

THE LEGAL BEAGLE

SPRING 1997



A Publication of the Palo Alto Humane Society for Attorneys and the Clients They Serve

W I L L S , T R U S T S , A N D E S T A T E S

Are They Protected If Something Happens to You?

Our pets offer us undying loyalty and unconditional love. In return, they ask for nothing less than a sense of belonging — of being part of the family. Unfortunately, every year at the Palo Alto Humane Society, we hear of animals abandoned through the illness or death of a human companion. What will happen when you (or your clients) are no longer around to protect and care for them? Thanks to **ForeverCare**, you

(or your clients) can provide for them as you do for the rest of the family.

PAHS' **ForeverCare** is a special program that will provide for your pets for their lifetime. It ensures that a loving home will be found, and provides a lifetime of follow-up to ensure that their health and well-being will always be provided for.

The reality is that we cannot assume that the executors of our estates will know what is in the best interest of the animals who are our companions. The only way to be sure they are protected is to make direct reference and provision for them in your will, and in any instruments of trust you may prepare. Since 1990, Probate Code section 15212 allows trusts for the benefit of companion animals.

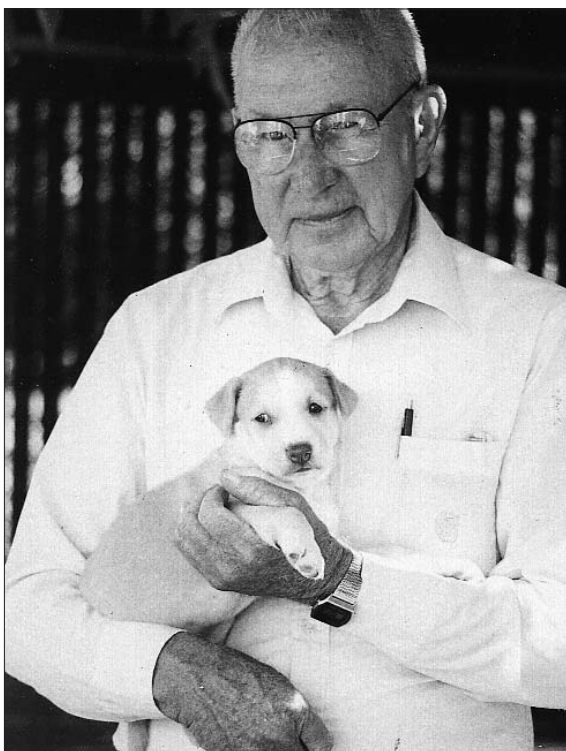
At PAHS, we can help. We will provide a lifetime of care for your pets. This includes a foster home until a permanent loving home is found, both carefully screened, with follow-up care to ensure your animals' continued health and well-being. If, for any reason, your pet cannot stay in his new home, he or she will be brought back to us, for care and placement.

In California, as many as 80% of cats and 60% of dogs that are

taken to traditional humane societies and animal shelters are routinely euthanized while there, many before they are ever offered for adoption. At the Palo Alto Humane Society, we believe that every animal has a right to life, and deserves care and respect. Because we espouse a no-kill philosophy, we offer unmatched security for the lifetime of your animal. Every animal we take in is placed in a loving home.

Our name says Palo Alto, but our work on behalf of animals knows no boundaries. The Palo Alto Humane Society has been serving all the communities on the Peninsula since 1924. Call us for peace of mind — yours and theirs. ■

ForeverCare:
providing love and protection for their lifetime.



*You are never too young to plan for your pets. **ForeverCare** will ensure a loving home for your pets for their lifetime if something happens to you.*

Note:

We are often confused with the City of Palo Alto Animal Services. The Palo Alto Humane Society is not the animal shelter. We are a charitable animal assistance and welfare organization supported by our members and donors. Our programs help people and animals and are geared to respond to the needs of our community and its animal friends. For a complete list of programs of the Palo Alto Humane Society, contact us at P.O. Box 60715, Palo Alto, CA 94306; (415) 327-0631. ■

Remembering the Animals in Your Will

Some estimates claim that there are as many as 30 to 60 million homeless cats in the United States. They live in alleys and parks, behind restaurants, and on school campuses. Left to fend for themselves, or targeted for roundup and killing, these cats often live precarious lives. But there is another answer. In 1996 alone, with the help of the Palo Alto Humane Society, over 70 volunteers helped spay and neuter 800 of the Peninsula's homeless cats, and over 400 of those were placed in loving homes. All are receiving daily care — without a single cat losing its life.

