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THE UNIVERSITY of TENNESSEE
MUNICIPAL TECHNICAL ADVISORY SERVICE

In cooperation with the Tennessee Municipal League

TECHNICAL bulletin

April 17, 2008

TRANQUILIZER GUNS AND ANIMAL CONTROL: LET SLEEPING DOGS LIE

Don Darden, Municipal Management Consultant

Many mayors and city managers can easily identify with these and other complaints about dogs and cats: "A neighbor's dog tumbled over my garbage can and scattered debris on my lawn." "A dog stole my shoes from the back porch." "A neighbor's cat left paw prints on the hood of my freshly washed car." And, "I'm afraid of being attacked by the dogs across the street when I walk to the mailbox." Sound familiar? Complaints are many. Solutions are few and sometimes ill advised.

If all citizens were responsible pet owners and had their pets vaccinated, on a leash, or in an enclosure as required by city leash laws, animal control would not be the problem that it is today. T.C.A. § 44-8-408 makes it unlawful for people to allow their dogs or dogs under their control to run at large. Violation of this law is a Class C misdemeanor (T.C.A. § 44-8-409). However, this law and city leash laws are very difficult to enforce. Dog owners often keep their pets penned or in their houses during the day, only to let them out at night for what they consider well-deserved freedom. Unfortunately, freedom to roam also means freedom to damage the neighborhood or community.

RESPONSE FROM CITIES

How have cities responded to this problem? Some simply cannot afford to deal with the problem, while others ignore it. In other cities, the Humane Society organizes and runs the local animal control program with little assistance from the municipality. A growing number of cities operate their own animal control programs, and it is not uncommon for cities and counties to develop joint arrangements to manage this problem. Many cities run what, for some unfortunate domestic pets, amounts to a "catch them and kill them" program. This is often done in the name of animal control and with very limited resources. Police officers or other city personnel who aren't trained in this area are often called on to catch animals and euthanize those that are unclaimed.

POLICE DEPARTMENTS AND ANIMAL CONTROL

A police department is, by law, an animal control agency in the sense that it often has the ultimate responsibility for apprehending vicious dogs. However, many police personnel are not properly equipped and trained to catch, tranquilize, and house such animals, return them to their rightful owners, sell the pets, or euthanize them. Domestic

pets should be captured in cages or with nets or nooses attached to poles to protect the animals and the animal control personnel. Police and animal control officers are legally authorized to humanely destroy a vicious animal that is threatening a person's health or safety.

USING TRANQUILIZER GUNS

The law, however, absolutely does not include using tranquilizer darts to catch dogs and cats. In a legal opinion by MTAS Legal Consultant Pamela Bingham it was noted that a tranquilizer gun is defined as a "firearm" under Tennessee law (T.C.A. § 39-11-106). A firearm means any weapon designed, made, or adapted to shoot a projectile by triggering an explosion or any device readily convertible for that use. A tranquilizer gun may also be considered a deadly weapon. If an animal is shot with the incorrect amount of drug or in the wrong part of the body, it can easily be killed, maimed or injured.

The MTAS *Police Manual*, which many Tennessee cities have adopted, provides that a police officer may discharge a firearm:

- At department qualifications or firearms training;
- At an approved range;
- For test firing by a crime laboratory;
- ***To kill seriously injured or dangerous animals in an emergency***; or
- When deadly force is authorized. (See Chapter 9 in the manual for more on deadly force.)

It is important to point out that the MTAS *Police Manual* and state statutes prohibit the use of a firearm on a stray pet that is not threatening or dangerous.

FIREARMS QUALIFICATION

All commissioned officers are required to regularly attend firearms training and qualification exercises. Using the weapon they normally carry on duty, they must achieve a qualifying score that meets POST standards. Officers are not to carry a weapon, on or off duty, if they have not achieved a qualifying score with that weapon. Qualification is also required for any weapon classified as an off-duty firearm. Since tranquilizer guns are firearms under Tennessee law, officers using these devices would have to receive the proper instruction. However, the law doesn't authorize officers to use tranquilizer guns, regardless of training.

PROHIBITED USE OF FIREARMS

Even if a police officer has the required training to use a tranquilizer gun, he is not to discharge a firearm:

- As a warning;
- From a moving vehicle;
- At the occupant(s) of a moving vehicle unless deadly force is being used against the officer by that vehicle's occupant(s);
- Unless the officer, in his judgment, has a clear field of fire;
- Unless the officer, in his judgment, reasonably believes that the suspect can be hit; or
- *When firing poses more danger than the suspect does to innocent bystanders and/or property.*

The police manual's lack of rules about tranquilizer guns implies that using the weapons is not considered a normal police procedure. Even if it were legal for law enforcement personnel to use tranquilizer guns to catch dogs, it is quite possible that miscalculating the sedative's dosage could result in liability for a city. Clearly, the dose necessary to sedate a German shepherd could easily kill a toy poodle or another small breed.

