



Oreo's law: courage and cowardice in the fight for a no kill nation

By SF Animal Shelters Examiner, Nathan Winograd November 30, 12:25 PM



Oreo's Law was named for Oreo, who was killed by the ASPCA despite a rescue alternative,

Sandy* supports Oreo's Law. She used to rescue cats from a shelter in Texas, where most cats and kittens are put to death. For years, Sandy rescued and placed hundreds of animals every year. She no longer can, because she was kicked out of the shelter for "criticizing" it. After years of broken promises that things would improve—that animals would be fed regularly, that sick animals would be given their medication, that programs which would save more lives would be implemented, that customer service would improve, that abusive staff would be removed—she was tired of looking the other way, so she went public with her concerns, and was "fired" as a volunteer. The cats she could be saving are now being killed.

Sarah and Mike* support Oreo's Law. They live in Washington. They still rescue, but at great personal emotional cost. They don't dare criticize; they don't dare try to reform the shelter, because they have seen what happens when others tried. They have seen rescuers turned away and the animals they were willing to save be killed instead. So they go into the last place on earth they feel comfortable going as animal lovers: a regressive shelter that mistreats the animals and needlessly kills. They see evidence of neglect all around them: a dog bleeding in his kennel who is not getting any care. A cat who should be on twice daily antibiotics but is receiving none, her

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nose encrusted shut, her eyes barely open. Sarah and Mike have been told that they cannot provide care to these animals t hemselves because of union rules. And as long as staff is walking around, they don't dare. They are allowed to save a precious few, and for those animals, they look the other way, smile when they want to cry, and quietly go about their business.

I've been doing shelter assessments for six years. I've assessed shelters in Arizona, California, Florida, Georgia, Illinois, Indiana, Kansas, Maryland, Mississippi, Missouri, Nevada, New Jersey, New Orleans, New York, Oregon, Pennsylvania, Texas, Utah, Virginia, Washington, and elsewhere. I have also worked with rescue groups and shelters in virtually all parts of the country. As part of my work, there is one question I have always asked of rescuers:

Do you look the other way at inhumane treatment of animals in the shelter for fear you will lose your ability to rescue?

And the answer, *invariably*, is "Yes." They describe how other rescuers were barred from saving animals as retaliation for complaining about the shelter, even if they first offered suggestions and when those were ignored, went public. And so rather than see the animals killed, rescuers have learned to keep quiet. To see the dog bleeding in his cage but

not complain. To see staff playing cards in a back room or socializing up front while the animals languish in their own waste, fail to get treatment for their medical conditions, or see cruelty calls ignored by officers who are not being held accountable. In Philadelphia, rescuers who complained found that the animals they called about and stated they were en route to pick up would be dead, killed out of spite, by the time they arrived.

Cathy supports Oreo's Law. She lives in California, the state that is the exception to the above rule. Cathy saved countless numbers of animals by taking them off of death row for her rescue group. After her pleas to improve the brutal conditions at her local shelter went unheeded by leadership and staff, Cathy went to the Board of Supervisors to request conditions improve. In response, the shelter revoked her ability to rescue animals, choosing to kill the animals instead. But Cathy had one thing in her favor that Sandy, Sarah, and Mike do not have: a California law that gives her the legal right to save animals. She sued and the court ordered the shelter's director to restore her rescue rights. Countless more animals have been saved by Cathy, instead of killed by the shelter, since that time.

Stephanie supports Oreo's Law. Her group offered to save *every* neonatal kitten at their

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local shelter, since the shelter refused to implement a foster care program and was killing them all. The director declined, but Stephanie lives in California. She threatened a lawsuit and he relented. Stephanie is now able to freely save the kittens the director would have otherwise killed.

Carole supports Oreo's Law. The feral cats her group cared for would periodically be trapped by someone else and taken to the local shelter, also in California. Prior to the passage of the 1998 reform law, despite the fact that their notched ears indicated they were cats from her colony, the shelter's director would not release them to her, killing them by claiming they were a "nuisance." But it is now illegal for those at the shelter to kill the cats she wants back and they must return them to her group by law.

Over ten years after this seminal legislation was passed in California, the New York legislature is now considering *identical*** legislation which would similarly empower activists in that state and thereby provide the means to prohibit these types of tragedies from happening in New York State—such as Oreo's killing for which the proposed law is named—from ever occurring again. This is important, indeed vital, legislation for the No Kill cause. So how is it that there are "animal advocates" who do not support it? That

actually fear it? And how is it that so many large organizations which have made their reputation by claiming to support No Kill have so far also failed to support it when their support could prove so key to its success? How is it that so many in the No Kill movementindividuals as well as large groups-are proving themselves to be less progressive than the politicians who made up the California legislature of a decade ago? Less progressive than the thousands of average animal loving Americans who were outraged by Oreo's killing and support this common sense law? And what does this reticence say about what is really motivating these individuals and organizations when, instead of celebrating this seminal event, they see only phantoms of doom and fail to summon the courage necessary to support a law which is so reasonable and fundamental to our cause?

