

**A Member of the Family: A Practical Ideal Type for Including Companion Animals
in Protective Orders**

by

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Abstract

Research Purpose: The purpose of this research is threefold using the 13 states that passed legislation to include companion animals in protective orders between 2006 and 2009. The first purpose is to establish a practical ideal type for the automatic inclusion of companion animals in protective orders in cases of domestic violence using the International Institute for Animal Law's *The Domestic Abuse Animal Protection Act* and incorporating certain mandates for practitioners and public employees. The second is to gauge how closely states have modeled their laws to the practical ideal type. The final purpose is to showcase one state whose statute best fits the practical ideal type. This research treats instances of animal abuse as part of the domestic violence umbrella.

Methodology: The applied research paper utilizes content analysis to gauge how closely the language contained in the statutes of the 13 states studied fits the model legislation. Because the actual statutes serve as the resource for analysis, the index scoring is dichotomous.

Results: Based on the analysis, each of the 13 states that include companion animals in domestic violence protective orders follow the outline of *The Domestic Animal Abuse Act*.

About the Author

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Chapter 1: Introduction

"Man Facing Assault, Animal Cruelty Charges"

The Coloradan (Fort Collins, CO), May 17, 2011

"Man Accused of Killing Puppy to Enter Plea Tuesday"

The Gilroy Dispatch (Gilroy, CA), May 23, 2011

"Man Killed Three Baby Rabbits Following a Fight with Wife"

The Ledger (Lakeland, FL), May 24, 2011

What do the three headlines have in common? They each represent the harsh reality of family violence. It affects all members of a household: humans *and* animals. Appendix C is an example of a letter written to women's magazine advice column on the subject of human and animal abuse.

This research examines the inclusion of pets in protective order applications, a court-ordered protection given to victims of abuse. The idea of protecting animals in general is not new. All fifty states, the District of Columbia, and Puerto Rico have animal cruelty laws; forty-six states have animal abuse laws which are treated as felonies (Arkow 2007). The laws vary as to the protection they provide for animals (Breyer 2000). What is new is the growing recognition of companion animals as members of the family by lawmakers and the courts, particularly in cases where domestic violence is present.

A protective order is a civil remedy that provides victims of domestic violence a legal means of escaping an abusive situation (DeJong 2006). Protective orders are "court-ordered injunctions designed to restrain an individual's use of physical violence,

threats, or intimidation against another person" (DeJong 2006). Depending on the state they are referred to as personal protective orders (PPO), temporary restraining orders (TRO) or a variation of the two. Regardless of the designation, the purpose and the function are the same. The petitioner is first granted temporary orders issued without a hearing (DeJong 2006). The orders are effective for one to two weeks. During this time a hearing is held and both sides appear before the judge to validate or invalidate the petitioner's claim (DeJong 2006). If the claims are found valid, the judge modifies or extends order for the maximum amount of time allowed by law (DeJong 2006). In most states, the granting of a protective order covers the victim and any children.

Legally, states consider companion animals property (Arkow 2007). Again, this varies from state to state as some states treat pets as a special protected property (Pearson 2005). However, companion animals are more than property especially to those who are victims of family violence. Extending protective orders to pets as members of the household eases some of the anxiety a victim faces when trying to escape a batterer. The victim is able to apply for a protective order based on the threat of abuse to the animal to cause emotional harm to the family (Forell 2008). California protects pets based on the belief "perpetrators often abuse animals in order to intimidate, harass, or silence their victims" (Arkow 2007).

In the following sections, the link between domestic violence and animal abuse is presented to show why including companion animals in protective orders as members of the household eliminates a barrier to escaping an abusive situation. The inclusion allows for the same protection as human victims as opposed to a mere property classification.

The Bond between Humans and Their Companion Animals

The dog and cat population of the United States exceeds the human population of most European nations. The estimated

population of dogs in the United States is 73.9

million; cats, 90.5 million (Arkow 2007). Cats

and dogs are not the only types of animals

humans establish familial bonds with. Two of

the featured headlines at the start of this chapter



involve the killing of rabbits and a ferret. Laws pertaining to animals often distinguish

between domestic versus wild species - or domestic versus feral versions of the same

species - with each state applying a different definition (Epstein 2001). Is the animal

tame, part of the family life, or lives in an area near men (Epstein 2001)? This question

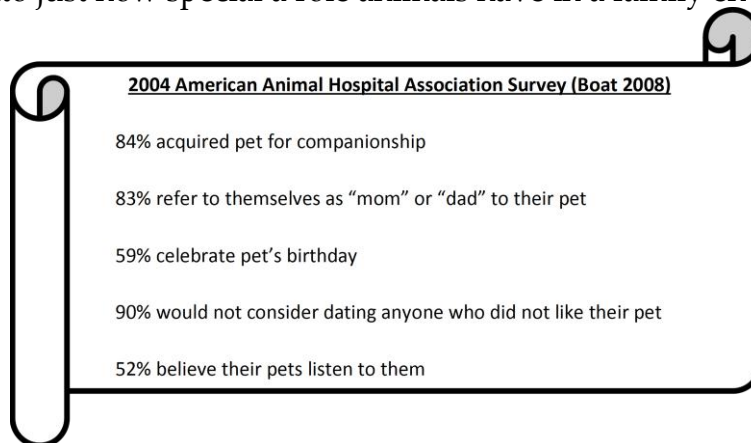
becomes problematic when one considers animals that live in the wild co-mingle with

human society: squirrels or coyotes, for example. For purposes of the research that

forms the basis of this paper, companion animal or pet, refers to all animals that

humans are likely to develop a bond. Examples include birds, snakes, and farm animals.

Approximately 60% of U.S. households have pets (Lacroix 1998). Two percent of pet owners view pets as property, 51% as companions, and 47% as members of the family (Arkow 2007). In the United States a child is more likely to have a pet than a father (Arkow 2007). Pet owners often times develop a “human-like relationship” with their pets and thus feel and treat animals in their care as family (Lacroix 1998). In 2004, the American Animal Hospital Association conducted a study on how animal owners viewed their relationship with pets. The results of the survey shown in the chart below are an insight into just how special a role animals have in a family environment.



Batterers recognize and exploit the attachment the intended victim(s) has with the animal. Because batterers will force victims to sever ties with family, the pet becomes the beneficiary of the emotional outlet sought by the victim (Forell 2008). Threatening to harm a pet is just one way in preventing the victim from establishing contact or receiving aid from family, friends, and advocacy groups (Forell 2008).

Why Including Companion Animals in Protective Orders is Crucial

Before delving into the link between domestic violence against human beings and abuse of animals, one must first define "domestic violence". Domestic violence encompasses more than just physical abuse. It is about intimidation, isolation, economic disenfranchisement, and simply control (Arkow 2008). Domestic violence is not limited to spousal abuse which occurs between two married people. It is sometimes called intimate partner violence to address abuse that occurs when one is dating, co-habiting and/or involved in a same-sex relationship. Domestic violence shows no regard for race, ethnicity, age, income, status, or geographical location. There are many other types of abuses such as elderly, child, and sibling. Animal abuse has only recently been added to the umbrella group which forms domestic violence or family violence.

Fifty percent of women will experience physical violence in a relationship and 24% are in an ongoing abusive relationship (Friedman 2009). A majority of individual incidents go unreported. The abuse also ends with the victim murdering her batterer, the topic that La Croix -- a researcher whose article this paper references—analyzes.

Children who witness domestic violence become "desensitized to the value of life and personal property" and become more likely to abuse animals and , later in life, commit violence against human beings (Friedman 2009). The elderly tend to bond with their companion animals as their source of affection and comfort, often as the sole source of such affection (Nowicki 2010). Abusers exploit an elder's relationship with

the pet in order to extort money by threatening to remove or forcing the elder to relinquish an animal (Nowicki 2010).

From the multitude of articles and websites addressing the link between human and animal abuse, one can infer that men are most likely to act as the batterer and women as the victim. While not the focus of this research, it is important to mention a growing number of studies being produced examining the abuse of men by other men in same-sex relationships. Women take on the role of abuser in intimate relationship with other women. Research conducted in 1992 found “38% of women in abusive lesbian relationships reported their partners had abused pets” (Kogan et.al 2004). This reinforces the belief that domestic violence and animal abuse cannot be neatly profiled based on gender or relationship status.

Charlotte A. Lacroix in her “Another Weapon for Combating Family Violence: Prevention of Animal Abuse” states no form of abuse can exist without causing another (Lacroix 1998). If there is spousal abuse, child abuse will likely follow. If there is animal abuse, spousal or child abuse is also likely to occur. However, while the federal government tracks domestic violence through a national database, pet abuse is not tracked as part of the cycle (Randour 2007).



