

LEX CANIS

ANIMAL ABUSE IS VIOLENCE.

FALL 2014
ISSUE 14

NEWS FROM THE
ASSOCIATION OF
PROSECUTING
ATTORNEYS

In this issue of Lex Canis, we offer a profile of Cynthia Bathurst, co-founder and executive director of Safe Humane Chicago, a unique and innovative program that reduces violence for both animals and children. In a nutshell, it seeks to provide second chances for at-risk youth and animals, including animals caught up in legal cases, and to foster positive relationships between youths and animals as a way to develop compassion and empathy. Its key programs are Lifetime Bonds, Youth Leaders, Court Advocacy and Court Case Dogs, and Community Outreach. You can learn more about Safe Humane at <http://www.safehumanechicago.org/>

David LaBahn, President, APA

IN INTERVIEW WITH...

*Cynthia L. Bathurst, PhD
Executive Director and Co-Founder
Safe Humane*

DL: Tell us a bit about your life before Safe Humane.

CB: Born in Michigan and raised in Alabama, I am a long-time resident of Chicago and consider Chicago to be "where I am from." I earned a B.S. degree in mathematics and computer science from the University of Alabama and an M.A. and Ph.D. through the English Department at The University of Iowa. I taught for more than five years at The University of Iowa, then moved to Chicago where I did a semester of post-graduate work in probability theory and spent over 25 years in contract mathematical analysis and consulting. During that time, I happened into community policing and organizing, prompted by minor crime and disorder in my Lincoln-Park-Chicago



neighborhood and by crime and violence in Chicago generally. I volunteered with and directed numerous safe-neighborhood, anti-violence initiatives and was active in Chicago's community policing program from its start in the late 1990s. In 1998 I became president of my Lincoln Park neighborhood association. Those experiences led me to a new career working with others to create safer, more humane communities.

I have served on numerous public safety, community policing, and animal welfare boards and task forces, working in collaboration with others to change laws, develop effective

procedures, and build programming where none exists. The Safe Humane team and I would be pleased to advise other jurisdictions and communities about Safe Humane programming.

DL: What led you to your involvement with animal abuse issues?

CB: The need for safe neighborhoods and humane treatment of all living beings led me to animal abuse issues. In December 1995, I was on an overnight patrol (“ride-along”) with a Chicago police officer in my neighborhood. A “shots fired” call came over the radio. When we responded, I witnessed the final moments of a young man’s life in the alley of a street where I would have never expected that level of violence and destruction. That moment was transformational, and the tragedy and its aftermath remain the driving force behind my efforts to reduce violence and make neighborhoods safer. My background in research as well as my personal experiences led me to understand the close connection between violence against people and violence against animals as well as the power of the human-animal bond. I have continued developing relationships with law enforcement and criminal justice professionals, child and animal welfare officials, government and church leaders, people in the business world, and any community member who understands the benefits of the humane-animal bond. I see my lifelong task as working with others to create safer and more humane communities through education and training, advocacy, opportunity, and second chances.

DL: Tell us about some of your accomplishments and how they have furthered your goal of making communities safer and more humane.

CB: In 1998 I established D.A.W.G. (Dog Advisory Work Group) as a committee of my neighborhood association to facilitate good relationships among those who own dogs

and those who do not. In 2000 I co-founded the nonprofit D.A.W.G. organization with a dog owner and fellow community activist, Stacey Hawk. At the end of that year, with the Chicago Police Department, Chicago Animal Care and Control, Cook County State’s Attorney’s Office, Circuit Court of Cook County, and D.A.W.G. as partners, I started a first-of-its-kind court advocacy program for following cases involving animal abuse or fighting. I continue to manage this program and have trained more than 750 volunteers and been in more than 7,000 court hearings. The resulting database of arrests, prosecutions, and outcomes is the basis for many training sessions as well as impact reports. I work closely with police officers, prosecutors, and supervising judges, especially in Cook County, Illinois, in professional training sessions on the connection between violence against humans and violence against animals as well as on available local and outside remedies for the animal abuse we see in local communities. Those relationships helped me build the connections that underlie my current work.

