



MONTREAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

HUMANE SOCIETY INTERNATIONAL / CANADA

CENTRE D'ADOPTION DES ANIMAUX DE COMPAGNIE DU QUÉBEC

**COMMENTS ON DRAFT REGULATIONS FOR THE
ANIMAL HEALTH PROTECTION ACT DIVISION IV.1.1
(R.S.Q., P-42)**

Submitted by

Alanna Devine, B.A, B.C.L., LL.B, Director of Animal Welfare MSPCA

Lauren Scott, HSI/Canada campaigner

Johanne Tasse, President CaaCQ

Presented to

Dr. Madeline Fortin, Associate Deputy Minister, MAPAQ &

Dr. Dominique Baronet Director of Development and Regulations, MAPAQ

INTRODUCTION

The Province of Quebec has the reputation of having inadequate animal welfare laws. In fact, the current Provincial animal protection laws have recently been ranked as the worst in the country, according to a survey conducted by the Animal Legal Defense Fund (an organization specializing in animal law issues).¹

The creation of regulations which establish standards for the keeping of dogs and cats under *The Animal Health Protection Act Division IV.1.*, (R.S.Q. P-42) is an opportunity for the Province of Quebec to become a leader in animal welfare in Canada. However the caacQ, the Montreal SPCA and Humane Society International / Canada feel that the current draft regulations fall short of providing appropriate standards of care for dogs and cats. The following recommendations were developed to address these deficits.

RECOMMENDATIONS

1. ALL DOGS AND CATS SHOULD BE AFFORDED THE SAME PROTECTION

The draft regulations do not extend all protection or standards of care to all dogs and cats. Only sections 3,4,12, 23-30 and 47 apply to all owners or custodians of dogs or cats, but other sections are only applicable to situations listed in section 2.

All dogs and cats should benefit from the same level of protection, and the only provisions which should not apply to all owners of cats or dogs are those that would be illogical or overly onerous for an individual with less than five (5) animals of the same species to undertake. Thus, there are certain sections which would clearly only apply when a larger number of animals are kept, even in a dwelling house (for example the requirement under section 41 for the owner or custodian to draw up exercise protocols for the animal or section 36 regarding protocols for disinfection). However, there are many other protections that should be afforded to all dogs and cats, regardless of the number kept. For example, no dog or cat should have to live on wired (mesh) floor cages, but the restrictions regarding wired floor caging in section 16 does not extend to all dogs and cats. It is therefore recommended that the following sections should also apply to all owners/guardians of dogs and cats:

- Section 12-18 regarding rest area, cages and enclosures
- Sections 21-22 regarding equipment
- Sections 31-35 regarding cleanliness and safety
- Sections 38 and 40 regarding prevention
- Section 41 regarding exercise
- Sections 43-46 on gestating and lactating animals

2. INCLUDE SPECIFICATIONS FOR LIGHTING REQUIREMENT

The draft regulations do not clearly outline access to light or dark in section 10 and this will make the provisions difficult for inspectors to enforce. Requiring a minimum duration for light and dark for dogs and cats will facilitate the application of this provision. According to the CVMA dogs and cats must have access to a minimum of eight (8) hours of lighting and (8) hours of darkness per day.² Furthermore, the light should permeate all cages or enclosures.

¹ See Animal Legal Defense Fund, 2010 Canadian Animal Protection Laws Rankings

² See CVMA Chats p. 9, CVMA Chiens p.11

The regulations should be amended to include the following requirements:

- Dogs and cats housed in buildings must have a minimum of 8 hours a day of light and 8 hours a day of dark
- When artificial light is used, it should closely approximate natural light in both duration and intensity³
- Light must permeate all cages or enclosures where dogs and cats are housed

3. INCLUDE REQUIREMENTS FOR SOCIALIZATION AND ENRICHMENT

Cages/Enclosures or other confinement methods should meet behavioral needs of the animal and minimize stress

The draft regulations do not specify that cages or enclosures meet any behavioral needs of the animal nor do they require separation for different functional spaces (i.e. eating and sleeping vs. urinating/defecating).

