



Bureau of Animal Protection (BAP) Newsletter Spring 2012

Latest News: Equine Neglect Investigations Short Course

The Bureau of Animal Protection is proud to announce that we have had our third Level I Equine Neglect Investigations Short Course in conjunction with Colorado State University's Equine Science Department. We have trained nearly one hundred members of law enforcement including Bureau of Animal Protection (BAP) agents, animal control officers, sheriff's deputies, undersheriffs, sheriffs as well as district attorneys and investigators within the DA's office.

This course has been such a success that we are already starting to get interest from other states to send people to this training. Every class so far has filled to capacity before the date of the course was even announced.

We are also in the planning stages of a Level II short course that will be more in depth, have more equine body condition scoring, managing and handling misbehaved or untrained horses.



The dates for our Level

II course are September 26-28, 2012. Anyone interested in either the Level II course should contact Lisa Gibson at lisa.gibson@ag.state.co.us or 303-239-4167 as soon as possible. To reserve your spot for Level II you must have completed the Level I course, spaces fill quickly!

House Bill 1125: Changes in the Animal Bonding Statute and its Effect on Agencies that Impound Animals

The regular legislative session has ended in Colorado and there have been notable changes in CRS 18-9-202.5, formerly known as the animal bonding statute. The bill generally replaces the word “bond” which has specific legal meaning to “impoundment, care, and provision payment” and increases the amount of due process an animal owner has in an impoundment situation. Many of the changes to the statute are positive and more constitutionally sound, however some of these changes could have several significant impacts that impounding agencies need to be aware of. A partial list of changes to CRS 18-9-202.5 include:



- The title – The title of this statute was “***Financial bonding requirements for costs of holding impounded animals.***” It has changed to “***Impounded animals – costs of impoundment, provision, and care – disposition – procedures – application – definition.***”
- Section (1)(a)(II) To the extent practicable, within seventy-two hours after impoundment described under subparagraph (I) of this paragraph (a), upon request from the owner or custodian of the impounded animal, the impound agency shall allow a licensed veterinarian of the owner’s or custodian’s choosing and at his or her expense to examine the animal at a time and place selected by the impound agency, which examination may include taking photographs of the animal and taking biological samples for the purpose of diagnostic testing. *Note: This may be very difficult in relation to employee safety, as in cases involving animal fighting, in cases where organized crime and/or drugs are involved. It may also be a challenge to the welfare of the animal in cases where a compromised animal would be required to travel, adding stress to an already stressful situation. It remains to be seen what unintended effects this will have on evidence (tampering with evidence), chain of custody, or other legal issues important to prosecutors.*
- (I)(c)(I) Within ten days after the date of impoundment, the owner or custodian may request a hearing in a criminal court of competent jurisdiction. *Note: This hearing is to be held within ten days after the request.*
- (I)(c)(II) At the hearing, the court shall determine, as appropriate:
 - (A) Whether costs associated with the impoundment, care, and provision, as determined by the impound agency, are fair and reasonable and necessary, which costs shall be specifically itemized by the impound agency prior to the date of the hearing and shall include, at a minimum, an accounting of the costs of upkeep and veterinary services.
 - (B) Whether there was probable cause for the impoundment; and
 - (C) If the court finds probable cause for impoundment existed and the owner or custodian elects not to pay the reasonable impoundment, care or provision costs to prevent disposition, release of the animal to the impound agency for disposition.
- (I)(c)(III) A warrant issued in accordance with C.R.C.P. 41 (b) authorizing seizure of the impounded animal constitutes prima facie evidence of sufficient cause for impoundment. *Note: According to nolo.com, Prima Facie is Latin for "at first look" or "on its face." A prima facie case is one that at first glance presents sufficient evidence for the plaintiff to win. The defendant must refute the case in some way to have a chance of prevailing at trial.*

- (3) The court shall order an impound agency to refund to the owner or custodian all impoundment, care and provision payments made for the animal if, after trial, a judge or jury enters or returns in favor of the owner or custodian a verdict of not guilty for all charges related to the original impoundment of the animal.

It will be very interesting indeed to see how this new law plays out, what new legal challenges prosecutors will face, and the ultimate effect it will have on animal welfare in Colorado! Our sincere hope is that animals in Colorado will be the beneficiaries.

The Colorado Hay Outlook

Most of you have seen the news or have even been directly involved in the recent forest fires that are already plaguing the Colorado high country. 2012 is shaping up to be the worst year on record and second only to 2002 when we had such a terrible time with drought and wildfires across the state. Ninety-eight percent of the state is experiencing drought conditions and this winter's snowpack was a mere 7 percent of normal. Add to the equation the large amount of beetle killed pine trees and we might have our emergency work cut out for us this year, so beware.

