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Clerk to Panel
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

Attention : Ms. Camy YOONG



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Mrs. Regina Leung
梁唐青儀女士
Patron / 贊助人

Dear Ms Yoong,

**Re: Item IV " Trap-Neuter-Return trial
scheme for stray dogs and handling of animal cases".
Panel on Food Safety and Environmental Hygiene, meeting on 14th January 2014**

The Society for the Prevention of Cruelty to Animals would like to submit the following comments regarding the above captioned items.

A summary of this submission's main points are attached at the beginning of the submission.

Yours sincerely,

A.I. Macalister
Executive Director

Encl.



**Summary of The Society for the Prevention of Cruelty to Animals'
main points regarding “Trap-Neuter-Return trial scheme for Stray Dog”**

1. The SPCA fully supports the implementation of trap – neuter and return methodology to assist with dog management in Hong Kong.
2. Under the current reactive management methodology targeted, un-owned, under-socialised, roaming (feral) dogs are at high risk of being killed if caught by AFCD catching teams - dogs left behind continue to breed (replacing those removed) and overall a cycle of poor welfare is perpetuated.
3. The benefits of trap–neuter and return methodology can be multiple and include assisting with dog population control, decreasing nuisances caused and improving dog welfare and public health. More dogs are targeted under this proactive programme – breaking the cycle of poor welfare.
4. The government should at the earliest opportunity facilitate the broader implementation of trap, neuter and return programmes both by the government departments responsible for the management and protection of the animals concerned and by NGO’s working in the field.
5. Parallel action needs to be undertaken in the community (by the government, interest groups and the dog owning public) to address issues relating to owned dogs - aiming to prevent these dogs from continuing to be the source of future feral dogs.



Summary of The Society for the Prevention of Cruelty to Animals'
main points regarding "Animal Cases"

1. Public awareness of animal welfare and animal cruelty has increased in Hong Kong. This is to be encouraged. This increased awareness has led to an increase in reporting of suspected animal cruelty. Substantiated incidents of cruelty have not risen as steeply as the reported cases.
2. Hong Kong currently has an effective system for dealing with the investigation and prosecution of animal cruelty cases. However, mechanisms for preventing cruel acts and neglect in the first instance could be improved. This requires a change in animal welfare law in Hong Kong and increased educational efforts.
3. The present legislation requires re-drafting to include provisions regarding 'Duty of Care' for animals. This would allow for much earlier intervention to prevent an animal suffering, as opposed to penal measures following suffering.
4. There is a need to provide more 'tools' and support for those tasked with the detection and prevention of animal cruelty.
5. The introduction of the proposed enhanced regulation under Cap. 139B would assist in preventing cruelty that may occur in relation to dog breeding and trading
6. The Hong Kong Government needs to increase its resources to cater for the increasing demand for enforcement and related case support, for instance in such areas as veterinary pathology.
7. The welfare of animals which are the subject of prosecutions should be of paramount importance. The period of time that they are required to be held for evidential purposes should be reduced to a bare minimum or their immediate release arranged.

Trap Neuter and Return trial scheme for stray dogs

The SPCA are long-term advocates for the judicious use of trap, neuter and return (TNR) methodologies to assist with animal population management. The SPCA fully supports and is looking forward to the commencement of trial programmes for the application of TNR methods - also known as 'Capture, Neuter, Vaccinate, Return - 'CN(V)R'- to assist with the humane management of Hong Kong's dog population.

It is noted that this methodology is already being used by the Government to assist with the humane management of other groups of animals such as macaques and feral cattle and buffalo. In addition the SPCA uses the methodology to assist with feral cat management.

Current dog management methodology

For many years Hong Kong's roaming dog management methodology has been one that is mostly reactive in nature with actions against individual dogs or certain populations being triggered by specific complaints of nuisance. Dogs are removed by trapping or catching exercises, however, usually not all dogs are caught and removed (WHO states that the highest reported catching levels are around 15%). This means that there are more resources (food, space and shelter) available to the remaining population allowing them to thrive and reproduce more effectively overtime or dogs living in the surrounding areas may migrate in to take similar advantage of the reduced competition for the resources. Hence the dog population will usually quickly rebound and the fundamental underlying issues have not been resolved.

