

Approved 3-26-90
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Senator Edward F. Reilly, Jr. at
Chairperson

11:05 a.m./p.m. on March 22, 1990 in room 254-E of the Capitol.

All members were present ~~except~~:

Committee staff present:

Mary Torrence, Revisor of Statutes Office
Mary Galligan, Legislative Research
Emalene Correll, Legislative Research
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Bernard Dunn, Attorney, Topeka
Senator Don Montgomery
Shon Koenig, State Companion Animal Inspector
Audrey McCaig, Humane Society, Topeka
Ellen Querner, Wichita
Dr. Eva Dudek
Dr. D. A. Hogan
Wendell Maddox, Humane Society of the U.S.
Neal Whitaker, Kansas Beer Wholesalers Assoc.
Tuck Duncan, Ks. Wine & Spirits Wholesalers Assoc.
Rebecca Rice, Ks. Retail Liquor Dealers Assoc.

Action on: SB 129 - Requiring notification of certain persons prior to abortion

The committee report of action of 3-21-90 was distributed. (Attachment 1)

A motion was made by Senator Yost to reconsider action taken 3-21-90; Senator Strick seconded the motion; the motion carried.

A motion was made by Senator Yost and seconded by Senator Strick to change the age on P. 4, Line 17 to 18 years.

A substitute motion was made by Senator Walker and seconded by Senator Morris to amend the language of SB 557 into this bill. The motion failed.

The original motion by Senator Yost failed.

Senator Anderson stated for the record that he favored the age being 16; he favored the rest of the committee amendments of 3-21-90.

A motion was made by Senator Yost and seconded by Senator Vidricksen to recommend the bill favorably as amended. The motion carried.

Hearing on: SB 626 - Individually identifiable records derived from personnel records not required to be disclosed under open records act

Bernard Dunn, Attorney, Topeka, presented testimony describing a problem he has had obtaining inmate clients records and a letter he had sent to the Secretary of Corrections suggesting a proposed amendment to the bill. (Attachments 2 & 3)

The Chairman will meet with the Secretary of Corrections and report back to the committee.

Hearing on: SB 470 - concerning licensure and registration of certain persons dealing in animals

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs,
room 254-E Statehouse, at 11:05 a.m./~~p.m.~~ on March 22, 1990

Senator Montgomery gave testimony in support of the bill. He said this will prevent kennels being subject to double rules and regulations. He referred to the Governor's budget; it is not cost-effective to have to inspect USDA kennels twice a year. The Department's time would be better spent in searching for unlicensed kennels.

Shon Koenig, State Companion Animal Inspector, spoke in opposition to the bill and accepting USDA standards. (Attachment 4) She displayed pictures, copies of which are attached. (Attachment 5)

Audrey McCaig, Helping Hands Humane Society of Topeka, gave testimony opposing fee changes and excluding USDA licensed kennels. (Attachment 6)

Ellen Querner, Wichita, spoke in opposition to the bill. (Attachment 7)

Dr. Eva Dudek urged that SB 470 be killed. (Attachment 8)

Dr. D. A. Hogan testified in opposition to SB 470, saying it will reduce an already inadequate budget. (Attachment 9)

Wendell Maddox, Humane Society of the U.S., urged the committee to vote against the bill. Included with his testimony were various news articles. (Attachment 10) He also presented pictures, copies of which are attached. (Attachment 11) Others are on file.

Written testimony was distributed from Rep. Barr urging defeat of SB 470 for the image of our state and proper care of animals. (Attachment 12)

A study which was used by Helen Stephens in testimony on 3-20-90 entitled "Police Encounters with Toy Guns" was distributed. (Attachment 13)

Hearing on: SB 765 - concerning the sale of cereal malt beverage containing not more than .5% alcohol

Neal Whitaker, Kansas Beer Wholesalers Association, said this bill would allow clubs, etc. to sell "near beer" without having to secure an additional cereal malt beverage license. (Attachment 14) He will provide language for two issues that SB 765 does not address.

Tuck Duncan, Kansas Wine & Spirits Wholesalers Association, Inc., suggested a new category of products termed "non alcoholic" be provided. (Attachment 15)

Rebecca Rice, Kansas Retail Liquor Dealers Association, shared concerns raised by the bill for the record, though they are not opposing it at this time. (Attachment 16)

The minutes of March 20 were approved.

The meeting was adjourned at 12:05 p.m.

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Federal and State Affairs

Recommends that House Substitute for Senate Bill No. 129
(As Amended by House Committee of the Whole)

"AN ACT concerning minors; requiring, under certain circumstances, notification of certain persons before performance of abortions on minors; prescribing procedures relating thereto; imposing an obligation to support on certain grandparents; amending K.S.A. 1989 Supp. 65-2837 and repealing the existing section."

Be amended:

On page 4, by striking lines 15 and 16 and inserting:

"(b) "Notice" means written notice of the pending abortion delivered not less than 72 hours before such abortion in the following manner:

(1) Personal delivery to a parent at the usual place of abode by the physician or the physician's agent; or

(2) mailing by certified mail addressed to the parent at the usual place of abode with return receipt requested and restricted delivery only to the authorized addressee, in which case time of delivery shall be deemed to have occurred at 12:01 p.m. on the next day subsequent to mailing on which regular mail delivery takes place.";

Also on page 4, in line 17, by striking "16" and inserting "18"; in line 21, by striking the second comma; by striking all of lines 22 through 24; in line 25, by striking "of 1986"; in line 29, by striking "(a)"; in line 30, by striking "; (1)" and inserting ": (a)"; in line 31, by striking "(2)" and inserting "(b)"; in line 32, by striking "(A) given actual" and inserting "(1) given"; in line 34, by striking "(B)" and inserting "(2)"; by striking all of lines 38 through 43;

On page 5, by striking all of lines 1 through 43;

On page 6, by striking all of lines 1 through 6 and inserting the following:

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Att. 1

"New Sec. 3. If section 2 is temporarily or permanently restrained or enjoined by judicial order, section 2 shall be enforced as though the following paragraph were incorporated as a part of that section, except that if such temporary or permanent restraining order or injunction is ever stayed or dissolved, or otherwise ceases to have effect, section 2 shall have full force and effect, without being modified by the addition of the following paragraphs which shall have no force or effect until or unless an injunction or restraining order is again in effect:

(a) If a minor elects not to allow the notification of one or both of her parents, she may petition the district court of the judicial district in which she maintains her residence for a waiver of such notification. If after an appropriate hearing the court determines that it is in the best interests of the minor, the court shall order a waiver of the notification requirement in section 2.

(b) The pregnant minor may participate in proceedings in the court on her own behalf or the court may appoint a guardian ad litem for the pregnant minor. The court shall advise the pregnant minor that she has a right to court-appointed counsel, and shall, upon request of the pregnant minor, provide her with such counsel.

(c) Proceedings in the court under this section shall be confidential and shall be given such precedence over other pending matters so that the court may reach a decision promptly and without delay so as to serve the best interests of the pregnant minor. In no case shall the court fail to rule within 15 days after the filing of the petition. A judge of the court who conducts proceedings under this section shall make in writing specific factual findings and legal conclusions supporting the court's decision and shall order a record of the evidence to be maintained including the court's findings and conclusions.

(d) An expedited confidential appeal shall be available to any pregnant minor denied an order of waiver of notice by the court. An order authorizing such waiver shall not be subject to appeal. No filing fees shall be required of any such pregnant

minor at either the trial or the appellate level. Access to the trial court for the purposes of such a petition or motion, and access to the appellate courts for purposes of making an appeal from denial of the same, shall be afforded such a pregnant minor 24 hours a day, seven days a week. In no case shall the appellate court fail to rule within 15 days after the filing of the appeal.

(e) The notice requirement of section 2 shall be considered waived if any court fails to comply with the time limitations of this section.";

Also on page 6, in lines 8 and 9, by striking "or health"; in line 19, by striking all after "waived"; in line 20, by striking all before "if"; by striking lines 23 through 31 and inserting the following:

"New Sec. 5. (a) Performance of an abortion in violation of this act is a class A misdemeanor.

(b) Performance of an abortion in violation of this act shall be grounds for a civil action by the parent of the person upon whom the abortion was performed against the person who performed the abortion. In such action, the plaintiff may recover \$10,000 in punitive damages and treble the actual damages sustained by the plaintiff. No person shall be precluded from recovery in such action on the ground that either the plaintiff or the person upon whom the abortion was performed gave consent to the abortion.

(c) A person shall not be held civilly or criminally liable under this section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the pregnant minor regarding information necessary to comply with this act were bona fide and true or if the person attempted with reasonable diligence to deliver notice but was unable to do so.";

And the bill be passed as amended.

Chairperson

Bernard J. Dunn
Attorney and Counselor at Law
3240 S.W. COLLEGE AVE., SUITE B
TOPEKA, KANSAS 66611

21 March, 1990

Senator Edward F. Reilly, Jr.
Room 255-E, Statehouse
Topeka, Kansas 66612

Phone: (913) 296-7372

Re: Senate Bill 626; Legal Counsel access to inmate's records for purpose of properly executing duties of legal representation. Hearing continued from 20 March 1990

Dear Senator Reilly:

A brief outline of the law, the problem, some history and the need for my proposed change to SAB626 follows:

LAW:

- K.S.A. 45-216 Policy is for all public records to be open.]
- K.S.A. 45-217 Records in possession of agency are public records
- K.S.A. 45-218 Denial must be written and cite law
- K.S.A. 45-220 Agency procedures required
- K.S.A. 45-221 Certain records **not required to be disclosed**
 - (29) Correctional records, except that
 - (B) counsel for inmate shall have access as otherwise permitted by law
- K.S.A. 45-222 Civil remedies includes attorney fees to Plaintiff or Defendant if not in good faith or reasonable basis in law.

PROBLEM:

Department denies access without written explanation or any citation of law on grounds that if it is not specifically required to open record it is closed until inmate shows legal proof and statutory citation of legal requirement that inmates legal counsel shall have access. All discretion is thus applied to close record rather than open where permitted. This is in controvention of the state policy that all are open unless legally required to be closed.

HISTORY:

Approximately 1 1/2 years of trying to obtain general access to records of several inmates' records at different times, and encountering gradual increasing closure to counsel following change in policy with records officer Sharon Hards and continuing today supported by DOC legal.

Denial is made verbally with no written response justifying denial even though reasons requested.

Department has parole records in its possession but requires parole board to provide permission. Parole board denies without citation of legal authority. KPB closes all records not just public comments from hearing made at public hearing.

DOC pulls items from file but will give neither identification, date, source or and item count of documents removed before showing records.

DOC policy stated to be " If we didn't create the record you cannot see it, and can't see it anyway unless you prove to us the law requires it" , even though they are the legal custodian of the record and make judgements about inmates based on all the material in the file regardless of source.

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Att. 2

DOC says counsel must get permission from the source of the document in some cases but usually will give neither the source name or address nor the description of the document or its date.

Until February 1990 there was no significant written attempt at justification, and it had not statutory authority to justify and stated only broad categories of material it would not release.

DOC has shown no written policy on records disclosure and the policy has varied at least to some degree with virtually request.

Example: Legal counsel requested inmate be sent to Larned for mental health evaluation but department denied access to the mental health report in their file because permission must be obtained from Larned. Larned in turn says permission denied because inmate could not know contents of mental health report without consulting mental health author at Larned. Department did not offer to disclose report after consultation with mental health professional in Lansing where the inmate was held. Result: Legal counsel denied access to mental health report he requested, and required to spend considerable scarce resources in the attempt.

When offer to discuss and resolve privately or through legislative process, DOC counsel refused preferring litigation as the preferable forum, and considerably greater risk of financial loss to both inmate, legal counsel and the State of Kansas, and of course the denial of the constitutional right to effective access to legal counsel.

Sincerely,



Bernard J. Dunn

encl.

pc: Thomas Weigel
file

BJD/sif

cc DOC LEGAL

Bernard J. Dunn
Attorney and Counselor at Law
3240 S.W. COLLEGE AVE., SUITE B
TOPEKA, KANSAS 66611

16 March, 1990

Steven Davies, Secretary of Corrections
Suite 400 Landon State Office Building
900 Jackson
Topeka, Kansas 66612

Phone: (913) 296-3317

Attention : Charles E. Simmons, Chief Legal Counsel Phone: 296-4508

RE: SB626: proposed amendment relating to inmate's attorney's access to inmate's record.

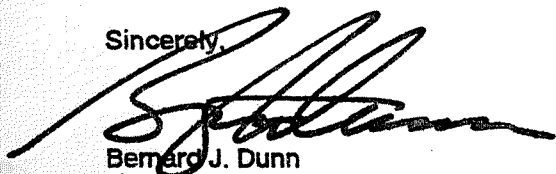
Dear Steve:

Enclosed is a copy of a letter and balloon text of page 4 of SB626 I sent to Senator Reilly and presented to the Senate Federal & State Affairs Committee proposing amendment to the SB626. The purpose is to clarify that the legal counsel for an inmate may have access to his or her client's record as held by the Department of Corrections, while providing a mechanism for protection of private and public safety. Senator Reilly suggested the Department of Corrections be invited to respond on next Tuesday in the Committee meeting.

Since this merely provides a straight forward clarification to the normal right of an inmate to have effective access to legal counsel, does not give the inmate himself or herself inappropriate access, and provides a system for protection of private and public safety, I request that you would submit to the committee a letter of "concurrence" or "no opposition" to this amendment so it will not impede the smooth flow of the bill's progress.

Thanks for your cooperation.

Sincerely,



Bernard J. Dunn

pc: Chuck Simmons (Hand Carried)
Senator Reilly and Committee
file

BJD/slf

Bernard J. Dunn
Attorney and Counselor at Law
3240 S.W. COLLEGE AVE., SUITE B
TOPEKA, KANSAS 66611

16 March, 1990

Senator Edward F. Reilly, Jr.
Room 255-E, Statehouse
Topeka, Kansas 66612

Phone: (913) 296-7372

Re: Senate Bill 626; Legal Counsel access to inmate's records for purpose of properly executing duties of legal representation.

Dear Senator Reilly:

As we discussed on the phone I am sending you the changes to Senate Bill 626 I am proposing so that I may effectively represent my client.

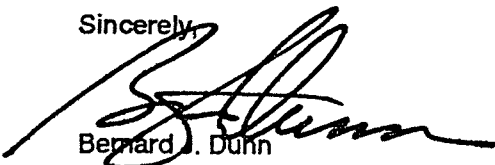
Senate Bill 626, Section 1, amending K.S.A. 1989 Supp. 45-221

Line 22 & 23 (pg 4): delete "counsel for the inmate to whom the record pertains" and in lieu thereof insert the following after the end of the sentence in Line 25 (pg 4): "Upon written request from legal counsel for an inmate to whom a record pertains, and submission of a release of information executed by the inmate, counsel shall be permitted to access, review and to copy any record pertaining to that inmate unless the custodian provides immediately a specific citation of controlling Federal law prohibiting disclosure to the inmate's counsel. If access by the inmate is legally prohibited, then counsel for the inmate shall be permitted to review but not copy such record upon submission of a written sworn statement that counsel shall not disclose the sensitive material to the inmate, unless, upon in-camera review by the district court where the record is held upon application of the custodian, the court shall prohibit disclosure. If permission of the source of the document is legally required prior to disclosure, custodian shall provide to counsel in writing for each document the name and address of the source, the date of the document, and a general description of the character of the document sufficient to permit counsel to obtain permission from the source.

I am attaching a copy of Senate Bill 626 and have marked the location where these changes are to be made for your convenience.

If I cannot know what the foundation is for a Department of Corrections decision, I cannot discuss it with them or take action to reasonably help my clients. I am respectful of the needs of public safety and wish to cooperate, but I have received unexplained and unjustified denials from the record custodians. Although requested several times over the past year or more, they have refused until 22 February this year to give any legal citation for their refusal (as is required by law), and when given was not sufficient nor well founded. Please help clarify this so that my role in the constitutional right to legal counsel can be effectively exercised within reasonable terms.

Sincerely,



Bernard J. Dunn

encl.

pc: Thomas Weigel
file

BJD/sif

(23) Library patron and circulation records which pertain to identifiable individuals.

(24) Records which are compiled for census or research purposes and which pertain to identifiable individuals.

(25) Records which represent and constitute the work product of an attorney.

(26) Records of a utility or other public service pertaining to individually identifiable residential customers of the utility or service, except that information concerning billings for specific individual customers named by the requester shall be subject to disclosure as provided by this act.

(27) Specifications for competitive bidding, until the specifications are officially approved by the public agency.

(28) Sealed bids and related documents, until a bid is accepted or all bids rejected.

(29) Correctional records pertaining to an identifiable inmate, except that:

(A) The name, sentence data, parole eligibility date, disciplinary record, custody level and location of an inmate shall be subject to disclosure to any person other than another inmate; and

(B) the ombudsman of corrections, the corrections ombudsman board, the attorney general, law enforcement agencies, ~~counsel for the inmate to whom the record pertains~~ and any county or district attorney shall have access to correctional records to the extent otherwise permitted by law.

(30) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(31) Public records pertaining to prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the state. This exception shall not include those records pertaining to application of agencies for permits or licenses necessary to do business or to expand business operations within this state, except as otherwise provided by law.

(32) The bidder's list of contractors who have requested bid proposals for construction projects from any public agency, until a bid is accepted or all bids rejected.

(33) Engineering and architectural estimates made by or for any public agency relative to public improvements.

(34) Financial information submitted by contractors in qualification statements to any public agency.

(35) Records involved in the obtaining and processing of intel-

Bernard J. Dunn
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Phone 267-1999
Answering Service 357-8776

SB 626

"Upon written request from legal counsel for an inmate to whom a record pertains, and submission of a release of information executed by the inmate, counsel shall be permitted to access, review and to copy any record pertaining to that inmate unless the custodian provides immediately a specific citation of controlling Federal law prohibiting disclosure to the inmate's counsel. If access by the inmate is legally prohibited, then counsel for the inmate shall be permitted to review but not copy such record upon submission of a written sworn statement that counsel shall not disclose the sensitive material to the inmate, unless, upon in-camera review by the district court where the record is held upon application of the custodian, the court shall prohibit disclosure. If permission of the source of the document is legally required prior to disclosure, custodian shall provide to counsel in writing for each document the name and address of the source, the date of the document, and a general description of the character of the document sufficient to permit counsel to obtain permission from the source.

3-3

MY NAME IS MRS. SHON KOENIG, I AM A STATE COMPANION ANIMAL INSPECTOR. THANK YOU FOR GIVING ME THE OPPORTUNITY TO EXPRESS MY VIEWS. I WOULD LIKE TO GIVE YOU MY BACKGROUND AND EXPERIENCE. I AM A KNOWLEDGEABLE AND CAPABLE PERSON ABLE TO MAKE THE JUDGEMENTS REQUIRED OF THIS TYPE POSITION.

I GREW UP ON A FARM, HAVE RAISED AND SHOWN HORSES, DOGS AND CATS. I HAVE WORKED THE LAST 20 YEARS FOR THE COLLEGE OF VETERINARY MEDICINE AT KSU. I HAVE WORKED IN VARIOUS DEPARTMENTS AND WORKED MY WAY UP THE PROMOTIONAL LADDER BY TAKING A FEW VETERINARY MEDICAL CLASSES (MAINTAINING A 3.8 GPA) AND SOME ANIMAL SCIENCE CLASSES, I ALSO TOOK A GRADUATE LEVEL CLASS IN ELECTRON MICROSCOPY AND GOT A "B" EVEN THOUGH I AM NOT A GRADUATE. I STARTED WORKING IN THE SMALL ANIMAL WARDS AS DIETICIAN AND PHYSICAL THERAPIST. I GAVE PHYSICAL AND HYDRO-THERAPY TO DOGS WITH DISC SYNDROME OR OTHER INJURIES. I WORKED FOR 4 OR 5 YEARS AT ANIMAL RESOURCE FACILITY, PROCESSING POUND AND RESEARCH DOGS, I WAS TRAINED TO DO ALL THE ANESTHESIA, TATTOOING, FEDERAL RECORDS, PROJECT ASSIGNMENTS, CLASS DELIVERIES, AND NUMEROUS OTHER DUTIES. I PROMOTED TO THE DEPARTMENT OF PATHOLOGY AS A MEDICAL TECHNICIAN II. I WORKED FOR NINE OR TEN YEARS FOR DR. LEIPOLD. DR. LEIPOLD IS A WORLD RENOWN PATHOLOGIST IN ANIMAL GENETICS. I WAS HIS PRIVATE TECHNICIAN. DR. LEIPOLD IS A PERFECTIONIST AND REQUIRED A TECHNICIAN WHO COULD MAKE SOUND DECISIONS IN HIS ABSENCE. HE TRAINED ME TO PERFORM NECROPSIES ON ALL SPECIES OF ANIMALS, I AM TRAINED TO DO HISTOLOGY - THAT IS THE PREPARATION OF TISSUE FROM A CARCASS OR BIOPSY, TO THE PROCESS OF SECTIONING TISSUE AND STAINING SLIDES TO READ ON A MICROSCOPE. I WAS TRAINED TO DO CHROMOSOME CULTURES AND RAN THE CONGENITAL DEFECTS LAB. I HAVE ASSISTED WITH HUNDREDS OF RESEARCH PROJECTS, WORKING WITH DOZENS OF DOCTORS AND GRADUATE STUDENTS THAT DEPENDED UPON ME. I KEPT LEGAL DOCUMENTS AND CASE RECORDS, RESEARCH PAPERS, AND GENEALOGY CHARTS. I ALSO HAD SEVERAL STUDENT HELPERS AND VETERINARY STUDENTS FOR HELPERS THAT I SUPERVISED. IN AUGUST OF '87 I TRANSFERRED TO THE DEPARTMENT OF SURGERY AND MEDICINE TO WORK FOR DR. SPIRE AND EDWARDS. I WAS THEIR EMBRYO TRANSFER TECHNICIAN AND RESEARCH ASSISTANT. I TRAVELED WITH THEM TO VARIOUS RANCHES ASSISTING WITH COW/CALF PROGRAMS AND EMBRYO TRANSFERS, FEEDLOT MEDICINE, AND SETTING UP RESEARCH DATA ON NEW COMPUTER PROGRAMS. I PROMOTED TO THIS STATE COMPANION ANIMAL INSPECTOR POSITION ON JANUARY 3, 1989. I HAVE YEARS OF " OUTSTANDING JOB PERFORMANCE " EVALUATIONS.

WHEN I APPLIED FOR THIS POSITION, I DID NOT BELIEVE THERE WERE STILL PLACES LIKE THESE IN KANSAS. THERE ARE MORE THAN YOU CAN IMAGINE. I HAVE BROUGHT PHOTOGRAPHS, THAT I HAVE TAKEN DURING THIS LAST YEAR. THESE ARE A FEW OF THE ONES THAT WE NEED TO CORRECT. I HAVE NOT PHOTOGRAPHED NEARLY ENOUGH OF THEM. I WISH I HAD TAKEN MORE PHOTOGRAPHS FOR DOCUMENTATION.

I STRONGLY BELIEVE KANSAS NEEDS THIS COMPANION ANIMAL PROGRAM TO CLEAN UP THE SUBSTANDARD FACILITIES. I AGREE. THERE ARE PROBLEMS THAT NEED TO BE SOLVED IN THE NEAR FUTURE. HOW CAN PROBLEMS THAT HAVE BEEN ACCUMULATING FOR THE LAST 20 YEARS BE ELIMINATED IN OUR FIRST FEW MONTHS ON THE JOB? WE HAVE ONLY BEEN IN THE FIELD FOR 13 MONTHS. DURING THIS TIME, I HAVE BEEN HAMPERED IN PERFORMING MY DUTIES AS AN INSPECTOR, BY BREEDERS THAT I HAVE WRITTEN UP FOR VIOLATIONS, AND THEIR VETERINARIANS, COMPLAINING ABOUT ME. YOU WILL NOT HEAR FROM ALL THE GOOD ONES. I KNOW THE SUB-STANDARD FACILITIES ARE TRYING HARDEST TO GET RID OF THIS PROGRAM. RECENTLY, THERE HAVE BEEN CALLS MADE TRYING TO GATHER COMPLAINTS AGAINST ME. BECAUSE OF OTHER LEGALITIES, I HAVE NOT BEEN ABLE TO COVER MANY OF THE COUNTIES

NORMALLY WOULD HAVE. SOME OF THE KENNEL OWNERS HAVE TOLD ME THEY DO NOT HAVE TO COMPLY WITH MY INSPECTION REQUESTS. I WILL NOT BE A "TOKEN" INSPECTOR. IF THE ADULT ANIMALS IN A KENNEL OR CATTERY ARE NOT HEALTHY, THE PUPPIES OR KITTENS WILL NOT BE HEALTHY. I WILL NOT IGNORE OR TOLERATE HEALTH OR SANITATION PROBLEMS.

I SINCERELY HOPE THAT WE GET THE OPPORTUNITY TO MAKE THIS PROGRAM WORK. IT WOULD SEEM THAT THE MILLIONS OF DOLLARS WORTH OF PUPPIES AND KITTENS THAT ARE EXPORTED FROM THIS STATE, WOULD BE A SOURCE OF TAX MONEY TO HELP FUND THIS PROGRAM, ALONG WITH THE LICENSING FEES. THE HOBBY BREEDER CATEGORY IS A MAJOR PROBLEM FOR US. THERE ARE APPROXIMATELY 317 HOBBY BREEDERS. THE MAJORITY OF FACILITIES THAT ARE LISTED AS HOBBY BREEDERS ARE NOT. MOST OF THE HOBBY BREEDERS ARE SUB-STANDARD FACILITIES, THEY HAVE A LOT OF DOGS OR CATS AND THEY ARE NOT KEEPING ACCURATE RECORDS OF NUMBERS OF LITTERS OR NUMBERS SOLD. THE RESPONSIBILITY IS OURS TO PROVE OTHERWISE. IF THEY ARE SELLING TO OUT-OF-STATE BROKERS, WE HAVE NO EASY ACCESS TO THEIR RECORDS. MAKING THIS HOBBY BREEDER CATEGORY SUBJECT TO INSPECTIONS AND RECLASSIFYING THEIR LICENSING FEES WOULD BE A CONSIDERABLE IMPROVEMENT. THIS FIRST YEAR HAS BEEN DISTRAUGHT WITH PROBLEMS BUT AS WITH ANYTHING NEW, YOU MUST MAKE ADJUSTMENTS AND NOT GIVE UP. A PROGRAM THIS COMPLEX WILL NOT BE WITHOUT ITS DIFFICULTIES.

IF THE USDA HAD ANY ENFORCEMENT ACTIONS TO PROSECUTE OR CLEAN UP THESE UNFAVORABLE FACILITIES, THEY WOULD. BUT THEY CAN'T. THE PROCEDURE HAS BEEN REPEATED HUNDREDS OF TIMES OVER. YOU CAN WRITE THOUSANDS OF TICKETS, BUT IF YOU DON'T HAVE ENFORCEMENT, IT IS ALL IN VAIN, A TOKEN PROGRAM.

KANSAS BREEDERS WILL SURELY HAVE TO FACE SERIOUS PROBLEMS OF NEGATIVE PUBLICITY. I FEAR THAT IN THE NEAR FUTURE, KANSAS PUPPIES AND KITTENS WILL BE BOYCOTTED AT OUT OF STATE PET SHOPS. DO YOU KNOW WHAT WILL HAPPEN TO THOUSANDS OF PUPPIES THAT WILL HAVE NO MARKET PLACE? THIS IS A MULTI MILLION DOLLAR BUSINESS FOR KANSAS AND WE NEED TO PROTECT THIS COMMODITY THE SAME AS IF IT WAS WHEAT OR CATTLE. THE TELEVISION SHOW, 20/20, WAS IN KANSAS TAPING MORE VIDEOS THE LAST PART OF FEBRUARY. IF OUR STATE INSPECTION PROGRAM GOES BY THE WAYSIDE, I AM SURE, IT WILL ONLY ADD TO THE NEGATIVE NEWS. THIS PROBLEM WILL CONTINUE TO GROW IN THE FUTURE. IT WILL NOT DISAPPEAR. WE SHOULD NOT STICK OUR HEADS IN THE SAND AND HOPE IT GOES AWAY. WE NEED TO SUPPORT OUR GOOD BREEDERS AND BROKERS AND MAKE THIS A POSITIVE PROGRAM.

