

Animal Cruelty Prosecution Conference

November 18-20, 2015 Ottawa, Ontario

Presented by the National Centre for the Prosecution of Animal Cruelty

The National Centre for the Prosecution of Animal Cruelty (NCPAC) provides resources to Canadian Crown prosecutors to support the successful prosecution of animal cruelty cases using the Criminal Code of Canada. The centre designs and delivers training to the legal community that reflects current best practices in animal cruelty prosecution in order to improve consistency and outcomes across the country.

NCPAC is a program of the Canadian Federation of Humane Societies (CFHS), created in partnership with Crown Prosecutors from across the country and allied professionals from SPCAs, Humane Societies and the veterinary community. NCPAC works hand-in-hand with animal law experts and ensures the most up-to-date and innovative information is available and accessible to the legal community. The NCPAC gratefully acknowledges the contributions of crown prosecutors from British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and Nova Scotia.

What is the Canadian Federation of Humane Societies (CFHS)?

The Canadian Federation of Humane Societies (CFHS) is a national organization representing humane societies and SPCAs in Canada. Founded in 1957, CFHS works toward positive, progressive change to end animal cruelty, improve animal protection, and promote the humane treatment of all animals. As the convener and representative of the largest animal welfare community in Canada, CFHS advances the welfare of companion animals, farm animals, wildlife, and animals in research with a strong national voice that promotes the interests and concerns of animal welfare to government, policy makers, industry, and the public.



Conference Agenda

Wednesday, November 18, 2015

5:30 pm	DINNER <i>Grill 41 Restaurant and Bar, Lord Elgin Hotel</i>	
7:30-9:30 pm	Welcome Reception and Introduction to Conference Cash bar and hors d'oeuvres <i>St. Laurent Room</i> Review conference agenda, introduction to NCPAC and conference facilitators, as well as discussion of participant expectations for the conference.	Barbara Cartwright, Canadian Federation of Humane Societies

Thursday, November 19, 2015 *MacDonald Room*

7:00 am	BREAKFAST	
8:00 am	Animal Cruelty and the Law This session will briefly review both the importance and the challenges of prosecuting animal cruelty offences. We will then cover the wide range of acts and omissions that can constitute animal cruelty. The benefits and shortcomings of current legislation will be discussed. Finally, a review of how and why to consider becoming a resource counsel and forming strong working relationships with your criminal justice partners. <u>Key Learning Objectives:</u> 1. Review of importance and challenges of prosecuting animal cruelty offences 2. Knowledge of what constitutes animal cruelty 3. A better understanding of the role of resource Crown	Alex Janse, BC Crown
9:00 am	Preparing and Prosecuting Animal Cruelty Cases This session will focus on practical strategies for successfully prosecuting animal cruelty files. Topics will include: the many ways to prove "suffering", examining key terms in respect to animal prosecutions, educating your audience, using exhibits, and making the most of an expert witness. We will also address the ins and outs of giving advice with respect to ongoing investigations, including consideration of when and how to seize animals and helpful advice. Finally, the session will cover making the best use of court procedures and orders including bail conditions, sentencing options and ancillary orders to meet the objectives of prosecution. <u>Key Learning Objectives:</u> 1. Specific tips and approaches for prosecuting animal cruelty files efficiently and effectively 2. How to effectively give advice regarding ongoing investigations 3. Using orders – bail, sentence, ancillary to meet goals	Alex Janse, BC Crown and Christian Lim, AB Crown
10:30 am	COFFEE BREAK	