For un-owned dogs that are caught, these are impounded and held for a minimum period of 4 days which can be a stressful experience in itself causing poor welfare. Currently the live release rate for dogs entering the Government's Animal Management Centres is around 10% - this means that 90% of dogs are euthanised. Under-socialised, un-owned, roaming dogs are more at risk for selection for humane killing as they are unlikely to meet adoption criteria on behavioural grounds.

Proposed complementary management methodology

Under a managed CN(V)R programme the programme co-ordinator (at this stage the SPCA or SAA), with registered volunteers (carers) under the supervision of AFCD will work with certain populations of un-owned, roaming (feral) dogs, aiming to humanely manage this population of dogs through a non lethal, animal birth control (surgical sterilisation) based methodology. Dogs will still be targeted for catching (or trapping) however the aim will be to neuter the dogs and return them to their original habitat. This will help to manage the population - avoiding the impounding and possible humane destruction of the target dogs as well as preventing the birth and suffering of future offspring.

During the programme implementation not only should attention be paid to the welfare of the target dog population as a whole but also to that of the individual ensuring that benefits are maximised and possible harms minimised during the process of catching, neutering and returning.

Benefits of introducing a catch, neuter, (vaccinate) and return programme to assist with dog management in Hong Kong

The expected benefits of this programme are multiple and include:

- Assisting with dog population control by reducing the reproductive potential of the un-owned, roaming dog population¹
- Mitigating to a degree problems related to the target, un-owned, roaming dog population by controlling the population, improving the general health status of that population and by reducing negative behaviours that can be associated with reproduction²
- Improving overall dog welfare by preventing the cycle of poor welfare usually associated with
 - (a) the birth of unowned, roaming dogs where 2/3 of feral puppies born would not be expected to survive their first year – usually dying from sickness or injury
 - (b) the capture, impounding and, in a high percentage of cases, the humane killing of under-socialised feral puppies and dogs
- Improving the welfare of individual un-owned roaming dogs by avoiding the stresses of reproduction and administration of various prophylactic treatments at the time of neutering
- Reducing the number of healthy puppies or sick and injured dogs that may originate from these populations and compete for scarce resources (such as medical and other care and potential homes) within the animal welfare community
- Reduced risk to public health - reduced zoonotic disease and injury potential (such as dog bite injuries)²
- Improved societal wellbeing through the ability to use a non-lethal method of population management for the unowned, roaming dog population that is more in line with the public's expectations
- Broader support, engagement and assistance from the animal welfare community

Support for the programme and programme development

It is important for such programmes to be fully supported by the Government (across different departments) both in terms of administrative action such as policy review and development and implementation to facilitate the smooth operation of the trial programmes. This will create a framework where such programmes can be undertaken legally and provide practical support to allow collaboration and cooperation between different parties involved in the actual implementation of the trial to assist in achieving the aims and objectives.

¹ Reece and Chawla (2006) found that during a TNR project in India the neutering of 65% of female dogs in a population resulted in a corresponding population drop of 28%. Totton et al (2010) found through population modelling that a neutering rate of under 40% could result in stabilisation of a dog population.

² Human animal-bite incidence was found to be highest 10 weeks after the peak season of dog breeding. Dog sterilisation was found to significantly reduce the incidence of such bites by reducing the maternal protective behaviour of dogs and the absolute dog population (Reece et al 2013).

Assessment criteria

The programme should be assessed on multiple criteria in line with the aim which from the SPCA's perspective is to assist with humanely managing the dog population and improving overall dog welfare.

Where population factors are to be assessed these should not just focus on the absolute population alone, which should stabilise and decrease over time, but also consider other population factors such as puppy births (and deaths) prevented and numbers of adults not caught, impounded and killed. In addition dog welfare on both an individual and group level should be assessed – this can be - done using simple measures such as body condition scoring and levels of skin disease present.

