



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Safety of Seized Dogs

Department of Agriculture and Markets



Report 2017-S-49

April 2018

Executive Summary

Purpose

To determine if the Department of Agriculture and Markets (Department) adequately oversees the seizure of dogs to ensure their safety and protect the rights of owners. The audit covered the period January 1, 2015 to October 20, 2017.

Background

Article 7 of New York's Agriculture and Markets Law (Law) empowers the Department to set standards for the humane care of seized dogs and inspect municipal dog shelters outside of New York City. The Law mandates that a dog must be seized if it: is unlicensed; is an immediate threat to the public safety; does not have an official identification tag while not on the owner's premises; or is licensed but not in the control of or on the property of its owner or custodian and is believed to be dangerous. Municipalities that issue dog licenses are required to establish and maintain a shelter for dogs or to contract for those services. Municipalities are also required to appoint at least one dog control officer (Officer) or contract with another municipality for dog control services. As of June 30, 2017, the Department oversaw 294 shelters and 599 Officers. The Law sets specific time frames that shelters must hold seized dogs, known as the redemption period, during which time a dog may be redeemed by its owner. The minimum period a seized dog must be held is five days. Dogs that are not claimed during the redemption period are put up for adoption, transferred to another shelter, or euthanized. The Law requires that seized dogs be properly sheltered, fed, and watered and receive proper care for the redemption period. Department guidelines specify that seized dogs must be properly cared for, including veterinary care.

The Department performs inspections of shelters to ensure that seized dogs are being treated correctly and held for the appropriate length of time. The Department also performs inspections of Officers' records and equipment to ensure owners of seized dogs are properly notified and seized dogs are safely captured and transported. Department inspections are typically performed annually but may occur more frequently if necessary, such as when a shelter has received an unsatisfactory rating. The Department conducted 1,054 shelter and 1,853 Officer inspections from January 1, 2015 through June 30, 2017.

Key Findings

- We found that the Department is adequately overseeing the seizure of dogs to ensure their safety and protect the rights of owners. The shelters we visited generally provided appropriate shelter, food, water, and care. However, we identified four relatively minor deficiencies at 4 of the 48 shelters visited, including peeling paint, undersized cages, a leaking roof, and recently expired food. We also found nine seized dogs were not held for the full redemption period at eight shelters. The majority of these instances of premature disposition were not identified in the Department's most recent inspection reports for the respective shelters.
- We found 290 shelter and Officer inspections that exceeded the time frame for completion by 30 days or more, including 100 that were follow-ups to a prior inspection with an unsatisfactory rating.

Key Recommendations

- Review the specific deficiencies we identified and work with the shelters to take corrective action.
- Evaluate the current dog record sampling process to determine ways to improve the detection of dogs not held for the required redemption period.
- Take steps to ensure that inspections are completed within the designated time period, particularly those following an unsatisfactory rating.

Other Related Audit/Report of Interest

[Department of Agriculture and Markets: Food Safety Monitoring \(2013-S-27\)](#)

State of New York
Office of the State Comptroller

Division of State Government Accountability

April 16, 2018

Mr. Richard A. Ball
Commissioner
Department of Agriculture and Markets
10B Airline Drive
Albany, NY 12235

Dear Mr. Ball:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Safety of Seized Dogs*. The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

Office of the State Comptroller
Division of State Government Accountability

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This report is also available on our website at: www.osc.state.ny.us

Background

Article 7 of New York's Agriculture and Markets Law (Law) empowers the Department of Agriculture and Markets (Department) to set standards for the humane care of seized dogs and to inspect municipal dog shelters outside of New York City. There are over 1,000 municipalities that issue dog licenses. These municipalities are required to: 1) either establish and maintain a shelter for dogs or contract with another municipality or any incorporated dog protection association for pound or shelter services; and 2) appoint at least one dog control officer (Officer) or contract with another municipality for dog control services. Officers must seize a dog if it:

- Does not have an official identification tag while not on the owner's premises;
- Is unlicensed, whether on or off the owner's premises;
- Is licensed but not in the control of its owner or custodian or not on the premises of its owner or custodian, if there is probable cause to believe the dog is dangerous; or
- Poses an immediate threat to the public safety.

