

My name is Nicole Walukewicz, I am a founding member and Chair of The Palmetto Equine Awareness & Rescue League. Briefly, PEARL:

- Was incorporated in 2007 as a public charity.
- Operates under AAEP guidelines for equine rescues.
- Works only with law enforcement.
- Rehabilitated over 110 horses.
- Developed and presented courses to law enforcement.
- Conducted low-cost gelding clinics.

I understand the panel wishes to discuss two areas of concern, animal welfare laws and animal rescues. You have also asked we restrict our time to 7 minutes, so I have prepared copies of the beginning dialog I would like to have taken place. They are practical but detailed and can be revisited in later meetings.

From my perspective the top priorities to consider for animal welfare are:

- Define what animal welfare is using scientifically measureable indicators.
- Create an Animal Welfare Department of South Carolina.
- Require Animal Control Officers to receive training in the areas they will be expected to know (animal handling, animal management, animal care, case documentation, investigation, prosecution).
- Offer standards of care which animal owners, law enforcement agents and judges can use to determine if an animal's basic needs are being met.

I am not an animal rights advocate, but I do believe in animal welfare and that it is our obligation to assume responsibility for seeing that we as a people, town, county, state and nation treat our animals humanely. There are five measurable means by which we can evaluate animal welfare. They are called the Five Freedoms. These are applicable to all animals, pets, livestock, zoos, and animals in shelters. They are simple, basic and measurable.

1. **Freedom from Hunger and Thirst** - by ready access to fresh water and a diet to maintain full health and vigor.
2. **Freedom from Discomfort** - by providing an appropriate environment including shelter and a comfortable resting area.
3. **Freedom from Pain, Injury or Disease** - by prevention or rapid diagnosis and treatment.
4. **Freedom to Express Normal Behavior** - by providing sufficient space, proper facilities and company of the animal's own kind.
5. **Freedom from Fear and Distress** - by ensuring conditions and treatment which avoid mental suffering.

If we can agree on these five indicators of animal welfare, making laws that address gaps in our current state laws will be simplified.

One of the primary problems with our animal welfare system is there is no state organization that oversees and addresses animal welfare. The State Veterinarians Office does not and cannot address animal welfare. In many talks with Dr. Boyd Parr he correctly states that his office is concerned with infectious disease control. Were they to address animal welfare concerns they would have problems gaining access to farms.

One of the main obstacles to adding an animal welfare agency is money. No elected official wants to add to the tax payer's burden. Unfortunately taxpayers pay a hefty amount of taxes for their animal shelters and animal control officers. In Anderson County (not including use of the court system) we expend over 2 million dollars annually for cats and dogs alone. When you add all 46 counties, budgeted and unbudgeted costs for animal abuse/neglect the amount will no doubt be shocking.

Additionally many people do not understand what good animal welfare practices are. Adding to that problem is that there is no requirement for Animal Control Officers to have any training. If Animal Control Officers do not know what good animal welfare practices are, do not know the laws, do not understand how to investigate, document, and present cases in court or properly handle animals in their custody the system is going to fall well short of the intended goal.

My husband and I created a two day seminar to educate Animal Control Officers that we presented to the South Carolina Criminal Justice Academy. However, most ACOs do not attend the SC Criminal Justice Academy, so the project was put on hold until we found a better avenue to present the training. We used only professionals in the areas of animal cruelty investigations, animal nutrition, animal handling and forensics. I will be glad to share the material at a later date with anyone interested

I know that there is a concern that should we choose to address minimum standards of care for animals, groups considered to be radical animal rights advocates will attempt to push agendas beyond animal welfare. Specifically I am addressing horses in the next section. Horses are considered livestock, so they are included under agricultural animals. Perhaps establishing a subset of livestock that more specifically defines them as working/pleasure/sport animals will insure our agricultural industry remains protected from radical intervention while allowing us to address the increasing problems we have with equine neglect/abuse and abandonment. Equines are no longer a food source and therefore while still livestock present a peculiar need for protection. Other states have worked with the animal rights organizations and the agricultural industry by defining minimum standards of care as agricultural regulations instead of laws (See New Jersey and Ohio regulations in the References).

These guidelines can be used by ACOs when writing citations and by magistrates and judges unfamiliar with particular animals for rulings. The ASPCA has set standards for pets that can be looked at by the committee.

When considering the problem of rescues, my organization was formed after becoming volunteers for another horse rescue. We determined what they were doing was not exactly operating outside the law but failing to following the legal process. We believed this opened the organization to liability concerns we did not want to assume. In fact, that is why my organization only works with law enforcement. We expect law enforcement to enforce the laws and seize the animals, and then we offer assistance in the rehabilitation process. If you want to understand our choice I offer the case *The State of South Carolina v. Colie G. Martin & Colie G. Martin, III*. The prosecutor was Ms. Jill Andrews, Assistant Solicitor of Columbia (2003 – 2008). This one case will offer more than anecdotal evidence that this is a legitimate area of concern. Perhaps the fix is simply removing “humane societies” in state law from those agencies that can obtain search and seizure warrants?

