

Equine Cruelty, Abuse and Neglect FAQs



AAEP EQUINE CRUELTY, ABUSE AND NEGLECT FAQs

Developed by the Equine Abuse & Neglect Subcommittee
of the Welfare & Public Policy Advisory Council

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EQUINE CRUELTY, ABUSE AND NEGLECT*

Since the earliest days of animal protection, veterinarians have played central roles in working with animal welfare investigators and law enforcement authorities to aid animals that have been victims of human abuse and neglect. Animal cruelty cases are being treated with more respect than at any time in the past. Increased public concern for the animals that share our communities, a proliferation of university human-animal studies and animal law courses, and stronger scientific support for the links between animal abuse and human violence and for the therapeutic benefits of animals have combined to help generate a new renaissance of interest in animal well-being. This increased attention is helping professionals to do their jobs better and to accord greater protections for animals; the problem of unwanted horses focuses additional attention on equine veterinarians, who may see more abandoned and abused horses than ever before. Practitioners who become involved in responding to animal abuse not only help address the needs of individual animals that may suffer, but fulfill their veterinary oath to use their skills for the betterment of society.

In all states, animal cruelty is a crime. There are both civil and criminal avenues for prosecuting animal cruelty depending upon the facts of the case, and in 46 states aggravated cruelty is a felony within the criminal code. Several major cities have assigned prosecutors specifically to the growing caseload of animal

cruelty crimes. By reporting suspected cruelty to local law enforcement or animal care or control agencies, the veterinary practitioner is taking the first step to resolve potentially unhealthy, dangerous, and/or criminal situations. These agencies will investigate the complaint and take appropriate action. The recent addition of veterinary forensics to the armamentarium of practitioners working in animal welfare offers additional opportunities for the prevention of animal maltreatment.

While concerns regarding veterinarian-client relationships and economics may keep veterinarians from reporting suspected cases of animal cruelty, the health and well-being of both animal and humans alike may rest on veterinarians' willingness to report and to testify. Practitioners who report animal cruelty are therefore helping to make their communities safer for all.

*Excerpts have been borrowed, with permission, from the AVMA's 2011 document, *Practical Guidance for the Effective Response by Veterinarians to Suspected Animal Cruelty, Abuse and Neglect*, available as a download at:

<https://ebusiness.avma.org/Files/ProductDownloads/AVMA%20Suspected%20Animal%20Cruelty.pdf>

Please see full document for further information regarding both large and small animals, including appendices discussed in this document.

How do I know if a horse is being abused or neglected?

The diagnoses of abuse, cruelty, non-accidental injury (NAI), neglect, or maltreatment in animals are some of the most challenging subjects in clinical work. These diagnoses require time, experience, emotional energy, sensitivity, tact, and not a small measure of courage. The practitioner may be reluctant to admit that a client would present abused or neglected animals for treatment. Nevertheless, most veterinary practitioners will be presented at some time with a case of animal abuse, neglect or cruelty. While cases of abuse or neglect may not be seen frequently, they are invariably problematic, and may be some of the most difficult circumstances faced in practice. Instances in which the practitioner may encounter cases of abuse or neglect include, most commonly, simple neglect of one or more animals, less-frequently, widespread neglect or animal hoarding, and rarely, intentional infliction of injury. In equine practice, the observation of a horse or group of horses with poor body condition scores in a pasture devoid of forage may be the most common presentation of neglect encountered. As rescue groups and concerned individuals have attempted to meet the demand for unwanted horses in the current economic climate, hoarding of horses (typically unintentional) has recently become more common.

