



Montgomery County Government

A DESCRIPTION AND EVALUATION OF THE MONTGOMERY COUNTY DEPARTMENT OF ANIMAL CONTROL AND HUMANE TREATMENT

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I. SUMMARY AND MAJOR CONCLUSIONS/RECOMMENDATIONS

A. Summary

Montgomery County has had laws concerning animals for many years. As parts of the County have changed from almost exclusively rural, to suburban, and, more recently in some areas, to urban, the laws dealing with animal-related matters have also changed. Until 1974, the Montgomery County Humane Society was responsible for all aspects of animal control and humane disposition. In 1974, the County appointed its first animal control officer in the Department of Environmental Protection. Since 1979, animal control and humane treatment has been the responsibility of a separate department in the Executive branch, the Department of Animal Control and Humane Treatment.

The current ordinance, Chapter 5, Animal Control of the Code is a broad and tough law addressing the control, treatment and humane disposition of domestic animals and wildlife; the protection of humans from vexatious, dangerous and diseased animals; and the investigation and enforcement of State and County laws and regulations.

The Department of Animal Control and Humane Treatment is responsible for carrying out the duties and responsibilities enumerated in the Code and in regulations concerning all aspects of animal control and humane treatment. The Department discharges its responsibilities with a staff of 15 employees and with approximately 35 employees of the Montgomery County Humane Society under a contract with the County. The County employees are responsible for enforcement of the animal control provisions of the Code; rabies control; licensing of animals and facilities; support for the Animal Matters Hearing Board; and management of the contract with the Humane Society. The Humane Society is responsible for the total operation of the animal shelter; the spay-neuter program; animal rescue and trapping operations; the animal adoption program; humane education; and euthanasia.

B. Major Conclusions/Recommendations

1. Montgomery County has an excellent animal control law which provides for the control, treatment and humane disposition of domestic animals and wildlife; the protection of humans from vexatious, dangerous and diseased animals; and the investigation and enforcement of State and County laws and regulations.

2. The evaluation identified several areas of the County law where amendments could improve the clarity and scope of the law.

3. The Department of Animal Control and Humane Treatment is discharging its duties and responsibilities as enumerated in the County Code in regulations in an efficient and effective manner.

4. The evaluation identified the following areas for improvement in the and operation of the Department:

- Clarify the responsibility for receiving telephone complaints concerning animal bites, cruelty and other animal behavior activities;
- Review the current procedures and fiscal impact of the Department's policy of voiding citations to first-time violators of the law requiring that dogs and cats be vaccinated and licensed;
- Review and revise the rabies control provisions of the Code to reflect the de facto functions and responsibilities of the Department of Health and the Department of Animal Control and Humane Treatment;
- Amend the Code to permit the staggered issuance of dog and cat renewal licenses; and develop initiatives to increase the number of dog and cat licenses issued;
- Amend several Code provisions relating to the term, composition and duties of the Animal Matters Hearing Board;
- Change the current contract with the Montgomery County Humane Society to a grant; and
- Review the provisions of the County's agreement with the Humane Society to assure that the Society is receiving full and fair compensation for services rendered.

II. AUTHORITY, SCOPE, METHODOLOGY AND ACKNOWLEDGEMENT

A. Authority

Council Resolution No. 11-738, adopted March 29, 1988, subject:
CY 1988 Work Program of the Office of Legislative Oversight

B. Scope

The purpose of this evaluation is to review the organization, programs and operating policies and procedures of the Department of Animal Control and Humane Treatment (Department) and report on the effectiveness of the Department's program results, the efficiency of its management, and the adequacy of its operating policies and procedures.

C. Methodology

This evaluation was conducted from October through December 1988, using a variety of fact finding techniques to include:

1. Document review:

- Chapter 5, Animal Control, Montgomery County Code, and the legislative file of Bill 40-72 which was enacted on July 2, 1974 as Chapter 5.
- Various sections of the Annotated Code of Maryland relating to animal control and the humane treatment of animals (e.g., Art. 27, Cruelty to Animals; Art. 56, Licenses, Title 18, Health General, Rabies).
- Policies and operating procedures of the Department and Montgomery County Humane Society (Society); policies and guidelines of the Humane Society of the United States and the American Humane Association; contracts with service providers; and Executive regulations.

2. Interviews:

- Management and staff of the Department and the Society; and representatives of other County agencies involved in animal matters (e.g., Health Department, County Attorney's Office, Division of Revenue, the District Court, State Department of Natural Resources).
- Former Directors of the Department.
- Current and former members of the Animal Matters Hearing Board.
- Selected members of the Montgomery County Humane Society, the Humane Society of the United States, and a citizen's ad hoc committee to improve the Montgomery County Department of Animal Control.

- Representatives of the Montgomery County Veterinarian Medical Association.
- Staff of the animal control agencies in the Cities of Rockville and Gaithersburg and the Town of Glen Echo.
- Representatives of the U. S. Department of Agriculture's Office of Inspector General on matters relating to the USDA's Animal Welfare Program.

3. Interviews with staff representatives of the animal control agencies and visits to the facilities in the following jurisdictions:

- Prince George's County Animal Control Facility and the Prince George's Animal Control Commission.
- Fairfax County Department of Animal Control.
- City of Alexandria Animal Shelter.
- Animal Welfare League of Arlington.
- Washington Humane Society and the District of Columbia Animal Shelter.

D. Acknowledgment

The Office of Legislative Oversight acknowledges the prompt and courteous support from the management and staff of the Department of Animal Control and Humane Treatment and the Montgomery County Humane Society. Interviews were candid and forthright. Throughout the course of this review, I was repeatedly impressed with the high dedication of all personnel to the welfare and humane disposition and care of the animals coming under their purview or control.

III. OVERVIEW

1. The laws of the County have long included sections relating to the control of animals and fowl. Early ordinances were devoted primarily to the impoundment of strays, the control of livestock and fowl, and the control and prevention of rabies. In the ensuing years, the sections relating to animal matters increased to include provisions for licensing, expanded rabies prevention and control, and animal cruelty and animal bite investigations.

2. Until 1974, the animal control authority designated by the County Executive to be responsible for administering the provisions of the County code, Chapter 5, Animals and Fowl, was the Montgomery County Humane Society. In addition, the Society also operated the County's animal shelter. In 1974, the County enacted legislation which significantly modified the organization for control of animals. The new legislation (Bill No. 40-72) created a position of animal control officer and transferred responsibility for enforcing the provisions of a revised Chapter 5, Animal Control, in the

Division of Housing and Vector Control, in the Department of Environmental Protection (DEP). In addition to responsibility for all animal control matters, the Division retained responsibility for enforcing housing, weed, trash, and vector control laws and regulations. During the remainder of the 1970's, the DEP staff operated out of leased office space in Rockville while the Humane Society staff continued the operation of the animal shelter under contract with the County in a new Rockville facility constructed in 1976.

3. As part of a 1979 reorganization of the Executive branch, the County Executive proposed moving responsibility for animal control from DEP to the Health Department. After much debate and considerable citizen objection to placing responsibility for animal matters in the Health Department, the Council, in late December 1979, enacted Bill No. 55-79 which created a separate Department of Animal Control and Humane Treatment (Department). The new Department was staffed with former DEP employees and were collocated with the Humane Society staff at the animal shelter.

4. Currently, the Department is responsible for the following six broad areas of animal control and humane animal treatment. The first five are carried out by County employees, and the sixth by the Montgomery County Humane Society under a contract with the County:

- Management. Policy, planning, program development and administration.
- Animal control. Enforcement of the provisions of the animal control laws, especially those dealing with animal cruelty and public nuisance.
- Rabies control. Enforcement of vaccination requirements, conducting rabies clinics and animal bite investigations.
- Licensing. Dogs, cats, pet shops, commercial kennels, riding stables and fanciers' licenses.
- Support. Staff support for the Animal Matters Hearing Board.
- Animal Shelter. Operation of the animal shelter and administration of the following animal-related activities: spay-neuter program, adoption program, animal rescue and trapping operations, humane education, and euthanasia.

5. Subsequent sections of this report will address the legal authority for the Department; the Department's organization, budget, responsibilities and operating procedures; the Animal Matters Hearing Board; and the responsibilities and operating procedures of the Montgomery County Humane Society. In addition, the policies, regulations and operational procedures of the Department and the Humane Society will be evaluated, and recommendations presented.

IV. DESCRIPTION OF THE DEPARTMENT OF ANIMAL CONTROL AND HUMANE TREATMENT

A. Legal Authority

1. A review of past County laws reveals many provisions relating to the control of animals and fowl. In the 1950 laws of Montgomery County, one section was devoted to the control and impoundment of cats and dogs, another to livestock and fowl, and still another to rabies prevention and control. In 1965, the Council enacted a bill under the title Animals and Fowl, which brought together the various provisions relating to the control and disposition of animals into a single chapter of the Code.

2. The next major rewrite of the County's animal law occurred in 1974, when Bill 40-72, Animal Control, was enacted 18 months after introduction. The extensive debate over this bill reflected the high level of interest in the County concerning animal-related issues. The major effect of this bill was to create a County animal control officer and staff in the Department of Environmental Protection (DEP).

3. In addition to creating the first County animal control officer, Bill No. 40-72 contained three new provisions which were heavily debated before enactment, and were eventually cited by the County Executive in vetoing the bill. Those three provisions were the establishment of a clinic for the spaying, neutering and altering of animals; the creation of an Animal Matters Hearing Board; and the requirement that animal owners remove feces deposited by their dogs from any property other than their own. The Council, however, overrode the veto and the bill became law in 1974 as Chapter 5, Animal Control, of the Code.

4. Although Bill No. 40-72 authorized the County Executive to construct and operate an animal shelter, the County continued to operate the animal shelter and provide humane disposition of animals through a contract with the Montgomery County Humane Society.

5. In late 1979, the Council enacted a series of bills which resulted in a major reorganization of the Executive branch. One Bill (No. 59-79) moved all responsibilities relating to animal control from the Department of Environmental Protection to a newly created Department of Animal Control and Humane Treatment.

6. Since 1979, there has been three animal-related bills enacted. Two addressed the right of entry by animal control officers on private property and the length of time an animal must be held before it may be considered abandoned. A third piece of legislation, Bill No. 66-85, made technical and stylistic changes to Chapter 5, raised the penalty for cruelty and abandoning an animal to a Class A violation, and removed a limitation on the authority of the Department which had prevented protective removal of an animal from the interior of a dwelling.

7. The Maryland Annotated Code also contains numerous provisions relating to domestic animals, livestock and poultry, licensing, disease

prevention and control, and wildlife. Most of the provisions of the Maryland Code address areas outside the scope of County law, such as trapping wildlife, licensing veterinarians, and regulation of livestock. However, there is overlap with County law in other matters, especially in the area of cruelty and rabies control.