You (or your clients) can contribute

significantly to the lives of thousands of homeless and abandoned animals by remembering the Palo Alto Humane Society in your will.

Your contribution will help avoid or lower federal estate taxes. And whether your concern is for the care of homeless cats, the rescue of abandoned dogs, and/or other animals, a charitable bequest to the Palo Alto Humane Society will give a much-needed boost to an effort that will continue your love of animals — well beyond your lifetime.

In 1996, among other things, PAHS:

- stopped the trapping and killing of hundreds of raccoons in Foster City
- spayed 800 homeless cats and found homes for close to 400

- rescued puppies abandoned in a cardboard box on an East Palo Alto roadway
- taught 2,500 schoolchildren respect for and care of animals and wildlife
- lobbied on behalf of chained elephants
- provided safe haven for the pets of a woman who fled her home for a battered women's shelter.

All of this was made possible by donations from individuals like you. ■

For information on any of the programs and services of the Palo Alto Humane Society, please call or write us at:

**P.O. Box 60715
Palo Alto, CA 94306
(415) 327-0631**

P R O - B O N O - O

PAHS Is Looking for a Few 'Friends of the Court'



The Palo Alto Humane Society is looking for a few good attorneys! Periodically, PAHS' work on behalf of animals requires an advocate with legal expertise.

In 1996, for example, Foster City announced plans to subsidize the trapping and killing of raccoons. Under the plan, Foster City would have allocated thousands of dollars to a six-month

pilot program to rid the city of raccoons. The program may have resulted in the deaths of hundreds of raccoons. Because raccoons were having and raising young during that time of year, many infant raccoons would have been orphaned and left to die of starvation.

Attorneys for PAHS convinced the City Council to abandon the plan by demanding that it comply with the California Environmental Quality Act, a state law mandating that the City undertake an environmental assessment regarding the effects of such a proposal on wildlife and the environment. Foster City officials agreed to set up a wildlife committee made up of wildlife experts, animal protection advocates, and City officials to humanely address the concerns of residents regarding the foraging of these nocturnal animals.

PAHS has also filed amicus curiae briefs on behalf of animals to enjoin abuse, take custody of abused animals, and interpret legislation. Our legal advocacy, legislative analysis, and lobbying has stopped the roundup and killing of homeless cats, forced an investigation by two federal agencies of the conditions of animals mistreated in one of the nation's largest animal research facilities, increased awareness of the abuse of elephants in captivity, made tremendous strides in the care and protection of animals raised and killed for food, and brought to light the dangers associated with transporting pets on commercial airlines.

If you are interested in advocating on behalf of animals, preparing amicus briefs, doing legal research, critiquing legislation, or appearing in court by becoming part of our *Legal Beagle* core of pro bono attorneys, please call us at PAHS. ■



Kramer v. Kramer, Revisited: What About the Pets?

Late last year, we received a call from a distressed woman who was forced to flee her abusive home for the safety of a battered women's shelter. But there was one big obstacle: the shelter had a "no-pets" policy. Afraid to leave them with her abusive husband, she called us for help. We provided safe haven for her animals.

Studies show that nearly three-quarters (71%) of abused women with pets reported that their male partners had threatened to hurt or kill and/or had actually hurt or killed one or more of their pets. Indeed, almost 20% of the women studied actually delayed leaving the abusive home for the safety of a shelter because there was no place to take their pets.

The Palo Alto Humane Society would like to alert Family Law lawyers involved in custody disputes or divorce proceedings to remember to include the animals within their protective advocacy. Please call us for help in placing animals or finding temporary shelter. ■



Fido and the Fourth Amendment

What do dogs have to do with the constitutional protection of the Fourth Amendment? That question was answered in Conway v. Pasadena Humane Society (1996) 45 Cal.App.4th 163. In Conway, humane society officials observed a dog running at large, a violation of a local pet ordinance. The dog entered the open back door of his — the Conways' — home. After knocking on the door and receiving no response, animal control officers entered the home and took possession of the dog. Consistent with local law, they posted a notice of impoundment on the front door.

The Conways were subsequently convicted of violating the local leash law. But they fought back by filing a civil rights suit alleging that the Humane Society had violated their Fourth Amendment rights. The trial court dismissed the case after finding that no such violation occurred. The Court of Appeal in Conway reversed.

