

Animal CSI: Gathering the Evidence

BY JULIE MILLER DOWLING



This article is written for new cruelty investigators and can also be used as a reference in hands-on trainings.

You've been investigating a case for several months and have finally obtained a search warrant. Maybe it's a dogfighting ring, or maybe it's a hoarding situation. Maybe a pet owner who's reportedly depriving his animals of proper care has repeatedly refused to allow access to his property.

Whatever the circumstances of the case, you now have to approach the scene, warrant in hand, with the steady hand of a rescuer and the calculating eye of an investigator. After the animals are secured, your focus turns to collecting evidence. How you gather it may ultimately determine who will have long-term custody of the victims; it will also affect whether the perpetrator sits behind bars or walks away to abuse again.

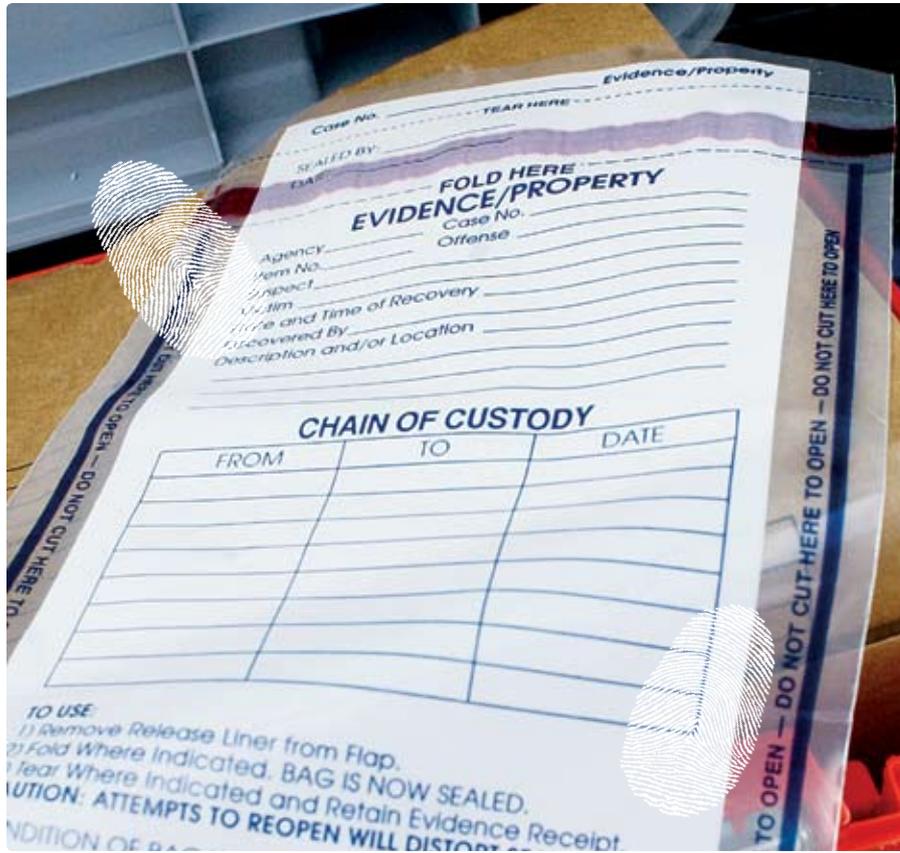
But where do you start? Besides taking a few photos of the animals and jotting down some comments from neighbors, what else is involved in properly documenting a crime scene? Although not a complete step-by-step guide, the following primer can help you start learning how to collect evidence the right way, furthering your chances of a successful prosecution.

Know the Law

What you don't know can ruin your case. Suppose an owner will not allow you on his property to see his animal, but a neighbor gives you permission to look into the yard from her property. Can you legally take photos? Or imagine you're responding to a call about a neglected, barking dog on a vacant lot and you see

objects that suggest the possibility of dogfighting. Is the property legally "vacant"? Can you seize the objects as evidence? By learning the state and local laws related to investigation procedures, you can find out how to execute search warrants, how to handle evidence, and what constitutes "exigent circumstance" (a situation that allows law enforcement to enter a structure without a warrant).

Most cruelty investigators and animal control officers are knowledgeable about state laws and local ordinances, but it's important to remain on top of changes and amendments to those laws. To find out whether and how the evidence you gather can be presented to a judge or jury, you also need to request a copy of your state's "rules of evidence" from your prosecutor.



