



MEMORANDUM

PIMA COUNTY ATTORNEY'S OFFICE | CIVIL DIVISION
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To: Hon. Chairman and Members, Pima County Board of Supervisors

From: Andrew L. Flagg, Chief Civil Deputy

Date: April 16, 2020

Subject: Enforcement of laws in relation to horses and other livestock

The attached letter represents the opinion of the Pima County Attorney regarding the limitations on Pima County's authority with respect to animal regulation. Specifically, the County's authority to regulate in this area does not extend to livestock; that authority lies with the Arizona Department of Agriculture. The relevant laws have not changed since 2013, and the attached remains the opinion of the Pima County Attorney's Office.

Additionally, I have communicated with the Pima County Sheriff's Department, which confirmed that PCSD does have animal-cruelty detectives who investigate livestock-cruelty cases that are reported.

cc: C.H. Huckelberry, Pima County Administrator
Francisco García, Deputy County Administrator
Kristen Hassen, Director, Pima County Animal Care

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Barbara LaWall
Pima County Attorney

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February 28, 2013

Ms. Jane Schwerin, President
People for Animals in the Prevention of Cruelty and Neglect, Inc.
3201 E. Arroyo Chico
Tucson, Arizona 85716

**Re: February 2, 2013 Enforcement of laws in relation to
horses and other livestock**

Dear Ms. Schwerin:

I write in response to your February 2, 2013 letter to me which was forwarded to me by Supervisors Elias and Bronson. As you know, Pima County, as a political subdivision, is a limited form of government and may only exercise that authority expressly granted to it. Pima County has the authority under A.R.S. §11-251(47) to make and enforce ordinances for the protection and disposition of animals kept as pets which are subject to inhumane, unhealthful, or dangerous conditions or circumstances. As you note in your correspondence, Pima County has elected to exercise this grant of authority through the enactment of various sections of Title 6 of the Pima County Code. Additionally, the County has agreed, through the execution of Intergovernmental Agreements to act as enforcement agent for other local jurisdictions. Further, as you also point out in your letter, the State of Arizona, in A.R.S. §13-2910, criminalized animal cruelty that is not otherwise permitted or regulated by the Arizona departments of Game and Fish or Agriculture. This same statute also authorizes the County to criminalize animal cruelty except certain activities relating to dogs and any activities regulated by the Department of Agriculture.

While at first blush it may appear that horses and other livestock are domestic animals clearly within the jurisdiction of the County and other local jurisdictions, it is a basic tenet of statutory construction that statutes be read together to determine their meaning. Upon review of the relevant statutory schemes, it is evident that the legislature intended issues involving livestock to be resolved through the Department of Agriculture. A.R.S. §3-1203 grants the Director of the State Department of Agriculture general supervision over livestock interests which very clearly includes horses. See A.R.S. §3-1201(5). Further, A.R.S. §3-1721 specifically addresses the issue of the process to be used when a horse is in distress. I lack sufficient knowledge and expertise to address your concerns about whether the current statutory process provides a good fate for the horse. Although you have noted that Pima Animal Care Center (PACC) previously intervened in cases involving maltreated horses, I am not in a position to address enforcement decisions made by agencies

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other than my Office; however, it could be that prior to the effect of A.R.S. §3-1721, in July of 2011, PACC determined the law permitted their exercise of authority in those particular circumstances.

I certainly applaud your dedication and action to prevent cruelty to animals and encourage you to relay your concerns directly to the state legislature.

Sincerely,

A handwritten signature in blue ink that reads "Barbara LaWall". The signature is fluid and cursive, with the first name "Barbara" and last name "LaWall" clearly distinguishable.

Barbara LaWall
Pima County Attorney

cc: Richard Elias, Pima County Supervisor, District Five
Sharon Bronson, Pima County Supervisor, District Three