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The Link Between Animal Abuse and Child Abuse

BY AMBER R. MACIAS-MAYO

PROLOGUE (THE FACTS)

Floyd and Barbara Schambon were the parents of five children. The couple's eldest daughter was emancipated and did not live with the couple. The remaining four children, two boys and two girls, were all under the age of 13.¹ Like many other American families, the couple had several animals in their home, including dogs, cats, and even a guinea pig. Barbara Schambon was an obstetrics nurse at a local hospital.² Floyd Schambon worked outside of the home as well. The Schambons were also in the business of breeding and selling various breeds of small dogs. From the outside, they may have appeared relatively normal; however, the Schambons were hiding a horrendous secret.

In the summer of 1989, animal control officers responded to information regarding animals in the Schambons' garage. They found over 20 small dogs in the hot, unventilated garage without food or water. They also observed 3–5 inches of feces covering the garage floor. Two of the three responding animal control officers took the animals to the animal shelter. The third officer stayed behind to investigate.³

The animal control officer found Barbara Schambon in the home. She invited the officer into the house through the back door that led into the kitchen. When inside the kitchen, the officer saw animal cages lining the kitchen walls and litter boxes overflowing with feces. He observed dirty dishes throughout the kitchen and fungus growing on the stove. A dead, decomposing dog was lying on the kitchen floor. A guinea pig was in its cage on top of the kitchen counter. The animal control officer was so nauseated by the smells in the kitchen that he had to leave the house for fresh air. The officer later returned to the house after obtaining

a search warrant for the Schambon house. Floyd Schambon was present and arrested for animal cruelty.⁴

Children Places in Foster Homes

The couple's children returned home when the animal control officers were searching the house. Inside the home, animal control officers found feces on the floor, walls, and beds. Barbara Schambon repeatedly shouted at the animal control officers *not* to talk to her children. Because of the condition of the home, the children were removed from the Schambons' custody and placed in foster care. Again, Barbara Schambon warned the children not

The children were placed in foster care.

to talk to anyone. The two boys, ages 13 and 6, were placed in a home together. The two girls, ages 10 and 8, were placed in a home together but separate from their brothers.⁵

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The boys' foster parents noticed strange behavior by the boys. The youngest boy had poor hygiene and needed additional training on bathing habits. The boy was afraid to go into the bathroom and told his foster parents it was because "you'll be there" and "you might hurt me." Because

The boy was afraid of adults.

the young boy often wet the bed at night, his foster parents would wake him to use the bathroom. The boy would go into the bathroom, climb up to the sink from the toilet and stare blankly. The foster parents also noticed that the young boy was afraid of adults and very apprehensive near public bathrooms. The boy later told his foster parents, when questioned regarding his behavior, about many acts of sexual abuse that he suffered at the hands of his parents and other persons. The foster parents contacted authorities who investigated the child's claims. The investigation led to the indictment of the Schambons.⁶

During the trial of his parents, Floyd and Barbara Schambon, the six-year-old boy testified about many horrific acts in which he was forced to engage. The boy stated in detail the appalling sexual abuse that he suffered from his parents. The boy also told the court that his father, Floyd, often took him to a park, tied him to a tree and force him to engage in sexual acts with grown men and women for money. The young child spoke of his fear of those people and recalled how he would sometimes bleed after the abuse.⁷

During the Schambons' trial, the 13-year-old boy provided testimony as well. His testimony, along with a written statement he provided to detectives, corroborated his little brother's testimony. The 13-year-old boy's testimony also confirmed that he too had suffered from terrible abuse by his parents for many years.⁸

The Schambons were convicted on a total of 61 counts of abuse. The convictions included three counts of first-degree criminal child abuse, several counts of sexual abuse, and 28 counts of second-degree animal cruelty. Floyd and Barbara Schambon were each sentenced to a total of 85 years in prison for the unspeakable acts of abuse they inflicted upon their children and the animals in their home.⁹

The Schambons' horrendous secret was exposed as a result of a neighbor's complaint about animal neglect.

