

Commentary: Zoophilia and the Law

Rebekah Ranger, BSocSc, and Paul Fedoroff, MD

We support the observation of Holoyda and Newman that common definitions of zoophilia are confusing and that legal definitions of bestiality and sentencing implications are inconsistent. We take issue with their contention that the finding of a history of sex with animals may be a significant risk factor for future harm to humans. We oppose their recommendation for new laws against bestiality to improve psychiatric knowledge about zoophilia. Instead, we advocate for better diagnostic criteria than are provided by the DSM-5, together with the provision of treatment to promote healthful sexual interests and activities by humans and the safety of animals. We believe this is best accomplished by not treating sexual interactions with animals simply as risk factors. Instead they should be assessed as signs of zoophilia, which is a psychiatric disorder for which treatment is available.

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The article by Holoyda and Newman¹ on zoophilia and bestiality provides an excellent illustration of how the field of forensic psychiatry can provide some illumination of the ways in which mental health and disease can interact with legal and community concerns. Zoophilia is a psychiatric condition, whereas bestiality is a legal term. Both terms typically provoke visceral responses of disgust that threaten to confuse rational discussion of the important concerns that they raise. In our opinion, forensic psychiatry has a duty to provide a balanced review of the scientific evidence in a form that is useful to our mental health colleagues, to the legal community, and to the communities in which we live. That we have been granted an opportunity to comment on this article at the time of its publication is a tribute to the inclusivity of the *Journal*, and we extend our compliments to Holoyda and Newman, with some respectful comments.

We first want to congratulate the authors for addressing one of the most stigmatized and misunderstood of all the paraphilias. Their article provides a brief review of the diagnosis of zoophilia (persistent sexual interest in animals) and bestiality (the legal term for the criminal offense of engaging in sexual relations with an animal or animals). They astutely

point out the wide variation in legal criteria and legal penalties for bestiality. We agree with these points.

However, they proceed to argue that zoophilia and conviction for the offense of bestiality may indicate increased risk of future sexual or violent offenses against human victims. Respectfully, we disagree, at least on the basis of the data provided by Holoyda and Newman. Before directly addressing the authors' main hypothesis, we would like to review briefly some of the topics that arise in any scholarly discussion of bestiality and zoophilia.

Definitions and Classifications

The term zoophilia is problematic, as it is defined in the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM-III) and subsequent editions, including the fifth (DSM-5). According to current DSM-5 criteria, zoophilia is subsumed under the general category of "Other Specified Paraphilic Disorder" and is defined as ". . . recurrent and intense sexual arousal involving . . . animals" Ref. 2, p 705). The DSM-5 does not differentiate between the sex, age, and type of animal. There is no specification in the diagnostic criteria concerning what sex acts, if any, occur with the animal, or under what circumstances, or for what purpose. This lack of specificity makes comparison of studies of unspecified people with zoophilia meaningless.

Holoyda and Newman list some of the variations in the terms that have been coined to describe people with zoophilia and variations such as "bestialist" and "zoerast" but leave out many of the terms associated with zoophilia, such as "zoosexual" (equiva-

Ms. Ranger is Research and Laboratory Technician, Forensic Research Unit, and Dr. Fedoroff is Head of Division of Forensic Psychiatry, Sexual Behaviours Clinic, the Royal Ottawa Mental Health Centre, Division of Forensic Psychiatry, the University of Ottawa, Ottawa, ON, Canada. Address correspondence to: Paul Fedoroff, MD, Royal Ottawa Mental Health Center, 1145 Carling Avenue, Ottawa, ON K1Z7K4, Canada. E-mail: Paul.Fedoroff@theroyal.ca.

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lent to zoophilia), “zoosadism” (sexual arousal from cruelty to animals), and “faunophilia” (sexual arousal from observing animal sexual activity) or simply, “zoo” (favored by many self-identified people with zoophilic interests). Holoyda and Newman present only one non-DSM classification of zoophilic paraphilias, found in Aggrawal.³ Unfortunately, they do not explain which definition of zoophilia or classification scheme they adopt or endorse.

