



CELEBRATING 25 YEARS

THE
ANIMAL LAW
CONFERENCE

1993 **25** 2017

PORTLAND, OREGON

OCTOBER 13-15, 2017

Can Animals Be Victims of Crime?

Meg Garvin

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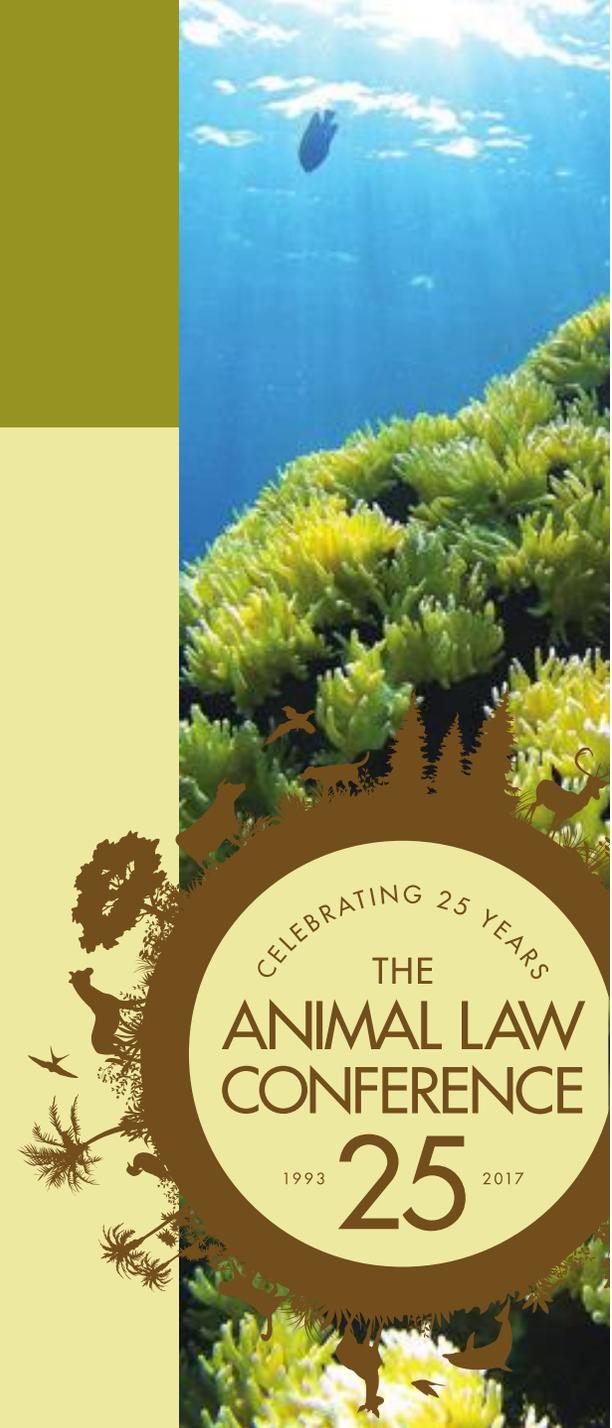
Founder, *Sheltering Animals & Families Together*



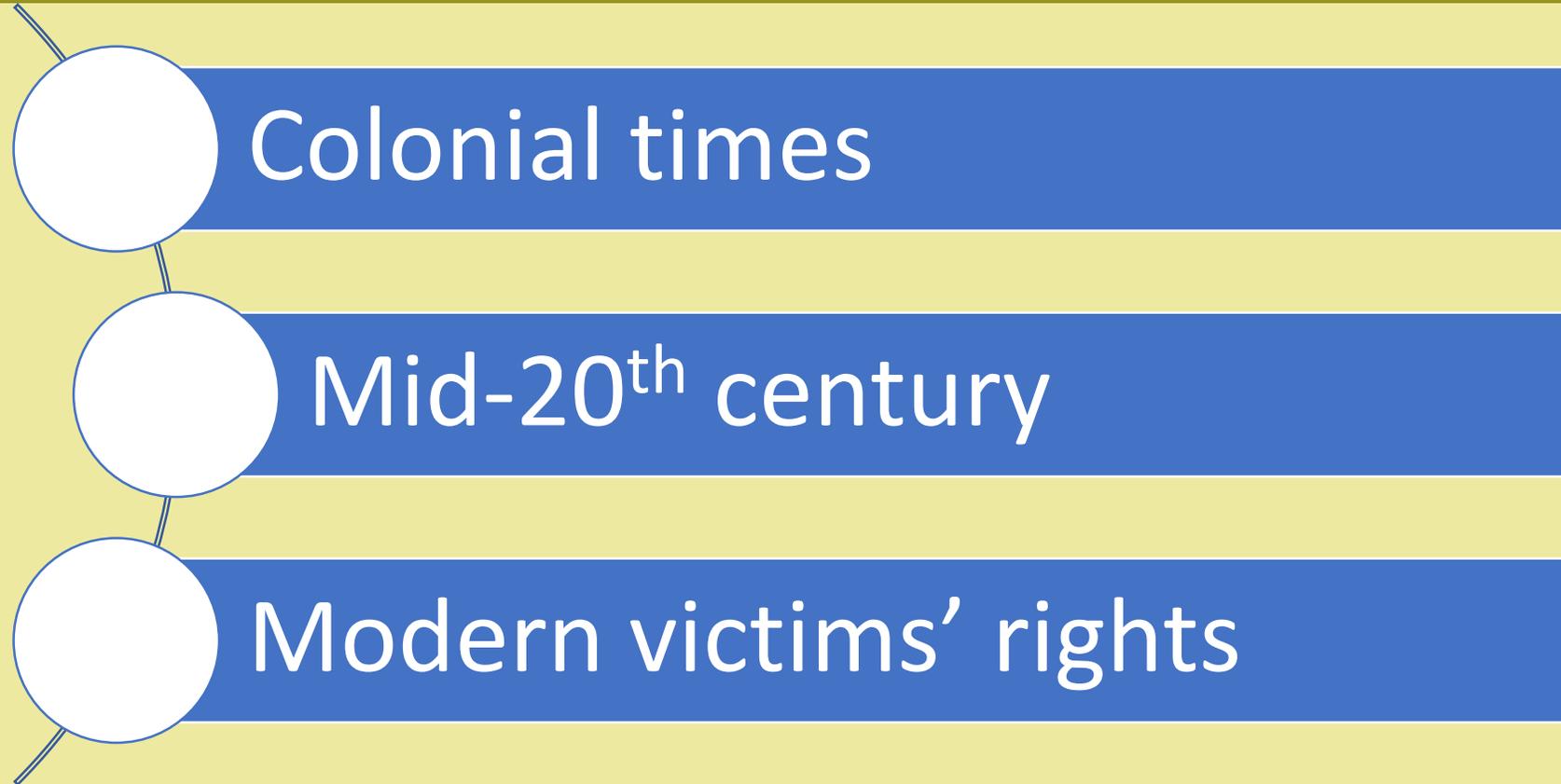
A Bit About NCVLI



Mission: To actively promote balance and fairness in the justice system through crime victim centered legal advocacy, education, and resource-sharing.



