

SHELTER POLICY AND LEGAL SERVICES

A PROGRAM OF THE SAN FRANCISCO SPCA

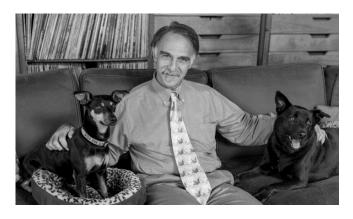


Presenters



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Agenda *02.26.21*

- Community Cats
- Community Cat Programs
- Establishing + Operating a Legally Sound CCP
- ► Legal Compliance
- ► Q+A



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Community Cat:

Any domestic cat, with no indication of ownership, who lives primarily outside



Types of Community Cats

FERAL

"Feral" under section 31752.5 of the California Food and Agricultural Code: "without owner identification of any kind whose usual and consistent temperament is extreme fear and resistance to contact with people"

FRIENDLY

Nonferal, i.e., approachable and socialized but remaining "free-roaming" or living primarily outside



Cats Ineligible for CCPs

OWNED

Cats with indicia of ownership (e.g., collar, collar with ID, microchip)

MEDICAL

Significant medical issues likely to need extended veterinary care

Judgment call for staff. If the cat "fails" in either category, the cat is ineligible for the CCP and placed in pathways available to stray cats, including unhealthy cats and unweaned kittens



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CCPs:

Stronger together if each shelter approaches the same from here on



CCP Defined

- CCP = "Community Cat Program"
 - Any program that involves the collection of community cats for sterilization, vaccination, ear-tipping as well as the return of those cats to the same area in which they were found
- ► Single use of term "CCP" from here on
 - CCP includes all the following: TNR, SNR, TVNR, RTF



CCP Components

- In all CCPs, cats without identifiable owners are trapped at their sites of habitation, then taken to a facility where they are:
 - Given a veterinary evaluation and, if healthy, sterilized, vaccinated, "tipped" and swiftly returned to their original habitat or other suitable habitat
- CCPs can be carried out by many parties
 - Municipal + private shelters/workers (staff + vols)
 - Veterinarians and clinics
 - Private individuals with proper medical support



Caveat

- ➤ Shelter PALS believes that if a CCP is established in the manner we outline, it has a good chance of defeating a legal challenge to its validity. But this is not:
 - Guarantee from court
 - Protection against litigation from opponents
 - Legal advice (contact us to be a Shelter PALS client)
- No court has yet reviewed a CCP like this in order to determine if a shelter has the legal right to undertake such actions



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Establishing + Operating

a legally sound CCP in California



Establishing a CCP

- Key aspect = "community cats are different"
- CCP is unique shelter function. If possible:
 - Physical separation, e.g.:
 - Separate CC from general population (entrance, room, enclosures, etc.)
 - Temporary ID for CC different from other ID used in shelter (e.g., any collar)
 - Informational separation, e.g.:
 - Paperwork
 - Database and/or coding entry
 - Expense item (track funding)



No Ownership

- No ownership of CCs at any point
- Paperwork should not suggest finders or shelter have any rights in the CCs
- CCs are moving through the CCP as part of the shelter's overall effort to provide humane treatment to animals and to serve the community



Qualifications + Entry

- Anyone can legally bring in CC for potential entry into CCP
 - Private "finders", shelter workers, animal control, law enforcement, etc.
- Confirm CC eligibility:
 - Microchip/ID inspection if indication of ownership, ineligible for CCP. If intake, deemed "stray"
 - Veterinary wellness check if any significant medical problem(s) that cannot be quickly treated, remove from CCP and reroute as "stray"



Pathway Planning

- Once a CC is in the CCP:
 - The less time the CC spends in the shelter, the better (while balancing appropriate welfare)
 - CC to leave the shelter ASAP after surgery/recovery
 - <2-3 day turnaround appropriate for most situations</p>



Going Home

- CC should be returned to same location where found, or as close as possible if area is dangerous or otherwise unavailable, e.g.:
 - Private property with unwilling owner
 - Prohibited area under local laws
 - Areas with identified endangered species that may be target of cats



CCP "Don'ts"

- CCP cats should **not** be:
 - Listed as, or described as, or actually be "impounded"
 - Microchipped or provided with any permanent ID (other than ear tipping)
 - Registered or licensed
 - Placed on shelter's website
 - Fostered
 - Adopted (even as "barn cats")
 - Held under applicable holding periods



Internal Education

- ► Train all personnel/stakeholders on CCP
 - Management, veterinary, kennel workers, administrative, volunteers, politicians, etc.
- Dedicated CCP employees are great, but not necessary
 - ► If possible, designate one person as CCP coordinator



External Education

- ► Public communications should be cleared by shelter and management/legal
- Shelter PALS suggests affirmative statement of the value of the CCP
- Statement may include:
 - Reasons for undertaking
 - Benefits to humans and animals
 - Goals of program
 - Separate process for CCs vs. other cats
- Carefully weigh community receptivity vs. opposition in all external communications



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Legal Compliance

CA law, CEQA, local laws + contracts



CCPs Comply with CA Law

- CCPs do **not** represent cruelty to animals
 - Complex legal analysis, but short answer is that CCPs are done with the humane intent of providing for animal welfare and avoiding suffering the antithesis of animal cruelty
- CCPs do <u>not</u> involve "abandonment" under CPC 597s
 - Only owners (those with a legally enforceable ownership or possessory right in the allegedlyabandoned animal) can abandon under statute
 - Humane actions to save cats do not constitute the crime of abandonment
- CCPs do <u>not</u> violate intake requirements for shelters
 - No legal obligation under state law to impound healthy (owned or unowned) cats



CEQA

- ► The California Environmental Quality Act ("CEQA") requires government agencies to consider environmental consequences of public projects
- CEQA does not apply to actions of private entities
 - But if a municipality or government agency funds or supports a CCP, CEQA may be implicated
- If CEQA applies, the government agency <u>may</u> have to go through a time-consuming administrative process
 - Various exemptions may (likely) apply
- CEQA is important:
 - CEQA litigation blocked the City of Los Angeles' original CCP and resulted in ~10-year delay
 - CEQA issues should be addressed with counsel for any municipality involved with the shelter when starting CCP
 - Shelter PALS lawyers can help here



Local Laws

- CCPs often cover CCs in multiple cities and towns, each of which may have its own municipal code with laws relevant to the work of a CCP
- Codes of all affected municipalities should be considered, as well as ACC contracts
- In our research so far, the most commonly found potentially problematic codes restrict or prohibit:
 - Trapping animals ("catching," "picking up" etc.)
 - Releasing animals ("leaving," "abandoning" etc.)
 - Feeding of animals
- Relevant laws are sometimes generically applicable throughout entire jurisdiction, but more often limited to some areas of public property (park, beach, etc.)
- Various ways to address these situations, best done with assistance of a lawyer

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Q+A



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