

## Animal Welfare Act Submission- Principal Petitioner

In light of the tragic event on the 17<sup>th</sup> May 2017, in which Luna a beloved family Labrador was fatally stabbed by a 37 year old man at Polyantha Reserve in Apple Blossom Drive, Mirrabooka and other animal welfare cases that have been failed by system, a petition was created pleading for the State Government to review the WA Animal Welfare Act 2002 and ensure the judiciary enforces harsher penalties that reflect the crimes committed. The killing of a companion animal is a serious offence requiring the Act and the judiciary to apply penalties and punishments that more adequately reflect the crime committed. This is in particular reference to Part 3 of the Act: Offences against Animals (under Clause 19: 1 and 2) which does not include the inhumane killing of an animal as a serious offence.

The feeling has resonated with many of the petition supporters, like I, who believe that the Act is dated, which combined with the lack of penal enforcement by the judiciary does not provide animals with adequate protection. According to the WA RSPCA animal cruelty prosecution statistics between 2015 and 2016, approximately 6,321 animal welfare investigations were conducted, yet only 19 of them progressed onto finalised prosecutions. A percentage of less than 0.3% of cases actually made it into the courts. The vast majority of these animal cruelty investigations tend to be resolved out of court with RSPCA inspectors simply educating owners on basic animal welfare. However with the lack of RSPCA resources (15 inspectors covering Western Australia) it is concerning that the incident of animal cruelty investigations may actually be higher than this. This indicates that it is only the more serious animal cruelty cases which make it into court in the first place.

Acts of aggravated animal cruelty recognised under the current WA Animal Welfare Act 2002 are constantly penalized by lenient punishments (e.g. monetary fines and temporary animal bans). According to the Act, the maximum prison sentence in Western Australia is for up to five years, which is the highest penalty in Australia. However prison sentences of any length are rarely applied by the judiciary in Western Australia. In fact according to RSPCA statistics since the WA Animal Welfare Act 2002 came into effect, a total of 3 cases have ever resulted in a prison term. The longest prison sentence of 11 months was issued in February 2017 by the judiciary to a man who bashed a kangaroo to death in the south-west. The WA RSPCA chief executive, David Van Ooran was quoted as saying "Its incredibly rare, I can't think of a time in recent years and decades where this has occurred..its excellent to see the magistrate in this case set a strong precedent for future cases". This was the first prison sentence issued for animal cruelty by the judiciary since 2004, which remains deeply concerning for the state of the animal welfare in WA.

Unfortunately this precedence for punishment was overturned in March this year when a quokka on Rottnest Island was brutally kicked by an offender, who also bragged of his accomplishment on social media and was only issued a \$3500 fine. The case of Luna is the latest casualty of the judiciary failing to apply the appropriate penalty that reflects the crime. The suspended prison sentence issued to the offender, who quite literally walked free with no repercussion, demonstrates a judiciary that is far removed from community sentiment and the penalties required for such a brutal crime. It is little wonder animal cruelty remains high in Western Australia today. The comparative penal inconsistencies attributed to such severe crimes remain bewildering and is something that the general public are becoming increasingly aware of.

As long as the judiciary in Western Australia continue to issue penalties closer to the minimum rather than the maximum (regardless of the severity of the crime committed), a review of the Animal Welfare Act 2002 and its penalties remains futile. The Act can be strengthened and wording made more specific, but if the judiciary do not actually apply the wide range of penalties to fit the crime according to the current Act, then animal welfare will continue to remain a hopeless cause in Western Australia.

It is apparent that if animal cruelty crimes such as those already mentioned are not considered serious or brutal enough for the judiciary to enforce and apply the higher end of penalties under the Act, then what crime is it going to take to apply 1, 2 or the full 5 years of a prison sentence. Life is

precious and once unlawfully taken should be punishable by the harshest measures of the Act. There should be no second chances.

It is deeply concerning to have a judiciary system, which is reactive and continuously relies on the crime to be committed, rather than proactive approach which enforces preventative measures; ranging from the minimum through to the maximum penalties reflective of the crime committed to deter animal cruelty. A slap on the wrist (in terms of monetary fines, temporary bans, community service and suspended prison time) is simply not enough, it does not prevent or deter animal cruelty. Tougher measures including permanent animal bans and prison time without parole should be enforced by the judiciary to ensure a reduction in animal cruelty rates. Not only does it undermine deterrent and retributive methods of criminal law by conveying the message to potential offenders and the wider public that animal cruelty offences are not taken seriously, it continues to set the precedence that animal cruelty is acceptable in Western Australian modern society. This outcome is so inconsistent with the primary concern of sentencing and criminal law, which should as a solid piece of legislation dictate the rules and boundaries for animal welfare and enforce the range of penalties and punishments according to the Act.

It should be acknowledged that many of the petition supporters are not extreme animal right activists; they are simply everyday people who have a pet dog or cat and are very tired of the lack of penal enforcement or respect for animal welfare adopted by the judiciary and State Government in Western Australia today.