S T A T E O F T E N N E S S E E
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Opinion No. 06-149

Authority to Investigate Animal Abuse Cases

QUESTION

What entity/government agency is authorized to investigate animal abuse cases?

OPINION

Any local law enforcement agency may investigate animal abuse cases. Additionally, a county humane society may investigate animal abuse cases.

ANALYSIS

In Tennessee, cruelty to animals is defined as:

> A person commits an offense who intentionally or knowingly:
> (1) Tortures, maims or grossly overworks an animal;
> (2) Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody;
> (3) Abandons unreasonably an animal in the person's custody;
> (4) Transports or confines an animal in a cruel manner; or
> (5) Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

Tenn. Code Ann. § 39-14-202(a). A person who is found to have committed the offense of cruelty to animals is guilty of a Class A misdemeanor under Tenn. Code Ann. § 39-14-202. Aggravated cruelty to animals is committed when, "with aggravated cruelty and with no justifiable purpose, such person intentionally kills or intentionally causes serious physical injury to a companion animal." Tenn. Code Ann. § 39-14-212(a). Aggravated cruelty is defined as, "conduct which is done or carried out in a depraved and sadistic manner and which tortures or maims an animal." Tenn. Code Ann. § 39-14-212(b)(1). Aggravated cruelty to animals is likewise a Class A misdemeanor unless it is a second or subsequent conviction for aggravated cruelty to animals, in which case it is a Class E felony. Tenn. Code Ann. § 39-14-212(d)(1), and (d)(2). As with any misdemeanor, the offense may be investigated by county or local law enforcement officers, and under Tenn. Code Ann. § 39-14-210, it may also be investigated by agents of any society incorporated for the prevention of cruelty to animals.

"The sheriff is the principal conservator of the peace in the sheriff's county . . ." Tenn. Code Ann. § 38-3-102(a). As the conservator of the peace, it is the sheriff's duty "to ferret out crimes, to secure evidence of crimes, and to apprehend and arrest criminals." Tenn. Code Ann. § 38-3-102(b). The sheriff is charged with the duty to "detect and prevent crime." Tenn. Code Ann. § 8-8-213(a). The sheriff is further charged with the duty to "[e]nforce the ordinances of a municipality; provided, that the municipality has expressed by ordinance its intent to have the sheriff enforce its ordinances, and that the municipality has filed a certified copy of its ordinances with the sheriff and the general sessions court of the county." Tenn. Code Ann. § 8-8-201(a)(34). The sheriff, however, is not the sole conservator of the peace in a county. Tennessee Code Annotated section 38-3-103 provides for additional conservators of the peace:

> The judicial and ministerial officers of justice in the state, and the mayor, aldermen, marshals and police of cities and towns, and the director, commissioner, or similar head of any metropolitan or municipal police department, whether elected or appointed, are also conservators of the peace, and are required to aid in the prevention and suppression of public offenses, and for this purpose may act with all the power of the sheriff.

Additionally, humane societies that are chartered by the state are specifically vested with the power to arrest and bring before the court animal cruelty offenders. *State v. Adkisson*, Nos. M2000-01079-CCA-R3-CD, M2000-02319-CCA-R3-CD, 2001 WL 1218570 (Tenn. Crim. App. Oct. 12, 2001). In a county in which there is a society that is incorporated for the prevention of cruelty to animals, the society may investigate animal abuse cases. *See* Tenn. Code Ann. 39-14-210(a). Specifically,

> The agents of any society which is incorporated for the prevention of cruelty to animals, upon being appointed thereto by the president of such society in any county, may, within such county, make arrests, and bring before any court thereof offenders found violating the provisions of this part with regard to non-livestock animals.

Tenn. Code Ann. § 39-14-210(a).

Based upon the foregoing, it is the opinion of this Office that any local law enforcement agency or agent of a properly chartered humane society may investigate animal abuse cases.

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