

Blueprint for Change:

A cost-effective path to modernizing
Ontario's animal welfare system and
animal welfare law enforcement program

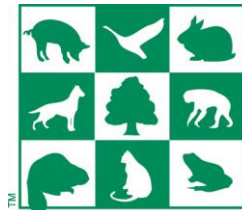


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Zoocheck is a Canadian-based international wildlife protection charity established in 1984 to promote and protect the interests and well-being of wild animals.



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Animal Alliance of Canada is a federally incorporated non-profit organization dedicated to the protection of all animals and the environment through electoral politics, legislative advocacy, education and rescue.

Table of Contents

1. Introduction
2. Guiding Principles
3. Recommendations
4. Role of the Provincial Animal Welfare (PAW) Commission
5. Who Should Fund Ontario's Animal Welfare System?
6. An Effective, Affordable Animal Welfare System for Ontario
7. Leveraging Existing Infrastructure to Reduce Costs
8. The PAW Trust – Supplementary Support from the Ontario Public
9. PAW Act Oversight and Public Accountability
10. Coordination of the PAW Act
11. Preventing Conflict of Interest in the PAW Act
12. Bringing a Modern Animal Welfare System into Line with Public Sensibilities
13. Providing Protections to All of Ontario's Animals
14. About Animal Alliance and Zoocheck
15. Appendix 1 – Animal Welfare System Summary Chart
16. Appendix 2 - Bibliography

Introduction

This report provides commentary and suggestions on how the Government of Ontario can modernize its animal welfare system and animal welfare law enforcement program. An opportunity now exists to create effective, affordable legislation that capitalizes on existing infrastructure and that benefits Ontario citizens, animal welfare law enforcement personnel, industry, the Government of Ontario and, of course, the animals.

It is our hope that the commentary and recommendations contained in this report inform the ongoing deliberations about Ontario's animal welfare system and law enforcement program, so that it quickly moves forward in the most effective way possible.

Guiding Principles

The people of Ontario:

- Value animals and care about their welfare.
- Want animals protected from neglect, abuse and harm and want to ensure that all animals experience good health, well-being and an acceptable quality of life.
- Want animal welfare law enforcement to be a function of the public sector.
- Want enforcement of animal welfare legislation to be effective, equitable, practical, transparent and accountable to the public; and they want absolute clarity as to the roles and responsibilities of those involved in the system.
- Want the province's animal welfare system to be efficient and where possible, to take advantage of existing structures, roles and processes.
- Want animal welfare law enforcement adequately supported by the Government of Ontario.
- Want protections for animals used as companions or pets, animals in

entertainment and recreation, farmed animals or animals used for agricultural purposes, free-roaming wild animals in nature, wildlife in captivity and animals used in research, teaching and testing.

Recommendations

1. Repeal the Ontario Society for the Prevention of Cruelty to Animals Act (OSPCA Act) and replace it with a new modern Provincial Animal Welfare (PAW) Act. The Act would:
 - Create a new provincial body called the Provincial Animal Welfare (PAW) Commission to oversee and coordinate all aspects of the new animal welfare system, including its administrative functions, oversight, inspectorate training, transparency and accountability mechanisms.
 - Expand the animal welfare law enforcement inspectorate to allow for the inspectorate to include:
 - i. provincial, regional and local police services;
 - ii. staff of the Ontario Ministry of Agriculture, Food and Rural Affairs;
 - iii. staff of the Ontario Ministry of Natural Resources and Forests;
 - iv. suitably equipped and resourced municipal departments and/or agencies;
 - v. suitably equipped and resourced SPCAs and humane societies;
 - vi. designates of the PAW Commission and/or Minister; and
 - vii. special animal welfare teams or task forces comprised of designates of the PAW Commission and/or Minister.
 - Require all members of the inspectorate to be accountable to the PAW Commission and Minister regarding enforcement or any other aspect of Ontario's animal welfare system and animal welfare law enforcement program.
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- The PAW Commission and/or Minister have the authority to designate or assign whatever members of the Inspectorate they deem appropriate to investigate or enforce Ontario's animal welfare law regardless of where the animals are located in the province or how they are being used.
- Make Ontario's animal welfare system and animal welfare law enforcement program, including its inspectorate, subject to Ontario Freedom of Information and Protection of Privacy legislation, the Ontario Ombudsman's office, the Office of the Auditor General of Ontario and other oversight and accountability mechanisms.
- Allow private citizens to pursue actions under the Act, which have long been permitted in respect of federal anti-cruelty laws.
- Allow for the creation of ancillary regulations for specific kinds of animal use in specific situations (e.g., dog sled operations, zoos, animals in public schools).
- Incorporate accepted, scientifically supported animal welfare guiding principles, such as the Five Freedoms of Animal Welfareⁱ, a set of principles already incorporated in guidelines, policies, regulations and laws around the world.
- Be inclusive and provide basic protections to all animals in the province.

