POINT OF LAW

ILLUSTRATION BY STEPHEN FARLEY

Standing: One Barrier to Action

BY DEAN DAVID FAVRE

DISTRESSING NEWS often arrives at ALDF's office: "X Company has six primates housed under cruel conditions," or "Y Corporation is starting up another egg laying facility which will house 200,000 chickens in battery cages." ALDF members and supporters urge us to do something about the problem, to file a lawsuit in order to protect the animals. However, sometimes we cannot file direct legal action on behalf of the animals. The obstacle that often prevents us from filing a lawsuit is the legal concept known as **standing,** which refers to your right to "stand before the Court and complain."

Every lawsuit must meet certain requirements before the court will allow the party suing (the plaintiff) to make his or her argument against the alleged wrongdoer (the defendant). One of these requirements is the test of **standing**.

Simply stated, to have **standing,** the plaintiff must show that the action or conduct complained of in the lawsuit interferes with a legally recognizable right of the plaintiff. An example of the violation of a legal right is harm to a person's body or a person's property. Therefore, if Mr. Dillon shoots you in the leg, or shoots your dog in the leg, you have **standing** to sue Mr. Dillon for the damages you suffered.

Presume that for some reason you decide not to sue Mr. Dillon. Your neighbor, Ms. Chester, believes that the actions of Mr. Dillon are outrageous and that he should be forced to pay for the harm he did to you and your dog. If Ms. Chester files a lawsuit naming Mr. Dillon as the defendant, the defendant's attorney will be able to have the lawsuit thrown out of court, or dismissed, because the plaintiff (Chester) does not satisfy the **standing** test. The legal system does not recognize Ms. Chester's moral outrage as a justification for filing the lawsuit. The actions of Mr. Dillon did not cause any physical or financial harm to Ms. Chester, and therefore she is unable to sue for the harm done to you or your dog.

Similarly, the Animal Legal Defense Fund as an organization may be outraged by illegal or unethical conduct in the treatment of animals, but we are often precluded from filing a lawsuit because we are not the owner of the animals, nor have we been harmed financially by the pain and suffering inflicted upon animals.

We try to represent individuals and groups who will satisfy the demands of the court, but it can be difficult. In the recent case of *ALDF v. Espy,* there were six different organizations and individuals listed as plaintiffs, including a researcher and a member of an animal care & use committee. The Court found none of them acceptable to argue on behalf of animals under the Animal Welfare Act. In the long run, the only answer to this problem is to allow animals to sue on their own behalf, which will come through the establishment of legal rights for animals.

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POINT OF INFORMATION

The Challenge of Cruelty Prosecutions

MANY PEOPLE IN THE STATE of Washington remember the cruel fate of a donkey named Pasado, whose death ignited a campaign to create a stronger state anti-cruelty law.

The story is heartbreaking. In the spring of 1992 at a petting zoo near Seattle, the much loved donkey, Pasado, was brutally bludgeoned and then strangled to death. Despite the viciousness of the crime, the criminals received little more than a slap on the wrist, because the state anti-cruelty law didn't provide adequate penalties for torturing an animal. As a result of the enormous public outcry, Washington passed a tough new law that makes such intentional acts of cruelty a felony offense. ALDF's President, Steve Ann Chambers, helped to draft this precedent-setting legislation, and for the first time, animal abusers will be subject to stiffer criminal penalties, including jail time.

This type of case occurs with startling regularity around the country. Animal cruelty is prevalent and on the rise. Every day at the ALDF office we hear grisly tales of animals being maimed, tortured, neglected and abused.

The Legal System is Apathetic

The problems that we encounter with cruelty prosecutions are symbolic of the overall challenges that we face in seeking to defend animals and enhance their legal status. Our society is apathetic about protecting animals, and the legal system has been slow to view crimes to animals as worthy of consideration. For justice to prevail, many state laws need to be strengthened with increased penalties for offenders. But, more often, the problem is that local sheriffs and police do not investigate cruelty allegations. Prosecutors/district attorneys and state attorneys consider this type of case to be a waste of time, and they are often dropped at this stage. If the prosecutor agrees to bring charges, the next hurdle is convincing judges to take these matters seriously.

Cracking Down on Cruelty

Anti-cruelty laws are intended to give animals the right to be free from torture and neglect, the right to adequate food and shelter, and to have other basic needs met. However, the public is not aware that these laws are inadequately enforced. You can help by writing letters to the editor about the need for more aggressive cruelty enforcement in your community. Make it a campaign issue when prosecutors are up for election.

As police, prosecutors and judges begin to understand that their enforcement of these laws is being monitored by concerned citizens, we will see more active and effective prosecutions. We encourage you to contact your prosecutor whenever you hear of an animal cruelty incident in your area and ask that office to vigorously prosecute the offenders. You should also inform ALDF, so that we can contact the prosecutor to offer our legal assistance and resource materials.

➠ Write for ALDF's "Zero Tolerance for Cruelty" packet containing informative articles and model anti-cruelty legislation (no charge). ALDF's "Investigating Animal Abuse" booklet ($2.50) gives tips on documenting cruelty, using the Freedom of Information Act and working with legislators, attorneys and the media. Both can be obtained from ALDF at 1363 Lincoln Avenue, San Rafael, CA 94901 or call (415) 459-0885 for more information.

Zero Tolerance

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Attorney to refile the charges, and this time the man was convicted. In New Mexico, an animal collector has over 100 dogs that are starving and diseased. We provided an Assistant District Attorney with information about the "animal collector syndrome," and attorney member Sherry Appel has prepared an *amicus* brief discussing the New Mexico anti-cruelty law and how it applies to animal collectors. Oregon attorney member Pamela Frasch conducted research and submitted two legal memos to help a prosecutor with an animal collector case where 117 animals were living in an abandoned school bus. Ironically, the defendant was able to delay her trial, and in the meantime, has started another collection of dogs in Washington state. In Minnesota, two farmers allegedly starved to death 69 dairy cows, and attorney member Pamela Finamore filed an *amicus* brief on behalf of ALDF in support of the prosecution's case.

ALDF is developing a seminar program to educate prosecutors and judges about the importance of aggressive enforcement of anti-cruelty laws. One effective way to make this point is to show the connection between violence towards animals and violence towards humans. Studies show that people who commit violent crimes against animals are often involved in crimes of violence against human beings.

In early 1994, we notified our 55,000 members about this program and asked them to inform their local prosecutor about ALDF's services. As a result, requests for assistance are pouring in from all over the U.S.

We want to thank all of our members who contacted their prosecutor and urge you to keep up the heat. Let prosecutors know that you care when animals are victims of crimes, and that you want them to make the prosecution of animal cruelty a priority.