BEFORE THE NEW YORK STATE SENATE
STANDING COMMITTEE ON AGRICULTURE

PUBLIC HEARING

CRUELTY TO COMPANION ANIMALS

Utica State Office Building
207 Genesee Street - 1st Floor
Utica, New York 13501

May 9, 2012
2:30 p.m. to - 5:30 p.m.

PRESIDING:

Senator Patricia A. Ritchie
Chair

SENATE MEMBERS PRESENT:

Senator Joseph A. Griffo

Senator David J. Valesky

ALSO IN ATTENDANCE:

Todd Kusnierz
Director
Standing Committee on Agriculture

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SENATOR RITCHIE: Welcome. Good afternoon, everyone.

I would like to open the public hearing of the New York State Agriculture Committee on the issue of cruelty to companion animals, by thanking everyone for joining us today.

And I'm joined by my colleague on the Agriculture Committee, Senator Valesky;

And, also, Senator Griffo, whose home district this is. And I would like to thank Senator Griffo for inviting me today to deal with this important issue.

Due to time constraints, today's testimony is by invitation only. But, I would like to tell anyone in the audience, if you're interested in submitting comments, suggestions, please feel free to submit your written testimony to my office, either in Watertown or in Albany. And we certainly would appreciate it, and we'll check each submitted testimony in, and we will respond, and let you know the progress we're making.

So, thank you for coming today.

Today we will hear testimony from law enforcement and from the American Society of -- for the Prevention of Cruelty to Animals, "ASPCA," and

what New York can do to strengthen the laws, and to help law enforcement combat the issues of cruelty to animals.

I know many of you in the audience here, this is an issue, when it comes up, that it is near and dear to your heart. Something that is very emotional. So, I appreciate each and every one of you for taking the time out of your schedule today to come down and listen to the testimony.

Many of the animal-cruelty bills, they actually end up in the Agricultural Committee, and from that Committee, many are forwarded on to the Codes Committee.

So, it's important that each bill that comes in, we have the opportunity to discuss them, and to forward them on to the Committee for the Committee's feedback.

Because it deals with the Ag and Markets Law, we did invite the Commissioner, and his staff was unavailable today.

This year we have had a number of bills, just recently over the last two weeks, who have been -- that have been forwarded through the Committee.

I have with me my Committee director from Albany, Todd Kusnierz, and he is just going to read,

briefly, the four bills that we have recently passed, and some of the details to go along with that.

TODD KUSNIERZ: Thank you very much, Senator.

The first bill that we reported out of the Agriculture Committee this year was a measure sponsored by Senator Ritchie, Senate Bill 6774. It's also carried in the State Assembly by Assembly Member John McEneny.

And this is -- measure essentially specifies that any person who intentionally owns --

(no audio)

-- sells --

(no audio)

-- manufactures animal --

(no audio)

-- with the intent to otherwise promote or facilitate animal fighting is guilty of a Class B misdemeanor, which the fines are also increased with this piece of legislation.

And just last week, in the Senate Ag Committee, there are four other bills that were reported out. And I'll just briefly touch on those.

The first one is Senate Bill 5083, sponsored

by Senator Ball. It's being carried in the Assembly by Assembly Member Tedisco.

And this measure specifies that a person is guilty of aggravated cruelty to animals when, in the course of the commission of a felony, or in the immediate flight therefrom, such person causes physical injury or death to a companion animal.

Also, another measure sponsored by Senator Ball, which was reported out of Committee, is Senate Bill 5084, also carried by Assembly Member Tedisco in the Assembly.

And this measure is supported by New York State Bar Association.

This measure prohibits a person convicted of aggravated cruelty to animals from owning or possessing a companion animal, unless authorized by a Court order after an appropriate psychiatric or psychological testing which indicates that there's clear and convincing evidence that the person is capable and has sound mental capacity and ability to own and properly care for that animal in a humane manner.

Another measure that was reported out of Committee last week, Senate Bill 5702-A, by Senator Klein, that's being carried in the Assembly

by Assembly Member Paulin.

This measure prohibits the use of cage or box dryer at a companion-animal grooming facility, which contains a heating element, with the heating element turned on for the purpose of drying or aiding in the drying of a companion animal.

And the final bill, which I believe the Nassau District Attorney's Office may touch on this afternoon, is Senate Bill 6730, which is sponsored by Senator Fuschillo. It's being carried in the Assembly by Assembly Member Rosenthal.

And, essentially, it's a very long bill, but it clarifies, modernizes, and restructures the animal-cruelty laws --

(no audio)

-- certain sections of the Ag and Markets Law into the penal law. And, it does a host of things: redefining terms, increasing penalties.

And I think we'll let the District Attorney's Office maybe touch on that a little bit more later.

It's a measure that was reported out of the Ag Committee. New York Farm Bureau poses it in its current form, but we have been working with the sponsor on that measure. And the sponsor is working to address many of the concerns that Farm Bureau has

on that.

So, those are the bills for this session so far.

SENATOR RITCHIE: Thank you, Todd.

One of the largest categories of animal-abuse classification is: Neglect by an owner.

And I'm actually here today by invitation from Senator Griffo, because of the horrific case that happened --

(no audio)

-- Senator Griffo, I thank you for the invitation. Appreciate the opportunity the get feedback from law enforcement so we can put in place a law on the books, to help you to do your job.

Senator Valesky, did you want to make any comments before we hear testimony?

SENATOR VALESKY: Sure, just briefly.

As you have all heard, the Senate Agriculture Committee, under the outstanding leadership of Senator Ritchie, has already been very active in the area of animal abuse --

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-- that we have taken in the Committee, and hopefully we'll be taking at the level of the entire Senate and the Assembly --

(no audio)

-- that you may have to come forward with, so that Senator Ritchie and I and others on the Committee can make sure that we have the toughest laws on the books in New York State that we certainly ought to have.

So, Senator, thank you for being here.

And, certainly, Senator Griffo, it's always great to be with you in your Senate district.

Thank you.

SENATOR RITCHIE: Senator Griffo, do you want to elaborate on that tragic case, and your perspective on this important issue?

Once again, thank you for bringing it to the forefront, and inviting me here today.

SENATOR GRIFFO: (No audio) -- Chairwoman Senator Ritchie.

I want to first thank both of my colleagues here, because I'm fortunate that I have the opportunity to serve with both of my colleagues, and share coverage with them in, both, the north country with Senator Ritchie, and here in the central Mohawk Valley Region with Senator Valesky.

So, I'm very fortunate to have two colleagues that --

(no audio)

-- our respective regions.

I want to also commend Senator Ritchie, as Senator Valesky did, for her exceptional leadership.

And she has done an extraordinary job during her short tenure as Chair of the Agriculture Committee.

We appreciate your work and efforts.

And her responsiveness, too.

As Senator Ritchie indicated, I was not only alarmed, but disgusted, by the acts of cruelty that we witnessed, unfortunately, in our area here.

But it doesn't only take place here, it takes place across the state.

So anytime -- and I approached Senator Ritchie, with support from Senator Valesky and our other colleagues, with the idea of holding a public hearing.

And I want to emphasize the significance of holding a Standing Committee public hearing of the Senate. It shows that we attach --

(no audio)

-- in dealing with problems as we have witnessed, not only here in the central New York area, but across the state.

You know, I look at this, and anyone who treats a living thing with this callus disregard and downright cruelty, really disgusts me. And it is need for us to call attention, and to put in place appropriate measures that may be necessary, in order to help law enforcement and the prosecutors do their job, and also to get the perspective from many of you who are involved in animal advocacy.

