

Operational Guide

Investigations



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Introduction

It has taken people centuries to create a body of law which, since we are still changing it, seems even now inadequate to deal with the complexities of human dishonesty. Generally speaking, lawmakers have concentrated on two areas of human needs or fears: protection from others (and in some cases from ourselves) and protection of property. Laws protecting animals, except as they are considered the property, are relatively new. Those of us who have taken up humane work as our field of endeavor should never forget that we are pioneers who must evaluate our work in terms of long-range goals.

These humane laws, though new to us, are the backbone of the work performed by humane organizations. Anti-cruelty statutes provide the means to investigate perpetrators of crimes against animals and where necessary bring them to justice. Without these laws, the humane officer would be hard pressed to correct wrong situations. Keep in mind that although these laws may be enforced by any authorized peace officer, most of the time, humane organizations are called upon to investigate and follow through.

When we speak of investigation, people frequently think of prosecution; however, the fact that prosecution is necessary indicates of a degree of failure — failure to reach the public with some form of practical education. Education, therefore, is a more lasting and effective corrective solution. Examples include various aspects of humane activity, such as personal contacts, literature, junior humane groups, radio, TV, and so on. After all, it is through education, not prosecution, that we will achieve our ultimate goals.

In more than 90 percent of the cases encountered by humane workers where improvement is needed, prosecution should be the last recourse. Only use prosecution when all other methods of practical persuasion fail. It is in this sense that we refer to prosecution as indicative of failure.

Of course, from time to time, situations occur in which immediate prosecution is essential.

We don't intend these remarks to be apologetic. It is merely our intention to place prosecution in the proper perspective. In other words, prosecution is not a cure-all for every bad situation.

Cruelty

Cruelty divides into two general categories.

- Acts of commission or omission prohibited and prosecutable by legal codification
- Acts of commission or omission, not prohibited by law but contrary to moral considerations, yet not prosecutable.

“No act or omission is criminal or punishable as such unless, at the time, there is valid statute declaring act or omission a crime and describing penalty for violation.”¹

Anti-cruelty statutes legally describe and define areas of cruelty prohibited by law. Even such codification, however, is not specific enough in some cases. For example, the laws of many states insist that livestock must be fed, watered, and

¹ Criminal Law Outline: California Peace Officer's Training Program.

adequately sheltered. It is in the defining of these legal terms that problems may arise. What does shelter mean? What is adequate? In the East, for example, cattle shelter likely means a barn or similar shelter, particularly during the winter months. In the West, however, people leave range cattle out year round. In fact, in this latter case, it is quite possible, since the cattle are acclimated to the weather with winter coats and so on, that they would be uncomfortable in barns. For this reason, then, the law often requires a certain degree of interpretation.

As we proceed under the direction of laws, we must also apply judgment and common sense, based on experience.

Occasionally acts contrary to moral considerations become legal crimes when suitable laws enter the books. For example, giving away Easter pets, though contrary to moral considerations, becomes prosecutable only when a law prohibiting the act is passed.

Thus, the first step in any investigation is to become thoroughly familiar with all of the applicable laws. This means knowing the state's animal anti-cruelty laws, any municipal or county ordinances, the 28-to-36-hour transportation law, as well as federal laws, such as the Humane Slaughter Act, Animal Welfare Act, and the Horse Protection Act of 1970. Inspectors should settle for no less than being an expert on all applicable laws.

Combining this knowledge of laws with a well-rounded knowledge of animal handling and care gives the investigator a significant edge over the offender. In fact, occasionally the investigator knows more about such laws and animal care requirements than the prosecuting

attorney. In this case a thorough knowledge will assist both the investigator and the prosecuting attorney.

Many organizations reproduce cruelty laws either as part of an inspector's handbook or more simply in photocopied form. Photocopies are readily available for distribution where needed for warning, educational, or informational purposes.

Official Authorization

A person is not legally entitled to act as an investigator unless he has been officially authorized by the appropriate agency. To act without the proper authorization risks the possibility of a lawsuit. The same protection extended to a humane organization, when legally incorporated under state charter, is also generally afforded to a representative of that organization when he is duly authorized. The mere fact that the president or similar officer of an organization appoints an individual as an "investigator" is not enough, unless the president has the legal power to do so. Nor does a membership card in a humane organization normally carry with it legal authority other than that of any other citizen. (See false arrest/imprisonment statutes in your state.)

An investigator generally obtains legal authority in one of the following methods:

1. State appointment (example California Civil Code 607F)
2. County appointment (example Ohio Section 1717.06)
3. Deputization from a local law enforcement agency

A word of caution: Under no circumstances make the entire membership or other unqualified groups within a humane organization into inspectors or investigators. Nothing could harm your organization more. Not only could bad public relations result, but

untrained investigators could conceivably create a situation resulting in a liability lawsuit for your organization. In addition, it is difficult to exercise control over volunteer investigators and, with the limited amount of training or experience that they might have, a bad situation could develop.

Because the investigator is one very public way a community views your organization, it is essential that he be well trained, intelligent, neat appearing, tactful, and capable.

Furthermore, gaining official authorization maybe be only half the battle toward effective investigation and prosecution. People in our profession must often overcome strong prejudices and suspicions that humane officials behave in an unprofessional manner. Good report writing, acceptable methods of investigation, and a thorough knowledge of all pertinent laws go a long way toward dispelling criticism.

Uniform or Plain Clothes

Should an investigator wear a uniform or plain clothes when making an investigation? This is a question of concern to many organizations. It cannot be answered by a simple yes or no. There are good arguments for both plain clothes and uniforms being used. As in so many aspects of humane work, discretion is essential. In most situations encountered, certain advantages accrue to officers dressed in plain clothes:

- Investigation may be made quietly.
- It does not embarrass the person being investigated.
- It decreases the use of investigation as a “spite” device.