THE LINKAGE

There is an undeniable link between animal cruelty and violence against people. The term "the Link" describes the relationship between animal abuse and abuse toward domestic partners, elders, and children. When animals are at risk of abuse and/or neglect in a household, so are the *people* in that household. Animal cruelty is one predictor of whether someone will commit, or is already committing, abuse against a partner or a child. At the very least, pet neglect and abuse is indicative of stress within the household. It is true that "Animal abuse is not just the result of some personality flaw in the abuser, but a symptom of a deeply disturbed family."¹⁰

Children are particularly vulnerable to stress within a household. Children, like pets, are powerless and depend on the adults in their lives to provide emotional and economic care.¹¹ With the number of reported incidences of child abuse continuously rising,¹² efforts to identify and prevent child abuse need to increase as well. In 2012, the U.S. Department of Health and Human Services found that child protective agencies across the

The investigation led to indictments.

nation investigated reports of child maltreatment totaling 3.4 million referrals involving 6.3 million children.¹³ Many acts of child abuse go unreported, however. Although child protective services can identify the staggering number of 6.3 million children who are affected by child abuse and/or neglect, the number of children living in secret hell is likely much higher.

Why should we care about child abuse? Society should care about child abuse for a number of reasons, mostly importantly, the safety and wellbeing of vulnerable children. Every child should be loved and cared for in a way that does cause them fear or pain. Society should care because these children will grow into adults one day. Children who suffer from abuse are likely to perpetuate the abuse on others as they become adults. As the number of abused children continues to rise (to over 6.3 million), so does the number of potential abusers in the future. The cycle of abuse will continue and will affect more people.

Recognizing the link between animal cruelty and child abuse can help to identify and prevent

further child abuse. Animal abuse or neglect frequently occurs out in the open, and is more easily visible to those in the area. A neglected dog tied up in the backyard without food, water, or shelter can be seen (and heard) because it is out in the open. When child protective services, animal control officers or even neighbors observe that the family

Children are vulnerable to stress in a household.

pet is being neglected or abused, such awareness should urge them to take a closer look as to what is happening in the family. The link cannot identify all child abuse, but it can be used as a tool to help gain access to families whose secrets might otherwise continue to go unnoticed.

CHILD ABUSE IN NEW MEXICO AND ITS CHILD ABUSE STATUTE

Child abuse is serious. New Mexico tragically suffers from a high rate of child abuse and child abuse-related deaths. In 2010, New Mexico was ranked second in the nation with 19 child abuse-related deaths.¹⁴ ¹⁵ One year later, New Mexico dropped to eighth place for child abuse-related deaths with 15 deaths.¹⁶ In 2012, there were 16 deaths caused by child abuse, placing New Mexico back up to fifth in the nation.¹⁷ These figures reflect only the *deaths* caused by child abuse. There are, however, thousands of children in New Mexico who experience child abuse and neglect daily. In fact, by the end of February 2014, authorities in New Mexico reported 53 claims of child abuse or neglect within the first 58 days of the year.¹⁸

The Statute

New Mexico's child abuse statute is located in Chapter 30, Criminal Offenses, Article 6, Crimes Against children and Dependents, Section 1 entitled: Abandonment or abuse of a child.¹⁹ Subsection A of the statute defines the terms "child," "neglect," and "negligently" as used throughout the statute.²⁰ Subsection B discusses child abandonment, and subsection C addresses the Safe Haven for Infants Act.²¹ Subsection D of NMSA 1978, §30-6-1 is the focus of this analysis. Subsection D provides:

Abuse of child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting, a child to be:

- (1) Placed in a situation **that may endanger** the child's life or health (emphasis added);
- (2) Tortured, cruelly confined or cruelly punished; or
- (3) Exposed to the inclemency of the weather.²²

The term "that may endanger" found in § 30-6-1(D)(1) is significant.

New Mexico Caselaw Interpreting Its Child Abuse Statute

New Mexico case law defines NMSA 1978, § 30-6-1 by interpreting the purpose of the child abuse statute and the elements necessary to establish child abuse. New Mexico case law describes intent as any action that "may endanger the child's life or health." Case law also discusses the issue of separate charges for related offenses (such as child abuse and animal abuse). Reviewing the applicable New Mexico cases helps to fully comprehend the statute. Further, applying New Mexico standards establishing child abuse by endangerment to the *Schambon* case, we can ascertain whether New Mexico courts would have had a similar result.

