

HUMANE CANADA

BRIEF TO THE

STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

ON

BILL C-3: AN ACT TO AMEND THE JUDGES ACT AND THE CRIMINAL CODE

Submitted By: Barbara Cartwright, CEO

March 16, 2021

Dear Honourable Senators,

Humane Canada is writing to you today to demonstrate the importance of including training on the links between animal violence and human violence (including in the context of domestic violence and/or sexual abuse) and the complex ways in which animals can be used to victimize vulnerable people in Bill C3.

Humane Canada is the founder of the Canadian Violence Link Coalition and the National Centre for the Prosecution Animal Cruelty. We represents more than 50 Humane Societies and SPCAs across Canada, in every province and two territories. 30% of these organizations are responsible for investigating and enforcing the animal cruelty sections of the Criminal Code of Canada. This provides us with front line experience of the impacts and links between animal violence and human violence, as well as the weaknesses created in a system that does not recognize the social context of the human-animal bond – especially in gender-based violence, domestic violence and sexual assault.

Research shows that violence toward people (interpersonal violence) and violence toward animals (animal cruelty) are part of a larger pattern of violent crimes that co-exist. Cases of intimate partner violence, sexual abuse and child abuse (including child sexual abuse), gang violence, youth crime, organized crime, assault, homicide, weapons and illicit drugs also commonly involve animal abuse. This phenomenon is termed the Violence Link.¹

Violence Link crimes victimize some of the most vulnerable in our society. Perpetrators use animal abuse to coerce, control, and intimidate women, children and elders to be silent about their abuse, prevent them from leaving, and force them to return.² In recognition of the prevalence of the

¹ Humane Canada™, [The Violence Link: Review of the Literature](#), 2018

² P Arkow, "The Evolution of Animal Welfare as a Humane Welfare Concern" in Ascione FR and Arkow P, eds, "Child abuse, domestic violence, and animal abuse: Linking the circles of compassion for prevention and intervention", 1999, page 19; and Phil Arkow, "Form of Emotional Blackmail: Animal Abuse as a Risk Factor for DV" in "Family & Intimate Partner Violence Quarterly", Summer 2014; Volume 7, Number 1, page 7

Violence Link in domestic violence cases, the definition of “family violence” in the Divorce Act includes threats to, or the killing or harming of an animal.³

Animals can be used to perpetuate some of the most serious and heinous crimes against people. For example, a 2018 report by the Canadian Centre for Child Protection Inc. found that 82% of bestiality cases involved the sexual abuse of a child, and that animals may be used as part of the child sexual abuse grooming process.⁴ Indeed, the witnessing of animal abuse is in itself considered a form of child abuse.⁵ Some women are forced by their intimate partners to commit bestiality.⁶

The effects of Violence Link crimes can be devastating. A 2017 Canadian study found that women who report their partner for mistreating their pets are at significantly greater risk of more frequent and severe forms of inter partner violence, most specifically psychological, physical, and sexual abuse.⁷ A 2018 study showed that nearly 80% of victims residing in homes with a suspect who has a history of pet abuse report concern that they will eventually be killed by the suspect.⁸ In 2017 an Ontario man, Basil Borutski, was sentenced to life imprisonment for murdering three women, two of

³ Amended via [Bill C-78](#) An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act and the Garnishment, Attachment and Pension Diversion Act and to make consequential amendments to another Act, assented to on June 21st 2019. Amendments to the Divorce Act to come into force on March 1st 2021: <https://www.canada.ca/en/departement-justice/news/2020/06/government-delays-divorce-act-amendments-coming-in-to-force-in-response-to-requests-from-justice-partners-due-to-covid-19-pandemic.html>

⁴ Canadian Centre for Child Protection Inc., “Bestiality” as reflected in Canadian case law, CanLII Authors Program, 2018 CanLIIDocs 26 [Full report not available online but summary can be found here: https://www.protectchildren.ca/pdfs/C3P_BE_CanadianCaseLaw_en.pdf]

⁵ Ascione FR, Weber CV, Thompson TM, Heath J, Maruyama M, Hayashi K. Battered pets and domestic violence: animal abuse reported by women experiencing intimate violence and by nonabused women. *Violence Against Women*. 2007 Apr;13(4):354-73 [Ascione]

⁶ Ascione, *Supra* note 5

⁷ Barrett BJ, Fitzgerald A, Stevenson R, Cheung CH, “Animal Maltreatment as a Risk Marker of More Frequent and Severe Forms of Intimate Partner Violence” *Journal of Interpersonal Violence*, 2017 July; Volume 35, Issue 23-24, pages 5131-5156 [Barrett]

⁸ Campbell AM, Thompson SL, Harris TL, Wiehe SE. “Intimate Partner Violence and Pet Abuse: Responding Law Enforcement Officers' Observations and Victim Reports From the Scene.” *Journal of Interpersonal Violence*, 2018 Mar 1..

whom were victims of past domestic violence involving the accused. Borutski had a history of cruelty to animals including a 2012 conviction for threatening to kill an animal of one of his victims.⁹

Victims report that companion animals are one of their main sources of support. They have a strong bond with their companion animal(s) and perpetrators often use this bond as a means to abuse and control their partner.¹⁰

It follows that concern for the well-being of their companion animal can impact the help-seeking behaviour and subsequent actions of abused women. In the Canadian study referred to above, 56% of domestic abuse victims said they delayed leaving their abusive partner due to concerns for their pets' safety, one third considered returning to their abusive partner because the partner had their pet, and just over half never reported animal maltreatment by their partner to authorities¹¹.

