



People, Pets, and Policies: Towards
Community Supported Animal
Sheltering

Best Friends[®]
SAVE THEM ALL

Legal Disclaimer Language

The material shared in this presentation should not be construed as legal advice or a legal opinion on any specific facts or circumstances, nor does it create an attorney-client relationship. The content is intended for general informational purposes only. Please consult a lawyer concerning your own situation and any specific legal questions you may have.

Chuck Thompson, IMLA, E.D./General Counsel





Why community-supported sheltering?



- 81% of Americans believe it is important to have no-kill shelters in their area
- 59% say they would sign a petition to require no-kill animal shelters in their area
- 57% are willing to donate to make it happen



There are 83 million dogs in the U.S.

- **Eighty-four percent of Americans don't believe that the government should tell them what breed of dog they can own.**





Outdated: breed discriminatory ordinances

- Ban breeds or even mixes
- Automatic “dangerous” or “vicious” or “wild animal”
- Regulations
 - Extra insurance
 - Muzzling
 - Fencing
 - Mandatory spay/neuter
 - Obedience classes





New Llano, Louisiana lawsuit

- *Nelson v. Town of New Llano*, No. 2:14-cv-803 (W.D. La. 2014)
- “Pit bull” ban challenged in federal court (W.D. La.)
- Court issued a preliminary injunction for the Nelsons, finding there was a *“substantial likelihood of success on the merits*, a substantial threat of irreparable harm if the injunction is not granted; that the threat of injury outweighs any harm the injunction would cause and that the injunction will not disturb public interest”



New Llano (continued)

Constitutional challenges

- Procedural due process
 1. No right to a hearing to challenge the findings
 2. Impermissible \$200 “pay to play” provision
- Vagueness
 1. **Law’s definition of “pit bull” was vague**
 - a. “predominately” vs. “of”
 2. **Visual identification**
 - a. **Inherently flawed and no guidance on identifying breeds**
 3. DNA

Find the Pit Bull

Pit Bull Rescue Central
www.pbrc.net



Find the Pit Bull

Pit Bull Breeders of America
www.pitbull.com



Alapaha Blue Blood Bulldog



Doberman Pinscher



Catahoula Leopard Dog



Weiszler



Patterdale Terrier



Rottweiler



Dogue de Bordeaux



English Bulldog



Olde English Bulldogge



Bull Terrier



Cane Corso



Black Mouth Cur



Boxer



American Bulldog



American Pit Bull Terrier



Bullmastiff



Fila Brasileiro



Tosa Inu



Dogo



Greater Swiss



Dogo Argentino



Fila Brasileiro



American Pit Bull Terrier



American Pit Bull Terrier



Whippet

Dalmatian

Boxer

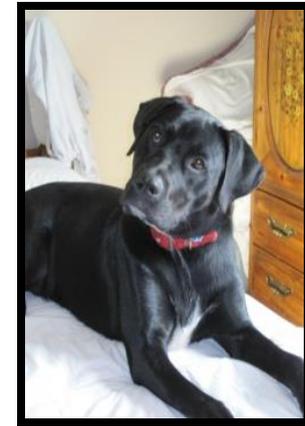
No genetic trait of American Staffordshire terrier or Staffordshire bull terrier



Pit bull terrier mixes



Intermediate amount of
American Staffordshire
terrier or Staffordshire bull
terrier



Does Your Ordinance Violate the ADA?

Can a municipality discriminate against a person with a restricted- or banned-breed service animal?

NO: Municipalities that prohibit specific breeds of dogs *must make an exception for a service animal of a prohibited breed*, unless the dog poses a direct threat to the health or safety of others. Under the “direct threat” provisions of the ADA, local jurisdictions need to determine, on a case-by-case basis, whether a particular service animal can be excluded based on that particular animal’s actual behavior or history, but they may not exclude a service animal because of fears or generalizations about how an animal or breed might behave.



