



Chapter 7

LEGISLATION: COMMUNITY-WIDE SOLUTIONS FOR A COMMUNITY-WIDE PROBLEM

“Pick battles big enough to matter, small enough to win.”

Jonathan Kozol (1981). *On Being a Teacher*.
Continuum International Publishing Group, New York, N.Y.

In 1993, when our spay/neuter bill was introduced into the New Hampshire Legislature for the second time, supporters packed public hearings and contacted legislators asking them to support the bill. A member of the House Ways and Means Committee told me, “I really don’t think this bill will amount to much, Peter, but 19 people have contacted me from my district and every one was for it. So I guess I’ll vote for it.” That session, one legislator after another said they had gotten more letters and phone calls about our bill than any other one that session.

That shouldn’t be surprising. Shelter overpopulation is a community-wide problem, and there are several good reasons to change the way we are doing things:

- ◆ *Our current homeless animal programs are not cost-effective.* Taxpayers in the country now pay more than \$1.5 billion each year to impound, shelter, and euthanize homeless animals and only about \$105 million to prevent them from becoming homeless in the first place. It's like a malaria epidemic in which almost all of the funding is spent to treat the victims and very little to stop them from getting sick. In this case, it's even more wasteful because the treatment is not very effective. Half of the homeless animals that enter our shelters don't survive.
- ◆ *They're not humane.* To put millions of cats and dogs to death when there are effective and affordable alternatives is wrong.
- ◆ *They're not fair.* Intact cats and dogs cause far more injury and public expense than those that have been sterilized but people who keep intact pets and businesses that sell them pay very little to cover these costs. They don't pay their fair share.
- ◆ *They don't protect the public from harm.* Hundreds of thousands of people are bitten by dogs every year in the United States. Intact dogs are much more likely to bite than those that have been sterilized but public officials often don't do all they can to increase the pet sterilization rate in their community.

It may seem that legislators can't do much about this. After all, overpopulation is often caused by irresponsibility, and it may seem that laws can't make people act responsibly.

Actually that's what many laws do. They get people to act responsibly by rewarding them when they do and penalizing them when they don't.

It all begins with recognizing that sexually intact dogs and cats cause far more than their share of injuries and public expense. (For details, see Pages 27-29 of *Replacing Myth With Math*.) Programs that increase a community's pet sterilization rate protect everyone in the community and reduce companion animal homelessness at the same time.

GETTING TO ZERO: THE ROLE OF LEGISLATION

We spend a billion and a half dollars every year on municipal animal care and control programs. Our elected officials decide whether that money will be spent wisely or not. Advocates can't afford to be absent when those decisions are made. As Rick DuCharme—who helped secure public funding for a low-income spay/neuter program in Jacksonville—puts it, "Politics is a part of saving animals' lives."

As mentioned in the last chapter, to be adequately funded a low-income spay/neuter program like the one in Jacksonville would cost about 50 cents a year for every person who lives in the area it serves. At that rate, it would cost more than \$150 million a year to fully fund programs like this throughout the country. Charitable foundations and animal protection groups probably can't provide this amount of money, but legislators can. That would only be a dime for every dollar they now spend for animal control and sheltering programs.

Legislators not only can provide the funding for needed programs, they also can set the standards that must be followed. Other people can only suggest that shelters and caretakers follow the best practices. Legislators can require them to. As discussed below, a California law requiring shelters to sterilize pets before placing them in new homes saves tens of thousands of lives every year, showing how powerful this type of legislation can be.

Legislation can create a system for managing homeless animals that is far more humane, fair, cost-effective and protective than the one we have now:

- (1). *Laws Requiring Shelters and Rescue Groups to Sterilize Intact Pets When Placing Them in New Homes*. I was a skeptic at first. I didn't believe that shelters could drive down intake rates very much by sterilizing intact pets instead of placing them with neutering deposits. I was wrong.