It is well documented that both physical and psychological well-being of animals' housed in confined facilities is affected by enrichment and ability to express natural behaviors.⁴ Animals can endure stress, depression and suffering when they are deprived of mental stimulation or the ability to express natural behaviors. This can also lower animal's resistance to illness and infection. Enrichment and behavioral needs should be given the same significance as other components of animal care such as nutrition and veterinary care and should not be considered optional even in short short-term housing.⁵

Separation of functional spaces and enrichment in cages/enclosures can be attained through inexpensive and creative means and therefore can easily be achieved.⁶ Basic forms of enrichment include perches and hiding spaces for cats and toys for both dogs and cats (many forms of enrichment can be created using simple inexpensive household items).⁷ A simple way to create a separation of functional areas for cats housed in cages would be to provide an elevated bed or perch for sleeping, and to attach food and water bowls to the side of the cage.⁸ All facilities housing animals merely need to think innovatively to ensure for the enrichment and separation of functional spaces for the animals housed in cages or enclosures.

Noise is a physical stressor on animals that can lead to behavioral, physiological, and anatomical responses. Sound levels in kennels where large numbers of dogs are housed can reach upwards 100 dB⁹. Cats housed in proximity to dog kennels are also subject to the noise from the dogs. Kennel designs should address sound

³ See "Guidelines for Standards of Care in Animal Shelters", The Association of Shelter Veterinarians, 2010 [ASV Standards] p. 16.

⁴ See UC Davis, 'Impact of Shelter and Housing Design on Animal Health' <http://www.sheltermedicine.com/shelter-health-portal/information-sheets/impacts-of-shelter-housing-design-on-shelter-animal-health#stress>, See CVMA chats p.18, See CVMA chiens p.14

⁵ See *Institute of Laboratory Animal Research, Commission on Life Sciences*, US Department of Health and Human Services, NIH Publication No. 86-23, 1996 [ILAR]. See also Griffon B., Hume KR, *Recognition and management of stress in housed catsection* In August JR. Consultation in Feline Internal Medicine 5th ed, 2006 p. 717-734 [Griffon].

⁶ Many forms of enrichment can be created using simple inexpensive household items for example paper towel rolls, paper bags, shower curtain rings and plastic water bottles.

⁷ Cats housed in cages or enclosures should be provided with an item on which they can perch. Other items (aside from actual specific perches) can respond to a cat's need to perch and have a space to climb up to such as Kuranda beds (visit www.kuranda.com). Dogs housed in cages, enclosures or otherwise confined should be provided with toys to express their natural behavior of chewing. See www.animalsheltering.org resource library: Stress and Stress Reduction and www.kongcompany.com.

⁸ See CVMA chats p. 10.

⁹ See: *Noise in the Animal Shelter Environment: Building Design and the Effects of Daily Noise Exposure*, Crista L. Coppola., Journal of applied animal welfare science, 9(1), 1-7: <http://www.grandin.com/references/noise.in.animal.shelter.html>

range and allow for absorption of noise in order to ensure dogs and cats are not subject to noise levels that will adversely affect their behavioral and physical well-being.

The regulations should be amended to include the following requirements:

- Cages and enclosures must have separated spaces for urination/defecation, feeding and sufficient space for the animal to walk several steps
- Cats housed in cages or enclosures must have access to a perch
- Dogs or cats housed individually in cages or enclosures must be provided with toys or other enrichment items
- The regulations could also differentiate between animals housed in confined spaces for short, long and indefinite periods of time as the longer an animal is housed in a confined space (cage, enclosure or other) the greater the requirements for enrichment will be
- It is recommended that the regulations stipulate a maximum acceptable decibel level in environments where dogs are housed. The regulations should also stipulate that cats must not be subject to constant barking from kennelled dogs (and also indicate a maximum decibel level appropriate to their species).

Socialization with both animals and humans should be required

The draft regulations do not require that dogs or cats be provided with any form of socialization

Regular socialization with humans and other animals of the same species is crucial for stress reduction and social development in dogs and cats (with the exception of feral animals that will need to socialize with animals of their own species but not humans).¹⁰ It is also crucial for puppies and kittens, starting at the age of 4 weeks and up, to have constant social interaction with humans and exposure to different sounds, smells, experiences and sensations, in order to ensure that they will adjust well to living in a home with humans.¹¹ Lack of socialization and enrichment can lead to psychological and/or emotional distress for dogs and cats and they must be provided with an opportunity to socialize with humans and when appropriate, animals of the same species.

