



Ontario Federation of Agriculture

Ontario AgriCentre

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Mr. Mike Zimmerman
awreport2017@gmail.com

Dear Mr. Zimmerman;

The Ontario Federation of Agriculture (OFA) is Canada's largest voluntary general farm organization, representing more than 36,000 family farm businesses across Ontario. These farm businesses form the backbone of our robust food system and rural communities with the potential to drive the Ontario economy forward.

Farmers and farm organizations endorse the humane treatment of all animals; livestock, poultry, domestic pets or wildlife. Farmers who raise livestock or poultry do so because they genuinely love their animals. They treat them with the utmost care and consideration. To do otherwise goes against their very nature. It also may be trite, but healthy, well-cared animals bring higher market values.

Your questionnaire posed a series of questions:

1. How do you see the role of humane societies changing (or not changing) in the foreseeable future?

We will not speculate on how humane societies may or may not change in the future. However, our request would be that humane societies separate their dual and conflicting roles; as enforcer of animal welfare laws and as a registered charity. Too often humane societies use enforcement actions as the basis for fundraising activities. There should never be a connection between the two. OFA strongly advocates the statutory separation of the roles of enforcer of animal welfare laws and of a registered charity.

2. Do you think it's important to maintain the OSPCA's law enforcement role?

OFA acknowledges that there is an obvious need to enforce federal and provincial animal protection laws. As with other issue-specific enforcement, for example MTO for commercial vehicle enforcement, or MNRF for hunting and fishing enforcement, we acknowledge there are merits in empowering specialized enforcement bodies. That being said, going forward OFA fundamentally believes that OSPCA's current dual role as both an enforcement entity and as a registered charity must be separated. Retention of the status quo is not an option.

We further believe that the Ontario government **must** establish accountability and oversight provisions in the OSPCA Act, making OSPCA and local humane societies accountable and transparent for their actions. Granting an unaccountable entity government sanctioned enforcement powers is unacceptable. We have argued this position in past submissions and take this opportunity to reiterate our demand. The OSPCA Act must be amended to establish statutory accountability and oversight provisions through an annual report to the Legislature outlining OSPCA and/or local humane society activities, investigations, enforcement activities, case outcomes, appeals and the training and qualifications of enforcement staff.

- a) If “Yes”, Why? And: what do you think could improve the effectiveness and efficiency of coverage?

OFA’s suggestions and recommendation on improvements to animal welfare enforcement are developed in the subsequent questions.

- b) If “No”, Why not? And: what do you think would be the ideal animal welfare law enforcement entity?

OFA offers no comments on this question.

3. Do you have any suggestions that would provide more effective protection for:
 - a) Domestic animals

OFA offers no suggestions to provide more effective protection for domestic animals.

- b) Agricultural animals

OFA expects that enforcement staff dealing with farm animals have received and passed farm animal training provided by University of Guelph and Ontario Ministry of Agriculture, Food and Rural Affairs. We understand that this is a requirement for new hires, but are not aware if it is also a requirement for longer-serving staff. OFA recommends that farm animal training be a mandatory requirement for all enforcement staff that may, in the course of their day-to-day activities, deal with farm animal calls.

OFA further recommends that local humane societies and SPCAs develop contacts with local livestock and poultry producer groups (e.g. dairy, beef, pork, chickens, turkeys, eggs, etc.) as a resource for obtaining and sharing information about the care and handling of farm animals.

The National Farm Animal Care Council has developed a series of Codes of Practice that provide recommendations for farmers on the care and handling of specific livestock types. To date there are eleven completed, and four under revision. These Codes are developed and updated as needed by a broad spectrum of stakeholders: farmers, transporters, veterinarians, animal welfare and enforcement agencies, retail and food service organizations, processors, governments and researchers. Unfortunately, there is a general lack of awareness of the existence of these Codes not only among the general public, but also among animal welfare and enforcement agencies. Both the OSPCA and the Ministry of Community Safety and Correctional Services need to collaborate to increase awareness and acceptance of the National Farm Animal Care Council’s Codes of Practice. OFA recommends that both the OSPCA and the Ministry of Community Safety and Correctional Services provide links to the National Farm Animal Care Council’s Codes of Practice on their websites, in combination with promoting the Codes of Practice when dealing with farm animal care questions.

c) Wildlife in the wild? Wildlife in captivity?

OFA offers no suggestions that would provide more effective protection for either wildlife in the wild or wildlife in captivity.

d) Other types of animals?

OFA offers no suggestions that would provide more effective protection for other types of animals.