- The informal atmosphere often makes it easier to gather information.

It is essential that the investigator carry identifying credentials with him if operating in plain clothes.

The uniformed investigator, of course, has his place as well. The uniform imparts a psychological effect that enhances the credibility of the investigator as a person with authority to inquire about the welfare of animals. Uniforms make a statement in the community that leaders take animal welfare issues seriously. This can help foster an attitude of respect for animals and for the organization that employs humane investigators. Investigators in uniform enhance awareness about animal welfare simply by being seen going about their duties. Other advantages include professional recognition by traditional law enforcement officers, a commanding presence in court hearings and trials, easier crowd control and scene management, and better cooperation from the general public. Uniforms should include an appropriate duty belt with standard issued equipment that provides the officer ready access to tools and equipment designed to enhance his efficiency and safety. Also, consider body armor standard issue for officers in uniform.

Complaints

Generally speaking, the complaints that most organizations receive fall into three general classifications:

1. Vindictive
2. Misguided
3. Legitimate

Vindictive and misguided complaints probably represent the greatest percentage of complaints received by humane organizations. A vindictive complaint is an unjust complaint made to cause a respondent embarrassment, trouble, or harassment. A misguided complaint involves a complainant who incorrectly believes that a violation has occurred. He, however, sincerely believes that something is wrong. In this case, tactfully tell the complainant why there was no violation. Perhaps the situation is not contrary to any existing law, or maybe it's simply a question of misinterpreting a situation. For example, occasionally organizations receive a complaint that a neighbor's dog or cat is starving. The complainant sincerely believes this because the neighbor's pet wanders over to the complainant and eagerly eats whatever is fed. This leads the complainant to believe that the animal is starved at home. Why else would it be so "hungry"? Often the truth is that the animal is a serious "beggar" and will eat anything placed in front of it. Situations like this require much tact and persuasion on the part of the humane officer to correct.

At the same time, other vindictive complainants deliberately distort the situation. Maybe the neighbor's dog barks during the day, and the complainant, who works at night, finds his daytime rest disturbed. Rather than call about the barking dog, people in such situations commonly phone the humane organization

and complain that the neighbor's dog is being mistreated and should be taken away. In this case, the humane organization must exercise diligence in uncovering the facts.

A legitimate complaint is one in which the complaint has some basis in fact. Treat all complaints as legitimate until they prove otherwise because it is essential that complaints receive prompt and adequate handling.

Investigators generally receive information regarding violations or cruelty in one of the following ways:

- Letters
- Telephone calls
- Personal visits to humane organization offices
- Encountered in course of duties

Letters

Complaint letters can be a problem. Unlike personal contact complaints, these letters usually do not contain sufficient information. Unfortunately, letters frequently arrive unsigned. Your first reaction is probably, "Let's put it in file 13 and forget about it." But doing that moves you backward, not forward. The proper reaction to such a letter is to investigate completely whatever information you have, on the chance that you uncover something that will fill in the missing pieces. If you throw the letter in the wastebasket, you might miss an important lead. For instance, a letter may state that a neighbor is keeping chickens in cages that are too small. When you investigate you find that the cages are small, but more importantly the "chickens" are really fighting cocks. While the letter caused you a little more work, it led to an important discovery.

If the complaint letter is signed, make every attempt to interview the writer prior to the investigation. This gives you the chance to gather other information not covered in the letter. Collect as much information as possible (e.g., names, addresses, any related past history,) prior to your first interview with the person against whom the complaint is made.

Telephone Calls

The person receiving the initial call regarding a complaint should make every effort to secure as much detailed information as possible. If an unsigned letter lacks pertinent details, you can accomplish nothing except through investigation. But the person taking the telephone complaint can request details that save valuable time during the subsequent investigation. Provide a check list for such calls that includes the following information:

- Who called?
- What is going on?
- Where? (exact location, both street and premises)
- When?
- How long has the situation been going on?

Try to secure the caller's telephone number. Tell the caller, "We are going to send an investigator out. Is there a phone number, where he can reach your or where I can call you back and let you know what happened?"

Realize that the Freedom of Information Act 5 U.S.C. 552 allows the suspect the right to find out who the person was that made the complaint. Furthermore, it is prudent to inform them that a court can order the release of certain information, but that this is a rare event and usually

only happens if they are called as a witness at trial.

You could also explain that the on-scene investigating officer may find situations that prevent him from completing the investigation. In such a case, a call back to the complainant could supply important details.

If the caller refuses to give his number, ask him to call you again after you've had time to check on his information. Ask him to refer to the case by number. This prevents loss of contact with the informant.

Visits to Office

When a complainant comes into the office, you have the best opportunity to gather all necessary facts. Sometimes, careful questioning of the complainant in the office results in information that shows the complaint to be unfounded, saving your investigator valuable time. If your investigator is in the office at the same time the complainant comes in, he should do the questioning. That enables him to deal with the respondent more knowledgeably.

Encountered in Course of Duties

Often personnel other than the investigator encounter complaints during the regular course of duties, or at any time. Any employee of a humane organization is likely to be stopped in the street, or anywhere about town, and told of some case which needs investigation. In such instances, people often fail to obtain information complete enough for the investigator to follow up. So, instruct all employees, members of the board, volunteers, or anyone connected with the organization in the basic procedure for

gathering information (who? what? where? when? how?).

Case Records

Accurate, detailed record keeping of complaints and case histories is vitally important. Many software programs on the market are tailored to animal welfare agencies and can integrate all aspects of shelter operations. Humane investigations software usually provides automatic case numbering and electronic storage of case history. Consult with local law enforcement agencies for information on how they keep records.

Quick access to records gives staff on the phone the chance to pull past and present information for investigating officers before work begins.

