

March 2017

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A Monthly Magazine from Animal Control Training Services
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Your Local Animal Control Ordinance



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Brady Lists and Animal Control

By Mark Kumpf

When someone mentions the word “Brady” and asks, “What comes to mind?” many things might - but for those in law enforcement, our mind may conjure a different image than most. In my generation, the “Brady Bunch” was a landmark television show about a blended family with a sense of solid values. Flash forward several decades and others will associate this with the Brady Act otherwise known as the Brady Handgun Violence Prevention Act, 1993. These are both “Brady” moments but I want to mention another important one, this being *Brady v. Maryland*. The case is over a half century old with many subsequent cases expanding and defining the initial ruling.

In 1963, the Supreme Court ruled that prosecutors had an obligation to disclose evidence that was favorable to the defense to include any evidence that would be “material to guilt or punishment” with failure to do so constituting a violation of the defendant’s due process rights to a fair trial. Building on this decision, further rulings in *Giglio v. United States* (1972), *United States v. Agurs* (1976) and *Kyles v. Whitley* (1995) not only highlighted the prosecution’s duty to disclose exculpatory or favorable evidence but removed the requirement that a defendant had to request the evidence and ruled that prosecutors had a “duty to learn of any favorable evidence known to others acting on the government’s behalf.” Yes, these rulings put the burden firmly on the prosecution to disclose without request and even seek out exculpatory information.

In *Kyles*, the ruling netted both prosecutors AND law enforcement officers by saying, “prosecutors are deemed to have constructive knowledge of potential impeachment material held by law enforcement agencies with which they work.” This means in layman’s terms that the prosecution should know if the LEO or agencies they work with have information that could be used to impeach the testimony or evidence presented by any officers in their case. So how does this impact law enforcement and animal control?

Crimes of moral turpitude such as lying, cheating or stealing are usually automatic disqualifiers for obtaining employment in the law enforcement field. Often, agencies maintain “Brady Lists” more commonly known as “Liars Lists” on officers that they have either hired, disciplined, fired or refused to hire. Their credibility and

testimony ability in criminal investigations is tainted to the point that they are completely ineffective in court. Once the agency knows about it, they have a duty to provide that information to any criminal or civil prosecutor and, by court ruling, that information must in turn be disclosed to the defense. The net result is that cases involving “Brady Listers” are often dismissed or never filed in the first place as the officer’s credibility is zero yielding almost universal dismissal of their cases on simple grounds that, “once proven a liar, always a liar.” In most other professions, this isn’t a career ending or show stopper for hiring – it is for law enforcement.

What can happen if a “Brady List” situation is not disclosed? Beyond the dismissal of a criminal case at trial, reversals of past convictions can result. Additionally, innocent persons may be found guilty based on falsified testimony given by one of these officers. These also may subject agencies or governmental bodies (cities and counties) to liability financially. In one Supreme Court case (*Connick v. Thomson*, 2011), an appellate decision resulted in a \$14 million dollar judgement after an inmate convicted and sentenced to death won his case proving that prosecutors failed to turn over exculpatory evidence. The Supreme Court reversed the financial liability noting that the prosecutor’s office wasn’t liable under §1983 USC for “failure to train” but the case left a lingering ruling that showed the horror of serving 18 years for a false conviction.

Take for example a case involving internal discipline for dishonesty or a simple conviction for writing a bad check. Either of these can impeach the credibility of the officer and, even if neither resulted in actual discipline (suspension or termination, for example) or a conviction, the mere knowledge is something that must be disclosed. When reviewing a potential hire, a conviction for obstruction of justice in a criminal case can be a show stopper. Some agencies place time limits on these situations where the infraction is minor but the “cooling off period” is usually three to five years (not months!).