THIS IS AN EMOTIONALLY DRAINING JOB. MANY NIGHTS I CANNOT QUIT THINKING ABOUT DOGS FIGHTING OR KILLING EACH OTHER, DOGS FREEZING TO DEATH, DYING OF HEAT STRESS OR SOME OF THE OWNERS I MUST CONTEND WITH. THIS IS NOT THE TYPE OF JOB YOU CAN WALK IN THE DOOR AT 5:30 AND FORGET ABOUT IT. I CAN'T. I BELIEVE THIS PROGRAM CAN MAKE A DIFFERENCE AND KEEP A SOLID MARKET FOR THE GOOD BREEDERS, BUT WE WILL HAVE TO WORK ON FUNDING AND ORGANIZATION AND FORGET ABOUT ACCEPTING USDA STANDARDS. LETS NOT WASTE ANYMORE TIME.

SHON KOENIG

STATE COMPANION ANIMAL INSPECTOR

4-2

STATISTICS FROM SOUTH TERRITORY - AS OF 3/20/1990
(GREG BOUCHER, INSPECTOR)

32 KENNELS HAVE NOT RECEIVED THEIR STATE LICENSE, (HAVE NEVER PASSED STATE INSPECTON.)

OUT OF THOSE 32, THREE OF THESE ARE IN THE HANDS OF THEIR COUNTY ATTORNEY, TWO OF THE THREE HAVE CURRENT USDA LICENSES.

OUT OF THOSE FIRST 32, THERE ARE 11 FACILITIES THAT ARE AWAITING FINAL INSPECTION - AND MOST LIKELY WILL NEVER PASS STATE INSPECTION.

OF THOSE 11 FACILITIES, 8 OF THEM HAVE CURRENT USDA LICENSES.

OF THE 29 FACILITIES THAT HAVE NOT PASSED INSPECTION, 18 OF THEM HAVE CURRENT USDA LICENSES.

STATISTICS FROM NORTH TERRITORY (SHON KOENIG, INSPECTOR)
THESE NUMBERS WILL NOT REFLECT A TOTALLY ACCURATE NUMBER OF ALL THE REALLY BAD PLACES, I HAVE NOT BEEN THROUGH ALL OF MY WEST COUNTIES AND STILL HAVE 2 NORTHEAST COUNTIES I HAVE NOT BEEN IN YET. I HAVE STARTED ON THE WEST CENTRAL COUNTIES AND HAVE FOUND FACILITIES THAT ARE SEVERLY BELOW MINIMUM STANDARDS. A COUPLE OF THEM ARE INCLUDED IN THE PHOTO PAGES. I HAVE GONE THROUGH MY FILES AND COUNTED THE FACILITIES THAT I FEEL ARE THE WORST ONES IN MY TERRITORY THAT I KNOW ABOUT.

SUBSTANDARD - BAD - FACILITIES = 52 TOTAL
UNLICENSED PLACES THAT ARE BAD AND WILL NOT RESPOND = 4
BALANCE OF 48

OF THOSE 48 FACILITIES, 11 HAVE NO USDA LICENSES, THE REMAINING 37 HAVE CURRENT USDA LICENSE NUMBERS. OF THE FIRST 52 TOTAL, WE DID CLOSE ONE KENNEL, AND ONE IS CURRENTLY IN THE HANDS OF A COUNTY ATTORNEY.

38 OF THESE FACILITIES WILL NEED CONSTANT MONITORING OR SHOULD BE CLOSED, HOWEVER, BECAUSE MOST OF THESE FACILITIES WILL MEET ABSOLUTE MINIMUM REQUIREMENTS - A REALISTIC FIGURE WE COULD SUCCESSFULLY PROSECUTE (UNLESS WE GET SOME NEW RULES REGARDING NUMBERS OF VIOLATIONS IN A GIVEN AMOUNT OF TIME) WOULD BE MUCH LOWER.

IT TAKES A GREAT DEAL OF TIME (WHICH TRANSLATES TO MONEY,) TO MAKE REPEATED TRIPS TO THESE PLACES, SOMETIMES THEY WON'T ANSWER THE DOOR, OR WILL TELL YOU THEY WERE JUST LEAVING AND DON'T HAVE TIME FOR AN INSPECTION. WE ALSO SPEND A GREAT DEAL OF TIME CHECKING ON COMPLAINTS.

IN SUMMARY, THE ABOVE FACTS INDICATE WE NEED OUR OWN SYSTEM WITH RULES THAT DO NOT LEAVE US OPEN TO LOOPHOLES AND REPEATED, WASTED TRIPS, WITH A CONTINUING TRAIL OF PAPERWORK AND VIOLATIONS WITH NO ENFORCEMENT. WE DO NOT WANT A SECOND USDA SYSTEM.

IF I CAN BE OF ANY ASSISTANCE OR ANSWER ANY QUESTIONS, PLEASE DO NOT HESITATE TO CALL OR WRITE. THANK YOU FOR YOUR TIME.

SHON KOENIG
RT. 1, BOX 92
JUNCTION CITY, KS. 66441
913-762-4658

4-3

STATE
LICENSED FACILITIES
AS OF AUG. 10, 89.

4-4

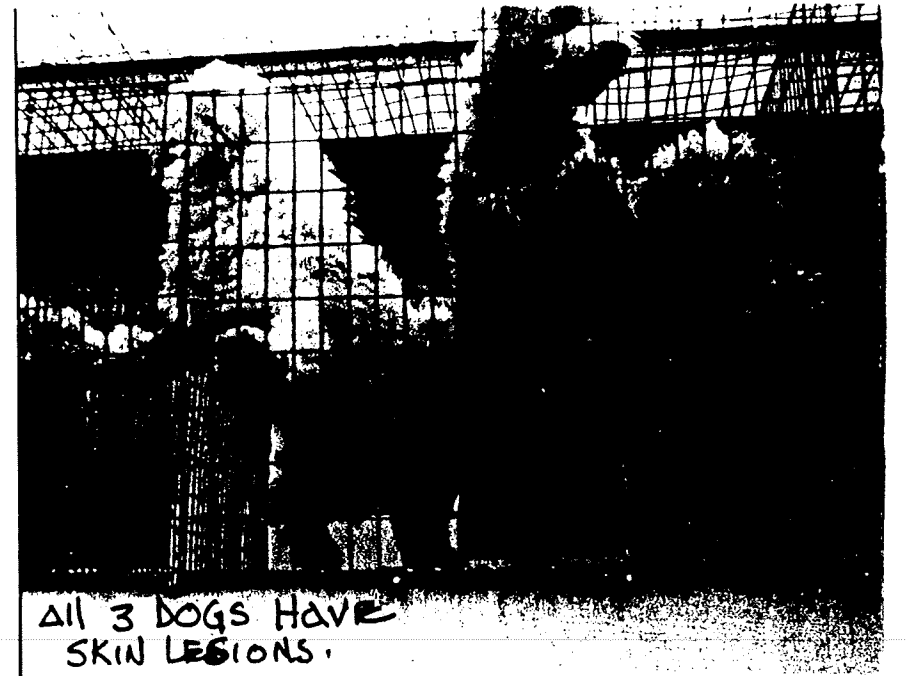
KANSAS

Cheyenne	Rawlins	Decatur	Norton	Phillips	Smith	Jewell	Republic	Washington	Marshall	Nemaha	Brown	Doriphan
1	5	6	2	5	10	8	12	17	24	24	9	8
Sherman	Thomas	Sheridan	Graham	Rooks	Osborne	Mitchell	Cloud	Clay	Riley	Pottawatomie	Jackson	Atchison
6	4	2	2	4	18	19	20	8	6	23	20	12
Wallace	Logan	Gove	Trego	Ellis	Russell	Lincoln	Ottawa	Ottawa	Shawnee	Jefferson	Wyan	Johnson
0	0	4	1	5	10	7	7	7	27	11	11	8
Greeley	Wichita	Scott	Lane	Ness	Rush	Barton	Saline	Dickinson	Geary	Wabaunsee	Osage	Douglas
3	1	2	0	1	1	9	19	13	11	4	11	13
Hamilton	Kearny	Finney	Hodgeman	Pawnee	Stafford	Reno	Ellsworth	McPherson	Marion	Morris	Lyon	Franklin
2	0	3	1	3	3	23	3	11	10	9	8	6
Stanton	Grant	Haskell	Gray	Ford	Edwards	Harvey	Rice	McPherson	Marion	Chase	Coffey	Anderson
0	1	3	2	8	3	10	7	11	10	1	9	15
Morton	Stevens	Seward	Meade	Clark	Kiowa	Pratt	Hamilton	Kingman	Butler	Greenwood	Woodson	Allen
0	2	9	1	1	2	2	5	5	11	2	7	20
Comanche	Barber	Harper	Sumner	Cowley	Elk	Wilson	Neosho	Crawford	Chautauqua	Cherokee	Labette	Cherokee
2	2	3	3	11	3	18	29	23	12	13	18	13



CHAWBOND CT.

THIS IS A KENNEL & BROKERING FACILITY OF OVER 300 DOGS & CATS. IT HAS BEEN WRITTEN UP ON 12 DIFF. VIOLATIONS BY THE ARIZONA DEPARTMENT OF AGRICULTURE. HAS 12 DIFF. VIOLATIONS. VIOLATIONS IN THE LAST 2 YEARS. THERE HAVE A CORRESPONDING VETERINARIANS REPORT SHOWING SARCOPTES MANGE & NUMEROUS OTHER HEALTH AND MANAGEMENT PROBLEMS. THIS FACILITY IS STILL SHIPPING PUPPIES & KITTENS WEEKLY AND STILL HAS A CURRENT USDA NUMBER.



CLAY CO. KENNEL
HAS USDA #.



RENO CO. KENNEL
HAS USDA #.



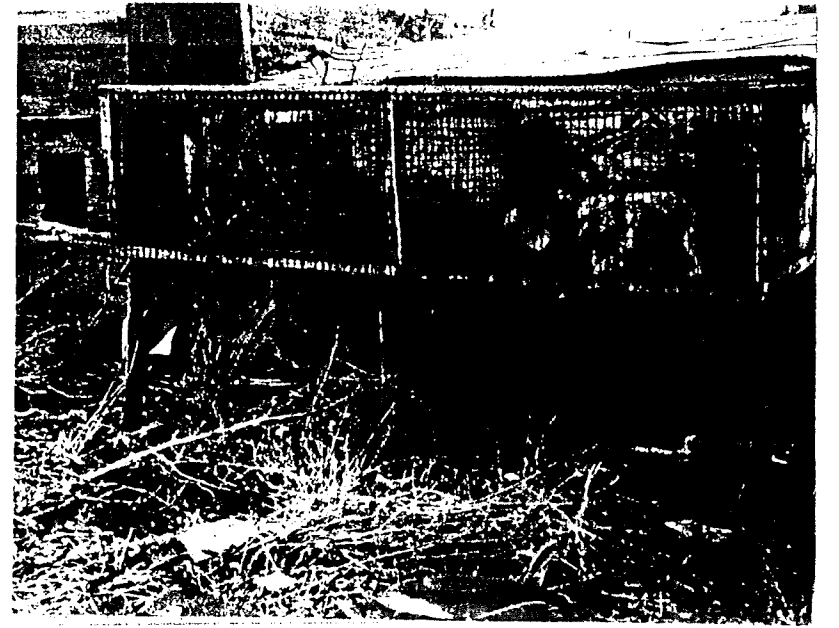
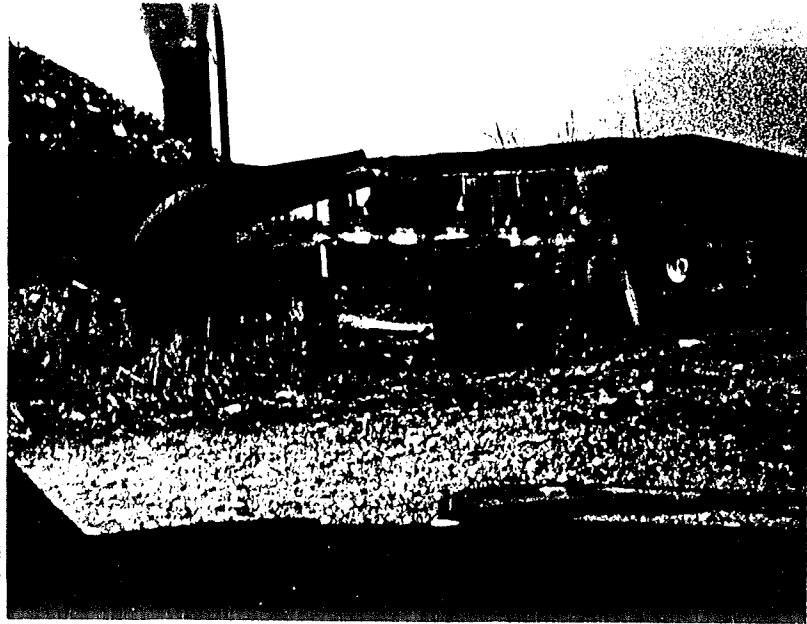
5-2

BROKER-KENNEL -
HAS USDA #,
RENO CO.



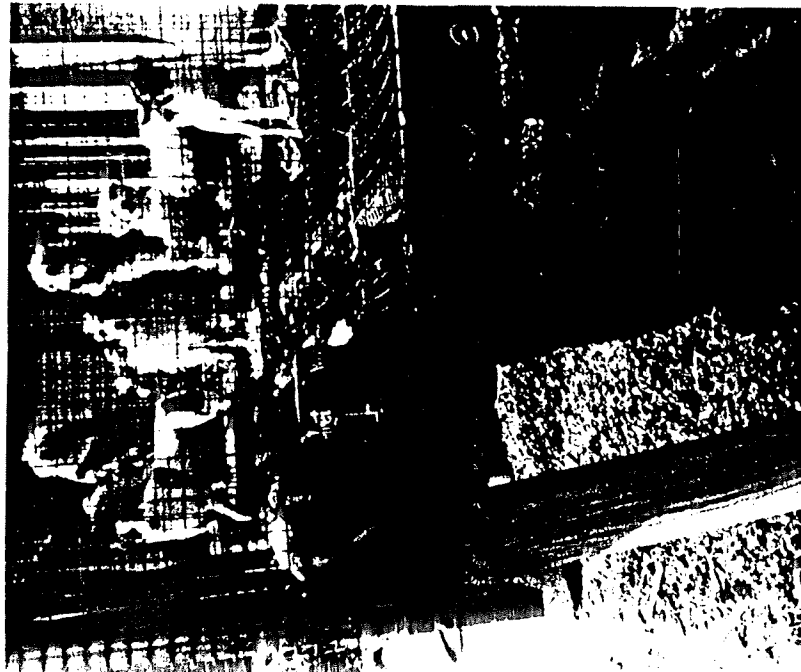
KENNEL - HAS
USDA # -
WASHINGTON CO.





5-3

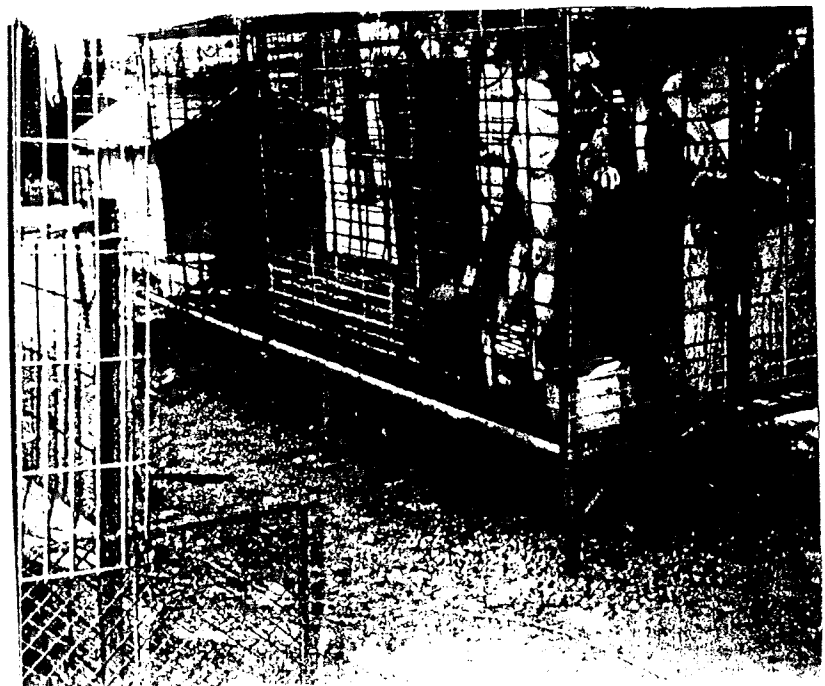
ALL 4 PHOTOS SAME FACILITY - HAS A USDA #,
OWNERS LIVE IN MARSHALL & POTT. CO.

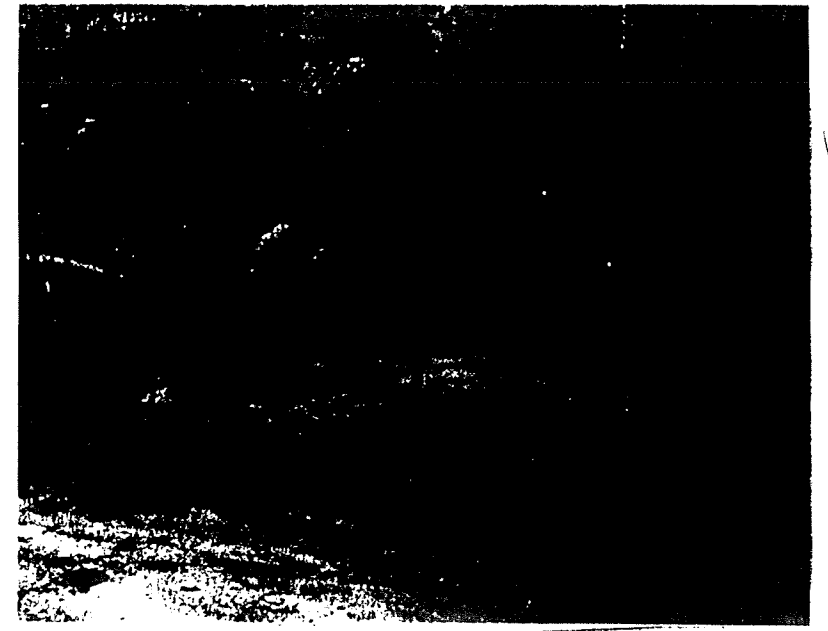
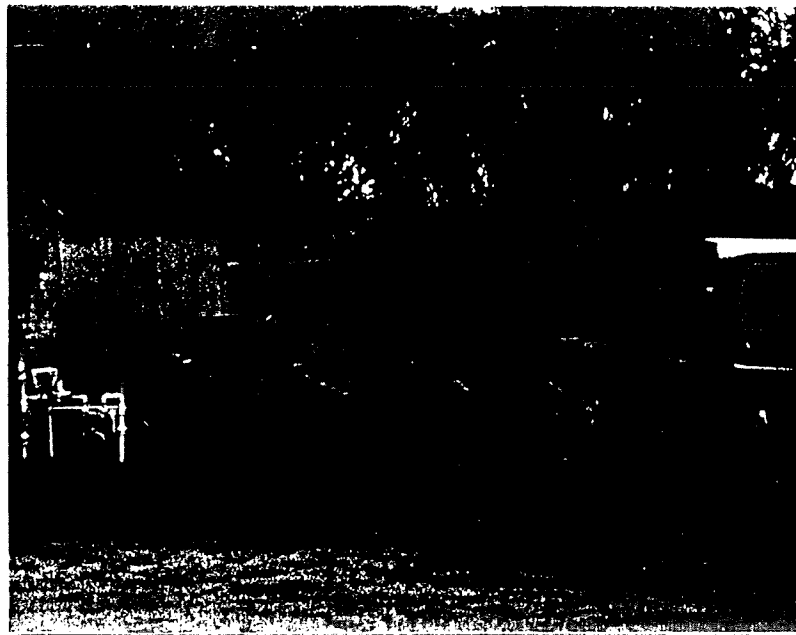




5-4

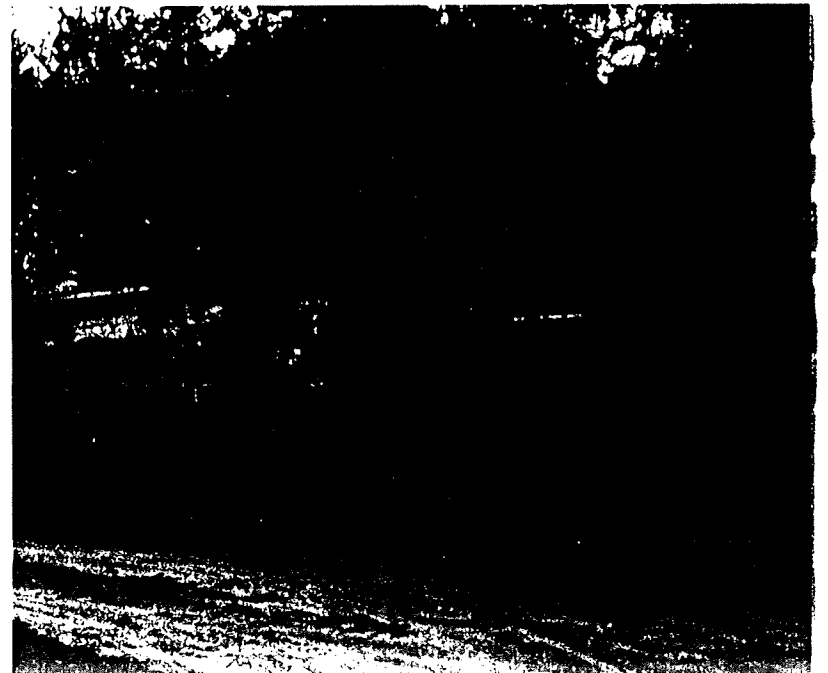
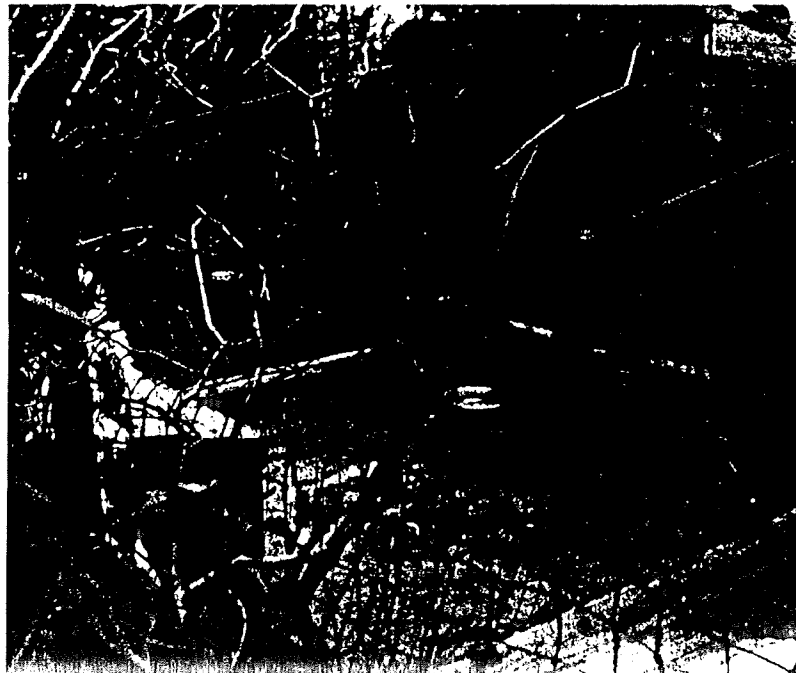
ALL 4 PHOTOS ARE
SAME PLACE -
NO USDA # - SMITH CO.

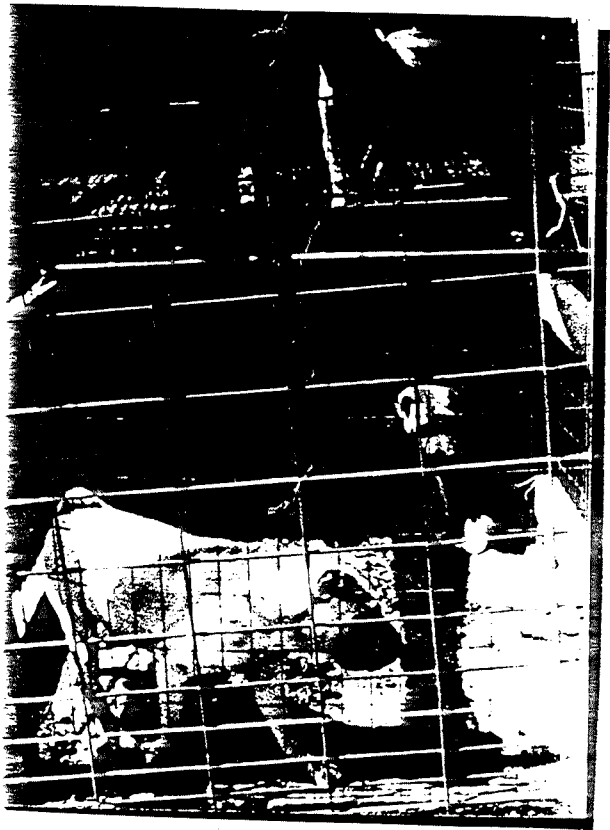




5-5

THESE ARE ALL 4 THE SAME FACILITY -
HAS A USDA#, DICKINSON CO.

