

**The Kids Aren't Alright:
A Critique of Animal Cruelty Statutes and the Juvenile Justice
System in Kentucky**

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On January 24, 1989, Ted Bundy was executed in the electric chair at Florida State Prison in Starke, Florida.¹ As one of the most notorious serial killers in American history, the sound of his name can send a cold chill down one's spine. Although he was never convicted for the deaths of all the 26-57 suspected victims, his trial and subsequent execution seized the attention of the general public and media networks alike.² People could not fathom how and why a man would commit such heinous acts against other human beings. In addition to the gruesome details of the murders, the media primarily focused on why Bundy was such a callous individual. Countless psychologists and psychiatrists rushed to share their theories about his troubled childhood and introverted personality. Despite the doctors' belated claims that Bundy was a ticking time bomb, his friends, coworkers, and neighbors never saw it coming.

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¹ Florida Department of Corrections, *Timeline 1989: A History of Corrections in Florida*, <http://www.dc.state.fl.us/oth/timeline/1988-1990a.html> (last visited June 9, 2010).

² STEPHEN G. MICHAUD & HUGH AYNESWORTH, *THE ONLY LIVING WITNESS: THE TRUE STORY OF SERIAL SEX KILLER TED BUNDY* 339 (Authorlink Press 1999) (describing the tally of Bundy's suspected victims).

Unlike many violent offenders, Ted Bundy was highly intelligent, educated, and respected by those who knew him. Despite his shy and introverted personality, he was socially involved throughout his high school and college years and never behaved aggressively in social situations. Yet Bundy's history of cruelty to animals could have served as the proverbial "canary in a coal mine." More specifically, Bundy's violent acts toward animals as a child were indicators of underlying mental disturbances and predictors of future violence. Nevertheless, his gruesome hobby of torturing animals was disregarded as youthful indiscretion. Consequently, Bundy evaded necessary psychological treatment and eventually turned his aggression toward human beings.

Developments in the field of psychology indicate the unmistakable connection between child abuse, animal abuse, and eventual escalation of violence by those abusers.³ The connection has been noted by Dr. Randall Lockwood, vice president of the Humane Society of the United States, "[w]hile not everyone who abuses animals becomes a serial killer, virtually every serial killer first abused animals."⁴

³ See Kara Gerwin, *There's (Almost) No Place Like Home: Kansas Remains in the Minority on Protecting Animals from Cruelty*, 15 KAN. J.L. & PUB. POL'Y 125, 137 (2005). "A number of studies have been conducted which support the validity of the link between animal abuse and later acts of violence against people These studies, ranging from sociological, to psychological, to psychiatric, to biomedical, show the link between childhood cruelty to animals and later criminal and violent acts." *Id.*

⁴ Jared Squires, *The Link Between Animal Cruelty and Human Violence: Children Caught in the Middle*, 8 KY. CHILD. RTS. J. 2, 3 (2000) (citing Elaine D'Aurizio, *Animal Abuse A Tragic Warning Sign*, THE RECORD (No. New Jersey), April 25, 1999, at N01).

The recognition that serial killers often exhibit animal-abusing characteristics is not a recent development.⁵ In fact, the FBI has known about the link between animal cruelty and human violence for decades.⁶ Despite the Legislature's progress in child protection services, the outdated laws concerning animal cruelty hinder the prosecution of animal abusers. Furthermore, the focus on confidentiality in juvenile proceedings, coupled with insufficient animal law, hinders the recognition and treatment of juveniles that display violent tendencies. Nevertheless, the rehabilitative goals of juvenile adjudication serve as a strong foundation that can work, in tandem, with stronger animal laws to recognize potentially dangerous juveniles. Early recognition of serious mental disturbances is crucial to rehabilitation and may prevent later violence caused by these "at risk" individuals.

This work explores the relationship between cruelty toward animals and interpersonal violence. Part I of the paper discusses the importance of preventing animal cruelty as a means to decrease violence against humans. In exploring the connections between animal cruelty and human violence, research developments indicate the prevention of violence against animals goes beyond moral obligations and deterring socially unacceptable behavior. The paper evaluates statistical data, as well as social and clinical research to evaluate the links between childhood animal cruelty and later acts of violence, animal cruelty behaviors and diagnoses of psychological disorders in children, and animal abuse and domestic violence. Rather than relying

⁵ *Id.*

⁶ *Id.* at 4 (citing Cathy Corder, *Violent Connections*, 8 CHILDREN'S VOICE 2, 3 (1999)).

on moral responsibility of humans to protect animals from needless harm, this paper emphasizes the necessity of humans to protect animals in order to better protect themselves.

Part II of the paper identifies obstacles unique to the state of Kentucky in preventing animal cruelty and associated human violence. It discusses flaws of animal protection statutes as well as how these statutes combine with the juvenile justice system's confidential and rehabilitative characteristics to ultimately hinder recognition of youths at risk of committing later acts of violence. Part III of the paper proposes several methods to resolve or mitigate these problems. Societal recognition of the connections between animal cruelty and interpersonal violence, updating and implementing stricter animal protection statutes, and working within the juvenile system to identify, rehabilitate, or monitor at-risk youths will all prove to be worthwhile efforts to revive an increasingly violent society.

I. SOCIETY'S NEED TO PREVENT ANIMAL CRUELTY IS MORE THAN A MORAL ARGUMENT

In the words of Mohatma Ghandi, the pioneer of non-violent expression and remonstrance, "The greatness of a nation and its moral progress can be judged by the way its animals are treated."⁷ However, the need for harsher animal laws is not merely the next logical step towards a more perfect, moral society. Rather, the incompetence of these laws hinders the early recognition of potentially dangerous individuals. Researchers, animal rights activists, social service professionals, and law enforcement officials acknowledge that children

⁷ Cary Silver, *Extinct Is Forever*, 164 THE ROTARIAN 20, 21 (Mar. 1994).

who are abusive to animals pose a higher risk of later violence against humans.⁸ Despite the strong connections between animal abuse and later acts of violence, animal cruelty in children is often seen as harmless childhood pranks.⁹ Nevertheless, the need to strengthen and enforce animal cruelty laws goes beyond the need to deter socially unacceptable behavior. With respect to the correlation between animal abuse and interpersonal violence, the enforcement of cruelty regulations is essential for the recognition of children in need of psychological evaluation and treatment as well as the protection of society as a whole from at-risk children.¹⁰

A. THE LINK BETWEEN ANIMAL CRUELTY AND INTERPERSONAL VIOLENCE

“Cruelty to animals has long served as a red flag in law enforcement circles with respect to extremely violent offenders.”¹¹ It is well known that there is a strong connection between childhood animal cruelty and adult deviance or violence. “A wealth of research within forensic settings has demonstrated disproportionately high rates of [childhood cruelty to animals] in the histories of violent adult

⁸ Christopher Hensley & Suzanne E. Tallichet, *Childhood and Adolescent Animal Cruelty Methods and Their Possible Link to Adult Violent Crimes*, 24 J. INTERPERSONAL VIOLENCE 147, 157 (2009).

⁹ See Squires, *supra* note 4, at 4.

¹⁰ Humane Society of the United States, *FIRST STRIKE: THE VIOLENCE CONNECTION* 10–11 (2008), http://www.humanesociety.org/assets/pdfs/abuse/first_strike.pdf.

