



March 26, 2010

The Honorable Lee Leffingwell, Mayor,
And Members of the City Council
City of Austin
P.O. Box 1088
Austin, Texas 78767

Dear Mayor and Members of the City Council,

We applaud the City Council's recent enactment of a No Kill plan, which included "an immediate moratorium on killing any animal (except for humane reasons or aggression validated by a behaviorist) when there are cages or kennels available." It is our understanding that since the moratorium was enacted, more than a hundred fewer animals have been killed compared to the same period as last year. It is no exaggeration to say that the eyes of an animal loving nation are on Austin, and your leadership on this issue is very exciting for all of us working to end the systematic and preventable killing of animals in U.S. shelters.

Unfortunately, we have received complaints that Town Lake Animal Center (TLAC) is violating its duty to the health and well-being of cats entrusted to their care. We have been informed that cats that are deemed too "fractious" are not being provided medical care when they become sick at the shelter. We have also been informed that visitors to the cat areas have witnessed suffering cats, because the cats are not being given medical care to help alleviate their illnesses. We have also been informed that the shelter does not vaccinate cats upon intake, but instead waits at least a full day before doing so. Finally, we have been informed that when asked about the lack of medical care for feral cats, the director of TLAC told the Animal Advisory Commission that it is illegal to treat animals without examining them, and since the cats are too "fractious," they cannot be examined.

If these complaints are accurate, we are asking for you to put this to an immediate stop as it is tantamount to animal cruelty by the very agency tasked with enforcement of such laws. If a resident of Austin had a sick animal and failed to provide prompt and necessary veterinary care, they would be subject to arrest and prosecution. We believe the same standard applies to animals in the care and custody of TLAC. There is nothing in what is commonly referred to the Texas Veterinary Practice Act

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(TVPA)* that would prevent care to these animals. These acts are “model” legislation and do not vary widely from state to state. We are not aware of any state that specifically defines what constitutes an “examination” and Texas is no exception. In fact, the TVPA specifically allows for visual observation as a means of “possess[ing] sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the animal's medical condition.”

According to TX OCC § 801.351,

(b) A veterinarian possesses sufficient knowledge of the animal for purposes of [providing care] if the veterinarian has recently seen, or is personally acquainted with, the keeping and care of the animal by: (1) examining the animal; or (2) making medically appropriate and timely visits to the premises on which the animal is kept. (Emphasis added.)

According to Dr. Michael Moyer, V.M.D, the Director of Shelter Animal Medicine and Associate Adjunct Professor of Shelter Medicine at the University of Pennsylvania School of Veterinary Medicine,

Indeed, there are circumstances wherein a tactile exam is imprudent, and the safer mere observation of the animal is all that can be reasonably performed (many zoo species, captive cervids, aggressive or otherwise dangerous animals). In my professional opinion, fractious cats without life-threatening illness may be better managed by observation and best available treatment for the presumptive disease (for example, upper respiratory infections, very common in catteries). Some palliative or curative treatment, when available, must be offered to any sick animal in a shelter. It is not appropriate to withhold treatment from fractious animals, though there may be limits to what medications can be safely deployed with said animals.

Dr. Moyer is the staff veterinarian responsible for training veterinary students in surgical neutering techniques in collaboration with Philadelphia Animal Care And Control Association and the development of other dimensions of the program, including but not limited to forensic pathology, animal cruelty, population medicine and infectious disease, sheltering, public policy, behavior, human animal bond, pet animal fostering/rescue, and feral cat issues. He also serves on the Board of Directors of the American Animal Hospital Association.

Generally speaking, in order to minimize or prevent human injury, any animal that is deemed feral (and noted as such in the medical records) does not require an actual physical examination prior to

* In Texas, it is part of the Occupations Code: *Title 4. Professions Related to Animal Health. Chapter 801. Veterinarians.*

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anesthesia or the initiation of treatment for illness or injury. At Washoe County Regional Animal Services and the Nevada Humane Society, for example, all animals are considered to be under the care and control of that facility and easily treated common diseases such as upper respiratory infections (URI) in cats are always closely monitored and/or therapy begun to eliminate or reduce pain and suffering *during the stray period.*

According to Dr. Diana J. Lucree, D.V.M., Chief Veterinarian at the Nevada Humane Society,

The signs of URI are easily noted from outside the feral cat's enclosure. Often sneezing is heard during daily cleaning and feeding and closer inspection might reveal the presence of ocular and/or nasal discharge. Sometimes a decrease in appetite accompanies the outward signs. If the cat has not been eating or drinking, dehydration can occur which will cause the cat to become lethargic. The first strategy is to try an Orbax tablet in a small sample of canned food once a day. If the feral is not eating but is still too active to handle, oral liquid antibiotics (e.g. Clavamox or re-formulated Doxycycline) can be sprayed onto the tongue and lining of the mouth as the cat is hissing. If there is still no response, the cat can be contained in a squeeze cage and injected with antibiotics. We have even managed to give subcutaneous fluids to feral cats this way. If the cat has a very serious case of URI, it can often be handled initially for injectable treatments until [the cat] begins to feel better.

She concludes by saying that "there is no reason to delay or deny lifesaving treatment to a cat simply because the cat is feral [or fractious]." And the results show it: Washoe County is now one of the safest communities for homeless animals in the United States (saving 90% of all dogs and cats), despite a per capita intake rate that is over twice the national average, a community hard hit by the recent economic recession, and in a state with the second highest unemployment rate in the nation, which Austin has largely avoided.

What makes the allegations even more disturbing, if true, is that the practices of TLAC may be getting the cats sick, and then the agency fails to follow up and provide treatment for those cats. While poor vaccination procedures potentially impact all animals, they disproportionately impact cats and kittens who are highly susceptible to infections in shelters. It is therefore critical to establish immunity as soon as possible. The University of California at Davis shelter medicine program recommends that,

In almost all cases, shelter animals should be vaccinated immediately upon intake. A delay of even a day or two will significantly compromise the vaccine's ability to provide protection... (In some cases, the chance of the vaccine preventing disease may be 90% or better if given the day before exposure, but will drop to less than 1% if given the day after exposure.)

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None of this is new information in the field of animal welfare; this should have been standard practice even before the enactment of the moratorium. In addition, given the close relationship between TLAC leadership and the ASPCA, there is no reason this information should not have been readily available to the agency. Because of this, we are left to ponder whether this is a deliberate attempt to sabotage the No Kill plan. We do not offer this possibility lightly. This is exactly the course of conduct taken in other communities, such as King County Animal Care & Control near Seattle, Washington, by shelter leadership hostile to their Council's directive to end the killing of healthy and treatable animals.

As a result, not only is our immediate concern the health and safety of these animals, but we also fear that this course of action threatens to undo the success of your initiative. We fear Austinites are going to erroneously conclude that No Kill is not achievable.

For all of the foregoing reasons, if the allegations are true, we implore you to put a stop to them immediately. The people and animals of your great city deserve better. And the City Council should have leadership at TLAC not only implementing the letter of your No Kill plan, but the spirit of it as well. If we can assist in any way, please do not hesitate to contact us.

Very truly yours,

Nathan J. Winograd

cc: Mr. Larry Tucker, Chair, Austin Animal Advisory Commission