock attacks or fights with another cock.

(4) "Gaff" means an artificial steel spur designed to attach to the leg of a cock to replace or supplement the cock's natural spur.

(5) "Slasher" means a steel weapon resembling a curved knife blade designed to attach to the foot of a cock.

(b) A person commits an offense if the person knowingly:

(1) causes a cock to fight with another cock;

(2) participates in the earnings of a cockfight;

(3) uses or permits another to use any real estate, building, room, tent, arena, or other property for cockfighting;

(4) owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting;

(5) manufactures, buys, sells, barter, exchanges, possesses, advertises, or otherwise offers a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting; or

(6) attends as a spectator an exhibition of cockfighting.

(c) It is an affirmative defense to prosecution under this section that the actor's conduct:

(1) occurred solely for the purpose of or in support of breeding cocks for poultry shows in which a cock is judged by the cock's physical appearance; or

(2) was incidental to collecting bridles, gaffs, or slashers.

(d) An affirmative defense to prosecution is not available under Subsection (c) if evidence shows that the actor is also engaging in use of the cocks for cockfighting.

(e) It is a defense to prosecution for an offense under this section that:

(1) the actor was engaged in bona fide experimentation for scientific research; or

(2) the conduct engaged in by the actor is a generally accepted and otherwise lawful animal husbandry or agriculture practice involving livestock animals.

(f) It is an exception to the application of Subsection (b)(6) that the actor is 15 years of age or younger at the time of the offense.

(g) An offense under Subsection (b)(1) or (2) is a state jail felony. An offense under Subsection (b)(3), (4), or (5) is a Class A misdemeanor. An offense under Subsection (b)(6) is a Class C misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the person has been previously convicted of an offense under that subdivision.

APPLICATION FOR WARRANT

THE STATE OF TEXAS §
 §
COUNTY OF [1]____§

I, _____ [2] _____, of _____ [3] _____ County, Texas do solemnly swear that I have good reason to believe and do believe that the animal(s) located in _____ [4] _____ County, Texas and described below has/have been and is/are now being cruelly treated and said animal(s) is/are described as follows: _____ [5]

_____ and it is/they are located at _____ [6] _____
_____ in _____ [7] _____ County, Texas and it is/they are owned by _____
_____ [8] _____.

My belief of the foregoing is based on the following facts: _____ [9] _____

WHEREFORE, I ask that a warrant to seize the said animal(s) be issued in accordance with the law in such cases provided.

[10] _____

[11]

SWORN TO AND SUBSCRIBED TO BEFORE ME by the said _____
this _____ day of _____, 20____.

**INSTRUCTIONS FOR COMPLETING
APPLICATION FOR WARRANT**

- [1] Insert the name of the county in which the Justice of the Peace or Municipal Court is located.
- [2] Insert the name of the law enforcement officer applying for the Warrant. This will be the same person who signs the Application as pointed out in [10] below.
- [3] Insert the name of the county in which the officer lives.
- [4] Insert the name of the county in which the animal(s) is/are located.
- [5] Insert a description of the animal(s) which should include, to the extent known, the type of animal(s) (dog, cat, etc.); male or female; breed, if known; color or other distinguishing markings.
- [6] Insert the address or describe the place where the animal(s) is/are located. A street address is preferable; otherwise, any adequate description will do.
- [7] Insert the county in which the animal(s) is/are located.
- [8] Insert the name of the owner of the animal(s).
- [9] Insert all the facts which will support the issuance of the Warrant. The facts do not have to be based on the officer's own knowledge but can be based on statements of others which the officer has either heard or read; pictures the officer has seen, etc. The evidence can be hearsay evidence, but the more reliable the evidence is, the better. Also, any such evidence (i.e., written statements, pictures, memos of interviews) should be carried with you to the judge when you are making the Application for Warrant.
- [10] This is the place where the officer applying for the Warrant will sign.
- [11] The officer's signature must be acknowledged. This can be done either before a Notary Public or a judicial official such as the Justice of the Peace himself. In other words, the Justice of the Peace can take the acknowledgment and also issue the Warrant.