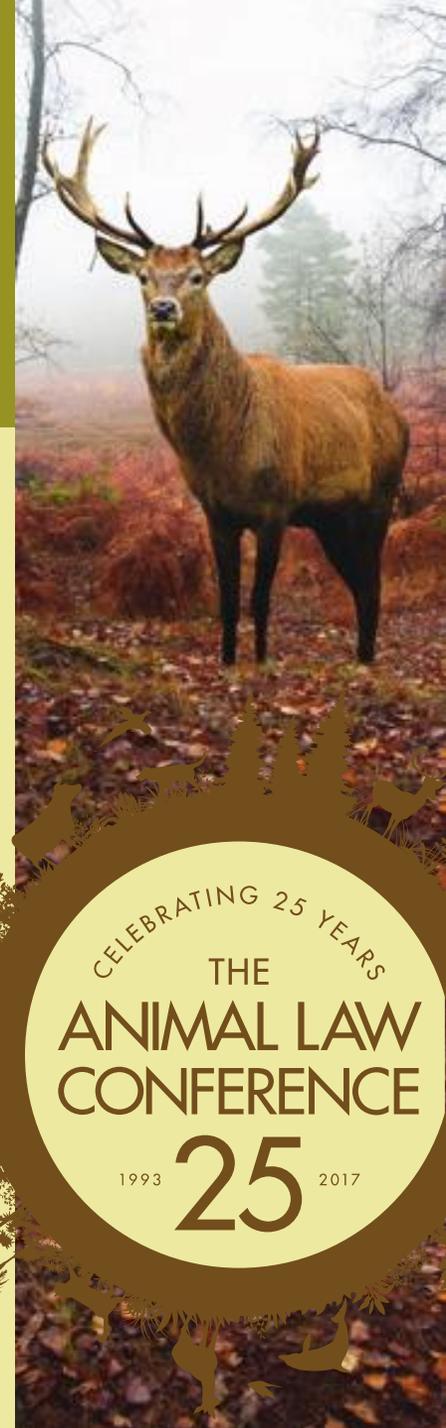
Brief History of VR



Foundational Battles

THE VITAL PART OF A
CONSIDERATION

11. **DEFINITION.**—A
thing which induces a
contract. It is the substance
inducing the parties to
contract. SUFFICIENT



Most Common Moments

NOTICE

PRIVACY

PROTECTION

PRESENCE

PLEA & SENTENCE

RESTITUTION

BEING HEARD



Allies in the Work



Keep the Conversation Going



**17th Annual Crime Victim Law
Conference**
June 7-8, 2018



www.ncvli.org



**RIGHTS ENFORCEMENT
TOOLKIT** that guides
practitioners through
the steps of asserting
victims' rights



Basic victims'
rights information
in short video
QUICKTOOLS



**VICTIM LAW
LIBRARY** filled with
innovative legal
articles



National, regional,
local, and online
TRAININGS on
victim law



**TECHNICAL
ASSISTANCE** in
the form of legal
research, writing,
strategic advice,
and amicus curiae
briefing



Listings of victims'
rights and resources
by location and topic
in an online **VICTIM
RESOURCE MAP**

Note:

It's impossible to talk about crimes against animals without showing photographs of abused animals. Every effort has been made to try to minimize this.

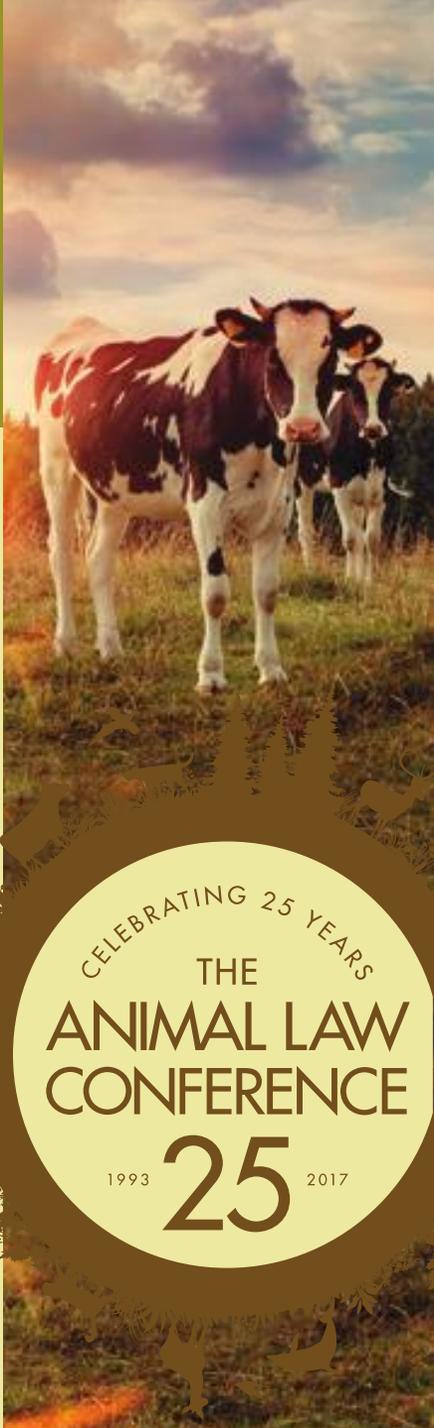
Recognize and Treat the Animal Victim as a “Victim”

- Crime Scene Investigation
- Evaluating the case for prosecution
- Trial preparation
- Sentencing



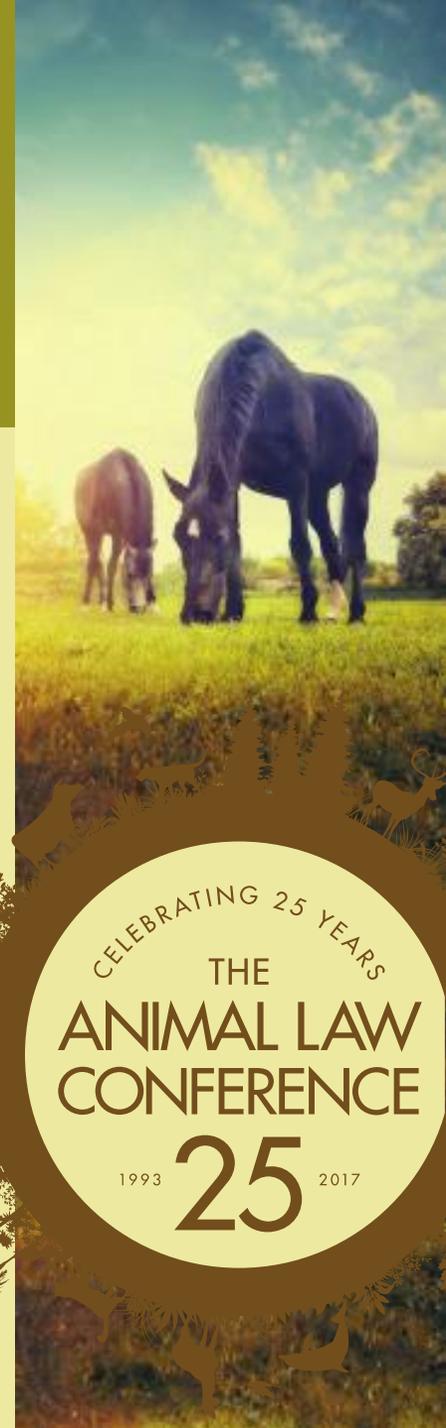
Crime Scene Investigation

- Each and every animal treated as an individual victim
 - Identified separately from all other victims by name or number
 - Individual veterinary examinations and testing
 - Have the correct experts
- Analyze each victim “in context” (whether alive or deceased)
 - Injuries, illness, diseases
 - Access to appropriate food, water, shelter
 - Relationship to other animals and to suspect



Crime Scene Investigation (cont.)

- Collect other evidence related to the animal(s)
 - Ownership records, veterinary records, money trails
- Anticipate possible defenses
 - Accident, insanity, justified, no “CSI”, etc.



