

# the Animals' ADVOCATE

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THE QUARTERLY NEWSLETTER OF THE ANIMAL LEGAL DEFENSE FUND

**INSIDE:**

**Wild Horse Roundups Scaled Back**

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## Courts, Cops and Canines

*For dogs under fire, a shot at justice*

**P**olice officers pledge to serve and protect, and most of them do. But animal advocates have noticed a disturbing trend recently. Some cops — a small minority, to be sure, but a growing one — aren't serving or protecting companion animals. They're shooting them.

Bradley Woodall tracks animal cruelty cases from ALDF's Portland, Ore., office, which works closely with law enforcement agencies nationwide to identify, investigate and prosecute animal abuse cases. He's seen a sharp increase in reports of "bad apple" cops who shoot dogs first and ask questions later.

"I used to get one or two calls about this every month," says Woodall. "Now I'm getting one or two a week."

Fortunately, efforts to combat this trend have been bolstered by a new federal court ruling. In October, the 3rd U.S. Circuit Court of Appeals reinstated a lawsuit against a Pennsylvania policeman who shot and killed a dog named Immi in 1998. The decision not only helps Immi's guardians in their quest for justice, but sets an important precedent for other victims far beyond the Keystone State. And it sends a clear



message that dogs are not "fair game" for trigger-happy cops.

"Having a win on the appellate level is huge," says Deirdre Agnew, the attorney for Immi's human companions, Kim and David Brown. "This is the kind of case that makes law."

"It's very, very difficult to prosecute anyone in law enforcement for animal cruelty because some district attorneys will assume that an officer did the right thing," says Barbara Newell, who co-authored ALDF's friend-of-the-court briefs in the case. "So it's important that a civil case like this has been allowed to proceed. It gives people a way to seek justice on their own."

The Browns were preparing to move from their home in Reading, Pa., when Immi escaped

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**Lord Atka, before his deadly encounter with a police officer**

For the **RECORD**

“[I]n this unique time, a heightened awareness must be brought to the additional element of intentional contamination [of meat and poultry].... While NMA does not anticipate any specific threats, we must act proactively.”

News release from the **National Meat Association**, urging vigilance in guarding against foodborne disease outbreaks caused by bioterrorism

“The meat-packing system... has proved to be an extremely efficient system for spreading disease.... Anyone who brings raw ground beef into his or her kitchen today must regard it as a potential biohazard.”

*Fast Food Nation*, by **Eric Schlosser**

## Letter from the **EXECUTIVE DIRECTOR**

### Guilt by Innuendo



Primates had barely climbed down from the trees when the first commandment of public relations was scratched in granite: Never, *ever* answer the question “Have you stopped beating your wife?” Back then, of course, media mavens had all-male client lists. But the advice is still sound. “Have you stopped beating your wife?” is the classic example of the “loaded question,” one that’s based on a false premise. Regardless of how you answer, you’re apt to lend credence to the lie — and thereby shoot yourself in the foot.

Animal advocates now face just such a loaded question. In the aftermath of the World Trade Center tragedy, a succession of irresponsible, unethical or ignorant (and sometimes all three) critics have been lobbing rhetorical grenades at animal activists, aimed at stigmatizing the entire animal protection movement as “terrorists.”

In one particularly disgraceful example, a *Toronto Star* columnist deployed inflammatory terms like “extremist” and “militants” in referring to the Animal Legal Defense Fund. She underscored her ignorance by going on to associate us — by innuendo — with such activities as “break-ins, destruction of property, fire-bombings and letters booby-trapped with razor blades.”

The reason she relied on innuendo is obvious: The facts contradict her, clearly and unmistakably. ALDF — note, please, that the “L” in our name stands for “legal” — was founded by lawyers. As officers of the court, we work through the U.S. justice system, and, in our Zero Tolerance for Cruelty program, in close cooperation with police and prosecutors. We are steadfast in our determination to win protection for animals under the law. We are also, by any objective measure, raging moderates.

Unfortunately, the *Star* writer is just one voice in a chorus that has sprung up in the wake of the awful events of Sept. 11. Sensing their opportunity, opponents of animal rights have updated the classic “gotcha” question as “Have you stopped supporting terrorism?” For anyone to take advantage of the nation’s grief and outrage over 9/11 to advance their agendas is contemptible. When directed at responsible activists and organizations, such tactics are beneath contempt.

