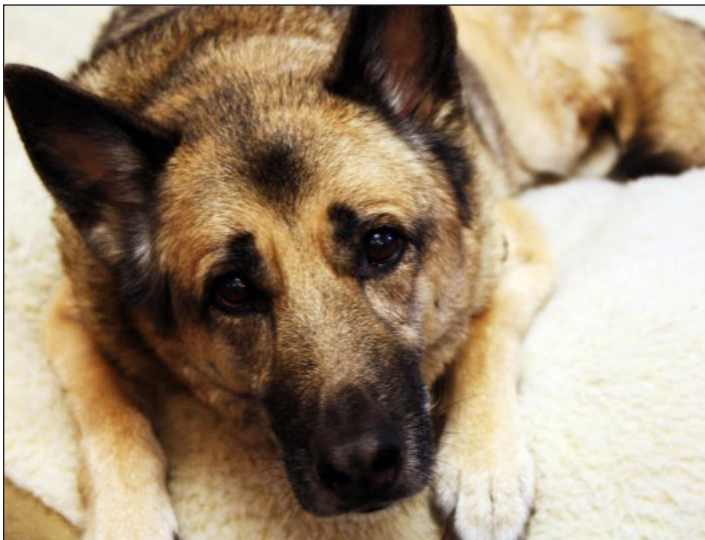


# LEX CANIS

ANIMAL ABUSE IS VIOLENCE.

ASSOCIATION OF PROSECUTING ATTORNEYS QUARTERLY NEWSLETTER | SPRING 2011 VOLUME 3 ISSUE 1

**WELCOME TO THE THIRD VOLUME** of *Lex Canis*! I hope everyone had a safe winter and is finally getting to enjoy some warm spring weather. We at the APA are excited to tell you about some “new beginnings” of our own in this edition of our quarterly newsletter dedicated to animal cruelty and animal fighting issues.



CAMERON CREININ

First, APA is proud to announce the launch of our monthly webinar series, “Final Fridays.” These sessions are designed to introduce topics to those new to the investigation and prosecution of animal cruelty and fighting crimes, as well as to provide a refresher course for seasoned practitioners. On April 29, 2011, Scott Heiser, from the Animal Legal Defense Fund, and Raj Prasad, a prosecuting attorney in the Wayne County (Detroit) Prosecutor’s Office, led our first webinar, “Nuts and Bolts: Search Warrants in Animal Cruelty Investigations,” which covered basic issues relating to search warrants and other preliminary legal issues in animal cruelty investigations. If you were unable to attend the live webinar session, the presentation materials and a recording of the webinar will be provided on APA’s website shortly. The sessions are one hour long, allow the chance for interaction and to ask

questions of the presenters, and provide continuing legal education (CLE) credits. Our next webinar dedicated to animal abuse prosecution and investigation will be on Friday, June 24, 2011. Topics for the rest of the year include cock fighting, veterinary forensics, and dog fighting. For registration information and more details about particular webinars, please check [www.APAInc.org](http://www.APAInc.org) or look for updates in future issues of *Lex Canis*. You can also sign up for our Animal Welfare Listserv (e-mail me at the address below) to receive news from APA on our Animal Cruelty and Animal Fighting Program events.

Another new project that we are pleased to highlight is the launch of a new feature dedicated to animals and family violence on the Animal Welfare Institute’s (AWI) website. This is a great resource for information on pet protection orders, pet safety plans, and safe havens for pets, as well as on the intersection between domestic violence, child abuse, and animal abuse. AWI’s Animals & Family Violence page can be found at [www.awionline.org/safehavens](http://www.awionline.org/safehavens).

I would like to thank Caroline A. Griffin, chair of the Anti-Animal Abuse Advisory Commission in Baltimore, MD, for contributing this issue’s main article. The Commission is a great example of multi-agency response to animal abuse crimes. The cooperation and commitment of those on the Commission serve as an inspiration and model for other jurisdictions facing similar issues and problems surrounding the enforcement of anticruelty laws and the prosecution of crimes against animals. As always, special thanks to Nancy Blaney and Cameron Creinin at AWI for their continued support and work on *Lex Canis*.

APA remains dedicated to combating animal cruelty and animal fighting and providing you with the best tools and resources to do the same. Please visit our website, [www.APAInc.org](http://www.APAInc.org), for updates and resources. We would also like to connect with you on Twitter and Facebook. As always, feel free to contact me at David. [LaBahn@apainc.org](mailto:LaBahn@apainc.org) for case assistance or with any questions or comments, and don’t forget to celebrate American Humane Association’s Be Kind to Animals Week May 1-7.