In 2007, “Safe Humane Chicago” programs were piloted, and I co-founded the not-for-profit with community organizer Melia Carter. In 2008 I joined Best Friends Animal Society as national director of Project Safe Humane, which was designed to fully implement the successful model, first in Chicago and then in other cities. In 2009 I received the American Veterinary Medical Association Humane Award, an award given to a non-veterinarian who has advanced animal well-being, shown exemplary dedication to the care of animals, and contributed to the community and society. In 2010 I worked within the Safe Humane and Best Friends organizations to implement a new Safe Humane™ program for Court Case Dogs™. This successful program for victims of animal abuse and neglect showcases other Safe Humane programming for at-risk youth and companion animals in communities challenged by crime and lack of needed resources.



Cynthia and Rou make friends with children in the neighborhood.

In 2012 I left Best Friends to become Safe Humane Chicago’s executive director and to continue taking Safe Humane concepts and programs to other cities. In 2013 and 2014 I worked with the U.S. Department of Justice Office of Community Policing Services (COPS) and the National Canine Research Council to develop training videos on police and dog encounters, and in 2014 Safe Humane will proudly launch Veterans Advancing Lives of Rescues (VALOR), a pilot program teaming U.S. military veterans in need with Court Case Dogs to help each other.

I also hold or have held unpaid positions related to animal law enforcement and animal welfare: I was co-chair of the Task Force on Companion Animal Welfare and Public Safety associated with the Chicago City Council’s Committee on License and Consumer Protection, and vice chair of the Cook County Partners Against Animal Cruelty Advisory Board established by the Cook County Board of Commissioners; I became part of the Chicago City Clerk’s Dog Task Force. I am currently a Mayor-appointed commissioner on Chicago’s Commission on Animal Care and Control, the Commission’s representative to the Chicago Animal Shelter Alliance, and a member of the city’s Committee to Prevent Childhood Exposure to Violence (CEV) through the Office of Violence Prevention and its Safe Start

program. I serve as advisor to the National Canine Research Council and the Animal History Museum, and I am a consultant with the Animals and Society Institute. I am delighted to be working on a partnership for Safe Humane with the National Sheriffs’ Association National Law Enforcement Center on Animal Abuse.

In addition, I have co-authored two policy and strategic assessment documents that are in distribution: a U.S. Department of Justice, Office of Community Oriented Policing Services (COPS), manual entitled *The Problem of Dog-Related Incidents and Encounters*, August 2011; and a study in collaboration with the Chaddick Institute for Metropolitan Development at DePaul University, which was funded by Best Friends Animal Society and presented to the Chicago City Council in March 2010, “Companion Animals and Chicago Communities: A Strategic Assessment for the City of Chicago.” And most recently I served as content producer for the very first training and information series of videos developed in partnership with the COPS Office, National Canine Research Council, and Safe Humane. The series, *Police & Dog Encounters: Tactical Strategies and Effective Tools for Keeping Our Communities Safe and Humane*, is meant to help officers protect, serve, and stay safe when they encounter a dog while on duty.

DL: Safe Humane Chicago has a lot going on! Explain for us its philosophy and the work it does.

CB: Safe Humane Chicago continues to grow its alliance of non-traditional partners that recognize the connections between animal abuse and interpersonal violence and the benefits of the human-animal bond. We believe that providing the community with a variety of innovative and collaborative programs focused on the welfare of animals will reduce all forms of violence and create safer, more humane neighborhoods. Our comprehensive model includes programs for children, youth, adults, and both law enforcement and criminal justice professionals. Our focus is on areas we believe are essential to reducing violence and crime in our community: education and training, hands-on experience with animals, advocacy, and opportunity. We have built these components into our programs that focus on youth leadership as well as collaborative justice and the Court Case Animals programs. For instance:

- We train high school student leaders to bring street dogs adopted from shelters and certified as Safe Humane ambassadors (often dogs who are seen as “pit bull” dogs) into Chicago grade schools to teach safety, responsible guardianship,

the wrongs and negative impacts of dog fighting, and the benefits of positive relationships with animals.