Other possible criteria currently proposed by AFCD such as complaints of nuisance need to be carefully assessed and interpreted as they are susceptible to bias through. For instance, data collection methodology such as mis-classification, the potential for small groups of people or individuals to skew results by lodging multiple, repeated complaints and the simple fact that fact the dogs that may have triggered the nuisance complaint (for instance in relation to noise such as barking) are not removed as this is not part of the proposed methodology. Also to be fairly assessed the methodology should be benchmarked / assessed against the routine operation of the current methodology used by AFCD and other controls.

It should be noted that in terms of long term sustainability for such a management programme not only does effectiveness have to be considered in terms of target outcomes but societal support for, and engagement with the ethical basis of the methodology, needs be considered. It is the SPCA's experience there is much broader support for non-lethal population management methodologies such as CNVR than for trap and remove programmes that usually result in a significant percentage of the animals caught being killed.

Development / Expansion

The implementation of this new methodology to help with dog population management is to some extent (in a Hong Kong context) experimental in nature and as such to ensure it is trialled fairly an adaptive approach should be used. This means that during implementation should issues arise it will be possible to amend certain aspects of the trial plan and protocols (whilst keeping in line with general programme aims and objectives).

This ensures that the trial will not fail due to the requirement of adhering rigidly to an agreed proposed plan.

Where elements of the trial programme are less than satisfactory they should be able to be modified and the plan shaped by interim results and other information that may become available during the trial period. This flexible approach is often used for the management of biotic resources in the long term.

Should some of the benefits of the methodology be recognised before the end of the trial period it would be beneficial to implement the programme on a wider scale rather than waiting for the full completion of the trial. It should be noted that the main benefits expected from such TNR programmes will only have a significant impact on related welfare issues in the wider community when there is sufficient economy of scale i.e. significant numbers of animals at risk in similar situations can benefit from such a programme.

Additional actions

In addition to the direct action under the trial CN(V)R programme supportive actions targeting resource management should be undertaken by various responsible parties. For example, minimising the availability of uncontrolled resources such as food which can be found in poorly designed or managed facilities and locations such as rubbish bins, refuse collection points and barbeque pits.

This programme targets un-owned, roaming (feral) dogs. However, unless parallel action is also taken in the community targeting owned dogs these owned dogs will continue to be a source of future feral dogs. Responsible pet ownership education drives should be undertaken focusing on spay / neuter, anti-abandonment and dog registration along with assistance in accessing resources (such as spay / neuter services) and appropriate enforcement action.

Animal Cases

Public awareness and engagement

Over the past few years the Hong Kong public has become more aware of the plight of some animals in Hong Kong where welfare is compromised or they have been cruelly treated. This has resulted in an increasing willingness to take action on behalf of the animals and report such cases to either the enforcement authorities (usually AFCD or the police) for their follow up or to the Society for the Prevention of Cruelty to Animals for their assistance.

This public engagement is to be encouraged and more resources should be dedicated to animal welfare education at all levels both within the formal education system and the community at large.

Recently there has been a public perception that random and deliberate acts of cruelty against animals, particularly cats, has increased dramatically. The Society for the Prevention of Animals has not seen the evidence to support this perception and neither has the number of alleged suspicious circumstances of dead animals found been supported by autopsy.*

In Hong Kong, however, there remains many areas where animals are suffering unnecessarily and the Society for the Prevention of Cruelty to Animals believes there are actions and initiatives that can greatly improve the welfare of Hong Kong's animals.

Legislative review

Presently the actions available in enforcement and also improvement of the welfare of individual animals are limited by the outdated legislation. The current legislation (CAP 169 The Prevention of Cruelty to Animals Ordinance) is reactive, punitive, anti-cruelty legislation intended to punish cruel acts. It offers little guidance on how animals should be cared for (such as minimum standards of care). There is no mechanism to guide or encourage better behaviour towards animals or to improve their welfare. Internationally, modern animal welfare legislation is proactive, proscriptive and encourages positive actions to promote the good welfare of animals under peoples care. It sets minimum standards and introduces codes of practice, while also retaining the highly punitive elements needed to deal with outright animal cruelty.

