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Lieutenant Governor John K. Fetterman
President, Pennsylvania State Senate
200 Main Capitol Building
Harrisburg, Pennsylvania 17120-3025

Re: Support of S.B. 787 (2019-2020)

Dear Lieutenant Governor Fetterman:

We write on behalf of the New York City Bar Association Animal Law Committee to express our support of S.B. 787.¹ The bill would prohibit using live pigeons for targets at trap shoots and block shoots,² events where thousands of feral and domesticated pigeons are released from mechanical traps and abruptly shot by attendees.

The New York City Bar Association is an independent non-governmental organization of more than 24,000 lawyers, law professors, and government officials, principally from New York City but also from throughout the United States and 50 other countries. The Animal Law Committee, the first committee of its kind in the country, has a history of supporting federal, state, and local anti-cruelty legislation, including legislation to prohibit “canned hunts” in which tethered

¹ A copy of the bill is available at <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2019&sessInd=0&billBody=S&billTyp=B&billNbr=0787&pn=1090>. (All webpages cited in this report were last visited on December 19, 2019.)

² The bill defines a trap shoot or a block shoot as a “contest event during which participants shoot or attempt to shoot targets for either amusement or as a test of skill in marksmanship that are launched or otherwise immediately presented to the shooter either manually or with electronic or mechanical assistance from a fixed location or locations within a predefined shooting field.”

animals are shot in confined areas.³ We have also previously expressed our support for the predecessor bills to S.B. 787.⁴

It is fair to ask why a New York City bar association would weigh in on a Pennsylvania bill. The reason is that Pennsylvania's pigeon trap shoots impact us here. New York City residents have repeatedly witnessed individuals scattering seeds in public, throwing a net over any birds attracted by the seeds, and then placing the birds in the back of a vehicle.⁵ Those trapping the pigeons are believed to be supplying birds for trap shoots;⁶ in fact, several have been arrested for doing so.⁷ They likely come to New York City because pigeons are plentiful here and, because of the birds' relative comfort around humans, easily trapped.⁸

³ New York City Bar Association Animal Law Committee ("Animal Law Committee") Report approving with recommendations A.3772/S.3426, a bill amending the New York Environmental Conservation Law to prohibit canned shoots (May 2013), <http://www2.nycbar.org/pdf/report/uploads/20072494-CannedHuntingShoots.pdf>; Animal Law Committee, Report approving A.2612/S.784, a bill amending the New York Environmental Conservation Law to prohibit canned shoots (May 2008), https://www.nycbar.org/pdf/report/canned_hunts_2007.pdf.

⁴ Animal Law Committee, Letter to Lieutenant Governor Mike Stack (Feb. 12, 2018), <https://s3.amazonaws.com/documents.nycbar.org/files/20073033-PigeonShootBillPAAnimalFinal20160125.pdf>; Animal Law Committee, Letter to Senator Scarnati and Representative McCall in support of H.B. 1411/S.B. 843 (May 4, 2010), <https://www.nycbar.org/pdf/report/uploads/20071921-CommentonLegislationreTrapShoots.pdf>.

⁵ Faith Bjalogak, *Live Pigeon Shoots*, *The Global Guide to Animal Protection* 214-15 (Andrew Linzey ed., 2014); CBS New York, *Man Seen Netting Pigeons, Hauling Them Off from New York City Streets* (Feb 17, 2017), <http://newyork.cbslocal.com/2017/02/17/brooklyn-pigeon-netting>; David Colon, *Man With A Huge Net Seen Snatching Pigeons Off City Streets*, *Gothamist* (Feb. 19, 2017), http://gothamist.com/2017/02/19/man_with_a_huge_net_seen_snatching.php; Nina Golgowski, *Man Filmed Bagging Pigeons on NYC Streets, Allegedly for Live Shooting*, *Huffington Post* (Feb. 1, 2016), https://www.huffingtonpost.com/entry/man-filmed-catching-pigeons_us_56ae6521e4b077d4fe8e86fb; Melissa Cronin, *Who Is Stealing New York City's Pigeons?*, *Vice Magazine* (Aug. 5, 2015), <https://www.vice.com/read/whos-stealing-pigeons-in-new-york-city-805>; Cathryn Swan, *Who Netted and Abducted Nearly 300 of Washington Square Park's Pigeons?*, *Washington Square Park Blog* (July 28, 2015), <http://www.washingtonsquareparkblog.com/2015/07/27/netted-abducted-nearly-300-washington-square-parks-pigeons>; *Man Snatches Flock of UWS Pigeons in Net, Throws Them in Van . . . to Be Shot?* *West Side Rag* (Nov. 10, 2014), <http://www.westsiderag.com/2014/11/10/man-snatches-flock-of-uws-pigeons-in-net-headed-for-the-shooting-gallery>.