Case can have single animal or multiple animals





A048996

6 lb 1 oz

A048996



A048997

6 lb 2 oz

A048997



A048998

4 lb 6 oz

A048998



A048999

5 lb 14 oz

A048999



A049000

5 lb 11 oz

A049000



A049001

4 lb 11 oz

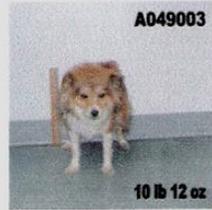
A049001



A049002

5 lb 1 oz

A049002



A049003

10 lb 12 oz

A049003



A049004

8 lb 4 oz

A049004



A049005

15 lb 6 oz

A049005



A049006

10 lb 8 oz

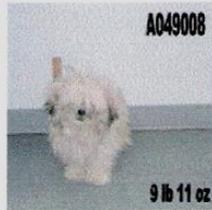
A049006



A049007

8 lb 4 oz

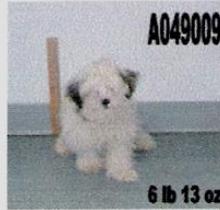
A049007



A049008

9 lb 11 oz

A049008



A049009

6 lb 13 oz

A049009



A049010

6 lb 14 oz

A049010



A049011

6 lb 12 oz

A049011



A049012

19 lb 4 oz

A049012



A049013

16 lb 1 oz

A049013



A049014

12 lb 1 oz

A049014

Dogs #96 #97 & #98



Dog #97



Control Number A048997 Cage no. 219
 Sex F Age 3-4 Weight 5.0g

Date 2/12/06 Date of Impound 2/12/06 Control Number A048997 Cage no. 219
 Type Of Impound A.H. Breed SP Sex F Age 3-4 Weight 5.0g

History/Presentation/Physical Exam

Watered, rapid resp - T = 104.2
RX: 1/4 cc Baytril
0.2cc Baytril - LA
0.2cc Vitalize
1cc B-12 (CB) ✓

RX: Baytril 3/4 tab BIDXS = 7/8
Antibiotic Lactinase BIDXS

Begin Monday (AM)
2/12/06
AV

Treatments/Medications

Progress Notes:

Disposition: No Pres. XL (g) Date: _____

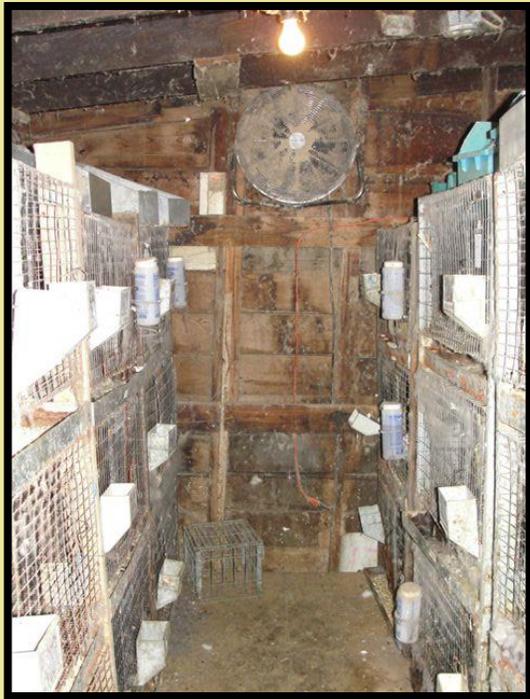
SR 51 8000-63-20 W 0 60 10-00 Vesal 5H22

Quality of evidence

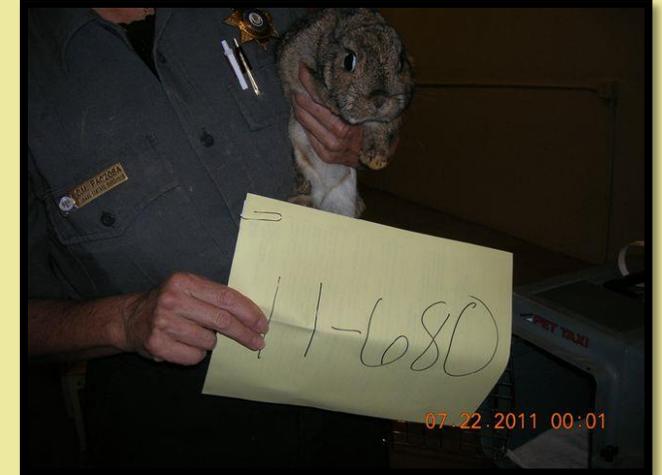
- Complex crime scene (multiple animals, evidence and witnesses)
- Unexplained or unidentified evidence
- Uncollected evidence
- Contamination

Rabbit Case



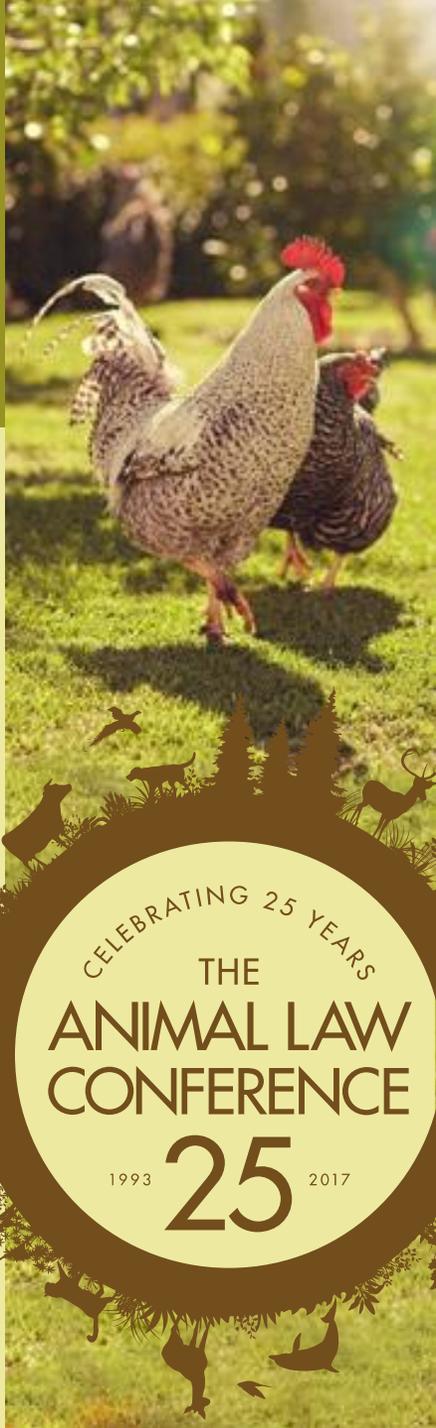


Which rabbit? Which cage? Where photo taken? Which vet? Was it sick or injured?



Evaluating the Case for Prosecution

- If the treatment (act or omission) of an individual animal results in a provable violation, then a charge should be filed involving that animal
- Each animal should be specifically identified in some manner to the exclusion of all other animals involved in the same incident
- **ONE ANIMAL = SEPARATE CHARGE**



Nightmare to Organize



A	B	C	D	E	F	G
	Rabbit Number	Summons Number	Status	Who Treated	Proceed/Dismiss/Maybe	
1	499				P	
2	500			HILL	P	
3	501			AMH	D	
4	502			?	M	
5	503			?	D	
6	504			?	M	
7	505			?	P	
8	506			?	M	
9	507			?	P	
10	508			AMH	P	
11	509			?	P	
12	510			?	P	
13	511			?	P	
14	512			?	P	
15	513			AMH	P	
16	514			BG	P	
17	515			?	P	
18	516			AMH	P	
19	517			BG	P	
20	518			BG	P	
21	519			AMH	P	
22	520			SV	P	
23	521			BG	M	
24	522			BG	M	
25	523			AMH	P	
26	524			SV	D	

Pain and Suffering

- “Victims” feel pain and “victims” suffer
- Distinguishes sentient “property” from inanimate property
- May be an element of the cruelty statute