*There were 47 alleged cat cruelty cases involving dead cats found, from December 2012 to December 2013. All were sent for autopsy examination. To date 36 were confirmed as not suspicious deaths (i.e. they were confirmed as dog bite, traffic accident, fell from height, etc.). 11 are still pending autopsy result.

The continued use of outdated legislation is both a hindrance to further improving animal welfare and is mismatched with society's expectation which causes discord and frustration to the concerned public and the parties tasked with taking action to prevent animal cruelty and promote good welfare. This occurs in cases where the welfare of an animal is compromised (and may become further compromised) due to either a deficiency in the current legislation or due to the standards currently set under the law being lower than the public reasonably expects. This is an occurrence that the SPCA frontline staff encounter on almost a daily basis where the situation for an animal's welfare falls short of our (and the public's) expectations and desires, but action that can be taken is limited (education and persuasion) because no law has been breached.

It should be noted that animal cases – where welfare may be compromised or cruelty occurs - happen across all the species and types of use of animals - from wild animals at large, to food animals on the farm, in the slaughterhouse or in the markets, to companion animals who may be bred, traded or kept as pets or in shelters, to captive wild animals in exhibits and on display and laboratory animals used in research. To this extent not only is a review of the primary cruelty ordinance and development of animal welfare legislation warranted but also other legislation that impacts the welfare of animals by giving direction on how they should be cared for or how they might be used should also be reviewed and updated. New legislation also needs to be developed to help protect the large number of animals at risk of poor welfare. For instance those which are being 'hoarded' or those kept long term in animal shelters who are not adequately protected by specific legislation. The case for such a legislative review has been made previously in a comprehensive review of Hong Kong's animal welfare legislation (Whitfort and Woodhouse, 2010).

The SPCA is still encountering animal cruelty cases that relate to the breeding, trading and use of animals across the species and it is important that the proposal to improve the regulation of the breeding and sale of dogs moves swiftly forward, as the SPCA is aware that large numbers of dogs are suffering on a daily basis. CAP 139 Public Health (Animals and Birds) Ordinance continues to be reviewed.

Mandatory Codes of Practice that set minimum standards and give guidance as to what should be done for the animals (by owners or responsible parties) should be developed and introduced under the relevant legislation.

Currently the maximum possible penalties under CAP 169 are quite high. High penalties obviously punish the offender and may act as a deterrent, but to assist with improving animal welfare and encouraging better behaviour amongst animal keepers and owners, additional complementary enforcement and punishment tools should be explored such as improvement notices, fixed penalties, cumulative penalty points and educational and rehabilitation programmes.

In some instances, such as animal hoarding, where the recidivism rate is high often only a disqualification order can prevent a person from owning, keeping, transporting or being in charge of animals. This is not currently an option under CAP 169 for any conviction relating to animal cruelty. Disqualification orders and improved seizure and deprivation procedures should be introduced during a review of animal welfare related legislation.

Capacity Building

Recently much has been done to enhance the smoother handling of animal cases and protecting the welfare of animals. The police have launched the Animal Watch Scheme, the AFCD have launched an inter-departmental task force for animal welfare, while the SPCA created an SPCA Inspectorate counter - animal cruelty Task Force, to both raise awareness and increase the capacity to assist with what are often complex cases. The combination of these three entities with their own powers, resources, expertise and experience is proving to be an effective enforcement and investigative capability for the Hong Kong scenario.

Continuing professional development and training in the areas of animal cruelty investigation and veterinary forensics are undertaken by the enforcement authorities, the SPCA and some members of the veterinary profession. This increased capacity and development of expertise is to be encouraged, continued and expanded.

