

Baxter County Sheriff's Office

ANIMAL CRUELTY AND NEGLECT COMPLAINTS **DEPARTMENT POLICY**

POLICY: Deputies of the Baxter County Sheriff's Office are responsible for responding to and investigating complaints of animal cruelty or animal neglect that occur in Baxter County. It shall be the policy of this department to thoroughly investigate those complaints in a manner consistent with the intent and procedures outlined in Act 33 of 2009 and in a manner that conforms to the Arkansas Rules of Criminal Procedures.

PURPOSE: The purpose of this policy is to ensure a thorough, consistent, objective, and professional response to complaints of animal cruelty or animal neglect; to alleviate the torture, cruel mistreatment, and neglect of dogs, cats, horses, and other livestock; and to hold accountable those persons who the evidence indicates have violated the provisions of Act 33 of 2009.

DEFINITIONS:

1. **Probable Cause:** Probable Cause means that set of facts or circumstances based on reliable information or personal knowledge or observation by a deputy, which reasonably shows and would warrant an ordinary prudent person to believe that a particular person has committed, is threatening to commit, or is about to commit some criminal violation of the law.

2. **Reasonable Suspicion:** Reasonable Suspicion means a suspicion based on articulable facts or circumstances which of themselves do not give rise to the probable cause requisite to justify a lawful arrest, but which give rise to more than a bare suspicion; that is, a suspicion that is reasonable as opposed to an imaginary or purely conjectural suspicion.

All enforcement actions, including detentions, arrests, searches, and seizures, shall be based upon constitutional standards of Reasonable Suspicion or Probable Cause and shall be in compliance with the Arkansas Rules of Criminal Procedure.

RESPONSE/INVESTIGATION PROCEDURES:

A. Dispatcher/Call Taker Responsibilities:

1. Dispatchers/Call Takers who take citizen complaints of animal cruelty or neglect shall treat every caller with courtesy and respect and act in a professional manner at all times.

2. Obtain the complete name, address, and call back number of the caller. If the caller refuses to provide the information, explain to the caller that the Sheriff's Office will conduct a preliminary investigation of anonymous complaints, however deputies have greater authority under the law to investigate if the caller is identified and can be recontacted for additional information.
3. Obtain an exact location of the animal(s) that are the subject of the complaint. If the exact address is unknown, obtain sufficient identifying information in order that deputies may find it. This will include the color/style of the residence or other structures, description of any vehicles present, names of the animal owner(s) if known, description of the animal(s), description of any nearby landmarks that will help in locating the animal(s), and any other pertinent information.
4. Create a complaint card in the computer aided dispatch (CAD) system and include all information provided.
5. Assign an available deputy to respond to the complaint in accordance with the priority ranking system of pending calls. In assigning a deputy, the dispatcher/call taker should consider assigning a deputy who may already be familiar with the situation or have additional knowledge or information on it.
6. Log and record on the complaint card any additional information or requests of the deputy responding or on scene. This may include a request to contact an Animal Control Warden, the local Humane Society, Supervisory Personnel, or other resources. In addition, if the deputy provides any indication as to the findings or disposition of the complaint via radio or phone, this information should also be logged and recorded on the complaint card.

B. Field Deputy Responsibilities:

1. Respond promptly to all citizen complaints of animal cruelty or neglect. Deputies should be aware that these complaints may relate to misdemeanor neglect or abuse, felony abuse involving the torture of dogs, cats, or horses, or complaints involving arranged animal fighting events or incidents.
2. Make every effort to find the location of the animal(s) and to conduct a preliminary investigation into the complaint.

3. All investigations will follow the guidelines established by extant department policies and the Arkansas Rules of Criminal procedure as they relate to investigations, detentions, arrests, searches, and seizures.
4. In order to meet their obligations and responsibilities under the law, each deputy must have a thorough working knowledge of the provisions of Act 33 of 2009.
5. The deputy will attempt to make personal contact with the owner(s) of the animal(s) that are subject to the complaint. The deputy will explain the reason for the contact, and the deputy will ask for permission to personally observe the animal(s) in question, their environment, and their overall condition.
6. If the owner(s) refuse permission to observe the animal(s), then the deputy will determine whether the animal(s) can be visually observed from outside the curtilage, an area that provides a reasonable expectation of privacy for the owner and is protected from unreasonable searches and seizures.
7. If observations can be made of the animal(s) from outside the curtilage, then the deputy may conduct such observations and determine whether reasonable grounds exist to believe that a criminal offense under Act 33 of 2009 has been or is being committed.
8. If the deputy is granted permission and consent by the owner(s) to view the animal(s), then the deputy will do so and will note and record all observations made. This will include specific information about each animal observed, including the breed (if known), description, physical condition of the animal, age of the animal, living conditions, environment, any obvious injuries, diseases, or health conditions, shelter provided, food, water, chain, fencing, and any other relevant information.

9. Only in cases of Exigent Circumstances, based upon all information known and believed to be reliable by the deputy, that would constitute a true emergency, will the deputy be authorized to enter a private premises or search the curtilage area absent consent or a search warrant. One example of an exigent circumstance would be if the deputy had reliable information from a known source believed to be true, accurate, and correct, that the torture of a dog, cat, or horse was taking place that would constitute a felony offense under Act 33 of 2009, and there was no time to obtain a search warrant.
10. If consent is denied, and Exigent Circumstances do not exist, then the deputy will evaluate the information he has and make a determination as to whether or not to seek a search warrant from a Judicial Officer.
11. At the conclusion of the deputy's preliminary investigation, the deputy will compare facts from the investigation with the elements of Act 33 of 2009 and determine whether or not a crime has been committed, either a misdemeanor offense or a felony offense.
12. If evidence indicates that a crime has been committed, then the deputy may make a custodial arrest or issue a citation to appear in misdemeanor cases, or make a custodial arrest in felony cases, all in the manner prescribed by the Arkansas Rules of Criminal procedure.
13. A deputy may use his discretion in complaints of a relatively minor nature and use alternative forms of complaint resolution. This may include providing instructions to the owner of the animal(s) to remedy an existing inadequacy with shelter, fencing, or other issues that are not likely to cause immediate harm to the animal(s). The deputy will conduct a follow-up visit within three (3) days to confirm that the inadequacy has been corrected.
14. The deputy may determine that assistance from a criminal investigator is needed, particularly when investigating a serious complaint that requires prolonged investigation. In those instances, the deputy will notify an investigator of the situation, and the investigator will provide assistance.

