



ROYAL NEW ZEALAND SOCIETY FOR THE PREVENTION
OF CRUELTY TO ANIMALS INCORPORATED

**Royal New Zealand Society for the Prevention of Cruelty to Animals
(RNZSPCA) enquiry into complaint received concerning alleged
injuries to dogs while in the care of Invercargill City Council: RFS
185497**

Report

Background

On Wednesday the 18th of February 2015 Animal Control Officers (ACO's) employed by Invercargill City Council (Council) seized two dogs for non-registration.

The owners have alleged that the ACO's used excessive force and as a result the dogs were traumatised and suffered injuries and further that the Council neglected to treat the injuries allegedly received.

Veterinary records confirm that the dogs were examined on Friday the 20th of February 2015 and Dog 1 was found to have "swollen sclera upper bilat eyeballs, very red/blood shot, is comfortable otherwise" and Dog 2 "skin on all 4 central pads full thickness erosion, 1 cm diameter, not infected but very painful"

A complaint has also been received by the Southland SPCA, this enquiry has been commissioned by the Council and by Southland SPCA.

Enquiry Scope

Investigate the injuries received by both dogs to determine, if possible, the cause and any culpability under the Animal Welfare Act 1999 and / or procedural failures and provide a report and any recommendations to the Manager, Environmental Health and Compliance, Invercargill City Council

Enquiry

Alan Wilson visited the Council Offices on the 11th and 12th June 2015 and spoke to the following persons:

1. Manager, Environmental Health and Compliance
2. Team Leader Compliance

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His Excellency Lieutenant
General The Right Honourable
Sir Jerry Mateparae, GNZM,
OSO, Governor-General of
New Zealand

3. ACO 1
4. ACO 2
5. ACO 3

The vehicle used by the ACO's during the incident was viewed and the route reported as being taken by Dog 2 through the town from the owner's property to the point it was captured by the ACO's was travelled and measured.

The consulting veterinarian who examined the dogs after their release from the pound and a second independent veterinarian were also spoken to.

NB There are no independent witnesses available.

Relevant facts

On Wednesday the 18th of February ACO's 1 and 2 attended an Invercargill property to seize 2 dogs on the grounds of failing to register under the Dog Control Act 1996.

The dogs were loose on the property and Dog 1 was friendly enough to come to the gate when called. ACO 1 therefore put a slip lead onto it and took it to the vehicle

ACO 2 took a catch-pole and entered the property to attempt to capture Dog 2.

When ACO 1 got Dog 1 to the vehicle the dog was reluctant or unable to jump up into the rear compartment so ACO 1 attempted to lift it in by the scruff. The dog reacted to this and was resistant, ACO 1 tried to lift the dog a second time and it squealed, lunged at ACO 1 and either slipped the lead or was released at that point, ran back to the property and was caught by ACO 2 who having heard a yelp was returning to the vehicle.

ACO 2 calmed the dog and put the catch-pole they were carrying over it, led it to the truck and whilst the dog resisted again it was successfully lifted in using the pole.

Both ACO 1 and ACO 2 then entered the property to attempt to capture Dog 2, however, they were unable to and the dog jumped over the fence and ran off down the street.

Two Notices of Impounded/Seized Dog were completed and left at the property. ACO 1 was then dropped off for a meeting and did not see either dog again until the following day.

ACO 2, assisted by public sightings, then commenced a pursuit/following of Dog 2 who was running through the towns streets.

ACO 3 was one of the other 2 ACO's called to assist and followed the Dog 2 by vehicle and on foot and was present when it was ultimately captured by ACO 2 outside the Romco Tools building on Clyde Street and accompanied them to the Pound.

Both ACO 2 and ACO 3 describe the Dog 2 as just laying down with no fight in it, ACO 2 placed the catch-pole on it, upon which the Dog 2 walked or was led the short distance from the building front to the vehicle at the kerbside and placed into the rear compartment by lifting it in with the pole without resistance.

The reported route from the property via Avenal Street, Dee Street, Spey Street, Deveron Street, back onto Tay Street, behind the SIT building onto Fourth street into the park (from where ACO 3 followed on foot) Tyne Street and across the railway line to Conan Street and found lying down outside Romco Tools on Clyde Street in the shade of the shops street solid awning/overhang was measured at 5 km's. NB this is by vehicle and the distance that the Dog 2 may actually have run is unknown.

Neither ACO 2 nor ACO 3 noticed that the Dog 2 had sore feet at this time.

Upon arrival at the Pound Dog 2 was removed from the vehicle on a lead, ACO 3 attempted to remove the Dog 1 from the vehicle and found it to be really aggressive so placed the catch-pole on it and pulled it from the vehicle upon which it jumped down in a cooperative manner.

None of the ACO's involved report sighting any injuries including bloodshot eyes or lameness at the time both Dog 1 and 2 entered the Pound.

Both dogs' details were entered into the book and placed in kennels within the pound.

The dogs were not thoroughly checked or examined upon entry or at any other time during their stay at the pound and so the injuries were undetected and resulted in them not receiving first aid or veterinary treatment.

Both Dog 1 and 2 were collected from the Pound by their owners on the afternoon of the following day, the 19th February 2015, ACO's 1 and 3 were present and both report noticing that Dog 1 had bloodshot eyes and Dog 2 was limping. The dogs were subsequently taken by the owners to a veterinarian for examination and treatment on Friday the 20th of February 2015 where Dog 1 was found to have "swollen sclera upper bilat eyeballs, very red/blood shot, is comfortable otherwise" and Dog 2 "skin on all 4 central pads full thickness erosion, 1 cm diameter, not infected but very painful" No other veterinary records were made.