The Canadian Violence Link Coalition brings together criminal justice stakeholders whose work involves the Violence Link, such as women's shelters, child protective services, the police, the judiciary, prosecutors, the veterinary profession and animal protection enforcement. The CVLC is committed to (among other things) advancing awareness, education and training about the Violence Link.¹²

In order to break this cycle of violence and ensure better outcomes for victims, education and training is key. For example, police officers educated on the Violence Link are better equipped when attending domestic violence abuse calls. They are trained to look for signs of an abused pet and to ask victims about any concerns for pets in the household. This can be critical to assisting a victim in leaving the abusive situation, for example by directing them to a women's shelter that takes in women as well as their pets, or an emergency pet fostering program.

⁹ R. v. Basil Borutski, 2017 ONSC 7762 (CanLII)

¹⁰ Newberry, Michelle, "Pets in danger: Exploring the link between domestic violence and animal abuse," Aggression and Violent Behavior pages 273-281..

¹¹ Barrett, Supra note 6

¹² <https://humaneCanada.ca/violencelink/>

Bill C-3 recognizes the benefit of training new judges on sexual assault offences in order to avoid judicial decisions that rely on myths and stereotypes about how victims of sexual assault should behave¹³. This is necessary to maintain public confidence in the justice system, which when shaken can lead to under-reporting.

This is a critical factor in the context of sexual assault crimes: as Hon. Pierre J. Dalphond pointed out in his speech to the chamber on December 3rd 2020, in most cases involving sexual offences there are no witnesses, and the outcome of the judicial process often depends on an assessment of the creditability of the victim¹⁴.

Similarly, in Violence Link cases such as those referred to above, it is frequently a matter of the victim's word against the perpetrator's. Often the only witnesses are those who have no voice: children and animals.

In *R v A.R.D* (a case referred to in the Legislative Summary to Bill C-3) the trial judge, in assessing the complainant's credibility, reasoned that he would expect a victim of sexual abuse to demonstrate behaviours consistent with that abuse (such as avoiding the perpetrator). As the victim did not display such behaviour (the victim alleged sexual a history of sexual assault by her step-father but did not then seek to avoid him), he held that there was sufficient reasonable doubt to acquit the accused.¹⁵

Similarly, a judge in a Violence Link case may, without the appropriate training, rely on stereotypes or myths around how such victims should behave. For example, a judge who does not understand that concern for the well-being of pets can affect the help-seeking behaviour of victims may question why

¹³ Legislative Summary to Bill C-3, October 2 2020, Publication No. 43-2-C3-E

(https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/LegislativeSummaries/432C3E)

¹⁴ https://sencanada.ca/en/content/sen/chamber/432/debates/016db_2020-12-03-e?language=e

¹⁵ *R. v A.R.D.*, 2017 ABCA 237 (CanLII). The decision was overturned on appeal where the court held that the trial judge erred by relying on an impermissible stereotype, or myth, about the behaviour of sexual assault victims in assessing the complainant's credibility.

a victim stayed in the abusive relationship for so long and does not have any corroborative evidence of the alleged history of abuse (for example a history of police call outs to the address)¹⁶.

It is imperative that when such victims step forward to report the crimes perpetrated against them that they are treated respectfully, fairly and equally by the criminal justice system, including the judiciary. If faith in the criminal justice system is to be maintained, their cases must be heard without the fog of prejudicial generalizations on how they should have or ought to have behaved.

Moreover, an understanding of the Violence Link is needed to properly adjudicate on certain offences under the Criminal Code (R.S.C., 1985, c. C-46) which recognize the Violence Link¹⁷. For example, Section 160(2) (compelling the commission of bestiality) and Section 160(3) (bestiality in the presence of a child or compelling bestiality by a child). The seriousness of the bestiality offences is recognized by the inclusion of such offenders on the National Sex Offender Registry¹⁸ and both of these provisions are included in Clause 4 to Bill C-3 (requiring judges to provide reasons for their decisions in such cases).

In light of the link between animal abuse and interpersonal violence (including in the context of sexual abuse and domestic violence) and the complex ways in which animals can be used to victimize vulnerable people, we invite the committee to suggest training on the Violence Link is included in the Canadian Judicial Council's education seminars on social context.

Thank you for your consideration,



Barbara Cartwright, CEO

¹⁶ Akhmetshin v. Akhmetshina, 2010 ONSC 2994 (CanLII) para 77 (<https://canlii.ca/t/2b56f>) and Saldanha v Saldanha, 2016 ONSC 252 (CanLII) para 25 (<https://canlii.ca/t/gmx3v>) are two examples of where the court has questioned the victim's allegations of domestic violence because there is no corroborative evidence.

¹⁷ With respect to the bestiality offences, see the evidence heard by the House of Commons Standing Committee on Justice and Human Rights on Bill C-84: <https://www.ourcommons.ca/DocumentViewer/en/42-1/just/meeting-128/evidence>

¹⁸ See [Bill C-84](#) An Act to amend the Criminal Code (bestiality and animal fighting), assented to on June 21st 2019.