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Never Enough: Animal Hoarding Law

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NEVER ENOUGH: ANIMAL HOARDING LAW

Courtney G. Lee*

ABSTRACT

Animal hoarding, a disorder that causes sufferers to acquire animals compulsively despite the inability or unwillingness to provide them with adequate care, is a widespread, costly, often underestimated problem that causes more animal suffering than all acts of intentional cruelty combined. Not only are animals harmed, but humans are as well, from dependents that live with hoarders to members of the surrounding communities to the hoarders themselves. Current laws do not address the issue effectively, and recidivism rates are close to 100%. This Article seeks to increase awareness of the animal hoarding problem and offers suggestions as to how the law might evolve to better manage and resolve these complex cases.

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INTRODUCTION

There is a person right now who—quietly, unbeknownst to her family and neighbors—is acquiring animals. She might keep them in her home, which may look perfectly normal from the outside, or perhaps she keeps them in another structure. They could be dogs or cats, or they could be birds, exotic pets, livestock, or even wild animals. She might be compelled by various reasons; she may have started with the best intentions, just trying to provide a safe haven for a couple of pets that she did not spay or neuter, and the number grew

out of control too quickly for her efforts ever to be enough to contain the situation. Alternatively, she may honestly believe that she is the only person who can save the animals, and that other caregivers would never be enough. Or she may just feel that she never can have enough animals, so she continues to adopt more from shelters, and perhaps she buys them from pet stores or through classified ads.

Regardless, she does not or cannot provide adequate care for these animals, and by the time the authorities realize what is happening, she may have ten, twenty, fifty, or even hundreds, some barely alive, some already dead. After a lengthy, expensive process during which the animals are seized and treated and her property is cleaned, she may pay a fine, serve some time in jail, or both.¹ She then returns to her newly clean, empty home, or maybe she moves to a new city or state. As the authorities heave a sigh of relief that the case finally is over and local media coverage of the incident dies down, she might notice a stray cat in the neighborhood, or encounter someone outside the local grocery store who is trying to rehome some puppies. Then quietly, unbeknownst to her family and neighbors, she begins the process all over again.

Animal hoarding is a widespread, often undervalued problem across the country that causes more animal suffering than all acts of intentional cruelty combined.² Not only are the animals harmed, but humans are as well, from dependents living with hoarders, to members of the surrounding communities, to the hoarders themselves.³ Many hoarders feel as if they never have enough animals, and current treatment strategies that rely primarily on animal cruelty laws are not enough to address the problem effectively.⁴

This Article seeks to increase awareness of the problem and offers suggestions as to how the law might evolve to better manage animal hoarding cases. Part I provides background on object hoarding in general,⁵ and Part II expands upon those ideas to explain animal hoarding specifically, types of animal hoarders and the rationales behind their behaviors, and ways to assist them.⁶ Parts III through V

1. *See infra* Parts III–IV.

2. *See* Lisa Avery, *From Helping to Hoarding to Hurting: When the Acts of “Good Samaritans” Become Felony Animal Cruelty*, 39 VAL. U. L. REV. 815, 817–18 (2005).

3. HOARDING OF ANIMALS RESEARCH CONSORTIUM, ANIMAL HOARDING: STRUCTURING INTERDISCIPLINARY RESPONSES TO HELP PEOPLE, ANIMALS AND COMMUNITIES AT RISK 3 (Gary J. Patronek et al. eds., 2006) [hereinafter HARC REPORT].

4. *See infra* Part I and Sections II.A, IV.C.

5. *See infra* Part I.

6. *See infra* Part II.

explore civil and regulatory, criminal, and legislative responses to animal hoarding cases,⁷ and Part VI offers suggestions as to how the law might change to better resolve these complex cases.⁸ Finally, Part VII concludes that current laws will never be enough to solve this problem until increased awareness of the issue and more thoughtful consideration of its causes, not just its effects, lead to change.⁹

I. BACKGROUND: WHAT IS OBJECT HOARDING?

The hoarding of objects entails the compulsive acquisition of, and difficulty in discarding, a large amount of possessions in a manner that impairs the hoarder's daily life, and that may threaten her health and safety, in addition to the health and safety of those who live with or near her.¹⁰ The general public was largely unaware of hoarding until recent years, as the media amplified exposure through news reports, talk show interviews, and reality television programs.¹¹ Similarly, few studies discussing hoarding as a mental disorder existed in the medical community until the last two decades.¹² As scientific inquiry increased, it expanded awareness, but also bred disagreement regarding how to classify the condition medically.¹³ Initially, researchers categorized hoarding as a subset of obsessive-compulsive personality disorder (OCD), but over time many medical professionals started viewing hoarding as its own separate condition, believing that classifying it as a subset of another disorder results in inconsistency in studies and underestimation of hoarding's harmful effects.¹⁴ That theory gained momentum, and the most recent edition

7. *See infra* Parts III–V.

8. *See infra* Part VI.

9. *See infra* Part VII.

10. Randy O. Frost et al., *Hoarding: A Community Health Problem*, 8 HEALTH & SOC. CARE COMMUNITY 229, 229–30 (2000) [hereinafter Frost et al., *Community Health Problem*]; *Hoarding Disorder: Overview*, MAYO CLINIC (May 4, 2017), <http://www.mayoclinic.org/diseases-conditions/hoarding-disorder/home/ovc-20317407>.

11. Susan Lepselter, *The Disorder of Things: Hoarding Narratives in Popular Media*, 84 ANTHROPOLOGICAL Q. 919, 920 (2011); Christopher C. Ligatti, *Cluttered Apartments and Complicated Tenancies: A Collaborative Intervention Approach to Tenant "Hoarding" Under the Fair Housing Act*, 46 SUFFOLK U. L. REV. 79, 79–80 (2013).

12. *See* Jessica R. Grisham & Melissa M. Norberg, *Compulsive Hoarding: Current Controversies and New Directions*, DIALOGUES CLINICAL NEUROSCIENCE 233, 233 (2010); *see also* Ligatti, *supra* note 11, at 82 (noting the recent recognition of hoarding as a medical condition).

13. Grisham & Norberg, *supra* note 12, at 233.

14. *See id.* at 233–34.

of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), the definitive guide for the classification of mental disorders, changed to list hoarding as its own separate diagnosis.¹⁵

Although medical professionals have started to accept hoarding as a distinct disorder, it still may appear in conjunction with other mental conditions, most often with OCD, but also with schizophrenia, dementia, eating disorders, autism, mental retardation, and attention deficit-hyperactivity disorder.¹⁶ Hoarding is extremely widespread, estimated to impact roughly “two to five percent of all adults.”¹⁷ In the United States alone, compulsive hoarding affects approximately 700,000 to 1.4 million people.¹⁸

Although the states of their homes may seem to suggest otherwise, hoarders themselves do not necessarily fit the stereotype perpetuated by sensationalized media depictions of lazy, disorganized, dirty people living in a “spectacle of chaos.”¹⁹ In fact, hoarders tend to be perfectionists who are afraid to discard something that they believe will prove necessary later, assigning “distorted beliefs” of importance and emotional attachment to their possessions.²⁰ People who suffer from hoarding can be found anywhere, and the degrees of separation between non-hoarders and hoarders often are smaller than expected; perhaps surprisingly, “[i]t seems that everyone knows someone or knows someone who knows someone” who could qualify as a hoarder.²¹

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15. *See id.*; *Highlights of Changes from DSM-IV-TR to DSM-5*, AM. PSYCHIATRIC ASS'N 8 (2013), https://www.psychiatry.org/FileLibrary/Psychiatrists/Practice/DSM/APA_DSM_Changes_from_DSM-IV-TR_to_DSM-5.pdf.
 16. Grisham & Norberg, *supra* note 12, at 237; Sanjaya Saxena et al., *Cerebral Glucose Metabolism in Obsessive-Compulsive Hoarding*, 161 AM. J. PSYCHIATRY 1038, 1038 (2004).
 17. Ligatti, *supra* note 11, at 82.
 18. Therese Borchard, *10 Things You Should Know About Compulsive Hoarding*, PSYCHCENTRAL (July 17, 2016), <http://psychcentral.com/lib/10-things-you-should-know-about-compulsive-hoarding/>.
 19. *See* Lepselter, *supra* note 11, at 927–28.
 20. *See* Saxena et al., *supra* note 16, at 1038; *see also* Sara Solovitch, *Hoarding Is a Serious Disorder – and It’s Only Getting Worse in the U.S.*, WASH. POST (Apr. 11, 2016), https://www.washingtonpost.com/national/health-science/hoarding-is-serious-disorder--and-its-only-getting-worse-in-the-us/2016/04/11/b64a0790-f689-11e5-9804-537defcc3cf6_story.html?utm_term=.5070837ad5f8 (detailing examples of hoarding behavior and describing the resulting distress and interference that hoarders experience).
 21. Ligatti, *supra* note 11, at 80; *see also* FAIRFAX CTY. HOARDING TASK FORCE, ANNUAL REPORT 9 (2009), <https://www.fairfaxcounty.gov/code/hoarding/hoarding-annual-report.pdf> (“Hoarding does not recognize race, gender, nationality, level of education, or a socio-economic bracket.”).

That surprise may be due to the secrecy that frequently surrounds hoarders. Many compulsive hoarders fail to recognize that their behavior poses problems, and therefore are very unlikely to seek treatment voluntarily, dismissing and sometimes even reacting violently toward family and friends that attempt to intervene.²² As a result, they can become socially isolated, living beneath the weight of their possessions in secret, sometimes in shame, and often in denial of the deleterious effects of their compulsive collecting.²³ Because of this social seclusion, along with the tendency of many hoarders to actively try to hide their circumstances, many hoarding cases go undetected for years or even decades.²⁴

Although not always obvious to those around them, unfortunately the clandestine environments hoarders create can be harmful or even deadly.²⁵ Hoarders save many different items, but the most common “include newspapers, magazines, old clothing, bags, books, mail, notes, and lists.”²⁶ The accumulation of these objects creates a significant fire hazard, both in combustibility—particularly if located near space heaters or overtaxed electrical outlets—and in access for firefighters who may not be able to reach a blaze or anyone trapped therein.²⁷ Further, amassing large amounts of items in a comparatively small space creates other dangers, such as the risk of falling, especially if the hoarder is elderly or disabled.²⁸ If the hoarded items include food or other perishables, contamination by

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22. Frost et al., *Community Health Problem*, *supra* note 10, at 230.
23. *Id.* at 229–30; Ligatti, *supra* note 11, at 80. Some studies use the terms “hoarding” and “collecting” interchangeably. SONIA S. WAISMAN ET AL., *ANIMAL LAW: CASES AND MATERIALS* 111 (5th ed. 2014). Others caution that doing so can mischaracterize the situation, and can even cause certain service agencies not to respond to hoarding calls. HARC REPORT, *supra* note 3, at 10. While a hoarder does compulsively collect large amounts of objects, if a person is a collector she is not necessarily a hoarder. Christiana Bratiotis et al., *What Is Compulsive Hoarding?*, INT’L OCD FOUND. (2009), <https://iocdf.org/wp-content/uploads/2014/10/Hoarding-Fact-Sheet.pdf>. Hoarders rarely seek to display their collections, and may actually try to keep them hidden; collectors, in contrast, “usually proudly display their collections and keep them well organized.” *Id.*
24. See Ligatti, *supra* note 11, at 81; see also Jan Hoffman, *Task Forces Offer Hoarders a Way to Dig Out*, N.Y. TIMES (May 26, 2013), <http://www.nytimes.com/2013/05/27/health/when-hoarding-morphs-into-a-safety-hazard.html> (describing the tendency for hoarders to withdraw from society and noting that the negative stigma associated with hoarding presents an additional challenge).
25. Frost et al., *Community Health Problem*, *supra* note 10, at 229, 234; Bratiotis et al., *supra* note 23, at 1.
26. Saxena et al., *supra* note 16, at 1038–39; see also Frost et al., *Community Health Problem*, *supra* note 10, at 231–32 (describing the hazards created by object hoarding).
27. See Frost et al., *Community Health Problem*, *supra* note 10, at 229.
28. *Id.*

rotting is likely, and dust pollen and bacteria frequently plague hoarders because their homes cannot be accessed adequately for cleaning.²⁹

In addition to these physical hazards within the home, hoarding affects sufferers' outside lives as well. Hoarders often experience financial insecurity, having to take time away from work or possibly losing their jobs as a result of the condition.³⁰ Hoarders also are less likely to be married, are more likely to endure strained family relationships due to their compulsions, and they tend to be less healthy in general, experiencing higher rates of obesity and other medical ailments.³¹ Moreover, unsanitary conditions and those that create a risk of fire also endanger the health and safety of those living nearby,³² and cleanup costs can be a tremendous burden.³³

A. *Helping Object Hoarders*

Because hoarding stems from a mental disorder, trying to fix the problem by focusing only on the physical manifestation—the cluttered property—is not an effective long-term solution.³⁴ Doing so is also difficult, as most hoarders either do not recognize the harmful consequences of their actions or are crippled by the inability to discard cherished possessions, and in either case rarely cooperate with interventions voluntarily.³⁵ If an agency unceremoniously

29. *Id.*

30. Grisham & Norberg, *supra* note 12, at 236; David F. Tolin et al., *The Economic and Social Burden of Compulsive Hoarding*, 160 *PSYCHIATRY RES.* 200, 204–06 (2008).

31. Grisham & Norberg, *supra* note 12, at 236.

32. See Frost et al., *Community Health Problem*, *supra* note 10, at 231, 234.

33. Tom Cobb et al., *Advocacy Strategies to Fight Eviction in Cases of Compulsive Hoarding and Cluttering*, 41 *CLEARINGHOUSE REV. J. POVERTY L. & POL'Y* 427, 440 (2007) (describing a small town that spent seventy-five percent of its budget to clean one hoarder's home); S.F. TASK FORCE ON COMPULSIVE HOARDING, *BEYOND OVERWHELMED: THE IMPACT OF COMPULSIVE HOARDING AND CLUTTERING IN SAN FRANCISCO AND RECOMMENDATIONS TO REDUCE NEGATIVE IMPACTS AND IMPROVE CARE 2* (2009), [http://www.mentalhealthsf.org/documents/Task%20Force%20Report%20\(FINAL\).pdf](http://www.mentalhealthsf.org/documents/Task%20Force%20Report%20(FINAL).pdf) [hereinafter S.F. TASK FORCE REPORT] (“[W]e conservatively estimate that costs to service providers and landlords from compulsive hoarding are \$6.43 million a year.”); Kayla Webley, *Hoarders Purge with Help from Community Groups*, *TIME* (July 19, 2010), <http://content.time.com/time/printout/0,8816,2002516,00.html> (noting that a hoarding cleanup process “can top \$50,000, and that money is rarely recouped from the hoarder, which leaves local agencies to foot the bill”).

34. CHRISTIANA BRATIOTIS ET AL., *THE HOARDING HANDBOOK: A GUIDE FOR HUMAN SERVICE PROFESSIONALS* 129–30 (2011); S.F. TASK FORCE REPORT, *supra* note 33, at 50.

35. Randy O. Frost et al., *Cognitive and Behavioral Treatment of Compulsive Hoarding*, 3 *BRIEF TREATMENT & CRISIS INTERVENTION* 323, 335–36 (2003) [hereinafter Frost

removes or attempts to remove the hoarder's belongings in anything but a life-threatening situation, not only is the process expensive, but it also may cause severe damage to the hoarder emotionally, mentally,³⁶ and perhaps even physically.³⁷ Even if such a removal appears to be successful and the hoarder's home is rendered clean and orderly, without careful monitoring she very likely will begin compulsively collecting again, making the cleanup expense, effort, and any related trauma all for naught.³⁸

Due to the complex nature of the disorder and the likelihood of recidivism, truly successful interventions require careful coordination between various entities, as well as monitoring over an extended period of time.³⁹ Although such orchestrations can be expensive and time consuming, many cities have instituted task forces devoted to hoarding that have seen positive results.⁴⁰ These task forces coordinate multiple agencies to address the many facets of a hoarding problem.⁴¹ A hoarding task force may include representatives from adult and child protective services, departments of health, law enforcement, fire and rescue, housing and zoning organizations, environmental associations, social services, animal control, and doctors and attorneys.⁴²

Hoarding is a serious disorder that takes a significant toll on sufferers and those around them—their families, friends, neighbors, coworkers, and employers.⁴³ If a hoarder's collections include living

et al., *Cognitive and Behavioral Treatment*]; Frost et al., *Community Health Problem*, *supra* note 10, at 234; Saxena et al., *supra* note 16, at 1038.

36. S.F. TASK FORCE REPORT, *supra* note 33, at 50; *see also* Tamara L. Hartl & Randy O. Frost, *Cognitive-Behavioral Treatment of Compulsive Hoarding: A Multiple Baseline Experimental Case Study*, 37 BEHAV. RES. & THERAPY 451, 460 (1999) (noting that hoarders often compare parting with their possessions to losing a child or loved one, or to a part of oneself dying).
37. *See* Anna Griffin, *Hoarder Killed in North Portland House Fire Lived in Plain Sight, Leaving a Trail of Questions*, OREGONLIVE (Dec. 8, 2012, 8:11 PM), http://www.oregonlive.com/portland/index.ssf/2012/12/house_fire_that_killed_north_p.html (describing a seventy-one-year-old hoarder who fought so vigorously against city authorities attempting to clean her property that they called the police, who proceeded to knock her down and pepper spray, tase, and handcuff her).
38. Ligatti, *supra* note 11, at 100–01.
39. Hartl & Frost, *supra* note 36, at 460; Ligatti, *supra* note 11, at 108; S.F. TASK FORCE REPORT, *supra* note 33, at 50.
40. Hartl & Frost, *supra* note 36, at 460; *see also, e.g.*, Ligatti, *supra* note 11, at 105 (demonstrating that there are task forces throughout the United States); FAIRFAX CTY. HOARDING TASK FORCE, *supra* note 21, at 18 (describing the task force's process since inception); S.F. TASK FORCE REPORT, *supra* note 33, at 81–82 (describing the task force's early results).
41. Ligatti, *supra* note 11, at 104.
42. *Id.* at 104–05; FAIRFAX CTY. HOARDING TASK FORCE, *supra* note 21, at 7.
43. S.F. TASK REPORT, *supra* note 33, at 45–46.

animals, this circle of harm expands considerably to consume the lives of those actually hoarded as well.

II. ANIMAL HOARDING

Animal hoarding is a particularly destructive subcategory of the hoarding disorder, and it is responsible for more animal suffering and deaths in the United States than intentional acts of animal abuse.⁴⁴ It is a widespread problem, with thousands of cases reported each year in every U.S. state and around the world.⁴⁵ Animal hoarding shares characteristics with general object hoarding, and many animal hoarders also amass objects.⁴⁶ More specifically, however, animal hoarding entails the obsessive accumulation of animals to—and beyond—a point that overwhelms the keeper’s abilities to meet minimal standards of humane care.⁴⁷ This combines with the failure to recognize the harm that this lack of care causes to the animals, to the environment, and to the people around them, as well as to the hoarder herself.⁴⁸ Instances of animal hoarding also entail severe squalor and unsanitary living conditions more often than object hoarding cases.⁴⁹ This complicates the threats to human health described above,⁵⁰ adding dangers like respiratory problems caused by excessive ammonia inhalation from the buildup of urine, as well as a greater likelihood of the cultivation of and exposure to zoonotic diseases.⁵¹

Like object hoarders, many animal hoarders live in denial of the deterioration surrounding them, complicating attempts to step in and

44. Avery, *supra* note 2, at 818.

45. *Id.* at 817–18.

46. Randy O. Frost et al., *Comparison of Object and Animal Hoarding*, 28 *DEPRESSION & ANXIETY* 885, 886–87 (2011) [hereinafter Frost et al., *Comparison*].

47. HARC REPORT, *supra* note 3, at 1. There is not a set number of animals that qualifies an individual as a hoarder; the determination centers on the owner’s ability to provide proper care. Avery, *supra* note 2, at 821–22 (comparing a woman who died leaving one hundred cats, all of which were healthy and well cared-for, to another woman who was determined to be a hoarder upon discovery of her six cats in terrible conditions).

48. HARC REPORT, *supra* note 3, at 1; Victoria Hayes, *Detailed Discussion of Animal Hoarding*, ANIMAL LEGAL & HIST. CTR. (2010), <https://www.animallaw.info/article/detailed-discussion-animal-hoarding>.

49. Frost et al., *Comparison*, *supra* note 46, at 887.

50. *See supra* notes 25–29 and accompanying text.

