



NCPAC

## The National Centre for the Prosecution of Animal Cruelty

A program of the Canadian Federation of Humane Societies

### Animal Cruelty Prosecution Conference

November 28-29, 2016 — Lord Elgin Hotel, Ottawa

#### **Presented by the National Centre for the Prosecution of Animal Cruelty (NCPAC)**

NCPAC is a community of Crown Prosecutors and allied professionals from across Canada who are working together in the service of the public interest to ensure that crimes against animals are prosecuted effectively and efficiently. The mandate of NCPAC is to support Crown Prosecutors and other professionals who are involved in animal cruelty cases throughout Canada through the provision of information and assistance from prosecutors and other professionals with experience in the prosecution of animal cruelty offences. Our aim is to make available various resources that include the most up-to-date information possible to assist Crown Prosecutors in achieving appropriate, consistent and proportional outcomes for animal cruelty cases

As a program of the Canadian Federation of Humane Societies, NCPAC includes representative Crown Prosecutors from the majority of Canadian provinces together with various other professionals from organizations such as Societies for the Prevention of Cruelty to Animals (SPCA), Humane Societies and the members of the veterinary community.

#### **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.



CFHS FSCAA

# Conference Agenda

*Note: Dress code is business casual for the full conference.*

## Monday, November 28, 2016 — Lady Elgin Room

7:00 am	BREAKFAST	
8:00 am	<b>Welcome and Introduction to the Conference</b>	<b>Barbara Cartwright,</b> CEO, CFHS
9:00 am	<p><b>Prosecuting Animal Cruelty – Back to the Basics</b> This session will deal with the foundations to prosecuting animal cruelty matters from both the Crown and investigative agency perspective. It will focus on the practical side of prosecuting animal cruelty in the current era, including the nuts and bolts, from the beginning to the conclusion of prosecuting an animal cruelty offence. Speakers will review what constitutes animal cruelty, how to approach your case, what charges apply and how to choose what to charge, who you will work with and who can support your work.</p> <p>Special attention will be given to:</p> <ol style="list-style-type: none"> <li>1. Gathering and presenting the evidence;</li> <li>2. Prosecuting and litigating strategies and considerations;</li> <li>3. Sentencing and dispositions.</li> </ol>	<p><b>Alexandra Janse,</b> BC Crown</p> <p><b>Christian Lim,</b> AB Crown</p>
10:00 am	TEA/COFFEE BREAK	
10:30 am	<p><b>Public Interest Factors and Policy Factors</b> A panel discussion of how public interest and policy factors apply to animal cruelty prosecutions. Speakers will discuss factors weighting for and against prosecution, alternatives to incarceration and when they are appropriate, the intersection of mental health issues and animal cruelty, and how to take a strategic approach to your prosecutions.</p> <p>(A) Arguments to prosecute</p> <p>This part will focus on the role of the Crown Prosecutor in whether they should prosecute an animal cruelty file and what they should be looking for. It will consider real current cases or situations for the Prosecutor to analyze.</p>	<p><u>Moderator:</u> <b>Alexandra Janse,</b> BC Crown</p> <p><u>Panelists:</u></p> <p><b>Christian Lim,</b> AB Crown</p>



	<p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> <li>1. Review of opposing search and seizure cases from British Columbia and discuss how these issues may apply in other jurisdictions;</li> <li>2. Review of <i>R. v. Ling</i>, 2002 SCC 74 and <i>R. v. Jarvis</i>, 2002 SCC 73 and discuss its practical applications to animal cruelty prosecutions;</li> <li>3. Canvassing who is and when do they become a person in authority.</li> </ol>	
3:00 pm	TEA/COFFEE BREAK	
3:15 pm	<p><b>Witness Preparation</b></p> <p>Animal cruelty prosecutions can involve all different kinds of witnesses. Preparing civilians, peace officers and experts requires different approaches. This presentation will review the different types of witnesses you may encounter during your animal cruelty prosecutions and how to best prepare each of them for giving evidence to maximize your results.</p> <p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> <li>1. What types of witnesses are involved in animal cruelty prosecutions;</li> <li>2. How to prepare the three main types of witnesses: civilians, peace officers and experts;</li> <li>3. How to maximize the impact of the evidence in court.</li> </ol>	<p><b>Alexandra Janse,</b> BC Crown</p> <p><b>Dr. Colleen Marion,</b> Manitoba Agriculture</p>
4:15 pm	<p><b>Possible Defenses and Responses</b></p> <p>This presentation, given in the form of a humorous quiz, will provide an overview of the most prevalent defenses heard in animal cruelty cases and what arguments and case law can be raised in response.</p> <p><u>Key Learning Objectives:</u></p> <ol style="list-style-type: none"> <li>1. Which defenses to expect when prosecuting animal cruelty cases;</li> <li>2. What arguments can be raised to rebut these defenses;</li> <li>3. The leading case law that can be invoked by the prosecution in response to common defenses.</li> </ol>	<p><b>Me Alexandra Thibaudeau,</b> Montreal Crown</p> <p><b>Me Sophie Gaillard,</b> Montreal SPCA</p>
5:00 pm	ADJOURN	