-David LaBahn, President and CEO, APA

# One City's Efforts to **STOP** Animal Abuse

By **Caroline A. Griffin, JD**

Chair, Mayor's Anti-Animal Abuse  
Advisory Commission of Baltimore

**Prosecutors in Baltimore** do not suffer from a shortage of work. Rightly or wrongly, many people believe that Baltimore is a dangerous city, a perception that has been reinforced by the gritty crime stories portrayed in the critically acclaimed television series *Homicide*, and most recently, *The Wire*.

Against this backdrop of human violence, Baltimore's reputation did not need further tarnishing with images of a sadistic crime against a dog. But that is precisely what occurred when 17-year-old twins allegedly doused a pit bull terrier with gasoline and set her on fire in broad daylight in May 2009.

The images were harrowing. Local television stations were swift to document the pain that this crime victim suffered, named Phoenix by her caretakers. Phoenix endured severe burns over 95 percent of her body. Her corneas melted and the inside of her mouth was burned as she made a frantic and futile attempt to extinguish the flames that engulfed her body. Accelerant even seeped under her paws and the pads of her paws were burned. An off-duty police officer observed smoke from a block away, rushed to the scene, and wrapped her sweater around Phoenix.

Despite heroic veterinary efforts, Phoenix succumbed to kidney failure and was euthanized five days later. The story went viral and shocked the conscience not only of the City of Baltimore, but also of the nation as a whole. A local non-profit, The Snyder Foundation for Animals, posted a \$1,000 reward, which grew to over \$26,000 with contributions from as far away as California. The public was justifiably outraged and demanded justice. And although the responding officer who rescued Phoenix acted at great risk to her own personal safety, the public was unaware at the time that the police did not immediately investigate the crime or gather obvious forensic evidence. At trial, defense counsel made much of the fact that the police actually discarded the sweater and towel used to rescue Phoenix.

Meanwhile, the Mayor's Office and the State's Attorney's Office were inundated with letters and emails from an outraged public. The ASPCA contacted the mayor requesting that action be taken, and offered to help. With guidance from Dr. Randall Lockwood, Senior Vice-President of Forensic Sciences and Anti-Cruelty Projects, then-Mayor Sheila Dixon created an Anti-Animal Abuse Task Force (Task Force). Its members included representatives from animal control, the police department, the state's attorney's office, animal welfare agencies, and the public.

The mayor set a one-year deadline for making recommendations in a number of key areas: strategies for eradicating animal abuse, including dogfighting; methods of increasing awareness of animal cruelty laws; legislation to protect animals and prosecute abusers; training techniques for law enforcement officials on how to handle animal cruelty cases humanely and to ensure acquisition of the best evidence to prosecute animal abusers; steps to foster improved responses to incidents of animal cruelty; and methods to improve training for animal control officers for their safety and that of the animals.

The Task Force met over the course of a year and issued two reports, which together made 47 recommendations. The group became overwhelmed and demoralized quickly, however, when, within weeks of its creation, the City bore witness to five cases of cat mutilation, in which four cats died and one was stoned and set on fire, not once, but twice.

Although there was evidence that a gang was involved in two of the incidents, none of the cases was ever prosecuted due to a lack of sufficient evidence. The Task Force soon realized that animal cruelty cases were not investigated swiftly and aggressively, witnesses were not forthcoming, city agencies were not talking to each other, and the city had no money to fix the problem.

The lack of resources was glaring. The Task Force analyzed the budgetary needs of animal control and the city animal shelter



MARY SWIFT

*Commission Chair Caroline A. Griffin and a friend from the shelter shortly before moving to her new home.*

and discovered that, like many cities, these agencies were chronically underfunded and understaffed. Each was operating with approximately half the necessary staff and they faced punishing demands: Each year, Baltimore City Animal Control responds to 33,000 requests and the Baltimore Animal Rescue and Care Shelter takes in 12,000 animals.

Another roadblock was the lack of animal cops. Animal control officers in Baltimore—the usual first responders to animal crimes—do not have the authority to carry guns or make arrests. Most have high school degrees; some (but not all) have been “trained” in animal control and investigative techniques through attending a two-week course. The most urgent recommendation the Task Force made was to assign three police officers to animal control to investigate the most serious cases of animal abuse and dogfighting. Despite a critical need, the city lacked the manpower and money to implement this recommendation.

All was not lost, however. Despite the fiscal challenges, the Task Force made much progress by focusing its energies on recommendations and reforms that would not require the outlay of taxpayer dollars. Even without financial resources, the Task Force obtained results.

