

Mandatory Desexing Legislation - A "NO" case

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Abstract

This paper is more than just devil's advocacy. It presents a sincere "no case" against the concept of mandatory desexing legislation. While the motivation of those who advocate mandatory desexing is not difficult to appreciate, understanding their expectations of it is. This paper argues in the first instance that mandatory desexing legislation is wrongly conceived and will achieve no useful outcome. It argues subsequently that mandatory desexing legislation, if it were to be actively enforced, will cost the community a great deal more than might be expected. It argues in conclusion that while unwanted pets are an animal welfare issue, remedial options such as companion animal registration and identification are animal management tasks and that is local government business.

Introduction

While emotion and passion may be to the fore in the manifestation of shelter euthanasia stress and concern, the quest for remedies has to be approached, by way of contrast, in an entirely composed and dispassionate manner. Mandatory desexing legislation may sound like the "right idea" as a way to reduce the number of shelter euthanasias, but just sounding right is not enough. Current literature suggests that the "overpopulation" shelter stress model are too simplistic and no longer valid (eg Salman et al 1998). Because of this, the idea of mandatory desexing legislation at this time should be approached with due circumspection.

Calling for the mandatory desexing of companion animals at this time seems to be a classic case of trying to apply a remedy for a problem that is yet to be properly defined.

Consider the evidence

In recent Australian literature, Lawrie et al (2006) demonstrated a clear downward trend in RSPCA shelter admission data from New South Wales. A background of increasing human population over the same period makes this (absolute) decline in shelter admissions even more significant in relative terms. The authors of that paper actually commented that they had been "stunned" by the low percentage of dogs and cats in the euthanasia data that was in fact fit for adoption. The authors also observed that the current downward trend in these Australian shelter statistics seemed to be more positive than those from the USA and this despite there being little apparent enthusiasm for subsidised desexing in Australia.

On the basis of the findings of this paper (Lawrie et al 2006), the following observations (among others) may be drawn:

1. A spontaneous downward trend in shelter admissions statistics has been demonstrated
2. Additional legislative constraints on companion animal access, ownership and breeding at this time are difficult to justify
3. Funding/resources that might be available to assist in drafting and implementing mandatory desexing legislation would probably be better utilised in animal welfare/management elsewhere.

Salman et al (1998), in their extensive research on animal relinquishment in the United States, derived similar results. In this study of twelve shelters, questionnaires were completed and collected for 6,929 animals. In this study, the focus of attention was on shelter admission data and not so much on the traditional one of shelter discharge data. This represented a major change in approach and the findings were instructive.

If we want to reduce animal shelter populations, it is arguably more important to know why animals are being admitted to shelters.... than it is to know what happens to them after they have been.

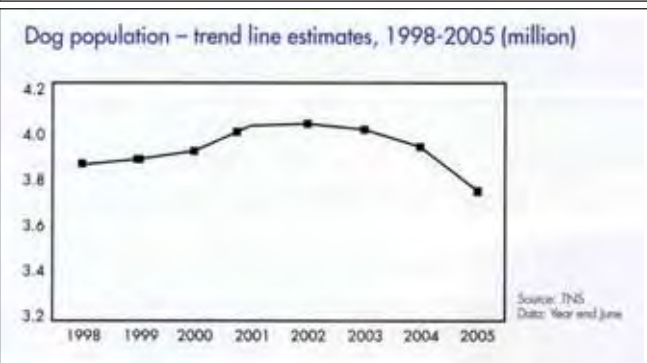
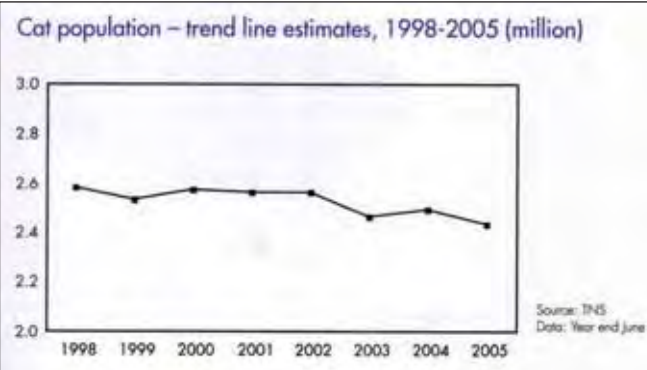
Seventy one different reasons for relinquishment were recorded and these were condensed into 12 broad categories. The overwhelming majority of pet animal relinquishment (reasons for admissions) in this extensive study involved the following two reasons:

1. Personal reasons on the part of the owners, and
2. Behaviour reasons on the part of the animals.

This study indicated that people were mostly surrendering the pet animals they did not want anymore. This is a different model to the standard over population one and it shows that animal shelters make a fundamental diagnostic error if they record and analyse their shelter discharge data but not their admission data.

Consider current population trends

The population of dogs in Australia has been in overall decline since 2002 according to the data from market research company TNS. The number of dogs per dog owning households has declined slightly to 1.43 dogs in 2005. (ACAC Contribution of the Pet Care Industry to the Australian Economy, 6th Edition, 2006. BIS Shrapnel Pty Ltd. www.acac.org.au)



The Australian owned cat population has been reducing for over a decade. Within this statistic, there is a further breakdown showing that the number of cat owning households has increased since 2003 while the number of cats per cat owning households has declined. (ACAC Contribution of the Pet Care Industry to the Australian Economy, 6th Edition, 2006. BIS Shrapnel Pty Ltd. www.acac.org.au)

It is important to note that the “stray” cat component of the overall population is not represented in reference to this Australian cat population data.

The importance of this observation should not be underestimated in the context of this paper since Australia’s reducing population of owned cats does in fact exist in parallel with another (unowned / stray) cat population the size of which is unmeasured.

While stray cats do not show up in cat population data detailed above, these animals certainly do show up in animal shelter data where admission details are recorded. They are in fact a significant (major) category (pers comm Mc Murray R 2007).

Research in Australia (Baldock et al 2003) regarding Australia’s owned cat population dynamics, indicated that the desexing rate in owned Australian cats has been greater than that required to sustain a Zero Population Growth rate for some years now. It seems highly probable that the “wild card” in the shelter cat admission statistics is that other (unowned / stray) section of the overall cat population. With this being the case, any push for the mandatory desexing of owned cats will have little (if any) effect on reducing shelter cat admissions.

Consider the cost

If legislated and then enforced, the cost of mandatory desexing legislation to the community will be greater than most people expect. At least three categories of expense can be expected to result from the enactment of mandatory desexing legislation in Australia.

These costs, listed as follows, could be considerable:

1. Increased Local Government animal management expense,
 2. Increased cost of companion (pet) animals at point of acquisition, and
 3. Deterioration of companion animal health and welfare.
1. For mandatory desexing legislation to effectively prevent anyone (anyone not holding a valid breeder’s permit) from owning an entire (sexually intact) pet animal, it will need to be supported by a very extensive and rather complex raft of enforceable and enforced regulatory constraints.

Dr. Peter Jarman and Gertjan van der Lee at the Department of Ecosystem Management, UNE, NSW, defined stray cats as follows:
“Stray cats are defined as cats whose reliance upon requirements provided by humans is less than total but more than trivial. It includes cats that use human-created shelter but hunt for wild food, and cats that scavenge for food that is intentionally or unintentionally provided by humans. Removal of humans would change their ecology. Humans indirectly control aspects of the population ecology of cats, limiting density, fecundity and mortality only through the provision of food and shelter.”
 (Jarman and van der Lee 1995)

Allen (2006) reported on the effects of mandatory desexing legislation in the USA where it seems this kind of legislation is dealt with on a city by city basis in the form of what are called city ordinances. Allen explained that for the City of Los Angeles’ 2000 “spay or pay” ordinance, as one example, the cost factors proved considerable:

- A significant decline in dog licensing (registrations) compliance; and
- A huge budgetary increase of 269% for animal control services.