¹¹ Hensley, *supra* note 8, at 148.

offenders.”¹² Overwhelming statistics show that violence towards animals, especially during childhood, may be an indicator of severe mental disturbances and predictive of later violence toward humans. In fact, in a study of 28 incarcerated sexual offenders, 36% had abused animals in childhood and 46% had abused animals during adolescence.¹³ More disturbingly, police researchers in Sydney, Australia found that animal abuse is a better predictor of sexual assault than previous homicide, arson, or weapon offense convictions and 100% of sexual homicide offenders reported having been cruel to animals.¹⁴ Results indicated that a statistically significant relationship existed between childhood cruelty to animals and later violence against humans.¹⁵ Furthermore, the study found, consistent with prior research, that violent offenders were significantly more likely than nonviolent offenders to have committed acts of cruelty toward pet animals as children.¹⁶ Research has also suggested a continuum of

¹² Mark R. Dadds, Clare Whiting & David J. Hawes, *Associations Among Cruelty to Animals, Family Conflict, and Psychopathic Traits in Childhood*, 21 J. INTERPERSONAL VIOLENCE 411, 412 (2006).

¹³ Fiona Becker & Lesley French, *Making the Links: Child Abuse, Animal Cruelty and Domestic Violence*, 13 CHILD ABUSE REV. 399, 403 (2004) (citing ROBERT K. RESSLER, ANN W. BURGESS & JOHN E. DOUGLAS, *SEXUAL HOMICIDE: PATTERNS AND MOTIVES* (Lexington Books, 1988)).

¹⁴ American Humane Association, *Quick Facts: Why Is The Link Important For . . . Law Enforcement?*, <http://www.americanhumane.org/human-animal-bond/> (last visited Feb. 5, 2010).

¹⁵ Becker & French, *supra* note 13, at 403.

¹⁶ Linda Merz-Perez, Kathleen M. Heide & Ira J. Silverman, *Childhood Cruelty to Animals and Subsequent Violence Against Humans*, 45 INT'L J. OFFENDER THERAPY & COMP. CRIMINOLOGY 556, 570 (2001).

violent behaviors that may predict violent behavior in the future.¹⁷ Violent offenders were more likely to report committing direct acts of violence such as engaging in sexual activity with an animal, stabbing, burning, or dismembering an animal.¹⁸ However, nonviolent offenders were more likely to be involved with less severe or distanced acts of cruelty toward animals.¹⁹ Although the correlation between animal abuse and interpersonal violence is strong, specifics such as methods of cruelty used, type of animal targeted, age at which cruelty began or was witnessed, and personal responses to the cruelty, for example, will shed light on the underlying violent connections.²⁰

B. CANARY IN A COAL MINE

“They who delight in the suffering and destruction of inferior creatures, will not be apt to be very compassionate or benign to those of their own kind.”²¹ Such cruel behavior is not surprising and is often expected from “hardened criminals.” A child’s cruel conduct towards animals, however, is a warning sign of the child’s lack of empathy and potential mental illness.²² Anthropologist Margaret Mead suggests that animal cruelty in children may be a diagnostic sign of spontaneous,

¹⁷ See Hensley & Tallichet, *supra* note 8, at 155.

¹⁸ *Id.* at 150.

¹⁹ *Id.*

²⁰ *Id.* at 151 (citing to the study conducted by Merz-Perez, Heide & Silverman).

²¹ Gary L. Francione, *Animals, Property and Legal Welfarism: “Unnecessary” Suffering and the “Humane” Treatment of Animals*, 46 RUTGERS L. REV. 721, 736 (1994) (quoting John Locke).

²² See Dadds, Whiting & Hawes, *supra* note 12, at 426.

assaultive character disorder.²³ If diagnosed early, treatment could prevent that child's long career of episodic violence and murder.²⁴

Cruelty to animals is listed in the *Diagnostic and Statistical Manual for Mental Disorders* (DSM-IV) as a symptom of conduct disorder.²⁵ Conduct disorder is "a repetitive and persistent pattern of behavior in which the basic rights of others or major age-appropriate societal norms or rules are violated."²⁶ Along with animal cruelty, other symptoms of conduct disorder include forcing sex on someone, physical cruelty to other people, and use of a weapon that could potentially cause serious harm.²⁷ Much like other illnesses listed in the DSM-IV, the treatment of conduct disorders in children requires early intervention.²⁸ Similarly, early intervention and treatment of these children is crucial to their total rehabilitation. Failure to treat such conduct disorders in children often leads to the escalation of violence in that child's future.²⁹ In fact, cruelty to animals is often one of the first signs of conduct disorder and is strongly correlated with future offenses involving drugs, property, disorder, and/or violence.³⁰

²³ Margaret Mead, *Cultural Factors in the Cause and Prevention of Pathological Homicide*, 28 BULL. MENNINGER CLINIC 11, 22 (1964).

²⁴ *Id.*

²⁵ Juvenile Justice Bulletin, *Animal Abuse and Conduct Disorder*, (2001)

http://www.ncjrs.gov/html/ojjdp/jjbul2001_9_2/page5.html.

²⁶ American Psychiatric Association, *DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS* 98 (4th ed., 2000).

²⁷ *Id.*

²⁸ See Becker & French, *supra* note 13, at 411.

²⁹ See *id.* at 403.

³⁰ Juvenile Justice Bulletin, *supra* note 25.

Though a disputed hypothesis, some psychologists suggest that behavioral issues involving animal cruelty may stem from a compromised ability to experience feelings of empathy.³¹ Empathy entails the cognitive and emotional elements of understanding and identifying with another's response.³² Witnessing or committing acts of animal cruelty interferes with the development of empathy in children and may affect the likelihood of violent behavior in adulthood.³³ Conversely, children who have healthy, strong bonds with their pets have higher empathy scores as well as greater empathy toward people than children who lack these emotional connections to their pets.³⁴ Due to the potential severity of childhood mental illness, acts of animal cruelty should be recognized and treated rather than ignored.³⁵ Mead warns that "one of the most dangerous things that can happen to a child is to kill or torture an animal and get away with it."³⁶

³¹ See Samara McPhedran, *Animal Abuse, Family Violence, and Child Wellbeing: A Review*, 24 J. FAM. VIOLENCE 41, 47 (2009); Samara McPhedran, *A Review of the Evidence for Associations Between Empathy, Violence, and Animal Cruelty*, 14 AGGRESSION & VIOLENT BEHAV. 1, 1 (2009).

³² Samara McPhedran, *A Review of the Evidence for Associations Between Empathy, Violence, and Animal Cruelty*, 14 AGGRESSION & VIOLENT BEHAVIOR 1, 1 (2009).

³³ *Id.* at 2.

³⁴ See Becker & French, *supra* note 13, at 404; see generally Frank, R. Ascione & Claudia V. Weber, *Children's Attitudes About the Humane Treatment of Animals and Empathy: One-year Follow Up of a School-based Intervention*, 9 ANTHROZOOS 188 (1996).

³⁵ See generally Mead, *supra* note 23.

³⁶ Laurie Crawford Stone, *Through the Looking Glass, Watch the Early Signs: Animal Cruelty Spawns Human Violence*, <http://www.prairieden.com/stone/warning.php> (last visited June 9, 2010).

Because animal laws are outdated and unresponsive, animal cruelty and abuse is often unpunished.³⁷ The failure to prosecute animal abusers hinders the opportunities for necessary rehabilitation and mental disturbances are left untreated.

