

LONG ARMS OF THE LAW

By Barbara Saunders

When the 2nd Annual No Kill Conference convened at George Washington University Law School on July 31st-August 1, 2010, organizer Nathan Winograd had much to celebrate. Since the publication of his provocative, independent book, *Redemption*, emerged as a manifesto for shelter reform, the No Kill movement has gone mainstream. The language, even the term “No Kill”, still draws criticism from established animal welfare and animal control corners. However, reform efforts have moved beyond the original battles between activists and these agencies.

A groundswell in animal law is attracting legislators and the courts more deeply into questions of sheltering and animal keeping by the public. At this year’s conference, presenters in a sheltering track and a legal track (which offered Continuing Legal Education (CLE) credits,) covered a variety of policy and cultural issues that have taken hold in the public discourse only within the past twenty years.



Many animal activists argue that protecting the rights of animals needs no justification in terms of benefits to human beings. Speakers provided numerous examples to suggest that the distinction is a moot point: our lives have become so intertwined with the lives of our companion and community animals, dogs and cats in particular, that when bureaucratic organizations apply their standing policies towards these animals, they are increasingly coming into conflict with the rights of animal lovers, owners, and advocates.

Groundbreaking Animal Protection Law

On July 23, 2010, Delaware governor Jack Markell, signed Senate Bill 280 into law. Hailed by proponents as “groundbreaking,” SB280 is the most comprehensive law in the United States to protect animals in shelters. The new law, which is supported by a number of the state’s progressive animal welfare organizations, sets standards for veterinary care and animal husbandry in shelters.

In addition, it requires that *shelters*, municipal or private organizations that house animals in the groups’ facilities, cooperate with *rescue groups*, entities that keep animals’ in volunteers’ foster homes until they can be placed for

adoption. SB 280 also mandates that shelters give preference to animals in the state and make efforts to circulate information about animals in their custody by publicizing them on websites and in other media.

This legislation specifically about animals is just the tip of the iceberg.

Policy and Governance – Beyond “Animal Law”

Practicing attorneys and lawmakers shared information about legal issues for people that are affecting animals:

- **Disability rights** – Ever since the City of Denver passed breed-specific legislation outlawing pit bull dogs, animal advocates have argued that these ordinances don’t just harm dogs; they also hurt families forced to choose between giving up their pets or leaving their homes. Pit bull defenders find an unanticipated ally in the Department of Justice. The DOJ recently released guidelines stating that breed bans may violate the Americans with Disabilities Act when they result in preventing people from using their assistance dogs to access public services. DOJ questioned the reliability and accuracy means used to determine a dog’s breed.
- **First Amendment rights** – Attorney Sheldon Eisenberg discussed his successful application of Section 1983 of the Civil Rights Act of 1971 to protect volunteers in Los Angeles who came out as whistleblowers against government-run shelters. The plaintiff alleged that the shelter had removed her volunteer privileges

and stopped allowing her to rescue animals in retaliation for exercising her First Amendment rights.

- **Testator’s rights** – Richard Avanzino, director of Maddie’s Fund, which grants money to collaborations between public and private animal control and sheltering organizations, spoke in defense of the last wishes of Leona Helmsley. The famously misanthropic New York woman left millions of dollars to her dog, Trouble, and created a foundation worth billions with instruction that some of the money be used to help animals. The animal gifts are still in limbo. In Avanzino’s opinion, “the idea that anyone, especially a wealthy woman, who wishes her estate to benefit animals is automatically a little ‘off’ and thus, those wishes can safely be disregarded, needs to be challenged and brought to an end.” In the early eighties, Avanzino was on the other side of a challenge to a will. When a San Francisco woman willed that her dog, Sido, be put down when she died, Avanzino led a very public, winning campaign to have it overturned and spare the dog’s life.

- **Consumer rights** – A private Colorado shelter was sued under the Colorado Consumer Protection Act for deceptive fundraising practices. Among other violations, the organization was accused of misrepresenting their euthanasia numbers, thereby misleading the public into donating and surrendering animals.

- **Governance** – New York State Assembly Member Micah Kellner, known as a champion for disability

and LGBT rights, shared the story of his eye-opening, unsuccessful effort to enact Oreo’s Law, a bill similar the Delaware legislation. In his address, Mr. Kellner expressed concerns that government agencies supported by tax dollars and powerful nonprofits supported by donations hold unilateral power to withhold access to animals from smaller, less powerful groups, even while they kill the animals.

No More Business As Usual

The sheltering track was notable for the way that No Kill-oriented leaders, even those who work in municipal animal control departments, embraced attitudes and language more common to the business world than to conventional charities and government agencies.

In a lunchtime panel talk, Nevada Humane Society director, Bonney Brown, quoted business author Jim Collins in describing her philosophy about managing and retaining personnel. Mike Fry, director of Animal Ark and founder of Animal Wise Radio, an Internet radio program, supplied sample html code that can be used to standardize the way animal organizations post data on the Web. The Nevada Humane Society calls its information line a “help desk,” reflecting its adoption of a customer-centric stance cast in the mold of innovative, for-profit businesses.

The Personal is Political

While the No Kill movement – and the conference – focused on the



treatment of pet animals in shelters, the plight of animals killed for food was invoked as well. Only vegan food was served during conference breakfasts and lunches. Attendee Ellen Weinstock said, “As a vegan who has rescued dogs for about a decade, I’ve often had to work with people who have ideas I don’t agree with, like hunters, pig farmers, and omnivores who will drive 300 miles to save a dog but stop and eat part of a cow on the way home. And it felt absolutely right that the wonderful conference hosts avoided needless killing in our refreshments.”

(My breakfast partner, a long-time vegetarian living in rural Georgia, noted that veganism is yet not a feasible option in many parts of the U.S.)

The Way Forward

In the past, most of the rhetoric from the No Kill movement targeted the leadership and operational practices at shelters and the deficiencies in compassion and common sense that rescuers witness every day. Yet in an auditorium that stands only blocks from the White House and the National Mall, Winograd delivered an address that reframed the issue of shelter reform within the context of the American project.

“No matter what the issue is: the fight for democracy as epitomized by Madison, Benjamin Franklin, and John Adams; the abolition of slavery as epitomized by William Lloyd Garrison, Harriet Tubman, Sojourner Truth, and Frederick Douglass; the struggle for women’s suffrage as epitomized by Susan B. Anthony, Elizabeth Cady Stanton, and the great Alice Paul; civil rights as epitomized by Dr. Martin Luther King Jr. and Harvey Milk; an end to child labor as epitomized by Lewis Hine; or disability rights as epitomized by Justin Whitlock Dart, Jr. and Richard Pimentel; all these movements culminated in the passing of laws.”

Whether or not individual animals are ever granted rights, their status as chattel is changing. Pet Connection blogger Christie Keith reported Avanzino’s reminiscence of a remark from a judge in the Sido case. If the little dog is property, he said, she is like a Rembrandt, and should not be willfully destroyed. Avanzino’s assessment is bolder: “if you work on the premise that animals are family members, you are going to follow a certain path. They’re not human. They’re not property. We have to decide what entitlements they get. The human species will define that.”

Barbara R. Saunders
(www.barbararuthsaunders.com)
is a freelance writer and global citizen currently living in Berkeley, CA. She promotes the welfare of animals everywhere by advocating for homeless pets and educating human beings about health, fitness, and wellness.