Several articles and academic papers have been written on the topic of adults who commit violent crimes beginning their deviant behavior by abusing animals. Yet, the actual link between domestic violence and animal abuse has only recently been studied and scholarly literature is limited to writings of practitioners and advocacy groups (Randour 2007). Frank Ascione, Claudia Weber, and David Wood published in a survey in 1997 of battered women housed in shelters in 49 states and the District of Columbia. They found notably that 24% of the battered women surveyed in Colorado Springs, Colorado and 80% of the women sampled in LaCrosse, Wisconsin had witnessed animal abuse (Ascione et. al. 1997). Frank Ascione also found in a survey in conjunction with a Utah shelter 74% of women admitted there reported owning a pet. Of the women claiming to own a pet, 71% stated their batterer had threatened to harm or kill the animal (Ascione et. al. 1997). The results of this survey and those published

since 1997 suggest women will delay seeking shelter or return to abusive homes when an abusive partner threatens or harms a family pet is threatened or harmed. Abusive partners harm not just cats and dogs, but other animals as well to exert control over the victim (Forell 2008; Arkow 2007). There are also accounts of fish and birds killed in retaliation for perceived disobedience or to further isolate the victim (Lacroix 1997).

Besides the risk of harm to the pet, women delay seeking shelter because of a lack of emergency shelter for pets (Kogan et. al. 2004). Many domestic violence shelters are not equipped to house animals and the number of victims seeking shelter with animals is not consistent. Animal shelters may partner with domestic violence shelter and/or provide foster families.

While some lawmakers, courts, and ordinary citizens (Appendix B) recognize the link between human and animal abuse, some policymakers and citizens do not share the view that one should regard animals as companions and not just personal property. The next section briefly addresses the opposition to including companion animals in protective orders.

Opposition to Including Companion Animals in Protective Orders

Though the inclusion of pets in protective orders has been embraced by researchers and family violence practitioners, there are those who see it as unnecessary or detrimental to the rights of the respondent. The National Rifle Association (NRA) opposes legislation that would extend protective orders to include pets out of the fear

that such laws could penalize offenders by revoking their licenses to “keep and bear arms,” the Second Amendment right that receives the organization’s exclusive focus (<http://lawblog.legalmatch.com/2010/03/30/pets-to-be-included-in-protection-orders/>). More importantly - as is the case with animal abuser registries discussed later - a segment of society fears this is a violation of the batterer's due process and may result in double jeopardy (Nowicki 2010). This fear may be a result of the misunderstanding of double jeopardy. Under current law, a person accused of human abuse and animal abuse has committed two separate offenses. Therefore, the accused cannot be tried twice. Even with a revision to the domestic violence statute, the same is true. As explained in the literature review, the prosecutors may chose to try the accused under the one that will most likely result in a conviction.

Another form of opposition comes from the culture of the state. It is harder to pass strong animal cruelty laws in agricultural-based states (Gerwin 2005). Pets are still legally considered property, and extending further legal protections to animals would challenge this concept. More extensive legal protections for pets through mechanisms like protective orders could interfere with the property rights of the alleged abuser who owns the pet. There are fundamental beliefs with regard to the protection of animals. For example, animals do not deserve the same rights as humans, there are more serious human crimes to investigate, and animal abuse is rare or an isolated incident (Arluke et.al. 1997).

Budget cuts pose another obstacle to state legislation or local ordinances that include pets as the subject of protective orders. Topeka, Kansas made national headlines in October 2011 after the city announced it would no longer pursue domestic violence and misdemeanor cases due to budget cuts. This announcement came despite the city had 35 reported domestic violence incidents and 18 arrests in the previous month(<http://www.cbsnews.com/stories/2011/10/12/national/main20119017.shtml>). Presumably, other cities and states across the country may follow suit making the passage of any type of pet protection more difficult.

While these are very organized and strongly held opinions on how the law defines animals and the extent of protection the law should afford them, it is important for lawmakers not to concede on these arguments alone. Model legislation is available to address the concerns of organizations and quite possibly overcome the culture of states for the betterment of all family violence victims.

Research Purpose

Currently, 21 states, the District of Columbia, and Puerto Rico automatically extend protection to pets when a victim seeks a protective order. The purpose of this research is threefold using the 13 states that passed legislation between 2006 and 2009. The first purpose is to establish a practical ideal type for the automatic inclusion of companion animals in protective orders in cases of domestic violence using *The Domestic Abuse Animal Protection Act* and incorporating certain mandates for

practitioners and public employees. The second is to gauge how closely states have modeled their laws to the practical ideal type. The final purpose is to showcase one state whose statute best fits the practical ideal type. This research treats instances of animal abuse as part of the domestic violence umbrella. States can pursue extending protective orders to include pets by using existing animal cruelty laws or by amending them to extend to situations where domestic violence is present or suspected. Though some states have amended laws to include pets in protective orders, the laws may still not be strong enough to enforce or compel judicial action. Passing such legislation and strengthening the laws aids victims of domestic and other forms of family violence in overcoming the fear of escaping an abusive situation out of concern for the safety and care of a pet.

Chapter Descriptions

Chapter 1 served as a brief explanation of the relationship between domestic violence and animal abuse and the importance of including pets in protective orders. Chapter 2 links the literature review to the conceptual framework and introduces the practical ideal type model. Chapter 3 introduces the research methodology using content analysis as well as the index scoring system used to gauge the results. Chapter 4 is a summary of what has been learned from the research. Chapter 5 presents the state(s) that best fit the practical ideal type detailed in the literature review and conclusion.

Chapter 2

Literature Review and Conceptual Framework

Chapter Purpose

The purpose of this chapter is to review scholarly literature and create a conceptual framework based on selected categories that were chosen partly from *The Domestic Abuse Animal Protection Act* created by the International Institute for Animal Law (Appendix A) and common language found within the states' laws and the reviewed literature. The International Institute for Animal Law through its website www.animallaw.com serves "as a clearinghouse for animal-related information from pending legislation through relevant case law digests". The conceptual framework consists of: mandatory cross-reporting among human and animal care providers to report suspected abuse and immunity from lawsuits resulting from such reporting; court-ordered protection of animals in cases of domestic violence; and the penalties for violating a protection order with regards to the animal in the context of domestic violence. The organization of the conceptual framework practical ideal type categories show the progression of reporting suspicion of abuse to what the law states to punitive ramifications for violating the law.

Literature Review

Policymakers are recognizing the growing need to address animal abuse and that extending protective orders to automatically include pets assists in removing one

barrier in seeking protection for a victim and her family. Private attorneys, victims' rights advocates, and public prosecutors are encouraged to support legislation to include pets in protective orders and



question victims about animal abuse as part of the initial interviews when victims seek to obtain a protective order or shelter (Arkow 2007). One of the reasons an abuse victim will delay seeking aid from law enforcement or domestic violence shelters is the threat of harm to a beloved pet. Studies have shown single or childless women pet owners will remain or return to an abusive household when concern for the safety of a pet is a factor.

Mandatory Cross-Reporting of Animal Abuse and Domestic Violence¹

A growing number of states have enacted or considered enacting legislation to extend automatic protection to pets when a victim seeks a protective order for herself/himself and others in the household. States that currently provide the legal protection of including pets in protective orders require other measures such as third party reporting to ensure every member of the household - two-legged and four-legged - receives aid as often times victims are afraid to act for themselves. Any system protecting humans and pets requires reporting by law. Often this can only be achieved by third party reporting. Pet abuse often goes undetected due to failure of a third party to report the abuse (Bryant 2010) and the unwillingness of prosecutors and judges to

¹ For more Texas State ARPs dealing with domestic violence see Helton (2011) and Campbell (2009).

pursue an abuse trial. Indifference on the part of the public officials and the general public is a factor in the lack of pursuit in trying animal abusers.

Cross-reporting is a "multidisciplinary approach to reporting incidents of child and animal abuse" (Lacroix 1998). This type of reporting system is a proactive, holistic, and informed approach which trains child protective service (CPS) case workers to recognize signs of animal abuse when investigating child abuse. States are ahead of the federal government in recognizing the link between domestic violence and pet abuse (Randour 2007). In the absence of legislation, cross-reporting is the best option in recognizing both animal and human abuse (Randour 2007). The benefits of cross-reporting are "overcoming societal indifference to animal abuse and domestic violence" and providing an early intervention (Robbin 2006).

An extension of the protective order statute or the creation of a new statute may be required to include: animal humane officers/family violence professionals reporting suspected animal abuse or domestic violence and veterinarians/human health providers (therapists included) are required to report suspected animal abuse or domestic violence.

Animal humane officers/family violence professionals

Animal humane officers are trained to recognize child abuse during animal abuse cases. It is believed that child abuse and domestic violence often occur in the same household as animal abuse; therefore, CPS workers and humane officers should

be trained to recognize the signs of abuse and allowed the authority to remove an animal or child with or without a warrant (Robbin 2006). Animal abuse is a red flag that others may be abused in the household (Trollinger 2001) and increases the chances of a victim securing a protective order for herself and her children (Flynn 2000).

In the case of the CPS worker investigating suspected child abuse, a sign of animal abuse may be consistent with the types of abuse categorized in the next section. The case worker may notice the animal limping or cowering towards individuals in the household without provocation. For the animal humane officer, it may simply be the child clinging to the animal or expressing no emotion as to the condition of the animal. It is important to remember in cases of domestic violence, the pet represents an emotional outlet for the human victim and vice versa (Lacroix 1998).



Mandatory cross-reporting encourages attorneys and victims services groups to ask about pets, thus aiding in the exit safety plan to include pets (Arkow 2007). It also establishes a pattern of physical and emotional abuse to use in court (Arkow 2007). It can also serve as an encouragement for other members of the community to come forward and report abuse (Trollinger 2001).