Role of the Provincial Animal Welfare (PAW) Commission:

The Commission would be under the authority of, and report to the Minister of Community Safety and Correctional Services. It would administer the *Provincial Animal Welfare (PAW) Act*. The Commission's role would be oversight, coordination, training, special investigations and support. See Organizational Chart – Appendix 1.

The Commission would:

- Oversee enforcement of the new Provincial Animal Welfare (PAW) Act regarding its animal welfare law enforcement activities;
- Provide coordination and oversight of all aspects of Ontario's animal welfare system and animal welfare law enforcement program, including its administrative functions, inspectorate training, transparency and accountability mechanisms.
- Respond to emergency animal welfare and cruelty issues;
- Work with humane societies, municipal animal shelters and rescue groups to assist in emergency situations;
- Ensure that the law is applied fairly and explained simply;
- Ensure that the animal welfare system and animal welfare law enforcement program is accessible to Ontarians and that the Commission itself is transparent and accountable.

Who Should Fund Ontario's Animal Welfare System?

In 1919, the provincial government authorized the OSPCA to enforce the law to protect animals, but it did so on the condition that funding would be provided not by the general population but through fundraising and donations from the people who care about animals most. That should not be the case a century later.

Even though animal welfare and protection is supported by the majority of Ontarians and benefits society as a whole, the early 20th century model of private charitable organizations, such as humane societies and SPCAs, being responsible for both funding and delivery of the animal welfare system has persisted until modern times. Today Ontarians are overwhelmingly in support of Ontario's animal welfare system and animal welfare law enforcement program becoming a public sector responsibility.

Full funding of a new Ontario animal welfare system and animal welfare law enforcement program would not require a great deal of investment. A tiny fraction of what is budgeted for many other law enforcement activities in the province would be all that is required. Funding for the PAW Act could be phased in over a multi-year transitional period until it is an accepted and routine, but critically important, item in every Ontario budget.

A modern Ontario animal welfare system and animal welfare law enforcement program would be the responsibility of the public sector. Preventing cruelty to vulnerable beings is a social good, just as allowing such cruelty is a social ill – and one that most Ontarians do not accept.

An Effective, Affordable Animal Welfare System for Ontario

Ontarians care about animals and are prepared to financially support an effective, modern animal welfare system and animal welfare law enforcement regime. While bringing both regimes into the public sector will require funding, the majority of Ontarians who value animals and their welfare consider the investment to be worth the return.

The cost of animal welfare law enforcement delivery varies from province to province. However, British Columbia's (BC) system is analogous to Ontario's situation prior to the OSPCA's announcement of their departure from enforcement of the OSPCA Act. Cruelty investigations and enforcement in BC are handled entirely by the BC SPCA and are funded entirely through private donations. The 2017 Annual Report indicated that the BC SPCA spent close to \$3.5 million (spca.bc.ca/wp-content/uploads/2017-annual-report.pdf). With BC's population of 4.9 million people, the cost for animal welfare enforcement is approximately \$0.71 per person. Ontario has traditionally allocated much less and would have to commit a minimum of \$10 million annually to be on a level with BC. Since 2012, Ontario has provided \$5.5 million annually to the OSPCA. An increase of \$4.5 million would

bring Ontario on par with BC.

