

Don't throw the baby out with the bath water—*please?*

Michael Cartwright

FOREWORD

It has never ceased to amaze me that although dog control has existed in Australia since the 1800's through a variety of methods which finally resulted in the introduction of legislation, successive Governments continue to attempt to change everything every time we address a problem associated with dog management just to be able to "make their mark". In South Australia, dog management is the responsibility of Local Government that operates under the auspices of State Government legislation formally known as the Dog and Cat Management Act, 1995. A provision in the legislation enables the establishment of a Board made up of 7 prominent members of the community with specific knowledge or expertise in the area of animal management. The Board is known as the Dog and Cat Management Board and is the only Board of its type in Australia. This paper is not about the Board as such although many of the points of view I have put forward in this paper have evolved as a result of my involvement with this Board as its Executive Director.

Over the past 4 years, South Australia has experienced several bad dog attacks, as have other States and the Territory. Of particular concern is the intense media interest given to each attack that takes place. At times Councils, the Board and the public are completely overwhelmed by this attention with all aspects and details of the attack questioned and reviewed time and time again. (Note: A word of caution when dealing with the media - they love to get a photograph of the dog(s) involved in the incident but as an alternative, they will happily use a photo or film footage of the most savage Rottweiler or Shepherd they can find, just to jack up the level of hysteria. After all, sensational headlines sell papers!) My advice to anyone who will be interviewed by the media regarding a dog attack, is *do not* conduct the interview until all of the facts are known and completely clear in your mind as reporters are trained to hone in on the slightest hesitation in answering, to look for an area to level blame at, and yes, dog management people and dog management organisations are definitely a target!

The Government is responsible for changes to legislation and anyone who has had experience in dealing with Politicians will probably agree with me when I say that the surest way to achieve political intervention in an issue is for the media to start antagonising. This is another area that has been the cause of considerable concern throughout the process of this latest review. Politicians often react to adverse public perceptions and unfortunately the public are not always given the right information by the media therefore the pressure brought to bear on Politicians by the public to act on an issue, can often result in ill-informed and hasty decisions being made. Media personnel often are not always objective in

their reporting and in their efforts to conjure up a good story, twist, cut and delete so much of it that the true facts are not represented correctly. This has an effect of whipping up public controversy to which Politicians just might find themselves passing changes to legislation that could catch them *tossing the baby out with the bath water*.

If you are ever likely to be involved in reviewing legislation with a main focus of reducing dog attacks, *guard this paper with your life!* I guess we in South Australia have "*been there, done that*" so to speak and therefore we are really keen for others to learn from our experiences and our knowledge. We believe if we share our experience and knowledge, perhaps dog owners, non-dog owners and the poor dogs themselves will get a better deal across every State.

Many issues discussed throughout this paper are still the subject of negotiation with the new State Labor Government. As a result, some of what you will read are still only the Board's recommendations for change. I will be able to give more definitive answers to a whole range of issues discussed in this paper by the time of the Conference, as it is expected that the review of the South Australian Dog and Cat Management Act will be finalised by then.

MUZZLING AND BREED SPECIFIC BANNING – *ARE THESE METHODS THE ANSWER?*

Dog attacks are without doubt a horrific experience. Emotions run high and reporting of them can and does, lead to everyone having an opinion on how to prevent them. Realistically, we will probably never fully prevent dog attacks from occurring as for that situation to eventuate is predicated on dog owners and non-dog owners alike becoming fully educated and totally responsible individuals. Unfortunately, I find it extremely difficult to believe that this will ever fully happen.

During the recent debates in South Australia we looked at many different proposals to prevent dog bites. During public debate on the issue, muzzling and breed specific banning were the most commonly proposed methods of prevention however experts agree that these methods will do little to prevent attacks occurring.

Firstly I'll explore the logic of having all dogs muzzled in public. According to the wide range of opinions the Board received regarding this issue, dogs cannot bite while muzzled therefore muzzling must be the answer. They also said that if dogs were muzzled, owners could walk their dogs without fear of any mishaps. In my opinion and the opinions of many dog behavioural experts, this method of control will not work. I say this because 60% of dog attacks happen on private property or within 10 metres of the dogs' home. Dog owners do

not generally muzzle their dogs when they are on their own property. Of the other 40% of dog attacks, half will happen when the dogs are wandering at large. Dogs are generally wandering at large without the knowledge of the owner, therefore they are not likely to be muzzled. The final 20% of dog attacks that occur on public property happen for a variety of reasons that include the dog not being under effective control, and a person's (be it adult or child) fundamental misunderstanding of how to behave around any dog let alone a strange one!