As officers we have a duty to collect both inculpatory and exculpatory evidence and above all we have a duty to tell the truth. We only have one chance to be proven a liar and from that point, our value as “officers of the court” is reduced to nil. As I have written about before,

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we are not above the law. Does that mean that everyone who has ever told a lie can never be an officer or remain one? No. Your moral compass is your guide and your own ethical barometer. For those who find themselves “proven” to be a liar, that is a different situation. Our first President famously said (although it’s likely more myth than fact), “I cannot tell a lie” when questioned about the infamous cherry tree, he owned up to the act by being honest. Our sixteenth President had the nickname, “Honest Abe.” I stop with Lincoln because after that, things get a bit hazy. Suffice it to say that if a prosecutor is aware of an officer with a truth issue, they are bound to disclose it.

A prosecutor once gave some good advice to others about knowledge of bad things. “If it hurts your case, turn it over; if it really hurts your case, turn it over more quickly!” The “Brady Golden Rule” is one that we not only should live by, but prosecutors - and by extension each of us - must live by.



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Get Involved!

By Lauren Malmberg

Working in animal control, it's easy to become isolated. We often work late shifts, alone, and with little contact with others in our field. This isolation can foster bad work habits, limit our ability to learn and grow in our jobs, and diminish our job satisfaction. While we may not be able to change our hours or work environment, we can find ways to continue to develop and grow in our jobs, gain greater pleasure in our work, and build a network of supportive people. All we have to do is get involved!

Even if you're a one-man shop or have a very small staff, you can still get involved in animal control on a broader level. And the beauty of this is you can be as involved as much as you want; you set the parameters. The benefits, though, of developing contacts throughout your community, region, state, or even the country, can be life-changing. And your involvement outside your regular job only improves the image of your work and your agency.

Locally –

Get involved in local groups that work to affect community change. Animal control is an integral part of public safety and, because of the human-animal bond, an important component of larger social issues as well. Most cities have groups working to end violence, support youth, help the elderly, and enhance neighborhoods. How can you help? Can you create a pet-assisted therapy group to visit hospitals, nursing homes, and other residential care facilities? Can you join a violence prevention group and spread the word about the connection between animal abuse and human violence? Can you be a part of a team that addresses youth problems? Can you provide emergency shelter for the pets of domestic violence victims fleeing abuse?

Reach out to social service agencies, community groups, law enforcement, and others to offer your assistance, information, input, and ideas. Let others in your community know about the important work you do and what services you can offer. Some community groups – when they see the good work you do – may be a source of funding for training and education or even equipment. And by becoming involved, you cultivate a network of contacts that – even though they are in a different field – appreciate and support the work you do.

Regionally –

Build relationships across municipal and county boundaries with other animal control agencies as well as animal welfare organizations, rescue groups, and veterinarians. You never know when you may need assistance – mass impoundment, natural disaster, emergency response, disease outbreak, etc. Building the relationships in good times can make things go much easier in bad times. You may want to consider mutual aid agreements, coordinated response efforts, collaborating on training initiatives, and other ways to pool your resources with other nearby groups to get the most bang for your buck. Not only can you get help when you need it; you can also communicate and network with these people for your own advancement, education, and support.

Statewide –

Join your state professional organization. Most states have an animal control or animal welfare association. Become a member and get active. In many states, these groups sponsor training conferences, sponsor and monitor state legislation, and provide assistance, advice, and support to members. Most times, these groups maintain websites, Facebook pages, and other outlets that allow you to make contact, gain information, and develop relationships. The Board of Directors is made up of people just like you. Many have committees that do specific work – coordinate training events, organize the annual meeting/conference, work on legislation, and more. You can usually find a way to get involved using your talents in the best way possible.

Nationally –

As your time and funding allow, attend national training conferences. National groups can also be a source of grants to further animal welfare. Some support disaster response teams and are looking for volunteers to be trained and activated for significant events across the country. And, again, some of their boards are made up of people working in the field – another possibility for you to develop professionally.

You are not alone! But sometimes you have to make the effort to get involved and find others who will support you. Reach out to others in your local community and beyond to develop relationships that allow you to participate in a broader world. Animal control can have a tremendous impact on people's lives – show them how!