Collect the Right Stuff

What you need to collect doesn't usually make itself apparent by glowing in the dark at the crime scene. If you're not sure whether something is important, collect it anyway, says lawyer Catherine Wolfe, former chairwoman of the Animal Law Section of the State Bar of Michigan. You'll get a clearer idea of what crime was committed and who committed it as you delve deeper into the case. And what may seem insignificant initially may prove to be relevant later.

So what will you be gathering? Evidence presented in the courtroom can be physical (objects that can be touched, like bullets and collars), testimonial (statements provided by either a layperson or expert witness), demonstrative (visual aids like photographs, maps, and diagrams), and documentary (such as veterinary records). And these types of evidence can be either direct or indirect (circumstantial); both can be valuable. For example, a video recording of a man throwing a dog out of a moving car is direct, demonstrative

evidence. A statement made by a newspaper carrier who did not see this crime but saw the man speed away from the dog lying in the street is indirect, testimonial evidence.

"At all times, keep your eyes on the prize," says Wolfe, author of *Get the Edge in Fighting Animal Cruelty Cases*. "[Focus] on obtaining evidence that can be used at the trial to establish every element of the crime and persuade the prosecutor, judge, and jury."

The victim is also key to resolving the case, writes ASPCA forensic veterinarian Melinda Merck in "The Veterinarian's Role in Handling Animal Animal Abuse Cases." "The animal in and of itself is a crime scene and should be treated as such," notes Merck, who is also the vice president of veterinary forensic affairs for Georgia Legal Professionals for Animals.

Not all evidence is gathered on the scene, however. For example, a more thorough examination or a necropsy conducted by a veterinarian may uncover important evidence to bolster the case. Veterinary records—subpoenaed

when necessary—can support your assertions about the animal's prior condition and treatment.

Watch Where You Step

After you identify and secure the crime scene, photograph and videotape the whole area before handling anything. "You want to have a good recollection of what that property looked like before you start your search," says Chris Sanford, who worked most recently as a special investigator for The Humane Society of the United States. "[Frequently the suspect] will claim that you went there and damaged their property."

Typically, a lead investigator divides a property into sections and designates certain people to search certain areas, says Sanford. "You have to make sure the effort is well-coordinated and ... the person writing the report is clear on where the evidence was found and who found it," he says. This can be complicated when many people are involved, but it's critical that the report be accurate. A defense attorney may try to attack credibility based on even small discrepancies, such as a written claim that evidence was found in the northeast corner of a room when a witness says it was actually discovered outside. "Before you even move it and tag it, make sure someone has recorded it with a photograph and video and that the lead investigator knows about it," Sanford recommends. He suggests placing a yellow three-by-five card or other marker next to discovered evidence so it's not overlooked during the documentation process.

Also be careful how you handle what you find. "Trace evidence" like fingerprints and blood spatters are usually associated more with homicides than with animal cruelty cases, which rely heavily on photographic evidence. But trace evidence can still be a factor. If you find stained carpet at a dogfighting operation, get it tested. In one case Sanford investigated, a suspect told him the stain on the carpet was transmission fluid. A lab test later showed it was dog blood.



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Capture the cruelty. After rescuing a neglected, severely matted chow, staff at one shelter immediately groomed and treated the dog, then took two photos: one of the animal and another of the fur piled on the floor. While the owners ended up voluntarily surrendering the dog, one expert says the timing of the photography could have ruined the shelter's case if it had ended up in court. The problem? Once shaved, the dog no longer looked mistreated. The scene resembled more of a grooming shop than a neglect case. Since the animal did not require emergency care, the staff should have photographed the dog before he was treated.

In other cases, grooming or shaving an animal is necessary to uncover signs of cruelty and neglect, such as wounds and starvation, that are disguised by a thick fur coat. Get both "before" and "after" photos in these instances.

At the same time, be sure to provide prompt treatment for any animal in need of immediate care, advises Sanford. "As part of your investigation, when you confiscate animals or serve a warrant to secure that property, if you identify any animal that needs medical care, you better take care of it right then and there because at that moment you're basically responsible for that animal," he says. "It's not only for the animal's best interest but yours as well—as an investigating agency—to see to it that that animal received the medical care he needs and to make sure you document that as well."

