



## Ontario Farm Animal Council Backgrounder

Updated June 2009

### You were asking about the...

#### Ontario Society for the Prevention of Cruelty to Animals (Ontario SPCA)

The following are some answers that the Ontario Farm Animal Council (OFAC) has put together, with input from a number of experts, to questions and issues that have been raised about the Ontario SPCA over the years by OFAC members, in the media and most recently with the updated OSPCA Act.

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### **1. What is the Ontario SPCA?**

Protecting animals since 1873, the Ontario Society for the Prevention of Cruelty to Animals (Ontario SPCA) is a non-profit charitable organization with a province-wide network of approximately 50 directly operated branches and independently operated affiliate Humane Societies.

The Ontario SPCA's mission is to facilitate and provide for province-wide leadership on matters relating to the prevention of cruelty to animals and the promotion of animal welfare. The Ontario SPCA is one of the largest animal welfare organizations in the country, providing care and shelter for tens of thousands of animals every year. Visit [www.ontariospca.ca](http://www.ontariospca.ca) to learn more.

### **2. What gives the Ontario SPCA its authority?**

The Ontario Society for the Prevention of Cruelty to Animals Act or "Ontario SPCA Act" mandates the Ontario SPCA to enforce animal cruelty laws and provides Ontario SPCA Inspectors and Agents with police powers to do so.

### **3. How is the Ontario SPCA funded?**

In 2008, the Ontario SPCA had revenues of approximately \$13 million, of which \$6.9 million was from donations and fundraising; \$2.1 million from shelter and veterinary fees; \$2 million from municipal contracts; and \$650,000 from provincial grants. The expenses for 2008 were \$14.3 million.

The model of the enforcement agency also being a charity that must fundraise, although not ideal in many people's opinions, is one found across Canada and around the world including the U.K. and Australia.

### **4. What happens when a complaint is made to the Ontario SPCA?**

All callers' names who contact the Ontario SPCA are kept confidential, unless the matter goes to court. The Ontario SPCA is obligated to follow up on all complaints made. The Ontario SPCA works cooperatively with the animal owner/custodian to improve animal welfare, keeping in mind the fundamental approach of 'education before enforcement'.

### **5. How many calls/complaints does the Ontario SPCA receive each year?**

14,000 to 15,000 on average

### **6. How many farm animal-related complaints do the Ontario SPCA deal with?**

About 10% of the total complaints the Ontario SPCA deals with are related to farm animals. This is, on average, about 1,500 calls per year.

### **7. Does the Ontario SPCA press a lot of charges?**

Education remains the greatest part of an Inspector/Agent's role and is always the first course of action at the onset of an investigation prior to taking legal steps. Successful Ontario SPCA efforts to gain voluntary compliance result in a small number of charges (135 in 2008), despite more than 14,000 complaints received.

### **8. What is the chain of command or accountability with the Ontario SPCA?**

- Accountability in the field is paramount. Agents are supported by Inspectors who report to Senior Inspectors, who report to the Chief Inspector. In 2009, the Chief Inspector is a 32-year veteran. Recent revisions to the OSPCA Act reinforce the Chief Inspector's authority to manage all aspects of the Ontario SPCA's law enforcement activities.
- Orders and removals made by Inspectors/Agents may be appealed to the Animal Care Review Board (ACRB), an independent quasi-judicial body.
- Matters where charges are laid will go before the courts.
- Ultimately, as a charitable organization with a province-wide mandate and mission, the Ontario SPCA is accountable to the general public, its supporters, and stakeholders.

### **9. What powers of entry does the Ontario SPCA have?**

Ontario SPCA Inspectors and Agents have had some form of warrantless entry to property and the ability to apply for search warrants for many years. Currently, the OSPCA Act authorizes entry to Inspectors and Agents:

- 1) Where animals are kept for exhibit, entertainment, boarding, hire or sale, to determine if the Standards of Care are being complied with;
- 2) To check compliance of an Ontario SPCA Order (subsection 13(6));
- 3) If they have reasonable grounds to believe that an animal is in immediate distress;
- 4) Where permission is granted to enter;
- 5) If they have a search warrant signed by a justice of the peace or provincial court judge.

\* Items 1 through 3 do not apply to a dwelling house.

\* For the purposes of number 3 – Immediate distress is defined in the OSPCA Act as distress that requires immediate intervention in order to alleviate suffering or to preserve life.

\* For item 5, a search warrant may be granted to search for animals in distress (section 12) or to ensure that the Standards of Care are being complied with (section 11).

The Act allows the Inspector or Agent to take a veterinarian or any other person(s) as accompaniment that the officer considers advisable. Ontario SPCA policy is that Inspectors/Agents executing a search warrant will take the local police with them, if available, to ensure that no breach of the peace occurs. See *OFAC Backgrounder "Entry and Enforcement Powers of the Ontario SPCA"* for more on this topic.