Shelters that sterilize all the animals they place have lower future intake rates than those that don't. A good example is what happened in California after the State Legislature passed a law requiring all public and private shelters, except those in very rural counties, to sterilize all the intact cats and dogs they placed unless a veterinarian certified that it would likely harm the animal. During the first five years after the law passed—between 2000 and 2005—intakes at shelters in the six largest counties with complete data dropped by 10%. (The complete statistics are shown in Figure 6 on Page 13 of *Replacing Myth With Math*.) Per capita, the drop was even larger because the human population grew by more than 8% in these counties between 2000 and 2005. If the Legislature hadn't enacted the sterilization-at-adoption law and shelters had continued to place intact cats and dogs in new homes, their intakes probably wouldn't have dropped at all. Most likely they would have continued to grow at the same rate as the human population. That's just what happened in the five years before the law passed, when intakes increased by more than 8%, closely tracking the growth of the human population.

LESSON: Pre-release sterilization programs are much more effective in driving down shelter intake rates than neutering deposit programs. It is no longer acceptable for a shelter or rescue group to place intact cats and dogs in a new home without having them sterilized first.

Before the pre-release sterilization law was passed in California, a state law required shelters to take a neutering deposit when placing intact pets. This change in the law was like an experiment to see whether it makes any difference to sterilize the intact animals placed in new homes instead of relying on adopters to follow through with that. The answer is clear: It makes a great difference. Shelters that place intact cats and dogs in new homes are following an outmoded approach, no matter how much money the shelter takes for a neutering deposit or how aggressively it enforces a neutering contract.

Requiring shelters to sterilize all adopted animals is a good place to begin reforming animal care and control laws because much—if not all—of the cost can be recovered through adoption fees. If a shelter has its own veterinary clinic, the cost to sterilize the animal may be no more than the deposit it used to take. Even if establishing a pre-release sterilization program involves some expense, the cost will be recovered through reduced future intakes that save the shelter money later on.

- (2). *Laws Requiring Commercial Pet Sellers to Take a Neutering Deposit.* The libertarian principle that people should be free to do whatever they want unless it hurts other people is central to much of our law. Even when people do something that hurts others, legislators often don't make it against the law; instead, they make people pay a price for it rather than allow them to pass the cost on to someone else. So, for instance, although tobacco products

are known to cause cancer and drive up the cost of publicly-funded insurance programs like Medicaid and Medicare, they aren't prohibited altogether. Instead, tobacco sales are heavily taxed, and manufacturers pay billions of dollars every year into a fund for programs to discourage people from starting to smoke or help them quit.

As mentioned earlier, intact cats and dogs cause far greater animal care and control costs, on average, than those that have been sterilized. They are much more likely to end up in shelters and—although only three dogs in ten remain intact—they are responsible for the overwhelming majority of sheltering expenses. If animal control and sheltering expenses were spread out over the entire dog population in the United States, each community spends, on average, more than \$25 on impoundment and sheltering for every intact dog that lives there and less than \$3 for each one that has been sterilized. (For details, see Figure 8 on Page 33 of *Replacing Myth With Math*.)

Selling puppies is a major source of income for many pet shops and commercial breeders. Although not all of these puppies remain intact, many do. Like other intact dogs, they cause more than their share of public expense and injury. Rather than allow these businesses to shift the cost of their products to taxpayers, it would be fair to require pet retailers to collect a neutering deposit from people that buy puppies. Then the buyers would have an incentive to get the dog sterilized. If, after a reasonable period of time, they haven't done that, their deposits should be placed into a spay/neuter fund to help those who would like to have pets sterilized but can't afford to.

- (3). *Higher Fees to License Intact Pets.* Differential license fees, in which caretakers pay a higher fee to license intact pets, are fair for the same reason that a pet-shop neutering deposit is fair: Intact pets cause more expense than other people often end up paying. Not only are they fair, they also save taxpayers money. Research has shown that communities with differential licensing laws have lower shelter intake rates than those that don't. (For details, see the discussion on Page 32 of *Replacing Myth With Math*.)

LESSON: Intact pets cause far greater animal care and control costs than those that have been sterilized. These costs should be recovered through higher licensing fees.

To be fair, the amount of the differential should reflect the increased public expense caused by intact pets. As mentioned above, each year a community spends more than \$20 in extra impoundment and sheltering expenses for every dog that has not been sterilized. This doesn't count the disproportionate share of injuries these dogs inflict.