⁶ See news articles cited in note 5 above.

⁷ See, e.g., Melissa Cronin, *Who Is Stealing New York City's Pigeons*, *Vice Magazine*, note 5 above (noting a July 2015 arrest in Brooklyn); Danielle Tcholakian, *100 Pigeons Missing from Washington Square Park, NYPD Says*, *DNAINFO* (Aug. 3, 2015), <https://www.dnainfo.com/new-york/20150803/greenwich-village/100-pigeons-missing-from-washington-square-park-nypd-says/> (noting a May 2015 arrest in Manhattan).

⁸ Estimates of New York City's pigeon population range from 1 to 7 million. CBS New York, *"They Are the Epitome of New York": Author Explains Why Pigeons Fit in with Hustle and Bustle of Big Apple* (Nov. 29, 2018), <https://newyork.cbslocal.com/2018/11/29/nyc-pigeons-andrew-garn-snapshot-new-york/>; see also Cynthia Bardouka-Large, *How to Catch a Pigeon (or Dove) in Need of Rescue*, *Palomacy: Pigeon & Dove Adoptions*, <http://www.pigeonrescue.org/faqs-2/how-to-catch-a-pigeon-or-dove-in-need-of-rescue/> (noting that "pigeons are more trusting than most birds").

But trapping and transporting these pigeons is a crime here. Despite the bird's unfortunate reputation, New York's laws reflect our longstanding soft spot for pigeons.⁹ We banned pigeon shoots in the beginning of the twentieth century,¹⁰ and we have several laws specifically banning the trapping and transport of the birds. For instance, both the netting and the subsequent transport of pigeons from New York into Pennsylvania violate New York State's Environmental Conservation Law.¹¹ Netting pigeons for use in trap shoots also constitutes cruelty under New York's animal cruelty law, which prohibits, among other things, procuring an animal for the purpose of being tortured, unjustifiably injured, maimed, mutilated or killed.¹² Carrying birds trapped in nets inside a vehicle may similarly run afoul of state anti-cruelty law.¹³ And using in interstate commerce pigeons captured in violation of New York State law in turn violates the federal Lacey Act.¹⁴

Even with these existing laws, the netting and transporting of pigeons have become such a problem for the city that this year our City Council enacted its own city law to address it.¹⁵

New York has passed these laws for a good reason: pigeon shoots involve extreme and extensive cruelty. In the 1999 decision *Hulsizer v. Labor Day Committee, Inc.*, the Supreme Court

⁹ Matt Soniak, *The Origins of Our Misguided Hatred for Pigeons*, Audubon (Nov. 14, 2016), <https://www.audubon.org/news/the-origins-our-misguided-hatred-pigeons> (discussing Colin Jerolmack, *How Pigeons Became Rats: The Cultural-Spatial Logic of Problem Animals*, 55 *Social Problems* 72-94 (2008)).

¹⁰ *Anti-Pigeon-Shooting Bill Signed*, N.Y. Times 5 (Feb. 26, 1902).

¹¹ N.Y. Env'tl. Conserv. Law § 11-1101(1) (prohibiting trapping, netting or snaring wild birds without a permit); N.Y. Env'tl. Conserv. Law § 11-0917 (prohibiting transporting wildlife across state lines if possessed contrary to any law); N.Y. Env'tl. Conserv. Law § 11-0513 (prohibiting capturing, killing or attempt to capture or kill any Antwerp or homing pigeon wearing a ring or seamless leg band with its registered number stamped thereon).

