

WHY SOME SOUTHERN DOGS ARE HEADING NORTH: THE PRACTICAL EFFECTS OF ANIMAL POPULATION CONTROL LEGISLATION

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“The greatness of a nation and its moral progress can be judged by the way its animals are treated.” Mahatma Gandhi

Introduction

If you accept Gandhi’s statement as true, then how is one to judge the greatness and moral progress of the United States, where animals (even companion animals of the same breed) *en masse* experience markedly different treatment? For instance, the United States’ pet care industry is a multi-billion dollar industry¹, evidencing the fact that many pet owners treat their animals well and are willing to spend their money to care for their animals. On the other hand, the United States euthanizes an estimated 3-4 million companion animals annually² due to no other reason than their overpopulation. So how do we reconcile this apparent disconnect in the way companion animals are treated? As the situations of two states, New Hampshire and Alabama, make clear, greatness and moral progress, as measured by the treatment of a state’s companion animals, can be advanced as easily as passing competent animal population control legislation.

Alabama’s Shelter Partners Trips

One very hot summer day I found myself making my way to a humane society located in the most populated and fastest growing county in Alabama. Upon my arrival, I was greeted by a shelter volunteer, and led to my new home for the next three days, a specially-equipped cargo van loaded with 35 lucky dogs, all just removed from the shelter’s at-capacity kennels. My mission, as a volunteer driver for Shelby Humane’s Shelter Partners Trips, was to safely transport the dogs over 1,000 miles to a shelter in New Hampshire. A logical question one might ask at this point is: Why?

Alabama, like many other states, is experiencing a problem with animal overpopulation. According to Donald Kendrick, director of the toll-free help line Spay Alabama, “[u]p to 50,000 animals a year are euthanized” at the shelters located around the State’s most populous city, Birmingham, alone.³ Although this is a staggering number, Alabama is not alone in its animal overpopulation problem. According to the Humane Society of the United States, approximately 6–8 million cats and dogs enter

¹ American Pet Products Manufacturers Association, Inc., *Approximately 71.1 million homes include companion animals and \$41.2 billion was expended on those pets in 2007 alone*, Aug. 30, 2008, www.appma.org/press_industrytrends.asp.

² Humane Society of the United States, Aug. 30 2008, www.hsus.org.

³ Kathy Seale, *Clinic Another Step in Solving Pet Overpopulation*, THE BIRMINGHAM NEWS, Jun. 10, 2008, available at, <http://www.al.com/living/birminghamnews/index.ssf?/base/living/1213085760222890.xml&coll=2>.

United States shelters annually and 3–4 million of those are euthanized.⁴ For animal shelter volunteers and directors and compassionate members of society, these numbers are unnecessary and unacceptable.

Enter into the equation creative animal shelter directors, like Shelby Humane’s Ronda Stecuik, who have developed plans to transport as many animals as possible from their overpopulated states to a state without such an overpopulation problem, and you get programs like Shelter Partners Trips. In the instance of Shelter Partners Trips, the destination state without overpopulation is New Hampshire. Although Stecuik admits that the Shelter Partners Trips are a band-aid, rather than a solution, her program alone has saved over 1,366 lives.

What is it that makes New Hampshire so different from Alabama? Why are Alabama’s shelters filled to capacity, resulting in thousands of euthanized animals per year, when New Hampshire’s shelters are virtually empty? The answer lies in each state’s legislation regarding animals; namely, the marked difference (in some cases absence) of the States’ spay and neuter, leash, and animal licensing laws.

Legislation

The marked difference between New Hampshire’s and Alabama’s unwanted animal populations appears to be a direct result of a legislatively enacted, comprehensive, animal population control program in one and the absence of such a legislative program in the other. New Hampshire’s legislature enacted an animal population control program in 1994. The stated purpose of New Hampshire’s animal population control program is to “reduce the population of unwanted and stray dogs and cats[.]”⁵ The key factors to the program’s success are licensing requirements that generate funds used to further implement the program, subsidized sterilization procedures and an enforced “leash” law. Alabama has no such legislatively enacted program and although Alabama has a similar “leash” law, it is not widely enforced.

As part of its animal population control program, New Hampshire requires that every owner of a dog four months old or older purchase an annual license for that dog.⁶ New Hampshire further requires that dogs wear a metal tag with their license identification information⁷. The fee for this annual dog license is \$4.50 for spayed or neutered dogs and \$7 for unneutered and unspayed dogs.⁸ Perhaps recognizing the limitations of the elderly living on a fixed income, those individuals 65 years of age or older only pay \$2 annually for the licensing of one dog.⁹ The fees of \$4.50 and \$7 for

⁴ Humane Society of the United States, Aug. 30, 2008, http://www.hsus.org/pets/issues_affecting_our_pets/pet_overpopulation_and_ownership_statistics/hsus_pet_overpopulation_estimates.html.

