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* January 9, 2013 Annotation Service *

PENNSYLVANIA CONSOLIDATED STATUTES
TITLE 18. CRIMES AND OFFENSES
PART II. DEFINITION OF SPECIFIC OFFENSES
ARTICLE F. OFFENSES AGAINST PUBLIC ORDER AND DECENCY
CHAPTER 55. RIOT, DISORDERLY CONDUCT AND RELATED OFFENSES

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18 Pa.C.S. § 5511 (2012)

§ 5511. Cruelty to animals.

(a) *Killing, maiming or poisoning domestic animals or zoo animals, etc.*

(1) A person commits a misdemeanor of the second degree if he willfully and maliciously:

(i) Kills, maims or disfigures any domestic animal of another person or any domestic fowl of another person.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any domestic animal of another person or domestic fowl of another person.

(iii) Harasses, annoys, injures, attempts to injure, molests or interferes with a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited.

Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$ 500.

(2) A person commits a felony of the third degree if he willfully and maliciously:

(i) Kills, maims or disfigures any zoo animal in captivity.

(ii) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any zoo animal in captivity.

(2.1) (i) A person commits a misdemeanor of the first degree if he willfully and maliciously:

(A) Kills, maims, mutilates, tortures or disfigures any dog or cat, whether belonging to himself or otherwise. If a person kills, maims, mutilates, tortures or disfigures a dog guide for an individual who is blind, a hearing dog for an individual who is deaf or audibly impaired or a service dog for an individual who is physically limited, whether belonging to the individual or otherwise, that person, in addition to any other applicable penalty, shall be required to make reparations for veterinary costs in treating the dog and, if necessary, the cost of obtaining and training a replacement dog.

(B) Administers poison to or exposes any poisonous substance with the intent to administer such poison to any dog or cat, whether belonging to himself or otherwise.

(ii) Any person convicted of violating the provisions of this paragraph shall be sentenced to pay a fine of not less than \$ 1,000 or to imprisonment for not more than two years, or both. The court may also order a presentence mental evaluation. A subsequent conviction under this paragraph shall be a felony of the third degree. This paragraph shall apply to dogs and cats only.

(iii) The killing of a dog or cat by the owner of that animal is not malicious if it is accomplished in accordance with the act of December 22, 1983 (P.L.303, No.83), referred to as the Animal Destruction Method Authorization Law.

(3) This subsection shall not apply to:

(i) the killing of any animal taken or found in the act of actually destroying any domestic animal or domestic fowl;

(ii) the killing of any animal or fowl pursuant to the act of June 3, 1937 (P.L.1225, No.316), known as The Game Law, or 34 Pa.C.S. §§ 2384 (relating to declaring dogs public nuisances) and 2385 (relating to destruction of dogs declared public nuisances), or the regulations promulgated thereunder; or

(iii) such reasonable activity as may be undertaken in connection with vermin control or pest control.

(a.1) *Guide dogs.*

(1) A person commits a misdemeanor of the third degree if he is the owner or co-owner of a dog that kills, maims or disfigures a guide dog of an individual who is blind, a hearing dog of an individual who is deaf or audibly impaired or a service dog of an individual who is physically limited without provocation by the guide, hearing or service dog or the individual.

(2) A person commits an offense under this subsection only if the person knew or should have known that the dog he owns or co-owns had a propensity to attack human beings or domestic animals without provocation and the owner or co-owner knowingly or recklessly failed to restrain the dog or keep the dog in a contained, secure manner.

(3) Any person convicted of violating the provisions of this subsection shall be sentenced to pay a fine of not more than \$ 5,000 and shall be ordered to make reparations for veterinary costs in treating the guide, hearing or service dog and, if necessary, the cost of obtaining and training a replacement guide, hearing or service dog.

(a.2) *Civil penalty and restitution.*

(1) A person who is the owner or co-owner of a dog that kills, maims or disfigures a guide dog of an individual who is blind, a hearing dog of an individual who is deaf or audibly impaired or a service dog of an individual who is physically limited shall be subject to paragraph (2) if all of the following apply:

(i) The owner or co-owner knew the dog had a propensity to attack human beings or domestic animals.

(ii) The owner or co-owner failed to restrain the dog or keep the dog in a contained, secure manner.

(2) A court of common pleas may impose any of the following upon any person who is the owner or co-owner of a dog under paragraph (1):

(i) A civil penalty of up to \$ 15,000.

(ii) Reparations for veterinary costs in treating the guide, hearing or service dog and, if necessary, the cost of retraining the dog or of obtaining and training a replacement guide, hearing or service dog.

(iii) Loss of income for the time the individual is unable to work due to the unavailability of the guide, hearing or service dog.

(b) *Regulating certain actions concerning fowl or rabbits.* --A person commits a summary offense if he sells, offers for sale, barter, or gives away baby chickens, ducklings, or other fowl, under one month of age, or rabbits under two months of age, as pets, toys, premiums or novelties or if he colors, dyes, stains or otherwise changes the natural color of baby chickens, ducklings or other fowl, or rabbits or if he brings or transports the same into this Commonwealth. This section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits, in proper facilities by persons engaged in the business of selling them for purposes of commercial breeding and raising.

(c) *Cruelty to animals.*

(1) A person commits an offense if he wantonly or cruelly illtreats, overloads, beats, otherwise abuses any animal, or neglects any animal as to which he has a duty of care, whether belonging to himself or otherwise, or abandons any animal, or deprives any animal of necessary sustenance, drink, shelter or veterinary care, or access to clean and sanitary shelter which will protect the animal against inclement weather and preserve the animal's body heat and keep it dry.

(i) Except as provided in subparagraph (ii), a person convicted of violating paragraph (1) commits a summary offense.

(ii) A person convicted for a second or subsequent time of violating paragraph (1) commits a misdemeanor of the third degree if all of the following occurred:

(A) The action or omission for which the person was convicted for a subsequent time was performed on a dog or cat.

(B) The dog or cat was seriously injured, suffered severe physical distress or was placed at imminent risk of serious physical harm as the result of the person's action or omission.

(3) This subsection shall not apply to activity undertaken in normal agricultural operation.

(d) *Selling or using disabled horse.* --A person commits a summary offense if he offers for sale or sells any horse, which by reason of debility, disease or lameness, or for other cause, could not be worked or used without violating the laws against cruelty to animals, or leads, rides, drives or transports any such horse for any purpose, except that of conveying the horse to the nearest available appropriate facility for its humane keeping or destruction or for medical or surgical treatment.

(e) *Transporting animals in cruel manner.* --A person commits a summary offense if he carries, or causes, or allows to be carried in or upon any cart, or other vehicle whatsoever, any animal in a cruel or inhumane manner. The person taking him into custody may take charge of the animal and of any such vehicle and its contents, and deposit the same in some safe place of custody, and any necessary expenses which may be incurred for taking charge of and keeping the same, and sustaining any such animal, shall be a lien thereon, to be paid before the same can lawfully be

recovered, or the said expenses or any part thereof remaining unpaid may be recovered by the person incurring the same from the owner of said creature in any action therefor.

For the purposes of this section, it shall not be deemed cruel or inhumane to transport live poultry in crates so long as not more than 15 pounds of live poultry are allocated to each cubic foot of space in the crate.

(e.1) *Transporting equine animals in cruel manner.* --Notwithstanding any other provision of law, a person commits a summary offense for each equine animal if the person carries, or causes or allows to be carried, any equine animal in or upon any conveyance or other vehicle whatsoever with two or more levels stacked on top of one another. A person who violates this subsection on a second or subsequent occasion commits a misdemeanor of the third degree for each equine animal transported.

(f) *Hours of labor of animals.* --A person commits a summary offense if he leads, drives, rides or works or causes or permits any other person to lead, drive, ride or work any horse, mare, mule, ox, or any other animal, whether belonging to himself or in his possession or control, for more than 15 hours in any 24 hour period, or more than 90 hours in any one week.

Nothing in this subsection contained shall be construed to warrant any persons leading, driving, riding or walking any animal a less period than 15 hours, when so doing shall in any way violate the laws against cruelty to animals.

(g) *Cruelty to cow to enhance appearance of udder.* --A person commits a summary offense if he kneads or beats or pads the udder of any cow, or willfully allows it to go un milked for a period of 24 hours or more, for the purpose of enhancing the appearance or size of the udder of said cow, or by a muzzle or any other device prevents its calf, if less than six weeks old, from obtaining nourishment, and thereby relieving the udder of said cow, for a period of 24 hours.

(h) *Specific violations; prima facie evidence of violation.*

(i) A person commits a summary offense if the person crops, trims or cuts off, or causes or procures to be cropped, trimmed or cut off, the whole or part of the ear or ears of a dog.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cropping, trimming or cutting off the whole or part of the ear or ears of a dog when the dog is anesthetized and shall not prevent any person from causing or procuring the cropping, trimming or cutting off of a dog's ear or ears by a veterinarian.

(iii) The possession by any person of a dog with an ear or ears cropped, trimmed or cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this subsection by the person except as provided for in this subsection.

(iv) A person who procures the cropping, trimming or cutting off of the whole or part of an ear or ears of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(2) (i) A person commits a summary offense if the person debarks a dog by cutting, causing or procuring the cutting of its vocal cords or by altering, causing or procuring the alteration of any part of its resonance chamber.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the vocal cords or otherwise altering the resonance chamber of a dog when the dog is anesthetized and shall not prevent a person from causing or procuring a debarking procedure by a veterinarian.

(iii) The possession by any person of a dog with the vocal cords cut or the resonance chamber otherwise altered

and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting of vocal cords or the alteration of the resonance chamber of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(i) A person commits a summary offense if the person docks, cuts off, causes or procures the docking or cutting off of the tail of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from docking, cutting off or cropping the whole or part of the tail of a dog when the dog is at least 12 weeks of age and the procedure is performed using general anesthesia and shall not prevent a person from causing or procuring the cutting off or docking of a tail of a dog by a veterinarian as provided in this paragraph.

