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Police Officers and Dog Shootings – Everyone Loses

By Ann Griffin

There are no reliable statistics regarding the number of dogs shot and injured or killed by law enforcement. However, one Justice Department representative calls such encounters an “epidemic” and estimates that law enforcement officers fatally shoot 25 to 30 dogs per day.¹

These cases receive intense scrutiny from the media and the public and can be both a public relations nightmare and an economic liability for law enforcement. There is a growing body of case law in which dog owners have successfully sued for violations of their Fourth Amendment rights and have received significant settlements and verdicts despite defendants’ assertions of qualified immunity.

Arguably, *San Jose Charter of the Hells Angels Motorcycle Club v. City of San Jose*² was the case that first attracted significant attention to the issue of law enforcement officers shooting dogs. In that case, the police were executing warrants on several Hells Angels properties searching for evidence in a murder investigation, and in the course of executing the warrants, they shot and killed three dogs. The owners sued, and the defendants claimed qualified immunity. The Ninth Circuit allowed the case to proceed to trial,³ and the U.S. Supreme Court refused to hear an appeal. Defendants Santa Clara County and San Jose paid settlement amounts of \$990,000 and \$800,000 respectively. (Other municipal defendants Santa Clara and Gilroy had previously settled for a total of \$50,000.)⁴

In more recent cases, two courts were similarly not persuaded by claims of government immunity. In *Flint v. City of Milwaukee*,⁵ two of the plaintiff’s dogs were killed by police executing a warrant at her home. The federal district court refused to grant summary judgment to the defendants based on their claim of qualified immunity. The court stated that “[a] court must answer two questions to determine if qualified immunity applies: first, whether a constitutional right ‘would have been violated;’ and second, ‘whether the right at issue was clearly established at the time and under the circumstances presented.’”⁶ Citing the human-animal bond, the court held that the unreasonable killing of a companion animal is a Fourth Amendment seizure.⁷ Whether killing the dogs was reasonable in this case was a question that the court held was best left to the jury as it required findings of fact. Based on its review of the authority on the issue, the court held that the constitutional right was clearly established at the time the dogs were killed.⁸

In *Mayfield v. Bethards*,⁹ the U.S. Court of Appeals for the Tenth Circuit upheld the district court’s denial of the defendant’s motion to dismiss based on a claim of qualified immunity.¹⁰ In *Mayfield*, two deputies stopped at the plaintiffs’ home, and the plaintiffs’



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Co-Editor's Note

Welcome to the third issue of the Newsletter for 2017. We are now in our 22nd year as a section. The Section had its initial official meeting at the 1995 State Bar of Michigan Annual Meeting. Our Section is the first state-wide animal law section in the United States, something that we can all take pride in.

Our lead article is on dog shootings by police and related case law. There is also an analysis of a recently decided case in US District Court involving the shooting of several dogs by police officers in Detroit.

Celeste Dunn contributes an article about a legal battle to save three dogs. We covered part of this effort in the prior issue. Celeste describes the efforts of the legal team, with support from Section members, that ultimately saved these dogs.

We have articles on several other topics such as recent Animal Law News (many short articles), the financial report for the section, and the Nominating Committee's report on candidates for the Section Council. Please see the calendar of recent events on the last page to get an idea of the high level of interest in animal law across the country.

We continue to print the issue in all color including photographs and graphics. We are using better quality paper. This greatly increases the visual appeal of the Newsletter. The photographs are much clearer with this approach.

As always I will make my standard request: please remember that this is your newsletter, too. Helpful articles are always needed. In fact, if we can get one good main article for each issue, we can do the rest. Please consider writing an article that will be of interest to your fellow Section members.

I have had several members suggest or volunteer articles and I am looking forward to these articles.

Donald Garlit, Newsletter Co-Editor
donaldgarlit@yahoo.com

Police Officers and Dog Shootings ... *continued from page 1*

two dogs were on their front lawn. Although the dogs were not aggressive, both deputies immediately opened fire on them, and one of the dogs was killed.¹¹ Applying a similar analysis to the one the court utilized in *Flint*, the court held that the plaintiffs' "[c]omplaint asserts facts sufficient to show a violation of their clearly established Fourth Amendment rights."¹²

In a departure from the preceding cases, in *Brown v. Battle Creek Police Department*,¹³ the U.S. Court of Appeals for the Sixth Circuit affirmed the district court's decision that the defendants were entitled to qualified immunity.¹⁴ The defendants shot and killed the plaintiff's two dogs in the course of executing a search warrant looking for evidence of criminal activity being engaged in by Vincent Jones, a primary target of the city's gang squad.¹⁵ The court applied the same two-pronged test cited by the *Flint* court to determine whether the defendants were entitled qualified immunity.¹⁶ Regarding whether a constitutional right was violated, the court stated, "In line with every other circuit that has addressed this issue, we hold that a dog is property, and the unreasonable seizure of that property is a violation of the Fourth Amendment."¹⁷ The court held that the right was recognized in 2013 at the time the dogs were killed.¹⁸

The court held that the defendants' actions in this case were reasonable based on a number of factors, which the court summarized as follows:

[T]he officers here confronted two large pit bulls for the first time in an unsupervised environment where they were unleashed and in an enclosed space with the officers. Given Jones' criminal history, gang affiliations, the types of drugs he was suspected of distributing, the fact that the officers had no time to plan for the dogs, in addition to the officers' unrebutted testimony that the dogs either lunged or were barking aggressively at the officers, the nature and size of the dogs, the fact that the dogs were unleashed and loose in a small residence, all culminate into a finding that the officers acted reasonably when they shot and killed the two dogs.¹⁹

As a result, the Court of Appeals affirmed the district court's decision that defendants were entitled to qualified immunity.