11:00 am	<p>Animal Basics and Working with Veterinarians</p> <p>The basic principles of animal abuse are applicable across species, the challenge as a prosecutor lies in understanding the professional terminology used and interpreting that information to determine whether and how it supports prosecution.</p> <p>This presentation will discuss:</p> <ul style="list-style-type: none"> - General health and welfare principles to support adequate care vs. abuse, highlighting basic animal anatomy and common medical conditions associated with abuse - The role of nationally recognized Codes of Practice (acceptable standards) in determining adequacy of animal care for specific species - The importance of a comprehensive and complete veterinary medical record - How animal health care professionals determine the presence and degree of pain and suffering - How to objectively evaluate psychological impairment to animals - Factors used to determine when it is appropriate to humanely euthanize an animal <p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> 1. Understanding the key differences between appropriate animal care and abuse 2. The role of veterinarians in providing evidence 3. How to objectively evaluate physical and mental animal abuse 	<p>Dr. Colleen Marion, Manitoba Agriculture, Food and Rural Development, Chief Veterinary Office</p>
12:30 pm	LUNCH	
1:30 pm	<p>Working with Experts</p> <p>This session will provide practical tips on how to prepare and lead expert evidence in animal cruelty trials. We will discuss how to determine if you require an expert, how to prepare an expert witness, how to qualify an expert and how to lead evidence through that expert. Time permitting; we will discuss emerging areas of “novel science” and cross-examination of expert witnesses.</p> <p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> 1. Be able to determine whether an expert is required 2. Know how to qualify an expert in an animal cruelty case 3. Ability to lead viva voce evidence and exhibits through a veterinary expert 	<p>Drew Gillespie, SK Crown and Alex Janse, BC Crown</p>
2:00 pm	<p>What Forensics Tell Us: The role and use of veterinary forensics in prosecuting animal cruelty cases</p> <p>This session will cover crime scene investigation and processing, handling evidence, forensic testing and findings, assessing pain and suffering through autopsies (internal fat stores, dental disease, internal obstructions), a list of common terms found in necropsy reports and what they mean, animal abuse in small and large animals, large scale cruelty investigation, and how to work with forensic experts and witnesses.</p>	<p>Dr. Melinda Merck, Veterinary Forensics Consulting, LLC</p>
3:00 pm	COFFEE BREAK	

3:15 pm	What Forensics Tell Us (Continued)	Dr. Melinda Merck
4:30 pm	<p>The Link Between Animal Abuse and Family Violence: What Do We Know and How Can We Use It? (Facilitated Discussion)</p> <p>Animal abuse and family violence do not exist in isolation. Animal cruelty has long been recognized as a signature pathology of some of the world's most serious violent offenders such as David Berkowitz (who poisoned his mother's parakeet), Jeffrey Dahmer (who impaled the heads of cats and dogs on sticks) and Ted Bundy (who reportedly watched his grandfather torture animals). As well as a potential predictor of violent behavior, as the family pet occupies an increasingly more prominent and important part of the family unit, the threat or infliction of actual violence to the family pet becomes a powerful intimidating force for an abuser. This facilitated discussion will explore the relationship between animal abuse and domestic violence in its potential for practical application in the investigation and prosecution of animal cruelty and neglect cases including whether such evidence is admissible in court, what impact the link may have on the imposition of sentence and how we might further educate and sensitize judges, defense counsel, colleagues and the public with respect to this important issue.</p>	Darlene Oko, NS Crown
6:00 pm	ADJOURN	

Friday, November 19, 2015 *MacDonald Room*

7:00 am	BREAKFAST	
8:00 am	<p>Panel Discussion – Cases with Major Impact on the Animal Prosecutions Landscape</p> <p>This discussion will focus around four prosecutors and cases which have had a major impact in respect to Canadian prosecutions. We will examine the actual case and facts, the strategies used in prosecuting the matter, the challenges in such a file and the impact it has had on the law, sentencing and how we handle prosecutions in Canada. This will lead up to an opportunity to have an open discussion with conference members about each case and encourage dialogue of each case's significance to the animal prosecutions in Canada.</p> <p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> 1. Outline the key legal issues and approaches used to prosecute each case 2. Outline the legal strategies and challenges in each case 3. Discussion and application of how these cases affect and can be used in animal cruelty prosecutions in Canada <p style="text-align: right;"><i>Session description continued on next page</i></p>	

