

ANIMAL WELFARE WATCH ONTARIO “ONE STRONG VOICE FOR ANIMALS”

MEDIA RELEASE – JAN 3, 2019

**ONTARIO SUPERIOR COURT RULES
OSPCA POLICING POWERS ARE UNCONSTITUTIONAL**

Hagersville, January 3, 2019 - On January 2, 2019 a judge of the Ontario Superior Court, Justice Timothy Minnema, ruled that law enforcement by an unaccountable private organization such as the Ontario Society for the Prevention of Cruelty to Animals (OSPCA) is unconstitutional. **ANIMAL WELFARE WATCH ONTARIO** (AWW), an Ontario-wide advocacy group with almost 2,000 members, has analyzed the court ruling.

“The bottom line is this ruling is consistent with our main objective, which is to have animal welfare services delivered by the public sector,” says AWW coordinator Brenda Thompson. The court has said to the provincial government what so many stakeholders have been saying for several years: It’s time for a change. It’s also accelerated the process because it’s given the government a year to implement a new system”.

Mike Zimmerman, AWW’s other co-ordinator agrees. “This is good news but it presents some immediate challenges. The judge said his ruling does not take effect for a year in order to protect animals during a transition to a new system, but I’m worried that animal protection will be adversely affected right away. The OSPCA was already doing a very uneven and inconsistent job of protecting animals across the province. It’s possible they’ll do even less now that that this ruling has said they’ll be out of the enforcement ‘business’ in a year. The government needs to step up and make sure animals are protected while the new system is being implemented”.

One possibility to maintain coverage and fund a transition process is to divert the \$5.75 million annual provincial grant the OSPCA is supposed to receive to fund alternate service providers such as police and municipalities. The grant for 2018-19 is supposed to be paid to the OSPCA by March 31, 2019 but the province has the ability to suspend that funding and change any part of the contract at any time. “That grant is earmarked for enforcement and if the OSPCA is not going to be enforcing the law, they should not get that money,” said Thompson.

“The OSPCA Act states that where the OSPCA does not operate, police can enforce the Act with the same authority as OSPCA investigators,” says Thompson. “The OSPCA has claimed they operate province-wide, but that hasn’t been true for some time. To help protect animals during a transition to a new system, the OSPCA could work with the province and police to develop a strategy where the OSPCA formally ceases enforcement at least in some areas and police step in to enforce the OSPCA Act as needed, with their costs covered by the current provincial funding. Ultimately, police should not have to take on the animal protection role but something has to be put in place to ensure animals are protected on an interim basis.”

“There are other possibilities, including amending the OSPCA Act to enable municipalities to enforce it,” says Zimmerman. “That would also bring service delivery into the public sector which would improve accountability and it could be part of the larger transition strategy for a new provincial law. Again, money diverted from this year’s funding could be used to support this option.”

Another issue that should be dealt with is the OSPCA’s lack of transparency, which the court ruling noted as a key reason why a private organization should not be involved in law enforcement. In 2016, the OSPCA passed a bylaw that eliminated annual general members meetings and board elections. Since then, OSPCA board of directors has been self-appointed and their meetings are conducted in secret. “The Minister of Community Safety and Correctional Services has the ability to annul that bylaw and she should do so as soon as possible,” says Zimmerman. The Minister could then require any new bylaw, to provide for greater transparency as well as a new governance structure committed to the transition process. “We’re concerned the OSPCA could be focussed now on paying big buy-outs to their senior executives who might already be planning to ‘jump ship’. A change to the bylaw and the board could prevent that misuse of public and donor dollars if the Minister acts quickly.”

“Requests for the Minister to both review the current funding agreement and to annul the OSPCA’s bylaw are part of our petition that already has more than 3,000 signatures and has been presented in the Legislature,” says Thompson. “Those items have taken on a new importance and urgency with today’s court ruling.”

There are other concerns about the one-year timeline. “One year is very tight for developing and implementing a new animal welfare system,” continues Zimmerman. “I hope the government will involve stakeholders in this process. There are a lot of knowledgeable people who could contribute to making the new system a success.”

ANIMAL WELFARE WATCH’s coordinators are:

Brenda Thompson - Brenda is the Chief Executive Officer of Whispering Hearts Horse Rescue in Hagersville, Ontario. She is also a former municipal employee and OSPCA agent. And, **Mike Zimmerman** – Mike retired in 2016 from the Ontario Public Service. From 2003-2016, he managed the province’s Animal Welfare department.

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