Go for variety. Graphic photos don't always work to your advantage. "If the judge or jury is unable to view a photo objectively because it is exceedingly gory, these individuals will be unable to carefully consider the evidence it is intended to document," write Sinclair, Merck, and coauthor Randall Lockwood, Ph.D., in *Forensic Investigation of Animal Cruelty*. "While the investigator's desire to demonstrate the offensiveness of the crime is understood, overly offensive photographs might not be useful or even admissible in court." This isn't to say

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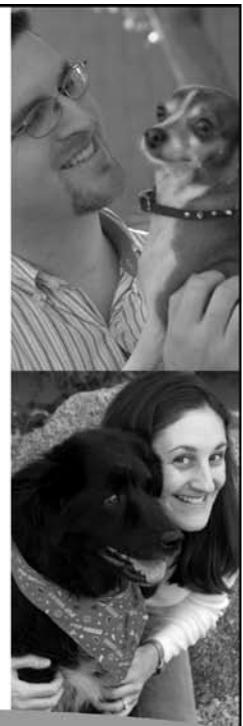
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that photos and video that depict severe injuries or necropsies should not be taken—they should. But be sure to shoot a variety of images so the prosecutor can choose the most appropriate and effective ones to present as evidence.

Show the link. Consider two photographs: One shows two dead dogs; the other shows footprints in the snow leading to a house. “There is nothing to connect these photos,” says Wolfe. “A defense attorney is going to rip on that. But if everything is captured in one picture, it makes it almost bulletproof.” Try to get as much evidence into one photo or video recording as possible, showing how it all relates.

Remember you’re on candid camera. Watch how you look, act, and talk during the evidence collection process. “The microphones on video recorders tend to pick up voices from a long way off,” says Sanford. “You don’t want anyone making comments that may come back to embarrass them in court.”

Map it out. While photographs are usually the best demonstrative evidence, maps, timelines, and even an enlarged image of the statute violated can be effective, too. “An important aspect that’s often overlooked is diagramming a property,” says Sanford. “If you’re taking 60 pit bulls from a dogfighting operation, it’s nice to have a diagram to show juries.” For example, the diagram could depict a room where 20 dogs were found and illustrate the room’s location in relation to a barn containing the dogfighting pit. “The diagram makes it easier for the jury to understand because they’re not on the property,” says Sanford. “A descriptive diagram can mean all the difference in them finding the person guilty or not guilty.”

Listen Carefully

Photos may be worth a thousand words, but spoken words bolster your case, too. Wolfe offers these tips on witness statements:

Written reports or statements are better than nothing. But since they reflect your interpretation of events, they’re subject to challenges. Opt for video recordings with audio, which can show the demeanor of witnesses and suspects and help the prosecutor evaluate credibility.

Don’t wait too long. Try to get statements from witnesses at the scene, while emotions are high and people are more willing to talk because they want the perpetrator punished. Over time, some witnesses may become reluctant to “get involved,” or they may forget some critical details.

Get a recorded or written assertion from the witness that her statement is given willingly. Don’t forget to include

the date, time, and location of the statement and the name of the person doing the recording.

When choosing an expert witness, don’t base your selection solely on the expert’s credentials. Make sure the expert is articulate and can present herself well. If you have sufficient training and experience handling animal cruelty cases, you yourself may qualify to be an expert witness, writes Wolfe in *Get the Edge*. “Consider signing an affidavit for submission to the judge with your warrant request,” she recommends, “or to the prosecutor with your written report.” While animal control officers often think they don’t qualify as court experts because they’re not doctors and “have no letters after their names,”

Don’t Show up Empty-handed

By far the most powerful tool you’ll use to fight and investigate animal cruelty is your brain. Still, you need a few other items to help you collect the evidence. Depending on the crime and the scene, you may need to bring:

- a search warrant, which is generally required to seize animals or enter private property to collect physical evidence (make sure warrants cover unattached property such as trailers, sheds, and cars);
- documentation and inventory systems such as evidence logs; “chain of custody” forms, which document the seizure, custody, and disposition of evidence; and receipts of seized property, which list all items collected for evidence and are distributed to the property owner, the court that issued the warrant, and the investigator;
- a field manual that describes laws and ordinances (which can be useful when working with other agencies on-site);
- a team of other investigators or experienced staff—not just to help with evidence collection but also to verify your conduct in case the perpetrator tries for a conspiracy defense (usually non-animal law enforcement would be there to serve the warrant or restrain respondents);
- a digital camera and extra batteries;
- video and audio recorders;
- a tape measure;
- index cards and waterproof markers to label and identify evidence at the scene; a notebook and pen; evidence bags, envelopes, and labels;
- protective gear such as gloves and masks; and
- flashlight and batteries, even during daylight hours.

