



CITY COUNCIL FOLLOW UP REPORT

MEETING DATE: January 3, 2005

TO: CITY COUNCIL MEMBERS/CITY MANAGER

FROM: POLICE DEPARTMENT/FIELD SERVICES

DATE: NOVEMBER 11, 2004

REQUESTED BY: COUNCIL MEMBER COWAN

CONTACT: John E. FitzPatrick, Lieutenant

BACKGROUND:

On September 7, 2004, a group of former volunteers affiliated with the Orange County Humane Society (OCHS), attending a Costa Mesa City Council Meeting, described a number of incidents which outlined alleged existing conditions at the shelter and the AAA Animal Hospital, both located at 21362 Newland Street, Huntington Beach, California, which is owned and operated by Dr. Samir Botros, D.V.M.

The volunteers' allegations described inhumane conditions which included urine-filled water bowls, kennels and cages not properly disinfected, overcrowding of animals, and unsanitary conditions due to poor drainage. The volunteers requested an investigation of these allegations and if the charges were substantiated the contract with Dr. Botros be terminated.

The City of Costa Mesa is currently in the second year of a three-year agreement at a total cost of \$150,000. The agreement states the provisions for the Orange County Humane Society to act as the "City Pound" and accept on behalf of the city any live dog, cat or small undomesticated animal, brought to the shelter by City of Costa Mesa Animal Control Officers, for impoundment or euthanasia. The contract outlines that the "Professional Practices" will be consistent with the standards of care, diligence and skill ordinarily exercised by veterinarians in similar fields. The professional services agreement also stipulates that the veterinarian shall be responsible for the proper care and protection of all animals and shall maintain the shelter facility in sanitary conditions at all times.¹

The City Council directed the Chief of Police to conduct a complete and thorough investigation and prepare a report of the findings.

¹ The agreement includes language authorizing the facility to euthanize animals held in impound for the minimum time established in the contract, however, the OCHS is recognized as a "pro-life" animal shelter and elects not to euthanize animals unless the animal is diagnosed with an untreatable or contagious medical condition.

On September 14, 2004, the police department became aware of a recent investigation of the AAA Animal Hospital and Orange County Humane Society conducted by Chief Tami E. Rosales, Chief of Field Operations, of Orange County Animal Care Services.

A request was made through Orange County Animal Care Services for the police department to receive a copy of the completed investigation; however, staff was informed that a formal request for the report needed to be made through the Sue Warnke, the custodian of records. The request was made and a copy of the investigation² was received on October 21, 2004.

On September 24, 2004, staff met with Dr. Botros at the Orange County Humane Society. Dr. Botros advised staff that officials from the Orange County Animal Care Services had in fact conducted an inspection of his facility during the latter part of August or early September 2004.

Dr. Botros informed staff that the inspectors found a total of nine violations, which are outlined in the County of Orange Animal Care Services Rules and Regulations. Botros stated that he had been given thirty (30) days to rectify the problems listed below:

1. Constructions and Maintenance

Numerous kennels were determined to be unsafe and need of repair.

2. Shelters and Exercise

Cats maintained in the various kennels did not have room to move or exercise within their cages. The kennels were also dirty and unsanitary in need of repair.

3. Food and Water

Dry dog food needed to be placed in covered containers to prevent rodent infestation.

4. Waste Disposal

Drainage gutters were not sufficient for excess water and waste.

5. Good citizenship

Animals must be kept in a manner to protect both public and other animals. Inspectors noticed that some of the dogs inside the kennels were showing aggressive behavior toward the public.

6. Vector Control

Inspectors advised Dr. Botros that effective means of rodent control needed to be vigorously maintained at all times.

7. Ventilation

There was a lack of proper ventilation in the cattery. The air condition unit in the room needed to be more efficient.

8. Drainage

The existing drains emitted a strong odor. The drains required some reconstruction to allow the elimination of excess water.

² Attachment # 2

9. Enclosure Construction

The indoor and outdoor catteries needed to be thoroughly cleaned and sanitized daily.

Dr. Botros corrected four of the above nine violations within a period of seven days. The inspectors gave Botros an additional thirty days to attain full compliance by Thursday, November 4, 2004.

On Friday October 15, 2004, City Manager Allan Roeder, Chief John Hensley and Lieutenant John FitzPatrick, paid an unannounced visit to the Orange County Humane Society. They met with Dr. Botros and were given a tour of the facility. Overall the facility appeared clean and Dr. Botros advised city officials that he was in the process of correcting a number of violations, which will improve the shelter and positively impact the welfare of the animals.