10:00 am	BREAK	
10:15 am	<p>Update and Review of Current Leading Case Law, Including Sentencing</p> <p>This session will review current and leading case law and directions regarding the Criminal Code animal cruelty sections. Initially, we will focus on proving the elements of the offences and look at possible defences. We will then discuss recent sentencing decisions and their impact. Finally, the session will cover emerging issues such as victim impact statements, diversion programs, and online petitions.</p> <p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> 1. Update on leading authorities regarding the elements of animal cruelty offences 2. Update on current sentencing authorities and how to use them 3. Discussion of innovative strategies and approaches 	<p>Alex Janse, BC Crown and Christian Lim, AB Crown</p>
12:15 pm	LUNCH	
1:15 pm	<p>Understanding the Relationship between Provincial and Federal Law</p> <p>There are some dramatic differences between animal cruelty cases and your average criminal case, not the least of which is that your evidence is (typically) alive. As such, it is important to understand the investigation process (which can vary from province to province), how the provincial law deals with seized animals (if at all) and what tools crown has available to more effectively prosecute an animal cruelty case. Animals as evidence will be explored, including discussion around bail orders, ownership bans (wording), costs and restitution. We will discuss when charges under the provincial legislation may be more appropriate than the Criminal Code and vice versa. Case studies will be used to highlight the above.</p> <p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> 1. Understand why animals as evidence differ from other types of evidence and how this can impact not only how you argue your case, but implications for animal welfare organizations caring for the “evidence” 2. The interplay between provincial and federal legislation and when it is appropriate to charge under each 3. Why the wording and timing of things such as bail conditions, interim orders and sentencing can be crucial in an animal cruelty case 	<p>Alex Janse, BC Crown and Marcie Moriarty, BC SPCA</p>
2:15 pm	<p>Ethics Hour</p> <p>This session will focus on the human side of prosecuting animal cruelty. Notably, how to balance personal pressures and beliefs while maintaining objectivity and exercising prosecutorial discretion. A portion will also be dedicated to vicarious trauma, ways to recognize it, healthy outlets, and creating a healthy working and home life. If time permits a brief presentation on how to work with self-represented individuals and people with mental health concerns.</p> <p><i>Session description continued on next page</i></p>	<p>Drew Gillespie, SK Crown</p>

	<p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> 1. How to recognize our personal bias/passions and how they affect our abilities and obligations as a prosecutor 2. Tips on how to maintain objectivity 3. Identifying the unique stresses faced by animal cruelty prosecutors and tips on creating a healthy lifestyle 	
3:15 pm	Moving Break	
3:20 pm	<p>My Animal File Got More Media Than My Murder Trial! Tips on handling media and what impact it can have on your trial</p> <p>This sentence has been uttered by more than one crown who has dealt with animal cruelty cases. In this session, we will explore why media and the public become interested in animal cruelty cases, how to balance their interest with your case, and what all this attention could mean for your trial outcome. Three major animal cruelty cases will be highlighted to demonstrate “the media effect” and some practical tips will be provided on how to best navigate all the attention to minimize impact on your case. We will also explore the non-profit/animal welfare “press release” – why they do it (and no it is not to make crown’s life more difficult!)</p> <p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> 1. Why animal welfare agencies that are responsible for animal cruelty investigations engage with the media on animal cruelty cases before the courts and why “no- comment” in these cases is not an option 2. To understand just how much media attention these animal cruelty files can attract, what potential impact that may have on your case, and strategies to mitigate this effect (or at least be prepared for it) 3. What level of media response (if any) is appropriate from crown and who should be providing that response 	<p>Marcie Moriarty, BC SPCA and Robin Flumerfelt, ON Crown</p>
4:00 pm	<p>Conclusion</p> <p>Feedback and the next steps in building the network of prosecutors and case law database</p>	<p>Barbara Cartwright, Canadian Federation of Humane Societies</p>
5:00 pm	ADJOURN	

Speaker Biographies

Barbara Cartwright

An award winning leader in animal welfare, conservation and education, Barbara’s work has spanned five continents and 20 years. She is the former President and current Committee Chair for the Jane Goodall Institute of Canada and sits on the Advisory Council for the Pan-African Sanctuary Alliance. Barbara is the CEO of the Canadian Federation of Humane Societies.

