

A close-up photograph of a horse's face, focusing on its eye and the surrounding fur. The horse has white and brown patches. The eye is dark and looking slightly to the right. The fur is soft and detailed.

ONTARIO SEARCHES FOR A NEW ANIMAL WELFARE MODEL

by JONATHAN MARTIN

As OSPCA staff halt their law-enforcement responsibilities, producers wonder who will take up this work.



Ontario's system for animal welfare enforcement is in a state of limbo.

The province's Superior Court of Justice determined in a Jan. 2 ruling that the police powers formerly granted to the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) were administered unconstitutionally.

The private charity had played a law-enforcement role since the OSPCA Act became law in 1919. The society enforced both the Criminal Code and provincial animal cruelty laws.

Under this law-enforcement structure, the OSPCA's government-mandated inspector general could call on members of OSPCA affiliate groups to fill law-enforcement agent roles. The inspector general's office provided training to the agents and they investigated the OSPCA's 23,000 annual animal cruelty complaints.

Now, it's up to the Ontario Provincial Police (OPP) to knock on a producer's door if they receive a call that alleges a farmer is mistreating his or her livestock.

In June, the province set up a toll-free number, 1-833-9ANIMAL (1-833-926-4625), for people to report animal welfare concerns. The OSPCA call centre also remains operational, at 310-SPCA (310-7722), but the organization now forwards any calls to the provincial dispatcher.

OSPCA steps back

When a dispatcher receives a tip, he or she directs the call to a local animal welfare contact, who passes a report along to an investigator.

OSPCA affiliate groups can still serve their enforcement roles in an "interim" capacity, if they desire, by helping the OPP gather forensic evidence and taking care of animals found on-scene until the Ministry of the Solicitor General brings new legislation into force.

However, "the decision to continue is not without risk," the OSPCA said in a June update. "We have recommend-

ed that these affiliates take steps to protect their charities, members and donors."

Affiliate groups, such as the Windsor-Essex County Humane Society and the Humane Society London and Middlesex, work independently of the OSPCA. They have their own boards of directors and their own programs. The only connection affiliate groups have to the OSPCA today, aside from a name, is access to a shared set of resources.

The OSPCA reviewed its affiliates' law-enforcement practices over the past two years, Kate MacDonald, CEO of the society, tells *Better Farming*. She cites Dr. Kendra Coulter's March report outlining the dangers OSPCA agents face when enforcing the law. Coulter is an associate professor in the department of labour studies at the University of Windsor (UWindsor).

"The first contact has a significant effect on officer safety and serious implications for both vulnerable people and evidence on-site," the report reads.

"Most (OSPCA) officers have not had access to law-enforcement databases or reliable communication tools. They have primarily worked alone in the field and had extremely large caseloads."

Similarly, a 2016 study by Coulter and Dr. Amy Fitzgerald on animal cruelty investigations in Ontario found that these "workers rarely know in advance if they are approaching individuals with weapons, an otherwise volatile or dangerous situation, someone with a serious mental health disorder, or people in crisis who might immediately need additional support and assistance." Fitzgerald is an associate professor in the department of sociology, anthropology and criminology at UWindsor.

To protect its investigators and redirect its resources into "the OSPCA's many other services," the society did not renew its annual contract in March with the Ontario government, MacDonald says.

Instead, the charity started rolling out its enforcement

ANIMAL WELFARE

support services, which include forensic, animal health, housing and transportation services that the OPP can tap into while officers work animal welfare cases. The OSPCA will provide these services while the Ontario government shifts to its new enforcement model, MacDonald says.

Enforcement model proposals

What that model will look like is up in the air and opinions about its ideal form vary.

Bruce Kelly, Farm and Food Care Ontario's program manager, heads a team of representatives from 16 of Ontario's commodity groups, he tells *Better Farming*. The groups opened talks with Ontario's solicitor general's office in February to ensure that ministry officials keep producers in mind while the government drafts the new animal welfare enforcement legislation.

"The commodity groups met every week for five weeks," he says. "We have a large working group made up of 16 commodities and a smaller



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"We want to see a long-lasting system that provides what's best for animals in Ontario," says Kate MacDonald.

group of representatives from six (organizations) who took the time to read the piles of homework we gave them. We looked at Alberta's Animal Protection Act, Manitoba's Animal Care Act and Ontario's OSPCA Act, specifically. We read them cover to cover, engrossed ourselves in what makes up an animal care act and then

wrote our own shadow version of a new one."

At the top of the list, farm group leaders want to ensure the continuation of the memorandums of understanding (MOUs) between the new animal welfare enforcement body and commodity groups.

In the past, if the OSPCA received

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a call alleging that a farmer was mistreating his or her livestock, the charity brought in a representative from the appropriate commodity group to collaborate on the investigation. That way, an expert in standard farm practices could contribute his or her knowledge to the case.

Richard Horne, Beef Farmers of Ontario's executive director, provides an example to show why farm organizations want this collaboration to continue.

"To the uninitiated, a dairy cow may look emaciated," he tells *Better Farming*. "People expect (dairy cattle) to look like beef cattle. (Dairy cows) look thin; their ribs are visible and they're more angular. That's just how they're supposed to look."

In the past, officials investigated producers for performing normal farm procedures, Kelly says.