¹² N.Y. Agric. & Mkts. Law § 353 provides in relevant part:

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty, is guilty of a class A misdemeanor

¹³ N.Y. Agric. & Mkts. Law § 359(1) (prohibiting a person from "carry[ing] or caus[ing] to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner").

¹⁴ 16 U.S.C. § 3372(a)(2)(A) provides: "It is unlawful for any person . . . to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish or wildlife taken, possessed, transported, or sold in violation of any law or regulation of any State . . ." Notably, the Lacey Act was enacted in response to the fate of the Passenger Pigeon to make illegal the interstate transport of birds taken in violation of state laws. U.S. Fish & Wildlife Service, *The Role of the Endangered Species Act and U.S. Fish and Wildlife Service in the Recovery of the Peregrine Falcon*, <https://www.fws.gov/mountain-prairie/pressrel/peregrine.htm>.

¹⁵ Council of City of NY, Intro. No. 1202-2018 (codified at N.Y.C. Admin. Code §17-200). If done in a New York City park, the netting violates an additional city law. 56 R.C.N.Y. § 1-04 ("Except pursuant to a permit for trapping issued by the Department, no person shall molest, chase, harass, injure, wound, trap, hunt, shoot, throw missiles at, kill or remove any animal, any nest, or the eggs of any amphibian, reptile or bird, or otherwise harm or intentionally take actions that could reasonably harm any animal, nest, or such eggs."). See also City of New York, *Pigeon Trapping Without Permit*, <https://portal.311.nyc.gov/article/?kanumber=KA-01601> ("You need a permit to trap pigeons in New York City.").

of Pennsylvania described a typical shoot. Hundreds of pigeons suffer a slow and painful death, are denied veterinary care, and have their heads torn off and bodies smashed by children hired to collect their bodies:

During a shoot, four to six thousand pigeons become the targets of gunfire. Of these, over five hundred die immediately from their wounds. Hundreds of other pigeons, however, suffer a slow and painful death, for their wounded bodies fall outside of the circled area or outside of Hegins Park, and they are never retrieved by appellee [host of the pigeon shoot] or provided any veterinary or other care. They eventually die from their wounds or starvation. An additional two thousand or more wounded birds fall within the circled area, and they suffer pain until they are eventually killed. They are not given any sustenance, drink, or veterinary care. Instead, they lie on the ground until the shooter has completed a full round of shots, a process that often takes several minutes. Then, the trapper boys retrieve the wounded pigeons from the circled area and kill them by a variety of methods. These include tearing the birds' heads from their bodies, throwing or smashing them against objects on the ground, crushing the birds by falling on them, and suffocating the birds by tossing them into a barrel filled with other dead and dying pigeons. All of these methods are contrary to accepted veterinary methods of euthanasia and cause the birds additional pain and suffering. Wounded pigeons also fly into the crowd of spectators, who further injure and kill them. Spectators ostensibly derive great enjoyment from this chance to participate in the slaughter.¹⁶

Similar accounts of cruelty abound.¹⁷ And even today, these practices remain prevalent. In June 2018, for instance, thousands of pigeons were slaughtered in a single two-day pigeon shoot near Dalmatia, Pennsylvania.¹⁸ Footage from another recent live pigeon shoot in Berks County shows pigeons being suffocated and buried alive after being injured.¹⁹

The pigeon shoots themselves are inhumane, but so too is the act of netting pigeons. Large groups of birds are captured in a single net, often resulting in broken legs and wings.²⁰ One 2017 bystander video, for instance, shows a man dragging a net full of thrashing birds into a minivan.²¹

¹⁶ *Hulsizer v. Labor Day Committee, Inc.*, 557 Pa. 467, 471-72 (1999), available at <https://caselaw.findlaw.com/pa-supreme-court/1438176.html>; see also *Seeton v. Adams*, 50 A.3d 268, 277 (Pa. Commw. Ct., 2012) (“It is truly shocking that live, not clay, pigeons are catapulted into the air for target practice.”).

¹⁷ See, e.g., Mark Hawthorne, *Bleating Hearts: The Hidden World of Animal Suffering* 279-81 (2013); Gary L. Francione, *Animals, Property and the Law* xiii-xv (1995).

