

The Governor's Commission on the Humane Treatment of Animals

Meeting Minutes
September 16, 2019

Call to Order: Role Call

- Regular meeting of the Governor's Commission on the Humane Treatment of Animals was called to order at 1:00 pm in Room 206 of the Legislative Office Building (LOB) by Chair, Patricia Morris.

Members Present

- Patricia Morris, Chairperson & Equine Association
- Julia Seeley, National Humane Organization & Secretary
- Heather Faria, NH Federation of Humane Organizations
- Chief Dean Rondeau, NH Association of Chiefs of Police
- Sheila Johannsen, ACO Association of NH
- Dr. Steven Crawford, State Veterinarian
- Wendy Munroe – NH Veterinary Technician Association
- George Cook – NH Musher's Association & Dog Owners of the Granite State
- Gary Lambert – NH Sportsmen
- Cynthia Collins – General Public
- Marga Coulp – General Public
- Jennifer Eber – General Public
- Tom Seymour – General Public
- Dr. Jeri Zezula – General Public
- Tom DeRosa – General Public

Members Absent

- Jane Barlow Roy – NH Veterinary Medical Association
- Senator Regina Birdsell (R-Hampstead) – NH State Senate
- Representative John O'Connor (R-Derry) – NH House of Representatives
- Steven Sprowl – Humane Cruelty Investigator
- Kristi Atherton – NH Farm Bureau Federation
- Sheriff Mike Moyer – NH Sheriff's Association

Public Present

- Gina Scrofano

Housekeeping

- Trish said she received positive feedback from legislators on the involvement of the Commission in 2019 legislation. This was the first year Trish provided testimony on behalf of the Commission.
- Trish said a legislator has asked to speak to the Commission about upcoming legislation.
- Legislators asked that majority and minority reports be provided to explain member positions on each bill. For 2020, members will volunteer or be assigned by Trish to provide majority and minority reports to be included in the Commission's bill tracking chart.
- Trish requested that we update our bill tracking documents to show the lifespan of the bill since amendments may impact member positions.

- Trish will work to get agendas out sooner. Members will also need to do work between meetings to ensure the meeting time is focused on making final decisions.
- Trish said the Cruelty Committee Report was well received – there had never been a comprehensive look at cases in the state.
- **Next Steps:** Members to review the member roster that was sent with the agenda to confirm if your contact information is correct. Trish to confirm who will be filling the Commission seats for the UNH Extension, NH State Senate, and NH House of Representatives.

New Cruelty Cases/Current News

- Heather provided the following updates:
 - The German Shepperd case is still pending – currently in appeal. The case continued through the summer and a hearing expected this month. The dogs were seized in November 2017 and 26 are still in protective custody at NHSPCA.
 - The Monadnock case is ongoing – there will be a hearing in mid-October and 50 labs are still in protective custody.
 - Per Dr. Zezula, the cocker spaniel case in Durham has been resolved.
 - There was a rescue of over 100 dogs in Bradford in June. Charges are pending and there is no update on timing for next steps.
- Chief Rondeau provided an update on the Fey/Great Danes case in Wolfeboro:
 - The defendant was found guilty in District and Superior court. The case was appealed to the Supreme Court and a reply is due in mid-October. This will not be a new trial – the court will only consider the defendant’s constitutional challenges. The major issue that was raised is cost (i.e., reimbursement for care of dogs during the District and Superior court trials), though there are over 10 issues/complaints in the appeal.
- Trish requested input from the Commission on a case:
 - Someone hit a golden retriever with her car and drove off. A Good Samaritan found the dog, called help, and stayed with the dog until it died. The question is, where does the line between negligence and intentional occur? Hitting the dog was negligent, but she knowingly left the scene without the reporting the incident. Does this rise to felony charges?
 - George asked if the question changes because it wasn’t her dog and noted that the dog running at large is against the law. Dr. Zezula said the driver claimed she didn’t know what she hit. Chief Rondeau said that current law requires certain conduct after a crash – if you damage property (which includes animals) and you leave the scene without reporting to law enforcement, that’s a misdemeanor. She could be charged with felony reckless conduct, but it will depend on whether she knows she hit the dog. It will be problematic that the dog was running loose. Trish said the owner knew the dog regularly got out.
- **Next Steps:** Members to send cruelty cases to Trish for discussion at future meetings.