As of 2001, California was the only state to mandate cross-reporting between humane officers and mandated reporters of child abuse (Gentry 2001). Three states and the District of Columbia have discretionary cross-reporting for animal humane officers of suspected or known child abusers (Gentry 2001).

This section pertains to the authorizations law enforcement officers, animal humane officers, animal welfare organizations, and child protective service case workers are allowed when confronted with animal abuse. The removal of an animal with or without a warrant was mentioned above as part of the cross-reporting training. For example, Texas law currently allows for the discretion of peace officers or animal control officers to apply for a warrant to seize an animal when abuse is suspected (Robbin 2006). However, the law does not apply to CPS workers who may see signs of animal abuse while investigating the homes of suspected human abuse (Robbin 2006).

States have authorized those outside of the public sector, such as the American Society to Prevent Cruelty to Animals (ASPCA), to remove a pet when animal abuse occurs without a warrant. States should incorporate the appointment of a humane officer in statute who are authorized to remove animals and make arrests if animal abuse is present (Otto 2005). This does not have to be a state agency. A municipality or county may appoint one as part of the state law (Otto 2005). State statute may also

address the peace officer's role when accompanying a victim when retrieving a pet and other property (animals are still considered property) (Gentry 2001). Courts are instructed to act in the "best interest" of the pet when considering extending protection orders to prevent further victimization of the human and nonhuman victims (Gentry 2001). This is especially important for shelters housing animals. The shelter is aware of the abuse and prevents the release of the animal to the batterer (Chanley 2001).

Federal law now requires states and local emergency preparedness officials to



address the needs of those with household pets and service animals when evacuating (Draeger 2007). This can be expanded to help those victims who are fleeing from an abusive situation and seek shelter from the local authorities or shelters.

Veterinarians/human health providers

States are mandating or considering legislation which would require veterinarians to report incidents of non-accidental injuries (Parmenter 2003). Non-accidental injuries are consistent with defined types of pet abuse meaning obvious signs of neglect, physical impairments, and sexual abuse (Arkow 2004). Veterinarians are obligated to treat the injuries, but have a responsibility to report injuries that are not consistent with normal accidents and may be a sign of a more serious problem (Otto

2005). They have long been required to report suspicions of dog fighting (Patronek 1997).

Veterinarians are now recognized as being a part of the health care profession with responsibilities mirroring those of a physician (Patronek 1997, Becker 2004).

Canada proposed a law in 2000 requiring vets to assume the same role as teachers, peace officers, and whistleblower when pet abuse is suspected (Jack 2000).

Veterinarians in the United States must realize they are part of a network of family violence professionals. It is not only a duty of the veterinarian to be aware of the signs of an abused pet, but to also recognize signs of further abuse within the family home (Arkow 2004). Of course, this will require additional training for veterinarians to detect the other forms of abuse (Logan 2007). As stated earlier in the research, one form of abuse cannot exist without the other types of abuses. Based solely on this school of thought, human health care providers should also question and report the extent of abuse within a household to further close the gaps in the circle of violence.

Domestic violence organizations have objected to the cross-reporting requirements arguing it takes away a woman's choice and potentially establishes a barrier to seeking treatment (Logan 2007). False accusations by one partner against another reporting violence to a health care or veterinarian have raised an alarm among some (Logan 2007). While these are certainly valid reasons for objecting to the cross-reporting requirement, it should in no way deflect from professionals serving injured

parties. However, it does give pause to what protections are available to a professional who reports suspected abuse that turns out to be unsubstantiated.

Veterinarians do realize the role they play in recognizing signs of abuse and continuum of family violence prevention (Arkow 2004). In the past, veterinarians have objected to reporting suspected abuse citing liability if the claim is unfounded, client confidentiality, and not knowing the correct agency or organization to report abuse (Patronek 1997). Because pets are legally considered property, the American Veterinary Medical Association Principle of Ethics allows veterinarians to circumvent client confidentiality (Patronek 1997). Some states protect vets from liability if the report was made in good faith. Such so-called “Good Samaritan Laws” immunize veterinarians from liability from lawsuits for reporting animal abuse and other interpersonal violence by state law (Long 2007).

Veterinarians are not the only health professionals recognized in addressing family violence. Therapists are encouraged to ask patients about their relationships with animals. Therapists should recognize signs of current or future abuse from the patient's relationship with his pet or any animal (Schaefer et. al. 2007). This is especially important when dealing with children who are victims of abuse and may have become desensitized to the cruel treatment of the family pet (Friedman et. al. 2009).

The first practical ideal type explains the importance of cross-reporting suspected animal abuse and domestic violence. The next ideal type category addresses the language used in including companion animals in protective orders.

Court-Ordered Protection of Pets

The second category of the practical ideal type concentrates on the stated purpose of The International Institute of Animal Law's *The Domestic Abuse Animal Protection Act* "to allow for the inclusion of animals in domestic violence protective orders" (<http://www.animallaw.com/protectiveordermodellaw.htm>). The purpose is the legislative directive for court-ordered protection of animals when issuing a protective order for human domestic violence victims. The model legislation suggests language to include when drafting legislation to include companion animals in a protective order: who is granted care, custody, and control of the animal once the protective order is issued and the respondent's access to the animal and the types of abuse.

Care, custody and control of animal granted to petitioner

The second part of the court-ordered protection order is taken directly from the *Domestic Abuse Animal Protection Act* which states:

- (a) *In any domestic violence case, the court shall order that the petitioner be granted the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or house of either the petitioner or the respondent.*

The above language is simple and requires no additional explanation. However, this does not make it enforceable or legitimate to judges. Stronger language is needed and changing the definition for what constitutes a family or household to include companion animals as a criteria to obtain a protective order (Robbin 2006). Animals are viewed as more than property and entitled to additional protection, but not necessarily



given the same rights as humans (Robbin 2006). It will keep the batterer from removing a child and an animal who is a member of the family from the household (Robbin 2006).

Protective orders are "court orders that restrict or prohibit the offender from having any contact with the victim or the victim's family" (Yamamoto 2007).

State statutes govern what assistance a peace officer can offer under a protective order. Under a regular protective order, a peace officer may accompany the petitioner who is afraid to return home alone to retrieve personal property; retrieve the personal effects without the presence of the petitioner; or be present when the respondent retrieves his or her personal property (Gentry 2001).

There are certain decisions to consider when adding companion animals to protective orders. The issuing judge must consider whether the animal is at risk of injury or death and prevent further victimization of the animal and the human victim

(Gentry 2001). Questions must be asked if the victim is hesitant to seek a protective order because of concerns for the welfare of a pet (Gentry 2001). If the petitioner does not want to keep the animal, the court must act in the best interest for the companion animal even if this involves court seizure of the animal to be "sold, sent to a shelter, or humanely destroyed in accordance with animal cruelty regulations" (Gentry 2001).

The most dangerous time for the victim is when she returns home in the period immediately following escaping a batterer (Gentry 2001). Police assistance is oftentimes necessary and should apply directly to removal of the animal as well. This is especially important if the ownership is undetermined or the animal is co-owned (Gentry 2001). While it is important to protect the animal, the respondent must be allowed due process - an opportunity to respond (Gilbreath 2008). Law enforcement is present at the home when the victim returns merely as an enforcer of the protective order. What the victim takes from the home as personal property is not subject to the interaction of law enforcement and the respondent will have his day in court (Gentry 2001).



The matter of ownership poses a problem in state with community property and the batterer can assert his claim on the pet (Robbin 2006). Documented ownership is vital when seeking protection for a pet. It prevents the batterer from claiming a pet if the animal is separated from the victim. A victim can establish ownership through

"adoption paperwork, licenses, vaccination certificates, microchip, pedigree, veterinarian records" (Arkow 2007). "California recently amended its protective order to allow the order to grant a petitioner exclusive care, possession, or control of her pet and order that a respondent stay away from the pet" (Forell 2008). In Arkow's state summary report, the majority of the states give the victim full ownership rights. More importantly, in some states the extension is given to any pet owned by any member of the household who is eligible for protection. If a dog belongs to a child who is seeking protection, the animal is protected as part of the child's property in some states.

Ownership does present other problems, specifically when the animal is housed at a shelter. Animal shelter workers are not always trained to handle respondents (Gilbreath 2008). Shelter records are open to the public and the batterer may be able to track the victim's whereabouts through those records (Ascione 1997). The shelter may also be conflicted when the victim chooses to return home and demands her pet. The shelter has no recourse to act in the best interest of the pet (Ascione 1997). Including companion animals in protective orders places the pet under the protection of the state.

The next section of the court-ordered protection concerns the respondent's (or batterer's) court-ordered access to the animal and establishes the types of abuse addressed in the law.

Respondent's stay away orders

(b) *The court shall further order the respondent to stay away from the animal and forbid the respondent from taking, transferring,*

encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

The language applies to human victims as well. Depending on the state, protective orders may instruct the respondent is to have no contact with the victim, stay away from the victim's home or workplace, vacate the home, and attend battering counseling (Dutton 1999). In addition, the respondent may be instructed to pay fees for the care of the pet when it is included as part of the protective order (Dutton 1999). The general characteristics specific to pets in protective orders legislation initiatives are "enjoining the abuser from injuring, threatening, or harming the animal in anyway; requiring an abuser to stay a certain distance away from the animal; imposing penalties upon violation of these orders" (Friedman 2009). Even with these orders, a respondent may need further clarification of what is considered harm to a companion animal.