4. How should animal welfare law enforcement be funded?

OFA firmly believes that funding animal welfare law enforcement **must** be a provincial responsibility, separating SPCA's dual roles as an animal welfare law-enforcement agency and as a charitable organization. To retain the status quo is an abdication of provincial responsibility as the current dual roles leaves unanswered questions about enforcement actions. The question could be asked, "were these actions for animals in distress, or to support fundraising?"

5. What elements of current legislation and enforcement processes are most helpful when protecting animals?

OFA offers no comments on this question.

6. What elements of those laws and processes are most cumbersome and/or ineffective when protecting animals?

As previously stated, SPCA's dual roles as both an enforcement agency and a charitable organization leaves room for doubts as to which master is being served. We believe animal protection would be better served through a complete separation of these two activities.

The Act's definition of "distress" lacks the clarity requisite for applying it to enforcement actions. It is too vague, and leaves too much to interpretation by an enforcement officer. In the Act, it is defined as, "being in need of proper care, water, food or shelter or being injured, sick or in pain or suffering or being abused or subject to undue or unnecessary hardship, privation or neglect". The language is vague and highly subjective. At the time the OSPCA Act was being amended in 2008, OFA argued that the Manitoba Animal Care Act definition was a vast improvement over Ontario's definition.

Section 6 of Manitoba's Animal Care Act contains the following language on distress;

6 (1) *Subject to subsection (2), for the purposes of this Act, and animal is in distress if it is*

- (a) *subjected to conditions that, unless immediately alleviated, will cause the animal death or serious harm;*
- (b) *subjected to conditions that cause the animal to suffer acute pain;*
- (c) *not provided food and water sufficient to maintain the animal in a state of good health;*
- (d) *not provided appropriate medical attention when the animal is wounded or ill;*
- (e) *unduly exposed to cold or heat, or*
- (f) *subjected to conditions that will, over time, significantly impair the animals' health or well-being, including*
 - (i) *confinement in an area of insufficient space,*
 - (ii) *confinement in unsanitary conditions,*
 - (iii) *confinement without adequate ventilation,*

- (iv) *not being allowed an opportunity for adequate exercise, and*
- (v) *conditions that cause the animal extreme anxiety or distress.*

6(2) *For the purposes of this Act, an animal shall not be considered to be in distress as a result of any treatment, process or condition that occurs in the course of an accepted activity.*

In our 2008 submission, we noted that many people, farmers and non-farmers alike, use invisible fences to keep their dog on their property. Dogs approaching the invisible fence feel a shock. Would this be deemed to “distress”, as some pain is caused? Similarly, some use special collars to control barking. Would this too be deemed “distress”, as some pain is caused when the dog tries to bark?

We believe the OSPCA Act definition is vague, and highly subjective. Staff will be expected to determine when an animal is in distress. They may be dealing with animals they have no knowledge or understanding of. As noted, the legislation will apply to all animals in Ontario; domestic pets, zoo animals, wildlife and farm animals. Today’s farms host a wide range of farm animals. Their requirements and needs for water, food or shelter differ greatly. Appearances can be deceiving. Even among quite similar species, cows for example, the physical appearance, needs and requirements differ. Dairy cows present a physical appearance that is visually quite different from beef cows.

Section 12. (8) defines “immediate distress” for the purposes of warrantless searches as, “distress that requires immediate intervention in order to alleviate suffering or to preserve life”. It is structurally wrong to try to define a term by using elements of the term itself. Here “immediate distress” is defined as, “distress that requires immediate intervention ...” When tied to an odious practice such as warrantless searches, the term should be defined in a manner that leaves no room for subjectivity or interpretation. We assume that the intent was that a response to immediate distress be one without delay; where urgency to preserve life is paramount.

OFA further believes that there is a need for more clarity when warrants are issued for livestock barns, since the animals cannot be seen. What circumstances afford the sufficient information to justify a warrant? Furthermore, will those acting on the warrant fully comply with on-farm biosecurity protocols? Biosecurity protocols are not intended to shield the animals from view but to protect them from diseases by strictly controlling who can enter a barn, combined with requirements to shower before entering and before leaving the barn. These requirements reduce opportunities for exposure, thereby limiting the need for medications. Mortalities are also limited.

We understand that when an enforcement officer sees a situation involving an animal in immediate distress, perhaps entangled in a fence, prompt action is needed. But the “warrantless search” provisions in section 12. (6) go beyond seeing an animal in immediate distress to “reasonable grounds” that an animal in a building is in immediate distress. Many individuals with no first-hand experience with animal agriculture are enforcing the OSPCA Act. OFA recommends clear language on obtaining warrants, particularly in using the “warrantless search” provisions.