(iii) The provisions of this section shall not prevent a veterinarian from surgically removing, docking, cutting off or cropping the tail of a dog between five days and 12 weeks of age if, in the veterinarian's professional judgment, the procedure is medically necessary for the health and welfare of the dog. If the procedure is performed, it shall be done in accordance with generally accepted standards of veterinary practice.

(iv) The possession by any person of a dog with a tail cut off or docked and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(v) A person who procures the cutting off or docking of a tail of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(i) A person commits a summary offense if the person surgically births or causes or procures a surgical birth.

(ii) The provisions of this section shall not prevent a veterinarian from surgically birthing a dog when the dog is anesthetized and shall not prevent any person from causing or procuring a surgical birthing by a veterinarian.

(iii) The possession by any person of a dog with a wound or incision site resulting from a surgical birth unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the surgical birth of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(v) This paragraph shall not apply to personnel required to comply with standards to minimize pain to an animal set forth in section 2143(a)(3) of the Animal Welfare Act (Public Law 89-544, 7 U.S.C. § 2131 et seq.), trained in accordance with section 2143(d) of the Animal Welfare Act, who work in a federally registered research facility required to comply with the Animal Welfare Act under the guidance or oversight of a veterinarian.

(i) A person commits a summary offense if the person cuts off or causes or procures the cutting off of the

dewclaw of a dog over five days old.

(ii) The provisions of this paragraph shall not prevent a veterinarian from cutting the dewclaw and shall not prevent a person from causing or procuring the procedure by a veterinarian.

(iii) The possession by any person of a dog with the dewclaw cut off and with the wound or incision site resulting therefrom unhealed, or any such dog being found in the charge or custody of any person or confined upon the premises owned by or under the control of any person, shall be prima facie evidence of a violation of this paragraph by the person, except as provided in this paragraph.

(iv) A person who procures the cutting off of the dewclaw of a dog shall record the procedure. The record shall include the name of the attending veterinarian and the date and location at which the procedure was performed. The record shall be kept as long as the wound or incision site is unhealed and shall be transferred with the dog during that period of time.

(h.1) *Animal fighting.* --A person commits a felony of the third degree if he:

- (1) for amusement or gain, causes, allows or permits any animal to engage in animal fighting;
- (2) receives compensation for the admission of another person to any place kept or used for animal fighting;
- (3) owns, possesses, keeps, trains, promotes, purchases, steals or acquires in any manner or knowingly sells any animal for animal fighting;
- (4) in any way knowingly encourages, aids or assists therein;
- (5) wagers on the outcome of an animal fight;
- (6) pays for admission to an animal fight or attends an animal fight as a spectator; or
- (7) knowingly permits any place under his control or possession to be kept or used for animal fighting.

This subsection shall not apply to activity undertaken in a normal agricultural operation.

(i) *Power to initiate criminal proceedings.* --An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of the Commonwealth, shall have the same powers to initiate criminal proceedings provided for police officers by the Pennsylvania Rules of Criminal Procedure. An agent of any society or association for the prevention of cruelty to animals, incorporated under the laws of this Commonwealth, shall have standing to request any court of competent jurisdiction to enjoin any violation of this section.

(j) *Seizure of animals kept or used for animal fighting.* --Any police officer or agent of a society or association for the prevention of cruelty to animals incorporated under the laws of this Commonwealth, shall have power to seize any animal kept, used, or intended to be used for animal fighting. When the seizure is made, the animal or animals so seized shall not be deemed absolutely forfeited, but shall be held by the officer or agent seizing the same until a conviction of some person is first obtained for a violation of subsection (h.1). The officer or agent making such seizure shall make due return to the issuing authority, of the number and kind of animals or creatures so seized by him. Where an animal is thus seized, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of subsection (h.1) shall order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth and shall require that the owner pay the cost of the keeping, care and destruction of the animal.

(k) *Killing homing pigeons.* --A person commits a summary offense if he shoots, maims or kills any antwerp or homing pigeon, either while on flight or at rest, or detains or entraps any such pigeon which carries the name of its owner.

(l) *Search warrants.* --Where a violation of this section is alleged, any issuing authority may, in compliance with the applicable provisions of the Pennsylvania Rules of Criminal Procedure, issue to any police officer or any agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth a search warrant authorizing the search of any building or any enclosure in which any violation of this section is occurring or has occurred, and authorizing the seizure of evidence of the violation including, but not limited to, the animals which were the subject of the violation. Where an animal thus seized is found to be neglected or starving, the police officer or agent is authorized to provide such care as is reasonably necessary, and where any animal thus seized is found to be disabled, injured or diseased beyond reasonable hope of recovery, the police officer or agent is authorized to provide for the humane destruction of the animal. The cost of the keeping, care and destruction of the animal shall be paid by the owner thereof and claims for the costs shall constitute a lien upon the animal. In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may require that the owner pay the cost of the keeping, care and destruction of the animal. No search warrant shall be issued based upon an alleged violation of this section which authorizes any police officer or agent or other person to enter upon or search premises where scientific research work is being conducted by, or under the supervision of, graduates of duly accredited scientific schools or where biological products are being produced for the care or prevention of disease.

(m) *Forfeiture.* --In addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the forfeiture or surrender of any abused, neglected or deprived animal of the defendant to any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth.

(m.1) *Fine for summary offense.* --In addition to any other penalty provided by law, a person convicted of a summary offense under this section shall pay a fine of not less than \$ 50 nor more than \$ 750 or to imprisonment for not more than 90 days, or both.

(m.2) *Prohibition of ownership.* --Notwithstanding any provision of law and in addition to any other penalty provided by law, the authority imposing sentence upon a conviction for any violation of this section may order the prohibition or limitation of the defendant's ownership, possession, control or custody of animals or employment with the care of animals for a period of time not to exceed the statutory maximum term of imprisonment applicable to the offense for which sentence is being imposed.

(n) *Skinning of and selling or buying pelts of dogs and cats.* --A person commits a summary offense if he skins a dog or cat or offers for sale or exchange or offers to buy or exchange the pelt or pelts of any dog or cat.

(o) *Representation of humane society by attorney.* --Upon prior authorization and approval by the district attorney of the county in which the proceeding is held, an association or agent may be represented in any proceeding under this section by any attorney admitted to practice before the Supreme Court of Pennsylvania and in good standing. Attorney's fees shall be borne by the humane society or association which is represented.

(o.1) *Construction of section.* --The provisions of this section shall not supersede the act of December 7, 1982 (P.L.784, No.225), known as the Dog Law.

(p) *Applicability of section.* --This section shall not apply to, interfere with or hinder any activity which is authorized or permitted pursuant to the act of June 3, 1937 (P.L.1225, No.316), known as The Game Law or Title 34 (relating to game).

(q) *Definitions.* --As used in this section, the following words and phrases shall have the meanings given to them

in this subsection:

"Animal fighting." --Fighting or baiting any bull, bear, dog, cock or other creature.

"Audibly impaired." --The inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

"Blind." --Having a visual acuity of 20/200 or less in the better eye with correction or having a limitation of the field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

"Conveyance." --A truck, tractor, trailer or semitrailer, or any combination of these, propelled or drawn by mechanical power.

"Deaf." --Totally impaired hearing or hearing with or without amplification which is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including, but not limited to, lip reading, sign language, finger spelling or reading.

"Domestic animal." --Any dog, cat, equine animal, bovine animal, sheep, goat or porcine animal.

"Domestic fowl." --Any avian raised for food, hobby or sport.

"Equine animal." --Any member of the Equidae family, which includes horses, asses, mules, ponies and zebras.

"Normal agricultural operation." --Normal activities, practices and procedures that farmers adopt, use or engage in year after year in the production and preparation for market of poultry, livestock and their products in the production and harvesting of agricultural, agronomic, horticultural, silvicultural and aquicultural crops and commodities.

"Physically limited." --Having limited ambulation, including, but not limited to, a temporary or permanent impairment or condition that causes an individual to use a wheelchair or walk with difficulty or insecurity, affects sight or hearing to the extent that an individual is insecure or exposed to danger, causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness.

"Zoo animal." --Any member of the class of mammalia, aves, amphibia or reptilia which is kept in a confined area by a public body or private individual for purposes of observation by the general public.

HISTORY: Act 1972-334 (S.B. 455), P.L. 1482, § 1, approved Dec. 6, 1972, eff. in 6 months; Act 1973-137 (H.B. 97), P.L. 387, § 1, approved Dec. 12, 1973, eff. immediately; Act 1978-53 (H.B. 825), P.L. 202, § 7, approved Apr. 28, 1978, eff. in 60 days; Act 1980-107 (H.B. 1352), P.L. 518, § 1, approved July 10, 1980, eff. in 60 days; Act 1984-230 (H.B. 281), P.L. 1210, § 5, approved Dec. 21, 1984, eff. in 60 days; Act 1986-93 (H.B. 1979), P.L. 442, § 2, approved July 8, 1986, eff. July 1, 1987; Act 1986-191 (H.B. 2606), P.L. 1671, § 1, approved Dec. 16, 1986, eff. in 60 days; Act 1994-24 (H.B. 1420), P.L. 146, § 1, approved Apr. 29, 1994, eff. in 60 days; Act 1995-27 (S.B. 729), P.L. 238, § 2, approved July 6, 1995, eff. in 60 days; Act 2000-80 (S.B. 1109), P.L. 605, § 1, approved Oct. 18, 2000, eff. in 60 days; Act 2001-64 (H.B. 1139), P.L. 694, § 1, approved June 25, 2001, eff. in 60 days; Act 2002-183 (H.B. 2445), P.L. 1439, § 1, approved Dec. 9, 2002, eff. in 60 days; Act 2004-236 (H.B. 709), P.L. 1789, § 1, approved Dec. 8, 2004, eff. immediately; Act 2009-38 (H.B. 39), P.L. 372, § 1, approved Aug. 27, 2009, See section of this act for effective date information; Act 2012-62 (H.B. 165), P.L. 634, § 1, approved June 13, 2012, eff. in 60 days.

