

**2014 Animal Law Lecture Series**  
**“Ag-gag: The Bid to Silence Animal Advocates”**

**Legal FAQs**

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## What are “ag-gag” laws?

The term “ag-gag” was originally coined by columnist Mark Bittman in an April 2011 *New York Times* column.<sup>1</sup> It describes a variety of laws which have the effect of ‘hindering’ or ‘gagging’ animal protection advocates, preventing them from raising awareness of animal suffering in commercial agricultural facilities.

Ag-gag laws have been implemented in a number of states across the US.<sup>2</sup> The precise details of the legislation vary from state to state, but the underlying effect is always the same: to limit the ability of animal advocates in exposing the systemic abuse of animals in factory farms.

Ag-gag laws generally target undercover investigators, whistle-blowers and journalists, and may take three forms:

1. They criminalise the undercover or covert surveillance of commercial animal facilities.
2. They require individuals in possession of covertly obtained materials to immediately turn those materials over to enforcement agencies and prohibit them from distributing the material to animal protection groups or the media.
3. They require potential employees or job applicants of commercial animal facilities to fully disclose current or past ties to animal protection groups.

## How do ag-gag laws threaten the animal protection movement and consumer protection?

While industry argues that undercover surveillance threatens animal safety, or violates individual privacy, the underlying effect of ag-gag laws is to stifle transparency: to hide the truth behind intensive meat production and to silence animal advocates.

Ag-gag laws are detrimental to animal welfare. They threaten free speech and the public’s ability to debate our present use and abuse of farmed animals. They operate to limit consumers’ right to know where their food comes from, how farmed animals are treated and the conditions in which they are kept. And finally, they effectively permit the concealment of animal cruelty and neglect.

## Why is undercover surveillance so important for animal and consumer protection?

Surveillance has long been used by animal advocates in Australia and abroad. Such surveillance can be both lawful and unlawful. While Voiceless does not endorse unlawful behaviour, it acknowledges the benefit of surveillance in the areas of animal and consumer protection. These benefits include:

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<sup>1</sup> Mark Bittman, ‘Who Protects the Animals?’, *The New York Times* (26 April 2011), <[http://opinionator.blogs.nytimes.com/2011/04/26/who-protects-the-animals/?\\_php=true&\\_type=blogs&\\_r=0](http://opinionator.blogs.nytimes.com/2011/04/26/who-protects-the-animals/?_php=true&_type=blogs&_r=0)> accessed on 18 March 2014.

<sup>2</sup> Between 2012 and 2013, ag-gag bills were successfully defeated in eleven states: Arkansas, California, Indiana, Nebraska, New Hampshire, New Mexico, North Carolina, Pennsylvania, Tennessee, Vermont and Wyoming. In a statement, ASPCA said 70 civil liberties, environmental, prosecution, First Amendment, labour and even some farming groups had signed the opposition statement to state bills. Polling conducted in 2013 showed 71 percent of Americans supported the undercover work by animal welfare groups to expose animal abuse, and 64 percent opposed making such efforts illegal.

In February 2014, Idaho became the 7<sup>th</sup> US state to adopt ag-gag laws criminalising the filming of factory farm abuse. The other states include Iowa, Utah and Missouri which adopted similar laws in 2012. North Dakota, Montana and Kansas were the first states to adopt similar ag-gag laws in the 1990-91 legislative season: ‘Ag-Gag Laws and Factory Farm Investigations Mapped: 2014, Animal Visuals (08 January 2014) <<http://www.animalvisuals.org/projects/data/investigations/2014>> accessed on 18 March 2014.