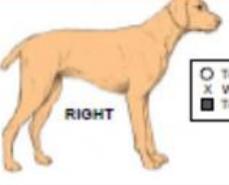
Acute Pain Scales

Colorado State University

Colorado State University
Veterinary Medical Center
Canine Acute Pain Scale

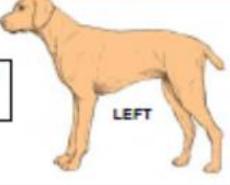


Pain Score	Example	Psychological & Behavioral	Response to Palpation	Body Tension
No Score		<input type="checkbox"/> Animal is sleeping and cannot be evaluated		
0		<input type="checkbox"/> Comfortable when resting <input type="checkbox"/> Happy, content <input type="checkbox"/> Not bothering wound or surgery site <input type="checkbox"/> Interested in or curious about surroundings	<input type="checkbox"/> Nontender to palpation of wound or surgery site, or to palpation elsewhere	Minimal
1		<input type="checkbox"/> Content to slightly unsettled or restless <input type="checkbox"/> Distracted easily by surroundings	<input type="checkbox"/> Reacts to palpation of wound, surgery site, or other body part by looking around, flinching, or whimpering	Mild
2		<input type="checkbox"/> Looks uncomfortable when resting <input type="checkbox"/> May whimper or cry and may lick or rub wound or surgery site when unattended <input type="checkbox"/> Droopy ears, worried facial expression (arched eye brows, darting eyes) <input type="checkbox"/> Reluctant to respond when beckoned <input type="checkbox"/> Not eager to interact with people or surroundings but will look around to see what is going on	<input type="checkbox"/> Flinches, whimpers cries, or guards/pulls away	Mild to Moderate Reassess analgesic plan
3		<input type="checkbox"/> Unsettled, crying, growling, biting or chewing wound when unattended <input type="checkbox"/> Guards or protects wound or surgery site by altering weight distribution (i.e., limping, shifting body position) <input type="checkbox"/> May be unwilling to move all or part of body	<input type="checkbox"/> May be subtle (shifting eyes or increased respiratory rate) if dog is too painful to move or is static <input type="checkbox"/> May be dramatic, such as a sharp cry, growl, bite or bite threat, and/or pulling away	Moderate Reassess analgesic plan
4		<input type="checkbox"/> Constantly growling or screaming when unattended <input type="checkbox"/> May bite or chew at wound, but unlikely to move <input type="checkbox"/> Potentially unresponsive to surroundings <input type="checkbox"/> Difficult to distract from pain	<input type="checkbox"/> Cries at non-painful palpation (may be experiencing windup, wind-up, or fearful that pain could be made worse) <input type="checkbox"/> May react aggressively to palpation	Moderate to Severe May be rigid to avoid painful movement Reassess analgesic plan



RIGHT

Tender to palpation
 Warm
 Tense



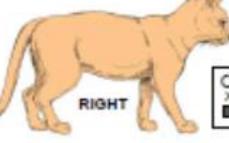
LEFT

Colorado State University

Colorado State University
Veterinary Medical Center
Feline Acute Pain Scale

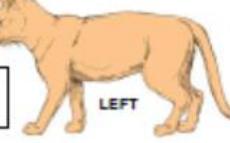


Pain Score	Example	Psychological & Behavioral	Response to Palpation	Body Tension
No Score		<input type="checkbox"/> Animal is sleeping and cannot be evaluated		
0		<input type="checkbox"/> Content and quiet when unattended <input type="checkbox"/> Comfortable when resting <input type="checkbox"/> Interested in or curious about surroundings	<input type="checkbox"/> Not bothered by palpation of wound or surgery site, or to palpation elsewhere	Minimal
1		<input type="checkbox"/> Signs are often subtle and not easily detected in the hospital setting; more likely to be detected by the owner(s) at home <input type="checkbox"/> Earliest signs at home may be withdrawal from surroundings or change in normal routine <input type="checkbox"/> In the hospital, may be content or slightly unsettled <input type="checkbox"/> Less interested in surroundings but will look around to see what is going on	<input type="checkbox"/> May or may not react to palpation of wound or surgery site	Mild
2		<input type="checkbox"/> Decreased responsiveness, seeks solitude <input type="checkbox"/> Quiet, loss of brightness in eyes <input type="checkbox"/> Lays curled up or sits hunched up (all four feet under body, shoulders hunched, head held slightly lower than shoulders, tail curled tightly around body) with eyes partially or mostly closed <input type="checkbox"/> Hair coat appears rough or fluffed up <input type="checkbox"/> May intensively groom an area that is painful or inflamed <input type="checkbox"/> Decreased appetite, not interested in food	<input type="checkbox"/> Responds aggressively or tries to escape if painful area is palpated or approached <input type="checkbox"/> Tolerates attention, may even perk up when petted as long as painful area is avoided	Mild to Moderate Reassess analgesic plan
3		<input type="checkbox"/> Constantly yawning, growling, or hissing when unattended <input type="checkbox"/> May bite or chew at wound, but unlikely to move if left alone	<input type="checkbox"/> Grows or hisses at non-painful palpation (may be experiencing allodynia, wind-up, or fearful that pain could be made worse) <input type="checkbox"/> Reacts aggressively to palpation, adamantly pulls away to avoid any contact	Moderate Reassess analgesic plan
4		<input type="checkbox"/> Possible <input type="checkbox"/> Potentially unresponsive to or unaware of surroundings; difficult to distract from pain <input type="checkbox"/> Responsive to care (even mean or wild cats will be more tolerant of contact)	<input type="checkbox"/> May not respond to palpation <input type="checkbox"/> May be rigid to avoid painful movement	Moderate to Severe May be rigid to avoid painful movement Reassess analgesic plan



RIGHT

Tender to palpation
 Warm
 Tense



LEFT

How do we know they hurt?

Dr. Sheilah Robertson



Charging Standard

- Can I prove the charges
- Beyond a reasonable doubt
- To a Judge or jury
- Considering
 - Admissible evidence
 - Available defenses

Trial Preparation

- File the correct charge(s) for each animal and human
- Treating each animal as a separate victim should preempt the defense from filing motion for Bill of Particulars
- Creative Charging - multiple crimes may have been committed against each animal and each human
- Tenacious Prosecution – Recanting Human Victim
- File Motion for Protection Order for all victims (human and animal)
- Consider 404(b) evidence



Itemize charging document by number or a **name** assigned to that particular animal

```
COUNT 42 - CRUELTY TO ANIMALS - RABBIT #11-554
COUNT 43 - CRUELTY TO ANIMALS - RABBIT #11-556
COUNT 44 - CRUELTY TO ANIMALS - RABBIT #11-557
COUNT 45 - CRUELTY TO ANIMALS - RABBIT #11-558
COUNT 46 - CRUELTY TO ANIMALS - RABBIT #11-559
COUNT 47 - CRUELTY TO ANIMALS - RABBIT #11-560
COUNT 48 - CRUELTY TO ANIMALS - RABBIT #11-568
COUNT 49 - CRUELTY TO ANIMALS - RABBIT #11-605
COUNT 50 - CRUELTY TO ANIMALS - RABBIT #11-606
COUNT 51 - CRUELTY TO ANIMALS - RABBIT #11-616
COUNT 52 - CRUELTY TO ANIMALS - RABBIT #11-626
COUNT 53 - CRUELTY TO ANIMALS - RABBIT #11-643
COUNT 54 - CRUELTY TO ANIMALS - RABBIT #11-646
COUNT 55 - CRUELTY TO ANIMALS - RABBIT #11-650
COUNT 56 - CRUELTY TO ANIMALS - RABBIT #11-652
COUNT 57 - CRUELTY TO ANIMALS - RABBIT #11-656
COUNT 58 - CRUELTY TO ANIMALS - RABBIT #11-661
```

Creative Charging Example: Hoarding case with child in the home



17 live animals

10 deceased animals

1 Thirteen-year-old child

= 28 charges

Creative Charging Example: Animal cruelty in front of child



1 dog shot with BB rifle
1 six-year-old eye witness
1 POWPO

= 3 charges

Tenacious Prosecution: Recanting Human Victim

Erica and
Stewart

1 human: felony assault

1 puppy: felony animal
cruelty



Erica



Stewart



Pets in Protection Orders

Oregon: O.R.S. § 107.718

Under Oregon law, if requested by a petitioner who has been the victim of domestic abuse, the court may enter an order to protect a companion or therapy animal. This includes an order to “prevent the neglect and protect the safety of any service or therapy animal or any animal kept for personal protection or companionship, but not an animal kept for any business, commercial, agricultural or economic purpose.”

