

Domestic Violence Awareness Month Kickoff CLE: **The Connection Between Domestic Violence and Animal Cruelty**

Presented by Third Judicial District Gender Fairness Committee, in coordination with the Capital District Women's Bar Association, The Legal Project, Mohawk Hudson Humane Society, NYS Office for the Prevention of Domestic Violence, NYS Animal Protection Federation, The NYS Judicial Institute; Albany Law School, Albany County Bar Association, the Mayor's Alliance for NYC's Animals, Empire Justice Center, and New York State Bar Association.

WRITTEN MATERIALS

3.0 MCLE credits available: 2.0 Professional and 1.0 credits of Ethics

MCLE credits provided by the Albany County Bar Association

Wednesday, September 30, 2015, 2:00 – 5:00 p.m.

Registration and light refreshments 1:00-2:00 pm

New York State Bar Association Center
1 Elk Street, Albany, NY

Simulcast at 12th Floor Boardroom at
NYC Civil Court 111 Centre Street
(Please use the White Street entrance.)

Among both animal rights advocates and those committed to protecting people from violence in the home, there is a growing awareness of the connection between animal abuse and domestic violence. Animal abuse is often a predator and an indicator crime for domestic violence, elder abuse and child maltreatment. One recent study found that 71% of pet guardians entering a domestic violence shelter told of an abuser who had harmed or killed a family pet, frequently as a method of exerting control—a cruel demonstration of “what could happen” to the victim. **The Connection Between Domestic Violence and Animal Cruelty** will address how to recognize the continuum of criminal conduct against animals and people, and will identify the appropriate organizational resources.

Who should attend:

This program will be geared to attorneys, both from a defense and a prosecutorial perspective, but will also be broadly designed to be useful to law students, law enforcement personnel, and those in the domestic violence and animal abuse communities.

Speakers include:

- **Jed Painter**, Counsel to the Nassau District Attorney
- **Alicia Borns**, Director, Family and Victim Resources, NYS Office for the Prevention of Domestic Violence

Additional panelists include:

- **Christine Mott, Esq.**, Member and Past Chair, Animal Law Committee of the NYC Bar Association; Member, NYS Council of the Humane Society of the US
- **Libby Post**, Executive Director of NYS Animal Protection Federation
- **Brad Shear**, Executive Director of the Mohawk Hudson Humane Society

Seminar will be moderated by the Honorable Rachel Kretser, Chair of the Third Judicial District Gender Fairness Committee.

RSVP Required--Registration through the Albany County Bar Association:

www.albanycountybar.com/DVandAnimalCrueltyCLE If you have questions regarding the program, please contact Lisa Frisch, Executive Director of The Legal Project, by email at: lfrisch@legalproject.org.

**THE CONNECTION BETWEEN DOMESTIC VIOLENCE
AND ANIMAL CRUELTY**

**WEDNESDAY, SEPTEMBER 30, 2015
2:00 – 5:00**

- 1.00 – 2.00 **Registration and Refreshments**
- 2.00 – 2.15 **Welcome and Introductions**
 Hon. Rachel Kretser – Judge, Albany City Criminal Court; Chair, Third Judicial District Gender
 Fairness Committee
- 2.15 – 2.25 **Opening Remarks**
 Hon. David Soares – Albany County District Attorney
 Sheriff Craig Apple – Albany County Sheriff
 Deputy Chief Robert Sears – City of Albany Police Department
- 2.25 – 2.55 **The Link Between State Cruelty Laws and Domestic Violence Laws and Remedies**
 Christine Mott, Esq. – Member and Past Chair, Animal Law Committee of the New York City Bar
 Association; Member, New York State Council of the Humane Society of the United States
- 2.55 – 3.25 **Prosecuting Animal Cruelty Cases**
 Jed Painter, Esq. – Counsel to the Nassau County District Attorney
- 3.25 – 3.35 **Break**
- 3.35 – 3.55 **Dynamics of Domestic Abuse and Its Intersection with Animal Abuse**
 Alicia Borns – Director, Bureau of Family and Victim Resources, New York State Office for the
 Prevention of Domestic Violence
- 3.55 – 4.15 **Providing Safety to Victims and Their Pets**
 Brad Shear – Executive Director, Mohawk Hudson Humane Society
- 4.15 – 4.35 **What’s on the Horizon?**
 Libby Post – Executive Director, New York State Animal Protection Federation
- 4.35 – 5.00 **Questions and Answers with Panel**

Sponsored by,

The Third Judicial District Gender Fairness Committee, in coordination with the Albany County Bar Association, New York State Bar Association, New York State Office for the Prevention of Domestic Violence, The Legal Project, Albany Law School, Capital District Women’s Bar Association, Mayor’s Alliance for New York City’s Animals, Empire Justice Center, Mohawk Hudson Humane Society, New York State Animal Protection Federation and the New York State Judicial Institute,

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MADELINE SINGAS
ACTING DISTRICT ATTORNEY

OFFICE OF
THE DISTRICT ATTORNEY
NASSAU COUNTY

Case Studies:
Domestic Violence & Animal Abuse

Speaker: **Jed L. Painter, Esq.**
Counsel to the Acting District Attorney
& Chief of the Animal Crimes Unit
Office of the District Attorney, Nassau County

Rule 3.8. Special Responsibilities of Prosecutors and other Government Lawyers.

(a) A prosecutor or other government lawyer shall not institute, cause to be instituted or maintain a criminal charge when the prosecutor or other government lawyer knows or it is obvious that the charge is not supported by probable cause.

(b) A prosecutor or other government lawyer in criminal litigation shall make timely disclosure to counsel for the defendant or to a defendant who has no counsel of the existence of evidence or information known to the prosecutor or other government lawyer that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the sentence, except when relieved of this responsibility by a protective order of a tribunal.

Case Study 1:

People v. Christopher Cruz, 2014NA009744L (et al.) (Nassau Co. Dist. Ct. 2014)

FACTS: Defendant cohabitated with pregnant girlfriend and girlfriend's toddler child in an apartment building in the City of Long Beach, New York. Defendant constantly threatened his girlfriend with violence, including violence against her pet cat. Defendant would send girlfriend text messages of the cat being thrown around the apartment, hanging from shower curtains, and accompany these texts with threatening messages. The girlfriend, later on, noticed that she had not seen her cat for a couple days. She also noticed a smell in the apartment, but could not source it. She eventually found a plastic bag which had been secreted under her toddler child's bed. Opening the bag, she discovered the corpse of her pet cat sealed inside the bag with obvious head trauma. Panicked, she called 911. Upon police response, she would give a written statement implicating her boyfriend in the animal's death, by detailing his prior threats – however, acknowledging that she did not witness anything personally. The defendant was taken into custody and provided a written statement of admission that he was playing with cat by throwing it up into the air but one time missed his catch and the cat landed hard on its head. The defendant stated that, thinking he had accidentally killed the cat, he then panicked and placed the cat in a bag and hid it.

Within 24 hours, girlfriend strongly recanted and conformed her statement to her boyfriend's statement that the death was accidental while he was playing with the animal. She refused further cooperation. She refused to give access to her phone for the text messages and photographs. As the animal's owner, she requested that the charges be dropped. The necropsy of the deceased cat revealed broken bones in the front legs of the cat and blunt force trauma to its skull. Even with broken bones, the forensic pathologist could not rule out a hard, accidental fall.

PAUSE: No witnesses to crime; only identification of the defendant comes from self-admission. The same self-admission is exculpatory as to intentional conduct. The one main witness will not supply any motive and will testify in support of the defendant's exculpatory version of events. The neutral forensic pathologist is unable to give a definitive answer on intentional vs. accidental conduct.

PLAY: Assets – the 911 call; the original written statement; the link. Question: Can prior acts of domestic abuse be used as Molineux evidence as absence of mistake, common scheme or plan, motive, and/or identity?

RESULT: The NCDA reach out to Child Protective Services (CPS) as there was some implication of the toddler being involved in this scenario. Sure enough, there was an independent report to CPS regarding the toddler having hand-print bruise marks on him at school and both the girlfriend and the defendant were implicated – but they had hit a similar brick wall. The additional allegations and the sworn original statement of the girlfriend were enough to paint a pattern so that CPS could file a neglect petition. CPS subsequently removed the child from the home. Meanwhile, the 911 call and neighbor interviews supplied further evidence of domestic violence.

At the neglect proceeding, in the hallway of the court, the defendant choked his girlfriend for unknown reasons and slammed her phone to the ground (captured on video and witnessed by court officers). For this, he was again arrested for strangulation and criminal mischief. An order of protection issued (over the girlfriend's objections) in court.

Subsequently, the defendant went to his drug dealer's apartment and, with the drug dealer's girlfriend present, robbed the drug dealer of pills and money, using a coffee pot as a make-shift weapon. The drug dealer's girlfriend called 911 and the defendant fled the apartment. He was found by responding officers in a stairwell, which happened to be on the same floor as his girlfriend. Accordingly, he was again arrested for felony assault (on his drug dealer) and criminal contempt (for not staying away from his girlfriend's residence).

During processing for the assault and contempt charges, the defendant called his girlfriend on her cell phone, asked her to three-way call his drug dealer's girlfriend, and proceeded to make various threats against her and the drug dealer. The police, who had been told that he was contacting his attorney, noticed that the conversation was heated and checked the number he had called, recalled it, and discovered it was his girlfriend (who again denied that the defendant had called her). The defendant was re-arrested at the stationhouse for an additional count of contempt.

DISPOSITION: Defendant convicted of all counts (by global plea) in November 2014.

ALTERNATIVE UNIVERSE HYPOTHETICAL 1: The prosecution was acting under information that the cat was the girlfriend's pet. What if it were the "family pet," including the defendant's? Would the necropsy have been suppressed without a search warrant for the search of the defendant's property? What gives the defendant a "reasonable expectation of privacy" in the contents of an animal in his home?

ALTERNATIVE UNIVERSE HYPOTHETICAL 2: What if the girlfriend refused the necropsy of her pet cat?

Case Study 2:

People v. Sha-ron Hicks, 839N11 (Nassau Co. Ct. 2011)

FACTS: Defendant and friend Robert Stockdale were minor league dogfighters. Both had criminal histories, but Sha-ron's was more geared towards violent acts (Robert's more geared towards not paying for things). Sha-ron lived with his girlfriend (Lyla) in her apartment. Lyla was moderately successful in that she was a college graduate who had a steady desk job. Lyla also had a rescued pit-bull pet since before Sha-ron moved in.

One day, Sha-ron and Robert were discovered by officers on patrol conducting amateur training of three pit-bulls to attack each other. They rotated two free dogs against a third dog tied to a fence. The defense at scene and throughout the prosecution was that the dogs were all just play-fighting and the men were just socializing with their dogs. In support of this defense, Sha-ron noted that the dog in his custody didn't even belong to him – it was his girlfriend Lyla's and he was just taking it out to play. The animals were all impounded. Shortly thereafter, the DA's office was contacted by Lyla, 100% supporting Sha-ron's claims and version of events, and requesting her dog back. She further stated that Sha-ron missed her dog too, as it slept in their bed every night. She said it was not a fighting dog – that she had it long before Sha-ron moved in.

PAUSE: What grounds exist to hold Lyla's dog further? In a case where the DA will have to delineate between dogs "playfighting" and dogs "fighting," do Lyla's claims severely undercut the prosecution?

PLAY: Assets – the officers' observations; the dog; the link. Question: in a cruelty case, where do the property rights of the individual end and the property rights of the state begin?

