Understanding Oreo's Law: Addendum

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An interview with Professor Taimie L. Bryant. Professor Bryant is a member of the faculty of UCLA Law School where she teaches courses about animal law and tax-exempt organizations. She wrote the language of the California statute that Oreo's Law is modeled after.

What is the purpose and need for legislation such as Oreo's Law?

> Legislation such as Oreo's Law provides a safety net to shelter animals by providing rights of access to qualified rescue groups that can save animals' lives when public or private shelters choose not to. Public and private shelters kill animals for reasons that have nothing to do with whether the animal is suffering. If a rescue group wants to provide a life-saving solution, an animal should not be denied its benefit. Such legislation is respectful of the value of animals' lives to themselves and to those who care about them.
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> In addition, legislation like Oreo's Law provides rights of access to rescue groups even if a member of a group criticizes shelter practices. In California, prior to the enactment of the laws that provide rights of access to shelter animals, shelters routinely conditioned release of animals to rescue groups on those groups not criticizing shelter practices. Only after those laws were enacted did the full extent of conditioning access to animals on rescuer silence become apparent. For one thing, rescue groups did not readily testify in support of those laws when they were being considered because support for the laws could, itself, be perceived as a criticism for which they might be denied rescue privileges if the laws didn't pass. The extent of punitive denial of access was not fully recognized until after the laws went into effect and rescue groups were able to reveal their experiences without fear of retribution. For another, the extent to which shelters were violating anticruelty statutes and laws that regulate shelters was not fully recognized until after the law was enacted because only then could rescue groups describe the inhumane conditions they consistently saw in shelters without fear that they would then be barred from taking animals from the shelters for rehoming.

Didn't the California version limit the animals shelters and rescue groups can save to just those a shelter said where either "adoptable" (healthy) or "treatable" animals?

> No, the California version of Oreo's law did not limit rescue groups' right of access to shelter animals to only "adoptable" and "treatable" animals as defined in the public policy statutes of the Hayden Law. The specific statutes of the law that give rescue groups rights of access (Food and Agricultural Code sections 31108 and 31752) explicitly exclude from rescue groups only those animals who are irremediably suffering from a serious illness or severe injury such that immediate euthanasia is the only humane alternative.

Language about "adoptability" and "treatability" do appear in public policy statutes that are part of the Hayden Law. However, the purpose of those statutes is to assert the preference of the people of California for adoption and rehabilitation instead of killing shelter animals. There are no specific duties in those statutes, and they do not constrain the application of the specific statutes that provide for release to rescue groups.

What if animals are suffering or vicious?

Rescue groups are usually better judges of whether an animal is aggressive and can be rehabilitated than are shelters. There is an underlying mistrust of rescue groups as qualified to make responsible decisions about animals, as though such groups have less regard for people. But there is no evidence that such groups have less regard for public health and safety or are inclined to make irresponsible decisions about animals. Because of their life-saving missions, many rescue groups have qualified animal behaviorists on staff or within easy access so that good evaluations and good care can be obtained. Many shelters lack that access and, therefore, make far worse decisions about animals' behavior than do rescue groups.

Although rescue groups are usually better judges of whether an animal is aggressive and can be rehabilitated than are shelters, even rescue groups may disagree as to particular animals. As long as one qualified rescue group can provide a safe, supportive environment for such an animal, why should that animal be killed simply because another rescue organization would have reached a different determination? If it turns out that an animal cannot go to a new home but must live in a sanctuary for the rest of his life, why shouldn't it be up to the rescue group that can provide safe sanctuary whether it wants to use its resources on a particular animal?

In the ten years since this law has been in effect in California, have there been reports that dog fighters or hoarders have exploited this law?

In the ten years since this law has been in effect in California, there have been no reports of exploitation or misuse of the right of access that rescue groups have. There has been no evidence whatsoever that the law provides easier access to shelter animals by hoarders and dog fighters. Hoarders get animals from the streets or the uncontrolled breeding of the animals they already have. There is no need to pay shelter adoption fees for the purpose of hoarding animals. Similarly, dog fighters are obtaining animals through backyard breeders who can assert the "pedigree" of the fighting dogs they produce.

By contrast, only rescue groups with the status of Internal Revenue Code section 501(c)(3) animal rescue and adoption group are allowed to take out shelter animals as a matter of right under California law. Such groups are composed of networks of individuals run by boards of directors who determine procedures for getting animals the care they need and adopted into homes. In order to qualify for an IRC section 501(c)(3) status, such groups have to provide information about their board members and operating procedures. They must also show evidence of public support for what they do. For instance, evidence of public support can be established by showing the IRS the number of volunteers they have and the extent of donations they receive. To retain their IRC section 501(c)(3) status, rescue and adoption groups must abide by the law, including anticruelty laws. Moreover, qualified rescue groups risk loss of their ability to attract volunteers, donors, and public support that keeps them in existence, if they fail in their mission to protect and find good homes for the animals they take from shelters. In other

words, there are plenty of safeguards in place by virtue of IRS requirements for animal rescue and adoption groups to receive and maintain an IRC section 501(c)(3) status.

Are there any protections to make sure these animals don't go to hoarders or dog fighters?

Public animal shelters and properly authorized humane societies have the power to investigate allegations of hoarding and dog fighting. Those entities can take action that will lead to prosecution of hoarders and dog fighters under the anticruelty laws of the state. Because these entities already have anticruelty enforcement powers, it is literally over-kill to give them additional power to prevent qualified rescue groups from taking out shelter animals on the theory that some percentage of such groups might be holding too many animals or turning them over for dog fighting. The shelters know who group members are and can initiate investigations if there is probable cause to believe that hoarding or dog-fighting is taking place as a result of a groups' access to shelter animals. It is easier and lower risk for hoarders and dog fighters to obtain animals from sources other than shelters.

Would you add additional protections for animals to Oreo's Law while making sure it doesn't allow shelters to needlessly kill animals?

The text of the Law as written appropriately allows access to rescue groups. If, over time, the Law seems to produce unintended consequences, at that time the Law could be amended to take care of those consequences. Until such consequences emerge, however, it would be premature to limit the life-saving that can be accomplished by providing rights of access to IRC section 501(c)(3) animal rescue and adoption groups. The proposed legal ability of shelters to access a reasonable fee for release of animals to rescue groups is an adequate means of weeding out dog fighters and hoarders who, unfortunately, have too many sources of free animals to bother with the costs and risks of dealing with shelters to obtain animals.