It is also important to note that performance of daily husbandry is also not a means to provide for the social needs of an animal. So, for example a human cleaning a dog's cage while the dog is in a cage would not constitute socializing only interaction. Specific time and resources must be set aside to ensure for appropriate socialization of animals outside interaction that occurs in the context of cleaning and feeding.

The regulations should be amended to include the requirement that animals must be provided socialization, in keeping with their age, physical condition and behavioral state. The regulations should also potentially differentiate between animals housed in confined spaces for short, long and indefinite periods of time as the longer an animal is housed in a confined space (cage, enclosure or other) the greater the requirements for enrichment and socialization may be.

¹⁰ See Griffon, See CVMA Chats p.20, See CVMA Chiens p. 19.

¹¹ See ASV p. 34-35, See CVMA chiens p.14, See CVMA chats p.19.

4. PROHIBIT TETHERING AS A PRIMARY MEANS OF CONFINEMENT AND ENSURE SECTION IS ENFORCEABLE

The draft regulations permit animals [dogs] to be tethered up to 12 hours a day (as per section 27) without any other time related restrictions. However, it is commonly accepted that tethering as a primary means of housing or containing a dog is not acceptable as it is detrimental to the dog's physical and mental well-being.¹²

According to the USDA "continuous confinement of dogs by a tether is inhumane. A tether significantly restricts the dog's movement. A tether can also become tangled around or hooked on the dog's shelter structure or other objects, further restricting the dog's movement and potentially causing injury."¹³ Chained dogs can often injure themselves and are not able to exercise and express other natural behaviors such as socializing and playing.¹⁴

It is noteworthy that in the United States, more than 100 jurisdictions have passed anti-tethering legislation and fourteen (14) States have passed anti-tethering State level legislation. For example, California prohibits tethering for any longer than is necessary to complete a temporary task that requires the dog to be restrained for a reasonable period. Texas prohibits an owner from leaving their dog outside and unattended by use of a restraint that unreasonably limits the dog's movement: between the hours of 10 p.m. and 6 a.m. and not at all in the cases of extreme weather conditions including temperatures below 32 degrees Fahrenheit and when a heat advisory has been issued by a local or state authority or jurisdiction.¹⁵ The anti-tethering legislation enacted in these States should be considered when revising section 27.

Tethering can also increase aggressive behavior in dogs and result in serious dog bites. According to the USDA, tethered dogs are 2.8 times more likely to bite than unchained dogs and are 5.4 times more likely to bite children. The AVMA has also expressly stated "never tether or chain your dog because this can contribute to aggressive behavior".¹⁶ This important safety factor for humans must also be considered.

Finally, the current 12 hour limit on tethering will be difficult if not impossible for inspectors to enforce. Inspectors are not able to visit premises within a twelve hour time frame and will not be able to verify if the dog(s) are in fact off their chains/tether for the remainder of the 24 hour period. The section must include more specific time restrictions so that that inspectors are able to ensure animals are not tethered as a primary means of confinement.

The regulations, at Section 27, should be amended to specify that tethering is not an acceptable means of housing a dog; and that tethering should only be used for temporarily restraining a dog. The regulations should stipulate that:

- Tethering of dogs over 4 hours a day (every period of 24 hours) is prohibited **OR** Tethering is prohibited except when necessary for an owner/guardian to complete a temporary task that requires the dog to be restrained for a reasonable period of time

¹² See CMVA chiens, p.13.

¹³ From the USDA Federal Register Vol. 1, No. 68 (July 2, 1996). See also, National Canine Research Council: www.nationalcanineresearchcouncil.com.

¹⁴ "The end of the Chain", James Hettinger, *Animal Sheltering Magazine*, Jan-Feb 2009 pages 29-37 (Statistics taken from a 1999 study in Denver).

