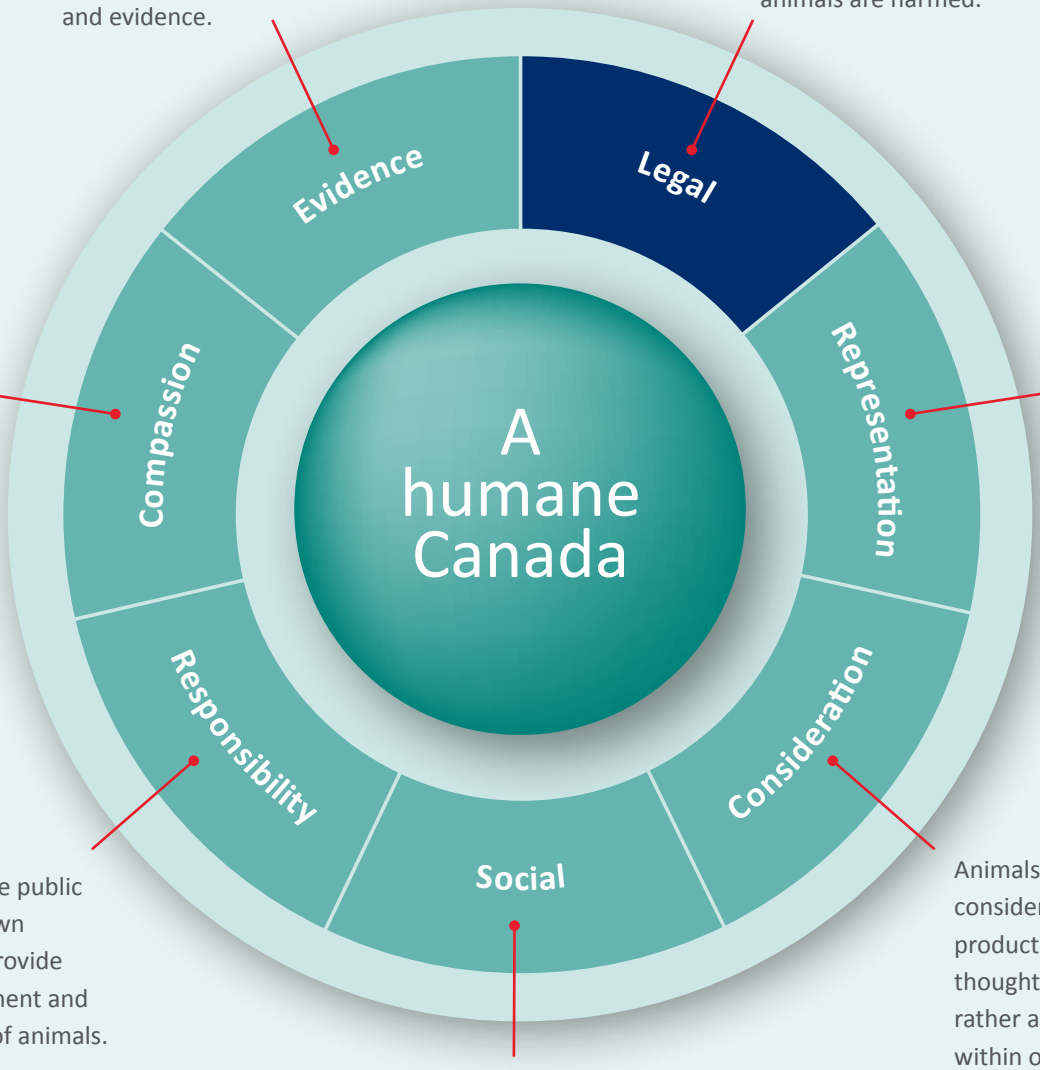
TOWARD A HUMANE JUSTICE SYSTEM FOR ANIMALS

INDICATORS OF A HUMANE CANADA: **THE LEGAL KEYSTONE**

HUMANE CANADA™
THE FEDERATION OF SPCAs AND HUMANE SOCIETIES

THE KEYSTONES OF A HUMANE CANADA

Measuring Progress Toward a Humane Canada lays out a framework that recognizes seven different keystones of a humane Canada. Within each keystone there are enabling conditions – aspects that make it possible for the keystone to be achieved. Indicators have been identified that can be used to measure and infer progress for each enabling condition. For more information on the full project, please visit: humanecanada.ca/indicators/. Humane Canada™ has set out to measure each keystone in turn, beginning with the Legal Keystone, as presented in this report.



There is accountability to the law when animals are harmed.

Animals' interests are taken into account in decisions about actions that have an impact on them.

Animals are not considered consumer products or objects of thoughtless use, but rather as individuals within our communities.

The human-animal bond is recognized as key to healthy communities where humans are not made more vulnerable because of their care of, or relationship with, animals.

Members of the public change their own behaviour to provide humane treatment and consideration of animals.

Compassion for human and non-human animals is a core value in society.

Animal welfare policy is informed by science and evidence.

Indicators of a Humane Canada: The Legal Keystone

How do we know whether Canada is humane or whether we are making progress as a country toward becoming more humane? Answering these questions requires measuring and tracking indicators that inform us about attitudes toward animals,[1] how they are treated, and how they are situated within Canadian social and political structures.

Identifying a list of such indicators is exactly what Humane Canada set out to do, as described in *Measuring Progress Toward a Humane Canada*. That report laid out a framework and cast a vision of what a humane country could look like. It set out over 40 indicators that can be tracked to infer progress toward that goal.

In this first measurement report, Humane Canada assesses the current status of indicators of the legal framework for animals. In Canadian society, we have created legal structures that establish rights and responsibilities to protect individual humans, and we expect that when someone is harmed there will be accountability. In a humane country, likewise, there is an understanding that each animal has a life worth living. Animals are recognized as sentient beings by a society that embraces its responsibilities with regard to their interests. This is expressed in the legal framework, and there is accountability to the law when animals are harmed.