Dr. Botros also allowed the inspection team to view architectural documents outlining the plans for a new expanded facility. Botros stated that he has been working with the City of Huntington Beach to finalize the building permits. If the plans are approved he intends to break ground on the new structure within the next twelve months.

As of January 1, 2000, section 30804.7 of the Food and Agriculture Code outlined new standards for fee collection as it pertains to non-spayed or un-neutered dogs that have been impounded by city or county shelter. During the course of this investigation staff inspected the fees collected for non-spayed and un-neutered dogs that have been impounded by city animal control officers or the humane society. Once the owner of the impounded dog is located he/she is fined thirty-five (\$35) dollars on the first offense and fifty (\$50) dollars on the second offense. The funds collected can be used for education programs, low cost spaying or neutering, or any administrative costs incurred by the shelter. At the time this law was enacted City Officials elected to have the Humane Society collect and establish a separate fund where the shelter would control the disbursement, rather than the city collect, track and monitor the account.

According to the records at the shelter there appeared to be a discrepancy on what the money that was collected was used for and if it was spent within the guidelines of the law. As of this date the city records reflect that a total of \$10,300 has been collected and the shelter does not have a detailed ledger for the expenditures. Per section 2.4 of the Professional Services Agreement, the city of Costa Mesa audits may be conducted on by the city throughout the life of the contract. Staff is recommending that this area be reviewed.

On November 4th, 2004, staff accompanied Chief Tami Rosales, of Orange County Animal Services for a follow-up inspection of the September 2004 compliance mandates.

Chief Tami Rosales and Lt. Michelle Davies conducted the inspection of the facility and found with the exception of a single open bag of dry dog food, the OCHS was determined to be in compliance with the Rules and Regulations (Resolution No. 76-626). Chief Rosales informed Dr. Botros that her agency would continue to monitor the shelter and ensure that the Orange County Humane Society maintained compliance.

ALLEGATIONS:

Based upon independent interviews, written documentation, and objective evaluation of the facility, the following categories outlined in Ms. Hunter's complaint³ have been addressed and the findings are listed below:

UNLAWFUL PRACTICES

- ❖ Unlicensed assistants administering anesthesia and performing surgeries and tooth extractions. **Dr. Botros does have a licensed staff in the office consisting of an additional veterinarian and two veterinarian technicians. These additional employees assist in performing these functions.**
- ❖ Unlicensed assistants performing diagnosis and prognosis of animal diseases. **Dr. Botros does have a licensed staff in the office that assists in performing these functions.**
- ❖ Unlicensed assistants prescribing drugs and treatment. **Dr. Botros does have a licensed staff in the office that assists in performing these functions.**
- ❖ Unlicensed assistants giving rabies vaccinations. **Dr. Botros does have a licensed staff in the office that assists in performing these functions.**
- ❖ Untrained individuals administering sodium pentobarbital for euthanasia purposes, without the presence of a trained veterinarian. (Per Title 16. CCR.2039). **Dr. Botros does have a licensed staff in the office that assists in performing these functions.**
- ❖ Sodium pentobarbital, a controlled substance, not locked away at the end of the business day. **Based upon the personal observations of staff this area appears to be secure.**
- ❖ Hiring of illegal immigrants and paying them under the table. **This allegation is NOT related to animal welfare, however, staff examined the records of the employees working in the shelter, and found all paperwork appeared to be in order.**
- ❖ During bi-annual County inspections office manager Courtney Dorney, requested that rabies vaccination certificates be altered to show that the vaccinations were up to date, when in fact they were altered. **Courtney Dorney no longer works at the shelter. Orange County Animal Services inspectors stated that the rabies records were up to date and in order.**

FINDINGS:

The areas involving unlicensed assistants administering anesthesia, performing diagnosis, prescribing drugs etc., were NOT SUSTAINED. The Southern California Veterinarian Medical Association states that trained and certified assistants may perform a variety of veterinary functions under the "supervision" of a licensed veterinarian. Although Dr. Botros

³ Attachment # 3- Shelly Hunters' Listing of Allegations

may have utilized others than certified assistants staff was unable to determine if a violation did in fact occur.

Rabies vaccination certificates were examined by representatives of Orange County Animal Services and found to be in proper order.