- In our “Lifetime Bonds” program, we team shelter dogs with at-risk youth. Incarcerated young men and boys learn how to interact positively and build relationships with shelter dogs, most often Court Case Dogs. Their time together improves the outlook for both immeasurably. The suddenly engaged boys learn critical life/social lessons. The socialized dogs become more adoptable. Recidivism in that group of youths that is one-third of the general juvenile population in Illinois.

DL: What if anything have you seen change?

CB: Change for the better characterizes my experiences with addressing cruelty towards animals—perhaps the change happens too slowly, it seems sometimes, but it is on the right path for sure. Attitudes have changed, perceptions have changed, laws have changed, research has been done that has made for better strategies and tools, resources have improved—mainly for the better. Here are two examples in addition to the program impacts I have already mentioned:

Dogs from Safe Humane Chicago’s Court Case Dogs Programs charm attendees at the National Council of Juvenile and Family Court Judges Conference in July in Chicago.



- When I started the D.A.W.G. Court Advocacy program in 2000-2001, laws were ineffective and penalties weak—most offenders hardly made it to the front of the courtroom for a hearing and they got the abused animals back. Procedures rarely addressed the needs of the impounded animals or humane treatment; law enforcement and criminal justice professionals were hardly aware of the laws or how to enforce them; and few resources existed to prevent future abuse or to provide for those who had been abused. Now laws are stronger and more frequently enforced; law enforcement and criminal justice professionals are being educated regarding animal cruelty crimes as the serious offenses against society that they are; and considerably more resources are provided by nonprofit organizations and collaborating agencies. Moreover, animal cruelty crimes are starting to be tracked nationally.
- When we started the Court Case Dogs program at Chicago Animal Care and Control in 2010, about 2 percent of “evidence” dogs made it out alive and averaged almost a year’s stay in a cage before leaving. We began assessing the dogs, providing for their care and socialization by volunteers, and gave them a title that described their plight: Court Case Dogs, who have “done the time but not the crime.”[©] So far in 2014, we are saving more than 70 percent of our Court Case Dogs, and they stay at CACC with socialization, training, and love for between two and four weeks. Almost all have been adopted, and the rest are in foster care or on a path to a rescue group. And national professional organizations for attorneys, animal control, veterinarians, and law enforcement are promulgating positions on the humane care of animals and the need for well-researched knowledge bases.

And even better, more individuals and communities and criminal justice professionals want similar changes and successes in their own communities. Safe Humane would be honored to help.

DL: Where do we need to go from here?

CB: We need effective community welfare laws that address both people and animals and restorative justice everywhere; education and training for all stakeholders in our efforts to make all communities safe and humane; application of effective practices and collaborations to local problems; and better resources and more collaboration to effect those goals. There are numerous examples. One on which I am working now involves the education of judges in any courtroom, including juvenile and family and domestic violence courtrooms, and providing templates for reporting and programming that can be customized for particular jurisdictions. Recent work on pets in foster homes and steps to ensure the effective guardianship of companion animals caught in the legal system are other examples.

DL: Something about your private life which helps us get to know you better?

I am a long-time community organizer/activist who is passionate about making communities safer and more humane. Some people are surprised that I do not have any companion animals at home. But, of course, I count the Court Case Dogs in the Safe Humane program as an integral part of my life, my work, and my extended family. In fact, that goes for all the individuals with whom I have the privilege to work.

.....
Cynthia can be reached at cbathurst@safehumane.org

NATION'S CRIME REPORT TO INCLUDE ANIMAL CRUELTY

In September, Federal Bureau of Investigation (FBI) Director James B. Comey officially announced a historic change in the identification and reporting of animal cruelty crime statistics. The FBI will now collect and report data on animal cruelty crimes as a separate offense in the agency's National Incident Based Reporting System (part of the Uniform Crime Report, the prime source of information on crime in the United States). <http://www.fbi.gov/about-us/cjis/ucr/ucr>

Animal Welfare Institute staff first suggested this policy change to the FBI 12 years ago. The National Sheriffs' Association (NSA) submitted its own proposal, with support from the Association of Prosecuting Attorneys (APA) and the Animal Legal Defense Fund (ALDF). Earlier this year, NSA's proposal came before DoJ's Criminal Justice and Information Services (CJIS) Working Groups and the Advisory Policy Board, all of which unanimously adopted the motion to add animal cruelty as a Group A offense (joining other major crimes such as arson, assault, and homicide), which will require the reporting of both incidents and arrests. Data Element 12, Type Criminal Activity/Gang Information, will be expanded to include four data values on the type of abuse: simple/gross neglect; intentional abuse and torture; organized abuse (animal fighting); and animal sexual abuse.

