

ANIMAL WELFARE: SOCIETAL PERSPECTIVES
AND THE PATH TO PERMANENT
CHANGE

by

JANET LINN HORTON

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ABSTRACT

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Janet Linn Horton, M.A.

The University of Texas at Arlington, 2006

Supervising Professor: Alejandro del Carmen

During the past 200 years animal welfare has been changing in a direction that is providing animals with a protection they have not always had. As society began to research the study of animal dynamics, there was a discovery on the importance in providing animals' moral consideration. Animal's societies have been created in order to provide protection the animals need and in order to seek sanctions for those who violate the laws and cause unnecessary pain and suffering to them. Animals have become a major part of business today, not only for the law abiding society members but for the criminal offenders who engage in animal crimes.

There are several different animal crimes mentioned in the thesis and information on prior research disclosing the awareness of animal cruelty offenders to other crimes in our society. There is one detailed animal abuse case study provided that will verify the animal cruelty crime is combined with other crimes and it will demonstrate a consequence that can happen when an offender has targeted an animal victim. Furthermore, there are two laws suggested that will help to reduce suffering and provide a more humane world for the animals.

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CHAPTER 1

INTRODUCTION AND HISTORY

Animal Welfare will be examined in this thesis. The term animal welfare refers to their needs and humane treatment as a whole, what is good, what is just, and what is right to them and for them, without compromising society's needs and in some cases society's desires will be answered in this thesis. The thesis will reveal where we have been, where we are today and identify a direction we need to go in. The direction will not necessarily be what is best, or morally obligated to and for animals— or what is best, may not be exactly what everyone would like to invest time, concern or money in but determining where we stand and where we need to be will help provide the roadmap for direction.

The main objective is to guide an individual through animal welfare past (providing the historical views and actions), then bring the issues forward to the present and finally, bring forth where society needs to go for the future of animals' concerns as a whole. There is an emphasis in the thesis placed on domesticated animals, but not without touching animal wildlife and factory farming concerns. Chapter one contains the historical views and explores how animals were treated, then shifts to reasons to how and why the philosophy, attitudes and laws changed. As society grows with knowledge, then expands with modification to existing laws so do the concerns for the animal kingdom.

Chapter two will lay out several sociological theories that provide characteristics on why some members of society have a disregard in protecting animals. Chapter two will provide and explain mental disorder symptoms and legal definitions associated with animal crime. Chapter two will explore some of the specific offenses against animals, such as dog fighting, hoarding and other animal offenses. Lastly, this chapter will provide prior research in order to show a

connection between animal abuse and other crimes. Chapter three will describe and provide methodology to the case study of this particular animal abuse offense.

Chapter four will provide a summary of facts to the case study of a local animal abuse case. The fifth and final chapter will take the four preceding chapters into consideration and provide policy recommendations that will implement the highest totality of benefits, for not only the animals but society also. In the appendix is where the reader can find the animal abuse case study, which will include details such as expert testimony, witness testimony, evidence and crime elements. This case study will validate Ascione and Arkow's (1999) analysis when they said law enforcement is not adequately trained on animal cruelty law violations, and in many cases they leave it up to the humane organizations or sometimes they will just ignore it.

Society's direction has changed in the past three decades in the philosophy, science and political dimensions of animal welfare according to author Robert Garner (2004). The change has been not to ignore the interest, care, welfare and protection of animals. Prior to the era where society took an interest in animals, the basic existence of animals did not afford any moral obligation to them or for them and how their existence was for human use. Garner (2004) said our moral assessment of animals depends on how we treat them. Some feel if animal interest is promoted then human interest becomes demoted, thus lowering the expectations to human moral interest. Animal activist Tom Regan believes there are some animals that deserve to have more value than others. Hence, the obligations we have to animals are based on a value scale so they are different, not the same across the board (Garner, 2004).

In the seventeenth-century animals were considered thoughtless brutes, automata or machines according to philosopher Rene' Descartes (Garner, 2004). Descartes believed there was no moral obligation towards animals and so they can be treated as mere objects (Garner, 2004). During this time there were no anesthetics to administer, and live experiments were not recognized as cruel or inhumane. Animals were not viewed as sentient beings with any moral

worthiness. Although now it is known how animals can and do experience pain while recognizing how the physiological reactions are very much the same as humans.

Garner (2004) said despite acknowledging animals do feel pain some philosophers still believe animals do not have a moral worth. Jeremy Bentham, an English moral philosopher, argued it did not matter if animals could reason or talk, but what did matter was that they could suffer. Immanuel Kant, one of the most influential philosophers believed those who are cruel to animals are likely to engage cruelty towards humans. Peter Singer, an Australian philosopher and author of *Animal Liberators*, along with Tom Regan, an American philosopher who has specialized in animal rights theories have a tremendous amount of consideration for animal with equal human interest. Garner (2004) said he does not agree with equal treatment and rights but what he does believe is not to do to animals what we would not do to humans. When society reacts to animals as sentient, then it is in their best interest to provide them with the least amount of pain along with a happy life while helping them override any harm inflicted upon them.

Animals are obviously not all alike in terms of their capabilities and intelligence. For instance, a domesticated dog and a chicken would have a vast amount of differences (Garner 2004). When applying welfare to any animal regardless of capabilities or intelligence a benefit of the doubt should be applied—thus, a duty to the human population to provide the necessities since the animals are not autonomous. Human life is known to some to have categories of values. Therefore, there is a hierarchy of value for humans and animals as well.

One approach to animal welfare has to do with their rights and how they should not be killed for food nor be used for experimentation. According to Garner (2004) Regan believes some animals are worthy enough to be entitled to rights. By granting rights and laws to animals then there is a duty towards them to enforce them. The argument for animals being granted rights is how rights should only be given to those who can claim them. If that is to be a valid

argument, then rights of children should be taken away since they do not have the intellect to claim their rights. The animal right movement claims there are moral agents who can assure the rights of animals are imposed just like there are adults, parents, guardians, or the State to ensure children's rights are not violated.

Garner (2004) compared animal welfare perspectives and said Regan's view would include no flexibility to the rights of animals even to the degree if the sacrifice included a cure for cancer. Another approach to animal welfare is utilitarianism. Singer, co-author of *Animal Liberation*, agrees that killing animals for food and inflicting suffering should not be imposed but disagrees with granting them rights, per se. Utilitarianism uses equality of consideration; thus, no animal is valued more than another. According to the utilitarian's beliefs, experiments on animals are justified if they provide human and animal benefits.

Garner (2004) mentions another approach called a contractarian approach to animal ethics used by John Rawls, an American moral and political philosopher. According to Rawls the contract approach adopts a social contract theory (individuals who are not predisposed in an animal position meet in order to designate the application of principles of justices to animals). A "veil of ignorance" is used for the individuals who meet and designate the animal's principles. John Rawls put it this way: "Certainly it is wrong to be cruel to animals..." (Sunstein and Nussbaum, 2004, p.299). Rawls believes since animals have a capacity to feel pleasure and pain, they are worthy of compassion and humanity.

Garner (2004) also believes animal welfare is placing the animal in a section according to law that is a little above an inanimate object. There are arguments for and against placing the animal in a property status category. One argument against the property status is how the rights of the animal are constrained and how there is no guarantee by removing the property status the animal will have a better life. As society became conscious to animal needs there were organizations developed to secure and protect animal's welfare issues.

The first organization recognized for animal protection was the Society for the Prevention of Cruelty to Animals (SPCA), founded in 1824 in London and originated by Henry Berg in 1866 in the United States known as the American Society for the Prevention of Cruelty to Animals (ASPCA). By 1890, other animal welfare organizations were created and then united federally by the American Humane Association. There were links between animal protection and other social reforms, i.e., slavery and prevention of cruelty to children. The idea that society needed to protect its children originated from Berg who was a prosecutor in a child cruelty case that used statutes that were designed for animals. Sadly, for the animals the protection movement did not prosper back then, but there has been a marked radicalism and move forward in the past few decades.

According to Garner (2004), as the animal rights movements started to grow there were other animal organizations developing, such as People for the Ethical Treatment of Animals (PETA). PETA was holding conferences in the 1970's on behalf of animal rights. In 1951, the Animal Welfare Institution was founded in Washington, D.C., and their agenda is to reduce the sum total of pain, regulate humane treatment for laboratory animals, and reform the cruelty to farming animals. The animal movements have changed over the years and many groups were created for certain causes, whether it was for anti-blood sports, anti-fur, anti-hunting, or anti vivisection (which no longer exist). Depending on the agenda of the various animal rights movements and organizations, society has been creating and changing laws in an effort to protect animals over time.

Garner (2004) provides examples to changes with animal concerns over different periods of time. Laws have existed concerning animals since before the nineteenth-century, but those laws were protecting people from animal damage and the animals were considered property. In the middle ages, animals did not have moral standing and Christians believed they did not have a soul. Animal suffering during this time was mainly administered at the hands of

the owner and for the self interest of entertainment. Over a long period of time, people have acknowledged the need to protect animals; however, still to this day many of them need protection from their very owner.

In the eighteenth century concerns and reform for animal welfare took place and in Britain the Martin Bill was passed in 1822, which banned bull baiting and made it illegal to beat, abuse or ill-treat cruelly a domesticated animal. Later, the bill was replaced with an extension in 1835 to ban cock fighting and baiting any animal, and prohibited dog-drawn carts. At a later time the Cruelty to Animals Act was passed which dealt with vivisection was created.

In 1911, the first Animal Protection Act from Britain brought protection to animals from cruelty issues, fighting, baiting, transporting them to a place where unnecessary suffering would take place, poisoning them without reason, or operating on them without due care and humanity. The Animal Protection Act gave power to impose fines and up to six months in prison, including the ability to take the animal away from the offender. The problem with the legislation is the concept of unnecessary suffering and the subjective court opinion—in reality, little protection is animal based since human interest trumps those of animals.

Regardless of the lack of tangible protection from the 1911 Animal Protection Act, Britain was continuing to pass other Acts, such as the Cinematographic Films (animals) Act which banned films that involved live animal suffering. The Animal Legal and Historical Center (2009) references the Pet Animals Act passed in 1951, created in the effort to regulate the sale of pets, and in 1966 the United States passed the Animal Welfare Act in order to regulate experiments, abuses and cruelty towards animals.

According to Garner (2004), with the various Acts in place protecting animals society has a moral obligation and a legal duty to animal welfare; therefore, concerns are validated with the high numbers of cruelty issues that take place. There are thousands of animal cruelty prosecutions per year, with less than two percent of offenders actually sentenced to

imprisonment. Another animal cruelty concerned is the number of offenses that are not reported known as the dark figures. It is well known how offenders are usually cautioned versus prosecution taking place and suffering in all too many cases happens because of ignorance of the basic pet needs such as food and watering. Animal cruelty is not a high priority in the courts, and the light penalties imposed reflect the court's philosophy.

In the United States, animals in farming environments became a concern since the meat industry is second to the car industry in terms of productivity, although this was not always the case because little meat was consumed in human's diet but this was changing in 1945 as incomes were rising so did the preference for food. Factory farming (small amount of space housing large numbers of livestock and where animals are treated like machines) was taking place to keep up with the meat demands. Farm animals were not known for being treated well, on the contrary, they endured lifelong immense suffering (Garner, 2004).

Poultry were the first animals to be exposed to factory farming, and that practice continues to date. Problems begin with housing since there are 10,000-20,000 birds in a windowless shed. There are bound to be negative consequences besides cruelty taking place, and locating the disease spreading birds is one of the major disadvantages. In the 1940's a practice known as debeaking (using heated blades to cut a portion of the chickens beaks) was commonly used so the crowded chickens would not peck each other and cause injury. Another cruel practice that was used on chickens is "force molting" where they were placed in the dark without food and water for several days to shock them back into egg producing. According to Garner (2004), approximately 160 million chicks die annually in the United States because they are males who do not reproduce and they have little weight on them.

In the United States dairy cows are known to be confined to an indoor stall and are pregnant eight months out of the year and usually artificially inseminated to be pregnant back to back so there is a constant supply of the milk. Due to the on-going process and confined

space, cows are productive fifty percent less than were in the past. The veal cows endure cruel conditions by being placed in a veal crate, which prohibits them from turning around and keeps them isolated from any physical stimuli not to mention, they are withheld from their nutrients and iron. Otherwise, veal meat would not be in demand because it would not be as tender with developed muscles. Pigs were not treated any different by having to endure the practice with the “rape rack.” It was not uncommon that the mother pig would end up killing their young because of the confined areas tightness; she could not help but lie on them which would smother them. Also, a practice known as docking pig’s tails was performed in the effort to keep them from biting tails (Garner, 2004).

Garner tells his readers slaughtering at one time did not have moral concerns since the animals were banged over the head with a sledge hammer. Today, legislation governs the slaughter houses, and in 1933 the Slaughterhouse Act required animals to be stunned into an unconscious state prior to them reaching a stage of shedding any blood. Sadly, for the animal who is the victim in a Jewish or Muslim ritual, they are not required to be stunned. In these cases, an animal is put to death by a sharp knife to their throat, where they stay conscious for up to three minutes in pain and distress.

Transportation is not a high priority for regulation; the animal has typically suffered all its life and their bodies are already in an unhealthy state from the abuse. According to Garner (2004), as they make their departure to the slaughterhouses with brittle bones and bruises many of them do not arrive at the destination alive; and if they do arrive alive, then the abuse continues. When the animal arrives at the slaughterhouse there are constant problems with employee turnover since the pay is low. Employees at the slaughterhouse are not skilled and attitudes reflect a lack of concern about humane animal welfare. Often employees are working with malfunctioning equipment, and other times employees make careless equipment errors causing the animal additional suffering.

The practice of factory and intense farming reveals the need for reform concerning animals' welfare. Garner (2004) states some members of society feel not only should factory farming cease due to the cruel conditions these animals are sustaining but he explains how substituting cropping for meat could be more environmentally and energy efficient friendly by producing far less waste. Another dramatic increase in animal abuse involves animal experimentations.

Animals moved into the medical science area for experiments, and vivisection purposes. Experiments with animals have existed since ancient Greece and Rome, but there was a dramatic increase with the onset of petrochemical and pharmaceutical industries. The Home Office in Britain states there were 311 known experiments in 1880, but in the twentieth century they have over a million recorded. However, the world wide figure is unknown since few countries offer precise data (Garner, 2004).

Since 1980, experiments with animals have been declining, not because of legislation, but due to cut-backs in public spending and research funds. Britain also only uses animals that are bred for experiments, unlike other countries who may even use unwanted companion animals. Scientists use animals in experiments for a method called genetic modification (GM) in order to learn more about the human genes, mainly for cancer research. Garner (2004) informs the reader the 1966 Animal Welfare Act only applies to federally-funded institutions. The United States Department of Agriculture does not have the time or resources to effectively enforce the Act.

The 1966 Act expanded to the Animal Welfare Act by broadening the animals covered, regulating not only pain but distress and long lasting effects, along with regulating the methods used to kill the experimental animals. Even with the expansion to protect animals used in experiments, there is not enough resources to police and enforce the Act. Violations in the past have been exposed by whistleblowers rather than regulators, in order to bring justice to these

animals. The Huntington Life Science Laboratory was caught and revealed for vivisecting live rabbits and xenotransplantation (transplantation of cells, tissues and organs) experiments on animals resulting in two prosecutions (Garner, 2004).

It appears the Acts are regulated by the research community, using exposure as a deterrent. Garner (2004) writes about one of the most infamous cases is from Imutran, "*Diaries of Despair*" was published despite the company's efforts to withhold to the public the taped episodes of suffering these animals went through while being used for experimentation. Some will say the research benefits outweigh the animal's pain, while those who believe the animal has rights not to be at human disposal would strongly disagree.

Garner (2004) writes about animal research cruelty and the offenders who have been exposed and prosecuted. Edward Taub, from Maryland was not prosecuted because he crippled monkeys since his research included to see if they could teach themselves to reuse their impaired limbs because he was testing them to see if a human stroke victim could benefit from the experiment—he was prosecuted because he failed to clean their cages, did not feed them for days and withheld their veterinary needs. Again, even with a cost-benefit analysis used there should not be neglect or abuse inflicted to the animal. Garner (2004) discusses how wildlife can be inflicted to harm by humans as well.

Wildlife animal activist have concerns about cruelty as well; for example, the small minx animal provides a fur coat, it is not a necessity—it is a fashion. When the animal is caught by a steel jawed trap, it leaves their victims in agony for days at time. Garner (2004) states it is not just small animal wildlife with concerns. A whale can live 70 years and hunting for them goes back to AD 800. Although whales can provide a variety of uses, the Japanese consider their meat a delicacy. The blue whale is the largest creature on earth, and their size is approximately the same as twenty-five full grown elephants. Due to whaling and the development of the explosive harpoon, the blue whales have decreased from 250,000 in 1900 to 200-2,000 today.