Experts agree that dog attacks happen for several reasons. These include a lack of socialisation, genetic predisposition to attack, lack of obedience training, lack of sufficient owner control and victim behaviour around dogs. Well socialised, obedience trained and confident dogs which can be held under effective control do not need muzzles. In fact, evidence suggests that we would do more harm to muzzle dogs than good. We can all remember a time 20-30 years ago when dogs were a lot freer than they are today. Firstly, they had a nice traditional ¼ acre block to run around in and secondly, they were occasionally able to roam the street in packs sniffing each others' private bits, amongst other things, yet for all this freedom, there was certainly not the frequency of dog attacks then as there are now. The reasons for this are clear to me and would be clear to a lot of you. Even though dogs were able to roam more freely back then, they were actually very well socialised and were not as frustrated by having their natural instincts denied, unlike their poor descendants these days which are more often found hemmed into the now traditional 2ft square concrete patio area in modern day suburbia. Our lifestyles have changed so much in the last 20-30 years with work consuming much more of our leisure time than it ever has before and our backyards becoming smaller and smaller, however people still think it's their "God given right" to own a dog and they give very little consideration to whether they have the ability to look after a dog properly or not.

Surely then it is important that we not make it more difficult for dogs to become socialised by placing muzzles on them? Surely the real answer is that people have to become more considerate when they own a dog. The only way this can be achieved is through education.

Councils have largely become victims of their own success when it comes to the problem of inadequate dog socialisation. Councils have responded very well to the changing needs of society and have become so efficient at responding to complaints and containing dogs that there is little opportunity for dogs to learn the same social skills that their forebears acquired. All of these factors have lead to less socialisation of dogs and in my opinion added significantly to the problems we face today. I am not suggesting that we repeal dogs wandering at large offences and let dogs out to roam each day, but I think nowadays much more effort should be placed on controlled socialisation and setting aside sufficient areas where dogs can exercise off-lead and be free to do what comes naturally to them. Obviously this involves the owner being considerate enough to realise that for the dog's health and the safety and wellbeing of anyone coming into contact with the dog, they have to put aside the time required and go to the effort of bringing up a well behaved and well socialised dog. Again, the only way

this can be achieved is through education.

In summary, my beliefs are that the following needs to occur rather than the introduction of muzzling of dogs in all public places:

- Public education outlining the health, welfare and training needs of a dog;
- Prospective dog owners becoming more considerate of whether their lifestyles can accommodate the needs of owning a dog;
- Those who go on to become dog owners then providing for those needs;
- Councils must consider the important health aspects of a dog requiring areas where it can exercise off-lead albeit under effective control, and set aside sufficient areas for this to occur.

Breed specific banning is also fraught with danger and the problems associated with it can far outweigh any perceived long-term benefits. In order for breed specific bans to work, you must first be able to positively identify a breed. This is not definitively possible at the moment as DNA testing would be required and this technology is not yet available anywhere in the world for the identification of dogs.

Studies from 10 years ago and more recently the last couple of months have shown that breeds responsible for the most dog attacks change with the popularity of that breed. For example in South Australia 10 years ago, the most prevalent breed of dog involved in dog attacks was the German Shepherd – now it is the Rottweiler. Ten years ago, the Rottweiler was the 5th most prevalent breed in dog attacks. Over the last 10 years, the Rottweiler has become much more sought after by people for a variety of reasons, none the least of which is protection. With the increase in popularity and therefore the associated increase in breeding activity, so have the incidents involving Rottweilers increased. Interestingly, the above-mentioned study was updated for the current Government in the last couple of months and has shown that the second most prevalent breed of dog involved in dog attacks in South Australia is the diminutive Jack Russell Terrier! OK, so we ban that breed - what next? Chihuahuas?