Domestic violence and animal abuse link in three ways: a) the threat to harm an animal is a way to control women and children; b) a means of sexually violating women, children, and the animal; and, c) animals are injured by children who are victims of abuse (Gentry 2001). The intertwining relationship between animal abuse and child abuse is briefly discussed in Chapter One. It only makes sense the actions considered when determining child abuse are appropriate when determining animal abuse and should be clearly stated in the statute. Those factors are physical, neglect, sexual, and emotional abuse. Professionals are trained to recognize the aforementioned

types of abuse with children and adult victims and should apply the same to the investigation of animal abuse (Becker 2004).

The first laws to address animal cruelty were created to appeal to the moral well-being of humans not to ease the animal suffering (Pearson 2005). The focus was not to prevent the slaughter of animals; it simply was a means to reduce the reckless abandonment and the inhumane tactics in the killing of animals. Even today the driving force is still not necessarily the protection and welfare of animals, but to preserve a moral society for humans (Lacroix 1998). Cruelty to animals is defined as “socially unacceptable behavior that intentionally causes unnecessary pain, suffering, or distress to and/or death of an animal” (Ascione 2007). This definition is simplistic in wording yet conveys the intent of animal cruelty laws among the states. The terms animal cruelty and animal abuse are used interchangeably by animal rights activists/welfare advocates and within state law.

In 1997, a "Typology of Companion Animal Abuse" was created (Patronek 1997). The typology identifies two forms of animal abuse: physical and mental. In both terms the abuse takes on the form of active maltreatment, passive neglect, and commercial exploitation (physical only and not explored in this research). Active maltreatment is committed when the abuser purposefully causes harm to the animal be it through assault or the instillation of fear (Patronek 1997). Passive neglect is the deprivation of basic care and affection that is unintentional or the individual is ignorant of the

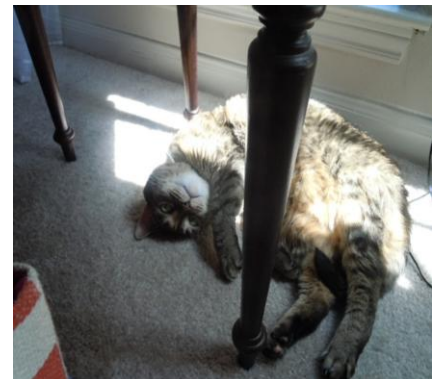
consequences brought about (Patronek 1997). The typology neatly identifies the ways in which an individual may abuse an animal - or for that matter another human. The foundation for the types of pet abuse used in this research has been laid using this typology. State animal anti-cruelty laws expand upon these two categories and each state applies different penalties based on the intensity of the abuse.

A 2004 study of 34 domestic violence victims with pets and related literature found 53% of battered women reported physical abuse of pets by the batterer and 90% stated animal abuse involved violence rather than neglect (Forell 2008). Each state has provisions against physical abuse of animals in anti-cruelty statutes. Animals used commercially, for scientific research, hunting, fishing, and entertainment are typically excluded from state anti-cruelty laws (Waisman 2006). The physical abuse of an animal is consistent with the type of physical abuse associated with human victims (Kurst-Swanger 2007, Faver 2007). It includes - but is not limited to - torture, trauma, and any type of injury that can lead to death, disfigurement, or permanent illness (Otto 2005).

In some states, physical abuse and neglect are considered one in the same. There is a distinction between the two terms. The term neglect concerns the denial of basic care to the animal. The batterer may personally deny or prevent the victim from seeking veterinary care for a pet for general care or treatment of injuries. Neglect also includes depriving the animal of food and water, shelter from the elements, or restriction of movement (Kurst-Swanger 2007).

Sexual abuse may be classified under animal cruelty and sodomy laws (Kurst-Swanger 2007). As of 2006, 30 states prohibited the sexual assault of an animal; six states consider it a felony (Otto 2005). Sexual abuse may take the form of bestiality in which the abuser sexually assaults the animal or forces another to engage in sexual contact with the animal (Otto 2005, Patronek 1997). In some cases of domestic violence against women, the victim has been forced to watch the sexual assault of a beloved pet or is forced to have sex with the pet while the batterer watches or participates (Robbin 2006).

The emotional abuse of an animal is the most difficult to observe. Animal welfare and animal rights advocates agree that animals are sentient beings capable of developing bonds with their owners (Francione 2010). It is well documented that women



victims develop an emotional attachment with their pets and view them as a source of comfort (F. R. Ascione 1997). It can only be assumed the bond is reciprocated by the pet to its human companion (Epstein 2001). Advocates support the inclusion of emotional or psychological abuse in state statutes arguing it is just as harmful as physical abuse (Robbins 2006)

Penalties for Violating a Pet Protection Order

The violation of a protective order speaks more to the need for the protective order in the first place. If the violation becomes more than failure to refrain from any contact with the pet and harm occurs, a prosecutor may seek an animal cruelty charge as opposed to a domestic violence charge. Judges and juries, unfortunately, are more sympathetic to an abused animal than an abused woman (Forell 2008). Prosecutors are encouraged to seek the charge that will most likely result in a conviction. Animal cruelty is the “socially unacceptable behavior that intentionally causes unnecessary pain, suffering, or distress to and/or death of an animal” (Ascione, Weber, and Wood 1997: 206). Puerto Rico has penalties for animal abuse which occurs in front of a child and if the respondent has multiple offenses for animal abuse (http://www.americanbar.org/content/dam/aba/migrated/domviol/docs/Animals_in_Protection_Orders_9_2007.authcheckdam.pdf).

Civil and criminal offenses for violating a protective order



Currently, forty-six states classify animal abuse as a felony. Domestic violence is listed under civil statutes in most states and is considered a misdemeanor (Forell 2008). While this may seem that animal abuse is regarded as more heinous than the abuse of a human, the type of penalty for animal abuse is dependent upon the severity of the abuse. In some states

animal abuse is considered a felony if it results in the willful death of an animal (Arkow 2007). Even the class of felony is dependent upon the severity of the abuse.

Washington state statute issues a Class C felony to "anyone who intentionally inflicts substantial pain or causes physical injury to or kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury or death of an animal" (Fox 1999). In the state of Texas, neglect is treated as a misdemeanor (Robbin 2006). Kansas treats animal abuse the same as harassing someone by fax – Class A misdemeanor (Gerwin 2005).

The inclusion of pets in protective orders is a relatively easy change to state domestic violence laws. *The Domestic Abuse Animal Protection Act* simply provides for two types of punishments that are the same as those applied to the violation of orders protecting humans:

- (a) *Any violation of this statute is a Class A misdemeanor.*
- (b) *Any violation subsequent to the first violation is a Class 4 felony.*

Pet batterers can be tried under two sections of the law - the domestic violence statute for violation of the protective order or animal anti-cruelty laws which may result in harsher penalties. For a violating a protective order that results in injury or death of the pet, prosecutors have a choice of civil or criminal statutes they can seek to obtain a meaningful conviction for not only the abuse of the pet, but also for the human companion.

When assessing punishment former Supreme Court Justice Harry Blackmun once stated "the label civil or criminal was less important than whether the sanction imposed was actually punitive" (Breyer 2000). This is



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no less true in the enforcement and prosecution of pet abuse. Though all fifty states, the District of Columbia, and Puerto Rico have some form of anti-cruelty statute, the laws are considered by animal welfare advocates and animal rights activists to be weak and unevenly reported and prosecuted. The common belief among animal welfare advocates and animal rights activist is a lack of concern for the welfare of animals by human beings. However, while the laws tend to invoke lighter sentences in some states, they do serve a purpose in raising awareness (Otto 2005). As previously stated, the laws were created to address the morality of men. In relations to domestic violence, more and more lawmakers are beginning to recognize the important role pets play in the well-being of a family and deserve the same protections as a member of the family (Bryant 2010). Twenty states, the District of Columbia, and Puerto Rico have done just that by adding pets to protective orders and several states have considered legislation to also extend protective orders to pets.

The severity of the punishment is dependent upon the type of abuse. Jail time may be considered the worse of the penalties, but is often the least sought (Arluke

1997). Massachusetts reported only 10% of animal abuse cases resulted in jail time for the defendant (Arluke 1997). Though prosecutors are encouraged to seek the animal abuse felony charge when domestic violence and animal abuse are present, batterers charged with animal abuse are allowed to plea bargain to a lesser charge (Gentry 2001). There are a couple of reasons judges and prosecutors will allow a plea bargain on the animal abuse charge. The most predominant reason is a more "serious" offense such as homicide or assault was committed (Gentry 2001). Second, the judge does not believe the abuse of animals warrants the courts time and resources (Gentry 2001).