Report Writing

Good report writing depends upon the investigator's ability to be entirely objective. The five principles of good report writing include:

- Accuracy
- Completeness
- Brevity
- Fairness
- Format

Accuracy

Accuracy is the first principle of good report writing. In order to be accurate, the writer must record the truth only. A preliminary report may record your suppositions or beliefs, but support all information in your final report with fact. The final report is an exact recitation of the information obtained without any addition or subtraction. Being accurate may sound simple, but it is hardest to achieve. Even an experienced investigator takes great care to achieve and maintain accuracy in his reports.

Several things cause inaccuracy:

- Confusion of facts with hearsay
- Inability or unwillingness to distinguish between fact and opinion or conclusions (lack of objectivity, prejudice)
- The use of words which fail to express the exact meaning intended.

A fact is something the investigator himself has proven to be a fact. It is a fact only if the investigator personally observes the situation, or has seen overwhelming evidence which provides proof beyond reasonable doubt. It is all too easy to take a statement of another person and to describe it as a personally observed fact. In time, the agent may forget the hearsay

nature of the statement and begin to believe it to be factual, which can be embarrassing later. In reporting hearsay, precede the information with such phrases as "alleged to be," "believed to be," "characterized as," "described as," "said to be," "not verified." Accuracy depends upon separating fact from hearsay and distinguishing between fact, opinion, and conclusion.

If you fail to use words which convey to the reader the meaning intended, your report is inaccurate and misleading. The problem of making oneself understood through the medium of words is complicated by a number of factors. Certain words create emotional reaction; other words have several connotations or obscure meaning. Some words have a certain dictionary definition and a different daily use definition. Use simple, direct language, and select your words carefully. When in doubt about a word conveying your intended meaning, have another person read your account. If he doesn't understand your intended meaning, then revise it and use more explicit words.

Completeness

Completeness is the second principle of good report writing. It is equal to accuracy in importance. Completeness means reporting all facts gathered that may have a bearing on the case. Partially stated facts mislead as much as falsehoods. They can create a false picture in the reviewer's mind and lead to decisions which may appear ridiculous when the complete set of facts is reviewed. The reviewer knows only what is reported and makes decisions solely on what he reads, not what the investigator had in mind. Indicate explicitly what laws (by section or code no) have allegedly or actually been violated.

If you know that certain essential information is lacking, state so specifically. Outline your efforts to get the missing information and explain why it was not obtained. Take nothing for granted and make no assumptions in report writing. Put into the report all the pertinent and relevant information developed during the course of the investigation. Leave nothing to the reviewer's imagination. Do not ask him to "read between the lines." Do not assume the reviewer knows anything about the case. It's better to assume he has never heard about the case, never heard anything of the persons, places, or facts involved, and never even heard of you.

Brevity

Brevity is the third principle of good report writing. Although brevity and completeness appear at first glance to be inconsistent, there is really no conflict between the two. Completeness requires the inclusion of all relevant, pertinent, and essential information. Brevity demands the elimination of all irrelevant and unessential material. Achieve this by keeping unnecessary detail and matters with no bearing on the case out of the report. A mass of irrelevant material merely obscures important data. Avoid needless repetition as well. Ultimately, do not worry about writing a short report; consider instead whether or not it is a complete report. A bulky report is neither necessary nor best for every case.

To test reports for completeness and brevity, answer these two questions:

1. Are all essentials reported?
2. Are all unessentials omitted?

Fairness

Fairness is the fourth essential of good report writing. After an investigation, it may be difficult for you to be unbiased,

but make every effort to recognize your biases and their influence in your report. One way to achieve fairness is to report all the facts. Neither conceal nor withhold anything, even if it weakens the case or doesn't fit your conclusions. Withholding facts is a cardinal sin of good reporting. The prosecuting attorney decides whether or not a prosecution is warranted on the basis of your report. The prosecutor must know both the strengths and weaknesses of the case. If you go to court on a weak case, the prosecutor must be fully informed on those weak points.

Format

Format is the fifth essential of good report writing. This refers to the arrangement of the material presented as well as the visual form the report takes. The mechanical set-up refers to anything that would make the report more easily read. It includes, among other things, proper paragraphing, proper indentation, proper underscoring, and proper capitalization — in short, any device that sets out the most important points of the report. If a report is easy to read, if the reviewer can quickly find those parts of primary interest, then the report format is adequate.

Devise a standard report form. Consistency familiarizes others with your procedure and also ensures no pertinent details are left out.

Reports should contain the following information:

1. Types of crime
2. Complainant or victim
3. Suspects
4. Witnesses
5. Descriptions
 - (a) Persons
 - (b) Places
 - (c) Property

6. Conversations
7. Statements made by witnesses
8. Location of offense
9. Time of reporting of offense
10. Time of arrival at scene
11. Date of occurrence
12. Date and time of obtaining information contained in report
13. Name of investigating officer

Sample Report Format

Almost every agency that uses the narrative investigative report varies in presentation of material. However, reports often use these headings:

Title Page

Most investigative reports begin with a title page. The amount of information on this page is not consistent among agencies. Some of the headings are as follows:

File Number. Every case investigated should have a file number. The agency designates this number, which may take various forms.

Status. This refers to the condition of the case. Ordinarily a case is either pending or closed. Some agencies use other terms, but the fewer used, the less probability of confusion about the status of a case. A case is marked closed when the subject is tried, when the subject dies, when the investigation is completed, when the case is ordered closed by a superior, or when the prosecuting agency refuses to prosecute. When a case is not closed, it is pending. Never mark a case as “open,” which reveals nothing.

Date of Report. This date refers to the actual date on which the report is made. If it takes more than one day to write the report, use the date of completion. The date of the report marks the date of

conclusion of the dictation. The date of transcription from the dictation or from longhand is not the date of the report.