So, Senator Ritchie, again, thank you for your willingness to put this hearing together so we could hear the oral testimony that we will hear today, but, also, anyone here can submit written testimony, so as we in Albany begin to deliberate, and determine the best course of action to deal with the subject matter, we will have input from the community, across the state.

So, I thank you again for the opportunity to have -- to host you here today. And, again, appreciate the significance and importance that we're placing on the subject matter by your interest in holding the hearing.

SENATOR RITCHIE: Thank you, Senator.

If we could have the first two speakers come up to the table:

Jed Painter, Assistant District Attorney of

the Animal Crimes Unit, Nassau County DA's Office.

And thank you for making the long trip up.

And, Scott McNamara, Oneida County District Attorney.

And, Chief, do you want to make testimony today too? Do you have any comments?

CHIEF MARK WILLIAMS: Yes.

SENATOR RITCHIE: I'll have you come right up then, too, please. Thank you.

And, Jed, since you had the farthest ride, we'll let you open up here.

ADA JED PAINTER: Thank you very much, everybody.

Thank you very much for the invitation.

It was a pleasure to drive that far to be here, and I'm really happy to be on this -- and privileged to be on this panel, to the left and right of me.

My name is Jed Painter. I am chief of the Animal Crimes Unit for the Nassau County District Attorney's Office.

A little bit about Nassau County:

It's population is approximately 1.4 million people.

It is a metropolitan area. Prosecutor's

Office borders Queens, and so we get a lot of overflow of dog-fighting activity.

We also get a little more rural -- a little bit more rural, to the east, where we border Suffolk County.

So, we do have a variety of animal crime to deal with.

And like all metropolitan area district attorney's offices, or larger district attorney's offices, we're subdivided into bureaus and units: sex crimes, vehicular crimes, environmental crimes, tech crimes.

And at some point along the way, that point being 2010 specifically, at the beginning of it, DA Rice decided that animal crime was a legitimate category of crime, which it absolutely is.

And as law enforcement strategy, decided to dedicate a unit to it.

And at the time, it did make waves, but I think -- I think it's common sense. I think it's logical.

You have an entire category of crime. Why not, if you're subdividing into bureaus and units, have an animal crimes unit for specialized expertise.

Now the Animal Crimes Unit has: Myself, as chief. There's four ADAs who staff it. There's in-house detectives who staff it. There's support staff.

There's a 24-hour hotline and Internet complaint system that's manned, and it goes right to a prosecutor.

And in addition to that proactive work, we also take whatever municipal law enforcement brings us.

So whether it be one of our county police officers or city police officers, or anybody within our county, we'll take and prosecute that as well.

I learn a lot more from the cases that we don't make.

We've had approximately 1,500 complaints in the last two years. Made about 50 to 60 cases. About 25 percent of those felonies.

But, again, it's the constant pop quizzes that come in on the hotline, answered by a prosecutor, and eventually reviewed by myself, that -- that develop the most interesting legal education.

And I believe a lot of that -- again, I won't hog all the time by talking about Senate Bill 6730,

but a lot of that was -- tried to be incorporated. A lot of the issues were -- tried to be corrected in Senate Bill 6730.

Apart from serving as chief of the Animal Crimes Unit, I also work in Public Corruption Bureau, where I investigate political entities and public officials for corruption.

It's good to be an investigative bureau like that because I now can avail myself of an investigator grand jury at all times.

So, in that, I find that helpful when it comes to investigating complex things, like dog-fighting rings, or other types of enterprise cruelty, of which there's a big problem, if one pays attention.

It is interesting, though, and I will put this to the Committee right now, that as much work I could do investigating a dog-fighting ring, and possibly getting a warrant if I know a fight's in progress, and raiding the dog-fighting ring with law-enforcement members, if they find a certain amount of drugs on the table, or one gun that's loaded, all of a sudden, that's the top charge, and not the dog fighting.

There's a little bit of a disparity in the

ways that the laws are currently structured, that it does make it interesting, to me -- to me, in my opinion -- that the majority of animal cruelty is -- even the highest level, is an unclassified felony.

Penal-law provisions make it an E felony, but with the special sentencing caps in place in the Agriculture and Markets Law, it's even a lesser E felony.

And I'll give you an example.

A standard E felony would be 1 1/3 to 4 years. Indeterminate sentence is a max sentence.

Aggravated cruelty to animals, 353-A, is a felony, and it could be characterized as a Class E felony; however, there's a special sentencing cap, making it two-years' incarceration.

So even there, it's a facade of a penalty.

And, again, I think also by housing this category of crime, outside of the Agriculture and Markets Law -- as out of the penal law, in the Agriculture and Markets Law, does seem to disassociate that logical connection that this is a category of crime, just like economic crime, sex crime, or vehicular crime.

That takes place in an ideological level, but also by its disassociation with the penal law, it

functions on a practical level.

Matters such as fingerprinting, are not standardized. In fact, misdemeanor dog fighting is not a printable offense.

Pretty much, a lot of misdemeanors that are contained in the Agriculture and Markets Law are not printable.

And now with the new legislation that's passed about DNA, none of that's taken.

Standard things, like recordkeeping, reporting to the State, reporting convictions to DCJS, all of these things, just by its absence, shoulder-to-shoulder with other laws, are lacking.

And, finally, besides that legal aspect, there's another practical aspect that I -- I can't speak for all police departments, but I do know, from slight experience, that it's not very common for an average patrol officer to have a copy of the Agriculture and Markets Law in their glove compartment of the patrol car.

And if they find it, and, you know, it's not even common, in my experience, for a desk officer back at the precinct to have one. And then they end up Googling it.

And that's a horrible thing, if it's that

unavailable and inaccessible.

If you're lucky enough to find it, it's text, which began in 1826, I believe, is still very much a nineteenth-century dialect.

And after combing through a few pages of, "Am I permitted to justifiably run a horse on a plank road?" or "Sell baby chicks that have been imparted in an artificial color?" after a few combs through that, if they don't -- if the police officer can't find it fast enough to respond to the urgent situation, you might then be -- I completely understand if a warning is given rather than an arrest. It might dissuade actual action on some less urgent, or I'll call it, more "garden variety" situations of neglect.

I think that it should be the goal, that laws should be written, that an average police officer on patrol should be able to find the law, understand the law, and apply the law, all in middle of the night at a crime scene, within moments.

And I believe, right now, the laws aren't written that way.

So, again, my office, District Attorney Rice, and Senator Fuschillo, and Assemblywoman Rosenthal, have put forward this Senate Bill 6730-A, and 9917,

and revisions are going as we work out the kinks, but, we put forward this bill for exactly that purpose.

And, so, I am happy to take questions on it.

And thank you very much for hearing me out.

SENATOR RITCHIE: Thank you.

You mentioned that there are 1,500 complaints.

Out of the complaints, how many -- do you know how many individuals were actually prosecuted --

ADA JED PAINTER: Yes, ma'am.

SENATOR RITCHIE: -- at the end?

ADA JED PAINTER: Yes. In the past -- in 2011, we had 23 successful arrests out of, approximately, 600 complaints.

Keep in mind that we keep track of all of the data -- we track our database so we are able to cross-check addresses. So, many of those complaints might have been multiple complaints against the same address.

And, we allow callers to be anonymous.

The virtue of that is, in situations of neglect, we encourage business, so to speak. And we get a lot of business from ex-wives reporting

ex-husbands, nephews reporting uncles, and things happening within the household.

I think, as anybody can tell you on this panel, that most of animal crime happens in a very constitutionally protected place. It happens behind closed doors, and the victim can't call 911.

And getting through that barrier is very difficult. So, we encourage anonymous complaints.