Unlike other types of cases where courts may pay lip service to the value of companion animals and the strength of the human-animal bond but restrict damages for the injury or loss of a pet to the animal's fair market value, plaintiffs have successfully sued law enforcement, cities, and counties and received significant financial settlements and verdicts when their dogs are shot and injured or killed by law enforcement. Many courts considering such cases have cited a lack of training for law enforcement officers on how to deal with animals they encounter in the field, and in response, training programs have been introduced. For example, the Department of Justice Community Oriented Policing Service (COPS) collaborated with the National Canine Research Council and Safe Humane Chicago to provide *Police and Dog Encounters: Tactical Strategies and Effective Tools to Keep*



Our Communities Safe and Humane, an on-line training in the form of five ten-minute videos.²⁰ The Michigan Humane Society offers *Animals in the Field*, an Michigan Commission on Law Enforcement Standards approved eight-hour training to law enforcement and animal control officers at no cost.²¹

For the safety of the officers and the human and animal members of the community, discharging a firearm at an animal should be a last resort. Increased awareness of this issue, coupled with education and training, should reduce the number of incidents where law enforcement officers shoot and injure or kill companion animals. 🐾

Endnotes

- 1 David Griffith, *Can Police Stop Killing Dogs?*, Police Patrol, October 29, 2014, <http://www.policemag.com/channel/patroll/articles/2014/10/can-police-stop-killing-dogs.aspx>.
- 2 *San Jose Charter of Hells Angels Motorcycle Club v. City of San Jose*, 402 F.3d 962 (9th Cir. 2005).
- 3 *Id.*
- 4 *Supra* note 1.
- 5 *Flint v. City of Milwaukee*, 91 F.Supp.3d 1032 (E.D. Wisconsin 2015).
- 6 *Id.* at 1037 (citations omitted).
- 7 *Id.* at 1042.
- 8 *Id.* at 1049.
- 9 *Mayfield v. Bethards*, 826 F.3d 1252 (Tenth Circuit 2016).
- 10 *Id.* at 1255.
- 11 *Id.* at 1254. The deputy who shot and killed the plaintiffs' dog argued that shooting the dog was reasonable because the dog matched the description of one that had attacked a neighbor's livestock, and a state law permits anyone to kill a dog attacking livestock.
- 12 *Id.* at 1259.
- 13 *Brown v. Battle Creek Police Dept.*, 844 F.3d 556 (6th Cir. 2016).
- 14 *Id.* at 561.
- 15 *Id.*
- 16 *Id.* at 565.
- 17 *Id.* at 566.
- 18 *Id.* at 567.
- 19 *Id.* at 572.
- 20 The videos may be accessed on line at no cost at <http://cops.igpa.uillinois.edu/resources/police-dog-encounters>.
- 21 Additional information about the MHS program is available on line at <http://www.michiganhumane.org/what-we-do/humane-education/law-enforcement-training.html>.

Animal Law Section, State Bar of Michigan 2017 Nominating Committee Report, July 28, 2017

Officers

Pursuant to Section bylaws (Article III, Sections 3 and 4), officers are to be elected annually and may serve for no more than two consecutive terms. The Chair, Chair Elect and Secretary are eligible for another term and accordingly are recommended as a slate for re-election at the 2017 annual meeting; the Treasurer is term limited and the service of Donald R. Garlit in that position is recognized with appreciation:

Chair: Ann M. Griffin (incumbent)
Chair Elect: Alice Anna Phillips (incumbent)
Secretary: Jennifer L. Pierce (incumbent)
Treasurer: Anna Marie Scott (new)

Council

There are three council positions expiring in 2017; Scott is currently a council member with term expiring 2018, and her partial term needs to be filled.

The service of Rajesh Krishna Prasad and Andrea Lynn Sebring (whose terms expire in 2017) is recognized with appreciation. Current council member **Meredith R. Sharp** is eligible for another term and has agreed to be nominated.

The Committee recommends the following nominees for Section Council, term expiring 2020:

Joshua Cooper Holman, P71971, Assistant Prosecuting Attorney, Wayne County, member of Animal Protection Unit, jholman@waynecounty.com: *I am very interested in having a direct effect on some of the laws that affect animals in our state. I have worked a number of cases as a prosecutor that protect the welfare of these animals, but there have been some scenarios where I have felt powerless, where the law does not speak to the problems they face. My hope is that a spot on the Law Section Council might lead to some real legitimate differences for the victims who cannot speak for themselves.*

Donald R. Garlit (formerly Treasurer)

The Committee recommends the following nominee for Section Council, partial term expiring 2018:

Kate Brindle*, katebrindle@yahoo.com: *I am interested in continuing my advocacy for animals while also learning more about animal law. I am particularly interested in the Section's education and legislative efforts, and I would like to volunteer to help the Council in its*

supervision of the Section. As a recent law school graduate, I also look forward to the opportunity to network and develop my leadership skills. I have a lot of energy to devote to animal protection, and I would be honored to serve on the Council. Thank you for your consideration.

