

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: October 27, 2009

TO: Honorable Members of the Public Safety Committee

FROM: Gerry F. Miller *G. Miller for*
Chief Legislative Analyst

Council File No: 09-2213
Assignment No: 09-10-1633

Informational Report: Proposed Ban of the Declawing of Cats

SUMMARY

On September 4, 2009, the Motion (Koretz/Rosendahl - Cardenas) was introduced requesting the City Attorney with the assistance of the Department of Animal Services (ASD) to prepare an ordinance within 45 days that would prohibit the declawing of cats (onychectomy). As requested by your Committee, this office has reviewed various issues relative to adopting such an ordinance, including: benefits and limitations, impacts on city services and the community, related legislation and a survey of other municipalities with similar ordinances.

ASD states there is insufficient data from which to draw conclusions relative to the proposed ban of the declawing of cats. As a result, statistical information on the number of surgeries performed, and data regarding post-operative and long term physical and behavioral impacts on animals is limited. Additionally, ASD does not monitor if its impounded cats have been declawed nor does its veterinary staff perform onychectomy procedures. ASD advises that it is unable to determine the impact of adopting a ban on cat declawing. ASD does not have an official position on the matter.

ASD further states that a properly anaesthetized and pain managed onychectomy procedure does not constitute animal cruelty. Based on observation by city staff, the impoundment of declawed cats in city shelters is a rarity. ASD advises that City residents may be inconvenienced by the ban, but could avail themselves of the procedure in neighboring cities. In addition, ASD is concerned regarding enforcement given that it does not have oversight of private veterinarians (with the exception of a requirement to report rabies vaccinations) and that it lacks trained personnel to conduct investigations.

Veterinary medical organizations, advocacy groups, and ASD veterinarians acknowledged that cat declawing should be avoided whenever possible. In general, it is also acknowledged declawing should be a last resort process prior to the relinquishment or euthanasia of a household pet. However, differences in their perspectives do exist. Many stakeholders recommend cat owners frustrated with destructive scratching should attempt multiple behavior modification techniques to stop destructive cat scratching, but have strong opposing views regarding steps leading to an onychectomy.

The American Veterinary Medical Association (AVMA), California Veterinary Medical Association (CVMA) and the San Francisco Society for the Prevention of Cruelty to Animals (SF SPCA) believe declawing may become necessary for behavior reasons, and therefore, are opposed to banning cat declaw surgeries. Furthermore, AVMA and the CVMA believe that the decision to declaw should be made by owners in consultation with their veterinarian, and a ban would bypass medical regulatory agencies and in so doing their medical expertise. The SF SPCA states that its mission is to save animal's lives and are concerned that a ban will result in more cats being relinquished, abandoned or euthanized. Opposing views which include the Humane Society of the United States (HSUS) and the Paw Project are opposed to all declaw surgeries except those performed for the benefit of the animal.

DISCUSSION

The declawing of a cat or onychectomy involves more than just the removal of its claws. The University of California, Davis Veterinary Medical Teaching Hospital describes it as a permanent surgical procedure where the last bone, phalanx, and claw of each toe on the cat's paw is removed. The description also states, it is

frequently done on the front feet to prevent cats from scratching furniture or people, after which the cats are usually kept indoors. Even with pain medication, the procedure undoubtedly creates pain and soreness for a few days.

Alternative medical procedures include using lasers which results in a speedier recovery time and a tenectomy which removes the tendon that allows the claw to extend. A tenectomy does not allow cats to maintain their claws and requires the owners to trim the nails to prevent complications.

ASD states that while studies on this matter have been conducted, there are not enough from which to draw conclusions. As a result statistics on the surgeries performed and data regarding the post-operative and long term physical and behavioral condition of the animal are lacking. One states the following, "It seems unthinkable that an elective surgery performed on a quarter of owned cats could lack definitive evaluation, but that appears to be the case."

AVMA states scientific data indicates cats with destructive clawing behavior are more likely to be euthanized, or more readily relinquished, released or abandoned. CVMA states that studies show that behavioral problems are the leading cause of unnecessary relinquishment of animals.