It should be understood that mandatory desexing legislation is not a concept that lends itself to piecemeal enactment. Because saleable pet animals are a readily transportable commodity (one that moves freely across municipal borders and boundaries) to be effective, mandatory desexing legislation will need to have the blanket support of all municipalities (large and small, urban and rural).

To effectively enforce the regulatory provisions of mandatory desexing legislation, every pet sale transaction will have to be officially recorded and tracked back by regulators to permitted breeders and retailers. Regulators will have the additional legal responsibility of ensuring that breeder permits and registers of breeders are constantly maintained as being both current and correct. Regulators may also be required to control numbers of litters – not just numbers of breeders. Under the rule of mandatory desexing legislation, the breeding of pet animals will become broadly regulated and heavily controlled at many levels and it will be a very expensive undertaking.

2. Under mandatory desexing rules and regulations, “unofficial / unsanctioned” pet animal pregnancy will become a punishable offence. No one (without a permit) will be allowed to have a pet animal that has not been castrated or spayed. As a direct consequence of this, companion animals will thereafter only be sourceable from licensed / permitted breeders. This being the case, the legislation will inevitably create a market monopoly situation for licensed breeders. Understanding the outcome of this evolution is not rocket science and considerable additional commercial (cost) imposition to the business of obtaining pet animals has to be expected. Obtaining an average family pet for an average family will predictably become a considerably more expensive venture.

Should mandatory desexing legislation be enacted, enabled and then diligently enforced, there will predictably be a significant escalation in the cost of Australian families obtaining pet animals.

3. Veterinary literature abounds with examples of genetic disorders in dogs and cats that are associated with controlled breeding. These include a wide range of anatomical, physiological and behavioural disease states that result directly from the inbreeding (otherwise called line breeding). Hoskins (2000) listed, in compressed tabular form and small print, more than twenty pages of congenital (inherited / genetic) defects of the cat and dog. In this extensive list, each congenital disease is identified in the context of the body system it affects and the breed/s that is/ are involved. There is ample evidence that further reduction in genetic variation resulting from increased levels of controlled breeding brought about by mandatory desexing laws is likely to impact negatively on pet animal health.

It is a mistake to think that the breeder licenses and permits will automatically equate with competency in the business of breeding and marketing companion animals.

Provided there is sensible attention to responsible ownership and competent husbandry, it can be argued that a steady level of continuous out-breeding (cross breeding) is in fact in the best interest of the health of Australia’s pet animal population. It is a mistake to assume that breeder permits are certificates of qualification in the principles of good animal husbandry.

It can be argued that the healthiest and happiest of puppies and kittens are not necessarily only those born under the triple constraints of commercial imperative, genetic manipulation and tight confinement. It is somewhat paradoxical that the mandatory desexing legislation that presents under the banner of animal welfare, could end up causing significant harm to the long term health and welfare of Australia's companion animals population.

Why/whence the pressure for MDL?

What inevitably happens when animal shelters open their doors for business is that this gives everyone an avenue (often without consequence or cost) for unloading unwanted pets. When this happens, while shelter "clients" can then walk away with their problem solved and without a second thought, shelter staff on the other hand are obliged to (by default) shoulder the responsibility of caring for these animals. It has been suggested that by promoting their mission of collecting and caring for unwanted animals, welfare shelters actively create a workload that they would in many ways actually prefer to avoid. It is a Catch 22 situation for them.

A recent study showed that 11% of shelter staff demonstrated moderate symptoms of PITS: Perpetrator Induced Stress Syndrome, a form of post traumatic stress syndrome (Rohlf and Bennett 2004). Unlike other vocations that routinely involve trauma and death (eg ambulance paramedics, police, fire and rescue personnel), the animal welfare sector is perhaps lacking in the psychological screening and counselling services necessary to ensure that their shelter employees are equipped and suited to their tasks. While only a small fraction of companion animals end up in animal shelters (Bartlett et al 2005) this proportion still causes anguish and stress for management and staff in these places.