A third reason a plea bargain to a lesser charge is allowed because the batterer does not want it publicly known the details of the animal abuse (Gentry 2001). When both domestic violence and animal cruelty are present, prosecutors should pursue the animal abuse charge to result in a stiffer penalty for the accused (Forell 2008). If the violation becomes more than failure to refrain from any contact with the pet and harm occurs, a prosecutor may seek an animal cruelty charge as opposed to a domestic violence charge. Prosecutors are encouraged to seek the charge that will most likely result in a conviction. Judges and juries are more sympathetic to an abused animal than an abused woman once the details of the abuse are part of the prosecution's case (Forell 2008). Animal cruelty is the "socially unacceptable behavior that intentionally causes unnecessary pain, suffering, or distress to and/or death of an animal" (Ascione 1997).

Fines are considered the second worst penalty a batterer may receive in animal abuse cases. Fines come in two forms: restitution for the loss of an animal or reimbursement for the veterinary care or shelter when a pet is removed. The restitution for the loss of an animal applies primarily to provide for the grief counseling for the human companion and the handling of the remains (Waisman 2006). Reimbursement is usually provided to the state for the care and shelter the pet receives when removed from the home through the physical removal by an authorized official or protective order (Waisman 2006). Statutes and administrative rules should be amended to "include compensation for animals killed or injured by criminal conduct" and funds be set aside for the medical bills, cremation, and grief counseling for the human victim (Beloof 2001).

Depending on the severity of the abuse, fines are assessed from \$1000 to \$10,000 (http://www.pet-abuse.com/pages/cruelty_laws.php). In Massachusetts, fines were issued for 33% the animal abuse convictions compared to the other penalties issued in the state (Arluke 1997). Anti-cruelty statutes classified as misdemeanors may result in fines of up to \$1000 in lieu of one year of jail time (Lacroix 1998). Puerto Rico has penalties for animal abuse which occurs in front of a child and if the respondent has multiple offenses for animal abuse.

Mandatory counseling is often sought for batterers of human and animal victims as a means of reducing judiciary and jail costs and thought to be more effective (Arluke

1997). This has become a favored form of conviction in order to break the cycle of violence (Waisman 2006) Some states are also requiring batterers to receive a psychological evaluation along with counseling (Becker 2004). Counselors are thereby able to gauge not only the abusers propensity for future animal abuse, but interpersonal violence as well (Flynn 2000, Trollinger 2001).

Some states have chosen to focus on rehabilitation and counseling, while others ban ownership as an alternative to jail time and fines (Lacroix 1998). Animal rights authors advocate support for the prohibition from future ownership for convicted animal abusers. Ownership prohibition may occur in addition to potential jail time and restitution. (Jack 2000). This particular punishment is assessed in cases where a defendant has been charged with a misdemeanor (Otto 2005). This final form of punishment may be added in conjunction with the next section detailing the animal abuser registry.

Animal abuser registry

A growing response to protecting pets in family violence and punishing offenders that some states are considering or have passed legislation requires convicted animal abusers to be listed on an offender registry list similar to the sex offender registry. This is based on the research into the backgrounds of serial killers who had a history of animal abuse prior to interpersonal violence crimes (Niebert 1994). Creating a national animal abuser registry will possibly prevent human abuse, serve as a vehicle

for collecting and sharing data for law enforcement and animal welfare services, stop animal abuse, and track abusers from state to state (Nowicki 2010).

The animal abuser registry is not a new idea. Charlotte Lacroix introduced the notion of a registry in 1998 (Nowicki 2010). Stephen Otto in 2005 developed the offender notification policy (Nowicki 2010). That same year Andrew Ireland suggested basing the animal abuser registry on the same principles of the sex offender registry (Nowicki 2010). The best argument for creating an animal abuser registry primarily rest on the inconsistency of the states the sex offender registry laws (Nowicki 2010). Some states have provisions for animal abuse included, others do not (Nowicki 2010).

Creating a national registry would alleviate solve this problem and address issues that arise when an offender is listed on sex offender registry moves to another state in lieu of state legislation (Nowicki 2010). However, states have been quicker in recognizing the link between interpersonal violence and animal abuse and have acted with meaningful legislation.

The registry would work the same as the sex offender, child abuse, and elder abuse registries. An animal abuser registry would require an abuser to notify authorities within 30 days of moving into a new jurisdiction of a prior conviction (Otto 2005). Breeders, pet stores, and animal shelters are prohibited from selling to persons listed on the registry (Otto 2005).

Opposition is similar to that of sex offender registry opponents: It makes it difficult for the abuser to move forward socially and professionally. To create an animal abuser registry the state must first establish that the registry primary goal is not to serve as a community notification or claim it will prevent recidivism (Nowicki 2010). Most people are not even aware the registries exist, rendering the registry ineffective in this regard. Instead, the purpose of the registry as written by Nowicki should be :

1. To promote the health and well-being of animals;
2. To identify and track animal abusers, noting that animal abusers may also commit violence against humans;
3. To identify patterns of abuse;
4. To assist law enforcement in identifying abusers;
5. To send a message that animal abuse will not be tolerated

The animal abuser registry has become a legislative priority for animal rights organizations. Appendix D is a sample copy of an e-mail sent to Texas legislators supporting the passing of public registries for animal abusers.

In order to organize and clearly gauge the different elements of protecting pets via protective orders, the literature has been reviewed and organized into a conceptual framework.

Conceptual Framework

The conceptual framework for this research is practical ideal types. Practical ideal types seek to gauge how closely a policy follows a standard process. Practical

ideal types are categories that can be used as benchmarks to establish best practices (Shields 2006). The purpose of this research is threefold, and the first purpose is to establish a practical ideal type for the automatic inclusion of companion animals in protective orders in cases of domestic violence using *The Domestic Abuse Animal Protection Act* and incorporating certain mandates for practitioners and public employees.

The practical ideal type categories presented in this chapter are based upon *The Domestic Abuse Animal Protection Act* and common language found within the states' laws and the reviewed literature. As of this writing, 21 states, the District of Columbia, and Puerto Rico include companion animals in domestic violence protective orders. In the next chapter, the research methodology is introduced based upon the conceptual framework discussed in this chapter.

Table 2.1 Conceptual Framework of a Practical Ideal Type for Including Companion Animals in Domestic Violence Protective Orders

Practical Ideal Type Categories	Literature
Mandatory Cross-Reporting of Animal Abuse and Domestic Violence <ul style="list-style-type: none"> Animal humane officers/family violence professionals are required to report suspected animal abuse or domestic violence Veterinarians/human health providers (therapists included) are required to report suspected animal abuse or domestic violence 	Arkow 2004, Arkow 2007, Becker 2004, Bryant 2010, Chanley 2001, Draeger 2007, Flynn 2000, Friedman 2009, Gentry 2001, Jack 2000, Lacroix 1998, Logan 2007, Long 2007, Otto 2005, Parmenter 2003, Patronek 1997, Randour 2007, Robbin 2006, Schaefer 2007, Trollinger 2001
Court-Ordered Protection of Animals in Cases of Domestic Violence <ul style="list-style-type: none"> Care, custody and control of animal granted to petitioner Respondent's court-ordered access 	Arkow 2007, Ascione 1997, Ascione 2007, Dutton 1999, Epstein 2001, Faver 2007, Forrell 2008, Francione 2010, Friedman 2009, Gentry 2001, Gilbreath 2008, Kurst-Swanger 2007, Lacroix 1997, Otto 2005, Patronek 1997, Pearson 2005, Robbin 2006, Waisman 2006
Penalties for Violating a Protection Order with Regards to the Animal <ul style="list-style-type: none"> Civil and criminal penalties for violating a protective order Animal abuser registry 	Arkow 2007, Arluke 1997, Ascione 1997, Becker 2004, Beloof 2001, Breyer 2000, Bryant 2010, Flynn 2000, Forrell 2008, Fox 1999, Gentry 2001, Gerwin 2005, Jack 2000, Lacroix 1998, Niebert 1994, Nowicki 2010, Otto 2005, Robbin 2006, Trollinger 2001

Chapter 3

Research Methodology

Chapter Purpose

The purpose of this chapter is to present the research methodology. The micro-conceptual framework is to gauge how closely states meet the practical ideal type. While gauging usually is applied to a single case study, the unit of analysis for this study is the US states. In other words, the methodology allows for a systematic way to describe how many states meet the practical ideal type standard.

Research Technique

The research technique for this study is content analysis. Content analysis relies on “the study of recorded human communications” (Babbie 2007) and in this case the language contained in the laws. Content analysis was chosen as a research method instead of a survey questionnaire or structured interviews because the data can easily be reviewed based on what is provided in the state statute serving as a written record. Survey research, even by experts in the field, would lead to inconsistent and incomplete information.

The units of analysis in this study are the states’ statutes. While the statutes vary in many characteristics (length, format, etc), each state’s statutes may be analyzed for the presence or absence of particular elements needed to fit the practical ideal type. Because no data will be collected on the states themselves (e.g., partisan control of the

legislature, the presence of advocacy groups, the role of media attention, etc), this study does not make any assertions why states have chosen different ways of protecting animals. Drawing conclusions about the motivation of lawmakers to enact particular laws from the laws themselves is not appropriate.