For a list of states that include pets in protection orders:

<https://www.animallaw.info/article/domestic-violence-and-pets-list-states-include-pets-protection-orders>

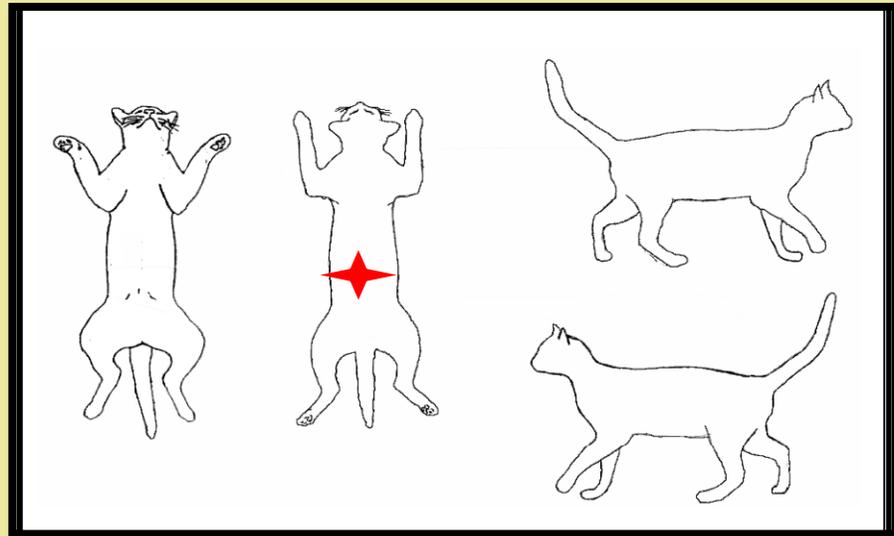
If warranted, ask for a
protection order even if there's
no specific statutory provision!

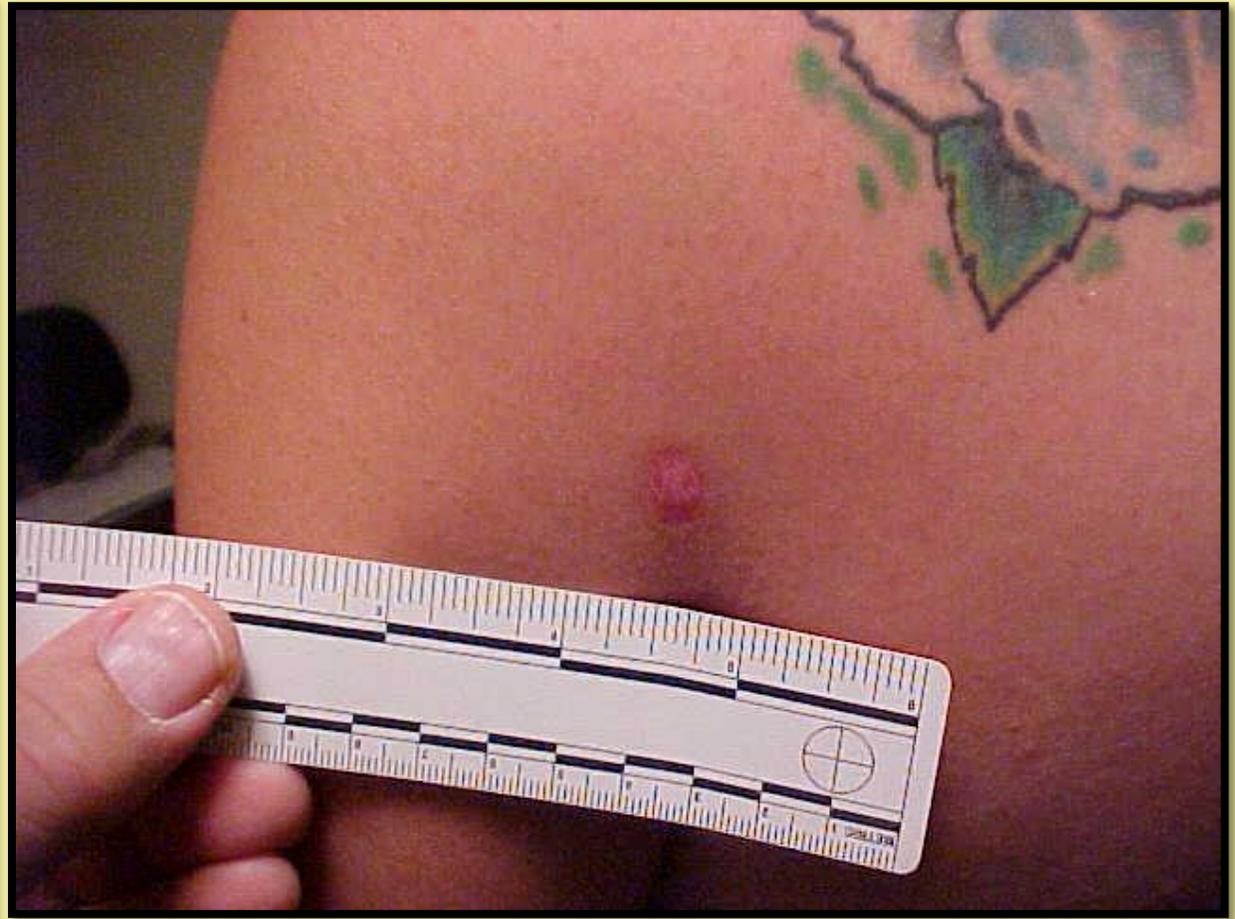
Similar Transaction [404(b)] Case example

“Taz” the cat









Sentencing

- Each conviction warrants an individual sentence
- May argue for it to be concurrent or consecutive depending on the underlying facts
- Be a “voice” for the “voiceless”
- Consider mitigation
- Consider aggravation – prior convictions; number of animals victimized; degree of pain and suffering; lack of justification; context of domestic violence



Personalize verdict form by animal name or number

I. *We, the jury, find the defendant, DEBE D. BELL, NOT GUILTY OF CRUELTY TO ANIMALS against RABBIT #11-523.

FOREPERSON

II.* We, the jury, find the Defendant, DEBE BELL, GUILTY of CRUELTY TO ANIMALS against RABBIT #11-523, and further find that the Defendant:

**[] (a) deprived RABBIT #11-523 of necessary sustenance

**[] (b) allowed RABBIT #11-523 to be housed in a manner that resulted in chronic and repeated serious physical harm

**[] (c) mistreated RABBIT #11-523

**[] (d) neglected RABBIT #11-523

**[] (e) having the charge or custody of RABBIT #11-523 failed to provide it with proper food, drink or protection from the weather, consistent with the species, breed, and type of animal

Cases recognizing animals as “victims”

