



COMMON QUESTIONS ABOUT ANIMAL SEIZURES

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POLICE ALSO HAVE THE OPTION OF ARRESTING OWNERS AND LAYING CHARGES IMMEDIATELY



Saskatchewan has a number of Humane Societies (HS) which are defined by the Animal Protection Act, 1999 (APA), and designated by the Ministry of Agriculture; this includes Animal Protection Services of Saskatchewan (APSS).

All of the HS in the province are separate organizations, with no oversight by any one umbrella organization. All Animal Protection Officers (APOs) in Saskatchewan other than Police Officers work for a HS, but not all HS have APOs or do enforcement work. APSS, and the Saskatoon SPCA, Regina Humane Society, Moose Jaw Humane Society and Prince Albert are the HS that have APOs and carry out animal cruelty investigations.

When APSS, or any other HS with an APO, seizes animals from an owner during an animal cruelty investigation, there are always questions about how the procedure works and the outcomes for the owners and the animals. Here are some of the questions most commonly asked about animal seizures:

WHAT IS A HUMANE SOCIETY'S LEGAL AUTHORITY TO SEIZE AN ANIMAL?

Section 6 of the *Animal Protection Act, 1999 (APA)* gives a HS the authority to relieve animals of their distress, and Section 7 of the APA gives the authority to get a search warrant.

WHERE IS AN APO ALLOWED TO GO DURING AN INSPECTION OR INVESTIGATION?

This depends on what stage the case is in, and what type of facility it's at. Anywhere with animals for sale, hire or exhibition can be inspected or investigated during regular business hours without a warrant, unless it's a private dwelling. (see Section 5 of APA)

We can observe anything in "plain view" during execution of our duty to contact the owner to verify or discuss a complaint, but we can't trespass. If we have evidence of an offence, we are then in investigation mode, and Charter of Rights issues regarding unreasonable search and seizure can come into play, meaning that we can only proceed with proper consent from the owner, or if we have a search warrant.

We do have authority to get search warrants, and then can search the areas named in the warrant including private dwellings if necessary, and can gather evidence that can be used in court. There are also very specific circumstances when we can investigate and gather evidence without a warrant, but we have to be careful to only use those provisions when truly necessary. If we are found to be searching or gathering evidence without the proper authority or right to do so, any evidence we gather can be thrown out, and result in the prosecution being severely compromised.

WHY DO PEOPLE GET SO MANY "CHANCES" BEFORE ANIMALS ARE TAKEN AWAY?

Section 6 of the APA says that we have authority to seize animals if the owner has failed to relieve them of their distress.

In practical terms, this means that owners have to be given a chance to fix the problems that are causing the distress. The opportunity to relieve the distress and the timelines to do that have to be reasonable; we cannot require that an owner put 300 pounds on an underweight horse, and then seize the horse the next day because it hasn't gained 300 pounds. However, some distress is more severe and must be rectified in a more urgent manner. For example, acutely injured animals must immediately be treated or euthanized, and failure to do that could result in a nearly immediate seizure of the animal and only one "chance" for the owner to fix the problem.



WHO DECIDES WHEN ANIMALS NEED TO BE SEIZED?

If an investigation has progressed to the point where an APO feels that animals may need to be removed, they will usually have a veterinarian attend the premise, or sometimes bring the animal to the veterinary clinic. The veterinarian assesses whether the animal has adequate food, water, shelter and care (which are the elements in question for distress under the APA), evaluates whether any corrective actions were taken or if action was appropriate, and recommends that the animal be seized or not. Veterinarians are considered experts by the courts, so investigations rely heavily on veterinary opinion regarding the adequacy of care. The APO is the one who actually seizes the animal.

APOs can seize animals without a veterinary consultation, but we don't use that option as often because we are not considered experts by the courts. In cases where animals are seized by an APO alone, the distress is generally very obvious, and/or previous requirements have obviously not been followed.

CAN VETERINARIANS SEIZE AN ANIMAL WITHOUT AN APO?

No, the authority to remove an animal is the

APO's, not the veterinarian's. Remember though, that RCMP members and other Police are APOs, and so can authorize seizure in an emergency.

WHAT HAPPENS AFTER ANIMALS ARE SEIZED?

This depends somewhat on the condition of the animal. There are provisions care of animals in severe distress that are discussed below.

