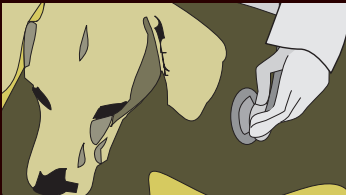




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Bad Vet?—Malpractice and our Animals

THE ANIMALS'

A NEWSLETTER FOR SUPPORTERS OF THE ANIMAL LEGAL DEFENSE FUND



Karley—a loving, vibrant puppy—before her life was cut short in a violent attack.

# Justice for Karley

*ALDF drafts new bill to alter how courts view animals*

**WHY WOULD A GROWN MAN**, a leader in his community, purportedly beat a puppy so viciously that the dog would have to be euthanized? The Toole family has been asking this question since November 2008, when a neighbor repeatedly punched their six-month-old puppy, Karley, and struck her in the head with a large rock, shattering her skull. It's a heartbreaking case that led Jeff and Shelley Toole to contact the Animal Legal Defense Fund for assistance. We've helped them by drafting legislation that could change the way California courts regard companion animals.

Authorities have charged Karley's alleged attacker, Glynn Johnson, with felony animal cruelty for an assault witnesses say was unprovoked. They testified in a pre-trial hearing that after the puppy had run across

his yard, Johnson, an assistant fire chief with Los Angeles County, discovered neighbor Travis Staggs taking Karley to the Toole's home on the other side of his own property in an unincorporated area of Riverside, Calif. The defendant offered to walk Karley back to the Tooles himself, so Staggs turned the German shepherd mix over to him. "Then something in his head snapped and he started beating the dog," Staggs told the court. He said that Johnson punched Karley with a closed fist about a dozen times and then beat her with an 11-inch rock, adding that he tried to stop the attack, but Johnson pushed him away.

Staggs said Johnson finally stopped hitting Karley after her body went limp; she then managed to stumble to a nearby

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ADVOCATE

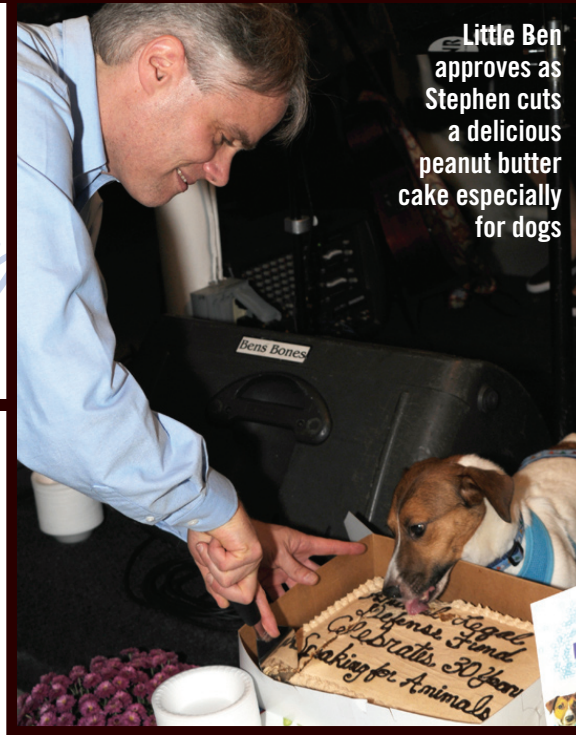


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# LETTER FROM THE EXECUTIVE DIRECTOR



## Little Ben's Big Day



Little Ben approves as Stephen cuts a delicious peanut butter cake especially for dogs

Photo by Pamela B. Townsend

### FOR THE RECORD

“Meat is a wasteful use of water and creates a lot of greenhouse gases. It puts enormous pressure on the world’s resources. A vegetarian diet is better.”

—Great Britain’s Lord Stern of Brentford, former chief economist at the World Bank and author of the landmark 2006 study on the economics of climate change

WHEN I FIRST MET BEN, IN APRIL, 2005, his fur was stained yellow from constant contact with urine – his own as well as that from other dogs crated above and all around him. He cowered and flinched at everything that moved or made a noise. He was one of 326 dogs that ALDF rescued in our landmark puppy mill lawsuit, *ALDF v. Woodley*.

This September 18, over four years later, I got to see Ben again – now a robust, bright-eyed, happy and playful dog, his coat gleaming white, as it should be. I can’t tell you how happy it makes me every time I see his picture. His transformation is the result of the loving care he has received from his adoptive family, Michelle and Larry Kownacki.

