

ON THE LAMB: TOWARD A NATIONAL ANIMAL ABUSER REGISTRY

By
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A national animal abuser registry has the potential to provide law enforcement agencies with a much-needed tool for tracking animal abusers, but no such registry exists. This Comment first discusses existing state and federal criminal registries for sex offenders, child abusers, and elder abusers. It determines that existing criminal registries often contain inaccurate entries and that they have little deterrent effect, making their potential infringement on offenders' Constitutional rights and other collateral consequences difficult to justify.

This Comment then turns to the viability of a national animal abuse registry, discussing the link between the abuse of animals and violence towards other humans. Although no state or national animal abuse registries currently exist, several states have tried to pass legislation that would create such registries. In the absence of state-run registries, independent animal interest groups have formed registries of their own. This Comment explores the inherent drawbacks of volunteer-run, financially unaccountable organizations promulgating information about animal abusers. It then concludes that government funding and staffing could fix the accountability gaps that exist with the registries developed by private organizations and proposes a framework for a national animal abuse registry.

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I. INTRODUCTION

Jeffrey Scott Haynes pled “no contest” to sodomy in Calhoun County Circuit Court before Judge Conrad Sindt.¹ The Judge ordered Haynes, a four-time offender, to serve a sentence of thirty months to twenty years.² He also ordered Haynes to register on Michigan’s public sex offender registry.³ Haynes appealed.⁴ In a unanimous opinion, the Michigan Court of Appeals ruled that Haynes did not have to register as a sex offender because the injured party was not a victim under Michigan law.⁵

In this case, the injured party was a sheep.⁶

¹ L.L. Brasier, *Calhoun County: Judges: Sheep Sex Doesn’t Make Man a Sex Offender*, Det. Free Press B3 (Sept. 25, 2008).

² *Id.*

³ *Id.*

⁴ *People v. Haynes*, 760 N.W.2d 283, 283 (Mich. App. 2008).

⁵ *Id.* at 287.

⁶ Jim Schaefer, *Sheep Abuser is Center of Debate: Man Fights Inclusion on Sex Offender Registry*, Det. Free Press B1 (Mar. 3, 2006).

Thelma, the victim of Haynes's crime, and Louise, a possible victim, live on Lori Wyman's farm near Battle Creek, Michigan.⁷ Wyman suspected that someone was attacking Thelma and Louise, and she became certain when she found a rope and rag near one of the sheep feeders.⁸ One night in late January 2005, Wyman caught Jeffrey Haynes on her property.⁹

Haynes, a career criminal with convictions dating back to 1985, had relatives who lived near Wyman's farm.¹⁰ He had been released from prison in 2004, about the same time Wyman first noticed that someone was intruding on her property.¹¹ When Wyman caught Haynes on her land, she called the police and held Haynes for forty minutes until they arrived.¹² Wyman pointed the police towards fresh footprints in the snow leading around her barn.¹³ She also asked the police to examine Thelma, who appeared to be injured.¹⁴ Despite that evidence, the police did not arrest Haynes that night.¹⁵

Wyman took matters into her own hands and called a veterinarian at 1 a.m. to test Thelma for human DNA.¹⁶ Seven months later, the State Police crime laboratory in Lansing confirmed that the DNA swabbed from Thelma belonged to Jeffrey Haynes.¹⁷ Police then arrested Haynes and he pled no contest under section 750.158 of the Michigan penal code.¹⁸

Michigan's Sex Offenders Registration Act (SORA) states that anyone found guilty under section 750.158 of the Michigan penal code must register with the state "if a victim is an individual less than 18 years of age."¹⁹ Though Haynes was convicted under section 750.158,²⁰ the Court of Appeals considered the plain meaning of SORA and determined that the statute did not include animals as "individuals" under

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*; Brasier, *supra* n. 1.

¹¹ Schaefer, *supra* n. 6.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Schaefer, *supra* n. 6.

¹⁸ *Id.*; Haynes, 760 N.W.2d at 284.

¹⁹ Mich. Comp. Laws § 28.722(e)(ii) (2009).

²⁰ Mich. Comp. Laws § 750.158 (2003).

the law.²¹ Law blogs across the country picked up the story.²² The case made national news and even garnered international attention.²³

The Haynes case demonstrates a fundamental flaw in many state sex offender and community notification statutes with regard to animal abusers. State laws are inconsistent in their sex offender registration requirements; although some state statutes include provisions requiring animal sexual abusers to register, others do not.²⁴ Further, not all states have laws prohibiting sexual contact between a human and an animal.²⁵ A national animal abuser registry is one solution to such inconsistency. Such a registry could include animal sexual abusers like Jeffrey Haynes and could also identify perpetrators of other crimes against animals without requiring states to change their existing laws.

The idea of an animal abuser registry is not new. In 1998, Charlotte A. Lacroix proposed a national registry to monitor the frequency of animal abuse.²⁶ In 2001, Stephan K. Otto, Director of Legislative Affairs for the Animal Legal Defense Fund (ALDF), added an “Of-

²¹ *Haynes*, 760 N.W.2d at 286; Mich. Comp. Laws §§ 28.721–28.726 (2009). In 2006, before the Court of Appeals decision, Rep. Rick Jones introduced a bill in the Michigan legislature amending SORA to include “any animal.” Mich. H.B. 6099, 93d Leg. (May 23, 2006). Rep. Jones reintroduced the bill in 2007 and 2009. Mich. H.B. 4139, 94th Leg., (Jan. 25, 2007); Mich. H.B. 4570, 95th Leg., Reg. Sess. (Mar. 12, 2009). Ironically, the amendment does not include a definition of the term “animal.” *Id.*

²² Linda Chalat, Colo. Law Blog, *Wolves of the Two-Legged Variety*, http://www.coloradolaw-blog.com/2008/09/wolves_of_the_twolegged_variet_1.html (Sept. 26, 2008) (accessed Nov. 20, 2010); Sentencing Law & Policy, *Baaaaaaad Michigan Sex Offender Registry Law?*, http://sentencing.typepad.com/sentencing_law_and_policy/2008/09/baaaaaaad-michi.html (Sept. 25, 2008) (accessed Nov. 20, 2010); Howard Bashman, *How Appealing, Court: Man Who Sodomized Sheep Isn't a Sex Offender*, <http://howappealing.law.com/092408.html> (Sept. 24, 2008) (accessed Nov. 20, 2010); Eugene Volokh, *The Volokh Conspiracy, If Someone Has Sex With a Sheep, Must He Register as a Sex Offender?*, <http://volokh.com/posts/1222312067.shtml> (Sept. 24, 2008) (accessed Sept. 23, 2010).

²³ *Bestiality Convict Objects to Sex Offender Listing*, *Guelph Mercury* (Ont., Can.) A11 (Feb. 15, 2006); *Man in Animal Case Argues He Shouldn't Have to Register as a Sex Offender*, *Chi. Sun Times* 38 (Feb. 17, 2006); Richard W. Millar, Jr., *Baad Cases Make Baad Law*, *Orange Co. Lawyer Magazine* 14 (Feb. 2009); *Silence of the Lamb*, *N. Territory News* (Darwin, Austrl.) 16 (Feb. 16, 2006).

²⁴ For instance, the sex offender registration law in Kansas includes a catchall provision requiring registration for all “sexually-motivated” crimes. Kan. Stat. Ann. § 22-4902(c)(14) (2007). The Kansas Court of Appeals recently applied this provision to sodomy between a person and an animal under Kan. Stat. Ann. § 21-3505(a)(1), although that crime is not explicitly enumerated in the statute. *State v. Coman*, 214 P.3d 1198, 1203 (Kan. App. 2009). However, the sexual offender registration acts in Florida and Wisconsin do not require animal sexual abusers to register. Fla. Stat. Ann. § 775.21 (West 2010); Wis. Stat. Ann. § 301.45 (West 2010).

²⁵ Am. Humane Assn., *Bestiality Statutes by State*, <http://www.americanhumane.org/assets/docs/advocacy/ADV-bestiality-statutes-state.pdf> (updated June 2010) (accessed Nov. 20, 2010). As of June 2010, thirty-six states and the District of Columbia had laws against bestiality; bestiality was a felony in nineteen states and a misdemeanor in seventeen. *Id.*

²⁶ Charlotte A. Lacroix, *Another Weapon for Combating Family Violence: Prevention of Animal Abuse*, 4 *Animal L.* 1, 22 (1998). Lacroix suggested federal legislation stan-

fender Registration and Community Notification” section to ALDF’s collection of model state animal laws.²⁷ And in 2005, Andrew N. Ireland Moore also advocated for the idea of an “animal cruelty offender registration” based on existing sex offender registries.²⁸

Interest in statewide animal abuser registries recently increased with legislation from Tennessee in 2008 and California in 2010.²⁹ And in October 2010, legislators in Suffolk County, New York, unanimously passed a bill creating the nation’s first county-wide animal abuser registry.³⁰ Further, in conjunction with the California bill, ALDF launched the “Expose Animal Abusers” campaign, which encourages people to sign a petition requesting that all states implement animal abuser registries.³¹ These efforts show that statewide animal abuser registries have some popular support. A national animal abuser registry would surpass the usefulness of statewide registries by integrating information from the states, making abusers easier to track.

This Comment argues for a national animal abuser registry. Part II gives a background of state and national sex offender, child abuser, and elder abuser registries throughout the United States. Part III explains why a national animal abuser registry is advisable, discusses state and county efforts to introduce registries, and examines existing animal abuser registry solutions. Part IV offers suggestions for a government-supported national animal abuser registry.

II. BACKGROUND

This Part provides an overview of state and national criminal registries. The history of their creation and maintenance offers a roadmap for establishing a national animal abuser registry. However,

standardizing the definition of animal abuse and recommended modeling the law on the Child Abuse Prevention and Treatment Act. *Id.*

²⁷ ALDF, *Expose Animal Abusers, Legislative Updates and Background*, <http://exposeanimalabusers.org/article.php?id=1231> (accessed Nov. 20, 2010). ALDF’s model animal laws are now in their fifteenth edition. ALDF & Stephan K. Otto, *Model Animal Protection Laws*, http://www.aldf.org/downloads/ALDF_Model_Laws_v15_0.pdf (accessed Nov. 20, 2010) [hereinafter *Model Animal Protection Laws*]; see also Stephan K. Otto, *State Animal Protection Laws—The Next Generation*, 11 *Animal L.* 131, 157–59 (2005) (proposing an animal abuser registry and a community notification program modeled after the national sex offender registry).

²⁸ Andrew N. Ireland Moore, *Defining Animals as Crime Victims*, 1 *J. Animal L.* 91, 107 (2005).

²⁹ *Infra* pt. III(B)(5) (discussing California Senate Bill 1277 and ALDF’s involvement in drafting and promoting it).

³⁰ Press Release, Office of the Majority Leader, Suffolk Co. Legis., *Cooper Takes a Bite Out of Animal Crimes: Legislature Adopts Nation’s First Animal Abuser Registry* (Oct. 12, 2010) (available at http://legis.suffolkcountyny.gov/press/do18/2010/do18pr_101210_animal_abuser_registry.pdf (accessed Nov. 20, 2010)) [hereinafter *Suffolk Co. Legis. Press Release.*]; Suffolk Co. Legis., Intro. Res. No. 1879-2010 (available at <http://legis.suffolkcountyny.gov/Resos2010/i1879-10.pdf> (updated Sept. 8, 2010) (accessed Nov. 20, 2010)) [hereinafter *Intro. Res. No. 1879-2010*].

³¹ ALDF, *Expose Animal Abusers*, <http://exposeanimalabusers.org> (accessed Nov. 20, 2010).

it is equally important to acknowledge the weaknesses of this model, such as effectiveness, constitutional issues, and collateral consequences for friends and family of the abuser.

A. *Overview of State and National Criminal Registries*

Criminal registries—such as sex offender, child abuse, and elder abuse registries—offer models for a national animal abuser registry. Sex offender, child abuse, and elder abuse registries are maintained at the state level, while only a sex offender registry is maintained nationwide.

1. *State Sex Offender Registries*

The Jacob Wetterling Crimes against Children and Sexually Violent Offender Registration Act (Wetterling Act) required every state to register sex offenders.³² Enacted in 1994, the Wetterling Act obligated state registries to track sex offenders and list their residences for at least ten years after their release from prison.³³ However, the Wetterling Act did not require that the public be notified of sex offenders' residences. Megan's Law, enacted in 1996, amended the Wetterling Act by requiring community notification of the presence of sex offenders and public access to sex offenders' registration information.³⁴ Under Megan's Law, states can choose either to actively notify communities or to simply make sex offender registries open to the public.³⁵ Most states have made sex offender information widely available on the Internet for free,³⁶ and the Adam Walsh Child Protection and Safety Act of 2006 (Adam Walsh Act) required states to make their sex offender registries available on the Internet by July 27, 2010.³⁷

³² 42 U.S.C. § 14071 (2006); Richard Tewksbury & Matthew B. Lees, *Perception of Punishment: How Registered Sex Offenders View Registries*, 53 *Crime & Delinquency* 380, 381–82 (2007). For a comprehensive history of criminal registration laws, see Wayne A. Logan, *Knowledge as Power: Criminal Registration and Community Notification Laws in America* (Stan. U. Press 2009) [hereinafter Logan, *Knowledge as Power*].

³³ Sarah Welchans, *Megan's Law: Evaluations of Sex Offender Registries*, 16 *Crim. Just. Policy Rev.* 123, 125 (2005).

³⁴ Pub. L. No. 104-145, 110 Stat. 1345 (1996) (codified at 42 U.S.C. § 13701); Welchans, *supra* n. 33, at 125. According to the guidelines for Megan's Law, its objective is to "assist law enforcement and protect the public from convicted child molesters and violent sex offenders through requirements of registration and appropriate release of registration information." Final Guidelines for the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act, as Amended, 63 *Fed. Reg.* 69652, 69655 (Dec. 17, 1998) (available at <http://www.gpo.gov/fdsys/pkg/FR-1998-12-17/html/98-33377.htm> (accessed Nov. 20, 2010)).

³⁵ Welchans, *supra* n. 33, at 125.

³⁶ Lior Jacob Strahilevitz, *Information Asymmetries and the Rights to Exclude*, 104 *Mich. L. Rev.* 1835, 1889–90 (2006).

³⁷ 42 U.S.C. §§ 16901 et seq. (2006); Kelsie Tregilgas, *Sex Offender Treatment in the United States: The Current Climate and an Unexpected Opportunity for Change*, 84 *Tul. L. Rev.* 729, 730 (2010).

In addition, the Adam Walsh Act made state sex offender registries more consistent. For example, state sex offender registries differed significantly in the kind of data they made publicly available.³⁸ Most registries included a summary of the offender's crimes and the offender's name, address, physical description, and a recent photograph.³⁹ The Adam Walsh Act standardized the kind of information sex offenders must provide to state registries, including the offender's name, Social Security number, address, place of employment or school, license plate number, and vehicle description.⁴⁰ As another example, the length of time a sex offender stays on a state sex offender registry varies from state to state.⁴¹ Some states required lifetime registration, while others adjusted registration times according to the severity of the offenders' crimes.⁴² The Adam Walsh Act made these registration periods consistent.⁴³

2. National Sex Offender Registry

Fortunately, the public is now able to track sex offenders nationwide. The Pam Lychner Sexual Offender Tracking and Identification Act, passed in 1996, authorized the United States Department of Justice (DOJ) through the Federal Bureau of Investigation (FBI) to create a national database of registered sex offenders and release relevant information to the public.⁴⁴ This database allows the FBI to track the locations of sex offenders.⁴⁵ But it was not until 2005 that the U.S. DOJ linked the registries of individual states through the National Sex Offender Public Registry website.⁴⁶ The Adam Walsh Act renamed the National Sex Offender Public Registry, which is now known as the Dru Sjodin National Sex Offender Public Website (NSOPW).⁴⁷ The NSOPW is the only government system that links public state, territory, and tribal sex offender registries in one place.⁴⁸

³⁸ Tregilgas, *supra* n. 37, at 731.

³⁹ *Id.* at 730.

⁴⁰ 42 U.S.C. § 16914 (2006). States must substantially comply with these provisions by July 27, 2010. Tregilgas, *supra* n. 37, at 730.

⁴¹ Tregilgas, *supra* n. 37, at 731.

⁴² *Id.*

⁴³ 42 U.S.C. § 16915 (2006). Additionally, the definition of "sex offender" differs from state to state, varying the kinds of offenses that require registration. Tregilgas, *supra* n. 37, at 731.

⁴⁴ 42 U.S.C. § 14072 (2006); Shelly George, *Slipping Through the Cracks and Into Schools: The Need for a Uniform Sexual-Predator Tracking System*, 10 Scholar: St. Mary's L. Rev. on Minority Issues 117, 122 (2008); Christina Locke & Bill F. Chamberlin, *Safe from Sex Offenders? Legislating Internet Publication of Sex Offender Registries*, 39 Urb. Law. 1, 10 (2007).

⁴⁵ George, *supra* n. 44, at 122.

⁴⁶ Locke & Chamberlin, *supra* n. 44, at 2.

