

Government Property Management What A Zoo!

BY RICH LA ROCHE, CPPM, FEDERAL CENTER CHAPTER

It's not very often that animal rights issues take center stage in the world of personal property management. However, during the recently completed 106th Congress, the welfare of animals, including man's best friend – the dog – and one of man's closest relatives – the chimpanzee, led to the introduction of 25 animal rights related bills.

Some of these bills targeted federal agencies and their contractors – specifically, their practices for acquiring, managing, protecting, and disposing of government-owned animals. Three of these bills eventually became laws and one has been re-introduced as a bill in the 107th Congress.

Police Animals

The first animal-rights-related law enacted during the 106th Congress was passed to address the lack of adequate protection provided to federal police animals under existing federal law.

When bill H.R. 1791 was introduced in the U.S. House of Representatives on May 13, 1999, all inanimate and animate government property had the same level of protection under federal law. Therefore, the willful harming or killing of any federal animal was treated no differently than the damage to or destruction of any other government property. If the crime was solved and prosecuted, it often resulted in only a misdemeanor conviction – especially if the animal was determined to have a low monetary value.

A Valuable Asset ¹

H.R. 1791 was crafted to change that for one important federal asset - the police animal, especially the police dog. To drive home the level of investment that the taxpayer has in the average police dog, the sponsor of the bill, Representative Jerry Weller of Illinois, noted that the average federal police dog costs:

- Up to \$3,500 to purchase;
- Up to \$20,000 to train; and
- Over \$1,000 per year to feed and keep healthy.

Return on Investment

In spite of the large investment made in the average federal police dog over its working life, it's the return on that investment that makes it such a valuable asset.

For example:

In 1998, U.S. Border Patrol² canine teams:

- Apprehended over 32,000 illegal aliens;
- Uncovered over 4 tons of cocaine and 150 tons of marijuana; and
- Recovered over \$2 million in illegal drug money.

In 1999, U.S. Customs Service³ Canine Enforcement Teams were involved in over 11,000 narcotic or currency seizures that netted:

- 631,909 pounds of marijuana;
- 50,748 pounds of cocaine;
- 358 pounds of heroin; and
- \$25.5 million in currency.

A Law With Some Bite

With the passage of Public Law 106-254 on August 2, 2000 federal police animals (dogs and horses) got the protection that was already being accorded to law enforcement animals in 27 states. The law (1) makes it a felony to harm, willfully and maliciously, a police animal used in federal law enforcement and (2) provides the following penalties:

- A fine up to \$1,000 and imprisonment of not more than 1 year for a lesser assault; or



- A fine of more than \$1,000 and imprisonment from 1 to 10 years if the animal is disabled, disfigured, seriously injured, or killed.

Military Working Dogs

The plight of the aging military working dog came to the attention of Congress in the year 2000. Until then, the Department of Defense (DOD) had a longstanding policy of euthanizing military working dogs at the end of their useful working lives. That policy remained in effect in spite of the enactment of Public Law 105-27 on July 18, 1997 which authorized the donation of surplus federal law enforcement canines to their handlers.

The Golden Years?

Military working dogs remain on active duty with their assigned units until they are 8 to 10 years old. After their working days are over, dogs that are still in good health are sent back to their original training schools for use in the training of new dog handlers.

In years past, if kennel space was not available, the dogs were put down immediately upon their arrival at the schools. However, the more fortunate dogs got to serve out their final duty, were eventually kenneled for as long as a year, and then put down.

Animal Rescue – Congressional Style

On October 10, 2000 bill H.R. 5314 was introduced in the U.S. House of Representatives to not only put an end to the practice of euthanizing military working dogs but also to allow their adoption by entities and individuals capable of caring for them. Congress, with an unusual show of speed and bipartisan cooperation, enacted Public Law 106-446 on November 6, 2000 – less than 30 days after the bill's introduction.

The new law authorizes DOD to make available for adoption, at no cost to the recipients, military working dogs that are suitable for adoption. An adoption can be arranged at the end of a dog's useful working life or when the dog is otherwise excess to the needs of DOD.

Suitability, Eligibility and Liability

Whether or not a particular military working dog is

suitable for adoption is not left up to the dog's handler. Under the law, the suitability determination rests with two other individuals who know the dog well – the dog's last unit commander and the unit veterinarian. While the veterinarian's recommendation is taken into consideration, the decision ultimately rests with the commander.

