



MONTREAL SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS

HUMANE SOCIETY INTERNATIONAL / CANADA

CENTRE D'ADOPTION DES ANIMAUX DE COMPAGNIE DU QUÉBEC

**ADDITIONAL COMMENTS ON DRAFT
REGULATIONS FOR THE ANIMAL HEALTH
PROTECTION ACT DIVISION IV.1.1 (R.S.Q., P-42)
FOLLOWING AUG. 11 SUB-COMMITTEE
MEETING**

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

ADDITIONAL COMMENTS ON DRAFT REGULATIONS

FOLLOWING AUGUST 11TH SUB-COMMITTEE MEETING

1. Permanent tethering of dogs as per s.27

The Montreal SPCA, HSI/International Canada and the CaacQ continue to support the position that the permanent tethering of dogs, even those tethered in groups, is detrimental to their physical and psychological well-being. Therefore permanent tethering, in addition to permanent caging of dogs, should be prohibited.

During the last sub-committee meeting on the draft regulations, there was much discussion about s.27, which prohibits the tethering of an animal for more than 12 hours a day during a 24 hour period. Based on these discussions and further research, we have several comments which we would like to submit on the subject of tethering.

At the meeting, Mr. Lemir, president of the "*Association des Mushers du Québec*" [AMQ], made reference to the 2001 Cornell University Study "*A Comparison of Tethering and Pen Confinement of Dogs*" [the Cornell study]. This article, which discusses the use of tethering, was presented as favorable to the position of the AMQ that permanent tethering of sled dogs is an acceptable form of housing. Following the meeting, and upon further examination of the article, a number of issues with the Cornell Study came to light.

The first thing we would like to point out is that the Cornell study does not in and of itself support the premise that the permanent tethering of dogs is an acceptable form of housing. It is important to note that the conclusion of the study does not indicate that all of the physical or psychological needs of the dogs had been met while they were permanently tethered. Rather, the study concludes that the behavior of dogs who had been permanently tethered their entire lives did not improve once they were confined permanently in pens. Thus, the study compares the permanent tethering of dogs to the permanent confinement of dogs in cages, which is an equally unacceptable manner of permanently housing dogs.¹

It should be noted that Cornell University has done similar studies in the past whereby they compared two unacceptable practices [for example two forms of de-clawing]. In both articles, one practice was perceived as superior to the other practice studied, therefore making it seem positive. This, however, is not the case, as neither is acceptable. This is clearly seen when the Cornell study gives the impression that tethering is superior to the pens based on their findings that "Stereotypic pacing in the pens occurred more frequently than circling on the tether". Circling, as seen in the tethered group, is a negative stereotypical behaviour and an indication of stress that should not be ignored.

¹ This opinion is also shared by Dr. Klinck DVM, DACVB and Dr. Stiles DVM, MSc (see comments attached as **Annex A** to this document)

Secondly, the Cornell study only studied the behavior of dogs that had lived their entire lives tethered, and, as pointed out by the authors, this had a confounding effect on the results of the study. Thus, the dogs that were the subject of this study “had spent most of their adult lives on tethers and were now in an environment they had not lived in since they were puppies” [p.267]. Animals that are under-socialized or subject to neglect often do not have a positive reaction to normal stimulus and activities because they are simply so foreign to them, but this does not mean that these normal activities and stimuli are not important for the long term development and socialization of the animal. Therefore the fact that these dogs, who had spent most of their adult lives tethered, did not exhibit positive behavior once removed from the tether, does not necessarily mean that removing them from a permanent tether was not, in the long term, preferable for their well-being.

Thirdly, there are serious concerns over the methodology used in the study. The fact they did not find any stereotypic behavior does not definitively show that there is no welfare or ethical issue; if you set up a preference test or a motivational analysis, you might get a different result.

Mr. Lemir, on behalf of the AMQ, also expressed the opinion that because sled dogs are social pack animals that it is preferable to house them on tethers because living in a pack is beneficial to their psychological well-being, but this opinion is countered by professionals specializing in canine behavior. According to Dr. Nicholas Dodman, DVM, BVMS, MRCVS, specialist in canine behavior, healthy canine interaction and socialization requires the dogs to be able to physically interact and play with one another – which cannot be achieved when dogs are tethered. “The Cornell Study cannot be used to support the premise that tethering dogs in groups, is favorable for their mental well-being when compared to appropriate forms of housing dogs. There is no way that being tethered increases opportunities for socialization. Claims that tethered dogs have greater access to socialization show how subjective the research was toward what was observed”.²

