

# LEX CANIS

ANIMAL ABUSE IS VIOLENCE.

ASSOCIATION OF PROSECUTING ATTORNEYS QUARTERLY NEWSLETTER | FALL 2011 VOLUME 3 ISSUE 3

WELCOME TO THE FALL 2011 ISSUE of *Lex Canis*, APA's quarterly newsletter. As 2011 starts to wind down, I want to reflect on the many accomplishments and successes that have occurred this year, and to thank all of our supporters who contributed to these noteworthy achievements. Your continued assistance in 2012 with planning, training, resources, and technical assistance will make an invaluable difference in the investigation and prosecution of animal cruelty and fighting cases nationwide.



CHANNONE ANTH

*Downtown Los Angeles*

One of our biggest accomplishments of the past year was the launch of our "Final Fridays" webinar series. Designed to bring knowledge and resources to those prosecutors who might not be able to attend national conferences or regional trainings, the webinars covered a broad spectrum of topics, from the nuts and bolts of search warrants, to cockfighting, veterinary forensics, and dogfighting. Over 300 prosecutors and advocates from across the country registered for these trainings. We are grateful to all of those who presented and contributed to making the webinars a success. The "Final Fridays" series will return next January. Please contact me if you would like to see a particular animal crime-related issue covered in an upcoming webinar.

APA also continues to expand its involvement in issues relating to the link between animal abuse and interpersonal

violence. Over the summer, I had the pleasure of presenting with the Animal Welfare Institute (AWI) and the Humane Society of the U.S. (HSUS) on both policy and practice relating to animal abuse and related criminal behavior to the Pennsylvania Bar Institute and the National Council of Juvenile and Family Court Judges. In the year to come, we hope to continue expanding our work with the link to include animal-facilitated therapy and court assistance. I have recently heard of one prosecutor's office with a therapy dog.

In further exciting news, BJA has continued the funding for our animal cruelty and fighting project. The Animal Cruelty Advisory Council (ACAC) will convene in the next few months to develop new ideas and generate opportunities for expanding our work in the field of animal cruelty and fighting cases, as well as to discuss topics and faculty for the next national conference. I welcome your suggestions on either topic.

The 3<sup>rd</sup> National Conference on Prosecuting Animal Cruelty and Fighting Cases is tentatively scheduled for spring of 2012 in Los Angeles, CA. This two-and-a-half day conference will be open to all members of law enforcement and related disciplines and nonprofit organizations with an interest in animal cruelty and animal fighting crimes. Please continue to check the APA website for registration information. We greatly look forward to partnering with the Animal Legal Defense Fund (ALDF), AWI, and with many of your offices and organizations to make this conference a success.

I want to acknowledge Mary Lou Randour, Senior Advisor for Animal Cruelty Programs and Training at AWI, for her work on this issue's main article on validated mental health experts and programs. The importance of proper mental health evaluation and treatment for children and other individuals who have either witnessed or engaged in animal abuse is an extremely relevant and pressing issue. We hope that the introduction and exploration of such topics is what makes *Lex Canis* a valuable resource to our readers.

Remember to visit our website at [www.APAInc.org](http://www.APAInc.org), follow us on Twitter at @APAInc, and become a fan on Facebook.

-David LaBahn, President and CEO, APA  
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# Using research in the criminal justice system.

## Is all research equal? Maybe not.

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As consumers of psychological and social science, prosecutors have to make judgments as to the value and accuracy of work presented as “research.” Key concerns include “Will this study or research tool strengthen my argument?” or “Are there weaknesses that may undermine the very argument I am trying to win?”

In the case of animal abuse, finding satisfying answers to these questions has a higher degree of difficulty because of the shortage of funded research in this area. To conduct well-designed scientific studies requires acceptable funding levels. Additionally, in the area of animal cruelty, there is a lack of subjects (low base rate), due to the lack of arrests and convictions for animal cruelty crimes. Moreover, because of the way the Federal Bureau of Investigation (FBI) organizes the collection of data on crime, state statistics on this topic may or may not exist, and may or may not be available.

Some quick tips on what to look for:

(1) Are the citations from peer-reviewed professional journals? When using a reputable electronic library (e.g., university libraries), it is fairly easy to search for articles published only in refereed publications. References to articles published in newsletters, websites, or the publications of advocacy groups have less authority. Worthwhile information, of course, can be located on the Internet, but follows the same rules for inclusion. References from the Internet are cited as follows: United States Department of Justice, Bureau of Justice Statistics (2000). Intimate partner violence (NCJ 178247). Retrieved October 26, 2005, from <http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=1002>.

