

SPCA Confiscation

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Bird breeders are judged by every group of animal people there are, starting with rescue organizations, pet people, bird behavior consultants, anti-breeding groups, pet "over population" groups - and then there was the ordeal of September 10th, 2006. A lot of professional breeders and aviculturists have just gone through this ordeal together, and this is the reason for my article.

The ordeal I refer to was an injustice perpetrated by a new kind of "thief" - "thieves" who do their dirty work under color of "legal authority" - "thieves" who operate using the "letter of the law" against innocent and law abiding animal breeders - "thieves" who can steal our animals from us when we are doing nothing wrong. Those "thieves" are those officers employed as law enforcement officers and animal shelter personnel who believe in the "animal rights" philosophy and religion - people who do not believe that we should breed animals to be sold as pets. President Bush calls religious fundamentalist terrorists "evil doers." We now have to deal with another kind of fundamentalist terrorist "evil doer" - the "animal rights evil doers" who take our animals from us because their "animal rights" religion tells them they should, by whatever means available.

Early in the morning of September 10th, while a breeder was at a bird expo for the weekend, a group of terrorist evil-doers entered her home and proceeded to remove approximately 35 pairs of her breeding cockatiels, mostly show cockatiels, as well as a few other species and her pet birds. The total birds removed were at about 100. Cage trays were removed and dumped on the floor; cages were turned on their sides, with nest boxes containing newly hatched chicks and fertile eggs. The cages were then shoved into waiting vans. Naturally the chicks were smothered and died, and eggs addled and embryos killed. The terrorist evil doers claimed that they had been told they could move breeding pairs without harming or upsetting the birds. Wonder what expert told them that? The evil-doers removed all the animals on the property, and took them to a warehouse to conceal their loot.

Just a bit over three months passed and the birds were retrieved from the holding facility by their owner on December 16. I was in attendance. Many of the birds were thinner than when they were taken. Many were very plucked and tattered from being overcrowded. Some of the birds were even in too small of cages for the species, as well as not being as clean as they should have been. Birds, including breeder birds, had their bands removed while in the custody of the evil doers. While working the theft committee for three years, this is the same scenario we saw over and over again.

The terrorist evil-doers in this story? The SPCA of Pinellas County Florida! And to make matters worse, the animal removal was all done under the supervision of the local sheriffs department.

As the story unfolds, a disgruntled neighbor called the sheriff about barking dogs. The sheriff entered the house through a back door that she claimed was left open, and found the birds, in what was in her "opinion" an abusive situation. The bird that started it all was sun conure with a plucked chest that the breeder had just gotten from a friend that was retiring. The sheriff concluded that this bird must be abused! The sheriff didn't know to take into account the very visible fat chest, and perky attitude of the bird. Animal Control was then called in and refused to take the animals, seeing no violations. The undeterred sheriff then called the SPCA, who will gladly confiscate any animals. This is great publicity and sympathy always brings in money. This particular SPCA has on their website, if called anonymously they will hold your name in confidence, and "SPCA Humane Officers will follow up on your information. Every attempt is made to improve the animal's situation through owner education and persuasion. When this does not lead to positive results, the SPCA works closely with city and county law enforcement officers to correct the situation."

http://www.spcafl.org/site/PageServer?pagename=cruelty_invest

(The pictures on the web pages are not of this breeder's birds. These are from a more recent case.)

In our case, the owner's friend arrived at the owner's home, as requested by the owner, to check up on the birds and newly hatched babies as well as check on their food and water. The friend was arrested for animal cruelty. The owner was called and said she would return home immediately. The police and the SPCA told her they would not wait, and took all the animals. I assume they don't read their own web page. Once the breeder's friend arrived one would have thought since there was a caretaker on premises, the Florida Fish and Wildlife Conservation Commission (FWC) could have been called. We Florida breeders are licensed and governed by the FWC, which regularly inspects bird breeders. If there are violations they issue a warning and return to reinspect the facility to verify that the violations have been corrected. In extreme cases they will confiscate.

