

Submission
No 137

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

Name: Name suppressed
Date Received: 10 December 2019

Partially
Confidential

Revised

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Inquiry into animal cruelty laws in New South Wales

Promotion of the care and welfare of animals and care of animals by the charitable organizations

RSPCA has demonstrated that they have not been able to promote the welfare of animals to even their own management by requiring them to provide care and ensure the welfare of the animal in their charge. This is demonstrated by the treatment of the two dogs that were in RSPCA care awaiting collection by their owner Kylie McCrea from the Rutherford shelter. The two Jack Russell family pets were needlessly killed, even though the owner had made arrangements for their return. (Newcastle Herald September 18 2013)

If charitable organizations can not require even their own managers to act in a manner consistent with animal welfare standards and community expectation, how can they be relied on to promote animal welfare to others. There is a need to refocus the organization, and the government has the ability to reduce their burden of responsibilities by removing their law enforcement responsibilities.

When an issue was identified with an animal in the care of a charitable organization, the only person to raise the issue with was the chief inspector of the said organization. The chief inspector had no interest in addressing the issue, and ordered us not to talk to him! (Photograph showing issue with said animal available). External oversight is urgently needed. It is further of note that although under the Act, the offences are matters of strict liability, for what ever reason, none of the directors of the said charitable organization were ever charged for the failure to ensure proper care for the said animal.

Where a charitable organization has the possession of an animal for whatever reason, the owner of the animal should be given in writing a list of who has provided care for the animal, the type of care provided, and when it was provided, including but not limited to, what the animal has been fed, any veterinary care or medications etc.

Conflicts of Interest

One of the charitable organizations has issues of private interests. They put forward to the court a witness as an independent expert, (name of expert available), even though the witness is a former employee of the charitable organization and admits to still being called upon from the said organization. This same witness approached a prosecuting officer (name of prosecuting officer available) of the organization following giving evidence in court, and said words to the effect 'How did I go? I'm not sure how I went.' to which the prosecuting officer replied 'you did OK'

The charitable organization's hired prosecutors must be under huge pressures. One prosecutor even abandoned established protocols. It is not appropriate for a prosecutor to interfere with a witness during their testimony. Yet a hired prosecutor said to the key witness in court, words to the effect 'we need to talk! Somewhere where there is no one else around' while the witness was still giving evidence, although the court recess was in progress. (name of prosecutor and witness is available).

In one case before the court (court transcript available) evidence was given that the prosecuting officer of a charitable organization (officer's name available), had ordered that his visit to a property not be recorded, under threat of seizure of the phone that was being used for recording. There has not to my knowledge been any acceptable reason given for this behavior by the officer.

What other than a conflict of interest would lead to a vet being falsely told that no one could be contacted, which in the vet's signed statement is the reason he agreed to allow the animals to be seized. (Vet's statement available)

Private organizations doing government work

The government has placed a heavy burden on the charitable organizations with respect to law enforcement, which they are clearly struggling with. Law enforcement would sit better under the NSW Police Force, with the Department of Public Prosecution more appropriate to handle criminal prosecutions than hired lawyers.

The mechanisms in place for administration of justice, with the appropriate appeal bodies in place, lies with the NSW police but does not exist with the charitable organization who operate under the Prevention of Cruelty to Animals Act. The only appeal options

available regarding the organizations is to the organizations themselves. This does not work! If the charitable organizations are to continue to operate in law enforcement then proper oversight, similar to what applies to NSW Police must be put in place.

The charitable organizations need to be freed from the burden of prosecutions so they can focus on animal welfare training and education.

The charitable organization's officers are struggling with their work. One officer (officers name available) on entering the witness box in court, before even being sworn in, stated words to the effect 'before we start I don't remember anything, except what's in my statement, and I don't even remember that, but its there so it must be true'.

A prosecuting officer was unable to identify who collected photographic evidence that was on his own mobile phone (court transcript available).

One charitable organization does not have in place proper procedures to ensure that when carrying out an investigation, the evidence is based on the said property. A description of a property as 'over grown with young saplings' is not helpful if the observation relates to state forest and not to the property of interest (Court case examples available).

Accountability of charitable organizations

One of the charitable organizations does not accept accountability to anyone! In fact they have actually claimed exemption for the consequences of all their wrong doings. (Court case number available)

The RSPCA does not respect the reasonable directions of the NSW Parliament. The inquiry into the Waterways Wildlife Park did not release to the public the RSPCA's draft standard operating procedures for officers, but stated that the procedures should contain a requirement for owners to be given a written report within 48 hours of an inspection. One of the RSPCA officers (officer's name available) gave evidence in court that no such requirement exists in the procedures (court transcript available). Any reasonable actions that the parliament may require of the charitable organizations must be legislated as a legal imperative, so they will not be ignored. If charitable organizations are allowed to continue to enter and inspect people's properties, then legislation needs to require them to

notify the owners of the animals and the property, with appropriate penalties for failure to comply.

I am aware that one of the charitable organizations has brought people onto my property. When I asked who was there and when, I was told that they would not tell me. I have followed this up with a written request but have not had any reply (copy of letter and Australia Post registered letter receipt available). To find that after attendance by a charitable organization, a boundary of the property has been changed from stock proof to having an open gap (Photograph available), is not acceptable, does not show care for animals, or accountability by the officers involved.

Respect for people and animals

I believe the majority of the community expects that both people and animals deserve to be respected. This is not what I observed from one of the charitable organizations prosecution teams. The Accused was held to ransom, in that they were threatened that the prosecutors would seek to have the Accused's much loved animals disposed of unless the accused plead guilty. (Court case number available)

The Crimes Act has provisions that limit civil proceedings where a person's information is used in criminal court. Similar provisions are urgently required under the Prevention of Cruelty to Animals Act. One charitable organization having taken criminal proceedings, have then undertaken civil proceedings, placing unreasonable stress on those they are pursuing for large sums of money, even though the charitable organization has no intention of allowing the matter to proceed to trial. (Case number available). This is an abuse of power that must be corrected in the legislation,