Yet they are working. As proof, now comes Rep. Scott McInnis (R.-Col.), who is planning to chair a congressional hearing on ecoterrorism. This is not inherently a bad thing. It is a bad sign, though, that he has already called on mainstream environmental groups to disavow the high-profile havoc being wreaked by a few secret cells under the banner of the Earth Liberation Front and its close cousin, the Animal Liberation Front.

Whether intended or not, the effect of such sweeping demands is to brand an entire movement guilty by association. This is preposterous, unfair and, yes, un-American. That legitimate, law-abiding groups are anti-arson should go without saying.

It is sad that it does not. So I will say it plainly, and against the advice of the PR pros: The Animal Legal Defense Fund categorically disavows the use of violence in the pursuit of social change. This was our position before 9/11. It remains our position now.

Why? We believe that innocent people will eventually be seriously injured or killed as a result of such actions. (For the record, we are opposed to the needless suffering of people as well as animals.) We also believe in our cause, and in our ability to rally public opinion to our side. For that reason — for the sake of the animals we’re committed to helping — we view ecoterrorism as counterproductive. More than Rep. McInnis, I suspect, most animal advocates fervently wish it would stop.

Wishing, of course, won’t put an end to ecoterrorism. Insinuation and innuendo, on the other hand, could well make it worse. As we’ve seen on the global stage, the most potent antidote to terrorism is democracy. Groups that work for nonviolent change — including those that support civil disobedience, in the tradition of Gandhi and King — offer the best alternative to firebombs.

Someday soon, perhaps, our actions will speak for themselves. Until that blessed day, I have just one question for Rep. McInnis: Have you stopped beating your wife?

Joyce Tischler  
Executive Director

# A Win in the West

Animal advocates have won a victory in the long fight to save America's wild horses. In December, a U.S. District Court judge sided with ALDF and the Fund for Animals, which had brought suit to block a massive campaign of federal wild horse roundups.

Though the judge's ruling won't stop the roundups, it will limit the number of horses rounded up over the next few months. As a result, hundreds of horses will be spared the danger and stress of capture and captivity — as well as the chance that they could be sold for slaughter.

The Bureau of Land Management launched the new wave of roundups last year, sweeping 11,000 horses from their home on the prairie to federal pens.

"These roundups were a huge undertaking with no review whatsoever of the possible environmental impact," says attorney Howard Crystal, of the law firm Meyer & Glitzenstein, which represented ALDF in the case. "They were a patent violation of the law."

The BLM is required by law to set and maintain "appropriate management levels" for horse populations on public land. Wild-horse advocates contend the agency's targets are far too low, set more for the benefit of the ranching industry — which feeds its livestock on the same federal grazing land the horses call home — than for ecological reasons. To make matters worse, the BLM's new campaign was aimed at reducing herds to just 40 percent of these already dangerous levels.

"Their only rationale was that it would be more convenient for them to manage the horses if there are fewer of them," Crystal says. "But BLM is supposed to leave the horses alone unless there are too many for the land to support."

ALDF and the Fund filed suit to block the BLM roundups. The agency fought back with a motion to dismiss the suit. But in December, U.S. District Court Judge Ricardo M.

Urbina rejected the BLM's motion and ordered the agency to enter into talks about the roundups.

As a result, the BLM promised to give ALDF and the Fund 60 days notice if it decides to launch a roundup that would reduce the horse population in a given area below the level previously approved by the agency. Crystal says that's a signal that the BLM is backing off the sweeping population reductions it had planned. And if the BLM returns to its earlier policy, ALDF and the Fund will have enough advance warning to challenge the agency's plans. In the meantime, Crystal will keep pressing the matter in court in the hope that the roundups can eventually be stopped entirely.

"Time is running out for America's wild horses," says Joyce Tischler, ALDF's executive director. "These magnificent animals were born free, and we need concerned citizens to help us in the fight to keep them that way."

*"Time is running out for America's wild horses."*

**Joyce Tischler,**  
ALDF executive director



PHOTO BY NANCY O'BRIEN

# Cops & Canines

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*“Having a win on the appellate level is huge. This is the kind of case that makes law.”*

**Deirdre Agnew,**  
attorney for Immi’s  
human companions

from the couple’s backyard due to a defective latch. An officer in a passing patrol car spotted the 3-year-old Rottweiler, stopped, confronted her and drew his gun. According to Kim Brown, when she saw what was happening from her house, she screamed and called out to the officer, “That’s my dog! Don’t shoot!” But witnesses say the policeman shot anyway, firing five rounds — four of them after Immi was already on the ground, struggling to crawl away.