No single diagnostic finding is indicative of cruelty, abuse or neglect, and a number of explanations for the findings may be present. Factors including client profile, client behavior, economics, animal behavior, or a history of unexplained (or explainable, in the case of

starvation) illnesses or deaths may lead to raised suspicions. The client may or may not be the actual perpetrator, and may sometimes disclose a history of personal abuse or neglect to the practitioner. He or she may admit to being aware of the abusive situation, hoping to protect the animal(s) by creating an understanding or alliance with the veterinarian, or may implicate someone else in the abuse or neglect. While males are more likely than females to be abusers, adolescents and children can be involved, and may belong to any social class. A horse owner may claim that the horse was not abused, rather, it was being “trained.” Oftentimes, there may be discrepancies in the history, injuries or body condition scores inconsistent with the history, or unexplained ill thrift, deaths or injuries.

Recognizing animal abuse is not always straightforward. Human maltreatment of animals extends across a spectrum ranging from passive neglect to intentional cruelty, with the majority of cases arising from neglect. While neglect may often be unintentional due to lack of education or temporary lapses in care, other neglect may be chronic. Visible emaciation, chronic, granulating wounds or other illness most often are a result of a lack of education or lack of finances to properly care for a horse or horses; physical and training abuses, such as excessive whipping and spurring, are often prohibited by individual breed organizations. While clear definitions (especially those that clarify intent) are important in the legal arena, practitioners may be hindered by those same definitions.

Legal Definitions Pertaining to Animal Abuse and Neglect

The legal definitions of the following terms (and even the legal definition of “animal”) vary from jurisdiction to jurisdiction, and clinical descriptions and public perceptions may vary from statutory terminology. Nevertheless, the following terms are commonly used to describe the types of animal maltreatment seen in practice. In some jurisdictions, anti-cruelty statutes differentiate among these types of maltreatment; in others, statutes are necessarily broad and encompass a wide range of conditions constituting animal maltreatment. Breed organizations may also have specific language pertaining to equine abuse. The practitioner is advised to investigate applicable local statutes and to be familiar with rules pertaining to horses in competition in various breed disciplines for guidance.

Animal abuse: Willful failing to provide care or doing something harmful. Abuse implies maltreatment regardless of the intent, motivation or mental condition of the perpetrator, whereas cruelty connotes more deliberate intention.

Animal cruelty: The common term used in animal anti-cruelty statutes and societies for the prevention of cruelty to animals. Although legal definitions vary by jurisdiction, several popular definitions have been disseminated. These include: any act that, by intention or by neglect, causes an animal unnecessary pain or suffering (Sinclair, Merck & Lockwood, 2006). Or: deliberate infliction of pain on an animal from which the abuser derives enjoyment or amusement (King, 1998). Or: the infliction of pain or distress unnecessarily (Blood & Studdert, 1999). Or: socially unacceptable behavior that intentionally causes unnecessary pain, suffering, or distress to and/or death of an animal (Ascione, 1993).

Animal physical abuse: The infliction of injuries or causing unnecessary pain and/or suffering. Abuse may be caused by hitting, kicking,

throwing, beating, whipping, spurring, shaking, poisoning, burning, scalding, suffocation, etc.

Animal sexual abuse: Any abusive act involving the rectum, anus or genitalia; or sexual contact with animals which may or may not result in physical injury to the animal. Sometimes called interspecies sexual assault (Beetz, 2008; Beetz & Podberscek, 2005; Beirne, 1997). Animal sexual abuse is the preferred term over bestiality (in which sexual intercourse would have to take place) and zoophilia, neither of which take into account the effect on the animal.

Emotional abuse: Bullying, excessive teasing, exploitation, or coercion that leads to a fragile emotional state is easier to recognize in humans than in animals. In animals, persistent threatening behaviour or a failure to provide basic needs is considered by some to constitute emotional abuse. While a typology of companion animal abuse presented in South Africa includes a category of “mental abuse,” (Vermeulen & Odendaal, 1993) this has not been recognized clinically or in statutory language in the U.S., U.K. or Canada.

Hoarding: Animal neglect on a large scale involving multiple numbers of animals and frequently inadequate housing and husbandry conditions

Neglect: Lack of care, often resulting from ignorance, poverty, or extenuating circumstances. Usually results in a failure to provide the basic necessities of life: adequate levels of food, water, shelter, veterinary care, grooming, or sanitation resulting in poor physical conditions. Neglect is the most common form of animal maltreatment investigated by animal protection authorities.