Animal protection groups have their agenda to educate the public while changing their attitudes which eventually will influence how the government reacts. These groups feel if society wants to protest cruel conditions, then stop purchasing furs and the trappers will move on to another way to earn a living. The animal protection groups are not quiet or slow to get their interest exposed; for example, one of their posters shows a female wearing a fur coat stating: "It takes up to 40 dumb animals to make a fur coat but only one to wear it." While Garner (2004) states that most people who see or hear the information regarding the animal's welfare will not all interpret the same concerns; however, having their exposure can eventually lead to a change--just like how having exposure to saving lives by wearing seat belts was revealed and then eventually led to change by making it law.

Animal groups also use the courts for prosecution of animal offenders to get their interest exposed. Garner (2004) tells the reader the courts are willing to convict on a clear cut case, but they are less likely to on controversial cases. Here in the United States, some states have given humane societies and SPCA's the power to remove an animal from the owner and make arrests. According to Garner, until the economics of animal welfare is no longer an issue then it is unlikely to have immediate, drastic changes.

In chapter two, the literature review will provide the elements for animal abuse to be considered a crime. Furthermore, the next chapter will discuss motivations for someone to commit animal abuse, theories to explain animal crimes, and prior research regarding animal crimes. All of these dynamics are important, and the prior research provides a valid reason why society needs humane laws enforced. In addition, chapter two will provide specific information on particular animal offenses and a synopsis of various animal crime cases.

CHAPTER 2

LITERATURE REVIEW

“George T. Angell, the founder of Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA), was asked why he spent so much time and money in the defense of animals when there is so much cruelty in the world; his response was simple, yet profound: ‘I’m working at the roots’ (Pet-Abuse.Com. Retrieved 11/06/09).

As the chapter progresses, the reader will learn society’s direction towards animals and their values which has been changing for centuries. Unfortunately, this process has been anything but swift; but after years of research, along with the actions of animal rights movements, humane animal societies, legislative actions, and, lastly, an informed and educated public, society is recognizing how important it is to protect animals by continuing to emphasize their value to the public. The chapter then moves into disorder symptoms and legal definitions of crimes against animals, which is very important information since there was a time in history when these offenses simply did not exist. Once some of the concepts of animal abuse are explained, then statistical information regarding reported animal cruelty offenses is provided. This chapter will also provide information from several different types of individual offenses.

There are many documented motivations for animal cruelty, and many different theories on the reasons offenders become motivated to commit these types of offenses. In an attempt to provide explanations to animal crimes, Merz-Perez and Heide (2004) disclose to their readers some of the reasons and motivations that would cause someone to abuse animals. Some of the motivations include: animal control, animal retaliation, prejudice against a specific breed, animal aggression, enhancing aggression, amusement, shock, retaliation against another

person, hostility displacement, and sadism. The individuals who have the motivations to commit these heinous acts of cruelty have tendencies to expand, venturing out to human victims. To that end, there are many different theories that can help explain abuse of animals.

Bold, Bernard, and Snipes (2002) disclose several theories to crime and states that Travis Hirschi, a criminologist explains when crime is committed it is not unique since it does not requires individuals to have specialized training. Hirschi argues that crime is not hidden, can be found within reach, and can be created to satisfy a need or desire. Theories help researchers and criminologists to discover the causes and help prevent animal crimes.

The control theory believes an individual takes into consideration their contemplated actions, then weighs the rewards and punishments of crime; therefore, if one has something to benefit from harming animals, i.e., releasing emotions, seeking a thrill, acceptance of negative peer associations and less ties to family, church, peers, or society then one is likely to commit criminal offenses. Hirschi stated motivation was not a requirement because “we are all animals and thus all naturally capable of committing criminal acts” (Vold, Bernard and Snipes, 2002, p. 183).

Environmental factors are discussed by Vold, Bernard and Snipes (2002), such as alcohol and drug abuse can be a trigger to the onset of criminal behavior against animals—specifically, alcohol mixed with increased testosterone levels significantly increases the probability of violence and/or cruel tendencies in males. However, alcohol is not the only drug that increases the risk of criminal behavior; there are other illegal substances such as cocaine, amphetamines, steroids, and hallucinogens that also lead to increased risk of aberrant behavior and criminal conduct. Other environmental factors that may trigger animal and other crime include dieting, toxin intake, head trauma, and complications during child birth.

The biological theory of criminology posits that there are biological characteristics that increase the odds that one will commit crime. Vold, Bernard and Snipes (2002) believe your

genes and environment define what you are and only predisposed conditions define who you are. In other words genes and environment play an important role in animal crimes.

Biosocial theory, according to Vold, Bernard and Snipes (2002), holds that genes alone do not explain criminal behavior. Furthermore, according to the biological theory there are three different gene and environment correlations that can explain behavior. First, one should consider the passive correlation. The passive correlation takes place when a person is from a gifted family with favorable environmental conditions; as well, they have positive, supportive parents who foster and reinforce behavior that allows and encourages the tradition to continue. Second, reactive is defined as how the children react to their situations. If the child's reaction is difficult, and others are having a hard time with it, then this may cause the child to locate others who will accept them: "Birds of a feather flock together" (Walsh & Hemmens, 2008, p. 279). The last gene and environment correlation is active; this is when they are an adult and make choices in their lives that ultimately determine the behavior.

Adler and Adler (2009) point out that gender theory is one of the most consistent theories applied to crime, including crimes against animals. Without question, men are more likely than women to commit crime. Moreover, men appear to be the dominant gender to have the power defining deviancy and crime. For various reasons, men have the dominating control over defining and committing crime. Some of the reasons for men having the tendencies to commit more crime include testosterone levels, biological and environmental factors, to name a few.

When explaining why men are more likely to be the ones who define crime, Alder and Alder (2009) argue that men have the upper hand politically, economically, historically, religiously, occupationally, culturally and interpersonally. Ascione (2008) agrees with the Adlers that men are the dominate gender for general offenses and animal abuse offenses. Ascione

provides charts showing different age groups for the sexes; but regardless of age, men surpass the female offender population.

The Adlers (2009) believe socialization is a major contributor to behavior with regards to gender. For instance, it is no secret that boys are encouraged to not show emotions, play tough, and literally fight for their beliefs. On the other hand, women are socialized to look pretty and transform into a social butterfly. As a result of these two different socializations, men have a tendency to exhibit external behavior, such as aggression, to others and to animals.

Since men have been conditioned to live life rough, and they are presented with more criminal and nonconforming opportunities, then it would not be surprising to learn that they are responsible for the majority of criminal activity and, furthermore, that they have more opportunity to define crime. Tradition has laid the foundation for men to have the ability to have the power, status and money. "Crime theories can explain the gender nature of crime—the tendency for crime to be largely a male phenomenon" (Vold, Bernard and Snipes 2002, p. 267).

The integration of theories does not enjoy widespread acceptance; for example, Hirschi disagrees with integrating theories entirely. According to Hirschi, when separating and mixing parts of the theories takes place, then a loss of the key parts tends to occur. Furthermore, opponents call integrated theory a "theoretical mush" that is responsible for diluting the original theories (Anderson and Dyson, 2009, p. 248). On the other hand, proponents of integration of theories will maintain integration not only provides a more accurate explanation but a theoretical growth takes place. Helfgott (2008) found the following:

Crime is known for ongoing changing and the reasons for committing crime changes, simply put crime is a complex phenomenon and it would be unrealistic to rely on any one or two theories to provide an explanation. Like any human behavior, crime is the end-product of a complex interplay between individual and environmental forces" (p. 50).

Intergraded theories of crime offer the most precise and powerful explanations, covering more of the different areas of crime including crimes against animals. In addition to motivators and theories there are also disorders that contribute to animal crimes.

Psychiatrists recognize particular behaviors and attitudes which produce criminal behavior towards animals. In 1987, the Diagnostic and Statistical Manual (DSM) included cruelty to animals for assessments and diagnosis. The DSM is used by psychiatrists to provide an outline for a diagnosis of a person with conduct disorder. The criteria for an official conduct disorder diagnosis in the DSM-IV-TR would be as follows:

A repetitive and persistent pattern of behavior in which the basic rights of others or major age-appropriate societal norms or rules are violated, as manifested by presence of three (or more) of the following criteria in the past 12 months with at least one criteria present in the past 6 months: Aggression to people and animals:

- 1) Often bullies, threatens, or intimidate others
- 2) Often initiates physical fights
- 3) Has used a weapon that can cause serious physical harm to others (e.g., a bat, brick, broken, bottle, knife, gun)
- 4) Has been physical cruel to people
- 5) Has been physical cruel to animals
- 6) Has stolen while confronting a victim (e.g., mugging, purse snatching, extortion, armed robbery)
- 7) Has forced someone into sexual activity. (p. 99)

The DSM uses other criteria besides aggression to people and animals, such as destruction of property, deceitfulness or theft and serious violations. The code base used in the DSM for conduct disorders will depend on the age of the onset and severities diagnoses can be mild, moderate or severe.

In order to help the reader recognize and understand when a law has been violated, there needs to be an understanding of the law. The Council for Law Education and Research (CLEAR 2004-05) is used by instructors at police academies to provide cadets and other peace officers of Texas a quick exposure to the elements of crime. Animal crimes in CLEAR are coded and defined with their punishment range:

42.09 Cruelty to Animals, Class A Misdemeanor, acts committed knowingly and intentionally, recklessly, or with criminal negligence

42.091 Attack on Assistance Animal, Attack-Class A Misdemeanor, Injure, State Jail Felony, and Kill- 3rd Degree Felony

42.10 Dog Fighting, State Jail Felony, A Misdemeanor, and C Misdemeanor (p.73 & 74).

Now that there is a legal foundation with some of the elements the law requires in order for animal abuse to be criminal, along with the motivations that have been provided with crime theories, another step needs to be taken—that is, enforcement of the laws. The enforcement of laws against animal abuse varies depending on the jurisdiction. This author realizes how resources for enforcing these types of crimes often become problematic because of the lack of funding, since these organizations are non-profit and dependent on contributions.

According to a national protection agency that works with animal advocates, animal criminal law enforcers (i.e., SPCA), researchers and prosecutors Pet-Abuse.Com provides the only online database for searching for animal cruelty cases in the United States. The database allows individuals to search for convicted animal abusers, or search animal abuse cases by state, city, or zip code. The organization also provides information on the particular abused animal in order to encourage special adoptions. The database in Pet-Abuse.Com (2009), as of September 13, 2009, states there have been 558 recorded animal abuse cases in the United States. When comparing statistics, it appears in the last few years the number of animal abuse

cases has decreased each year by several hundred; unfortunately, this only takes into account recorded cases, and not all animal offenses get reported.

Pet-Abuse.Com's (2009) database will store offense/case information only if it meets their guideline. Some of the organization's requirement is to provide the abuser's name, court docket #'s, current case status, reporting party's information and sentencing information. The information provided below is the major animal cruelty categories for the year 2008. The first column lists the offense; the second column discloses the number of offenses (#'s); the third column provides the state which has the highest percentage of a particular recorded offense; and the last column has the actual recorded percentages of that state (%'s).

Table 2.1 ANIMAL ABUSE CATERGORIES 2008

OFFENSE	#'s	STATE	%'s
Neglect/Abandonment	739	Florida	10.28
Shooting	228	Florida and California	8.77
Fighting	206	Florida	11.65
Beating	134	Florida	13.43
Hoarding	159	New York	9.43
Mutilation/Torture	89	Pennsylvania	14.61
Throwing	62	Florida	12.09
Stabbing	42	California	14.29
Burning	40	Texas and Pennsylvania	10.00
Kicking/Stomping	41	New York and California	12.02
Choking/Strangulation/Suffocation	27	Florida	22.22

The State of Florida has the highest recorded animal offense categories, and the most reported cases in the categories of beating and neglect/abandonment. Unlike the case study provided in chapter four and the appendix, there will only be a limited amount of information provided, and in some instances the cases are still pending in court. What the synopsis of the

case will provide is a sampling of animal abuse incidents, and possibly a clearer understanding of the categories that are mentioned above.

The idea that one would be able to understand the dynamics of animal abuse from one incident or just one case is not a realistic expectation. Therefore, by providing a variety of different animal abuse cases and prior research in the literature review, the reader will begin to conceptualize the importance of animal welfare and how the abuse to animals also involves society. With the variety of cases and research the reader should be able to recognize the connection of animal abuse and crimes against persons as a dual relationship.

According to Pet-Abuse.Com (2009) on September 14, 2009, Kevin J. Bermes, age 23, in Anderson, Indiana was charged with neglect of a dependent and animal cruelty. Bermes is believed to have left the infant and animal unattended in a car while he was inside playing the slots at a casino. When police arrived on the scene, the full grown boxer was in distress and the 10-month old was sweating with red cheeks when discovered in the car underneath a coat and sweatshirt. A wrecker was called to gain entry and then Bermes appeared from the casino. The temperature outside during this time was 78 degrees, and the degree of temperature inside the vehicle was 100. Bermes said at one point he went inside to meet his girlfriend, and then he admitted that he lost track of time. In the mean time, the child was released to the mother while the dog was taken to Anderson Animal Shelter.

According to Pet-Abuse.Com (2009) in Johnson County Kansas, Christopher W. Tann committed felony animal cruelty under Scruffy's law when he decided to take his anger from his girlfriend out on a defenseless Lhasa Apso dog named Blitz. In November 2008, Tann kicked his girlfriend's dog so hard he broke 13 of its ribs. In December 2008, he broke the same dog's tail with his hands. Tann thought bragging to a female he was seeing behind his girlfriend's back would impress her—on the contrary, she contacted the dog's owner and revealed what he told her. Tann was charged with felony animal cruelty; but the law, was on his side when he

went to court. The judge ruled the felony offense (Scruffy's Law) was too similar to the misdemeanor law and, as a result, Tann was charged under a misdemeanor law. Tann took the plea of guilty on two misdemeanor counts of injury to a domestic animal. Tann was sentenced to 60 days in jail, two years probation, completion of an anger management program, a psychological evaluation, and 200 hours of community service.

On August 10, 2009, in Brooklyn, New York, Fabian Henderson was arrested for aggravated cruelty to animals. On June 18, 2009, the ASPCA (2009) said they received a complaint that an animal was being beaten on the third floor; and a few minutes later, two calls were received saying a dog was thrown from the roof. When ASPCA Special Agents arrived, they were amazed the pit bull mix, named Oreo, had survived the six story fall from where Henderson lived. Oreo suffered from a bruised lung, internal bleeding and shattered legs. Oreo is still under medical care, but her legs have been reconstructed with plates and screws. Henderson's mother said she does not believe her son is guilty even though several eye witnesses observed Henderson committing this outrageous crime. After Henderson was arrested, he admitted his guilt with no explanation; if convicted, he could be sentenced to more than two years in jail.

In Beaumont, Texas on August 30, 2009, Juston Lee Bruno took the neighbor's toy poodle and gave it to his two pit bulls for sport according to Per-Abuse.Com (2009). As a result, the poodle was attacked and killed. The witness said they saw Bruno remove the poodle from a box before tossing it to the pit bulls as he watched them maul the poodle. When the police arrived on the scene, one of the pit bulls was chewing on parts of the poodle. The 74-year-old owner of the poodle, Ida Scott, said she loved her 8 pound poodle named Bullett who was given to her six years prior by a daughter-in-law. Bruno was indicted on September 17, 2009.

On July 16, 2009, Cheyenne Cherry pleaded guilty to charges of animal cruelty and burglary. Cherry, along with a juvenile accomplice, took her ex-roommate's kitten and put it in

the oven at 500 degrees where it burned to death. Cherry was on probation when she committed this crime, and her past reveals crimes against people and animals, including armed theft of a Yorkshire Terrier. Cherry showed no remorse as she was sentenced to one year in prison and restricted from owning a pet for three years. The ASPCA's (2009) main concern with Cherry's case is that she did not show any remorse for her crime, which included using a juvenile accomplice.

On October 31, 2003, in Dallas, Texas, Ryan Coleman shot an orange-striped cat, named Tiger according to Pet-Abuse.Com (2009). According to Coleman, he subsequently tied the animal's legs together and proceeded to stomp on it, throw it, cut its tail and ears off with a kitchen knife, and while the cat was still alive, he set it on fire. These acts were videotaped by two juveniles who were hanging out with Coleman; the tape was later destroyed.

Two years later, authorities received a tip in the case and were able to implicate Coleman, who subsequently pleaded guilty, and claimed he deserved whatever punishment they gave him. Coleman's father claimed his son was a sociopath and incapable of remorse. Prosecutor Jennifer Bennet argued that Coleman never apologized to the owners of Tiger and explained how the animal did not die from the injuries until the next day. Bennet requested the maximum 10-year prison sentence, and described Coleman as a premeditated, sick individual who by his own admission did this evil act for "a big laugh." Coleman was sentenced to eight years in prison for his crimes.

