Incidents of police shooting beloved family dogs are on the rise, despite a simple solution

BY AMY MAYER

It’s the stuff of nightmares. Law enforcement officers on a drug bust come to your house because they have the wrong address. They bang on your door and shout for you to open it. You do and you try to explain they must have the wrong house but they are intent on carrying out their mission.

Your beloved dog runs out the open door barking at the officers, protecting his family as he always does. He wouldn’t hurt a fly but the officers don’t know that. In the chaos, you hear a shot ring out. Your dog, your four-legged family member, lies mortally wounded on the ground. Law enforcement officers shoot companion animals routinely. These incidents are on the rise.

THE NUMBERS

* The U.S. Department of Justice estimates that police shoot more than 10,000 dogs per year, although no police
Our knowledge about the lives, abilities, and inner workings of animals is growing by leaps and bounds. Almost every week there’s a discovery reinforcing the fact that there is less that separates animals from we humans than we ever thought. The fact is, right now science is far ahead of our legal system, but the Animal Legal Defense Fund and our supporters are working to narrow the gap between what we know about animals and their legal status in our society.

In spite of the deep bonds we have with dogs, cats, elephants, horses and beyond, non-human animals are still considered property under the law. It’s impossible to compare a thinking, feeling canine or feline family member’s value (and legal status) to that of a wheelbarrow or even a car. As Americans, we value animals — and our relationships with animals. We are compassionate to their needs and recognize our vast similarities. ALDF is determined to raise animals’ legal status — and continue to provide the protection and defense all animals need and deserve. In this issue of the Animals’ Advocate, you can read more about our work in this area. First, we give some background on how companion animals are viewed under the law and how ALDF is fighting to change their value through actions like our amicus brief to the Georgia Supreme Court.

We also recognize some of the many prosecutors, judges, and other individuals who have used the legal system to raise the status and value of animals’ lives in their jurisdictions. See the stories of America’s Top Ten Animal Defenders in the center section.

In addition, we discuss ALDF’s groundbreaking tool for prosecutors of animal cruelty cases nationwide. By arguing animal cruelty cases before a focus group of “mock” jurors, specialists were able to study the juries and their verdicts and identify individual attributes that, statistically, prosecutors should look for in potential jurors in an animal cruelty case.

Thank you for making our lifesaving work possible with your support.

For the animals,

Stephen Wells, Executive Director
Evidence of just how much we value our companion animals abounds. We splurge for new toys and treats and beds (though most of the time they sleep in ours). We walk them in the rain and brush their teeth. We stay home to comfort them on the 4th of July. And yet, if one of our four-legged family members is injured or killed by a negligent veterinarian or careless sitter, courts have traditionally limited recovery to the animal’s market value, declining to consider his or her intrinsic worth. Never mind that it is precisely this intrinsic worth that allows vets to charge hundreds of dollars, even thousands, to treat a geriatric mixed-breed rescued from the pound.

Citing their legal status as property, courts have traditionally reasoned that any money spent on veterinary treatment above a companion animal’s market value is equivalent to rebuilding a jalopy’s engine. There are exceptions, however, as a few courts have awarded punitive damages where the animal’s injury or death was caused by a malicious act. Additionally, several courts have declined to apply the market value cap, recognizing instead a companion animal’s so-called “actual value,” which includes medical expenses incurred in treating the animal’s injuries.

This January, ALDF filed a “friend of the court” brief urging the Georgia Supreme Court to recognize that animals are worth much more than their market value. In that case, Monyak v. Barking Hound Village, a boarding facility (Barking Hound Village) negligently poisoned Lola, an eight-year-old dachshund mix, forcing her owners to spend tens of thousands of dollars in veterinary bills to try to save her. Sadly, Lola died after her kidneys failed. Barking Hound Village argued that Lola — as a mixed-breed rescue dog — was a worthless piece of property and so they owed the Monyaks nothing for killing their beloved companion. The trial court and appellate court held that the Monyaks should be able to recover damages over and above Lola’s negligible market value, a decision currently under review by the Georgia Supreme Court. ALDF’s brief urges the Court to allow the Monyaks to recover their veterinary expenses, as well as compensatory damages that include their emotional connection to Lola as a beloved member of the family.

Of course, even the most generous court’s valuation of damages in these instances remains anthropocentric, since the pain and suffering of the animal victim has no bearing on the calculus. Nonetheless, by acknowledging the worth of the bonds we form with companion animals, courts may further differentiate animals from mere inanimate property, inching the law closer toward recognition of animals’ interests. And that goes for Westminster winners and scraggly mutts alike.
By LORA DUNN | ALDF Staff Attorney

WHY IS JURY SELECTION SO IMPORTANT?

If you’ve ever watched a true crime TV show or followed a high profile case in the media, you know that juries can be persuaded by evidence in many different ways — whether it’s questioning a witness’ credibility or weighing certain pieces of evidence more valuable than others. For better or worse, a handful of individuals determine the verdict in a jury trial.