NOTES:

LexisNexis (R) Notes:

EDITOR'S NOTES.

18 Pa.C.S. § 5511

Section 7(b) of Act 1986-93 provides that *18 Pa.C.S. § 5511*, insofar as it relates to 34 Pa.C.S., Subch. E of Ch. 23, is "repealed insofar as it applies to the Board of Game Commissioners, the Pennsylvania Game Commission, game wardens or game protectors."

Section 7(7) of Act 1978-53 provides that "[l]ast sentence of subsection (c), last sentence of subsection (d), and second paragraph of subsection (1) of section 5511 are repealed."

AMENDMENT NOTES.

The 2012 amendment added (a.1) and (a.2).

The 2009 amendment rewrote (h) and added "steals or acquires in any manner" in (h.1)(3).

CASE NOTES

1. Agent of a state society for the prevention of cruelty to animals had authority to initiate an action pursuant to *18 Pa. Cons. Stat. §§ 5511(c)* and (i) to enjoin a sporting committee from conducting its annual fundraiser, a pigeon shoot, in which 6,000 pigeons were shot as they were released from a cage for a fee of \$75 each; the agent had standing to bring suit, even though the agent had been appointed to his job by a common pleas court judge from a different county than the county in which suit was brought, because the agent's appointment was recorded in the county of suit.

Hulsizer v. Labor Day Comm., Inc., 557 Pa. 467, 734 A.2d 848, 1999 Pa. LEXIS 2110 (1999).

2. Event sponsor could not be enjoined from holding a pigeon shooting event, where the event allegedly caused abusive treatment of pigeons, in violation of *18 Pa. Cons. Stat. § 5511(c)*, because the humane society agents did not have standing; although the humane society could initiate criminal proceedings under *18 Pa. Cons. Stat. § 5511(i)*, after obtaining proper approval of the county district attorney pursuant to 19 Pa. Cons. Stat. § 5511(o), the could not invoke the court's jurisdiction when they failed to be appointed as humane society police officers in accordance with *22 Pa. Cons. Stat. § 501*.

Mohler v. Labor Day Comm., 443 Pa. Super. 651, 663 A.2d 162, 1995 Pa. Super. LEXIS 1864 (1995), appeal denied by 544 Pa. 611, 674 A.2d 1074, 1996 Pa. LEXIS 679 (1996).

3. Societies for the prevention of cruelty to animals had no standing under former 18 P.S. §§ 4948 and 4949 (now *18 Pa. Cons. Stat. Ann. § 5511*) to sue for an injunction restraining an entertainment promoter from conducting American style bullfighting, where statutes gave the societies only the power to arrest and prosecute those engaged in cruelty to animals and to seize any bull kept for fighting or baiting, and where the societies did not enjoy any greater property right in the prevention of cruelty to animals or suffer injury to any greater degree than the general public.

Pennsylvania Soc. for Prevention of Cruelty to Animals v. Bravo Enterprises, Inc., 428 Pa. 350, 237 A.2d 342, 1968 Pa. LEXIS 896 (1968).

4. Because a dog rescue shelter did not comply with *28 U.S.C.S. § 1446(d)* by filing a copy of its notice of removal with the state court, and because the shelter's agent agreed that the dogs at the agent's property were living in unsanitary conditions and were being denied veterinary care, the dogs were properly forfeited pursuant to *18 Pa.C.S. § 5511(m)*.

Pa. S.P.C.A., Inc. v. Sixth Angel Shepherd Rescue, Inc., 2011 PA Super 226, 30 A.3d 1232, 2011 Pa. Super. LEXIS 3242 (Pa. Super. Ct. 2011).

5. In dog owner's action against a humane society when her dogs were put to sleep after the charges of dog fighting against her had already been dropped, a jury instruction regarding 18 Pa.C.S. § 5511(j) was appropriate because, although the charges were dropped, that is why the owner was arrested and the dogs were seized.

Snead v. SPCA of Pa., 2006 Phila. Ct. Com. Pl. LEXIS 75 (Feb. 1, 2006).

6. Humane society police officer's suit seeking a writ of mandamus to compel the district attorney to prosecute a sportsmen's association for violating the Pennsylvania Animal Cruelty Law, 18 Pa.C.S. § 5511, was properly dismissed because the district attorney's exercise of prosecutorial discretion, even if mistaken, was beyond the reach of a writ of mandamus.

Seton v. Adams, 50 A.3d 268, 2012 Pa. Commw. LEXIS 240 (Pa. Commw. Ct. 2012).

7. In a 42 U.S.C.S. § 1983 action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under 18 Pa.C.S. § 5511(c), the court denied defendants' motion to dismiss on the ground that the owner could not establish that defendants were responsible for the alleged constitutional violations because defendants satisfied the "acting under color of state law" requirement as the agencies were entities statutorily authorized to enforce Pennsylvania laws pertaining to criminal cruelty to animals violations under § 5511, and the owner alleged that the agencies failed to provide adequate training and supervision to their police officers regarding how to investigate and prosecute offenses in a manner that did not violate the civil rights of a suspect and that the policy or practice of inadequately preparing and monitoring officers amounted to deliberate indifference for his constitutional rights and caused the constitutional violations for which he sought relief.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

8. In a 42 U.S.C.S. § 1983 action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under 18 Pa.C.S. § 5511(c), the court granted defendants' motion to dismiss the owner's Fourth, Fifth, and Fourteenth Amendment claims relating to defendants' retention of his animals because the court had to give preclusive effect to the Pennsylvania Superior Court's finding in the owner's *Pa. R. Cr. P. 588* proceeding that the property was contraband and that the owner could have no legitimate property interest in the animals; without a constitutionally protected property interest in the animals, the owner could not claim that their prolonged seizure violated the Fourth Amendment or that it amounted to a Fifth Amendment taking, nor could he claim that he was denied due process with respect to his efforts to have the animals returned to him.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

9. In a 42 U.S.C.S. § 1983 action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under 18 Pa.C.S. § 5511(c), the court denied

defendants' motion to dismiss the owner's claims against the state agency and its officer alleging violations of his substantive due process rights and his constitutional right to be free from double jeopardy because the owner's allegations that the charges were maliciously filed by the state officer with full knowledge of the critical "oversight" in failing to register as a humane society police officer in the county, which deprived her of any authority to file such charges, were sufficient to defeat the motion to dismiss, and the state agency and officer failed to support their claim that prosecution in contravention of the double jeopardy clause could not, as a matter of law, amount to an abuse of official power such that it shocked the conscience; however, the court dismissed the owner's claims against both agencies and their officers for malicious prosecution grounded in the Fourth Amendment because the owner had not alleged that he suffered any deprivation of liberty as a result of the criminal charges filed by defendants, other than his attendance at his trials, and trial attendance did not qualify as a deprivation of liberty sufficient to support a Fourth Amendment malicious prosecution claim.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

10. In a 42 U.S.C.S. § 1983 action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under 18 Pa.C.S. § 5511(c), the court denied defendant's motion to dismiss the owner's claims against the agencies and the officers for alleged violations of the Fourth Amendment arising from the search of his property and the inclusion of various third parties in the same because the owner's allegations (1) that the officers violated his Fourth Amendment right to be free from unreasonable searches when they improperly procured and executed the search warrant on his farm; (2) that the agencies should be held liable for their own participation in the search and for ratifying and endorsing the unconstitutional conduct of their agent; (3) that the affidavit of probable cause contained factual inaccuracies and omitted material and relevant information, that such misstatements and omissions were deliberate, and that the warrant would not have issued and the search would not have occurred absent those misstatements and omissions; and (4) that third parties with no legitimate law-enforcement purpose were present during the execution of the search warrant were sufficient to withstand defendants' motions to dismiss; further, statements by the Pennsylvania Superior Court in the owner's *Pa. R. Cr. P. 588* proceeding regarding the validity of the warrant and search were not entitled to preclusive effect as they were unnecessary to that court's determination of whether the owner was entitled to the return of his animals.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

11. Provision under 18 Pa.C.S. § 5511(h.1)(6), which criminalized attendance at a dogfight as spectator was not vague or overbroad; the statute criminalized a person's conscious decision to attend an illegal animal fight as a spectator, and by doing so, put individuals on sufficient notice as to what conduct was proscribed.

Commonwealth v. Craven, 572 Pa. 431, 817 A.2d 451, 2003 Pa. LEXIS 246 (2003).

12. 18 Pa. Cons. Stat. § 5511(h.1)(6) is neither unconstitutionally vague nor overbroad, as it does not impose strict liability on a person merely for being present at a dogfight; rather, it criminalizes a person's conscious decision to attend an illegal animal fight as a spectator and, by doing so, puts individuals on sufficient notice as to what conduct is proscribed.

Commonwealth v. Craven, 572 Pa. 431, 817 A.2d 451, 2003 Pa. LEXIS 246 (2003).

13. Where a humane society officer made an undercover visit to a farm pursuant to 18 Pa. Cons. Stat. § 5511(i) to buy

puppies from a farmer, the farmer did not establish that the officer violated the Fourth Amendment because the farmer did not allege that the officer did not have the farmer's consent to visit the farm or that the officer conducted a search of the farm without the owner's consent.