Humane Society of the United States, (HSUS, 2009) described cockfighting as a centuries-old practiced animal crime, where two roosters fight until one or both birds are dead. Cockfighting is a felony crime in 39 states. These birds, known as gamecocks, are often administered steroids and are equipped with razor-sharp blades, or gaffs, used to mutilate each other. Unlike dog fighting, gamecock's fight usually lasts anywhere from several minutes to half an hour. On September 18, 2009, in Graham, Washington, a joint investigation with Seattle

Police and the Pierce County Sherriff's Office was conducted, leading to the arrest of one person for his criminal gamecock fighting enterprise. The authorities were able to dismantle a cockfighting operation, illegal gambling operation, a marijuana operation, and a methamphetamine lab. The environment in which the birds were found included overcrowding, pecking for food in the dirt, and scummy water conditions. At this time, the authorities are pursuing additional arrests in connection with this operation.

The owner of a bird who wins a cockfight can earn tens of thousands of dollars; and with this much at stake over which birds wins the fight, inevitably will bring other criminal involvement. Despite their natural instincts, it is rare that these bids would cause any serious injury to one another without being trained to do so. Since all states currently recognize cockfighting as a crime, the trend now is moving it to a more serious crime at a felony level. The HSUS (2009) acknowledges that cockfighting is a part of our heritage; but, then again, so was slavery and the denial of voting rights for women. Heritage does not, and should not, trump decency and humane treatment of animals.

The HSUS (2009) calls dog fighting a sadistic "contest" where the owner prepares their victim by intense conditioning and cruel training. Dog fighting, first introduced in the 1800s, is not new to our culture; but it now takes place underground, since our civilized society has made this so-called "entertainment" a serious crime. Dog fighting takes place in all places, from inner city alleys to your neighbor's suburban backyard. These animals are subjected to gruesome conditions, in a small confined area, which is called a pit. Dog fights in a pit can last approximately one to two hours. The fight ends when one dog is no longer willing to continue due to its injuries. It is not uncommon for the owners of the fighting dogs and spectators alike to be involved in other felony crimes, as the dog fighting environment is a breeding ground for other illegal behavior.

In preparation and during the fight, the dog's owner is constantly taking advantage of the dog's loyalty by training them to win a fight. The fighting dog's life is inhumane and includes constant cruel treatment, isolation, and living on a short chain at all times when they are not training or fighting. Unfortunately, the fighters are not always provided with basic needs such as food, water, and shelter. As well, individuals who are involved in dog fighting are desensitized to other types of crime and violence. Furthermore, the individuals who are involved in dog fighting are more likely to harm other animals and humans alike according to HSUS (2009).

Many times animals advertised in the "free to good home" classifieds or stolen animals are used as "bait" for fighting. HSUS points out that innocent owners of these other animals are dragged into the victimization of dog fighting, and even though the trained fight dog has the overwhelming advantage over the "bait" animal, the fight dog will still suffer from a variety of medical issues, i.e., severe blood loss, shock, dehydration, exhaustion, or infection for days before they die.

According to the HSUS (2009) it is the American Pit Bull Terrier that is the most often used dog for fighting. The pit bull is used for this type of crime because of the level of violence this particular breed is known to inflict. The average weight for this breed is 40-50 pounds; but it is their jaws, with their extraordinarily muscular capacity, that can produce more damage than other dog breeds, especially if coupled with selected aggressive breeding. These fighters do not stand a chance with the inhumane cruel training rituals, which often include drugs and steroids. Both dogs will inevitably suffer from this process, and sometimes, to save face for the owner of the losing dog, owners will slash the throat of their dog, so a poor quality fighting reputation is not started.

HSUS (2009) explains that dog fighting is not the only crime taking place in this aggressive environment. Communities infected with dog fighting suffer the consequences from these offenders bringing a host of other unwanted crimes such as gambling, drug possession,

drug deliveries, gangs, prostitution, weapons and other violent crimes. While some animal crimes have actually decreased, dog fighting has not. The individuals who are involved with dog fighting consider it entertainment to watch animals attack each other with an end result that includes an enormous amount of suffering and pain. The HSUS (2009) is trying to pass stronger laws that protect these animals, while educating law enforcement about investigative techniques that will lead to the apprehension of these offenders.

Dog fighting according to HSUS (2009) is not considered an opportunity crime or an impulse crime because it is premeditated with malice. Investigation of dog fighting presents a risk of danger to the officers, in addition to being complicated and expensive. And the attention given to investigating a misdemeanor level animal offense is much less than a felony level offense. The spectators of this crime are what keep the cycle going, and these individuals are willing participants simply by their paid admission and attendance of a dog fight.

The HSUS (2009) states all 50 states mandate dog fighting as a felony but only apply a misdemeanor penalty for being a spectator. This practice encourages the dog owner/breeder while discouraging law enforcement and other animal advocates. On May 3, 2007, President Bush signed a bill that makes taking an animal across state lines for the purpose of animal fighting a felony. The HSUS's goal is to get the public educated, have dedicated law enforcement, dedicated prosecutors, implement tougher penalties, and give these dogs a real fighting chance by relegating inhumane treatment of animal to the history books.

The Federal Bureau of Investigation (2009) was involved in a recent sting operation of a dog fighting ring which led to the confiscation of 350 rescue dogs. This particular raid was just one more step to crack down on the cruel and inhumane offense of dog fighting. On July 8, 2009, the ASPCA, together with federal and state agencies, was able to execute the largest dog fighting raid in American history. The raid covered five states: Illinois, Iowa, Missouri, Oklahoma and Texas, resulting in 30 arrests. If convicted, each person arrested could be sentenced up to

five years in prison. Not surprisingly, Most of the dogs in this raid were pit bulls. According to the ASPCA, not all of the confiscated dogs were fighters—some were breeders that produced fighting dogs and some were used as bait dogs.

The Humane Society of Missouri, 2009 (HSMO) is now housing these dogs under the direction of the Animal Cruelty Task Force. Due to enormous amount of seized dogs, the HSMO is working together with several local and federal agencies and animal organization. Some of the agencies and organizations involved with this dog rescue ring are as follows: Federal Bureau of Investigations, Department of Agriculture of the Inspector General, Missouri State Patrol, US Marshalls Service, United States Attorney, Missouri Humane Society Cruelty Task Force, ASPCA, HSUS, PetSmart Charities, and the United Animal Nations. All of these groups are working as one team in the relocation of the dogs, collecting the evidence for prosecution and conducting behavior evaluations with addressing all medical needs including microchipping each dog. The HSMO (2009) stated each dog has their own individual medical and recovery plan, which includes nutrition, food, water, shelter and a safe environment.

Dog fighting does not have to include 350 dogs or cross several states. Tarrant County Assistant Criminal District Attorney Tameika Badger said she had not thought about dog fighting since Michael Vick was convicted until she received an animal cruelty case on her desk (Badger 2009). According to police reports, a witness named Manuel Cortez was awakened about 12:30 a.m. to the sound of dogs growling, fighting and yelping with spectators that were chanting “get him” and “kill him.” Cortez said he had heard these sounds before and they were coming from a home across the alley. However, on this night, he told his wife to call 911. Cortez said he was watching the area from his backyard and saw two pit bulls on chains and then he heard a financial bet placed on the impending dog fight.

Badger (2009) stated the police arrived without any lights and sirens, and once they witnessed the dog fighting they made their presence known and ordered the men to separate

the dogs. Berry Alexander, who was experienced with dog-fighting investigations state-wide, arrived and photographed the evidence, then took the dogs to receive medical care. Alexander was the only person who was experienced on how to respond to a dog fighting incident, and the sergeant instructed the officers to write everyone there a Class C ticket. When Badger contacted the officers to ask why none of the offenders were arrested, they said it was because the main cruelty investigator was going to review the case before any arrests were made. The investigator said he was given false information on some of the names. When it came time for a hearing to determine custody of the dogs, only one person named, Mark Mitchell wanted his dog back. Mitchell claimed the dogs did fight and he was trying to break it up. The Judge denied Mitchell's request and both dogs remained in Ft Worth's possession.

Badger (2009) said Mitchell was arrested and charged after she received his written statement. Badger offered Mitchell four years in prison and he said he would not accept it and only accept a misdemeanor. After Badger found out the dogs had old scars from previous fighting, she would not agree to misdemeanor charges so they were moving forward with a trial. One of the persons under jury selection admitted how they felt domesticated dogs should be protected over other animals. Others felt jail was too much for punishing dog fighting. Badger said the foreman said his best friend happened to be his pit bull. The defense said the dogs just started fighting and it was too difficult to break them up.

The jury took one hour and came back with a guilty verdict. During the punishment phase, Mitchell's fiancée testified how much Mitchell has changed, and he is no longer the same person with his several prior criminal offenses. Bagger (2009) was relying on enhancing the offense when it came time for punishment, since the maximum punishment is two years for the dog fighting. Badger told the jury they should add five and work their way up while the defense tells the jury Mitchell is not Michael Vick. Less than one hour later the jury returned with a seven year sentence.

Pet-Abuse.Com (2009) said on September 23, 2009, in Cook County Sheriffs' in Chicago arrested three men and seized nine emaciated, severely abused pit bulls at a home that was licensed to be a day-care for children. The police said they found a mother dog and three 4-week old puppies. The puppies appeared to be used as bait since one puppy had several lacerations and one of its eyes was completely removed from the socket. Another puppy's leg was turned completely backwards and another one could barely stand. Police said when they arrived at the day-care, there were ten children at the location that was being watched.

According to The Hoarding of Animals Research Consortium (2009) animal hoarding is an offense not just an injustice against the animals, but humans also since it includes aspects of mental health issues from the offender and safety concerns of the community. Hoarding used to be known as "collectors" before the mental health and other public health professionals became involved. Hoarding is defined when the individual has more animals than the average, not able to provide minimize standards which includes nutrition, sanitation shelter, and health care. Due to the inability to provide minimal standards of care, many times there are animals that are starving and/or have illnesses which result in death. Hoarding was first thought to be associated with obsessive-compulsive disorders, but with additional and continued studies other mental and emotional orders such as personality disorders, paranoia, delusional and depression have also been linked to this particular animal crime.

According to The Animal Legal Defense Fund (2009) some hoarders believe they are a "rescuer" and some begin after a tragic loss or trauma event occurs in their life. What separates the hoarder from an animal lover who is in over their head, is the hoarder has lost sight of the damage they are doing to the animals. The hoarder has no sense of what they are doing is wrong or acknowledges how the animals are truly in a dangerous health environment that

includes suffering conditions, described as a slow death. The hoarder offenders are both male and female, ranging from different ages and ethnic groups.

The HSUS (2009) said there is 900-2000 cases reported each year with 250,000 animal victims. The ASPCA (2009) says criminally prosecuting the offenders will not solve the problem and usually does not happen because the intent to harm the animals is a missing crime element. When prosecution is effective, it is when there are conditions that require the offender to have counseling, which includes conditions that ban them from possessing animals. Illinois is the only state that has a specific animal hoarding offense, which was created for the purpose of counseling, while all the other states consider and treat hoarding as an animal cruelty offense. The Illinois statute covers the intended harm element by saying the offenders failed to recognize or recklessly displayed a lack of understanding to the harm done. The ASPCA (2009) says often times people are not wanting to report hoarding because they do not want to get the person in trouble, but that attitude only prolongs the suffering for the animals because the problem itself only gets worse.

The ASPCA (2009) said hoarding is another animal cruelty crime and not just on a single animal, it is on multiple animals. On September 11, 2009 in Queens, NY there were 25 dogs rescued from an animal hoarder. The dogs, mostly beagles, miniature pinschers and mixes of the two were living in conditions that were prone to cause health conditions, such as parasites, mange, overgrown nails and fleas. Not surprisingly some of the dogs were pregnant. The problem had been going on for years, and finally a neighbor made called authorities about the constant barking and stench coming from the house. When the ASPCA intervened, the hoarder relinquished the dogs. The ASPCA said when dealing with hoarders, it is crucial to react because not only are the animals in need of medical attention, but so is the hoarder and this is not a problem that will fix itself in time.

Animal crimes are unlawful acts that pose a significant amount of danger for those enforcing the laws. According to ASPCA (2009) on July 23 in Brooklyn, ASPCA Special Investigator Annemarie and Special Agent Kristi Adams were responding to an anonymous tip regarding a neglected cat. When the Officers arrived at Andrea Stewart's home and found a seven-week-old kitten who was suffering from a rib fracture, broken leg, and injury to its paw and the owner was failing to obtain any kind of medical attention, the officers decided to seize the kitten. That is when the call became assaultive and Stewart choked and assaulted one officer and then assaulted the other officer. The call which started as an animal cruelty investigation turned into felony assault and one count of animal cruelty.

As history has shown regarding animal welfare, motivating factors that lead to cruelty and theories as to why the offenders chose animals as their victims, and an exposure to the variety of cruelty cases, there should be an understanding of why society needs to continue to move forward concerning animals' value.

As the chapter proceeds it will explain, people who harm animals also harm humans. And because the research makes this abundantly clear, the need for prosecution and prevention of animal cruelty, as a way to protect all of society, is needed now more than ever. The reader will be given general variables used in prior research, as well as the research limitations involved. According to Lockwood and Ascione (1998) one of the first animal abuse research studies conducted was titled *Children Who Are Cruel to Animals*. This study was conducted in 1971 by Fernando Tapia, M.D., a psychiatrist at the University Of Missouri School Of Medicine. Tapia studied eighteen male psychiatric patients (ages five to fifteen) who exhibited severe cruelty to animals. Tapia's research found that environmental factors and significant family characteristics, such as neglect, rejection, absent fathers, alcoholic fathers and parents who were physically abusive, were all variables that may contribute to animal abuse.

Tapia also discovered that biological/psychological disorders and individuals with brain damage could also be found in those who abuse animals.

Through his research, Tapia found that these animal offenders were often anti-social children who came from violent and abusive homes; it is believed when a child is from an unstable environment the abuse of an animal is a way to satisfy the child's needs. According to Tapia, the child could be releasing frustration they have with someone or a parent, they could be mimicking abuse they are experiencing, or, in boys where there is an absent father, it could be because there has not been someone responsible enough to influence them on how to handle their anger or emotional needs (Lockwood and Ascione, 1998). Tapia's research was considered the bedrock for others to initiate research on animal abuse.

The result of another research study regarding animal abuse and aggression was discussed by Lockwood and Ascione (1998). In the 1970s and 1980s, forensic psychiatrist Alan Felthous used self-reports for his animal cruelty research. However, there were significant limitations to this type of research. For instance, using self-report data provides no verification of truthfulness. In fact, the interviewer could be receiving information that is fabrication or deceitful. One of his studies included interviewing 152 men who were divided into three categories: high aggressive and violent category, moderately aggressive category, or non-aggressive category. Some of the men were in federal prison and some were from the community. Substantial cruelty was one of the measurements, and it was measured for the sake of the interview as the abuse of five or more animals. Substantial cruelty was found 25% with the incarcerated violent category, but less than 6% in both the incarcerated moderately aggressive in the nonaggressive inmates. There were no substantial cruelty offenders who were not criminals—none of the members of the community disclosed animal abuse that would be five or more times.

Felthous also conducted a women's study of 31 incarcerated women (Lockwood and Ascione, 1998). The women were divided into two categories: assaultive (defined by a conviction of an offense against another person) and non-assaultive. There were 36% of the women reporting animal abuse from the assaultive category, with no reports of animal abuse from the non-assaultive category. This particular study illustrates that animal abuse is not just a crime committed by males, and serves to reemphasize the fact that violence and aggression are associated with animal abuse.

In 1999, Frank Ascione, Ph.D (2004), author of many articles and books regarding antisocial behaviors in children, participated in locating 153 individuals who were prosecuted for animal cruelty (non passive, i.e., neglect). Animal abuse is usually only prosecuted if the animal suffered serious injury or death. For his study, Ascione used two groups: the prosecuted group, and for comparison purposes only, individuals from the same neighborhood, same age and same socioeconomic status, who did not have a history of animal cruelty.

After both groups were selected, a request was made for the state's criminal records; and these records were subsequently reviewed and analyzed. There were four main categories of offenses that were important to the study: violent offenses, property offenses, drug offenses, and public order offenses. The results of the study showed that animal abusers were more likely to have prior offenses from each of the categories. Because official reports were the only resource used in the study it presented limitations. Specifically, the prosecuted group and the comparison group could have committed offenses for which they were not formally charged. These "other crimes" would not be reflected in any official report, but may, however, have been revealed if self-reporting had been used.

Another limitation to the study is the failure to disclose when the abuser began abusing animals, and focusing exclusively upon when the offender was apprehended. Another downside to this type of study is determining which types of crimes were committed first: Was it

animal crimes and then crimes against persons or the reverse? This also raises the question of whether the abuser began all criminal activity at about the same time. Regardless of the limitations, the official records reinforce the fact that an animal abusers' criminal activity does expand to a variety of other offenses.