Animal cruelty will also be classified as a Crime Against Society and will be defined as follows: "Intentionally, knowingly, or recklessly taking an action that mistreats or kills any animal without just cause, such as torturing, tormenting, mutilation, maiming, poisoning, or abandonment. Included are instances of duty to provide care, e.g., shelter, food, water, care if sick or injured; transporting or confining an animal in a manner likely to cause injury or

death; causing an animal to fight with another; inflicting excessive or repeated unnecessary pain or suffering, e.g., uses objects to beat or injure an animal. This definition does not include proper maintenance of animals for show or sport; or use of animals for food, lawful hunting, fishing or trapping."

Currently, when and if information about animal cruelty crimes is captured in the UCR, the data are relegated to a catchall category entitled "All Other Offenses" and grouped with a variety of other, mostly minor, crimes. With this significant revision, animal cruelty statistics will be itemized separately and become available for review and analysis. The UCR Program will implement these changes to NIBRS in 2015 and start accepting these data in January 2016.

NSA Interim Executive Director John Thompson, who provided critical leadership on behalf of the proposal, said, "The National Sheriff's Association is committed to providing law enforcement officers with information about the realities of animal abuse and its close link to other crimes. We are gratified by the FBI's response and Director Comey's commitment to improve public safety!"

The information on animal cruelty crimes that will become available through this reporting change will allow law enforcement agencies, policy makers, researchers, and others to understand better the factors associated with animal abuse, ascertain the characteristics of the perpetrators, and identify when and where such crimes occur, greatly benefiting the criminal justice community.

As John pointed out, "While we may not see the fruits of our work for many years when it comes to data collection, we will see the immediate rewards as law enforcement becomes much more aware of the animal cruelty problem."

PRESS RELEASE · DEPARTMENT OF JUSTICE



UNITED STATES ATTORNEY TIMOTHY J. HEAPHY | WESTERN DISTRICT OF VIRGINIA

CONTACT: BRIAN MCGINN | PHONE: (434) 295-8672 | FAX: (434) 293-4910
 EMAIL: BRIAN.MCGINN@USDOJ.GOV | HTTP://WWW.JUSTICE.GOV/USAO/VAW/

ABINGDON, VIRGINIA – United States Attorney Timothy Heaphy and Virginia Attorney General Mark Herring announced that Walter Dale Stumbo, age 52, Sonya K. Stumbo, age 51, and Joshua Dale Stumbo, age 26, of Floyd County, Kentucky, were sentenced to prison today in United States District Court in Abingdon, Virginia, for their roles in operating the “Big Blue” cock fighting pit in McDowell, Kentucky. In addition, the Court ordered the Stumbos to forfeit \$905,208.64. Law enforcement agents seized all of the Stumbos’ assets to be credited to the forfeiture.

“The Big Blue Sporting Club was a sophisticated criminal operation that collected substantial profits by abusing animals,” United States Attorney Timothy J. Heaphy said today. “The fighting birds were horribly mistreated by these defendants. Cases like this help bring illegal private gambling and animal cruelty out of the shadows. Thanks to the persistence and creativity of law enforcement, this operation has been exposed, its profits disgorged, and its operators held accountable.”

Sonya Stumbo was convicted on all counts at the conclusion of a three day trial on August 6, 2014. Walter Dale Stumbo and Joshua Dale Stumbo both pled guilty to all charges without the benefit of a plea agreement. The Stumbos each were convicted of one count of conspiring to operate an illegal gambling enterprise and illegally conduct cock fights; five counts of transporting fighting roosters across state lines; and five counts of transporting bird fighting

knives across state lines. Two other co-defendants, Wesley Dean Robinson and his son, Jonathan Robinson, pled guilty pursuant to plea agreements, cooperated with law enforcement and were sentenced previously in accordance with their plea agreements. Jonathan Robinson also pled guilty to a drug distribution charge and his sentence included time for that offense.