RESULT: Lyla is asked to present proof of ownership of the impounded animal (vet records, photos, licensing, etc.), in person, to the DA's office. Though she is not a witness to the case in a traditional sense, the ADA takes the opportunity to conduct a thorough interview. During interview, bruises/grip-marks are observed on Lyla's arms and she is extremely nervous. Lyla, however, denies any violence within the home. The ADA then goes beyond RAP sheet to request any and all Domestic Incident Reports (DIRs) with either party's name on it. Several are noted. The ADA informs Lyla that the NCDA will draw up an evidence release but it will have several conditions (see Appendix A), the most important of which is complete non-contact with the defendant (in essence a classic "your boyfriend or the dog" choice). The relief-valve would be second-party placement. To this end, Lyla brings in her parents as "guarantors" of the evidence release. The ADA took the opportunity to interview the parents about the nature of the relationship as well and received valuable insight.

In the end, the dog was released to the custody of Lyla's parents, subject to all terms in the executed evidence release form. The DIRs and accompanying corresponding 911s were secured. Neighbors and other parties noted on the DIRs were interviewed and helped with case development.

DISPOSITION: The defendant was convicted by plea to felony dogfighting and banned from contact with any animals for a period of years. Approximately a year later, the defendant was re-arrested for misdemeanor assault on Lyla. The case file, investigation file, and conviction became Molineux evidence of that prosecution. It is notable that, while this case had domestic undertones, no corresponding DIR or record of Lyla would exist in any case paperwork.

ALTERNATIVE UNIVERSE HYPOTHETICAL 1: Suppose the officers did not impound the animal at scene, but released Lyla's dog to her (such as subsequently releasing a car from a DWI stop or suspended license stop to a sober or licensed driver). What legal recourse would there be to subsequently remove the dog from Lyla's and Sha-ron's joint home?

ALTERNATIVE UNIVERSE HYPOTHETICAL 2: Suppose Lyla had a second pit-bull dog that was not taken out that day to "playfight" by Sha-ron? What can be legally and ethically done there?

Case Study 3:

People v. Shomari Ferguson, 1626N10 (Nassau Co. Ct. 2010)

FACTS: Shomari and his girlfriend are in an abusive relationship, but living together. Friends and family all know that Shomari is using violence or threats of violence constantly and fear for the girlfriend's safety. One day, girlfriend sends a text to her close friend (Sasha), stating "He's doing it to my cat again – can you please go over there right now?" Sasha was in the car with her mother at the time and showed her mother the text. They drive over together and arrive at Shomari's house. The landlord (who is also the first-floor resident) is already outside looking up at the second floor and looking upset. He says that he's been hearing strange sounds from above. Sasha goes upstairs and goes in without knocking. She observes Shomari holding the girlfriend's cat in a towel, apparently rubbing something on it. She smells bleach and sees blood on the cat. She asks Shomari what he did, to which Shomari responds "It looked at me funny." With that, he drops the cat, and it scampers (with a noticeable leg injury) into a small space. Sasha takes the cat and departs in her mother's car for the closest vet's office. Ultimately the cat is found to have old wounds, multiple fractures on its leg, a wound to the face, and soaked in a mysterious substance that gave chemical burns to its eyes. The girlfriend adamantly refuses to cooperate or even verify her text to her friend.

PAUSE: There are no eye-witnesses to what exactly happened. The identification of the defendant is by recent/exclusive possession (coupled with landlord's garbled ear-witnessing) and a slightly revealing statement to Sasha. Shomari and his girlfriend refuse entry back into their apartment to evaluate the scene any further. Is there any way to enhance the case?

PLAY: Assets – the old wounds; the text message; the vet bills, and the link. Question: Under such a circumstance, where it is clear that the animal has sustained injury before, and that injury can be demonstrably proven to have not been properly treated by the owner, resulting in prolonged suffering, is a case appropriate against the girlfriend herself? How about threatening prosecution? How about a non-prosecution agreement?

RESULT: Tough one. It is first important to note that the girlfriend did admit that she was the cat's OWNER. While she did not confirm this for prosecution purposes, Sasha (her friend) personally knew that she was asked for help with the cat and brought the cat to a vet for treatment. The vet was now owed money for the treatment. This persuaded the girlfriend to forfeit the animal permanently – therefore, regardless of outcome, the animal was safe. Second, there was enough evidence – absent the girlfriend – to secure an indictment for felony cruelty. Third, the circumstance was somewhat saved when the defendant was involved in a subsequent multi-party felony assault and was rearrested and held on high bail. This gave the girlfriend a safe chance to move out. At that point, she became more loquacious about the case.

DISPOSITION: The defendant was convicted by plea to felony cruelty as part of a global disposition with the unrelated charge.

Case Study 4:

People v. N.O., 2011NAXXXXX (et al.) (Nassau Co. Dist. Ct. 2011)

FACTS: Girlfriend – a heroin addict – was constantly abusive to boyfriend – also a heroin addict - over his depression, lack of work, and age. Girlfriend was significantly younger than boyfriend, felt that she could do a lot better, and constantly reminded boyfriend of that fact. She also lashed out at other things that he spent time on or gave attention to. One of which was his dog. One night, after a door-slamming argument, she locked herself in his bedroom with the dog, placed hair-ties around its snout, and smothered it repeatedly with a blanket until it suffocated. The boyfriend, upon discovering what she had done, contacted the police who came and took the girlfriend into custody. The girlfriend subsequently would blame the behavior on the heroin addiction not the domestic dispute – that she does “crazy things while high.” The boyfriend signed a very vague statement – sufficient for felony complaint purposes but not much else – and was willing to sign the consent to search form for a necropsy to be conducted. However, the loss of his dog and his girlfriend in one evening left him even more depressed. The necropsy revealed a cause of death that matched the boyfriend’s account. Attempts to inform the boyfriend of this were unsuccessful, as were attempts to contact him in general. Multiple visits to his home went unanswered. The time to indict the case was running and the case was on the verge of dismissal.

PAUSE: The responding officers did not see anything – by the time they arrived, the couple was arguing in the living room. Most of the felony complaint was based on their observations in the bedroom, what they overheard from the argument (which was mostly accusation and silence), and a very brief statement about a prior fight. The necropsy will say what happened but not who did it. Boyfriend is now unreachable. Defense counsel is pressing for plea.

PLAY: N/A (see below)

RESULT: As this was unfolding, police were called to the house after a neighbor noticed a funny smell. Upon emergency entry, the police discovered the boyfriend’s body. He had apparently suffocated himself by placing a bag over his head and cuffing his hands behind his back. A subsequent, thorough inspection of the premises revealed copious amounts of pipe-bomb making equipment. The girlfriend was given a plea offer in exchange for a debriefing on that gear.

Long after the case was over, the NCDA received a letter from the NC Office of the Public Administrator. While the defendant did not leave any suicide note of substance, he did leave a note requesting that he be buried with his dog’s remains. Accordingly, the remains were delivered as it was his final wish.

ALTERNATIVE UNIVERSE HYPOTHETICAL 1: Suppose, instead of killing his dog, the defendant started smashing heirloom plates from the boyfriend’s grandmother?

ALTERNATIVE UNIVERSE HYPOTHETICAL 2: Suppose the defendant humanely slaughtered the boyfriend’s dog and cooked it for their dinner?

APPENDIX A
EVIDENCE RELEASE FORM

KATHLEEN M. RICE
DISTRICT ATTORNEY



**OFFICE OF THE DISTRICT ATTORNEY
NASSAU COUNTY
ANIMAL CRUELTY UNIT
272 OLD COUNTRY ROAD
MINEOLA, NEW YORK 11501
TELEPHONE (516) 571-2100
FAX (516) 571-0319**

ANIMAL/EVIDENCE RELEASE FORM

NOTICE: THE FOLLOWING IS A WRITTEN INSTRUMENT REGARDING THE RELEASE OF EVIDENCE HELD IN CONNECTION WITH A CRIMINAL CASE. IT WILL BE FILED WITH THE OFFICE OF THE DISTRICT ATTORNEY FOR THE COUNTY OF NASSAU, THE CITY OF LONG BEACH POLICE DEPARTMENT, THE COUNTY COURT OF THE COUNTY OF NASSAU, AND THE TOWN OF HEMPSTEAD. A FALSE ENTRY MAY RESULT IN ARREST AND CRIMINAL PROSECUTION WHICH MAY RESULT IN INCARCERATION FOR UP TO FOUR (4) YEARS.

CASE CAPTION: *People v.* [REDACTED], Indictment No. 839N11

ANIMAL/EVIDENCE: [REDACTED] – Staffordshire Bull Terrier

CUSTODIAN INFORMATION:

Name: _____ **DOB:** _____ **SS#:** _____

Permanent Address: _____

Other Addresses: _____

Length of Residency at Current Address: _____ (mos/yrs)

Home No.: _____ **Work No.:** _____ **Mobile No.:** _____

Employer: _____ **Employer Address:** _____

Length of time with present employer: _____ (mos/yrs)

Emergency Contact Person (ECP): _____ **Relationship:** _____

ECP Home No.: _____ **Work No.:** _____ **Mobile No.:** _____

Present relationship between Custodian and Animal: _____

CONDITIONS OF RELEASE

I, _____, swear or affirm that I am the custodian listed above. I have read all notices contained in this document. I understand all notices contained in this document. I have read this entire document.

I have requested that the District Attorney's Office release the above-mentioned animal to me during the pendency of the above-captioned case, so that I may serve as the animal's custodian during the duration of the criminal prosecution. The District Attorney's Office did not solicit me to take custody of this animal, nor did any member of the District Attorney's Office contact me to initiate this arrangement. No member of the District Attorney's Office has made any promises or threats to me of any kind. I am voluntarily providing all information in this form and am voluntarily taking custody of this animal. I am signing this form of my own free will.

The District Attorney has advised me of each of the following CONDITIONS OF RELEASE, which are as follows:

1. I understand and agree that: During the pendency of the above-captioned criminal action, the animal will be placed in my custody, care, possession and control. I have the ability to make medical, nutritional, and general care decisions about the animal during the period of my custodianship, subject to the provisions of New York State Law.
2. I understand and agree that: The above animal is to be domiciled at _____, at all times. The animal may not be temporarily or permanently left in the custody, care, control, or possession of a third party.
3. I understand and agree that: IN NO EVENT SHALL I RETURN OR CAUSE THE RETURN OF THIS ANIMAL TO THE POSSESSION, CUSTODY, CARE, OR CONTROL OF _____
4. I understand and agree that: IN NO EVENT SHALL I ALLOW ANY THIRD PARTY TO DELIVER THIS ANIMAL TO THE POSSESSION, CUSTODY, CARE, OR CONTROL OF _____
5. I understand and agree that: IN NO EVENT SHALL I ALLOW THIS ANIMAL TO COME INTO DIRECT OR INDIRECT CONTACT WITH _____
6. I understand and agree that: IN NO EVENT SHALL I ALLOW ANY PERSON TO REMOVE THIS ANIMAL FROM THE ABOVE DOMICILE WITHOUT MY PERMISSION OR CONSENT.
7. I understand and agree that: The District Attorney's Office and/or the City of Long Beach Police Department retain the absolute right to remove this animal from my custody, care, control, and/or possession, without notice and without cause. In the event of such removal, **I AGREE AND UNDERSTAND THAT ANY OBSTRUCTION ON MY PART MAY RESULT IN MY ARREST UNDER SECTION 369 OF THE NEW YORK STATE AGRICULTURE AND MARKETS LAW AS WELL AS SECTION 195.05 OF THE PENAL LAW.**
8. I understand and agree that: Members of the District Attorney's Office, the City of Long Beach Police Department, or their authorized agents, may conduct unannounced spot-checks at my

domicile to ensure compliance with these conditions. I further agree and understand that, in the event of such a spot-check, **ANY OBSTRUCTION ON MY PART MAY RESULT IN MY ARREST UNDER SECTION 369 OF THE NEW YORK STATE AGRICULTURE AND MARKETS LAW AS WELL AS SECTION 195.05 OF THE PENAL LAW.**