In 2007, Ascione studied 100 women who entered a battered woman's shelter using a comparison group of 117 women who were not battered—all of the women in this study were pet owners (Ascione 2008). What the study revealed was that 54% of the women from the shelter stated their partner abused or killed their pet, while only 5% of the comparison, non-battered group reported the same. The study provides correlations of offenders who are aggressive towards individuals are more likely to abuse animals. However, the study does have a limitation in that it is unknown if animal cruelty was present in the abusers' past or began when the domestic violence started. Regardless, there are multiple victims with these types of crimes, since there is a spouse with emotional and physical abuse, the children, and not to mention the family pet.

After learning the changes throughout history with animal welfare, an examination of theories to animal crimes, exposure to a variety of animal offenses, and knowing the results of prior research, the reader should begin to conceptualize animal abuse dynamics. This should include recognizing that society is reacting by taking action to some animal abuse cases with the seriousness it has long deserved. The summary of the animal abuse case study is located in chapter four, and the case study itself is located in the appendix. Both will provide relevant information to one animal abuse case. The case study will provide details that were not available in the other mentioned animal abuse cases. The next chapter will disclose the methodology of the case study.

CHAPTER 3

METHODOLOGY

The main focus of the thesis—chapter four—is information and a summary of an extensive case study of a single animal abuse case (see appendix). Case studies usually focus on an individuals or a particular group, but the nature of a case study may be broadened. This case study and its summary is a particular animal abuse offense. One of the main strengths with using this particular case study for research purposes is that it will provide more details to an animal offense than information listed in a chart. There are many concepts to this animal abuse case study. One concept is how the animal offender was held accountable for his actions by prosecuting and punishing him, despite the fact that many animal cruelty offenders receive probation or counseling for their crimes.

In preparation to this qualitative research of the case study, it was necessary to acquire Institutional Review Board approval and this was granted after training for research was completed. Furthermore, it was necessary to obtain a copy of the complete court transcripts. The court transcripts were ordered after a few calls to the Dallas County courthouse. After the request was made for the transcripts, the court reporter's response was direct and specific by asking which part of the transcripts would be requested. The court reporter disclosed the cost of the transcripts, \$1.00 per page and she stated there were approximately 1,000 pages with several volumes. After a few days, the court reporter was contacted again and a reduced financial arrangement was made, to include all pages of the trial transcript. Per the court reporter's request, a payment was made via Internet and approximately two weeks later all volumes of the transcripts of the animal abuse case were received in two boxes.

This case study was unique because of the amount of people (witnesses) and the many organizations who were involved in seeking justice for this crime. Another reason this case was chosen was because it involved a local victim (Mercy) and a local offender. Another reason this case was chosen for a case study was because the researcher was able to obtain the transcripts and attend two days of the trial. This case study will validate prior research regarding the fact that animal abusers also commit other crimes against persons and property.

The limitation of the case study is that although the data may be detailed, it is limited to official record only since the offender was not asked to self-report. Society has taken centuries to acknowledge and enforce this type of humane treatment of animals. And society has become educated on how individuals who harm animals also hurt others. With that said, in the next chapter a summary of the case study will be provided, and in the appendix is where the details of the case study may be found.

CHAPTER 4

CASE SUMMARY

In August 2007, DaShawn Brown was charged with animal cruelty, a third-degree felony punishable by up to ten years in the penitentiary. Brown was accused of stabbing his pit bull and then setting the dog on fire. After a thorough investigation, Brown was arrested and formally charged in Dallas County. Dallas County prosecutors offered Brown an eight year prison sentence in exchange for a guilty plea, but Brown rejected the offer and the case was set for trial.

At trial, a witness for the prosecution testified that he observed Brown take his dog (a pit bull named Mercy) behind a dumpster, knife in hand, and then heard the dog yelp before scurrying into view. The witness further testified that he then saw Brown appear from behind the dumpster with the knife still in hand. Another witness testified that he observed the dog, engulfed in flames, running down the street. Using their shirts and some beer, the witness and some of his friends were able to corner the dog and douse the flames. Police soon arrived on the scene to find Brown riding his bike and carrying a gasoline can. Police allowed Brown to keep the dog on the promise that he would seek medical attention for the animal. The next day, another witness testified that he saw the dog running around the apartment complex. After noticing the severe burns and knife wounds, the witness testified that he took the dog to Operation Kindness, a no-kill shelter in Carrollton, Texas. Ten days later, the dog died as a result of her wounds.

The prosecution argued that the defendant, DaShawn Brown, tortured his dog because he was angry that he was being evicted from his North Dallas apartment, and because the dog would not breed. To support this argument, several witnesses testified that Brown had a temper

and had made statements in the past about wanting to harm the dog. During the trial, the prosecution called dozens of witnesses to the stand—from the first eyewitnesses on the scene, to the veterinarians who treated the dog until she died. In the end, eyewitness testimony, coupled with testimony from forensic experts, linked the defendant directly to the crime.

For its part, the defense argued that the prosecution could not prove that Brown stabbed or burned the dog. In fact, the defense maintained that the eyewitness testimony was not to be believed because some of the eyewitnesses were influenced by the reward money that had been offered in the case. Furthermore, the defense argued that there had been a “rush to judgment” in the case, with the police focusing on the defendant to the exclusion of all other possible leads and suspects.

It took the jury only 45 minutes to reach a guilty verdict in the case. In the punishment phase, the prosecution introduced evidence showing that the defendant had committed several criminal offenses as a juvenile and had in fact been on probation at the time he committed the animal cruelty offense. The prosecution argued that the defendant deserved the maximum sentence of ten years in prison—one year for every day that Mercy suffered before she died.

The defense argued that Brown deserved another chance and asked that he be placed on probation. Defense counsel asked the jury for a sentence based on justice, not revenge.

After a brief deliberation, the jury returned with a \$5,000 fine and a sentence of four years in prison. Brown was immediately taken into custody to be held until his transfer to the Texas Department of Criminal Justice to serve his sentence.

In the above mentioned case there was sufficient evidence to bring the animal abuse offender accountable for his actions. This case study is important because it includes the dynamics of animal abuse. There are several motivators and theories that can apply to this animal abuse case study. The case represents elements of crime, offender’s reactions,

offender's relations to others, and the connection of prior research. Additionally, the offender's attitude towards society and the law are covered in this case study.

The case study found in the appendix will show due process of an animal abuse offense. With this offense, the maximum prison sentence that could have been imposed would have been ten years. Although the offender received a fine and four year sentence in the Texas Department of Corrections Institutional Division, this could be the stepping stone for a continued upwards trend, leading the way for future punishments to be increased.

In the next and final chapter is where the author will make policy recommendations in the effort to reduce the amount of animal abuse offenses, as well as society's practice of disregarding animals simply because of the availability to responsible pet owners. The author's recommendations are not difficult to implement, but the recommendations are not provided without acknowledging there still is a very long hurdle to get where we need to be with respect to a more consistent and rapid enforcement of animal cruelty laws.

CHAPTER 5

CONCULSION AND CRITICAL NEEDS

Animal cruelty victims many times do not always have an offender that is apprehended, and this occurs for several reasons. Perhaps the primary reason animal cruelty cases are so difficult to investigate and prosecute is that animals are unable to articulate what has happened to them. That said, many times there is just not enough evidence to indict and proceed with due process. Without Mercy's strong heart and her will to live, she may have drifted off into the woods to die and never be found. There were several true heroes in this case—from the gentlemen who put Mercy's engulfed flames out, to the neighbor who saw her the next day only to offer her food, water and a safe environment. Society needs more of these heroes that care about our animals and want to see when injustices are inflicted to see them prosecuted.

Regrettably, animals are tortured, mistreated, neglected, abused and people are negligent with their behavior towards them more times than we will not ever know. When animal crimes take place, and the culprit is discovered, we owe it to the animal kingdom and our society to go forward and bring justice to the victims. Society is no longer looking the other way with the same old "boys will be boys" attitude in our judicial system. In today's world, and with our nonprofit organizations who are there to protect the animals, our society in some cases is letting some offenders know once you are brought to justice with a conviction, as in Mercy's case, it will not matter who you are—DaShawn Brown or Michael Vick—our communities are not tolerating your cruel and inhumane acts against our most vulnerable creatures.

The humane societies and other animal organizations would like to see government and schools work together to highlight and raise awareness on the issue of animal welfare through funding, education, stricter laws for violators, and more aggressive enforcement of laws already on the books. As society began to shift away from the belief that animals were mere

property and not deserving of broader rights, the HSUS (2009) created the Humane Society University (HSU) offering educational classes. A Bachelor of Science degree may be earned through the HSU and Duquesne University; as well, individuals may earn a Masters of Arts from Webster University in Teaching in Multidisciplinary Studies, with an Emphasis in Humane Education and Character Development. The founder of the MSPCA, George Angell, is a full supporter of promoting animal education in schools and at an early age. Angell is quoted for his philosophy of teaching animal kindness to society's younger generation in Ascione and Arkow's (1999) readings:

Tell me if you can find a better way under heaven for making children merciful than by teaching them to be constantly doing kind acts and saying kind words to God's lower creatures, by whom they are surrounded, and which they are meeting on the streets and elsewhere a hundred times a day. (p. 341)

According to *Silent Victims* (2009), many individuals who assist animals are known as lone advocates; these individuals end up reaching out to gather their own circle of resources, which in many cases can turn into a large network of animal welfare advocates. However, the down side to increasing one's profile is the likelihood of a greatly increased, often unmanageable, workload. A recommendation from *Silent Victims* is to invite individuals to meet and educate them on the importance of putting an end to animal abuse and suffering. The meeting's agenda would be to build your allies, in the hope that there may be more progress made than with a traditional agency approach. Unfortunately, organizations often have problems that stem from miscommunication or lack of individual resources and personnel availability.

Additionally, training professionals is extremely important for the success of an animal welfare organization (Carlisle-Frank and Flanagan, 2006). For example, if social services are cross-trained in recognizing animal abuse, and then the animal control officers is cross-trained

in social services. With all resources cross-trained this would enable these organizations to share information in the effort to protect both human and animal victims. Many researchers are now recommending that domestic violence shelters and family services professionals incorporate questions regarding pet abuse during the intake process. It is further recommended that all law enforcement databases now contain information on suspected or confirmed animal abuse.

Silent Victims (2006) informs their readers about programs that have been successful with animal welfare programs. In 1996, the Colorado Springs police department set up a successful program known as Domesticated Violence Enhanced Response Team (DVERT). The team includes an investigator, a district attorney, victim advocates and domestic violence prevention services with the goal of assisting law enforcement and crime victims. Also, there is an additional specialized team dedicated to animal victims. The DVERT reports that 40% of its cases involve animal cruelty and 50% of its cases involve child abuse.

Another method *Silent Victims* (2006) states that is helpful in combating animal abuse would be the Link-Up Program, which is currently used in the Northeast. The Link-Up Program uses animal cruelty investigations in an effort to stay active in the investigation of crimes against persons. To that end, Animal Rescue League, Animal Control/Humane Task Force and Education Network are the components of this program, and they are used by several different agencies ranging from law enforcement, veterinarians, parents, and other unaffiliated groups. Moreover, Link-Up offers comprehensive educational training in animal protection and assistance with everyday issues encountered by law enforcement and social service agencies.

Silent Victims (2006) highlights how one person with resources can make a tremendous amount of difference to a family who otherwise would be stuck in a cruel cycle of violence. The story begins when a police officer responds to a barking dog call. When the police get there and see three large dogs barking and fighting in a back yard, they also observe one dead dog

already in the yard. The respondents included an animal control officer, a veterinarian, and law enforcement from the Animal Rescue League of Boston. As it turns out, the male that was living in the home had felony warrants and prior restraining orders. The male was arrested for animal cruelty, his three dogs were removed, and his current drug addicted female companion and her child received help from social services—all of this resulting from a simple barking dog call to police.

Another success story from Ascione (2004) involves a domestic shelter in Baltimore, Maryland. The shelter, along with Maryland Police Department and the Snyder Foundation for Animals, the House of Ruth (a domestic violence agency), and Second Step (a mental health agency), provides assistance to victims of domestic violence and their pets. If the victim decides to enter the shelter, and there was a pet who needed shelter as a result of the displacement, the Snyder Foundation not only provides shelter for the pet, but they also take a photograph of the pet so the owner and their children have a reminder that their pet is safe.

Ascione (2004) brought out another good point by Dr. James Gabarino, if society would foster the cycle of caring then we could prevent instances of child abuse and animal cruelty. After interviewing boys and young men who kill, Gabarino learned that they did have morals but they just did not care. Gabarino argues that it should not only be up to law enforcement and other social workers to bring out awareness on this issue. Gabarino also expresses most parents want what is best for the children and how important it is for parents to work against our “social toxicities” by encouraging them to produce children that do care and are of good character. Gabarino presents parents with a challenging question: Would you rather give your child a million dollars or good character?

If society and especially law enforcement were to put the victim’s need over the crime and offender then this would help. Moreover, leaving the victim in an environment where they will more than likely experience repeated abuse is not helping the victim (Carlisle-Frank and

Flanagan, 2006). There are some shelters where the animal would think they are at the Taj Mahal compared to where they came from, but then there are other shelters where they could pick up a disease or be in a cold, dark environment. The victim has already been through enough; the goal is to make improvements to the victim's environment by accommodating their needs, which includes a safe environment.

According to The Hoarding of Animals Research Consortium (2009), there are a quarter of a million animal victims each year from hoarding. With the amount of victims from one single categorized crime, society needs to treat this mass amount of victimization as an epidemic—in need of an emergency disaster plan. The more that is learned through research about animal hoarders, the more that is discovered about the unbalanced mental state of these offenders. Regarding the offense of animal hoarding, all states should follow Illinois. Under Illinois law, the crime of animal hoarding does not require the element of intent. As well, all Illinois offenders are required to attend and complete counseling and they are barred from possessing animals in the future.

The case study found in the appendix is where one of the attorneys made the statement that if the case had involved an offense against a person, instead of a dog, the outcome of people wanting to seek help for the victim or to see justice prevail may not have been as strong. And another comment from a different attorney was regarding the fact that it takes a week to try a murder case, but here a week was taken for one animal, even though in that same county there are 250 animals put to death a day. When society takes the same resources, time, and money seeking justice for an animal victim as they do for a human victim, this validates the importance of animal welfare issues. Criminologists these days are keeping up with technology and using these tools in order to protect animals.

The ASPCA (2009) said one of their Special Agent's in Manhattan, New York used the popular social network, Facebook, to arrest Donnel Walters at his workplace for one count of

aggravated animal cruelty. Walters was reported to the ASPCA for assaulting a 4 ½ pound Yorkshire Terrier named Lucy. Walters and Lucy's owner were in a verbal dispute and Walters is accused of repeatedly slamming tiny Lucy to the ground so many times that one of her legs shattered. Lucy was brought to the ASPCA after the incident and the veterinarians were able to repair her legs with metal screws and plates. If Walters is convicted of aggravated animal cruelty he could serve up to two years in jail.

If society's members were to use their creative talents, such as writing books that would educate our society to the flags and signs of animal abuse this would help to reduce our numbers in many of the categories of crime across the board. The writing of books is not a new concept; in fact, back in 1893 Margaret Marshal Sanders wrote a fictional book titled *Beautiful Joe* based on a true story and dedicated it to George Angell, President of the Massachusetts Society for the Prevention of Cruelty to Animals. *Beautiful Joe* started out as a winning story for a contest for the Humane Society, and after that it sold several million copies as a novel.

Authors Merz-Perez and Heide (2004) would like to see continuing improvement in research, since animal cruelty is complicated, serious and an alarming issue. The authors say humane perspective on animals is created by the individuals themselves and it is their culture where the direct treatment towards them is influenced. The same authors mention how some cultures treat their pet animals like children—as pointed out in the preceding chapters that may not be good for the animal when the family is dysfunctional and abusive. Clifton Flynn, a sociology professor said “if we are to promote a nonviolent society, then we must pay attention to all forms of violence, including violence against animals” (Merz-Perz and Heide, 2004, p. 160).

According to the ASPCA (2009) the House Resolution 3501 is a proposed HAPPY Act that was introduced to Congress on July 31, 2009 to be introduced to the House. The HAPPY Act stand for Humanity and Pets Partnered Through the Years. The HAPPY Act would amend

the Internal Revenue Service Code of 1986 to allow pet care expenses to be a deduction. The Act would allow up to \$3,500 annually for qualified pet owners. Animals that are used for research, trade or business would not qualify for the deduction. The HAPPY Act would encourage pet owners to provide medical needs while helping the owner with the economic portion—thus, hopefully reducing the numbers of abandoned pets. The HAPPY Act, would promote improving human and animal's quality of life. With all the many expenses for responsible pet ownership, there should be no reason why the expenses should not be recognized by the Internal Revenue Service.