Furthermore opposition to permanent tethering has also come from professional mushers themselves. Ms. Caroline Morin, for example, who houses her sled dogs in groups within large parks, has explained that, contrary to the opinion of Mr. Lemire, there are physical and psychological advantages of housing sled dogs in groups which cannot be achieved if the dogs are tethered. Ms. Morin has chosen to house her dogs in packs in large parks as they are able to play, establish dominance and express natural behaviors in a manner that they cannot do if they are permanently tethered.³

The correlation between mental well-being of animals, such as dogs, and “sense of control” (ability to control their environment) also cannot be ignored. Permanently tethered dogs do not have the ability to control their environment or their circumstances as their movement and interactions are limited by what is in reach of the circumference of their chain.⁴ According to

² Phone interview with Dr. Dodman DVM on September 12th, 2011

³ See Comments submitted to MAPAQ by Caroline Morin, Musher

⁴ See comments by Dr. Klinck DVM, DACVB and Dr. Stiles DVM, MSc

Dr. Frank McMillan, DVM, DACVIM, the ability to control unpleasant feelings (e.g. fear, anxiety, and boredom) has an important influence on mental health and well-being. "Animals deprived of any control over their own circumstances, especially under persistent or repetitive aversive conditions, may develop severe emotional distress in the form of helplessness and hopelessness [often called "learned helplessness"]⁵. The effect permanent tethering has on the ability for sled dogs to control their environment and the psychological impact of this must form part of the consideration when reviewing s.27.

Another important point, which was not discussed during the sub-committee meeting, is what happens to permanently tethered sled dogs after they can no longer race (either due to age or injury). In other words, the effect permanent tethering has on "retirement" options for dogs that can no longer run competitively. The experience of our organizations is that dogs who have spent the majority of their lives tethered do not adjust well to living in a home or to interacting with other animals or humans once unchained. Permanently tethered dogs are used to sleeping and defecating/urinating in the same area and are not used to interactions with humans or dogs without being tethered. A musher Madame Morin explained, permanently tethered dogs often develop defensive/aggressive responses to unfamiliar or unpleasant stimuli as they are not able to escape unpleasant situations and they no longer have the option of flight so they must choose fight. These dogs are extremely difficult to re-home as they have difficulty to adjusting to life off of a chain.

It is recommended that MAPAQ look into the question of how AMQ members (or other mushers) address the issue of "retired" dogs to see if there is a correlation between permanent tethering and the destruction (rather than re-homing) of sled dogs that can no longer compete. From our research, AMQ has not outlined any specific guidelines or policies on "retired" sled dogs. Instead, it appears that their main point of reference on the matter is that of Mush with PRIDE.⁶

In conclusion, s.27 which prohibits the tethering of animals for more than 12 hours a day should not be removed from the regulations. As already presented in the formal report submitted by the Montreal SPCA, HSI/Canada, and the caacQ, the changes to s.27 should instead focus on reducing the number of hours that a dog can be tethered to 4 hours. Additional stipulations should also prohibit any form of outdoor tethering when the temperature is below 32 degrees F, above a public heat warning, and/or when the canines are less than 6 months old or for a female is in heat. Furthermore, the regulations should outline acceptable cords/chains and collars.⁷ This section is necessary to protect dogs from permanent tethering, and as well be discussed below; similar requirements should be adopted to protect dogs and cats from being permanently caged.

⁵ "Development of a mental wellness program for animals", Franklin D. McMillan, DVM, DACVIM in JAVMA Vol 200, No.7, April 1, 2002. [McMillan].

⁶ MUSH with PRIDE is a sled dog lobbying organization. It should be noted that the President of the Board of Director for Mush with PRIDE was implicated in the culling of 100 sled dogs in Whistler B.C.

⁷ Please see recommendations submitted by Dr. Klinck DVM, DACVB and Dr. Stiles DVM, MSc

2. Permanent confinement in a cage

The same concerns regarding learned helplessness and psychological well-being for permanently tethered animals exist for permanently caged animals. It is important to recognize that neither tethering nor confinement in a cage is an acceptable means of permanently housing an animal. This concern was addressed by Dr. Klinck DVM, DACVB and Dr. Stiles DVM, MSc, and we entirely endorse their conclusions on this matter [**See Annex A**].

The Cornell study and discussions at the sub-committee meeting on the draft regulations have identified another lacuna in the regulations which should be addressed: the regulations as drafted do not prohibit the permanent confinement of a dog or cat in a cage. While sections 41-42 require that certain owners or custodians of animals (as per section 2) must provide exercise and draw an exercise protocol for the dogs or cats under their care, this still does not prevent these dogs or cats from being permanently housed in a cage or small enclosure where they cannot exercise, run around, or express natural behaviours.⁸ As written, the regulations would permit an owner to permanently dogs in a cage 23.5 hours a day (as long as the crate provided the minimal space required by s.13) and only permit the dogs to leave their cage ½ an hour per 24 hour period.