But that doesn't necessarily mean they're going to take it to next level, and testify. But it's better that we know about it, and can cross-check it, and possibly, even, if the law allows us to intervene or check it out for ourselves, our detectives' eyes or municipal law enforcements' eyes can't take the place of the witness's eyes, as long as we're ready and dedicated to do surveillance.

Or, if it's a matter of neglected animal in the backyard that's in plain view, then we just substitute ourselves for the witness. We take them out of the equation, and we proceed that way.

So there is going to be a huge gap between the amount of complaints that we get and the amount of arrests that we can make. That's just the name of the game with the victim that can't talk.

I can't tell you how many times I have actually almost gotten to the point of craziness, where I've actually wanted to talk to the dog, and see, you know: Who did this to you?

[Laughter.]

ADA JED PAINTER: Who tied you to the stop sign?

And, where did you get that scar?

And, how long has this person had you?

And, is this the person who did it?

Because there's always deniability when the victim can't speak.

And it's simple things that you take for granted.

You know, I wasn't always an animal-crimes prosecutor. I came up through the ranks like every other prosecutor, and I prosecuted assaults, and things like that.

You take it for granted, that if somebody's assaulted, they can point out their accuser in court.

You're never going to have that luxury with the animal crimes, so you have to fill in the gaps from around.

SENATOR RITCHIE: Do you see that as an

increase, the 1,500 complaints?

Is that an increase in recent years, or --

ADA JED PAINTER: My personal belief -- and I'm not a statistician.

My personal belief is, that people are just becoming more attuned to this as an issue.

I can't tell if you there's been a rise in cruelty, but I can tell you there's definitely been a rise in the level of awareness.

SENATOR RITCHIE: Senator Griffo, or Valesky, do you have any questions?

SENATOR GRIFFO: I actually -- Jed, you talked about -- I'd be interested in the best approach that you would recommend.

And I applaud the DA for her initiatives, and your willingness to travel to be a part of this.

You said that you would like to have law enforcement find, understand, and apply.

What would be the best way to do that?

Would it be to equip them with, you know, something in vehicles?

Or do you have an idea of how that should be accomplished?

ADA JED PAINTER: Well, two things come to mind when you say that, Senator.

First, is just the simple transplant of crimes, from the Agriculture and Markets Law to the penal law.

If the patrol scenario crimes are not the more commercial-type provisions that, maybe, a state agency is enforcing -- like, a railway transport for horses, for example -- if you take them on patrol-oriented crimes, codify those in the penal law, I believe that we'll have a much-enhanced, effective police-academy training.

I -- again, other witnesses on this panel will be more apt to answer these questions, but most police academies do focus on vehicle-and-traffic law, and penal-law training.

Now, granted, there are crimes outside of the penal law. There's tax-law crimes. But, I can't think of an urgent tax-law crisis that requires a radio dispatch and immediate action. That's usually something that can be handled calmly at a desk.

A lot of these cases with dog fighting in progress, or severe neglect, or something that requires immediate intervention, that's not a tax-law crime. That's something that a patrolman or patrolwoman needs to be equipped with immediately, to act on.

Now, as you were speaking, you indicated a certain computer system.

An anecdote, that I'm hoping that the Senate might take up, is, pursuant to Agriculture and Markets Law, Section 374(8)(c) -- it used to be -(5)(c), but it's -(8)(c) now for the most current copy -- a Court, upon conviction for an animal crime, is permitted to sentence the abuser to not have any contact, possession, or control of animals for a time period which the Court deems reasonable, moving forward.

Farm animals are excluded, but, in general, a convicted animal abuser can be barred from having any non-farm animal for a period of time which the Court deems reasonable.

Recently, and only in maybe the last year, we developed a protocol with our local county PD, that when we get that order from a Court after a conviction, which is a written order, just like an order of protection, the county PD will enter it into our local chief's system which sends something out to a radio car.

It's the same system that they check for an order of protection. So, they're responding to a situation of domestic violence, or, really anything,

at any address, and they run the address in their due diligence as an officer.

Usually they'll see, "Oh, there's an order of protection in effect for this household. I might make an arrest on that."

Or they'll see now, an order of protection against animals for residents of that household. And that's how they might uncover it, ancillary to other purposes.

In conversations with my chief clerk, and various other chief clerks, there's no statewide clearinghouse for that order to be entered in the NYSPIN system.

So, while it's a statewide order, if you're convicted in Nassau, and I have a great order against you that I got after a hard-fought case, and it's entered in my county system, which is the most I can do right now, there's no procedure to get it into the NYSPIN system, that I'm aware of currently. And I believe that's as simple as a memo to the clerk's office or OCA.

So, when you made that radio-car remark, that's something that rang a bell.

SENATOR GRIFFO: The -- we don't know, and maybe the chief can answer this eventually, too,

relative to the level of incidence, whether there is an actual increase that are being reported, but you said that you do believe there are -- is greater awareness.

So as a result of that, do you believe there's a greater and a heightened need for intervention than there has been in the past?

ADA JED PAINTER: I do believe, as the public sensibility has changed, we owe it to the public to respond accordingly.

Now, there's always going to be this philosophical and subjective component to animal crime that makes it unlike any other type of crime.

I give the example that, murder is -- with the exception of self-defense, murder is wrong. Rape is wrong. Arson is wrong.

It's, killing an animal is wrong, unless...

And then you start all of these exemptions: hunting and fishing, and slaughtering for human consumption, and various things like that.

There's no "unlesses" with other crimes that allow for some subjectivity going on.

And, it really is the only type of crime, where the legislature has hard-and-fast put forward a definition of "animal" that includes every living

creature except a human being.

And then, 353, which says it's a crime to unjustifiably kill or unjustifiably injure any animal.

So, the legislature has made it absolutely clear that all animals are protected.

Practically, though, for -- for many reasons -- if I give the example of, a patrolman sees somebody squash a spider on the street, and actually stops the patrol car, and goes up to the person and says: Why did you just squash that spider?

Person says: I don't like spiders. That's why I killed it.

Now, the officer has seen the unjustified killing of an animal, and he's elicited a confession, he's got great evidence. Why isn't he not arresting?

And it goes back to this: public sentiment comes first.

First: Would the public even report such a thing behind closed doors?

If you saw your friend kill a spider in your own household, when it's a protected animal: Would they call the police on you?

Would the police then can come? Would the police then arrest? Would a prosecutor then not laugh it off? Would a judge then not throw it out on a Clayton motion? And, then, would a jury even convict on it? -- when the legislature has given that spider the same protection, by their blanket language, as a turtle or a dog.

So, there's a subjective level to criminal law enforcement that makes this area of crime a little more difficult than everything else that can be so objective.

And this whole thing about public awareness, it's the public's sentiment. It's really the jury nullification.

Does the public care about the species of animal? And, also, the species of animal in a specific situation?

Because there are, sometimes, when it's your pet gerbil, and sometimes it's a feeder mouse to a snake. Or, something you set out a mousetrap for.

So it's not even species-driven. It's even social mores and local customs. And, where was the animal at the certain time, to make it, unjustified, a killing?

It's very difficult.

It's very difficult to assess where the public sentiment is at any given time.

But, that's as specific as I can be.

As the public sentiment evolves, so does law enforcement.

SENATOR GRIFFO: Thank you.

SENATOR RITCHIE: That definitely shows how hard it must be to deal with this.

Just for my own knowledge: If you were called out on a complaint, when are you allowed to pick up the animals?

What do you need to actually witness in order to take the animals out of the house?

ADA JED PAINTER: There's a few things that are at play there.

I always -- excuse me.

I almost entirely ignore the Agriculture and Markets Law's provisions for seizure of animals.

I go back to Article 690 of the Criminal Procedure Law, with warrants.

