

April 6, 2024

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Submitted via email to [clayton.melinkovich@sublettecountywy.gov](mailto:clayton.melinkovich@sublettecountywy.gov)  
and Sublette County Sheriff K.C. Lehr [kclehr@sublettecountywy.gov](mailto:kclehr@sublettecountywy.gov)

Dear County Attorney Melinkovich and Sublette County Sheriff Lehr:

As you are no doubt already aware, on February 29 a Wyoming man committed heinous acts of cruelty toward a wolf. Cody Roberts of Daniel, WY reportedly ran over the wolf with a snowmobile, then proceeded to tape its mouth shut, bring the animal to a home and local bar where it was tortured and then kill the wolf out behind the bar hours later in the evening.

We respectfully urge you to investigate and prosecute Mr. Roberts for this gratuitous behavior under the Wyoming animal cruelty statute, Wyo. Stat. § 6–3–1001 *et seq.*, and seek the maximum felony penalties available under law. As explained in more detail below, cruelty charges are available because the “predatory animals” exception at Wyo. Stat. § 6–3–1008(a)(vii) may cover *some* but certainly does not cover *all* of Mr. Roberts’ reported conduct. Prosecution is necessary to deter similarly heinous actions in the future and prevent great reputational damage to the local community, Wyoming’s ethical and law-abiding hunters and trappers, and the state’s wildlife management program.

**Roberts committed misdemeanor and felony animal cruelty.** Under Wyoming law, a person who “[i]ntentionally or knowingly, unnecessarily injure or beats an animal” or “knowingly carries an animal in a manner that poses undue risk of injury or death” commits misdemeanor cruelty to animals. Wyo. Stat. § 6–3–1002(a). Additionally, a person who “knowingly, and with intent to cause death or undue suffering, beats with cruelty, tortures, torments or mutilates an animal” commits felony cruelty to animals. Wyo. Stat. § 6–3–1005(a). Mr. Roberts’ reported conduct – taping the animal’s mouth shut, dragging it into a crowded bar, beating it, and otherwise inflicting torture, pain, and psychological distress on the animal before killing it – clearly meets the definition for both misdemeanor and felony cruelty.

Importantly, while some provisions of the cruelty statute are limited to livestock animals or household pets, these provisions apply to “animals” generally, which includes wildlife such as wolves.

- In the absence of a definition of “animal” in the statute, the term must be given its “plain and ordinary meaning,” which must include wild, predatory, and other animals. Riddle v. State, 2017 WY 153, ¶ 10, 407 P.3d 392, 394 (Wyo. 2017).
- Moreover, the legislature decided to include definitions for certain *subsets* of animals in the statute (“Household pet” and “Livestock”) and define specific offenses that constitute cruelty toward those limited categories of animals. Wyo. Stat. §§ 6–3–1001(a) (definitions), 1002(a)(ix) (offense specific to livestock), 1003(c) (offense specific to household pets). Giving effect to these legislative distinctions requires “animal” to be interpreted as including *more* than household pets and livestock – otherwise the definitions would not be necessary. *See Carrillo v. State*, 2005 WY 31, ¶ 5, 107 P.3d 786, 788 (Wyo. 2005) (“We give effect to every word, clause and sentence...”)
- Similarly, the statute includes an exception for *some* acts committed toward “any predatory animal, pest or other wildlife.” Wyo. Stat. § 6–3–1008(a)(vii). As explained below, this exception does not apply to all of Mr. Roberts’ conduct in this case. Nevertheless, giving this exception effect requires interpreting “animal” to include wildlife and specifically predatory wildlife. Doing otherwise would render the exception superfluous.
- Finally, “animal” to include wildlife – and predatory animals – is the only way to read the cruelty statute consistently with other state law. “[I]n ascertaining the meaning of a given law, all statutes relating to the same subject or having the same general purpose must be considered and construed in harmony.” Riddle, ¶ 10, 407 P.3d at 394. Other sections of the Wyoming Statutes clearly contemplate the status of wildlife as “animals.” *See, e.g.* Wyo. Stat. Ann. § 23-1-101(a) (defining various species of wild animals as “Big game animal,” “Furbearing animal,” “Predatory animal,” “Protected animal,” “Small game animal,” and “Trophy game animal”). Harmony with other state law therefore requires “animal” to be interpreted as including wild animals.