1 Throughout this report, the term "animals" refers to non-human animals.

Legal keystone indicators and their current status

	INDICATOR	STATUS
L_1	Laws in Canada recognize animal sentience	●
L_2	Roles and responsibilities for animal welfare enforcement are clear, consistent, and harmonized across provincial governments	○
L_3	Provinces have clear policy directing prosecution of animal cases, including resource counsel who specialize in animal law	●
L_4	There are consistent definitions of offences, powers and obligations in provincial animal protection legislation	●
L_5	Existing crime reporting and tracking systems integrate animal abuse	○
L_6	Laws address animal abuse and violent offences toward humans in a coordinated fashion	●
L_7	Training programs on animal welfare and the Violence Link offered to Crown prosecutors, judges, and police staff	●
L_8	Level of participation of Crown prosecutors, judges and police staff in these training programs	◉
L_9	Enforcement budgets for animal abuse, including revenue, expenses and gaps	MD
L_{10}	Of the number of charges laid, those that result in prosecution	MD
L_{11}	The federal government has an animal welfare advisory body with diverse representation and knowledge from animal welfare non-governmental organizations, Indigenous organizations, animal welfare science, bioethics, and veterinary medicine	○
L_{12}	The federal government has a central body for coordination on animal welfare issues, such as a ministry or interdepartmental working group	○

MD Insufficient or missing data

○ Absent

● Present, but more needed

◉ Good and/or trending in the right direction

Indicator L_1

Laws in Canada that recognize animal sentience

Finding: Animal sentience remains almost entirely unrecognized in Canadian legislation.

For an animal to be sentient means that they can experience pain and pleasure, and that these experiences matter and have importance to them. There is broad scientific acceptance that vertebrates and many invertebrates are sentient. The sentience of different groups of animals is an area of active research, and in this light, a precautionary principle has been widely supported by animal welfare experts. This indicates that "Where there are threats of serious, negative animal welfare outcomes, lack of full scientific certainty as to the sentience of the animals in question shall not be used as a reason for postponing cost-effective measures to prevent those outcomes."[2]

Recognizing animal sentience in legislation acknowledges the importance of protecting animals for their own sake, as opposed to protecting them based on the utility they offer to us or the attitudes we hold toward them. Including a declaration of animal sentience in law makes clear for members of Canadian society that actions and decisions about animals must consider their interests and experiences.

Animal sentience is legally recognized in more than thirty countries around the world (including Austria, France, Germany, Australia, New Zealand) and by the European Union. In Canada, the only province that recognizes animals as sentient beings and not as "things" is Quebec. None of the other provinces or territories recognize animal sentience, nor does the federal government. There are some indications that attitudes toward the legal status of animals may be changing within the realm of Canadian law. Sentience and consideration of animals as distinct from other types of property has been acknowledged in cases regarding pet custody, animal abuse, and standards of care for a captive wild animal.[3] While these cases reflect the evolution of attitudes, animal sentience remains almost entirely unrecognized in Canadian legislation.

2 For description of the original concept, please see Birch, Jonathan (2017) Animal sentience and the precautionary principle. *Animal Sentience*, 2 (16). ISSN 2377-7478. Available at http://eprints.lse.ac.uk/84099/1/Birch_%20Animal%20sentience%20and%20the.pdf. A precautionary approach has been applied in Canada for farmed fish sentience and welfare, as proposed by the National Farm Animal Care Council Farmed Salmonids Code of Practice Scientific Committee (2020). Available at: https://www.nfacc.ca/pdfs/codes/scientists-committee-reports/farmed%20salmonids_SC%20Report_2020.pdf

3 In *Reece v. Edmonton (City)*, 2011 ABCA 238, Chief Justice Catherine A. Fraser's dissenting judgment defined sentient animals as those that can feel pain or pleasure, identified elephants as sentient, and drew attention to issues with how sentient animals are treated. In *R v Alcorn*, 2015 ABCA 182, it was stated that "sentient animals are not objects." In *MM v BM*, 2017 ABQB 532, it was noted that "'property damage' would not capture the proper significance of pets, who are (or at least may be) more than mere 'property.'" In *R v Dennison*, 2021 ONCJ, Justice Kinsella held that the current *Criminal Code* reflects "the acknowledgement by society that animals are no longer merely property to be used and discarded as humankind sees fit." In her concluding remarks, she noted that "The law now recognizes that a civilized society cannot treat sentient animals as merely property and that all members of our society have both a moral and ethical obligation to treat animals humanely." Finally, in *R v Chen*, 2021 ABCA 382, the court held that "animals, sentient beings that experience pain and suffering, must be treated as living victims and not chattels." They noted further that "animals... can be victims of violence" and that animal cruelty is a crime of violence.

Who creates animal welfare legislation?

In Canada, legislative powers are divided between federal and provincial governments according to the *Constitution Act, 1867*. However, legislative power over matters of animal welfare was not included in the Act, leaving the issue of jurisdiction for animal welfare matters open to interpretation. Animals are considered property under the provincial and federal legislative framework in Canada, so the power to legislate on animal welfare matters has typically fallen to the provinces. The federal government has also exercised limited authority over animal welfare matters through use of the federal Criminal Law power to legislate on animal abuse via the *Criminal Code*.[4] Jurisdiction over agriculture is shared between the two levels of governments. As well, the federal power for trade and commerce gives the federal legislature jurisdiction over animal transportation and slaughter for food, in addition to that held by provinces. Evolving case law increasingly demonstrates shared responsibility across federal and provincial powers for matters related to animals.