Logically, the data for this study is unbiased and reliable as the data is linked to the actual statutes of each state. However, accuracy of the information could potentially be comprised if the state has not updated the statutes to reflect changes at the time the research is conducted. In addition, some protections for pets may be included in other laws or by amendment to an existing family or civil statute meant to enhance intervention, prevention, and treatment of family violence. However, this study is focused on states that have actually gone the next step to write dedicated statutes to protect pets. It is logical to assume these states will have the strongest protection and clearest signals to law enforcement and social service agencies.

The categories detailed below were introduced in the literature review section. The next section gives a detailed explanation of the coding used to match the state law with the practical ideal type.

Explanation of Categories and Scoring

The categories for the practical ideal type were chosen based in part on the *Domestic Abuse Animal Protection Act*. The mandatory cross-reporting category is not a stated part of the *Domestic Abuse Animal Protection Act*, but it is crucial part in the

prevention and intervention of domestic violence and animal abuse. The categories and their sub-categories are further explained below.

Mandatory Cross-Reporting

The mandatory cross-reporting index focuses on the level of protection provided by law in identifying human and animal abuse. The reporting requirement is not limited to just the reporting of domestic violence, but also other suspected interpersonal violence. Therefore, elderly and child abuse are also considered when analyzing state law. If one or more abuse is addressed, the state is considered to have a reporting requirement.

The index is broken down to show whether the state only requires both animal control officers and family violence professionals to report suspected instances of abuse. While most states have made it a requirement for veterinarians to report animal abuse, it is still a new concept for states to require both veterinarians and human health care providers to report suspected animal abuse *and* domestic violence. Law enforcement's role in cross-reporting is to not only investigate one (domestic abuse), but also observe other types of abuse in the home (animal). The sub-category domestic violence combines adult abuse and child abuse.

The index scoring is created to summarize the elements contained within the law and are coded from 0 to 10.

Court-Ordered Protection of Pet

The court-ordered protection index focuses on the court's instructions stated in the actual protective order. The protection granted to the petitioner usually involves the care, custody, and control of the animal. For the research each area is treated as its own sub-category in order to emphasize the protection of companion animals. Custody and control are separated legally to show the petitioner – or respondent – is responsible for the actions of the pet while under the protection order.

The respondent's stay away orders are stated to not only protect the human and animal victims, but to give clear instruction to the respondent. In some cases, it is stated to address the rights of the respondent. For example, if the pet is co-owned or owned by the respondent and visitation is an option.

The index scores are coded 0 to 6 for this category.

Penalties for Violating Pet Protection Order

The last category addresses the violation of the pet protection order. The pet protection order index focuses on how the violation is treated. Forty-six states treat animal abuse as a felony. However, domestic violence is sometimes treated as a misdemeanor. If the respondent violates the protection order and the pet is harmed, the state has the option to treat it as a civil or criminal violation. The animal abuser registry is still relatively new innovation that states are now considering. The index scores are coded as 0 to 3 for the possible penalties for violating a pet protection.

Using the index scores will lead to the discovery of which state(s) best fits the practical ideal type for including companion animals in protective orders based on the total index score. The content of each states family, civil, and criminal statutes are analyzed and presented in Table 3.1 (Operationalization of the Conceptual Framework). Because the language contained in a law is present or not present, the coding is considered dichotomous. Scoring for each category for the presence of any elements of the practical ideal type is 0 = No and 1 = Yes.

Table 3.1 Operationalization of the Conceptual Framework²

Practical Ideal Type Categories	Document Reviewed	Possible Response (s)
Mandatory Cross-Reporting <i>Animal Humane Officer</i> Animal abuse Domestic violence <i>Family Violence Professional</i> Animal abuse Domestic violence <i>Law Enforcement</i> Animal abuse Domestic violence <i>Veterinarians</i> Animal abuse Domestic violence <i>Human Health Care Professionals</i> Animal abuse Domestic violence	State statutes Humane Society of the United States Animal Law Animal Humane Officer's Public Policy American Veterinary Medicine Association	0 = No 1 = Yes
Court-Ordered Protection of Animals <i>Rights given to the petitioner</i> Care Custody Control <i>Respondent's stay away instructions</i> No contact Visitation granted Cost of care	State statutes Humane Society of the United States Animal Law	0 = No 1 = Yes
Penalties for Violating Pet Protection Order Class A Misdemeanor Class 4 Felony Registry	State statutes Humane Society of the United States Animal Law Animal Legal Defense Fund	0 = No 1 = Yes

² For more information on conceptual frameworks see Shields (1998) and Shields and Tajalli (2006).

State-level Analysis

The unit of analysis is the state and all 50 states are coded. As of fall 2011, 21 states, the District of Columbia, and Puerto Rico have extended protection orders to include companion animals in cases of domestic violence. For the purpose of this research, only the 13 states that passed legislation between 2006 and 2009 are specifically analyzed because the laws have been in effect long enough to allow for revisions or amendments. The District of Columbia and Puerto Rico are excluded because they are not recognized as states and to maintain uniformity. Logically, states that have not extended protection orders to include companion animals do not meet the practical ideal type standard.

Table 3.2 reports the states selected using this methodology and the year the state first adopted the current law.

Table 3.2 States That Automatically Include Companion Animals in Domestic Violence Protective Orders by Year

<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Maine Vermont	California Colorado Connecticut Illinois Nevada Tennessee	Louisiana New York	Hawaii North Carolina Washington

Chapter 4

Research Results

Chapter Purpose

The purpose of this chapter is to present and discuss the results of the analysis of state statutes governing the inclusion of companion animals in domestic violence protective orders. Beginning with Maine in 2006, 21 states, the District of Columbia, and Puerto Rico have passed legislation to include pets in protective orders. Arizona, Arkansas, Maryland, Minnesota, Oklahoma, Texas, West Virginia, and Vermont have all extended orders since 2010. As previously stated, these states – as well as the District of Columbia and Puerto Rico – have been excluded from the research due to their recent enactment.

Results

Based on the analysis, the 13 states that include pets in protective orders follow the outline of *The Domestic Animal Abuse Act*. Each practical ideal type is analyzed individually as detailed in the previous chapter.

Mandatory Cross-Reporting

Table 4.1 shows the results of the content analysis of the 13 states that include pets in protective orders that may or may not mandate animal control officers, family violence professionals, law enforcement, veterinarians, and human health care providers are mandated to report suspected animal abuse, child abuse, or adult abuse.

The results are based primarily on information compiled by the American Humane's Office of Public Policy in 2009 and the American Veterinary Medicine Association (AVMA) in 2011. Obviously, the American Humane's Office information is not as up to date as the AVMA. The AVMA not only addresses the reporting responsibilities of the veterinarians, but also list the responsibilities of other professionals as they relate to humans and animals. Though the AVMA list gives an overview of the cross-reporting mandates, it was still necessary to review each state's actual statute in order to understand it in the context of domestic violence.

In Table 4.1 "AA" means animal abuse and "DV" domestic violence. The domestic violence sub-category combines all human abuse (interpersonal, child, and elderly).

Based on the results, it is clear states are moving in the right direction in addressing the link between domestic violence and animal abuse. The research sought only to verify which states require mandatory reporting by human and animal officers/professionals. While researching mandatory cross-reporting, another aspect was discovered that some states don't actually obligate a professional to report. It seems to be more of an encouragement and left to the discretion of the professional involved to report animal or child abuse observed while performing in their official capacity. Maine and California gives family violence professionals the option to report animal abuse. Maine also states the same for animal control officers.

Table 4.1 Mandatory Cross-Reporting

Mandatory Cross-Reporting											
		Animal Humane		Fam. Violence		Law Enforcement		Veterinarians		Human Health	
		0 = No	1 = Yes	0 = No	1 = Yes	0 = No	1 = Yes	0 = No	1 = Yes	0 = No	1 = Yes
CA	AA		1		1		1		1	0	
	DV		1		1		1	0			1
CO	AA		1	0			1		1	0	
	DV		1		1		1		1	0	
CT	AA	0		0			1	0		0	
	DV		1		1		1	0		0	
HI	AA	0		0		0		0		0	
	DV	0		0		0		0		0	
IL	AA		1		1		1		1	0	
	DV		1		1		1		1	0	
LA	AA		1		1		1	0		0	
	DV		1		1		1	0		0	
ME	AA		1		1		1		1		1
	DV		1		1		1	0			1
NV	AA	0		0		0		0		0	
	DV	0		0		0		0		0	
NY	AA	0		0		0		0		0	
	DV	0		0		0		0		0	
NC	AA	0		0		0			1	0	
	DV		1		1		1		1	0	
TN	AA		1.		1		1		1	0	
	DV		1		1		1		1	0	
VT	AA	0		0		0			1	0	
	DV	0		0		0		0		0	
WA	AA	0		0		0		0		0	
	DV	0		0		0		0		0	

Law enforcement as part of its duties is expected to report suspected abuse and act on in accordance with their specific duties yet only Louisiana states it outright. In most states veterinarians are required to report suspected animal cruelty, only a handful of the 13 states studied mandate veterinarians to file a report of suspected family violence. As of this writing, Maine leads the way in requiring human health care providers to report suspected animal abuse.

Sometimes victims require assistance when escaping an abusive situation. Cross-reporting by professional trained to work with and observe signs can provide that assistance when the victim is unsure of where to turn. The next section of results concerns the first line of legal defense for the victim and her pet.

