



INFORMATION REPORT

TO:	Chair and Members Planning Committee
COMMITTEE DATE:	March 19, 2019
SUBJECT/REPORT NO:	Ontario Society for the Prevention of Cruelty to Animals (OSPCA) Court Ruling (2019) (PED19062) (City Wide)
WARD(S) AFFECTED:	City Wide
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SIGNATURE:	

COUNCIL DIRECTION

N/A

INFORMATION

The Ontario Society for the Prevention of Cruelty to Animals (OSPCA) has been enforcing animal cruelty and welfare laws for the Province since 1919 when the *Ontario Society for the Prevention of Cruelty to Animals Act* came into effect. On January 2, 2019 the Ontario Supreme Court ruled that policing powers given to OSPCA are unconstitutional because it allows a private agency to enforce public laws without accountability or transparency.

Although the OSPCA has been given police like powers by the Province, they are not a government agency that is subject to the *Police Services Act*, the *Ombudsman Act* and *Freedom of Information and Protection of Privacy Act*. The Judge wrote in the decision that “the OSPCA is opaque, insular, unaccountable, and potentially subject to external influence, and as such Ontarians cannot be confident that the laws it enforces will be fairly and impartially administered.”

The Court challenge was not against the OSPCA but rather a constitutional challenge against the system. Animal protection laws are the only laws in the Province still enforced by a private agency.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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The OSPCA is a private registered charity that relies mainly on public donations to fund their operation. In 2014, the Province began providing OSPCA with \$5.5M annually to assist with the enforcement costs.

The Ontario Court Judge suspended the ruling for one year in order to allow the Province to rewrite the legislation or create a new system to enforce animal welfare laws. The OSPCA and the Hamilton/Burlington Society for the Prevention of Cruelty to Animals (HBSPCA) have stated that they will continue to work to protect animals from abuse, neglect and distress over the next year. The Province has recently announced that it will appeal the Court's decision.

Last year, the OSPCA announced plans for significant changes to the direction the agency will be taking in regard to enforcement. "If it conflicts with our mission, we'll hand it to another agency to address" Alison Cross, spokesperson for the OSPCA.

In October, it was made public that the OSPCA planned to pull out of investigating cruelty cases involving livestock and horses as part of the agency's restructuring. The agency cited financial shortfalls due to the cost of enforcement and is looking to the Ontario Ministry of Agriculture Farm and Rural Affairs (OMAFRA) to take on this role. However, OMAFRA does not have the interest or authority to enforce the legislation.

Further to this, the OSPCA also advised staff to redirect to the police any cases involving court ordered euthanasia as it conflicts with the agency's mission. "Where legislation conflicts with the mission of the charity, the Ontario SPCA declines to enforce such legislation."

All Provinces and Territories have laws to protect animals. Other Provinces have already taken action to update their animal welfare enforcement structure. Newfoundland and Labrador rescinded similar legislation regarding the SPCA and now have animal cruelty laws enforced by the RCMP, Provincial Police and the Royal Newfoundland Constabulary.

The Ontario Supreme Court Ruling and the final outcome is of interest to the City as it could have an impact on the services provided by the City. The OSPCA has made it clear that enforcing the legislation as written conflicts with their mission. Also, a considerable annual budget is required in order for the agency to properly respond and enforce cruelty legislation for the Province.

The *Ontario Society for the Prevention of Cruelty to Animals Act* does state that police can carry out animal cruelty investigation as well as provide necessities of life for animals in distress. Downloading of duties to the municipalities and local police authority is an option that the Province may consider.

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Hamilton Police Services (HPS) does utilize Hamilton Animal Services (HAS) to respond to animal related calls when the HBSPCA is not available. Presently, HAS does attempt to mitigate animal cruelty complaints with HPS after 4:30 pm on weekdays and 24/7 on weekends and holidays.

The HBSPCA responded to 1,407 calls between January 2017 and March 2018. During this 15 month period, 33 warrants were issued, 117 animals were removed and nine charges were laid.

Downloading of the animal welfare duties to the municipalities and local police authority is an option that the Province may consider. The budget and staffing required will have a significant impact on resources.

Some of the impact on the municipality that needs to be considered:

- Significant increase in call volume from the public;
- Additional officers to investigate and respond;
- Cruelty investigation and response training for officers and administrative staff;
- Additional administrative and animal care staff;
- Increase animal impoundment sheltering area;
- Court services;
- Increase in contractual veterinary services for medical response and investigations;
- Rewrite of Municipal By-law(s) to include animal welfare and cruelty; and,
- Public education.

Staff will continue to monitor the outcome of the January 2, 2019 Court ruling and provide Council with a report once the Province's direction has been determined.

APPENDICES AND SCHEDULES ATTACHED

None

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