The discussion is further complicated by vagueness in the way bestiality is defined by legal authorities. It is therefore not surprising that Holoyda and Newman found such a wide range of sentencing guidelines and legal rules. The lack of specificity in the diagnostic criteria for zoophilia combined with the lack of uniformity in legal response to bestiality exacerbate the problem, as most studies of zoophilia are either single case reports or based on studies of people who have come into conflict with the law.

This is the same problem that arises in other studies of the paraphilias. For example, it is accepted that child molesters do not all have pedophilia and not all people with pedophilia abuse children.⁴ The problem is arguably worse in the case of studies of people with zoophilia, since the diagnostic criteria for zoophilia and the legal penalties for bestiality are more variable. In addition, zoophilia is a condition that is more likely than pedophilia to be simulated. For example, the practice of assuming animal roles and dressing as animals has become so popular and prevalent that “furry” conventions are common. It is important to note that furies undoubtedly represent a wide range of interests. It includes people who are sexually interested in role-playing the idea of being an animal, as well as people with fetishistic sexual interests that may involve furry costumes or the idea of engaging in sex with an animal (zoophilia by proxy). Some furies are not sexually motivated at all. We have also assessed people with pedophilia who have attempted to disguise their pedophilic interests by directing their reported interests toward child or adolescent animals. In an extreme case, a man with pedophilia attempted to present as having a sexual interest in pigs on phallometric testing, to receive treatment without risking being reported to authorities due to mandatory reporting laws.⁵

Zoophilia itself continues to be highly stigmatized. Like people with pedophilia, people with zoophilia may rationalize their interests as expressions of affection and minimize concerns about consent or

harm. As a result, most studies of zoophilia have relied on forensic and prison inmate samples consisting of men arrested for sex crimes other than bestiality. This is the case in the current article by Holoyda and Newman. Problems with generalization from men incarcerated for multiple sex crimes to the general population of people presenting without charges or with a single charge of bestiality are important to acknowledge. In addition, it seems likely that people with zoophilia will differ depending on the type and sex of animals that are the focus of their zoophilic interest. Important differences are also likely to emerge between people with interests in different zoophilic sexual activities.

Confusing Allegory With Fact

Depictions of sexual interactions between humans and animals have a long tradition in mythology and art but typically reflect the anthropomorphism of animals rather than historic fact. The characteristics of animals are often chosen to symbolize human ideals (e.g., the American eagle), and it is a mistake for researchers to assume that depictions or descriptions of zoophilia reflect the true incidence or prevalence of zoophilia. For example, Holoyda and Newman mention that “. . . [p]aintings on rocks in ancient Siberia depict intercourse between males and moose” (Ref. 1, p 412). As Canadians, we can affirm that the likelihood of success or survival by an unarmed human attempting intercourse with a (living) moose is minimal.

With the preceding caveat, there is some evidence that during the Middle Ages, zoophilia may have been a tolerated practice until the 16th century. Despite biblical passages containing descriptions of human–animal sexual activity, zoophilia became religiously and therefore culturally shamed because of prohibitions against all nonreproductive sexual activities. Zoophilia was regarded as a “sin against God and Nature” because interspecies sexual activity by definition cannot produce children.^{6,7} Once this philosophical shift began, many confessions of sexual relations with animals were extracted by torture and often also included confessions of witchcraft and consorting with demons or the devil. As a result, the phenomenon of zoophilia changed from being a tolerated behavior to one that was punishable by death.^{7,8}

Review of U.S. Legal Cases

Holoyda and Newman capture the legal reaction to bestiality in quotations of modern legal phrases used to describe it as “unnatural or perverted sexual practice,” “crime against nature,” “sodomy,” or “buggery” (Ref. 1, p 415). It is interesting that many of the statutes in the United States focus on the term sodomy, akin to the now-debunked laws against homosexuality.

