

**Animal Law Section
Annual Report
2002-2003**

Beatrice M. Friedlander, Chair

“The greatness of a nation and its moral progress can be judged by the way its animals are treated.” - Mahatma Gandhi. *Inscription on the Brandi Award, honoring law professionals who make outstanding contributions to animal law, presented to Honorable Steven R. Servaas and Honorable H. David Soet, by the Animal Law Section, September 26, 2002.*

“Until we have the courage to recognize cruelty for what it is--whether its victim is human or animal--we cannot expect things to be much better in this world.”
- Rachel Carson. *Inscription on the Sadie award, honoring non-legal professionals who make outstanding contributions to the betterment of animals, presented to the Michigan Humane Society Cruelty Investigation Team, by the Animal Law Section, September 26, 2002.*

These two awards at the Section’s annual meeting began a year which could aptly be summarized as “Back to Basics and Beyond.” Section Council members focused on the goals of the Animal Law Section while seeking to expand the organization’s scope and role in this growing field. Thus, several new projects were launched and other projects were re-invigorated.

Referrals: An informal but largely successful referral system was established by circulating requests for legal assistance on the listserv. Section attorneys responded, providing assistance in a wide variety of areas, reflecting the broad scope of animal law. A sample of the problems addressed included: threatened eviction of an individual in federally funded housing who had a cat in violation of a no-pets clause; death of a dog left in the care of a kennel; death of a cat by dogs roaming at large; death of a service dog while traveling in the passenger compartment of an airplane; advice on creating a humane society; representation of an animal rescue group seeking to enforce its adoption contract; geese being disturbed by firecrackers; advice to humane society volunteer who was discouraged by people reporting animal cruelty complaints but not pursuing them to conclusion; individuals concerned about an unlicensed rescue group; advice and counsel about a lack of official response to cruelty complaints involving horses. Often people who call are upset and in emotional turmoil. The Section considers providing an effective and expeditious referral system – whether the client needs one-time advice, referral to the appropriate agency, or actual representation – to be a priority, and one that deserves continuing attention and refinement.

Pro Bono Project: Related to the referral system, but a new area of focus was the development of contacts with the Bar’s Pro Bono Involvement Committee. This project, headed by Section member Michelle LeVeque, educated committee members about the importance of including legal matters involving animals. In support of its request, the Section provided the Committee with a description of the variety of legal matters that “animal law” encompasses; noted that animal law is a recognized area of law by an

increasing number of law schools and legal scholars; that animals are of great importance in the lives of many people, including those eligible for pro bono services; and that the treatment of animals by the legal system is ripe for judicial consideration, with pro bono legal assistance programs historically providing the resources to litigate such cases that otherwise likely would not be brought. At this writing, the Section has been advised that the existing program in Michigan would encompass direct delivery of pro bono legal services, including animal issues, to the poor. Services to non profit animal welfare and like organizations are not within the pro bono definition. However, one section member offered to review the adoption contract of a small non profit animal welfare organization, and was able to work informally with a legal services agency that provided limited support and recognition to the attorney for her hours.

Committees: The existing Legislation Committee was more active this past year. Chaired by Thomas Boven, the committee members worked to develop relationships with legislators and others involved in legislation concerning animals. Section members can provide expertise and innovative ideas, and anticipate playing a role in future legislation which is expected to be introduced on topics as diverse as creating special license plates for spay/neuter and anti-cruelty programs, requiring cross reporting of animal cruelty and child abuse incidents, amendments to the Dog Law and anti cruelty statutes, increasing the effectiveness of existing regulation of Pet Shops and Animal Shelters, and allowance of reasonable non economic damages in certain instances when a companion animal is killed or injured by negligent or intentional acts of another. In the legislative session ending December 2002, the Section Council opposed HB 5478, to delegate to the Natural Resources Council authority to add animals to the state's game list, on the basis that it was an improper delegation of authority and that the existing division of power between legislative and executive branches to "list" species and to "regulate their taking" was an appropriate exercise of the balance of power. Council support was given to HB 6289 which would have strengthened the authority of the Department of Agriculture to regulate Pet Shops and Animal Shelters. Neither bill passed.

