



# How Shelter Pets are Brokered for Experimentation

Understanding Pound Seizure

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This book is dedicated to Lilac, a tiny pale tortoiseshell cat with large almond-shaped green eyes, who was snatched out of my arms, and away from her three-month-old baby, Linus, on June 10, 2001, by a Class B dealer and transported to an unknown destination and an unknown fate. Regardless of what research experiments were inflicted on Lilac, her life did not end in vain as she inspired in me the passion to dedicate my life to eradicating pound seizure in the United States. This book is dedicated to her memory and her honor, along with the hundreds of other pets that I knew that were sacrificed in the name of research and education. It is also in honor of all the men and women who spend countless hours, tears, and sleepless nights attempting to rescue and re-home cats and dogs from shelters that practice pound seizure. Your efforts are not in vain, and the pets will never be forgotten.

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- And most important, to my parents, friends, and kitties, Oscar, Lucy, and Sammy, for supporting me as I continue to advocate on a very emotional topic.

"Never doubt that a small group of thoughtfully committed citizens can change the world; indeed, it's the only thing that ever has."

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## Discovering the Secret

Why am I writing a book exposing the secret world of pound seizure? The reasons are numerous and emotional. I have been an advocate against pound seizure since 2000 and have celebrated numerous successes in protecting thousands of shelter animals from this outdated and barbaric practice. But that success has not been complete. I have suffered years of sleepless nights worrying about the shelter animals in the path of pound seizure, and those already lost. I have been threatened, faced with intimidation tactics, and even had my chosen career forcibly stripped from me all because I was using my voice to speak up for those that could not and to stop a practice that communities do not support.

I grew up in Owosso, a small town in mid-Michigan, surrounded by family and various animals. I always found animals had a keen ability to listen and understand humans, especially when life was difficult or stressful. So it is no surprise to those who know me that I began volunteering at an animal control shelter when I was in the thick of my career as a criminal prosecutor, and that my career steered me toward becoming an animal advocate.

Being a prosecutor was certainly my calling, as was helping animals. After my first year in law school, I knew I was meant to be a prosecutor. I thrived on being in control of my own court docket, caseload, and courtroom. I became an assistant prosecutor in 1995, quickly rose through the ranks in the office to a felony-case assignment, and was given sensitive and difficult cases to handle. The day-to-day toll of handling cases of despicable acts of inhumanity and encountering the worst behavior imaginable started to alter my once trusting personality. After five years, I no longer recognized the person staring back at me in the mirror. My smile was not genuine, my eyes had sadness around the edges, my heart felt dull, and my feelings about the world had turned cynical. Anyone who knew me as a child would not have recognized the person I had become. Progress and success in my career had taken its toll on my spirit. So I decided to get back in touch with my sensitive side and volunteer to help animals. How could anyone be cynical and sad when surrounded by animals, especially homeless animals that simply wanted to be hugged and loved? That happened in January 2000, and I had no idea of the life-altering impact such a move would have on my life, or the life of thousands of animals thereafter.

When I started volunteering at the local animal control shelter I was unaware of the concept of pound seizure, or that the shelter I was providing volunteer services to was engaging in this practice. I quickly learned that the shelter had a high euthanasia rate and that a small group of volunteers were dedicated to reducing that rate. Approximately 4,000 animals arrived at the shelter each year, of which only about 400 animals were placed in adoptive homes. The remainder were euthanized or sold for experimentation. The volunteers banded together to form a 501(c)(3) nonprofit organization. We were organized and determined to get as many shelter animals safely into homes, and to make the shelter a better place for animals and humans. We were creative and immediately successful at increasing the adoption rate. Our success, however, was not met with enthusiasm by the staff or shelter director.

I was the volunteer in charge of the shelter cats. I kept a log of all the cats and made a list of the cats that were available for adoption; that is, those that had been at the shelter the longest (and therefore had the least amount of time left). I took photographs of the cats, created a website to showcase both cats and dogs, helped raise money for our advertising efforts and veterinary costs, and even started fostering cats and kittens at my house that needed to be removed from the shelter in order to survive. I would also arrange for other animal groups to rescue cats from the shelter before the time ran out. For me, every animal that made it out of the shelter alive was a miracle. The shelter staff did not make our work easy and often went out of their way to thwart our efforts. I wondered why and

soon began to realize why the shelter was not encouraging more rescues and adoptions of the shelter cats and dogs.

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When an animal “went missing” the shelter staff was hesitant and often downright resistant to answering our questions. Euthanasia at the shelter occurred daily and during the summer months in high numbers. It was terrible to learn that a pet that I had worked with had been euthanized, primarily due to overcrowding, after I had exerted efforts to find him or her a home. It was terrible to watch the euthanasia technician smirk at the volunteers as he would come into the kennel area and ask, “Who gets to die today?” One time he strolled around the shelter in front of visitors and volunteers with a wheelbarrow of dead animals and all the while whistling. It was ironic that I chose this so-called environment of inhumanity to help me get back in touch with my genuineness. It made me angry and seemed to contradict why I was there. But once you start helping shelter animals, there is no turning back.

It was upsetting to learn that a pet that I and my fellow volunteers had worked to save had been euthanized, but it was even more disturbing when the shelter staff refused to provide us with information on the disposition of the animals so that our records and website would be accurate. The shelter staff’s negative reactions to our inquiries seemed odd and suspicious. Once I learned about the pound seizure, however, their behavior became understandable since they were attempting to keep the process “under the radar.”

Two months into my volunteer service, I adopted my Flame Point Siamese cat, Sammy. He had spent time in a cage in a room full of dogs for more than six weeks. He had beautiful crystal blue eyes, was already neutered (which meant he had come from a home), and was friendly and docile. He always “talked” to me when I visited so I was surprised that no one had adopted him. His characteristic meow, which sounded more like the name “Monroe,” caught my heart. I was further surprised that the shelter had kept him six weeks since many of the cats and dogs were only kept for the minimum holding period of either four or seven days under Michigan law.

As a shelter worker processed Sammy’s adoption paperwork, he commented that Sammy was lucky because “the dealer was eyeing him.” I had no idea what he meant and brushed off the comment. When I reflect back on that moment, I now know that the dealer was a U.S. Department of Agriculture (USDA) licensed Class B dealer, an animal broker who took the shelter cats and dogs and resold them for research.

Sammy is now twelve years old and spends his days seeking out a comfortable lap to curl up in and sleep. His nose drips when he is happy, and he has grown a bit deaf, resulting in more boisterous “Monroes.” Over the years, I have learned that a docile personality like Sammy is what dealers seek since those animals will be easier to handle in the laboratory. They want former family pets, not ferocious or vicious animals that cannot be touched. It makes me shudder to think what fate could have awaited Sammy had I not adopted him.

In September 2000, about nine months into my volunteer service, five friendly and adoptable cats disappeared from the shelter’s cat room. It was then that I learned of the pound seizure. When I went to the shelter office to ask the staff about the whereabouts of the cats, one shelter worker quietly pulled me aside and told me about a Class B dealer who came to the shelter every week to take away the cats and dogs that were slated to be euthanized.

I recall feeling dizzy as I listened to the voice of the shelter staffer tell me about the pound seizure—she sounded as if she were talking underwater. She told me of how the shelter allowed the dealer to pay ten dollars to take whatever cats and dogs he wanted that were slated for euthanasia. He would then resell them for a profit to research or training facilities. I could not process if what she was saying was true. It was as if I was hearing something out of a science fiction novel. Like most people, I had never heard of such a thing. I started to become sick to my stomach. Then I got angry.

Having this knowledge put the behavior of the shelter staff and director in context. I became more aware of the goings-on at the shelter. As evasiveness and miscommunication seemed to grow, I learned to put all communication in writing with the shelter director. When I discovered the cats being sold for research on that unforgettable September day, I sent an e-mail to the shelter director questioning why those cats were selected since they had an “adoption hold” placed on them by a volunteer, and all were scheduled to be advertised on the Pet Page in the local newspaper in two days. I requested that the cats be returned immediately. Within thirty minutes, I received an e-mail response from the shelter director claiming no knowledge of the rescue holds and attempting to put the blame back on the volunteers. I found that type of response typical. However, the paperwork procedure at the shelter was hardly the best organized system either. It simply involved a card-file method where shelter staff would staple a “rescue hold” notice to the animal’s inventory card. We also had to rely on the shelter staff making these rescue notations on the animal’s inventory card.