Non-accidental injury (NAI): A synonym for physical abuse (Munro & Thrusfield, 2001a-d).

How do I handle a case of suspected abuse or neglect?

Veterinarians have voiced concerns regarding possible civil and criminal exposure should they make a false report, a good-faith report that proves to be unfounded, or fail to make a report as prescribed by law. To address this concern, and in recognition of the principle that it is better for animals' welfare to make a report that later proves to be unfounded than to not respond to a potential problem, several U.S. states have granted practitioners immunity from liability. This immunity may be absolute (in effect even when reports are made negligently or fraudulently) or qualified (protects those who report in good faith even when no abuse or neglect is revealed).

Veterinarians can further reduce exposure by maintaining liability insurance and signing "hold harmless" agreements with government and nonprofit agencies. Maintaining comprehensive medical records – including health assessment, medical history, statements made, observed behaviors, detailed description of injuries, an opinion as to whether injuries are adequately explained, results of laboratory tests and diagnostic procedures, and photographs and imaging studies – may likewise reduce the exposure to liability. In cases where discrepant histories are given to various individuals, it is important that each such statement is recorded.

Once a diagnosis of animal maltreatment is suspected, the practitioner should be prepared to assess the risks to the animal, the client, other animals and persons in the household, and staff members. The veterinarian must determine whether the most effective response would be through client education, monitoring the situation, or reporting the incident to appropriate authorities. Unlike the situation for human healthcare professionals where the reporting of suspected child abuse and neglect is required (Arkow & Munro, 2008), in most jurisdictions,

veterinary reporting is not mandated by law, and consequently arriving at the most effective resolution is challenging. To assist veterinarians in determining a diagnosis of animal maltreatment, as well as the most effective response, a Risk Assessment Decision Tree and suggested Client Questionnaire have been produced by the American Veterinary Medical Association (Arkow, Boyden, Patterson-Kane, 2011).

A proportion of cases of animal abuse and neglect can be resolved through client education. Specific language for discussing with a client the neglect of an animal's care is available (Wilson, Rollin & Garbe, 1993). When educational interventions fail or in severe cases, a report should be filed with the appropriate authorities for investigation.

The initial examination, client conference and discussion with colleagues may direct the practitioner in one of two ways:

- A. It may be sufficient to note concerns on a confidential part of the client's record so that future incidents that raise suspicion are dealt with appropriately. (See Appendix C in Arkow, Boyden, Patterson-Kane, 2011, regarding confidentiality of client records.)
- B. Where the practitioner is not satisfied by simply recording these concerns, a decision may be made to report the case to appropriate authorities.

A suggested cascade for reporting to appropriate agencies is given below but a practice-specific protocol should be formulated and circulated so that all in the practice are aware of it and have agreed to implement it, should it be necessary.

How do I handle a case of suspected abuse or neglect? (continued)

1. If there is evidence of serious injury or neglect to an animal, it should be reported to appropriate animal welfare authorities. Training abuses should also be reported to individual breed organizations.
2. If there is evidence of minor injury or of neglect to an animal, assess the risk to the patient and other animals and determine whether client education, referral to other animal welfare and/or social services agencies, or a report to an investigating authority would be the most effective response. The severity, duration and frequency of the injury or neglect should be taken into account for the risk assessment.
3. If the client discloses incidence of domestic violence, the practitioner should advise the client to take necessary steps to ensure the well-being of the animals. These may include relocation to a safer environment and the client's reporting the domestic violence to appropriate authorities. The practitioner may also refer the victim to social service agencies and provide literature from local support groups, animal shelters, rescue and retirement facilities, and pet adoption and fostering services.
4. In cases where the clinical diagnosis is inconclusive or where the maltreatment is strongly suspected but not proven, the practitioner should attempt to secure corroborating documentation in the form of second opinions and, if possible, radiographs, blood analysis, CBC, serum chemistry, fecal analysis, and any other appropriate lab tests and appropriate diagnostic methods. Client consent must be obtained for any such investigation undertaken.
5. If there is suspected maltreatment of the animal, the likely cause must be recorded in the client record.