B. Organization and Budget

1. Organization. The Department of Animal Control and Humane Treatment is organized into three major divisions, the Office of the Director, the Field Operations Section and the Administrative Services Section. The FY88 personnel complement authorizes the Department 15 full-time positions and 15.3 work years. This authorization has remained stable since FY84.

The Office of the Director is responsible for overall management of the department, planning, policy and program development, and management of the contract with the Montgomery County Humane Society to operate the animal shelter and administer other animal-related activities. Two full-time positions are assigned to the Director's office.

The Field Operations Section is responsible for investigating animal cruelty complaints and animal bites, responding to animal nuisance complaints (barking, dogs at large, and defecation), and managing the County's rabies vaccination program. Animal control officers issue civil and criminal citations for violations of County and State animal control and cruelty laws. Ten full-time positions are assigned to the field operations section: one manager, one administrator, and eight animal control officers.

The Administrative Services Section is responsible for licensing (dogs and cats, commercial kennels, breeders/fanciers, riding stables and pet shops); developing and conducting training for Department personnel; developing and producing educational and informational videos; and providing staff support for the Animal Matters Hearing Board. Three full-time positions are assigned to this section.

2. Budget. At Table 1 is a summary of expenditures and revenues for fiscal years 1987 and 1988.

Table 1

Department of Animal Control and Humane Treatment FY87 and FY88 Expenditure and Revenues

<u>Expenditures</u>			
<u>CATEGORY</u>	<u>FY87</u> (actual)	<u>FY88</u> (actual)	<u>% CHANGE</u> <u>FY87-FY88</u>
Personal Services	\$ 496,311	\$ 487,724	-1.7%
Other Operating	806,443	863,678	+7.1%
Capital Outlay	13,809	57,657	+317.5%
Total:	\$1,316,563	\$1,409,059	+7.0%

<u>CATEGORY</u>	<u>Revenue</u>		<u>% CHANGE FY87-FY88</u>
	<u>FY87</u> (actual)	<u>FY88</u> (actual)	
Dog and Cat Licenses	\$254,920	\$261,167	+2.5%
Impounding & Boarding Fees	28,890	31,744	+1.0%
Business Licenses	3,410	5,020	+4.7%
Civil Fines	27,000	8,970	-201%
Total:	<u>\$314,220</u>	<u>\$306,901</u>	-2.3%
Revenues as a Percentage of Expenditures:	23.9%	21.8%	

(Sources: Comprehensive Annual Financial Reports and Department files)

C. Operations

1. Management and Administration

The Department of Animal Control and Humane Treatment (Department) is a separate department in the Executive branch, and as such is staffed so as to perform all administrative and managerial functions. In addition to the normal management responsibilities, the Director is also responsible for the management of the contract with the Montgomery County Humane Society to operate the animal shelter and administer a variety of animal-related activities. A detailed description of this contract is found later in this report.

The Director is also responsible for administering a fund to settle damage claims for livestock and fowl caused by unidentified dogs. In recent years the claims have been small (\$160 in FY87, \$600 in FY88 and no claims in the first half of FY89).

The Department has developed a broad array of internal operating procedures and guidelines and recently published detailed manuals covering two of the Department's primary responsibilities: cruelty and rabies control. The cruelty manual serves as a training and procedures manual for the enforcement of cruelty laws; and the rabies manual serves as a procedures manual for all agencies involved in rabies control and prevention. The Department has also developed a number of training manuals on a variety of special animal control issues.

2. Enforcement of Animal Control Laws

a) Overview. The primary operational responsibility of the department is to enforce the provisions of the State and County animal control laws. Enforcement involves a range of activities to include investigating complaints and observed violations, conducting cruelty investigations, issuing citations, and educating the public on the animal control laws and animal control matters.

b) Conducting Field Operations. Enforcement is carried out by eight animal control officers in the Field Operations Section. To facilitate total area coverage, the County is divided into six field operations zones; and the animal control officers operate from specially marked, radio-dispatch vans. Although the department is not staffed so as to provide 24-hours per-day coverage in all zones, the staffing and scheduling permits officers to be in the field five days a week from 8:00 A.M. until 8:00 P.M., with lesser hours on the weekends. In addition, the evening hours are covered by an on-call officer.

c) Complaints Received. In FY88, a total of 7,600 complaints was received and investigated by an animal control officer, a slight increase over FY87. The majority of the complaints concerned animals creating a nuisance (dogs at large, barking, defecating, damaging property). The next two largest categories of complaints concerned cruelty to animals and animal bites. Other complaints included loose farm animals, failure to comply with orders of the Animal Matters Hearing Board, and animals encountered during police activities and tenant evictions.

d) Responding to Complaints. Except for those incidents which are actually witnessed by an animal control officer (a dog running at large, a person mistreating an animal, an animal outside in inclement weather without shelter), the authority of an officer responding to a complaint is limited to locating the owner of the animal, advising the owner of the complaint, and verifying the existence of a current rabies vaccination and license for the animal.

Because animal control officers are usually not able to witness an animal actually creating a nuisance, many nuisance complaints are not immediately resolved. However, a recent change to the County's noise control ordinance (Chapter 31B) provided the Department with a new procedure for handling barking dog complaints. The change authorized the animal control officers to issue a citation for violation of the County's noise control ordinance for a noise disturbance originating from an animal source, and also authorized the officer to issue the citation without witnessing the incident if three or more witnesses file a complaint.

e) Issuing Citations. An animal control officer can issue either a civil or a criminal citation, depending upon which provision of the animal control law is violated. In FY87, 690 civil citations were issued; and in FY88, 838 were issued. Although the 838 civil citations in FY88 represented a 21% increase over FY87, all except 378 were voided by the Department under a new policy initiated in July 1987. Under the new policy, the Department is voiding citations for first time violators of County Code requirements to vaccinate and license dogs and cats, provided the owner gets the dog or cat vaccinated and licensed within five business days of receiving the citation.

At Table 2 is a breakdown of the civil citations issued in FY87 and FY88.

Table 2

Civil Citations for Violation of County and State Animal Control Laws
FY87 - FY88^{a)}

<u>VIOLATION</u>	<u>COUNTY CODE SECTION</u>	<u>CLASS OF VIOLATION^{b)}</u>	<u>FY87</u>	<u>FY88</u>	
			<u>ISSUED</u>	<u>ISSUED/VOIDED</u>	
Cruelty to animal	(5-13b)	A	10	10	1
Violate AMHB order	(5-15A)	A	7	23	1
Failure to neuter adopted animal	(5-22 & 5-41)	B	2	2	2
Public nuisance	(5-25 & 5-41)	B	1	0	0
Dog at large	(5-26 & 5-41)	B	228	150	0
Abandoned animal	(5-34 & 5-41)	A	2	0	0
Unvaccinated dog or cat	(5-45a & 5-57)	A	199	317	255
Breaking quarantine	(5-52 & 5-57)	A	2	0	0
Failure/surrender animal to quarantine	(5-56 & 5-57)	A	0	1	0
Unlicensed dog or cat	(5-59 & 5-66)	C	232	322	201
Failure to attach license to animal	(5-61 & 5-66)	C	3	4	0
Failure to attach license to collar	(5-63 & 5-66)	C	2	1	0
Minimum standards for pet shops	(5-72 & 5-78)	B	2	8	0
			<u>690</u>	<u>838</u>	<u>460</u>

a) All are County Code violations except four violations (three in FY87 and one in FY88) of the State Annotated Code for not vaccinating a dog or cat.

b) Maximum civil fine for violation of County Code (Section 1-19):

Class A - \$250 (initial); \$500 (repeat offense)

Class B - \$ 50 (initial); \$100 (repeat offense)

Class C - \$ 25 (initial); \$ 50 (repeat offense)

(Source: Department of Animal Control and Humane Treatment)

f) Disposing of Civil Citations. For most civil citations, either the fine is paid or a trial is requested within the time specified on the citation. Citations for which either a trial has been requested or the offender has ignored are sent to District Court for trial or judicial summons. The number of civil cases closed by court action in FY87 was 290; and in FY88, 220. The conviction rate for court cases is very high. For FY87, of the 290 cases, 207 were found guilty, nine not-guilty and 74 were not proessed. Of the 220 cases in FY88, 144 were found guilty, 12 not-guilty, and 64 cases not proessed. Civil citations for cruelty are closely monitored by the Department. Of the nine cruelty citations issued in FY88, all were issued to commercial pet establishments for improper care of a sick animal.

g) Cruelty Committee. To assure standardization and quality control in cruelty investigations by animal control officers, the Department reconstituted the Cruelty Committee in FY88. The Committee reviews cruelty cases to be sure that investigations were thorough and followed generally accepted guidelines for cruelty cases. The Committee meets monthly and is composed of three members, two supervisors from the Department and the President of the Montgomery County Humane Society. In FY88, the Committee reviewed 373 cruelty investigations, closed 308 and returned 65 (17%) for additional investigation and review by the Committee prior to closure.

h) Criminal Citations. The animal control officers also issue criminal citations, most often for serious animal cruelty violations. During FY87, three criminal cruelty cases were tried in District Court, resulting in one guilty finding, one placed on 64 hours of alternative community service, and the third on a one-year probation. Also in FY87, one criminal cruelty case went to jury trial in Circuit Court; however, the defendant failed to appear and a bench warrant has been issued. In FY88, three cruelty citations were processed in court. In two of the cases, the defendant was found guilty and in the third, the defendant failed to appear and a bench warrant has been issued.

i) Investigating Animal Bites. Another area of investigative activity concerns animal bites and scratches. These investigations are critical because of the threat of rabies, especially when the incident involves wildlife and a domestic pet. In FY88, of the 1,158 animal bites investigated, more than 900 resulted in the domestic animal being quarantined and over 150 animals involved in a bite or scratch incident tested in a laboratory for rabies.

j) Testing for Rabies. During FY88, the Department submitted 800 animals for laboratory test for rabies, a test which requires the killing of the animal. The large majority of these animals were wildlife. Not all animals tested for rabies have necessarily exposed humans. Some tests are conducted because there has been exposure to other animals.

k) Providing Public Education. Another important activity of animal control officers is to provide public education on a one-on-one basis concerning the animal control laws and the humane treatment of animals. The areas most often covered include the humane treatment of domestic animals, the appropriate reaction when encountering wildlife, and specific provisions of the County Code, especially those addressing cruelty, nuisance, vaccinations, and licensing.

3. Rabies Control

The Department shares responsibility for the prevention and control of rabies in animals with the Health Department. These responsibilities include enforcing vaccination requirements; conducting vaccination clinics; reporting animal bites and incidents of possible exposure to rabies; testing for rabies; and the impoundment, confinement, quarantine and destruction of animals exposed to rabies.

For many years, the County has had laws and procedures dealing with rabies; however, since late 1982, when the first case of rabies in a raccoon was confirmed, rabies control has been a high priority in the Department.