51. Avery, *supra* note 2, at 828; Colin Berry et al., *Long-Term Outcomes in Animal Hoarding Cases*, 11 *ANIMAL L.* 167, 169–70 (2005); *Public Health for Hoarding of Animals Research Consortium*, TUFTS U. CUMMINGS SCH. VETERINARY MED., <http://vet.tufts.edu/hoarding/public-health/> (last visited Nov. 13, 2017).

help.⁵² Also like non-animal hoarders, some are very skilled at keeping any evidence of their disorders hidden from the public and even from those closer to them.⁵³ Although there are trends suggesting that many are older, single women, animal hoarders can come from any demographic—age, race, gender, socioeconomic—and some even work in human or veterinary health industries.⁵⁴ Some also are adept at manipulating service industries and the legal system to ensure that they may continue their pursuits.⁵⁵

Hoarding situations can grow quickly, and attempts to intervene may come too late for the animals. One may presume that detecting animal hoarding would be easier than noticing someone who quietly hoards nonliving objects, because certain smells and sounds usually accompany large numbers of animals; unfortunately, however, that is not always the case.⁵⁶ By the time authorities are notified, the

52. See Hayes, *supra* note 48.

53. Avery, *supra* note 2, at 833, 856.

54. *Id.* at 820–21; Susan E. Davis, *Prosecuting Animal Hoarders Is like Herding Cats*, CAL. LAW., Sept. 2002, at 26, 28 (describing a “well-dressed, retired real estate agent who lives in a . . . [nice] neighborhood, drives a Mercedes-Benz, and has enough money to have bought a 1,600-square-foot, \$250,000 second home” in which authorities found 200 cats, some of which were dead).

55. Avery, *supra* note 2, at 821; see also *Animal Hoarding Case Study: Vikki Kittles*, ANIMAL LEGAL DEF. FUND, <http://aldf.org/resources/laws-cases/animal-hoarding-case-study-vikki-kittles/> (last visited Nov. 13, 2017) (detailing the story of Vikki Kittles, a woman who, for over two decades, used multiple aliases and convincing charm, and frustrated several court systems across five states to hoard and harm hundreds of animals).

56. See, e.g., Elise Franco, *Neighbors of Filthy Home in Canfield Report Nothing Out of the Ordinary*, VINDY (Oct. 29, 2009, 12:10 AM), <http://www.vindy.com/news/2009/oct/29/neighbors-of-filthy-home-in-canfield-report/> (recounting the astonishment of neighbors upon discovering that a couple with two young children had been hoarding ten dogs “in a house filled with mold, garbage, animal and human waste”); *Animal Hoarding Discovered in Springfield; 50 Animals Saved*, HAW. NEWS NOW (Oct. 12, 2015, 9:46 PM), <http://www.hawaiinewsnow.com/story/29927706/animal-hoarding-discovered-in-springfield-50-animals-saved> (describing a case in which neighbors were not aware that so many animals were being kept in a home that subsequently was condemned). The Author of this Article knew one person charged in the Canfield, Ohio case personally, and the home was less than a block from where the Author grew up and where her family still lives. She can verify that the home appeared orderly and normal from the outside, with no odd smells emanating from within; in fact, it was one of the nicer, more expensive homes in the area. Nothing suggested that behind its doors lay what the county dog warden called the worst case of animal abuse he had encountered in three decades, where it took him multiple days to locate all of the dogs living inside, and where a detective noted, “It was like walking in two inches of maple syrup. That’s how saturated the rugs were with urine and feces.” Elise Franco, *Canfield’s ‘Filthy’ House*, VINDY (Oct. 28, 2009, 12:01 AM) [hereinafter Franco, *Canfield’s ‘Filthy’ House*], <http://www.vindy.com/news/2009/oct/28/canfields-filthy-house/>; *Canfield Couple Plead Guilty to*

hoarded animals might be too sick or traumatized to be saved, and some may have even passed away already.⁵⁷ Further, even if service providers are alerted to an animal hoarding case, successful intervention can take days, weeks, or even years.⁵⁸

If such an intervention does occur, the property is cleaned, and animals are removed, then without continued treatment—which itself may take years—the hoarder almost certainly will return to past habits and begin accumulating animals again.⁵⁹ Without regular monitoring and treatment, the recidivism rate of animal hoarders approaches one hundred percent.⁶⁰

A. *Why People Hoard Animals*

Research has shown that hoarders of inanimate objects suffer from a mental disorder or sometimes multiple disorders,⁶¹ and the same is true of most animal hoarders.⁶² Unlike animal abusers motivated by anger and violence, many animal hoarders do not set out with the

Child Endangering, Animal Cruelty, WFMJ, <http://www.wfmj.com/story/12354663/canfield-couple-plead-guilty-to-child-endangering-animal-cruelty> (last visited Nov. 13, 2017).

57. Gary J. Patronek, *Hoarding of Animals: An Under-Recognized Public Health Problem in a Difficult-to-Study Population*, 114 PUB. HEALTH REP. 81, 84 (1999) [hereinafter Patronek, *Hoarding of Animals*] (noting that animals were discovered dead or in very poor condition in forty-three of fifty-four hoarding cases studied); see also, e.g., Avery, *supra* note 2, at 824–25 (describing cases from different states where hoarders were found living with dozens to hundreds of both living and dead animals, and where the living animals often had to be euthanized due to poor health or socialization problems); Franco, *Canfield's 'Filthy' House*, *supra* note 56 (noting that, with the exception of one dog, all animals rescued had to be euthanized immediately or died before reaching the pound).
58. See WAISMAN ET AL., *supra* note 23, at 113 (summarizing a North Carolina case in which local law enforcement and animal control received complaints for four years regarding a property that ultimately was found to house “close to 450 dogs, many suffering severely and all living in filth with basic health needs neglected”).
59. HARC REPORT, *supra* note 3, at 30, 32 (examining cooperative animal hoarding treatment strategies influenced by high recidivism rates); see also, e.g., Avery, *supra* note 2, at 834–35 (describing multiple incidents where authorities removed hoarders’ animals only to have them begin accumulating animals again almost immediately, illustrating the “old adage” that animal hoarders “will pick up a stray cat on the way home from the courthouse”); Sandy Miller, *Objects of Their Affection: The Hidden World of Hoarders*, BEST FRIENDS MAG., Jan.–Feb. 2008, at 21, 58 (“You can remove the animals, but it doesn’t remove the hoarder’s need to continuously acquire and possess animals.”).
60. HARC REPORT, *supra* note 3, at 2.
61. See *supra* notes 14–16 and accompanying text.
62. See Frost et al., *Comparison*, *supra* note 46, at 887–88 (noting that animal hoarding may be connected to or caused by conditions like dementia, or dissociative, attachment, delusional, personality, or antisocial disorders).

intention of harming the animals entrusted to their care; on the contrary, they may begin by caring for their animals capably, but then a change in circumstances or finances causes things to become unmanageable.⁶³ Others may truly believe, despite ample conflicting evidence, that they are helping and even saving their animals.⁶⁴ Understanding the different motivations behind hoarding behavior facilitates planning and delivering treatment more effectively; thus, researchers recognize three main types of animal hoarders: overwhelmed caregivers, rescuer hoarders, and exploiter hoarders.⁶⁵

1. Overwhelmed Caregivers

Overwhelmed caregivers begin by providing for their animals sufficiently and do not actively seek to acquire more, but eventually the animals multiply beyond their control, or significant life events make it impossible for them to provide adequate care.⁶⁶ Because overwhelmed caregivers are more likely than other types of animal hoarders to recognize that they have a problem, they tend to be more compliant with authorities and accepting of—even grateful for—help.⁶⁷

One example of an overwhelmed caregiver is a Las Vegas woman who was living with twenty-four cats.⁶⁸ She provided them with food and water, but otherwise her home was filthy, with overflowing litter boxes and an overpowering stench of ammonia.⁶⁹ She began with just her own two cats, but the number grew rapidly as she took in one abandoned litter of kittens after another, always attempting to find adoptive homes for them by contacting shelters and posting

63. HARC REPORT, *supra* note 3, at 19; *see also* Avery, *supra* note 2, at 824 (“[A]lthough animal hoarders may have a genuine interest in helping a few needy animals, because they are unable or unwilling to provide basic veterinarian care including sterilization, small and already large collections grow to overwhelming populations because animals that are not spayed or neutered are allowed to breed.”).

64. *See, e.g.*, HARC REPORT, *supra* note 3, at 20; Randy O. Frost et al., *The Hoarding of Animals: An Update*, PSYCHIATRIC TIMES 3 (Apr. 30, 2015) [hereinafter Frost et al., *Update*], www.psychiatrictimes.com/printpdf/204813.

65. HARC REPORT, *supra* note 3, at 19.

66. *Id.* (listing life changes that contribute to a decline in the capability to provide care, such as the loss of a loved one who helped with the animals, illness or disability, or a sudden change in income).

67. *Id.*; JENNIFER COFFEY, THE NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HEALTH ANIMAL HOARDING PROJECT 10, 73 (2007), <http://docplayer.net/docview/48/23803909/#file=/storage/48/23803909/23803909.pdf> (stating that future implementation of a program designed to address the human behaviors behind animal hoarding would only be offered to overwhelmed caregivers due to their greater willingness to accept assistance and make changes).

68. Miller, *supra* note 59, at 60–61.

69. *Id.* at 60.

flyers.⁷⁰ Her capacity to provide care for so many cats deteriorated, especially after she suffered a divorce, illness, and several car accidents.⁷¹ When her brother offered to help her deal with the situation, she cried with relief and gratefully accepted, and has made no further attempts to acquire more animals.⁷²

There are many more examples, such as a Canadian man and his mentally disabled son who were left to care for his wife's twenty-six cats when she was transferred into a nursing home.⁷³ He finally reached out for assistance and surrendered the cats, and a year later had not brought any more into the home.⁷⁴ Another Canadian case featured a woman who acknowledged that she could not financially or physically care for what had ballooned to one hundred cats and dogs in her home.⁷⁵ She consulted with her veterinarian and willingly surrendered and transferred ownership of all of her animals after being admitted to a psychiatric facility.⁷⁶ Regardless of the specific circumstances that lead to each individual's state of affairs, overwhelmed caregivers hoard animals because their numbers of pets grow out of hand too quickly for them to handle effectively.⁷⁷

2. Rescuer Hoarders

While overwhelmed caregivers usually acquire animals passively, rescuer hoarders acquire them purposefully, whether by answering "free to a good home" advertisements, by adopting from shelters, by acquiring them from people selling or giving away animals outside of shopping centers, or by picking up strays.⁷⁸ They may begin with adequate resources and noble intentions, but their abilities to provide proper care gradually decline as their delusions escalate.⁷⁹ Rescuer

70. *Id.*

71. *Id.*

72. *Id.* at 60–61 (noting that the woman moved to a new home with about half of the cats, where she planned to keep the oldest few and continue to find homes for the younger ones).

73. Amanda I. Reinisch, *Characteristics of Six Recent Animal Hoarding Cases in Manitoba*, 50 CANADIAN VETERINARY J. 1069, 1070 (2009).

74. *Id.*

75. *Id.*

76. *Id.*

77. HARC REPORT, *supra* note 3, at 19; Miller, *supra* note 59, at 22.

78. HARC REPORT, *supra* note 3, at 19–20; *see also* Avery, *supra* note 2, at 823–24 (summarizing cases in which hoarders acquired animals by these methods).

79. HARC REPORT, *supra* note 3, at 20; *see also* Miller, *supra* note 59, at 21 (describing a case in which authorities found "around 700 cats" that were "living in horrible conditions" on the property of a nonprofit organization that was operating as a

hoarders are more likely to deny the harmful realities of their situations and believe that they are the only ones who are able to provide for their animals, often causing them to shift from rescuing and then adopting out the animals to rescuing only.⁸⁰ These beliefs that they are the best and only possible caregivers for their animals form the bases of their senses of self-worth⁸¹ and lead them to be less cooperative with anyone attempting to intervene.⁸²

An example of a recent rescuer hoarding case is that of The Haven – Friends for Life No-Kill Animal Shelter (The Haven) in North Carolina.⁸³ Linden and Stephen Spear operated The Haven for more than a decade, even as authorities received complaints and conducted failed inspections from as early as 2005.⁸⁴ An agriculture department spokesman claimed that the department tried to work with the couple to bring their facility into compliance rather than shut it down, largely due to the enormity of the operation and the expense and difficulty that would ensue if they were to pursue the latter option.⁸⁵ Due to the “legal wrangling” the Spears employed as they “fought every step with every legal tool available,” the state’s efforts were unsuccessful.⁸⁶ Finally, after over a decade, authorities raided The

rescue under the leadership of a woman who would not permit volunteers to enter and who changed the locks regularly to prevent access).

80. HARC REPORT, *supra* note 3, at 20; Miller, *supra* note 59, at 22.

81. Miller, *supra* note 59, at 59 (noting that animal hoarders’ “self-esteem is very much tied into their hoarding behavior” because they believe that their animals would die without them, and that often they are trying to compensate for lacking nurturing relationships from the significant humans in their lives, such as from parents who were abusive, absent, or inconsistent); *see also* Gary J. Patronek & Jane N. Nathanson, *A Theoretical Perspective to Inform Assessment and Treatment Strategies for Animal Hoarders*, 29 CLINICAL PSYCHOL. REV. 274, 279 (examining animal hoarders’ compulsive need to serve as caregiver as a self-reparative response to rejection and abandonment by humans).

82. HARC REPORT, *supra* note 3, at 20; *see also A Closer Look at Animal Hoarding*, ASPCA, <http://www.aspc.org/animal-cruelty/animal-hoarding/closer-look-animal-hoarding> (last visited Nov. 13, 2017) (listing signs indicating that an alleged rescue group may really involve hoarding, including an unwillingness to let anyone see where the animals are kept or to disclose the number of animals kept there, and receiving new animals at a remote location to prevent access to their facilities).

83. *See* Laura Leslie, *State Failed for Years to Hold Hoke Animal Shelter to Standards*, WRAL (Jan. 29, 2016), <http://www.wral.com/state-failed-for-years-to-hold-hoke-animal-shelter-to-standards/15293766/>.

84. *Id.*

85. *See id.* (noting that the spokesman conceded that the state still should have acted sooner). This also demonstrates how ill-equipped many authorities continue to be to handle large-scale hoarding cases, and how reluctant they can be to step in as a result. *See id.*; *see also Animal Hoarding Case Study: Vikki Kittles*, *supra* note 55 (providing examples of authorities that dropped charges and incentivized Kittles to leave the jurisdiction rather than attempt to deal with her).

86. Leslie, *supra* note 83.

Haven and seized over six hundred animals, discovering dozens of animal carcasses in the process.⁸⁷ Even though the animals were found in deplorable conditions, the Spears continue to decry their challengers and urge the public to support their shelter, maintaining it is one of the best in the state.⁸⁸

Another example of a rescuer hoarder is Suzanna Youngblood, although she did not claim to run a shelter.⁸⁹ Instead, she kept over ninety cats in a seven-and-a-half-foot by eleven-foot trailer in California, storing it several miles away from where she lived after Animal Control officers informed her that she could keep no more than four cats in her home county.⁹⁰ The cats were extremely unhealthy, malnourished, and covered in excrement; and some were missing eyes or parts of limbs.⁹¹ Nonetheless, Youngblood proclaimed that she was keeping the cats to “save” them, and even attempted to assert a necessity defense based on that delusion during her trial.⁹² Irrational convictions like this are typical of rescuer hoarders.⁹³ Rescuer hoarders hoard animals because they are unrealistically mission-driven to believe that no one else can save and care for their animals as well as they can.⁹⁴

87. *Id.*; Amanda Dolasinski & Alicia Banks, *Dead Animals Found Buried on Haven Shelter Property*, FAYETTEVILLE OBSERVER (Jan. 28, 2016, 10:25 AM), <http://www.fayobserver.com/79873966-148c-50ad-b8fa-0e08a1d9dbc6.html>.

88. Dolasinski & Banks, *supra* note 87 (noting that the hundreds of animals on the property, including dogs, cats, horses, pigs, and birds, “waded through feces and broken glass” and were “suffering from untreated medical issues including open wounds, severe upper respiratory disease and emaciation”). The Spears are not permitted to access the property during the criminal investigation. *Id.* Yet, The Haven’s website continues to operate and request donations, with the following note on the front page:

We are deeply saddened that, after twenty years and 35,000 adoptions, we have had to put all operations on hold. In recent days, critics have sadly chosen to ignore all the good two decades of rescuing pets have brought to the community. Don’t let their voices be the only ones. Spread the word on social media and to the press about all the positive aspects of The Haven.

THE HAVEN FRIENDS FOR LIFE, <http://thehaven-friendsforlife.org.ourssite.com/> (last visited Nov. 13, 2017). The message goes on to list media contacts and “talking points” extolling the virtues of “the most successful rescue in North Carolina.” *Id.*

89. *See* *People v. Youngblood*, 91 Cal. App. 4th 66 (Cal. Ct. App. 2001).

90. *Id.* at 68–69.

91. *Id.* at 69.

92. *Id.* at 72. The court determined that the necessity defense was not available. *Id.*

93. HARC REPORT, *supra* note 3, at 20.

94. *Id.*; *see also, e.g.*, Patronek & Nathanson, *supra* note 81, at 279 (“Indeed, by positioning him/herself as a rescuer, shelter or hospice, a hoarder may believe s/he has acquired a socially acceptable persona and use this to deflect external criticism

3. Exploiter Hoarders

The third main type of animal hoarder is the exploiter hoarder.⁹⁵ Exploiter hoarders are more nefarious and difficult to handle than other types, exhibiting psychopathic tendencies, narcissism, a lack of empathy for people or animals, and hostility toward anyone threatening their deep-seated need to exert control over their animals.⁹⁶ Exploiter hoarders may appear charming and articulate at first, but they are extremely manipulative and will do anything, including lie, cheat, and break the law without remorse, to satisfy their needs and desires.⁹⁷ They often understand the legal system quite well, and will use that knowledge to thwart any efforts to prosecute them or remove their animals.⁹⁸

Perhaps one of the most infamous exploiter hoarders is Vikki Kittles, who left an extraordinary trail of harm and litigation across multiple U.S. states.⁹⁹ Kittles was convincing and conniving, able to persuade people to supply her with animals no matter where she went.¹⁰⁰ She was so aggressive and devious with her manipulation of the legal system that one prosecutor dropped charges against her because her history indicated that the trial would be too lengthy and expensive, and one county actually provided her with money for gas as an incentive to move away.¹⁰¹ Even jail was not enough to deter

of his/her failed efforts to properly care for animals.”); Miller, *supra* note 59, at 59 (“Hoarders often believe that they, and only they, can save the lives of these animals.”).

95. HARC REPORT, *supra* note 3, at 20.

96. *Id.*; Patronek & Nathanson, *supra* note 81, at 279; Miller, *supra* note 59, at 22; COFFEY, *supra* note 67, at 11–12.

97. HARC REPORT, *supra* note 3, at 20; COFFEY, *supra* note 67, at 12.

98. See COFFEY, *supra* note 67, at 11–12 (describing the activities of exploiter hoarders in New York City, including accepting help at first only to renege later, limiting access to their properties, oscillating between crying and proclaiming their love for their animals and screaming declarations of harassment, threatening lawsuits, deflecting blame, generally trying to control the situation, and demonstrating that they were using the animals for self-satisfaction).

99. Joshua Marquis, *The Kittles Case and Its Aftermath*, 2 ANIMAL L. 197, 197–98 (1996); *Animal Hoarding Case Study: Vikki Kittles*, *supra* note 55 (detailing Kittles’s hoarding behavior in Florida, Mississippi, Colorado, Washington, and Oregon).

100. *Animal Hoarding Case Study: Vikki Kittles*, *supra* note 55.

101. *Id.* (quoting one prosecutor as stating, “I held out little hope, based on how she behaved, that the trial would have been short. It could have lasted for days. . . . I don’t want to burn up the jury pool on cases like that.”). After Kittles threatened a different prosecutor, judge, and jury, that prosecutor declared, “I’m more afraid of Vikki Kittles than people I’ve put in prison (for murder).” Kelly Milner, *Vikki Kittles Nationally Known for Collecting Animals*, WYO. TRIB. EAGLE (July 14, 2002), http://www.wyomingnews.com/news/vikki-kittles-nationally-known-for-collecting-animals/article_1065be82-5d92-5789-bcf8-3ef7fb998218.html.