There is presently no absolute scale to determine when a particular collection of factors escalate a case of animal neglect, abuse or cruelty into a situation reflecting higher risk to the animal and others. The practitioner should use his or her good judgment in recognizing that a number of aggravating factors should be cause for serious concern. (For a detailed checklist of factors used in the assessment of levels of dangerousness in individuals who perpetrate acts of animal cruelty, see Appendix I in Arkow, Boyden, Patterson-Kane, 2011.)

To whom do I report suspected animal maltreatment?

In the U.S., the network of agencies empowered to investigate suspected animal cruelty, abuse and neglect is a confusing hodgepodge of community animal care and control agencies and law enforcement agencies, usually operating solely on the municipal or county level. Depending on the jurisdiction, investigations may be undertaken by the local humane organization, Society for the Prevention of Cruelty to Animals, city or county animal control agency, department of agriculture, police department, or sheriff's office. Each agency operates autonomously with varying degrees of investigation and enforcement powers and little coordination of investigations. Each operates under a state and, occasionally, municipal anti-cruelty statute

(Arkow, 1987). The practitioner is advised to check locally to identify and regularly update the appropriate agency and to invite agency personnel to train the veterinary team in their referral and investigation procedures so that information is at hand when it is needed. (See Appendix B for a description of reporting responsibilities and Appendix D for a list of major humane society and animal control shelters who may be able to assist in these cases, in Arkow, Boyden, Patterson-Kane, 2011.) Abuses that are identified at equestrian competitions should be reported to the organizers of the competition, as well as to overseeing breed organizations.

Can I be sued for defamation if I'm wrong in my assessment of suspected abuse?

Liability and confidentiality are serious concerns in a litigious society. Animals are regarded by the law as property belonging to their owners, rather than as beings with inherent rights to protection from abuse. Many states address this issue by enacting provisions granting practitioners absolute or limited immunity against civil and criminal liability for making a report of suspected animal maltreatment. Limited liability provisions cover veterinarians who make a report of suspected abuse in good faith; absolute protection covers practitioners who make any report, regardless of whether it

was made in good faith. Given that there is no objective diagnostic test at present for abuse, the veterinarian must rely on her or his professional judgment in reporting suspected abuse to authorities. If an assessment is carefully documented, represents sound professional opinion, and the report was not made in a cavalier way, the practitioner should theoretically be protected. When in doubt, consult private legal counsel or the legal section of the state veterinary medical association. (See Appendix B in Arkow, Boyden, Patterson-Kane, 2011).

Am I allowed to disclose client or patient information in a case of suspected abuse without violating confidentiality restrictions?

Courts in some states have explicitly refused to recognize a veterinarian-client privilege; other states allow it, either in veterinary practice acts, administrative rules, or statutes affecting a variety of health professionals. There are circumstances where confidentiality require-

ments are explicitly waived to protect the health and welfare of individuals or animals who may be endangered (Patronek, 1998; Sinclair, Merck & Lockwood, 2006). (See Appendix C in Arkow, Boyden, Patterson-Kane, 2011 for a digest of state confidentiality provisions.)

What are my responsibilities should my report result in the investigation and prosecution of a case?

What are my responsibilities should my report result in the investigation and prosecution of a case?

It is not the responsibility of the practitioner to prove that abuse or neglect occurred. Once a report has been made of suspected maltreatment, the investigating agency and/or prosecutor may request assistance from the practitioner. Several responsibilities that might devolve to practitioners should an initial assessment develop into an investigation of animal cruelty and possible prosecution have been identified (Sinclair, Merck & Lockwood, 2006). These include, but are not limited to:

- Examination of the premises, collecting evidence, and assisting law enforcement and humane investigators in recreating the events of the crime.
- Organizing the collection and transportation of bodies of any dead animals for examination or necropsy.