Court-Ordered Protection

Of the three practical ideal type categories, the court-ordered protection is the most straightforward. The language contained in the statute is specific. Each of the 13 states added a new line to include pets in protective orders into existing domestic violence statute. In some states, such as California, the court is authorized to grant the petitioner care, custody, and control of the animal upon showing good cause. The law also includes the protection of pets owned by minor children and other adults residing in the home. Table 4.2 shows the results of the content analysis of rights granted to the petitioner with regard to the animal.

The respondent's stay-away orders are not as clearly defined and may be left to the discretion of the judge. Of the three sub-categories only no contact is contained in the statute. This protective order instructs the respondent to not intimidate, threaten, and physically harm the animal with the intent to coerce the human victim. Only Nevada provides specifies the court may require the respondent to pay for cost of care of the pet while in a shelter. Table 4.3 reflects the respondent's stay-away orders.

Table 4.2 Court-Ordered Protections – Rights Granted to the Petitioner

Rights Granted to the Petitioner						
	Care		Custody		Control	
	0 = No	1 = Yes	0 = No	1 = Yes	0 = No	1 = Yes
CA		1		1		1
CO		1		1		1
CT		1		1		1
HI		1		1		1
IL		1		1		1
LA		1		1		1
ME		1		1		1
NV		1		1		1
NY		1		1		1
NC		1		1		1
TN		1		1		1
VT		1		1		1
WA		1		1		1

Table 4.3 Court-Ordered Protection – Respondent's Stay-Away Instruction

Respondent's Stay Away Instructions					
	No Contact		Visitation Granted		Cost of Care
	0 = No	1 = Yes	0 = No	1 = Yes	0 = No 1 = Yes
CA		1	0		0
CO		1	0		0
CT		1	0		0
HI		1	0		0
IL		1	0		0
LA		1	0		0
ME		1	0		0
NV		1	0		0 1
NY		1	0		0
NC		1	0		0
TN		1	0		0
VT		1	0		0
WA		1	0		0

The court-ordered protection can easily be considered the second phase in domestic intervention after the victim receives assistance from the animal humane

control officers, veterinarians, law enforcement, family violence professionals, and human health care providers. The third practical ideal type addresses what happens when the batterer is no longer just a threat, but has now violated the legal protection afforded to the human victim and her pet.

Penalties for Violating Pet Protection Order

The third practical ideal type requires a very close analysis of the state's civil and criminal statutes. Possible punishment relies solely on how grossly the respondent violates the protective order. To better ascertain what the penalties for violating a pet protection order, the research only analyzes the civil and criminal statutes as they apply to domestic violence and not animal abuse. However, the prosecution may decide to pursue animal abuse charges if the chances of conviction are greater. Table 4.4 reveals the results of content analysis for the violation of pet protection orders.

The results seem to imply that states are not serious in its application of domestic violence protective orders when the respondent violates the order. The research only sought to determine if the states followed the *Domestic Abuse Animal Protection Act* model legislation which states any violation be classified as either a Class A misdemeanor or a Class 4 felony. Each state has a stated penalty for violating a protective order based on the number of offenses. For the majority, the violation is treated as contempt of court for the first offense with harsher penalties assessed for repeated violations. Each violation offense carries a mandatory monetary fine and/or

jail time conviction. If the violation results in physical harm to either the animal or its human companion, the prosecution may seek charges for animal cruelty or assault.

Though several states have introduced legislation to require convicted animal abusers to register, as of fall 2011 no such law has passed. It remains to be seen if this particular issue will gain enough support to pass in the coming years.

Table 4.4 Penalties for Violating Protection Order

Penalties for Violating Pet Protection Order					
	Class A Misdemeanor		Class 4 Felony		Animal Abuser Registry
	0 = No	1 = Yes	0 = No	1 = Yes	0 = No 1 = Yes
CA	0		0		0
CO	0		0		0
CT	0		0		0
HI	0		0		0
IL		1		1	0
LA	0		0		0
ME	0		0		0
NV	0		0		0
NY	0		0		0
NC		1	0		0
TN	0		0		0
VT	0		0		0
WA	0		0		0

As of this writing, no state is a perfect example of the practical ideal type. Each states contains language similar to the those specified by the *Domestic Abuse Animal Protection Act*. However, Illinois comes the closest to mirroring the model legislation chosen for this research. Illinois' approach is discussed in the concluding chapter to illustrate the benefits of including companion animals in protective orders to further aid victims of domestic violence and to encourage the continued diffusion of domestic

violence legislation across the country. Barriers to the adoption of animal-oriented legislation are revisited.

Chapter 5

Discussion

Chapter Purpose

The purpose of this chapter is to discuss the state of Illinois' inclusion of companion animals in protective order legislation and how it best fits the practical ideal type as outlined in the literature review. The chapter also follows the introduction of the House Bill (HB) 9 to its eventual passage to be known as Public Act 95-0234. The chapter concludes with a discussion on the diffusion of the model.

Illinois Protects Pets

In 1986, the Illinois General Assembly passed the "*Illinois Domestic Violence Act of 1986*". Twenty years later, the state added a provision to include pets in protective orders. Illinois statute IL ST CH 725 § 5/112A-14 states :

(11.5) Protection of animals. Grant the petitioner the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent and order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

<http://www.ilga.gov/legislation/ilcs/fulltext.asp?DocName=072500050K112A-14>

In December of 2006, Rep. John A. Fritchey (Democrat) filed HB 9 to include companion animals in protective orders. Before the bill was passed on first reading the following January and assigned to the House Judiciary II - Criminal Law Committee,

five co-sponsors had been added. Eventually, HB 9 would pass unanimously out of committee with a total of eight sponsors before heading to the floor of the Illinois House for 116-0 vote. It would pass unanimously out of the Senate on May 22, 2007. The governor gave final approval on August 17, 2007 and the law became effective on January 1, 2008.

Judging from the votes, the bill appears to have had no opposition from the legislators on both sides of the political spectrum. It is unwise to assume no groups opposed HB 9. As previously stated in the introduction, there are those who feel granting protection to animals in these cases equates to giving animals full rights reserved only for humans. Illinois, like most states, has laws to protect against animal cruelty. Those who may have opposed can argue the state already has laws to protect animals and needs to enforce them without creating additional laws.

The language contained in the statute follows the wording set in the model legislation in stating what rights are granted to the petitioner and the respondent. The previous chapter shows that Illinois has mandatory cross-reporting for its animal humane officers, family violence professionals, and veterinarians. The cross-reporting law was updated in 2009. For family violence professionals who are acting in the official capacity and observe what he or she suspects animal abuse in the same home, they are required to make a written or oral report to the states animal welfare department. On the other side professionals who investigate animal abuse must make a

written oral report to the children protective service agency. The state does provide immunity from liability if the reports are made in good faith.

With regard to penalties for violating a protective order, the respondent is charged with a Class A misdemeanor for knowingly violating the order. If the violation involves a child, the respondent is charged with a Class 4 felony. The actual punishment may include jail time, restitution, fines, and/or community service as outlined in the literature review. The state has no animal abuser registry.

In the four years since Illinois passed legislation to include companion animals in protective orders, the state has moved quickly in expanding that protection by mandating professionals to cross-report abuse cases. It is unclear how many domestic violence protective orders are granted in Illinois - or any of the other states - where a victim is also seeking protection for a pet. The question of how many protective orders granted by Illinois courts and how many include pets would make for an excellent independent study on the effectiveness of the law.

Diffusing the Model

Robert Savage states there are three approaches to diffuse policy innovation: client, geographic, and organizational (Savage 1985). For the inclusion of companion animals in protective orders model to be diffused, all three approaches may be applied to the model. First, it is client-motivated innovation. The fear of having to leave a family pet behind and at the mercy of the abuser is eliminated by the granting the pet

legal protection from the abuser. Second, from a geographic standpoint the passage of the legislation is not specific to one region of the country or political geography. The law was just as likely to pass in a Republican-controlled state (Louisiana) as a Democratic one (Illinois). Finally as an organizational innovation, it requires educating the general public as well as professionals on the link between domestic violence and animal abuse in order to diminish the uncertainty and resistance to public policy including animals in the same protective categories as humans (Owen 2002).

Illinois was not the first state to introduce and pass legislation to include companion animals in protective orders. Maine has the distinction of having done so the year before. The innovation spread has been quick, that in five years almost half of the states include the model language in their domestic violence statutes. More often than not, the legislation was not passed on its first introduction. A variety of reasons account for this, namely time. Like hundreds of other bills, time simply ran out and the Legislatures adjourned without a final passage.

Conclusion

The purpose of the research was to gauge how closely states model their legislation to include companion animals in protective orders based on *The Domestic Abuse Animal Protection Act*. The research sought only to study the states that passed legislation between 2006 and 2009 allowing for revisions to the law to address

effectiveness. As of this writing, none of the states have revised their laws. Gauging the effectiveness of the law is moot until the states themselves produce studies on the number of protective order applications received requesting protection for companion animals.