Your Local Animal Control Ordinance

By the late, great Mike Burgwin

Whether an animal control agency is large or small, made up of many officers or just one part-time officer, it operates by the authority granted to it by a specific set of laws. These laws begin with the United States Constitution and are contained in the state constitution. Eventually by authority granted at the state level, the city or county passes an ordinance to address the local animal control problem.

Some agencies operate under state laws and do not have a local ordinance to help with specific problems. Because quite often local jurisdictions have problems that are peculiar to their specific locality, states under certain circumstances grant a city or county the authority to address the problem by enacting an ordinance.

If your agency is considering an ordinance, you should first check with your city or county attorney and ascertain whether your local government has the authority to enact an ordinance of the type you seek. If they do have this authority, find out what restrictions, if any, the state has placed on that authority. For instance, if you want to increase your dog license fees to \$7.00 for a sterile dog and \$25.00 for a fertile bitch and the state law rules that no pet license shall exceed \$10.00 per year, you have a problem. You must either change your figures or change the state law.

For the rest of this article, it is assumed there is full authority to write an ordinance of choice. But remember, before you start such a project, always ask, "By what authority?"

Determining the Need for a New Ordinance

Do you really need a new or amended ordinance or can the problem be best solved by better enforcement of your present laws? Ordinances by themselves have only a minimal effect on the problems they address. Lasting effect is caused by continued proper enforcement. For instance, did the judge find the owner of a vicious dog not guilty because the law was not specific enough, or because you failed to prove the elements of the case? Did you fail to properly investigate the alleged violations? If so, then you do not need an ordinance change; you need training or possibly more personnel so that enough time can be allotted for a proper investigation.

It is not unusual for an officer to have to work with an ordinance that is vague. Successful prosecution is the

result of a proper investigation which proves violation of a specific section or sections of a particular ordinance. You can determine that an owner did not feed and water his animal. It is much more difficult to prove that he was cruel to the animal. Proving a state of mind is very difficult. Proving that a particular violation occurred at a specific time and place is not nearly as difficult.

If your jurisdiction has problems which your state or local laws do not address properly, then you need to either obtain an ordinance or amend your present one. To determine if you should attempt to obtain a new or amended ordinance, list your animal control problems and ascertain whether the present laws address them in a workable fashion.

Problem: Animal abuse. Too many cases lost.

Present Law: Vague; Just states it is unlawful to be cruel to an animal.

Action: Need specific wording so officer, prosecutor and court are all talking the same language.

Problem: Too many animals running at large. Many complaints from residents.

Present Law: Law very specific and enforceable, but not enough officers to spend the time required to properly enforce.

Action: Request additional personnel in the next budget.

Problem: Many complaints about dogs defecating on private property and their owners not cleaning up after them.

Present Law: No law addressing this issue.

Action: Need a law prohibiting such behavior.

You have determined there are problems which need to be addressed by law. You have also determined that some of them are peculiar to your area; for example, your city needs a scoop law, but the rural area surrounding the city has expressed no such need. Therefore, you have determined that your problems are best addressed by a local ordinance rather than a state statute.

Creating a Demand for the Ordinance

Laws do not work if they are not wanted. There are numerous ways to create this demand.

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1) Present your documented problems to your supervisor and request a committee be appointed by your local government head. Said committee to prepare an ordinance for the city or county to consider for adoption.

2) Request the people who are complaining about animals to advise their elected officials that there is a problem and they want a committee appointed to look into the matter.

3) Contact the media and present your documented problems and request their assistance.

The committee is to be appointed from a list of names that you have submitted. Your list consists of names of people who are concerned about animals either for or against and a majority of those who are neutral on the subject.