The good news is our nation’s court system recognizes that some people may have biases or life experiences that might unfairly influence their roles as jurors. The first part of a jury trial is called voir dire, or jury selection, in which the prosecutor and defense attorney ask a number of questions from potential jurors. Then, candidates are eliminated from this pool for either a specific reason (“for cause”) or at an attorney’s request without a stated reason (“peremptory challenge”).

WHAT INFLUENCES JURIES’ VERDICTS IN ANIMAL CRUELTY CASE?

Last fall, ALDF set out to answer this important question and create a groundbreaking new tool for prosecuting animal crimes. Over three days, ALDF attorneys presented arguments to a focus group of “mock” jurors for three different animal cruelty cases: domestic violence, hoarding, and dogfighting. Then, some of the nation’s top-notch jury consultants went to work, watching hours of the juries’ deliberations behind two-way mirrors and later probing them with questions about why they thought a certain way about the defendant’s guilt or lack thereof.

After gathering all of this information on who voted “guilty” or “not guilty” — and why — our jury consultants are busy crunching the data to determine who makes the best jurors in an animal cruelty case. At this project’s conclusion, ALDF will have a comprehensive resource that details the individual attributes that, statistically speaking, prosecutors should look for in potential jurors in an animal cruelty case — a resource that ALDF will make available to any prosecutor in the country handling animal cases.

Now, armed with ALDF’s new jury selection resource, prosecutors will be able to fine-tune their voir dire strategies to identify those potential jurors who, statistically, carry undisclosed baggage that makes them less than objective.

ALDF reveals the secrets to selecting the best jury in animal cruelty cases

“Think like a juror

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Every year ALDF celebrates National Justice for Animals Week (February 21 – 27, 2016) to raise public awareness about animal abuse, how to report it, and how to create stronger laws and ensure tough enforcement. The week also honors law enforcement, prosecutors, and legislators who use the law to protect animals.

Since ALDF declared war against animal cruelty in 1994, ALDF’s attorneys and former prosecutors give district attorneys and law enforcement valuable assistance in prosecuting criminal abuse cases to bring animal abusers to justice.

ALDF’s list of Top Ten Animal Defenders for 2016 honors professionals whose outstanding work promoted harsh prosecution of animal abusers, vigorous enforcement of anti-cruelty statutes, and protection of innocent animals.

**AMERICA’S TOP TEN ANIMAL DEFENDERS**

Oregon State Representative **BRAD WITT** was the sponsor of the 2015 nuisance abatement bill, HB 2888. The statute gives citizens legal standing to file a lawsuit to stop ongoing criminal animal abuse. Oregonians no longer have to wait for law enforcement to work on a case, rather, they can file suit to stop the suffering of victimized animals immediately.

Judge **ANDREW OWENS**, Bradenton, FL recognized that dogs who bite after being provoked should not necessarily be euthanized. He declared part of a state law requiring that any dog who causes severe injury to a human be automatically put down regardless of the circumstances “arbitrary and oppressive.”

District Attorney **LISA SMITTCAMP**, Deputy District Attorney **SYDNEY RICKS**, & Deputy District Attorney **LYNETTE GONZALEZ**, Fresno, CA, established a new Animal Cruelty Unit to pursue crimes against animals. The three attorneys are assigned to different units, but volunteer to take on the extra work so that animal crimes can be prosecuted. The Animal Cruelty Unit was officially formed in July 2015, and the unit obtained its first conviction in November 2015.

**Virginia Attorney General** **MARK R. HERRING** created the nation’s first attorney general’s Animal Law Unit. Staff attorneys work with local law enforcement and state agencies on issues involving animal welfare, animal fighting, or abuse. The team will be led by veteran Assistant Attorney General Michelle Welch, Top Ten Animal Defender in 2013.

Queens District Attorney **RICHARD A. BROWN** created New York City’s first Animal Cruelty Prosecutions Unit, which investigates and prosecutes animal cruelty crimes, and educates the public about how to prevent and detect animal abuse. **NICOLETTA CAFERRI**, a veteran prosecutor, oversees the Unit.

“As a rural county in Montana, our law enforcement team was initially overwhelmed by a large and complicated animal cruelty case involving over thirty horses and other animals. The team at Animal Legal Defense Fund helped us with research, developing our legal arguments and even donated funds to help care for the animals and investigate the case. Their work helped us get a conviction, a lengthy prison sentence for the perpetrator, and restitution for the victims.”

— Cory J. Swanson, Broadwater County Attorney
Most canine victims of police shootings are family pets of all sizes, not dogs trained to attack.

Dog Down! | From Page 1

An officer has ever been killed in the line of duty by a dog.

