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The veterinarian's duty to report animal cruelty in the U.S.

Commentary on [Lachance](#) on *Breaking Silence*

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Abstract: Legislation throughout the U.S. recognizes animal sentience and the importance of veterinary reporting to combat the ongoing suffering of these animal victims: All 50 states have felony penalties available for animal cruelty crimes, and veterinary reporting is permitted or required in the majority of states. The remaining minority of U.S. states should take action to require veterinarians to report animal cruelty and render veterinarians immune for good faith reporting.

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Does a veterinarian's primary moral allegiance and legal obligation lie with a human client, as the animal's owner, or with the animal patient who may be the victim of criminal cruelty? This is the purported conundrum that veterinarians throughout the United States face when they have reason to believe that an animal is or has been a victim of criminal abuse or neglect. While veterinarians are traditionally bound by a code of ethics to uphold client confidentiality and thus remain silent on the condition and diagnosis of that client's animal, the interest of an animal victim often outweighs these confidentiality rules — according to the majority of the state legislation in the U.S. and the leading national veterinary organization ([American Veterinary Medical Association](#)).

Today, animal cruelty is a felony in all 50 U.S. states, as legislatures and courts nationwide have recognized that animals are sentient beings who suffer pain and who are therefore deserving of legal protection in their own right, not solely because animal cruelty is a predictor of future violence to humans or an indicator of other human victims (children, the elderly) likely to be found in the home (though these certainly bolster the case for animal protection). In 2013, for instance, the Oregon legislature declared that “[a]nimals are sentient beings capable of experiencing pain, stress and fear ... [and a]nimals should be cared for in ways that minimize pain, stress, fear and suffering,”¹ as a basis for enhancing penalties for animal crimes in the

¹ ORS 167.305(1)(2).

state. In 1997, a California court stated that animals are “sentient beings” deserving of proper treatment, and found that the defendant, a hoarder of more than 200 animals, showed a “lack of concern for her animals as living sentient creatures.”² The FBI recently announced that animal cruelty crimes will be tracked just like other violent felonies such as homicides,³ and the national Association of Prosecuting Attorneys recognizes animal sentience in its statement of principles (“Animals are sentient beings with the undeniable capacity to suffer pain ... Animal cruelty, both active and passive, is a crime of violence, and as such requires a prosecutor’s full attention”).⁴

It is against this backdrop of the increasing legal protection of animals, based on the growing recognition of their sentience, that advocates have honed in on the importance of veterinary reporting in discovering and addressing animal cruelty situations. As a practical matter, a prosecutor who has tried an animal cruelty case knows how crucial the expertise of a veterinarian is for securing a conviction at trial or a guilty plea. Veterinarians can distinguish accidental trauma from human-induced injury, can estimate the time of death of a neglected animal, and can conduct forensic testing to match the animal’s DNA found on an object used to sexually assault a victim animal. Thus, in addition to being the only eyewitness to animal cruelty outside the home in many cases, a veterinarian is the ideal witness for solidifying a cruelty case because of their expertise.

The good news is that veterinarians in the majority of U.S. states don’t have to wonder what action they can or should take when they suspect animal cruelty, since the majority of states have spoken on the issue of veterinary reporting: 15 states actually *require* veterinarians to report suspected animal cruelty, and 14 additional states explicitly permit such reporting (though state laws differ on what types of cruelty trigger such reporting).⁵ Significantly, in 29 states, veterinarians are deemed immune by law from civil and/or criminal liability for reporting animal cruelty in good faith. These immunity provisions are key to streamlining the reporting process because veterinarians no longer have to wonder if they will face legal repercussions for doing the right thing, and putting a stop to their animal patients’ suffering.

Mandatory reporting, by a licensed medical professional, of ongoing criminal activity involving a voiceless victim is hardly a new construct: As of 2013, laws in 48 states mandate the reporting of child abuse by designated professionals, including physicians, social workers, teachers, counselors, and law enforcement.⁶ The same logic that has been applied to reporting child abuse — that children are often unable to articulate the abuse, are fearful of retaliation for speaking up, or are simply unable to speak for themselves at all, and that child abuse is often an

² *People v. Speegle*, 53 Cal App 4th 1405, 1418, 62 Cal Rptr 2d 384, 393 (1997).

³ “Tracking Animal Cruelty,” Federal Bureau of Investigation, https://www.fbi.gov/news/news_blog/tracking-animal-cruelty.

⁴ “APA Animal Cruelty and Fighting Statement of Principles,” Association of Prosecuting Attorneys, <http://www.apainc.org/animal-cruelty/>.

⁵ Animal Protection Laws of the United States, Animal Legal Defense Fund, <http://aldf.org/resources/advocating-for-animals/animal-protection-laws-of-the-united-states-of-america-and-canada/>.

⁶ “Mandatory Reporters of Child Abuse and Neglect,” Child Welfare Information Gateway, <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/manda/>.

indicator of other potential abuse of other victims in the home, including elder neglect or spousal abuse — has also been applied to animal victims who, perhaps to an even greater extent, lack a voice to speak for themselves.

To be sure, veterinarians take an oath to protect their clients' confidentiality; however, this oath also includes a pledge to "solemnly swear to use [their] scientific knowledge and skills for the benefit of society through the protection of animal health and welfare, the prevention and relief of animal suffering."⁷ The American Veterinary Medical Association encourages veterinarians to report animal abuse in its Model Veterinary Practice Act,⁸ and the American Animal Hospital Association recently amended its position statement to support mandatory veterinary reporting.⁹ The minority of U.S. states that are still silent on the issue of veterinary reporting should take action to require — or at the very least, allow — veterinarians to report animal cruelty, and include immunity protection for veterinarians who report in good faith.

Veterinary reporting laws recognize the sentience of animals for what they are — living, breathing beings capable of suffering and to whom we have a duty to alleviate that suffering.

References

Lachance, M. (2016). [Breaking the silence: The veterinarian's duty to report](#). *Animal Sentience* 2016.006: 1-16.

⁷ "Veterinarian's Oath," American Veterinary Medical Association, <https://www.avma.org/KB/Policies/Pages/veterinarians-oath.aspx>.

⁸ "Reporting requirements for animal abuse," American Veterinary Medical Association, <https://www.avma.org/Advocacy/StateAndLocal/Pages/sr-animal-abuse-reporting-requirements.aspx>.

⁹ "Animal Abuse Reporting Position Statement," American Animal Hospital Association, https://www.aaha.org/professional/resources/animal_abuse_reporting.aspx.