2019 Enacted Legislation – See chart included with agenda

Senate Bill 77 (passed in House Bill 459)

http://gencourt.state.nh.us/bill_status/Results.aspx?q=1&txtbillnumber=hb%20459&txtsessionyear=2019

- Effective January 1, 2020
- A person charged under this section may petition the court to seek an examination of the animals by a veterinarian licensed under RSA 332-B of his or her choice at the expense of the person charged.

- Courts shall give cases in which animals have been confiscated by an arresting officer priority on the court calendar. In cases in which animals have been confiscated by an arresting officer or his or her agency, **a status hearing shall be held by the court within 14 days of the confiscation of the animals.**
- Any person with proof of sole ownership or co-ownership of an animal confiscated by an arresting officer in an animal cruelty case and who is not a defendant or party of interest in the criminal case may petition the court for temporary custody of the animal. The court shall give such person priority for temporary custody of the animal **if the court determines it is in the best interest of the animal's health, safety, and wellbeing.**
- Upon a person's conviction of cruelty to animals, the court shall dispose of the confiscated animal in any manner it decides except in a case in which the confiscated animal is owned or co-owned by persons other than the defendant. If the defendant does not have an ownership interest in the confiscated animal, the court shall give priority to restoring full ownership rights to any person with proof of ownership **if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.** If the confiscated animal is co-owned by the defendant, the court shall give priority to transferring the defendant's interest in the property to the remaining owner or co-owners equitably **if the court determines that such is in the best interest of the animal's health, safety, and wellbeing.**
- No custodian of an animal confiscated under this section shall spay or neuter or otherwise permanently alter the confiscated animal in his or her custody pending final disposition of the court case unless a treating veterinarian deems such procedure necessary to save the life of the animal.
- **The court may prohibit any person convicted of a misdemeanor offense of animal cruelty under RSA 644:8, RSA 644:8-aa, RSA 644:8-b, RSA 644:8-c, or RSA 644:8-d, or violation of RSA 644:8-f from having future ownership or custody of, or residing with other animals for any period of time the court deems reasonable or impose any other reasonable restrictions on the person's future ownership or custody of animals as necessary for the protection of the animals. The court shall prohibit or limit any person convicted of a felony offense of animal cruelty under RSA 644:8 or a misdemeanor or felony offense of bestiality under RSA 644:8-g from having future ownership or custody of other animals for a minimum of 5 years, and may impose any other reasonable restrictions on the person's future ownership or custody of, or residing or having contact with animals as necessary for the protection of the animals.** For the purposes of this paragraph, a reasonable restriction on future contact may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit. Any animal involved in a violation of a court order prohibiting or limiting ownership or custody of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or custody.
- If a person convicted of any offense of cruelty to animals appeals the conviction in an initial de novo or subsequent appeal and any confiscated animal remains in the custody of the arresting officer, the arresting officer's agency, or the arresting officer's agency's designee pending disposition of the appeal, in order for the defendant or appellant to maintain a future interest in the animal, the trial or appellate court, after consideration of the income of the defendant or appellant, may require the defendant or appellant to post a bond or other security in an amount not exceeding \$2,000 for each animal in custody for costs expected to be incurred for the board and care of the animal during the trial, trial de novo, or appeal. **Such bond or security shall be posted to the court within 30 days. If such bond or security is not paid within 30 days after the court orders the bond or security to be posted, the animals shall be forfeited to the arresting officer, the arresting officer's agency, or the arresting officer's agency's designee. The court may, for good cause, extend the deadline by no more than 15 days.** If the conviction is affirmed on appeal, the costs incurred for the board and care of the animal, from the date the animal or animals were originally confiscated, shall be paid to the custodial agency from the posted

security and the balance, if any, shall be returned to the person who posted it. A court shall order the return of any bond or security upon a court approved agreement of the parties, a finding of not guilty, or the reversal of a conviction, unless it is a reversal with remand for further proceeding.