Instead, they parrot the arguments of the opposition, the fear mongering about "hoarders" and "dog fighters" as a reason to allow shelters to continue to turn away rescue groups and kill the animals they are willing to save. And, as is too often the case, also forcing the animals to remain in facilities that actually do provide substandard, neglectful, and even abusive care they claim to be fighting by opposing Oreo's Law. It simply makes no sense. After all the evidence of abuse, cruelty, neglect and killing that is

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rampant in our nation's shelters, how are there are any animal protection groups that would oppose Oreo's Law by deferring to their authority? By arguing that animals are better off killed by shelters, who often neglect and mistreat them in the process, than in the protective embrace of rescue groups made up of people truly dedicated to their well-being?

In the No Kill movement, our mission is twofold. First, we must reform our nation's broken animal sheltering system so that the animals who enter them will get the chance at life millions are now so cruelly denied. But reforming a shelter, wearing down the opposition, forcing the replacement of a regressive director with one dedicated to saving lives—all of these things take time. And time is one thing that animals entering shelters *today* do not have. To help these animals, we need to offer something more immediate. They need a way out. They need rescuers who want to save them to have the power to do so even when a director says, "No." And they need that now, because tomorrow will be too late.

The second goal of the No Kill movement is therefore to arm those who want to save animals with the power to do so. Like the network of "safe houses" which protected runaway slaves as they fled north to freedom, the thousands of rescue groups, No Kill

sanctuaries and No Kill shelters throughout our nation are our movement's own safe houses. And they must be supported, and empowered through law. That goal is, in fact, fundamental to what our movement is all about, because that is what the animals most desperately need. And not only will doing so save animals today, but it will save them in perpetuity since the power of one director to say "Yes" to saving lives can be taken away by the next director who says "No," absent a law to the contrary. That is why a shelter can be progressive one day, and moving in the opposite direction the next. Animals should be saved regardless of who is running our shelters and legislation like Oreo's Law gives rescuers the power to do so.

So why do some who claim to speak for animals oppose this important legislation or remain deafeningly silent? For individual activists, there are two possible reasons: *uncaring and myopia*.

Proponents of Killing; Prophets of Doom

First, there are the activists I call "Naysayers" who do not want success because their identity is wrapped up in the cause of animal activism. Any effort at real progress which might actually solve the problem through which they find this identity is threatening. Any lifesaving success which exposes the

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fallacy of their belief that most people are cruel and uncaring is threatening. While they may be moan the killing, any steps taken to actually succeed in bringing the killing to an end threatens the paradigm on which their identities as "saviors" to the animals is based.

As I write in Irreconcilable Differences:

It is about establishing their superiority to the uncaring masses, whose rule is threatened by the emerging success of the No Kill movement, which proves that while some people are irresponsible, most people do care. Most people find killing abhorrent. Most people pass on their own needs during difficult economic times to provide what their animals need. Most people would do the right thing if given the information they need to make good choices. Most people are not only part of the solution; they are the key to it. And that, according to these Naysayers, is unacceptable. Because if it was, these "animal advocates" aren't so "special" anymore. Most people are not only as committed to animals as they claim to be; they are more so because they oppose killing, too. And this is something they cannot accept. So they block it out, because what else do they have? Who else are they? To recognize the truth is to lose their identity as "saviors"—these addicts of being "special" at the expense of the animals.

And so they attempt to stall progress by opposing legislation which would empower others to save them, and by throwing up smokescreens such as fears about hoarders

and dog fighters to portray greater lifesaving as a threat to the animals. The animals are, in their own self-serving, delusional thinking, better off dead at the hands of even underperforming and cruel shelter staff.

Second, some activists are simply lost in the fog of their own confusion. It is an inevitable part of working in the animal protection movement that one is exposed to dogmas and mythology built up to rationalize and explain the killing in shelters. Too often, activists become blinded by these explanations. Slowly, they stop listening to their common sense, and let their fears and phantoms guide their advocacy. They become lost in the wilderness of their own making, unable to see the forest through the trees, and tragically lose sight of what they-and our movement-should be striving for. As a result, they hinder, rather than promote, the welfare of animals, by advocating bizarre, irreconcilable propositions that make no sense whatsoever: such as arguing that animal rescuers should be denied the right to save animals on death row because they might be hoarders or dog fighters in disguise. In doing so, they advocate positions that are the antithesis of those they should be championing as people who claim to speak on behalf of animals. They fail to do what is required of them as animal activists recognizing and hailing success, such as the introduction of Oreo's Law, and helping to

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ensure its passage.

