



Still Not Making the Grade

The battle continues against Class B dealers

BY JAMES HETTINGER

It's a worst-case scenario, the kind of story that makes people's blood boil.

Allie Phillips heard it as a shelter volunteer in Michigan in the early 2000s, when she spoke to a family that had gone on vacation for 10 days, leaving its dog with a pet sitter. The sitter let the dog out into a fenced backyard to play, but it somehow escaped and ended up at an animal shelter in the next county. Before the family returned from vacation, Phillips says, the dog had been sold to a Class B dealer—an animal broker collecting dogs and cats for use in experimentation.

Given that animal shelters have a mission of protection, how could this have happened?

It likely happened due to the practice of pound seizure, which animal welfare advocates have been battling for years.

Pound seizure—still mandated in three states—is the release or sale of animals at public shelters to facilities such as research laboratories and veterinary schools. The animals are used for such purposes as biomedical experimentation and surgical practice for students. Because of its potential to subject former family pets to these practices, pound seizure has stirred controversy for decades.

"Stories like that clearly demonstrate that the pound seizure is inappropriate in a public shelter and betrays public trust," says Phillips, who co-founded the nonprofit Friends of Ingham County Animal Shelter in Michigan, and now works as director of public policy at the American Humane Association's office in Alexandria, Va.

Animal research is still a reality in the U.S. Some research institutions go to the source, obtaining animals specifically bred for research or going directly to shelters and pounds. But others work through Class B dealers, brokers who acquire animals from "random sources" such as shelters, "free to good home" ads, flea markets and private individuals. These dealers, licensed by the U.S. Department of Agriculture (USDA), serve as for-profit middlemen between the shelter and the research facility.

The federal Animal Welfare Act requires shelters to hold live dogs and cats for at least five days before the animals are released or sold to a dealer. Class B dealers typically purchase animals from shelters at a bargain price—or even get them for free—then sell them to research facilities at a considerable markup.

The process varies according to region, but Class B dealers and shelters usually have contracts that stipulate whether the shelter will charge the dealer to obtain the animals, Phillips explains. She adds that at some shelters she has seen in Michigan, the dealers visit on

a set day each week and take every available pet that meets the order from the research facility. The dealer does not have to prove that he has such an order, nor is he required to provide the shelter with any documentation detailing what eventually happens to the pets, according to Phillips. "From my personal experience," she says, "[a dealer] can just walk in, say, 'I need five Labs and four cats,' and if the shelter has them, he walks out with those pets."

Sixteen states (Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia) and the District of Columbia have outlawed pound seizure, and in California, every county has banned it by law. Minnesota, Oklahoma, and Utah are the only states that still have pound seizure laws requiring publicly funded shelters to sell or release animals to research institutions upon request, though Oklahoma allows local jurisdictions to opt out of the practice. Other states—like Michigan—either allow it under certain conditions or have no law at all, leaving the matter to local jurisdictions.

For many people in the animal welfare community, pound seizure can't disappear fast enough. The practice is "outrageous," says Cynthia Armstrong, Southwest Region state director for The Humane Society of the United States (HSUS), who is based in Oklahoma. "Animal shelters have come a long way in terms of their treatment of animals, and their mission, and the public's perception of what they do—and they've improved that greatly over the years, to their credit. Engaging in the practice of selling or releasing animals to someone who wants to use them in research is really a terrible black eye as far as the public perception of what they do."

Luckily, the business isn't booming. In the early 1990s, there were more than 100 Class B dealers selling companion animals to research facilities, according to the USDA. Today, there are 10 remaining dealers of live, random-source dogs and cats, and some of them are under USDA investigation.

The decline in the number of random-source Class B dealers is due in part to whistle-blowing or private undercover investigations, as well as efforts by the USDA's Animal and Plant Health Inspection Service (APHIS) to weed out unscrupulous dealers who have been known to traffic in stolen animals. Beyond that, many research institutions have stopped using random-source dogs and cats from Class B dealers, with some citing ethical concerns and asserting the animals lack the genetic specifications and health histories needed for sound science.

Class B dealers, who serve as for-profit middlemen between shelters and facilities acquiring animals for research, have historically drawn criticism for treating animals cruelly and failing to provide humane housing.



LAST CHANCE FOR ANIMALS



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In 2002, an undercover investigator from Last Chance for Animals documented horrific treatment of dogs at a facility run by Arkansas Class B dealer C.C. Baird. The federal government cited Baird for hundreds of violations of the Animal Welfare Act, including failure to provide proper nutrition and basic veterinary care, and he eventually lost his license.

The USDA inspects the facilities of licensed Class B dealers who sell random-source dogs and cats at least quarterly, and more often if a dealer appears to pose a risk to the animals' health and safety, according to Jessica Milteer, a USDA spokeswoman. Inspectors look at all areas of care and treatment covered under the Animal Welfare Act, review acquisition records and conduct "tracebacks" of select animals to make sure they were obtained legally, she says.

But many animal advocates see flaws in the USDA system.

Though the USDA has devoted considerable resources to trying to keep track of Class B dealers' operations and prevent their notorious animal welfare abuses, the agency's oversight system is inherently incapable of ensuring compliance, according to Lauren Silverman, federal legislative specialist at The HSUS. Class B dealers are licensed to buy dogs and cats from anyone, as long as the seller claims that he or she bred and raised the animal. It is virtually impossible for the USDA to disprove this claim, and agency "tracebacks" involve merely looking over the dealers' paperwork and calling phone numbers provided by the dealers—folks in cahoots with them—to track the source, Silverman says. "USDA basically relies on an honor system for people who are known to be dishonest."