The Browns filed a lawsuit alleging intentional infliction of emotional distress and a violation of the couple’s civil rights. A federal judge dismissed the suit in May 2000, writing in his decision that under Pennsylvania law “a claim of intentional infliction of emotional distress cannot be predicated upon harm to a family pet.”

But the Browns appealed, backed by ALDF briefs on the strong emotional bonds between humans and animals. The appellate court agreed, noting in its ruling “the strength of community sentiment against... animal abuse and the substantial emotional investment that pet owners frequently make in their pets.”

Though the court was ruling on Pennsylvania law, its decision is likely to be cited in future decisions elsewhere, potentially extending new protections to animals across the country. And, says Newell, it’s especially noteworthy when a U.S. appeals court recognizes animals as more than mere property.

“They’ve affirmed that animals aren’t just insignificant chattel, and that you can expect someone to suffer from severe emotional distress if you violently kill their animal companion,” she explains. “That’s an important breakthrough.”

Daton Fullard, a retired TV news producer in south Florida, could be one of the first to take advantage of that breakthrough. He’s considering a lawsuit after discovering how difficult it can be to find justice — or even reasonable explanations — when a cop needlessly shoots a dog.

Late one night in 2000, a Miami-Dade officer walked onto Fullard’s property, where his 11-year-old Alaskan malamute, Lord Atka, was tied. Fullard says the officer fired seven rounds at the animal, hitting him three times. Lord Atka survived, but eventually had to be euthanized due to the grievous injuries he suffered.

After more than seven months — and continuous prodding from Fullard — the police department finally released a report on the incident. According to its internal investigation, Lord Atka was threatening the officer, who claimed he had to use deadly force to protect himself. The department never said what the officer was doing on Fullard’s property at the time, or why it took so many shots to subdue a chained Alaskan malamute, a famously friendly breed the *Columbia Encyclopedia* calls “by nature a gentle and devoted companion.”

Fullard says the police report is “total hogwash.” He recently began reviewing his legal options. He’s not sure if he’ll take the case to court, but he *is* sure of one thing: There was no reason Lord Atka had to die.



**Immi with his friend Zachary in happier days**

“I have friends in the police department who are very professional and do a good job. And it’s a very difficult job. That I understand,” Fullard says. “But I have a problem with someone who would behave like this. If this guy is going to do this to a dog, what does he do with people? In my mind, he’s a threat to the entire community.”

Former St. Louis cop Charles Craig, an instructor at the University of Missouri-Columbia’s National Cruelty Investigations School, says he knows the key to eliminating such threats: training. Officers typically receive no instruction in animal behavior, which can lead them to misinterpret a non-threatening dog’s intentions as hostile. All too often, says Craig, these officers resort to lethal force when other options — such as calling in animal control authorities or using pepper spray — are available.

“They just don’t know any better in some cases,” he says.

Unfortunately, until more police departments start teaching their officers how to deal with animals, Immi and Lord Atka won’t be the last dogs to be victimized by rogue cops. But thanks to the 3rd Circuit Court ruling, it could get easier for ALDF and other animal advocates to seek damages when such tragedies occur, thus forcing police departments and city councils to address what has become a serious problem.

“It’s really important to bring these bad apples to justice,” says Newell. “If they’re allowed to escape punishment, it’s not fair to all the other people in law enforcement who work so hard to protect animals and uphold cruelty laws. And it’s certainly not fair to the animals.”



**Suzie before and after she was shot by a Michigan police officer**



## The Wounds That Never Heal

Some kids are afraid of dogs. Not 7-year-old Nolan Reynolds and his 8-year-old brother, Ryan. They’re afraid of the police.

The boys’ mother, Teresa Reynolds, says they can’t understand why a police officer would ever shoot Suzie, a sweet-tempered, 3-year-old golden retriever-Lab mix.

“We try to tell them it’s not all policemen, just this one,” Reynolds says. “But it doesn’t seem to help. This is going to affect them for the rest of their lives.”

The boys’ reaction is typical of the emotional scars that linger after a companion animal comes under police fire. More than a year after a Miami-Dade policeman shot his family’s Alaskan malamute, Lord Atka, Daton Fullard says his 11-year-old daughter remains haunted by memories of that horrific night.

“It’s still traumatic. She can’t really talk about it without getting emotional,” Fullard says. “Both she and my wife have had to go to counseling to deal with this.”