Animal cases may be quite complex and may link to human health issues and as such may require even more of a multi-disciplinary, collaborative approach especially in cases that may involve elements of domestic violence, mental health or public hygiene issues as can occur with animal hoarding cases. The involvement of health workers such as psychiatrists, social workers, doctors and other parties who may encounter and assist with animal cases in the frontline such as fire services department and the food and environmental hygiene department, is key to both the refinement of case handling and satisfactory resolution. Also increasing awareness amongst frontline staff may also lead to increased detection of cases.

Under a legislative review the SPCA would propose that SPCA Inspectors, who meet defined criteria and standards under the legislation, may be given some limited powers. For instance some powers that would enable them to assist and, if necessary, take possession of animals that are suffering or in danger of suffering without the need for an offence to be charged or prosecuted.

Animal law is not an area of law that many in the legal profession will come across. It is however a growing area of interest and it is noted that an animal law course is being taught in at least one university in Hong Kong. However it is still an area of law that many within the legal profession including in the Department of Justice, the Prosecution service or the Magistracy may have had little exposure to as currently the case numbers are not high.

Subsequently it is in the interests of animal welfare that capacity is built and expertise developed especially within the Department of Justice and the Prosecution service so that the legislation can be used to its maximum intent – with the best advice given and the best arguments made – to ensure that animals are protected, cruelty is prevented, animal welfare is maximised and offenders appropriately punished. Sentencing guidelines could be developed to aid the Magistracy in deciding on appropriate sentences.

It should also be noted that capacity building and expertise development also needs to be encouraged in other Departments responsible for certain areas of animal protection and law enforcement such as the Department of Health, who regulate animal research, and also within the Food and Environment Department who are responsible for slaughterhouses and markets. The Society for the Prevention of Cruelty to Animals, also urges the Government to increase resources to cater for the increasing demands of enforcement. These include pathologists, animal holding facilities and facilities for the care and holding of exhibits.

Maximising animal welfare during case handling

One of the unfortunate aspects of animal law is that animals are still treated as property even when they are the victims of cruelty and neglect and often cannot be released from legal proceedings until the cases have run their course in the court of law, which frequently takes many months.

This may not be in the interests of the welfare of the animals involved and where possible mechanisms of allowing early release such as owner surrender or forfeiture under section 102 of the Criminal Procedure Ordinance, Cap 221 should be used.

If this is not possible then animal cases should be prioritised and expedited through both the investigation and court process to allow for the earliest conclusion and subsequent release of the animals.

This is another area that would need to be considered and improved upon during a review of animal related legislation.

Conclusion

The SPCA fully supports the introduction of trial TNR programmes and recommends that if during the review process in the trial period, some of the expected benefits become apparent then the programme should be expanded further before the conclusion of the full trial period to include other sites and possibly other programme coordinators as appropriate.

The SPCA encourages the Government to make a policy decision to generally accept trap (or catch) neuter and return as a methodology that can be applied to assist with the humane management of various animal populations both wild and feral and that the Government will act to implement such programmes or facilitate, cooperate and collaborate with other parties on the legal implementation of such programmes.

With regards to dealing with animal cases the SPCA believes that there is already an effective, functioning response for the investigation and prosecution of animal cruelty. What is lacking is legislation which incorporates '*Duty of Care*' which will allow preventative, proactive action to be taken, instead of only the punitive action after the offense has been committed. Legislative review and the development of improved legislation that further protects animals, includes proscriptive elements and introduces the duty of care concept is long overdue and the introduction of a new Animal Welfare Ordinance should be considered.

The officials in charge of enforcement are to some extent limited by the legislative tools they have at their disposal and it is in society's and the animals' interests that these tools are in line with modern concepts and understanding. Allowing qualified SPCA Inspectors to be authorised to act in certain circumstances under such new legislation, would also assist in improving animal welfare.

Lastly the timely introduction of the proposed revised legislation (CAP 139b) and the development of robust codes of practice to further protect the welfare of dogs used for trade (breeding or sale) by both commercial operations and private pet owners can make an immediate impact in improving the welfare of animals on a daily basis.

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