

Live and Let Die

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How money and power combine to send “very friendly” animals who ‘love attention’ and ‘love to be pet’ to an early grave.

New York Assemblymember Donna Lupardo has condemned 25,000 animals to death, despite an immediate place for them to go. These are animals in “shelters” who rescue groups are ready, willing, and able to save, but who will instead be needlessly killed. As Chair of the Agriculture Committee, she refused to allow A7155, the Shelter Animal Rescue Act (SARA), to come to a vote, even though it had the support to pass.



A dog's body is in a garbage bag awaiting disposal. Despite a rescue offer, the pound director chose to kill her. Doing so should be illegal. The No Kill Advocacy Center is trying to make that happen in several states.

SARA would have made it illegal for New York shelters to kill animals if qualified non-profit rescue organizations were willing to save them. It was modeled on legislation passed in California and Delaware and municipalities in states across the country, including Texas, Minnesota, and Indiana. Over 85,000 animals a year are saved in California alone.

Despite the pleas of hundreds of rescuers, animal lovers, and others to allow a vote, she refused and ran out the clock. As the 2022 legislative session ended today, any hope of rescue for these animals did, too. Why did she block this common-sense, proven reform?

Beholden to regressive industry lobbyists

Lupardo was doing the bidding of the ASPCA, the Humane Society of the United States, and the New York State Animal Protection Federation. These groups are reputedly funding her re-election campaign through a dubious Political Action Committee (PAC) and do not want shelter reform to pass. Contrary to popular belief, they are lobbyists for shelters that kill animals, rather than defenders of the animals those shelters kill. To defeat the bill, they lied to legislators in three ways.

First, they claimed that New York did not need it because every shelter in the state, without exception, is already No Kill. That this is blatantly false is not hard to prove. One just needs to peruse the daily kill list of New York City's notorious pound or those of others across the state. Published statistics would have likewise put the lie to their claim, but these groups are also blocking a shelter data reporting bill.

Second, they claimed that SARA would have made shelters look bad. That some shelters would choose to kill animals in the face of readily-available, cost-effective, proven lifesaving alternatives they simply refuse to implement — such as partnering with rescuers — would certainly shock most Americans. Most Americans (falsely) believe that shelters do everything in their power to save the animals entrusted to them. They don't. It is, however, a self-inflicted wound, one wholly within their own ability to remedy. Moreover, making sure “shelters” that kill “don't look bad” is not more important than stopping them from killing. Such a view turns the legislative process on its head. If preventing organizations from potentially *looking bad* takes precedence over preventing them from *causing harm*, no legislation would ever get passed *on any issue*, and no progress would *ever* be made. And in reality, SARA would have actually improved the stature of shelters. When shelters partner with rescuers, they save more lives, reduce wasteful taxpayer expenditures, and provide economic and social benefits to local communities.

Third, they claimed that non-profit rescue organizations could not be trusted to protect the public from dangerous dogs. This, too, is false. SARA would not have changed longstanding, existing state law regarding dangerous dogs and dogs who cause serious physical injury as already defined under existing New York law. These dogs, rabies-suspect animals, and irremediably suffering animals were exempted from SARA's notification and placement requirements.

In addition, a University of Denver study of a similar law elsewhere found that while the placement of dogs climbed from 69% to 98%, the percentage of dog bites deemed moderate or severe declined by 13%, with the most significant decline in the number of bites classified as “severe,” which fell by 89%. Like

SARA, that ordinance excludes dangerous dogs from any rescue or adoption obligations. The study concluded that the legislation was consistent with public safety and even improved it.

Finally, not only did California’s rescue rights law result in a lifesaving increase of over 700%, but a study by the largest law firm in the country that analyzed outcomes found that “there is no evidence that the problems predicted by some when the law was considered, such as hoarding or exposing the public to dangerous dogs, has ever materialized.” On the contrary, the law improved state and federal oversight of non-profit animal welfare organizations.

That should have been enough for Lupardo to allow a vote on SARA. But if she inexplicably believes that statistics, studies, and other empirical evidence don’t tell the whole story, Oswald does. Penguin certainly does. Oreo does, too.

A matter of life and death



Oswald

Before California passed legislation to mandate lifesaving collaboration between shelters and non-profit rescue organizations, the shelter where Oswald, my little 20-pound Boston Terrier-Pug mix, would one day be impounded refused to work with rescue groups. The county facility had a “No Rescue” policy. But because of that law, rescue groups are now able to save 4,000 animals every year from this one shelter alone. In 2014, Oswald was one of them.

