REPRESENTING ANIMALS: Underpinnings of Courtroom Animal Advocate Programs

David B. Rosengard
Managing Attorney, Criminal Justice Program
Animal Legal Defense Fund

29TH ANNUAL ANIMAL LAW CONFERENCE
TRANSFORMING OUR RELATIONSHIP WITH ANIMALS
CONTEXT & ROADMAP:
WHERE I AM COMING FROM; WHERE THIS IS GOING

- Describing My Legal Work
- Goals For Our Next 20 Minutes
  - What CAAPs are
  - Why CAAPs are
- …The How Comes Next
BEGIN AT THE BEGINNING: WHAT IS A CRIME ANYWAY?

- Criminal Law vs Tort; Civil Fines; Etc.
- Types of Crime
  - Malum prohibitum
    - Conduct is crime because against rules
  - Malum in se
    - Conduct is crime because inherently wrong
- So, A Crime Is…
  - …not simply a wrong
  - …not simply unlawful
  - …not simply between private parties

Must (Should) Crim Law Exclusively Be Domain of State & Def?
AN ABBREVIATED VICTIM-AWARE TIMELINE:
LITIGATING CRIMINAL LAW IN THE USA

Colonial / Revolutionary Era

Mid-1800s to 1970s


1973: Linda R.S. v Richard D.

The Future…

1980s & Early 2000s

1981: Regan Shooting


1982 & Onward: Passage of Victim Rights Laws

The Future…

Back Here for British Common Law, etc.
WHERE THE WILD THINGS ARE: SITUATING ANIMALS WITHIN CRIMINAL LAW

- What Type of Crime is Animal Cruelty?
  - Goes to the purpose of modern cruelty law

- Do Animal Cruelty Cases Pose Unique Challenges & Complexity?

- How Does The Law Position Animals Within Cruelty Litigation?

- Are There Animal Victim Legal Interests That Fall Outside The Duty of Prosecution / Defence?
MEETING THE NEED:
COURTROOM ANIMAL ADVOCATE PROGRAMS

- The Need for Legal Advocacy
  - Knowledge of relevant legal minutiae and mechanisms
  - Ability to draft legal instruments, as needed
- Delineating & Distinguishing The Scope of This Advocacy
- Building a Consistent and Normalized Approach

All of This → Implies Need for a CAAP
A CAAP Precursor: *United States v. Approximately 53 Pit Bull Dogs*

- Feds Have 53 Ex-Fighting Dogs
  - What to do with them?

- Judge Appoints Professor Rebecca Huss as Guardian/Special Master

- Huss’s Remit
  - Identify canine behavior experts
  - Have each dog evaluated as an individual
  - Set interim care per each dog
  - Recommend final disposition per each dog

- Results are Significant!
CAAP BASICS:
CONTOURS OF THE LEGAL LANDSCAPE

- Pro-Bono Attorneys / State-Qualified Law Students
- Appointed by Judge
- In Criminal Case*
- Legal Advocacy for Interests of Animal / Justice
- Governed by Standard Rules of Legal Ethics
CASE STUDY:
BELLA DONNA LUGOSI

• Seized Pursuant to Cruelty Investigation

• Defendant-Owner Flees the State
  • Bella remains in gov custody

• Resolving Bella’s Fate is Not Any Attorney’s Duty

• But if Bella Had a CAAP Advocate…
## Providing Clarity: How Advocates Do / Do Not Work

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<thead>
<tr>
<th>Advocates Do</th>
<th>Advocates Do Not</th>
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<tbody>
<tr>
<td>Answer to Court</td>
<td>Perform role in investigation</td>
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<tr>
<td>Provide information &amp; recommendations to all parties</td>
<td>Have affiliation with prosecution / defence</td>
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<tr>
<td>Meet legal needs beyond prosecution / defence scope</td>
<td>Constrain prosecution / defence</td>
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<tr>
<td>Undertake legal work</td>
<td>Argue conviction / acquittal</td>
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<td>Advocate for interests of justice &amp; animal victim</td>
<td>Prioritize personal interests over those of the animal</td>
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<tr>
<td>Enhance framework for attorney public service &amp; law student experiential learning</td>
<td>Change underlying cruelty law</td>
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Thank you!

David B. Rosengard
Managing Attorney, Criminal Justice Program
info@aldf.org

@AnimalLegalDefenseFund @ALDF

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