

THE ANIMALS' ADVOCATE

THE QUARTERLY NEWSLETTER OF THE ANIMAL LEGAL DEFENSE FUND

SPRING 2001 #1

From Fire to Frying Pan

How forfeiture laws mistreat abused animals

Nellie is a mixed-breed dog with soft brown eyes and a glossy, brown-and-white coat. She was forced to live in a cage for over 22 months at a humane society in the Willamette Valley in Oregon until her owner was found guilty of animal neglect and sentenced to jail. Like countless other animals, she was victimized twice — first by her owner, and then by the legal system that's supposed to protect her.

Nellie lived on a school bus with 116 other dogs, four cats and two chickens who belonged to an animal collector named Vikki Kittles. On April 15, 1993, Clatsop County Oregon Animal Control Services seized the animals. They were malnourished, coated with urine and feces and had sores from lying in their own filth. While Kittles' case dragged through the system, the dogs were held at various shelters throughout the state. Only

"[Nellie] was too afraid to go out in my backyard by herself... She shook in fear."

Nellie finally relaxes in her new home.



when the court finally declared that Kittles had no custody rights to the dogs did they become available for adoption.

Tragically, today — eight years after that shocking case — little has changed for abused animals. When animals are removed from cruel or neglectful situations, they are still too frequently impounded for months or even years until the criminal case is settled or results in a conviction.

Rescued animals arrive in shelters traumatized from their ordeal, which is then compounded by extended shelter stays. Nellie's guardian, Jean Kunkle, recalls the first days of owning the dog. "I called her Nellie because she was such a nervous Nellie," she says. "She was too afraid to go out in my back-

yard by herself. She wouldn't eat or drink water when I was in the room. She shook in fear."

Animal shelters and humane societies are also harmed because of the high costs involved in caring for mistreated animals over an extended period. This is an egregious situation in animal collector cases, which often involve large numbers of animals. Typically, animal care agencies don't have the financial resources to care for so many animals — it means supplying food, housing and medical care.

Most states have laws providing that a defendant's rights to animals seized in abuse and neglect cases may be forfeited after conviction. A dozen

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NEW!

ANIMAL CRUELTY LAWS CD-ROM

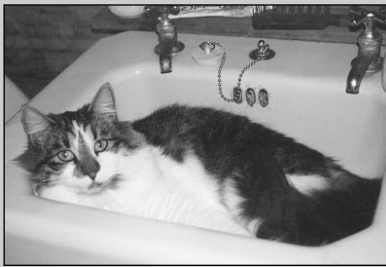
ALDF introduces the first and only CD-ROM collection of anti-cruelty statutes from each state in the country, presented together with helpful annotations and tables. This is a must-have tool for every animal-concerned attorney, lobbyist, educator, student and activist.

For a limited time, ALDF is offering copies of the ANIMAL CRUELTY LAWS CD-ROM for \$10.*

Order your copy today by sending check or money order to: Orders, c/o ALDF, 127 4th St., Petaluma, CA 94952. For credit card orders send email to: orders@aldf.org.


*Includes shipping and handling within the USA. Any applicable sales tax is extra. Current through 9/99. Please allow 3-5 weeks for delivery. Windows version.

PHOTO BY LAURA WILENSKY



YOU DREAM OF A BRIGHTER FUTURE FOR THE ANIMALS...

Your bequest to the Animal Legal Defense Fund will help make your dream come true. We will carry on your commitment to protect animals from cruelty, abuse and exploitation.

For estate planning information, contact Joyce Tischler, Executive Director, Animal Legal Defense Fund, 127 Fourth Street, Petaluma, CA 94952-3005, (707) 769-7771. 

MESSAGE FROM THE EXECUTIVE DIRECTOR

Dear Friends of ALDF,

There can be no higher achievement for a movement than for its ideals to be internalized by the "regular folk." For example, in many communities, trash removal companies now provide free plastic bins and encourage homeowners to recycle their paper, plastics, glass and metal. The idea of recycling came from the environmental movement; the beauty of it is that recycling has gone mainstream.



How can we apply this lesson to our efforts to protect animals, and thus encourage our society to consider their needs and interests? If you think about it, there are lots of little things each of us can do to mainstream our ideas.