⁴⁷ U.S. Dept. of Just., *Dru Sjodin National Sex Offender Public Website Fact Sheet*, <http://www.ojp.usdoj.gov/smart/pdfs/NSOPWFactSheet.pdf> (accessed Nov. 20, 2010) [hereinafter *NSOPW Fact Sheet*]; U.S. Dept. of Just., *Dru Sjodin National Sex Offender Public Website*, <http://www.nsopw.gov> (accessed Nov. 20, 2010).

⁴⁸ *NSOPW Fact Sheet*, *supra* n. 47.

Several iPhone applications also make access to nationwide sex offender information easier for the public.⁴⁹ Applications like Offender Locator, Sex Offenders Search, and Stay Safe generate maps of sex offenders near a user's location and provide offenders' addresses, photos, criminal records, and other details.⁵⁰ These applications are immensely popular: Offender Locator has been the sixth-best-selling paid application for the Apple iPhone and was downloaded tens of thousands of times within its first two months in Apple's App Store.⁵¹ These applications use state-generated information on a national level to disseminate offender information in a format that is convenient for users.⁵²

3. *State Child Abuse Registries*

In 1974, Congress enacted the Child Abuse Prevention and Treatment Act (CAPTA), giving states federal funding to support the development and implementation of central child abuse registries.⁵³ Today, between forty and forty-five states manage child abuse registries, though the scope of information varies among registries.⁵⁴ These registries allow child protective services investigators to access child abuse history information and share this information among agencies within each state.⁵⁵

State child abuse registries vary as to the information they contain and to whom the information is available.⁵⁶ At a minimum, registries usually contain the name of the alleged victim, names of the suspected abusers, and the state child abuse investigator's opinion

⁴⁹ Liam Berkowitz & Ki Mae Heussner, ABC News, *Sex Offender Locator App Yanked from App Store*, <http://abcnews.go.com/Technology/AheadoftheCurve/story?id=8276744&page=1> (Aug. 7, 2009) (accessed Nov. 20, 2010).

⁵⁰ Berkowitz & Heussner, *supra* n. 49; Robert Evans, I4U News, *iPhone 'Offender Locator' Back in App Store*, <http://www.i4u.com/article26298.html> (Aug. 10, 2009) (accessed Nov. 20, 2010).

⁵¹ Ki Mae Heussner et al., *Top-Selling iPhone App: Sex Offender Locator*, <http://abcnews.go.com/Technology/AheadoftheCurve/story?id=8187394&page=1> (July 28, 2009) (accessed Nov. 20, 2010). The paid version of Offender Locator, which retails for ninety-nine cents, uses freely available state sex offender data. *Id.* Even so, Apple pulled the application from its App Store on August 6, 2009 amidst California's legal concerns about selling personal criminal information for profit. *Id.* The application's developer removed the California data from the paid version of the application and reintroduced it in the App Store on August 9, 2009. Evans, *supra* n. 50.

⁵² Heussner et al., *supra* n. 51.

⁵³ 42 U.S.C. §§ 5101–5106(h) (2006); Maryann Zavez, *Child Abuse Registries and Juveniles: An Overview and Suggestions for Change in Legislative and Agency Direction*, 22 Seton Hall Legis. J. 405, 409–10 (1998).

⁵⁴ U.S. Dept. of Health & Human Servs., *Interim Report to the Congress on the Feasibility of a National Child Abuse Registry* 1, <http://aspe.hhs.gov/hsp/09/ChildAbuseRegistryInterimReport/report.pdf> (May 2009) (accessed Nov. 20, 2010) [hereinafter *Feasibility of a National Child Abuse Registry*].

⁵⁵ *Id.*

⁵⁶ Kate Hollenbeck, *Between a Rock and a Hard Place: Child Abuse Registries at the Intersection of Child Protection, Due Process, and Equal Protection*, 11 Tex. J. Women & L. 1, 16–17 (2001); Logan, *Knowledge as Power*, *supra* n. 32, at 74.

about whether the allegations are substantiated.⁵⁷ Further, states differ as to the kinds of reports they include on their registries. Some states include all investigated child abuse reports, others only record substantiated cases, and most states maintain records of unsubstantiated cases for some period of time.⁵⁸ States also deviate as to who may access state child abuse registries.⁵⁹ Some states allow prosecutors, employers, and child care providers to access registry information, while others limit access to state officials.⁶⁰

4. *National Child Abuse Registry*

Unfortunately, there currently is no national system that collects and disseminates information about child abuse.⁶¹ However, the Adam Walsh Act required the United States Department of Health and Human Services (HHS) to conduct a feasibility study for establishing a national child abuse registry.⁶²

The interim report by HHS revealed several obstacles to establishing a national child abuse registry.⁶³ For example, there is not enough data to know how a national child abuse registry would improve child safety.⁶⁴ Further, there are no incentives for states to contribute information and no consequences for declining to do so.⁶⁵ Additionally, the Adam Walsh Act requires the national registry to include only a perpetrator's name and the nature of his or her offense.⁶⁶ The HHS report found that a national database must include more personal data in order to establish the identity of a child abuser and avoid confusion among people with similar or identical names.⁶⁷ Finally, permitted uses of a national child abuse registry are unclear.⁶⁸ Employment and licensing checks in addition to investigative uses of the registry would increase the number of inquiries into sex offender registration and could lead to due process issues.⁶⁹

5. *State Elder Abuse Registries*

In addition to sex offender and child abuse registries, some states also maintain elder abuse registries.⁷⁰ According to the National

⁵⁷ Hollenbeck, *supra* n. 56, at 17. For a discussion of states' differing definitions of the terms "substantiated" and "unsubstantiated," see Zavez, *supra* n. 53, at 411–15.

⁵⁸ Hollenbeck, *supra* n. 56, at 17.

⁵⁹ Zavez, *supra* n. 53, at 415–16.

⁶⁰ Hollenbeck, *supra* n. 56, at 17; Zavez, *supra* n. 53, at 415–19.

⁶¹ *Feasibility of a National Child Abuse Registry*, *supra* n. 54, at 1.

⁶² 42 U.S.C. §§ 16990(a), (g)(1) (2006).

⁶³ *Feasibility of a National Child Abuse Registry*, *supra* n. 54, at 1–3.

⁶⁴ *Id.* at 39.

⁶⁵ *Id.*

⁶⁶ 42 U.S.C. § 16990(c)(2)(B) (2006).

⁶⁷ *Feasibility of a National Child Abuse Registry*, *supra* n. 54, at 40.

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ Natl. Comm. for the Prevention of Elder Abuse & Natl. Adult Protective Servs. Assn., *The 2004 Survey of State Adult Protective Services: Abuse of Adults 60 Years of*

Center on Elder Abuse, elder abuse is “any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable adult.”⁷¹ These acts include physical abuse, emotional abuse, sexual abuse, exploitation, neglect, or abandonment.⁷² And, unlike children, the elderly are particularly susceptible to financial abuse.⁷³ As of 2004, twenty-one states maintained statewide databases of alleged elder abusers.⁷⁴ A few states include perpetrators of substantiated elder abuse in state crime databases that include other convictions.⁷⁵ Unfortunately, most states do not maintain a registry of elder abuse cases at all.⁷⁶

Though not every state maintains a database of elder abuse cases, federal regulations require the states and the District of Columbia to maintain registries of certified nurse aides.⁷⁷ The Nursing Home Reform Act, part of the Omnibus Budget Reconciliation Act of 1987, introduced the current federal system for regulating nursing homes and required states to maintain nurse aide registries.⁷⁸ These nurse aide registries include an individual’s full name, identifying information, certification date, and any finding that that individual has been guilty

Age and Older, http://www.ncea.aoa.gov/Main_Site/pdf/2-14-06%20FINAL%2060+REPORT.pdf (Feb. 2006) (accessed Nov. 20, 2010) [hereinafter *2004 Survey of State Adult Protective Services*].

⁷¹ Natl. Ctr. on Elder Abuse, *Frequently Asked Questions*, http://www.ncea.aoa.gov/NCEARoot/Main_Site/FAQ/Questions.aspx; *select* What is elder abuse? (updated May 25, 2010) (accessed Nov. 20, 2010).

⁷² *Id.*

⁷³ Lynn Loar, “I’ll Only Help You if you Have Two Legs” or, *Why Human Service Professionals Should Pay Attention to Cases Involving Cruelty to Animals*, in *Child Abuse, Domestic Violence, and Animal Abuse: Linking the Circles of Compassion for Prevention and Intervention* 120, 128 (Frank R. Ascione & Phil Arkow eds., Purdue U. Press 1999); Charles Pratt, *Banks’ Effectiveness at Reporting Financial Abuse of Elders: An Assessment and Recommendations for Improvements in California*, 40 Cal. W. L. Rev. 195, 195 (2003).

⁷⁴ *2004 Survey of State Adult Protective Services*, *supra* n. 70, at 20. States maintaining an abuse registry were Arkansas, Delaware, Hawaii, Iowa, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Missouri, Mississippi, Nebraska, New Mexico, Nevada, Oklahoma, Oregon, Texas, Utah, Vermont, Washington, and Wyoming. *Id.* States that included elder abuse perpetrators from other state crime databases were Idaho, Alaska, and Wisconsin. *Id.*

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ 42 C.F.R. § 483.156(a) (2009); U.S. Dept. of Health & Human Servs., Off. of Inspector Gen., *Nurse Aide Registries: State Compliance and Practices*, <http://oig.hhs.gov/oei/reports/oei-07-03-00380.pdf> (Feb. 2005) (accessed Nov. 20, 2010) [hereinafter *Nurse Aide Registries*]. A nurse aide is “any individual providing nursing or nursing-related services to residents in a facility who is not a licensed health professional, a registered dietitian, or someone who volunteers to provide such services without pay.” 42 C.F.R. § 483.75(e)(1) (2009).

⁷⁸ 42 U.S.C. §§ 1395i-3 et seq. (2006); Joshua M. Weiner et al., The Henry J. Kaiser Family Foundation, *Nursing Home Quality: Twenty years After the Omnibus Budget Reconciliation Act of 1987* 2, <http://www.kff.org/medicare/upload/7717.pdf> (Dec. 2007) (accessed Nov. 20, 2010).

of abuse, neglect, or misappropriation of property.⁷⁹ Before employing a nurse aide, nursing homes are required to check their state's registry to verify that he or she is in good standing.⁸⁰

State nurse aide registries have several weaknesses. According to reports by HHS and the General Accounting Office, information in these registries is often inaccurate or incomplete.⁸¹ Many states do not remove records of inactive nurse aides in accordance with federal requirements, and some nurse aides with substantiated findings of abuse in one state are actively certified in another.⁸² Some states do not update their nurse aide registries with findings of substantiated abuse in a timely manner, and other states do not update their registries at all.⁸³ States also use varying definitions of "abuse," and those definitions may have an effect on whether some nurse aide abuse cases are even entered in state registries.⁸⁴ A few state registries do not include the complete information on nurse aides that is required by the federal regulation.⁸⁵ The federal regulation also does not require registries to include information on nurse aide suspensions or investigations, only substantiated cases of abuse.⁸⁶ Finally, nurse aide registries only report the number of abusive aides, not the number of abuse cases.⁸⁷

However, state elder abuse registries also have several advantages. State elder abuse registries facilitate information coordination when multiple state agencies handle abuse reports because investigators can access information on any particular case.⁸⁸ Investigators can also track alleged abusers and victims to establish patterns of activity.⁸⁹ Further, statewide elder abuse registries help evaluate protec-

⁷⁹ 42 C.F.R. § 483.156(c)(1) (2009). Some states include more information, and others include health care workers other than nurse aides. U.S. Dept. of Health & Human Servs., Health Resources and Servs. Administration, *Nursing Aides, Home Health Aides, and Related Health Care Occupations—National and Local Workforce Shortages and Associated Data Needs* 136–40, <http://ftp.hrsa.gov/bhpr/nationalcenter/RNandHomeAides.pdf> (Feb. 2004) (accessed Nov. 20, 2010).

⁸⁰ U.S. Gen. Acctg. Off., *Nursing Homes: More Can Be Done to Protect Residents from Abuse* 7–8, <http://www.gao.gov/new.items/d02312.pdf> (Mar. 2002) (accessed Nov. 20, 2010) [hereinafter *Nursing Homes: More Can Be Done*].

⁸¹ *Nurse Aide Registries*, *supra* n. 77, at 13; *Nursing Homes: More Can Be Done*, *supra* n. 80, at 24.

⁸² *Nurse Aide Registries*, *supra* n. 77, at 10, 12.

⁸³ *Id.* at 8.

⁸⁴ *Nursing Homes: More Can Be Done*, *supra* n. 80, at 21–22.

⁸⁵ 42 C.F.R. § 483.156(c)(1) (2009); *Nurse Aide Registries*, *supra* n. 77, at 15.

⁸⁶ *Nurse Aide Registries*, *supra* n. 77, at 3.

⁸⁷ Erica F. Wood, *The Availability and Utility of Interdisciplinary Data on Elder Abuse: A White Paper for the National Center on Elder Abuse* 14 (ABA 2006) (available at http://www.ncea.aoa.gov/ncearoot/Main_Site/pdf/publication/WhitePaper060404.pdf (accessed Nov. 20, 2010)).

⁸⁸ Audrey S. Garfield, Student Author, *Elder Abuse and the States' Adult Protective Services Response: Time for a Change in California*, 42 *Hastings L.J.* 859, 886–87 (1991).

⁸⁹ *Id.* at 886.

tive services, coordinate treatment, and create statistical data through which researchers can develop diagnosis and treatment programs.⁹⁰

6. *National Elder Abuse Registry*

There is currently no national elder abuse registry. Some reports call for the creation of a national elder abuse registry to streamline data reporting and track abuse trends.⁹¹ For example, a 2005 HHS report recommended creating a national nurse aide registry to increase information sharing among states.⁹² This would reduce the potential for abusive individuals to move from state to state as certified nurse aides.⁹³ But this report also includes comments from the Centers for Medicare and Medicaid services that cite cost, data integration, and pending legislation as barriers to implementing a national registry.⁹⁴

The Elder Justice Act also calls for a study on the possibility of establishing a national nurse aide registry.⁹⁵ First introduced in 2002 by Senator John Breaux, the 2009 Elder Justice Act provides for a feasibility study of a national nurse aide registry that would evaluate who should be included in the registry, how a registry would comply with privacy laws, how data would be collected, who would have access to the registry, and how the registry would indicate violations of federal and state law.⁹⁶

7. *Other Criminal Registries*

Many states have enacted registration statutes directed at crimes other than elder or child abuse or sexual offenses.⁹⁷ For instance, California and Illinois both have statutes requiring convicted arsonists to register.⁹⁸ Also, in California, people convicted of gang-related offenses must register with the state.⁹⁹ Florida, Mississippi, Nevada, and Alabama require felons to register.¹⁰⁰ Louisiana's statute creates a regis-

⁹⁰ *Id.* at 887; Sana Loue, *Elder Abuse and Neglect in Medicine and Law*, 22 *J. Leg. Med.* 159, 200 (2001).

⁹¹ *2004 Survey of State Adult Protective Services*, *supra* n. 70, at 6; *Nurse Aide Registries*, *supra* n. 77, at 16; *Nursing Homes: More Can Be Done*, *supra* n. 80, at 24.

⁹² *Nurse Aide Registries*, *supra* n. 77, at 16.

⁹³ *Id.*

⁹⁴ *Id.* at 20–21.

⁹⁵ Elder Justice Act of 2009, Sen. 795, 111th Cong. § 1150B(d)(c)(2)(A) (Apr. 2, 2009) (available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:s795is.txt.pdf (accessed Nov. 20, 2010)).

⁹⁶ 155 Cong. Rec. S4315-01, 2009 WL 886685 at § 301 (Apr. 2, 2009) (statement of Sen. Hatch); Elder Justice Act of 2002, Sen. 2933, 107th Cong. (Sept. 12, 2002) (available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_bills&docid=f:s2933is.txt.pdf (accessed Nov. 20, 2010)); Elder Justice Act of 2009, Sen. 795, 111th Cong. § 1150B(c)(2)(B) (2009).

⁹⁷ Logan, *Knowledge as Power*, *supra* n. 32, at 74.

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.* at 73.

try for people convicted of violent offenses against peace officers.¹⁰¹ Connecticut, Indiana, Kansas, Montana, and Oklahoma all have registries for violent offenders, and Hawaii has a registry for convicted murderers.¹⁰² Tennessee has a registry for people convicted of selling or producing methamphetamine.¹⁰³ Proposed state statutes include a domestic violence registry in Pennsylvania, a hate crime registry in Maryland, a registry for dangerous dog owners in Illinois, and drug offender registries in New Mexico and New York.¹⁰⁴ Some municipalities have ordinances requiring registration.¹⁰⁵ For example, New York and Baltimore both have laws requiring people convicted of gun-related offenses to register with local law enforcement.¹⁰⁶

B. Weaknesses in State and National Registries

Though criminal registries have existed for nearly eighty years,¹⁰⁷ they pose issues for law enforcement, the legislature, and even the offenders included in them. Problems such as ineffectiveness, vulnerability to constitutional challenges, and collateral consequences illustrate that current offender registry systems have some flaws.

1. Problems with Effectiveness

State offender registries may be ineffective for several reasons. They do not prevent offenders from committing similar crimes, and many registries contain inaccurate information. Further, publicly available registries do not promote public safety.

