



VIRTUAL
**ANIMAL LAW
SYMPOSIUM**
COVID-19 AND ANIMALS

Wild Animals in Captivity

Danny Waltz

Animal Legal Defense Fund



Personal Views and Opinions

Opinions in this presentation (and slide show) are personal and not necessarily representative of the Animal Legal Defense Fund or any clients



Animal Legal Defense Fund at a glance

- Litigation Program
 - Fellowships and clerkships.
 - Pro bono.



Animal Legal Defense Fund at a glance

Mission:

To protect the lives and advance the interests of animals through the legal system.



Animal Legal Defense Fund at a glance

- *Justice v. Vercher*, Oregon Court of Appeals

teenVOGUE

NEWS AND POLITICS

A Horse Is Suing His Former Owners for Medical Expenses Stemming From Alleged Neglect

A courtroom drama for horse girls everywhere.



Sarah Mearhoff
AUG 14, 2018 3:45PM EDT



What's Wrong with Captivity?

- From a **rights** perspective
 - Denial of the right to autonomy (individual rights)
 - Denial of the ability to flourish in community and the natural environment (communal rights)
- From a **welfare** perspective
 - Inadequate food, water, or shelter
 - Denial of veterinary care
 - Frustration of instincts / psychological suffering



An Example of the Problem: Sawmiller



United States Department of Agriculture
Animal and Plant Health Inspection Service

KHAMMEL
2016090000540305 Insp_id

Inspection Report

ROBERT SAWMILLER
16761 COUNTY ROAD 25A
WAPAKONETA, OH 45895

Customer ID: 2942
Certificate: 31-C-0221
Site: 002
DAVID EICHER

Type: FOCUSED INSPECTION
Date: 18-FEB-2021

3.127(b) Direct Repeat

Facilities, outdoor.

There is one male cougar that is approximately 6 years old housed singly in an enclosure that has two plastic tank-type structures for shelter. This animal is currently in poor body condition with ribs and vertebrae visible. One of the shelters



Ohio's Fatal Attractions

An overview of captive
wildlife issues in Ohio

Other Specific Harms from Captivity

- Inhibition of species-specific social needs
- Inability to hide from public view
- Persistent exposure of predator and prey to each other
- Zookeepers spreading disease between enclosures
- Underlying concept: ***Umwelt***. The perceptive and operative world of an individual animal, from the animal's species-driven perspective



Key Federal Laws Related to Wild Animals in Captivity

Endangered Species Act



Animal Welfare Act



Interplay Between Endangered Species Act and Animal Welfare Act

16 U.S.C. 1532 (Definitions): “The term ‘take’ means to **harass**, harm, pursue, hunt . . . wound . . .”

Harass in the definition of “take” means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering.

- For **captive animals**, does not include: **(1)** generally accepted **(2)** husbandry practices that meet or exceed the minimum standards for facilities and care under the Animal Welfare Act . . . **(3)** that are not likely to result in injury.

(50 C.F.R. 17.3)



State Laws also Protect Captive Wild Animals

- **Dangerous Wild Animal Laws**

- Example: Ohio Section 953: prohibits possession of “dangerous wild animal,” with narrow exceptions for, e.g., sanctuaries or Association of Zoos and Aquariums accredited facilities.

- **State Endangered Species Acts**

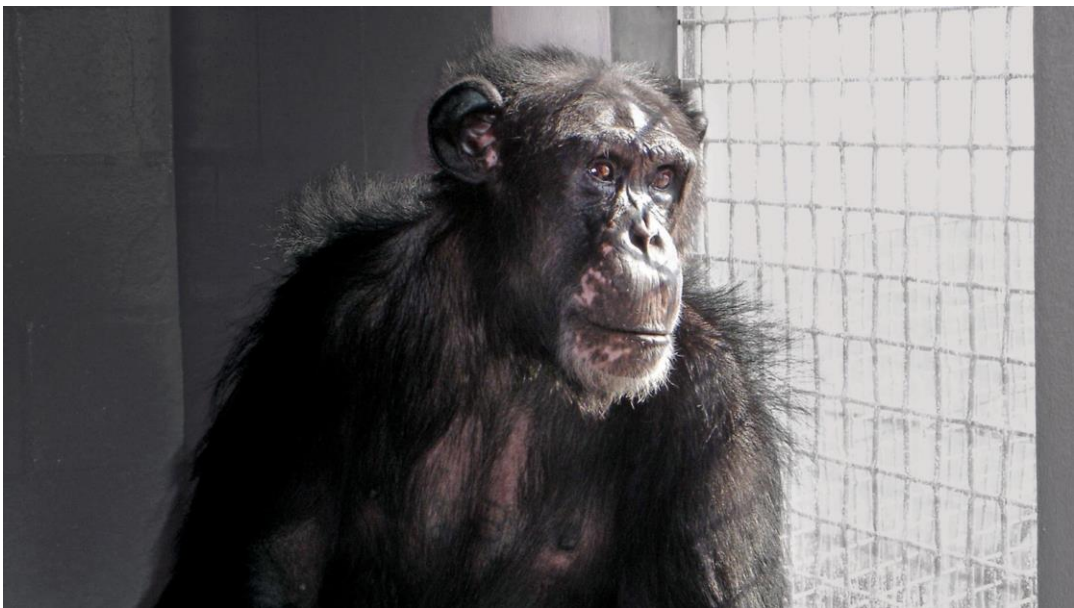
- Example: Washington RCW 77.15.130: prohibits taking, including possession or malicious harassment, of state-listed animals.

- **Animal Cruelty Laws**

- Example: North Carolina 19A: provides a “civil remedy” to seek injunction for the removal of animals suffering “cruel treatment”



Consequences of the Captive Wildlife Market





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Thank you!

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