Although their name implies a safe haven for dogs, cats and other pets, animal shelters don’t always provide care and comfort. Sometimes, as in two recent cases in Kentucky, the “shelters” are nothing more than flea-ridden prisons. In August, ALDF filed lawsuits against two Kentucky counties for failing to provide basic, humane conditions for stray animals, as mandated by the state’s Humane Shelter Law.

The lawsuits were filed in Estill and Robertson counties on behalf of Angelika Kasey and Toni Penrod, who brought their concerns about violations at the shelters to ALDF. The women are being represented by the Animal Legal Defense Fund and ALDF Board Chair and Louisville attorney Katie Brophy, who filed the lawsuits on August 20th. Both complaints are asking the court to order local officials to bring the shelters into compliance with the state law.

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SIXTEEN YEARS AGO, AN AMBITIOUS LAW STUDENT named Nancy Perry founded the first Student Animal Legal Defense Fund chapter at Lewis & Clark Law School in Portland, Oregon. Little did she know that the birth of that chapter heralded not only the beginning of ALDF’s network of student chapters (which now number 130 in the U.S. and Canada), but the beginning of a long and innovative relationship between Lewis & Clark and the Animal Legal Defense Fund.

Some other firsts at Lewis & Clark include the first annual animal law conference, publication of Animal Law, the first animal law journal, the first advanced animal law class, the first animal law moot court competition, and the first animal law legislative drafting competition. In every case, ALDF has provided resources and support for these developments.

This year the Animal Legal Defense Fund has again joined Lewis & Clark to launch the most ambitious undertaking to advance animal law yet: the Center for Animal Law Studies at Lewis & Clark, in collaboration with the Animal Legal Defense Fund, which we write about in this issue of The Animals’ Advocate. ALDF has committed well over $1.2 million to the Center through 2010 and will work closely to develop collaborative programs through which law students can get hands-on involvement in animal law cases and other initiatives.

The Center would not have been possible without the full support of the new dean of Lewis & Clark Law School, Robert Klonoff, an incredibly accomplished lawyer and professor, who has advanced an inspired vision for the development of animal law studies at the school. Assistant Dean Janice Weis has also consistently supported and encouraged the growth of animal law studies at Lewis & Clark for almost 15 years.

But the key to the success of all the past and future animal law education programs at Lewis & Clark, or any law school, is the students. Without their passion for animal protection and their energy and enthusiasm none of these developments would be possible.

ALDF thanks Dean Klonoff, Assistant Dean Weis, Nancy Perry (who is now the Executive Vice President for Government Affairs at the Humane Society of the United States) and the many Lewis & Clark law students who followed her path and went on to blaze new ones. I look forward to what the next 16 years of collaboration will bring.

For the animals,

Stephen Wells
Executive Director
FIGHTING TO PROTECT MARINE MAMMALS off the coast of California, the Animal Legal Defense Fund has joined a coalition of animal and environmental protection organizations seeking to require the U.S. Navy to use sonar testing more responsibly. ALDF recently signed on to an amicus brief that urges the Supreme Court to uphold a federal court’s injunction to prevent the Navy from conducting major mid-frequency sonar exercises that have been linked to the deaths of whales.

Earlier this year, a federal court prohibited the Navy from conducting high-powered sonar exercises in California without safety measures in place; U.S. District Judge Florence-Marie Cooper agreed that using mid-frequency sonar would create a “near certainty” of harm to mammals. She handed down an order that limited the Navy’s use of sonar when marine mammals came within 2,200 yards of a vessel and said sonar could not be used within 12 miles of the coast, nor near the Catalina Basin, where whales congregate.

Navy leaders took exception to a requirement to power down the sonar whenever the mammals came within 1.25 miles of a ship and filed an appeal. The case was heard by the U.S. Supreme Court during the fall of 2008, and their opinion is pending.

The military uses two types of active sonar in its submarine-hunting exercises: mid-frequency and low-frequency, both of which produce intense sound waves that travel through the ocean, revealing objects in their path. Low-frequency sonar travels vast distances in seawater. By the Navy’s own estimates, even 300 miles from the source sonic waves can retain an intensity of 140 decibels—a hundred times greater than the level known to alter the behavior of large whales. Mid-frequency sonar is more widely used and has been associated with mortalities of whales.