The largest number of confirmed cases of rabies in recent years was in FY83 (370) and FY84 (218). In FY86 there was a low of 25 confirmed cases; however, the number of confirmed cases increased to 72 in FY87 and to 50 in FY88. Rabies cases have been limited almost exclusively to the wildlife population. For example, 42 of the 50 confirmed cases in FY88 were raccoons and six were foxes.

Department activities are directed at ensuring that rabies remains isolated to the wildlife population. This is accomplished by a vigorous rabies vaccination program for domestic animals, prevention of exposure to humans and domestic animals through education, and timely follow-up when potential exposures are reported.

County law requires all dogs and cats over four months of age to be vaccinated against rabies. To assist citizens, vaccination clinics staffed by local veterinarians are conducted throughout the County. In FY88, 20 clinics were conducted (16 for dogs and 4 for cats) with 3,460 dogs and 1,017 cats vaccinated. This is a drop from FY87 when 3,906 dogs and 1,331 cats were vaccinated. The vaccination at the clinic is free, but the purchase of a license is required at the time of the vaccination. An analysis of the costs involved and the licenses issued indicates that the County collects substantially more in licensing fees than it spends to operate the clinics.

4. Licensing

a) Overview. The department is responsible for issuing dog and cat licenses, and for inspecting and licensing pet shops, riding stables, and schools, commercial kennels and dog/cat fanciers' kennels. The fees for the various licenses are established by Executive Regulation. Dog and cat licensing fees have remained steady in recent years. In FY88, the licensing fees for pet shops, riding stables and commercial kennels were doubled. The licensing fee for a fanciers' kennel was doubled in FY89. (Facilities which handle exotic birds also require a permit; however, under the State Code, the Health Department has this responsibility).

b) Dog and Cat Licenses. Although the State Code requires that only dogs be licensed, County law requires that all dogs and cats over four months old must be licensed and tagged annually on July 1st. Exempted are dogs and cats kept under a commercial kennel license or a fanciers' license. Licenses are issued by the Department for all areas of the County except the cities of Rockville and Gaithersburg and the Town of Glen Echo.

The annual license fee for an unaltered dog or cat is \$10; and for an altered dog or cat the fee is \$5. The fees for senior citizens and those receiving public assistance are \$4 and \$2, respectively. The license fees charged by the three municipalities are comparable. In FY87, the County collected \$254,920 in revenue from the issuance of 41,452 dog and cat licenses. In FY88, \$261,167 was collected from the issuance of 43,231 dog and cat licenses.

The Department estimates the FY89 dog and cat population in the County at approximately 87,000 dogs and 51,000 cats. However, the Historical Society of the United States (HSUS) estimates that nationally 41% of the households have a dog and 31% of the households have a cat (the American Humane Association use similar estimates). Using the M-NCPPC's January 1988 estimate of 265,000 households in the County and the figures from the HSUS, the estimated dog population would be approximately 108,000, and the cat population approximately 82,000. At Table 3 is a breakdown of the individual dog and cat licenses issued in FY88.

Table 3

Individual Dog and Cat Licenses Issued in the County in FY88

Issuing Agency	FY88	
	<u>DOG</u>	<u>CAT</u>
County	30,364*	12,867*
Rockville	4,000	(Not required)
Gaithersburg	1,100	720
Glen Echo	30	50
Total	35,494	13,637

(*Note - The percentage change from FY87 is as follows:
 Dog licenses: +7%;
 Cat licenses: -1%)

(Source: Department and municipalities)

c) Pet Shops. Executive regulations set the pet shop inspection and license fee at \$100 per year. In FY88, 16 licenses were issued. The City of Gaithersburg also inspects and licenses pet shops for an annual fee of \$50.

d) Riding Stables/Schools. Any facility which provides riding instructions, offers for hire, buys, sells or trades horses (also ponies, donkeys, mules and burros) is required to be inspected and licensed annually. In FY88, four facilities were licensed at an annual fee of \$50.

e) Commercial Kennels. Commercial kennels which breed, board, groom, sell or train dogs or cats for which a fee is charged must be inspected and licensed annually. In FY88, 19 commercial kennels were licensed. Kennels owning or keeping not more than 25 animals, the annual fee is \$50; and for kennels with more than 25 animals, the fee is \$100.

f) Dog and Cat Fanciers. A dog or cat fancier is one who maintains a private kennel for the maintenance or training of more than one dog or cat. The annual license fee for a dog or cat fancier is \$20 for three to ten animals; and \$40 for more than ten animals. In FY88, 108 licenses were issued.

g) Rabies Vaccination. One of the primary purposes of licensing dogs and cats is to verify that the animals have a current vaccination for rabies. Before a dog or cat license is issued, the owner must provide the department with a current vaccination certificate. The minimum penalty for failing to vaccinate a dog or cat is \$250.

h) License Tags. Dogs are required to wear the metal license tag at all times. Cats must either wear the tag or be tattooed in a manner prescribed by the Department. The minimum penalty for failure to license a dog or cat is \$25; and for failure to wear the tag (or tattoo) is also \$25.

5. Support for the Animal Matters Hearing Board. The Department provides staff support for the Animal Matters Hearing Board. The Board and the Department's support are discussed below.

6. Contract Operation of the Animal Shelter by the Montgomery County Humane Society. The County's animal shelter located in Rockville is operated under contract with the Montgomery County Humane Society. The details of the operation of the shelter and the other animal-related services provided by the Humane Society are discussed later in this report (see page 17).

D. The Animal Matters Hearing Board

1. General. The Animal Matters Hearing Board (Board) was created in 1974 to conduct hearings on a variety of matters concerning animals, and to make recommendations to the County Executive and Council on legislation, regulations, standards and operating procedures pertaining to animal matters.

2. Membership. The Board consists of five members appointed by the County Executive and confirmed by the County Council. One member must be a representative of the Montgomery County Veterinary Medical Association, and one member must be a representative of the Montgomery County Humane Society. The remaining three members are drawn from the public; however, at least one must be a representative of a recognized animal fanciers' group. In addition, one alternate with the same qualifications is appointed for each of the five members. The Code does not require members to be residents of the County.

3. Term and Compensation. Members and alternates serve for two years, and currently receive no compensation; however, the law does authorize the Council, by resolution, to fix a rate of compensation.

4. Duties and Responsibilities. The major duties and responsibilities of the Board include:

a) Conduct hearings and make determinations. As enumerated in the Code, hearings can be initiated under five categories:

(1) Upon receiving a written appeal from any person or firm aggrieved by the issuance, denial, suspension or revocation of a license by the Department.

(2) Upon receiving a written request of the owner of an animal which either the Department Director or Health Officer has petitioned

the Board to order humanely destroyed for the protection of the public health, safety or welfare. (Note, an animal which is certified by the Health Officer as having rabies, or some other disease that poses an immediate threat to public health, must be humanely destroyed. Also, upon written petition from the Department Director or the Health Officer, the Board may order the humane destruction of any unhealthy, injured or mistreated animal.)

(3) Upon receiving a written complaint and a request for a hearing to determine whether an animal or facility is a public nuisance. If the Board finds that there is a public nuisance, the Board can order the nuisance abated and the payment of damage by the owner of an animal or facility that caused injury or property damage.

(4) Upon receiving an owner's appeal to the seizure of an animal by an animal control officer, the Board can hold a hearing to determine whether the seizure is necessary to protect the animal's health or safety.

(5) Upon receiving a written complaint from a public or private agency of cruelty to an animal. The Board can order the Department to seize an animal or can establish conditions under which an owner may keep an animal which has been the victim of cruelty.

b) Advise the County Executive and Council on animal control regulations and legislation.

c) Recommend to the County Executive rules and regulations pertaining to the operation of the animal control facility; and standards and procedures for the control, collection, care, custody or disposal of certain categories of animals.

d) Recommend standards for the maintenance of regulated facilities (pet shops, commercial kennels, etc.).

e) Review and make recommendations to the County Executive concerning the proposed budget for the operation of the animal shelter.

f) Finally, submit an annual report to the County Executive and County Council concerning the Board's responsibilities, to include recommendations pertaining to legislation, regulations and fiscal planning.

5. Conduct of Hearings and Board Orders. The Animal Matters Hearing Board usually meets two evenings per month and schedules two public hearings for each meeting.

The written request for a hearing and description of the nature of the complaint becomes the Board's notification and charging document to the respondent. In addition to providing the respondent with the scheduled date of the hearing and the charging document, the Board also provides a copy of the Board's rules and procedures which are followed when conducting the hearing.

All hearings are open to the public and are conducted in an informal manner, generally following the procedures of Chapter 2A, Administrative Procedures, of the County Code. Parties to a hearing may be

represented by counsel; however, the Board rarely has an attorney present. All evidence is taken under oath and written testimony must be notarized. Hearings are recorded on tape, but are not transcribed unless the Board's decision is appealed, in which case the appellant must pay for the cost of the transcription. The Board issues its decisions in the form of a finding of fact and an order. Prior to the Board issuing an order, the County Attorney's Office reviews the official hearing record. In the current fiscal year, the Board has averaged between 45 and 60 days to process a hearing from the date the complaint is received until the day the Board's order is issued.

An order from the Board may be appealed to the Circuit Court. In FY87 and FY88, a total of 27 hearings were held by the Board. Only one Board decision was appealed; however, the appeal was not heard because it was filed too late.

A violation of an order issued by the Board is punishable as a Class A civil violation (initial offense - \$250, repeat offense - \$500). Each day of failure to comply with an order of the Board is a separate violation.

At Table 4 is a recapitulation of 27 hearings which the Board conducted in FY87 and FY88. Of the 26 hearings in which the court issued an order, (one case was settled by a consent agreement between the parties), the Board found in favor of the complainant in 21 instances, in favor of the respondent in three, and had a split finding in two cases where there were multiple charges.

Table 4

Hearing by the Animal Matters Hearing Board
FY87 and FY88

<u>TYPE</u>	<u>FY87</u>	<u>FY88</u>
Barking dog	2	3
Barking dog and defecation	1	0
Barking dog and unsanitary conditions	0	1
Barking dog, unsanitary conditions and cruelty	1	0
Dog at large and defecation	2	1
Dog at large and barking	4	1
Dog at large, barking and dangerous	0	1
Dog at large and dangerous	0	2
Dog at large, dangerous and defecation	1	0
Dangerous dog	1	1
Violation of AMHB order	1	3
Appeal of Director's order to impound	0	1
Total:	13	14

(Source: Department of Animal Control and Humane Treatment)

6. Administrative Support. Because the Board is not authorized any staff, administrative support is provided by the Administrative Services Section of the Department. The Board conducts its hearings at the Animal Shelter with an agenda developed and published by the Department staff with notices, orders and correspondence printed on Department stationery. The Board has an annual operating budget of approximately \$8,000, almost all of which is used for court reporters at hearings.