According to HSUS (2009) there is an estimated three to four million dogs and cats that are euthanized each year, and most of them were healthy and under the age of one. The HSUS estimates there is a surplus of five to ten million animals. Theoretically one female dog with her offspring can produce 67,000 dogs in six years with an average litter of puppies. In seven years one female cat and her offspring can theoretically produce 420,000 cats with an average litter size. Regardless of how one looks at the facts, i.e., too much surplus or more supply than demand, there is an immediate need to end these senseless mercy killings. Society is responsible and society needs immediate action in order to control and stop it. The humane society has a practical approach to the millions of animals put down each year and it is not complicated: 1) animal welfare education, 2) utilize low cost spay/neuter clinics and 3) enforcing laws that require responsible animal guardianship.

This author would like to see policy changed with two laws implemented and enforced that would drastically reduce the millions of animals euthanized each year, in addition to saving the money it cost to put the animals down. The first law, which is already practiced in the shelters and by rescue organizations, would be to have it required by law that all pet owners must spay and neuter their animal by the time the animal is six months old. The only exception should be if one is a licensed breeder. The HSUS (2009) says that most of the animals that

are put to death are offspring from a family pet, not sick and not injured animals as you would think. The consequences for not following the law for not spaying or neutering should not go light, in order to increase compliancy. The money collected from fines and the cost saved from euthanizing would pay for animal officers to enforce the law. With this policy change if a violator cannot pay their fine within a reasonable time and provide proof of the sterilization, then the state should be awarded custody of the animal.

The second law would reduce the millions of animals that are destroyed, is the requirement to have all pet owners to have their animal microchipped; this would make every owner accountable for every domesticated pet. Microchipping according to the SPCA (2009) is nonsurgical and painless. The microchip is approximately the same size of a grain of rice, and has a 10 digit number on it that can be identified through a database. The American Kennel Club gives their endorsement for microchipping and stated 35,000 lost pets were back with their owners due to their microchip.

In conclusion, the reader should know organizations such as Pet-Abuse.Com (2009) offers ideas readily available on the Internet on how people can improve animal welfare by educating themselves and others, adopting from shelters versus a pet store (more than likely a puppy mill product), making financial donations, fostering, donating time and supplies to shelters and/or rescue groups, getting involved with local government, and most importantly, taking care of the animals that you already have and encouraging others to do the same.

APPENDIX A

THE STATE OF TEXAS VS. DASHAWN BROWN CASE STUDY OF AN ANIMAL ABUSE OFFENSE

The appendix provides a case study of a local criminal trial from Dallas County involving an animal cruelty offense. The defendant in this case is DaShawn Brown; he was granted permission to live in Texas since he was under Michigan's jurisdiction for probation. One of the most important conditions of Brown's probation was for him to do no more harm. As you will discover in this appendix, Brown was not compliant with his probation conditions and as a result the victim, his pit bull named Mercy, was tortured to death. Due to the severe injuries Mercy endured from Brown, her last ten days were filled with unimaginable suffering despite every effort made by veterinarians.

DaShawn Brown, born March 30, 1985, was charged with a third-degree felony. At the time of the offense, Brown was on probation for an unarmed robbery; as a result, he was supposed to follow his conditions of probation and report to the Denton County Probation Department. Brown ended up posting bond four times while on probation for his offense in Michigan. Brown's first bond posted for \$2,500 was for felony animal cruelty, and forms the subject of this chapter. Brown was arrested three additional times while on bond for animal cruelty: one, possession of marijuana in February 2007; two, DWI and contributing to minors in May 2007; and three, arrested for five active traffic warrants.

The defense filed a motion in limine (meaning they are requesting to exclude certain evidence that could prejudice the jury), and they filed a motion against the Dallas County District Attorney's Office for misconduct. Judge Snipes granted the motion in limine, but stated there had been no evidence of misconduct on behalf of the District Attorney's Office. A third-degree felony animal cruelty charge with a deadly weapon can be punishable by up to ten years, and the final plea the State offered the defendant was eight years in the Texas Department of Corrections. The defendant did not agree to this plea bargain.

The first witness in the pretrial hearing was Captain Marcus Stevenson, an arson expert. Stevenson is a current arson investigator who has worked for the City of Dallas Fire

Department for 16 years and has investigated 160 fires so far this year. Stevenson's credentials included a Bachelors of Science Degree, six-week arson investigating school, one year training through another individual, police school, police academy (approximately eight months) and certification as a fire inspector. In addition, Stevenson was required, bi-annually, to complete 48 hours of fire science plus 40 hours for police investigations. Stevenson stated he investigates what the cause of fires is and then determines if the fires were intentionally set; if the determination is made that the fire is intentionally set, then the next step is to pursue the offender.

The State provided Stevenson with trial photographs, witness statements, and veterinarian medical records for review. The State then asked for Stevenson's expert opinion, based on his education, training, experience, as well as collaboration with other fire arson investigators. Stevenson concluded that an accelerant was used and the fire to Mercy was intentionally set.

On cross examination, the defense pointed out how Stevenson's Bachelors of Science was in Public Administration and how he had not taken any classes in mechanical or chemical engineering. The defense tried to have Stevenson's testimony not allowed, arguing that it was not sufficient under *Daubert* (a Supreme Court decision regarding the standards of admissibility for expert witnesses), therefore it should not be provided to the jury since this expert witness lacks specific course work. Judge Michael Snipes denied the defense's request and stated Stevenson had the requisite credentials, and did qualify as an expert.

The Court read the indictment as follows:

True Bill of Indictment. In the name and by the authority of the State of Texas, duly organized at the July Term, A.D., 2006, of the 203rd Judicial District Court, Dallas County in said Court at said term, do present Dashawn Brown, defendant

on or about the 13th day of April, A.D. 2006, in the county of Dallas and said State, did intentionally knowingly torture an animal, to-wit: A dog, by setting said animal on fire and further during the commission of the offense, the defendant used and exhibited a deadly weapon, to-wit: Flammable liquids, and a deadly weapon, to-wit: Fire. Against the peace and dignity of the State. (Volume 7 p. 12)

Assistant District Attorney Alex explained to the jurors that the trial was very serious—and the seriousness was not because of the media attention the case was receiving. Alex explained to the jury why this case was serious—namely, because it involved sadistic acts of torture that cry out for accountability. Alex argued that when someone can look into the eyes of unconditional love and then douse that animal with a flammable substance and set them on fire that is serious.

Alex informed the jury they would hear from several witness who would say what specifically happened to the defendant's animal (a pit bull mix named Mercy) that he co-owned with his girlfriend, Megan Byrne. Alex stated that Ricky Vazquez and Luis Barron who were outside enjoying the evening and getting ready to have a beer but were caught off guard when they heard yelping and screaming, only to see a ball of fire running by them; these men were the ones who first approached Mercy while she was yelping and screaming on fire. Alex continued his opening statement by telling the jury that they were going to hear about the smell of burning hair and burning flesh and the unforgettable odor. These men, Alex argued, out of anger for what they had to do, and for what someone had done to this suffering animal, looked for the person who committed this terrible act. Before long, however, the defendant was coming around the corner from a downstairs area with a gas can in hand.

Alex outlined for the jury that Vazquez called 911 while Barron observed the defendant go to the front area of the apartment complex where Mercy was, with the gas can still in his

possession, and did not comfort her or help her. Alex went on to state that witness Roland Quionnes observed the same thing—he saw Mercy on fire and then observed the defendant with a gas can.

Alex stated that witness Caesar Sanchez would testify that he followed Vazquez and Barron when they confronted the defendant and what he observed afterwards. Alex continued by stating that the attitude of the defendant was uncaring and unemotional as his dog sat near him suffering from this torture. Alex explained when the police arrived how Mercy jumped in their backseat, as if to escape from the presence of the defendant. Furthermore, Alex stated, the witnesses would tell the jury how the police used very poor judgment with their discretion regarding Mercy's health and safety.

Alex also stated that the co-owner, Byrne, convinced the police to let them take the dog to the vet; but neither she nor the defendant ever sought any medical attention for Mercy's suffering from the mortal wounds that had been inflicted upon her. It was not until noon the next day, Alex continued, that an individual named Anthony Holt saw Mercy and got her some medical attention. Alex stated that Holt would testify that he was able to get Mercy with the help of another person to Operation Kindness, then, due to her severe intense injuries, she was later transported to a surgical center in Dallas. Mercy lived for 10 days after she was brought in for medical care, Alex told the jury.

Finally, Alex summed up by stating that the case is not only simple, it is crystal clear. Alex also stated that the jury would hear from Forest Pyle, a mutual friend of the defendant and his relatives. Pyle would tell the jury how the defendant was mad because he was going to be evicted and because his dog would not mate with another dog. Pyle would also testify how the defendant was talking about getting rid of the dog, killing her. Furthermore, Alex stated, Pyle would state that he saw the defendant, butter knife in hand, proceed to drag Mercy behind a

trash dumpster and then he heard Mercy yelping. After the yelping, Pyle would testify that he saw Mercy bloody on her side and then he observed the defendant throw the knife down.

Alex continued by stating that the jury would hear the defendant's response when Amber Moore asked him "why did you do that to your dog?" The defendant's response to Moore, Alex stated, was "fuck that bitch." With only one minute of opening statement remaining from the State, the jury was informed that they would see by the defendant's actions how simple the case is, and how the defendant is the one responsible for Mercy's torture. Alex closed by reminding the jury that a dog is supposed to be man's best friend, but, it was unfortunate that Mercy did not know her worst enemy was the defendant himself; and while the reason why the defendant committed the crime may not have been clear, the fact that the defendant was responsible for the crime would be proven beyond a reasonable doubt.

Mr. Wyde, the defendant's attorney, started out his opening statement by stating that his client did not stab or burn the dog that he claimed was named Brandy, not Mercy. Wyde continued by maintaining that there were no witnesses who actually observed Brown burning his dog. Wyde said he was happy to hear Alex acknowledge an investigation that was not done well while ignoring other suspects. Wyde also acknowledged that Mercy was tortured, but claimed the State did not have evidence that she was tortured by Mr. Brown.

Wyde argued to the jury that Brown was 20 years old at the time and he never confessed to burning his dog. The defense blamed the police for only gathering evidence against Brown, and Wyde also accused people of using the notoriety of the case to raise money for animal rights causes. The defense also mentioned that reward money was used to get people to talk. The defense made an attempt to undermine the credibility of the State's witnesses by stating one was a crack prostitute and another was drug dealer. The defense also argued that another witness for the prosecution was a juvenile delinquent with memory problems.

Wyde also told the jurors that he was aware that 80% of jurors make up their minds during the presentation of opening statements. Wyde then explained to the jurors how they have the power and that they are indeed the judges of the case. Wyde then proceeds to tell the jurors Brown is innocent even with his indictment, arrest and confinement. Wyde's last words to the jury in his closing statement were telling them how the past 18 months are now in their hands.

Ms. Moore begins by calling Willie Cantu as the first witness; Cantu lived in the same apartment complex as Brown. Cantu said he came home from work on April 13, 2006 and was walking his dog when he heard a loud screeching yelp. Cantu testified that when he turned around he saw an engulfed flame—a huge flame—while hearing the sounds that fire makes. Cantu then stated that he noticed it was a dog, so he went after it. After blocking Mercy in a corner, Cantu used his shirt while another person used a liquid to pour on her to help try and put the fire out. Cantu said he had to go back to his apartment and change his clothes because he had singed hair and other substances, which were oily, and because of the smell.

Mr. Cantu testified prior to him changing his clothes one of the other people were going to get the dog's owner but he ended up coming around the corner on a bike holding a gas can. Cantu said someone called the police or 911 and when he came back outside from changing his clothes, the police were already there trying to handle the commotion. Cantu said Mercy was on a rope, running back and forth with different people. Cantu said the police asked him if he was involved with Mercy's incident and he replied yes. The police then told Cantu to wait so they could obtain his information. Cantu said one of the police asked him if he could get some water and rags and he thought it was for Mercy, so he was understandably caught off guard when the policeman used them to clean his car seat where Mercy's burnt skin and burnt hair left a residue.

Cantu testified how the police never asked him any questions since all they did was take his name and number. Cantu said it was apparent he was not needed anymore so he went back to his apartment and watched what was going on from his balcony. Cantu said he could not hear the conversations but he clearly saw Mercy was released back to the owner while she was still on the rope. Cantu was asked by the State what was the defendant's attitude like after he just put out his dog, Mercy, from being on fire and he said "really calm, nonchalant, just whoopty-do" (Volume 7 p. 54).

Under cross-examination, the defense questioned Cantu about his written statement. Cantu was also questioned to give a precise time when Mercy was set on fire, instead of an approximate time. Wyde wanted Cantu to explain how he knew the dog's name was Mercy since the owner named her Brandy. Cantu explained the media is where he learned the name, but he did not know who named the dog. The defense went on to show Cantu reward posters and implied that is where he learned the name Mercy. Assistant District Attorney Terri Moore, with permission from the court, took the witness on voir dire (a process where the court is seeking truthfulness) then asked him if he knew who created the posters. Cantu stated he did not know who created the posters. Moore then asked Cantu if he ever tried to collect any reward money or if he had ever talked to anybody about it and his answer was, again, no. The defense questioned Cantu regarding the fact that Brown's reaction to Mercy's torture may have seemed odd because of shock from a traumatic event and Cantu stated he did not know how Brown felt but he did know what he said and what he did and did not do in his presence.

The State called Dr. Troy Lindsay, a private practice veterinarian and contract labor veterinarian for Brookhaven Pet Hospital, stating he was the veterinarian who treated Mercy when she came in. Lindsay stated Mercy had burn wounds throughout her body, mainly her ears, axilla regions, under her shoulders, armpits, in her flanks underneath her legs and on her chest, two puncture wounds to the right, behind her right arm, on her chest, and her whiskers

were gone with singed tips (Volume 7 p. 137). Lindsay said Mercy was fairly stable when she was brought to the veterinarian hospital. Lindsay testified how he was concerned about infection and for Mercy's losing her ears but said he was not too concerned about the punctured wounds since they were fairly small but explained how they were burned.

Lindsay stated from his notes Mercy did not have any hair in numerous areas and the skin that she did have was very thick and leathery. Lindsay testified he referred Mercy to the Dallas Veterinarian Surgical Center because she would receive better treatment for her needs. Lindsay testified that Mercy's demeanor was never aggressive and she was in more pain in certain areas where she was burnt or if she was to move certain ways.

Under cross-examination, the defense thanked Dr. Lindsay for the care he gave Mercy. Wyde questioned Lindsay by stating he had no knowledge if Brown burned his dog or not and Lindsay stated that was correct. Wyde asked Lindsay to look at Mercy's vulva and let the court know if she was in heat during this time and he said her vulva appeared to be swollen and it was possible.

The State then called Dr. Katherine Wells, a specialist in pain management and a consultant for drug companies, who teaches veterinarians how to manage pain. Wells was employed by the Dallas Veterinary Surgical center who works on referral from other veterinarians for advance care (this is where Mercy was referred to after Brookhaven Animal Hospital). Wells stated Mercy's burned areas of her body were approximately 60% and some of those areas had thickened. Wells testified the next day Mercy's ears had to be amputated because the burns were so severe and with burns, sepsis (infection) takes place, then they have to rid the infection. Wells started fluids on Mercy because nutrition and protein are all lost and that needed to be addressed. Wells testified how her update to Operation Kindness was "the wounds are gruesome and this is going to be long haul" (Volume 8 p. 14). Mercy was being cut down to healthy tissue where the leathery areas were located because they would harbor

bacteria, and then she was wrapped with wet to dry bandages containing an antibiotic to prevent the bacteria.

Wells stated as time progressed Mercy's inner thighs turned black and the majority of her skin had to be removed on the inner thigh. Wells said the vulva received a burn mark which was consistent with her being doused while she was more than likely on her back since her skin did not have to be removed on her back. The State asked Wells what her primary concern was, and she replied that it was to save Mercy's life. Wells was questioned with regards to Mercy's demeanor and she stated she was never aggressive. Wells stated she communicated to Operation Kindness how ultimately Mercy could develop sepsis, cardiac arrest or organ failure that would eventually take her life, and after a long struggle it was here where she did pass away. The State asked Dr Wells if anyone ever called her practice to take ownership of Mercy and resume responsibility other than Operation Kindness in the effort to show Brown never called to check on his pet—her answer was, simply, no.

Now the case turned again to cross-examination, and Wyde thanked the veterinarian for the care directed to Mercy. The defense wanted Wells to say that Operation Kindness paid Mercy's medical bills and the veterinarian stated she did not know the finances. Wells apparently did not give the answers the defense was relying on since she said she was not experienced in those matters. Shortly after that, Wells was permanently excused.

The State then called Austin Holt who lived in the same apartment complex as Brown and Mercy. Holt testified he was sitting at his computer and he saw a red thing go by and he tried to get it out of the woods. Holt testified it took him about 20 minutes for Mercy to respond to him, and when she finally did he said when he saw her he thought she had a disease. Holt testified how he got a rope and put it through her collar because he did not want her to get away and the whole time he was doing this she was very calm. Holt stated he knew the dog was bad off when she would not drink any water or eat any chicken he offered her. Subsequently, a

friend came over with a truck and they helped get Mercy in the truck on the passenger seat with him since she could not jump. They then proceeded to take Mercy to Operation Kindness and the State ended their questioning.