Laws and Legislation

In July 2009, SB 762 (Aanestad) was enacted into law. This measure states that the Department of Consumer Affairs (DCA), and the boards and bureaus overseen by the DCA, will have ultimate authority to define permissible policies relative to human and animal medical practices standards, including onychectomies. SB 762 has an effective date of January 1, 2010. Thus, any local ordinances relative to the regulation of onychectomies must be enacted and effective prior to this date.

Related laws and legislation include the following:

- In 2004, the State of California adopted AB 1857 (Koretz) prohibiting any person from performing, procuring, or arranging for surgical claw removal or tendonectomy on an exotic or native wild cat;
- In 2003, Assemblymember Koretz introduced AB 395 which proposed to prohibit licensed veterinarians from performing or arranging surgical declawing. Assemblymember Koretz stated that licensed veterinarians are educated and trained to help restore sick and injured animals and that they should not be allowed to perform or arrange the procedure on any cat if it is not medically necessary or provides no health benefit. This bill was not enacted;
- The United States Department of Agriculture states that declawing or fang removal in wild or exotic carnivores or non-human primates is no longer considered appropriate veterinary care and is not allowed under the Animal Welfare Act of 2006; and
- The City of Norfolk, Virginia, adopted an ordinance that prohibits onychectomies unless performed with proper anesthesia by a licenced veterinarian.

Other Municipalities

In 2003, the City of West Hollywood adopted an ordinance prohibiting veterinarians from declawing domestic cats.

As a result of the January 1, 2010 deadline imposed by SB 762 municipalities statewide have initiated action relative to prohibiting onychectomies as follows:

- The cities of San Francisco, Santa Monica, and Beverley Hills are considering ordinances prohibiting cat declawing;
- Berkeley's Citizen Humane Commission, which oversees animal services, adopted a motion relative to banning cat declawing in October, 2009. The motion has not been scheduled for City Council; and

- Malibu failed to adopt an ordinance prohibiting cat declawing at its October 12, 2009 meeting, however, a Resolution opposing onychectomys or tendonectoy procedures was approved. Malibu adopted a similar Resolution in 2003.

Possible Impacts of a Ban

A representative of ASD has advised that if the City adopts a ban on cat declawing the owners seeking this procedure may be inconvenienced, but could simply solicit a veterinarian in a neighboring city.

ASD advises further that it does not track declawed cats, but based on observation by shelter staff the impoundment of declawed cats is a rarity. ASD estimates that a declaw ban would be negligible in its economic impact on local veterinarians and in the number of operations performed. City veterinarians do not perform cat declawing surgeries. ASD states onychectomies performed by a private veterinarian cost approximately \$150-\$200.

Enforcement

ASD advises that an onychectomy is not a specialty procedure and therefore, could be performed by a properly trained and licensed veterinarian. ASD has expressed concern that enforcement would be difficult given that it does not have regulatory oversight of private veterinarians (with the exception of a requirement to report rabies vaccinations), and it lacks resources commensurate with any new responsibilities. ASD also advises that enforcing a ban could diminish its partnerships with local veterinarians which provide valuable resources relative to the spay/neuter ordinance and other issues.

The City of West Hollywood advises that it does not actively enforce its ordinance due to the city's small size of 1.9 square miles and the fact that there are only three private veterinary practices in the City.

Stakeholder Positions

Veterinary medical associations, advocacy and animal shelter organizations, municipalities, and personal statements by City veterinarians all state that cat declaw surgeries should be avoided whenever possible.

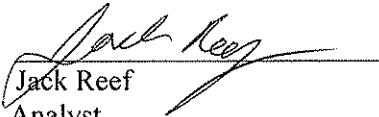
Advocacy organizations such as HSUS and the Paw Project are opposed to the procedure if its done for the convenience of the owner or without benefit to the animal. The Paw Project based in Santa Monica and sponsor of AB 1857 (Koretz) and AB 395 (Koretz) state that it is not appropriate to treat a behavioral problem with a surgical procedure. These organizations also indicate that declawing is also performed in a package deal with neutering, prior to the onset of claw-related problems. The Paw Project argues that the AVMA wants to keep declawing legal as it is a highly profitable and a relatively easy procedure to perform.

AVMA and CVMA state that cat declawing may become necessary for medical or behavioral reasons, and that such a decision should be made by the owner in consultation with their veterinarian. Various veterinary medical association members have testified throughout the state in opposition to the ban.

The City's Board of Animal Services Commissioners has not adopted a position relative to declawing.