Thanks only to Fred Smith, the regional director of the American Federation of Aviculture (AFA), in his tenacity to get to the bottom of this, were the breeders in Florida made aware of this injustice. The regional director, Fred Smith, wanted to know if one of our AFA members was really as bad as the news media portrayed, and investigate the accused member. Fred Smith went to the SPCA to see what the conditions of the birds were.

Upon arriving at the SPCA and seeing the birds, Fred was shocked at how well the birds looked, and none were in any type of abused or neglected condition. Fred, like the rest of the public, had read the newspaper accounts and had seen the TV news stories about how abused and neglected the birds were and that they were in horrible condition. Fred, along with attending every bird expo in Florida educating people about the care of birds and promoting the AFA, tending his own flock of breeding birds, and fulfilling his regional director duties, spent the time uncovering facts and investigating the circumstances around this confiscation.

Once Fred was satisfied with the breeders care of her birds, we were all made aware of the case. Fred spent countless hours on the phone, and one call was made to the Florida Federation of Aviculture Inc. (FFAI). The FFAI, working with the AFA, was brought up to speed and immediately started their own investigation, and held an emergency meeting.

Notices were put out by Fred and other FFAI members with the date of the first court hearing. The SPCA was filing a petition for ownership not only of the confiscated birds, but also for any other birds owned elsewhere by the breeder, and her friend. They petitioned for fines and jail time to be imposed on the breeder and her friend, and they asked the court to order that the owner and her friend were to never own birds again. They also asked for a court order that the breeder pay all boarding fees and other costs incurred by the SPCA. The fees and costs to date are approximately \$13,000.00.

During all this time, there was an ongoing criminal investigation, so no information was, or could be, given out to the public or to the news media. In many animal confiscation cases, the criminal charges against the animal owner are dropped as soon as the confiscating party is granted permanent possession of the animals. This is a pressure tactic and a ploy used by the prosecution to keep the truth and any evidence from being obtained by the animal owner or by the media while the confiscating party pursues their confiscation case. This case followed that modus operandi. In this case, the breeder won her birds back in court, and all criminal charges have now been dropped against the breeder and her friend. In this case the owner of the birds fought back, and won her birds back, against seemingly overwhelming odds that she would not be able to successfully fight the powerful and arrogant SPCA.

The hearings spanned three months and were grueling. The first court hearing was attended by approximately 20 aviculturists. It was very obvious to all the aviculturists and professional breeders in the courtroom that the SPCA personnel and lawyers knew virtually nothing about birds, or breeding birds, or their anatomy or diseases, or their proper maintenance. The entire SPCA team (including the sheriff's officer who first arrived on the scene, all of the testifying SPCA personnel, their testifying veterinarians, and their attorneys) was in way over their heads. Some of the testimony presented by SPCA witnesses regarding the care the SPCA was giving to the birds made it clear that the SPCA did not know how to care for any bird, much less care for a flock of breeding birds. They used bleach in their cleaning solution to clean the birds' area, resulting in damage to the birds' respiratory systems. They fed the birds incorrectly, resulting in some of the birds developing diarrhea.

As most bird owners know, when food unfamiliar is offered, birds can literally starve to death refusing to eat. Birds do not comprehend that this unfamiliar looking stuff in their food bowl is food. Food changes require long periods of slow introduction, so they can learn it is food.

They incorrectly assumed that vials of polyoma vaccine found at the breeder's home were medications for diseased birds, and they demonstrated that they knew virtually nothing about bird diseases or treatment for bird diseases. The vet for the SPCA was a dog and cat vet with an interest in birds, but she was at least ten years behind the times in the evolution regarding avian medicine and care.

As the prosecution continued to put on their case they were oblivious to the fact that most of their witnesses' statements were idiotic and that their evidence simply served to demonstrate their ignorance about birds and bird care. It became clear that the SPCA was accustomed to winning animal confiscation cases based on unfounded allegations and with hardly any effort.