A differential of at least \$20 a year, then, would be a fair place to start. The amount of the differential can be ratcheted up over time, little by little, if targets for intake reductions aren't met,

like the federal Clean Air Act, which imposes targeted interventions if local goals for improved air quality are not met. Mandatory spay/neuter laws should only be a last resort, if differential licensing laws and targeted neutering assistance programs have been given a fair try and haven't succeeded in ending companion animal homelessness. Sterilization mandates can backfire, though, unless caretakers are given the help they need to have their pets sterilized. Otherwise a mandate may cause some to relinquish or abandon intact pets, causing more animals to become homeless, not fewer. So a community should enact a sterilization mandate only if it also helps every citizen comply with it by providing adequate assistance to everyone who needs help to have a pet sterilized.

The first differential licensing laws just deposited the revenue from the licensing surcharge into the same general fund with all other municipal revenue. Second-generation differential licensing laws, like the Illinois law passed in 2005, dedicate the revenue from a differential surcharge to neutering programs for animals that face the greatest risk of impoundment, such as pets living in low-income households and feral cats.

Laws that attack social problems from both ends—by imposing penalties for irresponsible behavior and using the revenue for programs to prevent it—have often proven to be more effective than those that just impose penalties. A good example is the California Tobacco Tax Initiative, which raised taxes on the sale of tobacco products and used part of the increased revenue for anti-smoking programs. During the first five years after the law was passed, smoking rates in California dropped three times faster than those in the rest of the country.

To avoid creating a Catch 22 for indigent pet caretakers—in which they can't afford to either pay a higher license fee or avoid it by having a pet sterilized—differential licensing laws need to be coupled with a neutering assistance program that brings pet sterilization within their reach. If reasonable steps are taken to increase local licensure rates, as will be discussed later in this chapter, the revenue from a \$20 differential surcharge may generate enough revenue each year to fully fund a low-income neutering assistance program. (For details, see Figure 9 on Page 33 of *Replacing Myth With Math*.)

LESSON: The revenue from differential licensing fees should be used for a program that makes it affordable for people living in low-income households to have their pets sterilized. Otherwise the differential may backfire by forcing them to abandon or relinquish their pets.

- (4). *Pet Sterilization Assistance Program for Indigent Caretakers.* As mentioned in the last chapter, a low-income spay/neuter assistance program needs to provide subsidies that make it affordable for indigent caretakers to have their pets sterilized. That takes money.

A licensing differential is an excellent source of funding because it persuades some people to have their pets sterilized and produces revenue from those who don't. By dedicating that revenue to a low-income program, those who won't sterilize their pets help those who can't. In places without licensing laws, a surcharge on rabies immunizations can provide enough revenue for an entire program, as it does for the Spay/Neuter Program administered by the Delaware Department of Agriculture.

Another option is to combine revenue from several sources. Maine's Help Fix ME Program is a good example. It gets funding from an animal-friendly license plate, an income-tax check-off, a surcharge on the sale of intact pets by pet shops, and some of the revenue from a pet-food licensing fee. While none of these sources can provide enough revenue to fully fund a low-income program—about 50 cents a year for every person who lives in the area served by the program—added together, they can.

LESSON: A well-designed pet sterilization program for indigent caretakers costs only about 50 cents a year for every person who lives in the area served by the program.

It's not enough to provide funding for a year or two. Intact pets enter low-income households all the time, so a program has to hit the 5 Pets Per Thousand People (PPTP) mark every year, year in and year out. The best way to protect revenue for the program is to have it deposited into a special Spay/Neuter Fund that can only be used for the program. We learned that early in New Hampshire. At first, the dog-license revenue that was supposed to be used for our program was deposited into the state's General Fund and yearly appropriations were made to the program. After a couple of years, though, money that was supposed to go to our program was spent on other things. The next year, we managed to get a bill passed putting the licensing revenue into a Companion Animal Neutering Fund that could not be spent on anything else. Looking back, passage of that legislation was almost as important as passing the law that set up the program in the first place.

- (5). *Integrating Pet Licensing Records and Rabies Vaccination Records into a Single Database.* As mentioned earlier, differential licensing laws are a fair and effective way to increase the local pet sterilization rate. This, in turn, reduces the extra injury and expense caused by intact pets. The beneficial impact of these laws is hampered, however, by scofflaws who don't license their pets.