Leveraging Existing Infrastructure to Reduce Costs

It should be noted that most experts suggest that animal welfare law enforcement is significantly under-funded across Canada, including in BC. However, the PAW model is unique in that it leverages staff from other relevant Ministries to provide (non-exclusive) law enforcement delivery services, in addition to municipal by-law enforcement departments and police agencies. It also potentially includes qualified SPCAs, humane societies and other non-governmental organizations, as well as designates of the Minister or PAW Commission and others. This model with its inherent flexibility reduces, perhaps significantly, the central funding burden on the province and provides significantly broader coverage at relatively little added expense.

The PAW Trust – Supplementary Support from the Ontario Public

A program called the Provincial Animal Welfare (PAW) Trust could be established as a central point through which public donations and other revenues could flow to assist in public awareness programming and to augment the core funding provided by the province and other participating government agencies.

If established, the PAW Trust could take a leadership role by ensuring donors supportive of animal welfare have an opportunity to contribute directly to support Ontario's animal welfare system. While this would be a relatively small source of funding, complimentary to the core funding provided by the Government of Ontario, it would allow members of the public an ability to participate and invest in a new enhanced system animal welfare system.

Key Issues to address in Ontario's Animal Welfare System and Animal Welfare Law Enforcement Program

PAW Act Oversight and Public Accountability

The PAW Act would be subject to oversight, central coordination and accountability, including a PAW Commission appeals body to which public complaints and concerns could be made about enforcement activities, effectiveness, conduct and policies.

The PAW Act would be subject to established accountability mechanisms including Ontario's Freedom of Information and Protection of Privacy legislation, the Ontario Ombudsman's office, the Office of the Auditor General of Ontario, and other oversight and accountability mechanisms in order to generate enhanced levels of public confidence in Ontario's animal welfare system and animal welfare law enforcement program.

The PAW Act would allow for private citizens to pursue actions under the Act, which have long been permitted in respect of federal anti-cruelty laws.

Coordination of the PAW Act

The PAW Commission would oversee Ontario's new animal welfare system and animal welfare law enforcement program, with the role of the PAW Commission formalized in the new PAW Act.

The PAW Commission would consist of provincial appointees with relevant backgrounds and expertise in animal protection and welfare, veterinary science, policing, legal (potentially including an animal welfare provincial special prosecutor), as well as others who care about animal welfare but who have more general backgrounds.

The PAW Commission could directly employ special investigators including training officers and, potentially, a major case management team.

The PAW Commission would develop, deliver and administer a training program for animal welfare law enforcement personnel, agencies and organizations. The PAW Commission would capitalize on existing training programs conducted by government agencies and departments and non-governmental agencies and organizations (such as the Ontario SPCA).

More complete training on how to manage search warrants and other aspects of policing can be delivered by policing professionals to ensure that cases do not fail due to technical failures.

The PAW Commission would maintain a database of relevant enforcement information, including court orders and sentencing provisions that would be available to law enforcement and members of the public.

Preventing Conflict of Interest in the PAW Act

To mitigate against real or perceived political influences and conflict of interest, all members of the animal welfare law enforcement inspectorate, regardless of affiliation, would be subject to oversight by the PAW Commission or MCSCS Minister and would be accountable to them regarding Ontario's animal welfare law enforcement program.

Bringing a Modern Animal Welfare System in Line with Public Sensibilities

The PAW Act would promote and protect the basic interests of all animals in the province by incorporating accepted, science-based, universally applicable animal welfare principles

that recognize animal sentience, cognitive, emotional and social capabilities and the biological and behavioural needs of animals, such as the Five Freedoms of Animal Welfare, a set of principles included in guidelines, policies, regulations and laws throughout the world. Ontario citizens overwhelmingly state that they want meaningful protections and the most humane treatment possible to be provided to animals. This is a minimum responsibility of a modern society such as Ontario.