**1. Surveillance provides the public, including consumers, with visibility over commercial animal facilities and their operations.**

Commercial animal facilities are usually located on private property, behind closed doors, beyond the purview of public scrutiny. This is particularly the case in factory farms where huge numbers of animals – over half a billion in Australia alone – suffer lives of terrible deprivation and pain.<sup>3</sup>

In the absence of surveillance, the public has little opportunity to discover what occurs within these facilities.<sup>4</sup> This is particularly problematic given the rise of ethical consumerism: people have a growing interest in knowing where their food comes from, the conditions in which farmed animals are kept and how they are treated.<sup>5</sup>

**2. Surveillance exposes animal cruelty and neglect, and facilitates the monitoring and enforcement of animal protection laws.**

Animal cruelty, neglect and violations of animal protection laws are an unfortunate reality of Australian factory farming. Despite this, the monitoring and enforcement of these laws are wholly inadequate. Public outcry following the dissemination of surveillance footage through the media or internet provides animal welfare and other regulators with evidence, an incentive to investigate facilities, and basis to enforce animal protection laws.<sup>6</sup>

**3. A court may permit surveillance materials to be admitted as evidence in criminal proceedings, even if it was obtained by unlawful means.**

The *Evidence Act 1995 (Cth)* states in section 138(1) that, in both civil and criminal proceedings, the admission of improperly or illegally obtained evidence may be allowed in certain circumstances. This will be dependent on whether ‘the desirability of admitting the evidence outweighs the undesirability of admitting evidence’ in light of the method of which it was obtained.

Accordingly, undercover surveillance evidence has the potential to be used in criminal prosecutions against individuals or large corporations charged with animal cruelty.<sup>7</sup>

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<sup>3</sup> ‘Animal Law in the spotlight: Privacy and surveillance’, Voiceless (31 January 2014), <<https://www.voiceless.org.au/content/animal-law-spotlight-privacy-and-surveillance>>, accessed on 18 March 2014.

<sup>4</sup> Ibid.

<sup>5</sup> For example, a 2006 national survey found that participants had a ‘shallow understanding’ of animal welfare issues and they were ‘keen to know more and were looking for reassurance of what animals may experience during, for example, slaughter’: TNS Social Research Consultants (2006) *Attitudes Toward Animal Welfare*, Canberra, July, Section 3.2 <[http://www.daff.gov.au/\\_\\_data/assets/pdf\\_file/0003/146748/tns\\_aw\\_research.pdf](http://www.daff.gov.au/__data/assets/pdf_file/0003/146748/tns_aw_research.pdf)>.

<sup>6</sup> Please refer to section ‘How has covert surveillance been successful in exposing animal cruelty?’.

<sup>7</sup> Significantly, while there is no concrete definition of what is unlawfully or improperly obtained evidence, the court in *Parker v Comptroller-General of Customs* [2009] HCA 7 held that there is no real difference between “evidence obtained in contravention of a law and evidence obtained in consequence of such a contravention”. Applying this position to animal advocates, while video footage of animal cruelty may not in itself violate any laws, if that footage has been obtained by way of trespass, the evidence may be considered improperly obtained.

#### **4. *Surveillance facilitates political communication and the ability to influence policy / law reform.***

Animal welfare, consumer protection, food safety and criminal justice are issues of great public importance which are also highly politicised. Surveillance footage, which is often graphic and confronting, promotes public awareness of these issues. This in turn leads to open dialogue, which is essential in shaping public opinion and in encouraging positive law reform.

It is important to note, that while there is no right to freedom of speech in Australia, there is a limited implied freedom of political communication.<sup>8</sup> As a result, ag-gag laws have the effect of limiting our ability to engage in political debate, stifles transparency and our ability to lobby for meaningful reform in this area.

For the reasons outlined above, surveillance can result in a reduction in animal cruelty, neglect and breaches of animal protection laws.

#### **How has covert surveillance been successful in exposing animal cruelty?**

Surveillance by animal advocates has been incredibly successful in exposing animal cruelty, raising public awareness about welfare issues and driving reform. For example:

- In 2011, ABC's *Four Corners* exposé, "A Bloody Business",<sup>9</sup> revealed footage of Australian cattle being abused in Indonesian slaughterhouses. The public and political reaction resulted in the Gillard Government suspending trade with Indonesia, and introducing a more stringent regulatory regime to govern live exports: the Export Supply Chain Assurance Scheme (ESCAS).
- In 2011, Victorian industry regulator, PrimeSafe, laid charges and forced the closure of the L.E. Giles abattoir at Trafalgar after it viewed video footage obtained from an animal advocate showing the mistreatment of pigs going to slaughter.<sup>10</sup>
- In 2012, Animal Liberation supplied the ABC with surveillance footage from a pig abattoir (Wally's Piggery in Yass), which was later aired on *Lateline*.<sup>11</sup> The investigation prompted a

