

The critical role of the veterinarian in an animal cruelty investigation

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off the mark

by Mark Parisi

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I HAVE ADVISED MY CLIENT NOT TO FETCH ANY BASEBALL WITHOUT A CONTRACT SECURING ONE MILLION OUNCES OF GOURMET DOG FOOD WITH BONUS BELLY-SCRATCHINGS AND THE OPTION TO RENEGOTIATE AFTER FOURTEEN YEARS... DOG YEARS, OF COURSE...



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Outline

- Overview of the law in Canada
- Distress defined
- The basic animal cruelty investigation
- Preparations prior to attending the property
- Attendance at a property
- Examples
- Post seizure veterinary care
- The report of the veterinarian
- Testifying in a criminal/civil matter
- Questions

Overview of the law in Canada

- Federal government has exclusive authority for criminal law while the provinces have jurisdiction in all matters relating to property
- Animals considered property in the eyes of the law

FEDERAL:

- Criminal Code of Canada contains a number of provisions relating to animal cruelty
- Injuring or endangering animals and causing unnecessary pain and suffering. (sections 444 and 445)
- Federal offences require the element of willfulness (intent)
- Conviction in one province applies in another

Overview of the law in Canada (cont)

PROVINCIAL:

- Provincial legislation for the prevention of cruelty to animals
- Examples: Prevention of Cruelty to Animals Act (BC)
Animal Health and Protection Act (PEI)
Ontario SPCA Act (Ontario)
Animal Protection Act (Alberta)
- All contain sections on causing “distress” to animals
- Offences are quasi criminal offences
- No requirement to prove intent (strict liability offence)
- Exemptions for “generally accepted practices”
- Conviction in one province not applicable in another

