

The New York City Bar Association's Committee on Legal Issues Pertaining to Animals is grateful for this opportunity to offer its views regarding important policy decisions facing the incoming administration that will have a substantial effect on the lives of New York's animals. Since we are cognizant of the fiscal realities facing the administration, we have tried to set forth suggestions in areas that the administration could have a positive impact while not creating financial burdens for the state.

## **Companion Animals**

### **Overpopulation Killing**

While significant strides have been made in certain communities, the problem of cat and dog overpopulation still causes the unnecessary killing of hundreds of thousands of animals in New York animal control facilities every year. This is a policy failure that, with focused effort and cooperation between public and private parties, can be rectified. It is our hope that the incoming administration will give this problem the attention it deserves, since even relatively simple efforts can bring about enormous changes.

By way of background, in 2001, in part as a result of an initiative from this committee, the City of New York signed a memorandum of understanding with a newly formed organization called the Mayor's Alliance for New York City's Animals. The Alliance is an umbrella organization for over 130 animal rescue organizations, large and small, working to find homes for New York City's homeless dogs and cats. Its agreement with the City of New York created opportunities for the City to aid in this effort by providing non-financial resources, which have included, to date, the use of New York City's parks to hold adoption events, the cooperation of City agencies, such as the Department of Transportation, in obtaining necessary permits, and the cooperation of various departments in humanely handling the presence of animals, including feral cats, on City owned land. Perhaps most significantly, it has brought structure to the animal rescue community that has resulted in an unparalleled level of communication and cooperation between public and private entities.

As a result of this partnership and the success it has brought in reducing the killing of dogs and cats in New York City's Animal Care and Control, the Alliance has been able to obtain very significant private funding, including a \$16,000,000 grant, over five years, from Maddie's Fund, a private foundation specifically set up to aid community-based efforts to end overpopulation killing of dogs and cats. The collaboration, funded by the grant, has produced a significant reduction in the killing of cats and dogs at the New York City Animal Care & Control (a 35% decrease in total deaths from 2003 to 2006). Thus, government resources, but not government funding, have been leveraged to bring private funding to bear in solving this heretofore intractable problem.

This model could easily be translated into an effective state-wide initiative. **A "Governor's Alliance for New York's Animals," operating as a completely private not-for-profit organization, could encourage the creation of local alliances in various New York counties, towns and cities or could work directly with some of the larger rescue organizations, such as the American Society for the Prevention of Cruelty to Animals.** Such organization could then coordinate with state agencies to provide newly

formed local alliances and organizations with various non-financial resources, including the use of state parks, and other types of state-owned lands and buildings, for adoption events. Additionally, such organization could coordinate cooperation among various state departments to provide for humane handling of animals on state-owned land.

Not only would such an initiative be enormously helpful in and of itself, but it could potentially draw significant private funding, as has the New York City effort. Notably, a multi-million dollar grant from Maddie's Fund has already been given to fund a state-wide effort at ending overpopulation killing in Utah.

## **Cruelty**

While New York has laws on the books making cruelty to animals a criminal offense, those laws are only as effective as their enforcement. The enforcement of cruelty laws presents some special considerations for police officers -- in particular, the immediate need to seize, handle and care for the animal victims. All too often, because of these special considerations, police officers leave the handling of cruelty cases completely to Societies for the Prevention of Cruelty to Animals ("SPCA's). Although these not-for-profit organizations have been granted some limited law enforcement powers, they receive no public funding for this purpose and are not able to enforce animal cruelty laws without assistance from law enforcement bodies and officials. Moreover, there are many counties in New York State that do not have an SPCA. Police and SPCAs need to do a better job of working together to maximize the resources available to effectively investigate cruelty cases. Additionally, cruelty cases also present special problems for prosecutors, such as the need to obtain specialized expert testimony in areas with which they are not familiar and which can differ for each species. **For these reasons, we hope that the administration will actively encourage the inclusion of instruction in the investigation and prosecution of animal cruelty in all training materials and curricula for criminal law enforcement personnel.**

In addition to police officers, one of the front lines for the detection of animal abuse is social service workers. It is well established that animal abuse is part and parcel of other types of domestic violence and it is frequently a precursor to, or operates in tandem with, violence against human members of the family. The detection of and prosecution for animal abuse can thus potentially forestall other types of domestic violence. A bill (A 2058/S 1793) has been pending in the state legislature for several years that would require the reporting by social service workers of suspected animal abuse (as well as the reporting of suspected child abuse by those charged with enforcing animal cruelty laws). However, the bill has been opposed by social service workers as representing an unwarranted and unfamiliar burden. **This Committee believes that an enormous amount could be accomplished in this area without mandated reporting through the institution, by the Office of Children and Family Services, of a training program for social service workers in recognizing and reporting animal abuse and the institutional encouragement of such reporting.** Additionally, training in recognizing and reporting child abuse could be provided to humane law enforcement agents, who may be present in private abusive settings to which no one else has access.

