

**BITE SIZED ANIMAL LAW  
PART II: "THE LINK"**

THE LINK BETWEEN ANIMALS & HUMANS  
A REAL SOCIAL AND LEGAL PHENOMENON

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**SOME SMALL BITES**

- Greetings from Edmonton, Alberta acknowledging with gratitude that I am speaking on Treaty 6 territory, the traditional lands of First Nations and Metis people
- Thank you, BC Courthouse Library and everyone taking time out of their busy lives for this opportunity to share
- The presentation are my understanding of the law they do not necessarily represent that of Alberta Justice

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**WHO IS THIS PERSON SHARING ON THE LINK?**

- Christian Lim - Crown Prosecutor (Edmonton) over 20 years
- Vancouver Born and Raised
- Studied Sociology, Theatre and Law at UBC
- Has Wedding Planning Certificate & Bachelor of Pastoral Theology
- Former Edmonton Best Dressed Male
- Specializing in Animal Cruelty Prosecutions - Prosecutor involved with developing Quanto's Law (Service Animals), setting new precedents, looking at how low thresholds are to animal cruelty, seeking just outcomes balancing deterrence, denunciation and rehabilitation -Prosecute Mercely and fairly

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**GOAL OF THIS TALK/BITE - ACCESS TO JUSTICE**

- 1. The state of the law in Canada and Access to Justice for animals (and thus humans)
- 2. Challenges to Access to Justice for Animals and Solutions
- 3. Motivate and Encourage YOU to see the bigger picture and how **HOW WE ARE ALL IN THIS TOGETHER**. Get you to think what you can do in your role in the Community

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**THE VIOLENCE LINK & THE REAL WORLD**

- 1. Violence Begets Violence - Violence on pets/animals has a relationship with violence on Humans

Particularly vulnerable - Intimate Partnership Relationships & Children

LUKA MAGNOTTA

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**FAMILY VIOLENCE & ANIMALS**

- THE VULNERABLE...
- Intimate Partner Violence/Spousal/Domestic
- Children Abuse
- Elder Abuse
- Animal abuse
- Power & Control - R v. McPike (Prov. Court- Edmonton Alberta - transcript - 2017)

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**FAMILY VIOLENCE & THE PETS**

- "I'm Not Leaving Without Fluffy!"
- - Access to justice for pets and access to justice for Complainants of Abuse often go hand in hand.
- Leaving (Alleged) Abusive Situations - they will consider the family pet
- A) What resources/options are there for taking the pet?  
• B) Will the Accused fight taking the animal? Rights of the Accused?
- Shelters - Humane Societies- Community Programs - Multidisciplinary Approach - Options for Complainants with Animals



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**JUSTICE FOR ALL - DOMESTIC VIOLENCE & PETS**

- **THE LINK BETWEEN DOMESTIC VIOLENCE AND ANIMAL CRUELTY**
- \* Not uncommon that violence on an intimate partner often involves violence on the family (Studies across Canada)
- **SENTENCING THE VIOLENCE LINK**
- The Courts have recognized that separate from attacks on partners in domestic context that animals that are often abused in the domestic context can be prosecuted
- Sentences for abusing animals even without injuries, blood or bruising with limited or no record and mitigating factors - deterrence and denunciation still paramount
- Rehabilitation of the Accused- using probation and probation terms to deal with the violence link. Can be used under the Criminal Code of Canada and most provincial legislation dealing with Animal Cruelty
- Mental Health and substance abuse

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**IT'S A WHOLE NEW WORLD**

- Canada's Parliament declares animal cruelty is to be viewed in a much more serious light.
- "The type of behaviour (animal cruelty) must be denounced. When Parliament enacted changes to the Criminal Code provisions respecting animal cruelty, they did fail to reflect, over society's view towards animal abuse and cruelty. Those who inflict pain on animals, those who are deliberately brutal towards animals will face harsher sentences than in the past, as our society considers the behaviour morally reprehensible, and the Courts must attempt to denounce and deter this behaviour." (R. v. Helfer, 2014, OJ2785)
- "The Criminal Code was amended on April 17, 2008 to reflect the recognition that the sentence range for such conduct was wholly inadequate. "(R. v. ALCORN, 2014 ABCA 182)

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**ACCESSING JUSTICE - USING THE LAW**

- **CAUSING UNNECESSARY SUFFERING**
- 445.1(1) Everyone commits an offence who
- (a) Wilfully causes, or, being the owner, wilfully permits to be caused unnecessary pain, suffering or injury to an animal or a bird.

