

# Legal Stumbling Blocks

## When Rescue and Law Enforcement Collide

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# Two Important Facts

Law Enforcement: THIS IS A RESCUE  
OPERATION

Rescues: THIS IS A CRIMINAL  
INVESTIGATION



# Some Basics



# Criminal Investigation

Government Agents working in their official capacities.

Governed by Constitution and the Law

Must follow procedure

Animals are evidence



# Jurisdiction

Each jurisdiction is an independent agency.

The State Police have no authority over local agencies.

The Attorney General is not the boss of local elected prosecutors.

# Seizure



# Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.





# What Authority Do You Have?

SEARCH WARRANT



PLAIN VIEW

# Impoundment

To take and retain possession of something, to be produced as evidence for a criminal prosecution.



# What Is The Difference Between A Misdemeanor And A Felony?



## § 18.2-8

# Felonies, Misdemeanors And Traffic Infractions Defined

Offenses are either felonies or misdemeanors. Such offenses as are punishable with death or confinement in a state correctional facility are felonies; all other offenses are misdemeanors. Traffic infractions are violations of public order as defined in § 46.2-100 and not deemed to be criminal in nature.



# Chain of Custody



# Chain of Custody

"...requires testimony of continuous possession by each individual having possession, together with testimony by each that the object remained in substantially the same condition during its presence in his possession."







# Responsibility of Rescues

If you are housing horses pending court, you **MUST** document everything carefully and be prepared to testify as to all you have done with and for the animals.

While the animals are in your care, you assume **ALL** of the responsibilities of an owner.



# Why Do I Have To Go To Court To Testify?



# Confrontation Clause of the 6th Amendment

In all criminal prosecutions, the accused shall enjoy the right to be confronted with the witnesses against him.

The 14th Amendment has made the 6th Amendment's right to confrontation applicable to state court as well as federal court.

The confrontation clause guarantees criminal defendants the opportunity to face the prosecution's witnesses in the case against them and dispute the witnesses' testimony. This guarantee applies to both statements made in court and statements made outside of court that are offered as evidence during trial.





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Homes for Horses Coalition

# The Ending To A Successful Animal Cruelty Prosecution



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