C. ANIMAL ABUSE AS AN INDICATOR OF FAMILY VIOLENCE

The failure to prosecute animal abusers negatively affects the offender as well as the offender's family unit. Although many cases of animal cruelty aren't prosecuted or reported, the abusive acts of a parent, sibling, or family member against a companion animal in the home are sufficiently injurious to qualify as child abuse in itself.³⁸ The definition of abuse in the Kentucky statute includes the "infliction of physical pain, injury, or mental injury, or the deprivation of services by a person which are necessary to maintain the health and welfare of a person."³⁹ It is indisputable that the abuse of a companion animal is incredibly traumatic for a child.⁴⁰ In fact, many perpetrators harm or

³⁷ See Pet-abuse.com, *Yearly Animal Abuse Report: 2009 Yearly Report*, http://www.pet-abuse.com/pages/cruelty_database/statistics.php (follow "Report of Abuse Types (by year and/or state) hyperlink; then select "ALL US States" and "2009") (reporting only 13 animal abuse and neglect cases for 2009 in Kentucky out of 804 nationwide). Despite the significant underreporting and failure to prosecute, even the 13 cases that were reported for Kentucky resulted in only 3 convictions.

³⁸ Domestic and family abuse commonly includes controlling behavior. Threatening or harming pets is often used to establish or exert control over others. See McPhedran, *Animal Abuse*, *supra* note 31, at 42.

³⁹ KY. REV. STAT. ANN. § 508.090 (West 2006).

⁴⁰ "A companion animal can, in abusive relationships, be the only source of affection or comfort for an abused individual and thus threatening, hurting, or killing that

threaten pets as a way to control, harm, or threaten others in the household.⁴¹ These types of behaviors could constitute a “mental injury” upon a child sufficient to satisfy the statutory definition of child abuse. However, evidence of animal abuse, without further evidence of an abused child, is rarely considered a serious offense warranting intervention by authorities. Animal abuse is not always taken seriously and thus, it may be difficult for social workers, or they may be hesitant, to remove children from a home without additional evidence of abuse. Consequently, it can be difficult for social workers to remove children from a home based solely on the occurrence of animal cruelty. The difficulty of removal, and the hesitance of social workers to combat such difficulties, result in children remaining in the home to witness, and potentially internalize, the cycle of violence.⁴² Given the known propensity for abused children to repeat acts of violence on others, including their own children, swift and effective intervention is imperative.⁴³

animal further isolates the person who is subject to abuse.” McPhedran, *Animal Abuse*, *supra* note 31, at 42.

⁴¹ See *id.*

⁴² See

<http://www.childwelfare.gov/pubs/factsheets/signs.cfm> (listing several signs and symptoms that may indicate child abuse or neglect, yet makes no mention of child's or caregiver's behaviors toward pets or child's or caregiver's comments and attitudes toward pets). (last visited June 9, 2010).

⁴³ Katherine C. Pears & Deborah M. Capaldi, *Intergenerational transmission of abuse: a two-generational prospective study of an at-risk sample*, 25 CHILD ABUSE & NEGLECT 1439, 1454, 1456 (2001).

The link between animal abuse and child abuse is statistically significant as well. A survey of 50 shelters for battered women found that 85% of women and 63% of children entering shelters discussed incidents of pet abuse in the family.⁴⁴ However, since animal abuse offenses are rarely prosecuted and animal laws are so lenient, adult abusers that are not prosecuted pose a substantial risk to their children and the children they come into contact with in the future. Not only are the children in the home at risk of being abused, but the children who witness such abuse are at a greater risk of becoming abusers themselves.⁴⁵ In fact, a 1995 study noted that 32% of domestic violence victims reported that one or more of their children had hurt or killed a pet.⁴⁶ Similarly, a 1983 study observed that more than one-third of pet-owning families referred to New Jersey's Division of Youth and Family Services for suspected child abuse reported children who were abusive to animals.⁴⁷ Nevertheless, domestic violence victims

⁴⁴ Humane Society of the United States, *Animal Cruelty and Family Violence: Making the Connection*, http://www.hsus.org/hsus_field/first_strike_the_connection_between_animal_cruelty_and_human_violence/animal_cruelty_and_family_violence_making_the_connection/ (last visited June 9, 2010).

⁴⁵ American Humane Society, *Understanding the Link Between Animal Abuse and Family Violence*, <http://www.americanhumane.org/about-us/newsroom/factsheets/understanding-the-link.html>. (last visited June 10, 2010).

⁴⁶ Humane Society of the United States, *Animal Cruelty and Family Violence: Making the Connection*, http://www.hsus.org/hsus_field/first_strike_the_connection_between_animal_cruelty_and_human_violence/animal_cruelty_and_family_violence_making_the_connection/ (last visited June 9, 2010).

⁴⁷ *Id.*

often stay in abusive relationships, fearing the wellbeing of their pets if they leave, and further subjecting their children to the abuse.⁴⁸

Furthermore, social workers involved in child abuse cases do not routinely inquire about family pets. Therefore, animal abusers and children at risk of becoming abusers are often not identified at the earliest, most crucial time.

II. KENTUCKY'S UNIQUE OBSTACLES

Several aspects of animal legislation and the juvenile system itself frustrate the early detection and treatment of mentally disturbed juveniles. The specific characteristics of Kentucky provide a less than ideal situation to address the connections between animal abuse and interpersonal violence. Kentucky's lenient animal cruelty laws, an economy largely dependent on agriculture, and traditional property-based views of animal protection all contribute to a deficient legal framework for prosecution of animal abuse. Beyond the legal framework, the lack of resources, community support for prosecution of animal abusers, and impractical evidentiary standards all frustrate the adjudication of offenders. The state's budgetary deficits further compound the strain on resources available for enforcement of those laws that provide animal protection. Although Kentucky's animal legislation provides significant constraints, the strict confidentiality requirements and differing standards of criminal culpability in the juvenile system exacerbate the difficulties in adjudicating juveniles who abuse animals. Unfortunately, most of these obstacles are systemic in nature and difficult to remedy. However, the benefits of more

⁴⁸ McPhedran, *Animal Abuse*, *supra* note 31, at 42.

responsive, cohesive legislation and the necessity for early detection and treatment of at-risk juveniles justify the effort spent to overcome these obstacles.

A. THE DEFICIENCIES IN KENTUCKY'S ANIMAL WELFARE STATUTES AND THE HESITATION TO FIX THEM

To say that Kentucky's animal cruelty, abandonment, and neglect laws are lenient is a gross understatement. Kentucky is the only state to fall into the Animal Legal Defense Fund's "Five Best States to be an Animal Abuser" category every year since the state rankings were created in 2006.⁴⁹ There are several reasons for Kentucky's low rank in comparison with other states. First and most importantly, Kentucky's animal laws do not require mental health evaluations for offenders, nor do they contain provisions for counseling opportunities for those offenders.⁵⁰ Additionally, Kentucky's animal laws provide an inadequate range of prohibitions and definitions/standards of basic

⁴⁹ See Stephan K. Otto & Animal Legal Defense Fund, *2009 Animal Protection Laws Rankings: Comparing Overall Strength & Comprehensiveness*, <http://www.aldf.org/article.php?id=1142>; see also Stephan K. Otto & Animal Legal Defense Fund, *2008 Animal Protection Laws Rankings: Comparing Overall Strength & Comprehensiveness*, (2008), <http://www.aldf.org/article.php?id=786>; see also Stephan K. Otto & Animal Legal Defense Fund, *2007 Animal Protection Laws Rankings: Comparing Overall Strength & Comprehensiveness*, (2007) <http://www.aldf.org/article.php?id=471>; see also Stephan K. Otto & Animal Legal Defense Fund, *2006 State Animal Protection Laws Rankings: Comparing Overall Strength & Comprehensiveness*, (2006), <http://www.aldf.org/article.php?id=279>.