UNETHICAL PRACTICES

- ❖ Same surgery kits being used on different animals without proper cleaning. **Independent observation of staff determined that individual kits were being used.**
- ❖ Clients paying for treatments (i.e. pain meds, vaccinations) and not receiving services rendered. **Dr. Botros denies these allegations and gave staff a number of accounts where he treated animals free of charge.**
- ❖ Surgery animal parts being thrown away in a trash can. **SUSTAINED. Dr. Botros contracts with an independent company that disposes of animal carcasses, however, staff obtained a photograph that can be found in the attachments, which depicts a dog improperly disposed in a dumpster.**
- ❖ OCHS shelter staff knowingly adopting out injured animals. **Employees of the shelter state this is not occurring.**
- ❖ OCHS shelter staff knowingly adopting out aggressive animals; adopting out vicious chihuahuas while putting down mildly ill dogs. **Orange County Animal Services indicated in their report that the inspectors witnessed what they believed to be vicious dogs in the kennels, however, it can not be determined if these type of animals were being adopted but the possibility does exist.**
- ❖ Euthanized animals being left in the hallway, behind the vet office, and left outside in the sun for hours at a time. **SUSTAINED. Photographs indicated that what appeared to be a euthanized dog was disposed of in a trashcan. While this is not a sensitive method of disposal, no violation occurred.**
- ❖ Dogs that were signed over by their owners were used as blood donors for AAA clients' dogs. Owners that signed over their dogs did not give consent or have knowledge of this practice. **It should be noted that the primary focus of this investigation concentrated on the OCHS shelter and not AAA hospital. Dr. Botros denies these allegations.**

FINDINGS:

Based upon collected photographs of animals staff found this to be a SUSTAINED violation. Staff examined evidence to support that euthanized animals were being left outside in plain view. It could not be determined whether OCHS staff "knowingly" adopted out aggressive animals, however, inspectors did indicate that there were aggressive animals in the kennels at the time of their inspection.

INHUMANE TREATMENT

- ❖ Hospital animals left without food or water for days. **Independent observation by city staff indicated that there was water and food available for the animals.**
- ❖ Animals left unattended coming out of surgery sedation. **At the time of the unannounced visit, city staff observed no animals were in surgery.**
- ❖ Animals left in filthy cages both on veterinary and shelter side. **SUSTAINED. Inspectors reported that shelter cages were dirty and required Dr. Botros to rectify the problem. During our second inspection the cages were clean and sanitized.**
- ❖ On a few occasions, cats were left in the dryer overnight. **Employees stated they are not aware of this incident. During our inspection this was not observed.**
- ❖ Impounded feral cats left without food and water for days, staff said, “they were going to be put down anyway”. **During our inspection independent observation by staff indicated that there was water and food available for the animals.**
- ❖ Impounded strays being left in back boarding with no contact for weeks. **During our second inspection there were no strays in the back area and the boarding area was clean and sanitized.**
- ❖ Injured strays do not do not receive proper medical attention if an owner is not known and willing to pay for treatment. **During the second inspection city staff observed injured animals housed in cages and under the care of OCHS staff.**
- ❖ Some animals (feral cats) have been euthanized by intra-cardiac injection without sedation and without the presence of a trained veterinarian. **Dr. Botros denies these allegations and said that all of his euthanized animals are conducted in a medically approved manner.**
- ❖ Feral cats and aggressive dogs that are euthanized are almost never sedated beforehand and many times had been choked with a catchpole to calm them. **Dr. Botros stated that these allegations are exaggerated and stated that at times they do used a “catch” to move animals, however, it is done in a humane manner.**
- ❖ Abuse of animals under kennel workers watch (i.e. sprayed with a hose, kicked, cats poked through cages) **Allegations of animal abuse are under the jurisdiction of the City of Huntington Beach. Dr. Botros denies these allegations. The City of Huntington Beach has been notified of this complaint.**

- ❖ Sick animals not being treated by a veterinarian or AAA staff. Veterinarian never walks through the shelter to check on the animals. **Dr. Botros states that these allegations are untrue, he personally inspects the shelter on a daily basis and all animals are treated.**
- ❖ Animals in isolation on shelter side not being properly cared for i.e., uneaten food left in cages, not receiving adequate water, food, improper lighting and ventilation, cracks in the walls, flooding. **SUSTAINED. Inspectors indicated that there were ventilation problems in the shelter and the food area needed cleaning. During the second walk through, the corrections were completed.**
- ❖ Dogs doubled up in kennels, fighting and not getting enough to eat. **Dogs were doubled up inside kennels, however they appeared to be getting along. Staff observed no signs of fighting or lack of food.**
- ❖ Holes in fencing caused injuries to dog. The week of 7/26/04 a dog strangled itself during the night by getting its' neck caught between fencing and the back wall of kennel. **SUSTAINED. This incident was confirmed. Dr. Botros has repaired the fencing throughout the entire kennel.**
- ❖ "Troubling incident"- A cat escaped from its' kennel and was blocked behind a stack of pallets. The incident was reported to the office manager Courtney Dorney; however, the cat eventually was found dead under the pallet. **Staff did confirm that a dead cat was found under a pallet but we could locate an independent witness to confirm the above allegation.**

FINDINGS:

Based upon an independent and objective evaluation of existing evidence this area was NOT SUSTAINED. It was difficult to verify these allegations independently. Except for the hole in the fence staff observed in one of the cages, independent observation did not merit these allegations. Some cages were dirty, however, by the time of the second inspection, these problems had been rectified.