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<sup>8</sup> The implied freedom of political communication is not absolute, and is subject to limitations – 'what is necessary for the effective operation of that system of representative and responsible government provided for by the Constitution': *Lange* (1997) 145 ALR 96, 107-8.

'[The principle of an implied freedom of political communication] does not uphold an inflexible rule. Australian law does not embrace absolutes in this manner... Restrictions, imposed by law, for limited purposes (even where they may incidentally diminish completely uninhibited discussion of issues of government or politics) may yet be compatible with the Constitution. It is only if the law in question is inconsistent with the intended operation of the system of government created by the Constitution that the implied constitutional prohibition has effect': Kirby J in *Lenah* (2001).

<sup>9</sup> See for example Sarah Ferguson, "A Bloody Business", ABC Four Corners (30 May 2011) <[http://www.abc.net.au/4corners/special\\_ed/20110530/cattle/](http://www.abc.net.au/4corners/special_ed/20110530/cattle/)>, accessed on 20 November 2013.

<sup>10</sup> See for example ABC News, "Abattoir owner angry after charges dropped" ABC News (16 April 2013) <<http://www.abc.net.au/news/2013-04-16/abattoir-owner-angry-after-charges-dropped/4631864>>, accessed on 20 November 2013.

government review which resulted in the introduction of mandatory animal welfare officers being employed by abattoirs, as well as mandatory welfare training for those who conduct slaughter.<sup>12</sup>

- In June 2013, Pepe's Ducks, one of Australia's largest producers of duck meat, was convicted of misleading and deceptive conduct by the Australian Federal Court.<sup>13</sup> The Australian Competition and Consumer Commission (ACCC) pursued an action against Pepe's Ducks under the Australian Consumer Law shortly after the screening of covert footage which aired on the ABC's 7.30.<sup>14</sup>

Paraphrasing the Hon. Justice Michael Kirby in the High Court decision of *Lenah Game Meats Pty Limited v Australian Broadcasting Corporation*, surveillance by animal advocates is important in shedding light on these issues, sparking debate, shaping public opinion and influencing positive law reform on animal protection issues.<sup>15</sup>

### **What are the implications for Australia? Isn't ag-gag a US issue?**

In recent years, Australian animal advocates have become increasingly effective in gathering and releasing undercover footage captured in agricultural facilities. Moreover, they've begun collecting footage using unmanned aerial vehicles.<sup>16</sup> As a result, politicians from both sides of the political spectrum are calling for the introduction of ag-gag legislation:

- The NSW Minister for Primary Industries, Katrina Hodgkinson, labelled undercover activities by animal advocates as fanaticism, radicalism, veganism and terrorism - language that has featured prominently in US discourse promoting ag-gag. Hodgkinson also noted that she would do everything in her power to cease the activities of animal activists.<sup>17</sup>
- WA Liberal Senator Chris Back has noted his support for stronger actions against animal advocates and development of new legislation to restrict individuals from recording commercial animal facilities.

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<sup>11</sup> 'NSW piggery owners face animal cruelty charges', ABC News (08 October 2013), <<http://secure.isidewith.com/news/article/nsw-piggery-owner-faces-animal-cruelty-charges>>, accessed on 18 March 2014.

<sup>12</sup> 'Chapter 8,: Animal Welfare, Animal Health in Australia 2012', Animal Health Australia (2013), <http://www.animalhealthaustralia.com.au/wp-content/uploads/2011/01/CH8-Animal-welfare-AHIA-2012.pdf>, accessed 18 March 2014.