Report Made By. List the names of the investigators assigned to the case. If an investigator works on any phase of the case without having been assigned, then list his name in the body of the report rather than on the title page.

Period of Investigation. This means the actual period of investigation. It covers the time from the start of the investigation to the completion of the report. This does not usually refer to the time when the case came to the attention of the agency or when the correspondence thereon was initiated.

Title. Place under this heading the name, including aliases, and address of all persons who are subjects of the investigation. If there are many names, list all of them on the title page of the first report made on the case. Subsequent reports just show the name of the principal subject followed by the words “et al.” Put the last name first, followed by the first name and middle initial or middle name. If the subject is not identified, state that in the title. Some identifying information, however, should follow, describing the location of the offense in parenthesis. Also in this heading will appear the name and address and other pertinent information regarding the object of the offense.

Offense. This names the basic offense or crime for which the investigation was made.

Synopsis. This is a single paragraph, if possible, that sums up the details of the report, indicating the action taken and results obtained. It is a general view of the

entire investigation. It is the sum and substance of the investigation; the core of the investigation. A “synopsis” is not an abstract or extract; neither is it a restatement. It is the essence of the whole case. The purpose of the “synopsis” is to give the reviewer a general idea of the scope of the case and the information necessary for an intelligent understanding of the full report. To prepare a “synopsis,” review the whole case from beginning to end. Select the very essential elements, making brief notes. Condense these notes for a quick view of all the details. It may take numerous revisions before you are satisfied that the essence of the case is briefly and clearly set forth.

Details

After the title page insert section referred to as “details.” This section constitutes the narrative report of work done on the case. It embodies the answers to the essential questions: Who? What? When? Where? How? It pays attention to the cardinal principles of good report writing: accuracy, completeness, brevity, fairness and format. It also explains the sources of all information presented.

The first part of the “details” section usually briefly presents the basis for the investigation. The second paragraph usually indicates the authority upon which the investigation was made, and who directed the investigator to look into the matter. Include information in the opening “details” paragraph in the synopsis as well.

For ease of reference, capitalize all letters in a word in the following instances:

1. Capitalize the full name of a person when he is first mentioned. Thereafter, use and capitalize only the last name, if there are no others

of the same name mentioned in the report.

2. Capitalize all proper names (e.g., firms, businesses). When frequent reference to an agency is required, it is fine to refer to it by a short identifying name after it is initially set out in full.

A woman’s name is preceded by “Miss” or “Ms.” on first reference. Thereafter the last name in capitals is sufficient.

A man’s name need not be preceded by “Mr.”

For ease of reading, present a person’s description in tabular form.

When referring to a person whose name is unknown refer to such a person as “a man (or woman) name unknown, described as follows ...” Do not refer to persons whose names are unknown as “John Doe” or “Jean Doe,” or whatever else comes to mind.

Be specific in all references. Indicate the time as a.m. or p.m., including notes about the presence of daylight, if necessary. Follow a chronological sequence, which makes the report more readable and more easily understood.

Use abbreviations carefully. Whenever there is the slightest possibility of misinterpretation, do not abbreviate.

In summary, the “details” section says what the investigator did, what he found, who he contacted, and what information people told him.

Undeveloped Leads

Next comes a section of “Undeveloped Leads.” These include any uncontacted

sources of possible information, which for some reason you did not check. They may be leads you could not investigate or thought unimportant or unnecessary. If this is the case, list them anyway to show the reviewer that you considered them. Document undeveloped leads completely, with identifying information, so that another agency can follow up if necessary.

Conclusions

In “details,” the investigator cannot express conclusions or recommendations — only the facts as discovered. In the “conclusion” section, the investigator, who has handled the case and is familiar with all aspects of it from first-hand contact, can say what he thinks about the case. Remember that conclusions are not facts. Therefore, they appear in the report only when there is a section specifically set aside for that. In presenting “conclusions,” do so in a way that there is no doubt in the reviewer’s mind that they are anything other than conclusions. It helps, however, to note briefly the facts upon which conclusions are based since they may be the basis for recommendations.

List of Witnesses

In a final report of a case where prosecution is intended, provide a list of witnesses. This list contains the names and addresses of people who have information about the case and may be called upon to testify. You can add a brief statement to each name indicating the nature of the testimony each could give.

List of Exhibits

The final heading of the report is usually entitled “Exhibits.” This section names the articles classified as exhibits. Describe each one accurately. Do not attach the originals of the exhibits, as they represent material evidence gathered during the

investigation and as such their custody must be preserved. For this reason, attach copies, photographs, or other reproductions of the exhibits. Place the originals in the care of your agency’s evidence custodian or otherwise safeguard them. Letter or number reproductions of exhibits in the lower right-hand corner as a means of identification or reference. Use the file number in addition to the specific exhibit item number. Attach these reproductions to the report.

Investigation

Basically, we conduct an investigation to determine whether in fact an offense has been committed. An investigation shows the complaint to be either true or lacking justification.

Of course, there can be varying degrees between these two extremes. Complainants tend to emphasize only those facts they feel are important, so investigators supply additional facts to present a complete and impartial picture.

Plan your investigations in advance. A few minutes of preparation in the office may save several hours in the field.

1. Check your files for any previous complaints lodged against the respondent.
2. Check your files to see if the complainant is a “chronic” complainer or if previously reported cases, after investigation, proved unjustified. However, check all complaints, even those by known chronic cranks.
3. If you have a “cross-reference directory,” check for address validity.

Remember, a humane investigator is a humane officer, not a police officer. A “badge-happy” investigator is not a good representative for your organization and can cause poor public relations. Never allow a badge to influence your thinking. Avoid police attitudes. Instead of an authoritarian approach, make every effort to make the investigation informal and induce a friendly attitude.