Wesley Dean Robinson was ordered to forfeit \$50,000 and Jonathan Robinson was ordered to forfeit \$10,000.

The sentences imposed on the five defendants in the case are as follows:

Defendant	Term of Imprisonment
Walter Dale Stumbo	18 months
Sonya Stumbo	10 months
Joshua Dale Stumbo	10 months
Jonathan Robinson	12 months and 1 day
Wesley Dean Robinson	6 months

In imposing sentence, United States District Judge James P. Jones stated “It does not enhance the human being to inflict pain on animals. It simply doesn’t. It’s something that ought to stop. There is no good purpose for it, and, as the government points out, bad things happen around these types of events— gambling obviously occurred, people spending money that they have no business spending, and we can all imagine the grief that may occur in families and individuals who become addicted to something like this.

It diminishes us as human beings to treat animals in this fashion, and I think Congress has enacted a law that deserves enforcement.”

The successful prosecution was the result of a joint undercover operation by Virginia and Federal authorities. Evidence showed that the Stumbos, Robinsons and others organized a large scale and comprehensive cock fighting operation at the Big Blue Sportsmen’s Club (“Big Blue”) in McDowell, Kentucky, which included collecting “parking fees” from spectators, entrance fees from handlers and offering for sale such services as antibiotics for fighting birds, a full-service restaurant for spectators, cock houses for rental, and fighting gaffes for fighting cocks. The Robinsons transported birds and fighting gaffes from Wise County, Virginia, to Big Blue in Kentucky. On fight weekends at Big Blue, spectators and handlers traveled from Virginia, North Carolina, South Carolina, Michigan, Ohio, West Virginia, Maryland, Georgia and other states. Spectators and participants were only allowed entry if they held a valid membership card. Each person was charged a one-time fee of \$20 for the membership card. Entry fees to participate in the fighting were as high as \$2,500 per entrant. At times, over 400 people attended and paid the \$20 “parking fee.” While fights were taking place and after spectators had arrived, Dale Stumbo caused a bulldozer to

be placed on the entrance road to the pit. The bulldozer remained in place until the fights concluded. Investigators executed search warrants on May 3, 2014, the second day of a two day derby billed as the “World Championship” and seized over \$100,000 in cash from the Stumbos’ home near McDowell, Kentucky.

Assistant United States Attorney Randy Ramseyer and Special Assistant United States Attorney/Virginia Assistant Attorney General Michelle Welch prosecuted the case on behalf of the United States. The case is being investigated by the United States Department of Agriculture—Office of Inspector General, the Virginia Alcohol Beverage Control Bureau of Law Enforcement, and the Spotsylvania County Sheriff’s Office. In addition, the following agencies assisted in the arrests or related proceedings: Virginia Animal Fighting Task Force; Virginia State Police Tactical Team; Southwest Virginia Regional Task Force; Botetourt County Commonwealth’s Attorney’s Office; Wise County, Virginia, Sheriff’s Office and Commonwealth’s Attorney’s Office; Virginia State Veterinarian’s Office; United States Homeland Security Investigations; Kentucky State Police; the United States Attorney’s Office for the Eastern District of Kentucky; and the American Society for the Prevention of Cruelty to Animals.

BREAKING NEWS—CHECK IT OUT!

All our work is having a positive impact on the handling of animal cruelty crimes. From *The New York Times* (<http://nyti.ms/1nzTLSC>):

Animal Abuse Gains Traction as a Serious Crime, With Jail More Often the Result

With pressure from animal rights activists, prosecutors in New York City and across the country are pursuing abuse cases more aggressively, but defense lawyers say the punishments go too far.

THEN THERE WERE NONE!