The distress and anguish associated with having to care for abandoned and abused animals may give shelter management a disproportionately negative perspective of general community attitudes to responsibility in pet ownership. Perhaps sometimes, animal shelter personnel find themselves thinking that people just shouldn't be allowed to breed or even have pet animals at all. If this is the case, this is unfortunate.

Interim findings in the National People and Pets Survey, 2006 (REF: Interim report, PIAS) showed that 95% of pet owners in Australia had never used the services of pounds or shelters, even when recovering a lost pet. Sixty three percent of Australian households have some type of pet (REF: www.petnet.com.au) and 91% of people report feeling 'very close' to their pets. Over 85% of people regard their pet as part of the family (National People & Pets Survey, 1994). Pet owners report that they own pets primarily for companionship, and scientific studies over the last 100 years have demonstrated tangible physical, emotional and social health benefits to the owners of pets, when compared to non-pet owners (REF: www.anthrozoology.org). The majority of companion animal owners are considerate and are responsible. Pet ownership matters to Australians, and Australian pet owners already demonstrate a high level of voluntary compliance with responsible pet ownership practices such as desexing. (National People and Pets Survey 1994, and 2006).

An analogy

It might be argued that among other remedial measures, some priority needs to be given to helping shelter staff cope better with the unavoidable reality of euthanasia in the shelter environment.

It is reasonable to assume that there is always going to be a baseline level of companion animal relinquishment and that shelter euthanasia is always going to be an unavoidable fact of life. An analogy be drawn here between motor vehicle accidents and issues of pet abandonment in our society:

In 1995, there were 2017 fatalities on Australian roads, 1413 of which were men and 604 women). Since record keeping began in 1925 there have in fact been over 169,000 road fatalities in Australia. This death toll surpasses the aggregate number of Australians killed (89,850 deaths) in the four major wars (World Wars I and II, Korea and Vietnam) in which Australia has been involved (FORS) (REF Australian Bureau of Statistics www.abs.com.au). While the extent of this carnage is startling, the toll has been greatly reduced over recent times through a steady process of accident analysis followed by the implementation of logical prevention measures. Even so, motor vehicle accidents still do occur and they are still a bad business.

Circumstances and situations will inevitably occur with both motor vehicle and pet ownership where unfortunate outcomes result but this does not necessarily demand an assumption that the entire community does not care and is acting irresponsibly.

Having said that, short of preventing everybody from owning and using motor vehicles, no amount of legislation, regulation, supervision and public education will ultimately prevent a proportion of motor vehicles from having accidents that result in injury, trauma and even death on the roads each year. There is an "accident / mishap / unfortunate outcome" incidence baseline our community has to accept if it wants to be owning vehicles and using common highways. While minimising accident incidence is an obviously priority, there is always going to be a bottom line level of accidents and injuries occurring and that reality has to be handled. Getting that job done when those mishaps do occur is a job for professionals - people such as ambulance, fire & accident and police officers - people who are carefully and thoroughly trained, supported and resourced - people who have a service to provide and who pride themselves in being thoroughly professional and efficient about it.

Consider breed specific legislation

In the face of doubt and opposition from many well qualified advisers about the value of and the rationale for breed specific legislation, such legislation was enacted by parliaments across Australia about five years ago. Breed specific legislation has not been a success. A little "retrospectroscopy" can perhaps show us why. We might be able to learn from the mistakes made then in order to avoid the same pitfalls this time and so soon after.

The merit of breed specific legislation pivoted on the following two assumptions:

1. That identifying a dog's breed is a reliable method of predetermining aggressiveness.
2. That the breed (or cross breed if necessary) of all dogs can reliably be determined on the basis of their appearance.

