

BEYOND CAGES

For all the diversity of views within the animal protection movement, there is a surprising consensus about the need for more severe criminal justice interventions against animal abusers. More prosecutions and longer sentences, it is argued, will advance the status of animals in law and society. Breaking from this mold, Justin Marceau demonstrates that a focus on “carceral animal law” puts the animal rights movement at odds with other social justice movements, and reflects an indefensible support for a system that is inextricably linked to oppression. Animal protection efforts need to move beyond cages and toward systemic solutions if the movement hopes to be true to its own defining ethos of increased empathy and resistance to social oppression. Providing new insights into how the lessons of criminal justice reform should be imported into the animal abuse context, *Beyond Cages* is a valuable contribution to the literature on animal welfare and animal rights law.

Justin Marceau is a Professor of Law at the University of Denver, Sturm College of Law. His research and teaching focus on criminal law, civil rights and animal protection. He is the inaugural chair of the Scholars Committee for the Brooks Institute for Animal Rights Law and Policy, and the 2018 chair of the Animal Law Section of the American Association of Law Schools (AALS).

Cambridge University Press
978-1-108-41755-6 — Beyond Cages
Justin Marceau
Frontmatter
[More Information](#)

Beyond Cages

ANIMAL LAW AND CRIMINAL PUNISHMENT

JUSTIN MARCEAU

University of Denver



CAMBRIDGE
UNIVERSITY PRESS

Cambridge University Press
978-1-108-41755-6 — Beyond Cages
Justin Marceau
Frontmatter
[More Information](#)

CAMBRIDGE UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom
One Liberty Plaza, 20th Floor, New York, NY 10006, USA
477 Williamstown Road, Port Melbourne, VIC 3207, Australia
314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre,
New Delhi – 110025, India
79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781108417556
DOI: 10.1017/9781108277877

© Justin Marceau 2019

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First published 2019

Printed and bound in Great Britain by Clays Ltd, Elcograf S.p.A.

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

NAMES: Marceau, Justin, author.

TITLE: Beyond cages: animal law and criminal punishment / Justin Marceau, University of Denver.

DESCRIPTION: Oxford [UK]; New York, NY : Cambridge University Press, 2019.

IDENTIFIERS: LCCN 2018038856 | ISBN 9781108417556 (hardback)

SUBJECTS: LCSH: Animal welfare – Law and legislation – United States. | Animals – Law and legislation – United States. | Animal welfare – United States. | Punishment – United States. | BISAC: POLITICAL SCIENCE / Political Freedom & Security / Human Rights.

CLASSIFICATION: LCC KF3841 .M37 2019 | DDC 345.7301/87–dc23

LC record available at <https://lccn.loc.gov/2018038856>

ISBN 978-1-108-41755-6 Hardback

ISBN 978-1-108-40545-4 Paperback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

Contents

	Introduction	<i>page</i> 1
1	Setting the Stage: How Incarcerating Humans Became a Salient Feature of Efforts to Protect Non-Humans	12
1.1	A Passion for Punishment – A Primer on Criminal Punishment in Animal Law	12
1.2	The Historical Lack of Options	18
1.3	The Criminal Law As Cudgel in Shaping Public Morals	22
2	Putting Carceral Animal Law in Context: An Overview of the Mass Criminalization Problem in the United States	25
2.1	The Incarceration Epidemic	27
2.2	Hardships Flowing from Convictions Beyond Incarceration	30
2.3	Race and Mass Criminalization	39
3	A Descriptive Account of the Carceral Animal Law System	44
3.1	Widespread Support for Carceral Animal law	44
3.2	The Rhetoric of Incarceration: Courthouse Advocacy and Public Relations Campaigns	49
3.3	The Substantive Law of Incarceration: More Crimes and Increased Sentences	53
3.4	Structural or Procedural Reforms in the Service of Increased Incarceration	63
4	General Critiques of the Carceral Turn in Animal Protection	97
4.1	The Legislative Cost of Felony Cruelty Laws: The Correlation Between Passing Felony Laws and Exempting Agricultural Cruelty	98
4.2	Incarceration As Ineffectual in Securing Civil Rights: Lessons from Tough-on-Crime Policies	110

4.3	Animal Abuse Registries Are Harmful to Animal Protection Efforts	126
4.4	The Principle of Disinterested or Neutral Prosecutors and Animal Cruelty Prosecutions	135
5	Race, Mass Criminalization, and Animal Law	151
5.1	Animal Protection Is Perceived As a “White Thing” and That Is Relevant to Crime and Punishment	156
5.2	Specific Issues of Race in the Enforcement of Animal Cruelty Laws	166
6	Animal Protection and the “Link” Between Animal Abuse and Human Violence	193
6.1	An Overview of the Link As a Justification and Explanation for Carceral Policies	194
6.2	Overview of the Link Research in the Social Sciences	205
6.3	Critique of the Link As the Talisman and Shibboleth of Carceral Animal Law	227
6.4	Prison Is Not the Answer: The Link Data Does Not Support a Carceral Solution	236
6.5	Treatment As Opposed to Incarceration?	244
6.6	Final Thoughts on the Link: Critiquing the Link As Entrenching the Human/Animal Divide	248
7	Anticipating Challenges to the Critique of Carceral Animal Law	251
7.1	The Absence of Alternatives	252
7.2	The Power of Criminal Law in Shaping Norms and Mainstream Support for Prosecutions	258
7.3	Revenge or Retribution and Animal Protection	264
7.4	Why Do Animal Crimes Have to Be the Proverbial Guinea Pig for Sentencing Reform?	266
7.5	Incapacitation As the Last-Best Defense of Carceral Animal Law	270
8	Conclusion: Toward a New Research and Advocacy Agenda for Animal Protection	273
	<i>Index</i>	284