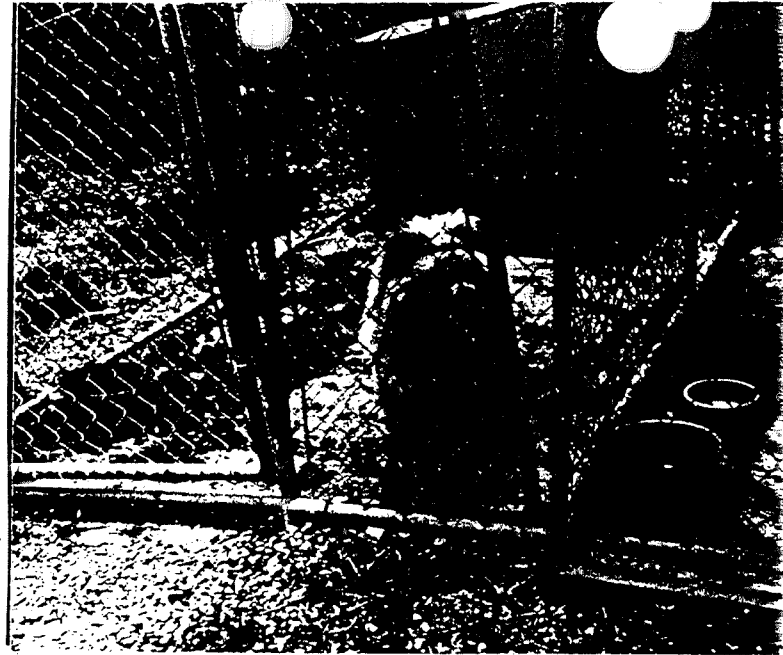




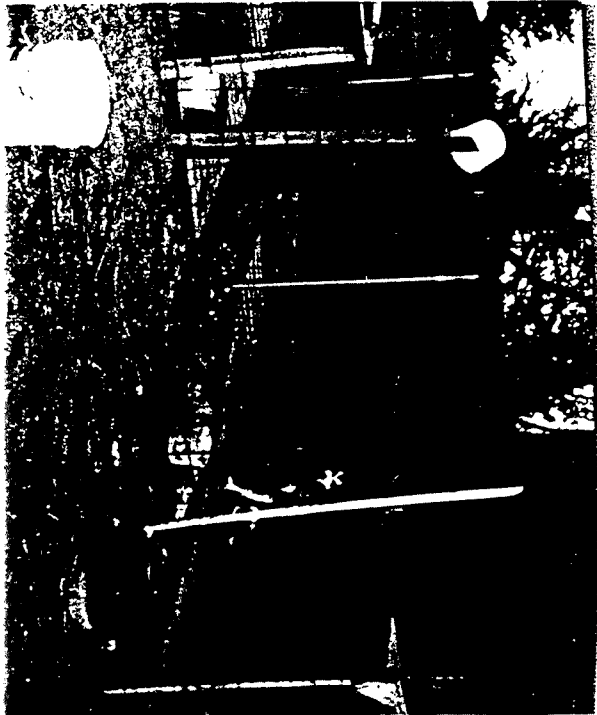
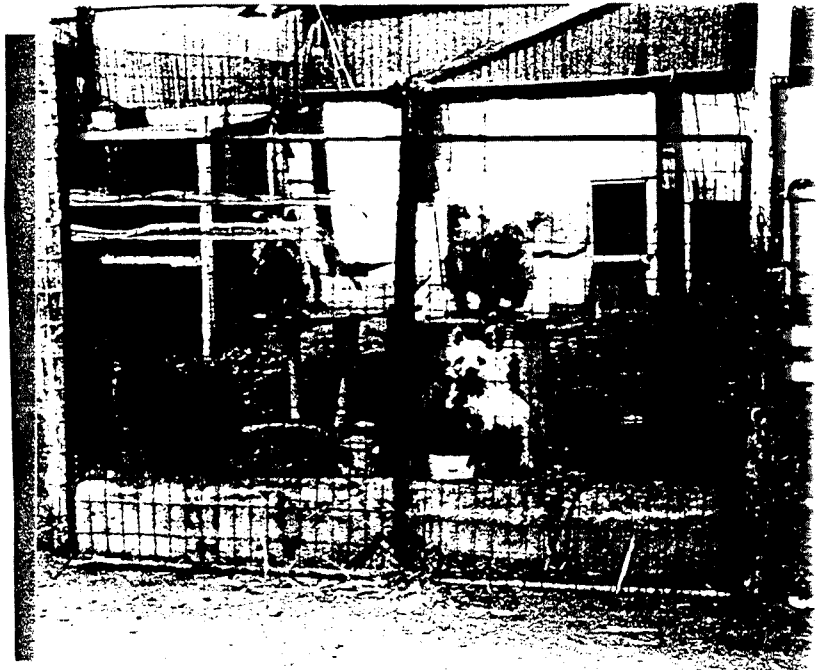
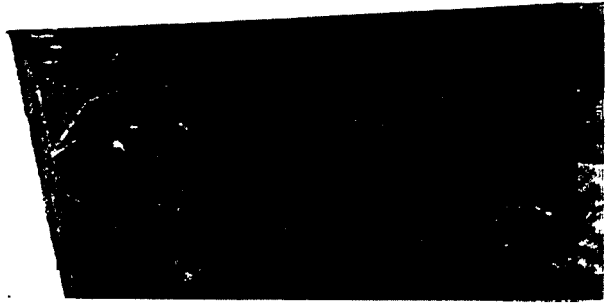
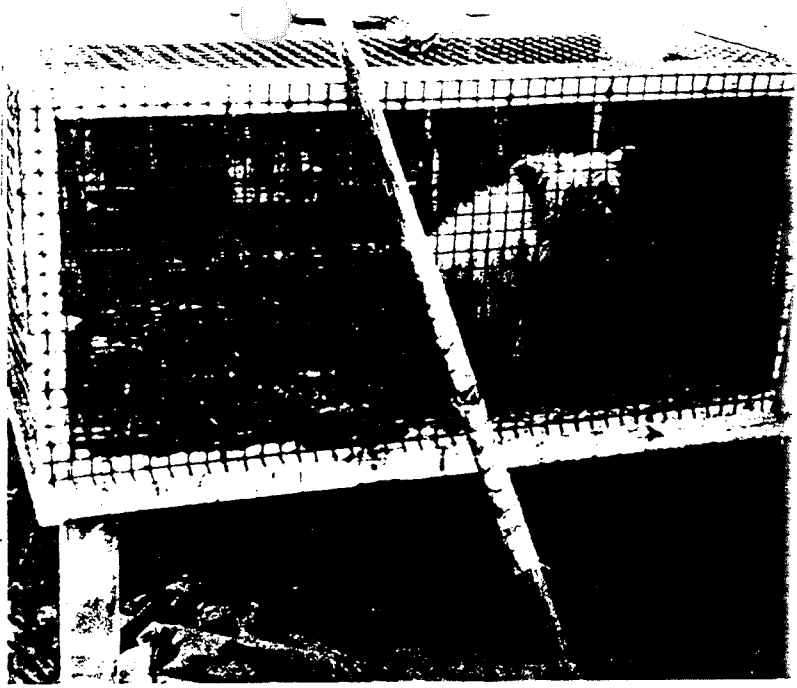
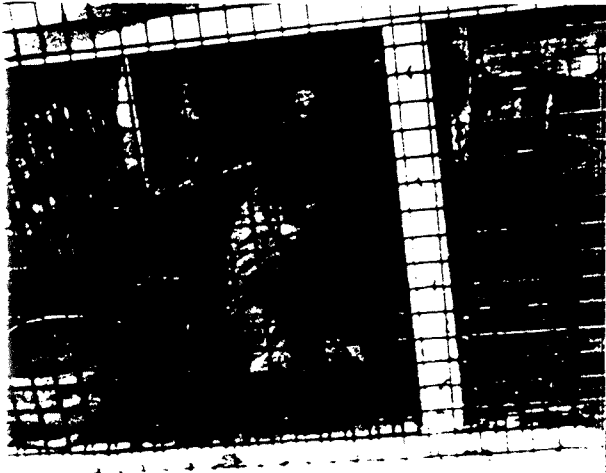
TRIED TO GET
USDA #,
MARSHALL CO.



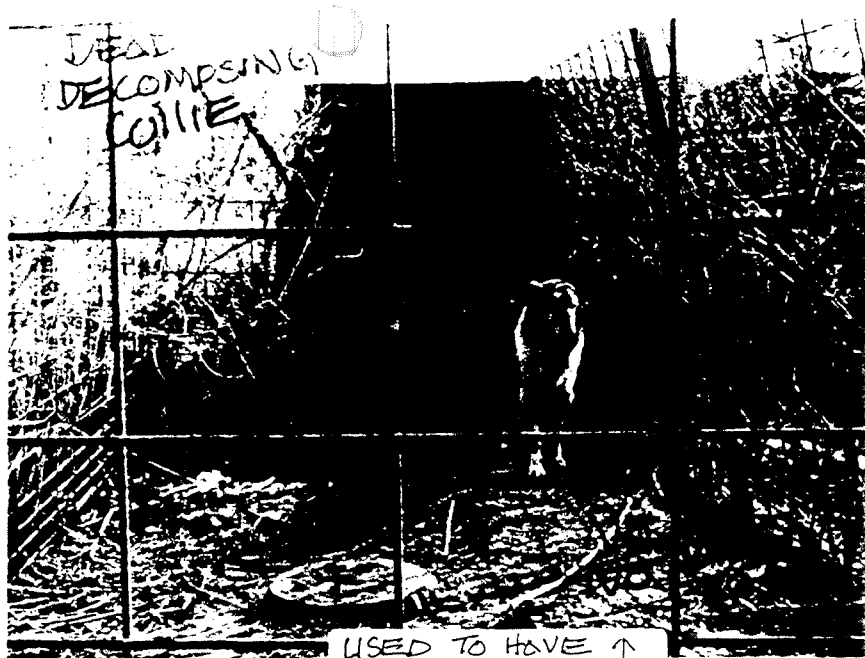
THIS PAGE IS
ONE FACILITY -
NO USDA # -
WE DID SHUT
THEM DOWN -
WABALUNSEE CO.



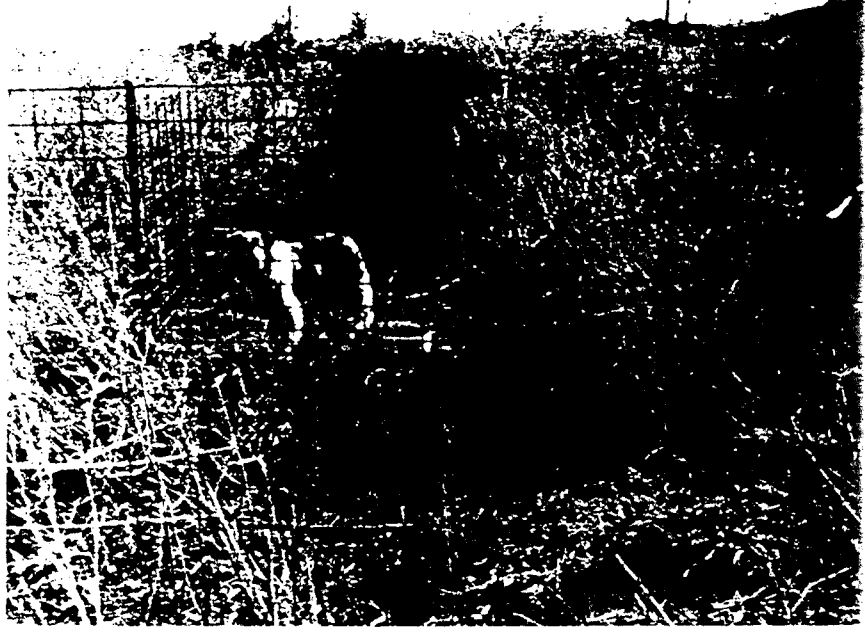
THIS PAGE IS THE FACILITY.
THEY HAVE A CURRENT
LSD# - THE MOTHERS WHELP
IN THESE HUTCHES.
SMITH CO.



3 DIFFERENT FACILITIES - POTT. CO.

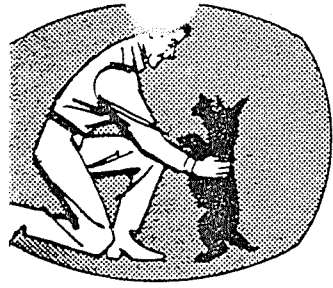


USED TO HAVE ↑
USDA #,
POTT. CO. ↓



← NO USDA #
POTT. CO. →





Helping Hands Humane Society, Inc.

OFFICE AND ANIMAL SHELTER
2625 Rochester Road
Topeka, Kansas 66617
Telephone 233-7325

March 22, 1990

To: Senate Federal and State Affairs Committee, concerning S.B. 470

From: Miss Audrey B. McCaig, Executive Director
Helping Hands Humane Society

Mr. Chairman and Members of the Committee:

I am Audrey B. McCaig, Executive Director of the Helping Hands Humane Society of Topeka, Kansas.

Before I get into my objections to S.B. 470, I wish to make a statement concerning some of the remarks that a certain Senator is making about me, stating I am an "Animal Rights Activist", which couldn't be further from the truth! I was born and raised in Kansas, and I like my bacon and eggs, and my steak, and I want it understood that we are not after the livestock people as the proponents of this bill would like to have you believe. I have seen copies of the garbage they have passed out, accusing us of being murderers, etc., and quite frankly, I do not like this one little bit and wonder what the Senate Ethics Committee would think of this? I have been Executive Director of the Helping Hands Humane Society for 22 years, and my reputation has been above reproach!

I am here today to make known my objections to S.B. 470 as amended, namely reducing our licensing fee from \$150.00 to \$75.00, increasing the Hobby license from \$25.00 to \$50.00, and excluding the U.S.D.A. licensed kennels entirely.

You will recall that you had a letter from me dated March 2, 1990 when S.B. 470

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Att. 6

"Paws for Pleasure"

came out of the Senate Agriculture Committee and I said I hoped you all would be able to read between the lines as to what the dog breeders and kennels were trying to do. They felt that if they tossed us a bone to reduce our licensing fee to \$75.00 per year we would roll over and play dead.

When H.B. 2219 was passed, we made no objection to the \$150.00 license fee because we felt that everyone should be treated alike and we were willing to go along with this, even though we were not the ones causing the problem. They further amended the bill to exclude all U.S.D.A. Licensed Breeders. What they are really trying to do is KEEP FROM HAVING THE SECOND INSPECTION BY KANSAS -- IT IS NOT THE MONEY AT ALL! FOR SOME REASON THEY ARE DEATHLY AFRAID OF THAT SECOND INSPECTION. WHAT DIFFERENCE DOES IT MAKE IF THE SECOND INSPECTION IS BY KANSAS OR U.S.D.A.? I CAN TELL YOU WHY -- THE U.S.D.A. INSPECTION IS NOT AS THOROUGH AS THE ONE KANSAS WOULD DO! ANYWAY YOU LOOK AT IT, WE ALL NEED THAT SECOND INSPECTION -- ONE INSPECTION PER YEAR IS NOT ENOUGH!

I find it very funny that in 1987 and 1988 when Shawn Gideon was testifying against H.B. 2219, he said how rich the Humane Societies were and that we had millions of dollars in our coffers and now they want to help us out because we are so poor and want to give us a break and reduce our license fee from \$150.00 to \$75.00! Don't you agree with me that this is very strange?

I personally feel that there should be one inspection by U.S.D.A. and one by Kansas. This in my opinion is a good check on each other -- What U.S.D.A. might miss, then Kansas could pick it up and vice-versa.

REMEMBER, we are talking about companion animals, dogs and cats, not livestock! Therefore, I ask that S.B. 470 be killed and give H.B. 2219 a chance to work and hopefully find the funds to finance it. It has only been in existence a year so it

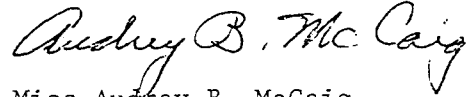
Sen. Federal and State Affairs Committee
Re: S.B. 470

Page 3

hasn't had a fair shake.

Thanking you for your consideration of my request, I remain

Respectfully submitted,



Miss Audrey B. McCaig,
Executive Director

March 22, 1990

RE: Senate Bill 470

Chairman Reilly and committee members,

My name is Ellen Querner, I am here in opposition to Senate Bill 470.

Before I talk about the bill in question, I would like to address another issue. It has been brought to my attention that I am being labeled a "Radical animal rights activist". In my 14 years of humane work with the Kansas Humane Society I have worked with many law enforcement agencies, district and county attorneys, health officers, and veterinarians. During these years in humane work, I have never been called a dangerous radical, and I resent these tactics being used now.

Attached to my testimony is a list of people whom you can call if you have any questions about my character.

Now, to address the real issue: The state licensing and inspections of commercial kennels.

In 1988, the Companion Animal Law came about. It was not an easy bill to get through the legislation, but the legislators realized the need to regulate an industry that not only had many problems but was also hurting the reputation of Kansas.

Senate bill 470 is an attempt by a few of those within the industry to undermine the present law. It first started out as a bill to decrease fees for humane societies. Never mind that not one humane society was in favor of decreasing the fee, or that humane societies all over the state asked that their fees remain the same as they understood the need for funding. In actuality, it was simply a vehicle with which to attach the amendment to exclude USDA Kennels from any state inspection.

There are 2 very good reasons why USDA Kennels should continue to be licensed and inspected by Kansas.

1. USDA has been inspecting and licensing kennels in our state for many years, and it has shown in the past that it can not appropriately deal with problems in this industry.

2. In order for the Companion Animal Law to be effective it must have proper funding. Excluding USDA kennels or brokers would indeed prove to be the downfall of the present law, as the funding would then be decreased as more kennels would seek the USDA license to get out of state inspection.

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Att. 7

I have heard the cry, "Double inspections are bad." What the cry actually means is that certain people within the commercial kennel industry would rather be inspected by the federal government than by the state. That is understandable when you look at how the USDA does its inspections. Many times, more than a year goes by with no USDA inspections of a kennel, and when a kennel does have deficiencies, the USDA is very slow to react if at all to correct the situation.

Funding is a very important part of the success of this law. Those within an industry that have no problems help to fund the inspections to improve those that have fallen below accepted standards. That is why all dog owners pay a license fee in Sedgwick County, not just the ones who allow their dogs to run at large and cause a problem.

Before Senate bill 470 was amended and passed out of the Ag. committee there was a meeting at the K-State Veterinarian College. It was to help Dr. Kimmell better regulate problems in the commercial kennels, and was attended by people within the industry, humane groups, and veterinarians. It was refreshing to think that positive steps forward were being taken on this issue. But now, because a few people within the industry continue to fight state inspection, all that positive thinking has been stopped, midstream, as we are now having to change direction and spend time once again defending the law itself.

I not only urge you to vote against Senate Bill 470, but also to vote against any such future measure to undermine the ability of the state to license and inspect all commercial kennels and brokers as well as humane societies and pet shops. I have been told that Senator Montgomery is now trying to amend a house bill in the Senate Ag. Committee to exclude USDA brokers from state inspection. This would also seriously undermine the present law as kennels would then easily apply for a brokers license to get out of state inspection.

Lets not waste any more time...only the state of Kansas can handle problems within our commercial kennels.

Respectfully,



Ellen Querner
Legislative Representative
The Kansas Humane Society
4218 S.E. Blvd.
Wichita, Kansas 67210
316-683-6596

Mr. Hank Blase 383-7111
Sedgwick County Counsler
Sedgwick County Court House
Wichita, Kansas 67201

Mr. Jerry Kinsey 268-8531
Chief of Environmental Services
Sedgwick County Health Dept.
1900 E. 9th
Wichita, Kansas

Mr. Clarence Daggett 321-3400
Butler County Heath Officer
Butler County Court House
El Dorado, Kansas

Mrs. Cindy Plant 383-7529
Director, Animal Control
Sedwick Co. Court House
Wichita, Kansas

Det. Rick Hodge 383-7634
Sedgwick Co. Sheriffs Office
Narcotics div.
Sedgwick Co. Court House
Wichita, Kansas

Dr. Jennifer Sullivan 685-7300
Blair Doon Veterinarian Clinic

Mr. Chairman and members of the Committee:

My name is Dr. Eva Dudek and I am licensed and accredited in the State of Kansas. For the past two years I have been practicing veterinary medicine in south-east Kansas.

During this time I have dealt with at least twenty USDA licensed breeders and, by conservative estimates, have treated 300-400 of their animals. I have yet to see one bitch that is fit for breeding. All have had at least one of the following: hip dysplasia, hernias, luxating patellas, dermatitis, distichea, and severe entropion. Along with these genetic conditions they were also matted and filthy, had severe ear mites, long, crippling toe nails, bad teeth, and neglected injuries.

The litters that we did not loose to infectious, preventable diseases required surgery to repair umbilical and inguinal hernias. The puppies were abnormally small and weak, many suffered from fading puppy syndrome and died. Of those that survived more than 75% will have and/or pass on these genetic and familial deformities of their parents.

Not only is the filth beyond comprehension, but the very conditions in which they are imprisoned creates many pathological malformations. Those I have witnessed are dry, cracked, bleeding foot pads, carpal breakdown, splayed feet, and an unusually high occurrence of radius curvus.

I have a Pet Land dog that is now $1\frac{1}{2}$ years old. He has confirmed kidney disease, hip dysplasia, and is blind in one eye from birth. Had I been the average consumer, I not only acquired a poor representation of the Boxer breed (with AKC papers,) but could have easily spent over \$1,000 on diagnostic procedures, treatments, and special diets. The average life span of a boxer is 11 years - I'll be lucky to have mine for 5. This puppy was priced at \$450 so I would have spent \$1,450 his first year alone. This expense will continue and probably increase in the future. In my opinion this is consumer fraud. People are imprisoned

for turning back the odometer on a car. That puppy in the window is no different; it is a financial and emotional time bomb - because what you see is not what you get.

Every breeder that I have consulted with had no knowledge of genetic problems, did not understand preventative sanitary procedures, and was unaware of any organizations such as OFA. SB470 should be killed. I strongly feel that not only should the state inspect USDA kennels but some form of education should be required before the issuing of any license.

These breeders/kennels are the rule not the exception. I find it ironic that Kansas has one of the best schools of Veterinary Medicine in the nation and one of the worst reputations for breeding companion animals.

Erin S. Decker DVM

3/22/90

HB 470
March 22, 1990

Legislators of Kansas:

Let me express my appreciation for the opportunity to meet with you this morning.

I served as State Companion Animal Veterinarian from October 1988 to January 1990. Since that time I have served with the United States Department of Agriculture in animal welfare.

If the federal system was effective since its inception in 1968, how did Kansas become labeled a "puppy mill" state, and why has Kansas and other states deemed it necessary to implement legislation to improve the commercial kennel industry.

Lack of enforcement, inconsistency of inspections, apathy on the part of some inspectors, and a low priority "livestock approach" to the commercial kennel industry by the federal system have all lead to the problem.

The solution is a strong, adequately funded and effective state law to complement the federal animal welfare act. In 1988 the wisdom of the Legislature saw fit to pass HB 2219, the Companion Animal Act, and in so doing made a public display that it recognized a problem and was willing to address the need to improve the conditions and image of the commercial kennel industry.

With a potential of 180,000 puppies and kittens produced per year in Kansas, at a dollar value to the Kansas economy of 42 million, can we afford not to improve this industry and increase the quality of pet product leaving the State of Kansas.

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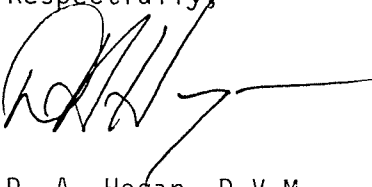
The Companion Animal Act now in its infancy is crippled by lack of leadership, inadequate funds, a federal constitutionality suit, and now an attempt to castrate what effectiveness still remains by introduction of HB 470.

According to September 8, 1989 figures HB 470 will reduce an already grossly inadequate and ineffectual budget by 44%, reducing the program to token status.

I ask you ladies and gentlemen of this committee as a fellow Kansan are we living up to our initial commitment to put an improved quality pet product in the market place of America?

If Kansas does not address this problem the importing states will, as will the animal rights movement.

Respectfully,

A handwritten signature in black ink, appearing to read 'D. A. Hogan', with a long horizontal line extending to the right.

D. A. Hogan, D.V.M.

DAH/lrh

October 24, 1989

To: Governor Mike Hayden: Legislators of Kansas
From: Dr. D. A. Hogan, State Companion Animal Veterinarian
RE: Economic impact of commercial kennels in Kansas.

629 kennels examined containing 23,979 adult dogs and cats.¹

Facts:

1) Mean litter size	5.7 ²
2) Conception rate	82% ²
3) Potential breedings per year	2
4) Survival rate	80% ³
5) Economic multiplier	2.75 ⁴
6) Average dealer price	\$85.
7) Average retail price	dealer price x 4

Calculations:

Number potential puppies and kittens produced per year

179,325

Dollar value raw product

\$15,242,587.

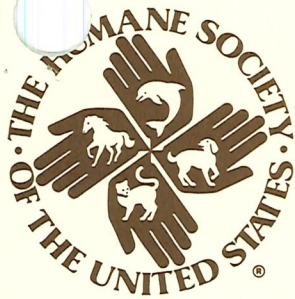
Dollar value Kansas Economy

\$41,917,114.

-
- 1) Number based on Animal Health Department inspection records.
 - 2) Reproduction in the Dog and Cat; Christiansen, Ib J. 1984 Bailliere Tindall. W. B. Saunders Eastbourne, East Sussex BN21 3UN, England. Page 181 and 182.
 - 3) Dr. J. E. Mosier, Department of Surgery and Medicine, Kansas State University, Manhattan, Kansas.
 - 4) Erickson, Donald B., Extension Agricultural Economist, Marketing. Kansas State University Extension Service, Manhattan, Kansas.

LICENSED ESTABLISHMENTS AS OF SEPTEMBER 8, 1989

<u>LICENSE CATEGORY</u>	<u># EST.</u>	<u>\$ EST.</u>	<u># ACTUAL</u>	<u>\$ ACTUAL</u>
A & B Dealer with USDA License \$75.00	550	\$41,250	475	\$35,625
No Federal License (cannot sell to pet shops, broker or re- search facility) \$150.00	1,270	190,500	22	3,300
Pet Shops/Pounds & Shelters \$150.00	170	25,500	127	19,050
Research Facilities \$150.00	12	1,800	9	1,350
Hobby Breeders \$25.00	1,925	48,125	272	6,800
	<hr/>	<hr/>	<hr/>	<hr/>
TOTAL	3,927	\$307,175	905	\$66,125



Midwest Regional Office
Argyle Building
306 East 12th Street, Suite 625
Kansas City, Missouri 64106
(816) 474-0888

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THE KANSAS STATE LEGISLATURE

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COMMITTEE

LICENSING of ANIMAL CARE FACILITIES

SENATE BILL No. 470

PRESENTED BY

THE HUMANE SOCIETY OF THE UNITED STATES

Wendell E. Maddox, Jr.
Regional Director
Department of Field Services
Kansas City, Missouri

March 22, 1990

Senate F&SA

3-22-90

Att. 10
National Headquarters:

The Humane Society
of the United States
2100 L Street, NW
Washington, DC 20037

Mr. Chairman, my name is Wendell Maddox, Jr. I am Regional Director for The Humane Society of The United States (HSUS), based in our regional office in Kansas City. The HSUS is a national non-profit organization dedicated to the prevention and elimination of cruelty to animals. The HSUS is the largest national humane organization in the country with a constituency of more than one million persons, including over 7,500 residents of Kansas.

I am representing The HSUS and it's constituents here today in opposition to Senate Bill 470. We are opposed to this bill because it will exempt USDA licensed facilities from the State's Companion Animal Law. We feel that state regulation of this industry is necessary due to the large number of commercial breeders in Kansas. It is a well known fact that Kansas is the largest pet animal producer in our nation.

In 1970, the HSUS was instrumental in amending the laboratory animal welfare act of 1966 to require commercial breeders to be licensed and regulated by the United States Department of Agriculture. It was hoped that standards of care for animals in these facilities would eliminate the abuses that were occurring.

Why was the HSUS concerned enough about these facilities to work towards amending the Animal Welfare Act? Because of widespread complaints received by the HSUS and humane societies throughout the country from consumers who had purchased sick and diseased pets. The majority of which were traced back to breeders in Kansas.

The HSUS experienced a sense of obligation to look into these facilities to find out why they were breeding animals infested with illness and disease. Therefore, HSUS investigators have conducted at least twenty different major investigations over a twenty year period of more than 400 breeding operations in Kansas. Our most recent investigation in February 1990, revealed that unsatisfactory conditions are still prevalent. The results and findings will be aired on the ABC TV network program 20/20 on May 4, 1990.

Mr. Chairman and members of the committee, please understand that humane societies must bear the burden of handling consumer complaints. We hear from people all over the country requesting our assistance. Our office alone receives at least one call a week regarding a sick animal from Kansas. We have the responsibility to listen and advise these people. We have tried every course of action available to us. Consumers assume that since we are humane societies we have the authority to close these places. It is difficult for them to understand that we are powerless and can only work towards changes in the law and stronger enforcement by those empowered to do so.

In the past few years it has become a well known fact that consumers are advised not to purchase a pet from Kansas breeders. Recently an HSUS staff person attended a PIJAC pet sales meeting in Tampa, Florida. This person was told by a PIJAC representative that it would be wise to steer clear of animals being sold by Kansas breeders. "Those places are a mess," he said.

It is also a well known fact that it takes the USDA two to five years to close down a bad facility. Meanwhile, the breeder is allowed to conduct business during that period. If the Kansas law is enforced, these operations can be closed without delay.

Animal protectionist rejoiced when Kansas passed the Companion Animal Law in 1988. We all felt -- finally our voices have been heard. All the hard work had not been in vain. And, finally we could tell consumers that Kansas is embarking upon a new era. A new era with compassionate concern for the companion animals housed in breeding facilities.

If this bill is allowed to pass, humane groups will return to a state of helplessness -- unable to save these animals from their horrible existence.