- Most canine victims of police shootings are family pets of all sizes — pit bulls, Golden Retrievers, Jack Russell terriers, and Chihuahuas — not dogs trained to attack.
- These shootings are often not tracked, making complete statistical data hard to come by. That, plus underreporting in the media, means that the entire scope of this problem remains unknown, and could be even greater than the DOJ’s estimate.

What makes these incidents even more tragic is that they are avoidable. Most police officers who have shot a companion animal were just trying to do their jobs and are horrified at the outcome. Luckily, there’s a solution, a simple solution.

Training

Police officers are trained to apply a continuum of force in their interactions with people, from body restraints to lethal force. They need to be trained to apply the same principle to their interactions with dogs including — and this is key — understanding canine behavior so that they can accurately assess the true threat, if any, presented by the dog. They need mandatory, funded, high quality training on canine encounters to properly protect themselves and the dog. Better training leads to better outcomes for everyone.

Progress

More and more jurisdictions are recognizing and taking this problem seriously.

- The city of Austin instituted a new policy in June 2012 after a police officer investigating a domestic disturbance shot and killed a man’s dog. Austin’s policy requires police to use a higher level of discretion in deciding whether there is danger of bodily harm to themselves or another human or the animal is simply acting aggressively. The policy also identifies alternatives to deadly force and raises the level of scrutiny on fatal dog shootings.
- A new Texas law requiring police to complete canine encounter training took effect on Sept. 1, 2015. Under the law, officers must be trained to identify and understand canine behavior and use nonlethal methods to defend against a canine attack.
- The State of Colorado enacted a statute that requires local law enforcement to undergo training to prevent the shooting of dogs by officers in the line of duty. Specifically, the training teaches officers to differentiate between threatening and non-threatening dog behaviors, as well as to employ non-lethal means whenever possible.
- Illinois has enacted similar legislation and other states are considering it as well.
Charitable Gift Annuities are, first and foremost, a gift to ALDF. However, a charitable gift annuity also provides you with fixed income for the rest of your life. It can offer you significant tax benefits, such as an immediate federal income tax deduction and, if you donate appreciated securities, savings on capital gains taxes.

A charitable gift annuity is a simple agreement between you and ALDF. In exchange for a donation of $20,000 or more in cash or stocks, ALDF will give you and/or another recipient fixed payments each year. For example, an 89-year-old donor transfers $25,000 to ALDF in exchange for a charitable gift annuity which will provide payments for life. The payments will be 8.7% of the gift amount annually, which is $2,175 per year. (Note that rates vary depending on your age.) At the end of the annuity period the amount of the gift, less the cost of making life payments, will be used by ALDF to further our mission.

For more information please email estates@aldf.org.

State Attorney **DAVE ARONBERG**, Palm Beach County, FL, personally prosecuted a neglect case in which a man deprived his pit bull named Bella of food and water for weeks, rendering the dog “skeletal.” Bella could not stand or walk when she was discovered by law enforcement. The man was sentenced to nine months’ jail time.

**Director of Code Enforcement and Animal Control** **JASON ALLSWANG**, Clark County, NV: In addition to ensuring the vigorous prosecution of a number of serious animal cruelty cases, Allswang was instrumental to the passage of Clark County’s first exotic animal ordinance. Nevada is one of only a few states with no statewide regulation of exotic animals kept as pets.

“ALDF agreed to fund the scientific testing involving evidence from a bestiality case that none of our State Crime Laboratories were able to perform. ALDF was also willing to pay for the expert testimonies that would be required to admit such evidence at trial. ALDF’s assistance was pivotal in securing a guilty plea.”

— Rona Kreamer, Deputy County Attorney, Violent Crimes Unit, Pima County, Arizona Attorney’s Office

**OF DOGS AND MEN**

ALDF funded a compelling new documentary, “Of Dogs and Men,” which interviews pet owners who’ve suffered the tragedy of loss; law enforcement officers who explain what it’s like to encounter difficult situations in which a mistake can cost them their lives; experts in dog behavior and training; legislators; journalists; lawyers and advocates for change.

Perhaps most important, the film shows that by working together, law enforcement, animal lovers, and the community can create comprehensive solutions that keep officers of the law and dogs safe.

Learn more at http://ofdogsandmen.net.

**WHAT SHOULD YOU DO IF YOUR DOG IS SHOT BY POLICE?**

ALDF has helpful resources, including:

- suggestions for what to do immediately after the shooting
- guides to legal action
- how to determine liability
- how to keep your dog safe if law enforcement comes to your house or is in the area
- successful lawsuits over dog shootings

To access these resources and more, visit aldf.org/police

**TOP TEN ANIMAL DEFENDERS | FROM PAGE 5**

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Great News!

We're now publishing *The Animals' Advocate* four times per year

To make sure our newsletter continues to appear at your door simply maintain an annual membership investment of $25 or more. Don’t miss an issue — give today.

ALDF Narrows Gap Between Science and Law

Helping Yourself While Helping Animals