¹⁵ See <http://www.animallaw.info/statutes/speciesstatutes/stspdog.htm>

¹⁶ See http://www.unchainyourdog.org/documents/Chaining_QA.pdf

- Tethering is not permitted in the cases of extreme weather conditions including temperatures below 32 degrees Fahrenheit and when a heat advisory has been issued by a local or Provincial authority or jurisdiction
- No puppy under 6 months of age, no pregnant female or females in heat are permitted to be tethered at any time
- The device used to tether (chain or rope) must be at least long enough for the dog to be able to turn around, lie down, reach their water, enter into a sheltered environment sufficient to provide protection from the weather and from temperature extremes
- The weight of the tether device must never be more than 1/10th the body weight of the dog and not made from metal which can be extremely hot in the summer and cold in the winter
- The tethered dog must have access to potable water and appropriate shelter at all times while tethered
- The tethering device must not be a choke or prong collar
- Tethering, even on an extremely long rope or cord, will not be considered an acceptable form of exercise

5. INCLUDE MINIMUM AGE OF WEANING

The draft regulations do not provide a minimum age at which puppies or kittens can be weaned. Section 46, as it is now written, will be difficult or impossible for an inspector to enforce as inspectors will have a difficult time determining whether or not a puppy or kitten has been force weaned. A definition with specific age delimitation would be much easier to enforce as it would be objectively based on measurable criteria (age) which can be determined by looking at the puppy or kittens registration (as required by section 54).

There is general consensus of what is the minimum age at which a puppy or kitten may be weaned. According to the CVMA and UC Davis Shelter Medicine veterinarians, the minimum age for puppies to be removed from their mother is 8 weeks. This minimum age is also that recommended by The Pet Industry Joint Administrative Council (PIJAC).¹⁷ According to the CVMA and UC Davis Shelter Medicine veterinarians, the minimum age for kittens to be removed from their mother is 8 weeks; however, 10–12 weeks is preferred as kittens are generally more robust and will be more socially developed by that time.¹⁸ In order to facilitate the application of this provision, section 46 of the regulations should require that puppies cannot be removed from their mothers before the age of 8 weeks and kittens cannot be removed from their mother before the age of 10 weeks.

6. ADDRESS LOOPHOLES IN AUTHORIZED EUTHANASIA METHODS

The euthanasia provisions in the draft regulations (sections 46-53) lack a number of specifications to ensure that euthanasia is performed by trained personnel in the most humane and professional manner possible.

Certain methods of euthanasia should be prohibited or restricted as conditionally acceptable

The draft regulations permit the use of carbon monoxide gas and sodium pentobarbital. However, the regulations do not prohibit the use of methods other than those listed as permissible. Therefore, other questionable methods such as electrocution, decapitation etc. are not *defacto* considered unacceptable.¹⁹ There are an number of euthanasia methods that have been deemed unacceptable for euthanasia of companion animals and the regulations should specify that these methods are not, under any circumstances, permitted.

¹⁷ See www.pijaccanada.com(PIJAC)

¹⁸ See www.tica.org, See CVMA Chatsection

¹⁹ See AVMA Guidelines on Euthanasia, See also HSUS Euthanasia training manual, by Rebecca Rhodes, D.V.M.

The draft regulations do not specify that use of a euthanasia chamber is only acceptable when using CO (carbon monoxide) and therefore carbon dioxide (CO₂) is through omission, considered acceptable, despite the fact that there is research indicating it may not result in a euthanasia that is humane or that reduces animals' anxiety and pain to a minimum. According to the AVMA, carbon dioxide has the potential to cause pain and distress have specified that the practice of immersion (where conscious animals are placed directly into a container pre-filled with 100% CO₂) is unacceptable. The AVMA also concludes that significant and conflicting differences in response to CO₂ inhalation exist between and within species, strains, and breeds, making broad generalizations difficult.²⁰ Given the latter, the regulations must specifically stipulate that use of CO₂ for euthanasia of dogs and cats is prohibited in a euthanasia chamber.