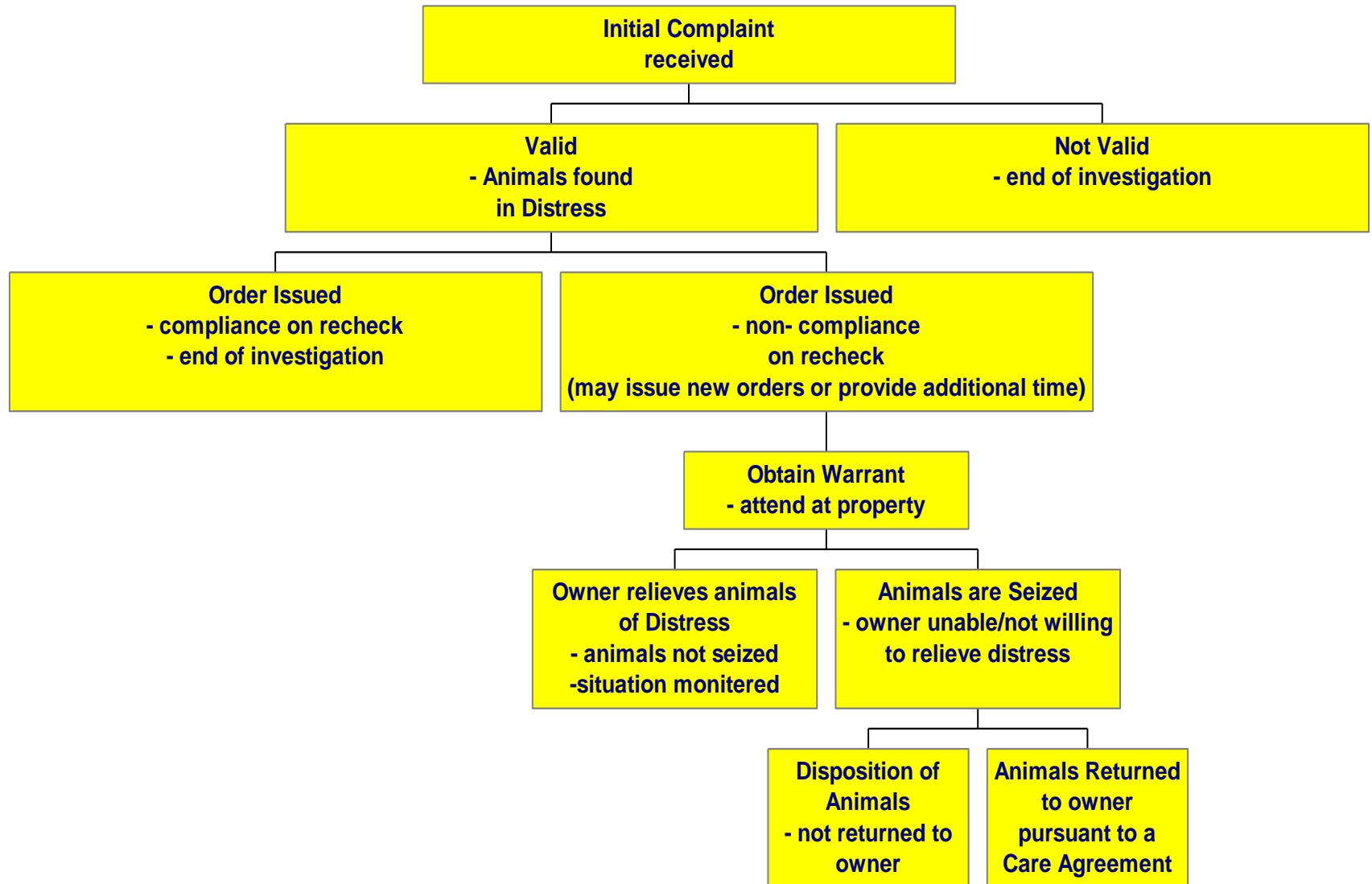
Distress defined

From the Prevention of Cruelty to Animals Act (BC)

An animal is in distress if it is

- (a) deprived of adequate food, water, shelter, ventilation, light, space, exercise, care or veterinary treatment,
 - (a1) kept in conditions that are unsanitary, (NEW)
 - (a2) not protected from excessive heat or cold, (NEW)
- (b) injured, sick, in pain or suffering, or
- (c) abused or neglected

The basic animal cruelty investigation



Preparing for the investigation

Generally:

- This is NOT for everyone!
- Likely to disrupt your practice in some way
- May cause upset in the community in which you practice
- Establish relationship with the enforcement agency
- Consult resources: Dr. Melinda Merck's "The veterinarian's role in handling animal abuse cases; codes of practice

Specific to the investigation:

- Obtain basic information from the enforcement officer
 - Information about animals (type, number, area of concern)
 - Basic info on the animal owner
 - Expected time to conduct investigation
 - Fee for service
 - Don't pre-judge the situation

Attendance at the Property

- Independence
- Observing the environment
- Physical examination of the animals
- Make notes
- Determine “distress”
- Opinion: stay/go
- Prescribe course of action required



Examples





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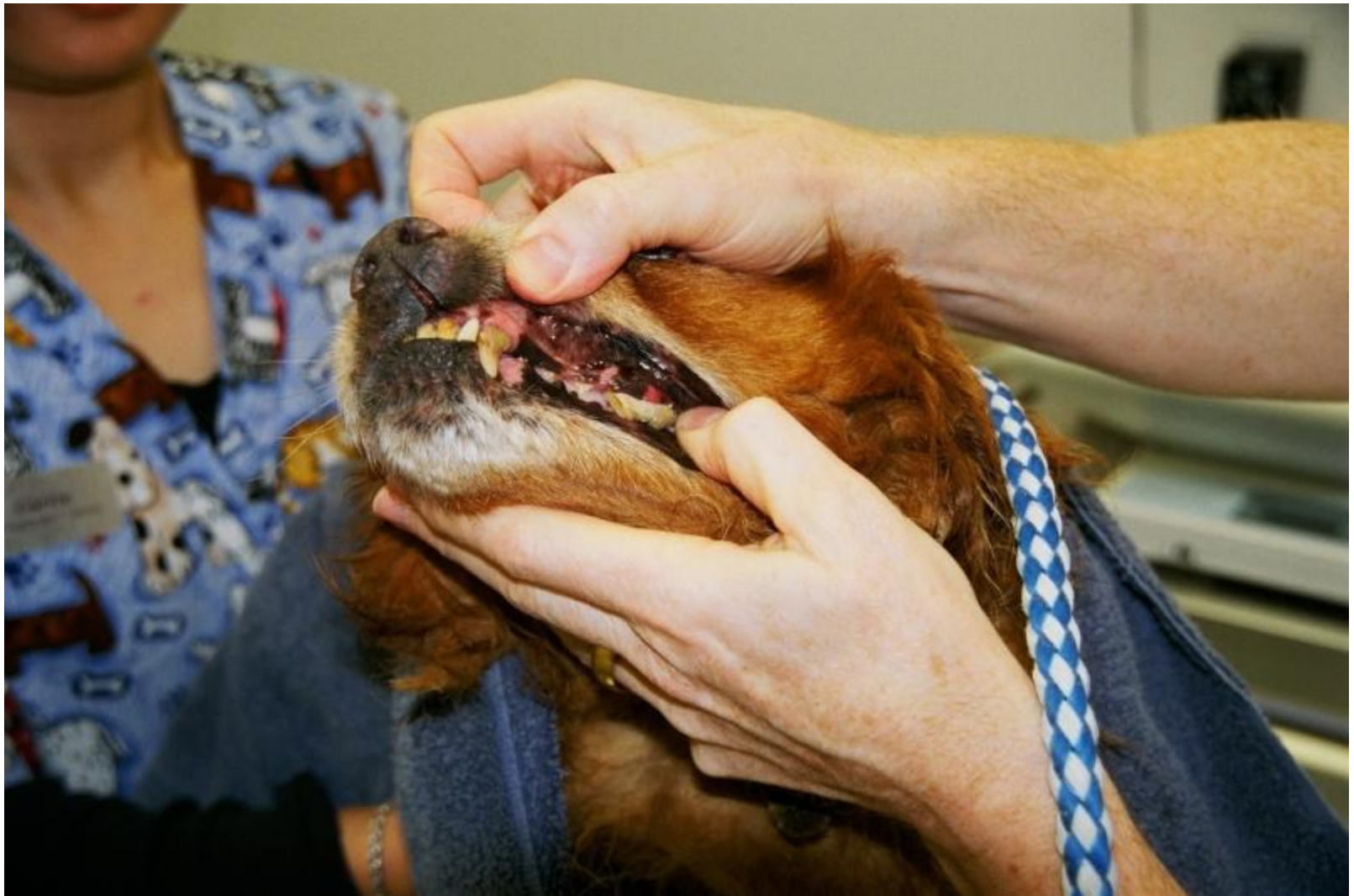
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Post seizure veterinary care