FHA

- More expansive definition of “assistance animal” than the ADA
- Covers not just service animals but also emotional support animals
- For example: *Fair Housing of the Dakotas, Inc. v. Goldmark Prop. Mgmt., Inc.*, 778 F. Supp. 2d 1028, 1036 (D.N.D. 2011)



Target Reckless pet owners





IMLA model ordinance

- Potentially dangerous, dangerous, vicious categories
- Immediate impoundment
- Due process: hearings and appeals to the court
- Targets reckless owners





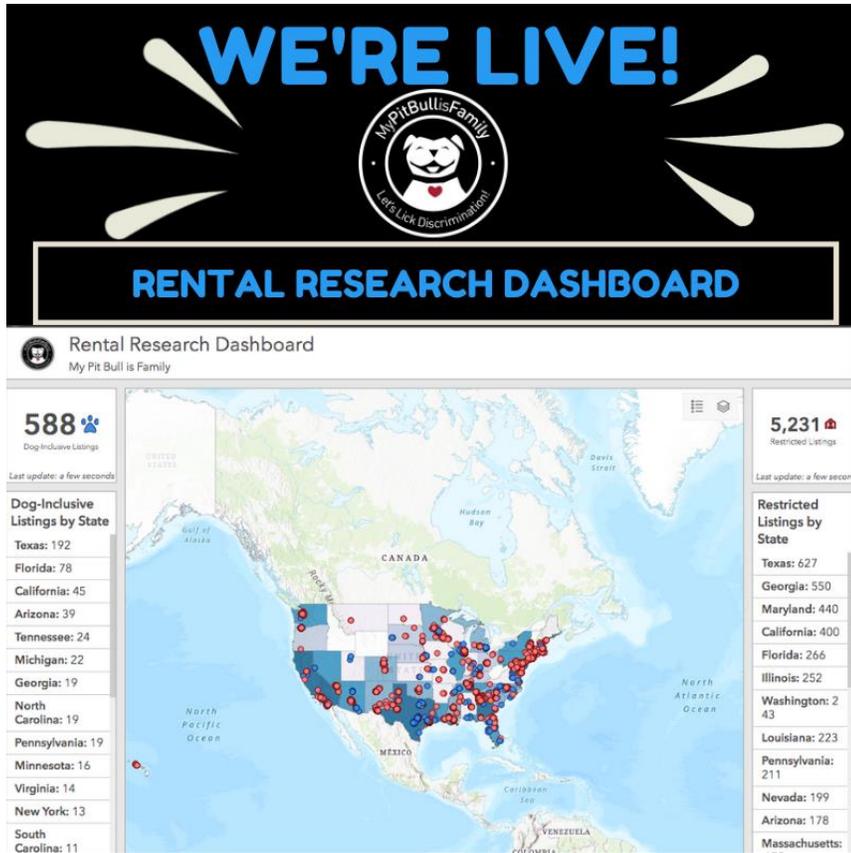
The Problem-Breed Discrimination in Housing

- **Nearly 90%* of landlords do not allow pets, or they impose arbitrary pet restrictions such as limiting weight, breed, size, type or number**





Is Pet Inclusive Housing Available in Your City?



<https://www.mypitbullisfamily.org/housing/>

Housing Issues Break Up Families

- Nationally housing is the # 1 reason why dogs are relinquished and the #2 reason why cats are relinquished to animal shelters





Pet Inclusive Housing

- LA City and LA County ordinances establish protections to allow tenants to have pets in new or rehabilitated multi-family housing developments financed, in whole or in part, by the City or County.



Los Angeles Municipal Code

Section 51.20, et seq.