Officers may also seize any dog in violation of any local law or ordinance relating to the control of dogs. Officers must maintain records documenting the seizure and disposition of seized dogs. As of June 30, 2017, the Department oversaw 294 shelters and 599 Officers.

The Law sets specific time frames that seized dogs must be held, known as the redemption period. All dogs – whether licensed or not – must be held for a minimum of five days, during which time a dog may be redeemed by its owner, provided the owner shows proof that the dog is licensed and pays the impoundment fees. If a dog has an official license tag, it must be held for seven days after the day the owner is notified in person or nine days after the owner is notified by certified mail. Dogs that are not claimed within the redemption period are put up for adoption, transferred to another shelter, or euthanized. Additionally, the Law allows a municipality to establish a different redemption period by local law or ordinance, provided that the period cannot be less than three days, and when the notice is given to the owner via certified mail, no less than seven days.

The Law requires that seized dogs must be properly sheltered, fed, and watered for the redemption period. Department guidelines specify that seized dogs must be properly cared for, including veterinary care. Additionally, Department regulations allow the Department to inspect any shelter or pound, or any establishment under contract with a municipality to provide shelter services, and the related records. Department inspections cover the shelter's condition (e.g., sanitation, ventilation, and temperature), clean food and water provisions, and appropriate veterinary care. Inspections also include a review of records, such as checking that dogs are held for the appropriate redemption period and owners of licensed dogs are notified.

Department policies state that the first inspection must be done within one month of notice that a shelter is in operation. Subsequent inspections are typically done annually. However, the policies allow for more frequent inspections as necessary, such as: when a shelter receives an unsatisfactory rating, requiring a follow-up inspection within 30 days; during the first year of a new Officer being on duty; or when a shelter needs to be inspected in a different season. Inspections

are usually unannounced; however, some are announced to ensure the inspector can access the shelter. The Department conducted 1,054 shelter and 1,853 Officer inspections from January 1, 2015 through June 30, 2017.

Audit Findings and Recommendations

Overall, we found that the Department is adequately overseeing the seizure of dogs to ensure their safety and protect the rights of owners. However, we found some areas where the Department can strengthen its oversight.

Shelter Conditions and Holding Period

We found that shelters generally provided dogs with appropriate shelter, food, water, and care. We visited 48 of the 294 shelters that were active as of June 30, 2017, as shown in Figure 1. We observed the conditions at these shelters and reviewed their records for a sample of dogs that were seized during the period January 1, 2015 to June 30, 2017.

