



Sarah Speed, Esq.

**THE HUMANE SOCIETY
OF THE UNITED STATES**

**Representative Caltagirone
Chairman, House Judiciary Committee**

On behalf of the over 650,000 members and supporters of The Humane Society of the United States (The HSUS) in Pennsylvania, I would like to thank Chairman Caltagirone and the House Judiciary Committee for considering this testimony in support of H.B. 2547, legislation to grant civil immunity to humane society police officers. I would also like to thank Representative Siptroth for introducing this legislation. My name is Sarah Speed and I am the Pennsylvania State Director for the Humane Society of the United States. Pennsylvania HSPOs currently receive no immunity under the law, and Rep. Siptroth's bill will provide protections that are necessary to ensure HSPOs can fulfill their enforcement obligations.

In examining this bill and attempting to explain to others just what civil immunity means and how it is applied to different professions, it occurred to me that I may be most helpful to this committee by providing an overview of civil immunity for Humane Police officers across the United States. There is a two step analysis generally applied to determine whether a law enforcement official is shielded from civil liability: "(1) whether, considering the allegations in a light most favorable to the party injured, a constitutional right has been violated, and (2) whether that right was clearly established." If this test is met then the burden is on the plaintiff to demonstrate that the officials are not entitled to qualified immunity either. The determination of an officer's qualified immunity may depend upon whether a reasonable officer under the circumstances would have believed his conduct was lawful in light of the law that was clearly established at the moment of

the incident. This analysis was created in case law and thus is not codified in statute in Pennsylvania or most other states.

What type of immunity do other states grant humane society police officers?

Unlike other law enforcement officials, humane officers have a status that varies from state to state. Some states accord humane officers full law enforcement authority, including police powers of arrest and the authority to execute warrants. In other states, humane officers are simply agents of non- governmental charitable organizations who have very little law enforcement authority, and who must coordinate with police before enforcing the law in any real way. Humane Society Police Officers in Pennsylvania are kind of a hybrid of these two models, in that they have limited law enforcement authority and are employed by charitable organizations rather than the state and yet are officers of the court and charged with enforcing a key portion of our criminal code.

What is the scope of this immunity?

No state provides a specific grant of immunity for all acts undertaken as a humane officer. This may be because, in most states, humane officers are employees of the state, and thus covered by the sovereign immunity doctrine. At least four states – including Maine, Nebraska, and New York, have laws that provide immunity in specific situations, such as immunity for the disposition of seized or surrendered or stray animals, or for acts taken in furtherance of search or seizure. Humane officers working for charitable organizations may also receive protection under charitable immunity laws in states that

have not abolished such immunity. Charitable immunity laws are complicated and vary vastly from state to state. South Carolina takes charitable immunity one step further by extending immunity to any person, humane officer, charitable worker, veterinarian, or lay person who in good faith and not for compensation, assists an animal who is ill, abandoned, or in distress with emergency care.

What type of immunity does Pennsylvania grant to other officers?

Pennsylvania grants civil immunity for actions undertaken by a judicial officer in furtherance of their duties and within the scope of their employment. This immunity is extended to federal officers who come to Pennsylvania and variations of this immunity is accorded to Pennsylvania's good Samaritans, coaches, volunteer firefighters, corporate representatives, parole officers, school employees and railroads.

Conclusion

Either legislatively or via sovereign immunity, most states provide civil immunity to the officers who enforce their cruelty code. Pennsylvania has set up a system by which officers who are not state or municipal employees assist with enforcement of the state animal cruelty laws. Since these officers are not granted sovereign immunity, statutory immunity should be extended to those officers, so that they have the necessary protections that come with their enforcement responsibilities.