In South Australia dog management is supposed to be self-funded by dog registrations, however the reality is at the moment that Local Government is tipping in a bit to cover it from General Revenue. To use dog registration funds in efforts to identify breeds would cost more money than Councils earn from dog registrations and will be to the absolute detriment of any other community responsibility Councils have in the area of dog management. It has recently come to my attention that overseas countries which have introduced breed specific bans have had to go down the path of attempting to identify breeds. They have reported that because of their inability to definitively identify breeds such that the determination would hold weight in a court of law, there has not been any real reduction in the number of attacks.

Put simply, until DNA testing becomes a useable tool (which will not be in the foreseeable future) we must be proactive and seek to resolve problems via education and ***deal with the deed not the breed.***

So how do we address the problem of dog attacks without making wholesale changes that will ultimately make it difficult for responsible owners to enjoy their dogs?

Looking at the issue from a South Australian perspective we face several problems in achieving a balanced outcome in the reduction of dog attacks. Whilst there are many people who think that the South Australian legislation works well, there are still a large proportion of Councils who work with it every day and the community who believe that significant changes are needed in order for the legislation to work more efficiently.

Public opinions are formed largely from the type of media attention dog attacks receive which consistently portray rampant dogs roaming the streets looking for their next victim. To try to counteract this negative perception, we provide sound advice whenever we are asked and have determined that the media will receive an increased number of “good news stories” as well as the bad news. We are assured by media representatives that the industry is as interested in the good news stories as the bad, we just have to get the information to the right people in the industry. Those “right people” are not the celebrities we see on TV or hear on radio each day; rather, they are the producers working with the celebrities. They are the only people who determine what the hosts will talk about for the day, therefore it is imperative that information is fed to these people.

The Dog and Cat Management Board of South Australia (the Board) are currently putting together a plan that is believed will go a long way towards addressing the dog attack issue and I have outlined it below for your information. By the time of the UAM Conference, the Government will be in possession of this plan and will be considering the initiatives proposed with a view to adopting many, if not all, of our recommendations.

PUBLIC EDUCATION AND EDUCATIONAL LITERATURE

Education is paramount in any plan to reduce the number of dog attacks occurring in public and private places. The Board have produced or co-produced, a number of publications and commercials over the years highlighting the need for responsible dog ownership. Our current production called *“Your Dog, Your Cat Owners Manual”* (there will be some available at the Conference or we can post one to you) has been extremely well received by the South Australian public and Councils as it gives good, common sense advice on a wide range of issues and provides telephone numbers of State based organisations where further information can be obtained.

We have been well aware for some time now of the added benefits of teaching the “do’s and don’ts” about owning a dog or a cat to children. The messages taught in schools are often taken home and discussed in the family environment. The Board have sought the endorsement of the current State Government to commence work with senior personnel of the Education Department to develop and establish a permanent addition to all primary school curriculums regarding responsible dog and cat ownership.

Through our own experiences and on advice from experts in the field, the Board have also suggested a comprehensive education program that targets specific groups within the community who are prone to dog attacks. In addition to the existing publications and a permanent addition to school curriculums, the Board intends to develop a suitable strategy for getting the right messages into pre and postnatal classes, kindergartens, doctors’ surgeries and Child and Youth health service centres.

The Board will implement regular reviews of all dog and cat related education literature available around the State which is produced by both the Board and other organisations. As part of these reviews, and the Board’s ongoing commitment to ensure literature is effective, all education literature will be collected and examined by advisory committees to the Board to ensure the information is consistent and appropriate. The Board will amend its publications as required by the panel of experts and will seek the co-operation of other organisations to also amend their publications as required.

ANIMAL MANAGEMENT PLANS

A significant majority of Council and community respondents to the Board’s surveys undertaken in May 2000 agreed with the Board’s recommendation to implement compulsory Animal Management Plans (AMP’s).

From the perspective of the general public, they were pleased that the process of creating an AMP would mean that Councils would be required to consult with their communities about the wants and needs of animal owners and non-owners. Councils accepted the idea because they recognised it would give them the opportunity to gauge community needs, engage in forward planning and budget appropriately for measures it could introduce.