- *State of Oregon v. Nix*
355 Or 777, 334 P3d 437 (2014)
- *People of the State of Colorado, v. Valerie Christine Harris*
Court of Appeals Nos. 14CA1435,
Decided: November 03, 2016, Cert
Denied October 2, 2017

Oregon v. Nix

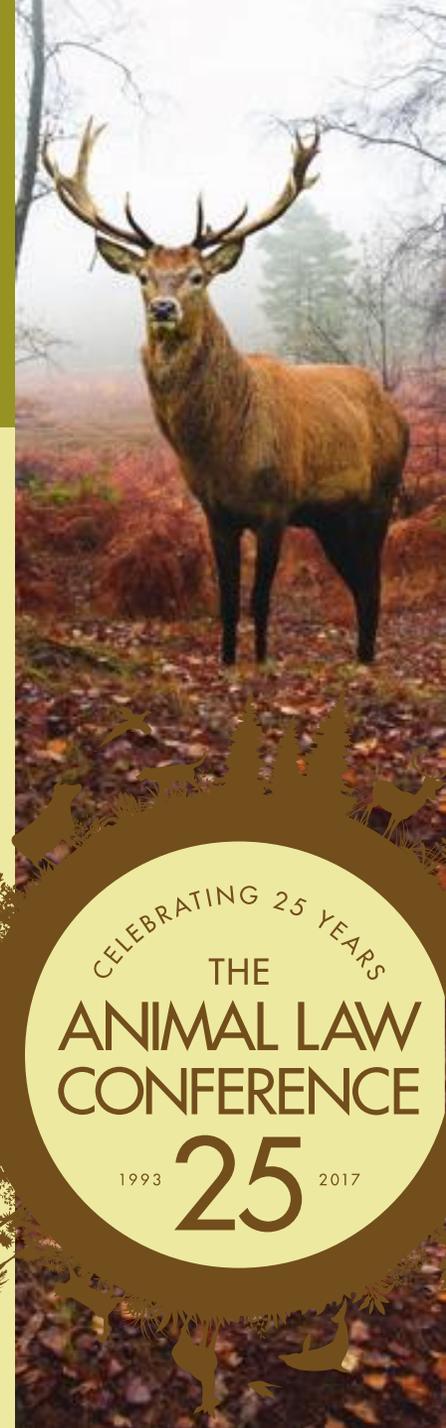
- Jury convicted defendant of 20 counts of second-degree animal neglect.
- State asked the trial court to impose 20 separate convictions because the jury had found defendant guilty of neglecting 20 different animals. Trial court disagreed and merged the guilty verdicts into a single conviction. Trial court said that the animals "are not the victims under the definition of the statute requiring that to be persons," thus defendant could not be convicted of multiple crimes.
- State appealed and the Court of Appeals agreed with them, reversing the merger of all of the convictions. They held that because the relevant statute indicates legislative concern with the protection of animals' well being and "reflects a broader public interest in protecting individual animals as sentient beings," that animals are victims under the relevant criminal statute.
- Supreme Court affirmed the Court of Appeals Decision

People v. Harris (Colorado)

- If we view animal cruelty as primarily an offense against property, then Harris committed a single offense by injuring or destroying the animals, much like the defendant who commits a single offense by destroying various items of personal property of another. But if we view animal cruelty as an offense against a sentient being that the legislature is trying to protect from needless pain and suffering, Harris committed twenty-two separate offenses.
- The plain language suggests that the unit of prosecution is “an animal.”
- While Harris's conduct in mistreating the animals occurred over the same period of time and consisted of the same general acts, each of the charged offenses had a different, identifiable animal victim. We conclude that the existence of multiple victims created factually distinct offenses.

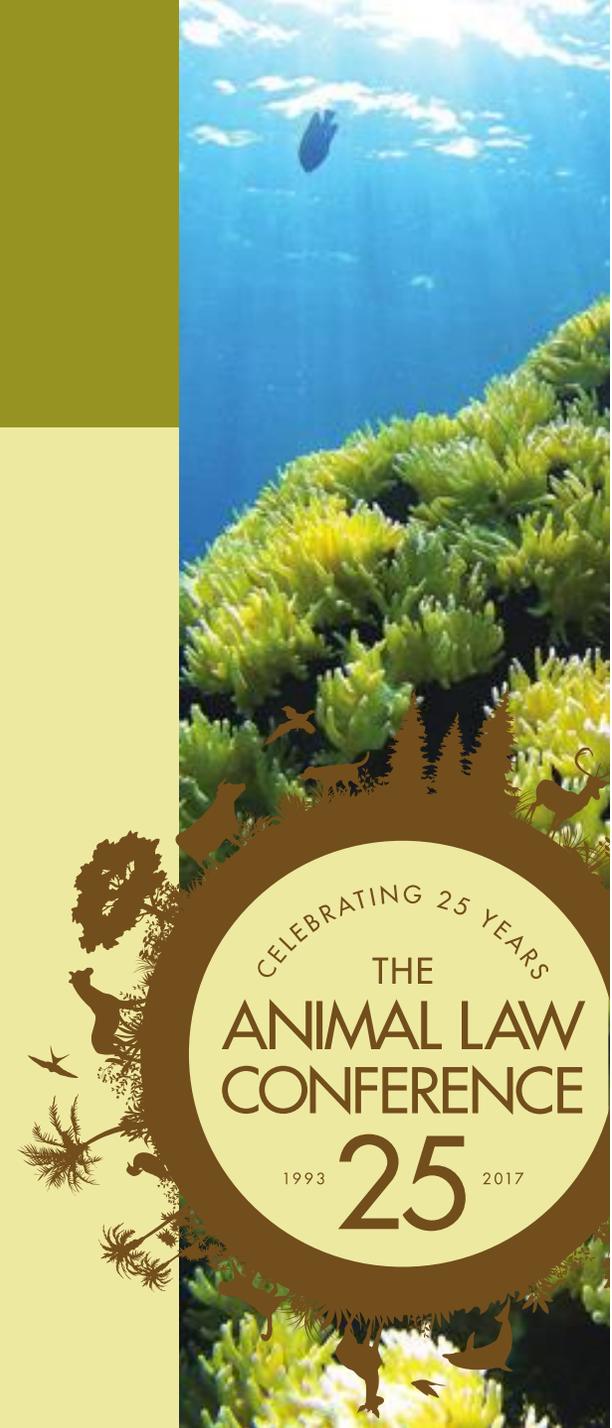
Conclusion:

Each and every animal counts as
an individual victim!



About Allie Phillips

- Assistant Prosecuting Attorney
- Founder/Director, National Center for Prosecution of Animal Abuse at the National District Attorneys Association
- Vice President of Public Policy and Human-Animal Strategic Initiatives for American Humane Association
- Consultant, University of Denver Institute for Human-Animal Connection
- Founder, Sheltering Animals & Families Together (SAF-T)[™]
- 2015 ALDF Top Defender of Animals award
- International educator and speaker
- Award winning book author



What is the SAF-T Program™?