Nominees who have not served before (Holman and Brindle) have submitted the following information:

1. Resume
2. Date admitted to the bar
3. Amount of time as an Animal Law Section member
4. List the involvement in animal advocacy activities, committee participation, authored articles both as an individual and as a member of the Animal Law Section
5. Short explanation of interest in the Council position (100 words maximum)—see above

- * Passed bar 2017; admitted to Bar, Hon. Timothy P. Connors, Washtenaw County Circuit Court, June 9, 2017; will be member of SBM by September 29, 2017 date of Animal Law Section annual meeting and election. 🐾

Respectfully submitted,

Jennifer L. Pierce
Beatrice M. Friedlander
Nominating Committee



Vote



NEXT

C O N F E R E N C E

SBM
STATE BAR OF MICHIGAN
ANNUAL MEETING

September 27-29, 2017

Cobo Center, Detroit



Opening Keynote

Dan Abrams

THURSDAY, SEPTEMBER 28
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Federal Eastern District of Michigan Court Rules that Unlicensed Dogs are Contraband

By Ann Griffin

In January 2016, five Detroit police officers and one sergeant were conducting a drug raid on a house in Detroit. The house was occupied by Nikita Smith and Kevin Thomas, who were squatting in the residence. There were three dogs in the house with them, including Debo (a nine-year-old “pit bull”), Smoke (a seven-year-old Rottweiler), and Mama (a seventeen-month-old pregnant “pit bull”). The dogs were not licensed.

When they received the original complaint regarding drug activity at the location, the police were told that there may have been a small dog on the premises. They were not aware of the presence of three large dogs until they arrived on the scene. The pre-raid plan on how to deal with the dogs focused on either kicking them out of the way or shooting them.

The police executed the knock-and-announce warrant. Smith testified that she saw them coming and put Debo and Mama in the basement and pushed the stove in front of the basement door. Smoke was in a bathroom behind a closed door. As the police entered the house, Debo escaped from the basement. Although Smith disputed their claims, officers testified that Smith was not able to control Debo, who charged at the officers. One of the officers shot Debo at least seven times, and he died at Smith’s feet.

The police testified that they heard Smoke barking in the bathroom as they were searching the house. One of the officers opened the bathroom door to see if anyone was in the bathroom with the dog. He said he observed the dog behaving viciously and aggressively, and he said the dog was barking, all of which Smith denied. Three of the officers testified that Smoke opened the bathroom door by himself, although that information does not appear in any of the police reports.

Smoke became stuck between the inward-opening door and the vanity in the bathroom, and the officers testified that they shot him to prevent him from leaving the bathroom. One of the officers later entered the bathroom and administered a fatal shot, as the earlier shots left Smoke alive and suffering.

The officers continued to clear the residence. They encountered Mama on the basement stairs and said that she bared her teeth and charged them. An officer shot and killed her. Smith did not see what transpired when the officers encountered Mama and could offer no testimony on that point.

Testimony and records showed that three of the officers were responsible for the prior killings of more than 100 dogs.

Among other state and federal claims, the plaintiffs sued the police officers and sergeant under 42 U.S.C. § 1983 for the unlawful seizure of their dogs under the Fourth Amendment. They filed their complaint with the U.S. District Court for the Eastern District of Michigan, where it was assigned to Judge George Caram Steeh. The defendants brought a motion for summary judgment, which included ten arguments. The first and most legally significant of these arguments was their assertion that the plaintiffs did not have a property interest in their dogs because they were unlicensed in violation of Michigan and City of Detroit law.

Regarding this argument, the court cited *Brown v. Battle Creek Police Department*, 844 F.3d 556, 566 (6th Cir. 2016) for the proposition that animals are property protected from unreasonable seizure by the Fourth Amendment. However, the court cited two U.S. Supreme Court cases holding that there cannot be a legal property interest in contraband, which the instant court defined as “[a]ny property that is illegal to produce or possess.”

Source of photos: Court Filing from Attorney Christopher Olson



Debo



Mama



Smoke

The court cited Michigan statutes and City of Detroit ordinances that make it a misdemeanor offense to own an unlicensed dog. While acknowledging that “there is no prior case that explicitly designates unlicensed dogs as contraband or provides that there is no legitimate possessory interest that can be protected by the Fourth Amendment in an unlicensed dog,” the court did point to dicta in an unpublished opinion from the Northern District of Illinois where the court posed the question of whether the plaintiffs in that case could have a legitimate possessory interest in an unlicensed dog.

Finally, the court drew an analogy to a 7th Circuit case where the court held that a plaintiff did not have a protected property interest in an unlicensed machine gun, saying

that the dogs in this case pose a threat similar to that posed by an unlicensed gun.

The court granted the defendants’ motion for summary judgment on the § 1983 claim on the argument that the plaintiffs did not have a legal property interest in their unlicensed dogs. However, because that was an issue of first impression, the court also conducted the traditional analysis of whether the seizures – in this case, the killing of the three dogs – were reasonable. After examining the testimony regarding each of the shootings, the court held that the shootings were reasonable.

The plaintiffs have appealed this decision, and we will report on future developments in this case. The full order and opinion may be found on the Animal Law Section’s website at <http://connect.michbar.org/animallaw/communityresources/ourlibrary> in the folder labeled “Cases of Interest.” 📌

Three Dogs in Ionia County—How They were Saved

By Celeste Dunn

(Co-Editor’s Note from Donald Garlit: I asked section member Celeste Dunn to describe her thought process, hard work, and legal effort which resulted in saving three dogs in Ionia County earlier this year. Celeste was the main attorney throughout. However, she will be the first to state that it was a team effort. Many people were involved. We published an article in the last issue (“Section Members Save Three Dogs Condemned to Death” in the Early Summer 2017 issue) which briefly discussed the background to the case and the eventual resolution. This article will give you much insight into Celeste’s approach and thinking throughout the case. It was a difficult situation from the beginning. I am still amazed that Celeste prevailed for the dogs. It was not easy. She never quit!