7. Are there any specific changes you’d like to see made to the OSPCA Act, the Criminal Code of Canada or other animal welfare-related laws?

OFA sees no need to change the Criminal Code of Canada with respect to its role in animal welfare. Over the years, we have consistently supported those Criminal Code changes that achieve true improvements in animal welfare enforcement, and we have categorically opposed proposed changes that could be detrimental. For example, the proposed changes in the recently

defeated Bill C-246 would have jeopardized livestock and poultry producers by moving the Code's animal care provisions to a different part, and rewording a number of its current provisions, thereby exposing farmers and a number of other groups to Criminal Code charges as animal welfare groups tested the limits.

OFA proposes a number of requisite changes to the OSPCA Act.

The Animal Care Review Board hears appeals of orders. Its makeup lacks persons with expertise and knowledge in animals, their care, handling and behavior. Scanning the current Board, it is predominately lawyers. While there are legal aspects to appeals, there are also matters pertaining specifically to animal care, handling and behavior. Previously, we recommended that there be at least one veterinarian experienced in large animals and poultry on the Animal Care Review Board. No appeal to the Animal Care Review Board should be heard without at least one member of the appeal panel being a practicing veterinarian. OFA demands that the makeup of the Animal Care Review Board be reviewed, and that a number of practicing veterinarians and farm animal scientists be added to the Board.

Section 15 of the Act enables a humane society to recover its costs to feed, care and treat a seized animal. Superficially, these provisions seem reasonable, but they lack any requirement that these charges to feed, care and treat a seized animal are reasonable or necessary. Taking the extreme step of seizing an animal should be based on a veterinarian's authorization. Fees to recover costs to feed, care and treat a seized animal should be limited to the actual costs incurred, in accordance with regulatory limits.

The other changes which we have already articulated in our response, are as follows;

- i. clearly define terms such as "distress" and "immediate distress",
- ii. ensure that enforcement staff are trained in on-farm biosecurity protocols,
- iii. ensure that when orders issued, the recipient also receives clear information on his/her appeal rights to Animal Care Review Board

8. How do you see the future role in animal welfare system for;
 - a) Municipalities?

OFA sees no role whatsoever for municipalities in animal welfare. Ontario has 444 municipalities. To enable the existence of 444 different rules and regulations governing animal welfare is impractical, burdensome and nonsensical. Less than 1.5% of Ontarians are directly engaged in agriculture; even fewer are directly engaged in animal agriculture. Furthermore, OFA recommends that section 21 of the OSPCA Act be repealed, as it enables individual municipalities to set their own animal welfare rules.

- b) Police?

Our police already have the authority to enforce federal and provincial laws including the OSPCA Act and the Criminal Code of Canada. OFA recognizes the breadth of federal and provincial laws that our police are responsible for enforcing. We do not propose to add to their workload. When police enforcement of the OSPCA Act and the Criminal Code of Canada is necessary, perhaps due to no local SPCA or humane society, then the police would benefit from the specialized farm animal training provided to OSPCA enforcement staff.

c) Individuals laying charges and/or private prosecutions?

OFA is categorically opposed to empowering individuals to lay charges and/or pursue private prosecutions. We see this as a system open to widespread abuse and unnecessary court proceedings, and one that would only serve the interests and agendas of radical animal welfare advocates.

9. What are your thoughts on the role of other entities such as rescue groups in the animal welfare system?

OFA does not have an opinion on the role of other entities such as rescue groups in the animal welfare system.

10. Do you have any thoughts on the role of the veterinary profession in the animal welfare system?

The 2008 changes to the OSPCA Act assigned added reporting obligations for the veterinary profession. We are not aware of any necessary further changes.

11. Do you have any suggestions that would support an approach to better coordinated or integrated animal protection and animal control and/or other animal-related services?

OFA makes no suggestions on this point.

12. Do you have anything else to suggest that could improve the animal welfare system in Ontario?

OFA has no additional comments pertaining to Ontario's animal welfare system.

OFA welcomes this opportunity to provide you with its perspective potential changes to Ontario's system of animal welfare enforcement. Should you require any further clarification of our perspective, please do not hesitate to contact us.

Sincerely,



Keith Currie
President

cc: The Honourable Helen Jaczek; Minister of Community Safety and Correctional Services
The Honourable Jeff Leal; Minister of Agriculture, Food and Rural Affairs
OFA Board of Directors