ALDF, Defenders of Wildlife, the Humane Society of the United States, Sierra Club and other organizations also contend that the U.S. Navy likely violated the National Environmental Policy Act by failing to issue an environmental impact statement for its ongoing training exercises off the coast of Southern California. The courts agreed with the Navy’s own environmental assessment that its use of mid-frequency active sonar would irreparably harm various whale species. Consequently, the U.S. District Court issued—and the U.S. Court of Appeals for the Ninth Circuit affirmed—a carefully tailored injunction that allowed the training exercises to continue using appropriate mitigation measures while the Navy conducted its environmental impact statement.

The dangers of sonar testing became evident in 2000, when 16 whales and a dolphin beached themselves in the Bahamas within 24 hours after the U.S. Navy used mid-frequency sonar in the area. At first the Navy denied their sonar exercises were the cause of the whales coming ashore, but a government investigation found the Navy was indeed responsible. Whales in other mass strandings coinciding with sonar tests have suffered bleeding around the brain, ears and eyes.

A 2004 report by the Scientific Committee of the International Whaling Commission found that the evidence linking Navy sonar and beached whales “appears overwhelming.” A U.N. report agreed that increased military maneuvers and sonar are harming the ability of 71 types of whales, dolphins and porpoises to communicate, navigate and hunt.

Necessary safety measures include putting rich marine mammal habitat off-limits; avoiding migration routes and feeding or breeding areas when marine mammals are present; and turning off active sonar when marine mammals and endangered species are spotted nearby.
TIMING, AS THE SAYING GOES, IS EVERYTHING. And with animal law stories grabbing headlines around the world in the last year, now is the ideal time for a new kind of approach to animal law – and a new education center to support it.

That’s why ALDF is proud to help launch the Center for Animal Law Studies at Lewis & Clark, a first-of-its-kind collaboration between the Animal Legal Defense Fund and the Lewis & Clark Law School of Portland, Oregon. Stephen Wells, executive director for ALDF, and Robert Klonoff, Dean and Professor of Law at Lewis & Clark, officially announced the launch of the Center at the law school’s 16th-annual animal law conference in October.

As an academic and practical forum for the burgeoning field of animal law, the Center for Animal Law Studies will develop and provide essential programs and services for law students under the guidance of experienced animal law professors and ALDF attorneys. The Center’s Litigation Clinic will be devoted to litigating cases that will advance the laws pertaining to animals and prevent or stop animal abuse. The Center’s Legislative Alliance will focus on identifying key animal protection legislative needs throughout the country, pairing students with appropriate legislators to research and draft new and better laws for animals and providing critical review and analysis of pending legislation.

The Center’s Legal Scholarship Project will create sophisticated animal law research and writing opportunities for publication in scholarly journals; the Job Center at the Center for Animal Law Studies will be devoted to identifying and creating professional opportunities for both law students and law graduates who are committed to putting their legal skills to work for animals; and the Center for Animal Law Studies’ national animal law conference, co-hosted with the Lewis & Clark Student Animal Legal Defense Fund chapter, will bring together prominent minds in the growing community of professionals and students in the field of animal law to discuss cutting-edge legal strategies to protect the lives and advance the interests of animals through the legal system.

This Center represents the most ambitious step yet in a long history of cooperation between ALDF and Lewis & Clark going back more than 15 years. And with Pamela Frasch and her team at the helm, there is no doubt that this endeavor will be nothing but extraordinarily successful. In addition to Pam’s years of experience at ALDF prior to becoming the new Center’s Executive Director, Pam has been teaching animal law courses for the past 10 years at Lewis and Clark, she co-authored the first American legal casebook in the field, and she is a frequent lecturer at the national and international level regarding animal law issues.

In her keynote address at Lewis & Clark’s October animal law conference, ALDF founder Joyce Tischler said the law school was the ideal home for the new Center, recounting the singular contributions Lewis & Clark has made to the field of animal law. The first-ever SALDF chapter was founded at Lewis & Clark in 1993. Year after year, this chapter continues to be a powerful student group advocating for advancements in animal law. For example, the students of Lewis & Clark Law School, particularly the SALDF members, publish Animal Law, the first scholarly journal devoted to animal law issues. The college was also the site of the first advanced animal law seminar, the first animal law moot court competition, the first animal law summer school program and the first animal law conference hosted by a law school.
Kentucky Shelters
continued from front page

“The conditions in these two shelters are actually typical of most shelters in Kentucky, the exceptions being those in areas of larger populations and some small shelters which have allowed or encouraged volunteers with good networks,” says Brophy.