Sex offender registries are not an effective method of preventing recidivism—despite the reasoning of the legislators passing sex offender registration laws. Nevertheless, legislators often cite decreases in recidivism as a reason for implementing sex offender registration.¹⁰⁸ Statewide studies that compare the recidivism rates of registered and unregistered sex offenders find that differences between the rates of recidivism in these two groups are not statistically significant.¹⁰⁹ Additionally, researchers studying the effectiveness of

¹⁰¹ *Id.* at 74.

¹⁰² *Id.* at 73.

¹⁰³ Logan, *Knowledge as Power*, *supra* n. 32, at 73.

¹⁰⁴ *Id.* at 74.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* at 22. Municipalities pioneered the first American criminal registration laws in the 1930s, spurred by growing fears over gangster activity emanating from cities such as Chicago. *Id.*

¹⁰⁸ Bob E. Vásquez et al., *The Influence of Sex Offender Registration and Notification Laws in the United States: A Time-Series Analysis*, 54 *Crime & Delinquency* 175, 177 (2008).

¹⁰⁹ See Iowa Dept. of Human Rights, *The Iowa Sex Offender Registry and Recidivism* 10, http://www.humanrights.iowa.gov/cjjp/images/pdf/01_pub/SexOffenderReport.pdf (Dec. 2000) (accessed Nov. 20, 2010) (focusing on sex offender recidivism rates in Iowa); see also Lucy Berliner et al., *A Sentencing Alternative for Sex Offenders: A Study of Decision Making and Recidivism*, 10 *J. Interpersonal Violence* 487, 495–97 (1995) (stud-

Megan's Law on a national scale could not reach a conclusion about the effect Megan's Law had on nationwide recidivism rates.¹¹⁰ Therefore, sex offender registries do not significantly decrease the likelihood that a sex offender will strike again,¹¹¹ and it is unclear whether registration and notification laws reduce crime in general.¹¹²

Another problem plaguing offender registries is inaccurate registration information. As Logan notes, "Expecting that ex-offenders, individuals with a proven capacity for antisocial conduct, will cooperate with the government in their ongoing surveillance and stigmatization would appear contrary to both logic and human experience."¹¹³ Some state sex offender registries either miss data or include misleading data.¹¹⁴ For instance, one study found so much information missing from the Kentucky Sex Offender Registry that the Registry was not an effective tool for increasing community safety and awareness.¹¹⁵ Studies also criticize nurse aide registries for having inaccurate or incomplete data.¹¹⁶ Further, poor implementation results in under-including some types of offenders and over-including others.¹¹⁷ Because tracking offenders is a key purpose of a registry,¹¹⁸ inaccurate data compromise the very purpose of registries.

Offender registries are also ineffective at fostering public safety.¹¹⁹ Legislators pass registration and community notification laws so that the public may take reasonable steps to protect them-

ying sex offenders in Washington); Roxanne Lieb, *Community Notification Laws: "A Step Towards More Effective Solutions,"* 11 J. Interpersonal Violence 298, 298 (2006) (also studying sex offenders in Washington); Kristen Zgoba et al., *An Analysis of the Effectiveness of Community Notification and Registration: Do the Best Intentions Predict the Best Practices?*, 27 Justice Quarterly 667, 670 (2009) (noting one study that found a significant statistical difference between registered and nonregistered sex offenders in Washington, but observes that other factors could have contributed to these findings).

¹¹⁰ Ray Pawson, *Does Megan's Law Work? A Theory-Driven Systematic Review* 43, 51 (U. of London, ESRC UK Centre for Evidence Based Policy and Practice, Working Paper No. 8, 2002) (available at <http://kcl.ac.uk/content/1/c6/03/45/97/wp8.pdf> (July 2002) (accessed Nov. 20, 2010)).

¹¹¹ Tewksbury & Lees, *supra* n. 32, at 383–84; Zgoba et al., *supra* n. 109, at 22. In a study focused on registered sex offenders' perceptions of the registry system, one registrant observed, "If I'm going to reoffend, that registry is not going to keep me from it." Tewksbury & Lees, *supra* n. 32, at 393.

¹¹² Logan, *Knowledge as Power*, *supra* n. 32, at 115.

¹¹³ *Id.* at 110.

¹¹⁴ Abril R. Bedarf, *Examining Sex Offender Community Notification Laws*, 83 Cal. L. Rev. 885, 901–02 (1995); Tewksbury & Lees, *supra* n. 32, at 384.

¹¹⁵ Richard Tewksbury, *Validity and Utility of the Kentucky Sex Offender Registry*, 66 Fed. Probation 21, 25 (2002).

¹¹⁶ *Nurse Aide Registries*, *supra* n. 77, at 14–15; *Nursing Homes: More Can Be Done*, *supra* n. 80, at 24.

¹¹⁷ Eileen K. Fry-Bowers, Student Author, *Controversy and Consequence in California: Choosing Between Children and the Constitution*, 25 Whittier L. Rev. 889, 913 (2004).

¹¹⁸ *Nurse Aide Registries*, *supra* n. 77, at 13.

¹¹⁹ Logan, *Knowledge as Power*, *supra* n. 32, at 120.

selves and their families.¹²⁰ However, studies show that a majority of residents were not aware that a sex offender was living in their neighborhood even when those residents knew that sex offender registration information was available.¹²¹ In one study where a sex offender was registered on a website and neighbors did not receive notification of the offender's residence, less than one third of the neighbors living within one-tenth of a mile of the registered sex offender were aware of the sex offender's presence in the neighborhood.¹²² Further, these studies show that some groups of people will utilize sex offender registries more than others.¹²³ For instance, parents and sex crime victims are more likely to know about locally registered sex offenders.¹²⁴ Additionally, people from higher income households are more likely to check state sex offender registries, though this may be related to the availability of Internet access.¹²⁵ Although sex offender registries may increase perceptions of safety for those who use them,¹²⁶ such registries are not effective tools for increasing public awareness of sex offenders in a given neighborhood.

2. Constitutional Issues

Offender registries also face constitutional challenges.¹²⁷ Courts have upheld sex offender registries against arguments based on cruel

¹²⁰ Amy L. Anderson & Lisa L. Sample, *Public Awareness and Action Resulting From Sex Offender Community Notification Laws*, 19 *Crim. Just. Policy Rev.* 371, 372 (2009); Poco D. Kernsmith et al., *The Relationship Between Sex Offender Registry Utilization and Awareness*, 21 *Sex Abuse* 181, 182 (2009).

¹²¹ Sarah W. Craun, *Evaluating Awareness of Registered Sex Offenders in the Neighborhood*, 56 *Crime & Delinquency* 414, 429 (2010); Kelly M. Socia & Janet P. Stamatel, *Assumptions and Evidence Behind Sex Offender Laws: Registration, Community Notification, and Residence Restrictions*, 4 *Soc. Compass* 1, 9 (2010); Anderson & Sample, *supra* n. 120, at 382–86; Kernsmith et al., *supra* n. 120, at 186–87. This lack of awareness apparently persists despite the popularity of the Offender Locator iPhone application, which may only target a specific population of users. HEUSSNER ET AL., *supra* n. 51, at ¶ 6.

¹²² Craun, *supra* n. 121, at 428.

¹²³ Kernsmith et al., *supra* n. 120, at 189.

¹²⁴ *Id.*; but see Craun, *supra* n. 121, at 429 (finding that having children in the home was not a predictor of awareness of neighborhood sex offenders).

¹²⁵ Socia & Stamatel, *supra* n. 121, at 9, 13 (citing Lydia Saad, Gallup News Service, *Sex Offender Registries are Underutilized by the Public*, Gallup News Service, <http://www.gallup.com/poll/16705/sex-offender-registries-underutilized-public.aspx> (June 9, 2005) (accessed on Nov. 20, 2010)).

¹²⁶ Anderson & Sample, *supra* n. 120, at 386–87.

¹²⁷ Wayne A. Logan, *Liberty Interests in the Preventative State: Procedural Due Process and Sex Offender Community Notification Laws*, 89 *J. Crim. L. & Criminology* 1167, 1169 (1999) [hereinafter Logan, *Liberty Interests*]; Corey Rayburn Yung, *One of these Laws is Not Like the Others: Why the Federal Sex Offender Registration and Notification Act Raises New Constitutional Questions*, 46 *Harv. J. on Legis.* 369, 369 (2009) (available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1193871 (accessed Nov. 20, 2010)). To date, the Supreme Court has heard only two cases involving the constitutionality of sex offender registration laws. Yung, *supra* n. 127, at 373. In *Smith v. Doe*, 538 U.S. 84 (2003), the Court found that an Alaska statute requiring offenders

and unusual punishment, double jeopardy, and ex post facto arguments, reasoning that sex offender registry laws “do not impose ‘punishment’ for constitutional purposes.”¹²⁸ Courts “view sex offender registration requirements as civil non-punitive measures propelled by the state’s legitimate interest to protect the public from sexual predators.”¹²⁹ Courts have also rejected constitutional challenges to these laws that were based on equal protection, the right to unrestricted travel, the Fourth Amendment, and procedural due process.¹³⁰

All courts faced with Fourteenth Amendment Equal Protection Clause claims against offender registries have found that offenders are not a suspect class, and therefore courts need only use rational basis scrutiny in analyzing these laws.¹³¹ These equal protection issues include claims of overinclusiveness and underinclusiveness.¹³² Defendants claiming that offender registration laws are overinclusive complain that these laws include people who do not pose a risk to public safety.¹³³ On the other hand, defendants challenge laws as underinclusive for excluding nonsexual offenders.¹³⁴ Courts typically reject both arguments and defer to the legislature’s discretion in crafting the scope of offender registration laws.¹³⁵

Child abuse registries have also come under constitutional suspicion.¹³⁶ Unlike challenges to sex offender registries, constitutional challenges to child abuse registry laws have had “mixed success in the courts.”¹³⁷ Critics raise family privacy, liberty, procedural due process, substantive due process, and equal protection issues.¹³⁸ For example,

convicted before the state adopted its registry statute did not violate the Ex Post Facto Clause. *Id.* at 373–77. In *Connecticut Dep’t of Pub. Safety v. Doe*, 538 U.S. 1 (2003), the Court upheld a Connecticut sex offender registration law challenged on procedural due process grounds. *Id.* at 377; see also Charles L. Scott & Joan B. Gerbasi, *Sex Offender Registration and Community Notification Challenges: The Supreme Court Continues Its Trend*, 31 J. Am. Acad. Psych. & L. 494 (2003) (available at <http://www.jaapl.org/cgi/reprint/31/4/494.pdf> (accessed Nov. 20, 2010)) (discussing constitutional challenges to Alaska’s and Connecticut’s sex offender registry laws).

¹²⁸ Logan, *Liberty Interests*, *supra* n. 127, at 1170.

¹²⁹ Catherine L. Carpenter, *The Constitutionality of Strict Liability in Sex Offender Registration Laws*, 86 B.U. L. Rev. 295, 340 (2006).

¹³⁰ Logan, *Liberty Interests*, *supra* n. 127, at 1170.

¹³¹ Logan, *Knowledge as Power*, *supra* n. 32, at 173.

¹³² *Id.* at 173–75.

¹³³ *Id.* at 173.

¹³⁴ *Id.* at 174.

¹³⁵ *Id.* at 173, 175.

¹³⁶ Joni Jones, *Maintaining Unsubstantiated Records of “Suspected” Child Abuse: Much Ado About Nothing or a Violation of the Right to Privacy?*, 1995 Utah L. Rev. 887 (1995); Jill D. Moore, Student Author, *Charting a Course Between Scylla and Charybdis: Child Abuse Registries and Procedural Due Process*, 73 N.C. L. Rev. 2063 (1995); Michael R. Phillips, Note, *The Constitutionality of Employer-Accessible Child Abuse Registries: Due Process Implications of Governmental Occupational Blacklisting*, 92 Mich. L. Rev. 139 (1993); Hollenbeck, *supra* n. 56, at 1.

¹³⁷ Hollenbeck, *supra* n. 56, at 18.

¹³⁸ *Id.* at 19–42.

courts are split on whether listing parents on a state child abuse registry conflicts with a constitutionally protected interest in family privacy and autonomy, but most agree that inclusion in a child abuse registry threatens due process rights to employment and reputation.¹³⁹ Although registrants sometimes experience difficulties expunging their names from child abuse registries,¹⁴⁰ at least one court held that it was not unconstitutional to keep unsubstantiated reports in a child abuse registry.¹⁴¹

3. *Collateral Consequences*

Offender registries may also have significant implications for offenders. For example, sex offenders reintegrated into society may face residency restrictions and loss of employment.¹⁴² Offenders may also find it difficult to maintain marriages and romantic relationships.¹⁴³ Some offenders even become victims of vigilante attacks.¹⁴⁴ For instance, a New Hampshire man pled guilty to the attempted murder of sex offenders whose names and addresses he retrieved from the state sex offender registry.¹⁴⁵

Offender registration and notification also presents difficulties for the families and friends of the offender.¹⁴⁶ Some family members of sex offenders experience restrictions that are similar to the restrictions the offenders themselves face, and some have reported housing problems, harassment, physical assault, or property damage.¹⁴⁷ Offenders' children can face ridicule and the loss of friends.¹⁴⁸ In one study, most children of sex offenders reported being treated differently by adults and other children, and children of registered sex offenders often exhibited anger, depression, and anxiety.¹⁴⁹ Therefore, registration and public notification strain not only the life of the offender, but also the supportive personal relationships necessary for successful reintegration into society.¹⁵⁰

¹³⁹ *Id.* at 20–21, 23.

¹⁴⁰ Catherine Jun, Detroit News, *Child Abuse Registry Listing is Tough to Fight: Incidents, Even if Unfounded, Live on for Years in Registry*, <http://detnews.com/article/20090604/METRO/906040369/Child-abuse-registry-listing-is-tough-to-fight> (June 4, 2009) (accessed Nov. 20, 2010); Zavez, *supra* n. 53, at 420–24.

¹⁴¹ Zavez, *supra* n. 53, at 420 (citing *Ark. Dept. Human Servs. v. Heath*, 848 S.W.2d 927, 928 (Ark. 1993)).

¹⁴² Jill Levenson & Richard Tewksbury, *Collateral Damage: Family Members of Registered Sex Offenders*, 34 Am. J. Crim. Just. 54, 62 (2009); Richard G. Zevitz & Mary Ann Farkas, *Sex Offender Community Notification: Managing High Risk Criminals or Exacting Further Vengeance?*, 18 Behav. Sci. & L. 375, 381–82 (2000).

¹⁴³ Zevitz & Farkas, *supra* n. 142, at 383.

¹⁴⁴ *Id.*

¹⁴⁵ Brian MacQuarrie, *Man Defends Attacks on Sex Offenders: Crusader Gets Jail Term*, Boston Globe A1 (Dec. 5, 2004).

¹⁴⁶ Zevitz & Farkas, *supra* n. 142, at 383.

¹⁴⁷ Levenson & Tewksbury, *supra* n. 142, at 61–62.

¹⁴⁸ Zevitz & Farkas, *supra* n. 142, at 383.

¹⁴⁹ Levenson & Tewksbury, *supra* n. 142, at 63–64.

¹⁵⁰ Fry-Bowers, *supra* n. 117, at 915.

III. ANIMAL ABUSER REGISTRIES

Several states and one county have already proposed or passed legislation creating animal abuser registries for their jurisdictions. But, since there is currently no national animal abuser registry, Internet-based alternatives to a national database have appeared. This Part explores the justifications for creating animal abuser registries, analyzes state and county animal abuser registry legislation, and considers the strengths and weaknesses of independently created animal abuser databases on the Internet.

A. *Justifications for Creating a National Animal Abuser Registry*

Despite the difficulties with creating state and national criminal offender registries, there are still benefits to implementing a national animal abuser registry. For instance, there is a proven relationship between animal abuse and other forms of violence.¹⁵¹ A national animal abuser registry could prevent abuse against humans and animals and could help close loopholes that allow animal abusers to mistreat their victims. A registry could also provide a mechanism to collect research data and better inform law enforcement and animal welfare organizations about animal abuse. Finally, the value of animals to human life, through their utility or the human-animal bond, is reason enough to stop animal suffering through a national animal abuser registry.

1. *The Link between the Abuse of Animals and Violence towards Humans*

One of the reasons for creating an animal abuser registry at any governmental level is the relationship between animal abuse and other forms of violence.¹⁵² It is well established that animal abuse is related to antisocial behavior and crime.¹⁵³ In an oft-cited study, researchers at Northeastern University and the Massachusetts Society for Prevention of Cruelty to Animals examined animal cruelty cases prosecuted in Massachusetts between 1975 and 1996.¹⁵⁴ The study concluded

¹⁵¹ See Colo. Sen. 02-048, 63d Gen. Assembly, 2d Reg. Sess. § 18-9-201.8(b) (Jan. 9, 2002) (declaring that “research shows consistent patterns of animal cruelty among perpetrators of more common forms of violence, including child abuse, spousal abuse, and elder abuse”); Tenn. Sen. 2676, 105th Gen. Assembly § 40-39-402 (Jan. 14, 2008) (declaring that “studies in psychology, sociology, and criminology have demonstrated that violent offenders frequently have childhood and adolescent histories of serious and repeated animal cruelty”).