The law defines "eligible recipients" as former dog handlers, law enforcement agencies, and persons capable of humanely caring for the dogs. While looking out for the dogs' best interests, the law also protects the U.S. Government from any liability for veterinary expenses as well as for personal injuries or property damage that might arise from acts committed by a former military working dog.

Chimpanzees

While the dog may be man's best friend, Congress may be the chimpanzee's best friend. From its introduction in the House of Representatives on November 22, 1999 by Congressman James Greenwood of Pennsylvania and 22 co-sponsors, bill H.R. 3514 eventually garnered a total of 143 co-sponsors.

The high level of Congressional interest in this bill may be attributed to two factors: the amount of money being spent by the U.S. Government each year to care for and house surplus chimpanzees and the support given to the bill by Dr. Jane Goodall, the world-renowned chimpanzee researcher.

The High Cost of Support⁴

When the bill was brought to the floor of the House of Representatives for consideration, there were more than 1,700 chimpanzees being housed in six federal and private research facilities across the United States. While many were still being used in research, the number of unneeded chimpanzees was becoming a growing and expensive concern.

During the floor debate on the bill, Congresswoman Carolyn Maloney of New York noted that it costs the U.S. Government between \$15 and \$30 per day to maintain a chimpanzee. At that rate, it costs between \$9 and \$18 million per year to care for all of the chimpanzees in the research system and between \$3- and \$7.5-million a year for those that are surplus.



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Dr. Goodall

The Goodall Effect

In her appearance before the House Subcommittee on Health and Environment, Dr. Goodall made a strong, impassioned plea in behalf of the surplus chimpanzees. She said: "I have long hoped the U.S. Government would take appropriate steps to provide long-term care for chimpanzees in biomedical research and ensure the well-being of these animals who have given so much to help humans. I urge you to pass H.R. 3514 without delay – every day counts and this bill represents the morally, ethically and fiscally right course of action. Congressman Greenwood has presented us with an extraordinary opportunity for the peaceful, permanent retirement from further experimentation of hundreds of these very special beings who are so close to my heart."⁵

The CHIMP Act

With the testimony of Dr. Goodall weighing heavily, the bill was enacted on December 20, 2000 as Public Law 106-551. Known as the Chimpanzee Health Improvement, Maintenance, and Protection (CHIMP) Act, it amends the Public Health Service Act to require that the Department of Health and Human Services (DHHS) provide, on a contracted out basis, a sanctuary system for the lifetime care of chimpanzees. The system is primarily for unneeded chimpanzees that were used, bred for, or purchased for research conducted or supported by the National Institutes of Health, the Food and Drug Administration, or other federal agencies.

Sanctuary Eligibility and Standards

The law requires that all surplus, federally-owned chimpanzees be accepted into the sanctuary system. It also provides for the acceptance of privately owned chimpanzees into the system, subject to standards specified in the law and the transfer of title by the owner to the sanctuary system. Once accepted into the system, the law provides, with limited and tightly controlled exceptions, for the permanent retirement of the chimpanzees.

DHHS is responsible for establishing and maintaining standards for operating the sanctuary system, based on provisions and requirements specified in the law and recommendations of the National Research Council.⁶

Family Pets

Many federal research facilities use dogs and cats when conducting research. The issue of how federal facilities (and private research facilities as well) obtain the dogs and cats they use first surfaced over 30 years ago when the Animal Welfare Act was passed. The Act was supposed to stop the mistreatment of animals in general and to prevent the unintended sale of family pets for use in laboratory experiments.

In spite of its good intentions and the policing efforts of the U.S. Department of Agriculture (USDA), the Animal Welfare Act has failed to provide pets and pet owners with adequate protection against the unethical trading of pets. Senator Daniel Akaka of Hawaii, sponsor of a bill designed to close a loophole in the Act, said: "While I am not suggesting that laboratories intentionally seek out stolen or fraudulently obtained dogs and cats as research subjects, the fact remains that many of these animals end up in research laboratories, and little is being done to stop it."⁷

The Pet Trade⁸

Federal and private research facilities acquire research animals from a number of sources. Among them is a group known as "random source" animal dealers. Currently, there are less than 40 random source animal dealers. They operate throughout the United States as USDA licensed Class B dealers. They acquire tens of thousands of dogs and cats for use in research. Some random source dealers are known to keep the animals in squalid conditions, providing them with little food or water. These mistreated animals often pass through intermediaries and cross over state lines before they are sold to research facilities.