9. I understand and agree that: I will do nothing to endanger the health or safety of this animal.
10. I understand and agree that: I will obtain a veterinarian for this animal and disclose the name of that veterinarian immediately to the District Attorney's Office.
11. I understand and agree that: I will document all veterinary treatment and provide copies of such documentation to the District Attorney.
12. I understand and agree that: I will make the animal available to any inspection as requested or directed by the District Attorney or by an order of the County Court. Such inspections may be at my residence or at a different location. I will bear all expenses to transport the animal to any location at the direction of the District Attorney.
13. I understand and agree that: I ASSUME ALL LIABILITY FOR THIS ANIMAL'S CONDUCT AT THE DATE AND TIME THAT THE ANIMAL IS RELEASED TO ME AND I ASSUME ALL LIABILITY FOR MY DECISIONS AS TO THE ANIMAL'S CARE AS OF THE UNDERSIGNED DATE.
14. I understand and agree that: I and/or any representatives acting on my behalf, may not assert past, present, or future claims, suits, or otherwise against the District Attorney's Office, the Town of Hempstead, or the City of Long Beach, or any future party who derives or assumes care, control, possession, ownership, or custody of this animal, with respect to this animal.
15. I understand and agree that: I will pay the any applicable licensing fees or other administrative fees that are required to lawfully remove the animal from the custody of the Impounding Organization.
16. I understand and agree that: I cannot cancel this agreement once I enter into it. In the event that I wish to withdraw as custodian of this animal, I must provide written correspondence to the District Attorney's Office, stating the reasons for my desire to withdraw and providing a date by which I wish to surrender the animal that can, in no event, be sooner than **thirty (30) days** from the date of mailing. The decision to release me from the custodianship will be solely in the discretion of the District Attorney.
17. I understand and agree that: The District Attorney retains the ability to modify these conditions at any time, without cause, subject to reasonable written notice of the change. Any new conditions must be in writing and I will have the opportunity to consent or decline any modification. I understand, however, that the District Attorney retains the abilities contained in condition (7) above.

Furthermore, the District Attorney has notified me of the following:

1. The above CONDITIONS OF RELEASE are only applicable during the pendency of the above-captioned case. At the termination of the case, my custodianship, as set forth in this agreement, will terminate as a matter of law.

2. The criminal prosecution of the above-captioned case may be prolonged.

█ The criminal prosecution of the above-captioned case may result in a situation where the animal may never again be lawfully allowed to come into contact with █
█

4. I have been advised that I may have this document reviewed by an attorney of my choosing, prior to signing it, and have been afforded the opportunity to do so.

5. I have been advised that I do not have to take custody of this animal and that, if this document were not signed, the animal would either remain with the impounding organization or placed with another custodian/foster.

I have reviewed all of the above information and, by my below signature, I hereby agree to the each of the terms and conditions. By my signature, I certify that I understand all of the notices that are in this document. No promises or threats have been made to induce my signature on this document.

Print Name

Signature

DATED: _____
Nassau County, NY

Executed:
Date _____ (initial)
Time _____ (initial)

THE LINK BETWEEN STATE CRUELTY LAWS AND DOMESTIC VIOLENCE LAWS AND REMEDIES

September 30, 2015

**New York State Bar Association Center
Domestic Violence Awareness Month Kickoff CLE:
*The Connection Between Domestic
Violence And Animal Cruelty***

Christine Mott, Esq.

- *Member And Past Chair, Animal Law Committee, New York City Bar Association*
- *Member, New York State Council Of The Humane Society Of The United States*

LEGAL SUPPORT FOR A HOLISTIC APPROACH TO FAMILY VIOLENCE

The “Link”



(Ascione, Arkow, 1999)

LEGAL SUPPORT FOR A HOLISTIC APPROACH TO FAMILY VIOLENCE

- Legal Recognition of the “Link”
- Ethical Implications of the “Link”
- Using Animal Cruelty as a Basis for Domestic Violence Cases
 - Orders of Protection
 - DV Petitions
 - Petitions for Arrest
 - Evidence of animal cruelty as “prior bad acts”
 - Evidence of animal cruelty in family violence cases involving children
- Other Remedies in DV Cases Involving Animals
 - Court-ordered Counseling
 - Restitution

ETHICAL IMPLICATIONS OF THE LINK

❖ Attorneys Have Ethical Obligations to Understand the Link Between Animal Cruelty and Family Violence

- ❖ *Attorney Competence*
- ❖ *Attorney Communication with Clients*

❖ Application of Ethical Obligations

- ❖ *Attorney for Victim*
- ❖ *Prosecutor*
- ❖ *Defense Attorney*
- ❖ *Judges*

ATTORNEY COMPETENCE

❖ NY Rules of Professional Conduct, Rule 1.1(a)

“A lawyer should provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.”

➤ Ethical duty to understand:

- ✓ The “Link” and application of animal cruelty to:
 - ❖ domestic violence case
 - ❖ other family violence issues (child welfare/custody)
 - ❖ prosecution and sentencing in other crimes
- ✓ What remedies available to your client in a DV situation involving animals

ATTORNEY COMMUNICATION WITH CLIENTS

❖ NY Rules of Professional Conduct, Rule 1.4

(a)(2) “A lawyer shall reasonably consult with the client about the means by which the client’s objectives are to be accomplished”

(b) “A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.”

➤ Ethical duty to explain to client:

- ✓ How animal cruelty will impact his/her case (victim, offender)
- ✓ Remedies available to a client in a DV situation involving animals

ETHICAL IMPLICATIONS OF THE LINK

Examples of Application of Ethical Rules to Attorneys:

❖ **Attorney for family violence victim**

- *E.g.*, Understand that an act of animal cruelty can constitute basis for DV petition, order of protection.

❖ **Prosecutor**

- *E.g.*, Understand how animal cruelty impacts DV, child abuse/neglect cases.
 - Prosecution of animal cruelty may ultimately prevent or uncover other violent crimes against people.
 - Animal cruelty conviction may trigger heavier penalties for abusers in other crimes.

❖ **Defense Attorney**

- *E.g.*, Understand scope of protection order, how acts of violence against animals can impact your client in other cases (DV, child neglect), sentencing, child custody, etc.

❖ **Judges**

- ❖ *E.g.*, Understand ability to include animals in order of protection *sua sponte*.
- ❖ Understand importance of rehabilitative sentencing, psychological counseling, restitution, etc.
- ❖ *See also* Part 100 of the Rules of the Chief Administrative Judge (New York Rules)
 - ❖ Section 100.3(B)(1): “A judge shall be faithful to the law and maintain professional competence in it.”
 - ❖ Section 100.3(C)(1): “A judge shall maintain professional competence in judicial administration.”

LEGAL RECOGNITION OF “THE LINK”

- ❖ All 50 states have animal cruelty statutes that include felony penalties for aggravated cruelty.
- ❖ Most felony provisions enacted 1990 - early 2000s in response to heightened recognition of the link between animal cruelty and other forms of violence.
 - ❖ Enactment of NY felony cruelty laws (1999)
 - ❖ NYS legislature findings: “[t]he **connection between animal abusers and violence towards humans**” (*See* N.Y.S. Assembly Memo in Support of L. 1999, ch. 118, 1999 N.Y. Sess. 1584-85).
 - ❖ Amendment of NY Family Court Act to include orders of protection for pets (2006)
 - ❖ NYS legislature findings: “**often abusers, in an effort to control and threaten their partners, harm or kill their pets.**” (*See* Justification memo for Assembly Bill 10767-2006/ Senate Bill No. 7691-2006).

USING ANIMAL CRUELTY AS A BASIS FOR DOMESTIC VIOLENCE CASES

➤ **Orders of Protection**

- **Animal cruelty can serve as the basis for a protective order.**
- **Animals can be included in protective orders.**

UTILIZING EVIDENCE OF ANIMAL CRUELTY AS A BASIS FOR PROTECTIVE ORDER

- **Animal cruelty as the basis of temporary order of protection in DV case:**
- ❖ **NY: Temporary order of protection may be issued for “good cause shown,” including “prior incidents of abuse” and, “extent of past or present injury, threats” NY FAM CT § 828(1)(a).**
 - **Incidents of animal abuse in family violence context can constitute “good cause shown”**
 - *E.g. abuse of animal to threaten, intimidate or control a family member*
 - *Note: Arrest/criminal proceedings for animal cruelty offense not required to demonstrate “good cause”*

UTILIZING EVIDENCE OF ANIMAL CRUELTY AS A BASIS FOR PROTECTIVE ORDER

- **Animal cruelty as the basis of final order of protection:**

- ❖ **NY: Final order of protection** may be issued upon a finding of “the existence of aggravating circumstances” as defined in section 827. NY FAM CT § 842.
 - ❖ “aggravating circumstances” include “the exposure of any family member or household member to physical injury by the respondent and like incidents, behaviors and occurrences which to the court constitute an immediate and ongoing danger to the petitioner, or any member of the petitioner’s family or household.” NY FAM CT §827.

- **Incidents of animal abuse in family violence context can constitute “aggravated circumstances”**
 - *E.g.* abuse of animal to threaten, intimidate or control a family member
 - *Note: Arrest/criminal proceedings for animal cruelty offense not required to demonstrate “aggravating circumstances”*

UTILIZING EVIDENCE OF ANIMAL CRUELTY AS A BASIS FOR PROTECTIVE ORDER

➤ **Laws in other states specifically identify animal cruelty as a basis for protective orders**

❖ **Illinois**

- ❖ Injuring or killing an animal with the intent to threaten a family member may be considered an act of domestic violence. *See, e.g.,* Ind. Code Ann. § 31-9-2-42 (4).

❖ **Florida**

- ❖ Abuse or killing of a pet considered a factor for a domestic violence injunction. *See, e.g.,* Fla. Stat. § 741.30(3)(b); § 741.30(6)(b)(4).

❖ **Pennsylvania**

- ❖ Killing or threatening to kill a pet constitutes abuse that can provide grounds for granting a temporary protection order. *See* 23 Pa.C.S. § 6107 (b)(3)(ii)(E)(II)).

INCLUDING FAMILY PETS IN AN ORDER OF PROTECTION/DOMESTIC VIOLENCE INJUNCTION

- **Orders of Protection can cover all family members – including animals.**
- **Abusers face same consequences for violation of OP for pets as with any other OP violation.**
- **Pet OP provides added level of protection for DV victims.**

INCLUDING FAMILY PETS IN AN ORDER OF PROTECTION/DOMESTIC VIOLENCE INJUNCTION

States with Laws that Include Animals In Orders of Protection

- New York
- Arizona
- Arkansas
- California
- Colorado
- District of Columbia (D.C)
- Connecticut
- Hawaii
- Illinois
- Louisiana
- Maine
- Maryland
- Massachusetts
- Minnesota
- Nevada
- New Jersey
- North Carolina
- Ohio
- Oklahoma
- Oregon
- Puerto Rico
- Tennessee
- Texas
- Vermont
- Washington
- West Virginia
- Kentucky

NEW YORK LAW PERMITS ANIMALS TO BE INCLUDED IN ORDERS OF PROTECTION

Family Court Order of Protection

“Any order of protection issued pursuant to this section may require the petitioner or the respondent to **refrain from intentionally injuring or killing, without justification, any companion animal the respondent knows to be owned, possessed, leased, kept or held by the petitioner or a minor child residing in the household.**” NY FAM CT §842 (i).