The Court defined the purpose of the child abuse statute in *State v. Melendrez*, 2014-NMCA-062. In *Melendrez*, the Defendant was convicted of, *inter alia*, negligent child abuse not causing death or great bodily harm after he drove into a group of children who were trick-or-treating on Halloween evening.²³ Defendant struck and killed the children's chaperon when she pushed the children out of Defendant's path.²⁴ Defendant argued on appeal that the evidence was not sufficient to convict him for intentional child endangerment because he did not endanger a particular child.²⁵ The Court declared the purpose of the child abuse statute by stating:

...child abuse by endangerment statute is intended to address conduct with potentially serious consequences to the life or health of a child. ... The statute gives heightened protection to children because they are inherently

vulnerable and also because they are at the mercy of the adults who care for them. ... For conviction, the statute requires a "reasonable probability or likelihood that the child's life or health would be endangered by the defendant's conduct."²⁶ (Emphasis added).

The Court determined that the jury believed Defendant "knew or should have known" that his conduct put the children at risk,²⁷ and it upheld Defendant's conviction.

Floyd and Barbara Schambon knew or should have known that their conduct put all of their children at risk. They had their children living in a home covered from floor to walls with animal feces and decaying animal carcasses. Such filth endangered the health of the children by exposing them to potential life-threatening diseases. The Schambons subjected their children to extreme sexual abuse at their own hands, and at the hands of strangers, which also could have had life-threatening consequences. They put their children in danger with potentially serious consequences. Under New Mexico standards, the Schambons violated the child endangerment statute.

The New Mexico Court of Appeals laid out the elements that help to determine whether a situation would endanger a child under the child abuse statute. In *State v. Webb*, 2013-NMCA-027, Webb took her daughter and her daughter's friend to a tattoo parlor to get piercings. Webb signed a release for her daughter and, upon being told by her daughter's friend that the friend's mother approved of the piercing, Webb signed a release allowing her daughter's friend to receive a piercing as well.²⁸ The daughter's friend received her

Many acts of child abuse go unreported.

piercing and, a few minutes afterward, passed out. Although unconscious, the girl hit the ground so hard that she lost teeth, was bloodied, and was in a lot of pain.²⁹ Defendant took the girl home but did not exit the car and did not tell the girl's mother what occurred.³⁰ Defendant was convicted of abandoning a child resulting in great bodily harm, as well as other charges.³¹ On appeal, the Court in *Webb* stated that, when analyzing whether a defendant is criminally liable for abuse by endangerment, they consider the following factors:

(1) the gravity of the risk created by the defendant, (2) whether the underlying conduct violates a statute, and (3) the likelihood of harm to the child. ... While the likelihood that harm will occur is 'no longer a determinative factor...' it still remains an important consideration when evaluating the magnitude of the risk.³²

The Court further stated that "it is the endangerment and not the resulting injury that constituted the offense" (citing *State v. Gonzales*, 2011-NMCA-081, ¶17, cert. granted).³³

Gravity of Risk, First Factor

Applying the *Webb* factors to the *Schambon* case confirms that the Schambons violated the New Mexico child abuse statute. The gravity of the risk created by the defendant is the first factor. The Schambons placed their children in serious and severe risk when they allowed strangers to engage in inappropriate acts with their children. It was also dangerous for the children to live in their home when it was covered in animal feces and potentially diseased. The second factor is whether the underlying conduct violated a statute. The Schambons conduct clearly endangered the well-being of their children in violation of §30-6-1(D)(1) due the exposed risks discussed above. Finally, the likelihood that the Schambons' conduct would harm their children was enormous. Judging by the youngest boy's behavior while in the care of his foster parents, the Schambons' conduct did indeed harm the children.