## Tuesday, November 29, 2016 — Lady Elgin Room

7:00 am	BREAKFAST	
8:00 am	<p><b>Panel Discussion – Cases with Major Impact on the Animal Prosecutions Landscape</b></p> <p>A panel discussion of recent cases that have significant impact on animal cruelty prosecutions. Speakers will review the following cases: the SCC decision on bestiality, a dog tethering case from the BCPC, a decision regarding expert evidence from ABCA, and a Manitoba case regarding emotional distress.</p> <p><u>Key Learning Objectives</u></p> <ol style="list-style-type: none"> <li>1. Update your knowledge of recent decisions impacting animal cruelty prosecutions</li> <li>2. Understand the state of the law regarding bestiality</li> <li>3. Where does the future lie with respect to emotional distress cases?</li> </ol>	<p><u>Panelists:</u></p> <p><b>Lesley Ruzicka,</b> BC Crown</p> <p><b>Alexandra Janse,</b> BC Crown</p> <p><b>Dr. Colleen Marion,</b> Manitoba Agriculture</p>
9:30 am	<p><b>Ethics Hour</b></p> <p>Animal cruelty cases inherently raise the issue of ethics and morality, but how does that impact your approach to prosecution? The speaker will raise questions and lead a discussion about ethical dilemmas that might arise during animal cruelty prosecutions. The speaker will also address how to avoid actual and perceived conflicts. Lastly, there will be a discussion of how to be reasonable in the face of unreasonableness.</p> <p><u>Key Learning Objectives</u></p> <ol style="list-style-type: none"> <li>1. What ethical issues are common in animal cruelty cases;</li> <li>2. How to balance your professional and personal involvement with animal welfare;</li> <li>3. How to respond to difficult situations involving the court, defence counsel, the accused and the media.</li> </ol>	<p><b>Alexandra Janse,</b> BC Crown</p>
10:30 am	TEA/COFFEE BREAK	
11:00 am	<p><b>Case Law and Sentencing Precedents</b></p> <p>This session will be a combination of lecturing and getting participants to share their cross-country wealth of experiences in respect to animal cruelty matters. It is often said animal cruelty law and sentencing are underdeveloped or developing. We will look at some the new case law and trends in respect to sentencing and work on providing different approaches to sentencing animal cruelty cases.</p>	<p><b>Christian Lim,</b> AB Crown</p>

	<p><u>Key Learning Objectives</u></p> <ol style="list-style-type: none"> <li>1. Updating case law on animal cruelty sentencing;</li> <li>2. Applying case law to animal cruelty matters;</li> <li>3. In what direction are we heading with case precedents and what should we be considering.</li> </ol>	
12:00 pm	LUNCH	
1:00 pm	<p><b>How to Prosecute Emotional Distress and Psychological Damage</b></p> <p>Demonstrating that an animal has <i>suffered</i> is challenging. Unlike the presence of injury, for which there is tangible, physical evidence, suffering is a feeling and something that an animal experiences mentally. As animals cannot verbally tell us when they are suffering, the presence of suffering instead may be inferred using behavioural and physiological measures. In order to be credible, this inference needs to be evidence-based and requires an understanding of how affective states in animals can be assessed.</p> <p><u>Key Learning Objectives</u></p> <ol style="list-style-type: none"> <li>1. How Canadian Federal and Provincial legislation relates to “emotional suffering”;</li> <li>2. The science of emotional suffering in animals and how it can be assessed;</li> <li>3. Using examples from previous Court cases, delegates will learn how it has been successfully demonstrated that animals have “suffered emotionally”.</li> </ol>	<p><b>Dr. Rebecca Ledger,</b> Animal Behaviour and Welfare Consulting</p>
3:00 pm	TEA/COFFEE BREAK	
3:30 pm	<p><b>Conclusion</b></p> <p>This session will provide ideas for and seek feedback about our next steps with the National Centre for the Prosecution of Animal Cruelty:</p> <ul style="list-style-type: none"> <li>• How to stay in touch with the network;</li> <li>• How to contribute case law and continue to build the NCPAC database;</li> <li>• Upcoming events, including the Violence Link conference.</li> </ul>	<p><b>Barbara Cartwright,</b> CEO, CFHS</p> <p><b>Toolika Rastogi,</b> Policy and Research Manager, CFHS</p>
4:30 pm	ADJOURN	