- *Note: Family Court Orders of Protection do not require an underlying criminal offense.*

NEW YORK LAW PERMITS ANIMALS TO BE INCLUDED IN ORDERS OF PROTECTION

Criminal Court Order of Protection for Victims of Family Offenses

A protective order “may require the defendant to **refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by the victim or a minor child residing in the household.**” N.Y. CPL. LAW § 530.12(1)(f).

- *Note: Criminal Court Orders of Protection do require an underlying criminal proceeding.*

UTILIZING EVIDENCE OF ANIMAL CRUELTY AS A BASIS FOR A DOMESTIC VIOLENCE CASE

■ Animal cruelty as the basis of domestic violence petition:

- ❖ Petition may be based on “disorderly conduct, harassment, stalking, menacing or reckless endangerment” toward a petitioner or a family member. NY FAM CT §821.
- ❖ Prohibited conduct broad enough to include acts of animal cruelty or threats of animal cruelty in a family violence context.
 - ❖ Disorderly conduct (N.Y. PEN. LAW §240.20: engaging in “violent” or “threatening behavior” with an intent to cause “annoyance or alarm”)
 - ❖ Menacing (N.Y. PEN. LAW § 120.15: “intentionally places or attempts to place another person in fear of... physical injury”)
 - ❖ Criminal mischief (N.Y. PEN. LAW § 145.00: “intentionally damages property of another person”)

UTILIZING EVIDENCE OF ANIMAL CRUELTY AS A BASIS FOR A DOMESTIC VIOLENCE CASE

■ Animal cruelty as the basis of petition for arrest of domestic violence abuser:

- ❖ Petition for arrest may be issued where “aggravating circumstances exist which require the immediate arrest of the respondent.” NY FAM CT §827.
 - ❖ “aggravating circumstances” include “the exposure of any family member or household member to physical injury by the respondent and like incidents, behaviors and occurrences which to the court constitute an immediate and ongoing danger to the petitioner, or any member of the petitioner’s family or household.” NY FAM CT §827.
 - Cite incidents of animal abuse in family violence context as “aggravated circumstances”
 - *E.g.* abuse of animal to threaten, intimidate or control a family member

UTILIZING EVIDENCE OF ANIMAL CRUELTY AS A BASIS FOR A DOMESTIC VIOLENCE CASE

Animal cruelty incidents in DV context admissible as “prior bad acts” in DV cases.

❖ Relevant to show motive, intent, etc.

➤ *People v. Archbold*, 40 A.D.3d 403 (1 Dept. 2007) (Evidence of a series of uncharged crimes and bad acts, committed by defendant against victim, were admissible in domestic violence prosecution to prove element of forcible compulsion, to explain relationship between defendant and victim and to place events in question in a believable context, particularly since defendant raised issue of victim's delay in reporting charged criminal conduct, and to establish intent, motive and identity).

UTILIZING EVIDENCE OF ANIMAL CRUELTY IN FAMILY VIOLENCE CASES INVOLVING CHILDREN

❖ Child neglect or abuse petition may be based on animal cruelty incidents.

Child neglect defined to include psychological harm and risk of physical harm. See FCA §1012(f)(i)(B).

➤ Exposing children to domestic violence constitutes child neglect.

- See *Nicholson v. Scoppetta*, 3 N.Y.3d 357, 371 (2004).
- Rationale: Witnessing abuse causes emotional harm and signifies risk of physical injury.

➤ Exposing children to animal abuse may constitute child neglect

- ❖ Same rationale as with DV exposure:
 - ❖ Emotional harm from witnessing violence against a family pet;
 - ❖ Abuser may harm animals as a means of terrorizing children or partners;
 - ❖ Risk of physical injury to children.

USING EVIDENCE OF ANIMAL CRUELTY AS A FACTOR IN CUSTODIAL DECISIONS

- ❖ Evidence of a parent's acts of violence or threatened violence against animals may be considered a factor in custody determinations.
 - ❖ N.Y. Dom. Rel. §240: Courts must consider parent's acts of domestic violence and acts of child abuse or neglect.
 - ❖ Both DV and child abuse/neglect may be themselves based on animal abuse
 - Parent's acts of animal abuse = relevant factor in custody

ATTORNEY ETHICS AND UTILIZING ANIMAL CRUELTY IN DV AND FAMILY VIOLENCE CASES

ETHICS: Attorney Competence and Communication Obligations

- ❖ Responsibility to utilize suspected animal cruelty in a family violence context.
 - ❖ Understand and advise client on how animal cruelty can impact a case.
 - ❖ Basis for protective order or domestic violence petition.
 - ❖ Basis for child neglect, custody determinations.
 - ❖ Inform client of availability of OP for pets.
 - ❖ Recommend including pet even if pet has not yet been threatened or harmed.

- ❖ Consider reporting/encourage client to report suspected animal cruelty to authorities.
 - ❖ Documentation of animal cruelty evidence for use in representing DV clients.
 - ❖ Added protection for DV client.

OTHER REMEDIES IN DV CASES INVOLVING ANIMALS

➤ **Court-ordered counseling**

➤ **Restitution for Victims**

COURT-ORDERED COUNSELING

Courts may order psychological counseling for DV offenders to address animal cruelty.

- N.Y. PEN. LAW § 65.10(2); *see also People v. Letterlough*, 86 NY2d 259 (1995).

❖ Attorney Ethics

- ❖ Prosecutors: Recommend psychological counseling for animal cruelty offenders to avoid recidivism.
- ❖ Judges: Consider including psychological counseling for animal cruelty offenders in sentencing to avoid recidivism.

RESTITUTION FOR FAMILY VIOLENCE VICTIMS WHOSE PETS ARE HARMED BY ABUSERS

❖ **DV Victims may seek restitution for out of pocket expenses associated with DV case.**

❖ Restitution – Orders of Protection

- “Any order of protection issued pursuant to this section may require the petitioner or the respondent: to provide, either directly or by means of medical and health insurance, for expenses incurred for medical care and treatment arising from the incident or incidents forming the basis for the issuance of the order” (NY FAM CT §842(h)).

❖ Restitution – Criminal conviction

- “the court shall consider restitution or reparation to the victim of the crime and may require restitution or reparation as part of the sentence imposed upon a person convicted of an offense, and after providing the district attorney with an opportunity to be heard in accordance with the provisions of this subdivision, require the defendant to make restitution of the fruits of his or her offense or reparation for the actual out-of-pocket loss caused thereby...” (N.Y. PEN. LAW § 60.27(1); See also N.Y. PEN. LAW § 65.10).

RESTITUTION FOR FAMILY VIOLENCE VICTIMS WHOSE PETS ARE HARMED BY ABUSERS

❖ Prosecutors are obligated to petition the Court to order restitution for DV victims in criminal proceeding (N.Y. PEN. LAW § 60.27(1)).

❖ Petition for restitution must reflect animal cruelty restitution where applicable

❖ Judges are required to order restitution where sought “unless the interests of justice dictate otherwise” (N.Y. PEN. LAW § 60.27(1)).

❖ “In the event that restitution or reparation are not ordered, the court shall clearly state its reasons on the record.” (N.Y. PEN. LAW § 60.27(1)).

❖ Court must order restitution for victim’s pets absent special circumstances

RESTITUTION FOR FAMILY VIOLENCE VICTIMS WHOSE PETS ARE HARMED BY ABUSERS

❖ Examples of restitution in DV/animal cruelty situation:

- Reimbursement of veterinary bills (animal injured by abuser)
- Reimbursement of “value” of animal (animal killed by abuser)
- Return of animal (animal kidnapped or given away by abuser)
- Reimbursement of counseling expenses for victim and victim’s children exposed to animal abuse
- Reimbursement of pet therapy expenses (to address abused animal’s psychological needs)

RECOVERY FOR DAMAGES BY FAMILY VIOLENCE VICTIMS WHOSE PETS ARE HARMED BY ABUSERS

- ❖ Some states allow recovery for emotional distress and punitive damages under statutory right of action for family violence victims whose animals were abused or killed
 - ❖ Illinois (510 Illinois Compiled Statutes 70/16.3)
 - ❖ Recovery of owner's damages caused by cruelty (including emotional distress suffered by owner).
 - ❖ Recovery of punitive damages of up to \$25,000 for each act of abuse or neglect the animal was subjected to.
 - ❖ Recovery of owner's attorney's fees.

RESTITUTION FOR FAMILY VIOLENCE VICTIMS WHOSE PETS ARE HARMED BY ABUSERS

ETHICS: *Competent Representation*

- ❖ **Attorney for Victim:** Is client entitled to restitution or damages recovery for animal abuse/neglect?
- ❖ **Prosecutors:** Does restitution petition reflect victim's out of pocket costs related to animal cruelty?
- ❖ **Judges:**
 - ❖ Must order restitution to victim for animal cruelty where sought “unless the interests of justice dictate otherwise”.
 - ❖ Do circumstances support finding of restitution to victim for animal cruelty *sua sponte*?

CONCLUSION

- **Competent representation requires holistic approach to DV cases**
- **Ethical duty to understand how animal cruelty impacts DV case**

THE LINK BETWEEN STATE CRUELTY LAWS AND DOMESTIC VIOLENCE LAWS AND REMEDIES

September 30, 2015

**New York State Bar Association Center
Domestic Violence Awareness Month Kickoff CLE:
*The Connection Between Domestic
Violence And Animal Cruelty***

Christine Mott, Esq.

- *Member And Past Chair, Animal Law Committee, New York City Bar Association*
- *Member, New York State Council Of The Humane Society Of The United States*

ORI No: _____
Order No: _____
NYSID No:- _____

At a Term of the _____ Court
County of _____, State of New York
(address) _____

PRESENT: Hon. _____

In the Matter of a Proceeding under
Article _____ Of the Family Court Act

ORDER OF PROTECTION
[Articles 4, 5, 6, 8 and 10]

Petitioner
Date of Birth: _____

Docket No. _____
Family Unit No. _____
(check one)

v.

Upon Default
 Both Parties Present In Court

Respondent
Date of Birth: _____

NOTICE: YOUR WILLFUL FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT, AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT.

THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.

A petition under Article __ of the Family Court Act, sworn to on _____, having been filed in this Court in the above-entitled proceeding, and the Respondent having been [check applicable box]: present in Court and advised of the issuance and contents of this Order not present in Court, and this Court [check applicable box]: after hearing on consent, having determined that good cause has been shown for the issuance of this Order,

NOW, THEREFORE, IT IS HEREBY ORDERED that [specify first name, middle initial and last name]: _____ must observe the following conditions of behavior:

(Check Applicable Paragraphs and Subparagraphs):

[01] Stay away from [A] [name(s) of protected person(s)]: _____ and/or from the [B] home of _____, [C] school of _____, [D] business of _____, [E] place of employment of _____, [F] other [specify location] _____;

[14] Refrain from communication or any other contact or by mail, telephone, e-mail, voice-mail or other electronic or any other means with [specify protected person(s)]: _____;

[02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats, identity theft, grand larceny, coercion or any criminal offense against [specify protected person(s) and/or members of protected person's family or household, and/or person(s) with custody of child(ren)]: _____;

[15] Refrain from intentionally injuring or killing without justification the following companion animal(s) (pet(s)) [specify type(s) and, if available, name(s)]: _____;

[11] Permit [specify individual]: _____ to enter the residence at [specify]: _____ during [specify date/time]: _____ with [specify law enforcement agency, if any]: _____ to remove personal belongings not in issue in litigation [specify items]: _____;

[04] Refrain from [indicate acts]: _____ that create an unreasonable risk to the health, safety or welfare of [specify child(ren), family or household member(s)]: _____;

[05] Permit [specify individual]: _____, entitled by a court order or separation or other written agreement to visit with [specify child(ren)]: _____ during the following periods of time [specify]: _____ under the following terms and conditions [specify]: _____;

[07] Custody of [specify child(ren)]: _____ shall be awarded to [specify individual]: _____ under the following terms and conditions [specify]: _____;

[12] Surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following: _____ and do not obtain any further guns or other firearms. Such surrender shall take place immediately, but in no event later than [specify date/time]: _____ at [specify location]: _____;

[] Promptly return or transfer the following identification documents specify: _____ to the party protected by this Order NOT LATER THAN [specify date]: _____ in the following manner [specify manner or mode of return or transfer]: _____

[Check box(es) if applicable]: Such documents shall be made available for use as evidence in this judicial proceeding.