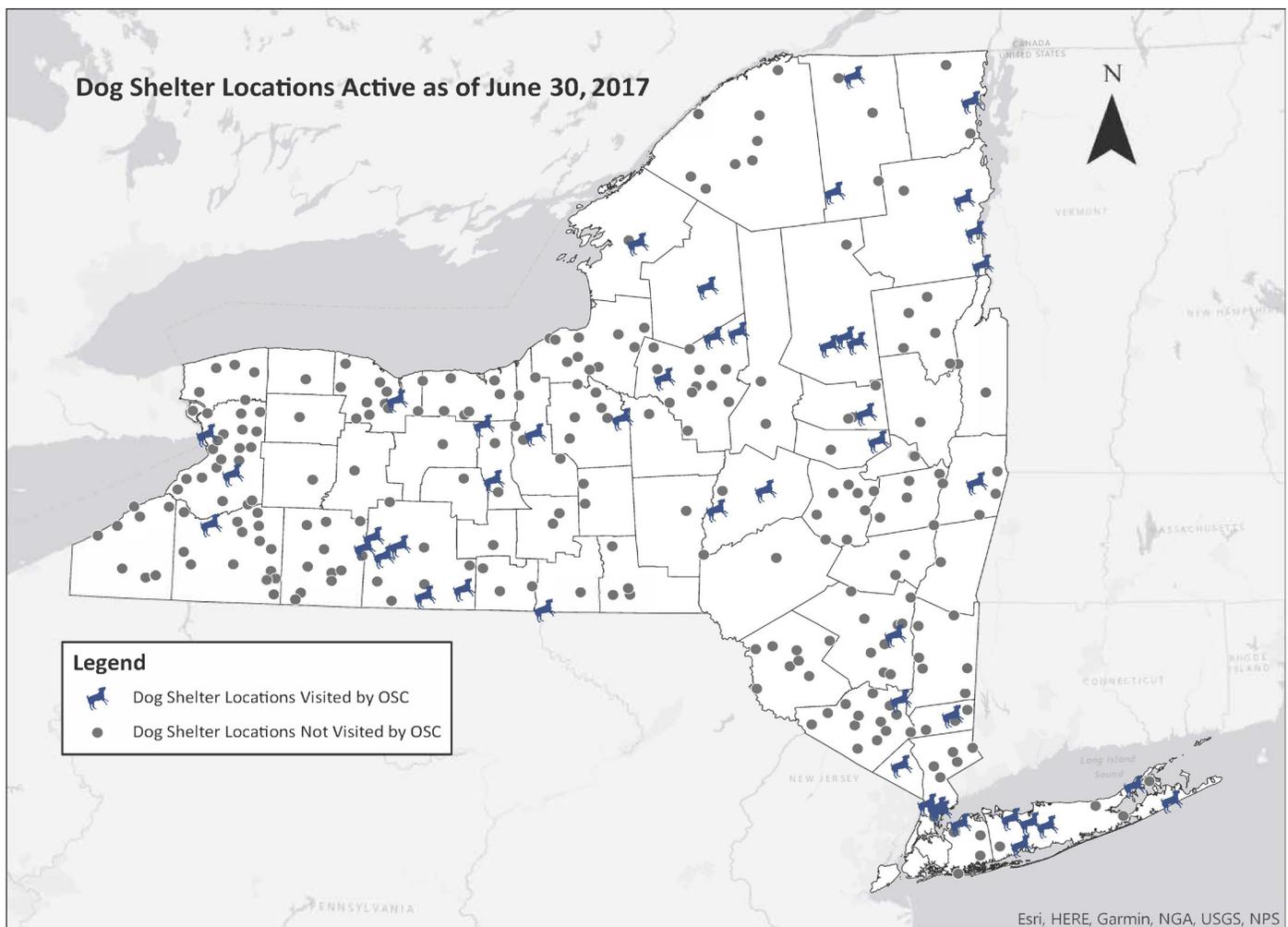


Figure 1 - Shelter Locations

Our visits to 48 shelters showed all of them provided appropriate water and care and tended to any injured dogs. However, we identified relatively minor deficiencies at four shelters related to the shelter condition and food, including cages too small for large dogs, peeling paint, a leaking roof, and recently expired food. Figures 2 and 3 show typical examples of areas where seized dogs are kept.



Figure 2 – Dogs Outside at a Shelter



Figure 3 – Dog Inside at a Shelter

We also reviewed disposition records and related documentation for 808 dogs to identify whether or not dogs were held for the full five-day redemption period. We identified nine instances of seized dogs not held for the required holding period at 8 of the 48 shelters. These dogs were adopted, transferred, or euthanized in fewer than five days, or there was insufficient documentation to support the final disposition. Also, the records for the dogs that were

euthanized didn't include a recommendation by the veterinarian who performed the euthanasia that there was no hope for recovery of injured or sick dogs and euthanasia was appropriate, as required by Department guidelines. In six out of seven cases where the Department had inspected the shelter subsequent to the dog's seizure, the premature disposition of the dog was not detected. Department officials stated that inspectors usually only select a representative sample of dog records to review, especially at larger shelters with more seized dogs. Therefore, some issues of noncompliance may go unnoticed. In addition, Department officials reached out to the shelters to determine if the dogs were held for the appropriate redemption period. For the nine instances, Department officials provided us with explanations that indicated the seized dogs were held for the appropriate period of time or a reason if they were not. However, the Department did not provide sufficient documentation to support the explanations.

Inspection Timeliness

We found the Department generally completed shelter and Officer inspections timely. We determined that 88 percent of inspections following a satisfactory inspection and 65 percent of inspections following an unsatisfactory inspection were done within 30 days of the inspection due date. Furthermore, we found that 82 percent of the inspections for new shelters and Officers were completed within the appropriate 30-day time frame. Although we found that the Department performed the majority of inspections timely, we found 290 shelter and Officer inspections exceeded the time frame for completion by 30 days or more, including 100 following an unsatisfactory rating on a prior inspection. A summary of inspection timeliness is presented in the following table.

