

Legal Considerations of Animal Handling

Our topics for this week are:

- **Waivers of responsibility to protect others from injuries by animals**
- **Animals considered inherently dangerous**
- **Consequences of animal abuse**

Most states have laws that require animal handlers to exercise adequate control over animals to prevent them from harming itself, other animals, people, or property. More serious charges may be filed against a handler who knowingly failed to exercise adequate control over an animal. There is always a degree of risk in handling animals. A handler must assume the responsibility for the safety of the animal and that of the people who may become injured by the animal being handled. If all safety precautions are taken and cautions given to others, an injury to people or to the animal(s) may be attributed to inherent danger and an assumption of personal responsibility. For example, many states have passed horse activity liability waiver legislation with wording similar to: "Warning: Under State Law, an Equine Professional is not liable for an injury to or the death of a participant in equine activities resulting from the inherent risks of equine activities pursuant to the state statutes." Signs of this warning are required to be posted on the premises where horse handling will occur. Liability waivers may help win a case for a defendant, but they do not prevent lawsuits and the cost of defense.

Waivers of responsibility also do not absolve handlers of liability in an injury or death that is due to their negligence or incompetence. Incompetence is simply not having the knowledge or ability to control an animal. Failing to properly contain or control an animal that causes injury to a human is negligence. Knowing that an animal is potentially dangerous and not taking extra efforts to protect others is also considered negligence.

Responsibility for Injury from an animal does not have to direct. Injury received in an attempt to flee from an animal demonstrating threatening behavior can be owner or agent negligence. It is prudent to have adequate liability insurance that covers activities of an animal handler. In some cases of animal handling that may involve people other than the primary handler, releases or hold harmless agreements are advisable and legal counsel should be consulted. It is important to ascertain that any assistant animal handler is mature enough, strong enough, and trained sufficiently for each task to be performed. The assistant should also be adequately supervised during animal handling.

Inherently Dangerous Animals

Some animals are considered inherently dangerous, including lions, tigers, cougars, bears, monkeys, venomous snakes, and large constricting snakes over 8 feet in length. Inherently

dangerous animals should only be handled by specially trained and experienced personnel. Animals which are considered rabies reservoirs (bats, skunks, coyotes, foxes, and raccoons) should not be handled, except when absolutely necessary and only by professionals trained to handle wildlife. Currently five states in the U.S. (Alabama, Nevada, North Carolina, South Carolina, and Wisconsin) have laws prohibiting the keeping of dangerous wild animals as pets. Twenty-one ban all dangerous exotic pets. Other states restrict only selected exotics.

Animal Abuse

If physical restraint results in unnecessary pain and suffering to an animal, a handler can be in violation of state animal cruelty and humane laws. In more than 30 states, at least one form of animal cruelty constitutes a felony. If the handler is a veterinary medical professional, there is risk of malpractice charges that could lead to disciplinary action under the state veterinary practice act. Domestic animals have traditionally been viewed legally as property. Still, there are laws to protect the inhumane care of animals. This is not only to protect animal well-being, it also has benefits to human society. Willful abuse of animals is known to be associated with concurrent or eventual abuse of humans.

Research Laboratory Animal Legislation

The most stringent restrictions on the handling of animals involve those used in federally funded research. The NIH Office of Laboratory Animal Welfare (OLAW) oversees all federally funded research institutions using laboratory animals.

Primarily due to articles in Sports Illustrated and Life magazines about the abuse of dogs in research, the Laboratory Animal Welfare Act (1966) was passed by Congress in 1966 regulating the use of dogs, cats, hamsters, guinea pigs, rabbits, and nonhuman primates used in research. It was assigned to be enforced by the USDA. In 1970, it was amended to the Animal Welfare Act and broadened to include any warm-blooded animal used in research, exhibition, or wholesale animal trade. Horses, livestock, birds, mice, and rats not used in research were excluded in 1972. Reptiles were never covered by the AWA.

In 1985, the Improved Standards for Laboratory Animals Act required the NIH to minimize the number of animals used in research and their pain and suffering. Institutions with federally funded research must have Animal Care and Use Committees (ACUC) who monitor the care and use of research animals. ACUCs must be composed of at least one veterinarian, non-scientist, and one person not affiliated with the institution. A veterinarian must be employed by the institution to oversee the care and use of the institution's research animals and be an advisor to the ACUC.

The Association for Assessment and Accreditation of Laboratory Animal Care International (AAALAC) requires a higher standard of care than the NIH, but membership is voluntary. AAALAC has standards that include provisions to provide social and other mental enrichments for animals. All social animals are expected to be housed in pairs or groups. Objects should be provided that create complexity in the animal's environment to create decision-making and other mental stimulation. Normal behaviors such as grooming,

exploration, foraging, and burrowing are to be encouraged and monitored. Abnormal behaviors that include self-mutilation, stereotypic behaviors (pacing, bar biting), or aggression should be monitored and corrected, when possible.

Federal Classification of Crimes Against Animals

The Federal Bureau of Investigation (FBI) reclassified crimes against animals in 2016 as a Group A offense and included cases in the FBI's National Incident Based Reporting System. The motivation for the reclassification was the findings of studies which revealed a link between animal abuse and domestic violence, child abuse, and other violent crimes toward people.

If you have comments or you're interested in particular animal handling subjects, contact us at CBC@BetterAnimalHandling.com

Now let's recap the key points to remember from today's episode:

- 1. Waivers of responsibility do not protect handlers when they fail to control an animal due to incompetence or negligence.**
- 2. Handlers of animals can be held responsible for injuries sustained when someone is injured in attempting to avoid the animal.**
- 3. More than 30 states in the U.S. consider at least one form of animal cruelty a felony.**

More information on animal handling can be found in my books, *Animal Handling and Physical Restraint*, *Concise Textbook of Small Animal Handling*, and *Concise Textbook of Large Animal Handling* all published by CRC Press and available on Amazon and from many other fine book supply sources.

Additional information is provided at: www.betteranimalhandling.com . This website has more than 200 past podcasts with notes on handling of dogs, cats, other small mammals, birds, reptiles, horses, cattle, small ruminants, swine, and poultry.

Don't forget, serious injury or death can result from handling and restraining some animals. Safe and effective handling and restraint requires experience and continual practice. Acquisition of the needed skills should be under the supervision of an experienced animal handler.