[Jointly owned documents or documents in both parties' names only]: The following document(s) may be used as necessary for legitimate use by the Respondent [specify]: _____.

Pay or provide access to health or medical insurance for necessary medical care and treatment arising from the incident or incidents forming the basis of the order [specify beneficiary of treatment and coverage] _____;

Arts. 5,6&8 only Pay counsel fees (and/or) any costs associated with the order to [specify person and terms] _____;

Arts. 4,5&6 only Participate in an educational program, (and pay the costs thereof)[(specify program) _____];

Art. 8 only Participate in a batterer's education program designed to help end violent behavior (and pay the costs thereof)[specify program] _____;

Art. 8 only Pay to the petitioner/victim(s) restitution, as follows [specify terms and amount up to \$1 0,000]: _____; and

[99] Observe such other condition(s) as are necessary to further the purposes of protection [specify conditions]: _____;

Art. 8 only [check if applicable]: Respondent is on probation [FCA§842 requires order to state if Respondent is on probation].

AGGRAVATING CIRCUMSTANCES FINDING [check box and fill in if applicable]:

The court has made a finding on the record of the existence of the following **AGGRAVATING**

CIRCUMSTANCES: _____

It is further ordered that the above-named Respondent's license to carry, possess, repair, sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00, is [check applicable box(es)]: [13A] suspended, or [13B] revoked, (note: final order only) and/or [13C] the Respondent shall remain ineligible to receive a firearm license while this Order is in effect.

It is further ordered that this order of protection shall remain in force until and including [specify date]: _____

The Family Court Act provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties authorizes, and sometimes requires, the officer to arrest a person who is alleged to have violated its terms and to bring him or her before the Court to face penalties authorized by law.

Federal law requires that this order is effective outside, as well as inside, New York State. It must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person restrained by the order is an intimate partner of the protected party and has or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect due process rights (18 U.S.C. §§ 2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty) ; and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired.. (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

Dated:

JUDGE OF THE FAMILY COURT

COURT (COURT SEAL)

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check Applicable Box(es):

- Party against whom order was issued was present in Court and advised in Court of issuance and contents of Order
- Order personally served in Court upon party against whom order was issued
- Service directed by other means [specify]: _____
- [Modifications or extensions only]: Order mailed on [specify date and to whom mailed]: _____
- Warrant issued for party against whom order was issued [specify date]: _____
- Additional service information [specify]: _____

ORI No: _____
Order No: _____
NYSID No: _____

At a Term of the _____ Court
County of _____, State of New York
(address) _____

PRESENT: Hon. _____

**TEMPORARY
ORDER OF PROTECTION
[Articles 4, 5, 6, 8 and 10]**

**In the Matter of a Proceeding under
Article ____ of the Family Court Act**

Petitioner

Date of Birth: _____

Respondent

Date of Birth: _____

Docket No. _____
Family Unit No. _____
(check one)
 Ex Parte
 Both Parties Present in Court

NOTICE: YOUR FAILURE TO OBEY THIS ORDER MAY SUBJECT YOU TO MANDATORY ARREST AND CRIMINAL PROSECUTION, WHICH MAY RESULT IN YOUR INCARCERATION FOR UP TO SEVEN YEARS FOR CRIMINAL CONTEMPT, AND/OR MAY SUBJECT YOU TO FAMILY COURT PROSECUTION AND INCARCERATION FOR UP TO SIX MONTHS FOR CONTEMPT OF COURT. IF YOU FAIL TO APPEAR IN COURT WHEN YOU ARE REQUIRED TO DO SO, THIS ORDER MAY BE EXTENDED IN YOUR ABSENCE AND THEN CONTINUES IN EFFECT UNTIL A NEW DATE SET BY THE COURT.

THIS ORDER OF PROTECTION WILL REMAIN IN EFFECT EVEN IF THE PROTECTED PARTY HAS, OR CONSENTS TO HAVE, CONTACT OR COMMUNICATION WITH THE PARTY AGAINST WHOM THE ORDER IS ISSUED. THIS ORDER OF PROTECTION CAN ONLY BE MODIFIED OR TERMINATED BY THE COURT. THE PROTECTED PARTY CANNOT BE HELD TO VIOLATE THIS ORDER NOR BE ARRESTED FOR VIOLATING THIS ORDER.

A petition under Article ____ of the Family Court Act, sworn to on _____, having been filed in this Court in the above entitled proceeding, and good cause having been shown and the Respondent having been [check applicable box]: present in Court and advised of the issuance and contents of this Order not present in Court,

NOW, THEREFORE, IT IS HEREBY ORDERED that [specify first name, middle initial and last name]: _____ must observe the following conditions of behavior:

(Check Applicable Paragraphs and Subparagraphs):

- [01] Stay away from [A] [name(s) of protected person(s)]: _____ and/or from the [B] home of _____, [C] school of _____, [D] business of _____, [E] place of employment of _____, [F] other [specify location] _____;

[14] Refrain from communication or any other contact or by mail, telephone, e-mail, voice-mail or other electronic or any other means with [specify protected person(s)]: _____;

[02] Refrain from assault, stalking, harassment, aggravated harassment, menacing, reckless endangerment, strangulation, criminal obstruction of breathing or circulation, disorderly conduct, criminal mischief, sexual abuse, sexual misconduct, forcible touching, intimidation, threats, identity theft, grand larceny, coercion or any criminal offense against [specify protected person(s) and/or members of protected person's family or household, and/or person(s) with custody of child(ren)]: _____;

[15] Refrain from intentionally injuring or killing without justification the following companion animal(s) (pet(s)) [specify type(s) and, if available, name(s)]: _____ ;

[11] Permit [specify individual]: _____ to enter the residence at [specify]: _____ during [specify date/time]: _____ with [specify law enforcement agency, if any]: _____ to remove personal belongings not in issue in litigation [specify items]: _____ ;

[04] Refrain from [indicate acts]: _____ that create an unreasonable risk to the health, safety or welfare of [specify child(ren), family or household member(s)]: _____ ;

[05] Permit [specify individual]: _____, entitled by a court order or separation or other written agreement to visit with [specify child(ren)]: _____ during the following periods of time [specify]: _____ under the following terms and conditions [specify]: _____ ;

[07] Custody of [specify child(ren)]: _____ shall be awarded to [specify individual]: _____ under the following terms and conditions [specify]: _____ ;

[12] Surrender any and all handguns, pistols, revolvers, rifles, shotguns and other firearms owned or possessed, including, but not limited to, the following: _____ and do not obtain any further guns or other firearms. Such surrender shall take place immediately, but in no event later than [specify date/time]: _____ at [specify location]: _____ ;

[] Promptly return or transfer the following identification documents specify: _____ to the party protected by this Order NOT LATER THAN [specify date]: _____ in the following manner [specify manner or mode of return or transfer]: _____ ;

[Check box(es) if applicable]: Such documents shall be made available for use as evidence in this judicial proceeding.

[Jointly owned documents or documents in both parties' names only]: The following document(s) may be used as necessary for legitimate use by the Respondent [specify]: _____ .

Pay or provide access to health or medical insurance for necessary medical care and treatment arising from the incident or incidents forming the basis of the order [specify beneficiary of treatment and coverage] _____ ;

Arts. 5,6&8 only Pay counsel fees (and/or) any costs associated with the order to [specify person and terms] _____ ;

Arts. 4,5&6 only Participate in an educational program, (and pay the costs thereof)[(specify program) _____ ;

Art. 8 only Participate in a batterer's education program designed to help end violent behavior (and pay the costs thereof)[specify program] _____ ;

Art. 8 only Pay to the petitioner/victim(s) restitution, as follows [specify terms and amount up to \$1 0,000]: _____ ; and

[99] Observe such other condition(s) as are necessary to further the purposes of protection [specify conditions]: _____
_____;

Art. 8 only [check if applicable]: Respondent is on probation [FCA§842 requires order to state if Respondent is on probation].

AGGRAVATING CIRCUMSTANCES FINDING [check box and fill in if applicable]:

The court has made a finding on the record of the existence of the following **AGGRAVATING CIRCUMSTANCES:** _____
_____.

It is further ordered that the above-named Respondent's license to carry, possess, repair, sell or otherwise dispose of a firearm or firearms, if any, pursuant to Penal Law §400.00, is [check applicable box(es)]: [13A] suspended, or [13B] revoked, (note: final order only) and/or [13C] the Respondent shall remain ineligible to receive a firearm license while this Order is in effect.

It is further ordered that this order of protection shall remain in force until and including [specify date]: _____, _____ but if you fail to appear in court when you are required to do so, the order may be extended and continue in effect until a new date set by the Court.

The Family Court Act provides that presentation of a copy of this order of protection to any police officer or peace officer acting pursuant to his or her special duties authorizes, and sometimes requires, the officer to arrest a person who is alleged to have violated its terms and to bring him or her before the Court to face penalties authorized by law.

Federal law requires that this order is effective outside, as well as inside, New York State. It must be honored and enforced by state and tribal courts, including courts of a state, the District of Columbia, a commonwealth, territory or possession of the United States, if the person restrained by the order is an intimate partner of the protected party and has or will be afforded reasonable notice and opportunity to be heard in accordance with state law sufficient to protect due process rights (18 U.S.C. §§ 2265, 2266).

It is a federal crime to:

- cross state lines to violate this order or to stalk, harass or commit domestic violence against an intimate partner or family member;
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition while this Order remains in effect (Note: there is a limited exception for military or law enforcement officers but only while they are on duty) ; and
- buy, possess or transfer a handgun, rifle, shotgun or other firearm or ammunition after a conviction of a domestic violence-related crime involving the use or attempted use of physical force or a deadly weapon against an intimate partner or family member, even after this Order has expired.. (18 U.S.C. §§922(g)(8), 922(g)(9), 2261, 2261A, 2262).

Dated:

JUDGE OF THE FAMILY COURT

COURT (COURT SEAL)

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

Check Applicable Box(es):

Party against whom order was issued was present in Court and advised in Court of issuance and contents of Order
Order personally served in Court upon party against whom order was issued

Service directed by other means [specify]: _____
[Modifications or extensions only]: Order mailed on [specify date and to whom mailed]: _____
Warrant issued for party against whom order was issued [specify date]: _____
Additional service information [specify]: _____

FAMILY COURT OF THE STATE OF NEW YORK
COUNTY OF

.....

Petitioner

-against-

Docket No.

FAMILY OFFENSE
PETITION

Respondent

.....

TO THE FAMILY COURT:

The undersigned Petitioner respectfully states that:

1. a. I reside at [specify address unless confidential]:¹

b. The Respondent resides at [specify address unless confidential]:

2. a. The Respondent and I are related as follows [check all applicable box(es)]:

we are married

we were married

we have a child in common

we are parent and child

we are related by blood or marriage [specify how]:

we are in an intimate relationship (NOT casual social or business acquaintances) [describe]:

we were in an intimate relationship (NOT casual social or business acquaintances) [describe]:

we live together we lived together in the past we never lived together

b. Petitioner is a duly authorized agency, association, society or institution and is filing this petition pursuant to F.C.A. §822(b).

c. I am a peace officer and am filing this petition pursuant to F.C.A. §822(c).