And I go to the emergency exceptions to the warrant requirement.

There hasn't been too much -- there's many -- well, let me put it the other way.

There's many state courts and many federal

courts that have concretely held that the rescue of an animal is an emergency exception to the warrant requirement.

So you don't need -- if you see an animal being tortured or severely neglected, it needs emergency medical intervention, and I get that call as a prosecutor, and the police officer's asking for guidance, I'm telling him to seize the animal right away.

And I'll back it up in court that it was a public-safety seizure, that their primary -- because it was: Their primary goal was not to commence a criminal investigation, but to rescue an obviously distressed animal.

If it doesn't get to that point, where they don't feel that urgency, I might then just go to a judge and get a warrant, to make things very -- just make sure I'm covered.

I have had situations where I have gotten one warrant to seize an animal, and then I had to get a second warrant to examine the animal after it died, because it was just too far gone.

And once a living animal turns to a dead animal, the law regards all animals as property. And examination of the interior of a dog, is no

different than a warrant to power on a cell phone and search its contents.

So, in that one case, in a matter of 24 hours, I had to seek two warrants.

And, then, even with those two warrants that I got, to play it by the book, I still got a motion from defense counsel, for spoliation of evidence. That I had destroyed evidence in bad faith.

Because, once the necropsy was completed on the animal, I had two options from the lab: It was to group cremation or sole cremation.

I chose sole cremation.

But either way, he -- the defense attorney made an apt argument that I destroyed evidence that he could then not analyze.

And the judge agreed with him, saying that, yeah, I could have kept it in a refrigerator and not examined the animal further, to make a stronger case about the abuse that was going on to the animal.

Also -- I've also had -- and I got to tell you, the way the criminal-procedure law is written, it's not written to handle living evidence. So I got to hand it to the defense attorney; it was smart argument to make.

And another smart argument that I've seen

happen, is on a case where a person shot a dog in the head with a shotgun. Had no justification for doing it, at least that was the theory of my case.

When the police showed up, he alleged, simply: Oh, it bit me on the hand.

He had no injury, but he said: He bit me.

Because of the statement that the dog had it bitten him, pursuant to the law, they had to chop the dog's head off and send it to Albany for rabies testing.

And that destroyed my evidence.

And it also, ultimately, really impacted the case because, once again, the State -- not the defendant -- the State had destroyed evidence.

So, again, there's a lot of these technical issues that criminal law was not designed very well in handling living evidence.

I gain most of my case law from customs, from when illegal plants come in through the border, and they are destroyed by border patrol agents. And things like that. Things that can't remain static.

A gun will remain static on a shelf.

A bag of cocaine will, more or less, remain static on a shelf.

An animal has financial issues, and you don't

want to keep it static.

As law enforcement, if I'm seizing an animal, it's because something's very, very wrong with that animal.

It's sick, or it's starved, or it was stabbed nine times, or it was shot in the face, and I want to help it.

It's my goal to change the status of that evidence, not to preserve it in state.

And issues come up with that.

SENATOR RITCHIE: Can I just have one follow-up question.

If you have a warrant, or if you go out to a house, and there's a complaint against the individual for one animal, if you see any other animals in the house, are you able to confiscate all the animals, or just the one specifically the complaint has been about?

ADA JED PAINTER: It depends on the situation.

My -- it depends greatly on the situation.

But my general inclination would be, to -- for a lot of reasons. I haven't seen a case like that in a while, but -- but my inclination would be, to get a seizure order for the one animal, and then

do an impound-in-place order for the remaining animals.

And the impound-in-place order, which is sometimes used -- used a lot in farm animals, when you really don't have the facilities to move them, there is a provision of the law that allows a judge to order that, during the pendency of a criminal case, a law-enforcement entity or an SPCA, or any -- the State -- the State, can go to the person's house and check on the status of the other animals.

It doesn't foreclose a warrant at a later date.

But it's -- and it also is an order against the defendant, to maintain their health and comfort during the pendency of the criminal action.

So, financially, for a municipality, it's a benefit to have one of those orders because, now, they're not boarding 13 different animals. It doesn't foreclose a warrant at a later date.

And, also, if the person does progress, or neglect those animals, then they're arrested for contempt, as well as arrested again for more counts of animal cruelty.

SENATOR RITCHIE: Thank you very much.

Scott, did you want to --

DA SCOTT D. MCNAMARA: Sure.

First, I would like to thank the Committee for inviting me to speak here today about this very important issue.

As most people in this room, and at least two of the Senators are aware, we've had some pretty horrific crimes here locally, involving the mistreatment and murder of animals.

Typically in such cases, I'm "flooded." And I don't use that word lightly, but, flooded with e-mails, suggesting that we take the crime serious, that we prosecute it to its maximum, and also ask for the maximum punishment.

I'm also typically confronted with e-mails that suggest that different forms of corporal punishment, and even the death penalty.

Obviously, everyone knows that's not legal, but, that's how emotional these cases become.

I'm going to limit my comments, really, to companion animals, as that's what I understand what this is about, so, I won't talk about farm animals.

As some of you know, I was raised on a local dairy farm.

I presently own a dog. I consider myself an animal-friendly person.

I'm -- try to break this down and make it as simple as I can.

I strongly believe, right now, that our laws minimize the value of an animal's life.

Often, within our laws, the legislature has thrown in elements that make prosecution difficult, if not sometimes impossible.

So, let me just kind of tell you how I would suggest, if you could look it: I agree with --

And it's, Jed; right?

ADA JED PAINTER: Jed.

DA SCOTT D. MCNAMARA: Jed.

-- I agree with Jed, about moving it to the penal law.

I would also suggest that you break it down the same as we do people.

That we, first of all, make a crime of causing physical injury to an animal. A companion animal, is what we're talking about.

And the next thing, that we make a separate crime for causing serious physical injury to a companion animal.

And then, finally, making the most serious crime, causing death -- intentionally causing death to a companion animal.

Right now, the difficulty that our office has when we have these cases, and I can't really talk about the facts of the case, but there's a case pending right now involving six dogs, is proving the felony-level crime, which most people think should be happening.

And under the felony-level crime, as you're all aware of, aggravated cruelty to animals, we have to prove, within that section of the law, aggravated cruelty.

It's not enough that we can prove that a person intentionally takes the life of a companion animal. We have to additionally prove aggravated cruelty.

Under that, we have to prove that they intended to cause extreme physical pain; and, also, it was done, or it was done -- not also -- in a depraved and sadistic manner.

So the mere fact that somebody intentionally kills a companion animal doesn't do the trick.

And let me give you a fact pattern.

My dog gets loose, runs next door, and my neighbor takes out his shotgun, and shoots and kills my dog.

Right now, that crime would have to be

prosecuted as a misdemeanor.

Most likely, we would look at it as some sort of property crime; meaning, criminal-mischief-type of level crime.

Now we're getting into the value of my dog, trying to determine whether or not what the value would be.

So, we're not look it a like we would, that we're talking about an actual living animal that was killed.

And in that situation, it would be difficult, and I submit to you, impossible, to prove the extreme physical pain, or the depraved and sadistic manner, because, the problem with the law, as it's written right now in the Ag and Markets, you haven't defined a lot of these terms.

So, ultimately, we have to fall back on the definitions that are in the penal law, which apply to people, and those definitions don't support a one-shot killing to justify that level of a crime.

I'll give a perfect example of a case we had here locally, which I'm sure some people are familiar with.

A few years ago, we had a gentleman in the town of Kirkland, who got mad at his wife. He took

his wife's dog down into the basement of their house, he shot and killed it.

His intent was to hurt his wife; to hurt her feelings.

Which, clearly, he did.