- The City of Los Angeles is experiencing a housing affordability crisis of unprecedented proportions, with estimates of the need for additional rental units ranging as high as 500,000 over the coming decade. While federal, state and local housing finance programs are in place to help address this need, "no-pet" policies require tenants to choose between residence in these units and relinquishing their pets.
- The growth in housing relocation over the past decade has exacerbated this problem. As the City promotes and assists in financing new, affordable housing, pet ownership should not pose a barrier to individuals and families who qualify for residence in publicly-financed rental housing. Federal and state laws already require allowing pets in certain publicly-financed housing developments, including California Health and Safety Code Section 50466 and 24 Code of Federal Regulations Part 960.
- Purpose is to ensure that tenants of a housing development financed by the City are allowed to maintain pets in their homes, consistent with and subject to applicable federal, state, and local laws and regulations.

• SEC. 51.22. PET-FRIENDLY PUBLICLY-FINANCED HOUSING.

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- A. An applicant for, or a tenant of, a rental unit in a housing development publicly financed by or through the City on or after the effective date of this article, shall not be rejected on the basis of pet ownership, nor denied the ability to own or otherwise possess and maintain at least one pet per rental unit, provided that the pet is maintained in accordance with [Article 3, Chapter V](#), of this Code pertaining to animals and fowls, and all other applicable state and local laws and regulations, including those related to public health and humane animal welfare, and guidelines and regulations promulgated by the Department in furtherance of this article. This article shall also apply to a publicly financed housing development for which a contractual modification or amendment, or additional public financing, is provided by or through the City, on or after the effective date of this article.
-
- B. Each pet maintained pursuant to this article shall be spayed or neutered, vaccinated, implanted with an electronic animal identification device (microchip) and, if required, licensed. The pet shall be maintained consistent with all state and local laws and regulations, and not constitute a nuisance to the housing development and/or to the other tenants.
-
- C. Any pet deposit charged to the tenant shall be reasonable and refundable. The pet deposit shall be used only to pay reasonable expenses directly related to the presence of the pet in the housing development, such as the cost of repairs and replacements to, and fumigation of, the tenant's rental unit. Pet deposits shall be administered consistent with state and local laws applicable to the retention of security deposits, interest on security deposits, and return of the deposit or portion thereof to the tenant, and any other applicable requirements.
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- D. The Department shall, in consultation with the Department of Animal Services, develop "pet policies" that provide guidance to ensure that the presence of pets in publicly-financed housing developments is done in a responsible, safe, and harmonious manner. The Department shall incorporate such "pet policies" in the Department's public financing regulations. The Department's public financing regulations shall require landlords to provide a copy of the "pet policies" to the tenants of such housing developments.
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- E. Nothing in this article shall be construed to limit or otherwise affect other statutes or laws that require reasonable accommodations to be made for an individual with a disability who maintains an animal to provide assistance, service or support.
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- F. Nothing in this article shall be construed to prohibit the removal of any common household pet from a housing development if the pet's conduct or condition is determined to constitute a violation of state or local law or a nuisance or a threat to the health or safety of other occupants of the housing development, or of other persons in the community where the housing development is located.
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Community Cats





El Paso's Adoption of TNR Program

- In January 2016, El Paso's Shelter Live Release Rate was 53%.
- The City Manager created a Task Force to assess Shelter operations, recommend best practices, and develop an innovative 5-year plan to achieve a 90% live release date.
- Community Cats/TNR was the first of 11 Taskforce proposed recommendations to increase the live release rate.
- Proposed amendments to update Title 7.
- On February 23, 2016, City Council adopted Ordinance No. 018472 to implement and support a trap-neuter-return philosophy.