Kittles, who would simply move to a new state and begin hoarding again as soon as she was released.¹⁰²

In another exploiter hoarder case, an elderly Canadian woman was found hoarding dozens of rabbits in terrible conditions.¹⁰³ She would purchase them at local pet stores, wait a few days, and then return, claiming that the rabbits had died and that she needed more.¹⁰⁴ She told an investigating officer who responded to a concerned veterinarian's report that she planned to start a rabbit circus.¹⁰⁵ Although the woman allegedly had posted a notice in the local newspaper advertising rabbits for sale, she denied everyone who attempted to acquire one, deeming them unfit to care for her animals.¹⁰⁶ She was similarly hostile toward authorities, and when they attempted to seize the rabbits under the Canadian Animal Care Act, they found only ten at her home, although a local police officer reported observing her releasing at least one rabbit in a public park.¹⁰⁷ The woman refused to speak to interviewers who attempted to follow up with her a year later, and due to medical confidentiality concerns, the health care worker assigned to her case could not confirm whether she had acquired more animals.¹⁰⁸

Whether they seek to serve their emotional, monetary, or other desires, exploiter hoarders use their animals primarily for personal gratification, impervious to animal suffering.¹⁰⁹ Exploiter hoarders excessively obtain animals because they have a compulsive,

102. *Animal Hoarding Case Study: Vikki Kittles*, *supra* note 55. It is unclear whether Kittles began hoarding again after her latest recorded incarceration in 2003, although it is likely, considering her past behavior. *See id.* She is reported to have brought a very ill dog to a veterinarian in Colorado in 2006, but she could not pay for the necessary treatment and the veterinarian euthanized the dog, after which Kittles allegedly brought legal action. *Id.* As of at least 2015, she appeared to have been living in Wyoming, as evidenced by a social media account purporting to belong to her. *See* VikkiRene Kittles, GOOGLE+, <https://plus.google.com/110739117584453936024> (last visited Nov. 13, 2017). The social media page is filled with posts specific to that state that almost entirely concern saving various types of animals, but the posts end abruptly in May 2015. *Id.*

103. Reinisch, *supra* note 73, at 1070–71 (noting that the rabbits were found in filthy, cramped cages in the basement, with no ventilation, near a very hot furnace and water heater).

104. *Id.* at 1071.

105. *Id.*

106. *Id.* In this sense, the woman demonstrated some overlap with the tendencies of rescuer hoarders. *See* HARC REPORT, *supra* note 3, at 20.

107. Reinisch, *supra* note 73, at 1071.

108. *Id.*

109. *Id.* at 1072; HARC REPORT, *supra* note 3, at 20.

predatory need to control, and they place their needs before those of their animals or anyone else.¹¹⁰

4. Other Types, Common or Combined Traits, and Mislabeling

Two additional, intermediate hoarding stages are incipient hoarding and breeder-hoarding.¹¹¹ Incipient hoarders meet minimal required standards of care, but are dangerously close to slipping beneath that line.¹¹² Breeder-hoarders breed animals for show or sale, continuing the breeding process even as conditions gradually deteriorate.¹¹³ It is useful to be able to recognize these types of “early-onset” hoarders so that family, friends, or service providers might intercede and offer assistance before the situations grow unmanageable.¹¹⁴

Some animal hoarders represent a mixture of some or all of the different hoarding types’ characteristics,¹¹⁵ often complicated by multiple other disorders.¹¹⁶ One trait common to almost all people who hoard, however, whether they choose to collect objects, animals, or both, is the perceived need to control their possessions.¹¹⁷ An important distinction for animal hoarders is the fact that animals eventually die, and therefore they cannot be controlled forever.¹¹⁸ This may cause animal hoarders greater levels of anxiety, prompting many to fight desperately not to let their animals go, and leading some to refuse to acknowledge their animals’ deaths or dispose of their deceased animals’ bodies properly.¹¹⁹

All types of animal hoarding cases present challenges to those attempting to help, whether the hoarder is an overwhelmed caregiver amenable to assistance or an aggressive exploiter hoarder.¹²⁰ Animal

110. HARC REPORT, *supra* note 3, at 20; Miller, *supra* note 59, at 22.

111. HARC REPORT, *supra* note 3, at 20.

112. *Id.*

113. *Id.*

114. *See id.*; *see also Who Is an Animal Hoarder?*, ANIMAL HOARDING PROJECT, <https://animalhoardingproject.wordpress.com/who-is-an-animal-hoarder/> (last visited Nov. 13, 2017) (“Early intervention is the key.”).

115. HARC REPORT, *supra* note 3, at 19.

116. Frost et al., *Comparison*, *supra* note 46, at 887; COFFEY, *supra* note 67, at 13.

117. Frost et al., *Comparison*, *supra* note 46, at 889; *see also* Patronek & Nathanson, *supra* note 81, at 277 (describing hoarders’ attachment to their belongings).

118. Patronek & Nathanson, *supra* note 81, at 277–78.

119. *Id.*; Frost et al., *Comparison*, *supra* note 46, at 887 (“People who hoard animals . . . often refus[e] to give up animals who are clearly sick, dying, or even already dead.”).

120. *See* HARC REPORT, *supra* note 3, at 3, 15 (listing many service agencies that play a role in resolving animal hoarding cases, including those that focus on “animal welfare, human health and mental health, housing, law enforcement, sanitation, and the environment,” and noting that “relatively uncomplicated” hoarding cases easily

hoarding cases siphon more resources than object hoarding cases, from time invested and expenses incurred by service agencies to resources expended by shelters needed to house the sometimes-staggering number of animal victims.¹²¹ Addressing every hoarding case in the same manner, without acknowledging the different motivations behind the behavior, is ineffective, and renders the expenses incurred wasted when the hoarder inevitably begins acquiring animals again.¹²²

B. *Helping Animal Hoarders*

Much like object hoarding, animal hoarding places more individuals at risk of harm than just the hoarders themselves.¹²³ There may be dependent human victims living with the hoarder in unsafe squalor they cannot control.¹²⁴ Animal hoarding subjects the surrounding community to dangers similar to those created by object hoarding, but with threats of additional diseases and environmental concerns.¹²⁵ Along with the human victims are the animals, of course; animal hoarding can cause the long-term, abject suffering and eventual death of hundreds of animals in a single case, compounded by the thousands of cases reported each year.¹²⁶

This complex web of harm and the high animal hoarding recidivism rate demonstrate the urgency of employing targeted

can cost thousands to address, while the expense associated with more complex cases may reach into six figures).

121. Avery, *supra* note 2, at 839 (“[A]nimal hoarder rescues can double a shelter’s population overnight; large rescues can force shelters into bankruptcy.”); Frost et al., *Community Health Problem*, *supra* note 10, at 233.

122. HARC REPORT, *supra* note 3, at 1, 3.

123. *Id.*

124. *Id.*; see also, e.g., LISA ANNE ZILNEY, LINKING ANIMAL CRUELTY AND FAMILY VIOLENCE 125 (2007) (describing how authorities in Colorado had to don gas masks to enter a home in which they found twenty-eight living and dead dogs and cats, stacks of trash, and a thirteen-year-old, mentally disabled girl and explaining that the girl’s guardian, a registered nurse, pleaded guilty to misdemeanor child abuse and animal cruelty); Frost et al., *Comparison*, *supra* note 46, at 887 (noting that while clutter is common to both object and animal hoarding, squalor features prominently in “nearly 100%” of animal hoarding homes, but only in a minority of object hoarding homes); *Canfield Couple Plead Guilty to Child Endangering, Animal Cruelty*, *supra* note 56 (noting that the couple in that case were charged with six counts of cruelty to animals and two counts of endangering their two children, ages two and seven).

125. See *supra* notes 46–51 and accompanying text.

126. Patronek, *Hoarding of Animals*, *supra* note 57, at 82–85; see also Berry et al., *supra* note 51, at 168 (“[A]nimal hoarding . . . causes untold suffering to many thousands of animals.”).

treatment for animal hoarders.¹²⁷ Because they can fall into one or several different categories and can be compelled by very different objectives, this treatment must be individualized, likely involving several different service providers.¹²⁸ It would not be an effective use of resources to treat an overwhelmed caregiver in the same manner as an exploiter hoarder, for example.¹²⁹ Much like object hoarders, treating animal hoarders and preventing relapse requires a substantial degree of service agency cooperation and coordination.¹³⁰

Different agencies themselves have different priorities that can complicate attempts to provide treatment.¹³¹ For instance, a few of the service providers implicated in addressing an animal hoarding case may include animal protection agencies, social services, law enforcement, and prosecutors.¹³² The animal protection officers' first concern will be the welfare of the animal victims; they likely will want to seize the animals, treat them, and begin the process of readying them for adoption; meanwhile, the social workers' first concern will be the welfare of the hoarder, and they may object to removing a hoarder's animals if doing so would be too traumatic.¹³³ Law enforcement and prosecutors, in turn, may alienate social workers that wish to help their hoarder client and not see him or her subjected to trial and possible legal punishments.¹³⁴

Although all of these missions are valid and appropriate for each individual agency, they can cause conflict and delay if there is not a plan in place that reflects understanding of competing goals.¹³⁵ This plan can be tailored to meet each agency's objectives, and such cooperation can result in a more positive and lasting outcome than a more fragmented approach to treatment.¹³⁶ Different routes to effective treatment may follow different paths, whether civil, criminal, or perhaps not through the court system at all.¹³⁷

Just as there are different types of animal hoarders and different types of agencies implicated in their effective treatment, there are

127. HARC REPORT, *supra* note 3, at 2, 13.

128. *Id.* at 3–12, 19.

129. *See id.* at 19–20 (comparing the different types of hoarders and the likelihood of their amenability to intervention).

130. *Id.* at 27; *supra* note 39 and accompanying text.

131. HARC REPORT, *supra* note 3, at 13, 27.

132. *Id.* at 3–4.

133. *Id.* at 3, 15–16.

134. *Id.* at 15.

135. *Id.* at 15–16.

136. *Id.* at 16 (noting that, for example, social services and prosecutors can work together to provide “less adversarial options” for hoarders who are disabled or ill, saving expense and time).

137. *See id.* at 21.

various strategies to address animal hoarding cases.¹³⁸ The laws and regulations discussed below range from civil to criminal and reach from city to state.¹³⁹

III. CIVIL AND REGULATORY RESPONSES TO ANIMAL HOARDING

For animal hoarders like overwhelmed caregivers, who are receptive to intervention and are less likely to revert back to previous hoarding behaviors, a civil approach might be best, if legal action is necessary in the first place.¹⁴⁰ In fact, prosecuting such individuals criminally often is counterproductive—for the hoarder, for the prosecutor that must expend significant time and expense doing so, for the animals that often must be held as evidence until resolution, and for the shelters forced to make room and hold them.¹⁴¹ For hoarders responsive to a less combative approach, or for whom prosecution is not an otherwise viable option, there are a few different alternatives.¹⁴²

A. *Civil Forfeiture and Bonding Laws*

Civil forfeiture laws permit authorities to seize animals without bringing criminal charges against the hoarder.¹⁴³ Forfeiture also may be linked to criminal charges, but civil forfeitures can allow for faster adjudication¹⁴⁴—and hence resolution of ultimate custody of the animals, such as through adoption—and civil proceedings are decided based on a less strict burden of proof.¹⁴⁵ Animals are viewed

138. *Id.*

139. *See infra* Part III.

140. *See* HARC REPORT, *supra* note 3, at 21.

141. *See id.* (noting that criminal prosecution is often unnecessary and may be harmful to overwhelmed caregivers); *see also, e.g.*, Madeline Bernstein & Barry M. Wolf, *Time to Feed the Evidence: What to Do with Seized Animals*, 35 ENVTL. L. REP. 10679, 10681–83 (exploring the problems with treating animals as evidence in criminal cases, and the complications both shelters and the animals face when impounding large numbers of animals seized in hoarding cases); William A. Reppy, Jr., *Citizen Standing to Enforce Anti-Cruelty Laws by Obtaining Injunctions: The North Carolina Experience*, 11 ANIMAL L. 39, 44 (2005) (observing that a civil remedy can reduce expenses in the context of prosecuting large animal fighting cases).

142. *See infra* Sections III.A–C.

143. James Hettinger, *Solid Bonds*, ANIMAL SHELTERING, May–June 2013, <https://www.animalsheltering.org/magazine/articles/solid-bonds>.

144. *Id.*; *see also* HARC REPORT, *supra* note 3, at 22 (explaining that civil forfeiture laws have the potential to expedite the animal rescue process).

145. HARC REPORT, *supra* note 3, at 22 (noting that the burden of proof for civil forfeitures is preponderance of the evidence, as opposed to the criminal standard of

as property by the legal system, so seized animals in criminal cases usually are held as evidence, often waiting in crowded, physically and financially overburdened shelters for many months before being placed in adoptive homes.¹⁴⁶ Civil forfeitures reduce this waiting period, often significantly.¹⁴⁷

Bonding laws work with forfeiture laws, both civil and criminal, to help reduce the financial impediments faced by those holding the animals.¹⁴⁸ When authorities seize animals in a suspected hoarding or other cruelty case, they must prove at a hearing that they had probable cause to seize the animals and need to retain custody, at least until the case is decided.¹⁴⁹ The owner then has a set period of time in which to pay a designated, reasonable amount to cover the costs of care of the animals.¹⁵⁰ If he or she does not pay that bond, he or she forfeits ownership rights in the animals, and the relevant animal welfare group can step in and assume legal custody.¹⁵¹

Although bonding laws do not help find space to house the potentially enormous number of animals seized in a hoarding case, they can help with the overwhelming costs associated with caring for those animals, especially during a lengthy criminal trial.¹⁵² Either the defendant pays for the animals' care during that time, or the shelter can begin the process of finding the animals adoptive homes.¹⁵³ Bonding laws also help dissuade defendants from using the expense of providing care for their animals to bargain for reduced charges, since they know that humane groups' main interest is gaining custody

beyond a reasonable doubt); *see also* Bernstein & Wolf, *supra* note 141, at 10680 (discussing the variance in forfeiture laws).

146. Bernstein & Wolf, *supra* note 141, at 10679, 10682; *see also* James Hettinger, *The Cost of Care*, ALL ANIMALS, Sept.–Oct. 2013, <http://www.humanesociety.org/news/magazines/2013/09-10/the-cost-of-care-animal-cruelty-case-seizures.html>

(describing a case in which 161 dogs were held as evidence while the related trial lasted for over thirteen months, and noting that such trial durations are “typical” in hoarding cases).

147. *See* Hettinger, *supra* note 143.

148. *Id.* (listing expenses like caging, food, veterinary care, and possibly rental facilities, and noting these costs deter some groups from even attempting to take action in large hoarding cases); HARC REPORT, *supra* note 3, at 22.

149. HARC REPORT, *supra* note 3, at 22; Hettinger, *supra* note 143.

150. Hettinger, *supra* note 143 (explaining that a good bond law sets a hearing within ten days of animal seizure, and that the defendant should have to pay up front and then again every thirty days that the case continues).

151. *See id.*

152. *Id.*; *supra* note 121 and accompanying text.

153. *See* Hettinger, *supra* note 143.

as quickly as possible, and that they may drop or downgrade charges in exchange for that right.¹⁵⁴

About two thirds of U.S. states have bonding or civil forfeiture laws.¹⁵⁵ While certainly helpful in some hoarding cases, these and other civil remedies do not always offer perfect solutions; in addition to possibly being inappropriate for addressing exploiter hoarders with sociopathic tendencies,¹⁵⁶ some bonding laws apply only to certain types of cases, such as dog fighting.¹⁵⁷ As a result, those laws cannot be used in hoarding cases.¹⁵⁸ Further, if deterrence is a goal, when a defendant in a civil case does not comply with a court order, the consequences are not as severe as they would be in a criminal case.¹⁵⁹

B. *Other State and Municipal Laws*

States may equip their citizens to civilly enforce animal cruelty laws in other ways, however, such as by obtaining injunctions to stop such actions—or inactions, in neglect cases—and to seize suffering animals.¹⁶⁰ North Carolina has such a law in place, and although it was not designed to address hoarding in particular, it permits any person, firm, corporation, town, city, or county to bring civil suits to enjoin animal cruelty.¹⁶¹ This includes animal protection societies, and the law grants legal standing even if they have no ownership stake in the animals and have not otherwise been “injured” by the alleged cruelty in such a manner as to constitute traditional standing to bring a lawsuit.¹⁶² Since its enactment, animal welfare proponents in North Carolina have used this statute to gain custody of hundreds of hoarded, neglected animals and provide them care and adoptive

154. *Id.* (noting that humane groups “often settle for a lighter charge in order to gain custody of the animals”); *see also* Berry et al., *supra* note 51, at 179–80 (describing cases in which officials opted to drop or reduce charges in exchange for more immediate custody of the animals, including one such case where the same person then engaged in three separate incidents of hoarding and neglect over the next seven years).

155. Hettinger, *supra* note 143.

156. Frost et al., *Update*, *supra* note 64, at 2.

157. HARC REPORT, *supra* note 3, at 23.

158. *Id.*

159. *Id.* at 27–28.

160. *See, e.g.*, N.C. GEN. STAT. ANN. §§ 19A-1-A-4 (West 2017); Reppy, *supra* note 141, at 40–41.

161. *See, e.g.*, §§ 19A-2-A-4; Reppy, *supra* note 141, at 41–43.

162. *See* Justice for Animals, Inc. v. Robeson Cty., 595 S.E.2d 773, 776–77 (N.C. App. 2004) (“N.C. Gen.Stat. [sic] §§ 19A-1 and 19A-2, however, express the General Assembly’s intent that the broadest category of persons or organizations be deemed ‘[a] real party in interest’ when contesting cruelty to animals.”).

homes, including twenty-five dogs and two cats in one case,¹⁶³ over 100 dogs in another,¹⁶⁴ and over 400 dogs in another.¹⁶⁵

If a state does not enact hoarding-specific laws or laws like the North Carolina statute, individual municipalities may elect to pass laws at that level, possibly providing for animal forfeiture or mandatory psychological assessment of hoarders.¹⁶⁶ For instance, the city of South Bend, Indiana, has an animal hoarding ordinance that prohibits owning one or more animals without providing adequate care, and persisting in acquiring animals despite this lack of care.¹⁶⁷ Violators face fines of \$50 to \$2,500, and are responsible for the cost of care if the animals are impounded.¹⁶⁸ Further, each day that a hoarder is in violation constitutes a separate offense, and the city may seek an injunction ordering relinquishment of the animals.¹⁶⁹

In another example, the town of Alto, Georgia, has a hoarding ordinance that declares it unlawful to keep animals without providing adequate care, to collect dead animals without disposing of them properly, or to maintain animals in a state of squalor that endangers the health of those animals, of the hoarder's neighbors, or of those neighbors' animals.¹⁷⁰ Those who break this law may be fined up to \$1,000 and may face jail time of up to six months.¹⁷¹ Similar to the South Bend ordinance, each day a violation continues counts as a separate offense, and the court may order surrender of the animals and restitution.¹⁷²

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163. Calloway v. Onderdonk, No. COA02-1076, 2003 WL 21499243, at *2-3 (N.C. App. July 1, 2003). Unfortunately, in this case the animals were held in limbo at the local humane society for about seven months before the court granted a permanent injunction giving the plaintiffs custody. *See id.*
164. Affidavit of Karen Larsen at 2, ¶ 6, Animal Legal Def. Fund v. Conyers, No. 07CVD17739 (Dist. Ct. Wake Cty. Oct. 25, 2007). Janie Conyers, the alleged hoarder, settled the case because she claimed she could not afford the time or costs of trial, although she maintained her innocence and love for her dogs. *Woman Settled Animal Rights Lawsuit 'for the Dogs,' She Says*, WRAL (Dec. 14, 2007), <http://www.wral.com/news/local/story/2168703/>.
165. *See* Animal Legal Def. Fund v. Woodley, 640 S.E.2d 777, 777-78 (N.C. App. 2007).
166. HARC REPORT, *supra* note 3, at 23 (noting that local ordinances also may be enacted more quickly than state legislation); Hayes, *supra* note 48.
167. SOUTH BEND, IND., MUNICIPAL CODE §§ 5-2(i), 5-24 (2005).
168. *Id.* § 5-111(a), (c).
169. *Id.* § 5-111(a)-(d).
170. ALTO, GA., CODE OF ORDINANCES § 6-16 (2010).
171. *Id.* § 6-41(a).
172. *Id.* § 6-41.

