

FROM BOTTOM TO TOP

Proposing a Framework for Developing Regulations for Captive Wildlife

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Exotic wildlife¹ is the subject of intense public interest, enveloping a suite of personal pets held by millions of Americans as well as captive wild specimens held almost exclusively by public exhibitors. Nearly 18.5 million U.S. households owned over 79 million exotic pets in 2012, primarily fish but also a variety of small animals (ferrets, hamsters, guinea pigs, etc.), birds and reptiles². The fascination with exotic animals is further exemplified by the popularity of public zoos and aquaria. The Association of Zoos and Aquariums (AZA) estimates 175 million people annually visit exhibits of captive wildlife. The 224 AZA-accredited facilities (213 in the U.S.) house over 750,000 animals representing roughly 6000 species, including a thousand imperiled species³.

Serious incidents involving certain types of captive wildlife are uncommon but invariably such occasions command a great deal of media attention, perhaps because of the mystique surrounding large or dangerous animals from far-away places. Incidents such as the tragic release of animals from a private zoo in Ohio continue to fuel public policy discussion, which has spawned legislative proposals to prohibit possession of a broad array of captive animals posing very disparate risks to human health and safety. Safe and responsible possession of non-domestic species is a legitimate subject for public debate. Unfortunately, the pursuit of “top down” political solutions, in the emotional aftermath of death or injury to humans or animals, is often a polarized and hurried process rather than a collaborative effort involving pet, wildlife and zoo professionals whose experience can lend valuable insight.

We have found that a “bottom up” approach to the development of captive wildlife regulations can be effective in protecting the public and the animals. The approach is not independent of political concerns, but rather a practical route to a balanced solution following the general direction of policy makers. Although the framework described below will not necessarily produce unanimity among its participants, the process is likely to result in a greater acceptance of

¹ Exotic wildlife is used here to describe pets other than domesticated companion animals (e.g., dogs, cats) and livestock (e.g., horses, chicks, ducks); the majority of exotic wildlife are species not native to the United States.

² Data compiled from a survey conducted by the American Veterinary Medical Association. see <https://www.avma.org/KB/Resources/Statistics/Pages/Market-research-statistics-US-pet-ownership.aspx>

³ <https://www.aza.org/zoo-aquarium-statistics/>

regulatory solutions and avoid the unintended consequences of eleventh hour amendments that characterize heated political battles.

Regulation as an element of risk management

Regulations to govern the acquisition, possession, and transportation of certain classes of animals are often regarded as the primary solution to concerns over public safety, animal welfare and environmental impacts. In the larger picture, government regulation is one of several risk management options to reduce danger to humans and ensure humane treatment of the animals. For some classes of wildlife (e.g., large carnivores, non-human primates, venomous reptiles), regulations dictating standards of containment and husbandry are essential. However, there are many animals that pose little danger to humans for which education, outreach, industry codes of conduct and best-management practices may be more appropriate. Where regulatory solutions are necessary, these avenues can play a complementary role in further mitigating risk.

Risk analysis, the determination of specific factors that contribute to the likelihood of adverse incidents, is a pre-requisite to the ultimate goal of risk mitigation. For example, are the current physical barriers sufficiently robust to deterioration? Are there secondary and tertiary containment barriers? Are existing deterrent strategies widely known and practiced? Do particular facility locations present concerns, i.e. is the facility near a school or densely populated neighborhood? Are specialized and unique animal husbandry practices necessary to ensure humane treatment and safeguard other animals, caretakers and the public?

Sensationalized incidents in our 24-hour news cycle often foster immediate calls for political solutions without objective analysis. Despite their public appeal, proposals to prohibit the possession of “dangerous” or “invasive” species do not eliminate the possibility of adverse incidents and, in fact, may be counterproductive. A collaborative process outside the political arena to fully characterize risks and analyze vulnerabilities can produce more desirable results.

Risk-based regulations

The risk of serious human injury varies considerably among captive wildlife species, e.g., a large mobile carnivore compared to an ambush predator such as an exotic constrictor. In lieu of a “one size fits all” approach, risk-based regulations consider the biology, anatomy and behavior of a species (or group of similar species) to develop rules and practices governing containment and humane treatment. Inclusion of industry representatives with knowledge of the husbandry and habits of the various classes of captive wildlife is essential to craft appropriate standards commensurate with the risk to public safety while protecting the welfare of the animals.