¹⁸ Merritt Clifton, *Biggest Pigeon Shoots in Years Follow Pennsylvania Cruelty Law Exemption*, *Animals* 24-7 (June 8, 2018), <https://www.animals24-7.org/2018/06/08/biggest-pigeon-shoots-in-years-follow-pennsylvania-cruelty-law-exemption/>.

¹⁹ SHARK, “Pigeons Brutalized, Buried Alive at Pennsylvania Pigeon Shoot” (Nov. 15, 2017), https://youtu.be/Hi_EZGRlhZE.

²⁰ Sydney Pereira, *Rivera Confident Anti-Birdnapping Bill Will Fly*, *The Villager* (Oct. 30, 2018), <https://www.thevillager.com/2018/10/rivera-confident-anti-birdnapping-bill-will-fly/>.

²¹ CBS New York, *Man Seen Netting Pigeons, Hauling Them Off from New York City Streets* (Feb 17, 2017), note 5 above.

Once netted, the birds — which sometimes number in the hundreds²² — are transported by car and kept in boxes without water or food.²³ According to necropsy reports, birds shot during the pigeon shoots have already suffered from dehydration and emaciation.²⁴

Pennsylvania remains the only state to regularly hold pigeon shoots,²⁵ a surprising fact given Pennsylvania's longstanding history of animal protection. Your state was among the first to pass a robust anti-cruelty statute, in the 1800s.²⁶ And today the Animal Legal Defense Fund ranks Pennsylvania's animal protections laws among the "Top Tier" of states.²⁷ (New York, in contrast, sits at the low end of the Middle Tier.)²⁸ In line with these strong laws, the vast majority of Pennsylvanians support ending live pigeon shoots.²⁹ So do the Pennsylvania Bar Association, the Pennsylvania Council of Churches, the Pennsylvania Veterinary Medical Association, the Pennsylvania Federation of Humane Societies, and the ASPCA.³⁰

As a legal matter, prohibiting pigeon shoots appears to be consistent with Pennsylvania's existing anti-cruelty law. That law protects animals from cruelty, abuse, neglect, abandonment, and deprivation of sustenance, drink, shelter or veterinary care.³¹ Notably too, pigeons are not among the species of birds that Pennsylvania law permits to be shot on state-regulated hunting grounds.³² And while one Pennsylvania county prosecutor has maintained that legislation is needed

²² Tequila Minsky, *Feathery Felony in Park as Perps Net Hundreds of Pigeons*, The Villager (July 30, 2015), <https://www.thevillager.com/2015/07/feathery-felony-in-park-as-perps-net-200-pigeons/>.

²³ Sydney Pereira, *Rivera Confident Anti-Birdnapping Bill Will Fly*, The Villager, note 20 above.

²⁴ Gary L. Francione, *Animals, Property and the Law* xiii, note 17 above.

²⁵ John Kopp, *Pennsylvania Clings to Pigeon Shoots That Have Nearly Vanished Nationwide*, Philly Voice (June 5, 2017), <http://www.phillyvoice.com/pennsylvania-clings-to-pigeon-shoots-that-have-nearly-vanished-nationwide> (quoting Heidi Prescott of The Humane Society of the United States); *see also* The Humane Society of the United States, *Pennsylvania Pigeon Shoots*, <https://www.humanesociety.org/resources/pennsylvania-pigeon-shoots> (stating that "Pennsylvania is the only state known to host multiple pigeon shoots"). And in a 2013 court filing, the Philadelphia Gun Club stated that it hosts around 12 pigeon shoots from November to April. Memorandum of Law in Support of Defendant's Motion to Dismiss Amended Complaint at Exhibit 1, ¶ 3, *Delaware Riverkeeper v. Philadelphia Gun Club*, No. 2:12-cv-01602-JS (E.D. Pa. July 13, 2013).

²⁶ David S. Favre & Vivien Tsang, *The Development of Anti-Cruelty Laws During the 1800's*, 1993 Det. C.L. Rev. 1, 21 (1993), <https://digitalcommons.law.msu.edu/cgi/viewcontent.cgi?article=1146&context=facpubs>.