Providing Protections to All of Ontario's Animals

The PAW Act would be inclusive by providing basic protections to all animals in the province regardless of their species, context or use. Providing blanket exceptions for all actions and behaviours that occur within the context of a given kind of animal use undermines a modern , comprehensive approach to animal welfare law enforcement and makes enforcement of the Act difficult.

Unlawful acts can occur in the course of otherwise lawful behaviour. To illustrate, medical doctors have close personal contact with the bodies of their patients, yet our laws would never exempt sexual abuse of patients within the doctor/patient relationship. By ensuring that all of Ontario's animals receive basic protections under the PAW Act, the Ontario government would be acting to protect the health and welfare of the vulnerable animals that the overwhelming majority of Ontarians care about.

About Animal Alliance of Canada and Zoocheck

Animal Alliance of Canada

Animal Alliance of Canada (AAC) is a federally incorporated non-profit organization committed to the protection of all animals and to the promotion of a harmonious relationship among humans, non-humans and the environment. AAC was founded in 1990 and is funded entirely by private donations.

Since its inception, Animal Alliance has worked to create long term, positive change for animals and the environment by: engaging in electoral politics; sponsoring and collaborating in research initiatives; consulting with government and non-government organizations; developing non-lethal best practices for resolving human/wildlife interactions; and working cooperatively with other animal and environmental protection organizations.

Animal Alliance advocates for and comments on legislation, regulations and policies that impact animals and the environment at all levels of government in Ontario and across Canada.

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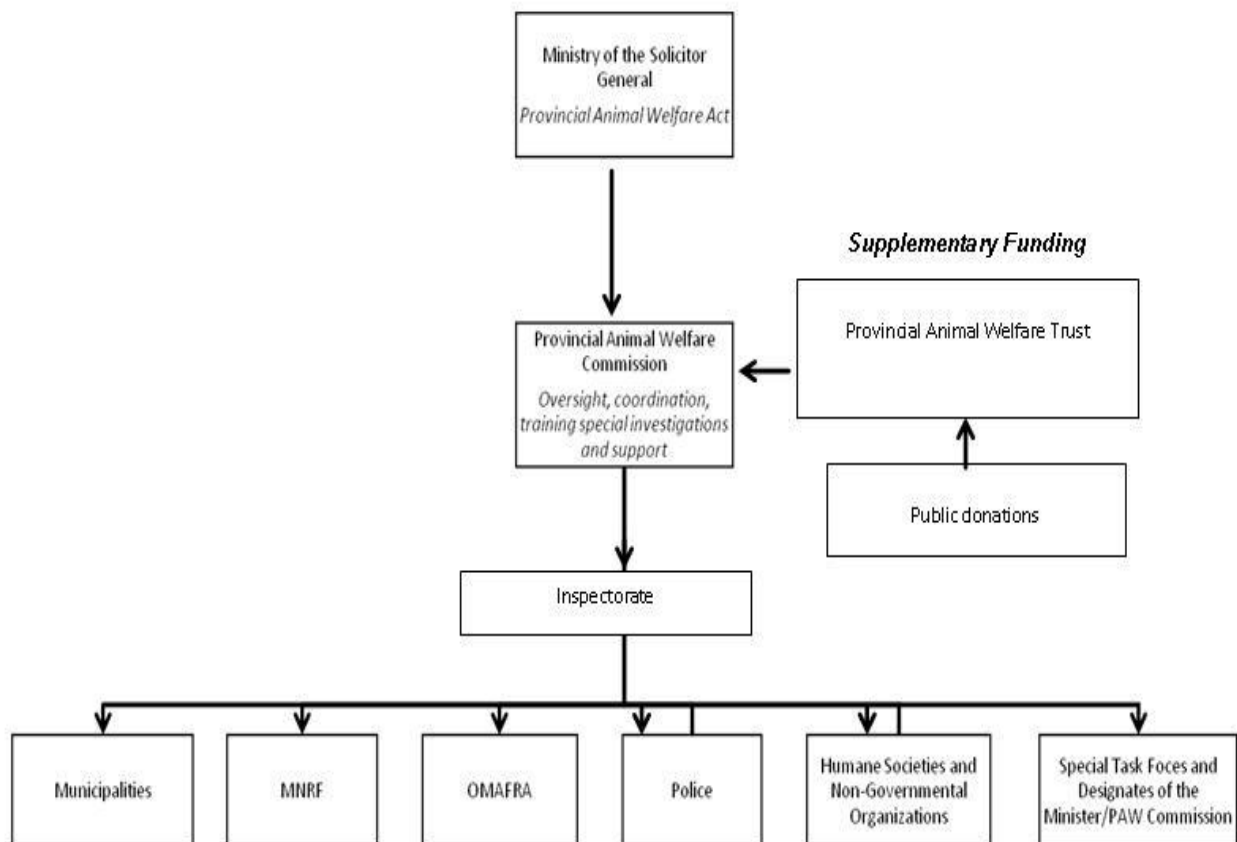
Zoocheck is a Canadian-based international wildlife protection charity (#13150 2072 RR0001) established in 1984 to promote and protect the interests and well-being of wild animals. Zoocheck works with a broad range of collaborating partners around the world and endeavors to promote animal protection in specific situations, while striving to bring about a new respect for all living things and the world in which they live.