The compound effect of the two errors was always going to present insurmountable technical problems for the implementation of breed specific legislation, but, its momentum was unhindered nevertheless. There is now, 3 years on, widespread anecdotal evidence in Local Government and in legal circles that breed specific legislation has in fact been very difficult (if not impossible) to utilise in the way it was intended. In some Local Government circles, the purpose of breed specific legislation is no longer considered to be about dangerousness at all any more, but rather about the identification of those breeds that have been "declared" (prescribed).

This is a significant departure from the original intent and

even this objective, for the same reasons, has also proved troublesome. With the benefit of hindsight, it is possible to pinpoint a number of errors that might go some way to explain why breed specific legislation ended up being more of a hindrance than a help:-

- Political (perhaps media driven?) expedience precluded there being sufficient opportunity for proper “qualified” consideration,
- Local Government (particularly Local Government’s regulatory service specialists) were not adequately engaged in an adequate consultative process,
- In Queensland (at least), while the enabling and executive duties associated with breed specific legislation were devolved by State Government to the Local Government sector under Chapter 17A of the Local Government Act 1993, no resources (either material or fiscal) were allocated for these tasks; and
- Finally, there is the problem of the compound error in the legislation’s underpinning rationale. It was simply wrong in substance.

What is important in the context of this paper is the fact that there are potential parallels between what happened with breed specific legislation and what might now be in the offing with Mandatory Desexing Legislation:

- The available evidence, research, and facts do not support a need for Mandatory Desexing Legislation,
- If enacted, the workload that will result in the execution of the regulatory tasks made necessary by mandatory desexing legislation will probably devolve to the Local Government sector whether they like it or not,
- It seems unlikely that Local Government will be sufficiently supportive of the legislation to commit the resources necessary to carry out the enabling, regulating and surveillance tasks involved from existing Council resources,
- The legislation is not inherently benign and may do real harm in the wider world of companion animals and the ownership of them.

Back end or front end? - Animal welfare or animal management?

There is no denying that the euthanasia of shelter animals can cause stress for those engaged in that process. There is also no denying that all reasonable effort should be given to improving mechanisms for better managing this stress load and minimise the need. The “over population” model that has been used as a basis of understanding ever since people started talking about animal shelter euthanasia stress, has never really delivered though it has been applied in all sorts of ways over decades past. The traditional methods of just interpreting shelter discharge data have thrown up wrong models because they work only from the “back end” of shelter business. This back end data may nicely indicate shelter workload but it does a very poor job of throwing light on causes. Perhaps it is time for fresh thinking rather than just tilting again at the same wrong windmills.

Consider the two following observations:

- a. Shelter cat euthanasia rates seem to be a function of a stray cat problem that has little if anything to do with owned cats. If this is right, it is only by overcoming stray

The competent collection and analysis of “front end” shelter data could prove (or possibly even disprove) these assertions.

cat problems through standard animal management measures, that this problem can be resolved. Legislating for mandatory desexing is unlikely to achieve anything other than to make it unnecessarily difficult for people to own pet cats.

- b. Shelter dog euthanasia rates seem to be a function of pet animal relinquishment rather than over population as such. The idea of mandatory desexing legislation does not align itself as a solution for this situational circumstance.

Moulton et al (1991) published a paper that showed how improved enforcement of standard Local Government animal management measures i.e. roaming and registration laws for dogs had resulted in a dramatic reduction of local animal shelter populations. At the beginning of the exercise reported by Moulton et al in Atlanta (1991), animal control ordinances were weak, enforcement was poor and significant penalties for non-compliance were not being imposed on offenders.

This is an interesting reference in that the same humane society ran both the animal shelter and the local animal control services in the circumstance that was described.

Then enforcement of these (existing) animal control ordinances was ramped up and the improvement (reduction) in shelter admission data that accompanied more resolute animal control measures was reported to be 50%. While this, now somewhat dated reference, was more of an observation than a detailed analysis of factors and outcomes, it is an interesting observation nonetheless and should not be ignored.