The occasion for this reunion was Little Ben’s Fourth Annual Cruise for Compassion, a fundraiser for ALDF hosted by Ben, of course, and Michelle and Larry’s pet supply and novelty store, *Paws pet boutique*. Over 125 human guests, and about 70 dogs, enjoyed an evening of music, dancing, food and fun while cruising aboard the Harbor Queen in Annapolis, Maryland. This year the event raised over \$10,000 for the Animal Legal Defense Fund – an amount matched by an inspired supporter, Nancy Squires and The Squires Group.

The success of this event is a testament to the power that each of us has to make the world a safer, better place for animals. Over the past four years, Ben’s Cruise has raised money that has helped ALDF rescue over 2,000 animals in Ben’s old home state of North Carolina alone.

I go into this holiday season having received a priceless gift from Larry and Michelle, the incredible life they have given Little Ben – and the positive change they have created in so many other animals’ lives in his honor.

Whether or not you’re able to host a big fundraising event, there are lots of ways you can help animals this holiday season, like adopting a shelter animal that needs a loving lifelong home or volunteering to lend a helping hand. In lieu of a gift, you can ask your friends and family to make a donation in your name to your favorite charity. Even just signing up for ALDF’s e-alerts and pledging to take action will help save animals’ lives.

Whatever inspires you, I wish you a happy holiday season and a terrific new year.

For the animals,

Stephen Wells, Executive Director



Animal Legal Defense Fund

Stephen Wells  
Executive Director

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# Veterinary Forensics: The Scene of the Crime

*ALDF grant helps establish cause of death in hoarding case*

**A GRUESOME DOG HOARDING CASE** in Michigan is the latest example of how ALDF can assist police and prosecutors faced with costly investigations and very limited budgets. The crucial element in the charges against Kenneth Lang Jr is determining what killed approximately 150 Chihuahuas found dead, along with 119 live ones, in his small house in Dearborn. But necropsies are not cheap — so to help ensure Lang is held responsible for his crimes, ALDF provided the Dearborn police with the funding they needed. Grants for necropsies and other evidence-collecting are yet another way ALDF supports law enforcement in their quest to arrest and prosecute those who harm animals.


High-tech investigation is a growing trend that is helping put more and more criminals behind bars. While the science seen on popular television dramas like CSI was once reserved only for human victims, the technology is now being applied to crimes committed against animals, and it's helping to determine if blood samples, bullet trajectories, fibers, bone fragments, necropsy results and other evidence point to a defendant's guilt or innocence.

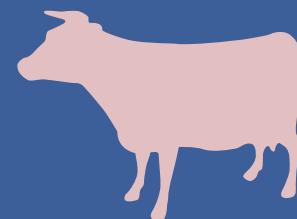
Even a case that seems as open and shut as Lang's can be won or lost based on the veterinary forensics, especially with no witnesses. Like many animal hoarders, Lang kept his secret well hidden. Behind his well-manicured front yard and his bungalow's immaculate exterior, dogs lived — and died — amid feces, urine, fleas and piles of garbage. The home's interior

was so filthy that it was cleared by a team wearing breathing gear and protective clothing; the house was finally declared uninhabitable and demolished. Lang was charged with two counts of cruelty to 10 or more animals and faces four years in prison.

Critical to corroborating the prosecution's claims are the results of necropsies performed on 10 of the dogs. "Establishing cause of death is key in any fatal animal cruelty case," says Scott Heiser, director of ALDF's Criminal Justice Program. "By providing direct funding for forensic investigation of crimes against animals, we hope to ensure that attorneys have the evidence they need to put abusers in jail — while the surviving victims are allowed to heal from their trauma."

Dearborn Police Lieutenant Ronald Beggs, the detective who was in charge of the Lang case, believes pursuing animal hoarders tells the public that such abuse is a serious crime that will not be tolerated. "Investigating these cases sends a strong message that animal ownership is a significant responsibility and society, through its laws, has determined that failure to uphold one's responsibilities will and should have consequences," he says. "Moreover, investigating these cases brings additional attention to the problems of abuse and neglect and hopefully will result in creating better responses from law enforcement and other government and non-profit entities, including funding for training and investigative expenses. For example, until ALDF became involved, it was very difficult to obtain funding for the necropsies we wanted to do."