Tara Dobec

Born and raised in Ottawa, Tara attended Carleton University and received a Bachelor of Arts in Law in 1997 and a Bachelor of Arts in Psychology in 1998. She continued on to Law School at the University of Ottawa and graduated in 2001. Tara articulated for the Crown’s Office in Sudbury and was called to the Bar in 2002. She worked in various

offices in the Crown's system before finally settling back in Ottawa in 2008 where she has been since. In the Ottawa Office, Tara has been the Domestic Violence Team Lead Crown for a number of years and is the unofficial Animal Crown. Tara enjoys her 2 beautiful children, Kaylie and Logan, as well as her 3 cats, Kelsey, Keszie and Kiefer, a worm farm and a healthy population of sea monkeys (and a husband too).

Robin Flumerfelt

Robin Flumerfelt is the Vice-President of the Ontario Crown Attorneys Association and a member of the National Centre for the Prosecution of Animal Cruelty Steering Committee. He teaches Evidence at Osgoode Hall Law School and is the Editor of the Ontario Bar Association Criminal Law Newsletter.

Drew Gillespie

Drew was born on the East Coast of Canada and has resided in four provinces. He has worked in construction, farming, retail, managing a business, and more recently as a lawyer. After obtaining his Honours degree at the University of Toronto he went on to attend the University of Saskatchewan and obtained his JD in 2012. After articling with the Saskatchewan Ministry of Justice he began his career as a prosecutor in Regina in 2013, where he currently resides with his two spoiled dogs.

Gordon Haight

Gordon Haight graduated with an LL.B from the University of Victoria in 1994. He articulated with Alberta Justice in Calgary, was called to the Bar in 1995, and has been employed as a Crown Prosecutor ever since. He has been conducting animal cruelty and neglect prosecutions in and around Calgary since 1997, as well as advising the Calgary Humane Society, The Alberta SPCA, and the Calgary Police Service on animal cruelty and neglect investigations since that time. Gord and his wife have a blended family consisting of 2 cats, 2 dogs, and 5 other "children" ranging in age from 17 to 25.

Alexandra Janse

Alex Janse was called to the Bar in British Columbia in 2004. She joined the Kamloops Crown Counsel Office in 2005 and prosecuted her first animal cruelty file in 2006. She became Regional Animal Cruelty Administrative Crown Counsel in 2008 and Animal Cruelty Resource Counsel for the Province of BC in 2011. Alex has now prosecuted over 100 animal cruelty files and provides advice and case law to her colleagues and criminal justice partners throughout the country on a regular basis.

Christian Lim

Christian Lim, B.A., B. P.Th., LLB, has worked with Alberta Crown Prosecution Services in Medicine Hat and now in Edmonton for over ten years. In 2010 he created the Animal Protection Portfolio working with the Crown, investigating agencies and justice stakeholders after it became apparent that this area of law was underused, underdeveloped and that there was much unknown about this area of justice. He has been a guest speaker and lecturer in the area of Animal Cruelty prosecutions and investigations for the last few years and has worked on policy development in animal prosecutions both with the Federal Government (Quanto's Law) and in Alberta. He is known as "that animal guy" providing a "voice for the voiceless" in the justice system. While he has never owned a pet and is more known for being Edmonton's Best Dressed male he has volunteered to provide 24/7 services for investigating agencies to contact him for advice investigating and laying charges in respect to animal cruelty.

Dr. Colleen Marion

Colleen Marion graduated as a veterinarian from the Western College of Veterinary Medicine in Saskatoon, Saskatchewan, in 1999, and then began her career as a veterinarian working in private companion animal practices and animal shelters in Western Canada. In 2004 she became appointed as an Animal Protection Officer in Manitoba, enforcing the province's animal welfare legislation, *The Animal Care Act*. Dr. Marion has been employed with Manitoba Agriculture, Food and Rural Development's Office of the Chief Veterinarian as their Companion Animal Welfare Veterinarian since 2010, overseeing enforcement of their animal welfare program. In her role with the and supporting successful prosecution of animal cruelty cases. Province of Manitoba Dr. Marion works closely with animal welfare agencies, and municipal, provincial and federal law enforcement stakeholders; providing education, consultation and expertise in humane treatment of animals.