We respectfully urge you to vote against this bill and give this program your support for a successful end to animal suffering.

Thank you for allowing me to testify today regarding this important humane matter.

The Wichita Eagle

Established 1872

Incorporating The Wichita Beacon

FEB 07 1990

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EDITORIALS

Puppy mills Breeders spurn law to regulate industry

The Kansas puppy mill industry is still churning out sick and dying animals and shipping them around the country. Most breeders are simply ignoring a new Kansas law designed to license and regulate them, and the state isn't doing anything about it.

The Eagle reported Jan. 28 on the continuing abuses in one of Kansas' shadowy industries, which generates about \$42 million a year by some estimates.

It's puppies for profit. The welfare of the animals means nothing to some breeders. The profit is everything. It is tragic and inhumane, with a degrading impact on the state's image.

The state's pet breeding law does not work because one involved really wants it to work. The official in charge, Alan Kimmell, executive director of the Kansas Animal Health Department, seems only concerned about lack of staff and money. So does D.A. Hogan, formerly the veterinarian for the Companion Animal Program.

The plain fact is that these men have been using inadequate funding as an excuse to do little or nothing.

The puppy mill law will always be difficult to enforce, because pet breeders often are hostile and hard to find. But the industry is far from impossible to regulate.

Animal health department officers too often have been simply ignoring the problems. The Kansas Humane Society is more than willing to help find the thousands of breeders and brokers who need to be inspected and licensed. If state inspectors want more kennels to inspect, they can just look in the classified ads.

Yes, the Companion Animal Program does not have enough inspectors. Yes, it is underfunded. Yes, even its tiny budget has been trimmed. But with the will, animal health officers could do much more. Plenty of Kansans say they've come forward with complaints and nothing gets done.

The problem is that the puppy mill industry and its regulators are as inbred as many of the sick puppies and kittens that are coming out of the state.

Enforcement is riddled with conflicts of interest. Mr. Hogan actually hired as a state inspector the son of one of the state's largest pet brokers. That man has since been fired, but not because Mr. Hogan ever saw or admitted to a conflict of interest.

Mr. Hogan never seemed committed to enforcing the law; he called strong supporters of animal welfare "humaniacs."

Of course, the animal health department has been getting almost no help from the breeders, the brokers or any other people involved in the industry. Fewer than 25 percent of the estimated 3,900 pet breeders have complied with the new law and paid their fees. No surprise here. Animal breeders fought establishment of the new law long and hard. As long as they can continue to do business without any regulation whatsoever, they will.

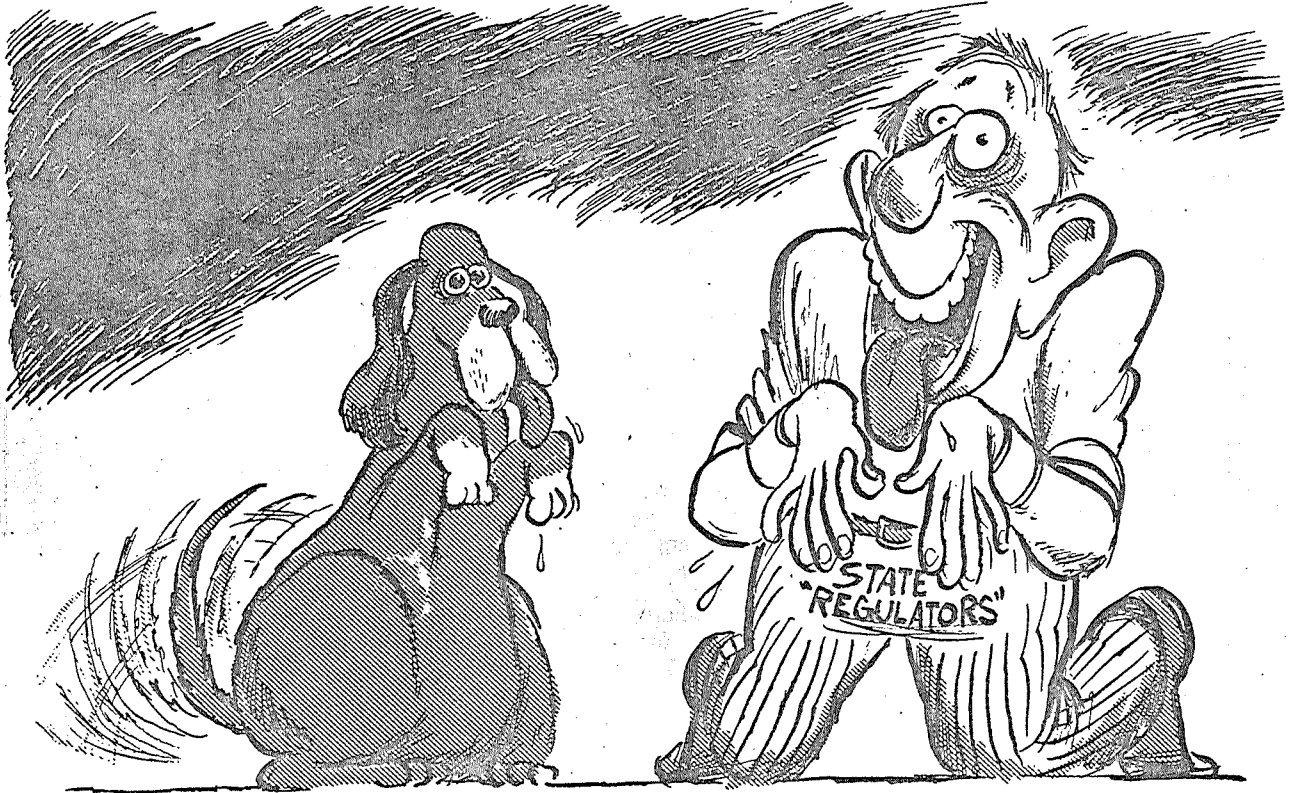
Obviously, the state is going to have to force compliance, one breeder at a time, if it has to.

As for the Companion Animal Program budget, it could be increased by hiking licensing fees. But there's no certainty that will encourage the reluctant Mr. Kimmell and his staff to begin doing what they should have been doing — go out and find and inspect breeders, to make sure they're licensed and obeying the law.

The puppy mill program is in shambles. Mr. Hogan resigned his position a couple of weeks ago. Mr. Kimmell, who didn't want the law in the first place, has taken over and apparently is doing exactly what Mr. Hogan did: virtually nothing.

If Mr. Kimmell and his staff won't stay out of the arms of the industry and vigorously enforce the law, they should be replaced by someone who will. Immediately.

CROWSON'S VIEW



MAN'S BEST FRIEND

KANSAS PUPPY MILL
OWNER'S BEST FRIEND

Crowson ©1990
2-4 THE WICHITA EAGLE

DOGS, DOLLARS AND DECEIT

DETROIT NEWS/Sunday, March 4, 1990 •

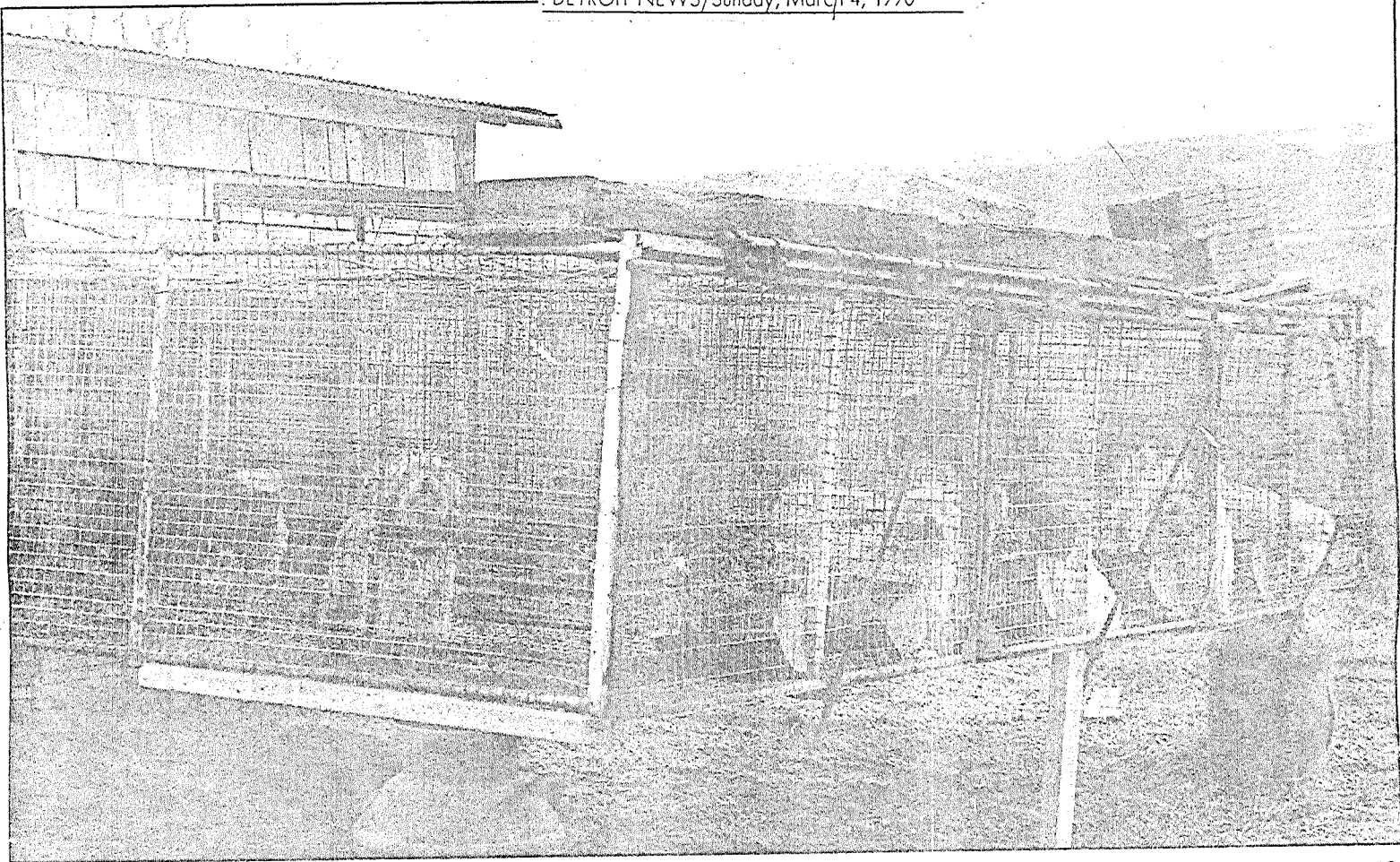


Photo courtesy of Humane Society of the U.S.

Breeding dogs at a federally licensed operation in central Kansas live in crowded cages. Investigators called this facility unsanitary.

High price of pedigrees

Abuses surface in business of dog breeding, selling

WASHINGTON — Leslie Nason of Michigan remembers shuddering when she read a classified ad seeking homes for dogs freed from “concentration camp lives.”

The dogs had been penned up for years in rows of wire-mesh cages at a Kansas “puppy mill” and churned out litters so their owners could profit from the demand for pets and animal show dogs.

Although Nason and her husband, Robert, already kept nine dogs at their home in Williamston near Lansing, she couldn't resist the plea. They took in two Shih Tzus and a Maltese that had been spared death, frequently the fate of breeding dogs past their reproductive primes.

“I had a lump in my throat,” Nason said, recalling the moment she spotted her new pets in crates at Detroit Metropolitan Airport.

Her response to the appeal by the Parsons, Kan., Humane Society saved three dogs. But Nason remains outraged that, in her opinion, the dog world of breeders, brokers, pet shops and even

the American Kennel Club (AKC) tolerates inhumane conditions for thousands of others.

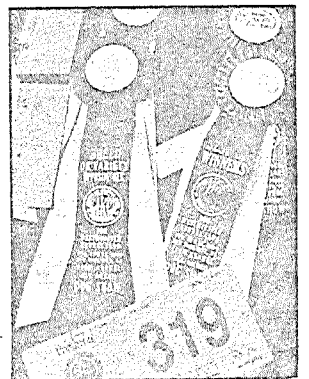
In the booming, \$500-million-a-year business of dog breeding and selling, there's a growing stench of scandal. A two-month investigation by The Detroit News reveals an unsavory side of the pedigreed dog world.

Critics charge that too many puppies are abused, too many mutts are sold as expensive purebreds and too much emphasis is put on fancy shows that have been tainted by abuses and rigged prizes.

AKC officials respond that nothing in their bylaws permits them to penalize inhumane breeders and they emphasize that the club doesn't guarantee a dog's health or quality. Club directors say it's the federal government's job to inspect licensed breeders and prosecute those violating the 1970 Animal Welfare Act, which provides minimum care standards for commercial breeders.

Nason is among dog lovers who are appalled that the AKC appears to be a

Please see **Dogs/10A**



What the series found

- Many dogs registered by the American Kennel Club are bred in substandard conditions.
- AKC didn't cancel papers on dogs for which breeders kept inadequate records.
- AKC fees for registering dogs help subsidize shows across the country which are tainted by charges of abuses.

1st in a series by

GREG GORDON

The Detroit News
Washington Bureau
Copyright, 1990

10-7

Puppy mills are

From page 1A

sleeping watchdog.

"They're (AKC officials) more concerned with money than they are with the fate of dogs as a whole," Nason said, charging that it's irresponsible of the club not to focus on puppy-mill problems. "Puppy mills are operating as a business and that's why the dogs aren't taken care of."

"AKC is operating as a business. Every time it gets a registration, it gives the (AKC) money. Evidently, that means a lot (to the AKC)."

AS THE industry's social registry, the AKC certifies dogs as "purebred" — paper proof of breeding that can enhance their value tenfold or more.

This year, the nonprofit organization will get more than \$15 million of its roughly \$20 million in revenues from fees for registering 1.2 million dogs as purebreds. Critics say AKC has a financial incentive to overlook abuses by kennels using its registry.

Complaints about the dog industry have brought complaints against the AKC, including some from within.

Judy Daniels, a Los Angeles breeder who hopes to be elected this month as an AKC board member, said the club "should do whatever it can to find an avenue to take an active role" against puppy mills.

"WE PUT ON our black-tie attire to show dogs at Westminster," Daniels said, referring to an annual event at Madison Square Garden in New York City. "It's a travesty that we turn our backs on the condition of the animals in these puppy mills."

AKC Chairman Louis Auslander, who with other board members has been criticized by animal protection groups and some club members for not addressing puppy-mill conditions, at first abruptly cut off an interview when confronted with complaints about the club.

But in an hour-long interview later from Florida, he said he believes the AKC should be "more responsive to the pet public," should double or triple its 10-person investigative staff and should consider charter and bylaw amendments to allow suspension of inhumane breeders.

"I'm saying we should get off our tails and try," he said.

THREE OF the 12 board members face a March 13 re-election challenge from candidates supporting a tougher stance against puppy mills, among other things.

While he offered little explanation for AKC's failure to act yet, Auslander insisted the organization "could care squat" about losing money if it wound up suspending "unscrupulous breeders and/or puppy mills."

"People who denigrate the AKC come up with that argument, and that's the last thing we think about," he said. He acknowledged that if that occurred, "we would have to find other sources of income," such as raising the \$6 fee for registering a purebred.

Asked why AKC had not moved against puppy mills before now, he said: "The AKC is an organization that's constantly growing. This board is willing to take chances, but we can't change everything that's taken place in 107 years" since the

symptom of neglect and abuse

club was founded.

Actually, puppy mills are a symptom of wider patterns of neglect, abuse and corruption in the dog world, *The News'* inquiry reveals. The victims are helpless animals and unsuspecting consumers who pay top dollar at pet stores for defective animals.

Evidence and interviews with nearly 100 dog industry insiders show that:

■ Dog owners should understand the limits of AKC registration. Although a dog's listing in an official studbook can multiply its value from \$40 to \$500 or more, the AKC refuses to ensure that large operators breed dogs in clean, healthy conditions. President Kenneth Marden said that club bylaws prohibit sanctions against shoddy breeders and stressed that an AKC paper "does not guarantee quality." But his group's 1908 charter lists one of its main purposes as regulating the breeding of purebred dogs, he acknowledged.

■ Government has done little to control abuses. Few states regulate breeders, and the U.S. Department of Agriculture has few inspectors to check an estimated 4,450 licensed pet breeders. Care standards are spelled out in the Animal Welfare Act, and the federal agency last year filed six complaints against breeders of all types of animals.

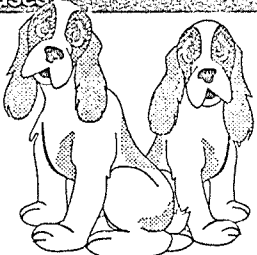
■ AKC has lapsed in taking action to ensure dogs sold as purebred have valid pedigrees. Its 10 investigators monitor breeders' records, but few have been suspended in the last decade. Robert O. Baker, a Washington-based investigator for the humane society, criticizes the AKC's studbook. "More than 50 percent of the dogs that are AKC-registered are not purebred," charged Baker, who has checked Midwest breeding operations for a decade and found dogs unmarked in crowded cages. Marden said, however, that when abuses are reported the AKC does "whatever has to be done to correct the situation."

■ AKC rarely has moved against the nation's more than 10,000 pet shops, despite widespread consumer complaints that newly purchased puppies

Puppy mill conditions

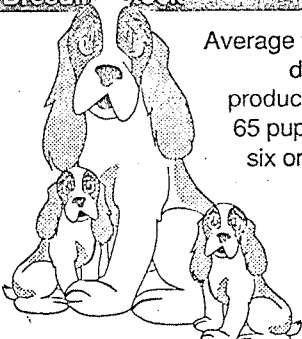
Some dog breeders house animals in filthy, wire cages. The American Kennel Club registers dogs produced by some "puppy mills," but says it can't punish those that mistreat animals. Here are some of the problems uncovered by Humane Society investigators.

Abuses



- ☑ Exposed to disease, bad weather
- ☑ Untreated health problems
- ☑ Breeding too frequently
- ☑ Genetic in-breeding

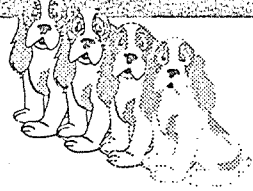
Breeding stock



Average female dog can produce 60 to 65 puppies in six or seven years.

Breeding stock is eventually put to death or, in rare cases, adopted.

Puppy problems



- ☑ Genetic deficiencies from inbreeding, such as hip or eye problems.
- ☑ Other ills from unsanitary conditions.
- ☑ Taken from mother too young.
- ☑ Harmed in transit.
- ☑ Lack of veterinary care.

Source: News research

KENNETH KNIGHT/The Detroit News



Leslie and Robert Nason of Williamston, Mich., already owned nine dogs, but she took in these three refugees from a Kansas puppy mill.

RON TRIFELD

About the author

Staff writer Gregory Gordon spent two months investigating the dog world for this report.

Gordon, 39, joined The Detroit News' Washington bureau in 1989 after 18 years at United Press International.



He headed UPI's national investigative team and won a number of writing prizes.

Gordon and Ronald E. Cohen wrote about the wire service in a book published last November, *Down to the Wire: UPI's Fight for Survival*. Gordon is a University of Minnesota graduate.

are sick or that promised purebred papers never arrived. Critics note that the AKC receives a \$2 transfer fee for each registered dog that reaches a store.

Registration fees from puppy-mill dogs help AKC subsidize glamorous dog shows, such as the Westminster Kennel Club show and an annual event at Cobo Center scheduled for March 10-11. AKC received about \$1.1 million last year from its 50-cent-per-entry share of dog-show fees, but spent more than \$4.25 million supporting and overseeing shows by its 461 member clubs.

The shows have been tainted by corruption charges. In the biggest case, businessman William A. MacKay was accused in 1988 by American Biomaterials Corp., a medical products company he formerly ran, of diverting \$1.5 million. In a bankruptcy suit, the New Jersey company alleged he spent part of the money flying his top dogs to shows nationwide. MacKay denied those charges and the case is still pending. He conceded in a recent interview that he racked up record wins by giving dozens of judges tens of thousands of dollars in cash and gifts. An AKC inquiry led to suspensions and resignations of four judges, but the lead investigator was pulled off the case when it appeared the scandal would broaden, say two sources familiar with the matter.

THE AKC headquarters, occupying five floors of a Madison Avenue building in Manhattan, is far from the breeding farms where humane society investigators say they regularly witness neglect.

At puppy mills in Kansas, Missouri, Iowa, Oklahoma and other states, according to the society and other groups, hundreds of thousands of puppies are bred factory-style — often exposed to excrement, disease or extreme weather before being shipped to pet shops.

Animal-protection activists say for every breeding dog saved by someone like Leslie Nason, at least hundreds lead abbreviated lives of misery. And specialists say their offspring may have genetic deficiencies or other health problems stemming

from in-breeding and unhealthy conditions.

Eva Dudek, staff veterinarian at the humane society shelter in Parsons, Kan., said she saw "filth and inhumane conditions" at several puppy mills where dogs are kept in rabbit hutches.

"THERE ARE dead rats lying under the hutches," she said. "The breeding stock are kept in their own manure their entire lives. After they come out, it probably takes washing them three or four times before you can get the stench off."

Shelter Director Marlene Harris, who helped provide the three dogs to Leslie Nason, added a grisly detail: "Normally, they shoot the breeding stock when they're no longer productive. Some skin them and feed them to the other dogs."

Dudek praised the breeder who voluntarily brought in Nason's dogs and several others during recent months, but added that the businesswoman said she didn't want to have to pay to have them euthanized.

Most of the released dogs were in poor condition, the Kansas veterinarian said. Two Yorkies had blistered feet and cut paws from the wire cages, and skin so infected their bodies were covered with blackheads, she said.

BUT THE KENNEL owner painted a different portrait of her business, which houses about 98 breeding dogs. She said she keeps the dogs clean and regularly exercises them in 2-foot-by-7-foot runs and connected doghouses.

"I've got some of the happiest dogs you've ever seen," she said, adding that they're petted when fed. "I love 'em."

However, humane society investigator Baker — who routinely tours breeding operations — described the Kansas woman's facilities as "a hell-hole for dogs."

"I've been there almost every year since 1981," he said, "and I still get sick every time I see the place."

IN AN ATTEMPT to improve Kansas' image as the nation's No. 1 puppy-producing state with an estimated annual output of 200,000 dogs, state Rep. Ginger Barr engineered approval of 1987 legislation requiring breeders to get a state license and undergo an annual inspection. The Republican legislator recalls getting a cool response from the AKC.

Former Kansas Gov. John Carlin, a Democrat, vetoed the measure. Barr's legislation passed again in 1988 and was signed by Republican Gov. Mike Hayden — only to become essentially meaningless because there was no money and little enthusiasm among regulators for enforcing it.

Ellen Querner, who recently retired as Kansas Humane Society president, charged that state regulators have been too "worried about befriending and working with the breeders. If the breeders were going to clean themselves up, they would have done so before now. It is not in their interest because it would cost them money."

REPORTS OF abuses prompted

Please see Dogs/11A

Dogs

Life in kennels no bargain for puppies

From page 10A

Congress in 1970 to direct the Agriculture Department to license breeders and inspect them regularly. But critics say the government has shown little interest in cracking down.

"It's absolutely hilarious for people to even mention the fact that we're USDA-regulated," said breeder Ken Josserand of Joplin, Mo., who also is a sales broker for others.

"They have closed up a bad kennel or two, but there are hundreds of them escaping federal regulation. I think it's just a lack of desire on the part of the government to get after them."

Josserand criticized dog brokers and retailers for willingness to buy from any breeder "(so) long as the price is reasonable."

Alan Stern, AKC's vice-president for communications, estimated up to half the commercial breeders don't have a required federal license.

JOAN ARNOLDI, deputy administrator in charge of the Agriculture Department enforcement program, said the agency is "doing a much better job" on puppy mills since an internal reorganization last year. Most sites are inspected once a year, which humane groups say is inadequate.

Richard Crawford, director of the 60-member animal care staff that conducts inspections, said a breeder usually gets 10 to 30 days to correct violations. For flagrant violations, he said, it could take two to five years before an irresponsible operator's license is revoked.

"Two to five years," echoed AKC President Marden. "That's ridiculous."

While his organization theoretically could move more quickly than the government to suspend breeders from using its registry, Marden insisted it lacks "the force of law" to take action except for record-keeping failures.

BUT THE humane society's Baker says the AKC easily could establish minimum standards for breeding facilities and suspend violators from using its registry.

Marden said a computer analysis of AKC-registered dogs last year found that only 8 percent came from breeders who registered 20 or more litters (about 100 dogs) a year. But Baker called the 8-percent figure a gross distortion and said the number contradicts AKC's own statements in the past.

"Stop the puppy mills," said Patricia Cruz, a candidate for AKC's board this month, who contends that the AKC's budget is far too tilted toward supporting dog shows.

Steve Gladstone, a lawyer from Stroudsburg, Pa., who breeds show dogs, represents clients at AKC disciplinary proceedings and serves as a show judge, said the AKC "ought to be spending its money on investigating puppy-mill practices rather than on having a field representative at every championship dog show."

Humane society investigators and others say the problem doesn't stop at puppy mills.

MOST BREEDERS market their dogs for \$50 to \$150 each, depending on the variety, to brokers who transport them to pet stores — sometimes putting the dogs through additional hardships. Animal protec-

What's ahead in series

Monday

Does your pet really have a \$300 pedigree or is it a \$30 mutt? Critics challenge the reliability of the American Kennel Club system of registering dogs as purebreds, which sets their market value. The club hasn't canceled registrations of thousands of dogs, despite evidence that breeders kept inaccurate mating records.

Tuesday

Is there an unsavory side to tame sport of showing dogs? The shows have drawn allegations of abuses and favoritism.

tion groups have accused scores of shops of denying sick animals proper veterinary care to save money.

In 1988, a San Francisco law firm filed a class action suit that's still pending against Docktor Pet Centers Inc., a 268-store chain that is the largest U.S. pet retailer. The suit charged, among other things, that consumers wound up paying thousands of dollars in medical care because they bought poor-quality dogs. The corporation has denied the charges.

AKC's Stern stressed that just because a consumer has "a piece of paper that says AKC," that is no guar-

D O G S , D O L L A R S

• Sunday, March 4, 1990/THE DETROIT NEWS/11A

A N D D E C E I T



Kenneth Marden, president of the American Kennel Club, said his organization lacks the force of law to take action against dog breeders.

antee "that this is quality." He said consumers "cannot expect that we're going to give them a warranty of perfection."

An incident Jan. 18 offers a glimpse of how some Michigan pet stores get puppies.

Harold and Dorothy Latimer, who deliver puppies, were driving their van through Dayton, Ohio, when they experienced mechanical problems. When Latimer pulled into a service station for repairs, a mechanic noticed scores of puppies crammed into crates lining the rear, many of them lacking room to stand or turn around. He called authorities.

HUMANE SOCIETY investigators, who hurried to the station, said the 86 puppies were suffering from severe stress after 12 hours of travel from a distribution point in Ashland, Mo. Some were ill and a couple were bleeding from infections.

In the next 24 hours, more than a dozen of the dogs required medical attention, said Robin Weirach, program director for the United States' Great Lakes regional office of the humane society.

Health certificates taken from the driver showed that 34 of the pups were bound for stores in seven Metro Detroit and outstate Michigan cities.

Although most of the dogs were to be sold as purebreds, about half were not identified properly, Weirach said. The AKC requires that all registered dogs be identified on collars or with markings.

The Montgomery County Sheriff's Department in Ohio charged the Latimers with cruelty to animals and with shipping animals under 8 weeks of age. Their Feb. 16 conviction of one cruelty count could bring up to 90 days in jail.

In the days after they were seized, six of the dogs — two chow chows, two Pomeranians, one schnauzer and one German shepherd — died.

PARADISE

A Report On
Cruelty
In 'Puppy Mills'

Should You Buy That Doggie In The Window?