We had that problem in New Hampshire. A low compliance rate with our state's licensing law greatly limited the amount of funding generated for our neutering assistance program. When it began in 1994, about 80,000 people in the state licensed their dogs. As a result, the \$2 companion animal population control fee produced only \$160,000 in funding each year. Members of the Pet Overpopulation Committee overseeing the program quickly realized that the program would run out of money each year. We also realized that the shortfall was caused by people who failed to license their dogs.

We took steps to change that. The most important thing was integrating rabies vaccination records kept by veterinary clinics into a single database with licensing records. Legislation was passed requiring veterinarians to submit a list of people who had their dogs immunized against rabies to local licensing officials so they could compare it to their list of licensed dogs and follow up with caretakers who hadn't licensed their dogs. It was remarkably effective. Over the next few years, the number of dogs licensed in the state—and funding available to the neutering assistance program—almost doubled.

- 6). *Pet Sterilization Assistance Program for Pit-Bull Terrier Caretakers.* It makes sense to help pit bull terrier caretakers have their pets sterilized for the same reason that it's a good idea to help indigent caretakers. It's not that pit bulls have a different temperament than other breeds. They don't. Or that a dog's breed determines its behavior. It doesn't. It's because pit bulls are much more likely to end up in an animal shelter at public expense. About a quarter of all the dogs that enter American shelters are pit bulls or pit bull-mixes.

There's a compelling humane reason, too. Many pit bulls fall victim to a double whammy. Not only are they more likely to end up in a shelter, once there they are less likely to be adopted than other dogs. As a result, hundreds of thousands are put down in shelters every year.

Outright bans on keeping pit bulls are a bad idea. They're aimed at the wrong target—the dog. Like other pets, any problem behaviors a pit bull has probably came from the irresponsibility of the people who bred or kept the dog. Laws should try to change their behavior. As mentioned earlier, sterilization greatly reduces the risk that a dog will bite someone or do other things that can lead a caretaker to give it up to a shelter. So it makes sense to try to increase the number of pit bull caretakers that have their dogs sterilized.

Many communities have passed mandatory spay/neuter laws that only apply to dogs who appear to be pit bulls. In the same way that all mandatory spay/neuter laws can backfire by causing caretakers to relinquish or abandon intact animals, pit bull mandates can, too. They should only be a last resort, if differential license surcharges and neutering assistance programs haven't reduced pit bull intake and euthanasia rates. And if voluntary programs haven't worked after having been given a fair try, a program should be established like the one in Kansas City, Missouri which gives caretakers who get a ticket for having an unsterilized pit bull a voucher that allows them to have their dog sterilized at no cost. If they get the dog sterilized, they take proof of that to court and the ticket is dismissed.

- (7). *Laws Requiring Animal Care and Control Agencies to Sterilize and Return Feral Cats that Have Been Impounded or Release Them to Rescue Groups for Sterilization and Return.* Since

August of 2008, feral cats that have been impounded by animal control officers in Jacksonville bypass the City's sheltering system and are brought directly to a clinic operated by a local rescue group, First Coast No More Homeless Pets, where they are vaccinated, microchipped, sterilized, and ear-tipped. After a night of recovery, the cats are released back to the place where they were captured. During Feral Freedom's first three years, more than 10,000 cats that would have been sheltered and put to death at public expense have been sterilized and returned to the community, saving the City about \$150,000 a year that it would have spent to shelter and euthanize them.

In many other places, ferals are routinely brought to shelters and euthanized. Not only does this result in great public expense with little or no benefit—because there's no public health reason to impound a free-roaming cat unless the animal poses a special health risk—there are humane costs as well. Sheltering systems in most communities operate at maximum capacity, so every animal that is needlessly admitted to a shelter takes resources away from other homeless animals that need them. This may be why most people support non-lethal alternatives, like Trap/Neuter/Return (T/N/R) programs. In a 2007 Ohio survey, more than three fourths of all the people surveyed supported T/N/R programs as a way to manage free-roaming cat populations. (The survey results are shown in Figure 12 on Page 38 of *Replacing Myth With Math*.)