Each province and territory has its own animal protection legislation. These vary widely from one another in terms of which issues are covered and the level of protection provided, however they mainly address standards of care for kept animals. The degree to which the laws are enforced and who is responsible for enforcement also vary significantly across provinces.

While there is some overlap between offences within provincial law and the *Criminal Code*, the former requires a lower burden of proof than federal criminal offences. Prosecution under provincial legislation for grievous offences is unsatisfactory because:

- Offences under the provincial legislation are quasi-criminal, meaning provincial offences carry less stigma, thereby undermining the seriousness of animal abuse offences;
- There is a risk that the relevant provisions of the *Criminal Code* become obsolete, thereby further weakening the federal legal framework; and
- A conviction under the *Criminal Code* results in a criminal record that follows the perpetrator across Canada, whereas offences under the provincial legislation do not. Accordingly, animal prohibition orders under provincial legislation are applicable only within the relevant province, whereas such orders under the *Criminal Code* are nationwide.

4 The federal government's criminal law power has been construed very broadly by the Supreme Court of Canada, for example in regard to environmental matters, and there is a view that this power could be used to greater advantage for animal protection.

Indicator L_2

Clear, consistent, and harmonized enforcement

Finding: A formal structure to harmonize enforcement across federal and provincial governments is needed to ensure consistency.

Canada is a federation of eleven different national and provincial governments. A strong and effective legal framework for animals in Canada thus requires clear, consistent, harmonized laws and enforcement across these jurisdictions.

Each province and territory has its own animal welfare legislation. In addition, sections regarding animals set out in the *Criminal Code* apply across Canada. Provincial and federal legislation is enforced by a variety of agencies that can differ across provinces. The relevant sections of the Criminal Code are enforced by RCMP and other police in all cases, though in some provinces there are other agencies, such as SPCAs or provincial government departments, that enforce this legislation as well. While most provincial legislation can also be enforced by RCMP and other police, they are often (and sometimes exclusively) enforced by SPCAs or humane societies, provincial government departments, or municipal authorities.

Though provinces have the prerogative to delegate authorities appropriate to carry out enforcement in their jurisdictions, the patchwork approach results in inconsistent enforcement and prosecution standards, as well as confusion among the public about where to turn to address concerns and incidents involving animals. In some cases where multiple authorities exist within a jurisdiction, agencies themselves may lack clarity regarding responsibility and may fail to act, assuming that the authority lies with another organization. This situation creates a risk that animals in need of protection will fall through the cracks, a consequence that has tragically played out in Ontario.[5]

In the area of agriculture, the federal government has jurisdiction for transportation, trade of animals for food, and food safety, while activities on farms are more generally overseen by the provinces.[6] Given this shared responsibility, some provinces have agreements in place for coordination with federal inspection agencies to monitor compliance with animal transport requirements. There are also areas of overlap, such as animal slaughter requirements, where some meat processing plants are inspected to federal regulatory standards, while others are inspected to provincial standards under different regulations. The use of consistent federal requirements and inspection approaches would achieve a more harmonized approach. Other examples of inconsistencies can be found in *Fraser et al*. (2018).[7]

Overall, a formal structure to harmonize enforcement across federal and provincial governments is needed to ensure consistency. While an informal Federal-Provincial Animal Welfare Working Group brings together relevant officials from governments to share information on technical matters regarding enforcement of animal welfare in the agriculture setting, an official mandate to ensure a harmonized, coordinated approach is needed, as recommended in the *National Farm Animal Welfare System for Canada*, and noted as being unresolved in the 2015 Progress Report on that document's recommendations.[8] An updated version of this document[9] further calls on the Council of Chief Veterinary Officers for Canada to take up the goal of greater harmonization and consistent standards. Additional differences in legislative and enforcement approaches across Canada as well as the need for formal coordination are addressed by Indicators L_4 and L_{12}.

5 Dimmock, G. (2021, June 9) "Vet who treated failed Ottawa puppy under investigation" *Ottawa Citizen*.
Available at: https://ottawacitizen.com/news/local-news/vet-who-treated-failed-ottawa-puppy-under-investigation; *R v Garvin*, 2021 ONCJ. Agreed statement of facts.

6 Within this context, it should be noted that provincial animal protection statutes exempt standard farming industry practices.

7 Fraser, D., Koralesky, K.E., and Urton, G. (2018) Toward a harmonized approach to animal welfare law in Canada. *Canadian Veterinary Journal*, 59: 293-302.

8 National Farmed Animal Health and Welfare Council (2012) A National Farm Animal Welfare System for Canada.
Available at: https://www.ahwcouncil.ca/pdfs/animal-welfare-statement/NFAHWC%20animal%20welfare%20vision_cover%20page_2012.pdf;
National Farmed Animal Health and Welfare Council (2015) Progress Report (2015): "A National Farm Animal Welfare System for Canada, 2012".
Available at: https://www.ahwcouncil.ca/pdfs/NFAHWC%20Progress%20Report%202015.pdf;

9 National Farmed Animal Health and Welfare Council (2019) A National Farm Animal Welfare System for Canada – 2019 Available at:
https://www.ahwcouncil.ca/pdfs/animal-welfare-system/NFAHW%20Council_Recommendation_National%20Farm%20Animal%20Welfare%20System%20for%20Canada_2019.pdf

Indicator L_3

Dedicated Crown policy and counsel for animal law

Finding: Policies for the prosecution of offences against animals are absent, and most provinces lack a formally-recognized Crown prosecutor specializing in animal abuse.

A humane justice system includes the structures and support for strong, effective outcomes where animal offences occur, including prosecution of criminal cases resulting in meaningful penalties to provide just denunciation/deterrence or alternative measures. One example of support is that provinces have clear policy directing the prosecution of animal cases, including having dedicated Crown prosecutors who specialize in animal law.