Kentucky’s problems with conditions at animal shelters attracted national attention in 2002, when animal advocates videotaped a worker at a Henry County shelter euthanizing stray dogs by shooting them—a practice that had allegedly gone on for years—and video images of still-writhing dogs languishing in a pile were shown on the internet and television newscasts. The public furor that followed prompted state lawmakers to pass the Humane Shelter Law, which went into effect in 2004 and gave each county three years, until July 2007, to come into compliance with the new standards. The set of statutes, intended to provide better protections for the state’s stray and abandoned companion animals, requires each county to establish a program that would protect dogs and cats from harm and encourage animal adoption. Other requirements include providing kennels with concrete floors (which can be disinfected), no longer using guns to kill animals, keeping animals for five days and providing animals with water, food and vet care.

Kasey, who reported to ALDF that she had spent a long day at the Estill County shelter, described water buckets green with insects and debris, miserable dogs swarming with ticks and fleas and kennels strewn with feces and urine, with the kennels and shelter becoming breeding grounds for disease. The dogs were provided with no comfort, Kasey says. “No food was distributed, no snacks, no toys, blankets. Mommy dogs were nursing on the concrete floor. One mommy dog had some sort of a crate bottom with dirty newspapers in it. She was doing her best to keep fleas out of her eyes and nose while nursing her pups.”

In addition to the deplorable conditions inside the Estill facility, there is a tire yard next door that burns debris, sending toxic smoke and fumes right into the shelter through the large main door. “It made all of us sick, and you could tell it was irritating some of the dogs,” says Kasey.

Also in violation of the humane standards, the Estill County shelter routinely kills adoptable dogs and cats before the expiration of the mandatory five-day holding period. “In my opinion,” says Kasey, “this ‘shelter’ is no more than a holding tank for the destruction of innocent animals.”

Robertson County’s Mt. Olivet shelter, meanwhile, is no better. Plaintiff Toni Penrod describes it as a primitive wooden shack where dogs endure searing heat in summer and freezing temperatures in the winter and lie amidst their own excrement on dirt floors that flood during rainstorms. The structure has no heating and no air conditioning.

The treatment of cats in both shelters is also a point of contention. Robertson County refuses to allow the dog warden to take in stray and abandoned cats, and homeless cats are not provided for in any way. At the Estill County shelter, cats are euthanized regardless of whether they might be lost family pets or healthy strays who would be suitable candidates for adoption. Although the Robertson County shelter is reportedly working to comply with the new state regulations, Estill County has filed a motion to dismiss the case.

Notably, in an annual report by ALDF ranking every state in the nation according to its laws protecting animals, Kentucky ranked at the very bottom. (Please see the Winter 2007 issue of The Animals’ Advocate for details; back issues are archived at www.aldf.org.)

“ALDF has great respect for the trying and frustrating work performed in thousands of animal shelters around the country daily,” says Bruce Wagman, ALDF’s chief outside litigation counsel. “We would only get involved in a lawsuit against a shelter where the conditions were so egregious that the animals were suffering and needed our help. That is, unfortunately, the case in these Kentucky shelters.”

One Earth: Conference for Change

THE LEWIS & CLARK LAW SCHOOL’S 16TH-ANNUAL CONFERENCE, held October 17-19 and dubbed “One Earth: Globalism & Animal Law,” was a sold-out event that attracted attorneys, law students, academics and animal advocates from around the world. In addition to ALDF’s Stephen Wells and Joyce Tischler, featured presenters included Sarah Baekler, SALDF alum and founding executive director of Chimpanzee Sanctuary Northwest; Gene Baur, co-founder of Farm Sanctuary; David Favre, Michigan State University law professor; Scott Heiser, director of ALDF’s Criminal Justice Program; Stephan Otto, director of legislative affairs for ALDF; Kathy Hessler, a former ALDF board member who will serve as the clinical director of the Center for Animal Law Studies; and Nancy Perry, the Lewis & Clark Law School alum who founded the first SALDF chapter, now vice president of Government Affairs for the Humane Society of the United States — to name just a few.