The committee is formed and consists of one or two people who believe that all animals are born free and should not be restricted. Also on the committee are one or two people who believe that the only good dog is a dead dog. The rest of the committee is made up of an attorney, a doctor, a veterinarian, a police officer, and three to five people unfamiliar with government or animal husbandry. The ideal committee contains: a medical doctor who is familiar with zoonosis, bite victims, and human psychology; a veterinarian who is familiar with animal requirements and sanitation; an attorney who is familiar with proper structure and language of an ordinance; a police officer who is familiar with law enforcement and its pitfalls, the practical side of enforcing a law; the animal worshipper who can state animal rights; the animal hater who believes in only human rights; and the balance of everyday people who will be required to obey the law. About 12 to 15 people should make up the committee. You should act as staff to the committee, by attending every meeting and by having the facts and figures available at all times.

Preparing the Ordinance

The objective of the committee is to develop an ordinance that will: 1) address the local animal problems; 2) be enforced with available resources or with resources that can reasonably be expected to be budgeted by local government; and 3) be accepted by a large majority of the public.

The committee should hear testimony from judges, pet shop owners, animal trainers, postal employees, meter readers, school authorities, representatives of the elderly,

animal breeders, and any other group concerned about any aspect of animals. It is important to settle your differences in the committee and present one unified front to your local governing body. Remember they do not like dissent. If you have fights at their hearings, they are likely to table the matter and you will be left without your needed ordinance.

The most effective ordinances are those that are easy to read and understand - by you, the prosecutor, the judge, and the general public. Wide sweeping statements do not belong in the law. Do not say it is unlawful to be cruel to an animal unless you add: 1) by failing to provide potable water; 2) by depriving it of proper nutrition; 3) by failing to provide medical care; and 4) by failing to provide proper shelter. Make it clear that neglecting any one of these can be a violation. The owner does not have to violate all of them in order to be guilty of cruelty. Be specific!

“You are paid to enforce the laws created by the society you live in. You are not paid to create your own laws.”

The ordinance should state each violation in simple, clear words. For instance, stating that an animal owner must not allow an accumulation of feces is not specific. Instead, write something such as, “Feces must be removed a minimum of every 24 hours.” This informs the pet owner specifically what is required and a violation is easily proven.

When the committee has written its proposed ordinance, have your agency’s attorney approve the format and wording. Do make sure that the intent remains as written by the committee.

Now you have a proposed ordinance which the city or county attorney states is in the proper legal format. You also have the support of the committee and various and assorted groups of pet fanciers as well as animal critics. If the proposed ordinance does not have their support, you should at least have neutralized them. They may not speak in favor of the ordinance, but also they have agreed not to speak against it.

Gathering Public Support

The best way to get the support of the public is to form a speakers pool consisting of some or all of the committee and yourself. Take a moment to develop a PowerPoint presentation. Write out what is to be said; the message must be the same no matter who gives it. First, state the problem and then the section in the proposed ordinance which addresses that particular

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problem. Explain how it will do what is needed. Go carefully through each problem and its suggested cure. Then listen to the response. Do not become overly protective of the proposed ordinance, in spite of all your careful work, because the committee could have missed an important factor. When the package is ready, talk to schools, service clubs, political parties, unions, anyone that will listen. SELL! SELL! SELL! Let them know you care about their problems and you believe you have an answer that will help them. Do not forget to present your package to any elected government official who will listen. Make sure your proposed ordinance will not create extra work for another agency, or if it does, make sure they are aware of it and agree with you. Talk to the editors of your local newspapers, TV and radio stations, and enlist their aid. You should allow 60-90 days prior to the city council or board of county commissioners hearing to make your public contacts.

Presenting the Ordinance

If you have progressed to this point with a minimum of animosity, you are ready to present your case to the local legislature. If possible, have the chairman of your appointed committee make the official presentation speech before the legislature. Line up your speakers in advance and prepare them for the task. Provide them with technical information, illustrative charts, slides, etc. Take charge of the hearing, or dissidents will. A well thought out ordinance with the support of the community will receive approval from your city council or board of county commissioners.