Each agency must decide whether investigators will carry a side arm, either openly or concealed. Do not take this decision lightly. It depends in large part on

your level of authority, the expectations placed on your investigators relating to public or personal safety, and the availability of adequate liability coverage. In any event, if you anticipate a dangerous situation, ask for assistance from the local “traditional” law enforcement agencies. However, with more states making some animal crimes a felony and with the risk of criminals assuming any uniformed officer is a threat, it is increasingly difficult to avoid the potential of violent contacts in the field. Proper training in the “use of force continuum” and regular firearms qualifications are essential if side arms are issued.

To begin, approach the premises quietly and in a businesslike manner. Introduce yourself to the respondent and establish your authority to investigate by showing your credentials. Then, present the reasons for the investigation. Remember to include the following essentials: Who? What? When? Where? How?

WHO is the subject of the investigation? Who are the witnesses? Complainants? In answering the “who” question, be specific. The answer must be so specific that there can be no mistake about it. This must include the subject’s full name, address, occupation, and any available information that identifies the subject as an individual and sets him apart from all others.

WHAT happened? What is the case about? What kind of a case is it? Be specific. A general statement will not do.

WHEN did it happen? If the exact time of the occurrence of the offense cannot be fixed, then establish the inclusive period of time during which it probably took place. The time may be between certain days and certain hours of a particular day. Do not

say “last week,” “yesterday,” or other indefinite expressions. Be specific, and state a date and time.

WHERE did it happen? If possible, do not use just an address, but state where on the premises the offense occurred. To what area did the offense extend? Where did the suspect reside? Where were the witnesses located?

HOW was the offense committed? The answer to the “how” question constitutes a major portion of the report. Having written who the subject is, what he did, when he did it, and where he did it, the investigator must go into the necessary details to show how and by what means it was done. For some reason there is a tendency to neglect this portion of the report. It seems that the investigator feels after showing who, what, when, and where, the “how” makes no difference. But, if you neglect the “how,” you overlook the fact that you had to find out how before you could fully answer the other four questions. “How” should include method and instrument used (i.e., rope, gun, knife, hands) and method of use (i.e., hung by neck, shot in abdomen with a .22 cal. pistol).

Observation

To do your job as an investigator, you must be observant. Observation implies a clear mental picture of what is seen. It requires a study of detail and recognition that the whole picture is composed of many details. Most people see only a general picture. A trained observer sees not only the general picture, but also the many details that make it a whole. It is a critical skill. At any time, you may be called upon to describe, in detail, what you have seen.

To practice observation, step into a room, look around for one minute, and leave. Write down what you recall about the objects in the room and their position. Go back and check if you are right.

Right of Entry to Private Premises

The search of property without a warrant is legal only in certain situations, so thoroughly train investigators in local, state, and federal search and seizure laws. Any evidence obtained by fraudulent or illegal means is not admissible in court. In addition, any officer making an illegal search may be subject to legal penalties for illegal entry.

The consent of a person other than the one whose privacy is invaded is not legal grounds for search. For example, the owner of an apartment house cannot give his consent to search the apartment occupied by a tenant. The tenant’s privacy is being invaded, not that of the owner.

Searches of a person may normally be made incidental to an arrest, but only to the extent that the officer is addressing safety concerns or in some other limited circumstances. Property searches may also be made when the person whose privacy is being invaded gives consent. In some states, this consent must be put in writing. Either way, always obtain consent in writing to protect investigators and agencies from lawsuit and to protect the integrity of any evidence discovered. Written consent ensures the admission in court of any evidence obtained.

The third way to accomplish legal search is with a search warrant. The search warrant is justified on grounds of probable cause and is issued only upon conformity to specific legal requirements. A search

warrant may be issued by a proper court based on a deposition or affidavit showing probable cause to believe that certain evidence is in a particular place. This evidence must be stolen property or property used in the commission of an offense. For humane purposes, “property” may be an animal upon which a crime is being perpetrated. The property sought must be described in the search warrant. In addition, it must specifically name the place to be searched. The warrant then alleges that the property sought is, or is believed to be, in the place designated in the warrant.

The search warrant cannot be issued merely because there is suspicion, belief, or affirmation that property used in the commission of an offense is on a particular premises. There must be reasonable grounds or probable cause to issue a search warrant. In fact, in most states it is a misdemeanor to “maliciously and without probable cause procure a search warrant or a warrant of arrest.”

Generally, only a law enforcement officer can seek and serve a search warrant, but any investigator can provide statements or evidence to establish probable cause for the warrant. Laws vary from state to state, so again, thorough training in search and seizure laws is critical. Most search warrants can only be served in the daytime unless they state otherwise. At the time a warrant is executed, officers must give a written receipt for any property taken.

A search warrant, however, is not necessary for seizure of illegal property or property (such as an animal) involved in the commission of a crime, if the property is in plain view, from an area you have a legal right to be.

This information is not intended to set forth the entire law, but rather to indicate common restrictions and limitations. Inform yourself about the laws and statutes pertaining to the arrest, search, and seizure in your jurisdiction. The penal code and the court decisions of your state are good sources for this information.

Whether executing a search warrant or investigating a complaint, investigators inevitably interrogate people with whom they come in contact. If a crime has been committed and the person being interrogated is or becomes suspected of committing that crime, investigators must advise the suspect of his right not to answer questions, that anything he says may be used against him in court, and that he is entitled to representation by counsel. The courts strictly require adherence to these standards as conditions for admissibility of the suspect’s statements, admissions, or confessions in the trial of criminal cases.

Possible Outcomes

In the course of your investigation, you will find variations of one of the following situations:

- There was no justification for a complaint.
- There was some justification for a complaint, but education will take care of it.
- There was justification for a complaint, and prosecution is the only answer.