C. Other Local Ordinances

Jurisdictions without hoarding-specific laws may look to other local ordinances for help when dealing with or trying to prevent animal hoarding.¹⁷³ For instance, zoning, fire, and health codes are designed to prevent the filth, clutter, and blocked accessibility common among hoarding cases,¹⁷⁴ and pet licensing and shelter regulations attempt to control the health and number of animals that individuals keep.¹⁷⁵ Some jurisdictions also limit the number of pets that one person or family may have.¹⁷⁶ Although aimed partially at hoarding prevention, these ordinances are not ideal; people not only dislike them,¹⁷⁷ but find them very easy to circumvent.¹⁷⁸ Further, pet limitation laws and other ordinances that do not relate directly to hoarding do not take into account the reasons animal hoarders engage in the behavior, and hence they do not affect the recidivism that is almost guaranteed to occur.¹⁷⁹

Overall, civil and regulatory remedies can offer some notable benefits, including speed of resolution, accessibility for plaintiffs that do not meet traditional standards of injury, lower required burden of proof, and decreased burden on prosecutors; but they alone are insufficient remedies for all animal hoarding cases.¹⁸⁰ Civil laws and regulations also may fail to address the magnitude of many hoarding cases or to convey to those in the legal field, as well as to the general

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173. See Berry et al., *supra* note 51, at 172; see also *Hoarding*, HUMANE SOC'Y U.S., http://www.humanesociety.org/issues/abuse_neglect/facts/hoarding.html (last visited Nov. 13, 2017) (explaining that “non-animal agencies,” such as the fire department or health department, can use their ordinances and codes to address hoarding).
174. See *Hoarding*, *supra* note 173; see also Frost et al., *Comparison*, *supra* note 46, at 887 (explaining that object and animal hoarding are both commonly characterized by clutter, disorganization, and lack of sanitation).
175. Berry et al., *supra* note 51, at 172; Gary J. Patronek et al., *The Problem of Animal Hoarding*, MUN. LAW., May–June 2001, at 6, 6 [hereinafter Patronek et al., *The Problem*].
176. Rebecca F. Wisch, *Overview of Pet Number Restrictions in Municipal Ordinances*, ANIMAL LEGAL & HIST. CTR. (2004), <https://www.animallaw.info/article/overview-pet-number-restrictions-municipal-ordinances>.
177. Patronek et al., *The Problem*, *supra* note 175, at 7.
178. See *id.*; see also, e.g., *People v. Youngblood*, 91 Cal. App. 4th 66, 69–70 (Cal. Ct. App. 2001) (demonstrating the ease with which a hoarder can evade pet limitation laws); Wisch, *supra* note 176 (analyzing additional rationales behind pet limitation laws, including the reduction of noise and smell nuisances, property damage, and biting and mauling injuries).
179. Berry et al., *supra* note 51, at 179.
180. See HARC REPORT, *supra* note 3, at 21–22; see also Hayes, *supra* note 48 (describing the aforementioned *Youngblood* case to demonstrate the ease with which a hoarder can evade pet limitation laws).

public, the degree of both animal and human suffering involved.¹⁸¹ Further, without provisions for dedicated, long-term monitoring, they are unlikely to prevent the hoarder from relapsing into past behavior.¹⁸²

IV. CRIMINAL RESPONSES TO ANIMAL HOARDING

All fifty U.S. states have criminal animal cruelty laws, and all of these laws designate certain acts as felonies.¹⁸³ Most felony provisions apply to intentional, affirmative acts, however, not to acts of omission like neglect.¹⁸⁴ Most animal cruelty statutes treat neglect as a lesser offense, especially for first-time offenders.¹⁸⁵ This is true even though neglect cases like animal hoarding can harm more animals each year, cause more long-term suffering for those animals, and endanger human health on a larger scale than affirmative acts of violence.¹⁸⁶ Further, neglectful acts of omission are described imprecisely in most statutes, often making them more difficult to prosecute.¹⁸⁷ Statutory descriptions of neglect commonly prohibit failing to provide animals with necessary sustenance, water, and shelter, leaving the precise meanings of those terms to be determined on a case-by-case basis.¹⁸⁸

This lack of specificity can be challenging in some cases, but ambiguity in the statutory language also can be beneficial as different types of animals in various hoarding situations and climates will have diverse needs.¹⁸⁹ For example, precise statutory health standards

181. See Berry et al., *supra* note 51, at 172.

182. See Patronek et al., *The Problem*, *supra* note 175, at 8.

183. Brian Clausen, *Animal Cruelty Laws by State: Is It a Crime to Abuse an Animal?*, DOPPLR (Mar. 29, 2016), <http://www.dopplr.com/animal-cruelty-laws/>.

184. See *id.*

185. WAISMAN ET AL., *supra* note 23, at 117.

186. See Avery, *supra* note 2, at 818.

187. WAISMAN ET AL., *supra* note 23, at 117; Miller, *supra* note 59, at 57.

188. Berry et al., *supra* note 51, at 172; see, e.g., CAL. PENAL CODE § 597(b) (West 2017) (providing vague phrases, such as “deprived [any animal] of necessary sustenance, drink, shelter” and “subjects any animal to needless suffering”); D.C. CODE ANN. § 22-1001(a)(1) (West 2017) (expanding on the typical neglect language slightly by stating, “unnecessarily fails to provide [any animal in custody] . . . with proper food, drink, air, light, space, veterinary care, shelter, or protection from the weather”); N.M. STAT. ANN. § 30-18-1(B)(2) (West 2017) (providing vague phrases, such as “failing to provide necessary sustenance to an animal under that person’s custody or control”); N.Y. AGRIC. & MKTS. LAW § 353 (McKinney 2017) (providing vague phrases, such as “deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it with such sustenance or drink”).

189. See ANIMAL MALTREATMENT: FORENSIC MENTAL HEALTH ISSUES AND EVALUATIONS 34 (Lacey Levitt et al. eds., 2016) (noting that statutory language such as “unnecessary suffering” may be intentionally ambiguous, which also “leaves open

determined based on the needs of one species, such as cats, will not apply to another species, such birds, or even necessarily to all breeds within the same species, or to all ages within the same breed.¹⁹⁰ Moreover, even indefinite statutory language in animal cruelty laws has withstood constitutional challenges alleging vagueness and overbreadth in several different states.¹⁹¹

A. *Intent Requirements of Animal Cruelty Laws*

Most animal cruelty statutes use terms like “malicious,” “willful,” or “aggravated” to qualify the actor’s intent.¹⁹² This also can be problematic when prosecuting animal hoarding cases, since many hoarders do not purposefully mean to harm their animals, and in fact they may believe, however erroneously, that they provide better care than anyone else could.¹⁹³ Courts have found that animal cruelty laws only require general intent, however.¹⁹⁴ General intent crimes necessitate only that the actor mean to commit the act that results in the proscribed harm, without necessarily intending that the ensuing harm occurs.¹⁹⁵ On the other hand, specific intent crimes do require that extra step, meaning that one must act with the prohibited harm as his or her goal.¹⁹⁶ This distinction is significant, because it means

the possibility for legal interpretations that are grounded in current science and modern notions of our responsibility towards animals, their care, and their capacity for suffering”).

190. See Jeannie Thomason, *Species Specific Nutrition*, AM. COUNCIL ANIMAL NATUROPATHY (Feb. 14, 2014), <http://www.animalnaturopathy.org/species-specific-nutrition/> (“[D]ifferent species have different nutritional requirements.”); see also Cheryl Yuill, *Nutrition - General Feeding Guidelines for Dogs*, VCA (Nov. 5, 2011), <http://www.vcahospitals.com/main/pet-health-information/article/animal-health/nutrition-general-feeding-guidelines-for-dogs/6491> (describing the varying nutritional needs of different breeds and ages of dogs).
191. Avery, *supra* note 2, at 845–48 (noting such unsuccessful challenges in California, Florida, and Missouri).
192. Clausen, *supra* note 183.
193. HARC REPORT, *supra* note 3, at 21; *supra* Section II.A.2 (describing rescuer hoarders).
194. See, e.g., *People v. Alvarado*, 125 Cal. App. 4th 1179, 1186–87 (Cal. Ct. App. 2005) (analyzing a California animal cruelty statute that uses the terms “maliciously” and “intentionally”); *Reynolds v. State*, 842 So. 2d 46, 47 (Fla. 2003) (analyzing a Florida animal cruelty statute that uses the term “intentionally” to modify the prohibited acts).
195. *Reynolds*, 842 So. 2d at 47.
196. *Id.*; see also *Charging Considerations in Criminal Animal Abuse Cases*, ANIMAL LEGAL DEF. FUND, <http://aldf.org/resources/advocating-for-animals/charging-considerations-in-criminal-animal-abuse-cases/> (last visited Nov. 13, 2017) (noting that it is “especially demanding” to prove a defendant’s culpable mental state when charged with a specific intent crime). To illustrate, burglary at common law is a

that an animal hoarder prosecuted with a general intent animal cruelty charge need not mean to cause the suffering, illness, or death of his or her animals in order to be found guilty.¹⁹⁷

Even though prosecutors of animal hoarding cases may not need to demonstrate specific intent, often they can show that a hoarder deliberately acquired and sought to control more and more animals despite not being able to provide adequate care.¹⁹⁸ Further, if the animals are in such poor health that the need for medical treatment is obvious to a reasonable person—as it commonly is in hoarding and other neglect cases—a judge or jury may infer the intent or knowledge required by the relevant animal cruelty law.¹⁹⁹ If the hoarder suffers from a mental disorder that compromises her judgment, then her ability to discern the wellbeing of her animals may be more difficult to prove, but she still will be held to an objective standard of reasonableness.²⁰⁰ With adequate proof and notice, however, a defendant in an animal hoarding case may be able to raise a defense of diminished mental capacity in order to be judged under a different standard and be sentenced to a mental health

specific intent crime that requires the breaking and entering of the dwelling house of another at night “with the intent to commit a felony therein.” ELLEN S. PODGOR ET AL., *CRIMINAL LAW: CONCEPTS AND PRACTICE* 109 (3d ed. 2013). If the language “with the intent to commit a felony therein” were removed, it would transform common law burglary into a general intent crime, where one need only to commit the acts of breaking and entering the dwelling house of another at night, without any further purpose. *Id.*

197. *See Reynolds*, 842 So. 2d at 47. *But see Dauphine v. United States*, 73 A.3d 1029, 1032–33 (D.C. 2013) (analyzing a cruelty statute that uses the term “knowingly” and holding that it requires “general intent with malice,” meaning that the actor cannot justify the behavior and was “at least aware” of the suffering that would likely result). *Dauphine* was not a hoarding or neglect case and concerned the acts of a woman who allegedly attempted to poison neighborhood cats, but if a court were to apply this slightly enhanced version of general intent, that may assist some hoarders in their defenses if they could prove that they truly believed they were providing adequate care and did not recognize the compromised wellness of their animals. *See id.*
198. HARC REPORT, *supra* note 3, at 21.
199. *See Martinez v. State*, 48 S.W.3d 273, 276 (Tex. App. 2001). *Martinez* was not categorized as a hoarding case, but it did concern similar issues of neglect when an elderly woman “known in her neighborhood for taking in homeless animals” allowed one of her dogs to become extremely malnourished and develop a skin condition so severe it prevented investigators from being able to determine his color. *Id.* at 275.
200. *See Jacob E. McKnite*, Note, *When Reasonable Care Is Unreasonable: Rethinking the Negligence Liability of Adults with Mental Retardation*, 38 WM. MITCHELL L. REV. 1375, 1384–85 (2012) (summarizing the scholarly debate regarding holding mentally disabled individuals to the reasonable person standard, but listing examples proving that courts “have overwhelmingly treated mentally disabled defendants under the objective standard of care”).

treatment program instead of a traditional criminal penalty like imprisonment.²⁰¹

B. *Outside Factors Affecting Charging and Sentencing*

Outside circumstances also may influence triers of fact in hoarding cases. Multiple counts of animal cruelty in the same case may be combined to encourage judicial expediency, which reduces the perceived severity of the suffering involved, as well as the sentencing of the hoarder.²⁰² This practice can save considerable time and effort for the prosecution; however, if a defendant is charged with separate counts for each harmed animal, prosecutors must be able to link each animal with its count in order to prove it was subjected to cruelty.²⁰³ One solution is to ensure that rescue teams are ready and able to identify each individual animal upon seizure and provide that information to prosecutors within a reasonable time.²⁰⁴ Another is to enact hoarding-specific legislation that conveys the severity of such cases, but allows prosecutors to charge hoarding defendants with one all-encompassing count²⁰⁵—and ideally that legislation would include sentencing requirements such as psychological assessment and long-term monitoring.²⁰⁶

Another outside issue that affects judges and juries is the media's propagation of the image of animal hoarders as kindly, misguided

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201. See *Man Who Raped, Killed Goat While on Bath Salts Declared Not Competent for Trial*, CBS DC (Sept. 20, 2012, 3:18 PM), <http://washington.cbslocal.com/2012/09/20/man-who-raped-killed-goat-while-on-bath-salts-declared-not-competent-for-trial/> (noting that a judge sent a man charged with animal cruelty to a mental hospital for six years after accepting his plea of not guilty by reason of mental disease or defect); see also *Cox v. State*, 453 S.E.2d 471, 473 (Ga. Ct. App. 1995) (holding that evidence of a mentally retarded defendant's diminished capacity may have been relevant to his animal cruelty charge, but that it was not erroneous for the trial court to have excluded it when the defendant did not provide adequate notice).
202. HARC REPORT, *supra* note 3, at 21; Berry et al., *supra* note 51, at 184. Recent cases in Oregon suggest that this might be starting to change, however; in one decision, the state appellate court upheld forty-five separate convictions of animal neglect for a woman who was hoarding cats. *State v. Hess*, 359 P.3d 288, 289–90 (Or. Ct. App. 2015). That court relied on reasoning in a case that the Oregon Supreme Court vacated earlier that year for lack of jurisdiction, in which it otherwise would have upheld twenty separate counts of neglect for one defendant. *Id.*; *State v. Nix*, 345 P.3d 416, 418 (Or. 2015).
203. Berry et al., *supra* note 51, at 184.
204. *Id.* (noting that this practice should apply to both living and dead animals, and may be accomplished through the use of collars, photography, or microchips).
205. Hayes, *supra* note 48.
206. See Patronek et al., *The Problem*, *supra* note 175, at 7–8 (noting the importance of mental evaluations and continued monitoring to reducing hoarding recidivism).

rescuers who just loved animals too much.²⁰⁷ Although that may be an apt description for some, for others, such as exploiter hoarders, it is not.²⁰⁸ This perception and the absence of laws that specifically concern hoarding can make an animal hoarding defendant appear very sympathetic, and subsequently can affect the outcome of a case.²⁰⁹ For some defendants, reduced sentences or dropped charges are not fitting in light of the distress and damage they caused, but aggressive prosecution and tough sentencing by themselves are unlikely to prevent most hoarders from cycling back into the same behavior in the future.²¹⁰

C. *Other Problems with Using Animal Cruelty Laws to Prosecute Hoarding Cases*

Some advocate for harsher penalties for animal hoarding,²¹¹ and while this may seem necessary and even satisfying when prosecuting a manipulative exploiter hoarder who abuses the legal system, a severe punishment scheme alone usually is not effective.²¹² In addition to practical difficulties and the expense involved in prosecuting hoarding cases under animal cruelty statutes,²¹³ plus the challenges of providing last-minute care and accommodations for large numbers of animals held as evidence for extended periods,²¹⁴ cruelty laws also do not take into account the mental health issues that shadow most hoarding cases.²¹⁵ The cruelty laws only address a symptom, as opposed to dealing with the underlying problem.²¹⁶ Further, as indicated above, not all hoarders are exploiters, and some genuinely fit into the mold perpetuated by the media, making their criminal prosecution an inappropriate and ineffective use of resources.²¹⁷ This lack of consideration of all aspects of the problem,

207. Avery, *supra* note 2, at 839. See generally Arnold Arluke et al., *Press Reports of Animal Hoarding*, 10 SOC'Y & ANIMALS (2002) (analyzing the portrayal of animal hoarding in 100 media articles).

208. See *supra* Section II.A.3 (describing exploiter hoarders).

209. Avery, *supra* note 2, at 839; Sandra Sylvester & Curtis W. Baranyk, *When Animal Hoarding Is Warehousing for Profit/Part 1*, 1 TALES JUST. 1 (2011), http://www.ndaa.org/pdf/Tales_of_Justice_final_NDAA.pdf.

210. See Patronek, *Hoarding of Animals*, *supra* note 57, at 86; see also *supra* note 102 and accompanying text (summarizing the activities and relapses of an infamous exploiter hoarder).

211. See Avery, *supra* note 2, at 841.

212. See Patronek, *Hoarding of Animals*, *supra* note 57, at 86.

213. *Id.*

214. Bernstein & Wolf, *supra* note 141, at 10681, 10683.

215. Patronek, *Hoarding of Animals*, *supra* note 57, at 86.

216. *Id.*

217. See *supra* Section II.A.1 (describing overwhelmed caregivers).

and the ensuing inadequate treatment, contributes substantially to the exorbitant animal hoarding recidivism rate.²¹⁸

Complicating matters even more is the fact that different courts treat hoarding cases inconsistently.²¹⁹ These variations can range from the length of time between animal seizure and the conclusion of trial, to the duration of the appeal process, to the numbers and types of charges filed.²²⁰ Of course this disparity only occurs if a prosecutor brings charges in the first place, which often does not happen.²²¹ The expense, time, and complications inherent in prosecuting and successfully treating animal hoarding cases make it easier for responding agencies to focus their resources elsewhere.²²²

Researchers agree that the ideal treatment for animal hoarding is a collaborative effort between multiple agencies that includes long-term monitoring, not unlike the work of task forces that focus on object hoarding.²²³ Although the optimal treatment of object and animal hoarders may be fundamentally similar, how these individuals are addressed initially may be very different, as criminal prosecution and jail rarely are considered for object hoarders.²²⁴ Animal hoarding can affect far more lives per case than object hoarding, making its criminalization more appropriate in some circumstances,

218. Patronek, *Hoarding of Animals*, *supra* note 57, at 86.

219. Berry et al., *supra* note 51, at 183–84.

220. *Id.* (noting that some judges ordered the return of seized animals to the hoarder before trial even began, while others ordered the animals held for the duration of trial; one appeal pended trial for months, and in that time the defendant began hoarding again); *see also* Frost et al., *Community Health Problem*, *supra* note 10, at 233 (noting that this problem also extends to object hoarding, where some judges issued fines and orders of condemnation and removal, whereas others were unwilling even to hear the cases).

221. Berry et al., *supra* note 51, at 171–72.

222. *Id.*

223. Berry et al., *supra* note 51, at 173, 188; Patronek et al., *The Problem*, *supra* note 175, at 8–9.

224. ADAM P. KARP, *UNDERSTANDING ANIMAL LAW* 475 (2016); *see also, e.g.*, FAIRFAX CTY. HOARDING TASK FORCE, *supra* note 21, at 14, 18 (discussing the involvement of courts, not in the context of criminal prosecution, but of mandating participation in the task force’s object hoarding treatment program); S.F. TASK FORCE REPORT, *supra* note 33, at 49–50 (noting that the misunderstanding of those who work in the court system can be a barrier to effective care in object hoarding cases, and that legal action can be counterproductive); *Introducing the Philadelphia Hoarding Task Force*, COMMUNITY LEGAL SERVICES PHILA. (Feb. 11, 2015), <https://clsphila.org/news/introducing-philadelphia-hoarding-task-force> (“[P]eople who hoard belongings or animals often face severe personal and legal consequences, including shame, depression, social withdrawal, eviction, condemnation, forced cleanout, child protective services and even criminal charges *for animal hoarding*.” (emphasis added)).

but nonetheless, extended supervision, often spanning several years, is a key component to the successful resolution of almost all hoarding cases.²²⁵

One might argue that animals are similar to elderly, disabled, or child dependents in hoarding cases, because none are able to leave a harmful situation of their own accord.²²⁶ Thus, because elder, vulnerable adult, and child abuse laws adequately protect dependent human hoarding victims, it could be concluded that animal cruelty laws adequately protect animal hoarding victims.²²⁷ Although it seems logical initially, this argument fails to consider that a hoarder cannot easily acquire more dependent humans when others have been removed from his or her home; once service agencies relocate any dependent humans in a hoarding case, the harm the hoarder inflicts upon those within his or her care stops.²²⁸ In an animal hoarding case, on the other hand, it is all too easy for a hoarder to acquire more animals, often right away.²²⁹ Removing animals and cleaning up an animal hoarder's property may feel like the end of the problem, but those are only beginning steps.²³⁰ Animal cruelty laws that do not provide for the unique treatment needs of hoarders do little to prevent recurrence.²³¹

V. LEGISLATIVE RESPONSES TO ANIMAL HOARDING

One possible way to help remedy the legal inconsistency and ineffective treatment common in hoarding cases is to enact legislation that recognizes the individualized management and monitoring animal hoarders need, and that requires, or at least recommends, multi-agency collaboration in the response process.²³² The fact that every state has anti-cruelty laws meant to protect animals from the infliction of pain and neglect indicates general acceptance of the importance of ensuring animal welfare, so it

225. HARC REPORT, *supra* note 3, at 29–30.

226. KARP, *supra* note 224, at 475.

227. *Cf. id.* (implying that the mere existence of animal cruelty statutes guarantees that animal victims have statutory protections equal to their human counterparts).