The regulations must be modified to ensure animals are not permanently housed in cages, so that those using tethering as a primary means of confinement do not simply switch to confining animals permanently in a cage.

We would recommend the following:

- (1) Include a section which would apply to all owners or guardians listed under s.2 that permanently house animals to limit the number of hours an animal must be caged to a maximum of 16 hours per day. “Permanently house” would not apply to those facilities that only house animals temporarily for a period of less than two months (establishments, grooming salon, boarding operation, veterinary clinic etc.)
- (2) Include a section which require animals to be provided with socialization and enrichment in keeping with their age and physical condition [what constitutes appropriate socialization and enrichment could be listed in the accompanying “*Guide d’Application*”]
- (3) Including a section requiring all dogs that are caged to be taken out of cages to eliminate as dictated by their biological needs

⁸ For example, the unacceptable living conditions documented for many racing greyhounds would not be in violation of the draft regulations as written. Racing greyhounds often live permanently, over 20 hours a day in their crates, but are let out to run (either to participate in a race or to train) which under the current regulations would be considered a form of exercise [See http://www.rescuedgreyhounds.com/endracing/Confinement_Fact_Sheet.pdf].

3. Preventative veterinary care

We would like to re-iterate that the regulations should be modified to require mandatory veterinary supervision for certain owners or guardians, as defined under s.2 of the draft regulations.

During the sub-committee meeting it was suggested that requiring veterinary care or oversight would force owners/guardians who do not believe in vaccination to vaccinate their animals or to provide other preventative veterinary care they deem unnecessary. However, the requirement for preventative veterinary care would simply mean that a veterinarian would have to see and ensure for the health of each animal, but what this would entail would be jointly determined by the attending veterinarian and the owner/guardian of the animals.

We would also like to point out that there are many other jurisdictions that require mandatory preventative veterinary care for dogs or cats, particularly for those dogs or cats used for breeding or other commercial purposes. For example:

- French legislation governing the care and housing of dogs and cats (NOR: AGRG9201197A) requires mandatory veterinary oversight for certain owners or guardians of dogs or cats: *“Dans les locaux où se pratiquent habituellement l'élevage en vue de la vente, la commercialisation, le transit ou la garde de chiens ou de chats, le responsable doit faire assurer par un vétérinaire ou un docteur vétérinaire de son choix la surveillance sanitaire régulière des animaux dont il a la responsabilité »* [Art 9].
- Australia's *Animal Welfare Codes of Practice* requires that dogs or cats used for breeding are vaccinated, de-wormed and protected against heart worms [Art 8.2.1 6-11].⁹
- The State of Kansas's legislation providing for specific requires for dogs used for breeding, *K.S.A. 47-1701(dd)*, requires that any retail breeder to have an attending veterinarian to provide, to the animals, adequate veterinary care [Art 9-25-15], as defined in. Adequate veterinary medical care is defined as : (a) A documented program of disease control and prevention, euthanasia and routine veterinary care and shall include a documented on-site visit to the premises by the veterinarian at least once a year; and (b) that diseased, ill, injured, lame or blind animals shall be provided with veterinary care as is needed for the health and well-being of the animal.
- *Oklahoma Administrative Rules for Commercial Pet Breeders* (for any dog or cat breeder with more than 11 breeding females) requires that each animal be annually examined by a veterinarian [Art 401(5)(b)]

⁹ There are minimum mandatory standards that have the force of law and are regulations for the Animal Welfare Act– this is one of them

- The State of Pennsylvania State Legislation, *PA ST 3 P.S. 459-206-2011*, requires any breeder that sells more than 60 puppies a year to have each animal examined by a veterinarian every 6 months. During the examination, the veterinarian shall use appropriate methods to prevent, control, diagnose and treat diseases and injuries. [Art. 459-207 (i)(8)]
- Virginia State Legislation, *VA ST 3.2 5900-6520* , (for breeders with 30 or more dogs) only permits females to be bred if there is a veterinary certificate that the female is in good enough health to be bred (this certificate must be obtained annually) [Art. 3.2 6507.2(2)]

*See **Annex B** for other examples

The experience of our organizations is that many health and welfare issues that are found in large scale commercial breeding facilities could have been easily avoided had the owner/guardian of the animals been required by law to seek veterinary oversight for their animals. Intervening after the fact means that the dogs have already suffered the consequences and if a seizure is necessary that the seizing organization and their partners must bear the cost of veterinary care that should have been provided in the first place.