In general, animals are held in the care of the HS that seized them for a 3-business day period. During that time the HS will have made arrangements for whatever care is appropriate for the animal. Livestock are often held at auction market facilities, while companion animals are usually held at an animal shelter facility. Sometimes private caretakers are asked to care for smaller numbers of horses or other livestock.

Occasionally, veterinarians are asked to care for companion animals in need of medical attention, or where an animal shelter facility is not available.

After the three day holding period, animals are usually sold or given away. Large herds of livestock are usually sold at auction as soon as possible after a seizure. Horses and small numbers of livestock animals like pigs and goats are sometimes given to their private caretakers. Companion animals are usually given to the shelter where they were housed, who then becomes responsible for their ongoing care, adoption, etc.

Occasionally, livestock are in a condition where immediate sale is not appropriate. For example, when the Saskatchewan SPCA seized nearly 900 sheep in 2014, the ewes were lambing, hadn't been sheared in a long time, and were severely under-condition. In that case, the SPCA paid a caretaker to care for the sheep for several months in order to supervise their lambing, wean lambs, shear the ewes and get them into better condition before sale.

Animals are also sometimes held for longer periods if there are special circumstances such as legal action preventing their sale, or if the owner has been granted an extension because they are making arrangements to pay the seizure expenses.

WHO PAYS FOR THE CARE OF ANIMALS DURING THE HOLDING PERIOD?



The humane society that seized an animal is responsible for all costs, including the costs of the seizure and the care of the animal for as long as it is held. The HS rarely recovers these costs in companion animal cases because the animals are usually given to shelters. Where a livestock animal is sold, the revenue is used to pay the seizure expenses, with any surplus being returned to the animal's owner.

CAN THE OWNER GET THE ANIMALS BACK?

Section 10 of the *APA* says that the HS can sell or give the animal away if the owner has not paid the seizure expenses within the 3 business day holding period. What this means is that if an owner pays the expenses, the HS cannot sell the animal or give it away. Where an owner has paid the expenses, the animal is sometimes returned since otherwise the HS would have to hold the animal and incur care expenses for an extended period of time, possibly until the outcome of a trial.

This section used to be interpreted to mean that if an owner pays the expenses, they can automatically have their animals back, but this is no longer the case. Now, arrangements for the return of animals upon payment of expenses include that the animal's conditions have been improved. Humane societies also have the ability to apply to the courts for custody of animals when charges have already been laid, which would prevent the return even if expenses

are paid. This option is not used often, if ever, since it may have the consequence of the HS being responsible for an animal (not being able to sell it or give it away) until the outcome of a trial.

Police also have the option of arresting owners and laying charges immediately, and releasing them on conditions that they must not own or care for animals, essentially preventing the return of the animals. This is done in only the most serious cases.

CAN SEIZED ANIMALS BE EUTHANIZED?

After the 3 day holding period, the animal belongs to the HS and they can then euthanize it, give it away, sell it or whatever else is legal for the owner of an animal to do.

Section 6 (3) of the *APA* also gives an APO the authority to euthanize an animal if it's in critical distress and cannot be relieved of its distress. So, if an animal cannot be kept free from pain, it can be euthanized during the holding period.

DOES EVERY SEIZURE MEAN THE OWNER GETS CHARGED?

No, every seizure does not result in charges, but generally if we have the grounds to seize an animal we have the grounds for charges. Sometimes charges are not laid if there is nothing to be gained from the prosecution, or if there is a low likelihood of a successful prosecution. For example, if an allegedly abandoned dog is seized, but we

do not have good proof that the dog was abandoned, and the owner's story gives reasonable doubt, then charges may not be laid.

CAN YOU CHARGE SOMEONE IF ANIMALS HAVEN'T BEEN SEIZED?

Yes! Charges depend on evidence of distress, and the ability to prove that distress occurred. Seizure relates to whether the owner relieved the animal of its distress. We can, and have, laid charges where no animals have been seized. For example, in a recent dog case, the owners voluntarily surrendered about 45 dogs to a rescue during the course of our investigation, so we were not forced to seize them as they had been relieved of their distress. However, we did have sufficient evidence that the animals had been in distress on the APO's visits, so charges were laid.

In another case, approximately 900 layer hens were in distress but there was no way to seize them due to biosecurity, welfare risks during capture and transport, and quota issues, so the birds were left on the farm but the owner was charged and ordered to depopulate.

For further information about animal protection in Saskatchewan, please contact:

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