Regarding the intent element of NMSA 1978, § 30-6-1(D)(1), the Court of Appeals held: "the statute does contain a mens rea element, which requires proof that a defendant acted with a culpable mental state: intentionally or criminally negligent. It also contains an *actus reus* element: the 'voluntary act' that inflicts serious harm or death to the child."³⁴ In *State v. Schoonmaker*, 2005-NMCA-012, Defendant was convicted of child abuse after shaking his girlfriend's newborn baby so violently that the baby suffered brain injury and total blindness. The Court opined that the statute punishes people for voluntarily committing harmful acts, such as shaking a baby, and engaging in unjustifiable risk taking (when shaking a baby).³⁵

Floyd and Barbara Schambon satisfied the *mens rea* and *actus reus* requirements of NMSA 1978, § 30-6-1(D)(1). The Schambons were both well aware that their conduct was illegal and atrocious. They

carried out the actions against the children voluntarily and repeatedly. They intended to cause harm to their children with their actions, and they were aware that they were harming the children, as evidenced by their threats to the children not to talk to anyone. They each had the *mens rea* and the *actus reus* to commit child abuse.

Joinder of Charges

Finally, New Mexico courts have ruled that it is not an error to combine charges when they are of a same or similar character, pursuant to Fed. Rules

The offense is the endangerment, not the resultant injury.

Cr. Proc. 8.³⁶ In *State v. Robinson*, 1979-NMCA-001, the Defendant was charged with child abuse resulting in death of one child, and child abuse of the subsequent child at the same time. The Appeals Court held that the district court did not abuse its discretion in denying defendant's motion for severance of the two charges.³⁷

Similar to *Robinson*, the Schambons alleged that the court erred when it did not sever the animal abuse charges from the child sexual abuse charges. The *Schambon* court, however, prepared its analysis regarding severance more clearly than the *Robinson* court. The *Schambon* court referenced the Federal Rules of Criminal Procedure which allow the combination of charges when they are of a same or similar character.³⁸ The court commented that joinder of charges is inappropriate when a party will be prejudiced by the joinder of offenses.³⁹ Further, *Schambon* noted that whether to join or sever offenses is within the discretion of court and will only be reviewed if abuse of discretion and prejudice are proved.⁴⁰ The court specifically stated that "the offenses were intertwined and the evidence of animal cruelty was essential to establish the physical abuse...."⁴¹ The Court held:

To convict appellants of criminal abuse, it was necessary to prove that the environment in which the children lived subjected them to a risk of physical injury. This proof included testimony as to the deplorable conditions in the house and garage, specifically, the presence of diseased cats, dogs and other animals in the house and garage.

Additionally, proof of the presence of animal feces and the carcasses of dead animals in the house was presented. This same proof was used to prove the animal cruelty charges. The records revealed that the trial court thoroughly contemplated the possibility of prejudice before ruling on the motion. There was no abuse of discretion.⁴²

Although the analysis in the New Mexico *Robinson* case was not as thorough as the *Schambon* case, New Mexico courts would likely reach a consistent holding in cases as severe. Using the charges associated with animal abuse helped to prove the child abuse charges. Similarly, in a situation where a dog is neglected by leaving it chained outside without food and water, and reports of the neglect lead to discovery of child neglect within the household, the charges have same or similar character. New Mexico courts would be inclined to join the charges. However, when a dog is neglected but not abused, and discovery of the animal negligence led to discovery of child sexual abuse, it is not likely that New Mexico courts would find that the charges are of same or similar character.

THE LINK

Leading with the *Schambon* case served to shock the conscience and draw the audience into a world that many do not know exists. Though such despicable acts of abuse likely occur in New Mexico, New Mexico case law is scant on cases involving the Link. It is likely that New Mexico courts would have held that there was child abuse in the *Schambon* case pursuant to NMSA 1978, § 30-6-1(D) (1) after applying New Mexico standards as established by case law. Floyd and Barbara Schambon's

The FRCP allows combining charges where of a similar character.

acts of child endangerment fell squarely within the purpose, the elements and intent as outlined in the New Mexico child abuse statute. Further, their conduct of both animal abuse and child abuse was of same or similar character warranting the order that the charges be tried together. What is important, however, is discovering the abuse so that it can be stopped.

CONCLUSION

The Schambons' horrendous secret was exposed because a neighbor reported animal neglect to authorities. Upon arrival at the Schambons' home, animal control officers found much more than animal neglect. They found severe animal abuse and neglect. They found fifthly conditions that endangered the lives of the children living there. Upon further investigation, authorities discovered that the children were being sexually abused by their parents and others. Had that neighbor decided not to report the animal neglect, the Schambons may have been able to continue hiding their secret.