Councils have not generally consulted with their communities regarding plans for the management of animals in their area or engaged in forward planning in this sector and as a result, the Board believes that many have not subsequently expended their funds received from dog registrations as efficiently as they could have according to community needs.

The Board has committed a considerable amount of time and resources for the development of pilot animal management plans to assist Councils in the development of their individual plans. The Board has also set aside funds to provide Councils with a “help desk” function during the first six months of the development stage of Animal Management Plans.

The former State Liberal Government expressed concerns that some smaller Councils would be unable to complete the exercise. However the Board believed there was a “cost benefit” to smaller Councils collaborating with their neighbouring Councils to create a plan for the wider area especially given that smaller Councils’ budgets may not be able to accommodate an effective plan for an individual area. There is also merit in larger neighbouring Councils collaborating on areas of commonality, for example, along the Torrens Linear Park which crosses several metropolitan Council boundaries.

Animal Management Plans will also give Councils and their communities an opportunity to share ideas and agree on public education programs and events, having a side effect of educating the community about the costs involved in the implementation of certain programs, which can be quite significant.

For many years, Councils have adopted a reactive and often punitive approach to animal management rather than a proactive approach which, if there were more proactivity displayed, the Board are of the opinion would significantly raise the community profile of Animal Management sections (the dreaded “dog catcher” is an image we would dearly like to lose!) and of Councils in general, and would considerably improve community awareness of responsible dog and cat ownership and management.

DANGEROUS DOGS

In addition to current information publications and education programs offered by the Board, the Board believes that owners of dogs that have been deemed to be “dangerous” or “aggressive” by Councils should be required to undergo and pass an approved “well mannered canines” training course.

The former State Liberal Government agreed with us and sought to address the issue of the management of dogs deemed dangerous by recommending certain changes to legislation requiring owners and their dogs to undergo **mandatory obedience training** and for the dog to be desexed and microchipped. At the time of writing this paper, we are not sure whether this same provision will be adopted by the new State Labor Government.

It is important that the costs associated with these mandatory measures are stipulated that they must be borne by the owner of the dog.

The Board believes that if an owner refuses to, or cannot afford to undertake the requirements of desexing, microchipping and training their dangerous dog, the only other alternative available to them should be for the dog to be euthanased. Given the dog is deemed to be dangerous, it would be unacceptable and irresponsible to simply shift the problem by re-homing it.

The Board has noted that many dangerous dogs continue to attack and harass without the Council even being aware that the offending dog is already subject to an Order. This occurs when an owner moves house and fails to notify the Council of their new address. This is an offence under the present Legislation but often goes unnoticed by the Council when investigating a complaint as there is no mechanism in the present Act that allows for the transfer of knowledge from one Council to another. This problem would be rectified if it were mandatory for dangerous dogs to be microchipped and details recorded on a register, as it would be a relatively simple matter for the Officer holding the dog to pass a scanner over the dog and retrieve the details.

Accordingly, the Board outlined a plan to the former and current State Governments to introduce a dangerous dog register in South Australia. We believe the new Government agrees with us on this issue and will propose amendments to the legislation in this regard.

The register will contain information regarding offences committed by an individual dog owner, details of the dog concerned and details of the order made.

We have proposed that the register will also carry information regarding several other classes of dogs including attack-trained dogs, security dogs and dogs used for the purposes of guarding properties. The introduction of such a register will ensure that information regarding dogs deemed dangerous (which have been microchipped with ownership and offence details recorded) can be retrieved quickly by an Officer holding the dog. Something that has been mooted with UAM delegates in the past is the Board’s strong desire to set-up a national register which is envisaged would be linked with our State based register when it is up and running. Of course with the eventual set-up of a national database, as long as system requirements are sorted out, dangerous dogs from interstate could be identified at registration time in SA and accordingly have State based orders placed on them for their control.

If this proposed amendment is adopted, we believe it would have the effect of making the owners of dangerous dogs more conscious of their responsibility and therefore less likely to allow the dog to repeat the offence leading up to the imposition of the Order in the first place.

DEALING WITH IRRESPONSIBLE DOG OWNERS

Most people understand that owning a dog is a big responsibility and they try to do the right thing. However, if a person owns a dog that is subject to an order under the current provisions of the Dog and Cat Management Act 1995, those responsibilities are significantly increased. The Board have sought from the Government an assurance that the penalties for breaches of existing orders be further increased so that should the dog offend again in spite of the requirements of the current order, *significantly increased* punitive measures can be applied.