The draft regulations do not indicate under what circumstances certain methods of euthanasia are conditionally acceptable. For example, AVMA, CVMA and HSUS all indicate that the use of gunshot as a euthanasia method for companion animals is only conditionally acceptable when other methods cannot be used, and it must be performed by a highly skilled shooter. Furthermore, gunshot should not be used for routine euthanasia of animals in animal control situations, such as municipal pounds or shelters or by any individual guardians or owners.²¹ This specification must be indicated in the regulations along with any other conditionally acceptable method of euthanasia in extenuating circumstances.

The only widely-acceptable form of euthanasia of companion animals is by injection of sodium pentobarbital.²² The use of a CO euthanasia chamber does not render animals unconscious immediately and the animals may experience fear and distress to an animal in the last moments of their life due to the sound of the gas entering the chamber and the sounds and smells caused by the other animals in the chamber. The use of a CO euthanasia chamber also presents potential health risks to humans. Social animals euthanized via CO euthanasia chamber cannot be comforted through close contact with a human.²³ The regulations should be modified to reflect the reality that the use of a gas chamber is not considered the most humane method of euthanasia for non-feral companion animals by any of the leading veterinary or humane organizations and that the injection of sodium pentobarbital by a trained professional is the preferred method of euthanasia for social dogs and cats (non-feral) dogs and cats.

Finally the draft regulations do not specify that intra-venous injection of sodium pentobarbital is the only acceptable method of euthanasia for obviously pregnant animals (section 48). If obviously pregnant animals are euthanized in a gas chamber, it is likely the mother will die from exposure to CO before the unborn puppies/kittens. Consequently, it is possible that the puppies/kittens will die as a result of the mother's death (by suffocating to death) rather than from exposure to CO. The regulations should be modified to indicate that the only acceptable method of euthanasia for an obviously pregnant animal is the intravenous injection of sodium

²⁰ See AVMA 2011 Guidelines on euthanasia: http://www.avma.org/issues/animal_welfare/euthanasia_guidelines/inhalant-carbon-dioxide.asp.

²¹ See AVMA 2011 Guidelines on Euthanasia.

²² See Euthanasia – CVMA Position statement. See also AVMA Guidelines on euthanasia. See also National Animal Control Association Guidelines. It is also noteworthy that (15) States in the US have prohibited the use of gas chambers for euthanasia of companion animals²³ All the disadvantages of sodium pentobarbital are against the people who administer it (the human toll or caring-killing paradox) while the advantages are in favor of the animal (reduction of stress, compassionate death etc.)

²³ All the disadvantages of sodium pentobarbital are against the people who administer it (the human toll or caring-killing paradox) while the advantages are in favor of the animal (reduction of stress, compassionate death etc.)

pentobarbital as this is the only method that will assure that the unborn kittens/puppies do not die of suffocation.²⁴

The sections in the regulations on euthanasia should be modified to include the following:

- The only acceptable methods of euthanasia are those listed in the provisions
- When other methods cannot be used, an accurately delivered gunshot is a conditionally acceptable method of euthanasia and it is not an acceptable method for routine euthanasia of animals in animal control situations
- The use of CO (Carbon Monoxide) when delivered by a manufactured and equipped chamber and operated by trained personnel may be a *conditionally acceptable* method of euthanasia for some animals
- Obviously pregnant animals be included in the list in section 48 (where injection of concentrated barbiturate is the only euthanasia method permitted)

Euthanasia should not be performed in the presence of other animals

The draft regulations do not specify that animals should not be euthanized in the presence of other animals, or in the presence of dead animals (carcasses) even though this can cause distress for the animal being euthanized or those witnessing the euthanasia. According to the AVMA “a live animal witnessing the euthanasia of another animal can cause undue stress on that animal and sensitive species, such as dogs and cats, should not be kept in a room where euthanasia is being performed”.²⁵ Therefore section 53 be amended to stipulate that no animal may be kept in a room where euthanasia is being performed (thus not just in a room where euthanasia by way of gas chamber is being performed) and a section should be added to stipulate that no live animal is to be euthanized or subjected to the presence of a carcass (only under rare and extenuating circumstances may an exception be made and only if it will make the process easier on the animals)²⁶