### ***10. What training does an Ontario SPCA agent receive?***

- All agents are required to undergo background checks, a lengthy interview process, including an Emotional Quotient Inventory (EQI) test, extensive training and an examination.
- Training includes legislation, regulations, statutes, policies, procedures and is more rigorous than any other animal welfare organization in Canada. In 2009, the training includes 40 hours of on-line training proctored by a college professor, followed by three weeks of in-class instruction.
- New Agents work directly under the supervision of Inspectors or senior Agents in the field.
- All training is regularly updated and continued training is offered throughout the year.

### ***11. What about training regarding farm animals specifically?***

- There is a select group of Inspectors/Agents with farm backgrounds and more training on livestock care on staff already. Larger farm calls and related issues are commonly deferred to these individuals.
- Inspectors and Agents are trained in and follow OMAFRA's biosecurity protocols.
- The Ontario SPCA has worked with OMAFRA to deliver a few days of training on farm animal care for a number of years. OFAC has always assisted with this training too.
- In 2009, the exceptions in legislation for activities carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry, prompted increased livestock welfare assessment training. New agents will receive five days of training on livestock and poultry at the University of Guelph – half days in the classroom, half days on farms. This new training is offered in partnership with the University of Guelph, the Campbell Centre for the Study of Animal Welfare (CCSAW) and the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA).
- OFAC was part of the curriculum team, and is helping with farm tours and biosecurity protocols and equipment. This course is the first of its kind in North America and interest and attendance from other provinces and States is expected in the future.

### ***12. What if the Ontario SPCA Agent is not familiar with the type of animal they get a complaint on?***

- The Ontario SPCA Act allows an Agent or Inspector to take a veterinarian or any other person she/he considers advisable, in order to determine if the Standards of Care are being complied with, or when executing a search warrant.
- The Ontario SPCA receives calls on all species of animals. The Society partners with the Ministry of Natural Resources (MNR), the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA), the Ontario Farm Animal Council (OFAC) and Canadian Association of Zoos and Aquariums (CAZA) where appropriate.

### **13. How does the Ontario SPCA and OFAC work together?**

- OFAC provides the Ontario SPCA with expertise on farm animal care when requested. If an agent gets a complaint about farm animals and feels they need assistance, they will contact OFAC's Animal Care Helpline to have a Helpline representative attend the farm with them and help make practical recommendations.
- If an OFAC Helpline representative makes a farm visit and determines the situation is beyond peer helping/education and is actually animal cruelty or neglect and laws have been broken, they will call the Ontario SPCA.
- OFAC assists with agent training and provides educational resources to Ontario SPCA staff to use as handouts on calls (i.e. caring for compromised cattle, body condition score cards, etc.) and for their own education.

### **14. What's the difference between calling OFAC's Farm Animal Care Helpline and the Ontario SPCA to make a complaint about animal care?**

- **OFAC's Farm Animal Care Helpline** is a confidential farmer-helping-farmer educational system, with no legal authority or rights. It is designed to provide practical advice and assistance to improve farm animal care. The Helpline is not meant for emergencies or when laws (animal cruelty or deadstock) have been broken. OFAC receives 15-30 calls per year which require a farm visit. The Helpline covers beef, dairy, pigs, and poultry calls. It does not cover sheep or horse calls. Contact the OFAC office during business hours at **(519) 837-1326**.
- **The Ontario SPCA Hotline** accepts calls on animal care or cruelty concerns related to any species of animals. Calls to the Hotline are confidential, unless a matter goes to court. Ontario SPCA Inspectors and Agents are empowered by the Ontario Society for the Prevention of Cruelty to Animals Act (Ontario SPCA Act) and have the responsibility of relieving animals from distress. The OSPCA receives approximately 14,000 calls per year and are obligated to respond to each call. Every animal welfare situation is evaluated on its own merit. Contact the Ontario SPCA at **1-888-668-7722, or your local Ontario SPCA branch or affiliated humane society**.

### **15. What if you disagree with the Ontario SPCA Inspector/Agent actions?**

If you would like to complain specifically about an Ontario SPCA Inspector/Agent's actions, visit: [www.ontariospca.ca](http://www.ontariospca.ca) under "About Us", Frequently Asked Questions for five steps.

Orders and/or animal removals may be appealed in writing by the owner/custodian to the Animal Care Review Board (ACRB) within **five business days**, (Monday to Friday, except holidays).

Contact information and instructions appear on the order and removal forms. The ACRB has jurisdiction only over appeals of orders and removals and may reject any appeal; for example, it does not meet that criteria or if the appeal is late. The ACRB does NOT rule on guilt or innocence, or on matters such as whether a warrant was executed properly or the personal conduct of an investigator. After a hearing, or – if both the Ontario SPCA and the appellant consent - without a hearing, the ACRB may uphold, modify or revoke the original order or removal, and may also make an order respecting the cost of complying with an Order and/or providing the animal with food, care or treatment. If an order is revoked or the matter is otherwise resolved or concluded prior to or during an ACRB hearing, the ACRB loses jurisdiction and there will not be a hearing or decision rendered.