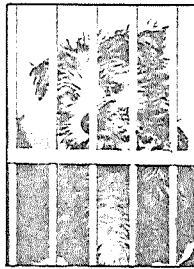
By Michael Satchell



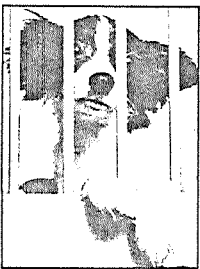
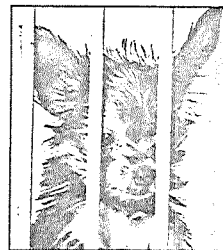
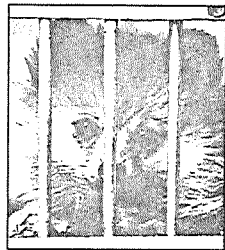
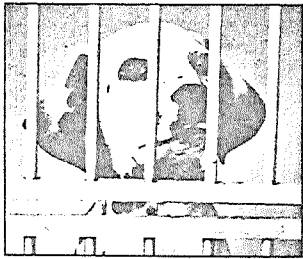
INSIDE: In Step With Kim Basinger...By James Brady

A report on cruelty in the puppy mills

Should You Buy That Doggie In The Window?



Photos by Frank Micelotta



FOR MANY PEOPLE, HAPPINESS IS A WARM PUPPY. PET STORES WORK HARD TO PROMOTE THIS IDEA, CREATING THE IMPRESSION THAT WHAT THEY ARE SELLING IS COMPANIONSHIP, AFFECTION AND LOVE. THIS CAN BE PERFECTLY TRUE. BUT BEHIND THE REASSURING IMAGES, THE WAGGING TAILS AND SKILLFUL MARKETING, THERE IS AN UGLY SIDE TO THE HIGHLY PROFITABLE RETAIL PUPPY TRADE.

The vast majority of the 350,000 to 500,000 purebred puppies that will be sold this year in pet shops—at prices ranging from \$300 to well over \$1000—will have been produced by Midwestern commercial breeders in facilities widely known as “puppy mills.”

A PARADE investigation of the puppy mill-pet shop trade revealed the following:

- Breed dogs suffer a variety of abuses in many of the puppy mills. One of the most common is lack of adequate shelter to protect them from the fierce heat, heavy rains and bitter cold common in the Midwest. Many spend their lives crammed into old chicken coops, makeshift kennels or small wire cages that sometimes are stacked atop each other. Conditions sometimes are filthy, the dogs are infested with parasites, and many suffer from illnesses or medical conditions that go untreated.

Puppies usually are raised as a cash crop in rural areas, often as a second income for their breeders. Because profit margins are slim, veterinary care is the exception.

- Puppies bound for the pet-shop trade are bred with little concern for passing on genetic defects, personality disorders or other undesirable traits. The goal is quantity, not quality. This does not mean that you can't buy from the store a healthy pup that will make an excellent family pet, but it is a gamble. Veterinarians advise visiting a breeder, examining the pup's parents for health, looks and temperament and checking the conditions in which the litter was raised.

The national breed clubs, in fact, either forbid or discourage their members from selling pups to pet shops. The result: Pet-shop dogs—usually more expensive than those purchased from a local breeder—stand a greater chance of being diseased or of developing crippling congenital defects, such as hip dysplasia.

- The American Kennel Club is the

10-13

nation's largest registry for purebred dogs and derives millions of dollars each year from registering the litters bred by puppy-mill owners and then recording the pedigrees of the individual dogs after they are purchased. Part of this money goes to underwrite AKC dog shows and trials, which tend to be the province of well-heeled dog fanciers.

The AKC describes itself as an organization devoted to regulating breeders, improving the purity and advancing the welfare of thoroughbred dogs, yet it does virtually nothing to help eliminate the physical abuses and poor breeding practices characteristic of the puppy mills. "Because a dog is kept in appalling conditions, is it any less registerable?" asks Roy H. Carlberg, the club's executive secretary. And, he notes, it is not the AKC's job to police puppy mills.

There is a widespread public assumption that AKC registration assures a healthy, quality animal. Without AKC papers, pet shops are forced to sell pups for considerably less money. However, AKC papers only verify that a pup is the known offspring of registered purebred parents and was born on a certain date. William F. Stifel, the club's president, was asked what he would do if someone applied for AKC papers for a blind, deaf, three-legged purebred pup with hip dysplasia and green fur.

"We would register the dog," Stifel said. "AKC unfortunately does not mean quality."

- Federal law sets minimum standards for housing and care of dogs in wholesale commercial kennels, but the U.S. Department of Agriculture enforces the Animal Welfare Act unevenly. The USDA does not regard inspecting animal facilities as one of its higher priorities. For two years, the agency has unsuccessfully petitioned Congress not to finance the program, so it could drop the responsibility in the hope that the states would take it on.

The Humane Society of the United States has taken the lead among national animal-welfare organizations in exposing the abuses in the puppy mill-pet shop trade and in trying to push the American Kennel Club into more aggressively enforcing the goals of its own charter.

Asserts Robert Baker, a Humane

Society investigator: "The AKC is reluctant to go after the puppy mills because it derives millions of dollars from registering these dogs. Fees from these deplorable mass-production mills are underwriting the AKC's prestigious events like the Westminster Kennel Club show."

Baker, a former stockbroker and Thoroughbred horse owner, now works as an undercover agent for the Humane Society. About six years ago,

Midwestern dog breeders but, outside of a few cosmetic changes, he feels there has been little improvement.

"The places look a little better, a little cleaner, but the basic handling and care is the same," he reports. "The USDA is still not aggressively enforcing the law. In some places, their deficiencies border on criminal misconduct."

To get a firsthand look at conditions in the Midwest, I visited a dozen

chain of East Coast pet stores, I was able to inspect the puppy mills and talk with their owners.

Conditions—to my untrained eye—ranged from adequate to abominable in the dozen randomly chosen facilities.

Three or four were Spartan and makeshift but clean, with dogs kept in outdoor runs or cages combined with small heated indoor quarters that offered protection from the weather extremes. Food and fresh water were available and, chatting with the owners, I could easily detect that they cared for their dogs and tried diligently to provide for them.

At the other extreme were three with conditions disturbing enough for me to request the USDA's chief veterinarian in Kansas to order an immediate inspection. The worst of them was a filthy, trash-strewn compound with 30 or more beagles and other hounds. There were filthy, skinny dogs tied by short chains to trees or old wooden kennels, with others living in open fenced compounds. The only shelter was an old truckbed camper top.

That morning, it was a bone-chilling 6 degrees, and the shivering animals had neither food nor water. At some of the other puppy mills, I had found frozen water bowls, but these dogs didn't even have ice. Checking later, I learned that the USDA had sent three officials to check out the

mills I'd complained about. One owner agreed to make improvements, another elected to relinquish his federal license and get out of large-scale commercial breeding. But at this worst place, the government inspectors could not legally go on the property and examine the conditions because the owner had allowed his federal license to lapse in 1985 and—30 dogs to the contrary—was not officially still in the commercial dog business.

If the federal government won't take the lead in ending puppy-mill abuses, whose responsibility is it? Pet shops benefit most from the mass-breeding industry but reject the notion that abuses are widespread or that animals produced in these conditions are inferior to animals bred by local dog fanciers.

"The puppies that come out of pet stores are every bit as healthy," insists Jay Smith, a vice president of the Pet Industry Joint Advisory Council, a

continued



This Kansas kennel closed after Humane Society agents found diseased dogs shut in cages.

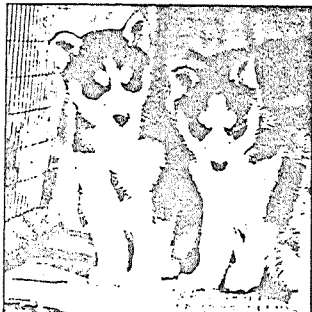
Some puppy mills gave adequate care—but in the worst I saw filthy, skinny dogs tied by short chains to trees

after completing a USDA training course, he posed as a businessman involved in commercial dog breeding and examined 294 puppy mills in seven Midwestern states, using standard federal inspection forms to rate them.

His conclusions: 80 percent had serious deficiencies and only one met all of the requirements of the Animal Welfare Act. As a result, the USDA started cracking down on the mills. Baker has continued to monitor the

puppy mills in southeast Kansas. They were chosen from the USDA's 1986 listing of some 550 licensed commercial dog breeders, dealers, research facilities and exhibitors in the state. Nationwide, there are about 3000 federally licensed dog breeders and thousands more unlicensed operators who aren't required to be inspected because of their small size, or who simply ignore the law. Using a fake business card and posing as the owner of a

10-14



Two pups share cramped quarters.

In 1986, the AKC took in more than \$16 million, 81% from dog registrations

DOGGIE *(continued)*

pet trade group. "I've never seen any contrary data or studies. Most of this argument is based on emotionalism rather than fact."

Raymond Guyer, executive vice president of Docketors Pet Centers—the largest pet franchise chain in the country, with 245 stores in 36 states—argues that the pups his shops sell aren't show-quality but pet-quality. Docketors will sell about 110,000 puppies this year, most obtained through brokers who buy from Midwestern breeders. Says Guyer: "People want puppies. They don't want to know how they're produced. I will agree, there are some abuses in the system. I've seen some decent [puppy mills], and I've seen some that are absolutely poor facilities, and they should be eliminated, preferably by the USDA with more stiffening of the regulations."

Why won't local breeders sell to the pet trade? "I have no idea," Guyer says. "The Humane Society people criticize us for selling poor-quality puppies. I'd love to be able to buy pups from local show breeders. It's fine and dandy for the Humane Society to conjure up images of puppy mills—it's real helpful for their fund-raising.

I say let's not criticize puppy mills but get together and see what we can do about them."

Does the American Kennel Club, which has regulated the world of thoroughbred dogs for 102 years, have a responsibility to help eliminate puppy-mill abuses? In 1986, the AKC took in more than \$16 million, and 81 percent of this was from dog registrations. Exactly how much of that amount came from the puppy mill-pet shop trade and how much from the show-dog breeders is hard to determine. The club's officials say they don't know, but conversations with AKC sources and industry observers suggest anywhere from a third to a half of the registration income is derived from mass-produced pups.

At its headquarters in New York, Executive Secretary Roy Carlberg insisted that the American Kennel Club has neither the responsibility nor the staff to police the puppy mills. The club's nine enforcement investigators spent \$2 million last year tracking down phony registration papers and violations of registration rules, resulting in 81 warnings and 32 dog owners

losing their AKC privileges. Couldn't the club also penalize the puppy mills that raise dogs in appalling conditions by lifting their AKC privileges—a move that would make their pups virtually unsalable—until they improved their kennels?

"That's a simplistic approach and completely asinine," Carlberg said. **E**

For advice on buying a puppy, write for a free pamphlet to: Humane Society of the United States, Dept. P2, 2100 L St., N.W., Washington, D.C. 20037.

"People want puppies; they don't want to know how they're produced"



Humane Society found these dogs in filthy cage at a Midwestern kennel.

10-15



Are You Getting Your Puppy's Worth?

What You Should Know

Every time someone buys a puppy mill puppy, he or she is contributing directly to the misery of the adult dogs who spend their entire lives as nothing more than puppy-producing machines. Don't help perpetuate the cruelty of these mass breeding farms known as puppy mills.

- The stress and trauma of shipping long distances coupled with poor sanitation and lack of veterinary care at these mills make puppy mill puppies more susceptible than most to a variety of diseases. Even if a puppy is healthy when you first get it, the incubation period of some serious diseases may be long enough so that the animal may get sick up to two weeks later.
- If you must have a purebred puppy, check to see if you can buy directly from a local breeder. You'll probably pay less, since there's no middleman or shipping costs to add to the price.
- The AKC (American Kennel Club) papers that come with your puppy don't guarantee anything about its temperament, the conditions in which it was born and raised, or whether it will resemble its breed standard when it grows up. The only way to know for sure is to meet the puppy's parents.

(over)

What You Should Know Before You Buy a Dog...

Not all puppies in pet shops are from puppy mills. However, most puppy mill puppies *do* end up in pet shops. If you're going to be getting a puppy soon, keep the following in mind:

- Be sure you're ready, willing, and able to take on the commitment a dog entails. Having a dog is fun, but it's also a responsibility. Puppies are cute, but don't let their looks lull you into making an impulse purchase.
- If you're buying a purebred puppy, be sure to inspect the kennel and meet the parents of your new family member. The only way to ensure that your puppy was raised properly and in humane surroundings is to see for yourself. A good breeder doesn't hesitate to show off his or her facilities.
- Know what you're looking for. Do you really *need* a purebred? Don't forget, your local animal shelter almost always has homeless puppies for adoption. Often there are puppies that strongly resemble and have most characteristics of an AKC breed.
- Remember, approximately 7.6 million dogs and cats are euthanized each year in the United States because there aren't enough good homes for them. Have your pet spayed or neutered. Don't contribute to the pet overpopulation problem. Help us solve it!



The Humane Society
of the United States
2100 L Street, NW
Washington, DC 20037

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10-16

Pet Shops: The Unseen Suffering

The HSUS Exposes Cruelties behind Closed Doors

“In my presence, the pet shop owner picked up one of the kittens in one hand, picked up a wooden dowel in the other hand, and struck the kitten in the front of the head,” said the former manager of a northern California pet store in a sworn statement. “I observed blood run from the nostrils of the kitten. The owner then placed the kitten in the freezer without really checking to make sure the kitten was dead. He then instructed me to kill the remaining eight kittens the same way. I did as I was told.”

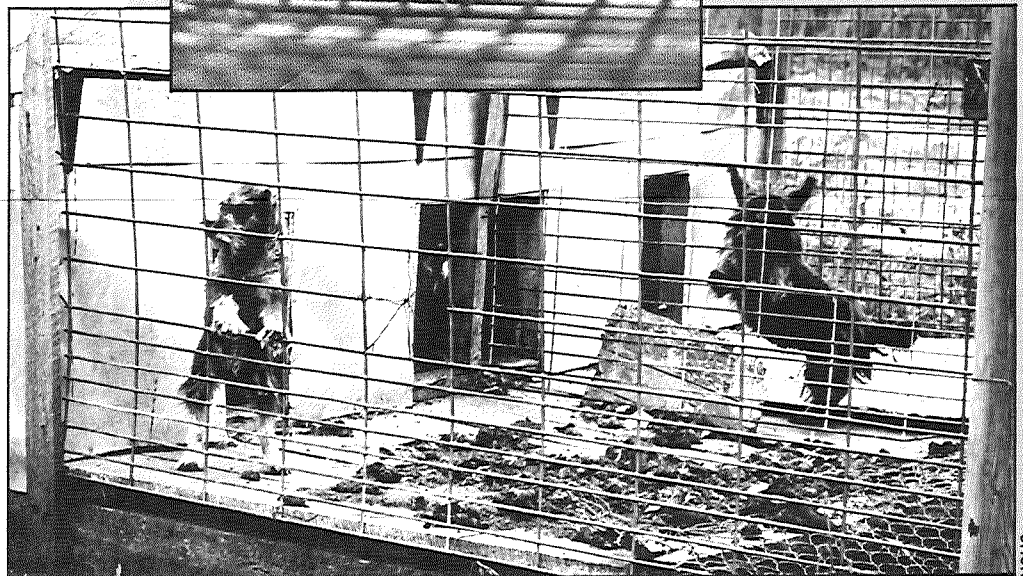
It was an operation where profits took precedence over proper care, where animals were reduced to saleable merchandise and those considered “defective” were destroyed in the least costly manner possible. Unfortunately, in today’s commercial pet business, where cutting costs is often the name of the game, atrocities like the one described above happen far more frequently than the public knows. For this reason, and spurred by grisly first-hand accounts by pet shop employees, The Humane Society of the United States (HSUS) is working to expose the suffering of thousands of helpless pet-trade animals. Only through our ongoing investigations and our legislative efforts, only by opening America’s eyes to the brutality taking place behind closed doors, will we dry up the demand for these exploited creatures.

Sadly, the harrowing incident described above doesn’t begin to reveal the magnitude of suffering taking place nationwide, or even in the three northern California pet stores that recently



The vulnerable look in this puppy’s eyes doesn’t begin to reveal the suffering the animal has probably endured. Unfortunately, for hundreds of thousands of pet shop puppies each year, life begins under deplorable conditions like those below.

Lakini/Protections



HSUS

made news headlines. In that episode, ten former employees testified to the behind-the-scenes abuses they’d witnessed and the near-death conditions of animals that had been sold.

“I observed sick dogs at that store that eventually died because of neglect,”

said one employee. “The dogs would be placed in the back room and would not be given the necessary food, water or medication and would die.”

“Birds were put down by striking their heads on the sides of tables,” said a manager. “Hamsters would be killed

...ing them in bags and then sl...
... the bags against the wall.”

“On another occasion,” said a kennel worker, “I recall... the district manager placing a sick female beagle puppy into a plastic bag and slamming the puppy against the wall. He then placed the beagle into the freezer. I also saw him destroy kittens in this manner.”

The gruesome tales go on. Tales of roach-infested back rooms, freezers bursting with animal carcasses, and mass killings of unsold Easter bunnies. But such horrific accounts are not limited to northern California. In New Jersey, Florida, Kansas, Massachusetts, Ohio, Texas, and Virginia, pet shop employees have related startlingly similar stories of brutality and neglect—the vast majority describing large franchise operations usually located in shopping malls.

“In the past, pet shops were family-run establishments, and people really cared about the animals they sold,” says Patrick Parkes, HSUS vice president for field services. “While some of those shops still exist, the sale of pets has become a big business and there are plenty of people in it strictly to make money.”

And run like businesses they are. “You’re not going to walk into a pet store and see a disaster area,” says Parkes, “because the public areas of these places are designed to entice people to purchase animals. The cruelties occur in the back rooms and basements where ill and injured animals aren’t receiving the proper care or medical attention they need.” While the exact extent of back room cruelties is difficult to assess on a nationwide basis, the available evidence from employees is alarming.

Unfortunately, for millions of animals—particularly puppies and newly popular wild-caught birds—the misery begins long before they reach the pet shop door. For these vulnerable creatures, the suffering may start at birth and continue until they are sold or, as is too often the case, die of neglect.

What You See Is Not What You Get

The journey for that irresistible spaniel or terrier begins under somewhat less cosmetic conditions than the glass-encased cages the customer sees. While some pet shop puppies come from reputable local breeders, for many of the 400,000 dogs sold each year, life begins in the cramped, decrepit confines of the puppy mill.

It’s on such mass breeding farms, located primarily in the midwestern

states, that puppies endure extreme deprivation during their first weeks of life. Housed on wire floors in chicken coops and rabbit hutches, with nothing more than wooden boxes—if that—to protect them from blizzards and baking sun, puppies are afforded only the barest essentials to keep them alive. During an extensive undercover operation, one HSUS investigator turned up newborns living inside rusty barrels, discarded washing machines, even empty fuel tanks. Another HSUS investigator discovered a stable housing some 600 caged dogs, with piles of feces waist deep!

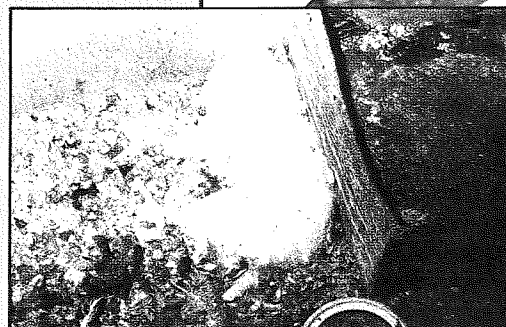
At eight weeks of age, puppies are crammed two to a crate and shipped to any of thousands of pet shops across the country. These animals, jostled from truck to truck and finally to air cargo bay, may endure *days* in transit. “The stress of transport weakens their immune systems,” says HSUS scientific director and veterinarian Dr. Michael W. Fox. “Even if they’ve been properly

vaccinated, they’re likely to become eased and die.” Pet shop employees alleged that puppies arrive at retail stores by the truckload, coughing, vomiting, and suffering from severe dehydration—symptoms that ultimately spell pneumonia, distemper, and deadly parvovirus.

Employees Play Doctor

Whether sick or healthy, however, a puppy’s so-called “shelf-life” (determined by cuteness) is only a few short weeks. To ensure quick turnover, managers at times employ deceptive sales practices to move the merchandise. One pet shop employee recalled the sale of a terrier so sick that it had to be *force-fed to be kept alive*. She urged the store manager to seek veterinary attention for the animal. “The next day, I noticed the cage was empty,” she said. “I asked him if the puppy had died during the night. He said, ‘No, I sold it.’ ” Not surprisingly, the puppy died

A foul odor seeping into the display area of this Antioch, California, pet shop alerted humane officials to the atrocities taking place behind the scenes. When authorities inspected the store’s back room (pictured at right), they came across scores of neglected cats, dogs, and birds. Below, one of ten dog carcasses discovered. The animals had starved to death.



Darris Herts/Sacramento SPCA

Bob Low/Antioch Police Department

ter in the care of its new owner. Imagine the heartbreak of a customer who buys a pet only to have it become violently ill within hours or days of purchase. Yet such consumer complaints are not infrequent. And, although some pet stores honor warranties by replacing sick animals, rarely will they cover expenses for veterinary treatment. To them it's far less expensive to reclaim and destroy a sick animal—and receive a credit from the breeder—than to shell out the money for vet bills.

In those cases when managers think it feasible to "treat" sick animals, the burden of playing doctor too often falls on an inexperienced sales staff. With virtually no veterinary training and the pressure of sales quotas upon them, employees are seldom equipped to care for sick and dying animals. Sufferers are generally placed in "quarantine" in a back room, shipping area, or even in a storage closet. There, cramped together in cages and infecting one another, animals may be left to fend for themselves or die.

Birds of a Feather Die Together

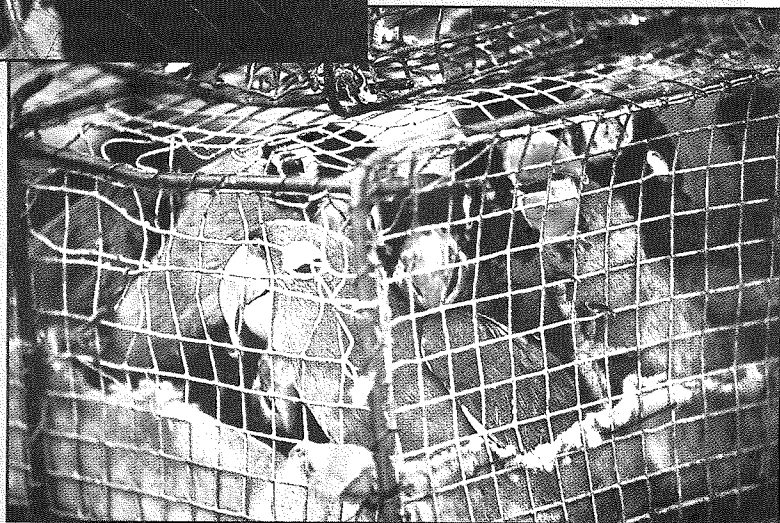
Pet shop cruelties are not limited to traditional companion animals but extend to the new status symbol in pets: the wild-caught bird. With the U.S. cage-bird population at 40 million individuals, the bird business is the fastest growing segment of the pet industry. Unfortunately, the trade in *wild* species is growing at a rate that not only seriously jeopardizes entire bird populations, but spells an unfathomable waste of animal life. The fact is, for each parrot or macaw seen perched in a pet shop cage, another four birds have suffered tragic deaths. And the mortality rate climbs for the more delicate species; only one out of eleven survives the harrowing journey from its native habitat to the pet shop.

It's a journey that starts in the forests and fields of Latin America, Asia, or Africa, where catchers snatch young birds from their nests—often cutting down trees and ravaging forests in the process. "Most birds caught for export are taken from their nests before they are even old enough to fly," explains an HSUS investigator, who recently went undercover among bird catchers in Peru. "Catchers simply hack open the nesting holes and remove entire clutches of young birds at a time." Birds are also trapped with leg snares—a process during which captives may be left to dangle helplessly for hours on end. Such



During the "off season" when young birds can't be snatched from their nests, South American catchers use fine mist nets to ensnare unsuspecting adults. Once captured, the birds are crammed into tiny cages for the long, hot haul into town. These are just the first in a series of hardships that claim the lives of millions of wild birds before ever reaching the pet shop door.

HSUS/TERRA



HSUS/TERRA

capture methods, says our undercover investigator, cause serious injury to birds, often killing as many birds as are captured unharmed.

The death toll skyrockets again when wild birds depart their native countries, bound for pet shops throughout the world. Hundreds of birds, crammed into shipping crates intended to hold only a few dozen, endure days without food or water. Fighting often erupts inside the crates and scores of birds may be maimed or killed. With such a lack of consideration given to the birds' welfare, it's no wonder that sometimes entire shipments of birds are dead on arrival.

Poor conditions and disease outbreaks at U.S. quarantine stations—where birds must be held for at least four weeks—claim thousands of lives as well. In 1984, of the 913,000 wild birds that survived brutal treatment in

their countries of origin, the U.S. Department of Agriculture reported that over 171,000 died before ever reaching U.S. pet shops!

And these figures don't begin to reflect the inordinate number of deaths from smuggling. Although several countries have banned the export of these exotic creatures, birds continue to be stuffed into tennis ball cans, hidden under hoods of cars, and even taped to smugglers' bodies in an effort to sneak them over native borders. The U.S. Fish and Wildlife Service estimates that roughly 30,000 black-market birds are smuggled into the United States alone each year. How many others—stuffed inside suitcases, their beaks taped shut—die along the way?

Despite this, there's little evidence that the pet industry has done anything to curtail these staggering losses. In-

...the industry has found it more profitable to charge exorbitant prices for the few birds that make it to pet stores alive rather than provide humane treatment for all those captured. And profitable it is. With demand soaring and customers paying between \$500 and \$10,000 per bird, retailers are enjoying an unprecedented economic boom. Little do customers realize that *they* are picking up the tab for those birds that didn't make it to the pet shop alive.

To end this exploitation, New York has become the first state to enact a law banning the import of exotic birds, and several other states have followed suit by introducing similar progressive measures. But the nearly *four-billion-dollar* pet industry, fearful of losing its grip on this highly lucrative business, is waging a fierce legislative battle. By portraying New York's law as a serious threat to the entire pet industry, the Pet Industry Joint Advisory Council (PIJAC), the industry's lobbying arm, has mobi-

lized retailers nationwide in an effort to both overturn the new law and obstruct the passage of any similar bills.

What The HSUS Is Doing

Recognized as a leader in the effort to stop the wholesale slaughter of wild birds, The HSUS has succeeded in keeping New York's far-reaching bird law on the books. Although PIJAC nearly won repeal of that law in May and will undoubtedly try again next year, our staff will do everything in its power to keep that measure intact. We'll also be fighting for passage of protective bills in several other states.

By taking our case to the media, we've been educating the public to the unseen cruelties of the commercial pet trade. In addition to our extensive investigation of midwestern puppy mills, which spurred a rash of publicity about the horrendous conditions in many of the nation's 5,000 puppy factories, The

HSUS prompted "NBC Nightly News," CBS national news, and the "60 Minutes" show to air exposés on the abuses within the industry. Thanks to our investigators, similar segments have aired on newscasts in every major city in the country.

To toughen pet shop regulations, HSUS regional directors continually meet with public officials ranging from state governors to city council members. On the local level, our efforts have been surprisingly successful. Despite this, with upwards of 10,000 pet shops in the country, it will be quite some time before we're able to enact or strengthen ordinances in thousands of communities nationwide.

Meanwhile, our team of investigators will continue to monitor conditions at pet shops throughout the country, working to gain prosecution of those individuals who, for financial motives, subject their vulnerable charges to unspeakable suffering and neglect.

WE NEED YOUR HELP

■ If someone you know is in the market for a dog or cat, encourage him to visit the local animal shelter or suggest that he buy from an area breeder. Always visit the breeder's facilities to ensure that a pet was raised properly and in humane surroundings.