<sup>13</sup> Emmanuel Giuffre, Sara Gajic, 'Case note: ACCC v Pepe's Ducks Ltd', Voiceless (12 November 2013), <<https://www.voiceless.org.au/content/case-note-accv-pepe-s-ducks-ltd>>, accessed on March 18 2014; *Australian Competition and Consumer Commission v Pepe's Ducks Ltd* [2013] FCA 570.

<sup>14</sup> See for example Bronwyn Herbert, "Disturbing footage prompts calls for duck farming changes" Transcript, ABC News (19 June 2012) <<http://www.abc.net.au/news/2012-06-19/disturbing-footage-prompts-calls-for-duck-farming/4080436>>, accessed on 20 November 2013.

<sup>15</sup> (2001) HCA 63 at 199.

<sup>16</sup> See for example Sean Murphy, 'Animal Liberation activists launch spy drone to test free-range claims', ABC News (30 August 2013), <<http://www.abc.net.au/news/2013-08-30/drone-used-to-record-intensive-farm-production/4921814>>, accessed on 18 March 2014.

<sup>17</sup> 'Hodgkinson in hot water', The Daily Advertiser (19 July 2013), <<http://www.dailyadvertiser.com.au/story/1648011/hodgkinson-in-hot-water/>>, accessed on 18 March 2014.

- A number of Australian Federal politicians, including WA Labor Senator Glenn Sterle and WA Liberal MP Barry Haase, have proposed the introduction of new laws compelling individuals in possession of evidence of animal cruelty to immediately hand this evidence over to regulators.<sup>18</sup>

The Australian Law Reform Commission (ALRC) is currently undertaking a review on ‘Serious Invasions of Privacy in the Digital Era’. The ALRC sought public consultation on whether a statutory cause of action should exist for an invasion of privacy, and if so, what the action would cover. The submission covered undercover surveillance of commercial animal facilities – including the use of drone technology.<sup>19</sup> You can read Voiceless’s submission on the inquiry [here](#).<sup>20</sup>

The House of Representatives Standing Committee on Social Policy and Legal Affairs also conducted a “Roundtable Discussion on Drones and Privacy”, looking specifically at the use of unmanned aerial devices by civilian groups to monitor activities on commercial animal facilities. Voiceless legal counsel, Emmanuel Giuffre, attended the roundtable discussions. You can read a transcript of Voiceless’s submission to the roundtable discussion [here](#).

### **Have there been any successful prosecutions under ag-gag laws the US?**

No. Amy Meyer is the only individual to be prosecuted in the US under ag-gag law. In February 2013, Meyer was charged with agricultural operation interference (a class B misdemeanour) after she used her mobile phone to film cows being slaughtered at Dale T. Smith and Sons Meatpacking Co - a Draper City, Utah, meatpacking company.

Meyer did not dispute that she used her cell phone to film slaughters at Meatpacking Co. She did, however, claim that she was standing on public grounds when she videotaped the slaughterhouse.

After a groundswell of media attention (including from Will Potter) prosecutor Benjamin Rasmussen decided to drop the case on evidentiary grounds.<sup>21</sup>

### **What is the *Animal Enterprise Terrorism Act* (formally the *Animal Enterprise Protection Act*)?**

The *Animal Enterprise Terrorism Act* (AETA) is a US federal law passed in 2006 to replace the *Animal Enterprise Protection Act* (AEPA).

AETA labels an individual a terrorist if he or she engages in a wide range of political activities which are found to be ‘for the purpose of damaging or interfering with the operations of an animal enterprise’.

<sup>18</sup> Colin Bettles, ‘Senator backs ‘ag gags’’, *The Australian Dairyfarmer* (04 July 2013), <<http://adf.farmonline.com.au/news/nationalrural/livestock/other/senator-backs-ag-gags/2660177.aspx>>, accessed on 18 March 2014.

<sup>19</sup> ‘ALRC seeks input into Serious Invasion of Privacy law reform’, Australian Law Reform Commission (08 October 2013), <<http://www.alrc.gov.au/news-media/media-release/alrc-seeks-input-serious-invasion-privacy-law-reform>>, accessed on 18 March 2014.