Are there sections that may be too controversial for the legislature to approve? For example, the proposed ordinance states that license fees shall be \$5.00 for sterile animals and \$25.00 for fertile animals. Your present law states that all dog licenses shall be \$7.50 annually. Be prepared with alternative language, because if you are not, they will either drop that section of the ordinance or put in wording of their own. Alternate language may say that the committee recognizes the drastic change in the license requirements and suggests that license fees could be \$5.00 for sterile animals and \$15.00 for fertile animals. You will have at least established the acceptance of license fees being more for fertile animals than for sterile animals. And you can approach the legislature again after a year or so of working with the new fees.

Enforcing the Ordinance

Once the ordinance has been enacted, do not rush into enforcement. Enlist the aid of the media. Let the

people know what the new laws are; remind them of why they are in existence. Apply the pressure slowly but firmly. Give the public time to adjust. Remember, unless the vast majority complies willingly, your new ordinance will be worthless. You will never have the resources it takes to force all the citizens to comply. Be sure to include the prosecutor and the courts in your explanation. Make sure they both understand the purpose of the ordinance. Do not assume they know.

One final word, you are paid to enforce the laws created by the society you live in. You are not paid to create your own laws. Get everyone involved; it is the American way and it works.



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ACTS Training Schedule

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Basic Animal Control Officer Certification

Hosted by the Colorado Association of Animal Control Officers

April 17-21, 2017 - Golden, Colorado

Schedule of Training: State Laws, County Ordinances and City Codes; Tactical/Interpersonal Communication; Officer Safety and Self-Defense; Basic Animal Control Officer Investigations; Evidence Law and Collection; Courtroom Testimony and Report Writing; Safe Handling of Aggressive and Dangerous Dogs; Safe Animal Handling/Capture and Restraint Equipment

Animal Control Officer Training

Hosted by the Illinois Animal Control Association

April 27-28, 2017 - Aurora, Illinois

Schedule of Training: Safe Handling of Aggressive and Dangerous Dogs; Safe Animal Handling/Capture and Restraint Equipment; Officer Safety and Self-Defense

Michigan Association of Animal Control Officers

Spring Training Conference

May 1-2, 2017 - Thompsonville, Michigan

Schedule of Training (Presented by ACTS): Officer Safety and Self-Defense; Safe Handling of Aggressive and Dangerous Dogs; Courtroom Testimony and Report Writing

Training Program for Animal Control Professionals

Hosted by the Wisconsin Animal Control Association, Inc.

May 4-5, 2017 - Green Bay, Wisconsin

Schedule of Training: Illegal Animal Fighting; Understanding the "Link" in Animal Abuse

Basic Animal Control Officer Certification

Hosted by the Deming - Luna County Humane Society

May 8-12, 2017 - Deming, New Mexico

Schedule of Training: State Laws, County Ordinances and City Codes; Tactical/Interpersonal Communication; Officer Safety and Self-Defense; Basic Animal Control Officer Investigations; Evidence Law and Collection; Courtroom Testimony and Report Writing; Safe Handling of Aggressive and Dangerous Dogs; Safe Animal Handling/Capture and Restraint Equipment

Training Program for Animal Control Professionals

Hosted by Livingston County Animal Control

May 10-11, 2017 - Pontiac, Illinois

Schedule of Training: Chemical Immobilization Certification; Safe Handling of Aggressive and Dangerous Dogs; Safe Animal Handling/Capture and Restraint Equipment

Animal Control Protective Equipment Training

Hosted by Howard County Animal Control

May 22-23 and May 24-25, 2017 - Columbia, Maryland

Schedule of Training (May 22-23): Officer Safety and Self-Defense; Baton/Bitestick Certification

Schedule of Training (May 24-25): Officer Safety and Self-Defense; Baton/Bitestick Certification

ACTS Training Schedule

For a registration form, visit www.aco-acts.com or call 913-515-0080

Basic Animal Control Officer Certification

Hosted by Oxford Division of Police/Animal Control

June 5-9, 2017 - Oxford, Ohio

Schedule of Training: State Laws, County Ordinances and City Codes; Tactical/Interpersonal Communication; Officer Safety and Self Defense; Basic Animal Control Officer Investigations; Evidence Law and Collection; Courtroom Testimony and Report Writing; Safe Handling of Aggressive and Dangerous Dogs; Safe Animal Handling/Capture and Restraint Equipment

