

Submission
No 60

**INQUIRY INTO ANIMAL CRUELTY LAWS IN NEW SOUTH
WALES**

Name: Name suppressed
Date Received: 25 November 2019

Partially
Confidential

The Secretary
**Select Committee on Animal
Cruelty Laws in New South Wales**
Parliament House
Macquarie Street
Sydney NSW 2000

Submission to the NSW Legislative Council Select Committee on Animal Cruelty Laws in New South Wales

Dear Committee Members,

I appreciate the opportunity to provide a submission to this inquiry. My submissions on the terms of reference are enclosed.

(f) whether the Government should establish a specialist unit to investigate animal cruelty complaints and enforce animal protection laws, either as part of the NSW Police Force or as a separate statutory enforcement agency

A. Summary of submissions

This inquiry has raised the important question of who should enforce animal cruelty laws in New South Wales (NSW). I believe this question deserves careful consideration due to the implications it has for vulnerable animals, officers enforcing the law and the general public. In recent years, animal cruelty has become a more prominent issue with raised public consciousness and understanding of our responsibility towards animals.¹ This was evidenced by the recent investigation of cruelty in the horse racing industry which has caused outrage and sparked calls for a royal commission.² These events have demonstrated that the public wants cruelty and crimes committed against animals to be taken more seriously by the government.

In this submission I will argue that the existing animal cruelty legislative framework in NSW which places the Royal Society for the Prevention of Cruelty to Animals (RSPCA) as the peak body for enforcing laws fails to effectively protect animals. I suggest that in order to

¹ Alex Bruce, *Animal Law in Australia: An Integrated Approach* (LexisNexis Butterworths, 2nd ed, 2018).

² Australian Broadcasting Company, *The dark side of the horse racing industry* (17 October 2019) ABC 7:30 <<https://www.abc.net.au/7.30/the-dark-side-of-the-horse-racing-industry/11614022>>. Mehreen Faruqi, 'No Other Choice': Greens call for Royal Commission into Horse Racing (24 October 2019) The Greens <<https://greensmps.org.au/articles/'no-other-choice'-greens-call-royal-commission-horse-racing>>.

successfully protect animals from cruelty, NSW must introduce an Independent Office of Animal Welfare (IOAW).³ An IOAW could be established in statute with cooperation from the NSW Police and RSPCA who will work in partnership to prevent animal cruelty. Introducing an IOAW is realistic in NSW if the government invests adequate resources, training and there is coordination and cooperation between organisations.

B. Inadequacy of the current framework

In NSW, the *Prevention of Cruelty to Animals Act 1979* (POCTAA) invests power to enforce laws with officers authorised by the Minister, police and approved charitable organisations.⁴ In reality the RSPCA takes responsibility for investigating and enforcing the majority of animal cruelty offences.⁵ The use of the RSPCA as the peak enforcement body in NSW is not a result of careful planning and organisation by the legislature.⁶ It is simply a product of history which has become illogical in the present day.⁷ I will not go into detail on why the RSPCA is not in a suitable position to enforce POCTAA as I believe this will be covered by terms of reference (a)-(b) in this inquiry.

Two state government inquiries into the RSPCA Victoria and Western Australia have revealed that there are issues with the current role of charitable organisations enforcing the law.⁸ I believe that lack of political will and an inability to admit fault with the current system have prevented successive governments from initiating reform. Together, these issues demonstrate a disregard by the NSW government towards animal cruelty law and its view that it is a less serious offence than other criminal acts.⁹ This must be changed and can be achieved through the establishment of a statutory Independent Office of Animal Welfare.

C. An Independent Office of Animal Welfare

In order to effectively protect animals from cruelty, NSW must introduce an Independent Office of Animal Welfare (IOAW) where police and the RSPCA can work collaboratively to

³ Animal Justice Party, *What does the Animal Justice Party's Independent Office of Animal Welfare (IOAW) look like?* (9 June 2016) Animal Justice Party <https://www.ajpvc.org.au/what_does_the_animal_justice_party_s_independent_office_of_animal_welfare_ioaw_look_like>.

⁴ *Prevention of Cruelty to Animals Act 1979* (NSW) s4.

⁵ Elizabeth Ellis, 'Making sausages and law: the failure of animal welfare laws to protect both animals and fundamental tenets of Australia's legal system' (2010) 4 *Animal Protection Law Journal* 6.

⁶ Deborah Cao, *Animal Law in Australia* (Thomas Reuters, 2nd ed, 2015).

