

GARDEN STATE CLE LESSON PLAN

A 1.0 credit course

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LESSON PLAN AND EVALUATION**

ANIMAL CRUELTY IN NEW JERSEY

With

Robert Ramsey
Senior Instructor/Author

And

Paul Donini
Attorney at Law

Program description

New Jersey has some of the strictest laws in the nation to prevent animal cruelty. This 1.0 CLE credit program gives you an overview of the statutes you need to be familiar with, and explores the reasoning behind our animal cruelty laws.

I. Introduction

- **Paul Donini, Esq.**
- **Robert Ramsey's law partner for 33 years**
- **Cattle have more to do with animal rights than other animals**
- **36 years practicing**
- **Love of animal law comes from a love for animals/dogs – sensitive toward animal stories**
- **Dogs have been trained to submit to MRI testing and the brain structure of dogs is similar to that of humans and there are indicators that certain stimuli, including certain smells, activate brain just like humans that equates to love – similar to dopamine responses – dogs can sense and sentient (can feel emotions)**
- **Use of dogs for finding drugs (police dogs) – it is clear that dogs need positive feedback and they feel an emotional bond from that**
- **Dogs have high level of intelligence – depending on breed**
- **Dogs have the ability to feel emotions – this can affect how the legal system views dogs**

II. The Development of Animal Law

- **Humans have relied on animals from the beginning of time**
- **Animal law has roots in English common law**
- **1822 – Cruel Treatment of Cattle Act (3 Geo. IV c. 71) – cattle were property**
- **Cruelty to Animals Act 1835 (5 & 6 Will. 4, c. 59) – passed by Parliament – Society for the prevention of cruelty to animals**
- **In NJ a number of statutes cover treatment of animals**
- **In NJ – became proactive toward protection of animals until late 20th century**
- **4:22-17 Cruelty; level of criminal offense**
 - a. **It shall be unlawful to:**
 - (1) **overdrive, overload, drive when overloaded, overwork, abuse, or needlessly kill a living animal or creature;**

(2) cause or procure, by any direct or indirect means, including but not limited to through the use of another living animal or creature, any of the acts described in paragraph (1) of this subsection to be done;

...

c. It shall be unlawful to purposely, knowingly, or recklessly:

(1) torment, torture, maim, hang, poison, unnecessarily or cruelly beat, cruelly abuse, or needlessly mutilate a living animal or creature;

...

- **Legislature is reactive – meaning that animals were being overloaded, not being treated properly, etc. – therefore laws were passed**
- **To what level does this law apply? – Squirrels? Mice? Rodents?**
- **4:22-16 Construction of Article**
 - f. The killing or disposing, by a reasonable or commercially acceptable method or means, of a Norway or brown rat, black rat, or house mouse by any person, or with the permission or at the direction of that person, while the animal is on property either owned or leased by, or otherwise under the control of, that person, provided that the animal is not a pet.**
- **The legislature provided for a narrowing of the statute to address “pests” – provides an exclusion to the earlier prohibitions**
- **What happens if you kill a different rat? Is it against the law to remove them?**

III. Relationship between people and animals

- **Dogs/wolves associated with man as companion**
- **Relationship between man and dogs pre-dates recorded history**
- **Animals were used as tools to help build society – “horse power”**
- **Oxen and cattle used as beasts of burden – also elephants**
- **Horses came later in history to be domesticated**
- **Swine, sheep, goats, fowl – included in definition of livestock (4:22-16.1)**

- **The fastest men used to travel was measured by the speed of a horse**

IV. Development of the laws

- **As a result of the lobbying by the Society for the Prevention of Cruelty to Animals**
- **Specifically addressed in Chapter 4 – Society is referenced**
- **ASPCA officers have quasi-law enforcement officers**
- **Law enforcement has ability to enforce animal cruelty laws, including park rangers**