Basic Animal Control Officer Certification

Hosted by the Carrollton Police Department

June 12-16, 2017 - Carrollton, Missouri

Schedule of Training: State Laws, County Ordinances and City Codes; Tactical/Interpersonal Communication; Officer Safety and Self-Defense; Basic Animal Control Officer Investigations; Evidence Law and Collection; Courtroom Testimony and Report Writing; Safe Handling of Aggressive and Dangerous Dogs; Safe Animal Handling/Capture and Restraint Equipment

Training Program for Animal Control Professionals

Hosted by the Carrollton Police Department

July 10-12, 2017 - Carrollton, Missouri

Schedule of Training: Chemical Immobilization Certification; Citations, Dangerous and Vicious Declarations; Firearms Training/Field Euthanasia; Diversion: Alternative Enforcement Programs; Performing Animal Exhibitor Inspections; Challenging Encounters in Animal Control; Animal Hoarding Investigations

Training Program for Animal Control Professionals

Hosted by White County Public Safety Department

July 17-20, 2017 - Helen, Georgia

Schedule of Training: Understanding the "Link" in Animal Abuse; Investigative Techniques for Cruelty and Neglect Complaints; Interview and Investigation Techniques; Pepper Spray Certification; Baton/Bitestick Certification

Basic Animal Control Officer Certification

Hosted by North Little Rock Animal Services

July 24-28, 2017 - North Little Rock, Arkansas

Schedule of Training: State Laws, County Ordinances and City Codes; Tactical/Interpersonal Communication; Officer Safety and Self-Defense; Basic Animal Control Officer Investigations; Evidence Law and Collection; Courtroom Testimony and Report Writing; Safe Handling of Aggressive and Dangerous Dogs; Safe Animal Handling/Capture and Restraint Equipment

An Introduction to the Taser™ for the ACO

Hosted by North Little Rock Animal Services

July 29, 2017 - North Little Rock, Arkansas

Schedule of Training: An Introduction to the Taser™ for the ACO

ACTS Training Schedule

For a registration form, visit www.aco-acts.com or call 913-515-0080

Basic Animal Control Officer Certification

Hosted by Multnomah County Animal Services

August 7-11, 2017 - Troutdale, Oregon

Schedule of Training: State Laws, County Ordinances and City Codes; Tactical/Interpersonal Communication; Officer Safety and Self-Defense; Basic Animal Control Officer Investigations; Evidence Law and Collection; Courtroom Testimony and Report Writing; Safe Handling of Aggressive and Dangerous Dogs; Safe Animal Handling/Capture and Restraint Equipment

Training Program for Animal Control Professionals

Hosted by the Dan Cosgrove Animal Shelter

September 18-21, 2017 - Branford, Connecticut

Schedule of Training: Tactical/Interpersonal Communication; Officer Safety and Self-Defense; Safe Handling of Aggressive and Dangerous Dogs; Pepper Spray Certification; Baton/Bitestick Certification

Basic Animal Control Officer Certification

Hosted by Kershaw County Department of Safety/Emergency Services

October 2-6, 2017 - Camden, South Carolina

Schedule of Training: State Laws, County Ordinances and City Codes; Tactical/Interpersonal Communication; Officer Safety and Self-Defense; Basic Animal Control Officer Investigations; Evidence Law and Collection; Courtroom Testimony and Report Writing; Safe Handling of Aggressive and Dangerous Dogs; Safe Animal Handling/Capture and Restraint Equipment

Animal Control Officer Training

Hosted by the Illinois Animal Control Association

November 2-3, 2017 - Bloomington, Illinois

Schedule of Training: Interview/Investigation Techniques; Evidence Law and Collection; Challenging Encounters in Animal Control

Hosting ACTS Training

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