The Fourth Amendment of the Constitution provides in relevant part that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated..." (U.S. Const. Amend. IV.) A "seizure" of property occurs, within the

meaning of the Fourth Amendment, when "there is some meaningful interference with an individual's possessory interests in that property." (United States v. Jacobsen (1984) 466 U.S. 109, 113.) A pet is an "effect" or "property" which can be seized. (Leshner v. Reed (8th Cir. 1994) 12 F.3d 148, 150.) The taking of a pet is thus recognized as a seizure under the Fourth Amendment, as is entering a private home to take a pet.

Despite the local leash law which allowed animal control officers in Conway to enter unoccupied premises to impound animals found running at large, the Court of Appeal ruled that local ordinances could not dispense with the Fourth Amendment. In short,

"a statute does not trump the Constitution." (People v. Ortiz (1995) 32 Cal.App.4th 286, 292, fn. 2.)



Local laws which allow animal control officers to enter private yards and seize animals are becoming increasingly common. For example, a neighboring county recently passed an ordinance that allows animal control officers to enter a private yard and impound a dog when neighbors complain of excessive barking. The Conway decision could put an end to such practices, or allow for a civil remedy for its violation. As such, the Conway decision provides an important safeguard both to the sanctity of our homes and the constitutional protections afforded our pets. ■

PAHS is dedicated to rescuing homeless animals. Blackie, who was found living in an alley and in need of emergency surgery, was nursed back to health and is now in a loving home. You can contribute to the lives of thousands of homeless animals like Blackie by remembering PAHS in your will.

The "Pig" That Saved the Pig

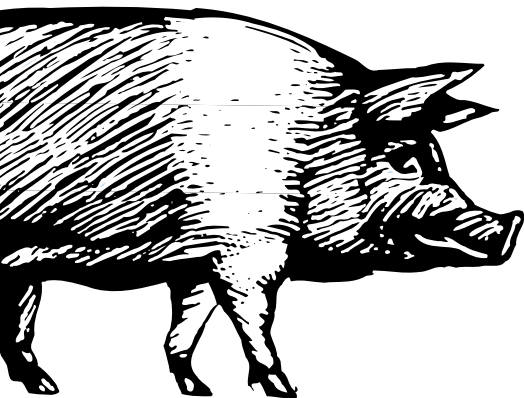
True Stories of Police Officers and the Animals They Rescued

In my job as a criminal prosecutor, every day I see the "ugly" side of humanity. My days are spent poring over reports of gang shootings, domestic violence, child abuse, and, of course, animal cruelty. I also see the hard work that our local police officers do to protect members of our communities—both human and non-human.

During my last trial, in jury selection, a member of a local animal protection organization told the court that she could not be fair since she believed that police officers could not be trusted. She felt this way, she said, because police didn't take animal issues seriously.

The judge looked at me and inquired if I had anything to ask of her. I wished I could tell her about the police officer who kicked in the door of a burning house when he heard a pig squealing and saw him lying lifeless on the floor. He pulled the little pot-bellied pig from the house and revived him with an oxygen mask. His friends teased him that he was "the pig that saved the pig." But as for putting his life on the line for a pig, it was no joke.

He said he was just glad he could help out.



I wished I could tell her about the police officer who kicked in the door of a burning house when he heard a pig squealing and saw him lying lifeless on the floor.

I wished I could tell her about the four police officers who spent six hours in darkness, one of whom lowered himself from a rope into a 40-foot pit to save a cat that had fallen in. "If you can save any life," said one of them, "be it an animal or a human, it is worth the trouble."

I wanted to tell her of the police helicopter that pulled a drowning dog from a rocky inlet, and the police officer on board who performed CPR during the flight. "I can't believe it," he said when the dog started breathing again. "It was a great feeling."

But there was no time. It was late in the day, I had four long trial days ahead of me, and I was tired. I smiled wryly and shook my head "no." The judge excused her, and we stayed the rest of the afternoon until we had our jury.

We have come a long way since the days of "Adam-12." What draws people to the screen these days are stories about bad cops and excessive force. As is true of all professions, there are a few bad apples. Unfortunately, those are the ones everyone seems to focus on.

But in my line of work, I see a lot of the good. Not only the police officers who spend countless hours to protect our homes, our families, and our lives. But also those who would risk life and limb for a drowning dog, a trapped cat, or a pig caught in a fire.

Humanity has its shining moments, when humans reach out to animals in touching and heroic ways. Those are the stories that keep me going, as I pore over page after page of the "other" side of humanity. ■

Nathan J. Winograd is a deputy district attorney in Marin County. He is president of the Palo Alto Humane Society.



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Palo Alto Humane Society
P.O. Box 60715
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