E. The Montgomery County Humane Society

1. Overview. For a number of years the County has had a contract with the Montgomery County Humane Society (Society), a not-for-profit organization incorporated in Maryland, to operate the animal shelter and administer a number of animal-related services. The latest contract with the Society was awarded in July 1986, and is renewable annually without public bidding until June 1991. The County has also contracted with the Society to administer and oversee the County's spay-neuter program. In addition to these contracted services, the Montgomery County Humane Society administers a number of other animal-related programs at no cost to the County. In this section of the report, all services provided by the Montgomery County Humane Society, those funded through contracts with the County and those funded by the Society, will be discussed.

As stated earlier, three municipalities in the County issue their own dog and cat licenses. Two of the municipalities--the Cities of Rockville and Gaithersburg--also employ their own animal control officers to enforce their respective local animal control ordinances. However, because none of the municipalities has an animal shelter, they use the County's facility in Rockville. As a result, the Society is responsible under the County's contract for receiving, handling, humane disposition, care, and maintenance of all animals brought to the shelter by citizens and animal control officers of the County and these three municipalities.

2. The County's Responsibilities Under the Contract to Operate the Animal Shelter. Under the terms of the contract, the County has four major responsibilities:

- a) Enforcing all laws and regulations relating to animals.
- b) Receiving and responding to complaints concerning animal behavior, to include unconfirmed strays, animal bites, cruelty complaints and inspections.
- c) Providing a physical plant for an animal shelter to include the use and maintenance of all capital items necessary to operate the shelter; and providing vehicles for use by Society employees in performing the contracted services.
- d) Compensating the Society for salaries and wages and costs associated with operating the shelter. The compensation provisions in the contract for FY87 and FY88 were as follows:

	<u>FY87</u>	<u>FY88</u>	<u>% CHANGE</u> <u>FY87 - FY88</u>
Salaries and Wages	\$477,890	\$502,680	+5.2%
Operating Expenses	<u>120,830</u>	<u>124,550</u>	<u>+3.1%</u>
Total:	\$598,720	\$627,230	+4.8%

3. The Society's Responsibilities Under the Contract to Operate the Animal Shelter. Under the terms of the contract, the Society is responsible for the following services:

a) Manage and operate the animal shelter. Operation of the shelter includes receiving, handling, housing, humane disposition and care and maintenance of all animals (to include dogs, cats, birds, fowl, and other small animals such as guinea pigs, gerbils, etc.). The Society is responsible for supervision, labor and all materials necessary to perform these services. The level of activity at the animal shelter in FY88 was as follows:

DOMESTIC ANIMALS

Received live at the shelter	12,389
(strays: 7,253)	
(give-ups: 5,136)	
Received dead at the shelter	4,318
(strays: 2,002)	
(give-ups: 2,316)	
Euthanized	6,319
(strays: 3,335)	
(give-ups: 1,211)	
Adopted	3,402
Redeemed by Owner	1,873
(strays: 1,842)	
(give-up, taken back: 31)	

WILDLIFE

Received live at the Shelter	2,268
Received dead at the Shelter	1,374
Euthanized	1,479

b) Shelter Operating hours. The Society provides emergency services at the shelter 24-hours a day, 7-days-a-week for receiving animals and responding to reports of injured animals. In addition, the Society provides at least 40 hours a week service at the shelter for the convenience

of the public to transact business. Finally, the Society provides staff to operate the shelter's telephone lines (up to six) during normal business hours (8:30 am to 5:00 pm, Monday through Friday, and 10:00 am to 5:00 pm on Saturdays).

c) Field Operations. The Society is responsible for picking up live domestic animals and wildlife which are restrained, and dead domestic animals and wildlife from public and private grounds and roadways in the County. By memorandum of agreement, the Department of Transportation is responsible for removing large road-killed animals from County roadways.

d) Animal Rescue. On a 24-hour, 7-day-a-week basis, the Society is responsible for rescuing, whenever feasible, any injured, sick, trapped or otherwise unnaturally restrained domestic animal and wildlife, and to provide humane treatment for same. In addition, the contract authorizes the Society to provide, under narrow guidelines, emergency veterinary care.

e) Releasing animals from the shelter. Prior to releasing an animal to its owner, the Society is responsible for collecting board and impoundment fees and remitting such fees to the County. A representative from the Cities of Rockville and Gaithersburg must issue an order prior to the Society releasing any animal which one of its wardens brought to the shelter. Additionally, prior to releasing any dog or cat to its owner, the Society is responsible for determining if the animal is vaccinated and licensed. (Note, cats are not required to be licensed in Rockville). If not vaccinated and/or licensed, an animal control officer of the County or municipality is notified so as to take appropriate enforcement action.

f) Euthanasia. The Society provides humane euthanasia and disposal for all animals as required by the County Code or as directed by the Department Director.

g) Adoptions. The County Code (Section 5-22) prohibits giving away or selling animals from the shelter. However, under the contract, the Society is permitted to release certain domestic animals for adoption. The Society's adoption program is partially funded by the County in the form of overhead, care and maintenance of the animals while in the shelter, printing, and the salary for a staff person for one-half of a work year. All other costs to administer the adoption program are funded by the Society. A detailed discussion of this program appears later in this report (see page 21).

h) Records. The Society is responsible for maintaining a record of all animals taken into custody and impounded. Currently, the Society maintains a hard copy record, the Animal Information Log (AIL), for each animal that comes into the shelter. This AIL is also used by the Society to provide information to citizens trying to locate a lost pet.

i) Humane Education. The Society is responsible for initiating and maintaining a program of humane education. The purpose of the program is to stimulate public support for enforcement of County animal control laws and humane treatment of all animals, and to reduce animal over-population. Currently, the program involves one employee of the Society and is directed primarily at presentations to student groups and civic organizations.

j) Board of Review. The contract requires the Society to establish a Board of Review to examine citizen complaints concerning actions by employees of the Society. The Society has actually established two boards of review, the Shelter Committee and the Adoption Appeal Committee. For each Committee, the Society's Board of Directors sits as the review board. The Shelter Committee reviews complaints involving any activity in the shelter; and the Adoption Appeal Committee hears appeals from persons who have been turned down when applying to adopt an animal.

k) Wildlife. By State law, it is illegal for any person or facility to possess wildlife without a permit from the Maryland State Department of Natural Resources. In Montgomery county, both the Department and the Society have permits. Also, a number of private citizens have permits to act as wildlife rehandle for underage and injured wildlife.

Under the County's contract, the Society is responsible for assisting the public concerning wildlife-related complaints, to include trapping of raccoons and other wildlife, picking up live and dead animals, retrieving traps, and receiving wildlife brought to the shelter.

Under the State permit, several species of wildlife that come under the control of the Society must be euthanized. These include raccoons, skunks, foxes, wolves, coyotes, bobcats, woodchucks, bats and deer. The remaining wildlife are released at specific sites in the County. Underage and injured animals are placed in foster homes of volunteer wildlife rehandle until old or well enough to survive on their own.

In FY88, 2,268 wildlife animals were received at the shelter alive and 1,374 dead. Of the 2,268 live wildlife, 1,479 were euthanized.

4. County's Contract With Society to Administer the Spay-Neuter Program. In 1983, the County negotiated a separate contract with the Society to administer and oversee a spay-neuter program. The Society had run an informal spay-neuter program for several years prior to entering into a formal contractual arrangement. Under the program, the Society, through a number of contracts with licensed veterinarians, administers a low-cost spay-neuter program for all dogs and cats adopted from the shelter, and for dogs and cats owned by those County citizens who wish to take advantage of the program. Under the program, all who adopt an unaltered dog or cat from the shelter must make a mandatory deposit toward sterilization by a designated contract veterinarian. When the animal is eventually altered, the veterinarian bills the Society for payment. For other animal owners who are County citizens and wish to take advantage of the low-cost program, the Society sells coupons which can be redeemed with a participating veterinarian.

Under the spay-neuter contracts, the Society receives weekly gratis veterinarian services at the shelter on a rotational basis to give medical attention to animals and/or medical advice to the staff.

The current cost to the animal's owner for the spay-neuter services is:

- Cats (male) \$23, (female) \$33.
- Dogs (male), under 65 pounds, \$39; over 65 pounds, \$54.
- Dogs (female), under 35 pounds, \$39; 36-65 pounds, \$50; over 65 pounds, \$57.

Under the Society's spay-neuter program, 4,921 animals were altered in FY88 (2,078 dogs and 2,843 cats). This is an increase over the two previous years (FY86 - 4,451 and FY87 - 4,642). For every transaction, the Society is authorized under the contract to retain a service fee of \$1. However, the Society realizes a significantly larger income from the program in the form of unclaimed deposits and voluntary contributions from grateful animal owners. In the six fiscal years from 1983 to 1988, in which the Society has been administering the spay-neuter program under contract, the Society has received on average each year of approximately \$15,000 in unclaimed deposits and \$6,600 in voluntary contributions.

5. Additional Costs to the Society to Provide Contracted Services.

Almost every year that the Society has had a contract with the County, it has incurred expenses for contracted services over and above the contracted compensation. These expenses were primarily for salaries and wages, veterinary care and vehicle maintenance. Except for one year, FY85, when additional costs of over \$25,000 associated with rabies control was covered by a supplemental appropriation from the County, the Society has absorbed these costs. The additional costs to the Society for the most recent three fiscal years were: FY86 - \$33,783; FY87 - \$2,080; and FY88 - \$46,833.

6. Non-Contracted Services' Provided by the Society. Besides the contracted services, the Society, on its own initiative, provides a number of additional animal-related services at no cost to the County. These services, like the contracted services, are a direct benefit to the citizens of the County. Outlined below are some of these services, together with the FY88 costs to the Society to provide these services.

a) Adoption Program. The Society administers an adoption program under authority contained in Section 5-22 of the County Code which is partially funded by the County. The object of the program is to place homeless animals--primarily dogs and cats--with owners who meet specified rigid standards, to increase public awareness of adoptable animals at the shelter, and to reduce the need for humane euthanasia. Adoption agreements, legal contracts between the adopter and the Society, require the adopted animal to be vaccinated, licensed, altered, and examined by a veterinarian. In addition, house visits are made prior to adoption, and post-adoption checks are conducted.

The program appears to be quite successful. In FY88, 3,402 animals were adopted under the program, which was 53% of the 6,445 animals considered adoptable. Of the 3,402 animals adopted, 171 were returned to the shelter for a variety of reasons; however, 111 animals were eventually readopted. (Note: In calculating the adoption rate, the Society considers that all animals received live at the shelter are adoptable except for three categories: wildlife, domestic animals which the owner has requested to be put to sleep, and strays which are retrieved by the owner.)

