

# Letter to ABA Re: Resolution Concerning Private Possession of Wild Animals

**Animal Law Committee** 

February 2015



#### ANIMAL LAW COMMITTEE

\_\_\_\_

CHRISTINE L. MOTT CHAIR

Phone: (917) 364-5093

christine.mott.esq@gmail.com

LORI A. BARRETT

**SECRETARY** Phone: (347) 770-2473

Phone: (347) 770-2473 barrettlori@hotmail.com

February 3, 2015

# RE: Support for ABA Resolution 105 Regarding the Private Possession of Wild Animals

The Committee on Animal Law of the New York City Bar Association (the "Committee") respectfully submits this comment in support of the resolution by the American Bar Association, Tort Trial and Insurance Practice Section, Report to the House of Delegates urging all federal, state, local and territorial legislative bodies and/or governmental agencies to enact comprehensive laws that prohibit the private possession, sale, breeding, import, or transfer of dangerous wild animals, such as big cats, bears, wolves, primates, and dangerous reptiles, in order to protect public safety and health, and to ensure the humane treatment and welfare of such animals ("ABA Resolution 105").

The New York City Bar Association is an independent non-governmental organization of more than 24,000 lawyers, law professors and government officials, predominantly from New York City and also from throughout the United States and fifty other countries. The Committee is the first committee of its kind in the country and has a history of supporting federal, state and local anti-cruelty legislation. When warranted, our Committee has taken positions on various issues of concern involving the display, handling and treatment of captive wild animals.

## The Committee supports the adoption of ABA Resolution 105.

Despite the inherent predatory nature of these animals, lions, tigers, bears, wolves, monkey and dangerous reptiles are frequently kept as exotic pets in private homes and menageries across the



United States. These scenarios create a serious public safety risk to all involved – both human and animal.

There are no federal laws that regulate or prohibit keeping exotic animals as pets. Currently, the only federal laws that pertain to wild animals primarily regulate the importation of exotic animals into the United States, and related commerce, but not private possession. Regulation of the private possession of wild animals therefore falls to state and local government. At least twenty-one states and Washington, D.C. currently prohibit private ownership of certain wild animals as pets. Additionally, many municipalities, including New York City, have such bans. However, there remain a number of jurisdictions in which there are no laws regulating the private possession of dangerous wild animals.

Due to the inherent animal welfare and public safety concerns associated with the private possession of dangerous wild animals such as big cats, bears, wolves, primates, and dangerous reptiles, the Committee supports the adoption of ABA Resolution 105.

### Animal welfare concerns

A prohibition on the private possession of wild animals would ensure the humane treatment of wild animals that, by their nature, are not meant to live as pets. Keeping wild animals in captivity is inherently cruel, as it deprives them of the ability to freely engage in instinctual behaviors in their natural environment. Captive wild animals are frequently obtained through poaching and wild capture.<sup>3</sup> Additionally, young wild animals sold as pets are often forcibly and prematurely separated from their mothers prior to weaning, which can cause physical and psychological trauma.<sup>4</sup>

<sup>&</sup>lt;sup>1</sup> See, e.g., Animal Welfare Act 7 USC sections 2131-2156 (1996 and as amended) (regulates auction markets that sell exotic animals and commercial transport of exotics; requires individuals who exhibit, breed or deal in captive wild animals to obtain a license and comply with minimum standards of care), Endangered Species Act, 17 USC section 1538 et seq. (illegal to possess, sell or buy endangered species), the Public Health Service Act, 42 USC 289d (prohibits importation of non-human primates), the Lacey Act,16 USC section 701; 17 USC sections 3371-3378 (permits prosecution of individuals who have illegally obtained exotic animals from another state or country), and Captive Wildlife Safety Act, S.269 and H.R. 1006 (bars interstate and foreign commerce of dangerous exotics).

<sup>&</sup>lt;sup>2</sup> See New York City Health Code section 161.01.

<sup>&</sup>lt;sup>3</sup> The Humane Society of the United States estimates that billions of wild animals are brought into this country each year, many of them bound for the exotic pet market.

<sup>&</sup>lt;sup>4</sup> See Testimony of Gail Golab, Ph.D., DVM, American Veterinary Medical Association (2008), <a href="https://www.avma.org/News/PressRoom/Documents/golab\_testimony\_080311.pdf">https://www.avma.org/News/PressRoom/Documents/golab\_testimony\_080311.pdf</a> ("To create suitable pets, baby primates may be taken away from their mothers when only hours or days old. Evolved to have continual body contact with their moms, infant primates will cling to towels or stuffed animals as substitutes, and both mothers and infants often exhibit signs of depression as a result of forced separation."); Karen Parker & Dario Maestripieri, *Identifying Key Features of Early Stressful* 