Ordinance 018472

Definitions

Abandonment

Running at
large

Restraint

Impoundment

Registration
and microchip
exemption

Borrowing
Traps

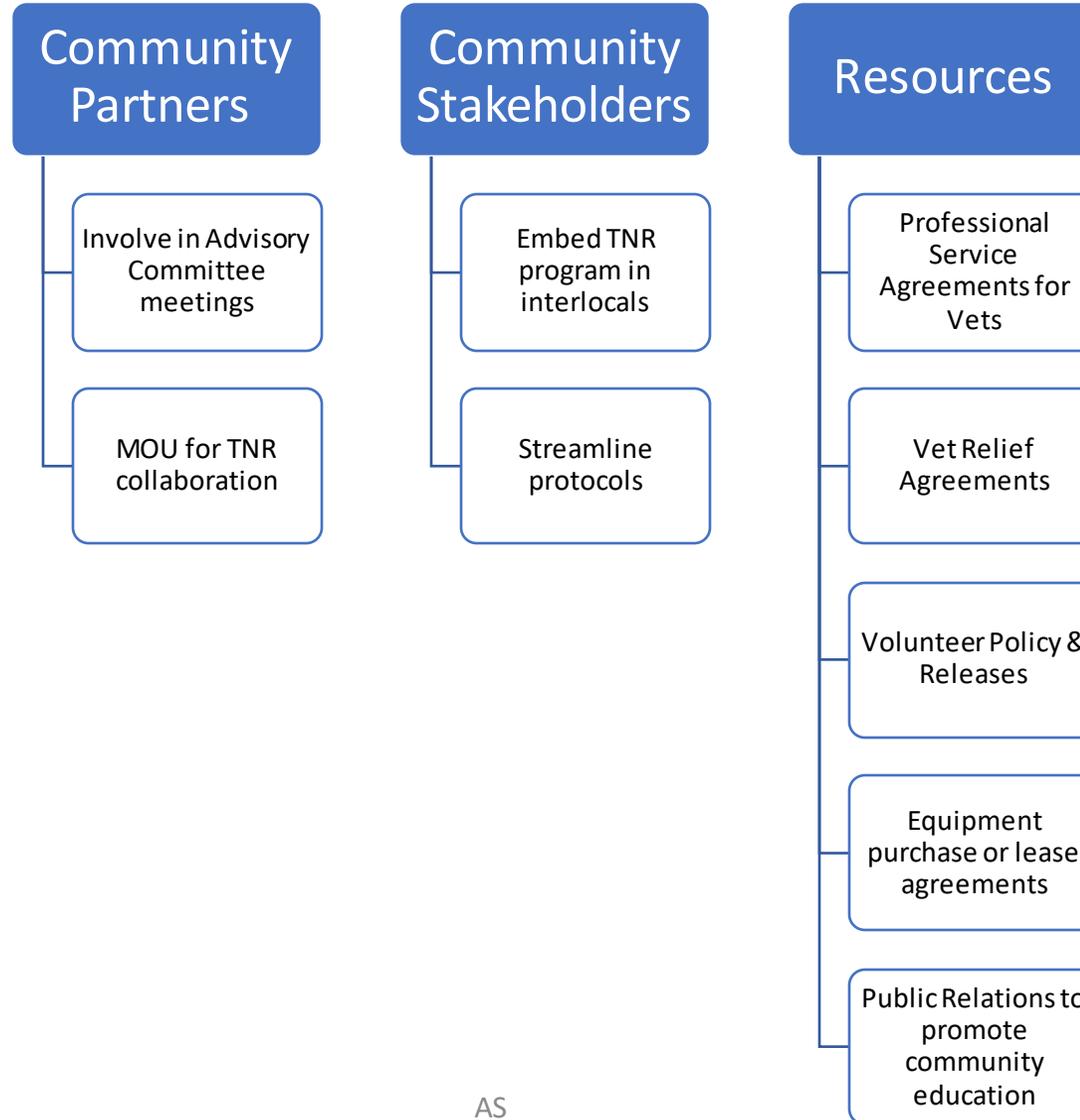
Disposition

- Defined "ear tipped cat," "trap-neuter-return" and modified the term "owner" to except TNR for persons who may care, feed or harbor an animal for more than 72 hours.
- Release of an ear tipped cat to the location it was trapped is not "Abandonment."