We re-iterate that the breeding or keeping of animals for a commercial purpose entails a heightened responsibility which should, at a minimum, require supervision of the animals by a licensed veterinarian in the form of a yearly check-up for each animal.

4. Socialization and enrichment

At the sub-committee meeting we briefly discussed the recommendations that we had made regarding requirements for socialization and enrichment for animals kept by owners or guardians as defined in s.2 of the draft regulations. We hope that the importance of psychological well-being of dogs and cats is reflected in the final version of the regulations.

Dogs and cats confined in cages, even temporarily, can suffer from extreme boredom, which in and of itself is a form of suffering. According to Dr. Frank McMillan, DVM, DACVIM, “boredom is a form of distress that, when severe, may cause more suffering than physical pain and is a serious impairment of mental well-being. Boredom occurs in animals inhabiting unstimulating, unchallenging, and monotonous environments.”¹⁰ The importance of enrichment, socialization and psychological well-being, particularly to animals confined individually, was also pointed out by Dr. Klinck DVM, DACVB and Dr. Stiles DVM, MSc.

¹⁰ See McMillan [emphasis added].

Clear requirements regarding enrichment and socialization would ensure that animals do not suffer distress from boredom. There are many examples of legislation that have set out precise requirements for socialization and enrichment. For example:

- The Swiss *Ordonnance sur la protection des animaux* requires that: « Les chiens doivent disposer d'une couche en matériau approprié, d'une surface de repos surélevée et d'un endroit où se retirer; les chenils et les box adjacents doivent être munis d'écrans appropriés » [art. 72]
- French legislation, *Ordonnance n°2000-914 du 18 septembre 2000*, requires cats to have access, at all times, to a perch and scratching post (Art. 12).
- New South Wales, *Animal Welfare Codes of Practice*, for breeding dogs and cats (Standards have force of law) requires that:
 - o Each cat must be provided with a suitable box in which to hide or sleep [Art 6.1.1.8]
 - o All sleeping areas for cats and dogs must have clean, hygienic, dry and soft bedding, appropriate to the species and breed, sufficient for the number of animals held, and sufficient to insulate them from the floor [Art 6.1.1.9]
 - o Each confined cat must be provided with a litter tray which is at least 1.2 times the length of the cat, and which contains a sufficient depth of material such as commercial cat litter, sawdust, shavings, sand or shredded paper [Art 6.1.1.10]
- The California *Health and Safety Code* for breeders producing more than 3 litters a year requires that each dog be provided with adequate socialization and exercise. For the purpose of this article, "socialization" means physical contact with other dogs and with human beings [Art 122065(e)]
- The *Colorado Regulations Pertaining to the Administration and Enforcement of the Pet Animal and Care Facilities Act* requires cats to have access to an elevated surface or perch [Art 11(B)(2)(d)(1)(b) & Art 14(D)(5)(a)]
- The *North Carolina Animal Welfare Act Administrative Code* requires that: Animals in long term care which are intended for adoption or sale must be provided the following [Art 02 NCAC 52J. 0209 (6)]:
 - o Daily access to both human and same species social interaction.
 - o Daily access to space other than the primary enclosure.
 - o A species and size-appropriate toy, unless it poses a health threat.

*For other examples see Chart listed as **Annex B**

5. Limitation on the number of breeding animals

The recent case of Paws R US has shed light on the necessity to limit the number of breeding dogs (or cats) for both animal welfare and overpopulation concerns (which we addressed in our first position paper on the draft regulations). This kennel has existed for over 20 years, and it is presumed that many

of the breeding dogs spent years of their lives caged without any socialization, exercise, enrichment or necessary veterinary care (and what happened to the dogs that could no longer breed is unknown). Had there been a limitation on the number of animals that can be used in a breeding facility, hundreds of dogs would have been spared from a life of misery and thousands of puppies would not have been sold to the unsuspecting public through the internet, pet stores and the kennel itself.

Quebec is also in an overpopulation crisis for unwanted companion animals and it is imperative that actions are taken to reduce the number of adoptable animals euthanized each year. While certain actions (i.e. requiring mandatory sterilization of dogs adopted from shelters or sold from pounds) have been deemed outside the ambit of these regulations, limiting the number of breeding dogs or cats – is not. This is an opportunity for MAPAQ to show the public that overpopulation is of concern to them and that serious concrete actions are being taken to avoid the constant euthanasia of adoptable companion animals due to overpopulation.