Previous Approach - Death, maiming, wounding - blood (Policing standards)

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**THE THRESHOLD IS LOWER THAN FIRST THOUGHT**

- The key threshold case is R. V. MENARD, 1978 Carswell /Quebec, 25

“The amount of pain and suffering inflicted upon an animal is not an element of the offence whenever it is inflicted wilfully, unnecessarily or without legal justification or excuse or color of right.”

R. v. Cardinal 2013 (Prov. Court Edmonton, Alberta Transcript)  
R. v. McPike 2016 (Prov. Court Edmonton Alberta - Transcript)

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**ANIMAL CRUELTY IS SERIOUS BUSINESS**

- Serious injury or death is no longer the charge threshold or prosecution test
- R. V. DUDAR ET AL 2013 ( Prov. Court Edmonton, Alberta- Transcript) - You do not need death or even injuries
- FACTS: Accused walking his dog pulled the leash hard several times and whipped the dogs. No injuries, no blood, no bruising. Dog yelped and hid under car.
- Judge Lawrence Anderson: “As you may have gleaned from the sentences that I have been imposing in relation to the other matters, when a person is disadvantaged and is committing offences as a result of having been dealt a poor deck of cards and the like, I tend to be quite sympathetic. When people whip or kick dogs though, I am not sympathetic. Because surely, when you are sober and you look at that taking advantage of the creature that cannot defend itself, the exploitation of others, which frankly you yourself have been a victim of, is not justified and is simply going to be punished because there is no explanation that justifies it. So that is why I would impose a sentence of 3 months consecutive on that”

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**MORE WAYS FOR ANIMALS ACCESSING JUSTICE**

- **S. 810 CRIMINAL CODE OF CANADA PEACE BOND**
  - \* An order imposed protection order by the Court up to 12 months
  - \* Used where Accused likely to commit a criminal offence or cause harm to the Complainant or their family or property
  - \* Has to make admissions that are a concern to the applicant's or applicant's family or property
- **COMMON LAW PEACE BOND**
  - \* Unlimited duration
  - \* No facts have to be admitted
  - \* Not a Criminal Conviction
  - \* Can be protective (like a Pet Prohibition)
  - \* Can be rehabilitative
  - \* Sometimes used in place of a criminal conviction or provincial offence

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**ANIMAL VOICES BEING HEARD - LOUDER & CLEARER**

DNA - available on many Criminal Convictions

PET PROHIBITIONS Pursuant to s. 447.1 of the Criminal Code of Canada or Provincial Legislation (not across Canada)

SPECIALIZED INVESTIGATIVE AGENCIES

SPECIALIZED PROSECUTING SERVICES

EXPERTS - not just vets. Animal Behaviourists (Dr. Doolittle is alive - ie Rebecca Ledger - Animal Welfare Scientist)

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**MORE ACCESS TO JUSTICE**

- **VICTIM IMPACT STATEMENT**
  - \* Victim Crime Bill
  - \* Mixed Court Reaction
  - \* Animals still Property
- **ANIMALS ARE PROPERTY BUT GRANTED SPECIAL STATUS**
  - \* "...a civilized society should show reasonable regard for vulnerable animals. Sentient animals are not objects." (Alberta Chief Justice Catherine Fraser dissenting in Reece and Zoocheck v. Edmonton, 2011 ABCA 238)



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**RECOGNIZING ANIMALS**

QUANTO'S LAW - Police service animals and service animals are recognized and given special consideration in the Criminal Code



S. 445.01 of the Criminal Code of Canada

445.01(1) Everyone commits an offence who, wilfully and without lawful excuse, kills, maims wounds, poisons or injures a law enforcement animal while it is aiding a law enforcement officer in carrying out that officer's duties, a military animal while it is aiding a member of the Canadian Forces in carrying out that members duties or a service animal

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**MULTIDISCIPLINARY APPROACH TO HELPING ANIMALS ACCESS TO JUSTICE**

- Community Workers
- Social Workers
- Safe Homes
- Humane Societies
- Education - Schools and Community Programs

Endless opportunities or people and organization to play a role

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**THANK YOU**

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PLEASE FEEL FREE TO REACH OUT. IF I CAN ANSWER A QUESTION, SHARE RESOURCES OR JUST PROVIDE AN EAR PLEASE DO NOT HESITATE TO CONTACT ME. TOGETHERWE CAN MAKE A DIFFERENCE.

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