Euthanasia must be performed by trained personnel

The draft regulations do not specify that euthanasia must be performed by trained personnel. Therefore individuals with no training (or ability to verify the absence of vital signs) may be performing euthanasia on animals. Given the recent documented case (i.e. the Berger Blanc undercover footage), it is critical to impose the requirement that all forms of euthanasia must only be carried out by those capable of humanely and safely performing the act and determining absence of vital signs to ensure death has occurred (even if the method of euthanasia is not one which involves controlled substances and is therefore restricted to veterinary professionals). The draft regulations should therefore include the requirement that any individual performing euthanasia must have training in that method of euthanasia, emergency care of animals (in the event something goes wrong) and basic animal biology (in order to properly determine absence of vital signs)

²⁴ The following protocol is recommended if a mother animal and her young are to be euthanized: the mother is always first to spare her the anxiety of worrying about what is happening to her babies. If the babies are newborn with their eyes still closed, are nursing and are going to be euthanized with an intra-peritoneal injection, they may be placed against the mother's breast (if she has been euthanized) after being injected and until death occurs since continuing to nurse and being with the mother will comfort them [See HSUS Euthanasia training manual].

²⁵ See AVMA 2011 Guidelines on Euthanasia http://www.avma.org/issues/animal_welfare/euthanasia_guidelines/evaluating-animal-behavior.asp. See also HSUS Euthanasia training manual, by Rebecca Rhodes, D.V.M.

²⁶ For example such an exception may be a litter of newborn animals that are not conscious of what is happening, but are comforted by each other's presence. Care should be taken to keep them from seeing the actual euthanasia by covering the cage with a towel)

Note on the introduction of direct licensing

Many shelters or animal control facilities do not have access to licensed veterinarians for fiscal and geographical reasons and thus are forced to perform euthanasia via other methods than those considered most humane.

In the United States, in order to eliminate the use of gas chambers, 32 states have adopted regulations that provide for the issuance of permits authorizing the purchase, possession, and use of controlled drugs in animal shelters or animal control agencies for the purpose of tranquilizing, pre-euthanasia sedating, and euthanizing of injured, sick and homeless animals. This is commonly referred to as “direct licensing of sodium pentobarbital”. Therefore, in these States, a shelter can have a staff member trained as a euthanasia technician and thereby euthanize animals in the most humane, respectful and painless manner possible, even if there is no veterinarian to supervise.

The public has expressed grave concern over the use of gas chambers and the manner in which animals are killed in this Province. The introduction of direct licensing regulations coupled with a bill to prohibit the use of euthanasia chambers would help ensure that euthanasia of animals is performed in most humane, painless and stress free fashion for socialized companion animals.

7. REQUIRE ACCESS TO VETERINARY CARE

The draft regulations do not stipulate that owners or custodians of animals be required to ensure their animals receive access to veterinary care without delay when necessary (upon illness or injury). Nor do they require that certain owners or custodians of certain animals (as defined in section 2) who are housing animals for long periods of time (or indefinitely) ensure that their animals be examined yearly by a veterinarian.

The use of cats and dogs for a commercial or breeding purpose is a serious responsibility. Breeding or the use of dogs or cats for other commercial purposes requires commitment of both time and financial resource including regular preventative veterinary care.²⁷ The CVMA counsels that all dogs and cats used for the purpose of breeding should be under the supervision of a consulting veterinarian responsible for the prevention of diseases and the provision of adequate veterinary care. Breeders must ensure that all dogs and cats are of sound health and temperament, and have been tested for inherited disorders before breeding and therefore should be required to implement veterinary care as part of their regime. Furthermore, internal parasites are common in puppies/kittens and in kennels or catteries housing adult dogs or cats and a preventative control program should be instituted by a licensed veterinarian.²⁸ The owners or custodians of animals listed in section 2 should be required to ensure animals have access to regular veterinary care, included preventative veterinary care for the prevention and control of disease and parasites.

All dog and cat owners should also be required to seek veterinary care when their dog or cat shows signs of illness, injury or distress.

The draft regulations should therefore be amended to include the following requirements:

²⁷ See CVMA Chats, p.18, See CVMA chiens p.24.

²⁸ See CVMA chiens p. 18, CVMA chats p.15.