UNSANITARY CONDITIONS

- ❖ There is no hot water, soap, bleach, or other disinfectants. **UNFOUNDED. These items were present and visible.**
- ❖ Severe rat infestation with rat poison left on the ground and in open containers in the office. **SUSTAINED. It was confirmed that rats do enter the shelter on an occasional basis, the shelter contacts with a pest control company, inspectors warned Dr. Botros that rodents need to be vigorously maintained at all times.**
- ❖ Dog kennels are rarely disinfected, even when a sick dog is removed and another is put inside the kennel. **NOT SUSTAINED. Inspectors indicated that waste disposal needed to be improved, however this exact complaint could not be verified.**

- ❖ Litter boxes and food bowls are all thrown in tub and washed together. **Based on independent evidence staff was not able to prove or disprove this allegation. At the time of the second inspection this area appeared to be in order.**
- ❖ When kennel staff hoses out dog kennels, fecal matter and urine wash out into other kennels and common walkways. **SUSTAINED. Inspectors cited improper drainage in kennels and in need of repair. The second inspection revealed that drainage had been corrected.**
- ❖ Freezers not maintained and repaired in a timely manner, resulting in bodily fluids leaking to the bottom of the freezer. **UNFOUNDED. Staff examined the freezer and found it to be clean.**

FINDINGS:

Based upon the inspection conducted by Orange County Animal Services two of these allegations were SUSTAINED. There was no independent evidence to verify that dead animals were being placed on top of the freezer. According to Dr. Botros, the shelter contacts with a company that disposes of the animal carcasses twice a week in a medically approved manner.

OTHER CONCERNS

- ❖ Sick animals are brought in from other shelters, which put “our” animals at risk. **EXONERATED.** Dr. Botros advised staff that at times other animals do come into the shelter; however, he is not making a distinction between “our animals’ and other animals when it comes veterinary treatment.
- ❖ The concerns pertaining to the Courtney Dorney, the previous office manager, have been resolved; the Orange County Humane Society has hired a new office manager.
- ❖ Ms. Hunter also indicated that the veterinarian hospital does not have a properly enclosed X-RAY room and safety protocols are not followed. **There have been no independent complaints and/or violations regarding safety protocols in the X-RAY room. On our second inspection of the area was clean, however, limited in space.**

RECOMMEDATIONS:

During the past two months staff has taken an in-depth look at the overall condition of the shelter, guidelines for the animal care and the internal operations of the shelter as it pertains to the City of Costa Mesa. As a minimum the following alternatives are offered for consideration.

- ❖ Build minimum standards of care into future contracts that outlines the expectations of the city/community and establishes a benchmark as it pertains to the welfare of the animals confined to the shelter. The American Society for the Prevention to Cruelty to Animals has established a model which can be used to assist in this area.

- ❖ Conduct an audit of the spay and neutering fees at the Orange County Humane Society to ensure proper allocation of appropriated funds. In the future there will need to be some mechanism established to trigger periodic audits of the shelter to determine the amounts charged for subsequent impounds and the dispersal of those fees. It would also be prudent to consider alternative methods of payment originating at Finance Department's business licensing or the Police Department.
- ❖ Establish a Shelter Oversight Team to conduct unannounced, periodic inspections of the City's animal welfare facility for compliance with State Law and conformity with the approved shelter services agreement. The Shelter Oversight Team is intended to be a technical advisor to the Police Chief and will consist at a minimum of one Costa Mesa Animal Control Officer, a local independent veterinarian and a representative from Orange County Animal Control Services.

CONCLUSIONS:

Based upon the investigation and the inspection by Orange County Animal Services, staff is of the opinion that there is merit to many of the issues outlined in Ms. Hunter's complaint. Dr. Botros has worked diligently to correct many of these areas, which are addressed in this report. Overall, the shelter's appearance has vastly improved, which directly benefits the welfare of the animals.

As noted in this report, the facility is old and very much in need up major repair/replacement. Dr. Botros recognizes this and has submitted plans to the City of Huntington Beach for a new shelter facility and veterinary hospital. Staff very much supports this effort and will cooperate with City staff in Huntington Beach and Dr. Botros to work towards this end.

ATTACHMENTS: ALL Contact Deputy City Clerk