The first two situations will make up most of your investigations. If the complaint is obviously a misguided or vindictive complaint, cut short the investigation. There is no reason for prolonging it. Thank the respondent for his cooperation, perhaps offer the services of your

organization, and generally try to make a friend. Return to the car and make out your report. Contact the complainant and tactfully explain the situation. Be sure to keep records of these kinds of complaints, even though the complaint was unjustified. They may be of use in identifying chronic complainants, or they may turn out to have substance later.

For example, the second type of case might involve a horse owner who did not know that a horse could not graze all year on only a half acre of ground. In such a case, explain the quantity and types of food horses require for good health. Also, suggest any helpful literature. If you are not familiar with the requirements of a certain species of animal, contact a veterinarian and have him make suggestions for proper care and feeding. Zoo curators can often help with questions about “exotic animals.”

Remember that investigating a situation involving information and experience you lack may disqualify you as a competent witness. Many humane workers are conversant only with problems relating to dogs or cats, even though they are properly concerned with the welfare of all animals whether small, large, or exotic. Concern is not enough, however, in a court of law. Do not attempt to investigate cases in which you are not expert. Investigations involving horse racing, dog racing, horse or dog shows, exotic or wild animals, and the like usually require expert knowledge.

In any event, extend every opportunity to an owner to correct a wrong situation. Most people try to cooperate if approached in the proper manner. This too is a chance to make another friend for your organization. As soon as you have thanked the owner for his cooperation, tell him you

will check back later to see how he is getting along.

When you return to your car, sit down and immediately write out your report before you do another thing. This prevents you from “forgetting” details of the investigation. Don’t try to rely upon your memory. No one’s memory is perfect; we all forget things. Then, inform the complainant of your progress. After a reasonable period of time, check back with the respondent to see if he is carrying out your recommendations.

The third situation, where prosecution becomes necessary, occurs after you’ve given reasonable opportunity to resolve the situation, and the only remaining means of correction is legal action. Sometimes, an offense has been committed with such cruel and willful intent as well as sufficient proof to support immediate court action. (Intent simply means a purpose or resolve to do an act.) Investigators must decide if there is sufficient proof among the evidence gathered. That is why, if prosecution is the only recourse, be sure your investigation is complete in every detail.

Sufficient Proof

Here are some suggestions about the type of evidence to support a court case (aside from reports and records, which constitute a major portion of your case):

Photography

If it is possible to take photographs and videos of the scene and victim (an animal in our case), be sure the photographs contain all physical elements involved. Establish the time and location of your photos so that they may be identified as having been taken at the place where the offense was committed. If the offense is of

great enough interest, and your relations with the police department or sheriff are good, enlist the services of their photographer. If you can do this, it strengthens your case.

Preservation of Physical Evidence

If you collect physical evidence, and in many cases this will be necessary, use a cupboard or locker where all evidence can be securely locked. Tag each piece of evidence with the information needed to identify it at a later date — case, date, time, investigator, owner's name, whether to be returned to owner or not.

Expert Testimony

Expert testimony supplements your testimony and that of other witnesses. It immeasurably helps your case. For our purposes, the expert is usually a veterinarian who can describe the animal's medical condition for the court. Courts usually accept a veterinarian's suppositions and evaluations more readily than those of the humane officer. For example, the veterinarian might evaluate x-rays for the court, if x-rays constitute a major portion of your case. In other instances, your expert might be a horse trainer, zoo curator, health official, or wildlife expert.

Investigational Example

Let's walk through a typical investigation to get an idea about some of the procedures involved.

Let's say it starts with receipt of a complaint that about an individual who is allegedly starving his hound, which is kept in a rather small backyard in a residential neighborhood.

The complainant telephones the humane agency with this information, and

somewhat reluctantly identifies herself as next-door neighbor to the respondent. The humane agency informs her that it will look into the situation as soon as possible.

Staff checks files for the complainant's and the respondent's names to see if either appears previously. In this particular case, both names are new. (If there are indications that other agencies may have had contact with either party, it's a good idea to contact those agencies and compare notes.)

Because the respondent's address is known and since nothing further can be learned from the files, the complaint goes to an investigator. Since the respondent lives in a respectable neighborhood, and no previous complaints have been received, the investigator decides it is proper to make the investigation in plain clothes and in an unmarked car. This is done to avoid arousing any unnecessary hostility from the respondent and also to prevent the investigation being used as a vindictive device by the complainant.

At this point, since the investigator is merely gathering facts, a friendly, casual initial contact is advisable. The agent introduces himself to the respondent and establishes his authority to investigate by showing his credentials. (Always present your credentials whether they are asked for or not.) Since the complaint may turn out to be false, the agent asks in a reasonable manner to see the conditions under which the dog is being held. Since he has approached in a reasonable and friendly manner, there is no reason he should be turned down. However, if the approach is made in a callous, authoritarian manner, there is a possibility that the respondent might react unfavorably

and demand that a search warrant be obtained.

Arrest

In the event that subsequent investigation shows the necessity for arrest, here's what you need to know.

Arrest is a physical apprehension or the taking of a person into custody so that he or she may be available for arraignment or trial of an offense. Arrest constitutes suspension of the liberty of a person and can be one of the most dangerous actions taken by an officer. For this reason only officers with significant training in proper arrest and safety procedures should attempt an arrest. **Since arrests are rarely necessary in the humane investigations field, it is best to work with traditional law enforcement agencies to accomplish an arrest.**

The arresting officer must be acting under lawful authority. His purpose must be to take the subject into custody. There must be a seizure of the person either actual or constructive. The subject must understand that he is being placed under arrest for trial of an offense real or alleged. The subject must be informed of the section of law under which he is being arrested.