I could feel the rage rising up within me. I was appalled, in particular, by the dismissive behavior of the shelter director. I said a prayer that evening for all the animals sold for research: Brigitte, a tiny black-and-white cat whose loud purr could be heard whenever I approached her cage; Wally, an outgoing brown tabby who liked to head-bonk visitors; Sinatra, the curious blue-eyed tiger with a soft meow; Bootsie, a huggable long-haired black kitty with white boots; and Hershey, a long-haired chocolate Maine Coon who loved to give kisses. For the dealers and researchers to label these “throwaway cats” was unspeakable to me. I knew them, named them, and loved them.

Learning about the existence of pound seizure was a pivotal moment in my life. But it quickly became apparent that this topic was *verboten* at the shelter. When I asked questions regarding cats and dogs that “went missing,” the shelter director’s vague answers and stern looks to his staff told me that something was not right. What was the big secret? Why was the shelter staff being silenced? Was the community unaware of this? Why wasn’t there a sign at the front counter advising people that the animal they dropped off might be sold for research? I had so many questions, and no one was providing any answers. Instead, the shelter director seemed to be retaliating against the pets if the volunteers, including myself, asked too many questions. Whether he was or not, it was an effective technique to euthanize a shelter pet or sell it for research purposes in an attempt to control or silence us. Those tactics never worked on me; instead, it empowered me to keep talking and keep gathering evidence.

As an attorney sworn to uphold the law and as a person who believed in the First Amendment right to freedom of speech, I was not going to go away or remain silent. When animals disappeared, I asked questions. When shelter staff seemed afraid to talk, I pursued the issue. If I did not receive sufficient answers, I did what any tax-paying citizen is entitled to do—I filed a Freedom of Information Act request with the shelter. Those requests required the shelter to provide documents to me that would answer my questions. Those documents eventually helped to expose the lies and wrongdoing. As volunteers became increasingly inquisitive, we mobilized to get the animals removed from the shelter. My training as a prosecutor prepared me to stand firm, gather evidence, and speak loudly for the animals. And I did.

The most tragic and memorable incident occurred on June 10, 2001, while I was at the shelter during my lunch hour from work. I was spending time with a tortoiseshell cat named Lilac and her three-month-old black kitten, Linus. I had been working on finding a foster home or animal rescue organization to take Lilac and her son. I already had Winston, Tricks, and Tootsie, three shelter cats in foster care at my home and simply did not have room for Lilac and Linus. I wrongfully thought they were safe because I had placed a “rescue hold” on both of them knowing I would have a foster home available that weekend.

On that day, I was cradling Lilac in my arms and reassuring her that I would have her and her son

safely out of the shelter by that weekend when a man entered the cat room and took her out of my arms. At first I thought he was an adopter. But he had a cold and uncaring look in his eyes and did not handle her with the love and care of an adopter. When I inquired as to whether he was adopting Lilac, he said that she was being taken away to “save human lives.” I immediately realized he was a Class B dealer.

I hurried to the shelter office and quickly explained to the staff that I wanted to rescue Lilac and Linus immediately. As I pulled out my wallet to pay the rescue fee (which was three times more than what the dealer had to pay), the shelter director came out of his office with a glib smirk on his face. He informed me that Lilac was not available for rescue. As I attempted to reason with him that I could earn thirty dollars in a rescue fee for Lilac and Linus versus ten dollars from the dealer for Lilac, he simply walked back to his office with a look of satisfaction on his face and shut the door. The shelter staff stood frozen, apparently unwilling to process the paperwork that would have saved them. I was aghast that the shelter was allowing a dealer to take priority over a rescue. I was dismayed that the shelter was turning down thirty dollars when it would only earn ten dollars from the dealer.

When I returned to the cat room a few minutes later, I found Linus alone in his cage. He was meowing insistently and visibly in distress that Lilac was gone. I never saw her again. The dealer must have taken her out the back door. I was sick to my stomach and did not have the energy to walk through the shelter to see what other pets were victims of the dealer. As I cuddled Linus with tears of rage streaming down my cheeks, I vowed to all the cats in that room that I would keep them safe and free from pound seizure. I eventually kept both of those promises, including getting Linus safely out of the shelter the next day.

I was not able to save Lilac, and I have never forgotten that. I have dedicated myself since then to raising awareness regarding pound seizure so that other concerned citizens will rise up to ensure that shelters in their community do not engage in this outdated and inhumane practice.

This book is not about the legitimacy of animal research. Although a chapter will be devoted to some progressive research techniques that do not involve animals, the focus instead is on the betrayal of using former family pets as research objects. It will discuss the successful advocacy techniques that we used to stop pound seizure in June 2003 at the shelter where I volunteered. That started a chain reaction of other successful pound seizure campaigns; as of late 2009 only two shelters in the entire state of Michigan practice pound seizure. Subsequent chapters will describe the casualties along the way, including how I sacrificed my career as a prosecutor in order to continue down the path of truth in exposing and stopping pound seizure in my community. Currently as the vice president of public policy for the American Humane Association, I oversaw and initiated legislative initiatives for that organization. In 2009, I drafted a bold and strong anti-pound seizure bill for Michigan. The legislative campaign will be described in detail in chapter 3. In that position, I assisted other states that struggle with pound seizure.

The practice of pound seizure turns a government-funded shelter into a pawn in the highly funded and controversial research industry. A recent undercover investigation shut down one highly profitable Class B dealer in Arkansas that brokered stolen pets for research. In spite of vehement claims from the research and medical communities that “random source animals” obtained from shelters are needed to cure life-threatening diseases, some scientists disagree with those bold and sweeping claims, and more states are passing legislation to prohibit pound seizure. Some states have mandated alternative forms of medical testing without using animals and to encourage universities to progress to advanced techniques of alternative testing methods. But the old-guard research community that fails to progress with advancing technology still believes that squirting shampoo in the eyes of a pet is a way to keep people safe. And too many shelters continue to prefer pound seizure rather than re-home pets.

This book has been painful to write, yet mainstream America needs to know about the practice of



pound seizure. It will present the facts so that you, the reader, can decide and, due to the secrecy of this business, it will raise more questions than it can answer. But it is my hope that it will empower you into action.

*Allie Phillips*

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## What Is Pound Seizure

Animal Shelters in the United States

Municipal and government-funded animal shelters (commonly referred to as animal control shelters or “pounds”) in the United States have two main duties. The primary duty is to enforce state and local laws regarding animals. The secondary duty is, and should be, to humanely house homeless, abused, neglected, stray, and surrendered pets, usually cats and dogs, and adopt them into appropriate homes. The movement has begun to stop viewing an animal control shelter as a “pound” that simply rounds up unwanted pets and disposes of them, primarily through euthanasia.

Current shelter best practice, as endorsed by the National Animal Control Association, is that shelters should work with the community to locate adoptive homes for the animals, as well as upgrade facilities to provide compassionate housing for pets while providing a high quality of life and reducing disease transmission. Municipal shelters now recognize that the animals in their care are not “just animals,” but are sentient beings protected from harm under the laws of all fifty states and therefore, are entitled to humane and compassionate care while housed at a shelter. The Humane Society of the United States estimates there are between 4,000 and 6,000 animal shelters in the United States.<sup>1</sup>

Animal sheltering in the United States can be broken down into three basic categories: First, open-admission municipal shelters are found in most communities. These are the traditional animal control shelters that must take every animal that arrives on its doorstep, sometimes including wildlife and feral animals. They are referred to as “open admission” because no animal is denied entrance. These shelters are commonly called animal control shelters because the shelter is established by local government and is responsible for controlling the pet population in their community and enforcing local animal control laws. These shelters tend to have high euthanasia rates and few resources. The Michigan shelter where I volunteered for many years is an open-admission municipal shelter.

