

Pound Seizure Bill, Adequate Veterinary Care and Investigating Animal Cruelty
Additional Topics covered at 2008 Animal Law Symposium

By

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“I am happy to say that the Ingham County Animal shelter banned pound seizure in 2003,” said Allie Phillips, currently Director of Public Policy, American Humane Association, a member of the Animal Law Section counsel, and co-founder of Friends of Ingham County Animal Shelter (FICAS). She was speaking to the attendees of the Animal Law Section symposium held on April 11, 2008.

Pound seizure is the sale or release of cats and dogs from a pound or shelter to a research, testing or educational facility. Pound seizure was successfully banned at Jackson County Animal Control in July 2006. “We (FICAS) are now working with volunteers in Eaton and Montcalm counties.”

Seventeen states prohibit pound seizure, three states (Minnesota, Oklahoma and Utah) require it and currently, Michigan has a statute that allows for it but does not require it. “Individual counties can decide on their own if they want to sell or give animals to Class B animal dealers. Class B dealers are ‘random source’ brokers of animals. These are animals that are not specifically bred for research, which are Class A brokers,” said Phillips.

“There are two random source dealers that broker live animals in Michigan. There are only 15 in the whole country and Michigan has two,” she added shaking her head.

Under Michigan law, shelters may sell to dealers for no more than \$10 per animal. In December 2007 the following Michigan counties were giving or selling animals to B dealers: Eaton, Gratiot, Mecosta, Montcalm and Osceola.

“We are lobbying to get a bill passed banning pound seizure,” said Phillips. “We have House Bill 5263, filed in September by Representative Coleman Young. It prohibits research facilities from acquiring a random source dog or cat for experimentation. It also prohibits animal shelters from providing or selling pets to dealers or research facilities.” Phillips urged shelter groups, individuals and organizations to help push the bill along.

Professor David Favre, MSU College of Law, the next speaker, has written several articles and books dealing with animal issues. He teaches Animal Law, Wildlife Law and International Environmental Law. His topic at the symposium was adequate veterinary care.

Holding up his newest book, Favre said, “I am proud of it as an individual, but I am also proud of it as a movement. Aspen publications, the publisher, is perhaps the most prestigious of legal publishers and two to three years ago they would not even have taken my phone calls. It is sign of the broadly growing social concern about animal issues. The size of the wave that is accumulating over the past five years is stunning.”

“The American Bar Association formed an animal law group four years ago,” he said. “The Association of Law Professors is just in the midst of forming an animal group as well because finally we have enough professors at the various law schools to form a core group. The awareness of the issues is global not just national. I have been asked by Universities outside the United States to deal with PH.D thesis on animal rights. I think we are at the threshold of significant legal change.”

“Today,” said Favre, “I will address the question: To what extent should the owner or keeper of an animal be charged with a duty to provide adequate care in the form of veterinary attention?”

Michigan’s anti-cruelty statute is a criminal law that provides “you must provide adequate veterinary care, whatever the term ‘adequate’ means.” Because it is a criminal law the punishment is fines, costs and imprisonment.

“I think,” said Favre, “that we need to go back to look at what we want to accomplish with the law. I think we want to support the health and well being of pets to the extent we can. We have to realize that what is practical and reasonable may vary.”

“I propose,” he concluded, “that we create a civil provision that allows humane societies to perform certain functions before we go to the criminal law. A person should be able to call the humane society to get information about diseases or conditions. The humane society should be able to investigate complaints and offer to provide care and information rather than worrying about seeking a criminal charge. If you have people really not doing the right thing—then we take away the animal after a court hearing.”

Deborah MacDonald, Humane Investigator, Michigan Humane Society, began her discussion noting that “Animal cruelty cases fall into two general categories—neglect cases or felonies cases such as dog fighting cases.”

“Unfortunately,” she said, “many of our cases sat in drawers in the past because of lack of support from the Prosecutor’s office. This situation has changed due to the greater cooperation between the Prosecutor’s office and the Humane Society.

Because dog-fighting cases are so involved, education was needed. “A volunteer organization was created to prosecute all pet care cases,” said Rajesh Prasad, Assistant Prosecuting Attorney, Wayne County Prosecutor’s Office.

“We contacted Debbie and police officers to educate them,” said Prasad. Many times an arrest for drugs or illegal firearms will reveal a dog-fighting ring. After alerting the officers what to look for, arrests increased.

Punishment for animal cruelty is “usually probation and the condition that you can not own a pet for five years,” said Prasad.

The Animal Law Section of the State Bar is the first bar association animal law section in the United States. For more information on the section, contact State Bar of Michigan.