- Rulemaking; Authority; Care of Animals in Custody. **Setting limits for reasonable daily boarding and care costs for animals confiscated under RSA 644:8, IV**
- **No dog, cat, or ferret shall be offered for transfer by a licensee or by any individual without first being protected against infectious diseases using a vaccine approved by the state veterinarian.** No dog, cat, or ferret shall be offered for transfer by a licensee or by any individual unless accompanied by an official health certificate issued by a licensed veterinarian. No transfer shall occur unless the transferred animal is accompanied by a health certificate issued within the prior 14 days. The certificate shall be in triplicate, one copy of which shall be retained by the signing veterinarian, one copy of which shall be for the licensee's records, and one copy of which shall be given to the transferee upon transfer as provided in paragraph III. If an official health certificate is produced, it shall be prima facie evidence of transfer. The signing veterinarian shall provide a copy of the health certificate to the department of agriculture, markets, and food upon request.

Discussion:

- Dr. Crawford inquired as to how minimum bans on animal ownership are enforced. Chief Rondeau said this can be done via licensing requirements for dogs and background checks – criminals seldom obey the law, and law enforcement knows the usual suspects. The courts can order reporting of the conviction and restrictions as part of the penalty, including bans on ownership and requirements for unannounced and sporadic checks. He noted it's critical that measures are added to prevent repeat offenders since they are so expensive – no town can afford large-scale animal cruelty cases.

House Bill 605

http://gencourt.state.nh.us/bill_status/Results.aspx?q=1&txtbillnumber=HB605&txtsessionyear=2019

- Effective October 27, 2019
- **Animal fighting paraphernalia, which is used in the furtherance of animal fighting, is a Class B Felony**
- Anyone who offers for **sale, sells, loans, or exports** dogs or birds for animal fighting can be charged with a Class B Felony
- **Bans someone convicted of animal fighting from owning any animal for a minimum of five years.** If someone is in violation of a court order, the animal(s) will be forfeited immediately.

House Bill 283

http://gencourt.state.nh.us/bill_status/Results.aspx?q=1&txtbillnumber=HB283&txtsessionyear=2019

- Effective August 19, 2019
- **No pet rabbit can be sold under the age of eight weeks. (does not apply to meat rabbits)**
- Violations should be reported to the Department of Agriculture

2020 LSRs – Overview of New LSRs

- Julia to organize list of animal-related bills that have been filed for 2020 for the Commission to review and determine which bills will be tracked. This list will include four 2019 retained bills:
 - HB 371 – Definition of Commercial Kennel (Monitor)
 - HB 376 – Companion Animal Groomers (Support)
 - HB 484 – Group Dog Licenses (Monitor)
 - HB 501 – Cost of Care Fund Assistance (Support)

- George said wildlife bills are no longer being tracked by the Commission. Dr. Zezula noted that there are wildlife cruelty issues that have come up recently, with the latest example being the duck that was killed by high school football players. She said there was nothing Fish & Game could do since non-captive wildlife isn't protected, but it does bring up concerns about The Link.
- **Next Steps:** Julia to send 2020 LSR's list to members prior to the October meeting.

Possible LSR – Mental Incapacity

- Dr. Zezula took over as Chair during this discussion. Trish spoke as private citizen.
- Trish is exploring the development of state legislation to address an issue that occurs in animal cruelty cases that involve mental illness and the hoarding of animals. If defendants are found to be incompetent to stand trial, then they do not have a culpable state of mind to commit a crime. As a result, if animals are seized from a hoarder's property and the defendant is found unfit to stand trial, the animals are returned to the owner despite the person's inability to care for them. Trish experienced this in a Derry case – 37 animals were seized in 2015, the defendant was found incompetent to stand trial in 2016, and the animals went back to the owner in 2017.
- This bill may be written to require examiners to determine competency to own animals in addition to competency to stand trial. Dr. Zezula said the language in HB 459 that passed—which addresses the need to consider an animal's health and wellbeing—may be helpful, and recommends Trish look at child protective laws. Chief Rondeau thinks this issue requires a separate bill and that it's a great idea that is long overdue. Not only are animals suffering under this system, but the taxpayers are on the hook for the cost to care for the animals. These are cases with a lot of animals, and law enforcement is being set up for failure – they don't want to get involved in hoarding situations if the animals are going to be returned to the owner. Jennifer said the bill needs to be constitutional in how it addresses the denial of property. Chief Rondeau suggested revising the definition of animals as property, and George noted that legislation had been considered that created three classes of property: intellectual, personal, and living. Trish said she is watching how this issue is being addressed in other states.
- Chief Rondeau compared this issue to cases with in rem forfeiture (crimes against property) and there is a shift from criminal to civil. For example: there is a complaint of animal cruelty – law enforcement brings a case – the defendant is found incompetent to stand trial – charges are dropped and the case shifts from criminal to civil with in rem jurisdiction – animals are not returned to the owner.
- Heather recommended that Trish reach out to Representative Katherine Rogers, who has organized an Animal Protection Caucus.