V. Reasoning behind these laws

- **Beagle case**
 - **Neighbors could no longer care for a beagle and so neighbors adopted the dog**
 - **Original owners had a change of heart and wanted the dog back**
 - **New owners did not want to give the dog back**
 - **Custody complaint was filed in family court**
 - **Full trial – plaintiff said “best interest of dog”; defendant said “dog is property” – dog was a gift cannot take back the gift**
 - **Judge found that dog was a chattel and it was passed to the new owners**
- **Do we have to revisit laws because now we have determined that dogs have feelings? Are they no longer considered “chattel” or property?**
- **Evokes in humans more than what one human would feel for another**
- **German Sheppard dog**
 - **Dog had bitten worker**
 - **Went to municipal court and ordered that dog should be put down (special hearing to determine dangerousness of the dog)**
 - **Stay pending appeal and dog was returned to owners**
 - **Dog then bit someone else and then dog was put down**
 - **Raw emotion that this case generated**
- **People have strong affections to animals**
- **Dogs are given amenities now that were unthinkable before**
- **Can an animal be a beneficiary of a trust?**

VI. What rights do animals have in NJ

- **Right to not be treated cruelly**
- **Animals really don't have rights but there are acts that humans cannot perform against animals, i.e. cruelty**
- **Specific acts prohibited**
- **Animals have certain rights vis a vis the treatment they receive from other animals**

- **Statute does not apply to animals interacting with other animals – unless there is human interaction, i.e. baiting animals, dog fighting**
- **Dog fighting is a 3d degree offense in NJ – offense is committed by anyone who is there to watch or bet, in addition to those who actually coordinate the actual fight – law allows for proceeds to be confiscated**
- **Juveniles who are tormenting and torturing animals is a DP offense – if adjudicated delinquent assigned to mental health counseling by the court for treatment**
- **Specific prohibited acts pursuant to 4:22-17:**
 - **Torment**
 - **Torture**
 - **Maim (branding? Hole in ear for tag?)**
 - **Hang**
 - **Poison (what about mice? Insects are not animals.)**
 - **Unnecessarily or cruelly beat**
 - **Cruelly abuse**
 - **Needlessly mutilate a living animal or creature**
 - **Cause or procure any prohibited acts to be done (i.e. dog fighting)**
- **Slaughtering must be done in a humane way – monitored by federal government**
- **You can euthanize an animal – but certain prohibited means of euthanizing**
- **Animals are treated better than we treat people when they can no longer live their lives properly or humanely**
- **Legally – we have living wills and we can withdraw sustenance from a person or the administration of drugs to ameliorate pain and relieve suffering although it may hasten death**
- **What about animal testing by pharmaceutical companies?**
 - **Title 4 (4:22-16) – distinguish medical research and “all other research”**
 - **Pharmaceutical companies can use animals for testing but there are regulations – must be treated humanely**
 - **Cosmetic companies cannot use animals for testing**
 - **Medical companies must establish that there are no alternate means of testing before testing on animals**

- **People for the Ethical Treatment of Animals (PETA)**
- **4th degree crime when doing a deliberate act**
- **NJ is more proactive than other states**
- **In NJ it is unlawful to buy birds for purpose of releasing them to shoot – but this is legal in PA (4:22-23)**
 - **Cannot shoot for sport**
 - **May be able to shoot if going to eat them**
- **NJ is more pro active than any other state**
- **Western part of PA is rural which can establish why the laws are different as opposed to NJ**
- **Parallel between animal cruelty laws and gun laws??**
- **NJ is more liberal state than PA – therefore more subjective issues are relevant in NJ as a result of our politics**

VII. Dangerous dogs (4:19-22)

- **Vicious animals**
- **Statute enables municipal court judges to put the dog down**
- **Can remove the animal from the tormentor**

VIII. Law prohibits exotic animals from being kept

- **7:25-4.2 Permit required for nongame species or exotic species**

4:22-18 – Carrying animal in cruel, inhumane manner; disorderly persons offense

4:22-20 Abandoning disabled animal to die in public place; abandoning domesticated animal; disorderly persons offense

4:22-21 Sale of horses unfit for work; disorderly persons offense