- Creation started in the mid-1990's
- First and only global initiative working with domestic violence shelters to house pets on-site
- Acknowledges The Link
- Acknowledges the Human-Animal Bond during crisis and healing
- Benefits prosecutors and any attorney working with victims of crime

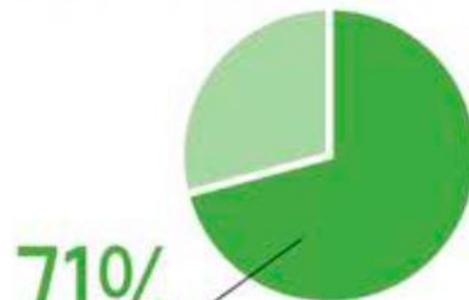


Survey from Urban Resource Institute (New York City)

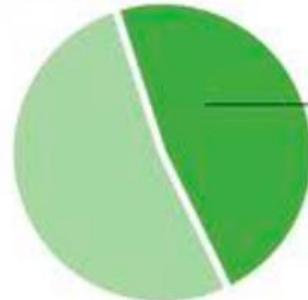
IMPACT OF DOMESTIC VIOLENCE ON PETS AND THEIR OWNERS



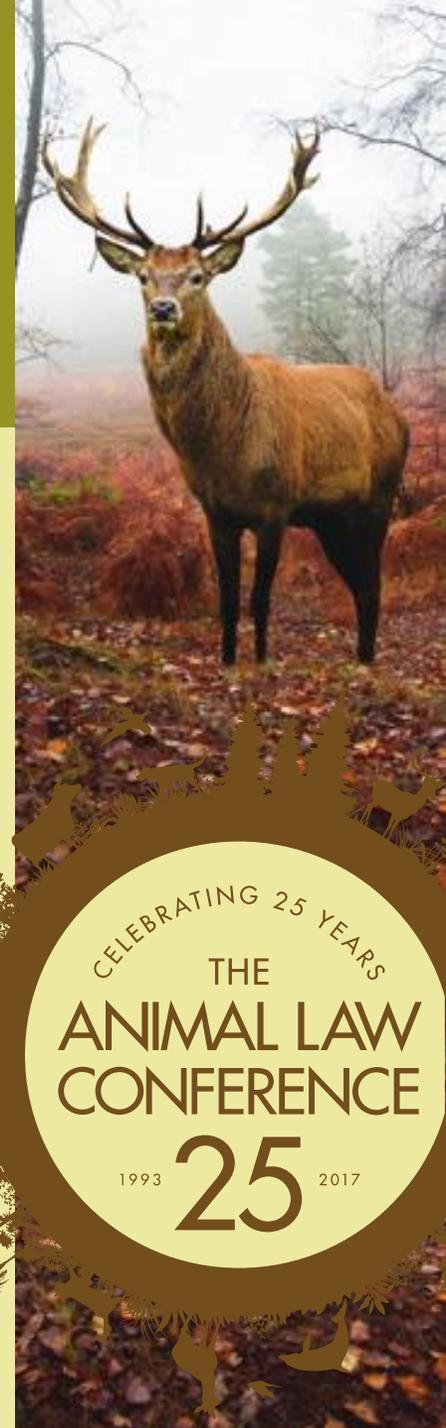
There is a great need among victims of domestic violence and their pets for co-sheltering programs that allow them to live in shelter together.



of callers to URI's emergency shelter hotline indicated they would like their pet to reside in shelter with them

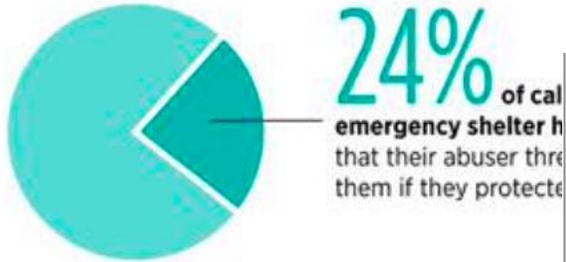


As many as 48% of domestic violence victims stay in abusive situations because they don't want to leave their pet behind.



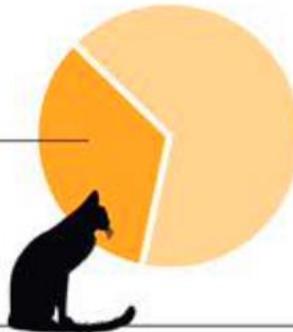
Survey from Urban Resource Institute (New York City)

Pets are part of the family. As a result, many victims of domestic violence will attempt to protect their pets from their abuser. However, this often puts the victim at even greater risk.



In addition to harming a partner, abusers often leverage pets as a means of control, by either threatening pets or through acts of physical violence.

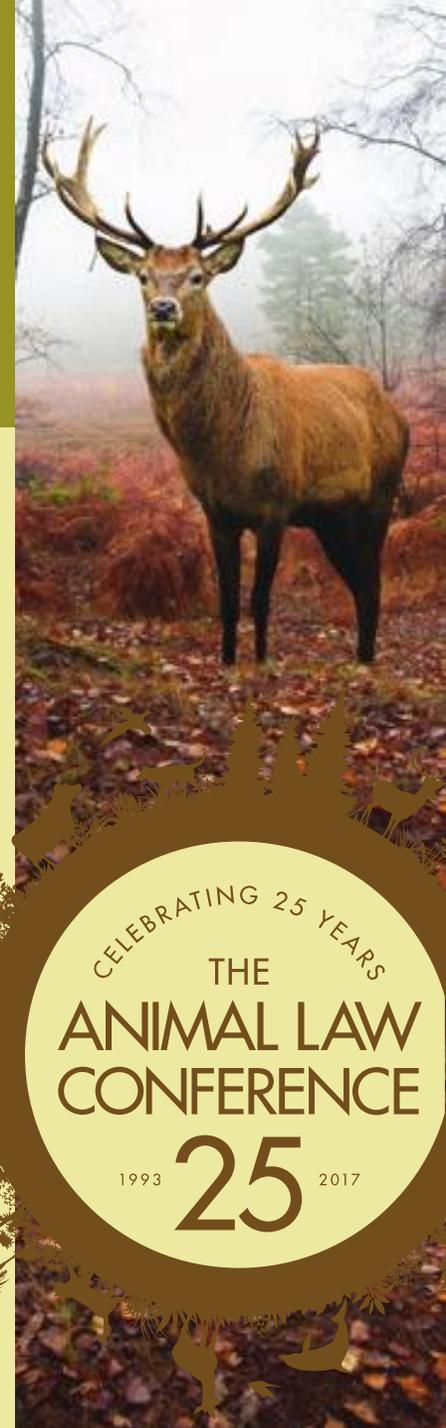
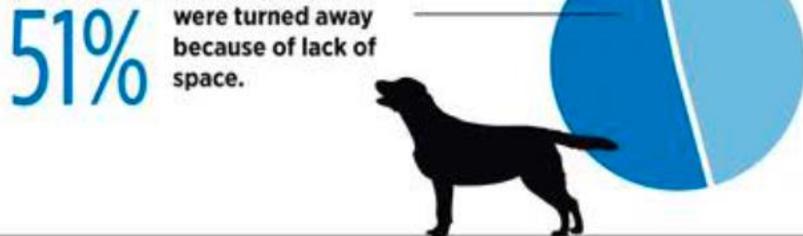
34% of URI shelter residents who owned a pet while in an abusive relationship reported that their partner harmed their pet.



4% of URI shelter residents reported that they had witnessed their abusive partner kill an animal.

Unfortunately there are very few co-sheltering programs in the U.S., and URIPALS is the only co-sheltering program available in New York City.