Completion Rates for Shelter and Officer Inspections January 1, 2015 – June 30, 2017

Inspections			Number That Exceeded Time Frame By:		
Type	Time Frame to Complete	Number	30–89 Days	90 Days or More	Total 30 Days or More
Initial Inspections	30 days	222	11	10	21
Inspections Following Satisfactory Rating	365 days	1,456	149	20	169
Inspections Following Unsatisfactory Rating	30 days	284	87	13	100
Totals		1,962	247	43	290

Although the Department’s time frame requirement for satisfactory inspections is annual, we identified 414 instances where inspectors noted a shorter period of time (30, 60, 91, or 182 days) for a follow-up inspection. An inspector may shorten the inspection time frame in order to inspect a shelter in a different season or to perform more frequent review of a new Officer in the first year. We found that 75 of these inspections exceeded the time frame the inspector noted by 30 days or more.

Timely completion of inspections helps ensure that the conditions at shelters and practices of shelters and Officers won’t threaten the well-being of the dogs and the rights of owners. Timely inspections are particularly important for shelters and Officers with a rating requiring an inspection in less than a year or an unsatisfactory rating to determine if conditions have improved.

According to Department officials, the inspectors have competing priorities. Some examples include the State fairs, which require inspections during the summer fair season, and bird markets, whose inspections must also be done in a set time frame. Furthermore, Department officials stated that they don’t consider it a requirement to follow up on a satisfactory inspection in less than a year, and that inspectors use these ratings as reminders to follow up if their workload permits. We believe that inspectors set the re-inspection period less than 365 days for a reason, and the re-inspection should be done within the period recommended by the inspector.

Recommendations

1. Review the specific deficiencies we identified and work with the shelters to take corrective action.
2. Evaluate the current dog record sampling process to determine ways to improve the detection of dogs not held for the required redemption period.
3. Take steps to ensure that inspections are completed within the designated time period, particularly those following an unsatisfactory rating.

Audit Scope, Objective, and Methodology

We audited the safety of seized dogs for the period January 1, 2015 through October 20, 2017. The objective of our audit was to determine if the Department adequately oversees the seizure of dogs to ensure their safety and protect the rights of owners.

To accomplish our objective and assess internal controls related to our objective, we reviewed New York State laws and regulations as well as the Department's policies and procedures. We interviewed Department personnel to obtain an understanding of the practices for seized dogs and analyzed Department data related to seized dogs. We also analyzed inspection dates associated with all shelter and Officer inspections that were triggered by a qualifying event (i.e., a new shelter was created, a new Officer started, or an inspection rating was assigned) during the period January 1, 2015 to June 30, 2017. We considered the status of inspections as of June 30, 2017 and whether or not they had been completed. Additionally, we reviewed records documenting the seizure and disposition of seized dogs, and observed conditions at a judgmental sample of 48 shelters selected based on higher unsatisfactory inspection ratings, late inspections, and geographic distribution across the State.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating threats to organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

We provided a draft copy of this report to Department officials for their review and formal comment. We considered the Department's comments in preparing this final report and have included them in their entirety at the end of the report. In their response, Department officials generally concurred with the audit recommendations and indicated that certain actions have been or will be taken to address them. Our rejoinders to certain Department comments are included in the report's State Comptroller's Comments.

Within 90 days of the final release of this report, as required by Section 170 of the Executive Law, the Commissioner of Agriculture and Markets shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and if the recommendations were not implemented, the reasons why.

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews, and evaluations of New York State and New York City taxpayer-financed programs.

Agency Comments



ANDREW M. CUOMO
Governor

RICHARD A. BALL
Commissioner

March 12, 2018

Mr. Stephen Goss
Audit Director
Division of State Government Accountability
Office of the State Comptroller
110 State Street
Albany, New York 12236

New York State Department of Agriculture and Markets
Response to Draft Report 2017-S-49 – Safety of Seized Dogs

Dear Mr. Goss,

The New York State Department of Agriculture and Markets (Department) has reviewed the Office of the New York State Comptroller's (OSC) findings titled "Safety of Seized Dogs" dated February 2017 and, by this letter, responds to OSC's findings and recommendations.