While Feral Freedom programs have not been operating long enough to see what impact they will have on future intake rates, data from other high-volume feral cat sterilization programs suggest that sterilization reduces the troublesome behaviors that prompt citizen complaints to animal care and control agencies. For instance, a clinic in Tampa has sterilized more than 15,000 feral cats since it began operating in 2001. Each cat has been ear-tipped. During the past five years, the local animal care and control agency has impounded more than 40,000 stray cats, many of them ferals. Less than 200 of the impounded cats have been ear-tipped. This suggests that Feral Freedom programs are not only a more humane alternative to impoundment and euthanasia but also help reduce local impoundment rates over the long term.

(8). *Laws Requiring Shelters to Compile and Report Basic Intake and Disposition Statistics*. Twenty years ago, Dr. Andrew Rowan, then the Director of the Tufts Center for Animals and Public Policy, called the lack of data about animals that entered American animal shelters and what happened to them a “statistical black hole” and pointed out what a missed opportunity this was:

“(g)iven that close to \$1 billion are spent by animal shelters every year to deal with unwanted companion animals, it is unfortunate that we have so little reliable data that could be used to plan more effective programs or even evaluate where we are headed.”¹

¹ Rowan AN (1992). “Shelters and pet overpopulation: a statistical black hole.” *Anthrozoos* 5 (3): 143.

As Dr. Rowan suggested, shelter statistics can help advocates understand which cats and dogs become homeless and why. Then they can put together programs to address these causes. Finally, they can use subsequent data to evaluate how well their programs have worked and make any changes that may be needed to improve them.

The alternative is to do what we've done in the past: to design programs and assess their effectiveness based on impressions, anecdotes, and conventional wisdom. Time and time again that has led us in the wrong direction.

LESSON: Without data, shelter policies and programs have usually been based on conventional wisdom and urban legends that were often mistaken.

Shelter data can be used in many ways to design more effective programs and measure how well they have worked:

- ◆ As mentioned earlier, the California shelter data from before and after the pre-release sterilization law became effective in 2000 allowed us to compare the effectiveness of sterilization-at-adoption programs to earlier neutering deposit programs.
- ◆ Michigan shelter data about the sterilization status of cats and dogs that entered shelters in 2003 showed that intact pets were much more likely to be admitted to local shelters than those that had been sterilized. Based on this, people putting together programs could be confident that if they increased pet sterilization rates fewer animals would enter local shelters in the future.
- ◆ Other intake data can be of great value, too. If most of the animals that enter a sheltering system are adolescent or adult animals, remedial programs need to be more carefully targeted than if they had been kittens or puppies. Shelter overpopulation—in which the animals entering shelters are a diverse mix of strays, relinquished pets, and ferals—is more complex than pet overpopulation. Developing effective shelter overpopulation programs requires data that break down admissions between strays and relinquished animals and between socialized and unsocialized animals, because each group requires a different set of interventions. This information will enable planners to decide whether to prioritize programs that increase pet retention or return-to-owner rates or feral cat management programs and to measure the effectiveness of each program after it has been implemented.
- ◆ Outcome statistics can be of great value, too. Comparing local adoption, redemption, and euthanasia rates to regional or national data allows planners to determine where there is room for significant improvement and how to better allocate their resources.

State legislatures in Virginia and Michigan have passed laws that require shelters to collect and report basic intake and disposition data. These laws can be of significant value. Some shelters, of course, may want to collect more detailed intake and disposition data like the data sheet used by New Hampshire shelters. (A sample is shown on Pages 15-16 of a handbook put together by Aimee St. Arnaud titled “Community Assessment and Planning for the Humane Movement.” It’s available online at <http://www.bestfriends.org/nomorehomelesspets/pdf/Assessment.pdf>.)

In New Hampshire, we learned the hard way how valuable shelter statistics can be. Shelters collected and compiled them for many years without putting them to much use. And we didn’t make much progress. Once we began using shelter statistics to develop programs that addressed the reasons why animals had become homeless, everything turned around for us. As the old saying put it “taking good aim at a target greatly increases the chance you will hit it.”