It should be noted that recent changes to the OSPCA Act state that an OSPCA Order remains in force while it is under appeal to the ACRB and establish a new provincial offence for failing to comply with an order of the ACRB.

Another new provision in the OSPCA Act sets out that if a charge has been laid and a justice of the peace or a judge has granted a special order for the OSPCA to keep the animal pending the outcome of those charges, that matter can not be appealed to the ACRB.

The recent changes to the Act reinforce the authority of the Chief Inspector with respect to any other actions taken by Inspectors/Agents.

### ***16. What were some of the key changes made to the Ontario SPCA Act in 2009?***

Bill 50 was tabled in the Legislature by the Ministry of Community Safety and Correctional Services in April, 2008, passed in November, 2008 and came into force on March 1, 2009. The result is a revised OSPCA Act with the most comprehensive changes adopted since the provincial animal welfare legislation's inception in 1919. The new law toughens and modernizes the Ontario SPCA Act; creating new provincial offences and imposing stiffer penalties for those convicted of animal abuse.

Key changes in the amended Ontario SPCA Act or Provincial Animal Welfare (PAW) Act include:

- Establishing new provincial offences for causing or permitting distress to an animal.
- Providing judges with greater flexibility to impose stiffer penalties, including jail time, fines up to \$60,000 and a potential lifetime ban on animal ownership.
- Providing inspection powers to the Ontario SPCA by allowing Inspectors/Agents to inspect premises where animals are kept for the purposes of exhibit, entertainment, boarding, sale or hire.
- Permitting the Society to apply for custody of an animal victim where a charge has been laid

- Expanding the standards of care to be applicable to all animals, not just dogs and cats.
- Requiring veterinarians to report suspected animal abuse or neglect with protection from personal liability for doing so.
- Making it an offense to train or permit an animal to fight another animal or to own animal fighting-related equipment.
- Making it an offense to harm a law enforcement animal, such as a police dog or a horse.
- Creating appropriate exceptions for hunting and fishing, agriculture, and veterinary practices.

**17. What is the difference between municipal and provincial authority on animals?**

The updated Act respects current municipal authority to pass bylaws related to animals. In the event of a conflict between the OSPCA Act and a municipal by-law, whichever provision affords the greatest protection to animals would take precedence. Concerns about local municipalities passing any related by-laws that unfairly impact on farm animals or agriculture should be forwarded to OFAC.

**18. What are some of the key changes of interest to farmers?**

Farm groups, including OFAC, asked for reasonable and generally accepted farm practices to be exempted from the offences of causing or permitting distress, as well as the Standards of Care for animals in the Act and were successful. The Recommended Code of Practice for the Care and Handling of Animals will most often be referred to for the reasonable and generally accepted practices for all species that have them.

**Standards of care for animals**

**11.1 (1)** Every person who owns or has custody or care of an animal shall comply with the prescribed standards of care with respect to every animal that the person owns or has custody or care of. 2008, c. 16, s. 8.

**Exception**

**(2)** Subsection (1) does not apply in respect of,

- (a) **an activity carried on in accordance with reasonable and generally accepted practices of agricultural animal care, management or husbandry; or**
- (b) a prescribed class of animals or animals living in prescribed circumstances or conditions, or prescribed activities. 2008, c. 16, s. 8.

**Same**

**(3)** Subsection (1) does not apply to,

- (a) a veterinarian providing veterinary care, or boarding an animal as part of its care, in accordance with the standards of practice established under the *Veterinarians Act*;
- (b) a person acting under the supervision of a veterinarian described in clause (a); or
- (c) a person acting under the orders of a veterinarian described in clause (a), but only in respect of what the person does or does not do in following those orders. 2008, c. 16, s. 8.

*Examples worth noting:*

- **Livestock guardian dogs:** As an example, the use of livestock guardian dogs is referred to in the Sheep Code of Practice (Recommended Code of Practice for the Care and Handling of Sheep, see [www.nfacc.ca](http://www.nfacc.ca) ) and, as such, is a reasonable and generally accepted practice. This activity, conducted in accordance with that Code of Practice, could therefore be exempted from the Standards of Care (e.g. having the dog sleep with the herd instead of in a dog house) and the offences for causing or permitting distress. With respect to the anti-fighting offence, simply put: guarding or herding is not fighting.
- **Predators:** If a dog that is used in accordance with a reasonable and generally accepted agricultural practice - such as guarding livestock - kills predator wildlife, the exception to the offence for cause or permit distress could apply. There is also an exception to those offences for activities permitted under the *Fish and Wildlife Conservation Act* and, under Section 31 of that Act; one is allowed to protect one's property, which includes livestock and crops, from wildlife predation. Some farmers use livestock guard dogs to achieve this. With respect to the anti-fighting offence, simply put: defending against predators is not fighting

The full OSPCA Act can be found online at:

[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_90o36\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90o36_e.htm)

**Prepared by the Ontario Farm Animal Council (OFAC)**

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