It is unknown how many open-admission animal shelters exist in the United States since national data on shelters and animals is not maintained. Although many animal control shelters and agencies still use the name—which implies they are duty bound to control animals for the benefit of the human population—there has been a move to reframe the concept toward “animal care and control.” Such terminology implies that the shelter must care for the animals, not simply warehouse them until disposal.

The second type of shelter is a limited-admission shelter that is often privately owned and, thus, not government funded. They are frequently called “humane societies” or “SPCAs,” even if they are not specifically associated with the Society for the Prevention of Cruelty to Animals. And some are deemed “no-kill” shelters since the shelter can limit the number and type of animals it will admit and therefore, can ensure that no pet is euthanized due to overcrowding. These shelters are often supported through private donations or grants and have the resources to provide exceptional care and housing for the pets until an adoptive home can be found. One such limited-admission shelter is King Street Cats in Alexandria, Virginia. This shelter rescues approximately 250 cats and kittens each year and accepts cats that often would not fare well in a traditional shelter, such as pregnant and nursing cats, orphaned infant kittens that need bottle feeding, elderly cats, sick and injured cats, and cats with behavior issues or emotional trauma. King Street Cats frequently receives calls from open-admission shelters requesting rescue assistance for a cat or kitten whose time is up or that the shelter is unable to care for. King Street Cats also rescues stray cats and accepts owner-surrendered cats. No cat or kitten

ever euthanized at King Street Cats due to overcrowding or behavioral issues that may make adoption efforts difficult. Cats are allowed to live at King Street Cats as long as it takes to find a suitable adoptable home.

The third type of animal shelter is an animal rescue organization that is frequently formed as a nonprofit charitable organization. These organizations are created because citizens want to help animals in their community. They may rescue animals from the open-admission animal control shelter before the animal is euthanized or sold for research. Animal rescue organizations usually do not have a shelter; instead, they often house pets in foster care situations in volunteer homes or through adoption-a-pet programs at local pet stores. Although there are no statistics on the number of animal rescue organizations in the United States, there are estimated to be more than 10,000. The Petfinder website, which is frequently used by shelters and rescue groups to post animals for adoption, lists more than 14,000 participating shelters and rescue organizations.

Limited-admission shelters, no-kill shelters, and animal rescue organizations have proliferated over the past decade. They often provide relief to overburdened municipal animal control shelters. Citizens who find stray animals or need to surrender their own pet to a shelter often gravitate toward a no-kill shelter or a rescue organization so that they have the peace of mind in knowing that the pet will not be euthanized solely due to lack of space or due to behavioral issues, which is too often the case with a municipal animal shelter. It is these organizations that often are thrust into campaigns to stop pound seizure at shelters.

Progressive shelters, including many open-admission animal control shelters, are now engaging in community outreach efforts to reduce the pet overpopulation problem and increase pet adoptions. It is estimated that at least four million shelter animals per year are euthanized.<sup>3</sup> That is approximately 11,000 shelter animals euthanized each day. These progressive shelters are working to reduce the number by creating volunteer programs where individuals assist the shelter in cleaning cages, feeding the pets, bathing animals, walking dogs, brushing cats, and providing extra care to frightened or injured animals. The shelters are rebuilding facilities to ensure that the housing is sensitive to the various species of animals in their care. There are efforts to maintain appropriate housing for all animals, including the creation of cat-only rooms with spacious cages where cats are free to jump and climb, free-roaming rooms, dog runs with access to a secure outdoor run, bird rooms with plenty of perches, and quiet rooms for potential adopters to meet privately with a pet. Shelters are also creating foster care programs where volunteers can take pets into their home and care for the pet until an adoptive home is found or it is appropriate to be returned to the shelter to be adopted. This is especially popular when dealing with pregnant cats and dogs and their newborn offspring.

Additional efforts made by progressive shelters include increased marketing and public relations, fund-raising events, open houses, and attending other community events to promote the adoption of the shelter pets and to educate the community regarding issues such as spaying and neutering, microchip identification of animals, and proper animal care. These progressive shelters may even establish low-cost spay-neuter and vaccination clinics to assist the community. It is these shelters that overwhelmingly do not engage in pound seizure, unless mandated by law, because they have taken the extra step to understand the importance of caring for homeless and maltreated pets until a new home can be found. They understand the contradiction in selling a pet to research and betraying the community that supports the shelter.

Other shelters are not up to par with the progressive shelters. These shelters are outdated, run-down, and in need of repairs. They refuse the assistance of volunteers, do not photograph the animals for placement on an adoption website, do not engage in fund-raising events, provide minimal, if any, medical treatment to animals, and make it inconvenient for the public to come to the shelter to view animals. The shelters are often insufficiently funded by their local government, yet do not take the

step toward raising funds or permitting volunteers to help. The shelters are depressing to enter and therefore, deter most people from coming in to view the animals. The animals are warehoused in small and dirty cages, provided whatever pet food the shelter has that day, food and water bowls are filthy, and pets are not given any comforts such as a blanket to lie on or a toy to play with. The pets are rarely, if ever, stroked, walked, or shown any form of comfort or kindness. Sometimes these animals lie in their own filth, and their cage is hosed down while they are still in the cage. Some of these shelters euthanize the animals en masse in carbon monoxide or dioxide gas chambers, rather than individualized injection, and some shelters may even shoot animals. The animals are traditionally held for the minimum time period established by law, usually just a few days, and then are disposed of. Yet, it is these animals that most need help. This type of shelter is also the most likely to engage in pound seizure.

In the 1940s, pound seizure became a common practice in taxpayer-funded animal shelters across the country and resulted in numerous state laws requiring the practice. Pound seizure, sometimes called pound release, involves a shelter selling or giving away cats and dogs to Class B dealers or random source animal brokers licensed by the U.S. Department of Agriculture, who then resell the animals for research and experimentation. It also involves shelters providing animals directly to research laboratories or university training programs.

Many pound seizure laws were enacted as a reaction to the expanding pet overpopulation problem and a desire to use unwanted animals for research rather than to breed more animals for research. In essence, why euthanize an animal if that animal could be used in research to help better the lives of humans and animals? Minnesota was the first state to pass a law requiring pound seizure in 1949.

At that time, there were no laws governing the protection of animals in research facilities. However, after a Dalmatian was stolen, sent to a research laboratory, and killed, the Laboratory Animal Welfare Act became federal law in 1966 (it is now known as the Animal Welfare Act [AWA]).

If allowed by state law, research facilities, such as local universities with research departments or private research laboratories, are able to directly obtain cats and dogs from shelters. Class B dealers will also canvass the shelters for cats and dogs that prescribe to orders from research facilities. Some Class B dealers obtain shelter pets for free, but some shelters charge a nominal fee, if allowed by law. Some Class B dealers contract with a shelter to obtain animals for free in exchange for the dealer performing other services to the shelter, such as carbon dioxide gas barrel euthanasia.

In Michigan, state law sets the maximum fee at \$10 for a Class B dealer or research facility to obtain an animal. In my experience, the fee received by a shelter from a person adopting or rescuing a pet was much higher than that received from a Class B dealer. Thus, it was not in the shelter's financial interest to offer up animals to Class B dealers. Yet, what I encountered and continue to observe in some Michigan shelters is that the B dealers are preferred over rescue organizations.

It is unknown how many shelter animals are sold into the world of experimentation because accurate records are not available from many states. These former family pets are subjected to experimentation that often ends in death. The experimentation can be for cosmetic testing, human animal drug testing, medical technique or tool testing, biochemical testing, and much more.

#### Pound Seizure Participants

Who are the players in the world of pound seizure? First, there are Class B dealers who are licensed by the U.S. Department of Agriculture. Historically, the dealers have had little oversight into their activities due to the agency's restricted resources. They are licensed to buy, sell, or transport any animal that they did not breed or raise themselves. They are only allowed to obtain animals from other dealers, from animal shelters, or from people who breed and raise animals on their property. As described in

chapter 5, the procurement of animals often takes place where random source B dealers (RSBDs) are cited for violating the law and where the issue of pet theft has been of concern to legislators.