Picked up as a stray, he was skinny, traumatized, and suffering from kennel cough and a prolapsed eyelid gland. He was on his last day before his scheduled killing when a rescue group saw him cowering in the back of his kennel, pulled him, nursed him back to health, and adopted him into my family. He has been a source of unconditional love and constant joy every day for the last seven years. Yet without the passage of the rescue law more than a decade before his birth, Oswald would not have survived to become a cherished member of my family.

All told, over 1,000,000 animals have become equally cherished family members because of rescue access legislation in California. But that is an opportunity Donna Lupardo is denying them in New York. Instead, those animals face Penguin's fate, a dog the North Utah Valley Animal Shelter described as "very friendly" who "loves attention" and "loves to be pet!" Even though several rescue groups offered to take Penguin, the pound director refused and gassed the friendly dog to death.



Penguin

And while Oswald was saved in California because of a rescue rights law and Penguin was killed in tah because there wasn't one, New York animals have not been spared either, as Lupardo knows. That's why rescuers have been inundating her office with emails and telephone calls to that effect. One New York rescue group described how the shelter director once paraded animals they offered to save right by them to the "e-room" where she put them to death. Animals have also been killed by the very ASPCA Lupardo takes direction from.



Oreo

In 2009, the ASPCA killed Oreo, an abused dog who a No Kill sanctuary offered to save. Oreo was a one-year-old dog thrown off the roof of a six-floor Brooklyn apartment building. She suffered two broken legs and a fractured rib. Several of the neighbors in the building reported hearing her being beaten.

The ASPCA nursed her back to health and arrested the perpetrator. They also dubbed her the “miracle dog” and fundraised off her plight, reportedly raising millions. But the miracle was short-lived. After the money was counted and safely deposited into ASPCA bank accounts, the ASPCA decided to kill her. If it was true that Oreo was still traumatized and untrusting, as they claimed, who could blame her? Although the ASPCA could have cared for Oreo as long as it took to get her to trust again, they refused. But others came forward to offer a second chance the ASPCA would not.

A No Kill sanctuary near the ASPCA, which specializes in rehabilitating dogs (and, if that proves impossible, safely caring for them for the rest of their lives), contacted the ASPCA to ask if they could assume responsibility for Oreo. They made numerous telephone calls and sent multiple emails. They were ignored, hung up on, and lied to. Two group volunteers even went to the ASPCA but were escorted out after ASPCA managers refused to meet with them.



On a cold morning in November, Oreo was killed, not by her abuser but by those whose mission was to protect her. The kennel the sanctuary readied in anticipation of her arrival lay empty and unused that day, filled with a soft bed, a pool of water, and several toys for her to play with. Instead, the ASPCA discarded Oreo's body in a landfill.

How many Oswalds, Penguins, and Oreos have the ASPCA and HSUS condemned to death through Donna Lupardo and her predecessors? After the ASPCA killed Oreo, "Oreo's Law," the first of many rescue rights bills, was introduced in New York. It was estimated that roughly 25,000 animals a year would be saved if the law passed. Unfortunately, it did not and has failed to pass every year since because of their opposition. Instead of being sent to rescue, 300,000 animals have been killed.

It is not easy to conceptualize 300,000 dead dogs and cats. But if you were to stack them, they would be several times taller than Mt. Everest. They would weigh 6,750,000 pounds, the equivalent of eight Boeing 747s. If you were to put a dead body in each seat at Yankee Stadium, they would fill the entire stadium six times. If they were lined up end to end, the trail of dead bodies would be 90 miles long. It would take you 30 hours of walking to see them all. Instead of enjoying the second chances and loving new homes rescue groups would have guaranteed them, they are dead, their bodies rotting in New York State landfills.

The sheltering crisis hurts people, too

Of course, the animals pay the ultimate price when shelters kill animals, but they are not the only ones who suffer. When California legislators held hearings on the rescue bill that would ultimately become law, some legislators were confused about why shelters would want to kill animals who have an immediate place to go. The answer, of course, was power.