The defense under cross-examination spent a lot of time on Holt's financial areas and asked him how he could pay for his flight school. Holt's reply was from his father and he worked part-time for expenses. Wyde then asked Holt if he saw Brown torture his dog or ride up on a bike with a gas can. Holt stated that he did not observe Brown torturing Mercy. Wyde then ask Holt if he has seen any of Mercy's reward posters and he said yes. Since there were no further questions, Holt was then excused from the courtroom.

The State called Forest Pyle who was 17 years of age and knew the defendant through one of the defendant's relatives. Pyle testified he knew the defendant and he has a nickname—Biggs. Pyle stated he used to go hang out with the defendant's relative and the defendant with others approximately three times a week. Pyle stated on April 13, 2006 he went over to the defendant's home twice, and said the defendant's mood was as if he had been drinking alcohol. The State asked Pyle if he saw Mercy and he said not the first time he was there. The State then objected and was forced to refresh Pyle's recollection with a copy of his statement since it appeared he had lost a lot of his memory from that day.

Alex was able to have the witness read his voluntary statement which took place 10 days after Mercy was tortured. Pyle's statement was Brown stabbed the dog and showed no regard to her life. Pyle said in the statement he was present before and after the burning. Pyle said the dog made Brown mad and that is why he did that to her. Alex had Pyle read his statement which said he saw the dog the first time he was at Brown's apartment. Pyle testified it was a teacher at school that was talking in class about what happened and she told him it would be the right thing to do if he gives the information he knows about Mercy. The court

allowed the State to offer the Grand Jury Testimony in front of the jury since Pyle had his fair share of memory problems.

As the State reads the Grand Jury Testimony Pyle said Biggs, which is a name the defendant is known by, was acting mad because his dog would not breed with another. Pyle said in his Grand Jury testimony when Brown was talking to his brother Lee he was saying he no longer needed that dog and he was going to kill it. When the dog came up he grabbed it by her collar and took it to the dumpster with a knife and the next thing he saw was the dog coming out from behind with blood on the side of her body. Pyle was asked if he heard the dog yelp and he said yes after the yelp the dog came from behind a little fence. Pyle was asked if the dog ran out or walked out and he said it was jogging with blood on its side. Pyle testified he saw Biggs come out from the fence and then he threw the knife.

The defense has requested a material witness bond since Pyle is now considered a hostile witness and they do not want the State to have any opportunity to talk to him at all before trial resumes tomorrow. The Judge decided to order Pyle to be in confinement and when he testifies tomorrow under cross examination without the jury (pretrial arrangements) then he could go home.

The defense asked the court if they would allow Pyle's drug use to be used under cross examination and their request was denied. The Judge said the defense may discuss what Pyle was on probation for only. The State wanted to let the court know they discovered yesterday witness Amber Moore did make a call to Operation Kindness and wanted to be considered if a reward is paid. The court acknowledged the Brady evidence discoveries (supersession of evidence against the accused is a violation of due process) have been consistent despite what the defense has asserted.

Cross examination began and the defense questioned Pyle about his suspensions from school and his non convicted criminal juvenile history. It was during this time the State stepped

in and jury was dismissed. Prior to the jury returning the defense and State were beginning to get agitated with each other and the defense said to the State they should do the right thing about this and drop this case. The State obviously did not agree and said the defense should do the right thing and request his client to take the plea. After all the commotion was settled down Alex (the State) said to the Judge, "welcome to Dallas County justice" (Volume 9 p. 33). When Pyle returned for cross examination he was questioned intensely about what all was found (marijuana, knife, gun and cocaine) in his room according to a police report before he was admitted for drug addiction at hospital.

The next witness called by the State was Ricky Vazquez who stated he knew why he was here to testify and remembered the date he saw a dog on fire. Vazquez said he was outside with a neighbor friend named Luis Barron as he had done many nights before after work. Vazquez said as he was standing outside that evening on April 13, 2006 he heard a loud scream and he looked and saw a ball of flame. When they ran up to it they discovered it was a dog engulfed in flames and explained how there was a horrible smell from the dog's burning flesh and hair.

Vazquez said when they put the dog out with the beer and a shirt they wanted to go find out who did this to the dog and after walking around the building they saw the defendant coming down the stairs with a gas can. The witness said he noticed how the defendant's eyes were droopy and they asked him "are you the one who burned that dog? Then the defendant replied with a slur, "well, where's that piece of shit dog at?" (Volume 9 p. 125). Vazquez said he went to call 911 because of the burned dog and he thought there was going to be trouble while Luis went to go help the dog because it was in pain moaning and groaning. Vazquez said he was angry because of how someone could do this to a dog and apparently when the officer arrived he left his car door opened and the dog automatically got in the car and was running around

bleeding so the inside got blood all over it. The officer was more concerned about cleaning his car out from the dog's burned skin and hair than the health of the dog.

Vazquez said when Brown's girlfriend showed up she was crying when she saw the dog and the defendant never tried to help the dog in any manner. The State asked the witness if he was angry at the police for the way it was handled and he said yes and he wrote the badge and police car number down. Vazquez said when animal services left their card on his door several days later he called them and let them know he tried to help the dog. Vincent Medley, from Animal Services came to Vazquez's residence and took a written statement.

Cross examination began with thanking Vazquez for letting the court know he was on ten year probation for attempted burglary. Wyde also pointed out in his questioning how the District Attorney was the one paying for Vazquez's hotel stay while he was here testifying since he no longer lives locally. Wyde asked Vazquez if he already made up his mind that night if he thought Brown was guilt and he said "yes." Wyde asked Vazquez if there was anything at all that could change his mind and he said "no."

Wyde proceeded to grill the witness on how he probably thinks this court is a waste of time but when he was asked Vazquez said "no, he did not think it was a waste of time." The defense then pointed out if Brown burned his dog in the apartment then fire alarms would have been heard, sprinklers would have been set and the fire trucks would have responded. Wyde wrapped up his cross examination with asking the witness if he had any dirty urine analysis' (UA's) results or was he past due on his fees and the response was he has no dirty UA's, pays his fees and follows his probation conditions.

Amber Moore was the State's next witness, she lived in the same complex where Mercy was burned. Moore testified she was on the balcony the day the dog was burned and heard a dog yelping. Moore testified the next night on April 14, 2006 Brown came to her apartment

alone while she had a few guest over and she testified that she asked Brown if he did that to his dog, and she said he said “fuck that bitch” (Volume 10 p. 89).

Under cross examination, the first question to Moore was did she want to be considered for the reward money and she said “yes.” Wyde mentioned Brown could have been up all night looking for his dog and since the witness did not know him very well what he could have said to her was “fuck you bitch” because she had the gall to ask such a question to someone she really did not know. Moore said again, no that was not what he said and he said “fuck that bitch.” The court acknowledged Moore’s answer and then she was dismissed.

The State’s next witness was Rolando Quinones who was a neighbor with a stable 15 years employment with Rescue 911 Emergency System and he said he just got home that evening when he heard a dog crying. Quinones said he thought that a child might be involved so he grabbed his first aid kit and went down to find out what was going on. When the witness got downstairs the police were arriving and he saw Alberto and a Spanish guy then he said he noticed a dog was roped up. The witness said Alberto needed a translator and he was upset because the police were brushing him off. Quinones testified he did see what appeared to be a gas can inside the stairs. Quinones said it was apparent nobody needed him and he was not able to help the suffering animal so he went back to his apartment, but he felt bad because he knew how the dog was suffering.

The defense asked the witness where he was from and about his work uniform. The defense also had the witness talk about his responsibilities. Wyde asked the witness if he ever noticed neighbors grilling and he replied “no.” Wyde pointed out since the witness is in rescue then he could acknowledge how people react to trauma events differently, and then he was dismissed.

The State’s next witness is Luis Barron Martinez who lives with his uncle Alberto Barron in the apartments where Mercy was burned. Luis said he was out drinking a beer with Ricky

Vazquez. Luis said when they saw the dog on fire and heard the yelping, they poured their drinks on her and that did not put the fire out so he took off his shirt to put it out. Luis said he could smell gasoline and burnt skin. Luis said he went in the direction the dog came from when she was burning and then they saw defendant with a gas can. Luis said he asked Brown in English if that was his dog before Vazquez said anything and Brown said "where is my fucking dog?" (Volume 10 p.152).

The witness said when they met up with the defendant again in the front of the apartments he was riding a bike with a gas can. Luis said the police were irresponsible because they did not respond to what the call was for. The State asked Luis if he ever saw anybody tend to the needs of the dog and he said "no." The State said to the witness I need to ask one more question and a statement was made to the witness about his conviction for burglary of a vehicle back in 11/05 and the witness stated that is correct.

The defense began with questioning Luis's 177 days in jail because he was not a U.S. Citizen and he said "yes." The jury was dismissed and the witness was asked by the State if the State had ever talked to him about his immigration status and he replied "no." The defense announces they will acknowledge the witness as a legitimate witness and stated they believe the State has done anything wrong. The witness was dismissed and court was adjourned until the next morning.

The next witness called by the State was Caesar Sanchez, who was hanging out with his cousin Beto on April 13 when the dog was burned. Caesar said he was just talking by his cousin's car when he heard a dog whining and screaming then he saw a big ball of fire coming from around the corner while two men went up to it and then put it out with their shirts. Caesar said he was just watching the dog and when he went around the corner he saw the men confronting Brown. The State asked the witness if he knew the man's name and he said Luis and Ricky. The State asked the witness what was the dog doing while these men were

confronting each other and he said panting while whining and whimpering—it was panting real bad.

Caesar testified Brown's attitude seemed careless—like he did not have a care in the world. Caesar stated he did see a female approach the dog and she was crying. The State asked the witness if he saw the dog get into the police car and he said yes when the police opened their door the dog jumped in the seat and was walking all around the car and he heard the police saying “get the dog out of there” (Volume 11 p 23).

Under cross examination, Wyde asked the witness if he has ever been in shock and he said yes, then he was asked how did he act and he said he just froze. The defense tried to get this witness to agree Brown could have been in shock about his dog and that is why he was behaving in the manner he was, but the witness' response was he did not think so. Wyde asked the witness if he was drinking the night of the offense and he stated “no.” Wyde asked the witness how many times he has talked to the State about this occasion and he said two or three times. The defense completed their questioning.

Under redirect examination by the State they asked the witness if he remembered the defense asking him if people could have gas cans and not burn dogs, the reply was “yes.” The State then proceeded asking the witness how many people he saw that night with gas cans and his reply was nobody else but the defendant. Recross examination took place by asking the witness if he has helped solve the crime and he replied no. The defense asked the witness how much he made managing a yogurt shop which is actually a smoothie shop; his reply was ten fifty an hour. This concludes the questions to this witness.

There was a delay with Luis Barron's cross examination because the court needed to wait for the interpreter. Once cross examination resumed the defense asked Luis several times if he ever called anyone, i.e. animal services or the police about the dog and he said the only time he called was that night. The defense asked if he gave his name to the police and he said

yes but Wyde was puzzled because Luis' name was not mentioned in the report. Luis pointed out that was because of the police's poor quality of work they performed that evening.

The next turbulent situation to this trial was the witness said he did indeed prepare a statement and gave it to the apartment office by putting it in their mail drop the following day, but nobody ever saw it, not, the defense, the State nor was it located in the Animal Control Services file. The defense wanted the witness to admit the reason he did not talk to the police was because he was here illegally and he did not agree since he said the reason was because he does not speak English. The defense asked the witness if he has \$5,000 on his mind and he said no, he started to say, I have....., then the defense said, objection. Regardless of the objection, the witness said justice to be done on this case.

The defense tried in several ways to get this witness to say the State could deport him if he did not cooperate and every time it was dismissed by the witness then Wyde finally gave up with the possible verbal threats from the State to this witness and said ok the State did not have to tell you because you already knew this in your mind.

The next witness called by the State was Captain Marcus Stevenson, an arson investigator for the Dallas Fire Department for 16 years. Stevenson said what he does for a living is determines the causes and origins of fires and if his findings result that a fire was intentionally set, then they pursue the arsonist criminally with an arrest. The expert witness did acknowledge to the State and jury he has reviewed the medical records, statements, and photographs regarding this case. The State asked the witness in his opinion was an accelerant used on the animal? The witness said there was no doubt with that much flame that an accelerant was used because it would not have sustained the flame without one.

The next questions was in conjunction with a photograph and the witness said an accelerant was not used on the back of the dog because if the dog was running while on fire there would have been more burns on the back of the dog. At this point another picture is

shown of the dog's underside and this is where the witness said the heaviest concentration of an accelerant was found on the dog. The state asked the witness if the liquid causing the serious bodily injury is considered a deadly weapon, his response was yes.

Under cross-examination Mr. Westmoreland pointed out that the witness' opinion is based on his training and experience but no formal education has ever been received in chemistry. The witness reminded the court he has investigated a lot of fires and in his opinion an accelerant was poured on the dog. Westmoreland reminded the witness how it is a requirement to have smoke detectors and then asked the witness if he read in any of the statements where a smoke detector went off at the apartments. The witness reply was no but with his experience he finds the batteries are removed from the smoke detectors.

Westmoreland wanted the witness to agree how the human nose is subjective in its perception of odors and how it can be fooled easily but the witness stated gas is a very common chemical and distinguishable with fire. The defense ended his cross examination

Under redirect examination the State asked the witness does every person who starts a fire get burned and he said the majority of the time they do not. Under recross-examination, Westmoreland asked the witness to confirm it was his opinion the burn happened in a closed area and he did. The defense pointed out if a dog gets wet it usually tries to shake the water off and would that not have happened if a liquid was poured on the dog. At this point in trial the State rest their case.

After a lunch recess Westmoreland stated there is a delay because they did not notify the State they needed Luis Barron Martinez who went back to work and the interpreter is not here. The State said they will go call them. The defense calls Mr. Nelson Diaz, a Cuban citizen that was subpoenaed, who has lived here for nine years and also had an interpreter. Diaz said he has lived in the same apartment for nine years where Mercy was burned. When Wyde was questioning Diaz and he is used witnesses' names the witness said he did not know names but

did know of some of the people who lived in the same apartment complex. Diaz said the people that lived below him were two men and one woman.

The witness said he was aware of a pit bull that was burned but he did not see anything because he was not there. The defense said to the witness he wanted him to testify to the reason why he complained to the apartment manager. Diaz said he complained twice a year ago because the people below him kept grilling underneath and the music is loud at night while they are drinking outside. The witness was passed and the State had no questions.

After a recess the defense called Luis Barron and his interpreter. Westmoreland asked the court permission to treat Barron as a hostile witness and to be allowed to ask him leading questions. Permission was granted. The defense asked the witness if, as he was leaving the courtroom, did someone give him a piece of paper and he said yes, and pointed to a female in the courtroom. The female was called and sworn and identified while being instructed she is under rule so she is not to discuss the case and she will need to remain outside. The witness was asked if the woman was from Operation Kindness or did she offer him a reward, and he said no. The witness was then passed with no further questions.

Karen Williams, the person who handed Barron a card is under direct examination. The first question asked of Williams was if she was affiliated with Operation Kindness, she said no, and she does not volunteer for them. The witness said she gave Williams a piece of paper with her phone number telling him that if he needed a job she would be willing to help him find one. The witness said she also gave the interpreter a piece of paper with her phone number and said she could help him also if he needed a job. The witness was dismissed and the State passed the witness.

The jury was brought back and Wyde announced to the jury and the Judge the defense will rest its case. The judge asked the State which has already closed its case and then it was recognized both sides have rested and closed. The jury was told the charge will be read and

then they will have a short recess so the sides can prepare for closing arguments. The jury was reminded the charge is important and they will have a copy of it in deliberations.

The charge was read: the defendant was charged by indictment cruelty to an animal and he has pleaded not guilty. The court explained the law and said a person is guilty if they intentionally or knowingly torture an animal. Intentionally was defined as a conscious objective or desire to engage in the conduct and knowingly is when you are aware of the circumstances surrounding the conduct or aware the circumstances exist. Animal was defined as a domesticated living creature and a previously wild creature but now captured. Deadly weapon is defined as anything manifestly designed, made, or adapted for inflicting death or serious bodily injury or capable of causing death or serious bodily injury. Serious bodily injury was defined when the injury has the risk of death or causes death or serious permanent disfigurement or protracted loss or impairment of an organ. The court also informed the jury the defendant may testify which is a privilege and if he chooses not to then it cannot be used against him and the defendant chose not to testify.

The jury was instructed to examine the evidence beyond a reasonable doubt and if they find the defendant did intentionally or knowingly torture an animal by setting the animal on fire and used or exhibited a deadly weapon then the defendant is guilty as charged. If the jury finds a reasonable doubt then they will acquit and the burden is on the State. The fact someone has been arrested, confined, or indicted or charged does not provide guilt and everyone is innocent until proven guilty. The prosecution has the burden to prove each element of the offense and if they fail, then the jury must acquit. Possible doubt is not used it is beyond a reasonable doubt and if the jury has a reasonable doubt you will acquit with a not guilty verdict and the verdict must be unanimous.