## Speaker Biographies

### **Barbara Cartwright**

Barbara Cartwright's work has spanned the globe and involved extensive leadership in developing and facilitating relationships and projects with stakeholder organizations including governments, corporations and not-for-profit organizations. She has worked with and consulted on updating both federal and provincial animal protection legislation.

### **Monica Fras**

Monica Fras is a prosecutor from Kamloops, British Columbia. She is an animal lover and spends most of her free time tending to her small flock of companion animals and volunteering with animal welfare organizations, including the SPCA and the British Columbia Wildlife Park. In addition to her general practice, Monica has been assisting the animal cruelty prosecutions team since 2014 and spoke at the BC SPCA Animal Cruelty Conference in 2016.

### **Me Sophie Gaillard**

Me Sophie Gaillard is a lawyer for the Montreal SPCA's Animal Advocacy and Investigations and Inspections departments. She joined the Montreal SPCA in 2013, after having graduated from McGill University's Faculty of Law and articling at the provincial Crown in Montreal. In her role as lawyer for the Investigations and Inspections Department, Sophie supervises the Montreal SPCA's inspectors and provides them with legal guidance, as well as acting as a liaison with prosecutors and law enforcement. As lawyer for the Animal Advocacy Department, she works on initiatives to strengthen animal protection legislation at the municipal, provincial and federal levels. Her two rescue dogs, Milo and Phoebe, accompany her to the office every day.

### **Alexandra Janse**

Alex Janse was called to the Bar in 2004. She joined the Kamloops Crown Counsel office in 2005. She has been Regional Animal Cruelty Administrative Crown for the Interior and Kootenays since 2008 and Animal Cruelty Resource Counsel for British Columbia since 2011. In 2016, she received the CFHS award for Animal Welfare Leadership and Innovation. She has prosecuted over 100 animal cruelty files.

### **Janine Kidd**

Janine Kidd lives in Dartmouth, Nova Scotia but was born and raised in southern Ontario. Between high school and university Janine was an au pair in Germany, worked and served a Spanish-speaking mission for her church in Arizona. In 2003 she received a BSc (Psychology) from Brigham Young University in Utah and an LLB from the University of Alberta in 2008. Janine always wanted to be a Crown but articulated and practiced with a small criminal defence firm in Edmonton, Alberta. In 2011 Janine became a Crown Prosecutor with Alberta Justice and in 2012 Janine moved to Nova Scotia and joined the Public Prosecution Service as a Crown Attorney. Janine loves animals and tries to take on as many animal cruelty and neglect cases in the Dartmouth area as possible. When not working Janine enjoys walking her dog, learning to sail and taking underwater pictures of fish while snorkeling.

**Dr. Rebecca Ledger**

Dr. Rebecca Ledger is an animal behaviour and animal welfare scientist. She has a Master's Degree in Applied Animal Behaviour & Animal Welfare from the University of Edinburgh and a Doctorate in the clinical assessment and treatment of behavioural disorders in companion animals. Rebecca is a Lecturer in animal behaviour and animal law at Langara College. She is an award-winning journalist and writes a column for the Vancouver Sun and other Postmedia Inc. newspapers across Canada. Rebecca runs a busy referral clinic and consultancy, providing expertise to pet owners, veterinary organizations, the BC SPCA and other humane organizations across Canada.