Holoyda and Newman quote Rhode Island’s bestiality statute, in which bestiality is described as, “the abominable and detestable crime against nature.”⁹ The moral outrage conveyed in the wording of the statute is a complete contrast to the less inflammatory wording of the laws for other sex crimes. For example, Rhode Island’s statute concerning sexual assault against a child is worded as follows:

First degree child molestation sexual assault occurs when there is sexual intercourse (sexual penetration, however slight, with an object or body part) between a minor who is 14 or younger, and a defendant of any age. This offense incurs at least 25 years (and up to life) in prison.¹⁰

Public, legal, and psychiatric responses to the phenomena of bestiality and zoophilia have been extremely varied. For example, in Holoyda and Newman’s review of United States statutory law, they found that the only federal law concerning sexual acts between humans and animals is under the military code. Even in military law, the name of the actual military offense is not bestiality but sodomy. The authors report 31 states that have laws against sex with animals. Each state classifies bestiality differently, from a misdemeanor to a felony, with sentences ranging from one day to life and even, historically, with capital punishment.

The execution of Thomas Granger, referred to by Holoyda and Newman, occurred in 1642. It is notable that before he was hanged, the animals he confessed to having sex with were all slaughtered in front of him in accordance with a section from the Bible, Leviticus 20:15, which requires that both the offender and victims be executed. It is also notable that the charge for which he was executed was buggery, not bestiality.¹¹

Clearly there is something special about the crime of bestiality and the condition of zoophilia that has resulted in such varied responses by lawmakers. It may be that responses and attitudes reflect the fact that people anthropomorphize animals to different extents and in different contexts. Dutch biologist

Midas Dekkers⁸ maintains that the taboo surrounding bestiality arises from society’s moral concerns about cruelty to animals. Taboos concerning other forms of nonreproductive sex have diminished or disappeared over the past half century. However, as evidenced by the legislation reviewed in Holoyda and Newman’s article and the comparison to another statute, bestiality continues to be described in legislation with visceral disgust.

With the exception of prostitution, all sex crimes are based on the twin criteria of lack of consent and harm to the victim. Most laws against bestiality are based on the same concerns, but often also include biblical phrases reflective of frank indignation and implications of moral turpitude. Reasonable support for laws against bestiality is based on moral and ethics-based arguments for the protection of animals. Arguments concerning the inability of animals to consent have also been made.^{6,12} However, questions of consent have not prevented the same legislatures from legalizing the purchase and public consumption of meat in restaurants.

Holoyda and Newman located 24 unique legal cases by searching LexisNexis with the search term “zoophilia.” It is not clear why zoophilia was the only search term used, especially since it is not a legal offense. We suspect the results of Holoyda and Newman’s search would have been much more productive if the terms “bestiality” and “sodomy” had also been used. Of the cases identified, 13 included the term zoophilia but the diagnosis was “. . . not specific to any person involved in litigation” (Ref. 1, p 416). Of the remaining 11 cases, 3 involved zoophilic pornography, and 3 mentioned zoophilia peripherally. Holoyda and Newman therefore identified a total of five cases.^{13–17} All of these cases involved situations in which men were appealing sexually violent predator (SVP) civil commitment or SVP status. Four of the cases are summarized in Table 1.

One additional case was found by Holoyda and Newman in their review of the legal literature. This involved a man convicted of “an abominable and detestable crime against nature with a sheep.”¹⁸ The case was identified in the legal journal, presumably because he was not required to register as a sex offender because his victim was not human.

None of the five cases reviewed confirm the author’s belief that a history of sex with animals increases risk, since there is no prospective follow-up and no control group. A possible association between

Table 1 Cases in Which Zoophilia Was Mentioned

Case Cited	Mention of Zoophilia	Finding
<i>People v. Grant</i> ¹³	Cited as a risk factor	Affirmed SVP
<i>Matter of R.M.T.</i> ¹⁴	Cited as a factor increasing the number of paraphilias and degree of pathology and therefore risk	Affirmed SVP
<i>People v. P.T.</i> ¹⁵	Cited; other paraphilias also mentioned	Affirmed SVP
<i>Medley v. Ludeman</i> ¹⁶	Cited; other paraphilias also mentioned	Affirmed SVP
<i>Cass County v. Hanenberg</i> ¹⁷	Cited; other paraphilias also mentioned	Affirmed SVP

sex with animals and men meeting criteria for SVP status does not mean that people with zoophilia are more likely to become SVPs any more than being a carnivore puts a person at risk of becoming an SVP. Given the number of paraphilias and sex crimes found in the five SVP cases, it would have been helpful to know which came first, the zoophilia or the other crimes. Similarly, that each of the five men was found to be an SVP does not mean that it was because they all had zoophilia or because they in fact all posed a higher risk because of zoophilia.