The Judge gave the State and the defense each 30 minutes for their closing arguments and the defense agreed, but the State requested 45 stating they had the burden, the Judge

agreed. The defense requested the defendant's mother who was sworn in but did not testify be allowed in the court room for closing arguments and the State had no objections.

Ms. Moore, the State thanked the jury for their time on behalf of the State of Texas and reminded the jury this is a very serious case and acknowledge how they paid close attention and thanked them. Moore reminded the jury how the defense was going to provide proof how the defendant was a big dog lover. Moore mentioned how this is a large community and all the witnesses may not know each other or the defendant but no one had an axe to grind with the defendant. Moore said Wyde told you this trial was all about the big reward money and how all these people were out for the reward not to mention how all these witnesses did not know each other, but they all said the same thing.

Moore said it was about a shock and they were compelled to relive the horrific event as well as being subjected to cross-examination. Moore reminded the jury how only two witnesses knew one another but they all testified to the screaming bold flame. Moore mentioned Brown's friend Forest under cross-examination was picked bit by bit about his criminal past, but who was he hanging out with two to three times a week, the defendant. Moore mentions how it would be different to testify to the Grand Jury rather than in this court room when the defendant is basically right across from you.

Moore said the evidence is the picture, when Mercy is rolled over the evidence shows most of the severe burning is on her underbelly including her vulva. Moore then takes the jury on a visual journey by asking them to picture the crime, "can't you just see that little dog rolling over, scratch my belly, and gasoline or flammable liquid is poured on her. He was going to burn up her private parts. Now that's sick. That's twisted. That's evil. That's demented" (Volume 11 p. 177). The truth has a way of coming out even through witnesses have no interest in the case.

Moore thanked the illegal aliens for saving the sweet little dog against one of our own. If not for those men the dog would have burned to death to a pile of bones right there. Those men picked up two rocks to find the cruel heart who did this and who did they find, the defendant. Moore then said the defendant was coming down the stairs with a red gas can in his right hand saying "where's my piece of shit dog?" Luis did not speak English but he understood when the defendant said "where is my fucking dog?" Moore explained how there is nothing complicated to understand here, the dog is burnt up and here is the person with an attitude and a gas can, stating Brown was not in shock. The fireman said the dog was set on fire not far from where it was found and so the pup had just made it around the corner when they put it out. The two men that put Mercy out did not know a fireman would come here and say that. Forest testified about the knife when Brown went to the dumpster and stabbed her. How would Forest have known two vets would testify to back his story. Again, the truth has a way.

Moore said Amber Moore asked the defendant specifically if he did that to the dog? And his reply was "Fuck that bitch." Moore reminded the jury not one person testified that he was an animal lover. It was more like "fuck that bitch, where is my fucking dog, where's my piece of shit dog?" These people did not know each other but they all saw and heard the same attitude. All the people telling you the whoopy-do, nonchalant, don't care attitude are telling you the truth. Brown was not in shock, he is coldhearted, very cruel and he is guilty.

Mr. Westmoreland, the defense attorney recognized how emotions were exhibited from witnesses and lawyers. Westmoreland stated some of the witnesses had altruistic motives and he mentioned how the reward is for testimony leading to the conviction of an individual. Westmoreland blamed sloppy investigations and pointed out how the law enforcement who responded to the incident did not even testify. The defense went on to say how the police were

callous and had a lack of concern for the animal, not to mention the constitutional rights of the defendant. In Westmoreland's conclusion he asked that the defendant be found not guilty.

Mr. Wyde was last for the defense in closing statements, he said what Mr. Brown is guilty of is letting his dog out of the house or not keeping it on a leash. As Ms. Moore said we are prepared to bring you everything to you here in closing. Wyde said he wanted to give the jurors some legal advice if they owned a gas can, then get rid of it because if anything happened, you will be guilty. Wyde explain it was his job to protect Brown's right and if you hate him for that then ok but don't hold that against Mr. Brown. Wyde said Pyle was a juvenile delinquent and Moore wants to talk about cuss words but it is about evidence. The defense went to say the case was not about an animal and not about a child, it was about evidence. It was Wyde's belief the State did not even get close to the burden of proof that Brown burned his dog. Wyde said the State got locked into the gasoline because somebody said they smelt it or someone said they saw it. It never dawned on anybody that Brown was going to get gas for his car because it is all about winning and losing. Wyde ended his closing by saying the verdict is based on law and then thanked them for their time.

The last attorney to close is the State, Mr. Alex who also thanked the jury for their time and their attention. Alex talked about relationships and made it so the jury understands how this case is not complicated. Alex wanted to talk about two relationships, one, the relationship which is understood on how a dog is man's best friend. Alex explained it is an understood relationship that exists regardless if you are a dog owner or not because it is easily accepted and then there is the other kind of relationship that is basically complex and not understood. The other relationship occurred when a human being intentionally tortured Mercy.

Alex said the people that came here to testify in this court regarding Mercy either loved animals or cared for animals. Alex said he was not sure if it was a person that was shot out there on that evening if the case would have been solved like this one is, insinuating how it was

the care and concerns over an animal is what brought them here. Alex reminded the jury that every person that testified was here because they cared about the animal and they were concerned over the very tragic episode it went through.

The State reminded the jurors how the fire marshal said Mercy was not burned accidentally and she was intentionally set on fire on her underbelly very close to where she was found. Alex reminded the jury what Mr. Westmoreland said in his closing arguments, it is all about evidence. Those people did not rush to judgment; there was only one person with a gas can that night who happened to be following a dog who was on fire, and said he was going to get rid of the bitch. Alex asked the jury did these people rush to judgment or was their instinct 100 percent correct.

The State pointed out to the jurors only two of the witnesses knew each other and said Brown was nonchalant, aggressive and uncaring. Alex pointed out the defense spent an hour cross-examining the fire marshal because they did not want you keeping your eye on the ball because if your eye is not looking at the ball the case is not simple anymore. Alex stated all of this was pointed out to keep you, the jurors eyes off the ball.

Alex stated it is not complicated to understand the dog was in submissive state, doused with an accelerant then tossed a match. Alex asked the jury to consider how Pyle is 17 years old when testifying glancing at the defendant and not wanting to be a snitch. Pyle wrote a statement 10 days after Mercy was tortured. In Pyle's statement he said Brown talked about killing and getting rid of his dog and how he was angry because she would not breed. Pyle said in his statement Brown stabbed his dog behind the dumpster and he heard her yelp then saw her blood. Alex's last words to the jury were how he feels the defendant is guilty and it's time he was accountable.

During this area of the trial, the Judge orders the jurors to choose a foreperson then the jury was excused. When the jury returned from deliberations they provided a guilty (third-degree felony) verdict, which concluded phase one of the trial.

On September 28, 2007 the punishment phase of this trial began and here the evidence was heard from the State and the defendant. The court made decisions on what evidence is relevant and any other extraneous crimes or bad acts along with the determination of a prima facie case has been made. After the two sides kept going back and forth on what they wanted to be allowed and not allowed regarding criminal history, the jury was allowed to be admitted to the court room for the punishment phase of the trial.

The State, Mr. Alex greeted the juror's with his opening statement letting the jury know they will hear good and bad things about the defendant and informed them how the judge decides what is relevant and what is not. Alex said the defendant started getting into trouble in 2002 when he was 17 years old for a misdemeanor theft and disorderly conduct. In 2004 while he lived in Michigan, he pled guilty to attempted unarmed robbery and was placed on probation. The probation officer testified the defendant's conditions were to do no more harm for the next six months then return to Michigan and see what type of disposition the judge will order.

Alex told the jurors the defendant left Michigan in March and, as they know, in April he tortured Mercy. The Probation status still exists since up until now the defendant did not have a new conviction. Alex wanted to give the jury a chain of events that occurred from the defendant and they were as follows: torturing Mercy, evicted from his Rock Creek Apartments, moved to Denton County, and while in Denton he is pulled over for driving while intoxicated (DWI). The DWI was taped and now you will be able to see and hear the defendant's demeanor. Alex told the jury, they will see and hear the defendant's attitude while he was saying "fuck you" and this is taking place at the same time he is on probation in Michigan while out on bond for torturing Mercy. Alex said the defendant was disrespectful and threatening the officers who are out there

to help make our streets safer. Alex informed the jury after they hear the defendant's voice then you can decide what he is made up of.

Now it is the defense's turn and Mr. Wyde lets the jury know how their verdict is respected but not without disagreeing with the evidence. Wyde talks to the jury about punishment, saying they may prescribe two years to ten years in the Texas Department of Criminal Justice or up to ten years on probation and the Judge sets the terms for probation. Wyde stated the State plan to presents a misdemeanor theft charge when he stole a bottle of rum. Wyde, sarcastically stated the death penalty was waived for the defendant's disorderly conduct charge. The defense warns the jurors about video tape they will watch on a DWI offense, and how the defendant has still not had his day in court on.

Wyde told the jurors before the defendant was charged with the third degree animal cruelty case his probation was not in jeopardy of being revoked and how the last couple of years, other than a few impulse stupid things, the defendant was a responsible person. Wyde said the State wanted revenge and will more than likely demand ten years. Wyde trying to minimize the conviction by making a statement is ten years in the penitentiary fair for the life of an animal.

Lisa Martin, the State's first witness, a DWI enforcement police officer for the City of Denton since 1998. Martin has a degree in criminal justice and she is 9 hours away from a degree in Government. On May 6, 2007 after 1:00AM Martin pulled the defendant over who was driving down the wrong way on a street in Denton. Martin testified she noticed the defendant had glassy eyes and she could smell alcohol from the defendant. Martin said the defendant was preoccupied when she approached his vehicle by continuing to talk on his cell phone and trying to smoke a broken cigarette, all the while showing disregard to her presence. Martin testified there were three other individuals who were also under the influence and they

were not legal age for drinking. Martin said she had to ask the defendant to get out of the car a couple of times during the stop.

During this time of the trial, the video was played for the court and jurors to hear and see. Martin states even though she noticed the glassy eyes, the smell of alcohol, lack of attentiveness and lack of respect the defendant said "I ain't drank nothing." Martin stated she did not know the defendant was out on bond at this point of the stop. The defendant tells Martin he does take xanax and high blood pressure medicine and Alex reinforced this witness's statement by saying he tells you he took xanax and he was drinking beer, Martin states that is correct.

Martin stated she proceeds to start one of the four phases of the field sobriety test on the defendant and the first phase is horizontal gaze nystagmus, the defendant provided a lack of smooth pursuit in both eyes. Martin testified the horizontal gaze nystagmus had six out of six clues. During the walk and turn phase of the sobriety testing the defendant had three out of eight clues. It was during this point the defendant was placed in handcuffs then in the back of a squad car. Martin testified that a back up officer responded and he was watching the other occupants in the defendant's car as she was administering the field sobriety test.

The tape was running while the defendant and one of the occupants are in the back of the police car and you can hear the defendant say "you shouldn't have fucking left, dude, we should have ran out the back fence again and I'm already on probation and I got a ten-year charge pending." The video revealed further conversation about a call to his mom. At some point the defendant and the other person with him in the back seat have to be corrected since they were screaming while getting aggressive by kicking the windows and doors. Alex asked Martin if what he heard, the laughing and joking going on was after they were just complaining the cuffs are too tight, she said that was correct. Martin states the defendant is cursing and yelling all the way to the jail then continued his behavior at the jail. Martin said since the

defendant was uncooperative he was placed in a drunk tank which contains nothing in it but a hole in the floor in case he has to go to the bathroom.

It is now time for cross-examination, Wyde was trying to get Martin to agree a person would behave this way if they were young and believed they were wrongfully arrested. Martin was said she only had knowledge of this case and not others. Wyde stated to Martin in her 9 years of experience she has not experience this type of behavior and she stated she has seen rudeness, but not to this degree. Wyde asked Martin if Brown informed her he had to leave the party because somebody was going to show up with a loaded shotgun. Martin confirmed that is what he said. Wyde asked Martin to agree that was a smart move for Brown to leave the party since somebody was going to come there with a loaded gun and start trouble. Martin stated someone should remove their selves from the situation and she said nobody should drive intoxicated.

The defense attempted to undermine the heel to toe phase of the field sobriety test by saying normal people don't stand around like a stork and, therefore, that is not normal for people to walk or stand like that, Martin agreed. Wyde wanted Martin to tell him why police officers ask people to do things that are not normal. Martin explained in a professional manner the reason for the test is because it requires the mental task of listening and implementing the instructions along with the physical ability since driving requires divided attention. Wyde finished his questions with asking Martin if the arrest was Brown's reward for being the designator driver and she did not know about his deeds, but she did know he was arrested.

Wendy Jackson a probation officer from the State of Michigan was next for direct examination and she stated Brown reported to her for a short time. Jackson said Brown was on probation in Michigan for unarmed robbery which was originally for strong armed robbery. Jackson said because of Brown's age 19 Michigan gave him a break called Holmes Youthful Training Act (HYTA) which is for offenders who are processed in adult court between the ages

of 17-21. HYT offenders have to admit to their guilt then they are placed on a deferred probation. Jackson confirmed Brown pleaded guilty to attempted unarmed robbery. Jackson testified after several adjourned court dates because of other offenses (theft and disorderly conduct) on March 13, 2006 they decided to give Brown six months for him to show good behavior to see if he would be offered HYT. Alex asked Jackson will the probation department recommending HYT and she said no, because this was not Brown's first offense. In the mean time Brown was free to go to Texas since he had an apartment and his mother lived there. Jackson said Brown was not on probation because his offense was still adjourned.

Alex asked Jackson why, after Brown was arrested for torturing his dog, did they not put a warrant out for his arrest and she said because of his right, presumed innocent. Jackson was asked if she was aware Brown was arrested for DWI and she said yes, during that arrest he was on a HYT three year probation which was transferred to Denton County. Jackson said she instructed Brown to report to her by mail and to call her, which he failed to do so she placed a warrant for his arrest. Jackson said when Brown reports back to Michigan for his sentencing due to probation violations, the Judge will decide his punishment.

Under cross-examination Wyde asked Jackson to confirm how Brown has admitted his guilt to the unarmed robbery plea and how there were no weapons used and he received a deferred three year adjudication probation. Jackson said Brown admitted to the guilt and the vehicle may have been considered a weapon at the time. Jackson said Brown received a deferred probation. Wyde wanted Jackson to agree that a Judge would not revoke probation and put someone in the penitentiary if they went out and picked up some other little offense and Jackson replied by saying she was not going to speculate on what a Judge would or would not do.

The State under redirect examination asked Jackson if she knows what Brown has been convicted of here in Texas and asked her if she has seen any of the pictures of what he

was convicted of doing to the animal. Jackson replied "yes I have." Alex asked Jackson if she felt Brown was a good candidate for probation, and she replied "I do not." The State tried to bring out the victim statement from the unarmed robbery on how Brown was stalking her. The defense objected because it was hearsay and it was sustained by the Judge. That was all the questions by the State and the defense to this witness. The court recessed for lunch.

The next witness for the defense was Paul Curington who is employed by the City of Dallas and manages Animal Services, oversees both shelters including field operations and all programs including cruelty. Wyde, trying to minimize the death of one animal asked Curington what is done with animals if they are not adopted and his response was some may go to the rescue groups, foster homes and some are euthanized. Wyde asked Curington how many animals were euthanized and he said his last fiscal year, approximately 26,000, and the majority were canines. When Wyde was finished with his questions with this witness the State said they did not have any questions for him.

The defense called Bradley McClendon whose father was married to Brown's mother, a 20 year old with two children. McClendon said he is a club promoter and artist manager for live entertainment for approximately five to six months and he lives in Phoenix, Arizona. McClendon said his son lived with him while his daughter lived in Tennessee with her mother. McClendon said his father was married to Brown's mother for six years but they were together before that. The witness said he was living with Brown and Byrne last year and he was employed as a server at Joe's Crab Shack. McClendon said he remembers Brown working for Petsmart. Wyde asked the witness if he remembers April 13 and how the day started out. McClendon said Brown, Byrne and Pyle, who skipped school, looked for apartments all day because they were told to vacate the complex where they were renting. The witness said the apartments told them they had to leave because somebody they were looking for named Casper was seen knocking on their door and they had an unauthorized pet.

Wyde wanted the witness to elaborate who Casper was and he said he was somebody homeless he thought and he was weird. Wyde implied to the witness it appeared they were accommodating the apartment complex when they did not answer the door for Casper since he was banned from the complex. McClendon testified he and his roommates had to move that weekend because Brandy (Mercy) got loose from her leash. The witness said after they looked for apartments they dropped Byrne off at the apartments, after that the defendant and he went to get beer and McDonalds. Wyde asked the witness where Brown was at 10:00 that night and he said picking up his girlfriend from work, then the State requested to take the witness on voir dire. During voir dire Alex asked the witness if he was with Brown at 10:00 and he said no, then the State objected because of lack of personal knowledge—sustained.