⁵⁰ See *id.*

care.⁵¹ Kentucky's animal cruelty laws also lack provisions for mandatory forfeiture of abused animals, restrictions on future ownership or possession of animals after an animal cruelty conviction, and reporting provisions for suspected animal abuse.⁵² Moreover, principal protections of the statutes apply only to certain animals and application of the sole first-offense felony provision is limited to dogs and cats.⁵³

The Kentucky Legislature's failure to remedy these particular animal protection laws may be explained by the general utilitarian attitudes towards animals that are common in rural and agricultural societies.⁵⁴ The farming community makes up a significant portion of the constituency for Kentucky legislators.⁵⁵ The community representatives may be more hesitant to harshly regulate the care of farm animals due to their economic importance within the local economy. Arguably, representatives may lose popularity among

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ See J. C. Swanson & J. A. Mench, *Animal Welfare and Consumer Viewpoints*, at 1, <http://animalscience.ucdavis.edu/avian/swanson.pdf> (discussing a study by Stephen R. Kellert).

⁵⁵ Based on 1990 Census statistics, the farming, forestry, and fisheries sector accounted for more than a quarter of Kentucky's employed labor force. 1,563,960 in labor force, 59,346 in farming, forestry and fisheries sector. Note that these statistics don't include unemployed persons in the labor force. U.S. Bureau of the Census, *Labor Force Status and Employment Characteristics: 1990, Kentucky* <http://quickfacts.census.gov/qfd/states/21000.html> (follow "More Kentucky data sets" hyperlink; then follow "Labor Force and Employment Characteristics" hyperlink).

livestock and poultry farmers if they support legislation that would increase regulations on their business (e.g. a regulation to elevate the minimum standard of care for farm animals). Arguably, implementation of more humane slaughtering procedures and basic standards of care may increase the expense of animal-related businesses. Thus, the belief follows that strict animal cruelty laws regulating the treatment of these particular animals could potentially burden the farming community. Based on such beliefs, elected lawmakers and their constituents are cautious to upset the delicate balance between animal protection laws and the economic efficiency of the community's agricultural practices.

Utilitarian attitudes and property-based views of animal protection may also explain the hesitation to strengthen legislation. The status of animals as property dictates political and legal thought surrounding non-humans.⁵⁶ The historical view of animals as personal property, rather than non-humans with rights or protections, prevails in much of the current animal protection legislation.⁵⁷ Despite changes in societal attitudes toward animals, few statutes have been significantly redrafted, leaving a remainder of archaic phrases in the statutory language.⁵⁸ As a result, current statutes still reflect the traditional objectives of animal cruelty regulation. More specifically, these statutes continue to protect the infringement of the animal owner's rights in his own property and possible deprivation of the property's economic value. Societal interest in protecting what was economically valuable

⁵⁶ See GARY L. FRANCIONE, *ANIMALS, PROPERTY, AND THE LAW*, 24 (1995).

⁵⁷ See DAVID S. FAVRE & MURRAY LORING, *ANIMAL LAW* 2 (1983).

⁵⁸ See *id.* at 121.

shaped the underlying division between animals used for profit and those with no economic value.⁵⁹ Many cruelty statutes still recognize this dichotomy affording different levels of protection for farm animals and companion animals.⁶⁰

Kentucky is one state that maintains this archaic separation. This separation combined with the traditional, property-based views of animals creates a unique phenomenon. The evolution of societal attitudes towards animal cruelty has created an inverse relationship between the protections of companion animals and those animals with economic value. In response to human interest to prevent abuse and neglect of those animals seen as companion animals, legislation has created what Favre and Loring call an “intermediate” level of protection.⁶¹ Rather than mere property, human interest to maintain morality requires specific animals to be recognized as a “special category of personal property.”⁶² Despite the additional protections provided to those animals, this legislation “requires a finding of enough human interest to justify legislation.”⁶³ Ironically, those animals that received more protection under the traditional view now lack the sufficient human interest justifying more stringent legislation. Because of their economic viability, the human interest in slaughtering cows, pigs, chickens, and turkeys outweighs the human interest in morality and these animals are offered less protection from animal cruelty legislation. Accordingly, the animal protections of Kentucky provide an

⁵⁹ See *id.* at 122.

⁶⁰ *Id.*

⁶¹ *Id.* at 1.

⁶² *Id.*

⁶³ *Id.*

entirely separate statute criminalizing the torture of dogs and cats.⁶⁴ This statute, for the first time in Kentucky's history, creates a felony provision for first time offenses of animal cruelty.⁶⁵ Prior to the statute's enactment, any animal cruelty offense, regardless of the type of animal, injuries sustained, or even death of the animal, resulted in misdemeanor charges at most. Currently, if the animal is a dog or cat and suffers "serious physical injury or death as a result of the torture", the offense is considered a Class D felony.⁶⁶ Romeo's Law, as it is affectionately referred, significantly improves Kentucky's animal protections. However, the statute only applies to two animal species and leaves the rest with insufficient protections.

The perceived economic threat of strict regulations involving animals used for agriculture encourages the maintenance of these distinctions. Statutes containing such primitive distinctions hinder prosecution of animal abuse because cruel treatment of agricultural animals is specifically excluded from the language of Kentucky's animal protection laws.⁶⁷ Furthermore, the animal cruelty statute exempts the killing of animals pursuant to a license to hunt, fish or trap, as well as the killing of animals incident to the processing as food or for other commercial purposes.⁶⁸ Thus, treatment of farm animals that is clearly and statutorily cruel is virtually permissive and seldom results in prosecution.

⁶⁴ KY. REV. STAT. ANN. § 525.135 (West 2006).

⁶⁵ *Id.*

⁶⁶ *Id.* at 3.

⁶⁷ KY. REV. STAT. ANN. § 525.130 (2)(d) (West 2009).

⁶⁸ *Id.* at (2)(a), (b).

Several prosecutorial challenges present additional roadblocks in the adjudication of animal abuse offenses. Most modifications of animal laws are fairly recent and few cases are taken to court and thus, many prosecutors are too inexperienced to be effective.⁶⁹ Also, the same politics at the root of legislative deficiencies in animal protections affect the commitment, resources available, and community support of the prosecutors. Before 1999, employees working in animal agriculture had never been indicted for felony violations of state or federal anticruelty statutes.⁷⁰ For example, although workers beat hogs with pipe wrenches and skinned live, fully conscious pigs, they admitted guilt to misdemeanor charges and served less than five months.⁷¹ Thus, even when animal cruelty is prosecuted, the sentences given are arguably insignificant.

An additional challenge to prosecutors stems from the requisite *mens rea* or “guilty mind” portions of the statutory language. Proof of the statutorily required mental state, after the fact, is problematic—especially when awareness and malice can be denied and such evidence is rarely accessible in a courtroom.⁷² Because animal cruelty statutes require a “knowing” component to satisfy the mental state, prosecutors often must prove that a defendant’s acts were intentional or reckless because they “involve[d] a gross deviation from the standard of conduct that a law-abiding person would observe in [his]

⁶⁹ See generally Pet-abuse.com, http://www.pet-abuse.com/pages/cruelty_database/statistics.php.

⁷⁰ Jordan Curnutt, ANIMALS AND THE LAW: A SOURCEBOOK 164 (ABC-CLIO, Inc. 2001).

⁷¹ *Id.*

⁷² *Id.* at 76.

situation.”⁷³ Many animal cruelty statutes also contain impractical standards to prove harm. More specifically, Romeo’s Law requires proof of serious physical injury or death of the animal for a felony conviction. Without visible evidence of serious physical injuries or the death of the animal, prosecutors must reduce the charge to a misdemeanor. In the eponymous animal cruelty case, Ronald Turner was convicted of only a misdemeanor for savagely beating Romeo, his yellow labrador.⁷⁴ Even though he repeatedly beat Romeo with his fists, threw a dog-house on top of him, choked him, and threw him against a tree, the dog had no bruising or broken bones.⁷⁵ Although the video recorded by neighbors clearly shows Turner beating his dog unconscious, he avoided felony conviction.⁷⁶ In response, citizens of Kentucky pushed to strengthen animal cruelty legislation resulting in the creation of Romeo’s Law.⁷⁷ However, the prosecutors could not convict Turner of a felony. Thus, it is incredibly difficult for prosecutors to meet impractical burden-of-proof standards for positive acts of animal abuse, as well as neglectful conduct.