Coping has been a struggle for the Reynoldses as well. After Fourth of July celebrations in their Milan, Mich., neighborhood this past summer, they headed inside for the night. Unbeknownst to them, the dog remained outside. That’s how Suzie, known to friends and neighbors for her gentle disposition, encountered an officer who was responding to an unrelated call from a home down the street.

Though Suzie has never shown hostility to anyone, the officer claims the dog was about to attack him. He fired at her, sending a bullet through her front left leg and rear left paw. Suzie survived, but her front leg had to be amputated.

Outraged, Teresa Reynolds and her husband pressed the local police department to censure the cop. The department did nothing. Now the couple says their kids live in fear — and they’re leaving town.

“The boys saw everything. Now if the police drive by, they get scared. It’s really messed up our lives,” Reynolds says. “We can’t stay here. The memory of what happened just slaps you in the face every time you walk outside.”



# BRIEFS...

## For Utah's Mustangs, Freedom Is Fleeting

*"There are going to be a lot more tragedies until we bring these cruel and unnecessary roundups to an end."*

**Steve Ann Chambers,**  
ALDF president


For the second time in two years, 80 wild horses have been captured and taken from their home in northeastern Utah's Uintah County.

The Bureau of Land Management first removed more than 200 horses from the Bonanza Herd Area in November 1999, following an outbreak of equine infectious anemia. Thirty-one horses tested positive for the disease, and were euthanized; under pressure from ALDF, the agency eventually released the remaining horses, who proved healthy.

But local ranchers — who see the horses as competing with their livestock for forage — pushed for the animals to be removed again, and a U.S. district judge recently ordered the agency to comply. ALDF immediately filed for an emergency stay blocking the roundup, but was rebuffed in federal appeals court. Now these free-born animals, accustomed to

covering 10 to 15 miles a day in herds, face years of captivity and isolation in BLM corrals.

The agency has yet to announce what it will do with the horses, raising concerns they will end up in its adoption program — which is often abused by unscrupulous animal dealers looking for horses to sell for slaughter.

"What happened to the wild horses in Uintah County is a real tragedy," says Steve Ann Chambers, ALDF's president. "And, unfortunately, there are going to be a lot more tragedies just like it until we bring these cruel and unnecessary roundups to an end." 

## Ray of Sunshine For Florida's Hogs


Thanks to ALDF and a coalition of animal advocacy groups, Florida's pigs have finally had their day in court. In January, the Florida Supreme Court unanimously approved a proposed ballot initiative that would outlaw "gestation crates" for pigs.

Commonly found in so-called factory farms, the tiny crates are used to imprison pregnant sows, who can barely move for months or even years at a time. Titled "Animal Cruelty Amendment: Limiting Cruel and Inhumane Confinement of Pigs During Pregnancy," the ballot initiative would make it illegal to confine a pregnant pig in a way that prevents the animal from turning around freely.

Attorney Stephen Grimes made the case for the initiative at a November hearing before the court. A former Florida Supreme Court justice himself, Grimes now works for the law firm Holland & Knight, which was retained by ALDF to develop a ballot initiative that could clear any potential legal hurdles.

In Florida, all ballot initiatives must be approved by the state's highest court before they can go to voters. In its ruling, the state Supreme Court held that the gestation crate initiative met the two legal requirements for validity: It deals with just one subject and its title and summary accurately represent the content of the amendment.

Now that the court has given the initiative the green light, animal advocates have until summer to gather nearly half a million signatures. If they're successful, the measure will appear on Florida ballots in November. Nearly 137,000 valid signatures have already been gathered.

Several groups — including Floridians for Humane Farms, the Humane Society of the United States, Farm Sanctuary and the Fund for Animals — will be working in the months ahead to mobilize grassroots support for the measure. If approved by voters, the ban on gestation crates will become part of the state constitution. 



# Goodwill Hunting

Animal activists in Washington state unveiled an unusual new tactic this fall: They became hunters. Sort of.

The activists acquired firearms and hunting permits so they could take to the state's marshes just as hunting season began. Dubbing themselves the "Field of Dreams Hunting Club," they strenuously denied — in public, at least — that they hoped to scare game animals away from hunting areas. That, they note helpfully, "would be illegal." But the club made use of a number of unique, "as yet untested" hunting techniques that outraged more conventional hunters.