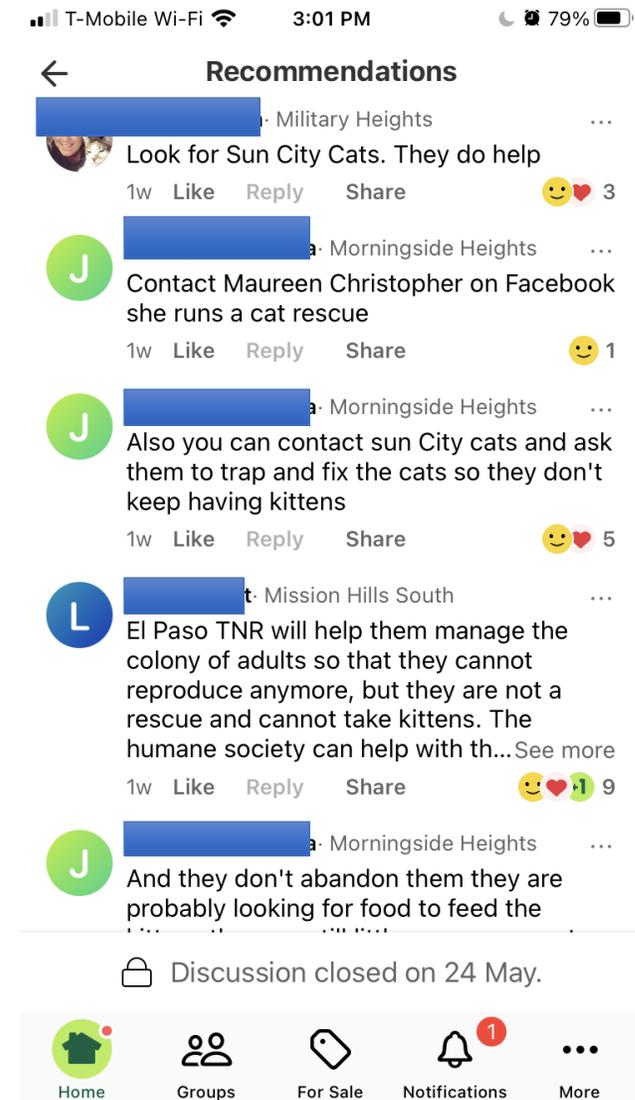
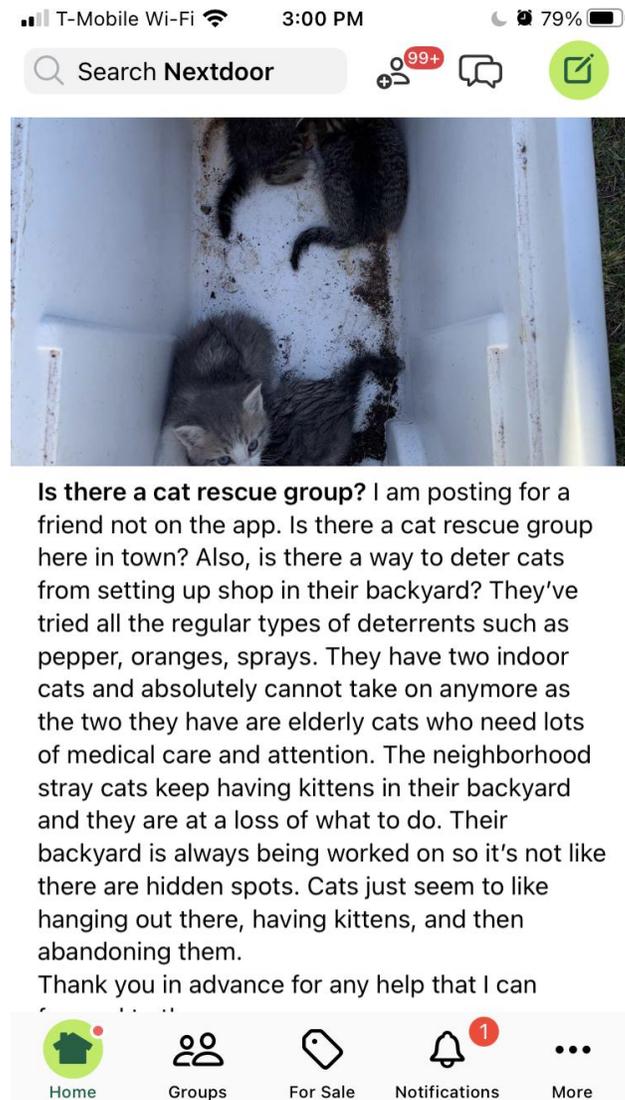
Ordinance 018472 Cont.