We were not intimidated. Of course, we realized that this biased, unbalanced, and inaccurate information that was being presented to the judge by those who knew practically nothing about birds was all the judge was hearing, and we realized that if we expected to prevail we needed an expert who knew about birds to testify - otherwise the case was going to be a "slam dunk" for the prosecution. We needed an avian specialist. Jan and I called veterinarians all over the state. Other members were working with their vets trying to get them on board. We were told that no vets could afford the time off from their practices to testify on the breeder's behalf. Many told us to walk away and let them have the birds - we were told "you can't win against the SPCA." Defense costs were already running into the thousands, and hiring an avian vet as an expert witness was beyond the means of this breeder.

Despite all the nay-sayers, and all the cautions that we could never win against the SPCA, we were not willing to abandon the breeder or our cause. Individual members of the Florida Federation of Aviculture started donating money for a vet. Two bird clubs in Florida, the Imperial Bird Club, and the Jacksonville Bird Club both donated \$500.00 each for vet costs. To them I am eternally grateful. Some clubs and organizations refused to get involved, for fear of the SPCA or some other organization making them targets for harassment. This is another fear we breeders are now faced with. If we help, will we suffer too?

Then there were individuals that convicted this breeder because she was arrested. People put up signs at bird expos denouncing this breeder, although nothing had even gone to court yet. Bird clubs held meetings to decide whether this breeder should be allowed at any of their events, and then there were people that listened to the rumor mills, or just didn't like the breeder, and would not become involved. Many listened to what the news media had said about the breeder and based all their opinions on the biased news reporters.

Many aviculturists attended all four hearings. Dr. Margaret Wissman, a board certified avian veterinarian, agreed to be a witness for the defendant and testified at the last hearing. It is my belief that her testimony made it clear to the judge that the allegations which the SPCA had made about disease and perceived cruelty and neglect were not a truthful picture of the situation - Dr. Wissman made it clear to the judge that the breeder was not cruel or abusive or neglectful - and that her testimony is what turned the case in the breeder's favor. Although the judge had reached a verdict the last day of court, the SPCA attorneys failed to sign off for another two weeks. The petition from the SPCA was denied in its entirety - the SPCA lost on every count. The judge ordered the SPCA to return all of the birds and other animals to their owner.

Even when a defendant is found innocent of animal cruelty, they may still be ordered to pay all attorneys fees, court costs, and boarding, vet bills and food costs, as well as any other incidental costs, such as buying new perches, or food and water dishes. In this case the judge ruled against the defendant paying any of those fees. The judge also ordered the SPCA to pay back the loan given by the FFAI, to help the defendant with Dr. Wissman's payment for testifying, and cost of transcripts needed by Dr. Wissman prior to her testifying.

The supposedly abused conure had been vaccinated against polyoma (proven in court) just two days prior to the confiscation. When the attending vet did exams and tests on a few select birds, this one turned up with a high

titer for polyoma. Of course the vet proclaimed the bird may be a carrier, or diseased bird. Polyoma is not dangerous to humans, so it was really a moot point. The fact that the breeder vaccinated all her birds against polyoma spoke volumes about her care of her birds. Rarely do breeders vaccinate all their birds against polyoma. The second polyoma test, taken weeks later, showed the same titer level, so disease should not have been an issue. Babies were hatching and thriving, and with no deaths of chicks or ill birds, it is almost a positive sign there is no pathogen present in the flock of birds. Dr. Wissman was able to show that this was indeed true.