■ If you discover what appears to be a sick animal for sale in a pet shop, contact your local animal-control and health departments immediately. These agencies can usually send an inspector to the scene to take the appropriate actions. Also, be sure to alert your state department of consumer affairs to what may very well be deceptive business practices, and notify your area humane society as well.

■ Encourage your local humane society to work for stricter enforcement of current regulations as well as for tougher ordinances and state laws governing the sale of animals in pet stores.

■ Finally, help The HSUS bring the hidden cruelties of the pet trade to the public's attention. Only by drying up the demand for these exploited creatures will we end the abuses taking place "behind closed doors." Your tax-deductible contribution will enable us to continue our investigative, legislative, and educational efforts to end the suffering for thousands of



Summer Wm. Fowler/Marin Humane Society

Last year, while puppy mills continued to flood the market with purebreds, U.S. shelters destroyed some five million unwanted dogs. When shopping for a pet, consider acquiring a shelter animal so desperately in need of a loving home.

pet-trade animals as well as for countless other wild and domestic creatures so desperately in need of our help. Please use the enclosed postage-paid envelope to send your contribution today.



The Humane Society of the United States
2100 L Street, NW, Washington, DC 20037 (202) 452-1100

Additional copies of this report are available upon request at 30¢ each or in quantities of 12 for \$2.00 and 25 for \$3.50. Payment must accompany order.

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OF THE UNITED STATES The Humane Society

CLOSE-UP REPORT

Solving the Pet Overpopulation Problem

The HSUS Promotes Its Blueprint for Success

U.S. animal shelters must euthanize up to 13 million unwanted animals every year. But the shelters that follow The HSUS's simple formula of *legislation, education, and sterilization* (LES) report a decrease of between 30 and 60 percent in euthanasia rates!

For those few shelters, it's been a successful fight to date. But for many others the battle is far from over. Further victories depend on your help. Each cat or dog that has a warm home and loving owners but is allowed to breed will eventually be the source of thousands more kittens or puppies. Most of these new lives will encounter only the cruelty and deprivation of being unwanted and homeless. The responsibility for this surplus rests on human shoulders.

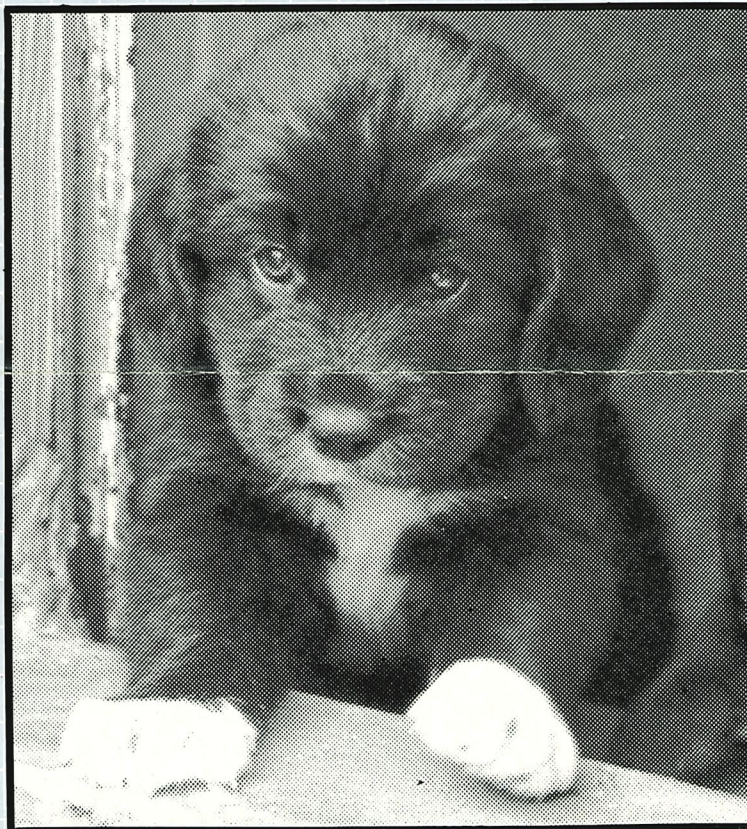
Because of the short pregnancies and large litters of dogs and cats, one individual female with all her female offspring reproducing similarly

can be the source of over 4,000 new lives within seven years. Some of these animals will find homes com-

plete with laps to sit on and fireplaces to enjoy, but millions of other perfectly healthy dogs and cats won't be

so lucky. The overabundance of these potential pets tends to cheapen the intrinsic value of each individual animal in the eyes of the general public. The swelling problem causes some people to use cruel methods of disposing of unwanted pets, such as abandoning them along highways, or drowning them, regardless of the availability of an animal shelter.

Unfortunately, animal shelters are not always a guarantee of a homeless pet's safety, either. Dealers, eager to take advantage of a readily available source of revenue, can buy animals from certain shelters for a few dollars a head and resell them at a profit to experimental laboratories. Tragically, it is not only unwanted animals that end up in a dealer's truck; lost, unlicensed pets that are unclaimed at those animal
(continued on next page)



This puppy is part of the sad circle of overpopulation. If it is not adopted, it will die. If it is adopted and allowed to breed, it will produce more puppies which face homelessness. The HSUS has the step-by-step plan to break this circle. With your help, we can succeed.

— HSUS/Wilson

shelters by their owners could also land in a laboratory.

The most cunning of a society's unwanted animals will survive on their own, picking food out of garbage cans, staying warm under parked cars, finding water where they can, and staying out of harm's way. They will also breed. Although somewhere in their lineage was a fluffy kitten or puppy delighting humans with play and affection, that animal wasn't neutered, and that pet owner must share the blame for the unwanted stray and its unwanted litters.

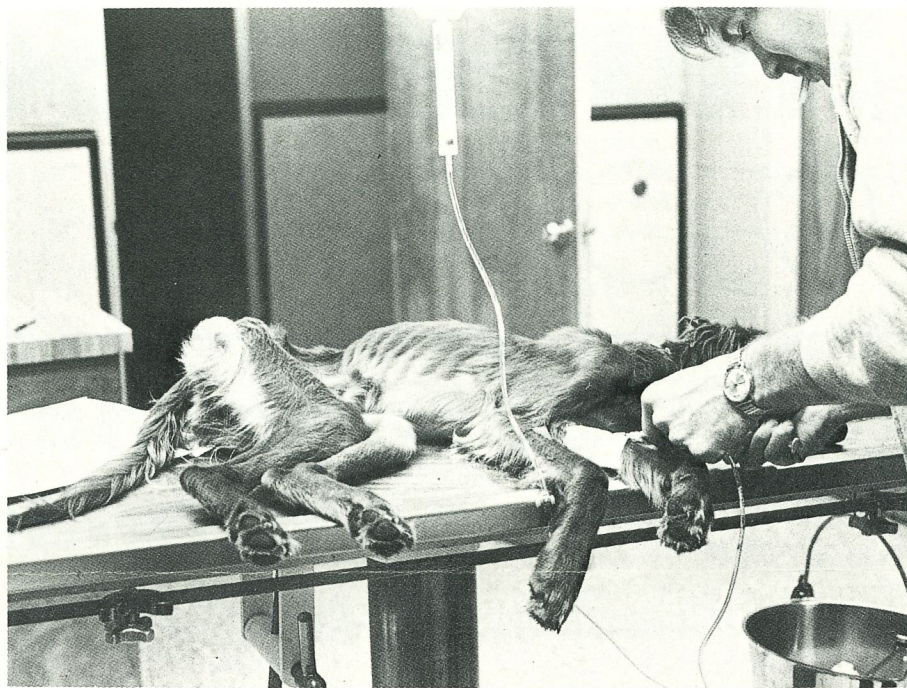
The majority of dogs and cats turned into animal shelters, however, are the result of unthinking or uneducated individuals who purposely breed their pets. They think that they can find homes for their new kittens or that they owe their adult pet the right to experience motherhood. Of course, they know that if no homes can be found, the kittens or puppies can always go to the animal shelter. The harsh reality is that those animals have only a slim chance of being adopted. Most are euthanatized because there are simply no homes for them.

Because of pet owner irresponsibility, too many unwanted animals are born each year only to meet tragic ends. Animal shelters are proving, however, that with The HSUS's program of legislation, education, and sterilization, they can decrease the number of animals they must kill. For example, an Ohio shelter that euthanatized 2,913 animals in 1979 had to destroy only 1,151 in 1981 because it had followed the LES plan. A California humane society reported a drop from 14,000 euthanatized animals in 1972 to 4,373 in 1979. A Canadian shelter witnessed a drastic plummet from 80,000 in 1976 to 15,300 in 1981! The HSUS's plan works! Now we have to make it work in all our communities.

The LES plan is a three-pronged attack. No one single element can work alone.

It is vital that the first element in a society's program be *legislation* designed to mandate differential licensing (the license fee is less when the pet has been sterilized), leash laws, and sterilization of pets, particularly those adopted from public and private animal shelters. Cities are well aware of the immense public financial burden of pet overpopulation. The cost of taking strays off the streets, preventing rabies and dog bites, and picking up dead animals (12

(continued on back page)



— HSUS/Smith

Because of their overabundance, pets are more likely to fall into the wrong hands. The owner of this starved Irish setter tied it to a backyard stake and left town. This vet's efforts to save the dog failed.

What Is Pet Overpopulation?

Pet owners must stop their animals from breeding. There simply are not homes for the offspring. According to the Population Division of the U.S. Census Bureau, 450 U.S. citizens are born every hour. The HSUS estimates that 2,500 to 3,000 dogs and cats are born every hour. There is no way that responsible pet owners could assume responsibility for that many excess animals, even if each one of those 450 people was to adopt a dog or cat. As it stands now, only 52 percent of the U.S. households owns pets. At least 70 percent of the dogs and cats brought into public and private shelters must be euthanatized — a tragic waste of precious life.

These shelter figures do not reflect the huge numbers of unwanted animals roaming neighborhoods or the surplus puppies and kittens given away through signs and advertisements in local papers. People use the animal shelter when they cannot foist their surplus animals on friends and neighbors. For every contented, well-cared-for dog and cat there are probably 9 others unfortunate enough to spend their short lives at the mercy of freezing weather, cruel humans, and speeding cars. If luck turns their way, they will meet the sad kindness of euthanasia in an animal shelter.

What The HSUS Is Doing

The HSUS is putting LES into action on a national scale:

L

Our *legislative* work repeatedly proves that passing a law is one of the most effective tools for solving animal problems. We have testified in 30 states and on Capitol Hill regarding humane euthanasia, animal fighting, pets and the elderly, the need for spay/neuter programs, and improved animal ordinances.

E

Laws are meaningless unless they are accompanied by adequate *education* on the need for these laws. A leash law, for example, reduces dog bites and controls the number of lost pets. It also helps keep dogs from spilling garbage, threatening neighbors, and getting hit by cars. The general public must know this if it is to support and observe such an ordinance in its communities.

The HSUS has sent public service announcements to over 600 radio stations and 460 television stations in the country to inform listeners of the importance of neutering and leashing their pets. Camera-ready ads have been printed and made available to anyone who will place them in local papers and magazines. We publish booklets on how to start spay/neuter clinics and even a Spanish-language pamphlet on the effects of pet overpopulation and the importance of sterilization.

The HSUS also conducts the Animal Control Academy, the nation's only two-week training seminar for animal-control personnel. Certified by the University of Alabama's Department of Law Enforcement, it covers such topics as small animal handling, passage and enforcement of animal-control ordinances, and humane education in school programs. Academy students can return to their shelters to help improve both animal and community services. We offer a two-day workshop for animal-shelter board members, city council members, and local HSUS members, "Solving Animal Problems in Your Community." This consciousness-raising program is designed to underscore the need for and the availability of systematic animal-control solutions. It provides action programs for participants to take back to their communities.

S

Although The HSUS does not directly *sterilize* animals, it can provide expertise to help communities set up and promote cooperative programs with local veterinarians or their own spay/neuter clinics. HSUS staff experts provide data from successful programs documenting the benefits of clinics that offer reduced fees for the service. The HSUS has also promoted other methods of encouraging pet sterilization, such as differential licensing and mandatory sterilization of adopted shelter pets. Our resources are your resources!



— HSUS/Conklin

Before the first year is over, this mother will be nursing a new litter and these kittens will have litters of their own. This relatively small family can balloon to over 4,000 new lives within seven years. Far too many will be homeless. Community members and animal shelters can end this tragedy by adopting The HSUS's blueprint for success.

tons in Atlanta in one year) proves to municipalities there is an urgent need for a strong animal-control program.

U.S. communities can solve this problem by passing ordinances requiring that all animals adopted from public and private animal shelters be sterilized. They can also mandate dog and cat licensing through which they can keep track of the numbers of pets, certify vaccinations, and help officials return lost dogs and cats to their owners. Differential licensing can further encourage neutering of pets. For instance, before Los Angeles mandated differential licensing, only 11 percent of the licensed dogs were neutered in 1972. With differential licensing, the percentage rose to 54 percent in 1979. Leash laws also help cities reduce

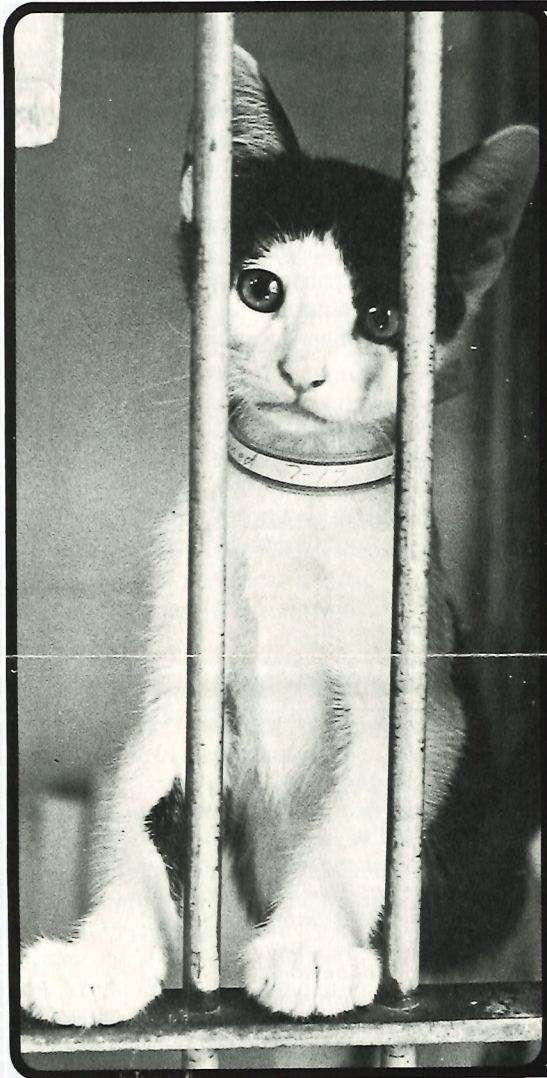
overpopulation by requiring owners to keep their pets under physical control.

The second important element of effective population control is *education*. Pet owners and their children should be taught that they could end the pet overpopulation problem. They need to realize that owning a pet is a lifetime commitment. Uneducated pet owners are frequently overwhelmed by their animal's needs for training, care, and companionship. As a result, owners account for at least 50 percent of all unwanted pets turned in to the animal shelters. The dejection these animals suffer is heartbreaking.

The third element in overpopulation control is, of course, *sterilization*. In addition to legislating mandatory neutering of all adopted shelter

pets, communities can also provide several kinds of sterilization services. In many cases, cooperative programs with private veterinarians will offer spay and neuter services for a reduced fee. Local governments and humane societies can operate sterilization clinics. Many communities offer these services to pet owners regardless of their ability to pay.

It is possible to put a lid on pet overpopulation. The solution is no mystery. The HSUS has done the research and the legwork. Now we need your help to put our answers into action. If The HSUS can double the number of communities adopting this blueprint for success, in five years we can save five million unwanted animals from cruel treatment or early death.



—HSUS/Halden

WHAT YOU CAN DO

Up to 13 million animals must suffer an early death in the United States because they do not have a home. Their numbers and tragedy are a national disgrace. But the solution is no mystery. The HSUS has the blueprint for successful pet overpopulation control. All you need to do is follow it and you can help eliminate a vast amount of suffering in your community.

- Talk to your government officials. Urge your legislators to pass mandatory sterilization laws and impress upon them the vital importance of establishing humane education programs. Send HSUS materials to your city council members. The first step to eliminating the suffering of animal overpopulation is through the front door of your municipal building.
- Educate your family, friends, and neighbors. Request a publications list from The HSUS detailing our educational materials. The HSUS publishes posters, ads, and pamphlets describing the importance of responsible pet ownership. Order some and distribute them in your schools, libraries, movie theaters, and supermarkets.
- Sterilize your own pets. Regardless of whether or not it has a home, every newborn puppy or kitten compounds the overpopulation problem.
- Finally, support The HSUS's efforts to spread this working blueprint for success around the country. We want to share this information with your community. Your help is critical if we are to continue developing educational materials, conducting classes throughout the country, and affecting local and national legislation. Please use the enclosed postage-paid envelope to send your gift to help The HSUS help animals!



The Humane Society of the United States
2100 L Street, NW, Washington, DC 20037 (202) 452-1100

Additional copies of this report are available upon request at 30¢ each. Payment must accompany order.

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CHAPTER 162

Care of Animals in Commercial Establishments
(As amended by HF 2440 and SF 394)

162.1 Policy.

The purpose of this chapter is:

1. To insure that all dogs and cats handled by boarding kennels, commercial kennels, hobby kennels, commercial breeders, dealers and public auctions are provided with humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling and treatment of such animals by persons or organizations engaged in transporting, buying or selling them and to provide that all vertebrate animals consigned to pet shops are provided humane care and treatment by regulating the transportation, sale, purchase, housing, care, handling and treatment of such animals by pet shops.
2. To authorize the sale, trade or adoption of only those animals which appear to be free of infectious or communicable disease.
3. To protect the public from zoonotic disease.

162.2 Definitions.

As used in this chapter, except as otherwise expressly provided:

1. "Pound" or "dog pound" means a facility for the prevention of cruelty to animals operated by the state, a municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized stray, homeless, abandoned or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.
2. "Person" means person as defined in chapter 4.
3. "Animal shelter" means a facility which is used to house or contain dogs or cats, or both, and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.
4. "Pet shop" means an establishment where any dog, cat, rabbit, rodent, nonhuman primate, fish other than live bait, bird, or other vertebrate animal is bought, sold, exchanged, or offered for sale.
5. "Boarding kennel" means a place or establishment other than a pound or animal shelter where dogs or cats not owned by the proprietor are sheltered, fed and watered in return for a consideration.
6. "Commercial kennel" means a kennel which performs grooming, boarding, or training services for dogs or cats in return for a consideration.
7. "Commercial breeder" means a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed, or boarded by the person. A person who owns or harbors three or less breeding males or females is not a commercial breeder.
8. "Vertebrate animal" means those vertebrate animals other than members of the equine, bovine, ovine, and porcine species.
9. "Public auction" means any place or location where dogs or cats, or both, are sold at auction to the highest bidder regardless of whether the dogs or cats are offered as individuals, as groups, or by weight.
10. "Dealer" means any person who is engaged in the business of buying

resale or selling, exchanging dogs or cats, or birds, as a principal agent, or who claims to be so engaged.

11. "Research facility" means any school or college of medicine, veterinary medicine, pharmacy, dentistry, or osteopathy, or hospital, diagnostic or research laboratories, or other educational or scientific establishment situated in this state concerned with the investigation of, or instruction concerning the structure or function of living organisms, the cause, prevention, control or cure of diseases or abnormal conditions of human beings or animals.

12. "Primary enclosure" means any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, cage or compartment.

13. "Housing facilities" means any room, building or area used to contain a primary enclosure or enclosures.

14. "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or by a method that involves anesthesia, produced by an agent which causes painless loss of consciousness, and death during the loss of consciousness.

15. "Adequate feed" means the provision at suitable intervals of not more than twenty-four hours or longer if the dietary requirements of the species so require, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. The foodstuff shall be served in a clean receptacle, dish or container.

16. "Adequate water" means reasonable access to a supply of clean, fresh, potable water provided in a sanitary manner or provided at suitable intervals for the species and not to exceed twenty-four hours at any interval.

17. "Animal warden" means any person employed, contracted, or appointed by the state, municipal corporation, or any political subdivision of the state, for the purpose of aiding in the enforcement of the provisions of this chapter or any other law or ordinance relating to the licensing of animals, control of animals or seizure and impounding of animals and includes any peace officer, animal control officer, or other employee whose duties in whole or in part include assignments which involve the seizure or taking into custody of any animal.

162.3 Certificate of registration for pound.

A pound shall not be operated unless a certificate of registration for the pound is granted by the secretary. Application for the certificate shall be made in the manner approved by the secretary. A fee is not required for the application or certificate. Certificates of registration expire one year from date of issue unless revoked and may be renewed upon application in the manner provided by the secretary. A registered pound may engage in the sale of dogs or cats under its control, if the privilege is allowed by the department but no fee shall be charged unless the registered pound is privately owned. The registration fee for a privately owned pound that sells dogs or cats is ten dollars per year. NOTE: Conflict remains between S.F. 394 & H.F. 2440, passed by the last session of the legislature, as they affect 162.3. This section, as written above, may be changed in the final publication of the law.

162.4 Certificate of registration for animal shelter.

A person shall not operate an animal shelter unless a certificate of registration for the animal shelter is granted by the secretary. Application for the certificate shall be made in the manner provided by the secretary. A fee is not required for the application or certificate.

Certificates of registration expire one year from date of issue unless revoked and may be renewed in the manner provided by the secretary. A registered animal shelter may engage in the sale of dogs or cats if the privilege is allowed by the department.

162.5 Pet shop license.

A person shall not operate a pet shop unless the person has obtained a license to operate a pet shop issued by the secretary. Application for the license shall be made in the manner provided by the secretary. The license expires one year from date of issue unless revoked and may be renewed in the manner provided by the secretary. The license fee is fifty dollars per year. The license may be renewed if the licensee has conformed to all statutory and regulatory requirements.

162.6 Commercial kennel or public auction license.

A person shall not operate a commercial kennel or public auction unless the person has obtained a license to operate a commercial kennel or a public auction issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The license and certificate expire one year from date of issue unless revoked. The license fee is forty dollars per year and the certification fee is five dollars annually. If the person has obtained a federal license, the person need only obtain a certificate. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary if the licensee has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary.

162.7 Dealer license.

A person shall not operate as a dealer unless the person has obtained a license issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The license and certificate expire one year from date of issue unless revoked. The license fee is one hundred dollars per year and the certification fee is five dollars per year. The license may be renewed upon application and payment of the fee in the manner provided by the secretary if the licensee has conformed to all statutory and regulatory requirements. The certificate may be renewed upon application and payment of the fee in the manner provided by the secretary.

162.8 Commercial breeder's license.

A person shall not operate as a commercial breeder unless the person has obtained a license issued by the secretary or unless the person has obtained a certificate of registration issued by the secretary if the kennel is federally licensed. Application for the license or the certificate shall be made in the manner provided by the secretary. The annual license or the certification period expires one year from date of issue. The license fee is forty dollars per year and the certificate fee is twenty dollars per year. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary if the licensee has conformed to all statutory and regulatory requirements.

he certificate may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary.

162.9 Boarding kennel operator's license.

A person shall not operate a boarding kennel unless the person has obtained a license to operate a boarding kennel issued by the secretary. Application for the license shall be made in the manner provided by the secretary and expires one year from date of issue. The license fee is thirty dollars per year. The license may be renewed upon application and payment of the prescribed fee in the manner provided by the secretary if the licensee has conformed to all statutory and regulatory requirements.

162.10 Research Facility Registration.

A person shall not operate a research facility unless the person obtains a certificate issued by the secretary. The certificate expires one year from date of issue. Application for the certificate shall be made in the manner provided by the secretary. A fee is not required for the application or certificate.

162.11 Exceptions.

1. Any dealer or commercial breeder and any person who operates a commercial kennel or public auction who has obtained and is operating the business under a current and valid federal license shall, upon payment of the prescribed fee, be forwarded a certificate of registration by the secretary.

2. The certificate of registration may be denied or revoked if the person no longer possesses a current and valid federal license. Other than obtaining the certificate of registration from the secretary, any dealer or commercial breeder and any person who operates a commercial kennel or public auction shall not be subject to further regulation under the provisions of this chapter.

3. Any person who possesses a current and valid federal license may, in lieu of obtaining a certificate of registration, make application for a state license as provided in this chapter. If properly qualified, and upon payment of the prescribed fee, a license shall be issued under the provisions of this chapter.

4. This chapter does not apply to a place or establishment which operates under the immediate supervision of a duly licensed veterinarian as a hospital where animals are harbored, hospitalized, and cared for incidental to the treatment, prevention, or alleviation of disease processes during the routine practice of the profession of veterinary medicine. However, if animals are accepted by such a place, establishment, or hospital for boarding or grooming for a consideration, the place, establishment, or hospital is subject to the licensing or registration requirements applicable to a boarding kennel or commercial kennel under this chapter and the rules adopted by the secretary.

5. This chapter does not apply to a noncommercial kennel at, in, or adjoining a private residence where dogs or cats are kept for the hobby of the householder, if the dogs or cats are used for hunting, for practice training, for exhibition at shows or field or obedience trials, or for guarding or protecting the householder's property. However, the dogs or cats must not be kept for breeding if a person receives consideration for providing the breeding.

162.12 Denial or revocation of license or registration.

A certificate of registration may be denied to any pound or animal shelter and a license or certificate of registration may be denied to any public auction, boarding kennel, commercial kennel, research facility, pet shop, commercial breeder, or dealer, or an existing certificate or license may be revoked by the secretary if, after public hearing, it is determined that the housing facilities or primary enclosures are inadequate under this chapter or if the feeding, watering, cleaning, and housing practices at the pound, animal shelter, public auction, pet shop, boarding kennel, commercial kennel, research facility, or those practices by the commercial breeder or dealer, are not in compliance with this chapter or with the rules adopted pursuant to this chapter. The premises of each licensee or certificate holder shall be open for inspection during normal business hours.

162.13 Penalties.

Operation of a pound, animal shelter, pet shop, boarding kennel, commercial kennel, research facility, or public auction, or dealing in dogs or cats, or both, either as a dealer or a commercial breeder, without a currently valid license or a certificate of registration is a simple misdemeanor and each day of operation is a separate offense.

Failure of any pound, research facility, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction, or dealer to adequately house, feed, or water dogs, cats, or vertebrate animals in the person's or facility's possession or custody is a simple misdemeanor. The animals are subject to seizure and impoundment and may be sold or destroyed by euthanasia at the discretion of the secretary and the failure is also grounds for revocation or suspension of license or registration after public hearing. The commission of an act declared to be an unlawful practice under section 714.16 or chapter 717, by a person or facility licensed or registered under this chapter is grounds for revocation or suspension of the license or registration certificate. Dogs, cats, and other vertebrates upon which euthanasia is permitted by law may be destroyed by persons or facilities subject to this chapter or chapter 169, and only by euthanasia.

It is unlawful for a dealer to knowingly ship a diseased animal. A dealer violating this paragraph is subject to a fine not exceeding one hundred dollars. Each diseased animal shipped in violation of this paragraph is a separate offense.

162.14 Custody by animal warden.

An animal warden, upon taking custody of any animal in the course of the warden's official duties, shall immediately make a record of the matter in the manner prescribed by the secretary and the record shall include a complete description of the animal, reason for seizure, location of seizure, the owner's name and address if known, and all license or other identification numbers, if any. Complete information relating to the disposition of the animal shall be added in the manner provided by the secretary immediately after disposition.

162.15 Violation by animal warden.

Violation of any provision of this chapter which relates to the seizing, impoundment, and custody of an animal by an animal warden shall constitute a simple misdemeanor and each animal handled in violation shall constitute a separate offense.