For example, although it has a sophisticated tracking system that compiles statistical data for every city agency, including animal control, Baltimore has never tracked cases of animal abuse, neglect, or dogfighting. These cases are now tracked and mapped so that animal control officers and police officers know where animals and people are at greatest risk.

The Task Force has also lobbied for and testified in support of legislation to enhance protections for animals. Improvements in the law are clearly needed: During the Task Force’s tenure, Maryland declined from 32<sup>nd</sup> to 44<sup>th</sup> in the nation, according to an Animal Legal Defense Fund ranking of state animal cruelty laws. The Task Force recommended and testified in support both of pet protective orders as well as of legislation granting judges the discretion to ban convicted animal abusers from owning animals in the future.

In the absence of additional manpower and animal cops, the Task Force has emphasized improved training. Police officers and sheriffs have attended sessions on dogfighting and animal cruelty. In addition, Dr. Randall Lockwood conducted training for the circuit court judges of Baltimore City, and the district court bench has requested similar training as well. The Task Force plans to provide instruction for animal control officers, veterinarians, shelter staff, and mental health professionals.



ANITA KEILSO EBBSON /ASPCA

*The original Task Force at City Hall on the day the Mayor signed the Commission legislation (October 27, 2010). Mayor Stephanie Rawlings-Blake is 4th from the right in the front row.*

The Task Force has also focused significant efforts on education and outreach to the public, both in terms of implementing humane education in the public school curriculum, and educating the public on how to report these crimes. Although the Snyder Foundation for Animals has been offering rewards for more than 15 years for information leading to the conviction of animal abusers, it had never paid a reward until April 13, 2011. The case involved 3 juveniles under the age of 12 who had beaten a puppy to death on a municipal golf course. The Task Force has also worked with the Mayor’s Citizens on Patrol groups and Metro Crime Stoppers so that witnesses may report these crimes anonymously.

Members have worked closely with the State’s Attorney’s Office, which has shown great commitment to prosecuting these crimes. This has been particularly evident in the Phoenix case, a case that has not yet seen closure. The Court ruled that the 17-year old twin perpetrators—Travers and Tremayne Johnson—be tried as adults. After a week-long trial, the jury deliberated for four days, but the court declared a mistrial when the jury announced that it was hopelessly deadlocked 11-1 in favor of conviction. According to jurors who spoke to the press, the lone hold-out refused to convict under any circumstances. The case is scheduled to be retried on May 4, 2011.

The Phoenix case has received extensive media coverage. Nearly two years after her death, images of a bandaged, burned, and sedated Phoenix appear in every story regarding either the Task Force or animal abuse in Baltimore. Her impact, however, extends well beyond the city’s borders. She has become an enduring symbol and the face of animal cruelty nationwide.

Regardless of the outcome, Phoenix has succeeded in galvanizing a complacent city that failed to recognize and

appreciate the significance of these crimes. The animal cruelty/human violence link has become common knowledge among the general population in Baltimore. While awaiting trial in the Phoenix case, one of the defendants, Travers Johnson, was arrested for attempted murder, reaffirming this well-documented link.

The Task Force has planted the seeds of many reforms that it hopes will bear fruit. In October 2010, the Mayor and City Council of Baltimore enacted legislation to convert the Task Force into a permanent, standing Anti-Animal Abuse Advisory Commission, the first of its kind in the country. The Commission has been expanded to include additional members from the

general public, as well as a judge and veterinarian, and all of its members are volunteers.

Perhaps Phoenix's greatest legacy is yet to come. Officials from Milwaukee recently invited Dr. Lockwood to discuss and advise them on creating a similar animal abuse task force in that city. The ASPCA aspired that Baltimore would create a template for such groups nationwide and it is seeing the results of its labors. We do not doubt that Milwaukee will succeed. As Margaret Mead so aptly noted, "Never doubt that a small group of thoughtful, committed citizens can change the world; indeed it's the only thing that ever has."

## BREAKING NEWS

IN MARCH, two American Society for the Prevention of Cruelty to Animals (ASPCA) Humane Law Enforcement cases resulted in "landmark" felony convictions through the use of DNA, marking the first time DNA was entered into evidence during trial. In each case, DNA from the victim was found either at the scene or on the weapon, which was then linked to the defendant. The testing was done at the Veterinary Genetics Laboratory at the University of California Davis Veterinary School, and other cases involving DNA evidence are pending.