Kauffman v. Pa. SPCA, 766 F. Supp. 2d 555, 2011 U.S. Dist. LEXIS 15383 (E.D. Pa. 2011).

14. Where a humane society officer made an undercover visit to a farm pursuant to 18 Pa. Cons. Stat. § 5511(i) to buy puppies from a farmer, the farmer did not establish that the officer violated the Fourth Amendment because the farmer did not allege that the officer did not have the farmer's consent to visit the farm or that the officer conducted a search of the farm without the owner's consent.

Kauffman v. Pa. SPCA, 766 F. Supp. 2d 555, 2011 U.S. Dist. LEXIS 15383 (E.D. Pa. 2011).

15. Humane society officer's observations of fecal matter in pens in which a farmer kept puppies and a veterinarian's findings that puppies purchased from the farmer were anemic and had parasites provided probable cause for a warrant authorizing a search of the farmer's property and the seizure of the farmer's pets.

Kauffman v. Pa. SPCA, 766 F. Supp. 2d 555, 2011 U.S. Dist. LEXIS 15383 (E.D. Pa. 2011).

16. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that an agent of an animal protection association lawfully conducted an undercover investigation of defendant's kennel when she misrepresented her identity as a potential buyer, as she had authority to investigate actions that could lead to charges of cruelty to animals, in violation of 18 Pa.C.S. § 5511(c)(1); accordingly, suppression was properly denied as to all information gained at that time.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

17. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that the court properly denied defendant's motion to quash charges of cruelty to animals, in violation of 18 Pa.C.S. § 5511(c)(1), based on defendant's claim that his actions were normal, agricultural activities under the exemption of § 5511(c), as defendant's operation of a dog kennel was not within that exemption; further, defendant did not raise the exemption as an affirmative defense, as was his burden.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

18. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that pursuant to 18 Pa.C.S. § 5511(i), an animal cruelty prevention association and its officer had jurisdiction and authority to obtain search warrants of defendant's kennel, and to bring criminal charges for animal cruelty against defendant.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

19. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that multiple charges against defendant for cruelty to animals, in violation of 18 Pa.C.S. § 5511(c)(1), were not multiplicitous, as each charge related to different animals and different dates; defendant could be subjected to punishment multiple times for committing multiple, independent violations of the animal cruelty law.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

20. Defendant was charged with second degree murder in connection with an arson caused when her co-defendant lit a dog on fire. The State could not apply the exception to the statute of limitations set forth at 42 Pa.C.S. § 5551(4) to prosecute defendant for cruelty to animals (18 Pa.C.S. § 5511(a)(1)(i)), because that charge was a misdemeanor, and 42 Pa.C.S. § 5551(4) applied only to felonies alleged to have been perpetrated in connection with a first or second degree murder.

Commonwealth v. Russell, 2007 PA Super 376, 938 A.2d 1082, 2007 Pa. Super. LEXIS 4139 (Pa. Super. Ct. 2007), appeal denied by 598 Pa. 766, 956 A.2d 434, 2008 Pa. LEXIS 1288 (2008).

21. Trial court did not err in finding defendant guilty of cruelty to animals, in violation of *18 Pa.C.S. § 5511(c)*, because there was sufficient evidence that defendant had wantonly denied defendant's dogs access to clean and sanitary shelter; expert testimony established that the home where the dogs were kept was unclean and unsanitary.

Commonwealth v. Tomey, 2005 PA Super 321, 884 A.2d 291, 2005 Pa. Super. LEXIS 3446 (Pa. Super. Ct. 2005), appeal denied by 588 Pa. 781, 906 A.2d 542, 2006 Pa. LEXIS 1698 (2006).

22. Trial court was not prohibited from applying the sentencing enhancement for use of a deadly weapon, *204 Pa. Code § 303.10(a)(2)*, to a defendant's conviction of cruelty to animals, *18 Pa. Cons. Stat. § 5511*, where defendant had used a rifle to shoot and kill a dog.

Commonwealth v. Hackenberger, 575 Pa. 197, 836 A.2d 2, 2003 Pa. LEXIS 2155 (2003).

23. Trial court properly applied use of a deadly weapon sentencing enhancement pursuant to *204 Pa. Code § 303.10(a)(2)* to appellant's conviction for cruelty to animals in violation of *18 Pa. Cons. Stat. § 5511(a)(1)(i)*; it was not disputed that appellant shot a dog with his rifle, and the crime allowed the applicability of the enhancement provision to sentencing.

Commonwealth v. Hackenberger, 575 Pa. 197, 836 A.2d 2, 2003 Pa. LEXIS 2155 (2003).

24. In construing the sentencing enhancement for use of a deadly weapon, pursuant to *204 Pa. Code § 303.10(a)(4)*, the courts must follow the standard rules of statutory interpretation embodied in *1 Pa. Cons. Stat. § 1921(b)* in that courts may not disregard the words of a statute when they are "clear and free from all ambiguity"; consequently, the enhancement is properly applicable to a conviction for cruelty to animals in violation of *18 Pa. Cons. Stat. § 5511(a)(1)(i)* where the defendant used a deadly weapon to commit the crime and the use or possession of a deadly weapon is not an element of the offense itself.

Commonwealth v. Hackenberger, 575 Pa. 197, 836 A.2d 2, 2003 Pa. LEXIS 2155 (2003).

25. Under *18 Pa. Cons. Stat. Ann. § 5511*, a conviction based on "neglect" also requires proof that defendant acted wantonly or cruelly; this legislative intent was determined based on the statutory construction laws found at *1 Pa. Cons. Stat. Ann. §§ 1921(b)* and *1903(a)*, dealing with the clear and unambiguous language of the statute, as well as a review of the prior law, found at 1869 Pa. Laws 22, whereupon the court concluded that the modification of "neglect" to *18 Pa. Cons. Stat. Ann. § 5511* was to be to the list of acts to which the "wanton and cruel" standard applies.

Commonwealth v. Simpson, 2003 PA Super 331, 832 A.2d 496, 2003 Pa. Super. LEXIS 2825 (Pa. Super. Ct. 2003).

26. Defendant's conviction for cruelty to animals in violation of *18 Pa. Cons. Stat. Ann. § 5511(c)* was based on insufficient evidence, where it was found that the trial court had specifically determined that defendant had not treated his dogs wantonly or cruelly, but had neglected them and left them in an area with poor ventilation and unsanitary conditions; the requirement that the neglect was done in a "wanton and cruel" manner was an element of the offense, and accordingly, defendant's discharge was the proper remedy.

Commonwealth v. Simpson, 2003 PA Super 331, 832 A.2d 496, 2003 Pa. Super. LEXIS 2825 (Pa. Super. Ct. 2003).

27. Under *18 Pa.C.S. § 5511*, defendant's conviction for cruelty to animals was reversed because the state failed to show that defendant acted wantonly or cruelly; a showing that defendant had neglected the dogs by leaving them in an unsanitary condition was insufficient.

Commonwealth v. Simpson, 2003 PA Super 331, 832 A.2d 496, 2003 Pa. Super. LEXIS 2825 (Pa. Super. Ct. 2003).

28. *18 Pa. Cons. Stat. § 5511(h.1)(6)* is neither unconstitutionally vague nor overbroad, as it does not impose strict liability on a person merely for being present at a dogfight; rather, it criminalizes a person's conscious decision to attend an illegal animal fight as a spectator and, by doing so, puts individuals on sufficient notice as to what conduct is proscribed.

Commonwealth v. Craven, 572 Pa. 431, 817 A.2d 451, 2003 Pa. LEXIS 246 (2003).

29. Provision under *18 Pa.C.S. § 5511(h.1)(6)*, which criminalized attendance at a dogfight as spectator was not vague or overbroad; the statute criminalized a person's conscious decision to attend an illegal animal fight as a spectator, and by doing so, put individuals on sufficient notice as to what conduct was proscribed.

Commonwealth v. Craven, 572 Pa. 431, 817 A.2d 451, 2003 Pa. LEXIS 246 (2003).

30. Deadly weapon sentencing enhancement guideline was properly applied to defendant who was convicted of cruelty to animals, in violation of *18 Pa. Cons. Stat. Ann. § 5511(a)*, as the sentencing enhancement guideline, *204 Pa. Code § 303.10(a)(1)*, was triggered by the possession of a firearm and did not require the presence of a human being.

Commonwealth v. Hackenberger, 2002 PA Super 86, 795 A.2d 1040, 2002 Pa. Super. LEXIS 357 (Pa. Super. Ct. 2002), affirmed by 575 Pa. 197, 836 A.2d 2, 2003 Pa. LEXIS 2155 (2003).

31. Agent of a state society for the prevention of cruelty to animals had authority to initiate an action pursuant to *18 Pa. Cons. Stat. §§ 5511(c)* and (i) to enjoin a sporting committee from conducting its annual fundraiser, a pigeon shoot, in which 6,000 pigeons were shot as they were released from a cage for a fee of \$75 each; the agent had standing to bring suit, even though the agent had been appointed to his job by a common pleas court judge from a different county than the county in which suit was brought, because the agent's appointment was recorded in the county of suit.

Hulsizer v. Labor Day Comm., Inc., 557 Pa. 467, 734 A.2d 848, 1999 Pa. LEXIS 2110 (1999).

32. Where the defendant shot and killed a dog after the dog attacked the defendant's dog and threatened to attack the defendant's calves, the evidence did not support a conviction for cruelty to animals.

Commonwealth v. Ulrich, 1999 PA Super 50, 726 A.2d 1070, 1999 Pa. Super. LEXIS 187 (Pa. Super. Ct. 1999).