- Adds a defense to prosecution of a Restraint charge.
- Excludes ear tipped cats from prohibitions of cats being exclusively on a persons own premises.
- Exempts ear tipped cats from registration and microchip requirements.
- Excludes ear tipped cats from being subject to warrant and impoundment.
- Excludes an ear tipped cat from being impounded for running at large.
- Provides that if an ear tipped cat is impounded, it's not subject to the impoundment holding period provided a cat is not injured or ill, and returning it to the location the cat was trapped as soon as the Shelter's resources permit.
- Provides that if a cat lacks evidence of ownership and is impounded, it may be processed through TNR protocols.
- Cat traps are made available to adult residents for purposes of TNR or if a cat is injured or sick.

Added Tools



Involving the Community



How to Avoid Creating a Nuisance

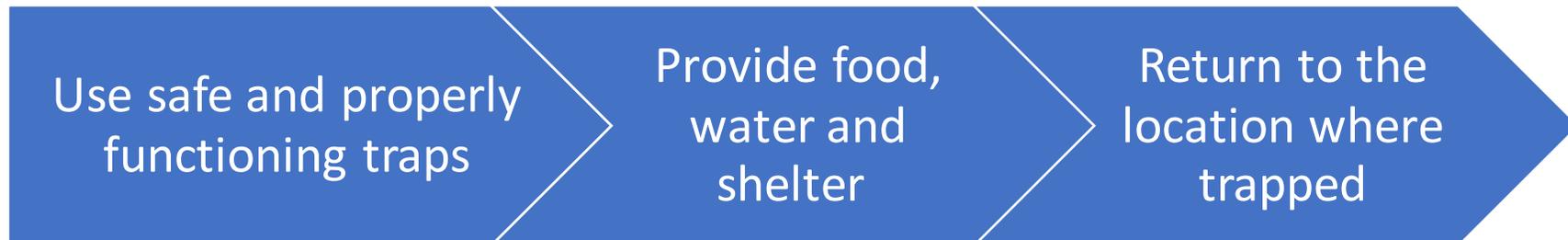
- I** [redacted] · Valley Creek South ...
How can we leave some water for them without it evaporating quickly. Do you think store owners would refill the water bowls?
7h Like Reply Share
- C** [redacted] · Portsmouth ...
Someone has replied that sh...See more
3h Like Reply Share
- C** [redacted] · Valley Creek South ...
I presently have a shop at [redacted] and I would like to assure all of you that the cats are well cared for. Your concern is greatly appreciated but please do not leave bags of food or water cont...See more
3h Like Reply Share  4



- Educate the public of what constitutes a nuisance and provide suggestions for how to lawfully care for community cats.
- Share information at HOA meetings.
- Coordinate with Colony Managers.
- Penalize poison. Enact ordinances that penalize use of poison or toxins to eliminate cats.

Humane Trapping

Ensure that ordinances provide for humane trapping.





Liability Issues - Documentation

Volunteer Agreements – Foster Home Agreements

Language (Indemnification, Hold Harmless)

Process to Ensure Proper Execution

Who Executes

Disclosures (Conversations and Documentation)

Adoption Agreements

Language (Indemnification, Hold Harmless, Transfer Title)

Process to Ensure Proper Execution

Disclosures (Conversations and Documentation)

Transfer Agreements (Same as Above!)