Crown prosecution policies play an important role in providing advice and guidance to promote consistency in how cases are prosecuted. Many prosecution policies are in place across the country applying to such important areas as domestic violence and hate-motivated crimes. There are currently no such policies that apply to the prosecution of offences against animals. Creating policy would signal the need to dedicate resources to this area and provide guidance to support effective prosecution of offences against animals. The absence of clear policy creates the risk of animal cases being overlooked or addressed without sufficient knowledge or diligence.

Having Crown counsel who specialize in a particular area of law also ensures those cases are prosecuted effectively and consistently. British Columbia is the only Canadian province with formally recognized Animal Cruelty Resource Counsel specializing in animal law. In Nova Scotia, there is a designated Environment Prosecutor whose area includes animal welfare cases. Some provinces have counsel who have become trusted professionals for prosecuting cases involving offences against animals, though their positions have not been formally recognized and instituted. In other provinces, there is no indication of any official or unofficial Animal Cruelty Resource Counsel. [10]

10 While this indicator is focused on policies at the provincial level, it is noteworthy that the City of Montreal's prosecution service has a formally recognized team of prosecutors dedicated to animal welfare offences.

Indicator L_4

Consistent definitions of offences, powers, and obligations in provincial animal protection legislation

Finding: In order to provide the strongest protections for animals, more consistent, comprehensive, and clear approaches are needed in provincial legislation.

Since each province has its own animal protection legislation, consistent definitions of offences, powers, and obligations across the provinces are important to ensure strong and effective outcomes reliably across the country. We have focused on five key tools that are important for animal protection agencies to have to address welfare issues.

Distress. One province (New Brunswick) does not provide a definition of distress in their animal welfare legislation. The other nine provinces, however, all define distress to refer to pain and suffering. Most of these definitions also specifically refer to neglect and inadequate food, water, shelter, and care as causes of distress. Five provinces (Manitoba, Nova Scotia, Prince Edward Island, Quebec, and Saskatchewan) now recognize anxiety as constituting distress in animals; and two provinces (Nova Scotia and Prince Edward Island) have identified cosmetic surgery as causes of distress. A comprehensive definition of distress that is not restrictive should be applied by all provinces in order to have strong, consistent laws across Canada.

Standards of care. The standards of care outlined in animal welfare legislation have a close connection to distress as they require persons responsible for an animal to provide appropriate care to prevent the animal from being in distress. All ten provinces outline standards of care, typically requiring suitable provision of food and water, protection from injurious heat or cold, appropriate care for injuries or illness, and adequate shelter, ventilation, and space. Some provinces incorporate by reference standards of care set out by national bodies, such as the Canadian Council on Animal Care (CCAC) for animals in science, the National Farm Animal Care Council for farmed animals, and the Canadian Veterinary Medical Association for dogs and cats, though different groups of standards are referenced by these provinces. Newfoundland and Labrador and Prince Edward Island establish the standards as positive duties of care, an approach that provides clear, comprehensive requirements to enforce. In addition, Alberta references only CCAC guidelines and policies as requirements for the care of animals in research. A consistent approach where provinces incorporate by reference all current standards documents (for all groups of animals for which they exist) to define positive duties of care would provide the strongest, clearest protections.

Warrantless entry. This can be an important tool in cases where it is not feasible to obtain a warrant and an animal is in immediate need of attention. In all ten provinces, warrantless entry is permitted to any location that is not a dwelling house, however the thresholds and language vary. For example it is permitted to relieve distress in Alberta, Manitoba, New Brunswick, Nova Scotia; critical distress in BC and Ontario; immediate distress in Newfoundland and Labrador; or as defined by other terms in the remaining provinces. When it comes to dwelling houses, there are further inconsistencies: Manitoba permits warrantless entry to a dwelling house if an animal is in distress and pressing circumstances make it impractical to attain a warrant. In Ontario, the threshold is *critical* distress, which is a level of "distress that requires immediate intervention in order to prevent serious injury or to preserve life". The other eight provinces, however, do not permit warrantless entry to a dwelling house regardless of any reasonable grounds to believe that there is an animal in distress. Five of these provinces (New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, and Quebec) have implemented another approach that aims to allow animals in distress to still receive attention without warrantless entry: authorized agents can request that any animal from a dwelling house be presented to them for inspection. In most cases compliance with this request is legally mandated, though in Newfoundland and Labrador

there is no requirement to comply, and the request can be lawfully declined. It is critical that animals in dwelling houses receive appropriate protection and care when in distress, and warrantless entry provides the strongest approach for protecting their wellbeing.

Power to seize. This is another legal instrument that can be important for tending to the immediate needs of an animal. Similar approaches are taken across all ten provinces: if an animal is in distress and the person responsible for the animal will not promptly take steps to relieve the distress, or if they cannot be located, an authorized agent may take custody of the animal to relieve the distress. There are limitations to this power in some provinces, based on provisions around warrantless entry: if an agent is unable to enter a dwelling house and cannot otherwise access the animal by way of mandated compliance with a request to produce the animal, then the agent's inability to access the animal will prevent them from exercising their power to seize.

Some provinces have expanded this tool to apply under other circumstances as well. Three provinces (Alberta, Ontario, and Saskatchewan) permit seizure to prevent expected future distress, and each one does this a bit differently. In Alberta, an animal may be seized if there are reasonable grounds to suspect that the person responsible for the animal is unlikely to ensure the animal's distress will continue to be relieved. In Ontario, an animal may be seized if there are reasonable grounds to suspect that the animal is being trained to fight another animal or will soon participate in such a fight. In Saskatchewan, an animal may be seized if there are reasonable grounds to suspect the animal will be in distress if not seized. Two other provinces (Nova Scotia and Quebec) permit seizure in cases of suspected past abuse: if there are reasonable grounds to believe that an offence was committed or that the animal has been abused or tortured by the person responsible for the animal, seizure of the animal is permitted. These expansions of the power to seize provide more comprehensive means of ensuring that animals can be removed from conditions that threaten their safety and wellbeing. It should be noted, however, there is a legal gap about providing care for the animals in a manner that best meets their welfare needs once they are seized; seized animals are considered evidence and required to be held until the end of judicial proceedings, which can take years.