Read Celeste’s story and you will get some idea of the effort and sometimes near insurmountable obstacles she faced. This is more than a legal article. It is a narrative of perseverance.)

The Beginning

It was Saturday, the third week in January. I received a phone call from Kelley LaBonty from the Detroit Animal Welfare Group. Kelley explained that a veterinarian in Ionia County sat in on the appellate hearing involving three dogs accused of killing three goats and a cat. The dogs are sentenced to death. The veterinarian thought something was terribly wrong. The guardians of the dogs were representing themselves. One of the guardians was an Iraq War veteran and Purple Heart recipient and these dogs were recommended by Wounded Warriors. Did Kelley know of anyone who could help? Yes, of course, I responded, give me the guardians’ phone number.

The procedural situation presented a poor outlook. The alleged killing of the goats and the cat occurred on July 8, 2016. The District Court Trial Judge ordered the dogs be euthanized. There was then a subsequent FOIA request. A first appellate brief, an amended appellate brief, and then the oral argument followed. The Ionia Circuit Court Judge sitting as

the Appellate Court affirmed on January 20, 2017. What am I going to do with this? Think, Celeste.

The dog guardian explained the FOIA request. After the July 2016 trial, the original FOIA response contained relatively little information. Then, two weeks later, an affidavit was produced from the Chief Animal Control Officer of Ionia County. She attested that based upon her investigation, the dogs didn’t do it. There was no blood or forensic evidence on the dogs she stated. Animal Control concluded the dogs were not the perpetrators; the dogs didn’t do it; Animal Control didn’t want them destroyed. Huh? This makes no sense. If Animal Control didn’t think the dogs did it, how does the case proceed? “Give me everything” I told the owner. She faxed the material to me at 3 AM one morning.

I started with the trial transcript. No one testified the dogs did it. The Prosecutor opened that the dogs did it, the dogs were found in the pen with the dead goats. No one on direct testified that the dogs did it; causation was skirted; that the dogs were found in the pen with the goats was the only information gleaned. The Chief Animal Control officer

was not called as a witness. Wait. Who signed the Summons and Complaint that is required to be sworn? This person was a different, subordinate animal control officer. The basis of the sworn Complaint was: “the dogs were found in the pen with the dead goats.” That Animal Control officer didn’t testify that the dogs did it. Another responding animal control officer testified but not that the dogs did it. Yet, the dogs being in the pen with the dead goats was sufficient to persuade the Judge that these dogs should be euthanized. It didn’t make sense.

Assistance is Found

I needed help. Don Garlit and Bee Friedlander, I need your help. I am on appeal; I am not an appellate attorney. I was told: Call Barbara Goldman; I did. Barbara stated stay at the appellate level and file the motions there. David Draper, my longtime friend and someone who is often coerced into helping me on an animal rights issue, said he would jump in. Don and Bee immediately started putting me in touch with attorneys who could help.

First thing, we need time. The dogs were to be euthanized forthwith. We filed a Motion for Reconsideration and attached the affidavit of our star witness. The reconsideration stays the order. The owners were required to house their dogs at animal control. The bill was already about \$8,000.

MCL 287.286a doesn’t give the prosecutor the authority to remove the dogs and house them; only MCL 287.322 has such a provision. Owners were charged under the former. It is another twisting of the statutory scheme. We filed an immediate Motion to Release the dogs.

The newly discovered evidence, the affidavit of the Chief of Animal Control, a Motion for Relief from Judgment filed and dismissal requested, or alternatively, new trial. Don and

Bee, I need more help. Will the Animal Law Section of the State Bar of Michigan be interested in filing an amicus brief? The facts are outrageous. We have innocent animals scheduled to die. The injustice of it all; including apparent prosecutorial overreach. Bee and section chair Ann Griffin are on it. A quick vote from this section gives the go ahead. Mary Chartier graciously offers to write the brief. She is a genius angel to me.

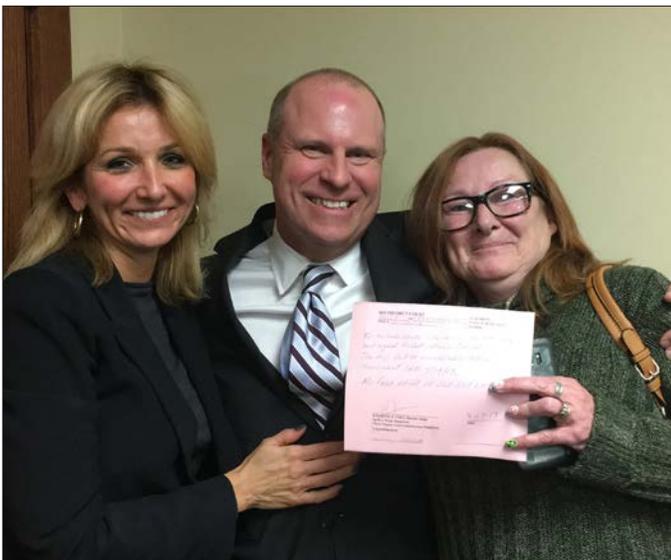
The first hearing on the reconsideration and the release of the dogs occurs. Both denied. The latter the appellate Judge claims the court doesn’t have jurisdiction over. Refined in District Court. The District Judge denies the Release (clear error), but references the need for a new trial. Draper instinctively jumps on that: Yes, motion pending. The Amicus Brief, the Motion for Relief from Judgment were sitting at the Appellate Court. The District Judge grants a new trial. The Prosecutor requests the bond be increased to \$20,000. He wants to knock the owners out of the box as he knows they won’t be able to afford the bond. The District Judge denies the request. What I don’t know at the time, as the anger flows through me, is that the request for the bond increase reveals to me sometime later the exact opposite of the empathy that I was experiencing.