Large-scale cruelty investigations with multiple animals will require additional equipment, such as carriers and body bags. See page 48 for resources that can help you prepare for major cases.

Wolfe says, many can sum up their vast experience in a sentence or two for the judge: "I've been an animal cruelty investigator for 23 years, and I've never seen such a bad case."

Protect the Evidence

To be admitted into court, your evidence must be authentic. You'll need to testify that you collected it at the scene, that you had custody of it, and that it is genuine, says Wolfe. This is called the "chain of custody."

"Proper collection and storage of evidence is critical," says Eric Sakach, director of The HSUS's West Coast Regional Office, "and varies depending on the type of evidence. Many shelters aren't equipped to store evidence properly. You need to protect the integrity of the evidence by limiting who has access to those rooms."

Assign someone to be in charge of the evidence, and control access to it. In cases where the evidence you're protecting includes dogs rescued from a dogfighting operation, keep those dogs separate from the general animal population, secure the area so the general public cannot enter, allow only certain staff to enter, and keep a log of who takes care of the dogs, says Sanford.

Since animals themselves are evidence, you must carefully monitor them when they're in your custody. "Make sure you document any health conditions or wounds that you see on an animal," says Sanford, "because it's not uncommon for the defendant to claim that those wounds happened while they were in the custody of the animal shelter." If an animal acquires a wound at the facility, document it, taking photos of the injury and recording any treatments administered.

Be prepared to show how all evidence was protected—whether it's a photo or a live animal—from the time it was gathered to the time it gets presented.

Bring in Outside Help

Just as a medical examiner is critical to a homicide investigation, a veterinarian is critical to many aspects of your cruelty investigation, from discovering evidence in an examination or necropsy to serving as an expert witness during trial. But some veterinarians may be hesitant to become involved in a cruelty investigation because of concerns about confidentiality, liability, cost, time, personal safety, and reputation. "I think cultivating a veterinarian ahead of time who has an interest in such cases and is willing to overcome or ignore many of these obstacles is an investigator's best option," says Sinclair.

Sinclair also recommends that participating veterinarians attempt to be retained directly by the prosecutor's office and that they negotiate a plan for payment. "This prevents the prosecutor from being able to subpoena the veterinarian, without pay, to sit in court for hours on end later in the case," says Sinclair, "and thereby helps to preserve the relationship the investigators have with the veterinarian. It also frees up the investigative agency's funds."

Cases involving large numbers of animals often require multi-agency assistance to identify, document, treat, and house the victims. Dogfighting investigations typically involve multiple crimes, multiple animals, and great personal risk for those pursuing the cases. Evidence collection in these situations requires much more than a good digital camera and a notebook. **AS**

To learn more, see the resources at left and check out training opportunities at the National Cruelty Investigations School (code3associates.org/NCIS.php) and the East Coast Animal Control Academy (carrollcc.edu).

Books

- *Forensic Investigation of Animal Cruelty: A Guide for Veterinarians and Law Enforcement Professionals*, by Leslie Sinclair, D.V.M., Melinda Merck, D.V.M., and Randall Lockwood, Ph.D.; Humane Society Press; humanesociety.org
- *Get the Edge in Fighting Animal Cruelty Cases*, by Catherine L. Wolfe, Esq.; Wolfe Pack Press, Inc. wolfepackpress.com

Visual/Audio Presentations

- "Animal Abuse: Why Cops Can and Need to Stop It," video produced by In the Line of Duty; lineofduty.com
- "Collecting, Selecting, and Presenting Evidence," PowerPoint presentation by Catherine L. Wolfe, Esq. Wolfe Pack Press, Inc. wolfepackpress.com
- "Persuading Prosecutors, Judges, and Juries," PowerPoint presentation by Catherine L. Wolfe, Esq. Wolfe Pack Press, Inc. wolfepackpress.com

Web Resources

- *Animal Sheltering* magazine, Resource Library (extensive archive of articles on investigations, animal fighting, hoarding, and other related topics), AnimalSheltering.org/resource_library
- National Criminal Justice Reference Service, ncjrs.org
- Animal Legal & Historical Center, "Dogfighting Detailed Discussion," animallaw.info/articles/ddusdogfighting.htm
- Veterinary Information Network, "The Veterinarian's Role in Handling Animal Abuse Cases," Melinda D. Merck, D.V.M., <http://canadianveterinarians.net/Merck-vet-forensics.htm>
- Canadian Veterinary Medical Association, "Collecting Physical Evidence," canadianveterinarians.net/animal-abuse-collecting-physical.aspx