Unfortunately, the slumping economy further deters the prosecution and opportunity for treatment of animal abusers. Kentucky is facing an estimated budget deficit of one and a half billion dollars for

⁷³ State v. Schott, 384 N.W.2d 620, 624 (Neb. 1986) (providing a general explanation of the reckless standard of conduct).

⁷⁴ Susan Wheeldon, *Romeo’s Law Is Passed*, COMMONWEALTH JOURNAL ONLINE EDITION, Apr. 18, 2008, available at http://www.somerset-kentucky.com/local/local_story_109195523.html.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

the next two fiscal years.⁷⁸ Moreover, on the federal level, funds for the Department of Agriculture, the agency charged with enforcing the Animal Welfare Act, have decreased 3.3% in the last 25 years.⁷⁹ Inevitably, prosecutors building cases against animal abusers and state agencies helping to enforce cruelty laws (for example, Louisville's Metro Animal Services) will be forced to stretch their already strained budgets. Rehabilitation and treatment programs for juveniles convicted or suspected of animal cruelty are at risk when programs get cut,⁸⁰ regardless of their success rates. Needless to say, the budget falls short of the necessary funds to hire additional employees for animal law enforcement and animal cruelty investigations. Severely limited resources result in fewer prosecutions of animal abusers.

The absence of immunity provisions in outdated animal cruelty laws frustrates the early detection of abusive or violent behavior towards animals. Because many state statutes lack immunity provisions to protect good faith reporters of abuse, witnesses may be more reluctant to report such conduct. Historically, child abuse legislation was similarly plagued by this significant dilemma. Good faith reporters, including health care providers and child caregivers, were hesitant to notify authorities of suspected or witnessed child abuse for fear of

⁷⁸ *Gov. Beshear: KY Could Face Massive Budget Deficit*, ASSOC. PRESS, Dec. 29, 2009, available at <http://www.wkyt.com/wymtnews/headlines/80287047.html>.

⁷⁹ *Budget of the United States Government: Historical Tables Fiscal Year 2009*, Table 5.3, available at <http://www.gpoaccess.gov/usbudget/fy09/hist.html>.

⁸⁰ *Beshear outlines budget cut plans*, BUSINESS FIRST (Dec. 11, 2008), available at <http://www.bizjournals.com/louisville/stories/2008/12/08/daily37.html>.

retaliation by the perpetrator. Current legislation provides immunity to informants from civil or criminal liability and reports of abuse have increased as a result. Similarly, witnesses of animal abuse and neglect would be more likely to notify authorities if provided similar protections. Thus, the lack of such immunity provisions in animal cruelty laws deters reporting and hinders early detection of violent behavior towards animals.

With respect to the need for immunity provisions, one particular statute in Kentucky regarding veterinarians presents an added deterrent to report animal abuse or neglect. The role of a veterinarian is analogous to that of a pediatrician. Given veterinarians' specialized education, experience, and duty to closely examine patients for medical purposes, they are best situated to correctly identify and report maltreatment of those patients. Cognizant of this advantageous position, all states have implemented mandatory reporting requirements for professionals who suspect child abuse.⁸¹ Despite the intimacy of child-pediatrician and animal-veterinarian relationships, Kentucky has paradoxically prevented veterinarians from reporting suspected animal abuse. More specifically, the Kentucky Legislature recently created a "veterinarian-client-patient relationship" between a veterinarian and animal owner or "client."⁸² This relationship effectively prevents veterinarians from disclosing confidential "information concerning a client or care of a client's animal, except on

⁸¹ Child Welfare Information Gateway, *Immunity for Reporters of Child Abuse and Neglect*, http://www.childwelfare.gov/systemwide/laws_policies/statutes/immunity.cfm (last visited Mar. 10, 2010).

⁸² KY. REV. STAT. ANN. § 321.185 (West 2009).

the veterinarian's receipt of: . . . written authorization or other form of waiver executed by the client; or . . . [a]n appropriate court order or subpoena."⁸³ Consequently, veterinarians risk civil liability, loss of good will, and their license to practice if they report maltreatment of their non-human patients. Additionally, veterinarians are often the only person to which an abused animal is exposed. Between schools, daycare facilities, doctor visits, and neighbors, it is generally more likely for people outside the family or household to recognize a child in an abusive situation. However, abused animals rarely come into contact with people outside the household without the consent of their owner. Thus, veterinarians play a key role in the discovery of abuse or neglect of animals.

B. KENTUCKY'S UNIFIED JUVENILE CODE MAGNIFIES THE INADEQUACIES OF ANIMAL CRUELTY STATUTES

The combination of Kentucky's deficient animal cruelty laws and the specific adjudicative processes in the state's juvenile system produces additional difficulties in identifying those children at risk for future violent propensities. The confidential and rehabilitative goals of the juvenile system, the common law infancy defense, and the complications involved with a juvenile's use of the insanity defense thwart the early intervention and treatment of at-risk youths. As a result, those juvenile offenders with potentially dangerous behavioral and psychological issues often avoid punishment and rehabilitation and the general public is denied critical documentation of their offenses. Ironically, the methods employed by the juvenile system to ensure

⁸³ *Id.* at (3).

confidentiality, rehabilitation, and treatment hinder the satisfaction of those specific objectives when children commit animal cruelty offenses.

1. OBSTACLES PRESENTED BY THE CONFIDENTIAL AND REHABILITATIVE GOALS OF THE JUVENILE JUSTICE SYSTEM

The focus of the juvenile system is based on rehabilitation and treatment rather than punishment and retribution.⁸⁴ The Unified Juvenile Code encompasses ten statutory chapters, KRS 600 to 645, with the following express legislative purposes:

(d) Any child brought before the court under KRS Chapters 600 to 645 shall have a right to treatment reasonably calculated to bring about an improvement of his or her condition and, to the extent possible, have that treatment administered in the county of residence of the custodial parent or parents or in the nearest available county;

(e) KRS Chapter 635 shall be interpreted to promote the best interests of the child through providing treatment and sanctions to reduce recidivism and assist in making the child a productive citizen by advancing the principles of personal responsibility, accountability, and reformation, while maintaining public safety, and seeking restitution and reparation;

(f) KRS Chapter 640 shall be interpreted to promote public safety and the concept that every child be held accountable for his or her conduct through the use of restitution, reparation, and sanctions, in an effort to rehabilitate delinquent youth; and

(g) It shall further be the policy of this Commonwealth to provide judicial procedures in which rights and interests of all parties, including the parents and victims, are recognized and all parties are assured prompt and fair hearings. Unless otherwise

⁸⁴ See *Kent v. U.S.*, 383 U.S. 541, 554-5 (1966) (noting state's role as *parens patriae* in juvenile proceedings rather than prosecuting attorney and judge roles in criminal proceedings).

provided, such protections belong to the child individually and may not be waived by any other party.⁸⁵

To achieve the objectives of rehabilitation and treatment of juveniles, it is thought to be in the best interest of the child to maintain complete confidentiality in juvenile dependency and delinquency proceedings.⁸⁶ Confidentiality in juvenile proceedings is so crucial that the Code prohibits disclosure of information pertaining to arrests to anyone other than the child, the parent, the victim(s), or anyone authorized to attend the court hearing.⁸⁷ Ideally, strict limitations on disclosure protect juveniles from the social stigma associated with unlawful conduct. Acting as the *parens patriae*, prosecutors and judges must be cognizant of potential prejudice to the child's future employment or education associated with juvenile adjudication.⁸⁸ In theory, youthful offenders, as a result of their age are more capable of completing rehabilitation or punishment to subsequently become a productive member of society.