Currently, there are 1,070 registered B dealers in the United States,<sup>4</sup> but only nine hold the title “random source” B dealer, individuals who sell cats and dogs to research. Random source dealer broker live animals that are obtained, logically enough, from random sources. A random source animal is one not specifically bred for research and can legally include animals from shelters, from other random source B dealers, or from an individual who bred or raised the animal. Random source animals have also included stray animals, pets obtained from “free to good home” advertisements, and stolen animals; however, none of these latter means of obtaining animals are approved by the Animal Welfare Act.

Random source B dealers are required to keep records of all animals in their possession that show where the animal originated. In September 2008, because of documented concerns regarding the origination of random source animals, the USDA enhanced its policy to tighten its ability to conduct “trace backs” on the animals in the possession of a B dealer. In the 2008 policy, the USDA inspectors are required to conduct a trace back of randomly selected animals on the property of the B dealer every on-site quarterly visit. Each random source B dealer will further go through a full trace back of all animals in the possession of the B dealer at one time in the first year of the enhanced policy. The trace back requires that the B dealer provide documentation that shows where the animal was obtained, all the way back to its original source. This trace back measure was instituted to prevent dealers from obtaining stray animals or stolen animals.

“Bunchers” may have a Class B dealer license, but are generally unlicensed by the USDA, and their activities are difficult to trace. They are commonly known to be people who obtain pets from a variety of unapproved random sources, including “free to good home” pet advertisements, pets wandering the streets, and even some accounts of pets being stolen. The buncher either resells the pets to Class B dealers or to research facilities. This is a profit-driven career.

Whether a cat or dog is obtained by a buncher or a B dealer, they are labeled “random source animals” in the research business. These animals are most often family pets who lost their way and arrived, unfortunately, at a shelter that practiced pound seizure. They also include pets given up due to financial reasons or the death of the owner and pets removed from abusive or neglectful homes, puppy mills, dog fighting rings, or hoarding situations.

Additionally, the term “random source” clearly indicates that these animals do not originate from a known source such as a Class A dealer, a person who breeds animals specifically for scientific research. Class A dealers are licensed by the USDA to breed animals for commercial sales, some of which are then sold for research. Class A dealers who breed animals specifically for research provide scientists with animals that have attributes such as known genetic histories or random genes. (Class A dealers are licensed to exhibit animals, such as in circuses, zoos, and rodeos.)

Currently, Class B dealers are under no obligation to inform the public as to where they rescue shelter pets. They are required to report their sales and clients to the USDA, but only then can the public file a Freedom of Information Act request and pay the fees associated with the request to obtain the records. The activities of B dealers are cloaked in secrecy and, even when specifically asked, they often refuse to disclose the names of their clients. I have frequently heard the claim that the shelter pets are sold for “life-saving medical research,” such as cancer and AIDS research. Yet when asked to provide documentation to support such noble claims, no documentation has been provided.

In a speech before Michigan’s Montcalm County Commissioners on January 26, 2009, a Class B dealer provided the following written statement in defense of why he should maintain his pound seizure contract with the county shelter.

another 7 days to allow the owner to reclaim the animal. This allows families who have lost an animal an additional 1 day to acquire the animal which would have been euthanized, at no additional cost to the county. Animals used in medical research provide training in surgical techniques, development of new medicines and procedures. Dogs are primarily used for cardiovascular procedures and devices, bone, knee, joint and hip replacement, and older dogs are used for prosthetic research.

Cats are primarily used in neurological, AIDS, and Sudden Infant Death Syndrome research. Also consider the vaccines, wormers, cancer treatments, and heartworm medications for your animals. None of these would be available without medical research. Can anyone name just one medical advance which was developed WITHOUT the use of animals? It is a fact that animals are raised exclusively for use in research, however, the cost to raise a dog or cat from birth is prohibitively more expensive than acquiring an animal which would otherwise be euthanized. Given the limited amount of financial resources and the fact that two animals will die instead of one, it simply makes sense to use pound animals. An animal is no longer considered a "pet" once ownership is relinquished, has not been properly cared for, or has failed to be reclaimed, rescued, or adopted.<sup>5</sup>

That dealer lost his contract with Montcalm County on August 1, 2009.

Pound seizure is a profitable business. Although bunchers generally conduct their business under the radar and may not be licensed or document the animals that they obtain and resell for research purposes, Class B dealers are required by the USDA to maintain records of the number of animals in their care and how much money they earned each year. The B dealer quoted above cited his 2007 gross income as \$183,0996 and his 2006 gross income as \$196,272.73.<sup>7</sup>

In recent years, pound seizure has been on the decline. According to the USDA 2007 Fiscal Year Animal Care Annual Report of Activities,<sup>8</sup> the total number of dogs and cats used for research purposes in 2007 was 72,037 dogs and 22,687 cats<sup>9</sup> (these numbers do not differentiate between random source shelter cats and dogs and the cats and dogs bred for research). In 2007, there were a total of 1,027,450 animals used in research;<sup>10</sup> thus only 9 percent of research animals were cats and 91 percent were dogs. By contrast, in 1979, 211,104 dogs and 69,103 cats were used in research, comprising more than 15 percent of research animals.<sup>11</sup>

I believe the decline in pound seizure has occurred for two reasons: First, research and university training facilities are evolving toward non-animal research practices, including the use of computer simulated and mannequin programs. And second, more shelters have specifically banned the practice of pound seizure, often due to public outcry or a recognition that pound seizure is contrary to the purpose of humanely sheltering animals.

A review of records from the state of Michigan, a state with a law that allows individual shelters to decide whether to engage in pound seizure, shows that pound seizure is on the decline. In 2004, 2,340 shelter cats and dogs were documented as being sold to research<sup>12</sup> whereas only 721 were documented in 2008.<sup>13</sup> In Michigan, I believe the decline is directly related to increasing public awareness and advocacy to end the practice.

The activities surrounding pound seizure are fraught with questionable conduct, and not just on the part of the B dealers. City and county officials, including animal shelter directors and staff, cling to this outdated and unwanted practice as if it were a lifeline. I have often wondered whether there was an incentive for community officials to be involved in pound seizure, but have not been able to obtain documentation to prove my suspicions. Accounts in chapter 11 will detail some of the activities of local government to maintain a grasp on pound seizure at any cost.

## Laws and Legislation on Pound Seizure

History of Protecting Research Animals

Pepper was a Dalmatian who loved car rides and enjoyed accompanying her “mom,” a nurse, to work at a hospital in Allentown, Pennsylvania, and enjoyed mingling with the patients. In 1965, it was unimaginable that Pepper would be instrumental in the passage of the 1966 Laboratory Animal Welfare Act (renamed the Animal Welfare Act [AWA] in 1970) as a means to protect animals in research facilities and to curtail stolen pets from ending up in laboratories. Pepper’s life and demise became a tipping point in American history in the protection of animals.

It all began on June 22, 1965. On that day, the lives of the Lakavage family from Slatingsburg, Pennsylvania, changed forever. Pepper had been let out in the backyard that evening and a half hour later, she was gone without a trace. The Lakavages scoured the area searching for Pepper. Someone reported seeing a dog matching Pepper’s description being loaded into the back of a truck near the Lakavage farm. That is when they knew she had not run away; instead, she had been stolen.

As detailed in a June 2009 exposé on pet theft on *Slate*,<sup>1</sup> an online website, pet snatching is not a recent phenomenon. Animal auctions, sometimes involving stolen pets, have gone on for decades. One particular auction in Lancaster County, Pennsylvania, took place in an Amish market with hundreds of animals being traded each week. Mrs. Lakavage attended this auction three days after Pepper’s disappearance, but left empty-handed and disappointed. Pepper had already ended up with an animal dealer near the Pennsylvania-Maryland border, almost 200 miles from the Lakavages’ home.