"I have seen way too many of these cases go unprosecuted because local law enforcement just did not have the funding to do the forensic work needed to prove the case," adds Heiser. "What a shame it is to see easily solvable crimes get washed aside because of 'budget issues.' I can't tell you how grateful I am to our donors for their support of ALDF, as it's the money supplied by our supporters that's helping us reverse this ugly trend and push animal cruelty cases to trial that, in the past, would have been summarily ignored by local officials who didn't have the resources to do the job." 



**"Establishing  
cause of death is  
key in any fatal  
animal cruelty  
case."**

— *Scott Heiser,  
director of ALDF's  
Criminal Justice Program*





# From Starvation to Salvation

PAGE 4

*ALDF and USERL team up for another horse rescue*

## THE ANIMALS'

**“We did not want to take a chance with the horses’ well-being by returning them to the same situation.”**

— Bruce Wagman,  
chief outside litigation  
counsel for ALDF

Stewart, suffering from starvation when he was rescued from the Colliers

**FEW SIGHTS ARE AS HEARTBREAKING** and senseless as a starving animal. But when compassionate people step in to make a difference, the result is often a happy ending. Such is the case with eight horses seized from Robert and Rebecca Collier, who blatantly ignored the basic needs of the animals on their farm. Thanks to the prompt work of the United States Equine Rescue League (USERL), with legal assistance from the Animal Legal Defense Fund, the horses are now healthy and safe. Robert Collier, meanwhile, was charged with two counts of animal cruelty and neglect and may be ordered to reimburse USERL the more than \$60,000 it has spent providing the horses with veterinary and supportive care.

The case began in November 2007, when the Marion-Grant County Humane Society of Indiana responded to complaints that animals were being neglected on the Colliers’ farm; upon investigating, they found dogs and horses suffering severe starvation. The Humane Society, concerned for the animals’ welfare, seized the animals and placed the horses with a local landowner for rehabilitation. When Robert Collier discovered the horses on this other property, he threatened both the landowner and the horses, prompting the Indiana Horse Council to call in USERL, which took

possession of the animals and placed them in foster care. Although Collier was aware that the seized horses were being cared for, he made no attempts to recover them for many months — an important point in this case.

“Finally, on May 13th of this year, the court in Marion-Grant County issued an order that said we either had to return the horses or explain why we were not returning them,” says Bruce Wagman, chief outside litigation counsel for ALDF. “We had several very good reasons to keep them away from the Colliers.” Wagman explains that Collier had defaulted on his ownership of the horses when the 10-day time period allowed for owners of impounded animals to file a request for their return under Indiana law lapsed. “Given the Colliers’ prior history of abuse, and Mr. Collier’s obvious lack of concern for these wonderful horses for nearly two years, we did not want to take a chance with the horses’ well-being by returning them to the same situation. Also, Indiana has a lien statute, which says that if you take care of someone’s animals and the owner demands their return, you’re entitled to get paid for the cost of taking care of them. So, we asked Mr. Collier and his lawyer very politely to give us approximately \$59,000, which is a very reasonable amount for taking care of eight horses for more than 500 days.”

In addition to the criminal case against Collier, which was eventually dropped, ALDF filed a civil lawsuit on behalf of USERL. In the suit, USERL asked the court to agree that the horses were in USERL’s possession permanently, since Collier had effectively given up all rights to the horses. In the unlikely event the court does not agree, USERL is also seeking the amount of the lien for the horses, which is increasing every day. Under Indiana’s lien law, USERL has the right to recover the money spent taking care of Collier’s horses (if they still were his).

“ALDF has been a huge blessing,” says Jennifer Hack, executive director of USERL. “It was a big relief to me and the League in general when we found out that ALDF was willing to take our case. We’ve been extremely lucky and grateful for their legal work on behalf of these horses.”

Incidents of horse neglect are sadly all too






common (see sidebar). Thanks to the floundering economy and over-breeding, it's easier than ever to buy a horse, with some auctioned off for less than \$100. But while first-time buyers are thrilled with the low price, they're usually unaware that caring for a horse can cost hundreds of dollars a month, and a horse can live up to 35 years.

"Horses are being abandoned all over the place," says Wagman. "It's becoming an epidemic. In many cases in the past few years we see people neglecting and deserting horses because, they claim, they don't have the money to feed them." Moreover, even slaughterhouses are turning the animals away. "The slaughterhouses once paid for horses, but they won't pay anymore because there's such a surplus. So people just leave their horses in barren fields, exposed to the elements, to starve to death. But, obviously, it's cruelty and it's wrong no matter what your excuse is, and an inability to care for an animal is no defense to breaking the law."