“When you look back to 2002, we only got about one quarter of the average runoff in our major rivers and streams, and that's the same sort of magnitude we're looking at, and that's down there at the level of worst of record.” Nolan Doesken, State Climatologist said.



Not only is this worrisome for wild land firefighters and those that are part of the extended emergency response network, it has a devastating effect on the hay supply which naturally drives demand and hay prices up. The snowpack is nearly depleted and high water has already occurred, over a month early in most areas of the state. To grass hay growers/producers in mountain areas where flood irrigation is most utilized, that means if they haven't gotten their hay wet by now it is not likely to happen till next year unless we get a good soaking rain. In lower

elevations east and west, reservoir levels are lower than normal and depleting fast too, meaning ditch water will be limited. If we don't get more moisture in the form of rain at this point, the underground water sources like aquifers won't likely be replenished which in turn puts limitations on wells and sprinkler irrigation of alfalfa crops. Lack of rain will inhibit grass growth for those that have pasture as a feed source. All of this combined with continued high energy prices and a sluggish economy will keep hay prices very high and may even drive them higher. Inevitably hay prices and availability will put a significant burden on horse owners and their ability to buy hay of any quality. As with the wild land fires, we may have a significant challenge ahead of us as it relates to equine neglect investigations. Let's all plan for the worst and hope for the best and as always, the Colorado Department of Agriculture's Bureau of Animal Protection will be there to help agencies across the state deal with both types of emergencies.

Colorado Hay Market Report

http://www.ams.usda.gov/mnreports/gl_gr310.txt

Build Legitimate Neglect Cases

The Colorado Department of Agriculture's Bureau of Animal Protection (BAP) is here to help! The Bureau of Animal Protection is by definition here to protect animals from neglect and mistreatment. Our agents conduct 12,000 animal neglect investigations every year, many of which are on horses. Bureau of Animal Protection agents are very good at what they do: they may be some of the best in the entire country. The Colorado Department of Agriculture, the BAP, and its agents across the state can serve as a wonderful resource for all types of animal cruelty cases whether it is a case involving neglected horses, violence to a dog, or a cockfighting investigation. If you or your agency have questions or would like advice about animal neglect cases don't hesitate to call it may be well worth the effort.



We all know that defense attorneys are very creative in defending their clients. Some of that creativity is from out of left field and obscure to say the least. However, some defenses are perfectly legitimate, so when building a case, be sure the case is legitimate, well documented, and scientifically sound because these important components are how we win our cases.

Nearly a year ago, an equine neglect case took place in Maryland and 133 horses were seized by officials. The horse owner hired a very sharp attorney that called Dr. Don Henneke in an effort to use him as an expert witness. For those that don't know, Dr. Henneke developed the Henneke Body Scoring system while at Texas A&M University in 1983. This is a standardized way to measure body fat reserves in horses that led to the 1 to 9 scoring system we use today in the vast majority of equine neglect cases along with pictures to illustrate just how thin horses are (or aren't). Can you imagine the prosecutor's reaction when the defense has a witness with the credentials and credibility of Dr. Henneke? It would make you want to throw in the towel! The following link is to a statement prepared by Dr. Henneke for the defense. <http://www.bkglawfirm.com/wp-content/uploads/2012/02/HENNEKE-REPORT.pdf>

I share this with you all so you don't find yourself in a similar situation. There are some important points to address in the course of personal (and personnel) development, education, experience and in the investigation itself. All are outlined in Dr. Henneke's witness statement, but the ones that stuck out were the following, in no particular order:

- Don't overreact or act too hastily.
- Work with the owner to the extent possible leaving seizure as an absolute last resort.
- As an equine neglect investigator, learn as much about nutrition and equine management as you possibly can.

- If possible use a credible, experienced horseman versed in equine neglect investigations as an advisory witness.
- Utilize the experience and wisdom of experienced horsemen when horses have to be seized.
- Make sure you or your investigators know how to use the Henneke Body Condition Scoring System properly or get someone that can.

With discipline and sound investigative technique you will be able to build a strong case and be a strong witness for your prosecutor. Do the best you can because, as we all know, court is a very tricky place and you really never know how a given case will turn out no matter how water tight it may be!

The Colorado Department of Agriculture and the Bureau of Animal Protection would like to extend our sincere gratitude for the things you do every day to make Colorado a better place for animals to live. Keep up the great work.

To learn more about the Bureau of Animal Protection and access more resources visit <http://www.colorado.gov/cs/Satellite/Agriculture-Main/CDAG/1175705256252>