In reference to rescues and oversight my perspective is:

- The ability to gain search and seizure warrants should be limited to law enforcement.
- The creation of an Animal Welfare Department will work to create guidelines so rescues work with law enforcement, animal control officers and shelters.
- Be able to establish they use good animal welfare practices by providing professional references.
- Have the Animal Welfare Department address gaps in the laws and preset them for consideration to the proper committee for legislative action.

There are guidelines for horse rescues. We follow the American Association for Equine Practitioners (AAEP) Care Guidelines for Equine Rescues and Retirement Facilities. One excellent indicator of how an animal rescue is operating is if they have veterinarian who agrees to have their name associated with the rescue. We have three veterinarians that endorse our rescue which indicates we operate in a manner that they find acceptable. Our group will not work with any rescue that cannot give us the name of a veterinarian that we can speak to about specific cases, care, or health issues when we are asked to assist. Perhaps that offers some insight into how to research the practices of individual rescues?

Rescues can either be private or be charitable organizations. They must follow the IRS financial guidelines if they are public charities. There is no enforcement and no rule against these organizations paying out high salaries. Some rescues are run by people whose job is the rescue and they receive income from them. The IRS does not define any other guidelines that rescues registered with them operate under. The Secretary of State is the same way. Establishing a rescue oversight department is one possible means of gaining oversight which I address later.

I have watched Anderson County struggle with animal welfare ordinances and have come to believe that the state legislature is the appropriate organization to address animal welfare laws. I have seen county council meetings completely disrupted by different groups resulting in the passing of unenforceable ordinances or the indefinite tabling of ordinances where animal welfare is concerned. The county councils do not have the means to conduct meetings with the order the state legislators do. The job rightly falls to you and I am pleased to have the opportunity to share my thoughts.

Finally, Animal Control Officers are poorly defined in state law, both in their job description and authority. Compare them to Litter Control Officers in Section 4-9-145. We have seen County code enforcement officers, constables, and sheriff's deputies all used for animal control in various counties.

SECTION 4-9-145. Litter control officers; custodial arrest authority; number of officers; powers and duties.

(A) Except as provided in subsection (B), the governing body of a county may appoint and commission as many code enforcement officers as may be necessary for the proper security, general welfare, and convenience of the county. These officers are vested with all the powers and duties conferred by law upon constables in addition to duties imposed upon them by the governing body of the county. However, no code enforcement officer commissioned under this section may perform a custodial arrest, except as provided in subsection (B). These code enforcement officers must exercise their powers on all private and public property within the county. The governing body of the county may limit the scope of a code enforcement officer's authority or the geographic area for which he is authorized to exercise the authority granted.

(B)(1) The number of litter control officers vested with custodial arrest authority who are appointed and commissioned pursuant to subsection (A) must not exceed the greater of:

(a) the number of officers appointed and commissioned by the county on July 1, 2001; or

(b) one officer for every twenty-five thousand persons in the county, based upon the 2000 census. Each county may appoint and commission at least one officer, without regard to the population of the county.

(2)(a) A litter control officer appointed and commissioned pursuant to subsection (A) may exercise the power of arrest with respect to his primary duties of enforcement of litter control laws and ordinances and other state and local laws and ordinances as may arise incidental to the enforcement of his primary duties only if the officer has been certified as a law enforcement officer pursuant to Article 9, Chapter 6, Title 23.

(b) In the absence of an arrest for a violation of the litter control laws and ordinances, a litter control officer authorized to exercise the power of arrest pursuant to subitem (a) may not stop a person or make an incidental arrest of a person for a violation of other state and local laws and ordinances.

(3) For purposes of this section, the phrase "litter control officer" means a code enforcement officer authorized to enforce litter control laws and ordinances.

HISTORY: 1990 Act No. 598, Section 3, eff June 25, 1990; 1992 Act No. 411, Section 1, eff June 1, 1992; 1996 Act No. 373, Section 1, eff May 29, 1996; 2001 Act No. 109, Section 1, eff October 4, 2001.

References

Rescue Guidelines

Adkin, Mark, et al. "AAEP Care Guidelines for Equine Rescue and Retirement Facilities." 2012, <http://www.aaep.org/custdocs/AAEPCareGuidelinesRescueRetirement2012.pdf>, September 23, 2014.

Livestock Minimum Standards of Care

95th New Jersey State Agricultural Convention, "2010 Resolution – Humane Treatment of Livestock." February 9, 2010, <http://nj.gov/agriculture/conventions/2010/humane.html>, September 23, 2014.

Michigan State University Animal Legal & Historical Center. "New Jersey Administrative Code. Title 2. Department of Agriculture. Chapter 8. Humane Treatment of Domestic Livestock." June, 2013, <http://www.animallaw.info/administrative/nj-livestock-chapter-8-humane-treatment-domestic-livestock>, September 23, 2014

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