Hack sees another reason for the rampant abuse. "Yes, some of it is financial, but it's also due to ignorance and stubbornness," she says. "More people have horses now, but I find that with the cases that end up in court, it isn't so much about money. If these people truly cared about their animals, they would have either placed them in a home that could properly care for them or would have contacted an organization to help them do so. When we have to go to court and fight to protect the animals, clearly the owners don't have the horses' best interests in mind. In those cases, I really think it's a lack of care for the horses themselves and more that they want to possess the animals."

With horse neglect so common today, it

takes dedication, resources and compassion to create happy endings like this one. In Wagman's view, an innovative spirit helps, too. "ALDF is on the forefront of the law, looking for new ways to use the courts to save animals in a world of increasing cruelty. Here, ALDF took the creative step of using lien laws to protect these animals and allow USERL to do its good work of rehabilitation and rescue," he says. "It's a great partnership." 

## REPORT HORSE NEGLECT

Horse neglect is defined as failure to provide sustenance and care sufficient to maintain an equine's good health. This includes food, water, shelter, veterinary and farrier (hoof) care.

### RECOGNIZING NEGLECT

- ▶ **Poor body weight:** Easily visible bone structure, such as protruding ribs, indicates severe malnutrition.
- ▶ **Poor Hair Coat:** A long, dead hair coat reflects poor nutrition and/or internal/external parasites.
- ▶ **Dehydration:** Pinch the skin over the shoulder blade. If it takes more than two seconds to return to normal, the horse is dehydrated. Other signs of dehydration include dry gums and sunken eye sockets.
- ▶ **Shelter:** A horse should have at least a stand of trees to provide shade in summer and block the cold winds in winter. USERL recommends a three sided-shelter.
- ▶ **Veterinary Care:** If a horse has signs of disease or injury that are not being attended to by a veterinarian, it may be considered a case of neglect.
- ▶ **De-worming:** This is essential for horses' health. Signs a horse is not receiving de-worming medication include abdominal bloating, rub marks on tail and points of buttocks, poor body weight and poor hair coat.
- ▶ **Farrier Care:** If feet appear to be too long, cracked, infected or the horse is unable to walk, it may be considered a case of neglect.

If you suspect horse neglect, please contact your local humane society or department of animal control. —Source: *userl.org*




Mimi, a miracle baby for her once-starving mother

## UPDATE: Victory for the Keating horses!

READERS OF *THE ANIMALS' ADVOCATE* WILL NO DOUBT recall a similar neglect story we shared in our last issue in which USERL rescued

seven horses from a North Carolina field. Despite the tragic circumstances — one mare suffered an agonizing death before she could be saved — our case against Michael Keating, his ex-wife Judy Keating, their daughter Gayle and family friend Joel Simpson has resulted in one victory after another. Here are some highlights:

- ▶ On February 13, 2009, the court ordered the Keatings to pay \$8,372.46 for the care of their neglected horses.
- ▶ On May 18, the court granted the United States Equine Rescue League's petition and ordered Joel Simpson to pay them \$1,831 in restitution for nursing Groucho, a stallion the Keatings had given to Simpson, back to health.
- ▶ On May 21, Lacy, the pregnant mare who was close to death when rescued, gave birth to a beautiful filly. The foal was named Gracie by ALDF supporters. She and her mother are doing well.
- ▶ On July 12, Diva also gave birth to a filly. Mimi and her mom are healthy and happy.
- ▶ On August 25, ALDF secured a consent decree, enforceable by the court, in which Judy Keating agreed not to own or work with any animals in any way for a period of 10 years. (Because animal abusers so often go on to repeat their crimes, preventing them from having contact with animals is critical.) 



# Justice for Karley

*continued from front page*

ravine. The Toole's teenage children, Brandon and Heather, rushed Karley to a veterinarian and later an animal intensive care unit, but her injuries were too extensive. In addition to her skull being cracked in three places, Karley lost an eye and suffered a broken jaw, crushed nasal cavity and a collapsed ear canal. "I've never seen a dog come in with that level of head injury," says Angela Howard, DVM, one of the veterinarians who treated Karley. "I've seen pets who have been hit by cars and they were thrown by the car and suffered fractures to the nose or skull, but I've never seen a case where their head was that badly damaged."