Zoocheck works to improve wildlife protection and to end the abuse, neglect and exploitation of individual wild animals through investigative research, legal and legislative initiatives, providing information, advice and materials to a broad array of governmental and non-governmental agencies and officials, and animal rescues and relocations.

Since its inception Zoocheck has been involved with or provided input to hundreds of legislative, regulatory and policy initiatives and discussions in Ontario, across Canada and in other parts of the world.

Appendix 1 - Animal Welfare System Summary Chart

The following organizational chart illustrates the proposed new system:



Appendix 2 - Bibliography

- *A More Humane and Safer Ontario: The Future of Animal Cruelty Investigations*, Kendra Coulter (2019)
 - *New Directions for Animal Welfare in Ontario, A Discussion Paper 2017* (amended 2019), Zoocheck/Animal Alliance of Canada (2019)
 - *2016 Canadian Animal Protection Laws Rankings*, Animal Legal Defense Fund (2016)
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 - *OSPCA ACT: A Better Way Forward, A Report on the Ontario Society for the Prevention of Cruelty to Animals Act*, Animal Justice Canada (2013)
 - *Animal Welfare Task Force Report*, Government of Ontario (2012)
 - *Independent Review of Events in May 2010 At The York Region Branch Of The Ontario Society For The Prevention of Cruelty to Animal*, Alan H. Meek & Patrick J. LeSage (2011)
 - *A Review of Zoos in Ontario, Has Anything Changed?*, Zoocheck (2010)
 - *Grant Thornton Report*, Ontario SPCA (2007)
 - *Final Review of the Animal Welfare Review Committee*, Government of Ontario (1992)
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Endnotes

ⁱ The Five Freedoms is a core concept in animal welfare that originated in a UK government report in 1965 and was then refined by the Farm Animal Welfare Council. It states that an animal's basic welfare needs can be met by safeguarding the following five freedoms: 1) Freedom from Hunger and Thirst by ready access to fresh water and a diet to maintain full health and vigour, 2) Freedom from Discomfort by providing an appropriate environment, including shelter and a comfortable resting area, 3) Freedom from Pain, Injury or Disease by prevention or rapid diagnosis and treatment, 4) Freedom to Express Normal Behaviour by providing sufficient space, proper facilities and company of the animal's own kind, 5) Freedom from Fear and Distress by ensuring conditions and treatment which avoid mental suffering. The Five Freedoms is a concept that is frequently referenced by animal welfare professionals and in policies, regulations and laws around the world.