In addition to individuals, there are also some self-proclaimed No Kill organizations that have yet to lend their support to Oreo's Law. Why are those who lead these organizations quietly turning a blind eye to the lifesaving potential of Oreo's Law? Here, too, there are two possible reasons: avarice and cowardice.

Some organizations have an allegiance to the ASPCA—they are either beholden to them financially or they want to tap into their financial largesse and are therefore remaining quiet or deferring to them. Because the ASPCA gives them money, they are helping to stop legislation that—although it would save thousands of lives—would, by virtue of its name, forever memorialize the ASPCA's betrayal of an abused dog. In order to distract attention away from Oreo's needless killing, they tell us that the killing of Oreo and others like her should not diminish what good the ASPCA has done.

That the ASPCA helps some animals does not give them a blank check to harm others. In addition, the fundamental basis of the No Kill movement is about protecting the rights of *individual* animals to their very lives. Whatever the ASPCA does to help other animals or however many checks the ASPCA writes to other groups does not excuse their killing of

Oreo, or their current opposition to Oreo's Law which would save the lives of thousands of animals.

And, in the final analysis, this issue goes far beyond the ASPCA and Oreo. In some ways, the ASPCA and the particular facts of this case have become a distraction. The law would save the lives of kittens and puppies, friendly and healthy animals, and feral cats as well as future Oreos. Oreo's Law, which has proven so successful in California, is a reasonable, common-sense and long overdue approach to fixing an endemic problem, even if the tragedy of Oreo's needless killing had not occurred.

Ultimately, Oreo's Law is about taking the power (to kill) away from those who abuse it, and giving the power to those who want to save animals. It is about empowering rescuers who want to protect animals from animal control and large, national organizations which have historically acted unilaterally, arrogantly, and without regard for the values and will of the public and the grassroots of our movement. Yet in spite of the tremendous need for such reform, it is shocking how many large, national groups which have historically championed No Kill are choosing to remain silent and therefore failing to support Oreo's Law as well, violating their fundamental duty not only to the animals, but the people in our movement who would greatly benefit from the

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passage of the law—animal rescuers who make a life and death difference for animals in their communities every day. Animal rescuers who have made these national organizations what they are, look to them for guidance and leadership, donate to them, and attend their events and conferences.

Day in and day out, these rescuers show tremendous courage and compassion-visiting what is often the one place on earth hardest for them to go as animal lovers: their local shelters. And yet they go back, again and again. They endure the hostile treatment. They endure the heartbreak of seeing the animals destined for the needle. They endure having to jump through unnecessary and arbitrary hurdles set by shelter directors who are holding the animals they want to save hostage. They endure having to look the other way at abuse of other animals, because if they don't, if they speak out, they will be barred from saving any animals. And this law would make their lives easier—their work less difficult. It would empower them, tip the balance more in their favor, and lessen their daily burden. That there are those who would fail to support such a law, or worse, who would dare oppose it by claiming that these dedicated, hard working rescuers are, in reality, dog fighters and hoarders in disguise not only is offensive, but a betrayal of these selfless, compassionate individuals.

True leadership requires courage, and sacrifice (which in this case, doesn't even amount to much). Progress demands it. It is not enough to simply promote lifesaving programs to an audience that already agrees with you. True leadership requires fighting for them against those who don't. It is time for every group which claims to speak on behalf of animals to show the same courage and determination that the brave rescuers in our movement show every single day by empowering them to save lives. In return, what do these groups risk by supporting Oreo' s Law? Simply the ire of people who ultimately do not want No Kill success and are, therefore, not part of our movement. People who are empowered and emboldened by the silence of these groups. People who want to hold back progress and maintain their lack of accountability and hold on power. People who lead organizations that find killing easier than doing what is necessary to stop it. All of which we perpetuate, when we do not challenge their regressive positions and strangle hold on power.

In the end, this is a fight for the future of our movement. The next phase of the No Kill revolution is codifying expected norms of behavior—changing the law to have it reflect what it is we want for animals. With the eyes of an animal loving nation watching, Oreo's

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Law has the potential to start a chain reaction in states throughout the country—not only more Oreo's Laws, but helping empower activists to see that they can force these shelters—these brutal, regressive, inhumane shelters-to behave as we want them to. It opens the door for greater regulation. It sends the message to regressive shelter directors that they are not all powerful, that they are beholden to us. It opens the door to the paradigm shift that is needed for No Kill to be widely successful, and to succeed in perpetuity. Oreo's Law and laws like it are the very thing our movement should culminate in. They are what our movement is all about. Ultimately, they are what will allow us to declare the victory we all claim to want.