228. And with a treatment plan like that provided by a task force, an object hoarder is less likely to start hoarding again, better preserving his or her own health and that of any neighbors. *See Ligatti, supra* note 11, at 104–07.

229. Avery, *supra* note 2, at 834–35.

230. *See Patronek & Nathanson, supra* note 81, at 279–80.

231. Patronek, *Hoarding of Animals, supra* note 57, at 86.

232. *See Avery, supra* note 2, at 857.

follows that enacting hoarding-specific laws should not be too controversial a task.²³³

There is opposition, however.²³⁴ Those opposed to enacting such legislation argue that anti-cruelty laws are sufficient to prosecute animal hoarders, since offenders violate the cruelty laws' neglect provisions.²³⁵ They suggest that the only difference is that hoarding affects a larger number of animals, and therefore laws pertaining specifically to animal hoarding are redundant.²³⁶

Certainly there is a degree of overlap between hoarding cases and the inadequate care prohibited by animal cruelty laws, but there is far more to hoarding cases than just failing to provide satisfactory care for one's animals.²³⁷ Even if courts treat cruelty laws as general intent crimes, there still are some animal hoarders who sincerely do not comprehend that their behavior causes suffering.²³⁸ Consequently, prosecution, animal seizure, and even jail have little to no impact on the likelihood that they will revert back to old habits given the first opportunity.²³⁹ If a hoarder is aware of the damage he or she causes, harsh punishment alone still is not the answer,²⁴⁰ even if the hoarder receives sentencing reflective of the severity of his or her case.²⁴¹ Those compelled to hoard animals need assistance from specialized service agencies, and animal cruelty laws are not equipped to provide for this.²⁴² The fact that almost all defendants in animal hoarding cases relapse back into the same conduct

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233. See Chris Berry, *All 50 States Now Have Felony Animal Cruelty Provisions!*, ANIMAL LEGAL DEF. FUND (Mar. 14, 2014), <http://aldf.org/blog/50-states-now-have-felony-animal-cruelty-provisions/> (noting "an undeniable trend favoring humane treatment of animals"); see also *People v. Speegle*, 53 Cal. App. 4th 1405, 1418 (Cal. Ct. App. 1997) ("In the panoply of . . . [animal cruelty statutes enacted in California], the Legislature has manifested an unmistakable intent to prevent cruelty to animals and to provide for the removal of animals from the custody of those not fit to keep them." (citing *People v. Untiedt*, 42 Cal. App. 3d 550, 554 (Cal. Ct. App. 1974))).
234. Jason Schwalm, *Animal Cruelty by Another Name: The Redundancy of Animal Hoarding Laws*, 1 J. ANIMAL & ENVTL. L. 32, 57 (2009); Hayes, *supra* note 48.
235. Schwalm, *supra* note 234, at 48; Hayes, *supra* note 48.
236. Schwalm, *supra* note 234, at 48.
237. See Hayes, *supra* note 48 (noting arguments that animal hoarding should be distinguished from other types of cruelty).
238. See *supra* Section II.A.2 (describing rescuer hoarders).
239. Patronek, *Hoarding of Animals*, *supra* note 57, at 86.
240. See *id.*
241. HARC REPORT, *supra* note 3, at 21; Berry et al., *supra* note 51, at 184.
242. See HARC REPORT, *supra* note 3, at 21; see also Patronek et al., *The Problem*, *supra* note 175, at 8 (discussing service agencies and organizations that are suited to assist in the resolution of hoarding cases).

demonstrates the impotence of animal cruelty laws in addressing the issue.²⁴³

The misguided view of the applicability of animal cruelty laws to animal hoarding, combined with a general misunderstanding of the severity of the condition and the motivations behind it, may contribute to the present lack of state laws focused on the problem.²⁴⁴ Although there are several municipal ordinances available, some of which address hoarding directly, these regulations are scattered and inconsistent.²⁴⁵ Although not ideal, their existence indicates a desire to address the situation outside of animal cruelty statutes and demonstrates the need for more uniform hoarding laws.²⁴⁶

A. *The Illinois State Law Example*

Until late 2017, only one state, Illinois, had a law in place that explicitly deals with animal hoarding, which is contained within its Humane Care for Animals Act.²⁴⁷ The neglect component of this Act is more comprehensive than many other states' cruelty laws,²⁴⁸ and requires owners to provide each of their animals with "(1) a sufficient quantity of good quality, wholesome food and water; (2) adequate shelter and protection from the weather; (3) veterinary care when needed to prevent suffering; and (4) humane care and treatment."²⁴⁹ This section of the Act is phrased broadly enough that it can apply to many different types of animals and situations, yet it still limits the abilities of violators to escape charges on technicalities.²⁵⁰ For example, if a person keeps hundreds of cats in a vacant building with an open toilet as a water source and throws an open bag of cat food into the building once per week, that person may be able to argue under some state cruelty laws that technically she provided "necessary sustenance" to her animals, but that argument probably would fail in Illinois.²⁵¹

243. Patronek, *Hoarding of Animals*, *supra* note 57, at 86.

244. Hayes, *supra* note 48.

245. *See supra* notes 167–72 and accompanying text (summarizing two example municipal hoarding ordinances).

246. *See supra* notes 167–72 and accompanying text.

247. Humane Care for Animals Act, 510 ILL. COMP. STAT. ANN. 70/2.10–70/3 (West 2017); *see also infra* Section V.C (discussing Rhode Island's new animal hoarding law).

248. *See supra* note 188 (noting various states' animal neglect provisions).

249. Humane Care for Animals Act 70/3(a).

250. *See* Megan L. Renwick, Note, *Animal Hoarding: A Legislative Solution*, 47 U. LOUISVILLE L. REV. 585, 595 (2009).

251. *Id.*; Berry et al., *supra* note 51, at 172.

Even though this neglect section is relatively expansive and could apply to hoarding cases, the Act also separately defines “companion animal hoarder” as someone who

(i) possesses a large number of companion animals; (ii) fails to or is unable to provide what he or she is required to provide under Section 3 of this Act; (iii) keeps the companion animals in a severely overcrowded environment; and (iv) displays an inability to recognize or understand the nature of or has a reckless disregard for the conditions under which the companion animals are living and the deleterious impact they have on the companion animals’ and owner’s health and well-being.²⁵²

“Animals” under the statute are all living creatures except humans, whether domesticated or wild,²⁵³ and “companion animals” are those that most people, or at least the owners, understand to be pets.²⁵⁴ Although the Act does not quantify how many animals constitute a “large number,” the following requirement that the alleged hoarder does not provide adequate care exempts legitimate, responsible breeders, rescues, and other organizations that keep numerous animals in healthy conditions.²⁵⁵ The language also allows a person to qualify as a companion animal hoarder without having to reach a predetermined number of animals.²⁵⁶

The Act allows for impoundment of animals that authorities find in poor conditions, impossible for the owner to resolve, or in emergency situations.²⁵⁷ If authorities seize companion animals, they may petition the court to order the owner to post a bond within five business days covering the reasonable costs of the animals’ care.²⁵⁸ If the owner does not do so, she forfeits her interest in the animals, and those in possession must either work to find adoptive homes for the animals or humanely euthanize them.²⁵⁹

252. Humane Care for Animals Act 70/2.10.

253. *Id.* at 70/2.01.

254. *Id.* at 70/2.01(a).

255. *Id.* at 70/2.10; *see also* Avery, *supra* note 2, at 821–22 (noting that hoarding should be identified based on the owner’s ability to provide care, not the number of animals she keeps).

256. Humane Care for Animals Act 70/2.10; *see also* Renwick, *supra* note 250, at 599, 604 (noting this potential problem with a different state’s hoarding law that did set forth a minimum number of animals).

257. Humane Care for Animals Act 70/12(a)–(b).

258. *Id.* at 70/3.05(a), (c).

259. *Id.* at 70/3.05(c).

A defendant convicted of neglect or cruelty under the Act is guilty of a misdemeanor upon the first offense and a felony thereafter, and in a neglect case, every day that the violation continues counts as a separate offense.²⁶⁰ The Act only defines companion animal hoarding and does not outlaw it explicitly, so if a prosecutor wishes to charge an alleged animal hoarder criminally, she must demonstrate violation of another section.²⁶¹ If the prosecutor proves that a defendant violated a neglect or other cruelty provision, and also qualifies as a companion animal hoarder, “the court must order the convicted person to undergo a psychological or psychiatric evaluation and to undergo treatment that the court determines to be appropriate after due consideration of the evaluation.”²⁶² This directive permits the court to tailor a remedy specific to the situation at hand, whether it involves fines, time in jail, community service, counseling, more intensive therapy, or a combination of these remedies.²⁶³ As a result, this law extends the reach of the animal cruelty statute and encourages courts to order sentencing that is more likely to reduce animal hoarding recidivism by focusing on the cause of the problem, rather than just reacting to the symptoms.²⁶⁴

1. Limitations of the Illinois Law

The Illinois Act certainly seems to be a step in the right direction, and it provides more guidance for courts than cruelty laws standing alone, but the statute does have some shortcomings that are useful to explore before considering how hoarding laws might improve in the future.²⁶⁵ First, as noted above, the section devoted to animal hoarding only provides a definition.²⁶⁶ Other sections reference this definition and require a mental health evaluation if a defendant is convicted under those sections and also qualifies as a “companion animal hoarder,” but the statute itself does not prohibit animal

260. *Id.* at 70/3(d), 70/3.01(d).

261. Hayes, *supra* note 48.

262. Humane Care for Animals Act 70/3(d), 70/3.01(d).

263. *See id.* at 70/3.01(d).

264. *See* Renwick, *supra* note 250, at 599 (“This requirement is the most promising way to prevent hoarders from harming more animals in the future, because it addresses the mental health component of hoarding.”). *But see* Kathryn M. Campbell, *The Paradox of Animal Hoarding and the Limits of Canadian Criminal Law*, ANIMAL LEGAL & HIST. CTR. (2012), <https://www.animallaw.info/article/paradox-animal-hoarding-and-limits-canadian-criminal-law> (noting that this provision of the Illinois statute is “laudable” on its face, but that a court order mandating psychological or psychiatric evaluation might encroach upon a defendant’s civil liberty rights).

265. *See* Renwick, *supra* note 250, at 599.

266. Humane Care for Animals Act 70/2.10.

hoarding.²⁶⁷ This absence of an outright ban might limit the ability to prosecute such cases.²⁶⁸

The Act's definition of "companion animal" also may prove troublesome.²⁶⁹ Cats and dogs are very common hoarding subjects, and most Americans consider them pets.²⁷⁰ An animal hoarder may not limit herself only to those species, however; some hoarders focus on more exotic animals, or animals that are not commonly thought of as pets, such as the Swedish woman authorities found living in a one-room apartment with 150 swans,²⁷¹ or the Pennsylvania man who trapped and hoarded squirrels, groundhogs, raccoons, various types of birds, and other wild animals.²⁷²

The wording of the Act allows a prosecutor to prove that an alleged hoarder regarded his animals as pets even if the general public would feel differently,²⁷³ but even that may be difficult to establish. For instance, a man who hoarded sugar gliders, reptiles, ferrets, hamsters, birds, and other small animals showed no remorse as authorities confiscated them, and his hundreds of unopened electronics and multiple bags of expensive clothing with the tags still attached demonstrated that his accumulating was not a manifestation of his affection for his "pets," but rather of his "need to be a conspicuous consumer of things."²⁷⁴ The Act's implicit exclusion of exotic, wild, and other animals less likely to qualify as traditional pets is not ideal; those animals suffer as much as more common pets do in hoarding environments, and people who hoard any type of animal could

267. *See id.* at 70/3(d), 70/3.01. Even though the Act does not proscribe animal hoarding explicitly, just including acknowledging the condition within the law in the first place "encourages the legal system, the media, and Illinois citizens to take animal hoarding seriously." Renwick, *supra* note 250, at 599.

268. *See* Hayes, *supra* note 48. If a hoarder has not committed acts that meet the statutory standards of neglect, however, then perhaps criminal prosecution is not the best option. *See* HARC REPORT, *supra* note 3, at 21.

269. Renwick, *supra* note 250, at 600–01.

270. Patronek et al., *The Problem*, *supra* note 175, at 6; Hayes, *supra* note 48; *see also* Humane Care for Animals Act 70/2.01(a) ("Companion animal" includes, but is not limited to, canines, felines, and equines.").

271. Ingvar Svanberg & Arnold Arluke, *The Swedish Swan Lady: Reaction to an Apparent Animal Hoarding Case*, 24 SOC'Y & ANIMALS 63, 69–70 (2016).

272. Amy Worden, *PA Man Busted for Wild Animal Hoarding*, PHILLY.COM (Nov. 1, 2009, 12:53 PM), http://www.philly.com/philly/blogs/pets/PA_man_busted_for_wild_animal_hoarding.html.

273. *See* Humane Care for Animals Act 70/2.01(a).

274. Miller, *supra* note 59, at 22 (quoting the founder of the rescue organization that impounded some of the man's birds).

benefit from the comprehensive treatment plans for which the statute provides.²⁷⁵

Another potential problem is that the Act requires an alleged companion animal hoarder to keep her animals “in a severely overcrowded environment.”²⁷⁶ This criterion may apply in many animal hoarding cases, but like the “companion animal” definition examined above, it does not apply universally.²⁷⁷ For example, the wealthy man who hoarded small animals did so in a “spacious” home, but conditions still were terrible and the animals severely neglected, with authorities finding dead animals in the home, animal parts in the sink and disposal, and many other animals buried on the property.²⁷⁸ Yet these conditions would be unlikely to meet the Illinois “severely overcrowded” standard.²⁷⁹

The fourth factor in the Act’s hoarding definition requires that the hoarder not be able to recognize, or recklessly disregard, the damaging conditions in which she forces her animals to live, as well as “the deleterious impact they have on the companion animals’ and owner’s health and well-being.”²⁸⁰ Requiring demonstration of such harm to the owner in addition to her animals may exempt those who keep their animals in structures separate from where they live, or who present themselves to the public in ways that belie the actual states of their homes.²⁸¹

Additionally, although requiring a psychological or psychiatric evaluation is important in hoarding cases, the Act does not suggest that courts ordering “appropriate” treatment consult an animal hoarding task force, or even more than one service agency, before making that determination.²⁸² An evaluation from a single agency

275. See Humane Care for Animals Act 70/2.01(a); see also HARC REPORT, *supra* note 3, at 30 (noting that animal hoarding in general “requires constant follow-up and support”).

276. Humane Care for Animals Act 70/2.10.

277. See Renwick, *supra* note 250, at 601 (noting that what matters in identifying a hoarding case is not necessarily the amount of space available to the animals, but the condition of that space and the motivations of the alleged hoarder).

278. Miller, *supra* note 59, at 22.

279. See Humane Care for Animals Act 70/2.10; see also *supra* note 56 (describing a large home where a couple kept ten dogs that had space but still were gravely neglected and kept in squalor).

280. Humane Care for Animals Act 70/2.10 (emphasis added).

281. Renwick, *supra* note 250, at 596–97; see also, e.g., HARC REPORT, *supra* note 3, at 20 (noting that some hoarders are “very articulate . . . and capable of presenting an appearance that conveys believability and competence to officials, the public, and the media”); *supra* notes 54, 90 and accompanying text (describing cases in which hoarders kept their animals in separate structures).

282. See Renwick, *supra* note 250, at 596–99.

may not consider all aspects of an animal hoarding situation, and therefore may not provide information complete enough to enable a court to formulate an effective remedy that will keep a hoarder from relapsing.²⁸³

Another limitation is that the Act is a criminal anti-cruelty law that generally does not provide for civil remedies.²⁸⁴ Pursuing a criminal path may be fitting in some animal hoarding cases, but in others—such as when the hoarder is elderly and indigent—criminal charges may not be appropriate, let alone effective.²⁸⁵

2. Effectiveness of the Illinois Law

It is not entirely clear whether the Act is working with regard to animal hoarding, even though the definition and its related provisions have been in effect for over a decade without repeal.²⁸⁶ Since its enactment, Illinois courts have heard some hoarding cases and ordered psychological or psychiatric evaluations of defendants, but information is not readily available regarding the framework of any ordered treatment plans, or whether the hoarders have fallen back into old patterns.²⁸⁷ In some cases, previously noted problems with

283. See Patronek et al., *The Problem*, *supra* note 175, at 8 (“Cooperation of a broad spectrum of municipal agencies and social service organizations can optimize the resolution of hoarding cases.”).

284. See Hayes, *supra* note 48. The Act does set forth a civil remedy to an owner whose animal was harmed or killed in bad faith by a third party who was found guilty under the Act; that owner may pursue a civil action against the guilty party for damages. Humane Care for Animals Act 70/16.3. Of course, this remedy would not be useful in hoarding cases.

285. See, e.g., *Martinez v. State*, 48 S.W.3d 273, 278 (Tex. App. 2001) (López, J., concurring) (noting that the defendant was elderly and living on a fixed income, and that “[w]hile the jury faced with the evidence discussed in the majority opinion had no choice but to find Martinez guilty [of animal cruelty arising from neglect], I question why this case was ever prosecuted at all. . . . [W]hat purpose was served by prosecuting this little old woman?”).

286. See Humane Care for Animals Act 70/2.10 (noting that the effective date was January 1, 2002).

287. See, e.g., Harry Hitzeman, *Animal Hoarding: When ‘Compassion’ Can Become a Crime*, DAILY HERALD (Feb. 23, 2014, 6:59 AM), <http://www.dailyherald.com/article/20140223/news/140229299/> (describing a case in which police found a man living in squalor with 378 live and 120 dead birds and explaining that the man pleaded guilty to animal cruelty and was sentenced to a year of probation); Harry Hitzeman, *Probation, Evaluation in 2012 Elgin Animal Cruelty Case*, DAILY HERALD (Sept. 11, 2014, 5:36 PM), <http://www.dailyherald.com/article/20140911/news/140919558/> (describing a 2012 case in which a man found with four live and dozens of dead cats, and who faced allegations of animal neglect from as far back as 2006, pleaded guilty to violating the Act’s neglect provision and the Dead Animal Disposal Act in exchange for the dismissal of other charges and explaining that the court ordered a

prosecuting hoarding cases appear to persist, such as prosecutors reducing and dropping charges.²⁸⁸ In others, prosecutors did not reference the hoarding definition at all when trying animal neglect cases, even if a defendant otherwise appeared to have met the “companion animal hoarder” definition.²⁸⁹

In one Illinois animal hoarding case brought fully to trial, a woman called 911 when her disabled fourteen-year-old son stopped breathing, and responders discovered that she was living with four other children and her elderly mother in a house with no working plumbing, sharing that space with 200 living and dead animals, including cats, cockatiels, dogs, and rats.²⁹⁰ She claimed that the problem began when her ex-husband started bringing home animals, and after they separated she gradually became “paralyzed and didn’t know where to seek help.”²⁹¹ Unfortunately her son did not recover, and the woman was found guilty of criminal charges relating to that incident, as well as three counts of animal cruelty.²⁹² She was sentenced to probation, barred from owning any animals, and ordered

psychological evaluation and prohibited the man from owning any pets during his eighteen-month probation).