- Maintaining the chain of custody of evidence.
- Properly storing evidence until it is no longer needed.
- Performing detailed examinations of any dead animals and recording all normal and abnormal findings in a manner that will be effective and presentable in a court of law.
- Advising on, and possibly caring for, surviving animals, including that have been confiscated.
- Testifying in court as a witness to the facts and as an expert witness.
- Providing euthanasia for affected animals, when appropriate (see AAEP Euthanasia Guidelines, 2016, <https://aaep.org/euthanasia-guidelines>).

How do I collect and preserve evidence?

Chain of custody is the chronological documentation of every person contacting the item, how the item was packaged, the persons involved, dates, times, and purposes of all transfers. Items of evidence should be accompanied by their original evidence receipt or chain of custody.

The container label should include:

1. Case #
2. Item #
3. Investigating agency
4. Location of collection
5. Description of the item
6. Who collected item
7. Date/time collected

To seal, secure the package with frangible evidence tape, and write the packager's initials and date across the evidence tape onto the package.

Store in a secure location with restricted access. Items should be signed in and out of storage.

Disposal should occur only after receiving written consent from the submitting agency. Disposal should be documented on the original evidence receipt, which is retained (Touroo & Eller, 2016).

Visit <https://www.aspcapro.org/resource/disaster-cruelty-animal-cruelty-animal-fighting/sample-documents-cruelty-cases> to download a Cruelty Case Evidence Log and Cruelty Case Evidence Receipt form.

What practice management and economic issues might arise?

Practitioners have voiced concerns that reporting suspected animal maltreatment may lead to a potential loss of clientele or safety issues for staff. It has been noted that the only clients who would object to a medical professional's taking appropriate steps for the well-being of patients would be individuals who are animal abusers themselves; these

individuals are not the clientele the practitioner would ideally seek to keep (Yoffe-Sharp & Loar, 2009). In areas where the reporting of suspected child abuse is mandated by law, medical professionals have been able to deflect criticism by using this legal mandate to defend their actions (Arkow & Munro, 2008).

How should I handle a case of animal hoarding?

Hoarding, or collecting excessive numbers of animals, generally in unhygienic conditions for the animals and the caregiver, is a complex mental health and animal cruelty condition (Kuehn, 2002). The Hoarding of Animals Research Consortium (Patronek, Loar & Nathanson, 2006) has identified several distinct stereotypical animal hoarders. As stated before, unintentional abuse may perhaps be more frequently encountered by the equine practitioner as a result of an individual's attempting to deal with unwanted horses without adequate

resources. Typical interventions, which include court-mandated counseling and the surrender of certain animals, to date have not had appreciable impact in reducing a nearly 100% recidivism rate. Caring for the seized animals may require extensive and expensive investments. Cases often require a multidisciplinary team approach involving veterinary, medical, psychological, social services, and animal welfare agencies. Practitioners are advised to consult with animal welfare agencies prior to taking action.

Where can I get more information?

Practical Guidance for the Effective Response by Veterinarians to Suspected Animal Cruelty, Abuse and Neglect. <https://ebusiness.avma.org/Files/ProductDownloads/AVMA%20Suspected%20Animal%20Cruelty.pdf>

A free copy of body condition score poster, helpful in identifying cases of malnutrition and neglect, can be downloaded at:

<http://www.thehorse.com/free-reports/30154/equine-body-condition-score-poster>

The Canadian Veterinary Medical Association (<http://canadianveterinarians.net>) has information on maintaining a Chain of Custody, body scoring charts, condition of skin, weight change forms and sample evidence log forms.

www.veterinaryforensics.com has links to helpful websites addressing US and Canadian animal abuse law enforcement.

The Euthanasia Guidelines (2011) of the American Association of Equine Practitioners can be viewed at: <https://aaep.org/euthanasia-guidelines>

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