33. Defendant's conviction for cruelty to animals pursuant to *18 Pa. Cons. Stat. § 5511(h.1)(3)* was affirmed where the court rejected defendant's assertion that § 5511(h.1)(3), which made it a felony to own, possess, keep, train, promote, purchase, or knowingly sell any animal for animal fighting, was unconstitutional on its face because it was vague and overbroad; defendant failed to carry his burden of showing that the statute was unconstitutionally overbroad on its face, as he could not be convicted for owning or possessing game fowl for any purpose other than animal fighting, and § 5511(h.1)(3) provided reasonable notice to defendant that his conduct was prohibited and, thus, defendant could not complain of vagueness.

Commonwealth v. Balog, 448 Pa. Super. 480, 672 A.2d 319, 1996 Pa. Super. LEXIS 237 (1996), appeal denied by 545 Pa. 660, 681 A.2d 176, 1996 Pa. LEXIS 1526 (1996), writ of certiorari denied by 519 U.S. 1129, 117 S. Ct. 987, 136 L. Ed. 2d 869, 1997 U.S. LEXIS 993, 65 U.S.L.W. 3570 (1997).

34. Event sponsor could not be enjoined from holding a pigeon shooting event, where the event allegedly caused abusive treatment of pigeons, in violation of *18 Pa. Cons. Stat. § 5511(c)*, because the humane society agents did not have standing; although the humane society could initiate criminal proceedings under *18 Pa. Cons. Stat. § 5511(i)*, after obtaining proper approval of the county district attorney pursuant to *19 Pa. Cons. Stat. § 5511(o)*, they could not invoke the court's jurisdiction when they failed to be appointed as humane society police officers in accordance with *22 Pa. Cons. Stat. § 501*.

Mohler v. Labor Day Comm., 443 Pa. Super. 651, 663 A.2d 162, 1995 Pa. Super. LEXIS 1864 (1995), appeal denied by 544 Pa. 611, 674 A.2d 1074, 1996 Pa. LEXIS 679 (1996).

35. Provisions of the cruelty to animals statute, *18 Pa. Cons. Stat. § 5511*, authorizing private animal welfare society to initiate criminal proceedings for animal cruelty, to execute search warrants, and to benefit from animal forfeitures did not unconstitutionally delegate powers reserved to the executive and legislative branches.

Commonwealth v. Barnes, 427 Pa. Super. 326, 629 A.2d 123, 1993 Pa. Super. LEXIS 2367 (1993).

36. Provision of the cruelty to animals statute, *18 Pa. Cons. Stat. § 5511(c)*, was not unconstitutionally vague as applied to defendants where persons of common intelligence could be expected to conclude that defendants' utter neglect of

their horses was contrary to the statute and was not within the exception for routine and accepted agricultural practices under 18 Pa. Cons. Stat. § 5511(q).

Commonwealth v. Barnes, 427 Pa. Super. 326, 629 A.2d 123, 1993 Pa. Super. LEXIS 2367 (1993).

37. 18 Pa. Cons. Stat. Ann. § 5511, under which defendant was convicted of cruelty to animals, was not unconstitutionally vague; there was no ambiguity in the phrase "animal fighting," as the meaning of the word "fighting" was a matter of common knowledge.

Commonwealth v. Gonzalez, 403 Pa. Super. 157, 588 A.2d 528, 1991 Pa. Super. LEXIS 663 (1991).

38. 18 Pa. Cons. Stat. § 5511(i) authorizes an agent of any society or association for the prevention of cruelty to animals to have the same powers to initiate criminal proceedings provided to police officers and that the agent shall have standing to request any court of competent jurisdiction to enjoin 18 Pa. Cons. Stat. § 5511 violations.

Pennsylvania Gamefowl Breeders Asso. v. Commonwealth, 533 A.2d 838, 1987 Pa. Commw. LEXIS 2646 (Pa. Commw. Ct. 1987), reaffirmed by 538 A.2d 645, 1988 Pa. Commw. LEXIS 138 (Pa. Commw. Ct. 1988).

39. Entertainment promoter's American style bullfight constituted cruelty to animals in violation of former 18 P.S. § 4942 (now 18 Pa. Cons. Stat. Ann. § 5511), where a matador baited a bull by waving a cape at the bull, thus inducing the bull to charge the matador, where 30 inch sticks were thrust near the neck of the bull, and where the matador prodded the bull with a wooden stick with a spike protruding from its end.

Pennsylvania Soc. for Prevention of Cruelty to Animals v. Bravo Enterprises, Inc., 428 Pa. 350, 237 A.2d 342, 1968 Pa. LEXIS 896 (1968).

40. Societies for the prevention of cruelty to animals had no standing under former 18 P.S. §§ 4948 and 4949 (now 18 Pa. Cons. Stat. Ann. § 5511) to sue for an injunction restraining an entertainment promoter from conducting American style bullfighting, where statutes gave the societies only the power to arrest and prosecute those engaged in cruelty to animals and to seize any bull kept for fighting or baiting, and where the societies did not enjoy any greater property right in the prevention of cruelty to animals or suffer injury to any greater degree than the general public.

Pennsylvania Soc. for Prevention of Cruelty to Animals v. Bravo Enterprises, Inc., 428 Pa. 350, 237 A.2d 342, 1968 Pa. LEXIS 896 (1968).

41. Cruelty to animal statute, 18 Pa.C.S. § 5511(a)(2.1)(i)(A) and (c) are not impermissibly vague on the grounds that the specific acts of maiming, mutilation, torture, and disfigurement are not enumerated because criminal laws are not vague simply because the conduct prohibited is described in general language and there are an infinite number of ways in which the callously indifferent can subject animals in their care to conditions which make one cringe, thus, it is impossible for the Pennsylvania Legislature to catalog every act which violates the statute.

Commonwealth v. Crawford, 2011 PA Super 122, 24 A.3d 396, 2011 Pa. Super. LEXIS 635 (Pa. Super. Ct. 2011).

42. There was sufficient evidence to support defendant's conviction for cruelty to animals based on her attempts to turn three kittens into gothic cats by piercing their ears and necks as well as banding their tails as the Commonwealth presented testimony from a doctor that the piercings were inappropriate as they served no function, that the needle used was typically used to inject cattle and was much too large to use on a kitten, the expert's testimony that the piercings would be a constant source of irritation to the animals and that the banding was extremely painful to the kittens, as well evidence that the kittens were maimed, disfigured, and tortured.

Commonwealth v. Crawford, 2011 PA Super 122, 24 A.3d 396, 2011 Pa. Super. LEXIS 635 (Pa. Super. Ct. 2011).

43. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that the weight and sufficiency of the evidence supported defendant's conviction for cruelty to animals, in violation of 18 Pa.C.S. § 5511(c)(1), where there were approximately 800 animals living in putrid conditions, and a high percentage of the animals were suffering from

diseases; based on the facts, a reasonable jury could have found that defendant acted "wantonly" or "cruelly" in disclaiming his responsibility to provide clean and sanitary shelter.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

44. Trial court erred in convicting defendant of criminal conspiracy to commit cruelty to animals, in violation of 18 Pa.C.S. § 5511(a)(2.1)(iii), because 3 P.S. § 328.2(b) was ambiguous, and under the rule of lenity, the act of giving a gun to someone to have that person kill one's dog could not support a conviction of animal cruelty.

Commonwealth v. Kneller, 2009 PA Super 18, 971 A.2d 495, 2009 Pa. Super. LEXIS 23 (Pa. Super. Ct. 2009), vacated by, remanded by 605 Pa. 132, 987 A.2d 716, 2009 Pa. LEXIS 2922 (2009).

45. Sufficient evidence of malice supported defendant's conviction of cruelty to animals in violation of 18 Pa.C.S. § 5511(a)(1)(i) where defendant shot and killed a dog that was harassing deer that defendant kept in a pen; the dog posed no danger to defendant, and defendant concealed the killing from the owner and police.

Commonwealth v. Ingram, 2007 PA Super 141, 926 A.2d 470, 2007 Pa. Super. LEXIS 1231 (Pa. Super. Ct. 2007).

46. Affirmative defenses under 18 Pa.C.S. § 5511(a)(3)(i) and (ii) did not preclude defendant's conviction of animal cruelty in violation of § 5511(a)(1)(i) where defendant shot and killed a dog that was harassing deer that defendant kept in a pen. Section 5511(a)(3)(i) was inapplicable because the deer were not "domestic animals" as defined under § 5511(q) and because the dog was not "actually destroying" the deer; § 5511(a)(3)(ii) did not apply because the fact that the dog was not pursuing or attacking the deer prevented the shooting from being justified under 34 Pa.C.S. §§ 2384 and 2385 or 3 P.S. § 459-501.

Commonwealth v. Ingram, 2007 PA Super 141, 926 A.2d 470, 2007 Pa. Super. LEXIS 1231 (Pa. Super. Ct. 2007).

47. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that sentences imposed on defendant in the aggravated range of the sentencing guidelines pursuant to 204 Pa. Code § 303.1 for his convictions of cruelty to animals, in violation of 18 Pa.C.S. § 5511(c)(1), were proper where the sentences imposed were substantially less than the statutory limits and were based on the protection of the public, the gravity of the offense, and defendant's rehabilitative needs pursuant to 42 Pa.C.S. § 9721(b); defendant's indifference to hundreds of animals in his kennel was widespread and was a repeat of prior conduct, for which he was previously convicted.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

48. As defendant's claim was premised upon her faulty interpretation that under 18 Pa.C.S. § 5511, as an owner of her dog, she could not be convicted of conspiracy to commit cruelty to animals based on having the dog killed, the trial court did not abuse its discretion in applying the deadly weapons enhancement to increase the sentence.

Commonwealth v. Kneller, 2010 PA Super 122, 999 A.2d 608, 2010 Pa. Super. LEXIS 1484 (Pa. Super. Ct. 2010), appeal denied by 610 Pa. 594, 20 A.3d 485, 2011 Pa. LEXIS 578 (2011).