(2) When discussing the topic, does the author refer to a larger body of work? For example, in an excerpt from a peer-reviewed journal article below (Gupta, 2008), notice that the author places her study of typologies of violence into a theoretical context.

Callousness has featured prominently in prior attempts to develop typologies of violence and of IPV perpetrators in particular (Gondolf, 1988; Hamberger, Lohr, Bonge, & Tolin, 1997; Holtzworth-Munroe & Stuart, 1994). .... IPV research suggests that callousness may be a characteristic feature of a “generally violent/antisocial” subtype of batterers (Holtzworth-Munroe & Stuart), and studies of college populations have also demonstrated success in isolating callousness as an IPV predictor (Parrott & Zeichner, 2003). Callousness has been studied extensively in relation to aggression among children (Frick, Cornell, Barry, Bodin, & Dane, 2003; Salekin, Ziegler, Larrea, Anthony, & Bennett, 2003). Callousness is an associated descriptive

The author cites previous research, indicates what types of populations (children, college age) were the subjects of the research, and her citations include authoritative and recognized sources.

The author defines the psychological concept being measured.

feature of Conduct Disorder, “a repetitive and persistent pattern of behavior in which the basic rights of others or major age-appropriate societal norms or rules are violated” (American Psychiatric Association, 2000, p. 85).

(3) Has the author’s research been replicated? By whom? Where was it published?

(4) Does the author specifically list the limitations of his/her research, and do these possibly influence the strength of the researcher’s argument? Some significant limitations include: (a) not establishing reliability and validity for instruments used in the study; (b) using a “convenience” sample, and not replicating with additional populations (this makes generalizing results beyond the studied sample problematic); (c) having a low response rate; and (d) having a small sample size.

It is worthwhile to expand on the concepts of reliability, validity, and “convenience” samples. While reliability and validity have several types, there are general definitions that encompass their use in psychological evaluation. Reliability is consistency, both over time (if I give the measure today, will I get the same results a year from today?) and within the instrument (do the right items “hang together” conceptually?). Validity is truthfulness (am I measuring what I think I’m measuring?) and is typically measured by comparing the instrument to another well-established tool in the field, such as the psychopathology scales of Robert Hare.

Many people assume “convenience” samples (e.g., college sophomores) do not produce useful data. This is not always the case. These samples can yield information on the “average” individual, or people who do not fall into adjudicated or clinical populations. Yet, if the author is trying to study something very specific (like the profile of females who commit severe acts of animal cruelty), the “convenience” sample may not be appropriate.

In the field of juvenile and adult criminal justice, there is a focus on risk assessments. A number of tools have been developed to assess adult offenders; fewer have been developed specifically for young people (Burnam, et. al. 2007). In general, risk assessment seeks to identify who is at greater risk of exhibiting violence (Layde, 2004). Some predict the possibility of violence in the near future, while others are meant to assess the risk of violence over a longer period of time (Webster, Muller-Isberner, & Fransson, 2002).

Risk assessments are based broadly on professional or clinical judgment and actuarial methods and are designed to predict recidivism (Gavazzi, et al, 2007). The use of “third-generation tools” is recommended; these use a combination of actuarial methods and structured clinical interviews, and are designed to guide decisions regarding the type of intervention that would be most effective. Young (2009) categorized assessment tools for youth into three categories, noting acceptable assessment instruments within each: assessment of the risk of recidivism; assessment of the risk of violence (assess not just recidivism, but anticipated severity of the event); assessment of the risk of sexual violence.

When categorizing offender behavior, sex crimes are often placed in a separate category since the thinking to date is that these types of crimes involve a unique combination of biological, psychological, and environmental factors, unlike other types of crime. Another distinctive area in risk assessment focuses on interpersonal violence (IPV), such as crimes against animals and family members.

A sample that happens to be handy but may not be representative of the population you are trying to assess.

A reliable measure is one that shows relatively little variation in the measurement of a phenomenon assumed to remain constant. Reliability refers to dependability or stability. Of the many forms of validity—predictive, concurrent, and construct, the latter is most significant. Construct validity determines to what extent a test is consistent with a given theory or hypothesis. Instead of being an appraisal of the test (as in reliability), construct validation is an assessment of the theory behind the test.

