Feral Cat Colonies in Florida: Legal and Policy Considerations

A Report to U.S. Fish & Wildlife Service
December 2002
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Magnitude of cat populations

- 73 million owned cats in the U.S.
- 40 - 60 million un-owned cats in the U.S.
- 100+ million cats spend all or some of their time outdoors

(HSUS, ABC)

(Cover photo by Daniel Castillo)
Cat populations in Florida

- 9.6 million owned cats
- 6.3 to 9.6 million feral cats
- 12.1 to 15.4 million cats, owned and feral combined, that spend some or all their time outdoors potentially preying on wildlife
Impact on cats

- Hunger
- Injury
- Disease

Cats are America's most popular pets, but they are also the pets most likely to die prematurely from diseases, poisons, attacks by other animals, abuse by humans, or speeding vehicles. (HSUS)
Impact on wildlife

- Predation
- Competition
- Disease
Florida has cat colonies in at least 17 counties.

The largest, in Monroe County at Ocean Reef Club, Key Largo, has a colony of an estimated 500 to 1,000 cats.
Impact on wildlife in Florida

Threatened or endangered species known or suspected to suffer losses as a result of predation by owned and feral cats:

- Six subspecies of beach mice
- Key Largo woodrat
- Key Largo cotton mouse
- Lower Keys marsh rabbit
- Florida scrub-jay
Impact on wildlife in Florida

- Rabies*
- Feline Leukemia Virus
- Feline Panleukopenia (feline distemper)
- Feline Infectious Peritonitis
- Feline Immunodeficiency Virus
- Feline Viral Upper Respiratory Disease
- Cat-scratch Disease*
- Toxoplasmosis*
Impact on wildlife in Florida

Parasites

- Lyme Disease*
- Roundworms*
- Hookworms*
- Plague*

*Transmissible to humans
Strategies for dealing with feral and free-roaming cats
Eradication

- Euthanasia
- Resource intensive
- Negative publicity
Cat colonies and TNR

- **Volunteers**
  - Live trap the cats
  - Take them to veterinarian for spay/neuter, rabies vaccination, and ear-clipping
  - Release them to same place where trapped
Problems with TNR and managing cat colonies

- Requires perpetual maintenance
- New cats enter colony
- Nearly impossible to trap all of the cats
- Wildlife attracted to feeding stations
- Volunteers often bear the cost
Reducing the flow of new cats into the wild

- Pet adoption programs that require new owners to spay/neuter their pet and provide incentives such as lower licensing fees
- Enactment and enforcement of leash laws that require owners to restrict their pets to the owner’s property and control
- Local ordinances that prohibit abandonment and feeding of stray cats
Legal considerations

- Federal Endangered Species Act
- Migratory Bird Treaty Act
- State Statutes
- Local ordinances
(a)(1) ...with respect to any endangered species of fish or wildlife listed pursuant to section 4 of this Act, it is unlawful for any person...to

(B) take any such species...

(G) violate any regulation pertaining to such species or to any threatened species...

promulgated by the Secretary pursuant to authority provided by this Act.
Endangered Species Act

16 USC §1538(g)

It is unlawful for any person subject to the jurisdiction of the United States to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in this section.
For the purposes of this Act--

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(19) The term “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.
Harass in the definition of “take” in the Act means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering...
Harm in the definition of “take” in the Act means an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
Endangered Species Act

16 USCS §1540(g) Citizen suit

(1) any person may commence a civil suit on his own behalf---

(A) to enjoin any person, including the United States and any other governmental instrumentality or agency...who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof.
Injunctions, citizen suits


Loggerhead Turtle v. Volusia County, 148 F.3d 1231 (11th Cir. 1998)

Loggerhead Turtle v. Volusia County, 92 F. Supp. 2d 1296 (M.D. Fla. 2000)
Habitat degradation, meaning of “harm”

- Palila v. Hawaii Dep’t of Land & Natural Resources, 639 F 2d 495 (9th Cir. 1981)
- Palila v. Hawaii Dep’t of Land & Natural Resources, 852 F.2d 1106 (9th Cir. 1988)
Meaning of “harm”