- All owners or custodians of dogs or cats are required to provide veterinary care without delay when necessary (upon signs of illness, injury or distress)
- Certain owners or custodians of animals (listed in section2) are required to have dogs or cats examined by a licensed veterinarian at least once yearly [This may have to be specified for when animals are housed for long-term or indefinite periods].

8. REQUIRE REST BETWEEN BREEDING CYCLES

It is also recommended that the appropriate measures be taken so as to provide adequate rest between breeding cycles as over breeding can cause physical and psychological harm to dogs and cats. This means, at minimum, ensuring that dogs are not bred to produce more than two litters in any 18 month period. The regulations should include a requirement that dogs or cats not be bred more than twice in an 18 month period.

9. LIMIT NUMBER OF BREEDING DOGS (OR CATS)

The draft regulations do not limit the number of breeding dogs (or unsterilized dogs kept for the purpose of breeding) that can be housed in any one facility. ²⁹

The purpose of implementing a cap on the number of breeding dogs is twofold.

The first reason is to limit the number of puppies entering an already over-saturated market. When tens of thousands of healthy adoptable dogs are euthanized each year in Quebec, it is questionable to continue to permit mass contribution to the overpopulation of unwanted companion animals. The caps set at 50 or 75, as chosen, would not affect hobby breeders (or small scale breeders) but would only target purely commercial operations.

The second reason is to ensure for a minimum standard of care as correlations between large scale commercial breeding facilities and lowered standards of care have been found. A review of USDA inspection reports showed that facilities with more than 50 dogs have more frequent and more severe violations, this holds true in the experience of the Montreal SPCA inspection department as well. Simply put, once a breeding facility gets too big, it becomes extremely difficult to maintain an acceptable standard of care. In 2009 when the state of Washington adopted a cap on the number of breeding animals per facility the legislature made the following finding: “large-scale breeding increases the likelihood that the dogs will be denied their most basic needs including but not limited to: Sanitary living conditions, proper and timely medical care, the ability to move freely at least once per day, and adequate shelter from the elements [...] Without proper oversight large-scale breeding facilities can easily fall below even the most basic standards of humane housing and husbandry”. ³⁰

Several States in the US have implemented caps on the number of breeding dogs and there are other states that are in the process of doing the same and it the language from the legislation limiting the number of breeding

²⁹ There are four (4) States in the US that have limits on the number of breeding dogs they are:

- Oregon: maximum 50 breeding dogs over the age of 6 months
- Louisiana: maximum 75 breeding dogs over the age of 6 months
- Virginia (H340): maximum 50 breeding dogs over the age of 6 months
- Washington (See RCW 16.52.310): maximum 50 breeding dogs over the age of 6 months

Several other states are also considering imposing similar restrictions (Missouri, Vermont and California).

³⁰ See RCW 16.52.310

dogs could be adopted into the regulations. It is therefore recommended that the following be included in the regulations:

- A person may not own, possess, control or otherwise have charge or custody of more than fifty (50) dogs with intact sexual organs over the age of six months at any time
- this section would not apply to (a) a publicly [or privately] operated animal control facility or shelter (b) a private, charitable non-profit humane society or animal adoption organization (c) a veterinary facility (d) a research institution (e) a boarding or grooming facility].

10. AMENDMENTS TO THE LEGISLATION ITSELF (OUTSIDE SCOPE OF REGULATIONS)

The scope of the current regulations is to address standards of care for the keeping of dogs and cats and the below recommendations go beyond this.

The following recommendations address the issues of overpopulation and the deterrent effect of P-42.

Require mandatory spay/neuter for animals adopted from shelters, pounds or purchased at pet stores

Quebec is facing a companion animal overpopulation crisis. At least 50,000 animals a year are impounded in Montréal alone, with the estimated number of animals impounded annually in the Province of Quebec at over 500,000. This means each year hundreds of thousands of dogs and cats are euthanized in this Province. These numbers are not going to decrease unless far-reaching measures are taken quickly.