⁷ Malcolm Caulfield, *Handbook of Australian Animal Cruelty Laws* (North Melbourne: Animals Australia, 2009).

⁸ Legislative Council Select Committee into the Operations of the Royal Society for the Prevention of Cruelty to Animals Western Australia, Parliament of Western Australia, *Legislative Council Select Committee into the Operations of the Royal Society for the Prevention of Cruelty to Animals Western Australia* (2016). Legislative Council Economy and Infrastructure Committee, Parliament of Victoria, *Inquiry into the RSPCA Victoria* (2017).

⁹ Keely Boom and Elizabeth Ellis, 'Enforcing Animal Welfare Law: the NSW Experience' (2009) 3 *Australian Animal Protection Law Journal* 6.

protect animals from cruelty.¹⁰ This model has been proposed by the Animal Justice Party and many legal academics across Australia advocating for an ‘independent, central and active voice for animals’.¹¹

This suggested model has been successfully incorporated in other jurisdictions such as the United States. In New York, the American Society for the Protection of Animals (ASPCA) has combined with the New York City Police Department to improve the enforcement of animal cruelty laws.¹² Matthew Bershader (CEO of the ASPCA) noted how ‘the clear success of this partnership underscores the incredible impact that can be achieved when law enforcement and animal welfare groups collaborate’.¹³

D. What would this look like in NSW?

An IOAW could be established in statute which clearly regulates its powers, functions and the administration of animal cruelty law.¹⁴ A suggested model for the IOAW in NSW would incorporate two main bodies.

i. Law enforcement

This body would be created as a specialised branch within the NSW Police Force to charge and prosecute individuals who breach animal cruelty laws under POCTAA. The NSW Police have broader entry and arrest powers combined with adequate training and tools to deal with offenders. Police officers in these ‘anti-cruelty teams’ could issue warnings and tickets for minor offences and make arrests when necessary. By requiring police officers to respond to animal cruelty complaints the safety of the animals, investigators and general public can be improved.¹⁵

ii. Rescue, rehabilitation and education

The second arm of the IOAW would be formed under the RSPCA but would not have any enforcement powers. Instead, this body will be able to form strong relations with the

¹⁰ Animal Justice Party, *What does the Animal Justice Party’s Independent Office of Animal Welfare (IOAW) look like?* (9 June 2016) Animal Justice Party <https://www.ajpvic.org.au/what_does_the_animal_justice_party_s_independent_office_of_animal_welfare_ioaw_look_like>.

¹¹ Animal Justice Party of Australia, Submission No 44 to Legislative Council Economy and Infrastructure Committee, *Inquiry into the RSPCA Victoria*, 6 March 2017, 4.

¹² ASPCA, *NYPD-ASPCA Partnership Reports Record-Breaking Number of Animal Cruelty Arrests and Rescues* (31 July 2014) ASPCA <<https://www.aspc.org/about-us/press-releases/nypd-aspc-partnership-reports-record-breaking-number-animal-cruelty-arrests>>.

¹³ *Ibid.*

¹⁴ Aimee Mundt, ‘Australia’s Need for An Independent Office of Animal Welfare’ (2015) 1 *Global Journal of Animal Law* 1.

¹⁵ Kendra Coulter, *Why animal cruelty should become a matter for dedicated police units* (26 March 2019) The Conversation <<https://theconversation.com/why-animal-cruelty-should-become-a-matter-for-dedicated-police-units-114158>>.

community, supporting charity work and education on animal cruelty. The RSPCA would remain in contact with the law enforcement branch to provide specialist advice when needed.

E. Key recommendations

- Six-month pilot program adopting an alternative model of animal cruelty administration and enforcement in NSW;
- Establishing an Independent Office of Animal Welfare which will work in partnership with NSW Police and the RSPCA;
- Development of a specialised animal cruelty unit within the NSW Police and
- Removal of RSPCA enforcement powers with funding being used for education and animal welfare advocacy.

F. To conclude

It is imperative that the NSW government establish an IOAW in order to improve the current legislative framework for animal cruelty laws. In my opinion, this would not only improve enforcement of the law but would also accurately reflect community expectations that the government takes responsibility for the meaningful protection of animals. I write today on behalf of the animals who can't speak or defend themselves. The NSW government should stand up and act as a strong voice for animals in our state, recognising their intrinsic value and setting a strong precedent for other jurisdictions.

I thank the Committee for taking time to consider this submission.