49. Trial court erred by sentencing defendant to four years of probation for animal cruelty, in violation of 18 Pa.C.S. § 5511(a)(2.1)(i)(A), as such a sentence was illegally excessive since § 5511(a)(2.1)(ii) provided for a maximum term of imprisonment of two years.

Commonwealth v. Lee, 2008 PA Super 56, 947 A.2d 199, 2008 Pa. Super. LEXIS 259, 45 A.L.R.6th 817 (Pa. Super. Ct. 2008), appeal denied by 602 Pa. 676, 981 A.2d 218, 2009 Pa. LEXIS 1361 (2009).

50. Trial court order requiring defendant to pay restitution to an animal organization in the amount of \$3,156 for the costs it incurred in caring for defendant's abused dog and treating it, was upheld on appeal as the argument made by defendant that the animal organization was not a victim under any restitution statute was misplaced as 18 Pa.C.S. § 5511(l) provided independent statutory authority for the payment of restitution.

Commonwealth v. Lee, 2008 PA Super 56, 947 A.2d 199, 2008 Pa. Super. LEXIS 259, 45 A.L.R.6th 817 (Pa. Super.

Ct. 2008), appeal denied by 602 Pa. 676, 981 A.2d 218, 2009 Pa. LEXIS 1361 (2009).

51. Although the offense of cruelty to animals, in violation of 18 Pa.C.S. § 5511(a)(2.1)(i)(A), was a first degree misdemeanor, § 5511(a)(2.1)(ii) provided for a maximum term of imprisonment of two years, such that a trial court exceeded the allowable term when it imposed a four-year period of probation on defendant.

Commonwealth v. Lee, 2007 PA Super 401, 2007 Pa. Super. LEXIS 4444 (Pa. Super. Ct. 2007), opinion withdrawn by 2008 Pa. Super. LEXIS 74 (Pa. Super. Ct. Feb. 7, 2008), substituted opinion at 2008 PA Super 56, 947 A.2d 199, 2008 Pa. Super. LEXIS 259, 45 A.L.R.6th 817 (Pa. Super. Ct. 2008).

52. Humane society officer's observations of fecal matter in pens in which a farmer kept puppies and a veterinarian's findings that puppies purchased from the farmer were anemic and had parasites provided probable cause for a warrant authorizing a search of the farmer's property and the seizure of the farmer's pets.

Kauffman v. Pa. SPCA, 766 F. Supp. 2d 555, 2011 U.S. Dist. LEXIS 15383 (E.D. Pa. 2011).

53. Provisions of the cruelty to animals statute, 18 Pa. Cons. Stat. § 5511, authorizing private animal welfare society to initiate criminal proceedings for animal cruelty, to execute search warrants, and to benefit from animal forfeitures did not unconstitutionally delegate powers reserved to the executive and legislative branches.

Commonwealth v. Barnes, 427 Pa. Super. 326, 629 A.2d 123, 1993 Pa. Super. LEXIS 2367 (1993).

54. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that multiple charges against defendant for cruelty to animals, in violation of 18 Pa.C.S. § 5511(c)(1), were not multiplicitous, as each charge related to different animals and different dates; defendant could be subjected to punishment multiple times for committing multiple, independent violations of the animal cruelty law.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

55. Humane society police officer's suit seeking a writ of mandamus to compel the district attorney to prosecute a sportsmen's association for violating the Pennsylvania Animal Cruelty Law, 18 Pa.C.S. § 5511, was properly dismissed because the district attorney's exercise of prosecutorial discretion, even if mistaken, was beyond the reach of a writ of mandamus.

Seeton v. Adams, 50 A.3d 268, 2012 Pa. Commw. LEXIS 240 (Pa. Commw. Ct. 2012).

56. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that the court properly denied defendant's motion to quash charges of cruelty to animals, in violation of 18 Pa.C.S. § 5511(c)(1), based on defendant's claim that his actions were normal, agricultural activities under the exemption of § 5511(c), as defendant's operation of a dog kennel was not within that exemption; further, defendant did not raise the exemption as an affirmative defense, as was his burden.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

57. Affirmative defenses under 18 Pa.C.S. § 5511(a)(3)(i) and (ii) did not preclude defendant's conviction of animal

cruelty in violation of § 5511(a)(1)(i) where defendant shot and killed a dog that was harassing deer that defendant kept in a pen. Section 5511(a)(3)(i) was inapplicable because the deer were not "domestic animals" as defined under § 5511(q) and because the dog was not "actually destroying" the deer; § 5511(a)(3)(ii) did not apply because the fact that the dog was not pursuing or attacking the deer prevented the shooting from being justified under 34 Pa.C.S. §§ 2384 and 2385 or 3 P.S. § 459-501.

Commonwealth v. Ingram, 2007 PA Super 141, 926 A.2d 470, 2007 Pa. Super. LEXIS 1231 (Pa. Super. Ct. 2007).

58. Defendant was charged with second degree murder in connection with an arson caused when her co-defendant lit a dog on fire. The State could not apply the exception to the statute of limitations set forth at 42 Pa.C.S. § 5551(4) to prosecute defendant for cruelty to animals (18 Pa.C.S. § 5511(a)(1)(i)), because that charge was a misdemeanor, and 42 Pa.C.S. § 5551(4) applied only to felonies alleged to have been perpetrated in connection with a first or second degree murder.

Commonwealth v. Russell, 2007 PA Super 376, 938 A.2d 1082, 2007 Pa. Super. LEXIS 4139 (Pa. Super. Ct. 2007), appeal denied by 598 Pa. 766, 956 A.2d 434, 2008 Pa. LEXIS 1288 (2008).

59. Defendant's conviction for cruelty to animals in violation of 18 Pa. Cons. Stat. Ann. § 5511(c) was based on insufficient evidence, where it was found that the trial court had specifically determined that defendant had not treated his dogs wantonly or cruelly, but had neglected them and left them in an area with poor ventilation and unsanitary conditions; the requirement that the neglect was done in a "wanton and cruel" manner was an element of the offense, and accordingly, defendant's discharge was the proper remedy.

Commonwealth v. Simpson, 2003 PA Super 331, 832 A.2d 496, 2003 Pa. Super. LEXIS 2825 (Pa. Super. Ct. 2003).

60. Trial court erred by sentencing defendant to four years of probation for animal cruelty, in violation of 18 Pa.C.S. § 5511(a)(2.1)(i)(A), as such a sentence was illegally excessive since § 5511(a)(2.1)(ii) provided for a maximum term of imprisonment of two years.

Commonwealth v. Lee, 2008 PA Super 56, 947 A.2d 199, 2008 Pa. Super. LEXIS 259, 45 A.L.R.6th 817 (Pa. Super. Ct. 2008), appeal denied by 602 Pa. 676, 981 A.2d 218, 2009 Pa. LEXIS 1361 (2009).

61. Trial court was not prohibited from applying the sentencing enhancement for use of a deadly weapon, 204 Pa. Code § 303.10(a)(2), to a defendant's conviction of cruelty to animals, 18 Pa. Cons. Stat. § 5511, where defendant had used a rifle to shoot and kill a dog.

Commonwealth v. Hackenberger, 575 Pa. 197, 836 A.2d 2, 2003 Pa. LEXIS 2155 (2003).

62. Trial court properly applied use of a deadly weapon sentencing enhancement pursuant to 204 Pa. Code § 303.10(a)(2) to appellant's conviction for cruelty to animals in violation of 18 Pa. Cons. Stat. § 5511(a)(1)(i); it was not disputed that appellant shot a dog with his rifle, and the crime allowed the applicability of the enhancement provision to sentencing.

Commonwealth v. Hackenberger, 575 Pa. 197, 836 A.2d 2, 2003 Pa. LEXIS 2155 (2003).

63. In construing the sentencing enhancement for use of a deadly weapon, pursuant to 204 Pa. Code § 303.10(a)(4), the courts must follow the standard rules of statutory interpretation embodied in 1 Pa. Cons. Stat. § 1921(b) in that courts may not disregard the words of a statute when they are "clear and free from all ambiguity"; consequently, the enhancement is properly applicable to a conviction for cruelty to animals in violation of 18 Pa. Cons. Stat. §

5511(a)(1)(i) where the defendant used a deadly weapon to commit the crime and the use or possession of a deadly weapon is not an element of the offense itself.

Commonwealth v. Hackenberger, 575 Pa. 197, 836 A.2d 2, 2003 Pa. LEXIS 2155 (2003).

64. As defendant's claim was premised upon her faulty interpretation that under 18 Pa.C.S. § 5511, as an owner of her dog, she could not be convicted of conspiracy to commit cruelty to animals based on having the dog killed, the trial court did not abuse its discretion in applying the deadly weapons enhancement to increase the sentence.

Commonwealth v. Kneller, 2010 PA Super 122, 999 A.2d 608, 2010 Pa. Super. LEXIS 1484 (Pa. Super. Ct. 2010), appeal denied by 610 Pa. 594, 20 A.3d 485, 2011 Pa. LEXIS 578 (2011).

65. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that sentences imposed on defendant in the aggravated range of the sentencing guidelines pursuant to 204 Pa. Code § 303.1 for his convictions of cruelty to animals, in violation of 18 Pa.C.S. § 5511(c)(1), were proper where the sentences imposed were substantially less than the statutory limits and were based on the protection of the public, the gravity of the offense, and defendant's rehabilitative needs pursuant to 42 Pa.C.S. § 9721(b); defendant's indifference to hundreds of animals in his kennel was widespread and was a repeat of prior conduct, for which he was previously convicted.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

66. Deadly weapon sentencing enhancement guideline was properly applied to defendant who was convicted of cruelty to animals, in violation of 18 Pa. Cons. Stat. Ann. § 5511(a), as the sentencing enhancement guideline, 204 Pa. Code § 303.10(a)(1), was triggered by the possession of a firearm and did not require the presence of a human being.