There is an undeniable link between animal cruelty and child abuse. Education regarding the Link can help to identify child abuse when it may otherwise go undetected, as it did in the *Schambon* case. Understanding the Link can also help to prevent child abuse before it occurs if the community is able to recognize that pet abuse and neglect are indicative of stress within a household. The number of reported child abuse and neglect claims continues to rise each year in the United States, particularly in New Mexico. With child abuse being such an epidemic nationally and locally, communities need to explore new ways to help stop or prevent abuse against children. The children of our communities depend on us to recognize when they are in need because, often, they cannot just tell us. Knowledge of the Link is a tool that can help identify or even prevent child abuse, just as it did in the *Schambon* case.

NOTES

1. *Schambon v. Com.*, 821 S.W.2d 804 (Ky 1991).
2. Annette Poole, *Barbara Schambon Takes Stand in Her Own Defense*, Park City Daily News, 130, May 31, 1990, at 1.
3. *Schambon*, 821 S.W.2d at 804.
4. *Id.* at 806–807.
5. *Id.* at 807.
6. *Id.* at 807–808.
7. *Id.* at 808.
8. *Id.*
9. *Id.* at 806.
10. Susan Crowell, *Animal Cruelty as it Relates to Child Abuse: Shedding Light on a 'Hidden' Problem*, 20 J. Juv. L. 38, 39 (1999).
11. Charlotte A. Lacroix, DVM, JD, *Another Weapon for Combating Family Violence: Prevention of Animal Abuse*, 4 Animal L. 1, 7 (1998).
12. Douglas E. Abrams, Sarah H. Ramsey, *Children and the Law, Doctrine, Policy and Practice*, (4th Ed. 2007), p. 287 (“reports of child maltreatment have increased to record numbers, from about 60,000 in 1974 to 3.2 million in 2007.”).
13. U.S. Department of Health and Human Services; Administration for Children and Families; Administration on Children, Youth and Families; Children’s Bureau. *Child Maltreatment*, (2012). Available at <http://www.acf.hhs.gov/programs/cb/research-data-technology/statistics-research/child-maltreatment> (last visited Nov. 26, 2014).
14. U.S. Department of Health and Human Services; Administration for Children and Families; Administration on Children, Youth and Families; Children’s Bureau. *Child Maltreatment*, (2010). Available at <http://www.acf.hhs.gov/programs/cb/research-data-technology/statistics-research/child-maltreatment> (last visited Nov. 26, 2014).
15. The state rankings are based upon number of deaths per every 100,000 children.
16. U.S. Department of Health and Human Services; Administration for Children and Families; Administration on Children, Youth and Families; Children’s Bureau. *Child Maltreatment*, (2011). Available at <http://www.acf.hhs.gov/programs/cb/research-data-technology/statistics-research/child-maltreatment> (last visited Nov. 26, 2014).
17. U.S. Department of Health and Human Services; Administration for Children and Families; Administration on Children, Youth and Families; Children’s Bureau. *Child Maltreatment* (2012). Available at <http://www.acf.hhs.gov/programs/cb/research-data-technology/statistics-research/child-maltreatment> (last visited Nov. 26, 2014).
18. Available at <http://www.koat.com/news/new-mexico/albuquerque/53-child-abuse-neglect-cases-reported-in-58-days/24747432> (Nov. 30, 2014).
19. NMSA 1978, § 30-6-1.
20. *Id.*
21. *Id.*

22. *Id.*

23. *State v. Melendrez*, 2014-NMCA-062, ¶2.

24. *Id.*

25. *Id.* at ¶14.

26. *Id.* at ¶16.

27. *Id.* at ¶18.

28. *State v. Webb*, 2013-NMCA-027, ¶6.

29. *Id.* at ¶6.

30. *Id.* at ¶8.

31. *Id.* at ¶11.

32. *Id.* at ¶18.

33. *Id.* at ¶23.

34. *State v. Schoonmaker*, 2005-NMCA-012, ¶24, *rev'd*, 2008-NMSC-010.

35. *Id.* at ¶26.

36. *State v. Robinson*, 1979-NMCA-001.

37. *Id.* at ¶11.

38. *Schambon*, 821 S.W.2d 804, at 808-9.

39. *Id.* at 809.

40. *Id.*

41. *Id.*

42. *Id.*