Relevant law

Animal Welfare Act 1999

Section 29 Further offences

A person commits an offence who—

(a) ill-treats an animal

ill-treat, in relation to an animal, means causing the animal to suffer, by any act or omission, pain or distress that in its kind or degree, or in its object, or in the circumstances in which it is inflicted, is unreasonable or unnecessary
This is a strict liability class offence

Section 30 Strict liability

(1) In a prosecution for an offence against section 29(a), it is not necessary for the prosecution to prove that the defendant intended to commit an offence.

(1A) In a prosecution for an offence against section 29(a) committed after the commencement of this subsection, evidence that a relevant code of welfare was in existence at the time of the alleged offence and that a relevant minimum standard established by that code was not complied with is rebuttable evidence that the person charged with the offence contravened section 29(a).

(2) Subject to subsection (3), it is a defence in any prosecution for an offence against section 29(a) if the defendant proves—

(a) that, in relation to the animal to which the prosecution relates, the defendant took all reasonable steps not to commit a breach of section 29(a); or

(b) that the act or omission constituting the offence took place in circumstances of stress or emergency, and was necessary for the preservation, protection, or maintenance of human life; or

(c) that there was in existence at the time of the alleged offence a relevant code of welfare and that the minimum standards established by the code of welfare were in all respects equalled or exceeded.

Discussion

It is clear and not in dispute that both Dog 1 and 2 suffered injuries over the course of being seized by the ACO's on the day in question as a result, directly or indirectly, of the actions of the Council ACO's involved.

Further there is evidence that neither of the dogs received first aid or veterinary treatment for their injuries whilst at the pound.

However, there is no evidence that Council ACO's and staff involved in the seizure and subsequent impounding of these dogs noticed that they were physically injured until the day after the seizure when they were released to the owners who were then rightly concerned about the Dog 1 and 2's condition and sought veterinary treatment the day after their release.

There are no routine health examinations, by staff or veterinarians, of dogs as they enter the pound. Such checks would have discovered the injuries to Dog 2's feet and probably Dog 1's eyes and provided the Council the opportunity to administer or seek treatment for the dogs.

All of the ACO's interviewed presented as cooperative, credible and reliable.

The use of a catch-pole is not unusual. When it becomes necessary to utilise a catch-pole to handle a dog safely (the safety of the officer is an important factor), there is an inherent risk, even with a trained operator, that they can inadvertently use too much force or the behaviour of the dog can be such that distress and injury results.

Staff training and familiarity with the equipment are important, whilst I was not able to be shown any standard operating procedures, all of the ACO's spoken to stated that they have received training in the use of the catch-pole and that the poles carried as standard equipment are modern, purchased from a trade supplier and fitted with a quick release mechanism.

It is necessary to consider whether the circumstances in which the pain or distress caused in this incident was unreasonable or unnecessary and did the ACO's involved take all reasonable steps not to commit a breach of section 29(a).

Despite the dogs injuries there is no evidence available to show that the ACO's acted in anything other than a professional manner in dealing with these dogs.

The veterinary evidence available and subsequent opinion whilst confirming that the dogs did each have injuries is limited and no definitive conclusion in relation to the actions of the ACO's are able to be drawn from it, other than Dog 1's bloodshot eyes were caused by "considerable pressure on the neck"
In the vets view Dog 2's injuries to their pads could have been caused by being dragged over abrasive ground or is consistent with running a large distance on tar seal in the heat.

Given the available evidence it is reasonable to conclude that the Dog 2's injuries were caused by the latter.

Dog 1 was scruffed twice and poled twice by three different ACO's over the course of his seizure and impoundment.

Conclusion

There is insufficient evidence to meet the evidential test for prosecution required for a charge under section 29(a) for either the actions of the ACO's during seizure of Dogs 1 and 2 or the failure to provide treatment to them whilst at the Pound. However, a number of recommendations to assist in improving systems and procedures are made to Council below.

Recommendations

That Council commission a full audit of animal control standard operating procedures to identify gaps, particularly in policy guidance documents for team members.

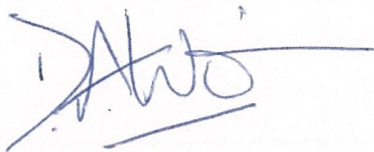
That Council implement a procedure that all dogs entering the Pound are examined by a qualified person at the time of entry and that any dogs requiring first aid or veterinary treatment are recorded and receive such treatment.

Whilst all of the ACO's spoken to carry notebooks, the records contained were found to be largely poor. All ACO's should receive further training in the use of notebooks as they are an important tool for compliance officers and most helpful in situations such as this.

Review the induction of new ACO's and on-going training requirements for ACO's. Current training is provided in house by the experienced officers. It is recommended that Council consult with an external, suitably qualified training provider and/or out of district senior ACO to calibrate and bench mark the existing internal training procedures and techniques, particularly the use of the catch-pole.

Consider providing training in the Animal Welfare Act 1999 to ACO's to increase awareness of the provisions and how it may impact upon their role.

It is also recommended that Council review the model of vehicle routinely used by urban ACO's. The lifting of dogs is noted as contributing to this incident and it may be appropriate to consider utilising a vehicle with a lower floor/door level.



Alan Wilson
National Manager Inspectorate and Centre Support