The Legislative Committee has expanded its scope to consider federal legislation. The Section Council approved contacting the Michigan delegation to request co-sponsorship of HR 1472, which would prohibit bear baiting on federal land; and sent letters commending Senator Levin for his co-sponsorship of S 736 (Animal Fighting Prohibition Enforcement Act), and S 269 (Captive Wildlife Safety Act), and for his support of increased funding to enforce the Animal Welfare and Humane Methods of Slaughter Acts, two crucial pieces of animal protection legislation. Legislative Committee member Deb Niehuus prepared and submitted a comment on proposed regulations of the airline industry designed to increase the safety of companion animals who are being transported. At this writing, the Section is preparing a comment in support of a proposed amendment to Animal Welfare Act regulations which would require more stringent record keeping by research facilities, dealers, and exhibitors of the veterinary care given animals, in order to ensure that animals receive adequate care, and to allow better assessment of that care. Paralegal Terri Cordrey has assisted the Section by screening proposed regulations for those of potential interest to the Section.

Local laws are also within the scope of this committee: the Section has been asked to review a proposed Animal Ordinance for the City of Ann Arbor. This is an area in which Council members Boven and Wanda Nash have particular expertise, having

drafted a Model Animal Control Ordinance, available on the Section's website. The Section also has been asked for comment on, and is reviewing the legal issues raised by, the practice in a few Michigan localities of pound release, in which animals in government run facilities are sold for research.

The Newsletter Committee is co-chaired by Deb Ness and Linda Howell. Their goal is to continue publication on a regular basis and to solicit articles of substance and use to practitioners.

This year saw the creation of the Prosecutors Committee headed by Council member David Wallace. Its members include both elected prosecutors and assistant prosecutors. The committee has ambitious plans to educate prosecutors and judges, serve as a resource to prosecutors, and to produce a handbook for use in animal cruelty prosecutions. Other possible activities include a seminar. This Committee has established contacts with a national organization, with the Michigan Humane Society cruelty investigators and with another section member who works at a district court which prosecutes many such cases. The Committee has enlisted the assistance of a veterinarian in developing guidelines for assessing animal cruelty.

Education: Another vital element of the Section's work is education. In March, the Section presented its second annual Symposium, co-chaired by Wanda Nash and Suzanne Stephan, which featured national speakers on two important issues. Vermont veterinarian and attorney Peggy Larson's topic was "Animal Concerns are Legal Issues" and she used the example of the rodeo to illustrate her thesis. Psychologist Mary Lou Randour of the Doris Day Animal Foundation spoke on "Cruelty: Fixing the Link between Animals and Children," and discussed the two treatment models she has developed for adults and children. Professor David Favre spoke on "A New Tort for Animals" which he first presented at the Harvard Law School Symposium on the Emerging Legal Rights of Chimpanzees in September 2002. His thesis is that the law should recognize a new tort, "intentional interference with a fundamental interest." Of note was the significant number of attendees not only from other State Bar sections, but also from the veterinary medicine field. Plans are underway for the third Symposium set for March 2004 on the topic of representing non profit animal welfare organizations.

The Section also will be contacting various local and county attorneys to let them know of the availability of the Model Animal Control Ordinance.

The Section developed a prototype Law Day Program on the linkage between animal cruelty (especially among juveniles) and violence toward humans. The program would be presented to middle school students and incorporates a short Public Service Announcement on the topic to stimulate interest and participation by the students.

Outreach: The Chair spoke at the first meeting of the Student Animal Legal Defense Fund at DCL/MSU in September. The Section was asked to provide a representative, and has appointed the Chair, to sit on the Michigan Department of Agriculture's Companion Animal Advisory Committee. The Companion Animal section regulates Pet Shops and Animal Shelters, and enforces the Dog Law of 1919 and Dog Identification (tattooing) legislation. The Advisory Committee, which includes Animal Control Officers as well as representatives from the regulated entities, provides recommendations to the department for legislation.

Section members have been interviewed for stories by Michigan Lawyers Weekly on pet trusts and (although not yet published) on the new Prosecutors Committee.

Because Animal Law is a new area of the law which generates controversy and passion, the Section Council has followed with interest proposed revisions to the State Bar Bylaws governing public statements by Sections. In particular, Council Members Barbara Goldman and Donald Garlit have provided suggestions and comments about the proposed language.

On the horizon is the possible formation of a national coalition of Animal Law Sections and Committees from state and local bar associations. Participation in such a group would provide additional ideas and the increased networking opportunities.

Retreat: The Section held its 4th annual retreat in May, at SASHA Farm. This is a sanctuary for over 200 rescued animals, mainly farmed animals, located in Manchester. Section Council members were given a tour of the facility, one of the largest in the Midwest. Since the vast majority of us spend our days in offices, and most of us live in urban or suburban areas, this experience was unique in giving us direct contact with some of the animals whose lives we seek to improve but who often are hidden from our sight.