Commonwealth v. Hackenberger, 2002 PA Super 86, 795 A.2d 1040, 2002 Pa. Super. LEXIS 357 (Pa. Super. Ct. 2002), affirmed by 575 Pa. 197, 836 A.2d 2, 2003 Pa. LEXIS 2155 (2003).

67. Trial court order requiring defendant to pay restitution to an animal organization in the amount of \$3,156 for the costs it incurred in caring for defendant's abused dog and treating it, was upheld on appeal as the argument made by defendant that the animal organization was not a victim under any restitution statute was misplaced as 18 Pa.C.S. § 5511(l) provided independent statutory authority for the payment of restitution.

Commonwealth v. Lee, 2008 PA Super 56, 947 A.2d 199, 2008 Pa. Super. LEXIS 259, 45 A.L.R.6th 817 (Pa. Super. Ct. 2008), appeal denied by 602 Pa. 676, 981 A.2d 218, 2009 Pa. LEXIS 1361 (2009).

68. Defendant's conviction for cruelty to animals in violation of 18 Pa. Cons. Stat. Ann. § 5511(c) was based on insufficient evidence, where it was found that the trial court had specifically determined that defendant had not treated his dogs wantonly or cruelly, but had neglected them and left them in an area with poor ventilation and unsanitary conditions; the requirement that the neglect was done in a "wanton and cruel" manner was an element of the offense, and accordingly, defendant's discharge was the proper remedy.

Commonwealth v. Simpson, 2003 PA Super 331, 832 A.2d 496, 2003 Pa. Super. LEXIS 2825 (Pa. Super. Ct. 2003).

69. There was sufficient evidence to support defendant's conviction for cruelty to animals based on her attempts to turn three kittens into gothic cats by piercing their ears and necks as well as banding their tails as the Commonwealth presented testimony from a doctor that the piercings were inappropriate as they served no function, that the needle used

was typically used to inject cattle and was much too large to use on a kitten, the expert's testimony that the piercings would be a constant source of irritation to the animals and that the banding was extremely painful to the kittens, as well evidence that the kittens were maimed, disfigured, and tortured.

Commonwealth v. Crawford, 2011 PA Super 122, 24 A.3d 396, 2011 Pa. Super. LEXIS 635 (Pa. Super. Ct. 2011).

70. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that the weight and sufficiency of the evidence supported defendant's conviction for cruelty to animals, in violation of *18 Pa.C.S. § 5511(c)(1)*, where there were approximately 800 animals living in putrid conditions, and a high percentage of the animals were suffering from diseases; based on the facts, a reasonable jury could have found that defendant acted "wantonly" or "cruelly" in disclaiming his responsibility to provide clean and sanitary shelter.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

71. Sufficient evidence of malice supported defendant's conviction of cruelty to animals in violation of *18 Pa.C.S. § 5511(a)(1)(i)* where defendant shot and killed a dog that was harassing deer that defendant kept in a pen; the dog posed no danger to defendant, and defendant concealed the killing from the owner and police.

Commonwealth v. Ingram, 2007 PA Super 141, 926 A.2d 470, 2007 Pa. Super. LEXIS 1231 (Pa. Super. Ct. 2007).

72. Trial court did not err in finding defendant guilty of cruelty to animals, in violation of *18 Pa.C.S. § 5511(c)*, because there was sufficient evidence that defendant had wantonly denied defendant's dogs access to clean and sanitary shelter; expert testimony established that the home where the dogs were kept was unclean and unsanitary.

Commonwealth v. Tomey, 2005 PA Super 321, 884 A.2d 291, 2005 Pa. Super. LEXIS 3446 (Pa. Super. Ct. 2005), appeal denied by 588 Pa. 781, 906 A.2d 542, 2006 Pa. LEXIS 1698 (2006).

73. In support of an affirmance on appeal under *Pa. R. App. P. 1925*, it was noted that pursuant to *18 Pa.C.S. § 5511(i)*, an animal cruelty prevention association and its officer had jurisdiction and authority to obtain search warrants of defendant's kennel, and to bring criminal charges for animal cruelty against defendant.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

74. Appellate court properly determined that a humane society was not immune from a civil suit judgment obtained against it by a dog owner as it was not a Commonwealth agency entitled to sovereign immunity under the Sovereign Immunity Act, *42 Pa.C.S. § 8501*, nor was it a local agency entitled to governmental immunity under the Political Subdivision Tort Claims Act, *42 Pa.C.S. § 8541*. The humane society elected its own officers and directors, it received no funding by public money, the Commonwealth did not control it, the Pennsylvania General Assembly did not recognize it as an agent or instrumentality of the Commonwealth, and the fact that it performed a governmental function was not determinative of its status as a local agency entitling it to governmental immunity.

Snead v. SPCA of Pa., 604 Pa. 166, 985 A.2d 909, 2009 Pa. LEXIS 2786 (2009).

75. In a *42 U.S.C.S. § 1983* action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under *18 Pa.C.S. § 5511(c)*, the court granted defendants' motion to dismiss the owner's Fourth, Fifth, and Fourteenth Amendment claims relating to defendants' retention of his animals because the court had to give preclusive effect to the Pennsylvania Superior Court's finding in the owner's *Pa. R. Cr. P. 588* proceeding that the property was contraband and that the owner could have no legitimate

property interest in the animals; without a constitutionally protected property interest in the animals, the owner could not claim that their prolonged seizure violated the Fourth Amendment or that it amounted to a Fifth Amendment taking, nor could he claim that he was denied due process with respect to his efforts to have the animals returned to him.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

76. In a 42 U.S.C.S. § 1983 action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under 18 Pa.C.S. § 5511(c), the court denied defendants' motion to dismiss the owner's claims against the state agency and its officer alleging violations of his substantive due process rights and his constitutional right to be free from double jeopardy because the owner's allegations that the charges were maliciously filed by the state officer with full knowledge of the critical "oversight" in failing to register as a humane society police officer in the county, which deprived her of any authority to file such charges, were sufficient to defeat the motion to dismiss, and the state agency and officer failed to support their claim that prosecution in contravention of the double jeopardy clause could not, as a matter of law, amount to an abuse of official power such that it shocked the conscience; however, the court dismissed the owner's claims against both agencies and their officers for malicious prosecution grounded in the Fourth Amendment because the owner had not alleged that he suffered any deprivation of liberty as a result of the criminal charges filed by defendants, other than his attendance at his trials, and trial attendance did not qualify as a deprivation of liberty sufficient to support a Fourth Amendment malicious prosecution claim.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

77. In a 42 U.S.C.S. § 1983 action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under 18 Pa.C.S. § 5511(c), the court denied defendants' motion to dismiss the owner's state law claims for malicious prosecution against the agencies and their officers, but limited the claims against the local agency and its officer to the period of time during which they were actually involved in the prosecution efforts, because (1) the owner's allegation that the charges were made maliciously and in knowing violation of his federal and state rights was sufficient; (2) state law convictions overturned on appeal did not conclusively establish probable cause and necessarily negate any possibility that a claimant could establish a malicious prosecution claim; (3) the owner's allegations that the animals were being treated for their ailments, had received appropriate medications, and had long-standing conditions existing prior to his receipt of the animals, as well as his contention that some or all of the animals fall within the normal agricultural exception to the animal cruelty statutes, could be construed as an assertion of actual innocence of some or all of the charges; (4) the Pennsylvania Superior Court's conclusion in the owner's *Pa. R. Cr. P. 588* proceeding that the violated the cruelty-to-animal laws were not entitled to preclusive effect because the issue was not necessary to final judgment on the merits as the state court was required only to determine whether the animals were contraband or derivative contraband, not whose actions caused the animals to become derivative contraband; and (5) it was not clear that the agencies were local agencies covered by Pennsylvania's Political Subdivision Tort Claims Act, 42 Pa.C.S. §§ 8541-8564.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

78. In a 42 U.S.C.S. § 1983 action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under 18 Pa.C.S. § 5511(c), the court denied defendants' motion to dismiss on the ground that the owner could not establish that defendants were responsible for the alleged constitutional violations because defendants satisfied the "acting under color of state law" requirement as the agencies were entities statutorily authorized to enforce Pennsylvania laws pertaining to criminal cruelty to animals violations under § 5511, and the owner alleged that the agencies failed to provide adequate training and supervision to

their police officers regarding how to investigate and prosecute offenses in a manner that did not violate the civil rights of a suspect and that the policy or practice of inadequately preparing and monitoring officers amounted to deliberate indifference for his constitutional rights and caused the constitutional violations for which he sought relief.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

79. In a 42 U.S.C.S. § 1983 action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under 18 Pa.C.S. § 5511(c), the court denied defendant's motion to dismiss the owner's claims against the agencies and the officers for alleged violations of the Fourth Amendment arising from the search of his property and the inclusion of various third parties in the same because the owner's allegations (1) that the officers violated his Fourth Amendment right to be free from unreasonable searches when they improperly procured and executed the search warrant on his farm; (2) that the agencies should be held liable for their own participation in the search and for ratifying and endorsing the unconstitutional conduct of their agent; (3) that the affidavit of probable cause contained factual inaccuracies and omitted material and relevant information, that such misstatements and omissions were deliberate, and that the warrant would not have issued and the search would not have occurred absent those misstatements and omissions; and (4) that third parties with no legitimate law-enforcement purpose were present during the execution of the search warrant were sufficient to withstand defendants' motions to dismiss; further, statements by the Pennsylvania Superior Court in the owner's *Pa. R. Cr. P. 588* proceeding regarding the validity of the warrant and search were not entitled to preclusive effect as they were unnecessary to that court's determination of whether the owner was entitled to the return of his animals.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

80. Provisions of the cruelty to animals statute, 18 Pa. Cons. Stat. § 5511, authorizing private animal welfare society to initiate criminal proceedings for animal cruelty, to execute search warrants, and to benefit from animal forfeitures did not unconstitutionally delegate powers reserved to the executive and legislative branches.