We need to get the case from the Appellate Court back to the District Court. Mary? Remand? Yes, Celeste. And it sits. We need the Appellate Judge who has denied every motion to agree to remand the case. After another oral argument, he agrees. We have our new trial. I am reminded that the bill owed to Animal Control was growing and was now around \$8,500.

Experts and the Long Trial

I can’t focus on the bill to the county. I have to prepare for trial. I need veterinarians to look at this. I need experts. I surf the internet for forensic veterinarians. Dr. Julie Howenstine comes up. Veterinarian, serologist, criminologist, and based in Michigan. I have no idea; is she right? Ironically, through some of my pro bono work, there is a certain connection or two with animal experts. Dr. Howenstine and Dr. Ann Cavender are recommended. Dr. Cavender, forensic veterinarian, doctorate and masters in forensic veterinary science – also based in Michigan. Perfect. I want a behavioralist as well. Dr. Andrea VanSteenkiste is an expert behavioralist and expert in depredation (didn’t know what that was at the time) and from Michigan.

None of the doctors knew of each other or consulted with each other, yet all three gave me the same opinion: the dogs didn’t do it. There was no blood evidence, no blood stains, the bites were typical coyote, one atypical coyote, and one atypical dog. The behavior patterns of the kills match coyote. I went to Ionia on a Sunday before trial, interviewed witnesses, mapped sightings of the dogs throughout the day; ironically, I see a coyote walking down the road in the middle of the day. I have never seen a coyote before. Draper meets me and drives the route as well.



(L-R) Attorneys Celeste Dunn and David Draper with dog guardian, Susan Owen, after court ruling

Photo courtesy of Mary Chartier

The date of trial comes, it is April 17, 2017 and we start at 1 PM and close at 11 PM. The prosecutor has a furbearer expert from the Michigan DNR who says the dogs probably did it but he will defer to the doctorate level experts who are serologists, forensic experts, behavioral and depredation experts. I still don't know what a "furbearer expert" is. It is one of those things that when you are told or it is explained you pretend to understand, and yet walk away stating "what is a furbearer expert?"

Dr. Cavender walks in with a signed blank check. What's this for? "You have to get those dogs out of there," she responds, "write any amount on that check you need to do that."

We had five live witnesses, and three experts. They were there all day. Pizzas were ordered. Besides the furbearer expert, no new testimony was provided by the prosecution, despite presenting 7 or 8 witnesses of his own. It was all the same: the dogs were found in the pen with the dead goats. However, another revelation, the goat owner may have told a county commissioner that he in fact placed two of the dogs into the pen. He admits to having the conversation but doesn't recall the substance.

David Draper and I tried the case. Mary Chartier and my husband, attorney Charles Dunn, watched and helped all the

way through the day. We were successful and the dogs were saved. It was the right result and the right thing to do. Mary Chartier was an integral and invaluable participant in this process. I know both Dave Draper and I can't thank Don, Bee, Ann, Mary and all other section members for their support of this issue. And, of course, my husband who unequivocally supports and participates in helping the voiceless and helped me throughout this case.

Postscript

This case continues though beyond the trial of these dogs. The Chief Animal Control officer was terminated from her position in June 2017. She stood up for the truth. 🐾

About the Author

Section Member and Article Author Celeste Dunn has been practicing law since 2000 specializing in civil litigation and family law. She practices Animal Law pro bono and helps many low income families defend dangerous dog cases as well as no kill rescue groups on a myriad of issues. She considers herself a lawyer for the animals.



Upcoming Events

September 6 and 7, 2017 (7 PM Australian EST)

Free Webinars on Law and Animal Sentience given by Global Animal Welfare Authority (see details at <http://globalanimalwelfare.com/event-details/>) – Note time carefully and confirm as Australian EST is 14 hours ahead of US EDT

September 29, 2017 (10 AM to Noon)

Animal Law Section Annual Meeting during the State Bar of Michigan Annual Meeting at Cobo Hall, Detroit

October 13-15 2017

25th Animal Law Conference, Animals, Law & Culture in Portland, Oregon (complete details at – <http://animallawconference.org/>)

November 15-17, 2017

7th Annual National Animal Cruelty Prosecution Conference in Portland, OR (complete details at <http://www.apainc.org/animal-cruelty-prosecution-project-events/>)



Recent Animal Law News

By Donald Garlit

Co-Editor's Note: *The news below includes brief summaries of important and newsworthy items of interest. We chose these as being of most interest to our members. Many items are now appearing in the legal and national press and not all can be included.*

You will see that some items cover situations in countries other than the United States. Improving conditions for animals is achieving worldwide interest.