Another important consideration in developing regulations is the practicality of their implementation. Although laws, rules and ordinances are enacted by legislative bodies, executive agencies and departments are responsible for their enforcement. In some instances, these agencies are tasked with promulgating operational rules that reflect the general direction of

legislative decisions. In either case, staff charged with compliance can benefit from learning the subtleties of propagation and care of exotic wildlife, while those in the pet industry will profit from understanding the challenges faced by enforcement officers.

Ultimately, regulations must make sense to those who enforce them and those who will be governed by them, as well as to stakeholders who may not be directly affected. Excessively complicated rules are subject to misinterpretation, leading to compromised security and adversarial relationships between the regulated community and compliance agencies. A conversation between these parties throughout regulation development is a cornerstone for a successful outcome.

A bottom-up process

Our model for developing and evaluating effective, enforceable regulations calls for an extended collaboration of subject matter experts. The product of this cooperative effort will provide guidance to legislative bodies or to the agencies charged with implementing statutes or ordinances. Engaging representative experts during regulation development will improve understanding among stakeholder communities and reduce the likelihood of protracted political debate and last-minute amendments with unintended consequences.

The process has three key elements: (1) a standing team of stakeholders from all sides of the issue; (2) a timeline long enough to allow the participants to develop legitimate working relationships and foster honest dialogue; and (3) a pro-active process not driven by the influence of sensationalized incidents or media-driven controversy.

Stakeholders: Several groups with a stake in the management and regulation of captive wildlife must be represented including pet breeders, distributors and retailers; state or local enforcement agencies; wildlife rehabilitators; sanctuaries; wildlife veterinarians; exhibitors, e.g., zoo, circus, attraction, aquarium; animal control agencies; animal welfare advocates; and private wildlife preserves. Representatives could be chosen by a legislative body or by the agency responsible for the administration and enforcement of captive wildlife regulations.

Timeline: Depending on the breadth of the issue, the process may take a year and as many as six meetings. It is crucial that the meeting atmosphere is conducive to overcoming inherent stakeholder barriers and personal biases and to encourage appreciation for a variety of perspectives. Meetings should span two days and allow for networking opportunities in the evening.

Pro-active: The process of regulation development should not mainly focus on circumstances associated with an unusual or highly publicized incident where political pressure and public demand for immediate action can abbreviate the necessary deliberation. Such an event, however, may create an opportunity for a review of captive

wildlife regulations to become a priority. A standing stakeholder team with background knowledge, historical perspective and working relationships will be able to provide reasoned advice to policy makers and legislators in the aftermath of such an incident.

We emphasize that this is a process, not an outcome. Lawmakers or agency management are not obligated to adopt the recommendations resulting from the stakeholder panel, in whole or in part. Furthermore, it is likely that some stakeholder representatives will not endorse every recommendation. However, subsequent public debate over proposed regulations will be more narrowly focused and amendments offered should not come as a surprise to the participants. Regardless of the ultimate outcome, the process holds value in promoting dialogue and understanding in a transparent manner, and in establishing relationships that will be of value in future discussions.

A real world example

The Florida Fish and Wildlife Conservation Commission (FWC) administers and enforces captive wildlife regulations⁴ for non-domestic animals. The State of Florida has a long history of animal exhibits associated with the tourist industry along with many breeders, importers and distributors of exotic wildlife for the pet industry. FWC first enacted captive wildlife regulations in 1970. Its current regulations are extensive and detailed, reflecting the diversity of the pet industry in Florida.

In 2005, FWC initiated a comprehensive review of its captive wildlife regulations⁵. Stakeholders were invited to attend a series of meetings to review, and revise if appropriate, the requirements for caging, identification, transportation and general husbandry of all classes of captive wildlife⁶. The stakeholder group represented several interest groups including government, industry, animal welfare and non-profits (see appendix for the complete list of participants). Participants from prior FWC captive wildlife regulation reviews were invited to provide a historical perspective. Two of the authors of this document, Eugene Bessette and Ken Johnson, were stakeholder representatives during this review, and author John West was one of the FWC staff who organized and held the meetings.