Commonwealth v. Barnes, 427 Pa. Super. 326, 629 A.2d 123, 1993 Pa. Super. LEXIS 2367 (1993).

81. Because a dog rescue shelter did not comply with 28 U.S.C.S. § 1446(d) by filing a copy of its notice of removal with the state court, and because the shelter's agent agreed that the dogs at the agent's property were living in unsanitary conditions and were being denied veterinary care, the dogs were properly forfeited pursuant to 18 Pa.C.S. § 5511(m).

Pa. S.P.C.A., Inc. v. Sixth Angel Shepherd Rescue, Inc., 2011 PA Super 226, 30 A.3d 1232, 2011 Pa. Super. LEXIS 3242 (Pa. Super. Ct. 2011).

82. Trial court erred in convicting defendant of criminal conspiracy to commit cruelty to animals, in violation of 18 Pa.C.S. § 5511(a)(2.1)(iii), because 3 P.S. § 328.2(b) was ambiguous, and under the rule of lenity, the act of giving a gun to someone to have that person kill one's dog could not support a conviction of animal cruelty.

Commonwealth v. Kneller, 2009 PA Super 18, 971 A.2d 495, 2009 Pa. Super. LEXIS 23 (Pa. Super. Ct. 2009), vacated by, remanded by 605 Pa. 132, 987 A.2d 716, 2009 Pa. LEXIS 2922 (2009).

83. In construing the sentencing enhancement for use of a deadly weapon, pursuant to 204 Pa. Code § 303.10(a)(4), the courts must follow the standard rules of statutory interpretation embodied in 1 Pa. Cons. Stat. § 1921(b) in that courts may not disregard the words of a statute when they are "clear and free from all ambiguity"; consequently, the enhancement is properly applicable to a conviction for cruelty to animals in violation of 18 Pa. Cons. Stat. § 5511(a)(1)(i) where the defendant used a deadly weapon to commit the crime and the use or possession of a deadly weapon is not an element of the offense itself.

Commonwealth v. Hackenberger, 575 Pa. 197, 836 A.2d 2, 2003 Pa. LEXIS 2155 (2003).

84. Under 18 Pa. Cons. Stat. Ann. § 5511, a conviction based on "neglect" also requires proof that defendant acted wantonly or cruelly; this legislative intent was determined based on the statutory construction laws found at 1 Pa. Cons. Stat. Ann. §§ 1921(b) and 1903(a), dealing with the clear and unambiguous language of the statute, as well as a review of the prior law, found at 1869 Pa. Laws 22, whereupon the court concluded that the modification of "neglect" to 18 Pa. Cons. Stat. Ann. § 5511 was to be to the list of acts to which the "wanton and cruel" standard applies.

Commonwealth v. Simpson, 2003 PA Super 331, 832 A.2d 496, 2003 Pa. Super. LEXIS 2825 (Pa. Super. Ct. 2003).

85. Provision of the cruelty to animals statute, 18 Pa. Cons. Stat. § 5511(c), was not unconstitutionally vague as applied to defendants where persons of common intelligence could be expected to conclude that defendants' utter neglect of their horses was contrary to the statute and was not within the exception for routine and accepted agricultural practices under 18 Pa. Cons. Stat. § 5511(q).

Commonwealth v. Barnes, 427 Pa. Super. 326, 629 A.2d 123, 1993 Pa. Super. LEXIS 2367 (1993).

86. 18 Pa. Cons. Stat. Ann. § 5511, under which defendant was convicted of cruelty to animals, was not unconstitutionally vague; there was no ambiguity in the phrase "animal fighting," as the meaning of the word "fighting" was a matter of common knowledge.

Commonwealth v. Gonzalez, 403 Pa. Super. 157, 588 A.2d 528, 1991 Pa. Super. LEXIS 663 (1991).

87. Cruelty to animal statute, 18 Pa.C.S. § 5511(a)(2.1)(i)(A) and (c) are not impermissibly vague on the grounds that the specific acts of maiming, mutilation, torture, and disfigurement are not enumerated because criminal laws are not vague simply because the conduct prohibited is described in general language and there are an infinite number of ways in which the callously indifferent can subject animals in their care to conditions which make one cringe, thus, it is impossible for the Pennsylvania Legislature to catalog every act which violates the statute.

Commonwealth v. Crawford, 2011 PA Super 122, 24 A.3d 396, 2011 Pa. Super. LEXIS 635 (Pa. Super. Ct. 2011).

88. Appellate court properly determined that a humane society was not immune from a civil suit judgment obtained against it by a dog owner as it was not a Commonwealth agency entitled to sovereign immunity under the Sovereign Immunity Act, 42 Pa.C.S. § 8501, nor was it a local agency entitled to governmental immunity under the Political Subdivision Tort Claims Act, 42 Pa.C.S. § 8541. The humane society elected its own officers and directors, it received no funding by public money, the Commonwealth did not control it, the Pennsylvania General Assembly did not recognize it as an agent or instrumentality of the Commonwealth, and the fact that it performed a governmental function was not determinative of its status as a local agency entitling it to governmental immunity.

Snead v. SPCA of Pa., 604 Pa. 166, 985 A.2d 909, 2009 Pa. LEXIS 2786 (2009).

89. In support of an affirmance on appeal under Pa. R. App. P. 1925, it was noted that an agent of an animal protection association lawfully conducted an undercover investigation of defendant's kennel when she misrepresented her identity as a potential buyer, as she had authority to investigate actions that could lead to charges of cruelty to animals, in violation of 18 Pa.C.S. § 5511(c)(1); accordingly, suppression was properly denied as to all information gained at that time.

Commonwealth v. Eckhart, 2011 Pa. Dist. & Cnty. Dec. LEXIS 20 (Feb. 11, 2011).

90. In a 42 U.S.C.S. § 1983 action brought by an owner of farm animals against defendants, state and local animal welfare agencies, agency police officers, and a local agency employee, alleging violations of his Fourth, Fifth, and Fourteenth Amendment rights arising from defendants' search of his property, seizure and retention of his animals, and repeated efforts to criminally prosecute him for cruelty to animals under 18 Pa.C.S. § 5511(c), the court denied defendants' motion to dismiss the owner's state law claims for malicious prosecution against the agencies and their officers, but limited the claims against the local agency and its officer to the period of time during which they were actually involved in the prosecution efforts, because (1) the owner's allegation that the charges were made maliciously and in knowing violation of his federal and state rights was sufficient; (2) state law convictions overturned on appeal did not conclusively establish probable cause and necessarily negate any possibility that a claimant could establish a malicious prosecution claim; (3) the owner's allegations that the animals were being treated for their ailments, had received appropriate medications, and had long-standing conditions existing prior to his receipt of the animals, as well as his contention that some or all of the animals fall within the normal agricultural exception to the animal cruelty statutes, could be construed as an assertion of actual innocence of some or all of the charges; (4) the Pennsylvania Superior Court's conclusion in the owner's *Pa. R. Cr. P. 588* proceeding that the violated the cruelty-to-animal laws were not entitled to preclusive effect because the issue was not necessary to final judgment on the merits as the state court was required only to determine whether the animals were contraband or derivative contraband, not whose actions caused the animals to become derivative contraband; and (5) it was not clear that the agencies were local agencies covered by Pennsylvania's Political Subdivision Tort Claims Act, 42 Pa.C.S. §§ 8541-8564.

Allen v. Pa. SPCA, 488 F. Supp. 2d 450, 2007 U.S. Dist. LEXIS 35010 (M.D. Pa. 2007).

CROSS REFERENCE NOTES.

Definitions, see 22 Pa.C.S. § 3702.

Qualifications for appointment, see 22 Pa.C.S. § 3705.

Powers and authority; jurisdiction, see 22 Pa.C.S. § 3708.

Search warrants, see 22 Pa.C.S. § 3710.

Costs, see 22 Pa.C.S. § 3716.

Destruction of dogs declared public nuisances, see 34 Pa.C.S. § 2385.

PENNSYLVANIA ADMINISTRATIVE CODE REFERENCES.

7 Pa. Code § 17a.1 (2012), BUREAU OF ANIMAL HEALTH AND DIAGNOSTIC SERVICES.

7 Pa. Code § 20.2 (2012), BUREAU OF ANIMAL HEALTH AND DIAGNOSTIC SERVICES.

LAW REVIEWS

1. *113 Penn St. L. Rev. 649*, Comment: Justice for Dusty: Implementing Mandatory Minimum Sentences for Animal Abusers.

2. *30 Temp. J. Sci. Tech. & Env'tl. L. 51*, ARTICLE: The Morally Informed Consumer: Examining Animal Welfare Claims on Egg Labels.

3. *134 U. Pa. L. Rev. 399*, COMMENT: CREATING A PRIVATE CAUSE OF ACTION AGAINST ABUSIVE ANIMAL RESEARCH.

4. *21 Vill. Env'tl. L.J. 159*, COMMENT: SOMETHING STINKS: THE NEED FOR ENVIRONMENTAL REGULATION OF PUPPY MILLS.

5. *16 Vill. Sports & Ent. L.J. 199*, COMMENT: THE DARK HORSE OF DRUG ABUSE: LEGAL ISSUES OF ADMINISTERING PERFORMANCE-ENHANCING DRUGS TO RACEHORSES.

6. *4 Widener J. Pub. L. 1035, 1994* LEGISLATIVE REVIEW: LEGISLATIVE ACTS OF 1994.

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