Additionally, we will continue to discuss recent cases which have involved dog attacks and animal cruelty which have resulted in serious charges against the owner/guardian – although none appear in this issue. It appears that prosecutors are taking these situations much more seriously especially when there is a past pattern of dog aggression or animal cruelty.

State of Illinois Bans Travelling Elephant Acts Beginning in 2018

Illinois Governor Bruce Rauner signed a bill banning the use of elephants in traveling circuses and semi-permanent exhibits in early August. The ban commences in 2018. Illinois is the first state in the nation to ban the use of elephants and the first to ban the use of animals in performing acts. The vote in the legislature was 91-14 in the House and 55-0 in the Senate. Elephants in zoos are not affected by the law.

Source is the Springfield Patch at: <https://patch.com/illinois/springfield-il/illinois-first-state-ban-circus-elephants>

ABA House of Delegates Approves Resolution Regarding Community and Free-Roaming Cats

The ABA House of Delegates supported Trap-Neuter-Vaccinate-Release (TNVR) programs for free-roaming cats in mid-August. Resolution 102B calls for actions at the state and local levels to implement the programs. Passage of the resolution should help the establishment of a legal and humane framework for the cats who are estimated to have a population of 30+ million in the United States.

Section member Richard Angelo was an important member of the team that worked to get the resolution passed. Richard wrote the lead article in the last issue of the Newsletter (“Animal Law, Cats, and Me – Working as a Legislative Attorney for Best Friends Animal Society” in the Early Summer issue). A press release with full details should be sent to state-wide animal law sections soon. We expect to have an article with more details in the next issue of the Newsletter.

Source is ABA Journal at: http://www.abajournal.com/news/article/trap_neuter_vaccinate_return_community_cats_aba_delegates

ABA Resolution 102B is at the ABA website at: https://www.americanbar.org/news/reporter_resources/annual-meeting-2017/house-of-delegates-resolutions/102b.html

Mexico City Bans Captive Dolphins

The Legislative Assembly of Mexico City passed a bill outlawing captive dolphins in early August. The bill outlaws all uses of dolphins for entertainment, therapy, “swim with” programs, etc. Presently there are 2 captive dolphins in Mexico City at the Six Flags Mexico park.

Source is The Dodo at: <https://www.thedodo.com/in-the-wild/mexico-city-bans-captive-dolphins>



Gray Wolves in the Upper Great Lakes States Retain Their Endangered Species Status with Court Ruling

The U.S. Circuit Court of Appeals for the D.C. Circuit ruled in early August that the gray wolf in the upper Great Lakes states will be retained on the Endangered Species Act listing of endangered species. This means hunting restrictions as well as other actions. There are an estimated 3,800 gray wolves in Michigan, Minnesota, and Wisconsin.

Source is NPR at: <http://www.npr.org/sections/thetwo-way/2017/08/01/541010111/great-lakes-gray-wolves-spot-safe-on-endangered-species-list-for-now>

and

Wayne Pacelle's blog at: https://blog.humanesociety.org/wayne/2017/08/federal-appeals-court-maintains-protections-great-lakes-wolves.html?credit=blog_post_082217_idhome-page

ABA Book Publishing Releases *Pet Law and Custody* by Barbara Gislason

The complete title is *Pet Law and Custody: Establishing a Worthy and Equitable Jurisprudence for the Evolving Family*. This comprehensive 700+ page book will be released in late August and is sponsored by the Family Law Section of the American Bar Association. Author Barbara Gislason is a Minnesota-based attorney whose specialties include animal law.

More details at Shop ABA: <https://shop.americanbar.org/ebus/store/productdetails.aspx?productid=281500186>



British Columbia Bans Trophy Hunting of Grizzly Bears

The ban will take effect on November 30, 2017 after this year's season. There is an exception to hunting the bears for meat which has raised some concerns. Hunters will no longer be able to possess the head, hide, or paws of the bears. Hunting results in the deaths of about 250 of the estimated 15,000 bears in the province each year.

Prior polls showed that 90+% of voters were opposed to trophy hunting. There was strong support (75+%) for the ban in rural districts, too.

Sources are the CBC at: <http://www.cbc.ca/news/canada/british-columbia/plan-to-end-grizzly-trophy-hunting-in-bc-announced-1.4247060>

and

NPR at: <http://www.npr.org/sections/thetwo-way/2017/08/15/543703415/british-columbia-will-ban-grizzly-bear-trophy-hunting>

and

The Globe and Mail at: <https://beta.theglobeandmail.com/news/british-columbia/opposition-to-trophy-hunting-overwhelming-poll-finds-amid-grizzly-debate/article26640089?ref=http://www.theglobeandmail.com&>

Cambridge, MA Bans Sale of Non-Rescue Pets at Pet Stores

The ban covers all animals to be sold as pets who come from commercial breeders. Home breeders are exempted. The ban will take effect in about one year. This is believed to be the most stringent ban in the country.

This follows a similar although less restrictive ban enacted in Boston last year. There are believed to be just two national chain stores in Cambridge that will be impacted by the ban.

Source is Boston Magazine at: <http://www.bostonmagazine.com/news/blog/2017/08/08/cambridge-pet-shops-ban/>

Attorney's Fees Awarded in Case in which Animal Witness and Advocacy Group was Accused of Trespassing

Los Angeles Cow Save was accused of trespassing by Manning Beef as they bore witness to actions at the slaughter house. All actions were taken in public access areas. Manning Beef was ordered to pay attorney's fees of \$94,500 to Los Angeles Cow Save by the Superior Court of California as the trespassing claim was baseless. The award resulted from a motion to dismiss Manning Beef's lawsuit under California's anti-SLAPP (Strategic Lawsuit Against Public Participation) statute.