In addition, there needs to be increased recognition of the role played in many abusive homes by violence against animals, where the animals may serve as surrogate

victims and/or as the reason so many victims remain in a violent situation out of fear of what their animals will suffer if they should leave. This was recently recognized by the Legislature when it enacted a law permitting courts to issue orders of protection in favor of companion animals to protect them from being killed or injured. **State encouragement of the inclusion of animal care facilities within shelters for victims of domestic violence** would go a long way toward making it easier for human victims to leave a violent situation before it reaches a point where they are killed or seriously injured. Along similar lines and in response to the publicity surrounding the plight of thousands of abandoned animals that resulted from Hurricane Katrina, a recently enacted Federal law requires that animals be included in planning for disaster sheltering. It would certainly be appropriate, in drawing up plans to fulfill the mandate of this newly enacted Federal law, to extend such planning to state supported domestic violence shelters.

### **Wildlife**

While attitudes toward hunting vary significantly, even many hunting enthusiasts agree there are certain forms of “hunting” that have no place in a civilized society. New York should take the lead in stopping the abusive, manipulated creation of so-called “hunting” opportunities.

First and foremost, **it is long past time for this State to pass an effective law banning “canned hunts,”** i.e., the practice of shooting or spearing domestically bred and raised animals, often former zoo animals, released from captivity into fenced areas specifically for that purpose. Generally, in such facilities, the animals are released on schedule according to the “hunter’s” taste, and regulations regarding hunting methods, weapons and licensing do not apply. While New York law currently purports to prohibit these facilities (Environmental Conservation Law Section 11-1904) the size limitation on the facilities to which the law applies, 10 acres or fewer, renders the law completely ineffective. Currently, there are **over 100 facilities** larger than 10 acres offering such killing opportunities in New York State. As just one example, one internet ad proclaims “With over 12 years making hunters' wildest dreams come true, bagging the most exotic of prey animals such as Fallow Deer, Wild Boar, Elk, Big Horn Sheep, Bison and more.... Here at Cold Brook Hunts, whatever exotic animal it is that you want to hunt, the hunting is never out of season! Even Sunday hunting is permitted, and no license is required ever.” (<http://www.coldbrookhunts.com/>)

In 2003, a bill that would have made the New York law significantly more effective overwhelmingly passed the Senate and the Assembly and was vetoed by Governor Pataki based on the supposed economic impact of shutting down the industry. The opinion of this Committee is that the minimal economic benefit to the state derived from property taxes and the creation of a miniscule number of jobs should not be used to justify an activity that (i) is cruel, (ii) was condemned by the state legislature in its 2003 passage of the legislation and (iii) has been condemned by various other state legislatures. The extrapolation of Governor Pataki’s reason for vetoing this legislation would result in virtually any activity, no matter how unacceptable, being justified, as virtually any activity will result in some profit and create some employment opportunities. **A bill is currently pending in the legislature that would eliminate the 10 acre limitation in**

**the present law (A5877/S9267). We hope that this administration makes this an important legislative priority.**

Moreover, in addition to canned hunts, the Department of Environmental Conservation currently participates in numerous efforts to manipulate populations of wild (and sometimes captive bred) animals to increase opportunities for hunters. For example, the DEC operates the Reynolds Game Farm, which, through its own programs and the use of volunteers, raises tens of thousands of ring-necked pheasants, a non-native species, to be released into the wild solely for the purpose of being shot by hunters. **These practices, which are not performed for the purpose of restoring depleted populations on a long-term basis but are solely for the purpose of creating killing opportunities for hunters, should be stopped immediately.** The State of New York should not be permitting, much less participating, in these practices, which are arguably in violation of the state's anti-cruelty statute, Agriculture and Markets Law Section 353, which prohibits the unjustifiable killing of "any animal, whether wild or tame."

## **Farm Animals**

### **Force Feeding**

There are only two states in the country in which the practice of force feeding ducks and geese for the production of foie gras, widely regarded as cruel, is performed. One is California, which recently passed a law requiring, on animal cruelty grounds, that the practice be phased out by 2012 (and banning the sale of foie gras as of that date). The other state is New York. Sadly, not only has New York not moved to end this practice, **the Empire State Development Corporation very recently made a grant of \$420,000 to Hudson Valley Foie Gras**, one of the state's two producers, so that it can expand its operations.