Five days after her disappearance, Pepper was then sold by the dealer to Bill Miller, who ran Broken Arrow Kennels in McConnellsburg. While transporting Pepper, eighteen other dogs, and a pair of goats, Miller was pulled over by the police. The officers wrote Miller two tickets, one for overloading the vehicle and the other for cruelty in transport, and confiscated the goats and all of the dogs, including Pepper. The animals were taken to a shelter. This should have been Pepper’s lucky opportunity to be reunited with her family. However, Miller was allowed to return to the shelter to pay his fine and demonstrate that he had an appropriate transport truck and sales slips for the animals. The shelter reluctantly turned over the animals and later suspected that Miller had forged the sales slips. Fortunately, Miller commented that the animals were going to a research holding facility in High Falls, New York.

Mr. Lakavage saw a newspaper article on the seizure of the animals, including the two female Dalmatians that were involved. Mrs. Lakavage immediately drove to High Falls, New York, in hopes of finding Pepper at the research holding facility. The owner of the facility was Arthur Nersesian, a retired New York City police officer whose compound was fenced off; alarms would sound when a car entered the driveway. He had even filed a multimillion dollar lawsuit against the New York SPCA for entering his property without permission. Clearly he did not want anyone to see what was taking place there. Knowing not to approach Nersesian alone, Mrs. Lakavage sought the help of the New York State Police. But there was nothing they could do to help her without any evidence that Pepper was on Nersesian’s property. Once again, Mrs. Lakavage returned home empty-handed.

Pepper’s story quickly made its way to influential people in Washington, D.C., including animal advocates and legislators. Congressman Joe Resnick from New York became involved and made a call to Nersesian, but Nersesian would not let Mrs. Lakavage enter his premises without a search warrant.

In order to obtain evidence that Pepper was on Nersesian’s property, the police interviewed Bill Miller who stated that both Dalmatians were sold to Montefiore Hospital in the Bronx and were n

taken to Nersesian's property. Desperate phone calls to the hospital were unsuccessful, though it was eventually confirmed that the hospital received two Dalmatians. As detailed in the *State* exposé, "On Friday [July 9], while Julia Lakavage was talking to the state troopers in Ulster County, her dog Pepper was splayed out on an operating table in a large building on Gun Hill Road in the Bronx. Medical researchers had tried to implant her with an experimental cardiac pacemaker, but the procedure went awry, and she died. The dog's body had already been cremated."<sup>2</sup> Although Pepper was anointed with a badge for assisting in the creation of the current-day pacemaker, it is her saga of being stolen and transported across state lines, and in only a matter of days, that fueled a national debate over the theft of pets for medical research. This debate resulted in Congress passing the 1966 Laboratory Animal Welfare Act, now known as the Animal Welfare Act (AWA). The debate, however, still continues today.

The history surrounding the AWA is interesting in that Pepper's Law, HR 9743, resulted in more public discussion than two other socially important bills of the time: the Voting Rights Act and adding Medicare to the Social Security program. President Lyndon Johnson signed Pepper's Law on August 24, 1966. Before the AWA was enacted, pound seizure laws were already being passed in response to a growing shelter pet overpopulation problem and a demand for animals from researchers. The National Institutes of Health (NIH) were consolidated in 1944 and its budget rose from \$2.8 million in 1945 to \$1 billion in 1965. "That money was feeding a biomedical research establishment with an insatiable need for live animal subjects. To fill the empty cages in Bethesda, Md., and elsewhere, the NSM [National Society for Medical Research] lobbied for the enactment of 'pound seizure' laws, allowing the forcible appropriation for research of any unclaimed strays that would otherwise be put to death. The first pound seizure laws were passed by the Minnesota state legislature in 1949, and many more followed. New York's Hatch-Metcalf Act allowed the seizure of cats and dogs not only from municipal pounds but from any private shelters holding government contracts."<sup>3</sup>

With the enactment of pound seizure laws in the 1940s, and the AWA still twenty years away from becoming law, the divisiveness and rhetoric between animal welfare and medical researchers grew proportionate to the emotions attached to each side's beliefs. Animal welfare advocates were determined to expose the cruelty and atrocities inflicted on laboratory animals, while medical researchers labeled anyone who opposed animal experimentation as "fanatics" or Communist sympathizers. What is interesting is that six decades later, these same tactics occur.

Dozens of laboratory animal welfare bills were filed in Congress during the 1950s and 1960s, though not one bill was successful, at least not until Pepper's story reached Joe Resnick. At a legislative hearing for the Laboratory Animal Welfare Act in September 1965, Congressman Resnick made the intent of the bill clear to all who were listening. "This bill," he said, "is concerned entirely with the theft of dogs and cats, . . . and, to a somewhat lesser degree, the indescribably filthy conditions in which they are kept by the dealer."<sup>4</sup> The steady movement of the medical research community was blocked by the simple intent of the bill, and the ordeal suffered by the Lakavages and Pepper changed the face of animal welfare forever.

The debate over pet theft and animal research continued into 1966 when *Life* magazine ran an eight-page photo essay titled "Concentration Camps for Dogs."<sup>5</sup> The Humane Society of the United States collaborated with *Life* to expose the condition of animals at a Maryland dealer's facility. As a result, the dealer was criminally charged with animal cruelty and eventually pled guilty and relinquished his license to deal animals. When the magazine was distributed to every member of Congress, lawmakers claimed they received more mail regarding Pepper and pet theft than they did on the Vietnam War.

Although subsequent amendments to the AWA extended the reach of protection to animals held in zoos and circuses, or held by pet dealers, and even resulted in a requirement to provide painkillers before and after experiments to animals, there still remains no federal protection for birds, mice, rats,



fish, or cold-blooded animals. According to the American Anti-Vivisection Society (AAVS), it is estimated that more than 100 million animals are used in research annually<sup>6</sup> in the United States, and more than 95 percent of those laboratory animals fall into the category that is specifically excluded from the AWA and, therefore, receive no protection from the type and magnitude of experiments that await them.

According to the USDA, “In 2000, the federal government needed to estimate the number of rats, mice, and birds that would be included under a proposed revision to the Animal Welfare Act (AWA). They asked the Library of Congress via the United States Department of Agriculture’s Animal Plant and Health Inspection Service to make such a report. The report concluded that over 500 million animals would be added to the AWA if mice, rats, and birds were counted.”<sup>7</sup>

During the fact finding of the congressionally created Committee on the Scientific and Humanitarian Issues in the Use of Random Source Dogs and Cats in Research, it was confirmed that most research animals are “rodents,” not covered by the AWA, and “a relatively small number are dogs and cats, most of which are either ‘purposed-bred’ specifically for research by licensed commercial breeders (known as Class A dealers), or bred and raised in research colonies.”<sup>8</sup>

#### Current-day Protection of Shelter and Research Animals

The U.S. Department of Agriculture (USDA) is the sole enforcement authority of the AWA. Private citizens or animal welfare organizations do not have authority to bring legal action against offenders under the AWA. The USDA has stated that enforcement of the AWA is difficult due to limited resources to investigate claims. In 2007, USDA was appropriated \$17,437,000 by Congress to enforce the AWA, yet that amount is not sufficient.<sup>9</sup> As will be discussed in chapter 5, a documentary from 2005 called *Dealing Dogs* was broadcast on HBO that exposed the practice of C. C. Baird, Class A dealer in Arkansas, who stole dogs and sold them for research. Other investigations, primarily conducted by undercover investigators from nonprofit nongovernmental organizations, have produced similar results. What these private undercover investigators have exposed demonstrates that the USDA has not been given the resources necessary to tackle the suspicious activities surrounding pound seizure.

The AWA and its related regulations are a comprehensive body of laws that currently extend its protection beyond the walls of research facilities. The AWA’s original purpose was to protect animals used in research and to prevent stolen animals from arriving at laboratories.

The relevant statutes of the AWA, found in chapter 54 of the United States Code at 7 USC §2131-2159, and the AWA regulations located in the Code of Federal Regulations at 9 CFR Ch. 1 § 2.132 and 2.133, aim to protect shelter animals from pound seizure, as well as protect them after being seized from a shelter by a B dealer. The overall intent of these laws is to allow legal pet owners to reclaim their pet, whether that pet is located at a dealer facility or research facility. However in testing this premise, one Class B dealer did not return phone calls of anyone who had a pet at the facility. Therefore, the AWA is fallible and not fully able to protect pets and reunite them with their owners.