Further, Silverman notes that Class B dealers have a long history of purchasing random-source dogs and cats from "bunchers"—unlicensed dealers known to collect stray or stolen animals.

Over the years, Class B dealers have gained a reputation for acquiring animals illegitimately, treating them cruelly, and keeping them in dilapidated housing. *Dealing Dogs*, a documentary that first aired on HBO in 2006, revealed what an undercover investigator from Last Chance for Animals found at Class B dealer C.C. Baird's Martin Creek Kennels in Arkansas: filthy, cramped pens with cold, wet, concrete floors; unattended medical problems, such as open sores and mucus buildup around dogs' eyes; insufficient feeding, and dogs being dragged around by their necks, beaten, and even shot. (As part of a 2005 settlement with the USDA, Baird's license was permanently revoked.)

"The thing with Class B dealers ... is they can take the animals back to their own facilities, not necessarily straight to the vet school's loading dock," says Martin Stephens, vice president for animal research issues at The HSUS. "So now you have these animals living at the Class B dealer facilities. These facilities are typically substandard, to say the least, and you don't know the fate of those animals—whether they're going to be shipped across state lines, and if that's going to happen in two days, two weeks, two months. Or, if you saw the HBO exposé, whether the animal's going to bite the handler and get shot in the head. All kinds of things can happen."

"My impression is [the Class B dealers are] a really bad bunch of people, and they'll look for any way they can to circumvent the law," adds Charlotte Cozzetto, president of the Animal Rights Coalition in Minnesota. "I think, personally, they should abolish the B dealer system."

Phillips agrees: "There is no legitimate reason to have Class B dealers who simply act as a middleman

for profit." Research institutions that still believe they need live animals, she says, can purchase them from USDA-licensed Class A dealers, who breed animals with known origins and health histories specifically for research. By going the Class A route, Phillips notes, research facilities reduce suspicions about the animals' origins and make sure experiments are not being performed on former (or stolen, or lost) family pets.

Stephens notes that another possibility is for research facilities to breed animals themselves.

The problem of pets being stolen and sold into research is what prompted Congress to pass the Animal Welfare Act more than 40 years ago, says Silverman. But efforts to pass a federal law prohibiting Class B dealers from selling random-source dogs and cats for research have met resistance from a handful of researchers, and have languished in Congress for years. The current pending federal bill—the Pet Safety and Protection Act of 2007—has garnered 82 co-sponsors in the House and 15 co-sponsors in the Senate, but has not yet moved through committee in either chamber. A nearly identical amendment was included in both the House and Senate versions of the 2007 Farm Bill, but did not survive the conference committee that crafted the final bill Congress approved in May.

The amendment's opponents included the American Physiological Society (APS), which asserted on its website that the proposal "would do little to protect pets. However, it would have a significant impact on medical research." The APS argued that researchers cannot rely exclusively on "purpose-bred" dogs

and cats because they tend to be young and genetically homogeneous, and therefore not suitable for certain research, such as studies of human health problems related to aging.

Silverman counters that the amendment would have allowed researchers to continue to go to legal sources—such as Class A dealers—to acquire genetically diverse dogs and cats of various sizes and ages and unknown health histories. The bottom line, she explains, is that genetically diverse animals do not need to be random-source animals.

Despite the opposition, Silverman remains optimistic about the chances of passing a federal law. There are fewer than a dozen remaining Class B Dealers selling random-source dogs and cats to research, the House and Senate passed language in their respective Farm Bills to ban these dealers, and the federal proposal is gaining co-sponsors, she notes. "We have never been further along in finally shutting down these shady operations at the federal level."

In the meantime, state and local groups continue to work on the issue as well. At the Ingham County, Mich., shelter where Phillips volunteered, county leaders banned the sale of animals to Class B dealers in 2003. Since then, Phillips says she has served as legal adviser for other successful county-level efforts to ban pound seizure, and only five counties in the state still permit it. In addition, Michigan Rep. Coleman A. Young II (D) has proposed a statewide bill that would prohibit Class B dealers from purchasing or selling random-source animals for experimentation, and also would ban research facilities from buying random-source dogs and cats from B dealers, auctions, or shelters.

In Minnesota, an early-1990s initiative to repeal the state's pound seizure law unraveled when the humane community failed to present a united front to lawmakers, but activists say the time is ripe to try again. Cozzetto says most members of the public are unaware of pound seizure, but when they find out about it, they're appalled. Even the research institutions, she adds, "are finally starting to understand that it's kind of bad public relations."

Except in the states that mandate pound seizure, shelters have the right to refuse service to Class B dealers, Phillips points out. It's an option she believes better serves the public trust. "For shelters in economically struggling areas that may need the extra money, they should first consider whether the betrayal of trust to the community is worth the few dollars received," she says. "In speaking with hundreds of people on this issue, I have personally found that the betrayal of trust overwhelmingly outweighs any shelter's benefit in selling animals for research." AS

Members of the Animal Rights Coalition in Minnesota, carrying yellow flags that say "Ban Pound Seizure," march in the summer 2008 Twin Cities GLBT Pride Parade.