Executive Director Pamela Frasch is particularly enthusiastic about the scholarly environment the Center for Animal Law Studies engenders. “I like to think of the Center as a combination think tank and training ground for future generations of animal protection lawyers,” she says. “What makes it so special is that it is the first program of its kind in the world to unite strong legal scholarship with hands-on advocacy training, and it has the full support of the law school and ALDF. It’s a powerful combination.”

For more information about Lewis & Clark Law School’s Center for Animal Law Studies, please visit www.lclark.edu/org/cals/.
ON MAY 19, 2008, WITNESSES WATCHED IN HORROR as Christopher Comins shot two pet dogs multiple times in an Orlando, Florida, cow pasture. Comins allegedly only ceased firing at the Siberian huskies, Hoochie and Raley, when their guardian came to their aid and screamed at the gunman to stop.

Comins was in the 32-acre pasture, owned by Maury Carter, when he spotted Hoochie and Raley near some cows and baby calves. The dogs had gotten away from their guardian, Christopher Butler, and Comins believed they were a threat to the other animals. Using his cell phone, Comins called Carter’s son, who allegedly asked him to shoot the huskies to protect the calves. He was standing about 30 feet from a busy public road when he opened fire on Hoochie and Raley. Florida property owners have the legal right to protect livestock from wild or unleashed dogs.

Though four bullets struck Raley, and Hoochie lost an eye after being hit with three bullets, both dogs survived. “The dogs tried to run away,” said a bystander who witnessed the incident. “But the shooter wouldn’t give up. He just continued to shoot the dogs.” A videotape of the shooting taken by an Irish tourist was posted on YouTube, leading the Orange County Sheriff’s Office to investigate Comins for animal cruelty. But the State Attorney’s Office has sole authority to decide what, if any, charges should be filed.

Scott Heiser, director of ALDF’s Criminal Justice Program, has offered the State Attorney’s Office in Orange County a host of pro bono services, including legal research, drafting jury instructions and locating expert witnesses to ensure a just result in the criminal case. Scott also directed the State Attorney to specific authority in Florida supporting felony charges for the conduct captured on the videotape. He also assisted Jennifer Dietz, the attorney representing the dogs and their guardian, Christopher Butler, in a civil suit filed against Comins. Though the suit was settled out of court, criminal charges have yet to be resolved, and at the moment, the criminal case only alleges misdemeanor offenses.

“It takes a movement of dedicated people – like ALDF, animal rights organizations and animal lawyers to push him envelope – to show that societal norms must be incorporated into the law,” says Dietz. “Animals are not mere property. They are sentient beings and need to be treated as such.” Dietz says there’s been a gradual shift in how the public views animals. “I believe that as society has grown to respect the love and companionship of domesticated animals within their household, and even call them members of the family, we are seeing an increase in the judges’ and jurors’ perspective on this issue as well. Juries are awarding emotional distress damages and, in some cases, punitive damages.”

Scott shares the same view, but in this specific case he’s concerned, that, as he puts it, “If the articulated concerns about the political environment in this jurisdiction are true, I can see the defense using the civil settlement as a justification for low-balling the criminal case and that’s an unacceptable outcome—the rich and the politically connected shouldn’t be allowed to buy their way out of a criminal case by paying a large civil settlement and then waving the settlement agreement under the nose of the State’s Attorney with an eye toward cutting a ‘generous’ deal on the criminal case.”

WHAT YOU CAN DO
Please contact State Attorney Lawson Lamar and urge him to pursue felony charges against Comins and push for the maximum penalty upon conviction, with sentencing orders on each injured dog to be served consecutively. You may send a polite letter, email or fax to:
Lawson Lamar, State Attorney 9th Judicial Circuit, Orange Co. 415 North Orange Ave. Orlando, FL 32801 Email: llamar@sao9.org Phone: 407-836-2400 Fax: 407-836-2499
Dear Joyce:

My local animal shelter has some serious problems and I want to help the animals get better treatment. What do you recommend?

Dear Reader:

Animal shelters are intended to provide a safe haven for animals who have gotten lost, abandoned, or have been surrendered by their guardian, and I’m a big fan of theirs. Sadly, there are some animal shelters and animal control facilities that do not provide proper treatment to the animals entrusted to them. The first step to a solution is to clearly identify the problem. It could be a lack of funding, poor management, untrained staff, inadequate disease control, a physical facility that is too old, too small or in need of major repair, lack of veterinary care, lack of a volunteer program, or any number of other reasons. Gather the facts: keep careful notes on each perceived problem, including the date, time, location and animal(s) involved and take photos and videos, if you are able.