In addition to the confidentiality of the adjudicative proceedings, the Code also allows for a juvenile's record to be expunged in certain circumstances.⁸⁹ Once expunged, "the proceedings

⁸⁵ KY. REV. STAT. ANN. § 600.010 (d) - (g) (West 2009), *quoted in* *W.D.B. v. Kentucky*, 246 S.W.3d 448, 451 (Ky. 2007).

⁸⁶ *See* *Brian W. v. Superior Court*, 574 P.2d 788, 791 (Cal. 1978) ("The provisions for confidentiality in the juvenile court law . . . were included to prevent the underlying rehabilitative philosophy from being thwarted by unduly stigmatizing the juvenile offender.")

⁸⁷ KY. REV. STAT. ANN. § 610.340 (1)(b) (West 2009).

⁸⁸ *See* *Brian W.*, 574 P.2d at 791.

⁸⁹ KY. REV. STAT. ANN. § 610.330 (West 2009).

in the case shall be deemed never to have occurred and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.”⁹⁰ However, expungement is only available for offenses that would qualify as a felony if committed by an adult rather than a juvenile.⁹¹ The juvenile system’s careful efforts to rehabilitate children while maintaining confidentiality of their offenses offer many kids a second chance with a clean slate.

The opportunities provided by the juvenile system are ideal for most juvenile delinquents with mild behavioral issues. However, when juvenile delinquency involves animal cruelty, these opportunities may allow high-risk offenders to slip through the cracks. Due to the emphasis on rehabilitation and treatment of juveniles, judges and prosecutors are more likely to reduce convictions to lesser offenses in exchange for that juvenile’s participation and full cooperation in the treatment provided. They have leeway to do so because there are no distinctions between violations, misdemeanors, and felonies in juvenile court.⁹² Ultimately, it is in the best interest of the child to encourage faithful involvement in the child's own rehabilitation rather than stigmatize the child with a criminal record. Despite the evidence that animal abuse is indicative of serious behavioral problems in children, oftentimes it’s considered merely youthful indiscretion that can be remedied by minor punishment.⁹³ Consequently, these juveniles who

⁹⁰ KY. REV. STAT. ANN. § 610.330 (4) (West 2009).

⁹¹ *Id.* at (1).

⁹² See *Phelps v. Commonwealth*, 125 S.W.3d 237, 240 (Ky. 2004).

⁹³ See *Squires*, *supra* note 4, at 9.

may pose a risk for future violence slip through the cracks. Rather than providing them with rehabilitation, therapy, or psychological evaluations, they are often given community service punishments and lesser offenses only to be later expunged. The limited applicability of Kentucky's felony provisions further exacerbates this situation. Unless the abuse involved a dog or cat, the animal suffered serious physical injury or death, and the court refused to reduce the offense to a misdemeanor, a juvenile can have their offense erased. Conversely, if all these laboratory conditions are met, the juvenile's felonious record can only be used in subsequent criminal proceedings as an adult.⁹⁴ Given the correlation between animal abuse and later interpersonal violence, society as a whole is placed at risk by the inaccessibility of this information and the failure to evaluate and treat at-risk juveniles. Moreover, the inaccessibility during routine background checks for employment, schools, daycare centers, hospitals, and centers for the elderly is equally alarming.

2. LIMITATIONS CREATED BY THE COMMON LAW INFANCY DEFENSE

The eradication of the infancy defense in juvenile adjudication fails to provide sufficient evaluation of the offender's psychological state. Before Kentucky's creation of the juvenile court in 1906, the common law presumption of youthful incapacity to commit a crime was invaluable.⁹⁵ Because the criminal code made no distinctions for

⁹⁴ KY. REV. STAT. ANN. § 610.320(5) (West 2009).

⁹⁵ *State v. Monahan*, 15 N.J. 34, 47 (N.J. 1954) ("At common law (1) under the age of seven years the presumption of incapacity is conclusive; (2) between the ages of seven and 14 years there is a rebuttable presumption of incapacity; and (3) above the age of 14 years there is a rebuttable presumption of capacity.").

children, the courts created the presumption that the “arbitrary age below which a child is incapable of committing crime is seven. Between the ages of seven and fourteen, a presumption of incapacity lies, which, however, may be overcome by evidence.”⁹⁶ Although the juvenile system still maintains a rebuttable presumption of incapacity for children between the ages of seven and fourteen, evidence of the child’s capacity to commit the crime is only relevant to determine necessary punishment. The separation of juveniles from criminal court proceedings inherently diminishes the need for an infancy defense since all offenders are presumed to lack capacity. However, the use of the defense in adjudication provides an opportunity to identify potential behavioral disorders or psychological issues of the child. To use the defense, intensive examinations are employed to prove sufficient lack of capacity. Thus, close attention to the child’s mental state may uncover potentially serious problems. Without use of the defense, the system discards an opportunity for the early recognition and treatment crucial to many juveniles’ mental health.

3. NECESSITY OF THE INSANITY DEFENSE WITHIN THE JUVENILE SYSTEM

Jurisdictions across the nation have taken three varying positions on whether the insanity defense is available for juveniles: the defense of insanity is a due process right that must be provided in accordance with *In re Gault*;⁹⁷ the legislature may provide the insanity defense within the statute; or the insanity defense does not apply to

⁹⁶ *Thomas v. Commonwealth*, 189 S.W.2d 686, 687 (Ky. 1945).

⁹⁷ *In Re Gault*, 387 U.S. 1 (1967) (holding that juveniles are entitled to the due process rights to notice of charges, to counsel, confrontation and cross-examination of witnesses, and privileges against self-incrimination).

the juvenile system.⁹⁸ Kentucky's Unified Juvenile Code follows the third approach, prohibiting application of the insanity defense in juvenile proceedings. Despite claims that the insanity defense would be superfluous in juvenile proceedings, access to this right is beneficial in animal cruelty adjudication. The underdeveloped decision-making skills of juveniles are an inherent consideration in the juvenile justice system. Because the legal capacity to commit a crime is determined by an arbitrary age created by statute, the actual capacity of each individual is never evaluated. Once capacity is satisfied by the juvenile's age, there is no need for further review. The evaluation of actual capacity is important because it highlights a delinquent's potential behavior disorders. Much like the common law infancy defense, the insanity defense would encourage deeper discussion of the juvenile's actual capacity. Due to the strong correlation between animal cruelty and mental illnesses and disorders, the analysis of the juvenile's mental state is imperative. The absence of both the infancy and insanity defenses hinders the assessment of a child's underlying psychological condition. Therefore, Kentucky's abandonment of the infancy defense necessitates the availability of an insanity defense. Kentucky's built-in facsimile of the underlying policies of the infancy defense fails to promote the necessary analysis of the juvenile's mental state.