Tongues firmly in cheek, several club members took to the water in a giant rubber duck, explaining that curious birds flying overhead would swoop down to investigate the massive "Trojan Duckie." Members also fired their shotguns at random as part of a revolutionary style of hunting they call "shoot and they will come." They theorize that the birds will get so used to the sound of gunfire that they'll become sitting ducks for so-called sport hunters.

Not surprisingly, more old-fashioned hunters — the kind who actually aim to kill their prey



*Bagging birds,  
 or — gasp —  
 saving them?*

— demanded that the club be banned from hunting areas, complaining that its mission is to save animals, not bag them. The state's Department of Fish and Wildlife declined to take action, however, since club members insist that they would never, ever obstruct their fellow hunters.


That's their story, anyway. And they're sticking to it. 

# Unsportsmanlike Conduct

Hunters like to defend the killing of animals as a "sport." But even many die-hard hunters see nothing sportsmanlike about "canned hunts" — organized slaughters in which exotic animals are shot in fenced-in areas from which there is no escape.

In November, Sen. Joseph Biden of Delaware took aim at canned hunts by introducing the Captive Exotic Animal Protection Act. The bill would make it illegal to kill an exotic animal in an enclosed area for entertainment or trophies.

The bill has been assigned to the Senate Judiciary Committee. You can help by letting your senators know that you support the Captive Exotic Animal Protection Act. To find contact information for your senators, go to [www.senate.gov](http://www.senate.gov) on the Web.

Animal advocates in Pennsylvania can do even more. H.B. 373, a bill banning canned hunts, has been submitted to the Pennsylvania House of Representatives. If you live in Pennsylvania, urge your state representative to support the bill. 

# Slap on the Wrist For Chimp Killer?



A jury has recommended 30 days in jail and a fine for a Missouri teen who shot a chimpanzee with a shotgun last spring. Jason Coats shot Suzy, a 28-year-old chimp, after she escaped from a private compound near his home in rural Festus, Mo. Suzy survived but had to be euthanized soon afterward.

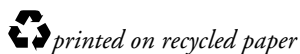
During his trial, Coats claimed that he shot Suzy because she and two other escaped chimps were acting in a threatening manner. Yet witnesses testified that Suzy posed no threat to anyone. In fact, when Coats shot her she had already been hit with a tranquilizer dart and was beginning to fall asleep. Witnesses also testified that after the shooting an elated Coats climbed onto the roof of his home, hoping to get a clear shot at the other two chimps.

Coats was found guilty of felony property damage and misdemeanor animal abuse, charges that could result in up to five years in prison. But the jury recommended just 30 days in jail and a fine. Judge Gary P. Kramer will announce the sentence in early March.

To urge a stronger sentence as well as mandatory psychological counseling and anger management classes for Coats, send Judge Kramer a polite letter at the address below:

Jefferson County Courthouse  
 P.O. Box 100  
 Hillsboro, MO 63050  
 Fax: (636) 797-5073





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# Court Order Ends Endocrine Disruptor Challenge... for Now

A court order has temporarily scuttled activists' challenge to a federal program that could result in the deaths of millions of animals. Intended to identify chemicals that pose a threat to the human endocrine system, the Environmental Protection Agency program could require extensive testing of nearly 87,000 substances. According to some estimates, as many as 1.2 million animals could be used as test subjects for every 1,000 chemicals the EPA analyzes.

Last year, ALDF challenged the EPA's plan for implementing the program by filing a complaint on behalf of PETA, the Doris Day Animal League, Physicians Committee for Responsible Medicine and other concerned parties. The complaint contended that the EPA failed to investigate the full range of necessary tests — including alternatives to animal testing — within a time-frame set by Congress. The complaint also charged that the EPA failed to consult with other

federal agencies on its testing protocols (as mandated by Congress) and submitted animal and non-animal tests to differing levels of review, increasing the likelihood that animal tests would ultimately be implemented.

In December, U.S. District Court Judge William Alsup dismissed the complaint. ALDF and its clients are currently reviewing the possibility of an appeal. And Bruce Wagman, one of the attorneys representing the plaintiffs on behalf of ALDF, says there might be more chances to intervene once the EPA finalizes its plans for the program.

"The EPA is just using the same old animal model they've been using for years without acknowledging that there are valid alternatives," says Wagman, an ALDF member attorney and partner in the San Francisco firm Morgenstein & Jubelirer. "If the EPA doesn't take its time and really consider some of the alternatives to animal testing, there's going to be a lot of needless pain and suffering." 