Section 2.132 of the regulations states that Class B dealers may only accept random source animals from other dealers licensed with the USDA, state, county, or city-run animal shelters, or private shelters registered with the state, and from individuals who breed and raise cats or dogs on their property. (See appendix A for complete language.) Class B dealers can also accept nonrandom source animals from breeders. In recent years four B dealers have been cited for accepting animals from improper sources or were unable to show legal documentation regarding the proper procurement of animals.

Section 2158(a)(1) of the AWA requires that an animal must remain at an animal shelter for a minimum of five days before being given to a dealer or research facility. This statute specifically states that the purpose of the law is “to enable such dog or cat to be recovered by its original owner or adopted by other individuals before [the animal shelter] sells such dog or cat to a dealer.” (See appendix B for complete language.) As described in chapter 4, this time requirement has been ignored by some animal shelters that are associated with a B dealer. The intent of the law prefers returning pets to the legal owner or allowing an adoption, but it has frequently been thwarted by some shelters.

Section 2135 of the AWA gives animals another five days of holding at the dealer facility before the animal is resold to a laboratory. (See appendix B for complete language.) Section 2.132(c) requires the dealer to hold the cat or dog ten days at the dealer facility, not including the day of acquisition or transportation days. These hold requirements were put in place to allow enough time for families to find their missing or stolen pets.

In addition to the AWA, policies apply to all federally-funded institutions that use animals in research. Since 1985 *The Public Health Service Policy on Humane Care and Use of Laboratory Animals* (PHS Policy) sets forth requirements involving animal research if federal funds are received. Specifically, the PHS Policy requires compliance with the AWA, the AWA regulations, and the National Research Council’s *Guide for the Care and Use of Laboratory Animals* (the Guide).<sup>10</sup> The PHS policy also protects all vertebrate animals, whereas the AWA specifically excludes rats, mice and birds.<sup>11</sup> “The *Guide* promotes the humane care of animals used in biomedical research, teaching and testing. It provides guidelines on institutional policies and responsibilities, and performance-based standards for animal environment, housing, management, veterinary care, and physical plant.”<sup>12</sup> The PHS policy and the Guide also mandate compliance with the *U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research and Training*. These principles require researchers to justify the use of animals and to treat them humanely. Despite all these laws, regulations, and policies mandated for the treatment of animals in federally-funded laboratories, only the AWA and its related regulations relate to Class B dealers.

On March 10, 2009, I attended a meeting at the USDA where a new standard operating procedure was discussed. The procedure was instituted in September 2008 and established stricter guidelines on conducting trace backs. A trace back on a cat or dog in the possession of a Class B dealer requires that the USDA inspector review documentation that tracks the animal back to its original source of sale and that the animal was received from a proper source under the Animal Welfare Act. For sellers that are Class B dealers or shelters, all trace backs by USDA inspectors must be conducted in person, not by telephone. We were informed that all nine live animal random source dealers will endure one 100 percent trace back inspection within a year of the new procedure, and every year thereafter. In addition, every quarterly inspection now requires a trace back of anywhere from four to ten animals in the care at that time. Representatives from USDA commented that finding a trace back violation is like finding a needle in a haystack. Thus, when one is found, it is pretty serious and likely there are significantly more violations.

During a trace back, the USDA inspector reviews the Class B dealers’ acquisition and disposition records to determine if all of these requirements are documented: “(1) The name and address of the person from whom a dog or cat was purchased; (2) The USDA license or registration number of the person if s/he is not USDA licensed; (3) The vehicle license number and state, and the driver’s license number and state of the person, if s/he is not licensed; (4) The name and address of the person from whom a dog or cat was sold or given and that person’s USDA license; (5) The date the dog or cat was acquired or disposed of; (6) The USDA tag number or tattoo assigned to the dog or cat; (7) A description of each dog or cat; (8) The method of transportation, including the name of the initial and intermediate handlers.”<sup>13</sup> As outlined in the new standard operating procedure, if a person confirms

selling a cat or dog to a dealer and claimed that the cat or dog was bred or raised on the property, the inspectors are required to look for evidence of a kennel on the property, or determine where the animal was raised, rather than simply take the seller's word.

Representatives at the meeting also discussed that the USDA is having problems with dealers changing identification numbers on animals when animals are transferred between dealers and research facilities. Thus, it is difficult to conduct a trace back. The USDA indicated it will be implementing a tracking number for all animals that stays with the animal for life.

Representatives of the USDA also stated that they are encountering situations where suppliers of animals to random source dealers are lying about being the "breeder" of the animal. The AWA requires that a person giving an animal to a B dealer must have bred and raised the animal. The USDA is struggling with closing that loophole. Not surprisingly, the audience at the meeting suggested eliminating the B dealers system altogether. Lastly, when asked how expensive it is for the USDA to oversee just nine dealers, which have the most extensive inspection requirements of any USDA licensee, all that was said was "it is expensive."

Dr. Robert Willems, assistant regional director, Eastern Region, for USDA/APHIS Animal Care, further explains USDA's role in overseeing random source animals:

The system of supplying random source dogs and cats to research facilities through RSBDs [random source B dealers] is one that developed over the years as a result of the regulations regarding the acquisition of dogs and cats by research institutions contained in the Animal Welfare Act (AWA). Historically, this system of licensed and regulated animal dealers replaced the old system (or, more accurately, the non-system) of unlicensed and unregulated dealers that was in place before the passage of the AWA in 1966. At that time it was found that many of the dogs and cats being supplied for research by these unregulated dealers were in fact stolen pets. Unfortunately, the new system of licensed dealers—or RSBDs, as they came to be known—did not immediately eliminate the practice of stealing pets for resale to the research community. Even with USDA oversight of these RSBDs, the practice continued for some time, though at a diminishing rate.

Individual inspectors trace dogs and cats sold to RSBDs to the persons selling them in an attempt to determine their legitimacy. Such tracebacks, as they came to be called, have resulted in the identification of a number of stolen pets, aided in the successful prosecutions of the bunchers and dealers involved.

In an attempt to finally put an end to the theft of pets for resale to research, in 1993, Animal Care instituted the formal traceback program currently in place to track dogs and cats sold to RSBDs to their source. In the ensuing years, the number of licensed RSBDs also began to decline. In 1990 there were approximately 150 such dealers licensed throughout the country. Today there are nine.

To my knowledge, no stolen pet has been found to have been sold to a research facility in many years. I believe that the original intent of the AWA—to prevent the sale of stolen pets for use in research—has been achieved, primarily through the efforts of the many individuals in USDA who have worked in this program over the years.<sup>14</sup>

Even with the AWA governing the procurement and sale of random source cats and dogs to research, and clearly prohibiting the brokering of stolen pets, it is well-known that there are too many loopholes in the law, and not enough resources for the USDA to properly administer the AWA.

#### State Laws on Pound Seizure

In 1983, Massachusetts was the first state to pass a law prohibiting pound seizure as a compromise between the New England Anti-vivisection Society and research centers in an attempt to avoid the issue being placed on a referendum ballot the following year. The cause for concern was that the ballot language contained a provision that research centers would be regularly inspected by the society. The compromise resulted in a law that banned pound seizure within the state, but also banned the import of shelter animals from other states for research.<sup>15</sup>

As of 2009, a total of seventeen states plus the District of Columbia have passed laws to ban the practice of pound seizure: California, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Minnesota and Oklahoma have laws that mandate pound seizure. That means that if a dealer at a research facility goes to a shelter looking for cats and dogs for research, the shelter has no legal authority to deny them access. An additional nine states—Arizona, Colorado, Iowa, Michigan, Ohio, South Dakota, Tennessee, Utah, and Wisconsin—have passed laws leaving the decision on pound seizure to the discretion of individual counties or shelters. The remaining twenty-two states have no law on pound seizure and, therefore, the practice is allowed.