Duty of veterinarian to report distress. Nine of the ten provinces legally mandate that a veterinarian must report to the appropriate authority if they have reason to believe a person responsible for an animal has caused or permitted an animal to be in distress. The only province that has not legally mandated this duty is Alberta. In light of the lack of legislation on this matter, the members of the Alberta Veterinary Medical Association (ABVMA) passed a resolution in 2019 to mandate this type of reporting for their members. They have seen a marked increase in veterinary reporting since the resolution was passed. Failure to report is judged by the ABVMA complaints review board and hearing tribunal. In provinces that have a legal duty to report, it is unclear what the consequences are for not reporting.

Recognizing and addressing the Violence Link

Strong correlations have been identified between violence toward animals and violence toward humans. Research shows that violence toward humans (interpersonal violence) and violence toward animals (animal abuse) are part of a larger pattern of violent crimes that co-exist. Cases of inter-partner violence, sexual abuse and child abuse (including child sexual abuse), gang violence, youth crime, organized crime, assault, homicide, weapons, and illicit drugs also commonly involve animal abuse. This phenomenon was first termed by the American Society for the Prevention of Cruelty to Animals (ASPCA) as the "Violence Link".

A perpetrator may direct violent actions toward both animals and humans. Therefore, applying laws and tracking cases separately on the basis of whether the victim is human or animal results in a loss of critical information for enforcement and prevention.

Indicator L_5

Integrating animal abuse into crime reporting and tracking systems

Finding: With the exception of bestiality cases being tracked in the National Sex Offender Registry, existing crime reporting systems do not integrate cases of animal cruelty; tracking systems do not specifically identify such cases.

It is critical that existing crime reporting systems integrate animal abuse and use this information to proactively protect humans and animals at risk. The Violent Crime Linkage Analysis System (ViCLAS) is a crime reporting system operated by the RCMP. Violent crimes against humans are submitted to ViCLAS by all police services across the country, and any patterns or linkages between crimes can be analyzed by specialists in an effort to identify repeat crimes and offenders. Tracking cases of animal cruelty would be an important strategy for identifying and mitigating the risk of repeat animal offences and other violent crimes. However, ViCLAS does not currently integrate cases of animal abuse. Thus, future violence can not be pre-empted by enforcement or social services agencies in related incidents, and humans and animals may remain at risk.

The province of Ontario has a crime reporting and tracking system known as the Major Case Management (MCM) system. Police services in Ontario use MCM as an investigation tool for serious crimes (e.g. homicide and sexual assault), particularly to help identify connections between various crimes and to help identify serial offenders. However, MCM does not currently integrate cases of animal abuse. Considering the Violence Link, integrating animal abuse into MCM would improve the effectiveness of this system and protect humans and animals in vulnerable situations.

The RCMP administers an offender database through its registry of convicted offenders. Bill C-84, which passed into law in 2019, requires that cases of bestiality (under the Sexual Offences section) be included in the National Sex Offender Registry. This was an important advancement for incorporating animal cases into the offender database. Another valuable step would be to establish an Animal Abuse Offender Database to capture violence towards animals more generally.

Finally, the Uniform Crime Reporting (UCR) system is a tool used by Statistics Canada to collect data from police services across the country on criminal cases. This tool captures charges reported by police services, though reported animal abuse charges are categorized within a general collection of property crimes that also includes such crimes as arson, mischief, and other interference with property. As such, this tool is unable to specifically isolate data on animal abuse charges, including their number. Moreover, this tool does not enable the tracking of co-occurrences of crimes against humans and animals. The UCR would be more valuable if animal abuse charges could be separated and tracked in a more refined manner.

Indicator L_6

Laws that address violence in a coordinated fashion

Finding: A small number of Canadian laws have started to address violence toward humans and animals in a coordinated fashion; more provinces need to do so, applying a consistent approach.

As noted above, considering the relationships between violence toward humans and violence toward animals, laws must address these issues in a coordinated fashion to better protect both humans and animals in vulnerable situations.

Some laws in Canada do address violence in a coordinated fashion. In the *Divorce Act*, a piece of federal legislation that governs all of Canada, the definition of "family violence" includes harming, killing, or threatening to harm or kill an animal. The legislation recognizes that violence toward companion animals can constitute emotional or psychological violence toward people. Similar definitions of family violence are included in New Brunswick's *Family Law Act*, in British Columbia's *Family Law Act*, and in Ontario's *Moving Ontario Family Law Forward Act*.

Two other provinces (Newfoundland and Labrador and Manitoba) make reference to companion animals within their legislation with regard to protection orders. These orders protect a person from violence by restricting how another person may interact with them or their property. In Newfoundland and Labrador, the definition of "property" under the *Family Violence Protection Act* includes companion animals, which allows for these animals to be included in protection orders and receive protection themselves. In Manitoba, under *The Domestic Violence and Stalking Act*, violence against animals must be taken into consideration as a risk factor when determining whether to grant a protection order. However, in this case, the legislation does not specifically identify companion animals as being eligible for protection under a protection order.

There are two further pieces of legislation that address animal and human violence together. Under section 160 of the *Criminal Code*, which makes it a crime to commit bestiality, subsection (3) specifically identifies that it is an offence to commit bestiality in the presence of a child, or to incite a child to commit bestiality. The other legislation – Bill C-3, which is discussed in more detail under indicator L_7 – requires federally appointed judges to engage in continuing education on sexual assault law and social context. The Senate of Canada accepted on observation on this bill that identified the importance of including Violence Link training under Bill C-3 on the basis of the link between animal abuse and sexual abuse.