**The predatory animals exception does not shield Roberts’ conduct.** The Wyoming cruelty statute contains an exception providing, in relevant part, that the cruelty statute may not be construed to prohibit “[t]he *hunting, capture, killing or destruction* of any predatory animal, pest or other wildlife *in any manner not otherwise prohibited by law*.” Wyo. Stat. Ann. § 6-3-1008(a)(vii) (emphases added). Importantly, this exception does not categorically exempt predatory animals or other wildlife from the coverage of the cruelty statute. Rather, it only exempts certain acts – “hunting, capture, killing or destruction” – and only when those acts are done “in any manner not otherwise prohibited by law.” *Id.* Actions *other* than “hunting, capture, killing or destruction” are not protected by the exemption and may therefore form the basis for a cruelty charge. *See, e.g., Bloomer v. State*, 2009 WY 77, ¶ 11, 209 P.3d 574, 585 (Wyo. 2009) (“*Inclusio unius est exclusio alterius*, the expression that ‘one is the exclusion of the others,’ has force in this case. This doctrine informs courts to exclude from operation those items not included in the list of elements that are given effect expressly by statutory language.”) (internal

citation omitted). And “hunting, capture, killing or destruction” of a predatory animal may themselves constitute cruelty if they are conducted in a manner that *is* “otherwise prohibited by law.” Wyo. Stat. Ann. § 6-3-1008(a)(vii). Both types of cruelty violations exist here.

- We acknowledge that, in the area where the incident occurred, *killing* wolves by most methods is not prohibited by law. Mr. Roberts’ act of killing the wolf, even if done in an intentionally inhumane manner, is therefore likely exempted from the cruelty statute under Wyo. Stat. Ann. § 6-3-1008(a)(vii). But Mr. Roberts’ actions were not confined to merely killing the wolf. Rather, over the course of the day his conduct included numerous discrete instances of beating, torturing, tormenting, and/or mutilating the wolf. These actions are distinct and separate from the act of killing the wolf, and indeed appear consciously intended *not* to kill the wolf so that Mr. Roberts could parade it around alive and prolong the animals’ suffering. These actions unquestionably meet the bar for both misdemeanor and felony cruelty and, because they are distinct from “killing” the wolf, are not covered by the exception at Wyo. Stat. Ann. § 6-3-1008(a)(vii).
- Additionally, Mr. Roberts’ act of capturing and possessing the wolf separately constitutes animal cruelty outside the coverage of the exception. After initially disabling the wolf, Mr. Roberts held it captive throughout the day, taping its mouth shut, transporting it to his home and then to a bar, intentionally exposing it to additional physical and psychological trauma, and otherwise deliberately allowing it to suffer. Under different circumstances, holding a wolf captive might be exempted as “capture...in any manner not otherwise prohibited by law.” Wyo. Stat. Ann. § 6-3-1008(a)(vii). Here, however, Mr. Roberts’ actions *were* “otherwise prohibited by law.” Indeed, the Wyoming Department of Game and Fish has already cited Mr. Roberts for violation of its Chapter 10 regulations prohibiting possession of live warm-blooded wildlife without a permit. The exception therefore cannot apply. Torturing and tormenting the wolf by holding it in unlawful captivity throughout the incident constitutes animal cruelty in addition to the acts of beating and physically tormenting the animal.

In sum, Mr. Roberts’ conduct unquestionably constitutes felony animal cruelty, and is largely outside the scope of the predatory animal exception at Wyo. Stat. Ann. § 6-3-1008(a)(vii).

We appreciate and understand the tremendous pressures and responsibilities of your office. Thank you for your attention to this matter.

Sincerely,

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