In a white paper overview of domestic violence risk assessment instruments, the authors noted, “We recommend that jurisdictions assess DV offenders using ...tools(s) such as the LSI-R (LS/CMI), Compas, OAS (Offender Screening Tool – Arizona), etc. There is evidence that these tools do identify DV offenders, especially those who are also involved in other offenses, better than offense-specific assessment such as the Domestic Violence Screening Instrument (DVSI) or the Spousal Assault Risk Assessment (SARA) (Bechtel & Wodward, 2008, p. 2).” **In other words, instruments designed for assessing offender behavior in general also predict domestic violence offending.** Longitudinal studies show that most “aggravated assault” offenders progress to violent crimes through predicted patterns of general offending. Although there are no data at this point, it is highly doubtful that patterns of animal abuse offending would take a different pattern or trajectory than patterns of general offense behavior. This raises the question as to whether using a particular instrument to assess the risk of animal abusers reoffending, or predicting who may develop into an animal abuse offender, is necessary, given the time, difficulty, and funding involved in developing reliable and valid assessment instruments and the need for a large number of subjects on which to base the findings. We suggest that efforts would be better spent “norming” the existing risk assessment instruments that have established reliability and validity, such as the Hare Psychopathy Checklist-Revised (PCL-R), with animal abuse offenders rather than trying to reinvent the wheel (Hare & Neumann, 2006).

**(5)** If the author is presenting an assessment tool, does he/she offer detailed information on the procedures used to establish reliability and validity, how the subjects were selected, their ages and backgrounds, and enough details so that the study could be replicated?

Below is a good example of a brief description written by Robert Deluty (1979), the author of the widely used Children’s Action Tendency assessment tool.

A self-report measure of children’s aggressiveness, assertiveness, and submissiveness, entitled the Children’s Action Tendency Scale, is presented. The development and validation of the measure followed the behavioral-analytic method described by Goldfried and D’Zurilla (1969). The measure’s three subscales are shown to be highly correlated with peer and teacher reports of subjects’ interpersonal behavior and to have moderate split-half and test-retest reliabilities. Scores on the Submissiveness subscale correlated positively with social desirability scores and negatively with self-esteem scores, and a negative correlation was found between subjects’ aggressiveness scores and their social desirability scores. In addition, highly significant differences on the Aggressiveness and Assertiveness subscales were found between public school subjects and clinically aggressive children.”

Other cautions about administering risk assessment instruments are: 1) the competency, experience, and training of the administrator and 2) the conditions under which it is administered (they need to be the same as the conditions under which the assessment instrument was developed).

Of late, risk assessment is becoming more linked to informing the type and level of intervention. For example, it may be important to separate “low risk” from “high risk” offenders in intervention groups. Intellectual disability, problems with literacy, or language barriers could also indicate special needs to be addressed in an intervention.

Norming means using an established instrument, making an addition, or minor change, or using on a slightly different population, and developing data to see if it is reliable, etc. in other words, don’t reinvent the wheel.

Previous work is cited.

How do you know what you are measuring? You test it with another measure of the same behavior, in this case, peer and teacher’s reports.

This is what one would expect, so these findings confirm the utility of the measure.

This instrument does what it is intended to do—distinguish between aggressive and non-aggressive children.



**(6)** Finally, it is important to understand whether or not there is empirical evidence that the recommended intervention is effective and, if so, under what conditions. For example, factors associated with the effectiveness of some intervention programs include marital status, residential stability, and employment (variables related to a stake in conformity).

In all of the inherent complexity of evaluating effectiveness there are some straightforward guidelines for prosecutors. Concluding their report, “Understanding the Research Evaluating the Effectiveness of Batterers’ Intervention Programs,” Woodward and Bechtel (2008) write:

One of the primary recommendations concerning cognitive behavioral programming is that the programs that have shown the greatest effect in reducing recidivism have targeted the high-risk offenders and have avoided mixing the risk levels. In addition, effective cognitive behavioral programming that targets the attitudes, values, and beliefs of offenders has been shown to reduce recidivism significantly.”

In conclusion, the short answer to the question of whether all research is of equal value to prosecutors is, “No.” However, there are fairly simple approaches prosecutors can use to approach research, which we have outlined here.