Try to work cooperatively with shelter staff and administrators to develop creative solutions. For example, two friends of mine discovered that their local shelter had very little money and the staff had low morale. They held fundraisers to raise the money needed to buy a washer and dryer, so that there was always clean bedding for the animals, and to purchase new cage doors that were safer for the animals. They volunteered to groom the animals, walk dogs and build a group of volunteers to assist the small staff at the shelter. It took time, but eventually, the shelter’s care of the animals and its adoption program improved markedly.

If shelter staff will not agree to hear your concerns, or work cooperatively, the next step is to contact their bosses and request an investigation of the shelter. If the shelter is run by a city or county, contact the City Council, County Board of Supervisors, sheriff, or other agency that oversees it. In the case of a private, nonprofit shelter, the oversight may come from a board of directors. Organize a committee of concerned citizens. Find out what minimum standards of care are mandated by state and local laws. You can obtain local laws from your City Council or local library. Once you have done all of your homework, prepare to make your case in a business-like manner. Creating positive change will take time and effort, and the animals in your community will benefit greatly.

Let’s all pitch in! —Joyce

If you have a question you would like to see answered in The Animals’ Advocate newsletter, email Joyce Tischler, ALDF’s Founder and General Counsel, at: askjoyce@aldf.org, or write to “Ask Joyce,” Animal Legal Defense Fund, 170 East Cotati Avenue, Cotati, CA 94931. We regret that we are unable to publish answers to all questions. This column provides general information only. Each state and, in some cases, each county has its own rules and procedures, so please consult a local attorney to assure that you receive advice specific to your jurisdiction.

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Animal Bill of Rights

Open a newspaper, browse online or watch the evening news and you’ll see that animal-cruelty cases are grabbing headlines around the world. Although non-human animals are largely denied legal protection from exploitation and abuse, people are beginning to recognize the seriousness of animal cruelty.

Because laws are a reflection of a society’s values, it’s more important than ever that lawmakers hear from their constituents that we not only reject animal abuse-- we want these values codified with a bill that protects animals and recognizes their most basic rights.

That’s why ALDF is promoting a campaign for the U.S. to adopt an Animal Bill of Rights. The Animal Bill of Rights—already signed by more than a quarter-million Americans-- urges legislators to pass legislation in support of the following basic rights for animals:

★ The Right of animals to be free from exploitation, cruelty, neglect and abuse.

★ The Right of laboratory animals not to be used in cruel or unnecessary experiments.

★ The Right of farm animals to an environment that satisfies their basic physical and psychological needs.

★ The Right of companion animals to a healthy diet, protective shelter and adequate medical care.

★ The Right of wildlife to a natural habitat, ecologically sufficient to a normal existence and self-sustaining species population.

★ The Right of animals to have their interests represented in court and safeguarded by the law of the land.
Stop Cruelty with a Click

ALDF’S RECENTLY REVAMPED WEBSITE IS BETTER than ever! In addition to making information on ALDF.org easier to find – and even delivered right to you via our RSS feeds – we’ve added some great custom artwork to merchandise on our Café Press store. Local tattoo artist Lewis Gold has created three distinctive designs: choose from the “Lover, Not a Fighter” rooster, a colorful sparrow holding up the “Animal Legal Defense Fund” banner or an “Always Innocent” puppy riding in a classic Radio Flyer wagon.

Better yet, get one of each! All three designs are available on a variety of apparel, coffee mugs, tote bags and mouse pads.

And while you’re visiting our site, don’t forget that the Animal Legal Defense Fund has teamed up with Organic Bouquet, which offers a beautiful assortment of certified-organic flowers, handcrafted wreaths, decorative plants and other gifts that have been created using sustainable-growing methods and ethical farming practices. With every purchase made using the special ALDF link on their website (or directly from ALDF.org), Organic Bouquet will donate 10% of the retail price to the Animal Legal Defense Fund.

And there’s more! You can now send prewritten letters to judges, prosecutors, attorneys and legislators with one click, asking them to protect animals and get tough on their abusers. Visit aldf.org/action-alerts to take action on cases that need your voice.

Whether you want to give the gift of compassion or speak out against cruelty, advocating for animals has never been easier.