Goals for 2020 Subcommittees

- Cruelty Cases – Eber & Faria
 - Trish asked how to obtain this information moving forward – the next collections will be at the end of 2019 and 2020. Jennifer noted they included recommendations in their report. Chief Rondeau said a top-down approach will be most effective (i.e., reporting requirements need to start at the Governor or Attorney General to force compliance by the county attorney, police, and animal control officers. Sheila noted that most animal control officers don't input information from animal cruelty investigations because they don't have access to reporting software. Trish requested more information to better understand where holes exist in the current animal cruelty reporting structure.
 - **Next Steps:** Trish and Jennifer to regroup. Sheila to send email to Trish explaining the reporting process for animal control officers.
- Legislation – Cook & Seeley

- Trish reminded members that when stating a position on a bill we are representing the public, not ourselves, so we may need to abstain on certain pieces of legislation.
- **Next Steps:** Julia to develop new bill tracking system that follows the lifespan of bills once Commission agrees on which bills to track.
- Training/Funding – Zezula & Atherton and Protocol – Morris
 - Trish said we need to determine how we are going to update protocols and educate prosecutors and judges on the new policies that passed this year (especially the new status hearing that is required 14 days after animals are seized). She suggested we develop a guidance letter on how this will work in practice to ensure the status hearing happens.
 - **Next Steps:** Trish to talk to the attorney's who presented to the Commission earlier this year.
- Judicial Rules Progress – Eber & Morris
 - Jennifer exchanged correspondence with the New Hampshire Judicial Council. Now that we have new laws, we can renew our pursuit for court rule changes.
 - **Next Steps:** Members to send comments to Jennifer on what rules we want changed/developed.

Commission Manual

- Trish said the new draft manual is due in December. We need to determine if/how each of our sections will be impacted by new laws. Dr. Zezula said she is happy to update the manual since she did the last version, which will include writing and editing.

Other Discussion

- George asked if the members of the House Environment and Agriculture Committee are staying the same from 2019 to 2020, and Dr. Crawford confirmed they will be the same.
- Dr. Crawford noted that he and Commissioner Jasper are looking for sponsors to introduce a bill that reflects the animal cruelty provisions that were added to the budget. No one had an update on the status of the budget, which was vetoed in June.

Public Comments

- Gina noted to Dr. Zezula that legislation has been introduced a couple times to address the lack of cruelty protections for non-captive wildlife. Opposition has been fierce on this issue. Colonel Jordan brought proposed language forward in 2018, but the House Fish & Game Committee Chair did not allow members to vote on it. Representative Ellen Read is introducing a bill in 2020.
- Gina requested input regarding the definition of felony cruelty. She asked if in the Merrimack dog drowning case if the omission of action by the owner is considered purposeful cruelty, and therefore a felony crime. Chief Rondeau said it's very difficult to prove knowing intent as compared to negligent or reckless actions. Both in the Merrimack case and the hit and run case that was discussed earlier, both cases show a lack of humanity, but that is not against the law.

The next regular meeting of the Governor's Commission on the Humane Treatment of Animals will be on Monday, October 21 at 1:00 pm in the Legislative Office Building (LOB) – Room TBD.

George moved to adjourn the regular meeting at 2:43 pm. Chief Rondeau seconded. All voted in favor.

Respectfully submitted by Julia Seeley, Secretary