Minnesota shelters have not actively practiced pound seizure since 2001, according to Amy Draeger, an attorney with the Minnesota Bar Association's Animal Law Section. Draeger is also spearheading a 2010 legislative bill to change the law to ban pound seizure.<sup>16</sup> According to Draeger,

1939 dognapping ring resulted in the creation of Minnesota's pound seizure law. The purpose of creating a pound seizure law is to ensure that only shelter animals be sold to research.

A Minnesota newspaper report from January 30, 1940, confirms that dognapping was at the root of creating a mandatory pound seizure law.

W. T. Middlebrook, comptroller, yesterday suggested two methods by which the University [of Minnesota] could further protect itself against inadvertent purchase of stolen dogs for research work. The statement reviewed the recent "dog-napping" furor during which, said Mr. Middlebrook, there were "implications that a St. Paul dog-stealing ring was alleged to have sold hundreds of the animals to the University. "But since the recent Krueger incident hundreds of people have visited the animal rooms in Millard hall to see nearly 200 dogs and to date only three have been identified as stolen," he said.<sup>17</sup>

The Minnesota Board of Animal Health oversees pound seizure in the state. In 2009, Draeger received written confirmation from the board that only two institutions were registered to obtain random source animals: University of Minnesota and Argosy University.<sup>18</sup> However, the board confirmed that no random source animals have been obtained from Minnesota shelters since 2000. Thus, Minnesota's mandatory pound seizure law is a moot point and, what's more, is poised to be repealed as early as 2010. The City of St. Paul attempted to pass a resolution to ban pound seizure from the city shelter, but the mayor was legally unable to sign it in lieu of the state law. Instead, animals from the shelter sold for research now cost \$217, according to Draeger.<sup>19</sup> On the other hand, Minneapolis passed a resolution banning pound seizure from its public animal shelter, and Pine City passed an ordinance against the practice.

Minnesota, like many states, still struggles with the beliefs of the research community that random source animals are needed, while also being home to one of the nine random source Class B dealers. Continuing with pound seizure's theme of secrecy is Draeger's belief that Minnesotans are not aware of the mandatory state law. In August 2009, I was hosting a child protection training course in Winona, Minnesota, and asked numerous attendees whether they knew that Minnesota was a mandatory pound seizure state. Not one person knew what pound seizure was, and all were surprised and concerned to learn of this taint on their state. Draeger says that people are outraged when they learn about this law.

Oklahoma's mandatory pound seizure law was passed in 1951. In speaking with Cynthia Armstrong, the Southwest Region director for the Humane Society of the United States, she shared some history on pound seizure in Oklahoma and efforts to repeal the law. In 1997, animal welfare advocates attempted to repeal the mandatory pound seizure law, without success. However, the law was changed during this time to allow municipalities to pass ordinances to opt out of the mandatory law. Oklahoma City and Tulsa have since passed anti-pound seizure ordinances. However, Armstrong is concerned that "these other cities are sitting ducks for pound seizure because they do not know about it."<sup>20</sup> In 2008, an attempt to expand the current mandatory pound seizure law was heard by the legislature in an effort to allow dead animal carcasses also to be available for research. According to Armstrong, the bill was defeated eleven to five in the Public Health Committee with no one testifying in favor of the bill except the bill sponsors. The driving force behind that bill was a deceased animal random source Class B dealer from California who had a contract with Oklahoma City. According to Armstrong, although the dealer's contract with Oklahoma City had expired, he had requested that Representative Phyllis Richardson file the 2008 bill.

In 2009 another attempt was made to expand the existing law and, this time around, the legislative sponsor was better prepared. The bill added the previous animal carcass language and further expanded to include a criminal penalty against shelter staff that refused to turn over live or dead animals for research. The state veterinarian testified in favor of expanding the bill, as did two dealers from state veterinary schools. The vote was ten to ten, but did not pass out of the committee.

In early 2009, Madeleine Pickens, the wife of entrepreneur T. Boone Pickens, became aware of Oklahoma State University's (OSU) use of live animals in research through an anonymous student at the university's College of Veterinary Medicine. After being told that the animals underwent multiple

invasive and surgical procedures, including breaking bones and removing organs, Mrs. Pickens asked that her \$5 million donation to OSU be redirected away from animal research at the Center for Veterinary Health Sciences in Stillwater. Mrs. Pickens did not want the money supporting animal research.<sup>21</sup> In an interview with the *Tulsa World* newspaper, she stated, "I would be embarrassed to be associated with that kind of teaching or research at OSU or anywhere." The Pickenses have donated tens of millions of dollars to OSU and were prepared to pull all funding if the practice continued.

Dr. Michael Lorenz, dean of OSU, defended the practices and denied the allegations made by the anonymous student and Mrs. Pickens. In an article in the *Stillwater News Press* on April 17, 2009,<sup>22</sup> Dr. Lorenz stated, "There is nothing wrong with how we train students. It's about where we get dogs. I've visited people in the vet school and we believe it's ethical and morally permissible to use animals marked to die." At the time of the article, OSU contracted with Class B dealer Schachtele Auction Services from Missouri. Oklahoma State University also had a contract with Henry Lee Cooper of C & C Kennels, whose license was revoked by the USDA in August 2008 for a period of five years due to chronic and numerous violations of the AWA. Oklahoma State University eventually stopped using live animals in the surgery training classes and has since stated that it is working to stop purchasing animals from Class B dealers.<sup>23</sup>

Even though Oklahoma was home to Henry Lee Cooper, a random source Class B dealer whose license was suspended in 2008, Armstrong believes that out-of-state random source B dealers are entering the state to obtain random source cats and dogs from shelters. This is a concern because if a family loses a pet, that pet may be transported across state lines, thus prohibiting the owners from finding their pet. It is the likely scenario for a dog named Blue, who is believed to have been stolen from her backyard in Henrietta, Oklahoma, in February 2008 and has not been seen since. In the end, it is unknown how many Oklahoma shelter animals, or other random source animals, have been brokered to research facilities since the Oklahoma Department of Agriculture does not require the reporting of those statistics. And if animals were brokered to Missouri or other states, those numbers are even more difficult to obtain.

As for the remainder of the states, the laws are either silent on pound seizure, or leave the practice to the discretion of the individual counties and shelters. To better understand the extent to which pound seizure is practiced across the country, in late 2009 my office, the American Humane Association's Office of Public Policy, conducted a survey of the states that have discretionary laws on pound seizure. The results are described in chapter 10. What we found was intriguing.

#### Current Legislative Attempts to Ban Pound Seizure and Class B Dealers

I am a registered federal lobbyist through my employment at the American Humane Association. In that position, I worked on the 2007 Pet Safety and Protection Act (PSP Act) (HR 1280 and S 714) and currently the 2009 PSP Act (HR 3907 and S 1834), both filed by Representative Michael Doyle (PA) and Senator Daniel Akaka (HI). The PSP Act bill would prohibit any research facility, including federally funded research facilities, from accepting cats or dogs from Class B dealers. (See appendix B for bill language.) The bill only allows research facilities to accept cats and dogs from the following sources: a dealer who has bred and raised the cat or dog (a Class A dealer); a publicly owned animal shelter so long as the cat or dog came from its legal owner; a person donating a cat or dog that has been bred and raised by the person or who has owned the cat or dog for at least one year; or another research facility. The bill does not allow any research facility to obtain a cat or dog from a Class B dealer.

The PSP Act has been filed during every congressional session since 1996, covering six House bills and seven Senate bills. Each time, the bill failed to receive a committee hearing and failed to progress.

to a vote. But in the 110th Congress in mid-2008, Senator Akaka and Representative Doyle made a bold move to include the PSP Act language in the 2008 reauthorization of the Farm Bill that was passed by the Senate and the House of Representatives. With the passage of the Farm Bill, the language of the PSP Act had made its furthest progression to end the practice of pound seizure by Class B dealers nationally. Support for the PSP Act had also grown throughout the years. In the PSP Act from 1996, there were 26 House cosponsors but no Senate cosponsors. Now, fast forward to 2008 where the bill received 130 House cosponsors and 19 Senate cosponsors.