Meetings were held throughout the state to encourage public attendance and participation. Typically meetings lasted a full day and half the next. Stakeholders in travel status stayed at one hotel, with accommodations arranged by FWC. Participants dined together and attended evening networking functions, which encouraged camaraderie and collaboration during and outside the meetings. Stakeholders sat in a round-table format to encourage dialog and eye contact. Topics

⁴ Unlike most state fish and wildlife agencies, FWC is a constitutional agency with the authority to create wildlife-related regulations other than for penalties and fees for violations, fees and permits.

⁵ This was the third regulation review involving stakeholders; Eugene Bessette participated in all the reviews.

⁶ FWC classifies captive wildlife in four categories, primarily based on potential danger to humans, with different permit requirements and fees. See <http://myfwc.com/license/captive-wildlife/>

were introduced by members with relevant expertise and group discussion followed. Members of the public were often recognized for comments on and feedback to the stakeholder discussion.

After the first two meetings, participants became comfortable with one another and began to understand other perspectives and interests. Although suspicion of individual agendas lingered throughout the review, stakeholders collectively were able to reach consensus on most issues. By the nature of their organization, some participants had a narrow focus while others were generally interested in the overall project goal. However, the extended timetable and meeting atmosphere fostered a process that was educational for all and one that broadened the participants' appreciation for the spectrum of captive wildlife issues.

The review resulted in several recommended regulation changes including significant additional requirements for the possession of certain large constrictors. Many of these regulations were approved in subsequent meetings of the FWC. As expected, some stakeholders did not endorse all of the recommended rules and stakeholder groups provided substantial comments at FWC Commission meetings when regulations were considered, both in support of and dissenting from the proposals. However, the extended review smoothed over many issues that would have otherwise been contentious, ultimately leading to greater understanding and acceptance.

APPENDIX – Stakeholders participating in Florida Fish and Wildlife Conservation Commission Captive Wildlife regulation review.

Ms. Julie Alexa Strauss - Corporate Counsel for FELD Entertainment, Inc. (Ringling Bros. and Barnum & Bailey Circus)

Dr. Terri Parrot-Nenezian - Veterinarian specializing in wildlife and exotics; Wildlife Rehabilitator; Exhibition/Sale Licensee with authorizations for most Class I and II families

Mr. Dan Martinelli - Treasure Coast Wildlife Hospital, Executive Director; Wildlife Rehabilitator; Exhibition/Sale Licensee with authorizations for most Class I and II families; Venomous Reptile Licensee

Mr. Eugene Bessette - Ophiological Services, Founder and Director; Venomous Reptile Licensee; Exhibit/Sale Licensee for Class III reptiles

Mr. Joe Christman - Curator of Mammals for Disney's Animal Kingdom

Dr. Leroy Coffman - Veterinarian; Former State Veterinarian and Director of Animal Industry with the Florida Department of Agriculture and Consumer Services

Mr. Ken Johnson - Humane Society of the United States

Dr. Susan Clubb - Veterinarian; Co-owner of Hurricane Aviaries; Staff Veterinarian for Parrot Jungle Island

Mr. Bill Armstrong - Hillsborough County Animal Control, Director; Florida Animal Control Association, President; County Emergency Response Coordinator for Emergency Support Function (ESF) 17 (Animal Issues)

Mr. R. Donovan Smith - Close Up Creatures, Inc., Founder and Director; NGALA Private Reserve, Founder; Exhibit/Sale licensee with authorizations for elephants, hippos, felids, crocodilians, and ratites

Ms. Gloria Noble Johnson - Cougar Ridge Education Center, Inc., Founder; Exhibit/Sale Licensee with authorizations for Class I and Class II cats

Mrs. Kathy Stearns - Stearns Zoological Rescue and Rehab, Founder; Wildlife Rehabilitator; Exhibit/Sale Licensee with authorizations for Class I bears and cats, Class II primates and cats, and Class III