Some argue that it is unnecessary to provide the insanity defense to juveniles because of the rehabilitative goals of the system and their access to treatment, the difficulty of diagnosing mental illness

⁹⁸ Emily S. Pollock, *Those Crazy Kids: Providing the Insanity Defense in Juvenile Courts*, 85 Minn. L. Rev. 2041, 2041 (2001).

at such an early age, and juveniles would be hesitant to make use of the defense for fear of indefinite commitment to a psychiatric institution rather than less time in a juvenile facility.⁹⁹ However, these arguments fail to consider that mental disease diagnoses are not required to be adjudicated legally insane, adults make similarly difficult choices between risk of psychiatric commitment or time in prison, and most importantly, that the rehabilitative goals of the juvenile justice system are thwarted by refusing juvenile's due process protections.¹⁰⁰ As noted in *Gault*, the juvenile system is required to provide adequate due process protections, and denial of the insanity defense, as a fundamental right, cannot satisfy these requirements.

III. HOPE FOR IMPROVEMENT IN KENTUCKY

It is clear that significant development is necessary in the criminal code and the juvenile justice system to ensure the identification of at-risk youths, as well as improve the well-being of animals, children, and society as a whole. Initially, shifting the public perception of animal cruelty would foster a more compassionate society. Eradicating utilitarian attitudes regarding animal treatment, identifying animal cruelty by children as more than youthful indiscretion, recognizing the propensity for violence or need for treatment of juvenile animal abusers, and society's general intolerance to such violence would improve the lives of non-humans and humans alike. Several organizations have formed and are forming with effective education, rehabilitation, and treatment as their primary goals. With these goals in mind, disrupting the cycle of domestic violence and

⁹⁹ See e.g., Pollock, *supra* note 98, at 2061.

¹⁰⁰ *Id.* at 2061-2065.

increasing public awareness of the connections between human and nonhuman violence are real possibilities. Gathering social pressure is the first step to implement necessary procedural changes, including: more stringent animal laws, more severe penalties, limited confidentiality or qualified access to records of juvenile delinquents, continual collaboration between child protective services and animal protection agencies, mandatory psychiatric evaluations for animal abusers, and consistency in evaluations of juvenile culpability can offer procedural advances. Although Kentucky is far behind, the statutes and programs of other states will serve as valuable templates.

Public awareness of the connection between animal violence and interpersonal violence is essential for procedural improvements and altering societal views of animal protection. Similarly, changes in the public's perception of violence against animals are necessary for effective legal improvements. The Humane Society of the United States recognized the need for social awareness and developed their "First Strike Program."¹⁰¹ This program provides educational materials about animal cruelty and its connections to domestic violence, child and elder abuse, and community violence.¹⁰² The Violence Connection, a program of The Humane Society of the United States, organizes

¹⁰¹ Humane Society of the U.S., *First Strike: The Connection Between Animal Cruelty and Human Violence*, http://www.hsus.org/hsus_field/first_strike_the_connection_between_animal_cruelty_and_human_violence/ (last visited June 9, 2010).

¹⁰² Humane Society of the United States, *First Strike: The Connection Between Animal Cruelty and Human Violence*, http://www.hsus.org/hsus_field/first_strike_the_connection_between_animal_cruelty_and_human_violence/ (last visited June 9, 2010).

workshops on coordinating communities' responses to animal cruelty, family violence, and community violence. The workshops are geared toward a variety of audiences, including law enforcement officials, antiviolence advocates, veterinarians, animal care and control representatives, social workers, educators, child welfare advocates, and professionals in the adult protective services and mental health fields. Most importantly, the First Strike program encourages and enables individuals to start their own First Strike Campaign in their own communities. Initially, these "small fire" strategies to increase public awareness promote discussion about the inadequacies of the legal framework. Only then can procedural and statutory improvements really commence.

One of the primary frustrations in the early identification of violent individuals and mental illnesses is the leniency of our nation's animal laws, especially Kentucky's and those of other agricultural states. Harsher penalties would not only deter future acts of violence, but they would also help to identify these individuals that are in need of intensive treatment, rehabilitation, or counseling. The Animal Legal Defense Fund has drafted model animal protection laws to assist legislators and animal advocates in providing strict standards and more precise language in animal legislation.¹⁰³ These model laws include mandatory registration for animal abusers, mandatory psychiatric evaluation for abusers, a felony conviction for those guilty of

¹⁰³ Stephan Otto & The Animal Legal Defense Fund, *Model Animal Protection Laws*, <http://www.aldf.org/news/details.php?id=323> (last visited June 9, 2010).

aggravated animal abuse or neglect, immunity for those who report animal abuse, and mandatory restraining orders for those abusers found to be guilty of animal abuse or neglect offenses. Although many of these provisions may seem extreme compared to existing animal law, gradual implementation would be beneficial to the general welfare of society and promote non-violence towards all living things- animals, children, and spouses alike.

One of the most important suggestions in the model laws focuses on community awareness of offenders by requiring mandatory registration for animal abusers. Much like the mandatory registration for sex offenders, it is beneficial for the community to have access to knowledge concerning animal abuse in a neighbor's background. Because of the strong connection between animal abuse and future acts of violence towards children, adults, and animals, it is important for members of the community to be aware of potential risks posed by a particular individual. Also, if mandatory registration were implemented, it would serve to deter future offenders and emphasize the severity of such behavior.

The confidentiality and rehabilitative goals of the juvenile system, however, create complications for mandatory registration. Because of their status as a minor, juveniles often have opportunities to have their records expunged. However, the treatment of juvenile sex offenders would be appropriate for animal abusers as well. Under K.R.S. 635.500-635.545, juveniles declared sex offenders are committed to the custody of the Department of Juvenile Justice and receive treatment for not more than three years with the possibility of a one-year extension by the sentencing court. Usually, these juveniles do not

have the option to expunge their offenses because of the serious nature of their crimes. Specifically, juveniles that are adjudicated guilty of a sexual offense or attempt to commit such offense may be declared a sexual offender if they are under 13 or will be declared a sexual offender if they are 13 or older. Declared a sexual offender, they receive more intensive treatment and are carefully monitored until they are of age and oftentimes after they reach the age of majority (via sexual offender registration). Much like juvenile sex offenders, children that commit animal cruelty offenses are in need of intensive treatment, psychological evaluation, counseling, and rehabilitation. An animal cruelty statute similar to that of juvenile sexual offenders would mandate commitment into juvenile rehabilitation centers. Such a commitment would provide pre-emptive treatment for those juveniles suffering from mental disturbances. Additionally, further violence from these offenders could be prevented while still maintaining confidentiality for those juveniles with less serious offenses.

Another important suggestion provided by the model laws requires mandatory psychiatric evaluation and possible treatment of animal abusers once convicted.¹⁰⁴ "Animal abuse is not just the result of a minor personality flaw in the abuser but rather a symptom of a deep mental disturbance that stems from a lack of compassion or empathy for the victim."¹⁰⁵ Implementation of mandatory evaluations would solve the difficulties created by the infancy and insanity defenses

¹⁰⁴ Otto & The Animal Legal Defense Fund, *supra* note 49.

¹⁰⁵ Helping Animals, *Human Abuse - Cruelty to Animals*, http://www.helpinganimals.com/ga_humanAbuse (last visited June 10, 2010).

in the juvenile system. Here, a psychiatric evaluation is crucial to identify serious risks posed by offenders because mental illnesses nearly always escalate when left untreated. Much like perpetrators of domestic violence, animal abusers are likely to deny mental illnesses. Nevertheless, anger management counseling, at the least, is necessary for all offenders and would be beneficial for that person's family, friends, self, and society as a whole.