Education alone will not prevent the population from irresponsibly breeding, selling, or purchasing animals and any comprehensive solution to this crisis must include legislative measures. These legislative measures must start with ensuring that facilities charged with ending the lives of surplus animals are not contributing to that surplus. Thirty two states (32) in the U.S require mandatory spay/neuter for animals adopted (sold) from animal shelters or animal control facilities and a vital part of any successful animal control program is the effort to reduce overpopulation. New York State, in addition, also requires that any dog or cat purchased in a pet store be spayed or neutered. Legislative measures such as those implemented in the US which require mandatory spay/neuter of animals adopted or sold in shelters, animal control facilities and pet stores should be considered in Quebec.

It is important to note that there are shelters across Quebec who do not have the financial means to obtain a veterinarian to perform spay/neuter surgeries or are in a location where they do not have regular access to a veterinarian. As part of a comprehensive plan to tackle animal welfare and animal overpopulation issues, the OMVQ, AMVQ and MAPAQ should work to ensure that non-profit SPA's and SPCA's are provided with the resources to ensure that they are sterilizing animals, so as not to contribute to the overpopulation crisis.

Penalties must include jail time and increased fines in order to have a deterrent effect

The current penalties for a contravention of any of the sections under *Division IV.1.1 of The Animal Health Protection Act Division IV.1.1*, do not serve as a deterrent for any specific individual who is found guilty for an infraction under any of these provisions or for the general population.

Current penalties include negligible fines and no possibility of incarceration and penalties are awarded per infraction and not per animal. The maximum fine is \$600 for a first time individual offender and a maximum fine of \$1200 for a first time custodian keeping animals for sale or breeding, with no possibility of incarceration. The reason that this would not provide any deterrence is illustrated in the following example: an

individual keeping four-hundred (400) dogs for the purposes of sale or breeding is found to be in infraction of section 55.9.2(2) because four-hundred (400) dogs were found to be living in unsuitable insalubrious conditions, the maximum penalty this individual would be able to receive for a first time offence is \$1200. If this person sells their puppies for \$600 each, this penalty is simply the cost of doing business!

Every other Province across Canada (except Prince Edward Island) has a possibility of incarceration for infractions under their respective Provincial Animal Welfare Act. For example, the recent amendments to the British Columbia Prevention of Cruelty to Animals Act increase fines for animal cruelty convictions to a maximum of \$75,000 and allow jail terms of up to two years, (up from the current maximums of \$10,000 and six months). Quebec must take into account the current penalty provisions in other provisions and amend our accordingly.

Until the current penalty provisions are amended to reflect the serious nature of animal cruelty and neglect, and include both severe fines and incarceration, the legislation will have little deterrent effect. The legislation must be amended to include incarceration of up to two years and fines up to \$75,000 for breeders or those using dogs or cats for commercial purposes.

Other animals – announced modification to the *Regulation respecting the animal species or categories designated under Division IV.1.1*

We anxiously await the amendments to the *Regulation respecting the animal species or categories designated under Division IV.1.1 of the Animal Health Protection Act, R.Q. c. P-42, and r.1.01* to include all animals. These animals are also in dire need of protection and Quebec must stop excluding these animals from within the sphere of protection.³¹

CONCLUSION

Quebec has long been known for affording the least protection to animals amongst all the Provinces. These regulations are an opportunity to address the animal welfare crisis in Quebec, and to truly assure for adequate protection of companion animals in this Province.

It is hoped that the above recommendations are included in the regulations for the *The Animal Health Protection Act Division IV.1.1, Safety and Welfare of Animals* (R.SECTIONQ. P-42) and that Quebec will one day be known for having the strongest animal protection laws in the country.

Alanna Devine, B.A., B.D.C., LL. B.
Director, Animal Welfare
CSPCA
5215, Jean-Talon Ouest
Montréal (Québec)
H4P 1X4

Lauren Scott
Campaigner
HSI-Canada
372, Sainte-Catherine Ouest
Montréal (Québec)
H3B 1A2

Johanne Tasse
President
caacQ
50 Blv Saint Charles, #26760
Beaconsfield (Québec)
H9W 6G7

³¹ Note that all other Provincial legislation protects all animals' not just cats and dogs (See Animal Legal Defense Fund "2010 Canadian Animal Protection Laws Rankings".)