For one, we can talk with our wallets: create the demand. When shopping for food at large grocery stores, ask the manager to stock some of the great new "unmeats" made from soy products. Then, buy these products regularly and help to build a market for them. At ALDF, whenever one of us discovers a tasty new cruelty-free food product, we can't wait to bring it to work to share.

When I go to coffee houses, I always ask for soy milk to put in my coffee. When I first started requesting soy a few years ago, I was told they didn't have it; one snooty counterperson suggested I bring it with me. Yet there must have been enough people like me, because now most coffee shops provide soy. If you haven't yet tasted a mocha with soy, you're in for a real treat.

Sometimes it's equally important to focus on lessening the demand. That can mean, among other things, not purchasing animal companions from any source. We are still killing 5 million dogs and cats annually. If we only adopt animals from pounds, shelters and sanctuaries and avoid purchasing them from pet stores, we will help to reduce the mass killings, alleviate the suffering in puppy mills and spread the message that animals are far more than mere commodities, to be sold to the highest bidder.

These are a few of my ideas; if you have others with "mainstream" potential, please write and share them with us.

For the animals,

Joyce Tischler

A Gift That Keeps On Giving...

Want to spread the word about ALDF and our work on behalf of animals? It's easy. Give someone you know a free, one-year gift subscription to *The Animals' Advocate*.

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sure they receive four issues of *The Animals' Advocate*, with your compliments. It's a great gift – both for them *and* for the animals.

Write to Subscriptions, Animal Legal Defense Fund, 127 Fourth St., Petaluma, CA 94952, or email us at manning@aldf.org.

Meet some of the prisoners...



PHOTOS © NANCY O'BRIEN



... no name,
just number
and brand

Prisoners of War

by Nancy O'Brien with Laura Wilensky

The day is chill and gray when I arrive at the Bureau of Land Management's (BLM) National Wild Horse and Burro Center at Palomino Valley, NV, to photograph captured mustangs from the Nevada range. The first time I saw them, in March 1999, I was so overwhelmed by the sheer number of horses — between 1,200 and 1,500 — that I couldn't even take out my camera. Since then, I have felt compelled to go back every few months to document their heartbreaking story.

These once-wild horses live a bleak existence in large holding corrals, where they are warehoused until they are trucked out for adoption. As I walk or drive around the seemingly endless corrals, the horses greet me with suspicious stares. They stand dejected with lifeless eyes and walk with lowered heads, denied all of their natural behavior. I am free to come and go, but they remain prisoners of the range war.

Palomino Valley is the country's biggest intake facility for captured mustangs. Here they are processed — marked, numbered, tagged and cata-

logued like so many library books — as they wait to be shipped out as part of the "Adopt-A-Horse Program," never to be wild again.

Upon arrival, each horse is "run through the chute." A unique freeze-mark is made on the left side of the neck with an iron placed in liquid nitrogen until it reaches minus-320 degrees Fahrenheit. Other identifying symbols include an "X" hip paint mark on mares who are part of a fertility control program and larger four-digit hip marks on older horses slated for pasturing.

In the wild, the mustang band is composed of a dominant stallion, mares and juveniles. But here, family groups are shattered; stallions are without their mares and foals, and their status as leader and protector is gone. Even mares don't have the opportunity to form lasting new bonds because Palomino Valley's job is to process horses and truck them out.

Wild horses are constantly on the move, covering 10 to 15 miles a day, grazing continuously as they travel over hills, valleys, slopes, desert. Hors-

es are athletes, and nature equipped them with strong teeth and the ability to move and eat at the same time, thereby encouraging a varied diet and adequate nutrition. Mustangs digest forage incompletely and the seeds of the rangeland are redistributed in their droppings. Once they are captured and brought to Palomino Valley, food — mainly hay — is provided only once a day in standing feeders. The horses wander aimlessly from hay bin to hay bin. Or they stand fixed, eyes vacant, on the same lifeless dry lot.

The modern mustang has a unique niche in North America's ecology. Yet government "management" keeps these horses' numbers so low on Western public lands, they might well be considered endangered.

In 1971, Congress enacted the Wild Free-Roaming Horses and Burros Act. The BLM and the Forest Service were given the job of managing and protecting wild horse herds. Despite its congressional mandate, the BLM has caved in to political pressure from the livestock industry for grazing rights to public lands. At the very least, the wild horses, by law and by moral right, should be managed in their best interests, not in the interest of cattle ranchers who want them gone, not managed at all.