¹⁵² See *id.*

¹⁵³ Bill C. Henry, *The Relationship Between Animal Cruelty, Delinquency, and Attitudes Toward the Treatment of Animals*, 12 Socy. & Animals 185, 186 (2004) (available at http://www.animalsandsociety.org/assets/library/537_s1231.pdf (accessed Nov. 20, 2010)).

¹⁵⁴ Carter Luke et al., *Cruelty to Animals and Other Crimes: A Study by the MSPCA and Northeastern University* (Mass. Socy. for the Prevention of Cruelty to Animals, 1997); see also Arnold Arluke et al., *The Relationship of Animal Abuse to Violence and*

that, compared to individuals who had not been convicted of animal abuse, those who had been found guilty of animal abuse were five times more likely to be arrested for violent crimes, four times more likely to be arrested for property crimes, and three times more likely to be arrested for drug offenses or disorderly behavior.¹⁵⁵

Animal abuse can be an indicator of crime that occurs concurrently with other abuse.¹⁵⁶ For instance, research confirms connections between animal abuse and domestic violence.¹⁵⁷ Domestic abusers often use animals to hurt their victims either physically or psychologically.¹⁵⁸ For example, a batterer may threaten to hurt a pet or may torture or kill a victim's pet in front of her.¹⁵⁹ Many abused women are reluctant to leave an abusive relationship if they cannot take their pets with them.¹⁶⁰ While research has not revealed a causal connection between animal abuse and domestic violence, it is clear that animal abuse is more likely to exist in a domestic violence situation.¹⁶¹

Animals play a role in elder abuse much like the one they play in domestic abuse.¹⁶² Pets are valuable companions for elderly people living alone, and they are sometimes an elderly person's only way of getting attention and affection.¹⁶³ A child or beneficiary may mistreat an elderly person's pet, give the pet away, or evict the pet from the house

Other Forms of Antisocial Behavior, 14 *J. Interpersonal Violence* 963 (1999) [hereinafter Arluke et al., *Relationship of Animal Abuse*].

¹⁵⁵ Luke et al., *supra* n. 154, at 8.

¹⁵⁶ Randall Lockwood, *Counting Cruelty: Challenges and Opportunities in Assessing Animal Abuse and Neglect in America* in *The International Handbook of Animal Abuse and Cruelty: Theory, Research, and Application* 87, 88 (Frank R. Ascione ed., Purdue U. Press 2008).

¹⁵⁷ Frank R. Ascione, *Battered Women's Reports of Their Partners' and Their Children's Cruelty to Animals*, 1 *J. Emotional Abuse* 1, 19 (1998); Frank R. Ascione et al., *The Abuse of Animals and Domestic Violence: A National Survey of Shelters for Women Who are Battered*, 5 *Soc'y. & Animals* 205 (1997); Catherine A. Faver & Elizabeth B. Strand, *To Leave or to Stay? Battered Women's Concern for Vulnerable Pets*, 18 *J. Interpersonal Violence* 1367 (2003); Allie Phillips, *The Few and the Proud: Prosecutors Who Vigorously Pursue Animal Cruelty Cases*, 42 *Prosecutor* 20, 21–22 (2008); Jennifer Robbins, *Recognizing the Relationship Between Domestic Violence and Animal Abuse: Recommendations for Change to the Texas Legislature*, 16 *Tex. J. Women & L.* 129, 133–35 (2006).

¹⁵⁸ Joseph G. Sauder, *Enacting and Enforcing Felony Animal Cruelty Laws to Prevent Violence Against Humans*, 6 *Animal L.* 1, 11–12 (2000); Robbins, *supra* n. 157, at 134.

¹⁵⁹ Robbins, *supra* n. 157, at 134.

¹⁶⁰ *Id.* at 136.

¹⁶¹ Frank R. Ascione, *The Abuse of Animals and Human Interpersonal Violence: Making the Connection*, in *Child Abuse, Domestic Violence, and Animal Abuse: Linking the Circles of Compassion for Prevention and Intervention* 50, 51 (Frank R. Ascione & Phil Arkow eds., Purdue U. Press 1999); Piers Beirne, *From Animal Abuse to Interhuman Violence? A Critical Review of the Progression Thesis*, 12 *Soc'y. & Animals* 39, 41–42 (2004) (available at http://www.animalsandsociety.org/assets/library/527_s1213.pdf (accessed Nov. 20, 2010)) [hereinafter Beirne, *From Animal Abuse*].

¹⁶² Loar, *supra* n. 73, at 128.

¹⁶³ *Id.*

in order to coerce the elderly person into giving away money or material things.¹⁶⁴

Animal abuse can also be a predictor of crime.¹⁶⁵ Many inmates have a history of animal abuse, and it is a potential warning sign of later violent behavior.¹⁶⁶ Studies also show an association between the abuse of animals during childhood and violence against people when the child becomes an adult.¹⁶⁷ Children exposed to domestic violence are more likely to abuse animals.¹⁶⁸ Furthermore, a recent study shows that animal abuse is significantly associated with psychiatric disorders such as lifetime alcohol use disorders, antisocial personality disorder, obsessive-compulsive personality disorder, and pathological gambling.¹⁶⁹

Though there is clearly a link between animal abuse and violence against humans, the direct correlation between animal abuse and other violent activity is more complex than many animal advocates contend.¹⁷⁰ The notion that animal abusers begin with abusing animals and eventually move to abusing humans, often called the “graduation hypothesis”¹⁷¹ or “progression thesis,”¹⁷² is a popular but unproven theory. Although animal abuse and violence towards humans are clearly related, animal abuse is not among the most influential factors for predicting violent behavior.¹⁷³ The nature of violence in our society is more complex than many studies linking animal abuse and violence against humans represent.¹⁷⁴ However, although animal cruelty may not cause other violent behavior, animal abuse “often reveals insightful analogies with violence against humans by humans.”¹⁷⁵

Several states have recognized the link between animal abuse and violence against humans by mandating cross-reporting.¹⁷⁶ Cross-reporting authorizes animal control officers, child abuse investigators,

¹⁶⁴ *Id.*

¹⁶⁵ Lockwood, *supra* n. 156, at 88.

¹⁶⁶ Christopher Hensley et al., *Recurrent Childhood Animal Cruelty: Is There a Relationship to Adult Recurrent Interpersonal Violence?*, 34 *Crim. Just. Rev.* 248, 254 (2009).

¹⁶⁷ *Id.*

¹⁶⁸ Cheryl L. Currie, *Animal Cruelty by Children Exposed to Domestic Violence*, 30 *Child Abuse & Neglect* 425 (2006).

¹⁶⁹ Michael G. Vaughn et al., *Correlates of Cruelty to Animals in the United States: Results from the National Epidemiologic Survey on Alcohol and Related Conditions*, 43 *J. Psych. Research* 1213, 1216 (2009).

¹⁷⁰ Emily G. Patterson-Kane & Heather Piper, *Animal Abuse as a Sentinel for Human Violence: A Critique*, 65 *J. Soc. Issues* 589, 592 (2009).

¹⁷¹ Arluke et al., *Relationship of Animal Abuse*, *supra* n. 154, at 973.

¹⁷² Beirne, *From Animal Abuse*, *supra* n. 161, at 52.

¹⁷³ Patterson-Kane & Piper, *supra* n. 170, at 607.

¹⁷⁴ *Id.* This conclusion casts doubt upon the reasoning behind Judge Sindt’s order that Jeffrey Scott Haynes register as a sex offender since the basis of the order was to minimize Haynes’s risk to humans. Schaefer, *supra* n. 6, at B1.

¹⁷⁵ Linda Merz-Perez & Kathleen M. Heide, *Animal Cruelty: Pathway to Violence Against People* 153 (AltaMira Press 2004).

¹⁷⁶ Lacroix, *supra* n. 26, at 21.

and domestic violence investigators to inform each other when they suspect abuse in a home.¹⁷⁷ Cross-reporting expands the pool of professionals likely to encounter abuse, resulting in earlier detection of abusive situations.¹⁷⁸ Since 2007, eight states have enacted laws mandating cross-reporting.¹⁷⁹ These laws indicate that states are beginning to acknowledge animal abuse as an indicator of violence against humans.

Ultimately, the exact correlation between animal abuse and human violence remains unclear.¹⁸⁰ But it is evident that animal abuse occurs disproportionately with other kinds of family violence,¹⁸¹ and that animal abuse can be a sentinel for other antisocial behaviors.¹⁸² A national animal abuser registry would help researchers collect data in order to better understand the relationship between animal abuse and violence against humans. It would also signal animal control officers, child abuse investigators, and domestic violence investigators to take a closer look at abusive situations and potentially prevent further violence.

2. Closing Information Loopholes

A national animal abuser registry would close two information loopholes that allow animal abusers to continue their cruel behavior. First, a national registry would alleviate the information deficit for individuals and organizations attempting to track animal abusers across states. Second, a national registry would help discourage animal abusers from selling animals over the Internet, a currently unregulated activity.

Currently there is no uniform tracking system for animal abusers.¹⁸³ A national animal abuse registry would help track animal abusers across the United States. Animal abusers often move to another

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*; Robbins, *supra* n. 157, at 145.

¹⁷⁹ Ian Urbina, *Animal Abuse as Clue to Additional Cruelties*, N.Y. Times A16 (Mar. 17, 2010) (available at <http://www.nytimes.com/2010/03/18/us/18animal.html> (accessed Nov. 20, 2010)).

¹⁸⁰ Hensley et al., *supra* n. 166, at 254.

¹⁸¹ Piers Beirne, *Criminology and Animal Studies: A Sociological View*, 10 *Soc'y. & Animals* 381, 382 (2002) (available at http://www.animalsandsociety.org/assets/library/476_s1048.pdf (accessed Nov. 20, 2010)) [hereinafter Beirne, *Criminology*].

¹⁸² Arluke et al., *Relationship of Animal Abuse*, *supra* n. 154, at 973; Frank R. Ascione et al., *Cruelty to Animals in Normative, Sexually Abused, and Outpatient Psychiatric Samples of 6- to 12-Year-Old Children: Relations to Maltreatment and Exposure to Domestic Violence*, 16 *Anthrozoös* 194 (2003); Gary Duffield et al., *Zoophilia in Young Sexual Abusers*, 9 *J. Forensic Psych.* 294, 295 (1998); William M. Fleming et al., *Characteristics of Juvenile Offenders Admitting to Sexual Activity with Nonhuman Animals*, 10 *Soc'y. & Animals* 31 (2002); Vaughn et al., *supra* n. 169, at 1216.

¹⁸³ Dana M. Campbell, *A Call to Action: Concrete Proposals for Reducing Widespread Animal Suffering in the United States*, 15 *Animal L.* 141, 146 (2009) (recommending a national animal abuse tracking system); Jennifer H. Rackstraw, *Reaching for Justice: An Analysis of Self-Help Prosecution for Animal Crimes*, 9 *Animal L.* 243, 246 (2003).

state or jurisdiction after being caught.¹⁸⁴ Humane organizations, animal control departments, and district attorneys' offices track local animal abuse cases and prosecution with different systems.¹⁸⁵ Some agencies have no animal cruelty recording systems at all.¹⁸⁶ Like unqualified nurse aides that are not well tracked from state to state,¹⁸⁷ animal abusers can slip through the cracks of the criminal justice system; information on puppy mills, animal fighting rings, hoarders, and other purported abusers is not easily available to law enforcement.¹⁸⁸ If law enforcement could track animal abusers nationally, prosecutors could consider an animal abuser's prior animal abuse offenses in other states when recommending a criminal sentence.¹⁸⁹

Tracking animal abuser data has other benefits. Researchers could use data on animal abusers and their crimes to better understand the relationship between animal cruelty and other forms of anti-social behavior.¹⁹⁰ Understanding this relationship could ultimately prevent later crimes and other social problems.¹⁹¹ Animal abuser data would also help law enforcement officers identify and respond to problem areas in their jurisdictions.¹⁹² Demographic data would prove instrumental in helping law enforcement groups focus the programs and services they use to respond to animal abuse.¹⁹³ A tracking system would also help animal shelters and rescues identify those convicted of animal abuse so that they may choose not to place animals with potential abusers.¹⁹⁴ Finally, solid data about animal abuse makes animal cruelty offenses more difficult to minimize or ignore.¹⁹⁵

A related legal problem involves the ability of animal abusers to sell animals over the Internet without regulation. For example, Kathy Bauck, a Minnesota breeder, was convicted of animal abuse and torture in March 2009.¹⁹⁶ Bauck was one of the nation's largest animal

¹⁸⁴ Jesse McKinley, *Lawmakers Consider an Animal Abuse Registry*, N.Y. Times A10 (Feb. 22, 2010) (available at <http://www.nytimes.com/2010/02/22/us/22abuse.html> (accessed Nov. 20, 2010)).

¹⁸⁵ Rackstraw, *supra* n. 183, at 246.

¹⁸⁶ *Id.*

¹⁸⁷ *Nurse Aide Registries*, *supra* n. 77, at 16.

¹⁸⁸ Campbell, *supra* n. 183, at 146; *see also* Robyn F. Katz, *Detailed Discussion of Commercial Breeders and Puppy Mills*, <http://www.animallaw.info/articles/dduscommercialbreeders.htm> (updated 2008) (accessed Nov. 20, 2010) (discussing the ability of hoarders and illegal breeders to move among states without facing prosecution because of inconsistent state animal cruelty laws).

¹⁸⁹ Campbell, *supra* n. 183, at 146.

¹⁹⁰ Lockwood, *supra* n. 156, at 88.

¹⁹¹ *Id.*

¹⁹² Campbell, *supra* n. 183, at 146.

¹⁹³ Lockwood, *supra* n. 156, at 89.

¹⁹⁴ Campbell, *supra* n. 183, at 146.

¹⁹⁵ *Id.*

¹⁹⁶ ALDF, *Puppy Mill Operator Kathy Bauck Sentenced on Latest Animal Abuse Conviction*, <http://www.aldf.org/article.php?id=876> (updated Jan. 13, 2010) (accessed Nov. 20, 2010); WCTV 5, The Boston Channel, *USDA Shuts Down Puppy Mill*, <http://www.thebostonchannel.com/news/22205030/detail.html> (Jan. 11, 2010) (accessed Nov.

brokers, shipping hundreds of sick animals across the United States.¹⁹⁷ Because of her conviction, the United States Department of Agriculture (USDA) revoked Bauck's license to sell dogs for two years.¹⁹⁸ However, Bauck has been allowed to keep her animals because they are her personal property.¹⁹⁹ Under the Animal Welfare Act (AWA), anyone who sells domestic pets directly to the public is exempt from regulation, regardless of how many animals they sell.²⁰⁰ Furthermore, Bauck can continue to sell animals over the Internet because the USDA does not regulate Internet sales of domestic animals.²⁰¹

Legislators introduced two bills that would help reduce this problem, but neither became law. The Pet Animal Welfare Statute (PAWS) amends the AWA to require the USDA to license anyone selling more than twenty-five dogs or cats, or more than six litters, annually to the public or wholesale.²⁰² Similarly, the Puppy Uniform Protection and Safety Act of 2008 (PUPS), called "Baby's Bill," in honor of a three-legged puppy mill survivor, amends the AWA by mandating regulation of breeders who sell animals directly to the public.²⁰³ PUPS applies to breeders who raise more than fifty animals in a year.²⁰⁴ Although these bills work towards eliminating unregulated Internet pet sales, they only apply to large-scale breeding operations.

20, 2010); WCCO, *I-TEAM: Inside a Minnesota Puppy Mill*, <http://wcco.com/iteam/i.team.puppy.2.872927.html> (Nov. 24, 2008) (site no longer available) (on file with *Animal Law*). Bauck's acts of animal cruelty included dipping dogs in insecticide that is fatal if swallowed and neglecting animals with gaping wounds. *Id.*

¹⁹⁷ WCTV 5, *supra* n. 196.

¹⁹⁸ *Id.*

¹⁹⁹ *Id.*

²⁰⁰ USDA, Animal & Plant Health Inspection Serv., *Licensing and Registration under the Animal Welfare Act: Guidelines for Dealers, Exhibitors, Transporters, and Researchers* 4 (2005), http://www.aphis.usda.gov/animal_welfare/downloads/aw/awlicreg.pdf (accessed Nov. 20, 2010).

²⁰¹ WCTV 5, *supra* n. 196.

²⁰² Sen. 1139, 109th Cong. (May 26, 2005) (amendment to 7 U.S.C. § 2132) (available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_bills&docid=fs1139is.txt.pdf (accessed Nov. 20, 2010)); 151 Cong. Rec. S9148 (Jul. 27, 2005) (statement of Sen. Santorum) (available at http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?dbname=2005_record&page=S9148&position=all (accessed Nov. 20, 2010)); Bill Thoebold, USA Today, *Bill Aims to Regulate Online Pet Sales*, http://www.usatoday.com/news/nation/2005-12-04-online-pet-sales_x.htm. (Dec. 4, 2005) (accessed Nov. 20, 2010).

²⁰³ Sen. S3519, 110th Cong. (Sept. 18, 2008) (amendment to 7 U.S.C. § 2132) (available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=fs3519is.txt.pdf (accessed Nov. 20, 2010)); Meghan V. Malloy, Kennebec Journal, *Problem Breeders a Moving Target*, <http://www.kjonline.com/archive/problem-breeders-a-moving-target.html> (Dec. 29, 2008) (accessed Nov. 20, 2010); Am. Socy. for the Prevention of Cruelty to Animals, *Laws that Protect Dogs in Puppy Mills*, <http://www.aspc.org/fight-animal-cruelty/puppy-mills/laws-that-protect-dogs.html> (2010) (accessed Nov. 20, 2010).