The cost to the Society to administer this program in FY88 was \$25,739, primarily for salary of the house checker. In addition, members of the Society volunteer many hours of service to the program, primarily interviewing prospective adopters.

b) Veterinary Treatment for Animals. The Society pays for veterinary care for sick and injured domestic animals, primarily strays and adoptable animals. In FY88, the Society's expenditure for veterinary services was \$65,355. Approximately \$43,600 was for services in support of the Society's adoption program; however, the remaining \$21,700 was for veterinary services which appear to be associated with the Society's contract with the County.

c) Foster Care Program. The Society places puppies and kittens in foster homes until old enough to place for adoption. In FY88, the Society expended \$2,614 for this program.

d) Publications and Educational Material. In FY88, the Society expended \$14,842 for publications and educational materials on the humane treatment of animals, the work of the Society, and the services available to citizens from the Department of Animal Control and Humane Treatment.

V. EVALUATION OF THE DEPARTMENT OF ANIMAL CONTROL AND HUMANE TREATMENT

A. Overview. So far this report has examined the legal basis for the Department of Animal Control and Humane Treatment (Department), described its organization, and discussed its operational programs and procedures to carry out the legislated mandate. This section of the report will first evaluate the adequacy of the current animal control legislation and then the effectiveness and efficiency of the Department's operations. When examining the Department's operational effectiveness and efficiency, each of the previously described six major operational areas (management and administration, animal control, rabies control, licensing, support for the Animal Matters Hearing Board and the Society's operation of the animal shelter), will be examined and evaluated.

B. Adequacy of the Current Animal Control Legislation

1. Overview. From an examination of the animal control laws of other area jurisdictions, and interviews with management of animal control facilities in those jurisdictions, it is clear that Chapter 5, Animal Control, of the Montgomery County Code is an excellent law. This opinion was confirmed in discussions with representatives of the Humane Society of the United States and other local humane societies.

2. Discussion. The strength of the County's animal control law is the breadth of its coverage, the strict anti-cruelty provisions, and the ability to enforce its provisions by criminal and civil citations. Also, the County's Code can be used in conjunction with an equally strong State Code.

Notwithstanding the excellence of the current County Code, this evaluation revealed several areas where amendments can improve the clarity and organization of the law. The Department has already identified a number of amendments to Chapter 5. Outlined below are additional OLO recommended amendments which were developed in the course of this evaluation.

Article I. General

Section 5-1, Definitions.

- Add the terms "altered" and "regulated facilities".
- Change "dog fancier" to "fancier" and include cat fanciers in the definition.
- Add the term "licensed veterinarian" and remove all references in the Code to "doctor of veterinarian medicine" and "veterinarian".

Article II. Animal Matters Hearing Board

Section 5-9. Include the requirement that each Board member and alternate must be a resident of the County.

Section 5-10. Include in the Board's duties the authority to conduct a rehearing or reconsideration where fraud, mistake or irregularity occurred in the original hearing.

Section 5-13, Cruelty. The statement of legislative intent regarding cruelty to animals and the subsequent provisions on animal cruelty appear out of place in this Article on the Animal Matters Hearing Board. The whole area of cruelty to animals would appear to be better placed in Article III, Animal Control Officer, since the enforcement of animal cruelty laws is a primary duty of the animal control officer. Those provisions in the Code which refer to the Board holding a public hearing on a matter concerning animal cruelty should be listed in Section 5-10 with the other Board duties and responsibilities.

Section 5-14(d), Decisions of the Board. Substitute the requirement that all decisions of the Board be by written resolution with the requirement that all Board decisions be by written findings of fact, conclusions of law, and an appropriate order.

Article III. Animal Control Officer

Section 5-25, Public Nuisance. Expand the prohibition against animals damaging, soiling or defecating on any private property (other than that of the owner) to include public property.

Article V. Rabies Control

Sections 5-42 to 5-58, Rabies Control. Revise this article on rabies control to reflect the defacto organization, duties and responsibilities of the three major agencies involved in rabies control--the Health Department, the Department of Animal Control and Humane Treatment, and the Police Department.

Beginning in late 1982, the number of confirmed rabies cases in the County rose drastically. The response to this emergency by all County agencies was immediate and decisive. The operational policies and procedures developed in the course of successfully meeting this emergency have been documented in a rabies manual. A review of the rabies manual and interviews with management and staff of the two departments with primary responsibility for rabies control reveals that their defacto duties, responsibilities and operating procedures do not accurately correspond to the current provisions of Article V. Rabies Control.

Article VI. Dog and Cat Licenses

Section 5-59(a), Fees for Dog and Cat Licenses. Amend the current provision which requires that the Executive regulation establishing the fees for individual dog and cat licenses be adopted under method (2) of Section 2A-15 of the Code, to require that the fees be adopted under method (3). This amendment would place the regulation for adoption of the license fees and the regulation for increasing or diminishing these fees under the same method (3) of adoption; and this amendment would make the adoption of all Executive regulations relating to license fees for animal and animal facilities consistent under method (3).

Section 5-59(c), Renewal of Dog and Cat Licenses. Amend the provision which requires that all dog and cat licenses be effective for a period of 12 months beginning on July 1 of each calendar year and ending on June 30 the following year, to permit the Department to establish staggered renewal dates for the licenses. This amendment would spread the animal license renewal operation over the entire year, not unlike

the renewal of vehicle registrations. Under the current provision which makes all renewals effective July 1, the Department experiences a disproportionate workload in the summer months. As an example, in 1988, 80% of the dog licenses and 66% of the cat licenses were processed by the Department in the four months from May through August. (Note: Prince George's County recently enacted legislation establishing staggered renewal dates for dog and cat licenses.)

Article VII. Pet Shops, Kennels and Riding Facilities

Section 5-67(c), Dog/Cat Fanciers' License. Amend this section to authorize the County Executive to fix and change the fee for the dog/cat fanciers' license under regulations adopted under method (3) of Section 2A-15 of the Code. Currently, the fees for such licenses are set by Executive regulation, but there is no authority in the Code to do so.

Section 5-71, Appeals. Amend this section to change all references to the "commission", to read, "the Animal Matters Hearing Board."

C. Operational Efficiency and Effectiveness of the Department of Animal Control and Humane Treatment

1. Overview.

The Department of Animal Control and Humane Treatment is carrying out its duties and responsibilities as required by the County Code and Executive regulations in an efficient and effective manner. This conclusion is based on personal observations, interviews, and comparisons made during visits to five area animal control facilities using guidelines published by the Humane Society of the United States.

A clear comparison of the Montgomery County animal control programs with the programs in the other area jurisdictions is difficult because each jurisdiction's facility differs in size, funding, organization, and operating procedures. Montgomery County's animal control program is carried out by a small contingent of only 15 merit employees and a contract with the Montgomery County Humane Society. County merit employees perform the Code-specified functions of law enforcement, rabies control, licensing and cruelty and complaint investigation. The approximately 35 employees of the Humane Society operate the animal shelter, provide care and maintenance to the animals, and administer a variety of other animal-related activities. In the other area jurisdictions, the animal control program is either totally operated by County employees (Fairfax County, VA), totally operated under contract with a private humane organization (Arlington, VA and Washington, D.C.), or by a mix, similar but different than Montgomery County, of public employees and County employees (Prince George's County, MD).

The use of contracted services to operate the animal shelter and administer a variety of other services appears to be a cost effective way for the County to accomplish the animal control mission, as is demonstrated by a review of the operating budgets of the Montgomery County and Fairfax County animal control agencies. The two counties are comparable in size, population, and socio-economic makeup, and the two have very similar animal control facilities and programs. Both counties have a total personnel complement of approximately 50 animal control employees; however, Fairfax County has all merit employees, while Montgomery County has 15 merit employees and approximately 35 contract employees. In FY88, Montgomery County's expenditures for its animal control program was 19% less than Fairfax County's expenditures.

2. Management and Administration

The Department of Animal Control and Humane Treatment is managed and administered in a highly professional manner. The current Department Director is thoroughly knowledgeable of all aspects of the management and administration of the Department. Particularly noteworthy is that the Director personally manages the contract with the Humane Society to operate the animal shelter and to administer the other animal-related programs. The Director's active involvement in shelter operations and related animal programs adds to the efficiency and effectiveness of these operations.

3. Enforcement of Animal Control Laws

a) Overview. Enforcement of County laws relating to cruelty to animals, rabies control, strays, animals creating a public nuisance, and licensing is a major function of the Department. There was ample evidence in the course of this evaluation that the Department is performing its enforcement functions in an efficient and effective manner.

Early in the evaluation, the Executive branch presented OLO with copies of correspondence from an ad hoc committee of County citizens which listed several areas of concern relating to the operation of the Department, especially the Department's enforcement of anti-cruelty laws, response to complaints, and follow-up on adoption cases. While not within the scope of the OLO evaluation to specifically address these concerns, several of the issues were sufficiently broad to fall within the scope of the evaluation, and are commented on in this report. It should also be noted that there is on public file correspondence from the Chief Administrative Officer responding to the concerns of this ad hoc citizens committee.

Discussed below are four areas which, in OLO's opinion, improvements in the operating procedures are necessary.

b) Receiving Complaints. The Department receives thousands of calls each year concerning animal matters. Most are requests for information (licensing and vaccination requirements, adoption policies, provisions of the law). Other calls are in the form of complaints or reports (dog bites, wildlife sighting, dog at large, dog barking, animal treated cruelly). In FY88, the Department received and responded to 7600 complaints. The vast majority of the complaints concerned animals causing a nuisance; however, almost 1800 complaints related to animal cruelty, and over 1,100 related to animal bites.

The overwhelming majority of complaints are received and responded to as specified in written Departmental guidelines and procedures. Also, a detailed record of each complaint is maintained in the Department's recently automated Case Management System files.

The Department has come under criticism from the ad hoc committee of County citizens concerning response to cruelty complaints. Specifically, the committee criticized the knowledge and professionalism of staff at the shelter who receive the telephone complaints. Also, the committee criticized the Department's response policy, especially the Department's field coverage after hours. In responding to these two issues, the Chief Administrative officer (CAO) indicated that the Department had instituted additional and more comprehensive training for employees handling citizen phone calls. However, the CAO informed the committee that budget constraints precluded adding additional staff for after-hours field coverage.

In the conduct of this evaluation, both of these issues came under review by OLO. Commenting first on the issue of adequate field staff, this evaluation found no justification for additional field staff. Although the County's staff of eight animal control officers is less than two adjacent jurisdictions of comparable size (Fairfax County has a field staff of 22 and Prince George's County has 18) the County's eight officers are able to concentrate on code enforcement because the Montgomery County Humane Society has a field staff of five humane officers to respond to injured and dead animals, restrained strays, trapped animals, animal rescue and wildlife. In Fairfax and Prince George's Counties, the animal wardens are responsible for enforcement and these humane activities.