## KARLEY'S LAW

Johnson, who could face up to four years in prison if convicted, claims it's a case of self-defense: Karley had bitten down on his thumb, he says, and the multiple blows he delivered to the puppy's head were an effort to get her to release him. But Shelley Toole says Johnson has a history of violence and should be incarcerated. Unfortunately, though sheriff's deputies responded to the crime scene shortly after the assault, Johnson was not immediately charged. "We wanted Mr. Johnson arrested," says Toole. "One of our supporters told me about ALDF, and that they had attorneys who might be able to help. I went on the ALDF website to research what we could do and try to find answers to legal questions — the resources section on their site had all the answers we needed."

Toole says she was shocked to discover that the law considers animals to be property. "Animals are not chairs or tables," she says. "They are living, breathing beings with feelings, and they are part of a family. Sadly, there is no civil law for the victims of animal cruelty in California." She and her family are dedicated to changing that, not only to honor Karley's memory, but to aid future victims of abuse. Stephan Otto, ALDF's legislative director, worked with the Tooles to draft "Karley's Law," a Civil Right of Action for Cruelty to an Animal, which will give parties whose animals are subjected to acts of cruelty the opportunity to bring a civil action against the perpetrator. The law won't change an animal's legal status as property, but if a plaintiff prevails, it will give courts the authority to order a judgment for all actual and reasonable damages proved, such as the monetary value of the animal, veterinary expenses, emotional distress, loss of companionship, court costs and attorney's fees. Karley's


Law will also provide punitive damages of at least \$1,000 for every intentional act to which the animal was subjected, as well as give courts the authority to issue restraining orders and other injunctive relief as they deem warranted.

"As it stands now," says Otto, "collecting an animal's market value — what it would cost to replace him or her — is generally all that's available to plaintiffs in the state, so Karley's Law would be a real step forward. It doesn't guarantee any damages, but it will allow animal guardians their day in court to argue for the full extent of their loss."

## FINDING CLOSURE

Though new laws won't bring Karley back, they'll aid future generations of animals and bring a little comfort to the Tooles.

"The senseless tragedy of what happened to Karley is still in our mind every day," says Toole. "Through Karley and our efforts, maybe other animals' lives will be saved from cruelty. Maybe after the trial we can move forward, and maybe in time we will heal, but how do you ever forget such a horrible act of violence and how much Karley suffered? The nightmares haven't gone away."

The family, which has relocated, set up a website for Karley and her supporters: [www.justice4karley.com](http://www.justice4karley.com). Johnson's trial was scheduled to begin as we went to press with this newsletter. Check back at [www.aldf.org](http://www.aldf.org) for updates. 

## THE ANIMALS'

**"Animals are not chairs or tables. They are living, breathing beings with feelings, and they are part of a family."**


—Shelley Toole, Karley's guardian

An outraged community rallies for justice.



## China

*continued from page 8*

School applaud China as it joins more than 100 nations that have made animal abuse and cruelty a punishable offense," says Pamela Frasch, assistant dean of the animal law program at Lewis & Clark and executive director of the Center, which was formed in collaboration with ALDF in 2008. Frasch was working for ALDF when she first started traveling to China to participate in the meetings leading up to the draft welfare legislation. "It was a privilege to represent ALDF and share what we have learned about both the effectiveness and challenges of American anti-cruelty laws at the historic meetings in China where legal professionals from around the world met to discuss the future of animal protection legislation in China. ALDF has worked on thousands of cruelty cases since 1996, and the statistical analyses as well as anecdotal evidence we presented based on our experience helped inform the process of creating new Chinese animal welfare legislation. I have been so impressed by the passion and commitment to help animals that the law professors and other legal professionals in China have brought to the process. It gives me great hope for the future." 





# ASK JOYCE

## Dear Joyce:

*I took my dog to the vet (Dr. X) for a simple tooth cleaning, and she became very sick, requiring \$2,000 of additional care from another vet (Dr. Y). Did Dr. X commit malpractice and what can I do to make sure this doesn't happen to other animals?* —Allyse D.

## Dear Allyse:

This is a good question and one that we, at Animal Legal Defense Fund, are often asked.