Periodic Review and Revision if Necessary





Liability Issues – Ensuring Proper Disclosures

Observe

Document

Disclose

Transfer



Liability Issues - Disclosures

- **Observe:** Anyone (staff, volunteers, foster caregivers) who observes an incident that happens when the animal is in the care of entity.
- **Document:** Document the specific facts of the incident in the entity's recordkeeping system.
- **Disclose:** Share the facts of the incident, in writing, with the receiving party.
- **Transfer:** In the case of adoptions and transfers to partner organizations, transfer legal ownership.



Liability Issues - Disclosures

How to write a disclosure: *Factual* information should be used at all times. Subjective language about how "we" think an animal feels should not be used. (Describe versus Analyze)

- **Problematic example:** DOG'S NAME doesn't like children. Adult-only homes preferred.
- **Better example:** In our care DOG'S NAME lunged and snapped at children (aged 3, 7, and a young child of unknown age) in three separate incidents which did not result in bites. We recommend an adult-only home and limiting exposure to children.
- **Problematic example:** We recommend relationship building when introducing DOG'S NAME to new people. DOG'S NAME is nervous around strangers.
- **Better example:** In our care DOG'S NAME exhibited behavior that indicates that DOG'S NAME is reactive to new people. When introduced to new people, DOG'S NAME becomes highly aroused, barking and lunging with his hackles raised which can be a sign of fear, anxiety, or excitement. We recommend careful introductions to new people.



Problematic Language

“Put his teeth in my arm”

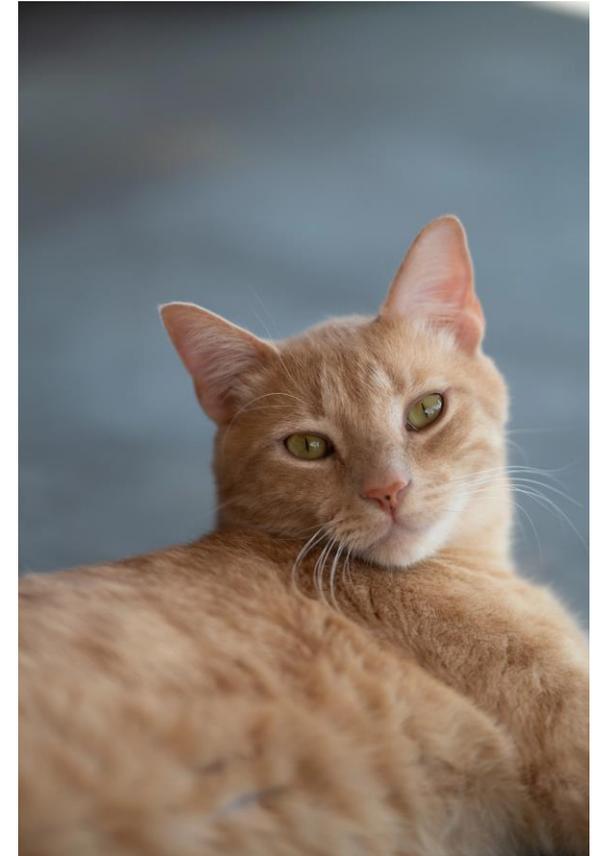
“He decided he didn’t want me to...”