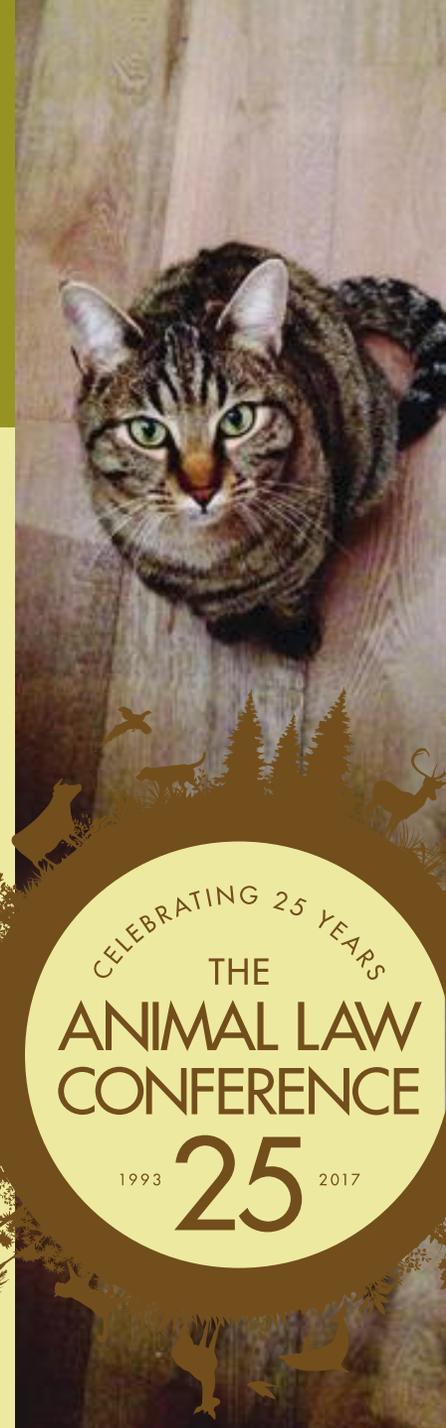
Out of the callers who were denied entry into the URIPALS program, 51% were turned away because of lack of space.



Women & Pets

- Women with strong bonds to pets had abusers use control tactics to threaten pets
- Pets helped women in recovery
- Women wanted to be asked about pets at intake
- Women felt lack of control over the decision to leave their pet and wanted safe options for their pet
 - They wanted their vet to offer safe affordable housing
 - They were critical of shelters not providing options

Hardesty, Khaw, Ridgway, Weber & Miles (2013). Coercive Control and Abused Women's Decisions About their Pets When Seeking Shelter. *Journal of Interpersonal Violence* 28: 2617



What Survivors Say

“I stayed alive over a fish. When I had nothing else, I had a fish. It kept me going.”

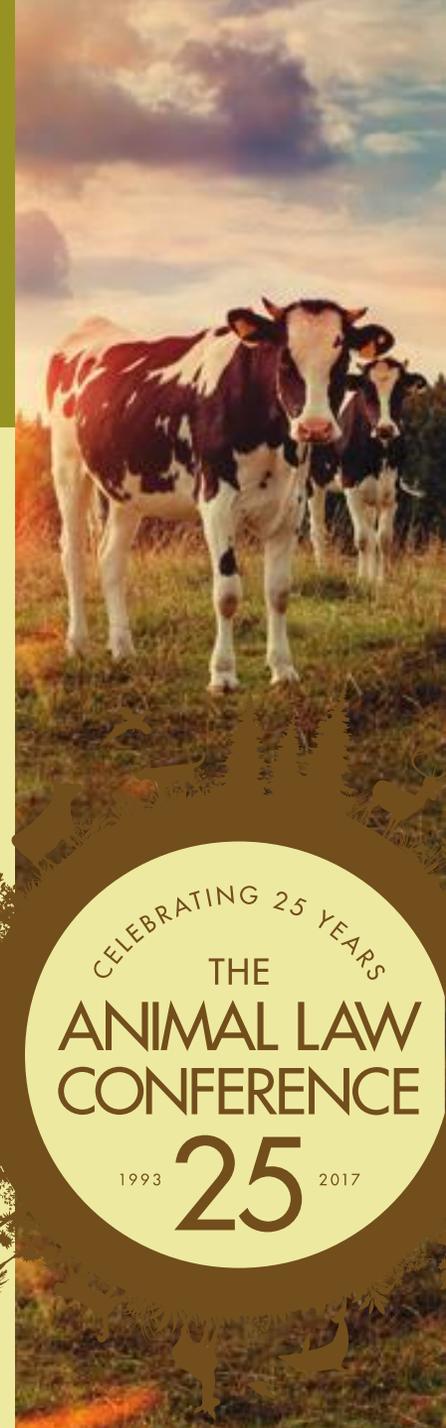
“If I had known about [this pet housing program] ahead of time, that would have saved my animals through the years that I’ve lost because of my abuser.”

-- Hardesty et al. (2013)



Current State of SAF-T

- At least 103 shelters housing pets on-site
- 21 more in-progress
- 40 states
- Australia, Canada, Netherlands and New Zealand



SAF-T Program



Start-Up Manual

By Allie Phillips, J.D.
Founder of SAF-T



www.AnimalsandFamilies.org

© Allie Phillips 2012

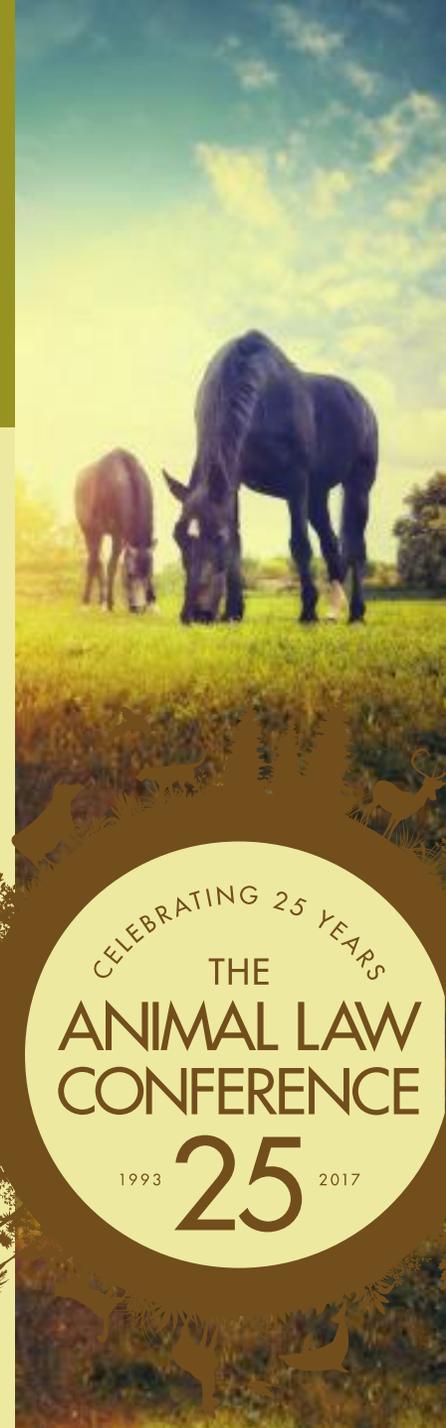
- Only for domestic violence shelters
- Asking shelters to assess need thru hotline
- Animal shelter & veterinary partners recommended
- Families care for their pets
- 3 housing options
- Common concerns = allergies, noise and funding
- Forms
- Lots of help



Fundraising



- Grant opportunities for start-up
- Public awareness supports sustainability
- Encourage community involvement, donations (time, supplies, money)
- Naples shelter “Giving Tree” brings in \$3000 annually



Housing Option 1



Victorville, CA

High Desert Domestic Violence Program

- Pets in the rooms
- \$0 start up cost
- Quick implementation



Housing Option 2



Naples, FL

Shelter for Abused Women & Children

- Pets in indoor kennel
 - Spare room
 - Basement
 - Garage
- Very low start up cost and easy implementation



Housing Option 2



Ft. Walton Beach, FL
Shelter House



Bailey, CO
Mountain Peace Shelter



Housing Option 3



Hermitage, PA

AWARE

- Outdoor/backyard kennels and pet houses
- More costly and takes more time
- May result in more pet noises
- Security



Housing Option 3



Whiteville, NC
Families First



Kansas City, MO
Rose Brooks



Housing Option 3



Orlando, FL
Harbor House



Make a difference

*Be the change
you wish to see
in the world.*