George Washington University Law School animal law program director and APA Animal Cruelty Advisory Council (ACAC) member Joan Schaffner has submitted the last of the state cruelty law summaries—for IN, OH, and TN! Joan got this project up and running in 2009, and since then, 32 law students—most of them from GW, but a few from other schools—have worked diligently to compile not only state animal cruelty statutes, but also the case law relating to those statutes. Having the state-specific case law is what makes this resource unlike other cruelty law compilations. Find them at <http://www.apainc.org/default.aspx?menuitemid=155&menugroup=Home> ♦

MORE RESOURCES FOR RESPONDING TO ANIMAL CRUELTY

Under the indefatigable leadership of National Sheriffs' Association Interim Executive Director John Thompson, the National Law Enforcement Center on Animal Abuse (NLECAA) has been established within the NSA. According to John's introductory letter, the NLECAA was established to address a "lack of awareness by law enforcement in the United States about the realities of animal abuse, and to promote their proactive involvement in the enforcement of animal abuse laws, and to help them deal with officer/dog encounters...The Center will serve as an information clearinghouse and forum for law enforcement on the growing problem of animal abuse, its link to other types of crimes, including violence against humans, and officer-involved shootings of dogs. " Visit the website at <http://www.sheriffs.org/content/national-law-enforcement-center-animal-abuse> ♦

OFFICER-INVOLVED DOG SHOOTINGS

The September/October 2014 issue of the National Sheriffs' Association publication *Deputy and Court Officer* includes two articles on officer-involved dog shootings written by two ACAC members, HSUS's Sherry Ramsey and AWI's Nancy Blaney. They cover everything from the frequency with which such shootings occur to the legal implications for the officers, departments, and communities involved, to the training that can equip officers with nonlethal responses to dog encounters. Read the articles at http://www.sheriffs.org/sites/default/files/uploads/SH14_05_%20Ramsey_Preventing%20Unnecessary%20Dog%20Shootings.pdf and http://www.sheriffs.org/sites/default/files/uploads/SH14_05_Blaney_Officer%20involved%20Shooting%20with%20Dogs.pdf ♦

NEW FEDERAL BILL WOULD BENEFIT DOMESTIC VIOLENCE SURVIVORS AND THEIR PETS

Recent events have moved domestic violence out of the shadows and into public consciousness where it can be addressed as the serious crime that it is. But still hidden from view is an all-too-real obstacle facing many survivors attempting to leave their abusive partners: the fear that those partners will harm or kill their companion animals. Reps. Katherine Clark (D-MA) and Ileana Ros-Lehtinen (R-FL) introduced legislation to address this problem. **H.R. 5267, the "Pet and Women Safety Act,"** will help programs provide shelter and housing assistance for the companion animals of victims of domestic violence. It also takes the important step of including pets in federal laws pertaining to interstate stalking, protection order violations, and restitution, and urges states to allow pets to be included under protection orders (as 27 states, the District of Columbia, and Puerto Rico have already done).

As many as 48 percent of the battered women responding to surveys reported they had delayed leaving a dangerous situation out of concern for their pets' safety. In other surveys of domestic violence victims, between 49 percent and 71 percent reported that their pets had been threatened, harmed, or killed by their partners. In a national survey, 85 percent of domestic

violence shelters indicated that women coming to their facilities spoke of incidents of pet abuse.

The better able shelters and other service providers are to assist domestic violence survivors with finding a safe place for their pets, the better able they are to bring everyone to safety. H.R. 5267 will greatly increase their capacity to meet these many needs. ♦

JUDGES GO TO FOR THE DOGS

Animal Welfare Institute staff and ACAC members Nancy Blaney and Mary Lou Randour conducted a seminar on "Animal Cruelty: Predictor and Early Intervention for Families and Youth," at the National Council of Juvenile and Family Court Judges national conference in Chicago this past July. Their presentation focused on the well-established science that witnessing violence—including to animals—is a traumatic event for children, with biological, psychological, and social consequences.

Given this evidence, the U.S. Department of Justice and its partners included witnessing animal cruelty on the *Polyvictimization Trauma Symptom Checklist*, developed to "allow lawyers and other advocates to better identify and advocate for appropriate placements, disposition plans, trial strategies, services, and treatment." (Access the checklist at (<http://www.safestartcenter.org/pdf/Resource-Guide.Polyvictim.pdf>) The judges were encouraged to ask a series of questions regarding pets that would help them better understand the extent of violence in the home, identify children at risk, choose more effective interventions, and protect animals from abuse.