Source is Animal Legal Defense Fund at: <http://aldf.org/blog/attorneys-fees-awarded-los-angeles-cow-save-lawsuit/>

Global Animal Welfare Authority from Australia has Free Webinars beginning in September Entitled *Animal Welfare and the Law: Sentient Animal Series*

The first two free webinars are scheduled for September 6 and 7 at 7 PM Australian EST (which is 14 hours ahead of US EDT – you will have to be up early to view and listen – please carefully confirm times). Registration is required. The first webinar is titled: “How do you want the law to define sentience so that it benefits people and animals?” The series has 2 webinars per month beginning in September.

Details at: <http://globalanimalwelfare.com/event-details/>



Treasurer's Report – 2016-2017 FY (10 Months ended July 31, 2017)

This is a summary of the Animal Law Section's financial status as of July 31, 2017 (10 months of the Fiscal Year). The purpose of this summary is to report on our financial results, assure the members that the Animal Law Section is operating and maintaining a sound financial status, and confirm that your Section dues are being spent responsibly and for appropriate purposes.

Membership totaled 248 members on July 31, 2017. We are not a large section although far from the smallest within the State Bar of Michigan. Note that in the 2014-2015 FY, 54% of State Bar of Michigan sections had fewer than 800 members.

Revenue through May is \$4,725.

Expenses through May totaled \$3,023.

Major expenses were the two issues of the Newsletter of \$1,566, honorariums of \$250 each for the Section's three major awards (Sadie, Brandi, and Wanda Nash) totaling \$750, and meeting expenses for the Brandi, Sadie, and Wanda Nash awards of \$397. Other expenses included teleconference calls of \$139, filing fees for the amicus brief for the three dogs in Ionia of \$139, and copies and supplies expenses of \$32.

The present fund balance is \$12,773; an increase of \$1,702 from the prior FY yearend balance of \$11,071.

Respectfully submitted,

Donald Garlit
Treasurer, July 2017



Animal Law Section Chair-Elect Allie Phillips to Speak at 25th Animal Law Conference in Portland, Oregon in October

Many of the country's animal law professionals will join together in Portland, Oregon from October 13-15, 2017 for the 25th Annual Animal Law Conference. Allie Phillips, Chair-Elect of the Animal Law Section, will be speaking at the conference in a panel presentation about "Can Animals be Victims of Crime?"

Allie will be speaking about her career as a former prosecuting attorney which involved pets in domestic violence situations among other cases. She will discuss Sheltering Animals & Families Together (SAF-T)[™], a global initiative

she created to help domestic violence shelters create on-site pet housing for families and pets fleeing violence.

She will be joined by Diane Balkin, former Denver Deputy District Attorney and Senior Staff Attorney with the Animal Legal Defense Fund who will discuss the prosecution of crimes against animals and Meg Garvin, Executive Director of the National Crime Victims Law Institute who will discuss animals as victims of crime.

More information is at: <http://animallawconference.org/>.

Use a Blog to Grow Your Small Firm Practice

By Roberta M. Gubbins

A Clear and Convincing article from the State Bar of Michigan

According to the 2016 Thomson Reuters U.S. Small Firm Study, small firms are not so small. By one estimate, small law firms account for \$108 billion of the estimated \$437 billion total legal market. Small law firms in aggregate exceed big law firms estimated \$95 billion in revenue. Reuters reports that many industry experts predict that small firms will continue to grow as consumer clients look for good representation close to home and more responsive to their cost concerns.

Seventy-nine percent of small firms report that their biggest challenge is reaching potential clients. In the past, lawyers used to advertise in the phone book, joined organizations, or gave lectures to find legal work. Those methods still

work—well, maybe not the phone book so much—but, in today's technological world a blog is one of the most affordable ways to reach a large number of people.

How to Begin

Start by deciding what clients you want to reach. What do they want to know and what questions are you routinely asked about your area of practice? How often do you want to post your blog? Be realistic, because search engines look for consistency in posting.

Things to Consider When Writing Your Blog

Understand why you're writing it. Do you want to be seen as an expert, build an awareness about your firm, or simply add fresh content to your website? Maybe you want to do all three. A well-defined strategy will keep you and your reader interested.

Decide what you want to say. Think about the clients you have. What type of problems are they experiencing? Pick topics from this list of problems. You can analyze recent court opinions, explain new legislation, or simply answer questions in your practice area.

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Compose compelling copy. A story with facts that set up your topic is one way to get the reader's attention. Write clearly, use plain English, and keep it short. Your tone should be approachable and understandable, but still convey your expertise. A 300 to 500-word blog is sufficient. Blocks of text are tiring. To keep the reader on the page, break up text.

- Use bullets to emphasize key points.
- Add images, videos, and graphics.
- Bold or underline material.

Review and revise. Write it, set it aside, and come back in a few hours or the next day. You'll be surprised at what needs changing.

Two basic reasons for writing a blog are to keep your name in the mind of your current clients and to attract new clients. To attract new clients, it's important to use keywords that your target readers will search for on Google. Think about the 5 to 25 words you want to be ranked for and what clients mention most often when asked about how they found you.

Now you've built your blog. What next?