Those measures must carry significantly higher penalties and the addition of the ability to *order the removal* of the dog and a Magistrate *ordering prevention* of the owner from owning or controlling a dog for a specific period thereafter.

The Board believed that if these additional measures were significant enough, they would provide an effective deterrent to the owner in allowing the dog to be in a position where it could re-offend. The Board felt that the penalties involved should be in the region of five to ten times higher than that given to a dog owner under normal circumstances.

We believe that the new State Labor Government may be contemplating the introduction of an amendment to the current Dog and Cat Management Act’s order making provisions to allow for a further class of order to be introduced. This order may possibly be something along the lines of an order to prohibit or prevent someone from owning a dog either at all, or for a period of time, or until a certain action has been taken. As is the case with existing orders, Councils should be able to overturn the order and orders would be contestable in a court of law.

If this does occur, this will be a very welcome amendment. It seems quite ludicrous to those of us in the industry that people who have proven themselves in the past to be irresponsible dog owners can simply go out and purchase another dog and repeat the offending behaviour with the new dog!

EFFECTIVE CONTROL

At the time of writing this paper, the current South Australian legislation states that a dog is under the effective control of a person only while -

(a) the person is exercising effective control of the dog -

- (1) by means of a chain, cord or leash that does not exceed 2 metres in length restraining the dog; or
- (2) by command, the dog being in close proximity to the person and the person being able to see the dog at all times, or

(b) the person has effectively secured the dog -

- (1) by placing it in a cage, vehicle or other structure, or
- (2) by tethering it to a fixed object by means of a chain, cord or leash that does not exceed 2 metres in length.

This definition is complex as it requires a Dog Management Officer to witness and determine whether the dog is or is not, under effective control. Through our associations with Dog Management Officers in the field, we have learnt that this provision as it is currently worded, causes confusion for Officers and the general public given the many different interpretations of 'effective control'. This is a valid argument for having specific clarification of this terminology in the Act as some people believe 'effective control' is simply whistling and calling out 'here boy!' and others believe it to be the standard obedience training commands of 'stay, sit, heel'.

It is recognised that there are many owners who can and do control their dogs off lead without incident, therefore the Board feels that there should be compromise on this issue and consideration should be given to introducing both on and off lead areas within each Council municipality.

The following excerpt from the discussion paper survey, circulated in May 2000, represents the view of the Board and the majority of respondents to the survey, on an appropriate definition of "effective control".

"Dogs will be considered to be under effective control while on a chain, cord or leash of less than two metres in length and under the control of a responsible adult in the following areas:

- (a) *Streets
Roads
Areas designated as "on leash areas" by resolution of Council*
- (b) *In other areas effectively controlled, by command, the dog being in close proximity to the person and the person being able to see and summon the dog at all times."*

We believe that the current State Government is considering the question of effective control very carefully. They have been advised of our opinion in relation to this and at the time of writing this paper, we believe are giving our recommendation favourable consideration.

STRONGER COUNCIL POWERS TO DEAL WITH AGGRESSIVE DOGS

The Board strongly believes that a significant change required to the Act must be in giving Councils more powers to Act in relation to dogs which may become involved in dangerous situations given the right circumstances. At present, the Dog and Cat Management Act does not enable a Council to take action against a dog owner unless the dog actually attacks or harasses a person or an animal. Effectively this prevents a Council from imposing controls on the owner of a dog (and of course the dog) that could attack if it manages to escape from a property.

Sensible controls such as ordering that fencing be made secure, or that the dog be muzzled and on a lead in all public places, or for the perhaps more aggressive dogs, that the dog be desexed, would go a long way to ensuring that the dog is never in the position of being able to attack in the first place, however there is no mechanism in the current Dog and Cat Management Act to allow Councils to do that. It makes a great deal of sense given the current situation with public liability (which was first highlighted by Barrister Basil Stafford at the Melbourne UAM Conference in 2001), that Councils should be provided this ability. There is the potential for Councils to be held liable for damages if it can be proven they had been notified of a potential threat, did nothing about it and subsequently an attack occurred.