3. The Respondent committed the following family offense(s) against me and/or my children, which constitute(s):

Disorderly conduct

Menacing in the second or third degree

Harassment in the first or second degree

Reckless endangerment

Aggravated harassment in the second degree

Stalking

Assault in the second or third degree

Attempted assault

Criminal mischief

Sexual misconduct

Sexual abuse in the second² or third degree

Forcible touching

Strangulation

Criminal obstruction of breathing or

¹ If your health or safety or that of your child or children would be put at risk by disclosure of your address or other identifying information, you may apply to the Court for an address confidentiality order by submitting General Form GF-21, which is available on-line at www.nycourts.gov. See Family Court Act §154-b.

² Where victim is incapable of consent for reason other than being under age 17 [Penal Law §130.60(1)].

- circulation
- Identity theft in 1st, 2nd or 3rd degree Grand larceny in 3rd or 4th degree
 Coercion in 2nd degree [Penal Law §135.60 (1),(2),or (3)]

[Describe each incident; starting with the most recent incident; state date, time and location of each incident; specify all injuries and if any weapons were used. Use additional sheets where necessary]:

4. I have have not filed a criminal complaint concerning these incident(s)
 [If so, please indicate court, county, date, charge(s) and status, if known]:

5. [Check applicable box(es)]:

a. I have no children and there are no other children living in my home.

b. The following children live with me [include children who are not yours]:

<u>Name</u>	<u>Date of Birth</u>	<u>Relationship to Me</u>	<u>Relationship to Respondent</u>
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c. The following children are mine but do not live with me.

<u>Name</u>	<u>Date of Birth</u>	<u>Lives With</u>	<u>Child's Relationship to Respondent, if any</u>
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d. The Respondent committed family offenses against the above child or children as follows [describe including name(s) of child or children, nature of offense(s) and date(s)]:³

[Check boxes and complete any of the following paragraphs 6-13 that apply to you. Skip any that do not apply to you.]

6. The Respondent has acted in a way I consider dangerous or threatening to me, my children, a member of my family or household or person with whom I have or had an intimate relationship, in addition to the incident(s) described in question 3, as follows [describe]:

7. The Respondent was found to have violated an Order of Protection issued on behalf of me, my children, a member of my family or household or person with whom I have or had an intimate relationship as follows [describe]:

³ Family offenses, when committed against a member of the same family or household or intimate partner, include the crimes of: assault or attempted assault, aggravated harassment or harassment, disorderly conduct, menacing, reckless endangerment, stalking, sexual abuse, sexual misconduct, forcible touching, strangulation, criminal obstruction of breathing or blood circulation, criminal mischief, grand larceny, identity theft and coercion.

8. The Respondent owns or has access to guns as follows [describe]:
9. a. The Respondent has a gun license or pistol permit for the following gun(s) as follows [describe]:
- b. The Respondent has a gun license or permit application pending as follows [describe]:
- c. The Respondent carries a gun on his or her job as follows [describe]:
10. a. The Respondent threatened [check applicable box(es)]:
- me
 - my child or children [specify]:
 - a member or members of my household [specify]:
 - someone with whom I have or had an intimate relationship [specify]:
- with a gun or dangerous instrument or object as follows [specify]:
- b. There is a substantial risk that Respondent would use or threaten to use a firearm or dangerous instrument or object against me, my child(ren), a member of my household or person with whom I have or had an intimate relationship on the basis of the following facts and for the following reasons [describe]:
11. The following court cases are pending between me and the Respondent [specify court, county, docket or index number, nature of action and status, if known]:
12. The Respondent has the following criminal convictions [specify, including date, crime, sentence and court, if known]:
13. [Applicable where protection is sought for pet(s)]:
- a. The following pets live in my house [specify name(s) and type(s)]:
 - b. The Respondent injured or tried or threatened to injure pets in my household as follows [describe]:
14. I have not made any previous application to any court or judge for the relief requested in this petition, (except [specify the relief, if any, granted and the date of such relief; delete if inapplicable]: _____).

WHEREFORE, Petitioner respectfully requests this Court to:

- a. adjudge the Respondent to have committed the family offense(s) alleged;

b. enter an order of protection, specifying conditions of behavior to be observed by the Respondent in accordance with Section 842 of the Family Court Act;

c. enter a finding of aggravated circumstances [delete if inapplicable];

d. enter a temporary order of child support in accordance with Family Court Act §828(4) [delete if inapplicable];

e. order such other and further relief as to the Court seems just and proper.

Dated: _____

Petitioner: (print or type name) / Signature

Petitioner's Attorney, if any (print or type name) / Signature

Address and telephone number of Attorney, if any

**REPORT ON LEGISLATION BY THE
ANIMAL LAW COMMITTEE
CHILDREN AND THE LAW COMMITTEE AND
DOMESTIC VIOLENCE COMMITTEE**

H.R. 1258

Rep. Clark

An Act to protect the pets of victims of domestic violence, sexual assault, stalking, and dating violence.

Pet and Women Safety Act

THIS LEGISLATION IS APPROVED WITH RECOMMENDATIONS

SUMMARY OF THE PROPOSED LEGISLATION

The proposed legislation would amend certain sections of the Violence Against Women Act, 18 USC §§ 2241 *et seq.* (“VAWA”), to extend protection and support for the pets¹ of victims of domestic violence, sexual assault, stalking and dating violence.

Specifically, the proposed legislation would amend VAWA to prohibit threats and acts of violence against a victim’s pet by including in 18 USC § 2261A (the interstate stalking law) a prohibition on conduct that places a person in reasonable fear of the death of, or serious bodily injury to, that person’s pet. The proposed legislation would also include in 18 USC § 2262 a prohibition on interstate violations of protective orders for pets. In addition, the proposed legislation would amend 18 USC § 2264 to include restitution for veterinary services relating to physical care for the victim’s pet. Finally, the proposed legislation would establish an emergency and transitional pet shelter and housing assistance grant program under which the Secretary of Agriculture, acting in consultation with the Director of Violence Against Women Office of the Department of Justice, the Secretary of Housing and Urban Development, and the Secretary of Health and Human Services, shall grant awards to eligible entities to carry out programs to provide assistance to victims of domestic violence with pets. Such assistance would include shelter and housing services, pet care services, and training programs on the link between animal cruelty and other forms of violence.

¹ The term “pet” as used in the proposed legislation is defined to mean “a domesticated animal, such as a dog, cat, bird, rodent, fish, turtle, horse, or other animal that is kept for pleasure rather than for commercial purposes.”

JUSTIFICATION

A well-established and growing body of research has demonstrated a connection between animal cruelty and violence against humans, including domestic violence and child abuse. Animals are often used as a tool to control and harm human victims of domestic violence and child abuse.² Perpetrators may threaten or abuse a victim's pet to terrorize the victim, as punishment or revenge, to isolate and take away an important source of comfort for the victim, and to intimidate victims into keeping silent about family violence or to prevent them from leaving the abuser. The message the abuser is sending to the human victim is, "Look what I can do to your animal, and imagine what I can do to you."³

Studies of domestic violence victims seeking shelter services show that 71% of victims of domestic violence who were pet owners reported that abusers had threatened, harmed, or killed their pet, with 87% of these incidents occurring in the presence of the victims to control them.⁴ Actual harm or killing of the animal by the abuser (including through acts of omission such as neglecting to provide food, water or veterinary care, but more often through acts of violence such as beating, throwing, drowning, burning or shooting a victim's animals) was reported by 58% of domestic violence victims.⁵

Family violence victims may stay in an abusive environment to protect a beloved animal, if they are not able to move to safe housing with the animal.⁶ Studies have shown that up to 48% of domestic violence victims have delayed leaving a dangerous situation or have returned to their abuser because they feared for their pets' safety.⁷

In recognition of the link between animal cruelty and family violence, nearly half of all states have laws that include animals in orders of protection.⁸ Additionally, a number of state

² It is estimated that one million animals are abused or killed each year in the U.S. in domestic violence situations. Animal Cruelty Facts and Statistics, Humane Society of the United States, http://www.humanesociety.org/issues/abuse_neglect/facts/animal_cruelty_facts_statistics.html (all internet citations listed herein last visited Jan. 28, 2015).

³ Cynthia Hodges, *The Link Between Animal Cruelty and Violence Toward People*, 2007, http://www.incasa.org/PDF/2011/animal_human_violence.pdf.

⁴ Frank R. Ascione, Ph.D, Claudia V. Weber, M.S., and David S. Wood, *Animal Welfare and Domestic Violence*, April 25, 1997.

⁵ Frank Ascione, *Battered Women's Reports of Their Partners' and Their Children's Cruelty to Animals*, *Journal of Emotional Abuse*, Vol. 1(1) 1998.

⁶ *Domestic Violence and Animal Abuse*, N.Y.S. Office for Prevention of Domestic Violence Bulletin, Summer 2010, available at http://www.opdv.ny.gov/public_awareness/bulletins/summer2010/summer2010_bulletin.pdf.

⁷ Sherry Ramsay, Mary Lou Randour, Nancy Blaney & Maya Gupta, *Protecting Domestic Violence Victims by Protecting their Pets*, Today: A Publication of the National Council of Juvenile and Family Court Judges, Spring 2010; Ascione, F. R., Weber, C. V., Thompson, T. M., Heath, J., Maruyama, M., & Hayashi, K. (2007). *Battered pets and domestic violence: Animal abuse reported by women Experiencing intimate violence and by non-abused women*. *Violence Against Women*, 13, 354-373.

⁸ See e.g., justification memo for NYS Assembly Bill 10767-2006/ Senate Bill No. 7691-2006, codified at NY FAM CT §842 (i) (noting that "often abusers, in an effort to control and threaten their partners, harm or kill their pets.").

laws specifically identify harm or threats of harm to an animal to constitute acts of domestic violence.⁹

The majority of American households have pets and it is estimated that 74% of women entering domestic violence shelters owned pets in the prior 12 months.¹⁰ However, nationwide there are currently only 70 co-sheltering programs for victims of domestic violence and their pets.¹¹ Given that such a small fraction of domestic violence shelters accept animals, family violence victims with pets often find themselves in the dilemma of having either to stay in abusive homes to protect their animals or risk the lives of their animal companions if they leave. Expansion of federal protections, programs and resources for family violence victims with pets is necessary to ensure that all victims of domestic violence—including those with pets—have access to sheltering and support for their entire family.

RECOMMENDATION

In light of the serious needs of domestic violence victims with pets, and the general lack of state and local support services for such persons and their pets, we recommend that the Violence Against Women Act be further amended to require that any entity receiving federal funds for domestic violence programs take into account the needs of domestic violence victims with pets.¹²

CONCLUSION

For the aforementioned reasons, we support the proposed legislation and offer the recommendation above to strengthen the proposed legislation.

Reissued March 2015

⁹ See, e.g., Ind. Code Ann. § 31-9-2-42 (4) (Injuring or killing an animal with the intent to threaten a family member may be considered an act of domestic violence); Fla. Stat. § 741.30(3)(b) (Court may consider abuse or killing of a pet as a factor for a domestic violence injunction); Fla. Stat. § 741.30(6)(b)(4) (Violence or threats of violence against a pet may be considered a factor in determining if petitioner is in imminent danger of becoming a victim of domestic violence); 23 Pa.C.S. § 6107 (b)(3)(ii)(E)(II) (Killing or threatening to kill a pet constitutes abuse that can constitute grounds for granting a temporary order that requires the defendant to relinquish all firearms as part of a domestic violence protection order).

¹⁰ Ascione, 1998.

¹¹ We note that only one such program exists in New York City: The Urban Resource Institute's PALS Program (People and Animals Living Safely). See URI People and Animals Living Safely (URIPALS), Urban Resource Institute, <http://urinyc.org/domestic-violence/pals/>.