First, publish it on your website's blog page and your blog's hosting site. Second, promote it on social media. Use Facebook, Twitter, LinkedIn, and an e-mail blast to announce its posting. Third, publish it on the SBM Member Directory. Soon, fellow lawyers and clients looking for more information will beat a path to your door. 🐾

About the Author

Roberta Gubbinshas served as the editor of the Ingham County Legal News. Since leaving the paper, she provides services as a ghostwriter editing articles, blogs, and e-blasts for lawyers and law firms. She is the editor of Briefs, the Ingham County Bar Association e-newsletter, and The Mentor, SBM Master Lawyers Section newsletter



**Invite someone you know to join the fun.
Invite someone to join the Animal Law Section.**



OCTOBER 13-15, 2017

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WWW.ANIMALLAWCONFERENCE.ORG

The Animal Legal Defense Fund, the Center for Animal Law Studies at Lewis & Clark Law School, and the Lewis & Clark Student Animal Legal Defense Fund chapter will host the 25th annual Animal Law Conference in Portland, Oregon on October 13-15, 2017.

**FULL AGENDA AND TICKET INFORMATION:
ANIMALLAWCONFERENCE.ORG**



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Don't miss two keynote presentations: What a Fish Knows by Jonathan Balcombe, biologist & author; and 25 Years of the Animal Law Conference by Pamela Frasch, assistant dean, Animal Law Program and executive director, Center for Animal Law Studies at Lewis & Clark Law School and Joyce Tischler, founder and general counsel, Animal Legal Defense Fund.

You'll also hear from other animal law and protection experts such as Sara Amundson, Humane Society Legislative Fund, Dr. Lori Marino, The Whale Sanctuary Project, Jean-Marc Neumann, Educational Group for Animal Law Studies, Lauren Ornelas, Food Empowerment Project, Ed Stewart, Performing Animal Welfare Society and many more great speakers.

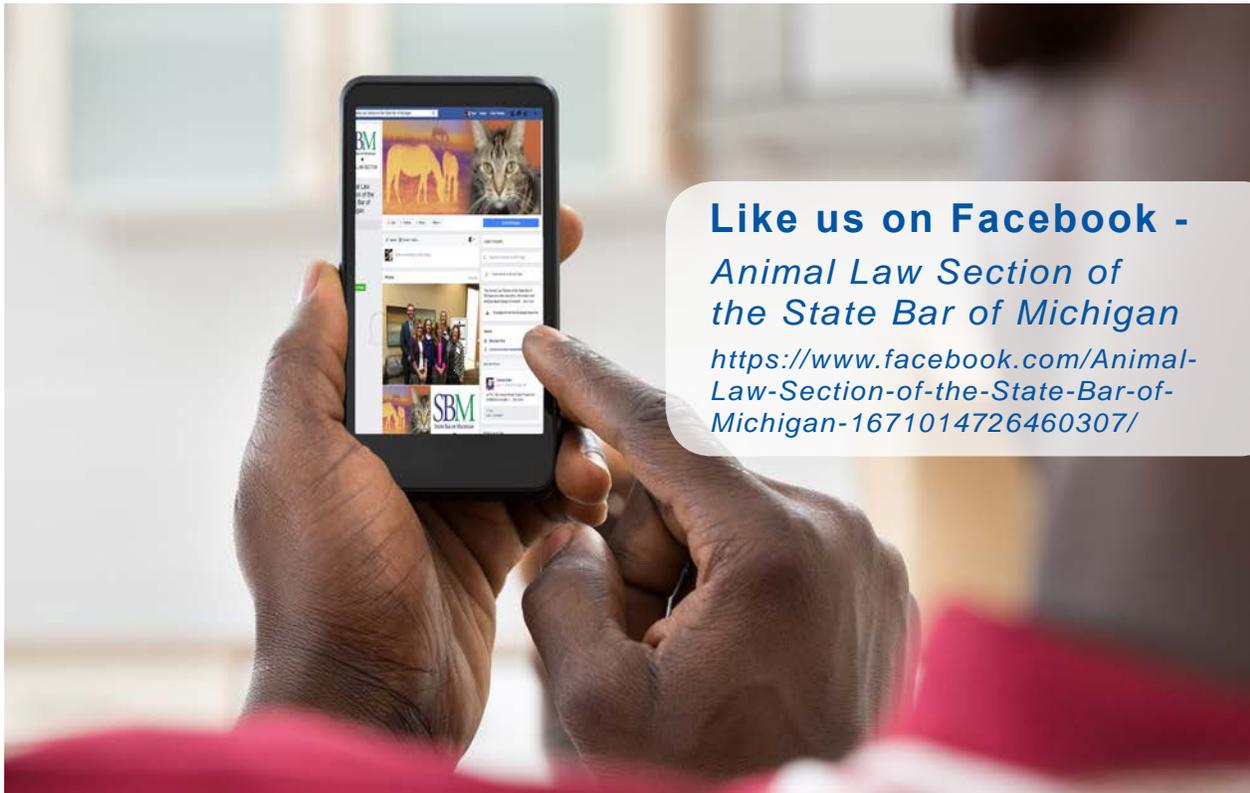
Topics include: Factory Farming, Animals as Victims of Crime, Gender and Race, Aquatic Animal Law, Challenges and Opportunities under the New Administration and Current Congress, among others.

SBM

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Animal Legal Lifeline Toll-free Number for Referrals: (866) 211-6257