<sup>20</sup> Emmanuel Giuffre and Alexander Ottaway, ‘Joint Submission on the ALRC’s Review on ‘Serious Invasions of Privacy in the Digital Era’ Voiceless and Barristers Animal Welfare Panel Limited (17 December 2013), <[https://www.voiceless.org.au/sites/default/files/Serious%20Invasions%20of%20Privacy%20in%20the%20Digital%20Era%20-%20BAWP%20and%20Voiceless%20-%20FINAL\\_0.pdf](https://www.voiceless.org.au/sites/default/files/Serious%20Invasions%20of%20Privacy%20in%20the%20Digital%20Era%20-%20BAWP%20and%20Voiceless%20-%20FINAL_0.pdf)> accessed on 18 March 2014.

<sup>21</sup> Will Potter, ‘First “Ag-Gag” Prosecution: Utah Women Filmed a Slaughterhouse from the Public Street’, *Green Is The New Red* (29 April 2013), <<http://www.greenisthenewred.com/blog/first-ag-gag-arrest-utah-amy-meyer/6948/>>, accessed on 18 March 2014.

Those activities must have:

- intentionally damage or cause the loss of any real or personal property;
- intentionally place a person in reasonable fear; or
- conspire or attempt to do so.

The language in AETA is incredibly broad, potentially impacting on the legitimate activities of animal protection groups such as public protesting or leafleting.

According to Will Potter:

*“Labeling the law the Animal Enterprise Terrorism Act was a calculated decision. It’s meant to send a very clear and chilling message to animal advocates, and make lawful, everyday folks afraid of being labeled a “terrorist” in post-9/11 America.”<sup>22</sup>*

### **Have there been any successful prosecutions under the *Animal Enterprise Terrorism Act* (or the previous *Animal Enterprise Protection Act*)?**

Yes. Under the earlier AEPA, there was one successful prosecution in 2006, the ‘SHAC 7’ case. SHAC 7 referred to six members of Stop Huntingdon Animal Cruelty (SHAC), an international animal activist organisation aimed at shutting down notorious animal testing organisation Huntingdon Life Sciences.

The SHAC 7 were found guilty of conspiracy charges for the operation of a website that advocated protest activity against Huntingdon and its business associates. The SHAC 7 were sentenced on 3 March 2006, to between one and six years, and ordered to pay joint restitution of \$1,000,001.00.

Andrew Stepanian of the SHAC 7 was imprisoned for a period of three years in the highly restrictive Communication Management Unit of the US federal prison system – which is designed to detain ‘terrorist’ inmates.<sup>23</sup>

Under the new AETA, in 2009 the FBI arrested four animal rights activists (AETA 4) for protesting, chalking slogans and distributing fliers against animal research at the University of California.<sup>24</sup> However, the indictment was thrown out of a US District Court in 2010 as the prosecution did not explain clearly which of the defendants’ actions constituted ‘terrorism’ under AETA.<sup>25</sup>

The first conviction under AETA was of the ‘AETA 2’. AETA 2 refers to William Viehl and Alex Hall from the Animal Liberation Front who were convicted in 2010 for the release of 650 minks from the McMullin Fur Farm in Utah in 2008. The two were handed sentences of 24 and 21 months respectively for felony and misdemeanour charges under AETA.<sup>26</sup>

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<sup>22</sup> Will Potter, ‘“Animal Enterprise Terrorism 101” in Herbivore Magazine’, Green Is The New Red (17 November 2007), <<http://www.greenisthenewred.com/blog/aeta-101/313/>>, accessed on 18 March 2014.

<sup>23</sup> ‘Exclusive: Animal Rights Activist Jailed at Secretive Prison Gives First Account of Life Inside a “CMU”’, Democracy Now (25 June 2009), <[http://www.democracynow.org/2009/6/25/exclusive\\_animal\\_rights\\_activist\\_jailed\\_at](http://www.democracynow.org/2009/6/25/exclusive_animal_rights_activist_jailed_at)>, accessed on 18 March 2014.