That Atlanta experience was in the ambience of an immediate interface between animal welfare and animal management because the same agency did both. The conclusion was that more animal management work translated directly into less animal welfare work.

It has been argued that the effective enforcement of existing animal management legislation is in many ways about requiring pet owners to make key decisions regarding their obligations and responsibilities. Pet registration, the first requirement of any animal management system, is among other things a declaration of ownership. If existing principles of animal management controls and constraint were to be exercised more consistently, more diligently and more effectively, animal shelters could be surprised by resultant positive changes in pet owner attitudes to their own responsibilities.

Registering a pet with the council requires the person to say:
“Yes, this is my dog / cat. I own it. It is mine and I realise that I am responsible for it”.

Conclusions

At a Chicago conference on The Ecology of Surplus Dog and Cat Problems in 1974, Alan Beck (Beck 1974) expressed frustration that essential epidemiological factors were being overlooked in the quest to overcome animal shelter problems associated with pet abandonment / surrender and euthanasia. Beck pointed out that the problems being talked about at that conference were the exact same ones that he knew had been identified at a similar summit 55 years before. He explained how talking about the manifestation of any problem and clutching at random remedial straws was no substitute for carrying out the research and analysis necessary to properly understand what was happening in the first instance.

The same plea repeats over and over and (dare I say it again) over in the literature. Despite this, now a further 30 years on from Chicago ‘74, animal shelters and pounds that currently do collect the necessary admission and discharge data and do carry out the necessary data analysis are still the exception rather than the rule.

Without doing this properly, this present idea of legislating for the mandatory desexing of companion animals in an attempt to reduce animal shelter euthanasia stress has not been arrived at through a credible process of investigation.

No amount of passion and emotion can make up for this deficiency. Even the best will in the world is no substitute for having a proper process for data collection, qualified analysis and then composed consideration of the statistics and trends so derived.

Good quality shelter admission data (and its analysis) when combined with good quality discharge data will not only allow causal factors to be identified and weighted for significance, it can also serve in three further ways that are equally important:

1. Can attach priorities to what ever remedial options might be available
2. Can benchmark longitudinal positions and trends in outcomes
3. Can benchmark horizontal performance variations that point the pathway towards best remedial practices

If mandatory controls and constraints are warranted to any degree at this time, the logical place to start would be by requiring that every animal shelter mandatorily collect quality data on all admissions and all discharges. It is not a new idea – others have thought this also and done it (Bartlett et al 2005).

Following this, provided that data collection is done in a technically sound manner, the rest of the standard remedial quest cascade (above) can sensibly follow. There is no other rational or credible way to proceed and in Australia, at this time, the resources are available to do it.

Recommendations

1. Commence the development of an ongoing process for the independent professional / scientific collection and analysis of both animal admission and discharge data from all animal shelters
2. Draw from this database, on an annual basis, meaningful interpretations of statistics and trends so derived with the objective of comparing and contrasting outcomes with other States and other countries
3. Endeavour to translate these statistics and trends into such practical and realistic animal management measures as might be indicated

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About the Author

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Dick Murray currently holds the office of President of the Australian Institute of Animal Management. Dick is a North Queensland veterinary practitioner who has had a long and deep interest in animal management. For work done in this field of endeavour he has been awarded a Medal of the Order of Australia, an Australian Veterinary Association's Meritorious Service Award, an AVA Gilruth Prize and Fellowship of the AVA.

The motivation for writing and presenting this discussion paper stemmed from his experience in witnessing the enactment of Breed Specific Legislation all across Australia in the face of what seemed to him to be majority (expert) opinion counselling against it. The notion that doing something – anything, was better than doing nothing, even if it didn't really add up, seemed to carry the day and that was a shock.

Please note that while the author has actively sought the opinion and advice of his associates and advisors in animal management, the opinions expressed in this paper are nevertheless those of the author and not of the Institute.