He also killed an innocent animal, for no other reason than out of anger.

And when it came time for us to prosecute that case, the problem we had was, proving the extreme physical pain, because it was a one-shot situation, where the dog died immediately.

That, to me, defies the logic of the crime that he committed.

I mean, it's a very unnecessary crime. I don't know why we should have to prove the aggravated cruelty.

And if we're going to prove aggravated cruelty, I would submit to you, then make that a higher-level crime. But give us a felony-level crime of intentionally killing a companion animal without justification or necessity.

And I say the "justification" and "necessity," obviously, I think some of you know what I'm talking about; but "justification" would be, you know, obviously, the self-defense situation,

where the dog was attacking you. Or, a "necessity," if the dog had rabies, and it was necessary.

But, I really think, if we broke this down and just made it a lot simpler.

Right now, the Ag and Markets Law is very difficult to read.

And I agree: the police don't typically have that on them.

And, we could make this a lot easier. And also provide rights to our animals, and also provide rights to the owners of these animals, that currently don't seem to be there.

Couple of other things I just wanted to touch upon, which I won't go into a great amount of detail:

You know, obviously, defining the words that are in that Ag and Markets Law would be very beneficial to us, so that we don't have to guess or rely upon a Court's interpretation.

And another thing that is a concern of ours, and especially in my office, and the prosecutor that handles a lot of the cases: Because these are under the Ag and Markets Law, they don't apply for second felony offender. They don't apply for -- as was said before, they don't apply for DNA. And some

don't even apply for fingerprinting.

So, you know, those are the type of things that we need to look at.

Because, if we have somebody who is -- has a long history of criminal conduct, and it's all under the penal law, and then he goes out and intentionally kills his neighbor's dog for no reason, other than just because he felt like being mean, we're left with a relatively minor crime, with very little punishment available to us.

And, honestly, the public doesn't understand that.

They do not understand, when I try to explain to them, you know, that the law doesn't provide for more protection for companion animals.

So, that's what I would, you know, just ask you to consider, and to push forward, because, you know, as the law is written right now, it's very difficult for us to prosecute.

And, honestly, you know, it's written, as was explained, with enough loopholes in it, that a good defense attorney -- as we saw recently in a case here, involving a dog that was shot three times and killed, a good defense attorney doesn't really have a problem getting somebody acquitted on these type

of charges.

SENATOR RITCHIE: Thank you.

DA SCOTT D. MCNAMARA: Thank you.

SENATOR RITCHIE: Do you have any questions?

SENATOR GRIFFO: Scott, when you talk about it being minimized right now, do you believe -- there are a number of ideas, and that's one of the reasons to conduct the hearing, too, that are out there right now; is, DA Rice has some suggestions, and there are other members who have ideas.

Do you think the best means to accomplish this would be through strengthening some of the existing laws, or looking at new laws?

And, then, where is that best placed?

I know I heard something, saying, maybe out of Ag and Markets, and into, you know, another aspect of the criminal code.

I mean, what is the best way?

Should we strengthen what we have, and -- or should we look to some new things that have to be done?

And, then, where's the best place?

DA SCOTT D. MCNAMARA: I can only speak for myself.

I would like to see it moved to the penal

law. And I would like to see it --

[Applause.]

DA SCOTT D. MCNAMARA: And I would like to see it rewritten, to be broken down similar to how we handle crimes on people; and that be:

Physical injury.

[Applause.]

DA SCOTT D. MCNAMARA: And that would be with a physical-injury element, which in -- with people, is assault, you know, third.

With serious physical injury, which, with people, is assault in first or second degree, depending on how it's done.

And, ultimately, you know, the murder of an animal.

So, I would rather see it done that way, than to try to take things out of the Ag and Markets Law that make it difficult.

That would be my position.

SENATOR RITCHIE: Chief, do you have some comments?

CHIEF MARK WILLIAMS: Yes, thank you.

I'm Chief of Police Mark Williams. I'm the chief for the city of Utica.

We serve, roughly, a population of

62,000 people.

I have a 163 men and women on the police force.

And, we have one full-time animal-control officer that we nearly lost during the last budget process, where we wouldn't have any.

It certainly presents its challenges. And what we have had to do, is reach out to other entities, to get training for several of our police officers, to fill in for our animal-control officer when he's not available.

But, just to give you an idea of what we face during the course of a year:

During the year 2010, we, roughly, responded to about 12,000 calls for animal control, and we saw about 46 arrests during that year.

And last year, that increased to well over 1,800 calls. And, again, we saw an increase in arrests: about 54.

And this year, we're well on pace to exceed the amount of animal-control calls that we're going on, as well as the amount of arrests.

So, the problem that we're having is certainly increasing.

A lot of the cases that we come across, when

it comes to animal cruelty, believe it or not, are cases involving our drug investigators executing search warrants in a lot of these houses.

Unfortunately, a lot of these dogs, especially the pit bulls, are becoming nothing more than tools of the trade for the drug dealer, who are trying to ward off anybody that may come into the house, to try to take their stash, and to protect it.

And, what we're seeing in a lot of those cases is the cruelty charges as well.

I mean, last year alone, we executed over 150 drug search warrants here in city of Utica.

And, you know, like, again, we certainly saw our challenges.

And, again, the primary dog that we're -- type of breed of dog that we're seeing is certainly the pit bull, that we're seeing.

But, just to highlight on a couple of things that the other two speakers talked about prior to myself:

I do agree that, now, the law should be changed to the penal law.

When I first came on the job, back in 1988, I didn't know that the Agriculture and Markets Law

existed.

It took, maybe, three years into my career, that I had studied for a sergeant's exam, that I found out about the Agriculture and Markets Law, and, more importantly, about the animal-cruelty laws, to boot.

Since that time, you know, thank God, police training has changed dramatically.

But even today, I mean, our officers do have access to the Agriculture and Markets Law, through their mobile data terminal, which is their computer in their car.

But, they have to search for it. You know, they have to do a search query. They got to know that it's in the Agriculture and Markets Law, to find it.

So, I think by moving it to the main law that we use every day, which is the penal law, it makes it simpler and more easy to use. And, you tend to find that the laws in the penal law are the ones that tend to get the most attention when it comes to police academy and training, and in-service training as well.

So, other than that, I'm certainly open to any questions that you may have.

SENATOR RITCHIE: You talk about the number of cases.

Can you tell me what percentage were actually neglect and abuse?

I mean, you must get calls for other reasons.

So, I guess, what percentage would you consider were neglect or abuse?

CHIEF MARK WILLIAMS: I don't have those stats available.

I can certainly get those for you.

I will tell you this:

Is that, you know, back about a year and half ago, I instituted a new policy with the Utica Police Department, and we created a "public information officer" position.

And what we saw is, that whenever any of these animal-cruelty cases, you know, was put out to the news media, they go viral.

And the phone calls to my office, I mean, they're not limited to Utica, New York, they're not limited to the state of New York. They're limited -- they're -- you know, they come in from all entities, include some other countries. And, letters.

So, it's obvious that people are speaking.

This is a serious concern. You know, nationwide, worldwide, it's a serious problem.

And I think, likewise, we got to strengthen the laws, and make it workable for the police officers to be able to properly charge that.

There's always going to be challenges in enforcing the laws, too, because one of the things that you got to prove, is intent.

And, one of the biggest problems you're dealing with, you're dealing with a victim that, obviously, they can't speak for itself.

So, there are certainly challenges.

SENATOR RITCHIE: Do you have a question?

SENATOR GRIFFO: Chief, when -- you, and, obviously, in many communities across the state, are being financially challenged right now.