The joy felt throughout the animal welfare community was palpable with the passage of the 2008 Farm Bill. However, during the conference process to settle differences between the House and Senate on the language of the Farm Bill, the language of the PSP Act was summarily removed and replaced with a request to the National Institutes of Health to conduct a study on the use of random source cats and dogs in research. It was incomprehensible that the votes of the full House and Senate could be undone in one swift political move. The process was undemocratic in the minds of many people. A staffer from a House office informed me that the language of the PSP Act was removed due to last-minute maneuvering by a federal research facility and one congressional leader in the conference committee. A discussion of the congressional study starts in chapter 6.

At the state level, I have known for years that Michigan was ripe to stop the practice of pound seizure. But timing is always important when filing legislation. An effort was made in 2003 with a state bill to ban the practice. Senator Valde Garcia introduced the bill. However, it died in committee and I later learned that an animal welfare lobbyist requested that it not receive a hearing. The reasons behind this move are still unknown.

In 2007, the Humane Society of the United States filed an anti-pound seizure bill in Michigan, but the bill sponsor soon stopped his advocacy due to confusion as to its purpose. I was worried that another pound seizure bill on the heels of a failed bill would be detrimental. For most of 2008, I consulted with local animal advocates, animal shelters, and even some opponents on the prospect for success of a legislative bill in the 2009–2010 legislative session. I drafted the bill language that included some essential exemptions, such as allowing a veterinary training school to obtain shelter cats and dogs for spay-neuter training, and to perform other medical procedures such as setting broken bones or treating diseases, but then return the cats and dogs to the shelter for adoption; and to allow shelter cats and dogs to go to a state blood bank facility where the pets are provided blood donations and then, if healthy and adoptable, they are placed for adoption. The intent of the new bill would still allow some practices that are technically considered pound seizure, yet permit those cats and dogs to be returned to the shelter to find a new home, rather than be euthanized.

After drafting the language, I was able to secure the endorsement of a prior opponent, the Animal Blood Resources International in Stockbridge, Michigan. I felt it was important to secure the support of Animal Blood Resources since it was a worthy opponent on the 2007 bill. I was also personally knowledgeable of the facility. During my time as a shelter volunteer in Michigan, staff from Animal Blood Resources would come to the shelter looking for cats and dogs that were universal blood donors. At the time, the euthanasia and pound seizure rate was still quite high, and I advocated for certain cats and dogs to go into the program. I knew that the cats and dogs would be treated very well, including being allowed to live normally with sufficient space and would be adopted at the end of their service. A colleague from the Michigan State Bar Animal Law Section adopted her cats, Malcolm and Maureen, from Animal Blood Services. Therefore, I felt confident in placing an exemption for blood bank collection services into the bill knowing that the animals were well cared for and placed for adoption afterward.

On March 19, 2009, Representative John Espinoza filed HB 4663, a bill for Michigan to become the eighteenth state to ban pound seizure. (See appendix B for the bill language.) The following day I was

in Lansing, Michigan, to present at the Michigan State Bar Annual Animal Law Symposium along with Representative Espinoza. I met with the congressman to discuss the anticipated opposition to the bill; he was determined to remain strong and stop the practice.

In the ensuing months, I have once again witnessed the Class B dealers run amok with the same tired, unproven, and undocumented arguments to maintain their business. Michigan research facilities also have spoken out against the bill with statements that their research is entirely dependent on random source animals from Class B dealers. I expected those opponents to voice objections to the bill and was abundantly prepared to defeat their claims with documented evidence. What was most shocking was that the Michigan Veterinary Medical Association launched an active lobbying campaign to defeat the bill. I had naively believed that veterinarians were interested in protecting animals from harm. That may be true, but what I failed to recognize was that the American Veterinary Medical Association (AVMA), along with many state veterinary medical associations, supports the practice of pound seizure.

In the meantime, Representative Espinoza is standing firm on the bill, my office is pushing forward on the Michigan bill in spite of the veterinarian opposition, and we are working to garner the support of individual veterinarians who do not support pound seizure.

#### Animal Welfare's Position on Pound Seizure

Every national animal protection organization, and numerous state and local organizations and shelters, have created policy statements condemning the practice of pound seizure. The following are just some national and state animal welfare organizations that have called for an end to pound seizure and have position statements against the practice:

- American Anti-Vivisection Society
- American Humane Association
- American Society for the Prevention of Cruelty to Animals
- Animal Law Coalition
- Arizona Humane Society
- End Pound Seizure Minnesota
- Georgia Humane Society
- Idaho Humane Society
- In Defense of Animals
- Last Chance for Animals
- Michigan Humane Society
- Michigan State Bar Animal Law Section
- National Animal Control Association
- National Anti-Vivisection Society
- Nevada Humane Society
- New England Anti-Vivisection Society
- No Kill Advocacy Center
- People for the Ethical Treatment of Animals
- Physicians Committee for Responsible Medicine
- The Humane Society of the United States

The Colorado State University College of Veterinary Medicine and Biological Sciences created a policy against pound seizure which states:

There are twenty-eight university veterinary schools in the United States.<sup>25</sup> According to the Humane Society Veterinary Medical Association,<sup>26</sup> the following twelve university veterinary schools also do not purchase random source dogs and cats from Class B dealers:

Colorado State University  
Iowa State University  
Kansas State University  
Louisiana State University  
Mississippi State University  
University of California, Davis  
University of Missouri  
University of Pennsylvania  
University of Wisconsin, Madison  
Virginia-Maryland Regional College of Veterinary Medicine  
Washington State University  
Western University of Health Sciences

Almost half of the veterinary training schools in the United States have opted to not accept random source cats and dogs from Class B dealers. Yet, the American Veterinary Medical Association still maintains a position statement in favor of the use of random source dogs and cats:

The carefully controlled use of random-source dogs and cats contributes greatly to improving the health and welfare of both animals and human beings. Therefore, the AVMA believes there is ample justification for prudent and humane use of random-source dogs and cats in research, testing, and education, provided that:

- The institution conducting such research, testing, or education has met all legal requirements and guidelines pertaining to the acquisition, care, and use of dogs and cats for these purposes;
- The investigators have thoroughly examined the need for such dogs and cats, appropriately justified the use of the species, and carefully determined the minimum number required to meet the needs of the protocol;
- Adequate safeguards are used to ensure that only appropriately screened dogs and cats are obtained legally; and
- Preventive measures are taken to optimize the health of dogs and cats used in research, testing, and education.<sup>27</sup>

In the summer of 2009 at the AVMA Annual Convention, the AVMA House Advisory Committee submitted Resolution 2-2009, titled “Revise Policy on Use of Random-Source Dogs and Cats for Research, Testing, and Education.” The resolution struck the prior language and sought to replace it with this language:

While the use of animals contributes to improving the health and welfare of both animals and human beings, the AVMA believes that no live dogs or cats shall be procured from an animal shelter, or a dealer who provides live animals from an animal shelter, for the purpose of such research, testing, and education (with the exception of dogs/cats which may be used by students in veterinary programs for harmless procedures).<sup>28</sup>

The rationale supporting the resolution stated, “The AVMA should not support a policy whereby animals who are abandoned, neglected, or simply lost are relocated to a research or testing facility instead of a loving home or, where necessary, humanely euthanized. The present AVMA policy on random-source use runs counter to the public’s concept of an animal shelter and may impede the surrender of pets to such a facility.”<sup>29</sup>

Unfortunately, the resolution was pulled from consideration, and reasons for the action have not been provided. However, the AVMA readdressed the issue on January 9, 2010, and altered its position statement with these additions:

- Class B dealers are used to obtain random-source dogs and cats only when viable alternatives do not exist; and
- Alternative sources are explored and supported that will ultimately eliminate the need for Class B dealers as a source for random-source dogs and cats used in search, testing, and education.<sup>30</sup>

In spite of the enactment of federal and state laws to protect animals in research and thwart the activity of stealing pets and selling them to research, the issue of pound seizure is still fraught with



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