²⁰⁴ Greg Cima, American Veterinary Medical Association, *Federal Law Could Increase Scrutiny at Dog Breeding Facilities*, <http://www.avma.org/onlnews/javma/nov08/081115b.asp> (Nov. 15, 2008) (accessed Sept. 22, 2010).

A national animal abuser registry could help close this loophole. A registry would alert pet purchasers and adoption groups that a breeder or potential adopter has a history of animal abuse. Some studies suggest that, despite their availability to the public, most people do not take advantage of identification registries.²⁰⁵ However, many animal adoption and welfare organizations make conscious efforts to perform background checks.²⁰⁶ These organizations would benefit from an accessible, centralized location to quickly check potential adopters or purchasers for incidents of animal abuse.²⁰⁷

3. *The Value of Animals to Humans*

A national animal abuser registry is also important because it would help law enforcement track and prevent animal suffering. Animals offer humans more than mere utility. Since humans value animals beyond their mere legal status as property, we must work diligently to prevent animal suffering.²⁰⁸

Courts in the United States have long recognized animals only as personal property.²⁰⁹ For example, it is well established that courts

²⁰⁵ Anderson & Sample, *supra* n. 120; Kernsmith et al., *supra* n. 120.

²⁰⁶ Patricia Leeds, *Adoption of Pets Isn't Easy, but It's Worth the Trouble*, Chi. Sun Times N3 (Apr. 20, 1978); Pet Adoption, *Behind the Scenes: What Is Pet Adoption?*, <http://www.petadoptiontips.info/> (accessed Nov. 20, 2010); Jo Hawkins, News-Gazette, *Beuchat Addresses Pet Homelessness with Indiana Collie Rescue*, <http://www.winchesternewsgazette.com/articles/2010/02/12/news/doc4b74139b88df8242402548.txt> (Feb. 12, 2010) (accessed Nov. 20, 2010).

²⁰⁷ Campbell, *supra* n. 183, at 146.

²⁰⁸ A quote famously misattributed to Gandhi states that “[t]he greatness of a nation and its moral progress can be judged by the way its animals are treated.” See People for the Ethical Treatment of Animals, <http://www.peta.org/feat/gandhi/index.html> (accessed Nov. 20, 2010) (attributing the quote to Gandhi). That quote is more likely taken from theologist David Strauss, who wrote that “[t]he manner in which a nation in the aggregate treats animals, is one chief measure of its real civilization.” David Friedrich Strauss, *The Old Faith and the New: A Confession* ch. 2, 59 (Mathilde Blind, trans., 3d English ed., Asher & Co. 1874); see also Temple Grandin & Catherine Johnson, *Animals in Translation: Using the Mysteries of Autism to Decode Animal Behavior* 306 (Scribner 2005); Merz-Perez & Heide, *supra* n. 175, at 15 (discussing Margaret Mead’s assertion that animal cruelty betrays what makes us human). Andrew Linzey argues that animal suffering is morally relevant to human beings because animals, like infants, cannot give or withhold their consent, cannot represent their own interests, are morally innocent, and are vulnerable and defenseless. Andrew Linzey, *Why Animal Suffering Matters: Philosophy, Theology, and Practical Ethics* 34–36 (Oxford U. Press 2009).

²⁰⁹ Gary L. Francione, *Animals, Property, and the Law* 33–49 (Temple U. Press 2005); Susan J. Hankin, *Not a Living Room Sofa: Changing the Legal Status of Companion Animals*, 4 Rutgers J. L. & Pub. Policy 314, 321–25 (2007); Margit Livingston, *The Calculus of Animal Valuation: Crafting a Viable Remedy*, 82 Neb. L. Rev. 783, 787 (2003). The intrinsic value of animals—the value of animals in their own right—is beyond the scope of this Comment. For a discussion of the intrinsic value of animals, see Bart Rutgers & Robert Heeger, *Inherent Worth and Respect for Animal Integrity*, in *Recognizing the Intrinsic Value of Animals: Beyond Animal Welfare* 41, 42 (Marcel Dol et al. eds., Van Gorcum & Co. 1999).

view an animal's replacement value as its fair market value.²¹⁰ However, although the law views animals as personal property, animals have further value to humans by way of the psychological, social, and medical benefits companion animals give their owners.²¹¹ For example, dogs can provide motivation and support for obese people on a weight loss program.²¹² In addition, animals help humans cope with chronic conditions such as heart disease, dementia, cancer, and a host of psychological disabilities.²¹³ Pets also offer security, affection, and comfort.²¹⁴ Therapists use pets in therapy sessions or as a calming influence in crisis management, and pets have offered emotional support to children who testify in court.²¹⁵ Pets even have a positive effect on an entire neighborhood's sense of community and well-being.²¹⁶ Even if courts value animals only by their replacement cost, animals' emotional, social, and psychological benefits to humans are reasons enough to prevent animal suffering.

Animals' usefulness to humans goes beyond their status as property. A national animal abuser registry would provide valuable tools to help ensure animals' safety. This is an important goal in light of their value to society.

B. Proposed State and County Animal Abuser Registry Legislation

The relationship of animal abuse to other crimes, legislative loopholes, and the value of animals to humans have led lawmakers to propose state legislation for animal abuser registries. At least seven states, including Alaska, Colorado, Rhode Island, Tennessee, and California, have proposed legislation requiring convicted animal abusers to register with state agencies.²¹⁷ Further, at least one county, Suffolk

²¹⁰ Marcella S. Roukas, *Determining the Value of Companion Animals in Wrongful Harm or Death Claims: A Survey of U.S. Decisions and Legislative Proposal in Florida to Authorize Recovery for Loss of Companionship*, 3 J. Animal L. 45, 49–51 (2007).

²¹¹ See Livingston, *supra* n. 209, at 806.

²¹² Robert F. Kushner, *Companion Dogs as Weight Loss Partners*, 4 Obesity Mgmt. 232, 233 (Oct. 2008).

²¹³ Froma Walsh, *Human Animal Bonds I: The Relational Significance of Companion Animals*, 48 Fam. Process 462, 466 (2009).

²¹⁴ Froma Walsh, *Human Animal Bonds II: The Role of Pets in Family Systems and Family Therapy*, 48 Fam. Process 481, 482 (2009).

²¹⁵ *Id.* at 494; Marianne Dellinger, *Using Dogs for Emotional Support of Testifying Victims of Crime*, 15 Animal L. 171, 172–73 (2008); Juan Carlos Rodriguez, *Warm Comfort: Courthouse Dogs Can be a Child's Best Friend During Interviews*, Albuquerque J., B1 (Dec. 9, 2009); Courthouse Dogs LLC, *Courthouse Dogs, Home*, <http://www.courthousedogs.com/> (accessed Nov. 20, 2010).

²¹⁶ Lisa J. Wood et al., *More than a Furry Companion: The Ripple Effect of Companion Animals on Neighborhood Interactions and Sense of Community*, 15 Socy. & Animals 43 (2007).

²¹⁷ Alaska Sen. 238, 19th Leg., 2d Sess. (Jan. 24, 1996); Colo. Sen. 02-48, 63d Gen. Assem., 2d Reg. Sess. (Mar. 18, 2002) (available at http://www.leg.state.co.us/2002a/in-etcbill.nsf/fsbillcont/C680993C29DD0AF487256AB0004D3161?Open&file=048_ren.pdf (accessed Nov. 20, 2010)); R.I. H. 5817, 2003–2004 Leg. Sess. (Feb. 11, 2003) (available at <http://www.rilin.state.ri.us/BillText03/HouseText03/H5817.pdf> (accessed Nov. 20,

County in New York, has introduced and passed animal abuser registry legislation.²¹⁸

1. *Alaska*

In 1996, Alaska became the first state to introduce a bill proposing a state animal abuser registry.²¹⁹ This bill would have revised section 03.53 of the Alaska Statutes and required an animal abuser to register with Alaska's Department of Environmental Conservation.²²⁰ The bill would have made it mandatory for animal abusers to provide, at a minimum, their name and aliases, address, place of employment, date of birth, animal abuse convictions, dates and places of animal abuse convictions, and driver's license number.²²¹ The Alaska bill contained no provision for making the animal abuser registry publicly available.²²² The Alaska legislature referred the bill to the Judiciary Committee, where it died.²²³

2. *Colorado*

In 2002, Colorado Senator Hanna introduced Colorado Senate Bill 02-048, a bill that created the "State Registry of Animal Cruelty Offenders."²²⁴ The bill would have revised section 18-9-202 of the Colorado Revised Statutes to require anyone committing cruelty to animals

2010)); Tenn. Sen. 2676, 105th Gen. Assem. (2008) (available at <http://www.capitol.tn.gov/Bills/105/Bill/SB2676.pdf> (accessed Nov. 20, 2010)); Cal. Sen. 1277, 2009–2010 Leg. Sess. (Feb. 19, 2010) (available at http://info.sen.ca.gov/pub/0910/bill/sen/sb_12511300/sb_1277_bill_20100219_introduced.pdf (accessed Nov. 20, 2010)). Since ALDF began its "Expose Animal Abusers" campaign in February 2010, New York and Louisiana have also introduced legislation that would create statewide animal abuser registries. ALDF, *supra* n. 27. A New York bill that was introduced in March 2010 proposes county registries and a central registry and the requirement that an animal abuser convicted in New York must register with the sheriff in his or her county of residence. N.Y. Assembly 10387, 2010 Leg. Sess. § 380 (1)(A)–(B) (Mar. 23, 2010) (available at http://assembly.state.ny.us/leg/?default_fld=&bn=A10387&Text=Y (accessed Nov. 20, 2010)). A second New York bill that was introduced in May 2010 proposes the requirement that persons convicted of animal cruelty or animal fighting must register with the New York Department of Agriculture and Markets. N.Y. Assembly 10998, 2010 Leg. Sess. § 352 (May 6, 2010) (available at http://assembly.state.ny.us/leg/?default_fld=&bn=A10998%09%09&Summary=&Text=Y (accessed Nov. 20, 2010)). The bill introduced in Louisiana proposes the creation of parish registries and a statewide registry and the requirement that an adult convicted of a violent crime against an animal must register with the sheriff of his or her resident parish and with his or her municipality if the parish has over 450,000 residents. La. H. 201, 2010 Reg. Sess. §§ 676 (A), 676(C) (2010) (available at <http://www.legis.state.la.us/billdata/streamdocument.asp?did=680394> (accessed Nov. 20, 2010)).

²¹⁸ *Intro. Res. No. 1879-2010, supra* n. 30.

²¹⁹ *See* Alaska S. 238, 19th Leg., 2d Sess. (Jan. 24, 1996) (providing the text of the proposed bill).

²²⁰ *Id.* at § 03.53150(b).

²²¹ *Id.*

²²² Alaska Sen. 238, 19th Leg., 2d Sess. (Jan. 24, 1996).

²²³ Senate Journal 2213 (Alaska State Legislature 1996).

²²⁴ Colo. Sen. 02-48, 63d Gen. Assem., 2d Reg. Sess. (Jan. 9, 2002) (as introduced).

or aggravated cruelty to animals in Colorado to register with the Colorado Bureau of Investigation (CBI).²²⁵ Discussion around the Colorado bill focused on children who engage in animal cruelty, noting that “[s]tudies show that animal cruelty is often associated with children who perform poorly in school and have low self-esteem It is important to stop animal abusers when they are young. Early intervention is more likely to reduce adult crime than criminal sanctions applied later in life.”²²⁶

Under this bill, the CBI would have maintained the registry and mailed a current copy of the registry to each sheriff in the state every three months.²²⁷ The bill would also have required the CBI to keep a link to the registry on the State of Colorado website and make the registry open for public inspection.²²⁸

The Colorado bill enumerated the information about the abuser that would have been included in the registry.²²⁹ The proposed Colorado registry would have contained and made public the name of the offender, the “specific animal cruelty offense for which the offender was convicted, the date of conviction, and the court in which the conviction was entered.”²³⁰

The bill passed the Colorado Senate and moved on to the House.²³¹ Unfortunately, the version of the bill passed by the Colorado Senate did not include the section requiring registration.²³² The Colorado House referred the bill to its Committee on State, Veterans, and Military Affairs, which postponed it indefinitely.²³³

3. Rhode Island

In 2003, Rhode Island Representative Lewiss introduced Rhode Island House Bill 5817, a bill that included an animal abuser registration and community notification provision.²³⁴ The Rhode Island bill would have made local law enforcement agencies responsible for offender registration and keeping abusers’ information current in the registry for fifteen years.²³⁵ Under this bill, the Rhode Island Attorney General’s office would have been responsible for the central registry.²³⁶ Much like the Alaska and Colorado bills, the Rhode Island bill would have required an animal abuser to register with his or her name

²²⁵ *Id.*

²²⁶ *Id.* at § 18-9-201.8(c)–(d). The Colorado bill also included a provision for the animal abuser to attend a mandatory treatment program. § 18-9-202(2)(a.5)(II).

²²⁷ Colo. Sen. 02-48, 63d Gen. Assem., 2d Reg. Sess. (Jan. 9, 2002) (as introduced).

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ *Id.*

²³¹ Colo. Sen. 02-48, 63d Gen. Assem., 2d Reg. Sess. (2002) (bill summary).

²³² Colo. Sen. 02-48, 63d Gen. Assem., 2d Reg. Sess. (Mar. 18, 2002) (engrossed version).

²³³ Colo. Sen. 02-48, 63d Gen. Assem., 2d Reg. Sess. (2002) (bill summary).

²³⁴ R.I. H. 5817, 2003–2004 Leg. Sess. (Feb. 11, 2003).

²³⁵ *Id.* at § 4-23-23(d)(6).

²³⁶ *Id.* at § 4-23-23(d)(9).

and aliases, date of birth, Social Security number, address, place of employment, date and place of animal abuse offense, a photograph, fingerprints, and any tattoos or scars.²³⁷ The bill would have required the information in the central registry, with the exception of Social Security number, to be available to the public through Internet access, telephone access, written request, and in-person access.²³⁸

The Rhode Island bill would also have mandated that law enforcement agencies contact residences, schools, and animal shelters within a half-mile of the animal abuser's residence and provide them with the offender's registration information.²³⁹ This bill did not pass, and Rhode Island legislators introduced bills with nearly identical language again in 2004, 2005, and 2007.²⁴⁰ The 2005 Rhode Island bill met with opposition from some veterinarians and the American Veterinary Medical Association (AVMA).²⁴¹ Though the AVMA felt the core of the bill was sound, the group objected to the bill's sweeping scope, such as provisions for punitive damages for the loss of a pet and a broad definition of "animal."²⁴²

4. Tennessee

Tennessee legislators also introduced an animal abuser registry bill, the Tennessee Animal Abuser Registration, Tracking, and Verification Act of 2008.²⁴³ This bill would have required any person convicted of aggravated cruelty to animals, felony animal fighting, or bestiality under Tennessee law to register with the Tennessee Bureau of Investigation (TBI).²⁴⁴ The bill would have required the TBI to

²³⁷ *Id.* at § 4-23-23(d)(4).

²³⁸ *Id.* at § 4-23-23(d)(9).

²³⁹ R.I. H. 5817, 2003 Leg., Jan. Sess. § 4-23-23(d)(8)(ii) (Feb. 11, 2003).

²⁴⁰ R.I. Sen. 2591, 2004 Leg., Jan. Sess. § 4-1-46(d)(8)(ii) (Feb. 11, 2004); R.I. H. 5433, 2005 Leg., Jan. Sess. § 4-1-46(d)(8)(ii) (Feb. 9, 2005); R.I. Sen. 0524, 2007 Leg., Jan. Sess. § 4-1-46(d)(8)(ii) (Feb. 15, 2007).

²⁴¹ *Rhode Island Veterinary Leaders Attempt to Quash Cruelty Bill*, 36 DVM 5, 8 (May 2005).

²⁴² *Id.* The 2004 Rhode Island bill was referred to the Senate Committee on Constitutional and Gaming Issues. State of Rhode Island General Assembly, *2004 Bill Status-Senate Bills 2301-2600* 73, <http://www.rilin.state.ri.us/Billstatus04/2301.PDF> (2004) (accessed Nov. 20, 2010). The Committee recommended the bill be held for further study, but it never came out of committee. *Id.* Similarly, the 2007 Rhode Island bill was referred to the Senate Committee on Constitutional and Regulatory issues and "held for further study" without resurfacing. State of Rhode Island General Assembly, *2007 Bill Status-Senate Bills 300-599* 51, <http://www.rilin.state.ri.us/Billstatus07/S300-599.PDF> (2007) (accessed Nov. 20, 2010).

²⁴³ Tenn. Sen. 2676, 105th Gen. Assembly, (Jan. 1, 2008); see generally Robin Wallace, *Tennessee Senate Passes Historic Animal Abuse Registry Bill*, <http://www.zootoo.com/petnews/tennsenatepasseshistoricanimal-443> (Feb. 26, 2008) (accessed Sept. 22, 2010). Legislators reintroduced the bill in 2009. Tenn. Sen. 0182, 106th Gen. Assembly (Feb. 2, 2009).