2.16 Rules.

The secretary shall promulgate rules consistent with the objectives and intent of this chapter, for the purpose of carrying out such objectives and intent, within ninety days after July 1, 1974, subject to chapter 17A. However, rules adopted by the secretary shall not exceed any federal standards or rules except as specifically provided for in this chapter.

162.17 Exceptions.

Repealed by 72nd General Assembly, 1988.

162.18 Fees.

All fees collected by the secretary from licenses and certificates issued under this chapter shall be paid to the treasurer of state.

162.19 Abandoned animals destroyed.

Whenever any animal is left with a veterinarian, boarding kennel or commercial kennel pursuant to a written agreement and the owner does not claim the animal by the agreed date, the animal shall be deemed abandoned, and a notice of abandonment and its consequences shall be sent within seven days by certified mail to the last known address of the owner. For fourteen days after mailing of the notice the owner shall have the right to reclaim the animal upon payment of all reasonable charges, and after the fourteen days the owner shall be deemed to have waived all rights to the abandoned animal. If despite diligent effort an owner cannot be found for the abandoned animal within another seven days, the veterinarian, boarding kennel, or commercial kennel may humanely destroy the abandoned animal.

Each veterinarian, boarding kennel or commercial kennel shall warn its patrons of the provisions of this section by a conspicuously posted notice or by conspicuous type in a written receipt.

APHIS Report Confirms HSUS Puppy-Mill Findings

The impact of HSUS Investigator Bob Baker's extensive review of puppy mills continues to reverberate—throughout the animal-welfare world, the dog-breeding and pet shop businesses, the major media, and, now, the government. The HSUS has just received an extensive, two-part report prepared by the Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (USDA) which, according to HSUS Government and Industry Relations Counsel Peter Lovenheim, "substantially supports Bob Baker's findings, and, in many cases, recommends prosecution of puppy-mill operators. It also suggests that...some inspections may have been performed negligently during the last two years."

The report is the most recent step in a seven-part series of actions agreed to by The HSUS and APHIS last April. The publication of Mr. Baker's findings in *The HSUS News* and an HSUS *Close-Up Report* had spawned newspaper, television, and magazine articles about the inhumane conditions under which purebred dogs are raised for the pet store trade as well as consumer outrage over the cruelty endured by those animals. Mr. Baker had methodically visited almost 300 puppy mills and had, on his own, completed official APHIS inspection reports on many of them based on what he had seen. Most of the USDA-licensed dealer operations, Mr. Baker believed, seemed to be in violation of the Animal Welfare Act (AWA), the law APHIS inspectors were supposedly enforcing during frequent, unannounced on-site visits. These violations often did not appear on the inspectors' reports or, if they did appear, were apparently not being corrected. Dealers evidencing repeated or extensive violations were frequently not being prosecuted as provided for by the act.

Reinspections by Senior Staff Reveal Violations of the Animal Welfare Act

APHIS requested from The HSUS the names and addresses of those dealers visited by Mr. Baker during the spring of 1981. The HSUS, for our part, was more than willing to comply with the APHIS request but we wanted in return a commitment by the agency that it would act on the information in a constructive manner and not just use it for its own internal purposes. After extensive negotiation, HSUS and APHIS officials agreed to the seven-point plan for action:

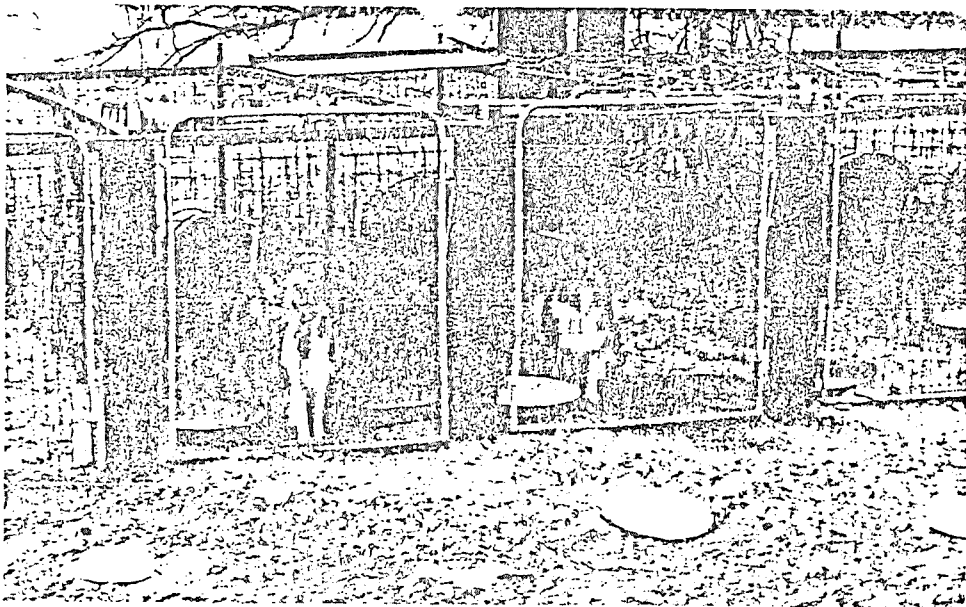
1. APHIS would review the information on the almost-300 puppy mills Mr. Baker visited and rank them in order of priority for re-examination.
2. The HSUS would supply any additional information needed by APHIS for its evaluation of those breeders.
3. APHIS would inform The HSUS of how many breeders were in each of the reinspection categories and what the APHIS goals for reinspection would be for those categories.
4. Reinspection would be undertaken by Animal Care Specialists rather than regular APHIS inspectors.
5. APHIS would keep The HSUS informed through timely reports of the agency's progress on the reinspection.

6. APHIS would supply The HSUS with copies of the reinspection reports as submitted by the inspectors.

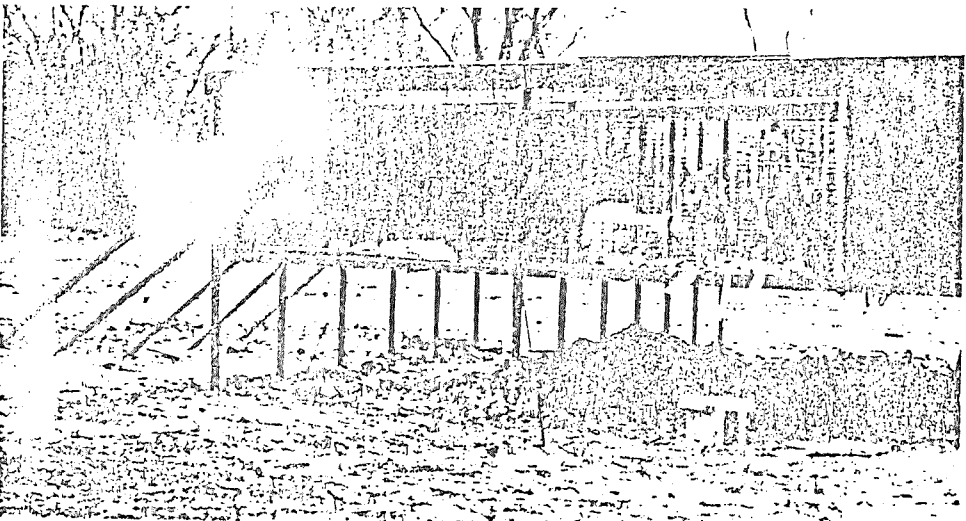
7. APHIS would make every effort to initiate and complete enforcement proceedings against breeders who evidenced violations of the AWA regulations and inform The HSUS of its progress on such proceedings.

APHIS has now, in accordance with this agreement, informed The HSUS of reinspections it has completed in Illinois, Texas, Arkansas, Oklahoma, Iowa, Kansas, and Missouri. This report, prepared by APHIS compliance officers John Kinsella and Ron Day, is remarkably frank in its assessment of past APHIS shortcomings. The figures in this report present telling evidence of poor performance by some APHIS/USDA inspectors over a period of years.

For example, the agency found that, for one licensed Kansas breeder, there had been eight inspections by APHIS personnel in 1980 and 1981. The average number of violations found per inspection was 1.25. Bob Baker had found what he considered to be 14 AWA deficiencies during his visit in January of 1982. When APHIS performed its reinspection



—HSUS/Baker



—HSUS/Baker

Puppy-mill breeding animals, often condemned to life in tiny, cramped quarters with poor sanitation and insufficient protection from the elements, must rely on APHIS inspectors to enforce the Animal Welfare Act and correct such deficiencies.

in September of 1982, its officer found 11 violations—a far cry from the 1.25 its people had found previously!

APHIS personnel inspected another Kansas dealer nine times in 1980 and 1981, with an average of .33 violations per visit. Mr. Baker had noted 14 violations in January of 1981. Upon reinspection by APHIS animal-care specialists in September of 1982, the officers found 13 violations. At a reinspection in Arkansas in September of 1982, the Regional Animal Care Specialist found “all but 7 [of 26] husbandry standards” deficient.

“Many of the violations I cited in my reports were appalling—fecal material piled two feet high in dog runs, puppies’ feet trapped by wire-mesh cage flooring, the use of dog carcasses as feed for other dogs, and extreme over-crowding,” said Mr. Baker.

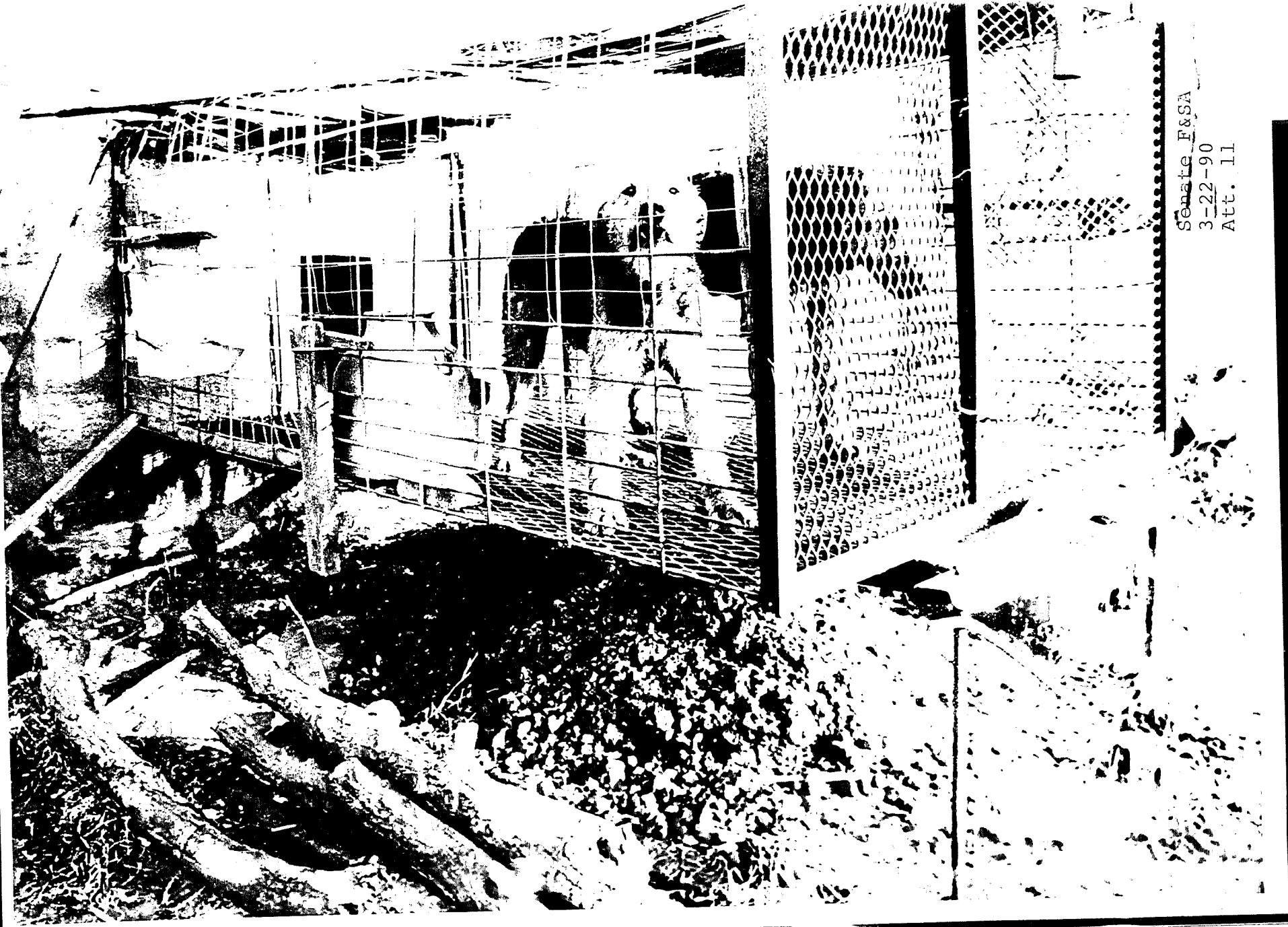
“Regardless of the magnitude of each violation, these were not being noted by APHIS inspectors paid—and trained—for the purpose of assuring compliance with an act specifically designed to help the animals in these facilities.”

The APHIS report agreed. “Major deficiencies in cleaning, sanitation, housekeeping, and pest control were cited during the reinspection of the [name deleted] premises,” the report stated in its evaluation of one Missouri puppy mill. “The reinspection of the [name deleted] premises revealed 12 major deficiencies,” it noted in another case. “According to Dr. [Keith] Sherman [an APHIS senior inspector], ‘this kind of facility can be very embarrassing to the Department [of Agriculture] because it is the kind of operation the Animal Welfare Act was

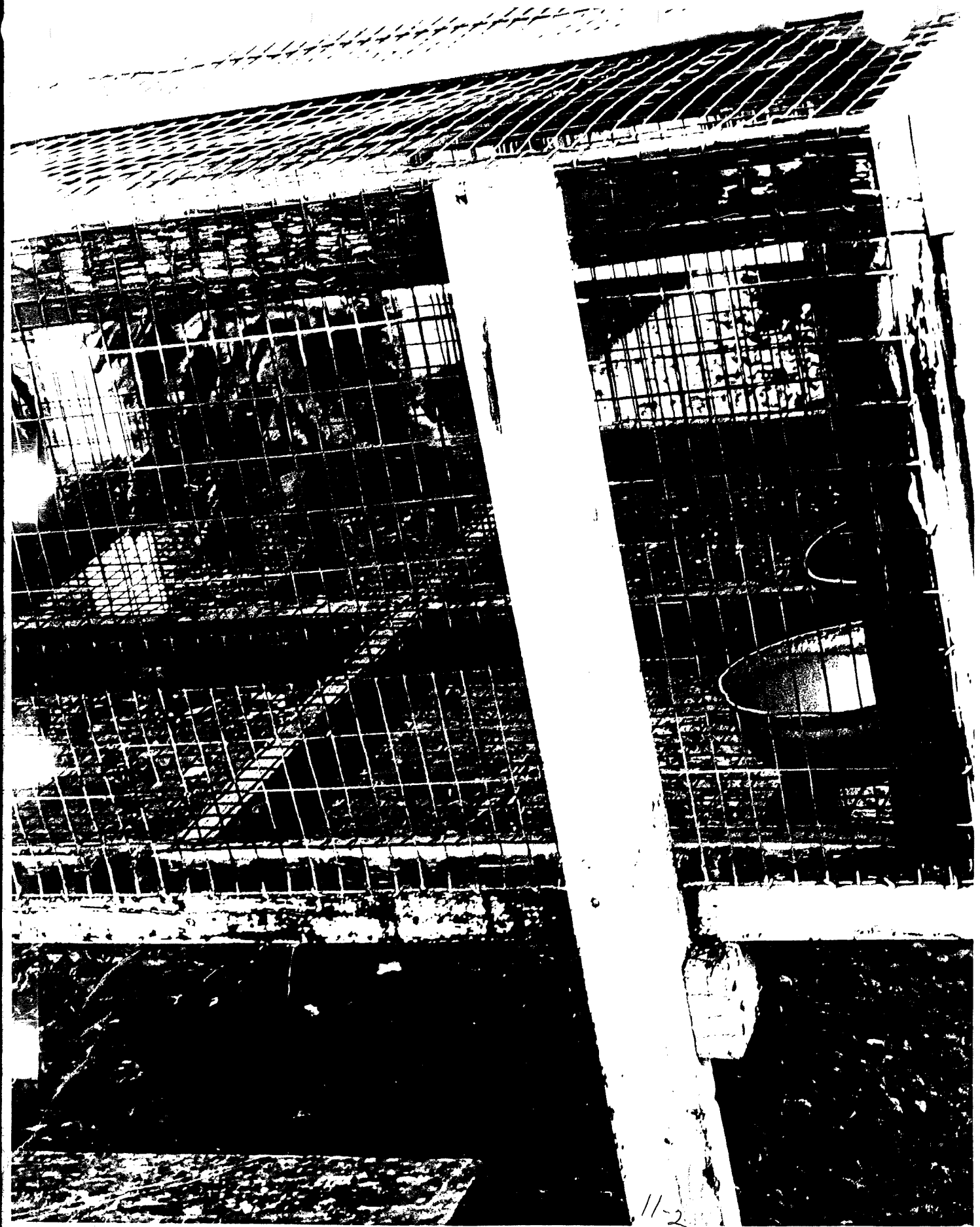
passed to prevent.” In the opinion of the examining inspector, those same premises “could not be brought back into compliance without being completely rebuilt....Highest priority should be given the[se] premises.” The dealer in question had sold 261 dogs for a gross income of almost \$14,000 according to her most recently filed annual report.

How and why was such poor performance tolerated by APHIS personnel for so long? No one person is to blame. For years, AWA inspections have taken a back seat to those thought to have more immediate applications for human health. “In the past, I couldn’t give adequate attention to the animal-care program,” admitted Dr. E.C. Sharman, Assistant Deputy Administrator of APHIS. “With the appointment of Dr. R. Rissler as my new assistant, I’ll be able to give the program the attention it deserves. I have a commitment to this program you wouldn’t believe,” he continued. “We think we are on the way toward solving the problems in the field. It will take time, but within a few months, many major problems [with the inspection program] should be addressed. We have a renewed commitment to the inspection program, one that we want to be felt right down to the people in the field.”

The HSUS is gratified to see that APHIS has prepared a candid, thorough report of its own activities as a result of our extensive investigation on puppy mills, and we anxiously await the first of the prosecutions of violators of the AWA. Although there is not yet a schedule for such prosecutions, Dr. Sharman stated, “If we can get correct data, we will move ahead with prosecutions. In any case, this is not the end of this report.”



Senate F&SA
3-22-90
Att. II



GINGER BARR
REPRESENTATIVE, FIFTY-FIRST DISTRICT
SHAWNEE COUNTY
P.O. BOX 58
AUBURN, KANSAS 66402-0058



TOPEKA

HOUSE OF
REPRESENTATIVES

March 22, 1990

COMMITTEE ASSIGNMENTS
CHAIRMAN: FEDERAL AND STATE AFFAIRS
MEMBER: ENERGY AND NATURAL RESOURCES

Chairman Reilly and Members of the Senate Federal and State Affairs Committee:

I regret that I am unable to appear before the committee today, but feel it necessary to attend the general session of the House of Representatives as we debate a property tax classification amendment.

I am very committed to the Small Animal Companion Program and its continuance. I have a great deal of information on this subject and would be happy to share it with interested parties.

I can document that some U.S.D.A. B-license holders were not inspected by the federal government for 16 months from 1988 through 1989. There are also examples of U.S.D.A. B-licensed kennels that were never inspected in 1989.

I am interested in the defeat of SB 470, as amended, by the Senate Agriculture Committee for several reasons. The obvious is the proper care of animals but more importantly, for the image of our state. Just this past month, an uncomplimentary picture of a commercial kennel here in Kansas appeared in the Detroit News.

We have had television news teams from Canada, California, Connecticut, etc. filming in Kansas concerning this problem. Since 1988, I have been able to state to the press that, "the legislature in Kansas has spoken on this issue". We want any product leaving our state to be of good quality and enjoyed by the consumer. If we reverse the program outlined in 1988, I think it reflects on our image as policy makers and would intimate that the legislature does not care about the consumer, quality control or the reputation of our state.

There are rumors that a so-called "compromise" to eliminate only the B-license brokers from the statutes may be in the offing. If passed, that would basically gut the program as A-license holders would register as B-license holders to prohibit the state from inspecting them.

Senate F&SA
3-22-90
Att. 12

Testimony - SB 470
March 22, 1990
page two

Attached is a letter I received from U.S.D.A. which states that \$239,065 will be spent by the federal government to run the U.S.D.A. program in Kansas.

It is my opinion that the best thing for the Small Animal Companion Program in Kansas would be for the federal government to turn the \$239,065 over to the State of Kansas and let it administer the program. U.S.D.A. guidelines could be observed but taxpayers would get a better quality program for their money as well as a better product.

March 16, 1990

Subject: Animal Welfare Activities -
Kansas

To: Representative Ginger Barr

Fiscal Year 1990 Animal Welfare Appropriation: \$7,567,000

Fiscal Year 1990 Animal Welfare Net Allocation: \$6,657,845

Below are the estimated costs for conducting animal welfare activities in the State of Kansas:

<u>Salaries and Benefits</u>	\$181,555
2 Veterinary Medical Officers.....	\$ 98,636
3 Animal Health Technicians.....	\$ 73,055
30% of 1 Investigator.....	\$ 9,864
<u>All Other</u> (travel, training, supplies, etc.)	\$ 12,000
<u>Support</u> (supervisory, administrative, clerical)	\$ 45,510
TOTAL	\$239,065

Prepared by: Kathryn Carey, Administrative Officer
Resource Management Support
Regulatory Enforcement and Animal Care
Rm. 208-C, Federal Building
6505 Belcrest Rd.
Hyattsville, MD 20782

Sector Supervisor is responsible for developing, conducting, and directing the activities associated with the Animal Welfare Program throughout a multi-State area. The Supervisor plans and coordinates the inspections by field personnel. If you have any questions relating to field assignments, please contact Dr. Joan Arnoldi, Deputy Administrator, Regulatory Enforcement and Animal Care.

**POLICE ENCOUNTERS WITH TOY GUNS:
CRITICAL FINDINGS**

**A SUMMARY OF A PROJECT MANDATED BY THE
UNITED STATES CONGRESS**

December 1989

**David L. Carter
Michigan State University**

**Allen D. Sapp
Central Missouri State University**

**Darrel W. Stephens
Police Executive Research Forum**

**POLICE EXECUTIVE RESEARCH FORUM
2300 M Street, N.W., Suite 910
Washington, DC 20037**

This project was funded by Grant Number 89-BJ-CX-K012 awarded by the Bureau of Justice Statistics, U.S. Department of Justice to the Police Executive Research Forum, Washington, DC. BJS Project Monitor, Dr. Paul White.

WHY WAS THIS RESEARCH PROJECT CONDUCTED?

The project was mandated by the United States Congress in Public Law 100-615. The primary intent of the law was to provide definitive markings on toy and imitation guns to minimize the probability of the gun being mistaken for a real firearm. Among other provisions, the law established marking standards and required that research be conducted to explore the nature of crimes committed by toy guns as well as issues concerning armed confrontations with police where toy guns were involved. The Congressional mandate stipulated that the research would be funded by the Bureau of Justice Statistics, U.S. Department of Justice. Effective June 1, 1989, the Police Executive Research Forum was awarded the grant contract for the project.

WHAT WAS THE GOAL OF THE "TOY GUN RESEARCH PROJECT"?

A primary goal of the project was to document (a) the number of crimes committed by imitation guns and (b) the number of confrontations by police with persons who had imitation guns which were either thought to be or purported to be real.

HOW WAS THE RESEARCH PERFORMED?

The research process began with a comprehensive search of news stories reporting any toy gun incidents. These were reviewed to ascertain issues and trends in the incidents. Based upon this, a conceptual framework for the problem was developed as the basis for data collection. Information was gathered from two primary sources: survey research and site visits at law enforcement agencies.

Survey Research. A survey was developed which collected data on the experiences of police departments with toy gun incidents. The survey was sent to all municipal police and consolidated police departments serving populations of 50,000 or more inhabitants; all sheriff's departments with 100 or more sworn employees; and all primary state police agencies. The total survey response rate was 70% with a usable response rate of 65.5%

Questions on the survey solicited information about the police agencies' experiences with officers using deadly force and less than deadly force against people with imitation guns as well as information on robberies and assaults wherein imitation guns were involved. This information was solicited in three different categories of imitations: toy guns; replica guns; and BB, pellet and starter's guns. The survey also asked a series of opinion questions to police chiefs on issues related to imitation gun incidents and markings on toy guns.

Law Enforcement Agency Site Visits. The purpose of the site visits was to examine experiences and incidents of law enforcement agencies on a detailed basis. The site visits were conducted in "clusters" to maximize data collection. Agencies were identified through news reports and/or self-reports which indicated experiences with imitation gun incidents. These departments would serve as the foundation for the visits with additional departments in the region also visited to discuss their experiences with toy guns. This approach worked quite well giving the researchers a broader range of site experiences on which to base discussions of trends. Beyond experience with toy gun incidents, criteria for site selection included jurisdiction size, geographic distribution, and agency type. A total of 27 law enforcement agencies were

visited for the project including municipal police, consolidated law enforcement, county sheriff's departments, state agencies, and federal agencies.

WHAT WERE THE CHARACTERISTICS OF POLICE-TOY GUN ENCOUNTERS?

As the problem and issues were examined, it was determined that in order to meet the spirit of the study's mandate, the problem would have to be broken down into more operational components. Broadly viewed, circumstances involving toy guns can be categorized for study based on the *nature of the incident or nature of the weapon.*

Nature of the Incident...

- *Commission of a crime* with an imitation gun being intentionally used as an instrumentality of the crime.
- *Mistaken encounters* when a citizen and/or officer encountered a person with a toy gun but, as a result of the gun's appearance and the circumstances of the incident, the people involved reacted as if the gun was real.
- *Officer-involved shootings in non-criminal situations* where the circumstances facing the officer reasonably appeared threatening and/or criminal.
- *Commission of a crime and/or the brandishment of a toy gun as a real weapon resulting in an officer involved shooting.* In these cases the suspect was involved in a crime (or a criminal attempt) and attempted to dissuade officer intervention by acting as if the imitation weapon was real.

Nature of the Weapon...

- *Toys.* These are imitation weapons designed with the specific intent for playing. They include a wide array of game types such as a child using the toy in concert with his/her imagination (e.g., "cops and robbers"); the use of waterguns; toy guns designed for some type of "target practice"; and the more sophisticated games such as "laser tag".

- *Pneumatic Guns.* Types of guns using pneumatic pressure to propel some type of projectile. The propellant system may be either through an internal pump, hand operated by the person using the gun or one using a compressed CO₂ air cartridge.

- *Replica Guns.* Guns that are *replicas* of actual weapons. Replica guns are full size "working" reproductions of firearms. Replicas are manufactured so they are unable to fire.

WHAT ARE THE MAJOR FINDINGS?

- The requirement that a "blaze orange" plug recessed in the barrel of a toy gun no more than six millimeters has virtually no protective impact in alerting the officer or robbery victim that the object is a toy. The reason for this is that a person's concentration is not on the weapon, per se, and certainly not on the interior barrel of the weapon.

- On an average it was estimated that 15% of all robberies were committed with imitation guns.

- Persons interviewed felt, in light of the above factors, that most weapons' markings would be insufficient particularly in low light conditions. Rather, configuration of the weapons into distinctive shapes would be the best marking alternative.

- Pneumatic guns and realistically shaped toy guns pose the greatest threat to mistakes in the use of force by the police.

- The proliferation of real guns is affecting the way people act with toy guns. The proliferation of real guns on the street also makes police officers far more cautious in dealing with anyone who may be in possession of what appears to be a gun.

- Police officers are trained to *assume that any weapon they confront is real and that it is loaded.* To add another element of police training asking officer to look for distinctive markings of toy guns in a weapons encounter is an officer safety factor which should **not** be part of police training.