Many of the animals that some random source dealers acquire are family pets, obtained from people called "bunchers" who are known to resort to deception and theft to collect the animals they sell to the dealers. Bunchers watch for advertisements from pet owners who offer their pets for free. They pose as people interested in adopting the pets and trick the owners into giving them away. Once in their hands, the bunchers quickly sell the pets to dealers.



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Dogged Determination

Bills against the unintended sale of family pets for use in laboratory experiments have been introduced in each of the last four Congresses. Beginning in 1996, Senator Daniel Akaka of Hawaii and Congressman Charles Canady of Florida introduced bills in the Senate and House of Representatives, respectively. From their initial introduction in the 104th Congress through their reintroduction in the 106th Congress, these bills had drawn consistent interest and support, especially in the House of Representatives where there were more than 70 co-sponsors of the Canady bills.

When Congressman Canady decided not to seek reelection in 2000, the issue lost its biggest supporter in the House of Representatives. To date, no one in the House has stepped forward to take the lead on the issue. However, on March 30, 2001 Senator Akaka, the issue's champion in the Senate, reintroduced his bill for the fourth time, this time for consideration by the 107th Congress.

The Fix

Called the Pet Safety and Protection Act of 2001, Senate bill S. 668 proposes to amend the Animal Welfare Act to ensure the legal acquisition of dogs and cats used by federal and private research facilities. In order to ensure that this happens, the bill:

- Permits the use of dogs and cats by a federal or private research facility for research or educational purposes only when the cats and dogs are obtained from a permissible source.
- Prohibits the sale, donation or offering of dogs and cats to a federal or private research facility by any person or entity, other than a permissible source.
- Defines a permissible source as a USDA-licensed Class A dealer or breeder; a municipal pound that chooses to release dogs and cats for research purposes; a legitimate pet owner who wants to donate their animals to research; and a federal or private facility that breeds its own animals.
- Provides that any person or entity that violates the Act must pay a penalty of \$1000 for each violation. This penalty is in addition to any other penalty that may apply under existing law.

What Next?

Senator Akaka's latest bill was referred to the Senate Agriculture, Nutrition, and Forestry Committee on March 30, 2001. It is one of 44 bills that were assigned to the committee during the first six months of this Congress. As of June 30, 2001 the committee has yet to schedule a public meeting or hearing on the bill.

Neither Senator Akaka nor Senator Bob Smith of New Hampshire, the bill's lone co-sponsor, are assigned to the committee. Without the kind of support that the Canady version of the bill received in the House, prospects for enactment of the Akaka bill once again appear to be weak.

Conclusion

The laws and bills discussed in this article were among 141 pieces of property-related legislation introduced in the U. S. Congress over the past two-and-a-half years. They dealt with a wide range of issues, ranging from animal rights discussed here to reform of the Federal Property and Administrative Services Act of 1949.

The volume and scope of legislative activity shows that Congress has a strong interest in our profession. If you share that interest and stand to be affected by federal legislation, you should routinely review the legislative summaries posted as a service to you on the Legislative Pages of the NPMA web site. Then let Congress know what you think is good or bad about a bill. Please get involved. ♦

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- 1 Congressional Record, October 12, 1999, page H9832.
- 2 Congressional Record, October 12, 1999, page H9832.
- 3 Congressional Record, July 19, 2000, page S7298.
- 4 Congressional Record, October 24, 2000, pages H10552 to H10554.
- 5 Biomedical Research: Protecting Surplus Chimpanzees, Oversight Hearing of the Subcommittee on Health and Environment, May 18, 2000.
- 6 Chimpanzees in Research—Strategies for Their Ethical Care, Management, and Use, Committee on Long-Term Care of Chimpanzees, Institute for Laboratory Animal Research, Commission on Life Sciences, National Research Council, National Academy Press, 1997
- 7 Congressional Record, March 30, 2001, page S3218.
- 8 Congressional Record, March 30, 2001, page S3218.