However, concerning the other issue, knowledge and professionalism of personnel receiving telephone complaints, OLO concurs in the CAO's conclusion that this is an internal training problem and that there is a need for a comprehensive training program. Also, OLO believes that the County should address the fundamental issue of which agency, the Department or the Society, should be receiving telephone complaints.

Under current Departmental operating procedures, employees of the Society receive telephone complaints, make an evaluation as to the nature of the complaint, and, if it is decided that an animal control officer should respond, dispatch the officer. However, a review of Article I, Scope of Services, of the County's contract with the Society states that, "The County shall be responsible for . . . receiving and responding to complaints concerning animal behavior including unconfined strays, animal bites, cruelty complaints and inspections (emphasis added)". In the same article of the contract, under General Services, it is the Society's responsibility to "...provide sufficient staff to receive and dispatch all requests for service..."

OLO's interpretation of these two contract provisions is that Department employees are responsible for receiving and handling complaints of animal cruelty, animal bites and animal behavior (dog at large, barking dog), and Society employees are responsible for receiving and handling requests for service (injured or dead animal, trapped wildlife).

In addition to the provisions of the contract, there are other reasons why OLO believes Department employees should receive telephone complaints. The level of training and experience of Department employees is higher than that of Society employees, and the turnover rate of Department employees is significantly less than Society employees. As an example of the turnover rate of Society employees, in calendar year 1988, a total of 39 Society employees was terminated. The average and median period of employment for these 39 employees was only 14 weeks. The consequence of this rapid turnover is that newly-hired Society employees must start immediately to take phone calls, receiving only on-the-job orientation and training on the Department's procedures. The problem is exacerbated after normal operating hours when only Society employees are on duty and no supervisor from either the Department or the Society is present.

c) Follow-up on Adopted Animals. Another area of concern to the ad hoc committee of County citizens was the County's adoption policies and procedures, specifically, the lack of diligence in following-up on the vaccination and sterilization requirements. The Section 5-22 of the County Code requires that all adopted dogs and cats be "...spayed, neutered or altered by a licensed veterinarian". To ensure compliance, all adopters are required to give the Society a deposit toward the sterilization and, if the adopted animal is unvaccinated or too young to be vaccinated, toward the rabies inoculation.

With one exception, every aspect of the County's adoption program is administered by the Humane Society. The Society conducts interviews and house visits, receives deposits for spay-neutering and rabies vaccinations, and performs post-adoption follow-up visits or phone calls. The one aspect of the program for which the Department is responsible is that of following-up on those cases where the Society has not received confirmation from the veterinarian that the adopted animal has been vaccinated and/or sterilized.

Until recently, the Department has not placed a high priority on following-up on the sterilization and vaccination of adopted dogs and cats because of a heavy backlog in complaint investigations. This backlog was generated during a period in FY87 when there was a number of animal control officer vacancies. Currently, the Department has a full complement of animal control officers, and the backlog in following-up on adoption cases is being reduced.

d) Voiding Civil Citations. In FY88, the Department implemented a new policy of voiding civil citations for violating the provisions in the Code requiring that all dogs and cats be vaccinated and licensed (Sections 5-45 and 5-59). The narrow conditions under which a citation can be voided are that it be for a first time offense and that the owner has the animal vaccinated and purchases a license within five business days of receiving the citation. The policy was approved by the County Attorney prior to implementation.

The stated purpose of the new policy was to gain voluntary compliance, to reduce staff time required for follow-up communications with offenders, and to reduce the number of cases going to court and the time animal control officers are required to be in court.

In the first fiscal year of the new policy (FY88), 255 or 80% of the citations issued for an unvaccinated dog or cat were voided and 201 or 62% of the citations issued for an unlicensed dog or cat were voided. The 460 voided citations was 55% of all civil citations issued by the Department in FY88. One of the effects of this new policy has been a significant reduction in civil fine revenue from the previous fiscal year (FY87-\$27,000, FY88-\$8,950). Undoubtedly, there are compensating savings, such as reduced court time for animal control officers; however, the Department has, to date, not evaluated the fiscal impact of the policy. In OLO's opinion, the fiscal impact should be evaluated.

Another aspect of the policy of voiding civil citations, the processing procedure should also be evaluated. The current Department procedures on voiding a citation is that one copy of the citation is marked "void" and given to the offender, and another copy of the citation is also marked "void" and retained on file at the Department. All other copies of the citation are discarded. Neither a copy of the voided citation nor a notice that the citation was voided is sent to the County Attorney so appropriate legal action can be taken to not prosecute or settle the citation.

The Department should adopt a procedure similar to that used by the Police Department to dispose of a Maryland Uniform Criminal/Civil Citations. The Police Department's procedure recognizes that the proper disposition of an issued civil citation for a County Code violation is payment of the fine, trial, not prosecute or dismissal. If the Department of Animal Control and Humane Treatment is going to continue the policy of voiding citations for first time offenders of the vaccination and licensing provisions of the Code, the County Attorney should be notified of each voided citation so as to take appropriate judicial action.

e) Reports on Code Enforcement. Currently there is no requirement for the Department to issue a report for circulation to the public on the operation of the Department, especially on the type and number of citations issued for violations to County and State animal control laws. Such a report would appear to be of interest to citizens. The data necessary for such a report are currently collected and circulated internally within the Department and selected data are found in the Society's publication, Animail; thus, it would not require a great deal of additional effort to make the information available to the public.

4. Rabies Control

a) Overview. As stated earlier, the Department shares responsibility for the prevention and control of rabies with the Health Department. In recent years the two departments, working closely with the appropriate State agencies, have efficiently and effectively dealt with a drastic rise in the number of confirmed rabies cases in the County. The procedures, guidelines and responsibilities in rabies control are thoroughly documented in the Department's comprehensive rabies manual. In OLO's opinion, the Department has an excellent rabies control program; however, OLO would offer two observations concerning the program.

b) Code Review. The first observation concerns changes to Article V, Rabies Control, of Chapter 5 of the Code (Sections 5-42 to 5-58). As stated earlier in this evaluation (see page 24), the Article should be reviewed and revised to reflect the de facto functions and responsibilities of the two principal departments involved, the Department of Health and the Department of Animal Control and Humane Treatment.

c) Humane Society's Role in Rabies Control Procedures. The second observation concerns the role of the Society. Under the current contract with the County, the Society has no direct responsibility for rabies control. However, the Society does have a direct role in the County's rabies control program by virtue of its responsibility to collect, transport, handle, trap, and euthanize animals, especially those varieties of wildlife which have the highest incidence of rabies. In addition, Society employees currently receive telephone reports of animal bites and respond to citizen inquiries concerning rabies. As stated earlier, in OLO's opinion, this appears contrary to the provisions of the County's contract with the Society. Also, Society employees generally have less experience with training than do Department employees in responding to rabies control matters. Rabies is too important and critical a matter not to have the most experienced and trained personnel receiving calls from citizens and advising them on matters where rabies is a possibility. In summary, OLO recommends that the Department Director clarify the Society's responsibilities concerning receiving and responding to telephone reports of incidents which have a direct relationship to the Department's rabies control program.

5. Licensing

a) Overview. An evaluation of the Department's licensing functions indicates that, except for dog and cat licensing, the process is run in a highly efficient and effective manner. In the case of dog and cat licensing, OLO has three observations.

b) Processing Applications. The first observation concerns the delay in processing applications for dog and cat licenses, a delay which occasionally results in the County sending a second computer-generated renewal notice after the license holder has submitted a renewal application, and received the appropriate tag and cancelled payment check. The Department has been aware of this situation and expects this problem to be solved before the 1989 cycle of renewal applications are mailed to license holders (cats in April and dogs in May). The system is currently undergoing modifications which will permit on-line entry into the data base from the Department at the time the license renewal application and payment are received and processed, thus eliminating the current delay in the key punch up-dating of the automated files.

c) Staggered Licenses. The second observation concerns the Code requirement that all dog and cat licenses be effective for a 12 month period beginning on July 1 of each calendar year and ending on June 30 the following year. As discussed earlier in this report (see page 24), OLO recommends that the Code be amended to require that an initial dog or cat license be issued either on the date the animal reaches the appropriate age to be vaccinated (4 months), or after a specified grace period in the case of a

mature animal brought into the County. The Code should be further amended to require renewal of the dog or cat license one year from the last day of the month in which the initial license was issued.

(Note: In October 1988, the Prince George's County Council amended its animal control ordinance to reflect the above two recommended changes. Because the Annotated Code of Maryland, Article 56, Section 191, also specifies that dog and cat licenses be for one year beginning on July 1, Prince George's County enacted the staggered renewal legislation under its express powers authority, Article 25A of the Annotated Code of Maryland.)

d) Increase the Number of Licensed Dogs and Cats

In FY88, the County issued over 43,231 dog and cat licenses, and an additional 5,900 were issued in the three municipalities for a total of 49,131 licenses (35,494 dog and 13,637 cat). This number compares favorably with two other area jurisdictions of approximately similar population: Fairfax County, 38,000 dog licenses (cats are not licensed), and Prince George's County, 28,000 dog and cat licenses. However, there remains a large number of unlicensed dogs and cats in the County. If one uses the Humane Society of the United States' estimate that 41% of all households own a dog and 31% own a cat, then by the Department's FY88 estimate of the dog and cat population in the County, (87,000 dogs and 51,000 cats), the Department only licensed 41% of the dogs and 27% of the cats in the County were licensed in FY88.

Neither the Humane Society of the United States nor the American Humane Association has formal statistics on the percentage of dogs and cats licensed in other areas of the nation. However, their informal opinion would indicate that the County's percentage of licensed animals is about in line with other cities and counties with similar populations. Nonetheless, OLO recommends that the County continue efforts to increase the number of licensed dogs and cats. Currently, the Department is working on several initiatives. One could have veterinarians encouraging and facilitating the purchase of licenses. Other suggested initiatives which may have value include:

- Requiring pet shops and commercial kennels to accept a redeemable deposit toward the vaccination and license for puppies and kittens at the time the animals are sold;
- Accepting applications for licenses at libraries and community centers; and
- Conducting an intensive public information program on the health and legal requirements to have dogs and cats vaccinated and licensed.

