

Animal Cruelty Cases, Criminal Code, RSC 2008

264.1 (1) Uttering threats – Every one commits an offence who, in any manner, knowingly utters, conveys or causes any person to receive a threat

- (a) to cause death or bodily harm to any person;
- (b) to burn, destroy or damage real or personal property; or
- (c) to kill, poison or injure an animal or bird that is the property of any person.

Cases:

R v Gauvin, 2009 NBPC 29 (CanLII)

R v Putt, 2013 CarswellNfld 241, 107 W.C.B. (2d) 417

R v White, 2012 CanLII 43292 (NL PC)

444. (1) Injuring or endangering cattle – Every one commits an offence who wilfully

- (a) kills, maims, wounds, poisons or injures cattle; or

Cases:

R v Bernier, 2006 NBQB 36 (CanLII)

R v Martens, 1986 (MBQB) 39 Man. R. (2d) 249

La Reine c Johnny Perron, 2003 CanLII 32967 (QC CQ)

Cote v R, 2003 NBCA 38 (CanLII)

- (b) places poison in such a position that it may be consumed by cattle.

(2) Punishment – Every one who commits an offence under subsection (1) is guilty of

- (a) an indictable offence and liable to imprisonment for a term of not more than five years; or
- (b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

445. (1) Injuring or endangering other animals – Every one commits an offence who, wilfully, and without lawful excuse,

- (a) kills, maims, wounds, poisons or injures dogs, birds or animals that are not cattle and are kept for a lawful purpose; or

Cases:

R v Barnes, 2005 BCCA 432
R v Bourque 2012 BCPC 0452; *R v Bourque* 2013 BCCA 447
R v Campbell Brown, 2004 ABPC 17
R v Cooper, 2006 CarswellAlta 2437 [Westlaw]
R v Danfousse, 2013 CarswellAlta 866 [Westlaw]
R v Dery, (21 June 2012) BCPC Western Community File 16431
R v Dominic, 2009 BCPC 145
R v Fizell, [2001] M.J. No. 22
R v Gamble, 2008 SKQB 282
R v Gauvin, 2009 NBPC 29 (CanLII)
R c Girard, 2012 QCCQ 1436
R v Gladue, 2014 ABPC 45
R v Greeley [2001] N.J. No. 207
Guay c Poulin, 2006 QCCQ 14191 (CanLII)
R v Kokatt, 1944 WWR 158 (SKQB)
R v L (D), 1999 Carswell Alta 414 [Westlaw]
R v M(A.H), 1998 CarswellAlta 1128 [Westlaw]
R v Marshall, 2013 ONCJ 61
R v McLean (2003), NO. 130A-0001
R v Munroe, 2010 ONCJ 226
R v Murphy, 2010 NSPC 4 (CanLII)
R v Presnail, 2000 ABPC 61
R v Randell, 1989 CarswellAlta 591 [Westlaw]
R v Robinson, 2014 BCSC 1463
R v S (KG), September 4, 2009; Iqaluit 18-09-74
R v Sirianni (4 June 2012) Kamloops
Rex ex rel Steel v Stewart, 1937 WWR 400
R v Stuart, (2008 January) Provincial Court File 196079-1, Vancouver BC
R v Sunduk, 178 Sask R 157
R v Tobin, 2005 CanLII 8659 (NL PC)
R v White, 2012 CanLII 43292 (NL PC)
R v Zeller, 1998 CarswellAlta 1277 [Westlaw]
R v Ringler, 2004 ONCJ 104

(b) places poison in such a position that it may easily be consumed by dogs, birds or animals that are not cattle and are kept for a lawful purpose.

Cases:

R v Sirianni (4 June 2012) Kamloops

(2) Punishment – Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

445.1(1) Causing unnecessary suffering – Everyone commits an offence who

(a) willfully causes, or being the owner, willfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird;

Cases:

R v Beausoleil, 339412 NB (Saskatchewan)

R v Bocian, 1982 CanLII2539 (SKQB)

R v Bourque 2012 BCPC 0452; *R v Bourque* 2013 BCCA 447

R v Chan, (19 August 2010) BCPC Pitt Meadows File 95431

R v Cimbalá, (5 October 2010) BCPC Penticton File 37224-1

R v Colburn, (6 October 2011) BCPC Kamloops File 70332

R v Connors, 2011 BCPC 24

R v Cunningham and Whiffen, 2011 BCPC 0358 (appeal denied in *R v Cunningham and Whiffen*, 2014 BCSC 150)