Be it human or animal, the fight to end domestic violence is an uphill battle and resistance to enactment of a public policy sometimes treads on the infringement of personal liberties. The perceived unintended consequences for the accused batterer were addressed in the introductory chapter. The battle references attitudes toward domestic violence. It requires a change in mindset on the part of the victim, the batterer, the Legislature, and the general public. Even with domestic violence laws in place, the first line of defense is getting the victim to accept the situation is bad and leave an abusive relationship. Reasons for staying vary, but one reason is the fear of harm to a pet if the victim leaves. Including companion animals in protective orders allows for some peace of mind for the victim to protect herself and her household.

The diffusion of innovation in this area of public policy has been swift amongst the states. Twenty-one states have recognized the link between animal abuse and domestic violence. It will be interesting to see how many states follow suit in the coming years.

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Appendix A

The Domestic Abuse Animal Protection Act

(created by the International Institute for Animal Law)

§1 Purpose:

The purpose of the Domestic Abuse Animal Protection Act is to allow for the inclusion of animals in domestic violence protective orders.

§2 Protection Orders:

(a) In any domestic violence case, the court shall order that the petitioner be granted the exclusive care, custody, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent.

(b) The court shall further order the respondent to stay away from the animal and forbid the respondent from taking, transferring, encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

§3 Penalties

(a) Any violation of this statute is a Class A misdemeanor.

(b) Any violation subsequent to the first violation is a Class 4 felony.

<http://www.animallaw.com/protectiveordermodellaw.htm>

Appendix B

From: [REDACTED]
Sent: Tuesday, June 28, 2011 12:01 PM
To: Rodney Ellis
Subject: The link between animal cruelty and domestic violence

the tragic connection between domestic violence and animal abuse plays out over and over again across the country. While law enforcement officials have become increasingly educated on this dynamic over the years, the work of expanding public awareness and accomplishing legislative tools remains imperative.

As your constituent, I urge you to pursue laws which protect humans and animals from acts of violence. Legislative efforts which address this issue include:

- protective orders for companion animals (<http://ow.ly/5pYLg>)
- cross-reporting requirements (<http://ow.ly/5pYNL>)
- animal abuser registries (<http://ow.ly/5pYOx>)
- enhancement provisions for animal abuse committed in the presence of minors (<http://ow.ly/5pYPs>)

Sincerely,

[REDACTED]

Appendix C

everything she likes) and it may help create the simpatico vibe you're looking for. A tantalizing study published in *Personality and Social Psychology Bulletin* by Dr. Jennifer Bosson, a University of South Florida psychology professor (in her totally lovable picture, she looks like she couldn't detest a fly), explores the promotion of "interpersonal closeness" that develops by trashing the same people.

Start easy with sports teams she scorns ("Miss Johnson, I just heard the Red Sox are looking for a new pitcher on Craigslist"), move to restaurants that repulse her ("Miss Johnson, why didn't you warn me about Charlie's Diner? I had to complain to the waiter that I found food in my soup"), and then bond forever by cursing the politicians she hates. Stay away from knocking the competition. She may be in secret talks to buy them.

BOYFRIEND BEAT UP HER DOG (THE FOULEST CREEP TO APPEAR IN THE ASK EEE COLUMN THIS YEAR)

Dear E. Jean: *I feel sick. I'm 27 and I've been living with my boyfriend now for three years. My whole life is tangled up with him and most of the time I love him, even though he's incredibly arrogant, opinionated, aggressive, and explosive. As I write this letter, I'm very mad at him, so I am having a hell of a time trying to find anything good to say about him.*

My older sister is moving to Texas and has invited me to come along. Her husband is a lieutenant colonel in the army and is being deployed soon. She'll be in a new state and wants me to help her with their three little girls. I have a telecommuting job, so I'm not tied down by anything—except this boyfriend. Even though he insults me constantly, repeatedly humiliates me in public, breaks my personal belongings in fits of anger, disrespects my family, and has beaten up my dog, I'm terrified of life without him!

I haven't told him about the opportunity my sister has presented to me, because I know he'll freak out. I fear that if I move to Texas, it will definitely be the end of our relationship, and I don't know if that's really what I want. How do I decide?

—As I Write This, I Cry

Miss Cry, my dear, dear girl: You're "terrified of life without him"; I'm terrified for your life *with* him. I've written an advice column long enough, however, to know I must tread tenderly with you. (You did not reply to my emergency e-mail telling you to do exactly what you're afraid of doing—i.e., leave him. So this is my only chance of reaching you. I hope to God you pick up the magazine!)

We all tend to reject threatening new

Q: My boyfriend makes me laugh like no other, but sometimes I can't tell if he's serious. I've been waiting for him to pop the question, and recently he spontaneously dropped to one knee and said, "Will you marry me?" He had a big grin on his face, but since he didn't present a ring, I rolled my eyes and told him to "stop joking." Did I miss a proposal?

A: Yes, Miss Eye-Roll, you missed it. And now your romance is so damned racked with continuity errors, your story line can't proceed logically. You must reshoot. Your chap's ego was crushed in your first cut, so this time you propose to *him*—because Auntie Eeee loves a wedding!

information. But for a woman who's suffered three years of humiliation, insults, and disrespect, well, you've been so emotionally battered, you can rationalize actually asking if you should stay with a monster who beats your dog.

Go! Go with your sister! You're not able to "decide." So I'll suggest a plan: Make your preparations in secret. Do not tell him you're leaving. Never mention where your sister is going. Instruct your family and coworkers not to disclose where you and your sister are heading *no matter what this asshole tells them.* (He will lie to find out where you are.) Move your personal bank accounts, charge cards, insurance policies, etc., under your name and control. Buy a prepaid cell phone (when you leave, you can't use your old phone because he will trace you). Decide days beforehand what you can quickly put into two suitcases, and *leave the rest.* I know this is distressing, but you are dealing with a savage. Then when he's at work, take the dog and leave. Meet your sister at a predetermined spot. If he threatens you or the dog at any point, call the police. The shithead should be behind bars.

DIVORCE ATTORNEYS SHOULD VISIT THIS WOMAN OUT OF SHEER PROFESSIONAL RESPECT

Dear E. Jean: *I'm almost 34, but I look like I'm in my twenties, and my only addiction is Pepsi. I married my husband 13 years ago. I cheated once and confessed. He forgave me. A year later he had an affair with the woman who lives across the street from us, and we divorced by mutual agreement.*

But how unusual is this situation? We still live together! Our 12-year-old daughter has severe epilepsy, takes four serious drugs every day, and her seizures are not yet controlled. (She can experience as many as 15 tonic-clonic seizures—formerly known as grand-mal—a day.) So when she's sick, my ex stays home from

work and cares for her, or I do; and we agree about most other things. When we divorced in 2010, the only thing we had any disagreements about was his 401(k). (Since I hadn't earned the money, I didn't want to take any of it; he insisted on giving it all to me.) We share household cleaning responsibilities equally. He pays our mortgage, the household bills and medical insurance. I pay for clothing, phones, and incidentals for our daughter, like school pictures, haircuts, and so on.

There's no fraternization between my ex-husband and me (except once when we both were drunk and stupid). So my questions are: Can I start dating? Am I crazy?

—You Tell Me, Ma'am

Hells bells, you heroic woman! You're living more contentedly with your ex-husband than most of the married women I hear from who live with their current husbands. So, yes. At this point it might actually be advantageous for you to start dating. And as it so happens, I have a dude for you. He's gallant, generous, does the dishes, loves your daughter, pays your mortgage, and enjoys getting drunk and sexy with you. Text him now: "Cocktails tonight, darling?"

The hard part's over. You've both divorced your old selves. You've got a friendship built for love. If you can each tweak the personal behavior that caused problems the first time around, I think you may safely sneak away together for the weekend. And if the fling turns so lusty that it threatens your platonic relationship? Excellent! Here's hoping it turns into an exclusive lifelong love affair!

Ask a question, dolls! Write to e.jean@AskEJean.com. For more E. Jean advice, go to ELLE.com/askejean. You can tweet a question at [Twitter.com/ejeancarrroll](https://twitter.com/ejeancarrroll) or write with divine anonymity and exchange genius tips on *Advice Vixens* at AskEJean.com.

Appendix D

Loi Taylor

From: [REDACTED]
Sent: Sunday, October 10, 2010 3:25 PM
To: Rodney Ellis
Subject: Support Public Registries for Animal Abusers

Our state has good reason to be concerned about the whereabouts of animal abusers, including the high rate of recidivism among animal hoarders, the dangers to a community that are associated with animal fighting, and the well-established link between violence towards animals and violence towards humans.

Mandatory registration for convicted animal abusers in our state would aid dramatically in keeping offenders away from potential new victims by alerting law enforcement and the public to their whereabouts, and by allowing animal shelters to thoroughly screen potential adopters for criminal offenders. More information is available at <http://www.ExposeAnimalAbusers.org>.

The national non-profit Animal Legal Defense Fund has drafted a comprehensive model law that would establish an animal abuser registry in our state. To help reduce animal abuse and other forms of violence in our communities, I believe it is imperative that we pass this law. As your constituent, I urge you to review the law at <http://www.aldf.org/registrylaw> (where you will find ALDF contact information, if you have questions or would like assistance) and commit your support for an animal abuser registry law in our state. Please take the lead in protecting our citizenry--and our four-legged loved ones--from avoidable repeat offenses by convicted abusers.

[REDACTED]