A new provision such as this would only be used if Dog Management Officers deem there is a more than reasonable chance that an attack could occur. There have been examples in the past where Councils have been aware of the presence of a dog that has had the potential to cause damage and/or attack, which has then subsequently caused damage or attacked. It is only very recently that Councils are becoming aware of the potential for liability claims regarding these issues hence it is imperative that Councils are given the ability to act when necessary.

The Board believes that given very few Dog Management Officers are experts in animal behavioural traits, to safeguard Councils from misinterpretation, there should be some expert opinion sought prior to setting controls on a dog. Through the introduction of temperament testing of dogs that have been reported to show aggression we may well be able to prevent many of the attacks that currently take place by setting guidelines and controls for the future management of that dog. A closer scrutiny of these issues by Councils will also heighten the owner's awareness to be careful with the dog.

There have been many quite horrific dog attacks reported in the South Australian media of recent times. The Board and Councils believe these added powers will go a long way to helping the general public feel a bit safer about some dogs that live within their community.

The Government has an opportunity to introduce legislation that does not presume guilt; rather it enables Councils to be proactive in further investigating what could become a dangerous situation, and having conditions imposed if experts agree that conditions are warranted.

SECURITY/GUARD DOGS AND HANDLERS

Guard dog companies and security firms must be held accountable for their dogs and a review of the industry is well over due. During a recent exercise of logging offences recorded against a well known Adelaide guard dog company, it was revealed that the owners had been issued expiations for over 100 offences against the Dog and Cat Management Act across 18 metropolitan Council areas over a 5 year period.

Guard dogs are routinely placed in properties with little regard for issues such as adequate fencing. Some of these dogs have been known to escape through poor fencing conditions or by persons entering the property inadvertently letting them out, and through break-ins to properties. Once the dog escapes they can become involved in dangerous situations. Often they are unidentified and unsuspecting people become the victim of a dog attack. This fact was recently highlighted with an attack on a Doctor in Adelaide who received injuries while trying to seize two Rottweiler guard dogs wandering at large and causing havoc in amongst traffic in the city.

There are little or no controls over guard dog companies at this time. All too often, to avoid paying costs and having offences recorded against them, the companies concerned do not claim their dogs from the Council pound, instead preferring to buy other dogs to replace them. Our research has found that many of the dogs used to guard properties are unregistered and unidentified and untrained. We have heard reports that one guard dog company in South Australia boasts that they only take dogs that are aggressive as they make the best yard dogs. In light of all of the issues regarding public liability being highlighted lately, the Board is very keen for this attitude to change and has recommended strongly to the State Government that the companies involved must be subject to much tighter controls to ensure public safety.

The Board agrees that all guard dogs should be permanently identified by way of microchipping and freeze branding (mainly for darker coloured dogs) in a prominent location. We believe this is being given due consideration by the Government.

The recommendation of the Board went on to state that microchipped guard dogs:

- Should have their information recorded on a central database to enable easy identification to occur;
- Both guard dog operators and their dogs and security lead dogs and their handlers should be subjected to extensive testing as part of their licence to operate;
- The testing should include temperament testing of the dog and its ability to respond to commands of the owner/handler;

- Testing of the owner/handler should include a review of their dog handling procedures, knowledge of their responsibilities under the Act and other relevant Acts and of appropriate requirements for housing of dogs on properties.

CONCLUSION

In closing, you can see that there isn't any one magical answer that will prevent dog attacks from occurring. Dogs are carnivores and biting is a part of their communication process.

As long as humans keep dogs as pets, dogs will continue to communicate their displeasure, fear and aggression by biting. The real key over and above all of the punitive measures outlined in this paper is education. We must educate owners and others regarding how to behave around dogs to be most effective in minimising the incidents of dog bites.

Governments are coming to understand this and we believe that our updated legislation will contain a significant responsibility for Councils and the Board to ensure that our involvement in educating the public is first and foremost when planning activities in dog management for the year.

Any queries regarding work undertaken by the Dog and Cat Management Board in South Australia can be directed to the Executive Director, Michael Cartwright, by telephoning (08) 8224 2042 during SA business hours.

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