15. All complaints of animal cruelty or neglect will be thoroughly documented by the deputy and/or investigator in an official Incident/Offense Report, whether the complaint is founded or unfounded, and whether an arrest was made or not. Deputies should include in their reports whether any children (under 16 years of age) were present, as enhanced penalties may then apply.

C. Criminal Investigator Responsibilities:

1. An investigator will follow-up on all complaints of animal cruelty or neglect that were not resolved on scene by the responding deputy.
2. An investigator will provide assistance to a responding deputy when such assistance is asked for, or when it is apparent that assistance is needed and required.
3. Investigators assigned to investigate complaints of animal cruelty or neglect will approach and handle those investigations in the same manner as when investigating other crimes.
4. Investigators will review preliminary evidence, observations, or findings obtained or made by the responding deputy.
5. Investigators will conduct interviews of witnesses, which may include neighbors, other persons at the residence, the complaining party, and any other person(s) who may have personal knowledge of the situation.
6. Investigators may also seek to interview the owner(s) of the animals, keeping in mind that as the subject of a criminal investigation, the owner(s) may be afforded certain rights and protections under the constitution against self incrimination.
7. Investigators will take photographs of the animal(s) in questions, together with photographs of the environment and any objects of evidentiary value. Specific notations on each individual animal must be made if more than one count of a criminal charge is to be filed.
8. Objects or items of evidentiary value will be seized and taken into evidence.

9. Investigators or deputies may request on scene assistance from outside resources, including veterinarians, or animal welfare professionals from private organizations, such as the Humane Society.
10. Investigators will be responsible for preparing all required affidavits, including affidavits for warrants of arrest and affidavits for search warrants and for presenting those to a Judicial Officer for review.
11. Investigators will review the case and their findings with the Prosecuting Attorney to determine what charges, if any, will be filed in the case.

SEIZURE OF ANIMALS:

1. Deputies are authorized by law to seize, or cause to be seized, animals that are abused or neglected as specified in Act 33 of 2009, and to remove those animals from that environment.
2. Animals seized by Sheriff's Office deputies shall remain at "the appropriate place of custody" for a period of fifteen (15) consecutive days after written notice is delivered to the owner of the animal(s).
3. For the purpose of this policy, the term "appropriate place of custody" shall mean either the Baxter County Animal Shelter or the Humane Society of North Central Arkansas in the case of dogs or cats. In the case of horses or livestock, arrangements will be made with either a veterinarian or private farmer, rancher, or other person agreeing to take temporary possession of and agreeing to provide for the care and maintenance of the animal(s) pending their disposition by the District Court.
4. Deputies will request assistance from the Animal Control Warden of Baxter County when seizing and removing dogs or cats.
5. Written notice of the animal seizure shall be **A)** Left at the last known address of the owner; and **B)** Contain a description of the animal seized, the date seized, the name and contact information of the law enforcement or animal control officer seizing the animal, the location of the animal, and the reason for the seizure.

6. If the owner cannot be determined, a written notice regarding the seizure of the animal shall be prominently posted where the animal is seized at the time the seizure occurs, and a notice shall be published in the local newspaper at least two (2) times each week for two (2) consecutive weeks. First publication must take place within three (3) days of the animal being seized. The deputy seizing the animal(s) shall provide information to the Office Manager that she may use to make and publish this notice.
7. The Sheriff's Office will provide deputies with an appropriate written notice form. The form shall be in triplicate. The original shall be retained by the deputy issuing the notice and will be filed in the investigation file. The first copy shall be delivered to the owner of the animal(s) *or* posted in the manner prescribed above. The second copy of the notice shall be delivered to the place of shelter that the animal(s) have been transferred to.
8. The written notice shall provide the owner will basic information as to the process required to petition the District Court for the return of the animal(s). The Sheriff's Office has no role in the process for returning or otherwise disposing of the animal(s), other than making recommendations to the Judge or Prosecuting Attorney.

COOPERATION WITH OTHER ENTITIES:

1. Sheriff's deputies and investigators will cooperate with and provide assistance to other governmental agencies, entities, or persons having a direct interest in the welfare of the animal(s) involved in an abuse or neglect complaint or situation. This may include, but not be limited to, the Animal Control Warden, veterinarians, workers or representatives of the Humane Society or Departments of Health or Agriculture.
2. This cooperation may be limited in the scope necessary to facilitate an active criminal investigation, to maintain the integrity of a crime scene, and to prevent the contamination of evidence.

3. Deputies must be aware that Act 33 of 2009 permits private persons to lawfully intervene to prevent the imminent or ongoing perpetration of any offense of cruelty to animals or aggravated cruelty in his or her presence, and that interfering with that private person constitutes a Class A Misdemeanor. This provision has the potential for possible violent confrontations to take place between an intervener and the owner(s) of the animal(s) in question. Deputies should be cognizant of these potential issues, and they should encourage private persons not to put themselves in danger by confronting other people on their own property over these neglect and abuse cases.