Dr. Melinda Merck

Dr. Melinda Merck is a forensic veterinarian consulting on legal cases involving animals. She assists investigators of animal cruelty with crime scene investigation, examination of live and deceased victims, frequently testifying as a veterinary forensics expert. She helps with large scale operations including exhumations of burial sites and examination of skeletal animal remains. Dr. Merck provides training for veterinary, attorney and law enforcement professionals internationally on the use of veterinary forensic science and medicine in the investigation and prosecution of animal cruelty cases. Dr. Merck is President Elect of the Board of Directors for North American Veterinary Community and Program Chair for their Veterinary Forensics: Animal CSI track. She is the founding chair of the Board of Directors for the International Veterinary Forensic Sciences Association. She serves on the WSAVA Animal Wellness and Welfare Committee and the Association of Prosecuting Attorney's Animal Cruelty Advisory Council. Dr. Merck is the author of the textbook, "Veterinary Forensics: Animal Cruelty Investigation, 2nd edition" by Wiley publishing, co-author "Veterinary Forensic Investigation of Animal Cruelty: A Guide for Veterinarians and Law Enforcement" and a contributing author on forensics in Shelter Medicine for Veterinarians and Staff, Reptile Medicine and Surgery, and Consultations in Feline Internal Medicine Vol. 7. Dr. Merck is the course coordinator and instructor for the VetFolio online Veterinary Forensic Science and Medicine and Animal CSI Certificate Courses. She developed the first Veterinary Forensics course for University of Georgia and Florida veterinary schools and frequently lectures at other veterinary and technician colleges. She teaches workshops on animal crime scenes and the processing of burial and surface remains. She is a Fellow of the American Academy of Forensic Science and member of the International Association of Blood Stain Analysts.

Donovan Molloy

Donovan F. Molloy, Q.C., received a Bachelor of Laws degree with distinction from the University of New Brunswick in 1992 and a Bachelor of Science degree from Memorial University in 1995. Mr. Molloy was called to the bar of Newfoundland and Labrador in 1993 and shortly thereafter started practice as a Crown Attorney with the Public Prosecutions Division, remaining there until present, with the exception of time spent with Alberta Justice and the Public Prosecution Service of Canada. His volunteer efforts have included Benchers and serving as faculty with the National Criminal Law Program. Mr. Molloy received his Queen's Counsel designation in November of 2014. Mr. Molloy currently serves as Director of Public Prosecutions and Assistant Deputy Minister (Criminal Operations) with the Department of Justice and Public Safety in Newfoundland and Labrador.

Marcie Moriarty

Marcie Moriarty, Chief Prevention and Enforcement Officer for the BC SPCA, has a background in Animal Biology and Law. Marcie was called to the bar in May 2003 and went on to practice civil litigation until her passion for animal welfare and advocacy led her to a career with the BC SPCA. In this role, she oversaw a department of over 26 full time constables who were responsible for responding to up to 7000 animal cruelty complaints a year, executing over 100 warrants and removing over 1000 animals in distress each year. In 2012, Marcie took on her current role leading a department that combines both cruelty investigations and stakeholder relations and is teaching the first Animal Law course at UBC Law as of 2014.

Darlene Oko

Darlene Oko is a Senior Crown Attorney with the Public Prosecution Service of Nova Scotia and is currently the designated Nova Scotia Animal Welfare Prosecutor for the province, a position she also held in Alberta until 2007. In her 25 years of experience as a Crown Attorney in both Alberta and Nova Scotia, Darlene has been involved in numerous animal cruelty and neglect prosecutions involving both farm animals and domestic pets. Darlene's focus has been on increasing the Court's awareness of the seriousness of animal cruelty and neglect offences with a view to increasing the penalties for such crimes. Darlene also has a keen interest in the area of animal welfare education and has worked with humane societies and law-enforcement agencies throughout her career in the education and training of investigators Canada wide on various aspects of the animal cruelty and neglect investigations and prosecutions. One challenging aspect of Darlene's work as a Crown Attorney concerns the relationship between animal cruelty and other forms of family violence and how the existence of such a link may impact the investigation and prosecution of an animal cruelty offence, especially in the area of sentence. Darlene currently lives with a number of much loved animal members of her family, including horses, rabbits, cats and a particularly outrageous RCMP police-service dog!