- During site visits officers discussed one "Shoot/Don't Shoot" training scenario where a suspect appears with a gun and says something to the effect, "don't shoot, it's a toy." When the officer relaxes, the suspect shoots the officer. This is one illustration of training and why officers are taught to assume that all objects that look like a firearm are real weapons.

- Officers pointed out that many people with real handguns have the front sight ramp colored orange to aid in aiming the weapon. This could be a confusing element to an officer in light of the orange toy gun markings. Our research found that a number of handgun manufacturers offer optional barrels for handguns wherein the front sight is colored red or orange.

- Training officers to look out for markings on toy guns was also feared to be a factor which could complicate police liability should a toy gun related shooting occur (e.g., civil rights complaint OR allegation of negligent training.)

- In all the cases we examined where officers used deadly force against a person who turned out to be carrying a toy gun, we found that officers followed police procedure properly. No investigations resulted in criminal charges or discipline.

- In several cases civil rights lawsuits were filed against the police department with the allegations typically being:

- Negligent selection
- Failure to supervise
- Failure to train
- Negligent entrustment

- Drug Enforcement Administration agents have reported seizing toy guns (most frequently water guns replicating Uzi and Tech 9 weapons), air guns, and replicas during drug raids. Nearly all such items were seized at "crack houses".

- Bureau of Alcohol, Tobacco, and Firearms agents have reported encountering replicas, starter's pistols, and some BB and pellet guns which have been seized. Generally, BATF agents have encountered these items either in "task force drug raids" or as a result of law enforcement officers bringing the weapons to ATF for inspection.

- "Victims" in the shooting incidents included: the deceased, the family of the deceased, the officer, the officer's family, and the citizen(s) who called the police on the suspicious person.

WHAT WERE THE CIRCUMSTANCES IN CASES WHERE POLICE OFFICERS USED DEADLY FORCE IN MISTAKING AN IMITATION GUN FOR A REAL WEAPON?

The research indicates that in cases where officers have used deadly force against a person with an imitation gun, five factors cumulatively interact which affect the officer's decision to fire.

- **The Nature of the Call Dispatch.** The information given to the officer from the dispatcher, the tone of the dispatcher's voice, and the locale of the call can all contribute to both heightened awareness and heightened stress inferring a life-threatening incident at the call.

- **Expectations of the Officer.** Based on the information received from the dispatcher, knowledge of problems in the area, nature of the neighborhood, observations of the officer enroute to the call, and a wide range of other experiential factors, the officer develops defined expectations of what might be encountered at the scene of the call. Usually, as a safety factor, the "worst case scenario" is expected.

- **Environment at the Scene of the Incident.** Upon arriving at the scene of the call or incident, the officer will evaluate the behavior of the "players" and observations of possible threats. These build on both the nature of the dispatch and the officer's expectations and can place the officer in a situation wherein the likelihood of using deadly force will increase.

- **Shape/Design of the Gun.** A finding repeated in every incident was that the shape or design of the gun was a paramount factor in the officer's decision to shoot. Many of the imitation guns are modeled after real weapons. Even those made of plastic and with some degree of coloration are frequently indistinguishable from real guns, particularly under low light conditions.

- **Actions of the Person(s) Involved in the Incident.** In the shooting incidents examined by the researchers, the factor ultimately influencing the officers' decisions to shoot was the actions of the individual. The actions were more than simply pointing the weapon, but included such things as overt threatening movements, shouting, and even acting like they were going to shoot at the officer.

SUMMARY OF SURVEY RESULTS

NUMBER OF REPORTED IMITATION WEAPONS SEIZED BY POLICE SINCE JANUARY 1, 1985

	Number
Toy Guns	10,065
Replica Weapons	2,478
Pneumatic Guns	<u>19,107</u>
TOTAL	31,650

ROBBERIES COMMITTED BY IMITATION GUNS BASED ON GUN TYPE AND YEAR

	Toy ^a	Replica ^b	Pneumatic ^c	TOTAL
1989*	443	181	406	1,030
1988	753	253	612	1,618
1987	665	179	499	1,343
1986	482	159	384	1,025
1985	453	164	21†	638
TOTAL	2,796	936	1,922	5,654

* 9 months

^aBased on 148 agencies reporting robberies known to have been committed with a **toy** gun.

^bBased on 80 agencies reporting robberies known to have been committed with a **replica** gun.

^cBased on 158 agencies reporting robberies known to have been committed with a **pneumatic** gun or **starter's** pistol.

†Based on the quantitative trends this number appears to be under reported, however, a review of the data received did not detect an anomaly.

**ASSAULTS COMMITTED BY IMITATION GUNS
BASED ON GUN TYPE AND YEAR**

	Toy ^a	Replica ^b	Pneumatic ^c	TOTAL
1989*	567	128	693	1,388
1988	686	213	1,188	2,087
1987	601	120	935	1,656
1986	615	124	780	1,519
1985	635	110	733	1,478
TOTAL	3,104	695	4,329	8,128

* 9 months

^aBased on 121 agencies reporting assaults known to have been committed with a **toy** gun.

^bBased on 65 agencies reporting assaults known to have been committed with a **replica** gun.

^cBased on 154 agencies reporting assaults known to have been committed with a **pneumatic** gun or **starter's** pistol.

**INCIDENTS WHERE AN OFFICER HAS WARNED OR
THREATENED THE USE OF FORCE BASED ON THE
BELIEF THAT AN IMITATION GUN WAS A REAL GUN
STRATIFIED BY GUN TYPE AND YEAR**

	Toy ^a	Replica ^b	Pneumatic ^c	TOTAL
1989*	91	59	113	263
1988	106	59	124	289
1987	72	103	106	281
1986	61	28	67	156
1985	55	23	61	139
TOTAL	385	272	471	1,128

*9 months

^aBased on 82 agencies reporting incidents known to have been committed with a **toy** gun.

^bBased on 32 agencies reporting incidents known to have been committed with a **replica** gun.

^cBased on 72 agencies reporting incidents known to have been committed with a **pneumatic** gun or **starter's** pistol.

INCIDENTS WHERE AN OFFICER HAS USED ACTUAL
FORCE (DEADLY OR LESS THAN DEADLY) BASED ON THE
BELIEF THAT AN IMITATION GUN WAS A REAL GUN
STRATIFIED BY GUN TYPE AND YEAR

	Toy ^a	Replica ^b	Pneumatic ^c	TOTAL
1989*	16	6	23	45
1988	31	14	27	72
1987	45	10	31	86
1986	7	1	18	26
1985	6	4	13	23
TOTAL	105	35	112	252

*9 months

^aBased on 31 agencies reporting incidents known to have been committed with a toy gun.

^bBased on 15 agencies reporting incidents known to have been committed with a replica gun.

^cBased on 39 agencies reporting incidents known to have been committed with a pneumatic gun or starter's pistol.

QUESTION: How serious is the issue of officers
potentially mistaking toy guns for real guns?

	Number	Percentage
1=Very Serious	213	48.2
2=Moderately Serious	102	23.1
3=Somewhat Serious	69	15.6
4=Marginally serious	28	6.3
5=Not Serious	30	6.8
MEAN RESPONSE = 2.00 (N=442)		

QUESTION: In your opinion, do the police face a
problem with toy guns that look real?

	Number	Percentage
Yes	384	86.9
No	58	13.1

(N=442)

QUESTION: In your opinion, to what extent are toy guns used in crimes?

	Number	Percentage
1=Very Frequently	8	1.8
2=Frequently	21	4.8
3=Occasionally	75	17.0
4=Seldom	169	38.3
5=Very Seldom	168	38.1
MEAN RESPONSE = 4.06 (N=441)		

QUESTION: What do you believe the probabilities are for increasing involvement of toy guns in crimes in your jurisdiction?

	Number	Percentage
1=Very Probable	27	6.1
2=Moderately Probable	66	15.0
3=Somewhat Probable	153	34.8
4=Marginally Probable	129	29.3
5=Not Probable	65	14.8
MEAN RESPONSE = 3.32 (N=440)		

LAS VEGAS, NEVADA - Two officers were responding to a "shots fired" call when they observed a vehicle matching the description of the suspect vehicle in the shooting call. The officers stopped the car which was occupied by six juveniles and turned out *not* to be the car involved in the call. As the officers approached the car, a 16 year old female in the rear seat pointed a "very realistic" revolver at one of the officers and yelled "bang". The revolver was a toy. One officer commented, "She will never come closer to dying."

QUESTION: How serious is the potential for realistic looking toy guns to be used in the commission of crimes?

	Number	Percentage
1=Very Serious	94	23.7
2=Moderately Serious	88	22.2
3=Somewhat Serious	85	21.2
4=Marginally serious	95	23.9
5=Not Serious	35	8.8
MEAN RESPONSE = 2.72 (N=397)		

QUESTION: How serious is the potential for realistic looking toy guns to be a threat to children playing with toy guns?

	Number	Percentage
1=Very Serious	67	17.0
2=Moderately Serious	88	22.3
3=Somewhat Serious	119	30.1
4=Marginally serious	86	21.7
5=Not Serious	35	8.9
MEAN RESPONSE = 2.83 (N=395)		

SAN FRANCISCO, CALIFORNIA - Officers responding to a silent alarm at a high school found an open door. After they entered the school, they found a candy machine which had been broken into. They then heard a crash and went to investigate. One officer, seeing a suspect walk through a room, went to "trap" him. As he stepped in a room the person pointed a gun at the officer's head, the officer turned and fired killing the individual. The officer swore the gun was a .357 Colt Python since the officer owns two of the weapons. It wasn't until the officer saw the gun had broken apart when it fell to the floor that he discovered the weapon was actually a pellet gun modeled to look like the Colt Python.

QUESTION: How serious is the potential for realistic looking toy guns to increase police officer stress?

	Number	Percentage
1=Very Serious	111	27.9
2=Moderately Serious	127	31.9
3=Somewhat Serious	89	22.3
4=Marginally serious	48	12.1
5=Not Serious	23	5.8
MEAN RESPONSE = 2.36 (N=398)		

QUESTION: How serious is the potential for realistic looking toy guns to make children lose respect for real guns?

	Number	Percentage
1=Very Serious	165	37.7
2=Moderately Serious	107	24.5
3=Somewhat Serious	96	22.0
4=Marginally Serious	39	8.9
5=Not Serious	30	6.9
MEAN RESPONSE = 2.23 (N=437)		

QUESTION: Do you believe a "blaze orange" barrel plug will be sufficient to identify a *toy gun* from a *real gun*?

	Number	Percentage
Yes	96	22.4
No	332	77.6

QUESTION: What one or *two types* of toy gun markings do you feel would be *more* effective than a "blaze orange" barrel plug?

	Number
Make toy gun transparent or translucent	116
Color entire surface of gun a bright color	176
Make gun surface white with bright color	65
Limit degree toy can look like real gun	242
Ban toy guns	44

QUESTION: Legislation requiring distinctive markings on toy guns will **not** increase police department liability if an officer is involved in the shooting of a person with a toy gun.

	Number	Percentage
1=Strongly Agree	33	7.7
2=Agree	44	10.2
3=Undecided	128	29.8
4=Disagree	125	29.0
5=Strongly Disagree	100	23.3
MEAN RESPONSE = 3.50 (N=430)		

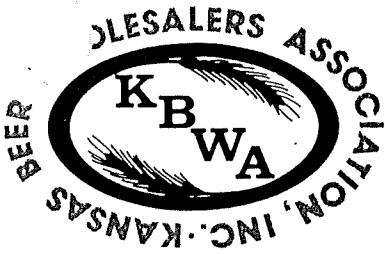
RANCHO CUCAMONGA, CALIFORNIA - Late one evening a citizen called the San Bernardino County Sheriff's Office reporting prowlers at a school who were possibly armed. Deputies responded to the school and began a systematic search of the premises. They observed profiles of people moving around the school as if they were stalking. One deputy, armed with a shotgun, looked around a corner and saw a person approaching with a weapon in hand that appeared to be a "Desert Eagle" automatic pistol. As the man approached the officer yelled and ordered the man to drop the gun. Instead, the man turned, assumed a shooting position, and appeared to fire at the officer. The deputy fired the shotgun, spinning the man around. The man turned back in a shooting position again and the deputy fired a second shotgun round, killing the man. As the officer approached the downed man, he kicked the gun out of his hand and "heard the sound of plastic". At that point the deputy learned the

gun was a toy and that the man had been playing "Laser Tag". Because of the psychological trauma of this incident, the deputy, a seven year veteran with a good service record, remains on disability leave and will probably not be able to return to duty. In addition, two trained reserve deputies who responded to the call at the school, resigned their commissions as a direct result of the trauma of this incident.

QUESTION: A reasonable likelihood exists that criminals will paint real handguns with markings similar to toy guns to disguise the weapon.

	Number	Percentage
1=Strongly Agree	94	21.6
2=Agree	87	19.9
3=Undecided	94	21.6
4=Disagree	103	23.6
5=Strongly Disagree	58	13.3

MEAN RESPONSE = 2.87 (N=436)



TESTIMONY BEFORE THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE
CONCERNING SENATE BILL 765

by

NEAL WHITAKER, EXECUTIVE DIRECTOR
KANSAS BEER WHOLESALERS ASSOCIATION

March 21, 1990

Senate Bill 765 would allow clubs, drinking establishments, and licensed liquor retailers the option of selling cereal malt beverage containing not more than .5% alcohol by weight without having to secure an additional cereal malt beverage license. Near beers, as they are called, are an expanding product line nationally. Since the first of the year three new products in this beverage category have been introduced by major breweries supported with national advertising. These near beers are the result of modern brewery technology that has enabled breweries to produce a beverage that has a beer taste without the alcohol.

Products such as Sharp's, O'Doul's, Pabst NA and recently announced Cheers offer options to customers who, whether through personal choice or some other reason, do not choose to consume an alcoholic beverage but like the taste of beer.

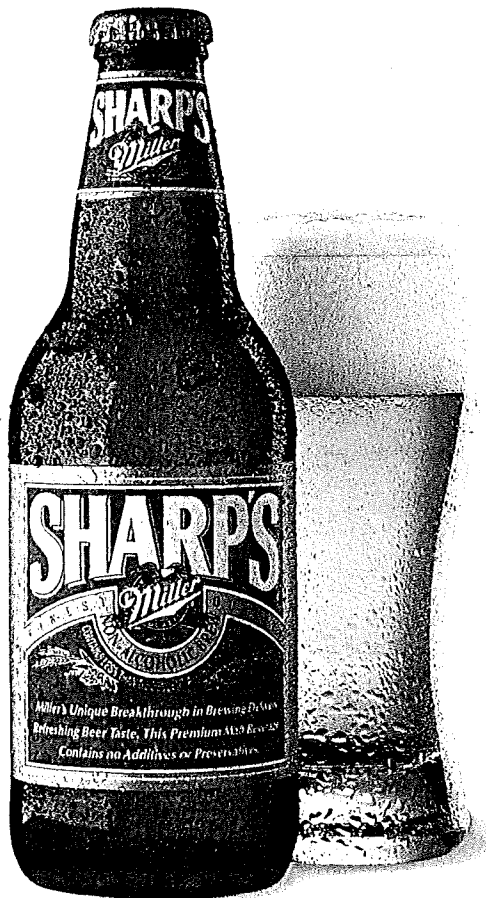
Senate F&SA
3-22-90
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Some states consider near beer in the same class as soft drinks and provide no regulation at all. Presently in Kansas it is considered a cereal malt beverage and, therefore, can only be sold in establishments that have a CMB license. In addition, a tax of \$5.86 per 31 gallon barrel is assessed as a gallonage tax in addition to the sales tax charged in CMB establishments. We would like to be able to offer this product to liquor stores, clubs and drinking establishments but today liquor stores are prohibited from securing a 3.2 license and the cost of a 3.2 license in many locations for clubs and drinking establishments would preclude the addition of one of these near beers to their menus. With Senate Bill 765 we are not asking that the product be deregulated, only that clubs, drinking establishments and liquor retailers be allowed to sell it without having to secure an additional license.

There are two issues that Senate Bill 765 does not address. One is, "what tax should be charged in liquor retailer establishments?" We believe that for simplicity the product should be included under the 8% enforcement tax in those establishments. Secondly, it was our intention that liquor retailers be allowed to sell this product not only to their regular individual customers but their private club customers as well and we believe the bill needs to be amended to that effect.

MILLER DISCOVERS SIGNIFICANT BREWING BREAKTHROUGH.

A new brewing breakthrough gives Miller Sharp's real beer taste in a non-alcoholic brew.



The breakthrough lies in a unique new brewing process.

Most non-alcoholic malt beverages start out as regular beer, and then the alcohol is removed. Unfortunately, so is a good deal of the taste.

Sharp's, on the other hand, is the result of Miller's brewing breakthrough, Ever-Cool.™

During brewing, the temperature remains lower, so alcohol production is minimized. What is produced is a great beer taste.

Try Miller Sharp's. The breakthrough taste that lets you keep your edge.™

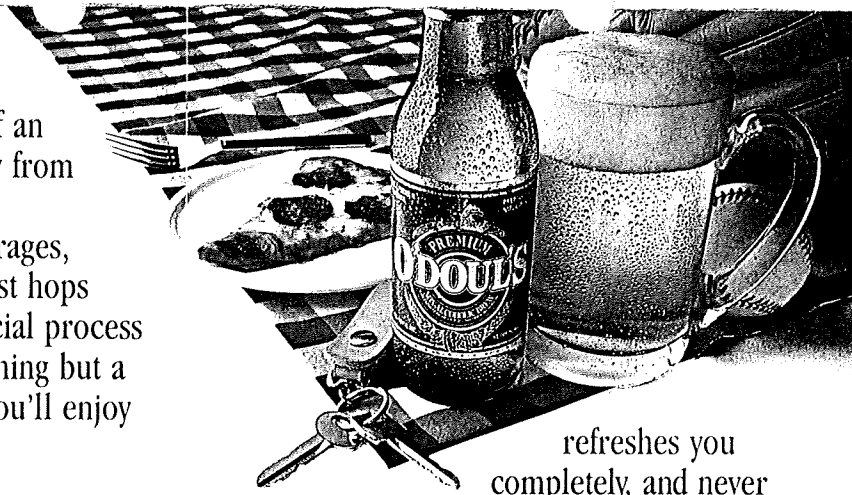
If soft drinks are leaving your thirst high and dry, pour yourself an O'Doul's, the non-alcoholic brew from Anheuser-Busch.

Like all of our premium beverages, O'Doul's is brewed from the finest hops and barley malt. However, a special process removes the alcohol, leaving nothing but a delicious, refreshing brew that you'll enjoy any time.

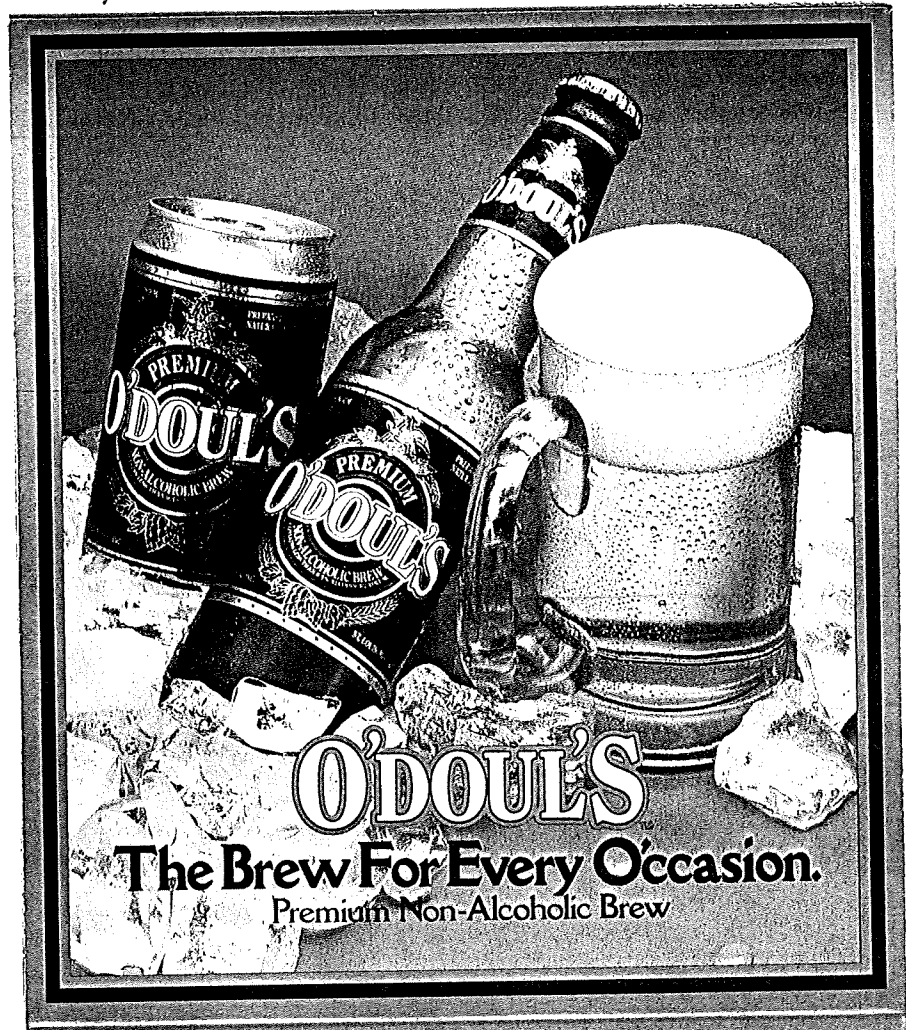
When to enjoy O'Doul's.


At lunch. No matter what your favorite food is for lunch — pizza, hamburgers, you name it — O'Doul's is the ideal side order. Its clean, bold flavor satisfies you without caffeine or artificial sweeteners.

During athletic events. Whether you're working out, or watching others in action, O'Doul's is the brew to enjoy when you need to stay on top of your game. It



refreshes you completely, and never slows you down.



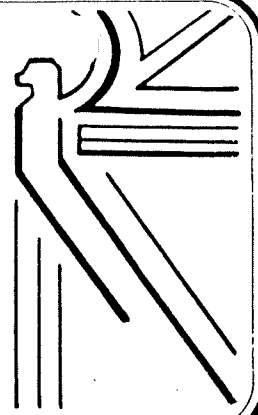
ANHEUSER-BUSCH, INC., BREWERS OF O'DOUL'S, MALT BEVERAGE • ST. LOUIS, MO., U.S.A. ITEM NO. 794-012 
CONTAINS LESS THAN 0.5% ALCOHOL BY VOLUME

14-4

The BEER PAPER

NEWS FEATURES COMMENT

Vol. 12 No. 19
March 17, 1990



Willow Distributors Introduces Non-Al 'Cheers' To Metro Dallas

Noting that case sales of non-alcohol malt beverages have steadily risen over the past five years, Willow Distributors, Inc., one of the nation's top wholesaling firms, has taken on local distribution of Cheers, a new non-alcohol malt beverage produced by Pabst Brewing Co. for the Independent Beverage Group. President Raymond Willie Jr. added that his firm was selected to be the first in Texas to market Cheers. The market debut was March 6.

Cheers contains less than one-half of one percent alcohol, which places the brand in the rapidly increasing non-alcoholic segment of the malt beverage business. The brand is currently available in Arizona and California, where it

has received favorable response.

John Grizzaffi, vice president of Independent Beverage Group, declared, "A majority of the non-alcoholic brands are brewed too strong to compensate for a perceived loss of taste when the alcohol is removed. We have a superior product, one that tastes like a high-quality American beer, yet contains only 55 calories and is non-alcoholic."

Willow Distributors, Inc. anticipates the Cheers brand will be well received throughout the local marketplace. "Our objective is to have quality product representation in every segment of the malt beverage business, and we believe that Cheers is by far the best tasting domestic non-alcoholic brand available," stated Willie.

14-5

K . A . N . S . A . S
WINE & SPIRITS
WHOLESALE ASSOCIATION, INC.

To: Senate Federal and State Affairs Committee
From: R.E. "Tuck" Duncan
RE: Senate Bill 765
Date: March 21, 1990

I appear here today to suggest an alternative that will accomplish the goal of the Kansas Beer Wholesalers request, and meet the concerns of the Kansas Retail Liquor Dealers. In short, I propose that you introduce a substitute bill for Senate Bill 765 that will create a new category of products akin to that as set out at 27 CFR 7.24 governing the Bureau of Alcohol Tobacco and Firearms (BATF).

The term "non alcoholic" may be used on malt beverage products that contains less than 0.5% alcohol by volume.

I propose that the law provide that (1) non alcoholic malt beverages would be distributed according to 41 K.S.A. (2) that they may be sold at retail in package stores, clubs, and drinking establishments, as a privilege of their A.B.C. license and (3) they may be sold at any place licensed to sell cereal malt beverages.

Rather than amend the entire liquor control act I suggest that a new section merely provide that the terms and conditions of the act as they apply to cereal malt beverages also apply to the "non alcoholic" malt beverage.

In this manner, it will not be necessary to alter the current public policy of the state as set forth on page 1 in lines 16-20 of SB 765.

Thank you for your attention to and consideration of
this matter.

Senate F&SA
3-22-90
Att. 15

TESTIMONY TO THE
SENATE FEDERAL & STATE AFFAIRS COMMITTEE

by Rebecca S. Rice

ON

Thursday, March 22, 1990

Senate Bill 765

Mr. Chairman and members of the Committee:

My name is Rebecca Rice and I appear before you today on behalf of the Kansas Retail Liquor Dealers Association regarding SB 765.

The Kansas Retail Liquor Dealers Association is neither a proponent or an opponent of this particular piece of legislation although we are supportive of the concept of retail liquor dealers selling .5% alcohol beer. We have reviewed this legislation and we have several concerns. Those concerns are as follows:

(1) We are uncertain whether there are far reaching affects from striking the public policy language in the first paragraph of this legislation. We are not suggesting that the stricken language may have other affects, perhaps not considered but are only raising the issue as a question.

(2) There is an additional concern that this legislation would require retailers to collect a separate sales tax and submit that sales tax separately from the tax collected on the sale of alcoholic liquor. I am assuming that if this legislation would require such a separate collection, an amendment could be drafted to correct that problem. However, we want to make it clear to this Committee that we are opposed to any legislation that would require collection of a sales tax separate from the tax currently collected on alcoholic liquor.

(3) There appears to be some question as to whether this legislation actually allows retailers to sell to club or drinking establishments. We believe it is the intention of the proponents of this bill to allow retailers to sell this product to clubs as they can other alcoholic liquor. However, if those enforcing the liquor statutes do not believe this product can be sold by retailers to clubs, we would ask that a clarifying amendment be adopted.

Senate F&SA
3-22-90
Att. 16

If the legislation has become too complicated because of the concerns we have raised, we would prefer to be exempted out of the bill and not be given the privilege of selling this product rather than having legislation passed which would adversely affect the operations of retail liquor dealers.

The final, and possibly most important point the Retail Liquor Dealers would like to convey, is that in reviewing this legislation and deciding to be supportive of its concept, we do not want this committee or any subsequent committees to interpret our accession to this legislation as indicating a willingness to soften our stance against one strength beer. The Retail Liquor Dealers Association remains adamantly opposed to grocery stores, convenience stores, and other non-regulated entities and corporations selling alcoholic beverages in the form of strong beer. We believe there may be a tendency in the future to rationalize that because retail liquor dealers sell a product with low amounts of alcohol, then it is appropriate for unregulated entities to sell products with greater amounts of alcohol than currently allowed under the CMB statutes. Although that rationale appears to make no sense at this point, history has indicated logic and rationality may not always prevail when the regulation of alcoholic beverages are discussed in the Kansas Legislature forum.

We have reviewed the testimony prepared by Mr. Tuck Duncan. His suggested amendments appear to address most of the problems we have raised regarding the legislation before you. We have no concerns to raise at this time regarding Mr. Duncan's language. However, to allow ourselves the possibility of raising concerns later should further examination merit such action, we want to point out we have had only one day to examine the proposal.

Thank you Mr. Chairman. I would be happy to respond to any questions.