The benefits of a felony conviction for those guilty of aggravated animal abuse and neglect are incontrovertible. Not only would a harsher penalty deter future conduct, it would help to identify potential risks of violence in children when they commit such offenses. As opposed to a misdemeanor, a felony offense, or more serious offense, would increase the likelihood that the juveniles be tried as adults. Further, a juvenile convicted in adult court may not expunge or erase those convictions. Thus, those juveniles may experience difficulty in gaining employment in certain professions such as daycares, nursing homes, hospitals, schools, and so on. These protections may hinder a juvenile from gaining employment later in life. However, they would only affect habitual or serious offenders and improve safety in hiring methods. Given the relationships between high 'callousness', low empathy, and low levels of concern for others, it is imperative that juveniles with at-risk qualities are excluded from these specific employment pools.¹⁰⁶ The predictive associations of future violence by these juveniles who commit animal abuse are too compelling to ignore when children, the elderly, or the ill are at risk.

¹⁰⁶ McPhedran, *Evidence*, *supra* note 32, at 2.

Animal laws that provide immunity for good faith reporters and removal of restrictions on veterinarians who report offenses are long overdue. As discussed earlier, those who report incidents of child abuse have long been protected by the legal system. As a result of this protection, child abuse is more likely to be recognized and eliminated in its early stages rather than avoided or ignored for fear of retaliation by the abuser. Due to the severity of animal cruelty cases and the correlation between child abuse and animal abuse, a statute providing immunity for good faith reporters of animal abuse is crucial. Also, the confidential relationship created between veterinarians and animal owners must not prohibit veterinarians from reporting suspected abuse to the appropriate authorities. Encouraging reports of animal abuse cases would provide early indicators of those families at risk for child abuse and domestic violence. Additionally, identification of animal abuse in the home presents a viable inquiry into whether children in the home are at such a risk of emotional and physical harm that they should be removed from the home. Thus, the protection for reporters of child abuse and animal abuse will promote the identification of spouses, children, and animals at risk in the home.

Reports from domestic violence shelters show that victims of domestic violence are less likely to leave the perpetrator or home for fear of a pet's safety.¹⁰⁷ Accordingly, mandatory restraining orders against animal abusers will encourage victims and owners of victimized animals to report violent conduct. The victims themselves are protected as well as the victimized pets from future contact with the perpetrator.

¹⁰⁷ McPhedran, *Animal Abuse*, *supra* note 31, at 42.

Thus, victims of domestic violence are less likely to conceal the perpetrator for fear of retaliation towards other members of the household or the pets themselves. Additionally, the Animal Legal Defense Fund's website contains a list of questions for domestic violence shelters to ask when interviewing victims.¹⁰⁸ These questions inquire into the family history of violence towards animals including the perpetrator's conduct as well as the children. For example, one question asks whether the partner, the victim, or any of the children has ever harmed or killed a pet. Showing interest in another's pet is a way to develop a relationship of trust and elicit unguarded conversation that is crucial to effectively evaluating patterns of domestic violence or control. Most pet owners enjoy discussing their animals. Initiating light discussion about them can reduce tension and strengthen relationships between clients and their case workers. Thus, the increased attention by child protection agencies and mandatory reporting will aid in child abuse investigations and animal abuse investigations. Further, increasingly honest responses to these inquiries will help to identify emotional scarring and potential risks of violence in children while increasing the likelihood of prosecuting animal abusers. Presenting early treatment opportunities for children and punishing perpetrators will effectively reduce future violent conduct.

¹⁰⁸ Humane Society of the United States, *Animal Cruelty/Domestic Violence Fact Sheet*, http://www.hsus.org/hsus_field/first_strike_the_connection_between_animal_cruelty_and_human_violence/animal_cruelty_and_family_violence_making_the_connection/animal_crueltydomestic_violence_fact_sheet.html (last visited June 9, 2010).

Another suggestion for Kentucky's animal protection legislation is to use a standard set of factors when a juvenile offender is in need of commitment to a rehabilitative facility. Precedents in Kentucky case law outline a list of factors that are evaluated when transfer to Circuit is considered.¹⁰⁹ These factors include: the seriousness of the alleged offense; whether the offense was against person or property (with greater weight for transfer given to the former); the maturity of the juvenile as determined by his or her environment; the juvenile's prior record; the juvenile's and the community's best interest; adequate protection and safety of the public; the likelihood of reasonable rehabilitation through available procedures, services, and facilities; and whether there is evidence of the child's participation in a gang.¹¹⁰ With these elements taken into account when assessing the treatment of the juveniles convicted of animal abuse, that youthful offender is more likely to receive the necessary treatment and rehabilitation for potential mental disturbances. Rather than utilizing a system of standard punishments involving community service, fines, curfews, or incarceration, balancing these factors in every case promotes comprehensive decisions regarding rehabilitation, counseling, and treatment.

¹⁰⁹ See generally KY. REV. STAT. ANN. §§ 635.020, 635.040 (West 2008); *Caldwell v. Comm'r*, 133 S.W.3d 445 (Ky. 2004); *Britt v. Comm'r*, 965 S.W.2d 147 (Ky. 1998); Leslie K. Abramson, *Transfer Hearing For Youthful Offender*, 8 KY. PRAC. CRIM. PRAC. & PROC. § 9:35 (West 2007).

¹¹⁰ KY. REV. STAT. ANN. § 640.010 (2)(b)(1)-(8) (West 2009); Leslie W. Abramson, *Transfer Hearing For Youthful Offender*, 8 KY. PRAC. CRIM. PRAC. & PROC. § 9:35 (West 2007).

Lastly, establishing cross-training and cross-reporting protocols between animal protection agencies, child protective services, animal control, etc. are of the utmost importance. The connections between animal abuse, domestic violence, child abuse, and later violent conduct are so intertwined that it is imperative that these respective agencies create open lines of communication with their counterparts and share information and resources. In fact, several states are implementing systems that require mandatory reporting of suspected abuse (for elders, children, spouses, etc.) and immunity for good faith reporters of abuse.¹¹¹ Maine's "Linkage Project" permits child protective, adult protective and other community social service workers to report suspected animal cruelty without fear of violating confidentiality provisions.¹¹² Conversely, animal control officers are encouraged to report suspected child or vulnerable adult abuse and are provided immunity from civil or criminal liability.¹¹³ It is important to note that animal welfare organizations often create the first intervention of social services because abused and neglected animals tend to be outside in

¹¹¹ See e.g., KY. REV. STAT. ANN. § 209.050 (West 2009) (providing civil and criminal immunity for good faith reporters of elder abuse and chld abuse); OR. REV. STAT. ANN. §§ 419B.005 - .045, 124.050 - .095, 430.735-.065, 441.630-.680 (West 2009) (mandating reporting of abuse to children, the elderly, adults with developmental disabilities or mental illness, and residents of nursing facilities, respectively).

¹¹² *Maine's Cross Reporting Laws, The Linkage Project Update* (Linkage Project, South Portland, M.E.), August 2007, at 1; available at <http://www.linkageproject.org/home/publications-and-press-releases/Autumn07news.pdf/view>. (last visited June 9, 2010).

¹¹³ *Id.*

plain view. This initial intervention can provide useful evidence or information for later investigations of other domestic violence. All personnel working simultaneously to identify abused children, spouses, and animals increases the efficiency of each individual agency.

It is no longer acceptable for the legislative and judicial systems to ignore the strong connection between animal abuse and child abuse. It is widely accepted that the cycle of violence is continuous and intervention followed by appropriate treatment is of the utmost importance. Furthermore, for intervention to be effective, it must occur at the earliest possible opportunity and thus, these opportunities must be identified as soon as possible. The prevention of animal cruelty and the intervention of the cycle of violence both require awareness and accountability from everyone in the community. Although legislators are held accountable for creating effective animal cruelty laws, all members of the community including the police officers, teachers, parents, neighbors, veterinarians, etc. must contribute to the enforcement and improvement of animal protection laws. Teaching a child not to step on a caterpillar is as valuable to the child, and to society, as it is to the caterpillar.