6. Support of the Animal Matters Hearing Board (Board)

a) Overview. An evaluation of the organization and operating procedures of the Board, and an analyses of the Department's support of the Board, reveals a number of areas for improvement.

b) Board Stationery. Early in this evaluation, OLO inquired as to the reason why correspondence from the Board was printed on Department stationery. OLO questioned the procedure because it could be incorrectly perceived that the Board was a part of the Department of Animal Control and Humane Treatment. Also, such a perception could easily confuse parties coming before the Board and raise doubts as to the independence of the Board, especially in those cases where the Department is the complainant. The Department noted OLO's observation and has provided the Board with stationery with its own letterhead.

c) Ex Officio Secretary. Currently, the Department's Manager, Administrative Services Section, signs all correspondence emanating from the Board. To further reduce the possibility of confusion and enhance the independence of the Board, a Department employee should be officially designated to act ex officio as Secretary to the Board.

d) Term of Board Members. The Code provides for a two-year term for members of the Board. For the reasons outlined herein, the term should be extended to three or four years. First, the Council recently adopted a policy of limiting membership on boards, committees and commissions to two terms except in unusual situations. Second, the two-year term is too brief considering that it takes a Board member several hearings over a period of months to become "comfortable" with the duties and responsibilities of membership. Finally, the Animal Matters Hearing Board is the only adjudicatory body with a two-year term for its members.

e) Residency Requirement for Board Members. Currently, the Code does not require that a Board member (or alternate) be a resident of the County. The Code should be amended to make County residency a prerequisite to Board membership.

f) Veterinarian Member of the Board. The Code requires that one member of the Board be a representative of the Montgomery County Veterinary Medical Association. The Department has recommended a change to the Code to require that this member be a "licensed veterinarian practicing and residing in the County." OLO concurs in this change. Further, the current president of the Montgomery County Veterinary Medical Association indicated to OLO that the Association supports such a change.

g) Other Duties and Responsibilities of the Board. In addition to authorizing the conduct of hearings, the Code authorizes and directs the Board to perform a number of other important duties. These duties include advising the County Executive and County Council on animal control regulations and legislation; recommending to the County Executive rules and regulations pertaining to the operation of the shelter, and standards and procedures for the control, collection, care, custody or disposal of certain categories of animals; recommending standards for the maintenance of regulated facilities such as pet shops and kennels; annually reviewing and making recommendations to the County Executive concerning the proposed Department budget for the operation of the shelter; and submitting an annual report to the County Executive and Council concerning the Board's responsibilities to include recommendations pertaining to legislation, regulation and fiscal planning.

This evaluation found that the Board's activities have been almost exclusively devoted to hearings. Interviews with each of the five current Board members and a former member confirms that the Board has not been

requested to review or make recommendations concerning standards, procedures, legislation or the Department's budget. The Board has likewise neither advised nor submitted an annual report to the County Executive or the Council. Additionally, the Board has not made any recommendations to the County Executive on the operation of the animal shelter. Finally, interviews with Board members revealed that they believed their sole responsibility to be the conduct of hearings, and, had they been requested to do so, they would have acted on the other duties and responsibilities enumerated in the Code.

7. Contract with the Montgomery County Humane Society (Society) to Operate the Animal Shelter

a) Overview. For several years, the County has had a contract with the Society to operate the Animal Shelter and administer other animal-related programs. The effective date of the current contract was July 1986, and its most recent extension is until June 30, 1989. The contract can be extended without public bid until June 30, 1991. This section of the report presents OLO observations and comments on the form of the County's contract with the Society and on some of its provisions.

b) Public-Entity Contract. The County contracts with the Society have been the result of competitive open market bids. In OLO's opinion, the contract with the Society should be replaced by a grant under Section 11B-42, Cooperative Purchasing, Public Entity Contracting, and Grants, of the Code. The Society qualifies for a grant because it is a not-for-profit corporation under Section 501(c)(3) of the U. S. Internal Revenue Code, and its operation of the animal shelter and administering of other animal-related services definitely serve a public purpose.

c) Compensation for Contracted Services. Under the contract, compensation for salaries and wages and for operating expenses are identified separately. For the current year (FY89) the contracted compensation for salaries and wages for Society employees is set at a level which enables the Society to hire at a starting salary of \$5.25 per hour. In the past three fiscal years, the starting salary has increased from \$4.67 (FY87) to \$5.00 (FY88), to the current FY89 rate of \$5.25. These raises over the past three fiscal years (\$.58) were granted in an attempt to reduce the high turnover rate of Society employees. It was expected that the cost of these raises would be offset by a reduction in overtime necessitated by the many vacancies, and a reduction in the number of help-wanted advertisements which would result from a more stable work force. Neither occurred. The turnover rate in FY88 remained high and the Society still incurred and funded overtime and advertising costs.

In the opinion of OLO, the current contracted amount for salaries and wages is significantly below what would be considered fair compensation for the services performed by the Society. In arriving at this opinion, the following were considered:

(1) The \$5.25 per hour starting rate is 32% less than the \$6.95 per hour starting salary for the somewhat comparable position of a County Building Services worker; and it is even lesser after the first year when the County Building Service worker's rate is increased to \$7.50 per hour.

(2) The \$5.25 per hour starting rate is also considerably less than the hourly rate paid in other area animal shelters. For example, the starting salary for shelter personnel in Fairfax County is \$8.70 per hour; for Washington Humane Society employees in the District of Columbia, \$6.25 per hour; for Animal Welfare League employees in Arlington County, \$7.25 per hour; for Alexandria shelter caretakers, \$8.50 per hour; and for shelter personnel in the Prince George's County animal facility, \$5.46 per hour.

(3) The \$5.25 per hour starting rate applies to all Society employees: animal caretakers, administrators and the humane officers who operate in the field in Society vehicles to pick up restrained strays, wildlife, and dead, injured and trapped animals. In comparison, Fairfax County's starting salary for wardens whose duties include enforcement and those performed by the Society's humane drivers is \$9.98 per hour; the salary in Washington, D.C. for humane drivers is \$8.50 per hour; in Arlington, \$9.60 per hour, and in Alexandria, approximately \$9.00 per hour.

(4) The Society's low starting salary is the primary reason given by employees for resigning. In calendar year 1988, a total of 39 employees were terminated. The average and median number of weeks these 39 employees worked was 14.

(Note: It should be noted that Society employees receive some fringe benefits, such as health medical, paid holidays, 12 days per year annual and sick leave, and evening pay differential of 3% (\$.16 per hour). However, Society employees do not have retirement, or dental, life or disability insurance.)

As with salaries and wages, the contracted compensation for operating expenses has been insufficient to cover actual expenditures by the Society necessary to operate the animal shelter and administer the other animal-related activities as specified in the contract.

Over the past three fiscal years, expenditures by the Society for salaries and wages and operating expenses have exceeded the contracted level by an average of \$27,565, as reflected in Table 5.

Table 5

Additional Society Expenditures Over the Contracted Level
in Performing Contracted Services for
FY86, FY87 and FY88

<u>FY</u>	<u>Contracted Expenditures by the Society and Funded by the County</u>	<u>Additional Expenditures by the Society and Funded by the Society</u>
1986	\$564,829	\$33,783
1987	\$598,720	\$ 2,080
1988	\$627,230	\$46,833
3-Year Average	\$596,926	\$27,565

(Source: Audit Reports of Montgomery County Humane Society, Inc.)

The major areas where Society expenditures exceeded the contracted amount were vehicle repairs, advertising and overtime associated with the high personnel turnover, the \$.25 per hour salary increase in FY88 to raise the starting hourly rate salary from \$4.75 to \$5.00, and for certain categories of veterinary care.

(Note: The above only represents Society expenditures for contracted services. The Society funds other services by choice: foster care for animals, veterinary care for adopted animals, distribution of additional humane education material and publications, and the wildlife program. While these are not covered in the Society's contract with the County, County citizens benefit from these services and the County enjoys the recognition it receives from providing a high level of humane animal service.

d) Hours of Operation. The contract specifies that the Society maintain at least 40 hours a week service at the animal shelter for the convenience of the public to transact business. Currently, the shelter is open to serve the public 52 hours, six days a week (9 hours daily from Monday thru Friday and for 7 hours on Saturday). In addition, the shelter is open to the public and staffed by the Society 8.5 hours on Sunday. The above services are in addition to 24-hour, 7-days-a-week staffing for the purpose of receiving stray, lost or abandoned animals and for responding to emergency situations involving animals. It is OLO's opinion that the contract should be amended to reflect the actual hours the Society serves the public, or the hours be reduced to the contracted number of hours.

e) Vehicle Maintenance. The County provides vehicles for the Society's use in its humane field operations. The County also provides cleaning, fuels and lubricants for the vehicle. Also, the cost of vehicle maintenance and insurance is recognized in the County contract as legitimate reimbursable expenses. However, the amount of reimbursement for vehicle maintenance has been consistently less than the maintenance costs the Society has incurred in keeping the vehicles operational. This is especially the case as the vehicles age. In OLO's opinion, the County should either reimburse the Society for the total cost of maintaining the vehicles, or include the vehicles which the Society operates in the County's contracted vehicle maintenance program.

f) Veterinary Fees. The Society expended over \$65,300 in FY88 in veterinarian fees. Of that total, approximately \$43,600 were for services associated with the Society's adoption program. (To encourage adoptions from the shelter, the Society pays veterinary fees of adopted animals for treatment of pre-existing conditions such as kennel cough and pregnancy). However, the remaining \$21,700 was for emergency treatment to animals collected by Society humane drivers. The criteria for providing veterinary care as covered in the contract is that the Society shall provide an injured, sick or stray animal with emergency care if it appears to be owned or is licensed, and its condition is such that there appears to be a reasonable chance the animal will recover with veterinary care. It is OLO's opinion that the Society should be reimbursed for veterinary fees which qualify under the provisions of the contract.

g) Training. The County's contract with the Society does not include any provisions or funding for training Society employees; and with the exception of training for certification of technicians to perform euthanasia, the Society conducts no formal training or expends any training funds, relying almost exclusively on orientations and on-the-job training. From OLO interviews and observations, the on-the-job training appears adequate for "internal" Society operations such as the care and maintenance by caretakers of the animals in the shelter, maintaining the Animal Information Log, and administering the various animal-related programs (adoption, spay-neuter, and wildlife). However, orientations and on-the-job training are not sufficient for the more specialized areas of receiving telephone complaints on animal cruelty, animal bites and rabies control and humane field operations, especially when coupled with the high turnover rate of Society employees.

The lack of a formal training program has, on occasion been criticized, particularly when Society employees have improperly advised a caller concerning Department policy and procedure and the animal-control law relating to cruelty to animals, rabies control or animal bites.. As stated earlier in this report, it is OLO's opinion that the Department is responsible for receiving and responding to such complaints under the contract with the Society. Department employees have more formal training and experience and Department employees are in the direct chain of responsibility from the Director. For these reasons, Department employees should be receiving and responding to the citizen complaints, not Society employees.

h) Department Sign-off on Adoptions. The Department is the custodian of all files on animal code enforcement and complaint investigations. These files are not available to the public or to the Society. A procedure should be established whereby all animal adoption applications are checked by the Department to verify whether the applicant has a record of animal cruelty or other activity which would indicate that the person is not qualified to adopt an animal. The Department has indicated that proposed modifications to the automated case management system will facilitate this check.

VI. RELATED MATTERS

In the course of this evaluation, the following related matters came to the attention of OLO. Although these matters are not within the specific scope of this evaluation, they are considered sufficiently important to be presented here for possible action by the appropriate department or agency.