"In recent years, the (animal welfare enforcement) system has worked better than it did before," he adds. "The MOUs are seen by most as having contributed to that."

Historically, the MOUs, which differ for each producer group, varied in their levels of officiality. In the interim animal welfare model, MOUs remain in place.

The commodity groups' draft document, which was submitted to the Ministry of the Solicitor General in April, calls for "co-operation between the (law-enforcement) agent and commodity groups to be established and formally recognized."

Not everyone agrees with this proposal, however.

Differing perspectives

Jenny McQueen is an animal rights activist with Direct Action Everywhere (DxE). She is well known for her outspoken stance against the current model of animal welfare enforcement.

She made headlines in May when the Crown dropped a set of break-



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and-enter and mischief-over-\$5,000 charges alleging she entered the Adare Pork breeding facility north of Lucan, and took one of the farm's pigs.

"No reasonable chance of conviction" existed, the prosecutors said, despite McQueen's public recounting of the events. She also released footage she captured inside the facility to the Internet.

She entered the farm after the OSPCA "said it was unable to act" on the alleged abuse she said occurred in the facility, she tells *Better Farming*.

"I've reported (instances of animal cruelty) to the OSPCA, and I find that there's no law that actually protects animals in the barn," McQueen says. "The OSPCA was trying to enforce regulations put together by (the ag) industry."

"The only way things are going to change is through action by people like me and non-violent civil disobedience, as displayed by (open rescue group) Meat the Victims. Producers are the best qualified for maintaining the status quo."

Crispin Colvin, a director of the OFA, disagrees with McQueen. He and his son manage a couple hundred acres of cash crops and breed High-

land cattle in Middlesex County.

"That's like saying the Law Society of Ontario shouldn't oversee lawyers," Colvin tells *Better Farming*. "It's a rather weak argument, in my opinion."

Producers should continue to collaborate with enforcement authorities, MacDonald says.

"We want to see a long-lasting

system that provides what's best for animals in Ontario. When you find experts in various industries, using those experts is

what's going to help in the long run and that's the model (the OSPCA) presented to the solicitor general," she adds.

Focus on language

In addition to maintaining the existing MOUs, the commodity groups recommend digging into the legislation's wording.

The current laws governing the protection of animals say little about livestock.



Richard Horne



Crispin Colvin



The exact shape that the new enforcement agency will take is unclear, Bruce Kelly says, but he knows it will operate under government oversight.

“If you look at the OSPCA Act, you’d see there is many times the language for whales than there is for livestock,” Kelly says. “It’s a bad bill when it’s so clear that someone went in and tinkered with one issue and left the others out.”

Ontario’s farm organizations, as well as a group of animal-rights organizations, call on the government to craft a set of rules outlining the treatment of farm animals. McQueen supports the recommendations from the animal-rights groups, she says.

The document from the ag groups, titled “Ontario’s Future Animal Protection Act,” also defines farm animals. The OSPCA Act does not.

The farm organizations’ document, which is not publicly available, is broken into eight sections, Kelly says.

A summary document he provided to *Better Farming* outlined each:

- definitions
- duties of care
- accepted activities
- the definition of distress and conditions under which a law-enforcement agent can enter a farm
- the power of a law-enforcement agent
- orders
- seizure, housing, abandonment and disposal
- offences

A highlight of the document is the recommendation that whichever agent oversees animal welfare enforcement should be independent of the OSPCA,

Colvin says. He questions the integrity of the previous model.

Of the OSPCA’s roughly \$18 million in revenue last year, around \$7 million came from donations. This source of funding accounted for the organization’s most substantial portion of revenue. In second place, at just under \$6 million, were provincial grants.

“You can’t be funded by donations and be unbiased,” Colvin says, echoing the Superior Court’s ruling.

“Although charged with law-enforcement responsibilities, the OSPCA is opaque, insular, unaccount-



Bruce Kelly

able, and potentially subject to external influence and, as such, Ontarians cannot be confident that the laws it enforces will be

fairly and impartially administered,” wrote Justice Timothy Minnema of the Ontario Superior Court in January.

“The OSPCA appears to be an organization that operates in a way that is shielded from public view while at the same time fulfilling clearly public functions.”

Moving ahead

The interim system, however, is “workable,” Kelly says. He’s “optimistic” that the Ministry of the Solicitor

General is developing a “new free-standing system that addresses some of the concerns that enforcement agents were working for a charity at the time.”

He met with Paula Milne, the interim chief inspector of the animal welfare operations unit, shortly before his *Better Farming* interview in late June. Milne brought on a team of inspectors with expertise in livestock, horses, zoos and aquaculture to advise her in the development of the temporary system.

Kelly expects the expert advisory panel to remain on the job once a new, permanent system is launched, he says.

“I was afraid that (animal welfare enforcement) might just drop to police, and I can see a lot of flaws in that system,” he says.

But “I think (the solicitor general’s office is putting) a fair bit of thought into it, and they seem to understand all the minefields and the complexities” of farm regulation.

The exact shape that the new enforcement agency will take is unclear, Kelly says, but he knows it will operate under government oversight.

The enforcement officials “will need offices and cars,” he says. “I don’t know where the office will be and I don’t know what colour of cars they’ll drive, but I am pretty sure the government will pay” for the new system.

What of Ontario’s producers?

“Right now, it’s pretty wait and see,” he says. **BF**