"LEGEND" DRUGS

Tennessee Code Annotated contains several statutes that address selling and dispensing "legend" drugs, including tranquilizers strong enough to knock an animal unconscious. Legend drugs are strictly controlled and may be sold only to pharmacies, physicians, dentists, veterinarians, clinics, nursing homes, hospitals and other health care entities. *Law enforcement agencies are not on the list of eligible recipients outlined in the statutes*. These laws not only name the acceptable recipients of controlled substances, they also prescribe rigid reporting procedures to track vendors' sales. Furthermore, the statutes apply specifically to the state of Tennessee and its political subdivisions and their departments, agencies and employees (T.C.A. § 53-10-101 *et seq*.).

It should be noted that local law enforcement agencies are included in the definition of "certified animal control agencies," provided that the agencies first are certified pursuant to the provisions of T.C.A. Chapter 12, Title 63. However, law enforcement agencies may be certified strictly to house stray, unwanted or injured animals.

UNAUTHORIZED PRACTICE OF VETERINARY MEDICINE

Practicing veterinary medicine in Tennessee is a privilege granted by legislative authority in the interest of the health, safety, and welfare of the animal population and the citizens of this state (T.C.A. § 63-12-102). The practice of veterinary medicine is defined in detail in *Tennessee Code Annotated* and clearly includes administering medicines and drugs to animals. Specifically, the law grants the authority to "diagnose, prescribe, or *administer* any drug, medicine, biologic, appliance, application, or treatment of whatever nature for the cure, prevention, or relief of any wound, fracture, bodily injury, or disease of animals." *There is no authority for a police officer to use a tranquilizer on an animal*. There is also no authority for any other city personnel — volunteer or paid — or employees or volunteers of humane societies to tranquilize or euthanize animals *unless the individuals are certified as "animal technicians" or "veterinary medical technicians" in accordance with state statutes* (T.C.A. § 63-12-103).

Since administering legend drugs to animals is considered performing veterinary medicine, what happens if a person practices or attempts to practice veterinary medicine in Tennessee without a license or the proper certification? He or she will have committed a Class B misdemeanor for each occurrence of this act (T.C.A. § 63-12-119). In addition, it is not legal for any person or entity to

dispense, barter, or give away a legend drug except with a legally written prescription. Therefore, it would be impossible for a law enforcement agency to procure and administer the necessary drugs used in tranquilizer guns unless the local police officer moonlights as a veterinarian!

ANIMAL SHELTERS

Once a pet is in the animal control program, it should receive food, water, and dry, safe shelter. If the animal is injured, medical attention should be sought. Of course, an attempt should be made to contact the pet's owner. The animal must be kept at least 72 hours before it is adopted, sold or euthanized.

ANIMAL CONTROL'S FUTURE

1. Animal control programs require a significant expenditure of public funds for facilities, equipment, training, veterinarians, veterinary assistants and city personnel. Shelters should be just that: places where animals are cared for, given medical attention for injuries, properly fed and provided with a safe dwelling. "Safe" also means that dogs and cats are not kept where they might be attacked by aggressive animals. However, not all shelters are stellar examples of pet care. That's why animal control should include public education. It is vitally important that the public see neglected pets in unkempt shelters. The odors, killings, burials in pits, and cremations help dramatize that animal control can and should be a much smaller problem. How many city managers, mayors or council members have visited animal shelters? A starting point for any educational program should be ensuring that local decision makers visit shelters and witness the conditions. Printed materials typically don't illustrate the true state of many animal shelters.
2. In the future, animal control programs will be required to adhere to stringent state regulations. The regulations are already strict, but noncompliance is often an issue. This will require a greater investment of public funds.
3. Cities and counties will intensify efforts to pool their resources to deal with this very serious problem.

PUT DOWN THOSE GUNS

It's clear that there is no authority for police officers to shoot tranquilizer guns to catch dogs or for any other purpose. Programs that train police officers to use tranquilizer guns on animals are apparently nonexistent and for an obvious reason: All persons and entities, including police departments and political subdivisions, are subject to rigorous restrictions on receiving and using legend drugs. *Only veterinarians and individuals specified in the state statutes may administer medicines and legend drugs to animals*. Finally, there's the prospect of bad publicity that a city may well incur if a resident's prized Pomeranian, loitering a few feet outside its yard, is injured or killed by a tranquilizer gun fired by one of the city's finest.

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