In light of the complex and significant physical and psychological needs of these animals when in captivity, most private owners are ill equipped to provide sufficient care to such animals.<sup>5</sup> As a result, privately held captive wild animals may be forced to live in deplorable conditions in contravention of the most basic animal husbandry standards,<sup>6</sup> deprived of appropriate nutrition, shelter, medical care and socialization.<sup>7</sup> In addition to the lack of adequate basic care, privately held captive wild animals may be subjected to inhumane practices and physically abused in an attempt to control or condition the animals to tolerate direct physical contact with people. In order to do so, owners may use extreme physical coercion<sup>8</sup> and body modification (such as painful declawing or defanging) that results in trauma, physical injury and, in certain circumstances, death.<sup>9</sup> Moreover, when private owners no longer wish to keep these wild animals, it can be very difficult to find appropriate placement for the animals. Many zoos are unwilling to take privately owned animals, and most animal shelters are not equipped to accept such animals. Accordingly, unwanted captive wild animals may languish without proper care, be abandoned into local communities, or be sold to canned hunting facilities.<sup>1011</sup>

Experiences, that Produce Stress Vulnerability and Resilience in Primates, Neuroscience and Biobehavioral Reviews Vol. 35, 1466-1483 (2011) ("the stress of early parental loss, neglect or abuse produces enhanced fear and anxiety, increased anhedionia, impaired cognition, abnormal brain neurochemistry and neurobiology, and alterations in baseline activity as well as stress reactivity"); Association of Zoos and Aquariums, Polar Bear Care Manual, http://www.aza.org/uploadedfiles/animal care and management/husbandry, health, and welfare/husban dry and animal care/polarbearcaremanual.pdf (recommending limited interference between a mother and her cubs and noting the prevalence of disease among hand-reared cubs) (all citations listed herein last visited January 15, 2015).

<sup>5</sup> Testimony of Gail Golab, Ph.D., DVM, American Veterinary Medical Association (2008), <a href="https://www.avma.org/News/PressRoom/Documents/golab\_testimony\_080311.pdf">https://www.avma.org/News/PressRoom/Documents/golab\_testimony\_080311.pdf</a> ("Most captive environments cannot meet the complex physical and behavioral needs of [captive primates]").

<sup>7</sup> Animals are often confined alone in small and barren environments that fail to meet their physical and psychological needs. *See* API Report at 12-13.

<sup>8</sup> Tactics used to control captive exotic animals may include confining the animal in a small, barren enclosure; chaining; or beating an animal "into submission." *A Life Sentence: The Sad and Dangerous Realities of Exotic Animals in Private Hands in the U.S.*, Animal Protection Institute (2007), p. 9, <a href="http://www.bornfreeusa.org/downloads/pdf/Exotic\_Pets\_Report.pdf">http://www.bornfreeusa.org/downloads/pdf/Exotic\_Pets\_Report.pdf</a> (hereinafter the "API Report").

<sup>9</sup> See Association of Zoos and Aquariums, White Paper: Apes in Media and Commercial Performances, <a href="http://www.aza.org/white-paper-apes-in-media-and-commercial-performances/">http://www.aza.org/white-paper-apes-in-media-and-commercial-performances/</a> (finding that "handlers of ape performers, often must use food deprivation, physical abuse, continuous tranquilization, or even electric shock to maintain control. Additionally, the animals may be modified to reduce their ability to cause harm, for example by removing their teeth" or claws.).

<sup>10</sup> Illicit dealers in the exotic pet trade often enable the acquisition of endangered animals for hunting. *See Canned Hunting in the United States*, Born Free USA, http://www.bornfreeusa.org/a9d\_hunts.php.

<sup>&</sup>lt;sup>6</sup> See Judge Grants Ben The Bear Permanent Sanctuary, Animal Legal Defense Fund (Aug. 2012), aldf.org/press-room/press-releases/judge-grants-ben-the-bear-permanent-sanctuary/ (a captive bear named Ben was confined to a barren concrete cage for six years before being released to a sanctuary).



## Public Safety Concerns

In addition to the animal welfare concerns, direct physical contact of the public with wild animals can undermine public health and safety. Big cats, bears, nonhuman primates and other wild animals are unpredictable by their very nature, and possession of these animals by private owners poses a serious threat to public safety. There have been many instances of captive wild animals attacking their owners and other people, resulting in hundreds of injuries and deaths to adults and children throughout the country. Additionally, certain wild animals have been known to carry serious diseases that can be transmitted to people, such as Ebola, rabies, pox viruses, Herpes B, Salmonella and multiple bacterial, viral, fungal and parasitic infections. 13

Recapturing escaped wild animals is expensive for municipalities and poses an unjustified risk to those individuals charged with their recapture. Police, firefighters and other rescue and emergency workers are also unnecessarily imperiled when, to perform their duties, they must enter private premises that contain wild animals.

#### Conclusion

For the aforementioned reasons, the Committee supports the proposed resolution.

Sincerely,

Christine Mott Chair, Committee on Animal Law

<sup>&</sup>lt;sup>11</sup> See API Report at 9.

<sup>&</sup>lt;sup>12</sup> See API Report at 33-40, 82-95; see also Exotic Animal Incidents, Born Free USA, http://www.bornfreeusa.org/database/exo\_incidents.php.

<sup>&</sup>lt;sup>13</sup> The National Association of State Public Health Veterinarians, *Compendium of Measures to Prevent Disease Associated with Animals in Public Settings*, CDC Morbidity and Mortality Weekly Report, Vol. 60(4) (May 6, 2011).