**Christian Lim**

Christian is a University of BC graduate in Sociology and Theatre (BA) and Law and holds a Pastoral Theology degree. Edmonton's former best dressed male is an avid, though not necessarily good, ultimate (Frisbee) and volleyball player. He has worked as a Crown Prosecutor for Alberta Crown Prosecution Services for over 15 years and started Alberta's first Animal Protection Portfolio in 2010 in Edmonton. He is known locally as "that Animal guy" and handles the majority of the animal cruelty cases despite having never owned a pet. While he has handled everything from homicide files to sexual assaults and domestic violence matters he has a passion and finds it very rewarding to be part of the cutting edge approach to justice in animal cruelty prosecutions.

**Dr. Colleen Marion**

Prior to graduating from Saskatoon's Western College of Veterinary Medicine in 1999 with a degree in veterinary medicine and entering private practice, Dr. Colleen Marion developed an interest in animal welfare and emergency medicine/response through work and volunteer experience in emergency veterinary clinics and animal shelters. In 2004 she was appointed as an animal protection officer enforcing Manitoba's *Animal Care Act*, between 2006 and 2007 oversaw delivery of the Animal Welfare program for Manitoba Agriculture, and since 2010 has held the position of animal welfare veterinarian with Manitoba Agriculture. In her current role with Manitoba Agriculture Dr. Marion oversees administration of Manitoba's animal welfare program and enforcement of *The Animal Care Act*; provides expertise for investigations of animal abuse under provincial and federal animal welfare legislation; and educates animal welfare stakeholders on responsible animal care, recognition and response to animal welfare issues. Dr. Marion is a member of the Manitoba Veterinary Medical Association's and Canadian Veterinary Medical Association's Animal Welfare Committee, Manitoba's Prairie Mountain Interagency Hoarding Coalition, the National Center for the Prosecution of Animal Cruelty, and the International Sled Dog Veterinary Medical Association.

**Erin Matthews**

Erin Matthews has been a Crown Prosecutor with the Newfoundland and Labrador Department of Justice and Public Safety since 2013 and is currently a member of the NCPAC Steering committee. Throughout her time as a Crown, she has had the opportunity to prosecute a variety of animal cruelty matters and has been actively seeking carriage of such matters since her participation in the 2015 Animal Cruelty Prosecution Conference.



**Dr. Toolika Rastogi**

Toolika is Policy and Research Manager at the Canadian Federation of Humane Societies. She spent a number of years as a senior policy analyst for the federal government consulting stakeholders and advising on amendments to legislation regarding environmental safety. Toolika brings extensive research and writing experience from her work in academia, government and international intergovernmental organizations. She holds a PhD from the Faculty of Medicine at the University of Toronto.

**Lesley Ruzicka**

Lesley Ruzicka is a Crown Counsel with the Crown Law Division, Criminal Justice Branch, Ministry of Justice in Victoria. Lesley received her LL.B. from the University of Victoria in 1998. After clerking for the Supreme Court of British Columbia, Lesley articulated and worked as an associate at Guild, Yule & Company in Vancouver, before joining the Crown in 2001. She worked as a trial prosecutor for six years at 222 Main Street and in Duncan and Victoria before joining the Prosecution Support Unit (PSU). The PSU coordinates constitutional litigation on behalf of the Criminal Justice Branch. With a team of other prosecutors, Lesley provides litigation support to prosecutors facing Charter challenges in their cases. In addition, she has appeared at all levels of court with conduct of criminal constitutional litigation (primarily challenges to legislation) and criminal appeals, including *R. v. Gerling*, 2016 BCCA 72. Lesley is a frequent contributor to professional development activities both within and outside the Criminal Justice Branch, has authored a number of papers, was a member of the Victoria CBA Criminal Justice Subsection Executive from 2007 to 2014 and is a contributing author to *The Working Manual of Criminal Law*.

**Me Alexandra Thibaudeau**

Me Alexandra Thibaudeau is a Crown prosecutor at Montreal's Municipal Court. During her articling at the Municipal Court, she co-founded a project to create a team of prosecutors specially designated to animal cruelty cases. Since then, she has worked on a number of animal cruelty cases. As a law student, she did legal research and volunteered for the Montreal SPCA. Before becoming a member of the Quebec Bar, she also volunteered abroad in an animal shelter on the island of Koh Lanta in Thailand and in Australia for a dolphin conservation project. She lives with her adopted Chow Chow, Yogi Bear and rescue cat, Dora.