So, even though you have officers who are entrusted with that specific responsibility, so-called "animal-control officers" in many communities, in many instances, you're going to have to rely on the rank and file also to augment that, because, as you said, you're never going to have enough officers that you may need to deal with the situation.

CHIEF MARK WILLIAMS: Absolutely.

SENATOR GRIFFO: So, how do you prepare your department, then, to do that?

With adequate training?

And, what's the best approach?

Because, again, you have fiscal challenges; but, obviously, you can't rely on one particular segment of the department, or public safety, to take care of the whole situation.

CHIEF MARK WILLIAMS: Absolutely.

Just recently, we had an outside animal -- I forgot the name of the organization that came in and did in-service training for, basically, about five officers that volunteered, that basically do the work of an animal-control officer, in his absence.

What we have -- in addition to that training, we opened it up to the Stevens-Swan Humane Society organization as well.

And, one thing I would like to highlight with the Stevens-Swan Humane Society: We have an excellent working relationship with them. They are phenomenal.

They themselves have, you know, financial challenges as well.

And, you know, we work well with them.

But, what's nice about specifically training several other officers to do the work of the animal-control officers, now, in those absences, when he's not work his 8-hour day, we can now fill that void, and have officers there, specially trained to deal with these matters.

SENATOR GRIFFO: But let me ask a follow-up, maybe -- and anybody can answer this, because I think you brought up an interesting point here.

Because we look at balance, we're here to try to protect animals, obviously companion animals. And that's what we're trying to gather information on, and to determine the best course of action.

But you brought up a point, where animals are trained to be weapons.

And then, as a result, you put law-enforcement officers in harm's way. Or, potentially, even community residents.

I mean, how do we strike that balance there, with owner accountability, and if an animal is trained to become, and used against individuals who is are trying to execute and enforce the law too?

CHIEF MARK WILLIAMS: There is provisions of the penal law that do deal with a -- you know, a -- and it's in the assault section, I believe, they

deal with an animal that is used as an extension of the owner, to strike out as a police officer.

The problem that we face, is that we execute no-knock search warrants. So when we initially enter, the first person -- or, the first thing that's going hear us is the animal.

And the next thing you know, our officers are coming through the door, and they're faced with a charging pit bull, most of the times.

SENATOR GRIFFO: I'm just asking, from prosecutorial or law enforcement, what else could we do with ownership?

Because, obviously, there's got to be owner accountability too. And, many of these are criminals.

So, I mean, are there additional charges that can be put on --

DA SCOTT D. MCNAMARA: I would think, yes, Senator.

I would think that you should have a law that specifically addresses the situation where people are using their dog to do -- and not make us try to make it work. Okay?

So, for example: If someone's using their dog to be a weapon, and then we're trying to prove

it through an assault section, that's very difficult, because then you have, within the middle of that: Well, the dog did it on its own. I didn't intend it.

And that becomes very difficult.

And, you know, another thing is, just the neglect and the mistreatment of the dog that goes on when they're doing that.

You know, a lot of times, they're making these dogs mean.

You know, I've read different things. Pit bulls, you know, not always by nature, are a mean dog.

They're made mean, because they want them to be aggressive when people come in the back door, and the front door, as the case might be.

So, that all needs to be looked at if we're really going have a serious discussion about, you know, animal rights, and passing laws that address these problems.

SENATOR GRIFFO: So it would be owner accountability as well as animal rights?

DA SCOTT D. MCNAMARA: It's like endangering the welfare of a child.

I mean, we look at that situation, when

people, how they interact with children.

The same thing, some form of that, with a dog, I would submit, would be an appropriate.

You know, obviously, it's going to be a lesser charge, but it should definitely be something that we could prosecute.

Right now, it's very difficult to do that.

ADA JED PAINTER: And on that note: One of our best partnerships is with CPS and APS.

We found out, very early on, that neglect is neglect. And whenever we see an animal neglected, we've usually seen some child neglect; and vice versa.

And CPS knows that. And that's one of the professional relationships we've worked hard to develop.

There's all of these studies about serial killers coming out of, you know, animal tortures, and gang activity coming out of dog fighting.

And I've seen a lot of those links firsthand.

But, I got to tell you, I don't understand why there has to be so many studies, to show that a violent person is a violent person, and a neglectful person is a neglectful person.

[Applause.]

SENATOR RITCHIE: Senator Valesky, did you have any questions?

Thank you all.

ADA JED PAINTER: Thank you.

DA SCOTT D. MCNAMARA: Thank you.

CHIEF MARK WILLIAMS: Thank you.

SENATOR RITCHIE: Bill is going to testify.

Bill, do you want to come up, please.

SENATOR GRIFFO: Senator Ritchie, while we're getting situated here, I also want to mention that we have many local advocates in our community that are here today.

The Stevens-Swan Humane Society is here.

Spring Farm CARES is here.

Central New York Kennel Club is here.

I want to thank all of the public who have come, but particularly organizations who have shown their interest and have provided written testimony.

Thank you.

SENATOR RITCHIE: And the final speaker will be Bill Ketzer, senior state legislative director, Northeastern Region of the ASPCA.

Thank you very much for coming today.

BILL KETZER: Thank you.

Thank you for having me, Madam Chair,

Senator Griffo, Senator Valesky, Mr. Kusnierz.

My name is Bill Ketzer.

And like you mentioned, I am the senior state legislative director for the northeast, for the ASPCA.

I am, actually, fairly new to this position.

In my previous capacity, I was a deputy commissioner of the Department of Agriculture and Markets.

And before that, I was, what I like to call, a creature of the legislature myself.

And, so, I know what goes into putting these meetings, and taking them on the road, especially during a busy May legislative session.

So, thanks for the opportunity to be here today.

I can speak reasonably confidently for our 200,000 New York members when I applaud your interest in learning more about the existing challenges in regards to companion-animal cruelty. And also, perhaps, taking action to address some of the more problematic public-policy issues we face today, which -- some of which were very eloquently described by folks who preceded me.

This -- these laws are, you know, often the

first, and only, defense for companion animals.

And, so, I can't really stress the importance of a public forum like this to increase the visibility of these types of issues.

So, thank you.

State-level anti-cruelty laws generally penalize two types of actions, and we've touched on that a little bit.

So you have (a) intentional acts, and (b) the failure to act; or an act of omission, so to speak.

So, currently, only three states in the country failed to differentiate between the two, and provide some sort of felony offense for the intentional aggravated commission of animal cruelty.

In New York State, as also mentioned earlier, the intentional act of aggravated animal cruelty is a felony, applicable only to companion animals.

And this is more commonly known as "Buster's Law." And this is Ag and Markets Law, Section 353-a.

And the language of the statute was pretty carefully negotiated upon its enactment in '99, from what I understand, and is very prescriptive, in that: "The offender must" --

And this is the definition.

-- "with no justifiable purpose, intentionally kill or intentionally cause serious physical injury to a companion animal with conduct either intended to cause extreme physical pain or is carried out in an especially depraved or sadistic manner."

So there's a lot of intents in there, and it's a very tight definition.

And perhaps, in part, due to specificity of this law, many cruelty situations in New York, more typically fall, of course, into the failure-to-act realm. And the General Animal Cruelty Law is applicable to all animals, and quite broadly scripted.

And, typically, these violations carry a Class A misdemeanor, and include -- and, again, this is a very antiquated statute: Overdriving, overloading, torturing, cruelly beating, unjustifiably injuring, maiming, mutilating, killing, depriving of unnecessary sustenance, food or drink; or willfully engaging, instigating, or furthering any of the above acts.

But, despite this expansive definition, the law does not specifically, in my opinion -- and I'm not a prosecutor or an attorney, and I don't play

one on TV. Like I said, I'm a creature of the legislature. -- but, in my opinion, the law doesn't specifically include provisions for what is, overwhelmingly, the most common injustice humans inflict upon animal companions, and that is: actual abandonment.