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PHOTO © NANCY O'BRIEN



Wild Horses

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Uncertain Future

The BLM routinely rounds up wild horses for adoption as a so-called population management tool. The adoption program has a troubled history. It costs taxpayers \$18 million a year, or almost \$1,100 per horse, including food, water, veterinary care, inoculations and blood tests to ensure against equine diseases. For \$125, individuals may adopt a wild horse from BLM adoption centers like the one in Palomino Valley. After a year, the adopter may gain title to the animal, and the horse can be legally sold. Thousands of “adopted” horses have been sold to slaughter after title passed.

Some wild horses are still being sent to slaughterhouses from the adoption program. The animals bring \$700 to \$1,000 per horse at packing plants, which process them for meat on dinner

tables in Europe and Japan and for pet food and other commercial products. Reports from one Texas meat-packing plant, confirmed by the agency in August 1999, show BLM wild horses originally adopted by private individuals are being slaughtered at an estimated rate of five per week.

Survival for these once-wild ones can be harsh and brutal on the range — the still heat of summer and the bone crushing cold of winter. As food and water become scarce, some will die. This is the natural world. But I ask myself: what would be my choice? To exist alienated with food and water provided, or to live fully in the company of chosen others? I would choose to live fully. Their eyes tell me they would make the same choice. 🐾

Nancy O'Brien, J.D., is a photographer, writer and legal researcher specializing in animal issues. Laura Wilensky is ALDF's resident journalist and Editor of the Animals' Advocate.

Forfeiture Laws

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states allow a court to require an owner to post a bond to pay for the care of an impounded animal or lose rights to ownership prior to conviction. It is up to the courts in these states to determine whether abusive owners should be allowed to keep their animals or whether the agencies holding seized animals should be given permanent custody, enabling them to place the animals in new homes.

Abused animals deserve every chance to recover and be adopted as soon as possible. That is why ALDF's anti-cruelty division is working to get pre-conviction forfeiture statutes on the books in every state. “These laws are very important because they provide a way for mistreated animals to be more quickly placed into new, loving, permanent homes,” says ALDF staff attorney Stephan Otto. “More work needs to be done with local groups to get all 50 states to enact these provisions and improve existing laws,” he adds.

Recent ballot initiatives have attempted to restrict property forfeitures by the government. While these types of efforts may be driven by valid concerns, ALDF attorneys say they are flawed if they do not include exemptions allowing for animal forfeitures. Measure 3, which recently passed in Oregon [see story on back page], requires that all property confiscated in criminal cases, including animals, be held until conviction. Property forfeiture laws can be changed without harming animals who have already suffered abuse and neglect. Animals should not have to spend months or years behind bars for crimes they did not commit. 🐾

WILD HORSES NEED YOUR HELP:

- ▶ Wild horse roundups must be stopped. Ask your congressional representative and senators to oppose funding for future roundups. Your vote counts!
- ▶ We can make a difference! Become a vegetarian. If there were no market for cattle and meat products, the wild horses and burros could live free. Please tell your congressional representatives that you don't want our public lands used as prison camps that pit cattle against the wild creatures who rightfully belong there.
- ▶ Visit the Wild Horse and Burro Freedom Alliance's web site to get informed and involved: www.savewildhorses.org. The Animal Legal Defense Fund is a member of the Alliance.



BULLETIN

ALDF CASE FILE:

DA'S SECRETARY ALLEGEDLY KILLS TWO DOGS

(Red River Parrish, LA)

Kim Rector faces two misdemeanor counts of animal cruelty for the alleged fatal shooting of two dogs. The dogs belonged to a neighborhood resident and were killed when they wandered onto Rector's property. The Attorney General's Office is handling the case since the defendant is employed by the DA's office.

ACTION NEEDED:

► Please thank the Assistant Attorney General for taking this case seriously; request aggressive prosecution and maximum penalties.

Ellison Travis
Assistant Attorney General
P.O. Box 94095
Baton Rouge, LA 70804-9095

ALDF CASE FILE:

HORSE TRAINER CHARGED WITH ANIMAL CRUELTY

(Tucson, AZ)

Ferdinand Santana, a horse trainer at the Cabezon Equestrian Center in Tucson, has been charged with four misdemeanor counts of animal cruelty for allegedly inflicting unnecessary physical injury on two horses in his care, as well as failing to provide them with medical attention. The investigation into the death of a third horse in his care is still pending.