Force feeding of geese and ducks is a barbaric practice that has been statutorily banned not only in California, but in numerous countries, including Austria, the Czech Republic, Denmark, Finland, Germany, Italy, Luxembourg, Norway, Poland and Turkey, and has been found to be in violation of anti-cruelty laws by the Supreme Court of Israel, as well as the courts of the Netherlands, Sweden, Switzerland and the United Kingdom. The City of Chicago has banned the sale of foie gras because of the cruelty involved in its production. Force feeding has been condemned by Pope Benedict XVI. It is utterly outrageous that not only is this fundamentally cruel practice permitted in the State of New York, but New York taxpayers are forced to subsidize such activity. **Not only should the decision of the Empire State Development Corporation to support this industry be immediately reviewed, and, if possible, reversed, but, like these other jurisdictions, New York should immediately ban the production and sale of foie gras within the State of New York's borders.** For a state that has long prided itself on its progressive nature and protection of the rights of animals and humans alike, New York should be embarrassed that it continues to permit and fund such cruelty. We sincerely hope that this administration follows California's lead and ends these practices immediately.

### **Intensive Confinement**

Unfortunately, foie gras production is not the only cruel practice commonly used on farm animals in New York. The welfare of animals on farms is not currently regulated by the state. The only applicable law is the general prohibition on cruelty to animals and it has not been effectively applied to prevent, in any way, the development of egregiously cruel farming practices. For example, the existence of the cruelty law has done nothing to prevent the use of the “gestation crate” for pigs, the “veal crate” for calves and the “battery cage” for laying hens. These factory farm production tools all involve the virtually life-long confinement of animals to spaces so small they are hardly bigger than the animals themselves, which prevents the animals from engaging in any normal behaviors and even prevents them from ever turning around. While the cruel treatment of farm animals is a scandal of national proportions, **this committee sincerely hopes that New York, as a leading agricultural state, will provide leadership in this area** and that this administration will be the one to start to develop effective laws, regulations and enforcement mechanisms to protect farmed animals from, at the very least, the cruelest of the practices currently used. This committee is able and prepared to work with the administration to draft and shepherd legislation through the New York State legislature.

### **Fur**

Like animals raised for food, animals trapped or raised on farms for their fur have not been protected by the anti-cruelty law from many horrifically cruel practices. **A bill currently pending in the state legislature (A 4897/S 2495) would ban one of the cruelest methods of killing farm raised animals, i.e., anal and genital electrocution.** Support for this bill would be a modest first step in providing animals raised for fur with protection from the most egregious cruelties.

Trapping of New York’s wild animals exists largely as a hobby industry. Nevertheless, in spite of its minimal economic importance, New York has failed to regulate this industry by providing even the most basic protections for animals. For example, New York has not even banned the use of the steel leghold trap, one of the cruelest means imaginable for an animal to die. Moreover, aside from the cruelty to wild animals, such traps cause frequent injuries to companion animals when they are placed in parks and other high traffic areas. A sad example is Zephyr, a mixed breed dog and hurricane survivor rescued by a New Yorker only to die in a trap near his new home in Sag Harbor. When the town of Southampton quickly moved to ban the traps it found it was not permitted to do so by state law, which places the authority to regulate trapping with the Department of Environmental Conservation. **While a bill (A 1835/S2142) currently pending in the state legislature would at least allow counties to prohibit or restrict trapping within their own limits, this bill would not be necessary if the Department of Environmental Conservation would work cooperatively with local communities by exercising its regulatory authority to carry out the wishes of communities that choose to prohibit or restrict trapping within their limits.**

### **Humane Education**

No matter what improvements are made in the laws protecting animals, they will not ultimately be effective unless people empathize with and learn the reasons for protecting animals. In recognition of this, the New York legislature long ago passed a law requiring authorities in "elementary schools under state control or supported wholly or in part by public money of the state to prescribe courses of instruction in the humane treatment and protection of animals . . . Such instruction may be joined with work in literature, reading, language, nature study, or ethnology" (Education Law Section 809).

Unfortunately, in spite of its mandatory nature, this law has never been widely implemented in New York State schools, apparently because school administrators are simply unfamiliar with its requirements.

Notably, a separate New York law, known as "SAVE" (Safe Schools Against Violence in Education) (Education Law Section 801-a), seeks to address violence prevention by, *inter alia*, requiring a civility, citizenship and character education component in the K-12 course of instruction and requiring health curricula to address issues of violence prevention. Humane education, as already required by New York State Education Law for elementary schools, is also a perfect way to comply with these additional requirements, particularly since an overwhelming amount of evidence supports the premise that animal abuse is oftentimes a precursor to violent crimes against humans. Instilling the values advocated by humane education will not only assist children in becoming sensitive and compassionate adults but will help to stop this cycle of violence before it begins.

**We hope that this administration, through the State Department of Education, will work to make these laws effective.** Enormous opportunities exist for forming partnerships with qualified private agencies that are familiar with these issues and willing to provide materials and assistance to the schools in developing humane education curricula.

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This Committee stands ready to assist the administration in any way that leads to the improvement of laws protecting animals and their enforcement. We would be grateful for the opportunity to meet with the Governor, or with any members of the administration active on these issues, or on any issues affecting the animals of New York and the millions of people who care about them. Thank you again for this valuable opportunity.