²⁷ Animal Legal Defense Fund, 2018 U.S. Animal Protection Laws Rankings: Comparing Overall Strength & Comprehensiveness (Jan. 2019), <https://aldf.org/project/2018-us-state-rankings/>.

²⁸ *Id.*

²⁹ *See* Mason-Dixon Polling & Research, Inc., *Mason-Dixon Poll on Pennsylvanian's Attitudes Toward Pigeon Shoots* (Oct. 2013), <https://humane-pa.org/current-legislation-2/current-legislation/fact-sheets-pending-legislation/focus-issues/mason-dixon-poll-on-pennsylvanians-attitudes-toward-pigeon-shoots> (Of 625 registered voters in Pennsylvania, 77% support a bill banning pigeon shoots.).

³⁰ Press Release, The Humane Society for the United States, *Pennsylvania Voters Show Statewide Support for Banning Live Pigeon Shoots* (Oct. 31, 2013), <https://tinyurl.com/rwt3loe>.

³¹ 18 Pa. Cons. Stat. § 5511(c).

³² 34 Pa. Cons. Stat. § 2928 (allowing for the shooting of the following domestically produced birds: ringneck pheasants, bobwhite quail, and mallard ducks, along with chukar partridges, if listed on the permit application).

to prohibit pigeon shoots,³³ we note that this position contrasts with other states' positions about the legality of pigeon shoots under similar state anti-cruelty laws.³⁴

In any event, S.B. 787, which expressly bans trap shoots, would remove any ambiguity in existing law. And by eliminating the source of demand for New York City's pigeons, the bill would in turn reduce the criminal netting and transporting of our birds, letting New York's police, prosecutors, and judges focus on their many other priorities.³⁵ Perhaps most importantly, S.B. 787 would end the needless torture and slaughter of thousands and thousands of birds. Pigeons unfairly have a bad reputation, but one of Pennsylvania's greatest animal advocates — Mister Rogers — put it well when he said “[t]here is something fancy about every creature in the world. Each person, each fish, each animal, each bird, each living creature.”³⁶

The New York City Bar Association's Animal Law Committee respectfully urges the Pennsylvania Senate to pass S.B. 787.

Thank you for your consideration.

Respectfully,



Christopher Wlach
Chair, Animal Law Committee

³³ In *Seeton*, 50 A.3d at 277, the majority ruled that a Humane Society Police Officer had no authority to compel the District Attorney of Berks County to prosecute animal cruelty at a pigeon shoot, as the prosecutor had discretion to decide whether to prosecute a case. The dissent disagreed, stating that the District Attorney's decision was based not on his prosecutorial discretion, but on a mistake of law:

Here, District Attorney Adams stated very clearly the reason why he believed he was *legally unable to prosecute* when he stated: “I am bound by the law” “pigeon shoots do not constitute a violation of 5511(c) Cruelty to Animals.” This was legally incorrect because Pennsylvania courts have only held that live pigeon shoots are not a *per se* violation of the Animal Cruelty Law. The mishandling of wounded and injured pigeons at a live pigeon shoot is criminally actionable.”

Id. at 279 (emphasis in original; internal citations omitted).

³⁴ *E.g.*, *Waters v. People*, 23 Colo. 33, 39 (Co. Sup. Ct. 1896) (“[T]he killing of captive doves, as they are released from a trap, merely to improve one's skill of marksmanship, or for sport and amusement, though there is no specific intention to inflict pain or torture, is, within the meaning of this [animal cruelty law], unnecessary and unjustifiable.”); Ca. Att'y Gen. Op. No. 99-1107 (Mar. 31, 2000), <https://oag.ca.gov/system/files/opinions/pdfs/99-1107.pdf> (“It is a violation of the state's animal cruelty laws to conduct a ‘pigeon shoot’ at which domestic pigeons are released from cages and shot for purposes of sport and amusement.”).

³⁵ See note 5 above (citing two arrests for pigeon netting).

³⁶ Quoted in Michael Long, *Peaceful Neighbor: Discovering the Countercultural Mister Rogers* 174 (2015). The book devotes an entire chapter to Fred Rogers' empathy for animals. *Id.* at 157-68.

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