Read the full press release here:

<http://www.asPCA.org/Pressroom/press-releases/032311.aspx>

And a New York Times article here:

<http://cityroom.blogs.nytimes.com/2011/03/22/animals-dna-helps-catch-their-abusers/>

IN DECEMBER 2010, the ASPCA released a "groundbreaking" research study documenting the importance of animal cruelty law enforcement. According to *Public and Professional Perspectives on Animal Cruelty*:

- Only 19 percent of the law enforcement officers surveyed stated that "they had received formal animal cruelty training."
- Forty-one percent were "familiar" with their local cruelty statutes.
- Only 30 percent knew the penalties for violating those statutes.
- Seventy-eight percent "believe that animal abusers are more likely to be involved in interpersonal violence or other violent crimes."
- Obstacles to effective law enforcement include the low priority given to animal crimes by "leadership"; lack of personnel with "special knowledge of animal cruelty cases"; and lack of facilities for long-term holding of animals needed as evidence.

Read the full press release here:

<http://www.asPCA.org/Pressroom/press-releases/121510.aspx>

THE CALIFORNIA LEGISLATURE has several bills pending that would enhance penalties for animal cruelty crimes. **AB 117**, sponsored by Assemblyman Cameron Smyth, strengthens provisions pertaining to confiscating and holding animals in cruelty cases. It also allows the court to prohibit those guilty of cruelty from having animals, and prosecutors to sever an abuser's property rights. Sen. Ron Calderon's bill (**SB 425**) increases the penalties for cockfighting offenses, establishes minimum penalties for dogfighting offenses, and extends to cockfighting cases the asset forfeiture option now available in dogfighting cases. **SB 917**, introduced by Senator Ted Lieu, sets a uniform punishment for animal cruelty crimes, and further prohibits the sale of live animals "on any street, highway, public right-of-way, parking lot, carnival, or boardwalk." This provision addresses in part the concern that dogs being sold at such venues are coming from puppy mills in Mexico.

WITH REPRESENTATION FROM ALDF attorneys and *pro bono* assistance from a Louisville law firm, a resident of Clay County, Kentucky at the end of 2010 filed suit against the county for its "extreme neglect of animals" in the county shelter. The suit alleges a variety of violations of the state's Humane Shelter Law, including housing many dogs in one large, open-air pen without protection from the elements and other animals in filthy cages; failure to provide adequate food, water, and veterinary care (including occasions where the animals appeared to have been left with no food or water at all); and refusing to allow some animals to be adopted even when homes were available. In the last couple of years, ALDF filed similar suits against shelters in two other Kentucky counties, which resulted in improved conditions at those facilities.

(CONT'D ON P. 5)



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This project was supported by Grant No. 2009-DB-BX-K001 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the SMART Office, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.

## BREAKING NEWS (CONT'D FROM P. 4)

IN JANUARY 2009, RORY AND ROBBY KUENZI and Nicholas Hermes of Waupaca County, WI, were charged with multiple felony and misdemeanor animal cruelty offenses for literally mowing down and killing a number of deer with snowmobiles, and even tying one to a tree where she strangled trying to free herself. In bringing the charges, ADA James Fassbender noted the connection between animal cruelty and other violent behavior; in fact, at the time of the deer killings, Rory Kuenzi was on probation for a 2005 conviction for beating his girlfriend. (And in April 2011, he was sentenced to 23 years in prison for a 2004 hit-and-run death.) In the Kuenzis' case, Judge Philip Kirk also took a hard stand, rejecting the defense's argument that the cruelty law would not apply because wildlife does not "belong to a person." He ruled, "It is clear that the statute gives legal custody and protection to all animals in the state." Unfortunately, however, when the state Department of Natural Resources cited the men for hunting violations, the judges in both the Kuenzis' and Hermes' cases ordered the cruelty charges dismissed, after the prosecutors refused to drop them, arguing that the men could not be prosecuted for felony animal cruelty and "conservation violations" for the same crime, since the state's hunting laws exempt hunters from animal cruelty charges. State Attorney General J.B. Van Hollen appealed, and on February 24, the appeals court reinstated the charges against the Kuenzis, ruling that the state did not intend a "blanket prohibition on applying the cruel mistreatment statute to the taking of wild animals" and that the prosecution of the Kuenzis "failed to explain how their prosecution controverts in any manner regulations contained in, or promulgated under chapter 29" ("Wild Animals and Plants"). Read the decision at <http://wicourts.gov/ca/opinion/DisplayDocument.html?content=html&seqNo=60385>. The Kuenzis have asked the state Supreme Court to take their case. (The Wisconsin Wildlife Federation filed an amicus brief with the appeals court supporting reinstatement of the cruelty charges.)

### MISSION

Support and Enhance the Effectiveness of Prosecutors in Their Efforts to Create Safer Communities.