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## Resources

<http://kspe.com/assess/forensics.php>

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## BREAKING NEWS

**TRIAL UPDATE:** The animal cruelty trial in Baltimore, MD, for Travers and Tremayne Johnson has been rescheduled once again, until November 18. The brothers were arrested in June 2009 for setting a dog, later named Phoenix, on fire; she eventually died from her injuries. The first trial ended in a hung jury and the retrial has been postponed several times.



BBC WORLD SERVICE

*This pit bull sits quietly with his owner, a former dog fighter.*

**IF THERE IS ANY DOUBT LEFT** that animal fighting and other major crimes go hand in hand, this should dispel it: Reporting on the recent sentencing of the kingpin of a drug trafficking ring in Louisiana, the U.S. Drug Enforcement Administration described him as “an avid pit bull and cock fighter [who] utilized these illegal events as a networking tool in order to recruit members to transport and sell marijuana and cocaine for his organization.”

But the people who train and fight animals, who fund and host the fights, are not solely responsible for the scourge of animal fighting; spectators are the fuel powering this industry. They are not innocent bystanders; they are active participants in and enablers of these cruel criminal enterprises and should be treated accordingly. Moreover, when a fight is raided, the organizers, promoters, trainers, and owners disperse and blend into the crowd to escape arrest. New York and the U.S. Congress are taking steps to close this loophole, while Michigan is considering bills to address other aspects of animal fighting.

**IN AUGUST, NEW YORK GOV. ANDREW CUOMO** signed legislation (S3237A) making it a misdemeanor to knowingly attend an animal fighting event; previously it had only been a “violation,” much like a traffic ticket. (In 28 states, the offense is a felony.) A first offense is punishable by up to three months in jail and/or a fine of up to \$500. Subsequent offenses are subject to a year in jail and fines up to \$1,000. Montana is the only state where attending an animal fight is still legal.

**U.S. REPRESENTATIVES TOM MARINO (R-PA)** and Betty Sutton (D-OH) have introduced H.R. 2492, the **Animal Fighting Spectator Prohibition Act of 2011**, to close this loophole in the federal *Animal Welfare Act*. Their bill makes knowingly attending an animal fight punishable by fines and up to a year in prison. Also, recognizing that exposure to animal cruelty—especially the egregious brutality of animal fighting—can desensitize children to violence at an early age, the bill makes it a separate offense, with even higher penalties, to knowingly bring a minor to such an event.

**THE MICHIGAN SENATE HAS PASSED** a package of bills designed to improve the state’s response to animal fighting crimes. SB 356 (Sen. Rick Jones, R-24), SB 357 (Sen. Bert Johnson, D-2), and SB 358 (Sen. Steven Bieda, D-9) allow for the following, respectively: Forfeiture of real property used in animal fighting; suits to declare property used for animal fighting to be a nuisance; and treating animal fighting as a predicate offense under Michigan’s racketeering law. All the bills await action in the House.



*New York State Capitol in Albany, New York.*

JIMMY EMERSON



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## NEW RESEARCH ON CRIMINAL HISTORIES OF ANIMAL ABUSERS

FBI SUPERVISORY SPECIAL AGENT TIA HOFFER, a member of the APA Animal Cruelty Advisory Council, is overseeing an exciting research project. According to a summary, the project involves “analyzing the criminal histories of offenders who were arrested for active animal cruelty in order to further examine the potential link between animal cruelty and violence against persons.” According to an initial analysis published in a dissertation (Leavitt, 2011), the majority of the 66 cases between 2004-2009 examined thus far “had prior arrests for other crimes,” including interpersonal violence (59 percent), assault (39 percent), and assault of a spouse or intimate partner (38 percent). Seventeen percent also had a history of sexual offenses. A lengthier discussion of this research will appear in a future *Lex Canis*.

**OCTOBER WAS DOMESTIC VIOLENCE AWARENESS MONTH.** Since its first observation in 1987, much has changed in our understanding of and approach to dealing with domestic violence. For one thing, we now better appreciate the connection between domestic violence and animal abuse, and the dilemma DV victims face when fear over the safety of a companion animal prevents them from leaving a dangerous situation. In an effort to enhance the resources available to DV victims, the Animal Welfare Institute undertook its National Safe Havens for Pets Mapping Project. More details can be found at <http://www.awionline.org/content/awi-helps-domestic-violence-victims-get-pets-safety>

### MISSION

Support and Enhance the Effectiveness of Prosecutors in Their Efforts to Create Safer Communities.

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