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LEGAL MEMORANDUM

TO: Representative Steve Lebsock

FROM: Office of Legislative Legal Services

DATE: April 20, 2015

SUBJECT: Authority of agents of the state bureau of animal protection to investigate allegations of cruelty to animals that are not livestock¹

Legal Question

Do agents of the state bureau of animal protection have the authority to investigate allegations of cruelty to animals that are not livestock?

Short Answer

Yes. As designated peace officers, animal protection agents have the authority to enforce provisions of the criminal code, including provisions concerning cruelty to animals.

¹ This legal memorandum results from a request made to the Office of Legislative Legal Services (OLLS), a staff agency of the General Assembly. OLLS legal memoranda do not represent an official legal position of the General Assembly or the State of Colorado and do not bind the members of the General Assembly. They are intended for use in the legislative process and as information to assist the members in the performance of their legislative duties.

Discussion

1. **Animal protection agents are peace officers and are authorized to enforce animal cruelty laws.**

Section 35-42-107 (4), Colorado Revised Statutes, provides that animal protection agents who complete certain training are peace officers. This provision also explicitly authorizes animal protection agents to enforce certain provisions, including the provisions concerning cruelty to animals under part 2 of article 9 of title 18, Colorado Revised Statutes:

(4) Agents of the bureau who have completed training as specified by the commissioner are vested with the power to issue summons and complaints **to enforce the provisions of part 2 of article 9 of title 18, C.R.S.**, and article 80 of this title, as granted peace officers under section 16-2-104, C.R.S., and shall be designated as peace officers, as described in sections 16-2.5-101 and 16-2.5-118, C.R.S. (**emphasis added**)

2. **Although only certain animal protection agents may investigate cases involving livestock, no such restriction exists for cases involving nonlivestock animals.**

The legislative declaration of Colorado's "Animal Protection Act", article 42 of title 35, Colorado Revised Statutes, explicitly distinguishes "companion animals" from "livestock":

35-42-102. Legislative declaration. The general assembly hereby finds and declares that the protection of companion animals and livestock is a matter of statewide concern; and that it is the policy of this state that persons responsible for the care or custody of such animals be persons fit to adequately provide for the health and well-being of such animals.

Section 35-42-103, Colorado Revised Statutes, defines these terms for the purposes of the "Animal Protection Act" as follows:

(5) "Companion animal" means domestic dogs, domestic cats, small pet birds, and other nonlivestock species.

(8) "Livestock" means cattle, swine, sheep, goats, and such horses, mules, asses, and other animals used in the farm or ranch production of food, fiber, or other products defined by the commissioner as agricultural products.

Notwithstanding the existing provisions of law that generally set forth the authority of a peace officer, section 35-42-107 (7), Colorado Revised Statutes, states that only certain animal protection agents are authorized to investigate cases involving livestock:

(7) Agents authorized to investigate cases **involving livestock** shall be employees of the division or the division of brand inspection of the department or any sheriffs when appointed and within their jurisdiction. (**emphasis added**)

However, the "Animal Protection Act" does not include any comparable provision for investigations involving companion animals. Therefore, the authority of animal protection agents to investigate and enforce allegations of cruelty committed upon companion animals is not restricted.