¹² We note that existing federal law conditions the receipt of federal funds for certain state and local human services programs upon the implementation of programs to assist persons with pets. See e.g., Pet Evacuation and Transportation Standards Act (Public Law 109-308), <http://www.gpo.gov/fdsys/pkg/PLAW-109publ308/pdf/PLAW-109publ308.pdf> (requires state and local emergency preparedness operational plans to take into account the needs of persons with household pets and service animals).



NYSAPF is the voice of New York's humane societies, SPCAs, municipal/non-profit animal shelters and animal welfare organizations.

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Executive Director
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Policy Initiatives to Address the Linkages Between Domestic Violence and Animal Abuse

There's no question within domestic violence law enforcement, legal and animal welfare communities that there is a distinct link between Domestic Violence and Animal Abuse. According to the National Coalition Against Domestic Violence and the American Humane Association, close to 71% of the companion animal-owning women who entered domestic violence/women's shelters said that their abuser had also injured, maimed, killed or threatened family pets. This was done as either revenge or as a way of exerting psychological control over the women and, if there are any in the household, their children. Between 25% and 40% of battered women don't leave their abusers because they are afraid of what will happen to their pets if they weren't in the home.

In New York State, there aren't many remedies for these women. The New York State Animal Protection Federation recognizes the need to create the political will to push forward policy and legislative initiatives to address the lack of protection for women and their companion animals.

Companion Animals, Humane Societies and Domestic Violence Shelters

Assemblywoman Linda Rosenthal and State Senator David Carlucci sponsored legislation, A6626/S5372, would mandate that domestic violence shelters take in service animals or therapy dogs of women who have left abusive relationships. Presently, there is one shelter in New York City, Safe Haven, which is part of the Urban Research Institute's People and Animals Living Safely program, that allows women to bring their companion animals with them. There are ten pet-friendly units in the 32-unit emergency shelter where survivors stay for an average of six months. This is the only shelter of its kind in NYS.

The Rosenthal/Carlucci bill has yet to be signed by Governor Cuomo. While this bill definitely has merit to help those with service and therapy dogs, it will be very difficult to transition domestic violence shelters across the state to be able to take in companion animals. To answer this issue, a number of humane societies and SPCAs across New York partner with their local Domestic Violence agencies and provide Safe Haven programs where the animal shelters care for the companion animals while the women are in the local DV shelter. These programs get no state support and are funded through private philanthropy. The shelter providing this service are:

- Mohawk Hudson Humane Society serving Albany and Rennselaer Counties
- Lollypop Farm, Humane Society of Greater Rochester
- Animal Protective Foundation serving Schenectady County
- SPCA Serving Erie County

In order to create a more vibrant network of Safe Haven programs, there needs to be a funding stream that would provide per diem reimbursement for the car and feeding of the companion animals. The Federation and the ASPCA are working together on creating a funding proposal to be included in the state budget.

Policy Initiatives to Address the Linkages Between Domestic Violence and Animal Abuse

Mandatory Cross Reporting

Presently in New York State, there is no mandatory cross reporting that focuses on the links between domestic violence, child abuse and animal abuse.

As the law stands now:

- Humane officers are peace officers under NYS law (N.Y. CPL §2.10(7)) and are **mandatory reporters of child abuse/neglect** (N.Y. SOS. LAW § 413).
- Child service workers are not required to report animal cruelty.
- The same goes for medical professionals, veterinarians, teachers—they are all mandated to report child abuse/neglect. They are not however, mandated, to report animal abuse if they know it exists.

The Federation would like to see policy changes or legislation that provides for mandatory cross reporting of child abuse for child service workers as well as for medical professionals and teachers (if they have knowledge of animal abuse). Presently, veterinarians in NY have voluntary reporting requirements, we'd like to see that changed to mandatory.

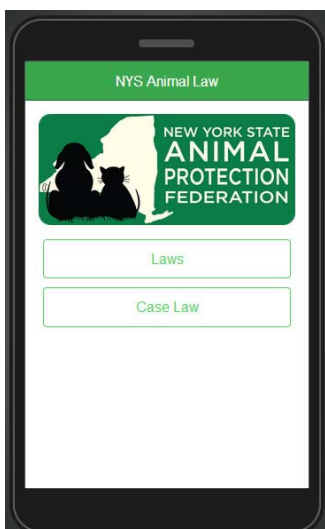
Make Animal Cruelty in the Presence of a Child a Felony

The act of animal cruelty in the presence of a child is part of the continuum of domestic violence. A534 (Rosenthal-D) has been introduced for passage since 2011.

Adults who commit acts of animal cruelty in the presence of a child inflict psychological damage on the minor who is forced to witness these crimes, They can also permanently imperil a still-developing minor's sense of judgment and ethical conduct. By increasing the penalty for animal cruelty when engaging in such cruelty in the presence of a child, this behavior can be curtailed and its consequences can be more thoroughly recognized.

The Federation has made this bill one of its top priorities for the 2016 legislative session.

NYSAPF Animal Law App



The New York State Animal Protection Federation has developed an app available for free download at the App Store (iPhone/iPad) and Google Play that lists all of NY's Animal Laws.

We developed the app in order to provide law enforcement and the legal community with easy access to these statutes. Law enforcement, in particular, receives updates to the penal law each year but not Ag and Markets law where all the animal abuse and other related law resides.



Providing Safety to Victims and Their Pets

Animals. Advocacy. Adoption.





Animals. Advocacy. Adoption.





Animals. Advocacy. Adoption.



The status of pets has changed

62% of Americans have pets

73% of households with children have pets.

95% say they consider their pet to be a member of their family.

45% bought birthday presents for their pet

31% cook for their pets

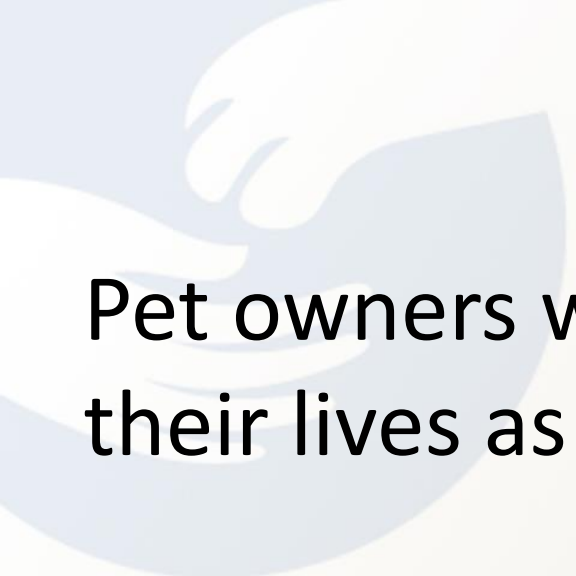
66% say they have dressed their pet in some type of clothing

81% of cat owners and 73% of dog owners sleep in bed with their pets

2015 Harris Poll

Animals. Advocacy. Adoption.





Pet owners were just as close to key people in their lives as to their animals.

-Allen R. McConnell, PhD, of Miami University in Ohio 2011

To the young child, there is no gap between his soul and that of animal's

- G. Stanley Hall, 1904

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Goal

Remove impediments to leaving abusers by providing animal housing for the pets of domestic violence victims.



Animals. Advocacy. Adoption.



The Mohawk Hudson Humane Society will accept any domestic house pet from a domestic violence victim entering Unity House or Equinox's programs.

The Society will hold the animal as long as the victim is in the DV Program.

Our Program

Referral Only -

Safety Planning

Our Agreement with Pet Owners

Transportation

Ownership

After Hours

Veterinary Care (spay/neuter)

Species

Owner's Responsibility

Inter-agency communication

Return to Owner

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Co-Housing



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Who Are We Protecting?

Children who had increased empathy scores because of their relationship with their pets also showed greater empathy toward people (Ascione & Weber 1996)

One of the most dangerous things that can happen to a child is to kill or torture an animal and get away with it.

Margaret Mead

Cultural Factors in the Cause and Prevention of Pathological Homicide-1964

A child of even two or three is capable of some degree of appreciation of the suffering of animals.

C.F. Hodge, 1899

Include Animals in the Conversation

Ask questions about care and treatment of animals.

Are animal abuse, threats of animal abuse and dangerous animals in the home factors in custody decisions?

Pet Friendly Shelter Resource



University at Buffalo

The State University of New York

http://web2.law.buffalo.edu/pet_shelters/

Search for domestic violence related resources by County

Choose a New York county:

Albany

Search for domestic violence related resources by Name

Domestic Violence Organizations that provide services for clients pets

Animal Organizations with services for domestic violence victims

Mohawk and Hudson River Humane Society

Was this information helpful?

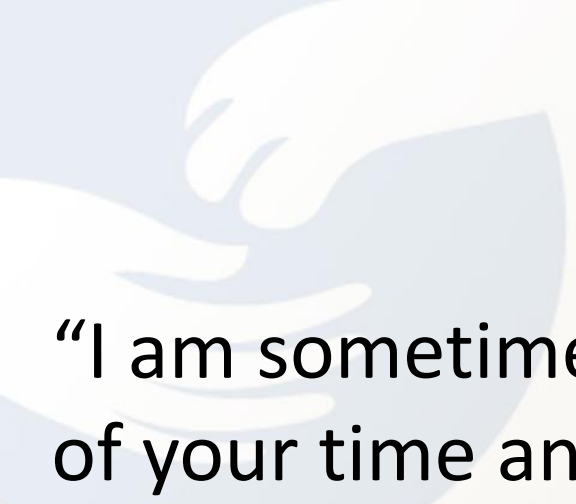
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Animals. Advocacy. Adoption.



**MOHAWK HUDSON
HUMANE
SOCIETY**



“I am sometimes asked ‘Why do you spend so much of your time and money talking about kindness to animals when there is so much cruelty to men?’ I answer: ‘I am working at the roots.’”

George T. Angell 1823-1909
Founder Massachusetts SPCA

Animals. Advocacy. Adoption.



THE CONNECTION BETWEEN DOMESTIC VIOLENCE AND ANIMAL CRUELTY

September 30, 2015

FACULTY

Alicia Borns

Alicia Borns is the Director of the Family and Victim Resources Bureau at the NYS Office for the Prevention of Domestic Violence (OPDV). The Family and Victim Resources Bureau encompasses innovative domestic violence training provided to child protective and child welfare workers, local department of social services workers and domestic violence liaisons, and the NYS workforce and their workplace domestic violence liaisons. Bureau staff also provide services to victims of domestic violence who contact OPDV and serve as a resource for service providers, community professionals and state agencies. The Bureau also provides public awareness and outreach on issues such as elder abuse and teen dating violence.

Prior to working at OPDV, Ms. Borns worked at Equinox Domestic Violence Services in Albany, NY for fifteen years and has more than 22 years of experience in domestic violence services work. Ms. Borns brings extensive experience in individual and systems advocacy, program and policy development, and community collaboration, outreach and awareness

Ms. Borns earned her Bachelors of Science degree from South Dakota State University in Brookings, South Dakota.

Christine Mott, Esq.

Christine Mott is the Assistant General Counsel for the International Council of Shopping Centers. She is the immediate past Chairwoman of the Animal Law Committee of the New York City Bar Association. Ms. Mott is a member of the Board of Catskill Animal Sanctuary, a farm animal rescue organization, a member of the Board of NADAP, a social services organization, and a member of the New York State Council of the Humane Society of the United States. She graduated with honors from Smith College in 2004 and New York University School of Law in 2007. Through her work on the Committee, she has focused on a number of areas in which human and animal welfare issues converge, including the link between animal cruelty and interpersonal violence, humane education, and animal welfare and food safety reform in animal agriculture.