McClendon said a few minutes later after Brown left is when all the chaos took place with the police cars, so he walked down to that area and Brown was already there. Wyde ask the witness how long was it when the police cars arrived from when Brown left and he said about 15 minutes. The witness said he gave the dog to Brown in Michigan. McClendon said Brown is a laid back person and he thought he was reporting to Michigan probation, then the State objected due to personal knowledge—the court sustained. The defense then asked the witness was it within Brown to burn his dog and he said not at all, then the court instructed to the jury to disregard that.

Alex, under cross examination of McClendon, asked if he felt Brown was a hustler, and said when I say “hustler” is Brown a drug dealer and the witness said no. Alex asked the witness was there not another reason to why you were evicted, the witness said no. Alex said to the witness you just said the eviction had nothing to do with drugs and how the defendant is not a dope dealer, the witness said that was correct. Alex said he will make his question a little bit clearer by having the witness read the State’s exhibit 117 (a document dated April 5, 2006). The document reads as follows: met with Brown concerning a criminal named Casper seen

entering his apartment on several occasions and he admitted to letting him in several times, then he was cautioned against that. Alex said then there is a violation of lease notice and then an eviction notice. Alex pointed out the notice of lease violation is paragraph 20 of the lease, which is contradictory to what he said. Alex asked the witness if he wanted to change the reason to why they were evicted and he said he did not remember that.

Alex took his point further with the witness when he said on February 17, 2007 the notes show there was a conversation with Bradley and Brown concerning illegal drugs in the apartment since there were complaints about the marijuana smell and they were advised it is a violation of the lease. Alex asked the witness if he remembered this and would he feel it had anything to do with the eviction, he said yes. Alex asked McClendon about the defendant's love for pets since he testified to that and then he asked the witness why Brandy (Mercy) was found not cared for and wandering around the next morning. The witness said he thought the dog jumped out of the car when he asked them about it. Alex asked the witness if he was there during this time Mercy supposedly jumped out of the car, he said no.

Alex then asked the witness if he knew about the defendant's breeding intents, he said no. Alex said does Byrne have a dog name Flynn or Flint who just recently had a litter and the witness was aware of that so he confirmed. Alex was not letting the breeding questions go so easy so he asked the witness more on the breeding intent. The witness finally confessed to communicating with the defendant about his questions he had on breeding. Alex then asked the witness if he knew if the defendant was able to leave the courtroom today would he have a dog waiting on him, he said yes he would.

Alex was not finished with this witness and the points of character he wanted to bring out. Alex said to the witness if the defendant was so liked by everyone then has he ever asked the officers who were sitting in the court room. The answer was no. Alex asked McClendon if he ever met the girl who the defendant stalked and snatched her purse. He said no. Alex asked

McClendon if he was aware of the possession of marijuana offense and the arrest for possession with the intent to deliver cocaine and during this offense marijuana was found in the car, he said no. Alex's last question to this witness was were you aware of the defendant's arrest for DWI and how he furnished alcohol to a minor. He said yes.

The defense called Megan Byrne who stated she has known Brown about five years and she is his fiancée. Byrne testified Brandy (Mercy) was really her dog and she was upset when she saw what happened to her. Wyde asked the witness about what she did after the dog was released back to her. Byrne said the dog was put in their car and they were going to get money from Brown's mother to take her to the vet. Byrne said they were not getting along and there was animosity in the car, so the dog got scared and since all the windows were rolled down, she jumped out of the car. Wyde asked Byrne if they went to look for the dog and she said yes she knows the dog went to the woods because she could hear her, but she would not come to anybody. Wyde asked Byrne if she was aware of Brown's bad judgments that he has made and she said yes, but she still loved him very much. The defense asked this witness if the choice of friends that Brown had possibly influenced his behavior and she said yes that was why they should move. The defense asked the witness if Brown could take probation seriously and she said in the last year and half she felt he was a changed person, that she not only lost a dog but was now losing a future husband.

It was now time for Byrne to be cross-examined by Moore and asked her right at the beginning about how she has been avoiding them. Byrne said I would not say that. Moore acknowledged a phone conversation with the witness and Brown while he was in jail, how she told him she was not answering the door when they tried to give you a subpoena. She said yes. Moore asked Byrne if she really felt Brown could take probation seriously since she said the dog burning was the most serious offense he has committed and he has already learned a life lesson. She said yes. Moore then asked the witness if Brown did not take the offense serious

when the two of you were found with approximately 20 pink pills on a table, two electric scales, baggies, a bottle of gray pills, a bottle of Xanax and guns in the hotel? The witness said the pink and white pills were for his heart and anxiety. Moore then said Brown needs to weigh his heart pills, and the witness said you know what the scales are for since drugs were found, then proceeds to say she was the drug dealer not Brown.

Moore asked Byrne since she called Brown's behavior mistakes, then is criminal conduct a simple mistake. Byrne stated she did not understand the question. Moore then asked Byrne on a different level by asking her if acts are criminal then would that not qualify them to be more serious than mistakes. Byrne's reply was if the acts were malicious only and not if they don't hurt society. Moore asked the witness is it just a mistake to commit unarmed robbery, she said she did not know how to answer that. Moore said is it just a mistake to steal other people's belongings, again the witness said she did not know what she was being asked. Moore asked Byrne do you know what unarmed robbery is. She said yes. Moore then questioned the witness and said is it a mistake or a crime. She said it depends.

Moore was not getting definite answers on the difference between mistakes and criminal behavior so she changed the area of questions to Brown's friends by asking the witness to confirm she felt his minor friends are the one, who got him into trouble. Byrne confirmed. Moore then asked Byrne if Brown was not able to take any responsibility for his actions, and if he does then it appears to be a mistake according to her. The witness said that was not what she said.

Moore changed the topic by asking Byrne how long Brown worked at Petsmart and what did he do for them. The reply was a few weeks and he was a stocker. Moore moved the line of questioning to when Brandy (Mercy) was burned. She asked the witness if she asked Brown several times if he did it, she said no, she asked him if he knew who did it. Moore questioned the witness on how many times did she ask Brown, she said three, then Moore said

it looked like on the tape you said you asked him ten times, Byrne said ok then. Moore asked Byrne if she still had the other pit bull, she replied yes.

Moore decided to ask more about probation to the witness by asking her why Brown will take probation seriously when he was out on bond for this offense then he proceeds to puts the citizens of Denton County in harm's way by driving while he was lit up on something and with intoxicated juveniles. The answer from the witness was he was intoxicated not lit up on something. Moore agreed with the witness and said ok, intoxicated, out on bond for torturing an animal then endangered others, now is that the actions of someone taking his consequences seriously. Her answer was no. Moore questioned Byrne further on the topic by asking her if was someone following rules. She said no, but everyone makes mistakes.

Moore asked Byrne when she saw Brown that night she knew he was worried and you said worried about the animal, would it not be possible he was worried about how he just poured gasoline on your pet, lit on fire, heard it scream and then smelled her flesh burning, her answer was no—objected—overruled. Moore asked for the red gas can to be marked as a State's Exhibit, and then asked Byrne if she ever owned anything that looked like that or have anything like that in her apartment, the answer was no, there was not a need. Moore said so there was no need for Brown to be seen with a gas can that night. She replied no.

Moore questioned this witness to the many conversations with Brown and especially the one when he told you not to tell the jury the dog jumped out of the window. She said no. Moore said excuse me, then Byrne said she did not remember. Moore asked the witness if she would like to hear the tape and she said if you say it is there. Moore asked Byrne and you never asked Brown why we should not tell the jury the dog jumped out or you did not tell him it has already been said. The witness replied if that is what it says but I don't recall.

Moore's next topic for the witness is on an apparent video of Brandy (Mercy) when Brown was trying to mate her. Moore asked Byrne if she saw the tape and she said yes.

Moore asked the witness “and did you see the portion where he closed her head with the door? Moore said he closed the door on her head to hold her still so that the dog could mount her” (Volume 13 p. 95). Her reply was no. Moore asked the witness if she was there during the mating. She said no. Moore stated to the witness so you know something happened when it is what you want to hear but when it is not what you want to hear you know it did not happen. The witness said it was her idea to mate the dog in the first place. Moore then paraphrased what the witness has been saying, i.e., it was your idea to mate the dog and your idea to be the drug dealer? Byrne testified how they did not lose anything by the dog not mating but if she would have gotten pregnant then it would have been a plus for them. Moore passed the witness.

The defense, under redirect examination asked Byrne if she knew how long she had been up that day that Brandy (Mercy) was burned and she said 18-19 hours. Westmoreland asked the witness what time did she get off work and she said Brown called her at 10:20 to see if she was ready, objected because of hearsay, sustained. Westmoreland asked the witness again what time did she get off work and she said I started to walk home about 10:36. I don't have anything else was Westmoreland's reply.

Sandra Brown, the defendant's mother, was the next witness under direct examination. Westmoreland asked Sandra if she was aware of Brown's trouble, her reply laughing was yes. The defense asked Sandra if he has caused her a lot of anxiety, her reply was yes. The defense asked Sandra if she felt her son would be a good candidate for probation. Her reply was yes. The defense asked Sandra if Brown would have to answer to her if he was on probation. She said yes he would. Westmoreland then asked Sandra if she had seen Brown on the day of the crime. Sandra stated that she met them at the apartment complex, since she had to be a cosigner, because she did not want him and all his dogs at her house. Westmoreland then passed the witness to the prosecutor.

Under cross-examination, Sandra was asked if Brown was her only child and a momma's boy. Sandra was also asked if she thought Brown was a good young man. Her answer to these questions was, yes. Alex then asked Sandra if it tore her up when she heard her son say those things on video tape ("fucking bitch" and "I hope you crash and burn") and her answer was yes. Alex then stated "okay, is that because you did not think he is capable?" Sandra responded by saying that Brown told her the handcuffs were too tight. Alex asked Sandra if she heard Brown laughing and giggling while saying the cuffs are too tight, and her answer was yes. Alex then moved to another area of the tape where Brown was berating the officer and asked her was she not shocked at her son's behavior to which she replied "yes, but." Moore stopped the witness by saying "the point is you cannot control your son." The defendant's mother replied by stating "that depends." Moore continued to address Brown's behavior by asking whose car was driving when he got the DWI with juveniles who were drunk. Her reply was that it was her vehicle.

The defense asked Sandra if Brown finished school. She replied that the defendant did not finish school because, as a senior, he skipped too many days. The defense said they had nothing further and passed the witness. There was no redirect examination. With that, the defense rested their case. A recess was taken at this point.

When the court reconvened, the State and the defense both rested and closed. Alex, arguing for the State of Texas, let the jury know they have heard all the evidence. Moore thanked the jury for their long week and the attention that was given in the second part of the trial. Moore let the jury know this is the part where they decide how much they are going to put with. Moore explained to the jury, how it is their community, and they get to decide "what this jury is willing to put up with. What you think the standard of value is that we place on animal cruelty. And so how much are you willing to put up with" (Volume 13 p.123).

Moore said it was ironic since the defense will ask you to show mercy to someone who committed this very heinous crime. Moore said mercy to someone who he showed no mercy to his victim. What you will need to do is let your decision show how much you are willing to put up with and let the crime fit the punishment. Moore stated to the jury they need to look at the criminal's resume and realize these are not mistakes. The State of Michigan already tried probation by giving him a second chance and look what he did with that chance only to begin a life worse than he left behind. Brown showed no respect for the Judge who granted him that second chance when he was told he could move forward but do no more harm. Brown moved to Texas and set his dog on fire, then while on bond got in his mother's car with juveniles and committed DWI. Moore again reminded the jury to look at Brown's resume.

Moore asked the jury if Brown could do this to an animal that he supposedly cared for then what could he do for someone he did not care for? Moore reemphasized how the punishment should fit the crime and think about Mercy how when she was on her back gasoline was poured on her, then she was put on fire, the pain and suffering is beyond imaginable with her screams and flesh that was burning—last but not least, how it took ten days for Mercy to die. Moore recommended ten years in the penitentiary in order to hold Brown accountable and have consequences for what he committed before it's too late for someone else.

Wyde for the defense told the jury it was all about winning and he told them Moore would ask for the maximum and she did. Wyde said contrary to what Moore said, they would ask for justice not mercy. Wyde said giving Brown ten years will not bring the dog back and he is now a convicted felon so now should there be revenge? Wyde said Moore was very good at her job and she felt if they are going to have to work this hard, then he deserves the maximum punishment. Wyde said he was shocked to hear Dallas County kills 26,000 animals a year and then the City of Dallas will give Brown ten years in the penitentiary for killing their one pit bull then he asked the jurors if this would be justice. The defense said he hated to tell the jury but

250 dogs a day are put down. Wyde asked if Brown should get ten years and the convicted felon label for what he did to his own property.

Wyde acknowledge to the jury they have a choice of penitentiary or probation. Wyde said prison prison may be doing Brown a favor with almost a dare like proposal. Wyde's next topic was serial killing and how the State mentioned if he did this to a dog what would he do next, well we cannot predict human behavior. Wyde stated they spend a week on a capital murder trial and here in this court there was equal time on a third-degree animal cruelty all for that dog. Wyde begged the jury to ask for all the exhibits and to really think on this because this verdict will be forgotten in one month and no statement will be made to the community since everyone will have moved on. Wyde then thanked the jury members for their time.

Alex for the State acknowledged to the jury they were tired and reminded them it was not complicated and it is very serious because of the facts. Alex downplayed what the defense said since they seem to think it was just a dog so that meant the case is not serious. Alex talked about the characteristics of dogs and what Brown did to that was serious. Alex described the offense again, looking in the face of unconditional love, dousing it with gasoline, lighting it up and explained that is serious.

Alex said the defense was right when they said he did not have any prior felonies so all his prior offenses have helped to create his twisted mind evolving into a monster which happened over time from not being accountable for any of his prior wrong doings. Alex explained how justice is accountability not revenge. Alex spoke about Brown's mom and put some of his lack of accountability on her parental role stating she had her chance with him but at the same time he said he felt sorry for her since Brown was her only child. Alex said Brown deserved one year for every day Mercy suffered. Alex told the jury it was the vets who tried to keep Mercy alive when Brown did not so much as call them to find out how she was. Alex said over a hundred pictures are here of what Brown should be accountable for and then we all

should pray for the day he gets out of prison. Alex said every year Brown is in prison he will know he is accountable and how there are consequences for what he did and possibly he will come out in a human form by showing his mom and animals the love that is deserved. Alex last words were today is the day of reckoning and asked the jury to hold Brown accountable for each day Mercy suffered. The jury was commenced to deliberate the punishment.

It was time for the court to reconvene and the jury was present. The foreman told the Judge a verdict was reached, unanimously. The court asked the accused and counsel to stand and it was read in the matter of the DaShawn Brown versus the State of Texas, stating how the jury "having heretofore found the defendant guilty of the offense of cruelty to an animal, assess the defendant's punishment at four years confinement in the Institutional Division of the Texas Department of Criminal Justice, and a fine of \$5,000" (Volume 13 p.145).

The Judge then commended the jury for their service and attentiveness throughout the trial and how grateful he was to them on behalf of the County of Dallas and the State Texas. The Judge told the jury they were free from the instructions and now could talk to anybody or nobody, however they see fit, about this case, but the choice was theirs and they are free to go. After the jury was dismissed the Judge stated to Brown he came to court and pleaded not guilty to his arraignment, after his evidence was submitted to the jury they deliberated returned a guilty verdict for the offense of cruelty to animals and assessed your punishment at four years in the Texas Department of Correction Institutional Division with a \$5,000 fine without the recommendation of probation and that is the judgment of this court.

Wyde informed the court he will file post-trial motions and a motion for new trial, other post-trial motions and request bond to be set. Wyde said under Texas law, Brown is eligible for appellate bond and his current bond is \$150,000. The Judge replied a potential bond would be taken up on a later date and there will be no bond set tonight. The Judge proceeded to order Brown to be delivered to the Sheriff of Dallas County to the director or any person legally

authorized to receive such convicts where you will be housed for four years and your sentence will commence this day and he will be allowed to receive credit if allowed for time served. Court was now in recess.

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BIOGRAPHICAL INFORMATION

The author has earned an Associate of Applied Science Degree and an Associate of Arts Degree in criminal justice from Tarrant County Community College, a Bachelor of Science Degree in sociology with an emphasis in criminal justice from Texas Wesleyan University, and is currently seeking a Master of Arts Degree from the University of Texas at Arlington in criminology and criminal justice. Research interests include animal welfare issues. Recent employment includes the last four years full-time as a probation officer, simultaneously working two part-time positions: one for twelve years in asset protection for a major retailer and the other four years in a support position for a major bank. The author's future plans are to combine academic experience and work experience into an employment position that will provide a continuous learning journey. And if the learning journey included animals, then that would be a bonus.