R v Danfousse, 2013 CarswellAlta 866 [Westlaw]

R v Daniels, (23 November 2011) 109507

R v Dery, (21 June 2012) BCPC Western Community File 16431

R v Draney (5 May 2011) BCPC Kamloops File 88552-1

R v Fawcett, 2012 BCPC 421

R v Fischer (2 November 2011) BCPC 113423

R v Folk, (21 November 2008) BCPC Kamloops File 84108-1, 84108-2-A

R v Fountain, 2013 BCPC 193

R v Gehring (unreported) February 6, 2008; Alberta Provincial Court

R v Gerling, 2013 BCSC 2503

R c Girard, 2012 QCCQ 1436

R v Habermehl, 2013 CarswellAlta 570 [Westlaw]

R v Harfman and Harfman, (3 February, 2011) Penticton 35084-1 (BC Provincial Court)

R v Haughton, 2012 BCPC 0505; successfully appealed *R v Haughton*, 2013 BCSC 1683

R v Hoath, 2008 ABPC 287

R v Hughes, 2007 BCPC 0462; appealed in: *R v Hughes*, 2008 BCSC 676

R v Karolev, September 23, 1992; Yukon Registry No. 92-02764

R v Kostiuk, Angela (Saskatchewan)

R v L (D), 1999 Carswell Alta 414 [Westlaw]

R v Lohse, 2009 BCSC 1899; *R v Lohse*, 20010 BCCA 395

R c Lyonnais, 2012 QCCM 183

R v M (A.H), 1998 CarswellAlta 1128 [Westlaw]

R v M (W.J), 2012 CarswellAlta 2058 [Westlaw]

R v Magyar, (31 August 2010) Armstrong
R v Marshall, 2013 ONCJ 61
R v Materi, 2005 BCPC 85 (BC Provincial Court); *R. v. Materi*, 2005 BCPC 86 (BC PC)
R v McLeod, 2011 SKPC 180
R v Menard (1978), 43 C.C.C. (2d) 458 (Que. C.A.)
R c. Mousseau, 2011 QCCQ 11101
R v Munroe, 2010 ONCJ 226
R v Ohs, (18 August 2010) Victoria File 84041
R v Piasentin 2008 ABPC 164
R v Presnail, 2000 ABPC 61
R v Rabeau, 2010 CarswellAlta 954 [Westlaw]
R v Randell, 1989 Carswell Alta 591 [Westlaw]
R v SAS, 2011 BCPC 470
R v Sevigny, November 21, 2001; Whitehorse T.C. 00-11061
R v Sirianni (4 June 2012) Kamloops
R v Smith, April 16, 1991; Yukon Registry No. 90-07721
R v Taylor, (12 April, 2011) Clearwater 4085-1 (BC Provincial Court)
R c. Tremblay, 2008 QCCQ 6138
R v Tremblay, 2012 BCPC 410
R v Tullett, (31 August 2010), Armstrong
R v Wicker, 2007 2007 ABPC 129
R v Whitlock, 2013 BCPC 153
R v Zeller, 1998 CarswellAlta 1277 [Westlaw]

- (b) in any manner encourages, aids or assists at the fighting or baiting of animals or birds;

Cases:

R v Quilloy, 1993 CarswellAlta 675 [Westlaw]

- (c) willfully, without reasonable excuse, administers a poisonous or an injurious drug or substance to a domestic animals or bird or an animal or a bird wild by nature that is kept in captivity or, being the owner of such an animal or a bird, willfully permits a poisonous or an injurious drug or substance to be administered to it;
- (d) promotes, arranges, conducts, assists in, receives money for or takes part in any meeting, competition, exhibition, pastime, practice, display or event at or in the course of which captive birds are liberated by hand, trap, contrivance or any other means for the purpose of being shot when they are liberated; or

- (e) being the owner, occupier or person in charge of any premises, permits the premises or any part thereof to be used for a purpose mentioned in paragraph (d).

(2) Punishment – Every one who commits an offence under subsection (1) is guilty of

(a) an indictable offence and liable to imprisonment for a term of not more than five years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

Cases:

R c Girard, 2012 QCCQ 1436

(3) Failure to exercise reasonable care as evidence – For the purposes of proceedings under paragraph (1)(a), evidence that a person failed to exercise reasonable care or supervision of an animal or birds thereby causing it pain, suffering or injury is, in the absence of any evidence to the contrary, proof that the pain, suffering or injury was caused or was permitted to be caused wilfully, as the case may be.