“Bit my wrist affectionately”

“Love bite”

“Nipped”

“My thumb came in contact with the dog’s mouth”





Liability Issues - Disclosures

Better Language

Ideally, should be like a "traditional" news reporter using factual language that is not alarmist, emotional, uncaring or dismissive:

Bite

Puncture

Scratch

Dispute

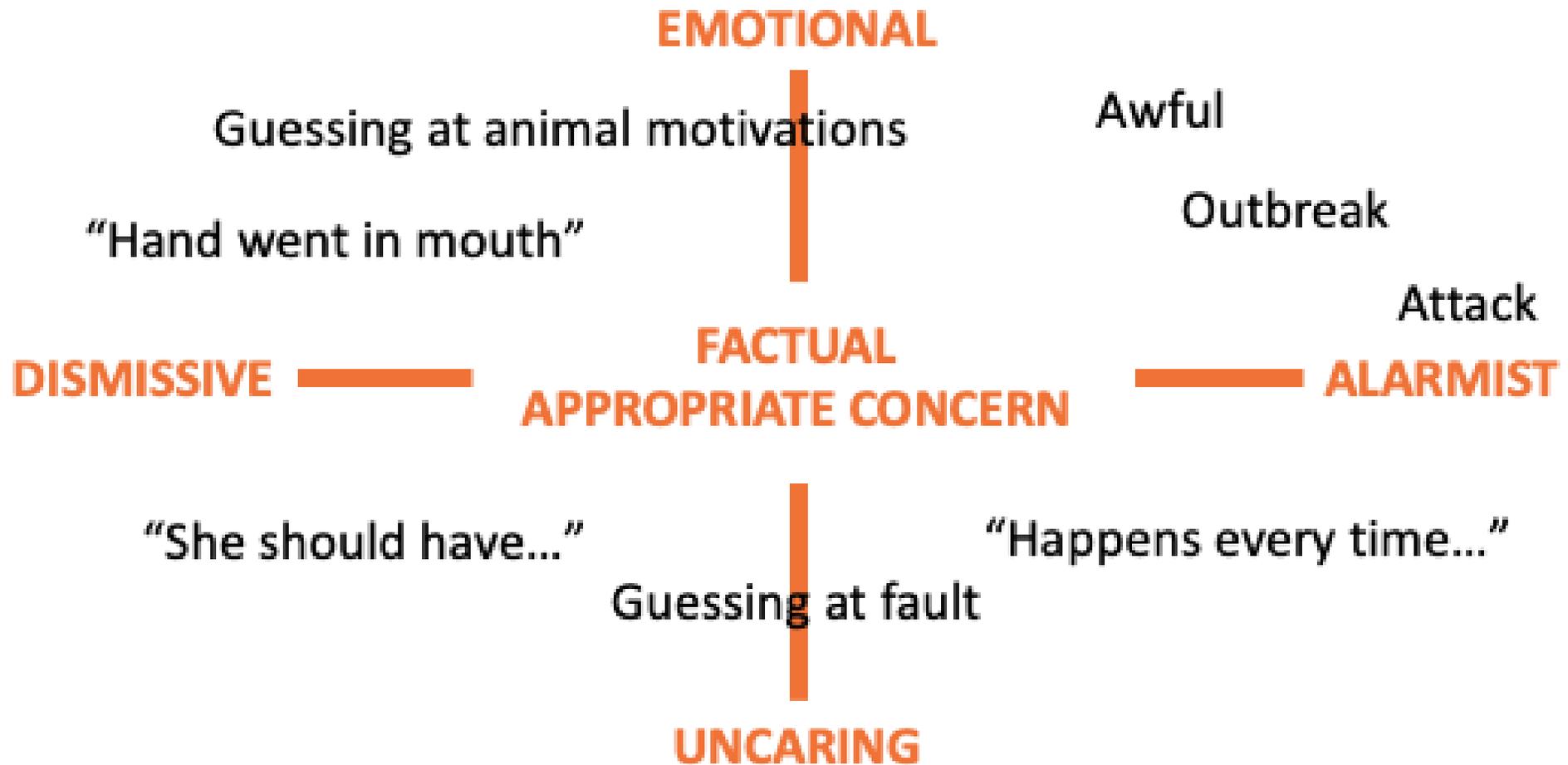
Incident(s)

Known behavior





Liability Issues - Disclosures



QUESTIONS?





network.bestfriends.org
bfnetwork@bestfriends.org