²⁴⁴ Tenn. Sen. 2676, 105th Gen. Assembly at §§ 40-39-403(3), 40-39-404(a)(1).

gather more information than the Colorado bill but did not make all information public.²⁴⁵

The Tennessee bill focused on public safety and, in particular, protecting people and animals from harm.²⁴⁶ The bill specifically addressed the need to balance an animal abuser's due process rights against the interest of public security and stated that public access to information about convicted animal abusers was a compelling and necessary interest.²⁴⁷ Further, the drafters of the bill asserted that the public's interest in safety reduced an abuser's expectation of privacy, and that releasing information about animal abusers would further two governmental interests: "protecting vulnerable populations from potential harm" and "public scrutiny of the criminal and mental health systems that deal with these abusers."²⁴⁸ Like the Colorado bill, the proposed Tennessee legislation cited animal cruelty as an indicator of other forms of violence, including language that linked animal abuse to child abuse, spousal abuse, and elder abuse.²⁴⁹

The Tennessee bill would have required an animal abuser to list more information than any other proposed legislation has suggested: an animal abuser's complete name and aliases, date and place of birth, Social Security number, numbers of any state or federal identification, animal abuse convictions, name of employer and length of employment, residence and mailing addresses, vehicle identification numbers and license plate numbers, description and identifying numbers of any boat used by the abuser, name and address of higher education institution if the abuser is a student, race, gender, name and address of closest living relative, whether any minors reside with the abuser, and other tracking information such as a photograph and fingerprints.²⁵⁰ Like the Colorado bill, the Tennessee bill called for some of the animal abuser's information to be publicly available on the state's website.²⁵¹

The Tennessee Animal Abuser Registration, Tracking, and Verification Act received support from the Humane Society of the United

²⁴⁵ *Id.* at §§ 40-39-404, 40-39-407. Public information would include the abuser's name and address, date of birth, convicted animal abuse offenses, race and gender, date of last verification, photograph, numbers of state or federal identification, parole or probation officer, and higher education institution the abuser may be attending. *Id.* The reintroduced version in 2009 changed the information gathered and only required "the person's name, date of birth, residential address, all animal abuse offense convictions, conviction dates, county and state of convictions, the person's photograph and such other identifying data as the bureau of investigation determines is necessary for the public to properly identify the person . . ." Tenn. Sen. 0182, 106th Gen. Assembly at § 40-39-404(c). The 2009 bill specifically excluded Social Security number and delegated implementation and administration to the TBI. *Id.*

²⁴⁶ Tenn. Sen. 2676, 105th Gen. Assembly at § 40-39-402(d).

²⁴⁷ *Id.* at §§ 40-39-402(d)-(f).

²⁴⁸ *Id.* at §§ 40-39-402(e)-(g).

²⁴⁹ Colo. Sen. 02-48, 63d Gen. Assembly, 2d Reg. Sess. at § 18-9-201.8(b) (March 18, 2002); Tenn. Sen. 2676, 105th Gen. Assembly at § 40-39-402(c).

²⁵⁰ Tenn. Sen. 2676, 105th Gen. Assembly at § 40-39-404(i).

²⁵¹ Colo. Sen. 02-48, 63d Gen. Assembly, 2d Reg. Sess. at [¶ 3] (March 18, 2002); Tenn. Sen. 2676, 105th Gen. Assembly at § 40-39-407(d).

States and other groups.²⁵² Metro Animal Control in Nashville pointed out that small animal shelters without access to their own animal abuser tracking programs would also benefit from a statewide registry.²⁵³ However, the bill faced opposition from some Tennessee lawmakers. In the Tennessee House, Rep. Frank Buck insisted that there was a cultural divide between rural and urban lawmakers about what constituted animal abuse.²⁵⁴ Further, some legislators believed that other registries, such as spousal abuse or child abuse, should take priority.²⁵⁵ The bill eventually died in the Tennessee House, was reintroduced in 2009, and died again in committee.²⁵⁶

5. California

California entertained the most recent state legislation proposing an animal abuser registry. California Senator Dean Florez introduced California Senate Bill 1277 in February 2010.²⁵⁷ As with California's registries for convicted sex offenders and arsonists, this bill would have required any person over eighteen years of age who had been convicted of felony animal abuse in California to register with local law enforcement in the state.²⁵⁸ The Animal Legal Defense Fund (ALDF) assisted in drafting the bill,²⁵⁹ and the anti-animal cruelty website Pet-Abuse.com also supported the legislation.²⁶⁰

²⁵² Humane Socy. of the U.S., *Animal Abuser Registry*, http://www.humanesociety.org/about/state/tennessee/bills/animal_abuser_registry.html (accessed Nov. 20, 2010); see Adam Crisp, Chattanooga Times Free Press, *Bill Would Put Pet Abusers Online*, <http://timesfreepress.com/news/2008/feb/04/bill-would-put-pet-abusers-online/?local> (Feb. 4, 2008) (accessed Nov. 20, 2010) (summarizing the bill); Cara Kumari, WSMV-TV, *State Sen. Proposes Animal Abuse Registry*, <http://www.wsmv.com/politics/15114122/detail.html> (Jan. 22, 2008) (accessed Nov. 20, 2010) (discussing the bill).

²⁵³ Kumari, *supra* n. 252.

²⁵⁴ Nashville City Paper, *Lawmaker Battles Animal Abuse Bill*, <http://nashvillecitypaper.com/content/city-news/lawmaker-battles-animal-abuse-bill> (Apr. 11, 2008) (accessed Nov. 20, 2010). Representative Buck alleged that "rural practice" permitted shooting animals such as bulls and dogs with buckshot to chase them off the property. *Id.*

²⁵⁵ See Crisp, *supra* n. 252.

²⁵⁶ See Tenn.Gen. Assembly, *Bill Information for SB2676*, <http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=SB2676&ga=105> (accessed Nov. 20, 2010) (giving history of the bill).

²⁵⁷ Cal. Sen. 1277, 2009–2010 Leg. (Feb. 19, 2010).

²⁵⁸ See McKinley, *supra* n. 184, at A10; Cal. Sen. 1277, 2009–2010 Leg. at § 600.6(b).

²⁵⁹ McKinley, *supra* n. 184, at A10. ALDF also launched a website in 2010 called "Expose Animal Abusers" that encourages users to sign a petition requesting that all states implement animal abuser registries. ALDF, *supra* n. 31.

²⁶⁰ See Pet-Abuse.com, Facebook, *Wall*, <http://zh-hk.facebook.com/posted.php?id=39083941752&start=60&hash=16a8ca0b6b9dfe4768bb65b9fa7c3570> (Feb. 21, 2010) (accessed Nov. 20, 2010) [hereinafter Pet-Abuse.com, *Facebook*] ("We're in full support of this legislation. Although it would have to pass state-by-state, which means all 50 states involvement would take some time, it's exactly what's needed. We are considered the authority of tracking data on animal cruelty, and maintain the largest searchable database of cruelty crimes available, however we will be the first to admit that the data

Florez proposed the bill to provide information as a safety measure for California's animal owners.²⁶¹ Some criticized the bill, fearing that it would restrict dietary choices, hunting, and medical research.²⁶² Others complained that the registry would be ineffective and create another state bureaucracy.²⁶³ Florez addressed these concerns, contending that the bill's purpose was to prevent someone convicted of felony animal abuse from "again torturing, sexually abusing or intentionally killing animals" and to "ensure that pet guardians don't unknowingly put their cats and dogs in harm's way."²⁶⁴ Florez also cited the link between animal abuse and domestic violence as a reason to create a state animal abuser registry in California.²⁶⁵

Registration on California's proposed animal abuse registry would have lasted for the convicted abuser's lifetime.²⁶⁶ It would have applied to a person convicted of animal abuse in California regardless of when that abuser had committed the crime or had been convicted.²⁶⁷ The bill would have required the registrant to provide his or her name and aliases, date of birth, current address, name and address of employer, animal abuse convictions, fingerprints, a photograph, and descriptions of tattoos, scars, or other identifying features.²⁶⁸ The bill would also have provided for public notification and mandated that the California Department of Justice disclose some registrant information via the Internet.²⁶⁹ Public information under this bill would have included the registrant's name and aliases, photograph, physical description, gender and race, date of birth, criminal history, and address.²⁷⁰ The bill would have specifically forbidden use of the animal abuser reg-

is incomplete at best, specifically because no one is mandated to report this information to anyone.").

²⁶¹ See McKinley, *supra* n. 184, at A10 (quoting Senator Florez).

²⁶² See Dean Florez, San Francisco Gate, *Open Forum: Animal Abuse Registry is to Protect Animals*, http://www.sfgate.com/cgi-bin/blogs/opinionshop/detail?&entry_id=58942 (Mar. 11, 2010) (accessed Nov. 20, 2010) (responding to concerns that the bill is aimed at dietary choices, hunting, or medical research).

²⁶³ See Fresno Bee, *Editorial: Animal Abuse Registry Not Best Solution to the Problem*, <http://www.fresnobee.com/2010/03/04/1846754/editorial-animal-abuse-registry.html?storylink=misearch> (accessed Mar. 5, 2010) (site no longer available). This editorial supported increasing fines and penalties for animal abuse convictions, which does not address the problem of community notification. *Id.* See also Judson Berger, *California Considers Tracking Animal Abusers Like Sex Offenders*, <http://www.foxnews.com/politics/2010/03/05/california-considers-tracking-animal-abusers-like-sex-offenders> (Mar. 5, 2010) (accessed Nov. 20, 2010) (describing opposition to the bill).

²⁶⁴ Florez, *supra* n. 262.

²⁶⁵ *Id.*

²⁶⁶ Cal. Sen. 1277, 2009–2010 Leg., at § 600.6(b)(2).

²⁶⁷ *Id.* at § 600.7(j).

²⁶⁸ *Id.* at § 600.6(e)(1).

²⁶⁹ *Id.* at § 600.7(a)–(b).

²⁷⁰ *Id.* at § 600.7(b).

istry information for purposes of insurance, loans, credit, employment, housing, and benefits.²⁷¹ Unfortunately, this bill died in committee.²⁷²

6. *Suffolk County, New York*

On October 12, 2010, Suffolk County, New York became the first government entity to pass animal abuser registry legislation.²⁷³ Like its state counterparts, this county bill cites the correlation between animal abuse and domestic violence as well as the relationship between violence against animals and violence against humans as reasons for the bill.²⁷⁴

The bill requires Suffolk County residents eighteen years of age and older who have been convicted of an animal abuse crime to register with the Suffolk County Animal Abuse Registry or face a \$1,000 fine or possible jail time.²⁷⁵ Registrants must supply their name, aliases, address, and a photo.²⁷⁶ No taxpayer money will fund the registry, since the Suffolk County Society for the Prevention of Cruelty to Animals will set up the registry and the abusers themselves pay \$50 annually for upkeep.²⁷⁷ Registrants stay on the registry for five years after initial registration.²⁷⁸ Oddly, though the bill has been described as “the nation’s first publicly accessible and searchable database of those convicted of animal abuse crimes,” the bill itself makes no mention of who can access the registry.²⁷⁹ After it is signed by the County Executive, legislators have six months to review it before it becomes

²⁷¹ *Id.* at § 600.7(h)(i)(2). Even so, Joshua Marquis, a member of the ALDF board, stated that California’s proposed registry “gives information to someone who might be considering hiring [a convicted animal abuser] for a job.” McKinley, *supra* n. 184, at A10.

²⁷² Cal. St. Sen., *SB 1277 Assembly Bill—Status*, http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1251-1300/sb_1277_bill_20100527_status.html (accessed Nov. 20, 2010); *see also* ALDF, *Animal Abuser Registry Proposed in California, 6/14/10 Update*, <http://www.aldf.org/article.php?id=1274> (accessed Sept. 23, 2010) (explaining that the bill failed due to exorbitant cost estimates).

²⁷³ *Suffolk Co. Legis. Press Release*, *supra* n. 30, at ¶ 1.

²⁷⁴ *Intro. Res. No. 1879-2010*, *supra* n. 30, at § 1.

²⁷⁵ *Id.* at §§ 4(A), 7.

²⁷⁶ *Id.* at § 4(B).

²⁷⁷ *Id.* at § 5; *Suffolk Co. Legis. Press Release*, *supra* n. 30, at ¶ 1. Alison Gianotto, software developer and founder of Pet-Abuse.com (discussed *infra* at pt. III sec. C) has offered to help the Suffolk County SPCA design the registry database. Pat Raia, TheHorse.com, *New York Animal Abuser Registry: Database Designer Offers Boost*, <http://www.thehorse.com/ViewArticle.aspx?ID=17140&src=RA> (Oct. 22, 2010) (accessed Nov. 20, 2010).

²⁷⁸ *Intro. Res. No. 1879-2010*, *supra* n. 30, at § 4(D).

²⁷⁹ *Suffolk Co. Legis. Press Release*, *supra* n. 30; *Intro. Res. No. 1879-2010*, *supra* n. 30.

law.²⁸⁰ County Executive Steve Levy has indicated that he intends to sign the bill.²⁸¹

These state and county bills indicate that some legislators take the problem of animal abuse seriously and believe that the community has a right to know about animal abusers in their midst. Although none of these bills have yet become law, they present a preliminary framework for a national animal abuser registry.

C. Alternatives to Animal Abuser Registries

Because there are currently no public statewide animal abuser registries and no public national animal abuser registry, two animal interest organizations have taken data-gathering into their own hands. The resulting resources range from a fairly simple website to a sophisticated database and contain a bevy of public information about animal abuse cases throughout the United States. In addition, the ALDF Criminal Justice Program maintains a nationwide database of animal cruelty cases, but this information is available only to prosecutors, judges, legislators, and researchers.²⁸²

1. Overview

In the absence of a national animal abuser registry, two independent animal abuse databases have surfaced that track and maintain cases of animal abuse. For instance, Through Their Eyes (TTE), The National Animal Abuse Registry is a nonprofit organization based in New Hampshire.²⁸³ Founded in 2002, TTE is an entirely volunteer-run organization that maintains a database of information about animal cruelty cases throughout the United States.²⁸⁴ President Roni McCall is also a member of the New Hampshire Governor's Commission on the Humane Treatment of Animals.²⁸⁵ She began the database in 1986, and it currently contains over 20,000 records.²⁸⁶ It is in a simple spreadsheet layout where users can browse by abuser's last name. The database includes the abuser's name, a description of the abuse, date

²⁸⁰ Frank Eltman, Huffington Post, *Animal Abuse Registry: Suffolk County, NY Creating Nation's First Public Database Tracking Animal Cruelty Offenders*, http://www.huffingtonpost.com/2010/10/14/animal-abuse-registry-suf_n_762905.html (Oct. 14, 2010) (accessed Nov. 20, 2010).

²⁸¹ *Id.*

²⁸² ALDF, *Criminal Justice Program*, <http://www.aldf.org/section.php?id=80> (accessed Sept. 20, 2010).

²⁸³ Through Their Eyes, *Articles of Agreement of a New Hampshire Nonprofit Corporation* (available at <http://www.sos.nh.gov/imaging/11732190.pdf> (updated Oct. 4, 2002) (accessed Sept. 20, 2010)) [hereinafter TTE, *Articles of Agreement*].

²⁸⁴ Through Their Eyes, *The National Animal Abuse Registry*, <http://www.inhumane.org/> (accessed Sept. 20, 2010) [hereinafter TTE, *Website*]; TTE, *Articles of Agreement*, *supra* n. 283, at 1.

²⁸⁵ State of New Hampshire, *Governor's Commission on the Humane Treatment of Animals*, <http://www.nh.gov/humane/aboutus/index.htm> (accessed Sept. 20, 2010).

²⁸⁶ Through Their Eyes, *The National Animal Abuse Registry*, <http://www.inhumane.org/Disclaimer.htm> (accessed Sept. 23, 2010) [hereinafter TTE, *Disclaimer*].

and place of the abuse, and case status (alleged, dismissed, convicted, or not charged).²⁸⁷ The information in each entry originates from news articles and court reports.²⁸⁸ TTE sometimes includes these articles in the abuser's database record with a photo of the abuser.²⁸⁹

Similarly, Pet-Abuse.com maintains a database with over 15,600 records of animal abuse cases from the United States, Canada, the United Kingdom, New Zealand, Australia, and Spain.²⁹⁰ Using the Animal Abuse Registry Database Administration System (AAR-DAS),²⁹¹ Pet-Abuse.com aims to help advocates stay informed about animal cruelty.²⁹² Alison Gianotto, a software developer, formed Pet-Abuse.com in 2002 after a friend's cat was tortured and killed.²⁹³ Organizations like the American Society for the Prevention of Cruelty to Animals, Humane Society of the United States, People for the Ethical Treatment of Animals, numerous pet-adoption groups, and law enforcement agencies use the Pet-Abuse.com animal cruelty database.²⁹⁴ In 2004, only two years after its founding, Pet-Abuse.com received over 1.5 million hits per month; by 2006, the site received over 3 million hits per month.²⁹⁵

A more sophisticated site than TTE, Pet-Abuse.com also offers updates through Facebook, MySpace, Twitter, RSS feeds, and e-mails of daily case digests.²⁹⁶ Users can search the Pet-Abuse.com abuser database by the form of abuse, animal species, gender of abuser, year, and other criteria.²⁹⁷ Each record includes animal abuse case details as well as the abuser's profile with the name, age, offense history of

²⁸⁷ Through Their Eyes, *Database—AAList*, <http://www.inhumane.org/data/DB-AAList.htm> (accessed Sept. 23, 2010) [hereinafter TTE, *Database*].