In neighboring states, and in most U.S. states, "abandonment" is either kind of tucked in the definition of the state's cruelty laws, and punishable under the same. Or, a broad definition of "abandonment," is provided, that can include private premises.

And, of course, as in all situations, you'd like to think, you know, these are broadly defined to allow for factual circumstances, to determine criminal culpability.

But New York, by contrast, interestingly, has a separate and distinct law on the books for abandonment of animals, that has been determined to be applicable, "when any animal is left to suffer or die" --

That's a quote from the statute.

-- "suffer or die in a public place."

And that's Section 355 of the Agriculture and Markets Law.

And Mr. Painter commented on how antiquated law these laws are.

And, so, this "abandonment" provision, in particular, was chaptered in 1961. So that's about 50 years ago. And the statute was most likely -- I wasn't alive back then, but, most likely, it was geared towards curtailing abuses of work animals.

And, now, is also readily applicable to situations where folks leave animals at shelters without formally surrendering the animal.

I have the definition in the testimony. I'm not going of sit here and read the entire thing.

But, to me, unfortunately, what this means, is that the abandonment law is kind of useless in an incident like the one here recently in Utica, where, you know, the eight dogs were found abandoned in a Whitesboro Street residence.

So, the owner has been charged -- and someone can please correct me if I'm incorrect -- but I believe the owner has been charged with eight counts of misdemeanor cruelty.

That's the failure to act.

And several non-criminal violations: Unlicensed dog, and things of that nature.

But there's, I think, a significant missed

opportunity here to -- you know, if the abandonment law included abandonment of an animal on a private premise, that would be an additional, separate and distinct crime that could be prosecuted under the Agriculture and Markets Law.

And, I would like to think of that as more of an early intervention mechanism.

I mean, as it stands now, the -- a law-enforcement official cannot charge an owner solely on the basis that or she has abandoned a pet in a residence, despite the potential, and almost -- and a lot of times, unfortunately, inevitable consequences if the animal's left unchecked.

This is, I think -- I want to just stress the importance of it, because, you know, neglect and abandonment are, by far, the most common crimes, according to a lot of different national organizations.

I use as an example, petabuse.com, because they are a New York-based organization.

But, they're national, not-for-profit.

And they compile animal-cruelty information state by state.

And, you have a chart here. I couldn't bring my PowerPoint today, but you can see that, on the

chart, that abandonment is, by far, the most common crime.

And, interestingly, right above that is, animal hoarding, which is a topic for another hearing, I believe.

For many years, Assembly Member John McEneny has attempted to close this abandonment-law loophole with, this year's bill is A-1878. This bill would make abandonment applicable to private property.

The Assembly Agriculture Committee reports this regularly, but it has actually never reached the floor for a full vote in that house.

The legislation does not currently have a Senate sponsor. However, Senator Valesky, your predecessor, took this bill on for many -- many years, and was able to get it through the Senate.

So, I would be happy to work with members of this Committee, or any member of the Senate or their staff, to take a harder look at the way these sometimes antiquated laws are constructed, with an eye toward providing better prevention and response and prosecutorial tools for law enforcement.

So, and that said, I just wanted to talk a little bit more about other anti-cruelty proposals that are out there in the legislature right now.

Todd, you mentioned Senator Ball's two bills.

5804, which would provide that no person convicted of a violation of Buster's Law --

That's the felony cruelty.

-- can no longer possess a companion animal unless authorized by the county court, following a psychological evaluation.

And then, also, the expansion of the felony cruelty law to include harm-training laws during the commission of a felony.

So, thank you for reporting that recently.

The other two I would just like to mention: There's a lot of animal bills in the legislature, as I'm sure that you know all too well.

These are general concepts that a lot of members have tried to tackle, and have struggled with over the years. And, so, I'm just mentioning these as examples, as just general examples, of these concepts.

Assemblywoman Paulin from Westchester has a bill, A-269, which would make any misdemeanor a cruelty violation within five years from the date prior.

Basically, if you have been convicted of misdemeanor cruelty within five years, and then you

offend again, that would be a crime on the level of the Buster's Law statute.

So, that would be a Class E felony -- or, the lesser Class E felony, as Mr. Painter had described.

In addition, and this one is actually new, it comes and goes, but I think it's actually very important to mention, it's not directly, necessarily related to the cruelty statute, but, Assemblyman Magee, the Agriculture Chair in the Assembly, has introduced a bill that would prohibit the tethering of dogs to stationary objects or certain types of mobile devices.

Pretty carefully scripted.

Pretty consistent with the New York City's new law on the books, as of, I believe, last year.

And, consistent with a lot of what other states are looking at.

It basically provides exemptions for, you know, a lot of obvious stuff. You know, veterinary and grooming and hunting and training, and other types of activities.

And, this was a brand new bill, 10053. And also, currently, does not have Senate sponsorship.

So, certainly, a significant degree of debate

always surrounds the expansion of the existing cruelty statutes in the legislature.

But, public forums like this, I can't stress enough, are essential to further that discourse, and elevate public visibility.

So, thanks to you all for being here today as well.

I wanted to talk a little it be about the ASPCA's law-enforcement resources that are available to municipal law-enforcement officials.

So, in addition to the legislative solutions we just talked about, other means exist to strengthen the safety net for animal protection, and show the public that New York means business when it comes to enforcing its existing animal-cruelty laws.

I really would -- I would be remiss not to make the Committee aware of our outreach services, as they relate to cruelty.

We have an anti-cruelty group.

The legislature -- the legislative unit used to fall under the anti-cruelty group, was -- our government-relations arm is now growing, and it has come out from underneath anti-cruelty unit, leaving the anti-cruelty group to really focus on what it does.

They have an actual contract in New York City to do humane law enforcement in New York City-proper. But in addition to that, they provide professional education to law-enforcement officials.

And that's available on an as-needed basis, upon request, as resources, as we're able to do that.

The anti-cruelty-group umbrella also houses a field services department, which works with professionals in the veterinary, judicial, law-enforcement, and social-services fields, to educate them on detecting, investigating, and prosecuting animal cruelty.

We do this all over the country. And, it's vital, because a growing body of research is, of course, as others have talked about today, have documented the link between violence to humans and animal abuse.

The ASPCA also recently announced the creation of a legal advocacy department, to increase legal protections for animals across the country.

This department is headed up by a woman named Stacy Wolfe, who's actually my, not immediate predecessor, but, a predecessor.

She was the former lobbyist for the ASPCA in

New York State.

She heads-up our humane legal-services department. And then, also, the legal-advocacy department.

That's a lot of hats to wear.

And they're going to provide second -- this was recently announced, literally, last week, but it's been in the works for quite some time.

And what they're going to do is, provide second-chair legal support through the coordination of legal and other expert services that are vital to the effective handling of animal-cruelty prosecutions, as well as conduct selective, affirmative civil litigation cases, in instances where the potential to effect substantial change in a given state exists for a nationwide impact.

So, I'm going to provide my -- you have my contact information, but I'll leave some cards as I leave. And I urge anyone to contact me regarding our availability for law-enforcement training, and any other services we offer in your districts, and surrounding jurisdictions.

Lastly, I was simply -- I was pleased to see in your press release announcing this hearing, Senator, that this week is "Be Kind To Animals

Week."

And this is a great time to focus on -- for everyone to share -- to focus on sharing love and compassion of animals, particularly with children.

Since they -- you know, they literally inherit our future. And, humane education begins, first, at home, and then can continue in the classroom, whether it's volunteering at your local shelter, learning about how to report animal abuse, adopting a homeless animal, or simply just getting involved locally and advocating for change.