To start, you should contact Drs. X and Y and obtain your dog's medical records and any and all documents regarding your dog. You should then get an independent second opinion, which can come from Dr. Y or (even better) another veterinarian. Thankfully, your dog is still alive. If your dog had died, it would be important to preserve her remains and quickly have an autopsy done to determine the cause of death. If you receive a second opinion that supports your concerns about malpractice, seek out expert legal advice to determine how best to proceed. A lawyer who specializes in animal law can tell you the potential for success in a veterinary malpractice case.

Veterinary malpractice lawsuits are usually expensive and time consuming. You will be required to present expert testimony about the alleged negligence of Dr. X. In the U.S., dogs are considered "personal property" and most courts limit you to recovering the cost of "replacing" your dog. In limited circumstances in some states you may be able to increase that award based on other factors related to the special nature of your dog. However, it is possible that you will invest more money in legal fees than you will be able to recover. At the very least, if you can prove that Dr. X caused your dog's injuries, you may be able to recover the money spent to bring your dog back to health.


If you cannot afford to hire a lawyer, consider going to small claims court, where you can represent yourself. In small claims court, you can recover your "out-of-pocket" expenses, which are the same as described above. Damages recoverable in small claims courts are limited to a certain amount of money, which is different in every state.

You may also consider sending a complaint to your state veterinary licensing board. This is

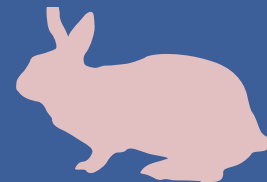
a state agency which has the power to investigate allegations of wrongdoing by veterinarians, including malpractice. The board may suspend or remove a veterinarian's license, but this rarely happens. If you have a lawyer, ask her whether to send such a complaint.

Your complaint to a licensing board should be short. Clearly identify all of the parties and state the facts as you know them. Ask the licensing board to investigate your complaint and notify you of the results. Follow up if you do not hear back. It is important that state licensing boards receive valid complaints and encouragement to monitor the practitioners in their state.

I hope this is helpful. Good luck and please check our website, [www.aldf.org](http://www.aldf.org) for much more information about protecting your companion animals from harm.

All the best, —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](mailto: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.*



*Remember when you thought you could change the world?*

YOU STILL CAN

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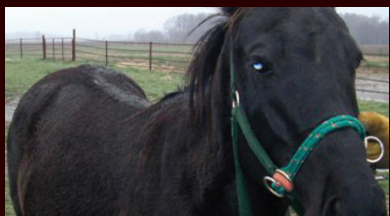
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## China Expected to Enact Animal Welfare Law

**ACCORDING TO A POPULAR ADAGE IN CHINA**, "People who worry about animals have eaten too much and have nothing better to do." Why focus on animals, many Chinese have asked, when the country has so many human welfare issues still to address? Not surprisingly, the country is without any animal welfare statutes other than a law to protect endangered species. There are no penalties for abusing animals sold for food or as pets, which has led to horrific cruelties, particularly the extensive, indiscriminate and brutal killing of stray and pet dogs to stem the spread of rabies, a major cause of death in China.

So a recent report that Chinese officials have drafted the country's first far-reaching animal protection law is welcome news indeed. The draft law covers wildlife, farmed animals, companion animals, animals used for labor and in research, and it contains guidelines for disease prevention and medical care for animals. It is certain to be amended, but if the law is adopted by China's national legislature, it will be a landmark step forward in promoting animal welfare.

"The current draft is more comprehensive, clearly delineating how animals should be raised, transported and slaughtered in a more humane way," says Chang Jiwen, the law professor at the Chinese Academy of Social Sciences who headed the drafting team. "But it may not be up to Western benchmarks, both in terms of its ideals and practical application." Professor Chang also warns that it could be 10 years before the proposed draft finally becomes law. "China is still a country where many human beings have not achieved a decent, well-respected life," he says. "The future is bright, but the path ahead will be tortuous."

This isn't the first time China has considered animal welfare legislation. In 2004, for example, the government suspended a four-day-old law that outlined the proper treatment of animals being transported and facing slaughter. But the recent dog "cullings" and other abuses brought to the public's attention by animal advocates have pressed the need for legislation protecting animals. Professor Chang observes that enacting animal welfare laws could also benefit human health. "If [the] Chinese had not recklessly fed on wild animals, SARS, which inflicted great damage upon China a few years ago, might not have happened," he says.

"The Animal Legal Defense Fund and the Center for Animal Law Studies at Lewis & Clark Law

*continued on page 6*