288. See Berry et al., *supra* note 51, at 179 (noting this tendency in hoarding prosecutions); see also *Elgin Man’s 2012 Cat-Hoarding Case Continues*, CBS CHI. (Mar. 17, 2014, 6:09 AM), <http://chicago.cbslocal.com/2014/03/17/elgin-mans-2012-cat-hoarding-case-continues/> (summarizing a case in which prosecutors dropped animal cruelty and neglect charges against three people who lived in a home with twenty-two dogs and four cats in exchange for their guilty pleas on inoculation charges, fines, and promises to limit or not own any more animals).
289. See *People v. Curtis*, 944 N.E.2d 806, 808–11 (Ill. App. Ct. 2011). Curtis called animal control to remove eighty-seven cats, most of which suffered from infections, from her filthy two-bedroom townhouse. *Id.* at 808–09. She was convicted of violating the Act’s neglect provision with respect only to one cat, however. *Id.* at 811. The case does not mention the hoarding definition, perhaps because Curtis claimed that she only considered five of the cats to be her pets, keeping them in a separate room and providing them necessary veterinary care, and that the rest “just came to the door at night.” *Id.* at 810. The case seemed ripe for a hoarding designation, but even though there is no mention of a mental health evaluation, the court did order Curtis not to own any companion animals for two years, during which time the county animal services department would conduct monthly searches of her home to ensure compliance. *Id.* at 811. Research did not reveal any published incidences of Curtis hoarding again.
290. Christy Gutowski, *Berwyn Mom: I’m No Monster*, CHI. TRIB. (Oct. 3, 2011), http://articles.chicagotribune.com/2011-10-03/news/ct-met-berwyn-mom-20111003_1_police-chief-james-ritz-south-berwyn-school-district-bungalow; Clifford Ward, *Woman Convicted of Animal Cruelty Sentenced to Probation, Must Have Mental Evaluation*, CHI. TRIB. (Aug. 12, 2014, 12:23 PM), <http://www.chicago.tribune.com/news/local/breaking/chi-woman-convicted-of-animal-cruelty-sentenced-to-probation-must-have-mental-evaluation-20140812-story.html>.
291. Gutowski, *supra* note 290.
292. Ward, *supra* note 290.

to undergo a mental health evaluation.²⁹³ Although police had responded to “minor calls” regarding possible neglect occurring at the property for eight years prior to the trial, indicating systemic issues, it is not clear whether the woman’s ordered treatment has been effective.²⁹⁴

B. *Hawaii’s Animal Hoarding Law*

Illinois is not the only state that has considered the animal hoarding problem, and in 2008, Hawaii became the first and only state to outlaw the practice expressly.²⁹⁵ That law classified animal hoarding as a misdemeanor characterized by “intentionally, knowingly, or recklessly” keeping more than fifteen dogs, cats, or a combination of both, failing to provide them with “necessary sustenance,” and keeping them “where conditions injurious to the dogs’, cats’, or owner’s health and well-being result from the person’s failure to provide necessary sustenance.”²⁹⁶ However, the law was repealed in 2015.²⁹⁷

The Hawaiian legislature’s intent in repealing the law is unclear,²⁹⁸ but the statutory language was not ideal.²⁹⁹ First, it set a minimum number of animals to possess, and it limited those animals to dogs and cats.³⁰⁰ As explained above, those strict parameters would exclude many hoarders who need intervention but choose to keep different species of animals,³⁰¹ or who have fewer than fifteen dogs or cats but still acquire them compulsively despite not being able to care for them sufficiently.³⁰²

Second, the law only banned what it defined as animal hoarding and did not include the all-important mental health assessment and treatment aspects of successfully resolving the problem.³⁰³ Since many hoarders do not intend to break the law and may not even be

293. *Id.*

294. *See* Gutowski, *supra* note 290.

295. Hayes, *supra* note 48.

296. *Hawaii Revised Statutes Annotated*, ANIMAL LEGAL & HIST. CTR., <https://www.animallaw.info/statute/hi-cruelty-hawaii-cruelty-animals-provisions-chapter-711> (last updated Feb. 2017).

297. HAW. REV. STAT. ANN. § 711-1109.6 (repealed 2015).

298. *See* S. 25-85, Reg. Sess., at 2 (Haw. 2009).

299. *See infra* notes 300–05 and accompanying text (describing Hawaii’s animal hoarding law).

300. *Hawaii Revised Statutes Annotated*, *supra* note 296.

301. *See supra* notes 271–72 and accompanying text (describing cases in which hoarders kept animals other than dogs and cats).

302. Renwick, *supra* note 250, at 604.

303. *Id.*

able to comprehend that they are not providing sufficient care for their animals,³⁰⁴ mental health evaluation and treatment, as well as long-term monitoring, are vital to include if one of the law's purposes is to reduce recidivism.³⁰⁵

C. *Rhode Island's New Animal Hoarding Law*

Most recently, senators in Rhode Island passed a bill in late 2017 that adds animal hoarding to the state's animal cruelty laws.³⁰⁶ Rhode Island law already defined "animal" broadly as "every living creature except a human being,"³⁰⁷ and the new law characterizes animal hoarding as "the accumulation of a large number of animals, to a point where" the alleged hoarder "fails to or is unable to . . . provide 'adequate living conditions', [sic] . . . adequate food, water and sustenance, or necessary veterinary care."³⁰⁸ It further requires keeping the animals "in an overcrowded environment resulting in a negative impact on the health and well-being of the animals and/or the owner of said animals."³⁰⁹

Interestingly, Rhode Island law also already defined "adequate living conditions" in a manner that could apply to hoarding cases, requiring that such conditions afford "a sanitary environment which is dry and free of accumulated feces and free of debris and garbage that may clutter the environment, pose a danger or entangle the animal."³¹⁰ This definition goes on to mandate that the animal's living space "be of sufficient size so as not to inhibit comfortable rest, normal posture or range of movement."³¹¹ The new hoarding law incorporates this definition and provides more guidance in determining whether a neglect case rises to meet hoarding standards.³¹² It still requires that the animals live in an "overcrowded environment," however, and as noted above, this may exempt some people who otherwise would qualify as hoarders and benefit from

304. See *supra* Sections II.A.2–3 (describing rescuer and exploiter hoarders).

305. Renwick, *supra* note 250, at 599; see also HARC REPORT, *supra* note 3, at 1, 11 (noting that failure to address the mental health component of hoarding is one of the reasons hoarding intervention fails to prevent recidivism).

306. S. 2522, 2016 Gen. Assemb., Jan. Sess. (R.I. 2016).

307. 4 R.I. GEN. LAWS ANN. § 4-1-1(a)(1), (5) (West 2017).

308. S. 2522 (proposing to amend section 4-1-1(a) by adding subsection (6)).

309. *Id.* (proposing to amend section 4-1-1(a) by adding subsection (6)).

310. § 4-1-1(a)(5).

311. *Id.* As is the case in many state animal cruelty laws, this law does not apply to livestock used for food or fiber. *Id.* §§ 4-1-1(a)(5), 4-26-3(7).

312. S. 2522 (proposing to amend section 4-1-1(a) by adding subsection (6)).

intervention.³¹³ Encouragingly, the law does not require that both the alleged hoarder and the animals suffer negative health effects as a result of that living situation, so it could apply to hoarders who live separately from their animals or otherwise appear fine in public.³¹⁴

D. *Proposed Animal Hoarding Bills*

Several other states also introduced bills in recent years attempting to add specific hoarding provisions to their animal cruelty statutes, although many of these bills never made it through the legislative process to enactment.³¹⁵ Despite the deaths or pauses in the trajectories of these bills, it is useful to examine them to assess current perceptions of animal hoarding and where state legislation concerning the issue may go in the future if no federal action is taken.³¹⁶

1. Arizona

Representatives in Arizona introduced a bill that prohibits “[i]ntentionally, knowingly or recklessly” hoarding animals, a practice it defined simply as possessing “animals in a quantity and manner that fails to provide minimal standards of nutrition, sanitation and medical care or treatment.”³¹⁷ Present state law considers mammals, birds, reptiles, and amphibians to be “animals.”³¹⁸ As of

313. *Id.*; see also *supra* notes 277–79 and accompanying text (describing hoarding cases where animals were not kept in overcrowded conditions).

314. See S. 2522 (proposing to amend section 4-1-1(a) by adding subsection (6)).

315. See Hayes, *supra* note 48 (describing failed hoarding bills in Montana, New Mexico, and Vermont); see also, e.g., H.R. 5946, 94th Leg., Reg. Sess. (Mich. 2008) (noting a failed Michigan hoarding bill); Assemb. 2981, 213th Leg., Reg. Sess. (N.J. 2008) (noting a failed New Jersey hoarding bill).

316. See *infra* Sections V.D.1–4.

317. H.R. 2330, 52d Leg., 2d Reg. Sess. (Ariz. 2016).

318. ARIZ. REV. STAT. ANN. § 13-2910(H)(1) (West 2017); see also H.R. 2330 (proposing to amend section 13-2910(H)(1) to be section 13-2910(I)(1)). The proposed bill would exempt livestock and poultry used in agriculture from the cruelty laws, likely because agricultural animals often are kept in confined spaces and euthanized in manners that may be considered cruel if employed outside of that industry. See *id.*; see also Kelly Levenda, *Customary Cruelty in the Farm Industry: When Animal Abuse Is Legal*, ANIMAL LEGAL DEF. FUND (Apr. 3, 2015), <http://aldf.org/blog/customary-cruelty-in-the-farm-industry-when-animal-abuse-is-legal/> (explaining that state anti-cruelty laws typically create an exception for agricultural animals due to “customary farming practices”).

early 2016, this bill had not received sufficient votes to advance out of committee review in the Arizona House of Representatives.³¹⁹

The Arizona bill would have permitted, though did not require, a court to order a psychological evaluation of a convicted hoarder prior to sentencing.³²⁰ This leniency would have allowed a court to avoid, for example, subjecting a cooperative overwhelmed caregiver to an expensive mental health assessment when she is more likely to work willingly with authorities and may be less likely to start hoarding again; but it also could have caused courts without much knowledge of animal hoarding to fail to order evaluation and treatment for a savvy, manipulative exploiter hoarder who convinced the court that it was unnecessary.³²¹ Under this bill, if a court did order a psychological evaluation, it also could have ordered a convicted hoarder to participate in counseling at his or her own expense.³²² The bill does not mention monitoring or specify the duration of counseling, but presumably for the latter the court would have found guidance on a case-by-case basis from the evaluation and the agency that conducted it.³²³

2. West Virginia

In contrast, a proposed animal hoarding bill in West Virginia followed the Illinois Act and unfortunately, required the health of both the animals and their owner to suffer, but this bill “died in committee” in 2016.³²⁴ While the definitions of animal hoarding were strikingly similar, the West Virginia bill did go a step further

319. *Bill History for HB2330*, ARIZ. ST. LEGISLATURE, <https://apps.azleg.gov/BillStatus/BillOverview?SessionID=117> (last visited Nov. 13, 2017) (indicating that the bill is “Held in Committees”).

320. H.R. 2330 (proposing to amend section 13-2910(G)).

321. *See id.* The near-total recidivism rate applies to animal hoarders in general, however, not just to exploiter hoarders. *See HARC REPORT*, *supra* note 3, at 2. This is true even though overwhelmed caregivers are “more likely to respect the system and comply with recommendations.” *See id.* at 19. Therefore, even cooperative overwhelmed caregivers may benefit from mental health evaluations and treatment. *See id.* (noting that overwhelmed caregivers develop strong attachments to their animals and tend to suffer from other psychological disorders).

322. H.R. 2330 (proposing to amend section 13-2910(G)).

323. *See id.* (proposing to amend section 13-2910(G)). *But see supra* note 283 and accompanying text (suggesting that although requiring mental health evaluations for those convicted of animal hoarding is a good idea, consulting multiple agencies in determining treatment is ideal).

324. H.D. 4667, 2016 Leg., Reg. Sess. (W. Va. 2016) (proposing to amend W. VA. CODE ANN. § 61-8-19(d) (West 2017) by adding subsection (1)); *West Virginia House Bill 4667*, LEGISCAN, <https://legiscan.com/WV/bill/HB4667/2008> (last visited Nov. 13, 2017); *see also supra* note 252 and accompanying text (providing the definition of “companion animal hoarder” in the Illinois Act).

than Illinois law, and deemed animal hoarding to be “unlawful and . . . prohibited,” classifying it as a misdemeanor and setting punishment at a maximum \$500 fine, up to thirty days in jail, or both.³²⁵ The bill also differed positively from the Illinois Act by not requiring an overcrowded environment.³²⁶

Although current West Virginia laws define terms such as “dangerous wild animal” and “domestic animal,” neither present law nor the proposed bill define “companion animal.”³²⁷ It is unclear whether a West Virginia court would impose limitations on the interpretation of “companion animal” like those in Illinois when deciding animal hoarding cases, although the similarity between the texts suggests it would be likely.³²⁸

Other aspects of the bill’s language would have increased its utility in dealing effectively with hoarding cases, and can inform future legislation.³²⁹ For instance, the bill dictates that animals found in hoarding conditions “shall be taken from the hoarder and turned over to an animal shelter for proper care and relocation,” thus enabling a shelter to assume both care and custody.³³⁰ The bill also requires a convicted animal hoarder to submit to a psychological or psychiatric examination and to undergo treatment if the examination finds that “a mental condition, defect, or illness” caused or contributed to the hoarding situation.³³¹ The term “treatment” is undefined, which

325. H.D. 4667 (proposing to amend section 61-8-19(d) by adding subsection (1)); *see also supra* notes 260–61 and accompanying text (explaining that under the Illinois Act, a prosecutor must charge an animal hoarder with violation of another crime, such as neglect or cruelty).

326. *See* H.D. 4667 (proposing to amend section 61-8-19(d) by adding subsection (1)); *see also supra* note 252 (providing the definition of “companion animal hoarder” in the Illinois Act, which includes the requirement of a “severely overcrowded environment”).

327. W. VA. CODE ANN. § 19-34-2(2)–(3) (West 2017). The definition of “domestic animal” does refer to companion animals, but does not specifically construe that term:

“Domestic animal” means an animal which, through extremely long association with humans, has been bred to a degree which has resulted in genetic changes . . . to an extent that makes it unique and distinguishable from a wild individual of its species, and includes an animal that has been bred as a companion animal.

Id. § 19-34-2(3). If a court were to rely on this definition, it could interpret it as excluding exotic pets, birds, livestock, and other animals that have been victims of hoarding cases. *See supra* notes 270–72.

328. *See supra* notes 269–75 and accompanying text (exploring the potential problems with strict interpretation of the term “companion animal”).

329. *See infra* notes 331–33 and accompanying text.

330. H.D. 4667 (proposing to amend section 61-8-19(d) by adding subsection (2)).

331. *Id.* (proposing to amend section 61-8-19(d) by adding subsection (3)).

would allow courts to order unique plans tailored to each individual hoarder.³³²

Those convicted under this proposed law would be responsible for the costs of their evaluations unless they were determined by the court to be indigent, and they would not be permitted to possess, own, or live with “any animal or type of animal” for five years.³³³ Although prohibiting so much contact with animals may seem logical and necessary under these circumstances, for some hoarders, this complete removal could be too traumatic and may cause relapse.³³⁴ Permitting certain individuals to keep a small number of animals, with regular monitoring, actually may help them resist the urge to acquire more.³³⁵

3. New York

Legislators in New York also introduced a bill that addressed animal hoarding directly.³³⁶ This proposed bill contains flaws, however, the most glaring of which is hinging the classification of animal hoarding upon “ownership, possession or custody of more than twenty-five companion animals.”³³⁷ As discussed above, assigning a minimum number of animals to a hoarding definition can be problematic.³³⁸ The bill appears to have died in committee during the 2015–2016 legislative session,³³⁹ but it has been reintroduced in the 2017–2018 legislative session.³⁴⁰

The bill’s language requires that animals be “severely overcrowded,” which as previously noted could limit its applicability.³⁴¹ Despite this, it further provides that these conditions

332. *See id.*

333. *Id.* (maintaining the current law under section 61-8-19(i) and setting the period of time at five years for a misdemeanor conviction like animal hoarding, and fifteen years for a felony conviction such as animal fighting).

334. HARC REPORT, *supra* note 3, at 28.

335. *Id.*

336. Assemb. 1265, 2015 State Assemb., Reg. Sess. (N.Y. 2015).

337. *Id.* (proposing to amend N.Y. AGRIC. & MKTS. LAW § 353 (McKinney 2017) by adding subsection 353-g(1)).

338. Renwick, *supra* note 250, at 604.

339. *A01265 Summary*, N.Y. ST. ASSEMBLY, http://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A01265&term=2015&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y (last visited Nov. 13, 2017).

340. *Assembly Bill A44*, N.Y. ST. SENATE, <https://www.nysenate.gov/legislation/bills/2017/A44> (last visited on Nov. 13, 2017).

341. Assemb. 1265 (proposing to amend section 353 by adding subsection 353-g(1)(a)); *see also supra* note 278 and accompanying text (providing the example of the wealthy man with a large, spacious home in which the conditions were still terrible and the animals were neglected).

only need to be “likely to jeopardize the health and well being of the animals *and/or* human beings living in the household.”³⁴² This would permit the law to apply to a hoarder whose health is not affected by the manner in which she keeps her animals.³⁴³

The bill continues to modify this provision, however, by stating that such conditions are shown by “[f]ailure by the person who owns, possesses or has custody of the companion animals to maintain *his or her living environment* in a sanitary condition such as to pose a serious risk to the health or safety of the companion animals and/or people living in that environment.”³⁴⁴ It provides examples of these conditions: “excessive feces, urine, dirt, garbage or a lack of basic services that make a home habitable such as heat, hot water, ventilation or electricity.”³⁴⁵ So even if the alleged hoarder does not have to exhibit signs of negatively affected health, this language still appears to require that he live with his animals, which as noted previously may keep the law from applying to hoarders who house their animals in separate structures.³⁴⁶

Current New York law already defines “companion animal” broadly as, “any dog or cat, and . . . any other domesticated animal normally maintained in or near the household of the owner or person who cares for such other domesticated animal.”³⁴⁷ By stating that a companion animal is one that the owner or caretaker normally maintains, this language suggests that any animal could qualify, even wildlife or exotic species not commonly kept as pets by the general public.³⁴⁸

The proposed bill also references other current New York laws permitting police to seize neglected animals and transfer them to an animal welfare agency, which can petition the court for a bond to

342. Assemb. 1265 (proposing to amend section 353 by adding subsection 353-g(1)) (emphasis added).

343. *See id.* (proposing to amend section 353 by adding subsection 353-g).

344. *Id.* (proposing to amend section 353 by adding subsection 353-g(1)(b)) (emphasis added).

345. *Id.* (proposing to amend section 353 by adding subsection 353-g(1)(b)).

346. *See supra* notes 54, 90 and accompanying text (summarizing cases in which hoarders lived separately from their animals).

347. N.Y. AGRIC. & MKTS. LAW § 350(5) (McKinney 2017). Farm animals “raised for commercial or subsistence purposes” are excluded from this definition, but presumably it could apply to hoarded livestock not kept for these reasons. *Id.* § 350(4)–(5).

348. *See id.* § 350(5). It is possible, however, that a court could interpret the word “domesticated” generally as meaning animals typically bred to be pets, as opposed to applying to the particular animals involved in each individual case.

cover at least thirty days of care.³⁴⁹ If the defendant requests a hearing, the court sets one within ten days, and upon order the defendant must post the security within five days or forfeit his animals to the impounding welfare agency.³⁵⁰

Finally, the New York bill moves in a positive direction by acknowledging the mental health aspect of animal hoarding and requiring a court to order an evaluation for a person found in violation, as well as “treatment, therapy and/or counseling” if that evaluation so warrants.³⁵¹ If the court also found that the evaluation justified prohibiting the convicted hoarder from owning animals, it could issue that order “for a period of time deemed reasonable by the court.”³⁵² The wording of this section allows flexibility in ordering treatment and consideration of whether preventing a hoarder from owning any animals at all would be detrimental to the hoarder’s recovery.³⁵³

4. New Jersey

New Jersey legislators have not given up on creating a separate animal hoarding law, introducing a bill in 2016 that shows promise, closely following but building upon one introduced eight years prior.³⁵⁴ As of late 2016, this bill was in the second reading stage.³⁵⁵

An animal hoarder under this proposed law is a person who does not or cannot provide “necessary care” for his or her animals, therefore causing “at least some of the animals” to die, be injured, or suffer “other serious adverse health consequences.”³⁵⁶ The bill’s language does not require demonstration of any negative health effects upon the alleged hoarder, and it specifically states that the

349. Assemb. 1265 (proposing to amend section 353 by adding subsection 353-g(2)); *see, also, e.g.*, §§ 373(2), 373(6)(a).

350. § 373(6)(b)(1)–(2).

351. Assemb. 1265 (proposing to amend section 353 by adding subsection 353-g(2)).

352. *Id.* (proposing to amend section 353 by adding subsection 353-g(2)).

353. *See id.* (proposing to amend section 353 by adding subsection 353-g(2)).

354. Assemb. 3638, 217th Leg., Reg. Sess. (N.J. 2016); *see also* Hayes, *supra* note 48 (analyzing the 2008 New Jersey animal hoarding bill).