Community vs. Forensic Samples

Community Samples

Limited research has been conducted on zoophilia and bestiality; however, some research on community samples has been completed. A 1982¹⁹ study identified 27 males and 24 females between the ages of 17 and 28 who had been engaging in bestiality for an average of 5.8 years. Separate interviews were conducted with the subjects asking why they engaged in zoophilic practices. Males ranked “sexual expressiveness” as the highest motivating factor and “emotional involvement, as the lowest motivating factor”. In contrast, females rated “emotional involvement” as the highest motivating factor and “sexual expressiveness” as the lowest motivating factor. Some of the participants indicated that zoophilic activity enhanced their lives, and was a form of expression of love and adoration for their pet.

One of the largest nonforensic studies on zoophiles was conducted by Miletski,²⁰ in which 82 male and 11 female zoophiles completed questionnaires regarding their motivation and involvement in zoophilic behavior. The author found that most sub-

jects reported being happy and were not interested in altering their behavior.

Some individuals have declared their sexual attraction to animals to be an orientation and have coined the term zoosexual. They describe it as similar to the LGBT (lesbian, gay, bisexual and transgender) movement. These individuals “hope to be out and proud instead of closeted and persecuted” (Ref. 12, p 4). Some zoophiles also prefer to use the term zoo, to encompass sexual attraction and emotional attachment to their animals.¹² In addition, there is now a First Church of Zoophilia, formed by zoo couples who say they experience true love for their animals.⁶ This strategy of attempting to legitimize a paraphilia by rebranding it as an orientation is similar to the strategy used by some people with pedophilia.

Forensic Samples

Holoyda and Newman cite three papers to support their contention that, “. . . those who engage in zoophilic acts are at heightened risk of sexual offending against humans” (Ref. 1, p 416). However, none of the three references they cite is from peer-reviewed publications. They next cite two papers to support their notion that juveniles who engage in zoophilic acts “may be at increased risk of committing other sexually violent acts” (Ref. 1, p 417). However, both papers are at best cross-sectional and correlational, and both are insufficient to support the definitive conclusion that juveniles who engage in zoophilic acts are more likely to commit other sex offenses.

Kinsey²¹ reported that 40 to 50 percent of males in farm communities have had sex with an animal at least once. If Holoyda and Newman’s hypothesis is true, according to the Kinsey data a larger proportion of sex offenders should come from farm communities, a prediction for which there is no support. It should also be noted that the study by Fleming *et al.*²², cited by Holoyda and Newman, also found that the juvenile offenders in question had a full host of other important risk factors including, “. . . emotional abuse and neglect and a higher number of victimization events than other offenders” (Ref. 22, p 31).

Hensley *et al.*, also cited by Holoyda and Newman, concluded that “. . . bestiality as a form of animal cruelty may be linked with interpersonal human violence” (Ref. 23, p 910) and found that, “Respondents with less education and those who had been convicted of committing crimes against people on

one or more occasions were more likely to have had sex with animals during their childhood or adolescence” (Ref. 23, p 910). However, their conclusions were based on a paper-and-pencil survey of 16 inmates (of 2,093 eligible respondents, 261 participated in the study). Of the 16 (56.3%) inmates, most committed one or fewer personal crimes (Ref. 23, p 919). The authors also acknowledged the absence of a control group, and obvious difficulties in generalizing to other populations of offenders (Ref. 23, p 920). In our view, generalization to potential offenders on the basis of the findings of their single study is not warranted.

Holoyda and Newman argue that convicting more people with bestiality may be a “. . . worthwhile goal . . . given the developing knowledge about the relationship between zoophilia, other paraphilias, and violence” (Ref. 1, p 418). They correctly point out that many actuarial risk assessment scales include previous sex offenses as a risk factor. We agree that conviction for bestiality constitutes a risk factor. However, a history of sex with an animal or interest in sex with an animal that has not led to a conviction does not count on either the STATIC-99r or STATIC 2002R,²⁴ because, at least on the standardization samples on which those risk assessment scales are based, zoophilia and bestiality *per se*, have not been found to increase the predictive accuracy. Further research in which zoophilia and bestiality are accurately identified and prospectively followed up, preferably with suitable control groups, is needed to conclude that either is a risk factor known to be associated with future offenses against humans. Arguably, in terms of appraising criminality, there may be a difference between engaging in a zoophilic activity in a state in which the activity is legal compared with one in which it is illegal. Readers may be interested to know that the STATIC 2002R coding manual specifically addresses the subject of sexual activity with an animal and comments that raters should not assign risk on the basis of whether the animal “was a member of the family or whether it was a male animal or a stranger animal.”²⁴