ACTION NEEDED:

► Please thank the Deputy County Attorney for filing charges against Santana and urge her to seek the maximum penalties.

Lora Beres
Pima County Attorney's Office
32 N. Stone, Suite 1400
Tucson, AZ 85701-1412

ALDF CASE FILE:

STILL NO JUSTICE FOR AUSTIN AFTER ONE YEAR! (Rising Sun, IN)

Austin, the beloved dog of Julie Johnson and Greg Crouse, was shot and killed by Indiana Department of Natural Resources conservation officer Chris Powell. Powell reportedly shot Austin during a routine search of Johnson and Crouse's property while investigating reports of deer poachers in the area. The agency determined that Powell was justified in shooting Austin to protect his police dog from being attacked. Johnson, however, says she was holding Austin by the collar when Powell shot without warning.

ACTION NEEDED:

► Please write to the prosecuting attorney and request aggressive prosecution of this case.

Nancy Jacobs
Switzerland County DA's Office
315 1/2 East 2nd Street
Madison, IN 47250

ALDF CASE FILE:

CRUELTY TO 4-MONTH-OLD PUPPY (Alpharetta, GA)

On December 31, 2000, Alpharetta police responded to a domestic dispute in progress. Upon arriving at the residence, police thought they heard a dog squealing in pain. Thomas Spencer was reportedly found beating the restrained family dog, a 4-month-old German shepherd puppy, while threatening to kill his girlfriend and the animal. The dog was taken to a clinic, where the veterinarian found extensive trauma to the head.

ACTION NEEDED:

► Contact the prosecutor and request that Spencer be charged under Georgia's new felony animal-cruelty statute.


Case # 0012-0594
Janet Manchel
Fulton Co. Magistrate Court
7741 Roswell Rd.
Room 215
Atlanta, GA 30350



Measure 3

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authorities from removing abused animals, it does tie their hands by forcing animal care agencies to care for the animals until the case is resolved. A good example is the case of Carole Ann Hagen, who is charged with 41 counts of neglect for allegedly letting her animals live in filthy conditions, without adequate food and water. Washington County Animal Services seized her 51 animals and placed them in protective custody at the Bonnie L. Hays Small Animal Shelter on October 25, where they will remain until the case is concluded. On December 8, a local judge refused to allow Hagen's animals to be made available for adoption prior to

the resolution of her criminal case. The shelter has already spent over \$17,000 caring for Hagen's animals, and many fear that Oregon's animal care system is in jeopardy, an unintended consequence of this new law. 

WHAT YOU CAN DO:

- Proponents of Measure 3, emboldened by its passage, will likely turn their attention to other states. Be alert for proposed initiatives or statutes that address property forfeitures, and work to defeat any that do not include specific exemptions for animals. Please notify ALDF if you hear of any such proposed laws.

ALDF Joins Challenge to Oregon Animal Forfeiture Law

ALDF has joined in a lawsuit aimed at overturning Measure 3, a constitutional amendment passed by Oregon voters in November. Measure 3 (the so-called "Property Protection Act") requires, among many things, that a property owner be convicted of a crime before his property can be permanently confiscated. The initiative's supporters say it was meant to protect people from losing their rights to property seized before they are convicted in drug-related, drunk driving and other criminal cases.

However, the problem ignored by Measure 3 is that under today's laws, animals are still classified as property, just like cars, televisions or chairs. Prior to the passage of Measure 3, the law allowed Oregon courts to require an owner to post a bond to pay for an impounded animal's care, or to sever an owner's rights to abused and neglected animals before being convicted, if there was enough evidence to show that they had been mistreated.

Some of the 19 Basenji dogs in protective custody at the Bonnie L. Hays Small Animal Shelter



Without this protection, the only alternative for abused and neglected animals is to remain with their abusers or be warehoused in shelters until the criminal case is resolved. Often that means spending months or even years in a kennel. A few of the lucky ones may be placed in foster homes, but

there are many animals for whom foster care is not appropriate. "The cost of housing and treating these animals, who are often sick, will drive small-town shelters out of business," warns Dana Campbell, an ALDF staff attorney.

While Measure 3 does not prevent
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ANIMAL LEGAL DEFENSE FUND

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THE ANIMALS' ADVOCATE

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