Claw removal surgery is not permitted in numerous countries worldwide, including many in Europe.

RECOMMENDATION Note and File this report inasmuch as it was prepared for informational purposes.


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Analyst

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MOTION

There is a widespread misunderstanding in the community regarding a surgical procedure commonly performed on cats known as onychectomy or "declawing." Contrary to most people's understanding, declawing consists of amputating not just the claws but the whole phalanx (up to the joint), including bones, ligaments, and tendons.

Declawing is not a simple cosmetic procedure akin to a manicure or a pedicure. On the contrary, to remove a claw, the bone, nerve, joint capsule, collateral ligaments, and the extensor and flexor tendons must all be amputated. Thus, declawing is not a "simple" single surgery, but ten separate, painful amputations of the third phalanx up to the last joint of each toe. In human terms, this is akin to cutting off the last joint of each finger.

Declawing is properly characterized as a cruel procedure for several reasons, as follows:

- o Declawing robs an animal of an integral means of movement and defense. Declawed cats are deprived of normal posture, the normal use of their toes in walking and running, and satisfying their instinctive behavioral impulses to climb, exercise, and mark territory. Cats walk and run on their toes instead of the heel to toe movement of humans. Declawing necessarily changes a cat's gait and can result in arthritis and other complications associated with postural and bone changes caused by declawing.
- o Because they cannot defend themselves adequately against attacks by other animals, declawed animals that are allowed outdoors are at increased risk of injury or death.
- o Declawing exposes cats to relatively high risks of painful adverse and long-lasting physiological effects. Complications include excruciating pain, damage to the radial nerve, hemorrhage, bone chips that prevent healing, painful re-growth of deformed claw inside of the paw which is not visible to the eye, necrosis, lameness, and chronic back and joint pain as shoulder, leg and back muscles weaken.
- o Declawing unnecessarily increases public health and safety risks and public expenditures related thereto. First, research indicates that a substantial number of declawed cats become more prone to biting as a form of defense. Cat bites are associated with higher rates of infection than are cat scratches and lead to hospitalization more often. Second, declawed cats are more likely to avoid the litter box. Instead of experiencing the rough surface of cat litter on their maimed paws, a substantial number of cats will urinate or defecate outside of the litter box.


Ironically, declawing is particularly cruel in light of the fact that there are many alternatives to onychectomy (declawing) that involve no physical harm to the animal. Harmless alternatives include training the pet to use a scratchpost, use of deterrent pheromone sprays, covering furniture, restricting the pet's access to certain areas of the home, use of plastic nail covers, and more. Mere convenience of the onychectomy (declawing) to the pet's guardian does not justify the unnecessary pain, anguish and permanent disability caused the animal.

This issue is particularly critical for Charter cities. Local governments traditionally have been able to and should be able to pass appropriate public safety legislation – such as measures to prevent animal cruelty. Just this term, however, powerful Sacramento interests passed legislation which would divest this Council of its ability to make legislation in this area. In light of this attack on home rule – which goes into effect on January 1, 2010 -- it is necessary that the Council adopt this important legislation by December 1, 2009.


I THEREFORE MOVE that the City Attorney be requested, with the assistance of the Department of Animal Services, to prepare and present an Ordinance to the City Council for consideration within the next 45 days that would prohibit the declawing of cats in the City, substantially as follows:

1. No person, licensed medical professional or otherwise, shall perform or cause to be performed an onychectomy (declawing) or flexor tendonectomy procedure by any means on any animal within the City, except when necessary for a therapeutic purpose. "Therapeutic purpose" means the necessity to address the medical condition of the animal, such as an existing or recurring illness, infection, disease, injury or abnormal condition in the claw that compromises the animal's health. "Therapeutic purpose" does not include cosmetic or aesthetic reasons or reasons of convenience in keeping or handling the animal.
2. In the event that an onychectomy or flexor tendonectomy procedure is performed on any animal within the City in violation of this Section, each of the following persons shall be guilty of a violation of this section: (a) the person or persons performing the procedure, (b) all persons assisting in the physical performance of the procedure; and, (c) all persons or entities that procured the procedure, including but not limited to any animal guardian, owner, or any other person or entity that ordered, requested, or paid for the procedure.

PRESENTED BY



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BILL ROSENDAHL
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