<sup>24</sup> Will Potter, ‘FBI Arrests 4 Activists as “Terrorists” for Chalking Slogans, Leafleting and Protesting’, Green Is The New Red (22 February 2009), <<http://www.greenisthenewred.com/blog/aeta-arrests/1070/>>, accessed on 18 March 2014.

<sup>25</sup> Will Potter, ‘BREAKING: AETA 4 Case Dismissed, But Re-Indictment Possible’, Green Is The New Red (12 July 2010), <<http://www.greenisthenewred.com/blog/aeta-4-case-thrown-out-dismissed/3015/>>, accessed on 18 March 2014.

## **Aren't there already laws to protect farmers?**

Yes, laws already exist to protect individuals and corporations from certain undercover surveillance activities.

Incursions onto private property, such as land and buildings, may constitute acts of trespass which could attract criminal and civil liability.<sup>27</sup> The use and/or installation of audio or visual surveillance devices may also amount to an offence in some jurisdictions.<sup>28</sup> Where these activities are likely to cause an interference with the use or enjoyment of land or with business operations, an offence may also be committed in relation to private nuisance.<sup>29</sup>

Accordingly, animal activists who are involved in the surveillance of commercial animal facilities are already at risk of incurring criminal, and possibly civil, liability for their activities.

It is Voiceless's position that ag-gag laws are not aimed at remedying a gap in the law but rather are intended to demonise animal advocates and their efforts to expose cruelty; politicising the issue and inciting fear within the public.

## **Are there privacy implications behind covert filming?**

Surveillance by animal advocates targets the treatment of animals in large scale commercial operations. They do not aim to target individuals or to violate personal privacy.

Voiceless takes the position of the High Court of Australia in *Lenah Game Meats Pty Limited v Australian Broadcasting Corporation*.<sup>30</sup> The case involved the undercover filming of a possum abattoir by an animal activist. One of the questions raised by the High Court in this case was whether a tort of invasion of privacy exists under Australian common law. While the High Court did not reach a final position on this question, the following arguments were put forward with respect to the covert filming of the possum abattoir:

### **1. *The activities secretly observed and filmed were not relevantly "private"*.**

Despite the respondent being the owner of the premises, it did not necessarily follow that what the respondent did on that land was private, or that the observing of that act was an invasion of privacy. According to Gleeson CJ:

*"Certain kinds of information about a person, such as information relating to health, personal relationships, or finances, may be easy to identify as private ... The requirement that disclosure or observation of information or conduct would be highly offensive to a reasonable*

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<sup>26</sup> Animal Liberationist William (BJ) Viehl Released from Prison', Animal Liberation Press Office (02 October 2010) <<https://animalliberationpressoffice.org/NAALPO/2010/10/02/animal-liberationist-william-bj-viehl-released-from-prison/>> accessed on 18 March 2014.

<sup>27</sup> e.g. under the *Inclosed Lands Protection Act 1901* (NSW), section 4.

<sup>28</sup> e.g. under the *Surveillance Devices Act 2007* (NSW), section 8.

<sup>29</sup> See for example *Raciti v Hugues* (NSW, Supreme Court, EQD 3667/95, 19 October 1995, unreported).

<sup>30</sup> (2001) 208 CLR 199.

*person of ordinary sensibilities is in many circumstances a useful practical test of what is private.”*

It is Voiceless’s position that, applying the test above, the filming of commercial animal facilities could not be considered highly offensive to a person of ordinary sensibilities. Accordingly, the acts captured by undercover surveillance by animal advocates could not ordinarily or reasonably be considered private.

## **2. If a tort of invasion of privacy were to exist, it ought not to extend to corporations.**

Accordingly, the High Court held that if there were to be developments in this area, it would protect the privacy rights of individuals – not corporations. In Voiceless’s view, the above is particularly the case for corporations operating in the food production industry. Consumers have a right to know where their food comes from, how farmed animals are treated and the conditions in which they are kept.

It is important to remember that undercover surveillance targets animal cruelty or neglect. This may include violations of animal protection laws, which are criminal offences. It is Voiceless’s position that an individual or corporation that is found in violation of animal protection laws should not be permitted to hide behind a claim of invasion of privacy. Similarly, individuals working to expose such criminality should be exempt from any proposed laws that seek to protect individual rights to privacy.