²⁸⁸ TTE, *Disclaimer*, *supra* n. 286.

²⁸⁹ TTE, *Database*, *supra* n. 287.

²⁹⁰ Pet-Abuse.com, *Animal Abuse Crime Database*, http://www.pet-abuse.com/pages/cruelty_database.php (accessed Sept. 23, 2010) [hereinafter Pet-Abuse.com, *Database*].

²⁹¹ The goals of AARDAS are to establish a global network of volunteers responsible for regional animal abuse cases, enable animal rescue groups to better screen applicants, facilitate public access to unbiased and organized public record animal abuse crime information, and compile statistical data on abuser profiles to learn what demographics require humane education attention and funding. AARDAS, *The AARDAS Project*, <http://www.aardas.com/guidelines.php> (accessed Sept. 20, 2010).

²⁹² Pet-Abuse.com, <http://www.pet-abuse.com> (accessed Sept. 23, 2010) [hereinafter, Pet-Abuse.com, *Website*].

²⁹³ Sharon A. Heilbrunn, *Animal Advocacy Group Honors Pet Protector*, S.D. Union-Trib. NC-4 (July 27, 2005) (available at http://legacy.signonsandiego.com/uniontrib/20050727/news_m1m27tfdmar.html) (accessed Nov. 20, 2010).

²⁹⁴ *Id.*; *Pets: Report Abuse*, Birmingham News (Birmingham, Ala.) 4E (July 9, 2006).

²⁹⁵ *Critter Crusader: Stirred by the Killing of a Cat, Alison Gianotto Creates a Web Site to Protect Animals Against Abusers*, People Weekly 136 (Oct. 11, 2004); Vincent J. Schodolski, *She Tracks Animal Abusers: Pet-Abuse.com Alerts America to Offenses*, Chi. Tribune (July 3, 2006) (available at http://articles.chicagotribune.com/2006-07-03/news/0607030142_1_animal-abusers-ohio-deeds-alison-gianotto) (accessed Nov. 20, 2010)).

²⁹⁶ Pet-Abuse.com, *Website*, *supra* n. 292.

²⁹⁷ Pet-Abuse.com, *Database*, *supra* n. 290.

each abuser, and sometimes photographs.²⁹⁸ The oldest case in the database reaches back to 1940.²⁹⁹ In addition, the website contains statistical information and graphs of animal cruelty cases by year and state, animal mortality, state ranking by cruelty type, as well as statistical breakdown of offender demographics and interactive animal cruelty maps.³⁰⁰ Like TTE, Pet-Abuse.com relies on volunteers to enter cases in the database.³⁰¹ Pet-Abuse.com does purport to have information safeguards in place.³⁰² For example, before a volunteer submits a case, the organization verifies the case's validity through court records, local law enforcement, animal control, or a district attorney's office.³⁰³

2. Challenges to Existing Solutions

Pet-Abuse.com and TTE provide an invaluable service to organizations and law enforcement agencies fighting animal cruelty.³⁰⁴ Even so, these sites are problematic because of their reliance on volunteers, financial accountability, funding, and data accuracy.

For instance, both TTE and Pet-Abuse.com rely on volunteer labor and are governed by unpaid leaders.³⁰⁵ Though volunteers can certainly be effective workers, there is a difference in commitment and performance between volunteers and employees.³⁰⁶ Volunteers are motivated differently than paid workers, may have limited loyalty to an organization, and are less dependent on the organization for which they volunteer than an employee would be.³⁰⁷ Volunteers may also feel more independent from organizational standards and may not receive evaluations like a paid worker.³⁰⁸ For Pet-Abuse.com and TTE, each of which relies on a small number of volunteers, the nature of volunteer commitment and performance may impact the quality and quantity of the work they do.

The financial accountability of these sites is also problematic because of the nature of reporting funding for nonprofit organizations.

²⁹⁸ Pet-Abuse.com, *Animal Abuse Search Results*, http://pet-abuse.com/pages/cruelty_database/results.php (accessed Nov. 20, 2010).

²⁹⁹ Pet-Abuse.com, *Animal Abuse Statistics*, http://www.pet-abuse.com/pages/cruelty_database/statistics.php (accessed Nov. 20, 2010).

³⁰⁰ *Id.*

³⁰¹ Pet-Abuse.com, *Where Your Money Goes*, http://www.pet-abuse.com/pages/support_us/where_it_goes.php (accessed Nov. 20, 2010) [hereinafter Pet-Abuse.com, *Where Your Money Goes*].

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ See Heilbrunn, *supra* n. 293, at NC-4 (stating that the ASPCA and HSUS use Pet-Abuse.com and recognize the founder's efforts); see also *Pets: Report Abuse*, *supra* n. 294, at 4E (stating that PETA and law enforcement use Pet-Abuse.com).

³⁰⁵ Pet-Abuse.com, *Where Your Money Goes*, *supra* n. 301; TTE, *Articles of Agreement*, *supra* n. 283, at 1.

³⁰⁶ Ram A. Cnaan & Toni A. Cascio, *Performance and Commitment: Issues in Management of Volunteers in Human Service Organizations*, 24 *J. Soc. Serv. Research* 1, 5-6 (1998).

³⁰⁷ *Id.* at 3-5.

³⁰⁸ *Id.* at 5.

Nonprofits focused on animals rely more heavily on private contributions from individuals, foundation grants, and corporations than on government grants, fees for services and goods, or investment income.³⁰⁹ In fact, private contributions accounted for 48% of total revenue for environment and animal nonprofits in 2005.³¹⁰ Both TTE and Pet-Abuse.com solicit donations through their websites.³¹¹ But only TTE is currently a registered nonprofit organization.³¹² TTE is a registered 501(c)(3) nonprofit corporation.³¹³ This means that TTE is exempt from federal income tax and donations to TTE are tax-deductible.³¹⁴ TTE is theoretically more accountable for its funding since, as a 501(c)(3) nonprofit organization, it must file information returns (IRS Form 990 or 990-N) with the IRS and make them available for public inspection.³¹⁵ But even this accountability system is flawed:³¹⁶ A search for Form 990s for TTE revealed that the IRS has no Form 990 (or its counterpart Form 990-N for organizations whose gross receipts are \$25,000 or less) on file for TTE.³¹⁷ Even though TTE is a nonprofit organization, its use of funds is unknown and it is not being held accountable to its donors.

Pet-Abuse.com is also not directly accountable to its donors, but for different reasons. Pet-Abuse.com registered in 2001 as a nonprofit organization in California.³¹⁸ Its website also states that it is a “registered California non-profit organization”; however, according to the

³⁰⁹ Kennard T. Wing et al., *The Nonprofit Almanac 2008*, 174 (Urban Inst. Press 2008).

³¹⁰ *Id.*

³¹¹ TTE, *Website*, *supra* n. 284; Pet-Abuse.com, *Website*, *supra* n. 292.

³¹² See TTE, *Articles of Amendment* (2005) (available at <http://www.sos.nh.gov/imaging/9147034.pdf> (updated Oct. 4, 2002) (accessed Sept. 20, 2010)) [hereinafter TTE, *Articles of Amendment*] (establishing TTE as a 501(c)(3) corporation).

³¹³ TTE, *Articles of Agreement*, *supra* n. 283; TTE, *Articles of Amendment*, *supra* n. 312, at 1.

³¹⁴ 26 U.S.C. § 501(c)(3) (2006); James J. Fishman, *Improving Charitable Accountability*, 62 Md. L. Rev. 218, 223–24 (2003).

³¹⁵ 26 U.S.C. § 6104(b) (2006); Internal Revenue Serv., *IRS Publication 4220: Applying for 501(c)(3) Tax-Exempt Status 7–9* (2008) (available at <http://www.irs.gov/pub/irs-pdf/p4220.pdf> (accessed Nov. 20, 2010)); Fishman, *supra* n. 314, at 239–42.

³¹⁶ See IRS.gov, *Form 990-N (e-Postcard) Search*, <http://www.irs.gov/app/ePostcard> (accessed Nov. 20, 2010) (most small tax-exempt organizations whose gross receipts are \$25,000 or less must file Form 990-N); IRS.gov, *Form 990-N (e-Postcard): Who Must File*, <http://www.irs.gov/charities/article/0,,id=177783,00.html> (accessed Nov. 20, 2010) (stating the same).

³¹⁷ See S. of N.H. Corp. Div., *Corporation Filings*, <http://www.sos.nh.gov/corporate/soskb/Filings.asp?466433> (accessed Nov. 20, 2010) (showing that there have been no annual reports filed for TTE since 2005).

³¹⁸ Cal. Sec. of St. Bus. Search, <http://kepler.sos.ca.gov>, *select* Corporation Name, *search* “Pet-Abuse.com” (accessed Sept. 24, 2010) [hereinafter Cal. Bus. Search]; Pet-Abuse.com, *Where Your Money Goes*, *supra* n. 301. The contact address on the Pet-Abuse.com website is Southfields, New York, but the New York Secretary of State office has no record of its registration as a nonprofit. N.Y. St. Div. of Corps., St. Rec. & U.C.C., *Corporation & Business Entity Database*, http://www.dos.state.ny.us/corps/bus_entity_search.html (accessed Sept. 24, 2010); Pet-Abuse.com, *Website*, *supra* n. 292.

California Secretary of State website, the status of Pet-Abuse.com is currently “suspended.”³¹⁹ As a private nonprofit corporation, Pet-Abuse.com has no obligation to disclose financial details about its organization. The Pet-Abuse.com website states that its funds are used for research and court fees, investigations, technology, advocacy, bedding and food for special abuse situations, outreach, rewards, and press releases.³²⁰ But because the use of funds within Pet-Abuse.com is not publicly documented through the IRS, the public cannot know whether it is properly using its financial assets.³²¹

Further, TTE and Pet-Abuse.com are not accountable to any governing body for data accuracy or security. For instance, TTE is only as reliable as the news sources it quotes, and not every entry cites a source.³²² There are no safeguards that ensure the accuracy of the information on the TTE site. It is also unclear from the TTE website how much TTE volunteers check the accuracy of information. Similarly, Pet-Abuse.com relies on the media for animal cruelty information.³²³ Pet-Abuse.com allows the public to e-mail animal abuse information to its volunteers for possible inclusion in AARDAS.³²⁴ The site asks for specific information, including court docket numbers or media references, in order to follow up on the accuracy of the submission.³²⁵ But because Pet-Abuse.com is not accountable to any governing body, it is impossible to know how thoroughly its volunteers follow up on submitted information. Because volunteers must gather facts from secondary sources, Pet-Abuse.com only contains information that is already public.³²⁶ Gathering animal abuse information from the media is potentially problematic because that approach captures only the cases that have “risen to the level of media awareness” and does not capture all animal cruelty cases in the criminal justice system.³²⁷

Existing alternatives to animal abuser registries lack the adequate staffing, financial accountability, funding, and accuracy of data that would make them consistently reliable. These shortcomings can be remedied by absorbing current efforts into an accountable, economically stable national animal abuser registry system managed by well-trained employees.

³¹⁹ Cal. Bus. Search, *supra* n. 318.

³²⁰ Pet-Abuse.com, *Where Your Money Goes*, *supra* n. 301.

³²¹ See Fishman, *supra* n. 314, at 256–57 (explaining that accuracy of information on Form 990 is unknown).

³²² TTE, *Website*, *supra* n. 284.

³²³ Pet-Abuse.com, *Case Submission Guidelines*, http://www.pet-abuse.com/pages/cruelty_database/submitting_cases.php (accessed Sept. 24, 2010) [hereinafter Pet-Abuse.com, *Submission Guidelines*].

³²⁴ *Id.*

³²⁵ *Id.*

³²⁶ See *id.* (listing publicly available information required for submissions).

³²⁷ Lockwood, *supra* n. 156, at 99.

IV. TOWARD A NATIONAL ANIMAL ABUSER REGISTRY

An ideal national animal abuser registry would provide integrated, easily accessible information about animal abusers from all states. It would give animal welfare organizations, law enforcement agencies, researchers, and the public a single place to search for abusers rather than a number of discrete state databases, much like the Dru Sjodin National Sex Offender Public Website has integrated state sex offender registries.³²⁸ A national registry that included information from all states would minimize the risk of losing track of abusers when they move from state to state.³²⁹ In order to track offenders and prevent further abuse, it is essential to establish a national standardized animal abuser registry.

A. *Suggestions for a National Animal Abuser Registry*

These suggestions for a national animal abuser registry follow the model state offender registration and community notification legislation proposed by the Animal Legal Defense Fund (ALDF) and Stephan K. Otto.³³⁰ The proposed national registry is drawn in part from the animal abuser registry laws proposed in Alaska, Rhode Island, Colorado, Tennessee, and California, and the parameters of current online animal abuser registries are considered.

1. *The Purpose of a National Animal Abuser Registry*

The purpose of a national animal abuser registry must comport with researchers' findings about how current offender and abuser registries function. For example, a national animal abuser registry should not claim to prevent recidivism since studies show that other offender registries do not prevent reoccurring abuse.³³¹ Additionally, community notification should not be the primary purpose of a national animal abuser registry because this is another area in which offender registries are ineffective.³³² However, since law enforcement agencies and other organizations would benefit from a national database to check for animal abuse, the registry's purpose should note its usefulness in tracking and identifying animal abusers.

Given the cautions above, the purpose of a national animal abuser registry should be to:

- (1) promote the health and well-being of animals;

³²⁸ *NSOPW Fact Sheet*, *supra* n. 47.

³²⁹ See McKinley, *supra* n. 184, at A10 (stating that the registries will allow tracking of offenders who move to new jurisdictions).

³³⁰ See *Model Animal Protection Laws*, *supra* n. 27 (providing the legislative model).

³³¹ See *supra* pt. II (discussing recidivism rates).

³³² See Anderson & Sample, *supra* n. 120, at 374-75 (noting that community notification may be ineffective due to inaccurate information and that scholars are skeptical about the ability of notification to reduce crime); Kernsmith et al., *supra* n. 120, at 182-83 (discussing research showing that community notification does not reduce recidivism).

- (2) identify and track animal abusers, noting that animal abusers may also direct violence against humans;
- (3) identify patterns of animal cruelty among perpetrators of other forms of violence, including but not limited to child abuse, domestic abuse, and vulnerable adult abuse;
- (4) assist law enforcement agencies, animal welfare groups, and animal rescue organizations with identifying animal abusers;
- (5) gather statistical data about animal abuse and its context;
- (6) send a message to animal abusers that their behavior is not acceptable; and
- (7) protect vulnerable populations from potential harm.

2. Responsibility

As with other abuser registries, local law enforcement agencies should enter information about animal abuse cases into a national animal abuser registry. This would distribute data entry to local entities that are familiar with the details of each case. Decentralization of data entry would also divide the labor of data entry among several entities so that each office would input a few cases each year.³³³ The Animal and Plant Health Inspection Service (APHIS), a division of the U.S. Department of Agriculture (USDA), should oversee this process. APHIS is the logical agency for this work because it already administers the Animal Welfare Act (AWA) and implements standards of humane care for animals.³³⁴ APHIS could administer the animal abuser registry system, checking for data integrity and overseeing software maintenance, among other tasks.

A government program would also increase the resources available to sustain a registry. For example, legislation could mandate funding and personnel. This would assure longevity of a registry better than websites run by individuals or nonprofits because funding would be more consistent. Unlike Through Their Eyes (TTE) and Pet-Abuse.com, a government-run registry could also include non-public information, such as Social Security numbers, driver's license numbers, employers, and information about whether minors live with an

³³³ For instance, the fiscal report for the 2008 Tennessee animal abuser registry bill stated that only about three offenders per year would be required to register. James W. White, Tenn. Gen. Assembly, Fiscal Rev. Comm., Fiscal Note SB 2676-HB 2803 (Jan. 22, 2008), (available at <http://www.capitol.tn.gov/Bills/105/Fiscal/SB2676.pdf> (accessed Nov. 20, 2010)) [hereinafter Tenn. Fiscal Note 2008]. When the bill was reintroduced in 2009, its fiscal report also stated that a minimal number of offenders would be required to register. James W. White, Tenn. Gen. Assembly, Fiscal Rev. Comm., Fiscal Note SB 182-HB 385 (Mar. 27, 2009) (available at <http://www.capitol.tn.gov/Bills/106/Fiscal/SB0182.pdf> (accessed Nov. 20, 2010)) [hereinafter Tenn. Fiscal Note 2009]. Decentralization of data entry would also prevent staff from reviewing dozens of disturbing animal cruelty cases each day. Lockwood, *supra* n. 156, at 101.

³³⁴ USDA, APHIS, *About APHIS*, http://www.aphis.usda.gov/about_aphis/ (accessed Nov. 20, 2010); USDA, APHIS, *Animal Welfare*, http://www.aphis.usda.gov/animal_welfare/index.shtml (accessed Nov. 20, 2010).

abuser. This non-public information may be helpful to law enforcement for tracking abusers and preventing future abuse.