(4) Presence at baiting as evidence – For the purpose of proceeding under paragraph (1)(b), evidence that an accused was present at the fighting or baiting of animals or birds is, in the absence of any evidence to the contrary, proof that he or she encouraged, aided, or assisted at the fighting or baiting.

446. (1) Causing damage or injury – Every one commits an offence who

(a) by wilful neglect causes damage or injury to animals or birds while they are being driven or conveyed; or

(b) being the owner of the person having the custody or control of a domestic animal or bird or an animal or bird wild by nature that is in captivity, abandons it in distress or wilfully neglects or fails to provide suitable and adequate food, water, shelter and care for it.

Cases:

R v Bakic, 2004 SKPC 134

R v Beausoleil, 339412 NB (Saskatchewan)

R v Bennett, 2010 CanLII 40388 (NL PC)

R c Bérubé, 2011 QCCQ 1691

R c Bose, 2009 QCCQ 5736 (CanLII)

R v Christman, (17 December 2012) BCPC Vernon

R v Clarke, 2001 CanLII 12453 (NL PC)
R v Cunningham and Whiffen, 2011 BCPC 0358 (appeal denied in *R v Cunningham and Whiffen*, 2014 BCSC 150)
R v Draney (5 May 2011) BCPC Kamloops File 88552-1
R v Elliott, 2009 NSPC 5
R v Freymond, 2006 CarswellOnt 8887, 139 C.R.R. (2d) 74
R v Galloro, 2006 ONCJ 263
Harding v Society for the Prevention of Cruelty to Animals, 2000 CanLII 20379 (NL SCTD)
Society for the Prevention of Cruelty to Animals (Newfoundland and Labrador) v Harding, 2002 NFCA 14 (CanLII)
R v Haughton, 2012 BCPC 0505; successfully appealed *R v Haughton*, 2013 BCSC 1683
R v Henry, (28 July 2010) Central Saanich File 94320
R v Higgins, [1996] N.J. No. 237
R v J.S., 2003 CanLII 3112 (NL PC)
R v Jennings, Lawrence and Kellie (Saskatchewan)
R v Johns, April 5, 1991; Yukon Registry No. 89-09674A
R v Marohn 2012 BCPC 199
R v Kettleston, 1999 CarswellSask 166 [Westlaw]
R v Lupton, 2005 NSPC 11
R v Marshall, 2013 ONCJ 61
R v Materi, 2005 BCPC 85 (BC Provincial Court); *R. v. Materi*, 2005 BCPC 86 (BC Provincial Court)
R v Miskov, (3 May 2012) BCPC Western Communities File 16144
R v Moreno, (10 August 2010) Chehalis Reserve 92635
R c. Mousseau, 2011 QCCQ 11101
R v Munroe, 2010 ONCJ 226
North, Monique (18 July 2008) - Alternative Measures
R v Paish, 1 W.C.B. 172; (1 February, 1977) Kamloops (BC Provincial Court)
R v Paul, [1997] B.C.J. No. 808
R v Perrault, 2007 NSPC 14
R v Power, 2003 CanLII 20379 (ON CA)
R v Powell, (24 January 2011) BCPC Nelson 21727-1
R c Radmore, 1992 CarswellQue 1152, J.E. 93-33, EYB 1992-73971
R v Ringler, 2004 ONCJ 104
R v Russo (29 March 2012) File # 122563 BC
R v Shand, 2007 ONCJ 317
R v Singh, 2001 CarswellOnt 457
R c Starnino, [1998] J.Q. no 4444
R v Vieira, 2006 BCPC 0288; (10 April, 2006) Kamloops 75337-1 (BC Provincial Court)
R c. Tremblay, 2008 QCCQ 6138
R v Vieira (21 September 2010) BCPC Meadow Creek File 98388
R v Watt, (16 December 2009) Kamloops
R v Whelan, 2013 CanLII 38685 (NL PC)
R v Wilkinson, Debra (Saskatchewan)

R v Wilkinson, Lloyd and Wilkinson Madeline (Saskatchewan, 1998)

R v Wilkinson, Lloyd and Wilkinson Madeline (Saskatchewan, 2000)

(2) Punishment – Every one who commits an offence under subsection (1) is guilty of
(a) an indictable offence and liable to imprisonment for a term of not more than two years; or

Cases:

R c Bérubé, 2011 QCCQ 1691

(b) an offence punishable on summary conviction and liable to a fine not exceeding five thousand dollars or to imprisonment for a term of not more than six months or to both.