355. Assemb. 3638. Bills typically move to the third reading stage within two to three days, so unfortunately after a delay of several months, this proposed law may not advance further. *See* TOMMY NEAL, LAWMAKING AND THE LEGISLATIVE PROCESS: COMMITTEES, CONNECTIONS, AND COMPROMISES 90 (1996) (noting the usual amount of time between readings); *see also* *How a Bill Becomes Law in New Jersey*, N.J. LEGISLATURE, <http://www.njleg.state.nj.us/legislativepub/legprocess.asp> (last visited Nov. 13, 2017) (clarifying that a New Jersey bill may not go through the second and third reading on the same day unless by emergency vote).

356. Assemb. 3638 (proposing a new section to existing animal cruelty law addressing and defining hoarding).

number of animals the alleged hoarder possesses, while a consideration in assessing the degree of neglect involved, “shall not be determinative of whether there has been a violation.”³⁵⁷

This would allow New Jersey’s suggested law to apply in more hoarding situations than laws that set a minimum number of animals, or that require the owner also to suffer negative health consequences.³⁵⁸ Moreover, if this bill were enacted, it would help ease the burden on prosecutors by creating one offense for each “course of conduct involving the hoarding of animals,” as opposed to requiring a separate offense for each animal involved.³⁵⁹ The latter makes sense for general cruelty offenses where typically a smaller number of animals are affected, but as noted above it necessitates careful record keeping for each individual animal, which can overwhelm prosecutors in hoarding cases that may involve hundreds.³⁶⁰

The proposed law also would apply to any animal, as the current definition of “animal” for these purposes in New Jersey “includes the whole brute creation.”³⁶¹ Present state law further defines “[n]ecessary care” for animals as including “food of sufficient quantity and quality to allow for normal growth or maintenance of body weight; adequate access to water in sufficient quantity and quality to satisfy the animal’s needs; access to adequate protection from the weather; and veterinary care to alleviate suffering and maintain health,” noting that the definition is not necessarily limited to these elements.³⁶² The definitions of “animal” and “necessary care” would cooperate with the proposed animal hoarding law to provide guidance to those intervening in hoarding cases, yet they are broadly worded so that they may apply to different types of animals with varying needs.

357. *Id.* (proposing a new section to existing animal cruelty law addressing and defining hoarding).

358. *See id.*; *see also supra* Sections V.A–B (discussing Illinois and Hawaii’s animal hoarding laws).

359. *See* Assemb. 3638 (proposing a new section to existing animal cruelty law addressing and defining hoarding).

360. *See supra* notes 203–05 and accompanying text (examining strategies and benefits of prosecuting animal hoarding under one overall count). *But see supra* note 202 and accompanying text (noting that proceeding under one all-encompassing charge might cause courts to view hoarding as less serious than it really is).

361. N.J. STAT. ANN. § 4:22-15 (West 2017). Another introduced bill proposes to add: “The term ‘animal’ shall not include human beings.” Assemb. 3162, 217th Leg., Reg. Sess. (N.J. 2016) (proposing to amend section 4:22-15’s definition of “animal”).

362. § 4:22-15.

Those found in violation of animal hoarding under present law and under the proposed New Jersey bill have to pay restitution and perform community service for up to thirty days, possibly with an animal welfare organization.³⁶³ Unlike present law, however, the proposed bill improves upon the 2008 version by also requiring mental health evaluations of those convicted of crimes like animal hoarding, and it would permit a court to order whatever counseling that the evaluation suggests is necessary.³⁶⁴ Although it does not provide explicitly for long-term monitoring for convicted animal hoarders, the bill does state that “the court may order the violator to provide documentation of attendance” at any ordered counseling.³⁶⁵ Additionally, the court must maintain records of the outcomes of violations of the cruelty laws, including ordered mental health evaluations and counseling attendance documentation.³⁶⁶ Another proposed bill seeks to establish a registry of animal cruelty offenders, and requiring maintenance of these records could help facilitate implementation of such a compendium.³⁶⁷

Finally, the New Jersey bill also maintains present law and provides a civil cause of action for state and local societies for the prevention of cruelty to animals or municipalities’ animal control or cruelty departments.³⁶⁸ The bill reiterates the same definition of animal hoarding in this section, and provides that these organizations may sue a person found subjecting his or her animals to such conditions for an amount from one to three thousand dollars.³⁶⁹ A civil remedy is an important step toward recognizing that not every animal hoarding case is the same, and for some, criminal prosecution may be ineffective or even detrimental—if a legal remedy even is appropriate at all.³⁷⁰

363. *Id.* § 4:22-17(e); *see also* Assemb. 3638 (maintaining the current penalty of community service, but amending section 4:22-17(e) by placing the community service penalty provision in subsection (1)).

364. Assemb. 3638 (amending section 4:22-17(e) by adding subsection (2)).

365. *Id.* (amending section 4:22-17(e) by adding subsection (2)).

366. *Id.* (amending section 4:22-17(e) by adding subsection (h)).

367. *See* S. 2295, 217th Leg., Reg. Sess. (N.J. 2016) (proposing a new section to existing animal cruelty law).

368. § 4:22-26(cc); *see also* Assemb. 3638 (maintaining the current civil cause of action that may be brought by various societies).

369. § 4:22-26(cc); *see also* Assemb. 3638 (maintaining the same penalties provided in the current law).

370. *See* HARC REPORT, *supra* note 3, at 21. The fact that this civil provision restates the same definition classified earlier in the bill as criminal behavior suggests that it may work in tandem with criminal charges; if a defendant meets the description of an animal hoarder so that she would have to pay the fine, then most likely she also would meet the criminal standard. *See* Assemb. 3638 (using the same hoarding

VI. RECOMMENDATIONS

As the aforementioned bills demonstrate, support for animal hoarding-specific legislation is gaining some momentum throughout the United States, even if adoption of these laws has been slow to take hold.³⁷¹ As states examine the possibility of incorporating animal hoarding laws into their statutory schemes, there are helpful points to bear in mind, as well as actions the federal government may consider that would increase awareness and acceptance of the severity of the issue, and facilitate state and local efforts to reduce the problem.³⁷²

A. *Adopt an Official Definition of Animal Hoarding at the National Level*

One step the federal government could take that would promote greater consistency between states is to adopt a national definition of animal hoarding, communicating to lawmakers and to the public that the issue is a serious problem deserving of attention. Doing so could facilitate earlier, more effective intervention by state authorities, potentially reducing expenses by helping them recognize the signs of hoarding sooner and assign treatment that is more likely to prevent recidivism.³⁷³

1. Distinguishing Animal Hoarding and Animal Neglect

It is important to define animal hoarding separately from animal neglect, even though the two may share similar outcomes.³⁷⁴ Some argue that animal cruelty laws encompass animal hoarding, and that once the specific number of animals is no longer the key component of a hoarding definition, the two are the same.³⁷⁵ This is not true, however, as the actors may have completely different motivations that require different handling of their cases.³⁷⁶ Because the

definition provided in section 4:22-17, addressing criminal penalties, as in section 4:22-26, addressing civil penalties). Even if so, however, prosecutors can choose not to charge a defendant criminally, so it is possible for a defendant only to be subject to the civil action. *See* *United States v. Batchelder*, 442 U.S. 114, 124 (1979) (“Whether to prosecute and what charge to file or bring before a grand jury are decisions that generally rest in the prosecutor’s discretion.”).

371. *See supra* Part V.

372. *See infra* Sections VI.A–B.

373. *See* Renwick, *supra* note 250, at 590.

374. *See id.* at 591–94.

375. Schwalm, *supra* note 234, at 50–51.

376. *See supra* Section II.A (describing the motivations of the main types of animal hoarders).

motivations of most hoarders differ from those convicted of neglect, the treatment and sentencing assigned to each type of violation should reflect consideration of those differences, regardless of the number of animals involved in a case.³⁷⁷

Although some animal hoarders may not have legal intent, as noted previously, most are driven by a compulsive need to acquire animals despite being unable to provide adequate care, or they do not understand that they are not equipped to furnish that care.³⁷⁸ On the other hand, those guilty of animal neglect may have various explanations for their actions, whether nefarious or inadvertent.³⁷⁹ For example, an Ohio dog trainer was charged under the state animal cruelty statute for severely neglecting nineteen dogs that were entrusted to his care, eight of which died of starvation.³⁸⁰ For months the trainer accepted payment from the dogs' unsuspecting owners that supposedly covered board and training, but instead used it to serve his own needs—allegedly to purchase drugs—rather than those of the dogs.³⁸¹ Without consideration of the trainer's mental state and motivations, a case like this might qualify as animal hoarding.³⁸² Although the suffering of the animals would be the same either way, sentencing neglect and hoarding cases should take into consideration a defendant's mental health and what treatment would reduce the likelihood of recurrence.³⁸³

In another neglect case, a California woman left her golden retriever at a veterinary hospital with a 42-pound tumor on his side,

377. See *supra* notes 127–30 and accompanying text.

378. See *supra* Section II.A.

379. See *Our Story*, NITRO FOUND., <http://www.nitrofoundation.com/our-story.html> (last visited Nov. 13, 2017).

380. *Id.*

381. *Id.*

382. See *supra* notes 44–48 and accompanying text.

383. See *supra* note 65 and accompanying text. That is not to say that one who is convicted of neglect would not benefit from mental health evaluation and treatment, but the treatment schemes may be very different. The defendant in the Ohio neglect case may deserve punishment, including jail time, fines, a prohibition on owning or caring for more animals, and perhaps drug rehabilitation; but that treatment may be inappropriate for a rescuer hoarder, for instance, who might need more intense therapy, counseling, and longer-term monitoring. See *supra* Section II.A.2 (describing the mental states of rescuer hoarders). In fact the Ohio defendant was sentenced only on four misdemeanor charges and served four months in county jail, resulting in enactment of a new law that provides for felony charges against animal custodians and caretakers who engage in cruelty and neglect. *Our Story, supra* note 379; *Signed into Law and in Effect 2013!*, NITRO FOUND., <http://www.nitrofoundation.com/nitros-law.html> (last visited Nov. 13, 2017); see also OHIO REV. CODE ANN. §§ 959.131(E)(2), 959.99(E)(4) (West 2017).

falsely claiming that she found the dog abandoned.³⁸⁴ Although the woman did not comment to the media regarding the reasoning behind her actions, allegedly she was unable to afford the necessary treatment.³⁸⁵ There is no indication that she owns or is compelled to acquire more animals for which she cannot provide care, and the facts that she sought assistance and initially lied about her involvement suggest that she understood that her dog was suffering and needed help that she could not give.³⁸⁶ Accordingly, the resolution of her case should differ from that which would be effective for a hoarder who does not comprehend these things.

An official definition of animal hoarding also can help distinguish hoarding cases from puppy mills, another type of neglect. As the name suggests, puppy mills differ from legitimate breeders in that they are large commercial dog breeding operations that value profits above all else, including the health and welfare of their animals.³⁸⁷ Some puppy mills operate within the boundaries of the law—often barely—but those that reduce overhead costs by not providing minimum care create animal victims similar to those found in hoarding cases.³⁸⁸ The motives of the actors are markedly distinct, however; puppy mill operators are able to comprehend the pain and infirmity of their animals and may have the means to improve the conditions, but they sacrifice these improvements in the quest to make more money.³⁸⁹ Consequently, sentencing and treatment befitting animal hoarders would not be appropriate for most who run puppy mills, even though both types of cases can result in hundreds of severely neglected animals.³⁹⁰

Therefore an official definition of animal hoarding should include the fact that hoarders continue to acquire animals despite not being able to provide minimum care, whether they are unable to appreciate

384. Wire Services & Jonathan Lloyd, *Woman Accused of Dropping Dog with 42-Pound Tumor Off at Shelter Faces Animal Neglect Charges*, NBC4 L.A. (Dec. 14, 2016, 1:33 PM), <http://www.nbclosangeles.com/news/local/Golden-Retriever-Newport-Beach-Tumor-Animal-Cruelty-Dog-406594135.html>.

385. *See id.*

386. *See id.*

387. *About Puppy Mills*, PUPPY MILL PROJECT, <http://www.thepupmymillproject.org/about-puppy-mills/> (last visited Nov. 13, 2017).

388. *See Puppy Mills: Frequently Asked Questions*, HUMANE SOCIETY U.S. [hereinafter *Puppy Mills FAQs*], http://www.humanesociety.org/issues/puppy_mills/qa/puppy_mill_FAQs.html?credit=web_id83596027# (last visited Nov. 13, 2017).

389. *About Puppy Mills*, *supra* note 387 (“The bottom line is that puppy mills are all about profits. Any money spent on veterinary care, quality food, shelter, or staff to care for the dogs cuts into the profit margin.”).

390. *See Puppy Mills FAQs*, *supra* note 388.

this inability fully or if they ignore it to facilitate their compulsions.³⁹¹ The definition should not hinge classification on the number or type of animals a person possesses, nor should it require a severely overcrowded environment or negative effects on the alleged hoarder's health.³⁹² Possible language that could apply broadly and provide initial state statutory framework might read, "An animal hoarder is a person who is compelled to accumulate animals despite the failure or inability to provide minimum standards of care, and who is unable to recognize or disregards the effects of this failure on the welfare of the animals."³⁹³ Acknowledgment of the compulsion helps to differentiate animal hoarding from neglect and puppy mill cases.³⁹⁴

2. Home of the Official Definition

Valuable guidance regarding animal hoarding exists in publications of the Hoarding of Animals Research Consortium (HARC),³⁹⁵ but it would be ideal if a respected advisory body with a more general focus—one that might reach a broader range of people—adopted a clear definition, such as the American Psychiatric Association in the DSM-5.³⁹⁶ In the latest version of this manual, demarcation of object hoarding as a separate disorder is a good first step, but animal hoarding is not separately defined yet.³⁹⁷ Because the law views animals as property, they may qualify as "possessions" under the current DSM-5 hoarding diagnosis; however, the differences between object and animal hoarding are substantial enough to warrant a separate definition.³⁹⁸

391. See HARC REPORT, *supra* note 3, at 1.

392. See Renwick, *supra* note 250, at 604; see also *supra* notes 271–81 and accompanying text (discussing the limitations of the Illinois Act).

393. This suggested definition presumes that "minimum standards of care" is defined elsewhere in the relevant state law. *Model Laws: Animal Hoarding*, ANIMAL L. & RESOURCE CTR., <http://www.animallaw.com/Model-Law-Animal-Hoarding.cfm> (last visited Nov. 13, 2017); see also, e.g., HARC REPORT, *supra* note 3, at 1 (providing the four main characteristics of animal hoarders); *supra* Part V (examining various state statutory language).

394. See *supra* Section II.A (explaining the different types of animal hoarders).

395. See generally HARC REPORT, *supra* note 3.

396. See Frost et al., *Update*, *supra* note 64, at 1 (noting that animal hoarding is not separately defined in the DSM-5).

397. *Id.*

398. See *id.* (noting that the question of whether animals can be seen as "possessions" under the DSM-5 "is not yet resolved in the psychiatric literature"); see also Frost et al., *Comparison*, *supra* note 46, at 886 tbl.1 (portraying the similarities and differences between object and animal hoarding).

A definition incorporated into federal law would command even more respect, and would highlight the importance and severity of the animal hoarding issue, forcing states to begin with the same basic premise when adopting their own laws.³⁹⁹ Federal law already applies to animal fighting, and a bill presently is traveling through Congress that would outlaw animal crushing.⁴⁰⁰ A foundational animal hoarding definition could possibly find a home within a federal statute like the Animal Welfare Act (AWA), the only federal legislation that regulates animal treatment in several fields, including certain commercial breeders, like puppy mills.⁴⁰¹ This might be too great an aspiration at this point, however, at least until a uniform definition achieves stronger footing in an advisory context.

3. Definition Recommendations

Individual states adopting the definition may add provisions to hone it further, depending upon whether they incorporate it into civil or criminal laws, or both, but the official definition also could include suggestions to provide more guidance. For instance, in addition to defining animal hoarders generally, it might recommend that states order mental health evaluations of hoarders to confirm the rationale behind their actions and help instruct more targeted treatment plans. Because the most effective animal hoarding rehabilitation is a product of cooperation between multiple service providers, the definition might also include a recommendation that states form animal hoarding task forces to assist in determining and implementing those treatment plans.⁴⁰²

Another recommendation might suggest that states compile animal hoarding case information and contribute it to a national database. Doing so would allow agencies, shelters, law enforcement, and others across the country to access data regarding hoarders, including those

399. See *supra* notes 401–02 and accompanying text.

400. 7 U.S.C. § 2156 (2014); Preventing Animal Cruelty and Torture Act, S. 1831, 114th Cong. § 48 (2015). Animal crushing entails people killing small animals by standing on them with high-heeled shoes or bare feet, literally crushing them to death, allegedly satisfying a sexual fetish for those watching. See Bill Mears, *Obama Signs Law Banning 'Crush Videos' Depicting Animal Cruelty*, CNN (Dec. 10, 2010, 4:48 PM), <http://www.cnn.com/2010/POLITICS/12/10/animal.cruelty/index.html>. Federal law already bans making and selling animal crush videos, and this bill would criminalize the activity itself. S. 1831; Mears, *supra*.

401. See 7 U.S.C. §§ 2131–2159 (2012); TADLOCK COWAN, CONG. RESEARCH SERV., RS22493, *THE ANIMAL WELFARE ACT: BACKGROUND AND SELECTED ANIMAL WELFARE LEGISLATION 1–2* (2016).

402. See Patronek et al., *The Problem*, *supra* note 175, at 8–9 (listing the different agencies that should be involved in animal hoarding treatment).

who may have moved to a different jurisdiction and started hoarding again.⁴⁰³ Shelters, for example, could run a search within this database before accepting potential adopters, as that is a common way hoarders acquire more animals.⁴⁰⁴

In 2016, the Federal Bureau of Investigation (FBI) delineated animal cruelty as a separate offense in its annual Uniform Crime Reporting report.⁴⁰⁵ The FBI now tracks several categories of crimes against animals through its National Incident-Based Reporting System (NIBRS), including simple and gross neglect, which encompass animal hoarding.⁴⁰⁶ Prior to 2016, NIBRS grouped animal cruelty offenses together into a summary “All Other Offenses” category, which allowed those reading the report to glean very few details, but separating animal cruelty crimes now will provide much more comprehensive information.⁴⁰⁷ Additionally, because animal neglect and many cruelty charges are misdemeanor crimes that are not reported to other states, tracking them through NIBRS will be even more useful.⁴⁰⁸

Participation in the program is voluntary, but as awareness and understanding of the animal hoarding disorder grows, more states may opt in and contribute their data to NIBRS.⁴⁰⁹ If an official definition of animal hoarding also recommends compilation and contribution of data concerning the issue, participation could expand further.

403. See Berry et al., *supra* note 51, at 181 (providing examples of the problems that result when departments do not share information about past cruelty offenses, and noting that these problems are amplified when dealing with crimes committed in other states).

404. See *id.*; see also Frost et al., *Comparison*, *supra* note 46, at 887 (listing the methods hoarders often use to acquire animals).

405. *Tracking Animal Cruelty*, FBI (Feb. 1, 2016), <https://www.fbi.gov/news/stories/-tracking-animal-cruelty>.

406. FED. BUREAU OF INVESTIGATION CRIMINAL JUSTICE INFO. SERVS. DIV., U.S. DEP'T OF JUSTICE, NATIONAL INCIDENT-BASED REPORTING SYSTEM (NIBRS) TECHNICAL SPECIFICATION 39 (2017), https://ucr.fbi.gov/nibrs_technical_specification_version_3.0_pdf.

407. See *Tracking Animal Cruelty*, *supra* note 405.

408. See Berry et al., *supra* note 51, at 181 (noting that misdemeanor animal cruelty charges are not reported to other states, making it difficult to monitor animal hoarders); see also FED. BUREAU OF INVESTIGATION, U.S. DEP'T OF JUSTICE, UNIFORM CRIME REPORTING HANDBOOK 2, 27, 31 (2004), https://ucr.fbi.gov/additional-ucr-publications/ucr_handbook.pdf/view (noting that the Committee on Uniform Crime Records “formulated standardized offense definitions” that allow for uniform conviction reporting regardless of local felony or misdemeanor status).

409. *Tracking Animal Cruelty*, *supra* note 405.