Indicator L_7

Training of justice stakeholders

Finding: Violence Link training is starting to be delivered to justice stakeholders through initiatives of a provincial Crown association, police organizations, and non-governmental organizations.

Knowledge of the Violence Link among those working in services and sectors that support humans and animals is critical to addressing violence holistically. The Canadian Violence Link Coalition (CVLC)[11] has identified as many as ten key sectors where recognition of the Violence Link is of particular importance. In the context of the legal system, justice stakeholders should receive training and have knowledge of it in their roles. This section reviews training resources available to justice stakeholders, and Indicator L_8 provides information on participation rates for these training opportunities.

11 The Canadian Violence Link Coalition is a program of Humane Canada™. To learn more, please visit: https://humanecanada.ca/violence-link/

Only one initiative has been identified in which training is provided to judges on the Violence Link. This has been offered in an informal and independent capacity by one individual. However, an important development in judicial training took place in 2021. Bill C-3, amended the *Judges Act* requiring that federally appointed judges engage in continuing education on sexual assault law and social context. During its consideration of the Bill, the Senate of Canada accepted an observation[12] regarding the importance of including Violence Link training, on the basis of the link between animal abuse and sexual abuse, among other things. While the observation is not legally binding, it serves as a recommendation from the Senate. The Canadian Judicial Council (CJC), which sets out the education programs for federally appointed judges, is now tasked with developing and delivering the training. The provisions of Bill C-3 apply only to judges of superior courts, as it is outside of Parliament's jurisdiction to legislate in relation to provincially and territorially appointed judges. Bill C-3 is an important step in delivering Violence Link training to judges, and it sets a precedent for legislation coming into place for the lower courts.

Training on animal abuse and the Violence Link is offered to Crown prosecutors in Canada primarily by the National Centre for the Prosecution of Animal Cruelty (NCPAC)[13] and the CVLC. Training resources provided through these programs include the annual Prosecution of Animal Abuse Conference, which is offered mainly to prosecutors, though other allied professionals, including police, are invited to attend. The NCPAC also offers a host of educational resources accessible through their website, including a case law database, prosecution manuals, and regular newsletters. Recorded webinars of NCPAC are also shared with the Ontario Crown Attorneys Association, which provides continuing education and training, for delivery to their members. The CVLC, on the other hand, is specifically focused on the Violence Link. Training resources offered include the biennial Canadian Violence Link Conference and regional workshops. Both of these events are open broadly to any sectors affected by the Violence Link. The CVLC also sends out a monthly newsletter as a continuing educational piece that can be subscribed to on its website.

The importance of Violence Link training for police staff has been expressed in an Ontario private member's motion to make Violence Link training mandatory for all enforcement officers in the province. The motion was unanimously passed by the Ontario Legislature in October 2020. The Ontario Veterinary Medical Association (OVMA) has since hosted Violence Link training for police staff in Ontario.

In PEI, Violence Link training is being provided to all police officers and new recruits through the Atlantic Police Academy, a primary institute in Canada for the training of police and law enforcement officers.

The Canadian Police Knowledge Network (CPKN), a leading police training and education network, also provides training on the Violence Link and animal abuse to police staff across the country. In 2020, they offered a webinar on the Violence Link delivered by subject experts. In 2021, they introduced a new webinar called "BC Evidence-based, Risk-focused Intimate Partner Violence Investigations" that is mandatory for all frontline police officers and supervisors in the province of BC. The CPKN also offers a training course entitled "Assessing and Interpreting Dog Behaviours", which serves to educate police and other first responders on how to assess the behaviour of dogs to promote safe and humane encounters.

Animal abuse and Violence Link training vary significantly between police services. There are some police services that provide excellent training in these areas through the initiatives of individual officers, though it seems this is not yet commonplace. At Calgary Police Services (CPS), training is offered on animal abuse and the Violence Link, including on what to look for when attending an animal abuse call. At Edmonton Police Services (EPS), training is provided to frontline officers about the Violence Link and investigating animal abuse cases. EPS also launched the first Animal Cruelty Investigation Unit (ACIU) earlier this year which is set to run for a six-month test period. The RCMP – Canada's widest ranging police service – does not currently provide any national in-service training in the areas of animal abuse and the Violence Link.

12 An observation is an expression of information that draws attention to certain aspects of a bill or related policy.
13 The National Centre for the Prosecution of Animal Cruelty is a program of Humane Canada™. To learn more, please visit: https://ncpac.ca/

Indicator L_8

Participation of Crown prosecutors, judges and police staff in training

Finding: Violence Link training is reaching the greatest numbers of justice stakeholder participants through programs delivered by police organizations.

At the time of writing this report, no Violence Link training has been provided to judges as a result of the observation on Bill C-3, which received Royal Assent very recently (May 2021). We were unable to identify how many judges have received training via the independent informal initiative.

The Prosecution of Animal Abuse Conference, which has been held annually since 2015, has been attended by 186 Crown prosecutors over the years of 2015-20. Additionally, the NCPAC newsletter currently reaches approximately 320 recipients.

The Canadian Violence Link Conference, held biennially since 2017, has been attended by 39 Crown and by 83 police staff. The regional Violence Link workshops, first held in 2020, were attended by 40 police staff. These numbers do not include any events from 2021. Additionally, the CVLC monthly newsletter currently reaches approximately 380 recipients.

The Violence Link webinar offered through the CPKN in 2020 was attended by 222 people which included police, other first responders, and veterinarians. The course on assessing and interpreting dog behaviours, also administered through the CPKN, has been completed 749 times across 88 different agencies as of June 2021. This course has been primarily completed by police services, though there have been some completions from members of other sectors as well. For the newly released course that is mandatory for BC police officers and supervisors, attendance information was not requested.