The Department's Division of Animal Industry (Division) is responsible for many functions throughout the State. In addition to ensuring the care of seized dogs as mandated under Article 7 of New York's Agriculture and Markets Law, the Division also seeks to detect, control, and eradicate communicable diseases in food and fiber producing animals which may cause economic losses and significant threats to public health. Furthermore, they monitor animal herds and perform livestock inspections at the Great New York State Fair and various county fairs. Division goals are achieved, in part, through regulatory and cooperative educational efforts with various stakeholders.

The Department is pleased to learn that OSC has found the Division to be adequately overseeing the seizure of dogs to ensure their safety, and to protect the rights of their owners. The Department thanks the State Comptroller's audit team for its review of the Division of Animal Industry and its recommendations. Department responses to the State Comptroller's recommendations can be found below:

Recommendations

- 1) Review the specific deficiencies we identified and work with the shelters to take corrective action.**

The Division has taken steps to ensure that the four minor deficiencies OSC identified were addressed with each shelter. Further, the Division and inspectors will continue to work to ensure that deficiencies are noted on future inspection reports and corrected as needed.

The Department acknowledges that OSC reviewed 808 disposition records and supporting documentation in which OSC identified nine dogs that were not held for the full redemption period. We note that the redemption period, listed as five days in OSC's report, can be shortened to no less than three days by a municipality, which may reduce the number of dogs found not to have been held for the full redemption period.

*
Comment
1

As OSC notes in its report, the Department provided documentation to refute OSC findings which was deemed to be insufficient. The Department recognizes that OSC identified more than nine instances of dogs not being held for the proper redemption period, and accepted portions of the documentation submitted by the Department as clarification. For the nine instances where OSC deemed documentation not sufficient, the Department would have been willing to elaborate if given the opportunity to do so.

*
Comment
2

For example, documentation was submitted to support the surrender of dogs which eliminates the need for a redemption period. If these instances were not already considered by OSC, they could further decrease the number of instances identified.

2) Evaluate the current dog record sampling process to determine ways to improve the detection of dogs not held for the required redemption period.

The Division looks forward to exploring sampling methods that may improve the detection of dogs not held for the required redemption period. The Division is committed to ensuring that dogs are held for the mandatory redemption periods, and will develop processes to aid in the detection of non-compliance.

3) Take steps to ensure that inspections are completed within the designated time period, particularly those following an unsatisfactory rating.

The Division recognizes the opportunity to improve on its follow-up of unsatisfactory inspections and will develop a process to better deploy its resources. Division staff will continue to evaluate, prioritize, and conduct inspections that are due, particularly those following an unsatisfactory rating.

Very truly yours,

Jen McCormick
First Deputy Commissioner

* See State Comptroller's Comments, Page 15.

State Comptroller's Comments

1. We identified and excluded instances where the dog was held for a shorter municipal redemption period. However, in one of the nine cases, the municipal redemption period was three days but the dog was held for only two days. The remaining eight cases are unaffected by shorter municipal redemption periods.
2. We provided the Department ample opportunities to respond to our exceptions related to holding dogs for the proper redemption period. Initially, we provided a list of 21 exceptions, and the Department submitted sufficient documentation to resolve 10. We then gave the Department a revised list of the remaining 11 exceptions, and the Department provided sufficient support for 2 more, leaving 9. For the remaining 9 exceptions, the Department either provided explanations without supporting documentation or provided unacceptable documentation. For example, in two instances, the Department indicated that the shelter incorrectly recorded the dog's disposition date (redemption, transfer, adoption, or euthanized). However, the supporting documentation provided by the Department for two dogs had been altered subsequent to our visits. The documentation showed that the dates of adoption of one dog and transfer of the second dog had clearly been crossed out and replaced with different dates. Because the original documents, from which we recorded the dates, had been altered, we consider them to be unacceptable evidence. In another case, the documentation provided was for a dog that was not one of the nine exceptions.