I hope some of you here today will find ways to support programs that educate children to treat animals humanely, and encourage others to do the same.

So to close: In the last few years of the twentieth century, animal welfare has received a great deal of legislative attention.

When I was in the legislature, and for about five years prior, I was fortunate enough, when I was the director of the Assembly Agriculture Committee, I was left a huge body of information; lots of different public hearings on companion-animal issues.

40 miles from here, a gentleman named

Michael Bragman, then Assembly and former majority leader, way back, when was the chairman of the Agriculture Committee in that house, and did a ton of work on this stuff.

But, recently, and there's tons -- there's many, many reasons for this, of course, but, hearings and roundtables and other public opportunities of this sort, have been few and far between. And that's a shame, because, in a prolonged economic downswing, like we're currently experiencing, and, hopefully, kind of creeping our way out of, a lot of bad decisions are made regarding pet ownership.

So, interestingly, the infrastructure for animal care and sheltering and other services are slowly changing as well, as a lot of effort is being put into rescue organizations, and formalizing the relationship they have with shelters.

It doesn't sound controversial on its face, but it is an enormously controversial issue. And, so, that's coming up at the same time.

So, I really applaud your efforts to bring folks together here today, to talk about this issue.

And I hope that -- I look forward to future opportunities in that respect.

So, I would be happy to answer any questions you might have.

SENATOR RITCHIE: Thank you, Bill.

Just for clarification: You were talking about New York City and education for law enforcement.

Did you say that was available locally --

BILL KETZER: Yes.

SENATOR RITCHIE: -- or just in New York City?

BILL KETZER: No, it's available to anybody who wants to request that.

I can -- I'll take the information of anybody.

What we do is, our humane law-enforcement division will go out into communities, and provide educational seminars to local law-enforcement officials. That could be county government, county sheriffs. That can be, we do state police academy, we do local police. All over the state.

In New York City, in addition to that, the ASPCA has long-held the contract for the City, to do actual humane law enforcement. So -- and that's the only place we do that.

SENATOR RITCHIE: Thank you.

Senator Griffo?

SENATOR GRIFFO: Quickly, putting your former hat on, we did invite the Department of Agriculture, but I think they were unable to attend.

As a former deputy commissioner, is that the appropriate place for jurisdiction or responsibility, who we deal with?

BILL KETZER: Oh, boy.

SENATOR RITCHIE: Nothing like putting you on the spot.

BILL KETZER: The cameras are gone; right?

No. No.

I mean, and I'm confident to say that.

And that's not a knock on the Department of Agriculture.

The Division of Animal Industry has no law-enforcement capability. They do not -- they are not authorized in this state, to -- to prosecute, to investigate, animal cruelty.

And that would be -- they have no jurisdiction over Article 26 of the Agriculture and Markets Law.

So, they often -- you know, they -- what happens is, the legislature has given them some companion-animal programs over the years.

The only one that's left is the Pet Dealer Program. A lot of folks call that the "puppy mill program," but it's -- it's a pet-dealer program. It's -- they go after who they can with the resources that they have. And what that means, really, is pet stores. They do very few breeders selling at retail.

SENATOR GRIFFO: We talked about the financial difficulties facing communities, organizations. We have a number of great organizations that are present here today, as I indicated.

Do you -- because they're also facing financial challenges, do you cooperate and collaborate with them, to assist in trying to provide some of the things that you talked about?

Like, training, that maybe the Utica Police Department might need, and you could help, the Stevens-Swan Humane Society.

Are those type of collaborations in existence?

BILL KETZER: Yep. We -- I don't know right off the top, whether or not we have collaborated with Stevens-Swan.

But, we do have a community-outreach

department.

And -- which has recently kind of been overhauled. And, so, we do have a community-outreach person, who serves both New York and New Jersey. Jo Van Tyle [ph.] is her name.

And she is the one who is the direct -- that's the person that not-for-profit organizations, SPCAs, animal shelters, can reach out directly --

SENATOR GRIFFO: But there is a willingness, and a possibility, to also interact with our organizations who are, as I indicated, facing financial challenges too, that, maybe, in a collaborative effort, they could help communities and municipalities that may need additional training and other types of assistance?

BILL KETZER: Absolutely. Absolutely.

And I should -- I guess I would be remiss, too, to mention that, at the sheltering level at the humane society -- the local humane-society, local SPCA level, the -- as a part of the -- I'm going to put my old hat back on for one more minute -- the 2010 budget, the Department of Agriculture and Markets used to have an animal population-control program. And what that is, is it's funded by a surcharge on dog licenses.

The department wanted out of the business. The 2010 budget got them out of the business, and created a great, much more expansive program, in terms of the types of eligible programs that shelters can apply for.

And, counties and municipalities are eligible as well.

That's a -- over -- it's a 5-year contract. The ASPCA has the contract.

So, as you can imagine, I'm going to be forbidden to work on that in-particular program, pursuant to our ethics laws.

But, it's certainly -- there is no law disallowing me to promote it.

It's a wonderful program. It's a -- over five years, a multi-million-dollar program.

And, during the off-session, when I have my wits about me, we'll be out, especially in upstate New York, promoting the availability of that money to shelters and to municipalities.

[Applause.]

SENATOR GRIFFO: Thank you.

BILL KETZER: Thank you.

SENATOR VALESKY: Yeah, I just want to follow up, briefly, on Senator Griffo's first question.

You're certainly in a unique perspective, having worked in the legislature, worked at the department, and now doing the work that you're doing now.

The previous guests here, who certainly suggested strongly, that we look at, in effect, moving the entire body of law from the Agriculture and Markets Law to the penal law.

Notwithstanding the legislative challenges of moving an entire set of law that has been written over several years, and I understand that, but, from your perspective, would that have a significant positive impact, to look at something as dramatic as --

BILL KETZER: Based on -- I thought the testimony that preceded me was quite valuable.

You know, based on those, based on that factual experience, I would say it certainly warrants attention.

The ASPCA has supported that idea, in concept, for many, many years. But, it wasn't only until recently, where someone like Mr. Painter in Nassau County, really kind of took the bull by the horns, so to speak, and really tried to -- it's not necessarily -- it's not -- well, it's not a bill you

can write on a cocktail napkin, you know.

It's -- you really have to go through this. And, I've have written bills on cocktail napkins, so I can say that.

[Laughter.]

BILL KETZER: But, it really has to be done the right way.

And as I believe I just mentioned, our humane law-enforcement division is actually reviewing that right now, because, clearly, the Senate means business, in terms of advancing the bill.

I'm not quite sure whether where the Assembly is.

But, at the same time, given the problems that boots-on-the-ground law enforcement has, and given the fact that, yes, it's very -- it's highly unlikely that a beat cop is carrying a copy of a McKinney's in his glove box, yeah, I think it warrants a lot of attention, sure.

SENATOR VALESKY: Thank you.

SENATOR RITCHIE: I would just like to thank you, and Jed, and the other two gentlemen, for your testimony today.

BILL KETZER: Thank you.

SENATOR RITCHIE: Certainly appreciate your

time.

And I look forward to working with you and my colleagues here, to help to protect our pets, and to move this issue forward.

So, while the public hearing is closed at this point, if there's anyone in the audience who would like to submit testimony for us to look at, have any questions, please feel free to contact our office, either in Watertown or in Albany.

And thank you again for taking time out to come today.

BILL KETZER: Thank you, Senator.

[Applause.]

(Whereupon, at approximately 3:50 p.m., the public hearing, held before the New York State Senate Standing Committee on Agriculture, concluded.)

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