*The issue of e-coli was brought up, since trash with contents from the cage trays stored in a plastic bag for three days, cultured positive for e-coli. What the SPCA vet failed to relate was that it was of the strain mucosa, and non-pathogenic. Instead, she made the judge well aware that e-coli can kill birds as well as humans. With the recent scare in the news of e-coli sickness and deaths from contaminated spinach, this would make anyone sit up and take notice. The vet for the SPCA was presented a paper from one of the most well known avicultural vets in the country, entitled, *The Truth About E-coli* by Darrel Styles. The vet admitted to never having heard of him, and what he had written was wrong. Her belief was any gram negative bacteria found in a bird is bad.*

Fortunately, Dr. Wissman made us aware of the strain of e-coli, and pronounced it as a wild strain, and definitely non-pathogenic. She also went on to tell about the other testing that would have been done, if indeed she thought it was a pathogen.

There was a concern that some of the birds had conjunctivitis when confiscated. In court there were no pictures to substantiate this claim, and again Dr. Wissman saw no evidence in any of the lab reports to support the conjunctivitis, and put that to rest.

The vet for the SPCA reported that the birds were low in calcium, and this was due to the breeder forcing them into excessive egg laying. She pointed out that during egg laying calcium levels are normally higher to help egg formation. Birds were treated for low calcium with supplements. Dr. Wissman showed that indeed yes the calcium level would be higher, but she pointed out that the SPCA was told (by their veterinarian) to remove the eggs already laid, and that the SPCA had already removed chicks from the parents. When clutches of babies or eggs are removed, or destroyed by predators, cockatiels start laying again to replace the lost clutch. This overtaxes the calcium level and the birds do indeed become low in calcium. This was not the fault of the breeder, but of the SPCA.

One bird with a wing injury was given steroids. Steroids are usually only given to parrots in life and death situations, since steroids break down the immune system and can cause death.

The issue of the bands being removed. Open bands if applied properly, do not cause a risk. If the SPCA vet saw any improperly applied bands, they could have been turned and refitted. At the very least, a smaller band applied to keep track of breeding records. The bands are made especially to guard against causing a risk when applied properly. There were years of genetic tracking dependant on the bands, and may now be lost forever. In past cases, birds worth hundreds even thousands of dollars can become worthless once the band is removed, unless the genetic line can be validated. Perhaps if they can't neuter the animals they remove the bands to devalue their blood lines, and make them worthless for breeding.

Existing law in Florida can be, and are, used to harm breeders and animal owners. We have a statute in Florida that gives any law enforcement officer the right to call any recognized agency (such as the SPCA, animal control, Humane Society, and even some rescues) to immediately confiscate animals, without a warrant and without a hearing, if they in their opinion, feel there is any animal neglect or cruelty. They do not have to call FWC, the only organization that has training in exotic animals here in Florida. This law creates a very serious situation for all of us - a situation that gives us all something new to fear. All of us who own birds and other animals now have to recognize that "public perception" may be the standard used to judge us when allegations of animal abuse and neglect are made against us by law enforcement or "animal welfare" personnel. "Public perception" may or may not be accurate or truthful, but it will be used by law enforcement and "animal welfare" personnel to make judgments in an area in which they have no training or expertise. "Public perception," when it is not based on fact, can wreak havoc on any enterprise, especially in the area of breeding birds.

We also must remember that most of the "animal welfare" organizations that claim to have the best interest of the animals first and foremost, are against breeding animals of any kind. Many of them support the philosophy of "animal rights," which contends that animals are not ours to use. They especially do not believe in breeding animals to be sold as pets. Many of them do not believe that we have the right to own or use animals of any kind for food, for fiber, for research, for entertainment, or as pets. Those same organizations, who have been given the power under existing law to allege animal abuse by their owners, and who have been given the power to confiscate animals from their owners without a warrant and without a hearing, are fundamentally and philosophically biased against breeders. Existing law allows these organizations to be our accusers, our judges, and our executioners, and they revel in that power - they are the poster children for the saying "Power Corrupts - And Absolute Power Corrupts Absolutely." They have an absolute conflict of interest when it comes to any case involving breeders, and they should not be allowed to participate in any confiscation cases - yet the law allows them to freely operate and freely confiscate despite this clear conflict of interest. Of course these organizations will confiscate, at the mere hint of a dirty water bowl or recently spilled food. Many of these people see problems where none exist, or knowingly create them - as was done in this case. The sheriff's officer ordered the barking dogs (who had been found loose in the yard) to be tied up next to a dirty water bowl, then had photographs taken of the situation as "evidence" of their "abuse" by their owner. *The sheriff testified in court there were cock roaches everywhere. The investigator for the SPCA said he never saw a cockroach. He added there were seed moths, and perhaps gnats. Of course, we all know that the presence of a seed moths in a bloom, indicates fresh seed, and is not an indicator of "filth."*