A. Boards, Committees and Commissions

In late 1978, the Council enacted Bill No. 55-78, which established a uniform system for classifying all committees of the County government and prescribed broad procedures for their operation. Included in the Bill was the requirement that the County Executive, within 60 days from the effective date of the bill (February 5, 1979), submit for Council approval a recommended category and subcategory classification for each committee in existence as of that effective date. This provision of the Code, Section 1-143(c)(2), has as yet not been satisfied.

B. Accounting for Civil Citations

Under Sections 1-18 to 1-20, Montgomery County Code, various County government departments are authorized to issue civil citations for violations of the Code, regulations thereunder, rules and regulations of the Board of Health, and the Zoning Ordinance promulgated pursuant to the Regional District Act.

Citations are recorded on a standard State of Maryland Uniform Criminal/Civil Citation form. On the citation, the specific offense is listed and the specific fine for the offense. In addition, the citation contains a notice that the person has the right to pay the designated fine within 20 days of the date the citation is issued, or to notify the County within 15 days of the request for a trial.

The issuing department batches the original and copies of the citations and forwards them to the Division of Revenue which is responsible for collecting and accounting for civil citations. As fines are paid, the Division of Revenue records the payment in its records. For those citations which neither payment of the fine nor a request for trial is received, the Division of Revenue sends a second notice. When all deadlines have elapsed, the Division of Revenue forwards to the District Court all citations for which a trial was requested, and all citations which the Division of Revenue received neither payment of the fine nor a request for trial.

When trials are held and a verdict is rendered which results in the payment of a fine, the District Court sends a report to the Division of Revenue identifying each case by name, citation number, the amount of the fine, and an "MI" (municipal identification) number. This MI number is the District Court's system for tracking cases.

Some weeks after the Division of Revenue receives this notice from the District Court, payment is received from the State Treasurer for the fines collected by the District Court. However, the check contains no identifying

information to enable the Division of Revenue to match the payment received from the State Treasurer with the notice from the District Court. Consequently, the County is unable to verify whether it has received all monies due it from fines imposed by the District Court.

In addition to those cases which result in a trial, a fine and a notice from the District Court of fines collected, a number of citations the Division of Revenue sends to the District Court are never accounted for. These citations fall into two groups. In one group are those cases which never came to trial because the defendant did not respond to either the judicial summons or a bench warrant. In the second group are those cases which went to trial, but no fine was imposed. These cases resulted in a not-guilty verdict, in dismissal or were nol prossed. Because there was no fine imposed, the District Court has no requirement to notify the Division of Revenue. However, a County Attorney is present at the District Court and records all decisions by the judge. These decisions are entered into the automated files of the County Attorney's Office, but are not forwarded to the Division of Revenue. As a result, the Division of Revenue retains in its automated files hundreds of citations it considers still open, but were, in fact, resolved at the District Court.

OLO recommends that the County Attorney, the Division of Revenue, and the Administrative Clerk of the District Court review and develop an improved procedure for accounting for civil citations sent to the District Court for trial. As a minimum, the County Attorney's Office should provide the Division of Revenue information on all District Court decisions.

C. Animal Rights Issues

1. General. In the course of this evaluation, OLO interviewed management and staff of the animal control agencies of five area jurisdictions. In addition, OLO interviewed an officer and division director of the Humane Society of the United States and others interested in the humane treatment of animals. In every instance, those interviewed commented favorably on the tough animal cruelty and rabies control provisions of the County Code and on the County's overall animal control program.

As stated earlier in the report, OLO's evaluation revealed no serious deficiencies in either the County Code or the Department's operating procedures. Nonetheless, in light of the current national attention to the issue of animal rights the Council may wish to review, and, after public input, develop a policy position on the following two animal rights issues:

- Minimum standards for the housing and care of animals in private research facilities; and
- A policy on the use of animals for entertainment and exhibition.

2. Minimum Standards for the Housing and Care of Animals in Private Research facilities

The Montgomery County Code includes minimum standards for the housing and care of animals in establishments such as commercial kennels, pet shops, fanciers' kennels, and riding schools and stables. These standards

address bedding, shelter, (size and type), veterinary care, drinking water, feeding, sanitation and records. In addition, the Code addresses similar general standards of housing and care of animals in its provisions on cruelty to animals. However, nowhere in the State Annotated Code or in the County Code or regulations are there any published standards of housing and care of animals in private research facilities located in the County.

Currently, three public or private agencies address this issue:

- The U. S. Department of Agriculture (USDA). By law the USDA is responsible for enforcing the Federal Animal Welfare Act. Included in that act are provisions concerning inspections of laboratories for compliance with the Act's provisions concerning housing and care of animals. Information from the Department of Agriculture and a review of a 1985 GAO report on the USDA inspection program indicates that funding restrictions have not made this responsibility a high priority. It should be noted that although the USDA has this responsibility under the Animal Welfare Act, Section 2145(b) of the Act specifically states that, in enacting this law, the Congress is not preempting State and local action in the care of laboratory animals.

- The Public Health Service. Through the National Institutes of Health (NIH), the Public Health Service has issued a guide, The Care and Use of Laboratory Animals, which addresses housing, care, food, etc. of laboratory animals. However, these guidelines apply only to research facilities receiving NIH grants; and NIH has neither inspectors nor enforcement powers to backup the guidelines.

- The American Association for Accreditation of Laboratory Animal Care (AAALAC). This private association issues accreditation to members who voluntarily apply and successfully pass an inspection. The AAALAC has no legal status or enforcement powers.

Considering that the Department of Agriculture has not made enforcing standards of housing and care of animals in research facilities a high priority, and that the Federal Animal Welfare Act encourages local government participation, it is OLO's recommendation that the County consider developing and enforcing its own minimum standards of housing and care of animals in research facilities located in the County.

3. A Policy on the Use of Animals for Entertainment and Exhibition. Last year the media carried a series of articles about an exhibition at a County fair where a mule climbed an inclined plane and dived into a large vat of water. Fortunately, the exhibition occurred in a county in Virginia, so Montgomery County did not have to respond to the many letters and calls from irate persons.

The State and County anti-cruelty laws cover obvious acts of cruelty in exhibitions involving animals, such as cock and dog fighting, coloring of live chickens, ducks and rabbits, and painting or carving on the shells of live turtles. Also, these same laws identify ways of exhibiting animals which are sanctioned, such as horse racing, dog field trials, and sport hunting. However, these laws are silent on other animal exhibition acts such as the "diving mule" or "racing pigs".

It is OLO's recommendation that the Council, with public input, review the current policy on animal cruelty to assure that it adequately covers the use of animals for entertainment and exhibition before the County is presented with a potentially embarrassing situation where animals are exhibited in situations and under conditions which the public may judge not to be humane.

VII. CONCLUSIONS

A. Overall, Chapter 5, Animal Control, Montgomery County Code, is an excellent law, providing for: the control, treatment, and humane disposition of domestic animals and wildlife; the protection of humans from vexatious, dangerous and diseased animals; hearings by citizens on animal matters; and the investigation and enforcement of State and County laws and regulations. However, this evaluation identified where amendments to the following sections would improve the clarity and scope of the law:

- Article I. Definitions
- Article II. Animal Matters Hearing Board
- Article III. Animal Control Officer
- Article V. Rabies Control
- Article VI. Dog and Cat Licenses
- Article VII. Pet Shops, Kennels and Riding Facilities

B. The Department of Animal Control and Humane Treatment (Department) is discharging its duties and responsibilities as enumerated in the County Code and Executive Regulations in an efficient and effective manner. However, this evaluation identified areas where the following improvements could be made in the operation of the Department:

1. Enforcement of Animal Control Laws

- Assign responsibility for receiving and responding to telephone complaints concerning animal behavior (unconfined strays, animal bites and cruelty complaints) to a Department employee.
- Continue the emphasis on pursuing compliance with the vaccination and sterilization requirements of dogs and cats adopted from the shelter.
- Review the current policy in the Department of voiding citations to first-time violators of the law requiring that dogs and cats be vaccinated and licensed; and evaluate the overall fiscal impact of the policy and the current procedure the Department uses to void citations.

2. Rabies Control

- Review Article V, Rabies Control, of Chapter 5 of the Code and revise where necessary so that the provisions of the Code reflect the de facto functions and responsibilities of the two principal agencies involved: the Department of Health and the Department of Animal Control and Humane Treatment.
- Clarify the role and responsibility of employees of the Humane Society in receiving and responding to telephone reports of incidents which have a direct relationship to the Department's rabies control program.

3. Licensing

- Continue current modifications to the Department's automated licensing system to reduce the time required to process applications for renewal of dog and cat licenses.
- Amend the County Code to permit the staggered issuance of dog and cat renewal licenses.
- Develop initiatives to increase the number of dog and cat licenses issued.

4. Support of the Animal Matters Hearing Board (Board)

- Designate the Manager of the Department's Administrative Services Section to act as the ex officio Secretary to the Board.
- Increase the current two-year term of Board members and alternates to three or four years.
- Require all Board members and alternates to be County residents.
- Change the requirement that the veterinarian on the Board be a representative of the Montgomery County Veterinary Association to any licensed veterinarian practicing and residing in the County.
- Involve the Board in its other duties and responsibilities mandated in the County Code.

5. Contract with the Montgomery County Humane Society (Society)

- Change the current agreement with the Society to a grant under the provisions of Section 11B-42, Cooperative Purchasing, Public Entity Contracting, and Grants, of the County Code.
- Review salary and wage provisions of the County's contract with the Society to assure that the County is compensating the Society sufficiently to pay a fair starting salary.
- Compensate the Society for the actual hours the animal shelter is open to the public or reduce the shelter hours to the number specified in the contract.
- Compensate the Society for all actual expenses it incurs in complying with the scope of services in the contract to operate the shelter and administer other animal-related services.
- Modify the County's contract with the Society to provide for adequate formal training to Society employees.
- Require the Department to verify that, prior to an adoption, there is no information in its files that would indicate the applicant is not qualified to adopt an animal.

C. The evaluation identified three related matters: boards, committees and commissions; accounting for civil citations; and animal rights, which require examination and possible action.

VIII. RECOMMENDATIONS

It is recommended that:

A. Chapter 5, Animal Control, Montgomery County Code, be reviewed and amended as indicated in this report.

B. The operational improvements to the Department of Animal Control and Humane Treatment discussed in this report be reviewed and implemented where appropriate.

C. The contractual agreement between Montgomery County and the Montgomery County Humane Society be changed to a grant and evaluated to assure that the Society is receiving fair compensation for the various animal-related services it provides as a part of the County's excellent animal control program.

D. The three related matters be examined for possible action by the appropriate department or agency.

E. The County Council approve OLO Report 88-7 for public release.

IX. AGENCY COMMENTS