Conclusions

Holoyda and Newman conclude that their paper supports criminalization of sexual interactions between people and animals, because criminalization will help to identify people who may be at high risk of

future sex offenses against humans. With the greatest of respect, we disagree for several reasons.

First, the authors imply that sexual interactions of people with animals are reliably motivated by zoophilia, which in turn signals a degree of sexual and criminal deviation sufficient to become a reliable risk factor for predication of sex offenses against humans. In fact, there is sparse evidence that people who commit sex offenses against animals are at higher risk to offend against humans. The current study presents five cases from a survey of legal cases in the United States in which zoophilia is mentioned. In each case, it appears that expert psychiatrists and psychologists opined that zoophilia increased the risk that men facing SVP designations would reoffend. No detailed information about these five cases is presented. For example, how many of the experts were retained by the defense? Was any other information about potential dangerousness of the offenders presented? In how many cases did the presiding judge state that the diagnosis of zoophilia was a significant factor in the decision to assign a SVP designation or uphold the civil sentence?

Creating laws to identify psychiatric disorders flies in the face of progress. In our experience, people are less likely to seek treatment if they think they will be arrested. Older readers may recall the “psychopathy triad” sometimes known as the McDonald triad, consisting of bed-wetting, arson, and cruelty to animals.²⁵ This triad is no longer considered valid, even though a child who deliberately burns his family home to the ground is cause for concern. We need to be cautious before creating a new rule based on (sexual) cruelty to animals, without conclusive evidence.

The article recommends increasing estimated risk on the basis of a history of sex with an animal. This recommendation is based on a brief review of previous studies, some of which have never been published and a cursory review of five cases involving men facing SVP designations. This, in our opinion, is not a sufficient basis on which to recommend new laws or changes in current risk assessment protocols.

The second cause for disagreement is that the author’s recommendations have the danger of ignoring motivations. Although there is no question that zoophilia is an important motivation to engage in sex with animals, it is only one of many. For example, the fact that sexual interaction with animals is more frequent in rural communities and is only found in the military code of conduct in federal legislation sug-

gests that the most common reason for engaging in sex with animals may be opportunity (ease of access to the animal) combined with a lack of access to a consenting human. In addition, there is arguably a significant difference between a woman hired to engage in a zoophilic video and a man who works with animals but who has no social contacts or a third case of a man who engages in sadistic or masochistic interactions with an animal due to sexual arousal from causing or experiencing humiliation. Anecdotally, in the Sexual Behaviors Clinic at the Royal Ottawa Mental Health Care Centre, men have presented who describe opportunistic sex with animals or who have described engaging in affectionate relationships with farm animals that progressed to sexual interactions and others who have engaged in lethal interactions with animals that included sexually motivated acts. These men were so different in terms of vulnerabilities and risks that they failed to recognize or identify with each other in group therapy (in which disclosure of index offenses is discouraged).

Third, and perhaps most important, we disagree with Holoyda and Newman's argument that creating new laws to arrest more people with zoophilia may "increase our limited knowledge regarding the risk that zoophilic offenders pose to other humans" (Ref. 1, p 419). We argue that criminalization of behavior is a poor way to get research participants. In fact, increased criminalization is likely to have the effect of driving these individuals further underground rather than destigmatizing zoophilia to the point where definitive studies can be conducted and appropriate treatment can be offered.

Holoyda and Newman have argued that their review of the legal literature shows that sex with animals is a proven risk factor for future violent or sex offenses against humans. Although we agree that conviction for any sex offense is a risk factor, zoophilia *per se* is not. We hope Holoyda and Newman continue to study and write about zoophilia so that it becomes better known and understood, less stigmatized, and better treated.

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