WARRANT

THE STATE OF TEXAS §
COUNTY OF [1] §

THE STATE OF TEXAS to the Sheriff or any Peace Officer of [1] County, Texas, or any Peace Officer of the State of Texas,

GREETINGS:

WHEREAS, an application in writing, under oath, has been made before me by _____[2]
_____, a true and exact copy of which application is attached hereto and expressly incorporated
herein and made a part hereof(*); and

WHEREAS, said application having stated facts and information in my opinion sufficient to establish probable cause for the issuance of this warrant:

You are therefore commanded to forthwith seize and impound all animal(s), alive, dead or unborn, described in the application or located on the premises identified in the application which is/are alleged (to be) or (to have been) cruelly treated, and you will also give written notice to _____ [3] _____, the alleged owner(s) of said animal(s), that a hearing will be held in the _____ [4] _____ Court of _____ [5] _____ County, Texas at the _____ [6] _____ in _____ [7] _____ County, Texas on the _____ [8] _____ day of _____ [9] _____, 20____, at _____ [10] _____ m. to determine whether the animal has been cruelly treated.

Herein fail not, and due return make hereof to me at the place above named.

Witness my signature on this the _____ day of [11], 20____.

Title: [12]
[13]

RETURN

Came to hand on the same day issued, and executed on the _____ [1] _____ day of _____, 20____, by seizing and impounding the following animal(s), believed by me to be the same animal described in said warrant, to-wit: _____ [2] _____, which said animal(s) I found at _____ [3] _____, in the possession of _____ [4] _____; and I also, at the same time, gave written notice of the hearing set forth in said warrant to _____ [5] _____, the alleged owner of said animal(s), in obedience to the command of said warrant.

[6]

[7]

SWORN TO AND SUBSCRIBED TO BEFORE ME on this the _____ day of _____, 20____.

Procedures for Pursuing Animal Abuse Cases

INSTRUCTIONS FOR COMPLETING THE WARRANT

THE WARRANT IS FILLED OUT BY THE JUSTICE OF THE PEACE OR MUNICIPAL JUDGE AND HE SHOULD KNOW HOW TO COMPLETE IT BUT HE MAY NOT AND IF YOU NEED TO ASSIST HIM, THE FOLLOWING IS WHAT SHOULD BE FILLED IN:

- [1] Insert the name of the county in which the court is located.
- [2] Insert the name of the law enforcement officer filing the Application.
- [3] Insert the name of the owner.
- [4] Insert the Justice Court and Precinct number or the Municipal Court, as the case may be.
- [5] Insert the name of the county (and if a Municipal Court, the name of the city).
- [6] - [10] Insert the location of the courthouse; the county; the day, month and time for the cruelty hearing. (The Judge will set the date, time and place.)
- [11] Insert the date the Warrant is signed by the Judge.
- [12] This is the place where the Judge will sign.
- [13] Insert the Judge's title: "Justice of the Peace Precinct _____" or "Municipal Judge," as the case may be.
- * MAKE SURE A COPY OF THE APPLICATION FOR WARRANT IS ATTACHED TO THE WARRANT.

INSTRUCTIONS FOR COMPLETING THE RETURN

THE RETURN IS FILLED OUT BY THE PEACE OFFICER WHO SERVES THE WARRANT. THE PEACE OFFICER SHOULD KNOW HOW TO COMPLETE THE RETURN BUT, IF NOT, THE FOLLOWING IS WHAT SHOULD BE FILLED IN:

- [1] Insert the date the peace officer served the Warrant and seized the animal(s).
- [2] Insert a description of the animal(s) seized.
- [3] Insert the place the animal(s) was/were seized, preferably a street address but any other accurate description will do.
- [4] Insert the name of the person from whom the animal(s) was/were seized. This will probably be the owner but it may not be. Whoever has custody of the animal(s) when the officer goes to get it/them is the name to be inserted in this blank.
- [5] Insert the name of the person to whom the Warrant was delivered.
- [6] This is where the officer serving the Warrant will sign.
- [7] The signature must be acknowledged before a Notary Public or other judicial officer.