



COMMITTEE ON ANIMAL LAW

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April 3, 2019

Hon. Letitia James
Office of the Attorney General
The Capitol
Albany, NY 12224-0341

Re: Transition Letter from New York City Bar Association Animal Law Committee

Dear Attorney General James:

On behalf of the New York City Bar Association's Animal Law Committee, we congratulate you on the robust start of your tenure as New York State Attorney General.

The Animal Law Committee is the first and longest-running bar association animal law committee in the country. The Committee contributes to the developing area of animal law through reports on legislation and rulemaking, pamphlets and guides, public programs, continuing legal education, articles, and other activities. The Committee's current members include the Chief of the Animal Cruelty Prosecutions Unit of the Queens District Attorney's Office and the Executive Director of the Mayor's Alliance for New York City's Animals, as well as prosecutors, court attorneys, partners and associates at large and small law firms, in-house counsel, solo practitioners, and law students.¹

The Animal Law Committee would like to highlight just a handful of issues that we support and that may be of interest to your office:

First, the Animal Law Committee supports creating a statewide task force to examine, evaluate, and determine how to improve both the relationship between animals and humans as well as the state's animal protection laws. The Animal Legal Defense Fund, in its most recently published annual report that comprehensively assesses the strengths and weaknesses of animal protection laws of all U.S. states and territories, ranked New York 33rd among the states. At present, the majority of law enforcement officials in New York receive no formal training on animal crimes. In addition, the investigation, enforcement and prosecution of animal cruelty cases varies by location, with some jurisdictions receiving no government funding at all to

¹ The Committee's members are serving in their individual, personal capacities. They are not representing any organization or employer and nothing in this report should be attributed to an organization or employer with which a committee member was or is affiliated.

investigate animal crimes or, as may be the case with SPCA enforcement officers, assist in the prosecution of such crimes.

Accordingly, the Animal Law Committee urges New York to join the ranks of other states that have established animal crimes task forces to review animal-related laws, identify enforcement problems, and make recommendations. Our attached 2019 report on Assembly Bill 277² supports a bill creating such a task force, one of whose members would be appointed by the New York Attorney General. We would further encourage any task force to coordinate efforts with the District Attorneys Association of the State of New York, which recently announced plans to create an Animal Crimes Subcommittee for prosecutors across the state.

Second, the Animal Law Committee supports bringing wildlife under the felony aggravated cruelty provision of New York State’s Agriculture and Markets Law. Under current law, a person is guilty of aggravated cruelty to animals when “with no justifiable purpose, he or she intentionally kills or intentionally causes serious physical injury to a *companion animal* with aggravated cruelty.” Because this provision applies to only companion animals, even the most heinous acts of cruelty to wildlife — for instance, stoning a bird to death or driving a nail through a live turtle (actual incidents that we cite in our report below) — may be charged only as misdemeanors.

Ensuring that New York’s felony anti-cruelty law also applies to wildlife serves a broader benefit to society. In particular, there is a well-documented link between animal cruelty, abuse or neglect and violence against people, including, domestic violence, child abuse, elder abuse, and other violent criminal activity.³ Extending the law to wildlife also would put New York’s statute in line with the laws of various other states that already afford such protection to wildlife. While the Animal Law Committee has not yet commented on the currently pending bill addressing this issue (A.663), our 2015 report on predecessor bills makes the case for this legislative change.⁴

Third, the Animal Law Committee supports relocating to the Penal Code many of the criminal provisions currently found in the state’s Agriculture and Markets Law. Doing so puts animal cruelty provisions where they justifiably belong: among other criminal laws, rather than among laws on, e.g., labeling commercial fertilizers and lettuce quality grades. While the Animal Law Committee has not yet commented on the pending bills addressing this issue (A.634/S.2623 and A.342, known as “Bella’s Bill”), our 2014 report on two other bills that would accomplish this relocation makes the case for this legislative change.⁵

² https://s3.amazonaws.com/documents.nycbar.org/files/201788-AnimalCrueltyTaskForce_FINAL_3.24.17.pdf. (All websites cited in this letter were last visited on April 1, 2019.)

³ E.g., Allie Philips, Understanding the Link Between Violence to Animals and People: A Guidebook for Criminal Justice Professionals (June 2014), <http://nationallinkcoalition.org/wp-content/uploads/2014/06/Allies-Link-Monograph-2014.pdf>. For further discussion of this link, see pages 3 and 4 of the report cited in footnote 4 immediately below.

⁴ <https://www.nycbar.org/pdf/report/uploads/20071906-ExpandAggravatedCrueltyLawReissued.pdf>.

⁵ <https://www2.nycbar.org/pdf/report/uploads/20072439-ConsolidatedAnimalCrimesLaw.pdf>.

To the extent that criminal penalties are strengthened or enforcement of criminal laws increased, this should happen alongside efforts to reduce animal crimes through non-penal mechanisms, including greater education and training on animal cruelty laws, alternatives to incarceration and criminal fines, and programs aimed at reducing recidivism. We further encourage that enforcement data be tracked to ensure that animal cruelty laws are not enforced in a discriminatory manner and do not have an unfair discriminatory impact.⁶

Finally, the Animal Law Committee urges the Attorney General to continue its enforcement of existing animal protection laws and to consider how those laws may apply to certain institutionalized practices involving animals. For background on some of these practices, please see our reports on legislation that prohibits confining pigs during pregnancy, egg-laying hens, and calves raised for veal⁷; legislation prohibiting the declawing of cats and other animals⁸; legislation making it unlawful to force feed birds⁹; and legislation banning the use of wild animals in circuses.¹⁰

Thank you for your attention to these issues, and please be in touch with any questions or concerns. We stand ready to assist in whatever way we can.

Respectfully,

A handwritten signature in blue ink, appearing to read "Christopher Wlach", with a stylized flourish at the end.

Christopher Wlach
Animal Law Committee, Chair

⁶ Primarily through the work of its Mass Incarceration Task Force, the City Bar is keenly aware of the significant and long-term negative impacts associated with an individual's engagement with the criminal justice system, particularly for people of color, and we offer these recommendations with that understanding in mind.

⁷ <https://s3.amazonaws.com/documents.nycbar.org/files/20071742-CommentonConfinementforFood.pdf>.

⁸ https://s3.amazonaws.com/documents.nycbar.org/files/20072873-Report_on_Declawing_Bill_ANIMAL_3.14.18.pdf.

⁹ <https://www2.nycbar.org/pdf/report/uploads/20072525-ProhibitingofForceFeedingBirds.pdf>.

¹⁰ <https://s3.amazonaws.com/documents.nycbar.org/files/2017396-WildAnimalsCircus.pdf>.