- Transcribe your notes into a written report as soon as possible. Hold on to your rough notes
- Attendance at shelter to monitor progress of animals
- Document progress or change in animals
- Possibility of discussions with other vets



The report of the veterinarian

Suggested format:

- Statement of qualifications
- Purpose of the report
- Facts and assumptions
- Opinion
- Appendices
- Photos



Testifying in a criminal or civil matter

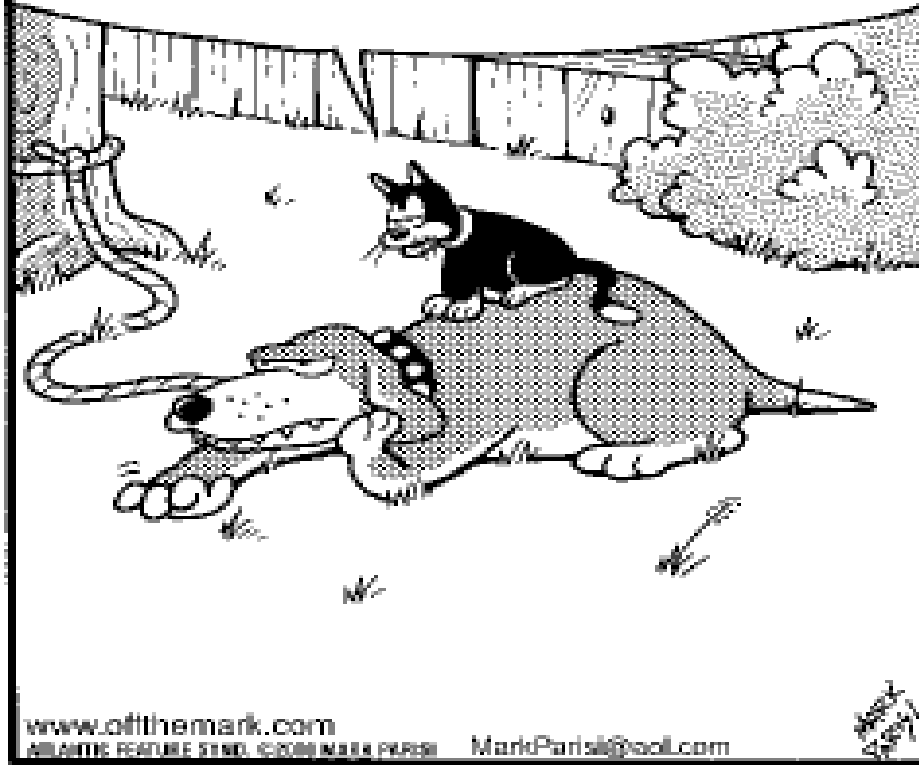
- An excellent veterinarian report may negate the need for oral evidence
- Determine beforehand the fees paid to witnesses
- Ask to be accommodated to prevent a major disruption to your practice
- Expert witness testimony allows for the expression of opinions
- The veterinarian will likely be the only expert witness
- Facts and assumptions will naturally lead to opinion
- Be decisive and don't second guess yourself. Your job is NOT to be agreeable to the defence

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WHAT A KEEN SENSE OF IRONY. THEY
NAME YOU "ROVER" THEN LEAVE YOU
TIED UP IN THE BACKYARD...



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Thank You!



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