Arrest is a serious act. It may be legal or illegal. If illegal, the arresting officer places himself and his organization in jeopardy, for the victim may not only repel him with all the force at his command, but he may seek redress against him under the law.

There are two types of arrest: with or under a warrant and without a warrant. A warrant for arrest is a written judicial order commanding the arrest of a specific person. It is issued in the name of the

people and signed by a magistrate. For an arrest under a warrant to be legal:

1. The warrant must be in possession of the officer making the arrest.
2. The warrant must be valid and must be personally signed by the magistrate and properly completed.
3. The officer must be certain he is arresting the person named in the warrant
4. The officer must show the warrant to the person being arrested, inform the person of his intention to arrest him, the authority for the arrest, and the reason for the arrest.

An officer may make an arrest without a warrant under the following conditions:

- When an offense is committed or attempted in his presence regardless of degree. In some states, arrest for misdemeanors is limited to those which are classed as breaches of the peace.
- When the person has committed a felony but not in the presence of an officer.
- When a felony has in fact been committed, and the officer has reasonable grounds to believe the person arrested committed the felony.
- On a charge made upon a reasonable cause that the person arrested committed the felony, as a "Wanted" notice.
- When there are reasonable grounds that a felony has been committed by the person arrested.

Now you will note that most of these rules refer to a felony. Therefore, the occasions on which you may make an arrest without a warrant are, for the most part, limited to arrests for offenses committed or attempted in your presence. Mere

suspicion that an offense of any degree has been committed is not enough. And reasonable cause to believe that a misdemeanor has been committed is not lawful grounds to arrest for a misdemeanor.

An arrest is not a public spectacle. It should be made as quietly and inconspicuously as possible. The investigator is usually in a position to determine the place and time for the arrest and should choose the situation with the foregoing in mind.

When you seek to make an arrest, you must inform the subject: (1) of your intention to arrest him; (2) of the reason for the arrest; (3) of your authority to make it. However, if the subject is engaged in the commission of an offense or in an attempt to commit an offense, the cited procedure maybe omitted.

You are not vested with titanic powers. In fact, you have no more authority to make an arrest without a warrant than does any other citizen.

The arrest is made by actual physical restraint of the subject, or by his submission to the custody of an officer. You cannot exercise any more restraint, or use any more force than is necessary to make the arrest. Should you exercise more restraint or greater use of force than is necessary, you become guilty of assault and battery, or even homicide should death follow.

In most cases, you will not need to make an arrest yourself. This can be done under warrant by the regular law enforcement agencies. In fact, make every attempt to avoid making an arrest yourself. There will be few cases where an arrest without a

warrant will be necessary. Let the police department handle this end of the problem.

Before making an arrest, or seeking a warrant of arrest, consult with the prosecuting attorney and get his opinion of the evidence. Since he will do the work once the arrest is made, he should be convinced of the validity of the charges. This is another, if not the most important, reason to develop cordial relations with the cooperative departments.

Preparation for Court Appearance

One of the more neglected aspects in the training of investigators is the procedure in the courtroom and on the witness stand. Appearances in court are part and parcel of the profession of law enforcement. It is in contested court cases that the investigator proves his worth. Poor testimony on the witness stand can undo all the good work in the field. This in no way lessens the importance of a good investigation, for the courtroom is the final test. Here the public is made fully aware of the investigation. The public forms its opinion not only upon the substance of the officer's testimony but also upon his conduct on the witness stand.

If you think that testifying in court is a simple matter, you are due for a surprise. Confronting a skillful defense counsel in the courtroom can be most trying.

To prepare yourself for the witness stand, make yourself familiar with the case no matter how long ago the investigation occurred. Never let yourself be caught in the position of having to testify about a case investigated a long time ago without a careful, thorough review of the case. If you fail to review the case, or rely on your memory alone, your testimony will result in confusion, misstatements, omission of material facts, and inconsistencies. It will reflect disrespect on you and your organization.

When you are on the witness stand, you are on the spot because you are an enforcement agent. You are looked upon as an interested party — often even as biased and prejudiced. The defense counsel may force these ideas and accentuate the one that is most effective on the jury.

On the Stand

While on the witness stand, follow these points of conduct:

Tell the Truth

Your purpose in testifying is to assist the court in arriving at the true facts so that a just decision can be made. Relate the facts as you know them. That is your sole function on the witness stand.

Don't Be Fearful

This statement may seem strange, but the courtroom is a most formal setting. The fact that you are in the courtroom, the center of attention, may make you self-conscious, ill at ease, or even timid. Maintain your poise. Look squarely at the lawyers, the judge, and the jury. Tell the facts; telling them gives confidence. Take your time in answering questions.

Be Prepared

Refresh your memory about all facts relative to the case. Visualize your testimony as a chain of events in order of occurrence. Do not memorize notes, but use them as a refresher. If you have the facts well in hand, your presentation will be interesting and acceptable.

Listen to the Question

Be sure you understand the question before attempting to answer it. Failure to get the precise meaning of the question can be a source of embarrassment to the witness. Some attorneys capitalize on this and harass the witness by asking questions in a low voice, making it necessary for the witness to ask that questions be restated. The attorney, then, uses the request for continuous restatements to imply that the witness doesn't know what is going on. It is a means to discredit the witness. If needed, the witness can ask the judge to tell the attorney to speak so that he can be

heard or to ask a question in a more understandable way.

Be Frank, Modest, Natural

Always be yourself. Speak in a steady, clear, conversational voice. Nothing impresses a judge or jury more than modesty. Frankness, modesty, and naturalness are qualities that people like, especially in court.

Do Not Volunteer

There is always the temptation to go beyond the statement of facts. Keep in mind that you are not asked to make a speech. Your only duty is to answer the questions truthfully, and briefly. Do not argue the facts or draw conclusions from them.