Elsewhere during the conference, Safe Humane Chicago was showcasing its successful Lifetime Bonds program, which provides opportunities for at-risk youth and at-risk dogs to help one another. Youth in disadvantaged communities learn how to care for, socialize, and train shelter dogs by using positive, reward-based training techniques. They also participate in positive, beneficial activities with them. By doing this, the young men gain confidence and skills, develop constructive behavioral patterns, and learn about potential work in the pet care industry. The dogs also benefit by becoming better behaved and therefore more adoptable. About 100 judges visited throughout the day. Some were so inspired that they asked for contact information so that they might inquire about how to initiate a similar program in their communities.

One of the young men explained to the judges what he learned from the program: "The dogs are like us. They get hungry. We get hungry. They get tired. We get tired. They want to be loved. So do we." (See interview with Safe Humane Chicago Executive Director Cynthia Bathurst in this issue.) ♦

FORMER BALTIMORE POLICE OFFICER GETS STIFF SENTENCE FOR KILLING PUPPY

Speaking of judges, a judge in Montgomery County, Maryland, sentenced a former Baltimore police officer to a year in jail and five years' probation for aggravated animal cruelty. State guidelines recommend no jail time to three months. In February, Alec Eugene Taylor, who lived in Silver Spring with his girlfriend, beat a seven-month old Jack Russell Terrier with a mop and then choked him after he soiled the carpet. In texts to his girlfriend, Taylor told her what he had done and then sent

her a photo of the dog's lifeless body and told her he was going to throw him out. She later persuaded him to get the dog's body, and he again texted her, to tell her he had put it in shoebox on the balcony. Circuit Court Judge Richard Jordan did not hide his disdain for the crime and the defendant. He told Taylor, "Your actions were cruel, callous and without any apparent regret....It's absolutely disgusting what you did." (www.washingtonpost.com, October 8, 2014) ♦

CRUSH VIDEO DECISION OVERTURNED ON APPEALS; ANOTHER CHALLENGE PENDING

On June 13, the U.S. Court of Appeals for the Fifth Circuit overturned a lower court ruling that the Animal Crush Video Prohibition Act of 2010 is unconstitutional. In its decision, the appeals court found that the law "is limited to unprotected obscenity" and is therefore constitutional. It also recognized the difficulty of enforcing cruelty laws against the makers of crush videos because of their "clandestine nature," and that "Congress has a significant interest in preventing the secondary effects of animal crush videos, which promote and require violence and criminal activity." The appeals court sent the case on which it was based back to the lower court "for proceedings consistent with this opinion." In that case, the first one brought under the new law passed after the Supreme Court struck down the original 1999 crush video law, the U.S. Attorney in Southern Texas charged Ashley Nicole Richards and Brent Justice with "creating and distributing 'animal crush videos.'" The pair were originally arrested for felony animal cruelty.

It is reported that Brent Justice's attorneys are appealing the circuit court decision to the Supreme Court on the grounds that the penalties under the law are unfair.

In overturning the original 1999 law, the Supreme Court stated that it was not deciding whether a more limited statute would be constitutional. So Congress very precisely crafted the new law to prohibit interstate and foreign sales and distribution only of "crush videos" as obscene depictions of illegal acts. In the Richards and Justice case, the district court judge dismissed the crush video counts against them, calling the law overly broad and a violation of the First Amendment. All the federal charges against the pair were then dropped but the cruelty charges were reinstated. With the appeals court decision, the federal case can be resumed.