⁵ N.H. Rev. Stat. Ann. § 437-A:4-a (2007 through Reg. Sess.).

⁶ N.H. Rev. Stat. Ann. § 466:1 (2007 through Reg. Sess.).

⁷ A practical effect of this requirement is likely that if a companion animal is lost, it is easily reunited with its guardian via its license tag.

⁸ N.H. Rev. Stat. Ann. § 466:4(I)(a) (2007 through Reg Sess.).

⁹ N.H. Rev. Stat. Ann. § 466:4(II) (2007 through Reg Sess.).

unspayed/unneutered versus spayed/neutered dogs, respectively above, apply to any additional dogs for owners 65 years of age or older.¹⁰ Owners of dogs must also pay a \$2 annual “companion animal population control fee” for each dog they own.¹¹ This fee is required by statute to “be deposited in the companion animal neutering fund” which is used exclusively for implementation of the animal population control program, including reimbursement of veterinarians, promotion and other costs.¹²

The funds raised by these fees is utilized by New Hampshire in its public Plan A/Plan B program whereby under Plan A, a New Hampshire citizen who adopts a dog or cat from an adoption center may obtain a sterilization procedure from a veterinarian for only \$25–\$50.¹³ The Plan B component is not limited to adopters but includes animals already owned and applies to help individuals on such public assistance programs as food stamps or Medicaid by allowing them to obtain sterilization procedures for only \$10.¹⁴ New Hampshire also has a “leash” law that renders it unlawful for any dog to run at large and not under the control of its owner; *i.e.*, off-leash.¹⁵ From all accounts, citizens both know about and abide by the leash law.

Alabama has no legislatively enacted program similar to New Hampshire’s Animal Population Control Program and no licensing fees to fund its animal control measures. Alabama does, however, have some legislation related to animal control. For instance, Alabama requires dogs and cats to be immunized for rabies and wear tags evidencing such immunization.¹⁶ Dogs and cats impounded for failure to wear rabies tags may be “destroyed and disposed of” when their owner fails to find or retrieve them.¹⁷ There is no provision that charges for rabies immunization be used for animal control measures.

Although not widely known or widely followed, Alabama also has a statute requiring owners to confine their dogs to “the limits of his own premises or the premises on which such dog or dogs is or are regularly kept.”¹⁸ Alabama also requires animal shelters, animal control agencies and humane societies to either 1) spay or neuter its dogs and cats before adopting them out or 2) require the person adopting the animal to have it spayed or neutered within thirty days.¹⁹ Alabama does not, however, have a comprehensive Animal Population Control Program comparable to New Hampshire’s. As is evident by the Shelter Partners Program, what Alabama lacks in competent and comprehensive legislation, it has in compassionate and dedicated citizens.

¹⁰ *Id.*

¹¹ N.H. Rev. Stat. Ann. § 466:4(I)(c) (2007 through Reg. Sess.).

¹² N.H. Rev. Stat. Ann. §§ 466:4(II) and 437-A-4a (2007 through Reg. Sess.).

¹³ Spay USA, Aug. 30, 2008. http://www.spayusa.org/main_directory/03-programs_and_clinics/statewide_publicly_funded/nh_model_stateprogram.pdf.

¹⁴ *Id.*

¹⁵ N.H. Rev. Stat. Ann. §466.30 (2007 through Reg. Sess.).

¹⁶ *See* Ala. Code §§ 3-7A-2 and 3-7A-4 (1975).

¹⁷ Ala. Code § 3-7A-8 (1975).

¹⁸ Ala. Code § 3-1-5 (1975).

¹⁹ Ala. Code § 3-9-2 (1975).

One portion of the New Hampshire program not discussed extensively herein is the inclusion of a special “spay-neuter” license plate whose proceeds are used in New Hampshire’s animal control efforts. The Alabama Veterinary Medical Foundation (ALVMF) has successfully lobbied the Alabama Department of Revenue to approve such a Spay-Neuter license plate. In order for the Spay-Neuter license plate to be produced, however, 1000 must be pre-sold by November 1, 2008.²⁰ Of the \$50 cost of each license plate, \$41.25 would go to pay for Alabama’s spay/neuter efforts, currently led by professional organizations without legislative assistance. Although the Spay-Neuter license plate is a sign of progress and is much needed, it is not the sort of comprehensive legislative plan that was so successful for New Hampshire. Although certain demographics of Alabama are keenly interested in the overpopulation issue, there are segments that are disinterested, perhaps because they do not recognize the effects animal overpopulation has on their State’s resources.