The legislation threatened to open up shelter killing and other systemic problems to public scrutiny. As frequent visitors to the shelters, rescuers saw inhumane treatment, but their access to animals was tenuous and often hinged on not publicly disclosing concerns. Under the pending legislation, their right to rescue would no longer require staying silent about regressive shelter practices. The law, in effect, would create a desperately needed whistleblower provision and allow rescuers to go public without fears of retribution, as evidenced by what one rescuer testified she endured:

I went to the shelter because I was told they had a mother cat and four kittens that they had scheduled to be killed even though they were healthy. When I arrived to pick up the cat and kittens, the shelter manager asked to see me. She told me that a member of our rescue group wrote a letter complaining about the shelter to the Board of Supervisors and that they didn't appreciate it. She told me I could therefore only have one kitten. I begged her to let me take them all, but she said that I couldn't. She told me to pick one and she was going to euthanize the rest, including the mother cat. I didn't know what to do. And so I picked. My hand was shaking as I filled out the paperwork. After I got the kitten, I went outside and sat in the car. Then I threw up all over myself.

Had a rescue rights provision been in effect when this rescuer arrived at the shelter she described, its manager would not have been allowed to deny her the right to save those animals nor would she have had the ability to emotionally torment the rescuer by forcing her to make a choice that would haunt her for the rest of her life. Stories like these are, in reality, tragically commonplace. Surveys in New York and Florida found that roughly half of all rescuers routinely look the other way at animal neglect and abuse in shelters for fear of losing their ability to rescue. Other rescuers who did go public told of shelter employees retaliating by killing animals they had offered to save.

The retaliatory killing of animals is an effective punishment because it hits rescuers where it hurts the most. When a particular animal a rescuer has requested is needlessly killed, it can take a heavy emotional

toll, leading to feelings of anger, helplessness, and despair. And not only does retaliatory killing deny the rescuer what he or she wants — to save a particular animal — the rescuer is often haunted by guilt, left to contemplate whether in singling out a particular animal or openly criticizing the shelter for neglect or abuse, they are somehow culpable in that animal's death.

As a society, we owe a particular debt of gratitude to people who voluntarily offer a helping hand to the needy, including our nation's homeless animals. Animal rescuers are compassionate people who open their hearts and homes to provide a safety net for animals others may have abandoned and whom our dysfunctional shelters betray further by killing. Rescue rights laws not only save lives, they foster fairness, respect, and consideration for people who both need and deserve it. Rescuers are already donating their time, energy, resources, and love to improve our world. They shouldn't have to sacrifice their emotional well-being, too.

One step forward, two steps back

It's been over 20 years since the achievement of the nation's first No Kill community and, with it, creation of the model that allows any shelter to replace killing with humane alternatives. And while hundreds of shelters across the nation have already embraced the No Kill philosophy and the No Kill Equation that makes it possible — saving millions of animals in the process — there are still too many animals suffering and dying in shelters that have yet to do so.

Given this — and given all the threats to current and continued No Kill success — laws are needed to eliminate the discretion that allows managers and staff to avoid doing what is in the best interest of animals and killing them. But industry lobbyists like the ASPCA, HSUS, and legislators, like Lupardo, who defer to them are standing in the way.

Instead, they pursue policies that result in fewer animals making it out of those facilities alive, make it harder for non-profit rescue organizations to save animals, and — under an ASPCA bill in New York — even create a new justification for killing: “mental suffering.” There is no definition of “mental suffering” in the ASPCA bill and no standards for applying it. As such, the legislation allows pounds to kill animals, with no holding period, based on an animal's perceived state of mind.

Given that they find their familiar routines upended in a confined place that is loud, often dirty, disorienting, and hostile, all animals can experience stress on entry to a pound. As such, the ASPCA legislation is not only a real and immediate threat to shy and scared animals, as well as feral cats, but it is a first-of-its-kind, dangerous precedent to introduce in the animal control laws of our nation.

As progressive shelters have demonstrated and peer-reviewed studies have confirmed, most animals classified as having “behavior” issues in pounds are perfectly normal. In addition to kind treatment, co-housing with other animals, socialization, and exercise, simply getting them out of the shelter through adoption, foster care, *or rescue* would resolve most perceived issues relating to “mental suffering.” Unfortunately, the ASPCA bill mandates none of these, and the organization often opposes these common-sense reforms.

Equally tragic, Donna Lupardo, the “honorable” chair of the Assembly Agriculture Committee, who refused to allow a vote on SARA, was more than willing to push the ASPCA bill through. She even co-sponsored it.