(3) Failure to exercise reasonable care as evidence – For the purposes of proceedings under paragraph (1)(a), evidence that a person failed to exercise reasonable care or supervision of an animal or a bird thereby causing it damage or injury is, in the absence of any evidence to the contrary, proof that the damage or injury was caused by wilful neglect.

447 (1) Keeping cockpit – Every one commits an offence who builds, makes, maintains or keeps a cockpit on premises that he or she owns or occupies, or allows a cockpit to be built, made, maintained or kept on such premises.

Cases:

R v Quilloy, 1993 CarswellAlta 675 [Westlaw]

(2) Punishment– Every one who commits an offence under subsection (1) is guilty of
(a) an indictable offence and liable to imprisonment for a term of not more than two years; or

(b) an offence punishable on summary conviction and liable to a fine not exceeding ten thousand dollars or to imprisonment for a term of not more than eighteen months or to both.

(3) Confiscation – A peace officer who finds cocks in a cockpit or on premises where a cockpit is located shall seize them and take them before a justice who shall order them to be destroyed.

447.1(1) Order of prohibition or restitution – The court may, in addition to any other sentence that it may impose under subsection 444(2), 445(2), 445.1(2), 446(2) or 447(2),

- (a) make an order prohibiting the accused from owning, having the custody or control of or residing in the same premises as an animal or a bird during any period that the court considers appropriate but, in the case of a second or subsequent offence, for a minimum of five years; and
- (b) on application of the Attorney General or on its own motion, order that the accused pay to a person or an organization that has taken care of an animal or a bird as a result of the commission of the offence the reasonable costs that the person or organization incurred in respect of the animal or bird, if the costs are readily ascertainable.

(2) Breach of order – Every one who contravenes an order made under paragraph (1)(a) is guilty of an offence punishable on summary conviction.

(3) Application – Sections 740 to 741.2 apply, with any modifications that the circumstances require, to orders made under paragraph (1)(b).

Cases:

R v Bastarache, (18 April, 2008), Kamloops 82388-1 (BC Provincial Court)
R v Beeton, (4 July, 2008) Kamloops 85225-1 (BC Provincial Court)
R v Bourque 2012 BCPC 0452; *R v Bourque* 2013 BCCA 447
R v Canaday (4 May 2010) BCPC Nelson File 21463-1-T
R v Chan, (19 August 2010) BCPC Pitt Meadows File 95431
R v Connors, 2011 BCPC 24
R v David, (21 July 2010) North Saanich File 100076
R v Draney (5 May 2011) BCPC Kamloops File 88552-1
R v Fawcett, 2012 BCPC 421
R v Fischer (2 November 2011) BCPC 113423
R v Harfman and Harfman, (3 February, 2011) Penticton 35084-1 (BC Provincial Court)
R. v Hughes, 2007 BCPC 0462; guilty of 1st charge on appeal: *R v Hughes*, 2008 BCSC 676
R v Lasenko (Saskatchewan)
R v Marohn 2012 BCPC 199
R v Powell, (24 January 2011) BCPC Nelson 21727-1
R v Rabeau, 2010 ABPC 159 (court declined to order prohibition)
R v Russo (29 March 2012) File # 122563 BC
R v SAS, 2011 BCPC 470 (Unsuccessfully appealed prohibition order: *R v Stich* 2012 BCSC 706)
R v Sirianni (4 June 2012) Kamloops
R v Smith, (12 August 2011) BCPC Duncan 103173
R v Stuart, (2008 January) Provincial Court File 196079-1, Vancouver BC
R v Taylor, (12 April, 2011) Clearwater 4085-1 (BC Provincial Court)
R v Tremblay, 2012 BCPC 410
R v Vieira, 2006 BCPC 0288; (10 April, 2006) Kamloops 75337-1 (BC Provincial Court)
R v Vieira (21 September 2010) BCPC Meadow Creek File 98388

R v Wicker, 2007 ABPC 129

R v Wilkinson, Debra (Saskatchewan)

R v Wilkinson, Lloyd and Wilkinson, Madeline (Saskatchewan)

R v Whitlock, 2013 BCPC 153