Significantly for victim animals, the Fifth Circuit looked to the "long history and substantial consensus" of animal cruelty laws in this country, emphasizing that animal cruelty "is so antisocial that it has been made criminal" in every state. As a practical matter, the Court also acknowledged that because of the "clandestine manner in which animal crush videos are made," it is difficult for state law enforcement to target the underlying cruelty that these videos depict—furthering the need for the Act. ♦

U.S. SUPREME COURT REFUSES CHALLENGE TO CALIFORNIA FOIE GRAS BAN

On October 14, the U.S. Supreme Court refused to take up an appeal of a ruling by the Ninth Circuit Court that upheld California’s ban on foie gras. A three-judge panel of the appeals court turned down a request by the plaintiffs, who include foie gras producers and restaurateurs, to issue a preliminary injunction while their lawsuit is pending in federal court. Among other findings, Judge Harry Pregerson wrote, on behalf of the appeals panel, that the lower court “did not abuse its discretion when it concluded that plaintiffs failed to raise serious questions concerning their Due Process Clause challenge...” or when “it concluded that [the law] did not discriminate against interstate commerce or directly regulate interstate commerce.” The panel also affirmed “the district court’s holding that Plaintiffs failed to raise a serious question that they are likely to succeed on the merits...” With regard to the animal abuse aspect, the appeals court disagreed with the plaintiffs’ argument that the ban ““does nothing”” to prevent animal cruelty in California. The opinion noted that in the district court, the plaintiffs “presented no evidence that [the law] is an ineffective means of advancing that goal.” On the contrary,

“Plaintiffs give us no reason to doubt that the State believed that the sales ban in California may...prevent complicity in a practice that it deemed cruel to animals.” It referred to a frequent Supreme Court admonishment “that courts should not ‘second-guess the empirical judgments of lawmakers concerning the utility of legislation.’” (No. 12-56822, D.C. NO. 2:12-cv-05735-SVW-RZ)

In 2004, a new California law (Sections 25980-25984 of the California Health and Safety code) prohibited “force feed[ing] a bird for the purpose of enlarging the bird’s liver beyond normal size,” as well as the sale of any resulting products—but not the possession or consumption of foie gras. The ban did not go into effect until 2012, to allow time to develop production methods that don’t involve force-feeding. No such methods materialized. Two producers and a restaurant group sued in U.S. District Court in Los Angeles in July 2013, on the grounds that the law is unconstitutionally vague. District Judge Stephen Wilson first rejected the plaintiffs’ request for a temporary injunction and then in September rejected their request for a preliminary injunction. ♦

LANCE LEMMONS, APA



APA President and CEO David LaBahn (second from right) and AWI Senior Policy Advisor Nancy Blaney (right) joined in presenting the National, City, and State Prosecutor of the Year Awards to (left to right) Scott Heiser, Animal Legal Defense Fund Senior Attorney and Criminal Justice Programs Director; Don Cocek, Deputy City Attorney, Los Angeles, CA; and Michelle Welch, Virginia Assistant Attorney General, respectively.

MISSION

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

BOARD MEMBERS

- John Chisholm, Chairman
District Attorney, Milwaukee County, WI
- Paul Howard, Jr., Vice Chairman
District Attorney, Fulton County, GA
- David LaBahn, President
- Thomas Carr, Secretary
City Attorney, Boulder, CO
- Risa Vetri Ferman, District Attorney
Montgomery County, PA
- Mike Feuer, Director
City Attorney, Los Angeles, CA
- Steven Naugle, Treasurer
- Dan Satterberg, Prosecuting Attorney
King County, WA
- Rod Underhill, District Attorney
Multnomah County, OR

Cyrus R. Vance, Jr., District Attorney
New York, NY

R. Seth Williams, District Attorney
Philadelphia, PA

STAFF

- David LaBahn, President/CEO
Association of Prosecuting Attorneys
- Steven Jansen, Vice President/COO
Association of Prosecuting Attorneys
- Lance Lemmonds, Media Relations Coordinator
- Aimee Peterson, Project Assistant

CONTRIBUTORS

- Alexandra Alberg, Graphic Designer
Animal Welfare Institute
- Nancy Blaney, Senior Federal Policy Advisor
Animal Welfare Institute



**Animal Welfare
Institute**
www.awionline.org



**Association of
Prosecuting Attorneys**

Association of Prosecuting Attorneys
1615 L Street NW, Suite 1100
Washington, DC 20036
(202) 861-2480 · www.apainc.org