

# HARVARD LAW SCHOOL

## ANIMAL LAW & POLICY CLINIC

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### FIRST SEMESTER REPORT – FALL 2019

The inaugural semester of the Harvard Animal Law & Policy Clinic went extremely well. We started with six students—Ashley Maiolatesi, Elizabeth Melampy, Kelley McGill, Brett Richey, Boanne Wassink, and Gabriel Wildgen—both 2Ls and 3Ls, some already devoted to becoming animal lawyers; others intrigued and wanting to know more. We assigned each student to be “lead counsel” on one major project for the semester, and also had them each serve as “co-counsel” on another student’s project. The idea was to teach the students how to take the lead on a real-world animal advocacy project, and also how to utilize and serve as co-counsel on a project. We did not instruct the students on division of labor with their co-counsel, but let each pair decide the best approach for that particular project.

We began the semester with an informal talk by public interest advocate **Ralph Nader** on the importance of being a public interest lawyer, and particularly a lawyer for animals. Mr. Nader came to the Clinic in early October and spoke to the Clinic students—as well as other students, faculty, and law fellows interested in animal law—for about an hour and half, telling stories of his own emotional bond with animals, and the importance of pursuing a career in public interest law. He took questions from the students, and his visit was enjoyed by all. [Mr. Nader’s talk can be viewed on the Animal Law & Policy Program’s YouTube channel.](#)

Also, in October, students participated in a public meeting held by the U.S. Food and Drug Administration (FDA) entitled “Horizontal Approaches to Food Standards of Identity Modernization.” The purpose of the meeting was to seek public input on the agency’s efforts to update its “standards of identity” for alternative to animal-based food products. Clinic students Kelley McGill and Gabriel Wildgen went to Washington, D.C. to provide [oral testimony calling for flexibility in food labeling](#) in the interests of both consumers and innovation. They urged the FDA to “continue its long-standing practice of allowing food labels to refer to the names of standardized foods such as milk so long as qualifying language such as “almond” or “soy” is included to make the product’s ingredients and intended use clear to consumers.” Wildgen also argued that appropriately qualified food labels are a form of commercial speech protected by the First Amendment. “Without a reasonable public health or consumer confusion argument to justify restricting terms such as “milk” to only cows’ milk or “noodles” to only wheat noodles, the FDA does not have a legally substantial interest in doing so,” he explained. In November, the ALPC submitted written comments to the FDA on the issue. The ALPC has also been developing recommendations to guide the USDA-FSIS’s rulemaking regarding the labeling of cell-based meat and poultry and will submit a letter to the agency in January 2020. The ALPC recommends a labeling scheme that does not ban the use of common and usual meat and poultry terms on cell-based meat products and only requires disclosures when they are necessary to protect consumers.

On November 5, 2019, we filed our first lawsuit—an unreasonable delay case under the Administrative Procedure Act against the United States Department of Agriculture for failing to act on a petition to upgrade the standards for the psychological well-being of primates used in biomedical research. The case was filed in **Federal District Court in Massachusetts** on behalf of the New England

Anti-Vivisection Society, Animal Legal Defense Fund, and International Primate Protection League. [The Boston Globe did a major story on the case](#), quoting Clinic student, Brett Richey, who took the lead on that project. [The students also discussed the litigation on the Animal Law Podcast](#).

Also in November, two students prepared detailed analyses of evidence of chronic violations of the Animal Welfare Act to be used in lobbying efforts for passage of the **Animal Welfare Enforcement Improvement Act, H.R. 4211**, introduced in August 2019 by Congressman Raja Krishnamoorthi (D. Ill.), which, among other things, will create a much needed private right of action under the AWA. The students also prepared an analysis of the problems with current enforcement of the AWA, and a synopsis of the legislation, to be used in lobbying efforts by the animal protection community. The clients in that matter were the Animal Welfare Institute and People for the Ethical Treatment of Animals.

Because other projects undertaken by the Clinic during the semester involve advising clients about potential avenues of advocacy, we cannot describe those projects in detail here. However, in general terms, the students have been exploring avenues to ameliorate the devastating effects of **climate change** on animals and wildlife; to reduce the amount of **plastic** that ends up in our oceans; to transition our food supply away from reliance on **factory farming**; and to protect **cephalopods** (octopus, squid, and cuttlefish) used in research.

Recent 2018 HLS graduate Kate Barnekow joined the team in September as our first Clinical Fellow. In that role she has been researching and producing weekly summaries of the latest developments in animal law and policy—including federal and state case law, new and pending federal and state legislative initiatives, federal regulatory actions, published scholarship, and related international news. Those weekly [Animal Law Digests](#) are then shared for use by other clinics and programs as well as practitioners in the field via the Brooks Institute for animal rights law & policy.

We also had several outstanding **guest speakers** for the Clinic seminar, including Kim Ferraro, Director of Agriculture Policy for the Hoosier Environmental Council, who spoke about important CAFO litigation; Nick Lawton, of Eubanks & Associates, who led a class on using the National Environmental Policy Act to protect animals; and Eric Glitzenstein, Director of Litigation for the Center for Biological Diversity, who spoke about using the Endangered Species Act to advocate for both captive and wild animals.

We could not have asked for a better first semester for the Clinic! The students all worked hard and did excellent work—our clients and associates are all very impressed (and several have come back with *more* projects they want us to undertake). We could not have achieved as much as we did without the invaluable support of Kristen Stilt, the Faculty Director of the ALPP, and Chris Green, the Program's Executive Director. We also were helped immensely by ALPP's Communications Director, Sarah Pickering, and our administrative assistants, Ceallaigh Reddy and Marina Apostol, who all were crucial to the resounding success of our first semester.

We are extremely pleased with the Clinic's progress—and very much look forward to next semester, when we will have even more students (including 4 who are returning from the fall semester!) and many more exciting new projects.

### Looking forward to 2020!

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