3. *Offense Information*

In addition to including cases where an abuser was convicted of a felony or misdemeanor under state animal cruelty laws, a national animal abuser registry should include cases reported in the media that did not result in criminal charges. Though including cases *only* from the media was one of the weaknesses of PetAbuse.com and TTE, media reports would be valuable here to supplement cases that resulted in convictions. For example, only a small number of animal abuse cases result in charges,³³⁵ and more cases are reported than generate convictions.³³⁶

A great many animal abusers would likely be excluded from the database if inclusion was limited to convicted abusers. Both TTE and Pet-Abuse.com include “alleged” and “not charged” statuses in their databases. According to Pet-Abuse.com, 45% of the United States cases in Animal Abuse Registry Database Administration System (AAR-DAS) are “alleged,” while 24% are “convicted.”³³⁷ Because these resources derive data from media reports, they include abusers who have not gone through the legal system. Data on abusers who have not been convicted is especially helpful to animal welfare and rescue organizations because these groups can monitor potential adopters whose abuse may not have triggered legal action.

A national animal abuser registry should also record details of each case to facilitate research for animal abuse trends.³³⁸ For example, a registry should record the type of offense, such as abandonment, hoarding, bestiality, burning, or poisoning.³³⁹ It should detail information about the victim, such as the animal’s species or breed, and the number of animals involved.³⁴⁰ A registry should also include details of the offense in a narrative and whether charges were filed.³⁴¹ Each charged case should be tagged as a felony or misdemeanor as appropriate.³⁴² A national registry should also include any concurrent crimes against people, such as domestic violence or child abuse, and information about whether there were any witnesses to the crime. Finally, a

³³⁵ Alison Stateman, *Time, Should there be an Animal-Abuser Registry?*, <http://www.time.com/time/nation/article/0,8599,1969346,00.html> (Mar. 4, 2010) (accessed Nov. 20, 2010).

³³⁶ Pet-Abuse.com, *Animal Cruelty Case Status*, http://www.pet-abuse.com/pages/cruelty_database/statistics/case_status.php (accessed Nov. 20, 2010).

³³⁷ *Id.*

³³⁸ Lockwood provides a comprehensive chart of data fields used by HSUS and AAR-DAS that details the information a national registry should track. Lockwood, *supra* n. 156, at 100.

³³⁹ *Id.*

³⁴⁰ *Id.*

³⁴¹ *Id.*

³⁴² *Id.*

national registry should include the outcome of the case, such as whether there was a sentence, psychological evaluation, restitution, probation, or no punishment at all.³⁴³

4. *Information about the Abuser*

A national animal abuser registry should include detailed information about each abuser. This data would help agencies and organizations track animal abusers. It would also provide a demographic picture of animal abusers, and might even show that there are different demographic trends for different crimes.³⁴⁴ Most importantly, knowing the demographics of animal abusers can inform the programs and services law enforcement uses to respond to animal abuse.³⁴⁵

An advantage of starting a registry at the national level is that information would be consistent. The information included in both sex offender and child abuse registries differs from state to state.³⁴⁶ The proposed state animal abuser registries have also differed as to what identifying information they require of each registrant.³⁴⁷ This inconsistency would create confusion when searching and inputting data for abusers, and would make uniform data collection for research nearly impossible. Legislation for an animal abuser registry at the national level must establish clear guidelines as to the information to be included in the registry. Central oversight would also mean consistent policies on who can access the animal abuser database and how much time an abuser must be listed on the registry.

A national animal abuser registry should include all applicable identifying information on an animal abuser. This includes the abuser's legal name and aliases, date of birth, Social Security number, driver's license number, gender, race, current address, place of employment, parole officer, information about whether minors live with the abuser, a photograph, fingerprints, and descriptions of any tattoos, scars, or distinguishing marks. The animal abuser registry should also include the animal abuse offense for which the person was convicted or suspected and the date and place in which the offense occurred.

A national animal abuser registry should make certain offender information available to the public. This may raise questions about privacy rights and other constitutional protections. However, as articulated in the animal abuser registry bill that was proposed in Ten-

³⁴³ *Id.*

³⁴⁴ Lockwood, *supra* n. 156, at 89.

³⁴⁵ *Id.*

³⁴⁶ See Tregilgas, *supra* n. 37, at 731 (stating that "the structure of any sex offender registry varies significantly from state to state"); Hollenbeck, *supra* n. 56, at 16–17 (stating that "state approaches vary as to what information the central register contains and to when the information is available").

³⁴⁷ Alaska Sen. 238, 19th Leg., 2d Sess. (Jan. 24, 1996); Colo. Sen. 02-48, 63d Gen. Assembly, 2d Reg. Sess. (March 18, 2002); R.I. H. 5817, 2003–2004 Leg. Sess. (Feb. 11, 2003); Tenn. Sen. 2676, 105th Gen. Assembly (Oct. 1, 2008); Cal. Sen. 1277, 2009–2010 Leg. Sess. (Feb. 19, 2010).

nessee, the public's interest in safety reduces an abuser's expectation of privacy.³⁴⁸ Releasing information about animal abusers also furthers the governmental interests in "protecting vulnerable populations from potential harm" and "public scrutiny of the criminal and mental health systems that deal with these abusers."³⁴⁹ Pet-Abuse.com already relies on public information available through the Freedom of Information Act (FOIA) and the media.³⁵⁰ This publicly available information could easily be included in a national animal abuser database along with information gleaned from registrants themselves.

5. *Technology*

The current lack of state animal abuser registries is a logistical and technological advantage. Because no state animal abuser registry presently exists, lawmakers and technologists can design a national registry without the trouble of consolidating state registries. Unlike a national child abuse registry, there would be no cost to reviewing and altering the systems of state databases because none exist to be reviewed or altered.³⁵¹

B. Difficulties with Creating a National Animal Abuser Registry

There are many reasons to create a national animal abuser registry. However, a database of this nature also poses difficulties. The cost of such a registry, constitutional challenges, and effectiveness are important considerations in the context of a national animal abuser registry.

1. Cost of Creating the Registry May Be Prohibitive

The true cost for a state or national animal abuser registry is unknown. Tennessee estimated that its 2008 registry bill would only increase state expenditures by one-time costs of \$22,500 and an annual cost of \$4,800.³⁵² Senator Florez estimated that the California animal abuser registry would cost between \$500,000 and \$1 million initially and between \$300,000 and \$400,000 annually to maintain.³⁵³ Colorado

³⁴⁸ Tenn. Sen. 2676, 105th Gen. Assem. (f)–(g) (Oct. 1, 2008).

³⁴⁹ *Id.*

³⁵⁰ Pet-Abuse.com, *Database Disclaimer*, http://www.pet-abuse.com/pages/cruelty_database/disclaimer.php (accessed Nov. 20, 2010).

³⁵¹ See *Feasibility of a National Child Abuse Registry*, *supra* n. 54, at 35 (discussing start-up costs required for a national registry).

³⁵² Tenn. Fiscal Note 2008, *supra* n. 333. The fiscal report of the reintroduced bill in 2009 had a similar fiscal impact statement. Tenn. Fiscal Note 2009, *supra* n. 333. The 2008 Tennessee bill required each registrant to pay \$275 upon registration, with \$25 going towards the registering agency to defray costs. Tenn. Sen. 2676, 105th Gen. Assembly 1 (Oct. 1, 2008). The reintroduced 2009 bill proposed each registrant pay a \$50 fee toward the cost of the registry. Tenn. Sen. 182, 106th Gen. Assembly, (Mar. 27, 2009); Stateman, *supra* n. 335.

³⁵³ McKinley, *supra* n. 184, at A10; Stateman, *supra* n. 335; see also California Senate Majority Caucus, YouTube, *Florez Introduces Legislation to Create an Animal Abuse*

estimated the costs for developing and maintaining its statewide animal abuser registry at \$18,514 in the first year and at \$10,994 annually for subsequent years.³⁵⁴ However, according to Pet-Abuse.com, the cost of running AARDAS is only about \$500 a month, “including server fees, phone services and everything else.”³⁵⁵ Unlike state-proposed registries, Pet-Abuse.com has an advantage in that its founder is a software developer and it relies on volunteer labor.³⁵⁶ Software and labor costs for AARDAS, therefore, are likely minimal. Even so, the added costs of paid employees, data integrity checks, and software security (if the national database contains private information) would surely require higher costs for a government-supported national animal abuser registry.³⁵⁷

Even though a national animal abuser registry will incur some costs to taxpayers, the costs would probably not be as significant as the cost to clean up the consequences of animal abuse. For instance, in Franklin County, Ohio, one case alone cost the county an estimated \$1.2 million to rescue and care for over 170 dogs from a hoarder’s home.³⁵⁸ In Dearborn, Michigan, cleaning up a convicted hoarder’s home with over 150 dead and 100 living dogs, all covered in feces and filth, cost the county more than \$37,000.³⁵⁹ Taking care of a hoarder’s twenty-eight cats at St. Clair County Animal Services in Belleville, Illinois not only cost the shelter more than \$5,400 a month, but the shelter also had to turn away several hundred kittens that might have been adoptable.³⁶⁰

The cost of a national animal abuser registry would be linked to the size of the database.³⁶¹ Because there are no national, systematic reporting mechanisms for animal abuse, it is impossible to know how

Registry (posted Feb. 22, 2010) (available at <http://www.youtube.com/watch?v=Td6Pv2zf7jI> (accessed Nov. 20, 2010)). California’s bill includes a 2- to 3-cent tax on pet food that is unpopular with the pet food industry. Cal. Sen. 1277, 2009–2010 Leg, Sess. (Feb. 19, 2010) (available at http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1251-1300/sb_1277_bill_20100219_introduced.pdf (accessed Nov. 20, 2010)); McKinley, *supra* n. 184, at A10; Stateman, *supra* n. 335. Even supporters of the bill like HSUS doubt that the California legislature is prepared to enact any tax, “much less one levied on pet owners who are struggling to care for their animals, when many of them are dropping them off at shelters.” McKinley, *supra* n. 184, at A10; Stateman, *supra* n. 335. According to Senator Florez, California is also considering registrant fees similar to the funding proposal in the Tennessee bill. Stateman, *supra* n. 335.

³⁵⁴ Urbina, *supra* n. 179, at A16.

³⁵⁵ Pet-Abuse.com, *Support Pet-Abuse.com: Make a Donation*, http://www.pet-abuse.com/pages/support_us.php (accessed Nov. 20, 2010).

³⁵⁶ Heilbrunn, *supra* n. 293; Pet-Abuse.com, *Where Your Money Goes*, *supra* n. 301.

³⁵⁷ See *Feasibility of a National Child Abuse Registry*, *supra* n. 54, at 35–38 (describing the anticipated costs for creating a national child abuse registry).

³⁵⁸ Urbina, *supra* n. 179, at A16.

³⁵⁹ *Id.*

³⁶⁰ *Animal Services has Hands Full with Seized Cats*, St. Louis Post-Dispatch C6 (July 20, 2008).

³⁶¹ See Tenn. Fiscal Note 2008, *supra* n. 333 (asserting that there will be a “minimal number of offenders” and that “the increase in local government expenditures is estimated to be not significant”).

many people are convicted of animal abuse annually.³⁶² AARDAS data suggests that as many as 631 felony and 327 misdemeanor animal abuse cases could occur in a given year.³⁶³ In contrast, the Bureau of Justice Statistics estimates that in 2006 about 8,670 people were convicted in state courts of murder or non-negligent manslaughter and 33,200 people were convicted in state courts of rape or sexual assault.³⁶⁴ These statistics suggest that convictions for animal abuse are a fraction of those for other violent crimes. Therefore, a national animal abuser database would not only be manageable for those inputting data, but the cost of inputting and maintaining a few hundred records each year would be far below what state and federal governments already incur for sex offender registries.

2. Constitutional Challenges

Any government-mandated animal abuser registry would be subject to constitutional challenges. No state has yet passed an animal abuser registry law, so none have been tested in the courts. However, the government has a legitimate interest in protecting the public from animal abusers. If the courts view animal abuser registries in the same light as sex offender registries, as “civil nonpunitive measures propelled by the state’s legitimate interest to protect the public,” then animal abuser registries could pass constitutional muster.³⁶⁵ And if animal abusers, like sex offenders, are not a suspect class, then courts need only use rational basis scrutiny in analyzing animal abuser registry legislation.³⁶⁶

³⁶² Congress considered two bills to track animal abusers in 2008 but never voted them into law. Sen. 2439, 110th Cong. (Dec. 10, 2007) (available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:s2439is.txt.pdf (accessed Nov. 20, 2010)) (requiring the U.S. Attorney General to list cruelty to animals as a separate offense category in the National Incident Based Reporting System, the Uniform Crime Reporting Program, and the Law Enforcement National Data Exchange Program); see H.R. 6597, 110th Cong. (July 24, 2008) (available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h6597ih.txt.pdf (accessed Nov. 20, 2010)) (requiring the U.S. Attorney General to collect and make publicly available data on animal cruelty crimes through existing Justice Department databases).

³⁶³ Pet-Abuse.com, *Felony vs. Misdemeanor*, http://www.pet-abuse.com/pages/cruelty_database/statistics/felony_vs_misdemeanor.php (accessed Nov. 20, 2010) (showing 631 felony and 327 misdemeanor animal cruelty charges tracked in AARDAS in 2007, and 393 felony and 317 misdemeanor animal cruelty charges in 2008).

³⁶⁴ Sean Rosenmerkel et al., Bureau of Just. Statistics, *Felony Sentences in State Courts, 2006—Statistical Tables*, <http://bjs.ojp.usdoj.gov/content/pub/pdf/fssc06st.pdf> (Dec. 2009) (accessed Nov. 20, 2010). The statistics are similar for 2004, when about 8,400 people were convicted in state courts for murder or non-negligent manslaughter and 33,190 people were convicted of rape or sexual assault. Matthew R. DuRose & Patrick A. Lanagan, Bureau of Just. Statistics, *Bulletin, Felony Sentences in State Courts, 2004*, <http://bjs.ojp.usdoj.gov/content/pub/pdf/fssc04.pdf> (July 2007) (accessed Nov. 20, 2010).

³⁶⁵ Carpenter, *supra* n. 129, at 340.

³⁶⁶ Logan, *Knowledge as Power*, *supra* n. 32, at 173.

But, as with child abuse registries, courts may find that listing an abuser in a national animal abuser registry threatens due process rights such as rights to employment and reputation.³⁶⁷ The drafters of California's statewide animal abuser registry bill anticipated this issue. California's legislation would have forbidden use of the animal abuser registry information for insurance, loans, credit, employment, housing, or benefits.³⁶⁸ Any legislature creating a national animal abuser registry must carefully craft its language and anticipate constitutional challenges.

3. *Effectiveness*

Current sex offender, child abuser, and elder abuser registries provide examples of ineffectiveness that creators of a national animal abuser registry can avoid. For example, the Adam Walsh Act does not include either incentives for states to contribute information to a proposed child abuse registry or consequences for declining to do so.³⁶⁹ A national animal abuser registry should require states to contribute information and implement consequences if they do not. Additionally, the Adam Walsh Act does not require enough identifying information on child abusers in its proposed national child abuse registry.³⁷⁰ A national animal abuser database should include specific personal data to establish the identity of an animal abuser. Further, permitted uses of a national child abuse registry are unclear.³⁷¹ Any legislation enabling a national animal abuser registry should specifically state whether employment and licensing checks are permitted uses of the database.

Finally, any registry is only as good as the information it includes. One complaint about state nurse aide registries is that the information in these registries is inaccurate, outdated, or incomplete.³⁷² An animal abuser registry must have adequate oversight and data integrity so the information it contains is current, complete, and useful.

V. CONCLUSION

A government-supported national animal abuser registry is necessary to track and prevent violence against both animals and humans. Current solutions like TTE and Pet-Abuse.com provide a valuable service but are compromised by staffing issues, data inaccuracy, a lack of

³⁶⁷ See Hollenbeck, *supra* n. 56, at 20–21, 23 (discussing constitutional implications of registries).

³⁶⁸ Cal. Sen. 1277, 2009–2010 Leg. Sess. (h)(i)(2) (Apr. 27, 2010).

³⁶⁹ *Feasibility of a National Child Abuse Registry*, *supra* n. 54, at 39.

³⁷⁰ See 42 U.S.C. § 16990(c)(2)(B) (2006) (requiring the proposed national child abuser registry to include the name of the abuser and the “nature of the substantiated case of child abuse or neglect”). The Adam Walsh Act requires specific identifying information for child abusers in state registries, such as Social Security number, photograph, license plate number, and fingerprints. Tregilgas, *supra* n. 37, at 731.

³⁷¹ *Feasibility of a National Child Abuse Registry*, *supra* n. 54, at 40.

³⁷² *Nurse Aide Registries*, *supra* n. 77, at 8, 10, 12, 15; *Nursing Homes: More Can Be Done*, *supra* n. 80, at 24.

organizational accountability, and economic instability. A national animal abuser registry would provide more comprehensive statistical data about animal abuse, track animal abusers, provide a way for researchers to identify patterns of animal cruelty, send a message to animal abusers that their behavior is not acceptable, and protect vulnerable populations from potential harm. Legislators creating a national animal abuser registry should look to current sex offender, child abuse, and elder abuse registries as models to both embrace and improve upon.