I was there when the birds were picked up from the SPCA. When we arrived there, they did not know we were to pick up the birds, and made us wait about two hours before allowing us to enter their bird room. They only allowed three people to retrieve the birds, although when the SPCA took the birds, there were seven or eight people running in and out of the breeder's home and bird room. Looking back it is obvious they were trying to clean things up, and switching birds around before we were allowed to enter. They told us things had to be done quickly so as not to disturb the birds too much, but now we know now it was so we would not see some of the wrong doings that had been done. We didn't have time to investigate their condition, or housing. I saw dirty cages, and over crowding. Some cages that the breeder had only two birds in now contained five birds. Some missing birds were unaccounted for. Mates were switched, and although the vet for the SPCA was very concerned about the birds being low in calcium the SPCA put hens together causing excessive egg laying, of infertile eggs, naturally. It is scary to think the SPCA is unable to sex cockatiels properly, and do even more harm to the birds.

The ground quail that were confiscated were put on wire bottom cages, and this caused leg damage, even broken legs.

While retrieving the birds the SPCA did not allow the breeder to inventory the birds against the confiscation list. The SPCA stressed the need for quickly removing the birds as to not induce more stress. Once home and the breeder was able to compare the inventory against the confiscation list, it was found the most expensive breeder cockatiels were not there. Almost a year later they have not been accounted for. The following day a few birds were found dead in the cages. It became obvious (upon close inspection) this was due to the last minute switching around of birds, and putting birds in together that were aggressive, and they fought and killed each other. In some cases there are birds that should not be housed even near each other because of dislike for each other, and this induces stress. Breeders know which of their individual birds are prone to this, and place cages accordingly. One can't help but wonder how all the cages were housed together at the SPCA, and the stress induced there. Months after the release of the birds, a few have sporadically died of liver failure due to the SPCA over medicating the supposed sick birds. Breeders learned about over medicating and liver failure back in the 1980s, with birds coming through quarantine stations.

As we know, most organizations are legally exempt from any type of inspections. In most laws and statutes, most all animal welfare organizations are written in as being exempt from the same inspection laws that govern the owners or breeders of their animals. We ask ourselves why these organizations are above the law. Because the law says so.

So now, not only are we afraid to leave our birds at night, we cannot leave during the day either. In the event my dog would escape the yard and cause a car accident, a sheriff would come out to my property and up to my door. As he walked along the pathway, he may see a bowl full of water (changed an hour ago) just full of mushy pellets, and smelling like, well you all know what it smells like. He may see a bird in a small cage that is being medicated, or under veterinary care. What would his perception be, and would he call the SPCA or humane society, or even a rescue organization? When I would arrive back home from shopping for veggies and other good bird food, would my birds all be there, or would they have been taken to some secret place where I could not see, or find out about them?

Thank you AFA for Fred Smith. Thank you FFAI for your work in this and thank you, Imperial Bird Club and Jacksonville Bird club, for your monetary support in this effort. Thank you Dr. Wissman for your support of aviculture. We could not have done it without you.

Many people behind the scenes worked tirelessly on this case, and studied the FWC regulations as well as county and state statutes. I am very grateful to all that pitched in and did work and made donations in the name of aviculture. Many people from out of state gave their support and donations as well, and I thank all of you too.

After this experience, and seeing the support of the avicultural community, I know that yes, it is all worth it.