Keep Control of Emotions

If you lose your temper on the witness stand, you discredit yourself and prejudice the case. Ignore insults, attempted badgering, or the like. If the judge permits these tactics by counsel, there is nothing you can do but take it. Retain your poise and remain calm. Conserve your mental resources for answering questions in a dignified manner. Do not rise to the bait of the attorney who is trying to get you to lose your temper.

Be Courteous

Even though a question may be ridiculous or absurd, and the judge permits it to stand, answer it without any demonstration of contempt or sarcasm.

Be Heard

At all times, speak so that the judge and jury can hear you. Testimony is worthless unless it can be heard. Don't make the judge ask you to speak up. Don't shout, but don't make it appear that you and the attorney are holding a secret session. The

judge and jury resent it. Remember that a trial is a public hearing, and the defendant's liberty is at stake.

Watch Appearance

Sit erect on the witness stand. Sprawling or slouching creates a bad impression. Don't lean forward with elbows on knees. Be comfortable but sit tall. Testify in a businesslike way. Dress neatly. Don't carry side arms or other police equipment unless you are appearing in your normal uniform. Make sure your cell phones, pager, and radio are turned off.

Trial

An interrogation of a witness usually commences with the prosecuting attorney asking, "Now while you were in the vicinity of the location detailed in the complaint at (here the time of day and date are inserted) tell us in your own words what you observed." This is when you repeat the facts contained in the complaint exactly as you observed them. If you need to refer to notes or memoranda of any kind, ask the court's permission to do so. Permission is usually granted. After you have refreshed your memory, look up and answer the question. Try not to read the answer. Look at it, digest it, and answer the question.

In some instances, you may be tempted to introduce into the testimony a few details you did not actually see but you believe will help the case. This tendency may crop up when you are certain that the defendant is guilty, but you are aware of a small loophole through which the defendant may escape punishment. DON'T DO IT. If you have done your job properly, there is no need for it.

Cross Examination

To familiarize yourself with courtroom procedure, attend a number of trials. This will also help you understand the atmosphere of the court, and give you a chance to observe the tactics of defense attorneys. It is the defense attorney's duty (to his/her client) to question you on your story. Generally, the defense attorney will try to demonstrate that a witness could not have recorded the events he claims to have seen. Defense attorneys will try to work on a witness, get him excited and confused, then pound away at any discrepancy in his story. Remember usually their only chance of beating the case is to discredit the witness.

When you are undergoing cross-examination, be responsive to all questions, but no more. Don't be talkative. Do not be evasive. If questions can be answered "yes" or "no" give that answer. "I believe so" and "I think not" are not proper answers. Remember, the less you say the less you can be cross-examined.

Many officers make too great an effort to appear alert. They may even answer questions before the questioner has finished asking the question. Again, don't do it. An alert appearance is readily secured just by not slouching in the witness chair and by answering the questions in a normal tone of voice. Take an adequate amount of time to understand the question before answering it. A short question not appearing to be of great importance may seem to require an immediate answer. But, such a question on cross-examination may be what is called a "zinger," or in other words, a question to trap you. If the question isn't clear, then ask that it be repeated. If the answer is not known, admit it freely by stating "I do not know," "I can't remember," or "I didn't

see that." If possible, add the reason for not knowing or remembering. Above all, don't become excited or panic if you don't know the answer to a question.

In summary, the object of cross-examination is to test the witness':

1. Opportunity for observation
2. Attentiveness in observing
3. Train of recollection
4. Disposition to speak the truth

The witness who can withstand a rugged cross-examination without altering his base testimony is a good witness.

Expert Testimony

There are many subjects for which expert testimony is not required. However, when possible, it is advisable to have a veterinarian testify in cases involving animals. A veterinarian's testimony will be admitted as that of an expert, and as being unbiased. The supporting testimony of an expert usually helps your case. Some courts will pay for the costs of an expert while he is testifying.

Sometimes a humane officer is presented as an expert. The defense attorney may ask you if you are an expert. Be very sure you qualify in background knowledge and training before you assume the role of an expert and then deal only with matters you are qualified to judge. Do not get involved in matters of medical treatment, nutrition, or the like unless you have a degree in such studies to back you up.

The judge or jury is expected to decide the case on the basis of the facts presented during the course of the trial. It has no other basis for a decision. Justice is dependent upon the presentation of all the facts. The absence of some of the facts may result in the drawing of unfounded

conclusions. No court is willing to judge a defendant guilty unless completely convinced that the accused is guilty beyond all reasonable doubt. It will be up to you, the investigator, to supply all the facts necessary to win the case once prosecution goes forward.

Conclusion

Humane investigators, whether armed or unarmed, in uniform or plainclothes, need the proper resources to do their job well and maintain their safety. Resources range from having the proper equipment to having adequate training to having good support and understanding from their supervisors.

- Keep equipment in good working order.
- Keep vehicles clean, well maintained, and stocked with equipment necessary to perform regular duties.
- Provide officers with sufficient finances to maintain their uniforms or duty clothes, and replace equipment when it reaches the end of its useful life.
- Provide regular training, both to enhance the officers' credibility and to increase confidence in their own skills and abilities. Regular training also provides opportunities to establish communication with, and learn from, other officers and investigators.
- Consider laptop computers for mobile office capabilities.

In short, the success of a humane investigations program depends on the caliber of people hired to do the job. The ability to hire qualified people and maintain stability in your program depends largely on how well you support their efforts and ensure they have access to all the resources necessary to meet your expectations.

In summary, remember the following points:

- Know your laws.
- Obtain official appointment.
- Receive proper training (this includes training in the animal care field).
- Remember the essentials of investigation (Who? What? When? Where? How?)
- Gain the cooperation of the prosecutor and other enforcement agencies.
- Keep the complainant informed of your progress.
- Remember that education is better than prosecution.