The Violence Link training being offered to Ontario police through the OVMA has reached over 500 police staff so far, according to OVMA estimates. The CPS training has been delivered to over 300 members of the police service, and the EPS training has been provided to approximately 900 frontline (patrol) officers. For context, there were approximately 6400 Crown prosecutors in Canada in 2015[14] and 68,718 police officers in Canada in 2019.[15]

Indicator L_9

Financial resources for enforcement

Finding: There is a lack of information about public allocation of funds for animal protection enforcement at the provincial level. A serious concern is that a large non-governmental agency carrying out enforcement across one large province receives no public sector funding.

Agencies that are tasked with enforcing federal and provincial animal protection legislation must be adequately resourced if they are to be effective. For the purposes of making comparisons and assessing the current level of investment across the country, we have collected information on enforcement at the provincial level. It is worth noting, however, that the majority of enforcement for animal offences takes place at the local level. Some provincial enforcement organizations serve as the local enforcement, particularly in rural areas. However, in urban and suburban areas, the relevant agencies can often be municipal.

14 Canadian Association of Crown Counsel, personal communication (2015).
15 Statistics Canada (2020) Police resources in Canada, 2019. Available at: https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00015-eng.htm

There are typically three different types of enforcement agencies operating at the provincial scale: humane societies and SPCAs, government agencies, and police. In the first category – humane societies and SPCAs – organizations tend to rely heavily on charitable donations to fund their enforcement activities. In some cases, these organizations receive no government funding and rely entirely on donations. One such example is the BC SPCA, which spent three million dollars on enforcement in 2019-20. Other organizations receive government funding that covers some fraction of their enforcement costs, such as the Nova Scotia SPCA, which received $320,000 in government funding in 2020 while their enforcement costs were $355,000. Whether or not government funding is available to these organizations, they tend to depend on donations in order to perform the full extent of their enforcement duties.

In the category of government agencies, seven provincial enforcement bodies were identified. Three of these were unable to break down their financial information to indicate their total allocated budget and spending for enforcement activities for animal protection legislation. The Manitoba Department of Agriculture and Resource Development spent a total of $1.2 million on enforcement in 2019-20, while their allotted enforcement budget was $934,000. Animal Protection Services of Saskatchewan, a non-government organization contracted by the Government of Saskatchewan, spent a total of $815,946 with an allotted budget of $800,000 under their contract. Enforcement through the Farm Animal Welfare program under Nova Scotia's Department of Environment spent nearly their exact budgeted amount of $408,866, having spent a total of $408,359. Finally, The Quebec Ministry of Agriculture, Fisheries, and Food (Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec) had a total enforcement budget of $1,609,998 while spending only $871,753 in 2020-21 (information for the 2019-20 year was unavailable).

We attempted to collect information on enforcement budgets and expenses for provincial police forces. We found that the Ontario Provincial Police, the Sûreté du Québec, the Royal Newfoundland Constabulary, and the RCMP (which acts as provincial police in all provinces except Ontario and Quebec) were unable to break down their financial records to provide this information.

While some enforcement agencies carried out their mandate without exceeding the financial resources made available to them, others had to incur costs over and above the funding they received to do this, if they received any government funding at all. Some enforcement agencies have noted a decline in complaints of abuse during the pandemic, likely stemming from decreased interactions leading to a decrease in witnessing animal welfare concerns (and not a decrease in the amount of animal abuse that actually occurred). This trend could lead to the enforcement costs reported above being lower than average, potentially resulting in an underrepresentation of the gap between revenue and expenses that some enforcement agencies would experience in a typical year. In any case, the limited resources available to enforcement agencies contributes to their efforts being mainly reactive – primarily responding to complaints – while restraining their ability to engage in proactive efforts, such as unplanned inspections in the case of agriculture settings, to prevent cases from arising in the first place. Ensuring enforcement agencies are adequately funded would help to expand both reactive and proactive efforts.

The lack of information about public allocation of funds for animal protection enforcement presents significant challenges for assessing the current level of investment and potentially making comparisons with other areas of law enforcement.

A grave concern identified from this research is that enforcement by a designated agency in one province is not at all funded by the public sector. If governments enact laws for the protection of animals, there is a public expectation those laws will be enforced and complied with. Not allocating funds to enforce animal protection legislation seems to reflect a failure to meet public expectations and a serious lack of commitment to addressing animal abuse.

Indicator L_{10}

Effectiveness in addressing animal abuse

Finding: Lack of information makes it difficult to determine the current proportion of charges laid in Canada for which prosecution is pursued.

Various approaches to addressing animal abuse concerns exist, one of which is engagement of the criminal justice system, including prosecution. There can also be approaches outside of the judicial process to address the underlying issues that lead to arising animal welfare concerns. Mental health issues play a significant role in many animal welfare cases and is a common reason why charges may not be laid or are withdrawn. Such issues need to be addressed effectively and compassionately to improve outcomes for both humans and animals.

While prosecution is not the best means of responding to animal welfare concerns, for the purposes of this report, we focus specifically on prosecution for its direct relation to the legal keystone and for its measurability. Furthermore, serious incidents that are of a criminal nature are typically addressed within the context of the justice system in Canadian society. Thus criminal incidents of animal abuse should be treated as seriously as those affecting human victims.

This indicator is concerned with identifying the proportion of charges that are pursued where they have been laid under provincial animal welfare legislation or federal animal abuse legislation. In some cases, these charges are withdrawn before the case proceeds to court. This may occur due to issues with how an investigation was conducted. In cases where multiple types of charges are laid, charges for animal offences may receive lower priority and be withdrawn to focus on other charges, for example regarding violence towards humans.