...it shall be unlawful at any time, by any means or in any manner, to ... take ... kill ... attempt to ... take ... kill any migratory bird, any part, nest, or egg of any such bird, ... .
(a) any person, association, partnership, or corporation who shall violate any provisions of said conventions or of this subchapter, or who shall violate or fail to comply with any regulation made pursuant to this subchapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $15,000 or be imprisoned not more than six months, or both.
Not limited to hunting or intentional acts

Intent

- U.S. v. FMC Corporation, 572 F.2d 902 (2d Cir. 1978)
Strict Liability Crime

Article IV, §9

Florida Fish and Wildlife Conservation Commission

- Management, protection, and conservation of wild animal life...
(3)(b) “Endangered species” means any species of fish and wildlife, naturally occurring in Florida, whose prospects of survival are in jeopardy due to modification or loss of habitat; ...disease; predation ...or other natural or manmade factors affecting its continued existence.

(c) “Threatened species” means any species ... which may not be in immediate danger of extinction, but which exists in such small populations as to become endangered if it is subjected to increased stress as a result of further modification of its environment.
§372.0725, F.S.

Killing or wounding of any species designated as endangered, threatened, or of special concern; criminal penalties

It is unlawful for a person to intentionally kill or wound any fish or wildlife of a species designated by the Fish and Wildlife Conservation Commission as endangered, threatened, or of special concern... Any person who violates this provision with regard to an endangered or threatened species is guilty of a felony of the third degree...
No person shall kill, attempt to kill or wound any endangered species as designated in Rule 68A-27.003.
§372.265, F.S.  
Regulation of foreign animals

(1) It is unlawful to...release within this state any species of the animal kingdom not indigenous to Florida without having obtained a permit to do so from the Fish and Wildlife Conservation Commission.
Rule 68A-4.005, F.A.C.

Introduction of Foreign Wildlife or Freshwater Fish or Carriers of Disease

(1) It shall be unlawful for any person to ... release or introduce in the state any wildlife ... that is not native to the state unless such person shall first secure a permit from the Commission.

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(3) No person shall release or introduce in the state any wildlife, ... or any other organism that might reasonably be expected to transmit any disease to wildlife ... .
§828.12, F.S.

Cruelty to animals

(1) A person who ... deprives of necessary sustenance or shelter, ... any animal, or causes the same to be done ... is guilty of a misdemeanor of the first degree...

(2) A person who intentionally commits an act to any animal which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering or causes the same to be done, is guilty of a felony of the third degree...
Confinement of animals without sufficient food, water, or exercise; abandonment of animals

(1) "As used in this section: "Abandon" means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner."

(2) "Owner" includes any owner, custodian, or other person in charge of an animal.
§828.13, F. S.

(3) "Any person who is the owner or possessor, or has charge or custody, of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal is guilty of a misdemeanor of the first degree, punishable as provided..."
(2)(a) The Department of Legal Affairs, any political subdivision or municipality of the state, or a citizen of the state may maintain an action for injunctive relief against:

1. Any governmental agency or authority charged by law with the duty of enforcing laws, rules, and regulations for the protection of the air, water, and other natural resources of the state to compel such governmental authority to enforce such laws, rules, and regulations;
2. Any person, natural or corporate, or governmental agency or authority to enjoin such persons, agencies, or authorities from violating any laws, rules, or regulations for the protection of the air, water, and other natural resources of the state.
Local ordinances in Florida are a mixed bag, for the most part ineffective to deal with cat overpopulation, and in some cases an aggravating factor.
Conclusions

- Free-roaming cats adversely impact Florida wildlife and are a health hazard.
- Allowing cats to roam free places the cats in danger of injury and disease.
- Ordinances that enable cat colonies to be established and maintained are in violation of federal and state wildlife laws.
- Persons who release cats into the wild are violating federal and state wildlife laws.
Recommendations

Local level

- Broad education campaign
- Enact leash laws for cats
- Require cats to be vaccinated, licensed, and tagged.
- Abolish local ordinances enabling cat colonies to be established and maintained.
- Enact ordinances making feeding stray cats or dogs illegal.
- Enact ordinances requiring mandatory spay/neuter of all animals adopted from shelters
Recommendations

State level

- Public policy against feral cat colonies
- Issue warning to county governments
- Enforce existing statutes against release of non-indigenous species