The Practical Effect of Animal Overpopulation on a State

One practical effect such an overpopulation situation has is on a state’s intellectual capital. For instance, I hold a J.D. and M.P.H., have completed a year-long judicial clerkship, and practiced law for two years. At 27, I count myself amongst Alabama’s young intellectual capital. Likewise, my companions on my two Shelter Partners trips were 1) a Harvard grad and venture capitalist and 2) a practicing attorney who also holds an M.B.A. Cumulatively we have devoted 12 days and driven approximately 10,000 miles to save 59 dogs—barely a measurable percentage of the state’s number of dogs in shelters, from a problem that should not exist. We are not alone in our volunteerism and dedication to this cause but what would we be accomplishing with this time if we weren’t throwing it at a problem we have no hope of solving in this manner?²¹

A drain on Alabama’s intellectual capital is not the only effect animal overpopulation has on the State. Other valuable resources are expended on the problem as well. For instance, taxpayer dollars and privately donated dollars are directed to shelters that could be spent in other areas. In New Hampshire, it is estimated that its program has resulted in the state saving its taxpayers “about \$3.23 for every dollar the state spent on the subsidized sterilization program.”²² Even those who care nothing about animal welfare can appreciate the success of New Hampshire’s legislation from a fiscally responsible viewpoint. In 2003, the New Hampshire Federation of Humane Societies (NHFHS) estimated that the animal population control program had resulted in 8,000

²⁰ The Alabama Spay-Neuter license plates became available for presale November 1, 2007 and as of the date of this article’s submission, September 1, 2008, the required 1,000 have not yet been purchased.

²¹ *Note from the Author:* This is certainly not to say that time spent volunteering is a waste of intellectual capital. Such a statement would be far from the truth. However, it is a waste of a State’s intellectual capital when volunteers such as myself would be wholly unnecessary if Alabama enacted an animal population control program similar to New Hampshire’s.

²² Sharon J. Secovich, *Case Study: Companion Animal Over-Population Programs in New Jersey, New Hampshire and Maine and A New Program for Maine*, available at www.asPCA.org/site/DocServer/Spay_ME_Capstone_2.pdf?docID=11307, 29-30.

fewer euthanizations of dogs and cats per year, in other words, approximately 20 fewer euthanizations per day.²³

I can personally vouch for the positive effect New Hampshire's program has had on its overpopulation problem. When I arrived at the New Hampshire humane society where we dropped off our cargo of 25 dogs, there was only one dog there. When I discussed the marked absence of any dogs in their facility with the society's director, she explained that dog was left over from the last Alabama transport. It had already been adopted but needed additional medical care before it could be released. She also explained that they had approximately one hundred applications from individuals interested in adopting a dog from her facility. She assured me that every dog we brought to her would be adopted within one week's time and we could even watch their progress online at their shelter's website. She was correct. Every single one of our twenty-five Shelter Partners dogs was adopted in less than one week's time.

Conclusion

It is entirely nonsensical that in a nation where 71.1 million homes contain²⁴ companion animals and \$41.2 billion was spent in 2007 on those pets,²⁵ that 3–4 million companion animals are euthanized every year.²⁶ New Hampshire stands as a shining example that this tragedy is rectifiable—and Alabama offers proof that without strict animal laws, a state's intellectual capital and volunteer power will choose to “spin its wheels” throwing everything it can to help a very small percentage of these animals in the face of a seemingly insurmountable number of strays. It would behoove states such as Alabama without comprehensive animal population control programs to look to New Hampshire's program as a model.

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²³ *Id.* at 21.

²⁴ In practical effect, this number reflects that a majority of U.S. homes (in fact over 55%) include a pet. See Housing Unit Estimates: 2007, Census Data Set (2007 Population Estimates). [American FactFinder](http://factfinder.census.gov/servlet/DTTTable?_bm=y&-geo_id=01000US&-ds_name=PEP_2007_EST&-lang=en&-mt_name=PEP_2007_EST_G2007_T002&-format=&-CONTEXT=dt). 2007. Bureau of the Census. Sept. 1 2008, QT-T2, http://factfinder.census.gov/servlet/DTTTable?_bm=y&-geo_id=01000US&-ds_name=PEP_2007_EST&-lang=en&-mt_name=PEP_2007_EST_G2007_T002&-format=&-CONTEXT=dt, (reflecting a total of 127,901,934 housing units in the United States).

²⁵ American Pet Products Manufacturers Association, Inc., Aug. 30, 2008. www.appma.org/press_industrytrends.asp.

²⁶ Humane Society of the United States, www.hsus.org. *This figure is an estimation due to the fact that there is no central data reporting agency for animal shelters.*