Provinces take one of two approaches to laying charges. In seven provinces, authorized enforcement agents can lay charges. The other three provinces – British Columbia, New Brunswick, and Quebec – have a pre-charge screening process by which enforcement agents recommend charges that are reviewed by Crown Counsel for approval based on public interest and whether there is reasonable likelihood of conviction.

British Columbia was the only one of the pre-charge screening provinces to provide information about the number of charges approved by Crown Counsel. In 2018 and 2019, enforcement recommended provincial

and federal animal abuse charges be laid against 231 accused. Of these 231, 55 ultimately had no charges laid against them. Quebec provided the total number of cases that were ultimately pursued but could not provide information on the total number of charges initially recommended. New Brunswick indicated they had no records available to track this information.

Among the other seven provinces where enforcement agents lay charges, two provinces – PEI and Saskatchewan – indicated they had no records available: Saskatchewan reported that the requested records do not exist. PEI expressed that they were unable to locate any such records, while also recognizing that no provincial or federal animal abuse charges were laid in 2018 and 2019. Three other provinces – Alberta, Manitoba, and Newfoundland and Labrador – were able to provide information on the total number of charges that were ultimately pursued, though they could not provide information on charges that were withdrawn before proceeding to court. Nova Scotia provided information on the proportion of charges pursued under their provincial animal welfare legislation. In 2018 and 2019, 57 charges were laid, of which eight were withdrawn before proceeding to court. Finally, Ontario was able to provide all of the requested information, indicating the proportion of cases pursued under their provincial and federal legislation: In 2018 and 2019, 266 charges under the *Criminal Code* were closed, and exactly half of these – 133 – were withdrawn before proceeding to court. Under provincial animal welfare legislation, 1,055 charges were closed, of which 210 were withdrawn before proceeding to court.

Once again, the lack of information from some provinces is a challenge to assessing the current proportion of charges laid for which prosecution is pursued. However, based on information submitted from three provinces, approximately three-quarters of charges laid are pursued.

Indicator L_{11}

Reflecting public perspectives, ethics, and values

Finding: Canada lacks an animal welfare advisory body to support ethically-sound decision-making on issues regarding animals that reflects the values of Canadians.

The engagement of citizens and experts in policy development supports robust, evidence-based action by government. This is particularly critical for complex matters where there is high public concern and a need for ethics and values to be considered, which is clearly the case where animal lives and wellbeing are at stake. National advisory bodies are a valuable mechanism for bringing together experts from outside of government to advise on important policy issues. Canada has advisory bodies in key areas, including the Species at Risk Advisory Committee, the Minister's Advisory Council on Gender-Based Violence, and the National Advisory Council on Poverty. Canada does not currently have an animal welfare advisory body.

A number of countries have created bodies to advise government on how to approach animal welfare issues. The UK, the Netherlands, Germany, and New Zealand, for example, all have animal welfare advisory bodies with diverse representation, bringing essential complementary perspectives and knowledge. In some of these countries the animal welfare advisory bodies are grounded in legislation, and government consultation with them is mandatory when formulating laws or policies that affect animals.

Strong governance of issues impacting animals requires Canada to establish an advisory body with diverse representation and knowledge. This would support ethically-sound decision-making on issues regarding animals that reflects the values of Canadians. Such a body should include animal advocates, including animal welfare non-governmental organizations, as well as experts in animal welfare science, bioethics, and veterinary medicine. It will be of particular importance in the Canadian context for Indigenous representation to be included within this body.

Indicator L_{12}

Federal leadership on animal welfare

Finding: Canada lacks a central body for direction and coordination on animal welfare issues or to ensure animal welfare and interests are considered.

Central bodies within the federal government ensure important policy issues receive appropriate attention and representation within government. These central bodies typically take the form of government departments or agencies under the mandate of a Cabinet minister. Where policy objectives overlap across departments and ministerial mandates, other bodies, such as interdepartmental working groups, may be created to coordinate the work. The Canadian government has a variety of such bodies, including the Interdepartmental Committee on Biodiversity. Canada does not currently have a central body for coordination on animal welfare issues, even though responsibility for issues related to animal welfare lies with ministers of agriculture, environment, fisheries and oceans, health, innovation and science, justice, and trade – to name some obvious portfolios. As a result, there is no single entity mandated to ensure the welfare of animals is considered across federal government activities. This creates risks of inconsistency, lack of coordination, and worst of all, inaction to protect animals.

Central bodies for coordination on animal welfare issues exist in other countries, such as the UK, New Zealand, and Malta. In their Animal Protection Index[16] World Animal Protection has identified as a key goal that countries establish a ministry or national government body for animal welfare issues, or to have an independent national ombudsperson advising government and representing the interests of animals. They have called on Canada to create a working group at the national level dedicated to animal welfare that can work in cooperation with provincial governments. While there is currently some informal information-sharing across federal and provincial animal inspection agencies in the agriculture setting, a formal mandate and broader scope is needed. The development of a central body for the coordination of animal welfare issues would be a fundamental step for addressing animal welfare within the Canadian government.

16 World Animal Protection (2020) Animal Protection Index. Available at: https://api.worldanimalprotection.org/

About Humane Canada™

Humane Canada is the federation of SPCAs and humane societies. As Canada's voice for animal welfare, we drive positive progressive change to end animal cruelty, improve animal protection and promote the humane treatment of all animals. Humane Canada convenes and represents the largest animal welfare community in the country. Together with our Members and Associates in every province and two territories, we advance the welfare of animals with a strong national voice, promoting animal welfare interests and concerns to government, policymakers, industry, and the public.

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Women for Humane Canada

THE SUMMERLEE FOUNDATION

humanecanada.ca
info@humanecanada.ca
613-224-8072

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