B. *Suggestions for State Laws*

As more states contemplate enacting hoarding legislation, they might consider some complementary provisions as well.⁴¹⁰ These inclusions can help enhance the effectiveness of hoarding laws and reduce rampant recidivism.⁴¹¹

1. State Animal Abuse Registries

Many localities, such as New York City⁴¹² and Cook County, the county that is home to Chicago,⁴¹³ already track animal abuse convictions, and Tennessee began the first statewide effort in 2016.⁴¹⁴ Maintaining such records at the state level not only would facilitate contributing to NIBRS, but it would assist agencies within state boundaries as well because not all hoarders move across state lines to enable their compulsions.⁴¹⁵ States including Illinois, Massachusetts, Michigan, Missouri, New Jersey, Pennsylvania, Washington, and West Virginia are following Tennessee's lead and have introduced bills to create statewide animal abuse registries.⁴¹⁶

However, creating a statewide registry is not without deterrents. One is that establishing and maintaining a recordkeeping system entails some expense, but West Virginia found a creative solution in requiring those ordered to register to pay an annual fee that would

410. *See infra* Sections VI.B.1–6.

411. *See infra* Sections VI.B.1–6.

412. *Animal Abuse Registry*, NYC HEALTH, <https://www1.nyc.gov/site/doh/health/health-topics/animal-abuse-registry.page> (last visited Nov. 13, 2017).

413. Hal Dardick, *Animal Abusers Would Be Tracked Under Plan Approved by Cook County Panel*, CHI. TRIB. (May 10, 2016, 5:23 PM), <http://www.chicagotribune.com/news/local/politics/ct-cook-county-animal-abuse-registry-met-0511-20160510-story.html>.

414. Karin Brulliard, *Animal Abusers Are Being Registered like Sex Offenders in These Jurisdictions*, WASH. POST (Sept. 13, 2016), https://www.washingtonpost.com/news/animalia/wp/2016/09/13/animal-abusers-are-being-registered-like-sex-offenders-in-these-jurisdictions/?utm_term=.0b337268bb53.

415. *E.g.*, Patronek et al., *The Problem*, *supra* note 175, at 8 (“Even when monitoring is practical, hoarders can escape enforcement by moving to a new jurisdiction, often only across town or county lines.”); Bobbie Hanstein, *Jury Convicts New Sharon Woman of Contempt Charge After Animals Are Seized*, DAILY BULLDOG (Nov. 16, 2016), <http://www.dailybulldog.com/db/features/jury-convicts-new-sharon-woman-of-contempt-charge-after-animals-are-seized/> (summarizing the convictions of a Maine hoarder from whom authorities seized a total of around 100 animals between 2004, 2010, and 2014).

416. *New State Animal Abuser Registries Proposed in 2016*, NAT'L ANTI-VIVISECTION SOC'Y (Jan. 21, 2016), <http://www.navs.org/new-state-animal-abuser-registries-proposed-in-2016>.

contribute to maintenance of that state's registry.⁴¹⁷ Another issue is that some are concerned about the fairness of including all animal cruelty offenses together, from intentional torture to first-time simple neglect that is unlikely to recur or present a danger to others.⁴¹⁸ Acknowledging this, states like West Virginia would permit defendants to petition the court for removal from the registry in situations like the latter.⁴¹⁹ Moreover, supplementing registry entries with the circumstances of the crimes, which NIBRS requires, also could help alleviate this concern.⁴²⁰ In sum, even if uniform tracking is not a perfect solution, it still is beneficial for authorities, shelters, and others interested in animal welfare to be able to refer to a record listing those convicted of animal crimes and whether they have reoffended; therefore, states should establish their own registries, and then supply the data they gather to NIBRS.⁴²¹

2. State Hoarding Task Forces

Several local jurisdictions have established general hoarding task forces in recent decades,⁴²² but establishing a hoarding task force at the state level, or at least adopting clear state guidelines for municipal task forces, can better highlight the issue and bring conformity to local agencies' treatment plans. States like Connecticut and Delaware recognize this need and have established state hoarding task forces to streamline agency coordination, intervention, and assistance efforts.⁴²³ Although these task forces are not focused specifically on animal hoarding, they include representatives from

417. H.D. 4667, 2016 Leg., Reg. Sess. (W. Va. 2016) (proposing to amend West Virginia's Public Safety article by adding several new provisions establishing an animal abuse registry).

418. Brulliard, *supra* note 414 ("Shaming . . . [those who neglect their own animals and are unlikely to harm other people or pets] with a public Internet profile is unlikely to affect their future behavior – except perhaps to isolate them further from society and promote increased distrust of authority figures trying to help them.").

419. H.D. 4667 (proposing to amend West Virginia's Public Safety article by adding section 15-14-9, which would allow a person convicted of an animal abuse crime to petition the court for removal from the registry).

420. *Cf. Tracking Animal Cruelty*, *supra* note 405 ("With the incident-based [reporting], it's more granular. It tells the story.").

421. *See generally* Brulliard, *supra* note 414 (quoting an animal adoption counselor as saying that a registry "will be a very useful and objective tool for us to lean on when it comes to denying adopters").

422. *See supra* notes 40–42 and accompanying text (referencing two cities' object hoarding task forces and listing various agencies involved).

423. S. 119, 2016 Gen. Assemb., Feb. Sess., An Act Establishing a Task Force to Study Hoarding, 2016 Conn. Acts 16-2 (Spec. Sess.); Kelly Bothum, *Delaware Task Force to Target Hoarding*, USA TODAY (Dec. 10, 2013, 8:37 PM), <https://www.usatoday.com/story/news/nation/2013/12/10/del-task-force-to-target-hoarding/3972687/>.

animal control and welfare agencies to aid with animal hoarding cases.⁴²⁴

Assembling a hoarding task force and following through on recommended treatment and monitoring plans can be a drain on state funds.⁴²⁵ Resolving hoarding cases requires a significant amount of money and time for everyone involved—in addition to the suffering of both animal and human victims—but if a task force can lead to a reduction in recidivism, the expense is worthwhile and will reduce future costs.⁴²⁶ Although securing initial financing to form a task force may be difficult, strong leadership coordinating various existing service agencies may reveal that the necessary actors and resources are in place already and just need synchronization.⁴²⁷

A tactic that might help offset some task force expenses is creating a loan program. For example, Connecticut legislators recently introduced a bill to create a loan fund for the improvement of blighted property.⁴²⁸ The bill, which does not relate explicitly to hoarding, states that those who own blighted property in certain areas must apply for a loan from this fund.⁴²⁹ A fund administrator then determines eligibility, and the recipient repays her loan later via a special property assessment.⁴³⁰ A program like this would not work for every hoarder, but it might help those who are amenable to assistance and willing to apply, especially if the state would have endeavored to rehabilitate the hoarder and her property anyway. The repayment money then could return to the loan fund or offset some of the expenses incurred by the task force.

3. Providing for Seized Animals

Because authorities who discover hoarded animals often need to seize them immediately to remove them from hazardous conditions and provide veterinary care, it is also wise to enact statutory provisions authorizing impoundment and forfeiture in both civil and

424. See S. 119, 2016 Conn. Acts 16-2; Bothum, *supra* note 423.

425. See THE OXFORD HANDBOOK OF HOARDING AND ACQUIRING 326 (Randy O. Frost & Gail Steketee eds., 2014) [hereinafter OXFORD HANDBOOK].

426. HARC REPORT, *supra* note 3, at 15 (noting the costs of animal hoarding cases); see also Patronek et al., *The Problem*, *supra* note 175, at 8–9 (explaining the value of hoarding task forces).

427. See OXFORD HANDBOOK, *supra* note 425, at 326 (listing various resources offering examples, tools, and information for those seeking to organize a multidisciplinary hoarding program).

428. H.R. 5480, 2016 Gen. Assemb., Feb. Sess. (Conn. 2016).

429. *Id.*

430. *Id.*

criminal cases.⁴³¹ Statutes enabling private rights of action and civil forfeiture can save substantial time and money,⁴³² but another provision states might consider is one that permits forfeiture of animals in a criminal case without a criminal conviction.

Such a law could apply in two scenarios: during the course of a trial and appeals process,⁴³³ and after a trial if charges are dropped or a defendant is acquitted.⁴³⁴ Both situations implicate constitutional rights and are subject to fierce debate,⁴³⁵ but in limited circumstances, pre-conviction forfeiture can benefit not only the animals but the human owner as well. The animals can receive the care they desperately need and be placed in adoptive homes as soon as possible, rather than languishing in and using limited resources from a shelter for months or even years;⁴³⁶ the owner would also be relieved of the financial and physical responsibilities of ownership.

To trigger pre-conviction forfeiture, the animals would need to be found in extreme distress, as determined by a qualified veterinarian; the court would have to provide a hearing; and the impounding organization would need to clearly demonstrate the need for immediate custody.⁴³⁷ Usually circumstances rising to this level ultimately would result in conviction,⁴³⁸ but that is not always true; for instance, in an Oregon case, a woman was charged with neglect after authorities seized eleven cats from her home.⁴³⁹ The court dismissed the charges after finding the defendant cognitively impaired, and she retained ownership of the cats, even though they were in the temporary custody of a rescue organization until she could repay its costs.⁴⁴⁰ The rescue, after incurring \$32,510 in expenses for care of the cats, sued for appointment as fiduciary to

431. *See supra* Section III.A (analyzing the effectiveness of civil forfeiture and bonding laws in an animal hoarding context).

432. *See supra* Section III.A.

433. *See supra* Section III.A.

434. *See supra* Section III.A.

435. WAISMAN ET AL., *supra* note 23, at 117 (noting that forfeiture laws are “hotly contested”); Bernstein & Wolf, *supra* note 141, at 10683–84 (noting that animal ownership is a right, but also a privilege that can be lost if abused and discussing the due process concerns relating to forfeiture).

436. *See* Bernstein & Wolf, *supra* note 141, at 10681; *see also* Berry et al., *supra* note 51 at 183 (noting hoarding cases that were still pending trial after two years).

437. This type of law differs from bonding laws in that ownership is conditioned upon the alleged hoarder’s ability and willingness to provide care, not upon payment of a bond. *Cf. supra* Section III.A (describing bonding laws).

438. *See Cox v. State*, 453 S.E.2d 471, 472 (Ga. Ct. App. 1995) (reasoning that animal cruelty has a relatively low burden of proof requiring only an individual’s actions to cause unjustifiable pain or suffering to an animal regardless of intent or malice).

439. *Cat Champion Corp. v. Primrose*, 149 P.3d 1276, 1277 (Or. Ct. App. 2006).

440. *Id.* at 1277–78.

place them in permanent homes.⁴⁴¹ The court agreed, noting that the rescue “seeks to protect . . . [the defendant’s] interests as well as its own.”⁴⁴² If the rescue had been able to assume ownership sooner, it would have saved a substantial amount of money and resources, the cats would have been placed in healthy homes, and the owner would have been free from her considerable debt and obligations.

An impounding agency still has care and financial responsibilities for seized animals, however, regardless of when, or if, a hoarder forfeits ownership, even though the impact diminishes the sooner the agency is able to place the animals in permanent homes.⁴⁴³ Therefore, both civil and criminal hoarding laws should contain bonding provisions,⁴⁴⁴ or at least mirror most animal cruelty laws and provide for reimbursement by the defendant of the costs of care from the time of seizure to the final disposition of ownership.⁴⁴⁵

4. Providing for Hoarders

To reduce the astronomical recidivism rate in hoarding cases, interveners must focus on the rehabilitation of the hoarder, as opposed to addressing only the effects of the hoarding, such as the neglected animals and property.⁴⁴⁶ Punishment alone is not sufficient, however deserved it may be in some cases.⁴⁴⁷ Therefore, one of the most important aspects of a hoarding law is a provision requiring a hoarder in either a civil or criminal case to participate in a mental health assessment, followed by a treatment plan—ideally prepared upon advisement of hoarding task force members—that involves regular, long-term monitoring.⁴⁴⁸ A pre-trial psychological assessment would be especially helpful in determining whether a

441. *Id.* at 1278.

442. *Id.* at 1281.

443. *See* Bernstein & Wolf, *supra* note 141, at 10683–84 (recommending prompt forfeiture proceedings).

444. *See supra* Section III.A (discussing bonding laws).

445. *See* CAL. PENAL CODE § 597(g)(1) (West 2017) (establishing liability for those convicted of animal cruelty for “all costs of impoundment from the time of seizure to the time of proper disposition”).

446. *See* Patronek, *Hoarding of Animals*, *supra* note 57, at 86 (noting that relying only on animal cruelty laws to address hoarding is “inefficient and expensive” and “can impede timely recognition of important health issues and delivery of needed services”).

447. *See id.* (“Prosecution offers at best an incomplete solution in the majority of . . . [animal hoarding] cases.”).

448. *Cf.* Patronek et al., *The Problem*, *supra* note 175, at 8–9 (“Be prepared for a long term process and frequent monitoring of the situation.”).

defendant should be tried for hoarding or neglect if the distinction is not immediately clear.⁴⁴⁹

Incorporating mental health evaluation requirements into animal cruelty laws is wise.⁴⁵⁰ Doing so at the expense of adopting hoarding-specific laws is not, however; in addition to the arguments above regarding the insufficiency of animal cruelty laws' application to hoarding cases,⁴⁵¹ it would not alleviate the inconsistency in hoarding decisions,⁴⁵² and may also impede following a civil route to effective treatment as most animal cruelty laws are criminal in nature.⁴⁵³

Relatedly, enacting a law that prohibits a hoarder from owning or having contact with all animals may not be productive.⁴⁵⁴ Some researchers have found that supervised access to a limited number of animals in a shelter or in another location away from the hoarder's residence may actually help satisfy the urge to care for animals and provide an example of how to do so in a healthy way.⁴⁵⁵ Not everyone agrees,⁴⁵⁶ but a mental health evaluation could help with this determination.

5. State Criminal Law Provisions

Affording civil rights of action is important to the successful resolution of some hoarding cases.⁴⁵⁷ The use of criminal hoarding laws may be appropriate in others, however, and in addition to consideration of whether animal ownership should be forfeited prior to conviction or after acquittal,⁴⁵⁸ other provisions can make criminal hoarding laws more effective. First, many states classify their animal

449. *Cf. supra* Section VI.A.1 (examining the need to distinguish between animal hoarding and neglect).

450. THE HUMANE SOC'Y OF THE U.S., FIRST STRIKE: THE VIOLENCE CONNECTION 10 (2008), http://www.humanesociety.org/assets/pdfs/abuse/first_strike.pdf.

451. *See supra* Section IV.C (analyzing the inadequacies of using animal cruelty laws to address hoarding cases).

452. *Cf. Berry et al., supra* note 51, at 183–84 (noting the inconsistency in hoarding case management and resolution).

453. *See id.* at 176 (noting that, in the majority of cases studied, the defendant was charged with misdemeanors for animal cruelty).

454. *See HARC REPORT, supra* note 3, at 28.

455. *Id.*

456. *First Strike and You're Out: A Model Law*, ANIMAL LEGAL DEF. FUND, <http://aldf.org/resources/advocating-for-animals/first-strike-and-youre-out-a-model-law/> (last visited Nov. 13, 2017).

457. *See supra* Section III.A (discussing civil forfeiture and bonding laws).

458. *See supra* Section VI.B.3 (examining the potential benefits of pre-conviction or post-acquittal forfeiture).

cruelty laws according to a degree system.⁴⁵⁹ At a minimum, all states at least divide cruelty laws between misdemeanor and felony offenses, with a first offense garnering a lighter sentence and subsequent offenses growing more serious.⁴⁶⁰ This is a logical scheme for hoarding laws as well, especially if a first-time hoarding defendant is compliant, responds well to her treatment plan, and does not reoffend.

It also may be beneficial to include the ability to charge hoarders with a single hoarding count, as opposed to one cruelty count per animal.⁴⁶¹ Charging alleged hoarders with one all-encompassing hoarding count might cause some courts to see the offense as less severe than it really is. For example, a case involving the neglect of 100 animals seems more serious if the defendant is charged with 100 violations instead of only one.⁴⁶² This perspective can change however, with increased awareness of the hoarding problem and its costs—financial and otherwise—which would be complemented by hoarding-specific laws.⁴⁶³ State and national registries demonstrating high recidivism rates can also help increase appreciation of the severity of the issue.⁴⁶⁴ Moreover, because prosecutors would not face the daunting task of documenting each affected animal in a case, allowing one hoarding count may cause them to pursue these cases more often.⁴⁶⁵ This would result in more interventions before situations get any further out of control, and when combined with proven treatment and monitoring plans, it could have a substantially positive impact on the health and wellbeing of animals, hoarders, and the recidivism rate.

459. See, e.g., OHIO REV. CODE ANN. § 959.99 (West 2017); OR. REV. STAT. ANN. §§ 167.315–167.330 (West 2017). See generally *Animal Protection Laws of the United States of America and Canada*, ANIMAL LEGAL DEF. FUND, <http://aldf.org/resources/advocating-for-animals/animal-protection-laws-of-the-united-states-of-america-and-canada/> (last visited Nov. 13, 2017) (featuring an interactive map of each state’s cruelty laws).

460. See, e.g., Berry, *supra* note 233; *Animal Protection Laws of the United States of America and Canada*, *supra* note 459.

461. See Hayes, *supra* note 48 (noting that allowing one hoarding count eases the burdens on both prosecutors and courts). *But see* Berry et al., *supra* note 51, at 184–85 (suggesting that courts should accept multiple hoarding counts to better reflect the suffering involved in such cases).

462. HARC REPORT, *supra* note 3, at 21; Berry et al., *supra* note 51, at 184.

463. Hayes, *supra* note 48.

464. See *Tracking Animal Cruelty*, *supra* note 405 (“[Animal cruelty is] a crime against society By paying attention to [these crimes], we are benefiting all of society.”).

465. See Hayes, *supra* note 48.

6. Collaborative Justice

States also may consider an option in hoarding cases that balances between criminal and solely therapeutic treatment extremes: the growing area of restorative or collaborative justice.⁴⁶⁶ Balanced and Restorative Justice (BARJ), which is common in juvenile court systems, is a justice administration philosophy that focuses on the accountability of the offender, competency development, and public safety.⁴⁶⁷

Collaborative justice principles include a multidisciplinary, nonadversarial team approach with involvement from the court, attorneys, law enforcement, and community treatment and service agencies to address offenders' complex social and behavioral problems.⁴⁶⁸

California, for example, boasts almost 400 collaborative justice courts, ranging from drug courts to mental health courts for both adults and juveniles.⁴⁶⁹

The focus on rehabilitation and the ability of collaborative justice courts to concentrate on specific types of offenses appear to make them ideal for resolving hoarding cases.⁴⁷⁰ The concept already is in practice with a connection to animals in efforts like Safe Humane Chicago's Lifetime Bonds Program, which allows teens in the juvenile justice system to work with shelter dogs, helping the teens build trust, positivity, and skills, and improving the dogs' chances of adoption through training.⁴⁷¹ Many of the dogs used in the program come from Safe Humane's Court Case Dogs program, which works with "evidence dogs," some seized in hoarding cases, that are held by the legal system as they await resolution of their cases.⁴⁷²

Hoarding task forces could work with collaborative justice courts to design treatment programs that would replace more traditional

466. HARC REPORT, *supra* note 3, at 25–26.

467. OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, GUIDE FOR IMPLEMENTING THE BALANCED AND RESTORATIVE JUSTICE MODEL 1–2 (1998), <https://www.ncjrs.gov/pdffiles/167887.pdf>.

468. *Fact Sheet: Collaborative Justice Courts*, JUD. COUNCIL CAL. (Mar. 2017), http://www.courts.ca.gov/documents/CollaborativeCourts_factsheet.pdf.

469. *Id.*

470. *See* HARC REPORT, *supra* note 3, at 25–26.

471. *A New Leash on Life*, SAFE HUMANE CHI., <http://www.safehumanechicago.org/programs/lifetime-bonds/new-leash-on-life> (last visited Nov. 13, 2017).

472. Arin Greenwood, *Hundreds of Abused Dogs Have a Second Chance Thanks to This Amazing Chicago Rescue Program*, HUFFPOST (Nov. 18, 2014), http://www.huffpost.com/2014/11/17/safe-humane-chicago_n_6120950.html.

remedies that often are not effective, like incarceration, and contribute to successful rehabilitation that would help hoarders, animals, and the public.

VII. CONCLUSION

Animal hoarding is a serious, growing, national problem.⁴⁷³ Thus far, state and federal laws have not been enough to deal with the issue effectively.⁴⁷⁴ Until states enact thoughtful hoarding-specific laws and engage in multidisciplinary efforts to manage and rehabilitate hoarders, they will find that their efforts are never enough. As awareness increases and laws evolve that reflect consideration of the causes of hoarding, instead of just its effects, results should include decreased overall costs and greater wellbeing for hoarders, their animals, their families, and their surrounding communities.

473. Avery, *supra* note 2, at 818.

474. See Hayes, *supra* note 48.