Jed Painter, J.D., M.P.A.

Jed L. Painter is an Assistant District Attorney with the Nassau County District Attorney's Office and serves as both Counsel to Acting District Attorney Madeline Singas and Chief of the NCDCA's Animal Crimes Unit. He previously served as Deputy Counsel and then Counsel to District Attorney Kathleen Rice, prior to her departure for Congress as the elected representative from New York's 4th District. During his tenure with the NCDCA, Painter has also

worked in the office's Public Corruption Bureau, Grand Jury Bureau, Early Case Assessment Bureau, Warrant Section, and District Court Trial Bureau.

ADA Painter has been a repeat guest-lecturer for Animal Law classes at Fordham Law School, Pace University Law School, New York Law School, and the Maurice A. Dean School of Law at Hofstra University. He was a panelist at the New York State Bar Association Continuing Legal Education Seminar, "Ethical Considerations and Legal Determinations in the Practice of Animal Law," the Nassau County Bar Association Continuing Legal Education Seminar, "The Interaction between Animal Law and Municipal Law," the Pace Law School Continuing Legal Education Seminar, "Current Developments in the Practice of Animal Law," and the 2011 Touro College Jacob D. Fuchsberg Law Center Animal Law Public Seminar, as well as the invited guest speaker at the Paralegal Society of Long Island's 2012 symposium on "The State of Animal Crimes Prosecution in New York State." Painter has also served as the instructor on Animal Crimes prosecutions at the New York Prosecutors Training Institute Summer College and at the Nassau County Police Academy.

In 2012, Painter was called to testify before the New York State Senate Agriculture Subcommittee as an expert witness on animal crimes legislation and enforcement. He has been routinely consulted by members of the state legislature for modifications to animal crimes statutes and is the principal drafter of the Consolidated Animal Crimes Bill (S.3201/A.352). For his work in animal crimes prosecutions, ADA Painter was featured by the *New York Law Journal*, vol. 247, no. 81, pp. 5-6 (April 27, 2012).

In his role with the NCDCA Animal Crimes Unit, one of Painter's main functions is outreach to municipal law enforcement and animal control organizations. He has conducted several law enforcement seminars on various issues relating to this body of criminal law, including: overview of applicable crimes in New York State Agriculture and Markets Law, evidence collection/analysis in animal crimes, and logistical issues in handling living evidence. Additionally, he chairs the District Attorney's Animal Safety and Protection Council, which is a collaborative body of all major municipal animal control groups in Nassau County. He received a Juris Doctor from St. John's University School of Law, a Master's Degree in Public Administration from John Jay College of Criminal Justice, and a Bachelor's Degree from Northwestern University.

Libby Post

Libby Post is the Executive Director of the New York State Animal Protection Federation. The Federation represents all the humane societies, SPCAs and municipal and nonprofit animal shelters across the state. She has held that position since November of 2013. In those two years, she has worked to increased membership by close to 50% and create a grassroots advocacy network that helped to pass bills such as funding for trap/neuter/vaccinate/release programs for feral cat colonies. She has worked in the advocacy field for over 30 years. She was formally the President of the Mohawk Hudson Humane Society Board of Directors.

Brad Shear

Brad Shear is the Executive Director of the Mohawk Hudson Humane Society, the oldest and largest animal protection organization in New York's Capital Region. He has worked in the animal protection field since 1996 and has been the Director of the Society since April 2007. Shear is the only Certified Animal Welfare Administrator (CAWA) in the region.

In 2012 the Society was chosen as the nonprofit organization of the year by the Albany-Colonie and Schenectady Chambers of Commerce. For seven consecutive years the Society has been voted 'Favorite Nonprofit' of Metroland Magazine readers. In addition to his position at the Society Shear serves as the President of the Board of the New York State Animal Protection Federation.

Prior to his arrival in Albany, Shear was the Director of Operations for the Atlanta Humane Society where he oversaw the operations of one of the largest animal shelters and nonprofit veterinary clinics in the Southeast and served on the board of the Governor's Domestic Violence Fatality Review Board. He also managed the Brooklyn Shelter for New York City Animal Care and Control, one of the largest animal shelters in the United States.

Shear began his animal protection career at the Humane Society of Boulder Valley in Colorado where he managed both animal shelter and animal control programs for 8 years and served as the director of the Boulder County Animal Response Team.

Brad was born and raised in New York City, received his bachelor's degree from the University of Colorado at Boulder and currently lives in Delmar, New York with his wife, two children, and 3 cats.

THE CONNECTION BETWEEN DOMESTIC VIOLENCE AND ANIMAL CRUELTY

September 30, 2015

SPONSORS

Third Judicial District Gender Fairness Committee

The Third Judicial District Gender Fairness Committee is part of a statewide network of gender fairness committees created by the New York State Judicial Committee on Women in the Courts. The Committee was created in 1986 and tasked with the goal of eradicating all vestiges of gender bias in New York Courts.

Albany County Bar Association

Albany County Bar Association's more than 1,300 members represent a broad spectrum of the legal community such as solo and small firms, corporate and public sector attorneys, judges and court personnel. Founded in 1900 to promote collegiality among the bench and bar, the ACBA has since undertaken many projects and programs that forward the mission of the ACBA.

Through the ACBA's Pro Bono Department, CLE offerings, social and philanthropic events; the ACBA works diligently and consistently to enhance the member experience and offer benefits and services to the community.

Although the ACBA and the practice of law has changed over the past one hundred plus years, the goals of the ACBA remain the same: to offer a high level valuable experience to our members, while providing exceptional services to the community. The Albany County Bar Association is dedicated to the profession of law, and works tirelessly to promote and enhance the legal community both inside and outside of the courtroom.

Albany Law School

Located in the heart of New York's capital, Albany Law School is the oldest independent law school in North America.

With more than 160 years of experience in law education, the law school's students and alumni embark on brilliant careers – a U.S. president, governors including New York's current governor, chief counsels to Fortune 500 companies, and seats on the U.S. Supreme Court.

Albany Law's outstanding location – the only law school within 90 miles of New York's capital – offers unparalleled opportunities for law students. Albany, the home of New York's highest court, federal courts, and the state legislature, is itself a laboratory for the study of law.

Albany Law School offers J.D. and LL.M. degrees, 15 concentrations and several joint degrees through accredited colleges and universities in the Capital Region and New York City.

A wide array of field placements, including internships through the Albany Law Clinic & Justice Center and the Government Law Center, provide students essential hands-on learning.

The Career Center assists students from their first day at Albany Law. With more than 20,000 alumni practicing in every state in the country and several continents, Albany Law's graduates serve as a vital community and resource for the law school and its students.

Capital District Women's Bar Association

The Capital District Chapter of the Women's Bar Association of the State of New York is an organization of approximately 300 members that has grown steadily over the past 30 years. What began as an informal structure (there were no presidents) became an association when the group was approached by the New York Women's Bar Association, an organization that had existed in New York City for several decades. This association already had one chapter, the Westchester County Women's Bar Association, and they actively sought to include the Northeastern New York Women Lawyers Association as their second chapter. From this network grew a statewide bar association, The Women's Bar Association of the State of New York, with Albany as one of the five founding chapters.

The Women's Bar Association of the State of New York now has 17 chapters and more than 3500 members from Suffolk County to Buffalo. It is a statewide network of women attorneys that maintains a host of active committees including legislative, matrimonial practice, criminal law, gender bias, real property, and tax law. The state Association has been visible on the federal level as amicus in Supreme Court cases, and in national networking with other state women's bar associations.

Empire Justice Center

Empire Justice Center is a statewide resource center for legal services providers around the state. Empire Justice Center provides training, technical assistance, legal research, litigation backup and information to programs providing civil legal assistance in areas such as domestic violence, disability, housing, consumer law, immigration, education, civil rights, public benefits, and HIV/AIDS.

The Legal Project

The Legal Project was founded by the Capital District Women's Bar Association in 1995. The Legal Project's mission is to make the law more accessible to those in need, to increase the legal community's involvement in pro bono work, and to serve as a resource on legal issues. The Legal Project provides a variety of free and low cost legal services to the working poor, victims of domestic violence and other underserved individuals in the Capital District. The Legal Project's programs include the Domestic Violence Legal Connection (DVLC), Affordable Housing Attorney Assistance Program (AHAA), Bankruptcy & Credit Program, Homeowner Protection Project, Wills Project, Legal Clinics, Small Business Legal Network, Legally Speaking Workshops, and Uncontested Divorce Clinics.

Mayor's Alliance for New York City's Animals

The Mayor's Alliance for NYC's Animals, a 501(c)(3) non-profit charity, is the sole umbrella organization for animal welfare in NYC. Since 2003, The Mayor's Alliance for NYC's Animals has been working with its coalition of 150+ rescue groups and shelters to

find homes for thousands of New York City's dogs and cats. Its goal is to transform New York City into a no-kill community by 2015, where no dogs or cats of reasonable health or temperament are killed simply because they do not have homes.

While it works collaboratively with the City of New York, the Mayor's Alliance for NYC's Animals is a 501(c)(3) charity and does not receive any government funding, nor is it a city agency.

Mohawk Hudson Humane Society

The Mohawk Hudson Humane Society is a 501(c)(3) non-profit organization that has been providing shelter for lost, abused and unwanted animals since 1887. The Society is the oldest and largest animal protection organization in New York's Capital Region, receiving an average of over 6,000 animals per year.

The Society was awarded the Tech Valley Nonprofit Business Council's 2012 Nonprofit Organization award (1-74 employees) in large part because of the Safe Haven Program, a partnership between the Mohawk Hudson Humane Society, Unity House and Equinox Inc. The goal of the partnership is to eliminate barriers that prevent women from leaving abusers and to educate the community about the connection between animal abuse and domestic violence.

New York State Animal Protection Federation

The New York State Animal Protection Federation is the voice of New York's animal shelters, humane societies and animal welfare organizations. Formed in 2010, the NYSAPF was established to safeguard the well-being of all animals through legislative and policy initiatives in New York. With a united voice, the NYSAPF will work to create a humane community where animals benefit from progressive, lifesaving programs developed through the collaboration of our member organizations.

The NYSAPF is also a trade/educational resource for its member organizations striving to maintain the highest standards in animal welfare and care.

New York State Bar Association

For more than 135 years, the New York State Bar Association has shaped the development of the law, educated and informed the profession and the public, and responded to the demands of a changing society. Today, with a membership of more than 74,000 lawyers, representing every town, city and county in the state, the New York State Bar Association is the largest voluntary state bar organization in the nation.

The Association's objectives, originally stated in its constitution adopted in 1877, are the same today. They are: to cultivate the science of jurisprudence, promote reform in the law, facilitate the administration of justice, and elevate the standards of integrity, honor, professional skill and courtesy in the legal profession. As a link between the state and the individual lawyer, as a force for constructive change, and as a chief exponent of the rights and liberties of the public, the New York State Bar Association stands proud and capable, ready to serve.

New York State Office for the Prevention of Domestic Violence

The Office for the Prevention of Domestic Violence (OPDV), created in 1992, is the country's only executive level state agency dedicated to the issue of domestic violence. OPDV's mission is to improve New York State's response to and prevention of domestic violence with the goal of enhancing the safety of all New Yorkers in their intimate and family relationships. OPDV's primary office is located in Albany, New York, with a satellite office in New York City.

New York State Judicial Institute

The New York State Judicial Institute provides statewide education and training for the judges and justices of the New York State Unified Court System. Created through a unique partnership between the court system and Pace Law School, the Institute provides a forum for judicial scholarship that includes continuing education seminars and conferences, as well as cooperative education programs with other state and federal judicial systems and related endeavors.