### **But aren’t these activities unlawful? Does Voiceless endorse unlawful behaviour?**

Undercover surveillance of the kind targeted by ag-gag laws can be both lawful and unlawful. For example, the legality of the use of unmanned aerial devices (drones) to monitor commercial animal facilities is presently unclear. In addition, ag-gag laws not only target animal advocates but whistle-blowers operating within industry. The activities of these individuals may not necessarily constitute an unlawful trespass or other civil or criminal offence.

While Voiceless does not condone unlawful activities for the reasons outlined above, it acknowledges the important role of surveillance activities in the areas of animal and consumer protection.<sup>31</sup>

### **Shouldn’t the monitoring of commercial animal facilities be the responsibility of enforcement agencies?**

The vast majority of cruelty complaints are monitored, enforced and prosecuted by non-profit charitable organisations like the RSPCA, and in NSW, the Animal Welfare League. While the work of these organisations is commendable, resource constraints and limited funding directly impacts on their ability to monitor and enforce the law effectively.

According to the RSPCA, there are only 32 RSPCA inspectors for all of NSW.<sup>32</sup> As a result, the vast majority of animal cruelty and welfare concerns go undetected. In 2011-2012, only 1.8% of all animal

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<sup>31</sup> Please refer to sections ‘Why is undercover surveillance so important for animal and consumer protection?’ and ‘How has covert surveillance been successful in exposing animal cruelty?’ above.

<sup>32</sup> ‘Inspectorate’, RSPCA NSW, <<http://www.rspcansw.org.au/our-work/inspectorate>>, accessed on 18 March 2014.

cruelty complaints referred to the RSPCA resulted in any form of criminal prosecution, and 0.5% resulted in a successful prosecution. Of those prosecutions that were brought by the RSPCA, less than 3% involved agricultural animals.<sup>33</sup>

This last statistic is obviously concerning, particularly given that the ABS statistics for 2010-2011 show that there is well over half a billion agricultural animals in Australia, the vast majority of which suffer behind the sheds of factory farms, hidden away from public scrutiny.<sup>34</sup> Given this inadequacy, it is clear why civilian groups take it upon themselves to monitor commercial animal facilities.

Some departments of agriculture are responsible for enforcing animal protection laws. However, their effectiveness is limited by a conflict of interest inherent in their role and function – with many departments of agriculture being charged with the task of, on the one hand, protecting animal welfare, and on the other, fostering the growth of primary industries. This conflict is perhaps why certain civilian groups do not immediately tender evidence of animal cruelty to authorities – instead choosing to leak information to the media.

### **What can be done to improve the effectiveness of monitoring and enforcement systems?**

In the short term, Voiceless advocates the installation of CCTV cameras in all commercial animal facilities, which would include farms and slaughterhouses.

In addition, animal welfare should not remain in the hands of departments of agriculture, whose primary objectives are economic outputs and industry protection rather than animal welfare. Similarly, Australia must move away from its over-dependence on private charitable organisations in the monitoring, enforcement and prosecution of animal cruelty cases. A publicly funded and well-resourced independent animal welfare body is vital to ensuring animal protection laws are appropriately enforced.

Unless these steps are taken, we will continue to see animal advocates risking prosecution and their lives to expose animal cruelty.

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<sup>33</sup> 'RSPCA Australia National Statistics 2011-2012', RSPCA Australia, <<http://www.rspca.org.au/sites/default/files/website/The-facts/Statistics/RSPCA%20Australia%20National%20Statistics%202011-2012.pdf>>, accessed on 18 March 2014.

<sup>34</sup> '1301.0 – Year Book Australia, 2012' Australian Bureau of Statistics (24 May 2012), <<http://www.abs.gov.au/ausstats/abs@.nsf/Lookup/by%20Subject/1301.0~2012~Main%20Features~Agricultural%20production~260>>, accessed on 18 March 2014.