Betraying the No Kill Movement

The No Kill movement is first and foremost about ending the killing of animals. If the animals could speak, they would disregard our fears, reject our disturbing and perverted notions of protecting them by killing them, and they would beg, and plead to live, as would we if we were in their position.

Right now, our nation's animal shelters are a network of death camps, robbing half of all animals who enter shelters—over four million animals a year—with the one and only thing they own, and the one thing that is most

precious to them—their very lives. Killing by a shelter worker is the leading cause of death for healthy dogs and cats in the United States. In the state of New York, Oreo's Law would offer many of these animals a cure to this deadly scourge. All responsible and authentic animal advocates must support it.

I ended my book *Redemption* by making a simple observation and by asking a simple question:

We have a choice. We can fully, completely, and without reservation embrace No Kill as our future. Or we can continue to legitimize the two-pronged s trategy of failure: adopt a few and kill the rest. It is a choice which history has thrown upon us. We are the generation that questioned the killing. We are the generation that has discovered how to stop it. Will we be the generation that does?

The stunning failure thus far of our movement to unequivocally celebrate the introduction of Oreo's Law, to officially support it, and to work to ensure its passage, threatens to answer this last question with a tragic, but thunderous, "No."

I do not doubt that No Kill is inevitable. But, as I have stated so many times before, our reluctance to demand it today—*right now*—has a body count. Our failure to support and ensure the passage of Oreo's Law will also have a body count. In the future, our

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inaction—our implicit condoning of the killing because we fail to pass a law that will make it illegal to continue when a rescue option has been made available—will be seen for the tragic and cruel betrayal that it is. And history will judge those who claimed to speak for animals, but failed to do so when given the chance; who failed to champion the best interests of animals by working to help pass a law that immediately takes them out of harm' s way, as the cowards, opportunists, and obstructionists that they really are. For by what means other than these types of lawsmaking it illegal for shelters to kill animals when rescue groups are willing to save themcould we ever hope to achieve and sustain a No Kill nation?

If we value our irrational phobias more than the lives of animals; if we give voice to our misplaced allegiances to people and organizations which kill animals simply because they have money and are in positions of power; if we cannot come together to support a law empowering even ourselves to save animals, then our generation is already lost. And the animals will continue to be killed—forced to wait for the next generation which will not have inherited and internalized the bizarre, irresponsible, ludicrous, and disturbing—in fact, evil—notion that killing is not to be feared, being alive is. Because, at the end of the day, that—and that alone—is

what the opposition to Oreo's Law is arguing.

- * The names have been changed at their request to protect them from any or further retaliation. Sandy hopes to return to the shelter some day. Mike and Sarah are quietly saving those they can.
- ** One commentator has suggested that the New York State law goes too far because it does not limit its reach to animals a shelter deems "adoptable." The commentator claims the California law does. However, this is a misreading of California law. The language of the New York legislation is actually identical to the California version on which it is based. According to both the legislative history of the 1998 California Animal Shelter Law, and the law's author, UCLA law professor Taimie L. Bryant,

The California version of Oreo's law did not limit rescue groups' right of access to shelter animals to only 'adoptable' and 'treatable' animals as defined in the public policy statutes of the Hayden Law. The specific statutes of the law that give rescue groups rights of access explicitly exclude from rescue groups only those animals who are irremediably suffering from a serious illness or severe injury such that immediate euthanasia is the only humane alternative.

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Language about 'adoptability' and 'treatability' do appear in public policy statutes that are part of the Hayden Law. However, the purpose of those statutes is to assert the preference of the people of California for adoption and rehabilitation instead of killing shelter animals. There are no specific duties in those statutes, and they do not constrain the application of the specific statutes that provide for release to rescue groups.

Indeed, giving the power to shelters to define "adoptable" would have devastating consequences as some shelters have very regressive and self-serving definitions of what constitutes an "adoptable" animal to justify killing. Shelters have killed animals over five years old, with minor colds, with diarrhea, or with other minor conditions, claiming they were "unadoptable." If New York State gave shelters this power as some have suggested, it would provide an arbitrary and unchecked power for shelter directors to effectively eviscerate the intent of the law to the detriment of animals who would then be put to death, even in cases where rescue groups are willing to save their lives.

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